

NATIONAL INDIAN GAMING COMMISSION
TRIBAL ADVISORY COMMITTEE MEETING
Pala, California

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In Re: Advisory Committee)
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REPORTER'S TRANSCRIPT OF PROCEEDINGS
Thursday, January 12, 2012
8:00 A.M.

HELD AT: Pala Casino Spa Resort
11154 Highway 76
Pala, California 92059

Reported by:
DENISE A. JONES
CSR No. 12900, RPR
Job No. NJ366200
PAGES 1 - 199

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APPEARANCES:

DEPARTMENT OF THE INTERIOR:

Robert Fisher, Moderator

NATIONAL INDIAN GAMING COMMISSION:

Daniel Little, Associate Commissioner

Michael Hoenig, Senior Attorney

Rod Rest West, CPA

TRIBAL ADVISORY COMMITTEE:

Christinia Thomas
Executive Director
Mille Lacs Band of Objive

Matthew Morgan
Commissioner
Chickasaw Nation

Thomas Wilson
Executive Director
Pascua Yaqui Tribe

Steve Garvin
Commissioner
Ho-Chunk Nation

Michele Stacona
Executive Director
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Jason Ramos
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Miami Tribe of Oklahoma

1 Kathi Hamel
General Manager
2 Lytton Rancheria
3 Daniel McGhee
Tribal Administrator
4 Poarch Band of Creek Indians
5 John Magee
Commissioner
6 Pechanga Band of Luiseno Indians
7 Mia Tahdoahnippah
Compliance Director
8 Comanche Nation
9 Brian Callaghan
Executive Director
10 Pokagon Band of Potawatomi Indians
11 Leo Culloo
General Manager
12 Port Gamble S'Klallam Tribe
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1 Pala, California, Thursday, January 12, 2012

2 8:00 a.m. - 6:50 p.m.

3
4 ROBERT FISHER: Okay. Well, good morning,
5 everybody. Let's see. We need to -- I've started to
6 capture an action-item list on the screen. I will keep
7 working on that, and we'll go back to that at the end.
8 And we need to check in about our agenda and see if
9 anybody has any reflections or anything from yesterday
10 that they want to bring up with the group. And welcome
11 back to Robin.

12 ROBIN LASH: Thank you.

13 ROBERT FISHER: We missed you yesterday.

14 All right. So what's the -- let's just check
15 in about the agenda. At the end of the day we broke and
16 we were still working on drop and count. We still have
17 six or seven other sections in the MICS to go through
18 and I believe cage vault, three others. That would be
19 four, plus we did say we might recycle back to bingo, so
20 that would be five. But anyway, we still have some more
21 work to do on the MICS.

22 And there has been a suggestion that maybe we
23 would start this morning with the technical standards.
24 What do you think and what's your preference?

25 THOMAS WILSON: I don't think it's a

1 suggestion, I think it's -- we had decided that
2 yesterday that we needed to get 547 wrapped up and out
3 the door.

4 DANIEL LITTLE: My preference would be finish
5 the section.

6 ROBERT FISHER: In the MICS?

7 DANIEL LITTLE: In the MICS. I know we're in
8 the middle of 543.14.

9 THOMAS WILSON: I'd like to put it up for a
10 vote then for the TAC because I think we were pretty
11 clear yesterday that 547 is a priority for us to get
12 that done and out the door. That's why we had people
13 review it, and so I think we need to vote on it and
14 leave it up to the TAC.

15 ROBERT FISHER: Rest.

16 R. REST WEST: An option that would be to
17 finish card games and then cage and then go into -- if
18 it's voted to go into 547 after that so we can get
19 through with card games. We don't have very much -- I
20 mean, cage.

21 THOMAS WILSON: Well, I think we can do that,
22 but the -- it's just we do not want to -- we want ample
23 time to discuss 547. And if that means that we don't
24 get to some of these other items that are on the agenda,
25 that's what that means.

1 ROBERT FISHER: I'm guessing if we put it up to
2 a vote, the vote's going to come back and say 547, so
3 are we going to pick up --

4 DANIEL LITTLE: I mean, ideally, that wouldn't
5 be our best option, but if that's what you chose and we
6 don't get through with the sections, then we'll just,
7 you know, respectfully request that you submit written
8 comments to the questions that we provided, so --

9 ROBERT FISHER: Okay. A couple of other
10 logistics things. One is that we need to make sure we
11 take our break roughly around -- in a time to allow
12 people that haven't checked out to be able to checkout
13 this morning before the 11 o'clock checkout deadline.
14 How many people are going to be leaving before 5:30?
15 Okay. So we'll just need to make sure you're all set
16 before we go.

17 Okay. My regular request to the folks in the
18 audience to please sign in on the sign-in sheet that's
19 on the table by the door at the front of the room.

20 And so anybody have anything else they want to
21 bring up with the group before we move into the --
22 looking at 547? Anything on your mind from yesterday
23 that you want to share?

24 ROBERT FISHER: Daniel.

25 DANIEL MCGHEE: I know we said if it went to a

1 vote we do this or that, but if we're right in the
2 middle of cage vault, right?

3 ROBERT FISHER: Yeah.

4 DANIEL MCGHEE: And then that would clear out
5 this first half of the day we were supposed to do
6 earlier. So, I mean, I'm okay with at least finishing
7 the cage vault section and then moving to something new
8 instead of putting something (inaudible).

9 ROBERT FISHER: Okay. Everybody okay with
10 that, finishing up with of the cage vault section and
11 then switching over to 547?

12 Okay. All right. So Kathi, go ahead.

13 KATHI HAMEL: Could we set a time limit if we
14 get too far into cage so that we can -- maybe no later
15 than 9:00 on 547; is that fair?

16 ROBERT FISHER: No later than?

17 KATHI HAMEL: Nine o'clock.

18 ROBERT FISHER: Nine o'clock, okay.

19 MATTHEW MORGAN: I like that suggestion, Kathi.
20 I think we saw yesterday when we stopped in the middle
21 of accounting and then went back to surveillance and
22 went back to accounting, it wasn't that big of a deal
23 so, I mean, I think that's -- I like that.

24 ROBERT FISHER: Just bear with me while I get
25 there.

1 Ready, Rest?

2 R. REST WEST: I don't think we'll have any
3 trouble meeting the nine o'clock deadline. There's not
4 that much left in the cage that I can see unless some of
5 the committee members want to bring up some other issues
6 that they see in the cage section.

7 I'm on the top of page 12 of comparison
8 documents. The question is guidance regarding billing
9 credit transactions relative to card games such as poker
10 as well as (inaudible). Maybe we should strike the
11 question because, you know, I haven't seen any Class II
12 card games that show in credit transactions, but that's
13 not to say that in the future that there's not some out
14 there. So probably I'd suggest maybe striking this
15 question whether there's -- I don't know, does anybody
16 in the committee see a card game whether there's a fill
17 and credit transactions?

18 KATHI HAMEL: There were folks that were
19 involved with the TGWG who did have Class II card games
20 that did fill and credit openers and closers and use
21 floating banks rather than imprest banks at their card
22 games.

23 R. REST WEST: Okay. That's what I suspected,
24 that there might be some types of games where they just
25 do fill and credit transactions where they're normally

1 reserved for table games. So probably just strike that
2 question.

3 Down in the middle of the page, the NIGC
4 question as far as even exchanges is, what is the
5 meaning of the word "releasing" in this context? I
6 would like to add that to another question or at least a
7 comment. In my experience, most even exchanges are not
8 even documented on multiple (inaudible) reports. I
9 don't know if it's guidance is relevant to a lot of the
10 operations that don't use forms to document the even
11 exchanges. So it seems like it would create a ton of
12 paperwork for the cage and also for accounting to deal
13 with, so --

14 ROBERT FISHER: Maybe we should just put the
15 two of you in the middle of table you could talk to each
16 other.

17 R. REST WEST: She said she was going to get
18 laryngitis last night.

19 KATHI HAMEL: I tried. I can explain the
20 reason that there's a control for even exchanges. I'd
21 say traditionally if an even exchange took place between
22 the agent assigned the bank or responsible for the bank
23 with a cashier-type agent to exchange unused chips, is
24 the example, chips for currency that traditionally
25 there's not a form, but I'll just card games as an

1 example.

2 A dealer is at a card game and requires some
3 sort of even exchange -- no, let me step back. Main
4 bank, the card room bank needs an exchange with the
5 cage, but the person responsible for that card room bank
6 is not going to leave the room. So the recommendation
7 is that there is an exchange form completed and one part
8 remains with the card room bank. There may be a runner
9 or even the card room supervisor could run the money as
10 long as the bank is secured, but there's always a
11 document that remains with the bank if funds are not in
12 the bank until they're exchanged with the cage. So
13 that's the recommendation, to have an exchange form for
14 even exchanges.

15 Then to answer your other question about where
16 the funds were released, I agree, that terminology is
17 confusing. What it means is using the card room bank is
18 the same example. If those funds were released from
19 that bank and were no longer in that bank, that document
20 then supports those funds missing from the bank. So I'm
21 sure there's some other terminology but that's where --
22 that's why we used the terminology "were released."

23 R. REST WEST: Well, I agree that "releasing"
24 is a bad term that needs to be changed. Again, back to
25 our best practice, you know, in my mind, maybe there

1 should be some examples. I mean, the best practice in
2 my mind is that means a multipart form for use for even
3 exchanges. Maybe some of the situations such as Kathi
4 mentioned were included in the guidance documents that
5 would require the use of a multipart form.

6 Typically, even exchanges are just done when
7 somebody walks up to the cage, forward -- forward
8 cashiers or someone walks up to the cage and does an
9 even exchange. So, again, I think you would create a
10 lot of paperwork for the cage and for accounting. But I
11 do agree there are situations where you want to do --
12 have some documentation if the funds do actually leave
13 the cage without, you know, the accountability document
14 being signed as it should be.

15 ROBERT FISHER: Can you think off the top of
16 your head of a better term than "releasing" or
17 "release"?

18 R. REST WEST: Disbursing.

19 ROBERT FISHER: Did you hear disbursing?

20 KATHI HAMEL: Or it can be "removed."

21 R. REST WEST: Removed.

22 ROBERT FISHER: Okay. Rest, back to you.

23 R. REST WEST: And just a point of
24 clarification, in the middle of page 13 or the top of
25 page 13 under the guidance for cancellation of the

1 voids, validated, redeemed or paid documents should be
2 canceled rather than voided. So I think it's just the
3 wording situation here.

4 And on the bottom of page 15, the question is
5 under the check cashing services. Will using
6 third-party procedures in lieu of or in addition to
7 controls for the (h)(2) lead conflicts, if so, how well
8 should the conflicts be resolved?

9 I know there's a lot of gaming operations that
10 use third-party cashing services or guaranteed services,
11 so -- and this relates to under the guidance (h)(ii)
12 redemption page two is check cashing.

13 ROBERT FISHER: Okay. So let's just pause a
14 moment. I can see people looking through their
15 documents.

16 MATTHEW MORGAN: Rest, can you explain your
17 concern one more time? I want to make sure I
18 understand.

19 R. REST WEST: Just ensuring there are controls
20 over the third-party check cashing services that comply
21 with whatever your Title 31 policies are or what your
22 other policies as far as whatever policy you have that
23 you thought -- that could be check cashing maybe for
24 some of the customers who don't go to the third-party
25 service just to make sure that, you know, their controls

1 meet your requirements.

2 MATTHEW MORGAN: If I recall the conversation
3 correctly, it's been a while, (h) had to do with when
4 the tribe, the casino had check cashing operations, it
5 was put in you to cover because, a lot of tribes, it's
6 very common to see third-party check cashing services.
7 Why would they be located in your facility if the tribe
8 actually doesn't own the gaming operation, does not run
9 it? They do have a contract with that tribal gaming
10 operation to provide the services.

11 One of the concerns that came out of our
12 discussion was a lot of tribes may go in and sign their
13 contracts, wholesale them, and not really look into what
14 it says and what terms they're providing, and we put in
15 you to make sure to say that, look, you know, you do
16 have to follow some procedures, and normally it's the
17 procedure you negotiate with the contract, but you can
18 go in and just by tribal law regulation, you say you
19 have to do something else, which means you could make
20 them match what is required of your internal gaming
21 operation rules, you can.

22 And that was just more of a pointer, but again,
23 that's -- by contract deal, that's a third-party outside
24 of the gaming operation that's providing that service.

25 ROBERT FISHER: Anybody have anything else?

1 Okay.

2 R. REST WEST: Again, this is just to ensure
3 that the third party, their controls met your -- were up
4 to your standards. I mean, with the increased scrutiny
5 from the IRS (inaudible) people, you know, they could
6 determine that this check cashing service -- I don't
7 know, I mean, this is just an out of the blue thing --
8 is your agent, and if they're not following their rules,
9 then the tribe would probably ultimately be, I don't
10 know, held responsible or they could have some negative
11 impact as a result of what the third-party check cashing
12 services is or is not doing.

13 ROBERT FISHER: Tom.

14 THOMAS WILSON: Has anybody recently had a
15 Title 31 audit where you have a third-party check
16 cashing service, and were there issues that came up as
17 in regards to the concern?

18 MATTHEW MORGAN: One of the reasons that you
19 made it in was kind of what Rest's concern was, was that
20 when we started talking about procedures for check
21 cashing, again, following funds and making sure that you
22 have good internal control within the building, I guess
23 we found through lots of just word-of-mouth that a lot
24 of people did not see third-party cash checking services
25 as, you know -- or they didn't know off the top of their

1 head what procedures they followed because that may have
2 been -- that contract may have been signed by tribal
3 council and they may have agreed to something the
4 operation wasn't for sure what it was.

5 So this is to make sure to say, hey, you do
6 need procedures in place. Normally it is whatever is
7 negotiated by contract, but you do have the ability by
8 tribal law and regulation to go through, and since
9 they're operating within your facility, you may have the
10 authority to go in and post rules so they look like you
11 instead of being totally different.

12 And under that very concern that Rest put out,
13 and that's one of the reasons that it's there. I was
14 just trying to make -- trying to be clear if Rest
15 thought we addressed it, because I don't remember it
16 being in the current MICS anywhere and that's why I
17 was -- one area we thought we went further than what's
18 currently there to try to alleviate some concern and
19 whether we did that other not or whether we needed to go
20 further somehow and better cover that area.

21 KATHI HAMEL: I also believe that in our group
22 there were two different types of third-party check
23 cashing services. There could be a third-party check
24 cashing service that was just a guarantee service, and
25 then the operation would supply the funds for the check.

1 I believe there were people in our group had -- my
2 words, a "kiosk" set up where there was a third-party
3 person cashing checks and it was that company's funds
4 being distributed to the patron, and the casino
5 operation wasn't involved at all.

6 So I don't know -- I'm not aware of any
7 liability for the gaming operation if they aren't the
8 ones distributing the funds. If the check cashing
9 service -- whether the cash cashing service was a kiosk
10 in the lobby of the casino or the check cashing service
11 across the street, that they carry the cash reporting
12 requirements not the operation. But if the operation
13 distributed the funds using a third-party check cashing
14 guarantee service, then the same controls would apply
15 for the gaming operation.

16 R. REST WEST: I guess my point is the wording
17 of the -- this "you" might be strengthened to put, you
18 know, put operations on notice that they may want to do
19 more. They may want to ensure that the procedures of
20 the third-party check guarantee service are up to their
21 standards.

22 I was thinking maybe what if they're not
23 following their SARCs or their currency transaction
24 reports or something, I mean, who would the IRS go
25 against if this check cashing service is located in a

1 tribal facility? I mean, I can't, you know -- the IRS
2 is getting more aggressive in these audits is what I'm
3 hearing around the country.

4 ROBERT FISHER: Daniel.

5 DANIEL MCGHEE: Yeah, I was looking through and
6 trying to find one of those general statements that say
7 if a check cashing service is used or whatever, that
8 there are controls established to assure that these
9 regulations are met by that check cashing service or
10 whatever is required for when you're going to manually
11 cash a check if that third party does it for you or
12 whatever. Unless I'm missing -- shouldn't there be a
13 general statement such as that in here, or am I off?

14 ROBERT FISHER: So Matthew then Jeff. Dan, can
15 you click off. Thank you.

16 MATTHEW MORGAN: Dan, one of the reasons we
17 didn't do that is because it is a third-party service,
18 and in a lot of ways when you're not -- again, where
19 they guarantee the funds and if they're completely
20 separated, you're nothing more than a landlord, and if
21 everything is by contract and you put in as a federal
22 minimum that you must come in, there may be operations
23 that do not have that negotiating authority or leverage.

24 Like you see with a lot of vendors, you know,
25 if you want this service, you want it under these terms

1 and then that tribe has to decide are they willing to
2 operate under those terms instead of saying, hey, you
3 have to come in and follow this. It does at a minimum
4 say you need to make sure there are procedures, and it's
5 documented so everyone knows what that is because that
6 was a lot of the things that we heard at that time, they
7 didn't really know what their procedures were for check
8 cashing, but it was a reminder to the operation that you
9 still may, by tribal law regulations, hold additional
10 requirements to make them do something, but that's a
11 tribal government business decision and not a regulatory
12 decision from the Tribal Gaming Regulatory Authority who
13 has limited authority and may not have that authority,
14 which these documents only speak to that limited set of
15 authorities.

16 ROBERT FISHER: Jeff.

17 JEFF WHEATLEY: I was just going to feedback on
18 that and say that I believe it's more of a contractual
19 issue, where the tribe is negotiating that contract
20 would stipulate in the contract that they have to follow
21 certain reporting requirements and Title 31 GSA stuff.

22 So I don't know, other than through the
23 contract, how you would dictate to the third-party
24 provider of how they need to operate in some fashions.

25 DANIEL MCGHEE: So technically the check

1 cashing system is really just to validating system;
2 right? I mean, it's just coming as a check, make sure
3 the check is good. I mean, the validating service, then
4 all it would have to do is meet the validating section;
5 right? We do it to see if the check is good, basically.

6 JEFF WHEATLEY: Basically, yeah, I think there
7 is varying degrees.

8 MATTHEW MORGAN: Then you may use it only for
9 validation purposes. There may be casinos that do not
10 want to or may not be able to take on some of those
11 risks and they shift those financial risks to a third
12 party by contract. By contract, that third party has
13 more to gain but the operation has limited its risk and
14 liability by using that outside party.

15 ROBERT FISHER: Tom.

16 THOMAS WILSON: I know in our facility we
17 license all of our vendors through the TGRA, and a
18 general clause that we have in all the contracts or even
19 as part of licensing is that the vendor has to comply to
20 any rules or regulations or things that could be
21 promulgated or that currently exist. So it's kind of
22 this catchall that even though we might not know at that
23 time when we're signing the contract there could be some
24 requirement out there, that basically the vendor is on
25 notice that they have to comply with these things

1 whether they're known right now or later in the future
2 come up as an issue.

3 MATTHEW MORGAN: Tom, I agree with that.
4 That's a very good policy to have and a way to capture
5 everything. You know, and I'm sure you utilize them
6 based on kind of what your check cashing part of it does
7 for your operation and maybe to an extent where it's
8 located at.

9 There may be a scenario -- because, you know,
10 there's all kinds of scenarios out in Indian Country
11 waiting to be set up where that third-party check
12 cashing service may be attached to your building but may
13 not be on trust land and may be somewhere over there.
14 And, you know, that's one of the reasons, too, we didn't
15 go so far into something like that, because depending on
16 your degree of authority over them, changes by your
17 operation. And that's the reason it's looked at more as
18 a pointer to say, hey, guys, remember if you have this,
19 you've got to have some procedure somewhere because
20 that's good practice within guidance.

21 And you may be able to go a step further
22 depending on your situation and not say you have to do
23 A, B, C, D, E, because it varies on your operation, how
24 you want to use them, where they're located at, who
25 negotiated the contract, what authority the TGRA has

1 over that entity. All those variables come into play,
2 and that's the reason we kind of pointed to it and
3 didn't go further in that, in the Tribal Gaming Working
4 Group.

5 R. REST WEST: That's all I have.

6 ROBERT FISHER: Okay. That's everything that
7 NIGC wanted to raise on this section. So does anybody
8 have anything else that they want to bring up with the
9 group or discuss with NIGC? Tom.

10 THOMAS WILSON: Yesterday we talked about this
11 multipart form and about all the copies going to
12 accounting and that that maybe isn't quite worded what
13 we're trying to say, and I just don't want to lose sight
14 that that was something I don't think we resolved. So
15 do we need to put that on our list of further discussion
16 items?

17 KATHI HAMEL: Anywhere there's a reference to
18 multipart forms and being forwarded to accounting, there
19 needs to be some sort of language that says that not all
20 the copies can be in the possession of somebody, one
21 person in accounting, so we have to work on that
22 language through the document concerning multipart
23 forms. If there's a system involved though, there's a
24 safeguard that would prevent something being altered.

25 ROBERT FISHER: Okay. Anybody have anything

1 else?

2 Okay. So I don't believe we made any changes
3 to the regulation as proposed by the TGWG. There's a
4 couple of notes in here on the screen with respect to
5 guidance. So do you want to test whether there's a
6 recommendation for the TGWG version of this section with
7 our standard change to paragraph A and B? Yes?

8 Yes, this is to the regulation. And then I can
9 translate what's on the guidance list to a note to the
10 TAC to make sure that when you go back to the guidance
11 you check on these things. Okay?

12 All right. So if you support the TGWG version
13 of section 543.14 with the changes that we have been
14 making to the other sections in paragraph A and
15 paragraph B, raise your hand.

16 That's everybody. Okay. Bear with me one
17 second. All right. So we're ready to put the MICS
18 aside and go back to technical standards. Okay. So let
19 me just close out of this.

20 THOMAS WILSON: Robert, you're going to pull up
21 the document that you re-sent --

22 ROBERT FISHER: Correct.

23 THOMAS WILSON: -- yesterday?

24 ROBERT FISHER: Yes. Give me a second here
25 while I find this.

1 So how would you like to -- do you want to go
2 through it? There are a couple of notes in there we
3 need to address. You want to check section by section?
4 How would you like to do this?

5 THOMAS WILSON: Well, I would suggest two
6 things. One, that you just refresh where for the TAC
7 the approach we took on how we organized this for
8 purposes of submission, and then if we just go section
9 by section and revisit the changes that we talked about.
10 It doesn't have to be, I don't think, necessarily line
11 for line, but we need to find out if anybody on the TAC
12 has any concerns or issues with what's already been
13 decided now that they had the chance to kind of digest
14 it.

15 And then when we get through that, just to have
16 a formal vote that this is the document we're going to
17 submit with the appropriate cover letter, would be my
18 suggestion.

19 ROBERT FISHER: So what's on the screen right
20 now is the document. You can see at the top it says
21 Attachment A. That's the document that was attached to
22 the November summary that was sent out right before
23 Christmas and then again yesterday or the day before, I
24 can't remember which.

25 As I was preparing that document to combine all

1 of the changes that we had talked about primarily in
2 Connecticut and then in Rapid City, I worked with Kathi
3 and Tom and Daniel around what -- how to present the
4 information and the changes.

5 So what the document reflects are the changes
6 that we agreed to and there are two sets of changes, one
7 is to the actual language to the text of the TGWG
8 proposed document and those are essentially shown in
9 what's on the screen and the tracked changes version in
10 red, so either the deletions or the additions in red and
11 underlined.

12 As we were going through the discussion on the
13 technical standards, there were some places where we --
14 and I'm just going to scroll down -- where we developed,
15 in essence, either a clarification or a suggestion to
16 NIGC that would be part of the recommendation to
17 accompany the document, and those notes or
18 recommendations are in the document, they're highlighted
19 in this color, whatever you call that color; green or
20 blue or turquoise or something.

21 R. REST WEST: Sea green.

22 ROBERT FISHER: Sea green. Rest calls it sea
23 green.

24 MIA TAHDOOAHNIPPAH: It's kind of like a green.
25 It's kind of dark on the -- when you print it out, it's

1 kind of hard to read.

2 ROBERT FISHER: Oh, so it comes out as a dark
3 gray.

4 MIA TAHDOOAHNIPPAH: Yeah.

5 ROBERT FISHER: All right. So I can change
6 that color obviously. And we did work our way through
7 every section in the document. There are also a couple
8 of places where there was some -- as I was doing some
9 things, I did some kind of clarification changes and
10 there were some questions that either came up as a part
11 of the discussion or came up as a part of what I was
12 revising, and so there are notes listed in the document
13 as note to the TAC that we just need to make sure we
14 touch on. Those are highlighted in yellow in the
15 document that I sent out.

16 Then after I made all of those changes, I then
17 marked it, redlined it, marked it to show the changes
18 from what the TAC was recommending to what the TGWG had
19 proposed to NIGC. And so what you see in the insertions
20 and deletions in the document reflects the changes that
21 the TAC has made to the TGWG version.

22 Do you want to say anything more about the
23 format or the presentation of it?

24 THOMAS WILSON: Well, I appreciate the work
25 that you put into this. I know how difficult it was to

1 pull all those different components together. And I
2 would just like to remind the TAC that we have already
3 voted on these things that are in here so the purpose of
4 reviewing, in my mind, is not necessarily to rehash
5 what's already been decided but just to make sure that
6 everybody is comfortable with the format, the comments
7 that are in there, and if there's something that you're
8 not understanding in the document or if it's not clear,
9 that we can make that clarity before we vote to adopt
10 the document.

11 ROBERT FISHER: Well, I have one other request
12 because I wasn't maybe quite as organized when we were
13 working on this as I have been on the MICS, and so this
14 is also a passthrough to make sure that I captured all
15 of the changes. So we want to make sure it's also
16 complete and that the changes that I made are also
17 accurate.

18 MIA TAHDOOAHNIPPAH: Is it going to be noted
19 anywhere in -- where we actually took a vote? I didn't
20 really see.

21 ROBERT FISHER: I -- no. I did not note the
22 votes because what I did was created a whole document
23 that reflects what you recommended. So in essence --

24 DANIEL MCGHEE: In the document, it was voted
25 on.

1 ROBERT FISHER: Correct. If it's in this
2 draft -- right. If it's in this draft, it was voted on
3 by the TAC.

4 DANIEL MCGHEE: Which could be referenced in
5 the cover letter.

6 ROBERT FISHER: Well, yes, yes. Or whatever way
7 you want to present that this document represents the
8 recommendation of the full TAC, I mean, however, you
9 want to do it, whether you want to say it's a complete
10 document, make these changes, whatever the way is you
11 want to express that.

12 Go ahead, John.

13 JOHN MAGEE: Although we might have took votes
14 on amendments or -- or corrections to different sections
15 within 547, I think Tom's suggestion to call for a vote
16 for formal adoption I think is probably in order and I
17 would recommend that as well.

18 ROBERT FISHER: Of the whole document, you
19 mean?

20 JOHN MAGEE: Correct.

21 ROBERT FISHER: Yes. Okay. Yes, because
22 basically what you've got in front of you is a draft, so
23 you want to turn this draft into a final recommendation,
24 okay. All right. Let's go.

25 Okay. There are no changes in the section

1 listing or the section titles. There were no changes in
2 section number one. In section two there were changes
3 to that -- I can't remember whether it was developed in
4 Rapid City or in -- I think it was in Rapid City we did
5 that. So anybody have anything on that section, any
6 questions, any suggestions, any hesitations? I don't
7 know how -- you need to give me some guidance how you
8 want me to go through this.

9 THOMAS WILSON: I think we just asked if
10 anybody has any issues or anything else they want to
11 comment on and we just move through. I mean, this may
12 be a rapid process.

13 ROBERT FISHER: Okay. Anybody have any issues,
14 anything they want to raise with respect to section two
15 before we move on?

16 (No audible response.)

17 Okay. Section three is the definitions, and we
18 made a couple of changes in the definitions.

19 DANIEL MCGHEE: I think the agent had put off
20 to the right on the one you sent out.

21 ROBERT FISHER: There we go. Good. Thank you.

22 Okay. So if I'm remembering correctly, there
23 is a note in here about -- I think that note might be in
24 the -- just let me scroll all the way through the end of
25 the -- so those are the only change in the definition.

1 I think the notes in the --

2 DANIEL McGHEE: What is it, change in the
3 cashless definition?

4 ROBERT FISHER: Change in in the definition of
5 cashless transaction. So there are changes in the
6 definition of agent, cashless transaction, and we added
7 one on electromagnetic interference. I think that's it.

8 Yes. Daniel.

9 DANIEL McGHEE: In the redline, if you go back
10 up to that, I know the one you sent me, it's in blue. I
11 just didn't know why. Maybe it's because something on
12 my computer like additions are blue, deletions are red.
13 I think yours is just --

14 ROBERT FISHER: Everything is red.

15 DANIEL McGHEE: Meaning it's struck through,
16 it's red.

17 ROBERT FISHER: Okay. John, your card is up.

18 JOHN MAGEE: I need someone to refresh my
19 memory on this. I'm trying to figure it out. On the
20 definition of "agent" where the redline takes the
21 section out, but this definition permits the use of
22 computer applications to perform the functions of an
23 agent too. Clarify why we took that out for me.

24 THOMAS WILSON: What I recall is that we were
25 trying to -- it had to do with the issue of assigning

1 human characteristics to a computer application and that
2 it was incongruent, that purpose of the agent. In a
3 computer application, while it can have a control and do
4 some things, it's not capable of making decisions, if
5 you will, the same way that a physical person is. So as
6 I recall, it was discussion about the fact that a
7 computer application isn't a person, and there were
8 implications that if you said that the computer
9 application could be an agent. It even got to things
10 dealing with licensing, and I just recall a whole host
11 of concerns that that brought up as far as using that
12 term as part of the definition of an agent. So it can
13 be a control, a computer application could be a control
14 but not an agent.

15 MATTHEW MORGAN: We had that discussion within
16 the technical standards on agents and we had that there
17 because a lot of people didn't think it fit here and it
18 may have not. We had this big explanation from the
19 Tribal Gaming Working Group that, you know, we're trying
20 to make definitions consistent across both documents.
21 So wherever the document was in the MICS, we brought it
22 to the technical standards or vice versa.

23 We had lots of conversations on agents or
24 whether a person could take on those characteristics,
25 whether it was appropriate or not, for purposes of this

1 document only. Because we got to the point where we
2 were okay with making definitions different in the
3 technical standards than they were on the MICS, the TAC
4 did. They got to that point where they were fine.

5 The purpose of the technical standards are to
6 present a document to an independent testing lab that
7 tells them what they need to test so they can create a
8 test script, and one of the concerns I think we had
9 here, and I don't know if we captured it or not, was the
10 question we ended with was, if this definition is not
11 used within this document, it should just be struck.
12 Off the top of my head, I'm not for sure why an agent
13 would be in a test script anyways.

14 When the lab goes through and tests hardware,
15 software, even to the point of does it have a sticker.
16 I mean, it is truly a checklist, is it capable of doing
17 item eight? Yes, it's capable. Then it meets that. I
18 don't know what type of applicability an agent would
19 have in this document and my question is, do we use it
20 within the document.

21 ROBERT FISHER: There's the first one.

22 R. REST WEST: 12 of them.

23 ROBERT FISHER: It's 12 times, yeah, and
24 there's the first one right there other than in the
25 definition.

1 So, John, did that answer the question? Do you
2 have still have something on your mind about this?

3 JOHN MAGEE: No, I think it's -- if everyone
4 else is comfortable with the definition in this. I get
5 Matt's analogy of just in a technical issue for a lab to
6 deal with. So I'll withdraw.

7 ROBERT FISHER: Okay. Any other? Do you want
8 to delete the changed definition or do you want to do
9 the whole definition, just check on the whole definition
10 section? The latter, okay.

11 I asked whether you want to go through each
12 definition that has been changed and check to see if
13 anybody has anything or whether you want me to just ask
14 about whether there's anything in the definition section
15 that people have a question about. I'll do the latter.

16 And so does anyone have anything else in the
17 definition section?

18 (No audible response.)

19 ROBERT FISHER: Okay. So then let's move to
20 section number three. I can't tell you what the pages
21 are because my page numbers changed. Section three is
22 the definitions.

23 Section four. Anybody have any issues,
24 questions, concerns about section four?

25 (No audible response.)

1 ROBERT FISHER: Okay. Are you ready to move to
2 the next one? Did you want to check on the way that the
3 notes are phrased? Okay. So we're still in section
4 four. This is a note to the NIGC that doesn't read very
5 well up there. Is that easier to read? I think
6 everything else gets really dark. Okay. Gray? Okay.
7 Let's try that. Then it's just slightly shaded there.
8 Okay.

9 Okay. Matthew, your card's up.

10 MATTHEW MORGAN: I did want to make sure we're
11 good with four because this is the grandfather section
12 of it that -- and we went through that because we did
13 make some changes here and grandfathering is long,
14 complex, and just by its nature, confusing.

15 MIA TAHDOOAHNIPPAH: I was just going to
16 suggest in (b)(5), I have a little bit of wording
17 different in my notes. I don't know if maybe, Robert,
18 you can go back to the transcript and make sure word for
19 word.

20 ROBERT FISHER: In B?

21 MIA TAHDOOAHNIPPAH: B.

22 ROBERT FISHER: B, number five?

23 MIA TAHDOOAHNIPPAH: (B)(5), it was a new
24 comment on the (inaudible).

25 ROBERT FISHER: I'm sorry, what section is

1 that? Which page?

2 MIA TAHDOOAHNIPPAH: 16.

3 ROBERT FISHER: 16. I don't have a 16, so tell
4 me.

5 MIA TAHDOOAHNIPPAH: Right above the little
6 yellow -- right there.

7 ROBERT FISHER: Yes. So that's the reason
8 there is a yellow, because things got a little -- I had
9 some questions on this section about what we did and
10 what was intended and how it was meant to fit together.
11 It's 547.4(b), and then it's -- no. May it's not, maybe
12 it's 547.4(c)(5), (c)(5). And that we definitely needed
13 to talk about because that got -- that did get shifted
14 around a little bit.

15 THOMAS WILSON: So, Mia, what specific area did
16 you think there's a difference from your notes to what's
17 here?

18 MIA TAHDOOAHNIPPAH: Just wording. I had
19 "must" instead of "shall," and then I just wasn't sure
20 with -- on that electrostatic discharge, if it was
21 electrostatic interference.

22 ROBERT FISHER: Okay. So you can see I pointed
23 out that I switched the word "shall" to "must" and I now
24 don't remember why I did that. Because there was some
25 conversation back and forth about which was the right

1 term to be used in the document. So all the changes
2 that might have been different from what the notes are
3 are listed in the notes that I made to the TAC. Of
4 course, it's completely up to you which way you want to
5 go and how you want to do it.

6 THOMAS WILSON: So is what's in yellow, if I
7 read that correctly, that's something that we need to
8 confirm?

9 ROBERT FISHER: Correct. Or we need to change
10 it. So either change it or -- I mean, either confirm
11 that those changes are okay or let's put them the way
12 that you want them. It got a little confusing because
13 you may remember we had different definitions in
14 different sections from different states and then trying
15 to figure out how that stuff fit together, I had a
16 little difficulty when I went back to recreate the
17 document.

18 THOMAS WILSON: So, Matthew, I know this was an
19 item near and dear to your heart, that what's in yellow,
20 those changes.

21 ROBERT FISHER: So I'm going to flip back over
22 here because this is the version that's also redlined,
23 and it shows the change that we made to the section as
24 well as -- so you can see that five, that section five
25 above the note was what was added in based on that whole

1 discussion of the different things and the discussion we
2 had with Nimish about what was not covered in the TGWG
3 version.

4 And we had some really lengthy provisions that
5 had all kinds of standards built into them and then we
6 boiled it down to this one sentence with the list of
7 things, and then as a part of that in the list we needed
8 to have a definition of the electromagnetic
9 interference. And so we put that back in from the
10 previous version and then these other changes were just
11 trying to make it to be conforming changes to the rest
12 of the document.

13 But the reason that you have that note there is
14 because we put this section five into the document that
15 was not previously there.

16 MATTHEW MORGAN: I'm okay with the language in
17 that. My biggest concern, again, is the UL
18 certification requirement and getting to the purpose of
19 what you were testing for. UL seemed to be far and
20 beyond really what you were concerned about. Again,
21 remember when Nimish -- we went through this. We pulled
22 up several states, I think Nevada, we looked at Nevada,
23 we looked at Pennsylvania, and I think there was one
24 other one and we were really trying to combine language.

25 So to say we relied upon those states in their

1 language, I'm comfortable with that statement; I know
2 exactly what all that means, that is not correct. But
3 that was -- that is the argument I hear time and time
4 again from engineering data. Look at other commercial
5 jurisdictions and what their requirement is and why
6 within the NIGC that we go so far and above what
7 industry standard is.

8 This is the purpose, this is what you want to
9 test for safety reasons, and this is all you want to
10 test for and require. Otherwise, it is making a lot of
11 people spend a lot of resources, manufacturing, and that
12 cost is passed on to tribes when it really doesn't get
13 you any further from your stated goals in that sense. I
14 am comfortable with this language.

15 JOHN MAGEE: Come back to my question. So the
16 part here in red is the section you're referring to,
17 okay, five?

18 MATTHEW MORGAN: Yes, yes.

19 THOMAS WILSON: Mia, does this answer your
20 question?

21 MIA TAHDOOAHNIPPAH: I was just pointing it
22 out.

23 ROBERT FISHER: Yes and the "must" and the
24 "shall" I just checked. The "must" -- the "shall" was
25 because the -- that's the way that the rest of the

1 section was written, but you can certainly go back to
2 "must."

3 Okay. So I think that's the extent of the
4 changes in section four. So does anybody have anything
5 else you want to talk about?

6 (No audible response.)

7 ROBERT FISHER: Okay. So what I would suggest
8 is why don't we go back and confirm the language in the
9 notes and then see if you're good with the section or we
10 can just do the whole section with the notes in that
11 way.

12 THOMAS WILSON: You mean with the meeting
13 notes?

14 ROBERT FISHER: No. The notes to the NIGC.

15 THOMAS WILSON: Oh, okay.

16 ROBERT FISHER: So we can either focus
17 specifically on the language of those notes and make
18 sure they accurately capture what you want to express or
19 just ask whether people are okay to move with the
20 section as-is including the notes then move on.

21 THOMAS WILSON: I think that.

22 ROBERT FISHER: Okay.

23 THOMAS WILSON: I mean, the TAC has had this
24 document.

25 ROBERT FISHER: Right. Okay. So then this

1 note to the TAC in terms of these changes, if anybody
2 has anything else that they want to either suggest or
3 do, otherwise we'll confirm those changes as a part of
4 saying that whether people agree with the section or
5 not.

6 Okay. So is everybody comfortable with the
7 section four as it's drafted and are you ready to move
8 on to five?

9 (No audible response.)

10 ROBERT FISHER: Okay. Moving on to section
11 five, let's see what we did in section five. No changes
12 in section five from the TGWG version. Anybody have
13 anything with respect to section five they want to bring
14 up? Everybody ready to move on to the next section?

15 (No audible response.)

16 ROBERT FISHER: Section six. That's a short
17 section. No changes in there except Microsoft doesn't
18 like the "unenroll."

19 DANIEL MCGHEE: (Inaudible.)

20 ROBERT FISHER: Well, it's probably easier to
21 just go through each one. Maybe we could pick up the
22 pace though, do it in 15 seconds.

23 All right. Let's move on to section seven and
24 in section seven, I'm just scrolling down to see if
25 there's changes. If somebody wants to be looking ahead

1 to the section to tell me where they are, we'll get
2 there faster. There aren't any changes from the TGWG
3 version in section seven.

4 So anybody have anything they want to raise
5 with the group?

6 (No audible response.)

7 ROBERT FISHER: Okay. Moving on to section
8 eight. Sections are flying by. No changes in section
9 eight from the TGWG version. So anybody have any issues
10 or concerns they want to raise with the group about
11 section eight?

12 (No audible response.)

13 ROBERT FISHER: Okay. Moving on to section
14 nine. No changes in section nine. Anybody have any
15 issues or concerns they want to raise with the group
16 about section nine?

17 (No audible response.)

18 ROBERT FISHER: Okay. Moving on to section 10.
19 No changes from TGWG version in section 10. Anybody
20 have any issues or concerns you want to raise with
21 respect to section 10?

22 (No audible response.)

23 ROBERT FISHER: Okay. Moving on to section 11.
24 No changes in section 11 from the TGWG version. Anybody
25 have any issues or concerns that you want to raise about

1 this section?

2 (No audible response.)

3 ROBERT FISHER: Moving on to section 12. Okay.
4 There's a change. A couple of changes in section 12.
5 Go ahead, Michelle.

6 MICHELE STACONA: Yes. Somebody refresh my
7 memory on number two at the finish of 547.12. My notes
8 actually have a lot of discussion regarding technical
9 and procedural, and from my understanding, what I wrote,
10 all the procedural stuff should be in the MICS and not
11 in the technical standards.

12 So in the MICS we need to make sure somehow
13 this is written in there, so I guess we need a note
14 somewhere.

15 DANIEL MCGHEE: So if we're submitting this,
16 are there notes at the bottom, aren't there, of this
17 section, if you did anything? If any notes were made,
18 it would be in this section? Maybe we made a note about
19 that.

20 ROBERT FISHER: Any note to the TAC is in the
21 please where the note arose. It would be right there at
22 the section or, similarly, any note to the NIGC about a
23 particular section also would be at the section.

24 DANIEL MCGHEE: All right. So maybe that's the
25 reason the only note not be so much to say it should be

1 included in the MICS, but this was more of a procedural
2 matter and not a regulation or a technical standard. I
3 think if that was the reason behind the deletion, maybe
4 that should be the only note not a (inaudible) note
5 saying this should be in -- so because if it's located
6 there or not and you don't want to put something here
7 that may or may not end up there. So the note would be
8 why you deleted, I mean, to satisfy what Michele is
9 asking, I guess.

10 ROBERT FISHER: So is this a note to the TAC to
11 do something in the MICS or is this a note to NIGC to do
12 something in the MICS?

13 DANIEL MCGHEE: There should be no more notes
14 to the TAC in this thing.

15 ROBERT FISHER: Correct. That's correct. But
16 it could be a note in the MICS to you, to the TAC, when
17 you go back through to the MICS to finish off the MICS
18 to do that. That's up to you.

19 MICHELE STACONA: Since we decided it didn't
20 belong in these standards, we should really look for
21 placing it either in the MICS or the guidance documents
22 because I think this subject is really important that
23 TRGA should know that downloads are happening.

24 THOMAS WILSON: Michelle, in the information
25 technology -- no, that's not correct. Server, server

1 software, MICS, if you go to page seven, that's under
2 tab J. If you go to page seven, Romanette i -- or, one,
3 Installation and Modification, it covers what needs to
4 happen when installation or modification is done to the
5 systems and who is supposed to do them and what is
6 supposed to be recorded and logged. So it seems to me
7 that that's addressed in the MICS.

8 DANIEL MCGHEE: So Robert, I don't think
9 there's opposition to it being here.

10 ROBERT FISHER: Can you say that again?

11 DANIEL MCGHEE: I don't see any opposition to
12 it being deleted.

13 ROBERT FISHER: Delete it, right. Okay.

14 DANIEL MCGHEE: As long as it's included in
15 the --

16 ROBERT FISHER: Right. So Michele, are you
17 okay with it the way it's in that MICS section? Okay.
18 So we don't need any notes?

19 (No audible response.)

20 ROBERT FISHER: Okay. The next change is
21 right.

22 ROBIN LASH: Did you go back to 547.12(a)(5)?

23 ROBERT FISHER: (A)(5), new five? This is old
24 five.

25 ROBIN LASH: No. The Class II gaming systems

1 that --

2 ROBERT FISHER: Yes, this right here.

3 ROBIN LASH: Okay. Yeah. Just for a clean up,
4 we're saying "shall" instead of "must" and that has
5 "must" in it and then --

6 ROBERT FISHER: Just bear with me. I'm going
7 to do it in a clean document. Okay. Right there.

8 ROBIN LASH: Okay. And then down on D,
9 "Verifying Downloads," we added a change and I think
10 we're missing the word "of," it says, "capable being
11 verified" instead of "capable of being verified."

12 ROBERT FISHER: Correct. Yes.

13 It's this paragraph right before 547.13.

14 Okay, anything else? Yes, Dan.

15 DANIEL MCGHEE: Robin said that we were going
16 to be using the word "shall," right, as opposed to
17 "must," that's a general statement. So I know there are
18 about 10 places where "must" is used if that's something
19 we want to fix.

20 ROBERT FISHER: Do you want to fix it?

21 DANIEL MCGHEE: I mean, the "shall" is used,
22 but I was checking "shall" is used like 168. "Must" is
23 used like 8, so -- or 10 times. So if that's something
24 you're wanting to do, I can highlight those areas and we
25 could get to them. I could let you know.

1 ROBERT FISHER: That would be great, yes.

2 Dan, did you want to say something?

3 DANIEL LITTLE: I think Robin is right, having
4 "shall" is a generally used term instead of "must."

5 ROBERT FISHER: Okay. So that takes us to the
6 end of section 12. Anybody have anything else on
7 section 12? Any other musts in section 12?

8 Daniel.

9 DANIEL MCGHEE: There's some further but we'll
10 go back.

11 ROBERT FISHER: We'll go back at the end, okay.

12 All right. So let's move on to section 13. No
13 changes from TGWG version in section 13. Anybody have
14 any issue or concerns they want to raise about section
15 13?

16 Kathi.

17 KATHI HAMEL: I'm sorry, I just noticed this.
18 Section 13, the opening sentence.

19 ROBERT FISHER: Yes.

20 KATHI HAMEL: "This section provides minimum
21 standards for removable, rewritable and nonwritable."
22 I'm thinking it should be "nonrewritable." I mean, you
23 can't have a storage media you can't write to, but in
24 the opening sentence I believe it should say
25 "nonrewritable."

1 ROBERT FISHER: Does it need to be in
2 parentheses?

3 KATHI HAMEL: I don't know.

4 ROBERT FISHER: No parentheses? Okay. And
5 then we need to change the title of this paragraph B,
6 oh, no, it does say nonrewritable right there. Yeah.
7 Okay.

8 So what about the way this is, do you want me
9 to take out the parentheses and the hyphen there?

10 (Multiple speakers.)

11 ROBERT FISHER: That's correct. Okay. Back
12 over here. Anybody have anything else in 13?

13 (No audible response.)

14 ROBERT FISHER: Let's move to 14. All right.
15 So there was a change. This is also goes to Norm's
16 question, there is no minimum buys in this section,
17 which is where they were included in the NIGC version.

18 Okay. Anybody have anything in this section,
19 which is number 14? Any issues or concerns about this
20 section?

21 (No audible response.)

22 ROBERT FISHER: Ready to move to the next
23 section? Section 15. No changes from the TGWG version
24 in section 15. Anybody have any issues or concerns
25 about section 15?

1 (No audible response.)

2 ROBERT FISHER: Okay. Moving to section 16.
3 Anybody have any issues or concerns about section 16?
4 There are no changes in it from the TGWG version.

5 (No audible response.)

6 ROBERT FISHER: Okay. Moving on to section 17.
7 Anybody have any issues or concerns about section 17,
8 which brings us to the end of the document, and there
9 are no changes in that section from the TGWG version.

10 MIA TAHDOOAHNIPPAH: Are we going to change
11 that? We haven't done that in the MICS.

12 ROBERT FISHER: Change what?

13 MIA TAHDOOAHNIPPAH: Weren't we going to change
14 that title, the variance (inaudible) in the MICS.

15 THOMAS WILSON: You mean the were "variance"?

16 MIA TAHDOOAHNIPPAH: Yes. We were going to
17 discuss that when we got to that section. Variance as
18 a, you know, a different meaning than the rest of the
19 section, we were going to change that.

20 MATTHEW MORGAN: Remember we had that
21 conversation about variance for the standards or
22 regulations versus a statistical variance, and during
23 your investigation we used the word two different ways
24 and whether you changed one. And we talked about -- we
25 had that conversation when we got to variances in the

1 MICS and make sure it matched.

2 The other part of that was, is to remind the
3 NIGC that because variances to the regulations or
4 standards are also used in the Class III world, that if
5 we did make that change here, it really needed to be
6 considered, whatever they did on the Class III side as
7 well.

8 THOMAS WILSON: Well, is there a better legal
9 term for variance?

10 KATHI HAMEL: What I'm wondering is, rather
11 than just in the document that instead of just saying
12 "variance," maybe you continue to use the phrase
13 "variance from the standard." "Waiver"?

14 MATTHEW MORGAN: The risk you get into when you
15 start changing these words is what has become
16 generally -- a generally-accepted industry term and
17 whether you're creating more confusion to the general
18 industry by changing it or not.

19 I think you saw that in that financial
20 instrument exceptor versus bill exceptor. You know,
21 what terminology does your floor people use or your, you
22 know, the regular industry person use versus what's used
23 in the reg, and are you doing more harm than good, and
24 that's something you have to consider when you go in and
25 change them.

1 ROBERT FISHER: Okay. What do you want to do?

2 THOMAS WILSON: So is it apparent that in
3 547.17, because it's talking about a variance from the
4 standards, that it's already clear that the term
5 "variance" in that context means what it says, a
6 variance to the standard and does not mean whatever
7 other definitional term there might be for variance,
8 like a statistical variance or something?

9 DANIEL MCGHEE: What did we do in the MICS?
10 Because there is a section called "variance," which is
11 not the same thing as a variance between amounts.

12 ROBERT FISHER: We haven't gotten there yet.

13 DANIEL MCGHEE: So this is the same kind of
14 variance as that. So if we change it here, we've got to
15 change it there, and everybody knows it as variance. I
16 don't think it's that confusing. When you're talking
17 about language even in the operations and in the
18 everyday working environment, when you say variance,
19 you're usually clear to make sure you know what it is.
20 We need a variance in the TICS or we notice there was a
21 variance in the amount of -- so it's never really been a
22 confusion.

23 MATTHEW MORGAN: Like a lot of situations, I
24 think context drives the meaning of words, and for
25 better or worse, English is the language that we use and

1 it sometimes can be confusing because we have a lot of
2 words that have multiple meanings and it all depends on
3 what context it's used in. And, again, I think that's
4 the part of our discussion at large, is you can't read
5 it in a vacuum, you have to read it in the context and
6 totality of the situation.

7 And so I'm kind of with Daniel on this. I
8 mean, we've used this term so long I would hate to try
9 to go back and fix something and create a larger problem
10 when the -- at least I have not heard anything from the
11 industry to say this is an issue that we're confused
12 yet.

13 THOMAS WILSON: Just one wording issue in the
14 title. Are we better served with how does a gaming
15 operation apply for a variance "to the standards"
16 instead of "from the standards"?

17 DANIEL MCGHEE: Because you're asking to vary
18 from something, so you're varying from the standard. So
19 I think that's correct. Because you're not asking for
20 an amendment to the standards, you're asking for a
21 variance from the standards.

22 ROBERT FISHER: Any grammaticians in the room?

23 DANIEL LITTLE: That's the last if you want to
24 go back to some other stuff.

25 ROBERT FISHER: Okay. So we're not making any

1 changes to this section?

2 DANIEL MCGHEE: Actually, if you go down to the
3 end of that, there's two changes to "must."

4 ROBERT FISHER: I'm doing it in a clean.

5 DANIEL MCGHEE: Or do you just want to start
6 from --

7 ROBERT FISHER: Either way. What's your
8 preference.

9 DANIEL MCGHEE: Well, you were already there so
10 I was just --

11 ROBERT FISHER: I was there here but not there,
12 now I'm there there.

13 DANIEL MCGHEE: On page four.

14 ROBERT FISHER: Yeah.

15 DANIEL MCGHEE: The "must" is after commission.

16 ROBERT FISHER: That's D. All right. That
17 takes us all the way to the end of the document.

18 And so now let's check if everybody is in
19 support of the document as completed here today and I
20 can send a version that shows the minor changes we made
21 to it today as well. So if you're ready to test it?
22 Okay.

23 So if you're in support of the TAC's version of
24 547 as we've reviewed it and modified it today, please
25 raise your hand.

1 DANIEL McGHEE: You took all the yellow out.

2 ROBERT FISHER: All the yellow's gone, yes.

3 Raise your hand.

4 Okay. That would be unanimous. And that means
5 that you have completed your work on section 547. Nope
6 there's one question.

7 DANIEL McGHEE: On 547, there's supposed to be
8 a cover letter there that accompanies it that we haven't
9 seen yet. I support the document, but I haven't seen
10 the cover letter that's going to go with it, but I
11 support all the changes.

12 THOMAS WILSON: So what we need to do is to
13 formally adopt that this document is ready for or can be
14 submitted to NIGC, but we still have to do a cover
15 letter for it before it can be submitted and that cover
16 letter needs to be approved by the TAC prior to
17 submission but that this document itself as it stands
18 now is a done deal and ready for submission to NIGC. So
19 we need to have one more vote on that to adopt it.

20 ROBERT FISHER: One more vote? So okay.

21 Matthew.

22 MATTHEW MORGAN: My question is, and I may have
23 just forgotten, why do we want a cover letter?

24 THOMAS WILSON: At the time, the discussion was
25 that we wanted to be clearer about risk base and all of

1 that. It may, in fact, no longer be necessary. You
2 know, I don't know. It's up to you guys.

3 ROBIN LASH: I think one reason that we
4 discussed the letter is because people that are not at
5 the meeting would have to fish through the transcripts
6 to see that we may have formally adopted something;
7 whereas, if we submit a cover letter that says the TAC
8 formally adopts these technical standards, there's the
9 answer right there. Just kind of a formality, I
10 thought.

11 MATTHEW MORGAN: My only question is, is that
12 what Dan wants to see and, two, we voted on it once, we
13 voted on it twice, and then now Daniel is saying I want
14 to read what the cover letter is. Is it as simple as
15 one sentence that says, "We formally recommend," or just
16 be done with it or are you going to have a drafting
17 committee and then put a letter together? How many
18 times is done?

19 DANIEL MCGHEE: But I guess I was maybe
20 confusing the letter. We talked about that's going to
21 come with the MICS, talking about the whole risk base
22 versus this letter. This is just a simple, "we hereby
23 submit" blah, blah, blah, and then that's all we did.
24 But I know there was a more complicated letter going
25 forth so maybe that was meant to be for the MICS.

1 Okay. Then I withdraw that.

2 ROBERT FISHER: So I would recommend that we do
3 a transmittal letter to the NIGC saying the TAC
4 unanimously recommends. To make it easy, you could have
5 somebody do it on behalf of the TAC. You could delegate
6 that to somebody or, you know, you can circulate the
7 whole letter. It could be as simple as a one-sentence
8 letter, so it goes into the record.

9 THOMAS WILSON: Well, I tell you what, by
10 lunch, we'll have the transmittal letter ready.

11 ROBERT FISHER: Great. No. It should come
12 from one of you. It should come from the TAC. I mean,
13 I can submit it if you'd like, but it should really come
14 from the TAC.

15 THOMAS WILSON: Okay. So we need to adopt on
16 record that this will be submitted to the NIGC with a
17 transmittal letter of the TAC's formal recommendations
18 for the technical standards.

19 ROBERT FISHER: Right.

20 ROBIN LASH: I think we need to make a motion
21 to adopt this and that will be followed by a transmittal
22 letter that states the same.

23 ROBERT FISHER: All right then. Is somebody
24 going to make the motion, so to speak?

25 DANIEL MCGHEE: A motion to that effect.

1 ROBIN LASH: We'd like to make a formal motion
2 to adopt the technical standards that we've just
3 reviewed and all the changes that we agreed upon here,
4 and -- if you want to second.

5 DANIEL MCGHEE: Second.

6 LEO CULLOO: Second.

7 ROBERT FISHER: You'd be third, Daniel, because
8 Leo already seconded it.

9 All right. So you got a second, came from Leo.

10 ROBIN LASH: All in favor?

11 ROBERT FISHER: Okay. That is unanimous.

12 ROBIN LASH: For the record, we will also
13 submit a transmittal letter.

14 ROBERT FISHER: Okay. So does that mean that
15 we're finished with the technical standards?
16 Congratulations, everybody.

17 DANIEL LITTLE: Thank you, everyone.

18 ROBERT FISHER: Let's take a break. So for
19 those of you that haven't checked out, now would be a
20 good time. So a 15-minute break, so that means we'll
21 start up again at 10 after.

22 (Recess.)

23 ROBERT FISHER: So we're going to pick up with
24 543.18. Before you do that, do you want to talk about
25 the transmittal for the 547?

1 Go ahead, Tom.

2 THOMAS WILSON: No. Just a quick announcement
3 for everybody. I did get confirmation this morning that
4 the Pascua Yaqui tribe will sponsor the February meeting
5 and the only thing that you all will be responsible for
6 are your room costs, travel and the court reporter
7 picked up by a member, but the facility charges and all
8 of that will be taken care of as well as a hosted dinner
9 one of the nights by the tribe as well.

10 And by Tuesday, I will be able to get out the
11 room block information and all of that stuff out to you
12 folks. The block will be large enough to have the --
13 include the normal audience groupies. I'm sorry, that
14 would be the "support system."

15 ROBERT FISHER: Okay 514.18. I propose picking
16 up on our conversation about variances.

17 Okay. So who from the TGWG is going to give us
18 the overview of this section? That would be good.
19 Daniel or Matthew. I think Kathi could use a break.

20 MATTHEW MORGAN: To the best of my recollection
21 from the Tribal Gaming Work Group, very similar to the
22 section we saw in the technical standards, we redrafted
23 the variance section to give more deference to the local
24 TRGA that allows NIGC to still be involved in the
25 process but try to pin them down on reasons under the

1 statute of why something would not be allowed.

2 I went back and looked at some of the
3 comparisons and discussions we had during the technical
4 standards, and I know that was a question that Jason, we
5 had on what is our final agency. There will be finally
6 agency action. When you send it through them, we put in
7 procedural timelines on how long they have to respond,
8 what you need to submit to them, how long they have to
9 respond. If they do decide to not agree with the
10 tribe's decision -- maybe I should back up one, I
11 apologize.

12 Okay. So a gaming operation is now required to
13 send it to the TGRA. In the previous MICS versions, the
14 tribe could decide to bypass the TGRA and send it
15 directly to the NIGC. That's no longer allowed. It has
16 to send it to TGRA and get the local TGRA to buy off on
17 it before it ever moved out from the tribe.

18 If they do agree with the gaming operation to
19 grant a variance, then that's submitted to the NIGC.
20 The NIGC has a specific time table on when they need to
21 return that information. Those time tables are told,
22 you know, and if they do want additional information.

23 If they don't agree with you, they'll send back
24 specific reasons why. The TGRA will then consider those
25 reasons, and they may resubmit, they may change, but

1 that was to encourage conversation to make sure that
2 everybody is clear on the position and reasons why
3 something was granted at a TGRA level and maybe not
4 granted at the federal level.

5 If you resubmit it, and say, please reconsider,
6 the NIGC is onboard or is now required to say -- if they
7 do decide to still deny it, they have to list their
8 reasons, and I don't specifically remember the exact
9 wording, but I think it's imminent risk to the facility,
10 but that's the language used in the statute of when the
11 NIGC comes into a decisional-making process.

12 Because the way the statute was set up, this is
13 just a reminder for those -- the statute, a lot of the
14 authority for the NIGC comes post action; pre-action,
15 that's the TGRA. You're looking at it, you're going. A
16 lot of the authority for the NIGC comes to monitors,
17 oversee, to request documents, and it's always after the
18 fact they come in and look at it and that still allows
19 them to disagree and decide, you know, what is imminent
20 harm to the facility, and judging for your purpose that
21 would give you a final agency action at that point if
22 that happens.

23 Under the theory that hopefully that will never
24 reach that point, because, again, you're encouraged to
25 have lots of discussions and conversations from your

1 TGRA to the NIGC to make sure that everybody's on the
2 same page when that variance is needed. And, again,
3 reading it in context of the entire document, those
4 times should be infrequent because, again, we've taken a
5 lot of the process out of the regulation and moved that
6 into the guidance. So your tribe is allowed to really
7 craft a regulatory control system that fits their needs
8 better. So the need for a variance we think will be
9 lessened just by the very nature of how the document is
10 set up, for my brief introduction.

11 ROBERT FISHER: Thank you. Anybody have
12 anything to add? Okay. Then turning to Mike. Are you
13 going to do this? Mike.

14 MICHAEL HOENIG: Thank you. So turning to the
15 question that we sent out, may we skip the very first
16 one under the overall comment and go into the second
17 one? And just to rephrase it a little bit, I guess
18 maybe the TAC could just talk a little bit about what
19 the TGRA evaluates for the variance, what the Tribal
20 Gaming Regulatory Authority would evaluate the proposed
21 variance against, what standards they're using. Is that
22 something that's going to be -- I think from that
23 introduction, I get the idea that it would be something
24 that's kind of use to TGRA, but maybe if we could talk
25 about that a little bit more.

1 ROBERT FISHER: John.

2 JOHN MAGEE: Mike, I know you want to, as I
3 read your question there, it kind of intrigues me
4 because you're going back to the first question. It
5 says, 518 does not provide the commission with a process
6 for meaningful review or an assessment of the variances
7 approved by the individual TGRA."

8 Can you just explain to me what exactly is
9 their position here?

10 MICHAEL HOENIG: I'm sorry, I didn't hear you.
11 What exactly is what?

12 JOHN MAGEE: Why do you feel this is deficient?

13 ROBERT FISHER: Deficient.

14 MICHAEL HOENIG: I think the reason I kind of
15 wanted to skip over it is because it's more of a
16 question that I think would be determined internally at
17 NIGC and how we do the review -- I mean, not the
18 variance itself, but this question, to me, seemed almost
19 more what does the NIGC look at when it gets a variance
20 request from a TGRA or how do we internally decide that?

21 And this is a question that was submitted by
22 the field so, I mean, that's why I kind of wanted to
23 skip over it and just -- I think we have maybe it's
24 something internally to discuss with legal and the
25 proposed interaction. I don't know the exact process

1 right now for approving a variance, so --

2 ROBERT FISHER: Daniel.

3 DANIEL MCGHEE: All right. The -- 18, the
4 variance section in our little book is not in here to
5 refer to.

6 DANIEL LITTLE: There is no guidance document.

7 ROBERT FISHER: So you can go into tab A
8 because tab A has the full text of the MICS.

9 DANIEL MCGHEE: I just wanted something easier
10 to look for. Yes, I can do that.

11 DANIEL LITTLE: Dan, this was kind of like an
12 additional section that we were asked to look at. We
13 originally didn't -- did not do a comparison for this
14 one.

15 ROBERT FISHER: It starts on 22, Daniel.

16 MICHAEL HOENIG: Looking at the question again,
17 I guess maybe it is worth talking about. Maybe it
18 shouldn't be skipped over. I mean, a meaningful review
19 and assessment of variances and what does the commission
20 use and what do we use to look at, you know, when we get
21 this, is it something that -- and, you know, I think
22 it's also addressed in the last question where it comes
23 up, is how -- well, not the last question, sorry.

24 There's the question down -- well, anyway, you know,
25 talk about what does the commission look at and what do

1 they use when they're deciding, you know, other than the
2 imminent threat language, which we talk about a little
3 further down.

4 ROBERT FISHER: Well, this section does say
5 that whoever reviewed this reviewed it to say that the
6 process might not work for NIGC. So was that Tom or --
7 yeah, Tom.

8 THOMAS WILSON: If referencing Class III, the
9 language that's used in the MICS for Class III for a
10 variance, is that any variance controls or variance
11 request that has to have controls, that they're at least
12 as stringent as the minimum internal control.

13 Personally, I've always had an issue with that
14 because trying to determine the stringency of something,
15 a control should not be evaluated on the stringency. A
16 control should be evaluated on whether it's mitigating
17 the risk. And I have always taken exception with that
18 stringency clause in the language because I think it
19 actually inhibits coming up with controls that might
20 look different than what's in the MICS.

21 Now, that being said, I think that the proposed
22 regulations and the Tribal Gaming Working Group document
23 and the guidance documents, I would agree with Matthew
24 that a lot of that goes away in my mind because the
25 whole concept surrounding the documents are sort of risk

1 based. So to answer the question, if I were advising
2 the NIGC on, gee, well, how would we grant a variance,
3 which is probably one of the hardest things for any
4 regulatory body to do, is to grant a variance to the
5 very things that they regulate.

6 I know it's the case for me as a regulator at
7 my tribe. And the test that I use always is, by
8 granting this variance, am I increasing the risk that
9 I'm trying to mitigate? If I am, then I'm not as
10 comfortable with it and either I might request that
11 additional controls or something be put in place. But
12 if I can answer the question that, no, it's not
13 increasing that risk, then generally we will grant a
14 variance.

15 But in my mind, that's the only criteria you
16 can use to say whether a variance should be granted or
17 not. If you use terms like "stringent," you know,
18 that's an arbitrary term. I don't know how one could
19 conclude, because for you what might be more stringent
20 might not be my classification of stringent.

21 And the example I always refer back to in Class
22 III, at least in our compact, we have some language in
23 there that says -- well, similar to what we talked about
24 with surveillance yesterday, that all surveillance
25 activity must be logged. Well, there's no way in

1 practicality that by the language that I can even come
2 up with a control that is more stringent than "all,"
3 because "all" encompasses everything.

4 But the reality is that the risks that I'm
5 interested in mitigating are not recording all the
6 activity but there is certainly activity that needs to
7 be recorded, and that's what I'm concerned about
8 focusing on. So if I were building controls surrounding
9 that, I would be looking at what are the risks in
10 surveillance, what are the things that I absolutely have
11 to record. And I could make the case that that
12 revision, or what would be considered at that point a
13 variance to the standard, is more meaningful and does
14 more to mitigate the risk than recording everything.

15 But by virtue of the terms and words being
16 used, in my case, my state agency can come back and say
17 it's just, absolutely, that anything less than "all" is
18 less stringent of a control than "all" regardless of how
19 ridiculous that might be. So that's my best answer to
20 the question of how one would evaluate variances.

21 ROBERT FISHER: Daniel.

22 DANIEL MCGHEE: That's been up for a long time.
23 I don't have a question.

24 ROBERT FISHER: Okay.

25 DANIEL MCGHEE: Sorry.

1 ROBERT FISHER: That's okay.

2 Anybody have anything else on this question?

3 Did you have anything you want to say back?

4 MICHAEL HOENIG: No.

5 ROBERT FISHER: Okay. So you want to move to
6 the next question, Mike?

7 MICHAEL HOENIG: Sure. So under the reporting,
8 the question, the TGWG version deletes the submission
9 requirements mandating instead only that the TGRA
10 deliver a notice to the commission within 10 days. What
11 information should the notice include?

12 ROBERT FISHER: Kathi.

13 KATHI HAMEL: I think that's a good point.
14 What would you want?

15 ROBERT FISHER: So while you're thinking about
16 that, I'm going to go to Christinia.

17 CHRISTINIA THOMAS: I'm just going to point out
18 that the (inaudible) shall contain a complete copy of
19 the information presented to the TGRA and the variance
20 granted. What more information would you need?

21 ROBERT FISHER: In other words, is there any
22 other information that would be useful?

23 MIKE HOENIG: So then I guess that kind of goes
24 back to what documents that -- I mean, everything that
25 the TGRA sees is submitted to the NIGC, I guess.

1 Rest, can you kind of address what typically
2 (inaudible.)

3 R. REST WEST: Typically, you would see the
4 approval from the TGRA, also the original MICS standard
5 and then the alternative procedures that are meant to
6 replace the MICS standard and anything that's relevant
7 to the alternative procedures and how the TGRA feels
8 like the -- or the gaming operation is using the entity
9 that determines that that (inaudible). So we feel that
10 alternative procedures meet the requirements or at least
11 the stringent to the MICS or what have you. So at least
12 a copy of the standard that it's replacing and what the
13 alternative procedures are.

14 And I would imagine that's all in some kind of
15 document the TRGA prepares when they approve the
16 variance from the gaming operation.

17 ROBERT FISHER: That's what Christinia is
18 trying to say.

19 CHRISTINIA THOMAS: Yes. I think that entire
20 sentence covers that. You're going to be submitting
21 what the TGRA is reviewing before granting a variance
22 and you're going to be submitting what that variance is,
23 so that variance is going to detail out exactly what was
24 approved and why.

25 ROBERT FISHER: Okay. Good. All right. Next.

1 MICHAEL HOENIG: Talking about review by the
2 chairman of the variance, and this goes back to the
3 imminent threat language, the question is, can the TAC
4 foresee a situation in which a proposed variance may not
5 rise to the level of an imminent threat but may pose an
6 increased threat to the integrity of the gaming
7 operation and imminent or less than imminent threat to
8 the finances or other component of the gaming operation
9 or simply fail to meet the intent of the standard?

10 And then I guess, you know, is there any --
11 should the commission then approve -- or grant the
12 variance when there is a threat, albeit not maybe an
13 imminent threat. And, again, I think maybe Matt
14 addressed this in his introduction talking about the
15 imminent threat language in the statute.

16 But if anybody else has anything to add.

17 THOMAS WILSON: I would agree that trying to
18 define "imminent threat" is difficult. I think it goes
19 down that same path as more stringent, less stringent.
20 It seems to me that if a variance is being asked for
21 regarding a variance from the regulations, then the key
22 question that a TGRA or NIGC would ask is, again,
23 getting to that risk base. Is the variance being --
24 regardless of whether it's an imminent threat,
25 regardless of whether it affects -- it seems to me that

1 imminent threat is not the standard that one wants to
2 use when trying to determine if a variance should be
3 granted.

4 I feel like that's overly restrictive in the
5 sense that a variance can be asked for any of the
6 promulgated regulations and, again, I would advocate
7 that the question you want to ask yourself is, is the
8 risk still being mitigated by whatever these alternative
9 procedures are that are being submitted as opposed to
10 defining whether something's imminent or not.

11 Because I think that that's difficult and we're
12 talking risk in our other documents. In the MICS
13 documents we talk about that -- there's wording in there
14 that you can have alternative controls that mitigate the
15 risks. So it seems to me that that's got to be the
16 focus of a variance because that's really a very
17 definable position that both the TGRA can take and the
18 NIGC when we discuss is the MICS being mitigated or the
19 risk being mitigated. And I think in that standpoint,
20 it allows for a better conversation to take place rather
21 than just saying that something isn't as stringent or,
22 you know, that this is an imminent threat to gaming.

23 What might not be an imminent threat today
24 could be tomorrow depending on what happens. So I think
25 that the more that you can steer this back to the risk

1 question when you're looking at determining a variance,
2 the more meaningful the conversation can be.

3 ROBERT FISHER: Daniel.

4 DANIEL MCGHEE: If the regulation can change
5 the imminent threat language, can the reg, is that what
6 you're saying, Tom?

7 THOMAS WILSON: Well, that's what NIGC was
8 recommending I think, but I think I'm, you know, even
9 beyond that to -- that the whole idea of a variance
10 should be risk based, and from my perspective, not have
11 anything to do with imminency, superiority, supremacy
12 whatever, you know, more stringent than, that we should
13 stay focused on risk.

14 And we've taken that approach in the other MICS
15 and the Tribal Working Group Documents and when we talk
16 about that you have to establish controls to mitigate
17 the risk. So it seems to me the theme is already there
18 and that that should be -- if it is not carried through
19 in the variance document, then the focus, spirit and the
20 intent will be lost when somebody tries to apply for a
21 variance.

22 DANIEL MCGHEE: Okay. So the only place I see
23 it mentioned though, is in the very last paragraph of
24 section so if we fix it there does it really come up
25 again in the variance section? I mean, that's something

1 we should consider fixing now making the recommendation
2 rather than just saying to them -- recommending that
3 they fix it, or is it important enough that we suggest a
4 way to fix it, like we did for some of the other stuff.
5 Because it's just that last sentence. It says, "A reg
6 decision must include an explanation of why the
7 requested variance creates an imminent threat." I mean,
8 could you suggest why requesting a variance does not
9 mitigate the risk and that would fix it?

10 ROBERT FISHER: Hold on one second. That's
11 what your saying? (Indicating on overhead display.)
12 Yes. Okay.

13 THOMAS WILSON: There's some discussion that
14 perhaps this language is in the MICS reg.

15 DANIEL MCGHEE: That's what I was looking for.
16 It's not in the regs at all.

17 ROBERT FISHER: We could check it actually, if
18 you want. I'll pull it. I'll just pull it up.

19 Kathi, go ahead while I'm looking for this.

20 KATHI HAMEL: I believe one of the last
21 questions in our document here was guidance documents,
22 and I really think many of the things we're talking
23 about, I really think there needs to be a guidance
24 document for this section to give, you know, the TGRA
25 more information than is outlined in the regulations and

1 talking about risk base is where you can expand on it.

2 THOMAS WILSON: I would agree that that would
3 be helpful because this also would help to answer one of
4 the other questions that's in the document about, you
5 know, what prevents the TGRA from being arbitrary and
6 capricious in granting a variance, and so it seems the
7 guidance is lacking.

8 ROBERT FISHER: Well, I don't see it in here.
9 I'm sorry. I could only hear half of that. So was the
10 suggestion made to create guidance for this? Yes?

11 KATHI HAMEL: I just want to throw caution out
12 there. This language in the MICS for the variance
13 section is identical to what's in 547, so if there's
14 changes here, we've already accepted. So keep that in
15 mind. This is the same language we have in 547.

16 THOMAS WILSON: Okay. And one of the changes
17 we made in that was risk. So in that opening statement
18 we changed that from as stringent as or whatnot to
19 mitigate the risk.

20 ROBERT FISHER: All right. So is there anymore
21 we need to do with this right now? Do you have anything
22 else on this particular question? I know you might have
23 another question.

24 MICHAEL HOENIG: No.

25 ROBERT FISHER: Okay. I couldn't find anything

1 in IGRA.

2 MICHAEL HOENIG: Okay.

3 ROBERT FISHER: Robin, did you want to say
4 something?

5 ROBIN LASH: The comment Kathi suggested
6 creating the guidance specifically to expand upon the
7 risk-based issues, and I just feel it would be helpful
8 to put in there. And then Tom also thought that the
9 arbitrary and capricious issues could be addressed in
10 the guidance documents as well.

11 DANIEL MCGHEE: I did a search for IGRA. It's
12 not in there.

13 ROBERT FISHER: Okay. Is this a
14 recommendation to the NIGC to create the guidance or is
15 this something that the TAC is going to do and submit to
16 the NIGC?

17 ROBIN LASH: We'll take on that responsibility.

18 ROBERT FISHER: Okay. So I got it in here in
19 the notes to the TAC. So when you get the draft, the
20 next draft, it will have that note in there to cover.

21 Okay. Anything else on this question before we
22 move to NIGC's next question in the variance section?

23 (No audible response.)

24 ROBERT FISHER: Okay. Mike.

25 MICHAEL HOENIG: Why don't we move to the last

1 question, which is, how does a gaming operation proceed
2 while variance is under review?

3 MATTHEW MORGAN: Mike, how do they proceed now,
4 currently?

5 ROBERT FISHER: Cautiously.
6 That was a suggestion maybe.

7 MATTHEW MORGAN: I asked my question because
8 your statement earlier was that we're not really sure
9 how it works today. So related back to that question
10 is, you know, under some of your former staff, all
11 variance requests went to that person and did that
12 person have the delegated authority from the chair to
13 approve that? Or was that person acting on behalf of
14 the entire commission? How did you view those actions
15 prior to getting something back formally from the NIGC
16 that granted and/or -- I don't know if there's a uniform
17 answer out there. There may be some tribes that say no
18 or some tribes that say yes, and that answer would still
19 even yet depend on whether the tribe submitted the
20 variance request by itself without TGRA approval, which
21 is currently allowed.

22 You know, some tribes do that, they don't go
23 through, for one reason or another, go through the TGRA.
24 So I mean, you've all seem them all, so how do you
25 currently see those versions?

1 MICHAEL HOENIG: I don't know. I mean, I think
2 the question is, does the TAC think there should be a
3 standard way that the gaming operation proceeds while
4 the variance is under request for the TGRA?

5 ROBERT FISHER: Daniel got his mike on first.

6 DANIEL MCGHEE: All right. I know once upon a
7 time, you had to -- if you wanted to do a variance,
8 there had to be (inaudible) so when you submitted that,
9 you had to sit back and wait until that happened. Then
10 it changed to where TGRA could approve the variance and
11 then submit that to them.

12 So when that changed with us, if we approved
13 the variance, it started right then. And unless
14 objections came back, we had to hash them out and then
15 they had to withdraw that variance. But it's not
16 stated, it was just inferred, because otherwise --
17 because if we had to wait still, then there would be no
18 change to the the old statute. So that needs to be
19 clear or we could to that, but the way I look at it,
20 once you get the TGRA to approve it initially to make
21 that judgment, then once we get it, it became a change
22 to the operation and the operation started operating
23 under it unless -- and then later if those things got
24 hashed out which could take months. And we had a few we
25 had to undo.

1 ROBERT FISHER: Tom.

2 THOMAS WILSON: It seems to me that with the
3 tribes as the ultimate regulator, that it would follow
4 that if they approved the variance -- assuming -- I
5 mean, you have to put aside well, okay, did they follow
6 proper guidance, follow all procedures. But if we
7 assume that what's in place is followed, then the TGRA
8 approves it and it's effective upon their approval, but
9 unless you hear otherwise from NIGC, that that approval
10 would continue.

11 I guess the question though that comes to mind
12 is if NIGC felt so strongly about something that is
13 there a mechanism that puts that in a forbearance? So
14 the TGRA's approved it but the concern is so
15 overwhelming from an NIGC standpoint, is there a
16 mechanism that that can be put in a holding pattern
17 until the dispute, if you will, is resolved.

18 I don't know because I certainly can see a
19 situation where that scenario could come up, and if what
20 is happening is really, let's say in this case, this is
21 something that is threatening the integrity of gaming or
22 rises to that level, it would seem like there needs to
23 be a mechanism to deal with that sort of circumstance
24 maybe.

25 MATTHEW MORGAN: I'm kind of thinking off the

1 top of my head, Tom. And I know we're trying to craft
2 these documents that cover a lot of these situations,
3 but practically speaking, you know, most of the time I
4 have variances that have been granted, and I've had a
5 couple that we've talked about a lot before, you know,
6 before they signed off on them. But, you know, a lot of
7 communication happens in between that time and, you
8 know, to the credit of the NIGC, I'm not aware, at least
9 during my term, that when they haven't completely agreed
10 with me, somebody on their behalf, whether it be the
11 region or your investigator or somebody from D.C. hadn't
12 called and said, you know, we really may have some
13 issues here and here's the reason why we're having
14 issues. Would you reconsider, or did you think about
15 this before actual formal mechanisms come in place and
16 that, you know, lots of conversation usually happens.
17 It's not in a vacuum-type situation. It may be
18 possible, but at least in my experience, I don't see
19 that happening very often or I don't know that that
20 happens very often.

21 THOMAS WILSON: In those situations, Matthew,
22 had the variance already been put into effect was it
23 still in the discussion stage and not yet in effect?

24 MATTHEW MORGAN: At least mine they had been
25 put into effect, it's just because if they were coming

1 to me and I don't have a variance, I always tell them
2 you have the option to go around me currently and submit
3 it, but I have the option to have discussions with the
4 NIGC and relay to them the reason why you all put it to
5 me and I didn't approve it.

6 And so that's sitting there. And if I approve
7 it, I operate -- like you said, I'm the primary
8 regulator, so it is in effect from that point. If they
9 decide to go around my office and operate on their own,
10 they do so at their risk, operations does. I mean, I
11 haven't approved it. You always have to -- unless we
12 can come up with some type of agreement that I'm going
13 to hold it in forbearance until the NIGC opines on that
14 subject, that they run the risk of my office having an
15 enforcement action as well as the NIGC coming in.

16 I don't find it a good practice to do that.
17 That's one of the reasons the Tribal Gaming Work Group
18 took that ability out of the way, that if you can't get
19 approved through your local TGRA, that's really not the
20 tribe speaking with one voice to the federal government,
21 and that really needs to happen at a local level before
22 you ever take that out.

23 DANIEL MCGHEE: Well, I noticed in the current
24 standard, not the one that's proposed, but the current
25 standard, the NIGC actually has asked for evidence that

1 the TGRA actually has approved the variance. So I think
2 and know -- I thought that with that in place that the
3 operations could not just bypass the TGRA anymore and go
4 to -- I mean, they could but it wouldn't get any --
5 because it didn't have evidence that the TRGA approved
6 it but just one of three criteria that would be reviewed
7 by the NIGC. So I thought that kind of nipped it in the
8 bud, to keep operations from bypassing their primary
9 regulator, which is the tribe. Whether they obeyed it
10 or not is a different story but that just changed in
11 '05.

12 ROBERT FISHER: Rest, go ahead.

13 R. REST WEST: The current MICS standard that's
14 in the guidance or the comparison document is actually
15 the 542, you know, the reason there's been some question
16 about what's happening now is in the postscript world,
17 we really haven't received any or very few variance
18 requests from gaming operations and there's no current
19 in the draft 2008 543 regulations, there's no 543.18 in
20 that. So we're in limbo right now as far as Class II.
21 So there's really nothing in force right now for Class
22 II.

23 I mean, we rendered opinions on some variance
24 granted by the TGRAs that are Class III gaming operation
25 but we haven't really gone through the variance process

1 that I can remember because we have a process for that.

2 ROBERT FISHER: Okay. Anybody have anything
3 else on this? Anything more we need to do with respect
4 to this question?

5 John, go ahead.

6 JOHN MAGEE: Well, if we get back to the
7 question, the question was, how do gaming operations
8 proceed while this variance is under review? Picking up
9 with what Daniel stated and then Matt and Tom, the
10 tribes are primary regulators and I think this is how
11 we would operate as well. You're approved through your
12 regulator, a tribe, it is in effect.

13 It's interesting to see how different
14 operations go because we would never allow our gaming
15 operations to bypass us. That just wouldn't happen.
16 But just throw that out there. But I just wanted to go
17 back to -- we would actually support the theory that
18 once the TGRA approves it, it's in effect.

19 MICHAEL HOENIG: I just want to make clear, the
20 question isn't, you know -- and I don't think we were up
21 here looking for more particular -- you know, I don't
22 think that we're saying that the NIGC, that it shouldn't
23 be operated under until the NIGC's approval. I think
24 the point is it's not clear in the proposed regulations,
25 and so it's something that the TAC may want to consider

1 clarifying when questions like this come up.

2 DANIEL MCGHEE: And was it even clear in the
3 old -- could that be as simple as just to not have to
4 come up with the (inaudible) itself but making the
5 recommendation that a variance approval is in effect
6 after the TGRA approval is in effect. It would be our
7 recommendation to NIGC that that's part of this, and it
8 would take do with it what you will. It's a
9 recommendation.

10 ROBERT FISHER: And how would you say that?

11 DANIEL MCGHEE: The TAC recommends
12 clarification to the regs and then the variances are in
13 effect after TGRA approval.

14 ROBERT FISHER: Okay. Robin, were you going to
15 say something?

16 ROBIN LASH: No.

17 ROBERT FISHER: Okay. That was the last NIGC
18 question. Rest, did you have something?

19 R. REST WEST: I just was looking at the title
20 of this. Is says, How does the gaming operation apply
21 for a variance from the standards part of this. In some
22 cases the TGRA might be performing part of the
23 requirements under the MICS gaming function. And so I
24 don't know if that's a good title for this section or
25 not. I just threw that out.

1 ROBERT FISHER: Can you share that?

2 DANIEL MCGHEE: Yes. There's been some times
3 that the actual, even our case as we're reviewing it,
4 and we know that that's hard for the operations to
5 comply with, so they may not have officially asked for
6 something, and I think we've actually submitted a
7 variance based on something the TGRA wants. So it
8 wasn't really a gaming operation apply for it. So you
9 could say how to apply for a variance, because it could
10 just be the TGRA is not even a gaming operation.

11 THOMAS WILSON: I mean, it seems that the
12 logical steps are the gaming operation may apply to the
13 TGRA for a variance and it's the TGRA that applies --
14 they either grant it or not and then applies to the NIGC
15 for the variance, or it could be the TGRA who is
16 requesting a variance.

17 KATHI HAMEL: Well, the way it's written down,
18 it's not requesting a variance from the commission and
19 the regulation reads, Should a TGRA grant a variance to
20 any prevision of the MICS, the TGRA shall deliver a
21 notice of the same to the commission."

22 So it's a communication process, not a request.

23 THOMAS WILSON: Just so I'm clear, I understand
24 it's a notification, it's not a request. Okay. So the
25 notification goes to NIGC and they have the ability to

1 disagree with the notification.

2 ROBERT FISHER: Okay. So Daniel, did you
3 understand?

4 DANIEL MCGHEE: Well, I don't know what the --
5 did that support or not support what I just said? I
6 don't know about the titles. Is that what that's in
7 reference to, the title, Kathi, leaving it the same or
8 what?

9 KATHI HAMEL: I think I was answering -- I was
10 clarifying Tom's interpretation of application to the
11 commission versus notification to the commission. So
12 because the request is still of the TRGA, not of the
13 commission.

14 DANIEL MCGHEE: So does anyone support or
15 oppose changing how does a gaming operation apply for a
16 variance? I don't know if I'm clear on that. Anyone
17 opposed to that?

18 ROBERT FISHER: So while people are thinking
19 about that question, and we'll come back to it.

20 Rest.

21 R. REST WEST: My comment resulted from
22 situations where the TGRA's actually oversee
23 surveillance but the gaming operation might not have
24 anything to do with the variance request for these
25 purposes from surveillance standards. That's what

1 initiated my comment. The gaming operation wouldn't
2 even be a part of this. That's what I had trouble with,
3 the title.

4 ROBERT FISHER: So back to Daniel. Question
5 about changing the title.

6 John.

7 JOHN MAGEE: Well, I would be in support of
8 having the TGRA over the tribe instead of the gaming
9 operations.

10 THOMAS WILSON: There's really two types of --
11 I mean, the gaming operator may request of the TGRA for
12 a variance, and in that scenario the TGRA either grants
13 or doesn't grant it. If they grant it, then they have
14 to send notification from NIGC that they have done this,
15 but there also are cases where the TGRA may request a
16 variance to the standards.

17 ROBERT FISHER: Maybe it's this word that's the
18 problem.

19 THOMAS WILSON: Can we have a little
20 five-minute caucus, or 10-minute?

21 ROBERT FISHER: Sure. Let's just take a
22 10-minute break. We'll start up again at 20 after and
23 figure out about how to change the title.

24 (Caucus break.)

25 ROBERT FISHER: So projected up on the screen

1 are a couple of different variations for how to change
2 the title. Let me check with the TAC and see if there's
3 any other suggestions that you'd like to get up on the
4 board, so to speak.

5 Anybody have a strong preference for picking
6 one or keeping one or throwing one of them out? I think
7 we've pretty much determined that the title as written
8 doesn't work, if we can find something better. Anybody
9 have a preference?

10 John.

11 JOHN MAGEE: So you're looking for a suggestion
12 at this point?

13 ROBERT FISHER: Yes. Either one of the ones
14 that's up there or something new.

15 JOHN MAGEE: After conferring with my attorney,
16 I think we're comfortable with number three.

17 ROBERT FISHER: Three.

18 THOMAS WILSON: Number three, meaning three in
19 red or the last?

20 ROBERT FISHER: This one. (Indicating on
21 overhead display.)

22 JOHN MAGEE: The last one.

23 ROBERT FISHER: Oh, the last one, this one.
24 That one, okay.

25 KATHI HAMEL: Can you add the word "the" in

1 front of "NIGC?"

2 ROBERT FISHER: Okay. Anybody else have a
3 strong preference?

4 THOMAS WILSON: I like the last one as well.

5 ROBERT FISHER: Okay. So that's -- anybody
6 want to speak in favor of any of the others that are up
7 here, the other two in red or the original title?

8 Do you support changing the title to what's
9 highlighted in red, the last one that's up there, raise
10 your hand.

11 MATTHEW MORGAN: I'm standing aside.

12 ROBERT FISHER: You are standing over on the
13 side, that's true.

14 Okay. So Robin, did you have something you
15 want to say.

16 ROBIN LASH: No.

17 ROBERT FISHER: Okay. So I kind of got
18 distracted with what Matthew was doing. So can you
19 raise your hand again if you support that change?

20 Okay. That got everybody, sort of, in the
21 room. Brian, you stepped back into the room just as we
22 were -- you raise your hand?

23 BRIAN CALLAGHAN: Stand aside.

24 ROBERT FISHER: Brian said he would stand
25 aside, that means it's unanimous. We changed the title.

1 Okay. Wait a second. I have to do my
2 bookkeeping. So do we need to do anything else in the
3 variance section?

4 (No audible response.)

5 So we do need to test this change right here?

6 Michele, go ahead, I'm sorry.

7 MICHELE STACONA: So the changes we make here
8 we kind of also need to do to the 547.

9 ROBERT FISHER: So is that in the regulation or
10 in the guidance? Regulation? Okay. So we're not going
11 to go back and do that now, but somebody can do that as
12 a part of the -- oh, yes, that is a note to the TAC.

13 All right. So we do need to confirm this
14 change right here which was suggested in paragraph --
15 yes. Sorry.

16 KATHI HAMEL: From a grammar standpoint, the
17 number one of this section starts out with "Should a
18 TGRA."

19 ROBERT FISHER: Yes.

20 KATHI HAMEL: I think "when" might be a better
21 word than "should" and then "grants," plural.

22 ROBERT FISHER: Okay. If you're in favor of --
23 support these changes to the first paragraph in 543.18,
24 raise your hand.

25 Okay. That got everybody. And hold on one

1 second.

2 DANIEL MCGHEE: I mean, essentially, we've
3 formally adopted 547 already officially. I don't know
4 how that works going back and making changes. So why
5 can't it just be a recommendation to the NIGC to check
6 because when they change it here, to look for conforming
7 changes instead of the TAC having to do it because
8 that's opening it back up.

9 ROBERT FISHER: Okay. That's true. So you
10 would do this? So you want to make this -- okay. So
11 we're jumping around here a little bit. Why don't we
12 finish off this section and then see about these other
13 things that are right here. So let me just ask you to
14 focus for a second on the proposed change to this
15 section Roman IV right here, which was where we actually
16 started this conversation about the imminent threat.

17 So does that work, or do we need to do anything
18 more to it before we test whether you have consensus on
19 the recommendation?

20 MATTHEW MORGAN: My only issue with that
21 language is that -- and it kind of goes back to Jason,
22 if the commission issues a final agency action, they
23 have to have some type of legal standard. Does not
24 mitigate the risk is not a legal standard that a court
25 could look at to say, you know, it's very subjective if

1 you bring in other legal terms, arbitrary and
2 capricious. Imminent threat may not be the level that
3 you want, but you definitely want to create some type of
4 legal standard there to gauge their decision against,
5 otherwise the agency is going to get (inaudible) in
6 their expert opinion and it's all moot at that point, if
7 that's where you -- that's the reason I think some of
8 that is put in there. That's my worry, if you say it
9 does not mitigate the risk, it's very subjective.
10 Imminent threat, arbitrary and capricious, very
11 objective legal standards, whereas in court, is the only
12 way to get to that if they deny it, a court could look
13 and say did you meet the threshold level.

14 ROBERT FISHER: So, Matt, do you have a
15 suggestion?

16 MATTHEW MORGAN: I like the highest hurdle
17 possible so which would be imminent threat, but if you
18 want to drop that legal standard, I mean, that's what I
19 mean, if it's too high for the TAC, then where do you
20 want to draw back to on your legal standard that you're
21 looking at here?

22 DANIEL MCGHEE: I just suggested for lesser
23 legal terminology, because I don't know any, I mean, I
24 wouldn't know that imminent threat versus what it says
25 up there is a legal matter or not, so without a

1 suggestion --

2 THOMAS WILSON: Based on what Matthew said, I
3 understand the rationale for that terminology from a
4 decision-making standpoint. My point of the risk
5 mitigation is that -- and not necessarily that the
6 wording has to be there, but the question was, how does
7 the NIGC evaluate the standards? Now, so if you're
8 saying that imminent legal -- or that imminent threat in
9 the integrity of gaming has a specific defined criteria.

10 ROBERT FISHER: Okay. So I have to really ask
11 for the -- to let the committee do its discussion. If
12 somebody in the audience has a suggestion to make, we'll
13 figure out a way to get that information to the group.

14 Go ahead, Tom.

15 THOMAS WILSON: So if there is a meaning that
16 is clearly defined and uniformly used, then I understand
17 the rationale for that wording being in there.

18 ROBERT FISHER: So take it back to the way it
19 was, is that what you are saying?

20 THOMAS WILSON: Well, I would not oppose that
21 myself. I don't know about --

22 ROBERT FISHER: So that would go this way. So
23 that means we would not make a change to that section,
24 in other words. Anybody feel strongly that we should
25 make a change?

1 (No audible response.)

2 Okay. That takes care of that. So then we had
3 this suggestion right here. Do we need this still, this
4 right here, that the TAC recommends clarification of
5 this section to indicate that variances are in effect
6 after TGRA approval?

7 Kathi.

8 KATHI HAMEL: I think the opening sentence
9 implies that.

10 ROBERT FISHER: Okay.

11 KATHI HAMEL: When a TGRA grants a variance,
12 that would indicate to me it would be implied.

13 ROBERT FISHER: So are you saying we covered
14 that recommendation?

15 KATHI HAMEL: I think the guidance document is
16 what needs to support this whole regulation.

17 ROBERT FISHER: Right. Okay. If we do that,
18 it should -- if we cover that in the changes in
19 paragraph A and provide a note to the TAC to cover that
20 in the guidance, then the only other open item is the
21 conforming changes and the technical standards and
22 whether you actually want to go back to the technical
23 standards and do those or whether you'd like to create a
24 note to the NIGC that there needs to be conforming
25 changes in the technical standards. See this part right

1 there.

2 Daniel and then Jeff.

3 DANIEL MCGHEE: I like that. I don't want to
4 open up 547 again.

5 ROBERT FISHER: Jeff.

6 JEFF WHEATLEY: I agree, but do we limit it to
7 547.17 or is it the whole document?

8 ROBERT FISHER: So, Daniel, do you have any --

9 DANIEL MCGHEE: I'm okay with that.

10 ROBERT FISHER: Well, you kind of wouldn't say
11 it this way either. Okay. So. Kathi.

12 KATHI HAMEL: If we're to request that the NIGC
13 change 547.17 to conform with 543.18, then that would
14 indicate to me we would need to submit 543.18 with 547
15 because they won't know what it conformed to if we
16 haven't submitted it to them.

17 ROBERT FISHER: Could somebody just take a
18 quick look at 547 and see if this is an easy thing to do
19 or --

20 KATHI HAMEL: It's easy.

21 ROBERT FISHER: It's easy?

22 KATHI HAMEL: Yes.

23 JEFF WHEATLEY: Yes.

24 ROBERT FISHER: So maybe it's just easier to
25 just make the change to the 547 can stand on its own.

1 And then we could go through the -- we could make a
2 technical amendment to 547 or a technical amendment to
3 the technical standards.

4 THOMAS WILSON: I think we should because 547
5 needs to be a done deal.

6 ROBERT FISHER: Yeah. So would you like me
7 to -- we could do that right now. You want me to do
8 that right now? So we can just pull up 547. Can
9 somebody look at 547 and we can do it right after lunch?
10 Because we are at our -- okay, so, what did you say,
11 Kathi?

12 KATHI HAMEL: Two changes. Change the title,
13 copy the title.

14 ROBERT FISHER: Okay. I'm just going to make a
15 note right here because we're at our title, yes. And
16 I'll do it over lunch.

17 KATHI HAMEL: And then provision one, (a)(1),
18 change the word "should" to "when" and "grant" to
19 plural.

20 ROBERT FISHER: I'll make these conforming
21 changes and we'll come back and take a look at 547 after
22 we break, the first thing after we get back from lunch,
23 because by my clock we are just approaching 10 of 12.
24 We're at the appointed -- a little over our appointed
25 time for public comment to the committee. Last time I

1 checked, no one had signed up for public comment, and so
2 I want to check to see if there's anybody in the
3 audience that wishes to provide comments directly to the
4 committee at this point.

5 So no one has stepped forward at this point, so
6 I could go ahead and make the change in 547. You want
7 to see me do it? All right. Hold on.

8 Okay. So I made the changes to 547 in section
9 17 and carried over the title and the changes in
10 paragraph (a)(1) that we made in 543.18. And so do you
11 want to do something official to say that the TAC adopts
12 these changes?

13 ROBIN LASH: It would be an amendment, then a
14 vote on the amendment. I make a motion that the TAC
15 make the amended changes that have been discussed and
16 that we vote on the amended changes.

17 DANIEL MCGHEE: Second in favor.

18 ROBIN LASH: In favor.

19 ROBERT FISHER: Okay. It's unanimous. You
20 need to do any more? Okay. So now I'm back in 543.18
21 and I'm taking out the notes to NIGC that we just were
22 discussing. Okay. So that, I believe, brings to a
23 close our work on the variance section in the MICS.

24 And so by my clock it's just about five of, so
25 why didn't we take our lunch break. And today's

1 lunchtime is 27 minutes and so --

2 DANIEL MCGHEE: What will we begin on when we
3 come back?

4 ROBERT FISHER: Well, we still have two MICS
5 sections left when we come back and then we have a
6 couple of other clean up things to do. So we'll talk
7 about the agenda when we come back. So we have a lot to
8 do this afternoon so be back by one o'clock, please.

9 (Recess.)

10 ROBERT FISHER: We need to go over the agenda.
11 What's remaining on our agenda? So if I have my list
12 right, there are two sections of the MICS that we still
13 need to address, 543.15 and 543.17; is that right? And
14 then on the agenda we also had cycling back to gaming
15 promotions and player tracking and to bingo.

16 DANIEL LITTLE: We only have a couple very
17 brief questions.

18 ROBERT FISHER: On the bingo.

19 DANIEL LITTLE: Yes.

20 ROBERT FISHER: Okay. So we have some work to
21 do on the MICS, and then we have to take a look at the
22 meeting summaries, see if there's additional changes to
23 the meeting summaries. So I know there's one on the
24 October summary we need to do. And then any discussion
25 that we need to have about planning about going forward,

1 what's going to happen, what's involved, what the
2 schedule is.

3 Tom.

4 THOMAS WILSON: The -- it's important that we
5 talk about that -- this was on yesterday's.

6 ROBERT FISHER: Oh, yes, the checklist.

7 THOMAS WILSON: The checklist. Because it's
8 critical that -- well, NIGC is here that they get that
9 total circle picture of that component, how that plays
10 into this whole process. So we definitely need to get
11 that covered today.

12 ROBERT FISHER: Okay. So we'll do that after
13 we finish off the MICS. So should we go through the
14 rest of the MICS sections and then do the checklist?
15 Yes? Okay. And Christinia and Jeff prepared documents
16 coming out of the December meeting, and so we may just
17 want to have a quick explanation of what those are and
18 then figure out what you want to -- I'm sure people
19 haven't had a chance to review them. So you might put
20 that on your agenda for the next meeting.

21 CHRISTINIA THOMAS: All right. Just the
22 information that Robert had sent you guys for the two
23 areas that we said were outside of the purview of NIGC
24 authority in the last meeting. There are some slight
25 changes from TGRA that Jeff and I had worked on.

1 I also put license credits and complimentary
2 service items in that same format but there are no
3 changes from what's in the guidance documents and plus
4 they haven't been discussed yet by this group.

5 ROBERT FISHER: Okay. Thank you. Thanks to
6 both of you for doing that work. All right. So let's
7 pick up back at the MICS with 543.15.

8 And I see Rest is back in the chair there. I'm
9 just checking that you're our guy for this.

10 R. REST WEST: Kind of.

11 ROBERT FISHER: All right. So who from the
12 TGWG is going to give us the overview of this section?
13 Meanwhile, I'm going to pull up the comparison document.

14 DANIEL MCGHEE: I only see one question from
15 NIGC on this section we're doing. It's going to take a
16 stab at answering it. At the same time, I'm assuming is
17 this is one of those areas if we're standing in line
18 with the other recommendations that may not even be --
19 it's a recommendation that falls outside of the
20 jurisdiction of NIGC, which is being discussed later, I
21 think, some of those areas, comps and whatever.

22 So I don't know how you want to approach it
23 other than at least answer the one question either way.
24 So that whether they accept that recommendation or not,
25 they at least have that question answered as to whether

1 it be in their jurisdiction, because otherwise we would
2 we recommending to convene, if we thought it was saying
3 procedures is being followed.

4 ROBERT FISHER: So is somebody going to give an
5 overview or you just want to move straight to the NIGC
6 question?

7 THOMAS WILSON: There's only one property layer
8 that deals with credit, and John wasn't part of the
9 Tribal Gaming Working Group, so I don't know that we can
10 really give an overview, and other than answer the
11 question if, in fact, we can.

12 ROBERT FISHER: Okay. So then let's just go
13 straight to the question.

14 R. REST WEST: I think we have another
15 question. There's a general comment over the regulation
16 in "totals" on the bottom of page six about some of the
17 changes that have been made from the 2010 draft
18 regulation to arrive at the TGWG proposal. It's down
19 there in that paragraph. Basically, with deletions from
20 the 2010 draft regulations, how does the TAC feel that
21 the proposed regulations effectively address credit
22 being offered to patrons. So I will jump to the
23 question.

24 ROBERT FISHER: That's all the way at the end;
25 right?

1 R. REST WEST: Page 1111 under the -- there is
2 some guidance on collection agency use. The question
3 is, wouldn't it be better or would the TAC want to
4 provide some additional guidance to require monthly
5 confirmation reconciliation with outstanding credit
6 balances? So in order to better evaluate a collection
7 agency's efforts unless the reconciliation (inaudible)
8 is between the gaming operation and the credit agency or
9 the collection agency.

10 And I think best practice is most operations do
11 that on a monthly basis so they maintain a good idea of
12 what's out of the credit or the collection agency,
13 what's owed to them from the collection agency, how good
14 the efforts are at collection and their particular
15 agency that they're working with is performing those
16 types of issues.

17 Also in maintaining reconciled balances
18 whatever they're showing as far as on their general
19 ledger, at the end of the year they're going to evaluate
20 how had collection agency is do and whether or not to
21 write off some of this outstanding credit.

22 ROBERT FISHER: John.

23 JOHN MAGEE: Going around the table here, I
24 guess we're the only ones who actually issue credit as
25 far at this table, and looking at your question there,

1 as far as confirmation and reconciliation, we do have a
2 process for this. It's pretty intense, and there is a
3 collection agency, you've got so many attempts to go
4 through to trying to collect. But here's the issue, I
5 didn't read this and I'm not really prepared to talk
6 about it, and I actually wish I could give this to the
7 credit issuing committee and have them have input on it
8 before we actually deal with this. So if there's a way
9 we can hold off on this one section until then, I'd
10 prefer that.

11 DANIEL LITTLE: That would be very helpful, so
12 if you want to submit that at that time, we'd be very
13 grateful. Thank you.

14 JOHN MAGEE: Well, unless the TAC thinks we
15 should continue on, I'll stand aside, but --

16 ROBERT FISHER: I'm not hearing anybody step
17 forward. So Tom, then Kathi.

18 THOMAS WILSON: On its surface, I questioned in
19 my mind, especially given the concerns, Rest, that you
20 brought up, a lot of those seem, to me, to be business
21 concerns not a regulatory concern.

22 And so I will tell you we do not issue credit.
23 I don't know that we would or can, but if we did, the
24 answers to these questions would come about through a
25 business decision to do -- I would find it odd -- to get

1 to that same thing, that use an outside collection
2 agency and you're holding them accountable now to the
3 standards or things when they have their own industry
4 practices that really cover and assure. I mean, this is
5 what they do for a living as a business model.

6 I'm just not seeing NIGC's role in this nor
7 would I necessarily even see a Tribal Gaming Regulatory
8 Authority role in this type of an issue. So I'm just
9 trying to understand since the Tribal Gaming Working
10 Group has this as a document, was there a discussion
11 about this issue of the -- is this even a regulatory
12 matter or not? Because I'm sort of curious how this
13 even raised to what it did.

14 JOHN MAGEE: From our perspective, we do have a
15 regulatory role because we approved our policies and
16 issuance in credit. For example, there was one recently
17 where they wanted to increase the line of credit from, I
18 don't know, 200,000 -- I don't remember, but it was like
19 10 percent to 20 percent, so that was our role. And,
20 you know, we have enough bigger role, I'm just using
21 that as one example. I'm not sure what working groups
22 idea was behind this, but I haven't read this. I don't
23 know what the questions are.

24 THOMAS WILSON: So just to be clear, John, you
25 guys have a role in that because it made sense to and

1 you chose to. I guess my question to you, though, is
2 would you see that this is at a role level that NIGC
3 would play in this type of a process?

4 JOHN MAGEE: That's an interesting question. I
5 mean, our role is to protect the tribe's assets, which
6 means that we're loaning out tribal money to be played
7 at the casino and we have to ensure that there's some
8 way we get paid back. It seems to me that the NIGC
9 might have some role, you know, protecting the tribes at
10 some point. I'm sure that the policies are there,
11 but --

12 ROBERT FISHER: Go ahead, Matt.

13 MATTHEW MORGAN: My lawyer answer, depends on
14 the situation. In the bingo game where we had the
15 management company coming in and they're doing that, you
16 know, the NIGC may have a role in that situation, TGRA
17 would. If they're not using, quote, unquote, "gaming
18 funds," if they decide to use a different tribal fund to
19 do that, TGRA may or may not have a role. It really
20 depends on how it's set up.

21 Personally, I see it, you know, if they are
22 going to go through the casino and use gaming funds,
23 tribal asset funds that are within my purview at a
24 tribal level, of course we want to play a role. I think
25 that's what John does in that. If they decide to go a

1 different route in order to issue credit, I may not have
2 a role, but I do see it as a business decision not a
3 federal NIGC role in those terms. In the Indian
4 Affairs', you know, relationship between United States
5 government and tribal governments, there may be another
6 government agency that does have some type of trust
7 duty, but I'm not for sure that is the agency that has
8 it.

9 And I'm not addressing your question. I do
10 think it's important that we do at least go on record.
11 If we do find this outside of their authority, if that's
12 put on there, I do personally believe that we should
13 discuss -- and if we need to defer it later on, that's
14 fine -- discuss the guidance documents and make sure
15 we're comfortable with them under kind of a two-prong
16 approach. If the NIGC does decide to up there, at least
17 we had our input and guidance.

18 Personally, I would like to emphasize they need
19 to create a vehicle to issue guidance documents out
20 there on those subject matters that are outside their
21 ability to enforce. Just because it's something that is
22 not in their authority, doesn't mean it's not good
23 practice at a local level that you have some guidance
24 surrounding -- to help you better regulate that,
25 irregardless of whether that authority rises to a

1 federal responsibility or not.

2 ROBERT FISHER: Kathi.

3 KATHI HAMEL: I would think if there's any
4 deductibility in gross gaming revenues for credit, that
5 the NIGC would have some sort of regulation supporting
6 the deductibility, if there's a write-off and that's
7 deducted.

8 BRIAN CALLAGHAN: What is the basis of opinion
9 (inaudible)?

10 KATHI HAMEL: But if there's any deductibility
11 from credit write-off, then you have to have a control
12 point.

13 BRIAN CALLAGHAN: Rest, what games are we
14 talking about that would involve Class II gaming that
15 would have credit? I mean, if they're doing bankroll
16 21, that's not a house game. So I wouldn't image you'd
17 be extending credit unless they're doing it on the side,
18 and that wouldn't be the house doing it. Poker, I'm not
19 aware of anyone granting them credit or credit markers.
20 I don't know about anybody providing credit for slot
21 machines.

22 KATHI HAMEL: Bingo.

23 BRIAN CALLAGHAN: Would you do it?

24 KATHI HAMEL: Well, you could.

25 BRIAN CALLAGHAN: Where in the Class II system

1 would credit be involved and, therefore, the regulatory
2 requirement?

3 JOHN MAGEE: My limited knowledge, I've dealt
4 with a little bit but only a little bit, but as we issue
5 a marker to someone on the property, they can go spend
6 it however they want. If they spend it playing the
7 poker tables, they can spend it whether it be a Class II
8 machine or a Class III machine or you play it on, you
9 know, on baccarat, 21. We don't dictate how they spend
10 the credit. As long as it's spent generally (inaudible)
11 but we actually we don't even have guarantee to that.
12 I'm not going to go there. People use it to pay the
13 rent, but generally we don't dictate where they can
14 spend it.

15 BRIAN CALLAGHAN: I'm just using it for credit
16 and markers as being for table games, and then who are
17 adjustments being made for how much you play on slots
18 because I've seen where there's adjustments made on the
19 amount (inaudible), maybe credits and things like that,
20 but I'm not aware of anything on a Class II. I've never
21 experienced them, but I see what you're saying. I
22 respect that.

23 ROBERT FISHER: Go ahead, Kathi.

24 KATHI HAMEL: My experience with credits is
25 years ago and so I'm not fresh on credit even though I

1 have been involved in it. But just from that, I think
2 the credit regulations and the credit guidance document
3 needs some more work because I personally think it's
4 confusing for the reader to understand the difference
5 between the agents because the terminology is used
6 differently in different applications. And I think
7 either there has to be a definition of a credit issuer
8 and a credit grantor and credit authorizer.

9 I think if someone can (inaudible) for it
10 should be published, if it is a regulation that the NIGC
11 has control over. I just think it needs some help.

12 JOHN MAGEE: And I don't disagree with you,
13 because it depends on what level you are. In our case,
14 someone issued a credit for 5,000 and has a different
15 authorization from someone issuing credit of 10,000 or
16 50,000.

17 KATHI HAMEL: Right.

18 JOHN MAGEE: And it just depends on what their
19 authorities are and then what level management gets
20 involved, at what levels.

21 KATHI HAMEL: But my question is, even at a
22 bigger level is that the document isn't clear what the
23 definition between a credit grantor and a credit issuer
24 does.

25 ROBERT FISHER: Okay. So it sounds like John

1 requested the ability to go back and talk to his folks
2 and to postpone this discussion until you get together
3 again. So is that what you want to do?

4 BRIAN CALLAGHAN: Could I respectfully request
5 that we have Rest's input on this as well? Because I'd
6 be curious from a Class II standpoint without
7 identifying anyone practically where he's seen this from
8 an audit standpoint.

9 R. REST WEST: I wouldn't want to limit it
10 just -- you know, we could have a large Class II
11 facility issue credit to a big player and they could
12 play anywhere, or it could be a Class II, Class III
13 facility. But, you know, we've got some fairly large
14 Class II gaming operations represented here, at least a
15 couple, three or four tribes, and I don't know if they
16 issue credit or not, so I don't want to take that away
17 from them. I don't know why they couldn't, you know,
18 being Class II operations, extend credit to one of the
19 high rollers and they go play the Class II bingo
20 machines.

21 ROBERT FISHER: Daniel.

22 JOHN MAGEE: Our facility just has the Class II
23 machines and the table games. They actually requested
24 from TRGA to be able to (inaudible) credit, and the
25 TGRA -- we said no because it was seen like such a big,

1 heavy risk.

2 BRIAN CALLAGHAN: Those are Class II table
3 games?

4 DANIEL MCGHEE: : They wanted to but if they
5 said yes, they will be.

6 ROBERT FISHER: So is there any more to do with
7 this or are we putting this discussion off?

8 THOMAS WILSON: Just one quick point on this.
9 So, Rest, when you said that you wouldn't want to take
10 away from the facility's ability to do this, is the
11 implication -- and I just need to understand this -- if
12 there isn't any regulation about it, therefore, it can't
13 be done?

14 R. REST WEST: No, I didn't mean to state that.
15 I mean, just not to have standards for conduct of credit
16 in a Class II operation. And your earlier statement
17 about NIGC, I don't know if the intent was that we were
18 trying to exercise rollover outside collection agencies,
19 but I don't see that in this comment.

20 This actually just would be like -- our comment
21 would be maybe include this item number four under the
22 collection agency use that best practice suggests that
23 monthly reconciliation between the gaming operation and
24 the outside collection agency are -- this same way as
25 most of you do with your bad checks. Bad checks, if you

1 turn them over to a collection agency, your accounting
2 staff should be getting a monthly statement from the
3 collection agency showing how many they collected and
4 their fees of the action and so forth and so on.

5 ROBERT FISHER: Okay. So unless there's more
6 to do with this, I put it on the list for going forward.
7 John.

8 JOHN MAGEE: The only comment I want to add,
9 you know, I will follow-up on this and when it comes
10 time to talk about this, I'm not exactly sure how we're
11 go to actually proceed with this. I think I might have
12 to reserve the right to bring someone who has more
13 authority and be able to speak on this more in depth
14 than what I can learn over the course of a couple of
15 weeks. And then apparently, not that it's common
16 knowledge, everybody here has a whole lot more knowledge
17 than I do.

18 MATTHEW MORGAN: John, I would encourage you --
19 to me, it's a lot like the pull tab issue we had. This
20 may be the appropriate spot were we need some expertise
21 at the table, especially people at the front lines doing
22 it, they probably could shed a lot of knowledge on how
23 this works at the front line.

24 JOHN MAGEE: That would be wonderful.

25 ROBERT FISHER: Daniel.

1 DANIEL MCGHEE: And I'll address the guidance
2 documents discussion, about the discussion on whether or
3 not this falls in the jurisdiction of the NIGC will
4 change with bringing somebody here or not. I don't know
5 if that has to be determined now or not.

6 JOHN MAGEE: Well, I think that goes back to
7 Matt's question, whether you use the gaming class tribal
8 funds or an outside agency doing the lines of credit;
9 correct?

10 DANIEL MCGHEE: Yes, but we do know regardless
11 of that, that it can be offered at a tribal facility
12 in-house. So we know that knowledge, it still has to be
13 the question is, is it a federal jurisdiction area or
14 not? Like we had to do with promotions, some thought it
15 was, some thought it wasn't. We may have to see where
16 the stance is. We've got to take a stance one way or
17 the other.

18 MATTHEW MORGAN: My only question is, is that
19 now? Is the appropriate time now? Or do you want to
20 wait until you have the discussion and figure some
21 things out more in depth about -- because Kathi raised a
22 question about write offs, whether that affects gross
23 gaming, there could be some information that comes down
24 through our discussion that may change our minds one way
25 or the other. I hate to make a decision and then we

1 have a discussion and then we figure out we want to
2 change what our decision was because we're going to, in
3 a sense, table it. I think we should just table it.

4 JOHN MAGEE: Well, tabling gives us a couple
5 options. One, it gives a chance for the attorney to
6 research whether or not it falls under the purview of
7 NIGC's authority. The other thing it does for us, it
8 gives us a chance to actually research the credit
9 issuance issue and how the issues work, going after
10 collections and how they reconcile all those issues.

11 THOMAS WILSON: So this needs to be moved to
12 February's meeting. And you can provide a subject
13 matter expert at that meeting?

14 JOHN MAGEE: I will bring somebody who can
15 actually speak to the subject matter.

16 THOMAS WILSON: So I would just ask for
17 consensus from the TAC that this particular MICS be
18 moved for discussion to February meeting.

19 ROBERT FISHER: Did you get it? You want to
20 check it, right?

21 THOMAS WILSON: Yes.

22 ROBERT FISHER: So if you agree with that,
23 raise your hand.

24 Unanimous.

25 Okay. So I started the list up here of

1 discussion topics for February.

2 THOMAS WILSON: I'm sorry. Commissioner Dan,
3 before we close out of this topic, is there anything
4 that NIGC wants to go on record about this, barring that
5 you may or may not be participating in February's
6 meeting where we're going to be discussing this in more
7 detail?

8 DANIEL LITTLE: No. I mean, we've addressed
9 the questions that we've had and, I mean, that's our
10 major point, is to get those out there for discussion
11 and hopefully get some good feedback. And we will be
12 reviewing -- if there is some additional information you
13 want to submit to the commission from your future
14 meeting, we'll definitely be reviewing those, if there's
15 more information that you come up with. I know John
16 said he may have some more, we'd definitely like to see
17 that.

18 ROBERT FISHER: Okay. That completes our work
19 on 543.15. So let's move to 543.17. Who from TGWG, the
20 Tribal Gaming Working Group will provide the overview
21 for this section?

22 KATHI HAMEL: I think, Mike, maybe the other
23 regulations we took out procedures and placed procedure
24 in the guidance document and limited the regulation to
25 just that regulation. I don't think it's much different

1 than before. So we took procedure and put it in
2 guidance and -- oh, yes, "Discretionary." Matt
3 refreshed my memory.

4 MATTHEW MORGAN: My only recollection from
5 the -- and, Kathi, I think this actually came from you.

6 KATHI HAMEL: Yes.

7 MATTHEW MORGAN: -- was that instead of
8 treating comps differently depending on whether they
9 were discretionary or not discretionary, the same type
10 of risk surrounded when you issue comp control. So you
11 want to treat them similarly so that distinction -- so
12 the Tribal Gaming Work Group in my opinion has
13 strengthened and extended, I guess, the document to
14 cover both of those type of activities. Is that helping
15 refresh?

16 KATHI HAMEL: Thanks, Matt. Yes, I mean, if a
17 patron earns points because they use a players card in
18 the electronic players interphase and then all those
19 points can be redeemed for complimentary values, the
20 control for those comps are significantly different than
21 comps that are issued from a person and at their
22 discretion.

23 So we really try to focus on establishing
24 guidelines for controlling when it's not something
25 that's earned. You still have controls through player

1 tracking to ensure that somebody didn't get more points
2 than he really had coming from, you know, review of
3 points earned, but the control needs to be on agents
4 that have the ability to grant discretionary
5 complimentary services and not as much on just saying
6 any comp of \$100 or more needs to be controlled in this
7 fashion.

8 ROBERT FISHER: Okay. Over to you, Rest.

9 R. REST WEST: Thanks. Kathi, I'm just now
10 thinking about what is the difference between comps and
11 if they're taking aware the discretionary, is there some
12 overlap between that and the promotion section or is it
13 different? I mean, because typically in the past it's
14 been, you know, a comp was issued to a patron based on
15 the discretionary transaction or whatever. I don't have
16 the proper terminology.

17 But now this nondiscretionary, does that mean
18 some kind of promotional item is issued through the
19 gaming machines, or everybody walks in the door, or?
20 Because it kind of really increased the whole scope of
21 what has normally been referred to in the past as comps.
22 What is the difference between comps and the promotional
23 activities under the other section, wherever the other
24 section is.

25 ROBERT FISHER: Go ahead, Kathi.

1 KATHI HAMEL: I think the definition of comps
2 is clear, it's giving away something. Promotions would
3 fall under the guidance of the promotional rules and
4 procedures. My understanding of the intent of the
5 complementary regulation was when the event is
6 discretionary and an agent can make the decision to
7 issue a complementary service or not, that there has to
8 be some guidelines and limits just like you would have
9 in credit, that you authorized either to grant a comp or
10 not.

11 But it's certainly different than if the patron
12 won a drawing that was two free buffets. Those rules,
13 procedures and controls would not be designed so that
14 the person drawing the patron's name out of the barrel
15 was doing something inappropriate and fraudulent to pick
16 their friend to get the buffet, but then that would be a
17 promotional prize. That's a prize that happened to be
18 marketed.

19 Then from a marketing standpoint, if every time
20 if you're signed up for the players club or the player
21 tracking system, whatever it's called, and if you place
22 your card in the player interface and based on your play
23 you accumulate points and those points have a redeemable
24 comp value, which comes out of marketing, it's not
25 discretionary.

1 Now, the control to ensure that somebody
2 doesn't do something inappropriate would be in managing
3 the manual adjustments of those point boundaries not the
4 granting of the comp; okay?

5 ROBERT FISHER: Tom.

6 THOMAS WILSON: I hate to be the one to bring
7 this up, but I will. You know, in my mind, we get to
8 this question again, I absolutely believe that
9 complimentary items need controls around them. It's a
10 concern, and I think I mentioned this before even with
11 promotions and stuff, it's a concern at our property.

12 But I get to this question of, is this a
13 federally regulated item about complimentary -- you
14 know, is the rationale for regulating that at the
15 federal level? When I look at some of the questions
16 that the NIGC has, it's more about concern of protecting
17 the assets and of use.

18 And to me, complimentary items -- I mean, I
19 know that our property uses comps all the time, and now
20 that we have a hotel, I know that hotel rooms will be
21 comped for some of our big players and things. But in
22 order to regulate that or to have controls around that,
23 I wouldn't expect to go to a federal regulation to get
24 guidance on or to be guided by a federal regulation
25 about how comps, which are really a form of -- if it's

1 a, you know, it's a business type transaction, that that
2 necessarily involves anything to do with the integrity
3 of gaming, per se.

4 So from my perspective, I have a difficult time
5 discussing this in the context of a federal regulation
6 although I'm perfectly -- would want to discuss this in
7 the context of business practices and controls around
8 comps and the sort of things that can happen. Or if
9 that gets out of control, what kind of things can
10 happen, what type of abuse, perhaps, can happen. But I
11 don't know that I see anything with comps dealing with a
12 regulation of gaming issue.

13 ROBERT FISHER: Okay. Back to you, Rest.

14 R. REST WEST: After listening to Kathi's
15 overall comments about the section, it appears that I
16 didn't know what now falls under the -- it seems like a
17 whole lot of overlap between that and the promotional
18 and because the definition -- the TGRA definition of
19 comp reads, "A service or items provided at no or
20 reduced cost to a patron." So to me, that could mean
21 anything. So just kind of see those two sections.

22 LEO CULLOO: Well, there is a cost to players,
23 I think it's the promotional side. They have got to
24 play to win, so they aren't getting something for
25 nothing.

1 R. REST WEST: You could have a promotional
2 payoff, though, without any -- them not doing anything.

3 LEO CULLOO: (Inaudible) point redemption and
4 some of those other things that, you know, you have to
5 earn it.

6 ROBERT FISHER: Can you? Okay. So maybe we
7 should just move to the next question. Go ahead, John.

8 JOHN MAGEE: Well, it would seem to me in light
9 of Tom's question here with this being a federal
10 regulatory issue or not, it seems like NIGC should be
11 able to respond and explain to us how they see this as a
12 regulatory issue or an issue that needs to be regulated
13 from the federal level.

14 DANIEL LITTLE: Like we talked about at the
15 last meeting, we're not here to debate the -- our
16 authority or non-authority.

17 JOHN MAGEE: I'm not questioning -- I didn't
18 want to get into a debate, I was just trying to get the
19 rationale from a legal perspective and how it's
20 interpreted from the NIGC. And I'm not opening it up
21 for debate with them. So if you're not prepared to talk
22 about those, I wish you would comment on it in Tucson
23 next month. That's fine as well.

24 MATTHEW MORGAN: Dan, I'm in complete agreement
25 with John. When the groups says we don't see it, I

1 mean, there's other subjects that we haven't seen, not
2 just jurisdictional. And if your agency does see that,
3 I don't see how -- and Mike, I don't mean to put you on
4 the spot, but an opinion of one attorney is not the
5 agency's opinion, but he definitely has been involved in
6 some conversations and can shed some light on, okay,
7 this may be -- whether it's Kathi's discussion of
8 computation of the gross gaming and how that could
9 bootstrap -- something there -- because it is a subject
10 that has been debated, well, since the act was
11 promulgated.

12 You know, I think the Colorado River case on
13 the Class III MICS enforceability question is a great
14 example of that, where for years you had MICS enforce
15 them and it wasn't until it went to the court and had it
16 decided. And even today that that debate still kind of
17 goes on in certain circles.

18 I really wish that Mike was allowed to at least
19 have that discussion, and I'm not asking him to take
20 that position for the agency, but having a discussion on
21 this may be a way to see it or you can at least make an
22 argument because that may generate some discussion on
23 this point which we may have overlooked because we're
24 not seeing that path right now.

25 DANIEL LITTLE: I can understand what you're

1 saying, but again, you know, we really want to
2 understand what is the logic and reasoning behind some
3 of the decisions that the Tribal Gaming Working Group
4 made when they prepared this document. Whether or not,
5 you know, what's our opinion upon -- you know, our
6 authority or how it relates to gaming or -- we're not
7 going to discuss that.

8 I'm a member of a three-person commission. We
9 interpret the regulations and -- yes, he does, he works
10 for the commission so -- and I'm sorry, I don't think
11 it's helpful to the discussion here. I mean, we want to
12 talk about how you came to the conclusions of this
13 document. You know, how we feel or what our opinion is
14 upon our authority to regulate this particular area that
15 you're proposing regulation, I'm sorry, I just don't
16 think it's helpful and, you know, we're not in a
17 position to do that today.

18 ROBERT FISHER: John and then Tom.

19 JOHN MAGEE: Okay. Dan, I can buy that
20 argument because it is part of the working group's
21 section 543.17, and it does (inaudible) of the debate.
22 So it wasn't until here later that the question of
23 whether you have authority or jurisdiction on this issue
24 came up. So I can buy your logic.

25 But what troubles me a little bit is when you

1 state, I'm only one person in the commission. It was
2 made very clear to us in Connecticut that the commission
3 was going to be represented, and you were going to be
4 the commission's representative. And to me, that meant
5 that you were vested with the authority to speak on
6 behalf of the commission. And do you want to debate
7 that or comment on that? That was my understanding of
8 that. To me, Tracy made that real clear.

9 DANIEL LITTLE: You know, Matt made a very good
10 point about, you know, the quick decisions, and so the
11 major boarder issues here we're discussing, it's not
12 just this particular issue, it's much bigger than that.
13 And I'm sorry, we're just not here -- we're not going to
14 talk about this today.

15 THOMAS WILSON: Well, I just need to go on the
16 record saying that I'm not a part of the Tribal Gaming
17 Working Group. I did not create this document. As an
18 independent member, I do not agree necessarily with this
19 document, so it would have been helpful for me to
20 understand from the NIGC's perspective what risks they
21 think exist, but I may not be smart enough to figure out
22 or aware of that would cause you to believe that this
23 does need to be regulated.

24 So I regret that it's digressed to this is an
25 issue of authority, non-authority. For me, it's not an

1 issue of that. I want to understand what the risks are
2 so that I can make an intelligent decision on behalf of
3 our tribe as to whether this is something that needs to
4 be regulated at the federal level or not. I don't have
5 all the facts. I would not be prepared right now to
6 vote on this, like as accepting it or not accepting it,
7 but I certainly would think that the NIGC who have an
8 opinion about what some of the risks are associated with
9 if this were not regulated.

10 THOMAS WILSON: Just a statement. Don't need a
11 response.

12 MIA TAHDOOAHNIPPAH: This isn't a new section,
13 it's in the current MICS, 543.17.

14 ROBERT FISHER: Leo.

15 LEO CULLOO: Well, the general comments made by
16 the TAC members about wanting to know what the NIGC
17 perceives as a potential risk, I think is an excellent
18 question. It seems all along Rest has only had comments
19 on all these documents and I don't hear anything from
20 him on -- he always bring up an example where he's seen
21 it or it's occurred in his job and he's seen these
22 risks, and I'm just curious why we can't hear what those
23 risks are or even if (inaudible) risk when it comes to
24 comps.

25 DANIEL LITTLE: Well, I think that's what we're

1 trying to get to. That's what we're here to discuss.
2 We're here to discuss the risks and some of the issues,
3 and I think I had talked about this two days ago. We
4 focus on just the NIGC questions that we have to the
5 Tribal Gaming Working Group proposal, but that wasn't
6 the total scope of this entire exercise. It was to get
7 all of your input on this document. So I know we only
8 focused on what the NIGC, you know, the questions that
9 the commission raised, but we're actually very
10 interested in what other members of the committee think
11 of the proposal from the Tribal Gaming Working Group.

12 And in all honesty, in the instance when the
13 group does become involved and is able to share some
14 real lifetime experiences, it's very helpful to us, it's
15 very helpful to the overall discussion and I actually
16 think it's one of the most beneficial things when we do
17 cover those issues. But we are prepared to talk about
18 the risk and some of the instances that do arrive during
19 the audits or our site visits. But, you know,
20 discussing on authority and things like that was never
21 within the scope of the TAC, and my involvement here was
22 to talk about this, not about larger, broader authority
23 than the commission, so.

24 ROBERT FISHER: Leo, Brian, Daniel.

25 LEO CULLOO: My response to that is I think

1 this is a business risk, complimentary, not a regulatory
2 risk.

3 ROBERT FISHER: Brian.

4 BRIAN CALLAGHAN: You're correct, Daniel, is
5 that I would endorse this, this is in MICS, and I'd like
6 to make that clear. If this was to be endorsed, I would
7 endorse it as minimum control standard, however, I would
8 not endorse it as a regulation for this being a
9 business-related item and not a regulatory.

10 ROBERT FISHER: Okay. Go ahead, Robin.

11 ROBIN LASH: I first wanted to respond when
12 Dan said, I'm not sure if I understood you right or not,
13 but you said you didn't feel these kinds of things were
14 within the scope of the TAC. And I have to mirror what
15 Matt said yesterday when we were asked to speak on
16 behalf of our sovereign tribal governments and the
17 jurisdiction that's going to come into play, and if
18 you're just asking for an opinion of a regulator, that's
19 one thing, but when we're sitting here as the tribe that
20 we represent, you know, sovereignty comes into play.
21 And I would like for the record to reflect that I think
22 these are business decisions here, guidance documents be
23 appropriate, but I don't think it should be a regulation
24 either.

25 ROBERT FISHER: Daniel.

1 DANIEL MCGHEE: I think the question that's
2 being posed to NIGC about what is the risk on a federal
3 level is kind of a moot point because gaming or gaming
4 machines are not a risk on a federal level. It's all
5 about the tribal level any way you look at it. The
6 question is, would it be, per se, was there -- that's
7 what we're asking. You know, because a lot of their
8 duties have to do with gaming issues. So the question
9 is, do you see lines of credit being a gaming issue or
10 not? And that's what comes.

11 I mean there's obvious risks in lines of credit
12 without even worrying about what level they're on. It's
13 the question of, is it a gaming issue, which is what I
14 heard asked. Is it about gaming or is it about, like
15 you said, a big issue or not, what the risk was, why
16 they decided to do it to begin with. I think it's a
17 moot point.

18 We have to decide as each tribe needs to decide
19 whether they think at the end of the day whether it
20 should be a tribal reg -- I mean, a federal regulation
21 or not, not based on risk or anything else; based on
22 their idea of what they thing NIGC should be doing. So
23 it's kind of like paying it back over there when really
24 it's our discussion to make.

25 DANIEL LITTLE: You know, it sounds like what

1 Dan was saying, the Tribal Gaming Working Group must
2 have thought it was worthy of a regulation because they
3 created the standard.

4 ROBERT FISHER: Okay. Matthew.

5 MATTHEW MORGAN: I'm disappointed in your
6 position because I think having your involvement in that
7 conversation would add a level of understanding to us
8 that would only be helpful. With that being said, I can
9 tell you from a Tribal Gaming Work Group, this is one of
10 those issues that was definitely not a consensus issue,
11 comps, credit, none of this was. The discussion
12 surrounded more of the optics and the politics.

13 I don't know each one of your individual
14 involvement history with the agency, but there are
15 several formal officials at the agency when you started
16 talking to them about, literally, did you have this
17 authority under the statute, and they would look at you
18 and say, are you really going to spend your time arguing
19 that because you can meet this obligation in like 20
20 minutes if you really wanted to. Yes, we could, and we
21 probably will because it is a risk issue and something
22 that needs to be controlled. And the question comes
23 down to, you know, if it's not that big of a risk to you
24 in a sense of compliance, then why do you want to fight
25 it?

1 The other part of the group said at some point
2 you do have to draw the line and say this is all your
3 limited authority says you can do. It has to derive
4 somewhere from the statute, and if you can't somehow
5 make that argument that you derive that power from
6 somewhere in the statute, you shouldn't be doing it.
7 And that's where, you know, again, I think a lot of
8 people in the group, kind of what Brian said, it needs
9 to be an area we discuss. It's been in there before,
10 Mia's point, nobody's really arguing against it. It's
11 sort of like enforcement of Class III MICS, at some
12 point someone may. And now we're in this bigger issue
13 on Class III MICS. What does it mean, is it applicable,
14 is it not applicable, you've got some tribes doing it by
15 ordinance or asking you to come in and enforce it, other
16 tribes stay in or stay out. It's created a mess because
17 we don't really have a vehicle in place in order to
18 deliver that type of best practices document.

19 So, you know, it was really debated at Tribal
20 Gaming Work Group because at this level I think what
21 you're asking for is as regulator and operators, and I
22 know Tom talked about this a lot, is risk. What's the
23 risk and how do we control that risk. At the Tribal
24 Gaming Work Group, the other element that we really
25 don't get into a lot in here is the optics. How does

1 this look to the outside world? How does this look on
2 Capitol Hill? What is the interplay there?

3 I know, Dan, you have to deal with that stuff
4 from that level, and that's a very real concern. But
5 that's not a concern, I don't think -- well, it's not a
6 preventative concern at this level, because what we're
7 talking about is real-world risk and what kind of
8 controls.

9 At some point you have to make the decision
10 from the agency of how these discussions get implemented
11 and adopted. I think what you're hearing from this
12 group is, you know, we do believe that this activity
13 needs controls, they need to have guidelines, but we
14 don't think it rises to your authority on the
15 regulation. But if we've somehow gotten that wrong, in
16 your opinion, we would really like to hear how we did
17 that wrong and where, because there may be something we
18 missed here.

19 The whole point, to me, of this committee was
20 to promote discussions and somehow this limited avenue
21 -- because I think a lot of it is politics, how would
22 you perceive? Again, that's the reason I asked for
23 Mike's opinion because one lawyer's opinion from the
24 industry does not bind the commission to do anything,
25 it's just one player's opinion.

1 I'm still hopeful that comes, but from a Tribal
2 Gaming Work Group perspective, it was very debatable.
3 And I think most people said, of course, they don't have
4 the authority under IGRA, but they've done it forever,
5 it's not really an issue, it is an area that needs to be
6 controlled. So in light of that, we don't want to
7 change it too much because if you risk to big of a win,
8 you might not get anything with it, if it looks too
9 different. I don't know if that's our concern at the
10 TAC.

11 ROBERT FISHER: Kathi.

12 KATHI HAMEL: Mike, to answer the question of
13 are rules as being part of the Tribal Gaming Working
14 Group, I will leave up to the legal people to determine
15 who has control and who can dictate and who can
16 regulate. But I know as an operator, we're going to
17 have great internal control, and to bring a group of
18 people from all over the country and say this is really
19 the best way to do this is the best practice and you're
20 saying develop a guidance document, whether it's ever
21 published by the NIGC is something that they have
22 regulatory control over.

23 I think that was never the objective. The
24 objective was to write good controls with a good
25 guidance document. So that was our role. Our role was

1 never to determine who had authority to make sure that
2 they're followed. That was our objective, we wanted
3 good controls.

4 DANIEL LITTLE: Just getting back to what
5 Matthew said that, you know, does the decision of
6 authority or, you know -- I'm going to make that with
7 the commission, and we're not going to do this today or
8 here or in this environment.

9 The scope of the TAC was to review the Tribal
10 Gaming Working Group's document. That was what we had
11 requested and that is what we have been doing. Going in
12 and requesting, you know, that we need to make a -- or
13 Mike Hoenig to opine or have an opinion on whether or
14 not, you know, where our authority lies, is not what
15 we're hoping to accomplish here. And in all honesty, I
16 think it's counterproductive to what we're trying to do.

17 If the group does not agree with what the
18 Tribal Gaming Working Group has proposed, then, you
19 know, make it be heard. And in all honesty, I think
20 you've done a very good job at that. If you don't think
21 it's something that's within our authority, say so, and
22 the commission will hear you.

23 So I don't think it really is helpful one way
24 or another, you know, for me to say whether or not or
25 provide background and reasoning on why we believe we

1 have this authority. The hope is that you look at the
2 Tribal Gaming Working Group document and independently
3 look at it and provide recommendations to the
4 commission.

5 ROBERT FISHER: All right then. John.

6 JOHN MAGEE: Here's where I will probably have
7 a little bit of departure from the group, and some of it
8 is when we talked about promotions. You know, this is
9 an area that has a lot of potential for fraud and a lot
10 of risk for tribes and those of you who are operators,
11 and I'm not sure, regulators, you see this as well.

12 So there is a risk, and when I was talking to
13 Dan, you know, I was trying to give you -- open the door
14 for you to speak more broadly in terms. But, you know,
15 as sovereign as we want to be, the reality is we're
16 dependent on the United States for our sovereignty. You
17 know, Congress can take this way other than -- write
18 with a pen, essentially, draft a legislation so we're no
19 longer.

20 And I get it that Dan works for the federal
21 government. We are trust wards, quote, unquote, of the
22 federal government, and it's a difficult issue. And I
23 understand, okay, NIGC recognizes and I'm sure have
24 dealt with tribes, this is a big area of concern for
25 you. And not to be the big brother, and I get that

1 whole sense, but they realized or somebody realized and
2 I'm sure your working groups did too, we probably should
3 have some sort of regulation around this issue. These
4 are all difficult issues, I guess, whether it's a kind
5 of business issue or regulation issue and that's
6 sometimes a fine line and sometimes we have our own
7 differences of opinions. But someone says, well, this
8 is a tribal issue. Well, it is, sort of, but in the
9 bigger picture, you know, we're all dependant on the
10 United States.

11 ROBERT FISHER: Tom.

12 THOMAS WILSON: Well, I may need to clarify,
13 but just for my tribe, when I'm here speaking on behalf
14 of the tribe, if we talk about this in context of this
15 is a proposed regulation by the NIGC, then I have to
16 look at this from the standpoint that any discussion I
17 have has to be predicated on whether my tribe thinks
18 that this is something that should be regulated at this
19 level or this level.

20 So when I talk about an issue of if it's, you
21 know, if my tribe doesn't believe that this is something
22 that should be regulated at this level but should be
23 regulated here, I just want to be clear that that's the
24 discussion that I can have. But if the discussion is
25 seeing as though I am encouraging through discussion

1 this to be adopted by the NIGC at the federal level,
2 this is where I run into conflict with, I guess, the
3 process.

4 So the Pascua Yaqui tribe absolutely believes
5 that there needs to be regulation at the tribal level
6 regarding comps just like we do discussing promotion or
7 the other areas that we previously identified as
8 where -- at what level should they be regulated.

9 I just, you know, cannot be in a position to be
10 encouraging the NIGC through my actions that we are --
11 that we are granting or acknowledging the NIGC, in fact,
12 should regulate this. So for me, it's not an issue of
13 legally can you, can't you, that I look at Kathi,
14 there's other people that are paid to decide that. I
15 just want to be clear that we believe that this should
16 be regulated just not at the federal level, and to the
17 context that there's a discussion about the merits of
18 the risks dealing with this issue, we would be happy to
19 have that discussion as long as it's not in the context
20 that that is used as a basis for NIGC to promulgate a
21 regulation at the federal level on this particular
22 issue.

23 DANIEL LITTLE: Okay. Just let me remind you
24 that this is not an NIGC proposal. This is an
25 alternative proposal that in accordance with the

1 president's executive order that we decided to review,
2 and that was the purpose. Once again, the purpose of
3 the TAC was to review an alternative proposal presented
4 to us by the Tribal Gaming Working Group. This is not
5 our work, this is not our proposal, and this is
6 something that right now we're not proposing be adopted.
7 So your point about, you know, you're representing your
8 tribe and you can't be in a position to do that, that's
9 not what we're asking you to do. We're asking you to
10 look at the Tribal Gaming Working Group's proposal and
11 make comments on that and make recommendations.

12 ROBERT FISHER: Leo.

13 LEO CULLOO: Just so I understand, the Tribal
14 Working Group Proposals that we're looking at, we
15 haven't really accepted them, rejected them or modified
16 them; correct?

17 ROBERT FISHER: Correct.

18 DANIEL LITTLE: You're a nice man, you know
19 that? I think that's what we've been doing and you've
20 done a very good job of that all along here, so yes.

21 ROBERT FISHER: All right. So that leads to
22 the question of whether the TAC wants to accept, reject
23 or modify what's in the Tribal Gaming Working Group's
24 proposal or whether we need more discussion. You want
25 more discussion about the questions that NIGC has raised

1 before we get to that point? Dan.

2 DANIEL LITTLE: We've got additional questions.
3 Now, if this is something that the group would rather
4 not talk about maybe you could submit them
5 electronically or --

6 ROBERT FISHER: You mean the answers to
7 questions?

8 DANIEL LITTLE: Yes, the answers. I mean, if
9 this is something you'd rather provide us written, I get
10 the feeling that the group doesn't really want to talk
11 about this. Okay.

12 THOMAS WILSON: No. Where would you ever get
13 that impression?

14 DANIEL LITTLE: I'm comfortable helping to
15 answer the questions to the extent that I'm certainly
16 able.

17 KATHI HAMEL: I'll answer questions.

18 ROBERT FISHER: So are we returning back to
19 the the NIGC questions?

20 JEFF WHEATLEY: Yes.

21 ROBERT FISHER: Rest.

22 R. REST WEST: Are you sure?

23 ROBERT FISHER: Yes. Which question are we on?
24 So it's still the question at the bottom of page four.

25 DANIEL LITTLE: No, no. We're not going to

1 talk about that one.

2 ROBERT FISHER: We're not going to talk about
3 that.

4 DANIEL LITTLE: We answered that one.

5 ROBERT FISHER: We answered that one.

6 R. REST WEST: I think the first comment at the
7 top of page five is -- it relates to what I was talking
8 to earlier about this kind of murkiness between the new
9 definition for comps that's in the TGWG proposal and the
10 traditional or the former definition of, I should say,
11 for comps.

12 It basically will delete some of this standard
13 resulting in confusion for tribal gaming operations
14 between comps and enhanced promotional opportunities
15 resulting from technological advancements. It's been
16 shown in the past or recent past that Visa payments and
17 travel payments have shown to be avenues for abuse and
18 fraud in gaming environments and it's been addressed in
19 several jurisdictions.

20 ROBERT FISHER: So did you want to pose that
21 question?

22 R. REST WEST: Yes.

23 ROBERT FISHER: Yes. The question that, will
24 deletion of the standards -- okay. We're on page five
25 in the comparison document. Under "Appeasement payments

1 and travel payments." Tom.

2 THOMAS WILSON: Rest, I have a question. In
3 the jurisdictions where you ran across this as occurring
4 as a problem, did the problem exist because they didn't
5 have controls in place and, therefore, this occurred or
6 there were controls in place but they were just ignored
7 or overridden?

8 R. REST WEST: My understanding was that they
9 didn't have adequate controls in place, especially on
10 the limits for appeasement payments and travel expense.
11 They weren't even reimbursed, they were just travel
12 expense, vault money that was pretty significant
13 amounts.

14 ROBERT FISHER: Okay. So does anybody else
15 have a response or want to comment on this question?
16 Rest?

17 R. REST WEST: If you go to the last question
18 on page five, it's pretty much -- it relates to the
19 original question. "Does the TAC agree that the
20 industry practices identify the need to establish
21 thresholds for reporting purposes to eliminate the
22 possibility of gaming operations establishing thresholds
23 so high as to effectively circumvent the standards?"

24 So these two questions have a lot of relation.

25 ROBERT FISHER: Leo, your card is up.

1 LEO CULLOO: I think again that when you talk
2 about thresholds, that should be up to the individual
3 property and their business model and what they work out
4 with their TGRA. And that's my comment on thresholds.
5 I don't think you need to set up a general threshold to
6 (inaudible) business with individual by property.

7 ROBERT FISHER: I see other nodding heads
8 around the table for that response. Who was first? I
9 don't know, Tom or Kathi.

10 KATHI HAMEL: I want to expand on what Leo is
11 saying because I absolutely agree. If comp levels are
12 set to be tracked at \$100 or whatever the magic number
13 is, \$100 value through a Pala casino has a significant
14 different value than our casino that has very few
15 amenities. And I would be terribly concerned if in our
16 snack bar I didn't look at the \$99 comp. And I really
17 don't mean that to be as funny as it sounds, but it has
18 to be based on the size of the operation and what the
19 risk is. So just setting a number, it's just too
20 arbitrary.

21 THOMAS WILSON: I just want to add that I do
22 agree that there should be threshold reporting and what
23 that threshold is I think probably does vary from
24 property to property. I know at our property we do have
25 reporting of this for the very reasons that are stated

1 here because we're concerned about potential abuse.

2 One thing that reporting allows us is really to
3 look for trends in people and employees and various
4 things that we can analyze to determine if there's abuse
5 going on. So I think reporting needs to happen, what
6 the threshold should be at, I don't know. I think that
7 is a property-by-property determination.

8 R. REST WEST: And I think the risk is that
9 unreasonable limits will be set as far as thresholds
10 that are way too high to adequately safeguard the
11 tribal -- (inaudible) tribal revenues. So basically, a
12 comp is a tribal revenue, it's tribal asset because
13 you're giving something away whether it's in the form of
14 food or lodging or whatever, you're still utilizing
15 tribal revenues.

16 LEO CULLOO: Practically when a game gets its
17 threshold (inaudible) by individual properties and
18 Kathi's comment is right on the mark. In fact, at our
19 property, it's by position, that threshold. We
20 establish through a policy what each position was, a
21 casino shift manager or a slot attendant, what their
22 maximum authority is on a comp. So again, I feel the --
23 you obviously have to have a policy in place, but again,
24 it should be done at a local level.

25 ROBERT FISHER: Okay. Ready for the next

1 question? Next question, yes.

2 R. REST WEST: The middle of page six, Does the
3 TGWG consider including a requirement for additional
4 authorization for system generated complimentary service
5 or item based on established limit of internal control
6 procedures and policies?

7 Again, I mean, I realize the \$100 in there is
8 maybe unreasonable for some operations, and I'm not
9 advocating to set, you know, a \$100 limit or five or
10 whatever the limit based on the reasonable amount. And
11 as Kathi said, it could be different in the snack bar
12 versus their fine dining restaurant.

13 So the question is, did the TAC or TGWG
14 consider including a requirement for additional
15 authorization on a system generated complementary
16 service or item. So this would just be additional
17 guidance.

18 ROBERT FISHER: Kathi.

19 KATHI HAMEL: I think with all systems and
20 controls associated with those systems, there has to be
21 matrixes established by the positions and authority
22 levels, and if these are system generated, then just
23 like Leo says, maybe one position can only authorize a
24 comp up to X value at the snack bar and they're not
25 authorized to issue a comp to the steak house.

1 So if you were using a system, I think you
2 would have even more control than you would if it was
3 manual, and your audit review of those results would
4 test whether or not the parameters of the systems were
5 working.

6 JOHN MAGEE: But, Kathi, not all properties are
7 going to use similar systems or it depends on the types
8 of games they're offering. If it's table games, it's
9 going to be manually input by the floor person or shift
10 manager who is observing play. And unless they have the
11 chip count technology, since that's a new technology,
12 there's very few people have it.

13 KATHI HAMEL: But I think Rest's question was
14 about should there be more additional authorization on
15 the system generated complimentary.

16 JOHN MAGEE: Well, yes, and I concur with you
17 that there are multiple levels depending on what stage
18 you're in.

19 KATHI HAMEL: Tom's question is, what would be
20 a system generated complimentary service? I can think
21 of more -- well, I can think of one example right off
22 the top of my head. I have a players card, I charge to
23 my Class II players interface and play, and I've
24 accumulated points on my card. Those points have a
25 complimentary redemption value, and because I've

1 accumulated them myself, I can take that card and go to
2 the snack bar and order sandwiches and drinks, and the
3 snack bar attendant could swipe my card and reduce my
4 points and I would receive my sandwiches and drinks
5 complimentary.

6 THOMAS WILSON: Are the controls around that,
7 though, a part of the player tracking system and,
8 therefore, wouldn't be part of the comp service? I
9 guess that's what I'm just trying to get at, is where
10 would the controls reside? And in that case, there
11 seems to be in the player tracking system where the
12 controls would reside over that even though reward is a
13 comp.

14 KATHI HAMEL: Yes, but to John's question, if I
15 understood it, if you had a manual tracking system and
16 the rewarding of those points were through manual,
17 right? Kathi played \$100 and therefore she's allowed
18 \$10 in comps, then that's a manual adjustment of those
19 points. It wouldn't require a separate level of control
20 to ensure that whoever granted me those points or those
21 comp dollars, I indeed produced that \$100 play or
22 whatever the item is.

23 THOMAS WILSON: At your property, is there a GL
24 line item or a budget line item for the comps in
25 totality?

1 MATTHEW MORGAN: It's part of our marketing
2 budget and it is a line item and it's based on what we
3 think revenue will generate for the month, we anticipate
4 so much will be done in comps, the expense set out.
5 Does that answer your question?

6 THOMAS WILSON: Well, it does. The reason I
7 asked the question is that we can't forget that a budget
8 is a control and that, you know, from a risk standpoint
9 if you budget X amount of dollars and your threshold
10 falls into that, even though there may be some fraud
11 that could be a part of those comps or something
12 occurring, it's that threshold limit that, you know, the
13 budget is a portion of that control structure. And I'm
14 not advocating that that's the only control, but the
15 fact of the matter is that that is a place that one can
16 look at to determine if that area might have control
17 issues or not.

18 JOHN MAGEE: Yes, you're absolutely correct.
19 Because we look for anomalies, all businesses do. And
20 no system is perfect and it's not uncommon for a floor
21 person to be watching a table game in order to rate a
22 player. It's not uncommon for a player to fool a floor
23 person by making it seem like he's playing more than he
24 really is. It goes both ways. My only comment is we
25 look for those anomalies.

1 ROBERT FISHER: Rest?

2 R. REST WEST: No more questions, Your Honor.

3 ROBERT FISHER: Okay. So are there other
4 things that people want to raise before we look at what
5 to do with this section? Anybody have anything else you
6 want to bring up with the group?

7 (No audible response.)

8 Okay. So somebody have a suggestion for this
9 group, I mean, for this section? In other words, based
10 on the previous discussion about business versus
11 regulatory and NIGC's jurisdiction and authority,
12 whether you even want to consider removing this section
13 like you did promotions and player tracking or whether
14 there are modifications to it. So what's your
15 preference?

16 DANIEL MCGHEE: I think we should test it.

17 ROBERT FISHER: Test what?

18 DANIEL MCGHEE: Whether or not to not recommend
19 the section for approval, to whether or not the TAC
20 recommends this section for deletion or approval, that's
21 what I want to -- I would ask how many are in favor of
22 deleting this section or not recommend this section be
23 part of the TGWG document.

24 ROBERT FISHER: Raise your hand if you support
25 not having this section be part of the TAC's

1 recommendation.

2 CHRISTINIA THOMAS: I have a question.

3 ROBERT FISHER: Yes.

4 CHRISTINIA THOMAS: Would that be treating it
5 the same way as we treated the gaming promotion and
6 player tracking?

7 R. REST WEST: In the guidance document?

8 CHRISTINIA THOMAS: Would that be guidance?
9 Then yes, I agree.

10 ROBERT FISHER: However, what I'm trying to
11 remember is whether for both player tracking and
12 promotions that we did talk about guidance. We only did
13 it for one, right. We only did it for one, and that the
14 December document lays out the reasons that some people
15 want -- and I can't remember which section is which. So
16 all I'm saying is that your question, Christinia, had to
17 do with guidance for both of those other sections, and I
18 think it's only one section, that why I'm foggy for a
19 moment.

20 THOMAS WILSON: Because we integrated the
21 guidance with regulation, we can't use the term
22 "guidance" and say you're going to issue guidance if
23 there is no regulation. Now, if you're talking about
24 issuing a bulletin or something like that, that's
25 appropriate, but the term "guidance" wouldn't be

1 appropriate in this.

2 ROBERT FISHER: Right. We can scroll back in
3 the document for the place where it is, but I think that
4 the term that we were using at the December meeting was
5 "nonregulatory guidance," so it was providing the
6 guidance but not as tied to regulatory requirement.

7 All right. So let's test this. So let's test
8 if you support -- and I'll use that language in this.
9 If you support removing this section from the TGWG
10 proposal and, in essence, recommending that it not be
11 included and that there be some nonregulatory guidance
12 that goes along with that recommendation, raise your
13 hand.

14 Okay. That got everybody but four people. So
15 let's check about standing aside. So if you are willing
16 to stand aside on this, raise your hand.

17 And that got everybody.

18 Okay. So that becomes a recommendation. I'm
19 going to close out of this. And who remembers which one
20 had the guidance attached to it.

21 DANIEL MCGHEE: Player tracking.

22 ROBERT FISHER: Player tracking. Which number
23 was that, 10? No, that's 12. So I'm going to look to
24 see what we did in that one and then capture that
25 recommendation the same way in here. Okay. So up on

1 the screen is the note that we did to NIGC on player
2 tracking. And so does that work for everybody? Does
3 anybody have a problem with that? Otherwise, I will
4 just make this the copy, this whole thing.

5 So that takes care of section 543.17. We've
6 worked our way through all of the MICS sections at least
7 once, and so we did have on our agenda to cycle back
8 to some of the other sections including some questions
9 that NIGC has about bingo.

10 DANIEL LITTLE: Can I address that? We just
11 talked about that, and there's really actually only one
12 point on statistical reporting and we thought it might
13 be a better process -- we're going to prepare a question
14 that we'll submit to everybody electronically and
15 solicit feedback that way.

16 ROBERT FISHER: Okay. So that takes care of
17 that. So is there anything more we need to do on -- I
18 think on the agenda I have the other sections. Player
19 tracking, we can cycle back to those things later on if
20 you want to. We do want to talk about the checklist
21 while Jeff is still here; right?

22 (Multiple Speakers.)

23 I know Tom worked on it. I think that's it.
24 So Jeff's got about an hour left. We also want to check
25 on this -- Matt told me that there's a copy of a version

1 of the transmittal letter for 547 before you go. So
2 should we do those two things next? Yes?

3 Okay. And so which one should we do first?

4 KATHI HAMEL: Break.

5 ROBERT FISHER: All right. Then let's take a
6 break. Start up again in 10 minutes.

7 (Recess.)

8 ROBERT FISHER: So let's shift to the
9 conversation about the checklist, which were prepared by
10 Tom and Kathi.

11 THOMAS WILSON: So can you bring up the
12 checklist of the card game checklist?

13 ROBERT FISHER: Yes.

14 THOMAS WILSON: What Kathi and I did offline
15 is, I had a chance to review some of the checklists that
16 were distributed at the last meeting and had some
17 concerns just about the general tie of the checklist and
18 whether it really was a fully workable document or not.

19 So the challenge that was put before Kathi and
20 I was we decided to take card games, the card game MICS,
21 and the existing checklist for card games that had been
22 submitted by the Tribe Gaming Working Group. And what
23 Kathi did was went through -- and our challenge was is
24 every question that's on the checklist, is there a
25 corresponding spot in the MICS that you can point to?

1 So if the checklist presumes that certain
2 things are supposed to be happening, you would see that
3 same level of guidance in the guidance document. The
4 problem with the first round of checklists that I saw is
5 that there were audit steps that said, you know, has X,
6 Y or Z been done? But nowhere in the regulation or the
7 guidance document did it even address that these are the
8 steps that are supposed to be happening.

9 So Kathi's challenge was to go through and tick
10 and tie each of the checklist items to ensure that the
11 regulation and the guidance document, either/or, that
12 there was a corresponding section that dealt with that.
13 And then Kathi also went through the checklist and added
14 additional guidance verbiage on areas where there's a
15 checklist question that maybe was unclear or it didn't
16 help the person performing it and had a little more
17 guidance right there in front of them about what the
18 intent of that question is.

19 For my part -- Robert, if you can just pop down
20 to the checklist completion notes.

21 ROBERT FISHER: Maybe I should make it bigger
22 too because I know it's hard to see.

23 THOMAS WILSON: So what we did on the checklist
24 completion notes, we did a little reorganization of that
25 and identified that if you're going to use tick marks,

1 here's an example of what a tick mark is and what they
2 can stand for, like, you know, O can mean verified for
3 observation, E verified for review examination, I
4 verified for inquiry. We added item number two under
5 the instructions that say agents should be mindful that
6 inquiry method of examination while appropriate for some
7 questions is the least reliable form of compliance
8 confirmation and, therefore, should only be used when
9 the observation and/or review of the examination
10 confirmation process cannot be utilized.

11 So when we're evaluating controls, we can
12 evaluate controls, we can observe them, we can review
13 and examine something or we can inquire. This is just
14 pointing out that inquiry is the least reliable form of
15 assurance that an auditor can give about a particular
16 thing. The idea here is to discourage somebody from
17 completing a checklist through inquiry method only and
18 basically sort of shortcutting the process.

19 The other item on number three, of course, this
20 is (inaudible), but if there is a no answer, you have to
21 provide additional referencing or comment as to why
22 there is a "no." You just can't say no and leave it at
23 that. So the expectation is that the auditor or agent
24 would provide supporting rationale for the no or
25 supporting documentation, whatever has to take place to

1 conclude as to why you came to a no answer for that
2 compliance.

3 Number four was added, and this is to address
4 the issue that when you're going into a regulatory
5 environment where you're using a risk-based structure
6 and it's very possible that controls are in place, but
7 we want to test for more than the fact that just a
8 control is in place.

9 So there are questions typically on the
10 checklist that ask things about are these certain things
11 in place, A, B, C or D. One did answer that question,
12 yes, but there's really more to that question than just,
13 are the controls in place? So number four gives some
14 guidance on this additional criteria that the agent
15 needs to apply when they evaluate whether the control is
16 not just in place.

17 So what it says is, When evaluating control to
18 determine compliance, merely recognizing the existence
19 of controls is not sufficient to determine compliance;
20 the agent should also conclude on the adequacy and
21 effectiveness of the controls by including the following
22 considerations in their evaluation: A) Are the controls
23 in place adequate and/or effective in mitigating the
24 risks associated with the control objective? And B) Are
25 the controls functioning as designed?

1 The reason that it is important is that you may
2 haven't proved to TGRA a certain control structure and
3 the control's in place and everybody believes that those
4 are sufficient to do what they're supposed to be doing.
5 But the fact of the matter is, until you test them and
6 verify that they're actually working as designed in
7 achieving the controlled objective, it's very possible
8 that you may conclude, after you've approved something
9 and once it's audited, that this control really is not
10 doing what it was intended to do. And while the
11 mechanical components are in place for the control, the
12 reality is it's not mitigating the risk like everybody
13 thought it was.

14 So this is to allow really the TGRA the ability
15 to revisit an issue or the auditor or the agent and say,
16 you know what, this control is not up to snuff and even
17 though it meets the technical components that the
18 control is asking for, it's really not working the way
19 that it was intended and, therefore, it's a failure, but
20 the correction is we've got to redo the control or do
21 something to make it into a functioning control again.

22 So again, that's a component, it's a
23 consideration component that needs to be in there so
24 that we just don't get, I hate to say this, but checkbox
25 auditing where people are just checking the box without

1 any consideration to what you should be trying to opine
2 on about that particular control objective.

3 So that was my part. And Kathi is going to
4 talk a little more about what she did in the actual
5 checklist steps. I just want to comment that this is
6 not a final document. This was put together as an
7 example. There is still work that would need to be done
8 to it, but we're talking concept so that's what the
9 purpose here is.

10 KATHI HAMEL: Thank you, Tom.

11 If you go down a little further, Robert, the
12 very first question that's in the checklist, as you can
13 see, it's really not a question, it says, review TICS
14 and SICs and cross reference them to NIGC MICS to ensure
15 completion. Check for changes to TICS and SICS from
16 final audit.

17 As I keep looking at this, if I were to redo
18 this now, I would take that "check for changes" and say
19 "document changes" and make notes in the comments
20 section. But the first part of the section is kind of
21 like leading into what the internal auditor would
22 perform before they started asking specific questions as
23 identified in the MICS, TICS or SICS.

24 So if you go down to question number five.
25 This was a question I think, Tom, that you raised in our

1 call. It says, "For computerized applications listed in
2 the grid above." There's is a little section at the
3 start of the checklist that says, "Are there any
4 computer applications that are taking the place of
5 something that would be done manually?"

6 It's up at the very top.

7 That would be completed by the auditor. And of
8 course, referencing the regulation that is being
9 replaced by computerized application. So that's what
10 this section is for.

11 The next section is for listing -- so this is
12 probably a start of the internal audit process. So the
13 question number six says, "A threshold level has been
14 established for variances in card inventory, card room
15 table inventory, and card room bank inventory."

16 And I tried to go back and strengthen the
17 instructions for the auditor by saying -- question six,
18 Robert.

19 ROBERT FISHER: I know, I know.

20 KATHI HAMEL: So the instructions to the
21 auditor would be to document established thresholds in
22 the comment section for each one of those inventories.
23 So then as the auditor proceeded forward with the other
24 audit steps that they'd be documenting what the
25 thresholds were. And I don't know to what extent one is

1 to go over each and every one of them. We don't need to
2 go through all.

3 ROBERT FISHER: Whatever you think will be most
4 useful to highlight.

5 KATHI HAMEL: Yeah. Again, it's an example,
6 it's not finalized. I will tell you that the example
7 that's driven on the MICS was submitted by the TGWG and
8 that guidance document and does not reflect any changes
9 to the TAC committee submitted for recommendation.

10 So I guess just, Tom, is there anything else to
11 comment about or just open it up for questions?

12 THOMAS WILSON: Let me just point out another
13 one, for example, if you go to number 18. And this is a
14 good example where this additional guidance, you know,
15 if you looked at just the question without the
16 additional guidance, it says, "Are controls in place to
17 investigate variances in playing card inventory?"

18 In the checklist world, that could be a very
19 easy box to check, but you see the additional guidance
20 there is, that review of the controls to ensure
21 investigation is performed by an agent independent of
22 playing card inventory. Testing of variance
23 investigation is required. Review variance
24 investigation and document outcome of the
25 investigation."

1 So again, it's really important when you're
2 using checklists to conclude compliance, that the
3 checklist not be utilized in a manner that is literally
4 just check the box and in 10 minutes you're done, and
5 you've asked a few questions and you're in compliance.

6 What we're trying to get to is that if somebody
7 else were to follow-up and do this very same checklist
8 that they wouldn't come to a different conclusion than
9 you just came to, by guiding the agent, knowing that not
10 all agents are auditors and various things, to try and
11 make it as real as possible as to, okay, why do I have
12 this in front of me and what am I supposed to really be
13 looking for here.

14 ROBERT FISHER: Okay. What we had suggested
15 when we did the agenda was to use this as an example to
16 talk about format or concepts recognizing that the
17 checklists become an important component following the
18 regulation in the guidance and that additional work
19 could be done later to get the checklist in line with
20 what the TAC's recommendations were in the MICS and what
21 was contained in the guidance.

22 So let's get some reaction to what's been
23 presented, introductory material as well as the way that
24 the checklist is set up and see if this is a good idea,
25 it's workable or whether people have other ideas.

1 Matt.

2 MATTHEW MORGAN: I, for one, thank you all for
3 doing the work and appreciate it. I liked it. I
4 thought it was good. I think it goes beyond the current
5 MICS checklist that are there that are really -- that's
6 always the concern, that somebody's going to be able to
7 do a complete checklist in a short amount of time and
8 just check boxes and really not explore in depth what
9 the question was that we were trying to get at. I
10 thought you did a good job, Kathi. I know it's a draft.
11 I think it's a good start. I appreciate that.

12 THOMAS WILSON: I will say that one of the
13 challenges we have that Kathi and I talked about --
14 well, we more than talked, we debated this. Because she
15 kept saying to me, well, we can't make everybody an
16 auditor. In other words, at what point do you stop in
17 the guidance where it's just -- there are books on these
18 things. And I think that's a critical point that she
19 raised, that we ended up sort of compromising about
20 well, what are the salient points that somebody needs to
21 be aware of if they didn't know anything in completing
22 one of these checklists?

23 But I do think it begs the question of the
24 quality of the person you have doing these. And I think
25 that when you use a checklist it can be used in two

1 ways: One is operationally, it can be used by people
2 who maybe do not have the audit experience but it helps
3 them to understand and appear, you know, are we in
4 compliance or not as well as I can tell. But I would
5 strongly encourage that when you're going to use a
6 checklist for purposes of opining on the annual
7 compliance, that you really are benefited by having
8 somebody doing these who is trained or qualified in the
9 audit world because I think you end up then with a
10 better -- potentially a better product.

11 The fear always, in my mind for my operation,
12 is I don't want anybody else coming in finding something
13 that I should have found myself. So from that
14 standpoint, the tests that we use is if the state comes
15 in or NIGC or somebody else and they do the same work
16 that we theoretically have done and they discover things
17 that we didn't, then I really didn't do a good job or
18 maybe the findings on the other end are incorrect. But
19 at some point it does not look good for me as a
20 regulatory body to have issued opinion that we're in
21 compliance and then have somebody else come in and say
22 well, no, you're really not.

23 And that's the danger of checklist auditing is
24 you can hurry these things through, but when a trained
25 professional, if you will, does the same thing and

1 applies certain different criteria and standards to it,
2 oftentimes they'll come up with a different conclusion,
3 and so that's what you want to try and avoid.

4 KATHI HAMEL: After going through this today, I
5 think this checklist also helps to answer some
6 questions, as we talked about yesterday, on the CPA
7 firms being able to rely on the work of the internal
8 auditor. If they're circling more instruction to the
9 internal auditor that includes review and testing and
10 documenting, then that certainly should make the
11 reliance by the CPA much easier to make an opinion on
12 whether or not they can rely on what's been performed by
13 the internal auditor or not.

14 ROBERT FISHER: Okay. So anybody else?

15 THOMAS WILSON: Does NIGC have any comment on
16 this sort of format?

17 R. REST WEST: So it's my understanding, if
18 it's correct, that these are based on the guidance
19 documents? Are they set up in a way such that a no
20 answer indicates noncompliance and a yes answer
21 indicates compliance?

22 THOMAS WILSON: No. Hold that thought.
23 Scroll up.

24 R. REST WEST: Because I don't see that in the
25 instructions and maybe that should be, because I

1 scrolled through there, and question 43, "Do the agents
2 that transport locked containers have access to
3 content's keys?" The yes answer would increase the
4 result and if the answer is yes to that question, that
5 would be a risk, I would think, if you had people
6 carrying drop boxes.

7 And then so I think it's important to try to
8 phrase your questions where no answers indicate
9 noncompliance. The only other point I have is, in a lot
10 of cases yes answers, if not all yes answers, they may
11 want to at least discuss requiring some kind of comment,
12 even to support a yes answer. I know in most of these
13 you have because you've indicated in the bold what the
14 internal auditor should be doing. But in a lot of
15 cases, I've seen, you know, the yes answers is, like
16 you're saying there, there's no indication of who they
17 talked to, what they did or anything.

18 So I think in a lot of cases it's just
19 important to have comments on yes answers as it is to
20 have on no answers. That's all I have.

21 THOMAS WILSON: You're exactly right. And we
22 did not test for that, but I remember we discussed the
23 fact that yes answers can be a no, meaning exactly what
24 you said. So the question would have to be worded so
25 that there is consistency that a yes means compliance

1 and not noncompliance.

2 ROBERT FISHER: Michele.

3 MICHELE STACONA: These are a good starting
4 point, but I see some potential problems in there in
5 being an auditor myself, especially if you look at
6 number six. The audit procedure is basically how
7 somebody establish levels (inaudible). Okay, but you've
8 got to go one step beyond that, and the reason why you
9 establish levels was because of a variance. You have to
10 go that little step to, you know, where variance is
11 review, where they document that. You have all these
12 little extra steps to go in here, and some of those lack
13 the little steps that go further.

14 ROBERT FISHER: Okay. Anybody else? This is
15 why this was presented today, right, in terms of getting
16 that kind of feedback.

17 Rest.

18 R. REST WEST: I think Michele has a very good
19 point. I think that we may indicate where this needs to
20 be additional information put into the guidance
21 documents as a result of someone taking the checklist
22 just in case and determine if there is a need for an
23 additional steps or something to take place.

24 THOMAS WILSON: One thing that we had talked
25 about is does there need to be a guidance document for

1 the checklist that elaborates more on these things. And
2 this is where we got in that whole discussion of how
3 much stuff do you put on here versus how much stuff or
4 at what point is a person supposed to know certain
5 things or not. So it's definitely a challenge to get to
6 that point.

7 But the clearer that this document can be to
8 give somebody clear step by step, here's what you do, is
9 certainly the objective without having to go to other
10 documents other than the reference material you would
11 use to conduct the actual audit work.

12 ROBERT FISHER: So let's take a pause here for
13 a second on this because it is -- it's running around to
14 the time for Jeff to go.

15 So any parting thoughts, any remarks.

16 JEFF WHEATLEY: No. I think we did a good job.
17 I think we did a good job actually getting through the
18 MICS documents, so that for the most part is complete.
19 I think we have got a couple follow-up things, but I'm
20 sure we can complete all that in Tucson and have a good
21 package. I think we had a lot of good discussion too.
22 It was tumultuous at times but we got through it and we
23 did get a good portion of our work done. So thank you
24 everyone.

25 DANIEL LITTLE: Hey, Jeff, on behalf of the

1 commission, thank you very much for your input. You've
2 been very helpful. I appreciate your honesty and hard
3 work. So thanks again.

4 JEFF WHEATLEY: Thank you.

5 ROBIN LASH: So getting back to the checklist,
6 I understand that this is a starting point, but that
7 these also to this point are clearer than the current
8 NIGC checklist, more user-friendly. And my next
9 question would be -- I guess that was more a statement,
10 but my question would be, should we as a TAC then
11 continue to work on this and develop to get as complete
12 a product done as we can?

13 With the schedule you've recited, I mean, your
14 NIGC offices are pretty busy. Would you like that from
15 us, to try to come up with a more final product?

16 DANIEL LITTLE: Are you -- is that directed?

17 ROBIN LASH: Yes.

18 DANIEL LITTLE: Oh, yeah, I mean, obviously we
19 want you to provide us whatever you think is going to be
20 helpful to us making our -- helpful in the process, so
21 anything you want to submit would be wonderful.

22 MIA TAHDOOAHNIPPAH: Rest, a question for you.

23 Do you think, because I know there's been a lot
24 of discussion throughout this process about how the
25 process is going to change. So your auditor, your audit

1 department is going to change and aren't going to have
2 the templates that they have now. Do you foresee any
3 problems, you know, now? Because it's going to require
4 you to come into each individual operation and then
5 you'll have to get these checklists from us, you know,
6 when you come do an audit, you would come and ask us for
7 our checklist and they're all going to be different and
8 we'd give you ours. Do you see any problem doing it
9 that way? There's been a lot of questions about that.

10 R. REST WEST: I think that's a question -- one
11 of the questions we posed to the TAC committee, and I
12 don't know if we heard a formal response to it yet or
13 not.

14 DANIEL LITTLE: It's a big what-if, to me, when
15 we talk about how do the agents comply with this. You
16 know, each individual facility will provide a checklist.
17 We need to look at our staffing. Do we have enough
18 staff to do that? Right now we have a standardized
19 process that they use. And contrary to what others may
20 say, we feel it works fairly well. So we still would be
21 interested in hearing how everybody feels about the
22 areas, how will we comply with that.

23 I don't know if you want to add anything, Rest,
24 but it's something we definitely need to look at and I
25 don't really know the answers right now. We definitely

1 need to look at it.

2 ROBERT FISHER: Kathi got there first.

3 KATHI HAMEL: As much as I think the TAC should
4 participate as much as they possibly can in developing
5 checklists, I could see using the time after the
6 regulations are published, but, oh my word, if the
7 regulations change dramatically, it's all for not and
8 the amount of hours that TGWG put together on checklists
9 and even with their deficiencies was tremendous, and
10 every time there was a change in the regulation and/or
11 guidance, that meant a change to the checklist.

12 So my suggestion is there needs to be a core of
13 examples that can then be duplicated or used as a
14 sample, but I would think that taking on all of the
15 checklists for every regulation and having them have
16 value, if the regulation isn't published as recommended,
17 would be for not.

18 THOMAS WILSON: I think that if we took this
19 one, since this is the one we're using, and make
20 whatever improvements we can to that document and let
21 that be submitted as the sample template of what the
22 concept is, I mean, I think that's doable. But I would
23 agree with Kathi that I wouldn't want to take on that
24 task, but I mean, we can -- it's going to be universal,
25 the issues, in any checklist. So what things we can do

1 to improve this, we should, and submit one as the
2 template.

3 DANIEL MCGHEE: I agree.

4 ROBERT FISHER: All right. Any more discussion
5 or suggestions on the checklist? So who is going to
6 carry it forward?

7 DANIEL MCGHEE: Is it something we should just
8 be prepared to do in February? I mean, we should review
9 it and have all of our comments and do it at the
10 February meeting and add it to agenda? Because right
11 now with the fact that we got through a lot of the
12 guidance documents, I think it's doable to get it done
13 in February.

14 ROBERT FISHER: Okay. See that? I stuck it up
15 there in "discussion topics."

16 Okay. Anything more on the checklists?

17 Rest.

18 R. REST WEST: I like that. I think that
19 they're a good work product and definitely I know from
20 doing it myself, there's been a lot work done here, so I
21 appreciate that.

22 ROBERT FISHER: Thanks for saying that. I'm
23 sure that was appreciated.

24 R. REST WEST: Well, I hope the rest of the TAC
25 members can say that. I can see them. You can't see

1 them, so.

2 DANIEL LITTLE: Thank you.

3 KATHI HAMEL: Thank you, Rest.

4 STEVE GARVIN: You're not just saying that
5 because yesterday Tom said he likes the NIGC? Don't
6 feel obligated. (Laughter.)

7 ROBERT FISHER: I heard it as genuine.

8 All right. So we're done with the checklist.
9 So what's left on our list?

10 DANIEL MCGHEE: I thought there were two
11 documents that Jeff and Christinia.

12 CHRISTINIA THOMAS: Summaries.

13 ROBERT FISHER: Right. Well, we talked about
14 those. Summaries definitely, so. And then any other
15 planning we need to do for what you're going to do in
16 February or what the NIGC is going to come back and ask
17 you to do, virtually.

18 Mia.

19 MIA TAHDOOAHNIPPAH: You said you were going to
20 find out if you were going to be available.

21 ROBERT FISHER: I don't have an answer yet. It
22 might be that I can't answer before we're done with the
23 meeting, so I was going to raise this at the end when we
24 got to the planning. I might as well just do it right
25 now. I would like somebody I could coordinate with so

1 that when I do have a response back, I can communicate
2 that, and then if we need to prepare for a transition
3 for me to transition these documents over to somebody so
4 I can coordinate with somebody around doing that.

5 KATHI HAMEL: That would be Matt.

6 ROBERT FISHER: Okay. John.

7 JOHN MAGEE: To follow-up on a previous
8 question a little bit, Dan, yesterday -- or was it
9 Monday or the day before that, they all seem to flow
10 together -- you stated that the commission, although the
11 TAC was no longer going to have face-to-face meetings
12 that you stated that we will continue meeting on. And
13 so having said that --

14 DANIEL LITTLE: I never said that. I never
15 said that.

16 JOHN MAGEE: I usually have a pretty good
17 recall memory, but --

18 DANIEL LITTLE: I know I didn't say that. Is
19 that when we were in the other room?

20 ROBIN LASH: Yes.

21 DANIEL LITTLE: I didn't say that.

22 ROBIN LASH: That we could continue.

23 DANIEL LITTLE: I said you could meet, I mean,
24 I didn't personally say, if that's what you're saying.

25 DANIEL MCGHEE: You didn't personally --

1 ROBIN LASH: I think there was a question about
2 clarification, if we had meetings, would they be valid
3 TAC meetings? And I think you said yes, that it had
4 been done before.

5 DANIEL LITTLE: I'm sorry. I said you were --
6 I was encouraging you to meet.

7 JOHN MAGEE: I don't know if it has much
8 bearing on that, but it kind of does. Having said that,
9 you know, the TAC is going to continue to meet as
10 scheduled. I speak to the February schedule that NIGC
11 put forth, although the venue has changed to Tucson, so
12 my question is -- because we're going to continue on
13 with using the same process, same public comments, court
14 reporter, so my question to the NIGC was, could you
15 continue publishing the next meeting location in Tucson?

16 DANIEL LITTLE: You're asking if we'll put it
17 on our Web site?

18 JOHN MAGEE: Yes.

19 DANIEL LITTLE: I'll have to -- we'll have to
20 check and get back to you.

21 JOHN MAGEE: I realize NIGC is (inaudible), but
22 the TAC is going to continue going forward, finish up
23 the work, and I just thought for those who have been
24 following the process who may eventually want to come
25 issue comment or something, at least have the ability to

1 look and find out where we're at.

2 THOMAS WILSON: Just as a point of
3 clarification, Dan, the NIGC is still sponsoring the TAC
4 in the sense that even if we weren't having face-to-face
5 meetings, it was always anticipated there would be work
6 to continue to do. So in my mind, you know, I never
7 viewed this as after today's meeting our relationship is
8 severed. You know, am I looking at that wrong? I mean,
9 I view it that the work at the TAC is still continuing
10 because even if we weren't having face-to-face meetings
11 in February, anything we would be doing would still be
12 subject to the process, would it not?

13 DANIEL LITTLE: I'm having trouble following
14 where we're going with this. If the group decides they
15 want to meet, that's your prerogative. Like I said two
16 days ago, this isn't the conclusion of the TAC, no, it's
17 not. I mean, we're hoping that the groups continue with
18 the objective and reports back recommendations on the
19 MICS and Part 547.

20 So if you're asking me if we'll put on our Web
21 site meetings, I will definitely check on that, but it's
22 not the conclusion of TAC, just the in-person meetings.

23 THOMAS WILSON: Yes. I mean, my impression
24 would be that the TAC just wants posted out at a place
25 where people have been used to going that there is a

1 still another meeting that will be held in Tucson,
2 because that's part of our continuing process. So I was
3 just trying to get clarification on that.

4 ROBERT FISHER: Matthew. Lee or Matthew and
5 then Michele.

6 LEO CULLOO: So I guess the question I'd have
7 as a TAC member is, are we under some deadline, some
8 date that all our work product has to be submitted by?

9 ROBERT FISHER: Hold on one second.

10 You know what, I think you should take a short
11 break for a moment, okay, give them a chance to confer a
12 little bit, and then we can figure out. So if you have
13 other questions that you want to pose to NIGC, let's put
14 them out there and then give them a chance to take a
15 short break. So look, they're taking their break right
16 here anyway. Yes. So just wait one second. They have
17 other questions that they want to pose so hold on a
18 second.

19 MICHELE STACONA: I think it would be
20 appropriate that I saw on your Web site on the TAC
21 section where you took down through the two dates we
22 were going to meet in person. I believe NIGC should
23 actually put the letter out there that each of us
24 received regarding what happened so all Indian gaming
25 and tribes know what is happening out there. Because if

1 you look at that Web site, you have no idea what's going
2 on and I think the real truth needs to be put out there.

3 ROBERT FISHER: Okay. Matt, do you have a
4 question for them or --

5 MATTHEW MORGAN: Yes, I do. Whether or not
6 some of your questions you say are going to be submitted
7 to us and you'll respond to or whether you plan on -- or
8 I would hope you would try to have those submitted to us
9 prior to Tucson if at all possible.

10 DANIEL LITTLE: Yeah, that's our plan.

11 ROBERT FISHER: Okay. So let's take a short
12 break.

13 (Recess.)

14 ROBERT FISHER: Okay. So let's come back
15 together and figure out what we need to do to bring our
16 day to a close. So Christinia has her card up.

17 CHRISTINIA THOMAS: I want to get this on
18 record. There was quite a few of us that were pretty
19 disappointed that you separated Tom and Matt to discuss
20 your concerns without discussing it with the entire TAC.

21 ROBERT FISHER: Okay.

22 ROBIN LASH: Before we close, since we had some
23 conversation earlier about whether the TAC is meeting or
24 whether they're not meeting and what's going on, and
25 whether the Arizona meeting was going to be posted on

1 the NIGC Web site or not, we just feel like we want the
2 record to be complete over the issues that we're
3 addressing right now.

4 And the issues that kicked off all of this
5 discussion was the December 16th letter from the NIGC,
6 which I would like to read into the record, and then our
7 TAC has a response letter that we would like to read
8 into the record.

9 So this was a letter that is dated December 16,
10 2011, and the TAC members, I think most of us received
11 it by e-mail, and I received around 4:30 on Friday
12 afternoon right before the holiday week.

13 "Dear Tribal Advisor Committee Member, on
14 behalf of the National Gaming Commission, NIGC
15 Commission, we would like to take this opportunity to
16 wish all of the members of the Tribal Advisory
17 Committee, TAC, a happy holiday season.

18 "Further, we wish to commend the members of the
19 TAC for their continued hard work and diligence. We
20 realize that all members of the TAC hold important jobs
21 within their respective tribes. The commission is
22 mindful and respectful of each committee member's time
23 and expertise and resources.

24 "As mentioned by some members of the TAC, we
25 know that week-long in-person meetings can be burdensome

1 to your daily responsibilities. It is also clear to us
2 that the TAC is on target to finish ahead of schedule.
3 In light of this rapid progress and the cost associated
4 with in-person meetings, the commission requests that
5 the group complete its in-person review and
6 recommendation at the January meeting. Preparations for
7 the January meeting will continue as scheduled,
8 allotting three full days to complete the review of the
9 remaining material. Should the TAC not need a full
10 three days, we would welcome a modified shorter
11 schedule. This approach will conserve everyone's time
12 and resources.

13 "The commission is implementing practices
14 throughout the agency to maximize the efficiency of
15 limited resources. In addition to our own practices,
16 we're mindful of the president's recent executive order
17 13589 promoting efficient spending issued on 11/9/11,
18 which calls on federal agencies to use cost-efficient
19 methods to perform their duties.

20 "Considering the TAC's progress, the NIGC's
21 efficiency efforts and President Obama's recent
22 executive order, the final in-person meeting will be the
23 January meeting with no February or March in-person
24 meetings. In February and March, work will continue as
25 needed through conference calls and correspondence to

1 allow both the TAC and the NIGC to complete its work in
2 a timely and effective manner. This virtual format will
3 allow discussions to continue as necessary to address
4 overarching policy questions and will serve to
5 facilitate delivery of the TAC's final recommendation.

6 "Further, the TAC will not be requested to
7 provide consensus responses to the (inaudible)
8 questions. The committee members may respond to such
9 questions through written submissions or calls.

10 "Additionally, during this time, members are
11 encouraged to discuss areas not raised in the Tribal
12 Gaming Working Group's proposal and to expand upon areas
13 previously covered that may warrant further considering
14 by the NIGC. The TAC was formed to provide the
15 commission with advice on the development of these
16 regulations.

17 "We look forward to considering the committee's
18 final recommendations as the commission moves forward
19 with the promulgation of regulations. Our goal is to
20 produce the best regulations in a timely and efficient
21 manner that will serve to best protect the industry.

22 "Lastly, at the December meeting, the TAC
23 discussed the possibility of early submittal of its
24 recommendations for technical standards Part 547.
25 Again, being mindful of everyone's time and desire to

1 complete this review, the commission welcomes the early
2 submission of its recommendations on Part 547 as
3 suggested by the TAC.

4 "We thank each and every one of the members of
5 the Tribal Advisory Committee and look forward to the
6 work ahead of us.

7 "Sincerely, Tracie Stevens, Stephanie Cochran,
8 Daniel Little."

9 THOMAS WILSON: So I will read the TAC's
10 response to that letter. It's dated January 12, 2012,
11 addressed to the National Indian Gaming Commission
12 Washington D.C..

13 "Dear Chairwoman Stevens, Vice Chairwoman
14 Cochran and Commissioner Little, we wish to take this
15 opportunity to respond to the NIGC's letter dated
16 December 16th, 2011, canceling the last two face-to-face
17 meetings of our Tribal Advisory Committee.

18 "The TAC is troubled by the NIGC's decision to
19 unilaterally cancel these two meetings, a decision made
20 without input from the TAC was premature and placed a
21 great deal of pressure on the TAC. We're also puzzled
22 by the change in the NIGC's basis for canceling our
23 future work.

24 "The letter of cancellation cited costs and
25 concerns over the work commitment of the TAC process;

1 however, the NIGC's budget comes from the tribes. What
2 better use of tribal recourses than a Tribal Advisory
3 Committee? And in the overall scheme of the NIGC
4 budget, the cost for the now canceled meeting surely was
5 known when scheduled. In fact, complimentary court
6 reporter services were provided by tribes to maintain a
7 record of these public meetings and NIGC unilaterally
8 determined to take on this cost.

9 "We were encouraged by Chairwoman Steven's
10 statement at our first meeting in Connecticut that the
11 TAC is our committee, i.e., the tribes. In that spirit,
12 along with the NIGC's recognition of our collective
13 expertise in Indian gaming distinct from that of the
14 NIGC, we have worked hard to assist the NIGC and provide
15 valuable advice in its review of the Class II MICS based
16 on our experience as the operators and IGRA mandated
17 primary regulators of Class II gaming. Needless to say,
18 our job has been enormous since we must address the
19 issues of multiple Class II games conducted by tribes of
20 varying size and resources.

21 "Throughout this process, we have tried to
22 emphasize that a one-size MICS regulation does not and,
23 in reality, cannot fit all. Likewise, since certain
24 concepts should drive MICS regulations, we have
25 attempted to recognize those first principles in our

1 approach of identifying general standards rather than
2 mandating specific procedures as the current MICS do.
3 We also understand the importance of providing guidance
4 documents that provide detailed explanation and specific
5 procedures whose satisfaction can establish safe harbor
6 compliance with general standards.

7 "Accordingly, we have tried to pay close
8 attention to this specific language in the TGWG's
9 proposed guidance documents on which you have sought our
10 review and advice. While it may appear to those who
11 have not gone through the drafting and analysis of
12 proposed Class II MICS, that the need to meet face to
13 face should stop this week, we do not share that view.
14 We have much to consider including more reflection on
15 the role of general standards and safe harbor guidance
16 documents versus detailed, one-size-fits-all
17 regulations.

18 "We have not concluded our work on that issue
19 including a discussion of costs and benefits.
20 Additionally, we have had no chance to even consider the
21 creation of checklists on each section.

22 "Finally, as we all know, various MICS
23 provisions sections are interrelated; thus, we feel it
24 is with utmost importance that the TAC sit down face to
25 face as the host forum to complete a final review of the

1 proposals made by the TAC throughout the process.

2 "The NIGC's new attitude of disinterest in a
3 future meeting as apparent from their 12/16/11 letter is
4 particularly troubling. We don't understand why the
5 NIGC, which insisted on being present in our executive
6 sessions because it was, quote, imperative they
7 understand our thought process, close quote, no longer
8 wishes to participate in our unfinished business. We're
9 unaware of any new information that makes our upcoming
10 discussions less important than our prior work.

11 "The value of in-person meetings cannot be
12 overemphasized. There is no better method for the
13 exchange and discussion of information, particularly in
14 light of our process of consensus-based decision-making.
15 In-person meetings allow for immediate member
16 interaction with other TAC members, advisors, NIGC staff
17 and the public that cannot be replicated by conference
18 calls or e-mails. In addition, as our procedural
19 discussions have demonstrated, we never know when our
20 work will proceed at a slower pace than normal.

21 "Based on these concerns, the members of the
22 TAC have decided that at least one more face-to-face
23 meeting is needed in order to complete our work. Thus,
24 as we discussed with Commissioner Little, the TAC will
25 be meeting as scheduled next month in Arizona. The TAC

1 invites the NIGC to attend this meeting, preferably in
2 person, or at least via telephone conference as we
3 believe the NIGC's presence remains important to this
4 process."

5 And it is signed, "Sincerely," by all of the
6 TAC members that are present here today at this meeting.

7 DANIEL LITTLE: Well, I just wanted to thank
8 everyone for all the effort today. I know it's been a
9 really difficult day. And I do understand the concerns
10 that you've raised and I will be sure to convey them
11 back to the commission. If you will forward me a copy
12 of the letter, I will make sure that it gets to the
13 chair and the vice chair.

14 So I just want to thank everybody. These are
15 difficult issues. And, you know, I'm very confident
16 that the issues that we discussed and the information
17 that you have all provided is going to be very helpful.
18 And the overarching goal that we all have, we all share,
19 you do in your government and the federal government, of
20 protecting and maintaining a strong industry that does
21 what it was intended to do to help support the tribal
22 economy and provide revenue strength for those tribal
23 programs.

24 So I appreciate you all conveying your thoughts
25 and concerns to the commission, and I'll make sure that

1 the rest of the commission sees that letter. So thank
2 you very much.

3 THOMAS WILSON: I have the original signed and
4 I'll give it to you.

5 DANIEL LITTLE: Okay. Thank you.

6 THOMAS WILSON: We do have the signed 547
7 transmittal document. Does that need to be read into
8 the record or just acknowledged that we have it? And as
9 soon as we have the 547 document to attach to it, we'll
10 prepare to submit it.

11 DANIEL LITTLE: Well, that's fantastic news. I
12 will congratulate everybody for all the hard work, and I
13 think that's a huge milestone that I think everybody
14 should congratulate themselves for, and, you know, we're
15 very grateful, so thank you.

16 ROBERT FISHER: The document is just about
17 ready. I've been working on it off and on. Since I'm
18 not going to be working until Tuesday, it will be all
19 ready Tuesday or Wednesday. If you give me the original
20 letter, I will attach the document to it and deliver
21 that to NIGC.

22 So one reason why I've still been working on it
23 is Daniel and I worked on it a little bit together and
24 then I worked on it. I created three versions; one is
25 the clean version for the submission to NIGC, one is a

1 version that's marked to show the changes from the TAC's
2 draft that was reviewed, and then the third version is
3 marked to show changes to the TGWG July 28th version.
4 So you'll be able to see everything that we did and it
5 will be a complete picture of how your work advanced
6 from the TGWG's work.

7 THOMAS WILSON: And you'll send a copy to all
8 the TAC members of what you submit to NIGC?

9 ROBERT FISHER: Absolutely, correct.

10 Okay. So given the hour and what more, if
11 anything, do we need to do before we adjourn for the
12 day? We did have a public comment period on our agenda
13 for the end of the day. So we could provide an
14 opportunity for members of the audience to provide
15 comment to the TAC if you so choose.

16 Is there anything else that we need to do?
17 Obviously there's more coordination and planning that
18 needs to be done going forward, but we can take care of
19 that through conference calls or e-mail until we figure
20 out what's going to happen next and get you set up for
21 whenever's the next meeting.

22 So is there anything else we need to do so we
23 could offer public comment and then we can have a round
24 of closing remarks and then we can adjourn. That would
25 be my suggestion.

1 (No audible response.)

2 Okay. So if any members of the public in the
3 audience choose to or wish to provide comment directly
4 to the TAC, please come forward. Kathi, you're not a
5 member of the public. No, it's okay.

6 Okay. So no one having come forward, Kathi,
7 what would you like to say.

8 KATHI HAMEL: Thank you. This is the last
9 you'll hear of me for today, this trip. I promise. It
10 will be Kathi has duct tape.

11 First off, I really appreciate the candidness
12 of the NIGC's questions. It's so refreshing to have a
13 reader that wasn't in the trenches as we were with the
14 TGWG to really look at our product and critique it and
15 question the terminology. You just don't know how
16 refreshing that is.

17 Many of us have been working on this for years
18 and years and years and it's really easy just to get
19 stuck in that. And as a member, we've gotten way too
20 close to the details. We had huge documents and then we
21 realized it was way too much and blew it up and made it
22 minimal. I really have a lot of appreciation for your
23 candidness in posing the questions.

24 ROBERT FISHER: Okay. So then why don't we
25 just go around the table and have people say anything in

1 closing that you wish to say before we adjourn and, of
2 course, you can pass if you so choose. So we'll start
3 over here on the left.

4 And so, Jason, would you like to go first?

5 JASON RAMOS: Well, first, Commissioner Little,
6 I want to thank you for the opportunity to participate
7 in these meetings. And even though it looks like your
8 direct participation, or as far as your participation
9 onsite might end at this meeting, so I wanted the
10 opportunity to just say thank you for allowing me to
11 participate, and Blue Lake's, always grateful for that.

12 And we're happy that the National Indian Gaming
13 Commission brought tribes in on these discussions and
14 that although over the course of these meetings we've
15 really been getting into the details of the documents
16 and the details of the proposal from the Tribal Gaming
17 Working Group, and for a second, I'd like to step back
18 and say, as you go back home and you go back to
19 Washington and you're going through the details we've
20 discussed here, let's not forgot some of the broader
21 directions from the first meeting and some of the things
22 Robert put on the board about, you know, what were the
23 real goals here and goals for the industry and risks for
24 the industry and the need for regulation and need for
25 regulation in those specific areas.

1 I'll also say that I think we've heard from
2 some of the past commissioners and we have heard it in
3 these meetings from the beginning that the minimum
4 internal control standards as they are seem to be overly
5 complicated and there's this need to -- there seems to
6 be this perceived need, and it's been reiterated a
7 number of times, that we need a document that works.

8 And I think that the start we have here on 547
9 is a change in that direction and I think it's a good
10 change and it's a good change for the industry. You
11 know, I've heard through the course of our discussions
12 about small tribes, you know, and how do we protect
13 small tribes and Tier A facilities and the smaller Tier
14 B facilities, and I'll tell you, I've been on those
15 consulting jobs as a regulator. And for many times, the
16 reason why those tribes have difficulty in really
17 fulfilling their obligation isn't always resource, it's
18 about when you look at the minimum internal control
19 standards as a whole. It's a complex and complicated
20 document.

21 So I think simplification is one of those
22 issues that you take back to Washington that's really
23 key. In a lot of ways I don't envy your job, I don't
24 envy your work here. Because, you know, to a large
25 degree, you say, hey, make sure it's broad enough that

1 it's easily interpretable, but also make sure it's
2 targeted enough to have the protections for the tribe
3 and for the public, and that's probably something we
4 hadn't brought up here enough, is that the public is a
5 stakeholder in this discussion too.

6 I think the Tribal Gaming Working Group's
7 document does that, and I think that by publishing a
8 broad but targeted regulation in those areas and then
9 backfilling the details with guidance documents is a new
10 and refreshing and a good direction to go in. And my
11 hope would be that the entire MICS document looks like
12 that, and I know we're not getting there just so fast,
13 but I think it's a good direction. I think it's one
14 that works. I think it's one that could work for us all
15 and work in the industry to make all of us better at
16 regulating and actually helping many of those smaller
17 tribes and myself included and to be able to interpret
18 and institute those things that are real protections
19 without getting muddled in a document.

20 I think lastly that those changes in the MICS
21 you should take back to Washington the different groups
22 and stakeholders that are really -- that have a direct
23 impact in your own decision-making. And around the
24 table here we've talked about tribes and tribal
25 interests, and I think that while, of course, I'm here

1 to advocate for my tribe and the other members of the
2 TAC are here too, let's not forget that we have a
3 broader industry, a broader industry that many people's
4 jobs depend upon, everywhere from game manufacturers to
5 food and beverage personnel and also the public. And I
6 said that once earlier but in evaluating the MICS and
7 coming forward with these new proposals, I think having
8 the public's interest in mind is also key.

9 So again, thanks for letting me participate and
10 I will see you in the field.

11 DANIEL LITTLE: Thank you.

12 STEVEN GARVIN: I'll go out on a ditto. I'm
13 going to have to. (Laughter.)

14 Thank you very much, certainly on behalf of my
15 Nation, I appreciate us having the chance to be a part
16 of this process. It's been quite the experience. And I
17 know at the end of the very first meeting you were kind
18 of patting yourself on the back for the selections you
19 have made, and I sincerely hope you still feel that same
20 way because I think we did a lot of good work and I hope
21 you were able to move forward with our recommendations
22 and I hope the NIGC as a whole embraces the risk-based
23 approach.

24 I think if we're looking for something, if ever
25 there was something that could improve the

1 one-size-fits-all possibility, I think you've got to go
2 risk based. And other than that, I look forward to us
3 finishing our work next month. Thanks.

4 MIA TAHDOOAHNIPPAH: I'd also like to send a
5 special thanks to -- I really want to send and tell Rita
6 thanks for everything because she's just really timely
7 and just great. And I want to thank Rest and Mike and
8 the other Mike that's not here for coming and going
9 through this process with us.

10 And, Dan, I'd like to thank you and the NIGC
11 for establishing the TAC together, more expertise and
12 advice on Class II. I'm very appreciative of having the
13 opportunity to represent my tribe, the Comanche Nation,
14 and the TAC can be set up to improve tribal gaming
15 environments for all tribes.

16 In my tribe, as you just mentioned a few
17 minutes ago, it's one of our only sources of income. So
18 it's extremely important to us and it has improved the
19 lives of many tribal members as well. Our own regret so
20 far has been that you're not going to be able to join us
21 in February and we hope that you consider coming because
22 it really has been a pleasure to work with you. It's
23 been great, and especially just in light of the number
24 of years that this process has been ongoing, I really
25 don't feel like a month or two would be undue burdensome

1 to persist in that.

2 I've got two more points. One of them is that
3 I just wanted to make sure that the NIGC --
4 historically, it seems the approach to regulation has
5 been on that one nightmare scenario, where, you know,
6 this one tribe can't meet the minimum and so if that
7 approach gets across the board to the rest of the
8 tribes, and when in reality, you know, there is an
9 overwhelming number of tribes that go way above and
10 beyond the minimum.

11 And we visited Pechanga at dinner the other
12 night, their surveillance, and I think that was a
13 perfect example of, you know, if you took that and
14 commercial gaming in Vegas, that far exceeded the
15 requirements of all the surveillance requirements, it
16 would be an incredible compliment.

17 And I'd just like to keep in mind that this is
18 the government-to-government discussion.

19 JOHN MAGEE: On behalf of the Pechanga tribe
20 and myself, we were truly appreciative of being selected
21 for the TAC. I enjoyed working with the other members
22 and the other tribes. It has just been fantastic. I do
23 appreciate, Dan, your candor, your diligence and your
24 not holding back. You know, Rest, Mike and the NIGC
25 staff, I truly appreciate it. It was great to get to

1 know you guys and I hope that going forward, that we can
2 continue through the process, let us finish our work. I
3 believe that there is some good stuff that came out of
4 this group, and I just want to see it follow through and
5 I want to close by saying I truly appreciate being a
6 part of this process. Thank you.

7 MICHELE STACONA: On behalf of the Confederated
8 Tribes of Warm Springs in Oregon, I'd like to thank you
9 for having myself participate on this TAC committee
10 which is composed of some wonderful, bright people, and
11 I enjoyed working with every one of you and had some
12 good times. We had maybe a little rough times. And I'd
13 like to thank NIGC for bringing their staff and having
14 that open dialog that was so needed out there in Indian
15 Country and gaming.

16 And I do hope that you take all of the
17 considerations, not only what we have said here but also
18 what the TGWG did prior to us. I'd hate to see where it
19 just may not go anywhere and maybe fall into the air and
20 I don't think that needs to happen. And I also want to
21 thank John and the Pechanga tribe for hosting a dinner
22 and giving us a tour. It was very lovely, and I look
23 forward to next month when we can finalize our work, and
24 I hope to see you guys there.

25 ROBIN LASH: On behalf of the Miami tribe, I'd

1 just like to thank you for the opportunity to
2 participate in this working group as well, and we're not
3 going to give a big exit speech because I hope to see
4 you next month in Arizona. But I also would like to
5 mirror the words that have been said, as far as just the
6 work that we're doing is so important. There's been a
7 lot of money spent by the tribes with the Tribal Gaming
8 Working Group to try to put together a better document
9 that works better for Indian Country and I think we're
10 getting there. This has been a great TAC committee. I
11 don't know how you ended up drawing the short straw and
12 being the one to have to sit in here with us. I'm
13 really glad it was you, I mean, you've done a great job,
14 you and your staff. I appreciate it and I look forward
15 to seeing everyone in Arizona.

16 THOMAS WILSON: Well, of course, Pascua Yaqui
17 tribe mimics the gratitude that everybody here at the
18 table is sharing. I will say that for me personally
19 this has been just a wonderful experience. As a
20 nonnative, I constantly seek out better understanding of
21 the needs of Indian Country and this has been a
22 wonderful forum for me, both personally to educate
23 myself about the greater needs and desire in Indian
24 Country, and I feel very proud to represent the Pascua
25 Yaqui tribe and that they had confidence in me to put me

1 forward in this process.

2 And I appreciate everything, as the tribe does,
3 that the NIGC is doing and reaffirm that we recognize
4 the openness and the extent that this administration,
5 commission has gone to to perhaps make up for sins of
6 the past and ensure that there's adequate dialog and
7 collaboration.

8 And while I know that we've had some bumps in
9 the road here, please understand and do not allow that
10 to stop the work that's going forward. And I, too,
11 really hope that at least yourself or a representative
12 or representatives from the NIGC can join us in Tucson
13 because it's a great place to go in February, and I
14 think you would really like it. And we look forward to
15 hosting and seeing all of you folks in February as well.

16 KATHI HAMEL: I share everyone's sentiment. I
17 was just going to say hope to see you in Tucson.

18 BRIAN CALLAGHAN: I'm truly proud to be here.
19 I was exceptionally -- particularly as a part of Pokagon
20 Band of Potawatomi Indians, they're new to gaming, and
21 they're great people, and I was honored to be asked to
22 be on this committee.

23 I'm even more honored now that I've been able
24 to participate with each of you. You're a fantastic
25 group, the cohesion of this committee is the absolute

1 depth of intelligence, it's just absolutely amazing.
2 It's been fantastic for me. I'd like to thank John for
3 hosting the dinner on the fabulous property, enjoyed the
4 tour, it was great. Thank you very much and the
5 Pechanga Nation, thank them as well. I'd also like to
6 thank Daniel at NIGC, Rest, Mike and Robert, you have
7 been patient with us. We appreciate that and, you know,
8 hour after hour after hour it's been challenging. I
9 want to thank the court reporter because I don't know
10 how you do that. I'm always amazed at that. And Tom is
11 correct, Tucson is a fabulous time in February and I
12 really do look forward to that. Thank you.

13 LEO CULLOO: I'd first like to thank the TAC
14 committee for suspending my e-mail privileges.
15 (Laughter.) And I don't have a computer. So going
16 around the room, it all sounds like farewell speeches by
17 everyone and I don't want to go that route. I think we
18 have much work to do and we've done a lot, we have done
19 some great work, some brilliant minds in this room, both
20 from the TAC committee and the NIGC. And I feel the
21 work is not done so I will save my thank you to when we
22 close our last meeting, when we've completed our
23 mission.

24 MATTHEW MORGAN: I'll echo Leo's thoughts.
25 After every meeting, thank you guys again. I'm very

1 humbled to serve on this committee with you guys and
2 that's everybody here at the table and those assisting
3 in the back of the room as well. It's been valuable,
4 the amount of knowledge that's been passed around the
5 room. I think I will be a better commissioner for it.
6 John and Pechanga, thank you for your dinner. Even
7 though Paul is not here, you know, Chairman Smith gave
8 us a tour of the beauty facility here. I'm glad we
9 could visit.

10 I think the technical standards are a good
11 start. I hope to see those start the implementation
12 process and we've still got some work to do on the MICS
13 and look forward to seeing everyone in Tucson next
14 month.

15 CHRISTINIA THOMAS: I always hate being one of
16 the ones that go last because all you want to say it
17 ditto. I'll echo everything that everybody said in the
18 room. I don't want to say a farewell because we do have
19 some significant work that we still need to get done.
20 So I hope to see you guys in Tucson. I do want to thank
21 John and Pechanga for the wonderful tour and dinner,
22 that was absolutely wonderful. And thank you to
23 everybody here.

24 DANIEL MCGHEE: I'd like to say thank you on
25 behalf of Poarch Creek. I enjoyed working with

1 everybody. I don't know what will come out this meeting
2 or what will come out of the document or anything else,
3 but I was very glad the opportunity arose to meet each
4 and every one of you guys and build a network that, you
5 know, I think I can call upon and say how are you guys
6 doing it there or what are you guys doing, and if
7 anything, that was helpful.

8 I see some of my fans (laughter) in the back of
9 the room are supporting me through this process and I
10 couldn't have done it without you. I look forward to
11 the rest of the process.

12 I would like to dedicate my piece of art to the
13 NIGC, my doodling during the process. This is your
14 brain on TAC. (Laughter.) You can take that back with
15 you and frame it. That's Native American art too.
16 Thank you. This has no value except for the sentimental
17 value you put on it.

18 Thank you all.

19 R. REST WEST: I want to say I enjoyed working
20 with everyone on the committee. I know there's been
21 some contentious issues, but I will tell you I've been
22 involved with several -- some of the other MICS advisory
23 committees, and everyone I think handled themselves very
24 well considering the different and difficult issues that
25 arose. So I think the NIGC did a good job in selecting

1 the representatives from the various tribes for this
2 meeting. Thank you.

3 MICHAEL HOENIG: I'd just like to say thank you
4 too, and I really enjoyed getting to know all of you.
5 And I can't stress enough what a tremendous learning
6 experience this has been for me from the technical
7 standpoint. I'm always being focused on the legal
8 issues at the NIGC, and it's really been great to learn
9 this and I think it's just going to be tremendously
10 helpful when we're writing the regulation.

11 DANIEL LITTLE: I think first of all, and Matt,
12 thank you for reminding me, it's very important from the
13 commission we thank the Pala tribe, Chairman Smith for
14 the hospitality. This is just a fabulous facility, and
15 I guess I've always been fooled when I come to this part
16 of the country, I've always stayed at Pechanga, which is
17 absolutely a fantastic, five-star facility. But this is
18 an awesome place, too. So it's really great to see that
19 the industry can support wonderful facilities like this
20 in this area and it's great to see a thriving industry
21 that's doing so much for a tribe.

22 I will try to be quick. But I came to
23 Washington in 1999. I was young, naive, probably a
24 little stupid, thinking that Congress and the
25 administration can pass things and get things done, and

1 it's been over 10 years and when I came on the
2 commission I was realizing that the same issues that,
3 you know, tribes were dealing with 10 years ago, they're
4 still dealing with them right now. And when I came on
5 the commission that was my goal, was get some of these
6 things accomplished. And I know some of the former
7 commissioners in the back are probably just, you know,
8 kind of -- I'm sure they had the same exact, you know,
9 beliefs where they're -- I guess we're all young and
10 naive, but I really think this is something that we can
11 all accomplish.

12 The chairwoman and the vice chair and myself,
13 we understand the amount of work that the Tribal Gaming
14 Working Group put into that document. I want to say it
15 again. They put a lot of work in that document, and
16 we're very grateful and I think Indian Country is very
17 grateful as a whole because a lot of hours, a lot of
18 time, a lot of sweat, and a lot of money, a lot of curse
19 words, from what I understand, went into that document,
20 but you guys did a wonderful job and that's why it was
21 so important for this commission to take a look at that.

22 The president has given us the opportunity
23 through executive order that we can look at these types
24 of things. The alternative was that we just write a
25 regulation and we put it out for comment and we go and

1 meet with the tribes and consult with the tribes as we
2 generally but we always do. This gave us another
3 opportunity to look at things and it gave us an
4 opportunity to involve our staff and the folks that are
5 on the ground that are in your facility that work with
6 your staff every day.

7 So this has been a great learning opportunity
8 for the commission and I really appreciate it, as
9 painful as it's gotten sometimes. It's probably this is
10 the way it's supposed to be. We're not supposed to
11 have, you know, a great relationship where we agree on
12 everything and we have a responsibility and you have a
13 responsibility and at the end of the day, you know,
14 these meetings help us come to common ground where we
15 feel we can do what we're all set out and required to
16 do.

17 So with that, I just want to thank everybody
18 for sticking in here and I think it seems like I give
19 the same kind of comment every week because, you know,
20 they're contentious, everyone of these are contentious.
21 But you all stick in there and it seems at the end of
22 the meetings we're saying exactly what we've all said.
23 So I really appreciate that, you know, the commitment
24 from everybody.

25 Robin, I didn't draw the short stick, honestly.

1 I'm honored to be here. In all honesty, I can't think
2 of a better place I'd rather be. So I think the other
3 thing I just want to say is this commission is very
4 fortunate that we work for an administration that is
5 very supportive of tribes. They give us the opportunity
6 to do these types of things. It's been tough in the
7 past, it really has, but everyone from down through the
8 president, you know, he has shown his commitment to
9 tribes. If you had an opportunity to come to Washington
10 in November and participate in the tribal leader
11 meetings, it was fantastic.

12 The Secretary of the Interior, he is just --
13 you don't have a better champion in Washington than him.
14 So I'm honored to be able to work in an administration
15 that has such a great commitment to tribes and at the
16 end of the day all the hard work that you do and all the
17 effort that gets put in here, I'm confident it's going
18 to have a positive outcome for the industry. And once
19 again, it's going to support what we're all here for and
20 that is to build stronger tribal communities.

21 So I just want to thank everybody, thank you
22 for all the kind words that Steve and Jason and Mia said
23 I really appreciate that and it's very kind of you. So
24 I wish everybody really safe travels and this isn't the
25 end of the meetings so we will all talk soon. So thank

1 you.

2 DANIEL MCGHEE: I'm sorry. I want to thank
3 Robert because I know it's hard being in the middle
4 sometimes and trying to fix that, and I think you did it
5 very well, so I appreciate your work very much. Thank
6 you.

7 ROBERT FISHER: Thank you. I'm going to
8 express my gratitude for having the opportunity to work
9 with you and to serve the committee and it's been an
10 unbelievable learning experience for me.

11 And with that, I declare us adjourned.

12 (The meeting concluded at 6:50 p.m.)

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- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

0	2008 78:19	547.12 43:22	accepting 121:6,6
05 78:11	2010 97:17,20	547.12. 41:7	access 159:2
1	2011 172:10 175:16	547.13. 44:13	accompanies 52:8
1 1:25 92:17 93:10	2012 1:15 4:1	547.17 49:3 91:7,13	accompany 24:17
10 40:18,19,21	175:10	547.4 34:11,12	accomplish 129:15
44:18,23 55:21	21 103:16 104:9	5:30 6:14	196:11
65:10 83:20,22	22 61:15	6	accomplished 196:6
92:23 100:19	27 94:1	6:50 4:2 199:12	accountability
141:18 145:23	28th 181:3	7	11:13
147:6 155:4 196:1,3	3	76 1:19	accountable 100:2
10,000 105:15	31 12:21 14:15	8	accounting 7:21,22
100 113:6 137:12,13	18:21	8 44:23	9:12 11:10 21:12,18
139:7,9 141:17,21	4	8:00 1:16 4:2	21:21 108:1
11 6:13 40:23,24	43 159:1	9	accumulate 114:23
11/9/11 173:17	4:30 172:11	92059 1:20	accumulated 140:24
1111 98:1	5	99 137:16	141:1
11154 1:19	5 33:16,23 34:12,12	9:00 7:15	accurate 26:17
12 1:15 4:1 8:7	43:22,23	a	accurately 38:18
31:22,23 41:3,4	5,000 105:14	a.m. 1:16 4:2	achieving 151:7
45:6,7,7 92:23	50,000 105:16	ability 15:7 77:18	acknowledged
145:23 175:10	514.18. 56:15	81:25 102:21 106:1	180:8
12/16/11 178:3	518 60:5	107:10 113:4	acknowledging
12900 1:24	542 78:15	151:14 168:25	132:11
13 11:24,25 45:12	543 78:19	able 6:12 19:10	act 118:10
45:13,15,18 46:12	543.14 22:13	20:21 56:10 106:24	acting 73:13
13589 173:17	543.14. 5:8	108:13 117:11	action 4:6 57:6
14 46:14,19	543.15 94:13	122:13 134:16	58:14,14,21 77:15
15 12:4 39:22 46:23	543.15. 96:7 111:19	156:6 158:7 181:4	87:22 108:4
46:24,25 55:20	543.17 94:13 119:21	185:17 186:21	actions 73:14
16 34:2,3,3 47:2,3	543.17. 111:19	187:20 191:23	132:10
172:9	121:13 146:5	198:14	activities 112:14
168 44:22	543.18 78:19 86:23	absolute 191:25	113:23
16th 172:5 175:16	91:13,14 93:20	absolutely 64:10,17	activity 63:25 64:6,6
17 47:6,7 93:9	543.18. 55:24 93:10	115:8 132:4 137:11	127:12
18 61:3 154:13	547 5:2,11,18,23 6:2	142:18 181:9 192:1	actual 24:7 76:15
199 1:25	6:22 7:11,15 27:15	193:22 195:17	81:3 152:4 161:11
1999 195:23	51:24 52:5,7 55:25	abuse 116:10 135:17	add 9:6 59:12 67:16
2	71:13,15 86:8 87:3	138:1,4	84:25 108:8 125:7
2 12:7	91:4,14,18,25 92:2	accept 96:24 133:22	137:21 163:23
20 83:22 100:19	92:4,8,9,21 93:6,8	accepted 48:16	165:10
125:19	147:1 169:19	71:14 133:15	added 29:6 35:25
200,000 100:18	174:24 175:2 180:6		44:9 148:13 149:4
	180:9 184:8		150:3
			addition 12:6
			173:15 178:18

<p>additional 18:9 57:22 61:12 63:11 94:22 98:4 111:12 134:2 139:3,14,16 140:14 148:14 149:21 150:14 154:14,16,19 155:18 160:20,23 additionally 174:10 177:20 additions 24:10 29:12 address 23:3 66:1 94:13 97:21 109:1 146:10 148:7 150:3 174:3 176:18 addressed 15:15 43:7 61:22 67:14 72:9 111:8 135:18 175:11 addressing 102:9 172:3 adequacy 150:20 adequate 136:9 150:23 191:6 adequately 138:10 adjourn 181:11,24 183:1 adjourned 199:11 adjustment 141:18 adjustments 104:17 104:18 115:3 administration 191:4 195:25 198:4 198:14 administrator 3:3 adopt 26:9 52:13,19 54:15,21 55:2 adopted 53:6 87:3 127:11 132:1 133:6 adoption 27:16 adopts 53:8 93:11 advanced 181:5 advancements 135:15</p>	<p>advice 174:15 176:15 177:10 187:12 advising 63:1 advisor 172:13 advisors 178:16 advisory 1:2,7 2:8 172:16 175:5,17 176:2 194:22 advocate 68:6 186:1 advocating 139:9 142:14 affairs 102:4 afternoon 94:8 172:12 agencies 107:18 173:18 agency 57:5,6 58:21 64:16 87:22 88:5 98:2,8,9,12,13,15,20 99:3 100:2 102:6,7 107:22,24 108:1,3 109:8 118:2,20 125:14,15 127:10 173:14 agency's 98:7 118:5 agenda 4:8,15 5:24 94:7,10,11,14 95:20 146:7,18 155:15 165:10 181:12 agent 9:22,23 14:8 28:19 29:6,20,23 30:2,9,12,14 31:12 31:18 114:6 149:23 150:14,20 151:15 154:21 155:9 agents 30:16,23 105:5 113:3 149:5 155:10 159:1 163:15 aggressive 17:2 ago 104:25 122:3 169:16 187:17 196:3</p>	<p>agree 10:16,23 11:11 20:3 39:4 57:9,18,23 62:23 67:17 71:2 91:6 110:22 120:18 129:17 136:19 137:11,22 144:9 164:23 165:3 197:11 agreed 15:3 24:6 55:3 76:9 agreement 77:12 117:24 ahead 7:12 27:12 39:25 41:5 56:1 70:19 78:12 79:5 86:6 89:14 93:6 101:12 104:23 113:25 117:7 123:10 173:2 175:6 air 189:19 albeit 67:12 alleviate 15:18 allotting 173:8 allow 6:11 79:14 151:14 174:1,3 178:15 191:9 allowed 57:1,15 59:6 73:21 118:18 141:17 allowing 183:10 allows 56:24 58:18 68:20 138:2 altered 21:24 alternative 66:5,7 66:10,13 68:8,14 132:25 133:3 196:24 amazed 192:10 amazing 192:1 amended 93:15,16 amendment 50:20 92:2,2 93:13,14 amendments 27:14</p>	<p>amenities 137:15 american 194:15 amount 49:21 104:19 139:10 142:9 156:7 164:8 193:4 196:13 amounts 49:11 136:13 ample 5:22 analogy 32:5 analysis 177:11 analyze 138:4 announcement 56:2 annual 157:6 anomalies 142:19 142:25 answer 10:15 32:1 37:19 53:9 63:1,12 64:19 71:3 73:17,18 96:23 97:10 101:13 128:12 134:15,17 142:5 149:20 150:1 150:11 158:5,20,20 159:3,4,12 166:21 166:22 answered 96:25 135:4,5 answering 82:9 96:16 answers 99:24 134:6 134:8 159:8,10,10 159:15,19,20,23 163:25 anticipate 142:3 anticipated 169:5 anybody 4:9 6:20 8:15 13:25 14:14 21:7,25 23:11 28:5 28:10,13 32:13,23 38:4 39:1,12 40:4,9 40:14,19,24 45:6,13 46:12,18,24 47:3,7 59:11 65:2 67:16 79:2 84:5,8 85:2,5 89:24 93:2 99:16</p>
--	--	--	--

<p>103:20 136:14 143:5 146:3 157:12 158:14 160:14 anymore 71:20 78:3 anyway 4:20 61:24 170:16 anyways 31:13 apologize 57:11 apparent 49:2 178:3 apparently 108:15 appear 157:3 177:10 appearances 2:1 appears 116:15 appeasement 135:25 136:10 applicability 31:18 applicable 126:13 126:14 application 30:1,3,7 30:9,13 82:10 153:9 applications 29:22 105:6 153:1,4 applies 81:13,14 158:1 apply 16:14 50:15 69:20 80:20 81:8,9 81:12 82:15 150:15 appointed 92:24,24 appreciate 25:24 156:3,11 162:2 165:21 179:24 182:11 186:15 188:23,25 189:5 190:14 191:2 192:7 197:8,23 198:23 199:5 appreciated 165:23 appreciation 182:22 appreciative 187:12 188:20 approach 23:7 69:14 96:22 102:16 173:11 177:1 186:23 188:4,7</p>	<p>approaching 92:23 appropriate 23:17 30:25 108:20 109:19 123:23 144:25 145:1 149:6 170:20 approval 66:4 73:20 75:8,9 79:23 80:5,6 80:13 90:6 143:19 143:20 approve 66:15 67:11 73:13 74:10 74:20 77:5,6 approved 52:16 60:7 66:24 74:12 75:4,14 77:11,19 78:1,5 79:11 100:15 151:8 approves 75:8 79:18 approving 61:1 arbitrary 63:18 71:5 72:9 88:1,10 137:20 area 15:17,20 34:15 109:13 119:14 126:9 128:5 130:9 130:24 142:16 195:20 areas 44:24 95:23 96:17,21 132:7 148:14 163:22 174:11,12 183:25 185:8 arguing 125:18 126:10 argument 37:3 118:22 119:20 126:5 arizona 171:25 178:25 190:4,15 arose 41:21 194:3 194:25 arrive 97:18 122:18 art 194:12,15</p>	<p>aside 22:18 75:5 85:11,23,25 99:15 145:15,16 asked 28:9 32:11 61:12 67:20 68:5 73:7 77:25 81:5 123:15 124:14 127:22 142:7 155:5 191:21 asking 42:9 50:17 50:19,20 118:19 123:18 124:7 126:15,21 133:9,9 151:18 152:22 168:16 169:20 assessment 60:6 61:19 asset 101:23 138:12 assets 101:5 115:17 assigned 9:22 assigning 29:25 assist 176:14 assisting 193:2 associate 2:6 associated 121:8 139:20 150:24 173:3 assume 75:7 assuming 75:4 96:16 assurance 149:15 assure 17:8 100:4 attach 180:9,20 attached 20:12 23:21 145:20 attachment 23:21 attempted 176:25 attempts 99:3 attend 179:1 attendant 138:21 141:3 attention 177:8 attitude 178:2 attorney 2:6 84:15 110:5 118:4</p>	<p>audible 28:16 32:18 32:25 38:6 39:9,15 40:6,12,17,22 41:2 43:19 46:13,21 47:1 47:5 72:23 86:4 90:1 143:7 182:1 audience 6:18 56:13 89:12 93:3 181:14 182:3 audit 14:15 106:8 140:3 148:5 152:16 153:12,24 157:2,9 160:6 161:11 162:25 163:6 audited 151:9 auditing 151:25 157:23 auditor 149:15,23 151:15 152:21 153:7,17,21,23 156:16 158:8,9,13 159:14 160:5 162:25 auditors 155:10 audits 17:2 122:19 authorities 18:15 105:19 authority 15:10 17:23 18:12,13,13 20:16,25 58:14,16 59:20 73:12 95:24 100:8 102:11,22,25 108:13 110:7 117:16,16 119:6,14 119:23 120:5,25,25 122:20,22 125:17 126:3 127:14 128:4 129:1,6,14,21 130:1 138:22 139:21 143:11 authorization 105:15 139:4,15 140:14 authorize 139:23</p>
---	--	--	--

<p>authorized 114:9 139:25 authorizer 105:8 available 166:20 avenue 127:20 avenues 135:17 avoid 158:3 aware 16:6 76:8 103:19 104:20 113:11 120:22 156:21 awesome 195:18</p>	<p>186:18 188:24 193:3 194:8,14 196:7 backfilling 185:9 background 129:25 bad 10:24 107:25,25 balances 98:6,17 band 2:10 3:4,6,10 191:20 bank 9:22,22 10:4,4 10:5,8,10,11,12,17 10:19,19,20 153:15 bankroll 103:15 banks 8:21,21 bar 137:16 139:11 139:24 141:2,3 barrel 114:14 barring 111:4 base 52:25 53:21 67:23 71:1 based 20:6 35:25 63:1 69:10 72:7 81:7 89:2 113:14 114:22 124:21,21 137:18 139:5,10 142:2 143:9 150:5 158:18 176:15 178:14,21 186:22 187:2 basically 19:5,6,24 27:22 97:19 135:12 138:11 149:18 160:6 basis 98:11 103:8 132:20 175:22 bear 7:24 22:16 44:6 bearing 168:8 beauty 193:8 beginning 184:3 begs 156:23 behalf 54:5 73:13 76:10 120:6 121:2 123:16 131:13 161:25 172:14 186:14 188:19</p>	<p>189:7,25 193:25 beliefs 196:9 believe 4:18 15:21 16:1 18:18 22:2 45:24 70:20 93:22 102:12 115:8 120:22 127:12 129:25 131:21 132:15 170:22 179:3 189:3 believes 132:4 151:3 belong 42:20 beneficial 122:16 benefited 157:7 benefits 177:19 best 6:5 10:25 11:1 56:20 64:19 98:10 107:22 126:18 128:19,19 174:20 174:21 better 11:16 15:20 48:8 49:25 50:14 59:8 68:20 84:8 86:20 98:3,6 102:24 146:13 157:10,10 176:2 178:12 185:15 190:8,9,20 193:5 198:2,13 beverage 186:5 beyond 36:20 69:9 156:4 160:8 188:10 big 7:22 30:18 106:11,25 115:21 124:15 125:23 128:7 130:24,25 163:14 190:3 bigger 100:20 105:22 120:12 126:12 131:9 148:21 biggest 36:17 bill 48:20 billing 8:8 bind 127:24</p>	<p>bingo 4:19 94:15,18 101:14 103:22 106:19 146:9 bit 33:16 34:14 59:17,18,25 87:11 104:4,4 119:25 130:7 167:8 170:12 180:23 blah 53:23,23,23 blew 182:21 block 56:11,12 blue 2:20 14:7 24:20 29:10,12 183:11 board 84:4 183:22 188:7 boarder 120:11 body 63:4 157:20 boiled 36:6 bold 159:13 book 61:4 bookkeeping 86:2 books 156:17 bootstrap 118:9 bottom 12:4 41:16 97:16 134:24 boundaries 115:3 box 151:25 154:19 155:4 boxes 156:8 159:6 brain 194:14 break 6:11 55:18,20 56:19 83:22,24 92:22 93:25 147:4,6 170:11,15,15 171:12 brian 3:9 85:21,23 85:24 103:8,13,23 103:25 104:15 106:4 107:2 122:24 123:3,4 126:8 191:18 brief 59:10 94:17 bright 189:10 brilliant 192:19</p>
b			
<p>b 20:23 22:7,15 33:16,20,21,22,23 34:11 46:5 150:11 150:24 184:14 baccarat 104:9 back 4:7,11,19 6:2 7:21,22 10:3,24 11:22 22:10,18 29:9 33:18 34:25 35:16 35:21 36:9 37:15 38:1,8 42:17 43:22 45:10,11 46:11 50:9 50:24 57:2,10,23 60:4 63:21 64:16 65:3,24 67:2 68:25 73:9,15 74:9,14 79:6,17 82:19 83:4 85:21 86:11 87:4,8 87:21 88:20 89:18 90:22 92:21,22 93:20 94:3,5,7,8,14 96:7,8 101:8 106:1 109:6 116:13 124:23 129:4 134:18 145:2 146:7 146:19 153:16 162:5 166:16 167:1 168:20 169:18 171:14 179:11 183:17,18,18 184:22 185:21</p>			

<p>bring 4:10 6:21 8:5 21:8 39:13 88:1 108:12 110:14 115:6 121:20 128:17 143:6 147:11 171:15 bringing 109:4 189:13 brings 47:8 93:22 broad 184:25 185:8 broader 122:22 183:20 186:3,3 broadly 130:14 broke 4:15 brother 130:25 brought 30:11,21 99:20 183:13 185:4 bud 78:8 budget 141:24 142:2 142:7,9,13 176:1,4 buffet 114:16 buffets 114:12 build 194:4 198:20 building 14:22 20:12 64:8 built 36:5 bulletin 144:24 bumps 191:8 burdensome 172:25 187:25 business 18:11 99:20,25 100:5 102:2 116:1,7 123:1 123:9,22 131:5 137:3,6 143:10 178:8 businesses 142:19 busy 162:14 buy 57:16 119:19,24 buys 46:16 bypass 57:14 78:3 79:15 bypassing 78:8</p>	<p style="text-align: center;">c</p> <p>c 20:23 34:12,12 150:11 cage 4:18 5:17,20 7:2,7,10,14 8:4,6 9:12 10:5,12 11:7,8 11:10,13 california 1:3,20 4:1 call 24:19 27:15 153:1 194:5 callaghan 3:9 85:23 103:8,13,23,25 104:15 106:4 107:2 123:4 191:18 called 49:10 76:12 114:21 calls 24:22 173:18 173:25 174:9 178:18 181:19 cancel 175:19 canceled 12:2 176:4 canceled 175:16,22 cancellation 11:25 175:24 candidness 182:11 182:23 candor 188:23 capable 30:4 31:16 31:17 44:10,11 capitol 127:2 capricious 71:6 72:9 88:2,10 capture 4:6 20:4 38:18 145:24 captured 26:14 31:9 card 5:17,19 8:9,12 8:16,19,21 9:25 10:2,4,5,8,9,17 29:17 112:17 114:22 136:25 140:22,24 141:1,3 147:12,20,20,21 153:14,14,15 154:17,22 171:16</p>	<p>card's 33:9 care 56:8 90:2 146:5 146:16 181:18 carried 69:18 93:9 carry 16:11 165:6 carrying 159:6 case 63:6 64:11,16 75:20 81:3 105:13 118:12 141:10 160:22 cases 80:22 83:15 159:10,15,18 cash 14:24 16:9,11 17:11 cashier 9:23 cashiers 11:8 cashing 12:5,10,12 12:20,23 13:4,6 14:6,11,16,21 15:23 15:24 16:3,8,9,10 16:13,25 17:7,9 18:8 19:1 20:6,12 cashless 29:3,5,6 casino 1:18 13:4 16:4,10 101:7,22 137:13,14 138:21 casinos 19:9 catchall 19:22 caucus 83:20,24 cause 120:22 caution 71:11 cautiously 73:5 certain 18:21 118:17 148:1 150:10 151:2 158:1 161:4 176:23 certainly 38:1 64:6 75:18 114:11 121:7 134:15 158:10 161:9 186:14 certification 36:18 chair 73:12 96:8 179:13,13 196:12 chairman 2:20 67:2 193:7 195:13</p>	<p>chairwoman 175:13 175:13 176:9 196:12 challenge 147:19,23 148:9 161:5 challenges 156:13 challenging 192:8 champion 198:13 chance 23:13 95:19 110:5,8 147:15 170:11,14 177:20 186:15 change 22:7 25:5 28:25 29:2,4 35:9 35:10,23 41:4 43:20 44:9 46:5,15 47:10 47:12,13,19 48:5,25 49:14,15 57:25 69:4 74:18,21 83:23 84:1 85:19 86:5,14 87:6 87:14 89:23,25 91:13,25 92:12,18 93:6 109:4,24 110:2 128:7 162:25 163:1 164:7,10,11 175:22 184:9,10,10 changed 10:24 32:8 32:12,21 47:24 71:18 74:10,12 78:10 85:25 168:11 changes 20:16 22:2 22:13 23:9 24:1,4,5 24:6,9 25:9,16,17 25:20 26:15,16 27:10,25 28:1,2,18 29:5 33:13 35:1,11 35:20 36:10,11 38:4 39:1,3,11,17,25 40:2,8,14,19,24 41:4 45:13 46:23 47:4,9 51:1,3,20 52:11 55:3 71:14,16 86:7,23 87:4,7 90:18,21,25 92:12 92:21 93:8,9,12,15</p>
--	--	--	---

<p>93:16 94:22 95:25 96:3 97:17 152:15 152:18,19 154:8 181:1,3 185:20 changing 48:15,18 82:15 83:5 85:8 characteristics 30:1 30:24 charge 140:22 charges 56:7 check 4:8,14 12:5,12 12:20,23 13:4,6 14:6,11,15,20 15:22 15:23,25 16:8,10,13 16:20,25 17:7,9,11 18:7,25 19:2,3,5 20:6,11 22:11 23:3 32:9,12 33:2 51:18 70:17 84:2 87:5 93:2 110:20 145:15 146:24 152:15,18 154:19 155:4 156:8 168:20 169:21 checkbox 151:24 checked 6:12 37:24 55:19 93:1 checking 14:24 44:22 96:9 151:25 checklist 31:16 95:6 95:7,14 146:20 147:9,12,12,17,21 147:24 148:1,10,13 148:15,20,23 149:17 150:10 152:5,12 153:3 154:18 155:3,7,19 155:24 156:5,7,25 157:6,23 158:5 160:21 161:1 162:5 162:8 163:7,16 164:11,25 165:5 166:8 checklists 147:15 148:4 155:2,17 156:22 163:5 164:5</p>	<p>164:8,15 165:16 177:21 checkout 6:12,13 checks 16:3 107:25 107:25 chickasaw 2:12 chip 140:11 chips 9:23,24 choose 181:15 182:3 183:2 chose 6:5 101:1 christinia 2:9 65:16 65:17 66:17,19 95:15,21 144:2,4,8 144:16 166:11,12 171:16,17 193:15 christmas 23:23 chunk 2:16 circle 95:9 circles 118:17 circling 158:8 circulate 54:6 circumstance 75:23 circumvent 136:23 cited 175:24 city 24:2 28:4,4 clarification 11:24 24:15 25:9 80:12 90:4 168:2 169:3 170:3 clarify 29:23 131:12 clarifying 80:1 82:10 clarity 26:9 class 8:11,19 43:25 48:4,6 62:8,9 63:21 78:20,21,24 103:14 103:25 104:7,8,20 106:6,10,12,12,14 106:18,19,22 107:2 107:16 109:7 118:13 126:11,13 140:23 176:15,17 176:19 177:12 187:12</p>	<p>classification 63:20 clause 19:18 62:18 clean 44:3,7 51:4 94:6 180:25 clear 5:11 7:4 15:14 26:8 49:4,19 58:2 74:19 79:19,24 80:2 81:23 82:16 100:24 105:22 114:2 120:2 120:8 123:6 131:23 132:15 161:8 173:1 clearer 52:25 161:7 162:7 clearly 89:16 click 17:15 clock 92:23 93:24 close 22:19 93:23 111:3 145:19 171:16,22 177:7 178:7 182:20 189:5 192:22 closers 8:20 closing 181:24 183:1 club 114:20 cochran 175:7,14 cohesion 191:25 collaboration 191:7 collect 99:4 collected 108:3 collection 98:2,6,9 98:12,13,14,20 99:3 100:1 107:18,22,24 108:1,3 collections 110:10 collective 176:12 color 24:19,19 25:6 colorado 118:12 comanche 3:8 187:13 combine 23:25 36:24 come 6:2 17:22 18:3 20:2 21:1 37:15 53:21 54:11,12,13 58:18 64:1,16 69:24</p>	<p>75:19 76:15 77:12 80:1,4 82:19 92:21 94:3,5,7 99:24 111:15 123:17 126:15 155:8 157:21 158:2 162:15 163:4,6,6 166:16 168:24 171:14 182:4,6 194:1,2 195:15 197:14 198:9 comes 25:2 58:11,14 58:16 61:22 75:11 108:9 109:23 114:24 121:23 123:20 124:10 125:22 128:1 157:14 176:1 comfortable 26:6 32:4 37:1,14 39:6 63:10 84:16 102:15 134:14 coming 19:2 62:19 76:25 77:15 95:16 101:15 113:2 157:12 186:7 187:8 187:21 commend 172:18 comment 9:7 28:11 33:24 59:16 72:5 82:21 83:1 92:25 93:1 97:15 107:19 107:20 108:8 117:22 120:7 135:6 136:15 137:4 138:18 142:24 149:21 152:5 153:22 154:11 158:15 159:11 168:25 181:12,15 181:23 182:3 196:25 197:19 comments 6:8 26:6 93:3 116:15 121:15 121:18 133:11</p>
--	--	---	---

<p>152:19 159:19 165:9 168:13 commercial 37:4 188:14 commission 1:1 2:5 51:15 60:5 61:19,25 65:10 67:11 73:14 81:18,21 82:11,11 82:13 87:22 111:13 119:8,10 120:1,2,6 122:9,23 127:24 129:7,22 130:4 162:1 167:10 172:14,15,21 173:4 173:13 174:15,18 175:1,11 179:11,25 180:1 183:13 191:5 195:13 196:2,5,21 197:8 198:3 commission's 120:4 commissioner 2:6 2:12,16,24 3:5 111:2 175:14 178:24 183:5 193:5 commissioners 184:2 196:7 commitment 175:25 197:23 198:8,15 committee 1:2,7 2:8 8:5,16 53:17 89:11 92:25 93:4 99:7 122:10 127:19 154:9 163:11 172:13,17,22 174:8 175:5,17 176:3,11 189:9 190:10 191:22,25 192:14 192:20 193:1 194:20 199:9 committee's 174:17 committees 194:23 common 13:6 108:15 197:14 communicate 167:1</p>	<p>communication 76:7 81:22 communities 198:20 comp 112:10 113:6 113:14 114:9,24 115:4 116:19 137:11,16 138:12 138:22 139:24,25 141:8,13,21 compact 63:22 company 101:15 company's 16:3 comparison 8:7 61:13 78:14 96:13 135:25 comparisons 57:3 comped 115:21 complementary 114:5,7 139:15 complete 26:16 27:9 65:18 117:24 156:7 161:18,20 162:11 172:2 173:5,8 174:1 175:1 177:25 178:23 181:5 completed 10:7 51:19 52:5 153:7 192:22 completely 17:19 35:4 76:9 completes 111:18 completing 149:17 156:21 completion 148:20 148:24 152:15 complex 33:14 184:19 compliance 3:7 125:24 149:7 150:2 150:18,19 155:2,5 157:4,7,21 158:21 159:25 177:6 complicated 53:24 184:5,19</p>	<p>compliment 188:16 complimentary 96:1 112:19 113:5 115:9 115:13,18 123:1 139:4 140:15,20,25 141:5 176:5 comply 12:20 19:19 19:25 81:5 163:15 163:22 component 67:8 95:9 151:22,23 155:17 components 26:1 151:11,17 composed 189:10 compromising 156:19 comps 96:21 112:8 112:20,21 113:10 113:21,22 114:1 115:19,25 116:8,11 121:24 125:11 132:6 135:9,11,14 141:18,24 142:4,11 computation 118:8 computer 29:12,22 30:1,3,7,8,13 153:4 192:15 computerized 153:1 153:9 concept 62:25 152:8 164:22 concepts 155:16 176:24 concern 12:17 14:17 14:19 15:12,18 36:17 75:14 99:21 115:10,11,16 127:4 127:5,6 128:9 130:24 156:6 concerned 36:20 64:7 137:15 138:1 concerning 21:22 concerns 13:11 23:12 30:11 31:8</p>	<p>32:24 40:10,15,20 40:25 45:14 46:19 46:24 47:3,7 99:19 99:21 147:17 171:20 175:25 178:21 179:9,25 conclude 63:19 150:1,20 151:8 155:2 concluded 177:18 199:12 conclusion 155:8 158:2 169:16,22 conclusions 119:12 concur 140:16 conduct 107:15 161:11 conducted 176:19 conf 2:18 confederated 189:7 confer 170:11 conference 173:25 178:17 179:2 181:19 conferring 84:15 confidence 190:25 confident 179:15 198:17 confirm 35:8,10 38:8 39:3 86:13 confirmation 56:3 98:5 99:1 149:8,10 conflict 132:2 conflicts 12:7,8 conform 91:13 conformed 91:15 conforming 36:11 87:6 90:21,24 92:20 confused 50:11 confusing 10:17 33:14 35:12 49:16 50:1 53:20 105:4 confusion 48:17 49:22 135:13</p>
---	---	--	--

<p>congratulate 180:12 180:14</p> <p>congratulations 55:16</p> <p>congress 130:17 195:24</p> <p>connecticut 24:2 120:2 176:10</p> <p>consensus 87:18 110:17 125:10 174:7 178:14</p> <p>conserve 173:11</p> <p>consider 48:24 57:24 70:1 79:25 139:3,14 143:12 177:14,20 187:21</p> <p>consideration 151:23 152:1</p> <p>considerations 150:22 189:17</p> <p>considered 48:6 64:12</p> <p>considering 173:20 174:13,17 194:24</p> <p>consistency 159:25</p> <p>consistent 30:20</p> <p>constantly 190:20</p> <p>consult 197:1</p> <p>consulting 184:15</p> <p>contain 65:18</p> <p>contained 155:21</p> <p>containers 159:2</p> <p>content's 159:3</p> <p>contentious 194:21 197:20,20</p> <p>context 9:5 49:5,24 50:3,5 59:3 116:5,7 131:14 132:17,19</p> <p>continue 48:12 75:10 99:15 162:11 167:12,22 168:9,12 168:15,22 169:6,17 173:7,24 174:3 189:2</p>	<p>continued 172:19</p> <p>continuing 169:9 170:2</p> <p>contract 13:9,17,23 15:2,7 17:21 18:19 18:20,23 19:12,12 19:23 20:25</p> <p>contracts 13:13 19:18</p> <p>contractual 18:18</p> <p>contrary 163:19</p> <p>control 9:20 14:22 30:3,13,13 59:7 62:12,15,16 64:2,18 103:11 105:11 112:10,20 113:3 115:1 116:9 123:7 126:23 128:15,17 128:22 139:5 140:2 141:19 142:8,13,14 142:16 150:8,15,17 150:24 151:2,9,11 151:16,18,20,21 152:2 184:4,18</p> <p>control's 151:3</p> <p>controlled 113:6 125:22 128:6 151:7</p> <p>controlling 112:24</p> <p>controls 12:7,19,25 14:3 16:14 17:8 62:10,11,19 63:11 64:8 68:14 69:16 112:25 114:13 115:9,22 116:7 127:8,13 128:24 129:3 136:5,6,9 139:20 141:6,10,12 149:11,12 150:6,13 150:19,21,22,25 154:16,20</p> <p>convene 97:2</p> <p>conversation 13:2 34:25 47:21,25 56:16 58:1 68:20 69:2 76:16 87:16</p>	<p>125:7 147:9 171:23</p> <p>conversations 30:23 58:25 118:6</p> <p>convey 179:10</p> <p>conveying 179:24</p> <p>coordinate 166:25 167:4</p> <p>coordination 181:17</p> <p>copies 21:11,20</p> <p>copy 65:18 66:12 92:13 146:4,25 179:11 181:7</p> <p>core 164:12</p> <p>correct 22:22 27:1 27:20 35:9 37:2 42:15,15,25 44:12 46:11 50:19 109:9 123:4 133:16,17 142:18 158:18 181:9 192:11</p> <p>correction 151:20</p> <p>corrections 27:14</p> <p>correctly 13:3 28:22 35:7</p> <p>correspondence 173:25</p> <p>corresponding 147:25 148:12</p> <p>cost 37:12 116:20,22 173:3,18 176:4,8</p> <p>costs 56:6 175:24 177:19</p> <p>council 15:3</p> <p>count 4:16 140:11</p> <p>counterproductive 129:16</p> <p>country 17:3 20:10 128:18 189:15 190:9,21,24 195:16 196:16</p> <p>couple 6:9 22:4 23:2 25:7 28:18 41:4 76:5 84:1 94:6,16 106:15 108:14 110:4 161:19</p>	<p>course 35:4 101:24 108:14 128:3 149:19 153:8 183:2 183:14 184:11 185:25 190:16</p> <p>court 56:6 87:24 88:11,12 118:15 168:13 176:5 192:9</p> <p>cover 13:5 15:20 23:17 27:5 52:8,10 52:14,15,23 53:7,14 72:20 76:2 90:18,19 100:4 112:14 122:17</p> <p>covered 36:2 90:13 95:11 174:13</p> <p>covers 43:3 66:20</p> <p>cpa 2:7 158:6,11</p> <p>craft 59:7 76:1</p> <p>create 9:11 11:9 31:7 50:9 71:10 72:14 88:3 90:23 102:19 120:17</p> <p>created 26:22 125:3 126:16 180:24</p> <p>creates 70:7</p> <p>creating 48:17 72:6</p> <p>creation 177:21</p> <p>credit 8:9,12,17,20 8:25 76:8 97:8,21 98:5,8,12,21,24 99:7,22 100:16,17 102:1 103:4,11,15 103:17,19,19,20 104:1,10,15,25 105:2,2,7,8,8,14,15 105:23,23 106:11 106:16,18,24 107:15 109:8 110:8 114:9 124:9,11 125:11</p> <p>credits 96:1 104:19 104:24</p> <p>creek 3:4 193:25</p>
--	---	---	--

<p>criteria 63:15 78:6 89:9 150:14 158:1 critical 95:8 156:18 critique 182:14 cross 152:14 csr 1:24 culloo 3:11 55:6 116:22 117:3 121:15 122:25 133:13 137:1 138:16 170:6 192:13 curious 100:12 106:6 121:22 currency 9:24 16:23 current 15:16 77:23 77:24 78:13,18 121:13 156:4 162:7 177:2 currently 15:18 19:21 73:4,21,25 77:2 curse 196:18 customers 12:24 cycle 146:7,19 cycling 94:14</p>	<p>27:4 28:19 29:2,8,9 29:15 39:19 41:15 41:24 42:13 43:8,11 43:14 44:15,21 45:3 45:8,9 49:9,13 50:7 50:17,23 51:2,5,9 51:13,15 52:1,7 53:13,19 54:25 55:5 55:7,17 56:19 61:2 61:3,6,9,11,15 64:21,22,25 69:3,4 69:22 70:15 72:11 74:5,6 77:23 79:9 80:2,11 81:2 82:2,4 82:14 83:4 87:2 88:22 91:2,3,8,9 93:17 94:2,16,19 96:14 99:11 106:21 107:4 108:25 109:1 109:10 111:8 117:14 118:25 120:9 121:25 122:24 123:4,25 124:1,25 129:4 132:23 133:18 134:2,8,14,25 135:4 143:16,18 145:21 146:10 161:25 162:16,18 163:14 165:3,7 166:2,10 167:14,18,21,23,25 168:5,16,19 169:13 171:10 175:8 179:7 180:5,11,23 186:11 192:6 193:24 195:11 199:2 dark 24:25 25:2 33:6 data 37:4 date 170:8 dated 172:9 175:10 175:15 dates 170:21 day 4:15 7:5 23:23 124:19 167:9</p>	<p>171:16 179:9 181:12,13 197:6,13 198:16 days 65:10 122:3 169:16 173:8,10 deadline 6:13 8:3 170:7 deal 7:22 9:12 13:23 32:6 52:18 75:23 92:5 99:8 127:3 175:21 dealer 10:2 dealing 30:10 116:11 132:18 196:3,4 deals 97:8 dealt 104:3 130:24 148:12 dear 35:19 172:13 175:13 debatable 128:2 debate 117:15,18,21 118:16 119:21 120:6 debated 118:10 126:19 156:14 december 95:16 144:14 145:4 172:5 172:9 174:22 175:16 decide 18:1 57:9,14 58:7,19 60:20 77:9 101:18,25 102:16 124:18,18 132:14 decided 5:1 23:13 26:5 42:19 118:16 124:16 133:1 147:20 178:22 decides 169:14 deciding 62:1 decision 18:11,12 57:10 70:6 88:4 89:4 99:25 102:2 109:25 110:2 114:6 121:2 127:9 129:5</p>	<p>175:18,19 178:14 185:23 decisional 58:11 decisions 30:4 119:3 120:10 123:22 declare 199:11 dedicate 194:12 deducted 103:7 deductibility 103:4 103:6,10 defer 102:13 deference 56:23 deficiencies 164:9 deficient 60:12,13 definable 68:17 define 67:18 defined 89:9,16 defining 68:10 definitely 34:12 88:3 95:10 111:14 111:16 118:5 125:10 161:5 163:24,25 165:19 166:14 169:21 definition 28:25 29:3,4,6,20,21 30:12 31:10,25 32:4 32:8,9,9,12,14,17 36:8 105:7,23 114:1 116:18,18 135:9,10 definitional 49:7 definitions 28:17,18 30:20 31:2 32:22 35:13 degree 20:16 184:25 degrees 19:7 delegate 54:5 delegated 73:12 delete 32:8 43:13 135:12 deleted 42:8 43:12 deletes 65:8 deleting 143:22 deletion 42:3 135:24 143:20</p>
d			
<p>d 20:23 44:8 51:16 150:11 d.c. 76:11 d.c.. 175:12 daily 173:1 dan 17:14,16 44:14 45:2 53:12 61:11 111:2 117:24 119:19 123:12 125:1 127:3 130:13 130:20 134:1 167:8 169:3 187:10 188:23 danger 157:23 daniel 2:6 3:3 5:4,7 6:4,24,25 7:4 17:4,5 18:25 24:3 26:24</p>			

<p>deletions 24:10 25:20 29:12 97:19 deliver 65:10 81:20 126:18 180:20 delivery 174:5 demonstrated 178:19 denise 1:23 deny 58:7 88:12 department 2:2 163:1 departure 130:7 depend 73:19 186:4 dependant 131:9 dependent 130:16 depending 20:15,22 68:24 112:8 140:17 depends 50:2 101:13,20 105:13 105:18 140:7 depth 108:13 109:21 156:8 192:1 derive 126:3,5 designed 114:13 150:25 151:6 desire 174:25 190:23 detail 66:23 111:7 detailed 177:4,16 details 182:20 183:15,16,19 185:9 determination 138:7 determine 14:6 62:14 68:2 128:14 129:1 138:4 142:16 150:18,19 160:22 determined 60:16 84:7 109:5 176:8 determines 66:9 determining 69:1 develop 128:20 162:11 developed 24:14 28:3</p>	<p>developing 164:4 development 174:15 dialog 189:14 191:6 dictate 18:23 104:9 104:13 128:15 difference 34:16 105:4 113:10,22 differences 131:7 different 15:11,22 26:1 27:14 31:2 33:17 35:2,13,14,14 36:1 47:18,23 62:20 78:10 79:13 84:1 101:18 102:1 105:6 105:14 111:25 112:20 113:13 114:11 128:9 137:14 139:11 155:8 158:1,2 163:7 185:21 194:24 differently 105:6 112:8 difficult 25:25 67:18 68:11 116:4 130:22 131:4 179:9,15 194:24 difficulty 35:16 184:16 digest 23:13 digressed 120:24 diligence 172:19 188:23 dining 139:12 dinner 56:8 188:11 189:21 192:3 193:6 193:21 direct 183:8 185:22 directed 162:16 direction 184:9 185:10,13 directions 183:21 directly 57:15 93:3 182:3 director 2:10,14,18 2:22 3:7,9</p>	<p>disagree 58:19 82:1 105:12 disappointed 125:5 171:19 disbursing 11:18,19 discharge 34:20 discourage 149:16 discover 157:16 discretion 112:22 discretionary 112:2 112:9,9 113:4,11,15 114:6,25 discuss 5:23 21:9 47:17 60:24 68:18 102:13,14 116:6 119:7 122:1,2 126:9 159:11 171:19 174:11 discussed 53:4 93:15 96:4,20 159:22 174:23 178:24 179:16 183:20 discussing 93:22 111:6 116:5 120:11 122:20 132:6 171:20 discussion 13:12 21:15 24:12 25:11 30:6,15 36:1,1 41:8 50:4 52:24 70:13 76:23 89:11 94:24 100:10 106:2 107:7 109:2,2,20,24 110:1 110:18 111:1,10 118:7,19,20,22 119:11 122:15 124:24 125:11 131:16,24,24,25 132:17,19 133:24 133:25 143:10 161:2,21 162:24 165:4,15 172:5 177:19 178:13 185:5 188:18</p>	<p>discussions 57:3 58:25 77:3 127:10 127:20 174:3 178:10,19 183:13 184:11 disinterest 178:2 display 70:11 84:21 dispute 75:17 distinct 176:13 distinction 112:11 distracted 85:18 distributed 16:4,13 147:16 distributing 16:8 ditto 186:12 193:17 doable 164:22 165:12 document 9:10 10:11,19 11:13 21:22 22:21 23:16 23:20,21,25 24:5,8 24:17,18 25:7,12,15 25:20 26:8,10,22,24 27:7,10,18 30:21 31:1,6,11,19,20 35:1,17 36:12,14 38:24 44:7 47:8 48:11 51:17,19 52:9 52:13,17 59:3,9 61:6 62:22 66:15 69:19 70:21,24 71:4 78:14 90:15 91:7 96:13 100:10 105:2 105:22 111:24 112:13 119:4,13 120:17,19 122:7 126:18 128:20,25 129:10 130:2 135:25 143:23 144:7,14 145:3 147:18 148:3,7,11 152:6,19 153:21 154:8,24 160:11,25 161:7 164:20 180:7 180:9,16,20 184:7</p>
---	---	--	--

<p>184:20 185:7,11,19 190:8 194:2 196:14 196:15,19 documentation 11:12 149:25 documented 9:8 18:5 documenting 153:24 158:10 documents 8:8 11:4 12:1,15 18:14 30:20 42:21 58:17 62:23 62:25 65:24 68:12 68:13 69:15 70:21 72:10 76:2 95:15 96:3 102:14,19 109:2 121:19 123:22 158:19 160:21 161:10,18 165:12 166:11 167:3 177:4,9,16 182:20 183:15 185:9 doing 14:12 25:8 31:16 48:23 51:4 85:18 96:6,15 101:15 103:15,17 103:18 108:21 109:8 114:15 117:2 124:22 126:6,14 129:11 133:19 151:4,10 156:3,24 157:8 159:14 163:8 165:20 167:4 169:11 190:6 191:3 194:6,6 195:21 dollars 141:21 142:9 doodling 194:13 door 5:3,12 6:19 113:19 130:13 downloads 42:23 44:9 draft 27:2,2,22,23 72:19,20 78:19 97:17,20 130:18</p>	<p>156:10 181:2 drafted 39:7 drafting 53:16 177:11 dramatically 164:7 draw 88:20 126:2 197:25 drawing 114:12,14 190:11 drinks 141:2,4 drive 176:24 driven 154:7 drives 49:24 drop 4:16 88:18 159:6 duct 182:10 duplicated 164:13 duties 124:8 173:19 duty 102:7</p>	<p>effective 75:8 150:23 174:2 effectively 97:21 136:23 effectiveness 150:21 efficiency 173:14,21 efficient 173:17,18 174:20 effort 179:8 198:17 efforts 98:7,14 173:21 eight 31:17 40:8,9 40:11 either 24:10,15 25:10 35:10,10 38:16 39:2 42:21 51:7 63:10 81:14 83:12 84:13 91:11 96:23 105:7 114:9 123:24 148:11</p>	<p>endorsed 123:6 enforce 102:21 118:14 126:15 enforceability 118:13 enforcement 77:15 126:11 engineering 37:4 english 49:25 enhanced 135:14 enjoyed 188:21 189:11 192:3 193:25 194:19 195:4 enormous 176:18 ensure 14:2 16:19 101:7 113:1 115:1 141:20 148:10 152:14 154:20 191:6 ensuring 12:19 entire 59:3 66:19 73:14 122:6 171:20 185:11 entity 21:1 66:8 environment 49:18 129:8 150:5 environments 135:18 187:15 envy 184:23,24 especially 99:19 108:21 136:9 160:5 187:23 essence 24:15 26:23 145:10 essentially 24:8 87:2 130:18 establish 69:16 136:20 138:20 160:7,9 177:5 established 17:8 139:5,21 153:14,21 establishing 112:23 136:22 187:11</p>
	<p style="text-align: center;">e</p> <p>e 20:23 149:3 172:11 178:18 181:19 192:14 earlier 7:6 73:8 107:16 135:8 171:23 186:6 early 174:23 175:1 earn 117:5 earned 112:25 113:3 earns 112:17 easier 33:5 39:20 61:9 91:24 158:11 easily 185:1 easy 54:4 91:18,20 91:21 154:19 182:18 echo 192:24 193:17 economy 179:22 educate 190:22 effect 54:25 76:22 76:23,25 77:8 79:12 79:18 80:5,6,13 90:5</p>	<p>elaborates 161:1 electromagnetic 29:7 36:8 electronic 112:18 electronically 134:5 146:14 electrostatic 34:20 34:21 element 126:24 eliminate 136:21 embraces 186:22 emphasize 102:18 176:22 employees 138:3 encompasses 64:3 encourage 58:1 108:18 157:5 encouraged 58:24 174:11 176:9 encouraging 131:25 132:10 168:6 ended 31:10 156:19 190:11 endorse 123:5,7,8</p>	

<p>evaluate 59:20 64:20 89:7 98:6,19 149:12 150:15 evaluated 62:15,16 evaluates 59:19 evaluating 149:11 150:17 186:6 evaluation 150:22 event 114:5 eventually 168:24 everybody 4:5 7:9 22:16 26:6 39:6,14 49:15 51:18 55:16 56:3 58:2 85:20 86:25 108:16 113:19 145:14,17 146:2,14 151:3,12 156:15 163:21 179:14 180:12,13 190:17 193:2,17,23 194:1 197:17,24 198:21,24 everybody's 59:1 everyday 49:18 everyone's 173:11 174:25 191:16 evidence 77:25 78:5 exact 58:8 60:25 196:8 exactly 37:2 60:8,11 66:23 108:10 159:21,23 197:22 examination 149:3 149:6,9 examine 149:13 example 9:24 10:1 10:18 63:21 100:16 100:21 118:14 121:20 140:21 149:1 152:7 154:5,6 154:13,14 155:15 188:13 examples 11:1 164:13</p>	<p>exceeded 188:14 excellent 121:17 exception 62:17 exceptionally 191:19 exceptor 48:20,20 exchange 9:21,23 10:3,4,7,13 11:9 178:13 exchanged 10:12 exchanges 9:4,7,11 9:20 10:14 11:3,6 executive 2:10,14,18 3:9 133:1 173:16,22 178:5 196:23 exercise 107:18 122:6 exist 19:21 120:21 136:4 existence 150:18 existing 147:21 exit 190:3 expand 71:1 72:6 137:10 174:12 expect 115:23 expectation 149:23 expense 136:10,12 142:4 experience 9:7 76:18 104:24 157:2 176:16 186:16 190:19 195:6 199:10 experienced 104:21 experiences 122:14 expert 88:6 110:13 expertise 108:20 172:23 176:13 187:11 explain 9:19 12:16 60:8 117:11 explanation 30:18 70:6 95:17 177:4 explore 156:8</p>	<p>express 27:11 38:18 199:8 extend 106:18 extended 112:13 extending 103:17 extent 20:7 38:3 134:15 153:25 191:4 extra 160:12 extremely 187:18</p> <p style="text-align: center;">f</p> <p>fabulous 192:3,11 195:14 face 167:11,11 169:4 169:4,10,10 175:16 175:16 177:12,13 177:24,25 178:22 178:22 facilitate 174:5 facilities 184:13,14 195:19 facility 13:7 15:9 17:1 19:16 56:7 58:9,20 106:11,13 106:22 109:11 163:16 193:8 195:14,17 197:5 facility's 107:10 fact 30:6 53:1 58:18 97:11 132:11 138:18 142:15 150:7 151:5 159:23 165:11 176:5 facts 121:5 fail 67:9 failure 151:19 fair 7:15 fairly 106:13 163:20 fall 114:3 189:19 falls 96:19 109:3 110:6 116:16 142:10 fans 194:8</p>	<p>fantastic 180:11 188:22 191:24 192:2 195:17 198:11 far 7:14 9:4 12:22 20:15 30:11 36:19 37:6 78:20 98:18,25 99:1 138:9 183:8 187:20 188:14 190:5 farewell 192:16 193:18 fashion 113:7 fashions 18:24 fast 185:12 faster 40:2 favor 55:10 85:6 86:22 93:17,18 143:21 fear 157:11 february 56:4 110:18 111:1 165:8 165:10,13 166:16 168:10 169:11 173:23,24 187:21 191:13,15 192:11 february's 110:12 111:5 federal 17:21 58:4 77:20 102:3 103:1 109:13 115:15,23 115:24 116:5 117:9 117:13 121:4 124:2 124:4,20 130:20,22 132:1,16,21 173:18 179:19 federally 115:13 feedback 18:17 111:11 146:15 160:16 feel 60:12 66:9 68:4 72:7 89:24 97:20 119:13 123:13 138:22 163:20 166:6 172:1 177:23</p>
--	--	---	--

<p>186:19 187:25 190:24 192:20 197:15 feeling 134:10 feels 66:7 163:21 fees 108:4 felt 75:12 field 60:22 186:10 fight 125:24 figure 29:19 35:15 83:23 89:13 95:18 109:20 110:1 120:21 170:12 171:15 181:19 fill 8:16,20,25 final 27:23 57:5 58:21 87:22 152:6 152:16 162:15 173:22 174:5,18 177:25 finalize 189:23 finalized 154:6 finally 57:5 177:22 finances 67:8 financial 19:11 48:19 find 17:6 22:25 23:11 71:25 77:16 84:8 99:25 102:11 166:20 169:1 finding 157:12 findings 157:18 fine 31:4 102:14 117:23 131:6 139:12 finish 5:4,17 41:7 42:17 87:12 95:13 168:22 173:2 189:2 finished 55:15 finishing 7:6,10 187:3 firms 158:7 first 7:5 31:21,24 59:15 60:4 74:5 86:23 92:22 123:11</p>	<p>135:6 137:8 147:3 148:4 152:12,20 164:2 176:10,25 182:11 183:4,5,21 186:17 192:13 195:11 fish 53:5 fisher 2:3 4:4,13 5:6 5:15 6:1,9,24 7:3,9 7:16,18,24 9:14 11:15,19,22 12:13 13:25 14:13 17:4,14 18:16 19:15 21:6,25 22:22,24 23:19 24:22 25:2,5 26:11 26:21 27:1,6,18,21 28:13,21 29:4,14,17 31:21,23 32:7,19 33:1,20,22,25 34:3 34:7,22 35:9,21 37:23 38:7,14,16,22 38:25 39:10,16,20 40:7,13,18,23 41:3 41:20 42:10,15 43:10,13,16,20,23 44:2,6,12,20 45:1,5 45:11,19 46:1,4,11 46:14,22 47:2,6,12 49:1,12 50:22,25 51:4,7,11,14,16 52:2,20 54:2,11,19 54:23 55:7,11,14,18 55:23 56:15 59:11 60:1,13 61:2,7,15 62:4 64:21,24 65:1 65:5,12,15,21 66:17 66:25 69:3 70:10,17 71:8,20,25 72:3,13 72:18,24 73:5 74:5 75:1 78:12 79:2 80:10,14,17 81:1 82:2,18 83:4,17,21 83:25 84:13,17,20 84:23 85:2,5,12,17 85:24 86:9,19,22</p>	<p>87:9 88:14 89:10,18 89:22 90:10,13,17 91:5,8,10,17,21,24 92:6,14,20 93:19 94:4,10,18,20 95:6 95:12 96:5,11 97:4 97:12,24 98:22 99:16 101:12 103:2 104:23 105:25 106:21 107:6 108:5 108:25 110:19,22 111:18 113:8,25 115:5 116:13 117:6 119:18 121:14 122:24 123:3,10,25 125:4 128:11 130:5 131:11 133:12,17 133:21 134:6,18,21 134:23 135:2,5,20 135:23 136:14,25 137:7 138:25 139:18 143:1,3,17 143:24 144:3,10 145:2,22 146:16 147:5,8,13 148:21 153:19 154:3 155:14 158:14 160:2,14 161:12 164:2 165:4,14,22 166:7,13,21 167:6 170:4,9 171:3,11,14 171:21 180:16 181:9 182:24 199:7 fit 30:17 34:10 35:15 176:23 fits 59:7 177:16 187:1 five 4:20 33:22 35:24,24 36:14 37:17 39:8,11,11,12 39:13 43:23,24 83:20 93:24 135:7 135:24 136:18 139:9 152:24 195:17</p>	<p>fix 44:19,20 50:9 69:24 70:3,4,9 199:4 fixing 70:1 flip 35:21 floating 8:21 floor 48:21 140:9 142:20,22 flow 167:9 flying 40:8 focus 38:16 68:16 69:19 87:14 112:23 122:4 focused 69:13 122:8 195:7 focusing 64:8 foggy 144:18 folks 6:17 8:18 56:12 106:1 191:15 197:4 follow 13:16 18:3,20 75:3,5,6 108:9 155:7 161:19 167:7 189:4 followed 15:1 54:21 75:7 97:3 129:2 following 14:8,21 16:23 150:21 155:17 168:24 169:13 food 138:14 186:5 fool 142:22 fooled 195:15 forbearance 75:13 77:13 force 78:21 foresee 67:4 163:2 forever 128:4 forget 142:7 186:2 forgot 183:20 forgotten 52:23 form 9:25 10:7,13 11:2,5 21:11 115:25 138:13 149:7,14</p>
--	---	--	---

<p>formal 23:16 27:16 54:17 55:1 76:15 125:15 163:12</p> <p>formality 53:9</p> <p>formally 52:13 53:6 53:8,15 73:15 87:3</p> <p>format 25:23 26:6 96:2 155:16 158:16 174:2</p> <p>formed 174:14</p> <p>former 73:10 135:10 196:6</p> <p>forms 9:10 21:18,23</p> <p>forth 34:25 53:25 108:4 168:11</p> <p>fortunate 198:4</p> <p>forum 177:25 190:22</p> <p>forward 11:7,7 93:5 94:25 99:17 108:6 153:23 165:6 168:22 174:17,18 175:5 179:11 181:18 182:4,6 186:7,21 187:2 189:1,23 190:14 191:1,10,14 192:12 193:13 194:10</p> <p>forwarded 21:18</p> <p>found 14:23 157:13</p> <p>four 4:19 32:23,24 33:4,11 38:4 39:7 51:13 106:15 107:21 134:24 145:14 150:3,13</p> <p>frame 194:15</p> <p>fraud 130:9 135:18 142:10</p> <p>fraudulent 114:15</p> <p>free 114:12</p> <p>fresh 104:25</p> <p>friday 172:11</p> <p>friend 114:16</p> <p>friendly 162:8</p>	<p>front 6:19 27:22 85:1 108:21,23 148:17 155:12</p> <p>fulfilling 184:17</p> <p>full 27:8 61:8 173:8 173:9</p> <p>fully 147:18</p> <p>function 80:23</p> <p>functioning 150:25 151:21</p> <p>functions 29:22</p> <p>fund 101:18</p> <p>funds 10:11,16,18 10:20 11:12 14:21 15:25 16:3,8,13 17:19 101:18,22,23 109:8</p> <p>funny 137:17</p> <p>further 15:17,20 20:21 21:3,15 37:13 45:9 62:3 152:11 160:13 172:18 174:6,13</p> <p>future 8:13 20:1 111:13 175:23 178:3</p>	<p>59:20 62:22 66:8,16 67:6,8 68:22 73:1 74:3 75:21 77:17 78:18,24 79:7,14 80:20,23 81:8,10,12 82:15,23 83:1,8,11 89:9 94:14 97:9 98:8 100:7,9 101:17 101:22 103:4,14 106:14 107:23 109:7,23 111:20 112:12 113:19 116:3,12 118:8 119:3,6 120:16 122:5,11 124:3,3,8 124:9,13,14 125:1,9 126:20,24 128:2,13 129:10,18 130:2 133:4,10,23 135:13 135:18 136:22 144:5 147:22 170:24 172:14 174:12 175:11 176:13,17 183:12 183:16 185:6 187:14 188:14 189:15 190:7 191:20 196:13</p> <p>garvin 2:15 166:4 186:12</p> <p>gauge 88:4</p> <p>gee 63:2</p> <p>general 3:1,11 17:6 17:13 19:18 44:17 48:17 97:15 98:18 121:15 137:5 147:17 177:1,6,15</p> <p>generally 45:4 48:16 48:16 63:13 104:10 104:13 197:2</p> <p>generate 118:22 142:3</p> <p>generated 139:4,15 139:22 140:15,20</p>	<p>genuine 166:7</p> <p>getting 17:2 36:18 67:23 73:15 108:2 116:24 129:4 160:15 161:17 162:5 183:15 185:12,19 190:10 195:4</p> <p>give 22:24 28:7 56:17,23 58:21 70:24 96:12 97:4,10 99:6 130:13 149:15 161:8 163:8 170:11 170:14 180:4,19 190:3 197:18 198:5</p> <p>given 99:19 181:10 196:22</p> <p>gives 110:4,5,8 150:13</p> <p>giving 114:2 138:13 189:22</p> <p>gl 141:23</p> <p>glad 190:13 193:8 194:3</p> <p>go 4:7,17 5:17,18 6:16 7:12 12:24 13:12,18 15:8,10,19 16:24 20:15,21 21:3 22:10,18 23:1,8 27:12,24 28:8,21 29:9 32:11 33:18 35:5 37:6 38:1,8 39:21 41:5 42:17 43:1,2,22 45:10,11 48:24 50:9,24 51:2 52:10 56:1 59:16 61:7 65:16 70:19 73:22,23 77:2,9 78:3,12 79:5,14,16 86:6,11 89:14,22 90:22 92:1 93:6 94:10 95:13 97:12 99:3 101:12,22,25 102:10 104:5,12,23 106:1,19 108:11</p>
	g		
	<p>gain 19:13</p> <p>gamble 3:12</p> <p>game 8:16 10:2 101:14 103:16 138:16 142:21 147:12,20 186:4</p> <p>games 5:17,19 8:9 8:12,19,22,24 9:1 9:25 103:13 104:16 106:23 107:3 140:8 140:8 147:20,21 176:19</p> <p>gaming 1:1 2:5,22 12:9 13:8,9,20,24 16:7,15 18:12 21:3 30:19 43:25 50:14 56:21 57:12,18</p>		

<p>111:4 113:25 115:23 117:7 120:15 123:10 136:17 141:1 147:1 148:9 152:11,24 153:16 154:1,2,13 160:8,10,12,13 161:9,14 182:25 183:4,18,18 185:10 186:12 187:1 188:9 189:19 191:13 192:17 193:16 196:25 goal 174:19 179:18 196:5 goals 37:13 183:23 183:23 goes 31:14 46:15 54:8 62:24 65:23 67:2,18 81:25 87:21 109:6 118:17 142:24 145:12 156:4 going 6:2,3,14 9:17 10:6 17:10 18:17 21:11 22:20 23:16 24:12,14 26:18 33:15 35:21 44:6,15 47:10,13,16,19 52:10 53:16,20,24 54:24 55:23 56:17 58:15 59:13,22 60:4 65:16,17 66:20,22 66:23 72:15 77:12 80:14 86:10 87:4 88:5 92:14 94:25 95:1 96:12,13,15 97:4 98:19,23 101:22 104:12 108:6 110:2,9 111:6 119:7 120:3,3,13 123:17 125:18 128:16 129:6,7,11 134:25 135:2 138:5 140:7,9 144:22</p>	<p>145:19,23 146:13 148:25 150:4 152:3 156:6 157:5 158:4 162:19,25 163:1,1,3 163:7 164:24 165:5 166:15,16,19,20,23 167:11 168:9,12,22 168:22 169:14,25 170:22 171:1,6,24 171:25 179:17 180:18 181:18,20 183:19 186:13 187:8,20 189:1 190:3 191:10,17 192:15 195:9 198:17,19 199:7 good 4:4 14:22 19:3 19:5 20:4,20 28:21 33:11 38:9 48:23 55:20 56:18 65:13 66:25 77:16 80:24 98:11,13 102:22 111:11 120:9 128:24,24 129:3,20 133:20 154:14 155:24 156:4,10,11 157:17,19 160:3,18 161:16,17,20,21,23 165:19 167:16 184:9,10 185:10,13 186:20 189:3,12 193:10 194:25 gotten 49:12 127:15 182:19 197:9 government 18:11 77:20 102:5,6 130:21,22 179:19 179:19 188:18,18 governments 102:5 123:16 grammar 86:16 grammaticians 50:22 grandfather 33:11</p>	<p>grandfathering 33:13 grant 57:19 63:2,4 63:13 67:11 81:14 81:19 83:13,13 92:18 113:4 114:9 granted 58:3,4 63:16 65:20 68:3 73:16 76:4 78:24 141:20 granting 63:8 66:21 71:6 103:19 115:4 132:11 grantor 105:8,23 grants 83:12 86:21 90:11 grateful 99:13 180:15 183:11 196:16,17 gratitude 190:17 199:8 gray 25:3 33:6 great 45:1 54:11 118:13 128:17 175:21 187:7,23 188:25 190:10,13 191:13,21 192:4,19 195:8,18,20 197:7 197:11 198:15 greater 190:23 green 24:19,21,22 24:23,24 grid 153:2 gross 103:4 109:22 118:8 ground 197:5,14 group 4:10 6:21 15:21 16:1 21:4,9 30:19 40:5,10,15 56:21 62:22 69:15 77:17 89:13 96:4 97:9 100:10 111:20 112:12 119:3 120:17 122:5,11,13 125:1,9 126:1,8,20</p>	<p>126:24 127:12 128:2,14,17 129:17 129:18 130:2,7 133:4,14 134:3,10 143:6,9 147:22 169:14 173:5 183:17 189:4 190:2 190:8 191:25 196:14 group's 119:20 129:10 133:10,23 174:12 185:6 groupies 56:13 groups 100:21 117:25 131:2 169:17 185:21 gsa 18:21 guarantee 15:24 16:14,20 17:19 104:11 guaranteed 12:10 guess 14:22 16:16 41:13 42:9 53:19 59:17 61:17 65:23 65:25 67:10 75:11 98:24 101:1 112:13 131:4 132:2 141:9 154:10 162:9 170:6 195:15 196:9 guessing 6:1 guidance 8:8 9:9 11:4,25 12:11 20:20 22:5,9,10 28:7 42:21 59:6 61:6 62:23 70:21,23 71:7 71:10 72:6,10,14 75:6 78:14 86:10 90:15,20 96:3 98:2 98:4 102:14,17,19 102:23 105:2 109:1 111:24 112:2 114:3 115:24 123:22 128:20,25 139:17 144:7,8,12,17,21,22 144:22,25 145:5,6</p>
--	--	--	---

<p>145:11,20 148:3,3,7 148:11,14,17 150:14 154:8,14,16 154:19 155:18,21 156:17 158:18 160:20,25 164:11 165:12 177:3,9,15 185:9 guided 115:24 guidelines 112:24 114:8 127:13 guiding 155:9 guy 96:9 guys 20:18 53:2 95:22 100:25 189:1 189:24 192:25 193:1,20 194:4,5,6 196:20</p>	<p>handled 194:23 happen 43:4 77:21 79:15 95:1 116:8,10 116:10 138:5 181:20 189:20 happened 74:9 114:17 170:24 happening 42:23 75:20 76:19 78:16 148:2,8 170:25 happens 58:22 68:24 76:7,16,20 happy 132:18 172:17 183:12 harbor 177:5,15 hard 25:1 81:4 148:22 162:2 172:19 176:14 180:12 198:16 199:3 hardest 63:3 hardware 31:14 harm 48:23 58:20 hash 74:14 hashed 74:24 hate 50:8 109:25 115:6 151:24 189:18 193:15 head 11:16 15:1 31:12 76:1 140:22 heads 137:7 hear 11:19 37:3 60:10 71:9 75:9 121:19,22 127:16 129:22 182:9 heard 18:6 50:10 124:14 129:19 163:12 166:7 184:1 184:2,11 hearing 17:3 99:16 127:11 163:21 heart 35:19 heavy 107:1 held 1:18 14:10 170:1</p>	<p>help 71:3 102:24 105:11 148:16 179:21 197:14 helpful 71:3 72:7 99:11 119:11,16 120:19 122:14,15 125:8 129:23 162:2 162:20,20 179:17 194:7 195:10 helping 112:14 134:14 185:16 helps 157:2 158:5 hesitations 28:6 hey 15:5 18:2 20:18 161:25 184:25 high 88:19 106:19 136:23 138:10 highest 88:16 highlight 44:24 154:4 highlighted 24:18 25:14 85:9 highway 1:19 hill 127:2 historically 188:4 history 125:14 ho 2:16 hoenig 2:6 59:14 60:10,14 61:16 65:4 65:7,23 67:1 71:24 72:2,25 74:1 79:19 129:13 195:3 hold 18:9 70:10 77:13 86:25 93:7 99:9 158:22 170:9 170:17 172:20 holding 75:16 100:2 188:24 holiday 172:12,17 home 183:18 honestly 197:25 honesty 122:12 129:15,19 162:2 198:1</p>	<p>honor 143:2 honored 191:21,23 198:1,14 hope 130:1 165:24 171:8 185:11 186:19,20,22 187:21 189:1,16,24 190:3 191:11,17 193:11,20 hopeful 128:1 hopefully 58:23 111:11 hoping 129:15 169:17 hospitality 195:14 host 30:10 177:25 hosted 56:8 hosting 189:21 191:15 192:3 hotel 115:20,20 hour 146:24 181:10 192:8,8,8 hours 164:8 196:17 house 103:16,18 109:12 139:25 huge 180:13 182:20 human 30:1 humbled 193:1 hurdle 88:16 hurry 157:24 hyphen 46:9</p>
<p>h</p>			
<p>h 12:7,11 13:3 half 7:5 71:9 hamel 3:1 7:13,17 8:18 9:19 11:20 15:21 21:17 45:17 45:20 46:3 48:10 65:13 70:20 71:11 81:17 82:9 84:25 86:16,20 90:8,11,15 91:12,20,22 92:12 92:17 103:3,10,22 103:24 104:24 105:17,21 111:22 112:6,16 114:1 128:12 134:17 137:10 139:19 140:13,19 141:14 147:4 152:10 153:20 154:5 158:4 164:3 166:3 167:5 182:8 191:16 hand 22:15 51:25 52:3 85:10,19,22 86:24 110:23 143:24 145:13,16</p>			
			<p>i</p>
			<p>i.e. 176:11 idea 59:23 69:9 98:11 100:22 124:22 149:16 155:24 171:1 ideally 6:4 ideas 155:25 identical 71:13 identified 132:7 148:25 152:23 identify 136:20</p>

identifying 106:7 177:1 ignored 136:6 igra 72:1,11 128:4 176:16 ii 8:11,19 12:11 43:25 78:20,22 103:14,25 104:7,20 106:6,10,12,14,18 106:19,22 107:2,16 140:23 176:15,17 176:19 177:12 187:12 iii 48:4,6 62:8,9 63:22 78:24 104:8 106:12 118:13 126:11,13 image 103:16 imagine 66:14 immediate 178:15 imminency 69:11 imminent 58:9,19 62:2 67:3,5,7,7,13 67:15,18,24 68:1,10 68:22,23 69:5 70:7 87:16 88:2,10,17,24 89:8,8 impact 14:11 185:23 imperative 178:6 implementation 193:11 implemented 127:10 implementing 173:13 implication 107:11 implications 30:8 implied 90:12 implies 90:9 importance 177:3 177:24 important 42:22 70:3 95:4 102:10 151:1 155:1,17 159:7,19 172:20	178:10 179:3 187:18 190:6 195:12 196:21 impression 134:13 169:23 imprest 8:21 improve 165:1 186:25 187:14 improved 187:18 improvements 164:20 inappropriate 114:15 115:2 inaudible 7:8 8:10 9:8 14:5 33:24 39:19 42:4 47:14 65:18 66:2,9 74:8 80:4 88:5 98:7 103:9 104:10,19 105:9 106:24 117:3 119:21 121:23 137:6 138:11,17 149:20 160:7 168:21 174:7 include 56:13 65:11 70:6 107:21 included 11:4 42:1 43:14 46:17 145:11 185:17 includes 158:9 including 38:20 139:3,14 146:8 150:21 177:14,19 income 187:17 incongruent 30:2 incorrect 157:18 increase 100:17 159:3 increased 14:4 67:6 113:20 increasing 63:8,13 incredible 188:16 independent 31:6 120:18 154:21	independently 130:2 indian 1:1 2:5 20:10 102:3 170:24 175:11 176:13 183:12 189:14 190:9,21,23 196:16 indians 3:4,6,10 191:20 indicate 90:5,12 91:14 159:8 160:19 indicated 159:13 indicates 158:20,21 indicating 70:11 84:20 indication 159:16 individual 60:7 125:13 137:2,6 138:17 163:4,16 industry 37:7 48:16 48:18,22 50:11 100:3 127:24 136:20 174:21 179:20 183:23,24 184:10 185:15 186:3,3 195:19,20 198:18 inferred 74:16 information 24:4 42:24 56:11 57:21 57:22 65:11,19,20 65:22 70:25 89:13 95:22 109:23 111:12,15 160:20 178:9,13 179:16 infrequent 59:4 inhibits 62:19 initially 74:20 initiated 83:1 input 99:7 102:17 106:5 122:7 140:9 162:1 175:20 inquire 149:13 inquiry 149:4,6,14 149:17	insertions 25:19 insisted 178:5 installation 43:3,4 instance 122:12 instances 122:18 institute 185:18 instruction 158:8 instructions 149:5 153:17,20 158:25 instrument 48:20 integrated 144:20 integrity 67:6 75:21 89:9 116:2 intelligence 192:1 intelligent 121:2 intended 34:10 151:10,19 179:21 intense 99:2 intent 67:9 69:20 107:17 114:4 148:18 interaction 60:25 178:16 interest 186:8 interested 64:5 122:10 163:21 interesting 79:13 101:4 interests 185:25 interface 114:22 140:23 interference 29:7 34:21 36:9 interior 2:2 198:12 internal 13:20 14:22 62:12 128:17 139:5 152:21 153:12 158:7,9,13 159:14 184:4,18 internally 60:16,20 60:24 interphase 112:18 interplay 127:2 interpret 119:9 185:17
--	--	--	---

<p>interpretable 185:1 interpretation 82:10 interpreted 117:20 interrelated 177:23 intrigues 60:3 introduction 59:10 59:23 67:14 introductory 155:23 inventories 153:22 inventory 153:14,15 153:15 154:17,22 investigate 154:17 investigation 47:23 154:21,23,24,25 investigator 76:11 invites 179:1 involve 103:14 197:4 involved 8:19 16:5 21:23 56:24 95:1 104:1 105:1,20 118:5 122:13 194:22 involvement 122:21 125:6,14 involves 116:2 irregardless 102:25 irs 14:5 16:24 17:1 issuance 100:16 110:9 issue 18:19 20:2 29:25 32:5 45:14 50:11,13 62:13 87:20 98:24 99:4,22 100:8,11 102:1,19 104:4 106:11,16 108:19 110:9 112:10 114:7 116:12 117:10,12 117:12 119:23 120:12,25 121:1 124:9,13,15 125:10 125:21 126:12 128:5 130:22 131:3 131:5,5,8,20 132:12</p>	<p>132:18,22 139:25 144:22 150:4 151:15 168:25 177:18 issued 105:14 112:21 113:14,18 157:20 173:17 issuer 105:7,23 issues 8:5 14:16 23:12 28:10,13 32:23 40:9,15,20,25 46:19,24 47:3,7 72:7,9 76:13,14 87:22 98:16 110:9 110:10 120:11 122:2,17 124:8 125:10 131:4 142:17 164:25 172:2,4 176:19 179:15,16 184:22 194:21,24 195:8 196:2 issuing 99:7 105:15 144:24 item 4:6 31:17 35:19 90:20 107:21 113:18 115:13 123:9 139:5,16 141:22,24,24 142:2 149:4,19 items 5:24 21:16 96:2 115:9,18 116:19 148:10 iv 87:15</p>	<p>134:20 146:21 161:14,16,25 162:4 166:11 jeff's 146:24 job 1:24 121:21 129:20 133:20 156:10 157:17 161:16,17 176:18 184:23 190:13 194:25 196:20 jobs 172:20 184:15 186:4 john 3:5 27:12,13,20 29:17,18 32:1,3 37:15 60:1,2,12 79:5,6 83:6,7 84:10 84:11,15,22 97:8 98:22,23 99:14 100:14,24 101:4,25 104:3 105:12,18,25 106:22 108:7,8,18 108:24 109:6 110:4 110:14 111:15 117:7,8,17,25 119:18,19 130:5,6 140:6,16 142:18 167:6,7,16 168:7,18 168:21 188:19 189:21 192:2 193:6 193:21 john's 141:14 join 187:20 191:12 jones 1:23 judging 58:20 judgment 74:21 july 181:3 jump 97:22 jumping 87:11 jurisdiction 96:20 97:1 109:3,13 119:23 123:17 143:11 jurisdictional 118:2 jurisdictions 37:5 135:19 136:3</p>	<p style="text-align: center;">k</p> <p>kathi 3:1 7:12,13,17 7:19 8:18 9:19 11:3 11:20 15:21 21:17 24:2 45:16,17,20 46:3 48:10 56:19 65:12,13 70:19,20 71:11 72:5 81:17 82:7,9 84:25 86:16 86:20 90:7,8,11,15 91:11,12,20,22 92:11,12,17 99:17 103:2,3,10,22,24 104:23,24 105:17 105:21 109:21 111:22 112:5,6,16 113:9,25 114:1 128:11,12 132:13 134:17 137:9,10 139:11,18,19 140:6 140:13,19 141:14 141:17 147:4,10,14 147:19,23 148:13 152:3,10 153:20 154:5 156:10,13 158:4 164:2,3,23 166:3 167:5 182:4,6 182:8,10 191:16 kathi's 116:14 118:7 138:18 148:9 keep 4:6 71:14 78:8 152:17 188:17 keeping 84:6 kept 156:15 key 67:21 184:23 186:8 keys 159:3 kicked 172:4 kind 14:19 19:21 20:6 21:2 23:13 24:24,25 25:1,9 49:13 50:7 53:9 59:24 60:3,14,22 61:11 65:23 66:1,14</p>
	j		

<p>75:25 78:7 85:17 86:8 87:21 91:10 96:10 102:15 113:18,20 116:9,21 118:16 124:3,23 126:8 127:7 131:4 135:8 152:20 159:11 160:16 168:8 186:17 196:8 197:19 198:22,23 kinds 20:10 36:5 123:13 kiosk 16:2,9 know 5:7 6:7,25 8:11,15 9:9 10:25 11:13 12:9,25 13:15 14:5,7,10,25,25 16:6,18 17:1,24 18:7,22 19:16,22 20:5,9,14 25:25 28:7 29:10,11 30:19 31:9,18 33:17 35:18 37:1 42:23 44:17,25 46:3 47:18 48:20,22 49:19 53:2,2,24 54:6 57:4,22 58:19 60:2,25 61:20,21,24 62:1 63:6,17,18 67:10 68:22 69:8,12 70:24 71:5,22 73:10 73:16,22 74:1,6 75:18 76:1,3,5,6,8 76:12,16,19 78:2,15 79:20,21 80:24 81:4 82:4,6,16 87:3,25 88:23,24 89:21 91:15 94:23 96:22 97:9 99:23 100:18 100:20,23 101:9,16 101:21 102:4 103:20 104:9 106:10,13,15,17,17 107:17 108:9 109:4 109:10,12 111:15 113:2,14 115:7,14</p>	<p>115:19,20 116:1,11 116:16 117:4 118:12 119:1,5,5,13 119:16 120:9,10 121:16 122:7,8,19 123:20 124:7,25 125:13,23 126:7,19 126:22 127:3,12 128:9,16 129:5,6,12 129:14,19,24 130:8 130:13,14,17 131:9 131:21 132:9 133:7 133:18 137:9,24 138:6 139:9 142:8 142:12 146:23 148:5,22 149:2 151:16 153:19,19 153:25 154:14 156:10,21 157:3 159:12,15 160:10 161:4 162:23 163:3 163:5,12,16,23,25 165:19 167:18 168:7,9 169:6,8 170:10,25 172:25 177:22 178:19 179:8,15 180:14 182:15 183:22 184:11,12,24 185:12 186:17 188:5,8,13,24 189:1 190:11 191:8 192:7 192:9 193:7 194:1,5 194:20 195:4 196:3 196:6,7,8 197:11,13 197:19,23 198:8 199:3 knowing 155:9 knowledge 104:3 108:16,16,22 109:12 193:4 known 20:1 176:5 knows 18:5 49:15</p>	<p style="text-align: center;">l</p> <p>lab 31:6,14 32:5 lack 160:12 lacking 71:7 lacs 2:10 lake 2:20 lake's 183:11 land 20:13 landlord 17:20 language 21:19,22 24:7 36:16,24 37:1 37:14 38:8,17 49:17 49:25 58:10 62:2,9 62:18 63:22 64:1 67:3,15 69:5 70:14 71:12,15 87:21 145:8 177:8 large 50:4 56:12 106:10,13 184:24 larger 50:9 122:22 laryngitis 9:18 lash 2:23 4:12 43:22 43:25 44:3,8 53:3 54:20 55:1,10,12 72:5,17 80:16 85:16 93:13,18 123:11 162:5,17 167:20,22 168:1 171:22 189:25 lastly 174:22 185:20 laughter 166:6 186:13 192:15 194:8,14 law 13:18 15:8 18:9 lawyer 101:13 lawyer's 127:23 layer 97:7 lays 144:14 lead 12:7 leader 198:10 leading 152:21 leads 133:21 learn 108:14 195:8</p>	<p>learning 195:5 197:7 199:10 leave 5:14 10:6 11:12 128:14 149:22 leaving 6:14 82:7 ledger 98:19 lee 170:4 left 8:4 94:5 146:24 166:9 183:3 legal 48:8 60:24 87:23,24 88:1,4,11 88:18,20,23,25 89:8 117:19 128:14 195:7 legally 132:13 legislation 130:18 lengthy 36:4 leo 3:11 55:6,8,9 116:22 117:3 121:14,15 122:24 122:25 133:12,13 136:25 137:1,10 138:16 139:23 170:6 192:13 leo's 192:24 lessened 59:9 lesser 88:22 letter 23:17 27:5 52:8,10,15,16,23 53:4,7,14,17,20,22 53:24 54:3,7,8,10 54:17,22 55:13 147:1 170:23 172:5 172:7,9 175:10,15 175:24 178:3 179:12 180:1,20 letting 186:9 level 58:3,4 67:5 75:22 77:21 88:2,13 101:2,24 102:23 105:13,19,22 115:15 117:13 121:4 124:3,4,5,12 125:7 126:20 127:4</p>
---	--	--	--

127:6 131:19,19,22 132:1,5,8,16,21 138:24 141:19 148:3 153:13 levels 105:20 137:11 139:22 140:17 160:7,9 leverage 17:23 liability 16:7 19:14 license 19:17 96:1 licensing 19:19 30:10 lies 129:14 lieu 12:6 lifetime 122:14 light 117:8 118:6 128:6 173:3 178:14 187:23 liked 156:3 likes 166:5 likewise 176:23 limbo 78:20 limit 7:13 91:6 106:9 139:5,9,10 142:12 limited 18:13,14 19:13 104:3 111:24 126:3 127:20 173:15 limits 114:8 136:10 138:9 line 23:10,11 96:17 100:17 108:23 126:2 131:6 141:24 141:24 142:2 155:19 lines 108:21 109:8 124:9,11 list 4:6 21:15 22:9 36:6,7 58:7 94:11 108:6 110:25 166:9 listed 25:12 35:3 153:1 listening 116:14	listing 28:1 153:11 literally 125:16 155:3 little 2:6 5:4,7 6:4 33:16 34:5,8,14 35:12,16 45:3 50:23 55:17 59:17,18,25 61:4,6,11 62:2 83:19 87:11 92:24 94:16,19 99:11 104:4,4 111:8 117:14 118:25 119:25 120:9 121:25 124:25 129:4 130:7 132:23 133:18 134:2,8,14 134:25 135:4 146:10 148:16,24 152:4,11 153:2 160:10,12,13 161:25 162:16,18 163:14 166:2 167:8 167:14,18,21,23 168:5,16,19 169:13 170:12 171:10 175:8,14 178:24 179:7 180:5,11,23 183:5 186:11 189:12 195:11,24 lives 187:19 living 100:5 loaning 101:6 lobby 16:10 local 56:23 57:16 77:19,21 102:23 138:24 located 13:7 16:25 20:8,24 42:5 location 168:15 locked 159:2 lodging 138:14 logged 43:6 63:25 logic 119:2,24 logical 81:12	logistics 6:10 long 10:10 33:13 43:14 50:8 57:7,8 64:22 104:10 132:19 172:25 longer 10:19 53:1 57:15 130:19 167:11 178:7 look 13:13,15 15:10 37:4 42:20 58:18 60:19 61:10,12,20 61:25 62:20 74:19 87:6,25 88:12 91:18 92:9,21 94:21 115:15 124:5 125:17 127:1,1 130:1,3 131:16 132:13 133:10 137:16 138:3 142:16,19,25 143:4 145:23 157:19 160:5 163:17,24 164:1 169:1 170:15 171:1 174:17 175:5 182:14 184:18 187:2 189:22 190:14 191:14 192:12 193:13 194:10 196:21,23 197:3 looked 20:17 36:22 36:23 57:2 154:15 looking 6:22 12:14 17:5 39:25 58:15 61:16 64:9 69:1 70:15,19 79:21 80:19 84:11 88:21 98:25 133:14 152:17 155:13 169:8 186:24 looks 128:8 183:7 185:11 lose 21:13 lost 69:20	lot 9:9 11:10 12:9 13:5,12 14:23 17:18 17:24 18:6 30:17 37:10,11 41:8 49:23 50:1 58:13,16 59:5 62:24 76:2,5,6 94:7 99:20 108:16,19,22 116:17 124:7 126:7 126:22,25 127:21 130:9,9 136:24 159:9,14,18 161:21 162:23 163:9 165:11,20 182:22 184:23 186:20 190:7 192:18 196:15,17,17,18,18 196:18 lots 14:23 30:23 58:25 76:16 lovely 189:22 luiseno 3:6 lunch 54:10 92:9,16 92:22 93:25 lunchtime 94:1 lytton 3:2
m			
machine 104:8,8 machines 103:21 106:20,23 113:19 124:4 magee 3:5 27:13,20 29:18 32:3 37:15 60:2,12 79:6 83:7 84:11,15,22 98:23 99:14 100:14 101:4 104:3 105:12,18 106:22 108:8,24 109:6 110:4,14 117:8,17 119:19 130:6 140:6,16 142:18 167:7,16 168:7,18,21 188:19 magic 137:12			

mail 172:11 181:19 192:14 mails 178:18 main 10:3 maintain 98:11 176:6 maintaining 98:17 179:20 major 111:10 120:11 making 14:21 22:14 30:4 31:2 37:10 50:25 58:11 70:1 80:4 87:4 89:4 142:23 162:20 178:14 185:23 man 133:18 management 101:15 105:19 manager 3:1,11 138:21 140:10 managing 115:2 mandated 176:16 mandating 65:9 177:2 manner 155:3 174:2 174:21 manual 115:3 140:3 141:15,16,18 manually 17:10 140:9 153:5 manufacturers 186:4 manufacturing 37:11 march 173:23,24 mark 138:18 149:1 marked 25:17,17 181:1,3 marker 104:5 markers 103:19 104:16 marketed 114:18 marketing 114:19 114:24 142:1	marks 148:25 match 13:20 matched 48:1 material 155:23 161:10 173:9 matrixes 139:21 matt 67:13 79:9 88:14 101:12 112:2 112:16 120:9 123:15 146:25 156:1 167:5 171:3 171:19 195:11 matt's 32:5 109:7 matter 42:2 88:25 100:12 110:13,15 142:15 151:5 matters 102:20 matthew 2:11 7:19 12:16 13:2 14:18 17:14,16 19:8 20:3 30:15 33:9,10 35:18 36:16 37:18 47:20 48:14 49:23 52:21 52:22 53:11 56:19 56:20 62:23 73:3,7 75:25 76:21,24 85:11,18 87:20 88:16 89:2 101:13 108:18 109:18 112:4,7 117:24 125:4,5 129:5 142:1 156:2 170:4,4 171:5 192:24 maximize 173:14 maximum 138:22 mcghee 3:3 6:25 7:4 17:5 18:25 26:24 27:4 28:19 29:2,9 29:15 39:19 41:15 41:24 42:13 43:8,11 43:14 44:15,21 45:9 49:9,13 50:17 51:2 51:5,9,13,15 52:1,7 53:19 54:25 55:5 61:3,9 64:22,25	69:4,22 70:15 72:11 74:6 77:23 80:2,11 81:2 82:4,14 87:2 88:22 91:3,9 93:17 94:2 96:14 107:4 109:1,10 124:1 143:16,18 145:21 165:3,7 166:10 167:25 193:24 199:2 mean 5:20 6:4 7:6 7:23 11:1 14:4,7 16:24 17:1 19:2,3 27:8,19 28:11 31:16 35:10 38:12,23 42:8 44:21 45:22 47:15 49:6 50:8 54:12 55:14 60:17,22 61:18 65:24 69:25 70:7 73:24 74:1 75:5 77:10 78:4,23 81:11 83:11 87:2 88:18,19,23 100:4 101:5 102:22 103:15 107:14,15 111:8,9 112:16 113:13,17 115:18 116:20 118:1,3 119:11 124:11,20 126:13 134:6,8 137:17 139:7 143:9 149:2 162:13,18 164:22,24 165:8 167:23 169:8,17,23 190:13 meaning 9:5 29:15 47:18 49:24 84:18 89:15 159:23 meaningful 60:6 61:18 64:13 69:2 meanings 50:2 means 5:23,25 10:17 11:2 13:19 37:2 49:5 52:4 55:20 85:25 89:23 101:6	159:25 meant 34:10 53:25 66:5 120:4 164:11 mechanical 151:11 mechanism 75:13 75:16,23 mechanisms 76:15 media 45:23 meet 13:1 19:4 66:10 67:9 88:13 125:19 167:23 168:6,9 169:15 170:22 177:12 188:6 194:3 197:1 meeting 1:2 8:3 38:12 53:5 56:4 94:22,23 95:16,20 95:24 110:12,13,18 111:6,14 117:15 145:4 147:16 165:10 166:23 167:12 168:15 169:7 170:1 171:23 171:24,25 173:6,7 173:22,23 174:22 176:4,10 178:3,23 178:25 179:1,6 181:21 183:9,21 186:17 192:22,25 194:1 195:2 199:12 meetings 167:11 168:2,3 169:5,10,21 169:22 172:25 173:4,24 175:17,19 176:7 178:11,15 183:7,14 184:3 197:14,22 198:11 198:25 meets 31:17 151:17 member 56:7 119:8 120:18 170:7 172:13 178:15 182:5,19 member's 172:22
---	---	--	---

<p>members 8:5 121:16 122:10 165:25 172:10,16,18,20,24 174:8,10 175:4 178:16,21 179:6 181:8,14 182:2 186:1 187:19 188:21</p> <p>memory 29:19 41:7 112:3 167:17</p> <p>mentioned 11:4 69:23 115:10 172:24 187:16</p> <p>merely 150:18</p> <p>merits 132:17</p> <p>mess 126:16</p> <p>met 14:3 17:9</p> <p>method 149:6,17 178:12</p> <p>methods 173:19</p> <p>mia 3:7 24:24 25:4 26:18 33:15,21,23 34:2,5,15,18 37:19 37:21 47:10,13,16 121:12 162:22 166:18,19 187:4 198:22</p> <p>mia's 126:10</p> <p>miami 2:24 189:25</p> <p>michael 2:6 59:14 60:10,14 61:16 65:4 65:7 67:1 71:24 72:2,25 74:1 79:19 195:3</p> <p>michele 2:17 41:6 42:8,19 43:16 86:6 86:7 160:2,3,18 170:5,19 189:7</p> <p>michelle 41:5 42:24</p> <p>microsoft 39:17</p> <p>mics 4:17,21 5:6,7 15:16 22:17 26:13 30:21 31:3 41:10,12 42:1,11,12,16,17,17 42:21 43:1,7,17</p>	<p>47:11,14 48:1 49:9 53:21,25 57:13 61:8 62:9,20 66:4,6,11 68:12,18 69:14 70:14 71:12 78:13 80:23 81:20 93:23 94:4,12,21 95:13,14 96:7 110:17 118:13 118:14 121:13 123:5 126:11,13 146:6 147:20,25 152:14,23 154:7 155:20 156:5 161:18 169:19 176:15,22,24 177:2 177:12,22 185:11 185:20 186:6 193:12 194:22</p> <p>middle 5:8 7:2,20 9:3,15 11:24 139:2 199:3</p> <p>mike 59:12,13 60:2 65:6,23 72:24 73:3 74:5 111:22 118:3 118:18 128:12 129:13 187:7,8 188:24 192:6</p> <p>mike's 127:23</p> <p>milestone 180:13</p> <p>mille 2:10</p> <p>mimics 190:17</p> <p>mind 6:22 10:25 11:2 26:4 32:2 62:24 63:15 71:15 75:11 99:19 115:7 157:11 169:6 186:8 188:17</p> <p>mindful 149:5 172:22 173:16 174:25</p> <p>minds 109:24 192:19</p> <p>mine 76:24</p> <p>minimal 182:22</p>	<p>minimum 17:22 18:3 45:20 46:16 62:12 123:7 184:3 184:18 188:6,10</p> <p>minor 51:20</p> <p>minute 55:20 83:20 83:20,22</p> <p>minutes 94:1 125:20 147:6 155:4 187:17</p> <p>mirror 123:14 190:5</p> <p>missed 4:13 127:18</p> <p>missing 10:20 17:12 44:10</p> <p>mission 192:23</p> <p>mitigate 63:9 64:14 68:14 69:16 70:9 71:19 87:24 88:9</p> <p>mitigated 68:8,18 68:19</p> <p>mitigating 62:16 64:5 150:23 151:12</p> <p>mitigation 89:5</p> <p>model 100:5 137:3</p> <p>moderator 2:3</p> <p>modification 43:3,4</p> <p>modifications 143:14</p> <p>modified 51:24 133:15 173:10</p> <p>modify 133:23</p> <p>moment 12:14 144:19 170:11</p> <p>monday 167:9</p> <p>money 10:9 101:6 136:12 190:7 196:18</p> <p>monitors 58:16</p> <p>month 117:23 142:3 178:25 187:3,25 189:23 190:4 193:14</p> <p>monthly 98:4,11 107:23 108:2</p> <p>months 74:24</p>	<p>moot 88:6 124:3,17</p> <p>morgan 2:11 7:19 12:16 13:2 14:18 17:16 19:8 20:3 30:15 33:10 36:16 37:18 47:20 48:14 49:23 52:22 53:11 56:20 73:3,7 75:25 76:24 85:11 87:20 88:16 101:13 108:18 109:18 112:4,7 117:24 125:5 142:1 156:2 171:5 192:24</p> <p>morning 4:4,23 6:13 56:3</p> <p>motion 54:20,24,25 55:1 93:14</p> <p>mouth 14:23</p> <p>move 6:21 28:11,15 32:19 33:1 38:19,20 39:7,14,23 45:12 46:14,22 65:5 72:22 72:25 97:5 111:19 117:7 186:21</p> <p>moved 57:17 59:5 110:11,18</p> <p>moves 174:18</p> <p>moving 7:7 39:10 40:7,13,18,23 41:3 47:2,6</p> <p>muddled 185:19</p> <p>multipart 11:2,5 21:11,18,22</p> <p>multiple 9:8 46:10 50:2 140:17 146:22 176:19</p> <p>murkiness 135:8</p> <p>musts 45:7</p>
n			
<p>naive 195:23 196:10</p> <p>name 114:14</p> <p>nation 2:12,16 3:8 186:15 187:13</p>			

<p>192:5 national 1:1 2:5 172:14 175:11 183:12 native 194:15 nature 33:14 59:9 near 35:19 necessarily 23:10 26:4 89:5 100:7 116:2 120:18 necessary 53:1 174:3 need 4:5,8 5:13 6:10 6:15 15:6 18:4,24 21:15 23:3,11 25:13 28:7 29:18 31:7 35:7,9 41:12,13 43:18 46:1,5 49:20 52:12,19 54:15,20 57:8,20 59:8 65:20 71:21 79:3 86:2,5,8 86:13 87:17 90:3 91:14 93:20 94:10 94:13,24,25 95:10 102:13,18 107:11 108:20 115:9 120:15,23 121:10 127:13 129:12 131:12 133:24 136:20 137:5 146:17 152:7 154:1 160:22,25 163:17 163:24 164:1 166:15 167:2 171:15 173:9 177:12 180:7 181:11,16,22 183:24,24 184:5,6,7 193:19 needed 5:2 15:19 34:12 36:7 48:5 59:2 173:25 178:23 189:14 needless 176:17</p>	<p>needs 10:4,24 21:19 43:3 52:16 59:7 64:6 70:23 74:18 75:22 77:21 90:16 90:24 92:5 105:3,11 110:11 113:3,6 117:12 121:3 124:18 125:22 126:8 127:13 128:5 132:5 138:5 150:15 151:23 156:20 160:19 164:12 171:2 181:18 189:20 190:21,23 negative 14:10 negotiate 13:17 negotiated 15:7 20:25 negotiating 17:23 18:19 network 194:4 nevada 36:22,22 never 49:21 58:23 79:14 104:20 122:20 128:23 129:1 167:14,14 169:6 178:19 new 7:7 33:23 43:23 84:14 121:12 135:8 140:11 178:2,9 185:9 186:7 191:20 news 180:11 nice 133:18 nigc 9:3 21:7,9 24:16 25:19 33:4 37:6 38:14 41:22 42:11 46:17 48:3 52:14,18 54:3,16 56:24 57:15,19,20 58:6,11,14,16 59:1 60:17,19 62:6 63:2 65:25 67:22 68:18 69:7 72:14,16 73:15 75:9,12,15 76:8 77:4,13,15,25 78:7</p>	<p>79:22 80:7,17 81:14 81:25 83:14 85:1 87:5 89:7 90:24 91:12 93:21 95:8,23 96:15,20 97:5 101:2 101:8,16 102:3,16 103:5 105:10 107:17 109:3 111:4 115:16 117:10,20 121:7,16 122:4,8 124:2,22 128:21 130:23 131:15 132:1,10,11,20,24 133:25 134:19 146:1,9 152:14 157:15 158:15 162:8,14 166:5,16 168:10,14,21 169:3 170:13,22 172:1,5 172:14 174:1,14 176:3,7,14,14 178:5 178:16 179:1 180:21,25 181:8 186:22 187:10 188:3,24 189:13 191:3,12 192:6,20 194:13,25 195:8 nigc's 72:22 79:23 100:6 110:7 120:20 143:11 173:20 175:15,18,22 176:1 176:12 178:2 179:3 182:12 night 9:18 188:12 nightmare 188:5 nights 56:9 nimish 36:2,21 nine 7:17,18 8:3 40:14,14,16 nipped 78:7 nj366200 1:24 nobody's 126:10 nodding 137:7 non 117:16 120:25</p>	<p>noncompliance 158:20 159:9 160:1 nondiscretionary 113:17 nonnative 190:20 nonregulatory 145:5,11 nonrewritable 45:22,25 46:6 nonwritable 45:21 nope 52:5 norm's 46:15 normal 56:13 178:20 normally 8:25 13:16 15:6 113:21 note 22:9 25:13 26:21 28:23,23 33:4 35:25 36:13 39:1 41:13,18,20,21,22 41:25 42:4,4,7,10 42:11,16 72:20 86:12 90:19,24 92:15 146:1 noted 26:18 notes 22:4 23:2 24:17 25:12 29:1 33:3,17 34:16 35:2 35:3 38:9,10,13,14 38:17,20 41:7,16,17 42:13 43:18 72:19 93:21 148:20,24 152:19 notice 16:18 19:25 49:20 65:10,11 81:21 noticed 45:17 77:23 notification 81:24 81:25 82:1,11 83:14 november 23:22 198:10 number 28:2 32:20 33:22 41:7 46:19 84:16,18 86:17 107:21 137:12,19</p>
--	--	---	---

<p>145:22 149:4,19 150:3,13 152:24 153:13 154:13 160:6 184:7 187:23 188:9 numbers 32:21</p>	<p>offline 147:14 offs 109:22 oftentimes 158:2 oh 25:2 38:15 46:6 84:23 86:12 95:6 112:2 162:18 164:6 okay 4:4 6:9,15,17 7:6,9,9,12,18 8:23 11:22 12:13 14:1 21:6,25 22:2,11,16 22:18 27:21,24,25 28:13,17,22 29:17 31:2 32:7,10,19 33:1,3,6,6,8,9 34:22 35:11 36:16 37:17 38:3,7,15,19,22,25 39:6,10 40:7,13,18 40:23 41:3 43:13,17 43:17,20 44:3,7,8 44:14 45:5,11 46:4 46:7,11,18 47:2,6 49:1 50:25 51:22 52:4,20 54:1,15 55:11,14 56:15,17 57:12 59:12 64:24 65:1,5 66:25 69:22 70:12 71:16,25 72:2 72:13,18,21,24 75:5 79:2 80:14,17 81:24 82:2 84:24 85:2,5 85:14,17,20 86:1,10 86:22,25 87:9,10 89:10 90:2,10,17 91:9,11 92:10,14 93:8,19,20,22 94:20 95:12,15 96:5 97:12 105:25 108:5 110:25 111:18 113:8 115:4 116:13 117:6 118:6 119:19 123:10 125:4 130:23 132:23 134:11 135:24 136:14 138:25 143:3,8 145:14,18</p>	<p>145:25 146:16 147:3 155:11,14 158:14 160:7,14 165:14,16 167:6 170:11 171:3,11,14 171:21 180:5 181:10 182:2,5,6,24 oklahoma 2:24 old 43:23 74:18 80:3 onboard 58:6 once 53:12 74:6,20 74:21 79:18 133:2 146:7 151:9 186:6 198:18 ones 16:8 84:13 98:24 193:16 ongoing 187:24 onsite 183:9 open 90:20 91:4 130:13 154:11 189:14 openers 8:20 opening 45:18,24 71:17 87:8 90:8 117:20 openness 191:4 operate 18:2,24 77:7 77:9 79:11 operated 79:23 operating 15:9 74:22 operation 13:8,10 13:21,24 15:4,25 16:5,7,12,12,15 18:8 19:13 20:7,17 20:23 50:15 57:12 57:18 66:8,16 67:7 67:8 73:1 74:3,22 74:22 78:24 80:20 81:8,10,12 82:15,23 83:1 98:8 107:16,23 137:18 157:11 163:4 operationally 157:1</p>	<p>operations 9:10 12:9 13:4 16:18 17:22 49:17 77:10 78:3,8,18 79:7,14 79:15 81:4 83:9 98:10 106:14,18 135:13 136:22 139:8 operator 83:11 128:16 operators 126:21 130:10 176:16 opine 129:13 152:1 opines 77:13 opining 157:6 opinion 88:6 103:8 112:12 118:4,5 119:5,13 121:8 123:18 127:16,23 127:23,25 129:13 157:20 158:11 opinions 78:23 131:7 opportunities 135:14 opportunity 172:15 175:15 181:14 183:6,10 187:13 190:1 194:3 196:22 197:3,4,7 198:5,9 199:8 oppose 82:15 89:20 opposed 44:16 68:9 82:17 opposition 43:9,11 optics 125:12 126:25 option 5:16 6:5 77:2 77:3 options 110:5 order 27:16 98:6 102:1 115:22 126:17 133:1 141:2 142:21 173:16,22 178:23 196:23</p>
<p>o</p>			
<p>o 149:2 o'clock 6:13 7:17,18 8:3 94:8 obama's 173:21 obeyed 78:9 objections 74:14 objective 88:11 128:23,24 129:2 150:24 151:7 152:2 161:9 169:18 objiwe 2:10 obligated 166:6 obligation 125:19 184:17 observation 149:3,9 observe 149:12 observing 140:10 obvious 124:11 obviously 25:6 138:23 162:18 181:17 occurred 121:21 136:5 occurring 136:3 142:12 october 94:24 odd 99:25 offer 181:23 offered 97:22 109:11 offering 140:8 office 77:9,14 offices 162:14 official 93:11 officially 81:5 87:3 officials 125:15</p>			

<p>ordinance 126:15 oregon 189:8 organized 23:7 26:12 original 66:4 85:7 136:19 180:3,19 originally 61:13 outcome 154:24 198:18 outlined 70:25 outside 13:23 19:14 95:23 96:19 100:1 102:11,20 107:18 107:24 109:8 127:1 outstanding 98:5,21 overall 59:16 116:15 122:15 176:3 overarching 174:4 179:18 overemphasized 178:12 overhead 70:11 84:21 overlap 113:12 116:17 overlooked 118:23 overly 68:4 184:4 overridden 136:7 oversee 58:17 82:22 overview 56:18 96:12 97:5,10 111:20 overwhelming 75:15 188:9 owed 98:13</p>	<p>136:18 139:2 pages 1:25 32:20 paid 12:1 101:8 132:14 painful 197:9 pala 1:3,18,20 4:1 137:13 195:13 paperwork 9:12 11:10 paragraph 22:7,14 22:15 44:13 46:5 69:23 86:14,23 90:19 93:10 97:19 parameters 140:4 parentheses 46:2,4 46:9 part 10:7 19:19 20:6 24:16 25:10,11 30:12 36:7 37:16 39:3 48:2 50:4 80:7 80:21,22 83:2 86:12 90:25 97:8 119:20 120:16 126:1 128:13 141:7,8 142:1,11 143:23,25 148:19 152:3,20 161:18 169:19 170:2 174:24 175:2 186:15 189:6 191:19 195:15 participate 164:4 178:8 183:6,11 186:9 189:9 190:2 191:24 198:10 participating 111:5 participation 183:8 183:8 particular 41:23 71:22 79:21 98:14 110:17 119:14 120:12 132:21 149:15 152:2 particularly 178:4 178:13 191:19</p>	<p>parting 161:15 party 12:6,10,20,24 13:6,23 14:3,11,15 14:24 15:22,23 16:2 16:13,20 17:11,17 18:23 19:12,12,14 20:11 pascua 2:14 56:4 132:4 190:16,24 pass 183:2 195:25 passed 37:12 193:4 passthrough 26:14 path 67:19 118:24 patient 192:7 patron 16:4 112:17 113:14 114:11 116:20 patron's 114:14 patrons 97:22 pattern 75:16 patting 186:18 paul 193:7 pause 12:13 161:12 pay 104:12 177:7 paying 124:23 payments 135:16,17 135:25 136:1,10 payoff 117:2 pechanga 3:6 188:11,19 189:21 192:5 193:6,21 195:16 pen 130:18 pennsylvania 36:23 people 5:12 6:12,14 12:14 14:5,24 16:1 30:17 32:15 37:11 38:19 39:4 48:21 53:4 82:18 95:18 104:12 108:21 126:8 128:3,14,18 132:14 138:3 140:12 143:4 144:14 145:14 151:25 155:25</p>	<p>157:1 159:5 169:25 182:25 189:10 191:21 people's 186:3 perceive 127:22 perceived 184:6 perceives 121:17 percent 100:19,19 perfect 142:20 188:13 perfectly 116:6 perform 29:22 152:22 173:19 performed 154:21 158:12 performing 80:22 98:15 148:16 period 181:12 permits 29:21 persist 188:1 person 10:5 16:3 21:21 30:5,7,24 48:22 73:11,12,13 112:21 114:14 119:8 120:1 140:9 142:21,23 148:16 156:24 161:4 169:22 170:22 172:25 173:4,5,22 173:23 178:11,15 179:2 personally 62:13 101:21 102:12,18 105:3 167:24,25 190:18,22 personnel 186:5 perspective 69:10 100:14 116:4 117:19 120:20 128:2 phrase 48:12 159:8 phrased 33:3 physical 30:5 pick 6:3 39:21 55:23 96:7 114:15</p>
p			
<p>p.m. 4:2 199:12 pace 39:22 178:20 package 161:21 page 8:7 9:3 11:24 11:25 12:4,12 32:21 34:1 43:1,2 51:13 59:2 97:16 98:1 134:24 135:7,24</p>			

<p>picked 56:7 picking 56:15 79:8 84:5 picture 95:9 131:9 181:5 piece 194:12 pin 56:25 place 9:21 15:6 63:11 68:20 69:22 75:7 76:15 78:2 114:21 126:17 136:5,6,9 138:23 142:15 145:3 149:25 150:6,8,11 150:13,16,23 151:3 151:11 153:4 154:16 160:23 169:24 191:13 195:18 198:2 placed 111:23 175:20 places 24:13 25:8 44:18 placing 42:21 plan 171:7,10 planning 94:25 166:15,24 181:17 play 21:1 101:3,24 104:8,17 106:12,19 114:22 116:24 123:17,20 140:10 140:23 141:21 played 101:6 141:17 player 94:15 106:11 112:25 114:20,22 141:7,11 142:22,22 143:13 144:6,11 145:21,22 146:1,18 player's 127:25 players 112:17,18 114:20 115:21 116:22 140:22,23 playing 104:6 142:23 154:17,22</p>	<p>plays 95:9 please 6:18 41:21 51:24 58:5 94:8 182:4 191:9 pleasure 187:22 plural 86:21 92:19 plus 4:19 96:3 poarch 3:4 193:25 point 11:23 16:16 31:1,4,15 58:21,24 64:12 65:13,17 77:8 79:24 84:12 88:6 89:4 93:4,5 101:10 103:12 107:8 111:10 115:3 117:3 118:23 120:10 124:3,17 126:1,10 126:12 127:9,19 133:7 134:1 146:12 147:25 154:12 156:16,18 157:19 159:9 160:4,19 161:4,6 162:6,7 169:2 pointed 21:2 34:22 pointer 13:22 20:18 pointing 37:21 149:14 points 112:17,19 113:1,3 114:23,23 140:24,24 141:4,16 141:19,20 156:20 188:2 pokagon 3:10 191:19 poker 8:9 103:18 104:7 policies 12:21,22 100:15 101:10 139:6 policy 12:22 20:4 138:20,23 174:4 politics 125:12 127:21</p>	<p>pop 148:19 port 3:12 portion 142:13 161:23 pose 67:5 135:20 170:13,17 posed 124:2 163:11 posing 182:23 position 58:2 60:9 68:17 118:20 119:17 125:6 132:9 133:8 138:19,20 139:23 positions 139:21 positive 198:18 possession 21:20 possibility 136:22 174:23 187:1 possible 76:18 88:17 150:6 151:7 155:11 171:9 possibly 164:4 post 15:10 58:14 posted 169:24 171:25 postpone 106:2 postscript 78:16 potawatomi 3:10 191:20 potential 121:17 130:9 138:1 160:4 potentially 157:10 power 126:5 practicality 64:1 practically 76:3 106:7 138:16 practice 10:25 11:1 20:20 77:16 98:10 102:23 107:22 128:19 practices 100:4 116:7 126:18 136:20 173:13,15 pre 58:14</p>	<p>predicated 131:17 prefer 99:10 preferably 179:1 preference 4:24 5:4 51:8 84:5,9 85:3 143:15 premature 175:20 preparations 173:6 prepare 146:13 167:2 180:10 prepared 95:15 99:5 117:21 119:4 121:5 122:17 147:9 165:8 prepares 66:15 preparing 23:25 prerogative 169:15 presence 179:3 present 24:3 27:7 31:6 178:5 179:6 presentation 25:23 presented 65:19 133:3 155:23 160:15 president 173:21 196:22 198:8 president's 133:1 173:16 pressure 175:21 presumes 148:1 pretty 5:10 84:7 99:2 136:12,18 162:14 167:16 171:18 prevent 21:24 preventative 127:6 prevents 71:5 previous 36:10 57:13 143:10 167:7 previously 36:15 132:7 174:13 prevision 81:20 primarily 24:1 primary 77:7 78:8 79:10 176:17</p>
--	--	---	--

<p>principles 176:25 print 24:25 prior 52:16 73:15 171:9 178:10 189:18 priority 5:11 privileges 192:14 prize 114:17,17 probably 8:14 9:1 14:9 27:16 39:20 63:3 108:22 125:21 130:6 131:2 137:23 153:12 185:3 195:23 196:7 197:9 problem 50:9 83:18 136:4,4 146:3 148:4 163:8 problems 160:4 163:3 procedural 41:9,10 42:1 57:7 178:18 procedure 13:17 20:19 111:23 112:1 160:6 procedures 12:6 13:16 14:20 15:1,6 16:19 18:4,7 66:5,7 66:10,13 68:9 75:6 97:3 111:23 114:4 114:13 139:6 177:2 177:5 proceed 73:1,3 79:8 108:11 178:20 proceeded 153:23 proceedings 1:14 proceeds 74:3 process 28:12 56:25 58:11 59:5 60:5,25 62:6 78:25 79:1 81:22 95:10 99:2 101:3 132:3 146:13 149:10,18 153:12 162:20,24,25 163:19 168:13,24 169:12 170:2</p>	<p>175:25 176:21 178:1,7,14 179:4 186:16 187:9,24 189:2,6 191:1 193:12 194:9,11,13 produce 174:20 produced 141:21 product 157:10 162:12,15 165:19 170:8 182:14 professional 157:25 programs 179:23 progress 173:3,20 projected 83:25 promise 182:9 promote 127:20 promoting 173:17 promotion 113:12 132:6 144:5 promotional 113:18 113:22 114:3,17 116:17,23 117:1 135:14 promotions 94:15 109:14 114:2 115:11 130:8 143:13 144:12 promulgate 132:20 promulgated 19:21 68:6 118:11 promulgation 174:19 prong 102:15 proper 75:6 113:16 properties 138:17 140:6 property 97:7 104:5 115:11,19 137:3,6 137:24,24,24 138:7 138:7,19 141:23 192:3 proposal 97:18 122:5,11 132:24,25 133:3,5,10,24 135:9 145:10 174:12</p>	<p>183:16 proposals 133:14 178:1 186:7 propose 56:15 proposed 22:3 24:8 25:19 59:20 60:25 62:21 67:4 77:24 79:24 87:14 97:21 129:18 131:15 177:9,12 proposing 119:15 133:6 protect 101:5 174:21 184:12 protecting 101:9 115:16 179:20 protections 185:2 185:18 proud 190:24 191:18 proved 151:2 provide 13:10 60:5 90:19 93:3 98:4 110:12 111:20 129:25 130:3 134:9 149:21,24 162:19 163:16 174:7,14 176:14 177:4 179:22 181:13,14 182:3 provided 6:8 116:19 176:6 179:17 provider 18:24 provides 45:20 providing 13:14,24 103:20 145:5 177:3 provision 92:17 provisions 36:4 177:23 public 92:25 93:1 168:13 176:7 178:17 181:12,23 182:2,5 185:3,4 186:5</p>	<p>public's 186:8 published 105:10 128:21 164:6,16 publishing 168:15 185:7 pull 22:20 26:1 70:18,18 92:8 96:13 108:19 pulled 36:21 purpose 26:3 30:2 31:5 36:18 37:8 58:20 133:2,2 152:9 purposes 19:9 23:8 30:25 82:25 136:21 157:6 purview 95:23 101:23 110:6 put 5:9 6:1 9:14 13:5,14 15:12 16:17 16:18 17:21 21:15 22:17 25:25 28:19 35:11 36:9,14 42:6 53:17 57:6 63:11 72:8 75:5,16 76:22 76:25 77:4 88:8 95:19 96:1 102:12 108:6 112:1 118:3 147:19 152:6 160:20 161:3 164:8 168:11,16 169:20 170:13,23 171:2 183:22 190:8,25 194:17 196:14,15 196:25 198:17 puts 75:13 putting 7:8 107:7 puzzled 175:21</p>
q			
<p>qualified 157:8 quality 156:24 question 8:8,11,15 9:2,4,6 10:15 12:4 31:10,19 32:1,15 37:15,20 46:16 52:6</p>			

<p>52:22 53:11 57:4 59:15 60:3,4,16,18 60:21 61:16,22,23 61:24 63:1,12 64:20 64:23 65:2,6,8 67:3 67:22 68:7 69:1 71:22,23 72:21,22 73:1,7,9 74:2 75:11 78:15 79:4,7,7,20 80:18 82:19 83:4 89:6 96:14,23,25 97:6,11,13,15,23 98:2,25 101:1,4 102:9 105:21 109:7 109:13,18,22 115:8 115:12 117:7,9 118:13 119:22 121:18 124:1,6,8,13 125:22 128:12 133:22 134:23,24 135:21,23 136:2,15 136:17,19 139:1,1 139:13 140:13,19 141:14 142:5,7 144:2,16 146:13 147:24 148:15,18 150:11,12 152:12 152:13,24,25 153:13,17 154:15 156:9,23 159:1,4,24 162:9,10,22 163:10 167:8 168:1,12,14 170:6 171:4 182:15 questioned 99:18 questioning 117:17 questions 6:8 25:10 28:6 32:24 34:9 70:21 71:4 80:1 94:17 99:24 100:23 111:9 115:15 122:4 122:8 133:25 134:2 134:7,15,17,19 136:24 143:2 146:8 149:7 150:9 152:22 154:11 155:5 158:6</p>	<p>159:8 163:9,11 170:13,17 171:6 174:4,8,9 182:12,23 quick 56:2 91:18 95:17 107:8 120:10 195:22 quite 21:12 26:12 171:18 186:16 quote 101:17 130:21 178:6,7</p> <hr/> <p style="text-align: center;">r</p> <hr/> <p>r 5:16 8:2,23 9:17 10:23 11:18,21,23 12:19 14:2 16:16 21:5 24:21 31:22 66:3 78:13 80:19 82:21 96:10 97:14 98:1 106:9 107:14 113:9 116:14 117:1 134:22 135:6,22 136:8,17 138:8 139:2 143:2 144:7 158:17,24 160:18 163:10 165:18,24 194:19 raise 21:7 22:15 28:14 40:4,10,15,20 40:25 45:14 51:25 52:3 85:9,19,22 86:24 110:23 143:4 143:24 145:12,16 166:23 raised 100:13 109:21 122:9 133:25 152:25 156:19 174:11 179:10 ramos 2:19 183:5 ran 136:3 rancheria 2:20 3:2 rapid 24:2 28:4,4,12 173:3 rate 142:21</p>	<p>rationale 89:3,17 115:14 117:19 149:24 reach 58:24 reaction 155:22 read 25:1 33:4,5 35:7 50:4,5 53:14 60:3 99:5 100:22 172:6,7 175:9 180:7 reader 105:4 182:13 reading 59:3 reads 81:19 116:19 ready 8:1 22:17 33:1 39:7,14 46:22 51:21 52:13,18 54:10 138:25 180:17,19 reaffirm 191:3 real 120:8 122:14 127:4,7 155:11 171:2 183:23 185:18 reality 64:4 130:15 151:12 176:23 188:8 realize 139:7 168:21 172:20 realized 131:1,1 182:21 realizing 196:2 really 13:13 18:7 19:1 26:20 33:6 36:4,20,24 37:12 42:20,22 48:5 49:21 54:13 59:6 68:16 69:24 70:22,23 73:8 75:20 76:12 77:19 77:21 78:17,21,25 81:8 83:10 89:10 97:10 99:5 100:4 101:19 112:23 113:2,20 115:25 118:18 119:1 124:23 125:18,20 126:10,17,19,24 127:16 128:5,18</p>	<p>129:23 133:15 134:10 137:16 138:2 142:24 146:11 147:18 150:12 151:9,14,18 152:13 155:1,12 156:5,8 157:7,17,22 163:25 179:9 182:11,14,18,22 183:15 184:16,22 185:22 187:5,6,22 187:24 190:13 191:11,14 192:12 195:4,8,18 196:10 197:8,23 198:7,23 198:24 reason 9:20 20:17 21:2 34:7 36:13 41:25 42:3 53:3 60:14 73:23 76:13 77:4 78:15 88:7 127:22 142:6 151:1 160:8 180:22 184:16 reasonable 139:10 reasoning 119:2 129:25 reasons 14:18 15:13 17:16 20:14 37:9 56:25 57:24,25 58:2 58:8 77:17 137:25 144:14 recall 13:2 29:24 30:6,10 167:17 receive 141:4 received 78:17 170:24 172:10,11 recess 55:22 94:9 147:7 171:13 recited 162:13 recognition 176:12 recognize 176:25 191:3 recognizes 130:23</p>
--	--	---	--

<p>recognizing 150:18 155:16</p> <p>recollection 56:20 112:4</p> <p>recommend 27:17 53:15 54:2 143:18 143:22</p> <p>recommendation 10:6,13 22:6 24:16 27:8,23 70:1 72:14 80:5,7,9 87:5,19 90:14 96:19,24 144:1 145:12,18,25 154:9 173:6 174:5</p> <p>recommendations 24:18 54:17 96:18 130:3 133:11 155:20 169:18 174:18,24 175:2 186:21</p> <p>recommended 26:23 164:16</p> <p>recommending 25:18 69:8 70:2 97:2 145:10</p> <p>recommends 54:4 80:11 90:4 143:20</p> <p>reconcile 110:10</p> <p>reconciled 98:17</p> <p>reconciliation 98:5 98:7 99:1 107:23</p> <p>reconsider 58:5 76:14</p> <p>record 54:8,16 55:12 64:11 102:10 111:4 120:16 123:21 171:18 172:2,6,8 176:7 180:8</p> <p>recorded 43:6 64:7</p> <p>recording 64:5,14</p> <p>recourses 176:2</p> <p>recreate 35:16</p> <p>recycle 4:19</p>	<p>red 24:10,10 29:12 29:14,16 37:16 84:19 85:7,9</p> <p>redeemable 114:23</p> <p>redeemed 12:1 112:19</p> <p>redemption 12:12 117:3 140:25</p> <p>redline 29:9,20</p> <p>redlined 25:17 35:22</p> <p>redo 151:20 152:17</p> <p>redrafted 56:22</p> <p>reduce 141:3</p> <p>reduced 116:20</p> <p>refer 61:5 63:21</p> <p>reference 21:17 82:7 152:14 161:10</p> <p>referenced 27:4</p> <p>referencing 62:8 149:21 153:8</p> <p>referred 113:21</p> <p>referring 37:16</p> <p>reflect 123:21 154:8</p> <p>reflection 177:14</p> <p>reflections 4:9</p> <p>reflects 24:5 25:20 26:23</p> <p>refresh 23:6 29:18 41:6 112:15</p> <p>refreshed 112:3</p> <p>refreshing 182:12 182:16 185:10</p> <p>reg 48:23 69:5 70:5 70:14 124:20</p> <p>regarding 8:8 41:8 67:21 132:6 170:24</p> <p>regardless 64:18 67:24,25 109:10</p> <p>regards 14:17</p> <p>region 76:11</p> <p>regret 120:24 187:19</p> <p>regs 70:16 80:12</p>	<p>regular 6:17 48:22</p> <p>regulate 63:5 102:24 115:22 119:14 128:16 132:12</p> <p>regulated 115:13 117:12 120:23 121:4,9 131:18,22 131:23 132:8,16</p> <p>regulating 115:14 185:16</p> <p>regulation 13:18 15:8 22:3,8 42:2 59:5 69:4 81:19 86:9,10 90:16 97:15 97:18 103:5 105:10 107:12 111:24,25 114:5 115:23,24 116:5,12 119:15 123:8,23 124:20 125:2 127:15 131:3 131:5,15 132:5,21 144:21,23 148:6,11 153:8 155:18 164:10,15,16 176:22 183:24,25 185:8 188:4 195:10 196:25</p> <p>regulations 17:9 18:9 19:20 47:22 48:3 62:22 67:21 68:6 70:25 78:19 79:24 97:20,21 105:2 111:23 119:9 164:6,7 174:16,19 174:20 176:24 177:17</p> <p>regulator 63:6 75:3 77:8 78:9 79:12 123:18 126:21 184:15</p> <p>regulators 79:10 130:11 176:17</p> <p>regulatory 18:11,12 59:7,20 63:4 99:21</p>	<p>100:7,11,15 104:1 117:10,12 123:1,9 128:22 143:11 145:6 150:4 157:20</p> <p>rehash 26:4</p> <p>reimbursed 136:11</p> <p>reiterated 184:6</p> <p>reject 133:22</p> <p>rejected 133:15</p> <p>related 73:9 123:9</p> <p>relates 12:11 119:6 135:7 136:18</p> <p>relation 136:24</p> <p>relationship 102:4 169:7 197:11</p> <p>relative 8:9</p> <p>relay 77:4</p> <p>release 11:17</p> <p>released 10:16,18,22</p> <p>releasing 9:5 10:23 11:16</p> <p>relevant 9:9 66:6</p> <p>reliable 149:7,14</p> <p>reliance 158:11</p> <p>relied 36:25</p> <p>rely 158:7,12</p> <p>remaining 94:11 173:9</p> <p>remains 10:8,11 179:3</p> <p>remarks 161:15 181:24</p> <p>remember 15:15 20:18 23:24 28:3 34:24 35:13 36:21 47:20 58:8 79:1 100:18 144:11,15 159:22</p> <p>remembering 28:22</p> <p>remembers 145:19</p> <p>remind 26:2 48:2 132:23</p> <p>reminder 18:8 58:13</p>
--	--	--	---

reminding 195:12 removable 45:21 removed 11:20,21 removing 143:12 145:9 rendered 78:23 rent 104:13 reorganization 148:24 rephrase 59:17 replace 66:6 replaced 153:9 replacing 66:12 replicated 178:17 reported 1:23 reporter 56:6 168:14 176:6 192:9 reporter's 1:14 reporting 16:11 18:21 65:7 136:21 137:22,25 138:2,5 146:12 reports 9:8 16:24 169:18 represent 123:20 187:13 190:24 representative 120:4 191:11 representatives 191:12 195:1 represented 106:14 120:3 representing 133:7 represents 27:7 request 6:7,17 26:11 58:17 60:20 62:11 63:10 73:20 74:4 81:22,24 82:12,24 83:11,15 91:12 106:4 requested 70:7 106:1,23 129:11 174:6 requesting 70:8 81:16,18 129:12	requests 73:11 78:18 173:4 require 11:5 37:10 98:4 141:19 163:3 required 13:20 17:10 57:12 58:6 154:23 197:15 requirement 19:24 36:18 37:5 104:2 139:3,14 145:6 requirements 13:1 16:12 18:10,21 65:9 66:10 80:23 188:15 188:15 requires 10:2 requiring 159:11 research 110:6,8 reserve 108:12 reserved 9:1 reside 141:10,12 resolved 12:8 21:14 75:17 resort 1:18 resource 184:17 resources 37:11 172:23 173:12,15 176:20 respect 22:4 28:14 39:13 40:21 79:3 104:22 respectful 172:22 respectfully 6:7 106:4 respective 172:21 respond 57:7,9 117:11 123:11 171:7 174:8 175:15 response 28:16 32:18,25 38:6 39:9 39:15 40:6,12,17,22 41:2 43:19 46:13,21 47:1,5 72:23 86:4 90:1 121:11 122:25 136:15 137:8 143:7 163:12 167:1 172:7	175:10 182:1 responses 174:7 responsibilities 173:1 responsibility 72:17 103:1 197:12,13 responsible 9:22 10:5 14:10 56:5 rest 2:7 5:15,16 8:1 8:2,23 9:17 10:23 11:18,21,22,23 12:16,19 14:2 15:12 15:14 16:16 21:5 24:21,22 31:22 36:11 37:25 47:18 66:1,3 78:12,13 80:18,19 82:20,21 95:14 96:8,10 97:14 98:1 99:19 103:13 106:9 107:9,14 113:8,9 116:13,14 117:1 121:18 134:21,22 135:6,22 136:2,8,16,17 138:8 139:2 143:1,2 144:7 158:17,24 160:17 160:18 162:22 163:10,23 165:17 165:18,24,24 166:3 180:1 187:7 188:7 188:24 192:6 194:11,19 rest's 14:19 106:5 140:13 restaurant 139:12 restrictive 68:4 resubmit 57:25 58:5 result 14:11 159:4 160:21 resulted 82:21 resulting 135:13,15 results 140:3 return 57:21 returning 134:18	revenue 138:12 142:3 179:22 revenues 103:4 138:11,15 review 5:13 60:6,17 61:18 67:1 73:2 79:8 95:19 113:2 129:9 133:1,3 140:3 147:15 149:3,9,12 152:13 154:20,23 158:9 160:11 165:8 173:5,8 175:1 176:15 177:10,25 reviewed 51:24 55:3 62:5,5 78:6 181:2 reviewing 26:4 66:21 81:3 111:12 111:14 revising 25:12 revision 64:12 revisit 23:9 151:15 reward 141:12 rewarding 141:16 rewritable 45:21 ridiculous 64:19 right 4:14 7:1,2,12 19:2,5 20:1 22:12 22:17 23:19,22 25:5 27:2,24 28:20 31:24 34:5,6,25 38:25 39:23 41:21,24 43:13,16,21 44:2,7 44:13,16 45:3,12 46:6,14 51:16 53:9 54:19,23 55:9 61:1 61:3 66:25 71:20,21 74:6,13 78:20,21 86:5,13,14 87:13,15 90:3,4,17,25 92:7,8 92:9,15 93:7 94:12 94:13 95:21 96:6,11 97:25 105:17 108:12 110:20 118:24 121:5 123:12 130:5 133:6
--	--	--	--

<p>133:21 138:18 140:21 141:17 144:13 145:2,7 146:21 147:5 148:17 159:21 160:15 163:18,25 165:4,10 166:8,13 166:24 170:15 172:3,12 196:4 rise 67:5 rises 75:22 102:25 127:14 risk 19:13 48:14 52:25 53:21 58:9 62:17,25 63:8,13 64:14 67:23 68:8,12 68:19,25 69:10,13 69:17 70:9 71:1,17 71:19 72:7 77:10,14 87:24 88:9 89:4 107:1 112:10 121:17,23 122:18 123:1,2 124:2,4,15 124:21 125:21,23 126:22,23,23 127:7 128:7 130:10,12 137:19 138:8 142:8 150:5 151:12 159:5 186:22 187:2 risks 19:11,11 64:4 64:9 68:15 120:20 121:1,8,22,23 122:2 124:11 132:18 150:24 183:23 rita 187:5 river 118:12 road 191:9 robert 2:3 4:4,13 5:6,15 6:1,9,24 7:3 7:9,16,18,24 9:14 11:15,19,22 12:13 13:25 14:13 17:4,14 18:16 19:15 21:6,25 22:20,22,24 23:19 24:22 25:2,5 26:11</p>	<p>26:21 27:1,6,18,21 28:13,21 29:4,14,17 31:21,23 32:7,19 33:1,17,20,22,25 34:3,7,22 35:9,21 37:23 38:7,14,16,22 38:25 39:10,16,20 40:7,13,18,23 41:3 41:20 42:10,15 43:8 43:10,13,16,20,23 44:2,6,12,20 45:1,5 45:11,19 46:1,4,11 46:14,22 47:2,6,12 49:1,12 50:22,25 51:4,7,11,14,16 52:2,20 54:2,11,19 54:23 55:7,11,14,18 55:23 56:15 59:11 60:1,13 61:2,7,15 62:4 64:21,24 65:1 65:5,12,15,21 66:17 66:25 69:3 70:10,17 71:8,20,25 72:3,13 72:18,24 73:5 74:5 75:1 78:12 79:2 80:10,14,17 81:1 82:2,18 83:4,17,21 83:25 84:13,17,20 84:23 85:2,5,12,17 85:24 86:9,19,22 87:9 88:14 89:10,18 89:22 90:10,13,17 91:5,8,10,17,21,24 92:6,14,20 93:19 94:4,10,18,20 95:6 95:12,22 96:5,11 97:4,12,24 98:22 99:16 101:12 103:2 104:23 105:25 106:21 107:6 108:5 108:25 110:19,22 111:18 113:8,25 115:5 116:13 117:6 119:18 121:14 122:24 123:3,10,25</p>	<p>125:4 128:11 130:5 131:11 133:12,17 133:21 134:6,18,21 134:23 135:2,5,20 135:23 136:14,25 137:7 138:25 139:18 143:1,3,17 143:24 144:3,10 145:2,22 146:16 147:5,8,13 148:19 148:21 152:11 153:18,19 154:3 155:14 158:14 160:2,14 161:12 164:2 165:4,14,22 166:7,13,21 167:6 170:4,9 171:3,11,14 171:21 180:16 181:9 182:24 183:22 192:6 199:3 199:7 robin 2:23 4:11,12 43:22,25 44:3,8,15 45:3 53:3 54:20 55:1,10,12 72:3,5 72:17 80:14,16 85:14,16 93:13,18 123:10,11 162:5,17 167:20,22 168:1 171:22 189:25 197:25 rod 2:7 role 100:6,8,15,19 100:20,25 101:2,5,9 101:16,19,24 102:2 102:3 128:25,25 177:15 rollers 106:19 rollover 107:18 roman 87:15 romanette 43:2 room 6:19 10:4,5,6 10:8,9,17 50:22 56:6,11 85:21,21 153:14,15 167:19</p>	<p>192:16,19 193:3,5 193:18 194:9 rooms 115:20 rough 189:12 roughly 6:11 round 148:4 181:23 route 102:1 192:17 rpr 1:24 rules 13:21 14:8 15:10 19:20 114:3 114:12 128:13 run 10:9 13:8 77:14 132:2 runner 10:8 running 161:13</p>
s			
<p>s'klallam 3:12 safe 177:5,15 198:24 safeguard 21:24 138:10 safety 37:9 salient 156:20 sample 164:14,21 sandwiches 141:2,4 sarcs 16:23 satisfaction 177:5 satisfy 42:8 save 192:21 saw 7:20 48:19 56:22 148:4 170:20 saying 18:2 39:4 42:5 44:4 48:11 53:13 54:3 68:21 69:6 70:2,11 79:22 89:8,19 90:13 97:2 104:21 113:5 119:1 120:16 125:1 128:20 137:11 144:16 153:17 156:15 159:16 165:22 166:4 167:24 189:5 197:22</p>			

<p>says 13:14 21:19 23:20 44:10 49:5 53:7,15 60:5 63:23 70:5 80:20 88:24 117:25 126:3 131:7 139:23 150:17 152:13 153:1,3,13 154:16</p> <p>scenario 20:9 75:19 83:12 188:5</p> <p>scenarios 20:10</p> <p>schedule 95:2 162:13 168:10 173:2,11</p> <p>scheduled 168:10 173:7 176:5 178:25</p> <p>scheme 176:3</p> <p>scope 113:20 122:6 122:21 123:14 129:9</p> <p>screen 4:6 22:4 23:19 24:9 83:25 146:1</p> <p>script 31:8,13</p> <p>scroll 24:14 28:24 145:2 158:23</p> <p>scrolled 159:1</p> <p>scrolling 39:24</p> <p>scrutiny 14:4</p> <p>se 116:3 124:6</p> <p>sea 24:21,22,22</p> <p>search 72:11</p> <p>season 172:17</p> <p>second 22:17,24 55:4,5,6,9 59:16 70:10 86:1 87:1,14 93:17 161:13 170:9 170:16,18 183:17</p> <p>seconded 55:8</p> <p>seconds 39:22</p> <p>secretary 198:12</p> <p>section 5:5 7:7,10 8:6 19:4 21:7 22:6 22:13 23:3,3,8,9 25:7 27:25 28:1,2,2</p>	<p>28:5,14,17 29:21 32:10,14,17,20,21 32:23,24 33:3,11,25 34:9 35:23,24 36:14 37:16 38:1,4,9,10 38:20 39:4,7,10,11 39:12,13,14,16,17 39:23,24 40:1,3,7,8 40:11,13,14,16,18 40:19,21,23,24 41:1 41:3,4,17,18,22,23 41:23 43:17 45:6,7 45:7,12,13,14,18,20 46:16,18,20,23,23 46:24,25 47:2,3,6,7 47:9,17,19 49:10 51:1 52:5 56:18,22 56:23 61:4,12 62:4 69:24,25 70:24 71:13 72:22 80:24 86:3,17 87:12,15 89:23 90:5 93:8,23 96:12,15 99:9 111:21 113:12,23 113:24 116:15 119:21 121:12 143:5,9,12,19,20,22 143:22,25 144:15 144:18 145:9 146:5 148:12 152:20,20 153:2,10,11,22 170:21 177:21</p> <p>sections 4:17 6:6 22:14 27:14 35:14 40:8 94:5,12 95:14 116:21 144:17 146:6,8,18 177:23</p> <p>secured 10:10</p> <p>see 4:5,8 8:4,6,16 12:14 13:6 14:24 17:24 19:5 23:20 25:19 26:20 32:12 34:22 35:24 38:9 39:11,24 43:11 53:6 53:12 66:3 69:22</p>	<p>71:8 73:25 75:18 76:18 79:13 84:2 87:12 90:25 91:18 93:2,7 94:22 96:8 96:14 100:7 101:2 101:21 102:2 104:21 107:19 109:15 111:16 116:11,21 117:11 117:25 118:2,3,21 124:9 130:11 137:7 145:24 148:2,22 152:13 154:19 155:24 158:24 160:4 163:8 164:5 165:14,25,25 181:4 186:10 189:4,18,24 190:3 191:17 193:11,20 194:8 195:18,20</p> <p>seeing 100:6 118:24 131:25 190:15 191:15 193:13</p> <p>seek 190:20</p> <p>seen 8:11 52:9,9 104:18 106:7,25 118:1 121:20,21 159:15</p> <p>sees 65:25 180:1</p> <p>selected 188:20</p> <p>selecting 194:25</p> <p>selections 186:18</p> <p>send 51:20 57:6,13 57:14,16,23 83:14 181:7 187:4,5</p> <p>senior 2:6</p> <p>sense 37:13 68:5 100:25 110:3 125:24 131:1 169:4</p> <p>sent 22:21 23:22 25:15 28:20 29:10 59:15 95:22</p> <p>sentence 36:6 45:18 45:24 53:15 54:7 66:20 70:5 90:8</p>	<p>sentiment 191:16</p> <p>sentimental 194:16</p> <p>separate 141:19</p> <p>separated 17:20 171:19</p> <p>serve 174:4,21 193:1 199:9</p> <p>served 50:14</p> <p>server 42:25,25</p> <p>service 12:25 13:24 14:6,16 15:24,24 16:9,9,10,14,20,25 17:7,9,17,25 19:3 20:12 96:2 114:7 116:19 139:4,16 140:20 141:8</p> <p>services 12:5,10,10 12:20 13:6,10 14:12 14:24 15:23 113:5 176:6</p> <p>sessions 178:6</p> <p>set 6:15 7:13 16:2 18:14 20:11 58:12 59:10 101:20 137:5 137:12 138:9 139:9 142:4 155:24 158:19 181:20 187:14 197:15</p> <p>sets 24:6</p> <p>setting 137:19</p> <p>seven 4:17 39:23,24 40:3 43:1,2</p> <p>severed 169:8</p> <p>shaded 33:7</p> <p>share 6:23 81:1 122:13 177:13 179:18 191:16</p> <p>sharing 190:18</p> <p>shed 108:22 118:6</p> <p>sheet 6:18</p> <p>shift 19:11 138:21 140:9 147:8</p> <p>shifted 34:13</p> <p>short 39:16 156:7 170:10,15 171:11</p>
---	---	---	--

<p>190:11 197:25 shortcutting 149:18 shorter 173:10 show 8:12 25:17 181:1,3 showing 98:18 108:3 shown 24:8 135:16 135:17 198:8 shows 35:23 51:20 sics 152:14,15,23 side 48:6 85:13 103:17 116:23 sight 21:13 sign 6:18,18 13:12 signed 11:14 15:2 76:6 93:1 114:20 179:5 180:3,6 significant 136:12 137:13 193:19 significantly 112:20 signing 19:23 similar 56:21 63:23 140:7 similarly 41:22 112:11 simple 53:14,22 54:7 80:3 simplification 184:21 simply 67:9 sincerely 175:7 179:5 186:19 sins 191:5 sit 74:9 177:24 190:12 site 122:19 168:17 169:21 170:20 171:1 172:1 sitting 77:6 123:19 situation 12:3 20:22 50:6 67:4 75:19 76:17 101:14,16 situations 11:3,11 49:23 76:2,21 82:22</p>	<p>six 4:17 39:16 97:16 139:2 153:13,17 160:6 size 137:18 176:20 176:22 177:16 187:1 skip 59:15 60:15,23 skipped 61:18 slight 95:24 slightly 33:7 slot 103:20 138:21 slots 104:17 slower 178:20 small 184:12,13 smaller 184:13 185:16 smart 120:21 smith 193:7 195:13 snack 137:16 139:11 139:24 141:2,3 snuff 151:16 software 31:15 43:1 solicit 146:15 somebody 11:7 21:20 39:25 41:6 54:5,6,23 69:20 76:10,11 86:11 89:12 91:17 92:9 97:4 109:4 110:14 113:1 115:1 131:1 143:8 149:16 155:6 156:20 157:8,15,21 160:7 161:8 166:25 167:3,4 somebody's 156:6 something's 68:10 soon 180:9 198:25 sorry 33:25 45:17 56:13 60:10 61:23 64:25 71:9 86:6,15 111:2 119:10,15 120:13 168:5 199:2 sort 10:3 21:19 62:25 75:23 85:20 100:12 103:5 116:8</p>	<p>126:11 131:3,8 149:18 156:19 158:16 sought 177:9 sounds 105:25 124:25 137:17 192:16 sources 187:17 sovereign 123:16 130:15 sovereignty 123:20 130:16 spa 1:18 speak 18:14 54:24 84:4 85:6 108:13 110:15 120:5 123:15 130:14 168:10 speakers 46:10 146:22 speaking 76:3 77:20 131:13 special 187:5 specific 34:15 57:20 57:24 89:9 152:22 177:2,4,8 183:25 specifically 38:17 58:8 72:6 speech 190:3 speeches 192:16 spend 37:11 104:5,6 104:7,9,14 125:18 spending 173:17 spent 104:10 190:7 spirit 69:19 176:11 sponsor 56:4 sponsoring 169:3 spot 108:20 118:4 147:25 springs 2:18 189:8 stab 96:16 stacona 2:17 41:6 42:19 86:7 160:3 170:19 189:7</p>	<p>staff 73:10 108:2 163:18 178:16 188:25 189:13 190:14 197:4,6 staffing 163:17 stage 76:23 140:17 stakeholder 185:5 stakeholders 185:22 stance 109:16,16 stand 85:23,24 91:25 99:15 145:16 149:2 standard 22:7 37:7 42:2 48:13 49:6 50:18 64:13 66:4,6 66:12 67:9 68:1 74:3 77:24,25 78:13 87:23,24 88:4,18,20 123:7 125:3 135:12 standardized 163:18 standards 4:23 14:4 16:21 22:18 24:13 30:16,22 31:3,5 36:5 41:11 42:20 45:21 47:21 48:4 49:4 50:15,16,20,21 53:8 54:18 55:2,15 56:22 57:4 59:21 80:21 82:25 83:16 88:11 89:7 90:21,23 90:25 92:3 100:3 107:15 135:24 136:23 158:1 174:24 177:1,6,15 184:4,19 193:10 standing 85:11,12 96:17 145:15 standpoint 68:19 75:15 86:16 89:4 106:6,8 114:19 131:16 142:8 157:14 195:7 stands 52:17</p>
---	---	---	---

<p>star 195:17</p> <p>start 4:23 48:15 51:5 55:21 83:22 147:6 153:3,12 156:11 183:2 184:8 193:11,11</p> <p>started 4:5 14:20 74:13,22 87:16 110:25 125:15 152:22</p> <p>starting 160:3 162:6</p> <p>starts 61:15 86:17</p> <p>state 64:16 107:14 120:1 157:14</p> <p>stated 37:13 74:16 79:9 137:25 167:10 167:12</p> <p>statement 17:13 37:1 44:17 71:17 73:8 107:16 108:2 121:10 162:9 176:10</p> <p>statements 17:6</p> <p>states 35:14 36:22 36:25 54:22 102:4 130:16 131:10</p> <p>statistical 47:22 49:8 146:12</p> <p>statute 57:1 58:10 58:12,13 67:15 74:18 125:17 126:4 126:6</p> <p>stay 69:13 126:16,16</p> <p>stayed 195:16</p> <p>steak 139:25</p> <p>steer 68:25</p> <p>step 10:3 20:21 99:16 160:8,10 161:8,8 183:17</p> <p>stephanie 175:7</p> <p>stepped 85:21 93:5</p> <p>steps 81:12 148:5,8 152:5 153:24 160:12,13,23</p>	<p>steve 2:15 166:4 198:22</p> <p>steven 186:12</p> <p>steven's 176:9</p> <p>stevens 175:7,13</p> <p>stick 197:21,25</p> <p>sticker 31:15</p> <p>sticking 197:18</p> <p>stillaguamish 2:22</p> <p>stipulate 18:20</p> <p>stop 156:16 177:13 191:10</p> <p>stopped 7:20</p> <p>storage 45:23</p> <p>story 78:10</p> <p>straight 97:5,13</p> <p>straw 190:11</p> <p>street 16:11</p> <p>strength 179:22</p> <p>strengthen 153:16</p> <p>strengthened 16:17 112:13</p> <p>stress 195:5</p> <p>strike 8:10 9:1</p> <p>striking 8:14</p> <p>stringency 62:14,15 62:18</p> <p>stringent 62:12 63:17,19,20 64:2,18 66:11 67:19,19 68:21 69:12 71:18</p> <p>strong 84:5 85:3 179:20</p> <p>stronger 198:20</p> <p>strongly 75:12 89:24 157:5</p> <p>struck 29:15 31:11</p> <p>structure 142:13 150:5 151:2</p> <p>stuck 165:14 182:19</p> <p>stuff 18:21 35:15 41:10 50:24 56:11 70:4 115:11 127:3 161:3,3 189:3</p>	<p>stupid 195:24</p> <p>subject 42:22 77:14 102:20 110:12,15 118:9 169:12</p> <p>subjective 87:25 88:9</p> <p>subjects 118:1</p> <p>submission 23:8 52:17,18 65:8 175:2 180:25</p> <p>submissions 174:9</p> <p>submit 6:7 23:17 53:7,23 54:13 55:13 57:8 72:15 74:11 77:2 91:14 99:12 111:13 134:4 146:14 162:21 165:1 180:10 181:8</p> <p>submittal 174:23</p> <p>submitted 52:14,15 54:16 57:19 60:21 65:25 68:9 73:19 74:8 81:6 91:16 147:22 154:7,9 164:21 170:8 171:6 171:8</p> <p>submitting 41:15 66:20,22</p> <p>sufficient 150:19 151:4</p> <p>suggest 8:14 23:5 33:16 38:7 39:2 70:3,8</p> <p>suggested 72:5 86:14 88:22 155:14 175:3</p> <p>suggestion 4:22 5:1 7:19 23:18 24:15 27:15 71:10 73:6 84:11 88:15 89:1,12 90:3 143:8 164:12 181:25</p> <p>suggestions 28:6 84:3 165:5</p>	<p>suggests 107:22</p> <p>summaries 94:22,23 166:12,14</p> <p>summary 23:22 94:24</p> <p>superiority 69:11</p> <p>supervisor 10:9</p> <p>supply 15:25</p> <p>support 22:12 51:19 51:23 52:9,11 56:14 79:17 82:5,5,14 83:7 85:8,19 86:23 90:16 143:24 145:8 145:9 159:12 179:21 195:19 198:19</p> <p>supporting 103:5 149:24,25 194:9</p> <p>supportive 198:5</p> <p>supports 10:20</p> <p>supposed 7:5 43:5,6 52:7 148:2,8 151:4 155:12 161:4 197:10,10</p> <p>supremacy 69:11</p> <p>sure 6:10,15 10:21 12:17,25 13:15 14:21 15:4,5 18:4 19:2 20:5 22:10 25:13 26:5,14,15 31:12 33:10,18 34:19 38:18 41:12 48:1 49:19 58:1 59:1 65:7 73:8 83:21 95:18 100:21 101:10 102:7,14 108:10 123:12 129:1 130:11,23 131:2 134:22 161:20 165:23 179:10,12,25 184:25 185:1 188:3 196:8</p> <p>surely 176:4</p>
--	---	---	--

<p>surface 99:18 surrounded 112:10 125:12 surrounding 62:25 64:8 102:24 surveillance 7:21 63:24,24 64:10 82:23,25 188:12,15 suspected 8:23 suspending 192:14 sweat 196:18 swipe 141:3 switched 34:23 switching 7:11 system 19:1,1 21:23 56:14 59:7 103:25 114:21 139:4,15,22 140:1,15,20 141:7 141:11,15 142:20 systems 43:5,25 139:19,20 140:4,7</p>	<p>93:11,14 97:20 98:3 99:14 110:17 121:16 122:21 123:14 128:10 129:9 133:3,22 136:19 139:13 143:19 154:9 162:10 163:11 164:3 165:24 167:11 168:3,9,22 169:3,9,16,22,24 170:7,20 171:20,23 172:7,10,17,19,20 172:24 173:2,9 174:1,6,14,22 175:3 175:18,20,21,25 176:11 177:24 178:1,16,22,24,25 179:6 181:8,15 182:4 186:2 187:11 187:14 188:21 189:9 190:10 192:13,20 194:14</p>	<p>161:12 164:23 170:10,14 171:11 172:15 175:14 176:8 181:18 184:22 185:21 189:16 194:14 196:21 taken 56:8 59:4 62:17 69:14 takes 29:20 45:5 51:17 90:2 146:5,16 talk 9:15 34:13 38:5 55:24 59:18,24 61:25 62:2 68:13 69:15 94:6 95:5 99:5 106:1 108:10 117:21 119:12 120:14 122:17,22 131:14,20 134:4,10 135:1,2 137:1 144:12 146:20 152:4 155:16 163:15 198:25</p>	<p>55:2,15 56:22 57:3 90:21,22,25 92:2,2 92:3 151:17 174:24 193:10 195:6 technically 18:25 technological 135:15 technology 42:25 140:11,11 telephone 179:2 tell 32:20 34:3 40:1 54:9 77:1 99:22 125:9 154:6 157:4 184:14 187:5 194:21 tells 31:7 template 164:21 165:2 templates 163:2 term 10:24 11:16 30:12 35:1 45:4 48:9,16 49:4,7 50:8 63:18 76:9 144:21 144:25 145:4 terminology 10:16 10:21,22 48:21 88:23 89:3 105:5 113:16 182:15 terms 13:14 17:25 18:2 39:1 63:17 64:15 88:1 102:3 130:14 160:15 terribly 137:15 test 22:5 31:7,8,13 37:9,10 51:21 63:7 86:5 87:18 140:4 143:16,17 145:7,7 150:7 151:5 159:22 testing 31:6 36:19 154:22 158:9 tests 31:14 157:14 text 24:7 61:8 tgra 19:17 20:25 57:13,14,16,16,24 58:3,15 59:1,19,24</p>
<p>t</p>	<p>tac's 51:23 54:17 143:25 155:20 173:20 174:5 175:9 181:1</p>	<p>talked 21:10 23:9 24:1 47:24 53:20 63:23 76:5 117:14 122:3 126:22 130:8 146:11 156:13,14 158:6 159:17 160:24 166:13 185:24 talking 14:20 49:3 49:16 53:21 61:17 67:1,14 68:12 70:22 71:1 103:14 125:16 127:7 130:12 135:7 144:23 152:8</p>	<p>test 22:5 31:7,8,13 37:9,10 51:21 63:7 86:5 87:18 140:4 143:16,17 145:7,7 150:7 151:5 159:22 testing 31:6 36:19 154:22 158:9 tests 31:14 157:14 text 24:7 61:8 tgra 19:17 20:25 57:13,14,16,16,24 58:3,15 59:1,19,24</p>
<p>tab 43:2 61:7,8 108:19 table 6:19 9:1,15 57:20 98:23,25 104:16 106:23 107:2 108:21 110:3 110:3 137:8 140:8 142:21 153:15 182:25 185:24 190:18 193:2 tables 57:21 104:7 tabling 110:4 tac 5:10,14 22:10 23:6,11 25:13,18,21 26:2 27:3,8 31:3 35:3 38:23 39:1 41:20 42:10,14,16 52:16 53:7 54:3,5 54:12,14 59:18 67:3 72:15,19 74:2 79:25 80:11 84:2 86:12 87:7 88:19 90:4,19</p>	<p>tahdooahnippah 3:7 24:24 25:4 26:18 33:15,21,23 34:2,5,18 37:21 47:10,13,16 121:12 162:22 166:19 187:4 take 6:11 19:10 30:24 46:9 55:18 68:17,20 72:17 74:24 77:22 80:8 83:21 89:18 91:17 92:21 93:25 94:21 96:15 106:16 107:9 109:16 118:19 130:17 141:1 147:5 147:20 149:25 152:18 160:23</p>	<p>tape 182:10 target 173:2 targeted 185:2,8 task 164:24 technical 4:23 22:18 24:13 30:16,22 31:3 31:5 32:5 41:8,11 42:2 53:8 54:18</p>	<p>test 22:5 31:7,8,13 37:9,10 51:21 63:7 86:5 87:18 140:4 143:16,17 145:7,7 150:7 151:5 159:22 testing 31:6 36:19 154:22 158:9 tests 31:14 157:14 text 24:7 61:8 tgra 19:17 20:25 57:13,14,16,16,24 58:3,15 59:1,19,24</p>

<p>60:7,20 65:9,19,25 66:4,7,21 67:22 68:17 70:24 71:5 73:20,23 74:4,10,20 75:7 77:19 78:1,3 79:18 80:6,13,22 81:7,10,13,13,15,19 81:20 83:8,11,12,15 86:18 90:6,11 95:25 101:16,19 106:25 116:18 137:4 151:2 151:14</p> <p>tgra's 75:14 82:22</p> <p>tgras 78:24</p> <p>tgwg 8:19 22:3,6,12 24:7 25:18,21 36:2 39:12 40:2,9,19,24 45:13 46:23 47:4,9 56:17 65:8 96:12 97:18 111:19 135:9 139:3,13 143:23 145:9 154:7 164:8 181:3 182:14 189:18</p> <p>tgwg's 177:8 181:6</p> <p>thank 4:12 17:15 28:21 55:17 59:11 59:14 96:5 99:13 152:10 156:2 161:23 162:1,4 166:2,3 175:4 179:7 179:14 180:1,5,15 182:8 183:6,10 186:11,14 187:7,10 189:6,8,13,21 190:1 192:2,4,5,6,9,12,13 192:21,25 193:6,20 193:22,24 194:16 194:18 195:2,3,12 195:13 197:17 198:21,21,25 199:2 199:5,7</p> <p>thanks 96:5 112:16 113:9 162:3 165:22 186:9 187:3,5,6</p>	<p>theme 69:17</p> <p>theoretically 157:16</p> <p>theory 58:23 79:17</p> <p>thing 14:7 42:14 49:11 56:5 91:18 92:22 100:1 110:7 123:19 124:22 138:2 146:4 149:16 157:25 160:24 198:3</p> <p>things 6:10 18:6 19:20,25 22:11 23:6 25:9 26:3 30:4,9 34:8 36:1,7 63:3,5 64:10 70:22 74:23 87:13 94:6 100:3 104:19 109:21 115:21 116:8,9 117:4 122:16,20 123:13 138:4 143:4 146:19 147:2 148:2 150:10,10 155:10 156:18 157:16,24 161:1,5,19 164:25 183:21 185:18 195:25,25 196:6,24 197:3 198:6</p> <p>think 4:24,25 5:1,10 5:13,21 7:20,23 8:2 11:9,15 12:2 19:6 21:14 23:10 27:15 27:16 28:4,9,19,23 29:1,7,13 30:17 31:8 32:3 33:5 34:16 36:22,23 38:3 38:21 42:3,22 43:8 44:9 45:3 48:19 49:16,24 50:3,19 53:3 54:20 56:19 58:9 59:8,22 60:14 60:16,23 61:21 62:18,21 65:13 66:19 67:13,18 68:11,19,24 69:8,8 70:22,23 74:1,2</p>	<p>76:14 78:1 79:10,20 79:22,23 81:6 82:9 84:6,16 86:20 88:7 90:8,15 92:4 96:21 97:14 98:10 101:24 102:10 103:3 105:1 105:3,6,9,11 108:11 109:6 110:3 111:22 111:25 112:5 114:1 115:10 116:23 118:12 119:10,16 120:21 121:7,17,25 122:3,10,16,25 123:21,23 124:1,16 124:19 125:6 126:7 126:20 127:5,11,14 127:21 128:3,23 129:16,19,20,23 133:19 135:6 137:1 137:5,23 138:5,6,8 139:19 140:1,13,20 140:21 142:3 143:16 144:18 145:3 146:18,23 152:25 154:3 156:4 156:11,18,23,24 157:9 158:5 159:5,7 159:18 160:18,19 161:16,17,19,21 162:19,23 163:10 164:3,14,18,22 165:12,18 168:1,3 170:10,19 171:2 172:10 180:13,13 184:1,8,9,21 185:6 185:7,13,13,14,20 185:25 186:7,20,24 187:1 188:12 189:20 190:9 191:14 192:17 193:5,10 194:5,23 194:25 195:9,11 196:10,16 197:18 198:1,2 199:4</p>	<p>thinking 16:22 45:22 65:15 75:25 82:18 113:10 195:24</p> <p>thinks 99:14 131:17</p> <p>third 12:6,10,20,24 13:6,23 14:3,11,15 14:24 15:22,23 16:2 16:13,20 17:11,17 18:23 19:11,12 20:11 55:7 181:2</p> <p>thomas 2:9,13 4:25 5:9,21 14:14 19:16 21:10 22:20,23 23:5 25:24 28:9 29:24 34:15 35:6,18 37:19 38:12,15,21,23 42:24 47:15 48:8 49:2 50:13 52:12,24 54:9,15 56:2 62:8 65:17 66:19 67:17 69:7 70:13 71:2,16 75:2 76:21 81:11,23 83:10,19 84:18 85:4 89:2,15,20 92:4 95:4,7,21 97:7 99:18 100:24 107:8 110:11,16,21 111:2 115:6 120:15 121:10 131:12 134:12 136:2 137:21 141:6,23 142:6 144:2,4,8,20 147:11,14 148:23 154:12 156:12 158:15,22 159:21 160:24 164:18 166:12 169:2,23 171:17 175:9 180:3 180:6 181:7 190:16 193:15</p> <p>thought 12:23 15:15 15:17 53:10 72:8 78:2,7 97:2 109:14 109:15 125:2</p>
--	---	---	---

<p>146:12 151:13 156:4,10 158:22 166:10 168:23 178:7 thoughts 161:15 179:24 192:24 threat 62:2 67:3,5,6 67:7,12,13,15,18,24 68:1,22,23 69:5 70:7 87:16 88:2,10 88:17,24 89:8 threatening 75:21 three 4:18 28:17 32:20,21 78:6 84:16 84:17,18,18 106:15 119:8 149:19 173:8 173:10 180:24 threshold 88:13 137:5,22,23 138:6 138:17,19 142:9,12 153:13 thresholds 136:21 136:22 137:2,4 138:9 153:21,25 threw 80:25 thriving 195:20 throw 71:11 79:16 throwing 84:6 thursday 1:15 4:1 tick 148:9,25 149:1 tics 49:20 152:13,15 152:23 tie 147:17 148:10 tied 145:6 tier 184:13,13 time 5:23 6:11 7:13 12:17 18:6 19:23 37:3,3 52:24 55:20 57:20,21 64:22 74:7 76:3,7 92:25,25 96:16 99:12 108:10 109:19 114:19 115:19 116:4 125:18 156:7 161:14 164:5,10</p>	<p>172:22 173:11 174:10,25 192:11 196:18 timelines 57:7 timely 174:2,20 187:6 times 31:23 44:23 53:18 59:4 81:2 161:22 184:7,15 189:12,12 title 12:21 14:15 18:21 46:5 47:14 50:14 80:19,24 82:7 83:3,5,23 84:2,7 85:7,8,25 92:12,13 92:15 93:9 titles 28:1 82:6 today 51:19,21,24 68:23 73:9 95:11 118:16 119:17 120:14 129:7 158:4 160:15 179:6,8 182:9 today's 93:25 169:7 told 57:21 146:25 tom 14:13 19:15 20:3 21:9 24:3 56:1 62:6,7 69:6 72:8 75:1 76:1 79:9 89:14 95:3 99:17 115:5 119:18 126:22 131:11 136:1 137:9 146:23 147:10 152:10,25 154:10 166:5 171:19 192:10 tom's 27:15 82:10 117:9 140:19 tomorrow 68:24 ton 9:11 top 8:7 11:15,24 14:25 23:20 31:12 76:1 135:7 140:22 153:6</p>	<p>topic 111:3 topics 111:1 165:15 total 95:9 122:6 totality 50:6 141:25 totally 15:11 totals 97:16 touch 25:14 tough 198:6 tour 189:22 192:4 193:8,21 tracie 175:7 tracked 24:9 137:12 tracking 94:15 113:1 114:21 141:7 141:11,15 143:13 144:6,11 145:21,22 146:2,19 tracy 120:8 traditional 135:10 traditionally 9:21 9:24 trained 157:8,24 transaction 16:23 29:5,6 113:15 116:1 transactions 8:9,12 8:17,25 transcript 1:14 33:18 transcripts 53:5 transition 167:2,3 translate 22:9 transmittal 54:3,10 54:17,21 55:13,25 147:1 180:7 transport 159:2 travel 56:6 135:17 136:1,10,11 travels 198:24 treat 112:11 treated 144:5 treating 112:8 144:4 tremendous 164:9 195:5 tremendously 195:9</p>	<p>trenches 182:13 trends 138:3 trga 42:23 56:24 66:15 78:5 82:12 106:24 tribal 1:2 2:8 3:3 13:9,18 15:2,8 17:1 18:9,11,12 21:3 30:19 56:21 59:19 62:22 69:15 77:17 97:9 100:7,9 101:6 101:18,23,24 102:5 109:7,11 111:20 112:12 119:3 120:16 122:5,11 123:16 124:5,20 125:1,9 126:19,23 128:1,13 129:9,18 130:2 131:8 132:5 133:4,10,13,23 135:13 138:11,11 138:12,12,15 172:13,16 174:11 175:5,17 176:2,2 179:21,22 183:16 185:6,24 187:14,19 190:7 196:13 198:10,20 tribe 2:14,22,24 3:12 13:4,7 14:9 18:1,19 56:4,9 57:14,17 59:6 63:7 73:19 77:20 78:9 79:12 83:8 121:3 123:19 124:18 131:13,14,17,21 132:4 133:8 147:22 185:2 186:1 187:13 187:16 188:6,19 189:21,25 190:17 190:25 191:2 195:13,21 tribe's 57:10 101:5 tribes 2:18 13:5,12 37:12 73:17,18,22</p>
--	--	---	---

<p>75:3 79:10 101:9 106:15 126:14,16 130:10,24 170:25 172:21 176:1,6,11 176:19 183:13 184:12,13,16 185:17,24 187:15 188:8,9,22 189:8 190:7 195:1 196:3 197:1,1 198:5,9,15 tried 9:19 153:16 176:21 177:7 tries 69:20 trip 182:9 trouble 8:3 83:2 169:13 troubled 175:18 troubles 119:25 troubling 178:4 true 85:13 87:9 truly 31:16 188:20 188:25 189:5 191:18 trust 20:13 102:6 130:21 truth 171:2 try 15:18 33:7 50:8 56:25 112:23 155:10 158:3 159:7 162:15 171:8 190:8 195:22</p>	<p>191:17 192:11 193:13,20 tuesday 56:10 180:18,19 tumultuous 161:22 turn 27:23 108:1 turning 59:12,14 turquoise 24:20 twice 53:13 two 9:15 12:12 15:22 23:5 24:6 28:2,14 41:7 47:23 51:3 53:12 83:10 85:7 92:12 94:4,12 95:22 102:15 114:12 116:21 122:3 136:24 147:2 149:4 156:25 166:10 169:15 170:21 175:16,19 187:25 188:2 type 9:23 31:18 76:17 77:12 87:23 88:3 100:8 101:3 102:6 112:9,14 116:1,10 126:18 types 8:24 15:22 83:10 98:16 140:7 196:23 198:6 typically 11:6 66:1,3 113:13 150:9</p>	<p>underlined 24:11 understand 12:18 81:23 82:3 89:3,16 100:9 105:4 107:11 118:25 119:2 120:20 121:1 130:23 133:13 157:3 162:6 177:3 178:4,7 179:9 191:9 196:13,19 understanding 26:8 41:9 114:4 120:7 125:7 136:8 158:17 190:20 understood 123:12 141:15 undo 74:25 undue 187:25 unenroll 39:18 unfinished 178:8 uniform 73:16 uniformly 89:16 unilaterally 175:19 176:7 united 102:4 130:16 131:10 universal 164:24 unquote 101:17 130:21 unreasonable 138:9 139:8 unused 9:23 upcoming 178:9 use 8:20 9:10 11:2,5 12:10 19:8 20:24 29:21 31:19 48:12 48:21,22 49:25 56:19 59:24 61:20 61:20 62:1 63:7,16 63:17 68:2 98:2 100:1 101:18,22 104:12 107:22 109:7 112:17 115:17 140:7 144:21 145:8</p>	<p>148:25 155:15 156:25 157:5,14 161:11 163:19 173:18 176:2 useful 65:22 154:4 user 162:8 uses 115:19 usually 49:19 76:16 167:16 utilize 20:5 utilized 149:10 155:3 utilizing 138:14 utmost 177:24</p>
		<p>v</p>	<p>vacuum 50:5 76:17 valid 168:2 validated 12:1 validating 19:1,3,4 validation 19:9 valuable 176:15 193:3 value 114:24 137:13 137:14 139:24 140:25 164:16 178:11 194:16,17 values 112:19 variables 21:1 variance 47:14,15 47:17,21,22 48:9,12 48:13 49:3,5,6,7,8 49:10,11,14,15,18 49:20,21 50:15,21 56:23 57:19 59:2,8 59:19,21 60:18,19 61:1,4 62:10,10,10 63:2,4,8,14,16 64:13 65:19 66:16 66:21,22,23 67:2,4 67:12,20,21,23 68:2 68:5,16 69:1,9,19 69:21,25 70:7,8 71:6,12 72:22 73:2 73:11,20 74:4,7,10</p>
<p>trying 15:14,14 17:6 21:13 29:19,25 30:19 35:14 36:11 36:24 62:14 63:9 66:18 67:17 68:2 76:1 99:4 100:9 107:18 117:18 122:1 129:16 130:13 141:9 144:10 152:1 155:6 156:9 170:3 199:4 tucson 117:22 161:20 168:11,15 170:1 171:9 191:12</p>	<p>u</p> <p>ul 36:17,19 ultimate 75:3 ultimately 14:9 unanimous 52:4 55:11 85:25 93:19 110:24 unanimously 54:4 unaware 178:9 unbelievable 199:10 unclear 148:15 uncommon 142:20 142:22</p>		

74:13,15 75:4 76:22 77:1 78:1,17,23,25 79:8 80:5,21 81:7,9 81:13,15,16,18,19 82:16,24 83:12,16 86:3 90:11 93:23 154:22,23 160:9,10 variances 47:25 48:3 56:16 60:6 61:19 64:20 76:4 80:12 90:5 153:14 154:17 variations 84:1 varies 20:23 various 138:3 155:10 177:22 195:1 vary 50:17 137:23 varying 19:7 50:18 176:20 vault 4:18 7:2,7,10 136:12 vegas 188:14 vehicle 102:19 126:17 vendor 19:19,24 vendors 17:24 19:17 venue 168:11 verbiage 148:14 verified 44:11,11 149:2,3,4 verify 151:6 verifying 44:9 versa 30:22 version 22:6,12 24:9 25:21 35:22 36:3,10 39:12 40:3,9,19,24 45:13 46:17,23 47:4 47:9 51:20,23 65:8 146:25 180:25 181:1,2,3 versions 57:13 73:25 180:24 versus 47:22 48:20 48:22 53:22 82:11	88:24 139:12 143:10 161:3 177:16 vested 120:5 vice 30:22 175:13 179:13 196:12 view 73:14 169:9 177:13 viewed 169:7 virtual 174:2 virtually 166:17 virtue 64:15 visa 135:16 visit 193:9 visited 188:11 visits 122:19 voice 77:20 voided 12:2 voids 12:1 vote 5:10,13 6:2 7:1 23:16 26:9,19 27:15 52:19,20 93:14,16 121:6 vote's 6:2 voted 5:18 26:3,24 27:2 53:12,13 votes 26:22 27:13	40:10,15,20,25 42:6 44:19,20 45:2,14 46:8 49:1 50:23 51:5 52:23 53:13 55:4,24 57:22 60:2 65:3,5,14 68:7 70:18 71:11 72:3 79:19,25 85:6,15 87:10 88:3,3,18,20 90:22 91:3 92:7 93:2,6,11 95:17,18 96:22 97:5 98:3 99:12 101:24 104:6 106:3,9,16 107:9 108:8 109:19 110:1 110:19 111:13 112:11 116:6 117:18 119:1,11 120:6 121:1 125:24 128:6 130:15 131:23 132:15 133:24 134:10 135:20 136:15 137:10,21 143:4,6 143:12,21 144:15 146:20,20,24 150:7 152:5 157:12 158:3 159:11 162:19,21 163:23 164:23 168:24 169:15 170:13,17 171:17 172:1 179:14 183:6 187:5,7 189:4,5,20 192:9,17 193:16,18 193:20 194:19 196:14 197:17 198:3,21 199:2 wanted 21:7 52:25 60:15,22 61:9 74:7 79:16 100:17 107:4 123:11 125:20 129:2 179:7 183:9 188:3 wanting 44:24 121:16	wants 39:25 53:12 68:1 81:7 111:4 133:22 169:24 wards 130:21 warm 2:18 189:8 warrant 174:13 washington 175:12 183:19 184:22 185:21 195:23 198:9,13 watching 142:21 way 20:4 25:6 27:6 27:10 28:24 30:5 33:2 35:4,11 37:25 38:11 43:17 46:8 51:7,17 58:12 63:25 70:4 74:3,19 77:18 81:17 88:12 89:13 89:18,22 91:11 96:23 97:24 99:8 101:8 107:24 109:16,24 118:21 124:5 128:19 129:23 130:17 138:10 144:5 145:25 146:6,15 151:18 155:23 158:19 163:9 182:19,21 186:20 188:9 197:10 ways 17:18 47:23 142:24 157:1 184:23 we've 49:14 50:8 51:24 55:2 59:4 69:14 71:14 76:5 81:6 84:7 87:2 106:13 109:16 111:8,9 127:15 133:19 134:2 146:5 151:20 182:19 183:14,19 184:1 185:24 191:8 192:18,22 193:12 197:22
	w		
	wait 74:9,17 86:1 109:20 170:16 waiting 20:11 waiver 48:13 walks 11:7,8 113:19 want 4:10 5:22,22 6:20,23 8:5 11:11 12:17 16:18,19 17:25,25 19:10 20:24 21:8,13 22:5 23:1,3 25:22 26:15 27:7,9,9,11,23 28:8 28:10,14 32:7,8,11 32:13 33:2,10 35:4 35:5,12 37:8,9 38:5 38:18 39:2,13 40:4		

<p>web 168:17 169:20 170:20 171:1 172:1 wednesday 180:19 week 172:12,25 177:13 197:19 weeks 108:15 welcome 4:10 173:10 welcomes 175:1 went 6:25 7:21,22 15:17 33:12 35:16 36:21 57:2 73:11 118:15 147:23 148:13 196:19 west 2:7 5:16 8:2,23 9:17 10:23 11:18,21 11:23 12:19 14:2 16:16 21:5 24:21 31:22 66:3 78:13 80:19 82:21 96:10 97:14 98:1 106:9 107:14 113:9 116:14 117:1 134:22 135:6,22 136:8,17 138:8 139:2 143:2 144:7 158:17,24 160:18 163:10 165:18,24 194:19 whatnot 71:18 wheatley 2:21 18:17 19:6 91:6,23 134:20 161:16 162:4 whenever's 181:21 wholesale 13:13 willing 18:1 145:15 wilson 2:13 4:25 5:9 5:21 14:14 19:16 21:10 22:20,23 23:5 25:24 28:9 29:24 34:15 35:6,18 37:19 38:12,15,21,23 42:24 47:15 48:8 49:2 50:13 52:12,24 54:9,15 56:2 62:8</p>	<p>67:17 69:7 70:13 71:2,16 75:2 76:21 81:11,23 83:10,19 84:18 85:4 89:2,15 89:20 92:4 95:4,7 97:7 99:18 100:24 107:8 110:11,16,21 111:2 115:6 120:15 121:10 131:12 134:12 136:2 137:21 141:6,23 142:6 144:20 147:11,14 148:23 154:12 156:12 158:15,22 159:21 160:24 164:18 169:2,23 175:9 180:3,6 181:7 190:16 win 116:24 128:7 wish 99:6 117:22 118:18 172:16,18 175:14 182:3 183:1 198:24 wishes 93:3 178:8 withdraw 32:6 54:1 74:15 won 114:12 wonderful 108:24 162:21 189:10 190:19,22 193:21 193:22 195:19 196:20 wondering 48:10 word 9:5 14:23 33:18,19 34:23 44:10,16 47:23 83:17 84:25 86:21 92:18 164:6 worded 21:12 159:24 wording 12:3 16:16 33:16 34:18 50:13 58:9 68:13 89:6,17</p>	<p>words 16:2 48:15 49:24 50:2 64:15 65:21 89:24 143:9 156:16 190:5 196:19 198:22 work 4:21 21:21 25:6,24 52:5 56:21 62:6 77:17 84:8 87:17 93:23 94:20 96:6 105:3 110:9 111:18 112:12 125:9 126:20,24 128:2 133:5 137:3 146:2 152:7 155:18 156:3 157:15 158:7 161:11,23 162:3,11 165:19,20 168:23 169:5,9 170:8 172:19 173:24 174:1 175:6,23,25 177:18 178:10,20 178:23 180:12 181:5,6 184:24 185:14,15 186:20 187:3,22 189:2,23 190:6 191:10 192:18,19,21 193:12,19 196:13 196:15 197:5 198:4 198:14,16 199:5,8 workable 147:18 155:25 worked 24:2 95:25 146:6,23 176:14 180:23,24 working 4:7,16 21:3 26:13 30:19 49:18 62:22 69:15 97:9 98:15 100:9,21 111:20 119:3,20 120:17 122:5,11 125:1 128:13 129:10,18 130:2 131:2 133:4,10,14 133:23 140:5</p>	<p>147:22 151:6,18 174:12 180:17,18 180:22 182:17 183:17 185:6 188:21 189:11 190:2,8 193:25 194:19 196:14 works 73:9 87:4 108:23 119:9 130:20 163:20 184:7 185:14 190:9 world 48:4 78:16 127:1,7 154:18 157:9 worry 88:8 worrying 124:12 worse 49:25 worth 61:17 worthy 125:2 wrapped 5:2 write 45:23 98:21 103:6,11 109:22 128:24 130:17 196:24 writing 195:10 written 6:7 38:1 41:13 81:17 84:7 134:9 174:9 wrong 127:15,17 169:8 wrote 41:9</p>
x			
<p>x 139:24 142:9 148:5</p>			
y			
<p>y 148:6 yaqui 2:14 56:4 132:4 190:16,25 yeah 7:3 17:5 19:6 25:4 31:23 44:3 46:6 51:14 62:7 92:6 154:5 162:18 171:10</p>			

<p>year 98:19 years 104:25 118:14 182:17,18,18 187:24 196:1,3 yellow 25:14 34:6,8 35:6,19 52:1 yellow's 52:2 yesterday 4:9,13 5:2 5:11 6:22 7:20 21:10 22:23 23:23 63:24 123:15 158:6 166:5 167:8 yesterday's 95:5 young 195:23 196:9</p>
z
<p>z 148:6</p>