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COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss. SUPERIOR COURT DOCKET
NO. 08-04641-B

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JOHNSON GOLF MANAGEMENT, INC.,

Plaintiff,

vs

TOWN OF DUXBURY, and
North Hill ADVISORY COMMITTEE,
CONSISTING OF MICHAEL DOOLIN, CHAIRMAN,
SCOTT WHITCOMB, ROBERT M. MUSTARD, JR.,
MICHAEL MARLBOROUGH, ANTHONY
FLOREANO, MICHAEL T. RUFO, THOMAS K.
GARRITY, RICHARD MANNING, W. JAMES FORD,
and GORDON CUSHING (EX OFFICIO)
and CALM GOLF, INC., and
CHARLES LANZETTA,

Defendants
-----x

DEPOSITION OF WILLIAM DIXON, taken on
behalf of the Plaintiff, pursuant to the
applicable provisions of the Massachusetts Rules
of Civil Procedure, before Jessica F. Story,
Certified Shorthand Reporter and Notary Public
in and for the Commonwealth of Massachusetts, at
the offices of Follansbee & McLeod, LLP, 536
Granite Avenue, Braintree, Massachusetts, on
Tuesday, July 19, 2011, commencing at 2:52 p.m.

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Michael T. Rufo, Thomas K. Garrity, Richard
Manning, W. James Ford, and Gordon Cushing (Ex
officio)

ALSO PRESENT:

Douglas Johnson
Jason Laramie

INDEX

Deposition of:	Page
WILLIAM DIXON	
Examination by Mr. Follansbee	4
Exhibits	Page
1 Deponent's Score Sheet	11
2 Johnson Golf Management Non- Price Proposal	19
3 Johnson Golf Management Audited Financial Statements	19
4 Eagles Nest Proposal	45

PROCEEDINGS

WILLIAM DIXON, a witness called on behalf
of the Plaintiff, first having been
satisfactorily identified by his Massachusetts
driver's license, then duly sworn, on oath
deposes and says as follows:

EXAMINATION BY MR. FOLLANSBEE

Q. Good afternoon. Could you give us --

MR. KESTEN: Same stipulations?

MR. FOLLANSBEE: Same stipulations,

Lenny. Thank you.

Q. Could you give us your name and residential
address, please.

A. William C. Dixon, D-i-x-o-n. Home address is 59
Beachwood Lane, Duxbury, Mass.

Q. It sounds oceanside. Is that near the water?

A. It is, yeah.

Q. Beautiful.

Have you been deposed before?

A. Yes.

Q. So you're familiar with the fact that I'll be

1 asking you questions and you need to articulate
2 a verbal answer, correct?

3 **A. Yes.**

4 **Q.** When was the last time you were deposed?

5 **A. Three or four years ago.**

6 **Q.** With regard to my questions today, if I ask a
7 question and you don't understand it and it's
8 not clear, just say so. I'll try to make it a
9 more concise question. I tend to talk too much
10 so feel free to interrupt me and tell me to
11 rephrase it if you're having difficulty
12 understanding it.

13 What is your educational background
14 beginning with high school, please?

15 **A. High school, college, college graduate.**

16 **Q.** And where did you go to high school?

17 **A. Graduated from English High.**

18 **Q.** In Boston?

19 **A. Boston English, yeah.**

20 **Q.** What year did you graduate?

21 **A. 1961.**

22 **Q.** After that you attended college?

23 **A. Providence College.**

24 **Q.** What year did you graduate from Providence

1 College?

2 **A. 1965.**

3 **Q.** That was a BA degree?

4 **A. Yes.**

5 **Q.** What did you get your degree in?

6 **A. Political science.**

7 **Q.** And did you have any further education after
8 Providence College?

9 **A. No.**

10 **Q.** What do you do for a living, sir?

11 **A. I'm an independent insurance broker.**

12 **Q.** Where is your office located?

13 **A. Duxbury.**

14 **Q.** What's the name of your business?

15 **A. Dixon Associates.**

16 **Q.** How long have you been in business as Dixon
17 Associates?

18 **A. Since 1980.**

19 **Q.** At some time in the last 10 or 15 years were you
20 a member of the North Hill Advisory Committee in
21 Duxbury?

22 **A. Yes.**

23 **Q.** And did you understand or what did you
24 understand to be the role of the North Hill

1 Advisory Committee?

2 **A. We were the liaison between the town and the**
3 **golf course. We were representing the town and**
4 **we were charged with the responsibility of**
5 **overseeing the course.**

6 **Q.** Do you recall the years that you served on the
7 North Hill Advisory Committee?

8 **A. I was there for six to eight years. I finished**
9 **as the chairman of the committee in 2001. That**
10 **was my last year.**

11 **Q.** Were you -- just by way of background, were you
12 a member of the committee when the town was
13 entertaining the possibility of adding an
14 additional nine holes and making it an 18 hole
15 course?

16 **A. Yes.**

17 **Q.** And was it shortly after that concept was
18 rejected by the town government that you ceased
19 being a member of the committee?

20 **A. No. What happened, point of fact is, you have**
21 **to go back.**

22 I was on the finance committee for the
23 town and we passed the irrigation system, and I
24 can't tell you the year. It was before I was --

1 this is while I was on the finance committee.

2 And the vote to go to 18 holes was held
3 at four o'clock in the afternoon, and all the
4 proponents of going to 18 holes had gone home
5 and all the -- this is a true story. It was all
6 where it was on the ballot, so it didn't pass.

7 But in -- and this was the tragedy of the
8 whole thing. In September, literally the 10th
9 or 8th or 9th --

10 **THE WITNESS:** You may remember this.

11 **A. We had dug out plans to do the nine holes. We**
12 **had had nine holes. We had the plan right there**
13 **and we were going to go to the town that spring**
14 **and present it again, but of course, September**
15 **11th happened and everything changed so we**
16 **didn't do it. The plans had been in existence**
17 **for years, and that was my last year as**
18 **chairman.**

19 And I was encouraging the town and
20 encouraging our membership to put the plan
21 together, if you remember, but it never got on
22 board, and my own committee said you're crazy.
23 We don't -- the timing wasn't very good. They
24 were right.

1 Q. With regard to the present litigation with
2 Johnson Golf Management and the Town of Duxbury,
3 are you familiar with the litigation?

4 A. Somewhat.

5 Q. Other than newspaper accounts, have you had
6 occasion to speak to anyone about the
7 litigation?

8 A. Not really, no.

9 Q. Have you discussed your involvement in today's
10 process with any town officials other than
11 attorneys?

12 A. No.

13 Q. Do you recall in the fall of 2008 the Town of
14 Duxbury going out with what I refer to as the
15 RFP process?

16 A. Yes.

17 Q. Were you approached by someone to act as one of
18 the evaluators of the various proposals?

19 A. I was a substitute evaluator. What happened was
20 a fellow was called away on business, I can't
21 remember all the circumstances, and I think it
22 was Gordon who came to me and asked me if I
23 would look at the financial aspect of it where
24 it had been broken into, I think two separate

10

1 views of the bids.

2 And I was asked to look at the financial
3 aspect of it, of all the different bids at that
4 time. I was a substitute.

5 Q. With all due respect to your memory, is it
6 possible that you were asked to look at
7 non-price proposals rather than the price
8 proposals?

9 A. I don't remember. I know I looked at the
10 financials but --

11 Q. Financials meaning financial statements from the
12 various --

13 A. From the different people, yeah. That's what
14 I --

15 Q. I stand corrected.

16 A. Yep.

17 Q. And did Gordon Cushing discuss with you how you
18 were going to go through the evaluation process?

19 A. Probably.

20 Q. Do you have any memory of that?

21 A. No. It's ten years ago. That isn't ten years
22 ago but that was --

23 Q. Maybe two and a half?

24 A. Three or four, yeah.

1 Q. It was 2008?

2 A. Could have been.

3 Q. It was in the fall in October?

4 A. Okay. If you say so.

5 Q. With regard to that, do you remember receiving,
6 just by way of illustration, proposals such as
7 this to review documents from various vendors?

8 A. No.

9 Q. Do you remember seeing a score sheet similar to
10 that and being asked to fill it out?

11 A. Yes.

12 MR. FOLLANSBEE: I'm going to ask that
13 this be marked as the first exhibit.

14 (Exhibit No. 1 ID marked.)

15 Q. Directing your attention to what's now been
16 marked as Exhibit No. 1.

17 A. Yep.

18 Q. Do you recognize your handwriting?

19 A. Yes. On the document.

20 Q. And there are five pages of Exhibit No. 1. Do
21 you recall filling out this type of a form?

22 A. Yes.

23 Q. And were you -- as part of the process -- had
24 you ever been involved in an RFP process for the

12

1 golf course prior to this?

2 A. No.

3 Q. When you were on the North Hill Advisory
4 Committee during the period up -- well, it would
5 have been, say '94 to 2001 roughly, were you
6 involved in any of the RFP processes at that
7 time?

8 A. No.

9 Q. Were you aware that a contract had been awarded
10 during that period of time by the town to
11 Johnson Golf Management?

12 MR. JORDAN: Objection. You can answer.
13 I just objected to the question. You can
14 answer. I'm sorry.

15 Q. Just by way of background, we've worked out a
16 stipulation, and unless Lenny grabs you and gags
17 you and stops you from answering, when anybody
18 objects, you can still answer the question.
19 Their objection is more for the record than
20 anything else.

21 A. I don't remember.

22 Q. Had you met Mr. Johnson during your tenure as a
23 member of the North Hill Advisory Committee?

24 A. Yes.

1 Q. And you recognize him as the fellow who owned
2 Johnson Golf Management?

3 A. Yes.

4 Q. They were the vendor who was running the golf
5 course for the town, correct?

6 A. Yes.

7 Q. Now, in the timeframe of October of 2008, did
8 Mr. Cushing or anybody else give you any
9 instruction on how to go about evaluating the
10 various proposals that came from the different
11 vendors?

12 A. Not particularly, no.

13 Q. Did any outside agent come in and give a class
14 on anything?

15 A. No.

16 Q. Directing your attention to Exhibit No. 1 in
17 front of you.

18 A. Yep.

19 Q. If we take -- well, let's take the first one.

20 There was a proposal of a Mr. Gunnarson,
21 and I'm showing you what was marked as Exhibit
22 Number 2 of a deposition this morning. Now I
23 don't remember which one it was. I believe
24 Exhibit Number 2 was Mr. Floreano's deposition.

1 MR. KESTEN: That's correct.

2 Q. But this is what has been provided to us from
3 the Town of Duxbury as the proposal of
4 Mr. Robert Gunnarson in 2008. Would you glance
5 through that, and I'll have a few questions
6 after you look through it.

7 (Witness complies.)

8 Q. Having had a chance to look at Mr. Gunnarson's
9 proposal which was Exhibit Number 2 in this
10 morning's deposition of Mr. Floreano, towards
11 the back end of it do you see some financial
12 records, tax returns, et cetera? Can you tell
13 from looking at those documents whether or not
14 those constitute audited financial statements?

15 A. They do not.

16 Q. And would you recognize an audited financial
17 statement if it was provided?

18 A. Maybe.

19 Q. With regard to the RFP that was issued by the
20 Town of Duxbury, and this was Exhibit Number 1
21 to Mr. Marlborough's deposition and this was the
22 October 2008 RFP, and I'm directing your
23 attention to Page 6 of Exhibit Number 1 of
24 Marlborough. If you look at Page 67 and 8 of

1 that document.

2 MR. JORDAN: Objection. Quickly could
3 you maybe lay a foundation? Because he hasn't
4 seen that document.

5 MR. FOLLANSBEE: I identified it as
6 Marlborough Exhibit Number 1, the RFP.

7 MR. JORDAN: You did? I was writing
8 something.

9 MR. FOLLANSBEE: The RFP issued in
10 October of 2008.

11 MR. JORDAN: Sorry. I was writing
12 something.

13 MR. FOLLANSBEE: I don't take it
14 personally when you don't pay attention to my
15 questions.

16 MR. KESTEN: What?

17 MR. FOLLANSBEE: See.

18 A. Okay.

19 Q. Directing your attention to Pages 67 and 8,
20 these are the criteria standards that were
21 provided by the Town of Duxbury to evaluate the
22 various proposals.

23 Do you remember having these available to
24 you when you looked at the proposals that you

1 did your evaluations of?

2 A. I don't remember.

3 Q. The evaluation that you made for Mr. Gunnarson,
4 in the area of financial information you gave
5 him a rating of not advantageous, correct?

6 A. Yes.

7 Q. And if you look at the exhibit in front of you,
8 the RFP exhibit from Duxbury, and if you look at
9 Page 8 of the exhibit, under financial
10 information it describes four possible grades
11 for financial information, and the first grade
12 requires three years of audited financial
13 statements.

14 Having that as the standard which you
15 would judge these, would it be a fair statement
16 that the reason Mr. Gunnarson received a rating
17 of not advantageous is that the financial
18 information he provided did not include any
19 audited financial statements?

20 A. No.

21 Q. Do you know how you arrived at a rating of not
22 advantageous?

23 A. Yes.

24 Q. How did you arrive at that rating?

1 **A. I'd rather not say.**

2 **Q.** I understand you'd rather not say. I need the
3 testimony.

4 **A. No, I don't. I'm not going to share that with**
5 **you.**

6 **MR. FOLLANSBEE: All right. We'll**
7 **suspend and I'll get an instruction --**

8 **THE WITNESS: It's subjective on my part.**

9 **MR. FOLLANSBEE: I understand you don't**
10 **want to testify. You don't want to testify.**
11 **We'll suspend and I'll get a --**

12 **MR. KESTEN: Why don't you finish the**
13 **rest of your questioning so that if that's the**
14 **only thing left, if you lose, we don't have to**
15 **come back and finish the rest of your**
16 **deposition.**

17 **Q.** With regard to your evaluation of Johnson Golf
18 Management which is, I think it's Page 15, you
19 also rated Johnson Golf Management under the
20 category of financial information as not
21 advantageous.

22 Do you know why you gave Johnson Golf
23 Management that rating?

24 **A. Yes.**

1 **Q.** Why is that?

2 **A. Well, as Doug knows, we would meet once a month.**
3 **And one of the things that we would ask for from**
4 **Joe, not necessarily from Doug, were financials,**
5 **detailed financials, and we were never able to**
6 **get them when I was chairman of the committee,**
7 **even when I was on the committee.**

8 **And the financials that I remember from**
9 **all these different candidates were very weak,**
10 **with the exception of -- the only one I think I**
11 **gave a decedent grade to was to Eagles Nest, and**
12 **their financials were okay.**

13 **But my recommendation to the town at the**
14 **time was to not move forward and to go back and**
15 **go back out for a new bid because of the**
16 **financials. I thought the financial**
17 **information --**

18 **Q.** Who did you make that recommendation to?

19 **A. Gordon.**

20 **Q.** To whom?

21 **A. Gordon Cushing. I thought the financial**
22 **information from everybody was too weak.**

23 **Q.** And do you remember receiving a proposal from
24 Johnson Golf Management in the form of this

1 document?

2 **MR. FOLLANSBEE: I'd ask this be marked**
3 **as the next exhibit.**

4 (Exhibit No. 2 ID marked.)

5 **A. No.**

6 **Q.** This document which has now been marked as
7 Exhibit Number 2, and I'll give you the actual
8 exhibit. If I can switch with you. Thank you.

9 This document has been provided by the
10 Town of Duxbury as the non-price proposal
11 submitted by Johnson Golf Management in the fall
12 of 2008. Is it your testimony that you were not
13 provided with this document when you --

14 **A. I don't remember it.**

15 **Q.** Well --

16 **A. I just don't remember it.**

17 **Q.** With regard to --

18 **MR. FOLLANSBEE: I'd ask this be marked**
19 **as the next exhibit.**

20 (Exhibit No. 3 ID marked.)

21 **A. We were always looking for one of these.**

22 **Q.** Towards the end of what's been marked as Exhibit
23 Number 2, are there audited financial statements
24 from Johnson Golf?

1 **A. Yeah. I'm looking at them. I don't remember**
2 **them.**

3 **Q.** And they cover the years 2005 through 2007,
4 correct?

5 **A. The ones I'm looking at are 2005, 2006.**

6 **Q.** Is there another one for 2007 and 2006?

7 **A. I don't see it here. I'll keep looking. Five**
8 **and six is what's here.**

9 **Q.** Could you flip back toward the front of the
10 document.

11 **A. Here's seven. Yeah. Seven's here, too.**

12 **Q.** So that would constitute audited financial
13 statements covering the years 2005, 2006 and
14 2007, correct?

15 **A. Right. Correct.**

16 **Q.** And we've also -- to make it easy I've pulled
17 out just the financial statements as Exhibit
18 Number 3, and these are from the proposal of
19 Johnson Golf Management.

20 **A. A-huh.**

21 **Q.** Now, is it your testimony that you have no
22 memory of ever reviewing these financial
23 statements?

24 **A. I do not, reviewing them.**

1 **Q.** Assuming that these audited financial statements
2 were provided to you when you were reviewing the
3 various proposals in 2008, would you have given
4 Johnson Golf Management the rating of highly
5 advantageous in the area of financial
6 information?

7 MR. JORDAN: Objection.

8 **A. It'll take me more time to look at it.**

9 **Q.** Why don't you take the time to look at it then.

10 MR. FOLLANSBEE: I'll take a one-minute
11 break to go get a document. I'll be right back.

12 (Recess taken.)

13
14
15
16 **A. Take a look at page -- well, it doesn't look as**
17 **if it was numbered. Look at the statement of**
18 **operations and accumulated deficit year ended**
19 **December 31, 2006. Okay.**

20 **So you've got revenues of 2.4, starts**
21 **with 2.4 fees and dues contract management, pro**
22 **shop sales. So you've got 4.682 costs, let's**
23 **call it 4.33. Gross profit 353, general and**
24 **administrative expenses 610, loss from**

1 **operations 256, loss from operations in 2005,**
2 **271.**

3 **Then you've got interest expense,**
4 **settlement expenses, loss before income taxes**
5 **391, incomes taxes 26. So you've got a net loss**
6 **in 2006 of 365, a net loss in 2005 of 171. I'll**
7 **go back and find 2007 for you. Net loss in 2007**
8 **of 570,088.**

9 **Had I seen these, and I can't tell you**
10 **that I did or I didn't because I don't remember,**
11 **I would have been concerned about this because I**
12 **think that Doug is a good businessman and makes**
13 **a profit on what he does, and those figures**
14 **would surprise me.**

15 **And I probably would have -- if I had**
16 **read this, which, again, I'm not telling you**
17 **that I did, but I'm reading it now. I would**
18 **have said that I would have had my reservations**
19 **about the financials.**

20 **Q.** And in your role as an evaluator as defined by
21 the document which was Exhibit No. 1 in the
22 Marlborough deposition, could you read to
23 yourself what the criteria were and what was
24 required to get a rating of highly advantageous?

1 Just read that to yourself and then I'll have a
2 few questions about it.

3 (Witness complies.)

4 **A. I've read it.**

5 **Q.** According to what the Town of Duxbury was
6 saying, it was sufficient to get a rating of
7 highly advantageous to simply submit audited
8 financial statements for three years, wasn't it?

9 **A. That's not how I judged it.**

10 **Q.** I understand that's not how you judged it, sir.

11 **A. I understand the question.**

12 **Q.** I'm asking --

13 **A. Are you asking me the technical thing? Is that**
14 **what the financial information says under item**
15 **number 4? The answer is yes.**

16 **Q.** And that was the directive that the town
17 provided to all the bidders that said if you
18 want to get a rating of highly advantageous, you
19 need to provide three years of audited financial
20 statements, correct?

21 MR. KESTEN: His only question is that's
22 what it says.

23 **A. Yes.**

24 MR. KESTEN: We have reading clues.

1 **Q.** If the document in front of you is what was
2 provided by Mr. Johnson and his company to the
3 Town of Duxbury, he satisfied Duxbury's limited
4 criteria for a rating of highly advantageous,
5 overall of highly advantageous; is that correct?

6 **A. I don't know.**

7 MR. JORDAN: Objection. You can answer.

8 **Q.** Why don't you know if that's true?

9 **A. I don't know.**

10 **Q.** What other information would you need in order
11 to determine whether that's true or not true?

12 **A. Well, the reason they came to people like me and**
13 **asked us to look at this is that we had opinions**
14 **and information going over a long period of time**
15 **to assess some of these things. And we knew a**
16 **lot of the people, not all of them, but we knew**
17 **a lot of the people involved.**

18 **So we were in a position to look at the**
19 **questions that you're talking about, but we were**
20 **also in a position to add additional information**
21 **based on our history with these different**
22 **groups.**

23 **Q.** Okay. Why don't we go through your history with
24 the different groups. Okay. Because I'm

1 unaware of that. I'm sorry.

2 As far as your history with the different
3 groups, you had been on a committee and had
4 interacted with Johnson Golf Management for a
5 period of years while they operated the golf
6 course, correct?

7 **A. Correct.**

8 **Q.** Did you have any experience with any of the
9 other groups?

10 **A. Yep.**

11 **Q.** What other groups did you have experience with?

12 **A. Bob Gunnarson was the golf pro at the Duxbury
13 Yacht Club while I was a member there, and Bobby
14 had been at North Hill and I had played at North
15 Hill and experienced the course when Bob was
16 there.**

17 **Emmett Sheehan has been a businessman of
18 Duxbury for many years. I've known Emmett for
19 many years. The other people, I think one of
20 them was the crowd out of Rockland, Conner
21 Management.**

22 **THE WITNESS: Is that right, Doug?**

23 **A. That was one of the guys who bid. Those folks I
24 just know by reputation because I've been**

1 playing golf a long time on the South Shore.

2 But people I knew best would be Doug,
3 because Doug was there and he had been there
4 during that --

5 **THE WITNESS: I think the whole time I
6 was on the committee you were running the
7 course.**

8 **A. And I knew Bobby before that because of my
9 experience with the yacht club, and also with
10 North Hill because I played at North Hill before
11 I belonged to the yacht club.**

12 **And the other folks I knew by reputation,
13 and Emmett I knew because he was a businessman
14 in that town and has been for a long time.**

15 **Q.** And the last group, Stiles and Daley?

16 **A. Didn't know them.**

17 **Q.** So as far as Stiles and Daley, at least any
18 evaluation you made of them was limited to the
19 documentation you had been given?

20 **A. Correct.**

21 **Q.** And that wasn't the case for the other bidders?

22 **A. That's correct.**

23 **Q.** So let's focus on the two companies that you
24 rated the best, that would be Johnson Golf

1 Management you rated highly advantageous in
2 three out of four categories and CALM Golf you
3 rated identically to Johnson Golf Management,
4 correct?

5 **A. Which ones are you looking at?**

6 **Q.** The two I want to look at are Johnson Golf
7 Management and CALM Golf. It appears that you
8 gave them identical scores in identical
9 categories; is that correct?

10 **A. Yes.**

11 **Q.** You indicated that you don't remember seeing the
12 audited financial statements from Johnson Golf,
13 correct?

14 **A. That's correct.**

15 **Q.** As far as the information from CALM Golf, CALM
16 Golf provided a submission much like Johnson
17 Golf's. Do you remember seeing their financial
18 information in that document?

19 **A. No.**

20 **Q.** How did you come by your decision that CALM Golf
21 was not advantageous in the area of financial
22 information?

23 **A. I'm going by memory now, okay, of the --**

24 **Q.** Yes.

1 **A. They, I think, had set up a separate corporation
2 to deal with North Hill, and the financial
3 information that I remember was very, very
4 scarce --**

5 **Q.** Okay.

6 **A. -- that I saw, that I remember seeing, and that
7 was a brand new corporation. They've been
8 around a long time but this particular deal they
9 were going in with new financials. I'm doing
10 that from memory.**

11 **Q.** Your memory is spectacular, sir.

12 **MR. KESTEN: No head injury.**

13 **MR. FOLLANSBEE: No head injury for this
14 guy.**

15 **MR. KESTEN: Yet. Until you turn on him.**

16 **MR. FOLLANSBEE: I will never turn on
17 him.**

18 **Q.** The proposal submitted by CALM Golf, and I
19 believe this was Exhibit Number 3 at the most
20 recent deposition and that would have been
21 Mr. Floreano, beginning at Page 91 is the
22 financial information submitted by CALM.

23 And am I correct that unlike the
24 financial information in the Johnson Golf

1 proposal, this information is not audited by an
2 independent CPA?

3 **A. This is not audited.**

MR. KESTEN: He wants to be told he's
right.

6 **A. You're right.**

MR. KESTEN: For two days now, am I
right? Say he's wrong. Does this say that?
No, it doesn't.

10 **Q.** If you look at the material submitted by CALM
11 Golf, towards the end of, I believe that's page
12 103, they give a balance sheet that's attached
13 to a 2007 form 1120S, North Hill Advisory
14 Committee tax return for an S Corporation. And
15 they indicate total assets on line 15 of \$169.

Would that be of concern to you?

17 **A. Just a little bit, yes. Yes.**

18 **Q.** And as a result of reviewing documentation like
19 that that's not audited, would you -- is that
20 the reason you would have rated them not
21 advantageous in that category?

MR. JORDAN: Objection.

23 **A. Yes.**

24 **Q.** Now, with respect to CALM Golf, you indicate

1 that you knew something about their corporate
2 set up and you called them the guys at Rockland.

Were you familiar that they had another
corporation that ran the Rockland Golf Course?

5 **A. No.**

6 **Q.** But you were aware that CALM Golf was a brand
7 new startup corporation?

8 **A. Yes.**

9 **Q.** You knew they had no experience, correct?

10 **A. No. These people who are involved in it, tons
11 of experience.**

12 **Q.** I'm not talking about the people. I'm talking
13 strictly about the corporation.

14 **A. Never thought about it. Never came across my
15 radar.**

16 **Q.** Did you look at the -- did you review the
17 guidelines that were given to you by the Town of
18 Duxbury with regard to how to rate these people?

19 **A. I don't remember.**

20 **Q.** Okay.

21 **A. It was a long time ago.**

22 **Q.** I'm going to show you, I think you have it in
23 front of you, the Request For Proposals. That's
24 it. It's Exhibit Number 1 from the Marlborough

1 deposition, and I'm directing you to Page 6 and
2 the criteria for relevant experience of the
3 company bidding.

4 And under the category, if you'd read the
5 description for the rating not advantageous to
6 yourself, then I'll have a couple of questions
7 for you.

8 (Witness complies.)

9 **A. Okay. Go ahead.**

10 **Q.** Would you agree that based upon what you were
11 presented by CALM Golf and what you knew about
12 the corporation, that although the personnel may
13 have had experience, due to the fact that the
14 corporation did not have experience the
15 corporation would be rated not advantageous in
16 the area of relevant experience according to the
17 guidelines put forth by Duxbury?

MR. JORDAN: Objection.

19 **A. No. No.**

20 **Q.** Why is that?

21 **A. Because I knew the people that were going to run
22 it were the same people that ran the other
23 place.**

24 **Q.** And in the category for not advantageous, the

1 statement from Duxbury was if the firm's
2 personnel may have had experience within the
3 business of golf but the firm has less than
4 three years experience, that earns a rating of
5 not advantageous. Did you understand that?

6 **A. No.**

7 **Q.** Do you understand it by looking at it now?

8 **A. No.**

9 **Q.** What do you understand that paragraph to mean?

10 **A. I understood it to mean that I'm supposed to use
11 my brain. And when I look at a situation where
12 the people who are involved who had an excellent
13 reputation within the golf community, they're
14 the same people that would be running the
15 course.**

16 **I don't have a problem with the
17 management experience when I looked at this
18 financial, and I don't remember seeing Doug's
19 financials as presented to me today, but I do
20 remember seeing the nonsense on CALM's
21 financials because they were so striking in
22 their stupidity.**

23 **I'm smart enough to say on behalf of the
24 town, because I've lived there over 40 years,**

1 served on the finance committee, and I am
2 capable of making an intelligent decision once
3 in a while, but this was a fiasco and CALM
4 shouldn't have been in the game, not based on
5 their financials.

6 They should have given us financials of
7 the other corporation since it was the same
8 group of people. It was their foolishness that
9 got them caught in that trap.

10 Q. Were you aware that the other corporation was in
11 bankruptcy?

12 A. No.

13 Q. Have you heard that?

14 A. No.

15 Q. Until I just said it today, did you know that
16 the Rockland Golf Course was in bankruptcy?

17 A. Years later I think I heard it, but not at that
18 time. I didn't know, no. It's a good reason
19 not to give me their financials, by the way.
20 They were foiled if they're --

21 Q. And they were --

22 A. I'm not going to go ahead with those financials.

23 Q. They are bidding exclusively as CALM Golf,
24 correct? That's the company they put forth?

1 A. Yeah.

2 Q. You knew this was a startup and it wasn't
3 connected to Rockland, the company wasn't
4 connected to Rockland Golf Course? You knew
5 that, right?

6 MR. JORDAN: Objection.

7 A. I didn't view it that way.

8 Q. But you viewed the individuals, Mr. Morasco and
9 Mr. Lanzetta, as having extensive experience,
10 correct?

11 A. That's correct.

12 Q. But you knew that now they were starting a brand
13 new company called CALM Golf and that wasn't the
14 company that had been operating the Rockland
15 Golf Course for years, correct?

16 A. Yes.

17 Q. You were relying strictly on their experience
18 individually, correct?

19 A. To a point. Until they showed this financial,
20 and that's the point I dropped them.

21 Q. As far as dropping them --

22 A. I was happy to rate them. If you look at
23 relevant experience or organizational
24 capability, maintenance equipment/staff, I knew

1 they had a good reputation in that I know a lot
2 of people who knew them, but I wasn't going to
3 -- again, I wasn't going to entertain this bid
4 because the financials were so bad.

5 Q. But you knew -- I mean, let's stick with that.

6 You knew as far as their maintenance
7 equipment that that company didn't have any
8 equipment if they only had \$169 in total assets,
9 right?

10 MR. JORDAN: Objection.

11 A. Yes.

12 Q. So we can safely assume they had zero
13 maintenance equipment, right?

14 A. For that one.

15 Q. For that company?

16 A. I assume they were going to use their stuff they
17 had in Rockland. Wouldn't you?

18 Q. No, I wouldn't.

19 A. Okay. Didn't matter to me at that point because
20 I didn't get past their financials. Candidly,
21 they were a quick no.

22 Q. They were a quick no. Now --

23 THE WITNESS: I don't remember seeing
24 your stuff, Doug, to --

1 Q. On the score sheet that you had, after you did
2 the rating up top there's a place down at the
3 bottom where it says "overall rating."

4 A. I never filled that out.

5 Q. If you had filled that out, what grade, what
6 rating -- let me strike that.

7 Did anyone ever talk to you before or
8 after about filling out the entire document
9 including the overall rating?

10 A. Yes.

11 Q. Who talked to you about it?

12 A. I can't remember. Somebody said to me you were
13 supposed to fill out an overall rating. Months
14 and months later they said that you were
15 supposed to fill it out.

16 Q. Gordon, when he gave you this stuff, didn't say,
17 Bill, make sure you fill out the overall rating
18 at the bottom?

19 A. I don't remember.

20 Q. Had you filled out an overall rating for Johnson
21 Golf, would it have been highly advantageous?

22 MR. JORDAN: Objection.

23 A. I don't know.

24 Q. What additional information would you require in

1 order to determine what your overall rating
2 would have been?
3 **A. I needed to see their financials. I never saw**
4 **those financials, to the best of my memory. We**
5 **kept asking for financials. For years we never**
6 **saw. Today I saw more financials than I've ever**
7 **seen from you. I don't remember seeing those.**

8 **Now looking at them, you were in a**
9 **negative position so I might have come to the**
10 **same conclusion. And you were going sideways.**
11 **If I remember, if you said to me this afternoon**
12 **would I be pleased with your financials, no,**
13 **because you were losing money and losing more**
14 **money.**

15 **But that would have been a hell of a lot**
16 **more than I saw during all of my tenure at North**
17 **Hill Advisory Committee.**

18 **Q.** As far as --

19 **A. I don't remember seeing those, candidly.**

20 **MR. JOHNSON:** They were there.

21 **Q.** Now, you indicated you had eliminated CALM Golf
22 from consideration pretty quickly because --

23 **A. Of their financials.**

24 **Q.** You acknowledge CALM Golf itself had no

1 equipment; you were relying on something that
2 might be owned by somebody else, correct?

3 **A. Yes.**

4 **Q.** And that would have been whatever company
5 Mr. Lanzetta had over at Rockland, right?

6 **A. Yes.**

7 **Q.** So you weren't going by anything that was in
8 their proposal; that was just what you knew
9 about the golf business basically, right?

10 **MR. JORDAN:** Objection.

11 **A. Let me walk you backwards. I didn't spend that**
12 **much time on CALM. Once I saw their financials,**
13 **they were out.**

14 **Q.** How about Gunnarson; did you spend much time on
15 them?

16 **A. No.**

17 **Q.** Were they out, too?

18 **A. Yes.**

19 **Q.** For reasons you don't want to tell me.

20 **A. Do you want me to tell you the reasons?**

21 **Q.** Yes.

22 **A. I explained to you that Bob was the pro at the**
23 **Duxbury Yacht Club so I had some knowledge. He**
24 **had run North Hill while I was on the finance**

1 **committee, so I had some knowledge. And Bobby**
2 **wasn't a viable candidate, in my opinion.**

3 **Q.** Eagles Nest Tree & Landscaping, you knew them to
4 be a landscaping company, not a golf company?

5 **A. Correct.**

6 **Q.** Did that eliminate them?

7 **A. Yes.**

8 **Q.** Steven Daley and Mark Stiles, they were totally
9 out of the picture, correct?

10 **A. I don't remember them, to be honest.**

11 **Q.** Well, your rating for them is they don't even
12 scratch the surface of highly advantageous; is
13 that correct?

14 **A. Are they on my list there?**

15 **Q.** They're on your list.

16 **A. I see them here. Yeah. Relevant experience,**
17 **not advantageous, financial information, not**
18 **advantageous. No. I didn't like them.**

19 **Q.** So if someone had come back to you after you
20 submitted all this to the town within a timely
21 fashion, within a couple of days and said, wait
22 a minute, Bill, you have to give an overall
23 rating, too, the only two you would have been
24 considering -- tell me if I'm wrong -- the only

1 two you would have been considering would have
2 been CALM Golf and Johnson Golf, correct?

3 **MR. JORDAN:** Objection.

4 **A. What I would have said to the town is what I did**
5 **say to them. I said to them, based on**
6 **financials that I've seen of these companies,**
7 **you should go back out to bid. The financials**
8 **aren't strong enough. That was my**
9 **recommendation to the town, and I was not alone**
10 **in that recommendation.**

11 **Q.** Who else recommended that?

12 **A. I can't remember, but there were other people on**
13 **that committee who said the same thing but I**
14 **can't tell you who it was.**

15 **Q.** When you say on the committee, you mean the
16 North Hill Advisory Committee?

17 **A. Not the North Hill Advisory Committee but the**
18 **people who were looking at these bids.**

19 **Q.** The three individuals who did the evaluating?

20 **A. I don't remember who they were. Remember, I was**
21 **a pitch hitter in that I came in late on that.**

22 **Q.** Did you talk to those folks?

23 **A. Never.**

24 **Q.** How did you come to learn what their

recommendations were?

A. Months later somebody told me everybody had a general opinion that we should go back out to bid. The town did, in fact, go back out to bid.

My reason would have been if you had said to me give us an overall rating, my commentary, and it was -- and I told Gordon this -- don't pursue these because the financials I'm looking at aren't strong enough from anybody.

I don't remember seeing Doug's, but looking at the financials today I would have come to the same conclusion on the basis of math and also my experience working with him, asking him over and over again for financial information which we did all the time which he chose not to give us.

Q. Did you get monthly financials from him at every meeting?

A. No.

Q. You did not?

A. No.

Q. What year were you on the committee?

A. Well, I finished in 2001 so it was the six or seven or eight years before that.

THE WITNESS: When did you build the clubhouse?

MR. JOHNSON: That was 2001.

THE WITNESS: So I've got to go backwards from there. I was probably there about six years, wasn't I? I can't remember.

MR. JOHNSON: A few. A few.

Q. In the Marlborough --

MR. JOHNSON: Tom Richards and Greg --

Q. In Marlborough Exhibit Number 1, the Town of Duxbury's Request for Proposals published by the Town of Duxbury, and in the last ten pages, would you take a look at those documents captioned at the top "Johnson Turf and Golf Management, Inc. Monthly Financial Reports" beginning in 1998.

A. 1998?

Q. Yes.

A. These reports, we would get these reports.

Q. Were those the monthly financial reports?

A. On the activity on the course, yes. We were looking at least once a year for financials of Johnson Management which I never saw until today. Never that I remember.

Q. Did you ask?

A. We would get these reports, yes.

Q. At every meeting?

A. Yes.

Q. And it would be --

A. Yes.

Q. It would carry forward on a year to date total?

A. Yes. We would get these reports.

Q. I'm showing you what --

MR. FOLLANSBEE: I only have one copy of this.

Q. I am showing you what was submitted by Eagles Nest Tree & Landscaping, proposal for the North Hill Country Club, October 23, 2008.

Could you quickly -- it's very small.

Could you look through that and let me know whether or not there are any audited financial statements in that.

(Witness complies.)

A. No. You need a letter from the accountant saying it's audited. There's no letter here.

Q. There's no indication of any accounting firm, is there?

A. I don't remember. I haven't looked at it that

closely. I don't see any.

Q. On your rating you gave Eagles Nest a rating of highly advantageous for financial information. Can you explain how you arrived at that conclusion?

A. Probably can. Take a look at the profit and loss, January through December 2007. You'll see a gross profit of 809,344. That may have attracted our attention.

Q. As far as the reliability of that, again, that's not an audited financial statement, is it?

A. No. The only audited financial statement I see here is from Doug and I never saw -- I do not remember seeing that at that time.

Q. According to the directive that you were given by the Town of Duxbury to evaluate these --

A. You say that. I don't remember these directives, but that's fine.

Q. I'm just saying this is what the Town of Duxbury gave me.

A. Maybe they gave it to me, too, but I don't remember them.

MR. FOLLANSBEE: I'd ask that the Eagles Nest bid be marked as the next exhibit.

(Exhibit No. 4 ID marked.)

- 1
2 **Q.** You indicated there was a profit and loss
3 January through December of 2007.
4
5 **A.** **Gross profit.**
6 **Q.** Gross profit?
7 **A.** **Look at the gross profit. I think it's 809. Do**
8 **you see it? I think it's on the other page.**
9 **All I'm saying is that that might have attracted**
10 **my attention.**
11 **Q.** But the -- am I correct that the net income was
12 \$64,000?
13 **A.** **A-huh. Yes.**
14 **Q.** And the gross profit is a number before they
15 even look at items like \$388,000 for payroll,
16 correct?
17 **A.** **Yes. I'm just looking at the cash flow and**
18 **seeing what they're doing with their cash flow.**
19 **Q.** What they were doing was basically giving you a
20 printout from something like QuickBooks,
21 correct?
22 **MR. JORDAN:** Objection.
23 **A.** **I don't know where it came from.**
24 **Q.** There's no indication that any accounting firm
had anything to do with this, is there?

- 1 **A.** **That's correct.**
2 **Q.** The directive that you communicated or the
3 advice that you communicated to Gordon Cushing,
4 am I correct that what you said to Gordon was
5 you need to go out for a new bid?
6 **MR. JORDAN:** Objection.
7 **A.** **You're incorrect.**
8 **Q.** Okay.
9 **A.** **What I said was I don't like the financials from**
10 **anybody. I think you should go out for a new**
11 **bid.**
12 **Q.** And other than telling that to Gordon, did you
13 tell that to anybody else in town government?
14 **A.** **In town government? I don't remember.**
15 **Q.** Did you remember if you said it to anybody else
16 at all other than Gordon?
17 **A.** **My wife. I don't remember, honestly.**
18 **Q.** Now if I ask you what you said to your wife,
19 Lenny's going to climb all over me for spousal
20 privilege.
21 **A.** **I'm teasing.**
22 **MR. KESTEN:** I'm not going to climb all
23 over you.
24 **A.** **I don't remember who I talked to about it.**

- 1 **Honestly, I did not talk to a great many people**
2 **about it.**
3 **Q.** Did you ever talk to Rich McCarthy, the town
4 manager, about it?
5 **A.** **No.**
6 **Q.** Have you ever talked about it at all since then
7 with him?
8 **A.** **No. I don't know Rich.**
9 **MR. FOLLANSBEE:** **If I can have two**
10 **minutes, I might be pretty close.**
11
12 (Recess taken.)
13
14 **Q.** During your tenure on the committee you were
15 familiar with Johnson Golf Management and the
16 multiple other courses that they operated,
17 correct?
18 **A.** **Yes.**
19 **Q.** You knew about their courses at Beverly and in
20 Hingham and in New Bedford?
21 **A.** **Yes.**
22 **Q.** Were you aware of the capital improvements that
23 Johnson had made at the North Hill facility?
24 **A.** **Yes.**

- 1 **Q.** In fact, they had rebuilt the entire clubhouse,
2 correct?
3 **A.** **Yes.**
4 **Q.** They paid for that, right?
5 **A.** **Yes.**
6 **Q.** That's on their financial statement; not on the
7 town's, correct?
8 **A.** **Yes.**
9 **Q.** All those expenses are on Johnson Golf's
10 financials, right?
11 **A.** **Yes.**
12 **Q.** You'd expect to see the financial statement
13 indicate that they had made all those
14 expenditures, correct?
15 **A.** **Yes. And I'll tell you something in point of**
16 **fact that you should be aware of, that the --**
17 **THE WITNESS:** **Correct me if I'm wrong on**
18 **this, Doug. The original budget was \$350,**
19 **because I was the chairman at the time and**
20 **Johnson put in extra money into the building,**
21 **and I always gave you credit for that and always**
22 **will.**
23 **MR. JOHNSON:** If we go off the record
24 I'll just comment on that for a second.

1 MR. FOLLANSBEE: No. We're not going to
2 comment on that.

3 Q. Do you remember --

MR. JOHNSON: Yeah. We spent way more
5 than that.

6 Q. Are you familiar with the project that Johnson
7 Golf Management had beginning in 1998 in New
8 Bedford where they rebuilt an entire golf
9 course?

10 A. No.

11 Q. If that -- if they needed to spend two and a
12 half million dollars of Johnson Golf
13 Management's money rebuilding a course where
14 they had a 35-year lease, would that affect your
15 consideration of their financial statement and
16 your analysis of it?

17 MR. JORDAN: Objection.

18 A. I can't answer that question.

19 Q. Why can't you answer that answer?

20 A. Because it's illogical. You're asking me about
21 something that is kind of a hypothetical. If I
22 had known this would I have looked at it that
23 way.

24 Q. It is a hypothetical question.

1 A. It's a hypothetical. I'm not going to answer
2 it.

3 Q. You don't answer hypothetical questions?

4 A. Very rarely. Maybe my wife's.

5 MR. FOLLANSBEE: I'm going to reserve the
6 right to reexamine the witness on that question.

7 MR. KESTEN: I look forward to that
8 hearing.

9 Q. You knew about Johnson having multiple golf
10 courses, correct?

11 A. Yes.

12 Q. And you knew that the financials -- in fact, the
13 financial statement that you've reviewed
14 indicates multiple facilities, does it not?

15 A. I'm telling you, I don't ever remember seeing
16 this thing.

17 Q. I mean, as you see it today, you know that
18 during that time period there were multiple
19 other courses?

20 A. Yes.

21 THE WITNESS: Correct me if I'm wrong,
22 you had Strawberry Hill and Abington at one
23 point?

24 MR. JOHNSON: Yeah.

1 THE WITNESS: Did you have the George
2 Wright then?

3 MR. JOHNSON: Up until 2002. At one time
4 we had eight.

5 THE WITNESS: The New Bedford course I
6 was aware of. George Wright, Strawberry Hill.
7 Was there a course out west that you had?

8 MR. JOHNSON: Beverly.

9 THE WITNESS: Auburn. I knew you had
10 some of them.

11 MR. FOLLANSBEE: I know we're a little
12 informal here.

13 Q. (By Mr. Follansbee) So you were aware of
14 multiple courses that Johnson was running?

15 A. Yes.

16 Q. And that certainly would factor into their
17 financial results as well, correct?

18 A. Yes.

19 Q. If they had extraordinary expenses of
20 reconstructing, for instance, the building at
21 Duxbury, that would be a negative on their
22 financial statement once they put all that money
23 out, wouldn't it?

24 MR. JORDAN: Objection.

1 A. Don't know.

2 Q. Well, if they paid for it, if they paid for the
3 building at Duxbury --

4 A. Did they finance it?

5 Q. I'm asking you.

6 A. And I'm asking you, did they finance it?

7 Q. Assuming they did finance it, wouldn't that
8 increase the debt that's shown on their
9 financial statement?

10 A. All they'd have is the mortgage application.

11 Q. And that would be on their financial statement
12 as a long term obligation, would it not?

13 A. But they would have on their financial statement
14 the corresponding asset, too.

15 Q. No, sir, they wouldn't, because the
16 corresponding assets belong to the Town of
17 Duxbury.

18 MR. KESTEN: Guys. Come on. Where is
19 this getting us?

20 MR. FOLLANSBEE: I'm trying to inquire of
21 him. He's the financial expert.

22 THE WITNESS: I'm not a financial expert.
23 I'm an insurance salesman.

24 Q. Who owns the building at Duxbury?

1 A. The town.
 2 Q. Although Johnson Golf paid for it, it's not an
 3 asset on their financial statement?
 4 A. My point is, I don't how they paid for it. I
 5 don't know whether they paid for it, whether
 6 they had a lump sum, whether they financed it,
 7 how -- I'm saying to you that I don't remember
 8 seeing these financials so it's really tough for
 9 me to comment on.
 10 Q. I well appreciate that, sir.
 11 A. I remember seeing CALM. CALM was easy to read,
 12 and I remember seeing some of the others, but I
 13 don't remember seeing the other.
 14 Q. And do you remember seeing the criteria
 15 standards --
 16 A. No.
 17 Q. -- that were in Exhibit 1?
 18 A. Honestly, I don't. I'm not saying I didn't see
 19 them. I just don't remember them.
 20 MR. FOLLANSBEE: I have nothing further.
 21
 22
 23 (The deposition suspended at 4:02 p.m.)
 24

1 CERTIFICATE

2 Commonwealth of Massachusetts
 3 Essex, ss.

4 I, Jessica F. Story, Certified Shorthand
 5 Reporter, Registered Professional Reporter and
 6 Notary Public in and for the Commonwealth of
 7 Massachusetts, do hereby certify: that WILLIAM
 8 DIXON, the witness whose deposition is
 9 hereinbefore set forth, was satisfactorily
 10 identified by his Massachusetts driver's
 11 license, then duly sworn by me, and that such
 12 deposition is a true record of the testimony
 13 given by the said witness.

14 I further certify that I am not a
 15 relative or employee or counsel or attorney for
 16 any of the parties, or a relative or employee of
 17 such counsel or attorney, nor am I financially
 18 or otherwise interested in the outcome of the
 19 action.

20 IN WITNESS WHEREOF, I have hereunto set
 21 my hand and notarial seal this 30th day of July,
 22 2011.

23 _____
 Jessica F. Story, CSR, RPR

24 My commission expires
 on September 13, 2013

1 ERRATA SHEET

2 PAGE LINE REASON FOR CORRECTION

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24	DATE: _____	SIGNATURE: _____	_____

1 CERTIFICATE

2
 3
 4
 5 I, WILLIAM DIXON, do hereby certify that
 6 I have read the foregoing transcript of my
 7 testimony, and further certify that said
 8 transcript is a true and accurate record of said
 9 testimony.

10 Signed under the pains and penalties of
 11 perjury this ____ day of _____,
 12 2011.

13
 14
 15
 16 _____
 17 WILLIAM DIXON
 18
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\$	256 [1] - 22:1	Abington [1] - 50:22	ahead [2] - 31:9, 33:22	10:6, 11:10, 24:13
	26 [1] - 22:5			
\$169 [2] - 29:15, 35:8	271 [1] - 22:2	about [23] - 9:6, 13:9, 22:11, 22:19, 23:2, 24:19, 30:1, 30:12, 30:13, 30:14, 31:11, 36:8, 36:11, 38:9, 38:14, 42:5, 46:24, 47:2, 47:4, 47:6, 47:19, 49:20, 50:9	alone [1] - 40:9	aspect [2] - 9:23, 10:3
\$350 [1] - 48:18	2:52 [1] - 1:20	according [3] - 23:5, 31:16, 44:15	also [5] - 17:19, 20:16, 24:20, 26:9, 41:13	assess [1] - 24:15
\$388,000 [1] - 45:14	3	accountant [1] - 43:20	ALSO [1] - 2:19	asset [2] - 52:14, 53:3
\$64,000 [1] - 45:11		accounting [2] - 43:22, 45:23	although [2] - 31:12, 53:2	assets [3] - 29:15, 35:8, 52:16
'	4	accounts [1] - 9:5	always [3] - 19:21, 48:21	Associates [3] - 2:13, 6:15, 6:17
'94 [1] - 12:5		accumulated [1] - 21:18	am [8] - 28:23, 29:7, 33:1, 43:12, 45:10, 46:4, 54:14, 54:17	assume [2] - 35:12, 35:16
0	4.33 [1] - 21:23	accurate [1] - 56:8	analysis [1] - 49:16	assuming [2] - 21:1, 52:7
	4.682 [1] - 21:22	acknowledge [1] - 37:24	another [2] - 20:6, 30:3	attached [1] - 29:12
1	40 [1] - 32:24	across [1] - 30:14	answer [11] - 5:2, 12:12, 12:14, 12:18, 23:15, 24:7, 49:18, 49:19, 50:1, 50:3	attended [1] - 5:22
	45 [1] - 3:11	act [1] - 9:17	answering [1] - 12:17	attention [7] - 11:15, 13:16, 14:23, 15:14, 15:19, 44:9, 45:9
103 [1] - 29:12	4:02 [1] - 53:23	action [1] - 54:19	Anthony [2] - 2:10, 2:16	Attorney [3] - 2:4, 2:8, 2:14
	5	activity [1] - 42:21	ANTHONY [1] - 1:11	attorney [2] - 54:15, 54:17
536 [2] - 1:19, 2:3		actual [1] - 19:7	any [16] - 6:7, 9:10, 10:20, 12:6, 13:8, 13:13, 16:18, 25:8, 26:17, 35:7, 43:17, 43:22, 44:1, 45:23, 54:16	attorneys [1] - 9:11
10th [1] - 8:8	56 [1] - 1:1	adding [1] - 7:13	anybody [6] - 12:17, 13:8, 41:9, 46:10, 46:13, 46:15	attracted [2] - 44:9, 45:8
11 [1] - 3:7	570,088 [1] - 22:8	additional [3] - 7:14, 24:20, 36:24	anyone [2] - 9:6, 36:7	Auburn [1] - 51:9
1120S [1] - 29:13	59 [1] - 4:17	address [2] - 4:16, 4:17	anything [4] - 12:20, 13:14, 38:7, 45:24	audited [17] - 14:14, 14:16, 16:12, 16:19, 19:23, 20:12, 21:1, 23:7, 23:19, 27:12, 29:1, 29:3, 29:19, 43:17, 43:21, 44:11, 44:12
11th [1] - 8:15	6	administrative [1] - 21:24	APPEARANCES [1] - 2:1	Audited [1] - 3:10
13 [1] - 54:24		advantageous [22] - 16:5, 16:17, 16:22, 17:21, 21:5, 22:24, 23:7, 23:18, 24:4, 24:5, 27:1, 27:21, 29:21, 31:5, 31:15, 31:24, 32:5, 36:21, 39:12, 39:17, 39:18, 44:3	appears [1] - 27:7	available [1] - 15:23
15 [3] - 6:19, 17:18, 29:15	610 [1] - 21:24	advice [1] - 46:3	applicable [1] - 1:17	Avenue [1] - 1:19
15 [3] - 6:19, 17:18, 29:15	617.723.7321 [1] - 1:24	Advisory [11] - 2:8, 2:15, 6:20, 7:1, 7:7, 12:3, 12:23, 29:13, 37:17, 40:16, 40:17	application [1] - 52:10	awarded [1] - 12:9
171 [1] - 22:6	617.723.7322 [1] - 1:24	ADVISORY [1] - 1:9	approached [1] - 9:17	aware [7] - 12:9, 30:6, 33:10, 47:22, 48:16, 51:6, 51:13
18 [3] - 7:14, 8:2, 8:4	67 [2] - 14:24, 15:19	affect [1] - 49:14	area [4] - 16:4, 21:5, 27:21, 31:16	away [1] - 9:20
19 [3] - 1:20, 3:9, 3:10	6A [1] - 2:13	after [7] - 5:22, 6:7, 7:17, 14:6, 36:1, 36:8, 39:19	aren't [2] - 40:8, 41:9	B
1961 [1] - 5:21	8	afternoon [3] - 4:11, 8:3, 37:11	around [1] - 28:8	
		2.4 [2] - 21:20, 21:21	arrive [1] - 16:24	BA [1] - 6:3
2001 [4] - 7:9, 12:5, 41:23, 42:3	809 [1] - 45:6	again [5] - 8:14, 22:16, 35:3, 41:14, 44:10	arrived [2] - 16:21, 44:4	
2002 [1] - 51:3	809,344 [1] - 44:8	agent [1] - 13:13	articulate [1] - 5:1	background [3] - 5:13, 7:11, 12:15
2005 [5] - 20:3, 20:5, 20:13, 22:1, 22:6	8th [1] - 8:9	ago [4] - 5:5, 10:21, 10:22, 30:21	ask [8] - 5:6, 11:12, 18:3, 19:2, 19:18, 43:1, 44:23, 46:18	
2006 [5] - 20:5, 20:6, 20:13, 21:19, 22:6	9	agree [1] - 31:10	asked [5] - 9:22, 10:2,	bad [1] - 35:4
2007 [8] - 20:3, 20:6, 20:14, 22:7, 29:13, 44:7, 45:3		90 [1] - 2:13	A	
2008 [9] - 9:13, 11:1, 13:7, 14:4, 14:22, 15:10, 19:12, 21:3, 43:14	91 [1] - 28:21	a-huh [2] - 20:20, 45:12		asked [5] - 9:22, 10:2,
2011 [3] - 1:20, 54:22, 56:12	92 [1] - 1:23		a-huh [2] - 20:20, 45:12	
2013 [1] - 54:24	9th [1] - 8:9	a-huh [2] - 20:20, 45:12		asked [5] - 9:22, 10:2,
23 [1] - 43:14	A		a-huh [2] - 20:20, 45:12	

<p>based [4] - 24:21, 31:10, 33:4, 40:5</p> <p>basically [2] - 38:9, 45:18</p> <p>basis [1] - 41:12</p> <p>Beachwood [1] - 4:18</p> <p>beautiful [1] - 4:21</p> <p>because [21] - 15:3, 18:15, 22:10, 22:11, 24:24, 25:24, 26:3, 26:8, 26:10, 26:13, 31:21, 32:21, 32:24, 35:4, 35:19, 37:13, 37:22, 41:8, 48:19, 49:20, 52:15</p> <p>Bedford [3] - 47:20, 49:8, 51:5</p> <p>been [34] - 4:4, 4:22, 6:16, 8:16, 9:24, 11:2, 11:15, 11:24, 12:5, 12:9, 14:2, 19:6, 19:9, 19:22, 22:11, 25:3, 25:14, 25:17, 25:24, 26:3, 26:14, 26:19, 28:7, 28:20, 33:4, 34:14, 36:21, 37:2, 37:15, 38:4, 39:23, 40:1, 40:2, 41:5</p> <p>before [9] - 1:17, 4:22, 7:24, 22:4, 26:8, 26:10, 36:7, 41:24, 45:13</p> <p>beginning [4] - 5:14, 28:21, 42:16, 49:7</p> <p>behalf [3] - 1:16, 4:3, 32:23</p> <p>being [2] - 7:19, 11:10</p> <p>believe [3] - 13:23, 28:19, 29:11</p> <p>belong [1] - 52:16</p> <p>belonged [1] - 26:11</p> <p>best [3] - 26:2, 26:24, 37:4</p> <p>between [1] - 7:2</p> <p>beverly [1] - 51:8</p> <p>Beverly [1] - 47:19</p> <p>bid [9] - 18:15, 25:23, 35:3, 40:7, 41:4, 44:24, 46:5, 46:11</p> <p>bidders [2] - 23:17, 26:21</p> <p>bidding [2] - 31:3, 33:23</p> <p>bids [3] - 10:1, 10:3, 40:18</p> <p>Bill [2] - 36:17, 39:22</p> <p>bit [1] - 29:17</p> <p>board [1] - 8:22</p> <p>Bob [3] - 25:12, 25:15, 38:22</p>	<p>Bobby [3] - 25:13, 26:8, 39:1</p> <p>BOSTON [1] - 1:23</p> <p>Boston [3] - 2:7, 5:18, 5:19</p> <p>bottom [2] - 36:3, 36:18</p> <p>brain [1] - 32:11</p> <p>Braintree [2] - 1:19, 2:4</p> <p>BRAMANTI [1] - 1:22</p> <p>brand [3] - 28:7, 30:6, 34:12</p> <p>break [1] - 21:11</p> <p>Brody [1] - 2:6</p> <p>broken [1] - 9:24</p> <p>broker [1] - 6:11</p> <p>budget [1] - 48:18</p> <p>build [1] - 42:1</p> <p>building [4] - 48:20, 51:20, 52:3, 52:24</p> <p>business [5] - 6:14, 6:16, 9:20, 32:3, 38:9</p> <p>businessman [3] - 22:12, 25:17, 26:13</p> <p>but [31] - 8:7, 8:14, 8:21, 10:10, 10:22, 14:2, 18:13, 22:17, 24:16, 24:19, 26:2, 28:8, 30:6, 32:3, 32:19, 33:3, 33:17, 34:8, 34:12, 35:2, 35:5, 37:15, 40:12, 40:13, 40:17, 41:10, 44:18, 44:21, 45:10, 52:13, 53:12</p> <p>BY [1] - 4:10</p> <p>by [36] - 3:4, 4:5, 7:11, 7:18, 9:17, 11:6, 12:10, 12:15, 14:19, 15:21, 19:9, 19:11, 22:20, 24:2, 25:24, 26:12, 27:20, 27:23, 28:18, 28:22, 29:1, 29:10, 30:17, 31:11, 31:17, 32:7, 33:19, 38:2, 38:7, 42:11, 43:12, 44:16, 51:13, 54:10, 54:11, 54:13</p>	<p>34:13, 37:21, 37:24, 38:12, 40:2, 53:11</p> <p>CALM's [1] - 32:20</p> <p>came [6] - 9:22, 13:10, 24:12, 30:14, 40:21, 45:22</p> <p>can't [9] - 7:24, 9:20, 22:9, 36:12, 40:12, 40:14, 42:6, 49:18, 49:19</p> <p>candidate [1] - 39:2</p> <p>candidates [1] - 18:9</p> <p>candidly [2] - 35:20, 37:19</p> <p>capability [1] - 34:24</p> <p>capable [1] - 33:2</p> <p>capital [1] - 47:22</p> <p>captioned [1] - 42:14</p> <p>carry [1] - 43:7</p> <p>case [1] - 26:21</p> <p>cash [2] - 45:16, 45:17</p> <p>categories [2] - 27:2, 27:9</p> <p>category [4] - 17:20, 29:21, 31:4, 31:24</p> <p>caught [1] - 33:9</p> <p>ceased [1] - 7:18</p> <p>certainly [1] - 51:16</p> <p>CERTIFICATE [2] - 54:1, 56:3</p> <p>Certified [2] - 1:18, 54:4</p> <p>certify [4] - 54:7, 54:14, 56:5, 56:7</p> <p>cetera [1] - 14:12</p> <p>chairman [4] - 7:9, 8:18, 18:6, 48:19</p> <p>Chairman [2] - 2:9, 2:16</p> <p>CHAIRMAN [1] - 1:10</p> <p>chance [1] - 14:8</p> <p>changed [1] - 8:15</p> <p>charged [1] - 7:4</p> <p>CHARLES [1] - 1:13</p> <p>chose [1] - 41:16</p> <p>circumstances [1] - 9:21</p> <p>Civil [1] - 1:17</p> <p>class [1] - 13:13</p> <p>clear [1] - 5:8</p> <p>climb [2] - 46:19, 46:22</p> <p>close [1] - 47:10</p> <p>closely [1] - 44:1</p> <p>Club [3] - 25:13, 38:23, 43:14</p> <p>club [2] - 26:9, 26:11</p> <p>clubhouse [2] - 42:2, 48:1</p> <p>clues [1] - 23:24</p> <p>college [3] - 5:15, 5:22</p>	<p>College [3] - 5:23, 6:1, 6:8</p> <p>come [8] - 13:13, 17:15, 27:20, 37:9, 39:19, 40:24, 41:12, 52:18</p> <p>commencing [1] - 1:20</p> <p>comment [3] - 48:24, 49:2, 53:9</p> <p>commentary [1] - 41:6</p> <p>commission [1] - 54:24</p> <p>COMMITTEE [1] - 1:9</p> <p>Committee [11] - 2:9, 2:15, 6:20, 7:1, 7:7, 12:4, 12:23, 29:14, 37:17, 40:16, 40:17</p> <p>committee [16] - 7:9, 7:12, 7:19, 7:22, 8:1, 8:22, 18:6, 18:7, 25:3, 26:6, 33:1, 39:1, 40:13, 40:15, 41:22, 47:14</p> <p>COMMONWEALTH [1] - 1:3</p> <p>Commonwealth [3] - 1:18, 54:2, 54:6</p> <p>communicated [2] - 46:2, 46:3</p> <p>community [1] - 32:13</p> <p>companies [2] - 26:23, 40:6</p> <p>company [11] - 24:2, 31:3, 33:24, 34:3, 34:13, 34:14, 35:7, 35:15, 38:4, 39:4</p> <p>complies [4] - 14:7, 23:3, 31:8, 43:19</p> <p>concept [1] - 7:17</p> <p>concern [1] - 29:16</p> <p>concerned [1] - 22:11</p> <p>concise [1] - 5:9</p> <p>conclusion [3] - 37:10, 41:12, 44:5</p> <p>connected [2] - 34:3, 34:4</p> <p>Conner [1] - 25:20</p> <p>consideration [2] - 37:22, 49:15</p> <p>considering [2] - 39:24, 40:1</p> <p>CONSISTING [1] - 1:10</p> <p>Consisting [2] - 2:9, 2:15</p> <p>constitute [2] - 14:14, 20:12</p> <p>contract [2] - 12:9, 21:21</p> <p>copy [1] - 43:10</p>	<p>corporate [1] - 30:1</p> <p>corporation [10] - 28:1, 28:7, 30:4, 30:7, 30:13, 31:12, 31:14, 31:15, 33:7, 33:10</p> <p>Corporation [1] - 29:14</p> <p>Correct [3] - 25:7, 26:20, 39:5</p> <p>correct [39] - 5:2, 13:5, 14:1, 16:5, 20:4, 20:14, 20:15, 23:20, 24:5, 25:6, 26:22, 27:4, 27:9, 27:13, 27:14, 28:23, 30:9, 33:24, 34:10, 34:11, 34:15, 34:18, 38:2, 39:9, 39:13, 40:2, 45:10, 45:15, 45:20, 46:1, 46:4, 47:17, 48:2, 48:7, 48:14, 48:17, 50:10, 50:21, 51:17</p> <p>corrected [1] - 10:15</p> <p>CORRECTION [1] - 55:2</p> <p>corresponding [2] - 52:14, 52:16</p> <p>costs [1] - 21:22</p> <p>counsel [2] - 54:15, 54:17</p> <p>Country [1] - 43:14</p> <p>couple [2] - 31:6, 39:21</p> <p>course [15] - 7:3, 7:5, 7:15, 8:14, 12:1, 13:5, 25:6, 25:15, 26:7, 32:15, 42:21, 49:9, 49:13, 51:5, 51:7</p> <p>Course [4] - 30:4, 33:16, 34:4, 34:15</p> <p>courses [5] - 47:16, 47:19, 50:10, 50:19, 51:14</p> <p>COURT [2] - 1:4, 1:22</p> <p>cover [1] - 20:3</p> <p>covering [1] - 20:13</p> <p>CPA [1] - 29:2</p> <p>Craig [1] - 2:12</p> <p>crazy [1] - 8:22</p> <p>credit [1] - 48:21</p> <p>criteria [5] - 15:20, 22:23, 24:4, 31:2, 53:14</p> <p>crowd [1] - 25:20</p> <p>CSR [1] - 54:23</p> <p>Cushing [6] - 2:11, 2:17, 10:17, 13:8, 18:21, 46:3</p>
	<p>C</p>			
	<p>call [1] - 21:23</p> <p>called [4] - 4:3, 9:20, 30:2, 34:13</p> <p>CALM [21] - 1:13, 27:2, 27:7, 27:15, 27:20, 28:18, 28:22, 29:10, 29:24, 30:6, 31:11, 33:3, 33:23,</p>			

CUSHING [1] - 1:12	19:1, 19:6, 19:9, 19:13, 20:10, 21:11, 22:21, 24:1, 27:18, 36:8	25:12, 25:18, 30:18, 31:17, 32:1, 38:23, 42:12, 44:16, 44:19, 51:21, 52:3, 52:17, 52:24	even [3] - 18:7, 39:11, 45:14	F
D		DUXBURY [1] - 1:9	ever [7] - 11:24, 20:22, 36:7, 37:6, 47:3, 47:6, 50:15	
D-i-x-o-n [1] - 4:17	documentation [2] - 26:19, 29:18	Duxbury's [2] - 24:3, 42:11	every [2] - 41:17, 43:3	facilities [1] - 50:14
Daley [3] - 26:15, 26:17, 39:8	documents [3] - 11:7, 14:13, 42:13		everybody [2] - 18:22, 41:2	facility [1] - 47:23
date [1] - 43:7	does [3] - 22:13, 29:8, 50:14	E	everything [1] - 8:15	fact [7] - 4:24, 7:20, 31:13, 41:4, 48:1, 48:16, 50:12
DATE [1] - 55:24	doesn't [2] - 21:16, 29:9	Eagles [6] - 3:11, 18:11, 39:3, 43:12, 44:2, 44:23	EX [1] - 1:12	factor [1] - 51:16
day [2] - 54:21, 56:11	doing [3] - 28:9, 45:17, 45:18	earns [1] - 32:4	Ex [2] - 2:11, 2:17	fair [1] - 16:15
days [2] - 29:7, 39:21	dollars [1] - 49:12	easy [2] - 20:16, 53:11	EXAMINATION [1] - 4:10	fall [3] - 9:13, 11:3, 19:11
deal [2] - 28:2, 28:8	don't [57] - 5:7, 8:23, 10:9, 12:21, 13:23, 15:13, 15:14, 16:2, 17:4, 17:9, 17:10, 17:12, 17:14, 19:14, 19:16, 20:1, 20:7, 21:9, 22:10, 24:6, 24:8, 24:9, 24:23, 27:11, 30:19, 32:16, 32:18, 35:23, 36:19, 36:23, 37:7, 37:19, 38:19, 39:10, 39:11, 40:20, 41:7, 41:10, 43:24, 44:1, 44:17, 44:21, 45:22, 46:9, 46:14, 46:17, 46:24, 47:8, 50:3, 50:15, 52:1, 53:4, 53:5, 53:7, 53:13, 53:18, 53:19	education [1] - 6:7	Examination [1] - 3:4	familiar [5] - 4:24, 9:3, 30:3, 47:15, 49:6
debt [1] - 52:8	DOOLIN [1] - 1:10	educational [1] - 5:13	excellent [1] - 32:12	far [7] - 25:2, 26:17, 27:15, 34:21, 35:6, 37:18, 44:10
decendent [1] - 18:11	Doolin [2] - 2:9, 2:15	eight [3] - 7:8, 41:24, 51:4	exception [1] - 18:10	fashion [1] - 39:21
December [3] - 21:19, 44:7, 45:3	Doug [9] - 18:2, 18:4, 22:12, 25:22, 26:2, 26:3, 35:24, 44:13, 48:18	eliminate [1] - 39:6	exclusively [1] - 33:23	FAX [1] - 1:24
decision [2] - 27:20, 33:2	Doug's [2] - 32:18, 41:10	eliminated [1] - 37:21	Exeter [1] - 2:7	feel [1] - 5:10
Defendants [3] - 1:14, 2:8, 2:14	Douglas [1] - 2:20	else [6] - 12:20, 13:8, 38:2, 40:11, 46:13, 46:15	exhibit [8] - 11:13, 16:7, 16:8, 16:9, 19:3, 19:8, 19:19, 44:24	fees [1] - 21:21
deficit [1] - 21:18	down [1] - 36:2	Emmett [3] - 25:17, 25:18, 26:13	Exhibit [21] - 11:14, 11:16, 11:20, 13:16, 13:21, 13:24, 14:9, 14:20, 14:23, 15:6, 19:4, 19:7, 19:20, 19:22, 20:17, 22:21, 28:19, 30:24, 42:10, 45:1, 53:17	fellow [2] - 9:20, 13:1, 42:7
defined [1] - 22:20	driver's [2] - 4:6, 54:10	employee [2] - 54:15, 54:16	EXHIBITS [1] - 1:2	fiasco [1] - 33:3
degree [2] - 6:3, 6:5	dropped [1] - 34:20	encouraging [2] - 8:19, 8:20	Exhibits [1] - 3:6	figures [1] - 22:13
Deponent's [1] - 3:7	dropping [1] - 34:21	end [3] - 14:11, 19:22, 29:11	existence [1] - 8:16	fill [4] - 11:10, 36:13, 36:15, 36:17
deposed [2] - 4:22, 5:4	due [2] - 10:5, 31:13	ended [1] - 21:18	expect [1] - 48:12	filled [3] - 36:4, 36:5, 36:20
deposes [1] - 4:7	dues [1] - 21:21	English [2] - 5:17, 5:19	expenditures [1] - 48:14	filling [2] - 11:21, 36:8
DEPOSITION [1] - 1:16	dug [1] - 8:11	enough [3] - 32:23, 40:8, 41:9	expense [1] - 22:3	finance [7] - 7:22, 8:1, 33:1, 38:24, 52:4, 52:6, 52:7
Deposition [1] - 3:2	duly [2] - 4:6, 54:11	entertain [1] - 35:3	expenses [4] - 21:24, 22:4, 48:9, 51:19	financed [1] - 53:6
deposition [11] - 13:22, 13:24, 14:10, 14:21, 17:16, 22:22, 28:20, 31:1, 53:23, 54:8, 54:12	during [7] - 12:4, 12:10, 12:22, 26:4, 37:16, 47:14, 50:18	entertaining [1] - 7:13	experience [17] - 25:8, 25:11, 26:9, 30:9, 30:11, 31:2, 31:13, 31:14, 31:16, 32:2, 32:4, 32:17, 34:9, 34:17, 34:23, 39:16, 41:13	Financial [2] - 3:10, 42:15
describes [1] - 16:10	Duxbury [27] - 2:8, 2:15, 4:18, 6:13, 6:21, 9:2, 9:14, 14:3, 14:20, 15:21, 16:8, 19:10, 23:5, 24:3,	entire [3] - 36:8, 48:1, 49:8	expected [1] - 25:15	financial [51] - 9:23, 10:2, 10:11, 14:11, 14:14, 14:16, 16:4, 16:9, 16:11, 16:12, 16:17, 16:19, 17:20, 18:16, 18:21, 19:23, 20:12, 20:17, 20:22, 21:1, 21:5, 23:8, 23:14, 23:19, 27:12, 27:17, 27:21, 28:2, 28:22, 28:24, 32:18, 34:19, 39:17, 41:14, 42:20, 43:17, 44:3, 44:11, 44:12, 48:6, 48:12, 49:15, 50:13, 51:17, 51:22, 52:9, 52:11, 52:13, 52:21, 52:22, 53:3
description [1] - 31:5		equipment [4] - 35:7, 35:8, 35:13, 38:1	EXHIBITS [1] - 1:2	financially [1] - 54:17
detailed [1] - 18:5		equipment/staff [1] - 34:24	Exhibits [1] - 3:6	financials [34] - 10:10, 10:11, 18:4, 18:5, 18:8, 18:12, 18:16, 22:19, 28:9, 32:19, 32:21, 33:5, 33:6, 33:19, 33:22, 35:4,
determine [2] - 24:11, 37:1		ERRATA [1] - 55:1	expert [2] - 52:21, 52:22	
different [7] - 10:3, 10:13, 13:10, 18:9, 24:21, 24:24, 25:2		Esq [3] - 2:2, 2:6, 2:12	expires [1] - 54:24	
difficulty [1] - 5:11		Essex [1] - 54:2	explain [1] - 44:4	
directing [5] - 11:15, 13:16, 14:22, 15:19, 31:1		et [1] - 14:12	explained [1] - 38:22	
directive [3] - 23:16, 44:15, 46:2		evaluate [2] - 15:21, 44:16	extensive [1] - 34:9	
directives [1] - 44:18		evaluating [2] - 13:9, 40:19	extra [1] - 48:20	
discuss [1] - 10:17		evaluation [4] - 10:18, 16:3, 17:17, 26:18	extraordinary [1] - 51:19	
discussed [1] - 9:9		evaluations [1] - 16:1		
DIXON [6] - 1:16, 3:3, 4:3, 54:8, 56:5, 56:16		evaluator [2] - 9:19, 22:20		
Dixon [3] - 4:17, 6:15, 6:16		evaluators [1] - 9:18		
DOCKET [1] - 1:4				
document [13] - 11:19, 15:1, 15:4,				

<p>35:20, 37:3, 37:4, 37:5, 37:6, 37:12, 37:23, 38:12, 40:6, 40:7, 41:8, 41:11, 41:17, 42:22, 46:9, 48:10, 50:12, 53:8 find [1] - 22:7 fine [1] - 44:18 finish [2] - 17:12, 17:15 finished [2] - 7:8, 41:23 firm [3] - 32:3, 43:22, 45:23 firm's [1] - 32:1 first [4] - 4:4, 11:13, 13:19, 16:11 five [2] - 11:20, 20:7 flip [1] - 20:9 Floreano [4] - 2:10, 2:16, 14:10, 28:21 FLOREANO [1] - 1:11 floreano's [1] - 13:24 flow [2] - 45:16, 45:17 focus [1] - 26:23 foiled [1] - 33:20 folks [3] - 25:23, 26:12, 40:22 FOLLANSBEE [22] - 4:10, 4:13, 11:12, 15:5, 15:9, 15:13, 15:17, 17:6, 17:9, 19:2, 19:18, 21:10, 28:13, 28:16, 43:10, 44:23, 47:9, 49:1, 50:5, 51:11, 52:20, 53:20 Follansbee [5] - 1:19, 2:2, 2:3, 3:4, 51:13 follows [1] - 4:7 foolishness [1] - 33:8 FOR [1] - 55:2 FORD [1] - 1:12 Ford [2] - 2:11, 2:17 foregoing [1] - 56:6 form [3] - 11:21, 18:24, 29:13 forth [3] - 31:17, 33:24, 54:9 forward [3] - 18:14, 43:7, 50:7 foundation [1] - 15:3 four [5] - 5:5, 8:3, 10:24, 16:10, 27:2 free [1] - 5:10 front [5] - 13:17, 16:7, 20:9, 24:1, 30:23 further [4] - 6:7, 53:20, 54:14, 56:7</p>	<p>G</p> <p>gags [1] - 12:16 game [1] - 33:4 Garrity [2] - 2:10, 2:17 GARRITY [1] - 1:12 gave [9] - 16:4, 17:22, 18:11, 27:8, 36:16, 44:2, 44:20, 44:21, 48:21 general [2] - 21:23, 41:3 George [2] - 51:1, 51:6 get [13] - 6:5, 17:7, 17:11, 18:6, 21:11, 22:24, 23:6, 23:18, 35:20, 41:17, 42:19, 43:2, 43:8 getting [1] - 52:19 give [10] - 4:11, 4:15, 13:8, 13:13, 19:7, 29:12, 33:19, 39:22, 41:6, 41:16 given [6] - 21:3, 26:19, 30:17, 33:6, 44:15, 54:13 giving [1] - 45:18 glance [1] - 14:4 go [20] - 5:16, 7:21, 8:2, 8:13, 10:18, 13:9, 18:14, 18:15, 21:11, 22:7, 24:23, 31:9, 33:22, 40:7, 41:3, 41:4, 42:4, 46:5, 46:10, 48:23 going [22] - 8:4, 8:13, 9:14, 10:18, 11:12, 17:4, 24:14, 27:23, 28:9, 30:22, 31:21, 33:22, 35:2, 35:3, 35:16, 37:10, 38:7, 46:19, 46:22, 49:1, 50:1, 50:5 Golf [45] - 3:8, 3:10, 9:2, 12:11, 13:2, 17:17, 17:19, 17:22, 18:24, 19:11, 19:24, 20:19, 21:4, 25:4, 26:24, 27:2, 27:3, 27:6, 27:7, 27:12, 27:15, 27:16, 27:20, 28:18, 28:24, 29:11, 29:24, 30:4, 30:6, 31:11, 33:16, 33:23, 34:4, 34:13, 34:15, 36:21, 37:21, 37:24, 40:2, 42:14, 47:15, 49:7, 49:12, 53:2 golf [12] - 7:3, 12:1, 13:4, 25:5, 25:12,</p>	<p>26:1, 32:3, 32:13, 38:9, 39:4, 49:8, 50:9 GOLF [2] - 1:6, 1:13 Golf's [2] - 27:17, 48:9 gone [1] - 8:4 good [5] - 4:11, 8:23, 22:12, 33:18, 35:1 Gordon [12] - 2:11, 2:17, 9:22, 10:17, 18:19, 18:21, 36:16, 41:7, 46:3, 46:4, 46:12, 46:16 GORDON [1] - 1:12 got [7] - 8:21, 21:20, 21:22, 22:3, 22:5, 33:9, 42:4 government [3] - 7:18, 46:13, 46:14 grabs [1] - 12:16 grade [3] - 16:11, 18:11, 36:5 grades [1] - 16:10 graduate [3] - 5:15, 5:20, 5:24 graduated [1] - 5:17 Granite [2] - 1:19, 2:3 great [1] - 47:1 Greg [1] - 42:9 gross [6] - 21:23, 44:8, 45:4, 45:5, 45:6, 45:13 group [2] - 26:15, 33:8 groups [5] - 24:22, 24:24, 25:3, 25:9, 25:11 guidelines [2] - 30:17, 31:17 Gunnarson [6] - 13:20, 14:4, 16:3, 16:16, 25:12, 38:14 Gunnarson's [1] - 14:8 guy [1] - 28:14 guys [3] - 25:23, 30:2, 52:18</p>	<p>14:8, 15:23, 16:14, 34:9, 50:9 he's [3] - 29:4, 29:8, 52:21 head [2] - 28:12, 28:13 heard [2] - 33:13, 33:17 hearing [1] - 50:8 held [1] - 8:2 hell [1] - 37:15 here [7] - 20:7, 20:8, 20:11, 39:16, 43:21, 44:13, 51:12 here's [1] - 20:11 hereby [2] - 54:7, 56:5 hereinbefore [1] - 54:9 hereunto [1] - 54:20 high [3] - 5:14, 5:15, 5:16 High [1] - 5:17 highly [10] - 21:4, 22:24, 23:7, 23:18, 24:4, 24:5, 27:1, 36:21, 39:12, 44:3 Hill [22] - 1:9, 2:8, 2:15, 6:20, 6:24, 7:7, 12:3, 12:23, 25:14, 25:15, 26:10, 28:2, 29:13, 37:17, 38:24, 40:16, 40:17, 43:14, 47:23, 50:22, 51:6 him [9] - 13:1, 16:5, 28:15, 28:17, 41:13, 41:14, 41:17, 47:7, 52:21 Hingham [1] - 47:20 his [4] - 4:5, 23:21, 24:2, 54:10 history [3] - 24:21, 24:23, 25:2 hitter [1] - 40:21 hole [1] - 7:14 holes [5] - 7:14, 8:2, 8:4, 8:11, 8:12 home [2] - 4:17, 8:4 honest [1] - 39:10 honestly [3] - 46:17, 47:1, 53:18 how [14] - 6:16, 10:17, 13:9, 16:21, 16:24, 23:9, 23:10, 27:20, 30:18, 38:14, 40:24, 44:4, 53:4, 53:7 huh [2] - 20:20, 45:12 hypothetical [4] - 49:21, 49:24, 50:1, 50:3</p>	<p>I</p> <p>ID [4] - 11:14, 19:4, 19:20, 45:1 identical [2] - 27:8 identically [1] - 27:3 identified [3] - 4:5, 15:5, 54:10 illogical [1] - 49:20 illustration [1] - 11:6 improvements [1] - 47:22 IN [1] - 54:20 Inc [1] - 42:15 INC [3] - 1:6, 1:13, 1:22 include [1] - 16:18 including [1] - 36:9 income [2] - 22:4, 45:10 incomes [1] - 22:5 incorrect [1] - 46:7 increase [1] - 52:8 independent [2] - 6:11, 29:2 indicate [3] - 29:15, 29:24, 48:13 indicated [3] - 27:11, 37:21, 45:2 indicates [1] - 50:14 indication [2] - 43:22, 45:23 individually [1] - 34:18 individuals [2] - 34:8, 40:19 informal [1] - 51:12 information [23] - 16:4, 16:10, 16:11, 16:18, 17:20, 18:17, 18:22, 21:6, 23:14, 24:10, 24:14, 24:20, 27:15, 27:18, 27:22, 28:3, 28:22, 28:24, 29:1, 36:24, 39:17, 41:15, 44:3 injury [2] - 28:12, 28:13 inquire [1] - 52:20 instance [1] - 51:20 instruction [2] - 13:9, 17:7 insurance [2] - 6:11, 52:23 intelligent [1] - 33:2 interacted [1] - 25:4 interest [1] - 22:3 interested [1] - 54:18 interrupt [1] - 5:10 into [3] - 9:24, 48:20,</p>
--	---	---	---	--

<p>51:16 involved [5] - 11:24, 12:6, 24:17, 30:10, 32:12 involvement [1] - 9:9 irrigation [1] - 7:23 isn't [1] - 10:21 issued [2] - 14:19, 15:9 it'll [1] - 21:8 it's [14] - 5:7, 10:21, 17:8, 17:18, 30:24, 33:18, 43:15, 43:21, 45:6, 45:7, 49:20, 50:1, 53:2, 53:8 item [1] - 23:14 items [1] - 45:14 itself [1] - 37:24</p> <p>J</p> <p>JAMES [1] - 1:12 James [2] - 2:11, 2:17 January [2] - 44:7, 45:3 Jason [1] - 2:21 Joe [1] - 18:4 JOHNSON [10] - 1:6, 37:20, 42:3, 42:7, 42:9, 48:23, 49:4, 50:24, 51:3, 51:8 Johnson [36] - 2:20, 3:8, 3:10, 9:2, 12:11, 12:22, 13:2, 17:17, 17:19, 17:22, 18:24, 19:11, 19:24, 20:19, 21:4, 24:2, 25:4, 26:24, 27:3, 27:6, 27:12, 27:16, 28:24, 36:20, 40:2, 42:14, 42:23, 47:15, 47:23, 48:9, 48:20, 49:6, 49:12, 50:9, 51:14, 53:2 JORDAN [17] - 12:12, 15:2, 15:7, 15:11, 21:7, 24:7, 29:22, 31:18, 34:6, 35:10, 36:22, 38:10, 40:3, 45:21, 46:6, 49:17, 51:24 Jordan [1] - 2:12 JR [1] - 1:10 Jr [2] - 2:10, 2:16 judge [1] - 16:15 judged [2] - 23:9, 23:10 July [2] - 1:20, 54:21 just [16] - 5:8, 7:11, 11:6, 12:13, 12:15, 19:16, 20:17, 23:1,</p>	<p>25:24, 29:17, 33:15, 38:8, 44:19, 45:16, 48:24, 53:19</p> <p>K</p> <p>keep [1] - 20:7 kept [1] - 37:5 KESTEN [13] - 4:12, 14:1, 15:16, 17:12, 23:21, 23:24, 28:12, 28:15, 29:4, 29:7, 46:22, 50:7, 52:18 Kesten [2] - 2:6, 2:6 kind [1] - 49:21 knew [23] - 24:15, 24:16, 26:2, 26:8, 26:12, 26:13, 30:1, 30:9, 31:11, 31:21, 34:2, 34:4, 34:12, 34:24, 35:2, 35:5, 35:6, 38:8, 39:3, 47:19, 50:9, 50:12, 51:9 know [19] - 10:9, 16:21, 17:22, 24:6, 24:8, 24:9, 25:24, 26:16, 33:15, 33:18, 35:1, 36:23, 43:16, 45:22, 47:8, 50:17, 51:11, 52:1, 53:5 knowledge [2] - 38:23, 39:1 known [2] - 25:18, 49:22 knows [1] - 18:2</p> <p>L</p> <p>Landscaping [2] - 39:3, 43:13 landscaping [1] - 39:4 Lane [1] - 4:18 Lanzetta [2] - 34:9, 38:5 LANZETTA [1] - 1:13 Laramie [1] - 2:21 last [6] - 5:4, 6:19, 7:10, 8:17, 26:15, 42:12 late [1] - 40:21 later [3] - 33:17, 36:14, 41:2 lay [1] - 15:3 learn [1] - 40:24 lease [1] - 49:14 least [2] - 26:17, 42:22 left [1] - 17:14 Lenny [2] - 4:14, 12:16 Lenny's [1] - 46:19</p>	<p>Leonard [1] - 2:6 less [1] - 32:3 let [3] - 36:6, 38:11, 43:16 let's [4] - 13:19, 21:22, 26:23, 35:5 letter [2] - 43:20, 43:21 liaison [1] - 7:2 license [2] - 4:6, 54:11 like [7] - 24:12, 27:16, 29:18, 39:18, 45:14, 45:19, 46:9 limited [2] - 24:3, 26:18 line [1] - 29:15 LINE [1] - 55:2 list [2] - 39:14, 39:15 literally [1] - 8:8 litigation [3] - 9:1, 9:3, 9:7 little [2] - 29:17, 51:11 lived [1] - 32:24 living [1] - 6:10 LLP [3] - 1:19, 2:3, 2:6 located [1] - 6:12 long [7] - 6:16, 24:14, 26:1, 26:14, 28:8, 30:21, 52:12 look [26] - 9:23, 10:2, 10:6, 14:6, 14:8, 14:24, 16:7, 16:8, 21:8, 21:9, 21:16, 21:17, 24:13, 24:18, 27:6, 29:10, 30:16, 32:11, 34:22, 42:13, 43:16, 44:6, 45:6, 45:14, 50:7 looked [5] - 10:9, 15:24, 32:17, 43:24, 49:22 looking [13] - 14:13, 19:21, 20:1, 20:5, 20:7, 27:5, 32:7, 37:8, 40:18, 41:8, 41:11, 42:22, 45:16 lose [1] - 17:14 losing [2] - 37:13 loss [8] - 21:24, 22:1, 22:4, 22:5, 22:6, 22:7, 44:7, 45:2 lot [4] - 24:16, 24:17, 35:1, 37:15 lump [1] - 53:6 LYONS [1] - 1:22 lyons.com [1] - 1:24</p> <p>M</p> <p>MA [1] - 1:23</p>	<p>made [4] - 16:3, 26:18, 47:23, 48:13 maintenance [3] - 34:24, 35:6, 35:13 make [4] - 5:8, 18:18, 20:16, 36:17 makes [1] - 22:12 making [2] - 7:14, 33:2 MANAGEMENT [1] - 1:6 Management [21] - 3:8, 3:10, 9:2, 12:11, 13:2, 17:18, 17:19, 17:23, 18:24, 19:11, 20:19, 21:4, 25:4, 25:21, 27:1, 27:3, 27:7, 42:15, 42:23, 47:15, 49:7 management [2] - 21:21, 32:17 Management's [1] - 49:13 manager [1] - 47:4 MANNING [1] - 1:12 Manning [2] - 2:11, 2:17 many [3] - 25:18, 25:19, 47:1 Mark [1] - 39:8 marked [12] - 11:13, 11:14, 11:16, 13:21, 19:2, 19:4, 19:6, 19:18, 19:20, 19:22, 44:24, 45:1 MARLBOROUGH [1] - 1:11 Marlborough [8] - 2:10, 2:16, 14:24, 15:6, 22:22, 30:24, 42:8, 42:10 Marlborough's [1] - 14:21 Mass [1] - 4:18 MASSACHUSETTS [1] - 1:3 Massachusetts [10] - 1:17, 1:18, 1:19, 2:4, 2:7, 2:14, 4:5, 54:2, 54:7, 54:10 material [1] - 29:10 math [1] - 41:12 matter [1] - 35:19 may [4] - 8:10, 31:12, 32:2, 44:8 maybe [5] - 10:23, 14:18, 15:3, 44:21, 50:4 McCarthy [1] - 47:3 McLeod [2] - 1:19, 2:3 me [29] - 5:10, 9:22,</p>	<p>21:8, 22:14, 23:13, 24:12, 32:19, 33:19, 35:19, 36:6, 36:12, 37:11, 38:11, 38:19, 38:20, 39:24, 41:2, 41:6, 43:16, 44:20, 44:21, 46:19, 48:17, 49:20, 50:21, 53:9, 54:11 mean [5] - 32:9, 32:10, 35:5, 40:15, 50:17 meaning [1] - 10:11 meet [1] - 18:2 meeting [2] - 41:18, 43:3 member [5] - 6:20, 7:12, 7:19, 12:23, 25:13 membership [1] - 8:20 memory [7] - 10:5, 10:20, 20:22, 27:23, 28:10, 28:11, 37:4 met [1] - 12:22 Michael [6] - 2:9, 2:10, 2:10, 2:15, 2:16, 2:17 MICHAEL [3] - 1:10, 1:11, 1:11 MIDDLESEX [1] - 1:4 might [4] - 37:9, 38:2, 45:8, 47:10 million [1] - 49:12 minute [2] - 21:10, 39:22 minutes [1] - 47:10 money [5] - 37:13, 37:14, 48:20, 49:13, 51:22 month [1] - 18:2 monthly [2] - 41:17, 42:20 Monthly [1] - 42:15 months [3] - 36:13, 36:14, 41:2 morasco [1] - 34:8 more [7] - 5:9, 12:19, 21:8, 37:6, 37:13, 37:16, 49:4 morning [1] - 13:22 morning's [1] - 14:10 mortgage [1] - 52:10 most [1] - 28:19 move [1] - 18:14 MR [59] - 4:10, 4:12, 4:13, 11:12, 12:12, 14:1, 15:2, 15:5, 15:7, 15:9, 15:11, 15:13, 15:16, 15:17, 17:6, 17:9, 17:12, 19:2, 19:18, 21:7, 21:10, 23:21, 23:24,</p>
---	--	---	---	---

<p>24:7, 28:12, 28:13, 28:15, 28:16, 29:4, 29:7, 29:22, 31:18, 34:6, 35:10, 36:22, 37:20, 38:10, 40:3, 42:3, 42:9, 43:10, 44:23, 45:21, 46:6, 46:22, 47:9, 48:23, 49:1, 49:4, 49:17, 50:5, 50:7, 50:24, 51:3, 51:8, 51:24, 52:18, 52:20, 53:20</p> <p>mR [2] - 42:7, 51:11</p> <p>Mr [17] - 3:4, 12:22, 13:8, 13:20, 13:24, 14:4, 14:8, 14:10, 14:21, 16:3, 16:16, 24:2, 28:21, 34:8, 34:9, 38:5, 51:13</p> <p>much [4] - 5:9, 27:16, 38:12, 38:14</p> <p>multiple [5] - 47:16, 50:9, 50:14, 50:18, 51:14</p> <p>Mustard [2] - 2:9, 2:16</p> <p>MUSTARD [1] - 1:10</p> <p>My [1] - 54:24</p> <p>my [25] - 5:6, 7:10, 8:17, 8:22, 15:14, 17:8, 18:13, 22:18, 26:8, 30:14, 32:11, 37:4, 37:16, 39:2, 39:14, 40:8, 41:5, 41:6, 41:13, 45:9, 46:17, 50:4, 53:4, 54:21, 56:6</p> <p>N</p> <p>name [2] - 4:15, 6:14</p> <p>near [1] - 4:19</p> <p>necessarily [1] - 18:4</p> <p>need [6] - 5:1, 17:2, 23:19, 24:10, 43:20, 46:5</p> <p>needed [2] - 37:3, 49:11</p> <p>negative [2] - 37:9, 51:21</p> <p>Nest [6] - 3:11, 18:11, 39:3, 43:13, 44:2, 44:24</p> <p>net [4] - 22:5, 22:6, 22:7, 45:10</p> <p>never [12] - 8:21, 18:5, 28:16, 30:14, 36:4, 37:3, 37:5, 40:23, 42:23, 42:24, 44:13</p> <p>new [7] - 18:15, 28:7, 28:9, 30:7, 34:13, 46:5, 46:10</p>	<p>New [3] - 47:20, 49:7, 51:5</p> <p>newspaper [1] - 9:5</p> <p>next [3] - 19:3, 19:19, 44:24</p> <p>nine [3] - 7:14, 8:11, 8:12</p> <p>NO [1] - 1:4</p> <p>no [36] - 6:9, 7:20, 9:8, 9:12, 10:21, 12:2, 13:12, 16:20, 17:4, 19:5, 20:21, 27:19, 28:12, 28:13, 29:9, 30:9, 30:10, 31:19, 32:6, 33:18, 35:18, 35:21, 35:22, 37:12, 37:24, 39:18, 41:19, 41:21, 43:20, 43:21, 43:22, 44:12, 45:23, 49:1, 52:15</p> <p>No [20] - 11:8, 11:14, 11:16, 11:20, 12:8, 13:15, 13:16, 19:4, 19:20, 22:21, 30:5, 32:8, 33:12, 33:14, 38:16, 45:1, 47:5, 47:8, 49:10, 53:16</p> <p>Non [1] - 3:8</p> <p>non [2] - 10:7, 19:10</p> <p>non-price [2] - 10:7, 19:10</p> <p>nonsense [1] - 32:20</p> <p>nor [1] - 54:17</p> <p>North [20] - 1:9, 2:8, 2:15, 6:20, 6:24, 7:7, 12:3, 12:23, 25:14, 26:10, 28:2, 29:13, 37:16, 38:24, 40:16, 40:17, 43:13, 47:23</p> <p>not [58] - 5:8, 9:8, 13:12, 14:13, 14:15, 16:5, 16:17, 16:18, 16:21, 17:1, 17:2, 17:4, 17:20, 18:4, 18:14, 19:12, 20:24, 22:16, 23:9, 23:10, 24:11, 24:16, 27:21, 29:1, 29:3, 29:19, 29:20, 30:12, 31:5, 31:14, 31:15, 31:24, 32:5, 33:4, 33:17, 33:19, 33:22, 39:4, 39:17, 40:9, 40:17, 41:16, 41:20, 43:17, 44:11, 44:13, 46:22, 47:1, 48:6, 49:1, 50:1, 50:14, 52:12, 52:22, 53:2, 53:18, 54:14</p> <p>notarial [1] - 54:21</p> <p>Notary [2] - 1:18, 54:6</p> <p>nothing [1] - 53:20</p>	<p>now [15] - 11:15, 13:7, 13:22, 19:6, 20:21, 22:17, 27:23, 29:7, 29:24, 32:7, 34:12, 35:22, 37:8, 37:21, 46:18</p> <p>Number [12] - 13:22, 13:24, 14:9, 14:20, 14:23, 15:6, 19:7, 19:23, 20:18, 28:19, 30:24, 42:10</p> <p>number [2] - 23:15, 45:13</p> <p>numbered [1] - 21:17</p> <p>O</p> <p>o'clock [1] - 8:3</p> <p>oath [1] - 4:6</p> <p>objected [1] - 12:13</p> <p>objection [16] - 12:12, 12:19, 15:2, 21:7, 24:7, 29:22, 31:18, 34:6, 35:10, 36:22, 38:10, 40:3, 45:21, 46:6, 49:17, 51:24</p> <p>objects [1] - 12:18</p> <p>obligation [1] - 52:12</p> <p>occasion [1] - 9:6</p> <p>oceanside [1] - 4:19</p> <p>October [5] - 11:3, 13:7, 14:22, 15:10, 43:14</p> <p>OF [4] - 1:3, 1:9, 1:10, 1:16</p> <p>off [1] - 48:23</p> <p>office [1] - 6:12</p> <p>offices [1] - 1:19</p> <p>officials [1] - 9:10</p> <p>OFFICIO [1] - 1:12</p> <p>officio [2] - 2:11, 2:18</p> <p>okay [12] - 11:4, 15:18, 18:12, 21:19, 24:23, 24:24, 27:23, 28:5, 30:20, 31:9, 35:19, 46:8</p> <p>once [5] - 18:2, 33:2, 38:12, 42:22, 51:22</p> <p>one [14] - 9:17, 13:19, 13:23, 18:3, 18:10, 19:21, 20:6, 21:10, 25:19, 25:23, 35:14, 43:10, 50:22, 51:3</p> <p>One [1] - 2:7</p> <p>one-minute [1] - 21:10</p> <p>ones [2] - 20:5, 27:5</p> <p>only [8] - 17:14, 18:10, 23:21, 35:8, 39:23, 39:24, 43:10, 44:12</p> <p>operated [2] - 25:5, 47:16</p>	<p>operating [1] - 34:14</p> <p>operations [3] - 21:18, 22:1</p> <p>opinion [2] - 39:2, 41:3</p> <p>opinions [1] - 24:13</p> <p>order [2] - 24:10, 37:1</p> <p>organizational [1] - 34:23</p> <p>original [1] - 48:18</p> <p>other [18] - 9:5, 9:10, 24:10, 25:9, 25:11, 25:19, 26:12, 26:21, 31:22, 33:7, 33:10, 40:12, 45:7, 46:12, 46:16, 47:16, 50:19, 53:13</p> <p>others [1] - 53:12</p> <p>otherwise [1] - 54:18</p> <p>our [3] - 8:20, 24:21, 44:9</p> <p>out [26] - 8:11, 9:14, 11:10, 11:21, 12:15, 18:15, 20:17, 25:20, 27:2, 36:4, 36:5, 36:8, 36:13, 36:15, 36:17, 36:20, 38:13, 38:17, 39:9, 40:7, 41:3, 41:4, 46:5, 46:10, 51:7, 51:23</p> <p>outcome [1] - 54:18</p> <p>outside [1] - 13:13</p> <p>over [7] - 24:14, 32:24, 38:5, 41:14, 46:19, 46:23</p> <p>overall [9] - 24:5, 36:3, 36:9, 36:13, 36:17, 36:20, 37:1, 39:22, 41:6</p> <p>overseeing [1] - 7:5</p> <p>own [1] - 8:22</p> <p>owned [2] - 13:1, 38:2</p> <p>owns [1] - 52:24</p> <p>P</p> <p>p.m [2] - 1:20, 53:23</p> <p>PAGE [1] - 55:2</p> <p>Page [8] - 3:2, 3:6, 14:23, 14:24, 16:9, 17:18, 28:21, 31:1</p> <p>page [3] - 21:16, 29:11, 45:7</p> <p>pages [2] - 11:20, 42:12</p> <p>Pages [1] - 15:19</p> <p>PAGES [1] - 1:1</p> <p>paid [6] - 48:4, 52:2, 53:2, 53:4, 53:5</p> <p>pains [1] - 56:10</p> <p>paragraph [1] - 32:9</p>	<p>part [2] - 11:23, 17:8</p> <p>particular [1] - 28:8</p> <p>particularly [1] - 13:12</p> <p>parties [1] - 54:16</p> <p>pass [1] - 8:6</p> <p>passed [1] - 7:23</p> <p>past [1] - 35:20</p> <p>pay [1] - 15:14</p> <p>payroll [1] - 45:14</p> <p>penalties [1] - 56:10</p> <p>people [18] - 10:13, 24:12, 24:16, 24:17, 25:19, 26:2, 30:10, 30:12, 30:18, 31:21, 31:22, 32:12, 32:14, 33:8, 35:2, 40:12, 40:18, 47:1</p> <p>period [5] - 12:4, 12:10, 24:14, 25:5, 50:18</p> <p>perjury [1] - 56:11</p> <p>Perkins [1] - 2:6</p> <p>personally [1] - 15:14</p> <p>personnel [2] - 31:12, 32:2</p> <p>picture [1] - 39:9</p> <p>pitch [1] - 40:21</p> <p>place [2] - 31:23, 36:2</p> <p>Plaintiff [4] - 1:7, 1:16, 2:4, 4:4</p> <p>plan [2] - 8:12, 8:20</p> <p>plans [2] - 8:11, 8:16</p> <p>played [2] - 25:14, 26:10</p> <p>playing [1] - 26:1</p> <p>Plaza [1] - 2:7</p> <p>please [2] - 4:16, 5:14</p> <p>pleased [1] - 37:12</p> <p>point [7] - 7:20, 34:19, 34:20, 35:19, 48:15, 50:23, 53:4</p> <p>political [1] - 6:6</p> <p>position [3] - 24:18, 24:20, 37:9</p> <p>possibility [1] - 7:13</p> <p>possible [2] - 10:6, 16:10</p> <p>present [2] - 8:14, 9:1</p> <p>PRESENT [1] - 2:19</p> <p>presented [2] - 31:11, 32:19</p> <p>pretty [2] - 37:22, 47:10</p> <p>price [3] - 10:7, 19:10</p> <p>Price [1] - 3:9</p> <p>printout [1] - 45:19</p> <p>prior [1] - 12:1</p> <p>privilege [1] - 46:20</p> <p>pro [3] - 21:21, 25:12, 38:22</p> <p>probably [4] - 10:19,</p>
---	--	--	---	---

<p>22:15, 42:5, 44:6 problem [1] - 32:16 Procedure [1] - 1:17 process [5] - 9:10, 9:15, 10:18, 11:23, 11:24 processes [1] - 12:6 Professional [1] - 54:5 PROFESSIONAL [1] - 1:23 profit [9] - 21:23, 22:13, 44:6, 44:8, 45:2, 45:4, 45:5, 45:6, 45:13 project [1] - 49:6 proponents [1] - 8:4 Proposal [2] - 3:9, 3:11 proposal [10] - 13:20, 14:3, 14:9, 18:23, 19:10, 20:18, 28:18, 29:1, 38:8, 43:13 Proposals [2] - 30:23, 42:11 proposals [8] - 9:18, 10:7, 10:8, 11:6, 13:10, 15:22, 15:24, 21:3 provide [1] - 23:19 provided [10] - 14:2, 14:17, 15:21, 16:18, 19:9, 19:13, 21:2, 23:17, 24:2, 27:16 Providence [3] - 5:23, 5:24, 6:8 provisions [1] - 1:17 Public [2] - 1:18, 54:6 published [1] - 42:11 pulled [1] - 20:16 pursuant [1] - 1:16 pursue [1] - 41:8 put [5] - 8:20, 31:17, 33:24, 48:20, 51:22</p>	<p>quickly [3] - 15:2, 37:22, 43:15</p>	<p>regard [7] - 5:6, 9:1, 11:5, 14:19, 17:17, 19:17, 30:18 Registered [1] - 54:5 REGISTERED [1] - 1:23 rejected [1] - 7:18 relative [2] - 54:15, 54:16 relevant [4] - 31:2, 31:16, 34:23, 39:16 reliability [1] - 44:10 relying [2] - 34:17, 38:1 remember [52] - 8:10, 8:21, 9:21, 10:9, 11:5, 11:9, 12:21, 13:23, 15:23, 16:2, 18:8, 18:23, 19:14, 19:16, 20:1, 22:10, 27:11, 27:17, 28:3, 28:6, 30:19, 32:18, 32:20, 35:23, 36:12, 36:19, 37:7, 37:11, 37:19, 39:10, 40:12, 40:20, 41:10, 42:6, 42:24, 43:24, 44:14, 44:17, 44:22, 46:14, 46:15, 46:17, 46:24, 49:3, 50:15, 53:7, 53:11, 53:12, 53:13, 53:14, 53:19 rephrase [1] - 5:11 Reporter [3] - 1:18, 54:5 REPORTERS [1] - 1:23 REPORTING [1] - 1:22 Reports [1] - 42:15 reports [5] - 42:19, 42:20, 43:2, 43:8 representing [1] - 7:3 reputation [4] - 25:24, 26:12, 32:13, 35:1 Request [2] - 30:23, 42:11 require [1] - 36:24 required [1] - 22:24 requires [1] - 16:12 reservations [1] - 22:18 reserve [1] - 50:5 residential [1] - 4:15 respect [2] - 10:5, 29:24 responsibility [1] - 7:4 rest [2] - 17:13, 17:15 result [1] - 29:18 results [1] - 51:17 return [1] - 29:14 returns [1] - 14:12</p>	<p>revenues [1] - 21:20 review [2] - 11:7, 30:16 reviewed [1] - 50:13 reviewing [4] - 20:22, 20:24, 21:2, 29:18 RFP [8] - 9:15, 11:24, 12:6, 14:19, 14:22, 15:6, 15:9, 16:8 Rich [2] - 47:3, 47:8 Richard [2] - 2:10, 2:17 RICHARD [1] - 1:12 Richards [1] - 42:9 right [16] - 8:12, 8:24, 17:6, 21:11, 25:22, 29:5, 29:6, 29:8, 34:5, 35:9, 35:13, 38:5, 38:9, 48:4, 48:10, 50:6 Right [1] - 20:15 Robert [3] - 2:9, 2:16, 14:4 ROBERT [1] - 1:10 Rockland [9] - 25:20, 30:2, 30:4, 33:16, 34:3, 34:4, 34:14, 35:17, 38:5 role [2] - 6:24, 22:20 roughly [1] - 12:5 Route [1] - 2:13 RPR [1] - 54:23 RUFO [1] - 1:11 Rufo [2] - 2:10, 2:17 Rules [1] - 1:17 run [2] - 31:21, 38:24 running [4] - 13:4, 26:6, 32:14, 51:14</p>	<p>53:7, 53:18 says [4] - 4:7, 23:14, 23:22, 36:3 scarce [1] - 28:4 school [3] - 5:14, 5:15, 5:16 science [1] - 6:6 score [2] - 11:9, 36:1 Score [1] - 3:7 scores [1] - 27:8 SCOTT [1] - 1:10 Scott [2] - 2:9, 2:16 scratch [1] - 39:12 seal [1] - 54:21 second [1] - 48:24 see [12] - 14:11, 15:17, 20:7, 37:3, 39:16, 44:1, 44:7, 44:12, 45:7, 48:12, 50:17, 53:18 seeing [18] - 11:9, 27:11, 27:17, 28:6, 32:18, 32:20, 35:23, 37:7, 37:19, 41:10, 44:14, 45:17, 50:15, 53:8, 53:11, 53:12, 53:13, 53:14 seen [4] - 15:4, 22:9, 37:7, 40:6 separate [2] - 9:24, 28:1 September [3] - 8:8, 8:14, 54:24 served [2] - 7:6, 33:1 set [4] - 28:1, 30:2, 54:9, 54:20 settlement [1] - 22:4 seven [2] - 20:11, 41:24 seven's [1] - 20:11 share [1] - 17:4 Sheehan [1] - 25:17 Sheet [1] - 3:7 SHEET [1] - 55:1 sheet [3] - 11:9, 29:12, 36:1 shop [1] - 21:22 Shore [1] - 26:1 Shorthand [2] - 1:18, 54:4 shortly [1] - 7:17 should [5] - 33:6, 40:7, 41:3, 46:10, 48:16 shouldn't [1] - 33:4 show [1] - 30:22 showed [1] - 34:19 showing [3] - 13:21, 43:9, 43:12 shown [1] - 52:8 sideways [1] - 37:10</p>
<p>Q</p> <p>question [9] - 5:7, 5:9, 12:13, 12:18, 23:11, 23:21, 49:18, 49:24, 50:6 questioning [1] - 17:13 questions [8] - 5:1, 5:6, 14:5, 15:15, 23:2, 24:19, 31:6, 50:3 quick [2] - 35:21, 35:22 QuickBooks [1] - 45:19</p>	<p>radar [1] - 30:15 ran [2] - 30:4, 31:22 rarely [1] - 50:4 rate [2] - 30:18, 34:22 rated [6] - 17:19, 26:24, 27:1, 27:3, 29:20, 31:15 rather [3] - 10:7, 17:1, 17:2 rating [25] - 16:5, 16:16, 16:21, 16:24, 17:23, 21:4, 22:24, 23:6, 23:18, 24:4, 31:5, 32:4, 36:2, 36:3, 36:6, 36:9, 36:13, 36:17, 36:20, 37:1, 39:11, 39:23, 41:6, 44:2 read [7] - 22:16, 22:22, 23:1, 23:4, 31:4, 53:11, 56:6 reading [2] - 22:17, 23:24 really [2] - 9:8, 53:8 REASON [1] - 55:2 reason [5] - 16:16, 24:12, 29:20, 33:18, 41:5 reasons [2] - 38:19, 38:20 rebuilding [1] - 49:13 rebuilt [2] - 48:1, 49:8 recall [3] - 7:6, 9:13, 11:21 received [1] - 16:16 receiving [2] - 11:5, 18:23 recent [1] - 28:20 Recess [1] - 47:12 recess [1] - 21:13 recognize [3] - 11:18, 13:1, 14:16 recommendation [4] - 18:13, 18:18, 40:9, 40:10 recommendations [1] - 41:1 recommended [1] - 40:11 reconstructing [1] - 51:20 record [4] - 12:19, 48:23, 54:12, 56:8 records [1] - 14:12 reexamine [1] - 50:6 refer [1] - 9:14</p>	<p>regard [7] - 5:6, 9:1, 11:5, 14:19, 17:17, 19:17, 30:18 Registered [1] - 54:5 REGISTERED [1] - 1:23 rejected [1] - 7:18 relative [2] - 54:15, 54:16 relevant [4] - 31:2, 31:16, 34:23, 39:16 reliability [1] - 44:10 relying [2] - 34:17, 38:1 remember [52] - 8:10, 8:21, 9:21, 10:9, 11:5, 11:9, 12:21, 13:23, 15:23, 16:2, 18:8, 18:23, 19:14, 19:16, 20:1, 22:10, 27:11, 27:17, 28:3, 28:6, 30:19, 32:18, 32:20, 35:23, 36:12, 36:19, 37:7, 37:11, 37:19, 39:10, 40:12, 40:20, 41:10, 42:6, 42:24, 43:24, 44:14, 44:17, 44:22, 46:14, 46:15, 46:17, 46:24, 49:3, 50:15, 53:7, 53:11, 53:12, 53:13, 53:14, 53:19 rephrase [1] - 5:11 Reporter [3] - 1:18, 54:5 REPORTERS [1] - 1:23 REPORTING [1] - 1:22 Reports [1] - 42:15 reports [5] - 42:19, 42:20, 43:2, 43:8 representing [1] - 7:3 reputation [4] - 25:24, 26:12, 32:13, 35:1 Request [2] - 30:23, 42:11 require [1] - 36:24 required [1] - 22:24 requires [1] - 16:12 reservations [1] - 22:18 reserve [1] - 50:5 residential [1] - 4:15 respect [2] - 10:5, 29:24 responsibility [1] - 7:4 rest [2] - 17:13, 17:15 result [1] - 29:18 results [1] - 51:17 return [1] - 29:14 returns [1] - 14:12</p>	<p>revenues [1] - 21:20 review [2] - 11:7, 30:16 reviewed [1] - 50:13 reviewing [4] - 20:22, 20:24, 21:2, 29:18 RFP [8] - 9:15, 11:24, 12:6, 14:19, 14:22, 15:6, 15:9, 16:8 Rich [2] - 47:3, 47:8 Richard [2] - 2:10, 2:17 RICHARD [1] - 1:12 Richards [1] - 42:9 right [16] - 8:12, 8:24, 17:6, 21:11, 25:22, 29:5, 29:6, 29:8, 34:5, 35:9, 35:13, 38:5, 38:9, 48:4, 48:10, 50:6 Right [1] - 20:15 Robert [3] - 2:9, 2:16, 14:4 ROBERT [1] - 1:10 Rockland [9] - 25:20, 30:2, 30:4, 33:16, 34:3, 34:4, 34:14, 35:17, 38:5 role [2] - 6:24, 22:20 roughly [1] - 12:5 Route [1] - 2:13 RPR [1] - 54:23 RUFO [1] - 1:11 Rufo [2] - 2:10, 2:17 Rules [1] - 1:17 run [2] - 31:21, 38:24 running [4] - 13:4, 26:6, 32:14, 51:14</p>	<p>S</p> <p>safely [1] - 35:12 sales [1] - 21:22 salesman [1] - 52:23 same [8] - 4:12, 4:13, 31:22, 32:14, 33:7, 37:10, 40:13, 41:12 Sandwich [1] - 2:14 satisfactorily [2] - 4:5, 54:9 satisfied [1] - 24:3 saw [8] - 28:6, 37:3, 37:6, 37:16, 38:12, 42:23, 44:13 say [12] - 5:8, 11:4, 12:5, 17:1, 17:2, 29:8, 32:23, 36:16, 40:5, 40:15, 44:17 saying [6] - 23:6, 43:21, 44:19, 45:8,</p>

SIGNATURE ^[1] - 55:24 Signed ^[1] - 56:10 similar ^[1] - 11:9 simply ^[1] - 23:7 since ^[3] - 6:18, 33:7, 47:6 sir ^[5] - 6:10, 23:10, 28:11, 52:15, 53:10 situation ^[1] - 32:11 six ^[4] - 7:8, 20:8, 41:23, 42:5 small ^[1] - 43:15 smart ^[1] - 32:23 somebody ^[3] - 36:12, 38:2, 41:2 someone ^[2] - 9:17, 39:19 something ^[7] - 15:8, 15:12, 30:1, 38:1, 45:19, 48:15, 49:21 somewhat ^[1] - 9:4 sorry ^[3] - 12:14, 15:11, 25:1 sounds ^[1] - 4:19 South ^[1] - 26:1 speak ^[1] - 9:6 spectacular ^[1] - 28:11 spend ^[3] - 38:11, 38:14, 49:11 spent ^[1] - 49:4 spousal ^[1] - 46:19 spring ^[1] - 8:13 ss ^[2] - 1:4, 54:2 stand ^[1] - 10:15 standard ^[1] - 16:14 standards ^[2] - 15:20, 53:15 starting ^[1] - 34:12 starts ^[1] - 21:20 startup ^[2] - 30:7, 34:2 STATE ^[1] - 1:23 statement ^[15] - 14:17, 16:15, 21:17, 32:1, 44:11, 44:12, 48:6, 48:12, 49:15, 50:13, 51:22, 52:9, 52:11, 52:13, 53:3 Statements ^[1] - 3:10 statements ^[13] - 10:11, 14:14, 16:13, 16:19, 19:23, 20:13, 20:17, 20:23, 21:1, 23:8, 23:20, 27:12, 43:18 Stephen ^[1] - 2:2 Steven ^[1] - 39:8 stick ^[1] - 35:5 Stiles ^[3] - 26:15, 26:17, 39:8	still ^[1] - 12:18 stipulation ^[1] - 12:16 stipulations ^[2] - 4:12, 4:13 stops ^[1] - 12:17 Story ^[3] - 1:17, 54:4, 54:23 story ^[1] - 8:5 Strawberry ^[2] - 50:22, 51:6 STREET ^[1] - 1:23 Street ^[1] - 2:3 strictly ^[2] - 30:13, 34:17 strike ^[1] - 36:6 striking ^[1] - 32:21 strong ^[2] - 40:8, 41:9 stuff ^[3] - 35:16, 35:24, 36:16 stupidity ^[1] - 32:22 subjective ^[1] - 17:8 submission ^[1] - 27:16 submit ^[1] - 23:7 submitted ^[6] - 19:11, 28:18, 28:22, 29:10, 39:20, 43:12 substitute ^[2] - 9:19, 10:4 such ^[3] - 11:6, 54:11, 54:17 sufficient ^[1] - 23:6 sum ^[1] - 53:6 SUPERIOR ^[1] - 1:4 supposed ^[3] - 32:10, 36:13, 36:15 sure ^[1] - 36:17 surface ^[1] - 39:12 surprise ^[1] - 22:14 suspend ^[2] - 17:7, 17:11 suspended ^[1] - 53:23 switch ^[1] - 19:8 sworn ^[2] - 4:6, 54:11 system ^[1] - 7:23	taxes ^[2] - 22:4, 22:5 teasing ^[1] - 46:21 technical ^[1] - 23:13 TEL ^[1] - 1:24 tell ^[10] - 5:10, 7:24, 14:12, 22:9, 38:19, 38:20, 39:24, 40:14, 46:13, 48:15 telling ^[3] - 22:16, 46:12, 50:15 ten ^[3] - 10:21, 42:12 tend ^[1] - 5:9 tenure ^[3] - 12:22, 37:16, 47:14 term ^[1] - 52:12 testify ^[2] - 17:10 testimony ^[6] - 17:3, 19:12, 20:21, 54:12, 56:7, 56:9 than ^[10] - 9:5, 9:10, 10:7, 12:19, 32:3, 37:6, 37:16, 46:12, 46:16, 49:5 thank ^[2] - 4:14, 19:8 THE ^[13] - 8:10, 17:8, 25:22, 26:5, 35:23, 42:1, 42:4, 48:17, 50:21, 51:1, 51:5, 51:9, 52:22 their ^[27] - 12:19, 18:12, 27:17, 30:1, 32:22, 33:5, 33:8, 33:19, 34:17, 35:6, 35:16, 35:20, 37:3, 37:23, 38:8, 38:12, 40:24, 45:17, 47:19, 48:6, 49:15, 51:16, 51:21, 52:8, 52:11, 52:13, 53:3 them ^[30] - 18:6, 20:1, 20:2, 20:24, 24:16, 25:20, 26:16, 26:18, 27:8, 29:20, 30:2, 33:9, 34:20, 34:21, 34:22, 35:2, 37:8, 38:15, 39:3, 39:6, 39:10, 39:11, 39:16, 39:18, 40:5, 44:22, 51:10, 53:19 these ^[23] - 15:20, 15:23, 16:15, 18:9, 19:21, 20:18, 20:22, 21:1, 22:9, 24:15, 24:21, 30:10, 30:18, 40:6, 40:18, 41:8, 42:19, 43:2, 43:8, 44:16, 44:17, 53:8 they ^[58] - 8:23, 13:4, 14:15, 20:3, 24:12, 25:5, 28:1, 28:8, 29:12, 29:15, 30:3, 30:9, 32:21, 33:6,	33:20, 33:21, 33:23, 33:24, 34:12, 34:19, 35:1, 35:8, 35:12, 35:16, 35:21, 35:22, 36:14, 37:20, 38:13, 38:17, 39:8, 39:11, 39:14, 40:20, 44:21, 45:13, 45:18, 47:16, 48:1, 48:4, 48:13, 49:8, 49:11, 49:14, 51:19, 51:22, 52:2, 52:4, 52:6, 52:7, 52:13, 52:15, 53:4, 53:5, 53:6 they'd ^[1] - 52:10 they're ^[4] - 32:13, 33:20, 39:15, 45:17 they've ^[1] - 28:7 thing ^[5] - 8:8, 17:14, 23:13, 40:13, 50:16 things ^[2] - 18:3, 24:15 think ^[13] - 9:21, 9:24, 17:18, 18:10, 22:12, 25:19, 26:5, 28:1, 30:22, 33:17, 45:6, 45:7, 46:10 Thomas ^[2] - 2:10, 2:17 THOMAS ^[1] - 1:11 those ^[13] - 14:13, 14:14, 22:13, 25:23, 33:22, 37:4, 37:7, 37:19, 40:22, 42:13, 42:20, 48:9, 48:13 thought ^[3] - 18:16, 18:21, 30:14 three ^[8] - 5:5, 10:24, 16:12, 23:8, 23:19, 27:2, 32:4, 40:19 through ^[8] - 10:18, 14:5, 14:6, 20:3, 24:23, 43:16, 44:7, 45:3 time ^[22] - 5:4, 6:19, 10:4, 12:7, 12:10, 18:14, 21:8, 21:9, 24:14, 26:1, 26:5, 26:14, 28:8, 30:21, 33:18, 38:12, 38:14, 41:15, 44:14, 48:19, 50:18, 51:3 timeframe ^[1] - 13:7 timely ^[1] - 39:20 timing ^[1] - 8:23 today ^[7] - 5:6, 32:19, 33:15, 37:6, 41:11, 42:24, 50:17 today's ^[1] - 9:9 together ^[1] - 8:21 told ^[3] - 29:4, 41:2,	41:7 Tom ^[1] - 42:9 tons ^[1] - 30:10 too ^[7] - 5:9, 18:22, 20:11, 38:17, 39:23, 44:21, 52:14 top ^[2] - 36:2, 42:14 total ^[3] - 29:15, 35:8, 43:7 totally ^[1] - 39:8 tough ^[1] - 53:8 toward ^[1] - 20:9 towards ^[3] - 14:10, 19:22, 29:11 TOWN ^[1] - 1:9 Town ^[16] - 2:8, 2:15, 9:2, 9:13, 14:3, 14:20, 15:21, 19:10, 23:5, 24:3, 30:17, 42:10, 42:12, 44:16, 44:19, 52:16 town ^[22] - 7:2, 7:3, 7:12, 7:18, 7:23, 8:13, 8:19, 9:10, 12:10, 13:5, 18:13, 23:16, 26:14, 32:24, 39:20, 40:4, 40:9, 41:4, 46:13, 46:14, 47:3, 53:1 town's ^[1] - 48:7 tragedy ^[1] - 8:7 transcript ^[2] - 56:6, 56:8 trap ^[1] - 33:9 Tree ^[2] - 39:3, 43:13 Troy ^[1] - 2:13 true ^[6] - 8:5, 24:8, 24:11, 54:12, 56:8 try ^[1] - 5:8 trying ^[1] - 52:20 Tuesday ^[1] - 1:20 Turf ^[1] - 42:14 turn ^[2] - 28:15, 28:16 two ^[9] - 9:24, 10:23, 26:23, 27:6, 29:7, 39:23, 40:1, 47:9, 49:11 type ^[1] - 11:21
T				
take ^[9] - 13:19, 15:13, 21:8, 21:9, 21:10, 21:16, 42:13, 44:6 taken ^[3] - 1:16, 21:13, 47:12 talk ^[5] - 5:9, 36:7, 40:22, 47:1, 47:3 talked ^[3] - 36:11, 46:24, 47:6 talking ^[3] - 24:19, 30:12 tax ^[2] - 14:12, 29:14				
U				
unaware ^[1] - 25:1 under ^[5] - 16:9, 17:19, 23:14, 31:4, 56:10 understand ^[10] - 5:7, 6:23, 6:24, 17:2, 17:9, 23:10, 23:11, 32:5, 32:7, 32:9 understanding ^[1] - 5:12				

<p>understood ^[1] - 32:10</p> <p>unless ^[1] - 12:16</p> <p>unlike ^[1] - 28:23</p> <p>until ^[5] - 28:15, 33:15, 34:19, 42:23, 51:3</p> <p>up ^[5] - 12:4, 28:1, 30:2, 36:2, 51:3</p> <p>upon ^[1] - 31:10</p> <p>us ^[8] - 4:11, 4:15, 14:2, 24:13, 33:6, 41:6, 41:16, 52:19</p> <p>use ^[2] - 32:10, 35:16</p>	<p>what's ^[4] - 6:14, 11:15, 19:22, 20:8</p> <p>whatever ^[1] - 38:4</p> <p>WHEREOF ^[1] - 54:20</p> <p>whether ^[6] - 14:13, 24:11, 43:17, 53:5, 53:6</p> <p>which ^[11] - 13:23, 14:9, 16:14, 17:18, 19:6, 22:16, 22:21, 27:5, 41:15, 42:23</p> <p>while ^[5] - 8:1, 25:5, 25:13, 33:3, 38:24</p> <p>Whitcomb ^[2] - 2:9, 2:16</p> <p>WHITCOMB ^[1] - 1:10</p> <p>who ^[18] - 9:22, 13:1, 13:4, 18:18, 25:23, 30:10, 32:12, 35:2, 36:11, 40:11, 40:13, 40:14, 40:18, 40:19, 40:20, 46:24, 52:24</p> <p>whole ^[2] - 8:8, 26:5</p> <p>whom ^[1] - 18:20</p> <p>whose ^[1] - 54:8</p> <p>why ^[8] - 17:12, 17:22, 18:1, 21:9, 24:8, 24:23, 31:20, 49:19</p> <p>wife ^[2] - 46:17, 46:18</p> <p>wife's ^[1] - 50:4</p> <p>will ^[2] - 28:16, 48:22</p> <p>William ^[1] - 4:17</p> <p>WILLIAM ^[6] - 1:16, 3:3, 4:3, 54:7, 56:5, 56:16</p> <p>within ^[4] - 32:2, 32:13, 39:20, 39:21</p> <p>WITNESS ^[14] - 8:10, 17:8, 25:22, 26:5, 35:23, 42:1, 42:4, 48:17, 50:21, 51:1, 51:5, 51:9, 52:22, 54:20</p> <p>Witness ^[4] - 14:7, 23:3, 31:8, 43:19</p> <p>witness ^[4] - 4:3, 50:6, 54:8, 54:13</p> <p>worked ^[1] - 12:15</p> <p>working ^[1] - 41:13</p> <p>would ^[50] - 9:23, 12:4, 14:4, 14:16, 16:15, 18:2, 18:3, 20:12, 21:3, 22:11, 22:14, 22:15, 22:17, 22:18, 24:10, 26:2, 26:24, 28:20, 29:16, 29:19, 29:20, 31:10, 31:15, 32:14, 36:21, 36:24, 37:2, 37:12, 37:15, 38:4, 39:23, 40:1, 40:4, 41:5,</p>	<p>41:11, 42:13, 42:19, 43:2, 43:5, 43:7, 43:8, 49:14, 49:22, 51:16, 51:21, 52:11, 52:12, 52:13</p> <p>wouldn't ^[5] - 35:17, 35:18, 51:23, 52:7, 52:15</p> <p>Wright ^[2] - 51:2, 51:6</p> <p>writing ^[2] - 15:7, 15:11</p> <p>wrong ^[4] - 29:8, 39:24, 48:17, 50:21</p> <p>www.bramanti ^[1] - 1:24</p> <p>www.bramanti-lyons.com ^[1] - 1:24</p>
V		Y
<p>various ^[6] - 9:18, 10:12, 11:7, 13:10, 15:22, 21:3</p> <p>vendor ^[1] - 13:4</p> <p>vendors ^[2] - 11:7, 13:11</p> <p>verbal ^[1] - 5:2</p> <p>very ^[6] - 8:23, 18:9, 28:3, 43:15, 50:4</p> <p>viable ^[1] - 39:2</p> <p>view ^[1] - 34:7</p> <p>viewed ^[1] - 34:8</p> <p>views ^[1] - 10:1</p> <p>VOLUME ^[1] - 1:1</p> <p>vote ^[1] - 8:2</p> <p>vs ^[1] - 1:8</p>	<p>what's ^[4] - 6:14, 11:15, 19:22, 20:8</p> <p>whatever ^[1] - 38:4</p> <p>WHEREOF ^[1] - 54:20</p> <p>whether ^[6] - 14:13, 24:11, 43:17, 53:5, 53:6</p> <p>which ^[11] - 13:23, 14:9, 16:14, 17:18, 19:6, 22:16, 22:21, 27:5, 41:15, 42:23</p> <p>while ^[5] - 8:1, 25:5, 25:13, 33:3, 38:24</p> <p>Whitcomb ^[2] - 2:9, 2:16</p> <p>WHITCOMB ^[1] - 1:10</p> <p>who ^[18] - 9:22, 13:1, 13:4, 18:18, 25:23, 30:10, 32:12, 35:2, 36:11, 40:11, 40:13, 40:14, 40:18, 40:19, 40:20, 46:24, 52:24</p> <p>whole ^[2] - 8:8, 26:5</p> <p>whom ^[1] - 18:20</p> <p>whose ^[1] - 54:8</p> <p>why ^[8] - 17:12, 17:22, 18:1, 21:9, 24:8, 24:23, 31:20, 49:19</p> <p>wife ^[2] - 46:17, 46:18</p> <p>wife's ^[1] - 50:4</p> <p>will ^[2] - 28:16, 48:22</p> <p>William ^[1] - 4:17</p> <p>WILLIAM ^[6] - 1:16, 3:3, 4:3, 54:7, 56:5, 56:16</p> <p>within ^[4] - 32:2, 32:13, 39:20, 39:21</p> <p>WITNESS ^[14] - 8:10, 17:8, 25:22, 26:5, 35:23, 42:1, 42:4, 48:17, 50:21, 51:1, 51:5, 51:9, 52:22, 54:20</p> <p>Witness ^[4] - 14:7, 23:3, 31:8, 43:19</p> <p>witness ^[4] - 4:3, 50:6, 54:8, 54:13</p> <p>worked ^[1] - 12:15</p> <p>working ^[1] - 41:13</p> <p>would ^[50] - 9:23, 12:4, 14:4, 14:16, 16:15, 18:2, 18:3, 20:12, 21:3, 22:11, 22:14, 22:15, 22:17, 22:18, 24:10, 26:2, 26:24, 28:20, 29:16, 29:19, 29:20, 31:10, 31:15, 32:14, 36:21, 36:24, 37:2, 37:12, 37:15, 38:4, 39:23, 40:1, 40:4, 41:5,</p>	<p>Yacht ^[2] - 25:13, 38:23</p> <p>yacht ^[2] - 26:9, 26:11</p> <p>year ^[9] - 5:20, 5:24, 7:10, 7:24, 8:17, 21:18, 41:22, 42:22, 43:7</p> <p>years ^[22] - 5:5, 6:19, 7:6, 7:8, 8:17, 10:21, 16:12, 20:3, 20:13, 23:8, 23:19, 25:5, 25:18, 25:19, 32:4, 32:24, 33:17, 34:15, 37:5, 41:24, 42:6</p> <p>yep ^[4] - 10:16, 11:17, 13:18, 25:10</p> <p>yet ^[1] - 28:15</p> <p>you'd ^[3] - 17:2, 31:4, 48:12</p> <p>you'll ^[1] - 44:7</p> <p>you're ^[7] - 4:24, 5:11, 8:22, 24:19, 29:6, 46:7, 49:20</p> <p>you've ^[5] - 21:20, 21:22, 22:3, 22:5, 50:13</p> <p>yourself ^[3] - 22:23, 23:1, 31:6</p>
W		Z
<p>wait ^[1] - 39:21</p> <p>walk ^[1] - 38:11</p> <p>Wall ^[1] - 2:13</p> <p>want ^[6] - 17:10, 23:18, 27:6, 38:19, 38:20</p> <p>wants ^[1] - 29:4</p> <p>wasn't ^[10] - 8:23, 23:8, 26:21, 34:2, 34:3, 34:13, 35:2, 35:3, 39:2, 42:6</p> <p>water ^[1] - 4:19</p> <p>way ^[7] - 7:11, 11:6, 12:15, 33:19, 34:7, 49:4, 49:23</p> <p>we've ^[2] - 12:15, 20:16</p> <p>weak ^[2] - 18:9, 18:22</p> <p>well ^[11] - 12:4, 13:19, 18:2, 19:15, 21:16, 24:12, 39:11, 41:23, 51:17, 52:2, 53:10</p> <p>weren't ^[1] - 38:7</p> <p>west ^[1] - 51:7</p>	<p>what's ^[4] - 6:14, 11:15, 19:22, 20:8</p> <p>whatever ^[1] - 38:4</p> <p>WHEREOF ^[1] - 54:20</p> <p>whether ^[6] - 14:13, 24:11, 43:17, 53:5, 53:6</p> <p>which ^[11] - 13:23, 14:9, 16:14, 17:18, 19:6, 22:16, 22:21, 27:5, 41:15, 42:23</p> <p>while ^[5] - 8:1, 25:5, 25:13, 33:3, 38:24</p> <p>Whitcomb ^[2] - 2:9, 2:16</p> <p>WHITCOMB ^[1] - 1:10</p> <p>who ^[18] - 9:22, 13:1, 13:4, 18:18, 25:23, 30:10, 32:12, 35:2, 36:11, 40:11, 40:13, 40:14, 40:18, 40:19, 40:20, 46:24, 52:24</p> <p>whole ^[2] - 8:8, 26:5</p> <p>whom ^[1] - 18:20</p> <p>whose ^[1] - 54:8</p> <p>why ^[8] - 17:12, 17:22, 18:1, 21:9, 24:8, 24:23, 31:20, 49:19</p> <p>wife ^[2] - 46:17, 46:18</p> <p>wife's ^[1] - 50:4</p> <p>will ^[2] - 28:16, 48:22</p> <p>William ^[1] - 4:17</p> <p>WILLIAM ^[6] - 1:16, 3:3, 4:3, 54:7, 56:5, 56:16</p> <p>within ^[4] - 32:2, 32:13, 39:20, 39:21</p> <p>WITNESS ^[14] - 8:10, 17:8, 25:22, 26:5, 35:23, 42:1, 42:4, 48:17, 50:21, 51:1, 51:5, 51:9, 52:22, 54:20</p> <p>Witness ^[4] - 14:7, 23:3, 31:8, 43:19</p> <p>witness ^[4] - 4:3, 50:6, 54:8, 54:13</p> <p>worked ^[1] - 12:15</p> <p>working ^[1] - 41:13</p> <p>would ^[50] - 9:23, 12:4, 14:4, 14:16, 16:15, 18:2, 18:3, 20:12, 21:3, 22:11, 22:14, 22:15, 22:17, 22:18, 24:10, 26:2, 26:24, 28:20, 29:16, 29:19, 29:20, 31:10, 31:15, 32:14, 36:21, 36:24, 37:2, 37:12, 37:15, 38:4, 39:23, 40:1, 40:4, 41:5,</p>	<p>zero ^[1] - 35:12</p>