

1 CAUTIONS IN USING A REALTIME PARTIALLY EDITED TRANSCRIPT

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3 IN A REALTIME PARTIALLY EDITED TRANSCRIPT, YOU MAY
4 SEE THE REPORTER'S RAW SHORTHAND NOTES. CONSEQUENTLY, YOU
5 MAY SEE ERRORS IN CAPITALIZATION AND PUNCTUATION,
6 MISSPELLINGS, SMALL WORDS MISSING (SUCH AS "THE," "IT,"
7 "A"), TRANSPOSED WORDS, DOUBLE WORDS, CONTEXTUAL HEARING
8 MISTAKES, HEARING MISTAKES OF SOUND-ALIKE WORDS, POSSIBLE
9 INCORRECT SPEAKER IDENTIFICATION, AND AT TIMES STENO
10 OUTLINES THAT HAVE NOT BEEN TRANSLATED.

11 BE ASSURED THAT IN THE FINAL EDITED VERSION OF THE
12 TRANSCRIPT, ALL ERRORS ARE CORRECTED. AN UNEDITED OR
13 PARTIALLY EDITED TRANSCRIPT REPRESENTS A FIRST DRAFT AND
14 SHOULD BE USED ACCORDINGLY.

15 THEREFORE, IT IS NOT RECOMMENDED YOU RELY ON THE
16 UNEDITED VERSION AS YOU WOULD A FINAL EVIDENTIARY CERTIFIED
17 TRANSCRIPT. ALTHOUGH AN UNEDITED OR PARTIALLY EDITED
18 TRANSCRIPT WILL BE VERY READABLE AND MOSTLY ACCURATE, IT
19 SHOULD BE USED WITH GREAT CARE.

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2 10:08 AM

3 THE COURT: Gabrielino versus Stein, BC361307.

4 Good morning.

5 MS. IBARRA: Good morning.

6 MR. FORDYCE: Good morning Your Honor.

7 MR. STEIN: Good morning Your Honor.

8 THE COURT: Counsel will you make your
9 appearances.10 MS. IBARRA: Delia Ibarra on behalf of plaintiff
11 Gabrielino-Tongva Tribe.12 MR. FORDYCE: Niall Fordyce on behalf of Mr. Stein
13 and law offices of Jonathan Stein.14 MR. STEIN: And Jonathan Stein on behalf of SMDC
15 and the Crane Group.16 THE COURT: Thank you. Okay Mr. Stein you're
17 still testifying and you may continue. You understand
18 you're still under oath; right?

19 A. Yes, Your Honor.

20 THE COURT: Okay you may continue.

21 MR. FORDYCE: Okay Mr. Stein we're going to
22 continue with the termination period. If I can get you to
23 turn to exhibit 572.

24 THE COURT: And that's in defense book right.

25 MR. FORDYCE: Defense, correct Your Honor, defense
26 volume one.

27 THE COURT: 5-.

28

MR. FORDYCE: -72, Your Honor.

1 THE COURT: 572. Okay.

2 MR. FORDYCE: Okay are you there.

3 A. Yes.

4 Q. Have you seen exhibit 572 before?

5 A. Yes.

6 Q. Please describe it?

7 A. This is the letter sent on behalf of SMDC by
8 Seyfarth Shaw to the GT Tribal Council and their attorney
9 Jim McShane regarding the termination -- they just
10 terminated me on October 3, this was the response letter on
11 October 5 which acknowledged the termination.

12 Q. Okay. When you have say acknowledged the
13 termination what do you mean?

14 A. It's here in the third paragraph, if I can read
15 it.

16 Q. Sure.

17 A. It's right at the bottom of Page 54 three, as
18 initial matter developer acknowledges receipt at 8:11 p.m.
19 On October 3 of the tribal council's notice of termination
20 of the development agreement made pursuant to sections Five
21 and 13 and that it acknowledges that it's -- it goes onto
22 acknowledge that it was a 30-day notice and then goes
23 forward to state positions on monies due.

24 Q. Okay. And it also says there is no resignation by
25 Mr. Stein adds CEO or by SMDC as developer at any time. Is
26 that accurate?

27 A. No. 11 years later and having seen all the
28 documents, I can see that on September 9th I had resigned

1 as CEO but it wasn't until October 3 the Velasquez was
2 terminated.

3 Q. And again those are two separate agreements;
4 correct?

5 A. Correct. The developer agreement was. And the
6 next paragraph was very important. It states here, Mr.
7 Stein's tenure as CEO however is merely derivative of
8 SMDC's services provided under the development agreement
9 and so should terminate 30 days after written notice. So
10 it acknowledges the same position we've taken 11 years
11 later that the CEO was simply something that enabled SMDC
12 to do its work as an independent contractor-er.

13 Q. And if you go to the last page, this has a
14 signature block with Jeff -- Jeffrey long from Seyfarth
15 Shaw is that correct?

16 A. That's correct.

17 Q. Did Mr. long draft this letter to your knowledge?

18 A. He did and I made revisions to it as well.

19 Q. Okay. Now if you go to the middle of the second
20 page which is 54 four, I'll direct you to the paragraph
21 that starts in light of the October 3rd notice as well as
22 other recent actions and resolutions, do you see that
23 paragraph?

24 A. Yes.

25 Q. Can you please explain that paragraph and the
26 bullet -- I'm sorry the numbered paragraphs under it?

27 A. Yes on Page 54 four in the middle of the page in
28 light of the October 3 notice as well as other recent

1 actions and resolutions purportedly taken by or on behalf
2 of the tribal council, developer hereby demands payment of
3 the total sums of one little I, 2,000,000 46 4,000 Five \$35
4 plus 25,000 for November 2006 plus reimbursable amounts not
5 yet determined. All the sums are currently due or by
6 November 3 will become due and owing pursuant to the
7 development agreement and then it explains how the sums
8 were calculated.

9 Q. And so we see 100,000 plus 26,000 -- actually
10 nearly 27,000 in Paragraph 1. Was that accurate at the
11 time this letter was drafted and reviewed by you?

12 A. Yeah. What happened is with the difficulties with
13 Elizabeth Aronson and in preparation for the termination,
14 Mr. McShane and I had a discussion and he had promised me
15 on behalf of the tribal council that I received the normal
16 \$50,000 per month, 25,000 for a current month and 25,000
17 for a past month, that I'd received all summer for
18 September and October. We never got those amounts. In
19 addition, I had spent about 26,000 -- over \$26,000 in
20 reimburseable amounts recently and he said that he would
21 make good on that and in fact those were -- those were all
22 due under the investor budget and in fact they never paid
23 it.

24 Q. And when you say he you're referring to Mr.
25 McShane on behalf of the tribe is that correct?

26 A. On behalf of the tribal council that's correct.

27 Q. Tribal council, okay thank you. The second
28 paragraph numbered two, payment November 2nd, 2,000,000 46

1 4,000 can you please explain that?

2 A. This would be the 2,000,000 46 4,000 due less the
3 investor budget payments, so the amount of 2,000,000 46
4 four included the 126, so it was made clear here that there
5 was no double counting but those amounts -- it was also
6 made clear that those amounts are due and payable
7 immediately upon termination.

8 Q. And we looked at that yesterday, correct, that was
9 I believe Section 4 I of the SMDC agreement, exhibit 569
10 that says upon termination all amounts are due and payable
11 is that correct?

12 A. That's correct. This was the letter putting that
13 into effect.

14 Q. And Paragraph 3?

15 A. Paragraph 3 was the November 2006 monthly amount
16 of 25,000 would be due during the 30-day notice of
17 termination, new reimbursable expenses may come up as part
18 of winding up the tribe's activities and you know cell
19 phone bills and you know of the six tribal councilmen and
20 the like. I ended up having to terminate the cell phones
21 because they refused to give me any money whatsoever and
22 the bills were due and so I just terminated the lines
23 despite their complaints.

24 Q. And Paragraph 4?

25 A. Payment of amounts due under the FCCP contract for
26 20,000, we asked for that amount, we didn't sue for it
27 though and we have waived trying to get it, they never paid
28 it.

1 Q. Why did you not sue for it?

2 A. I mean when you're already owed 2.4 million it
3 seemed like creating more work than otherwise.

4 Q. And for those four numbered paragraphs at the time
5 that you reviewed and this letter was sent around October
6 5, 2006, did you believe that the claims in those
7 paragraphs were true?

8 A. Yes.

9 Q. As you sit here today do you still believe they're
10 true?

11 A. Yes.

12 Q. Do you believe --?

13 A. Although we have -- again we didn't follow-up in
14 this lawsuit on the FCCP contract amount of \$20,000.

15 Q. Okay so other than that, is it your belief that
16 SMDC is still owed those amounts?

17 A. Yes the 2,000,000 46 4,000 Five 35, and then there
18 were additional amounts that are owed beyond that.

19 Q. And is it your belief that any of the amounts that
20 are owed to SMDC are for attorney services rendered to the
21 tribe?

22 A. No these are all amounts under the SMDC agreement,
23 if there's some claim that there's an attorney-client
24 agreement separate from -- it would have to be separate
25 from the SMDC agreement which specifically said there is no
26 attorney-client agreement. If there was -- if there was an
27 attorney-client contract separately, we never sent a -- I
28 never sent a bill under that contract in five years because

1 there was none and we've never sued for any money under
2 that contract and so if they think the remedy is that no
3 monies due for your attorney services, no monies being
4 claimed for attorney services. What's being claimed is the
5 services under the SMDC agreement.

6 Q. And that was --?

7 A. And those were approved by independent counsel.

8 Q. And --.

9 THE COURT: I have a question.

10 MR. FORDYCE: Oh sure Your Honor.

11 THE COURT: Of the attorneys, did Seyfarth Shaw
12 only represent SMDC throughout the --.

13 MS. IBARRA: Oh yeah they've never.

14 THE COURT: Okay that wasn't 16 those situations
15 where they --.

16 MS. IBARRA: Crossed over, yeah they never did.

17 THE COURT: They were all SMDC's.

18 MS. IBARRA: Only yeah.

19 THE COURT: Only.

20 MS. IBARRA: That was their only representation in
21 any of the this and the underlying answering.

22 MR. FORDYCE: Actually just for the record Mr.
23 Stein could you answer that please as the witness?

24 A. Seyfarth Shaw only worked for SMDC, all their as
25 attorneys was for SMDC including the SMDC agreement and
26 drafting the approved resolutions that went with the
27 agreement.

28 Q. So Mr. Stein.

1 MS. IBARRA: I'm going to only to the drafting the
2 resolutions, I would just object to that as lacks
3 foundation.

4 THE COURT: Foundation. I mean that's not what
5 the attorney said when he came to court, the Seyfarth Shaw
6 attorney.

7 A. Yes, he did say that.

8 MR. FORDYCE: I think he did, Your Honor.

9 A. Tom Watt his partner had done it and he
10 acknowledged that Tom Watt had done it.

11 THE COURT: Did Tom Watt come to court?

12 MS. IBARRA: Tom Watt did not come to court.

13 A. No. Ken Sulzer participated with Tom Watt and saw
14 him do it, I saw him do it, so -- all the testimony on the
15 drafting has been exactly the opposite of --

16 THE COURT: Well why don't you look for it, again
17 I can't -- this claim this was testified to and not
18 testified to unfortunately has not panned out on when the
19 court has questioned witnesses so any of those
20 representations are not evidence, we'll have to look into
21 the report of that and I wasn't asking Mr. Stein anyway, I
22 was asking counsel what her recollection was and apparently
23 Seyfarth Shaw was always representing SMDC drafting the
24 SMDC agreement.

25 MS. IBARRA: With Mr. Stein.

26 THE COURT: With Stein's assistance is how I
27 understand it.

28 MR. FORDYCE: And early resolutions.

1 MS. IBARRA: That's in contention.

2 THE COURT: Well, there's a dispute, I don't think
3 the testimony has born that out, whether the resolutions.

4 MS. IBARRA: It's Mr. Stein's contention.

5 THE COURT: Were drafted by --

6 MS. IBARRA: Or his testimony, Mr. Stein's
7 testimony.

8 THE COURT: Seyfarth.

9 MS. IBARRA: Was that they were drafted by them.

10 Q. BY MR. FORDYCE: So Mr. Stein as you look at this
11 document, although this is I think pretty safe to call it a
12 demand letter; is that correct?

13 A. Yes.

14 Q. Was there still a goal or was there a thought in
15 your mind that this matter could be resolved amicably?

16 A. Yes. And in the demand letters that we sent, that
17 Seyfarth Shaw sent on my behalf, request to mediate or
18 privately arbitrate the matter because if the investors
19 didn't give more money, it would be very hard to collect
20 the full 2.4 million dollars.

21 Q. Let me draw your attention in 572 just to that
22 second to last paragraph is that says absent a satisfactory
23 global resolution?

24 A. Absent a satisfactory global resolution developer
25 shall promptly seek enforcement of its rights and remedies
26 under the development act in the proper forum against all
27 necessary parties. Because such a course of action may
28 negatively impact the ultimate end towards which these

1 parties have been working these past Five and one half
2 years, which would not be in anybody's best interest, we
3 are hopeful that the parties can reach a mutually
4 acceptable resolution to this dispute.

5 Q. Was this paragraph that you were referring to with
6 this desire to continue to work towards this resolution
7 other than just a lawsuit?

8 A. Yes and that would be a normal situation, in you
9 terminate a contractor, the first instance is not to go to
10 court, it's to try to negotiate a resolution of the claims
11 and some sort of fair treatment with what's possible and
12 that was SMDC's goal was to state the claims and seek a
13 satisfactory global resolution or mutually acceptable
14 resolution of the dispute.

15 Q. And we will get to this but as SMDC, even post
16 termination, you did continue working towards this what
17 would appear to be mutually important goal is that correct?

18 A. Well I didn't -- I didn't continue working on the
19 casino project, I been -- SMDC had been terminated.

20 Q. Okay.

21 A. But what I did try to do is find a way to get the
22 SMDC 2.4 million dollars, some sort of payment towards it
23 and what ended up happening was we were offered zero
24 dollars at all times.

25 Q. And just for the record was that satisfactory?

26 A. No we actually showed them a draft complaint
27 saying we're ready to file this buff let's mediate it and
28 they took our draft complaint, used language from it and

1 then filed their lawsuit while the deadline for the --
2 responding to the complaint was there and told us oh by the
3 way we're going to have a response for you, we're going to
4 have a response. Their response was a lawsuit.

5 Q. Well let's go ahead and take a look at that. This
6 is Exhibit 65 four in Defendants second volume.

7 THE COURT: You were threatening a lawsuit with
8 this letter, it she's we shall seek.

9 A. Yes.

10 THE COURT: So everybody was threatening
11 litigation to each other it sounds like?

12 A. That's correct, that's correct but the difference
13 was we were offering to mediate and resolve it and to avoid
14 a lawsuit and that was never responded to accept with a
15 complaint and litigation.

16 MR. FORDYCE: And Mr. Stein to be clear.

17 MS. IBARRA: 654.

18 MR. FORDYCE: 675 four correct?

19 A. And if I can close the loop.

20 THE COURT: Sure?

21 A. I don't want top speak out of turn.

22 THE COURT: Go ahead?

23 A. They're claiming now that SMDC is somehow
24 responsible for the investors not renewing and that's why
25 it's important to show -- to have put on the record that in
26 fact SMDC was trying to mediate the dispute and avoid the
27 investors not renewing, that's what's important here.

28 MR. FORDYCE: Okay to Mr. Stein do you have 654 in

1 front of you?

2 A. Yes.

3 Q. Have you seen the document before?

4 A. Yes I have.

5 Q. And that would also include the draft complaint
6 which starts on Bates '09 '69 is that correct?

7 A. Yes that's correct.

8 Q. And can you please explain this letter?

9 A. This letter was a settlement communication made
10 October 23, so now it's -- we've gone from October 3 where
11 they terminated to October 5 where we responded and
12 suggesting a settlement to October 23 where we're making a
13 settlement communication.

14 MS. IBARRA: Objection is there a settlement
15 privilege that's being asserted or is it being waived here.

16 MR. FORDYCE: I think he's just reading the
17 document.

18 THE COURT: Well if this is a settlement document
19 then who's privilege is it to assert? Well if it's
20 Seyfarth Shaw if it's your attorney?

21 A. We're happy to waive it.

22 THE COURT: You're waiving the settlement
23 privilege, okay.

24 MS. IBARRA: As to just this settlement
25 communication?

26 A. As to this settlement communication, thank you.

27 MS. IBARRA: Okay thank you.

28 Q. BY MR. FORDYCE: So Mr. Stein can you continue

1 please?

2 A. So -- so what this letter was an effort to do was
3 to show them listen this is what a lawsuit would look like
4 but we would much rather delay filing the complaint and
5 reach a resolution of disputes.

6 Q. Well I'll draw your attention to the second to
7 last paragraph on the second page, '09 '68, the paragraph
8 that starts SMDC has asked us to delay filing. Can you
9 please read that.

10 THE COURT: Wait wait wait, where are we.

11 MR. FORDYCE: Oh I'm sorry Your Honor?

12 A. Page.

13 MR. FORDYCE: '09 '68, the second page of Exhibit
14 65 four.

15 THE COURT: Oh okay second page.

16 MR. FORDYCE: So Mr. Stein can you read that for
17 the record?

18 A. Reading from the first full paragraph, SMDC has
19 asked to us delay filing the complaint while we attempt to
20 reach a resolution of the dispute set forth in the
21 complaint. We hope a professional mediation may be
22 undertaken in sufficient sometime prior to the upcoming
23 tribal member meeting on November 18th to allow the parties
24 to implement a mediated solution in a manner beneficial to
25 tribal members and progress on the casino project. SMDC
26 also has asked us to delay filing because of the reported
27 overwhelming response of tribal members who seek a tribal
28 member meeting in support of Mr. Stein's reappointment to

1 his former position with the tribe.

2 Q. Would you please explain this paragraph.

3 A. Well what happened is when the tribal council
4 terminated SMDC, took funds out of the casino project, it
5 turns out they had almost no support amongst the tribal
6 members, tribal members when they learned of this.

7 MS. IBARRA: Objection lacks foundation.

8 THE COURT: Sustained.

9 MR. FORDYCE: We heard testimony to this.

10 Q. Mr. Stein do you have personal knowledge of
11 this?

12 A. Yes we -- we were flooded with phone calls, most
13 of which Barbara took but many of which I took and they --.

14 THE COURT: The ones you took then you can tell us
15 about?

16 A. Sure. But there must have been over 150 of them
17 in a span of a week.

18 Q. BY MR. FORDYCE: So is it your belief at this time
19 that there was support to bring you back to a position with
20 the tribe is that correct?

21 A. Yes.

22 Q. And overall what was the purpose of the paragraph
23 you just read?

24 A. Again to try to resolve this dispute short of
25 litigation.

26 Q. Did you want a lawsuit?

27 A. No.

28 Q. Do you think the tribal council wanted a

1 lawsuit?

2 A. Yes.

3 Q. What makes you say that?

4 A. They -- they took our draft complaint, they never
5 entered into any meaningful discussions, I never met with
6 my successor CEO Mr. Polanco to turn over anything he might
7 need regarding Sacramento, and instead they filed a
8 complaint on November 2 while we were -- when we said that
9 we asked for a response on or before November 4th and their
10 **[STPOBBD]** was to file their complaint on November 2.

11 Q. Well let's go ahead -- well as you sit here
12 today -- well at the time this letter was **[TKWRAFT]**-d
13 October 23, 2006, did you have any role in drafting this
14 letter?

15 A. I reviewed it after Jeffrey drafted it and gave
16 him the substantive points such as SMDC has asked us to
17 delay the filing of the complaints and SMDC has asked us to
18 delay filing and then the deadline of November 4th, Jeff
19 and I set together.

20 Q. Around October 23rd, 2006 did you have any reason
21 to believe there was anything untrue in this letter?

22 A. No.

23 Q. And do you still believe as you sit here today
24 that there's nothing untrue in this letter?

25 A. Yes.

26 Q. Let's move on to just exactly what you just
27 referenced, the very next exhibit in order is 655 starting
28 on Bates 10 '06 and please take a look at that Mr. Stein?

1 A. Yes.

2 Q. All right. Have you seen this document before?

3 A. Yes.

4 Q. Please explain what this document is and please
5 point out the date?

6 A. It's an account stated and final demand on
7 November 2nd.

8 Q. Okay. What is -- is there a significance to
9 November 2nd, 2006? I think we've all heard about it many
10 times?

11 A. Yeah we were making our final demand and
12 stating -- stating the account owed to SMDC and they
13 [TAOUFL] [HAOEF] on that same day filed their complaint so
14 we were still going through the formalities hoping for a
15 negotiated settlement and stating our account for that and
16 they actually had already filed their complaint in court.

17 Q. And I draw your attention [STOT] [SEPBLGD] page,
18 demand is hereby made for immediate payment for the
19 following sums that's the second full paragraph do you see
20 that?

21 A. Right, yes.

22 Q. Can you please explain?

23 A. This was stating the account owed to SMDC at two
24 in the 500 3,000 27 six dollars.

25 Q. And how do you get to that total?

26 A. Well, Paragraph A was monthly amounts through
27 October of 2006 in the amount of 1,595,000 and then the
28 additional 25,000 during the notice period of November.

1 Q. And that's added to Paragraph B?

2 A. And then B was for reimbursable expenses,
3 232,000472, and then there were additional reimbursable
4 expenses of 33,823 that were between September 1 and
5 October 30th.

6 Q. And there are some other entries here that we
7 really haven't touched on much. Do you see reference on
8 this page to the burnt down receivable?

9 A. Yeah we --.

10 THE COURT: Can I ask you, they paid you the --
11 maybe jumping ahead a little bit, my understanding was they
12 paid you the reimburse ability, not the expenses on the
13 contractor?

14 A. No.

15 THE COURT: What happened, what was the testimony
16 there was something about 250 or something like that during
17 the trial, counsel do you recall something like that.

18 MR. FORDYCE: Yes, you can go ahead but there was
19 some payment to SMDC and I?

20 A. But the amount of reimbursement was not paid and
21 was 232,000.

22 THE COURT: In addition to that.

23 A. Yes.

24 MS. IBARRA: There was an amount in the budget in
25 the Libra budget that was set aside for Mr. Stein.

26 THE COURT: You have mean expenses [STPHAOL] there
27 was monthly --.

28 THE COURT: Huh mean Mr. Stein or SMDC.

1 MS. IBARRA: I'm sorry SMDC. .

2 THE COURT: And that was paid.

3 MS. IBARRA: There was -- we could go back to the
4 Libra budget.

5 MR. FORDYCE: Well I think it's maybe ease

6 **[KWREUFT]**?

7 A. If you want to on direct.

8 Q. Stein I suppose the question would be then --.

9 THE COURT: Well why don't we answer my question.

10 MR. FORDYCE: Oh I'm sorry Your Honor.

11 THE COURT: There was a payment, right, expenses
12 at some point?

13 A. Approximately \$30,000 and what was left over was
14 \$232,000 and that's made out --.

15 THE COURT: Was that per the Libra budget?

16 A. No that was much less than the Libra budget, the
17 Libra budget provided for a lot more money to SMDC than was
18 ever paid.

19 MS. IBARRA: But there was also --.

20 THE COURT: Well there was an allocation that was
21 **[PROET]** probably greater. My point was you presented how
22 much your expenses were and they paid them is that correct?

23 A. No, it's not.

24 THE COURT: Because the budget is just an
25 allocation of how much they are going to allocate for your
26 expenses. It isn't a recitation of how much you actually
27 expended. So my question is was the money that was paid,
28 was that for the all the expenses up to date?

1 A. No. It was a very small percentage of that.

2 THE COURT: All right counsel what is your
3 recollection.

4 MS. IBARRA: So -- well my recollection
5 recollection is this is a point of contention because this
6 is also Mr. Stein's contention and testimony has been that
7 the expenses -- his expenses owed are part of the Talley
8 report so the stuff that was inputted into the --.

9 THE COURT: With no -- with no receipts.

10 MS. IBARRA: Exactly so --.

11 THE COURT: According to the Talley report they
12 did it without any receipts but I imagine some but not all.

13 MS. IBARRA: So with a we have is testimony from
14 Ms. Aronson who hasn't been here yesterday and we have
15 declaration [TPR-Z] her and also we have the budget so the
16 people who know best would be because they were controlling
17 the accounts that this was getting paid out of would be Liz
18 Aronson and Mr. Stein.

19 THE COURT: Ms. Aronson and Mr. Stein.

20 MS. IBARRA: Ms. Aronson and Mr. Stein.

21 THE COURT: And is Ms. Aronson going to address?

22 MS. IBARRA: Yes.

23 A. And Mr. Johnson too.

24 MS. IBARRA: Mr. Johnson never had control of the
25 accounts?

26 A. Mr. Johnson viewed the actual receipts, according
27 to his testimony.

28 THE COURT: Did he count receipts, did he tally

1 them? Did he --

2 A. He checked travel expenses and the items against
3 the actual entries in Quickbooks that were made.

4 THE COURT: By whom?

5 A. They originally were made in Quickbooks.

6 THE COURT: By whom?

7 A. By Barbara Garcia or by myself or by Ms. Aronson
8 or by Carol Markin, this is over the course of five years.

9 MS. IBARRA: So what we do have is we had
10 testimony from Mrs. -- the Talley, Ms. Dertadian who said
11 she did the report and Mr. Stein's testimony is it's an
12 audit h her testimony is that she was never given access to
13 any of these records and just relied on the Quickbooks, the
14 entries on Quickbooks?

15 A. My testimony was it was never an audit with all
16 due respect.

17 MS. IBARRA: I'm sorry, I'm sorry if I'm
18 mischaracterizing your testimony then, then there's a
19 stipulation that it's not a audit.

20 THE COURT: Okay I remember the Talley report said
21 there was no receipts.

22 A. Yes.

23 THE COURT: She wasn't able to -- she wasn't able
24 to verify any of the Quickbooks with receipts, that's what
25 I remember, it's actually [TPWHREUPB] her report so I guess
26 my question is then what was paid, was any of this
27 reimbursable paid at all to Mr. Stein? I thought there was
28 a \$200,000 payment to him.

1 MS. IBARRA: Those were month Lee's and then there
2 was also request for reimbursables that were also made?

3 A. May I answer the question.

4 THE COURT: No hold on. So your contention is
5 200,000 was paid which was for the monthly.

6 MS. IBARRA: Yes?

7 A. So my best recollection of the testimony and the
8 record that I have reviewed is that the Libra agreement was
9 that there wasn't -- they weren't going to do any
10 retroactive payments but they would do monthly payments
11 going forward and in total there was about 250 of payments
12 monthly, we can double check that with you and come back, I
13 don't want to --.

14 THE COURT: It was 25 monthly going forward or --?

15 A. 25,000 a month going forward, the Libra agreement
16 allowed retroactive as well, \$130,000 was paid to SMDC of
17 its monthly, a lesser amount of the receivables, and these
18 amounts stated here were the amounts that were due that
19 were left unpaid.

20 MS. IBARRA: There's also payments from the FCCP
21 agreement did Mr. Stein did sue and we can take judicial
22 notice about the fact that there are two separate contract
23 claims, one for the SMDC agreement and one for the FCCP,
24 today he testified that he's not suing on the FCCP
25 agreement buzz he has stated before that he was paid on
26 that and that I believe was \$50,000 a month?

27 A. No no not 50,000 a month.

28 THE COURT: Hold on.

1 MS. IBARRA: I'm sorry.

2 THE COURT: He's not suing on the FCCP because he
3 sued somewhere else for the FCCP.

4 MS. IBARRA: No he abandoned, he apparently has
5 abandoned the claim in this action so there's been un
6 clarify about that but his testimony today was that he's no
7 longer suing on that. We can clarify.

8 THE COURT: However there was some payments made.

9 MS. IBARRA: There was some payments.

10 THE COURT: Pursuant to that contract.

11 MS. IBARRA: And during the trial he stated the
12 fact that there were payments on that means there's partial
13 performance but there is no signature of that agreement,
14 we've never seen any signed signature of it or any signed
15 resolution of it adopting it or otherwise.

16 THE COURT: Of the FCCP agreement.

17 MS. IBARRA: FCCP agreement. So that's the
18 lobbying agreement.

19 THE COURT: I still --.

20 MS. IBARRA: It's very confusing I know.

21 THE COURT: So they're just random payments,
22 there's \$200,000 in payments that you're contending are
23 monthly going forward?

24 MS. IBARRA: And I think that's a combination --
25 Your Honor, I can go back and double check all the math,
26 but I think what it is is it's a combination of payments
27 under the SMDC agreement and then payments under the FCCP
28 agreement and then there was additional reimbursements and

1 that's why there's un clarity about it, also there's un
2 clarity about were there's a demand for contract -- a
3 payment on the contract or not.

4 THE COURT: Mr. Stein what's your?

5 A. There's no lack of clarity at all, forgive me for
6 saying that, but there's 130,000 that was paid on the SMDC
7 agreement and left over unpaid was 1,595,000 plus an
8 additional 25,000, that's what's listed here, that's after
9 payment of the 130,000. Second there was payment of
10 reimbursable expenses of less than \$30,000. What's left
11 over unpaid is \$232,472. There's an additional amount of
12 22,823 of new expense that's were not part of that amount.
13 So those are unpaid amounts after the payments of the
14 reimbursable expenses.

15 THE COURT: And those -- as it concerns the
16 expenses, where are the receipts for that?

17 A. The receipt -- the receipts were not kept because
18 there was so many of them. Instead, the Quickbook entries
19 were used and they were double checked by Steven Johnson
20 against the receipts that remained and against my own entry
21 to make sure there was no double counting.

22 THE COURT: Well who's Johnson?

23 A. Steven Johnson was the treasurer that was
24 testified here.

25 THE COURT: [TRAERB] usher of who?

26 A. [TRAERB] usher of GT Tribe GT Tribe.

27 MS. IBARRA: Was that the Candalaria group.

28 THE COURT: Was that the Candalaria group.

1 THE COURT: That's your group not this group?

2 A. That's correct but he checked the same records.

3 MS. IBARRA: But he was never engaged by this
4 faction of the tribe that's suing?

5 A. The Talley report was engaged by this faction and
6 Virginia Carmelo had input into the Talley report,
7 Elizabeth Aronson cooperated in part with the Tally report.

8 MS. IBARRA: Objection misstates testimony.

9 A. As Lorna Dertadian testified.

10 THE COURT: Okay. Misstates the testimony,
11 sustained. Okay so my thing is Talley was the one who was
12 retained by whom.

13 MS. IBARRA: Talley was -- was one of the
14 professionals that was retained by Mr. Stein on behalf of
15 the tribe or SMDC in his capacity through SMDC he retained
16 Talley and Talley did provide services and Talley was --
17 provided the Talley report?

18 A. That's entirely false.

19 MS. IBARRA: Objection you can clarify?

20 A. That's entirely false.

21 THE COURT: So Talley was retained?

22 A. Talley was --.

23 THE COURT: By Mr. Stein?

24 A. No.

25 THE COURT: Well who brought them to the table,
26 dug out and hire him?

27 A. The tribe hired Talley.

28 THE COURT: Who brought them to the tribe?

1 A. SMDC brought them.

2 THE COURT: Okay so?

3 A. 2001 and 2001 through the end of 2006 they worked
4 for GT Tribe.

5 THE COURT: So when she say you have Then In 2000
6 no reason to dispute when Talley has in their report that
7 there are no receipts to back up what's in the Talley
8 report or at least as it concerns the reimbursables you
9 have no reason to dispute that?

10 A. No we're not.

11 THE COURT: All right. Then let's go.

12 A. There was the demand for interest.

13 MR. FORDYCE: Yes. And I was just going to point
14 to that demand for interest of 565,875. What was that
15 based on?

16 A. This was the Talley calculation of the interest
17 due on the SMDC monthly amounts and on the reimbursable
18 amounts came out to 565,875 for the monthly amounts and
19 then 51,105 for the interest due on reimbursable expenses
20 pursuant to the terms of the SMDC agreement.

21 Q. Mr. Stein did you come up with the 565,875 number?

22 A. No this is the number in the Talley report.

23 Q. How about for 51,105 and 23 cents?

24 A. I believe that's in the Talley report as well.

25 Q. So again it would be your [con|could not] [TEPBLS]
26 as you sit here today that for example Seyfarth Shaw to
27 your knowledge did not create these numbers?

28 A. No. It was the tribe's long time accountants.

1 Q. And as I was just mentioning before there was a
2 burnt down receivable, can you please explain that?

3 A. That was for rent but we have not pursued that in
4 this litigation.

5 Q. So the sums being sought, now there is
6 considerable interest after the fact here because we've got
7 another almost 11 years of interest but the basic amounts
8 that SMDC is seeking to recover here are what's encapsulate
9 **[TPH-D]** A, B and C but the number in C is now a lot bigger
10 based on time passing is that correct?

11 A. That's correct. This was an account stated, we
12 never got any response disputing any of these numbers,
13 nobody has ever sent us a letter or a litigation paper
14 saying that the numbers are wrong or that they're inflated
15 or that they're improper, all we've said is these amounts
16 are due under the contract, there was never any response
17 saying no you miscalculated something or a lesser amount is
18 due.

19 Q. At this point to the best of your recollection
20 were you still willing to resolve this for lack of a better
21 term informally?

22 A. Yes until -- we -- at November 2, it was a shock
23 to find out that they had filed a lawsuit.

24 Q. And then what did SMDC do in response to the tribe
25 filing the lawsuit?

26 A. Based on my advice from any lawyers they took the
27 draft complaint and they -- it was finalized and filed the
28 same day.

1 Q. So at that point with a lawsuit filed it was your
2 belief that there was no longer any point in trying to
3 negotiate any sort of resolution other than filing a
4 lawsuit?

5 A. Right but we were -- we every day since then then
6 have been interested in a settlement of some sort.

7 Q. Let's move on to a- oh couple for exhibits that
8 we've seen before.

9 THE COURT: Is there any objection to this one,
10 it's been testified to.

11 MS. IBARRA: Is it a settlement communication?

12 A. There one is not, no.

13 MR. FORDYCE: I'm going to see if it's actually
14 been admitted.

15 MS. IBARRA: I mean.

16 THE COURT: It's not labeled that way.

17 MS. IBARRA: I mean we don't --.

18 THE COURT: The other one was labeled that way.

19 MS. IBARRA: We don't dispute that it was written
20 but we do dispute the substance of the numbers in there.

21 THE COURT: So you're not disputing that it was
22 written so.

23 MS. IBARRA: That it was written and that it was
24 sent and that it was received.

25 THE COURT: Okay so the court will receive it but
26 not for the truth of the contents but --.

27 MS. IBARRA: Right.

28 THE COURT: All right.

1 MR. FORDYCE: And Your Honor just attorney clear
2 for the record that's 654 and 655.

3 THE COURT: 654 I believe was the letter that had
4 the settlement, yes.

5 MR. FORDYCE: Yes same thing Your Honor.

6 THE COURT: Yes.

7 MR. FORDYCE: And I'm just checking my notes, I
8 want to see whether 572 has been -- and 572 the first
9 exhibit I had shown Mr. Stein has already been admitted.

10 THE COURT: Well, I guess they can be admission by
11 Mr. Stein since they are from his attorney so to that
12 extent they can be used.

13 Q. BY MR. FORDYCE: So Mr. Stein turning to Exhibit 5
14 20 which is in the first book.

15 THE COURT: Not six 25.

16 MR. FORDYCE: Correct.

17 Q. BY MR. FORDYCE: So Mr. Stein let me know when
18 you're doctor and you've had a chance to look at this?

19 A. Yeah.

20 Q. You do you want to take a second to look at it?

21 A. No I've seen it before.

22 Q. Have you seen this document before?

23 A. Yes.

24 Q. What is the document?

25 A. This was a letter that SMDC sent out to tribal
26 members to make sure that they were.

27 THE COURT: Who sent what -- what exhibit is this.

28 MR. FORDYCE: This is 520 Your Honor?

1 A. 520.

2 THE COURT: 520.

3 MR. FORDYCE: Yeah 52 zero.

4 THE COURT: Who was writing to the tribe?

5 A. Mr. Stein was.

6 THE COURT: You mean when you were no longer --
7 when you were fired?

8 A. That is correct.

9 Q. BY MR. FORDYCE: So I think that's going to be
10 part of the purpose for this exhibit Your Honor.

11 THE COURT: All right 520 I don't have a copy it.

12 MS. IBARRA: We talked about a lot in the real
13 party in interest part of the case.

14 THE COURT: So it was already admitted.

15 MS. IBARRA: It was already admitted Your Honor
16 yes.

17 MR. FORDYCE: Admitted on six, 30, identified on
18 6/21 of 2016.

19 THE COURT: Go ahead you can start examining and
20 Neli will find it.

21 MR. FORDYCE: All right. Thank you Your Honor.

22 Q. So Mr. Stein, please read the first paragraph?

23 A. Dear tribal member, I am Jonathan Stein and I
24 write to you and other tribal members under difficult
25 circumstances. In a strange turn of events I raised
26 \$21,000,000 for the tribe in May and last week I was fired
27 by the tribal council.

28 Q. So can you -- what I'm not seeing on this is a

1 clear date, can you give an approximation of the date this
2 document?

3 A. It was after the October 3 termination, it says
4 last week I was fired and it was before the October 23
5 letter.

6 Q. Okay so -- I'm sorry go ahead.

7 THE COURT: Well had you raised \$21,000,000 at
8 that point? I thought maybe a million dollars, a million
9 one?

10 A. Two point 15, two point 15.

11 THE COURT: So it wasn't 21,000,000?

12 A. No, it was not.

13 MS. IBARRA: It was a promise, potential.

14 THE COURT: Okay?

15 A. They had the discretion to invest or not according
16 to whether there were adverse changes.

17 THE COURT: Well the investors hadn't submitted to
18 \$21,000,000, they have had committed to one or two point 15
19 is that correct?

20 A. Yes.

21 THE COURT: So why would you tell them I think
22 \$1,000,000 why would you tell the tribe that?

23 A. Actually Your Honor the use of the word commitment
24 is --.

25 THE COURT: I'm not asking you about that?

26 A. Right.

27 THE COURT: I'm asking you about that. Why would
28 you tell them that you raised \$21,000,000 in the letter

1 after you'd just been fired when that wasn't true?

2 A. Well, actually, according to the Libra securities
3 public announcement, they had claimed that it was a
4 \$21,150,000 financing. This is a copy of what Libra
5 Securities put out.

6 THE COURT: But that's not true, is it?

7 MS. IBARRA: Objection; lacks foundation.

8 THE COURT: It does lacks foundation.

9 A. Your Honor, you're putting me in a difficult
10 situation.

11 THE COURT: Yes, I am. I am asking a difficult
12 question?

13 A. I would like to be able to explain to you.

14 THE COURT: I understand?

15 A. The court -- when you have an agreement that has
16 varying levels of commitment in it, they the option whether
17 to invest it was totally in their discretion, however if
18 conditions were met and they decided that enough progress
19 was made that they would invest a total of \$21,150,000
20 so --.

21 THE COURT: And you told them in that letter that
22 you were just reading, right?

23 A. And sent them a copy of the Libra Securities.

24 THE COURT: Well, read that first sentence. That
25 is what was said? Oh here it is. Dear tribal member, I am
26 Jonathan Stein and I write to you and other tribal members
27 under difficult circumstances. In a strange turn of events
28 I raised 21,000,000 for the tribe in May 22 and last week I

1 was fired by the tribal council. On May 22nd the tribe
2 received the first funds from a 21,000,000 revenue
3 participation facility. Our investors are respected
4 financial institutions such as John Hancock on and on?

5 A. Well, and it says the tombstone making the
6 transaction is enclosed. This is the public release. If
7 you want to go to Page 245, your Honor. And again, I only
8 want to cooperate with the court. The court is just coming
9 down very hard on a point I'm not sure that the court is
10 correct. This is what the public announcement of Libra
11 was, was there was a \$21,000,000 facility.

12 MS. IBARRA: Objection?

13 A. So I was not lying to the tribal members.

14 THE COURT: Well, what evidence is there that
15 Libra put this out? We haven't heard anything from Libra.
16 If you want to call Libra and they testify that they put
17 this out, I suppose I can accept that, but this is --
18 anyway, it is what it is. You told them there was
19 21,000,000.

20 A. Yes.

21 MR. FORDYCE: All right.

22 Q. BY MR. FORDYCE: So Mr. Stein moving on in the
23 letter?

24 A. May I read the second paragraph?

25 Q. Sure.

26 A. On May 22nd the tribe received a first funds from
27 a \$21,000,000 revenue participation facilities, our
28 investors are John Hancock insurance of boss document the

1 [KWOEL] tombstone [WORB] mark [-BG] of the transaction is
2 enclosed.

3 Q. What did this mean?

4 A. To the best of my knowledge after consulting with
5 Libra and giving them the art that created the tombstone,
6 they send me a copy of the tombstone and said this is our
7 public announcement of the transaction that they had sent
8 to the dozen investors as well as other people to show what
9 good investment bankers they were it's called at tombstone
10 they needed the art to help create it and I helped them
11 with that and they sent it to me saying this is our
12 tombstone.

13 MS. IBARRA: Objection.

14 A. And that's how investment banks mark their deals
15 to show the -- just like Hollywood actors get named in the
16 credits of a film, investment bankers make tombstones,
17 which they then make an advertisement to show all the
18 tombstones to show that they can raise money successfully.

19 MS. IBARRA: Lacks foundation.

20 THE COURT: Sustained.

21 MS. IBARRA: That this is from Libra.

22 THE COURT: The answer is stricken.

23 MS. IBARRA: We didn't see any evidence of that.

24 Q. BY MR. FORDYCE: So Mr. Stein moving on in the
25 letter, looking at the -- well let's look at the third and
26 fourth paragraphs of the first page, please read those?

27 A. Third paragraph, I worked for a solid year to
28 originate the financing, close the deal, budget the use of

1 investor funds and hire some 20 professional firms that the
2 tribal administration office now directs and supervisors.

3 Q. Is there anything untrue in that?

4 A. No.

5 Q. And next paragraph?

6 A. The tribal administration office which I headed
7 from February 2001 until October 3, 2006 is designed to act
8 as a check and balance on the tribal council and to
9 supervise the use of the 21,000,000 in investor funds.

10 Q. Please explain this paragraph?

11 A. This paragraph shows that the tribal
12 administration office was separate from the tribal council
13 and acted as a check and balance which in fact it did, we
14 objecting when money was taken.

15 THE COURT: Who were members of the tribal
16 administration office?

17 A. Barbara Garcia was the tribal administrator, SMDC
18 walls the contractor that helped with the casino project
19 and the casino project had 20 professional firms working
20 for it and --.

21 THE COURT: So there were two people who were
22 members of the tribal administration office you and-- or
23 SMDC and Barbara Garcia?

24 A. Plus Elizabeth Aronson who was assistant tribal
25 general counsel.

26 MS. IBARRA: Objection lacks foundation?

27 A. And before her was Rae Lamothe.

28 THE COURT: On what basis did you think they were

1 part of the tribal administration office?

2 A. That's just what we called it. In other words
3 that was just what we called it.

4 THE COURT: Was there a resolution starting a
5 tribal administration office?

6 A. You know that's a good question, I don't know, I
7 don't know.

8 THE COURT: How did it get formed then?

9 A. The tribe had the -- the office was at 500 Saint
10 Monica girlfriend Boulevard there was --.

11 THE COURT: Which is your office right?

12 A. Right. There was a separate room for the tribe
13 with a separate computer with the tribe's records on t
14 Barbara Garcia then kept notebooks, very similar to the
15 notebooks up there along the walls of the office and then
16 when the tribal council met we met in the conference room
17 next to the office.

18 Q. So the tribal administration office was just a
19 separate room in your law offices?

20 A. That's correct.

21 Q. All right. So Mr. Stein just more broadly, what
22 was the purpose of writing this letter?

23 A. Under the SMDC agreement my -- the SMDC liability
24 to the tribe was for gross negligence or willful
25 misconduct. In my discussions with Seyfarth Shaw our
26 concern was not to be connected to the tribal council's
27 actions to miss appropriate funds from the organization.
28 So to avoid being accused of being part of willful

1 misconduct, I thought at a minimum I had to alert the
2 members to number one that there had been a financing,
3 whether it was correctly described as two point 15 or
4 correctly described as 21,000,000 I tried to alert them
5 there was a financing. Second I had to alert them that
6 SMDC had been terminated which raises an inference that
7 SMDC is not part of any misconduct that is taking place and
8 I was --.

9 THE COURT: Why did they need to know that, why do
10 you think they node today know that.

11 A. For two different reasons.

12 THE COURT: Okay?

13 A. (Ditto). The first reason was as I said the
14 standard of conduct under the SMDC agreement was not -- was
15 willful misconduct and I wanted to make sure they knew
16 whatever the misconduct was on the part of the tribal
17 council that SMDC was not part of it, we had raised the
18 money we had -- the tribal council had prohibited me from
19 informing the tribal members earlier so I had asked them
20 Five and six times we've got -- from May until October.

21 THE COURT: Well did the tribal council accuse you
22 of -- was that the basis for their termination of the
23 agreement? Was that the basis for their terminating your
24 agreement?

25 A. No.

26 THE COURT: What was your understanding as to why
27 they terminated the SMDC agreement was it because of some
28 misconduct that you claim is a basis for terminating it.

1 A. They don't need misconduct to terminate it, number
2 one, Number 2 the reason.

3 THE COURT: So that was --?

4 A. The reason -- the reason as I've stated several
5 times, the reason was I said -- it's either you -- either
6 you -- either you terminate Ms. Aronson or you get rid of
7 me because she is permitting individual tribal council
8 people to raid the organizations money and put it in their
9 own pockets and I can't be part of that.

10 THE COURT: Right buff I guess my question is what
11 are you telling the -- what was the point of telling the
12 tribal members this?

13 A. The point was twofold and I'm still working on the
14 first part which is to make sure that tribal members which
15 I thought -- SMDC duty was only willful misconduct and
16 gross negligence I wanted to make sure the tribal members
17 didn't come back after all the stuff came out and go after
18 SMDC because I was helping the tribal council miss
19 appropriate funds of the organization. So this was to tell
20 them number one there were funds because I had been
21 prohibited from communicating to tribal members that --
22 that 2.15 million had been raised and me even refused to
23 have the normal fall meeting to avoid the topic coming up
24 that yes, there is a casino project, yes we've been funded,
25 yes, we have \$2,000,000.

26 MS. IBARRA: Objection lacks foundation?

27 A. This is a complete secret, this was a complete
28 secret to tribal members and I have wanted to make sure

1 that SMDC waters not part of my misconduct so we -- we
2 exposed that secret that 2.15 million dollars had been
3 funded to the tribe.

4 MS. IBARRA: It lacks foundation?

5 A. So that's reason number one. Reason Number 2 is
6 in this lawsuit I'm being accused of having duties outside
7 the SMDC agreement. That also occurred to Seyfarth Shaw,
8 is he you might be accused of that, they said your duties
9 are to your members, to the members of the organization not
10 to a renegade counsel stealing money so you have to tell
11 the members that there is money, you were terminated,
12 you're not part of this and give them at least the basic
13 facts because again I had been prohibited from giving them
14 the basic facts. The fall meeting had not been held to
15 avoid giving them the basic facts and in the meanwhile they
16 had already begun stealing money with checks signed by the
17 general counsel and I said listen you either get rid of me
18 or get rid of her and that's what led to the termination
19 and this letter ways number one if it's under the SMDC
20 agreement to make sure that they -- there's no inference of
21 willful Nick on the part of SMDC even if the tribal council
22 is engaged in willful misconduct. Second if you're accused
23 of any duties outside the agreement and here we are 11
24 years later still with those accusations pending that your
25 duties are to the members. Tell them at least the basics
26 that money was there and that you had no part of
27 misappropriating, you were terminated instead.

28

MS. IBARRA: I'm going to object to the en

1 testimony because it lacks foundation and it also
2 contradicts the statement of decision in the prior lawsuit
3 against all the individual Defendants including Virginia
4 Carmelo, Sam Dunlap, Liz Aronson, Richard Polanco where
5 they were all completely exonerated about any liability
6 from any willful misconduct having to do with that?

7 A. That's not what the statement of decision says
8 ma'am.

9 THE COURT: Where is the statement of decision.

10 MS. IBARRA: We might have actually included it in
11 here.

12 THE COURT: Well we can print it out, why don't
13 you give Neli the case number and she can print it out?

14 A. It's this case number.

15 MS. IBARRA: It is this case number and it's
16 August of 2012.

17 THE COURT: The court will take notice of it and
18 if it contradicts.

19 MR. FORDYCE: Mr. Stein?

20 A. If I can have a word, Your Honor?

21 THE COURT: No, no. We're ready to move on.

22 A. Yes, Your Honor.

23 Q. BY MR. FORDYCE: Mr. Stein, at the time you wrote
24 this, the testimony that you've just given, was it a
25 concern that you were going to be potentially liable under
26 a gross misconduct standard for the actions of the tribal
27 council?

28 A. Yes. And I had a second concern of course.

1 Q. As you've stated, correct?

2 A. The second concern is that --.

3 THE COURT: No you already stated it, let's move
4 on.

5 A. Yes very good.

6 THE COURT: You a gave good long explanation.

7 Q. BY MR. FORDYCE: Is there anything else in it --
8 let's move to the legislature legislation --?

9 A. If I can.

10 Q. Oh sure.

11 THE COURT: If you can what.

12 MS. IBARRA: If he can what.

13 Q. BY MR. FORDYCE: Well let's look?

14 A. If I can ask my counsel to continue questioning on
15 the letter.

16 MR. FORDYCE: That's fine. No member, no fall
17 membership meeting no financial audit. Please explain, is
18 this more in support of the testimony you've just given.

19 A. Yes I'd like to read it into the record.

20 Q. Okay if that's okay with the court.

21 THE COURT: It's already in the record unless
22 there's going to some other explanation of this.

23 Q. BY MR. FORDYCE: Mr. Stein, a word, please?

24 A. If I'm questioned by my counsel, yes.

25 Q. All right. So Mr. Stein, what's the explanation
26 for this that's different than what we just heard?

27 A. Well, in the next paragraph states, no member
28 letter, no fall membership meeting, no financial audit.

1 Since May the tribal administration office has urged the
2 tribal council to announce the \$21,000,000 facility to you,
3 the tribal membership. The tribal council has refused for
4 five months my repeated requests to authorize a letter,
5 this letter is September without their authorization.

6 Q. Why did you include this beyond what you've just
7 explained?

8 A. To avoid liability under the SMDC for willful
9 misconduct, to avoid liability if any outside of the SMDC
10 agreement breaching a fiduciary duty was owed to the
11 members of the organization.

12 THE COURT: So when did you make these requests?

13 A. We made the request repeatedly from the day we got
14 the money.

15 THE COURT: Were they in writing or.

16 A. Yes and in tribal meetings and when I cut checks.

17 THE COURT: So that would be somewhere in the
18 tribal minutes?

19 A. I don't know if the minutes were kept, because
20 Elizabeth Aronson didn't keep minutes. That was one of my
21 complaints with her.

22 THE COURT: Well Elizabeth Aronson had only been
23 general counsel for a while, right?

24 A. Rae Lamothe had left by the time the money came
25 in, so because Rae Lamothe had left, Elizabeth Aronson was
26 the one that was keeping the minutes. She failed to keep
27 minutes which is one of my complaints about her.

28 THE COURT: I see.

1 MS. IBARRA: I'm going to object it lacks
2 foundation and also --?

3 A. And when the money came in.

4 MS. IBARRA: Contradicts?

5 A. I said we should tell the members and I'm stating
6 here he with did.

7 MS. IBARRA: Well it contradicts testimony from
8 other people.

9 THE COURT: It contradicts. You may continue.

10 Q. BY MR. FORDYCE: Mr. Stein, second paragraph under
11 no member letter?

12 A. Many of you have met me and others know about my
13 work for the tribe since 2001. For five long years, I
14 supported the expenses of the tribe and the casino project
15 out of my own pocket spending about a quarter millions in
16 cash, as well as 3,000,000 in professional time. All of
17 the choices and decisions on the casino project for the
18 past 5.5 years were mine subject of course to final
19 approval by the tribal council.

20 Q. What was point purpose of telling the members
21 this?

22 A. To tell them that the person that had successfully
23 raised the money and that it was successfully pushing
24 forward the casino project had been terminated.

25 THE COURT: Wait a minute. The court found here
26 Stein notes -- the Stein notes recount fantastical and
27 utterly unbelievable allegations, according to Jonathan
28 Stein's notes Sam Dunlap may be working with the CIA

1 against Hezbollah terrorists. According to the note Dunlap
2 states that his idea to help CIA blowup Hezbollah
3 terrorists. So --?

4 A. That was a separate --

5 THE COURT: That was Judge Linfield's findings
6 about your claims?

7 A. No that's Judge Linfield's about a story about
8 Hezbollah terrorist that Sam told him.

9 MS. IBARRA: That's credibility that Mr. Linfield.

10 THE COURT: Let's keep going I'll read it later.

11 Q. BY MR. FORDYCE: And Mr. Stein the choices and
12 decision on the casino project that line about that was
13 that practicing law on behalf of the tribal?

14 A. No, it was not it was an effort to tell them what
15 happened.

16 Q. Is there anything untrue in that paragraph either
17 then or now?

18 A. The paragraph that says 3,000,000 professional
19 time refers to the quantum meruit calculations of SMDC,
20 quarter million in cash refers to the reimbursable
21 expenses, 232,000 of which plus 31,000 is a I over quarter
22 million dollars in unreimbursed expenses and 5.5 years of
23 time was the time that I spent and I did make all the
24 decisions subject to the approval of the tribal council.

25 Q. So that's accurate and true as you sit here
26 today?

27 A. Yes.

28 Q. Next paragraph references Ms. Garcia?

1 A. My assistant Barbara Garcia is the tribal
2 administrator. Barbara answers the tribal administration
3 office phone and keeps membership records. With the
4 excellent work of the tribal council, we built up tribal
5 membership to over 1900 Gabrielinos. Your membership
6 records are secure, private and computerized. Each of you
7 has your own manila folder for BIA and personal documents.

8 Q. What was of the point of this?

9 A. Well there were demands from counsel Sheppard
10 Mullin saying hey give us the records and the concern that
11 I had as it advised by Seyfarth Shaw was don't give them
12 the records you're -- they are the -- they are the members
13 records and because of privacy concerns it's best just to
14 hold on and keep them secure. Once a lawsuit was started
15 then a judge could order what was done with them.

16 Q. And this was after some documents or a number of
17 documents had been removed from your offices, correct?

18 A. Right. The tribal council had several copies of
19 all the official records of the tribe so they were okay,
20 they had that, they had membership lists of their own that
21 they used to communicate with members separate from the
22 records that we used to communicate to members and the
23 tribal council was still with the administration office.

24 Q. Move to the next page, I am -- well let's -- I'd
25 kind of like to cut to the Chase. The paragraph that
26 starts the tribal administration office brought in Talley
27 and company, could you read those next three paragraphs?

28 A. Yeah.

1 THE COURT: Where are you.

2 MR. FORDYCE: This is absolutely above the middle
3 of the page 0243 Your Honor second page of the exhibit.

4 MS. IBARRA: Fourth paragraph on the second page?

5 MR. FORDYCE: Yeah, that's correct.

6 A. The tribal administration office brought in Talley
7 and Company to verify the tribal council books and perform
8 a routine financial audit of the tribe's checking accounts.
9 In August, the three tribal accounts contained about
10 1,000,000 in cash.

11 Q. Did you feel it was necessary to bring in Talley
12 and company?

13 A. Yes, I was very concerned over misappropriations
14 of the organizations funds so I brought in the tribe's
15 accountant and said go ahead and do this work when they
16 heard why I had asked them to do it they were more than
17 willing to do it.

18 Q. Can you read the next paragraph?

19 A. The tribal council refused repeated requests by
20 the tribal administration office and Talley and company to
21 verify amounts held in checking accounts. Signatories on
22 the tribe's accounts were changed without my knowledge and
23 the checking accounts, check books and other bank records
24 were removed from the tribal administration office.

25 Q. Is this consistent with the testimony we've heard
26 from other witnesses and you've given concerning the
27 changeover of the account?

28 A. Yes.

1 THE COURT: And the changeover -- the changeover
2 was that it was -- the accounts were solely in Mr. Stein's
3 name, correct, and then they were trying to be changed over
4 into Aronson's that's what I understood the testimony was,
5 that was the change order that referring to is that
6 correct?

7 A. No.

8 THE COURT: Okay then what is your testimony?

9 A. Elizabeth Aronson and I both had signatory -- you
10 needed two signatures for the large account --.

11 THE COURT: Well initially I think it was just in
12 your name, right and then they tried to change it over into
13 your name. There was no joint, it's in that letter that I
14 pointed out yesterday?

15 A. I understand what you're saying and that lever may
16 be right and I may be wrong 11 years later but my
17 recollection is there were two signatures and they changed
18 it to a single signature and if Mr. -- and if Sheppard
19 Mullin said otherwise, they may have gotten it wrong sin it
20 was an early draft but the final result -- result was a
21 single signature by Ms. Aronson.

22 MS. IBARRA: Just objection that it's -- un
23 clarity as to which account because I think there were
24 multiple accounts and there might have been different
25 signatories and different sounds.

26 THE COURT: Okay sustained lack of clarify,
27 ambiguous, vague and ambiguous.

28 MS. IBARRA: Ambiguous.

1 Q. BY MR. FORDYCE: Well Mr. Stein how many accounts
2 were there?

3 A. There were three.

4 Q. And can you describe eave account briefly?

5 A. The large account was at Wells Fargo, there was a
6 smaller account at union bank and then a second smaller
7 account at union bank.

8 Q. To the best of your recollection, about the
9 time -- who had signatory power over each?

10 A. My recollection.

11 Q. Yes.

12 A. Was that the large account was Elizabeth Aronson
13 and myself, that was changed to Elizabeth Aronson.

14 Q. Okay.

15 A. One small account was me alone for the gaming
16 authority, that was changed to Elizabeth Aronson. A second
17 small account was Elizabeth Aronson a- [HRAOPB] and I never
18 had signatory authority over t that was to pay the council
19 and that was always -- that was left with Elizabeth Aronson
20 the whole time.

21 Q. And that's your best recollection as you sit here
22 today?

23 A. That's my best recollection as I sit here today.

24 MS. IBARRA: And I'll object to ambiguity as to
25 large and small accounts because I just don't know.

26 THE COURT: Well I mean it's still ambiguous
27 because I don't know, who is the entity -- you're talking
28 about who has signature authority over the account but who

1 is the account name under, in other words we don't know who
2 is the --?

3 A. The large account was in the name of the gaming
4 authority, one small account was in the name -- that's a
5 Wells Fargo bank, that earned significant interest, then
6 there was a smaller account at union bank that was in the
7 name of the gaming authority and that was funded from sums
8 from the larger account, the second small account was in
9 the name of GT Tribe not the gaming authority and that was
10 the account, also funded by the same monies and that was
11 the signature of Elizabeth Aronson. And then all of those
12 were changed over to Elizabeth Aronson when we had the
13 confrontation in September.

14 Q. BY MR. FORDYCE: And then the final paragraph of
15 those three right there, my termination began?

16 A. My termination began with my repeated requests as
17 part of my duties running the tribal administration office
18 and its casino project. Perhaps the tribal council found
19 me obnoxious for insisting on, one, notice to tribal
20 members of the 21,000,000 investment; two, scheduling for
21 our fall 2006 member meeting; and three, completion of the
22 routine financial audit.

23 Q. Please explain this paragraph, what you meant?

24 A. This was to let everybody know that I was trying
25 to -- that I had repeated attempts to convince the tribal
26 council to tell members that money had been funded to the
27 tribe.

28 Q. Okay. That was the overarching purpose?

1 A. The overarching purpose was the twofold, one
2 willful -- avoiding association with them to avoid willful
3 misconduct and by closing what had occurred and showing
4 that I was trying to close earlier as well; and second
5 Seyfarth Shaw's advisements that if I was accused of duties
6 outside of the -- outside of the SMDC agreement, they would
7 be to the members. So I best disclosed to the members what
8 was going on.

9 Q. And the final little paragraph there, when I
10 fought to do these things?

11 A. When I fought to do these things, my goal was to
12 preserve the independence of the tribal administration
13 offices a checks and balance on tribal council power and to
14 benefit you, the tribal members. I was fired as a result.

15 Q. It's pretty self explanatory but if you want to
16 explain, what does that mean well it leaves out the power
17 struggle between Elizabeth Aronson and myself, it leaves
18 out any accusations that the tribal council stole money,
19 this letter left out anytime accusation that's the tribal
20 council had stolen money?

21 Q. These four paragraphs that you just read, were
22 they accurate at the time that you wrote this? Were they
23 true?

24 A. Yes. But they -- were they -- they -- they left
25 things out.

26 Q. Are they true to that extent as you sit here
27 today?

28 A. Yes but it leave out the part about the tribal

1 council money and my own requirement that either she left
2 or I had to -- or they should terminate me.

3 THE COURT: Let's take a break until 11:30, 10
4 minutes, okay.

5 MR. FORDYCE: Oh sure.

6 MS. IBARRA: Yes.

7 (Break taken.) 11:21 AM to 11:33 AM.

8 THE COURT: All right let's finish up, I don't see
9 any necessity to rereading -- just reading verbatim what's
10 in evidence, this is in evidence so I'm not going to have
11 any more reading of what's in evidence.

12 MR. FORDYCE: Okay Your Honor but I can still ask
13 Mr. Stein to comment on motivations, truth, et cetera et
14 cetera.

15 THE COURT: Yeah.

16 MR. FORDYCE: Okay thank you.

17 THE COURT: As necessary, if I I think it's bet
18 getting repetitive then I'll rain it in.

19 MR. FORDYCE: Okay thank you Your Honor.

20 THE COURT: It's taking too much time, these
21 documents are in evidence, you're reading things that are
22 in evidence already, I had suggested that you pick out a
23 few that are material but it seems you're milk out every
24 single paragraph.

25 A. Yes Your Honor.

26 MR. FORDYCE: That's fine we're going to move to
27 Exhibit 5 23.

28 THE CLERK: 523.

1 MR. FORDYCE: 523 that's correct.

2 Q. Mr. Stein please take a look at 523?

3 A. Yes.

4 Q. Have you seen this before?

5 A. Yes.

6 Q. What is the document?

7 A. This was a letter sent out by the financial
8 oversight committee announcing their meeting on November
9 18th to discuss the investor agreement and the firing of
10 SMDC.

11 Q. And are the --.

12 THE COURT: This is the competing tribal group,
13 right.

14 MS. IBARRA: Yes?

15 A. Well at this point in 2006 we didn't know who was
16 what. What it was was a volunteer group of members that
17 were concerned that pulled together.

18 MS. IBARRA: Objection as to.

19 THE COURT: With [TEZ] this says Gabrielino-Tongva
20 Tribe tribal council so they must have thought of
21 themselves in that way, is that right or is this something
22 [STPHAOELS] are you asking --.

23 THE COURT: Well yes I'm asking you?

24 A. Oh. No this was a volunteer group of members.

25 THE COURT: Well how did they get ahead of the
26 [TKPWO*T] Al council letterhead?

27 A. They asked Barbara Garcia if they could use it.

28 Q. And she had authority to let them use it?

1 A. I don't know.

2 MS. IBARRA: I believe this misstates Mr. Stein's
3 prior testimony on this topic and it's also duplicative of
4 what just what we've heard, we discussed this as length
5 during the real party in interest part of the case.

6 THE COURT: Well I guess this look this group the
7 Candalaria group is not the real party in interest so I'm
8 not sure why are you introducing this why are you inter.

9 MR. FORDYCE: Shall I ask my next question.

10 THE COURT: Good I want to know.

11 MR. FORDYCE: To whom did Mr. Stein owes a
12 fiduciary duty after he was fired from the tribe and how
13 does relate to that.

14 THE COURT: To whom did he owe fiduciary.

15 MR. FORDYCE: If it the all.

16 A. They have said -- they are accusing me of breaches
17 a fiduciary duty we had said there is no duty and then the
18 next point is well if there is a duty who was it to because
19 once again for 11 years, two appellate [courts|court's] h
20 judge air gone, judge is a [TPHAEUPB] [KWRAPB], judge Lynn
21 field and yourself have come to different conclusions as to
22 who was the real party in interest. We have --.

23 THE COURT: We've had a jury now determine who is
24 the real party in interest.

25 A. Yes yes.

26 THE COURT: All that other litigation, that 11
27 years of litigation that came up and down and that's what
28 it came down here was a trial in in my courtroom for that

1 issue, that is now put to bed until and at least that issue
2 is appealed but as far as right now it doesn't matter what
3 other people said. I want to know what is the issue
4 concerning -- and I'm going to ask Mr. Fordyce because he's
5 the lawyer for you, what is it in terms of fiduciary duty
6 or --.

7 MR. FORDYCE: Well again Your Honor we want to
8 make sure that it's clear that to the ex [TPEPBT] if Mr.
9 Stein owed any fiduciary duty whatsoever it wasn't by the
10 entity that's suing him here and this is manifested by his
11 actions after being fired threw in membership letter Number
12 3, through the membership labeled in Exhibit 51 one that
13 [AOEUP]-g also going to show Mr. Stein and again ask him
14 his understanding to whom he owed a duty.

15 MS. IBARRA: Your Honor can I respond to that.

16 THE COURT: Yes.

17 MS. IBARRA: Because I think that's a temporal
18 issue. So if he -- so is the argument that he didn't oh us
19 any duty because he owed them 209 new group that was
20 forming? I mean this is after the fact.

21 THE COURT: But assuming -- the issue isn't
22 whether he owed duties to them, if they want to sue him for
23 the breach of fiduciary duty they can guess to so the
24 question is if they owed this group fiduciary duty.

25 MR. FORDYCE: Isn't it relevant to that.

26 THE COURT: That's why I'm asking, why is this
27 relevant if this is showing his relationship or feud to
28 somebody else, in other words he may have had a fiduciary

1 duty to somebody else but that's not this issue, that's not
2 what this trial about, the trial is whether he owed
3 fiduciary duty to these people in front of them today.

4 MR. FORDYCE: I understand Your Honor's point but
5 doesn't this speak to whether he does or doesn't because
6 the duty if it existed at all in his [PHAOEUFRPBD] was to
7 the Candalaria group.

8 THE COURT: No, whether he has or one is
9 irrelevant?

10 A. Not the Candalaria group.

11 THE COURT: He may have had that but that's
12 [WH-PB] had he ledge grating?

13 A. It's the members.

14 THE COURT: We're litigating Mr. [TKPHO*E] [AOE]
15 group here he may have had one?

16 A. The members.

17 MR. FORDYCE: In that case maybe the better
18 exhibit is 51 one which is the membership table?

19 A. Yeah.

20 MR. FORDYCE: All right can we look at 51 one Your
21 Honor and you can tell me if it's okay to ask him about
22 that, 51 one is in the same book?

23 A. May I -- I might mention, I'm here to cooperate
24 with whatever the Court's wants to do I'm here to
25 cooperate.

26 THE COURT: All right thank you. So my question
27 is do we need to go any further with this exhibit, I think
28 it was already introduced in the first phase to [TKPWERPL]

1 whether or not?

2 A. Your Honor.

3 THE COURT: I'm not sure whether it need to be
4 take [TPHAOEPB] consideration for this phase or nor what
5 purpose you're offering it [STPHAOE] I think there's a
6 different purpose?

7 A. May I be heard.

8 THE COURT: No no no.

9 MR. FORDYCE: In that case Her Honor we're quite
10 happy to abide by whatever the court wants and maybe it's
11 not as probative as we're thinking it is, so we're -- we'll
12 leave it alone.

13 THE COURT: You can think about it if you come
14 back in an hour or after lunch or tomorrow and say oh maybe
15 I'll make a different argument to as court as to why this
16 is relevant I'm willing to listen to it but --.

17 MS. IBARRA: And I want it admitted as admissions
18 by Mr. Stein and SMDC?

19 A. Again this is cross-examination of that of the
20 same points.

21 MS. IBARRA: But we've had a lot of
22 cross-examination on this and we've had direct on that
23 letter as well which is why it's been admitted?

24 A. Not true.

25 THE COURT: So are you saying that -- because it
26 has been admitted in the first part of the trial but Mr.
27 Fordyce does it have some other relevance other than --?

28 A. May I consult with my counsel.

1 THE COURT: That's already --

2 A. May I.

3 THE COURT: None yet.

4 MR. FORDYCE: Is there a question pending? Well
5 Your Honor --.

6 THE COURT: In other words is there some other
7 reap to try to show that he owed a [TKAOUFT] to them
8 because that really isn't the issue usurp, is there
9 something else that it may be [R*EFLT] to.

10 MR. FORDYCE: Or not [-R], or that he [OEFD] a
11 duty to the members rather [THAPT] council that's why I'm
12 asking 51 one is the better [TPHAOEUPLT] if the Your Honor
13 zoo [AOE] lie way to think about it we're happy to do so if
14 we can come up with a good legal argument as to 523 is
15 relevant and needs to be discussed then perhaps.

16 THE COURT: In other words other than he owes a
17 duty.

18 MR. FORDYCE: Correct Your Honor.

19 THE COURT: To some other group that's really not
20 at issue?

21 A. That's right, that's right it's the members.

22 MR. FORDYCE: All right so 51 one Mr. Stein are
23 you there.

24 A. Yes.

25 THE COURT: All right. Oh I don't have that one.

26 MR. FORDYCE: Oh [SAOR] [AOE] is it not in the
27 book.

28 MS. IBARRA: And I'm going to object to this

1 document on the basis of relevance, all this shows is that
2 Mr. Stein retained custody of our membership list and as he
3 admitted in the first letter that he sent to the members
4 each of their files were kept in a little manila folder and
5 they were safe. So that's what the -- that's all that
6 shows is that Mr. Stein retained copy of those membership
7 records and then he made a list and then he also apparently
8 this is a terminating list. I don't know -- so that's as
9 to relevancy so prove what point.

10 MR. FORDYCE: I'm just going to ask him about to
11 whom he considers he owed a duty if anyone and this exhibit
12 speaks to that and by the way it's been identified and
13 admitted.

14 MS. IBARRA: Yeah to -- I want it admitted as an
15 admission that he kept the tribe's tribal records, I do
16 want it admitted for that reason.

17 MR. FORDYCE: Well we've had a ton of testimony on
18 [THAO] so.

19 MS. IBARRA: Yeah we have.

20 MR. FORDYCE: Your Honor can I just ask him.

21 THE COURT: Yeah okay.

22 MR. FORDYCE: My question.

23 Q. Mr. Stein have you seen Exhibit 51 one before?

24 A. Yes.

25 Q. Did you believe SMDC had a duty to any person or
26 entity as of March 15, 2007?

27 A. SMDC's only duty mine was to the organization and
28 the organization was made up of 1900 members. When the

1 tribal council ran off, only 237 members left with them,
2 the other -- the other 1700 members SMDC had a duty to
3 those people, to those members and when you've got an
4 overwhelming number, 1700 that said we don't agree with the
5 tribal council and then he have a tribal council saying
6 this and that but they had terminated SMDC, any duties SMDC
7 owed, any duties Jonathan Stein owed were over, Jonathan
8 Stein's duties were over September 9th I resigned on
9 September 9th, on September 10, whatever my duties were on
10 September 9th were over. On October 3 --.

11 THE COURT: Hold on.

12 MS. IBARRA: I'm going to object on the basis of
13 it lacks foundation, it also specifically contradicts the
14 statement of decision from August 2012.

15 THE COURT: All right sustained.

16 MS. IBARRA: That they never went off, that the
17 tribal council members never went off.

18 THE COURT: All right sustained?

19 A. I'll --. How does that have anything to do -- the
20 statement of decision has nothing to do with this.

21 MR. FORDYCE: I'm --?

22 A. They're accusing me of having duties, those
23 duties -- I'm testifying that toes duties ended on
24 September 9th when I resigned adds CEO.

25 THE COURT: That's conclusory, isn't it, isn't
26 that part of what needs to be decided by me is whether
27 there are duties?

28 A. No he asked me did I think I had any duties in

1 this conduct and the answer is I didn't think I had any
2 duties at all and if there were any duties it was to the
3 overwhelming number of members who did not follow this
4 tribal council as shown by Exhibit 51 one because only 237
5 of them said we're following our tribal council give us our
6 records.

7 THE COURT: Well that's the part that lacks
8 foundation?

9 A. That has been testified to repeatedly to by
10 Barbara Garcia.

11 THE COURT: But that testimony, wasn't that
12 testimony rejected though.

13 A. No it was [AUPL] [ST*EUPD].

14 MS. IBARRA: By the jury?

15 A. It was all accepted saying there were 237 members
16 that put in their [T*RPBLGS] [-Z].

17 THE COURT: But the jury said that was not the
18 real party in interest, that wasn't the tribe, the jury
19 came back and said these people in front of us are the
20 tribe, whether [THATS] 270 or 2000, that's who they said
21 were the tribe?

22 A. Okay I see what you're saying, yes.

23 MS. IBARRA: So I'm going to restate my objection
24 as rather than statement of decision, the jury's verdict
25 or -- yeah.

26 MR. FORDYCE: Mr. Stein just to tie this up, why
27 did you believe or do you believe as you sit here today
28 that there was no duty post termination, resignation?

1 A. I believed in 2006 that my duty was to the 1700
2 members, not just to the tribal council and that you
3 couldn't leave those people behind, you have just couldn't
4 leave them behind and so --.

5 THE COURT: But that assumes they were left behind
6 so that's a problem, I don't think been any finding that
7 they were left behind and I think the statement of decision
8 goes through this?

9 A. The statement of decision doesn't reach the
10 supreme election [-Z], the statement of decision just
11 reaches the fraudulent transfer of monies all of which
12 occurred by November 8th so is that statement of decision
13 deals with events through November 8 and ends with the
14 splitting of the tribe which it talks about often November
15 18th into two groups so that's the problem with the
16 statement of decision is it addressed only the fraudulent
17 transfer actions that were in front of the court.

18 THE COURT: Well it says here, set of the split,
19 various members of the Gabrielino-Tongva Tribe sent in,
20 quote, blue cards asking that their membership records be
21 sent to them. The blue cards did not say that the member
22 was terminating his or her membership in the
23 Gabrielino-Tongva Tribe. Nonetheless, the competing
24 faction, organized by Jonathan Stein, treated the blue
25 cards as if they were resignations from the
26 Gabrielino-Tongva Tribe.

27 A. Uh-huh. He's agreeing with what the jury said,
28 sure.

1 THE COURT: Right so he's saying that that was
2 not -- that these people that you've listed adds somehow.

3 MS. IBARRA: Terminated.

4 THE COURT: Terminating were not terminating at
5 all so?

6 A. Uh-huh.

7 THE COURT: Okay so let's be clear about the
8 testimony?

9 A. Sure.

10 MR. FORDYCE: Well in that case --?

11 A. I mean I'm here to cooperate with the court so
12 whichever direction the Court's wants us to go is fine?

13 A. And that's fine I obviously have the exact same
14 attitude and position. And Your Honor the next exhibit has
15 got to be the Talley report and we were just talking about
16 it and it's a 24-page document do you want me to start or
17 can we get going tomorrow.

18 THE COURT: Why don't we start a little bit, where
19 is the Talley report seeing if we can find it.

20 MR. FORDYCE: It's 57 seven.

21 MS. IBARRA: Yes 57 seven.

22 MR. FORDYCE: So it's early in the second book. I
23 think this has also been identified and admitted.

24 MS. IBARRA: It has yes.

25 Q. BY MR. FORDYCE: So Mr. Stein have you seen this
26 document before?

27 A. I don't say it's the Talley report dated October
28 3.

1 THE COURT: What's the exhibit number.

2 MR. FORDYCE: Oh I'm sorry Your Honor 57 seven.

3 THE COURT: 57 seven, okay.

4 Q. BY MR. FORDYCE: So Mr. Stein that's actually the
5 same date of the SMDC termination is that correct?

6 A. Yes.

7 Q. Is there any connection between the date of this
8 report and the termination in your mind?

9 A. No. They -- this report, I had asked the tribe's
10 accountants, the lock time accountants of the tribe, Talley
11 and company if they would take short of a [STPHA*L]
12 snapshot of the financial books given the difficulties of
13 money -- money owned by the organization that had been
14 transferred to individual tribal council people by
15 Elizabeth Aronson the tribal general counsel.

16 THE COURT: And when did you ask for this snapshot
17 of books?

18 A. Sometime between -- it took several weeks to write
19 this including the input of Virginia Carmelo and Elizabeth
20 Aronson so it would be September 15th would be date, then
21 September 9th was the blow up so I'm sure I didn't ask for
22 it until the blow up had occurred where they walked out of
23 the tribal administration offices with the tribal records
24 and the checkbook.

25 MS. IBARRA: Objection; lacks foundation.

26 A. So it would be between September 9th and September
27 15th.

28 MS. IBARRA: Also contradicts Mr. Stein's prior

1 testimony that they wouldn't turn over records, they
2 wouldn't turned over -- that Aronson and Carmelo wouldn't
3 turn over records to cooperate.

4 A. Oh Jesus Christ.

5 MS. IBARRA: -- that Aronson and Carmelo wouldn't
6 whoa turn over records to cooperate. So I -- guess okay.

7 THE COURT: Well I guess my question is why would
8 this have been -- I thought you were terminated by that it
9 the?

10 A. Month I was terminated October 3, SMDC was
11 terminated October 3.

12 THE COURT: Okay but you had resigned September
13 9th right from the?

14 A. I had a nominal information with the gaming
15 authority that had no operations but it did have a bank
16 account, I had no position with GT Tribe, I have had not
17 had a position with GT Tribe for several years. As SMDC I
18 had suggested -- I informed the tribe's accountants that
19 check books were being cut from the organizations funds to
20 individual councilmen by the general counsel Elizabeth
21 Aronson.

22 THE COURT: Soy guess --?

23 A. And the tribe's accountants said we would -- we
24 would like to participate in a review of records I said
25 let's just get a snapshot of the money.

26 THE COURT: Did the tribal council authorize the
27 Talley -- in other words was there a meeting and the tribal
28 council said let's higher Talley, let's [TKPWEPL] them 20

1 do a review of our records? How did this whole thing come
2 about, why would they even do that? Now I can understand
3 why maybe you have want today do that but this purportedly
4 is on behalf of the Gabrielino-Tongva Tribal counsel?

5 A. Virginia Carmelo participated in this, Elizabeth
6 Aronson participated in this.

7 MS. IBARRA: Objection.

8 THE COURT: So there was no tribal council
9 resolution to hire them?

10 A. That's correct, this was a concern of the
11 tribal -- the long time accountants for the tribe were as
12 concerned as I was.

13 THE COURT: So Virginia Carmelo said she wanted an
14 audit of her tribe?

15 A. No she participated in this when the tribe's
16 accountant.

17 MS. IBARRA: Objection?

18 A. Said this is a good idea to do this, [TH-TS]
19 [T*TS] [TKPW-B] took [AOE] full-fledged [A*EUD] [THREDZ]
20 [AO*EU] snapshot.

21 THE COURT: So who's the one who asked to have it
22 done then? If the tribal council didn't have a resolution,
23 pass an resolution to have it done how did the thing get
24 initiated?

25 A. The thing got initiated by my report to the tribal
26 council's accountants and their agreement that this is a
27 problem that we should look into it as the tribal council's
28 accountant.

1 Q. And so who was going to pay them?

2 A. The tribe had money the tribe this \$898,000.

3 THE COURT: So the tribe was going to pay Talley
4 for their report.

5 A. Yes as they paid Talley for other bills.

6 THE COURT: Even though they didn't authorize
7 technically with a resolution? It's just very confusing to
8 me as to how --?

9 A. Your Honor when -- when you have -- when you're
10 the tribe's accountants and somebody says that money is
11 being taken from the tribe with the permission of the
12 general counsel and given to separate councilmen then you
13 as at tribe's accountant says holy cow we should at least
14 get a picture of what is happening.

15 THE COURT: So the accountant wanted to do it on
16 your own, you told them hey there's this problem going on
17 and they said yes we're going to go ahead and just because
18 you alerted us we're going to go ahead and do this on our
19 own?

20 A. That's right but I was far more -- I was more
21 persuasive than the court is giving me credit for,
22 absolutely. I was saying we really got to get this done.

23 THE COURT: So you were the one who initiated the
24 push for Talley to do this review.

25 A. I initiated the push and they agreed yes it
26 absolutely has to be done because as the tribe's
27 accountants they had liability to the organization.

28 MS. IBARRA: I'm going to object that that lacks

1 foundation. I don't know.

2 THE COURT: Maybe they did, mean they didn't,
3 there's no expert testimony to that so I'll sustain it.
4 Okay so you initiated this review by Talley of the tribe's
5 books and records and who was going to pay them, the tribe?

6 A. Yes. Unfortunately the tribe stiffed everybody
7 including Talley and company and all political consultants
8 and me.

9 THE COURT: Well they approached -- they didn't
10 ask for the review they did.

11 A. No no Your Honor they stiffed them for all their
12 bills not just this one all the bills.

13 THE COURT: But my question is --

14 MS. IBARRA: That lacks foundation.

15 THE COURT: -- if the tribe didn't ask for the
16 review how would they be responsible for paying it is the
17 question I have?

18 A. That would be a question to ask Mr. Talley or the
19 tribe.

20 THE COURT: No. I'm asking you because you're the
21 one that approached Talley; right?

22 A. Your Honor, they didn't pay any Talley billed
23 [-PLZ] adjustment [TRAOUFT] eye.

24 THE COURT: How often [THUPLTD] [AO*E] did [PE] a
25 Talley.

26 MS. IBARRA: I'm going to object they didn't pay
27 them [THOERP] [TPHERT] budget.

28 A. They were supposed to pay for thoracic work done

1 no 2001, two, three, four, Five and six and the Talley
2 report h thoracic supposed to pay for seven items h they
3 didn't pay for all of know those items.

4 THE COURT: So some of the items were when they
5 were hired and there's another one after they fired you
6 that [THET] you initiated that they didn't ask for that
7 they didn't want to for so some -- [TH-FRPBLTS] they didn't
8 want to [TPAEU] for seventh but they didn't pay for any of
9 six either.

10 MS. IBARRA: Look at the budget from Libra, I have
11 think there's a Talley line but we will double check that?

12 A. You'll have a chance to redirect, right.

13 MS. IBARRA: Okay.

14 THE COURT: Okay.

15 MR. FORDYCE: Okay.

16 Q. So Mr. Stein just to be absolutely clear for the
17 record, to your knowledge who wrote the Talley?

18 A. Lorna Dertadian of Talley and company.

19 Q. Did you play any role in drafting the Talley
20 report?

21 A. No but I answered lots of questions for Ms.
22 Dertadian especially given that the tribe's check books had
23 been taken from the administrative offices.

24 Q. All right looking at Page 1, it starts at bank
25 account reconciliation, please explain this, to the extent
26 you know?

27 A. The first thing that Talley wanted to do as the
28 tribe's account [A*BLGT] [APBTSZ] is say what they did do

1 and what he they didn't, and so [THAO] bank account
2 reconciliation cells that what they did is they looked at
3 account balances in Quickbooks, they look at checks that
4 had been written and not taken from the office, historic
5 checks from the accounts, and then they worked with
6 Elizabeth Aronson and Virginia Carmelo to get other checks.

7 THE COURT: That doesn't say that anywhere.

8 MS. IBARRA: That doesn't say a- that?

9 A. Yes, it does right here.

10 THE COURT: Where [T*] does it say?

11 A. Under bank account note [AOE] we un pit addition
12 at checks.

13 THE COURT: Yeah per Beth air it doesn't say
14 anything, per e-mail on September 29th, it doesn't say
15 anything about Carmelo though, look I'll read this on my
16 own, we don't need a recitation of what it says, it speaks
17 for itself, so.

18 MR. FORDYCE: In that case, we've got two minutes,
19 can we stop, it's getting a little heat [SKP-D] I don't
20 want it to go that route again.

21 THE COURT: Yes.

22 MR. FORDYCE: Thank you Your Honor.

23 THE COURT: Thank you. 11:58 AM.
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