

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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GABRIELINO-TONGVA TRIBE VS. STEIN

ROUGH TRIAL TESTIMONY OF BARBARA GARCIA

THE COURT: If you would stand right there, face the clerk to my right * * state, so help you God * *?

A. I do.

THE CLERK: Be seated by the microphone. Please state your name for the record spelling your first and last name?

A. Barbara Lizette Garcia B-a-r-b-a-r-a , Lizette L-i-z-e-t-t-e, Garcia G-a-r-c-i-a.

THE COURT: Is that J or G?

A. G.

THE COURT: G, okay thank you. Go ahead, scoot up a little bit?

A. Sure.

THE COURT: Thank you. You may begin.

Q. BY MR. STEIN: Ms. Garcia, thank you very much for coming today?

A. Could you tell us where you just came from.

Q. Work?

A. And where is work?

A. I work for a supervisor Hilda sole ice right at the [haul|hall] of administration next door.

Q. And that's the Los Angeles County supervisor Hilda sole he's?

A. Correct.

Q. And what do you do for supervisor sole?

1 A. I'm the administrative director so I'm in charge
2 of the office here at the [haul|hall].

3 Q. And would be the downtown address?

4 A. Correct.

5 Q. And how many ply [KWAOEZ] are in the county
6 supervisors office?

7 A. We have over 30 right now and we're continuously
8 hiring but I'm in charge of seven directly at the office
9 down [TOEUPB].

10 Q. And are you also called onto do events outside of
11 the office?

12 A. Correct.

13 Q. And what do you do there?

14 A. Staff her, depending on the event. We represent
15 her at events, present scrolls, whatever it is. Each event
16 is different.

17 Q. And how long have you been in that job?

18 A. It will be a year July 6.

19 Q. So just one year?

20 A. Yes.

21 Q. And before that job what was your job?

22 A. I worked for a nonprofit organization, public
23 council.

24 Q. And what is the nonprofit organization public
25 council?

26 A. Public council is provides free legal services to
27 low income individuals and nonprofit organizations, it's
28 the largest nonprofit.

1 Q. The largest none [TPROEFT]?

2 A. Legal, legal nonprofit.

3 Q. So is it a law firm?

4 A. It has attorneys, social workers so it is not for
5 profit law firm.

6 Q. And its clients then would be the -- these poor
7 people?

8 A. Correct.

9 Q. And I assume it was interested in not just
10 individual cases but also larger cases?

11 A. Class actions, yes.

12 Q. Class actions. What might be a typical class
13 action while you were working at public counsel?

14 A. Banking fraud, there's consumer fraud. There were
15 several.

16 Q. And what might be typical of an individual lawsuit
17 that might have been handled while you were working at
18 public counsel?

19 A. Seeking benefits for foster youth was one, we did
20 a lot of veterans work, immigration was one of the fields
21 that they also cover, children's rights, we did impact
22 litigation, changed policies in education, that's the
23 department I primarily worked with.

24 Q. And these were legal work and lawsuits on behalf
25 of people that [con|could not] afford to pay?

26 A. Correct.

27 Q. And that's why the public counsel was in business?

28 A. Right. So they partnered with the major law firms

1 that provide pro bono work.

2 Q. And how long were you at public counsel?

3 A. Over five years.

4 Q. So over five years?

5 A. Correct.

6 Q. [SHO] one year with the county supervisor and then
7 over five years before that with public counsel?

8 A. Correct.

9 Q. And what was your position at public counsel?

10 A. I started off as the executive assistant to the
11 president CEO and senior paralegal for the impact
12 litigation project and then the last year I was promoted to
13 the development department in strategic and community
14 partnerships.

15 Q. And how many full time employees were there at
16 public counsel?

17 A. Zero.

18 Q. '80 full time employees?

19 A. Uh-huh.

20 Q. And your job was executive assistant to the CEO,
21 the top employee?

22 A. Correct.

23 Q. And what job did you have before that prepared you
24 for that one?

25 A. I worked for the law offices of Jonathan Stein.

26 Q. And what work did you do for Jonathan Stein while
27 you work for him -- forgive me let me strike that question.
28 How long did you work for law offices of Jonathan Stein?

1 A. From 2003 to 2010, so seven years.

2 Q. And during that seven years what types of work did
3 you do?

4 A. I was paralegal, legal secretary, office manager,
5 I was a tribal administrator for the tribe, just whatever
6 was needed.

7 Q. It sound like it was kind of skinny operations,
8 why weren't there three different people doing different
9 things?

10 A. Right. I mean we were just very efficient.

11 Q. Well that's good. And was there a lot of money
12 floating around h do you remember being over fade and wind
13 and [TKAOEUBD]?

14 A. Not at all.

15 Q. As tribal administrator of the tribe, how long did
16 you do tasks as tribal administrator?

17 A. Since September of 2003.

18 Q. September of 2003 until when?

19 A. Until I left May of 2010.

20 Q. So for about seven years you were tribal
21 administrator?

22 A. Uh-huh.

23 Q. Exam were you directly supervised by Mr. Stein or
24 did you do a lot of the stuff without check [TPH-G] with
25 Mr. Stein?

26 A. Whatever was law office, of course Mr. Stein was
27 my direct supervisor. The tribe, depending on the tribal
28 council and what the task was and who was giving me

1 direction.

2 Q. Now, during that time, were there any lawyers,
3 general [counsel's|counsels], were there any tribal general
4 [counsel's|counsels]?

5 A. Yes.

6 Q. During that seven year period of time?

7 A. Yes.

8 Q. What percentage of the time was there at least one
9 tribal general counsel?

10 A. Almost the entire time.

11 Q. I see. And could you name a few of the names of
12 the tribal general [counsel's|counsels] during this time?

13 A. The ones I depth dealt with directly, re: Man
14 moth, [HRAOEURT] ire air son and mayor tin [PWAEURT]
15 briefly.

16 Q. And did they feel free to call you up and say I
17 need this, do this, do that?

18 A. Yes.

19 Q. And when this asked you to do something [TKHU]
20 usually do it?

21 A. Yes.

22 Q. And if a tribal councilman called up and said do
23 this, do that, I need this, I need that, did you to it?

24 A. Yes of course.

25 Q. Did Mr. Stein say hey let them pay you, I'm paying
26 you don't do it?

27 A. No never.

28 Q. And who did pay you during that time?

1 A. Mr. Stein.

2 Q. For the period of time that the you were there,
3 did you handle tribal membership matters?

4 A. Yes.

5 Q. And tribal membership matters, that's kind of a
6 loosely goose [AOE] phrase, what was a tribal membership
7 matter?

8 A. So from the beginning I received three boxes
9 filled with just Manilla folders, that were giving to me by
10 Mr. Dunlap and we started generating files to create better
11 records of each member. The membership files included
12 their -- first it was just their BIA [SERLGTS] if there was
13 one, primarily there was a lot of birth certificates so
14 what we did was to try to organization them, who was to
15 create a single file for each one and as we started
16 generating more or get egg more information from them, we
17 would just include in the file and then as the membership
18 grew, each person had their own file which include
19 membership application, birth certificate, if they had a
20 BIA certificate, a lot of them would give us lineage
21 paperwork, letters that they would send, change of address,
22 we would keep everything in the individual file and if it
23 was one letter from multiple members we would make copies
24 of that letter and put it in that file.

25 Q. Sew would the term Manilla folders, Manilla files
26 cover in general what you just said?

27 A. Yes they were all Manilla files.

28 Q. Was this a second system to make sure this

1 loosey-goosey idea of tribal membership was handle with
2 some sort of accountability?

3 A. We had entered all of their information into Club
4 Assistant which was a database that the office used to
5 track, one, the membership, to have their addresses, to
6 track whether they were -- they had submitted their BIA
7 certificate as they were identified as Class B or Class C.
8 Class C is individuals who didn't have their BIA
9 certificate just yet.

10 Q. So can I refer to the computer files as Club
11 Assistant?

12 A. Yes.

13 Q. I can then refer -- I'd like to have show you an
14 exhibit that we've used before.

15 THE COURT: Which one is this.

16 MR. STEIN: Exhibit 5 12 previously identified.

17 THE COURT: Thank you.

18 Q. BY MR. STEIN: Was a third system used to help
19 members show their membership in the organization?

20 A. They were each issued a tribal membership ID card,
21 during the member meetings that the tribe had, we would
22 send out letters, you know, announcing the membership and
23 letting them know we would be issuing member ID cards if
24 they didn't have one already.

25 Q. What -- if I can point out, what was the work that
26 went into sending out a letter to the tribal membership, is
27 that the work that you did?

28 A. Yes.

1 Q. So it was a mailer, so the tribal council would
2 approve the letter and whatever attachments would go into
3 the mail-er and we'd stuff envelopes, obviously we'd
4 generate the list through the Club Assistant membership
5 database, we would printout labels, create the amount of
6 copies and then fold and stuff, you know it would take
7 about three days to send something.

8 Q. Yeah you say we, do you mean?

9 A. I. I would do that.

10 Q. Mr. Stein didn't jump forward to help you with
11 that?

12 A. Not at all.

13 Q. And then the mail-er would go out and you would
14 hold the meetings?

15 A. Right so then we would still have a lot of
16 preparation for the meeting. You know we'd have to make
17 sure that we had the location secured and then we'd feed
18 the members so it was a matter of generating how much to
19 kind of gauge and buy food and then transported everything
20 with computers and printers because we would take pictures
21 at the park and issue the cards then and there, so it was a
22 really time consuming event.

23 Q. How would you tack a picture or run a computer in
24 the middle of a public park in Los Angeles?

25 A. We'd bring a generator, there was a generator and
26 it was pretty reliable most of the time.

27 Q. And can you tell me what it was like to do all
28 that with members that wanted their cards, were there just

1 two or three at a time?

2 A. No I mean there was huge lines because we'd have
3 members coming in from Riverside, from everywhere to get
4 these membership card, people really wanted to have these,
5 so we'd have you know two, 300 people standing in line. If
6 the meeting would start at 11 people would start lining up
7 at eight, even earlier, and then I would set up, I was the
8 only one taking pictures and put the information into the
9 database was we wanted to make sure that the date Bates was
10 at accurate as possible. So take a picture, and we'd have
11 this in a word document that Dan had created and we would
12 just insert the picture and their information as we were
13 verifying it with the database and if they had any
14 additional documentation we were entering it there. I then
15 take all the information that they'd given me because some
16 people were -- new family members who were either born or
17 they had feign Lee gotten their certificates so we'd
18 process them there as well, so what would start as soon as
19 we have everything set up, even though the meeting started
20 at 11 we could start as early as 9:30 if it was all set up,
21 and we could go straight through 5:00 o'clock or even later
22 depending on how many people we had. And it seemed like
23 each meeting it was the same thing, it wasn't diminishing
24 at all. People were -- you know word of mouth for their
25 family members and other people that they knew that were
26 Gabrielino-Tongva.

27 Q. And the first member mailer that you sent out
28 publicizing these meetings, about how many pieces of mail

1 were there?

2 A. That was the very first meeting and that was
3 between two and 300 because it was just the initial Manilla
4 folders that we had.

5 Q. Two and 300?

6 A. Yeah.

7 THE COURT: You have mentioned somebody Dan?

8 A. Dan, he is the administrator for Club Assistant,
9 the owner of Club Assistant.

10 THE COURT: .

11 THE COURT: He's the owner, what his last name.

12 MR. STEIN: We go [TPHER].

13 THE COURT: Wagner.

14 MR. STEIN: We go [TPHER] weg n e [RERBGS].

15 THE COURT: When you say he was the owner of Club
16 Assistant did he?

17 A. Created.

18 THE COURT: Created that program?

19 A. Right.

20 THE COURT: Okay thank you. It's just his name
21 has come up a couple times and I wasn't clear.

22 Q. BY MR. STEIN: And by the time of the split, the
23 November 18 and 19 meetings, how many mailers did you send
24 out for those meetings?

25 A. That was a lot more so it was approximately 1300
26 that we had good addresses for.

27 Q. And how many members?

28 A. Approximately 1700, 1500, I can't recall exactly

1 but I know it was.

2 Q. Would you say between 1700 and 18 hundred members?

3 A. Yeah.

4 Q. Is that accurate?

5 A. It had increased, definitely.

6 Q. In your experience -- by the way did you also
7 handle phone calls from members?

8 A. Yes yes.

9 Q. About how many might you get in a day?

10 A. Depending on the period of what was going on, I
11 could get 10, 20, 25 calls just on people wanting to
12 inquire about membership, make sure that we had their
13 correct address, making Dunlap sure that we had received
14 their paperwork because we'd get new memberships pretty
15 much on a daily basis.

16 Q. And did you talk to these members about why they
17 wanted to join the tribe?

18 A. Yes.

19 Q. Were there any themes that came out of these day
20 after day, week after week, month after month and year
21 after year phone calls with members who wanted to join GT
22 Tribe?

23 A. They wanted to have their membership card they
24 wanted to be identified as a tribal member?

25 A. And did they want a casino?

26 A. Yes.

27 Q. Was it your impression that Mr. Stein's funding of
28 the casino project was Popular?

1 A. Oh my God, yes.

2 Q. And was Mr. Stein's efforts to keep people
3 informed Popular?

4 A. Yes.

5 Q. Why?

6 A. Because no one else was doing it, they had you
7 know heard about the possibility of this casino and they
8 wanted to make sure that they were part of it.

9 Q. And most of these members, were they rich, poor,
10 everything?

11 A. No very -- well the majority were poor.

12 Q. I'd like to show you have previously identified
13 exhibit 107 -- 507, I'm sorry and --.

14 THE COURT: I don't think it's been identified
15 yet.

16 MR. STEIN: Oh I'm sorry.

17 THE COURT: 507 has not.

18 MR. FORDYCE: Your Honor is correct, it's not been
19 identified.

20 MR. STEIN: My mistake.

21 MR. STEIN:

22 Q. Can you identify this exhibit?

23 A. That's a printout from the database that had the
24 Class B and Class C members.

25 THE COURT: As of.

26 Q. BY MR. STEIN: Do you know the date of the
27 printout?

28 A. March 2007.

1 Q. That's exhibit 507. So we are at page 182 is the
2 As, we're at the Cs on Page 18 eight, we're to the J's on
3 Page 19 seven. So would these be the 1700 or 1800 members?

4 A. Uh-huh yes.

5 Q. And who did that printout?

6 A. I did.

7 Q. And were you familiar with many of the names on
8 that list?

9 A. Yes. I interacted with them at the meetings, on
10 you know calls.

11 Q. And was this printout from the Club Assistant
12 database.

13 Q. Exhibit 508 has been previously identified as blue
14 cards. Now was there more than one type of blue cards?

15 A. Well they were post cards that were either
16 addresses to Ms. Carmelo or some of them were addressed
17 directly to the Santa Monica office.

18 Q. So the blue cards were actually just post cards?

19 A. Right, requesting that we give them their files
20 back.

21 Q. And then the post cards second page indicated
22 what?

23 A. That we return their membership records and send
24 them to Virginia Carmelo.

25 Q. And did you do that?

26 A. I did.

27 Q. What did you do to send a membership record back?

28 A. I prepared a letter letting them know that we were

1 terminating their record, their membership, and sent them
2 the original along with everything that was in their file.

3 Q. That would be the Manilla file?

4 A. Correct.

5 Q. Very good. And did you have a cover letter that
6 you sent them?

7 A. Yes.

8 Q. Can you identify exhibit 509?

9 A. That's the cover letter that I would send, it's a
10 return membership record form.

11 Q. And is that your signature down at the bottom?

12 A. Correct.

13 Q. Now I noticed it was March 2007 that's several
14 months after the November 18 [#12K3] 19 split?

15 A. Right.

16 Q. Why the delay?

17 A. Well some of them came in after as well. You know
18 I didn't get all -- get them all in November and I also had
19 to go through and make sure that I was getting all of their
20 records, everything that we had.

21 Q. And so did you do batches at a time?

22 A. Yes.

23 Q. And can you read the certifications in there?

24 A. The top part?

25 Q. Yes please.

26 A. I hereby certify that I have reviewed the
27 membership records of the Gabrielino-Tongva Tribe, a
28 California Indian tribe historically known as at San

1 Gabriel band of Mission Indians. I further certify that I
2 have reviewed the membership records of and then the name,
3 Lisa Lopez Cervantes in this case. I further certify that
4 as result of this very -- do you want me to continue?

5 Q. Yes.

6 A. I have enclosed the rim membership records for the
7 above mentioned individuals held fit Gabrielino-Tongva
8 Tribe. I have returned the original membership records to
9 you at the address listed in your contact information. A
10 copy of the membership termination letter has been kept
11 photographer our records.

12 Q. Now in doing this, is this -- was this a task that
13 you took seriously?

14 A. Of course.

15 Q. Why?

16 A. Because we wanted to make sure that everything was
17 as professional and as proper as possible so I wanted to
18 make sure that I had all of the records because they're
19 important records sent this to them.

20 Q. And about how many people wanted their records
21 back?

22 A. We counted about 230, 23 two post cards.

23 Q. And did those 23 two people all get their
24 membership records back?

25 A. If we had them, yes.

26 Q. And did we not have -- did GT Tribe not have them
27 at sometimes?

28 A. Sometimes.

1 Q. Exam did they call after their records?

2 A. Yes.

3 Q. Did they sometimes call repeatedly?

4 A. Yes.

5 Q. Did you try to talk to each individual who called?

6 A. Yes.

7 Q. And what would you say to them?

8 A. I would let them know that I was doing a search on
9 making sure we had gathered all of their documentation and
10 return back to them and if I couldn't find anything, I
11 would let them know that I was looking through every single
12 file to make sure that there wasn't anything.

13 Q. Now did any of those people say oh I still want to
14 be a member of your organization to you?

15 A. Yes, several actually. A lot of the calls that I
16 had received were my family member filled this out for the
17 family and didn't tell us, I didn't want to be terminated
18 or since we kept a copy of these letters, they would call
19 and say well I am a member and identify pull their file and
20 if I see this letter identify let them know that well we
21 received indication that you wanted to be terminated and so
22 they would either say yes but I want to come back or
23 sometimes I'd get no I never sent that in, that's not
24 accurate.

25 Q. So when somebody said no, I don't want to leave,
26 what did you do?

27 A. I would actually have them send it in writing and
28 then identify keep the original letter.

1 Q. And did you insist on formality?

2 A. Yes because I didn't want it to be a he she she
3 said or me miss interpret what they were saying on the
4 phone.

5 Q. And if they were willing to say it in writing d
6 they stay a member of GT Tribe?

7 A. Yes.

8 Q. And if they say no no no I want my records and I
9 don't want to be part of your organization, did they get
10 their records?

11 A. Yes.

12 Q. And did the people that also wanted their records
13 want to leave GT Tribe?

14 A. Yes.

15 Q. Why?

16 A. Because they were generally becoming members of
17 another group.

18 Q. And which group was that?

19 A. The Dunlap group.

20 Q. We've been referring to them as the Dunlap faction
21 would that be the same?

22 A. Yes.

23 Q. I'd like to refer to Exhibit 5 10, which Niall has
24 that been identified yet.

25 MR. FORDYCE: No neither has 509.

26 MR. STEIN: Very good, well 509 we just identified
27 and then five 10.

28 Q. Ms. Garcia can you identify this letter?

1 A. That's the sample of the membership termination
2 letter that was sent to members that wish to leave the GT
3 Tribe to join the Dunlap group.

4 Q. And was this the discrimination letter mentioned
5 in the return of records?

6 A. Right.

7 Q. And can you read the first two paragraphs?

8 A. Dear sir or madam, you have chose tone leave one
9 competing political group of Gabrielino Indians and join
10 another. You have chosen to join the Carmelo and Dunlap
11 group which is known as the Gabrielino-Tongva trial brief,
12 enclosed are your member records if any. By merit of your
13 decision, your membership is now terminated at the
14 Gabrielino-Tongva Tribe, a California Indian tribe
15 historically known as the San Gabriel band of mission
16 Indians. You are free to reapply for membership at a later
17 date but you will have to produce at least a mode couple of
18 evidence of your Gabrielino heritage. We need no
19 disrespect to you or your Native American heritage by this
20 necessary step.

21 Q. Why do you feel that step was necessary?

22 A. Because there have been a group that have
23 submitted their membership -- or submitted application
24 which we later found out that that he this BIA
25 certification that identified them as Diegueno and not
26 Gabrielino and because of that we wanted to make sure if
27 they had records it would have to show that they were
28 Gabrielino and not any other.

1 Q. And when it says by merit of your decision your
2 member membership is now terminated?

3 A. They have had indicated.

4 Q. What?

5 A. They had indicated that that they wanted to be
6 terminated.

7 Q. Did they have a letter and got called up -- did
8 anybody get this letter and say oh gosh no I didn't mean to
9 leave?

10 A. Yeah.

11 Q. And what happened to the people that called up and
12 said I didn't mean to leave?

13 A. They were pretty much the ones that told me that
14 members of the group had sent in these forms or requests
15 without notifying them. They had made the decision for the
16 family as a group.

17 Q. And if they disagreed with that decision were they
18 allowed to stay in GT Tribe?

19 A. Yes I would ask them to do it in writing.

20 Q. And is the phone number lifted up there, 58 '72
21 two '03, did that ring at your desk?

22 A. Yes, it did.

23 Q. And did you pick it up when it rang?

24 A. Yes.

25 Q. About what percent of the time?

26 A. If he was there, 100 percent.

27 THE COURT: Are you the person who signed this
28 letter?

1 A. I think the tribal council might have.

2 Q. So let's go to the -- that's a very good point,
3 we'll go to the end and then come back to the middle.
4 Could you read the end please?

5 A. The last paragraph.

6 Q. Yes.

7 A. You have joined the Carmelo and Dunlap group. As
8 a result you are hereby terminated from the
9 Gabrielino-Tongva Tribe a California Indian tribe
10 historically known as the San Gabriel band of Mission
11 Indians. We are sorry you believed their false hoods.
12 Good luck in all your future endeavors.

13 Q. And was Bernie Acuna tribal councilman at the
14 time?

15 A. Yes.

16 Q. And Linda Candalaria?

17 A. Correct.

18 Q. And Martha Gonzalez?

19 A. Yes.

20 Q. And Suzanne Rodriguez?

21 A. Yes.

22 Q. And Laure Salse?

23 A. Yes.

24 Q. So the termination letter were only issued after
25 the spring of 2007 elections?

26 A. Yes.

27 Q. Returning to the middle can you begin reading as
28 you know?

1 A. As you know the Carmelo Dunlap group is mired in
2 litigation over their alleged misappropriation of
3 \$1,000,000 in the tribes cash. They have been cut off from
4 further investor funds as a result. The \$1,000,000 was
5 meant to pay vendors but instead the vendors have not been
6 paid for five months. The following vendors were helping
7 the tribe gain the legal height to open a casino in Los
8 Angeles County and have not been paid for five months.
9 Mr. -- continue?

10 Q. Please.

11 A. Mr. Stein, the CEO of the casino effort who's
12 company is owed 2.5 million dollars and has sued the
13 Carmelo and Dunlap group; Dan crane the Washington
14 consultant for the casino effort and the federal
15 recognition effort is owed over \$225,000 and is also suing
16 the Carmelo and Dunlap group. Talley & Company, the tribes
17 accountants for the past four years is owed over \$12,000.
18 Aprea & company the Sacramento lobbyists for the casino
19 effort is owed over \$20,000. Quantum Relations, also
20 Sacramento lobbyists for the casino effort is owed over
21 \$30,000, Analysis Group which is provided economic studies
22 for the casino effort is owed \$75,000. Gensler Architects,
23 which designed the proposed Hollywood park casino is owed
24 over \$28,000 and field communcations who is famous field
25 polls show 70 percent of Californians favored building the
26 Gabrielino Indian casino at Hollywood park is owed over
27 \$18,000.

28 Q. Can you start beginning with yes?

1 A. Yes the tribal council for the Gabrielino-Tongva
2 Tribe a California Indian tribe historical known as the San
3 wake bake the Mission Indians is self-appointed but we are
4 trying to pick up the pieces after the Carmelo and Dunlap
5 group walked off with \$1,000,000 in the tribe's cash and
6 stiffed all of the tribe's important vendors. We are
7 trying to salvage the ruined reputation of the tribe with
8 investors, vendors and elected officials.

9 Q. Given that paragraph, was this in fact before or
10 after the spring 2007 election?

11 A. It must have been before.

12 Q. Can you read the paragraph beginning -- and by the
13 way are the facts stated in this letter true to your
14 personal knowledge?

15 A. Yes.

16 Q. Can you read that paragraph, we have begun?

17 A. We have begun to reinstate the casino effort on
18 much the same footing as it enjoyed prior to the alleged
19 misappropriation of \$1,000,000 in cash by the Carmelo and
20 Dunlap group. First and foremost we have offered to re
21 behind state Mr. Stein's company and asked him back. While
22 he has not yet decide today join us, we hope he will do so
23 within 30 days. And we have begun rehiring the vendors and
24 promising to pay the bills the Carmelo and Dunlap group
25 refuse to pay.

26 Q. Thank you. This is Exhibit 51 one, can you
27 identify what this is?

28 A. That's the printout of the list of terminated

1 members from the Gabrielino-Tongva Tribe.

2 MS. IBARRA: What's the exhibit.

3 MR. FORDYCE: It's 51 one, it's not previously
4 identified.

5 MS. IBARRA: It has not.

6 MR. FORDYCE: It has not been previously
7 identified.

8 MS. IBARRA: Do you want to identify it.

9 MR. STEIN: She just did.

10 THE COURT: She just did, yes it's 51 one.

11 Q. BY MR. STEIN: And number 128829, sam Dunlap?

12 A. Yes.

13 Q. Is he a terminated member?

14 A. Yes.

15 Q. And descend in a blue card?

16 A. Yes.

17 Q. And was Sam Dunlap given the chance to say no no
18 no no, I want to stay part of GT Tribe?

19 A. He received the same letter everyone else did.

20 Q. And was he at the November 18th meeting at Elysian
21 Park run by the Candelaria faction?

22 A. Yes.

23 Q. And what did he say at that meeting to your
24 recollection?

25 A. Oh I don't remember but basically he did not want
26 to be part of this group.

27 Q. Did he receive a lot of questions from the
28 audience?

1 A. He did.

2 Q. And what was -- what were some of the questions?

3 A. I don't recall but people were mostly wanting to
4 find out about the money.

5 Q. About what money?

6 A. About the investment, the \$1,000,000.

7 Q. And did Mr. Dunlap say anything in response?

8 A. He kept saying if you want to find out more come
9 to the meeting tomorrow.

10 Q. And Virginia Carmelo, member 130365, did she send
11 in a blue card?

12 A. Yes.

13 Q. And did she get a membership termination letter?

14 A. Yes.

15 Q. And did she call up and say no no no you've made a
16 mistake, we are the GT Tribe?

17 A. No.

18 Q. Thank you. . These are the identification cards
19 that we looked at before. Was this only one side of them
20 is that correct?

21 A. Correct.

22 Q. And when they were laminated, were they laminated
23 with clear plastic?

24 A. Yes.

25 Q. Excuse me I had a cold for a while. Do you know
26 what was on the back of these cards?

27 A. There was a sticker.

28 Q. And was it a small sticker or a large sticker?

1 A. I think it's three by five, it was just smaller
2 than the card itself.

3 Q. So did it take a large percentage of the area of
4 back?

5 A. Yes go or small?

6 A. Yes large.

7 Q. And what did it say?

8 A. I don't recall exact wording but it was that this
9 group was the Gabrielino-Tongva Tribe, I don't remember the
10 exact, I'm sorry.

11 Q. Did it mention SMDC?

12 A. Yes.

13 Q. Did it mention that this is the group that's
14 funded by SMDC?

15 A. Yes.

16 Q. Did it mention that SMDC was in charge of the
17 casino project for this organization?

18 A. I believe so, yes.

19 Q. And did it give notice to each member every time
20 they looked at the membership card who was running the
21 casino project?

22 A. Yes.

23 Q. For that voluntary organization?

24 A. Correct.

25 Q. Can you identify Exhibit 5 13 please?

26 A. That's the affirmation of member --.

27 THE COURT: Sorry which number was it.

28 MR. STEIN: Five 13.

1 THE COURT: Thank you. Go ahead I'm sorry?

2 A. It's the affirmation of membership forms that were
3 given at every meeting.

4 Q. Can you read the first paragraph please?

5 A. As you know, there are five political
6 organizations that represent descendents of the historic
7 Gabrielino Indian tribe, this political organization is the
8 largest. Your responses below are intended to confirm your
9 membership in this political organization and no others.

10 Q. Do you know why the affirmation of membership form
11 was required to be filled out by -- by new members?

12 A. So that they could identify that they were part of
13 this group and not any of the others.

14 Q. So if somebody thought he was joining the Dunlap
15 faction, he would be quickly corrected by filling this out?

16 A. Correct.

17 Q. And if somebody thought he was joining the Morales
18 Morales he would be quickly directed by filling this out?

19 A. Right.

20 Q. And if somebody call [THEFS] [TPHROEL] [OT] Salas
21 group that broke off, this would also correct that?

22 A. Right.

23 Q. Were these hard to fill out?

24 A. No.

25 Q. Let's take a look, could you read question number
26 one?

27 A. Are you a descendent of the historic Gabrielino
28 Indian tribe.

1 Q. And do you know what was meant by the historic
2 Gabrielino Indian tribe?

3 A. Are you a Gabrielino.

4 Q. And by the way who actually filled this out and
5 formatted it?

6 A. I did.

7 Q. Number 2?

8 A. Are you a member of this political organization,
9 whose name appears on the letterhead.

10 Q. So was that meant to indicate that
11 Gabrielino-Tongva Tribe, a California Indian tribe
12 historically known as San Gabriel band of Mission Indians
13 at Santa Monica Boulevard in Santa Monica?

14 A. Correct.

15 Q. So was it hoped when you formatted this that this
16 would be clear to members even if they had a little less
17 education?

18 A. Right.

19 Q. Number 3 do you read that?

20 A. Do you recognize the tribal council of Bernie
21 Acuna Charles Alvarez, Linda Candelaria, [PHAR] gone and
22 Felicia Shearman as a duly elected tribal council for this
23 political organization.

24 Q. And what was intended by Number three to your
25 knowledge?

26 A. That they knew that they were the tribal council
27 for this group and didn't identify with any others.

28 Q. So if they wanted to -- if they thought they were

1 joining Sam Dunlap and Virginia Carmelo would this tell
2 them otherwise?

3 A. Correct.

4 Q. And by the way where were these filled out
5 usually?

6 A. At the member meetings or prior because we'd mail
7 them with the membership letter.

8 Q. And was any -- you said food was served?

9 A. Yes.

10 Q. And what kind of food?

11 A. Hot dogs, hamburgers, chips, cookies and sodas and
12 water.

13 Q. Were the hot dogs and hamburgers cooked fresh on
14 the spot?

15 A. Yes, they were grilled.b.

16 Q. And who did that?

17 A. My parents volunteered.

18 Q. And about how many hamburgers or hot dogs might a
19 typical member meeting require?

20 A. Gosh, we would allot for 500 people because they'd
21 eat throughout the day, most of time we would run out of
22 food. They would look forward to two actually.

23 Q. Have the hairs on the forearm of your father grown
24 back yet?

25 A. Yeah, right.

26 Q. Number 4 can you read that please?

27 A. Do you recognize the constitution for this lit Cal
28 organization and that it governs your membership rights in

1 this political organization.

2 Q. And would that be the GT Tribe constitution?

3 A. Right.

4 Q. So what were you asking with this question?

5 A. Again, we're trying to make sure that they knew
6 that they were part of this group and they were governed by
7 all of the constitutional regulations of this group.

8 Q. Number 5 please?

9 A. Do you confirm that you are not a member of any
10 other political organization of descendants of the historic
11 Gabrielino Indian tribe.

12 Q. And what was the purpose of question Number 5?

13 A. Having them tell us that they're not a member of
14 any of the other groups.

15 Q. Exam were there in fact people that said hey I
16 want want to be member of both groups because if they get a
17 casino or this group gets a casino?

18 A. Yes.

19 Q. Did you hear that story before?

20 A. Yes.

21 Q. Were they allowed to avoid this question?

22 A. No.

23 Q. And if they waited in line and it wasn't answered
24 what did you do?

25 A. I have would not guest a card.

26 Q. And if they were willing to answer it?

27 A. Then they would get a card.

28 Q. Could you read the last two paragraph. By the

1 way, the signature then at the bottom who is that for?

2 A. For the person who was signing -- who was filling
3 out the affirmation.

4 Q. And was the idea to make sure we knew actually who
5 it was, even if there was more than Virginia Carmelo there
6 was more than one Sam Dunlap?

7 A. Right.

8 Q. Sam Dunlap junior, Sam Dunlap senior?

9 A. Right. It also -- I'm sorry. It also Seb apps a
10 method to maintain accurate information so a lot of them
11 moved so this would help [UFS] get their correct mailing
12 address and to keep them informed.

13 Q. And now, so that would be signed by the member and
14 he would sign for -- he would be agreeing to the italicized
15 portion as well as the answers?

16 A. Right.

17 Q. Could you read the italicized portion?

18 A. I understand that the tribal administration office
19 has not completed its verification of my membership
20 qualification and that my certification of this fall 2008
21 affirmation of membership does not guarantee my right to
22 vote in future elections of tribal membership. I declare
23 under penalty of perjury under the law of the State of
24 California that I am a Gabrielino-Tongva Indian and that I
25 have answered truthfully all of the questions in this fall
26 2008 membership affirmation of membership.

27 Q. And then by signing the person would be agreeing
28 to those statements?

1 A. Correct.

2 Q. Now were those statements personally intrusive?

3 A. No.

4 Q. In your view?

5 A. Huh-uh.

6 Q. And were those statements demanding great
7 documentation that in fact you're a Gabrielino Indian and
8 not just somebody who wants to talk a lottery ticket for a
9 casino?

10 A. Well we wanted to make sure that they knew that he
11 did have a submit their BIA certificate at some point H
12 because a lot of them were still trying to submit their
13 forms to the BIA and didn't know how but that let them know
14 that they had to work on it and not just say that they were
15 Gabrielino.

16 Q. And in your view, were most of the people that
17 signed that statement Gabrielino-Tongva Indians?

18 A. The majority, yes.

19 Q. And was there a large number of people that seemed
20 to be there for some reason other than they're descendents
21 from the historic Gabrielino-Tongva Indian tribe?

22 A. These are people that wanted the casino, they
23 wanted to be involved in this project, they wanted to make
24 sure they weren't going to be left out.

25 Q. Did they strike you as people who have been helped
26 a lot in their life or were they pretty much on their own?

27 A. On their own.

28 Q. And what was their reaction to being helped in

1 this matter?

2 A. Oh they were exercised, they were hopeful.

3 Q. Thank you. And Exhibit 5 14 has been identified
4 before. Have you seen this document before?

5 A. Yes.

6 Q. And what is it?

7 A. It's the certification of elections that were
8 created by Talley & Company and publicized in the L.A.
9 Times.

10 Q. The spring 2008 list of registered voters, this is
11 from the next election it seems, not the 2007. Was there
12 another certification for 2007?

13 A. I don't recall.

14 Q. Niall can you look in the 57 zeros.

15 MR. FORDYCE: In the 57 zeros, okay. What are you
16 looking for, we've got 577 is a Talley report, that's the
17 2006 accounting and then 578 is the Talley certification
18 for the spring 2007 election and I believe both have
19 previously been identified.

20 Q. BY MR. STEIN: Okay so can you identify exhibit
21 578?

22 A. That's the Talley certification for Los Angeles
23 Times and spring of 2007, yes.

24 Q. So then does that refresh I couldn't be
25 recollection?

26 A. Yes.

27 Q. That there was -- that the accounting company did
28 certify the election results?

1 A. Yes yes.

2 Q. It mentioned there the spring 2007 list of
3 registered voters. What would that be?

4 A. It's the members that were eligible to vote or had
5 membership during, up to that spring 2007 election.

6 Q. And did you help assemble the spring 2007 list of
7 registered voters?

8 A. Yes.

9 Q. And did Talley do its work with you or
10 independently of you?

11 A. Independently.

12 Q. Was it -- was there formal separation, in other
13 words were they in the offices with you?

14 A. No.

15 Q. And where were they?

16 A. They have their own office in Orange County.

17 Q. And at this time the triable headquarters was in
18 Santa Monica.

19 Q. So you were in Santa Monica?

20 A. Correct.

21 Q. And they were in Orange County?

22 A. Correct.

23 Q. Thank you.

24 THE COURT: You have the wrong exhibit --.

25 MR. STEIN: No no. If you keep going there.

26 THE COURT: Is it attached.

27 MR. STEIN: Yeah it's attached.

28 MR. FORDYCE: It's attached as an exhibit Your

1 Honor.

2 THE COURT: We'll reconcile it at the end but
3 right now 578 is just Talley, we'll reconcile as a break.
4 Okay.

5 MR. STEIN: Can you identify -- did we identify
6 517 already Niall.

7 MR. FORDYCE: 51 seven.

8 MR. STEIN: 51.

9 MR. FORDYCE: Yes, we did.

10 Q. BY MR. STEIN: Have you seen Exhibit 517 before?

11 A. Yes.

12 Q. And it mentioned that Barbara Garcia is in the
13 picture, can you make yourself out in that picture on the
14 left-hand side?

15 A. Yes.

16 Q. And that your handwriting?

17 A. Yes.

18 Q. As of March 1, 2007?

19 A. Correct.

20 Q. So the table below this, was that as of March 1,
21 2007?

22 A. Yes.

23 Q. And it shows Gabrielino-Tongva Tribe, 360 -- what
24 was the Class B and Class C to your understanding?

25 A. Class B members were members that were identified
26 as having submitted their BIA certification that clearly
27 identified them as Gabrielino-Tongva. Class C members were
28 those who stated that were Gabrielino-Tongva but had not

1 submitted the BIA certificate yet so those were still in
2 process.

3 Q. And the Carmelo and Dunlap group, does that
4 referring to the Dunlap faction?

5 A. Yes.

6 Q. If you add 51 and 135 together it comes out to
7 about 18 six, is that how your -- do you agree with that
8 math?

9 A. Right.

10 Q. And you had mentioned earlier there were about 23
11 two?

12 A. Right.

13 Q. What had happened between when the blue cards were
14 first received and when this table was made in March of
15 2007?

16 A. People had come back.

17 Q. They had come back?

18 A. Right.

19 Q. And did they do so through a phone call to you?

20 A. Phone call and then we requested it in writing and
21 then they also did the affirmation of membership.

22 Q. So out of 23 two people that left, here several
23 months later, already 50 had come back?

24 A. Right.

25 Q. And was coming back to GT Tribe?

26 A. I'm sorry.

27 Q. And was that coming back to GT Tribe?

28 A. Yes.

1 Q. You worked starting what date?

2 A. September 2003.

3 Q. And you were tribal administrator through what
4 date?

5 A. May 2010?

6 A. During that time, in your view, did the voluntary
7 organization for which you were tribal administrator change
8 at all?

9 A. No.

10 Q. Did the identity of GT Tribe from 2003 to 2010
11 change at all in your view?

12 A. No.

13 Q. Did the Dunlap faction ever want you to help
14 them?

15 A. Yes.

16 Q. Can you identify who is sitting in the audience?

17 A. Senator Polanco.

18 Q. Distinguished gentleman. Who asked you to join
19 the Dunlap faction?

20 A. Senator Polanco.

21 Q. And what did he say so you?

22 A. He asked me to go work with them, offered me a
23 salary of I believe it was 60,000 at the time and asked me
24 to come over.

25 Q. How much were you earning at the time?

26 A. Less. I don't remember.

27 Q. You mean the law offices of Jonathan Stein was
28 that cheap?

1 A. Well --

2 Q. Was \$60,000 salary a big bump up from what you
3 were earning?

4 A. Yeah.

5 Q. And where would your offices be?

6 A. Downtown.

7 Q. How long did you speak with Mr. Polanco about
8 this?

9 A. Gosh, I don't recall but it was a good at least
10 half an hour, 45 minutes.

11 Q. Now did you understand at the time of the approach
12 by Mr. Polanco that they had already -- that they had
13 898,000 that in cash that used to be part of the Candalaria
14 faction's?

15 A. Yeah, it was right before I believe.

16 Q. Did you understand that to be the case?

17 A. Yeah.

18 Q. So you were offered a bump in salary and you were
19 also offered to work for people that had 898,000 in cash?

20 A. Right.

21 Q. Was that your understanding?

22 A. Correct.

23 Q. Why didn't you go?

24 A. I didn't think it was right.

25 Q. Why not?

26 A. Because I believe that Mr. Stein had invested a
27 lot of time and money into this project and the way that
28 they wanted to just not pay him back, I didn't think that

1 that was fair or correct, so I just chose to stay with Mr.
2 Stein.

3 Q. Did you have any contract to stay with Mr. Stein?

4 A. No.

5 Q. Did Mr. Stein put pressure on you to say saying if
6 you leave I'll break your arm?

7 A. No and actually you told me to think about it and
8 do whatever was best for me.

9 Q. Did other employees of the Dunlap faction do for
10 them what you were doing for the Candelaria faction, to
11 your knowledge?

12 A. I don't -- I think they had -- I can't remember
13 who but I do think they had someone working there, I just.

14 Q. As long as your memory as failed I'll try to
15 refresh it?

16 A. Thank you.

17 Q. Does the name Desree Martinez?

18 A. Yes.

19 Q. Refresh your recollection?

20 A. Yes yes.

21 Q. And to your understanding who was did he say
22 [RAOE] Martinez?

23 A. She worked for the tribe as I think an admin
24 person but I don't know exactly what her title was.

25 Q. And this was at terminal street?

26 A. Correct.

27 Q. Was it your understanding she worked full time
28 there?

1 A. Yes.

2 Q. And did you see that whether or not they had a
3 separate employer identification number for a full time
4 employee from the one used by the Candelaria faction and GT
5 Tribe?

6 A. I don't know.

7 THE COURT: Which exhibit are you pulling up.

8 MR. STEIN: I'm trying to make that decision
9 although I'm looking at the clock. Rather than pad the
10 presentation with more exhibits, we would be moving to a
11 very dramatically different subject matter and I understand
12 that Linda Candelaria will be back to testify after lunch,
13 given the hour, Your Honor would we continue on or should
14 we --.

15 THE COURT: Well we should just go to 12 and we'll
16 start with her.

17 MR. STEIN: In a new subject area.

18 THE COURT: Yeah. Yes.

19 MR. STEIN: Very good Your Honor.

20 THE COURT: A few minutes is a good time to spend,
21 we have about 15.

22 THE CLERK: It's about 15.

23 THE COURT: Yeah, okay.

24 MR. STEIN: Niall can you bring up the SMDC
25 agreement, the number I'm sorry , I'll bring it up. 569
26 Niall.

27 MR. FORDYCE: Yes that has all the amendments to
28 the agreement 569.

1 MR. STEIN: This is 569 document, Barbara as part
2 of your job as administrator did you keep records for the
3 tribe?

4 A. Yes.

5 Q. Did that include contracts with third parties?

6 A. Yes. That included everything, contracts,
7 resolutions, we had a copy of the contract and resolution,
8 usually if it had one approving it.

9 Q. And did you make notebooks out of those?

10 A. Yes.

11 Q. I hope they were thinner than that one?

12 A. Not at all.

13 Q. If you had to estimate in the course of one year,
14 about how many notebooks might you make?

15 A. I mean we have volumes.

16 Q. Or how many individual volumes?

17 A. Per year?

18 Q. Per year P well per month, let's start with per
19 month?

20 A. Well per month we could do one or two.

21 Q. So one or two per month might be 12 to [#24*]
22 putting together something like that?

23 A. Yes.

24 Q. And that's each year?

25 A. Uh-huh.

26 Q. For seven years?

27 A. Right.

28 Q. So how many were there in the office to your

1 knowledge?

2 A. We had a bookcase and then even on top of filing
3 cabinets. So we filled up a full bookcase.

4 Q. And was this a bookcase like this (Indicating.)?

5 A. No no no.

6 Q. A bookcase to the ceiling?

7 A. Yes.

8 Q. With room on top?

9 A. Right.

10 Q. And it was full of these notebooks?

11 A. Correct.

12 Q. And then filing cabinets would these be a row of
13 three or four filing cabinets?

14 A. Right, three.

15 Q. And then there would be notebooks?

16 A. Laid out, right.

17 Q. The width of three or four filing cabinets?

18 A. (Nods head.).

19 Q. Was one of those notebooks for the SMDC contract?

20 A. Right.

21 Q. And this was the tribes records not SMDC's
22 records?

23 A. Correct.

24 Q. And did you identify exhibit 569?

25 A. SMDC's development agreement and resolution.

26 Q. And this is dated February of 2001?

27 A. Correct.

28 Q. It's a long agreement, but I'll scroll through it

1 to the part I want to get to which is the approval. In
2 this provision, this was provision notices, section 13, are
3 you familiar with that provision?

4 A. Uh-huh.

5 Q. And it says who the notices were to, one is to the
6 Tongva, do you know who Mary Aguilera was?

7 A. I've never met her, no.

8 Q. Would it refresh your recollection to hear that
9 she may have been one of the first coastal Gabrielino
10 counsel persons to approve the SMDC agreement?

11 A. That sounds right, I've heard that about.

12 Q. Would that refresh your recollection, is that the
13 case?

14 A. Uh-huh that is the case.

15 Q. And it says with a copy to tribal council tribal
16 counsel?

17 A. Uh-huh correct.

18 Q. Would that be a lawyer?

19 A. No it that big to the tribal council.

20 Q. I see. And then to Saint Monica development
21 company LLC, that would be Mr. Stein, is Mr. Stein listed
22 as a lawyer there?

23 A. No.

24 Q. He's listed as what?

25 A. Manager.

26 Q. And then Saint Monica is a limited liability
27 company, an LLC?

28 A. Correct.

1 Q. And did Mr. Stein ever express to you that he gets
2 a little tired practicing law all the time?

3 A. Not really.

4 Q. Very good. With a copy to Kenneth Sulzer, do you
5 know who Kenneth Sulzer is?

6 A. An attorney.

7 Q. And was he the attorney that wrote the SMDC
8 agreement?

9 A. Yes.

10 MS. IBARRA: I'm going to object that she has no
11 personal knowledge.

12 THE COURT: Sustained.

13 Q. BY MR. STEIN: You're custodian of the business
14 records?

15 A. Yes.

16 Q. And would you be able to identify this as a
17 business record?

18 A. Yes.

19 Q. And then the March 4th Mary Aguilera signature,
20 Saint Monica development. And the economic resolution.
21 Was this another part of the business records that you
22 kept?

23 A. Yes.

24 Q. For the -- as tribal administrator?

25 A. Yes.

26 Q. And resolution was the contractual agreement and
27 it refers to -- can you read the first whereas clause?

28 A. Whereas the Gabrielino-Tongva Tribe, the tribe or

1 the Tongva is a tribe of Indians aboriginal to the Los
2 Angeles basin recognized by the State of California.

3 Q. So your understanding is that this is a resolution
4 to approve the SMDC agreement by GT Tribe?

5 A. Correct.

6 Q. And dated March of 2001.

7 MS. IBARRA: I'm going to object that it speaks
8 for itself.

9 THE COURT: Overruled.

10 MR. STEIN: Judge.

11 Q. Is it says where is as the tribal council desired
12 to establish a government to government relationship with
13 the federal government. Does that whereas clause as a
14 custodian of records indicate to you that they had a
15 government to government relationship or just that they
16 would like to try to get one?

17 A. Would like to try to get one.

18 Q. So if you're going to the supermarket and you'd
19 like to try to get a soda, that would be actually before
20 you got the soda?

21 A. Right.

22 Q. And then it says the development agreement is with
23 Saint Monica development company, does it indicate that
24 Saint Monica company is a lawyer or law firm?

25 A. No.

26 Q. It indicates --

27 A. A limited liability company.

28 Q. And can you read the whereas [KHRAUPTZ] starting

1 here and then it will go on to the second page, I'll try to
2 keep up with your reading?

3 A. Whereas the council received a draft of the
4 development agreement and this resolution for each council
5 member in early December 2000 with Mr. Stein h met with Mr.
6 Stein for several hours on or about January 14, 2001 to
7 review and make changes to the terms and conditions of the
8 draft development agreement and this resolution, met on its
9 on for several hours on or about January 27, 2001, to
10 discuss the terms and conditions of the draft development
11 agreement and this resolution, met a second time with Mr.
12 Stein for several hours on February 11, 2001 to review a
13 new draft of the development agreement which incorporate-d
14 previous changes and to make sure changes to the terms and
15 conditions of this development agreement and this
16 resolution, tribal general counsel Otto received from Mr.
17 Stein and reviewed a draft of this development and this
18 resolution, met with tribal general counsel for several
19 hours on February 25, 2001 to review again the terms and
20 conditions of the development agreement and this resolution
21 and to seek his advice, and are meeting today, March 4,
22 2001, to give final consideration to, and to adopt the
23 development agreement and this resolution as the valid
24 binding and enforceable obligation of the tribe effective
25 immediately and --.

26 Q. And then there for be it resolved?

27 A. And therefore, be it resolved that the terms and
28 conditions of the development agreement are hereby agreed

1 and by resolution of this council adopts and a- dropped the
2 development agreement as an action of and on behalf of this
3 tribal council and the tribe.

4 Q. So as a custodian of the business records of the
5 voluntary organization that you worked foreclosure seven
6 years, was this an indication that the organization, that
7 organization was the entering into a contract with Saint
8 Monica, SMDC?

9 A. Correct.

10 Q. And was the purpose of this resolution given all
11 the other resolutions to show that it's an official action
12 of the voluntary organization?

13 A. Right.

14 Q. And by merit of this, is it in your view, is GT
15 Tribe the contracting party with the SMDC agreement?

16 A. Yes.

17 Q. So whatever happened later, the group that was the
18 same organization was the contracting party with the SMDC?

19 A. Correct.

20 Q. Now, were you tribal administrator of that
21 organization?

22 A. At that time?

23 Q. Starting in 2003.

24 A. Yes.

25 THE COURT: Couple more minutes.

26 MR. STEIN: Huh?

27 THE COURT: Couple more minutes.

28 Q. BY MR. STEIN: And is it your testimony that this

1 organization did not change its character between when you
2 joined in 2003 ask when you left it in 2010?

3 A. Correct.

4 Q. And as custodian of records that was the
5 organization that was the contracting party?

6 A. Right.

7 Q. Your Honor before I move on to the next phase it
8 might be a good time to stop.

9 *****.

10 MR. STEIN: We'd like to call back Barbara Garcia.

11 THE COURT: Go ahead and just take a seat, you
12 don't need to be re sworn?

13 A. Thanks.

14 THE CLERK: Go ahead and state your name for the
15 record he throw?

16 A. Barbara Lizzett Garcia.

17 THE CLERK: Thank you.

18 THE COURT: Did we finish with the direct, I think
19 we were going to do cross, right.

20 MR. STEIN: No no we began less than one quarter
21 of direct.

22 THE COURT: How much time -- well go ahead we'll
23 figure out the time but why don't you continue.

24 Q. BY MR. STEIN: Ms. Garcia your previous testimony
25 was about as the custodian of records for GT Tribe for a
26 number of years?

27 A. Correct.

28 Q. And you said there was a contract between GT Tribe

1 and SMDC called the SMDC agreement?

2 A. Yes.

3 Q. And that agreement was originally contracted
4 February 1 of 2001?

5 A. Correct.

6 Q. We saw that was a very long contract. I've got a
7 markup that we'll be using later, let me get the correct
8 exhibit. And you said it was a long contract?

9 A. Yes.

10 THE COURT: I'm sorry which one are we referring
11 to again.

12 MR. STEIN: SMDC agreement.

13 THE COURT: And the number, do you remember the
14 number.

15 MR. FORDYCE: 569 Your Honor.

16 THE COURT: Thank you.

17 Q. BY MR. STEIN: And we talked about the notice
18 provisions to Mary Aguilera, tribal council, Jonathan Stein
19 as manager and his attorney Kenneth Sulzer?

20 A. Correct.

21 Q. Then we saw signatures, and then resolution Number
22 10 passed in March of 2001?

23 A. Correct.

24 Q. We talked about this forge a tribe. May I ask you
25 just to save time in front of the jury, maybe we'll do it
26 on here. I'm going to ask you to write down the names of
27 the different tribal council persons that approved this in
28 2001.

1 THE COURT: You know what that's going to take a
2 lot of time. Can she just identify them from the document.

3 MR. STEIN: We actually have this approval and
4 five more approvals and we plan to show all the tribal
5 council members because the claims of plaintiff is that
6 because they signed the agreement and Same Dunlap's they're
7 claiming that those signatures mean --

8 THE COURT: Well okay you just want to show that
9 these are the people that signed.

10 MR. STEIN: We want to make a list.

11 THE COURT: Counsel listen to me. I just don't
12 want to spend the time with her writing names that are
13 already there.

14 MR. STEIN: Could the court be more comfortable
15 and the jury better served if we did this and came back
16 with a list that she could then confirm tomorrow.

17 THE COURT: Perhaps but can't she just identify
18 them on the document.

19 MR. STEIN: The point we wish to make is to
20 counter the very specific names of Plaintiffs that because
21 Sam Dunlap was one of the signatories that this contract
22 was with the Dunlap faction, we want to show that there
23 were about 30 to 40 different signatories of SMDC agreement
24 that would be our [TKEURPB].

25 THE COURT: I have still think you can do it [HA]
26 way.

27 MR. STEIN: And how do we keep count.

28 THE COURT: That's your job.

1 MR. STEIN: I can propose to do my job by writing
2 it up there.

3 THE COURT: No that's not do it that way. I'll
4 take up your idea if you have want to do it overnight and
5 then present it on a list I'll consider that but this --.

6 MR. STEIN: Very good. Niall might I ask you to
7 keep a list in handwriting while we go through each name.

8 MR. FORDYCE: Sure.

9 MR. STEIN: And you've got the same document in
10 front of you.

11 MR. FORDYCE: I believe so.

12 THE COURT: It will just take too much time per
13 her to write the 30 names and --.

14 MR. STEIN: Yes Your Honor.

15 Q. Was Sam Dunlap -- according to the former records
16 of which you were the custodian for years was Sam Dunlap
17 one of the signature tore he's for one of the 2001 versions
18 of contract?

19 A. Yes.

20 Q. Was he have elected or appointed in 2001?

21 A. Appointed.

22 Q. So now Niall ask you to write Sam Dunlap dash
23 appointed and we're on Page 26 of the PDF going to the
24 right, that's Jim Ernie Velasques chief, do you know who
25 Jim Ernie Velasques was?

26 A. I remember the name, yes.

27 Q. Was he to refresh your recollection, was he a
28 coastal Gabrielino chief?

1 A. Yes.

2 Q. And as the coastal Gabrielinos, the group that
3 collapsed and formed?

4 A. A separate --.

5 Q. GT Tribe?

6 A. Correct.

7 Q. And was he elected or appointed to your knowledge
8 as chief?

9 A. Appointed to my knowledge.

10 Q. So chief Ernie Velasques appointed.

11 MS. IBARRA: I'm going to -- objection lacks
12 foundation and personal knowledge.

13 THE COURT: Let's have a little sidebar * *
14 sidebar * *.

15 THE COURT: Okay I'm still trying to understand
16 why we're going through every one of those. Are you trying
17 to show that some of them were appointed and some weren't
18 or --.

19 MR. STEIN: We have --.

20 THE COURT: And I don't know how this witness
21 would even know that, there was an objection on perform
22 knowledge so I'm -- let's talk about both of those.

23 MR. STEIN: Sure. She's the custodian of records
24 for seven years of tribe she knows how the tribe did things
25 and once again this is a GT Tribe record.

26 THE COURT: Yeah but you're asking her for truth
27 of the contents that are in there, she doesn't know how the
28 election occurred, she wasn't part of that right.

1 MR. STEIN: No she knows how the elections
2 occurred because she has all the he recollection records of
3 the tribe, the first election held by the tribe was 2005
4 zero that's why she can say with confidence and I can bring
5 this do you have out jury if had [HEPDZ], she can fifth
6 confidence if there's an official Gabrielino-Tongva Tribe
7 record from 2001 and she knows and was part of the 2005
8 election and knew it was at first election then these
9 people --.

10 THE COURT: Was she part of that election though.

11 MR. STEIN: Yes, she was.

12 THE COURT: How.

13 MR. STEIN: She was the tribal administrator that
14 could help conduct the election and got it certified.

15 THE COURT: Well I guess we should lay the
16 foundation for that, okay.

17 MR. STEIN: And therefore, everybody before 2005
18 was appoint [SKP-D] then after 2005 she was present for all
19 the he [HREPBGS] [-Z] and could say whether this person
20 exceeded by appointment or another, and once again these
21 are the official records she's can you say [KWRAPB] of so
22 we're talking about business records here.

23 THE COURT: Yeah well.

24 MS. IBARRA: So I think the question should be
25 directed at the documents and whether the election records
26 are correct and true and then people can look at the
27 records but she wasn't even around when this SMDC agreement
28 was executed so all she knows is what was given to her and

1 that's all she can attest so, she can't attest to anything
2 that happened that's not in that document.

3 MR. STEIN: Sew you're saying that if apple and
4 Samsung have a [PA*T] litigation and 30 years ago there's a
5 document from apple and there are no apple executive then
6 nobody from apple can say yeah that's one of our documents.

7 MS. IBARRA: [THO] that's the only thing they can
8 say.

9 MR. STEIN: And that person was for 30 years ago
10 general counsel ask will for, he signed adds general
11 counsel apple.

12 MS. IBARRA: And that would indicate a lot that's
13 the only thing they can do they can't [TAEU] what
14 negotiations happened and who who was there and who said
15 what and who had what -- I mean all they can do is say
16 [THAOZ] this is a true and correct record and this is what
17 it says and I've maintained and it and I know to the
18 billing it's true and correct true and accurate and it
19 hasn't been tampered with.

20 MR. STEIN: [THARZ] not the about business records
21 exception to the hearsay rule say that's interpretation is
22 not California law.

23 THE COURT: Well let's go to my second question
24 which was the more important question which was again why
25 are we going through the signatures.

26 MR. STEIN: Their claims and their closing
27 argument will be Sam Dunlap signed is it, we're GT Tribe
28 because we signed the SMDC agreement, that means we're the

1 contracting party.

2 THE COURT: Okay so --.

3 MR. STEIN: I'm trying to show that people --.

4 THE COURT: Wait wait wait, so perhaps the way to
5 do that is [WRUFT] so ask you, do you see [SA*PLZ]
6 signature anywhere here and if she says no it's done.

7 MR. STEIN: But it's there, it's right there.

8 THE COURT: Then you [TKREG] letter to the
9 signature instead of going through who everybody else does
10 just go to -- I'm just trying to cut the time if.

11 MR. STEIN: You're cutting my case, you're pro
12 [HEUBGT]-ing me from putting on the fundamental point of my
13 case and you're prohibit th me to answer the
14 opportunityment Talley point that they are racing.

15 THE COURT: Which is.

16 MR. STEIN: Because they signed the agreement.

17 THE COURT: They meaning.

18 MR. STEIN: The Dunlap group tribal council
19 faction signed the agreement that they're the contracting
20 party.

21 THE COURT: And you're trying to show that.

22 MR. STEIN: Lots of different people along the way
23 signed the agreement h many of they will be-ing appointed
24 not elected because their point is number one what I just
25 said and Number 2 they were elected none of these candidate
26 folks are elected until later. And if it sounds kind of
27 zany to you that's why this lawsuit has is about and that's
28 why this lawsuit has been so zany.

1 THE COURT: I am not making the connection with.
2 Are you trying to establish that the signatures are by the
3 people who signed them.

4 MR. STEIN: We're trying to establish the
5 signatures are were by tribal council people of the tribe
6 that were either appointed or elected according to tribal
7 records of which [SHELS] familiar over seven years usage
8 and she's familiar with all the he [HREBG] [-Z] in those
9 seven years and the fact that there were no he [HREBG] [-Z]
10 before those seven years.

11 THE COURT: So you're trying to show that each
12 person who signed had been appointed or elected.

13 MR. STEIN: That's correct and we are also trying
14 to show that there were 40 different people that signed,
15 only five of which are part of the Dunlap group.

16 MR. FORDYCE: I think that's the key Your Honor,
17 it's not -- it's beyond just the Dunlap faction and there's
18 simply only one way to do it which is to say look at who
19 signed, there's 40 signatures, it's not just them.

20 THE COURT: Okay but that's -- I don't think we
21 need to go through all of that except to say are there 40
22 signatures on the document, yes, they are, and do they
23 constitute --.

24 MR. STEIN: You're taking out my case, you're
25 telling me how to try my case and I don't think that that
26 is fair.

27 THE COURT: Well I'm trying to eliminate.

28 MR. STEIN: I know you're trying to hurry me up

1 Your Honor but are you going to hurry her up and force her
2 not to put on her case too.

3 THE COURT: Well I haven't heard her case yet so I
4 don't know what she's trying to do I'm just trying to have
5 deal with what they're.

6 MR. STEIN: And what wear doing now is how I'd
7 like to put on my case.

8 THE COURT: I understand.

9 MR. STEIN: So establish with the [SKWREURP] that
10 there are 40 different signatures on five of [WEUFZ] are
11 the Dunlap group if you want me to go fast I'll go fast I
12 thought I was going this you told me don't do this this way
13 do it that way it's faster and we're doing it faster.

14 THE COURT: Well let me ask plaintiff is there
15 something that can be stipulated so we don't have topping
16 through this they're saying we have to go through this,
17 you're going to argue something.

18 MS. IBARRA: Well I can stipulate to the fact that
19 there were no elections until 2005 but there's -- I mean I
20 think that there's a lot of allegations on both sides that
21 people can act without having been elected, there's people
22 in the Candelaria faction who say they were appointed. So
23 I don't know -- I actually don't think that it's going to
24 show what you think it shows but I think that there weren't
25 any elections because they weren't organized to have
26 elections that's true, there weren't any elections before
27 it [thou|thousand] five.

28 MR. FORDYCE: But that's only part of the

1 argument.

2 MR. STEIN: Right.

3 MR. FORDYCE: I [TH-PTZ] the critical hinge has
4 [APBL] part of the argument the appointed [SRER] [EUS]
5 elected it's a something the jury should here and it's a
6 very tough one to get around Your Honor and I understand
7 your concern and make there's a wake we can think of doing
8 it more rapidly but this [THRAOEDZ] knob a way to [SKWRUF]
9 the raw, there's a few of those and there's all those
10 others.

11 MR. STEIN: And we're going to go as fast as
12 possible, that's what I did I skipped 40 pages of agreement
13 this is who signed it if she [TUZ] the stipulation she's
14 depositing I want nonsuit, if she does that stipulation I
15 want nonsuit as soon as I'm procedurally allowed that's the
16 end of her case.

17 MS. IBARRA: Because there were elections.

18 MR. STEIN: No [TPHAOEB] says that.

19 MR. STEIN: Because Sam Dunlap group does not own
20 the agreement, he did not sign the agreement it was not
21 with them he was with a group that yes and the jury is
22 going to [SK-R] [HA] [WHAEF] a yes they did leave or no, he
23 didn't because the point you raised but you are going to
24 say you have haven't and you're hiding from the court.

25 MS. IBARRA: What am a hiding?

26 THE CLERK: Hold on.

27 MR. STEIN: What you're going to say is Sam
28 Dunlap, the late every ones say Sam Dunlap, Virginia

1 Carmelo, Martin Alcala was that a tribal counsel person
2 with a tribe, the Dunlap faction? Yes, it was (Ditto),
3 (Ditto), was this contract signed by these people a
4 contract with the Dunlap faction and that's what this phase
5 the trial is to say yes or no, so you're keeping me from
6 saying what I want to say about that.

7 THE COURT: So how many of the people on the list
8 are Dunlap faction.

9 MR. STEIN: Five out of the 40.

10 THE COURT: So you can stipulate to that.

11 MS. IBARRA: No, I'm not going to stipulate
12 they're [H-RPB] part of the faction in fact Pat oh
13 membership [STEUPB] they're on my witness list and they're
14 going to say they're part of the Dunlap group that they
15 stepped down from the tribal council when they met Jonathan
16 Stein and didn't want to work with him. The document right
17 now on there says one of those voted no and the other one
18 [AB] [TAEUPBD]. They signed it one said no, and one object
19 [AB] taped, step do you understand from the leadership in
20 the organization and became inactive but they're active now
21 they just didn't want to be active during this period so
22 this is.

23 MR. STEIN: And thus [TATS] an issue, (Ditto).

24 MS. IBARRA: Yes.

25 THE COURT: All right well.

26 MS. IBARRA: But that's the in a [TAOUFR] of these
27 organizations, it's a more fuss identity, people become
28 inactive, somebody steals their confidential records so

1 they can't prove, you know somebody stopped claim they're
2 with candidate.

3 THE COURT: I understand, I understand go ahead
4 you'll have your under.

5 MS. IBARRA: Thank you.

6 THE COURT: If it's that individual but I'm
7 telling you right now the jury is already rolling their
8 eyes, the note from the clerk the jury would like Mr. Stein
9 to lower his voice and not yell.

10 MR. STEIN: Thank you.

11 THE COURT: As know from the jurors * * end
12 sidebar * *.

13 Q. BY MR. STEIN: Barbara has custodian of the
14 records for GT Tribe the third person Richard Aguilar was
15 he a triable counsel in 2001?

16 A. Yes.

17 Q. Was he elected or appointed?

18 A. Appoint [STKPWHR-D] when was the first election
19 held by GT Tribe?

20 A. In 2006.

21 Q. 2000 and --?

22 A. Six, seven.

23 Q. And so this being from 2001 you're able to say he
24 was appointed?

25 A. Yes.

26 Q. The other one, Victor Velasques, the fourth one
27 was he elected or appointed?

28 A. Appointed.

1 Q. And would going down the rest of this group,
2 Patricia Neminski, Donna Semitola, Connie Marie Torres,
3 David Velasques, Mary Epirola fifth and Mary Aguilera, were
4 they all appointed as well?

5 A. Correct.

6 Q. And I missed Robert Aguilar was he appointed as
7 well?

8 A. Yes.

9 Q. And again Sam Dunlap was appointed at the time in
10 2001?

11 A. Yes.

12 Q. Resolution 15 was a contract with a tribal general
13 counsel and the tribal general counsel was Mr. Otto. And
14 Mr. Otto left and Mr. Hamburger took his place. Can you
15 read the two whereas clauses?

16 A. Whereas Mr. Otto sent to tribe chairman Jim
17 Velasques his written resignation as tribal general counsel
18 and after an invitation from the tribal council and Mr.
19 Stein to reconsider his resignation Mr. Otto sent I second
20 writing stating his refusal to reconsider his resignation
21 as tribal general counsel and this recitation was separated
22 and where as the tribal council now wishes to employ Mr. Ed
23 Hamburger as tribal general counsel based on Mr.
24 Hamburger's many expertise in among other mattres her
25 corporate law, trust indentures, financial transactions,
26 securities law and other areas germain to econoic
27 developemtn in the federal recognize process.

28 Q. Sorry about that. Can you read therefor be it

1 resolved, please?

2 A. Therefor, be it resolved that Ed Hamburger be and
3 hereby is appointed apps the tribal general counsel to take
4 office immediately and to serve at the pleasure of the
5 tribal council and to acrylic as counsel sub [ERD]
6 [TPHAEUT] to the decision-making authority of the tribal
7 council in all such [PHRAOEUBGS].

8 MR. STEIN: And Niall can I ask you to keep a list
9 of tribal council with Steve Otto and Ed ham Berger on it.

10 MR. FORDYCE: Yes.

11 MR. STEIN: Resolution 17 confirming number of
12 tribal council [person's|persons] as 10. Cuff read the
13 resolutions?

14 A. Be it resolved?

15 Q. Therefore, be it re [TOFLD] the very first one?

16 A. There for be it resolved that this tribal council
17 shall be and continues to be composed of 10 member position
18 and that article three of the constitution of this tribe be
19 and hereby is amended to provide for a 10 member tribal
20 council. Be it resolved further that all actions of the
21 tribal council heretofore, including all he can noneconomic
22 development resolutions are ratified and adopted as actions
23 of the tribe and as of this tribal council.

24 Q. Very good. And was it your understanding that the
25 purpose of this reservation is because past actions were a
26 little sloppy and this ratified those past actions to make
27 them official actions of GT Tribe?

28 A. That is correct.

1 Q. And is it your understanding that one reason that
2 this action was taken by GT Tribe was to clean up the mess
3 before and make sure that the SMDC agreement and other
4 important actions of the tribe were ratified and binding?

5 A. That's correct.

6 Q. And Sam Dunlap was he appointed or elected when he
7 signed that?

8 A. Appointed.

9 Q. Shirley Machado was she appointed or elected when
10 she signed it?

11 A. Appointed.

12 Q. Virginia Carmelo (Ditto)?

13 A. Appointed.

14 Q. Martin Alcala was (Ditto)?

15 A. Appointed.

16 Q. Edgar Perez (Ditto)?

17 A. Appointed.

18 Q. Resolution 20, approval of areas of progress,
19 ratification and approval of the contract again. And this
20 is in April of 2001. Could you read the whereas clause,
21 whereas attorney Ed Hamburger?

22 A. Whereas attorney Ed Hamburger wrote summary of
23 recommendations for further tribal council action, a cop
24 oaf which is attached as Exhibit B and then what is the
25 resolution?

26 A. No therefore, be it resolved that this tribal
27 council has presently constituted does by this resolution
28 recognize, cooperate approve, and ratify economic

1 development resolutions one through 11 dated March 4, 2001
2 as actions and obligations of this tribal council and the
3 tribe.

4 Q. And this is resolution Number 20?

5 A. Correct.

6 Q. And resolution 20 is signed by Sam Dunlap in April
7 of 2001, was he elected or appointed?

8 A. Appointed.

9 Q. Shirley Machado?

10 A. Appointed.

11 Q. Martin Alcala?

12 A. Appointed.

13 Q. Edgar Perez?

14 A. Appointed.

15 Q. Virginia Carmelo?

16 A. Appointed.

17 Q. Resolution 37, in January of 2002, this is
18 approval of amendments to development an agreement between
19 tribe and Saint Monica. Read the first whereas clause
20 please?

21 A. Whereas on March 4, 2001, the tribal council
22 approved resolution Number 10, contractual agreement with
23 Saint Monica development company LLC, establishing a
24 contractual relationship between the Gabrielino-Tongva
25 Tribe and Saint Monica development company LLC to
26 accomplish certain development tasks in connection with
27 tribal government, the federal recognition process, the
28 process of establishing a tribal state gaming compact, the

1 process of locating and obtaining lands to be placed into
2 trust status to form a reservation and the process of
3 construction and opening a casino there on.

4 Q. And the whereas clause, this whereas clause?

5 A. Whereas on April 17th, 2000 the tribal council
6 approved resolution Number 17 confirming number of tribal
7 council positions at 10 which approved and rats [TPAOEUD]
8 all prior actions of the tribal council and adopted them as
9 actions of the reformed tribal council, including
10 resolution Number 10 and the agreement and affirmed them as
11 valid, binding and duly adopted obligation-d of the tribal
12 council and the tribe.

13 Q. And the resolution?

14 A. There for be it resolved that the development
15 agreement a- [TOPT]-d by this counsel in resolution Number
16 10 and reaffirmed and ratified in resolution 17, hereby be
17 [PH*EPBLT]-d and modified and the modification attached as
18 Exhibit A here to be and hereby is adopted, approved and
19 agreed as an action of, and on behalf of this tribal
20 council and the tribe.

21 Q. And this is a resolution dated?

22 A. January 27, 2002.

23 Q. And it's resolution 37?

24 A. Correct?

25 Q. And the signatory are Martin Alcala was elected or
26 appointment?

27 A. Appointed.

28 Q. Virginia Carmelo (Ditto)?

- 1 A. Appointed.
- 2 Q. Shirley Machado (Ditto) in 2002?
- 3 A. Appointed.
- 4 Q. Cindi Alvitre was she a tribal council member?
- 5 A. Appointed.
- 6 Q. And was she -- did she step down?
- 7 A. Yes.
- 8 Q. And was she -- did she abandon her position?
- 9 A. Yes.
- 10 Q. Sam Dunlap elected or appointed?
- 11 A. Appointed.
- 12 Q. Edgar Perez elected or appointed?
- 13 A. Appointed.
- 14 Q. And this is the various terms that were modified.
- 15 The notices, who were the notices to?
- 16 A. Sam Dunlap, tribal secretary, and tribal council
- 17 members and Ms. Rae Lamothe, tribal general counsel.
- 18 Q. To your understanding, did Rae Lamothe approve
- 19 this resolution and the attached modifications?
- 20 A. Correct.
- 21 Q. Did she write the modifications?
- 22 A. To my understanding.
- 23 Q. Resolution 46 what is the title of that?
- 24 A. Approval of 2003 amendments to development
- 25 agreement between the tribe and St. Monica development
- 26 company LLC.
- 27 Q. And that's in September of 2003?
- 28 A. Correct.

1 Q. And does it firstdoes it review all the prior
2 approved such as resolution 17, resolution 37, resolution
3 10?

4 A. Yes.

5 Q. And does it -- can you read this whereas [KHRAUD]
6 and the following?

7 A. Whereas under the agreement developer is due to be
8 paid 25,000 per month from February 1st, 2001 through the
9 present for a total of approximately seven \$25,000 to date,
10 from the investment money and this would take up a large
11 portion of the investment money that each investment group
12 has discussed investor-ing with the tribe. Whereas the
13 tribal council has requested that developer defer payment
14 of most of the monthly amounts which accrued in the past 28
15 months to allow the investment money to be used for other
16 purposes.

17 Q. Did SMDC agree to defer monies owed?

18 A. Yes.

19 Q. As a result of that agreement in part, did SMDC
20 ever get paid those monies owed?

21 A. No.

22 Q. In your judgment was SMDC would have been smarter
23 to take the two point 15,000,000 and grab as much money as
24 it could given what you have know about later events?

25 A. In my opinion, yes.

26 Q. And can you read this resolution?

27 A. Be it resolved further, that the development
28 agreement, as amended and modified by the 2003 amendment,

1 be and hereby is declared to be an effective valid and
2 binding obligation of the tribe and tribal council and
3 tribal secretary Sam Dunlap is hereby authorized to execute
4 the modification in the form set forth in Exhibit A
5 attached hereto on behalf of this tribal council and the
6 tribe.

7 Q. At the time was [PHARLT] Al elected [-R]
8 appointed?

9 A. Appointed.

10 Q. As I understand Al was he will he he can-d or
11 painted?

12 A. Appointed.

13 Q. Virginia Carmelo (Ditto)?

14 A. Appointed.

15 Q. Sam Dunlap (Ditto)?

16 A. Appointed.

17 Q. Shirley Machado (ditto)?

18 A. Edgar Perez elected or appointed?

19 A. Appointed.

20 Q. And that should be the last amendment. And is
21 that your understanding Rae Lamothe the tribal general
22 counsel?

23

24 Q. So she was after Steve Otto and Ed Hamburger came
25 Rae Lamothe --

26 A. Correct.

27 Q. -- as tribal general counsel?

28 A. Correct.

1 Q. And was the agreement amended one last time in May
2 of 2006?

3 A. Right.

4 Q. And that modification was signed by Virginia
5 Carmelo in May of 2006 was Virginia Carmelo elected?

6 A. I think by that the elected had occurred.

7 Q. Were the first elections in 2005 to your
8 recollection as refreshed?

9 A. Yes.

10 Q. So by this time, we should list Virginia Carmelo
11 at elected?

12 A. Correct.

13 Q. Thank you very much, Your Honor it's four 15.

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