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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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1 GABRIELINO-TONGVA TRIBE VS. STEIN

2 ROUGH TRIAL TESTIMONY OF J. STEIN

3 10:04 AM.

4 THE COURT: Gabrielino versus Stein h BC361307
5 good morning.

6 MS. IBARRA: Good morning.

7 MR. FORDYCE: Good morning Your Honor.

8 THE COURT: Counsel make their appearances.

9 MS. IBARRA: Delia Ibarra on behalf of plaintiff
10 Gabrielino-Tongva Tribe.

11 MR. FORDYCE: Good morning Niall Fordyce on behalf
12 of Mr. Stein and law offices of Jonathan Stein.

13 MR. STEIN: Jonathan Stein on behalf of SMDC and
14 the Crane Group.

15 THE COURT: Okay Mr. Stein I think you were on the
16 witness stand.

17 MR. STEIN: Yes I'd like to just bring up one
18 point, a brief matter before the court day begins. We are
19 preparing a spreadsheet for eyes for presentation about our
20 damage case, we're not yet completed with it but we've
21 already shared it with Plaintiffs counsel to avoid problems
22 we've had yesterday.

23 MS. IBARRA: Yeah I have problems with it, we can
24 discuss it later, it's based on a lot of material that we
25 don't have.

26 THE COURT: It has to be based on information that
27 we have already in the court, in evidence.

28 MR. STEIN: It's based on exactly -- I don't know

1 where she gets that, it's based on evidence.

2 THE COURT: All right it has to be evidence that's
3 admitted in the trial so Ms. Ibarra you have it so you can
4 take a look at it, if it's not, then -- summary charts are
5 allowed as long as they truly are a summary of what is in
6 evidence, if it's not in evidence it doesn't come in so you
7 take a look at it.

8 MS. IBARRA: I'll take a look at it when it's
9 find.

10 THE COURT: Okay thank you H in the meantime Mr.
11 Fordyce.

12 MR. FORDYCE: Thank you.

13 Q. BY MR. FORDYCE: Mr. Stein we left off yet I just
14 want to recap very briefly, you testified yesterday that
15 you had heard no testimony in this case that SMDC's work
16 was substandard, I just want to confirm that's correct, was
17 that your testimony yesterday?

18 A. Yes.

19 Q. And I just want to be clear and follow-up, during
20 SMDC's tenure on the project itself, from 2001 to 2006, did
21 anyone from the tribe complain that SMDC's work was
22 substandard?

23 A. No. They -- they expressed I am patients that we
24 didn't have financing in time but they never said it was
25 myself.

26 Q. And no one ever said SMDC's work sucks?

27 A. No no.

28 Q. All right let's move ahead, exhibit 1560 please,

1 that's the one please page spreadsheet, do you have that?

2 A. Yes let me get it in front of me.

3 Q. Okay. And just for [con|could not] convenience
4 sake, also 15 58, 1562.

5 THE COURT: Okay there's a whole list of them, can
6 you go over them first.

7 MR. FORDYCE: 1560 first Your Honor.

8 THE COURT: 1560.

9 MR. FORDYCE: And then 15 58 and 1562?

10 A. He's going to throw in some baseball cards in your
11 collection as well.

12 MR. FORDYCE: Yes and we're going to go through
13 those rapidly and as quickly as we can and make our points.

14 Q. And Mr. Stein 1560 do you recognize the document?

15 A. Yes.

16 Q. What is it?

17 A. It is the spreadsheet prepared by Steven Johnson,
18 Barbara Garcia and myself.

19 Q. Can you please explain your role in preparing this
20 spreadsheet?

21 A. My role was primarily making available the time
22 slips that were the printout and there was -- we had
23 printouts at the time that we no longer have now. I wanted
24 to -- I created the column for quantum meruit calculation
25 and I created the calculation of 375 per hour, Steven
26 Johnson created the breakdown by years and months and input
27 the hours and then Barbara Garcia double checked the
28 hours.

1 Q. What was the purpose of 1560?

2 A. Steven Johnson wanted to do his due diligence
3 before the estoppel certificate, the Candalaria faction
4 wanted to settle out of the lawsuit as soon as possible so
5 we had to document that and so the -- when we brought --
6 they brought on the lawyer Jeff Tisdale to represent them
7 and Jeff talked about what he wanted Steve to do, Steve
8 then did it and part of what Steve Steve's own ideas as
9 well as were added to Mr. advertise days as far as the due
10 diligence on the amount in the estoppel certificate which
11 was approximately 2.7 million dollars.

12 Q. And I believe you've already explained your role
13 in this, creating this document. The **[bowed|bold]** column
14 is what?

15 A. The **[bowed|bold]** column is the calculation called
16 for by the SMDC agreement which is the -- is if the SMDC
17 agreement is challenged as unenforceable then the GT Tribe
18 agreed not once but five different times that if they
19 challenged the document as unenforceable, in particular 10
20 percent incentive, then all of the hourly amounts would be
21 added together and used and calculated at the '87 \$5 per
22 hour risk **[R*ELT]**-d rate.

23 Q. To be clear, that's the article 15 or section 15
24 from the SMDC agreement, exhibit 1569 that we look at
25 yesterday is that correct?

26 A. Right, right, and -- yes. And again Mr. Margolis
27 and recommending that the agreement be found to be void or
28 voidable and recommending that there not even be quantum

1 meruit but if the court were to decide it was voidable and
2 quantum meruit was the intention of the parties in that
3 case, then these amounts would be appropriate in the
4 **[bowled|bold]** column.

5 Q. Do you have any doubts as you sit here today as to
6 the intention to apply quantum meruit if the agreement was
7 voidable?

8 A. No. The -- SMDC agreed repeatedly, they had
9 independent counsel to advise them, the independent counsel
10 looked for modifications in 2002 and did it again in 2003
11 and never sought to modify that section.

12 Q. The non **[bowled|bold]** column, the far right
13 column, what is that just to be clear?

14 A. The far right was a comparison that I did because
15 '87 \$5 an hour is a stiff rate and so litigation had
16 already broke un out and I thought it would be important to
17 make a comparison at least to the hourly rate that I charge
18 for legal work at the time which was 375 an hour and it's
19 just a way of showing how the numbers work. So that came
20 out to 1,000,000 '94 3,000 instead of 4.4 million Five
21 34,000.

22 Q. And Mr. Stein to avoid any ambiguity that you just
23 said you calculated this far right column at your legal
24 rate, this in no way implies you were practicing **[HRAUPL]**
25 for the tribe, correct **[TPHORPBLGTS]** it was just a very
26 easy comparison for the same human being doing something
27 else.

28 Q. And that was --.

1 THE COURT: The Court understands that.

2 MR. FORDYCE: Okay Your Honor.

3 THE COURT: Because he's saying 375 is any legal
4 rate, I'm not assuming that he's asking for attorneys' fees
5 or he was doing legal work I understand.

6 MR. FORDYCE: Thank you Your Honor I appreciate
7 that.

8 Q. BY MR. FORDYCE: Mr. Stein so you've got years
9 2001 to 2006, there seems to be an out liar in 2002, can
10 you explain what's happening in 2002?

11 A. Yeah in 2002, I basically lost interest in doing
12 these calculations on a daily basis. In 2001, I put in
13 over 200 hours, in 2003 I put in almost -- over 600 hours
14 and what happened in 2002 is I just lost interest in it and
15 I suddenly realized there was a big up tick in work in
16 2003, actually we became very close to getting an investor
17 very quickly that I realized I should go back to inputting
18 any time regularly on the project.

19 Q. And to be clear for the record what you're
20 referring to is an hourly total for the year 2002 of 16 .7
21 six hours, correct?

22 A. That's correct.

23 Q. Okay why --.

24 THE COURT: Remind me, 2003 is the time when the
25 Libra investors became involved, right?

26 A. No 2005.

27 THE COURT: Oh 2005?

28 A. In 2003 we thought we were going to get Bruce

1 [AOEUBG] [TPHER] who was a billionaire from New York City.

2 THE COURT: Oh okay.

3 Q. BY MR. FORDYCE: So Mr. Stein why did you lose
4 interest as you just testified in keeping your hours?

5 A. You know I can't tell you for sure now. Now he
6 what happens, if I was he especially busy doing legal work,
7 if I just thought -- had different ideas in my mind as to
8 whether this was important or not, I trusted everybody in
9 2002 which I -- by 2003 and four and five I learned that I
10 shouldn't, so those different thoughts were going through
11 my mind but I don't know the exact reason why I just did
12 not do this for most of the year, I to do know I didn't
13 started doing it again, is that is things [PO*PD] to life
14 with the process respect of an investment in very early --
15 in January 2003.

16 Q. Mr. Stein did you work the amount -- the hourly
17 amount shown in 2002 as laid out in exhibit 1560?

18 A. I worked that amount and much more.

19 Q. Is SMDC seeking more in its cross-complaint than
20 the hours represented in exhibit 1560 for the year 2002?

21 A. No. It was my mistake, I did work more than that
22 but we'll just use what's put here for our quantum meruit
23 calculation.

24 Q. And is it your belief as you sit here today that
25 the total and what I'm referring to is the last line of the
26 exhibit, not the footer but the last line, it says total
27 all years, are the totals at the bottom as you sit here
28 today, are they accurate?

1 A. Yes. Other than the -- other than the missing
2 hours, yes. In 2002 I definitely worked more than in 2001
3 and I definitely worked less than in 2003, so 2002 should
4 be stated as something over 239 and under six 50. [HOEUFR]
5 we'll stick with the 16 as stated and that brings the total
6 to 5018 one.

7 Q. Mr. Stein does exhibit 1560, does this represent
8 costs and expenses as well as hourly rates?

9 A. No this is just the time spent not the
10 reimbursement amounts.

11 Q. Let me draw your attention to the actual footer.
12 That's the C colon slash user et cetera et cetera. Mr.
13 Stein do you have knowledge as to when the document was
14 prepared?

15 A. It was prepared after litigation began in
16 November.

17 Q. Is that represented in this footer?

18 A. Yeah that file has been renamed several times but
19 it's now named 2007 to 12 SMDC lawsuit.

20 Q. And do you have a recollection as to when this was
21 prepared?

22 A. This was prepared after November 2nd of 2006 and
23 before December 31st of 2006.

24 Q. All right. Just looking at the document globally
25 it's a one page document, what does this show for SMDC?

26 A. Well it shows that there was an effort to keep the
27 time spent on the project, it shows exact attitude and
28 specificity and it also shows if you compare it to Exhibit

1 15 58.

2 Q. We will do that?

3 A. Ah, okay good. And then it shows totals for
4 everything which I think is -- was very smart of Steven
5 Johnson to design it that way, to have a total for each
6 year and then a total for all years.

7 Q. Do you have an approximate value of how many hours
8 you worked per month for how long?

9 A. Yeah if you take the 5018 one and divide it by one
10 two three four Five six years, there's about '72 months in
11 that -- about '69 months and it comes out to about 75
12 hours a month.

13 Q. And for how many years?

14 A. For six years.

15 Q. Let's now compare this to Exhibit 15 58 just
16 quickly, what I'd like to draw your attention to is the
17 very last page of 15 58. Okay just let me know when you're
18 there?

19 A. Uh-huh.

20 Q. Do you see the hours slash rate on the last
21 payment of Exhibit 15 58?

22 A. Yes, sir.

23 Q. And do you see the hours on the second **[KOLT]** um
24 from the left on 1560?

25 A. Right, 5018 two point 29.

26 Q. Okay. And what is it on 1560?

27 A. On 1560 it's 5018 1.9 nine just three-tenths of an
28 hour's difference over 5,100 hours.

1 Q. What's your interpretation of the .3 hours
2 variance?

3 A. Somewhere along the way it must have been a typo,
4 I think that comes out to one-ten thousandth of a
5 percent -- oh actually I'm sorry, one-10th -- one hundredth
6 of a percent, that's one hundredth of a percent different,
7 less than one hundredth of a percent different.

8 Q. We had a fair amount of discussion yesterday on
9 Exhibit 1558 and that it starts on page 156 of the
10 documents and goes to 163. Do you recall that testimony?

11 A. Yes. And as I recall, Steven Johnson used the
12 full 16 three pages of this to create the spreadsheet and
13 then he manually -- it was already divided by months and
14 then he manually put in the hours for each month from that
15 and then Barbara Garcia double checked it, that's probably
16 why it's so accurate.

17 Q. It's your belief as we sit here today that the
18 complete 16 three pages of which the last few are
19 represented in Exhibit 15 58, that was the source material
20 for 1560, is that your belief?

21 A. That's correct.

22 Q. Let's now look at 1560 as compared to 1562.
23 156269 is the very long exhibit but we're going to cut
24 right to the Chase and Mr. Stein if you look at the last
25 couple of pages of exhibit 1562 and just again so we have a
26 clean record, what is -- can you identify 1562 please?

27 A. This is the readouts for a similar period of time,
28 not exactly the same, but is the readout in what's called

1 worksheet form, time slips produced worksheets and it
2 produced invoices and it also had the ability to produce
3 all your invoices over again. So the 1562 is the worksheet
4 form, 15 58 is the invoice form.

5 Q. And let's look briefly at those last couple of
6 pages?

7 A. I have wanted to ask you was there a variance of
8 the last line of 1560 and the last couple of pages, again
9 I'm referring to the hours worked and the dollar amounts?

10 A. Yeah the --.

11 THE COURT: Hold on.

12 {JUROR NO. 1}: What page are you looking at.

13 MR. FORDYCE: Your Honor I'm looking at the last
14 two pages much 1562.

15 THE COURT: The last two pages, okay all the way
16 at the back.

17 MR. FORDYCE: Last two makes at the penultimate
18 pages and the last number it has total?

19 A. What are the Bates numbers.

20 MR. FORDYCE: Those are 26 '64 and 26 '65.

21 THE COURT: Thank you.

22 MR. FORDYCE: Sure.

23 Q. BY MR. FORDYCE: So Mr. Stein there's a variance
24 there as you said. Do you have knowledge as as to what the
25 variance is from?

26 A. Yes. The variance is 5271 as compared to 5281 so
27 it's a little under 90 hours. And the period began in
28 December of 2000 instead of January for 1562 which added

1 hours, and in addition if you notice on the first one, some
2 of the references are marked as a lower rate which is for
3 paralegals and so Steve asked me about that, I recall him
4 asking me about that and since I didn't have a clear answer
5 he just said let's not put it in, so the paralegal hours
6 throughout these pages are left out as well as so I believe
7 between those two it should account for the 90 hours.

8 Q. Is there another issue to your knowledge about the
9 start date of 1562 versus 1560?

10 A. Yeah well as I said, the start date for 1562 is
11 December 15th of 2000 The start date for the quantum meruit
12 calculations is for January 2001. I'm not going to make
13 you do the math but if you know, what's the defense in
14 those two hour amounts approximately?

15 A. I don't know. I don't know there -- it's at least
16 seven hours right there.

17 Q. Well which do you think is the correct starting
18 point?

19 A. Well the correct -- the correct starting point is
20 actually in the spreadsheet, but it's not the January
21 number, it should be the March number because the agreement
22 was not approved until March of 2001. So Steve kind of
23 was -- was over inclusive here. So you should really take
24 a lesser total for 2001 because March would be the
25 beginning date since the agreement was not adopted under
26 March 4th of 2001 .

27 Q. So that's approximately -- 11.4 and 27.3, that's
28 approximately 39 hours?

1 A. That would be 39 hours from the 5,181 total in
2 exhibit 1560.

3 Q. So it should be reduce by that much?

4 A. Right.

5 THE COURT: I'm sorry it should be reduced by how
6 much.

7 MR. FORDYCE: Approximately 39 hours Your Honor.

8 THE COURT: Is that right, Mr. Stein?

9 A. Yes.

10 Q. BY MR. FORDYCE: Okay. Let's move onto another
11 exhibit very quickly. This is exhibit 1561, also
12 introduced yesterday. This is a Stein declaration. And
13 Mr. Stein we're just going to look at one paragraph after
14 we lay the foundation for the exhibit. Do you have 1561
15 Mr. Stein?

16 A. Yes, I do.

17 Q. What is 1561 please?

18 A. This is a declaration from September 8th, 2008 in
19 a motion proceeding in this court action.

20 Q. And if I draw your attention to the last payment
21 which is Bate '07 [#*] zero 2758, very last page, is this
22 declaration executed?

23 A. Yes.

24 THE COURT: Is this in the writ?

25 A. No this is not for the writ, this was.

26 THE COURT: It's different?

27 A. This is probably for the -- from the timing of
28 September of 2008, it's either the Polanco MSJ or the six

1 46 [PHOELGS] to approve the settlement to allow the
2 Candalaria group to exit the litigation.

3 Q. BY MR. FORDYCE: And Mr. Stein just Paragraph 10
4 please and that's on pages zero 275 four. It's short
5 enough that it's okay, I'll just have you read it?

6 A. Okay. Attached as Exhibit F is a true and correct
7 copy of SMDC quantum meruit worksheets redacted, I kept
8 these [WO*RBGZ] [-Z] as bank records, SMDC kept worksheets
9 to record time spent and tasks accomplished between 2001
10 and November 2006, they evidence the work which SMDC
11 completed for the tribe. I recorded them in the normal
12 course of business on a fairly daily basis from March 2001
13 through November 2006, the February 2001 agreement that we
14 referred to the SMDC agreement, which is dated February 1,
15 but was approved March 4th of 2001, the February 2001
16 treatment has a quantum meruit provision in the section
17 that made these worksheets relevant, the worksheets
18 demonstrate that SMDC performed under the SMDC agreement
19 during this period. The individual defendants were among
20 the parties who accepted this performance. The worksheets
21 demonstrate that SMDC performed continually for six years.

22 Q. And Mr. Stein what was your understanding what was
23 attached to Exhibit F as it speaks to our exhibits in this
24 part of the trial?

25 A. It was exhibit 1562.

26 Q. And those are the redacted Time Slips?

27 A. Yes. It mentions in section 10 that it was
28 redacted.

1 Q. And why was it heavily redacted, just quickly? I
2 know we talked about this, but --

3 A. Yeah. It's just -- the Dunlap Carmelo group
4 adopted the approach of not doing any work to get a casino
5 or get federal recognition but rather just following us
6 around to make sure that we didn't -- that the Candalaria
7 group did not get federal recognition or a casino. And the
8 idea of being that it would make them look bad. So they --
9 we had ran into this in Long Beach we ran into it again in
10 Garden Grove and the tribal council was concerned that the
11 litigation was getting in the way of progress and so I
12 agreed to redact this. I tried several techniques with
13 Barbara Garcia that didn't seem to work very well and were
14 far, far too time consuming, just paying Barbara by the
15 hour, I just simply couldn't afford to do a very careful
16 job redacting, so I just said redact everything. After she
17 did that it turned out that was not enough because you
18 could still see words, so she ran it through the copy
19 machine and redacted it a second time, which made it even
20 more important to just do it by block and not by word.

21 Q. I think we've established who did the redactions
22 physically and who directed the redactions and why. Was
23 this used -- and I'm talking about exhibit 1562, was it
24 used for anything beyond the Polanco MSJ?

25 A. Yeah it was used several times. The declaration
26 talks about individual Defendants so that looks like it may
27 have been a motion made by the individual Defendants that
28 this was in response to, but it was also used in the

1 Polanco MSJ because he was seeking -- and it was also used
2 when Polanco was awarded attorneys' fees to show that their
3 request for attorneys' fees was about five times the amount
4 of the time that might have been imagined and that by
5 comparison, this development work showed what was possible
6 under the quantum meruit cause of action. So there were
7 three, four, Five different uses inform compare to.

8 Q. And as you sit here today -- well at the time this
9 was created, did you believe it was true and accurate?

10 A. Yes.

11 Q. Do you believe it's [TPRAOU] and accurate as you
12 sit here today?

13 A. Yes but it's incomplete because it lacks the
14 actual wording that was blacked out.

15 Q. And not to [TPHROG] a dead horse and the last
16 page, the hours, are the hours worked over the last Five
17 and a half years to your knowledge?

18 A. Yes this is the SMDC scope of work and economic
19 development tasks.

20 Q. Okay. Let's move on to a different area. So Mr.
21 Stein I would like to question you now, I'm going to call
22 it quantum meruit by topic and again we're going to try and
23 go through this as quickly as we can. Let's start just
24 generally, ready to go?

25 A. Yes, sir.

26 Q. What did SMDC do if anything to benefit the tribe
27 in the area of federal recognition?

28 A. Rae Lamothe did the legal research and did the

1 actual work of putting together the federal recognition
2 application which follows federal regulations, however she
3 didn't know any of the facts to put into [-L] the
4 application to comply with the eight requirements that an
5 Indian tribe has to show for federal recognition [TELT].

6 Q. Let me stop you there. Is this a BIA application?

7 A. Yes it's an application with the department of
8 interior, bureau of Indian affairs, office of tribal
9 recognition.

10 Q. And what is the point of a BIA application?

11 A. It is an administrative which -- there are three
12 ways to get federal recognition the one used more often is
13 the administrative way which is complying with the
14 requirements of bower [AOE] of Indian affairs, as set forth
15 in their regulations to show why you should get federal
16 recognition.

17 Q. Is getting or a- playing for a BIA application, is
18 this practicing lie?

19 A. Law?

20 A. No.

21 Q. Why not?

22 A. Because anybody could do it but in this case Rae
23 Lamothe the general counsel actually made the application
24 and made the research into the regulations.

25 Q. How long [WAUPTZ] the application and [EUP] mean
26 the actual document itself?

27 A. Somewhere between 300 and 500 pages.

28 Q. If you know, how long --.

1 THE COURT: I'm sorry is that like a blank
2 application, are you talking about this application.

3 MR. FORDYCE: This application, Your Honor I'm
4 sorry I could be more clear.

5 Q. So Mr. Stein again this application?

6 A. Yeah the BIA has eight simple -- you have to show
7 that you can say eight things about I didn't remember tribe
8 and so you have an eight part application, there's no form
9 involved and you just say you know regulation such and such
10 requires what if requires and here are our facts that
11 comply with that. Rae didn't have any of the facts so I
12 had to research the entire history of Gabrielino-Tongva
13 Tribe number one.

14 Q. Wait a minute let me stop had you because I have
15 really want to hear about that. Do you have any personal
16 knowledge as to how long it took to draft, the whole
17 process, the to put together the BIA application?

18 A. It was a consistent effort for more than one year.

19 Q. And what was your role -- and I'm sorry to cut you
20 off, but what was your role in the BIA application?

21 A. I had to research -- research and state the facts
22 and then Rae cut and pasted them into her document.

23 Q. So let me ask you, what did SMDC contribute to the
24 draft?

25 A. All the facts to show that the tribe [KWA*ULD]
26 qualified for the '89 separate areas of the federal
27 recognition.

28 Q. Can you give the court an impression as to what

1 this entails?

2 A. [KW*T] well redaction I read six books -- six
3 books on the Gabrielinos and then I took the parts that
4 were partner and I started condensing. In essence the
5 Gabrielinos had a treaty with the United States in the --
6 under president mill [ARD] fill more, gold was discovered
7 in California, they [RURBLD] the project, they rushed state
8 hood so whereas other tribes in other states were the
9 subject of the general side, basically the California
10 Indian reservation [TKPWAOT] lucky there was no time for
11 genocides because gold had been discovered. And president
12 mill [ARD] fill more who was not a very effective
13 president.

14 MS. IBARRA: I'm going to object that it's time
15 consuming and it also might misstate history.

16 MR. FORDYCE: Your Honor this is not
17 time-consuming, this is the work that SMDC did for which
18 SMDC is trying to recover under quantum meruit. We've had
19 Neminski we've had Semintal, we've had Machado, we've had
20 Velasquez, we've had Dunlap, we've had Carmelo, we've had
21 Barrett, we've had Aronson, all of these individuals
22 talking about how bad a guy Mr. Stein was. It is our turn
23 now to put forward what SMDC did as an entity to contribute
24 to this project, this is the work that SMDC did for the BIA
25 application and it's critical that Your Honor has an
26 understanding of where these 5,000 plus hours come from,
27 this is not time consuming it is the work that Mr. Stein as
28 SMDC did.

1 MS. IBARRA: But this is historically inaccurate
2 because he's staying the Gabrielinos didn't suffer
3 genocides.

4 MR. FORDYCE: Mr. Stein's testimony is the
5 testimony.

6 MS. IBARRA: Okay.

7 THE COURT: I'm going zero overrule the objection
8 you can cross him on anything you'd like but.

9 MR. FORDYCE: Thank you Your Honor.

10 THE COURT: You may continue?

11 A. So they actually had a treaty with the
12 commissioners, treaty D , and is that treaty unfortunately
13 became the subject of what became the 18 lost treaties
14 which is was a very famous insurance department that
15 occurred. What happened is California, a group of
16 businesses from San Francisco came utility to -- on
17 horseback and by stage coach to Washington, D.C. and said
18 hey we don't want to give this crazy guy Millet Filmore is
19 giving all the sorts of lands to the Indians we have want
20 to use that land for agriculture, for business interests,
21 and California happened to be -- because they had rushed
22 the state hood, it was the deciding vote between slave
23 states and free statements and so pretty much California
24 could get whatever they wanted and as a result they locked
25 18 treaties in a desk drawer on the senate floor, well.

26 MS. IBARRA: I'm just going to object to this
27 whole line of testimony, he has no personal knowledge of
28 this, this is stuff had he just read have no idea whether

1 it's historically accurate, it's just a interpretation I'm
2 not sure as it relates to the work that he did especially
3 if it's not accurate.

4 MR. FORDYCE: Mr. Stein.

5 THE COURT: It may not be accurate and this is
6 what his research came up with. Whether it's true or not
7 the court isn't necessarily accepting it for the truth?

8 A. Right.

9 THE COURT: But he says he did research and this
10 is what his research turned up. May not be true, but.

11 MR. FORDYCE: And let's be more specific. Mr.
12 Stein, what happened and I want you to carry on with your
13 narrative. What did you do with had this research?

14 A. Well, this went into the federal -- this went into
15 the federal recognition application, it was also used to
16 sway state senators because the rest of the story is very
17 sad what happened after the California businessmen
18 convinced the senate to take a treaty with the Gabrielinos
19 and lock it in a drawer. And what happened is in 19 --
20 that was in the 1870s. Because the treaty never came back
21 up to the surface, the reservation that was set aside for
22 the Gabrielinos in 1854 which is was up a Tejon Ranch,
23 which is now Tejon Ranch --

24 THE COURT: Are you talking about Tejon Ranch.

25 A. Tejon.

26 MR. FORDYCE: Yes.

27 THE COURT: T-e-j-o-n?

28 A. Yes my pronunciation is terrible. So there's

1 actually a Gabrielino museum up there to this day. The
2 first Indian agent was Abbott Kinney who later went down to
3 Venice and developed real estate down in Venice, Abbott
4 Kinney had the famous street named after him but the one
5 that was important historically was Edward Beal, because he
6 stole the reservation and created Tejon ranch, which is now
7 the largest private land holding in California. And that
8 was the first 50,000 acres were the reservation, well this
9 all came out in 1905, they actually changed the desks in
10 the senate and the government being what it is, some clerk
11 popped open all the locked drawers and he found the 18
12 treaties with the California Indians then including treaty
13 D which is the Gabrielino treaty so the Smithsonian
14 institution sent out Mr. Krerber and another guy and they
15 wrote a volume on California Indians including the
16 Gabrielinos in 1905. That generated this feeling of
17 dysquiet because in fact the Gabrielino should have had a
18 reservation, had a contract with the United States, which
19 the United States dishonored, no genocides but a dishonored
20 contract. So that led to the jurisdiction act of 1920 and
21 1924, which used something that didn't have a name at the
22 time called a class action to say okay rather than honor
23 our treaty we'll just find all the descendents of the
24 historic Gabrielino tribe and we'll pay them all an amount
25 and the jurisdiction act created jurisdiction over the
26 district court in Los Angeles for that claims process.

27 THE COURT: So 1920 is this --?

28 A. Yeah.

1 THE COURT: So the government agreed to pay like
2 reparations or --

3 A. Yes and rather than give them land [-RBGTS] rather
4 than honor the original contract, the legislature said
5 we're going to instead pay them, find all the individuals
6 that were did he is he tents from 18 '50s and instead pay
7 them money.

8 THE COURT: This is Congress or state legislature
9 tour?

10 A. Congress. So what happened then is that let to
11 BIA census [-Z] of Gabrielino Indians in 19 28, 1933, 1950
12 and then in 1972 and they actually finally made the
13 payments. In addition they -- the Indians themselves went
14 in front of what's called the Indian claims commission
15 which was a product of World War II in 1946 the feeling
16 that so many Native Americans had died for the United
17 States in [AO*URPB] Europe and in the Pacific that they
18 wanted to re review the claims of Indians for compensation
19 and so the Gabrielinos claims were also handled by the 1946
20 Indian claims commission. That all came to a head with
21 checks that were actually paid out in 1972. Most
22 Gabrielino Indians recall either getting the check or
23 watching their parents or uncles or aunt's get the check.
24 '63 \$2 per person was given which was valid L.A. current
25 [AOE] at seven cents an acre for L.A. County and included
26 no interest for the period between 185 three and 1972 for
27 120 years without interest.

28 THE COURT: From when?

1 A. 185 three to 1972 it's 120 years buzz they didn't
2 award any interest.

3 Q. BY MR. FORDYCE: So Mr. Stein this is all part of
4 the BIA application; is that correct?

5 A. Yes. And I used the same information to try to
6 sway congressman, the two Senators from California.

7 Q. We'll talk about that. Let's not get ahead of
8 ourselves?

9 A. Very good.

10 Q. First just as an aside, how does the history
11 you're talking about -- or did this at all play into the
12 state gaming issue that we've heard so much about?

13 A. Not at all, other than creating sympathy, it
14 didn't play into the state issue at all.

15 Q. So this application as you testified was turned
16 into the bureau of Indian affairs. Did SMDC or you through
17 SMDC have any meet and confer [H-GZ] pursuant to the
18 application?

19 A. Yeah we met with Lee [TPHREPLG] and Angela [KEL]
20 see.

21 Q. Who was Lee [TPHREPLG]?

22 A. Several times each of them.

23 Q. Sorry who was Lee [TPHREPLG]?

24 A. Lee [TPHREPLG] was the heaved of the office of
25 federal recognition, I think it's OF R, and he was in
26 charge of recognizing Indian reservation and he had a
27 [PWAOUR] [OG] [KRAOE] see under them that did the [TPAO*T]
28 work.

1 Q. Do you recall any conversations with him.

2 THE COURT: Can I [SKUR] a question [-RPBGS] sure.

3 THE COURT: Did you ever go over any of the
4 history or this application with the tribal council or do
5 you know if Rae Lamothe ever went offer it with them, in
6 other words.

7 A. Oh absolutely, yeah they were very well aware of
8 all these activities.

9 THE COURT: Well I mean the information.

10 A. Yes.

11 THE COURT: At least according to their tradition
12 that it was accurate?

13 A. Absolutely, yeah. And by the way it's not just
14 their practice traditions but I read six months books and
15 there's about 12 books on the Gabrielinos and I believe
16 they all resolve around the same set of facts the ones that
17 deem with government to tribe relationship.

18 BY {RIGHT2}:

19 Q. So Mr. Stein going back to Mr. [TPHREPLG], and I'm
20 sorry I assume Mr. [TPHREPBLG] is [PHAEUFRPBLGTS] yeah well
21 we mother mascara this was [HR-PBLG] [TOEF] cross dressing
22 became [citizenship|zip|sip] [ABL], every meeting I had he
23 had a mascara on.

24 Q. Do you believe the subject matter of those
25 meetings?

26 A. Yeah, he was very sympathetic to the Gabrielinos
27 plight, he is discouraging as to whether this would take
28 less than 20 years, he said average time was about 25 and

1 when asked why it wasn't speeded up he give you know a
2 variety of excuses that I got the impression he's used
3 before.

4 Q. You mentioned another person with whom you met?

5 A. Angela Kelsey.

6 Q. Who is Angela Kelsey?

7 A. Angela Kelsey was a member of the general counsel
8 office for the bureau of Indian affairs. So she was a
9 aluminum bee Indian and she was very sympathetic about the
10 Gabrielinos because she really had a very strong emotional
11 connection to the aluminum bees getting recognized. So she
12 obviously couldn't represent the BIA on that recognition
13 application but she was very active with her home tribe in
14 California.

15 Q. Anything else from your meeting or your meetings
16 with Ms. Kelsey?

17 A. Yes, she was the originator of the state
18 recognition approach.

19 Q. Please explain?

20 A. She was the one that actually informed me, I
21 didn't realize it, that the Gabrielinos were state
22 recognized and that that could be used to help with
23 [TPO*RBGS] [O*] federal recognition. But what she said is
24 well it can help you with federal recognition but what
25 that's going to do, you wait 20 years instead of 25 years,
26 [HAOR] eye. What you ought to do is go back to your state
27 like the aluminum he's wells [AOE].

28 MS. IBARRA: Objection hearsay she's not here?

1 A. And try to get a casino.

2 THE COURT: Hold on she's not here to ease [HAORS]
3 I'm not significant to for the truth of the matter this is
4 thinks research what he did, he's just [R*E] counting what
5 he did who had he talked to whether [TH-TS] true or [-RPB]
6 is different h really what it is is he was told something
7 and as a result of being sold something it sounds [AOEUPBG]
8 oh decided to try to pursue an [ABG] willing [-RBGTS]
9 right.

10 THE COURT: So it's really about being told
11 something and then why you -- what you did in reaction to
12 what you were told.

13 MS. IBARRA: Okay.

14 THE COURT: So in addition to just general support
15 for the number of hours that he worked. Overruled?

16 A. .

17 MR. FORDYCE: Thank you Your Honor.

18 Q. So Mr. Stein?

19 A. So Angela Kelsey said go back to the state, try to
20 get your casino rights from the state, receive what you can
21 do on that side of things and that was the beginning of the
22 work that ended up with the state recognition project and
23 the Libra investment investment to specifically pursue that
24 project instead of the federal recognition that was already
25 being pursued without money.

26 Q. And we will get to the state gaming issue of
27 course. So Mr. Stein I want to continue that other
28 attempts SMDC made to benefit the tribe in federal

1 recognition. I stopped you, but you were mentioning
2 Senators?

3 A. Yeah, so besides working with the BIA, which is an
4 arm of the executive branch, we worked with the senate and
5 the house of representatives and Congress.

6 Q. Who did you work with?

7 A. Diane Feinstein and her chief of staff, Barbara
8 Boxer, and we didn't deal with her chief of staff, she had
9 legislative people that we dealt with.

10 Q. What was her Senator Feinstein's people?

11 A. Senator Feinstein is an interesting and
12 challenging person, first time frame time I have met her by
13 which is a fundraiser that I had paid a lot of money to go
14 to she looked me in the eye and said all Indian gaming in
15 the [UFT] states is under written by the mafia and I tried
16 to correct her into saying there's been no evidence of any
17 tribe other than one of any connections with organized
18 crime and she said I don't care what the expert says I can
19 tell you the all being to not by the mafia and that's why
20 I'm trying to deep out of California and she walked away,
21 thereafter, I [TAELT] with her chief of staff and a series
22 of negotiations ensued. And it turned out [TPRAOEUPL] Lee
23 what she was [KPWURPBD] with a the lit on card room in San
24 Francisco that a friend of mine actually Sam [KAS] from
25 Philadelphia was the developer on and succeeded in turning
26 a card room into a reservation and that was the model that
27 we were following for Hollywood Park at a later time and
28 for other -- and and for the queen [PHAER] [AOE]. And so

1 it turned out that their concerns were main me in [TPHRAFL]
2 and that if we kept a low profile, didn't bother the
3 Senator it her and herself and why definitely only look
4 [TPH-G] L.A. where the tribe was from she would not raise
5 objection.

6 Q. You mentioned also a Senator Boxer, what was that
7 interaction?

8 A. Barbara Boxer was a much friendlier person, really
9 a warm and engaging person but things did not go well
10 because of timing. Barbara Boxer sponsored a federal
11 legislation which recognized a tribe called the federated
12 tribes of Graton Rancheria and that was up in a town called
13 Rohnert Park just north of San Francisco. And that was a
14 project by stations casino. And we were using the same
15 model, we hoped to use the same model of federal
16 legislation as well and we approached Barbara Boxer to do
17 that for us. And the initial reaction was very good but
18 unfortunately our timing was very bad. It came out just a
19 few months later that Barbara Boxer's son who was very
20 young and who had no experience in casinos was a general
21 parnter with stations on the Rohnert Park casino project
22 that the Graton Rancheria would do assuming they got
23 federal recognition. They did get federal recognition
24 because they pledged to a senate committee that Barbara
25 Boxer chaired that they would not seek to get a casino. So
26 it turned out when the legislation was being passed her
27 sone was general partner of a project -- of a company that
28 had a casino contract with that tribe. So that pretty much

1 shut down Barbara Boxer doing anything more in the Indian
2 sphere in California for -- it lasted probably six, seven,
3 eight years.

4 Q. Did either Senator Feinstein or Senator Boxer have
5 anything to do with the state gaming issue?

6 A. Nothing.

7 Q. Did you pursue and again we're staying on federal
8 efforts here, did you pursue any legislative active?

9 A. Yes.

10 Q. Please explain?

11 A. I had one or more meetings with every congressman
12 from L.A. county, I had one or more meetings with every
13 congressman on the house interior affairs committees that
14 had jurisdiction over Indians and I had lots of meetings at
15 the staff level and these were more numerous because you
16 had to meet separately from the democratic staff than
17 republican staff they were at each others throat already in
18 the early 2000s.

19 Q. You're actually as counsel pursuing a matter in
20 this case on behalf of the Crane Group, correct?

21 A. Yes.

22 Q. What was the Crane Group's role if any as far as
23 legislation goes?

24 A. Well I started this work in 2001, by 2005 we had
25 had the problems with Diane Feinstein, we had had the shock
26 of our lives, by Barbara Boxer and her son and it became
27 pretty clear they've need someday professional help. He
28 was allowed to substitute for manometer VIN dime Lee to go

1 to the democratic convention in 2004 and while at the
2 convention activity I met Dan and he was an extraordinary
3 guy, not only was he just incredibly experienced and charge
4 plan but part of his experience [WAUPTZ] he had represented
5 title companies for about a decade in opposing Indian
6 claims in Massachusetts and New York and he had settled all
7 them because he was so sympathetic to the Indians but all
8 right basic probable [S-P] was if it turned to your town
9 [WURP] one Her Honor [thou|thousand] house [TPH-Z] it
10 waters on an Indian RESS [SRAEGS] the title company would
11 have to pay you the value of the house pursuant to the
12 title insurance because you're level on around Indian
13 reservation so obviously this was a really best of my
14 recollection concern to the major title companies in the
15 country and Dan's experience with them had acquainted him
16 in great detail with Indian claims, historical Indian
17 claims and while he didn't know anything about the
18 Gabrielino Indian claims he showed an instant ability to
19 come up to speed with the stuff.

20 Q. And was Mr. Crane involved in any legislative
21 activities specifically?

22 A. Yeah in -- beginning in 2005 and 2006, Diane
23 Feinstein did a bill that affected all Indians and it was
24 to prevent forum -- what's called forum shopping, in other
25 words you seek an Indian reservation that was advantageous
26 Lilo dated negotiation a city [HROEBG] [ROEPB] oh park but
27 what you had was tribes [KWR*] were coming up from Oklahoma
28 that had mist [KHRAOE] been in Georgia so she said hey

1 which went a casino outside of Atlanta or they were
2 Originally from Illinois, Illinois being an Indian tribe
3 and they're now in Oklahoma now they wanted to go back and
4 get a reservation utility of Chicago.

5 THE COURT: So you were if I Native American
6 trying that far started off in Nebraska but eventually were
7 [R*E] locate the to some other state, how would that work?

8 A. That's exactly the.

9 THE COURT: Would they have historical claims to
10 original reservation and then historical claims to the
11 relocated reservation or how did that work?

12 A. Well IGRA had provisions that a- [HRAUD] Indian
13 regulation reservations [THOB] recognized for
14 [TKPWHRA*EUPLG] gaming purposes and [ST-FS] to tighten up
15 those original -- the original 1986 language that by 2005
16 they had found all these a- abuse [PWAOUS] [-Z] and they
17 were exactly what the court says, it would be a Nebraska
18 tribe, moved to Oklahoma 100 years earlier wanting to go
19 back to Nebraska and by the way they found a piece of land
20 right outside of Omaha and that was happening again and
21 again and thus Diane Feinstein.

22 THE COURT: And that was considered an abuse?

23 A. That was considered an abuse. And despite the
24 historical veracity and decide the original intention of
25 the Indian gaming regulatory account. But what happened,
26 basically what was behind all this besides Senator
27 Feinstein's huge animosity towards Indian gaming, is 400
28 Indian casino had gone across the country in record time

1 and people were reacting to the abuses of gaming.
2 Bankruptcies go up, house foreclosures go up, they even
3 related to wife beating, that a man will lose a ton of
4 money at a casino, come home and beat his wife or maybe the
5 wife will come home and beat her husband if she was the one
6 who lost the money. So these abuses kind of caught up and
7 the basic feeling was I saw in watching the D.C. is they
8 wanted to hit pause for a while, slow this thing down,
9 tighten it up, make it a lot harder to do even though it
10 took 25 years to get recognized as an Indian tribe and that
11 would seem to make it hard enough especially given that
12 Indians are very poor people I mean the amount of drug
13 abuse and alcoholism has kept income down across the
14 country not just in any state.

15 MS. IBARRA: Objection speculative.

16 THE COURT: It is what -- I'm assuming you're
17 repeating what you researched?

18 A. Yes.

19 THE COURT: I'm not accepting it for the truth.
20 This is part of the research.

21 Q. BY MR. FORDYCE: So Mr. Stein you engaged in -- by
22 the way is working for Mr. Crane, was this practicing law?

23 A. No.

24 Q. Why not?

25 A. Well, Mr. Crane was a lobbyist and we were
26 lobbying and my understanding is that lobbying is not
27 practicing law. We were trying to get people to vote our
28 way.

1 Q. I'm trying to speed this a little bit. Did SMDC
2 again speaking of federal efforts, was there any effort on
3 SMDC concerning congressional oversight committees?

4 A. Yes while Mr. Crane, Mr. Crane image alleged
5 too -- the amendment ended up passing but Mr. Crane ended
6 up keeping initial reservations out of the amendment --
7 IGRA had provisions for new reservations from tribes that
8 had a reservation already versus initial reservations and
9 he managed to get the amendment aimed only at the tribes
10 that had reservations and that left the Gabrielinos -- that
11 kept the Gabrielinos off the hook because we would seek an
12 initial reservation.

13 Q. You mentioned already that you contacted Congress
14 people from Los Angeles County do you have anything more to
15 say about that?

16 A. Yeah, they were very sympathetic. Javier Beccera
17 was the most sympathetic of everybody, but we talked to
18 everybody. Maxine Waters was very, very sympathetic, that
19 led towards the Inglewood project was aimed in part because
20 it was in her district. We found people in L.A. County all
21 wanted the government revenue, in other words the fact that
22 we were going to be -- we would let unions organized the
23 workers and would be pro union compared to the Riverside
24 County tribes that were all anti-union and the fact that we
25 would be very agreeable to a very high rate of taxation by
26 the State of California and that who help finances no only
27 in California, bu L.A. County and the city that they're in,
28 they liked that approach. And that was an approach I

1 designed so we would be liked.

2 Q. Did SMDC's efforts result in any of the Congress
3 people agreeing to help in any way with the federal
4 recognition?

5 A. Yes.

6 Q. How.

7 A. The tribe clearly benefitted, all the congressmen
8 said tell us what we can do. We're happy to help. And
9 that was not all of them but out of 26 of them there were
10 maybe like 18 like that.

11 Q. So all of the things we were just talking about of
12 the BIA, Feinstein, boxer, et cetera, as you sit here today
13 and at the time, what was your brief, did this benefit the
14 tribe?

15 A. [STKPWHRES] how?

16 A. Very much so, it gave them very high profile as a
17 progressive tribe that was friendly to the politics of the
18 L.A. County, there was a great deal of still [THAOE] when
19 people understood the history of the tribe and how they had
20 an actual [TRAEFT] [AOE] with the government buff were not
21 recognized as an Indian tribe, that struck a fundamental --
22 fundamental fairness type argument it was very helpful to
23 the tribe and the Senators we managed to neutralize Diane
24 Feinstein we managed to change a piece of legislation that
25 would have become law and would have made it [HR-PLT]
26 impossible for the Gabrielino [TRAOEUPB] to do game and
27 then we were able to get sympathy of Senator Boxer if not
28 for her [HREPBG] tiff help.

1 Q. And just to be absolutely clear, everything you
2 have talked b these are all the efforts on behalf of SMDC
3 that are included in the 5,000 hours that we've talked
4 about with the [KWAUPBT] married claim?

5 A. Yes.

6 Q. Okay. And we're going to really try and move
7 along here. Let's move on to -- and again this is -- these
8 are issues that have been testified to again and again and
9 again. So SMDC's efforts with local meetings with city,
10 can you please explain any such meeting that took place?

11 A. Well that hasn't been testified to before.

12 MS. IBARRA: It has.

13 A. Local cities were not the same -- local cities
14 were not under the FPPC contract that Sacramento was under
15 for various short period of time in less than a year, local
16 cities were a separate entity, you didn't have to register
17 as a lobbyist to talk to city councilmen and mayors and
18 city managers, but one of the important things about local
19 cities is that was ground zero, that's where the
20 reservation would be, that's where they would feel the
21 impacts of having a casino in their city. So what we
22 offered them was money, lots and lots of money.

23 Q. Oak. What cities?

24 A. Long Beach, Garden Grove, Fullerton, Los Angeles,
25 Redondo Beach, Compton, Hawthorne, Inglewood, San Pedro was
26 not a city as part of L.A..

27 Q. So can you just generally ex make what SMDC's
28 contacts were with these cities, how did this take place?

1 A. Well usually what would happen is there would
2 be -- we'd contact real estate agents that were extremely
3 interested in working with us and they put us in contact
4 with people that had at least 24 acres of property,
5 sometimes we could go less but 24 [KPWERZ] was the size of
6 a very suck [S-S] [-FL] casino built-in Atlantic City by
7 mile an hour he will, mile an hour em- was [TKPWEUFLS] us
8 [TPRE] [TARBG] architectural services, so I asked us for a
9 cop of those perhaps, it was plenty big it had been 4500
10 slot machines, we had about 6,000, had all the full battery
11 of rest [WRAEUPBTS] and other [EPBT] [TPAEUPB]ment
12 facilities as well as the transportation network to get in
13 and out of a facility that long [WUF] to have a very large
14 transportation network, several park garages off of in --
15 in different directions that sort of things, delivery
16 [RAOEZ] that come in 24 hours a day toe want people to see
17 trucks that might be dirty or [TPWREUPL] [AOE] that are
18 delivering their [TPAOPD] to the casino so you had this
19 [HAOURPBLG] transportation network and it all fit in that
20 example in 24 [KERPLZ] so I have went to the [RAEF] agents
21 is it a any parcel [-Z] that 24 considers or larger
22 [WHAOUR] interested in u find me oat [PHA*RS] I'll talk
23 about the on he were, and we'll then work with me on
24 politics if they're interested.

25 Q. And Mr. Stein I figure I may have been slightly
26 misleading, are these city efforts, the local efforts, are
27 they part of the state or the federal [R*EFRTS]?

28 A. They were separate from state and separate from

1 federal, to get a reservation, you have could get a [SRAES]
2 [STRAEUGS] from the federal government you do could
3 Defendant eave [RAES] [TPREUF] state government but either
4 way had you to guest a reservation [SKP-FLGS] [AEUFT] whole
5 different kettle of fish on the record local level than
6 working with the state government in Sacramento or working
7 with the federal government in Washington D [TKR-FPLT].

8 Q. To be clear did these cities come to SMDC?

9 A. No no this is -- I had to [KRAO*E] [KWRAEUFT] from
10 nothing this effort, nobody had ever [STPHAUT] of doing
11 this [P-F] or for in Indian tribe.

12 Q. Is this as simple as sending an e-mail, making a
13 quick phone call?

14 A. Oh God.

15 Q. What was the process like?

16 A. Well to check how tall a city might take -- if
17 everything worked really well, like six months so it would
18 be about six months of effort per city and we had about a
19 dozen cities. So that would be 72 months, about six years.
20 I worked on multiple cities at once, but I started with a
21 real estate agent and then went to the landowner, landowner
22 was usually a political influential guy in the city, in
23 other words if you own 24 acres in a city in California
24 that's a pretty valuable asset so it's very much subject to
25 zoning requirements and enactments by the city, taxes by
26 the city. So I usually use the owner of the property to
27 boot strap my way into Steve Otto City Hall and then I
28 would meet either with a particularly close city

1 councilman, meet with the city manager who would bring in
2 the planning director, meet with the Public Works director
3 who was dying for money to do other things in the city to
4 do with, and we were offering just a mind boggling amount
5 of money we were tossing around mop [HAOE] like
6 \$100,000,000 up front I came up with that invasion and
7 [TAOURB] Lee develops hers talk to cities about maybe doing
8 a million dollars worth of work or if it was a huge project
9 [PHAEUPBLG] \$5,000,000 worth of the work I will said that's
10 what you're use today, I'll offer you \$100,000,000 up
11 front, we'll just put it into the financing package and I
12 talked to my friends at Goldman Sachs and Morgan Stan city
13 and J P more than and Deutsch bank, and they all said 100
14 million we won't even feel it [THAPLTZ] a rounding error
15 for what it costs to have [PELD] build a led these days the
16 key point is not the amount of the [TKAET] was the [KAOEF]
17 point was what percentage of slot finances [TKAU] Defendant
18 service [SKPWAUZ] [WHERP] another about 10 percent for slot
19 revenues nor debt service whereas more Indian [KA*TS] [-Z]
20 were up towards 25 percent that's how skews the economics
21 were, I have [SEUFD] hey let's give 100 [PH-FLD] [UFP]
22 front [TPHOEUT] [PHAOUPB] [TAL] [TAOEDZ] rate [TPROUFTD]
23 usurp debt provides and this completely blue away the
24 people I [TAUBLGD] to on the staff level and on the
25 political level [TPH*T] cities they're just -- their eyes
26 just grew wide and the door was open.

27 Q. And to be clear, these are all SMDC efforts
28 pursuant to the [SAO*EUG]?

1 A. Right, every single idea came from SMDC, not
2 original -- they weren't original from me but they came
3 from me.

4 Q. Do you believe the plaintiff could have gone back
5 and pursued any or all of these city [PRORPBLGZ]?

6 A. Yeah I'd expect Ed them Then In 2000 to do.

7 Q. So let me ask you h did you or SMDC go back to
8 these groups and you were working with what we were working
9 with what's called the Candalaria faction?

10 A. Yes.

11 Q. Explain.

12 A. After the SMDC agreement was breached, I checked
13 with Seyfarth Shaw, I was free to do whatever I wanted to
14 do, we didn't know exactly who the tribe was but I was free
15 to go back, the Candalaria group wanted to get out of the
16 litigation. Their view was if you want to get federal
17 recognition or if you want to get Indian reservation,
18 Indian gaming under state law you've got to stop
19 litigating. You can't litigate with a guy who knows more
20 about this than any other person on the face of the earth.
21 And so they asked me who I consider working with them and I
22 said yes, I would. And so I did that and the Dunlap group
23 interestingly enough instead of saying hey let's talk about
24 this they just wanted to do nothing but litigate.

25 Q. Let me give you a very simple hypothetical, what
26 would SMDC, what would you have done -- what would have
27 happened if you had actually been paid pursuant to the SMDC
28 agreement, what I mean to say, October 3rd, there's a

1 termination but you're actually paid pursuant to the
2 agreement?

3 A. It wasn't a hypothetical, it was the reason that
4 we kept asking for settlement discussions, I kept saying, I
5 wrote an e-mail about it, I'd be happy to go to a year off
6 and go to Rome, just pay me what I'm owed or pay me a
7 portion of what I'm owed or show me how I get paid in the
8 future and I'll get out of the way if you want me to get
9 out of the way. I can consultant, Polanco can run the
10 project and I will give him knowledge about everything that
11 I did.

12 MS. IBARRA: Objection facts not in evidence that
13 there was continual settlement discussions, there was
14 settle with Candalaria?

15 A. Oh Jesus Christ.

16 MR. FORDYCE: Your Honor we have three exhibit,
17 Seyfarth Shaw letters post September 3rd, 2006, that are
18 all admitted into evidence, all make clear there's an
19 attempt to mediate and there's also that e-mail in evidence
20 that says Mr. Stein is willing to work with the tribe or
21 he's willing to go away and go to Rome. This is very much
22 in evidence.

23 MS. IBARRA: There's also just an abundant
24 evidence of just incredibly aggressive litigation tactics
25 taking everything that we have and how are they going to
26 settle in that case when they didn't have any money and he
27 took.

28 THE COURT: Ms. Ibarra that's cross-examination.

1 MS. IBARRA: Okay.

2 THE COURT: So you may disagree with what Mr.
3 Stein is saying and what the circumstances are surrounding
4 what he's saying but that's the subject of cross so I'm not
5 going to preclude him from saying it but if you disagree
6 with him then cross him on it but I do recall a letter
7 about I'll take my trip to roam so.

8 MR. FORDYCE: Yeah and the Seyfarth letters Your
9 Honor that says let's mediate there are three of those and
10 they're admitted.

11 THE COURT: All right. So I'm overruling it as an
12 objection but several explore all of that.

13 Q. BY MR. FORDYCE: So Mr. Stein let's move forward
14 more specifically to state efforts, please explain. Well
15 you've already explained how far the state efforts came
16 about, but can you just very briefly explain for the Court
17 once again why the state efforts with undertaken?

18 A. State efforts were based on ambiguous -- an
19 ambiguous poorly written section in the California
20 constitution that had been added to allow Indian gaming.
21 And [TPO*PBLG] following angry [KELZ] voice of saying hey
22 can this be done [OEPBT] state level I read that and
23 started talking to people about it saying hey can this be
24 bent or shoe [HOERPBD] or bootstrapped or square pegs fit
25 into round holes to make this say hey it can be done --
26 state recognized tribes with gambling in California so long
27 as they have a state Indian respiration.

28 Q. Let's look at specific efforts. Mr. Stein, we

1 were just talking about Compton. Do you recall anything
2 further about Compton and state efforts?

3 A. Yeah. Compton, Merve Dymally represented Compton.
4 He wrote the first legislation for interpreting the
5 constitution and creating a state Indian reservation in
6 Compton on a site that is now half a shopping center and
7 half the major league baseball site for encouraging black
8 baseball players, and that site at the time was adjacent to
9 the existing card club in Compton. So the idea was a card
10 club plus that site would be about 40 acres, Merve Dymally
11 put in legislation that was a predecessor to SB 175 said
12 most everything that 175 later said and we were going to go
13 forward with the blessing of Compton city council on that.

14 Q. Did SMDC take any further steps in yes to the
15 Compton project or --?

16 A. Oh gosh we took a ton. We got Jim Brown involved
17 in AmeriCan, Jim had a fabulous organization that tried to
18 bring back convicts in California, more than half of whom
19 are black and reintegrate them into the community but
20 simply providing jobs that were not sensitive and so what I
21 promised Jim that I would do was that they could have
22 nonsensitive job, you know parking cars, walking windows,
23 cooks h washing dishes, whatever that was not handling
24 money in the casino, that we would interview his American
25 efforts into it, and he absolutely loved it he just thought
26 it was great.

27 Q. Well let's stay with Mr. Brown just for a second,
28 to be clear, SMDC -- did SMDC approach Mr. Brown?

1 A. Yes it was absolutely out of the blew.

2 Q. And his reaction as you said it was positive?

3 A. Very positive.

4 Q. And I believe had you made clear as to how that
5 plays into the SMDC casino project?

6 A. Right.

7 Q. For Compton, were there any further steps actually
8 moving the project forward for the record, for example did
9 SMDC attempt to secure any architects services?

10 A. Yeah we actually -- Marnel architects that had
11 done the casino in Atlantic City and did the Rio in Las
12 Vegas and did the original win casinos, Marnel was an
13 architect tore Steve win in Bellagio and I'm blanking on
14 the name, the one before that that made all the money. He
15 gave us about \$50,000 worth of free work there his primary
16 designer and we created a bunch of pictures on what the
17 casino would look like as well as a site plan on how it
18 would layout in the area in Compton.

19 Q. So could be clear just because pronouns can be a
20 little hard to identify, when I say he gave \$50,000 worth
21 of free work?

22 A. Mr. Marnell.

23 Q. Who were you referring to?

24 A. Mr. Marnell.

25 THE COURT: Let's take a break.

26 MR. FORDYCE: Oh sure Your Honor.

27 THE COURT: Let's take 15 to 11:30.

28 A. Thank you.

1 MR. FORDYCE: Thank you.

2 THE COURT: All right thank you.

3 (Break taken.) 11:16 AM to 11:31 AM.

4 THE COURT: Gabrielino versus Stein, BC361307.

5 You have may continue.

6 MR. FORDYCE: Thank you Your Honor.

7 Q. BY MR. FORDYCE: Mr. Stein we're going to try and
8 streamline this and hopefully that will work. Going back
9 to the cities, what steps did SMDC take with Compton?

10 A. We discussed the steps in Compton.

11 Q. What about Long Beach?

12 A. Long Beach there were two different cites that we
13 looked at, the first one was the Queen Mary which was owned
14 by a guy name Jeff Siegle, bought out the original owner,
15 the ship itself was a mess, not very economic, but it had
16 55 acres of parking with it including the hanger that the
17 spruce goose used to be in and that was very, very good.
18 Long Beach was very interested in the money, they tied
19 lands oil deposits revenues had gone way down and had a
20 very problematic population, the City of Long Beach this a
21 very police intensive, fireman intensive population so the
22 city was upside down financially. And so that was one
23 site, and then the other site was there was a 170 acre
24 super fund site that was in the part of the city closest to
25 Seal Beach and that was -- we offered to clean it up, the
26 Mohigan Sun was built on a former nuclear power plant. It
27 was the worst superfund site in the state of Connecticut
28 and they cleaned that up and had a successful casino there,

1 so we offered to do something similar for Long Beach.

2 Q. What about Inglewood?

3 A. Inglewood was at Hollywood Park area and the idea
4 was the people that wanted to see Hollywood Park continue
5 would you see a racino. Racinos are successful all over
6 the country. You build a big casino where Hollywood Park
7 is. The key to the Hollywood Park race track is not is not
8 the race track it's the fact that they have 240 acres of
9 parking and then north of that was the forum site, we
10 looked at buying the forum from a black church this that
11 owned the forum, they were very enthusiastic about that,
12 and then to the right of them was Old Walmart site which
13 was owned by Stan Cronkey. That eventually went to the Ras
14 not to us.

15 Q. And just because it's kind of a confusing term,
16 that's racino r-a-c-i-n-o?

17 A. Yes. A racino is a race track with a casino there
18 and the slot revenues helps make the economics work much
19 better since so few people are interesting in horse racing
20 compared to when these facilities were first built.

21 Q. Moving on to the City of Los Angeles what steps
22 did SMDC take with the City of Los Angeles?

23 A. We tried to guest a casino could you please to the
24 San pedestrian area in the port of call village which today
25 still remains a problem but that would be a very good cite
26 for a casino because it's far away from schools. We had
27 other sites downtown around Staples center that were
28 available they're now being built out by all these Chinese

1 companies, but we looked at many of the sites, in
2 particular we got some progress with Joe Moynian, who is a
3 -- the largest private individual -- the largest real
4 estate owner of any private individual in the country and
5 Joe was interested in the site that is directly -- directly
6 east of the staples center.

7 Q. What steps if any did SMDC take with Redondo
8 Beach?

9 A. Redondo Beach had a series of restaurant at that
10 had been built with redevelopment money along the beach
11 between -- the strip of beach between Hermosa and the
12 Redondo peer. And these restaurant were under performing
13 and there was surrounded by acres exam acres of parking so
14 you put them all together you had about 24 acres. The city
15 manager was very interested in gaming, noted how affluent
16 the South Bay was and the only concern had he was traffic.
17 So we had a number of meetings about that project.

18 Q. Did SMDC approach the Steve Lancaster and palm Don
19 dale?

20 A. Yes [SKPHR] what did they do?

21 A. There were several sites up in Lancaster and
22 Palmdale that we looked at --.

23 THE COURT: Didn't they have their own Native
24 Americans tribes in that area?

25 A. In Lancaster.

26 THE COURT: In Lancaster and Palmdale don't they?

27 A. No there was [HRAOUL] lee a tribe that was just
28 recognized for the [AOET] Tejon ranch they actually shared

1 the vase [WRAEUGS] with the Gabrielinos. There is a group
2 of Gabrielino Indians that claim there's a separate
3 [TRAOEUPLD] eye [AFP] a- [PHA] [KHAOE] an, something like
4 that but they're in the valley and then --.

5 THE COURT: So there aren't in the Lancaster
6 Palmdale area?

7 A. Yeah that are Gabrielinos.

8 THE COURT: Oh their part of the Gabrielino?

9 A. And there's a formal term for that, it's called
10 the ethnographic area, so instead of geographic, it's
11 called the ethnographic area and that's within the
12 Gabrielino ethnography.

13 Q. BY MR. FORDYCE: So what steps Mr. Stein,
14 Lancaster Palmdale?

15 A. The Lancaster Palmdale area had several cites h a
16 lot of housing developments were going broke in the early
17 2000s and so they just weren't needed for housing. The
18 population base in Lancaster Palmdale turned lower income
19 instead of higher income freeing up lots of single family
20 home cites and then there was another area that was very
21 interesting that was -- it was under the flight path of all
22 the skunk work jets that were tested out there and the
23 Steve wanted it do something with that area but were
24 constrained because you couldn't put homes underneath the
25 area because these experimental aircraft might go up in a
26 ball of flames and then these huge metal chunks would would
27 the raining down on the houses, so it had to be less than
28 50 feet high to go under the flight easement and it

1 couldn't have people. So the idea of a casino with a
2 fortified room that was only 30 feet tall would work and
3 casinos are usually one story buildings anyway so that
4 actually had a lot of legs because the cities were so
5 strapped in wanting the jobs of the defense but also wanted
6 to developing the real estate that was subject to the
7 flight easements for these experimental aircraft.

8 Q. Was that it for Lancaster and Palmdale?

9 A. Yeah?

10 A. Yeah.

11 Q. What about did SMDC take any steps with Fullerton?

12 A. Fullerton there was a [PHO*ET] might side along
13 the freeway this had about 16 acres but was a little bit
14 small was the site was good was land adjacent to the
15 freeway is not useful for a lot the thin bails of the sound
16 and the smell but a casino has no windows, I don't know if
17 you've ever been in a casino buzz they have no windows so
18 you filter the air and you sound proof the walls and you
19 can be right next to a freeway.

20 Q. Did SMDC make any inn roads with the City of
21 Hawthorne?

22 A. Yes Hawthorne had a strip of land that was right
23 along the 40 Five and it's now been developed into new car
24 dealerships but at the time they were very interested in
25 other choices besides car dealerships and we went to a
26 mayor that was very progressive and very interested in it.

27 Q. So Mr. Stein, for each of these cities when SMDC
28 would approach them, what steps would SMDC have take to

1 take to prepare for these meetings with the cities?

2 A. Financial projections, architect drawings. If we
3 couldn't used the current architect drawings we'd go
4 begging for more from the architects, we had to learn all
5 about the city, learn about all the people we had to meet
6 and then when we met the people they would say well what
7 we're really interested in is seeing a financial projection
8 that's shows this and we'd say well we have financial
9 projections that show much more important stuff, but then
10 you'd have to go back and show them the projection that was
11 important to them. We even -- one city we promised college
12 scholarships to every graduate of the high schools of the
13 city and we had to show them that with \$100,000,000 capital
14 you could perpetually offer college scholarships to up to
15 400 people graduating high school so you just pick the top
16 400 people from the high school and give them a free ride
17 at a California State University.

18 Q. And this was all that you've been talking about
19 pursuant to the economic development tasks under the SMDC
20 agreement?

21 A. That's correct, it's all to get a casino cite in
22 that city.

23 Q. Okay. Let's move on to investors. What was
24 SMDC's role in any or did SMDC did [SRAEU] role in securing
25 investors for the project?

26 A. Yeah it was -- it was the most important thing
27 because without money it's very difficult to mount a
28 serious effort and SMDC was financing the minor efforts

1 being put forward and that loan was -- ran up \$280,000 but
2 to really get state legislation through the assembly and
3 the senate and signed by the governor, that's a major PR
4 effort and political contributions help pave the way.

5 Q. Actually, Mr. Stein, you bring up a good point and
6 I should have asked that. Federal recognition you talked
7 about the efforts and you talked about the local meetings
8 with cities and some state efforts. What entity if any
9 funded all these efforts?

10 A. SMDC did. The tribe didn't have any Monday of
11 [AOE] of its own, the tribal council wanted salaries, they
12 didn't want to put in any money, Sam put in about \$50,000
13 so SMDC had to fund all the efforts.

14 Q. All right. Let's talk about investors. Did SMDC
15 approach Mr. Katz, I believe you mentioned him already?

16 A. Sam Katz was the investor that managed to turn a
17 card club in the San Francisco Bay Area into an Indian
18 reservation and incurred the eye of Senator Feinstein in
19 the process, but he was very sympathetic and he kind of
20 became a mentor to me. He had gone to Penn, I had got to
21 law school at the University of Pennsylvania, he still
22 lived in Philadelphia, all my friends in Philadelphia I
23 visit and he became a mentor for all my efforts.
24 Unfortunately he was not able to put me in contact with
25 anybody that eventually invested, but he set up appointment
26 after appointment for me.

27 Q. We've seen resolution 37 many times throughout the
28 course of this trial, resolution 37 mentions Friedmand and

1 Eichner, did SMDC approach?

2 A. Yeah.

3 Q. These individuals as far as seeking investments?

4 A. Yes.

5 Q. Please explain?

6 A. Bruce Eichner was a billionaire, he developed real
7 estate in New York City during the bankruptcy of New York,
8 he collected his real estate and then he developed it and
9 then he worked with David freed man who was Sheldon Adelson
10 first employee, when Sheldon Adelson first came with up the
11 Venetian, the first guy had he tired was David freed and
12 then when he opened up Macau, David freed was in charge of
13 the project that led to gaming in Macau by American
14 companies. So they -- David was another mentor of mine and
15 they at one point looked like they were going to invest in
16 2003.

17 Q. Okay. And I'm going to try and speed this up.
18 You've talked about the Queen Mary and Jeff seeing, did
19 SMDC Mr. Seigle?

20 A. Yeah Jeff SMDC agreement worked with eye star
21 which is have I a very big private equity fund and bought
22 the Queen Mary and then we went back to eye star and Jeff
23 and said hey if Jeff with a on our team would you also
24 finance the tribe and we'll put them at the Queen Mary.

25 Q. You just mentioned Macau, did SMDC contant Macau
26 Stanley Ho?

27 A. Yes Stanley Ho was the controlled gaming in Macau,
28 he was a Chinese gangster but MGM was able to get around

1 that by working with his kids so we contacted the president
2 of Stanley's company, Pat McFadden, he was a Rugby player
3 like myself, about twice the size of me but he was a
4 professional Rugby player originally and we talked very
5 seer juice Lee about an investment, they actually put me
6 up -- they said come tout [APBLTD] to Macau we'll talk here
7 so I spent a week in Macau as their guest.

8 Q. What about kind of globally h did SMDC approach --
9 well let me ask you this this way, do you have personal
10 knowledge as to generally how many casino investors are in
11 the country?

12 A. There are about 300 institutional investors in
13 casinos, there are many more individuals but institutions
14 are there about 300.

15 Q. Did [S*FPLD] take any steps with these 300 or so
16 casino investors?

17 A. Yeah, [W*EF] went -- there was a conference where
18 they all came together once a year, put on originally by
19 Citibank and then Deutsch bank took [HROEFR] over and I was
20 invite today the conference I was you have know a guy that
21 they might want to meet and they were happy to have had he
22 for free and I ended up talking to probably 250 out of the
23 300 about the tribe and about whether they would be
24 interested in investing in the tribe.

25 Q. Okay. Did SMDC have any contact with George
26 Marcus?

27 A. George Marcus was one of the prince [P-LDZ] of
28 Marcus and mill chapter a nag at broke [RAOPBLG] company

1 that Mr. mark [UFLS] [KPW-LT] from scratch, a very good
2 friend of mine was one of [HEUFZ] co-owners and they were
3 making so much money that -- and knew all about real estate
4 development that they were a natural to ask about it. They
5 ended up not pursuing it aggressively.

6 Q. Did SMDC make any efforts with any potential
7 investors outside of the United States?

8 A. Yes we --.

9 Q. With who?

10 A. There are several [AO*URP] pain game companies,
11 the Aas tree an gaming companies are the biggest, century
12 in particular, century gaming was of interest a a partner
13 company to SMDC was century Gabrielino casino development
14 agreement development company as a matter of fact. And we
15 met for a long time with them but they ended up not
16 purchase [SAO*UP] suing us, they instead bought several
17 casinos in Colorado.

18 Q. Did SMDC reach out for investment inform Ben
19 silver mile an hour?

20 A. Ben sill was a New Yorker who owned three casinos
21 in Panama city, very, very beautiful casinos in a very
22 beautiful city and they gist -- you have know were
23 interested for a while because they had gone through the
24 crazy politics of Panama under -- under general nor [AEUG]
25 a-, if you remember general nor [AEUG] a- and survived a
26 U.S. invasion of Panama and came out making tons ever money
27 so we talked to them about seeing whether they could [SUR]
28 [SRAEUF] California politics as well.

1 Q. Did SMDC approach Richard brown and Carl icon?

2 A. [KWRAES] [SKARL] icon is a very fame husband guy
3 and he's made money in all sorts of striped.

4 THE COURT: How do you spell that name I C ?

5 A. I c a .

6 THE COURT: Oh A?

7 A. I c h a n .

8 THE COURT: N ?

9 A. N as in [TPHAFPB] see, yeah. And he was best
10 Moehn for corporate [RAEUFT]-g but he actually made money
11 not know corporate of rating but to string together
12 companies that were down on their luck and he hired rich
13 brown to do that with casinos and bought a bunch of casinos
14 and [EP] sold them for a profit before a billion dollars,
15 and while rich was depositing that for him, he brought our
16 investment to them and they were very interested but they
17 said -- they set requirements that were impossible to meet,
18 you know legally, like moving the tribe to someplace
19 outside of their ethnographic area.

20 Q. BY MR. FORDYCE: Did SMDC approach Mickey brown?

21 A. Mickey brown, Mickey brown was a legend, he was
22 the guy that got the State of New Jersey to approve gaming
23 at a time when there was only one place you could have
24 gaming in the country which is ways Las Vegas so Mickey
25 brown was a state regulator who brought New Jersey in and
26 then we went into private business. And he became another
27 mentor to my efforts and introduced me to all the guys on
28 the east coast that were you know interested in doing

1 casino investment.

2 Q. Did -- sorry go ahead?

3 A. And they run out of a lot of places to develop on
4 the east coast so I said come out to California and help us.

5 Q. Did SMDC approach Michael [TKPWOG] inn?

6 A. Who.

7 Q. [TKPWOG] inn gone.

8 Q. [TKPWOEPB].

9 THE COURT: How far to you spell that.

10 MR. FORDYCE: G a ugh a n Your Honor?

11 A. [TKPWA*UPB] is a legend in lass vague and
12 ambiguous his dad was involved in the [KAO*S] [-Z] back in
13 the '30s and [THEPBLG] he group [TPHUP] them and then he
14 started developing them he developed south coast and
15 [TPROEBLTD] [AOE] I've reef coast and bash [RAOE] coast
16 they you [RAUL] had coast in this name and then he sold to
17 this another company and had a [PWHR-LD] in cash, 800
18 million in cash which he used to develop another coast
19 called south point casino that was debt [TPRAOEF], the only
20 casino in Las Vegas that didn't have any debt and he took a
21 shining to our project he just liked the gumption of trying
22 to get this through you know all the political hurdles that
23 we had a face and all the real estate developments so he
24 said that we could base close south point our home so every
25 time I have went to lass vague and ambiguous evade a south
26 point and [KAPLT] a card branch to take people to dinner
27 and write it onto my room and let everybody know that mic
28 [TKPWA*UPB] thought we had a good project which means a lot

1 in the gaming I understand [STKPWHRAOE] Mr. Stein as far as
2 various other Native American tribes, did SMDC approach
3 other tribes for investment?

4 A. Oh, you bet, there were tribes making money hand
5 over fist so we approached the scanning electron microscope
6 [TPHOELZ], the Arizona tribes were very rich, he especially
7 talking stick, we approached the Connecticut tribes
8 obviously Mohigan sun and the openers of epoxy fox woods.
9 And the tribes in the midwest were very wealthy and we
10 approached them as well.

11 Q. Was that an unusual practice, to approach another
12 native tribe on behalf of Gabrielinos?

13 A. On behalf of the Gabrielinos, yes, nobody had done
14 any of this before and nothing that I said is particularly
15 original, although doing it all at the same time was pretty
16 original. And it just required a tremendous amount of foot
17 work, a tremendous number of phone calls, e-mails,
18 packages, PDFs, which I didn't know too much about it at
19 this time but I learned and persistent, it might take a
20 dozen times to get you know a good guy from John Hancock on
21 the phone but if you tried a dozen time you'd eventually
22 get them he's probably a nice guy, there was every chance
23 he might have gone to Andover or Harvard or Penn or a
24 school like that so you know I was well received. I was
25 well received and I had a lot of mentors that I could refer
26 to that they'd hear the name and say oh if you know Michael
27 Gaughan, I'd take your phone call kind of thing.

28 Q. Let's see if we can get through the last few of

1 these before we finish with this start today. Did SMDC
2 approach Steve Ericcson?

3 A. Steve's Ericcson was a part of a team of guy that
4 financed probably 200 of the first 400 Indian casinos, they
5 found a technique and know got a group of investors
6 together and they quite [HREUTS] [TPHAL] [AOE] blanket
7 joinder United States with Indian casino [-RZ], [STAOEFR]
8 became a good friend of mine and the and a half hose have
9 use hem to build six casinos more recently but during that
10 time I could not [STAPBT] high asked him advice and whether
11 he would build a casino, at the construction financing
12 buffer you've equity financing but 20 different people that
13 I could talk to for the equity financing.

14 Q. Moving [TPAORD], did -- so that's a "yes", SMDC
15 contacted Ericcson. Did SMDC called angry though Singapore
16 [STPAOEUFPLT] now do you spell that.

17 MR. FORDYCE: I believe it's ge n t i n g.

18 THE COURT: Ge n ?

19 A. Ge n t i n g, [TKPWEPT] -g Singapore.

20 Q. BY MR. FORDYCE: And who was gent sing?

21 A. [TKPWEPT] sing [WHAET] eye sing for, Macau,
22 London and South Africa and they were interested in gaming
23 in America, they ended up opening up what is now the big
24 heft casino in the United States right outside of New York
25 City [SKP-R] we said well now that you're college [KERG]
26 New York City don't you think L.A. should be next and they
27 agreed and so we had very long and fruitful discussions
28 with them but did not get an investment.

1 Q. Can SMDC contact Wells Fargo capital?

2 A. Yes Wells Fargo capital was good friends of
3 minute, they were the traditional gaming when [TPHOEFLT]
4 other bank would [TUFPL] gaping they opened up a lass vague
5 and ambiguous office and did a lot of loans to have a lot
6 of company companies, made a lot of money for Wells Fargo
7 and they started around investment [PAEUFRPBG]-g outfit and
8 so we [SREFLT] bank outfit right after they started it with
9 the idea of maybe representing the Gabrielinos and gaining
10 an investment for us.

11 Q. Okay. Same question, did SMDC reach out to see
12 SARS entertainment?

13 A. Cesar's entertainment, yeah that was -- yeah I
14 went to went to a number of conferences year after year
15 after year and I ran into the lawyers for Cesar's. And you
16 are said well how would you like to be the lawyers for the
17 Gabrielinos and they expressed interest and they said
18 they'd open up a California office if all worked out and I
19 said good if you want it to look [OEUT] turn me onto some
20 investors that I have might know and the first [THEPS]
21 [THOEF] Eiffe sit [PHEP] throat you've director of [SR*ERS]
22 [-Z] at see [ARZ].

23 Q. Did [S*FPLD] contact MGM?

24 A. [KWES] we did the same thing with MGM bull not
25 through their lawyers, we did that directly through sex
26 tiffs that I met at these various conference that's I went
27 to.

28 Q. Did SMDC reached out to Sean [TKPWA] bay, Sean

1 [TKPWA] bay is a very well-known real estate investors in
2 Los Angeles, the [TKPWA] bay family came over with the
3 [SHAUZ] son when he is the [-LD] in [PWREFR] hills they
4 were best buddies and they made a lot of money investing in
5 real estate in L.A. and Sean bought some casino cruise
6 ships on the east coast that he would that you can about
7 their problems, I would tell him how to try and straighten
8 them out and try to get him interested in the casino
9 investment with the Gabrielinos.

10 Q. Did SMDC reach out to Delaware north?

11 A. Delaware north had a division that managed
12 casinos, me [PHAPBL] alleged Yosemite park, they're a
13 facility management company, and what happened was the CEO
14 was expanding them into casinos, they started with the
15 [RA*EUS] [-Z] in New York and other states and then I was
16 trying to convince them to come out to California where you
17 know -- where he could say that he was planting the
18 Delaware north flag in casinos in California since they
19 were all on the east coast and he was very interested in
20 that and [TKPWA*G] began paying some of the expenses, you
21 know hotel [HRAOPLZ], flights for me.

22 Q. Did SMDC approach a- [POL] oh management?

23 A. A- [POL] oh management bought MGM and guy by the
24 name. Richard Ben minute was in charge of that 32 billion
25 dollars investment and I would call Richard once a week,
26 take months to get a hold of that guy and tell him about
27 the Gabrielinos because we'd be you know the kind of
28 investment we needed you know would be a rounding error for

1 a- polo but he was [aide|aid] very entrepreneurial and
2 aggressive [TKPWAOEUF] and had he got his game license to
3 [PHAEUBLG] the MGM puffer which [WAEUTZ] a human effort I
4 think I mist-d '08 [thou|thousand] documents to
5 regulators.

6 Q. And just the last few, did SMDC approach eye star
7 I believe that's the letter I and then the word star?

8 A. Yes I star that was part of the Jeff SMDC
9 agreement Queen Mary Long Beach every time.

10 Q. .

11 Q. Okay. Did SMDC is a [PROEFPD] sea wall capital?

12 A. Sea wall capital was a Connecticut boutique
13 investment bank in Connecticut that was very interested in
14 gaming and they -- one of the partners in Libra when Libra
15 blew apart, it brew apart right after its investment and
16 went out of business but one of the partners that saw the
17 writing on the wall had left earlier and founded sea wall
18 so when I said -- so I had contacted them and it's actually
19 him that led me back to Libra.

20 Q. Did SMDC contact Allied ire I shall bank?

21 A. Yes Allied ash [AOEURB] bank was those guys, keys
22 bank in Cleveland, Ohio, they were very into what's called
23 FPPC and E financing at casinos, it's the -- after the
24 building is built you have maybe 30, 40, \$100,000,000 worth
25 of the stuff you have to put in it, you have know
26 restaurants, slot [TPH-PBZ], you know carpeting, you know
27 acres, acres of carpeting and that's all called FPPC and E,
28 furniture fixtures and equipment and so you -- it's

1 actually a very profitable niche that nobody knows about
2 because the casino was already built and everybody is in a
3 hurry to get it hope but nobody's provide Ed foreclosure
4 this purchase of these items so Allied [PAEUF RPBG] [PW-RBG]
5 Allied ire I shall bank was very aggressive in the United
6 States in that financing because they had made a lot of
7 money with [-RT] [AUFS] tree an companies.

8 THE COURT: [WHA*FS] what does the E stand for
9 furniture fixtures and?

10 A. Equipment.

11 THE COURT: Equipment?

12 A. FPPC and E.

13 MR. FORDYCE: And just of the last couple, you
14 [PHUFS]-d keys bank chief lent in there.

15 A. Yes key bank [KHRAO*EPT] chief lend was doing the
16 same [EUPBGZ] but they were more a- [TKPWRELS] I have than
17 the ire I shall and they were branching into other areas so
18 I said how can we structure this to make it secure?

19 A. What they said is that they would give a loan
20 against the real estate as long as we could provide
21 servicing, so that created a much less capital that you
22 would need because you could secure a loan against real
23 estate than the servicing of a loan would be what the
24 investors would do and then if the project didn't work,
25 they would eventually take the real estate.

26 Q. And then Mr. Stein, the last two investment
27 companies are Garrison Investment other Clear Vest
28 Investment?

1 A. Garrison investment is based in New York, clear
2 vest is based in Toronto, both are active in the casino
3 sphere. Garrison was interested in basically real estate
4 investment, I met them through Jeff Siegle but they had a
5 separate casino arm. Clear vest was very active in casinos
6 in Latin America and had made a lot of money in chilly and
7 so they were going air things in America and because of the
8 preferences of some of the partners of clear vest, they
9 were actually very political Lee oriented, so when I say
10 hey we need a legislative vote they said oh we just go did
11 that in Oregon we just did that? State of Washington we're
12 comfortable with west coast politics.

13 Q. One more minute we talked about [HRAO*EBL] but how
14 long did you work to get Libra investors on board?

15 A. Libra I started -- was about months, nine or 10
16 months.

17 Q. How many -- go ahead.

18 A. From the first [KORPB] tact through the guy from
19 sea wall over to Jess Ravitch through until the May 20th
20 closing.

21 Q. Do you have an estimate as to how many attempts
22 you made to contact Libra?

23 A. I have think I called them or e-mailed them 20
24 times before I got a first [SPOFPBS].

25 Q. Did you make trips to visit Libra?

26 A. Well Libra was in L.A. so [W-PBS] we got the first
27 response I sat down and they were incredibly fast so in
28 three or four visits over the course of about three weeks

1 they came up with the initial deal and the initial deal was
2 finance SMDC in part, financial GT Tribe in part and that's
3 when we had you know -- that's when Marilyn Barrett became
4 the lawyer for the [TPRAOEUB] and SMDC.

5 MS. IBARRA: Objection.

6 MR. FORDYCE: Objection.

7 MS. IBARRA: Misstates evidence.

8 THE COURT: It's disputed as to who Barrett was
9 representing but I understand.

10 MR. FORDYCE: [TH-TS] a per [TPEBGD] stopping
11 point, that's all the investors.

12 THE COURT: So let's find another date or time.

13 THE CLERK: Tomorrow Your Honor.

14 THE COURT: Uh-huh.

15 THE CLERK: We can do 10.

16 THE COURT: Yeah 10:00 o'clock tomorrow.

17 MR. FORDYCE: 10:00 o'clock thank you Your Honor?

18 A. Your Honor may have I step down from.

19 THE COURT: Yes.

20 MR. FORDYCE: .

21 MR. STEIN: I have just wanted to mention we're
22 making every every effort to finish by Friday and obviously
23 that includes time for cross-examination. Would the court
24 be more comfortable hearing the cross-examination on
25 quantum meruit before we move on to completely unrelated
26 topics like expert testimony and I go [TKPWRA].

27 THE COURT: No I think we should just try to get
28 it all done and then do cross.

1 MR. STEIN: Yes Your Honor.

2 MR. FORDYCE: Okay we'll do that.

3 MS. IBARRA: So by the end of week we'll be done.

4 MR. FORDYCE: That's the goal.

5 MR. STEIN: That would include cross-examination.

6 MS. IBARRA: Yeah okay.

7 MR. FORDYCE: Yeah. We have more on quantum

8 merit.

9 MS. IBARRA: Form.

10 MR. FORDYCE: And I think what her Honor said

11 we'll get everything out.

12 THE COURT: Thank you see you tomorrow. 12:05 PM.

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