

**From:** Evelyn Mastroianni  
**To:** Governor Rick Scott  
**Subject:** ACTION ALERT: Urge Governor Scott to Commute Sentence of Death to Life  
**Date:** Tuesday, August 22, 2017 10:40:04 AM

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Dear Governor Scott,

I urge you to commute Mark Asay's death sentence to life without parole and to stop signing death warrants.

Mr. Asay's violent acts call out for justice and should be condemned. However, life without parole is an alternative and severe sentence. This non-lethal means is available to keep society safe from an aggressor. Accordingly, I urge you to limit the State of Florida to such means.

Sincerely,

Evelyn Mastroianni  
6500 Sunset Way Apt 415  
Saint Petersburg, FL 33706  
evelyn8e@aol.com

**From:** [Evelyn Mastroianni](#)  
**To:** [Governor Rick Scott](#)  
**Subject:** Commute Sentence of Death to Life without Parole  
**Date:** Monday, November 6, 2017 3:50:05 PM

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Dear Governor Scott,

I urge you to commute Patrick Hannon's death sentence to life without parole and to stop signing death warrants.

Mr. Hannon's violent acts call out for justice and should be condemned. However, life without parole is an alternative and severe sentence.

Please limit the State of Florida to this non-lethal means that keeps society safe from an aggressor.

Sincerely,

Evelyn Mastroianni  
6500 Sunset Way Apt 415  
Saint Petersburg, FL 33706  
[evelyn8e@aol.com](mailto:evelyn8e@aol.com)

**From:** [Governor Scott's Office of Citizen Services](#)  
**To:** ["OEC \(juliamccall@fpc.state.fl.us\)"](mailto:OEC(juliamccall@fpc.state.fl.us))  
**Cc:** [Sunburst](#)  
**Subject:** FW: Pardon reuest  
**Date:** Monday, August 1, 2016 9:44:17 AM

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-----Original Message-----

**From:** Jeff Mastroianni [<mailto:jeffreym@deangelisdiamond.com>]  
**Sent:** Saturday, July 30, 2016 10:52 AM  
**To:** Governor Rick Scott <[GovernorRick.Scott@eog.myflorida.com](mailto:GovernorRick.Scott@eog.myflorida.com)>  
**Subject:** Pardon reuest

**From:** Jeff Mastroianni <[jeffreym@deangelisdiamond.com](mailto:jeffreym@deangelisdiamond.com)>

**County:** Collier

**Zip Code:** 33967

**Phone Number:** 239571394

**Message Body:** Dear Mr Scott, seven years ago i made a very great mistake, which i am not only ashamed of, but understand i did wrong. It was a bad time for many. At that time i hadn't worked in over 2yrs and everything i had worked for was taken away. I had a wife and two small children who depended on me soley for support, During the month of November25th i made a bad disition whitch ended with me being arested for attempted arson. I was a buisness owner, coach for my children,even a doner for a school scolorship fund in my nephews name who was killed in a car accident a few months earlier. I relize what i did was wrong but unless i can have this felony charge removed my life will never get back to normal. I did a bad thing but i am not a bad person. please review my history and understand it was a very hard time especially during the holidays. Thank You for your consideration please contact me with any questions.

**From:** [Governor Scott's Office of Citizen Services](#)  
**To:** [Meyer, Lisa](#)  
**Subject:** FW: Sarasota School Related Employee of the Year Finalist names and addresses  
**Date:** Wednesday, June 6, 2018 11:09:00 AM  
**Attachments:** [Names with addresses for Gov. Scott.xlsx](#)

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**From:** Harayda AI [mailto:AI.Harayda@sarasotacountyschools.net]  
**Sent:** Wednesday, June 06, 2018 10:52 AM  
**To:** Governor Rick Scott <GovernorRick.Scott@eog.myflorida.com>  
**Subject:** Sarasota School Related Employee of the Year Finalist names and addresses

Governor Scott and team,

Please find attached the names and mailing addresses for all of the finalist for School Related Employee of the Year from Sarasota County Schools in response to your request. We are very excited to have one of the 5 finalists for the state in our ranks. On behalf of the school district, our superintendent, and the SREOY committee I would like to thank you for reaching out to our employees with your letter of thanks, I hope that you can send me a copy of all the letters so that I may ensure they are placed in their personnel file.

Sincerely,

AI

**AI Harayda**  
**Employee Relations and Equity Administrator**  
**Human Resources**  
**Sarasota County Schools**  
**941-927-9000 x 31217**

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Please be aware that all e-mail to and from Sarasota County Schools is subject to the public records laws of Florida.



Nancy Mavrikas	Alta Vista Elementary School
Heather McBride	Ashton Elementary School
Shannon Goings	Atwater Elementary School
Annette Humphrey	Bay Haven School of Basics Plus
Rose Mary Ladd	Booker High School
Debra Alvis-Greenwald	Booker Middle School
Dori Trieb	Brentwood Elementary School
Anthony Abreu	Brookside Middle School
Stephen Pannone	Communications & Community Relations
Jennifer Lafo	Cranberry Elementary School
Susan Brown	Emma E. Booker Elementary School
Randy Roy	Englewood Elementary School
Curtis Weaver	Facilities Services
Dorie Cleere	Financial Services
April MacKenzie	Food and Nutrition Services
Rebecca Bee	Fruitville Elementary School
Kelly Cockrill	Garden Elementary School
Debbie L. Pinter	Glenallen Elementary School
Joyce Govaars	Gocio Elementary School
Sarah Woods	Gulf Gate Elementary School
Mary Ann Johnston	Heron Creek Middle School
Jarett Curtis	Human Resources
Michael Wheeler	Information Technology
Denise Valentine	Lakeview Elementary School
Nicole Bounds	Lamarque Elementary School
Bibiana Luna	Laurel Nokomis School
Joyce E. Haney	Materials Management
Stacey Preece	McIntosh Middle School
Michael Zayas	North Port High School
Lucy Gonzalez Anzures	Oak Park School
Christine Sutherly	Phillippi Shores Elementary School
Carole McLaughlin	Pine View School
Christine Pinchin	Pupil Support Services
Crystal M. Redding	Riverview High School
Simonetta Pascarella	Safety & Security
Maggie Seres	Sarasota High School
Michelle Fisher	Sarasota Middle School
Saturnedjson Olaince	Southside Elementary School
Lisa Carcifero	Suncoast Polytech High School
Mary Hutchinson	Suncoast Technical College

Heidi Mastroianni	Tatum Ridge Elementary School
Marion LaCross	Taylor Ranch Elementary School
Keith VanGorder	Toledo Blade Elementary School
Joanna Hutchinson	Transportation
Hector Rodriguez	Tuttle Elementary School
Yadira Barbieri	Venice Elementary School
James Skopec	Venice High School
Connie Flickinger	Venice Middle School
Vicki Richardson	Wilkinson Elementary School
Ian Hays	Woodland Middle School

4428 Burbank Ave, Sarasota, FL 34231  
654 Bird Bay Dr. East, Venice, FL 34285  
5093 Cromey Rd. North Port, FL 34288

PO Box 3834, Sarasota, FL 34230  
8178 Misty Oaks Blvd. Sarasota, FL 34243

7120 Montauk Pt. Crossing, Bradenton, FL 34212  
5278 Willow Links, Sarasota, FL 34235  
5426 Creeping Hammock Dr. Sarasota, FL 34231

4526 Kenvil Dr. North Port, FL 34288  
2794 Pascal Ave, North Port, FL 34286

3027 Siesta Dr. Venice, FL 34293  
347 Gaynor Lane, Port Charlotte, FL 33953  
4220 Normandy Lane, Sarasota, FL 34232  
2412 Jasmine Way, North Port, FL 34287  
281 Hidden Bay Dr, #201, Osprey, FL 34229  
4856 Hanging Moss Lane, Sarasota, FL 34238  
1397 Ringtail Rd. Venice, FL 34293  
2898 Yuma Ave, North Port, FL 34286  
902 Drakeswood Ct. Sarasota, FL 34232  
103 S Portia St. Nokomis, FL 34275  
13349 Java Avenue, Port Charlotte, FL 33953  
5553 Cartagena Dr. Sarasota, FL 34233  
654 Bird Bay Dr. E. #203, Venice, FL 34285  
4733 E. Trails Dr., Sarasota, FL 34232  
1782 Rice Terrace, North Port, FL 34286  
3608 Dunbar Dr., Sarasota, FL 34232  
10807 NW Lilyu Cnty Line Rd, Ona, FL 33865  
451-A Faith Ave. Osprey, FL 34229  
301 E Tarpon Blvd Nw, Port Charlotte, FL 33952

648 Cohen Way, Sarasota, FL 34236  
1394 Cattleman Road, Sarasota, FL 34232  
1050 Capri Isles Blvd, #C104, Venice, FL 34292  
3672 Stokes Dr, Sarasota, FL 34232  
2136 Olentary St. Sarasota, FL 34231

4040 Crocker's Lake Blvd. Unit 1727, Sarasota, FL 342378  
5412 Evora Ave, Sarasota, FL 34235  
7421 S. Serenoa Dr., Sarasota, FL 34241

3211 Bunche Street, Sarasota, FL 34234  
3908 Allan Place, Sarasota, FL 34241  
2705 Silver King Way, Sarasota, FL 34231

3505 65th St. W, Bradenton, FL 34209  
403 Azure Rd., Venice, FL 34293  
2619 Orchard Circle, North Port, FL 34288  
1043 Russell Ave, Sarasota, FL 34232  
4057 Crickers Lake Blvd, Apt 2511, Sarasota, FL 34238  
33 Tulane Rd, Venice, FL 34293  
1109 Deardon Dr., Venice, FL, 34292  
367 Lake Rd., Venice, FL 34293  
809 Loreto Ct. Nokomis, FL 34275  
4635 Alametos Terrace, North Port, FL 34288

**From:** hellenwang201610@yahoo.com  
**To:** Governor Rick Scott; smith.chris.web@fisenate.gov; clemens.jeff.web@fisenate.gov; evers.greg.web@fisenate.gov; simpson.wilton.web@fisenate.gov; thompson.geraldine.web@fisenate.gov; simmons.david.web@fisenate.gov; galvano.bill.web@fisenate.gov; deterf.nancy.web@fisenate.gov; legg.john.web@fisenate.gov; soto.darren.web@fisenate.gov; gibson.audrey.web@fisenate.gov; lee.tom.web@fisenate.gov; Benacquisto.Lizbeth; gardiner.andy.web@fisenate.gov; montford.bill.web@fisenate.gov; richter.garrett.web@fisenate.gov; sobel.eleanor.web@fisenate.gov; bullard.dwight.web@fisenate.gov; flores.anitere.web@fisenate.gov; bean.aaron.web@fisenate.gov; gaetz.don.web@fisenate.gov; margolis.gwen.web@fisenate.gov; stargel.kelli.web@fisenate.gov; braynon.oscar.web@fisenate.gov; latvala.jack.web@fisenate.gov; Diaz.de.la.Portilla.Miguel; bradley.rob.web@fisenate.gov; hukill.dorothy.web@fisenate.gov; altman.thad.web@fisenate.gov; garcia.rene.web@fisenate.gov; dean.charles.web@fisenate.gov; hays.alan.web@fisenate.gov; abruzzo.joseph.web@fisenate.gov; brandes.jeff.web@fisenate.gov; negron.joe.web@fisenate.gov; ring.jeremy.web@fisenate.gov; joyner.athenia.web@fisenate.gov; sachs.maria.web@fisenate.gov; grimslay.denise.web@fisenate.gov; Ingram.Clay; Jones(M).Mia; Brodeur.Jason.T.; Hager.Bill; Raulerson.Daniel.D.; Hill.Mike; Ahern.Larry; kristen.jacobs@myfloridahouse.gov; bryan.avila@myfloridahouse.gov; shawn.harrison@myfloridahouse.gov; Artiles.Frank; Hutson.Travis  
**Cc:** info@speakersryan.com; info@marcorubio.com  
**Subject:** Fw: National Security of Trump Fwd: More information about QiaoWai, American Immigration Fund also report Wendi Deng to homeland Security  
**Date:** Thursday, November 24, 2016 8:07:07 AM

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Trump Bay Street is a 50-story luxury rental apartment building being built by Kushner Companies, whose chief executive officer, Jared Kushner, is married to Trump's daughter Ivanka. It hired US Immigration Fund ( Chinese name 美国移民基金 ) together with QiaoWai to seek rich Chinese investors.

Show original message

This is the Chinese Ads website <http://www.qiaowai.net/zhuanti/xzx/> for Trump Bay Street tower Kushner and KABR Company

It clearly stated that US Immigration Fund has strong backup from government, gained support from Obama, Debbie Wasserman -Schultz and Ron Klein in person.

It also stated in the ads that it is the only one that fit for urgent approve by INS due to Hurricane Sandy.

Based on QiaoWai website, it has a lot of EB5 investments in US, such as w57 Manhattan, time square broadway1568, etc. Supporters to QiaoWai not only from Obama, Rudy Giuliani, Debbie Wasserman -Schultz but also from New York Governor David Peterson, Pete Grannis , Formal New York Mayor Bloomberg, etc

QiaoWai website also stated that, Brett Ashcroft-Green, who in charge of US Immigration Fund China part, used to be a staff of Senator Harry Reid.

During interview with QiaoWai CEO dingyingvivan, she claimed that QiaoWai EB5 could be approved in 3 days.

Both Trump or Kushner did not mention Trump New Jersey Bay Street tower Chinese Ads,its Chinese Partner QiaoWai and its EB5 urgent approved due to Hurricane Sandy, when they spoke in the past of Trump New Jersey Bay Street tower to Bloomberg, based on Bloomberg and CNN report.

Also Wendi Deng, Trump daughter best friend is top Chinese Spy. !  
Pictures are in below message.

----- Forwarded message -----

From: Hong Wang

Date: Sat, Sep 3, 2016 at 7:19 PM

Subject: More information about QiaoWai, American Immigration Fund also report Wendi Deng to homeland Security

Dear Sec, Homeland Security and Congress

Here is one report from Homeland Security investigation on INS Alejandro Mayorkas interrupted EB5 approval , time is from Sept 2012, to 3/24/2015. This exactly cover the time when Trump Bay Street EB5 was urgent approved due to Hurricane Sandy ! Based on media, this report should have 99 pages.

<http://abcnews.go.com/US/top-homeland-official-alejandro-mayorkas-accused-political-favoritism/story?id=29868429>

In this DHS media article , it also mentioned Harry Reid together with Alejandro Mayorkas interrupt EB5 visa approval process. Based on QiaoWai web description ( QiaoWai1.jpg attachment), Brett Ashcroft-Green, who in charge of American Immigration Fund China part, used to be a staff of Harry Reid.

Based on QiaoWai website, it has a lot of EB5 investments in US, such as w57 Manhattan, time square board way1568, etc. Supporters to QiaoWai not only from Obama, Rudy Giuliani but also from New York Governor David Peterson, Pete Grannis , Formal New York Mayor Bloomberg, etc <http://www.qiaowai.net/cyprus/jptj/tz/2013/0820/6054.html> ( QiaoWai2.jpg), QiaoWai have a lot of other partners such as Charles Gargano [http://www.qiaowai.net/zhuanti/701tsq\\_2/](http://www.qiaowai.net/zhuanti/701tsq_2/) ( attachment QiaoWai\_CharlesGargano.jpg )

During interview with QiaoWai CEO , she claimed that QiaoWai EB5 could be approved in 3 days. ( See attachment 3days.jpg)

I also formally report Wendi Deng, Ivanka's best friend as Chinese Spy to homeland Security and congress as well. This was reported to state department, FBI and INS. See email below.

The strange thing is, Trump campaign manager fired on the same day when he got my email to report Wendi Deng as Spy on June. However, Ivanka still vacation with her on August.

I strongly suggest SEC, Congress and Homeland Security to investigate on QiaoWai, American Immigration Fund EB5 money usage. I suspect they were illegally used for campaign since this year is Congress and Presidential election year.

thanks

hong

Brett Ashcroft-Green, who in charge of American Immigration Fund China part, used to be a staff of Harry Reid



New York Governor David Peterson, Pete Grannis , Formal New York Mayor Bloomberg, etc



QiaoWai EB5 could be approved in 3 days.



Charles Gargano and QiaoWai



On Fri, Sep 2, 2016 at 1:29 AM, Hong Wang wrote:  
Dear SEC and Congress Leaders

Good morning, I am writing to you to report QiaoWai, the Chinese partner of US Immigration Fund ( Chinese name 美国移民基金 ) Ads ( See Attached) for Trump Bay Street tower Kushner and KABR Company in China cheating on EB5.

This is the Chinese Ads website <http://www.qiaowai.net/zhuanti/xzx/>

It clearly stated ( as attached picture and below email ) that US Immigration Fund has strong backup from government, gained support from Obama, Debbie Wasserman - Schultz and Ron Klein in person.

It also stated in the ads that it is the only one that fit for urgent approve by INS due to Hurricane Sandy.

In the ads it said that Trump Bay Street tower is luxury apartments, started build from April, 2013, need 24 month ( actually based on report, it is expected to finish in the end of 2016), I am so surprise to know that for a luxury apartment tower which at least take more than 2 years to build, it will help Hurricane Sandy !

is it because it got support from Obama, Debbie Wasserman etc ? I also know QiaoWai has a lot of Ads for US, with great support from Rudy Giuliani. I believe this obviously violated EB5 law and using EB5 cheating Chinese people.

In the following CNN report, Trump tower's Chinese investors buy a path to U.S. citizenship <http://money.cnn.com/2016/03/08/news/companies/donald-trump-wealthy-chinese-visas/> both Trump or Kushner did not mention its Chinese Partner QiaoWai and how Chinese connect to them through the Ads in China.

Since Kushner Company is also the major financial support for Trump Campaign based on report , I think it needs to investigate how Kushner company used money.

Information related to Trump tower EB5 and his daughter best friend Wendi Deng ( Chinese Spy and cheating on Greencard ) also be reported to INS, State Department and FBI.

Thank you for your attention.

hong

----- Forwarded message -----

From: Hong Wang

Date: Sun, Aug 28, 2016 at 6:33 PM

Subject: Please help investigate EB5 for Trump NJ tower with Hurricane Sandy ? !Re: Report wendi Deng cheating on INS for greencard Fwd: The story behind Trump Tower, Obama, Rudy Giuliani, Debbie Wasserman and National Security Ivanka best friend Wendi Deng Chinese Spy

Dear INS and State Department

Based on below Trump NJ tower Chinese ads( picture attached as well) <http://www.qiaowai.net/zhuanti/xzx/>, it clearly stated that Trump NJ tower EB5 is the only EB5 urgently approved due to Hurricane Sandy . Why his tower EB5 is the only one urgently approved due to Hurricane Sandy ? It take years to build that tower when Hurricane Sandy already gone !

**is it because it got help from Obama, Debbie Wasserman Support, does Trump could get his EB5 urgently approved due to Hurricane Sandy ?**

Need INS to check this issue, especially as I just reported that Ivaka Trump's best friend Wendi Deng cheated INS for greencard and she is a Chinese Spy based on reports. So it is national security why Trump NJ tower Rich Chinese got EB5 urgent approved by Hurricane Sandy !

Please also forward to FBI for investigation too since this is related to national security. Trump is presidential candidate and he obviously did not mention his NJ tower EB5 urgent approved due to Hurricane Sandy with support of Obama in any of his public speech. <http://money.cnn.com/2016/03/08/news/companies/donald-trump-wealthy-chinese-visas/> why he hide this information ?!

thanks

hong



On Sun, Aug 28, 2016 at 3:47 PM, Hong Wang wrote:

Dear INS

Good afternoon, The following email has sent to Trump for two months ago . I still saw his daughter Ivanka vacation with Wendi Deng, the Chinese Spy who cheated INS to get her green card years ago <http://www.vanityfair.com/news/2016/08/ivanka-trump-wendi-deng-vacation>

So I decide to report to INS directly here.

Please help investigate, Ivanka Trump's best friend, Wendi Deng, ex-wife of Rupert Murdoch , is a Chinese Top level spy (The general political department),with close relationship of Zeng qinghong. She violated USA INS law on Green Card that she only stayed with her 1st husband for 5 month, even though she divorced at 2 years and 7 month. She stayed at mean time with David Warf, who paid her Yale tuition. Where the money came from since David Warf is not wealthy at all and only work for a Chinese company? You should investigate on her first ! using google 邓文迪, 间谍 and you will see a lot of reports, using google translator to know more on her.

Here is one English report: Rupert Murdoch Divorces Wendi Deng after Chinese Communist Party Spy Revelation

<http://www.visiontimes.com/2013/12/09/rupe-rt-murdoch-divorces-wendi-deng-after-chinese-communist-party-spy-revelation.html>

Here are one of Chinese report: <http://www.aboluowang.com/2013/06/19/313801.html>

Chinese communist party is always try to interfere freedom in USA, Please see this report as well:

Beijing-by-the-Bay: Rose Pak and China's Hidden Influence in San Francisco

<http://www.theepochtimes.com/n3/2093931-beijing-by-the-bay-rose-pak-and-chinas-hidden-influence-in-san-francisco/>

Also Gen. Michael Hayden, the formal CIA director contacted Epoch times at 7:00 am and here is the article

Ex-spy Chief: White House Ignores Elephant in the Room Gen. Michael Hayden says focus on Middle East causes US to overlook China threat

<http://www.theepochtimes.com/n3/2055006-ex-spy-chief-white-house-ignores-elephant-in-the-room/>

This video shows how Chinese Communist Party interfere with HongKong freedom of election.

Rare Footage of Former China Leader Jiang Zemin Freak Out (With English Subs!)

<https://www.youtube.com/watch?v=5Gij2BVJS2A>

Thanks

hong

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Good morning, I am writing to you to about the story behind Trump Tower, report the dishonestly of Trump over national security vs his own family profits, Obama, Rudy Giuliani, Debbie Wasserman relationship with Trump tower Chinese ads CEO , etc.

On Mon, Jun 20, 2016 at 5:55 AM , I wrote an email to Trump titled "Please help investigate : Your daughter Ivanka Trump's best friend, Wendi Deng, ex-wife of Rupert Murdoch , is a Chinese Top level spy (The general political department), " to ask him to investigate Wendi Deng, based on report she was a top Chinese Spy.

He did not reply, instead, one big thing happened on 6/20 morning, his campaign manger got fired 8:30 am, media reported that Ivanka Trump played role in campaign manager's firing. Lewandowski had sought to plant negative stories about her husband, Jared Kushner.

On Jun 23, I wrote him another email titled "Re: Lying Crooked Hillary ", describe possible lie of Hillary Clinton on Wang Iijun visited Cheng Du USA consulate issue related to Genocide and Forced Organ harvesting in China. This time trump politely responded ( email will forward to you separately, it was sent using my another email account).

I was wondering why Lewandowski had sought to plant negative stories about her husband, Jared Kushner. Why Trump did not response on investigate Wendi Deng, a top level Chinese Spy. This is a serious issue.

So I went on to do more research, and here is what I found out this report :

Trump Tower Funded by Rich Chinese Who Invest Cash for Visas

<http://www.bloomberg.com/politics/articles/2016-03-07/trump-tower-financed-by-rich-chinese-who-invest-cash-for-visas>

Trump Bay Street is a 50-story luxury rental apartment building being built by Kushner Companies, whose chief executive officer, Jared Kushner, is married to Trump's daughter Ivanka. The firm that was hired to seek investors, US Immigration Fund, is run by Florida developer Nicholas Mastroianni, who announced a partnership last year with a Trump golf course in Jupiter, Florida.

The visa program is known as EB-5. In exchange for investing at least \$500,000 in a project promising to create jobs, foreigners receive a two-year visa with a good chance of obtaining permanent residency for them and their families.

I went on to do more research, and find out that US Immigration Fund ( Chinese name 美国移民基金 ) has a Chinese partner in China called qiaowai (侨外) to do advertising for Trump's program and other programs in China. qiaowai (侨外) is almost rank No 1 in EB-5 projects in China. In the QiaoWai website, it stated **Kushner 88 Trump Bay Street project, started 2013, is the only one that I-526 ( for EB-5 visa) got urgent approved due to Hurricane Sandy in 2012. And it also stated that it has good relationship with Democracy party supporting from Obama, Debbie Wasserman -Schultz and Ron Klein . This is Kushner 88 Trump Bay Street project QiaoWai website link <http://www.qiaowai.net/zhuanti/xzx/> . You could also see QiaoWai CEO dingyingvivan picture with president Obama .Chinese reports said it is Rudy Giuliani made QiaoWai succeed in USA <http://www.qiaowai.net/mtbd/16820.html>**

CNN also has another report : Trump tower's Chinese investors buy a path to U.S. citizenship <http://money.cnn.com/2016/03/08/news/companies/donald-trump-wealthy-chinese-visas/>

Trump's spokespeople did not respond to a request for comment about his views on the EB-5 visa program or its use in this project. However, a Trump spokesperson did tell Bloomberg that "This was a highly successful license deal but [Trump] is not a partner in the financing of the development." Kushner Companies defended the use of the visas to raise cash. "The money was raised lawfully ... consistent with all the requirements of EB-5," said its statement to CNN. "This program enabled a development that created hundreds of new jobs in an area with employment needs."

**Without Obama, Debbie Wasserman Support, does Trump could get his EB5 urgently approved due to Hurricane Sandy ? He obviously did not mention his Chinese partner QiaoWai at all !**

Throughout his presidential campaign, Donald Trump has attacked China and warned about the dangers of deficient immigrant screening. However, Trump Never mentioned EB-5 in any of his proposal, which is very controversial especially in terms of security, and will be end in September 30 this year. EB5 I-526 could be approved within several days up to 6 months, there is no way to do background checks in such small time frame, which is why EB-5 is controversial and is a national security issue. I was so surprised to find out that Trump did not push investigation on Wendi Deng, who is best friend of his daughter Ivanka Trump for such a big national security issue. I am very worried about those immigrants in Trump Tower. I strongly request background check for all of them.

Thus I am really question on Trump's eligibility as presidential candidate. He put his family profit and interest in front of national security. I am afraid he would even sell USA freedom for his own profit.

In addition, as in "Trump Tower Funded by Rich Chinese Who Invest Cash for Visas report", Kushner Companies is a New Jersey-based real estate firm built by Kushner's father Charles, a former rainmaker in New Jersey Democratic politics who pleaded guilty to a federal campaign finance violation, filing false tax returns as well as attempts to silence a witness. Charles was sentenced in 2005 to a prison term of two years. He remains active in the company. Jersey City is the first and, so far, only Trump project for the company .

Thank you so much for your attention to this matter.

Sincerely

Hong

P.S.

QiaoWai CEO with Obama

[https://www.dropbox.com/s/86zr\\_rnzz2wx0h35/qiaowaiCEO.jpg?dl=0](https://www.dropbox.com/s/86zr_rnzz2wx0h35/qiaowaiCEO.jpg?dl=0)

QiaoWai CEO with Rudy Giuliani

[https://www.dropbox.com/s/svei\\_1xfzwxxpdti/QiaoWaiCEOdingying\\_rudygiuliani.jpg?dl=0](https://www.dropbox.com/s/svei_1xfzwxxpdti/QiaoWaiCEOdingying_rudygiuliani.jpg?dl=0)

(Below are copies from Trump Building Ads in QiaoWai  
<http://www.qiaowai.net/zhuanti/xzx/> )

QiaoWai ads for Trump Tower shows support from Obama, Debbie Wasserman - Schultz and Ron Klein .

[https://www.dropbox.com/s/64fq\\_tsomlqkm3ix/QiaoWai\\_TrumpAdsPa\\_g1.png?dl=0](https://www.dropbox.com/s/64fq_tsomlqkm3ix/QiaoWai_TrumpAdsPa_g1.png?dl=0)

QiaoWai ads for Trump Tower shows I-526 ( for EB-5 visa) got urgent approved due to Hurricane Sandy in 2012

[https://www.dropbox.com/s/lwq9\\_hgw9nesinw3/QiaoWaiTrumpbuildingAds\\_I526\\_Sandy\\_urgentApproval.png?dl=0](https://www.dropbox.com/s/lwq9_hgw9nesinw3/QiaoWaiTrumpbuildingAds_I526_Sandy_urgentApproval.png?dl=0)

Trump NJ Tower Chinese Ads



QiaoWai CEO with Obama and Rudy Giuliani





**QiaoWai ads for Trump Tower shows support from Obama, Debbie Wasserman - Schultz and Ron Klein**



**QiaoWai ads for Trump Tower shows I-526 ( for EB-5 visa) got urgent approved due to Hurricane Sandy in 2012**



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**From:** [hong.wang2016@yahoo.com](mailto:hong.wang2016@yahoo.com)  
**To:** [Governor Rick Scott](mailto:Governor.Rick.Scott); [smith.chris.web@fisenate.gov](mailto:smith.chris.web@fisenate.gov); [clemens.jeff.web@fisenate.gov](mailto:clemens.jeff.web@fisenate.gov); [eyers.greg.web@fisenate.gov](mailto:eyers.greg.web@fisenate.gov); [simpson.wilton.web@fisenate.gov](mailto:simpson.wilton.web@fisenate.gov); [thompson.geraldine.web@fisenate.gov](mailto:thompson.geraldine.web@fisenate.gov); [simmons.david.web@fisenate.gov](mailto:simmons.david.web@fisenate.gov); [galvano.bill.web@fisenate.gov](mailto:galvano.bill.web@fisenate.gov); [detert.nancy.web@fisenate.gov](mailto:detert.nancy.web@fisenate.gov); [legg.john.web@fisenate.gov](mailto:legg.john.web@fisenate.gov); [soto.darren.web@fisenate.gov](mailto:soto.darren.web@fisenate.gov); [gibson.audrey.web@fisenate.gov](mailto:gibson.audrey.web@fisenate.gov); [lee.tom.web@fisenate.gov](mailto:lee.tom.web@fisenate.gov); [Benacquisto, Lizbeth](mailto:Benacquisto.Lizbeth); [gardiner.andy.web@fisenate.gov](mailto:gardiner.andy.web@fisenate.gov); [montford.bill.web@fisenate.gov](mailto:montford.bill.web@fisenate.gov); [richter.garrett.web@fisenate.gov](mailto:richter.garrett.web@fisenate.gov); [sobel.eleanor.web@fisenate.gov](mailto:sobel.eleanor.web@fisenate.gov); [bullard.dwight.web@fisenate.gov](mailto:bullard.dwight.web@fisenate.gov); [flores.anitere.web@fisenate.gov](mailto:flores.anitere.web@fisenate.gov); [bean.aaron.web@fisenate.gov](mailto:bean.aaron.web@fisenate.gov); [gaetz.don.web@fisenate.gov](mailto:gaetz.don.web@fisenate.gov); [margolis.gwen.web@fisenate.gov](mailto:margolis.gwen.web@fisenate.gov); [stargel.kelli.web@fisenate.gov](mailto:stargel.kelli.web@fisenate.gov); [braynon.oscar.web@fisenate.gov](mailto:braynon.oscar.web@fisenate.gov); [jatvala.jack.web@fisenate.gov](mailto:jatvala.jack.web@fisenate.gov); [portilla.miguel.web@fisenate.gov](mailto:portilla.miguel.web@fisenate.gov); [bradley.rob.web@fisenate.gov](mailto:bradley.rob.web@fisenate.gov); [hukill.dorothy.web@fisenate.gov](mailto:hukill.dorothy.web@fisenate.gov); [altman.thad.web@fisenate.gov](mailto:altman.thad.web@fisenate.gov); [garcia.rene.web@fisenate.gov](mailto:garcia.rene.web@fisenate.gov); [dean.charles.web@fisenate.gov](mailto:dean.charles.web@fisenate.gov); [hays.alan.web@fisenate.gov](mailto:hays.alan.web@fisenate.gov); [abruzzo.joseph.web@fisenate.gov](mailto:abruzzo.joseph.web@fisenate.gov); [brandes.jeff.web@fisenate.gov](mailto:brandes.jeff.web@fisenate.gov); [negron.joe.web@fisenate.gov](mailto:negron.joe.web@fisenate.gov); [ring.jeremy.web@fisenate.gov](mailto:ring.jeremy.web@fisenate.gov); [joyner.athenia.web@fisenate.gov](mailto:joyner.athenia.web@fisenate.gov); [sachs.maria.web@fisenate.gov](mailto:sachs.maria.web@fisenate.gov); [grimsley.denise.web@fisenate.gov](mailto:grimsley.denise.web@fisenate.gov); [clay.ingram@myfloridahouse.gov](mailto:clay.ingram@myfloridahouse.gov); [Mia.Jones@myfloridahouse.gov](mailto:Mia.Jones@myfloridahouse.gov); [jason.brodeur@myfloridahouse.gov](mailto:jason.brodeur@myfloridahouse.gov); [bill.hager@myfloridahouse.gov](mailto:bill.hager@myfloridahouse.gov); [dan.raulerson@myfloridahouse.gov](mailto:dan.raulerson@myfloridahouse.gov); [mike.hill@myfloridahouse.gov](mailto:mike.hill@myfloridahouse.gov); [larry.ahern@myfloridahouse.gov](mailto:larry.ahern@myfloridahouse.gov); [kristen.jacobs@myfloridahouse.gov](mailto:kristen.jacobs@myfloridahouse.gov); [bryan.avila@myfloridahouse.gov](mailto:bryan.avila@myfloridahouse.gov); [shawn.harrison@myfloridahouse.gov](mailto:shawn.harrison@myfloridahouse.gov)  
**Subject:** Fw: National Security related to Trump Fwd: More information about QiaoWai, US Immigration Fund with Trump NJ Tower /Obama also Ivanka Best Friend Wendi Deng Top Chinese Spy  
**Date:** Sunday, December 11, 2016 8:03:56 PM

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Trump Bay Street is a 50-story luxury rental apartment building being built by Kushner Companies, whose chief executive officer, Jared Kushner, is married to Trump's daughter Ivanka. It hired US Immigration Fund ( Chinese name 美国移民基金 ) together with QiaoWai to seek rich Chinese investors.

This is the Chinese Ads website <http://www.qiaowai.net/zhuanti/xzx/> for Trump Bay Street tower Kushner and KABR Company

It clearly stated that US Immigration Fund has strong backup from government, gained support from Obama, Debbie Wasserman -Schultz and Ron Klein in person.

It also stated in the ads that it is the only one that fit for urgent approve by INS due to Hurricane Sandy.

Based on QiaoWai website, it has a lot of EB5 investments in US, such as w57 Manhattan, time square broadway1568, etc. Supporters to QiaoWai not only from Obama, Rudy Giuliani, Debbie Wasserman -Schultz but also from New York Governor David Peterson, Pete Grannis , Formal New York Mayor Bloomberg, etc

QiaoWai website also stated that, Brett Ashcroft-Green, who in charge of US Immigration Fund China part, used to be a staff of Senator Harry Reid.

During interview with QiaoWai CEO dingyingvian, she claimed that QiaoWai EB5 could be approved in 3 days.

Both Trump or Kushner did not mention Trump New Jersey Bay Street tower Chinese Ads,its Chinese Partner QiaoWai and its EB5 urgent approved due to Hurricane Sandy, when they spoke in the past of Trump New Jersey Bay Street tower to Bloomberg, based on Bloomberg and CNN report.

Pictures are in below message.

----- Forwarded message -----

From: Hong Wang

Date: Sat, Sep 3, 2016 at 7:19 PM

Subject: More information about QiaoWai, American Immigration Fund also report Wendi Deng to homeland Security

Dear Sec, Homeland Security and Congress

Here is one report from Homeland Security investigation on INS Alejandro Mayorkas interrupted EB5 approval , time is from Sept 2012, to 3/24/2015. This exactly cover the time when Trump Bay Street EB5 was urgent approved due to Hurricane Sandy ! Based on media, this report should have 99 pages.

<http://abcnews.go.com/US/top-homeland-official-alejandro-mayorkas-accused-political-favoritism/story?id=29868429>

In this DHS media article , it also mentioned Harry Reid together with Alejandro Mayorkas interrupt EB5 visa approval process. Based on QiaoWai web description ( QiaoWai1.jpg attachment), Brett Ashcroft-Green, who in charge of American Immigration Fund China part, used to be a staff of Harry Reid.

Based on QiaoWai website, it has a lot of EB5 investments in US, such as w57 Manhattan, time square board way1568, etc. Supporters to QiaoWai not only from Obama, Rudy Giuliani but also from New York Governor David Peterson, Pete Grannis , Formal New York Mayor Bloomberg, etc <http://www.qiaowai.net/cyprus/jptj/tz/2013/0820/6054.html> ( QiaoWai2.jpg), QiaoWai have a lot of other partners such as Charles Gargano [http://www.qiaowai.net/zhuanti/701tsg\\_2/](http://www.qiaowai.net/zhuanti/701tsg_2/) ( attachment QiaoWai\_CharlesGargano.jpg )

During interview with QiaoWai CEO , she claimed that QiaoWai EB5 could be approved in 3 days. ( See attachment 3days.jpg)

I also formally report Wendi Deng, Ivanka's best friend as Chinese Spy to homeland Security and congress as well. This was reported to state department, FBI and INS. See email below.

The strange thing is, Trump campaign manager fired on the same day when he got my email to report Wendi Deng as Spy on June. However, Ivanka still vacation with her on August.

I strongly suggest SEC, Congress and Homeland Security to investigate on QiaoWai, American Immigration Fund EB5 money usage. I suspect they were illegally used for campaign since this year is Congress and Presidential election year.

thanks

hong

Brett Ashcroft-Green, who in charge of American Immigration Fund China part, used to be a staff of Harry Reid



New York Governor David Peterson, Pete Grannis , Formal New York Mayor Bloomberg, etc



QiaoWai EB5 could be approved in 3 days.



Charles Gargano and QiaoWai



On Fri, Sep 2, 2016 at 1:29 AM, Hong Wang wrote:  
Dear SEC and Congress Leaders

Good morning, I am writing to you to report QiaoWai, the Chinese partner of US Immigration Fund ( Chinese name 美国移民基金 ) Ads ( See Attached) for Trump Bay Street tower Kushner and KABR Company in China cheating on EB5.

This is the Chinese Ads website <http://www.qiaowai.net/zhuanti/xzx/>

It clearly stated ( as attached picture and below email ) that US Immigration Fund has strong backup from government, gained support from Obama, Debbie Wasserman Schultz and Ron Klein in person.

It also stated in the ads that it is the only one that fit for urgent approve by INS due to Hurricane Sandy.

In the ads it said that Trump Bay Street tower is luxury apartments, started build from April, 2013, need 24 month ( actually based on report, it is expected to finish in the end of 2016), I am so surprise to know that for a luxury apartment tower which at least take more than 2 years to build, it will help Hurricane Sandy !

is it because it got support from Obama, Debbie Wasserman etc ? I also know QiaoWai has a lot of Ads for US, with great support from Rudy Giuliani. I believe this obviously violated EB5 law and using EB5 cheating Chinese people.

In the following CNN report, Trump tower's Chinese investors buy a path to U.S. citizenship <http://money.cnn.com/2016/03/08/news/companies/donald-trump->



wealthy-chinese-visas/ both Trump or Kushner did not mention its Chinese Partner QiaoWai and how Chinese connect to them through the Ads in China.

Since Kushner Company is also the major financial support for Trump Campaign based on report , I think it needs to investigate how Kushner company used money.

Information related to Trump tower EB5 and his daughter best friend Wendi Deng ( Chinese Spy and cheating on Greencard ) also be reported to INS, State Department and FBI.

Thank you for your attention.

hong

----- Forwarded message -----

From: Hong Wang

Date: Sun, Aug 28, 2016 at 6:33 PM

Subject: Please help investigate EB5 for Trump NJ tower with Hurricane Sandy ? !Re: Report wendi Deng cheating on INS for greencard Fwd: The story behind Trump Tower, Obama, Rudy Giuliani, Debbie Wasserman and National Security Ivanka best friend Wendi Deng Chinese Spy

Dear INS and State Department

Based on below Trump NJ tower Chinese ads( picture attached as well) <http://www.qiaowai.net/zhuanti/xzx/>, it clearly stated that Trump NJ tower EB5 is the only EB5 urgently approved due to Hurricane Sandy . Why his tower EB5 is the only one urgently approved due to Hurricane Sandy ? It take years to build that tower when Hurricane Sandy already gone !

**is it because it got help from Obama, Debbie Wasserman Support, does Trump could get his EB5 urgently approved due to Hurricane Sandy ?**

Need INS to check this issue, especially as I just reported that Ivaka Trump's best friend Wendi Deng cheated INS for greencard and she is a Chinese Spy based on reports. So it is national security why Trump NJ tower Rich Chinese got EB5 urgent approved by Hurricane Sandy !

Please also forward to FBI for investigation too since this is related to national security. Trump is presidential candidate and he obviously did not mention his NJ tower EB5 urgent approved due to Hurricane Sandy with support of Obama in any of his public speech. <http://money.cnn.com/2016/03/08/news/companies/donald-trump-wealthy-chinese-visas/> why he hide this information ?!

thanks

hong

On Sun, Aug 28, 2016 at 3:47 PM, Hong Wang wrote:

Dear INS

Good afternoon, The following email has sent to Trump for two months ago , I still saw his daughter Ivanka vacation with Wendi Deng, the Chinese Spy who cheated INS to get her green card years ago <http://www.vanityfair.com/news/2016/08/ivanka-trump-wendi-deng-vacation>

So I decide to report to INS directly here.

Please help investigate, Ivanka Trump's best friend, Wendi Deng, ex-wife of Rupert Murdoch , is a Chinese Top level spy (The general political department), with close relationship of Zeng qinghong. She violated USA INS law on Green Card that she only stayed with her 1st husband for 5 month, even though she divorced at 2 years and 7 month. She stayed at mean time with David Warlf, who paid her Yale tuition. Where the money came from since David Warlf is not wealthy at all and only work for a Chinese company? You should investigate on her first ! using google 邓文迪, 间谍 and you will see a lot of reports, using google translator to know more on her.

Here is one English report: Rupert Murdoch Divorces Wendi Deng after Chinese Communist Party Spy Revelation  
<http://www.visiontimes.com/2013/12/09/ruPERT-murdoch-divorces-wendi-deng-after-chinese-communist-party-spy-revelation.html>

Here are one of Chinese report: <http://www.aboluowang.com/2013/0619/313801.html>

Chinese communist party is always try to interfere freedom in USA, Please see this report as well:

Beijing-by-the-Bay: Rose Pak and China's Hidden Influence in San Francisco

<http://www.theepochtimes.com/n3/2093931-beijing-by-the-bay-rose-pak-and-chinas-hidden-influence-in-san-francisco/>

Also Gen. Michael Hayden, the formal CIA director contacted Epoch times at 7:00 am and here is the article

Ex-spy Chief: White House Ignores Elephant in the Room Gen. Michael Hayden says focus on Middle East causes US to overlook China threat

<http://www.theepochtimes.com/n3/2055006-ex-spy-chief-white-house-ignores-elephant-in-the-room/>

This video shows how Chinese Communist Party interfere with HongKong freedom of election.

Rare Footage of Former China Leader Jiang Zemin Freak Out (With English Subs!)

<https://www.youtube.com/watch?v=5Glj2BVJS2A>

Thanks

hong

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Good morning, I am writing to you to about the story behind Trump Tower, report the dishonestly of Trump over national security vs his own family profits, Obama, Rudy Giuliani, Debbie Wasserman relationship with Trump tower Chinese ads CEO , etc.

On Mon, Jun 20, 2016 at 5:55 AM , I wrote an email to Trump titled "Please help investigate : Your daughter Ivanka Trump's best friend, Wendi Deng, ex-wife of Rupert Murdoch , is a Chinese Top level spy (The general political department), " to ask him to investigate Wendi Deng, based on report she was a top Chinese Spy.

He did not reply, instead, one big thing happened on 6/20 morning, his campaign manger got fired 8:30 am, media reported that Ivanka Trump played role in campaign manager's firing. Lewandowski had sought to plant negative stories about her husband, Jared Kushner.

On Jun 23, I wrote him another email titled "Re: Lying Crooked Hillary ", describe possible lie of Hillary Clinton on Wang Iijun visited Cheng Du USA consulate issue related to Genocide and Forced Organ harvesting in China. This time trump politely responded ( email will forward to you separately, it was sent using my another email account).

I was wondering why Lewandowski had sought to plant negative stories about her husband, Jared Kushner. Why Trump did not response on investigate Wendi Deng, a top level Chinese Spy. This is a serious issue.

So I went on to do more research, and here is what I found out this report :

**Trump Tower Funded by Rich Chinese Who Invest Cash for Visas**

<http://www.bloomberg.com/politics/articles/2016-03-07/trump-tower-financed-by-rich-chinese-who-invest-cash-for-visas>

Trump Bay Street is a 50-story luxury rental apartment building being built by Kushner Companies, whose chief executive officer, Jared Kushner, is married to Trump's daughter Ivanka. The firm that was hired to seek investors, US Immigration Fund, is run by Florida developer Nicholas Mastroianni, who announced a partnership last year with a Trump golf course in Jupiter, Florida.

The visa program is known as EB-5. In exchange for investing at least \$500,000 in a

project promising to create jobs, foreigners receive a two-year visa with a good chance of obtaining permanent residency for them and their families.

I went on to do more research, and find out that US Immigration Fund ( Chinese name 美国移民基金 ) has a Chinese partner in China called qiaowai (侨外) to do advertising for Trump's program and other programs in China. qiaowai (侨外) is almost rank No 1 in EB-5 projects in China. In the QiaoWai website, it stated **Kushner 88 Trump Bay Street project, started 2013, is the only one that I-526 ( for EB-5 visa) got urgent approved due to Hurricane Sandy in 2012. And it also stated that it has good relationship with Democracy party supporting from Obama, Debbie Wasserman -Schultz and Ron Klein . This is Kushner 88 Trump Bay Street project QiaoWai website link <http://www.qiaowai.net/zhuanti/xzx/> . You could also see QiaoWai CEO dingyingvivan picture with president Obama .Chinese reports said it is Rudy Giuliani made QiaoWai succeed in USA <http://www.qiaowai.net/mtbd/16820.html>**

CNN also has another report : Trump tower's Chinese investors buy a path to U.S. citizenship <http://money.cnn.com/2016/03/08/news/companies/donald-trump-wealthy-chinese-visas/>

Trump's spokespeople did not respond to a request for comment about his views on the EB-5 visa program or its use in this project. However, a Trump spokesperson did tell Bloomberg that "This was a highly successful license deal but [Trump] is not a partner in the financing of the development." Kushner Companies defended the use of the visas to raise cash. "The money was raised lawfully ... consistent with all the requirements of EB-5," said its statement to CNN. "This program enabled a development that created hundreds of new jobs in an area with employment needs."

**Without Obama, Debbie Wasserman Support, does Trump could get his EB5 urgently approved due to Hurricane Sandy ? He obviously did not mention his Chinese partner QiaoWai at all !**

Throughout his presidential campaign, Donald Trump has attacked China and warned about the dangers of deficient immigrant screening. However, Trump Never mentioned EB-5 in any of his proposal, which is very controversial especially in terms of security, and will be end in September 30 this year. EB5 I-526 could be approved within several days up to 6 months, there is no way to do background checks in such small time frame, which is why EB-5 is controversial and is a national security issue. I was so surprised to find out that Trump did not push investigation on Wendi Deng, who is best friend of his daughter Ivanka Trump for such a big national security issue. I am very worried about those immigrants in Trump Tower. I strongly request background check for all of them.

Thus I am really question on Trump's eligibility as presidential candidate. He put his family profit and interest in front of national security. I am afraid he would even sell USA freedom for his own profit.

In addition, as in "Trump Tower Funded by Rich Chinese Who Invest Cash for Visas

report", Kushner Companies is a New Jersey-based real estate firm built by Kushner's father Charles, a former rainmaker in New Jersey Democratic politics who pleaded guilty to a federal campaign finance violation, filing false tax returns as well as attempts to silence a witness. Charles was sentenced in 2005 to a prison term of two years. He remains active in the company. Jersey City is the first and, so far, only Trump project for the company .

Thank you so much for your attention to this matter.

Sincerely

Hong

P.S.

QiaoWai CEO with Obama

[https://www.dropbox.com/s/86zr\\_rnzz2wx0h35/qiaowaiCEO.jpg?dl=0](https://www.dropbox.com/s/86zr_rnzz2wx0h35/qiaowaiCEO.jpg?dl=0)

QiaoWai CEO with Rudy Giuliani

[https://www.dropbox.com/s/svei\\_1xfzwxxpdti/QiaoWaiCEOdingying\\_rudygiuliani.jpg?dl=0](https://www.dropbox.com/s/svei_1xfzwxxpdti/QiaoWaiCEOdingying_rudygiuliani.jpg?dl=0)

(Below are copies from Trump Building Ads in QiaoWai <http://www.qiaowai.net/zhuanti/xzx/> )

QiaoWai ads for Trump Tower shows support from Obama, Debbie Wasserman - Schultz and Ron Klein .

[https://www.dropbox.com/s/64fq\\_tsomlqkm3ix/QiaoWai\\_TrumpAdsPa\\_g1.png?dl=0](https://www.dropbox.com/s/64fq_tsomlqkm3ix/QiaoWai_TrumpAdsPa_g1.png?dl=0)

QiaoWai ads for Trump Tower shows I-526 ( for EB-5 visa) got urgent approved due to Hurricane Sandy in 2012

[https://www.dropbox.com/s/lwq9\\_hgw9nesinw3/QiaoWaiTrumpbuildingAds\\_I526\\_Sandy\\_urgentApproval.png?dl=0](https://www.dropbox.com/s/lwq9_hgw9nesinw3/QiaoWaiTrumpbuildingAds_I526_Sandy_urgentApproval.png?dl=0)

Trump NJ Tower Chinese Ads



QiaoWai CEO with Obama and Rudy Giuliani



QiaoWai ads for Trump Tower shows support from Obama, Debbie Wasserman -  
Schultz and Ron Klein .



QiaoWai ads for Trump Tower shows I-526 ( for EB-5 visa) got urgent approved due  
to Hurricane Sandy in 2012



**From:** [TCPalm](#)  
**To:** [cherylita56@att.net](mailto:cherylita56@att.net)  
**Cc:** [Governor Rick Scott](#); [bill@billnelson.senate.gov](mailto:bill@billnelson.senate.gov)  
**Subject:** Letter: Algae a crisis for Treasure Coast waters  
**Date:** Saturday, July 9, 2016 1:04:56 PM

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Gov. Rick Scott and Treasure Coast delegation,

An unprecedented crisis is unfolding on the Treasure Coast.

Discharges of contaminated water from Lake Okeechobee have triggered widespread algae blooms here. Some of this algae has been confirmed toxic.

Its appearance has forced the health department to close parts of the St. Lucie River, Indian River Lagoon and -- for the first time -- our oceanfront beaches.

We are concerned about our health. Respiratory issues have been reported by some residents who live near the blue-green algae. Longer-term links to neurological diseases are even more alarming.

We are concerned about our economy. Some waterfront businesses have closed their doors, and Realtors are warning would-be buyers and vacationers of the hazardous conditions.

We need your help.

Stopping the discharges from Lake Okeechobee is the solution. To do that, we need more land to store, treat and move excess water south from Lake Okeechobee -- instead of dumping it east to the St. Lucie River and west to the Caloosahatchee River.

Jobs are at stake. Public health hangs in the balance.

Please use the power of your position to make a bold move.

One of my friend's son had a rash, confirmed by the Dr to be from the algae. Another friend has a small business that employs a few people, cleaning the bottoms of boats. They cannot do their job, which means families with no income. Just 2 stories.

Signed: Cheri Mastroianni  
Port St Lucie  
You can reply to me at: [cherylita56@att.net](mailto:cherylita56@att.net)

**From:** hong  
**To:** Governor Rick Scott  
**Subject:** National Security Fwd: More information about QiaoWai, American Immigration Fund also report Wendi Deng to homeland Security  
**Date:** Tuesday, September 20, 2016 3:34:20 PM

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Dear All

This email that was reported to Congress, SEC and Homeland Security and President Obama, president Bush, FOP and Phily FOP, GOP Chairman Reince Priebus, New York Governor Andrew Cuomo ( through web contact form ), Indiana Governor Mike Pence ( through web contact form ) and Ohio Governor John Kasich

Thanks for forwarding to your friends and president.

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Dear Sec, Homeland Security and Congress

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In this DHS media article , it also mentioned Harry Reid together with Alejandro Mayorkas interrupt EB5 visa approval process. Based on QiaoWai web description ( QiaoWai1.jpg attachment), Brett Ashcroft-Green, who in charge of American Immigration Fund China part, used to be a staff of Harry Reid.

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I strongly suggest SEC, Congress and Homeland Security to investigate on QiaoWai, American Immigration Fund EB5 money usage. I suspect they were illegally used for campaign since this year is Congress and Presidential election year.

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[?]  
New York Governor David Peterson, Pete Grannis , Formal New York Mayor Bloomberg, etc

[?]  
QiaoWai EB5 could be approved in 3 days.

[?]  
Charles Gargano and QiaoWai

[?]  
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Information related to Trump tower EB5 and his daughter best friend Wendi Deng ( Chinese Spy and cheating on Greencard ) also be reported to INS, State Department and FBI.

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Subject: Please help investigate EB5 for Trump NJ tower with Hurricane Sandy ? !Re: Report wendi Deng cheating on INS for greencard Fwd: The story behind Trump Tower, Obama, Rudy Giuliani, Debbie Wasserman and National Security Ivanka best friend Wendi Deng Chinese Spy

Dear INS and State Department

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So I went on to do more research, and here is what I found out this report :

Trump Tower Funded by Rich Chinese Who Invest Cash for Visas

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The visa program is known as EB-5. In exchange for investing at least \$500,000 in a project promising to create jobs, foreigners receive a two-year visa with a good chance of obtaining permanent residency for them and their families.

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88 Trump Bay Street project QiaoWai website link <http://www.qiaowai.net/zhuanti/xzx/> . You could also see QiaoWai CEO dingyingvivan picture with president Obama .Chinese reports said it is Rudy Giuliani made QiaoWai succeed in USA <http://www.qiaowai.net/mtbd/16820.html>

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Throughout his presidential campaign, Donald Trump has attacked China and warned about the dangers of deficient immigrant screening. However, Trump Never mentioned EB-5 in any of his proposal, which is very controversial especially in terms of security, and will be end in September 30 this year. EB5 I-526 could be approved within several days up to 6 months, there is no way to do background checks in such small time frame, which is why EB-5 is controversial and is a national security issue. I was so surprised to find out that Trump did not push investigation on Wendi Deng, who is best friend of his daughter Ivanka Trump for such a big national security issue. I am very worried about those immigrants in Trump Tower. I strongly request background check for all of them.

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Thank you so much for your attention to this matter.

Sincerely

Hong

P.S.

QiaoWai CEO with Obama

<https://www.dropbox.com/s/86zrrnz2wx0h35/qiaowaiCEO.jpg?dl=0>

QiaoWai CEO with Rudy Giuliani

[https://www.dropbox.com/s/svei1xfzwxpdti/QiaoWaiCEOdingying\\_rudygiuliani.jpg?dl=0](https://www.dropbox.com/s/svei1xfzwxpdti/QiaoWaiCEOdingying_rudygiuliani.jpg?dl=0)

(Below are copies from Trump Building Ads in QiaoWai <http://www.qiaowai.net/zhuanti/xzx/> )

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[https://www.dropbox.com/s/64fqtSomlqkm3ix/QiaoWai\\_TrumpAdsPag1.png?dl=0](https://www.dropbox.com/s/64fqtSomlqkm3ix/QiaoWai_TrumpAdsPag1.png?dl=0)

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[https://www.dropbox.com/s/lwq9hgw9nesinw3/QiaoWaiTrumpbuildingAds\\_I526\\_Sandy\\_urgentApproval.png?dl=0](https://www.dropbox.com/s/lwq9hgw9nesinw3/QiaoWaiTrumpbuildingAds_I526_Sandy_urgentApproval.png?dl=0)

**Trump NJ Tower Chinese Ads**



**QiaoWai CEO with Obama and Rudy Giuliani**



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**QiaoWai ads for Trump Tower shows I-526 ( for EB-5 visa) got urgent approved due to Hurricane Sandy in 2012**



Trouble viewing this email? [Read it online](#)

This email is intended for [rick.scott@eog.myflorida.com](mailto:rick.scott@eog.myflorida.com).

[Update your preferences](#) or [Unsubscribe](#)



**From:** hong  
**To:** Governor Rick Scott  
**Subject:** National Security Fwd: More information about QiaoWai, American Immigration Fund also report Wendi Deng to homeland Security  
**Date:** Friday, September 23, 2016 8:34:54 PM

---

Please hep forward to Gov. Rick Scott and your friends.

This email that was reported to Trump, all Congress, SEC and Homeland Security and President Obama, president Bush, FOP and Phily FOP, GOP Chairman Reince Priebus, New York Governor Andrew Cuomo ( through web contact form) , Indiana Governor Mike Pence ( through web contact form) and Ohio Governor John Kaisch

Thanks for forwarding to your friends and president.

----- Forwarded message -----

**From:** Hong Wang  
**Date:** Sat, Sep 3, 2016 at 7:19 PM  
**Subject:** More information about QiaoWai, American Immigration Fund also report Wendi Deng to homeland Security

Dear Sec, Homeland Security and Congress

Here is one report from Homeland Security investigation on INS Alejandro Mayorkas interrupted EB5 approval , time is from Sept 2012, to 3/24/2015. This exactly cover the time when Trump Bay Street EB5 was urgent approved due to Hurricane Sandy ! Based on media, this report should have 99 pages.

<http://abcnews.go.com/US/top-homeland-official-alejandro-mayorkas-accused-political-favoritism/story?id=29868429>

In this DHS media article , it also mentioned Harry Reid together with Alejandro Mayorkas interrupt EB5 visa approval process. Based on QiaoWai web description ( QiaoWai1.jpg attachment), Brett Ashcroft-Green, who in charge of American Immigration Fund China part, used to be a staff of Harry Reid.

Based on QiaoWai website, it has a lot of EB5 investments in US, such as w57 Manhattan, time square board way1568, etc. Supporters to QiaoWai not only from Obama, Rudy Giuliani but also from New York Governor David Peterson, Pete Grannis , Formal New York Mayor Bloomberg, etc  
<http://www.qiaowai.net/cyprus/jptj/tz/2013/0820/6054.html> ( QiaoWai2.jpg), QiaoWai have a lot of other partners such as Charles Gargano [http://www.qiaowai.net/zhuanli/701tsq\\_2/](http://www.qiaowai.net/zhuanli/701tsq_2/) ( attachment QiaoWai\_CharlesGargano.jpg )

During interview with QiaoWai CEO , she claimed that QiaoWai EB5 could be approved in 3 days. ( See attachment 3days.jpg)

I also formally report Wendi Deng, Ivaka's best friend as Chinese Spy to homeland Security and congress as well. This was reported to state department, FBI and INS. See email below.

The strange thing is, Trump campaign manager fired on the same day when he got my email to report Wendi Deng as Spy on June. However, ivanka still vacation with her on August.

I strongly suggest SEC, Congress and Homeland Security to investigate on QiaoWai, American Immigration Fund EB5 money usage. I suspect they were illegally used for campaign since this year is Congress and Presidential election year.

thanks

hong

Brett Ashcroft-Green, who in charge of American Immigration Fund China part, used to be a staff of Harry

Reid



New York Governor David Peterson, Pete Grannis , Formal New York Mayor Bloomberg, etc



QiaoWai EB5 could be approved in 3 days.



Charles Gargano and QiaoWai



On Fri, Sep 2, 2016 at 1:29 AM, Hong Wang wrote:  
Dear SEC and Congress Leaders

Good morning, I am writing to you to report QiaoWai, the Chinese partner of US Immigration Fund ( Chinese name 美国移民基金 ) Ads ( See Attached) for Trump Bay Street tower Kushner and KABR Company in China cheating on EB5.

This is the Chinese Ads website <http://www.qiaowai.net/zhuanti/xzx/>

It clearly stated ( as attached picture and below email ) that US Immigration Fund has strong backup from government, gained support from Obama, Debbie Wasserman -Schultz and Ron Klein in person.

It also stated in the ads that it is the only one that fit for urgent approve by INS due to Hurricane Sandy.

In the ads it said that Trump Bay Street tower is luxury apartments, started build from April, 2013, need 24 month ( actually based on report, it is expected to finish in the end of 2016), I am so surprise to know that for a luxury apartment tower which at least take more than 2 years to build, it will help Hurricane Sandy !

is it because it got support from Obama, Debbie Wasserman etc ? I also know QiaoWai has a lot of Ads for US, with great support from Rudy Giuliani. I believe this obviously violated EB5 law and using EB5 cheating Chinese people.

In the following CNN report, Trump tower's Chinese investors buy a path to U.S. citizenship <http://money.cnn.com/2016/03/08/news/companies/donald-trump-wealthy-chinese-visas/> both Trump or Kushner did not mention its Chinese Partner QiaoWai and how Chinese connect to them through the Ads in China.

Since Kushner Company is also the major financial support for Trump Campaign based on report , I think it needs to investigate how Kushner company used money.

Information related to Trump tower EB5 and his daughter best friend Wendi Deng ( Chinese Spy and cheating on Greencard ) also be reported to INS, State Department and FBI.

Thank you for your attention.

hong

----- Forwarded message -----

From: Hong Wang

Date: Sun, Aug 28, 2016 at 6:33 PM

Subject: Please help investigate EB5 for Trump NJ tower with Hurricane Sandy ? !Re: Report wendi Deng cheating on INS for greencard Fwd: The story behind Trump Tower, Obama, Rudy Giuliani, Debbie

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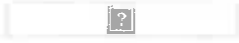
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QiaoWai CEO with Obama and Rudy Giuliani



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Trouble viewing this email? [Read it online](#)

This email is intended for [rick.scott@eog.myflorida.com](mailto:rick.scott@eog.myflorida.com).  
[Update your preferences](#) or [Unsubscribe](#)



**From:** [Evelyn Mastroianni](#)  
**To:** [Governor Rick Scott](#)  
**Subject:** Please Commute Sentence of Death to Life without Parole  
**Date:** Tuesday, February 20, 2018 4:30:08 PM

---

Dear Governor Scott,

I urge you to commute Eric Branch's death sentence to life without parole and to stop signing death warrants.

Mr. Branch's murder of Susan Morris calls out for justice and should be condemned. However, life without parole is an alternative and severe sentence.

Please limit the State of Florida to this non-lethal means that keeps society safe from an aggressor.

Sincerely,

Evelyn Mastroianni  
6500 Sunset Way Apt 415  
St Pete Beach, FL 33706  
[evelyn8e@aol.com](mailto:evelyn8e@aol.com)

**From:** [Evelyn Mastroianni](#)  
**To:** [Governor Rick Scott](#)  
**Subject:** Please Commute Sentence of Death to Life without Parole  
**Date:** Saturday, February 17, 2018 9:40:04 PM

---

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**From:** [Evelyn Mastroianni](#)  
**To:** [Governor Rick Scott](#)  
**Subject:** Please Commute Sentence of Death to Life  
**Date:** Monday, December 10, 2018 1:10:04 PM

---

Dear Governor Scott,

Please commute Jose Antonio Jimenez' death sentence to life without parole and stop signing death warrants.

The violent crime for which Mr. Jimenez has been convicted calls out for justice and should be condemned. However, life without parole is an alternative and severe sentence.

Please limit the State of Florida to this non-lethal means that keeps society safe from an aggressor.

Sincerely,

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[evelyn8e@aol.com](mailto:evelyn8e@aol.com)

**From:** [Evelyn Mastroianni](#)  
**To:** [Governor Rick Scott](#)  
**Subject:** Please Commute Sentence of Death to Life  
**Date:** Monday, October 2, 2017 10:10:11 AM

---

Dear Governor Scott,

I urge you to commute Michael Lambrix's death sentence to life without parole and to stop signing death warrants.

All life is sacred. Even those who have committed terrible deeds and caused great pain possess a God-given dignity that is neither earned nor can it be forfeited.

Life without parole is an alternative and severe sentence. Please limit the State of Florida to this non-lethal means that keeps society safe from an aggressor.

Sincerely,

Evelyn Mastroianni  
6500 Sunset Way Apt 415  
Saint Petersburg, FL 33706  
[evelyn8e@aol.com](mailto:evelyn8e@aol.com)



**From:** [Evelyn Mastroianni](#)  
**To:** [Governor Rick Scott](#)  
**Subject:** Please Continue Current State Coordination of Refugee Resettlement  
**Date:** Tuesday, March 28, 2017 9:20:05 AM

---

Dear Governor Scott,

As you engage in the process of reviewing the work of the Department of Children and Families' Refugee Resettlement Program, I am pleased to offer strong support for the program as currently structured. Due to the size of Florida's refugee program and the current upheaval of federal policy regarding Cuban entrants and refugees, changing coordination of the program would unnecessarily disrupt the ability to provide support and services to vulnerable newcomers eager to build new lives for themselves and their families.

Like all of us, refugees fleeing persecution and violence want nothing more than to work hard, send their children to school, and establish a home in safety. The current partnership between the state and community organizations ensures that resettled refugees and immigrants achieve self-sufficiency and become contributing members of communities throughout our great state.

Please continue DCF coordination of our state's valuable Refugee Resettlement Program.

Sincerely,

Evelyn Mastroianni  
6500 Sunset Way Apt 415  
Saint Petersburg, FL 33706  
[evelyn8e@aol.com](mailto:evelyn8e@aol.com)

**From:** [Ralph Mastroianni](#)  
**To:** [Governor Rick Scott](#)  
**Subject:** Please SIGN HB7069  
**Date:** Sunday, May 21, 2017 5:24:36 AM

---

Dear Governor Scott,

Governor Scott,

We are a struggling family that has a special needs child in a private school. We depend on the additional resources from the state to help us help Dominic, our sweet boy. I don't know why you would want to remove this program, but I know there are families that need the help. I sincerely hope you do not veto HB7069.

Thank you,  
Ralph Mastroianni

**From:** Evelyn Mastroianni  
**To:** Governor Rick Scott  
**Subject:** Please sign HB 1411 - Regulation of Abortion Providers  
**Date:** Friday, March 18, 2016 9:15:39 AM

---

From: Evelyn Mastroianni <evelyn8e@aol.com>

County: Pinellas

Zip Code: 33706

Phone Number:

Message Body: Governor Scott,

In a spirit of gratitude for the many bills you have signed into law that improve protection of women and the unborn in Florida, I ask that you approve a new measure, HB 1411, sponsored by Representative Burton and Senator Stargel. HB 1411 is a good bill that deserves to be a law because it:

- \* helps protect women who seek abortions by requiring abortion clinics to have a transfer agreement or its physicians to have admitting privileges with a hospital within reasonable proximity. If emergencies arise, women need this opportunity for quick, informed care at the hospital.
- \* requires abortion clinics to provide data to the Centers for Disease Control and Prevention (CDC). Currently, Florida is one of only a handful of states that does not report comprehensive abortion data to the federal Centers for Disease Control and Prevention (CDC).
- \* clarifies abortion and pregnancy-related terminology. As became apparent following the state investigation into Planned Parenthood last year, Florida has conflicting language regarding gestation and the handling of fetal tissue.
- \* prohibits the public funding of abortion providers while maintaining or improving women's health care. At present, some abortion providers receive public funds through contracts with the Department of Health. This bill would redirect these monies to hundreds of federally qualified health centers (FQHCs) and private physicians that provide services to low-income women without promoting abortion.

I strongly support HB 1411 and again urge your approval. Please sign HB 1411 into law. Evelyn Mastroianni

**From:** [Evelyn Mastroianni](#)  
**To:** [Governor Rick Scott](#)  
**Subject:** Please veto SB 920 - Deferred Presentment Transactions  
**Date:** Tuesday, March 13, 2018 10:30:04 PM

---

Dear Governor Scott,

I urge you to veto SB 920.

The bill:

- furthers and worsens Florida's abysmal payday lending practices;
- does not provide a better product for Florida consumers; and
- is premature given the federal CFPB plans to review proposed rules.

A rate cap of 30% on payday loans is a better path.

Please veto SB 920.

Sincerely,

Evelyn Mastroianni  
6500 Sunset Way Apt 415  
St Pete Beach, FL 33706  
[evelyn8e@aol.com](mailto:evelyn8e@aol.com)

**From:** Mark Hamilton  
**To:** CPS1  
**Cc:** "Erin Sumpter"; "McKnight, Brooke"; Governor Rick Scott; robert.tornillo@myfloridacfo.com; SHERRILLNORMAN@AUD.STATE.FL.US; george.moraitis@myfloridahouse.gov; rader.kevin@flsenate.gov; Olean, Kristin; pam.bond@myfloridalegal.com; Steve Keller  
**Subject:** RE: PTO Hearing Transcript  
**Date:** Wednesday, February 14, 2018 2:06:33 PM  
**Attachments:** Image001.png  
Image003.png  
Email providing Turner decision to SMA 10272017.pdf  
October 27, 2017 inquiry from SMA re Turner decision.pdf  
Turner v. DOR 2011 0622 r02000 final order Inter082.pdf

Dear Ms. Anderson:

This serves to acknowledge and respond to your public records request for a copy of the decision rendered in the Turner case. In furtherance of your request, attached please find an additional copy of Summary Final Order in the Turner case matter that was previously furnished to you by the Department of Revenue (Department) on October 27, 2017. (See the Summary Final Order beginning at page 24 for further language associated with your inquiry).

Additionally, this email serves to respond to several recent communications issued by you to the Department subsequent to the recent Property Tax Public Hearing (Public Hearing) held on Tuesday, February 6, 2018 [pertaining to amendments to DOR Rule 12D-9.020, F.A.C., Exchange of Evidence; and Rule 12D-16.002, F.A.C., Index to Forms]. The Hearing was a progression in the rulemaking process authorized by law pursuant to Chapter 120, Florida Statutes, and followed up from the Property Tax Workshop (Public Workshop) held by the Department on November 14, 2017.

The Department has complied with its legal obligations as set forth for rulemaking by law. As to your specific lines of inquiry, the Department afforded the public opportunities to submit comments and questions at both the Public Workshop and Public Hearing. The Department also responded to multiple questions from the public at each of these separate proceedings including, as admitted by you below, those already asked by yourself. Additional links to the transcripts from both proceedings that you attended are provided below for your records:

- <http://floridarevenue.com/rules/pdf/12d9020hearingtranscript020618.pdf>
- [http://floridarevenue.com/rules/pdf/workshop\\_transcript\\_pto\\_111417.pdf](http://floridarevenue.com/rules/pdf/workshop_transcript_pto_111417.pdf)

The rulemaking process, including the Public Workshop and Public Hearing components, affords everyone a structured proceeding and transparent forum so that the entire public has an equal ability to provide comment and input on proposed rules. Your recent communications subsequent to the Public Hearing appear to seek for the Department to deviate from the legal procedures authorized pursuant to Chapter 120, Florida Statutes, and create a new rulemaking protocol to afford specialized treatment. While the Department appreciates the nature of your request for specialized treatment, it is unable to acquiesce to your request. So that there is no ambiguity, the Department will continue to comply with its statutory obligations associated with the lawful rulemaking process that is for the benefit of all the public. No separate process will be initiated by the Department to provide the specialized treatment that you seek.

Best regards,

**Mark S. Hamilton**  
General Counsel  
Post Office Box 6668  
Tallahassee, FL 32314-6668  
(850) 617-8347  
[mark.hamilton@floridarevenue.com](mailto:mark.hamilton@floridarevenue.com)

**From:** CPS1 [mailto:cps1@flash.net]  
**Sent:** Sunday, February 11, 2018 3:09 PM  
**To:** Steve Keller <Steve.Keller@floridarevenue.com>  
**Cc:** Mark Hamilton <Mark.Hamilton@floridarevenue.com>; 'Erin Sumpter' <Erin.Sumpter@myfloridalegal.com>; 'McKnight, Brooke' <Brooke.McKnight@freshfromflorida.com>; rick.scott <Rick.Scott@eog.myflorida.com>; robert.tornillo@myfloridacfo.com; SHERRILLNORMAN@AUD.STATE.FL.US; george.moraitis@myfloridahouse.gov; rader.kevin@flsenate.gov  
**Subject:** RE: PTO Hearing Transcript

Mr. Keller: per the transcript, the statement you made regarding 12D-9.020, F.A.C. refers to changing from "optional" to "mandatory" BUT I cannot find the exact statutory language to which you referred. **Would you kindly send it back.** And would you kindly send back the exact language in the Turner decision upon which y'all are relying.

In addition, where is the statutory language providing for the "next previous business day" or "date" related to evidence deadline(s) falling on weekend or holiday? I have looked, and looked, and looked, have found nothing providing authority, per the Administrative Procedures Act, to DOR generally or PTO specifically providing for that substantive change in the 15-day period afforded to taxpayers – and reducing the number of days a taxpayer has to prepare and provide evidence seems to me to be a serious due process violation.. I also want to ask if evidence is received by the PAO at the end of a day before a weekend or holiday are they going to work on it – OR are they going to leave the office for that weekend or holiday?

In addition Mr. Keller – It is my understanding that assessments are intended to be based upon equal protection principles which are implemented through the "properly considered" application of "market data". Section 194.301, F.S. adds to that fundamental principle that the property appraiser must prove they "property considered" the criteria in 193.011, F.S. and actual income or other actual information in possession of a taxpayer or petitioner would NOT be independently or objectively obtained market information and therefore use by any PAO would appear to be inconsistent with the "market" information each PAO is supposed to use – see Section 15 of 12D-51.003, F.A.C. (DOR Real Property Appraiser Guidelines).

Furthermore, as it reads to me the proposed language in 12D9.020, F.A.C. contradicts the protocol enumerated in 12D-1.003, F.A.C. which requires the PAO to show why they cannot prepare an assessment without "actual" information in the possession of a taxpayer, as well as Bulletins PTO 10-24 and PTO 11-07 (see page 3 of 3).

SO, this is to repeat the question I asked at the workshop – how do we know attorneys for the PAO have not written the proposed rule language? Since the language

contradicts existing statutory language AND existing department Rules AND informational bulletins in which I believe you participated in the drafting, it is not clear!

SMA

(1) The petitioner has the option of participating in an exchange of evidence with the property appraiser. If the petitioner chooses not to participate in the evidence exchange, the petitioner may still present evidence for consideration by the board or the special magistrate. However, as described in this section, if the property appraiser asks in writing for specific evidence before the hearing in connection with a filed petition, and the petitioner has this evidence and knowingly refuses to provide it to the property appraiser a reasonable time before the hearing, the evidence cannot be presented by the petitioner or accepted for consideration by the board or special magistrate. Reasonableness shall be determined by whether the material can be reviewed, investigated, and responded to or rebutted in the time frame remaining before the hearing. These requirements are more specifically described in subsection (8) of this rule and in paragraphs 12D-9.025(4)(a) and (f), F.A.C.

**From:** Steve Keller [mailto:Steve.Keller@floridarevenue.com]  
**Sent:** Saturday, February 10, 2018 4:26 PM  
**To:** cps1@flash.net  
**Subject:** PTO Hearing Transcript

Dear Ms. Anderson:

Please see attached and forwarded below. I checked the website and it is not posted yet as of now.

Sincerely,

Stephen J. Keller  
Chief Assistant General Counsel  
Property Tax Oversight Section  
Office of General Counsel  
Department of Revenue  
850-617-8347  
email encryption status [unsecure]; signifies: not encrypted

**From:** Janice Forrester  
**Sent:** Friday, February 09, 2018 4:45 PM

**From:** CPS1 [mailto:cps1@flash.net]  
**Sent:** Saturday, February 10, 2018 12:11 PM  
**To:** Steve Keller <Steve.Keller@floridarevenue.com>  
**Cc:** Mark Hamilton <Mark.Hamilton@floridarevenue.com>; George Hamm <George.Hamm@floridarevenue.com>  
**Subject:** PUBLIC RECORD ACT REQUEST

Mr. Keller:

Please send an electronic link to the transcript which was recorded at the February 6, 2018 DOR workshop related to 12D-9.020, F.A.C. Thank you!

---

**Sheila M. Anderson, Principal**  
**Commercial Property Services, Inc.**  
Licensed Real Estate Broker  
**305-372-9200 / 352-245-7441**  
**Profile:** <http://www.floridapropertytaxappeals.com/cps-president-broker.htm>

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**Mark Hamilton**

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**From:** CPS1 <cps1@flash.net>  
**Sent:** Friday, October 27, 2017 10:58 AM  
**To:** Steve Keller  
**Cc:** Mark Hamilton; 'Timothy Dennis'  
**Subject:** RE: REQUEST FOR DOCUMENT

Thank YOU VERY MUCH!

**From:** Steve Keller [mailto:Steve.Keller@floridarevenue.com]  
**Sent:** Friday, October 27, 2017 10:52 AM  
**To:** CPS1 <cps1@flash.net>  
**Subject:** REQUEST FOR DOCUMENT

Dear Ms. Anderson:

Attached is the decision.

Sincerely,

Stephen J. Keller  
Executive Senior Attorney  
Office of General Counsel  
Department of Revenue  
850-617-8347  
email encryption status [unsecure]; signifies: not encrypted

**From:** CPS1 [mailto:cps1@flash.net]  
**Sent:** Friday, October 27, 2017 10:04 AM  
**To:** Steve Keller <Steve.Keller@floridarevenue.com>  
**Subject:** REQUEST FOR DOCUMENT

Mr. Keller: Would you please send over a copy of the ALF decision in this matter? Thank you! SMA

Rob Turner, Hillsborough County Property Appraiser vs. Department of Revenue.

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**Sheila M. Anderson, Principal**  
**Commercial Property Services, Inc.**  
Licensed Real Estate Broker  
**305-372-9200 / 352-245-7441**  
**Profile:** <http://www.floridapropertytaxappeals.com/cps-president-broker.htm>



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---

## Mark Hamilton

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**From:** CPS1 <cps1@flash.net>  
**Sent:** Friday, October 27, 2017 10:47 AM  
**To:** Mark Hamilton  
**Cc:** 'Timothy Dennis'; Steve Keller; 'Tornillo, Robert'; 'Renspie, Kimberly'; 'McKnight, Brooke'  
**Subject:** REQUEST for decision

So Mr. Hamilton:

Before asking for a copy of this decision I just searched through the ALF on-line list of decisions, involving DOR, from 2017 back through 2011, and I could not find this.. And I've asked Mr. Keller to send over a copy, BUT perhaps it's on your desk or at the fingertips of Mr. Dennis. Would someone please send it over, AND when you post notices of rule-making related to a specific decision of an administrative or state court, how about posting the underlying decision together with the proposed rule changes so that there is complete transparency?! THANK YOU.

*The purpose of the amendment to Rule 12D-9.020, F.A.C., is to implement the Administrative Law Judge's (ALJ) ruling in Rob Turner, Hillsborough County Property Appraiser vs. Department of Revenue. The effect of this rule amendment is to make the rule consistent with the ALJ's ruling regarding the exchange of evidence in the value adjustment board (VAB) hearing process, as well as with Chapter 2016-128, s. 10, and Chapter 2013-109, s. 8, Laws of Florida.*

**SMA**

---

Sheila M. Anderson, Principal  
Commercial Property Services, Inc.  
Licensed Real Estate Broker  
305-372-9200 / 352-245-7441  
Profile: <http://www.floridapropertytaxappeals.com/cps-president-broker.htm>

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

ROB TURNER, AS HILLSBOROUGH )  
COUNTY PROPERTY APPRAISER, )

Petitioner, )

and )

ROGER A. SUGGS, AS CLAY COUNTY )  
PROPERTY APPRAISER, FLORIDA )  
ASSOCIATION OF PROPERTY )  
APPRAISERS, ET AL., )

Intervenors, )

vs. )

Case No. 11-0677RU

DEPARTMENT OF REVENUE, )

Respondent, )

and )

FLORIDA UNITED TAX MANAGERS )  
ASSOCIATION (FUTMA) AND SARA E. )  
CUCCHI, )

Intervenors. )

---

ED CRAPO, AS PROPERTY APPRAISER	)	
OF ALACHUA COUNTY, FLORIDA,	)	
ERVIN A. HIGGS, AS PROPERTY	)	
APPRAISER OF MONROE COUNTY,	)	
FLORIDA, ET AL.,	)	
	)	
Petitioners,	)	
	)	
vs.	)	Case No. 11-1080RU
	)	
LISA ECHEVERRI, EXECUTIVE	)	
DIRECTOR OF THE FLORIDA	)	
DEPARTMENT OF REVENUE,	)	
	)	
Respondent,	)	
	)	
and	)	
	)	
FLORIDA UNTIED TAX MANAGERS	)	
ASSOCIATION (FUTMA) AND SARA E.	)	
CUCCHI,	)	
	)	
Intervenors.	)	
	)	

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SUMMARY FINAL ORDER

Pursuant to notice, an oral argument was held in this case on May 11, 2011, before Edward T. Bauer, an Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner Rob Turner:

William D. Shepherd, Esquire  
General Counsel, Hillsborough County  
Property Appraiser  
601 East Kennedy Boulevard, 15th Floor  
Tampa, Florida 33602

For Petitioners Crapo, Higgs, and Smith:

John C. Dent, Esquire  
Dent & McClain, Chartered  
Post Office Box 3259  
Sarasota, Florida 34230

For Respondent Department of Revenue:

Joseph C. Mellichamp, Esquire  
Carrol Y. Cherry, Esquire  
Office of the Attorney General  
Revenue Litigation Bureau  
The Capitol, Pl-01  
Tallahassee, Florida 32399

Jeffrey M. Dikman, Esquire  
Office of the Attorney General  
The Capitol, Pl-01  
Tallahassee, Florida 32399

For Intervenor Gary R. Nikolitis:

Jeffrey M. Clyman, Esquire  
Governmental Appraiser's Office, Fifth Floor  
301 North Olive Avenue  
West Palm Beach, Florida 33401

For Intervenor Roger A. Suggs:

Grady H. Williams, Esquire  
1543 Kingsley Avenue, Suite 5  
Orange Park, Florida 32073

For Intervenor Florida Association of Property Appraisers:

Thomas M. Findley, Esquire  
E. Gary Early, Esquire  
Messer, Caparello & Self, P.A.  
2618 Centennial Place  
Tallahassee, Florida 32308

For Intervenor Property Appraisers' Association of Florida:

Loren E. Levy, Esquire  
Ana C. Torres, Esquire  
The Levy Law Firm  
1828 Riggins Lane  
Tallahassee, Florida 32308

For Intervenor Florida United Tax Managers Association:

Victoria L. Weber, Esquire  
Hopping, Green & Sams, P.A.  
Post Office Box 6526  
Tallahassee, Florida 32314

Robert Scanlan, Esquire  
700 Universe Boulevard  
Juno Beach, Florida 33408

For Intervenor Sara E. Cucchi:

Benjamin K. Phipps, Esquire  
The Phipps Firm  
Post Office Box 1351  
Tallahassee, Florida 33408

For Amicus Curiae Pedro J. Garcia:

Thomas W. Logue, Esquire  
Assistant County Attorney  
111 Northwest First Street, Suite 2810  
Miami, Florida 33128

STATEMENT OF THE ISSUES

The issues in this case are: (1) whether portions of Florida Administrative Code Rules 12D-9.020 and 12D-9.025 constitute invalid exercises of delegated legislative authority; (2) whether sections of Modules Four and Six of the 2010 Value Adjustment Board Training are unpromulgated rules; and (3)

whether Property Tax Oversight Bulletin 11-01 is an unpromulgated rule.

PRELIMINARY STATEMENT

On February 9, 2011, Petitioner Rob Turner ("Turner"), as Hillsborough County Property Appraiser, filed a Petition with the Division of Administrative Hearings ("DOAH") pursuant to section 120.56, Florida Statutes. The Petition, which contains two counts, was assigned DOAH Case Number 11-0677RU and forwarded to the undersigned for further proceedings on February 10, 2011. In Count I of the Petition, Turner alleges that portions of Florida Administrative Code Rules 12D-9.020 and 12D-9.025 constitute invalid exercises of delegated legislative authority. Turner further contends, in Count II of the Petition, that portions of Modules Four and Six of the Department of Revenue's 2010 Value Adjustment Board Training material ("VAB Training") constitute agency statements defined as rules pursuant to section 120.52(16), Florida Statutes, but not adopted by rulemaking, contrary to section 120.54, Florida Statutes.

The undersigned subsequently held a telephone conference on February 14, 2011, during which the parties requested until March 1, 2011, to decide upon an appropriate date for a final hearing. On the same date, the undersigned entered an Order

setting a telephone conference for March 2, 2011, and directing the parties to file a status report by March 1, 2011.

The parties timely filed a status report on March 1, 2011, and a telephone conference was held the following day. During the conference, the parties agreed to a final hearing date of May 11, 2011, and requested leave to file memoranda of law prior to the hearing. In accordance with the parties' agreement during the telephone conference, the undersigned entered an Order Establishing Briefing Schedule on March 4, 2011, which authorized the parties to file memoranda of law on or before April 20, 2011, as well as reply memoranda no later than May 4, 2011.

On March 9, 2011, DOAH Case Number 11-1080RU, which was originally assigned to Administrative Law Judge Lawrence P. Stevenson, was transferred to the undersigned and consolidated with DOAH Case Number 11-0677RU. DOAH Case Number 11-1080RU involved a Petition filed pursuant to section 120.56, Florida Statutes, by Ed Crapo, as Alachua County Property Appraiser, Ervin A. Higgs, as Monroe County Property Appraiser, and Timothy "Pete" Smith, as Okaloosa County Property Appraiser ("Petitioners Crapo, Higgs, and Smith"), which challenges portions of Modules Four and Six of the VAB Training as unpromulgated rules.



The undersigned held a final pre-hearing telephone conference on April 12, 2011, during which the parties advised that no material facts were in dispute, the instant matter could be resolved by summary final order, and that the stipulated factual record would consist of several deposition transcripts and various documents. As such, the parties orally moved to modify the briefing schedule to the extent that motions for summary final order, and pleadings in opposition thereto, be filed on or before April 27, 2011. Finally, the parties requested, and the undersigned agreed, that the May 11, 2011, final hearing would be utilized for the presentation of oral argument.

On April 18, 2011, Petitioner Turner filed a Motion to Amend Petition, which the undersigned granted. Petitioner Turner filed an Amendment to Petition on April 21, 2011, which added a third count alleging that Property Tax Oversight Bulletin 11-01 ("PTO Bulletin 11-01") constitutes an unpromulgated rule.

Prior to the final hearing, the undersigned entered a series of orders that granted leave for various parties to intervene. Aligned with Petitioners as Intervenors are: Roger A. Suggs, as Clay County Property Appraiser ("Suggs"); Gary R. Nikolitis, as Palm Beach County Property Appraiser ("Nikolitis"); The Property Appraisers' Association of Florida

("PAAF"); and the Florida Association of Property Appraisers ("FAPA"). Intervenor aligned with Respondent Department of Revenue are: The Florida United Tax Managers Association ("FUTMA"); and Sara E. Cucchi, a taxpayer ("Cucchi"). The undersigned also entered an order authorizing Pedro J. Garcia, as Miami-Dade County Property Appraiser, to appear as Amicus Curiae on behalf of Petitioners.

On April 27, 2011, the following pleadings were timely submitted: Petitioner Turner's "Motion for Final Summary Judgment and Memorandum in Support Thereof," which the undersigned has treated as a motion for summary final order; "Trial Brief," filed by Petitioners Crapo, Higgs, and Smith; Motion for Summary Final Order, filed by Intervenor FAPA; Motion for Summary Final Order, filed by Intervenor PAAF; Memorandum of Law in Support of Petition, filed by Intervenor Nikolitis; "Amicus Curiae Pedro J. Garcia's Memorandum of Law in Support of Petitioners Turner, Et. Al. Motions for Summary Judgment"; Respondent Florida Department of Revenue's Motion for Summary Final Order and Memorandum of Law; Brief in Support of Respondent's Motion for Summary Final Order, filed by Intervenor FUTMA; and "Memorandum of Intervenor Sara Cucchi in Support of Department of Revenue's Motion for Final Summary Judgment."

A four-hour oral argument was conducted on May 11, 2011. At the outset of the argument, Respondent DOR filed a Motion for

Official Recognition, which the undersigned granted. In addition, the parties submitted a Joint Pre-Hearing Stipulation, which memorialized the parties' previous agreement that for "purposes of the final hearing on the Motion for Summary Final Order, the parties have agreed not to call any witnesses at the final hearing and have agreed to limit the witness testimony to the transcripts of the trial depositions taken of Tim Wilmath and Stephen Keller." The Joint Pre-Hearing stipulation further acknowledged that the following exhibits could be considered in ruling on the Motion for Summary Final Order: (1) Petitioner Turner's Response to Request for Production of Documents; (2) Petitioner Turner's Response to First Set of Written Interrogatories; (3) the deposition transcript of Tim Wilmath, along with the accompanying exhibits; (4) the deposition transcript of Stephen Keller and related exhibits; (5) recommended decisions of the Nassau County Value Adjustment Board related to Petitions 2010-00058, 2010-00193, and 2010-00551; (6) advisement from Stephen Keller to Catherine Teti; (7) March 7, 2011, e-mail from Stephen Keller; (8) April 11, 2011, e-mail from Lisa Vickers; and (9) Charlotte County Property Appraiser Real Property Report Card 2008.

Prior to the conclusion of the May 11, 2011, oral argument, the parties jointly suggested, and the undersigned agreed, to a deadline of May 25, 2011, for the filing of proposed final

orders, and a final order deadline of June 24, 2011. The transcript of the oral argument was filed with the Division of Administrative Hearings on May 16, 2011.

On May 25, 2011, proposed final orders were filed by Intervenor PAAF, Intervenor FAPA, Respondent Department of Revenue, and Intervenor FUTMA. The following day, Intervenor Suggs filed a pleading adopting the proposed final orders submitted by Intervenors PAAF and FAPA.

Unless otherwise indicated, all rule and statutory references are to the 2010 versions.

#### FINDINGS OF FACT

##### A. The Parties

1. Petitioner Turner is the Property Appraiser for Hillsborough County, Florida. Petitioners Crapo, Higgs, and Smith are the Property Appraisers for Alachua, Monroe, and Okaloosa Counties, respectively.

2. Respondent, the Department of Revenue ("DOR"), is an agency of the State of Florida that has general supervision over the property tax process, which consists primarily of "aiding and assisting county officers in the assessing and collection functions." § 195.002(1), Fla. Stat. DOR is also required to prescribe "reasonable rules and regulations for the assessing and collecting of taxes . . . . [to] be followed by the property

appraisers, tax collectors . . . and value adjustment boards." § 195.027(1).

3. Petitioner-Intervenor Roger A. Suggs is the Clay County Property Appraiser. Petitioner-Intervenor Gary R. Nikolitis is the Palm Beach County Property Appraiser. Petitioner-Intervenor PAAF is a statewide nonprofit professional association consisting of 35 property appraisers in various counties throughout Florida. Petitioner-Intervenor FAPA is a statewide nonprofit professional organization of Florida property appraisers.

4. Respondent-Intervenor FUTMA is a statewide nonprofit association consisting of 46 of the largest property taxpayers in Florida. Ms. Cucchi, the second Respondent-Intervenor, is a property owner and taxpayer in Hillsborough County.

B. Background of Florida's Property Tax System

5. Article VII, Section Four of the Florida Constitution mandates that all property be assessed at "just value," and further requires that the Legislature prescribe, by general law, regulations that "shall secure a just valuation of all property for ad valorem taxation."

6. Pursuant to chapters 192 through 196 of the Florida Statutes, locally elected property appraisers in each of Florida's 67 counties develop and report property assessment rolls.

7. The assessment rolls—which property appraisers prepare each year and submit to DOR by July 1—contain information such as the names and addresses of the property owners, as well as the just, assessed, and taxable values of the properties within each appraiser's respective county. DOR is responsible for reviewing and ultimately approving or disapproving the assessment rolls. § 193.1142, Fla. Stat.

8. Once DOR approves the assessment rolls, the property appraiser mails a "Notice of Proposed Property Taxes and Non-ad Valorem Assessments" (known as a "TRIM" notice) to each property owner. § 200.069, Fla. Stat. The notices advise each owner of his property's assessment for that year, the millage (tax) rate set by the taxing authorities, and the dates of the budget hearing for those authorities.

9. After receiving a TRIM notice, a property owner may request an informal conference with the property appraiser's office to discuss the assessment of his or her property. Alternatively, or in addition to the informal conference, a property owner may challenge the assessment by filing a petition with the county value adjustment board or by bringing a legal action in circuit court. § 194.011(3), Fla. Stat.; § 194.171, Fla. Stat.

C. Value Adjustment Boards

10. Pursuant to section 194.015(1), Florida Statutes, each of Florida's 67 value adjustment boards is composed of two members of the county commission, one member of the school board, and two citizen members.<sup>1</sup> Of particular import to the instant case, section 194.015(1) requires value adjustment boards to retain private counsel to provide advice regarding legal issues that may arise during value adjustment hearings.<sup>2</sup>

11. In counties with populations greater than 75,000, the value adjustment board must appoint special magistrates<sup>3</sup> to conduct hearings and issue recommended decisions. § 194.035(1), Fla. Stat. Hearings in counties with 75,000 citizens or fewer may be conducted by either magistrates or the value adjustment board itself. Id. DOR has no involvement in the appointment or removal of board attorneys, magistrates, or the members of value adjustment boards.

12. Should a property owner choose to contest an assessment through the value adjustment board process, the board's clerk schedules an administrative hearing and sends a notice of hearing to the property owner and the property appraiser. § 194.032(2), Fla. Stat. At the hearing, the determinative issue is whether the assessment of the particular property at issue exceeds just value.

13. In the event that a property owner is dissatisfied with the outcome of a value adjustment hearing, an appeal may be taken to the circuit court, where a de novo hearing will be conducted. § 194.036(2) & (3), Fla. Stat. Under certain conditions, the property appraiser may likewise appeal an adverse value adjustment board decision to the circuit court. § 194.036(1).<sup>4</sup>

D. 2008 Legislative Reforms

14. Prior to 2008, DOR was not charged with the responsibility of training value adjustment boards or their magistrates. However, pursuant to chapter 2008-197, Laws of Florida, the Legislature enacted a series of changes to the VAB process, including a new requirement that DOR "provide and conduct training for special magistrates at least once each state fiscal year." See § 194.035(3), Fla. Stat. Immediately after enactment of the law, DOR initiated rulemaking and developed 2008 interim training for value adjustment boards and special magistrates. Persons required to take the training include all special magistrates, as well as value adjustment board members or value adjustment board attorneys in counties that do not use special magistrates. § 194.035(1) & (3), Fla. Stat.

15. In addition to the new training requirement, chapter 2008-197 mandated that DOR develop a Uniform Policies and



Procedures Manual for use by value adjustment boards and magistrates.

16. The Uniform Policies and Procedures Manual ("The Manual"), which is posted on DOR's website and is separate and distinct from DOR's training materials for value adjustment boards, consists of relevant statutes, administrative rules, provisions of the Florida Constitution, as well as forms. The Manual is also accompanied by two sets of separate documents, which are likewise available on DOR's web page: (1) "Other Legal Resources Including Statutory Criteria; and (2) "Reference Materials Including Guidelines," consisting of guidelines and links to other reference materials, including DOR's value adjustment board training materials, bulletins, and advisements. The introduction to the "Reference Materials Including Guidelines" reads in relevant part as follows:

The set of documents titled "Reference Materials Including Guidelines," contains the following items:

1. Taxpayer brochure
2. General description and internet links to the Department's training for value adjustment boards and special magistrates;
3. Recommended worksheets for lawful decisions;
4. The Florida Real Property Appraisal Guidelines;

\* \* \*

7. Internet links to Florida Attorney General Opinions, Government in the Sunshine Manual, PTO Bulletins and Advertisements, and other reference materials.

These reference materials are for consideration, where appropriate, by value adjustment boards and special magistrates in conjunction with the Uniform Policies and Procedures Manual and with the Other Legal Resources Including Statutory Criteria. The items listed above do not have the force or effect of law as do provisions of the constitution, statutes, and duly adopted administrative rules.

E. Revisions to Value Adjustment Board Procedural Rules

17. Pursuant to section 194.011, Florida Statutes, the Legislature charged DOR with the responsibility to prescribe, by rule, uniform procedures—consistent with the procedures enumerated in section 194.034, Florida Statutes—for hearings before value adjustment boards, as well as procedures for the exchange of evidence between taxpayers and property appraisers prior to value adjustment hearings.

18. On February 24, 2010, following a 12-month period of public meetings, workshops, and hearings, the Governor and Cabinet approved the adoption of chapter 12D-9, Florida Administrative Code, which is titled, "Requirements for Value Adjustment Board in Administrative Reviews; Uniform Rules of Procedure for Hearings Before Value Adjustment Boards."

19. As discussed in greater detail in the Conclusions of Law of this Order, Petitioner Turner contends that portions of Florida Administrative Code Rule 12D-9.020, which delineate the procedures for the exchange of evidence between property appraisers and taxpayers, contravene section 194.011. Petitioner Turner further alleges that section 194.011 is contravened by parts of Florida Administrative Code Rule 12D-9.025, which governs the procedures for conducting a value adjustment hearing and the presentation of evidence.

F. 2010 Value Adjustment Training Materials

20. In 2010, following the adoption of Rule Chapter 12D-9, DOR substantially revised the value adjustment board training materials. After the solicitation and receipt of public comments, the 2010 VAB Training was made available in late June 2010 on DOR's website.

21. The 2010 VAB Training is posted on DOR's website in such a manner that an interested person must first navigate past a bold-font description which explains that the training is not a rule:

**This training is provided to comply with section 194.035, Florida Statutes. It is intended to highlight areas of procedure for hearings, consideration of evidence, development of conclusions and production of written decisions. This training is not a rule. It sets forth general information of which boards, board attorneys, special magistrates and petitioners / taxpayers**

**should be aware in order to comply with Florida law.**

(Emphasis in original).

22. The 2010 VAB Training consists of eleven sections, or "modules," portions of two of which Petitioners allege constitute unadopted rules: Module 4, titled "Procedures During the Hearing"; and Module 6, titled "Administrative Reviews of Real Property Just Valuations." While words and phrases such as "must," "should," and "should not" appear occasionally within the materials, such verbiage is unavoidable—and indeed necessary—in carrying out DOR's statutory charge of disseminating its understanding of the law to magistrates and value adjustment board members.

23. Although DOR is required to create and disseminate training materials pursuant to section 194.035, the evidence demonstrates that the legal concepts contained within the 2010 VAB Training are not binding. Specifically, there is no provision of law that authorizes DOR to base enforcement or other action on the 2010 VAB Training, nor is there a statutory provision that provides a penalty in situations where a value adjustment board or special magistrate deviates from a legal principle enumerated in the materials. Further, the evidence demonstrates DOR has no authority to pursue any action against a

value adjustment board or magistrate that chooses not to adhere to the legal concepts contained within the training.

G. PTO Bulletin 11-01

24. On January 21, 2011, DOR issued Property Tax Oversight Bulletin 11-01, titled "Value Adjustment Board Petitions and the Eighth Criterion," to the value adjustment board attorneys for all 67 counties. DOR also disseminated courtesy copies of the bulletin by e-mail to over 800 interested parties.

25. The bulletin, the full text of which is reproduced in the Conclusions of Law section of this Summary Final Order, consisted of a non-binding advisement regarding the use of the eighth just valuation criterion (codified in section 193.011(8), Florida Statutes<sup>5</sup>) in administrative reviews. The bulletin advised, in relevant part, that the eighth just value criterion: "must be properly considered in administrative reviews"; "is not limited to a sales comparison valuation approach"; and "must be properly considered in the income capitalization and cost less depreciation approaches" to valuation. The bulletin further advised that when "justified by sufficiently relevant and credible evidence, the Board or special magistrate should make an eighth criterion adjustment in any of the three valuation approaches."

26. Although certain interested parties (i.e., a special magistrate in Nassau County, the director of valuation for the

Hillsborough County Property Appraiser's Office, and legal counsel for the Broward County value adjustment board) perceived the bulletin to be mandatory, the evidence demonstrates that value adjustment boards and magistrates were not required to abide by the bulletin's contents. As with the training materials, DOR possesses no statutory authority to base enforcement action on the bulletin, nor could any form of penalty be lawfully imposed against a magistrate or value adjustment board that deviates from the legal advice contained within the document. Further, there is no evidence that DOR has taken (or intends to take) any agency action in an attempt to mandate compliance with the bulletin.

#### CONCLUSIONS OF LAW

##### I. Challenge to Existing Rules

###### A. Jurisdiction

27. The Division of Administrative Hearings has jurisdiction over the parties and the subject matter of this proceeding pursuant to section 120.56(1) and (3), Florida Statutes.

###### B. Standing

28. Only "substantially affected persons" may challenge the facial validity of existing rules pursuant to section 120.56(1) and (3).<sup>6</sup> In order to prove that he is "substantially affected" by the challenged portions of Florida Administrative

Code Rules 12D-9.020 and 12D-9.025, Petitioner Turner was required to specifically prove: (a) a real and sufficiently immediate injury in fact; and (b) that his alleged interest is arguably within the "zone of interest" to be protected or regulated. See Ward v. Bd. of Trs. of Int. Imp. Trust Fund, 651 So. 2d 1236, 1237 (Fla. 4th DCA 1995).

29. In paragraph seven of his Petition, Turner asserts the following factual basis for standing in this case:

The rules challenged herein directly impact Turner's defense of property tax appraisals at the VAB level in that they contradict established law and create an unfair and improper burden at VAB hearings, resulting in a financial and administrative burden on Turner's office.

These allegations, which are sufficient to establish that Petitioner Turner is "substantially affected," have been proven by the facts to which the parties have stipulated and the record evidence. Accordingly, Petitioner Turner has standing to bring the instant challenge.

C. Burden of Proof

30. Petitioner Turner must demonstrate the invalidity of the challenged rules by a preponderance of the evidence. Dep't of Health v. Merritt, 919 So. 2d 561, 564 (Fla. 1st DCA 2006); § 120.56(3)(a).

D. Petitioner's Challenge

31. The starting point for determining whether an existing rule is invalid is section 120.52(8), Florida Statutes, in which the legislature has defined the term "invalid exercise of legislative authority." In this definition, "the legislature created a catalog of the salient defects which distinguish rules that exceed an agency's delegated powers, functions, and duties." Home Delivery Incontinent Supplies Co., Inc., v. Ag. for Health Care Admin., Case No. 07-4167RX, 2008 Fla. Div. Adm. Hear. LEXIS 205 (Fla. DOAH Apr. 18, 2008). Relevant to the instant case are the following statutory provisions:

A proposed or existing rule is an invalid exercise of delegated legislative authority if any one of the following applies:

\* \* \*

(c) The rule enlarges, modifies, or contravenes the specific provision of law implemented, citation to which is required by s. 120.54(3)(a)1;

\* \* \*

(e) The rule is arbitrary or capricious. A rule is arbitrary if it is not supported by logic or the necessary facts; a rule is capricious if it is adopted without thought or reason or is irrational . . . .

§ 120.52(8), Fla. Stat.

32. In Count I of his Petition, the relevant portions of which are quoted below, Turner contends that portions of Florida



Administrative Code Rules 12D-9.020 and 12D-9.025 run afoul of section 120.52(8):

9. Florida Statute 194.011(4)(a) sets forth the procedures for the exchange of evidence between parties to a VAB petition . . . .

10. In spite of the mandatory evidence exchange contemplated in Florida Statute 194.011(4)(a), the Florida Department of Revenue promulgated Rule 12D-9.020 which makes the evidence exchange optional . . . . The language making an evidence exchange optional is repeated in Subsections (2)(a), (2)(b) and Rule 12D-9.025(2)(c) [sic<sup>7</sup>] and 12D-9.025(4)(a).

11. Rule 12D-9.020 directly conflicts with Florida Statute 194.011(4)(a) and is arbitrary and capricious.

\* \* \*

13. Although the rule states that a county property appraiser such as Turner may request in writing any evidence a petitioner is planning to submit [See 12D-9.020(8)], this provision then requires Turner to expend monies and resources mailing each petitioner correspondence requesting such evidence. This requirement to make a written request is also not contemplated by Florida Statute 194.011(4)(a).

14. Finally, Rule 12D-9.020(8) allows a petitioner to present "rebuttal evidence" at a hearing without providing it in advance to the county property appraiser. This also contradicts Florida Statute 194.011(4)(a).

E. Analysis of sections 194.011 and 194.034

33. Prior to addressing Petitioner's claims, the undersigned will begin with an analysis of the relevant portions sections 194.011 and 194.034, Florida Statutes, which provide:

**194.011 Assessment notice; objections to assessments.-**

(1) Each taxpayer whose property is subject to real or tangible personal ad valorem taxes shall be notified of the assessment of each taxable item of such property, as provided in s. 200.069.

\* \* \*

(4)(a) At least 15 days before the hearing the petitioner [i.e., taxpayer] shall provide to the property appraiser a list of evidence to be presented at the hearing, together with copies of all documentation to be considered by the value adjustment board and a summary of evidence to be presented by witnesses.

(b) No later than 7 days before the hearing, if the petitioner has provided the information required under paragraph (a), and if requested in writing by the petitioner, the property appraiser shall provide to the petitioner a list of evidence to be presented at the hearing, together with copies of all documentation to be considered by the value adjustment board and a summary of evidence to be presented by witnesses. The evidence list must contain the property record card if provided by the clerk. Failure of the property appraiser to timely comply with the requirements of this paragraph shall result in a rescheduling of the hearing.

\* \* \*

**194.034 Hearing procedures; rules.—**

(1)(a) Petitioners before the board may be represented by an attorney or agent and present testimony and other evidence. The property appraiser or his or her authorized representatives may be represented by an attorney in defending the property appraiser's assessment or opposing an exemption and may present testimony and other evidence. The property appraiser, each petitioner, and all witnesses shall be required, upon the request of either party, to testify under oath as administered by the chairperson of the board. Hearings shall be conducted in the manner prescribed by rules of the department, which rules shall include the right of cross-examination of any witness.

\* \* \*

(d) Notwithstanding the provisions of this subsection, no petitioner may present for consideration, nor may a board or special magistrate accept for consideration, testimony or other evidentiary materials that were requested of the petitioner in writing by the property appraiser of which the petitioner had knowledge and denied to the property appraiser.

(Emphasis in original).

34. The first point of contention between the parties concerns whether a taxpayer is obligated, pursuant to section 194.011(4)(a), to provide the property appraiser with "a list of evidence to be presented at the hearing . . . copies of all documentation to be considered . . . and a summary of evidence to be presented by witnesses," in situations where a property

appraiser has not submitted a written request to the taxpayer for such materials.

35. Petitioner Turner asserts that the Legislature's use of the word "shall" in section 194.011(4)(a) requires a taxpayer—regardless of whether the property appraiser has submitted a written request to the taxpayer—to disclose the evidence list, copies of documentation, and witness summary to the property appraiser.

36. In contrast, Respondent contends that in the absence of a written request from the property appraiser, a taxpayer's compliance with section 194.011(4)(a) is entirely optional. In support of this argument, Respondent notes that the statutory provision that prescribes value adjustment board hearing procedures—section 194.034—requires the exclusion of a taxpayer's evidence only where the materials were "requested of the petitioner [taxpayer] in writing by the property appraiser of which the petitioner had knowledge and denied to the property appraiser," and contains no "penalty" in situations where the taxpayer does not provide the evidence and no written request for evidence was sent by the property appraiser. In other words, Respondent argues that because section 194.034 does not explicitly mandate exclusion of a taxpayer's undisclosed evidence in cases where the property appraiser did not propound a written request for evidence upon the taxpayer, the taxpayer

has the "option" of choosing whether to comply with section 194.011(4) (a).

37. While the undersigned is mindful that an agency is afforded broad discretion and deference in the interpretation of statutes that it administers, see Florida Department of Education v. Cooper, 858 So. 2d 394, 396 (Fla. 1st DCA 2003), adherence to the agency's view "is not demanded when it is contrary to the statute's plain meaning." PAC for Equal. v. Dep't of State, Fla. Elec. Comm'n, 542 So. 2d 459, 460 (Fla. 2d DCA 1989); Kessler v. Dep't of Mgmt. Servs., 17 So. 3d 759, 762 (Fla. 1st DCA 2009); Creative Choice XXV, Ltd. v. Fla. Hous. Fin. Corp., 991 So. 2d 899, 902 (Fla. 1st DCA 2008); Sullivan v. Dep't of Env'tl. Prot., 890 So. 2d 417, 420 (Fla. 1st DCA 2004) Werner v. Dep't of Ins. & Treasurer, 689 So. 2d 1211, 1214 (Fla. 1st DCA 1997).

38. It is well-settled that the word "shall" should "ordinarily be construed as mandatory according to its plain meaning." State v. Goode, 830 So. 2d 817, 824 (Fla. 2002); S.R. v. State, 346 So. 2d 1018, 1019 (Fla. 1977) (noting that shall "is normally meant to be mandatory in nature"); Kinder v. State, 779 So. 2d 512, 514-15 (Fla. 2d DCA 2000). Although exceptions to this general rule can be found, e.g., Schneider v. Gustafson Industries, Inc., 139 So. 2d 423, 424 (Fla. 1962), such cases involved situations—unlike the instant cause—where the

statutory language "was related to some immaterial matter in which compliance was a matter of convenience, or because constitutional requirements required such an interpretation." Goode, 830 So. 2d at 824; Kinder, 779 So. 2d at 514.

39. Applying the ordinary meaning of "shall," the undersigned concludes that section 194.011(1)(a) is mandatory,<sup>8</sup> rather than directory, and obligates a taxpayer to provide the list of evidence and other enumerated materials to the property appraiser at least 15 days prior to the value adjustment board hearing.<sup>9</sup>

40. The undersigned further concludes that a taxpayer is required to disclose such evidence even in the absence of a written request from the property appraiser. Consider again the language of section 194.011:

(4) (a) At least 15 days before the hearing the [taxpayer] shall provide to the property appraiser a list of evidence to be presented at the hearing, together with copies of . . .

(b) No later than 7 days before the hearing, if the [taxpayer] has provided the information required under paragraph (a), and if requested in writing by the petitioner, the property appraiser shall provide to the [taxpayer] a list of evidence to be presented at the hearing, together with copies of all documentation to be considered by the value adjustment board and a summary of evidence to be presented by witnesses. The evidence list must contain the property record card if provided by the clerk. Failure of the property appraiser to

timely comply with the requirements of this paragraph shall result in a rescheduling of the hearing.

(Emphasis added).

41. Significantly, section 194.011(4)(a) contains no language providing that the taxpayer's obligation to disclose evidence is conditioned upon a written request from the property appraiser. On the other hand, section 194.011(4)(b) specifically contemplates that the property appraiser is only required to disclose its evidence "if requested in writing by the [taxpayer]," after the taxpayer has complied with section 194.011(4)(a). § 194.011(4)(b), Fla. Stat. (Emphasis added). To accept the Respondent's interpretation of the statute, it would be necessary, contrary to settled authority, to read the phrase "if requested in writing" into section 194.011(1)(a). See Leisure Resorts, Inc., v. Frank J. Rooney, Inc., 654 So. 2d 911, 914 (Fla. 1995) ("When the legislature has used a term, as it has here, in one section of the statute but omits it in another section of the same statute, we will not imply it where it has been excluded"); Sunshine Towing, Inc., v. Fonseca, 933 So. 2d 594, 595 (Fla. 1st DCA 2006) ("Where the legislature has used a term in one section of a statute but omitted the term in another section, the court will not read the term into the sections where it was omitted"); see also Brown & Brown, Inc., v. Edenfield, 36 So. 3d 889, 892 (Fla. 1st DCA 2010) ("Had the

Legislature intended for the provisions of section 626.9201 to not apply when the insurer intended to renew the policy, it could have easily done so as it did elsewhere in the Florida Insurance Code. . . . The absence of similar language in section 626.9201 supports our conclusion that the statute applies notwithstanding the insurer's intent to renew the policy"). As section 194.011(4) (a) does not expressly condition a taxpayer's disclosure obligation upon a request in writing, the undersigned will not read such language into the statute.

42. While it is true, as Respondent notes, that section 194.034 does not expressly authorize the ultimate penalty (i.e., exclusion of the taxpayer's evidence) in situations where the taxpayer fails to disclose evidence and no written request for such evidence was sent by the property appraiser, such a fact does not permit the undersigned to ignore the plain, mandatory language of section 194.011(4) (a). See State v. Goode, 830 So. 2d 817, 824 (Fla. 2002) (holding that use of the word "shall" in section 394.916(1), Florida Statutes, imposes a mandatory obligation upon circuit courts to hold Jimmy Ryce trials within 30 days after probable cause is determined; "The absence of explicit language detailing a 'consequence' for not holding trial, however, does not allow us to ignore the plain mandatory language the Legislature has provided") (emphasis added).



43. Even assuming, arguendo, that the presence or absence of a "penalty" is relevant in determining whether the term "shall" in section 194.011(4) (a) is mandatory or directory, section 194.011(4) actually does impose a consequence in situations where a taxpayer fails to disclose his evidence and no written request for such evidence was sent by the property appraiser: the taxpayer forfeits the right to obtain the property appraiser's evidence in advance of the hearing.

§ 194.011(4) (b), Fla. Stat. ("If the [taxpayer] has provided the information required under paragraph (a), and if requested in writing by the [taxpayer], the property appraiser shall provide to the [taxpayer] a list of evidence to be presented at the hearing, together with copies of all documentation to be considered by the value adjustment board and a summary of evidence to be presented by witnesses") (emphasis added).

44. Before proceeding further, it may be helpful to review the undersigned's conclusions regarding the interplay between sections 194.011 and 194.034: (1) a taxpayer is required to comply with section 194.011(4) (a), notwithstanding the absence of a written request for evidence sent by the property appraiser; (2) if a taxpayer fails to comply with section 194.011(4) (a) and the property appraiser submitted a written request for evidence, section 194.034(1) (d) prohibits the taxpayer from presenting evidence during the VAB proceeding that

was knowingly withheld; and (3) irrespective of a written request for evidence from the property appraiser, a taxpayer's noncompliance with section 194.011(4)(a) results in the loss of the taxpayer's right to request the property appraiser's evidence.

45. A sticky point of contention remains, however: in situations where the property appraiser does not send a written request for evidence, does a taxpayer's failure to comply with section 194.011(4)(a) authorize consequences beyond the loss of the right to request the property appraiser's evidence—namely, can the value adjustment board or magistrate exclude the taxpayer's evidence? While Petitioner asserts in the affirmative, Respondent DOR contends that the penalty of exclusion cannot be applied under such circumstances, since section 194.034(1)(d) expressly authorizes exclusion only where the evidence was requested in writing by the property appraiser.

46. If, as Petitioner suggests, a failure to comply with section 194.011(4)(a), standing alone, obligates the exclusion of a taxpayer's evidence, regardless of a written request for evidence, then section 194.034(1)(d)—which mandates exclusion of a taxpayer's evidence that was requested in writing and knowingly withheld—would be rendered meaningless. Thus, Petitioner's interpretation of sections 194.011 and 194.034 violates a basic rule of statutory construction that the

Legislature does not intend to enact useless provisions, and that readings should be avoided that render part of a statute meaningless. Forsythe v. Longboat Key Beach Erosion Control Dist., 604 So. 2d 452, 456 (Fla. 1992) ("It is a cardinal rule of statutory interpretation that courts should avoid readings that would render part of a statute meaningless"). Therefore, the undersigned agrees with Respondent that in the absence of a written request for evidence from the property appraiser, a taxpayer's noncompliance with section 194.011(4)(a) does not authorize a value adjustment board or magistrate to exclude the taxpayer's evidence.<sup>10</sup>

F. Rules 12D-9.020 and 12D-9.025

47. With the foregoing principles in mind, the undersigned will turn to Petitioner's contention that portions of Florida Administrative Code Rules 12D-9.020 and 12D-9.025 constitute an invalid exercise of delegated legislative authority. Rules 12D-9.020 and 12D-9.025 read in pertinent part as follows, with the challenged sections underlined for emphasis:

**12D-9.020 Exchange of Evidence.**

(1) The petitioner has the option of participating in an exchange of evidence with the property appraiser. If the petitioner chooses not to participate in the evidence exchange, the petitioner may still present evidence for consideration by the board or the special magistrate. However, as described in this section, if the property appraiser asks in writing for

specific evidence before the hearing in connection with a filed petition, and the petitioner has this evidence and knowingly refuses to provide it to the property appraiser a reasonable time before the hearing, the evidence cannot be presented by the petitioner or accepted for consideration by the board or special magistrate. Reasonableness shall be determined by whether the material can be reviewed, investigated, and responded to or rebutted in the time frame remaining before the hearing. These requirements are more specifically described in subsection (8) of this rule and in paragraphs 12D-9.025(4) (a) and (f), F.A.C.

(2)(a) If the petitioner chooses to participate in an exchange of evidence with the property appraiser, at least fifteen (15) days before the hearing, the petitioner shall provide the property appraiser with a list and summary of evidence to be presented at the hearing accompanied by copies of documentation to be presented at the hearing. To calculate the fifteen (15) days, the petitioner shall use calendar days and shall not include the day of the hearing in the calculation, and shall count backwards from the day of the hearing.

(b) If the petitioner chooses to participate in an exchange of evidence with the property appraiser and he or she shows good cause to the board clerk for not being able to meet the fifteen (15) day requirement and the property appraiser is unwilling to agree to a different timing of the exchange, the board clerk is authorized to reschedule the hearing to allow for the exchange of evidence to occur.

(c) No later than seven (7) days before the hearing, if the property appraiser receives the petitioner's documentation and if requested in writing by the petitioner, the property appraiser shall provide the

petitioner with a list and summary of evidence to be presented at the hearing accompanied by copies of documentation to be presented by the property appraiser at the hearing. The evidence list must contain the property record card if provided by the board clerk. To calculate the seven (7) days, the property appraiser shall use calendar days and shall not include the day of the hearing in the calculation, and shall count backwards from the day of the hearing.

(d) The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next previous day which is neither a Saturday, Sunday, or legal holiday.

(3)(a) If the petitioner does not provide the information to the property appraiser at least fifteen (15) days prior to the hearing pursuant to paragraph (2)(a), the property appraiser need not provide the information to the petitioner pursuant to paragraph (2)(c).

(b) If the property appraiser does not provide the information within the time required by paragraph (2)(c), the hearing shall be rescheduled to allow the petitioner additional time to review the property appraiser's evidence.

\* \* \*

(6) Hearing procedures: Neither the board nor the special magistrate shall take any general action regarding compliance with this section, but any action on each petition shall be considered on a case by case basis. Any action shall be based on a consideration of whether there has been a substantial noncompliance with this section, and shall be taken at a scheduled hearing and based on evidence presented at such hearing. "General action" means a prearranged

course of conduct not based on evidence received in a specific case at a scheduled hearing on a petition.

(7) A property appraiser shall not use at a hearing evidence that was not supplied to the petitioner as required. The remedy for such noncompliance shall be a rescheduling of the hearing to allow the petitioner an opportunity to review the information of the property appraiser.

(8) No petitioner may present for consideration, nor may a board or special magistrate accept for consideration, testimony or other evidentiary materials that were specifically requested of the petitioner in writing by the property appraiser in connection with a filed petition, of which the petitioner had knowledge and denied to the property appraiser. Such evidentiary materials shall be considered timely if provided to the property appraiser no later than fifteen (15) days before the hearing in accordance with the exchange of evidence rules in this section. If provided to the property appraiser less than fifteen (15) days before the hearing, such materials shall be considered timely if the board or special magistrate determines they were provided a reasonable time before the hearing, as described in paragraph 12D-9.025(4)(f), F.A.C. A petitioner's ability to introduce the evidence, requested of the petitioner in writing by the property appraiser, is lost if not provided to the property appraiser as described in this paragraph. This provision does not preclude rebuttal evidence that was not specifically requested of the petitioner by the property appraiser.

(9) As the trier of fact, the board or special magistrate may independently rule on the admissibility and use of evidence. If the board or special magistrate has any questions relating to the admissibility and

use of evidence, the board or special magistrate should consult with the board legal counsel. The basis for any ruling on admissibility of evidence must be reflected in the record.

*Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.074, 194.011, 194.015, 194.032, 194.034, 194.035, 195.022, 195.084, 200.069, 213.05 FS. History-New 3-30-10.*

\* \* \*

**12D-9.025 Procedures for Conducting a Hearing; Presentation of Evidence; Testimony of Witnesses.**

(1) As part of administrative reviews, the board or special magistrate must:

\* \* \*

(4)(a) No evidence shall be considered by the board or special magistrate except when presented and admitted during the time scheduled for the petitioner's hearing, or at a time when the petitioner has been given reasonable notice. The petitioner may still present evidence if he or she does not participate in the evidence exchange. However, if the property appraiser asks in writing for specific evidence before the hearing in connection with a filed petition, and the petitioner has this evidence and refuses to provide it to the property appraiser, the evidence cannot be presented by the petitioner or accepted for consideration by the board or special magistrate. These requirements are more specifically described in paragraph (f) below.

\* \* \*

*Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented*

193.092, 194.011, 194.032, 194.034, 195.022,  
195.084, 213.05 FS. History-New 3-30-10.

(Underline added; all other emphasis in original).

48. Petitioner Turner's first argument is that subsection (1) of rule 12D-9.020, which provides that a taxpayer has the "option of participating in an exchange of evidence with the property appraiser," and subsections (2)(a) and (2)(b), which read, "If the Petitioner chooses to participate in an exchange of evidence," are inconsistent with the mandatory obligation imposed by section 194.011(4)(a) to disclose evidence. The undersigned agrees that in contravention of the plain statutory language of section 194.011(4)(a)—i.e., a taxpayer "shall provide"—the words "option" and "chooses" impermissibly prescribe that a taxpayer's compliance with section 194.011(4)(a) is entirely voluntary.<sup>11</sup> Accordingly, to the extent that rule 12D-9.020(1), (2)(a), and (2)(b) provides that taxpayers are under no obligation to disclose their evidence to property appraisers in advance of VAB hearings, the rule constitutes an invalid exercise of delegated legislative authority pursuant to section 120.52(8)(c), Florida Statutes.<sup>12</sup> See, e.g., Johnson v. Dep't of High Saf. & Motor Veh., 709 So. 2d 623, 624 (Fla. 4th DCA 1998) ("An administrative agency is not permitted to enlarge, modify, or contravene the provisions of a



statute. Where an agency adopts a rule that conflicts with a statute, the statute prevails").

49. Next, Petitioner Turner contends:

Although [ Rule 12D-9.020(8)] states that a county property appraiser such as Turner may request any evidence a petitioner is planning to submit . . . this provision then requires Turner to expend monies and resources mailing each petitioner correspondence requesting such evidence. This requirement to make a written request is also not contemplated by Florida Statutes 194.011(4) (a).

Turner Petition at ¶ 13.

50. The undersigned is not persuaded that rule 12D-9.020(8) contravenes the enabling statutes by referencing a written request for evidence. As quoted previously, section 194.034(1) (d) provides that no taxpayer, "may present for consideration, nor may a board or special magistrate accept for consideration, testimony or other evidentiary materials that were requested of the [taxpayer] in writing by the property appraiser of which the [taxpayer] had knowledge and denied to the property appraiser." In turn, rule 12D-9.020(8) reads, in relevant part:

No [taxpayer] may present for consideration, nor may a board or special magistrate accept for consideration, testimony or other evidentiary materials that were specifically requested of the [taxpayer] in writing by the property appraiser in connection with a filed petition, of which [the taxpayer] had knowledge and denied to the property

appraiser. Such evidentiary materials shall be considered timely if provided to the property appraiser no later than fifteen (15) days before the hearing in accordance with the exchange of evidence rules in this section . . . . A [taxpayer's] ability to introduce the evidence, requested of the [taxpayer] in writing by the property appraiser, is lost if not provided to the property appraiser as described in this paragraph. This paragraph does not preclude rebuttal evidence that was not specifically requested of the [taxpayer] by the property appraiser.

51. As demonstrated by the foregoing language, rule 12D-9.020(8) is consistent with the framework established by sections 194.011 and 194.034. That is, a property appraiser may, but is not required, to request a taxpayer's evidence in writing. If a property appraiser chooses not to do so, a taxpayer's failure comply with section 194.011(4)(a) will not result in the exclusion of the taxpayer's evidence, but will forfeit the taxpayer's right to obtain the property appraiser's evidence in advance of the hearing. On the other hand, should a property appraiser elect to make a written request for a taxpayer's evidence, materials knowingly withheld by the taxpayer cannot be admitted into evidence by a VAB or magistrate.

52. Finally, Petitioner Turner contends that the last sentence of rule 12D-9.020(8), which provides that "this paragraph does not preclude rebuttal evidence that was not

specifically requested of the [taxpayer] by the property appraiser," contradicts section 194.011(4)(a) because it allows taxpayers to present rebuttal evidence at a hearing without providing it in advance to the property appraiser.

53. At first blush, it appears that rule 12D-9.020(8)—by specifically referencing rebuttal evidence in the final sentence—contemplates that rebuttal items be treated differently than non-rebuttal evidence. Upon closer inspection, however, rule 12D-9.020(8) handles the admissibility of rebuttal evidence in a manner identical to non-rebuttal evidence. That is, if a taxpayer fails to disclose rebuttal evidence that the property appraiser requested in writing, such materials cannot be admitted—the same procedure for non-rebuttal evidence. Further, as with non-rebuttal evidence, in the event the property appraiser did not submit a written request, a taxpayer's undisclosed rebuttal evidence is not inadmissible under rule 12D-9.020(8). Accordingly, Petitioner Turner has failed to demonstrate that the final sentence of rule 12D-9.020(8) contravenes section 194.011(4)(a).

54. Having determined that a portion of Florida Administrative Code Rule 12D-9.020 is invalid, the undersigned is required, pursuant to section 120.595(3), Florida Statutes, to award Petitioner Turner reasonable costs and attorney's fees, unless DOR "demonstrates that its actions were substantially

justified or special circumstances exist which would make the award unjust." If Turner timely requests such relief, the undersigned will conduct further proceedings to determine whether such an award must be made, and if so in what amount.

## II. Unpromulgated Rule Challenge - 2010 VAB Training

### A. Jurisdiction

55. The Division of Administrative Hearings has jurisdiction over the parties and the subject matter of this proceeding pursuant to section 120.56(1) and (4), Florida Statutes.

### B. Petitioners' Challenge - A Framework

56. Petitioners Turner, Crapo, Higgs, and Smith have challenged portions of the 2010 VAB Training pursuant to section 120.56(4), Florida Statutes, which provides, in relevant part:

#### (4) CHALLENGING AGENCY STATEMENTS DEFINED AS RULES; SPECIAL PROVISIONS.—

(a) Any person substantially affected by an agency statement may seek an administrative determination that the statement violates s. 120.54(1)(a). The petition shall include the text of the statement or a description of the statement and shall state with particularity facts sufficient to show that the statement constitutes a rule under s. 120.52 and that the agency has not adopted the statement by the rulemaking procedure provided by s. 120.54.

(b) The administrative law judge may extend the hearing date beyond 30 days after assignment of the case for good cause. Upon notification to the administrative law judge

provided before the final hearing that the agency has published a notice of rulemaking under s. 120.54(3), such notice shall automatically operate as a stay of proceedings pending adoption of the statement as a rule. The administrative law judge may vacate the stay for good cause shown. A stay of proceedings pending rulemaking shall remain in effect so long as the agency is proceeding expeditiously and in good faith to adopt the statement as a rule. If a hearing is held and the petitioner proves the allegations of the petition, the agency shall have the burden of proving that rulemaking is not feasible or not practicable under s. 120.54(1)(a).

(c) The administrative law judge may determine whether all or part of a statement violates s. 120.54(1)(a). The decision of the administrative law judge shall constitute a final order. The division shall transmit a copy of the final order to the Department of State and the committee. The Department of State shall publish notice of the final order in the first available issue of the Florida Administrative Weekly.

(d) If an administrative law judge enters a final order that all or part of an agency statement violates s. 120.54(1)(a), the agency must immediately discontinue all reliance upon the statement or any substantially similar statement as a basis for agency action.

(e) If proposed rules addressing the challenged statement are determined to be an invalid exercise of delegated legislative authority as defined in s. 120.52(8)(b)-(f), the agency must immediately discontinue reliance on the statement and any substantially similar statement until rules addressing the subject are properly adopted, and the administrative law judge shall enter a final order to that effect.

57. As reflected by the foregoing language, the issues to be resolved are: (1) whether Petitioners are "substantially affected" by an agency statement; (2) do the challenged provisions of the 2010 VAB Training constitute agency statements; and (3) whether the agency statements are "rules" pursuant to section 120.52(16), Florida Statutes. Should Petitioners prevail as to the first three issues, the undersigned will be required to determine if rulemaking was feasible and practicable under section 120.54(1)(a).

C. Burden of Proof

58. Petitioners have the burden of establishing by a preponderance of the evidence that the challenged agency statements constitute unpromulgated rules. § 120.56(1)(e) & (4)(b), Fla. Stat.; Southwest Fla. Water Mgmt. Dist. v. Charlotte Cnty., 774 So. 2d 903, 908 (Fla. 2d DCA 2001) (noting that the burden of persuasion is on the challenger in a section 120.56(4) proceeding).

D. Standing

59. The undersigned concludes, and Respondents have correctly stipulated, that the principal Petitioners have demonstrated that they are "substantially affected" by the challenged statements and, therefore, have standing to maintain this action. See Ward v. Bd. of Trs. of Int. Imp. Trust Fund, 651 So. 2d 1236, 1237 (Fla. 4th DCA 1995) (holding that to

demonstrate standing in a rule challenge proceeding, a petitioner must prove that: (a) the challenged agency statement causes a real and sufficiently immediate injury in fact; and (b) petitioner's alleged interest is within the "zone of interest" to be protected or regulated).

E. The Challenged Statements

60. As discussed previously, Petitioners contend that sections of the 2010 VAB Training—specifically, certain statements within Modules Four and Six—constitute agency statements that have not been properly adopted as rules. The challenged portions of the materials read as follows:

**Module 4: Procedures During the Hearing**

\* \* \*

The Florida appellate court case of Higgs v. Good, 813 So. 2d 178 (Fla. 3d DCA 2002) is not incorporated into the Department's rules for value adjustment boards.

The Higgs v. Good case involved a property appraiser's request for information from the taxpayer in April of the tax year under Section 195.027(3), F.S., for the purpose of assessment roll development. This request for information from the taxpayer was not made in connection with a filed petition.

In that case, when the taxpayer filed a lawsuit in circuit court and the circuit court decision was appealed, the appellate court held that the requested information could not be used as evidence in court because it had not been provided to the property appraiser as requested during assessment roll development.

Rule 12D-1.005, F.A.C., relates to the property appraiser's access to financial records during assessment roll development, not during value adjustment board proceedings.

Neither this case nor the statute (Section 195.027(3), F.S.) nor this rule (Rule 12D-1.005, F.A.C.) operates to exclude evidence in a value adjustment board proceeding under Rule Chapter 12D-9, F.A.C., and Chapter 194, Part 1, F.S.

The case of Higgs v. Good does not apply to proceedings of the value adjustment board.

\* \* \*

#### **Module 6: Administrative Reviews of Real Property Just Valuations**

\* \* \*

Since its enactment and amendments, this eighth just valuation criterion has functioned to create, in effect, a net just value that is less than fair market value.

\* \* \*

The property appraiser is required to consider, but is not required to use, all three approaches to value. See Mastroianni v. Barnett Banks, Inc., 664 So.2d 284 (Fla. 1st DCA 1995) review denied 673 So.2d 29 (Fla. 1996).

\* \* \*

The property appraiser's valuation methodology must comply with the criteria in Section 193.011, F.S., and professionally accepted appraisal practices. See Section 194.301, F.S., as amended by Chapter 2009-121, Laws of Florida (House Bill 521), and Section 193.011, F.S.



\* \* \*

The petitioner is not required to provide an opinion or estimate of just value.

No provision of law requires the petition to present an opinion or estimate of value.

The Board or special magistrate is not authorized to require a petitioner to provide an opinion or estimate of just value.

\* \* \*

**The Eighth Criterion in Real Property  
Administrative Reviews**

\* \* \*

**Example of When to Review a Just Value Based  
on the Eighth Criterion**

1. The Board or special magistrate determines from the accepted form DR-493 that the property appraiser has reported and the Department has accepted a certain percentage adjustment for the eighth criterion for all property within the use code group that contains the use code of the petitioned property.
2. The Board or special magistrate determines from the admitted evidence that the property appraiser has not made an eighth criterion adjustment for the petitioned property.
3. The Board or special magistrate should make, to the just value of the petitioned property, the same eighth criterion adjustment reported by the property appraiser on Form DR-493 and accepted by the Department.

(Emphasis in original).<sup>13</sup>

61. Clearly, the challenged portions of the 2010 VAB Training constitute "agency statements" as contemplated by section 120.56(4)(a). Respondents do not contest this issue.

62. However, the parties sharply dispute whether the agency statements at issue constitute "rules," as the term "rule" is defined in section 120.52(16), Florida Statutes:

"Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule. The term does not include:

(a) Internal management memoranda which do not affect either the private interests of any person or any plan or procedure important to the public and which have no application outside the agency issuing the memorandum.

(b) Legal memoranda or opinions issued to an agency by the Attorney General or agency legal opinions prior to their use in connection with an agency action.

(c) The preparation or modification of:

1. Agency budgets.

2. Statements, memoranda, or instructions to state agencies issued by the Chief Financial Officer or Comptroller as chief fiscal officer of the state and relating or pertaining to claims for payment submitted by state agencies to the Chief Financial Officer or Comptroller.

3. Contractual provisions reached as a result of collective bargaining.

4. Memoranda issued by the Executive Office of the Governor relating to information resources management.

63. As reflected by the above-quoted language, only agency statements of "general applicability" that are intended by their own effect to create or adversely affect rights, to require compliance, or to otherwise have the direct and consistent effect of law fall within the definition of section 120.52(16). Dep't of High. Saf. & Motor Veh. v. Schluter, 705 So. 2d 81, 82 (Fla. 1st DCA 1997) ("We agree with appellant that the first three of the six polices do not constitute rules. They cannot be considered statements of general applicability . . . . The Department's first three declarations cannot be said to have been intended by their own effect to create rights, or to require compliance, or otherwise to have the direct and consistent effect of law") (internal quotations omitted); see also Fla. Dep't of Fin. Servs. v. Cap. Collateral Reg'l Counsel, 969 So. 2d 527, 530 (Fla. 1st DCA 2007) ("When deciding whether a challenged action constitutes a rule, a court analyzes the action's general applicability, requirement of compliance, or direct and consistent effect of law").

64. In support of their argument that the challenged sections of the training materials constitute rules, Petitioners

contend that the effect of the training materials must be considered, and rely heavily upon Department of Revenue v. Vanjaria Enterprises, Inc., 675 So. 2d 252 (Fla. 5th DCA 1996). In Vanjaria, a corporation that leased a multiple use commercial property—which consisted of a motel, ice cream shop, convenience store, and restaurant—was audited by DOR in regard to the sales tax paid on the lease over a three year period. Id. at 253-54. Utilizing DOR's "sales and use tax training manual," agency auditors determined that the corporation had over-allocated portions of the rent payments to the motel, thereby exempting too much of the property from taxation. Id. at 254. Shortly thereafter, DOR issued a notice of intent to make sales and use tax audit changes, which assessed the corporation over \$44,000 for additional sales tax, interest, and penalties. Id. The assessment was challenged during a non-jury trial, at the conclusion of which the circuit judge entered a final judgment determining that DOR's procedure for assessing taxes on multiple use properties, as proscribed in the training manual, constituted an unpromulgated rule. Id. at 254.

65. On appeal, the Fifth District affirmed, concluding that the tax assessment procedure delimited in the training manual constituted an illicit rule. Id. at 255-256. In particular, the court held:

In determining whether the tax assessment

procedure in DOR's Training Manual is an illicit rule we must consider its effect, rather than DOR's characterization of the procedure . . . . A review of the effect of the tax assessment procedure in the instant case reveals that the procedure is a rule in that it is a "statement of general applicability that implements, interprets, or prescribes law or policy." Furthermore, the tax assessment procedure creates DOR's entitlement to taxes while adversely affecting property owners. The Training Manual was created to be used as the sole guide for auditors in their assessment of multiple-use properties. In determining exempt versus nonexempt uses of multiple-use properties, DOR's auditor's strictly comply with the procedure set forth in the Training Manual for all audits performed. Moreover, DOR's auditors are not afforded any discretion to take action outside the scope of the Training Manual . . . . Therefore, DOR's tax assessment procedure is an illicit rule, and not enforceable absent promulgation in accordance with section 120.54.

Id. at 255-56. (Internal citations omitted).

66. Subsequent to Vanjaria, the Fifth District decided Kerper v. Department of Environmental Protection, 894 So. 2d 1006 (Fla. 5th DCA 2005), which Petitioners cite in support of their argument that the training materials constitute rules because of certain language (e.g., "should" and "must") that occasionally appears therein. In Kerper, the Department of Environmental Protection filed a notice of violation against the owner of an auto salvage business, which eight counts of various environmental regulations. Id. at 1007. The matter proceeded

to a formal administrative proceeding before an administrative law judge, who ultimately issued a final order finding the business owner guilty of failing to respond to used oil discharges. Id. at 1007-08. The final order also directed—relying upon a Department of Environmental Protection document titled, "Corrective Actions for Contaminated Site Case" ("CASC")—that in the event that further remediation was needed, the owner would be liable for the completion of the required actions. Id. at 1009.

67. On appeal, the Fifth District reversed, concluding that the State presented insufficient evidence demonstrating that the business owner was responsible for the oil spill. Id. at 1008. The court further held, citing Vanjaria, that the CASC constituted an unpromulgated rule:

This Court has stated that, "[a]n agency statement that either requires compliance, creates certain rights while adversely affecting others, or otherwise has the direct and consistent effect of law is a rule." Department of Revenue of State of Fla. v. Vanjaria Enterprises, Inc., 675 So. 2d 252, 255 (Fla. 5th DCA 1996).

Under either construction, the CASC is a rule. It is a "statement of general applicability" insofar as it applies to all contamination site cases. It "prescribes policy" and "describes the procedure or practice requirements of an agency." For example, it sets the procedure for a violator to (1) initiate site sampling and analysis; (2) propose interim remedial actions; (3) file contamination assessment

and risk assessment plans; (4) submit written progress reports; and many other procedures. The CACSC "requires compliance" with these policies, using mandatory terms, such as "shall." Accordingly, the CACSC should be adopted through formal rulemaking procedures.

Id. at 1009.

68. While there is no doubt that Vanjaria and Kerper were soundly decided, both decisions are factually distinguishable. In contrast to Vanjaria, where the auditors were strictly required in every case to follow the training manual in calculating sales tax underpayments, and Kerper, where the agency utilized the CACSC in dealing with all contamination cases, the evidence in the instant case demonstrates that the statements contained within the 2010 VAB Training are not binding upon value adjustment boards or their magistrates in adjudicating legal disputes that arise during VAB proceedings. The undersigned's conclusion regarding the non-binding nature of the materials is based not upon DOR's characterization, but is instead informed by the statutory framework of Chapter 194. As discussed previously, value adjustment boards and their magistrates are required by section 194.015, Florida Statutes, to retain and seek legal advice from private counsel, not DOR. Further, any legal error committed by a value adjustment board or a magistrate is reviewed not by DOR, but rather by the circuit court in a de novo proceeding between the taxpayer and

the property appraiser. § 194.036, Fla. Stat. As DOR correctly points out, it has never attempted—for the obvious reason that it lacks enforcement authority over the VAB process—to mandate that value adjustment boards apply the legal principles enunciated in the training materials.

69. Respondents contend that several recent decisions of the First District Court of Appeal—specifically, Florida Department of Financial Services v. Capital Collateral Regional Counsel, 969 So. 2d 527 (Fla. 1st DCA 2007), and Coventry First, LLC v. State of Florida, Office of Insurance Regulation, 38 So. 3d 200 (Fla. 1st DCA 2010)—compel the conclusion that the training materials do not constitute rules. For the reasons detailed below, the undersigned agrees.

70. In Capital Collateral, the Florida Department of Financial Services received several "whistleblower" complaints regarding improper spending practices (in particular, using state funds to retain lobbyists) by the heads of Florida's two regional offices of capital collateral counsel ("CCRC"). 969 So. 2d at 528. Following an investigation, the agency issued a document titled "the Horn Report," which determined that the CCRC offices were legislative (as opposed to executive) agencies, and were therefore prohibited by section 11.062, Florida Statutes, from using state funds to lobby the Legislature. Id. at 529. The Horn Report further recommended



that Office of Financial Services legal staff initiate action against the CCRC offices to recover the funds that were inappropriately paid to lobbyists. Id. The CCRC for the Middle Region subsequently filed an unpromulgated rule challenge pursuant to section 120.56(4), which culminated with the administrative law judge concluding that the agency's report constituted a rule because the "agency statement of general applicability interprets and implements section 11.062." Id.

71. On appeal, the First District recited the well-settled principle that when "deciding whether a challenged action constitutes a rule, a court analyzes the action's general applicability, requirement of compliance, or direct and consistent effect of law." Id. at 530. Emphasizing that the statements contained within the Horn Report were not self-executing and that the agency had taken no action against the CCRC, the court held that the administrative law judge erred in concluding that the report was a rule:

The statements contained in the Horn report do not amount to a rule. The statements were never self-executing or capable of granting or taking away rights of any person by its own terms. The Horn report merely represents a recommendation by OFI staff that legal action be instituted to collect funds spent in violation of section 11.062. A recommendation which, standing alone, does not "require compliance, create certain rights while adversely affecting others, or otherwise have the direct and consistent effect of law," does not constitute a rule.

Neither the opinion of OFI that CCRC-M is an executive branch agency, nor the recommendation that action be taken . . . to recover funds used in violation of the anti-lobbying statute, affected any substantive rights of CCRC-M or Mr. Jennings. As noted, no action was taken against either CCRC-M or Mr. Jennings, based upon the Department's alleged "rule" that CCRC-M constituted an executive agency. The Department has not issued an Administrative Complaint or a Notice of Intended Agency Action seeking reimbursement for funds expended for the lobbyist.

Id. at 530-31. (Emphasis added) (internal citations omitted).

72. Subsequently, in Coventry First, LLC v. State of Florida, Office of Insurance Regulation, 38 So. 3d 200 (Fla. 1st DCA 2010), the First District addressed whether the policies, procedures, and manual used by the Office of Insurance Regulation in its examination of licensed viatical settlements provides constituted unpromulgated rules. In affirming the decision of the administrative law judge that the materials did not constitute rules, the court concluded, at the outset, that the items were internal management memoranda and therefore were not required to be promulgated by rule.<sup>14</sup> Id. at 204. Significantly, as an alternative basis for affirmance, the court further held—based upon the testimony of the agency employees—that manual and other materials were not binding, and therefore did not constitute statements of general applicability:

Contrary to Coventry's arguments, we find there is competent substantial evidence that those documents . . . are not statements of general applicability . . . .

\* \* \*

In determining whether an agency statement is an unpromulgated rule, the effect of the statement must also be taken into consideration . . . . Unlike the manual in *Vanjaria*, evidence here supports that OIR's policies, procedures, and manual are not rigid guides for examinations. Testimony in this case demonstrates that the documents at issue are applied on a case-by-case basis, and examiners have discretion to deviate from the documents. In addition, where, as here, a manual merely informs of a process or procedure without mentioning a penalty for noncompliance, it is not the equivalent of a rule.

Id. at 204-05. (Emphasis added).

73. Similar to the manual and policies in Coventry First and the Horn report in Capital Collateral, the evidence in the instant matter indicates that the statements contained within the 2010 VAB Training constitute nothing more than non-binding recommendations concerning DOR's understanding of the law. As a result, value adjustment boards and their magistrates are not required to apply—and therefore possess the discretion to deviate from—the legal principles enunciated within the materials when conducting VAB hearings. This conclusion is supported by the absence of any provision of law that authorizes DOR to base enforcement action on the VAB Training, the paucity of evidence that DOR has ever attempted any action to require

that the contents of the materials be applied during VAB proceedings, and the absence of language within the materials mentioning a penalty for noncompliance. Accordingly, the training materials do not amount to rules, as they do not constitute statements of general applicability, nor were they "intended by their own effect to create rights, or to require compliance, or otherwise to have the direct and consistent effect of law." Dep't of High. Saf. & Motor Veh. v. Schluter, 705 So. 2d 81, 82 (Fla. 1st DCA 1997).

74. For these reasons, the undersigned concludes that the challenged portions of the 2010 VAB Training do not constitute unpromulgated rules.

### III. Unpromulgated Rule Challenge - PTO Bulletin 11-01

#### A. Jurisdiction and Burden of Proof

75. As indicated in Section II of this Summary Final Order, DOAH has jurisdiction pursuant to section 120.56(1) and (4), Florida Statutes. The burden is on Petitioners to demonstrate that PTO Bulletin 11-01 constitutes an unpromulgated rule.

#### B. Standing

76. The undersigned concludes, and Respondents concede, that Petitioner Turner has demonstrated that he is "substantially affected" by Property Tax Bulletin 11-01 and, therefore, has standing to maintain this action. See Ward v.

Bd. of Trs. of Int. Imp. Trust Fund, 651 So. 2d 1236, 1237 (Fla. 4th DCA 1995) (holding that to demonstrate standing in a rule challenge proceeding, a petitioner must prove that: (a) the challenged agency statement causes a real and sufficiently immediate injury in fact; and (b) petitioner's alleged interest is within the "zone of interest" to be protected or regulated).

C. Challenge to PTO Bulletin 11-01

77. On January 21, 2011, DOR issued Property Tax Oversight Bulletin 11-01, titled "Value Adjustment Board Petitions and the Eighth Criterion," to all value adjustment board attorneys and approximately 800 interested parties. The Bulletin reads in its entirety as follows:

FLORIDA DEPARTMENT OF REVENUE PROPERTY TAX  
INFORMATIONAL BULLETIN

Value Adjustment Board Petitions and the  
Eighth Criterion

This advisement addresses issues regarding the eighth just value criterion in subsection 193.011(8), F.S., which must be properly considered in administrative reviews. The Department's value adjustment board training contains more information on the eighth criterion. This bulletin must be used in conjunction with the training and consistent with law.

Advisement

1. The Department's value adjustment board training and this bulletin supersede prior Department letters OPN 90-0039 (dated August 20, 1990) and OPN 95-0002 (dated January 9, 1995).

2. In accordance with Florida Statutes and applicable case law, applicability of the eighth criterion in subsection 193.011(8), F.S., is not limited to a sales comparison valuation approach or to property that was sold. This bulletin addresses the proper consideration of the eighth criterion in administrative reviews involving the income capitalization and cost less depreciation approaches to valuation of real property.

3. The eighth criterion must be properly considered in the income capitalization and cost less depreciation approaches. This requires proper consideration of an adjustment for both costs of sale and personal property where appropriate. See subsection 193.011(8), F.S.

4. When justified by sufficiently relevant and credible evidence, the Board or special magistrate should make an eighth criterion adjustment to a value indication developed by the income capitalization or cost less depreciation approach to arrive at just valuation. This adjustment must include any adjustment necessary to exclude the just value of personal property from just valuations of real property.

#### Analysis

In long-established and accepted practice, Florida property appraisers routinely apply across-the-board eighth criterion adjustments in just valuations of real property, without regard to the valuation approach used or whether the property was sold. See Forms DR-493 reported annually by property appraisers, and Southern Bell Telephone and Telegraph Co. v. Broward County, 665 So. 2d 272 (Fla. 4th DCA 1995) review denied 673 So. 2d 30 (Fla. 1996). Also, see Louisville and National Railroad Co. v. Department of Revenue, State of Fla., 736 F.2d 1495 (11th Cir. (Fla.) July 24,

1984). An eighth criterion adjustment made in the just valuation of a single parcel was approved in Roden v. GAC Liquidating Trust, 462 So. 2d 92 (Fla. 2d DCA 1985). When an actual sale of the property has not occurred, the appraiser must, in arriving at just valuation, place himself or herself in the position of the parties to a hypothetical sale. See Southern Bell Telephone and Telegraph Co. v. Dade County, 275 So. 2d 4 (Fla. 1973) and Turner v. Tokai Financial Services, Inc., 767 So. 2d 494 (Fla. 2d DCA 2000) review denied 780 So. 2d 916 (Fla. 2001). The just valuation standards of section 193.011, F.S., which include the eighth criterion, must be properly considered regardless of the valuation approach used and whether the property was sold.

The case of Bystrom v. Equitable Life Assurance Society, 416 So. 2d 1133 (Fla. 3d DCA 1982) reviewed a 1978 assessment based on 1977 statutes. Later, in 1979, the eighth criterion was amended to add a personal property component. See Chapter 79-334, Laws of Florida. The law on which the long-established operation of the eighth criterion is based has changed substantially since the assessment date in Bystrom.

#### Conclusion

The eighth criterion must be properly considered in each of the three approaches to valuation. When justified by sufficiently relevant and credible evidence, the Board or special magistrate should make an eighth criterion adjustment in any of the three valuation approaches.

Board attorneys should ensure that all Board members and special magistrates receive a copy of this bulletin. Questions on this bulletin can be sent by e-mail to VAB@dor.state.fl.us.

78. Petitioners advance the following points in support of their assertion that PTO Bulletin 11-01 constitutes an unpromulgated rule: (1) the bulletin represents a change in agency policy that carries with it a requirement to implement the change through rulemaking; (2) the presence of mandatory-sounding language such as "should" and "must" within the bulletin; and (3) certain interested parties perceived or understood the bulletin to be mandatory. Each argument is discussed separately below.

79. As noted above, Petitioners first contend that DOR was required to promulgate PTO Bulletin 11-01 as a rule because the bulletin—which supersedes previous DOR opinion letters regarding the applicability of the section 193.011(8), Florida Statutes, to the "income capitalization and cost less depreciation" approaches to value—constitutes a change in DOR's non-rule based legal interpretation. In support of this argument, Petitioners cite three decisions of the First District Court of Appeal, all of which involved the Agency for Health Care Administration: Courts v. Agency for Health Care Administration, 965 So. 2d 154, 159-60 (Fla. 1st DCA 2007) (reversing final order that eliminated previously awarded companion care to Medicaid recipient, where evidence demonstrated that AHCA, in the absence of rulemaking or explication in the record, modified non-rule policy by modifying



its interpretation of "companion services"; "Since it is clear that the AHCA policy change was made as to appellant without rule-making or an explication of the new policy during the hearing process, the change is contrary to law"); Exclusive Investment Management & Consultants, Inc., v. Agency for Health Care Administration, 699 So. 2d 311, 312-13 (Fla. 1st DCA 1997) (reversing final order canceling appellant's Medicaid provider number where agency, without explication, abruptly changed its interpretation of section 409.906, Florida Statutes, which thereby imposed a new requirement that mental health services providers have an annual contract with the Department of Health and Rehabilitative Services; remanding for agency to explain its incipient policy); and Cleveland Clinic Florida Hospital v. Agency for Health Care Administration, 679 So. 2d 1237, 1239-41 (Fla. 1st DCA 1996) (holding AHCA's determination that certificate of need applicant, who sought to relocate and rebuild its acute care facility, was not entitled to an expedited review, but rather a comparative review, constituted a "radical turnabout" from AHCA's prior application of Rule 59C-1.004(2)(f); AHCA's failure to implement change in policy through rulemaking required remand for an expedited, non-comparative review).

80. Contrary to Petitioners' suggestion, Courts, Exclusive Investment, and Cleveland Clinic do not hold that an agency must

engage in rulemaking on every occasion in which an agency "changes its mind." Instead, those decisions collectively stand for the proposition that an agency may not suddenly modify a particular interpretation or policy and apply it against a party unless the agency either: (a) engages in rulemaking, which would be necessary in situations where the agency is departing from a previous application of an existing rule (e.g., Cleveland Clinic), or where the new interpretation or policy would fall within the statutory definition of a rule; or (b) provides an explication of the new policy at the time the party's substantial interests are being determined (e.g., Exclusive Investment Management).

81. Petitioners have also overlooked the fact that the outcomes in Courts and Exclusive Investment were not driven by the inquiry presented here: is the agency statement at issue a "rule," as defined by section 120.52(16), Florida Statutes? Indeed, the First District in Courts held that AHCA had acted unlawfully, notwithstanding its conclusion that the agency interpretation did not constitute a rule. Courts, 965 So. 2d at 159 ("While AHCA's decision with respect to appellant's plan . . . is not 'an agency statement of general policy,' and thus not a 'rule' as defined in section [120.52(16)] . . . in interpreting the definition of 'companion services' under the waiver application . . . AHCA was applying an agency policy").

Stated differently, Courts and Executive Investment are distinguishable because those cases, in contrast to the instant matter, were unconcerned with determining if a particular agency statement fell within the definition of an unpromulgated rule. Cleveland Clinic is likewise distinguishable, as the agency in that case abruptly changed the manner in which it had consistently applied one of its existing, promulgated rules (an action that would obviously require rulemaking), whereas the present matter involves an agency's retraction of several opinion letters.

82. As Respondents correctly argue, Courts, Exclusive Investment, and Cleveland Clinic are further distinguishable because those cases, unlike the instant cause, involved agency action (i.e., substantial interest determinations) by AHCA in connection with programs that AHCA directly administered. In contrast, and as discussed previously in this Final Order, DOR does not directly administer the local property tax process that is the subject of PTO Bulletin 11-01, and this is not a situation where the agency is applying the bulletin in determining a party's substantial interests. For these reasons, the undersigned concludes that the cases cited by Petitioners are not controlling.

83. Next, Petitioners contend that PTO Bulletin 11-01 constitutes an unpromulgated rule due to the presence of words

such as "must" and "should." For the same reasons that the use of similar language within the 2010 VAB Training did not compel a finding that the materials constituted unpromulgated rules, the undersigned likewise concludes that the bulletin is not a statement of general applicability that is intended "to create rights, or to require compliance, or otherwise to have the direct and consistent effect of law." Dep't of High. Saf. & Motor Veh. v. Schluter, 705 So. 2d 81, 82 (Fla. 1st DCA 1997). In particular, the evidence demonstrates that the bulletin, identical to the 2010 VAB Training, constitutes a non-binding recommendation regarding DOR's understanding of the application of the "eighth criterion." Accordingly, value adjustment boards and magistrates, in adjudicating disputes between taxpayers and property appraisers, possess the discretion to seek advice from their independent legal counsel and deviate from the bulletin. This conclusion is supported by the absence of any provision of law that authorizes DOR to base enforcement action on the bulletin, as well as the lack of evidence that DOR has ever attempted any action to mandate that the contents of the bulletin be applied during VAB proceedings. Although the bulletin contains words such as "shall" and "must," the use of such language is integral to accomplishing DOR's statutory charge of disseminating its understanding of the law to magistrates and value adjustment board members.

84. Finally, citing Department of Revenue v. Vanjaria Enterprises, Inc., 675 So. 2d 252, 255 (Fla. 5th DCA 1996) ("In determining whether the tax assessment procedure in DOR's Training Manual is an illicit rule we must consider its effect") and State v. Harvey, 356 So. 2d 323 (Fla. 1st DCA 1977) ("Whether an agency statement is a rule turns on the effect of the statement"), Petitioners argue that the PTO Bulletin 11-01 constitutes an unpromulgated rule because certain interested persons perceived or understood the bulletin to be mandatory in nature. While the bulletin's effect must no doubt be considered, the undersigned does not read Vanjaria and Harvey so expansively that "effect" should properly encompass how the agency statement is subjectively perceived by a particular individual. Indeed, in Vanjaria and Harvey there was no occasion to examine the manner in which the unpromulgated rules were perceived, as the evidence in both cases clearly demonstrated that the agency statements—the Training Manual in Vanjaria and the "minimum training and experience requirements" in Harvey—were in fact generally applicable and binding.

85. As Respondent DOR points out in its Proposed Final Order, the First District Court of Appeal has addressed the issue of whether perception or understanding is determinative in an unpromulgated rule challenge. Specifically, in Florida Department of Financial Services v. Capital Collateral Regional

Counsel, 969 So. 2d 527 (Fla. 1st DCA 2007), the administrative law judge found the existence of an invalid, unpromulgated rule, based in part upon the testimony of agency employees regarding their understanding of the statutory provision at issue. In reversing the ALJ's final order, the court observed:

The ALJ also found other evidence of the Department's rule, including an "agency addressed memo" reminding state agencies not to use state funds for lobbying purposes, a letter from the Department . . . and testimony from members of the Department as to their longstanding understanding of section 11.062. For the same reasons the Horn Report and the legal memorandum do not demonstrate the existence of a rule, we find that the other items do not demonstrate the existence of an unpromulgated, Department rule.

(Emphasis added).<sup>15</sup>

86. For these reasons, Petitioners have failed to demonstrate that PTO Bulletin 11-01 constitutes an unpromulgated rule.

#### CONCLUSION

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED:

1. To the extent that Florida Administrative Code Rule 12D-9.020 provides that taxpayers are under no obligation to disclose their evidence to property appraisers in advance of value adjustment board hearings, the rule contravenes section 194.011(4)(a), Florida Statutes, and therefore constitutes an

invalid exercise of delegated legislative authority. All other challenges to Florida Administrative Code Rules 12D-9.020 and 12D-9.025 are rejected.

2. The 2010 Value Adjustment Board Training does not constitute an invalid, unpromulgated rule.

3. Property Tax Oversight Bulletin 11-01 does not constitute an invalid, unpromulgated rule.

4. Petitioner Turner shall have 30 days from the date of this Final Order within which to file a motion for attorney's fees and costs, to which motion (if filed) Turner shall attach appropriate affidavits (e.g. attesting to the reasonableness of the fees) and essential documentation in support of the claim, such as time sheets, bills, and receipts.

DONE AND ORDERED this 22nd day of June, 2011, in Tallahassee, Leon County, Florida.



---

EDWARD T. BAUER  
Administrative Law Judge  
Division of Administrative Hearings  
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1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(850) 488-9675 SUNCOM 278-9675  
Fax Filing (850) 921-6847  
[www.doah.state.fl.us](http://www.doah.state.fl.us)

Filed with the Clerk of the  
Division of Administrative Hearings  
this 22nd day of June, 2011.

ENDNOTES

<sup>1</sup> With respect to the composition of value adjustment boards and the selection of its members, section 194.015 provides in relevant part as follows:

There is hereby created a value adjustment board for each county, which shall consist of two members of the governing body of the county as elected from the membership of the board of said governing body, one of whom shall be elected chairperson, and one member of the school board as elected from the membership of the school board, and two citizen members, one of whom shall be appointed by the governing body of the county and must own homestead property within the county and one of whom must be appointed by the school board and must own a business occupying commercial space located within the school district. A citizen member may not be a member or an employee of any taxing authority, and may not be a person who represents property owners in any administrative or judicial review of property taxes.

<sup>2</sup> In particular, section 194.015 provides that the value adjustment board "shall appoint private counsel who has practiced law for over 5 years and who shall receive such compensation as may be established by the board. The private counsel may not represent the property appraiser, the tax collector, any taxing authority, or any property owner in any administrative or judicial review of property taxes."

<sup>3</sup> Pursuant to section 194.035(1), "special magistrates may not be elected or appointed officials or employees of the county but shall be selected from a list of those qualified individuals who are willing to serve as special magistrates. . . . The value adjustment board shall ensure that the selection of special magistrates is based solely upon the experience and



qualifications of the special magistrate and is not influenced by the property appraiser."

<sup>4</sup> Specifically, section 194.036(1) provides that the property appraiser may appeal an adverse decision to the circuit court if one or more of the criteria are met:

(a) The property appraiser determines and affirmatively asserts in any legal proceeding that there is a specific constitutional or statutory violation, or a specific violation of administrative rules, in the decision of the board, except that nothing herein shall authorize the property appraiser to institute any suit to challenge the validity of any portion of the constitution or of any duly enacted legislative act of this state;

(b) There is a variance from the property appraiser's assessed value in excess of the following: 15 percent variance from any assessment of \$50,000 or less; 10 percent variance from any assessment in excess of \$50,000 but not in excess of \$500,000; 7.5 percent variance from any assessment in excess of \$500,000 but not in excess of \$1 million; or 5 percent variance from any assessment in excess of \$1 million; or

(c) There is an assertion by the property appraiser to the Department of Revenue that there exists a consistent and continuous violation of the intent of the law or administrative rules by the value adjustment board in its decisions. The property appraiser shall notify the department of those portions of the tax roll for which the assertion is made. The department shall thereupon notify the clerk of the board who shall, within 15 days of the notification by the department, send the written decisions of the board to the department. Within 30 days of the receipt of the decisions by the department, the department shall notify the property appraiser of its decision relative

to further judicial proceedings. If the department finds upon investigation that a consistent and continuous violation of the intent of the law or administrative rules by the board has occurred, it shall so inform the property appraiser, who may thereupon bring suit in circuit court against the value adjustment board for injunctive relief to prohibit continuation of the violation of the law or administrative rules and for a mandatory injunction to restore the tax roll to its just value in such amount as determined by judicial proceeding. However, when a final judicial decision is rendered as a result of an appeal filed pursuant to this paragraph which alters or changes an assessment of a parcel of property of any taxpayer not a party to such procedure, such taxpayer shall have 60 days from the date of the final judicial decision to file an action to contest such altered or changed assessment pursuant to s. 194.171(1), and the provisions of s. 194.171(2) shall not bar such action.

<sup>5</sup> Section 193.011 enumerates eight factors that a property appraiser "shall take into consideration" in arriving at just valuation. Pursuant to section 193.011(8)—"the eighth criterion"—the property appraiser is required to take into consideration:

The net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or atypical terms of financing arrangements. When the net proceeds of the sale of any property are utilized, directly or indirectly, in the determination of just valuation of realty of the sold parcel or any other parcel under the provisions of this section, the property appraiser, for the purposes of such determination, shall exclude any portion of such net proceeds attributable to payments

for household furnishings or other items of personal property.

<sup>6</sup> Although Respondents concede that Petitioner Turner has standing to bring the instant challenge, see Joint Prehearing Stipulation, it is well-settled that "standing in the administrative context is a matter of subject matter jurisdiction and cannot be conferred by the parties." Abbott Labs. v. Mylan Pharms., Inc., 15 So. 3d 642, 651 n.2 (Fla. 1st DCA 2009).

<sup>7</sup> Petitioner's reference to rule 12D-9.025(2)(c) appears to be a typographical error, as that rule provision does not reference an optional evidence exchange.

<sup>8</sup> In its Proposed Final Order, Respondent DOR contends that in Robbins v. Department of Revenue, Case No. 03-1364RP (Fla. DOAH Mar. 1, 2004), the "Administrative Law Judge Held that the evidence exchange was optional." The undersigned disagrees with Respondent's reading of Robbins, as the issues in that case were limited to a challenge of proposed rules that would require the property appraiser to provide evidence "at least five calendar days before the hearing" to the taxpayer by regular or certified U.S. Mail. While it is true that the ALJ in Robbins observed that if "the exchange of evidence requirement is timely triggered by the taxpayer, Section 194.011(4)(b), Florida Statutes, requires the property appraiser to provide his or her evidence to the taxpayer . . . ," the undersigned does not read this language as a determination that a taxpayer's compliance with section 194.011(4)(a) is optional. Instead, the ALJ was simply observing (correctly) that the property appraiser is not required to comply with section 194.011(4)(b) unless the taxpayer first complies with section 194.011(4)(a).

<sup>9</sup> The undersigned's conclusion in this regard is supported by the legislative history of subsection (4), which was added pursuant to Chapter 2002-18, Laws of Florida. In particular, the Senate Staff Analysis and Economic Impact Statement reads:

This section also creates subsection (4) to establish a timeline for the reciprocal exchange of information between petitioners . . . . At least 10 days before the hearing, the petitioner is required to provide the property appraiser a list of evidence to be presented at the hearing, together with copies of all documentation to be considered

by the VAB and a summary of evidence to be presented by witnesses, and to mail a copy of this information to the VAB.

The property appraiser then has 5 days after the petitioner provides this information to the VAB to reciprocate by giving to the petitioner a list of evidence to be presented at the hearing . . . .

Fla. S. Committee on Cmty. Affairs, CS for SB 1360 (2002) Staff Analysis at 4 (Feb. 13, 2002) (emphasis added).

Pursuant to Chapter 2004-349, Laws of Florida, section 194.011(4)(a) was subsequently amended to require petitioners to disclose evidence at least 15 days prior to the hearing (replacing the previous requirement of 10 days). In addition, section 194.011(4)(b) was modified as follows:

(b) No later than 7 5 days before the hearing, if after the petitioner has provided ~~provides~~ the information required under paragraph (a), and if requested in writing by the petitioner, the property appraiser shall provide to the petitioner a list of evidence to be presented at the hearing, together with copies of all documentation to be considered by the value adjustment board and a summary of evidence to be presented by witnesses. The evidence list must contain the property record card if provided by the clerk. Failure of the property appraiser to timely comply with the requirements of this paragraph shall result in a rescheduling of the hearing.

(New language underlined; deleted language indicated by strikethrough).

Although Respondents argue that the modifications quoted above—deleting "after" and adding "if"—suggest that the legislature did not intend for section 194.011(4)(a) to impose a mandatory obligation upon the taxpayer, the undersigned can discern no such intent from the 2004 amendment. Instead, it appears more likely that the grammatical change of "after" to "if" was made in recognition of the fact that some taxpayers may fail to

comply with section 194.011(4)(a). Had the legislature intended to communicate a non-mandatory meaning of "shall" in the 2004 amendments, it could have easily and clearly done so by replacing "shall" with "may" in section 194.011(4)(a).

<sup>10</sup> An argument could be made that even though section 194.034(1)(d) expressly requires the exclusion of a taxpayer's evidence that was requested in writing and knowingly withheld, it does not necessarily follow—because the statute is otherwise silent regarding exclusion for nondisclosure—that a VAB or magistrate is absolutely prohibited from excluding a taxpayer's evidence for noncompliance with section 194.011 in situations where no written request for evidence was submitted. However, DOR's interpretation—that exclusion of a taxpayer's evidence for nondisclosure is only permitted under the circumstances delineated in section 194.034(1)(d)—is reasonable and should be afforded deference. Associated Mortg. Investors v. Dep't of Bus. Reg., 503 So. 2d 379, 380 (Fla. 1st DCA 1987) ("Such interpretation, made by the agency charged with enforcing a statute, should be accorded great deference unless there is clear error or conflict with the intent of the statute").

<sup>11</sup> The Oxford Dictionary defines "optional," the adjectival form of "option," as "available to be chosen but not compulsory." Oxford American Dictionary & Thesaurus 905 (2d ed. 2009). Similarly, Merriam-Webster defines "optional" as "involving an option: not compulsory." Merriam-Webster's Dictionary & Thesaurus 569 (1st ed. 2007).

<sup>12</sup> Having concluded that portions of Florida Administrative Code Rule 12D-9.020 contravene section 194.011(4)(a) by prescribing that a taxpayer is not obligated to provide evidence to the property appraiser, it is unnecessary for the undersigned to address Petitioner's alternative argument that the rule is arbitrary or capricious.

<sup>13</sup> Although Petitioners argue vigorously that the quoted portions of Modules Four and Six constitute misstatements of the law, the sole issue for the undersigned's determination in this proceeding is whether the agency statements constitute rules-by-definition and, if so, whether their existence violates section 120.54(1)(a), Florida Statutes. Fla. Ass'n of Med. Equip. Servs. v. Ag. for Health Care Admin., Case No. 02-1314RU (Fla. DOAH Oct. 25, 2002) (Order on Motions for Summary Final Order) ("In a section 120.56(4) proceeding which has not been consolidated with a proceeding pursuant to section 120.57(1)(e), the issue whether a rule-by-definition is substantively invalid

for reasons set forth in section 120.52(8)(b)-(g), Florida Statutes, should not be reached. That being so, the ultimate issues in this case are whether the alleged agency statements are rules-by-definition and, if so, whether their existence violates section 120.54(1)(a)"); Johnson v. Ag. for Health Care Admin., Case No. 98-3419RU, 1999 Fla. Div. Adm. Hear. LEXIS 5180 (Fla. DOAH May 18, 1999) ("It is apparent from a reading of subsection (4) of section 120.56, Florida Statutes, that the only issue to be decided by the administrative law judge under this subsection is 'whether all or part of [the agency] statement [in question] violates s. 120.54(1)(a),' Florida Statutes"); see also Southwest Fla. Water Mgmt. Dist. v. Charlotte Cnty., 774 So. 2d 903, 908-09 (Fla. 2d DCA 2001) ("The basis for a challenge to an agency statement under this section [section 120.54(4), Florida Statutes] is that the agency statement constitutes a rule as defined by section [120.52(16), Florida Statutes] but that it has not been adopted by the rule-making procedure mandated by section 120.54. In the present case, the challenges to the existing and proposed agency statement on the grounds that they represent an invalid delegation of legislative authority are distinct from a section 120.56(4) challenge that the agency statements are functioning as unpromulgated rules").

<sup>14</sup> This portion of the court's holding is inapplicable to the instant matter, as Respondents do not contend that the 2010 VAB Training falls under internal management memorandum exception.

<sup>15</sup> Even assuming that perception is a relevant consideration in determining the existence of an unpromulgated rule, Petitioners' evidence regarding this issue is too limited to allow the undersigned to draw any meaningful conclusions. Indeed, with respect to value adjustment board members, magistrates, and value adjustment board attorneys, the record merely demonstrates that one Nassau County magistrate and one value adjustment board attorney (Broward County) perceived the bulletin to be mandatory.

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#### NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original notice of appeal with the Clerk of the Division of Administrative Hearings and a copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The notice of appeal must be filed within 30 days of rendition of the order to be reviewed.



**From:** [Anthony Jordan](#)  
**To:** [Governor Rick Scott](#)  
**Subject:** Re: HUD Fair Housing Complaint - brother anthony jordan  
**Date:** Monday, February 15, 2016 3:18:32 PM

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yeah your folks says your loving and kind while people live homeless and penniless on the streets while you God fearing Christians live quite well.  
peace and you will have to answer to God one day.

On Mon, Feb 15, 2016 at 3:12 PM, Anthony Jordan <[anthonyjordan0@gmail.com](mailto:anthonyjordan0@gmail.com)> wrote:  
governor your folks tell a different story then what we remember.  
peace

----- Forwarded message -----

**From:** **Complaints Office 04** <[ComplaintsOffice04@hud.gov](mailto:ComplaintsOffice04@hud.gov)>  
**Date:** Fri, Feb 12, 2016 at 9:16 AM  
**Subject:** RE: HUD Fair Housing Complaint - brother anthony jordan  
**To:** "Anthony Jordan ([anthonyjordan0@gmail.com](mailto:anthonyjordan0@gmail.com))" <[anthonyjordan0@gmail.com](mailto:anthonyjordan0@gmail.com)>

Dear Sir:

In your correspondence below, you asserted that you were discriminated against based on race by the City of Sanibel. You stated that the alleged violation occurred on 11/01/2012.

Please be advised that the statute of limitations to file a housing discrimination complaint with HUD is one year from the most recent discriminatory act. Since your issue arose in 2012, the matter is time-barred.

Our research regarding CHR indicates that it is a private, non-profit organization. We recommend you direct your questions to the Housing Administrator, **Nicolle Mastroianni**, at telephone number [\(239\) 472-1189](tel:2394721189) or 2401 Library Way, Sanibel, FL 33957.

**While we understand your frustration, we do not have jurisdiction over the issues you described and can take no action regarding your correspondence.**

**From:** [donotreply@hud.gov](mailto:donotreply@hud.gov) [<mailto:donotreply@hud.gov>]  
**Sent:** Thursday, February 11, 2016 2:55 PM

**To:** Complaints Office 04

**Subject:** HUD Fair Housing Complaint - brother anthony jordan

<p><b>Personal Information:</b></p> <p><b>First Name:</b> brother anthony <b>Last Name:</b> jordan <b>E-Mail:</b> <a href="mailto:anthonyjordan0@gmail.com">anthonyjordan0@gmail.com</a> <b>Address:</b> 126 amsterdam <b>City:</b> n ft myers <b>State:</b> FL <b>Zip:</b> 33903 <b>Day Time Phone:</b> <u>239-322-2715</u> <b>Evening Phone:</b> <b>Best Time To Call:</b> Day</p>	<p><b>Who do you believe discriminated against you?:</b></p> <p><b>First Name:</b> dorothy <b>Last Name:</b> newman <b>Organization:</b> city of sanibel below housing program chr <b>Address:</b> 800 dunlop road sanibel, fl 33957</p> <p><b>Where did the alleged act of discrimination occur?:</b></p> <p><b>Address:</b> 800 dunlop road <b>City:</b> sanibel <b>State:</b> FL <b>Zip:</b> 33957</p>
<p><b>First Contact Information:</b></p> <p><b>1. First Name:</b> izabella <b>Last Name:</b> jordan <b>Organization:</b> <b>Day Time Phone:</b> <u>239-656-0135</u> <b>Evening Phone:</b> <b>Best Time To Call:</b> Day</p>	<p><b>Second Contact Information:</b></p> <p><b>2. First Name:</b> <b>Last Name:</b> <b>Organization:</b> <b>Day Time Phone:</b> <b>Evening Phone:</b> <b>Best Time To Call:</b> Day</p>

**What happened?:**

well I initially filed for housing with the city of Sanibel very selective low income housing rental program under director Dorothy newman and would like for you to investigate why they never contacted me regarding this application but selected others(the program was to allow affordable housing in the affluent Christian community of Sanibel for longtime negro resident who had lived in the exclusive christian resort area from what we were told by the ruling white elite) at the same time I ask if hud monies come be used in the community to develop much needed low income housing with the cooperation of the city but was told by the ruling whites that this wasn't possible that the city was in a flood zone,however recently they did accept my application but not when I was initially applying when I needed housing this application was accepted based of others pulling strings and putting in their own information which I think is not what the program should be designed for and I think hud monies are being used for their purpose. in addition to this my brother another poor black applied to the below market program and was denied because the police of Sanibel didn't think he met the communities standards when many of them had arrest records. in

my case their denial lead to homelessness because I won't live with people partying and using drugs in the profess christian community.

**Why do you believe you are being discriminated against?:**

I think I was discriminated on race and was told that I was over educated for the area. I also was being harassed by the police in the area. I think the same thing for harry jordan because he was a poor black. they appear to be placing favoring people they want regardless of moral standings and need.

**When did the last act of discrimination occur?:**

11/01/2012

**Is the alleged discrimination continuous or on going?:**

Yes

**From:** hong.wang  
**To:** Governor Rick Scott  
**Subject:** Reported to INS, State Department and FBI for Trump Rich Chinese EB5 urgent Approved due to hurricane and Ivanka Trump Best Friend Wendi Deng  
**Date:** Thursday, September 1, 2016 5:55:29 AM

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Dear Congress

I am writing to you to let you know that, Trump and his daughter best friend Wendi Deng has been reported to INS, FBI and State Department. PLease see the following email.

----- Forwarded message -----

**From:** Hong Wang  
**Date:** Sun, Aug 28, 2016 at 6:33 PM  
**Subject:** Please help investigate EB5 for Trump NJ tower with Hurricane Sandy ? !Re: Report wendi Deng cheating on INS for greencard Fwd: The story behind Trump Tower, Obama, Rudy Giuliani, Debbie Wasserman and National Security Ivanka best friend Wendi Deng Chinese Spy To: LockboxSupport@uscis.dhs.gov, csc-ncsc-followup@dhs.gov, vsc.ncscfollowup@dhs.gov, NSCFollowup.NCSC@uscis.dhs.gov, psc.ncscfollowup@uscis.dhs.gov, tsc.ncscfollowup@dhs.gov, SCOPSSCATA@dhs.gov, CISHistory.Library@dhs.gov, uscis.espanol-webmaster@uscis.dhs.gov, KCCDV@state.gov, 212ewaiver@state.gov, businessvisa@state.gov  
**Cc:** "Donald J. Trump" , info@speakeerryan.com, evening@cbsnews.com, facethenation@cbsnews.com, 60m@cbsnews.com, info@cnbc.com, situationroom@cnn.com, comments@foxnews.com, special@foxnews.com, oreilly@foxnews.com, hannity@foxnews.com, hardball@msnbc.com, dateline@nbcuni.com, nightly@nbc.com, today@nbc.com, newsdesk@newshour.org, frontline@pbs.org, rush@eibnet.com, lynda@hannity.com, letters@nytimes.com, news-tips@nytimes.com, nytnews@nytimes.com, public@nytimes.com, accuracy@usatoday.com, wsj.ltrs@wsj.com, newseditors@wsj.com, letters@washpost.com, readers@washpost.com, letters@theatlantic.com, themail@newyorker.com, letters@time.com, info@ap.org, fair@fair.org, Megan.Garvey@latimes.com, Christina.Bellantoni@latimes.com, Kim.Murphy@latimes.com, Jacqueline Cartagena , msames@politico.com, newsrelease@politico.com, awilliams@politico.com, info@politicopro.com, booking@politico.com, speaking@politico.com, mswiatkowski@politico.com, jyuan@politico.com, david.crundwell@thomsonreuters.com, brian.mairs@thomsonreuters.com, jaimie.brown@thomsonreuters.com, mark.roy@thomsonreuters.com, nyc.equities.newsroom@news.reuters.com, cindy.d@epochtimes.com, joshua.philipp@epochtimes.com, john@johnmccain.com, info@nrccvictory.com, info@johnkasich.com, "Donald J. Trump for President, Inc.", robportman@robportman.com, info@marcorubio.com, info@kirkforsenate.com

Dear INS and State Department

Based on below Trump NJ tower Chinese ads( picture attached as well) <http://www.qiaowai.net/zhuanti/xzx/>, it clearly stated that Trump NJ tower EB5 is the only EB5 urgently approved due to Hurricane Sandy . Why his tower EB5 is the only one urgently approved due to Hurricane Sandy ? It take years to build that tower when Hurricane Sandy already gone !

**is it because it got help from Obama, Debbie Wasserman Support, does Trump could get his EB5 urgently approved due to Hurricane Sandy ?**

Need INS to check this issue, especially as I just reported that Ivaka Trump's best friend Wendi Deng cheated INS for greencard and she is a Chinese Spy based on reports. So it is national security why Trump NJ tower Rich Chinese got EB5 urgent approved by Hurricane Sandy !

Please also forward to FBI for investigation too since this is related to national security. Trump is presidential candidate and he obviously did not mention his NJ tower EB5 urgent approved due to Hurricane Sandy with support of Obama in any of his public speech. <http://money.cnn.com/2016/03/08/news/companies/donald-trump-wealthy-chinese-visas/> why he hide this information ?!

thanks

hong

**Following message reports to INS, State Department and FBI for wendi Deng, Ivaka best friend as Chinese Spy and Ivaka still vacation with her after she knew !**

On Sun, Aug 28, 2016 at 3:47 PM, Hong Wang wrote:

Dear INS

Good afternoon, The following email has sent to Trump for two months ago , I still saw his daughter Ivaka vacation with Wendi Deng, the Chinese Spy who cheated INS to got her green card years ago  
<http://www.vanityfair.com/news/2016/08/ivanka-trump-wendi-deng-vacation>

So I decide to report to INS directly here.

Please help investigate, Ivanka Trump's best friend, Wendi Deng, ex-wife of Rupert Murdoch , is a Chinese Top level spy (The general political department), with close relationship of Zeng qinghong. She violated USA INS law on Green Card that she only stayed with her 1st husband for 5 month, even though she divorced at 2 years and 7 month. She stayed at mean time with David Warlf, who paid her Yale tuition. Where the money came from since David Warlf is not wealthy at all and only work for a Chinese company? You should investigate on her first ! using google 邓文迪, 间谍 and you will see a lot of reports, using google translator to know more on her, here is one English report: Rupert Murdoch Divorces Wendi Deng after Chinese Communist Party Spy Revelation <http://www.visiontimes.com/2013/12/09/ruPERT-murdoch-divorces-wendi-deng-after-chinese-communist-party-spy-revelation.html>, Here are one of Chinese report <http://www.aboluowang.com/2013/0619/313801.html>

Chinese communist party is always try to interfere freedom in USA, Please see this report as well:

Beijing-by-the-Bay: Rose Pak and China's Hidden Influence in San Francisco  
<http://www.theepochtimes.com/n3/2093931-beijing-by-the-bay-rose-pak-and-chinas-hidden-influence-in-san-francisco/>

Also Gen. Michael Hayden, the formal CIA director contacted Epoch times at 7:00 am and here is the article Ex-spy Chief: White House Ignores Elephant in the Room Gen. Michael Hayden says focus on Middle East causes US to overlook China threat <http://www.theepochtimes.com/n3/2055006-ex-spy-chief-white-house-ignores-elephant-in-the-room/>

This video shows how Chinese Communist Party interfere with HongKong freedom of election. Rare Footage of Former China Leader Jiang Zemin Freak Out (With English Subs!) <https://www.youtube.com/watch?v=5G1j2BVJS2A>

Thanks

hong

Original Message sent to Govment officials before

Good morning, I am writing to you to about the story behind Trump Tower, report the dishonestly of Trump over national security vs his own family profits, Obama, Rudy Giuliani, Debbie Wasserman relationship with Trump tower Chinese ads CEO , etc.

This information was sent several times to Kelli ward through her twitter in the following link: <https://www.facebook.com/HongWang-1744893469065358>. After she saw the national security issue with Trump, she continues attack Senator McCain using Trump, I do not believe she is truthful and could secure US boarder. That is another reason why I decide to send you this email .

On Mon, Jun 20, 2016 at 5:55 AM , I wrote an email to Trump titled "Please help investigate : Your daughter Ivanka Trump's best friend, Wendi Deng, ex-wife of Rupert Murdoch , is a Chinese Top level spy (The general political department), " to ask him to investigate Wendi Deng, based on report she was a top Chinese

Spy.

He did not reply, instead, one big thing happened on 6/20 morning, his campaign manger got fired 8:30 am, media reported that Ivanka Trump played role in campaign manager's firing. Lewandowski had sought to plant negative stories about her husband, Jared Kushner.

On Jun 23, I wrote him another email titled "Re: Lying Crooked Hillary ", describe possible lie of Hillary Clinton on Wang Iijun visited Cheng Du USA consulate issue related to Genocide and Forced Organ harvesting in China. This time trump politely responded ( email will forward to you separately, it was sent using my another email account).

I was wondering why Lewandowski had sought to plant negative stories about her husband, Jared Kushner. Why Trump did not response on investigate Wendi Deng, a top level Chinese Spy. This is a serious issue.

So I went on to do more research, and here is what I found out this report :

Trump Tower Funded by Rich Chinese Who Invest Cash for Visas

<http://www.bloomberg.com/politics/articles/2016-03-07/trump-tower-financed-by-rich-chinese-who-invest-cash-for-visas>

Trump Bay Street is a 50-story luxury rental apartment building being built by Kushner Companies, whose chief executive officer, Jared Kushner, is married to Trump's daughter Ivanka. The firm that was hired to seek investors, US Immigration Fund, is run by Florida developer Nicholas Mastroianni, who announced a partnership last year with a Trump golf course in Jupiter, Florida.

The visa program is known as EB-5. In exchange for investing at least \$500,000 in a project promising to create jobs, foreigners receive a two-year visa with a good chance of obtaining permanent residency for them and their families.

I went on to do more research, and find out that US Immigration Fund ( Chinese name 美国移民基金 ) has a Chinese partner in China called qiaowai (侨外)to do advertising for Trump's program and other programs in China. qiaowai (侨外) is almost rank No 1 in EB-5 projects in China. **In the QiaoWai website, it stated Kushner 88 Trump Bay Street project, started 2013, is the only one that I-526 ( for EB-5 visa) got urgent approved due to Hurricane Sandy in 2012. And it also stated that it has good relationship with Democracy party supporting from Obama, Debbie Wasserman -Schultz and Ron Klein . This is Kushner 88 Trump Bay Street project QiaoWai website link <http://www.qiaowai.net/zhuanti/xzx/> . You could also see QiaoWai CEO dingyingvivan picture with president Obama .Chinese reports said it is Rudy Giuliani made QiaoWai succeed in USA <http://www.qiaowai.net/mtbd/16820.html>**

CNN also has another report : Trump tower's Chinese investors buy a path to U.S. citizenship  
<http://money.cnn.com/2016/03/08/news/companies/donald-trump-wealthy-chinese-visas/>

Trump's spokespeople did not respond to a request for comment about his views on the EB-5 visa program or its use in this project. However, a Trump spokesperson did tell Bloomberg that "This was a highly successful license deal but [Trump] is not a partner in the financing of the development." Kushner Companies defended the use of the visas to raise cash. "The money was raised lawfully ... consistent with all the requirements of EB-5," said its statement to CNN. "This program enabled a development that created hundreds of new jobs in an area with employment needs."

**Without Obama, Debbie Wasserman Support, does Trump could get his EB5 urgently approved due to Hurricane Sandy ? He obviously did not mention his Chinese partner QiaoWai at all !**

Throughout his presidential campaign, Donald Trump has attacked China and warned about the dangers of deficient immigrant screening. However, Trump Never mentioned EB-5 in any of his proposal, which is very controversial especially in terms of security, and will be end in September 30 this year. EB5 I-526 could be approved within several days up to 6 months, there is no way to do background checks in such small time frame, which is why EB-5 is controversial and is a national security issue. I was so surprised to find out that Trump did not push investigation on Wendi Deng, who is best friend of his daughter Ivanka Trump for such a

big national security issue. I am very worried about those immigrants in Trump Tower. I strongly request background check for all of them.

Thus I am really question on Trump's eligibility as presidential candidate. He put his family profit and interest in front of national security. I am afraid he would even sell USA freedom for his own profit.

In addition, as in "Trump Tower Funded by Rich Chinese Who Invest Cash for Visas report", Kushner Companies is a New Jersey-based real estate firm built by Kushner's father Charles, a former rainmaker in New Jersey Democratic politics who pleaded guilty to a federal campaign finance violation, filing false tax returns as well as attempts to silence a witness. Charles was sentenced in 2005 to a prison term of two years. He remains active in the company. Jersey City is the first and, so far, only Trump project for the company .

Thank you so much for your attention to this matter.

Sincerely

Hong

P.S.

QiaoWai CEO with Obama

<https://www.dropbox.com/s/86zrzz2wx0h35/qiaowaiCEO.jpg?dl=0>

QiaoWai CEO with Rudy Giuliani

[https://www.dropbox.com/s/sveilxfzwxxpdti/QiaoWaiCEOdingying\\_rudygiuliani.jpg?dl=0](https://www.dropbox.com/s/sveilxfzwxxpdti/QiaoWaiCEOdingying_rudygiuliani.jpg?dl=0)

(Below are copies from Trump Building Ads in QiaoWai <http://www.qiaowai.net/zhuanti/xzx/> )

QiaoWai ads for Trump Tower shows support from Obama, Debbie Wasserman -Schultz and Ron Klein .

[https://www.dropbox.com/s/64fqtso mlqkm3ix/QiaoWai\\_TrumpAdsPag1.png?dl=0](https://www.dropbox.com/s/64fqtso mlqkm3ix/QiaoWai_TrumpAdsPag1.png?dl=0)

QiaoWai ads for Trump Tower shows I-526 ( for EB-5 visa) got urgent approved due to Hurricane Sandy in 2012

[https://www.dropbox.com/s/lwq9hgw9nesinw3/QiaoWaiTrumpbuildingAds\\_I526\\_Sandy\\_urgentApproval.png?dl=0](https://www.dropbox.com/s/lwq9hgw9nesinw3/QiaoWaiTrumpbuildingAds_I526_Sandy_urgentApproval.png?dl=0)

Trump NJ Tower Chinese Ads



QiaoWai CEO with Obama and Rudy Giuliani



QiaoWai ads for Trump Tower shows support from Obama, Debbie Wasserman -Schultz and Ron Klein .



QiaoWai ads for Trump Tower shows I-526 ( for EB-5 visa) got urgent approved due to Hurricane Sandy in 2012



P. S. This email was sent to Trump on the date when his campaign manager Lewandowski got fired.

----- Forwarded message -----

From: Hong Wang

Date: Mon, Jun 20, 2016 at 5:55 AM

Subject: Please help investigate : Your daughter Ivanka Trump's best friend, Wendi Deng, ex-wife of Rupert Murdoch , is a Chinese Top level spy (The general political department)

To: "Donald J. Trump"

Dear Trump

My comments was blocked by facebook, so I wrote to you.

Please help investigate, your daughter Ivanka Trump's best friend, Wendi Deng, ex-wife of Rupert Murdoch , is a Chinese Top level spy (The general political department),with close relationship of Zeng qinghong. She violated USA INS law on Green Card that she only stayed with her 1st husband for 5 month, even though she divorced at 2 years and 7 month. She stayed at mean time with David Warlf, who paid her Yale tuition. Where the money came from since David Warlf is not wealthy at all and only work for a Chinese company? You should investigate on her first ! using google 邓文迪, 间谍 and you will see a lot of reports, using google translator to know more on her.

Here is one English report: Rupert Murdoch Divorces Wendi Deng after Chinese Communist Party Spy Revelation

<http://www.visiontimes.com/2013/12/09/rupert-murdoch-divorces-wendi-deng-after-chinese-communist-party-spy-revelation.html>

Here are one of Chinese report: <http://www.aboluowang.com/2013/0619/313801.html>

Chinese communist party is always try to interfere freedom in USA, Please see this report as well:

Beijing-by-the-Bay: Rose Pak and China's Hidden Influence in San Francisco

<http://www.theepochtimes.com/n3/2093931-beijing-by-the-bay-rose-pak-and-chinas-hidden-influence-in-san-francisco/>

Also Gen. Michael Hayden, the formal CIA director contacted Epoch times at 7:00 am and here is the article

Ex-spy Chief: White House Ignores Elephant in the Room Gen. Michael Hayden says focus on Middle East causes US to overlook China threat

<http://www.theepochtimes.com/n3/2055006-ex-spy-chief-white-house-ignores-elephant-in-the-room/>

This video shows how Chinese Communist Party interfere with HongKong freedom of election.

Rare Footage of Former China Leader Jiang Zemin Freak Out (With English Subs!)

<https://www.youtube.com/watch?v=5Gij2BVJS2A>

Thanks

hong

This email was sent to [rick.scott@eog.myflorida.com](mailto:rick.scott@eog.myflorida.com). If you are no longer interested you can [unsubscribe instantly](#).



**From:** [Harayda Al](#)  
**To:** [Governor Rick Scott](#)  
**Subject:** Sarasota School Related Employee of the Year Finalist names and addresses  
**Date:** Wednesday, June 6, 2018 10:52:24 AM  
**Attachments:** [Names with addresses for Gov. Scott.xlsx](#)

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Governor Scott and team,

Please find attached the names and mailing addresses for all of the finalist for School Related Employee of the Year from Sarasota County Schools in response to your request. We are very excited to have one of the 5 finalists for the state in our ranks. On behalf of the school district, our superintendent, and the SREOY committee I would like to thank you for reaching out to our employees with your letter of thanks, I hope that you can send me a copy of all the letters so that I may ensure they are placed in their personnel file.

Sincerely,

Al

**Al Harayda**  
**Employee Relations and Equity Administrator**  
**Human Resources**  
**Sarasota County Schools**  
**941-927-9000 x 31217**

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Please be aware that all e-mail to and from Sarasota County Schools is subject to the public records laws of Florida.

Nancy Mavrikas	Alta Vista Elementary School
Heather McBride	Ashton Elementary School
Shannon Goings	Atwater Elementary School
Annette Humphrey	Bay Haven School of Basics Plus
Rose Mary Ladd	Booker High School
Debra Alvis-Greenwald	Booker Middle School
Dori Trieb	Brentwood Elementary School
Anthony Abreu	Brookside Middle School
Stephen Pannone	Communications & Community Relations
Jennifer Lafo	Cranberry Elementary School
Susan Brown	Emma E. Booker Elementary School
Randy Roy	Englewood Elementary School
Curtis Weaver	Facilities Services
Dorie Cleere	Financial Services
April MacKenzie	Food and Nutrition Services
Rebecca Bee	Fruitville Elementary School
Kelly Cockrill	Garden Elementary School
Debbie L. Pinter	Glenallen Elementary School
Joyce Govaars	Gocio Elementary School
Sarah Woods	Gulf Gate Elementary School
Mary Ann Johnston	Heron Creek Middle School
Jarett Curtis	Human Resources
Michael Wheeler	Information Technology
Denise Valentine	Lakeview Elementary School
Nicole Bounds	Lamarque Elementary School
Bibiana Luna	Laurel Nokomis School
Joyce E. Haney	Materials Management
Stacey Preece	McIntosh Middle School
Michael Zayas	North Port High School
Lucy Gonzalez Anzures	Oak Park School
Christine Sutherly	Phillippi Shores Elementary School
Carole McLaughlin	Pine View School
Christine Pinchin	Pupil Support Services
Crystal M. Redding	Riverview High School
Simonetta Pascarella	Safety & Security
Maggie Seres	Sarasota High School
Michelle Fisher	Sarasota Middle School
Saturnedjson Olaince	Southside Elementary School
Lisa Carcifero	Suncoast Polytech High School
Mary Hutchinson	Suncoast Technical College

Heidi Mastroianni	Tatum Ridge Elementary School
Marion LaCross	Taylor Ranch Elementary School
Keith VanGorder	Toledo Blade Elementary School
Joanna Hutchinson	Transportation
Hector Rodriguez	Tuttle Elementary School
Yadira Barbieri	Venice Elementary School
James Skopec	Venice High School
Connie Flickinger	Venice Middle School
Vicki Richardson	Wilkinson Elementary School
Ian Hays	Woodland Middle School

4428 Burbank Ave, Sarasota, FL 34231  
654 Bird Bay Dr. East, Venice, FL 34285  
5093 Cromey Rd. North Port, FL 34288

PO Box 3834, Sarasota, FL 34230  
8178 Misty Oaks Blvd. Sarasota, FL 34243

7120 Montauk Pt. Crossing, Bradenton, FL 34212  
5278 Willow Links, Sarasota, FL 34235  
5426 Creeping Hammock Dr. Sarasota, FL 34231

4526 Kenvil Dr. North Port, FL 34288  
2794 Pascal Ave, North Port, FL 34286

3027 Siesta Dr. Venice, FL 34293  
347 Gaynor Lane, Port Charlotte, FL 33953  
4220 Normandy Lane, Sarasota, FL 34232  
2412 Jasmine Way, North Port, FL 34287  
281 Hidden Bay Dr, #201, Osprey, FL 34229  
4856 Hanging Moss Lane, Sarasota, FL 34238  
1397 Ringtail Rd. Venice, FL 34293  
2898 Yuma Ave, North Port, FL 34286  
902 Drakeswood Ct. Sarasota, FL 34232  
103 S Portia St. Nokomis, FL 34275  
13349 Java Avenue, Port Charlotte, FL 33953  
5553 Cartagena Dr. Sarasota, FL 34233  
654 Bird Bay Dr. E. #203, Venice, FL 34285  
4733 E. Trails Dr., Sarasota, FL 34232  
1782 Rice Terrace, North Port, FL 34286  
3608 Dunbar Dr., Sarasota, FL 34232  
10807 NW Lilyu Cnty Line Rd, Ona, FL 33865  
451-A Faith Ave. Osprey, FL 34229  
301 E Tarpon Blvd Nw, Port Charlotte, FL 33952

648 Cohen Way, Sarasota, FL 34236  
1394 Cattleman Road, Sarasota, FL 34232  
1050 Capri Isles Blvd, #C104, Venice, FL 34292  
3672 Stokes Dr, Sarasota, FL 34232  
2136 Olentary St. Sarasota, FL 34231

4040 Crocker's Lake Blvd. Unit 1727, Sarasota, FL 342378  
5412 Evora Ave, Sarasota, FL 34235  
7421 S. Serenoa Dr., Sarasota, FL 34241

3211 Bunche Street, Sarasota, FL 34234  
3908 Allan Place, Sarasota, FL 34241  
2705 Silver King Way, Sarasota, FL 34231

3505 65th St. W, Bradenton, FL 34209  
403 Azure Rd., Venice, FL 34293  
2619 Orchard Circle, North Port, FL 34288  
1043 Russell Ave, Sarasota, FL 34232  
4057 Crickers Lake Blvd, Apt 2511, Sarasota, FL 34238  
33 Tulane Rd, Venice, FL 34293  
1109 Deardon Dr., Venice, FL, 34292  
367 Lake Rd., Venice, FL 34293  
809 Loreto Ct. Nokomis, FL 34275  
4635 Alameos Terrace, North Port, FL 34288

**From:**  
**Subject:**  
**Date:**

**willy.Guardiola**  
**THE CORRUPT AGENDA BEHIND THE FORMER ALTAR BOY AND BOGUS CATHOLIC, CONGRESSMAN PATRICK MURPHY**  
**Saturday, April 9, 2016 10:55:20 AM**

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**THE CORRUPT AGENDA BEHIND THE FORMER ALTAR  
BOY AND  
BOGUS CATHOLIC, CONGRESSMAN PATRICK  
MURPHY**

**FOR THOSE WHO DO NOT PAY ATTENTION TO WHAT THIS  
LIBERAL**

**POLITICIAN IS DOING, PLEASE START PAYING ATTENTION.  
OVER THE**

**PAST SEVERAL YEARS, THIS "SPOILED, RICH BRAT" HAS  
PULLED THE**

**WOOL OVER THE EYES OF WAY TOO MANY PEOPLE. AND  
WHEN HE**

**CHEATED TO BEAT THE HONORABLE COLONEL ALLEN  
WEST A FEW**

**YEARS AGO FOR THIS U.S. REPRESENTATIVE SEAT FOR  
FLORIDA'S**

**18TH CONGRESSIONAL DISTRICT, IT LEFT A BAD TASTE IN  
MANY TEA**

**PARTY, CONSERVATIVE & REPUBLICANS' MOUTHS. IT'S  
TIME WE**

**PUT A STOP TO THIS DECEIVING & EVER-CORRUPT  
POLITICIAN...**

**STAY TUNED FOR PROTEST AT MURPHY'S OFFICE  
COMING SOON...**

**WE ABIDE BY GOD'S LAW - NOT MURPHY'S LAW!!  
HIS IRISH LUCK IS ABOUT TO RUN OUT...  
AS ANYTHING THAT CAN GO WRONG - WILL GO  
WRONG...**

**Willy Guardiola  
Devout Pro-Life Catholic Activist**

With Patrick Murphy, there is what appears to be an insidious triangle of "enrichment" involving Murphy himself, a pair of businessmen, **Nicholas Mastroianni II** and **Jeffrey Berkowitz**, and the Murphy family business, **Coastal Construction** of Miami.

## Here's what we know:

Murphy's Super PAC is propped up by donations from his daddy, **Tom Murphy**, principal of Coastal Construction.

In fact, the latest was a **\$200,000 donation**. We've written about that before.

What few people are looking at is the more interesting donation of \$50,000 from "230 East 63rd-6 Trust LLC."

That trust is associated with Mastroianni, who has also donated more than \$16,000 to Murphy's campaigns.

The abortion giant, **Planned Parenthood**, also donated \$24,000.00 to this Pro-abortion liberal.

(**Note:** Mastroianni's family also has donated "significant" amounts to Murphy.)

**Note:** Nick Mastroianni is the clown who ruined Jupiter by building Harbourside. Need I say anymore???



## Patrick Murphy

### Corrupt Politician

© Getty Images

Patrick Erin Murphy (born March 30, 1983) is an American accountant, politician and member of the Democratic Party who has been the U.S. Representative for Florida's 18th congressional district since 2013. Murphy... [wikipedia.org](http://wikipedia.org)

**Born:** March 30, 1983 with a silver spoon in his mouth (age 33), [Miami, Florida, U.S.](#)


**Nationality:** American

**Party affiliation:** Liberal Democrat (White mini version of Barack Obama)

## Who Is Senate Candidate Patrick Murphy Working for?

By **NANCY SMITH**


April 8, 2016 - 2:00pm

 Congressman Patrick Murphy still wants colleague and rival Alan Grayson to resign over allegations Grayson "parlayed his post in the House into personal financial gain." That's

rich. Especially when you look at Murphy's dirty hands.

Finally somebody in the media did. On Wednesday a McClatchy reporter asked Murphy how he squares his support for a controversial EB-5 bill with the fact his family business was general contractor on an EB-5-financed project.

EB-5, remember, is a visa program that allows wealthy foreigners a path to U.S. citizenship by investing \$500,000 or more in things like ... oh, for instance ... construction projects.

 The Senate Leadership Fund was the first organization to say Murphy had pushed legislation to strengthen the EB-5 program -- looking suspiciously like personal gain. Sunshine State News was right behind in covering the story. We said the measure would benefit Coastal Construction, the company owned by Murphy's father and one in which the congressman holds a large stake.

That company is one of two main contractors on a mega-project called SkyRise Miami. Skyrise's developer, Jeffrey Berkowitz, is a major employer of EB-5 workers. Berkowitz wants to use EB-5 workers to help build his planned 1,000-foot-high tower overlooking Biscayne Bay.

The bill died in the last session of Congress, but the issue isn't over. It will resurface.

When McClatchy asked Murphy to explain why he pushed the legislation, Murphy denied his support had anything to do with the family business.

"I'm not actively involved in the Coastal Construction family business," Murphy told the reporter. "As far as I know, they have not done any projects having to do with EB-5" workers.

Huh?

Then he added, "This is legislation I support because it creates jobs. I support legislation that creates jobs for working Americans and Floridians."

What I don't get is, why there's no investigation -- indeed, not the slightest trace of vetting -- of Murphy, Grayson's opponent in the Florida Democratic primary to claim Republican Marco Rubio's Senate seat.

Murphy's potential campaign violations -- of the quid-pro-quo variety -- are of just as serious an ethical nature as Grayson's; in fact, they are potentially worse. Again, read "Why Isn't Senate Candidate Patrick Murphy Under Investigation?"

What hasn't yet been reported is that on Aug. 29, 2014, after his family business received the general contract for the EB-5 financed Skyrise Miami, Murphy met with Chinese businessman Liu Yu to focus on the "interests and the protections" of the EB-5 program's Chinese investors. (Note: The previous link is the translated version of the original Chinese language article located here.)

Ian Prior, spokesman for the Senate Leadership Fund, points out that weeks later, Murphy signed onto the EB-5 Regional Center Extension Act.

Prior wonders, "Is Patrick Murphy running to be Florida's senator, or China's?" Good question.

"Alan Grayson claimed that Patrick Murphy was as 'crooked as a three dollar bill,'" said Prior. "He may be on to something. While Murphy has been patting himself on the back for Grayson's bad week, he would do well to remember that Floridians don't yet know about all the shady big financiers behind his own sudden rise to power."

Exactly what I've been saying.

Reach Nancy Smith at [nsmith@sunshinestatenews.com](mailto:nsmith@sunshinestatenews.com) or at 228-282-2423. Twitter: @NancyLBSmith

\*\*\*\*\*

### Why Isn't Senate Candidate Patrick Murphy Under Investigation?





## Why Isn't Senate Candidate Patrick Murphy Under Investigation?

It's perfectly understandable that the House Committee on Ethics would investigate U.S. Rep. Adam Clayton Powell Jr.

---

**From:** SMA  
**To:** "David Martin"  
**Cc:** [Matt@mattgaetz.com](mailto:Matt@mattgaetz.com); Wood, John; [abruzzo.joseph.web@flsenate.gov](mailto:abruzzo.joseph.web@flsenate.gov); Stone, Charlie; [pam.bondi@myfloridalegal.com](mailto:pam.bondi@myfloridalegal.com); Scott, Rick; Governor Rick Scott  
**Subject:** TRANSCRIPT  
**Date:** Friday, September 12, 2014 5:44:12 PM  
**Attachments:** [dor VAB Forum May 21 2014.pdf](#)

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Mr. Martin:

In the transcript, I wanted to know if Mr. Moyes or Mr. O'Donnell understood the distinctions between private citizens and public employees. Doesn't appear to be the case.

The questions asked by Mr. Beck and Mrs. Cucchi need no explanation.

What should be addressed is what is being done to address the considerable waste of public resources involved in this "informal forum" which was not only a total waste of time, it cost every private citizens considerable out of pocket costs to spend approximately five hours having to deal with insolent, arrogant, arguably incompetent, and even sexist behavior of the public employees.

What also should be address is why there are no performance audits of PTO when it comes to the VAB process?

SMA

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1           **2013 DRAFT VALUE ADJUSTMENT BOARD TRAINING**  
2                   **FOR PUBLIC REVIEW AND COMMENT**  
3                   **PUBLIC FORUM AGENDA**  
4                   **FLORIDA DEPARTMENT OF REVENUE**  
5                   **PROPERTY TAX OVERSIGHT**

6           **DATE:**           **WEDNESDAY, MAY 21, 2014**

7           **TIME:**           **10:05 a.m. - 3:45 p.m.**

8           **LOCATION:**       **ORANGE COUNTY LIBRARY**  
9                   **ORLANDO PUBLIC LIBRARY**  
10                  **101 EAST CENTRAL BOULEVARD**  
11                  **CYPRESS ROOM**  
12                  **ORLANDO, FLORIDA 32801**

13           **APPEARANCES:**

14                   **HOWARD MOYES - PROPERTY TAX OVERSIGHT**  
15                   **DEPUTY PROGRAM DIRECTOR**

16                   **KEVIN O'DONNELL - EXECUTIVE SENIOR**  
17                   **ATTORNEY**

18                   **JANICE FORRESTER - SENIOR REVENUE**  
19                   **ADMINISTRATOR**

20                   **MIKE COTTON - SENIOR TAX SPECIALIST**

21           **REPORTED BY:**   **SANDRA DIANE EVANS**  
22                   **REGISTERED PROFESSIONAL REPORTER**  
23                   **NOTARY PUBLIC, STATE OF FLORIDA**  
24                   **AT LARGE**

## P R O C E E D I N G S

1  
2 MR. MOYES: Good morning, everyone. If  
3 you'll take a seat, we'll go ahead and get  
4 started. I think it's right about 10:00 or  
5 maybe a minute after.

6 MR. COTTON: Good morning, everyone.  
7 Could everyone please mute your phones as you  
8 enter on-line, please?

9 MR. MOYES: Good morning, everyone. My  
10 name is Howard Moyes. I'm the Deputy Director of  
11 Property Tax Oversight. I would like to  
12 welcome you all here this morning. This is our  
13 informal public forum to discuss our draft of the  
14 Value Adjustment Board Training Materials.

15 I thank you all for being here this  
16 morning. This is the second of our two-part  
17 public forum.

18 We had a meeting last month,  
19 April 23rd, in Tallahassee. And the format for  
20 today will be exactly the same as that meeting in  
21 Tallahassee. We'll go over the entire training  
22 module.

23 There's 11 different modules. We would  
24 like to go in order, but I know some folks have a  
25 busy schedule. If you would like to come up and

1 comment on the entire thing or maybe a later  
2 module because you have to leave, that's fine,  
3 too. We'll try to accommodate everyone the best  
4 we can this morning.

5 Before we get started, I would like  
6 to take a minute and let the other folks from the  
7 Department introduce themselves.

8 MR. O'DONNELL: Kevin O'Donnell, Attorney.

9 MS. FORRESTER: Janice Forrester, Senior  
10 Revenue Administrator.

11 MR. COTTON: Mike Cotton, Senior Tax  
12 Specialist.

13 MR. O'DONNELL: Howard wanted me to make  
14 the statement that we started off with last time,  
15 which was that the training we're talking about  
16 is supposed to emphasize the Department's  
17 standard measures of value, including the  
18 guidelines for real and tangible property.

19 By its own terms, the statute does not  
20 mention creation of training materials separate  
21 and apart from the Department's standard measures  
22 of value, including the guidelines for real and  
23 tangible personal property.

24 We do create annually and disseminate  
25 training materials pursuant to 194.035.

1           The concepts discussed in the training  
2 materials are not agency statements or  
3 interpretations of law.

4           MR. MOYES: Thank you, Kevin. Why don't  
5 We go ahead and get started.

6           Again, this is an informal public  
7 forum. We're happy to take any comments or  
8 suggestions that you have.

9           If you're on the phone -- oh, Mike,  
10 I'm sorry. Do you want to explain how we're  
11 going to handle the phone this morning?

12           MR. COTTON: Yes, good morning. This  
13 conference will be recorded. As you enter onto  
14 the line, please remember to mute your lines. We  
15 will not be muting them unless we see a need of  
16 much exterior noise.

17           MR. MOYES: Okay. Any questions about that  
18 on the phone?

19           Also, we have folks that might like to  
20 e-mail us, that's fine, if you would like to  
21 e-mail us -- Janice, the e-mail address?

22           MR. COTTON: Our e-mail address is  
23 VAB@dor.state.fl.us.

24           MR. MOYES: Again, if you e-mail us a  
25 comment or suggestion, we'll go ahead and read it

1 into the record. If we're able to respond to it,  
2 we'll be happy to do that as well.

3 I would just like to remind everybody  
4 we have all the comments received to date on our  
5 website. We also have the transcript from the  
6 April 23rd forum on our website as well.

7 So, with that, why don't we go ahead  
8 and get started.

9 Please come up and ask questions or  
10 make comments if you would like.

11 Don't be shy. I know somebody has  
12 some comments.

13 MR. ZACHEM: I noticed for the record --

14 THE COURT REPORTER: Who is this?

15 MR. ZACHEM: My name is David Zachem.

16 Should I come up there?

17 THE COURT REPORTER: Yes.

18 MR. MOYES: Yes, if you wouldn't mind. We  
19 don't have a microphone.

20 MR. ZACHEM: Some of us old guys are hard  
21 to hear.

22 Z, as in zebra, a-c-h-e-m as in Mary.

23 I had the -- and I've got a couple of  
24 questions for the -- for the DOR here in regard  
25 to the module.

1                   My first question is: Are any of the  
2 people who are here today responsible for  
3 authoring any of this language?

4                   MR. MOYES: Well, yeah. I was. I know  
5 Kevin was.

6                   MR. ZACHEM: So you both actually are  
7 responsible for compiling some of the language?

8                   MR. MOYES: Yes. Yeah, there were several  
9 folks who worked on it, but we certainly were  
10 part of it.

11                   MR. ZACHEM: I understand that.

12                   MR. O'DONNELL: It wasn't more compiling  
13 than getting rid of, I mean, from my part.

14                   MR. ZACHEM: It was more doing what?

15                   MR. O'DONNELL: Removing some of the  
16 language.

17                   MR. ZACHEM: Removing some of the language.

18                   So, in your legal opinion, there was  
19 some language there that shouldn't be there?

20                   MR. O'DONNELL: There was, it appeared.

21                   MR. ZACHEM: Yes.

22                   My second observation is that, you  
23 know, going back to the late '60s -- this is the  
24 first time in my life that I've ever seen a major  
25 thing rewritten in three years by the Department



1 of Revenue. You know, usually, we let ten years  
2 go by or something like that.

3 The first manual was, in my opinion,  
4 am I correct, was written what, three years ago  
5 by you?

6 MR. MOYES: I think it was 2009 was the  
7 first one?

8 MR. O'DONNELL: Yes, the first.

9 MR. ZACHEM: The 2009 was the first one?

10 MR. MOYES: I believe so.

11 MR. O'DONNELL: Yeah. And I think it was  
12 changed considerably in 2010.

13 MR. ZACHEM: And it was changed considerably  
14 in 2010.

15 MR. O'DONNELL: Right.

16 MR. ZACHEM: Now it's 2014, and we have  
17 another considerable change.

18 MR. MOYES: I think it changed relatively  
19 significantly in 2012.

20 MR. ZACHEM: '12?

21 MR. MOYES: Yes.

22 MR. ZACHEM: And, then, now this is 2014.  
23 So, really had the first brush in '09 and then  
24 major changes in '10, '12 and '14; is that  
25 correct?

1           I'm not going to ask you if you intend  
2 to do this every two years, but, you know, if  
3 you decide to do that, I think that's fine with  
4 everybody else. You surely have the right to  
5 change the modules every couple of years.

6           It is interesting to me, though, to  
7 note that there's such a major change every two  
8 years for three years in a row.

9           The next question I would like to ask  
10 is that: Having attended a Legislative meeting  
11 at the beginning of the session, there was --  
12 when the executive director of the Department of  
13 Revenue was grilled by the Legislative committee,  
14 which, by the way, I've never witnessed anything  
15 like that in my 45 years -- there was an  
16 emphasis on the violation of the Sunshine Law.

17           Since you two are major authors of  
18 the language, as you have just stated, can I ask  
19 you if you attended the meetings with the  
20 executive director of the property appraisers  
21 that was violation of the Sunshine Law?

22           MR. MOYES: I don't think that's a topic  
23 for discussion today, Mr. Zachem. We're here to  
24 talk about the VAB training module.

25           MR. ZACHEM: I think where this language

1 comes from is extremely important.

2 MR. MOYES: I believe it is, too, but it  
3 didn't come from there.

4 MR. ZACHEM: It didn't come from there.

5 MR. MOYES: No.

6 MR. ZACHEM: So, the secret meeting that  
7 you had -- that you had --

8 MR. MOYES: I didn't have any secret  
9 meetings.

10 MR. ZACHEM: So, you weren't there?

11 MR. MOYES: I wasn't at any meetings with  
12 the property appraisers.

13 MR. ZACHEM: You were not at a meeting with  
14 the property appraisers?

15 MR. MOYES: That's correct.

16 MR. ZACHEM: And, sir, you say you're not  
17 either.

18 MR. O'DONNELL: I'm not going to speak to  
19 that.

20 MR. ZACHEM: You're not going to speak --  
21 you're not going to address that subject?

22 MR. O'DONNELL: Correct.

23 MR. ZACHEM: Whether or not you violated  
24 the Sunshine Law or not.

25 MR. O'DONNELL: Excuse me?

1           MR. ZACHEM: Well, that was the Legislative  
2 hearing. I'm just repeating what the Legislators  
3 said, not myself. I don't know anything about  
4 it. I wasn't in Tallahassee at that meeting.

5           I'm just curious as to in six years  
6 we had major rewrites of the modules. You know,  
7 why are we doing this and is there a great need  
8 out there? Has the Department of Revenue had  
9 people come to them and ask them to rewrite  
10 the modules because, in some way, they were  
11 misleading or giving the wrong impression?

12          MR. MOYES: Of course. I think we talked  
13 about that last time. There's a couple hundred  
14 pages of comments on our website. I think  
15 everybody on there are suggesting something.

16          MR. ZACHEM: So, there's a big human cry to  
17 rewrite the modules?

18          MR. MOYES: I think everybody who had a  
19 comment wanted some change of some sort. Some  
20 were major, some were minor.

21          MR. ZACHEM: And, as the attorney has  
22 indicated, his focus was the fact that there was  
23 language in there that was excessive in some  
24 fashion or another.

25          MR. O'DONNELL: Yes, there was.

1 MR. ZACHEM: Thank you very much.

2 MR. O'DONNELL: Well, can I answer?

3 MR. ZACHEM: Yes.

4 MR. O'DONNELL: String cites that went on  
5 and on, for example. So I'll give you that as an  
6 example.

7 AUDIENCE MEMBER: Can't hear.

8 MR. O'DONNELL: String cites.

9 MR. ZACHEM: Did you say string cites?

10 MR. O'DONNELL: String cites.

11 AUDIENCE MEMBER: Spell that.

12 MR. ZACHEM: I'm sorry, after I hit 70 --  
13 there's some letters in that word that I'm not  
14 listening to.

15 MR. O'DONNELL: We'll go to a page, okay?

16 MR. ZACHEM: Okay.

17 MR. O'DONNELL: Because I thought that was  
18 the focus of what we were doing, so maybe we  
19 could do that since you asked.

20 I hope I'm not wasting your time.

21 MR. ZACHEM: No. Absolutely. I've got all  
22 day. I'm retired, actually.

23 MR. O'DONNELL: Okay. Module six, that's  
24 one particular interest for some folks.

25 MR. ZACHEM: Yes.

1           MR. O'DONNELL: I'm looking at Florida  
2 Information on Appraisal Development.

3           AUDIENCE MEMBER: What page are you reading  
4 from?

5           MR. O'DONNELL: I'm reading from --

6           MR. MOYES: 102.

7           AUDIENCE MEMBER: Numbers on the side.

8           MR. O'DONNELL: Yeah. 102, line 19.  
9 Recalling that this is training.

10          MR. ZACHEM: Correct. Absolutely.

11          MR. O'DONNELL: So, it goes on to say,  
12 "Florida's Constitution has delegated to the  
13 Legislature the responsibility for deciding the  
14 specifics of how that just valuation would be  
15 secured." Citing two different cases.

16                    There's probably a time to cite a  
17 case, but when it's a clear point of law and  
18 you're doing training, why include a string cite  
19 to a point that's obvious.

20          MR. ZACHEM: I would say --

21          MR. O'DONNELL: That's the kind of thing  
22 that -- a lot of that was removed.

23          MR. ZACHEM: Just as an observation as a  
24 nonattorney, don't you think it would be  
25 important for an appraiser?

1 MR. O'DONNELL: Nonattorney appraiser.

2 MR. ZACHEM: Huh?

3 MR. O'DONNELL: A nonattorney appraiser.

4 MR. ZACHEM: A nonattorney appraiser  
5 reading this, maybe they'd want to go look those  
6 cites up, I don't know.

7 MR. O'DONNELL: Maybe they would, but that's  
8 not the purpose of the training --

9 MR. ZACHEM: I see.

10 MR. O'DONNELL: -- necessarily to do that.

11 And when you're taking training, you  
12 don't necessarily need it cluttered with things  
13 that might not be useful.

14 MR. ZACHEM: I see.

15 MR. O'DONNELL: So -- yeah, I mean, that  
16 was a good bit of what happened here.

17 MR. ZACHEM: I see. So, there's sort of  
18 a narrowness?

19 MR. O'DONNELL: It's not a narrowness.  
20 It's how do you train people.

21 MR. ZACHEM: How do you train people?

22 MR. O'DONNELL: Right. And I'm not an  
23 expert in it, but I don't know that you need to  
24 go to every cite and --

25 MR. ZACHEM: I understand.

1           MR. O'DONNELL:  If it's a legal proposition  
2           and somebody wants to go through law books, you  
3           can give them one.  If they know how to do that,  
4           they can go find everything else that is involved  
5           with it.

6           MR. ZACHEM:  I understand what you're  
7           saying.  Thank you.

8           MR. O'DONNELL:  You're welcome.

9           MR. ZACHEM:  And thank you for the  
10          eye-opening questions.

11          MR. MOYES:  Sure.

12                    Yes, sir.  If you would please  
13          state your name for the court reporter.

14          MR. GARCIA:  Sure.  Anthony Garcia,  
15          G-a-r-c-i-a.

16                    Just to follow up with what Mr. Zachem  
17          had, I think he had asked the question had there  
18          been requests -- this original draft -- not the  
19          redline version here, but the original version  
20          that the Department presented in the end of  
21          June 2013, there were -- you received comments  
22          and e-mails and letters from people requesting  
23          that the current 2012 version be changed in  
24          various manners.

25          MR. MOYES:  Yes.



1           MR. GARCIA: So, if I did a public records  
2 request, you guys would give us the copies of who  
3 sent in what --

4           MR. MOYES: Of course.

5           MR. GARCIA: -- stating what their --  
6 roughly mentioned maybe 200 or so items.

7           MR. MOYES: I know there's 200 pages of  
8 comments on our website. Again, those aren't --

9           MR. GARCIA: This isn't the public comment  
10 stuff that's available on the website.

11          MR. MOYES: I understand if you'll let me  
12 finish.

13          MR. GARCIA: Sure.

14          MR. MOYES: There's 200 pages of comments  
15 on our website about this version of the draft  
16 VAB training.

17                   The comments I believe you're  
18 referring to deal with the 2012 training. And we  
19 have several pages -- I don't know the exact  
20 number. It's at least a hundred pages, I'm  
21 sure --

22          MR. GARCIA: Okay.

23          MR. MOYES: -- of comments on that version  
24 of the training as well. And I'll be happy to  
25 furnish those to anybody who asks.

1           MR. GARCIA: Great, great. I'll consider  
2 asking about that in the future, for sure.

3           You know, part of the problem that I  
4 have -- and I think a lot of people have with the  
5 way this procedure is unfolded -- was the way  
6 that the Department handled it from the  
7 beginning. It really -- you know, I hear all  
8 this talk about secret meetings and stuff. I'm  
9 not going to go there. Obviously, you guys are  
10 not interested in hearing about that hearsay-type  
11 of stuff. But, you know, we don't need to talk  
12 about secret meetings and stuff to have a bad  
13 feeling about how this process started out.

14           And to have these meetings that we're  
15 having now, it almost feels like you're just, you  
16 know, checking off a box and just trying to keep  
17 it going so that you can originally do what you  
18 planned to do in the first place, which was  
19 promulgate the training as you guys had revised  
20 it.

21           So, that's just to kind of give you a  
22 mindset where I'm at. I'm just not comfortable  
23 with how this thing all unfolded.

24           The one thing I would like to -- you  
25 know, you're going to hear continually today from

1 myself, and I'm sure other people, involved in  
2 the process here today is, it doesn't -- you  
3 don't need to do this wholesale change of a  
4 hundred pages of gutting this document.

5 I don't see, from your perspective  
6 as an attorney, why it's -- you need to strike  
7 out the citings. It's to save the paper, to make  
8 it shorter? That's not a good reason.

9 I've heard representatives from the  
10 Property Appraisers' Association, if it was up  
11 to them, you would have three links. There would  
12 be a page with three links, one to the  
13 guidelines, one to the statutes and one case law.  
14 And that would be the training.

15 And that's what the property  
16 appraisers who deal in this venue, like I do,  
17 representing taxpayers would prefer, because they  
18 don't want people trained. They don't want the  
19 magistrates trained. If they do want them  
20 trained, they want them trained by them, the way  
21 that it used to be.

22 The manual that had been coming out the  
23 last three years was, basically, to help fix the  
24 system that had been taken over by -- you know,  
25 we've got a new Attorney General's opinion that's

1 out. We had one back in '04 that showed a lot of  
2 problems that were going into the process.

3 This training material cleared up a  
4 lot of the gray area, a lot of arguments that  
5 happened at hearings between taxpayers,  
6 taxpayers' representatives and the property  
7 appraisers. That stuff was being taken out --  
8 when the rules were promulgated over the last  
9 couple of years, those arguments were being taken  
10 out. We were really getting down to the facts  
11 about the case at hand before the special  
12 magistrates.

13 We weren't having to argue about the  
14 first need criteria and what just value and what  
15 fair market value is.

16 You take all this -- you gut this,  
17 like you are, and these hearings are going to get  
18 a lot longer and a lot more contentious just  
19 because of the lack of training.

20 You're rolling back training.

21 And, again, there's over a thousand  
22 pages of material between the uniform policies  
23 and procedures, the guidelines, the case laws.  
24 There's over a thousand pages. So, to boil it  
25 down to 230, you know, less than 25 percent seems

1 reasonable. Now you're going down to ten percent?  
2 It's really not making much sense on why you  
3 would be making the wholesale changes.

4 I totally support some redundancy,  
5 you know, out some redundancy, taking out --  
6 making grammatical corrections and word  
7 corrections.

8 But, you, basically -- one thing that  
9 I want to bring up right here at the end is:  
10 I was reviewing the public documents and I saw a  
11 draft of the training that was, I guess, an  
12 in-house draft that didn't make it to the public.  
13 I mean, I guess it was considered within  
14 in-house and that draft added to the previous  
15 training. It didn't, you know, subtract  
16 everything that you're talking about here today.  
17 It made some minor deletions, corrected some  
18 errors, but it was adding to it. Why? Because  
19 of the things that had happened in the law. The  
20 property appraiser being required to give  
21 taxpayers their record cards without having to  
22 check a box on the petition form and ask for it.  
23 That needed to be added into the training module  
24 and such.

25 But there was very little being taken

1 out of that version. And that, obviously, didn't  
2 get much consideration at the end by the powers  
3 at be because it looks like there's certainly not  
4 very much being added and it's all about taking  
5 out.

6 So, just at this point -- I'll be up  
7 here again later. I just -- my perspective and  
8 opinion is very little needs to be changed from  
9 the 2012 version. Going forward, you should only  
10 amend and append the training as related to  
11 changes in the law for that year.

12 If things get out of date and  
13 overturned legislatively or there's new case laws  
14 that need to be referenced, you update it.

15 But, going backwards, cutting this  
16 thing in half, you're not helping the process.  
17 You're not helping Florida -- the taxpayers of  
18 Florida. And I think I know who you're really  
19 looking at trying to help here.

20 MR. O'DONNELL: Can I ask you a question?

21 MR. GARCIA: Sure.

22 MR. O'DONNELL: You mentioned back in the  
23 day when things were different. I wasn't doing  
24 property tax back then.

25 Do you have examples that might be

1 helpful in structuring what might go into a  
2 manual about those arguments?

3 MR. GARCIA: Which arguments?

4 MR. O'DONNELL: The arguments between  
5 yourself and the property appraiser or somebody  
6 else and the property appraiser about --

7 MR. GARCIA: I think if you just wait  
8 throughout the whole day here, you'll get plenty  
9 of examples of them.

10 MR. O'DONNELL: I'm talking about -- I'm  
11 speaking specifically about the hearing for --  
12 more than or back and forth.

13 MR. GARCIA: Well, yeah, it goes right down  
14 to the -- I mean, it's the big topic now --

15 MR. O'DONNELL: Are there transcripts of  
16 any of that that I can read? I'm more attune to  
17 the evidentiary part of this whole thing.

18 MR. GARCIA: Well, yeah, you're going back  
19 to 2008 prior to when the training materials  
20 were -- prior to when laws were changed and  
21 stuff.

22 A lot of what was going in hearing  
23 rooms between taxpayers and property appraisers  
24 resulted in laws being changed to be more --  
25 to level the playing field, to make it fair to

1 the --

2 MR. O'DONNELL: I was involved in that part.

3 MR. GARCIA: -- to the taxpayers.

4 MR. O'DONNELL: I was in the Senate then  
5 when they changed the law. I understand that  
6 part.

7 MR. GARCIA: Right. Okay.

8 MR. O'DONNELL: I'm trying to understand  
9 how that changed the admission of evidence and  
10 those kinds of things in the hearing.

11 MR. GARCIA: It didn't change admission of  
12 evidence. It changed what you had to talk about  
13 in the hearing. Much of a hearing was taken up  
14 explaining a first and eighth criteria to a  
15 special magistrate where the training came out  
16 and it gave examples, gave flow, filled in the  
17 gaps, connected the dots, it took all that out  
18 of the --

19 MR. O'DONNELL: Given the property  
20 appraisers's position, why would that have  
21 stopped that argument, though? I think that  
22 might have actually increased the arguments  
23 because the examples in here are the ones that  
24 may sway one way or another, but there's,  
25 obviously, arguments with them by the property



1           appraisers.

2           MR. GARCIA: Well, yeah. And each  
3           property appraiser in every county can do whatever  
4           they want. They are under the law, but they have  
5           -- they've got such leeway, they don't have to  
6           follow any of this stuff. This stuff doesn't  
7           carry any weight. The guidelines don't carry any  
8           weight. The training doesn't carry any weight.

9           So, you're taking all of this material  
10          that doesn't have any weight and you're removing  
11          it. You're making it even less meaningful than  
12          it already is to the property appraisers.

13          And that's, ultimately, my problem  
14          here is because the whole process, starting back  
15          when the law was being changed, was to make --  
16          all taxpayers and participants in the VAB process  
17          want is a fair shot.

18          The property appraisers want -- when  
19          you go to a hearing, they want to know that  
20          they're going to win. That's it.

21          We just want a fair shot.

22          MR. O'DONNELL: I understand that.

23          MR. GARCIA: And by changing this material  
24          like that, you're not promoting that. You're  
25          rolling it back.

1           MR. O'DONNELL: That's why I had the  
2 original question. If we, in this, focus  
3 specifically on things, maybe that's a better way  
4 to do it.

5           MR. GARCIA: Okay. But how is making  
6 things less, cutting it in half, being more  
7 specific?

8           MR. O'DONNELL: Well, because if you  
9 clutter things -- I'm not an educator, so I have  
10 no pretense to know how to teach people.

11          MR. GARCIA: Sure. You've taken  
12 classes.

13          MR. O'DONNELL: Yeah, I went through law  
14 school.

15          MR. GARCIA: And it's a lot of textbooks,  
16 right?

17          MR. O'DONNELL: These are not lawyers  
18 going to law school and they don't have six  
19 months.

20          MR. GARCIA: Well, no. Well, no.

21                   The classes I took -- my history, I  
22 didn't need to know the whole history book. I  
23 just need to know the highlights, but I still had  
24 the whole history book so that I could see what  
25 was bolded, but I could also read about maybe a

1 little bit more about it.

2 MR. O'DONNELL: That's more to the point.  
3 People have different ways of learning. And more  
4 isn't necessarily better. Would you agree with  
5 that?

6 MR. ZACHEM: Let me make a comment in this  
7 area. When Judge Zamer (ph) ruled in Barnett  
8 vs. Mastroianni in '98 and '99 he caused a small  
9 revolution over the subject of any reasonable  
10 hypothesis.

11 In '08 when it was amended and we  
12 went away from any reasonable hypothesis, a lot  
13 of people thought, well, the Legislature spoke  
14 and that was the end of it.

15 Well, that wasn't the end of it. We  
16 had several special masters who still held for any  
17 reasonable hypothesis in several counties around  
18 the State -- I see some heads shaking yes --  
19 because we have been in those hearings.

20 When we got to '09, it was the  
21 Legislative thought that there were a tremendous  
22 number of hearings around the state of Florida  
23 where special masters were giving different  
24 opinions that, in some instances, were even  
25 contradictory to each other.

1           And the Legislature wanted to make  
2 these hearings a little uniform. So, they passed  
3 an act requiring the DOR -- they were reluctant --  
4 they were reluctantly dragging in all of this --  
5 to come up with a manual test and have special  
6 masters take them.

7           What we're trying to tell you, sir, is:  
8 By limiting the amount of information you give  
9 to an appraiser, a potential magistrate -- and I  
10 want to tell you I'm a forensic appraiser. And  
11 many of the appraisers that are special masters  
12 are, likewise, forensic appraisers. We regularly  
13 testify in court. We are required by our  
14 profession to know the law and to be able to  
15 interpret it and to provide jurisdictional  
16 exception under USPAP when it is required.

17           So, therefore, the holding back, the  
18 lessening of the amount of information,  
19 particularly in a legalistic fashion is extremely  
20 deleterious to the value adjustment board  
21 proceeding in Florida. Because we have more case  
22 law that surrounds us in our actions than we do  
23 Legislative authority.

24           Someday we're going to have a speaker  
25 of the House or president of the Senate that's

1           going to have the guts in order to pass some  
2           legislation so that all of us don't have to meet  
3           like this periodically and have these kind of  
4           discussions. But, until then, all we really have  
5           is case law.

6                        Case law is the majority of the  
7           practice in the state of Florida. That's why it  
8           cost more money to protect yourself in a value  
9           adjustment board hearing in the state of Florida  
10          than it does in Texas or most other  
11          jurisdictions.

12                      All we're trying to do is -- for me,  
13          I'm retired. And many of my colleagues would not  
14          like me to say this, but you need to get this  
15          practice down where a taxpayer can walk into a  
16          hearing and get a fair hearing. We don't -- we  
17          haven't had that in the past. The last two years  
18          have been a lot better. And what I'm telling you,  
19          is you're beginning to increase the costs for  
20          businessmen because single-family residential  
21          homeowners and condos they don't file petitions  
22          to any degree like they used to when I was in the  
23          business in the '80s.

24                      It's primarily -- we're talking about  
25          people who provide jobs, commercial people,

1 people who have second homes who are retired  
2 here.

3 You are increasing their cost in  
4 getting a fair assessment in the state of  
5 Florida. I know that because I practice in  
6 probably 20 or 30 states around the nation. I  
7 know what tax reps charge, and I know that we're  
8 the highest. And the reason we're the highest is  
9 because of what the Department of Revenue and the  
10 property appraiser have created over a period of  
11 time.

12 Now, that's not negative to anybody  
13 because, you know, I've been a chief deputy.  
14 I've been a chief appraiser. I've been in there  
15 to win at all costs. I've been told by a  
16 property appraiser, "beat that guy. I don't care  
17 what you do, beat him." I've been there. I  
18 understand that, but somewhere -- you know,  
19 Gentlemen, I'm almost 72.

20 Sometime -- after 45 years of this,  
21 sometime you're going to have to give these  
22 taxpayers a little bit of a break. Don't feel  
23 sorry for my clients. My clients, if they don't  
24 get a fair shake at the VAB, we just go to court.  
25 And the larger people can go to court.

1                   But who you're trying to address today  
2                   with these modules are the folks that don't have  
3                   \$25,000 to go to circuit where there's not at  
4                   least a million dollar reduction on an  
5                   assessment.

6                   What we're trying to focus on are those  
7                   people who have a \$400,000 commercial assessment,  
8                   an \$800,000 commercial assessment.

9                   I'll tell you right now, most of us  
10                  don't represent those folks because, frankly,  
11                  it's more beneficial to represent folks -- and  
12                  we've gotten to a point where our specialty is  
13                  so keen that we can represent folks who spend  
14                  more money.

15                  But, frankly, whatever you do on  
16                  these modules and whatever you tell these special  
17                  masters, is not going to affect me, my business,  
18                  or my clients one iota. But I will be tracing  
19                  in and out of VAB hearings and watching that  
20                  poor guy over there or that poor guy over there  
21                  just get slammed, and it's always bothered me.

22                  So, I mean, yes, you know, there's  
23                  some stuff that might be, in your opinion,  
24                  excessive. But don't look at us appraisers and  
25                  think we don't know the law, or that we're not

1           required by our profession to know the law.

2                       Several of these folks are, in fact,  
3 attorneys. A lot of us, like myself, and some  
4 other people, have gone to law school. Just  
5 because we're not attorneys, doesn't mean we  
6 don't know the law and doesn't mean we can't read  
7 a law and come to the same opinion that you can.

8                       I've been in ad valorem since I was  
9 bill reader to the speaker in '67. I hope I know  
10 the law now.

11                      But, we've done an awful lot in this  
12 state. We've addressed a lot of problems.

13                      The clerks offices are -- for the most  
14 part, the clerks offices are great to work with  
15 in this state of Florida.

16                      I've seen a 360-degree change -- or  
17 maybe I mean a 180-degree change in the clerks  
18 offices in the state of Florida. Thanks to the  
19 Legislature, the Department of Revenue, and a  
20 lot of fine clerks we've elected.

21                      We have a lot of fine property  
22 appraisers out there.

23                      I want to tell you right now. We  
24 wouldn't have these meetings if it wasn't for  
25 three, four, five people that are property



1           appraisers in the state of Florida. That's the  
2           reason we're here, but we're here because those  
3           folks are not gaining the right of redress  
4           of grievance that's in the Florida Constitution  
5           and the statutes. And that's why we're here,  
6           redress of a grievance.

7                         And I hope that explains why we feel  
8           it should be -- you should have more language,  
9           not less language.

10                        Thank you.

11                        MR. O'DONNELL: You're welcome.

12                        MR. MOYES: Mr. Zachem, do you mind if I  
13           just ask you a clarifying question?

14                        MR. ZACHEM: Oh, sure.

15                        MR. MOYES: You mention something that I've  
16           heard from other folks as well, and I really  
17           would like to get an answer from you because  
18           I don't know the answer.

19                        You mention that what we're doing is  
20           affecting small businesses somehow and increasing  
21           their costs, and other folks have made  
22           that statement. And, frankly, I don't know how  
23           we're doing that.

24                        So, if you could help me out there,  
25           I would like to know because we're certainly not

1           trying to do that.  If we're doing that  
2           inadvertently, I think we would like to stop  
3           doing it.  I honestly don't know how what we're  
4           doing affects small businesses or increases their  
5           costs or affects jobs or any of that, if you  
6           could help me.

7           MR. ZACHEM:  You don't understand that?

8           MR. MOYES:  No, I don't.

9           MR. ZACHEM:  You really don't?

10          MR. MOYES:  No.

11          MR. ZACHEM:  Well, let me explain it to you.

12                         Right now today, there's tremendous  
13           X-Flight (ph) from New York, Downtown Chicago,  
14           a bunch of other places in the United States.  
15           And they're leaving because of two primary  
16           factors.  One, is a tremendous governmental  
17           regulation.  And the other one is taxes.

18          MR. MOYES:  I understand that.

19          MR. ZACHEM:  Now, Florida doesn't have a  
20           personal income tax.  We do have a corporate  
21           tax, and we do have ad valorem tax.

22                         Our school systems are financed by  
23           two sources, our sales tax and our ad valorem  
24           tax.

25                         Actually, about 50 percent of

1 everything we do in the ad valorem business has  
2 a different result on public education K through  
3 12 because half of the money, as we all know, it  
4 goes to K through 12 in the state of Florida.

5 The Legislature used to increase  
6 K through 12 money by increasing the required  
7 local option. I'm sure -- I'm not going to go  
8 into that because I know that you know what I'm  
9 talking about.

10 But how do you affect jobs? Well,  
11 I don't know if you've been listening to the  
12 Florida governor and the Texas governor on  
13 television for the last or six or seven months,  
14 three out of every ten of brand-new jobs created  
15 in this country are going to Texas.

16 Why is that? Because I got to tell  
17 you right now. They're very good on ad valorem  
18 taxes over in Texas and they're very good in  
19 their hearings.

20 We have a lot of folks, some of us  
21 are in companies that have -- that actually work  
22 in Texas. We know what the redress of grievance  
23 in their value adjustment board approach is in  
24 Texas.

25 You know, in Texas, they have a strong

1 statute talking about equality.

2 It never ceases to amaze me that  
3 there's a United States Supreme Court case  
4 Webster County, West Virginia vs. Allegheny,  
5 Pittsburg Coal Company that specifically says  
6 if you're assessed at 80 percent and everybody  
7 else is at 30 percent, then that's a violation  
8 of due process and -- even though that's a legal  
9 assessment, it needs to be reduced to 30 percent.

10 Do you know how many special  
11 magistrates in the state of Florida will rule  
12 that way? Most of them don't even want to hear  
13 the evidence.

14 What is an ad valorem classification  
15 for agriculture on the tax rolls? Is it an  
16 income approach to value?

17 MR. MOYES: Generally.

18 MR. ZACHEM: Go to a hearing sometime with  
19 a special magistrate when you have mixed-use  
20 on a hundred acres.

21 MR. MOYES: Well, mixed-use is different  
22 from agricultural, but, okay.

23 MR. ZACHEM: One of those uses is  
24 agriculture. 40 acres is agriculture. Do an  
25 income approach to value and look at the special

1           magistrate. And the special magistrate said,  
2           well, you're doing an income approach to this  
3           use, you're doing an income approach to this use,  
4           and you're giving me the ag class number as the  
5           income approach for the ag, yes, I am, because  
6           that's the number.

7                         Magistrates don't know that.

8                         There's a whole lot of stuff that we  
9           get into technically that you're not addressing.

10                        And I'm not sure -- and you know, as  
11          I say, I really don't care about that one way or  
12          the other because, you know, our -- we're going  
13          to be in court on that, frankly. And, frankly,  
14          most of us are set up -- we make more money  
15          litigating than we do at value adjustment board  
16          process.

17                        There's an awful lot of business that  
18          you all are not even aware of or understand.

19                        But, all I'm saying is this, guys,  
20          re-writing this module every two years, wow.  
21          I mean, we're burning a lot of taxpayer's dollars  
22          on staff time.

23                        This is -- the Legislature isn't even  
24          passing a whole bunch of legislation. We haven't  
25          had a whole lot of new case law.

1           There's only one reason we're here.  
2           And that's because the new executive director  
3           wants us to be here. For whatever reason he has  
4           -- and I'm not looking for an answer -- the new  
5           ED wants us here, and, therefore, we're here.

6           Thank you.

7           MR. MOYES: Thank you. Mr. Zachem. I  
8           appreciate your comments.

9           Just -- Mr. Coleman.

10          Mr. Mandler (sic), we know that you're  
11          on the phone. If you'll hold for just a minute,  
12          we'll take Mr. Coleman and then we'll get to you,  
13          if that's okay.

14          MR. COLEMAN: For the record, Bill  
15          Coleman with Marvin F. Pore & Company, a national  
16          property tax consulting firm and a member of the  
17          Florida Association of Property Tax Professionals,  
18          Inc.

19          Back to the question at hand on the  
20          jobs, et cetera, this process goes back, way  
21          back, to like the early 2000s. The previous --  
22          two directors ago, Dr. Zimbabwe created a  
23          property tax administration task force of which I  
24          was appointed on that task force of maybe one of  
25          two industry members. Most were made up of

1 government people. And we wanted to take a look  
2 at the property tax system, specifically dealing  
3 with the value adjustment board, et cetera.

4 There was a lot of complaints  
5 statewide going on those days about how unjust  
6 they were.

7 And, so, the reason that we keep up  
8 with this manual idea is because, literally, all  
9 67 counties work independently. And they had a  
10 manual. And, generally, the manual was written  
11 by the property appraiser's attorney, not the  
12 value adjustment board, not the value adjustment  
13 board attorney. And nobody in the value  
14 adjustment board made up these manuals. They  
15 were made up by the property appraisers' personal  
16 representative.

17 And in those guidelines were case law  
18 that were, maybe, out of date, but they were  
19 always antitaxpayer case law.

20 And, so, guess who did the training  
21 back in those days? The property appraiser  
22 attorney trained the special magistrates, not  
23 the value adjustment board. Get that straight.  
24 The property appraisers' attorneys.

25 So, you had all these little books

1 that weren't available to the public. They were  
2 only available to the property appraiser and to  
3 the special magistrate.

4 And when a taxpayer came before the  
5 VAB, they were slammed.

6 I mean, can we see the book?

7 "Well, no, we're going to cite some  
8 case law", blah, blah.

9 I personally saw that as a pretty  
10 unfair way to operate in representing our members,  
11 which are a lot of the audience today. And our  
12 association represents thousands of commercial  
13 owners, representing billions and billions of  
14 property tax dollars in this state. And they  
15 were concerned because they didn't feel like they  
16 were getting a fair shake.

17 So, one of my duties as being a member  
18 of that tax association -- or the tax  
19 administration task force was to try to get  
20 something that would be fair.

21 So, we recommended that there become  
22 a single guideline statewide. We thought the  
23 best people to do that would be the Department  
24 of Revenue as Property Tax Oversight. And we  
25 thought that was a great idea. And everybody



1           bought in, publicly. In the meetings, there was  
2           a big buy-in.

3                       Behind the scenes, not publicly, there  
4           was pressure against that from the property  
5           appraiser associations.

6                       Be that as it may, it went through  
7           the Legislature and we got everything passed.  
8           And this is the history that we have up to this  
9           point.

10                      And, then, you guys, I thought, did a  
11           noble job, a very good job, of writing this  
12           document. It was vetted. Everybody went to the  
13           meetings. There was buy-in pretty much  
14           everywhere, except, like I said, the underground  
15           pressure.

16                      And, all of a sudden, now we're here  
17           tearing the whole thing apart two years after it  
18           came out. And I don't care how big it is and how  
19           much information is in it, I think that's better  
20           than not.

21                      And you can point to the different  
22           modules. If you're at a hearing and it's  
23           associated with module six, or whatever number  
24           you got, the magistrate can go to it. And there  
25           might be some redundancy in there, okay, but he's

1 going to that specific chapter to look his stuff  
2 up, or maybe the taxpayer is. But, if you take  
3 it out, because it's redundant somewhere  
4 elsewhere, were are you going to find that cite?

5 And, also, the case law, I know that  
6 you guys would prefer that somewhere else, but I  
7 think that needs to be in there.

8 Mr. Garcia had a good point. We have  
9 a living document that probably needs to be  
10 adjusted each year as Legislature changes law or  
11 that you have new case law. I think that's  
12 probably the proper way to do it.

13 And, so, I'm just here to say that it  
14 really makes no sense that we're wasting  
15 everybody's time and money on a document that we  
16 already had that was real good; that everybody  
17 seemed to be happy with, but somewhere along the  
18 line there's been pressure to gut this thing and  
19 tear it down in such a way as to go backwards  
20 and make it antitaxpayer again.

21 And you asked how the cost of business  
22 would go up. If these guys out here, these small  
23 business owners are trying to go in there, and  
24 they are stepping on time bombs everywhere they  
25 go because they don't know what the deal is.

1           And we're changing the way that the magistrates  
2           look at the cases and everybody else, they're  
3           going to lose. They're going to lose. And when  
4           they lose, they got to pass that cost on  
5           somewhere and they're going to let people go.

6                         That's the cost -- and I think what  
7           Mr. Zachem was saying.

8                         You know, we want our job producers  
9           to have a fair shot in running their businesses  
10          so that they can increase their business and add  
11          more jobs and not cost more money because they  
12          don't know the system, you know, if you don't do  
13          such and such.

14                        There was stuff coming out of Miami  
15          that said, you know, if you didn't have a letter  
16          of authority attached to your petition, you're  
17          going to lose all of your rights, due rights of  
18          process. These people are busy people. They  
19          don't often have time to do that, so they hire  
20          attorneys and agents like myself or personal  
21          representatives to come in for that.

22                        Everybody needs to know that when they  
23          come in there, there's going to be a similar  
24          process statewide and there's going to be a  
25          similar training statewide.

1           And I'm real sorry that -- from the DOAH  
2 case, now everybody thinks this has no effect.

3           But I can tell you from my experience  
4 on the task force, my experience during the  
5 Legislative process, which we helped pass, the  
6 Legislative intent was to give you full  
7 authority. It's just a dang shame that it's come  
8 to this. And now we're going through all this  
9 and everybody says, it really has no authority.  
10 It's nonsense.

11           You do have authority, and I think you  
12 should be the governing body that runs this deal,  
13 but I think you're making a mistake going forward  
14 to tear it up. Leave it alone, adjust it as  
15 things come up. That would be my opinion.

16           MR. O'DONNELL: Can I ask you a question  
17 on that point?

18           MR. COLEMAN: Yes, sir.

19           MR. O'DONNELL: You mentioned in your  
20 comments, the use of that -- and I think we call  
21 it training materials rather than use other words  
22 for it.

23           MR. COLEMAN: Uh-huh.

24           MR. O'DONNELL: And I wasn't with the  
25 Department when they chose that strategy to defend

1           it, but they did that. And my understanding is,  
2           part of it was that a lot of the things in that  
3           training material were not actually rules, so --  
4           and there was no -- I haven't found any authority  
5           from the Legislature to make that training a  
6           rule -- whatever was put in them. So, I have --

7           MR. COLEMAN: It was diluted somewhere  
8           down the line in that process. That seems to  
9           always happen when it comes to rule making.

10           You know, you can get a law passed,  
11           but then the authority --

12           MR. O'DONNELL: Right.

13           MR. COLEMAN: The law has to have the rule.  
14           That's where the other debates start and things  
15           change.

16           MR. O'DONNELL: And --

17           MR. COLEMAN: Quite often, there's a lot  
18           of compromise during that process and things  
19           don't always go as planned.

20           MR. O'DONNELL: I mean, what was then the  
21           background for having those materials at a  
22           hearing that people would be looking at as if  
23           they were statutes or rules? That's where the  
24           problem comes.

25           MR. COLEMAN: Like I said, the Legislative

1 intent of this whole document was -- first of  
2 all, in the old days when you came to a hearing,  
3 the taxpayer didn't any of that.

4 MR. O'DONNELL: Right.

5 MR. COLEMAN: It was just like trial by  
6 surprise.

7 MR. O'DONNELL: Right.

8 MR. ZACHEM: Even the evidence exchange was  
9 just horrid. We fixed that over a period of time.

10 It's still not fair because the  
11 taxpayer has to do their side first two weeks or  
12 15 days, and then the property appraiser has to  
13 do theirs seven.

14 And if we don't on our side produce  
15 it, you're not allowed to present anything. If  
16 they don't produce it, you just get another  
17 hearing date... So, there's always been this  
18 uneven kind of a deal going on there.

19 So, the idea was to put that out  
20 there. You have -- there's -- you have the  
21 training module for the triers of fact, for the  
22 special magistrates. And then you have the  
23 manual, or the book, that the people get from  
24 the property appraiser, from the VAB or whatever  
25 it is. This is how we're going to run the

1           hearings and these are the rules. It should be  
2           standard statewide.

3                         I think that's how we got it done,  
4           right, Mr. Moyes?

5                         MR. MOYES: Yes.

6                         MR. COLEMAN: I think so.

7                                 And, then, now, our fear from our side  
8           is, from the standpoint of representing business  
9           owners and job creators, is that, if this gets  
10          watered down or goes backwards, we feel there's  
11          a bit of unfairness going forward again. We're  
12          trying to roll it backwards and not forwards.

13                                 And I know the property appraisers  
14          don't like it, and I know they didn't like the  
15          way the DOAH case came out.

16                                 And the opinion was gray. It was  
17          what, 79, 80 pages of grayness.

18                                 And when we all walked out, everybody  
19          went, well, I don't know what that did? That was  
20          the end of that and here we are.

21                                 That's why I was trying to give you  
22          history of what we're trying to do --

23                                 MR. O'DONNELL: I appreciate it.

24                                 MR. COLEMAN: -- to try to answer your  
25          question why we think it would not be good for

1 commercial job creators and how it will cost  
2 money.

3 Like Mr. Zachem said, the people we  
4 represent they can afford to go to court.

5 You know, if my mother went down  
6 there at 83 years old and didn't know what the  
7 heck was going on because she hired my brother to  
8 represent her, it would be nonsense. It's  
9 nonsensical.

10 Let's just have it all out there. My  
11 opinion is, you got a fine document. Tweak  
12 it as you move. Let's just follow DOAH.

13 MR. MOYES: If we can take the phone  
14 call and then we'll get to you.

15 Mr. Beck, are you still on the phone?

16 AUDIENCE MEMBER: Mandler.

17 MR. MOYES: Mr. Mandler, can you hear us?

18 MR. BECK: I'm still here.

19 MR. MOYES: Mr. Mandler, we'll try one more  
20 time and then -- okay, we'll try to get back to  
21 you in just a minute.

22 MR. MANDLER (VIA TELEPHONE): Hello.

23 MR. MOYES: Go ahead. We can hear you.

24 MR. MANDLER: Fantastic.

25 THE COURT REPORTER: You need to speak up



1           and state your name. This is the court reporter.

2           MR. MANDLER: Hi. This is Jeff Mandler.

3                   I'm sorry.

4                   First, Mr. Moyes, good to hear from  
5           you again.

6                   My name is Jeff Mandler. I'm in Miami,  
7           Florida. I'm an attorney, and I'm here as an  
8           interested party.

9                   I would ask, first, that as a point of  
10          order, we know who is speaking from the room.  
11          They identify themselves when they go up. We  
12          would appreciate it if you would identify who is  
13          responding to the speaker in the room and go  
14          forward.

15                   One of my questions was this,  
16          Mr. Moyes, before I make my opening statement:  
17          Did you meet with property appraisers prior to  
18          doing the draft that you submitted today for the  
19          training manual changes?

20                   MR. MOYES: No. I don't think I went with  
21          one property appraiser.

22                   MR. MANDLER: Mr. O'Donnell, did you meet  
23          with property appraisers prior to making the  
24          changes?

25                   MR. O'DONNELL: No, sir.

1           MR. MANDLER: Did you have any written  
2 information from either of them -- either of  
3 you, excuse me?

4           MR. O'DONNELL: I did not -- well, not as  
5 pertains to the creation of the changes made in  
6 the document, no, I did not.

7           MR. MANDLER: Why did you ask to make the  
8 changes in the document?

9           MR. O'DONNELL: The document was being  
10 changed --

11                   This is Kevin O'Donnell.

12                   The documents were being changed  
13 because they were being updated. And I think one  
14 of the previous speakers mentioned that there was  
15 another draft that they saw that somehow they  
16 prefer over the one that was eventually  
17 published. And, so, that was the draft I looked  
18 at.

19           MR. MANDLER: Mr. O'Donnell, when I review  
20 this -- and you understand I represent taxpayers  
21 -- it appears to be extremely one-sided; that  
22 your efforts, sir, have been to, more or less,  
23 take out the direction and guidance to  
24 magistrates that might protect a taxpayer. And,  
25 so, we ask that specific question of you because

1 if you go through this line by line, which we  
2 will do that today, you will find that in almost  
3 every instance that was beneficial to the  
4 taxpayer it has been removed and nothing else  
5 has been changed in it other than the removal of  
6 taxpayer guidance.

7 And -- can you hear me, sir?

8 MR. MOYES: Yes.

9 MR. MANDLER: Okay. So we're -- our  
10 concern is that what was a long, hard battle to  
11 obtain, which is a, more or less, fair document  
12 which explained the process to a magistrate and  
13 which clarified to long-sitting magistrates what  
14 the real procedure should be is now being gutted  
15 in terms for -- in terms of trying to simplify  
16 it.

17 My position is that you're really not  
18 updating it. You're eliminating all of the  
19 protections that a taxpayer may have when you're  
20 making these deletions.

21 Now, I think it is the role -- and,  
22 sir, I think that's even in legislation -- that  
23 the Department of Revenue provide guidance to new  
24 special magistrates and to value adjustment  
25 boards.

1           And, as a lawyer, whether we call it  
2 advisory or whether we call it your opinions,  
3 it's, more or less, the interpretation of the  
4 Department of Revenue of the correct procedures  
5 from your reading of the statute.

6           That's what the current training  
7 manual attempted to do. And that is what it  
8 looks like you're attempting to eliminate.

9           So, we think that there is great  
10 benefit to magistrates and to value adjustment  
11 boards to have a detailed line-by-line,  
12 step-by-step explanation of what is the -- or  
13 what we in the law practice would say -- best  
14 practice -- best practice manual of what would be  
15 the best practice manual going forward.

16           And, so, I don't have a problem with  
17 the fact that this is 200 pages long. I don't  
18 have a problem with the fact that a special  
19 magistrate thinks it's hard, it takes a long time  
20 to read.

21           It reminds me of when my kids were  
22 complaining about learning calculus and it was  
23 hard to learn and that there was too much  
24 material to cover.

25           Being a magistrate requires certain

1           responsibilities. And one of them is to study  
2           the training manual and to be knowledgeable with  
3           all of the details.

4                         And, so, the mere fact that you're  
5           cutting it down to make it shorter, to me, is not  
6           a very effective goal.

7                         And, sir, I don't know if you're the  
8           one who said you're not an educator or if it was  
9           Mr. Cotton. I couldn't tell from the voices.  
10          But you do need to provide sufficient detail to  
11          someone who is reading this that they understand  
12          the exact procedure and the process.

13                        Now, in terms of the redundancy,  
14          sometimes that can be a benefit. If a magistrate  
15          had an issue and they just want to go look up a  
16          certain issue, having all of the explanations in  
17          that area is helpful to that magistrate. They  
18          don't have to cross-reference that it was already  
19          covered in one place and that it was not covered  
20          in another place. And, so, I don't have a big  
21          problem, having redundancy and having clarity in  
22          certain sections.

23                        And, my reading of the record is that  
24          there was not many complaints ahead of time with  
25          this manual from taxpayers or from property

1 owners. It was only complaints of property  
2 appraisers and certain magistrates who said it  
3 was too long.

4 Please correct me if I'm wrong.

5 Mr. Moyes, did you receive any  
6 complaints prior to this process?

7 MR. MOYES: Mr. Mandler, I honestly can't  
8 remember. I mean, the draft has been up since  
9 June 2013. I don't know if I could tell you what  
10 I had for breakfast yesterday. But, like I said,  
11 we received --

12 (Brief interruption due to phone)

13 MR. MOYES: Sorry, Mr. Mandler, are you  
14 still there?

15 MR. MANDLER: I don't think that's my  
16 phone.

17 MR. MOYES: Sorry. That might be something  
18 on our end. Go ahead.

19 MR. MANDLER: Mr. Moyes, my question to you,  
20 because I don't want to just make a speech, did  
21 you obtain any complaints from taxpayers or  
22 property owners with the existing manual?

23 MR. MOYES: To my recollection, we've  
24 never received one comment at all from a  
25 taxpayer. I could be wrong, but I don't recall

1 ever getting any comment at all from a taxpayer.

2 We received -- I believe I said this  
3 at the April meeting. We received several  
4 comments from magistrates that said it was too  
5 long, it was repetitive, it was redundant, asked  
6 if we could simplify and streamline. We've  
7 certainly gotten some comments from property  
8 appraisers and their attorneys. We've gotten a  
9 lot of comments from tax representatives. We've  
10 gotten a few comments, I believe, from VAB  
11 attorneys. Like I said, we've received comments  
12 over the last two or three years. I don't know  
13 if I can give you a rundown of every one we  
14 received.

15 MR. MANDLER: I'm sure that if you tied  
16 them together, you would see very few public  
17 complaints from the citizens of the state, but,  
18 rather, solely from magistrates who think it's  
19 too long. In my personal opinion, those are  
20 gentlemen or women who don't want to follow the  
21 new procedures or are doing it a certain way and  
22 don't want to take the time to learn the correct  
23 way that is set forth in the manual.

24 And, so, the complaints that it's too  
25 long to me is the person is not taking their job

1 seriously and that would -- to me, it proves to  
2 me that it's really -- it's done its job of  
3 explaining it clearly.

4 And, so, why we, on the taxpayer side,  
5 are so concerned is, it took years and years to  
6 get a document which is more or less fair. It's  
7 not a perfect document.

8 I don't know, but do you guys hear  
9 that also, "please continue to hold"?

10 MR. MOYES: Yes. I apologize we can hear  
11 you. Go ahead.

12 MR. MANDLER: So the concern is that it  
13 takes a step backwards and eliminates some very  
14 clear, important principles that we're doing;  
15 that we need to establish for magistrates.

16 And I give you just one example that  
17 was one that really, to me, was a great example.

18 On Page 77 of this document -- and  
19 we're going to go back to this when we get to  
20 this page -- on line one and two, fundamental  
21 due process shall be observed and governed  
22 during the hearings.

23 Now, to take that line is -- it's a  
24 reminder to the magistrates that the whole goal  
25 of the hearing is to have fundamental due



1 process. You're taking out, as a gentleman who  
2 is in these hearings a lot, one of the most  
3 important things there that should be in the mind  
4 of that property appraiser and magistrate when  
5 they're in a hearing, that due process is the  
6 goal.

7 And, so, that's an example. I could  
8 go through and give you a hundred examples, and  
9 we will as the day proceeds, as to how you  
10 eliminated items that are purely there to remind  
11 this magistrate that the purpose of the hearing  
12 is fundamental due process.

13 Now, the other thing that you took  
14 out, which was how we got to the law where it is  
15 today.

16 And we have a lot of magistrates who  
17 have been around for many years. And they've  
18 been doing it an old way.

19 And, in my opinion, they do read  
20 cases.

21 I don't know if that was Mr. Cotton  
22 who said he doesn't use string of cases.

23 They actually do do research. Cases  
24 are readily available on-line.

25 And they need to know how the law

1 has changed. And, so, those interpretations --  
2 I think we got rid of the "please hold", at  
3 least.

4 Can you hear me, Gentlemen?

5 MR. MOYES: Yes, we can hear you.

6 MR. MANDLER: And those interpretations are  
7 important to go forward.

8 And, so again, it's a feeling on our  
9 side -- and it's not a feeling, sir. It's an  
10 elimination of the provisions which explain how  
11 it's done to magistrates and clearly sets forth  
12 the law that you're eliminating that we're  
13 critical in providing uniformity and fundamental  
14 due process in these hearings.

15 And I will just conclude it by going  
16 back to my opening. Your job is to provide  
17 advice and to provide guidance. And it may not  
18 be the rule of law, but it is something that will  
19 create a uniform system throughout this state and  
20 will allow magistrates to address without having  
21 to go back and research at every hearing,  
22 requiring taxpayers to go argue a point over and  
23 over again and to have this continual fighting  
24 back and forth between property appraisers and  
25 taxpayers.

1           So, to eliminate that guidance, to  
2           eliminate those advisory opinions, and to  
3           eliminate your interpretation of how we got here,  
4           as was done in the existing manual is a -- just  
5           ignoring the role of the Department of Revenue in  
6           protecting taxpayer rights and providing  
7           uniformity throughout the state.

8           So, we would like you to -- when you  
9           are looking at the document, put yourself in the  
10          shoes of a magistrate who needs to understand how  
11          a law got to where it is, who may want to do  
12          their own research on cases and who would like  
13          some guidance from Department of Revenue on the  
14          proper way to handle a procedure or a hearing or  
15          a piece of evidence.

16          And that type of information that is  
17          currently in there is very, very good and should  
18          not be eliminated.

19          MR. O'DONNELL: This is Kevin O'Donnell.

20          MR. MANDLER: And that's my opening  
21          statement.

22          Yes, sir? Do you have any comments?

23          MR. O'DONNELL: No. I just want to make  
24          a point to take Mr. Cotton out of the  
25          discussion. I was the one who brought up

1 education and string cites. That was  
2 Kevin O'Donnell who did that, just for the record,  
3 so Mike doesn't keep getting blamed.

4 MR. MOYES: Thank you Mr. Mandler for the  
5 comments. We apologize for the telephone  
6 interferences.

7 We'll take Orange County, and, then,  
8 Mrs. Anderson, we'll get to you.

9 MS. SMITH: Hi, my name is Katie Smith.  
10 I'm the Orange County Deputy Clerk to the Board  
11 and the value adjustment board. Thank you for  
12 allowing me the opportunity to speak.

13 I just have two comments to make, and  
14 it's regarding solely to the manual since that's  
15 why we're here today.

16 And as an educator and communicator,  
17 I do have two small pieces of advice or  
18 recommendation.

19 If you will please look at Page 3,  
20 specifically line 19 -- this is in follow-up to  
21 Mr. Mandler's comments. I was going to briefly  
22 touch upon this before Mr. Mandler spoke -- you  
23 have referenced case law. You have actually  
24 added case law to that subparagraph.

25 I'm in agreement with many who have

1 spoke today, but I think you should keep the  
2 quick link references to the case law. We all  
3 know what it's like to be busy, overwhelmed,  
4 overchallenged, and I think that offering the  
5 quick links to the magistrates is a good tool  
6 and a useful tool. I don't see the value in  
7 removing that.

8 The other thing, as an educator and  
9 one who has created manuals before, I think that  
10 in removing -- if you look at Page 1, for  
11 instance, module one, beginning on line 9, I  
12 think that you offering an overview to the  
13 magistrates, taxpayers, I really recommend that  
14 you keep those quick bullets because, again,  
15 during a hearing, you all know what it's like to  
16 be busy wherever you are, even if you wanted to  
17 revert back to this training.

18 And, in Orange County, that's our goal  
19 that our magistrates go back and continually  
20 rereview. And why remove something that is of  
21 great value.

22 They may say, what darn module was  
23 that?

24 And if you offer those bullets as  
25 opposed to paragraph after paragraph after

1 paragraph.

2 Again, those would be my two  
3 recommendations.

4 You've added the language case law,  
5 why not keep that quick reference to case law.  
6 And, then, with regard to the bullets, Orange  
7 County we recommend that you keep those bullets  
8 in there for a quick reference. They do hold  
9 value. I don't see that those were redundant.  
10 And I think it's a helpful training tool.

11 Thank you for the opportunity.

12 MR. MOYES: Thank you. I appreciate you  
13 bringing that up.

14 We mentioned last time -- I know  
15 there are some folks here who didn't participate  
16 last time, but we intended to include those  
17 bullets in the training guides. We didn't have  
18 time to put in the draft that we posted. I just  
19 wanted to reassure everybody whatever version is  
20 final, it will have those up front.

21 Thank you for pointing those out.

22 MR. MOYES: Ms. Anderson.

23 MS. ANDERSON: My name is Shelia Anderson.  
24 I'm here to represent myself. I'm also licensed  
25 under Chapter 475. I represent taxpayers, and

1 have from Key West to Pensacola.

2 And I am offended by the notion that  
3 any private citizen, who is here today speaking,  
4 is not a taxpayer and is not a private citizen  
5 and does not have any rights in this process.  
6 And that somehow by making that statement, you  
7 leave the impression that you have no  
8 responsibility to us.

9 MR. MOYES: Ms. Anderson, we're all  
10 taxpayers. I didn't mean to offend anybody. I'm  
11 sorry you took offense.

12 MS. ANDERSON: I'm offended at the notion  
13 that I am not an ad valorem taxpayer --

14 MR. MOYES: I believe we all pay ad valorem  
15 taxes. I didn't mean to offend you.

16 Can we move on, please?

17 MS. ANDERSON: No. I petition my taxes  
18 before value adjustment boards, as well as  
19 representing other people. And I have been in  
20 hearings throughout this state in the last year  
21 where special magistrates were being instructed  
22 by property appraiser attorneys in matters to do  
23 with the law which have not been clearly  
24 expressed in the documents that they are supposed  
25 to use to understand what they are supposed to

1 do and you're taking out information? You should  
2 be adding in information.

3 And let me give you an example of why  
4 there is a problem in the system that continues  
5 because the Department of Revenue fails to  
6 understand what goes on in the process and is not  
7 listening to the people who are telling you from  
8 direct experience how people were being cheated  
9 of their rights, not only to due process but to  
10 fair taxes, okay?

11 Yesterday -- I don't know if this went  
12 out to the interested parties' list or through  
13 another source dated May 20th, Forum DR485n,  
14 Notice of Decision of the Value Adjustment Board.  
15 This should be in the training documents. It is  
16 to value adjustment board clerks, board legal  
17 counsel and VAB interested parties from  
18 James McAdams, Director Property Tax Oversight.  
19 And it says, it has come to our attention that  
20 there may be some confusion about the DR485n and  
21 the date which the value adjustment board should  
22 enter in the space legal certification date.

23 This should be the date the property  
24 appraiser in each county certified the tax roll  
25 for collection under 193.122(2) Florida Statute.



1           This date would be consistent for all petitions  
2           filed in the same tax year in the county.

3                       This date is important for petitioners  
4           who need to know that date to correctly calculate  
5           the deadline for appealing to circuit court,  
6           et cetera. In fact, that's not the date for  
7           taxpayers to correctly calculate the deadline to  
8           file suit in circuit court. And no one who goes  
9           to a value adjustment board hearing should have  
10          to be told ever that if you don't think the  
11          hearing complied with the law, that you need to  
12          go to court and sue somebody else when the value  
13          adjustment board is not complying with the law or  
14          the special magistrate is not complying with the  
15          law.

16                       This document demonstrates that even  
17          the Department of Revenue's property tax  
18          oversight lawyers, who I assume drafted this,  
19          don't know what they're talking about because  
20          there are several dates involved in the final  
21          decisions.

22                       And for taxpayers, I'm advised by  
23          competent counsel to determine a litigation date  
24          comes from the date of mailing of the final  
25          decision, not from the certification date, which

1 does not apply to taxpayers' decisions on  
2 litigation.

3 So, if you can't get this correct,  
4 imagine what the magistrates are dealing with  
5 when they are not given clear and competent  
6 instructions on how to conduct hearings.

7 There is nothing in any of the  
8 modules that I can find that clarifies the  
9 definitions of real property for tax purposes.

10 And it's already been on the record  
11 for a long time that there's more than one  
12 definition in the statute for real property.

13 So, which document -- which definition  
14 should they be using? You're not telling them.

15 They're at the mercy of the people in the  
16 hearing room. And the mercy of the people in the  
17 hearing room is the property appraiser sends in  
18 an attorney and the attorney stands there and  
19 says, Oh, I'm an attorney. You need to listen to  
20 me.

21 There's no independent or objective  
22 source material in those cases for the special  
23 magistrates to do their jobs.

24 So, for you to sit here and to say  
25 that you decided things were complicated, it begs

1 the question how many of the people who notified  
2 you are actually private citizens and how many  
3 are anybody connected with government? And, in  
4 government, where did they get the authority to  
5 make policy.

6 MR. MOYES: I'm sorry, can you repeat the  
7 question?

8 MS. ANDERSON: How many people who have  
9 told you that the documents are too long or there  
10 is a redundancy in them have been private  
11 citizens, and how many people have been in  
12 government and how many of those people -- or  
13 where did those people get their authority to set  
14 policy?

15 MR. MOYES: I can't tell you the numbers  
16 of either one. I don't --

17 MS. ANDERSON: Well, then, why can't you?  
18 That's your job.

19 Who do you represent, Mr. Moyes?  
20 What is the purpose --

21 MR. MOYES: I'm sorry, I don't keep track  
22 of all the comments we get.

23 MS. ANDERSON: So, just anybody can come  
24 along and make a comment and you don't  
25 distinguish whether or not that person has

1 authority to make the comment or set policy or  
2 is affected in any way?

3 I'm an interested party to the extent  
4 I have a vested interest in a government that  
5 knows the difference between serving private  
6 citizens and just doing whatever anyone tells you  
7 to do without determining if whoever is talking  
8 to you has the authority to influence the  
9 policies that are being made.

10 MR. MOYES: Does somebody not have authority  
11 to comment?

12 MS. ANDERSON: Oh, well, if you read the  
13 code of ethics in the state, I think you'd find  
14 that is correct.

15 MR. MOYES: You brought up the Constitution  
16 a couple times.

17 MS. ANDERSON: I'd be happy to bring  
18 it up again.

19 MR. MOYES: The First Amendment says  
20 everybody has free speech.

21 MS. ANDERSON: Let me bring up the  
22 Constitution again.

23 Equal protection.

24 MR. MOYES: What does that have to do with  
25 comments?

1                   You said who has the authority to  
2                   comment? Everybody has the authority to comment.

3                   MS. ANDERSON: You're listening to anybody  
4                   who comes along whether or not they have the  
5                   authority to set policy?

6                   MR. MOYES: Nobody is setting policy but  
7                   us. It's our document.

8                   MS. ANDERSON: But you're listening to  
9                   other people who are telling you things and you  
10                  can't distinguish --

11                  MR. MOYES: Believe me, if I didn't want  
12                  to listen to other people, I wouldn't be sitting  
13                  here right now. We listen to everybody.

14                  MS. ANDERSON: You think everybody is the  
15                  same whether or not they're in a government  
16                  position or not?

17                  MR. MOYES: I didn't say that. I said  
18                  everybody has a right to say what they want.

19                  Do you disagree with that?

20                  MS. ANDERSON: Yes, I disagree with that.  
21                  And the reason I disagree with that is that there  
22                  are some people in some positions in government  
23                  positions who don't have the authority to involve  
24                  themselves in setting policy.

25                  MR. MOYES: Okay. It's our document.

1 Nobody else is doing anything but us, the  
2 Department of Revenue.

3 MS. ANDERSON: But you're revising the  
4 document. You're spending a substantial amount  
5 of public funds and public resources and taking  
6 all of our time because you've been hearing from  
7 people, you said hundreds of pages.

8 How many pages represent how many  
9 people, and who are those people and do they have  
10 the authority to determine policy?

11 MR. MOYES: I'm sorry, I don't know how to  
12 respond.

13 MS. ANDERSON: Well, that's the other  
14 problem.

15 You need to understand that this  
16 process is intended to protect taxpayers' rights  
17 to fair assessments.

18 MR. MOYES: I think I got that.

19 MS. ANDERSON: Well, it's not in the  
20 document. It doesn't identify the purpose of the  
21 process and why it exists.

22 So, if you understand it, why is it  
23 not in there?

24 MR. MOYES: We'll take a look.

25 We got a couple e-mails. Sorry I

1           didn't get to these sooner. I'm not sure this  
2           is the order they came in.

3                       We got a comment from Tim Hart with  
4           Property Tax Alliance Group.

5                       Mr. Hart says: "Was in the auditor  
6           General's report of findings from a recent audit  
7           of VABs in Florida. One of the findings is as  
8           follows:"

9                       "Finding number five: Special  
10          magistrate training was not verified by the DOR  
11          prior to issuing statements acknowledging receipt  
12          of training. And one VAB did not document  
13          special magistrate training in its records.  
14          This is only one of the findings within a report  
15          indicating a problem with due process within  
16          Florida's VABs. There is clearly an issue on  
17          training of magistrates. Please explain the  
18          benefit of reducing the training requirements  
19          and, more specifically, the resources utilized in  
20          training?"

21                      Well, first, I think, just for  
22          everybody's clarification, I believe it's still  
23          a draft report. I don't think it's final, but  
24          there is an interim report from the auditor  
25          general on VABs. I believe finding number five

1 does deal with special magistrate training.

2 Let me see what his question is here.

3 "Please explain the benefit of reducing the  
4 training requirements and, more specifically, the  
5 resources utilized in training?"

6 Mr. Hart, I'm not sure what the last  
7 phrase means, specifically, the resources  
8 utilized in training. I'm just not sure what  
9 you're referring to there. If you could, maybe,  
10 clarify that for me, I'll try to answer it.

11 I think, again, we've tried to explain  
12 that we weren't trying to remove any pertinent  
13 information from the training. We were just  
14 trying to streamline it. I understand there's a  
15 lot of disagreement with that. So, I'm not sure  
16 what else I can say, but if you would like for me  
17 to -- if you could clarify that last phrase for  
18 me, though, I'll try to answer that.

19 Jorge Marrero with Real Estate  
20 Analysts. His e-mail says: "The Florida Auditor  
21 General recently released findings of a random  
22 multi-county audit. There were 14 findings  
23 listed. Of the 14 findings, 11 directly  
24 referenced issues contrary to DOR rules and  
25 Florida laws."



1            "In light of these findings, it is  
2            obvious a condensed version of the training  
3            modules would be counterproductive. It appears  
4            more training is needed, not less."

5            "The reinstatement of the prior  
6            training with further clarification and examples  
7            would be helpful."

8            "Furthermore, the addition of module  
9            12, titled Ethics, would be a welcomed addition  
10           in restoring public trust in the process."

11           I don't believe there's a question  
12           there.

13           Thank you, Mr. Marrero, for your  
14           comments.

15           And, finally, Jeff Nelson from  
16           Property Tax Services of Florida. His e-mail  
17           says: "The VAB process should be a fair and open  
18           process for every person in the state. The more  
19           difficult the VAB process for the everyday  
20           person and business owner, the less likely an  
21           individual or small business owner will enter the  
22           process."

23           "The individual or small business  
24           owner will have to hire an attorney or consultant  
25           to review their property tax liability."

1                   Okay, Mr. Nelson, thank you for the  
2 e-mail.

3                   Oh, Mr. Nelson has two?

4                   MS. FORRESTER: Yes.

5                   MR. MOYES: Mr. Nelson has a second e-mail.  
6 I guess this is to my question to Mr. Zachem  
7 earlier.

8                   Mr. Nelson's e-mail says: "Jobs are  
9 affected because Florida allows out-of-state tax  
10 consultants to enter Florida and perform tax  
11 appeals. Out-of-state tax consultants are not  
12 qualified to review local real estate market  
13 information. Many small businesses such as mine  
14 have lost business to out-of-state tax  
15 consultants."

16                   "I have many examples of out-of-state  
17 tax consultants not showing up for hearings  
18 without proper information, canceling hearings  
19 last minute or showing up not -- showing up not  
20 -- showing up not to know the Florida rules and  
21 regulations, causing problems for an already  
22 overburdened VAB process in Florida."

23                   "I believe anyone with a Florida  
24 brokers's license is qualified and regulated  
25 by FREC", F-R-E-C. "No additional costs would be

1 incurred at the state or local government level."

2 Is that all? I think I got all four.

3 Any other comments on the phone?

4 No?

5 Anybody else?

6 Yes, sir.

7 MR. MOYES: Please state your name, sir.

8 MR. BECK: Good morning, my name is

9 Stan Beck, and I appreciate the opportunity to  
10 address you today. And I also want to thank you  
11 for coming to Orlando. You got halfway there.

12 Hopefully, in the near future, we'll  
13 have a new draft. It will resemble the kind of  
14 protections and a wealth of information that  
15 previously existed that was so important. And  
16 I invite you all to join us in South Florida and  
17 we'll have another workshop there, spend an  
18 evening on South Beach and you'll never want to  
19 go back to Tallahassee.

20 MR. MOYES: I'm sure of that.

21 MR. BECK: But moving ahead, I think there  
22 are a lot of very important points here.

23 And, to start with, Mr. O'Donnell  
24 asked Mr. Garcia a couple hours ago, or so it  
25 seems, what the best practice was and why it's

1 important to have all these materials and why we  
2 should leave it -- basically, in my own words,  
3 why this document should have been left alone?

4 And let me tell you, I think everyone,  
5 who has ever attended a hearing on behalf of  
6 themselves or a taxpayer, will assure you that we  
7 have a history of property appraisers'  
8 representatives and attorneys, unfortunately,  
9 misrepresenting the law to special magistrates.  
10 I don't think there's any doubt about it.

11 And just some very simple examples.

12 For years, the property appraisers'  
13 attorneys and representatives have argued at  
14 value adjustment board hearings that the eighth  
15 criteria did not apply unless a property sold.

16 Now, just imagine that they could  
17 have been misrepresenting such a fundamental  
18 issue.

19 Now, if you look at what you've done  
20 to these guidelines -- to these training  
21 materials, you've made it less clear, not more  
22 clear. That's why the taxpayers need all of the  
23 material that has been in it, not stripped down.  
24 No amputation, no severing of limbs. You've  
25 taken all of the vital body parts out of it.

1                   Another thing that property  
2                   appraisers' representatives have misstated was  
3                   whether the eighth criteria applied to tangibles.

4                   How fundamental was that?

5                   The courts have made it clear for  
6                   years, and they're still misrepresenting it.

7                   Another similar point, they'll say,  
8                   well, bring the HUD form so that we can see the  
9                   actual cost of sale.

10                  That's not the rule. We all know  
11                  better.

12                  These are just an illustration of why  
13                  it's so fundamental that the document be  
14                  comprehensive.

15                  Now, a month ago, Mr. Moyes, you  
16                  acknowledged that there were concerns on the part  
17                  of many of us, including myself in particular,  
18                  about the undue influence of the property  
19                  appraisers in connection with this process.

20                  And at the very beginning of that  
21                  session in Tallahassee, you were asked who the  
22                  author was. And you volunteered that you were  
23                  the author, in fact.

24                  This morning we're hearing from you  
25                  that Mr. O'Donnell was also a coauthor, but I

1 don't think you've told us half the story. And  
2 I really invite you to go forward right now and  
3 tell us what the timeline was, what you did, and  
4 when you did it with specificity. And this is  
5 your opportunity. You don't have to do it.  
6 You're not compelled to do it, but I think you  
7 have failed to set the record straight on your  
8 role, which I believe was minimal.

9 And I believe that your position --  
10 you know, someone wrote in an e-mail in -- last  
11 April and said you were disingenuous.

12 MR. MOYES: I hear that a lot.

13 MR. BECK: Well, you didn't hear it from  
14 me, but you're going to start hearing right now  
15 from me about timeline that you've never shared  
16 with us.

17 MR. MOYES: I'll be happy to.

18 MR. BECK: Okay. Well, the first thing is:  
19 Did -- this draft started out by a work product  
20 from Mr. Keller?

21 MR. MOYES: (Nods head.)

22 MR. BECK: You're shaking your head yes  
23 so everybody knows?

24 MR. MOYES: Believe it.

25 MR. BECK: Well, nobody heard that in April

1 and nobody heard it this morning. We've been  
2 here for an hour-and-a-half and nobody heard  
3 about the fact that Mr. Keller, who is a seasoned  
4 experienced professional with the Department  
5 of Revenue -- he has participated in the  
6 preparation of guidelines for real and tangible  
7 personal property. He's written bulletins and  
8 opinions and memoranda for decades -- was the  
9 person who started this. Never acknowledged by  
10 you yet until you're now shaking your head yes.  
11 Okay?

12 MR. MOYES: I don't --

13 MR. BECK: Thank you.

14 So, we're going to go through the  
15 facts, because you were not the author of the  
16 first draft.

17 MR. MOYES: I don't believe I ever said I  
18 was.

19 MR. BECK: You said you were the author.

20 Now, after that --

21 MR. MOYES: I have the transcript from the  
22 last meeting. Would you like for me to read it?

23 MR. BECK: Well, okay. Well, I remember  
24 it. And I know we have the transcript. You're  
25 welcome to -- you're welcome to jump in and say

1           whatever you wish.

2                       You want to clarify something?

3           MR. MOYES:  No.  Please finish.

4           MR. BECK:  Okay.  But jump in any time you  
5 wish because I'm just getting a grasp of the  
6 timeline.

7                       Now, it's my understanding that  
8 Mr. O'Donnell came into possession of the Keller  
9 draft.  And that was about 11 months ago.

10                      I want to remind you that in April  
11 at our meeting, Mr. O'Donnell -- and I wrote it  
12 down specifically from the transcript.  He said,  
13 I'm fairly new to property taxes -- about a  
14 subject about some cases.

15                      Well, if he was fairly new to  
16 property taxes in April, how new was he 11 months  
17 ago; that he was given the task of working on  
18 this document and taking it from probably the  
19 most knowledgeable person, the person with the  
20 best competency in your department and it was put  
21 in the hands of a person who just a month ago  
22 acknowledged that he is fairly new to property  
23 tax?  A document of this magnitude.

24                      And what happened to it?  It was  
25 chopped.  There were amputations.



1                   It was in the hands of a surgeon,  
2                   Mr. Keller. And ended up in the hands of the  
3                   hospital janitor, who came from the Legislature  
4                   --

5                   Nothing personal. I don't know you,  
6                   sir.

7                   However, some of us, in a private  
8                   sector, wonder if that was a political  
9                   appointment who took over from a gentleman,  
10                  Mr. Keller, who was a professional, a  
11                  professional.

12                  I understand the timeline to have gone  
13                  a little further where the document then ended up  
14                  in the hands of Kama Monroe.

15                  Now, you haven't told us that, but I  
16                  learned it. And I believe that it's a  
17                  shortcoming in the openness that has been void  
18                  here.

19                  I believe that the question that  
20                  Mr. Coleman posed to you at the inception of the  
21                  Tallahassee meeting was: Who was the author?  
22                  And it was important. And I believe that we were  
23                  misled because that document went from Mr. Keller  
24                  to Mr. O'Donnell and then it went to Kama Monroe.

25                  Now, Kama Monroe, for those who don't

1 know -- and I don't know the lady personally --  
2 but her father is Ron Schultz. Her father was a  
3 property appraiser for many years in Pinellas  
4 County. He was a property appraiser in Citrus  
5 County, and in '07 he became a State  
6 Representative in Tallahassee.

7 In '09, he was among the very few --  
8 maybe three or four people -- in the House of  
9 Representatives who voted against the '09  
10 legislation, which is so important that we're  
11 talking about today. His vote was no.

12 AUDIENCE MEMBER: He was the only no  
13 vote.

14 MR. BECK: The only no vote. Thank  
15 you.

16 The only no vote.

17 And what happened, his daughter has  
18 now institutionalized his no vote.

19 Now, think about it. Mr. Schultz,  
20 property appraiser, close ally with all the  
21 property appraisers, goes into the Legislature  
22 and, under his watch, taxpayers got the fairest  
23 legislation they ever had over the objection --  
24 the vehement objection -- of himself and his  
25 allies.

1                   And at that time his daughter,  
2                   Kama Monroe, gets a position, becomes an employee  
3                   of the Department of Revenue in PTO.

4                   Now, you people at the DOR have a lot  
5                   of places where she could have gotten a job, but,  
6                   no, she gets a job in PTO.

7                   Now, by the way, if you want to give  
8                   somebody a job in PTO, I have a daughter. Nice  
9                   young lady, bright, A student, and she would like  
10                  a job in PTO. And, you know what, she'll help  
11                  you on that next draft.

12                  And, you know, you wonder about why we  
13                  talk about undue influence.

14                  Well, if Haley Beck can get a job in  
15                  PTO and if she works on the next draft, I'll bet  
16                  you the property appraisers around the state will  
17                  be wondering whether I, as her father, might have  
18                  influenced the way she redrafted these training  
19                  materials.

20                  And I pose the same thing to you.

21                  And I go through this because I  
22                  believe it's essential to the good faith, which  
23                  is absent. There's a bankruptcy of good faith  
24                  here.

25                  What has happened is you had a

1 professional, Mr. Keller, going to another  
2 professional, Mr. O'Donnell, who had no  
3 experience that I can attribute, from his own  
4 statement, not my own because I don't know the  
5 gentleman, okay? It's nothing personal, but,  
6 from his own admission last month, last month,  
7 new -- fairly new is what he said. And then to  
8 a person, Kama Monroe, whose loyalties are really  
9 questionable. And we talk about undue influence?

10 And what did Kama Monroe do? Well,  
11 she did more surgery.

12 MR. MOYES: Did she?

13 MR. BECK: I believe she did.

14 MR. MOYES: Do you have proof?

15 AUDIENCE MEMBER: Yes.

16 MR. BECK: Well, do you have proof?

17 MR. MOYES: Yes.

18 MR. BECK: What do you know?

19 MR. MOYES: More than you.

20 MR. BECK: Well, tell me.

21 MR. MOYES: No. You're up there making a  
22 statement.

23 MR. BECK: No, sir. I'm still getting  
24 information --

25 MR. MOYES: You're slandering somebody

1 and you have no evidence whatsoever.

2 MR. BECK: Excuse me. I'm still getting  
3 information.

4 MR. MOYES: Obviously, whatever information  
5 you --

6 MR. BECK: Do you want to raise your hand  
7 and take an oath that your testimony today will  
8 be true and correct?

9 MR. MOYES: Hook up the lie detector. I'm  
10 ready to go.

11 MR. BECK: Let's do it. You want to take  
12 an oath?

13 MR. O'DONNELL: No. We're not going to.

14 MR. BECK: Why not?

15 MR. O'DONNELL: Because this is not an  
16 appropriate --

17 MR. BECK: Because this has not been  
18 candid from day one.

19 MR. MOYES: Mr. Beck, I'm not going to  
20 listen to you slander somebody from the  
21 Department of Revenue, okay?

22 MR. BECK: There's no slander. These are  
23 facts.

24 MR. MOYES: No, they're not. Show me a  
25 fact.

1           MR. BECK: Mr. Schultz is her father; is  
2 that correct?

3           MR. O'DONNELL: This is not --

4           MR. MOYES: Show me how she changed the  
5 training.

6           MR. BECK: I don't have it at my hand.

7           MR. MOYES: I know you don't.

8                     So, why don't you go on to something  
9 you do know?

10           MR. BECK: Okay, well, you tell me. Did  
11 she change it?

12           MR. MOYES: No.

13           MR. BECK: Did she come into custody of it?

14           MR. MOYES: I don't know, but she didn't  
15 make any changes.

16           MR. BECK: Well, you said you're the author.  
17 So, did she have custody of it or not?

18           MR. MOYES: I'm not going to answer that  
19 question.

20           MR. BECK: You're not going to answer it?  
21 Why not?

22           MR. MOYES: Because it's not relevant.

23           MR. BECK: But you haven't been candid  
24 to us at all.

25           MR. MOYES: You ask me a question, I'll

1 give you an answer.

2 THE COURT REPORTER: Wait, wait, wait.

3 MR. O'DONNELL: Time out. Time out.

4 Let's go to the exact language, if you  
5 know where it is in this transcript, with  
6 whatever is said because I don't believe he said  
7 that.

8 MR. BECK: He said he was the author.

9 MR. O'DONNELL: I think he said he was the  
10 primary author.

11 MR. MOYES: Of the changes.

12 MR. BECK: Well, what do you do? Tell  
13 me what you do.

14 MR. O'DONNELL: What's that? What I do?

15 MR. BECK: What do you do?

16 MR. MOYES: If you want to ask me in a calm  
17 way, I'll tell you what I did.

18 MR. O'DONNELL: If you're going to do an  
19 evidentiary hearing, you're supposed to show the  
20 person what they read.

21 MR. BECK: You're going to tell me what to  
22 do?

23 MR. O'DONNELL: Well, you're making the  
24 accusations.

25 MR. BECK: Mr. O'Donnell, with all due

1           respect, you're the one that is new, fairly new  
2           to property taxes.

3           MR. O'DONNELL: This is due process.  
4           Anybody who gets deposed, gets to see it first.

5           MR. BECK: Well, he was there. We're  
6           talking about his own statement. I don't have  
7           to show him.

8           MR. O'DONNELL: Every witness --

9           MR. BECK: You show it to him. You're his  
10          lawyer.

11          MR. O'DONNELL: No. I'm telling him not to  
12          talk --

13          MR. BECK: Oh, you're telling him not to  
14          talk?

15          MR. O'DONNELL: About that.

16          MR. BECK: You're his lawyer.

17          MR. O'DONNELL: No, I'm telling him not to  
18          talk about that because you haven't shown it to  
19          him.

20          MR. BECK: There it is. I've shown it to  
21          him.

22          MR. MOYES: Mr. Mandler (sic), please  
23          comment on the training, if would like.

24          MR. BECK: Okay. I believe what we have  
25          here is the Department acted as a surrogate for



1 property appraisers.

2 And I want to tell you one more thing  
3 that concerns me. When you take a letter --  
4 there's a letter from Loren Levy to Joe  
5 Mellichamp that went back, not too long ago, in  
6 connection with the proposed settlement of the  
7 DOAH litigation. And Loren Levy's letter sought  
8 to have deleted from the training materials a  
9 hundred pages or so.

10 And if you take that information and  
11 compare it to what has, in fact, been deleted --  
12 you can go line by line -- and what you find is  
13 that -- the real author here was probably  
14 Loren Levy, the author of the deletions.

15 AUDIENCE MEMBER: We all know that.

16 MR. BECK: Everybody knew it? Well, now  
17 it's on the record. I don't know why anybody  
18 didn't say it.

19 AUDIENCE MEMBER: You didn't ask.

20 MR. BECK: I didn't ask. I'm sorry.

21 I think that there is a real problem  
22 when a professional, like Mr. Keller, works on a  
23 document and then it is ripped apart with all the  
24 essential parts taken out, with the life of it  
25 taken apart -- taken out of it, the guts of it,

1 the heart of it taken out.

2 And maybe Mr. Schultz had no influence  
3 on it, but I feel it.

4 And when you ask why do people lack  
5 confidence in this process, it's because of those  
6 things.

7 I don't think Kama Monroe should be in  
8 PTO. I don't think she should have touched the  
9 document. And if she didn't, you're welcome to  
10 dispute the facts, okay?

11 Now, I have a number of other things  
12 that I will want to address, but I'm going to let  
13 other people proceed.

14 I will respond at this point to  
15 anything that I've covered at this stage.

16 MR. MOYES: You said I haven't been  
17 forthright, so ask me what you want to know.

18 MR. BECK: I want to know specifically what  
19 you did, what everyone else did, and when they  
20 did it in connection with this draft.

21 MR. MOYES: I can't tell you what everyone  
22 else did. I can tell you what I did.

23 MR. BECK: Okay. Tell me.

24 MR. MOYES: I deleted a bunch of stuff.

25 MR. BECK: You did?

1 MR. MOYES: Yes.

2 MR. BECK: And based on what?

3 MR. MOYES: Based on my opinion.

4 MR. BECK: And what was your basis?

5 MR. MOYES: What I thought was best.

6 MR. BECK: Well, let me ask you this: Are  
7 you an attorney?

8 MR. MOYES: No.

9 MR. BECK: Are you an appraiser?

10 MR. MOYES: No.

11 MR. BECK: Do you have any professional  
12 designation?

13 MR. MOYES: No.

14 MR. BECK: So, then, how can you justify  
15 having an opinion about anything as compared to  
16 a professional attorney who has been in the PTO  
17 for decades, Mr. Keller?

18 MR. MOYES: Because it's a draft.

19 MR. BECK: Well, wait a minute. What is a  
20 draft?

21 A draft is something that we have to  
22 spend time looking at.

23 Now, if you want to withdraw the  
24 draft, that would be different, but you've left  
25 it out there.

1 MR. MOYES: It's a draft.

2 MR. BECK: You have -- you have taken --  
3 you have taken a scalpel to something that was  
4 prepared by a professional. And you're not even  
5 a lawyer or an appraiser.

6 And let me ask you this: Have you  
7 ever sat through a VAB hearing?

8 MR. MOYES: Yes.

9 MR. BECK: For how many minutes?

10 MR. MOYES: We're not going to play this  
11 game.

12 MR. BECK: Well, we are going to play the  
13 game because the question is --

14 MR. MOYES: No, we're not.

15 MR. BECK: You don't have to answer.

16 MR. MOYES: Thank you.

17 Now, is there anything else you would  
18 like to know about the training that's relevant?

19 MR. BECK: I want to say that one of the  
20 problems here is that we have people involved,  
21 like yourself, sir, who I believe should not be  
22 making these decisions. Not only do you lack the  
23 professional competence -- and I believe  
24 competence is a critical issue -- but, in  
25 addition, a person making these decisions should

1 confer with me, should confer with a whole bunch  
2 of people here.

3 MR. MOYES: Isn't that what we're doing?

4 MR. BECK: No, sir. We should have had a  
5 seat -- we should have been heard before anybody  
6 took a scalpel to this thing.

7 And the person who was going to do  
8 this, if they were going to change it, change  
9 it -- leave it alone, it's fine because no one --  
10 no taxpayer, in my opinion, had anything to  
11 complain about, okay?

12 But if somebody from the Department  
13 was going to make a change, they should have  
14 spent some days sitting at hearings, hearing  
15 exactly what the exchange is, seeing what the  
16 frustration is for taxpayers who have to come in  
17 where it's a one-sided argument. And I don't  
18 believe that you are qualified to do that because  
19 -- I think we've talked about this issue in the  
20 past. And I don't think you've ever convinced  
21 me that -- and I don't want -- let me digress  
22 for a second.

23 My impression is that you have not  
24 spent any significant time at a VAB hearing.  
25 I've never seen you at one, and I'm there all the

1 time.

2 Now, if anyone else has seen Mr. Moyes  
3 at a VAB hearing -- oh, Will Shepherd. Well,  
4 he's part of your team.

5 All right. That's all I have at this  
6 moment. Thank you.

7 MR. O'DONNELL: Let's take a break.

8 MR. MOYES: It's 11:45. Why don't we take  
9 a break for about 15 minutes and we'll reconvene  
10 at 12.

11 (There was a break taken at 11:45 a.m.  
12 and reconvened at 12:00 noon.)

13 MR. MOYES: Why don't we go ahead and  
14 reconvene. It's just a few minutes after 12.  
15 We'll try to take a lunch break around one, give  
16 or take.

17 So, Ms. Cucchi.

18 If we could try to keep the comments  
19 focused on the training module, that would be  
20 great, but it's an open public forum.

21 So, Ms. Cucchi.

22 MS. CUCCHI: Hi. My name is Sara Cucchi,  
23 and I am a taxpayer. I do not represent anybody,  
24 never have represented anybody.

25 As an unrepresented VAB petitioner

1           and as a citizen VAB member, I personally  
2           observed again and again the dire need for more  
3           information, and not less, on what VAB's and  
4           their appointees can do to improve compliance and  
5           consistency in performing their duties.

6                         Both the new and previous auditor  
7           general reports repeatedly emphasize the need for  
8           fairness, the need for consistency, and the need  
9           for uniformity in the VAB process.

10                        I have also personally experienced and  
11           observed on many occasions, the unique influence  
12           that pervades Florida's property tax system.  
13           This situation makes it critical that the  
14           Department of Revenue provide comprehensive,  
15           informative 2014 VAB training content that  
16           contains all of the relevant provisions of law,  
17           along with explanations and examples of how to  
18           perform the VAB's duties in various factual  
19           situations.

20                        More VAB training content, not less,  
21           is greatly needed.

22                        Information obtained in a public  
23           records request shows that on June 11th, 2013,  
24           Steve Keller sent to James McAdams and  
25           Howard Moyes the single most informative and

1 most useful version of the VAB training known to  
2 exist.

3 And I will refer to this as the  
4 June 11th Keller draft, for lack of any better  
5 name.

6 Unfortunately, for all Florida  
7 property owners, beyond that point, corruption  
8 overcame the Department of Revenue and the  
9 excellent June 11th Keller draft was hijacked,  
10 never published by the Department and became  
11 known only after a public records request to  
12 the Department of Revenue.

13 The June 11th Keller draft VAB  
14 training, modified only for 2014 Legislative  
15 changes, should be the VAB training materials  
16 for 2014.

17 In May 2011, the Honorable Joseph  
18 C. Mellichamp, of the Florida Attorney General's  
19 Office, explained to a judge that the local value  
20 adjustment board, the VAB, exists is because the  
21 VAB -- and I quote -- is supposed to be a fairly  
22 inexpensive way for individuals, be they single  
23 persons, mom-and-pop businesses, or large  
24 corporations, to try to resolve tax matters  
25 without going in circuit court. That ends the



1 quote.

2 On behalf of my family, and all other  
3 unrepresented taxpayers, I request the 2014 VAB  
4 training materials consist of the June 11th  
5 Keller draft, modified only for the 2014  
6 Legislative changes.

7 The excerpt that I'm going to read  
8 next explains why such 2014 VAB training is  
9 needed to help counteract the, quote,  
10 impenetrable culture developed over many decades  
11 of favoring government, end quote.

12 The Florida Attorney General wrote  
13 about the corruption back in 2011 in the DOAH  
14 hearing.

15 Quote, central to this rule challenge  
16 is a systematic and unambiguous effort of the  
17 Legislature over the past decade to give a voice  
18 to taxpayers and to provide a fair, more  
19 accessible opportunity for meaningful and  
20 affordable review of property valuations through  
21 fundamental changes in Florida's standard of  
22 proof in property tax appeals in the value  
23 adjustment board process.

24 The enactment of clear, legal  
25 requirements to level the playing field and

1 restore trust in the process have met with a  
2 nearly impenetrable culture developed over many  
3 decades favoring government.

4 The Department's effort to implement  
5 and inform local governments, with respect to  
6 these indisputable changes in Florida law,  
7 through rules, bulletins, and, yes, training  
8 materials is the subject of the challenge.

9 The Florida Attorney General in 2011  
10 was describing the struggle of the Department of  
11 Revenue that it finds itself in, a struggle that  
12 is caused by the undue influence, which the  
13 Department of Revenue has surrendered since  
14 Marshall Stranburg was appointed executive  
15 director.

16 Since mid-June 2013, the Department  
17 of Revenue's training process has been nothing  
18 but deceptive, secretive, nontransparent and  
19 corrupt.

20 I'm going to go through a couple of  
21 Legislative statements regarding the need for  
22 more information on taxation which are related to  
23 the training.

24 The Senate Taxation Committee over 30  
25 years ago, quote, taxation is one of the most

1           pervasive and confusing areas of government. It  
2           is often difficult for government officials and  
3           employees directly concerned with different areas  
4           of taxation to understand the intricacies of the  
5           overall multi-tax structure. It is even harder  
6           for the individual citizen, who is concerned with  
7           the motions of government to acquire this  
8           specialized knowledge. Therefore, it is the  
9           intent of the committee to make it as easy as  
10          possible for everyone concerned with taxation,  
11          everyone concerned with taxation, to gain the  
12          kind of knowledge that will enable him or her to  
13          participate in a meaningful and productive way in  
14          the process by which government is financed in  
15          Florida.

16                    The Department of Revenue's actions  
17                    since mid-June 2013, make it much harder, if not  
18                    impossible, for individual citizens to gain the  
19                    knowledge and to participate in a meaningful and  
20                    productive way in the property tax assessment  
21                    process.

22                    Again, coming from the Senate Taxation  
23                    Committee over 30 years ago, quote, no brief  
24                    statement of property tax procedures can list all  
25                    possible variations in procedures by a

1 combination of Attorney General's opinions,  
2 department regulations, court decisions and  
3 statutory law, property tax procedures have  
4 become so complex as to make widespread public  
5 understanding of the system almost impossible.

6 That's the end of that quote.

7 The Department of Revenue's actions  
8 since mid-June 2013 make it almost impossible for  
9 members of the tax-paying public to understand  
10 the Florida Property Tax Assessment Appeal  
11 System.

12 Another Legislative auditor wrote,  
13 quote, to ensure that taxpayers are treated  
14 equitably, with regard to the cost of sale  
15 factor, we recommend that program staff develop  
16 training and guidelines for applying the cost  
17 of sale factor.

18 That is Legislative auditors that have  
19 gone in and said develop training and guidelines  
20 for that 15 percent cost of sale factor that you  
21 have pulled out of the current training from the  
22 Keller draft.

23 Another quote. In addition, program  
24 staff should apply the actual cost of sale used  
25 by property appraisers for its ratio studies to

1       ensure that their estimates of property appraiser  
2       performance are accurate. End of quote.

3               These are the words of the  
4       Legislature's auditors several years ago. If  
5       the Legislature's auditors believe the Department  
6       of Revenue staff need training on how to apply  
7       the cost of sale factor accurately and equitably,  
8       then logic certainly dictates that VABs and their  
9       attorneys and their special magistrates would  
10       need this training content even more so.

11               The June 11th Keller draft VAB  
12       training contains this content, but the  
13       Department's undue influence redline contains  
14       none of this content.

15               Yet, again, the Department of  
16       Revenue's actions since mid-June 2013 make it  
17       almost impossible for members of the tax-paying  
18       public to understand the Florida property tax  
19       assessment appeal system or to have meaningful  
20       participation in the system.

21               The VAB training content is especially  
22       critical for mom-and-pop and small business  
23       taxpayers because they cannot afford to hire  
24       professional representation. These taxpayers  
25       cannot afford the expense of hiring professional

1 representation for VAB petitions, while local  
2 governments, on the other hand -- taxing  
3 authorities and property appraisers -- can afford  
4 to hire and pay, using taxpayer dollars,  
5 experienced litigators to stomp out any chance  
6 that an unrepresented lay person might have at  
7 receiving the fairness contemplated by the  
8 Legislature in its enactment such as 194.301  
9 and 194.3015 Florida Statutes.

10 Further, the amount of property tax  
11 involved with most property owned by mom-and-pop  
12 and small business taxpayers, while consisting  
13 of a major expense to these taxpayers, does not  
14 provide sufficient incentive for a professional  
15 to represent the taxpayer on a contingency  
16 basis.

17 The Florida Attorney General, in  
18 representing the Department, stated that the VAB  
19 is intended to be an informal appeal process  
20 where the lay person taxpayer can have an  
21 unbiased chance at receiving the fairness  
22 contemplated by the Legislative enactments, such  
23 as House Bill 521 in 2009.

24 For this to occur, there must be a  
25 complete, consistent body of training that has

1 explanations and examples for VABs and their  
2 attorneys, clerks, special magistrates about what  
3 to do, when to do it, and how to do it in  
4 applying the requirements of law in various  
5 factual situations that arise in particular VAB  
6 petitions.

7 More explanations and more examples  
8 are needed, not less.

9 A big positive step in this direction  
10 would be for the Department of Revenue to provide  
11 2014 VAB training materials that consist of the  
12 June 11th Keller draft training modified only for  
13 the 2014 changes.

14 There has been undue influence that  
15 has been evident in the VAB process since  
16 mid-June of 2013.

17 The VAB training drafts produced by  
18 Kevin O'Donnell, Kama Monroe, and Howard Moyes  
19 and others since mid-June 2013 reflect abundant  
20 evidence of undue influence on the Department of  
21 Revenue from units of local government who rely  
22 upon illegal collections of property tax from  
23 mom-and-pop and small business taxpayers to fund  
24 their extensive lobbying and legal campaign led  
25 by Loren Levy and Will Shepherd.

1           These lobbyists strongly oppose  
2 anything that remotely resembles fairness,  
3 transparency and a meaningful chance for  
4 taxpayers to receive the benefits of the  
5 Legislature's efforts, including Sections 194.301  
6 and 194.3015, Florida Statutes, to bring fairness  
7 and balance for taxpayers in Florida's property  
8 assessment process.

9           This fact, coupled with the ridiculous  
10 arrangement where the same local governments who  
11 impose the property tax also control the appeal  
12 process, renders the Department of Revenue's VAB  
13 training process a complete sham since mid-June  
14 2013.

15           Efforts in 2013 to correct this  
16 ridiculous arrangement were vehemently opposed  
17 by, guess who -- that's right -- Loren Levy and  
18 Will Shepherd who are paid using taxpayer  
19 dollars.

20           Fortunately, the Auditor General was  
21 able to capture on video an example -- yes,  
22 examples are good -- of a county property  
23 appraiser attorney wielding an ex-parte  
24 communication, his undue influence on a local  
25 VAB. And the Auditor General reported this undue



1 influence in his 2014 report.

2 Before local government gained its  
3 vice grip over the Department of Revenue, thereby  
4 again precluding taxpayer fairness by impeding  
5 implementation of Sections 194.301 and 194.3015,  
6 House Bill 521, the Department produced ethical  
7 and competent VAB training work products based on  
8 a fair and balanced view of the facts of law.

9 However, after people like  
10 Howard Moyes, Kevin O'Donnell and Kama Monroe  
11 and Claudia Kemp have taken over the VAB  
12 training, the result has been corrupt and  
13 incompetent work process and products. And that  
14 can be seen in the June 28th, 2013 draft and the  
15 October 1st redlined draft.

16 The factual chronology below documents  
17 how undue influence and corruption has affected  
18 the Department of Revenue, the Department of  
19 Revenue's deceptive, secretive, nontransparent  
20 and corrupt VAB training process and products  
21 from mid-June to present pertinent to the  
22 Department's VAB training process and products  
23 since mid-June 2013.

24 The Merriam-Webster Dictionary defines  
25 the word corrupt as to alter from the original or

1 the correct form or version.

2 There's several other definitions, but  
3 I don't need to go through those.

4 On June 11th Steve Keller sent an  
5 e-mail to James McAdams and Howard Moyes with the  
6 single most informative and useful version of the  
7 VAB training known to exist, the June 11th Keller  
8 draft, for posting to the Department's website  
9 and sending out for public comment.

10 This draft was hijacked, was never  
11 published, was never sent out.

12 On June 20th, upon request from  
13 Kevin O'Donnell, Steve Keller sent the Word files  
14 of the June 11th Keller draft VAB training to  
15 Mr. O'Donnell.

16 June 20th, later that day, Kevin  
17 O'Donnell sent to Claudia Kemp a track change  
18 Word file of module six showing the deletion of  
19 much of the module six content.

20 Kevin O'Donnell's module six deletions  
21 included all the portions Loren Levy and  
22 Will Shepherd demanded be deleted in 2011, but  
23 those deletions were rejected at the time by the  
24 Florida Department of Revenue and the Florida  
25 Attorney General.

1           On the 21st, Kevin O'Donnell sent to  
2           Claudia Kemp the rest of the training materials  
3           showing more deletions, particularly to the  
4           module six content.

5           June 26th and 27th, Kama Monroe  
6           produces the final versions of the VAB training  
7           modules one through nine.

8           June 27th, Tony Hamm informs Steve  
9           Keller he has spoken with Howard Moyes and  
10          Claudia Kemp and the training materials should be  
11          posted by the end of the day.

12          June 28th, Kama Monroe produces the  
13          final versions of modules ten and 11 of the VAB  
14          training.

15          June 28th, James McAdams drafted a  
16          memo to send to interested parties informing them  
17          the draft VAB training is available for review  
18          and comment.

19          July 1st, Sue Harlan -- July 1st,  
20          Sue Harlan sends Kevin O'Donnell a link for the  
21          Department's development website containing  
22          Kama Monroe's final draft version of the VAB  
23          training and asked Kevin O'Donnell to approve  
24          publishing this draft.

25          On July 1st, Kevin O'Donnell responds

1 to Sue Harlan and approves publishing the  
2 chopped-down version of the training produced by  
3 himself and Kama Monroe. This chopped-down  
4 version of the training is a hundred five pages  
5 less than the excellent 2012 VAB training  
6 product.

7 July 1st, 2013, James McAdams sent his  
8 memo to interested parties informing them the  
9 draft VAB training is available for review and  
10 comment. This chopped draft VAB training was  
11 dated June 28, 2013, contained no track changes,  
12 no redlining enabling parties to see what the  
13 Department was doing.

14 This is the secretive, nontransparent  
15 approach now used by the Department to deceive  
16 the public and to hide the Department's  
17 corruption, resulting from undue influence from  
18 folks like Loren Levy, Will Shepherd and their  
19 clients.

20 On July 2nd, 2013, Steve Keller  
21 requested a copy of the draft VAB training from  
22 Kevin O'Donnell.

23 So, he wasn't even included in the  
24 loop. The most knowledgeable person wasn't  
25 included in the loop. After it's sent out for

1 comment is when he first appears to get the first  
2 look at what the Department has decided to put  
3 out there.

4 July 22nd, after much public  
5 opposition of the June 28th draft, Kevin  
6 O'Donnell sent to Marshall Stranburg, Andrea  
7 Moreland, Tony Hamm, James McAdams and Howard  
8 Moyes a statement explaining the Department's  
9 effort to redesign the future training by, quote,  
10 placing statutory language in the appropriate  
11 context.

12 On July 24th, after much public  
13 opposition to the June 28th draft training,  
14 Andrea Moreland sent an e-mail stating, quote,  
15 based on the comments that have been received,  
16 the Department has decided that the VAB training  
17 materials for 2013 will consist of 2012 training  
18 materials supplemented by 2013 Legislative  
19 changes.

20 On July 26th, 2013, James McAdams  
21 sends to interested parties a memo with a link to  
22 a future draft VAB training with a public comment  
23 period through September 30th, 2014 (sic).

24 September 30th, Andrea Moreland states  
25 the Department, quote, is in the process of

1 producing a redline version of the training  
2 materials and, quote, the Department will be  
3 scheduling a public meeting to facilitate further  
4 public input, end quote.

5 Note, the Department waited seven  
6 months before finally holding a public meeting  
7 on April 23rd, 2014.

8 I'm going to describe a little bit  
9 later what was happening.

10 During that period of time, they  
11 created a new secret training committee composed  
12 of local government officials to render decisions  
13 and prescribe policy regarding the Department's  
14 duties to provide VAB training and certification.

15 Only after the secret, deceitful and  
16 corrupt effort was discovered and brought to  
17 light did the Department eventually schedule a  
18 public meeting.

19 Again, these facts demonstrate the  
20 secretive, deceptive approach now used by  
21 Marshall Stranburg and Kevin O'Donnell to mislead  
22 the public and hide the Department's corruption  
23 resulting from undue influence.

24 On October 1st, the Department finally  
25 released a redline draft VAB training.

1                   James McAdams sends to interested  
2 parties a memo, stating in part -- and I quote --  
3 we will review all of the feedback received and  
4 post a revised draft for further review and  
5 comments in the near future. In addition, we  
6 will hold a public meeting to collect additional  
7 comments and feedback of the revised draft, end  
8 quote.

9                   As described above, the Department  
10 waited seven months before finally holding a  
11 public hearing on April 23rd.

12                   Further, as of May 21st, the  
13 Department still has not kept its promise to  
14 publish a revised draft in the near future.

15                   That's a quote.

16                   Clearly, James McAdams needs remedial  
17 training on how to read a calendar, manage time  
18 and resources he promises and avoid corruption.

19                   November 20th, 2013 to January 9th,  
20 2014, various Department staff managed by James  
21 McAdams, Howard Moyes and Sue Harlan, conducted  
22 illegal activities towards implementing  
23 management's plan for a new secret VAB training  
24 committee composed of local government officials  
25 to render decisions and prescribe policy

1 regarding the Department's duties to provide VAB  
2 training and certifications.

3 On January 9th, the Department of  
4 Revenue Counsel, Nancy Staff, who is supposed to  
5 be the Department's Sunshine and Open Government  
6 expert, stated that the new secret VAB training  
7 committee is a, quote, great idea, exclamation  
8 point.

9 January 14th, James McAdams sent a  
10 memo to a group of ten local government officials  
11 with detail proposal to create yet another secret  
12 training committee composed of local government  
13 officials to render decisions, prescribe policy  
14 regarding the Department's duties to provide VAB  
15 training and certifications.

16 Moving on to February 19th, 2014, upon  
17 specific questioning at a videotaped meeting of  
18 a Florida House of Representatives Subcommittee,  
19 Department of Revenue Executive Director  
20 Marshall Stranburg deceived Legislators by  
21 erroneously misrepresenting his knowledge  
22 regarding the secret VAB training committee.

23 Incredibly, after the House  
24 Subcommittee meeting, Marshall Stranburg admitted  
25 verbally and in writing that he was aware of the



1 secret training committee back in January before  
2 the House Committee meeting but did not mention  
3 it to the House of Representatives because the  
4 new secret VAB training committee had,  
5 supposedly, anyway, not had a meeting yet.

6 Given the Department of Revenue's  
7 well-established pattern of nontransparency,  
8 deception, corruption and Sunshine Law  
9 violations, no reasonable person could have a  
10 single ounce of trust in what the Department is  
11 planning to do, says it will do or won't do and  
12 actually will do regarding the 2014 VAB training.

13 I'm going to have more comments later,  
14 but I wanted to put in that this draft should be  
15 starting from the 2014 Keller draft. If you want  
16 to have meaningful public participation, the  
17 draft that we should be starting with in these  
18 meetings, in these workshops, should be the  
19 Keller draft and, then, we should all have a part  
20 in taking part in chopping it down if there's  
21 anything that needs to be chopped down, which  
22 when I go over later, you'll find that there  
23 won't be any need for that.

24 Thank you.

25 MR. MOYES: I believe Mr. Mandler is on

1 the phone.

2 We'll get to you Mr. Beck.

3 Mr. Mandler, can you hear us?

4 Mr. Mandler? Mr. Mandler, are you there?

5 MR. MANDLER (VIA TELEPHONE): I am here.

6 Can you hear me?

7 MR. MOYES: Yeah, we can hear you. Go  
8 ahead.

9 MR. MANDLER: Gentlemen, those are shocking  
10 facts that I just heard. And I truly asked the  
11 wrong question when I asked you, sir, if you had  
12 met with the Department of Revenue. The question  
13 really should have been: Have you received a  
14 written draft from Mr. Levy, from your attorney  
15 and used that as the basis of your draft because  
16 it certainly seems clear to me that that's  
17 exactly what happened based upon the facts that  
18 I just heard presented by Ms. Cucchi.

19 And, Mr. Moyes, I didn't see your name  
20 mentioned once on those drafts back and forth,  
21 either from Mr. Keller or Mr. O'Donnell.

22 MR. MOYES: Well, when you're as corrupt as  
23 me, you learn how to stay in the shadows.

24 Do you have a question or a comment?

25 MR. MANDLER: The question is, sir: Did

1           you have a copy of Mr. Loren Levy's draft of  
2           changes to the Department of Revenue training  
3           manual before you made the changes?

4           MR. MOYES: I don't know what you're  
5           referring to.

6           Do you know what date it came in to  
7           us?

8           MR. MANDLER: That was Ms. Cucchi's  
9           reference, sir, that was submitted to the  
10          Attorney General, the changes that you had  
11          requested.

12          MR. MOYES: I don't recall. If he sent it  
13          into the Department -- I'm sorry. If he sent it  
14          into the Department as a comment, we have it.  
15          But if he sent it to the Attorney General, I  
16          don't know if I would have seen it.

17          MR. MANDLER: Mr. O'Donnell, do you have a  
18          copy of that?

19          MR. O'DONNELL: Explain to me what you  
20          think we were copied on because I, obviously, was  
21          reading some of the stuff that's out there.

22          But, no, I never got any suggestions,  
23          memos, any calls, anything else from Loren Levy.

24          MR. MANDLER: Do you deny that the way this  
25          draft came out is the way that Ms. Cucchi

1 just demonstrated is correct, that you reworked  
2 personally Mr. Keller's draft?

3 MR. O'DONNELL: I believe that that record,  
4 whatever it is, is out in the public domain.

5 I don't have it in front of me. I  
6 don't have each of the drafts out there.

7 So, somebody who has that and got it  
8 out of a public records request, can fill you all  
9 in, but I don't recall exactly what I structured  
10 in this draft in June of last year.

11 MR. MANDLER: Did you personally meet with  
12 Ms. Monroe and discuss this?

13 MR. O'DONNELL: No.

14 MR. MANDLER: So, it was all done through  
15 the e-mail and draft where you all deleted the  
16 information?

17 MR. O'DONNELL: Yes. There probably was  
18 a conversation to coordinate who was going to do  
19 what chapters.

20 And I was not the supervisor for any  
21 of that.

22 MR. MANDLER: Mr. Moyes, were you the  
23 supervisor on that?

24 MR. MOYES: I'm sorry, of what?

25 MR. MANDLER: The changes to the Keller

1 draft by Mr. O'Donnell and Ms. Monroe.

2 MR. MOYES: Well, again, I don't think  
3 Ms. Monroe made any changes. I think her role in  
4 this entire effort was to receive the changes  
5 from others and just, from a clerical standpoint,  
6 make the changes in a Word document. I'm not  
7 aware that she personally made any changes on her  
8 own initiative at all.

9 MR. MANDLER: So, all of the changes were  
10 made by Ms. O'Donnell -- Mr. O'Donnell, excuse  
11 me?

12 MR. MOYES: No. But, I mean, Mr. O'Donnell  
13 made changes. I made changes. I don't know if  
14 Claudia Kemp made changes or not. I think she  
15 may have made a few. It's possible Tony Hamm may  
16 have made a few minor changes here and there.

17 There actually was some paragraphs  
18 added to the draft training material. I'm not  
19 sure who drafted those. I can't tell you who did  
20 which line or which paragraph. But, as I stated  
21 last time, I think most of the revisions were  
22 done by myself and Mr. O'Donnell primarily, with  
23 a little bit by Claudia Kemp and possibly Tony  
24 Hamm.

25 MR. MANDLER: Did you go back to

1 Mr. Keller to seek his input?

2 MR. MOYES: No.

3 MR. MANDLER: Mr. O'Donnell, did you?

4 MR. O'DONNELL: I did not. I had his  
5 input. I read it.

6 MR. MANDLER: You chose to ignore it?

7 MR. O'DONNELL: No, I didn't chose to  
8 ignore -- choose to ignore it. I studied it  
9 carefully.

10 And I don't know exactly what I was  
11 thinking at the time because that was a while  
12 back, but there were some edits made and the  
13 record shows exactly what they were.

14 If somebody has a different story,  
15 I don't know about it, but that's what happened.

16 MR. MANDLER: Mr. Moyes, listening to the  
17 evidence presented by Ms. Cucchi, you got to  
18 understand the concern that we have in this  
19 entire process. The fact that the draft was done  
20 without comment, the fact that the person in  
21 charge of the draft -- not only was the draft  
22 changed, but he wasn't consulted, and the fact  
23 that you had an inexperienced representative,  
24 Mr. O'Donnell, in the property tax field making  
25 those changes, those raise very serious questions

1           about this entire process.

2           MR. MOYES: Well, I think I understand  
3           that, and I appreciate it. And I think that's  
4           fairly obvious over the past, I don't know, eight  
5           or ten months; however long it's been.

6           I mean, obviously, that's water under  
7           the bridge. Nothing can be changed now.

8           MR. MANDLER: But, Mr. Moyes, what bothers  
9           me personally -- and I can't speak for other  
10          gentlemen and ladies in the room -- is that the  
11          draft that we're still discussing is the draft  
12          that was done secretively that was done with the  
13          input of the property appraisers'  
14          representatives, no input from taxpayers, very  
15          little criticism of the document from taxpayers,  
16          no input from the Attorney General and ignoring  
17          your person who was asked to draft it, his  
18          further input.

19          And, so, we're still fighting over a  
20          draft, which is very suspect.

21          And what bothers me is that you did  
22          not have a new clean version to deal with that,  
23          at least, included some of the Steve Keller  
24          positions, or at the minimum, went back to the  
25          '13.

1           Was there a complaint that, in '12,  
2 the training guides didn't work?

3           I'm still so troubled by how we got to  
4 where we are; that it wasn't just an update or  
5 changes in the law or case law, and that whole  
6 process. And, then, the fact that all of the  
7 changes take out the protection for taxpayers  
8 and are the ones that are requested by counsel  
9 for property appraisers.

10           MR. MOYES: I can give you a real simple  
11 explanation, if you would like. I don't know if  
12 anybody would believe it. If you would like to  
13 hear it, I'm happy to give it to you.

14           MR. MANDLER: Yes, sir, we would like to  
15 hear it.

16           MR. MOYES: Okay. Well, two things. One,  
17 just as a matter of fact, property appraisers  
18 had no input into this process. Again, you all  
19 believe whatever you want, but that's just a  
20 fact.

21           But, to talk about, you know, why we  
22 are where we are, when the 2012 version of the  
23 training was produced by Mr. Keller -- and I  
24 don't think it was just Mr. Keller. Again, just  
25 for the record, I think it was Mr. Keller and



1 Mr. Mobley. It's my understanding that both of  
2 them worked on the training and produced the 2009  
3 version, the 2010 version and the 2012 version.

4 When the -- I think 2010 version most  
5 folks were happy with. I mean, most folks within  
6 the Department of Revenue.

7 I think -- again, you know, it wasn't  
8 perfect. It wasn't the type of training we want  
9 to provide, but, you know, from a content  
10 standpoint, I think we all thought it was pretty  
11 good.

12 The changes that were made to 2012  
13 did not receive any review from the Department.  
14 They were produced at a time when we were going  
15 through a leadership change, and it was a little  
16 unclear as to what the procedures were to issue  
17 that 2012 version of the training. And, to make  
18 a long story short, it basically got issued  
19 without any review and approval.

20 And the 2012 version had significant  
21 changes over the 2010 version. I think everybody  
22 agrees with that.

23 So, we're sitting here today talking  
24 about changes that we made to the 2012 version to  
25 try to get back closer to what was in 2010, but,

1 also, trying to streamline it as well.

2 You know, that's really all it is.

3 Now, I know there's several folks in  
4 the room and others that, you know, just can't  
5 believe that; that there's got to be some kind  
6 of conspiracy, and Marshall Stranburg is a devil  
7 and James McAdams is a spawn, but there really  
8 isn't a whole lot more to it than that.

9 The reason we didn't issue a new draft  
10 is for the reason I mentioned last time, is that  
11 Marshall Stranburg said we would have public  
12 meetings on the draft that was issued; that we  
13 would take public comments and review them. And  
14 that's what we've been doing for the last nine  
15 months.

16 We couldn't issue another draft until  
17 we had these public meetings, so that's why we're  
18 here.

19 What we're going to do after this, I  
20 can't tell you.

21 We've gotten a lot of feedback, a lot  
22 of comments.

23 I think I said on the record last  
24 time, last time being last month in April, that  
25 we would put a lot of the information back in

1           that was deleted from the draft.

2                       So, you know, right now I don't think  
3           that whatever version we come out with next is  
4           going to be significantly different than the  
5           original 2012, but there are some things in the  
6           2012 version that, frankly, you know, we just  
7           don't believe belong there.

8                       But, you know, Ms. Cucchi can get up  
9           and recite all of these pieces of information and  
10          others can point to a document that Loren Levy  
11          wrote. And, you know, you all can make out  
12          whatever you all want of that stuff, but that's  
13          really all there is to this.

14                      The 2012 version got issued. The  
15          Department -- everybody else in the Department,  
16          with the exception of Steve Keller, didn't  
17          really think that was a good version of the  
18          training. And when we had an opportunity to  
19          change it, we changed it.

20                      We issued a draft. It's not a final  
21          document. It's a draft for public review and  
22          comment. We've been getting public comments.  
23          We'll take those comments into consideration and  
24          we'll decide what to do. It's not any more  
25          complicated than that.

1           MR. MANDLER: I don't think anyone used  
2 the term spawn of the devil or conspiracy. I  
3 think what we said is the process is not  
4 transparent, and that it looks like there's undue  
5 influence, and that the changes are being made  
6 without being properly vetted. And that the  
7 changes that are made, whether it's institutional  
8 in the Department that -- of the people who are  
9 involved -- the two or three people you're  
10 talking about out of the Department -- you're  
11 really talking about two people, as I heard  
12 that, Mr. Moyes. That's yourself and  
13 Mr. O'Donnell and perhaps Ms. Kemp.

14           MR. MOYES: No. Again, I know there's  
15 people here that weren't here last time, and I  
16 know people came and went, but I believe this is  
17 in the transcript from the last meeting -- and I  
18 believe it was Mr. Coleman actually asked me the  
19 question of who was involved in reviewing the  
20 2012 training and who made the decision to change  
21 it.

22                   And I believe at the time, I said,  
23 well, we had a meeting. And we operate on  
24 consensus at the Department of Revenue. And the  
25 people at that meeting were Marshall Stranburg,

1           the Executive Director; Andrea Moreland, the  
2           Deputy Executive Director; myself; James McAdams,  
3           the Director of Property Tax; Nancy Staff, the  
4           General Counsel; Tony Hamm, the Assistant General  
5           counsel. I can't remember if Kevin O'Donnell  
6           was there or not. He may have been. I'm sure  
7           there were a few other folks in that room as  
8           well.

9                         But, you know, that's the leadership  
10           of the Department of Revenue, the leadership of  
11           the Property Tax Program. They all met, and the  
12           decision was made to revise the 2012 training.

13                        So, you know, there are a few folks  
14           who had the responsibility to go and make  
15           changes, and those folks did, but it wasn't, you  
16           know, my decision to change it, or Kevin's, or  
17           anybody's. It was a consensus decision by the  
18           leadership of the Department.

19                        MR. MANDLER: Was that decision to change  
20           the content of it or just to streamline it?

21                        Because what we're concerned about is  
22           not the streamlining, but the fact that the  
23           content is being significantly altered.

24                        MR. MOYES: I understand that. And, yeah,  
25           I mean, the decision was --

1           MR. MANDLER: The public comments were that  
2 it was to streamline it.

3           MR. MOYES: Absolutely. And, again, that  
4 was the intent.

5                   And I mentioned this last time, and  
6 I'll say it again, whether we succeeded in that  
7 or not is certainly open for debate. That's why  
8 it's still a draft. That's why we haven't issued  
9 it as a final. And, you know, it may very well  
10 be that, although our intent was to only  
11 streamline it, you know, there may be individual  
12 situations where we took out something that we  
13 shouldn't have.

14                   And I think I've already said there's  
15 several parts of the training that were brought  
16 up to us last time that we agreed and said, yeah,  
17 we probably shouldn't have taken that out. Or,  
18 okay, you know, if it's no harm with that being  
19 in there, even though it may be repeated  
20 three or five times, you know, there's no harm in  
21 it, so we'll agree to put it back in.

22                   So, we're here in good faith trying  
23 to work with everybody to try to produce a  
24 training document that works for everyone.

25                   You know, it's difficult to do,

1           though, when people just want to talk about  
2           conspiracy theories and corruption and everything  
3           else. I mean, I don't know how you find common  
4           ground on that. I don't know how you take  
5           anything positive from that and produce a  
6           document at the end of the day.

7           MS. ANDERSON: Well --

8           MR. MOYES: Hold on. Mr. Mandler has got  
9           the floor.

10                  So, again, I don't know if I answered  
11           your question, but I tried.

12           MR. MANDLER: I'm happy to yield the floor.  
13           I think I talked long enough.

14           MR. MOYES: Okay. Well, thank you. We  
15           have a couple comments.

16           MR. COLEMAN: The other part of my question  
17           -- this is Mr. Coleman -- was why? Why? What  
18           precipitated -- why do we have to change it? And  
19           I think that's where the real -- you know, the  
20           -- it's not conspiracy or whatever. It's our --  
21           our interpretation of why is the undue influence  
22           that you got -- that you received.

23                  You didn't hear a lot of complaints  
24           from taxpayers or representatives on this. The  
25           complaints were the PAs, their lobbyists, and

1           you mentioned some special magistrates. I think  
2           that's how you answered that, right?

3           MR. MOYES: I think I said they provided  
4           -- yeah -- feedback.

5           MR. COLEMAN: So, there is the document  
6           from Levy, which pretty much is what you guys  
7           followed, I think, unless I'm confused on what  
8           I'm understanding here on these comments that  
9           Ms. Cucchi has just made here.

10          MR. MOYES: Again, I don't know what the  
11          document is.

12          MR. COLEMAN: I don't know if that's  
13          coincidence or not?

14          MR. MOYES: I don't know what Loren Levy  
15          submitted. I didn't look at it.

16          MR. COLEMAN: Somebody over there did.

17          MR. MOYES: Like I said, I made most of  
18          the changes and I didn't see it, but whatever.

19                    So, Mr. Zachem.

20          MR. ZACHEM: I did want to say a few things.  
21          Dave Zachem.

22                    And I've got a recommendation.

23                    First of all, I've been shocked twice  
24                    now, one at the hearing with the executive  
25                    director in front of the Legislature a couple



1 months ago, and, two, at Ms. Cucchi's rendition  
2 of what happened.

3 You know, all of us, no matter where  
4 we come from or what we're doing, in the final  
5 analysis we all have to work together at some  
6 point in time. We're really -- and I'm looking  
7 back over 50 years now. This is a very unusual  
8 situation, in my mind.

9 I haven't been in a State Legislative  
10 process or an administrative process quite where  
11 I've seen something like this.

12 There's one fact that's exacerbated  
13 this whole situation and the atmosphere that  
14 we're in. And, that is, the E.D.'s testimony  
15 about the meeting with the property appraisers  
16 that was a clear violation of the Sunshine Law,  
17 and he admitted it.

18 I was there in the room. And after  
19 pressed by the Legislature, he said, yes, in  
20 retrospect, it was a violation, and I wouldn't  
21 do it again.

22 I think -- I see no productivity at  
23 all today. I don't see it.

24 We know what you mean when you say  
25 2012 because the property appraisers brought an

1 issue in DOAH against the DOR. We're talking  
2 about first and eighth. We're talking about the  
3 Good Rule, and we're talking about the rebuttal  
4 evidence. Those are the three things in '12 that  
5 were different. And those are the three things  
6 that the property appraisers want to address now,  
7 not 200 pages. We're not talking 200 pages.  
8 We're talking about those three issues. That's  
9 what we're talking about.

10 My recommendation is that you recess  
11 this hearing; that the Executive Director call a  
12 workshop and let us all get back into  
13 Tallahassee, Orlando, Miami, let us all get back  
14 into a room.

15 You have to understand most of us,  
16 we've never even met the E.D.

17 I think we desperately -- I think  
18 this needs to be kicked up to the top.

19 Nothing is going to happen today.  
20 Nothing. It's not going to be a pleasant day.

21 As a matter of fact, if we start with  
22 modular one -- I believe that we'll be here for a  
23 day and a half. I've already made a room  
24 reservation.

25 Stan, you want to go to dinner

1           tonight? The Cedars over here is really nice.

2           AUDIENCE MEMBER: You buying again?

3           MR. ZACHEM: Yes, sir.

4                       I recommend that you recess this  
5 hearing, kick it up, call a workshop, let's start  
6 this process over again. And let's start it --  
7 you know, let's start it as colleagues, not --  
8 I didn't say friends. Let's start again as  
9 colleagues and let's try to get some people who  
10 are not coming to the table with one kind of a  
11 specific agenda together, other than the  
12 taxpayers, because I heard some real bad things,  
13 not today, that addresses the testimony of the  
14 E.D. in front of the Legislature.

15                      And I just think for all of us that's  
16 what we should do.

17                      Thank you.

18           MR. MOYES: Well, I appreciate that.

19                      Well, two things. One, we're here.  
20 We noticed the meeting. I certainly appreciate  
21 your comments. And if everybody agrees to not  
22 say anything, that's up to them, but I don't  
23 think I can recess it. I'm just not sure I can  
24 do that.

25                      So, we'll stay and we'll take

1           whatever comments folks have.

2                       I will take your comment and  
3           suggestion, though, to Marshall, and ask that he  
4           schedule a public meeting and see if he would  
5           like to do that.

6                       I can't speak for him. I don't know.  
7           I think, you know, if he thought that would be  
8           beneficial, he would be happy to do it. But I'll  
9           certainly take that back and relay your  
10          suggestion.

11                      I think that would be beneficial if  
12          we could get folks in a room to kind of just  
13          passionately talk about this.

14                      I think at the end of the day, at  
15          least, I hope we're all trying to achieve the  
16          same thing.

17                      With that, why don't we take a few  
18          more comments and we'll try to break for lunch  
19          around oneish.

20                      Do we have anybody on the phone?

21                      MR. BECK: I would second Mr. Zachem's  
22          suggestion.

23                      THE COURT REPORTER: And your name?

24                      MR. BECK: Stan Beck.

25                      MR. ZACHEM: And you do have the authority

1 to recess. I'm not asking to cancel.

2 MR. MOYES: I don't want to hear a  
3 conspiracy about how I closed a public meeting  
4 and, you know, Will Shepherd was here and we were  
5 out talking in the hallway and he slipped me a  
6 20.

7 AUDIENCE MEMBER: Let's go Will. Get up  
8 there, Will.

9 MR. MOYES: I mean, I'd at least do it  
10 for 50.

11 MR. SHEPHERD: My colleagues want me to  
12 speak.

13 I've never felt such warmth in a  
14 room. I'll be lucky if I get out the back door  
15 after this.

16 My name is Will Shepherd. I am the  
17 General Counsel for the Hillsborough County  
18 Property Appraiser's Office. I'm also,  
19 apparently, half of the evil duo of Shepherd  
20 & Levy.

21 Early this morning, Mr. O'Donnell  
22 made the point that the training is not supposed  
23 to be an interpretation of the law. And I think  
24 that is not only accurate, I think it's pretty  
25 wise because there are always going to be

1           disputes at VAB.

2                       We're going to have lots of disputes  
3           on value issues, right? You want to argue about  
4           the Rushmore method versus business enterprise  
5           value. We want to argue about cap rates. We got  
6           lots of stuff to argue about. There's lots of  
7           gray area out there, okay?

8                       There's also gray area in the law.

9                       Any of my friends here want to -- how  
10          many of us think that the 15 percent cost of sale  
11          is absolutely a clear issue; 100 percent clear  
12          in the state of Florida?

13                      AUDIENCE MEMBER: Define clear.

14                      (AUDIENCE MEMBERS ALL TALKING AT THE  
15                      SAME TIME.)

16                      THE COURT REPORTER: Wait, wait. You all  
17                      are talking at the same time.

18                      MR. SHEPHERD: What they think is clear  
19                      and what I think is clear and the property  
20                      appraiser is completely different.

21                      Anybody agree that Higgs vs. Good is  
22                      absolutely clear?

23                      That's the clear undecided issue.

24                      No.

25                      There are disputed issues of law out

1           there.

2                       So, the problem for the Department --  
3           and I'm not really going to advocate one way or  
4           the other. The problem for the Department is you  
5           have these special magistrates, and ignoring the  
6           ones who do exemptions, they're not lawyers.  
7           They're appraisers. These guys are really good  
8           at appraising, most of them. But they're not  
9           really good at what the law is.

10                      So, you've got a choice here.

11                      Clearly, where there's no dispute --  
12           and let's face that. We're talking about the  
13           15 percent cost of sale. We're talking about  
14           Higgs versus Good. Maybe we'll talk about  
15           rebuttal, as Dave pointed out. That's really the  
16           issues here.

17                      So, we've got these three issues that  
18           seem to be highly controversial.

19                      And I'm not even so sure that rebuttal  
20           is that controversial.

21                      But, we have these issues that are  
22           highly disputed.

23                      What do these special magistrates do  
24           with these issues?

25                      You got two choices. You either kind

1 of step back and say, look, we're not going to  
2 interpret the law, we're not going to wade in  
3 here, or you got to lay out both sides of it.

4 The property appraisers' issue with  
5 the 2012 training is that you didn't lay out both  
6 sides of it. It's very biased against one side  
7 when there's plenty of argument on both sides.

8 My personal opinion is you either got  
9 to step back and say, we're going to let the VAB  
10 attorneys hash this issue out in the individual  
11 counties and they're going to give directions to  
12 their special magistrates, which is not a bad  
13 idea.

14 You either step out of it completely  
15 and say, look, every county has got a VAB  
16 attorney. They are supposed to advise the  
17 special magistrates on issues of law.

18 Or you got to put it all in the  
19 training. You got to put both sides. You got  
20 to put all the cases in there.

21 Now, here is the problem. I've been  
22 doing property tax law for a long time. And I  
23 have accumulated in my office, for those who have  
24 ever been in there -- I have every single  
25 property tax case, every single one that there



1 has ever been since 1898, which I think is the  
2 first one. If you put them all together, it's  
3 about this (indicating) long.

4 I don't think you can include all of  
5 the cases, and the special magistrates wouldn't  
6 know what to do with them.

7 So, the dilemma you got -- and,  
8 honestly, I don't know how to resolve it -- is  
9 how much do you put in there? But you either got  
10 to step out and say, these are controversial  
11 issues. We're not supposed to interpret the law.  
12 We're going to let the VAB special magistrate  
13 attorneys -- the attorneys for the VAB do this,  
14 or you got to put both sides in. You got to make  
15 a balance.

16 There's no question that 2012 is not  
17 balanced, so -- and you might have decisions that  
18 are going to be different in different counties.

19 And lawyers deal with that all the  
20 time.

21 There's going to be splits in the  
22 appellate courts. We have five appellate courts  
23 in Florida. The Second DCA may say something  
24 different than the Third DCA.

25 If I'm arguing in the Second DCA, the

1 law is one way. If Mr. Beck and I are debating  
2 something in the Third District Court of Appeals,  
3 they're going to have something different.  
4 That's not uncommon in the judicial area where  
5 people are trying to make decisions. There can  
6 be many differences of opinion. And you're going  
7 to get different decisions.

8 And if I argue my case in front of  
9 one judge in Hillsborough County, he's going to  
10 give me a different ruling. And if we argue a  
11 case in front of a different judge, I'm going to  
12 get a different result.

13 Does that make it manifestly unfair?  
14 No, I don't think so. You can have different  
15 opinions out there.

16 So I -- you know, I don't know what  
17 the right solution is here.

18 A lot of folks are going, oh, well,  
19 we need more, we need more, we need more.

20 I don't care if you have more. It's  
21 got to be balanced and you got to show both  
22 sides.

23 And I clearly think in 2012 that it  
24 wasn't both sides, particularly on those issues  
25 -- Higgs versus Good.

1                   And, you know, the property  
2                   appraisers, obviously, think it's unsupportable.

3                   I understand some folks are going to  
4                   think the other way. And, that's okay. That's  
5                   what makes for great debate. And, frankly,  
6                   that's what keeps us all in business.

7                   If there were no debates, we wouldn't  
8                   be here.

9                   So, let me point out some of the  
10                  comments that have been made here.

11                  And I think, you know, originally  
12                  this was a debate about the merits of this and  
13                  now all of a sudden it's become a witch hunt. I  
14                  don't quite understand that.

15                  Mr. Garcia pointed out that property  
16                  appraisers just want to win and that they just  
17                  want a fair shot.

18                  I don't think that's exactly accurate.

19                  Property appraisers really have zero  
20                  motivation to give the taxpayer the shaft.  
21                  They're elected guys.

22                  And I don't know of any -- at least  
23                  property appraisers that I've experienced that  
24                  don't want to fix these things if they're wrong.

25                  In Hillsborough County we fix more

1 petitions. They never get to hearing because we  
2 remedy them.

3 When we look at them, we say, oh, we  
4 clearly missed the boat here. There's no  
5 question about it, and we fix them. And they do  
6 that in a lot of other counties. I can't say  
7 all counties because I'm not -- I've been on the  
8 other side, but I haven't litigated in other  
9 counties in a long time.

10 For the most part, property  
11 appraisers don't want to win. They want to make  
12 sure it's right. If they think they're right,  
13 then they're going to fight it.

14 You know, the VAB has been pointed  
15 out that it's supposed to be a -- as Ms. Cucchi  
16 pointed out -- simple inexpensive venue for  
17 relief.

18 Part of the problem here is you've  
19 got massively convoluted issues being raised by  
20 sophisticated taxpayers. And there are some  
21 sophisticated folks out there.

22 It's not become a simple process  
23 anymore.

24 Unfortunately, these special  
25 magistrates aren't out there just going, what's

1 the right value? There's all these other issues  
2 being thrown in there, and it's probably a little  
3 overwhelming for them.

4 I mean, Dave Zachem raised the  
5 Allegheny Coal case.

6 I don't know any appraiser who is  
7 going to be able to deal with an equal protection  
8 issue. They're going to have to -- I don't know  
9 that the DOR is going to be able to spell out the  
10 entire volume of equal protection cases. It  
11 would take a 400-page document in and of itself.

12 So, you guys got a problem. And I  
13 don't know how to resolve it for you.

14 You have to say something, but you  
15 can't go overboard and you probably can't say too  
16 little.

17 I wish that all these secret training  
18 meetings and secret meetings y'all have been  
19 having you invited me because I'm one of the  
20 premiere guys that is very interested in this  
21 issue. I've never heard about one. I've never  
22 been invited to one. I've never known about one  
23 whatsoever. So, I guess if these things are  
24 actually happening, you guys have left me out.

25 AUDIENCE MEMBER: Me, too.

1           AUDIENCE MEMBER: I bet your boss was  
2 included.

3           MR. SHEPHERD: He wasn't.

4           AUDIENCE MEMBER: He wasn't?

5           MR. SHEPHERD: No, sure wasn't.

6                    So, that's -- you know, my opinion is  
7 if you're going to put it in there, if you're  
8 going to wade into these dangerous areas -- and  
9 we're only talking about two or three here, and  
10 that's what everyone is here for -- you either  
11 got to lay both sides out or you got to stay out  
12 of it and let the VAB attorneys decide.

13                   And I don't know which one is better.  
14 I don't really necessarily have an opinion there.

15                   Now, I just want to know which one of  
16 my colleagues is going to take me to lunch.

17           MR. ZACHEM: I'll take you to lunch after  
18 I say this about you.

19           MR. MOYES: I think Ms. Anderson had her  
20 hand up.

21           MR. ZACHEM: Dave Zachem once again.

22                   I just want to say this: Here is  
23 why it's impossible to do what the attorney, who  
24 gets paid for arguing someone else's opinion,  
25 indicated. You're not here to put both sides up

1           there.

2                   AUDIENCE MEMBER: That's right.

3                   MR. ZACHEM: In 2008 and nine, the  
4           Legislature had enough of one decision in this  
5           county and a different decision in that county  
6           and even a third decision in that county.

7                   You know, there are some of us, after  
8           we argued for the same petition form, believe  
9           that the property appraisers, the 67 property  
10          appraisers, should have all the same computer  
11          forms identical in all 67 counties.

12                   We're trying to drag this state into  
13          the 21st century, not the 19th.

14                   The Legislature said they wanted a  
15          training manual. They wanted magistrates to take  
16          a test, and they wanted the magistrates to be  
17          trained in order to provide more uniform  
18          decisions in the 67 counties.

19                   Now, if you want to take Good Rule out  
20          and first and eighth out, you can. If you want  
21          to put them in, you can. But you can't put both  
22          sides of a controversial issue in the training  
23          manual.

24                   I don't see how you'd -- I don't see  
25          how you get to the language of the Legislation

1 that was passed focusing on uniformity.

2 We're stuck here. We're in a real  
3 problem here.

4 You know, we're going to break for  
5 lunch.

6 AUDIENCE MEMBER: I'm going to speak.  
7 You're going to stop.

8 MR. ZACHEM: I'm going to stop and let  
9 Ms. Anderson speak.

10 MR. MOYES: Ms. Anderson.

11 MS. ANDERSON: Thanks, Mr. Zachem.

12 I would like to second Mr. Zachem's  
13 suggestion that this meeting be recessed. Is  
14 that the word for it?

15 MR. ZACHEM: Recessed.

16 MS. ANDERSON: And I would like to make a  
17 formal request that Marshall Stranburg appear at  
18 a workshop for private citizens to attend to  
19 discuss the problems and concerns we have about  
20 this process and how the training materials have  
21 -- and I'll repeat Ms. Cucchi's word -- been  
22 corrupted since the 2012 version was drafted.  
23 And I think I would like to see that request  
24 repeated in writing and circulated to everybody  
25 in this state. And I would like a time certain



1 to be set up so that Mr. Stranburg knows that  
2 within the next, say, 30 to 45 days such meeting  
3 will be scheduled.

4 MR. MOYES: Okay. I'll pass that along.

5 We've got a couple folks ask for a  
6 recess. I'm perfectly willing to do that. I  
7 just want to make sure that if somebody is here  
8 today and they want to speak, that they have an  
9 opportunity before we break.

10 And if there's anybody on the phone  
11 or e-mail, again, if there's something you want  
12 to get in today before we recess, please let us  
13 know.

14 MR. JONES: Todd Jones. It wouldn't be a  
15 workshop if I didn't weigh in in some regard.

16 I find myself agreeing with  
17 Mr. Shepherd on one primary issue. That's the  
18 one that I've always tried to emphasize in this  
19 entire process. That is, it should be fair for  
20 both sides.

21 The fact of the matter is that I  
22 don't think you can properly implement the intent  
23 of the 2009 Legislation House Bill 521 and ignore  
24 the eighth criteria issue. It just can't be  
25 done.

1 I agree with Mr. Zachem in that  
2 putting both sides out there will only add to  
3 confusion.

4 Mr. O'Donnell, I am a professor.  
5 I've taught in graduate school at the University  
6 of Florida off and on for years as an appraiser.

7 The redaction does not help.

8 Appraisers, as everybody has  
9 articulated here, are not trained in the law, but  
10 it is incumbent upon us under federal regulation  
11 to understand the law in the process of  
12 conducting our analysis, preparing our work.

13 The training manual, training  
14 materials, whatever you want to call them, are  
15 the equivalent of the coffee cup. You still got  
16 to drink the coffee. The coffee is the law.  
17 It's just a conveyance. There's a whole lot of  
18 argument over the size and shape of that cup.

19 MR. O'DONNELL: To go along with that, one  
20 of my thoughts was that -- the topic was  
21 discussed on a pretty high level. It never got  
22 down to explaining exactly how somebody in the  
23 public -- some person who isn't a professor, or  
24 has a law degree, or folks that are very familiar  
25 with it -- how exactly to do that in a VAB

1 proceeding.

2 I think that might bring some clarity  
3 and that may be a way for us to get to that  
4 point.

5 Because you're in an evidentiary  
6 hearing, most of the people we're talking about  
7 here don't know the rules of evidence.

8 That's never explained in these  
9 materials.

10 MR. JONES: Well, the rules of evidence  
11 don't apply in the formal context.

12 MR. O'DONNELL: Then, we use a formal  
13 designation for what the proof must show.

14 And there's a disconnect there.

15 MR. JONES: I will agree with you that the  
16 process has been overly complicated, arguably  
17 by the involvement of too many attorneys in the  
18 process.

19 MR. O'DONNELL: I --

20 MR. JONES: I know. You're new. It's  
21 cool.

22 I will also suggest that it was major  
23 error -- politically, procedurally, structurally  
24 to not have engaged practitioners in the  
25 consideration of how best to roll this out before

1 a document appears out of nowhere.

2 I don't believe in coincidence.

3 The fact that the edits happened to  
4 track the presettlement memo that Mr. Shepherd  
5 and Mr. Levy promulgated in the DOAH case, I'm --

6 MR. O'DONNELL: Never saw it.

7 MR. JONES: I'm not doubting your word.

8 The point is, it tracks far too  
9 tightly.

10 MR. O'DONNELL: It's the same issue.

11 MR. JONES: The appearance of impropriety,  
12 right?

13 What does everybody want? It was  
14 said the first thing this morning. Everybody  
15 wants a fair hearing.

16 We're here, in part, because there's  
17 no judicial independence in the VAB system,  
18 period.

19 Special magistrates are hired by who?  
20 Local government.

21 Who receives the revenue from the  
22 forum? Local government.

23 Who wants to please their employer?  
24 Everybody.

25 The deck is already stacked.

1           The founding fathers created three  
2 branches of government for a reason.

3           The value adjustment board is digging  
4 into this. Everybody is sensitive to this.  
5 Life, liberty and pursuit, okay?

6           How you take from this is critical.

7           You want to have a taxpayer revolt?  
8 This is how it gets started.

9           OPPAGA weighed in on this years ago.  
10 They said there's a need for eighth criterion  
11 training.

12           Have you seen that report?

13           MR. O'DONNELL: Probably at some point, but  
14 I don't recall it.

15           MR. JONES: I would suggest that you  
16 revisit it, sir.

17           I concur with Ms. Cucchi and Mr. Beck,  
18 the July 11, Keller draft should be the starting  
19 point.

20           I formally recommend that you withdraw  
21 this current draft. At a minimum, as I said in  
22 the last hearing, it will get the hornets to calm  
23 down because we've definitely stepped in that  
24 nest, okay?

25           I don't like seeing you guys on the

1 hot seat. I understand political pressure.

2 Take this draft off the table, roll  
3 out the '14 draft. And let's do like we did when  
4 the original draft rules were put before the  
5 Cabinet in 2010 and -- or 2009 and -- we had  
6 those pulled back, didn't we? And then we spent  
7 18 months in workshops sitting around a table  
8 that Ms. Vickers presided over.

9 And they were very productive. We  
10 had clerks show up. We had VAB attorneys show  
11 up. We had property appraisers show up. We had  
12 magistrates show up. Special magistrates showed  
13 up. Everybody weighed in. That's the way to do  
14 it if you don't want this kind of brouhaha.

15 It's not difficult.

16 Making ivory tower decisions as  
17 bureaucrats is -- I don't see how you're not  
18 going to step in it in a big way, especially  
19 when -- this is a little guy. There are very big  
20 wallets out there who are not going to sit by and  
21 let this go.

22 It's great, I guess, if you're Will  
23 or you're Loren and you're making your living off  
24 of taxpayer dollars and you get to litigate and  
25 make new law, and all that kind of stuff. That's

1 great.

2 The problem is every time Will makes  
3 the new law, it's antitaxpayer.

4 So, again, I would say -- and, by the  
5 way, not every property appraiser is on his side  
6 of the table.

7 Mr. Mathias from Broward County  
8 agrees that the Legislature superseded Walter  
9 v. Schuler.

10 Also, while I have the opportunity,  
11 lest I forget, there's a reference to the  
12 Mazurek (ph) case in the current draft that  
13 shouldn't be there because it was superseded by  
14 the redraft of 194.301.

15 MR. O'DONNELL: And it was -- I think the  
16 First District took care of that last January,  
17 maybe. They reached an opinion where they  
18 changed the whole -- what a judge could do, if  
19 that's the case you're referring to.

20 MR. JONES: I'll get back to you on that.

21 MR. O'DONNELL: Sure.

22 MR. JONES: So, the whole issue of how to  
23 do the training right is: As an appraiser, if  
24 I'm sitting as a special magistrate, which I  
25 don't do, that's a reference manual for me, okay?

1           So, an index and a table of contents  
2 is critical. I got an issue, boom. I can flip  
3 to it. I can find it. Not necessarily in the  
4 training because the training has got the cite  
5 to the statute or the code or the case law.  
6 That's what I'm using it for. It's 250 pages,  
7 say. That saves me from having to look through  
8 this much of Will's case law and 1500 pages worth  
9 of other regulatory and statutory stuff that may  
10 or may not have an impact on my determination  
11 with respect to proper valuation of the property  
12 at issue.

13           It's a tangential issue. It's an  
14 affecting issue, not necessarily an effecting  
15 issue.

16           As far as answering your question  
17 earlier about the economic impact, really? I  
18 mean, the economic impact of this should be  
19 painfully obvious.

20           What's our governor run on? Jobs.  
21 Not public sector jobs, private sector jobs.

22           No offense, but public sector jobs  
23 live off the revenue generated by private sector  
24 jobs.

25           So every time that it becomes more



1           onerous, more expensive, to invest in Florida  
2           relative to Texas, guess where they're going?

3           AUDIENCE MEMBER: Texas.

4           MR. JONES: They're going to Texas.

5                   Okay? Regulatory burden -- I mean,  
6           Dave laid it out absolutely right.

7                   Regulatory burden -- he said --  
8           regulatory burden is important, but it's not as  
9           important as how much it's going to cost me to  
10          be able to run my business in a particular  
11          jurisdiction.

12                   We got people moving HQs from New  
13          York City weekly.

14                   We just got one from California.

15                   The two places they're going; here  
16          and Texas.

17                   I don't want to speak out of school,  
18          but I'm telling you if the governor understood  
19          the impact of what's at issue here, he would not  
20          be happy.

21                   I would encourage you to take a look  
22          at the 2014 tax study that the -- the Florida  
23          Tax study that just came out. But, Florida is  
24          33 in the nation in terms of burden with respect  
25          to property tax. That does not a competitive

1 position make for the state.

2 Again, the easiest thing from where I  
3 stand, withdraw this current draft, you take all  
4 the heat off, roll out the  
5 almost-heretofore-secret Keller draft because,  
6 quite frankly, the man is the most competent  
7 independent opinion in the state that I'm aware  
8 of.

9 We're all going to argue for taxpayers.

10 Will and his ill -- sorry, not ill.  
11 His brethren are going to argue for the taxing  
12 authorities.

13 Couldn't help it. I'm sorry.

14 But -- and you're just going to have  
15 that healthy debate.

16 The problem is we don't have a forum  
17 that we respect.

18 So, I think it's easy to clean that up,  
19 withdraw, resubmit. It doesn't matter if the  
20 process takes a little bit longer. I think we'll  
21 get much quicker to a solution that everybody can  
22 live with, but we're going to have to do -- all  
23 sit down in a room together. I do agree with  
24 that.

25 Any other questions for me?

1           THE COURT REPORTER: I'm running out of  
2 paper. I need to change paper.

3           MR. JONES: And I'm done.

4                   And I agree, if we're done for today,  
5 I'm okay with.

6           MR. MOYES: I appreciate it, Mr. Jones.

7                   Mr. Shepherd.

8           MR. SHEPHERD: Let me make a one-minute  
9 proposition.

10                   Almost every one of your folks have  
11 litigation in Hillsborough County. I would  
12 invite any one of you to raise the 15 percent and  
13 let's haggle this out once and for all.

14                   Mr. Beck and I did it 14 years ago.  
15 I'm willing to do it again.

16                   You guys really think you're right on  
17 the 15 percent --

18           AUDIENCE MEMBER: Anything for a dime.

19           MR. MOYES: Mr. Jones.

20           MR. JONES: Just really quick.

21                   It doesn't have to be 15 percent.  
22 That's if the property appraised -- that's the  
23 property appraiser's, the elected official's,  
24 discretion under 493.

25                   There are various strata.

1                   And Broward County has made a move on  
2                   this.

3                   Historically, it's been 15 percent  
4                   because of the statistic study that Mr. Marcum  
5                   did years and years ago.

6                   I'm sorry, Mr. Zachem and Mr. Marcum.  
7                   It can be 15 percent on houses.

8                   Will, why don't you guys do five  
9                   percent

10                  on hotels?

11                  MR. SHEPHERD: We don't have time to get  
12                  into that. We only got 30 seconds.

13                  MR. MOYES: Hold on just a sec to let her  
14                  change her paper.

15                  THE COURT REPORTER: Can I take a short  
16                  break?

17                  MR. MOYES: Yes. Let's take a quick break  
18                  and start back at 1:30.

19                  (There was a break taken at 1:15 p.m. and  
20                  reconvened at 1:30 p.m.)

21                  MR. MOYES: If everybody will take their  
22                  seat, we'll try to bring this in for a landing.

23                  Let's go ahead and reconvene. It's  
24                  just a little bit after 1:30.

25                  I think we got about seven or eight

1           folks that would like to try to recess, but,  
2           again, we've got folks here.

3                    If anybody hasn't had a chance to  
4           speak or provide comments or suggestions, please  
5           come up now and offer them.

6                    I don't think we've gotten any other  
7           e-mails since the last ones I read.

8                    Yes, ma'am, go ahead. Please say  
9           your name.

10                   MS. TORRES: Ana Torres, I'm here on  
11           behalf of the Orange County Property Appraiser.

12                    I was here earlier. I did not catch  
13           most of today's meeting, but I think some of you  
14           remember me. I was General Counsel for PAP for  
15           a long time. I worked with Mr. Levy up in  
16           Tallahassee. So, I'm very familiar with all of  
17           the events leading up to the training and the  
18           DOAH Rule challenge and everything else that came  
19           after it.

20                    I think that we're just having lively  
21           discussion and maybe some kind of argument on  
22           the substance of whether the 15 percent is  
23           appropriate not appropriate.

24                    I think, for the training, we just  
25           need to focus on what it's intended to do. And

1 it's not intended to take sides. It's not  
2 intended to determine who is right on the issue.

3 I think it creates more confusion.  
4 It creates more inconsistency between the VABs  
5 as far as having -- some special magistrates take  
6 the training and use it as a Bible.

7 Some tax reps go into hearings and  
8 say, well, the DOR says.

9 Well, we know what the DOR says in  
10 the training -- the prior version, not the draft  
11 that we have now.

12 We know that Steve Keller says it's  
13 not mandatory, binding or should be relied upon  
14 at all at hearings. This was testimony under  
15 oath.

16 So, I think to clarify those issues  
17 the DOR has taken the right steps and has  
18 removed those kind of issues that are, if not in  
19 dispute, hotly debated between property  
20 appraisers and tax reps and attorneys on the side  
21 of big companies and, you know, even taxpayers.

22 So, I think the DOR is on the right  
23 track.

24 My office likes the new draft. I  
25 think it's appropriate. I think it's short.

1 Thank you.

2 I think it's -- it's going the right  
3 way.

4 And the conversation about the DOR  
5 being a friend to property appraisers or being on  
6 the side of property appraisers, that's never  
7 been my experience.

8 I can tell you when the training first  
9 came out, that's why you ended up in a rule  
10 challenge at the DOAH because we did not think  
11 that training was appropriate.

12 We don't consider the DOR as being on  
13 the side of property appraisers. Let's just put  
14 that on the record.

15 So, I think the DOR is on the right  
16 side.

17 I wanted to come forward and speak  
18 and say, thank you for coming to Orange County.  
19 We're glad to have you.

20 And it's not just a PAP issue or a  
21 FAPA issue. It's a statewide issue.

22 And, at least from our office, we  
23 appreciate the effort the DOR has put forward.

24 Thank you.

25 MR. MOYES: Thank you.

1           Do we have anybody on the phone that  
2 would like to offer any additional comments or  
3 suggestions?

4           Anybody here with us today?

5           Ms. Cucchi.

6           MS. CUCCHI: The property appraisers did  
7 get their day in Court. They did go to DOAH, and  
8 they did lose. They did appeal it. They went to  
9 the DCA, and they did lose.

10           If you go back into the DOAH documents  
11 and into what our Florida Attorney General  
12 represented for the Department of Revenue, what  
13 you will see is that what Mr. Mellichamp states:  
14 Now -- and I'm quoting, now, 194.301 applies to  
15 any administrative or judicial review.

16           Another quote. However, a taxpayer  
17 who challenges an assessment is entitled to a  
18 determination by the value adjustment board, or  
19 court, of the appropriateness of the appraisal  
20 methodology used in making the assessment.

21           The value of property -- another  
22 quote. The value of property must be determined  
23 by an appraisal methodology that complies with  
24 193.011 (ph) professionally --

25           THE COURT REPORTER: Slow down a little



1 bit.

2 MS. CUCCHI: Professionally accepted  
3 appraisal practices.

4 Then, he goes on to quote: Now, the  
5 continued use of 15 percent from custom and  
6 usage that becomes a professionally accepted  
7 appraisal practice.

8 That doesn't mean that they can't  
9 change it. They have that discretion. They just  
10 haven't done it.

11 And most of the things they're  
12 complaining about in the training has to do with  
13 the consideration of the eighth criteria.

14 Now, when you get to the value  
15 adjustment board is where everybody separates  
16 on this.

17 Another quote. Well, what they're  
18 putting or what they're trying to espouse in  
19 value adjustment board is different from how they  
20 arrive at their original value.

21 Mr. Mellichamp describes the property  
22 appraisers' deceptive behavior in opposing  
23 taxpayers at VAB.

24 He quotes again: This is what the  
25 whole fight is about. They don't want

1 information given to the value adjustment board  
2 that would cause them problems in the value  
3 adjustment board, end quote.

4 Another quote. Now, as we've said  
5 before, the value adjustment board procedure was  
6 set up to give people a simple, quick and  
7 efficient way of challenging their value.

8 When the property appraisers did go  
9 to court --

10 And, Mr. O'Donnell, I'm not sure why  
11 you're saying that you've never seen this.

12 I submitted a public comment that  
13 talked about the settlement offer that the  
14 property appraisers offered.

15 Here's a copy.

16 I'm going to have some questions for  
17 you. So, you can look this over.

18 What I just gave Mr. O'Donnell, for  
19 the record, was a copy of the settlement offer --  
20 a settlement proposal that Loren Levy and  
21 Will Shepherd offered the Department of Revenue.

22 If you look to the second page -- if  
23 you would, please -- you will see what Loren Levy  
24 marked up for what he wanted deleted in order to  
25 drop the DOAH case.

1                   If you could go to the document that  
2                   you put up here at the table. If you could go to  
3                   Page 124.

4                   Could you do that for me, please?

5                   MR. O'DONNELL: Just tell me what your  
6                   question is.

7                   MS. CUCCHI: If you could go to Page 124  
8                   of the --

9                   MR. O'DONNELL: What's your question?

10                  MS. CUCCHI: My question is: Could you  
11                  look over what I just gave you? Let's just look  
12                  at, for instance, Page 124 of the document that  
13                  you have produced. This redline version.

14                  Let's look at Page -- where does it  
15                  start?

16                  Look at what Mr. Levy wanted deleted  
17                  on Page 109 of Mr. Levy's.

18                  MR. O'DONNELL: 109?

19                  MS. CUCCHI: Yes.

20                  MR. O'DONNELL: That's 111.

21                  MS. CUCCHI: I might have it out of order.

22                  109.

23                  Go to Page 124.

24                  MR. O'DONNELL: If you're going to tell me  
25                  that they're the same strike out --

1 MS. CUCCHI: I'm going to ask you if  
2 they're the same strike outs.

3 MR. O'DONNELL: Well, if you look at them,  
4 you can come to your own decision about whether  
5 they are or not.

6 MS. CUCCHI: I would like to know if  
7 they're the same strike outs. If you see the  
8 same thing I'm seeing.

9 MR. O'DONNELL: Whatever it says, it says.

10 MS. CUCCHI: Well, let's just go through  
11 it, then.

12 MR. O'DONNELL: Go for it.

13 MS. CUCCHI: Thank you.

14 MR. O'DONNELL: I'm assuming you're  
15 prefacing this with they're the same?

16 MS. CUCCHI: They are the same.

17 Would you just like to say yes they  
18 are the same?

19 MR. O'DONNELL: Yes.

20 MS. CUCCHI: So, now, that we know that  
21 they're the same, we go back to what did the  
22 Attorney General state?

23 That proposal was not accepted.

24 And what the Attorney General  
25 responded in response was: It appears that your

1           proposal is a request for the Department to  
2           change its substantive view on the Higgs v. Good  
3           and the Section 193.011 and Section Eight of the  
4           Florida Statutes, a change the Department does  
5           not believe is supported by law. Therefore, the  
6           Department is not willing to make the deletions  
7           in the training to remove the information on the  
8           Higgs v. Good and the eighth criterion, Section  
9           193.00 -- 011(a) Florida Statutes that you  
10          provided.

11           MR. O'DONNELL: I guess, during the break  
12          -- you weren't there, but I talked to that  
13          gentleman there and pointed out that --

14           MR. MOYES: Mr. Jones.

15           MR. O'DONNELL: Mr. Jones. Sorry.

16                   I've done a bit of page turning.

17                   It's been a long day.

18           MR. JONES: It's all right.

19           MR. O'DONNELL: There is a reference that's  
20          in the current draft that you're looking at today  
21          -- what we call the redline draft, which is  
22          actually bluelined on my copy -- that talks about  
23          Higgs.

24           MS. CUCCHI: I'm not concerned about Higgs.

25                   I am a taxpayer.

1 MR. O'DONNELL: Okay.

2 MS. CUCCHI: I am looking at the eighth  
3 criterion. That's why I asked you to look at  
4 the eighth criterion.

5 Higgs versus Good is something that  
6 professional --

7 MR. O'DONNELL: I thought that's what you  
8 just mentioned.

9 MS. CUCCHI: It has Higgs versus Good, but  
10 that's what the property appraiser sued over.

11 They sued over Higgs versus Good.  
12 They sued over the eighth criterion, cost of sale  
13 adjustment.

14 MR. O'DONNELL: What's your question?

15 MS. CUCCHI: My question is: You saw, and  
16 you've just confirmed, that what was written  
17 about the eighth criteria that Mr. Levy objected  
18 to, the 2010 stuff that Mr. Levy objected to, all  
19 of that has been taken out in the two thousand --

20 MR. O'DONNELL: I'm sorry. You've showed  
21 me pages out of line. So, let me make sure we're  
22 talking about the same thing.

23 MS. CUCCHI: Okay.

24 MR. O'DONNELL: Why don't we do that? I  
25 thought you were talking about Higgs v. Good.

1 MS. CUCCHI: No. Only talking about the  
2 cost to sale adjustment.

3 MR. O'DONNELL: Cost to sale adjustment.  
4 Do you know where that is in this blueline?

5 MS. CUCCHI: Yes. It is on Page 124.

6 MR. O'DONNELL: Thank you.

7 MS. CUCCHI: It starts at Line 12 on Page  
8 124.

9 MR. O'DONNELL: Operation of?

10 MS. CUCCHI: Operation of.

11 MR. O'DONNELL: Uh-huh. And have you gone  
12 through here and determined whether or not  
13 most, if not all, of this is repeated somewhere  
14 else?

15 MS. CUCCHI: Again, that was the question  
16 I was asking you, but if you look and compare the  
17 two documents --

18 MR. O'DONNELL: I don't have time to go  
19 through modular six unless you just want to do  
20 that?

21 MS. CUCCHI: I would like to do that. I  
22 would like to go through Pages 124 through 129.

23 MR. O'DONNELL: Okay. Let's do it. You  
24 want to go through this part by part? I don't  
25 actually recall who did this change. Maybe it

1 was me, maybe it wasn't. I don't know, but do  
2 you want to go through it line by line by line  
3 and determine why something might have been  
4 there or might not have been there?

5 I can probably prepare for that kind  
6 of question, as I asked you before when you said  
7 you weren't going to have a question for me so I  
8 could go through here and mark off all the places  
9 it might be done.

10 MS. CUCCHI: It's just a matter of looking  
11 at what Mr. Levy -- the document that I just  
12 provided you. And we can go --

13 MR. O'DONNELL: This goes on for a number  
14 of pages.

15 MS. CUCCHI: Yes, it does. It starts at  
16 Page 108.

17 MR. O'DONNELL: Right.

18 MS. CUCCHI: And if you look at Page 124,  
19 you'll see the Operation of the Eighth Criterion  
20 under Florida Law. If you look at all the way  
21 through Page 124, everything is deleted. If you  
22 look at all the way through Page 106 of the  
23 Loren Levy proposal, you look through -- I mean,  
24 108 -- I'm sorry, 108 of the Loren Levy proposal,  
25 109 of the Loren Levy proposal, 110 of the



1 Loren Levy proposal and 111 of the Loren Levy  
2 proposal, he proposes that all that information  
3 be taken out.

4 And if you look at Pages 124, 125,  
5 126, 127 --

6 MR. O'DONNELL: Okay. Chronological  
7 overview of Subsection 193.

8 My recollection of this was that the  
9 discussion of the chronological overview was not  
10 particularly timely anymore because it was all  
11 done in 2009.

12 Now, I understand, now that I've  
13 heard it, that there's an objection to that; that  
14 everybody needs to have context for what happened  
15 in 2009.

16 MS. CUCCHI: We're not talking about  
17 chronological order.

18 The parts that I'm talking to you  
19 about right now are the operation of the eighth  
20 criterion. Just go over the names of the  
21 titles.

22 Operation of the Eighth Criterion,  
23 Page 108. Mr. Levy, Mr. Shepherd asked that that  
24 be removed. That's their proposal. They want  
25 that removed and they'll go away.

1           So, you look at Page 124, Operation  
2 of the Eighth Criterion Under Florida Law. Same  
3 title. Everything is now gone.

4           You go to Page 109 of Loren Levy/  
5 Will Shepherd document, you go to Page 125 of the  
6 redline, again everything is deleted.

7           You go to the -- 110 on the Loren  
8 Levy document: Example of when to revise just  
9 value of the eighth criterion. You see the  
10 examples. Again, deleted from the redline  
11 version.

12           Going to Page 111, examples of when  
13 not to revise a just value on the eighth  
14 criterion. In considering the eighth criterion  
15 in evidence of real property sale, again, those  
16 are completely eliminated from the blue line  
17 draft. Absolutely everything.

18           MR. O'DONNELL: It's all the same issue,  
19 correct? I mean, you're talking about what was  
20 deleted from here was also deleted from the  
21 training?

22           MS. CUCCHI: That's what I'm saying.

23           MR. O'DONNELL: Now, somebody, for  
24 whatever reason, had the same opinion that  
25 Mr. Levy had, then that's what that was.

1 MS. CUCCHI: And that's where it comes  
2 down to --

3 MR. O'DONNELL: Not from him.

4 MS. CUCCHI: -- the same person who said  
5 it would be a substantive change is the Florida  
6 Attorney General.

7 MR. O'DONNELL: Well, in litigation --

8 MS. CUCCHI: And when you come back --

9 MR. O'DONNELL: I don't know. I haven't  
10 talked to Joe. He's retired. If I had the  
11 opportunity, I would ask him.

12 You take positions in litigation and  
13 that's -- denying -- well, you know --

14 AUDIENCE MEMBER: He's sweating.

15 MR. O'DONNELL: Not really.

16 THE COURT REPORTER: I couldn't hear what  
17 he said.

18 MR. O'DONNELL: "I'm sweating", but I'm  
19 not.

20 AUDIENCE MEMBER: Too late. We'll give  
21 you a second chance.

22 MR. O'DONNELL: I'm trying to explain a  
23 question.

24 AUDIENCE MEMBER: That was a private  
25 comment. Sorry you heard it. Though, probably

1 true.

2 MR. MOYES: Ms. Cucchi, do you have any  
3 other comments?

4 MS. CUCCHI: Yes, I do.

5 Mr. Moyes, today you said the 2012  
6 version, you think that there are some things  
7 that don't belong in there.

8 In the transcript on the last one,  
9 you said, there are some parts of module six that  
10 just, you know, aren't supported in the rules or  
11 the statutes.

12 There is an e-mail from  
13 Kevin O'Donnell, that he had some parts with that  
14 says the Department intended to publish undated  
15 draft materials. It goes on to say that they  
16 will reflect our effort to redesign; and that  
17 that's going to be done by placing statutory  
18 language in the appropriate context.

19 You had the Attorney General who  
20 placed the statutory language in the appropriate  
21 context. That was what the training was. That  
22 was what the defense was. And now you're going  
23 back, for some unknown reason, and you're ripping  
24 all that material out. And you're saying it  
25 didn't have anything to do with the property

1            appraisers, but, yet, here is the property  
2            appraisers saying, here is the proposal and we'll  
3            leave you guys alone.

4                    And you take everything from that  
5            proposal out with no justification whatsoever.  
6            You say you haven't changed your position.

7                    The Attorney General went through and  
8            explained exactly why all that stuff needed to be  
9            in there.

10                   And you're talking about the  
11            transparency.

12                   You're talking about the fairness  
13            to the mom-and-pop taxpayer. They go in there,  
14            they see -- I think that somebody in this room  
15            had given an example in the last meeting about,  
16            my house is valued at a hundred thousand  
17            dollars. My neighbor's house is valued at  
18            \$85,000, but it sold at a hundred thousand  
19            dollars, that's where you're getting into what  
20            -- the property appraisers come back and say,  
21            well, it's unconstitutional to take the 15  
22            percent off of that sold property.

23                   So, if your house is at a hundred  
24            thousand and that sold property next door was at  
25            a hundred thousand, they're identical, then it

1 is what it is. That's just value.

2 Well, it cannot be Constitutional for  
3 a property appraiser to make an eighth criterion  
4 adjustment to recorded selling prices or fair  
5 market value under Section 194.301(1) and then  
6 be unconstitutional for the VAB to make the same  
7 adjustment to recorded sale price or fair market  
8 value in reviewing the assessment under  
9 194.301(2).

10 This is a simple matter of logic and  
11 having the fair apples to apples application of  
12 statutory criteria required by Section 194.301  
13 Florida Statutes, House Bill 521.

14 But, you know what? Mr. Levy and  
15 Mr. Shepherd, we're just trying to get to apples  
16 to apples comparison.

17 And Mr. Levy and Mr. Shepherd, they  
18 don't like apples. They like their apples mixed  
19 with oranges.

20 So, the Department must be concerned  
21 with following the statutes, the facts, the  
22 logic, its own rules. And, accordingly, the  
23 Department is compelled to include in its VAB  
24 training the apples-to-apples explanations and  
25 examples of the eighth criterion to facilitate

1           the fairness and consistency contemplated by  
2           the Legislature in 2009 of Sections 194.301,  
3           194.301(5), the House Bill 521.

4                         So, again, I'm going to ask if the  
5           Attorney General comes back and says that your  
6           proposal is a request for the Department to  
7           change its substantive view, a change the  
8           Department does not believe is supported by law,  
9           and, therefore, the Department is not willing to  
10          make the deletions to training, how are you  
11          coming back now and saying that you don't think  
12          that they belong in there? How do you come back  
13          and say that, but there are some parts in module  
14          six that just aren't, you know, supported by the  
15          rules and the statutes after the Attorney General  
16          argued it?

17                        Did the Attorney General change their  
18          mind? Did they authorize you to change the  
19          training, to take out what they had defended?

20                        MR. MOYES: That's a hypothetical question.  
21          I'm not going to answer a hypothetical question.

22                        MS. CUCCHI: It's not a hypothetical. You  
23          took it out.

24                        MR. MOYES: Yes, it is.

25                        MR. O'DONNELL: The Attorney General,

1 typically, argues on behalf of the Department and  
2 seeks the Department's opinion about what the law  
3 says.

4 MS. CUCCHI: So, has the Department changed  
5 its position?

6 MR. MOYES: Let me ask you this, Ms. Cucchi:  
7 This information was added in 2012. So, did  
8 the Department change its position in 2012? We  
9 didn't have it in the 2010 version.

10 MS. CUCCHI: That's not true, either. I  
11 looked at the 2010 version. I looked at the 2012  
12 version. I went piece by piece. I can show you  
13 each page number that it appeared on the 2010,  
14 each page number it appeared on the 2012. And,  
15 lo and behold, oh, it's all deleted from your  
16 draft training.

17 So, if you're going to say something,  
18 Mr. Moyes, please have facts to back it up  
19 because you know that I am going to come back and  
20 I am going to ask you to show me where that is.

21 MR. MOYES: So, you're saying, then, that  
22 everything from Page 122 through 135 was in the  
23 2010 version?

24 MS. CUCCHI: What I am saying is that what  
25 the property appraisers asked for you to delete



1 from the 2010 --

2 MR. MOYES: That's not what I asked.

3 MS. CUCCHI: Well, I'm telling you what I'm  
4 saying. You asked me what I was saying. Do you  
5 want to know what I was saying or not?

6 MR. MOYES: Go ahead.

7 MS. CUCCHI: What the property appraisers  
8 proposed in the 2010 training, each one of those  
9 deletions appeared in the 2012 and in the 2013,  
10 by the fact. And, then, they all disappear from  
11 the blueline copy. That is what I am saying.

12 And, unless you can tell me -- which  
13 is my question still, has the Department changed  
14 its position from the DOAH document?

15 MR. MOYES: Not that I'm aware of.

16 MS. CUCCHI: Has the Attorney General  
17 changed their position from DOAH?

18 MR. MOYES: Not that I know or heard.

19 MS. CUCCHI: Have you gotten any  
20 authorization to make changes that were not  
21 accepted because they were not supported by law  
22 from the Attorney General?

23 MR. MOYES: I don't know that the Attorney  
24 General has provided us any comments at all on  
25 the training.

1           MS. CUCCHI: So, who authorized you to make  
2 changes that were defended by the Attorney  
3 General as being correct?

4           MR. MOYES: I'm not sure if I know what  
5 you're talking about.

6           MR. O'DONNELL: He turned down a settlement  
7 agreement.

8           MS. CUCCHI: They turned down a settlement  
9 agreement with a statement saying, your  
10 proposal is a request for the Department to  
11 change its substantive view -- and had some other  
12 stuff there -- a change the Department believes  
13 is not supported by law. Therefore, the  
14 Department is not willing to make deletions to  
15 the training to remove information on -- forget  
16 the Higgs v. Good. I don't care about that --  
17 and the eighth criterion Section 193.018 (ph)  
18 Florida Statutes that you provided.

19                   So, now you guys have gone through  
20 and you have made those changes after the  
21 Attorney General, on the Department's behalf,  
22 said that you weren't willing to do it.

23                   If that isn't a position change --

24           MR. MOYES: Okay. Well, let me try to  
25 make this as clear as I possibly can. I said

1           this last time. I know you listened last time.  
2           I'm not aware of any place in any document where  
3           the Department of Revenue said a magistrate  
4           should not make an eighth criterion adjustment.

5                         We have said consistently -- it's in  
6           our rule. I quoted the rule last time -- that a  
7           magistrate should make an eighth criterion  
8           adjustment.

9                         That was our position in 2009. It's  
10          our position in 2010. It's our position now.  
11          We have not changed that position.

12                        You can quote whatever you want. You  
13          can point to whatever document you want. We have  
14          not changed our position.

15                        MS. CUCCHI: So, why are you pulling the  
16          eighth criterion stuff, all of it out of module  
17          six?

18                        Why are you making comments that  
19          state that it isn't supported by law?

20                        MR. MOYES: I didn't make those comments.

21                        MS. CUCCHI: I think if you go back to the  
22          hearing transcript from last time, you say, but  
23          there are some parts of module six that just,  
24          you know, aren't supported in the rules or the  
25          statutes.

1 MR. MOYES: I believe that's correct.

2 MS. CUCCHI: Is the eighth criterion part  
3 of what you believe does not belong in there?

4 MR. MOYES: I don't know.

5 MS. CUCCHI: What don't you believe is  
6 supported by the laws, by the rules or the  
7 statutes?

8 What module in six -- let's go line  
9 by line.

10 MR. MOYES: All right. Do you want to  
11 read it or do you want me to?

12 MS. CUCCHI: I want you to.

13 MR. MOYES: I'd rather not.

14 MS. CUCCHI: You asked.

15 MR. MOYES: Go ahead. Where do you want  
16 to start?

17 MS. CUCCHI: From the beginning.

18 You can read through it or you can  
19 tell me what you think is not supported by the  
20 rules and the statutes.

21 MR. MOYES: All right. Let's see. It  
22 starts on Page 97 it goes to Page 135.

23 I'm a slow reader, so it's going to  
24 take me a little while.

25 MS. CUCCHI: If you would like, we can

1 actually start at Page 124.

2 MR. MOYES: Okay. There might be something  
3 before that, but if you want to start --

4 MS. CUCCHI: We can start at Page 124. If  
5 I'm satisfied, then we don't have to expend the  
6 time --

7 MR. MOYES: I don't know. Let me look.  
8 You made a lot of comments.

9 Well, see, that's why we didn't jump  
10 ahead. Page 103, line 18, maybe, to 28.

11 MS. CUCCHI: To 28?

12 MR. MOYES: At least 18 to 21, let's keep  
13 it simple.

14 MS. CUCCHI: 18 to what.

15 MR. MOYES: Line 18 to line 21. I think  
16 line 30 to 32.

17 MS. CUCCHI: Mr. O'Donnell, I would like  
18 you also to be going through since you are his  
19 attorney, so if --

20 MR. MOYES: And, more specifically, lines  
21 34 to 36. That absolutely has to be incorrect  
22 by definition by the Constitution.

23 MS. CUCCHI: Mr. Moyes, can I ask you  
24 about the Constitution?

25 MR. MOYES: Feel free.

1 MS. CUCCHI: The property appraisers have  
2 to give you a 493 Form; is that correct?

3 MR. MOYES: Yes.

4 MS. CUCCHI: And what is on that 493 Form?

5 MR. MOYES: Adjustments to -- it's an  
6 eighth criterion adjustment.

7 MS. CUCCHI: So, the property appraisers --  
8 it isn't unconstitutional for them to make that  
9 adjustment?

10 MR. MOYES: Of course, not. You said  
11 193.011(8).

12 MS. CUCCHI: Is it unconstitutional for  
13 the VABs to make that adjustment, that same  
14 adjustment?

15 MR. MOYES: No. I already said it  
16 wasn't.

17 MS. CUCCHI: Let's keep going through.

18 MR. MOYES: I don't need to go on. I  
19 just pointed out to you what I don't believe is  
20 supported by the rules or the statutes.

21 MS. CUCCHI: So that's everything in  
22 module six that you don't believe is supported  
23 by the rules or the --

24 MR. MOYES: I don't think I'm going to  
25 waste everybody's time by going through more.

1 I just gave you two examples.

2 MS. CUCCHI: You agreed to go through it  
3 line by line if you wanted to.

4 MR. MOYES: You go through it line by  
5 line and I'll sit here and listen.

6 MS. CUCCHI: I don't have any problem with  
7 anything that is in here. I believe everything  
8 that is in here. You're the one that said it  
9 isn't supported by the rules and the statutes.

10 MR. MOYES: And I just gave you two  
11 examples.

12 MS. CUCCHI: I asked for all examples.

13 MR. MOYES: I'll be happy to give those  
14 to you later. I'm not going to waste everybody's  
15 time today to satisfy your curiosity as to what  
16 else is in here.

17 I think if you look at the parts that  
18 were deleted, you can get a pretty good idea.

19 MS. CUCCHI: Well, the parts that were  
20 deleted --

21 MR. MOYES: I'd be more than happy to  
22 send you a written response that identifies the  
23 specific areas that I don't believe are supported  
24 by the statutes or the rules.

25 MS. CUCCHI: Then, to shorten this up,

1           because what I was really asking you when I  
2           asked you to go to Page 124 and you wanted to go  
3           backwards, let's go to Page 124.

4           MR. MOYES:   You're the one that said you  
5           wanted to go through the whole section.

6           MS. CUCCHI:   I also told you --

7           MR. MOYES:   Let's go to 124.

8           MS. CUCCHI:   Let's go to 124, starting  
9           with lines 12.   And I would like you to go  
10          through and tell anything that isn't supported  
11          by law.

12          MR. MOYES:   I won't do that.   I'm not an  
13          attorney.

14          MS. CUCCHI:   But you made the comment,  
15          and you just made the comments on the other  
16          pages --

17          MR. MOYES:   Because that's what the  
18          attorneys have told me.

19          MS. CUCCHI:   Okay.

20          MR. MOYES:   That that's the Department's  
21          -- the position of the Department of Revenue.

22          MS. CUCCHI:   So, Kevin O'Donnell, you are  
23          the attorney.   Tell me on Page 124 what isn't  
24          supported by law.

25          MR. O'DONNELL:   Well, let's start at this



1 point, which was not whether a particular  
2 comment is or is not supported by law, but  
3 without going through everything else, I can't  
4 determine whether or not that was said before  
5 in some other module.

6 Tokai, as I recall, is a tangible  
7 personal property case. So, it might not be  
8 in module six.

9 MS. CUCCHI: Module six is for the common  
10 mom-pop taxpayer. I'm not concerned about  
11 tangible personal property.

12 MR. O'DONNELL: But that's the case.

13 MS. CUCCHI: But a magistrate is not going  
14 to read -- who is doing mom-and-pop homes is not  
15 going to be module eight, so there is no  
16 repetitiveness.

17 MR. O'DONNELL: I don't say there is  
18 repetitiveness. I said the case has been cited  
19 as a tangible personal property case.

20 AUDIENCE MEMBER: There's only one statute  
21 that defines just value.

22 MR. O'DONNELL: I understand.

23 AUDIENCE MEMBER: That's the whole point.

24 MR. O'DONNELL: I understand.

25 But we're talking about parsing what's

1 in one module and what's not in one module and  
2 why it might have been moved.

3 MR. BECK: There's nothing unique about  
4 tangibles in the Tokai decision.

5 MR. O'DONNELL: I'm not disagreeing with  
6 you, but it was -- this is off the cuff, because  
7 we didn't get these questions in advance, so I'm  
8 just trying to talk to you and answer your  
9 question as best I can sitting here today.

10 Tokai was a tangible personal property  
11 tax case. And that may have been what somebody  
12 looked at and decided it shouldn't be here under  
13 this version of the eighth criterion and it might  
14 be in the tangible personal property.

15 I believe that's module eight.

16 MR. BECK: That's an invalid conclusion on  
17 your part.

18 MR. O'DONNELL: That may be the case. And  
19 that's probably why a lot of people are here  
20 because they think that's an invalid conclusion.  
21 And it's perfectly reasonable for somebody to  
22 say, I think that's an invalid conclusion.

23 And that's all we're trying to get  
24 to. If you think there's invalid conclusions in  
25 here, point them out specifically. So, I don't

1           have a problem with you doing that or anyone  
2           else.

3           MS. CUCCHI:   You have made the chops to  
4           the training and there has been comments by both  
5           of you --

6           MR. O'DONNELL:   I made some.

7           MS. CUCCHI:   But there have been comments  
8           -- you approved everything.   You approved the  
9           document that --

10          MR. O'DONNELL:   You know --

11          MS. CUCCHI:   Mr. O'Donnell, I have an  
12          e-mail that Sue Harlan asked for your approval --

13          MR. O'DONNELL:   Of course she did.

14          MS. CUCCHI:   -- as she would not post it  
15          until you approved the document.

16          MR. O'DONNELL:   Of course.

17          MS. CUCCHI:   The buck stops at your  
18          doorstep.   You approved the document.

19          MR. O'DONNELL:   I'm sorry, I don't know  
20          that you determine -- whatever I need to do for  
21          the people I work for, that's where the buck  
22          stops.

23          MS. CUCCHI:   Well, when you approved the  
24          document, you allowed it to go on-line.   That was  
25          the document that was used.   If you said no, this

1 one isn't good, we need to go back to the Keller  
2 draft --

3 MR. O'DONNELL: Which draft? This draft,  
4 right?

5 MS. CUCCHI: This draft.

6 MR. O'DONNELL: Okay.

7 MS. CUCCHI: So, you had said it was for  
8 redundancy. You also have said that there was  
9 some statutory concerns. I just want to go piece  
10 by piece through the next five pages, and I would  
11 like for you to tell me what isn't supported by  
12 law because I want to know.

13 MR. O'DONNELL: Well, I -- you know,  
14 sitting here now, without the ability to go  
15 through this once more, I'm not thinking that's  
16 going to be very fruitful.

17 If the idea here is to have another  
18 meeting, that would allow somebody to prepare.

19 MS. CUCCHI: Are you committing to another  
20 meeting?

21 MR. O'DONNELL: I can't commit to  
22 anything.

23 MS. CUCCHI: Can you call Mr. Stranburg  
24 and ask if he will commit so that you may commit?

25 MR. O'DONNELL: You can continue with your

1           questioning.

2           MS. CUCCHI: Can you call Mr. Stranburg  
3           and ask?

4           MR. O'DONNELL: You can continue with  
5           your questioning.

6           MS. CUCCHI: That is a question.

7                     Can you call Mr. Stranburg and ask if  
8           he will commit to another meeting?

9           MR. O'DONNELL: No.

10          MS. CUCCHI: You can't call him?

11                     Mr. Moyes, can you call him?

12          MR. MOYES: Yes, I can, but I won't call  
13          him right now.

14          MS. CUCCHI: Does anybody want this  
15          meeting to end without knowing if there's going  
16          to be another meeting?

17          MR. ZACHEM: If we recess, yes.

18                     Under the rules, if we recess, there's  
19          going to be a continuation of a meeting. This is  
20          a recess, not an adjournment. It's two different  
21          things. We're not sine die. We're just going to  
22          recess, to get out of here, so the people can get  
23          their act together and we can stop this  
24          back-and-forth stuff because all we're going to  
25          do is sit here back and forth and back and forth

1 until we get to five, and then we'll overnight  
2 and we'll come back in the morning and do this  
3 word for word for word for word. I don't see any  
4 advantage to that. I really don't.

5 MR. BECK: We haven't had a commitment that  
6 there would be a continuation of this.

7 MR. ZACHEM: Well, good if there's not a  
8 continuation, fine.

9 MR. MOYES: I can commit that we'll have  
10 another meeting. I can't commit for the  
11 executive director. I don't have that authority.

12 I'm sure he will do it if he's  
13 available and if he thinks that it will be  
14 beneficial. I can't imagine why he wouldn't want  
15 to do it.

16 MS. CUCCHI: There will be another  
17 meeting before the release of the training?

18 MR. MOYES: Yes.

19 We will not release another version  
20 of the training until we have at least one more  
21 public meeting. I can confirm to that.

22 MR. O'DONNELL: And, for my part, as I  
23 asked you before we even started, if you have  
24 questions that you know you're going to ask, it  
25 would be helpful to get a good answer that we

1           knew what the question was.

2           MS. CUCCHI: Well, now you have the  
3 questions. I would like for you to go through  
4 module six.

5           THE COURT REPORTER: Wait, ma'am. Excuse  
6 me.

7           MR. O'DONNELL: Hold on.

8           THE COURT REPORTER: She's talking at the  
9 same time and I can't get what you're saying.  
10 I'm sorry.

11           You were saying that if you knew what  
12 the questions were ahead of time.

13           MR. O'DONNELL: And I think you responded  
14 this is the question, explain why --

15           MS. CUCCHI: This is the question -- no,  
16 not explain why this was all removed.

17           What I want is for you to go through  
18 module six line by line and I want you to tell  
19 me what is not supported by law.

20           MR. O'DONNELL: Well, we'll see if I can  
21 do that, then. I'll give you my best answers.

22           MS. CUCCHI: So you will go through line by  
23 line and you will document what you do not think  
24 is supported by law.

25           MR. O'DONNELL: No, I won't do that

1 because I don't know exactly what I'm going to  
2 look at here.

3 MS. CUCCHI: Module six.

4 MR. O'DONNELL: I understand your question  
5 now. But the way it gets relayed to you is as  
6 I choose.

7 MS. CUCCHI: And what does that mean?

8 MR. O'DONNELL: I'll do the best I can.

9 MS. CUCCHI: So you're going to be  
10 evasive or you're going to directly answer the  
11 question, which is, is there anything in module  
12 six -- and tell me everything in module six --  
13 that is not supported by law?

14 MR. O'DONNELL: I will go back. I'll talk  
15 to the folks, like Mr. Keller and whatnot, and we  
16 can figure it all out and do the best we can  
17 giving you an answer to that.

18 MS. CUCCHI: Giving me an answer to the  
19 question --

20 MR. O'DONNELL: Yeah.

21 MR. CUCCHI: Anything and everything in  
22 module six that is not supported by law.

23 MR. O'DONNELL: I don't know that we can  
24 ever give you everything you want, so I'll do  
25 my best.



1 MS. CUCCHI: Just because I don't know  
2 that I'm going to be back to go to Tallahassee,  
3 because that's a pretty long drive for me -- I  
4 didn't go to Tallahassee the first time because  
5 it was such a long drive and I thought that I  
6 could submit comments and that they would be  
7 read accurately, but apparently you have a little  
8 bit of problems with reading accurately.

9 MR. MOYES: You really have to go there,  
10 huh? You're such a narcissist that you just have  
11 to put everybody down? Is that the only way you  
12 can feel good about yourself?

13 MS. ANDERSON: I object.

14 AUDIENCE MEMBER: That's rude.

15 MS. CUCCHI: Really.

16 MS. ANDERSON: That's out of line.

17 AUDIENCE MEMBER: That's out of line.

18 MR. MOYES: Really?

19 MS. ANDERSON: Yes.

20 MR. MOYES: For her to stand up here and  
21 say I have a reading problem?

22 MS. ANDERSON: That's correct.

23 MR. MOYES: For her to say that James  
24 McAdams can't read a calendar and I'm being rude?  
25 Wow.

1           MS. ANDERSON: You're a public employee  
2 and you are of line.

3           MR. MOYES: I'm a human being.

4           MS. CUCCHI: You did not read my comments  
5 correctly.

6           MR. MOYES: Were they written correctly?

7           MS. CUCCHI: Yes, they were written  
8 correctly.

9                   I went back and looked at what was  
10 sent and what you read on the transcript and it  
11 wasn't the same thing.

12                   So, I'm going to go back through and  
13 I'm going to ask some questions. And some of the  
14 questions you did get correct, you really didn't  
15 answer the questions either. So, I'm going to go  
16 back through and ask the same questions that I  
17 asked before:

18                   Why is the Department of Revenue  
19 deleting in its redline draft training all  
20 references to the property appraisers' 493  
21 Form, which the Department has already stated  
22 is evidence of a longstanding-professionally  
23 accepted appraisal practice applied by Florida's  
24 elected property appraisers? Why are you  
25 deleting all references out of the training of

1           493?

2           MR. MOYES: I'm sure we didn't really  
3 think it was necessary.

4           MS. CUCCHI: You don't think it's  
5 necessary, a professionally-accepted practice  
6 so the magistrates --

7           MR. MOYES: I don't know why you keep  
8 bringing up professionally-accepted practices.  
9 In 193.011, whether it's a  
10 professionally-accepted practice or not is  
11 irrelevant.

12           MS. CUCCHI: Do you agree or disagree  
13 that the property appraisers' cost of sale  
14 adjustment reported on the 493 shows a  
15 professionally-accepted practice?

16           MR. MOYES: I just answered that.

17           MS. CUCCHI: No, you didn't.

18           MR. MOYES: I said it's irrelevant.

19           MS. CUCCHI: It doesn't matter whether  
20 it's relevant. That's not the answer to the  
21 question.

22           MR. MOYES: I'm not a professional  
23 appraiser. I can't say whether it is or it  
24 isn't.

25           MS. CUCCHI: Mr. O'Donnell, do you

1 believe that a property appraiser's cost of  
2 sales reported on the DR Form 493 shows a  
3 professionally-accepted practice under Florida  
4 Statutes?

5 MR. O'DONNELL: My understanding is that  
6 it shows some kind of aggregate amongst  
7 different strata of the profits.

8 MS. CUCCHI: And have you ever witnessed  
9 anything that says this one gets 15 percent and  
10 this one gets ten percent and this one gets five  
11 percent, even though the number that came in was  
12 all 15 percent?

13 MR. O'DONNELL: Well, the last time I  
14 looked at them, they didn't all say 15 percent.  
15 I believe Broward County uses a 15 percent in  
16 homes --

17 MS. CUCCHI: Let's just talk about homes.  
18 I'm only interested in the mom-and-pop  
19 homeowner.

20 Is it applied across all, all  
21 sold properties? Is that your understanding?

22 MR. O'DONNELL: That's not something I  
23 know. And I understand, from what I've gleaned  
24 over the last while, that if you actually went  
25 and looked at the numbers, that it turns out to

1 a bell curve when you look at the sales price of  
2 a house and then you look at the assessment,  
3 but I'm not a statistician, so I haven't looked  
4 into that any further, understanding that I'm  
5 -- kind of walking-around-talking-around  
6 basis.

7 Now, I didn't hear that from the  
8 property appraisers, if that's your next question.

9 MS. CUCCHI: No. What I'm asking -- it  
10 does mimic what the property appraisers do say.

11 MR. O'DONNELL: That might be because it's  
12 true, I don't know.

13 Do you know whether or not that's  
14 true?

15 MS. CUCCHI: From what the Attorney General  
16 said, which was representing what the Department  
17 believed, the 493 showed a  
18 professionally-accepted practice under Florida  
19 Statutes.

20 MR. O'DONNELL: Right. And that could be  
21 used -- as I think we've pointed out in  
22 one of these parts, that that could be, coupled  
23 with other things, evidence at some point. But,  
24 in and of itself, the form isn't evidence of  
25 anything at a VAB meeting or to a magistrate.

1 That form is an aggregate, as I understand it.  
2 And, therefore, without somebody determining how  
3 that would apply in any given situation --

4 MS. CUCCHI: Do you understand the  
5 distributive property in mathematics?

6 MR. O'DONNELL: I understand that --  
7 here's my understanding, which is very small --  
8 and, no, I'm not a mathematician. I  
9 didn't go to engineering school. So I'm  
10 not -- what I do understand is that if you  
11 take a form that says 15 percent -- and  
12 what I understand the Bar that represents  
13 businesses and folks like yourself --

14 MS. CUCCHI: Nobody represents me.

15 MR. O'DONNELL: Well, the questions they  
16 have. I understand that you're not here as a  
17 representative of anyone. But if you went to  
18 -- what I understand the transaction is that  
19 happens in a hearing, and correct me if I'm  
20 wrong -- I'm sure you will -- that when that  
21 document might be presented, it's in an attempt  
22 to show that the properties -- that the  
23 properties that the property appraiser has  
24 brought in at full sales price, should be reduced  
25 by 15 percent in order to mimic what the house

1           that the person has brought to the VAB to  
2           challenge the assessment so that it wouldn't  
3           appear artificially higher during the hearing and  
4           the magistrate would say, well, these houses are  
5           valued much more highly than yours and they're  
6           about the same, so the price should go up. I  
7           understand how that works.

8                         But what is missing from this  
9           discussion -- and I think we discussed this  
10          earlier -- is that -- what's missing is how to  
11          show somebody to put in evidence what would  
12          actually prove that fact, which is what, I  
13          believe, you attempt to do at a VAB as a  
14          quasi-judicial hearing.

15                        MS. CUCCHI: The property appraisers have  
16          to go in there and prove that they considered  
17          the eighth criteria. The property appraisers  
18          are putting that information into there  
19          already.

20                        They're already saying, if I go in  
21          and do my house -- when they present, they are  
22          going to say I took 15 percent off of all the  
23          sold property of houses.

24                        MR. O'DONNELL: Then they would show  
25          you that.

1 MS. CUCCHI: Then, the evidence is there,  
2 so we don't need to talk about what evidence is  
3 in there, what evidence isn't in there.

4 MR. O'DONNELL: I think you still have  
5 to show evidence that they did that.

6 MS. CUCCHI: There's evidence in the  
7 record.

8 MR. O'DONNELL: Okay.

9 MS. CUCCHI: There has to be in order for  
10 them to get the presumption of correctness in  
11 paren number one.

12 MR. O'DONNELL: And how would that work?

13 MS. CUCCHI: The property appraiser comes  
14 in and they tell the magistrate that they took  
15 15 percent off and that's how they consider  
16 the eighth criteria.

17 MR. O'DONNELL: Off the houses that they  
18 are bringing on their card?

19 MS. CUCCHI: That's the issue. That's  
20 where they're trying to compare apples to  
21 oranges. They aren't doing it on the ones  
22 they're bringing on their card. Some of them do.  
23 Some of them are transparent, some of them are  
24 not transparent. Some of them are deceitful and  
25 like to hide the fact that they have done that,



1 which you've just admitted that you agree that  
2 they --

3 MR. O'DONNELL: I don't. I'm relaying I've  
4 not sat down through that procedure and seen  
5 exactly what they've done. I've seen some three  
6 on a card. I've seen some other arguments, but  
7 that's --

8 MS. CUCCHI: But it's going back to the  
9 493. And the 493 you have said that they take  
10 whatever percentage they put on that 493 off of  
11 those sold houses so that they aren't going over  
12 their bell curve, they aren't going over their  
13 hundred percent.

14 MR. O'DONNELL: That's what they've said.  
15 I've never studied exactly how that works. I'm  
16 relaying to you what I understand. I haven't  
17 gone and dissected what goes into every one of  
18 those forms.

19 MS. CUCCHI: What you've got in aggregate  
20 is happening to each of those individual  
21 properties.

22 When you come in with those  
23 individual properties and you don't take that  
24 off, then you are doing an apples-to-oranges  
25 comparison.

1           MR. O'DONNELL: Well, that's what your  
2 VAB would want to have proof of. And, so, if you  
3 can prove that and demonstrate how to do that at  
4 a VAB hearing, then I think that would be what  
5 somebody would look for. And, I mean, that's  
6 the --

7           MS. CUCCHI: And the property appraisers  
8 are required, first and foremost -- the first  
9 thing that has to happen in that hearing is for  
10 them to establish the presumption of correctness.  
11 And in order for them to establish a presumption  
12 of correctness they are telling for criterion  
13 eight, here is how we've done this. If you don't  
14 tell the magistrate how you're doing it, then  
15 you can't get the presumption of correctness.

16                       So, the evidence is in there.  
17 It is in the record.

18           MR. O'DONNELL: That's what you're  
19 saying. I haven't looked at that record.

20           MS. CUCCHI: Okay. Then, I will leave  
21 you with another question that I would like  
22 answered at the next time: Do you agree or  
23 disagree that the property appraisers' cost of  
24 sale reported on the DR 493 shows a  
25 professionally-accepted appraisal practice

1 under Florida Statutes?

2 MR. O'DONNELL: Has a mass appraisal,  
3 that's what I understand, but I'm not an  
4 appraiser, so I can't answer that question.

5 MS. CUCCHI: Well, if you can find out  
6 the answer.

7 MR. O'DONNELL: Well, I don't know that we  
8 have any appraisers on board that get into that  
9 detail.

10 AUDIENCE MEMBER: How do you check the  
11 roll?

12 MR. O'DONNELL: We have other appraisers  
13 that look at the form.

14 But I can't say what they know and  
15 don't know because I've never talked to them  
16 about that.

17 MS. CUCCHI: Okay. Well, then, let's put  
18 it this way: Joe Mellichamp said in Court  
19 documents that it is a  
20 professionally-accepted practice.

21 MR. O'DONNELL: And I don't disagree with  
22 Joe.

23 MS. CUCCHI: So, if you come back the next  
24 time, I just want to know -- or if you just want  
25 to say now you don't disagree with Joe?

1 Joe said they're a  
2 professionally-accepted practice. Do you agree  
3 with him?

4 MR. O'DONNELL: He argued that in a  
5 Court hearing --

6 MR. BECK: Do you agree with that?

7 MR. O'DONNELL: If I can read it and see  
8 it and I call him up in his retirement and he's  
9 willing to talk to me -- and I probably hope that  
10 he would -- and we can see.

11 MS. CUCCHI: Over the course of ten months  
12 the Department of Revenue has received a large  
13 volume of public comments critical to the  
14 Department's redline draft training deficiencies;  
15 yet, the Department of Revenue has failed to take  
16 any transparent action in the Sunshine to produce  
17 a revised training responsive to these public  
18 comments.

19 On October 1st, 2013, the Department  
20 of Revenue stated, quote, we will review all of  
21 the feedback received and post a revised draft  
22 for further review and comments in the near  
23 future.

24 It didn't say that they were going to  
25 wait to do a revised draft. It said they were

1 going to do a revised draft in the near  
2 future. And it actually did go on to say,  
3 although, I don't have that here with me, that  
4 any of the comments that were done up until  
5 September 30th were going to be included in that  
6 revised draft.

7 So, from October 1st, with a  
8 commitment by the Department to do a revised  
9 draft on the comments made before September 30th,  
10 why the change? Why didn't that get done?

11 MR. MOYES: We haven't changed anything.  
12 Everybody who made comments up until September  
13 30th, they'll be incorporated in the next draft.

14 MS. CUCCHI: But in the near future.

15 The comments that were done up until  
16 September 30th.

17 MR. MOYES: Tell me what you want me to  
18 say. I answered your question the last time.  
19 The answer is the same today. We're in the  
20 process. We're trying to take comments and  
21 we'll produce another draft.

22 I think I just commented earlier,  
23 though, we're not going to produce another draft  
24 until we have another meeting. So, it's not  
25 going to be in the near future by your definition.

1 MS. CUCCHI: So, when the next draft is  
2 done, which you're now saying is going to be  
3 after this meeting, is there going to be another  
4 meeting after that point when you're ready to  
5 say, here is the final draft, or are you just  
6 going to drop it on everybody and just keep  
7 everything nontransparent and not in Sunshine  
8 so you can do whatever you want to do with it?

9 I mean, it's much easier to comment  
10 on something that you can see.

11 MR. MOYES: I can't tell you what's going  
12 to happen after the next meeting until we've had  
13 the meeting.

14 MS. CUCCHI: You haven't already concluded  
15 whether you're going to have another meeting  
16 showing a revised draft or whether you're just  
17 going to put a revised draft?

18 MR. MOYES: Everybody just said they want  
19 another meeting with the executive director.  
20 I don't know what's going to happen after that  
21 meeting. I hope he'll have a meeting. I don't  
22 know what you want me to say.

23 MS. CUCCHI: I want to know what the  
24 process is going to be.

25 MR. MOYES: I can't tell you what the

1 process is going to be. I'm making it up as we  
2 go.

3 I just heard 30 minutes ago y'all  
4 want another meeting. That wasn't part of the  
5 process before we got here today. How can I tell  
6 you what the process is going to be after that?

7 MS. CUCCHI: Because that wasn't part of  
8 the process, but you should have known when you  
9 create a revised draft whether you're going to  
10 have another meeting on that revised draft or  
11 whether you were just going to put it out there.

12 MR. MOYES: I'm sorry, I have no idea  
13 what you're saying.

14 MS. ANDERSON: What does the  
15 Administrative Procedures Act require?

16 MR. MOYES: I don't think it requires  
17 anything. It isn't part of Chapter 120.

18 MS. CUCCHI: The Department of Revenue  
19 always put out the draft pretty much the form it  
20 was going to be in.

21 You have stated that there's things  
22 that were taken out that shouldn't have been  
23 taken out. There are things that were taken out  
24 that you were absolutely against putting back  
25 in.

1           So, that draft is nowhere near what  
2 the final draft, from what I'm understanding --  
3 I mean, I don't know if I can believe or not,  
4 but, from what I'm understanding, that draft is  
5 not going to -- the revision is not going to look  
6 like the current draft.

7           MR. MOYES: It will not.

8           MS. CUCCHI: So, will there be another  
9 public hearing on that revision or are you just  
10 planning on putting that out; that revision?

11          MR. MOYES: I can't tell you what's going  
12 to happen after the next meeting. All I can say  
13 is that we're not going to issue another  
14 document until we produce a draft and get  
15 additional feedback.

16          MS. CUCCHI: How much feedback do you need  
17 to produce another document?

18          MR. MOYES: I don't know. I mean, we've  
19 gotten four-and-a-half hours of comments today  
20 and we're not done yet and we want to have  
21 another meeting, so I don't know. It sounds like  
22 a lot.

23          MS. CUCCHI: You don't seem to be  
24 answering the question.

25                 The Department, of old, used to put



1 out what was pretty darn close and there was a  
2 couple tweaks here and there. It was completely  
3 in the Sunshine.

4 Are you going to, in the Sunshine,  
5 do this process? And are you going to put a  
6 revised draft before putting it out as, here's  
7 the training for this year?

8 MR. MOYES: I just said we are.

9 MS. CUCCHI: You are going to have another  
10 meeting after the revised draft comes out?

11 MR. MOYES: No. I said we're going to  
12 have another meeting. When we issue another  
13 draft, we will put that out for review and  
14 comment. Whether we have one public meeting,  
15 or three or five or none depends on what kind of  
16 feedback we get.

17 MS. CUCCHI: So there will be feedback  
18 to the next revision?

19 MR. MOYES: Yes, of course.

20 MS. CUCCHI: Last week I sent you some  
21 reports from the grand jury. And I also sent you  
22 OPPAGA reports. And those do have some  
23 information that is pertinent to the training,  
24 is pertinent to just value and to what the  
25 property appraisers are doing with the

1 apples-to-oranges comparison. It is pertinent  
2 to whether it's constitutional or  
3 unconstitutional. And it is pertinent to have  
4 that in the training so that everybody is going  
5 on the same process.

6 The purpose of the training is to  
7 have uniformity of the magistrates county  
8 to county. The Department has a statute that  
9 says you are supposed to be the overseer of  
10 statewide uniformity. And, in order to do that,  
11 you have to have one standard going forward.

12 Joe Mellichamp very eloquently put  
13 out why everything was as it was. He stated why  
14 everything that the property appraisers opposed  
15 is supported by law. You are taking out  
16 everything the property appraisers asked for  
17 in settlement that Joe Mellichamp said, it  
18 wouldn't be supported by law, we can't take it  
19 out.

20 So, I hope in the next revision that  
21 that stuff comes back in. And I look forward  
22 to your answers in what is not supported by  
23 law in module six.

24 MR. MOYES: Thank you.

25 I will just point out that -- again,

1           we've said this several times, but just because  
2           information was removed from the draft doesn't  
3           necessarily mean it wasn't supported by law, but  
4           I just want to make sure everybody is clear on  
5           that.

6           MR. BECK: Very briefly.

7           MR. MOYES: Yes.

8                         I think our recess suggestion is shot  
9           to heck, but we'll keep going.

10          MR. BECK: This is Stan Beck.

11          MR. MOYES: Oh, yeah. I'm sorry. Go  
12          ahead.

13                        Mr. Levy, you're on the line. We'll  
14          get to you next. I haven't forgotten.

15          MR. BECK: I'll be very brief. I  
16          appreciate some of the conciliatory suggestions  
17          that were made by Mr. Jones and Mr. Zachem. I  
18          think they were constructive.

19                        I want to tell you that my goal --  
20          and I think a lot of us would concur. If  
21          Mr. Shepherd would allow, I think he would  
22          probably concur. What we're looking for is a  
23          document that enables taxpayers to go to VAB  
24          hearings and address value, period. We want to  
25          get past all of the procedural nuances so that

1 we can really get down to the issue of value.

2 And however we get there, I think that if we can  
3 work in an open way with that as the ultimate  
4 goal, that could be attained.

5 And I, for one, am definitely willing  
6 to work toward that because that is truly what  
7 it's about.

8 Now, along those lines, I think it  
9 should be recognized that if the PA engages in  
10 a certain type of process, the magistrate should  
11 follow the same. And one of the big rubs here  
12 is that the PA will use a 15 percent, but they  
13 don't expect magistrate to.

14 Now, I don't want to -- I'm not  
15 suggesting this for further argument. I'm just  
16 telling you that, in the context of resolving  
17 these things, I believe that the draft that  
18 we've had for recent years, which suggested  
19 that you look at the DR form solved that  
20 problem because it was an answer, that you would  
21 use the same percentage that the PA set forth  
22 on the DR 493. So --

23 And the last thing. This is a  
24 DR 493 for Miami Dade County for the 2013 tax  
25 year. It is signed by Mr. Lopez Cantera (ph),

1           who is now the lieutenant governor. It sets  
2           forth 15 percent. The language has not been  
3           altered or redacted at all. These are the  
4           adjustments made to recorded selling prices  
5           or fair market value, and its plane. If the  
6           DOR is going to approve that role -- has  
7           approved that role, I should say, then there  
8           should be no question about having magistrates  
9           apply the same percentage.

10                   Thank you.

11           MR. MOYES: Thank you.

12                   Mr. Levy, are you still there? Can  
13           you hear us?

14           MR. LEVY: I am. Can you hear me?

15           MR. MOYES: Yes. Sorry. I should have  
16           gotten to you earlier. But, go ahead. Thank  
17           you for waiting.

18           MR. LEVY: No, you're fine. And,  
19           Mr. Moyes, I had not planned to speak because  
20           I certainly spoke in Tallahassee, but I feel  
21           like there were a couple issues raised that I  
22           need to respond to.

23                   To begin with, the settlement offer  
24           that was made in the context of the DOAH  
25           proceeding was challenged the 2010 VAB training.

1           I guess I should stop and point out  
2 that there were no drafts of the 2010 VAB  
3 training. It was just issued.

4           But the DOAH proceeding, yes, we made  
5 a settlement offer on behalf of my client, the  
6 Property Appraisers' Association of Florida. It  
7 was joined in with by the other Plaintiffs,  
8 if you would, or Petitioners in that proceeding.  
9 Mr. Shepherd's client at that time was  
10 Mr. Turner. And I also believe it was joined in,  
11 if I'm remembering correctly, by the other  
12 association of property appraisers. I don't have  
13 the document here in front of me. We made a  
14 settlement offer to the Department to resolve the  
15 rule challenged. That settlement offer was  
16 rejected. I don't think that was any secret as  
17 to the portions that we believed should be  
18 removed from the training. Anyone that wanted to  
19 review the pleadings in that case and our memos  
20 in that case -- we went to great length to  
21 specify the portions of the 2010 VAB training  
22 that we felt were an expression of the  
23 Department's policy and/or interpretation of the  
24 law, which, under our view of the Chapter 120  
25 rule-making proceedings, would have to be adopted

1 consistent with a rule-making process.

2 There is no clandestine behavior  
3 whatsoever. That goes on in every lawsuit that  
4 is filed in this state.

5 And I think I've had similar  
6 settlement discussions, listening to the names  
7 in the room there, with the vast majority of the  
8 attorneys that are there representing the  
9 taxpayers.

10 A suit is filed. Both parties  
11 realize that a settlement would be in both sides'  
12 benefit, a settlement offer is made. Sometimes  
13 it's accepted, sometimes it's modified, sometimes  
14 it is rejected.

15 Mr. Mellichamp, who worked for the  
16 Attorney General and who was representing the  
17 Department of Revenue -- okay, it is extremely  
18 inaccurate to attempt to cast the Attorney  
19 General as having a separate opinion on the  
20 issue from its client. The Department of  
21 Revenue at that point in time rejected the  
22 offer. The case proceeded and the ALJ ruled that  
23 the legal concepts contained in the VAB training  
24 are not binding; that VABs are not required to  
25 follow the training. And, therefore, it was not

1 an expression to have the Department's policy and  
2 it was not the Department's interpretation of the  
3 law that would have to be applied in a VAB  
4 proceeding.

5 We never got to the merits of whether  
6 the Department was correct or incorrect in those  
7 statements.

8 And we certainly deposed Mr. Keller at  
9 length as to the Department's position. And we  
10 also, if anybody wanted to look, questioned  
11 Mr. Keller specifically on the cases that he  
12 relied upon for his expression of the views of  
13 the eighth criteria issue, as has been  
14 described, and asked him where in this case does  
15 it say, which you've written down, and Mr. Keller  
16 responded that it didn't.

17 Now, I'm paraphrasing, but you could  
18 certainly find all of the transcript and all of  
19 the direct and cross examination on that  
20 issue.

21 I've already submitted a memo. I'll  
22 switch gears. I've already submitted a memo as  
23 to why we believe the VAB is incorrect, but,  
24 certainly I would like to highlight three issues.

25 To the extent the VAB training is



1 going to state or suggest that just value is not  
2 legally synonymous with fair market value, we  
3 believe that is sharply contrary to many  
4 decisions out of the Florida Supreme Court.

5 Second, to the extent that the  
6 Department suggests or states that there must be  
7 an adjustment made to reflect --

8 MR. MOYES: Sorry, got some music going  
9 on here.

10 We're getting some music playing.  
11 If somebody has their phone on hold, could you  
12 put it on mute?

13 MR. ZACHEM: That's what happened.  
14 Someone's -- they're on and they go away from  
15 their desk and they put it on hold and they  
16 forget that it's going to have noise.

17 MR. MOYES: Sorry, Mr. Levy. Can you still  
18 hear us?

19 MR. LEVY: I still hear, but I'm not so  
20 sure you can hear me.

21 THE COURT REPORTER: I'll try.

22 MR. MOYES: If you can speak loudly, our  
23 court reporter thinks she can hear you.

24 I apologize.

25 MR. LEVY: If you don't mind, I'll wait.

1           MR. MOYES: Is there anybody else here in  
2 person, that would like to comment over the  
3 music?

4           AUDIENCE MEMBER: And is there anybody  
5 waiting to speak after Loren?

6           MR. MOYES: I don't believe so.

7           AUDIENCE MEMBER: Ask him to hang up and  
8 call back?

9           MR. MOYES: I think we would hang up  
10 on everybody.

11                   Is anybody else on the phone with  
12 us still?

13                   Bear with us a second.

14                   How many participants are on the  
15 phone?

16                   Mr. Levy, I hate to do this -- I  
17 don't know how long this is going to last. I  
18 don't want to deny you your opportunity to make  
19 comments -- but would you mind if you e-mail  
20 them to us or send them in in writing? Would  
21 you mind?

22           MR. LEVY: I'll speak over the music if  
23 that's my only choice.

24           MR. MOYES: Unfortunately, I think those  
25 are your choices. I'm sorry.

1           MR. O'DONNELL? What if we take five and  
2 then see if it stops.

3           MR. MOYES: Let me ask everybody on the  
4 phone to hang up. We'll take a five-minute  
5 break. We'll disconnect the line and then  
6 everybody just call back. It's about 2:45. If  
7 you call back at 2:50, we'll convene then.

8           Thank you.

9           (There was a break taken at 2:45 p.m.,  
10 and reconvened at 2:50 p.m.)

11          MR. MOYES: Kevin O'Donnell will be  
12 here in a second.

13          Mr. Levy, go ahead. We're ready.

14          MR. LEVY: Maybe to just take a half-step  
15 back before we were interrupted with the phone  
16 issue, I don't think there's anything untoward  
17 or inappropriate or improper for one litigant in  
18 a contested proceeding to make a settlement  
19 offer to another litigant and have that  
20 settlement offer either accepted or rejected.  
21 That's supposed to be freely encouraged, in  
22 fact. So freely encouraged that, if you were in  
23 Court, evidence of attempts to settle the case  
24 between the parties would not even be admissible.

25          So, there's no inappropriate behavior.

1 That offer was made in the spring of 2011, was  
2 rejected in that same time frame. I've not heard  
3 further about it.

4 We do -- to the extent we believe  
5 these materials are incorrect, we've sent you a  
6 memo on that. I had mentioned the just value,  
7 the fair market value issue. To the extent the  
8 materials attempt to distinguish those two  
9 concepts and say they're no longer legally  
10 synonymous, we believe is incorrect, contrary  
11 to controlling precedent. You can't find a  
12 single case that is going to say they're no  
13 longer legally synonymous.

14 We think, also, that any portion of  
15 the training materials that says an adjustment  
16 under the eighth criterion must be made, as  
17 contrasted with the statement that the eighth  
18 criterion must be considered, would be likewise  
19 incorrect. That argument has been rejected most  
20 recently in the Tokai case that provides, what I  
21 would have to submit, is the most detailed  
22 analysis, legal analysis, of the eighth criterion  
23 and how it works in tandem with the first  
24 criterion.

25 And, lastly, we would strongly

1 disagree that adjustments that are made during  
2 the mass appraisal modeling practice, or process,  
3 that if an adjustment is made there, that same  
4 adjustment must be made in determining whether  
5 the assessment exceeds fair market value or just  
6 value, which, again, are legally synonymous, but  
7 we've put that in more detail in our memo.

8 I'll leave with you this comment, if  
9 I could. I really believe that this dispute  
10 is best resolved by a thorough understanding of  
11 the Department of Revenue's role as a State  
12 agency. It is not the Department's role to make  
13 law. That is the responsibility of the  
14 Legislature.

15 The same concepts that Ms. Cucchi and  
16 others are saying are well-established legal  
17 principles are the same concepts underlying a  
18 couple of attempts to amend or adopt Legislation  
19 in the past two years that failed.

20 The Department of Revenue's role is  
21 to not make law. That's why we have Chapter 120,  
22 and even when the Department is doing rulemaking,  
23 is to implement the law.

24 And, so, to the extent that the  
25 proponents of this eighth criterion information

1 suggest that it must remain in the training, they  
2 are asking the Department to make law, which is  
3 not its role. It's clearly not its role. You  
4 were told to do training, not make law.

5 Likewise, it's not the Department's role to  
6 interpret law. That's for the courts. These are  
7 important separation of powers principles that  
8 apply to every state agency and including the  
9 Department.

10 So, to the extent, that the  
11 proponents of this information says the  
12 Department should leave it in the training,  
13 because it is a proper interpretation of the law,  
14 they would be asking the Department to do  
15 something that state agencies should not do.

16 Likewise, I've heard conversation  
17 today about, oh, we need another meeting, oh, we  
18 need to study this for another 18 months, I don't  
19 believe that that is necessary or appropriate,  
20 but I would certainly sharply disagree with the  
21 practice that the Department of Revenue took  
22 last year, which is, where it decided to leave  
23 the 2012 training in place for the 2013 year  
24 while the matter is being further studied.

25 If the Department decides that the

1 matter requires further study and the training  
2 in effect for 2014 should not include the  
3 contested materials, the Department does a great  
4 disservice to everybody that is participating in  
5 the value adjustment board process. And when  
6 it knowingly leaves in its training materials  
7 matters that it would acknowledge are hotly  
8 contested and highly disputed, I don't believe  
9 that that would be an appropriate tact at all.  
10 And if these materials were to be binding, I  
11 guess we would look at, has the statute been  
12 passed or has a court decision been issued, but  
13 they're not. They're simply not.

14 So, Mr. Moyes, that's the only  
15 comments that I have. And I appreciate the time.

16 MR. MOYES: Mr. Levy, thank you. And,  
17 again, we appreciate you staying on hold so long  
18 and letting us take care of our technical issues.  
19 We appreciate your comments.

20 Mr. Zachem.

21 MR. ZACHEM: Yes. Dave Zachem. One  
22 small comment. I have a great high regard for  
23 Mr. Levy and his father who have both given great  
24 service to the state of Florida. I can't think  
25 of anything that he said that I agree with. I'm

1           trying very hard to do that; but, as a litigator,  
2           Mr. Levy failed to be successful in that case he  
3           was talking about that he had a supplement on.

4                        But, my point would be that, before  
5           2008, the overwhelming majority of magistrates  
6           in this state had never made a reduction. I want  
7           to repeat that one more time. Before the  
8           Legislature passed the law requiring the DOR to  
9           set up a test, a manual and special magistrates,  
10          the overwhelming majority of magistrates in the  
11          state of Florida never made a reduction.

12                       It has only been after the '08 and  
13          '09 Legislation and manual that there have been  
14          some special masters who have made eight, ten and  
15          12 percent. And I will tell you that those  
16          records have been calculated.

17                       So, I would agree with Mr. Levy that,  
18          if I was an attorney representing a property  
19          appraiser, I would want to be a reactionary. I  
20          would want to go back to the good old days where  
21          nobody won but a property appraiser. And that's  
22          exactly what position Mr. Levy is taking.

23                       Thank you.

24                       MR. MOYES: Mr. Zachem, thank you. I  
25          appreciate it.



1                   No other e-mails.

2                   Comments?

3                   Mr. Garcia.

4                   MR. GARCIA: Anthony Garcia.

5                   Mr. Levy brought up a good point. I'm  
6                   wondering -- you know, it's May 21st and the VABs  
7                   are going to be hiring special magistrates, I  
8                   believe, in July. I think they are already  
9                   putting out their advertisements for that. And  
10                  we're going to be faced under the gun here if  
11                  we're going to have a new training module or are  
12                  we going to continue -- like Mr. Levy was kind of  
13                  objecting to that possibility that we would  
14                  continue to operate under the one that we've  
15                  operated for 2012 and 2013.

16                  So, do you guys have any comment about  
17                  the timing that we're under here, and do you have  
18                  a goal to try to get this resolved any time or to  
19                  let the whole process continue regardless if it  
20                  falls into the next year or not?

21                  MR. MOYES: I think that's a good  
22                  question. I'm glad you brought it up.

23                  AUTOMATED PHONE MESSAGE: The conference  
24                  is no longer being recorded.

25                  MR. MOYES: I can't tell you exactly what

1 is going to happen. I can tell you what I  
2 believe will happen. If I had to guess today,  
3 I would say that the training we'll have in 2014  
4 will be the training we have out there now, which  
5 is the same for 2012, which is the same for 2013,  
6 barring any Legislative update or something we  
7 need to put in there. I don't think anything  
8 passed this year that I can recall.

9 The draft that we have out there is a  
10 draft. We produced it because it was a different  
11 version. We wanted to get feedback and comments.  
12 We're getting that now.

13 I, frankly, would be surprised if the  
14 training we have for 2014 is different than the  
15 2012, 2013, again barring any minor update  
16 regarding Legislation. So, I think that's where  
17 we are.

18 MR. GARCIA: That's just your feeling. I  
19 know you can't commit to anything.

20 MR. MOYES: I would be shocked if that  
21 wasn't the case.

22 MR. GARCIA: Got you.

23 MR. MOYES: I can't tell you what is going  
24 to happen, but I would be really shocked if we  
25 didn't do that.

1           MR. ZACHEM: But I would still hope that  
2 we would proceed in attempting to have some kind  
3 of meeting with the ED and workshop of some kind.

4           MR. MOYES: Absolutely. Absolutely.  
5 Again, that's notwithstanding any --

6           MR. ZACHEM: Notwithstanding any --

7           MR. MOYES: Right. Exactly.

8                     Again, I can commit to having another  
9 meeting. I believe that Mr. Stranburg will do  
10 that. Again, I haven't spoken with him. I find  
11 it hard to believe he wouldn't be willing to do  
12 that when he's got the time.

13                    Thank you for bringing that up, though.  
14 That is a good question.

15                    Any other comments?

16                    Ms. Cucchi.

17           MS. CUCCHI: This relates back to what  
18 Mr. Levy's arguments are.

19                    The actual cost of sale factor used  
20 by property appraisers are required to be  
21 recorded by the property appraisers each year  
22 on the Department of Revenue's form, DR 493.

23                    The excellent June 11th Keller draft  
24 VAB training contains content that explains, with  
25 examples, exactly what the Legislature's auditors

1           said should be doing.

2                       Going back to what the Legislator's  
3           auditors said should be done, quote, to ensure  
4           that taxpayers are treated equitably, with regard  
5           to the cost of sale factor, we recommend that  
6           program staff develop training and guidelines for  
7           applying the 15 percent cost of sale factor, end  
8           quote.

9                       Another quote from the Legislature  
10           auditors. Quote, in addition, program staff  
11           should apply the actual cost of sale factor used  
12           by property appraisers to ensure that their  
13           estimates of property appraiser performance are  
14           accurate.

15                      The magistrates are looking at  
16           property appraiser performance as well. They  
17           have to look to make sure that the  
18           professionally-accepted practices were in play  
19           and that they have gotten done to that specific  
20           subject property.

21                      It is a fallacious and  
22           erroneous argument that a VAB cannot make  
23           an eighth criterion adjustment to a  
24           recorded sales price or fair market value  
25           because to do so would be

1           unconstitutional.

2                         It sure seems the Legislature's  
3           auditors disagree with Mr. Levy when the  
4           Legislature's auditors stated, quote, the  
5           Legislature alternatively could consider amending  
6           State law to remove the cost of sale factor as a  
7           factor to consider and determine -- to consider  
8           and determine just value. However, this change  
9           would require amending the State constitution,  
10          end quote.

11                        If deleting Section 193.011(8) from  
12          the statutes would require amending the Florida  
13          Constitution, then logic dictates that the  
14          application of this statute consistent with  
15          Sections 194.301 and 194.301(5) Florida Statutes  
16          is Constitutional.

17                        Further, the Legislature's auditors  
18          continued by stating, quote, however, the State  
19          constitution, according to court interpretations  
20          and State law, authorize such deductions.

21                        It seems the Legislature doesn't see  
22          a Constitutional problem with the implementation  
23          of the Statutes enacted by the Legislature in  
24          1967 and 1982, which provide for the application  
25          and recording by property appraisers of the cost

1 of sale factor, the eighth criterion in Section  
2 193.011(8). It has been widely recognized for  
3 decades that just value as administered, as  
4 administered, in actual practice, both by  
5 property appraisers and the Department of Revenue  
6 is less than fair market value. It is the  
7 standard that must be followed by VABs in  
8 reviewing and correcting assessments, and Florida  
9 citizens depend on the VAB training to clearly  
10 explain this.

11 The terms fair market value and market  
12 value do not appear in the Constitution not even  
13 one single time.

14 Mr. Levy, Mr. Shepherd and their  
15 clients continue to ignore these facts and,  
16 instead, choose to play hide the ball by making  
17 adjustments to recorded selling prices or fair  
18 market value in developing the original just  
19 valuations. And, then, when communicating with  
20 taxpayers, the VAB or judges about those just  
21 valuations, deceitfully claim that just value is  
22 equal to fair market value.

23 The Honorable Joseph C. Mellichamp  
24 explained this deceptive behavior to the judge  
25 in the training case lost by Misters Levy and

1 Shepherd.

2 The Legislative auditors also said,  
3 quote, as the law is currently being  
4 administered, the legal just valuation standard  
5 is considered to be a percent of fair market  
6 value.

7 A percent of fair market value.

8 They go on to say, the percent varied  
9 from 48 percent to 92 percent in 1981, depending  
10 on county and type of property. A uniform rate  
11 of 85 percent has been adopted by the Department  
12 of Revenue as a standard for most property across  
13 the state, although a substantially lower  
14 percentage applies for time share property,  
15 end quote.

16 Another quote. The Department has  
17 been criticized by the grand jury in its  
18 presentment of September 1990 for uniformly  
19 permitting a reduction of assessments to 85  
20 percent.

21 Another quote. The 1990 grand jury  
22 investigation of the program concluded that cost  
23 of sale factor causes inequities, especially as  
24 it relates to high-value properties, and allows  
25 property assessments to fall between 76.5 percent

1 to 85 percent of the fair market value.

2 Another quote. However, the State  
3 Constitution, according to court interpretations  
4 and State law authorize such deductions.

5 The grand jury did find that, quote,  
6 the grand jury finds the Department of Revenue's  
7 rules and practices allow for a range of  
8 assessments that is both too broad and too low.

9 For example, real property assessments  
10 are typically reduced by 15 percent across the  
11 board to compensate for cost of sale; the  
12 statutory, quote, eighth criterion.

13 They also quote, on top of this 15  
14 percent reduction, DOR permits approval of tax  
15 rolls that are ostensibly within 90 percent  
16 of county-wide just value. The cumulative effect  
17 of these practices is that even the best  
18 assessments fall within a range of 76.5 percent  
19 to 85 percent of fair market value.

20 The Florida Attorney General explained  
21 to Mr. Levy and Mr. Shepherd and their clients  
22 that the longstanding practice of making cost of  
23 sale adjustments in developing original just  
24 valuations is a professionally-accepted practice,  
25 which the June 11th Keller VAB training explains



1 well.

2 I have to ask: Is Mr. Levy telling  
3 everyone the cost of sale adjustments made by his  
4 clients are not professionally-accepted practices  
5 under 194.301 number one Florida Statutes? If  
6 so, then, he has invalidated every single just  
7 value developed by each of his clients. If not,  
8 then Mr. Levy clearly agrees his clients' cost  
9 of sale adjustments are professionally-accepted  
10 appraisal practices. And, then, his argument  
11 that it is unconstitutional for a VAB to apply  
12 the same professionally-accepted appraisal  
13 practice under Section 194.301 number two has no  
14 basis by law or logic.

15 In conclusion, the 2014 VAB training  
16 must fully explain the truth to taxpayers, VABs,  
17 VAB attorney and VAB special magistrates so that  
18 apples-to-apples comparisons are made in  
19 administrative reviews of just valuations under  
20 sections 194.301 and 194.301(5) Florida Statutes  
21 House Bill 521.

22 MR. MOYES: Thank you.

23 Do we have anybody on the phone?

24 No other e-mails.

25 Anybody else in person like to make

1 any additional comments or suggestions?

2 MR. GARCIA: Anthony Garcia.

3 I hope you review in detail what  
4 Ms. Cucchi has laid out because a lot of what  
5 she's put out here is not, like, her own opinion.  
6 It is information that she's got together from  
7 other sources that support the position -- I  
8 mean, beyond, you know -- immensely support the  
9 position that this eighth criterion information  
10 in module six needs to be in the training.

11 And it's -- I mean, when you listen  
12 and you read over and you see all the material,  
13 all the quotes from the court cases and the  
14 Attorney Generals, I mean, it seems pretty clear  
15 that it has to be in there.

16 And, just to give you a little  
17 personal experience and, you know, my take on  
18 this and when she was referring to -- it's a  
19 circular reference going on here with this just  
20 value and fair market value being synonymous  
21 because then you want to define that as being  
22 what a willing seller and a willing buyer would  
23 transfer a property for, which is a selling  
24 price. So, there -- but, yet, that's what  
25 they're adjusting to make their assessments, are

1 selling prices. That's what the DR -- selling  
2 prices or fair market value indicated by a  
3 selling price, that's the adjustments that  
4 they're making.

5 So, on the one hand, Mr. Levy and  
6 the property appraisers want to say market value  
7 and just value are synonymous and they're a  
8 hundred percent, but we're adjusting it at 85  
9 percent. And that creates the occurrences that  
10 you've heard about here today where somebody  
11 walks in, trying to appeal their assessment and  
12 the property appraiser gets it both ways. They  
13 get to say that we've considered the eighth  
14 criterion adjustment in our mass appraisal. And  
15 it's in there. It's in there is what they've  
16 always said.

17 But, now, after 2008, they actually  
18 have to properly show how it's in there and not  
19 that -- there's a perception going on promoted  
20 by the property appraisers that tax  
21 representatives and taxpayers walk into a VAB  
22 and ask for 15 percent off their assessments  
23 because that's the adjustment that the property  
24 appraiser recorded. It can't be farther from the  
25 truth. Now, there might be some uninformed

1 taxpayers that might think that that's what they  
2 have to ask for, but the professionals that have  
3 dealt, you know, 24 years, 45 years -- I mean, we  
4 got a lot of years in this room. That -- it's  
5 got to be expressed in the analysis now. And  
6 it's not just the -- and in the guidelines all  
7 it says is it's statistical analysis. And we've  
8 heard about, you know, that they're actually  
9 only measured on 90 percent of that adjustment  
10 and stuff, but that's not what the statutes say.  
11 That's what the guidelines might say, but that's  
12 not law. Those guidelines are just like these.  
13 They don't have the force and effect of law; but,  
14 yet in there they're saying that it's just  
15 statistical. Well, I'm sorry. If it's  
16 statistical for every property, then it applies  
17 to my property. And I want to see it applied in  
18 the statistics that you're presenting here today.

19 And those statistics might only be  
20 five sales that the property appraiser is going  
21 to present, or it's going to be an income  
22 approach that's based on a capitalization rate  
23 that's based on market sales.

24 So, you're going to use market sales.  
25 You're going to use an income approach based on

1 market-derived cap rates and they're going to get  
2 a 15 percent fudge factor. That's what the  
3 first and eighth -- that's what the eighth  
4 criterion adjustment is to the property  
5 appraiser. It's a 15 percent fudge factor where  
6 they can be -- you know, have your property  
7 overassessed 14 percent and they'll still win.  
8 That was the old days.

9 When the Legislature enacted the fair  
10 and equitable treatment for taxpayers in '08 and  
11 the Department took a position -- you guys can  
12 take a position. You have opinions. You can say  
13 them. You don't have to be afraid of ticking  
14 anybody off or want -- you know, you can't please  
15 everybody all the time.

16 So, if what you're thinking you did  
17 was right, you -- you know, just stick by it and  
18 stand to it.

19 There's been a lot of documents,  
20 quotes that support what you've done prior to  
21 what you're doing now.

22 And I don't really see much support  
23 for what you're doing now beyond Mr. Levy and the  
24 property appraisers.

25 So, I just really hope you take into

1 context and really look at the questions that  
2 she's posed to you before and here today and  
3 really kind of try to wrap your heads around  
4 this.

5 I know you're relatively new. I  
6 don't know how much you know about the appeal  
7 process and the hearings and how they proceed,  
8 but it's certainly -- like Mr. Zachem said, they  
9 want to go back to the good old days. And we've  
10 made major strides in getting fairness and  
11 getting assessments properly considered either --  
12 now by the property appraisers, but, more  
13 importantly, by the magistrates in the hearings  
14 that basically have to operate under the same  
15 rules that the property appraiser does. And  
16 that's why the magistrates get a jurisdictional  
17 exception.

18 Here's another concept for you. You  
19 ask a fee appraiser, who is a magistrate, what  
20 fair market value is -- if a property is fair  
21 market value -- ask him if the assessment is fair  
22 market value, the property appraiser's assessment  
23 is fair market value. They're going to tell you  
24 no. Why? Because of the eighth criterion,  
25 that's why.

1           Now, is it just value and market  
2 value synonymous for assessment purposes to make  
3 that 15 percent number correct, yes, because  
4 you're in the tax system. But the value that  
5 that fee appraiser is going to come up with, if  
6 he's not in a hearing room, is going to be 15,  
7 or more, percent higher.

8           One more fact that I just want to put  
9 out there -- just trying to educate you guys a  
10 little bit more about what we deal with here --  
11 is the fact that the property appraiser can  
12 manipulate the data because they choose -- the  
13 Department's put out a workshop -- I don't  
14 remember how many years ago -- qualifying and  
15 disqualifying sales. There's about three or  
16 four codes for qualifying a sale and about 65 for  
17 disqualifying a sale.

18           So, if a property has a high price on  
19 it, they can disqualify it for a number of  
20 reasons. It gets pulled out of their statistical  
21 ratio study and, yet, that property is assessed  
22 at 60 percent of what it sold for and it doesn't  
23 matter because it wasn't in the statistical  
24 study and their tax roll gets approved because  
25 they had an exception for that sale.

1           So, when we want to say it's not 15  
2 percent -- or it should be 15 percent -- I'm not  
3 saying it should be 15 percent. It should be  
4 whatever the property appraiser has reported on  
5 the DR 493.

6           And it's not -- the Department  
7 doesn't say that it should be 15 percent. It's  
8 not the Legislature that's saying it should be  
9 15 percent. It's the property appraiser that  
10 chose to make it 15 percent.

11           Or, in the case of Broward County,  
12 they're choosing different numbers for different  
13 stratas. And when we present -- or when we  
14 review their evidence, it's always in light of  
15 whatever number they reported on the DR 493.

16           So, we got to continue to pull the  
17 rest of the property appraisers that don't want  
18 to come along into the 21st Century with some of  
19 the other ones that actually do want to get over  
20 it. Come on. Get on board. You know, this is  
21 the way it is. And there's plenty of  
22 documentation for it.

23           One last thing, Charlotte County,  
24 their record cards -- they're the model county  
25 for this. They come up with three different



1 approaches. They choose an approach. And right  
2 under whatever value that approach is, they write  
3 on their record card adjustment DR 493, first  
4 and eighth criterion, 193.018. And they report  
5 15 percent, they take off 15 percent. That's the  
6 assessment.

7 So, where do you put those two  
8 together? They've got one number. Is that fair  
9 market value or just value? And, then, they make  
10 the adjustment. That's actually the number you  
11 get assessed on. That's just value. Just value  
12 synonymous with market value was their  
13 determination less 15 percent. Look to Charlotte  
14 County's record cards and how they do their  
15 assessments and you'll see a value adjustment  
16 board that gets about four appeals a year.

17 MR. MOYES: Mr. Shepherd.

18 MR. SHEPHERD: I submitted some written  
19 comments on-line. I think -- actually, they were  
20 dated April 29th, 2014. I laid out a fairly  
21 detailed legal argument. I'm disappointed that  
22 any of the folks on the other side didn't  
23 bother to contradict that argument in writing,  
24 but I suspect it was because they couldn't. And  
25 I would be looking forward to seeing what the

1 argument might be if they would like to submit it  
2 in writing.

3 But, let me contradict what's been  
4 said here. I think the argument that Mr. Garcia  
5 raises is, if the property appraisers do it,  
6 that's what has to be applied at VAB. They do  
7 it in their mass appraisal. That's what goes  
8 at VAB.

9 So if we do it, make an adjustment  
10 for 15 percent -- and I'm going to talk about  
11 that for a minute why that's done. If we make an  
12 adjustment for nonreal estate in the assessment  
13 and it's 15 percent, that's what has to be done  
14 at VAB.

15 When I do analysis and I say in  
16 Downtown Tampa, hotels have an eight percent  
17 vacancy rate, that's what my analysis says in  
18 mass appraisal. I'm going to put that generally  
19 on the hotels in downtown. I don't know  
20 specifically what each individual hotel has  
21 because they don't tell me. So, I make a general  
22 assumption that it's eight percent.

23 So, if Mr. Garcia's hotel is actually  
24 at 15 percent vacancy, is he not going to come in  
25 and say, wait a minute. My hotel is at 15

1           percent. He's going to want to contradict that  
2           assumption that the property appraiser makes.

3                     If I arrive at a cap rate on an office  
4           building that Mr. Beck is going to come in and  
5           argue, and I say that cap rate -- I've discovered  
6           that cap rate in office buildings in Westshore in  
7           Hillsborough County, that those cap rates are 12  
8           percent -- I'm picking a high one. They're 12  
9           percent. And that's what my analysis determines  
10          at the original assessment level, should that be  
11          what they are locked into at VAB? No.

12                    The idea of VAB is all of these  
13          assumptions that are done in mass appraisal get  
14          to be challenged at VAB. And if I'm wrong about  
15          my 12 percent cap rate and if I'm wrong about my  
16          five percent vacancy rate, then they get to  
17          challenge it. The only one they don't want to  
18          be challenged is this 15 percent adjustment for  
19          nonreal estate that we make. That's the one they  
20          want us to ignore.

21                    Now, the Courts have already decided  
22          this in the Bell Chevrolet case. And in the  
23          Weisman versus Whitman case the courts have  
24          already said you cannot just pick one part of the  
25          equation and show that it's wrong. You have to

1 show that the overall assessment is wrong.

2 So, let me read for a minute --  
3 because we're talking about mass appraisal  
4 principles.

5 And let's take this adjustment outside of  
6 the eighth criterion, 193.011 because the  
7 property appraisers would make this adjustment  
8 regardless of whether it was in the statute or  
9 not. And let me say why. The IAAO, who sets  
10 forth the mass appraisal standards, has a book  
11 entitled Fundamentals of Mass Appraising and  
12 actually spell out here what the property  
13 appraisals should do. It has nothing to  
14 do with Florida law. It has nothing to do with  
15 statutes.

16 They say -- I'm reading from Page 237.

17 I will give you a copy of this.

18 "Many sales involve nonmarket  
19 financing, substantial amounts of personal  
20 property, or atypical conditions of sale."

21 Sounds remarkably like the eighth  
22 criterion, doesn't it? That sounds remarkably  
23 like what's in the statute?

24 Let me start again.

25 "Many sales involve nonmarket

1        financing, substantial amounts of personal  
2        property, or atypical conditions of sale that make  
3        the sales price unrepresentative of the market  
4        value of the real property. Such sales can be  
5        rejected in ratio studies, or sales prices can be  
6        adjusted to reflect value as mandated in  
7        governing assessment statutes. ....even when  
8        complete information is not available, standard  
9        adjustments based on type of property or type of  
10       transfer can sometimes be applied. Although such  
11       adjustments may not be precise for a given  
12       property, they tend to balance for the purpose of  
13       measuring the level of appraisal." Page 237.

14                Let me read another one. Page 81,  
15        same book. "When individual parcel adjustments  
16        are impractical because data are not available,  
17        an alternative procedure, acceptable for ratio  
18        studies and mass appraisal, is to develop and  
19        apply typical percentage adjustments by type of  
20        property and, if known, type of financing."

21                The point is this: The proper  
22        appraisal techniques say you make these  
23        assumptions sometime in mass appraisal to  
24        property types when you don't have all of the  
25        information.

1           And that's what we do at the front  
2 end. We don't have all of the information  
3 because we send out our income and expense  
4 request and they don't give it to us. So, we  
5 make these adjustments pursuant to mass  
6 appraisal, not to the statute.

7           Now, they have every right to come in  
8 and say, what you did in mass appraisal was not  
9 correct. My client deserves a higher vacancy  
10 rate. My client deserves a lower cap rate, but  
11 the property appraiser also gets to come in and  
12 say, look, now that we're analyzing this  
13 particular property, what are the real numbers?

14           And the real numbers might be a  
15 higher vacancy rate and they might be a lower cap  
16 rate, but they also might be a lower adjustment  
17 for atypical financing and personal property and  
18 all this stuff. Maybe it's 15 percent, maybe it's  
19 eight percent, maybe it's two percent, maybe it's  
20 20 percent, maybe it ought to be higher. But,  
21 the fact of the matter is what happens in mass  
22 appraisal is exactly what we don't want to be  
23 able to be tied to at VAB. They don't want to be  
24 tied to mass appraisal. They want to argue this  
25 is what is going on with my individual property

1 with the exception of this one piece of the  
2 appraisal puzzle. That, they don't want to talk  
3 about. Let's not talk about that. The property  
4 appraiser is there. That's what he's tied to,  
5 but everything else, they want to be able to  
6 argue about. That's not how mass appraisal  
7 works. That's not how fairness works, and the  
8 courts have said that's not what you do when  
9 challenging a mass appraisal assessment.

10 MR. MOYES: Mr. Zachem.

11 MR. ZACHEM: I do apologize for making  
12 another comment because I thought we were out  
13 of here.

14 MR. GARCIA: Sorry.

15 MR. ZACHEM: I may be the only mass  
16 appraiser urban designated appraiser in the  
17 room. I've done over 40,000 VAB petitions and a  
18 couple hundred lawsuits in my career.

19 I want to tell you where the 15  
20 percent came from. In 1968 the Department of  
21 Revenue was looking for some kind of rationale  
22 for an adjustment. And that was a lot because  
23 Representative Gifford Grange from  
24 Jacksonville, who had written the eighth  
25 criterion in passing, and Representative Canelly

1 (Ph) and Representative Stalling from  
2 Jacksonville were pressing the DOR on the  
3 subject.

4 Jay Wood and several people in  
5 Broward County calculated what was in a typical  
6 sale -- the brokerage fee, the personal property,  
7 What we call incidence to sale and service to  
8 sale, which are not real estate.

9 You know, a lot of people are  
10 surprised to find out that the doc stamp law only  
11 requires you to doc the value of real estate, not  
12 the value of a transaction.

13 If I had an attorney and I bought a  
14 house for a hundred thousand dollars and there  
15 was a real estate broker involved and he put a  
16 hundred thousand dollars worth of doc stamps on  
17 it, I would sue him for malpractice because he  
18 overdocked that transaction. He docked the  
19 transaction and not the real estate.

20 There's a lot of things about this  
21 law that -- our laws in Florida that are unusual  
22 and unique. That's one of them.

23 When the 15 percent came up, we rode  
24 along with it until we got to the '80s when the  
25 rolls went up in the early '80s. Nobody really



1           cared too much.

2                       In '79 at the Intergovernmental  
3           Commission Report, it reported there was one  
4           county at 74, one county at about 56. And most  
5           of the counties in Florida were in their thirties  
6           and forties. And, of course, in the '80s they  
7           increased them to double digits.

8                       When Herndon became E.D. of the DOR,  
9           he was bound for leather to go to a hundred  
10          percent. He wanted every tax roll in Florida to  
11          be at a hundred percent, but that's impossible  
12          from a mass appraisal standpoint because when  
13          we -- when a county -- when I would give a roll  
14          to the Department of Revenue, that roll had  
15          average numbers.

16                      When -- Dr. Kaysi Woo (ph) would  
17          treat the roll -- he would come out with a tax  
18          roll -- let's say, your first and second average  
19          absolute deviation might be within a couple  
20          points. So, basically, you were safe between  
21          82 percent and 87 percent on an 85. But, you  
22          have to understand, if you give that same roll  
23          to someone who puts it on the tax roll at a  
24          hundred percent, half of all your properties  
25          are going to be over a hundred percent. I mean,

1 that would be a field day for a tax rep because  
2 there's no way for a mass appraiser to get real  
3 close to a hundred percent and not have a lot  
4 of properties that are outliers that are over a  
5 hundred percent.

6 And, as a result of that, the  
7 conversations that we had with Mr. Herndon were  
8 that, you know, 15 percent, that's not a bad  
9 number. Besides that, pass the State statute  
10 that said that for tax purposes, for education  
11 purposes, there's an average done by the DOR.  
12 And let's say you're at 90 percent of a hundred  
13 percent, you're 77 percent that millage rate is  
14 adjusted upward to meet the average for the  
15 State of Florida for school taxes, so who is  
16 really getting hurt at 76 percent? Well, it's  
17 county millage and city millage and that sort  
18 of thing.

19 I will tell you right now. I will  
20 not stand here and propose that the DOR do a  
21 way with that ten percent of a hundred percent  
22 roll approval. All that does is increase  
23 everybody's real estate taxes in the state of  
24 Florida on the nonschool millage.

25 But, then, a lot of people who don't

1           understand the interaction of all these laws,  
2           don't realize that when you come up here and you  
3           bang on the DOR for the ten percent roll  
4           approval, you're really arguing for increasing  
5           everybody's assessments on the nonschool side.

6                       And I would not -- I wouldn't  
7           recommend you to do that, particularly in five  
8           years when the ten percent comes off and 19 for  
9           commercial property owners and they're going to  
10          be paying full bore and don't have that ten  
11          percent cap anymore.

12                      This is far more complicated  
13          situation than that.

14                      And, frankly, Florida is really not  
15          that bad.

16                      We've heard a lot of stuff today.  
17          Our system is not that bad. As a matter of fact,  
18          I go around other states. It's pretty good here.  
19          We have a few remaining problems. We've  
20          addressed a lot of the problems.

21                      I got to tell you something. The  
22          biggest thing we ever did in the state of Florida  
23          was allow people to transfer a hearing from one  
24          date to another date without cause. That's the  
25          greatest thing that's happened for me in the

1           business, to tell you the truth.

2                       But, in all due respect to you  
3 Mr. Shepherd, standing here arguing that first  
4 and eighth like you do with a straight face, I  
5 understand that.

6           MR. SHEPHERD: Out of the book.

7           MR. ZACHEM: I understand that, but I also  
8 understand that there's many elements with inside  
9 that book and the IAAO that has to do with CODs  
10 and PRDs and how far away you should be from a  
11 central tendency, we have all kinds of things  
12 like that.

13                      As a matter of fact, Mr. Shepherd,  
14 am I wrong, doesn't the IAAO say that anything  
15 within 15 percent a COD for commercial property  
16 is fine, is acceptable for national standards  
17 for IAAO?

18           MR. SHEPHERD: I don't remember what the  
19 COD percentage is.

20           MR. ZACHEM: It's in there. No, it's in  
21 the red book and it's in the standard. That's  
22 where it's located in the standard.

23                      Well, 15 percent for commercial  
24 property for a COD is exactly what the first and  
25 eighth criterion is.

1           Mr. Shepherd is talking about IAAO.  
2           The only problem with him is he doesn't know all  
3           of the IAAO. Those are not all the tests he had  
4           to take.

5           But, as an urban appraiser, I tell  
6           you right now, you got 15 and 18 percent  
7           written into the coefficient dispersion for  
8           statistical analysis and the standards for IAAO.

9           And all we're going to do today is  
10          talk over and over around the bush.

11          Someone said a little bit earlier,  
12          listen, all we want to do is give these small  
13          guys the ability to walk into a hearing and get  
14          a fair and just hearing. They should be able to  
15          present all the evidence they want to present.

16          The special magistrate -- another  
17          couple things I have.

18          You won't believe this. I have from,  
19          some -- a couple property appraisers in the  
20          state of Florida little pieces of paper to the  
21          value adjustment board that tells them who not to  
22          hire as a special magistrate the next year  
23          because they gave too many reductions last year.

24          Would you believe that a property  
25          appraiser would do that?

1                   But those are the old days. Of  
2 course, they wouldn't think about doing something  
3 like that today. That's gone.

4                   But, yes, this is a process where we  
5 got a bunch of male egos, unfortunately,  
6 involved and we're getting to a point where we  
7 need to further consider these little guys.

8                   Now, the big guys, you get a target  
9 or you get the utilities.

10                  We were talking a little bit earlier  
11 about the utilities. Why are the utilities not  
12 in this room?

13                  AUDIENCE MEMBER: Because they don't waste  
14 time.

15                  AUDIENCE MEMBER: They don't go to VAB.

16                  MR. ZACHEM: Why don't utilities go to  
17 VAB?

18                  There's a lot about the process  
19 that's not impacted in here today.

20                  And I hope over a period of time we  
21 get to visit with the new E.D. and exchange ideas  
22 and that sort of thing and get us in one area.

23                  Don't side with the tax reps. Don't  
24 side with the property appraisers. Put us on  
25 equal ground and let us fight out the value.

1 Thank you.

2 MR. MOYES: I think it's about 3:40. I  
3 know our court reporter needs a break.

4 THE COURT REPORTER: Are we about done?

5 MR. MOYES: Well, that's what I'm about  
6 to find out.

7 Are there any folks that have any  
8 comments? I'm not going to cut anybody off,  
9 but I'm trying to get a sense of whether to spend  
10 five more minutes and get the rest out of the way  
11 or whether we've got more comments, take a break  
12 and come back.

13 Is there anybody else that has  
14 comments? Anybody on the phone? We haven't  
15 gotten any other e-mails.

16 Everybody okay if we call it quits  
17 right now or is there --

18 AUDIENCE MEMBER: Are we recessing or are  
19 we quitting?

20 MR. ZACHEM: We're recessing.

21 MR. MOYES: We're recessing.

22 We'll go ahead and recess here.

23 Like I said, I'll get back with  
24 Marshall Stranburg, our executive director.  
25 Today is Wednesday. I'll try to have some

1 communication out by next week as to what the  
2 next step is, you know, when we'll have a  
3 meeting, where it will be; those type of things.  
4 Give us a few days. I got another thing to go to  
5 tomorrow. We'll try to get something out next  
6 week.

7 I appreciate everybody's comments  
8 and suggestions and feedback today. We do  
9 appreciate it. I know a lot of people traveled  
10 a long time to get here.

11 So, thank you, and we'll be in touch.

12 (The meeting was recessed at 3:45 p.m.)  
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<b>\$</b>	104:14, 225:23, 230:25 12 [12] - 33:3, 33:4, 33:6, 71:9, 92:10, 92:14, 165:7, 182:9, 222:15, 241:7, 241:8, 241:15 120 [3] - 205:17, 212:24, 219:21 122 [1] - 174:22 124 [18] - 161:3, 161:7, 161:12, 161:23, 165:5, 165:8, 165:22, 166:18, 166:21, 167:4, 168:1, 179:1, 179:4, 182:2, 182:3, 182:7, 182:8, 182:23 125 [2] - 167:4, 168:5 126 [1] - 167:5 127 [1] - 167:5 129 [1] - 165:22 12:00 [1] - 92:12 135 [2] - 174:22, 178:22 14 [4] - 70:22, 70:23, 153:14, 235:7 14th [1] - 110:9 15 [52] - 44:12, 92:9, 98:20, 132:10, 133:13, 153:12, 153:17, 153:21, 154:3, 154:7, 155:22, 159:5, 171:21, 194:9, 194:12, 194:14, 194:15, 196:11, 196:25, 197:22, 198:15, 210:12, 211:2, 226:7, 230:10, 230:13, 233:22, 235:2, 235:5, 237:3, 237:6, 238:1, 238:2, 238:3, 238:7, 238:9, 238:10, 239:5, 239:13, 240:10, 240:13, 240:24, 240:25, 241:18, 244:18, 245:19, 246:23, 248:8, 250:15, 250:23, 251:6 1500 [1] - 150:8 18 [7] - 148:7, 179:10, 179:12, 179:14, 179:15, 220:18, 251:6 180-degree [1] - 30:17 1898 [1] - 135:1	19 [3] - 12:8, 58:20, 249:8 193 [1] - 167:7 193.00 [1] - 163:9 193.011 [4] - 158:24, 163:3, 193:9, 242:6 193.011(8) [1] - 227:11 193.011(8) [2] - 180:11, 228:2 193.018 [2] - 176:17, 239:4 193.122(2) [1] - 62:25 194.035 [1] - 3:25 194.301 [11] - 100:8, 102:5, 103:5, 149:14, 158:14, 172:12, 173:2, 227:15, 231:5, 231:13, 231:20 194.301(1) [1] - 172:5 194.301(2) [1] - 172:9 194.301(5) [3] - 173:3, 227:15, 231:20 194.3015 [3] - 100:9, 102:6, 103:5 1967 [1] - 227:24 1968 [1] - 245:20 1981 [1] - 229:9 1982 [1] - 227:24 1990 [2] - 229:18, 229:21 19th [2] - 110:16, 141:13 1:15 [1] - 154:19 1:30 [3] - 154:18, 154:20, 154:24 1st [8] - 103:15, 105:19, 105:25, 106:7, 108:24, 202:19, 203:7	174:9, 174:11, 174:13, 174:23, 175:1, 175:8, 177:10, 211:25, 212:2, 212:21 2011 [5] - 94:17, 95:13, 96:9, 104:22, 218:1 2012 [32] - 7:19, 14:23, 15:18, 20:9, 106:5, 107:17, 118:22, 119:3, 119:12, 119:17, 119:20, 119:24, 121:5, 121:6, 121:14, 122:20, 123:12, 127:25, 134:5, 135:16, 136:23, 142:22, 170:5, 174:7, 174:8, 174:11, 174:14, 175:9, 220:23, 223:15, 224:5, 224:15 2013 [27] - 14:21, 52:9, 93:23, 96:16, 97:17, 98:8, 99:16, 101:16, 101:19, 102:14, 102:15, 103:14, 103:23, 106:7, 106:11, 106:20, 107:17, 107:18, 107:20, 109:19, 175:9, 202:19, 210:24, 220:23, 223:15, 224:5, 224:15 2014 [23] - 7:16, 7:22, 93:15, 94:14, 94:16, 95:3, 95:5, 95:8, 101:11, 101:13, 103:1, 107:23, 108:7, 109:20, 110:16, 111:12, 111:15, 151:22, 221:2, 224:3, 224:14, 231:15, 239:20 20th [4] - 62:13, 104:12, 104:16, 109:19 21 [2] - 179:12, 179:15 21st [5] - 105:1, 109:12, 141:13, 223:6, 238:18 22nd [1] - 107:4 230 [1] - 18:25 237 [2] - 242:16, 243:13 23rd [4] - 2:19, 5:6,	108:7, 109:11 24 [1] - 234:3 24th [1] - 107:12 25 [1] - 18:25 250 [1] - 150:6 26th [2] - 105:5, 107:20 27th [2] - 105:5, 105:8 28 [3] - 106:11, 179:10, 179:11 28th [5] - 103:14, 105:12, 105:15, 107:5, 107:13 29th [1] - 239:20 2:45 [2] - 217:6, 217:9 2:50 [2] - 217:7, 217:10 2nd [1] - 106:20
<b>0</b>			<b>3</b>	
011(a) [1] - 163:9			3 [1] - 58:19 30 [9] - 28:6, 34:7, 34:9, 96:24, 97:23, 143:2, 154:12, 179:16, 205:3 30th [6] - 107:23, 107:24, 203:5, 203:9, 203:13, 203:16 32 [1] - 179:16 33 [1] - 151:24 34 [1] - 179:21 36 [1] - 179:21 360-degree [1] - 30:16 3:40 [1] - 253:2 3:45 [1] - 254:12	
<b>1</b>			<b>4</b>	
1 [1] - 59:10 100 [1] - 132:11 102 [2] - 12:6, 12:8 103 [1] - 179:10 106 [1] - 166:22 108 [4] - 166:16, 166:24, 167:23 109 [5] - 161:17, 161:18, 161:22, 166:25, 168:4 10:00 [1] - 2:4 11 [6] - 2:23, 70:23, 78:9, 78:16, 105:13, 147:18 110 [2] - 166:25, 168:7 111 [3] - 161:20, 167:1, 168:12 11:45 [2] - 92:8, 92:11 11th [12] - 93:23, 94:4, 94:9, 94:13, 95:4, 99:11, 101:12, 104:4, 104:7,	20 [3] - 28:6, 131:6, 244:20 200 [6] - 15:6, 15:7, 15:14, 50:17, 128:7 2000s [1] - 36:21 2008 [4] - 21:19, 141:3, 222:5, 233:17 2009 [10] - 7:6, 7:9, 100:23, 119:2, 143:23, 148:5, 167:11, 167:15, 173:2, 177:9 2010 [18] - 7:12, 7:14, 119:3, 119:4, 119:21, 119:25, 148:5, 164:18,	21 [2] - 179:12, 179:15 21st [5] - 105:1, 109:12, 141:13, 223:6, 238:18 22nd [1] - 107:4 230 [1] - 18:25 237 [2] - 242:16, 243:13 23rd [4] - 2:19, 5:6,	40 [1] - 34:24 40,000 [1] - 245:17 400-page [1] - 139:11 45 [4] - 8:15, 28:20, 143:2, 234:3 475 [1] - 60:25 48 [1] - 229:9 493 [18] - 153:24, 180:2, 180:4, 192:20, 193:1, 193:14, 194:2, 195:17, 199:9, 199:10, 200:24, 210:22, 210:24, 225:22, 238:5, 238:15, 239:3	

<b>5</b>	139:9, 151:10, 244:23, 245:5, 251:14 <b>absent</b> [1] - 81:23 <b>absolute</b> [1] - 247:19 <b>absolutely</b> [5] - 132:11, 132:22, 151:6, 179:21, 205:24 <b>Absolutely</b> [6] - 11:21, 12:10, 124:3, 168:17, 225:4 <b>abundant</b> [1] - 101:19 <b>acceptable</b> [2] - 243:17, 250:16 <b>accepted</b> [21] - 159:2, 159:6, 162:23, 175:21, 192:23, 193:5, 193:8, 193:10, 193:15, 194:3, 195:18, 200:25, 201:20, 202:2, 213:13, 217:20, 226:18, 230:24, 231:4, 231:9, 231:12 <b>accessible</b> [1] - 95:19 <b>accommodate</b> [1] - 3:3 <b>according</b> [2] - 227:19, 230:3 <b>accordingly</b> [1] - 172:22 <b>accumulated</b> [1] - 134:23 <b>accurate</b> [4] - 99:2, 131:24, 137:18, 226:14 <b>accurately</b> [3] - 99:7, 191:7, 191:8 <b>accusations</b> [1] - 85:24 <b>ACHEM</b> [1] - 5:22 <b>achieve</b> [1] - 130:15 <b>acknowledge</b> [1] - 221:7 <b>acknowledged</b> [3] - 75:16, 77:9, 78:22 <b>acknowledging</b> [1] - 69:11 <b>acquire</b> [1] - 97:7 <b>acres</b> [2] - 34:20, 34:24 <b>Act</b> [1] - 205:15 <b>act</b> [2] - 26:3, 187:23 <b>acted</b> [1] - 86:25 <b>action</b> [1] - 202:16 <b>actions</b> [4] - 26:22, 97:16, 98:7, 99:16 <b>activities</b> [1] - 109:22	<b>actual</b> [5] - 75:9, 98:24, 225:19, 226:11, 228:4 <b>ad</b> [8] - 30:8, 32:21, 32:23, 33:1, 33:17, 34:14, 61:13, 61:14 <b>add</b> [2] - 41:10, 144:2 <b>added</b> [7] - 19:14, 19:23, 20:4, 58:24, 60:4, 115:18, 174:7 <b>adding</b> [2] - 19:18, 62:2 <b>addition</b> [6] - 71:8, 71:9, 90:25, 98:23, 109:5, 226:10 <b>additional</b> [5] - 72:25, 109:6, 158:2, 206:15, 232:1 <b>address</b> [9] - 4:21, 4:22, 9:21, 29:1, 56:20, 73:10, 88:12, 128:6, 209:24 <b>addressed</b> [2] - 30:12, 249:20 <b>addresses</b> [1] - 129:13 <b>addressing</b> [1] - 35:9 <b>adjourment</b> [1] - 187:20 <b>adjust</b> [1] - 42:14 <b>adjusted</b> [3] - 40:10, 243:6, 248:14 <b>adjusting</b> [2] - 232:25, 233:8 <b>adjustment</b> [60] - 26:20, 27:9, 33:23, 35:15, 37:3, 37:12, 37:14, 37:23, 49:24, 50:10, 58:11, 61:18, 62:16, 62:21, 63:9, 63:13, 74:14, 94:20, 95:23, 147:3, 158:18, 159:15, 159:19, 160:1, 160:3, 160:5, 164:13, 165:2, 165:3, 172:4, 172:7, 177:4, 177:8, 180:6, 180:9, 180:13, 180:14, 193:14, 215:7, 218:15, 219:3, 219:4, 221:5, 226:23, 233:14, 233:23, 234:9, 235:4, 239:3, 239:10, 239:15, 240:9, 240:12, 241:18, 242:5, 242:7, 244:16, 245:22, 251:21	<b>Adjustment</b> [2] - 2:14, 62:14 <b>adjustments</b> [12] - 211:4, 219:1, 228:17, 230:23, 231:3, 231:9, 233:3, 243:9, 243:11, 243:15, 243:19, 244:5 <b>Adjustments</b> [1] - 180:5 <b>administered</b> [3] - 228:3, 228:4, 229:4 <b>administration</b> [2] - 36:23, 38:19 <b>administrative</b> [3] - 127:10, 158:15, 231:19 <b>Administrative</b> [1] - 205:15 <b>Administrator</b> [1] - 3:10 <b>admissible</b> [1] - 217:24 <b>admission</b> [3] - 22:9, 22:11, 82:6 <b>admitted</b> [3] - 110:24, 127:17, 199:1 <b>adopt</b> [1] - 219:18 <b>adopted</b> [2] - 212:25, 229:11 <b>advance</b> [1] - 184:7 <b>advantage</b> [1] - 188:4 <b>advertisements</b> [1] - 223:9 <b>advice</b> [2] - 56:17, 58:17 <b>advise</b> [1] - 134:16 <b>advised</b> [1] - 63:22 <b>advisory</b> [2] - 50:2, 57:2 <b>advocate</b> [1] - 133:3 <b>affect</b> [2] - 29:17, 33:10 <b>affected</b> [3] - 66:2, 72:9, 103:17 <b>affecting</b> [2] - 31:20, 150:14 <b>affects</b> [2] - 32:4, 32:5 <b>afford</b> [4] - 46:4, 99:23, 99:25, 100:3 <b>affordable</b> [1] - 95:20 <b>afraid</b> [1] - 235:13 <b>ag</b> [2] - 35:4, 35:5 <b>agencies</b> [1] - 220:15 <b>agency</b> [3] - 4:2, 219:12, 220:8 <b>agenda</b> [1] - 129:11 <b>agents</b> [1] - 41:20 <b>aggregate</b> [3] - 194:6,	196:1, 199:19 <b>ago</b> [17] - 7:4, 36:22, 73:24, 75:15, 78:9, 78:17, 78:21, 87:5, 96:25, 97:23, 99:4, 127:1, 147:9, 153:14, 154:5, 205:3, 237:14 <b>agree</b> [14] - 25:4, 124:21, 132:21, 144:1, 145:15, 152:23, 153:4, 193:12, 199:1, 200:22, 202:2, 202:6, 221:25, 222:17 <b>agreed</b> [2] - 124:16, 181:2 <b>agreeing</b> [1] - 143:16 <b>agreement</b> [3] - 58:25, 176:7, 176:9 <b>agrees</b> [4] - 119:22, 129:21, 149:8, 231:8 <b>agricultural</b> [1] - 34:22 <b>agriculture</b> [3] - 34:15, 34:24 <b>ahead</b> [21] - 2:3, 4:5, 4:25, 5:7, 46:23, 51:24, 52:18, 54:11, 73:21, 92:13, 112:8, 154:23, 155:8, 175:6, 178:15, 179:10, 189:12, 209:12, 211:16, 217:13, 253:22 <b>ALJ</b> [1] - 213:22 <b>ALL</b> [1] - 132:14 <b>Allegheny</b> [2] - 34:4, 139:5 <b>Alliance</b> [1] - 69:4 <b>allies</b> [1] - 80:25 <b>allow</b> [5] - 56:20, 186:18, 209:21, 230:7, 249:23 <b>allowed</b> [2] - 44:15, 185:24 <b>allowing</b> [1] - 58:12 <b>allows</b> [2] - 72:9, 229:24 <b>ally</b> [1] - 80:20 <b>Almost</b> [1] - 153:10 <b>almost</b> [7] - 16:15, 28:19, 49:2, 98:5, 98:8, 99:17, 152:5 <b>almost-heretofore-</b> <b>secret</b> [1] - 152:5 <b>alone</b> [4] - 42:14, 74:3, 91:9, 171:3 <b>alter</b> [1] - 103:25
<b>6</b>	<b>60</b> [1] - 237:22 <b>65</b> [1] - 237:16 <b>67</b> [4] - 37:9, 141:9, 141:11, 141:18			
<b>7</b>	<b>70</b> [1] - 11:12 <b>72</b> [1] - 28:19 <b>74</b> [1] - 247:4 <b>76</b> [1] - 248:16 <b>76.5</b> [2] - 229:25, 230:18 <b>77</b> [2] - 54:18, 248:13 <b>79</b> [1] - 45:17			
<b>8</b>	<b>80</b> [2] - 34:6, 45:17 <b>81</b> [1] - 243:14 <b>82</b> [1] - 247:21 <b>83</b> [1] - 46:6 <b>85</b> [6] - 229:11, 229:19, 230:1, 230:19, 233:8, 247:21 <b>87</b> [1] - 247:21			
<b>9</b>	<b>9</b> [1] - 59:11 <b>90</b> [3] - 230:15, 234:9, 248:12 <b>92</b> [1] - 229:9 <b>97</b> [1] - 178:22 <b>9th</b> [2] - 109:19, 110:3			
<b>A</b>	<b>a.m</b> [1] - 92:11 <b>ability</b> [2] - 186:14, 251:13 <b>able</b> [9] - 5:1, 26:14, 102:21, 139:7,			

<p><b>altered</b> [2] - 123:23, 211:3</p> <p><b>alternative</b> [1] - 243:17</p> <p><b>alternatively</b> [1] - 227:5</p> <p><b>amaze</b> [1] - 34:2</p> <p><b>amend</b> [2] - 20:10, 219:18</p> <p><b>amended</b> [1] - 25:11</p> <p><b>amending</b> [3] - 227:5, 227:9, 227:12</p> <p><b>Amendment</b> [1] - 66:19</p> <p><b>amount</b> [4] - 26:8, 26:18, 68:4, 100:10</p> <p><b>amounts</b> [2] - 242:19, 243:1</p> <p><b>amputation</b> [1] - 74:24</p> <p><b>amputations</b> [1] - 78:25</p> <p><b>Ana</b> [1] - 155:10</p> <p><b>analysis</b> [10] - 127:5, 144:12, 218:22, 234:5, 234:7, 240:15, 240:17, 241:9, 251:8</p> <p><b>Analysts</b> [1] - 70:20</p> <p><b>analyzing</b> [1] - 244:12</p> <p><b>Anderson</b> [7] - 58:8, 60:22, 60:23, 61:9, 140:19, 142:9, 142:10</p> <p><b>ANDERSON</b> [25] - 60:23, 61:12, 61:17, 65:8, 65:17, 65:23, 66:12, 66:17, 66:21, 67:3, 67:8, 67:14, 67:20, 68:3, 68:13, 68:19, 125:7, 142:11, 142:16, 191:13, 191:16, 191:19, 191:22, 192:1, 205:14</p> <p><b>Andrea</b> [4] - 107:6, 107:14, 107:24, 123:1</p> <p><b>annually</b> [1] - 3:24</p> <p><b>answer</b> [23] - 11:2, 31:17, 31:18, 36:4, 45:24, 70:10, 70:18, 84:18, 84:20, 85:1, 90:15, 173:21, 184:8, 188:25, 190:10, 190:17, 190:18, 192:15, 193:20, 201:4, 201:6, 203:19, 210:20</p> <p><b>answered</b> [5] -</p>	<p>125:10, 126:2, 193:16, 200:22, 203:18</p> <p><b>answering</b> [2] - 150:16, 206:24</p> <p><b>answers</b> [2] - 189:21, 208:22</p> <p><b>Anthony</b> [3] - 14:14, 223:4, 232:2</p> <p><b>antitaxpayer</b> [3] - 37:19, 40:20, 149:3</p> <p><b>anyway</b> [1] - 111:5</p> <p><b>apart</b> [4] - 3:21, 39:17, 87:23, 87:25</p> <p><b>apologize</b> [4] - 54:10, 58:5, 215:24, 245:11</p> <p><b>Appeal</b> [1] - 98:10</p> <p><b>appeal</b> [6] - 99:19, 100:19, 102:11, 158:8, 233:11, 236:6</p> <p><b>appealing</b> [1] - 63:5</p> <p><b>Appeals</b> [1] - 136:2</p> <p><b>appeals</b> [3] - 72:11, 95:22, 239:16</p> <p><b>appear</b> [3] - 142:17, 197:3, 228:12</p> <p><b>appearance</b> [1] - 146:11</p> <p><b>appeared</b> [4] - 6:20, 174:13, 174:14, 175:9</p> <p><b>appellate</b> [2] - 135:22</p> <p><b>append</b> [1] - 20:10</p> <p><b>apples</b> [13] - 172:11, 172:15, 172:16, 172:18, 172:24, 198:20, 199:24, 208:1, 231:18</p> <p><b>apples-to-apples</b> [2] - 172:24, 231:18</p> <p><b>apples-to-oranges</b> [2] - 199:24, 208:1</p> <p><b>application</b> [3] - 172:11, 227:14, 227:24</p> <p><b>applied</b> [7] - 75:3, 192:23, 194:20, 214:3, 234:17, 240:6, 243:10</p> <p><b>applies</b> [3] - 158:14, 229:14, 234:16</p> <p><b>apply</b> [11] - 64:1, 74:15, 98:24, 99:6, 145:11, 196:3, 211:9, 220:8, 226:11, 231:11, 243:19</p> <p><b>applying</b> [3] - 98:16, 101:4, 226:7</p> <p><b>appointed</b> [2] - 36:24,</p>	<p>96:14</p> <p><b>appointees</b> [1] - 93:4</p> <p><b>appointment</b> [1] - 79:9</p> <p><b>appraisal</b> [28] - 158:19, 158:23, 159:3, 159:7, 192:23, 200:25, 201:2, 219:2, 231:10, 231:12, 233:14, 240:7, 240:18, 241:13, 242:3, 242:10, 243:13, 243:18, 243:22, 243:23, 244:6, 244:8, 244:22, 244:24, 245:2, 245:6, 245:9, 247:12</p> <p><b>Appraisal</b> [1] - 12:2</p> <p><b>appraisals</b> [1] - 242:13</p> <p><b>appraised</b> [1] - 153:22</p> <p><b>appraiser</b> [63] - 12:25, 13:1, 13:3, 13:4, 19:20, 21:5, 21:6, 23:3, 26:9, 26:10, 28:10, 28:14, 28:16, 37:21, 38:2, 39:5, 44:12, 44:24, 47:21, 55:4, 61:22, 62:24, 64:17, 80:3, 80:4, 80:20, 89:9, 90:5, 99:1, 102:23, 132:20, 139:6, 144:6, 149:5, 149:23, 164:10, 172:3, 193:23, 196:23, 198:13, 201:4, 222:19, 222:21, 226:13, 226:16, 233:12, 233:24, 234:20, 235:5, 236:15, 236:19, 237:5, 237:11, 238:4, 238:9, 241:2, 244:11, 245:4, 245:16, 248:2, 251:5, 251:25</p> <p><b>Appraiser</b> [1] - 155:11</p> <p><b>Appraiser's</b> [1] - 131:18</p> <p><b>appraiser's</b> [4] - 37:11, 153:23, 194:1, 236:22</p> <p><b>appraisers</b> [89] - 8:20, 9:12, 9:14, 17:16, 18:7, 21:23, 23:1, 23:12, 23:18, 26:11,</p>	<p>26:12, 29:24, 30:22, 31:1, 45:13, 47:17, 47:23, 52:2, 53:8, 56:24, 75:19, 80:21, 81:16, 87:1, 98:25, 100:3, 118:9, 118:17, 127:15, 127:25, 128:6, 133:7, 137:2, 137:16, 137:19, 137:23, 138:11, 141:9, 141:10, 148:11, 156:20, 157:5, 157:6, 157:13, 158:6, 160:8, 160:14, 171:1, 171:2, 171:20, 174:25, 175:7, 180:1, 180:7, 192:24, 195:8, 195:10, 197:15, 197:17, 200:7, 201:8, 201:12, 207:25, 208:14, 208:16, 212:12, 225:20, 225:21, 226:12, 227:25, 228:5, 233:6, 233:20, 235:24, 236:12, 238:17, 240:5, 242:7, 251:19, 252:24</p> <p><b>Appraisers</b> [1] - 144:8</p> <p><b>Appraisers'</b> [2] - 17:10, 212:6</p> <p><b>appraisers'</b> [11] - 37:15, 37:24, 74:7, 74:12, 75:2, 117:13, 134:4, 159:22, 192:20, 193:13, 200:23</p> <p><b>appraisers's</b> [1] - 22:20</p> <p><b>appraising</b> [1] - 133:8</p> <p><b>Appraising</b> [1] - 242:11</p> <p><b>appreciate</b> [17] - 36:8, 45:23, 47:12, 60:12, 73:9, 117:3, 129:18, 129:20, 153:6, 157:23, 209:16, 221:15, 221:17, 221:19, 222:25, 254:7, 254:9</p> <p><b>approach</b> [12] - 33:23, 34:16, 34:25, 35:2, 35:3, 35:5, 106:15, 108:20, 234:22, 234:25, 239:1, 239:2</p> <p><b>approaches</b> [1] -</p>	<p>239:1</p> <p><b>appropriate</b> [10] - 83:16, 107:10, 155:23, 156:25, 157:11, 170:18, 170:20, 220:19, 221:9</p> <p><b>appropriateness</b> [1] - 158:19</p> <p><b>approval</b> [5] - 119:19, 185:12, 230:14, 248:22, 249:4</p> <p><b>approve</b> [2] - 105:23, 211:6</p> <p><b>approved</b> [7] - 185:8, 185:15, 185:18, 185:23, 211:7, 237:24</p> <p><b>approves</b> [1] - 106:1</p> <p><b>April</b> [11] - 2:19, 5:6, 53:3, 76:11, 76:25, 78:10, 78:16, 108:7, 109:11, 120:24, 239:20</p> <p><b>area</b> [7] - 18:4, 25:7, 51:17, 132:7, 132:8, 136:4, 252:22</p> <p><b>areas</b> [4] - 97:1, 97:3, 140:8, 181:23</p> <p><b>arguably</b> [1] - 145:16</p> <p><b>argue</b> [12] - 18:13, 56:22, 132:3, 132:5, 132:6, 136:8, 136:10, 152:9, 152:11, 241:5, 244:24, 245:6</p> <p><b>argued</b> [4] - 74:13, 141:8, 173:16, 202:4</p> <p><b>argues</b> [1] - 174:1</p> <p><b>arguing</b> [4] - 135:25, 140:24, 249:4, 250:3</p> <p><b>argument</b> [13] - 22:21, 91:17, 134:7, 144:16, 155:21, 210:15, 218:19, 226:22, 231:10, 239:21, 239:23, 240:1, 240:4</p> <p><b>arguments</b> [9] - 18:4, 18:9, 21:2, 21:3, 21:4, 22:22, 22:25, 199:6, 225:18</p> <p><b>arise</b> [1] - 101:5</p> <p><b>arrangement</b> [2] - 102:10, 102:16</p> <p><b>arrive</b> [2] - 159:20, 241:3</p> <p><b>articulated</b> [1] - 144:9</p> <p><b>artificially</b> [1] - 197:3</p> <p><b>assessed</b> [3] - 34:6,</p>
---	--	---	---	---

<p>237:21, 239:11  <b>assessment</b> [24] -  28:4, 29:5, 29:7,  29:8, 34:9, 97:20,  99:19, 102:8,  158:17, 158:20,  172:8, 195:2, 197:2,  219:5, 233:11,  236:21, 236:22,  237:2, 239:6,  240:12, 241:10,  242:1, 243:7, 245:9  <b>Assessment</b> [1] -  98:10  <b>assessments</b> [12] -  68:17, 228:8,  229:19, 229:25,  230:8, 230:9,  230:18, 232:25,  233:22, 236:11,  239:15, 249:5  <b>Assistant</b> [1] - 123:4  <b>associated</b> [1] - 39:23  <b>Association</b> [3] -  17:10, 36:17, 212:6  <b>association</b> [3] -  38:12, 38:18, 212:12  <b>associations</b> [1] -  39:5  <b>assume</b> [1] - 63:18  <b>assuming</b> [1] - 162:14  <b>assumption</b> [2] -  240:22, 241:2  <b>assumptions</b> [2] -  241:13, 243:23  <b>assure</b> [1] - 74:6  <b>AT</b> [1] - 132:14  <b>atmosphere</b> [1] -  127:13  <b>attached</b> [1] - 41:16  <b>attained</b> [1] - 210:4  <b>attempt</b> [4] - 196:21,  197:13, 213:18,  218:8  <b>attempted</b> [1] - 50:7  <b>attempting</b> [2] - 50:8,  225:2  <b>attempts</b> [2] - 217:23,  219:18  <b>attend</b> [1] - 142:18  <b>attended</b> [3] - 8:10,  8:19, 74:5  <b>attention</b> [1] - 62:19  <b>attorney</b> [22] - 10:21,  17:6, 37:11, 37:13,  37:22, 47:7, 64:18,  64:19, 71:24, 89:7,  89:16, 102:23,  112:14, 134:16,  140:23, 179:19,</p>	<p>182:13, 182:23,  222:18, 231:17,  246:13  <b>Attorney</b> [31] - 3:8,  17:25, 94:18, 95:12,  96:9, 98:1, 100:17,  104:25, 113:10,  113:15, 117:16,  158:11, 162:22,  162:24, 169:6,  170:19, 171:7,  173:5, 173:15,  173:17, 173:25,  175:16, 175:22,  175:23, 176:2,  176:21, 195:15,  213:16, 213:18,  230:20, 232:14  <b>attorneys</b> [20] - 30:3,  30:5, 37:24, 41:20,  53:8, 53:11, 61:22,  74:8, 74:13, 99:9,  101:2, 134:10,  135:13, 140:12,  145:17, 148:10,  156:20, 182:18,  213:8  <b>attribute</b> [1] - 82:3  <b>attune</b> [1] - 21:16  <b>atypical</b> [3] - 242:20,  243:2, 244:17  <b>AUDIENCE</b> [33] - 11:7,  11:11, 12:3, 12:7,  46:16, 80:12, 82:15,  87:15, 87:19, 129:2,  131:7, 132:13,  132:14, 139:25,  140:1, 140:4, 141:2,  142:6, 151:3,  153:18, 169:14,  169:20, 169:24,  183:20, 183:23,  191:14, 191:17,  201:10, 216:4,  216:7, 252:13,  252:15, 253:18  <b>audience</b> [1] - 38:11  <b>audit</b> [2] - 69:6, 70:22  <b>Auditor</b> [3] - 70:20,  102:20, 102:25  <b>auditor</b> [4] - 59:5,  69:24, 93:6, 98:12  <b>auditors</b> [10] - 98:18,  99:4, 99:5, 225:25,  226:3, 226:10,  227:3, 227:4,  227:17, 229:2  <b>author</b> [10] - 75:22,  75:23, 77:15, 77:19,  79:21, 84:16, 85:8,</p>	<p>85:10, 87:13, 87:14  <b>authoring</b> [1] - 6:3  <b>authorities</b> [2] - 100:3,  152:12  <b>authority</b> [19] - 26:23,  41:16, 42:7, 42:9,  42:11, 43:4, 43:11,  65:4, 65:13, 66:1,  66:8, 66:10, 67:1,  67:2, 67:5, 67:23,  68:10, 130:25,  188:11  <b>authorization</b> [1] -  175:20  <b>authorize</b> [3] - 173:18,  227:20, 230:4  <b>authorized</b> [1] - 176:1  <b>authors</b> [1] - 8:17  <b>AUTOMATED</b> [1] -  223:23  <b>available</b> [9] - 15:10,  38:1, 38:2, 55:24,  105:17, 106:9,  188:13, 243:8,  243:16  <b>average</b> [4] - 247:15,  247:18, 248:11,  248:14  <b>avoid</b> [1] - 109:18  <b>aware</b> [6] - 35:18,  110:25, 115:7,  152:7, 175:15, 177:2  <b>awful</b> [2] - 30:11,  35:17</p>	<p><b>based</b> [8] - 89:2,  103:7, 107:15,  112:17, 234:22,  234:23, 234:25,  243:9  <b>Based</b> [1] - 89:3  <b>basis</b> [5] - 89:4,  100:16, 112:15,  195:6, 231:14  <b>battle</b> [1] - 49:10  <b>Beach</b> [1] - 73:18  <b>Bear</b> [1] - 216:13  <b>beat</b> [2] - 28:16, 28:17  <b>became</b> [3] - 80:5,  94:10, 247:8  <b>Beck</b> [11] - 46:15,  73:9, 81:14, 83:19,  112:2, 130:24,  136:1, 147:17,  153:14, 209:10,  241:4  <b>BECK</b> [63] - 46:18,  73:8, 73:21, 76:13,  76:18, 76:22, 76:25,  77:13, 77:19, 77:23,  78:4, 80:14, 82:13,  82:16, 82:18, 82:20,  82:23, 83:2, 83:6,  83:11, 83:14, 83:17,  83:22, 84:1, 84:6,  84:10, 84:13, 84:16,  84:20, 84:23, 85:8,  85:12, 85:15, 85:21,  85:25, 86:5, 86:9,  86:13, 86:16, 86:20,  86:24, 87:16, 87:20,  88:18, 88:23, 88:25,  89:2, 89:4, 89:6,  89:9, 89:11, 89:14,  89:19, 90:2, 90:9,  90:12, 90:15, 90:19,  91:4, 130:21,  130:24, 184:3,  184:16, 188:5,  202:6, 209:6,  209:10, 209:15  <b>become</b> [4] - 38:21,  98:4, 137:13, 138:22  <b>becomes</b> [3] - 81:2,  150:25, 159:6  <b>begin</b> [1] - 211:23  <b>beginning</b> [6] - 8:11,  16:7, 27:19, 59:11,  75:20, 178:17  <b>begs</b> [1] - 64:25  <b>behalf</b> [6] - 74:5, 95:2,  155:11, 174:1,  176:21, 212:5  <b>behavior</b> [4] - 159:22,  213:2, 217:25,</p>	<p>228:24  <b>Behind</b> [1] - 39:3  <b>behold</b> [1] - 174:15  <b>believes</b> [1] - 176:12  <b>bell</b> [2] - 195:1, 199:12  <b>Bell</b> [1] - 241:22  <b>belong</b> [4] - 121:7,  170:7, 173:12, 178:3  <b>below</b> [1] - 103:16  <b>beneficial</b> [5] - 29:11,  49:3, 130:8, 130:11,  188:14  <b>benefit</b> [5] - 50:10,  51:14, 69:18, 70:3,  213:12  <b>benefits</b> [1] - 102:4  <b>best</b> [16] - 3:3, 38:23,  50:13, 50:14, 50:15,  73:25, 78:20, 89:5,  145:25, 184:9,  189:21, 190:8,  190:16, 190:25,  219:10, 230:17  <b>bet</b> [2] - 81:15, 140:1  <b>better</b> [7] - 24:3, 25:4,  27:18, 39:19, 75:11,  94:4, 140:13  <b>between</b> [11] - 18:5,  18:22, 21:4, 21:23,  56:24, 66:5, 156:4,  156:19, 217:24,  229:25, 247:20  <b>beyond</b> [3] - 94:7,  232:8, 235:23  <b>biased</b> [1] - 134:6  <b>Bible</b> [1] - 156:6  <b>big</b> [11] - 10:16, 21:14,  39:2, 39:18, 51:20,  101:9, 148:18,  148:19, 156:21,  210:11, 252:8  <b>biggest</b> [1] - 249:22  <b>bill</b> [1] - 30:9  <b>Bill</b> [7] - 36:14,  100:23, 103:6,  143:23, 172:13,  173:3, 231:21  <b>billions</b> [2] - 38:13  <b>binding</b> [3] - 156:13,  213:24, 221:10  <b>bit</b> [14] - 13:16, 25:1,  28:22, 45:11, 108:8,  115:23, 152:20,  154:24, 159:1,  163:16, 191:8,  237:10, 251:11,  252:10  <b>blah</b> [2] - 38:8  <b>blamed</b> [1] - 58:3  <b>blue</b> [3] - 165:4,</p>
<b>B</b>				
		<p><b>back-and-forth</b> [1] -  187:24  <b>background</b> [1] -  43:21  <b>backwards</b> [6] -  20:15, 40:19, 45:10,  45:12, 54:13, 182:3  <b>bad</b> [6] - 16:12,  129:12, 134:12,  248:8, 249:15,  249:17  <b>balance</b> [3] - 102:7,  135:15, 243:12  <b>balanced</b> [3] - 103:8,  135:17, 136:21  <b>ball</b> [1] - 228:16  <b>bang</b> [1] - 249:3  <b>bankruptcy</b> [1] - 81:23  <b>Bar</b> [1] - 196:12  <b>Barnett</b> [1] - 25:7  <b>barring</b> [2] - 224:6,  224:15</p>		

<p>168:16, 175:11  <b>bluelined</b> [1] - 163:22  <b>board</b> [31] - 26:20,  27:9, 33:23, 35:15,  37:3, 37:12, 37:13,  37:14, 37:23, 58:11,  62:16, 62:21, 63:9,  63:13, 74:14, 94:20,  95:23, 147:3,  158:18, 159:15,  159:19, 160:1,  160:3, 160:5, 201:8,  221:5, 230:11,  238:20, 239:16,  251:21  <b>Board</b> [3] - 2:14,  58:10, 62:14  <b>boards</b> [3] - 49:25,  50:11, 61:18  <b>boat</b> [1] - 138:4  <b>body</b> [3] - 42:12,  74:25, 100:25  <b>boil</b> [1] - 18:24  <b>bolded</b> [1] - 24:25  <b>bombs</b> [1] - 40:24  <b>book</b> [9] - 24:22,  24:24, 38:6, 44:23,  242:10, 243:15,  250:6, 250:9, 250:21  <b>books</b> [2] - 14:2,  37:25  <b>boom</b> [1] - 150:2  <b>bore</b> [1] - 249:10  <b>boss</b> [1] - 140:1  <b>bother</b> [1] - 239:23  <b>bothered</b> [1] - 29:21  <b>bothers</b> [2] - 117:8,  117:21  <b>bought</b> [2] - 39:1,  246:13  <b>bound</b> [1] - 247:9  <b>box</b> [2] - 16:16, 19:22  <b>branches</b> [1] - 147:2  <b>brand</b> [1] - 33:14  <b>brand-new</b> [1] - 33:14  <b>break</b> [16] - 28:22,  92:7, 92:9, 92:11,  92:15, 130:18,  142:4, 143:9,  154:16, 154:17,  154:19, 163:11,  217:5, 217:9, 253:3,  253:11  <b>breakfast</b> [1] - 52:10  <b>brethren</b> [1] - 152:11  <b>bridge</b> [1] - 117:7  <b>brief</b> [2] - 97:23,  209:15  <b>Brief</b> [1] - 52:12  <b>briefly</b> [2] - 58:21,</p>	<p>209:6  <b>bright</b> [1] - 81:9  <b>bring</b> [7] - 19:9, 66:17,  66:21, 75:8, 102:6,  145:2, 154:22  <b>bringng</b> [5] - 60:13,  193:8, 198:18,  198:22, 225:13  <b>broad</b> [1] - 230:8  <b>broker</b> [1] - 246:15  <b>brokerage</b> [1] - 246:6  <b>brokers's</b> [1] - 72:24  <b>brother</b> [1] - 48:7  <b>brought</b> [9] - 57:25,  66:15, 108:16,  124:15, 127:25,  196:24, 197:1,  223:5, 223:22  <b>brouhaha</b> [1] - 148:14  <b>Broward</b> [5] - 149:7,  154:1, 194:15,  238:11, 246:5  <b>brush</b> [1] - 7:23  <b>buck</b> [2] - 185:17,  185:21  <b>building</b> [1] - 241:4  <b>buildings</b> [1] - 241:6  <b>bulletins</b> [2] - 77:7,  96:7  <b>bullets</b> [5] - 59:14,  59:24, 60:6, 60:7,  60:17  <b>bunch</b> [5] - 32:14,  35:24, 88:24, 91:1,  252:5  <b>burden</b> [4] - 151:5,  151:7, 151:8, 151:24  <b>bureaucrats</b> [1] -  148:17  <b>burning</b> [1] - 35:21  <b>bush</b> [1] - 251:10  <b>business</b> [19] - 27:23,  29:17, 33:1, 35:17,  40:21, 40:23, 41:10,  45:8, 71:20, 71:21,  71:23, 72:14, 99:22,  100:12, 101:23,  132:4, 137:6,  151:10, 250:1  <b>businesses</b> [6] -  31:20, 32:4, 41:9,  72:13, 94:23, 196:13  <b>businessmen</b> [1] -  27:20  <b>busy</b> [4] - 2:25, 41:18,  59:3, 59:16  <b>buy</b> [2] - 39:2, 39:13  <b>buy-in</b> [2] - 39:2,  39:13  <b>buyer</b> [1] - 232:22</p>	<p><b>buying</b> [1] - 129:2</p> <p style="text-align: center;"><b>C</b></p> <p><b>Cabinet</b> [1] - 148:5  <b>calculate</b> [2] - 63:4,  63:7  <b>calculated</b> [2] -  222:16, 246:5  <b>calculus</b> [1] - 50:22  <b>calendar</b> [2] - 109:17,  191:24  <b>California</b> [1] - 151:14  <b>calm</b> [2] - 85:16,  147:22  <b>campaign</b> [1] - 101:24  <b>cancel</b> [1] - 131:1  <b>cancelling</b> [1] - 72:18  <b>candid</b> [2] - 83:18,  84:23  <b>Canelly</b> [1] - 245:25  <b>cannot</b> [5] - 99:23,  99:25, 172:2,  226:22, 241:24  <b>Cantera</b> [1] - 210:25  <b>cap</b> [10] - 132:5,  235:1, 241:3, 241:5,  241:6, 241:7,  241:15, 244:10,  244:15, 249:11  <b>capitalization</b> [1] -  234:22  <b>capture</b> [1] - 102:21  <b>card</b> [4] - 198:18,  198:22, 199:6, 239:3  <b>cards</b> [3] - 19:21,  238:24, 239:14  <b>care</b> [7] - 28:16, 35:11,  39:18, 136:20,  149:16, 176:16,  221:18  <b>cared</b> [1] - 247:1  <b>career</b> [1] - 245:18  <b>carefully</b> [1] - 116:9  <b>carry</b> [3] - 23:7, 23:8  <b>case</b> [51] - 12:17,  17:13, 18:11, 18:23,  20:13, 26:21, 27:5,  34:3, 35:25, 37:17,  37:19, 38:8, 40:5,  40:11, 42:2, 45:15,  58:23, 58:24, 59:2,  60:4, 60:5, 118:5,  134:25, 136:8,  136:11, 139:5,  146:5, 149:12,  149:19, 150:5,  150:8, 160:25,  183:7, 183:12,</p>	<p>183:18, 183:19,  184:11, 184:18,  212:19, 212:20,  213:22, 214:14,  217:23, 218:12,  218:20, 222:2,  224:21, 228:25,  238:11, 241:22,  241:23  <b>Case</b> [1] - 27:6  <b>Cases</b> [1] - 55:23  <b>cases</b> [12] - 12:15,  41:2, 55:20, 55:22,  57:12, 64:22, 78:14,  134:20, 135:5,  139:10, 214:11,  232:13  <b>cast</b> [1] - 213:18  <b>catch</b> [1] - 155:12  <b>caused</b> [2] - 25:8,  96:12  <b>causes</b> [1] - 229:23  <b>causing</b> [1] - 72:21  <b>ceases</b> [1] - 34:2  <b>Cedars</b> [1] - 129:1  <b>central</b> [2] - 95:15,  250:11  <b>century</b> [1] - 141:13  <b>Century</b> [1] - 238:18  <b>certain</b> [7] - 50:25,  51:16, 51:22, 52:2,  53:21, 142:25,  210:10  <b>certainly</b> [15] - 6:9,  20:3, 31:25, 53:7,  99:8, 112:16, 124:7,  129:20, 130:9,  211:20, 214:8,  214:18, 214:24,  220:20, 236:8  <b>certification</b> [3] -  62:22, 63:25, 108:14  <b>certifications</b> [2] -  110:2, 110:15  <b>certified</b> [1] - 62:24  <b>cetera</b> [3] - 36:20,  37:3, 63:6  <b>challenge</b> [6] - 95:15,  96:8, 155:18,  157:10, 197:2,  241:17  <b>challenged</b> [4] -  211:25, 212:15,  241:14, 241:18  <b>challenges</b> [1] -  158:17  <b>challenging</b> [2] -  160:7, 245:9  <b>chance</b> [5] - 100:5,  100:21, 102:3,</p>	<p>155:3, 169:21  <b>change</b> [37] - 7:17,  8:5, 8:7, 10:19, 17:3,  22:11, 30:16, 30:17,  43:15, 84:11, 91:8,  91:13, 104:17,  119:15, 121:19,  122:20, 123:16,  123:19, 125:18,  153:2, 154:14,  159:9, 163:2, 163:4,  165:25, 169:5,  173:7, 173:17,  173:18, 174:8,  176:11, 176:12,  176:23, 203:10,  227:8  <b>changed</b> [27] - 7:12,  7:13, 7:18, 14:23,  20:8, 21:20, 21:24,  22:5, 22:9, 22:12,  23:15, 48:10, 48:12,  49:5, 56:1, 84:4,  116:22, 117:7,  121:19, 149:18,  171:6, 174:4,  175:13, 175:17,  177:11, 177:14,  203:11  <b>changes</b> [43] - 7:24,  19:3, 20:11, 40:10,  47:19, 47:24, 48:5,  48:8, 84:15, 85:11,  94:15, 95:6, 95:21,  96:6, 101:13,  106:11, 107:19,  113:2, 113:3,  113:10, 114:25,  115:3, 115:4, 115:6,  115:7, 115:9,  115:13, 115:14,  115:16, 116:25,  118:5, 118:7,  119:12, 119:21,  119:24, 122:5,  122:7, 123:15,  126:18, 175:20,  176:2, 176:20  <b>changing</b> [2] - 23:23,  41:1  <b>chapter</b> [1] - 40:1  <b>Chapter</b> [4] - 60:25,  205:17, 212:24,  219:21  <b>chapters</b> [1] - 114:19  <b>charge</b> [2] - 28:7,  116:21  <b>Charlotte</b> [2] - 238:23,  239:13  <b>cheated</b> [1] - 62:8</p>
--	--	--	--	---

<p><b>check</b> [2] - 19:22, 201:10</p> <p><b>checking</b> [1] - 16:16</p> <p><b>Chevrolet</b> [1] - 241:22</p> <p><b>Chicago</b> [1] - 32:13</p> <p><b>chief</b> [2] - 28:13, 28:14</p> <p><b>choice</b> [2] - 133:10, 216:23</p> <p><b>choices</b> [2] - 133:25, 216:25</p> <p><b>choose</b> [5] - 116:8, 190:6, 228:16, 237:12, 239:1</p> <p><b>choosing</b> [1] - 238:12</p> <p><b>chopped</b> [5] - 78:25, 106:2, 106:3, 106:10, 111:21</p> <p><b>chopped-down</b> [2] - 106:2, 106:3</p> <p><b>chopping</b> [1] - 111:20</p> <p><b>chops</b> [1] - 185:3</p> <p><b>chose</b> [4] - 42:25, 116:6, 116:7, 238:10</p> <p><b>Chronological</b> [1] - 167:6</p> <p><b>chronological</b> [2] - 167:9, 167:17</p> <p><b>chronology</b> [1] - 103:16</p> <p><b>circuit</b> [4] - 29:3, 63:5, 63:8, 94:25</p> <p><b>circular</b> [1] - 232:19</p> <p><b>circulated</b> [1] - 142:24</p> <p><b>cite</b> [6] - 12:16, 12:18, 13:24, 38:7, 40:4, 150:4</p> <p><b>cited</b> [1] - 183:18</p> <p><b>cites</b> [6] - 11:4, 11:8, 11:9, 11:10, 13:6, 58:1</p> <p><b>cking</b> [1] - 12:15</p> <p><b>clings</b> [1] - 17:7</p> <p><b>citizen</b> [4] - 61:3, 61:4, 93:1, 97:6</p> <p><b>citizens</b> [7] - 53:17, 65:2, 65:11, 66:6, 97:18, 142:18, 228:9</p> <p><b>Citrus</b> [1] - 80:4</p> <p><b>City</b> [1] - 151:13</p> <p><b>city</b> [1] - 248:17</p> <p><b>claim</b> [1] - 228:21</p> <p><b>clandestine</b> [1] - 213:2</p> <p><b>clarification</b> [2] - 69:22, 71:6</p> <p><b>clarified</b> [1] - 49:13</p> <p><b>clarifies</b> [1] - 64:8</p> <p><b>clarify</b> [4] - 70:10, 70:17, 78:2, 156:16</p> <p><b>clarifying</b> [1] - 31:13</p>	<p><b>clarity</b> [2] - 51:21, 145:2</p> <p><b>class</b> [1] - 35:4</p> <p><b>classes</b> [2] - 24:12, 24:21</p> <p><b>classification</b> [1] - 34:14</p> <p><b>Claudia</b> [6] - 103:11, 104:17, 105:2, 105:10, 115:14, 115:23</p> <p><b>clean</b> [2] - 117:22, 152:18</p> <p><b>clear</b> [19] - 12:17, 54:14, 64:5, 74:21, 74:22, 75:5, 95:24, 112:16, 127:16, 132:11, 132:13, 132:18, 132:19, 132:22, 132:23, 176:25, 209:4, 232:14</p> <p><b>cleared</b> [1] - 18:3</p> <p><b>clearly</b> [9] - 54:3, 56:11, 61:23, 69:16, 136:23, 138:4, 220:3, 228:9, 231:8</p> <p><b>Clearly</b> [2] - 109:16, 133:11</p> <p><b>clerical</b> [1] - 115:5</p> <p><b>Clerk</b> [1] - 58:10</p> <p><b>clerks</b> [7] - 30:13, 30:14, 30:17, 30:20, 62:16, 101:2, 148:10</p> <p><b>client</b> [5] - 212:5, 212:9, 213:20, 244:9, 244:10</p> <p><b>clients</b> [8] - 28:23, 29:18, 106:19, 228:15, 230:21, 231:4, 231:7</p> <p><b>clients'</b> [1] - 231:8</p> <p><b>close</b> [3] - 80:20, 207:1, 248:3</p> <p><b>closed</b> [1] - 131:3</p> <p><b>closer</b> [1] - 119:25</p> <p><b>clutter</b> [1] - 24:9</p> <p><b>cluttered</b> [1] - 13:12</p> <p><b>Coal</b> [2] - 34:5, 139:5</p> <p><b>coauthor</b> [1] - 75:25</p> <p><b>COD</b> [3] - 250:15, 250:19, 250:24</p> <p><b>code</b> [2] - 66:13, 150:5</p> <p><b>codes</b> [1] - 237:16</p> <p><b>CODs</b> [1] - 250:9</p> <p><b>coefficient</b> [1] - 251:7</p> <p><b>coffee</b> [3] - 144:15, 144:16</p> <p><b>coincidence</b> [2] - 126:13, 146:2</p>	<p><b>Coleman</b> [6] - 36:9, 36:12, 36:15, 79:20, 122:18, 125:17</p> <p><b>COLEMAN</b> [14] - 36:14, 42:18, 42:23, 43:7, 43:13, 43:17, 43:25, 44:5, 45:6, 45:24, 125:16, 126:5, 126:12, 126:16</p> <p><b>colleagues</b> [5] - 27:13, 129:7, 129:9, 131:11, 140:16</p> <p><b>collect</b> [1] - 109:6</p> <p><b>collection</b> [1] - 62:25</p> <p><b>collections</b> [1] - 101:22</p> <p><b>combination</b> [1] - 98:1</p> <p><b>comfortable</b> [1] - 16:22</p> <p><b>coming</b> [7] - 17:22, 41:14, 73:11, 97:22, 129:10, 157:18, 173:11</p> <p><b>comment</b> [35] - 3:1, 4:25, 10:19, 15:9, 25:6, 52:24, 53:1, 65:24, 66:1, 66:11, 67:2, 69:3, 86:23, 104:9, 105:18, 106:10, 107:1, 107:22, 112:24, 113:14, 116:20, 121:22, 130:2, 160:12, 169:25, 182:14, 183:2, 204:9, 207:14, 216:2, 219:8, 221:22, 223:16, 245:12</p> <p><b>commented</b> [1] - 203:22</p> <p><b>comments</b> [73] - 4:7, 5:4, 5:10, 5:12, 10:14, 14:21, 15:8, 15:14, 15:17, 15:23, 36:8, 42:20, 53:4, 53:7, 53:9, 53:10, 53:11, 57:22, 58:5, 58:13, 58:21, 65:22, 66:25, 71:14, 73:3, 92:18, 107:15, 109:5, 109:7, 111:13, 120:13, 120:22, 121:22, 121:23, 124:1, 125:15, 126:8, 129:21, 130:1, 130:18, 137:10, 155:4, 158:2, 170:3,</p>	<p>175:24, 177:18, 177:20, 179:8, 182:15, 185:4, 185:7, 191:6, 192:4, 202:13, 202:18, 202:22, 203:4, 203:9, 203:12, 203:15, 203:20, 206:19, 216:19, 221:15, 221:19, 224:11, 225:15, 232:1, 239:19, 253:8, 253:11, 253:14, 254:7</p> <p><b>Comments</b> [1] - 223:2</p> <p><b>commercial</b> [8] - 27:25, 29:7, 29:8, 38:12, 46:1, 249:9, 250:15, 250:23</p> <p><b>Commission</b> [1] - 247:3</p> <p><b>commit</b> [8] - 186:21, 186:24, 187:8, 188:9, 188:10, 224:19, 225:8</p> <p><b>commitment</b> [2] - 188:5, 203:8</p> <p><b>Committee</b> [3] - 96:24, 97:23, 111:2</p> <p><b>committee</b> [9] - 8:13, 97:9, 108:11, 109:24, 110:7, 110:12, 110:22, 111:1, 111:4</p> <p><b>committing</b> [1] - 186:19</p> <p><b>common</b> [2] - 125:3, 183:9</p> <p><b>communicating</b> [1] - 228:19</p> <p><b>communication</b> [2] - 102:24, 254:1</p> <p><b>communicator</b> [1] - 58:16</p> <p><b>companies</b> [2] - 33:21, 156:21</p> <p><b>Company</b> [2] - 34:5, 36:15</p> <p><b>compare</b> [3] - 87:11, 165:16, 198:20</p> <p><b>compared</b> [1] - 89:15</p> <p><b>comparison</b> [3] - 172:16, 199:25, 208:1</p> <p><b>comparisons</b> [1] - 231:18</p> <p><b>compelled</b> [2] - 76:6, 172:23</p> <p><b>compensate</b> [1] - 230:11</p>	<p><b>competence</b> [2] - 90:23, 90:24</p> <p><b>competency</b> [1] - 78:20</p> <p><b>competent</b> [4] - 63:23, 64:5, 103:7, 152:6</p> <p><b>competitive</b> [1] - 151:25</p> <p><b>compiling</b> [2] - 6:7, 6:12</p> <p><b>complain</b> [1] - 91:11</p> <p><b>complaining</b> [2] - 50:22, 159:12</p> <p><b>complaint</b> [1] - 118:1</p> <p><b>complaints</b> [9] - 37:4, 51:24, 52:1, 52:6, 52:21, 53:17, 53:24, 125:23, 125:25</p> <p><b>complete</b> [3] - 100:25, 102:13, 243:8</p> <p><b>completely</b> [4] - 132:20, 134:14, 168:16, 207:2</p> <p><b>complex</b> [1] - 98:4</p> <p><b>compliance</b> [1] - 93:4</p> <p><b>complicated</b> [4] - 64:25, 121:25, 145:16, 249:12</p> <p><b>compiled</b> [1] - 63:11</p> <p><b>complies</b> [1] - 158:23</p> <p><b>complying</b> [2] - 63:13, 63:14</p> <p><b>composed</b> [3] - 108:11, 109:24, 110:12</p> <p><b>comprehensive</b> [2] - 75:14, 93:14</p> <p><b>compromise</b> [1] - 43:18</p> <p><b>computer</b> [1] - 141:10</p> <p><b>concept</b> [1] - 236:18</p> <p><b>concepts</b> [5] - 4:1, 213:23, 218:9, 219:15, 219:17</p> <p><b>concern</b> [3] - 49:10, 54:12, 116:18</p> <p><b>concerned</b> [10] - 38:15, 54:5, 97:3, 97:6, 97:10, 97:11, 123:21, 163:24, 172:20, 183:10</p> <p><b>concerns</b> [4] - 75:16, 87:3, 142:19, 186:9</p> <p><b>conciliatory</b> [1] - 209:16</p> <p><b>conclude</b> [1] - 56:15</p> <p><b>concluded</b> [2] - 204:14, 229:22</p> <p><b>conclusion</b> [4] - 184:16, 184:20,</p>
--	---	--	---	---

<p>184:22, 231:15  <b>conclusions</b> [1] - 184:24  <b>concur</b> [3] - 147:17, 209:20, 209:22  <b>condensed</b> [1] - 71:2  <b>conditions</b> [2] - 242:20, 243:2  <b>condos</b> [1] - 27:21  <b>conduct</b> [1] - 64:6  <b>conducted</b> [1] - 109:21  <b>conducting</b> [1] - 144:12  <b>confer</b> [2] - 91:1  <b>conference</b> [2] - 4:13, 223:23  <b>confidence</b> [1] - 88:5  <b>confirm</b> [1] - 188:21  <b>confirmed</b> [1] - 164:16  <b>confused</b> [1] - 126:7  <b>confusing</b> [1] - 97:1  <b>confusion</b> [3] - 62:20, 144:3, 156:3  <b>connected</b> [2] - 22:17, 65:3  <b>connection</b> [3] - 75:19, 87:6, 88:20  <b>consensus</b> [2] - 122:24, 123:17  <b>consider</b> [7] - 16:1, 157:12, 198:15, 227:5, 227:7, 252:7  <b>considerable</b> [1] - 7:17  <b>considerably</b> [2] - 7:12, 7:13  <b>consideration</b> [4] - 20:2, 121:23, 145:25, 159:13  <b>considered</b> [6] - 19:13, 197:16, 218:18, 229:5, 233:13, 236:11  <b>considering</b> [1] - 168:14  <b>consist</b> [3] - 95:4, 101:11, 107:17  <b>consistency</b> [3] - 93:5, 93:8, 173:1  <b>consistent</b> [4] - 63:1, 100:25, 213:1, 227:14  <b>consistently</b> [1] - 177:5  <b>consisting</b> [1] - 100:12  <b>conspiracy</b> [5] - 120:6, 122:2, 125:2, 125:20, 131:3</p>	<p><b>Constitution</b> [9] - 12:12, 31:4, 66:15, 66:22, 179:22, 179:24, 227:13, 228:12, 230:3  <b>constitution</b> [2] - 227:9, 227:19  <b>constitutional</b> [1] - 208:2  <b>Constitutional</b> [3] - 172:2, 227:16, 227:22  <b>constructive</b> [1] - 209:18  <b>consultant</b> [1] - 71:24  <b>consultants</b> [4] - 72:10, 72:11, 72:15, 72:17  <b>consulted</b> [1] - 116:22  <b>consulting</b> [1] - 36:16  <b>contained</b> [2] - 106:11, 213:23  <b>containing</b> [1] - 105:21  <b>contains</b> [4] - 93:16, 99:12, 99:13, 225:24  <b>contemplated</b> [3] - 100:7, 100:22, 173:1  <b>content</b> [12] - 93:15, 93:20, 99:10, 99:12, 99:14, 99:21, 104:19, 105:4, 119:9, 123:20, 123:23, 225:24  <b>contentious</b> [1] - 18:18  <b>contents</b> [1] - 150:1  <b>contested</b> [3] - 217:18, 221:3, 221:8  <b>context</b> [8] - 107:11, 145:11, 167:14, 170:18, 170:21, 210:16, 211:24, 236:1  <b>contingency</b> [1] - 100:15  <b>continual</b> [1] - 56:23  <b>continually</b> [2] - 16:25, 59:19  <b>continuation</b> [3] - 187:19, 188:6, 188:8  <b>continue</b> [8] - 54:9, 186:25, 187:4, 223:12, 223:14, 223:19, 228:15, 238:16  <b>continued</b> [2] - 159:5, 227:18  <b>continues</b> [1] - 62:4  <b>contradict</b> [3] -</p>	<p>239:23, 240:3, 241:1  <b>contradictory</b> [1] - 25:25  <b>contrary</b> [3] - 70:24, 215:3, 218:10  <b>contrasted</b> [1] - 218:17  <b>control</b> [1] - 102:11  <b>controlling</b> [1] - 218:11  <b>controversial</b> [4] - 133:18, 133:20, 135:10, 141:22  <b>convene</b> [1] - 217:7  <b>conversation</b> [3] - 114:18, 157:4, 220:16  <b>conversations</b> [1] - 248:7  <b>conveyance</b> [1] - 144:17  <b>convinced</b> [1] - 91:20  <b>convoluted</b> [1] - 138:19  <b>cool</b> [1] - 145:21  <b>coordinate</b> [1] - 114:18  <b>copied</b> [1] - 113:20  <b>copies</b> [1] - 15:2  <b>copy</b> [8] - 106:21, 113:1, 113:18, 160:15, 160:19, 163:22, 175:11, 242:17  <b>corporate</b> [1] - 32:20  <b>corporations</b> [1] - 94:24  <b>correct</b> [23] - 7:4, 7:25, 9:15, 50:4, 52:4, 53:22, 64:3, 66:14, 83:8, 84:2, 102:15, 104:1, 114:1, 168:19, 176:3, 178:1, 180:2, 191:22, 192:14, 196:19, 214:6, 237:3, 244:9  <b>Correct</b> [2] - 9:22, 12:10  <b>corrected</b> [1] - 19:17  <b>correcting</b> [1] - 228:8  <b>corrections</b> [2] - 19:6, 19:7  <b>correctly</b> [6] - 63:4, 63:7, 192:5, 192:6, 192:8, 212:11  <b>correctness</b> [4] - 198:10, 200:10, 200:12, 200:15  <b>corrupt</b> [6] - 96:19,</p>	<p>103:12, 103:20, 103:25, 108:16, 112:22  <b>corrupted</b> [1] - 142:22  <b>corruption</b> [6] - 94:7, 95:13, 103:17, 106:17, 108:22, 109:18, 111:8, 125:2  <b>Cost</b> [1] - 165:3  <b>cost</b> [32] - 27:8, 28:3, 40:21, 41:4, 41:6, 41:11, 46:1, 75:9, 98:14, 98:16, 98:20, 98:24, 99:7, 132:10, 133:13, 151:9, 164:12, 165:2, 193:13, 194:1, 200:23, 225:19, 226:5, 226:7, 226:11, 227:6, 227:25, 229:22, 230:11, 230:22, 231:3, 231:8  <b>costs</b> [5] - 27:19, 28:15, 31:21, 32:5, 72:25  <b>Cotton</b> [4] - 3:11, 51:9, 55:21, 57:24  <b>COTTON</b> [4] - 2:6, 3:11, 4:12, 4:22  <b>Counsel</b> [4] - 110:4, 123:4, 131:17, 155:14  <b>counsel</b> [4] - 62:17, 63:23, 118:8, 123:5  <b>counteract</b> [1] - 95:9  <b>counterproductive</b> [1] - 71:3  <b>counties</b> [10] - 25:17, 37:9, 134:11, 135:18, 138:6, 138:7, 138:9, 141:11, 141:18, 247:5  <b>country</b> [1] - 33:15  <b>county</b> [18] - 23:3, 62:24, 63:2, 70:22, 102:22, 134:15, 141:5, 141:6, 208:7, 208:8, 229:10, 230:16, 238:24, 247:4, 247:13, 248:17  <b>County</b> [21] - 34:4, 58:7, 58:10, 59:18, 60:7, 80:4, 80:5, 131:17, 136:9, 137:25, 149:7, 153:11, 154:1, 155:11, 157:18,</p>	<p>194:15, 210:24, 238:11, 238:23, 241:7, 246:5  <b>County's</b> [1] - 239:14  <b>county-wide</b> [1] - 230:16  <b>couple</b> [18] - 5:23, 8:5, 10:13, 18:9, 66:16, 68:25, 73:24, 96:20, 125:15, 126:25, 143:5, 207:2, 211:21, 219:18, 245:18, 247:19, 251:17, 251:19  <b>coupled</b> [2] - 102:9, 195:22  <b>course</b> [9] - 10:12, 15:4, 180:10, 185:13, 185:16, 202:11, 207:19, 247:6, 252:2  <b>COURT</b> [14] - 5:14, 5:17, 46:25, 85:2, 130:23, 132:16, 153:1, 154:15, 158:25, 169:16, 189:5, 189:8, 215:21, 253:4  <b>court</b> [20] - 14:13, 26:13, 28:24, 28:25, 35:13, 46:4, 47:1, 63:5, 63:8, 63:12, 94:25, 98:2, 158:19, 160:9, 215:23, 221:12, 227:19, 230:3, 232:13, 253:3  <b>Court</b> [7] - 34:3, 136:2, 158:7, 201:18, 202:5, 215:4, 217:23  <b>Courts</b> [1] - 241:21  <b>courts</b> [6] - 75:5, 135:22, 220:6, 241:23, 245:8  <b>cover</b> [1] - 50:24  <b>covered</b> [3] - 51:19, 88:15  <b>create</b> [4] - 3:24, 56:19, 110:11, 205:9  <b>created</b> [6] - 28:10, 33:14, 36:22, 59:9, 108:11, 147:1  <b>creates</b> [3] - 156:3, 156:4, 233:9  <b>creation</b> [2] - 3:20, 48:5  <b>creators</b> [2] - 45:9, 46:1  <b>criteria</b> [11] - 18:14, 22:14, 74:15, 75:3,</p>
--	---	--	---	---



<p>143:24, 159:13, 164:17, 172:12, 197:17, 198:16, 214:13</p> <p><b>criterion</b> [36] - 147:10, 163:8, 164:3, 164:4, 164:12, 167:20, 168:9, 168:14, 172:3, 172:25, 176:17, 177:4, 177:7, 177:16, 178:2, 180:6, 184:13, 200:12, 218:16, 218:18, 218:22, 218:24, 219:25, 226:23, 228:1, 230:12, 232:9, 233:14, 235:4, 236:24, 239:4, 242:6, 242:22, 245:25, 250:25</p> <p><b>Criterion</b> [3] - 166:19, 167:22, 168:2</p> <p><b>critical</b> [7] - 56:13, 90:24, 93:13, 99:22, 147:6, 150:2, 202:13</p> <p><b>criticism</b> [1] - 117:15</p> <p><b>criticized</b> [1] - 229:17</p> <p><b>cross</b> [2] - 51:18, 214:19</p> <p><b>cross-reference</b> [1] - 51:18</p> <p><b>cry</b> [1] - 10:16</p> <p><b>Cucchi</b> [16] - 92:17, 92:21, 92:22, 112:18, 113:25, 116:17, 121:8, 126:9, 138:15, 147:17, 158:5, 170:2, 174:6, 219:15, 225:16, 232:4</p> <p><b>CUCCHI</b> [139] - 92:22, 158:6, 159:2, 161:7, 161:10, 161:19, 161:21, 162:1, 162:6, 162:10, 162:13, 162:16, 162:20, 163:24, 164:2, 164:9, 164:15, 164:23, 165:1, 165:5, 165:7, 165:10, 165:15, 165:21, 166:10, 166:15, 166:18, 167:16, 168:22, 169:1, 169:4, 169:8, 170:4, 173:22, 174:4, 174:10,</p>	<p>174:24, 175:3, 175:7, 175:16, 175:19, 176:1, 176:8, 177:15, 177:21, 178:2, 178:5, 178:12, 178:14, 178:17, 178:25, 179:4, 179:11, 179:14, 179:17, 179:23, 180:1, 180:4, 180:7, 180:12, 180:17, 180:21, 181:2, 181:6, 181:12, 181:19, 181:25, 182:6, 182:8, 182:14, 182:19, 182:22, 183:9, 183:13, 185:3, 185:7, 185:11, 185:14, 185:17, 185:23, 186:5, 186:7, 186:19, 186:23, 187:2, 187:6, 187:10, 187:14, 188:16, 189:2, 189:15, 189:22, 190:3, 190:7, 190:9, 190:18, 190:21, 191:1, 191:15, 192:4, 192:7, 193:4, 193:12, 193:17, 193:19, 193:25, 194:8, 194:17, 195:9, 195:15, 196:4, 196:14, 197:15, 198:1, 198:6, 198:9, 198:13, 198:19, 199:8, 199:19, 200:7, 200:20, 201:5, 201:17, 201:23, 202:11, 203:14, 204:1, 204:14, 204:23, 205:7, 205:18, 206:8, 206:16, 206:23, 207:9, 207:17, 207:20, 225:17</p> <p><b>Cucchi's</b> [3] - 113:8, 127:1, 142:21</p> <p><b>cuff</b> [1] - 184:6</p> <p><b>culture</b> [2] - 95:10, 96:2</p> <p><b>cumulative</b> [1] - 230:16</p> <p><b>cup</b> [2] - 144:15, 144:18</p>	<p><b>curiosity</b> [1] - 181:15</p> <p><b>curious</b> [1] - 10:5</p> <p><b>current</b> [8] - 14:23, 50:6, 98:21, 147:21, 149:12, 152:3, 163:20, 206:6</p> <p><b>curve</b> [2] - 195:1, 199:12</p> <p><b>custody</b> [2] - 84:13, 84:17</p> <p><b>custom</b> [1] - 159:5</p> <p><b>cut</b> [1] - 253:8</p> <p><b>cutting</b> [3] - 20:15, 24:6, 51:5</p> <p style="text-align: center;"><b>D</b></p> <p><b>Dade</b> [1] - 210:24</p> <p><b>dang</b> [1] - 42:7</p> <p><b>dangerous</b> [1] - 140:8</p> <p><b>darn</b> [2] - 59:22, 207:1</p> <p><b>data</b> [2] - 237:12, 243:16</p> <p><b>date</b> [16] - 5:4, 20:12, 37:18, 62:21, 62:22, 62:23, 63:1, 63:3, 63:4, 63:6, 63:23, 63:24, 63:25, 113:6, 249:24</p> <p><b>date..</b> [1] - 44:17</p> <p><b>dated</b> [3] - 62:13, 106:11, 239:20</p> <p><b>dates</b> [1] - 63:20</p> <p><b>daughter</b> [3] - 80:17, 81:1, 81:8</p> <p><b>Dave</b> [6] - 126:21, 133:15, 139:4, 140:21, 151:6, 221:21</p> <p><b>David</b> [1] - 5:15</p> <p><b>days</b> [11] - 37:5, 37:21, 44:2, 44:12, 91:14, 143:2, 222:20, 235:8, 236:9, 252:1, 254:4</p> <p><b>DCA</b> [4] - 135:23, 135:24, 135:25, 158:9</p> <p><b>deadline</b> [2] - 63:5, 63:7</p> <p><b>deal</b> [10] - 15:18, 17:16, 40:25, 42:12, 44:18, 70:1, 117:22, 135:19, 139:7, 237:10</p> <p><b>dealing</b> [2] - 37:2, 64:4</p> <p><b>dealt</b> [1] - 234:3</p> <p><b>debate</b> [4] - 124:7,</p>	<p>137:5, 137:12, 152:15</p> <p><b>debated</b> [1] - 156:19</p> <p><b>debates</b> [2] - 43:14, 137:7</p> <p><b>debating</b> [1] - 136:1</p> <p><b>decade</b> [1] - 95:17</p> <p><b>decades</b> [5] - 77:8, 89:17, 95:10, 96:3, 228:3</p> <p><b>deceitful</b> [2] - 108:15, 198:24</p> <p><b>deceitfully</b> [1] - 228:21</p> <p><b>deceive</b> [1] - 106:15</p> <p><b>deceived</b> [1] - 110:20</p> <p><b>deception</b> [1] - 111:8</p> <p><b>deceptive</b> [5] - 96:18, 103:19, 108:20, 159:22, 228:24</p> <p><b>decide</b> [3] - 8:3, 121:24, 140:12</p> <p><b>decided</b> [6] - 64:25, 107:2, 107:16, 184:12, 220:22, 241:21</p> <p><b>decides</b> [1] - 220:25</p> <p><b>deciding</b> [1] - 12:13</p> <p><b>Decision</b> [1] - 62:14</p> <p><b>decision</b> [13] - 63:25, 122:20, 123:12, 123:16, 123:17, 123:19, 123:25, 141:4, 141:5, 141:6, 162:4, 184:4, 221:12</p> <p><b>decisions</b> [14] - 63:21, 64:1, 90:22, 90:25, 98:2, 108:12, 109:25, 110:13, 135:17, 136:5, 136:7, 141:18, 148:16, 215:4</p> <p><b>deck</b> [1] - 146:25</p> <p><b>deductions</b> [2] - 227:20, 230:4</p> <p><b>defend</b> [1] - 42:25</p> <p><b>defended</b> [2] - 173:19, 176:2</p> <p><b>defense</b> [1] - 170:22</p> <p><b>deficiencies</b> [1] - 202:14</p> <p><b>Define</b> [1] - 132:13</p> <p><b>define</b> [1] - 232:21</p> <p><b>defines</b> [2] - 103:24, 183:21</p> <p><b>definitely</b> [2] - 147:23, 210:5</p> <p><b>definition</b> [4] - 64:12, 64:13, 179:22, 203:25</p>	<p><b>definitions</b> [2] - 64:9, 104:2</p> <p><b>degree</b> [2] - 27:22, 144:24</p> <p><b>delegated</b> [1] - 12:12</p> <p><b>delete</b> [1] - 174:25</p> <p><b>deleted</b> [16] - 87:8, 87:11, 88:24, 104:22, 114:15, 121:1, 160:24, 161:16, 166:21, 168:6, 168:10, 168:20, 174:15, 181:18, 181:20</p> <p><b>deleterious</b> [1] - 26:20</p> <p><b>deleting</b> [3] - 192:19, 192:25, 227:11</p> <p><b>deletion</b> [1] - 104:18</p> <p><b>deletions</b> [10] - 19:17, 49:20, 87:14, 104:20, 104:23, 105:3, 163:6, 173:10, 175:9, 176:14</p> <p><b>demanded</b> [1] - 104:22</p> <p><b>demonstrate</b> [2] - 108:19, 200:3</p> <p><b>demonstrated</b> [1] - 114:1</p> <p><b>demonstrates</b> [1] - 63:16</p> <p><b>deny</b> [2] - 113:24, 216:18</p> <p><b>denying</b> [1] - 169:13</p> <p><b>department</b> [2] - 78:20, 98:2</p> <p><b>Department</b> [127] - 3:7, 6:25, 8:12, 10:8, 14:20, 16:8, 28:9, 30:19, 38:23, 42:25, 49:23, 50:4, 57:5, 57:13, 62:5, 63:17, 68:2, 77:4, 81:3, 83:21, 86:25, 91:12, 93:14, 94:8, 94:10, 94:12, 96:10, 96:13, 96:16, 97:16, 98:7, 99:5, 99:15, 100:18, 101:10, 101:20, 102:12, 103:3, 103:6, 103:18, 104:24, 106:13, 106:15, 107:2, 107:16, 107:25, 108:2, 108:5, 108:17, 108:24, 109:9, 109:13, 109:20, 110:3, 110:19, 111:6,</p>
---	---	---	---	--

111:10, 112:12, 113:2, 113:13, 113:14, 119:6, 119:13, 121:15, 122:8, 122:10, 122:24, 123:10, 123:18, 133:2, 133:4, 158:12, 160:21, 163:1, 163:4, 163:6, 170:14, 172:20, 172:23, 173:6, 173:8, 173:9, 174:1, 174:4, 174:8, 175:13, 176:10, 176:12, 176:14, 177:3, 182:21, 192:18, 192:21, 195:16, 202:12, 202:15, 202:19, 203:8, 205:18, 206:25, 208:8, 212:14, 213:17, 213:20, 214:6, 215:6, 219:11, 219:20, 219:22, 220:2, 220:9, 220:12, 220:14, 220:21, 220:25, 221:3, 225:22, 228:5, 229:11, 229:16, 230:6, 235:11, 238:6, 245:20, 247:14 <b>Department's</b> [25] - 3:16, 3:21, 96:4, 99:13, 103:22, 104:8, 105:21, 106:16, 107:8, 108:13, 108:22, 110:1, 110:5, 110:14, 174:2, 176:21, 182:20, 202:14, 212:23, 214:1, 214:2, 214:9, 219:12, 220:5, 237:13 <b>deposed</b> [2] - 86:4, 214:8 <b>deputy</b> [1] - 28:13 <b>Deputy</b> [3] - 2:10, 58:10, 123:2 <b>derived</b> [1] - 235:1 <b>describe</b> [1] - 108:8 <b>described</b> [2] - 109:9, 214:14 <b>describes</b> [1] - 159:21 <b>describing</b> [1] - 96:10 <b>deserves</b> [2] - 244:9, 244:10	<b>designated</b> [1] - 245:16 <b>designation</b> [2] - 89:12, 145:13 <b>desk</b> [1] - 215:15 <b>desperately</b> [1] - 128:17 <b>detail</b> [5] - 51:10, 110:11, 201:9, 219:7, 232:3 <b>detailed</b> [3] - 50:11, 218:21, 239:21 <b>details</b> [1] - 51:3 <b>detector</b> [1] - 83:9 <b>determination</b> [3] - 150:10, 158:18, 239:13 <b>determine</b> [8] - 63:23, 68:10, 156:2, 166:3, 183:4, 185:20, 227:7, 227:8 <b>determined</b> [2] - 158:22, 165:12 <b>determines</b> [1] - 241:9 <b>determining</b> [3] - 66:7, 196:2, 219:4 <b>develop</b> [4] - 98:15, 98:19, 226:6, 243:18 <b>developed</b> [3] - 95:10, 96:2, 231:7 <b>developing</b> [2] - 228:18, 230:23 <b>development</b> [1] - 105:21 <b>Development</b> [1] - 12:2 <b>deviation</b> [1] - 247:19 <b>devil</b> [2] - 120:6, 122:2 <b>dictates</b> [2] - 99:8, 227:13 <b>Dictionary</b> [1] - 103:24 <b>dile</b> [1] - 187:21 <b>difference</b> [1] - 66:5 <b>differences</b> [1] - 136:6 <b>different</b> [32] - 2:23, 12:15, 20:23, 25:3, 25:23, 33:2, 34:21, 39:21, 89:24, 97:3, 116:14, 121:4, 128:5, 132:20, 135:18, 135:24, 136:3, 136:7, 136:10, 136:11, 136:12, 136:14, 141:5, 159:19, 187:20, 194:7, 224:10, 224:14, 238:12, 238:25 <b>difficult</b> [4] - 71:19, 97:2, 124:25, 148:15	<b>digging</b> [1] - 147:3 <b>digits</b> [1] - 247:7 <b>digress</b> [1] - 91:21 <b>dilemma</b> [1] - 135:7 <b>diluted</b> [1] - 43:7 <b>dime</b> [1] - 153:18 <b>dinner</b> [1] - 128:25 <b>dire</b> [1] - 93:2 <b>direct</b> [2] - 62:8, 214:19 <b>direction</b> [2] - 48:23, 101:9 <b>directions</b> [1] - 134:11 <b>directly</b> [3] - 70:23, 97:3, 190:10 <b>Director</b> [7] - 2:10, 62:18, 110:19, 123:1, 123:2, 123:3, 128:11 <b>director</b> [8] - 8:12, 8:20, 36:2, 96:15, 126:25, 188:11, 204:19, 253:24 <b>directors</b> [1] - 36:22 <b>disagree</b> [10] - 67:19, 67:20, 67:21, 193:12, 200:23, 201:21, 201:25, 219:1, 220:20, 227:3 <b>disagreeing</b> [1] - 184:5 <b>disagreement</b> [1] - 70:15 <b>disappear</b> [1] - 175:10 <b>disappointed</b> [1] - 239:21 <b>disconnect</b> [2] - 145:14, 217:5 <b>discovered</b> [2] - 108:16, 241:5 <b>discretion</b> [2] - 153:24, 159:9 <b>discuss</b> [3] - 2:13, 114:12, 142:19 <b>discussed</b> [3] - 4:1, 144:21, 197:9 <b>discussing</b> [1] - 117:11 <b>discussion</b> [5] - 8:23, 57:25, 155:21, 167:9, 197:9 <b>discussions</b> [2] - 27:4, 213:6 <b>disingenuous</b> [1] - 76:11 <b>dispersion</b> [1] - 251:7 <b>dispute</b> [4] - 88:10, 133:11, 156:19, 219:9 <b>disputed</b> [3] - 132:25,	133:22, 221:8 <b>disputes</b> [2] - 132:1, 132:2 <b>disqualify</b> [1] - 237:19 <b>disqualifying</b> [2] - 237:15, 237:17 <b>dissected</b> [1] - 199:17 <b>disseminate</b> [1] - 3:24 <b>disserve</b> [1] - 221:4 <b>distinguish</b> [3] - 65:25, 67:10, 218:8 <b>distributive</b> [1] - 196:5 <b>District</b> [2] - 136:2, 149:16 <b>DOAH</b> [16] - 42:1, 45:15, 46:12, 87:7, 95:13, 128:1, 146:5, 155:18, 157:10, 158:7, 158:10, 160:25, 175:14, 175:17, 211:24, 212:4 <b>doc</b> [3] - 246:10, 246:11, 246:16 <b>docked</b> [1] - 246:18 <b>document</b> [58] - 17:4, 39:12, 40:9, 40:15, 44:1, 46:11, 48:6, 48:8, 48:9, 49:11, 54:6, 54:7, 54:18, 57:9, 63:16, 64:13, 67:7, 67:25, 68:4, 68:20, 69:12, 74:3, 75:13, 78:18, 78:23, 79:13, 79:23, 87:23, 88:9, 115:6, 117:15, 121:10, 121:21, 124:24, 125:6, 126:5, 126:11, 139:11, 146:1, 161:1, 161:12, 166:11, 168:5, 168:8, 175:14, 177:2, 177:13, 185:9, 185:15, 185:18, 185:24, 185:25, 189:23, 196:21, 206:14, 206:17, 209:23, 212:13 <b>documentation</b> [1] - 238:22 <b>documents</b> [10] - 19:10, 48:12, 61:24, 62:15, 65:9, 103:16, 158:10, 165:17, 201:19, 235:19 <b>dollar</b> [1] - 29:4 <b>dollars</b> [9] - 35:21, 38:14, 100:4,	102:19, 148:24, 171:17, 171:19, 246:14, 246:16 <b>domain</b> [1] - 114:4 <b>done</b> [38] - 30:11, 45:3, 54:2, 56:11, 57:4, 74:19, 114:14, 115:22, 116:19, 117:12, 143:25, 153:3, 153:4, 159:10, 163:16, 166:9, 167:11, 170:17, 198:25, 199:5, 200:13, 203:4, 203:10, 203:15, 204:2, 206:20, 226:3, 226:19, 235:20, 240:11, 240:13, 241:13, 245:17, 248:11, 253:4 <b>door</b> [2] - 131:14, 171:24 <b>doorstep</b> [1] - 185:18 <b>DOR</b> [23] - 5:24, 26:3, 69:10, 70:24, 81:4, 128:1, 139:9, 156:8, 156:9, 156:17, 156:22, 157:4, 157:12, 157:15, 157:23, 211:6, 222:8, 230:14, 246:2, 247:8, 248:11, 248:20, 249:3 <b>dots</b> [1] - 22:17 <b>double</b> [1] - 247:7 <b>doubt</b> [1] - 74:10 <b>doubting</b> [1] - 146:7 <b>down</b> [27] - 18:10, 18:25, 19:1, 21:13, 27:15, 40:19, 43:8, 45:10, 46:5, 51:5, 74:23, 78:12, 106:2, 106:3, 111:20, 111:21, 144:22, 147:23, 152:23, 158:25, 169:2, 176:6, 176:8, 191:11, 199:4, 210:1, 214:15 <b>Downtown</b> [2] - 32:13, 240:16 <b>downtown</b> [1] - 240:19 <b>DR</b> [10] - 194:2, 200:24, 210:19, 210:22, 210:24, 225:22, 233:1, 238:5, 238:15, 239:3
---	---	---	--	--

<p><b>Dr</b> [2] - 36:22, 247:16</p> <p><b>DR485n</b> [2] - 62:13, 62:20</p> <p><b>draft</b> [125] - 2:13, 14:18, 15:15, 19:11, 19:12, 19:14, 47:18, 48:15, 48:17, 52:8, 60:18, 69:23, 73:13, 76:19, 77:16, 78:9, 81:11, 81:15, 88:20, 89:18, 89:20, 89:21, 89:24, 90:1, 94:4, 94:9, 94:13, 95:5, 98:22, 99:11, 101:12, 103:14, 103:15, 104:8, 104:10, 104:14, 105:17, 105:22, 105:24, 106:9, 106:10, 106:21, 107:5, 107:13, 107:22, 108:25, 109:4, 109:7, 109:14, 111:14, 111:15, 111:17, 111:19, 112:14, 112:15, 113:1, 113:25, 114:2, 114:10, 114:15, 115:1, 115:18, 116:19, 116:21, 117:11, 117:17, 117:20, 120:9, 120:12, 120:16, 121:1, 121:20, 121:21, 124:8, 147:18, 147:21, 148:2, 148:3, 148:4, 149:12, 152:3, 152:5, 156:10, 156:24, 163:20, 163:21, 168:17, 170:15, 174:16, 186:2, 186:3, 186:5, 192:19, 202:14, 202:21, 202:25, 203:1, 203:6, 203:9, 203:13, 203:21, 203:23, 204:1, 204:5, 204:16, 204:17, 205:9, 205:10, 205:19, 206:1, 206:2, 206:4, 206:6, 206:14, 207:6, 207:10, 207:13, 209:2, 210:17, 224:9, 224:10, 225:23</p> <p><b>drafted</b> [4] - 63:18, 105:15, 115:19, 142:22</p>	<p><b>drafts</b> [4] - 101:17, 112:20, 114:6, 212:2</p> <p><b>drag</b> [1] - 141:12</p> <p><b>dragging</b> [1] - 26:4</p> <p><b>drink</b> [1] - 144:16</p> <p><b>drive</b> [2] - 191:3, 191:5</p> <p><b>drop</b> [2] - 160:25, 204:6</p> <p><b>due</b> [13] - 34:8, 41:17, 52:12, 54:21, 54:25, 55:5, 55:12, 56:14, 62:9, 69:15, 85:25, 86:3, 250:2</p> <p><b>duo</b> [1] - 131:19</p> <p><b>During</b> [1] - 108:10</p> <p><b>during</b> [7] - 42:4, 43:18, 54:22, 59:15, 163:11, 197:3, 219:1</p> <p><b>duties</b> [6] - 38:17, 93:5, 93:18, 108:14, 110:1, 110:14</p>	<p><b>effective</b> [1] - 51:6</p> <p><b>efficient</b> [1] - 160:7</p> <p><b>effort</b> [7] - 95:16, 96:4, 107:9, 108:16, 115:4, 157:23, 170:16</p> <p><b>Efforts</b> [1] - 102:15</p> <p><b>efforts</b> [2] - 48:22, 102:5</p> <p><b>egos</b> [1] - 252:5</p> <p><b>Eight</b> [1] - 163:3</p> <p><b>eight</b> [9] - 117:4, 154:25, 183:15, 184:15, 200:13, 222:14, 240:16, 240:22, 244:19</p> <p><b>eighth</b> [47] - 22:14, 74:14, 75:3, 128:2, 141:20, 143:24, 147:10, 159:13, 163:8, 164:2, 164:4, 164:12, 164:17, 167:19, 168:9, 168:13, 168:14, 172:3, 172:25, 176:17, 177:4, 177:7, 177:16, 178:2, 180:6, 184:13, 197:17, 198:16, 214:13, 218:16, 218:17, 218:22, 219:25, 226:23, 228:1, 230:12, 232:9, 233:13, 235:3, 236:24, 239:4, 242:6, 242:21, 245:24, 250:4, 250:25</p> <p><b>Eighth</b> [3] - 166:19, 167:22, 168:2</p> <p><b>either</b> [14] - 9:17, 48:2, 65:16, 112:21, 133:25, 134:8, 134:14, 136:9, 140:10, 174:10, 192:15, 217:20, 236:11</p> <p><b>elected</b> [4] - 30:20, 137:21, 153:23, 192:24</p> <p><b>elements</b> [1] - 250:8</p> <p><b>eliminate</b> [4] - 50:8, 57:1, 57:2, 57:3</p> <p><b>eliminated</b> [3] - 55:10, 57:18, 168:16</p> <p><b>eliminates</b> [1] - 54:13</p> <p><b>eliminating</b> [2] - 49:18, 56:12</p> <p><b>elimination</b> [1] - 56:10</p>	<p><b>eloquently</b> [1] - 208:12</p> <p><b>elsewhere</b> [1] - 40:4</p> <p><b>emphasis</b> [1] - 8:16</p> <p><b>emphasize</b> [3] - 3:16, 93:7, 143:18</p> <p><b>employee</b> [2] - 81:2, 192:1</p> <p><b>employees</b> [1] - 97:3</p> <p><b>employer</b> [1] - 146:23</p> <p><b>enable</b> [1] - 97:12</p> <p><b>enables</b> [1] - 209:23</p> <p><b>enabling</b> [1] - 106:12</p> <p><b>enacted</b> [2] - 227:23, 235:9</p> <p><b>enactment</b> [2] - 95:24, 100:8</p> <p><b>enactments</b> [1] - 100:22</p> <p><b>encourage</b> [1] - 151:21</p> <p><b>encouraged</b> [2] - 217:21, 217:22</p> <p><b>end</b> [20] - 14:20, 19:9, 20:2, 25:14, 25:15, 45:20, 52:18, 95:11, 98:6, 105:11, 108:4, 109:7, 125:6, 130:14, 160:3, 187:15, 226:7, 227:10, 229:15, 244:2</p> <p><b>End</b> [1] - 99:2</p> <p><b>ended</b> [3] - 79:2, 79:13, 157:9</p> <p><b>ends</b> [1] - 94:25</p> <p><b>engaged</b> [1] - 145:24</p> <p><b>engages</b> [1] - 210:9</p> <p><b>engineering</b> [1] - 196:9</p> <p><b>ensure</b> [4] - 98:13, 99:1, 226:3, 226:12</p> <p><b>enter</b> [5] - 2:8, 4:13, 62:22, 71:21, 72:10</p> <p><b>enterprise</b> [1] - 132:4</p> <p><b>entire</b> [7] - 2:21, 3:1, 115:4, 116:19, 117:1, 139:10, 143:19</p> <p><b>entitled</b> [2] - 158:17, 242:11</p> <p><b>equal</b> [4] - 139:7, 139:10, 228:22, 252:25</p> <p><b>Equal</b> [1] - 66:23</p> <p><b>equality</b> [1] - 34:1</p> <p><b>equation</b> [1] - 241:25</p> <p><b>equitable</b> [1] - 235:10</p> <p><b>equitably</b> [3] - 98:14, 99:7, 226:4</p>	<p><b>equivalent</b> [1] - 144:15</p> <p><b>erroneous</b> [1] - 226:22</p> <p><b>erroneously</b> [1] - 110:21</p> <p><b>error</b> [1] - 145:23</p> <p><b>errors</b> [1] - 19:18</p> <p><b>especially</b> [3] - 99:21, 148:18, 229:23</p> <p><b>espouse</b> [1] - 159:18</p> <p><b>essential</b> [2] - 81:22, 87:24</p> <p><b>establish</b> [3] - 54:15, 200:10, 200:11</p> <p><b>established</b> [2] - 111:7, 219:16</p> <p><b>estate</b> [8] - 72:12, 240:12, 241:19, 246:8, 246:11, 246:15, 246:19, 248:23</p> <p><b>Estate</b> [1] - 70:19</p> <p><b>estimates</b> [2] - 99:1, 226:13</p> <p><b>et</b> [3] - 36:20, 37:3, 63:6</p> <p><b>ethical</b> [1] - 103:6</p> <p><b>Ethics</b> [1] - 71:9</p> <p><b>ethics</b> [1] - 66:13</p> <p><b>evasive</b> [1] - 190:10</p> <p><b>evening</b> [1] - 73:18</p> <p><b>events</b> [1] - 155:17</p> <p><b>eventually</b> [2] - 48:16, 108:17</p> <p><b>everyday</b> [1] - 71:19</p> <p><b>everywhere</b> [2] - 39:14, 40:24</p> <p><b>evidence</b> [25] - 22:9, 22:12, 34:13, 44:8, 57:15, 83:1, 101:20, 116:17, 128:4, 145:7, 145:10, 168:15, 192:22, 195:23, 195:24, 197:11, 198:1, 198:2, 198:3, 198:5, 198:6, 200:16, 217:23, 238:14, 251:15</p> <p><b>evident</b> [1] - 101:15</p> <p><b>evidentiary</b> [3] - 21:17, 85:19, 145:5</p> <p><b>evil</b> [1] - 131:19</p> <p><b>ex</b> [1] - 102:23</p> <p><b>ex-parte</b> [1] - 102:23</p> <p><b>exacerbated</b> [1] - 127:12</p> <p><b>exact</b> [3] - 15:19, 51:12, 85:4</p> <p><b>exactly</b> [18] - 2:20,</p>
<b>E</b>				
<p><b>e-mail</b> [18] - 4:20, 4:21, 4:22, 4:24, 70:20, 71:16, 72:2, 72:5, 72:8, 76:10, 104:5, 107:14, 114:15, 143:11, 170:12, 185:12, 216:19</p> <p><b>e-mails</b> [6] - 14:22, 68:25, 155:7, 223:1, 231:24, 253:15</p> <p><b>E.D</b> [4] - 128:16, 129:14, 247:8, 252:21</p> <p><b>E.D.'s</b> [1] - 127:14</p> <p><b>early</b> [2] - 36:21, 246:25</p> <p><b>Early</b> [1] - 131:21</p> <p><b>easier</b> [1] - 204:9</p> <p><b>easiest</b> [1] - 152:2</p> <p><b>easy</b> [2] - 97:9, 152:18</p> <p><b>economic</b> [2] - 150:17, 150:18</p> <p><b>ED</b> [2] - 36:5, 225:3</p> <p><b>edits</b> [2] - 116:12, 146:3</p> <p><b>educate</b> [1] - 237:9</p> <p><b>education</b> [3] - 33:2, 58:1, 248:10</p> <p><b>educator</b> [4] - 24:9, 51:8, 58:16, 59:8</p> <p><b>effect</b> [4] - 42:2, 221:2, 230:16, 234:13</p> <p><b>effecting</b> [1] - 150:14</p>				

<p>91:15, 112:17, 114:9, 116:10, 116:13, 137:18, 144:22, 144:25, 171:8, 190:1, 199:5, 199:15, 222:22, 223:25, 225:25, 244:22, 250:24</p> <p><b>Exactly</b> [1] - 225:7</p> <p><b>examination</b> [1] - 214:19</p> <p><b>example</b> [9] - 11:5, 11:6, 54:16, 54:17, 55:7, 62:3, 102:21, 171:15, 230:9</p> <p><b>Example</b> [1] - 168:8</p> <p><b>examples</b> [19] - 20:25, 21:9, 22:16, 22:23, 55:8, 71:6, 72:16, 74:11, 93:17, 101:1, 101:7, 102:22, 168:10, 168:12, 172:25, 181:1, 181:11, 181:12, 225:25</p> <p><b>exceeds</b> [1] - 219:5</p> <p><b>excellent</b> [3] - 94:9, 106:5, 225:23</p> <p><b>except</b> [1] - 39:14</p> <p><b>exception</b> [5] - 26:16, 121:16, 236:17, 237:25, 245:1</p> <p><b>excerpt</b> [1] - 95:7</p> <p><b>excessive</b> [2] - 10:23, 29:24</p> <p><b>exchange</b> [3] - 44:8, 91:15, 252:21</p> <p><b>exclamation</b> [1] - 110:7</p> <p><b>excuse</b> [2] - 48:3, 115:10</p> <p><b>Excuse</b> [3] - 9:25, 83:2, 189:5</p> <p><b>Executive</b> [4] - 110:19, 123:1, 123:2, 128:11</p> <p><b>executive</b> [8] - 8:12, 8:20, 36:2, 96:14, 126:24, 188:11, 204:19, 253:24</p> <p><b>exemptions</b> [1] - 133:6</p> <p><b>exist</b> [2] - 94:2, 104:7</p> <p><b>existed</b> [1] - 73:15</p> <p><b>existing</b> [2] - 52:22, 57:4</p> <p><b>exists</b> [2] - 68:21, 94:20</p> <p><b>expect</b> [1] - 210:13</p> <p><b>expend</b> [1] - 179:5</p>	<p><b>expense</b> [3] - 99:25, 100:13, 244:3</p> <p><b>expensive</b> [1] - 151:1</p> <p><b>experience</b> [6] - 42:3, 42:4, 62:8, 82:3, 157:7, 232:17</p> <p><b>experienced</b> [4] - 77:4, 93:10, 100:5, 137:23</p> <p><b>expert</b> [2] - 13:23, 110:6</p> <p><b>Explain</b> [1] - 113:19</p> <p><b>explain</b> [11] - 4:10, 32:11, 56:10, 69:17, 70:3, 70:11, 169:22, 189:14, 189:16, 228:10, 231:16</p> <p><b>explained</b> [6] - 49:12, 94:19, 145:8, 171:8, 228:24, 230:20</p> <p><b>explaining</b> [4] - 22:14, 54:3, 107:8, 144:22</p> <p><b>explains</b> [4] - 31:7, 95:8, 225:24, 230:25</p> <p><b>explanation</b> [2] - 50:12, 118:11</p> <p><b>explanations</b> [5] - 51:16, 93:17, 101:1, 101:7, 172:24</p> <p><b>expressed</b> [2] - 61:24, 234:5</p> <p><b>expression</b> [3] - 212:22, 214:1, 214:12</p> <p><b>extensive</b> [1] - 101:24</p> <p><b>extent</b> [7] - 66:3, 214:25, 215:5, 218:4, 218:7, 219:24, 220:10</p> <p><b>exterior</b> [1] - 4:16</p> <p><b>extremely</b> [4] - 9:1, 26:19, 48:21, 213:17</p> <p><b>eye</b> [1] - 14:10</p> <p><b>eye-opening</b> [1] - 14:10</p>	<p>116:20, 116:22, 118:6, 118:17, 118:20, 123:22, 127:12, 128:21, 143:21, 146:3, 175:10, 197:12, 198:25, 217:22, 237:8, 237:11, 244:21, 249:17, 250:13</p> <p><b>factor</b> [14] - 98:15, 98:17, 98:20, 99:7, 225:19, 226:5, 226:7, 226:11, 227:6, 227:7, 228:1, 229:23, 235:2, 235:5</p> <p><b>factors</b> [1] - 32:16</p> <p><b>facts</b> [11] - 18:10, 77:15, 83:23, 88:10, 103:8, 108:19, 112:10, 112:17, 172:21, 174:18, 228:15</p> <p><b>factual</b> [3] - 93:18, 101:5, 103:16</p> <p><b>failed</b> [4] - 76:7, 202:15, 219:19, 222:2</p> <p><b>fails</b> [1] - 62:5</p> <p><b>fair</b> [46] - 18:15, 21:25, 23:17, 23:21, 27:16, 28:4, 28:24, 38:16, 38:20, 41:9, 44:10, 49:11, 54:6, 62:10, 68:17, 71:17, 95:18, 103:8, 137:17, 143:19, 146:15, 172:4, 172:7, 172:11, 211:5, 215:2, 218:7, 219:5, 226:24, 228:6, 228:11, 228:17, 228:22, 229:5, 229:7, 230:1, 230:19, 232:20, 233:2, 235:9, 236:20, 236:21, 236:23, 239:8, 251:14</p> <p><b>fairest</b> [1] - 80:22</p> <p><b>fairly</b> [8] - 78:13, 78:15, 78:22, 82:7, 86:1, 94:21, 117:4, 239:20</p> <p><b>fairness</b> [10] - 93:8, 100:7, 100:21, 102:2, 102:6, 103:4, 171:12, 173:1, 236:10, 245:7</p> <p><b>faith</b> [3] - 81:22,</p>	<p>81:23, 124:22</p> <p><b>fall</b> [2] - 229:25, 230:18</p> <p><b>fallacious</b> [1] - 226:21</p> <p><b>falls</b> [1] - 223:20</p> <p><b>familiar</b> [2] - 144:24, 155:16</p> <p><b>family</b> [2] - 27:20, 95:2</p> <p><b>Fantastic</b> [1] - 46:24</p> <p><b>FAPA</b> [1] - 157:21</p> <p><b>far</b> [5] - 146:8, 150:16, 156:5, 249:12, 250:10</p> <p><b>fashion</b> [2] - 10:24, 26:19</p> <p><b>father</b> [5] - 80:2, 81:17, 84:1, 221:23</p> <p><b>fathers</b> [1] - 147:1</p> <p><b>favoring</b> [2] - 95:11, 96:3</p> <p><b>fear</b> [1] - 45:7</p> <p><b>February</b> [1] - 110:16</p> <p><b>federal</b> [1] - 144:10</p> <p><b>fee</b> [3] - 236:19, 237:5, 246:6</p> <p><b>feedback</b> [11] - 109:3, 109:7, 120:21, 126:4, 202:21, 206:15, 206:16, 207:16, 207:17, 224:11, 254:8</p> <p><b>felt</b> [2] - 131:13, 212:22</p> <p><b>few</b> [12] - 53:10, 53:16, 80:7, 92:14, 115:15, 115:16, 123:7, 123:13, 126:20, 130:17, 249:19, 254:4</p> <p><b>field</b> [4] - 21:25, 95:25, 116:24, 248:1</p> <p><b>fight</b> [3] - 138:13, 159:25, 252:25</p> <p><b>fighting</b> [2] - 56:23, 117:19</p> <p><b>figure</b> [1] - 190:16</p> <p><b>file</b> [3] - 27:21, 63:8, 104:18</p> <p><b>filed</b> [3] - 63:2, 213:4, 213:10</p> <p><b>files</b> [1] - 104:13</p> <p><b>fill</b> [1] - 114:8</p> <p><b>filled</b> [1] - 22:16</p> <p><b>final</b> [12] - 60:20, 63:20, 63:24, 69:23, 105:6, 105:13, 105:22, 121:20, 124:9, 127:4, 204:5, 206:2</p> <p><b>finally</b> [4] - 71:15,</p>	<p>108:6, 108:24, 109:10</p> <p><b>financed</b> [2] - 32:22, 97:14</p> <p><b>financing</b> [4] - 242:19, 243:1, 243:20, 244:17</p> <p><b>findings</b> [7] - 69:6, 69:7, 69:14, 70:21, 70:22, 70:23, 71:1</p> <p><b>fine</b> [10] - 3:2, 4:20, 8:3, 30:20, 30:21, 46:11, 91:9, 188:8, 211:18, 250:16</p> <p><b>finish</b> [2] - 15:12, 78:3</p> <p><b>firm</b> [1] - 36:16</p> <p><b>First</b> [4] - 47:4, 66:19, 126:23, 149:16</p> <p><b>first</b> [33] - 6:1, 6:24, 7:3, 7:7, 7:8, 7:9, 7:23, 16:18, 18:14, 22:14, 44:1, 44:11, 47:9, 69:21, 76:18, 77:16, 86:4, 107:1, 128:2, 135:2, 141:20, 146:14, 157:8, 191:4, 200:8, 218:23, 235:3, 239:3, 247:18, 250:3, 250:24</p> <p><b>five</b> [17] - 30:25, 69:9, 69:25, 106:4, 124:20, 135:22, 154:8, 186:10, 188:1, 194:10, 207:15, 217:1, 217:4, 234:20, 241:16, 249:7, 253:10</p> <p><b>five-minute</b> [1] - 217:4</p> <p><b>fix</b> [4] - 17:23, 137:24, 137:25, 138:5</p> <p><b>fixed</b> [1] - 44:9</p> <p><b>Flight</b> [1] - 32:13</p> <p><b>flip</b> [1] - 150:2</p> <p><b>floor</b> [2] - 125:9, 125:12</p> <p><b>Florida</b> [79] - 12:1, 20:17, 20:18, 25:22, 26:21, 27:7, 27:9, 28:5, 30:15, 30:18, 31:1, 31:4, 32:19, 33:4, 33:12, 34:11, 36:17, 47:7, 62:25, 69:7, 70:20, 70:25, 71:16, 72:9, 72:10, 72:20, 72:22, 72:23, 73:16, 94:6, 94:18, 95:12, 96:6, 96:9, 97:15, 98:10, 99:18,</p>
	<b>F</b>			
	<p><b>F-R-E-C</b> [1] - 72:25</p> <p><b>face</b> [2] - 133:12, 250:4</p> <p><b>faced</b> [1] - 223:10</p> <p><b>facilitate</b> [2] - 108:3, 172:25</p> <p><b>fact</b> [32] - 10:22, 30:2, 44:21, 50:17, 50:18, 51:4, 63:6, 75:23, 77:3, 83:25, 87:11, 102:9, 116:19,</p>	<p>116:20, 116:22, 118:6, 118:17, 118:20, 123:22, 127:12, 128:21, 143:21, 146:3, 175:10, 197:12, 198:25, 217:22, 237:8, 237:11, 244:21, 249:17, 250:13</p> <p><b>factor</b> [14] - 98:15, 98:17, 98:20, 99:7, 225:19, 226:5, 226:7, 226:11, 227:6, 227:7, 228:1, 229:23, 235:2, 235:5</p> <p><b>factors</b> [1] - 32:16</p> <p><b>facts</b> [11] - 18:10, 77:15, 83:23, 88:10, 103:8, 108:19, 112:10, 112:17, 172:21, 174:18, 228:15</p> <p><b>factual</b> [3] - 93:18, 101:5, 103:16</p> <p><b>failed</b> [4] - 76:7, 202:15, 219:19, 222:2</p> <p><b>fails</b> [1] - 62:5</p> <p><b>fair</b> [46] - 18:15, 21:25, 23:17, 23:21, 27:16, 28:4, 28:24, 38:16, 38:20, 41:9, 44:10, 49:11, 54:6, 62:10, 68:17, 71:17, 95:18, 103:8, 137:17, 143:19, 146:15, 172:4, 172:7, 172:11, 211:5, 215:2, 218:7, 219:5, 226:24, 228:6, 228:11, 228:17, 228:22, 229:5, 229:7, 230:1, 230:19, 232:20, 233:2, 235:9, 236:20, 236:21, 236:23, 239:8, 251:14</p> <p><b>fairest</b> [1] - 80:22</p> <p><b>fairly</b> [8] - 78:13, 78:15, 78:22, 82:7, 86:1, 94:21, 117:4, 239:20</p> <p><b>fairness</b> [10] - 93:8, 100:7, 100:21, 102:2, 102:6, 103:4, 171:12, 173:1, 236:10, 245:7</p> <p><b>faith</b> [3] - 81:22,</p>	<p>81:23, 124:22</p> <p><b>fall</b> [2] - 229:25, 230:18</p> <p><b>fallacious</b> [1] - 226:21</p> <p><b>falls</b> [1] - 223:20</p> <p><b>familiar</b> [2] - 144:24, 155:16</p> <p><b>family</b> [2] - 27:20, 95:2</p> <p><b>Fantastic</b> [1] - 46:24</p> <p><b>FAPA</b> [1] - 157:21</p> <p><b>far</b> [5] - 146:8, 150:16, 156:5, 249:12, 250:10</p> <p><b>fashion</b> [2] - 10:24, 26:19</p> <p><b>father</b> [5] - 80:2, 81:17, 84:1, 221:23</p> <p><b>fathers</b> [1] - 147:1</p> <p><b>favoring</b> [2] - 95:11, 96:3</p> <p><b>fear</b> [1] - 45:7</p> <p><b>February</b> [1] - 110:16</p> <p><b>federal</b> [1] - 144:10</p> <p><b>fee</b> [3] - 236:19, 237:5, 246:6</p> <p><b>feedback</b> [11] - 109:3, 109:7, 120:21, 126:4, 202:21, 206:15, 206:16, 207:16, 207:17, 224:11, 254:8</p> <p><b>felt</b> [2] - 131:13, 212:22</p> <p><b>few</b> [12] - 53:10, 53:16, 80:7, 92:14, 115:15, 115:16, 123:7, 123:13, 126:20, 130:17, 249:19, 254:4</p> <p><b>field</b> [4] - 21:25, 95:25, 116:24, 248:1</p> <p><b>fight</b> [3] - 138:13, 159:25, 252:25</p> <p><b>fighting</b> [2] - 56:23, 117:19</p> <p><b>figure</b> [1] - 190:16</p> <p><b>file</b> [3] - 27:21, 63:8, 104:18</p> <p><b>filed</b> [3] - 63:2, 213:4, 213:10</p> <p><b>files</b> [1] - 104:13</p> <p><b>fill</b> [1] - 114:8</p> <p><b>filled</b> [1] - 22:16</p> <p><b>final</b> [12] - 60:20, 63:20, 63:24, 69:23, 105:6, 105:13, 105:22, 121:20, 124:9, 127:4, 204:5, 206:2</p> <p><b>finally</b> [4] - 71:15,</p>	<p>108:6, 108:24, 109:10</p> <p><b>financed</b> [2] - 32:22, 97:14</p> <p><b>financing</b> [4] - 242:19, 243:1, 243:20, 244:17</p> <p><b>findings</b> [7] - 69:6, 69:7, 69:14, 70:21, 70:22, 70:23, 71:1</p> <p><b>fine</b> [10] - 3:2, 4:20, 8:3, 30:20, 30:21, 46:11, 91:9, 188:8, 211:18, 250:16</p> <p><b>finish</b> [2] - 15:12, 78:3</p> <p><b>firm</b> [1] - 36:16</p> <p><b>First</b> [4] - 47:4, 66:19, 126:23, 149:16</p> <p><b>first</b> [33] - 6:1, 6:24, 7:3, 7:7, 7:8, 7:9, 7:23, 16:18, 18:14, 22:14, 44:1, 44:11, 47:9, 69:21, 76:18, 77:16, 86:4, 107:1, 128:2, 135:2, 141:20, 146:14, 157:8, 191:4, 200:8, 218:23, 235:3, 239:3, 247:18, 250:3, 250:24</p> <p><b>five</b> [17] - 30:25, 69:9, 69:25, 106:4, 124:20, 135:22, 154:8, 186:10, 188:1, 194:10, 207:15, 217:1, 217:4, 234:20, 241:16, 249:7, 253:10</p> <p><b>five-minute</b> [1] - 217:4</p> <p><b>fix</b> [4] - 17:23, 137:24, 137:25, 138:5</p> <p><b>fixed</b> [1] - 44:9</p> <p><b>Flight</b> [1] - 32:13</p> <p><b>flip</b> [1] - 150:2</p> <p><b>floor</b> [2] - 125:9, 125:12</p> <p><b>Florida</b> [79] - 12:1, 20:17, 20:18, 25:22, 26:21, 27:7, 27:9, 28:5, 30:15, 30:18, 31:1, 31:4, 32:19, 33:4, 33:12, 34:11, 36:17, 47:7, 62:25, 69:7, 70:20, 70:25, 71:16, 72:9, 72:10, 72:20, 72:22, 72:23, 73:16, 94:6, 94:18, 95:12, 96:6, 96:9, 97:15, 98:10, 99:18,</p>

<p>100:9, 100:17, 102:6, 104:24, 110:18, 132:12, 135:23, 144:6, 151:1, 151:22, 151:23, 158:11, 163:4, 163:9, 166:20, 168:2, 169:5, 172:13, 176:18, 194:3, 195:18, 201:1, 212:6, 215:4, 221:24, 222:11, 227:12, 227:15, 228:8, 230:20, 231:5, 231:20, 242:14, 246:21, 247:5, 247:10, 248:15, 248:24, 249:14, 249:22, 251:20</p> <p><b>Florida's</b> [6] - 12:12, 69:16, 93:12, 95:21, 102:7, 192:23</p> <p><b>flow</b> [1] - 22:16</p> <p><b>focus</b> [5] - 10:22, 11:18, 24:2, 29:6, 155:25</p> <p><b>focused</b> [1] - 92:19</p> <p><b>focusing</b> [1] - 142:1</p> <p><b>folks</b> [36] - 2:24, 3:6, 4:19, 6:9, 11:24, 29:2, 29:10, 29:11, 29:13, 30:2, 31:3, 31:16, 31:21, 33:20, 60:15, 106:18, 119:5, 120:3, 123:7, 123:13, 123:15, 130:1, 130:12, 136:18, 137:3, 138:21, 143:5, 144:24, 153:10, 155:1, 155:2, 190:15, 196:13, 239:22, 253:7</p> <p><b>follow</b> [7] - 14:16, 23:6, 46:12, 53:20, 58:20, 210:11, 213:25</p> <p><b>follow-up</b> [1] - 58:20</p> <p><b>followed</b> [2] - 126:7, 228:7</p> <p><b>following</b> [1] - 172:21</p> <p><b>follows</b> [1] - 69:8</p> <p><b>force</b> [5] - 36:23, 36:24, 38:19, 42:4, 234:13</p> <p><b>foremost</b> [1] - 200:8</p> <p><b>forensic</b> [2] - 26:10, 26:12</p>	<p><b>forget</b> [3] - 149:11, 176:15, 215:16</p> <p><b>forgotten</b> [1] - 209:14</p> <p><b>Form</b> [4] - 180:2, 180:4, 192:21, 194:2</p> <p><b>form</b> [11] - 19:22, 75:8, 104:1, 141:8, 195:24, 196:1, 196:11, 201:13, 205:19, 210:19, 225:22</p> <p><b>formal</b> [3] - 142:17, 145:11, 145:12</p> <p><b>formally</b> [1] - 147:20</p> <p><b>format</b> [1] - 2:19</p> <p><b>forms</b> [2] - 141:11, 199:18</p> <p><b>FORRESTER</b> [2] - 3:9, 72:4</p> <p><b>Forrester</b> [1] - 3:9</p> <p><b>forth</b> [11] - 21:12, 53:23, 56:11, 56:24, 112:20, 187:24, 187:25, 210:21, 211:2, 242:10</p> <p><b>forthright</b> [1] - 88:17</p> <p><b>forties</b> [1] - 247:6</p> <p><b>Fortunately</b> [1] - 102:20</p> <p><b>Forum</b> [1] - 62:13</p> <p><b>forum</b> [7] - 2:13, 2:17, 4:7, 5:6, 92:20, 146:22, 152:16</p> <p><b>forward</b> [12] - 20:9, 42:13, 45:11, 47:14, 50:15, 56:7, 76:2, 157:17, 157:23, 208:11, 208:21, 239:25</p> <p><b>forwards</b> [1] - 45:12</p> <p><b>founding</b> [1] - 147:1</p> <p><b>four</b> [6] - 30:25, 73:2, 80:8, 206:19, 237:16, 239:16</p> <p><b>four-and-a-half</b> [1] - 206:19</p> <p><b>frame</b> [1] - 218:2</p> <p><b>frankly</b> [10] - 29:10, 29:15, 31:22, 35:13, 121:6, 137:5, 152:6, 224:13, 249:14</p> <p><b>FREC</b> [1] - 72:25</p> <p><b>free</b> [2] - 66:20, 179:25</p> <p><b>freely</b> [2] - 217:21, 217:22</p> <p><b>friend</b> [1] - 157:5</p> <p><b>friends</b> [2] - 129:8, 132:9</p> <p><b>front</b> [8] - 60:20, 114:5, 126:25,</p>	<p>129:14, 136:8, 136:11, 212:13, 244:1</p> <p><b>fruitful</b> [1] - 186:16</p> <p><b>frustration</b> [1] - 91:16</p> <p><b>fudge</b> [2] - 235:2, 235:5</p> <p><b>full</b> [3] - 42:6, 196:24, 249:10</p> <p><b>fully</b> [1] - 231:16</p> <p><b>fund</b> [1] - 101:23</p> <p><b>fundamental</b> [8] - 54:20, 54:25, 55:12, 56:13, 74:17, 75:4, 75:13, 95:21</p> <p><b>Fundamentals</b> [1] - 242:11</p> <p><b>funds</b> [1] - 68:5</p> <p><b>furnish</b> [1] - 15:25</p> <p><b>Furthermore</b> [1] - 71:8</p> <p><b>future</b> [10] - 16:2, 73:12, 107:9, 107:22, 109:5, 109:14, 202:23, 203:2, 203:14, 203:25</p>	<p>123:4, 131:17, 155:14, 158:11, 162:22, 162:24, 169:6, 170:19, 171:7, 173:5, 173:15, 173:17, 173:25, 175:16, 175:22, 175:24, 176:3, 176:21, 195:15, 213:16, 213:19, 230:20</p> <p><b>General's</b> [4] - 17:25, 69:6, 94:18, 98:1</p> <p><b>Generally</b> [1] - 34:17</p> <p><b>generally</b> [2] - 37:10, 240:18</p> <p><b>Generals</b> [1] - 232:14</p> <p><b>generated</b> [1] - 150:23</p> <p><b>gentleman</b> [4] - 55:1, 79:9, 82:5, 163:13</p> <p><b>Gentlemen</b> [3] - 28:19, 56:4, 112:9</p> <p><b>gentlemen</b> [2] - 53:20, 117:10</p> <p><b>Gifford</b> [1] - 245:23</p> <p><b>Given</b> [2] - 22:19, 111:6</p> <p><b>given</b> [7] - 64:5, 78:17, 160:1, 171:15, 196:3, 221:23, 243:11</p> <p><b>glad</b> [2] - 157:19, 223:22</p> <p><b>gleaned</b> [1] - 194:23</p> <p><b>goal</b> [7] - 51:6, 54:24, 55:6, 59:18, 209:19, 210:4, 223:18</p> <p><b>governed</b> [1] - 54:21</p> <p><b>governing</b> [2] - 42:12, 243:7</p> <p><b>Government</b> [1] - 110:5</p> <p><b>government</b> [23] - 37:1, 65:3, 65:4, 65:12, 66:4, 67:15, 67:22, 73:1, 95:11, 96:3, 97:1, 97:2, 97:7, 97:14, 101:21, 103:2, 108:12, 109:24, 110:10, 110:12, 146:20, 146:22, 147:2</p> <p><b>governmental</b> [1] - 32:16</p> <p><b>governments</b> [3] - 96:5, 100:2, 102:10</p> <p><b>governor</b> [5] - 33:12, 150:20, 151:18, 211:1</p> <p><b>graduate</b> [1] - 144:5</p>	<p><b>grammatical</b> [1] - 19:6</p> <p><b>grand</b> [5] - 207:21, 229:17, 229:21, 230:5, 230:6</p> <p><b>Grange</b> [1] - 245:23</p> <p><b>grasp</b> [1] - 78:5</p> <p><b>gray</b> [4] - 18:4, 45:16, 132:7, 132:8</p> <p><b>grayness</b> [1] - 45:17</p> <p><b>Great</b> [1] - 16:1</p> <p><b>great</b> [16] - 10:7, 16:1, 30:14, 38:25, 50:9, 54:17, 59:21, 92:20, 110:7, 137:5, 148:22, 149:1, 212:20, 221:3, 221:22, 221:23</p> <p><b>greatest</b> [1] - 249:25</p> <p><b>greatly</b> [1] - 93:21</p> <p><b>grievance</b> [3] - 31:4, 31:6, 33:22</p> <p><b>grilled</b> [1] - 8:13</p> <p><b>grip</b> [1] - 103:3</p> <p><b>ground</b> [2] - 125:4, 252:25</p> <p><b>Group</b> [1] - 69:4</p> <p><b>group</b> [1] - 110:10</p> <p><b>guess</b> [12] - 19:11, 19:13, 37:20, 72:6, 102:17, 139:23, 148:22, 151:2, 163:11, 212:1, 221:11, 224:2</p> <p><b>guidance</b> [6] - 48:23, 49:6, 49:23, 56:17, 57:1, 57:13</p> <p><b>guideline</b> [1] - 38:22</p> <p><b>guidelines</b> [14] - 3:18, 3:22, 17:13, 18:23, 23:7, 37:17, 74:20, 77:6, 98:16, 98:19, 226:6, 234:6, 234:11, 234:12</p> <p><b>guides</b> [2] - 60:17, 118:2</p> <p><b>gun</b> [1] - 223:10</p> <p><b>gut</b> [2] - 18:16, 40:18</p> <p><b>guts</b> [2] - 27:1, 87:25</p> <p><b>guttled</b> [1] - 49:14</p> <p><b>gutting</b> [1] - 17:4</p> <p><b>guy</b> [4] - 28:16, 29:20, 148:19</p> <p><b>guys</b> [26] - 5:20, 15:2, 16:9, 16:19, 35:19, 39:10, 40:6, 40:22, 54:8, 126:6, 133:7, 137:21, 139:12, 139:20, 139:24, 147:25, 153:16, 154:8, 171:3,</p>
---	---	--	---	---

<p>176:19, 223:16, 235:11, 237:9, 251:13, 252:7, 252:8</p>	<p>76:13, 112:3, 112:6, 112:7, 118:13, 118:15, 125:23, 131:2, 169:16, 195:7, 211:13, 211:14, 215:18, 215:19, 215:20, 215:23</p>	<p><b>helped</b> [1] - 42:5 <b>helpful</b> [5] - 21:1, 51:17, 60:10, 71:7, 188:25 <b>helping</b> [2] - 20:16, 20:17 <b>heretofore</b> [1] - 152:5 <b>Herndon</b> [2] - 247:8, 248:7</p>	<p>108:6, 109:10 <b>homeowner</b> [1] - 194:19 <b>homeowners</b> [1] - 27:21 <b>homes</b> [4] - 28:1, 183:14, 194:16, 194:17</p>	<p>171:16, 171:18, 171:23, 171:25, 199:13, 233:8, 245:18, 246:14, 246:16, 247:9, 247:11, 247:24, 247:25, 248:3, 248:5, 248:12, 248:21</p>
<b>H</b>				
<p><b>haggle</b> [1] - 153:13 <b>Haley</b> [1] - 81:14 <b>half</b> [10] - 20:16, 24:6, 33:3, 76:1, 77:2, 128:23, 131:19, 206:19, 217:14, 247:24 <b>half-step</b> [1] - 217:14 <b>halfway</b> [1] - 73:11 <b>hallway</b> [1] - 131:5 <b>Hamm</b> [5] - 105:8, 107:7, 115:15, 115:24, 123:4 <b>hand</b> [7] - 18:11, 36:19, 83:6, 84:6, 100:2, 140:20, 233:5 <b>handle</b> [2] - 4:11, 57:14 <b>handled</b> [1] - 16:6 <b>hands</b> [4] - 78:21, 79:1, 79:2, 79:14 <b>hang</b> [3] - 216:7, 216:9, 217:4 <b>happy</b> [13] - 4:7, 5:2, 15:24, 40:17, 66:17, 76:17, 118:13, 119:5, 125:12, 130:8, 151:20, 181:13, 181:21 <b>hard</b> [5] - 5:20, 49:10, 50:19, 50:23, 222:1, 225:11 <b>harder</b> [2] - 97:5, 97:17 <b>Harlan</b> [5] - 105:19, 105:20, 106:1, 109:21, 185:12 <b>harm</b> [2] - 124:18, 124:20 <b>Hart</b> [3] - 69:3, 69:5, 70:6 <b>hash</b> [1] - 134:10 <b>hate</b> [1] - 216:16 <b>head</b> [3] - 76:21, 76:22, 77:10 <b>heads</b> [2] - 25:18, 236:3 <b>healthy</b> [1] - 152:15 <b>hear</b> [30] - 5:21, 11:7, 16:7, 16:25, 34:12, 46:17, 46:23, 47:4, 49:7, 54:8, 54:10, 56:4, 56:5, 76:12,</p>	<p><b>heard</b> [20] - 17:9, 31:16, 76:25, 77:1, 77:2, 91:5, 112:10, 112:18, 122:11, 129:12, 139:21, 167:13, 169:25, 175:18, 205:3, 218:2, 220:16, 233:10, 234:8, 249:16 <b>hearing</b> [58] - 10:2, 16:10, 21:11, 21:22, 22:10, 22:13, 23:19, 27:9, 27:16, 34:18, 39:22, 43:22, 44:2, 44:17, 54:25, 55:5, 55:11, 56:21, 57:14, 59:15, 63:9, 63:11, 64:16, 64:17, 68:6, 74:5, 75:24, 76:14, 85:19, 90:7, 91:14, 91:24, 92:3, 95:14, 109:11, 126:24, 128:11, 129:5, 138:1, 145:6, 146:15, 147:22, 177:22, 196:19, 197:3, 197:14, 200:4, 200:9, 202:5, 206:9, 237:6, 249:23, 251:13, 251:14 <b>hearings</b> [22] - 18:5, 18:17, 25:19, 25:22, 26:2, 29:19, 33:19, 45:1, 54:22, 55:2, 56:14, 61:20, 64:6, 72:17, 72:18, 74:14, 91:14, 156:7, 156:14, 209:24, 236:7, 236:13 <b>hearsay</b> [1] - 16:10 <b>hearsay-type</b> [1] - 16:10 <b>heart</b> [1] - 88:1 <b>heat</b> [1] - 152:4 <b>heck</b> [2] - 46:7, 209:9 <b>held</b> [1] - 25:16 <b>Hello</b> [1] - 46:22 <b>help</b> [8] - 17:23, 20:19, 31:24, 32:6, 81:10, 95:9, 144:7, 152:13</p>	<p><b>helped</b> [1] - 42:5 <b>helpful</b> [5] - 21:1, 51:17, 60:10, 71:7, 188:25 <b>helping</b> [2] - 20:16, 20:17 <b>heretofore</b> [1] - 152:5 <b>Herndon</b> [2] - 247:8, 248:7 <b>Hi</b> [3] - 47:2, 58:9, 92:22 <b>hide</b> [4] - 106:16, 108:22, 198:25, 228:16 <b>Higgs</b> [12] - 132:21, 133:14, 136:25, 163:2, 163:8, 163:23, 163:24, 164:5, 164:9, 164:11, 164:25, 176:16 <b>high</b> [5] - 144:21, 221:22, 229:24, 237:18, 241:8 <b>high-value</b> [1] - 229:24 <b>higher</b> [5] - 197:3, 237:7, 244:9, 244:15, 244:20 <b>highest</b> [2] - 28:8 <b>highlight</b> [1] - 214:24 <b>highlights</b> [1] - 24:23 <b>highly</b> [4] - 133:18, 133:22, 197:5, 221:8 <b>hijacked</b> [2] - 94:9, 104:10 <b>Hillsborough</b> [5] - 131:17, 136:9, 137:25, 153:11, 241:7 <b>himself</b> [2] - 80:24, 106:3 <b>hire</b> [5] - 41:19, 71:24, 99:23, 100:4, 251:22 <b>hired</b> [2] - 46:7, 146:19 <b>hiring</b> [2] - 99:25, 223:7 <b>Historically</b> [1] - 154:3 <b>history</b> [6] - 24:21, 24:22, 24:24, 39:8, 45:22, 74:7 <b>hit</b> [1] - 11:12 <b>hold</b> [8] - 36:11, 54:9, 56:2, 60:8, 109:6, 215:11, 215:15, 221:17 <b>Hold</b> [3] - 125:8, 154:13, 189:7 <b>holding</b> [3] - 26:17,</p>	<p>108:6, 109:10 <b>homeowner</b> [1] - 194:19 <b>homeowners</b> [1] - 27:21 <b>homes</b> [4] - 28:1, 183:14, 194:16, 194:17 <b>honestly</b> [3] - 32:3, 52:7, 135:8 <b>Honorable</b> [2] - 94:17, 228:23 <b>Hook</b> [1] - 83:9 <b>hope</b> [11] - 11:20, 30:9, 31:7, 130:15, 202:9, 204:21, 208:20, 225:1, 232:3, 235:25, 252:20 <b>Hopefully</b> [1] - 73:12 <b>hornets</b> [1] - 147:22 <b>horrid</b> [1] - 44:9 <b>hospital</b> [1] - 79:3 <b>hot</b> [1] - 148:1 <b>hotel</b> [3] - 240:20, 240:23, 240:25 <b>hotels</b> [3] - 154:10, 240:16, 240:19 <b>hotly</b> [2] - 156:19, 221:7 <b>hour</b> [1] - 77:2 <b>hour-and-a-half</b> [1] - 77:2 <b>hours</b> [2] - 73:24, 206:19 <b>House</b> [12] - 26:25, 80:8, 100:23, 103:6, 110:18, 110:23, 111:2, 111:3, 143:23, 172:13, 173:3, 231:21 <b>house</b> [9] - 19:12, 19:14, 171:16, 171:17, 171:23, 195:2, 196:25, 197:21, 246:14 <b>houses</b> [5] - 154:7, 197:4, 197:23, 198:17, 199:11 <b>Howard</b> [9] - 2:10, 3:13, 93:25, 101:18, 103:10, 104:5, 105:9, 107:7, 109:21 <b>HQs</b> [1] - 151:12 <b>HUD</b> [1] - 75:8 <b>human</b> [2] - 10:16, 192:3 <b>hundred</b> [24] - 10:13, 15:20, 17:4, 34:20, 55:8, 87:9, 106:4,</p>	<p>171:16, 171:18, 171:23, 171:25, 199:13, 233:8, 245:18, 246:14, 246:16, 247:9, 247:11, 247:24, 247:25, 248:3, 248:5, 248:12, 248:21 <b>hundreds</b> [1] - 68:7 <b>hunt</b> [1] - 137:13 <b>hurt</b> [1] - 248:16 <b>hypothesis</b> [3] - 25:10, 25:12, 25:17 <b>hypothetical</b> [3] - 173:20, 173:21, 173:22</p>
<b>I</b>				
<p><b>IAAO</b> [7] - 242:9, 250:9, 250:14, 250:17, 251:1, 251:3, 251:8 <b>idea</b> [9] - 37:8, 38:25, 44:19, 110:7, 134:13, 181:18, 186:17, 205:12, 241:12 <b>ideas</b> [1] - 252:21 <b>identical</b> [2] - 141:11, 171:25 <b>Identifies</b> [1] - 181:22 <b>Identify</b> [3] - 47:11, 47:12, 68:20 <b>Ignore</b> [6] - 116:6, 116:8, 143:23, 228:15, 241:20 <b>ignoring</b> [3] - 57:5, 117:16, 133:5 <b>Ill</b> [2] - 152:10 <b>Illegal</b> [2] - 101:22, 109:22 <b>illustration</b> [1] - 75:12 <b>Imagine</b> [3] - 64:4, 74:16, 188:14 <b>immensely</b> [1] - 232:8 <b>Impact</b> [4] - 150:10, 150:17, 150:18, 151:19 <b>Impacted</b> [1] - 252:19 <b>impeding</b> [1] - 103:4 <b>Impenetrable</b> [2] - 95:10, 96:2 <b>Implement</b> [3] - 96:4, 143:22, 219:23 <b>implementation</b> [2] - 103:5, 227:22 <b>Implementing</b> [1] -</p>				

<p>109:22</p> <p><b>Important</b> [14] - 9:1, 12:25, 54:14, 55:3, 56:7, 63:3, 73:15, 73:22, 74:1, 79:22, 80:10, 151:8, 151:9, 220:7</p> <p><b>importantly</b> [1] - 236:13</p> <p><b>Impose</b> [1] - 102:11</p> <p><b>Impossible</b> [6] - 97:18, 98:5, 98:8, 99:17, 140:23, 247:11</p> <p><b>Impractical</b> [1] - 243:16</p> <p><b>Impression</b> [3] - 10:11, 61:7, 91:23</p> <p><b>improper</b> [1] - 217:17</p> <p><b>impropriety</b> [1] - 146:11</p> <p><b>Improve</b> [1] - 93:4</p> <p><b>in-house</b> [2] - 19:12, 19:14</p> <p><b>inaccurate</b> [1] - 213:18</p> <p><b>inadvertently</b> [1] - 32:2</p> <p><b>inappropriate</b> [2] - 217:17, 217:25</p> <p><b>Inc</b> [1] - 36:18</p> <p><b>incentive</b> [1] - 100:14</p> <p><b>inception</b> [1] - 79:20</p> <p><b>incidence</b> [1] - 246:7</p> <p><b>include</b> [5] - 12:18, 60:16, 135:4, 172:23, 221:2</p> <p><b>Included</b> [6] - 104:21, 106:23, 106:25, 117:23, 140:2, 203:5</p> <p><b>including</b> [5] - 3:17, 3:22, 75:17, 102:5, 220:8</p> <p><b>Income</b> [9] - 32:20, 34:16, 34:25, 35:2, 35:3, 35:5, 234:21, 234:25, 244:3</p> <p><b>Incompetent</b> [1] - 103:13</p> <p><b>Inconsistency</b> [1] - 156:4</p> <p><b>Incorporated</b> [1] - 203:13</p> <p><b>incorrect</b> [6] - 179:21, 214:6, 214:23, 218:5, 218:10, 218:19</p> <p><b>Increase</b> [4] - 27:19, 33:5, 41:10, 248:22</p> <p><b>increased</b> [2] - 22:22,</p>	<p>247:7</p> <p><b>Increases</b> [1] - 32:4</p> <p><b>Increasing</b> [4] - 28:3, 31:20, 33:6, 249:4</p> <p><b>Incredibly</b> [1] - 110:23</p> <p><b>Incumbent</b> [1] - 144:10</p> <p><b>Incurred</b> [1] - 73:1</p> <p><b>Independence</b> [1] - 146:17</p> <p><b>independent</b> [2] - 64:21, 152:7</p> <p><b>independently</b> [1] - 37:9</p> <p><b>index</b> [1] - 150:1</p> <p><b>Indicated</b> [3] - 10:22, 140:25, 233:2</p> <p><b>Indicating</b> [2] - 69:15, 135:3</p> <p><b>Indisputable</b> [1] - 96:6</p> <p><b>Individual</b> [11] - 71:21, 71:23, 97:6, 97:18, 124:11, 134:10, 199:20, 199:23, 240:20, 243:15, 244:25</p> <p><b>Individuals</b> [1] - 94:22</p> <p><b>Industry</b> [1] - 36:25</p> <p><b>Inequities</b> [1] - 229:23</p> <p><b>Inexpensive</b> [2] - 94:22, 138:16</p> <p><b>Inexperienced</b> [1] - 116:23</p> <p><b>Influence</b> [17] - 66:8, 75:18, 81:13, 82:9, 88:2, 93:11, 96:12, 99:13, 101:14, 101:20, 102:24, 103:1, 103:17, 106:17, 108:23, 122:5, 125:21</p> <p><b>Influenced</b> [1] - 81:18</p> <p><b>Inform</b> [1] - 96:5</p> <p><b>informal</b> [3] - 2:13, 4:6, 100:19</p> <p><b>Information</b> [35] - 26:8, 26:18, 39:19, 48:2, 57:16, 62:1, 62:2, 70:13, 72:13, 72:18, 73:14, 82:24, 83:3, 83:4, 87:10, 93:3, 96:22, 114:16, 120:25, 121:9, 160:1, 163:7, 167:2, 174:7, 176:15, 197:18, 207:23, 209:2, 219:25, 220:11, 232:6, 232:9, 243:8, 243:25, 244:2</p>	<p><b>Information</b> [2] - 12:2, 93:22</p> <p><b>Informative</b> [3] - 93:15, 93:25, 104:6</p> <p><b>informing</b> [2] - 105:16, 106:8</p> <p><b>Informs</b> [1] - 105:8</p> <p><b>Initiative</b> [1] - 115:8</p> <p><b>Input</b> [6] - 108:4, 116:1, 116:5, 117:13, 117:14, 117:16, 117:18, 118:18</p> <p><b>inside</b> [1] - 250:8</p> <p><b>instance</b> [3] - 49:3, 59:11, 161:12</p> <p><b>instances</b> [1] - 25:24</p> <p><b>Instead</b> [1] - 228:16</p> <p><b>Institutional</b> [1] - 122:7</p> <p><b>Institutionalized</b> [1] - 80:18</p> <p><b>Instructed</b> [1] - 61:21</p> <p><b>Instructions</b> [1] - 64:6</p> <p><b>intend</b> [1] - 8:1</p> <p><b>intended</b> [7] - 60:16, 68:16, 100:19, 155:25, 156:1, 156:2, 170:14</p> <p><b>Intent</b> [6] - 42:6, 44:1, 97:9, 124:4, 124:10, 143:22</p> <p><b>interaction</b> [1] - 249:1</p> <p><b>Interest</b> [2] - 11:24, 66:4</p> <p><b>interested</b> [11] - 16:10, 47:8, 62:12, 62:17, 66:3, 105:16, 106:8, 107:21, 109:1, 139:20, 194:18</p> <p><b>interesting</b> [1] - 8:6</p> <p><b>interferes</b> [1] - 58:6</p> <p><b>Intergovernmental</b> [1] - 247:2</p> <p><b>interim</b> [1] - 69:24</p> <p><b>Interpret</b> [4] - 26:15, 134:2, 135:11, 220:6</p> <p><b>Interpretation</b> [7] - 50:3, 57:3, 125:21, 131:23, 212:23, 214:2, 220:13</p> <p><b>interpretations</b> [5] - 4:3, 56:1, 56:6, 227:19, 230:3</p> <p><b>Interrupted</b> [1] - 217:15</p> <p><b>Interruption</b> [1] - 52:12</p> <p><b>intricacies</b> [1] - 97:4</p>	<p><b>Introduce</b> [1] - 3:7</p> <p><b>invalid</b> [4] - 184:16, 184:20, 184:22, 184:24</p> <p><b>invalidated</b> [1] - 231:6</p> <p><b>Invest</b> [1] - 151:1</p> <p><b>Investigation</b> [1] - 229:22</p> <p><b>Invite</b> [3] - 73:16, 76:2, 153:12</p> <p><b>invited</b> [2] - 139:19, 139:22</p> <p><b>involve</b> [3] - 67:23, 242:18, 242:25</p> <p><b>involved</b> [10] - 14:4, 17:1, 22:2, 63:20, 90:20, 100:11, 122:9, 122:19, 246:15, 252:6</p> <p><b>involvement</b> [1] - 145:17</p> <p><b>iota</b> [1] - 29:18</p> <p><b>irrelevant</b> [2] - 193:11, 193:18</p> <p><b>issue</b> [41] - 51:15, 51:16, 69:16, 74:18, 90:24, 91:19, 119:16, 120:9, 120:16, 128:1, 132:11, 132:23, 134:4, 134:10, 139:8, 139:21, 141:22, 143:17, 143:24, 146:10, 149:22, 150:2, 150:12, 150:13, 150:14, 150:15, 151:19, 156:2, 157:20, 157:21, 168:18, 198:19, 206:13, 207:12, 210:1, 213:20, 214:13, 214:20, 217:16, 218:7</p> <p><b>issued</b> [7] - 119:18, 120:12, 121:14, 121:20, 124:8, 212:3, 221:12</p> <p><b>issues</b> [18] - 70:24, 128:8, 132:3, 132:25, 133:16, 133:17, 133:21, 133:24, 134:17, 135:11, 136:24, 138:19, 139:1, 156:16, 156:18, 211:21, 214:24, 221:18</p> <p><b>issuing</b> [1] - 69:11</p> <p><b>Items</b> [2] - 15:6, 55:10</p>	<p><b>itself</b> [3] - 96:11, 139:11, 195:24</p> <p><b>ivory</b> [1] - 148:16</p> <p style="text-align: center;"><b>J</b></p> <p><b>Jacksonville</b> [2] - 245:24, 246:2</p> <p><b>James</b> [14] - 62:18, 93:24, 104:5, 105:15, 106:7, 107:7, 107:20, 109:1, 109:16, 109:20, 110:9, 120:7, 123:2, 191:23</p> <p><b>Janice</b> [2] - 3:9, 4:21</p> <p><b>Janitor</b> [1] - 79:3</p> <p><b>January</b> [5] - 109:19, 110:3, 110:9, 111:1, 149:16</p> <p><b>Jay</b> [1] - 246:4</p> <p><b>Jeff</b> [3] - 47:2, 47:6, 71:15</p> <p><b>job</b> [14] - 39:11, 41:8, 45:9, 46:1, 53:25, 54:2, 56:16, 65:18, 81:5, 81:6, 81:8, 81:10, 81:14</p> <p><b>jobs</b> [11] - 27:25, 32:5, 33:10, 33:14, 36:20, 41:11, 64:23, 150:21, 150:22, 150:24</p> <p><b>Jobs</b> [2] - 72:8, 150:20</p> <p><b>Joe</b> [8] - 87:4, 169:10, 201:18, 201:22, 201:25, 202:1, 208:12, 208:17</p> <p><b>join</b> [1] - 73:16</p> <p><b>Joined</b> [2] - 212:7, 212:10</p> <p><b>JONES</b> [13] - 143:14, 145:10, 145:15, 145:20, 146:7, 146:11, 147:15, 149:20, 149:22, 151:4, 153:3, 153:20, 163:18</p> <p><b>Jones</b> [6] - 143:14, 153:6, 153:19, 163:14, 163:15, 209:17</p> <p><b>Jorge</b> [1] - 70:19</p> <p><b>Joseph</b> [2] - 94:17, 228:23</p> <p><b>Judge</b> [1] - 25:7</p> <p><b>Judge</b> [5] - 94:19, 136:9, 136:11, 149:18, 228:24</p>
--	--	--	--	---

<p><b>Judges</b> [1] - 228:20  <b>judicial</b> [4] - 136:4, 146:17, 158:15, 197:14  <b>July</b> [10] - 105:19, 105:25, 106:7, 106:20, 107:4, 107:12, 107:20, 147:18, 223:8  <b>Jump</b> [3] - 77:25, 78:4, 179:9  <b>June</b> [34] - 14:21, 52:9, 93:23, 94:4, 94:9, 94:13, 95:4, 96:16, 97:17, 98:8, 99:11, 99:16, 101:12, 101:16, 101:19, 102:13, 103:14, 103:21, 103:23, 104:4, 104:7, 104:12, 104:14, 104:16, 105:5, 105:8, 105:12, 105:15, 106:11, 107:5, 107:13, 114:10, 225:23, 230:25  <b>jurisdiction</b> [1] - 151:11  <b>jurisdictional</b> [2] - 26:15, 236:16  <b>jurisdictions</b> [1] - 27:11  <b>jury</b> [5] - 207:21, 229:17, 229:21, 230:5, 230:6  <b>Justification</b> [1] - 171:5  <b>justify</b> [1] - 89:14</p>	<p>77:3, 78:8, 79:2, 79:10, 79:23, 82:1, 87:22, 89:17, 93:24, 94:4, 94:9, 94:13, 95:5, 98:22, 99:11, 101:12, 104:4, 104:7, 104:13, 104:14, 105:9, 108:20, 111:15, 111:19, 112:21, 114:25, 116:1, 117:23, 118:23, 118:24, 118:25, 121:16, 147:18, 152:5, 156:12, 186:1, 190:15, 214:8, 214:11, 214:15, 225:23, 230:25  <b>Keller's</b> [1] - 114:2  <b>Kemp</b> [7] - 103:11, 104:17, 105:2, 105:10, 115:14, 115:23, 122:13  <b>kept</b> [1] - 109:13  <b>Kevin</b> [22] - 3:8, 4:4, 6:5, 48:11, 57:19, 58:2, 101:18, 103:10, 104:13, 104:16, 104:20, 105:1, 105:20, 105:23, 105:25, 108:22, 107:5, 108:21, 123:5, 170:13, 182:22, 217:11  <b>Kevin's</b> [1] - 123:16  <b>Key</b> [1] - 61:1  <b>kick</b> [1] - 129:5  <b>kicked</b> [1] - 128:18  <b>kids</b> [1] - 50:21  <b>kind</b> [23] - 12:21, 16:21, 27:3, 44:18, 73:13, 97:12, 120:5, 129:10, 130:12, 133:25, 148:14, 148:25, 155:21, 156:18, 166:5, 194:6, 195:5, 207:15, 223:12, 225:2, 225:3, 236:3, 245:21  <b>kinds</b> [2] - 22:10, 250:11  <b>knowing</b> [1] - 187:15  <b>knowingly</b> [1] - 221:6  <b>knowledge</b> [4] - 97:8, 97:12, 97:19, 110:21  <b>knowledgeable</b> [3] - 51:2, 78:19, 106:24</p>	<p><b>known</b> [6] - 94:1, 94:11, 104:7, 139:22, 205:8, 243:20  <b>knows</b> [3] - 66:5, 76:23, 143:1</p>	<p><b>L</b></p>	<p><b>lack</b> [4] - 18:19, 88:4, 90:22, 94:4  <b>ladles</b> [1] - 117:10  <b>lady</b> [2] - 80:1, 81:9  <b>laid</b> [3] - 151:6, 232:4, 239:20  <b>landing</b> [1] - 154:22  <b>language</b> [17] - 6:3, 6:7, 6:16, 6:17, 6:19, 8:18, 8:25, 10:23, 31:8, 31:9, 60:4, 85:4, 107:10, 141:25, 170:18, 170:20, 211:2  <b>large</b> [2] - 94:23, 202:12  <b>larger</b> [1] - 28:25  <b>Last</b> [1] - 207:20  <b>last</b> [48] - 2:18, 3:14, 10:13, 17:23, 18:8, 27:17, 33:13, 53:12, 60:14, 60:16, 61:20, 70:6, 70:17, 72:19, 76:10, 77:22, 82:6, 114:10, 115:21, 120:10, 120:14, 120:23, 120:24, 122:15, 122:17, 124:5, 124:16, 147:22, 149:16, 155:7, 170:8, 171:15, 177:1, 177:6, 177:22, 194:13, 194:24, 203:18, 210:23, 216:17, 220:22, 238:23, 251:23  <b>lastly</b> [1] - 218:25  <b>late</b> [2] - 6:23, 169:20  <b>law</b> [108] - 4:3, 12:17, 14:2, 17:13, 19:19, 20:11, 22:5, 23:4, 23:15, 24:13, 24:18, 26:14, 26:22, 27:5, 27:8, 29:25, 30:1, 30:4, 30:6, 30:7, 30:10, 35:25, 37:17, 37:19, 38:8, 40:5, 40:10, 40:11, 43:10, 43:13, 50:13, 55:14, 55:25, 56:12, 56:18,</p>	<p>57:11, 58:23, 58:24, 59:2, 60:4, 60:5, 61:23, 63:11, 63:13, 63:15, 74:9, 93:16, 96:6, 98:3, 101:4, 103:8, 118:5, 131:23, 132:8, 132:25, 133:9, 134:2, 134:17, 134:22, 135:11, 136:1, 144:9, 144:11, 144:16, 144:24, 148:25, 149:3, 150:5, 150:8, 163:5, 173:8, 174:2, 175:21, 176:13, 177:19, 182:11, 182:24, 183:2, 186:12, 189:19, 189:24, 190:13, 190:22, 208:15, 208:18, 208:23, 209:3, 212:24, 214:3, 219:13, 219:21, 219:23, 220:2, 220:4, 220:6, 220:13, 222:8, 227:6, 227:20, 229:3, 230:4, 231:14, 234:12, 234:13, 242:14, 246:10, 246:21  <b>Law</b> [7] - 8:16, 8:21, 9:24, 111:8, 127:16, 166:20, 168:2  <b>laws</b> [9] - 18:23, 20:13, 21:20, 21:24, 70:25, 178:6, 246:21, 249:1  <b>lawsuit</b> [1] - 213:3  <b>lawsuits</b> [1] - 245:18  <b>lawyer</b> [4] - 50:1, 86:10, 86:16, 90:5  <b>lawyers</b> [4] - 24:17, 63:18, 133:6, 135:19  <b>lay</b> [5] - 100:6, 100:20, 134:3, 134:5, 140:11  <b>leadership</b> [4] - 119:15, 123:9, 123:10, 123:18  <b>leading</b> [1] - 155:17  <b>learn</b> [3] - 50:23, 53:22, 112:23  <b>learned</b> [1] - 79:16  <b>learning</b> [2] - 25:3, 50:22  <b>least</b> [10] - 15:20, 29:4, 56:3, 117:23, 130:15, 131:9, 137:22, 157:22,</p>	<p>179:12, 188:20  <b>leather</b> [1] - 247:9  <b>leave</b> [9] - 3:2, 61:7, 74:2, 91:9, 171:3, 200:20, 219:8, 220:12, 220:22  <b>Leave</b> [1] - 42:14  <b>leaves</b> [1] - 221:6  <b>leaving</b> [1] - 32:15  <b>led</b> [1] - 101:24  <b>leeway</b> [1] - 23:5  <b>left</b> [3] - 74:3, 89:24, 139:24  <b>legal</b> [12] - 6:18, 14:1, 34:8, 62:16, 62:22, 95:24, 101:24, 213:23, 218:22, 219:16, 229:4, 239:21  <b>legalistic</b> [1] - 26:19  <b>legally</b> [4] - 215:2, 218:9, 218:13, 219:6  <b>Legislation</b> [5] - 141:25, 143:23, 219:18, 222:13, 224:16  <b>legislation</b> [5] - 27:2, 35:24, 49:22, 80:10, 80:23  <b>Legislative</b> [18] - 8:10, 8:13, 10:1, 25:21, 26:23, 42:5, 42:6, 43:25, 94:14, 95:6, 96:21, 98:12, 98:18, 100:22, 107:18, 127:9, 224:6, 229:2  <b>legislatively</b> [1] - 20:13  <b>Legislator's</b> [1] - 226:2  <b>Legislators</b> [2] - 10:2, 110:20  <b>Legislature</b> [28] - 12:13, 25:13, 26:1, 30:19, 33:5, 35:23, 39:7, 40:10, 43:5, 79:3, 80:21, 95:17, 100:8, 126:25, 127:19, 129:14, 141:4, 141:14, 149:8, 173:2, 219:14, 222:8, 226:9, 227:5, 227:21, 227:23, 235:9, 238:8  <b>Legislature's</b> [7] - 99:4, 99:5, 102:5, 225:25, 227:2, 227:4, 227:17  <b>length</b> [2] - 212:20,</p>
<p><b>K</b></p>						
<p><b>Kama</b> [13] - 79:14, 79:24, 79:25, 81:2, 82:8, 82:10, 88:7, 101:18, 103:10, 105:5, 105:12, 105:22, 106:3  <b>Katie</b> [1] - 58:9  <b>Kaysl</b> [1] - 247:16  <b>keen</b> [1] - 29:13  <b>keep</b> [14] - 16:16, 37:7, 58:3, 59:1, 59:14, 60:5, 60:7, 65:21, 92:18, 179:12, 180:17, 193:7, 204:6, 209:9  <b>keeps</b> [1] - 137:6  <b>Keller</b> [43] - 76:20,</p>						



<p>214:9  <b>less</b> [17] - 18:25,  23:11, 24:6, 31:9,  48:22, 49:11, 50:3,  54:6, 71:4, 71:20,  74:21, 93:3, 93:20,  101:8, 106:5, 228:6,  239:13  <b>lessening</b> [1] - 26:18  <b>lest</b> [1] - 149:11  <b>letter</b> [4] - 41:15, 87:3,  87:4, 87:7  <b>letters</b> [2] - 11:13,  14:22  <b>letting</b> [1] - 221:18  <b>level</b> [6] - 21:25, 73:1,  95:25, 144:21,  241:10, 243:13  <b>Levy</b> [51] - 87:4,  87:14, 101:25,  102:17, 104:21,  106:18, 112:14,  113:23, 121:10,  126:6, 126:14,  131:20, 146:5,  155:15, 160:20,  160:23, 161:16,  164:17, 164:18,  166:11, 166:23,  166:24, 166:25,  167:1, 167:23,  168:4, 168:8,  168:25, 172:14,  172:17, 209:13,  211:12, 215:17,  216:16, 217:13,  221:16, 221:23,  222:2, 222:17,  222:22, 223:5,  223:12, 227:3,  228:14, 228:25,  230:21, 231:2,  231:8, 233:5, 235:23  <b>LEVY</b> [6] - 211:14,  211:18, 215:19,  215:25, 216:22,  217:14  <b>Levy's</b> [4] - 87:7,  113:1, 161:17,  225:18  <b>liability</b> [1] - 71:25  <b>liberty</b> [1] - 147:5  <b>license</b> [1] - 72:24  <b>licensed</b> [1] - 60:24  <b>lie</b> [1] - 83:9  <b>lieutenant</b> [1] - 211:1  <b>Life</b> [1] - 147:6  <b>life</b> [2] - 6:24, 87:24  <b>light</b> [3] - 71:1,  108:17, 238:14</p>	<p><b>likely</b> [1] - 71:20  <b>Likewise</b> [2] - 220:5,  220:16  <b>likewise</b> [2] - 26:12,  218:18  <b>limbs</b> [1] - 74:24  <b>limiting</b> [1] - 26:8  <b>fine</b> [41] - 2:8, 4:14,  12:8, 40:18, 43:8,  49:1, 50:11, 54:20,  54:23, 55:24, 58:20,  59:11, 87:12,  115:20, 164:21,  166:2, 178:8, 178:9,  179:10, 179:15,  179:16, 181:3,  181:4, 181:5,  185:24, 189:18,  189:22, 189:23,  191:16, 191:17,  192:2, 209:13,  217:5, 239:19  <b>Line</b> [2] - 165:7,  179:15  <b>line-by-line</b> [1] - 50:11  <b>lines</b> [4] - 4:14,  179:20, 182:9, 210:8  <b>link</b> [3] - 59:2, 105:20,  107:21  <b>links</b> [3] - 17:11,  17:12, 59:5  <b>list</b> [2] - 62:12, 97:24  <b>listed</b> [1] - 70:23  <b>listen</b> [7] - 64:19,  67:12, 67:13, 83:20,  181:5, 232:11,  251:12  <b>listened</b> [1] - 177:1  <b>listening</b> [7] - 11:14,  33:11, 62:7, 67:3,  67:8, 116:16, 213:6  <b>literally</b> [1] - 37:8  <b>litigant</b> [2] - 217:17,  217:19  <b>litigate</b> [1] - 148:24  <b>litigated</b> [1] - 138:8  <b>litigating</b> [1] - 35:15  <b>litigation</b> [6] - 63:23,  64:2, 87:7, 153:11,  169:7, 169:12  <b>litigator</b> [1] - 222:1  <b>litigators</b> [1] - 100:5  <b>live</b> [2] - 150:23,  152:22  <b>lively</b> [1] - 155:20  <b>living</b> [2] - 40:9,  148:23  <b>lo</b> [1] - 174:15  <b>lobbying</b> [1] - 101:24  <b>lobbyists</b> [2] - 102:1,</p>	<p>125:25  <b>local</b> [14] - 33:7,  72:12, 73:1, 94:19,  96:5, 100:1, 101:21,  102:10, 102:24,  103:2, 108:12,  109:24, 110:10,  110:12  <b>Local</b> [2] - 146:20,  146:22  <b>located</b> [1] - 250:22  <b>locked</b> [1] - 241:11  <b>logic</b> [5] - 99:8,  172:10, 172:22,  227:13, 231:14  <b>long-sitting</b> [1] -  49:13  <b>longstanding</b> [2] -  192:22, 230:22  <b>longstanding-</b>  <b>professionally</b> [1] -  192:22  <b>Look</b> [2] - 161:16,  239:13  <b>look</b> [47] - 13:5, 29:24,  34:25, 37:1, 40:1,  41:2, 51:15, 58:19,  59:10, 68:24, 74:19,  107:2, 126:15,  134:1, 134:15,  138:3, 150:7,  151:21, 160:17,  160:22, 161:11,  161:14, 162:3,  164:3, 165:16,  166:18, 166:20,  166:22, 166:23,  167:4, 168:1, 179:7,  181:17, 190:2,  195:1, 195:2, 200:5,  201:13, 206:5,  208:21, 210:19,  214:10, 221:11,  226:17, 236:1,  244:12  <b>looked</b> [9] - 48:17,  174:11, 184:12,  192:9, 194:14,  194:25, 195:3,  200:19  <b>looking</b> [14] - 12:1,  20:19, 36:4, 43:22,  57:9, 89:22, 127:6,  163:20, 164:2,  166:10, 209:22,  226:15, 239:25,  245:21  <b>looks</b> [3] - 20:3, 50:8,  122:4  <b>loop</b> [2] - 106:24,</p>	<p>106:25  <b>Lopez</b> [1] - 210:25  <b>Loren</b> [22] - 87:4, 87:7,  87:14, 101:25,  102:17, 104:21,  106:18, 113:1,  113:23, 121:10,  126:14, 148:23,  160:20, 160:23,  166:23, 166:24,  166:25, 167:1,  168:4, 168:7, 216:5  <b>lose</b> [6] - 41:3, 41:4,  41:17, 158:8, 158:9  <b>lost</b> [2] - 72:14, 228:25  <b>loudly</b> [1] - 215:22  <b>low</b> [1] - 230:8  <b>lower</b> [4] - 229:13,  244:10, 244:15,  244:16  <b>loyalties</b> [1] - 82:8  <b>lucky</b> [1] - 131:14  <b>lunch</b> [5] - 92:15,  130:18, 140:16,  140:17, 142:5</p>	<p>148:12, 156:5,  193:6, 208:7, 211:8,  222:5, 222:9,  222:10, 223:7,  226:15, 231:17,  236:13, 236:16  <b>magnitude</b> [1] - 78:23  <b>mall</b> [18] - 4:20, 4:21,  4:22, 4:24, 70:20,  71:16, 72:2, 72:5,  72:8, 76:10, 104:5,  107:14, 114:15,  143:11, 170:12,  185:12, 216:19  <b>mailing</b> [1] - 63:24  <b>mails</b> [6] - 14:22,  68:25, 155:7, 223:1,  231:24, 253:15  <b>major</b> [9] - 6:24, 7:24,  8:7, 8:17, 10:6,  10:20, 100:13,  145:22, 236:10  <b>majority</b> [4] - 27:6,  213:7, 222:5, 222:10  <b>male</b> [1] - 252:5  <b>malpractice</b> [1] -  246:17  <b>man</b> [1] - 152:6  <b>manage</b> [1] - 109:17  <b>managed</b> [1] - 109:20  <b>management's</b> [1] -  109:23  <b>mandated</b> [1] - 243:6  <b>mandatory</b> [1] -  156:13  <b>MANDLER</b> [35] -  46:22, 46:24, 47:2,  47:22, 48:1, 48:7,  48:19, 49:9, 52:15,  52:19, 53:15, 54:12,  56:6, 57:20, 112:5,  112:9, 112:25,  113:8, 113:17,  113:24, 114:11,  114:14, 114:22,  114:25, 115:9,  115:25, 116:3,  116:6, 116:16,  117:8, 118:14,  122:1, 123:19,  124:1, 125:12  <b>Mandler</b> [16] - 36:10,  46:16, 46:17, 46:19,  47:2, 47:6, 52:7,  52:13, 58:4, 58:22,  86:22, 111:25,  112:3, 112:4, 125:8  <b>Mandler's</b> [1] - 58:21  <b>manifestly</b> [1] -  136:13</p>
<b>M</b>				
			<p><b>ma'am</b> [2] - 155:8,  189:5  <b>magistrate</b> [33] -  22:15, 26:9, 34:19,  35:1, 38:3, 39:24,  49:12, 50:19, 50:25,  51:14, 51:17, 55:4,  55:11, 57:10, 63:14,  69:10, 69:13, 70:1,  135:12, 149:24,  177:3, 177:7,  183:13, 195:25,  197:4, 198:14,  200:14, 210:10,  210:13, 236:19,  251:16, 251:22  <b>Magistrates</b> [1] - 35:7  <b>magistrates</b> [52] -  17:19, 18:12, 34:11,  37:22, 41:1, 44:22,  48:24, 49:13, 49:24,  50:10, 52:2, 53:4,  53:18, 54:15, 54:24,  55:16, 56:11, 56:20,  59:5, 59:13, 59:19,  61:21, 64:4, 64:23,  69:17, 74:9, 99:9,  101:2, 126:1, 133:5,  133:23, 134:12,  134:17, 135:5,  138:25, 141:15,  141:16, 146:19,</p>	

<p><b>manipulate</b> [1] - 237:12</p> <p><b>manners</b> [1] - 14:24</p> <p><b>manual</b> [25] - 7:3, 17:22, 21:2, 26:5, 37:8, 37:10, 44:23, 47:19, 50:7, 50:14, 50:15, 51:2, 51:25, 52:22, 53:23, 57:4, 58:14, 113:3, 141:15, 141:23, 144:13, 149:25, 222:9, 222:13</p> <p><b>manuals</b> [2] - 37:14, 59:9</p> <p><b>Marcum</b> [2] - 154:4, 154:6</p> <p><b>mark</b> [1] - 166:8</p> <p><b>marked</b> [1] - 160:24</p> <p><b>market</b> [32] - 18:15, 72:12, 172:5, 172:7, 211:5, 215:2, 218:7, 219:5, 226:24, 228:6, 228:11, 228:18, 228:22, 229:5, 229:7, 230:1, 230:19, 232:20, 233:2, 233:6, 234:23, 234:24, 235:1, 236:20, 236:21, 236:22, 236:23, 237:1, 239:9, 239:12, 243:3</p> <p><b>market-derived</b> [1] - 235:1</p> <p><b>Marrero</b> [2] - 70:19, 71:13</p> <p><b>Marshall</b> [11] - 96:14, 107:6, 108:21, 110:20, 110:24, 120:6, 120:11, 122:25, 130:3, 142:17, 253:24</p> <p><b>Marvin</b> [1] - 36:15</p> <p><b>Mary</b> [1] - 5:22</p> <p><b>Mass</b> [1] - 242:11</p> <p><b>mass</b> [19] - 201:2, 219:2, 233:14, 240:7, 240:18, 241:13, 242:3, 242:10, 243:18, 243:23, 244:5, 244:8, 244:21, 244:24, 245:6, 245:9, 245:15, 247:12, 248:2</p> <p><b>massively</b> [1] - 138:19</p> <p><b>masters</b> [8] - 25:16, 25:23, 26:6, 26:11, 29:17, 222:14</p>	<p><b>Mastrolanni</b> [1] - 25:8</p> <p><b>material</b> [11] - 18:3, 18:22, 23:9, 23:23, 43:3, 50:24, 64:22, 74:23, 115:18, 170:24, 232:12</p> <p><b>Materials</b> [1] - 2:14</p> <p><b>materials</b> [29] - 3:20, 3:25, 4:2, 21:19, 42:21, 43:21, 74:1, 74:21, 81:19, 87:8, 94:15, 95:4, 96:8, 101:11, 105:2, 105:10, 107:17, 107:18, 108:2, 142:20, 144:14, 145:9, 170:15, 218:5, 218:8, 218:15, 221:3, 221:6, 221:10</p> <p><b>mathematician</b> [1] - 196:8</p> <p><b>mathematics</b> [1] - 196:5</p> <p><b>Mathias</b> [1] - 149:7</p> <p><b>matter</b> [14] - 118:17, 127:3, 128:21, 143:21, 152:19, 166:10, 172:10, 193:19, 220:24, 221:1, 237:23, 244:21, 249:17, 250:13</p> <p><b>matters</b> [3] - 61:22, 94:24, 221:7</p> <p><b>Mazurek</b> [1] - 149:12</p> <p><b>McAdams</b> [14] - 62:18, 93:24, 104:5, 105:15, 106:7, 107:7, 107:20, 109:1, 109:16, 109:21, 110:9, 120:7, 123:2, 191:24</p> <p><b>mean</b> [38] - 6:13, 13:15, 19:13, 21:14, 29:22, 30:5, 30:6, 30:17, 35:21, 38:6, 43:20, 52:8, 61:10, 61:15, 115:12, 117:6, 119:5, 123:25, 125:3, 127:24, 131:9, 139:4, 150:18, 151:5, 159:8, 166:23, 168:19, 190:7, 200:5, 204:9, 206:3, 206:18, 209:3, 232:8, 232:11, 232:14, 234:3, 247:25</p>	<p><b>meaningful</b> [7] - 23:11, 95:19, 97:13, 97:19, 99:19, 102:3, 111:16</p> <p><b>means</b> [1] - 70:7</p> <p><b>measured</b> [1] - 234:9</p> <p><b>measures</b> [2] - 3:17, 3:21</p> <p><b>measuring</b> [1] - 243:13</p> <p><b>meet</b> [5] - 27:2, 47:17, 47:22, 114:11, 248:14</p> <p><b>meeting</b> [60] - 2:18, 2:20, 8:10, 9:6, 9:13, 10:4, 53:3, 77:22, 78:11, 79:21, 108:3, 108:6, 108:18, 109:6, 110:17, 110:24, 111:2, 111:5, 122:17, 122:23, 122:25, 127:15, 129:20, 130:4, 131:3, 142:13, 143:2, 155:13, 171:15, 186:18, 186:20, 187:8, 187:15, 187:16, 187:19, 188:10, 188:17, 188:21, 195:25, 203:24, 204:3, 204:4, 204:12, 204:13, 204:15, 204:19, 204:21, 205:4, 205:10, 206:12, 206:21, 207:10, 207:12, 207:14, 220:17, 225:3, 225:9, 254:3, 254:12</p> <p><b>meetings</b> [14] - 8:19, 9:9, 9:11, 16:8, 16:12, 16:14, 30:24, 39:1, 39:13, 111:18, 120:12, 120:17, 139:18</p> <p><b>Mellichamp</b> [9] - 87:5, 94:18, 158:13, 159:21, 201:18, 208:12, 208:17, 213:15, 228:23</p> <p><b>MEMBER</b> [32] - 11:7, 11:11, 12:3, 12:7, 46:16, 80:12, 82:15, 87:15, 87:19, 129:2, 131:7, 132:13, 139:25, 140:1, 140:4, 141:2, 142:6, 151:3, 153:18,</p>	<p>169:14, 169:20, 169:24, 183:20, 183:23, 191:14, 191:17, 201:10, 216:4, 216:7, 252:13, 252:15, 253:18</p> <p><b>member</b> [3] - 36:16, 38:17, 93:1</p> <p><b>MEMBERS</b> [1] - 132:14</p> <p><b>members</b> [4] - 36:25, 38:10, 98:9, 99:17</p> <p><b>memo</b> [10] - 105:16, 106:8, 107:21, 109:2, 110:10, 146:4, 214:21, 214:28, 218:6, 219:7</p> <p><b>memoranda</b> [1] - 77:8</p> <p><b>memos</b> [2] - 113:23, 212:19</p> <p><b>mention</b> [4] - 3:20, 31:15, 31:19, 111:2</p> <p><b>mentioned</b> [11] - 15:6, 20:22, 42:19, 48:14, 60:14, 112:20, 120:10, 124:5, 126:1, 164:8, 218:6</p> <p><b>mercy</b> [2] - 64:15, 64:16</p> <p><b>mere</b> [1] - 51:4</p> <p><b>merits</b> [2] - 137:12, 214:5</p> <p><b>Merriam</b> [1] - 103:24</p> <p><b>Merriam-Webster</b> [1] - 103:24</p> <p><b>MESSAGE</b> [1] - 223:23</p> <p><b>met</b> [4] - 96:1, 112:12, 123:11, 128:16</p> <p><b>method</b> [1] - 132:4</p> <p><b>methodology</b> [2] - 158:20, 158:23</p> <p><b>Miami</b> [4] - 41:14, 47:6, 128:13, 210:24</p> <p><b>microphone</b> [1] - 5:19</p> <p><b>mid</b> [8] - 96:16, 97:17, 98:8, 99:16, 101:16, 101:19, 102:13, 103:21, 103:23</p> <p><b>mid-June</b> [9] - 96:16, 97:17, 98:8, 99:16, 101:16, 101:19, 102:13, 103:21, 103:23</p> <p><b>might</b> [32] - 4:19, 13:13, 20:25, 21:1, 22:22, 29:23, 39:25, 48:24, 52:17, 81:17, 100:6, 135:17,</p>	<p>145:2, 161:21, 166:3, 166:4, 166:9, 179:2, 183:7, 184:2, 184:13, 195:11, 196:21, 233:25, 234:1, 234:11, 234:19, 240:1, 244:14, 244:15, 244:16, 247:19</p> <p><b>Mike</b> [3] - 3:11, 4:9, 58:3</p> <p><b>millage</b> [4] - 248:13, 248:17, 248:24</p> <p><b>million</b> [1] - 29:4</p> <p><b>mimic</b> [2] - 195:10, 196:25</p> <p><b>mind</b> [8] - 5:18, 31:12, 55:3, 127:8, 173:18, 215:25, 216:19, 216:21</p> <p><b>mindset</b> [1] - 16:22</p> <p><b>mlne</b> [1] - 72:13</p> <p><b>minimal</b> [1] - 76:8</p> <p><b>minium</b> [2] - 117:24, 147:21</p> <p><b>minor</b> [4] - 10:20, 19:17, 115:16, 224:15</p> <p><b>minute</b> [11] - 2:5, 3:6, 36:11, 46:21, 72:19, 89:19, 153:8, 217:4, 240:11, 240:25, 242:2</p> <p><b>minutes</b> [5] - 90:9, 92:9, 92:14, 205:3, 253:10</p> <p><b>mislead</b> [1] - 108:21</p> <p><b>misleading</b> [1] - 10:11</p> <p><b>misled</b> [1] - 79:23</p> <p><b>misrepresenting</b> [4] - 74:9, 74:17, 75:6, 110:21</p> <p><b>missed</b> [1] - 138:4</p> <p><b>missing</b> [2] - 197:8, 197:10</p> <p><b>misstated</b> [1] - 75:2</p> <p><b>mistake</b> [1] - 42:13</p> <p><b>Misters</b> [1] - 228:25</p> <p><b>mixed</b> [3] - 34:19, 34:21, 172:18</p> <p><b>mixed-use</b> [2] - 34:19, 34:21</p> <p><b>Mobley</b> [1] - 119:1</p> <p><b>model</b> [1] - 238:24</p> <p><b>modelling</b> [1] - 219:2</p> <p><b>modified</b> [4] - 94:14, 95:5, 101:12, 213:13</p> <p><b>modular</b> [2] - 128:22, 165:19</p> <p><b>Module</b> [3] - 11:23,</p>
---	--	---	---	--

<p>183:9, 190:3  <b>module</b> [36] - 2:22, 3:2, 5:25, 8:24, 19:23, 35:20, 39:23, 44:21, 59:11, 59:22, 71:8, 92:19, 104:18, 104:19, 104:20, 105:4, 170:9, 173:13, 177:16, 177:23, 178:8, 180:22, 183:5, 183:8, 183:15, 184:1, 184:15, 189:4, 189:18, 190:11, 190:12, 190:22, 208:23, 223:11, 232:10  <b>modules</b> [12] - 2:23, 8:5, 10:6, 10:10, 10:17, 29:2, 29:16, 39:22, 64:8, 71:3, 105:7, 105:13  <b>mom</b> [8] - 94:23, 99:22, 100:11, 101:23, 171:13, 183:10, 183:14, 194:18  <b>mom-and-pop</b> [7] - 94:23, 99:22, 100:11, 101:23, 171:13, 183:14, 194:18  <b>mom-pop</b> [1] - 183:10  <b>moment</b> [1] - 92:6  <b>money</b> [8] - 27:8, 29:14, 33:3, 33:6, 35:14, 40:15, 41:11, 46:2  <b>Monroe</b> [15] - 79:14, 79:24, 79:25, 81:2, 82:8, 82:10, 88:7, 101:18, 103:10, 105:5, 105:12, 106:3, 114:12, 115:1, 115:3  <b>Monroe's</b> [1] - 105:22  <b>month</b> [6] - 2:18, 75:15, 78:21, 82:6, 120:24  <b>months</b> [12] - 24:19, 33:13, 78:9, 78:16, 108:6, 109:10, 117:5, 120:15, 127:1, 148:7, 202:11, 220:18  <b>Moreland</b> [4] - 107:7, 107:14, 107:24, 123:1  <b>morning</b> [14] - 2:2, 2:6, 2:9, 2:12, 2:16,</p>	<p>3:4, 4:11, 4:12, 73:8, 75:24, 77:1, 131:21, 146:14, 188:2  <b>most</b> [28] - 27:10, 29:9, 30:13, 35:14, 55:2, 78:19, 93:25, 94:1, 96:25, 100:11, 104:6, 106:24, 115:21, 119:4, 119:5, 126:17, 128:15, 133:8, 138:10, 145:6, 152:6, 155:13, 159:11, 165:13, 218:19, 218:21, 229:12, 247:4  <b>Most</b> [2] - 34:12, 36:25  <b>mother</b> [1] - 46:5  <b>motions</b> [1] - 97:7  <b>motivation</b> [1] - 137:20  <b>move</b> [3] - 46:12, 61:16, 154:1  <b>moved</b> [1] - 184:2  <b>Moving</b> [1] - 110:16  <b>moving</b> [2] - 73:21, 151:12  <b>MOYES</b> [246] - 2:2, 2:9, 4:4, 4:17, 4:24, 5:18, 6:4, 6:8, 7:6, 7:10, 7:18, 7:21, 8:22, 9:2, 9:5, 9:8, 9:11, 9:15, 10:12, 10:18, 12:6, 14:11, 14:25, 15:4, 15:7, 15:11, 15:14, 15:23, 31:12, 31:15, 32:8, 32:10, 32:18, 34:17, 34:21, 36:7, 45:5, 46:13, 46:17, 46:19, 46:23, 47:20, 49:8, 52:7, 52:13, 52:17, 52:23, 54:10, 56:5, 58:4, 60:12, 60:22, 61:9, 61:14, 65:6, 65:15, 65:21, 66:10, 66:15, 66:19, 66:24, 67:6, 67:11, 67:17, 67:25, 68:11, 68:18, 68:24, 72:5, 73:7, 73:20, 76:12, 76:17, 76:21, 76:24, 77:12, 77:17, 77:21, 78:3, 82:12, 82:14, 82:17, 82:19, 82:21, 82:25, 83:4, 83:9, 83:19, 83:24, 84:4, 84:7, 84:12, 84:14, 84:18, 84:22, 84:25, 85:11, 85:16, 86:22, 88:16,</p>	<p>88:21, 88:24, 89:1, 89:3, 89:5, 89:8, 89:10, 89:13, 89:18, 90:1, 90:8, 90:10, 90:14, 90:16, 91:3, 92:8, 92:13, 111:25, 112:7, 112:22, 113:4, 113:12, 114:24, 115:2, 115:12, 116:2, 117:2, 118:10, 118:16, 122:14, 123:24, 124:3, 125:8, 125:14, 126:3, 126:10, 126:14, 126:17, 129:18, 131:2, 131:9, 140:19, 142:10, 143:4, 153:6, 153:19, 154:13, 154:17, 154:21, 157:25, 163:14, 170:2, 173:20, 173:24, 174:6, 174:21, 175:2, 175:6, 175:15, 175:18, 175:23, 176:4, 176:24, 177:20, 178:1, 178:4, 178:10, 178:13, 178:15, 178:21, 179:2, 179:7, 179:12, 179:15, 179:20, 179:25, 180:3, 180:5, 180:10, 180:15, 180:18, 180:24, 181:4, 181:10, 181:13, 181:21, 182:4, 182:7, 182:12, 182:17, 182:20, 187:12, 188:9, 188:18, 191:9, 191:18, 191:20, 191:23, 192:3, 192:6, 193:2, 193:7, 193:16, 193:18, 193:22, 203:11, 203:17, 204:11, 204:18, 204:25, 205:12, 205:16, 206:7, 206:11, 206:18, 207:8, 207:11, 207:19, 208:24, 209:7, 209:11, 211:11, 211:15, 215:8, 215:17, 215:22, 216:1, 216:6, 216:9,</p>	<p>216:24, 217:3, 217:11, 221:16, 222:24, 223:21, 223:25, 224:20, 224:23, 225:4, 225:7, 231:22, 239:17, 245:10, 253:2, 253:5, 253:21  <b>Moyes</b> [27] - 2:10, 45:4, 47:4, 47:16, 52:5, 52:19, 65:19, 75:15, 92:2, 93:25, 101:18, 103:10, 104:5, 105:9, 107:8, 109:21, 112:19, 114:22, 116:16, 117:8, 122:12, 170:5, 174:18, 179:23, 187:11, 211:19, 221:14  <b>MR</b> [674] - 2:2, 2:6, 2:9, 3:8, 3:11, 3:13, 4:4, 4:12, 4:17, 4:22, 4:24, 5:13, 5:15, 5:18, 5:20, 6:4, 6:6, 6:8, 6:11, 6:12, 6:14, 6:15, 6:17, 6:20, 6:21, 7:6, 7:8, 7:9, 7:10, 7:11, 7:13, 7:15, 7:16, 7:18, 7:20, 7:21, 7:22, 8:22, 8:25, 9:2, 9:4, 9:5, 9:6, 9:8, 9:10, 9:11, 9:13, 9:15, 9:16, 9:18, 9:20, 9:22, 9:23, 9:25, 10:1, 10:12, 10:16, 10:18, 10:21, 10:25, 11:1, 11:2, 11:3, 11:4, 11:8, 11:9, 11:10, 11:12, 11:15, 11:16, 11:17, 11:21, 11:23, 11:25, 12:1, 12:5, 12:6, 12:8, 12:10, 12:11, 12:20, 12:21, 12:23, 13:1, 13:2, 13:3, 13:4, 13:7, 13:9, 13:10, 13:14, 13:15, 13:17, 13:19, 13:21, 13:22, 13:25, 14:1, 14:6, 14:8, 14:9, 14:11, 14:14, 14:25, 15:1, 15:4, 15:5, 15:7, 15:9, 15:11, 15:13, 15:14, 15:22, 15:23, 16:1, 20:20, 20:21, 20:22, 21:3, 21:4, 21:7, 21:10, 21:13, 21:15, 21:18, 22:2, 22:3, 22:4, 22:7,</p>	<p>22:8, 22:11, 22:19, 23:2, 23:22, 23:23, 24:1, 24:5, 24:8, 24:11, 24:13, 24:15, 24:17, 24:20, 25:2, 25:6, 31:11, 31:12, 31:14, 31:15, 32:7, 32:8, 32:9, 32:10, 32:11, 32:18, 32:19, 34:17, 34:18, 34:21, 34:23, 36:7, 36:14, 42:16, 42:18, 42:19, 42:23, 42:24, 43:7, 43:12, 43:13, 43:16, 43:17, 43:20, 43:25, 44:4, 44:5, 44:7, 44:8, 45:5, 45:6, 45:23, 45:24, 46:13, 46:17, 46:18, 46:19, 46:22, 46:23, 46:24, 47:2, 47:20, 47:22, 47:25, 48:1, 48:4, 48:7, 48:9, 48:19, 49:8, 49:9, 52:7, 52:13, 52:15, 52:17, 52:19, 52:23, 53:15, 54:10, 54:12, 56:5, 56:6, 57:19, 57:20, 57:23, 58:4, 60:12, 60:22, 61:9, 61:14, 65:6, 65:15, 65:21, 66:10, 66:15, 66:19, 66:24, 67:6, 67:11, 67:17, 67:25, 68:11, 68:18, 68:24, 72:5, 73:7, 73:8, 73:20, 73:21, 76:12, 76:13, 76:17, 76:18, 76:21, 76:22, 76:24, 76:25, 77:12, 77:13, 77:17, 77:19, 77:21, 77:23, 78:3, 78:4, 80:14, 82:12, 82:13, 82:14, 82:16, 82:17, 82:18, 82:19, 82:20, 82:21, 82:23, 82:25, 83:2, 83:4, 83:6, 83:9, 83:11, 83:13, 83:14, 83:15, 83:17, 83:19, 83:22, 83:24, 84:1, 84:3, 84:4, 84:6, 84:7, 84:10, 84:12, 84:13, 84:14, 84:16, 84:18, 84:20, 84:22, 84:23, 84:25, 85:3, 85:8, 85:9, 85:11, 85:12, 85:14, 85:15, 85:16, 85:18, 85:21, 85:23, 85:25, 86:3, 86:5, 86:8, 86:9, 86:11, 86:13, 86:15,</p>
---	--	--	--	--

86:16, 86:17, 86:20, 86:22, 86:24, 87:16, 87:20, 88:16, 88:18, 88:21, 88:23, 88:24, 88:25, 89:1, 89:2, 89:3, 89:4, 89:5, 89:6, 89:8, 89:9, 89:10, 89:11, 89:13, 89:14, 89:18, 89:19, 90:1, 90:2, 90:8, 90:9, 90:10, 90:12, 90:14, 90:15, 90:16, 90:19, 91:3, 91:4, 92:7, 92:8, 92:13, 111:25, 112:5, 112:7, 112:9, 112:22, 112:25, 113:4, 113:8, 113:12, 113:17, 113:19, 113:24, 114:3, 114:11, 114:13, 114:14, 114:17, 114:22, 114:24, 114:25, 115:2, 115:9, 115:12, 115:25, 116:2, 116:3, 116:4, 116:6, 116:7, 116:16, 117:2, 117:8, 118:10, 118:14, 118:16, 122:1, 122:14, 123:19, 123:24, 124:1, 124:3, 125:8, 125:12, 125:14, 125:16, 126:3, 126:5, 126:10, 126:12, 126:14, 126:16, 126:17, 126:20, 129:3, 129:18, 130:21, 130:24, 130:25, 131:2, 131:9, 131:11, 132:18, 140:3, 140:5, 140:17, 140:19, 140:21, 141:3, 142:8, 142:10, 142:15, 143:4, 143:14, 144:19, 145:10, 145:12, 145:15, 145:19, 145:20, 146:6, 146:7, 146:10, 146:11, 147:13, 147:15, 149:15, 149:20, 149:21, 149:22, 151:4, 153:3, 153:6, 153:8, 153:19, 153:20, 154:11, 154:13,	154:17, 154:21, 157:25, 161:5, 161:9, 161:18, 161:20, 161:24, 162:3, 162:9, 162:12, 162:14, 162:19, 163:11, 163:14, 163:15, 163:18, 163:19, 164:1, 164:7, 164:14, 164:20, 164:24, 165:3, 165:6, 165:9, 165:11, 165:18, 165:23, 166:13, 166:17, 167:6, 168:18, 168:23, 169:3, 169:7, 169:9, 169:15, 169:18, 169:22, 170:2, 173:20, 173:24, 173:25, 174:6, 174:21, 175:2, 175:6, 175:15, 175:18, 175:23, 176:4, 176:6, 176:24, 177:20, 178:1, 178:4, 178:10, 178:13, 178:15, 178:21, 179:2, 179:7, 179:12, 179:15, 179:20, 179:25, 180:3, 180:5, 180:10, 180:15, 180:18, 180:24, 181:4, 181:10, 181:13, 181:21, 182:4, 182:7, 182:12, 182:17, 182:20, 182:25, 183:12, 183:17, 183:22, 183:24, 184:3, 184:5, 184:16, 184:18, 185:6, 185:10, 185:13, 185:16, 185:19, 186:3, 186:6, 186:13, 186:21, 186:25, 187:4, 187:9, 187:12, 187:17, 188:5, 188:7, 188:9, 188:18, 188:22, 189:7, 189:13, 189:20, 189:25, 190:4, 190:8, 190:14, 190:20, 190:21, 190:23, 191:9, 191:18, 191:20, 191:23,	192:3, 192:6, 193:2, 193:7, 193:16, 193:18, 193:22, 194:5, 194:13, 194:22, 195:11, 195:20, 196:6, 196:15, 197:24, 198:4, 198:8, 198:12, 198:17, 199:3, 199:14, 200:1, 200:18, 201:2, 201:7, 201:12, 201:21, 202:4, 202:6, 202:7, 203:11, 203:17, 204:11, 204:18, 204:25, 205:12, 205:16, 206:7, 206:11, 206:18, 207:8, 207:11, 207:19, 208:24, 209:6, 209:7, 209:10, 209:11, 209:15, 211:11, 211:14, 211:15, 211:18, 215:8, 215:13, 215:17, 215:19, 215:22, 215:25, 216:1, 216:6, 216:9, 216:22, 216:24, 217:1, 217:3, 217:11, 217:14, 221:16, 221:21, 222:24, 223:4, 223:21, 223:25, 224:18, 224:20, 224:22, 224:23, 225:1, 225:4, 225:6, 225:7, 231:22, 232:2, 239:17, 239:18, 245:10, 245:11, 245:14, 245:15, 250:6, 250:7, 250:18, 250:20, 252:16, 253:2, 253:5, 253:20, 253:21 <b>MS</b> <sup>[167]</sup> - 3:9, 58:9, 60:23, 61:12, 61:17, 65:8, 65:17, 65:23, 66:12, 66:17, 66:21, 67:3, 67:8, 67:14, 67:20, 68:3, 68:13, 68:19, 72:4, 92:22, 125:7, 142:11, 142:16, 155:10, 158:6, 159:2, 161:7, 161:10, 161:19, 161:21, 162:1, 162:6, 162:10,	162:13, 162:16, 162:20, 163:24, 164:2, 164:9, 164:15, 164:23, 165:1, 165:5, 165:7, 165:10, 165:15, 165:21, 166:10, 166:15, 166:18, 167:16, 168:22, 169:1, 169:4, 169:8, 170:4, 173:22, 174:4, 174:10, 174:24, 175:3, 175:7, 175:16, 175:19, 176:1, 176:8, 177:15, 177:21, 178:2, 178:5, 178:12, 178:14, 178:17, 178:25, 179:4, 179:11, 179:14, 179:17, 179:23, 180:1, 180:4, 180:7, 180:12, 180:17, 180:21, 181:2, 181:6, 181:12, 181:19, 181:25, 182:6, 182:8, 182:14, 182:19, 182:22, 183:9, 183:13, 185:3, 185:7, 185:11, 185:14, 185:17, 185:23, 186:5, 186:7, 186:19, 186:23, 187:2, 187:6, 187:10, 187:14, 188:16, 189:2, 189:15, 189:22, 190:3, 190:7, 190:9, 190:18, 191:1, 191:13, 191:15, 191:16, 191:19, 191:22, 192:1, 192:4, 192:7, 193:4, 193:12, 193:17, 193:19, 193:25, 194:8, 194:17, 195:9, 195:15, 196:4, 196:14, 197:15, 198:1, 198:6, 198:9, 198:13, 198:19, 199:8, 199:19, 200:7, 200:20, 201:5, 201:17, 201:23, 202:11, 203:14, 204:1, 204:14, 204:23, 205:7, 205:14,	205:18, 206:8, 206:16, 206:23, 207:9, 207:17, 207:20, 225:17 <b>multi</b> <sup>[2]</sup> - 70:22, 97:5 <b>multi-county</b> <sup>[1]</sup> - 70:22 <b>multi-tax</b> <sup>[1]</sup> - 97:5 <b>music</b> <sup>[4]</sup> - 215:8, 215:10, 216:3, 216:22 <b>must</b> <sup>[11]</sup> - 100:24, 145:13, 158:22, 172:20, 215:6, 218:16, 218:18, 219:4, 220:1, 228:7, 231:16 <b>mute</b> <sup>[3]</sup> - 2:7, 4:14, 215:12 <b>muting</b> <sup>[1]</sup> - 4:15
<b>N</b>				
<p><b>name</b><sup>[15]</sup> - 2:10, 5:15, 14:13, 47:1, 47:6, 58:9, 60:23, 73:7, 73:8, 92:22, 94:5, 112:19, 130:23, 131:16, 155:9 <b>names</b><sup>[2]</sup> - 167:20, 213:6 <b>Nancy</b><sup>[2]</sup> - 110:4, 123:3 <b>narcissist</b><sup>[1]</sup> - 191:10 <b>narrowness</b><sup>[2]</sup> - 13:18, 13:19 <b>nation</b><sup>[2]</sup> - 28:6, 151:24 <b>national</b><sup>[2]</sup> - 36:15, 250:16 <b>near</b><sup>[8]</sup> - 73:12, 109:5, 109:14, 202:22, 203:1, 203:14, 203:25, 206:1 <b>nearly</b><sup>[1]</sup> - 96:2 <b>necessarily</b><sup>[7]</sup> - 13:10, 13:12, 25:4, 140:14, 150:3, 150:14, 209:3 <b>necessary</b><sup>[3]</sup> - 193:3, 193:5, 220:19 <b>need</b><sup>[46]</sup> - 4:15, 10:7, 13:12, 13:23, 16:11, 17:3, 17:6, 18:14, 20:14, 24:22, 24:23, 27:14, 46:25, 51:10, 54:15, 55:25, 63:4, 63:11, 64:19, 68:15,</p>				

<p>74:22, 93:2, 93:7, 93:8, 96:21, 99:6, 99:10, 104:3, 111:23, 136:19, 147:10, 153:2, 155:25, 180:18, 185:20, 186:1, 198:2, 206:16, 211:22, 220:17, 220:18, 224:7, 252:7</p> <p><b>needed</b> [6] - 19:23, 71:4, 93:21, 95:9, 101:8, 171:8</p> <p><b>needs</b> [12] - 20:8, 34:9, 40:7, 40:9, 41:22, 57:10, 109:16, 111:21, 128:18, 167:14, 232:10, 253:3</p> <p><b>negative</b> [1] - 28:12</p> <p><b>neighbor's</b> [1] - 171:17</p> <p><b>Nelson</b> [4] - 71:15, 72:1, 72:3, 72:5</p> <p><b>Nelson's</b> [1] - 72:8</p> <p><b>nest</b> [1] - 147:24</p> <p><b>never</b> [26] - 8:14, 34:2, 52:24, 73:18, 76:15, 91:25, 92:24, 94:10, 104:10, 104:11, 113:22, 128:16, 131:13, 138:1, 139:21, 139:22, 144:21, 145:8, 157:6, 160:11, 199:15, 201:15, 214:5, 222:6, 222:11</p> <p><b>Never</b> [2] - 77:9, 146:6</p> <p><b>New</b> [2] - 32:13, 151:12</p> <p><b>new</b> [32] - 17:25, 20:13, 33:14, 35:25, 36:2, 36:4, 40:11, 49:23, 53:21, 73:13, 78:13, 78:15, 78:16, 78:22, 82:7, 86:1, 93:6, 108:11, 109:23, 110:6, 111:4, 117:22, 120:9, 145:20, 148:25, 149:3, 156:24, 223:11, 236:5, 252:21</p> <p><b>next</b> [23] - 8:9, 81:11, 81:15, 95:8, 121:3, 143:2, 171:24, 186:10, 195:8, 200:22, 201:23, 203:13, 204:1, 204:12, 206:12,</p>	<p>207:18, 208:20, 209:14, 223:20, 251:22, 254:1, 254:2, 254:5</p> <p><b>Nice</b> [1] - 81:8</p> <p><b>nice</b> [1] - 129:1</p> <p><b>nine</b> [3] - 105:7, 120:14, 141:3</p> <p><b>noble</b> [1] - 39:11</p> <p><b>Nobody</b> [4] - 67:6, 68:1, 196:14, 246:25</p> <p><b>nobody</b> [5] - 37:13, 76:25, 77:1, 77:2, 222:21</p> <p><b>noise</b> [2] - 4:16, 215:16</p> <p><b>nonattorney</b> [3] - 12:24, 13:3, 13:4</p> <p><b>Nonattorney</b> [1] - 13:1</p> <p><b>none</b> [2] - 99:14, 207:15</p> <p><b>nonmarket</b> [2] - 242:18, 242:25</p> <p><b>nonreal</b> [2] - 240:12, 241:19</p> <p><b>nonschool</b> [2] - 248:24, 249:5</p> <p><b>nonsense</b> [2] - 42:10, 46:8</p> <p><b>nonsensical</b> [1] - 46:9</p> <p><b>nontransparency</b> [1] - 111:7</p> <p><b>nontransparent</b> [4] - 96:18, 103:19, 106:14, 204:7</p> <p><b>noon</b> [1] - 92:12</p> <p><b>note</b> [1] - 8:7</p> <p><b>Note</b> [1] - 108:5</p> <p><b>Nothing</b> [4] - 79:5, 117:7, 128:19, 128:20</p> <p><b>nothing</b> [7] - 49:4, 64:7, 82:5, 96:17, 184:3, 242:13, 242:14</p> <p><b>Notice</b> [1] - 62:14</p> <p><b>noticed</b> [2] - 5:13, 129:20</p> <p><b>notified</b> [1] - 65:1</p> <p><b>notion</b> [2] - 61:2, 61:12</p> <p><b>notwithstanding</b> [1] - 225:5</p> <p><b>Notwithstanding</b> [1] - 225:6</p> <p><b>November</b> [1] - 109:19</p> <p><b>nowhere</b> [2] - 146:1, 206:1</p> <p><b>nuances</b> [1] - 209:25</p> <p><b>number</b> [21] - 15:20,</p>	<p>25:22, 35:4, 35:6, 39:23, 69:9, 69:25, 88:11, 166:13, 174:13, 174:14, 194:11, 198:11, 231:5, 231:13, 237:3, 237:19, 238:15, 239:8, 239:10, 248:9</p> <p><b>numbers</b> [6] - 65:15, 194:25, 238:12, 244:13, 244:14, 247:15</p> <p><b>Numbers</b> [1] - 12:7</p> <p style="text-align: center;">○</p> <p><b>O'DONNELL</b> [180] - 3:8, 3:13, 6:12, 6:15, 6:20, 7:8, 7:11, 7:15, 9:18, 9:22, 9:25, 10:25, 11:2, 11:4, 11:8, 11:10, 11:15, 11:17, 11:23, 12:1, 12:5, 12:8, 12:11, 12:21, 13:1, 13:3, 13:7, 13:10, 13:15, 13:19, 13:22, 14:1, 14:8, 20:20, 20:22, 21:4, 21:10, 21:15, 22:2, 22:4, 22:8, 22:19, 23:22, 24:1, 24:8, 24:13, 24:17, 25:2, 31:11, 42:16, 42:19, 42:24, 43:12, 43:16, 43:20, 44:4, 44:7, 45:23, 47:25, 48:4, 48:9, 57:19, 57:23, 83:13, 83:15, 84:3, 85:3, 85:9, 85:14, 85:18, 85:23, 86:3, 86:8, 86:11, 86:15, 86:17, 92:7, 113:19, 114:3, 114:13, 114:17, 116:4, 116:7, 144:19, 145:12, 145:19, 146:6, 146:10, 147:13, 149:15, 149:21, 161:5, 161:9, 161:18, 161:20, 161:24, 162:3, 162:9, 162:12, 162:14, 162:19, 163:11, 163:15, 163:19, 164:1, 164:7, 164:14, 164:20, 164:24, 165:3, 165:6, 165:9,</p>	<p>165:11, 165:18, 165:23, 166:13, 166:17, 167:6, 168:18, 168:23, 169:3, 169:7, 169:9, 169:15, 169:18, 169:22, 173:25, 176:6, 182:25, 183:12, 183:17, 183:22, 183:24, 184:5, 184:18, 185:6, 185:10, 185:13, 185:16, 185:19, 186:3, 186:6, 186:13, 186:21, 186:25, 187:4, 187:9, 188:22, 189:7, 189:13, 189:20, 189:25, 190:4, 190:8, 190:14, 190:20, 190:23, 194:5, 194:13, 194:22, 195:11, 195:20, 196:6, 196:15, 197:24, 198:4, 198:8, 198:12, 198:17, 199:3, 199:14, 200:1, 200:18, 201:2, 201:7, 201:12, 201:21, 202:4, 202:7, 217:1</p> <p><b>O'Donnell</b> [46] - 3:8, 47:22, 48:11, 48:19, 57:19, 58:2, 73:23, 75:25, 78:8, 78:11, 79:24, 82:2, 85:25, 101:18, 103:10, 104:13, 104:15, 104:17, 105:1, 105:20, 105:23, 105:25, 106:22, 107:6, 108:21, 112:21, 113:17, 115:1, 115:10, 115:12, 115:22, 116:3, 116:24, 122:13, 123:5, 131:21, 144:4, 160:10, 160:18, 170:13, 179:17, 182:22, 185:11, 193:25, 217:11</p> <p><b>O'Donnell's</b> [1] - 104:20</p> <p><b>oath</b> [3] - 83:7, 83:12, 156:15</p> <p><b>object</b> [1] - 191:13</p> <p><b>objected</b> [2] - 164:17,</p>	<p>164:18</p> <p><b>objecting</b> [1] - 223:13</p> <p><b>objection</b> [3] - 80:23, 80:24, 167:13</p> <p><b>objective</b> [1] - 64:21</p> <p><b>observation</b> [2] - 6:22, 12:23</p> <p><b>observed</b> [3] - 54:21, 93:2, 93:11</p> <p><b>obtain</b> [2] - 49:11, 52:21</p> <p><b>obtained</b> [1] - 93:22</p> <p><b>obvious</b> [4] - 12:19, 71:2, 117:4, 150:19</p> <p><b>obviously</b> [5] - 20:1, 22:25, 113:20, 117:6, 137:2</p> <p><b>Obviously</b> [2] - 16:9, 83:4</p> <p><b>occasions</b> [1] - 93:11</p> <p><b>occur</b> [1] - 100:24</p> <p><b>occurrences</b> [1] - 233:9</p> <p><b>October</b> [4] - 103:15, 108:24, 202:19, 203:7</p> <p><b>offend</b> [2] - 61:10, 61:15</p> <p><b>offended</b> [2] - 61:2, 61:12</p> <p><b>offense</b> [2] - 61:11, 150:22</p> <p><b>offer</b> [14] - 59:24, 155:5, 158:2, 160:13, 160:19, 211:23, 212:5, 212:14, 212:15, 213:12, 213:22, 217:19, 217:20, 218:1</p> <p><b>offered</b> [2] - 160:14, 160:21</p> <p><b>offering</b> [2] - 59:4, 59:12</p> <p><b>office</b> [5] - 134:23, 156:24, 157:22, 241:3, 241:6</p> <p><b>Office</b> [2] - 94:19, 131:18</p> <p><b>offices</b> [3] - 30:13, 30:14, 30:18</p> <p><b>official's</b> [1] - 153:23</p> <p><b>officials</b> [5] - 97:2, 108:12, 109:24, 110:10, 110:13</p> <p><b>often</b> [3] - 41:19, 43:17, 97:2</p> <p><b>old</b> [9] - 5:20, 44:2, 46:6, 55:18, 206:25, 222:20, 235:8,</p>
--	--	--	---	--

<p>236:9, 252:1  <b>ome</b> [1] - 129:10  <b>on-line</b> [4] - 2:8, 55:24, 185:24, 239:19  <b>once</b> [4] - 112:20, 140:21, 153:13, 186:15  <b>one</b> [109] - 7:7, 7:9, 11:24, 14:3, 16:24, 17:12, 17:13, 18:1, 19:8, 22:24, 29:18, 32:17, 35:11, 36:1, 38:24, 38:17, 46:19, 47:21, 48:13, 48:16, 48:21, 51:1, 51:8, 51:19, 52:24, 53:13, 54:16, 54:17, 54:20, 55:2, 57:25, 59:9, 59:11, 63:8, 64:11, 65:16, 69:12, 69:14, 83:18, 86:1, 87:2, 90:19, 91:9, 91:17, 91:25, 92:15, 96:25, 105:7, 126:24, 127:12, 128:22, 133:3, 134:6, 134:25, 135:2, 136:1, 136:9, 139:19, 139:21, 139:22, 140:13, 140:15, 141:4, 143:17, 143:18, 144:19, 151:14, 153:8, 153:10, 153:12, 170:8, 175:8, 181:8, 182:4, 183:20, 184:1, 186:1, 188:20, 194:9, 194:10, 195:22, 198:11, 199:17, 207:14, 208:11, 210:5, 210:11, 217:17, 222:7, 223:14, 228:13, 231:5, 233:5, 239:8, 241:8, 241:17, 241:19, 241:24, 243:14, 245:1, 246:22, 247:3, 247:4, 249:23, 252:22  <b>One</b> [9] - 32:16, 34:23, 47:15, 69:7, 118:16, 129:19, 221:21, 237:8, 238:23  <b>one-minute</b> [1] - 153:8  <b>one-sided</b> [2] - 48:21, 91:17  <b>oneish</b> [1] - 130:19</p>	<p><b>onerous</b> [1] - 151:1  <b>ones</b> [6] - 22:23, 118:8, 133:6, 155:7, 198:21, 238:19  <b>open</b> [4] - 71:17, 92:20, 124:7, 210:3  <b>Open</b> [1] - 110:5  <b>opening</b> [4] - 14:10, 47:16, 56:16, 57:20  <b>openness</b> [1] - 79:17  <b>operate</b> [4] - 38:10, 122:23, 223:14, 236:14  <b>operated</b> [1] - 223:15  <b>Operation</b> [5] - 165:9, 165:10, 166:19, 167:22, 168:1  <b>operation</b> [1] - 167:19  <b>opinion</b> [25] - 6:18, 7:3, 17:25, 20:8, 29:23, 30:7, 42:15, 45:16, 46:11, 53:19, 55:19, 89:3, 89:15, 91:10, 134:8, 136:6, 140:6, 140:14, 140:24, 149:17, 152:7, 168:24, 174:2, 213:19, 232:5  <b>opinions</b> [7] - 25:24, 50:2, 57:2, 77:8, 98:1, 136:15, 235:12  <b>OPPAGA</b> [2] - 147:9, 207:22  <b>opportunity</b> [10] - 58:12, 60:11, 73:9, 76:5, 95:19, 121:18, 143:9, 149:10, 169:11, 216:18  <b>oppose</b> [1] - 102:1  <b>opposed</b> [3] - 59:25, 102:16, 208:14  <b>opposing</b> [1] - 159:22  <b>opposition</b> [2] - 107:5, 107:13  <b>option</b> [1] - 33:7  <b>Orange</b> [6] - 58:7, 58:10, 59:18, 60:6, 155:11, 157:18  <b>oranges</b> [4] - 172:19, 198:21, 199:24, 208:1  <b>order</b> [12] - 2:24, 27:1, 47:10, 69:2, 141:17, 160:24, 161:21, 167:17, 196:25, 198:9, 200:11, 208:10  <b>original</b> [10] - 14:18, 14:19, 24:2, 103:25, 121:5, 148:4,</p>	<p>159:20, 228:18, 230:23, 241:10  <b>originally</b> [2] - 16:17, 137:11  <b>Orlando</b> [2] - 73:11, 128:13  <b>ostensibly</b> [1] - 230:15  <b>ought</b> [1] - 244:20  <b>ounce</b> [1] - 111:10  <b>out-of-state</b> [3] - 72:9, 72:14, 72:16  <b>Out-of-state</b> [1] - 72:11  <b>outliers</b> [1] - 248:4  <b>outs</b> [2] - 162:2, 162:7  <b>outside</b> [1] - 242:5  <b>overall</b> [2] - 97:5, 242:1  <b>overassessed</b> [1] - 235:7  <b>overboard</b> [1] - 139:15  <b>overburdened</b> [1] - 72:22  <b>overcame</b> [1] - 94:8  <b>overchallenged</b> [1] - 59:4  <b>overdocked</b> [1] - 246:18  <b>overly</b> [1] - 145:16  <b>overnight</b> [1] - 188:1  <b>overseer</b> [1] - 208:9  <b>oversight</b> [1] - 63:18  <b>Oversight</b> [3] - 2:11, 38:24, 62:18  <b>overturned</b> [1] - 20:13  <b>overview</b> [3] - 59:12, 167:7, 167:9  <b>overwhelmed</b> [1] - 59:3  <b>overwhelming</b> [3] - 139:3, 222:5, 222:10  <b>own</b> [11] - 3:19, 57:12, 74:2, 82:3, 82:4, 82:6, 86:6, 115:8, 162:4, 172:22, 232:5  <b>owned</b> [1] - 100:11  <b>owner</b> [3] - 71:20, 71:21, 71:24  <b>owners</b> [7] - 38:13, 40:23, 45:9, 52:1, 52:22, 94:7, 249:9</p>	<p>210:21  <b>Page</b> [32] - 54:18, 58:19, 59:10, 161:3, 161:7, 161:12, 161:14, 161:17, 161:23, 165:5, 165:7, 166:16, 166:18, 166:21, 166:22, 167:23, 168:1, 168:4, 168:5, 168:12, 174:22, 178:22, 179:1, 179:4, 179:10, 182:2, 182:3, 182:23, 242:16, 243:13, 243:14  <b>page</b> [8] - 11:15, 12:3, 17:12, 54:20, 160:22, 163:16, 174:13, 174:14  <b>Pages</b> [2] - 165:22, 167:4  <b>pages</b> [22] - 10:14, 15:7, 15:14, 15:19, 15:20, 17:4, 18:22, 18:24, 45:17, 50:17, 68:7, 68:8, 87:9, 106:4, 128:7, 150:6, 150:8, 164:21, 166:14, 182:16, 186:10  <b>paid</b> [2] - 102:18, 140:24  <b>painfully</b> [1] - 150:19  <b>PAP</b> [2] - 155:14, 157:20  <b>paper</b> [5] - 17:7, 153:2, 154:14, 251:20  <b>paragraph</b> [4] - 59:25, 60:1, 115:20  <b>paragraphs</b> [1] - 115:17  <b>paraphrasing</b> [1] - 214:17  <b>parcel</b> [1] - 243:15  <b>paren</b> [1] - 198:11  <b>parsing</b> [1] - 183:25  <b>Part</b> [1] - 138:18  <b>part</b> [26] - 2:16, 6:10, 6:13, 16:3, 21:17, 22:2, 22:6, 30:14, 43:2, 75:16, 92:4, 109:2, 111:19, 111:20, 125:16, 138:10, 146:16, 165:24, 178:2, 184:17, 188:22, 205:4, 205:7, 205:17, 241:24</p>	<p><b>parte</b> [1] - 102:23  <b>participants</b> [2] - 23:16, 216:14  <b>participate</b> [3] - 60:15, 97:13, 97:19  <b>participated</b> [1] - 77:5  <b>participating</b> [1] - 221:4  <b>participation</b> [2] - 99:20, 111:16  <b>particular</b> [6] - 11:24, 75:17, 101:5, 151:10, 183:1, 244:13  <b>particularly</b> [5] - 26:19, 105:3, 136:24, 167:10, 249:7  <b>parties</b> [8] - 62:17, 105:16, 106:8, 106:12, 107:21, 109:2, 213:10, 217:24  <b>parties'</b> [1] - 62:12  <b>parts</b> [11] - 74:25, 87:24, 124:15, 167:18, 170:9, 170:13, 173:13, 177:23, 181:17, 181:19, 195:22  <b>party</b> [2] - 47:8, 66:3  <b>PAs</b> [1] - 125:25  <b>pass</b> [5] - 27:1, 41:4, 42:5, 143:4, 248:9  <b>passed</b> [7] - 26:2, 39:7, 43:10, 142:1, 221:12, 222:8, 224:8  <b>passing</b> [2] - 35:24, 245:25  <b>passionately</b> [1] - 130:13  <b>past</b> [6] - 27:17, 91:20, 95:17, 117:4, 209:25, 219:19  <b>pattern</b> [1] - 111:7  <b>pay</b> [2] - 61:14, 100:4  <b>paying</b> [3] - 98:9, 99:17, 249:10  <b>Pensacola</b> [1] - 61:1  <b>people</b> [68] - 6:2, 10:9, 13:20, 13:21, 14:22, 16:4, 17:1, 17:18, 24:10, 25:13, 27:25, 28:1, 28:25, 29:7, 30:4, 30:25, 37:1, 38:23, 41:5, 41:18, 43:22, 44:23, 46:3, 61:19, 62:7, 62:8, 64:15, 64:16, 65:1, 65:8, 65:11, 65:12,</p>
		P		
		<p><b>p.m</b> [5] - 154:19, 154:20, 217:9, 217:10, 254:12  <b>PA</b> [3] - 210:9, 210:12,</p>		

65:13, 67:9, 67:12, 67:22, 68:7, 68:9, 80:8, 81:4, 88:4, 88:13, 90:20, 91:2, 103:9, 122:8, 122:9, 122:11, 122:15, 122:16, 122:25, 125:1, 129:9, 136:5, 145:6, 151:12, 160:6, 184:19, 185:21, 187:22, 246:4, 246:9, 248:25, 249:23, 254:9	<b>percentage</b> [6] - 199:10, 210:21, 211:9, 229:14, 243:19, 250:19 <b>perception</b> [1] - 233:19 <b>perfect</b> [2] - 54:7, 119:8 <b>perfectly</b> [2] - 143:6, 184:21 <b>perform</b> [2] - 72:10, 93:18 <b>performance</b> [3] - 99:2, 226:13, 226:16 <b>performing</b> [1] - 93:5 <b>perhaps</b> [1] - 122:13 <b>period</b> [7] - 28:10, 44:9, 107:23, 108:10, 146:18, 209:24, 252:20 <b>periodically</b> [1] - 27:3 <b>permits</b> [1] - 230:14 <b>permitting</b> [1] - 229:19 <b>person</b> [23] - 53:25, 65:25, 71:18, 71:20, 77:9, 78:19, 78:21, 82:8, 85:20, 90:25, 91:7, 100:6, 100:20, 106:24, 111:9, 116:20, 117:17, 144:23, 169:4, 197:1, 216:2, 231:25 <b>personal</b> [19] - 3:23, 32:20, 37:15, 41:20, 53:19, 77:7, 79:5, 82:5, 134:8, 183:7, 183:11, 183:19, 184:10, 184:14, 232:17, 242:19, 243:1, 244:17, 246:6 <b>personally</b> [8] - 38:9, 80:1, 93:1, 93:10, 114:2, 114:11, 115:7, 117:9 <b>persons</b> [1] - 94:23 <b>perspective</b> [2] - 17:5, 20:7 <b>pertains</b> [1] - 48:5 <b>pertinent</b> [6] - 70:12, 103:21, 207:23, 207:24, 208:1, 208:3 <b>pervades</b> [1] - 93:12 <b>pervasive</b> [1] - 97:1 <b>petition</b> [4] - 19:22, 41:16, 61:17, 141:8 <b>petitioner</b> [1] - 92:25 <b>petitioners</b> [1] - 63:3 <b>Petitioners</b> [1] - 212:8 <b>petitions</b> [6] - 27:21,	63:1, 100:1, 101:6, 138:1, 245:17 <b>ph</b> [8] - 25:7, 32:13, 149:12, 158:24, 176:17, 210:25, 246:1, 247:16 <b>phone</b> [20] - 4:9, 4:11, 4:18, 36:11, 46:13, 46:15, 52:12, 52:16, 73:3, 112:1, 130:20, 143:10, 158:1, 215:11, 216:11, 216:15, 217:4, 217:15, 231:23, 253:14 <b>PHONE</b> [1] - 223:23 <b>phones</b> [1] - 2:7 <b>phrase</b> [2] - 70:7, 70:17 <b>pick</b> [1] - 241:24 <b>picking</b> [1] - 241:8 <b>piece</b> [6] - 57:15, 174:12, 186:9, 186:10, 245:1 <b>pieces</b> [3] - 58:17, 121:9, 251:20 <b>Pinellas</b> [1] - 80:3 <b>Pittsburg</b> [1] - 34:5 <b>place</b> [5] - 16:18, 51:19, 51:20, 177:2, 220:23 <b>placed</b> [1] - 170:20 <b>places</b> [4] - 32:14, 81:5, 151:15, 166:8 <b>placing</b> [2] - 107:10, 170:17 <b>Plaintiffs</b> [1] - 212:7 <b>plan</b> [1] - 109:23 <b>plane</b> [1] - 211:5 <b>planned</b> [3] - 16:18, 43:19, 211:19 <b>planning</b> [2] - 111:11, 206:10 <b>play</b> [4] - 90:10, 90:12, 226:18, 228:16 <b>playing</b> [3] - 21:25, 95:25, 215:10 <b>pleadings</b> [1] - 212:19 <b>pleasant</b> [1] - 128:20 <b>plenty</b> [3] - 21:8, 134:7, 238:21 <b>point</b> [37] - 12:17, 12:19, 20:6, 25:2, 29:12, 39:9, 39:21, 40:8, 42:17, 47:9, 56:22, 57:24, 75:7, 88:14, 94:7, 110:8, 121:10, 127:6, 131:22, 137:9, 145:4, 146:8,	147:13, 147:19, 177:13, 183:1, 183:23, 184:25, 195:23, 204:4, 208:25, 212:1, 213:21, 222:4, 223:5, 243:21, 252:6 <b>pointed</b> [7] - 133:15, 137:15, 138:14, 138:16, 163:13, 180:19, 195:21 <b>pointing</b> [1] - 60:21 <b>points</b> [2] - 73:22, 247:20 <b>policies</b> [2] - 18:22, 66:9 <b>policy</b> [12] - 65:5, 65:14, 66:1, 67:5, 67:6, 67:24, 68:10, 108:13, 109:25, 110:13, 212:23, 214:1 <b>political</b> [2] - 79:8, 148:1 <b>politically</b> [1] - 145:23 <b>poor</b> [2] - 29:20 <b>pop</b> [6] - 94:23, 99:22, 100:11, 101:23, 171:13, 183:10, 183:14, 194:18 <b>Pore</b> [1] - 36:15 <b>portion</b> [1] - 218:14 <b>portions</b> [3] - 104:21, 212:17, 212:21 <b>pose</b> [1] - 81:20 <b>posed</b> [2] - 79:20, 236:2 <b>position</b> [24] - 22:20, 49:17, 67:16, 76:9, 81:2, 152:1, 171:6, 174:5, 174:8, 175:14, 175:17, 176:23, 177:9, 177:10, 177:11, 177:14, 182:21, 214:9, 222:22, 232:7, 232:9, 235:11, 235:12 <b>positions</b> [4] - 67:22, 67:23, 117:24, 169:12 <b>positive</b> [2] - 101:9, 125:5 <b>possession</b> [1] - 78:8 <b>possibility</b> [1] - 223:13 <b>possible</b> [3] - 97:10, 97:25, 115:15 <b>possibly</b> [2] - 115:23, 176:25	<b>post</b> [3] - 109:4, 185:14, 202:21 <b>posted</b> [2] - 60:18, 105:11 <b>posting</b> [1] - 104:8 <b>potential</b> [1] - 26:9 <b>powers</b> [2] - 20:2, 220:7 <b>practice</b> [24] - 27:7, 27:15, 28:5, 50:13, 50:14, 50:15, 73:25, 159:7, 192:23, 193:5, 193:10, 193:15, 194:3, 195:18, 200:25, 201:20, 202:2, 219:2, 220:21, 228:4, 230:22, 230:24, 231:13 <b>practices</b> [7] - 159:3, 193:8, 226:18, 230:7, 230:17, 231:4, 231:10 <b>practitioners</b> [1] - 145:24 <b>PRDs</b> [1] - 250:10 <b>precedent</b> [1] - 218:11 <b>precipitated</b> [1] - 125:18 <b>precise</b> [1] - 243:11 <b>precluding</b> [1] - 103:4 <b>prefacing</b> [1] - 162:15 <b>prefer</b> [3] - 17:17, 40:6, 48:16 <b>premiere</b> [1] - 139:20 <b>preparation</b> [1] - 77:6 <b>prepare</b> [2] - 166:5, 186:18 <b>prepared</b> [1] - 90:4 <b>preparing</b> [1] - 144:12 <b>prescribe</b> [3] - 108:13, 109:25, 110:13 <b>present</b> [7] - 44:15, 103:21, 197:21, 234:21, 238:13, 251:15 <b>presented</b> [4] - 14:20, 112:18, 116:17, 196:21 <b>presenting</b> [1] - 234:18 <b>presentment</b> [1] - 229:18 <b>presettlement</b> [1] - 146:4 <b>presided</b> [1] - 148:8 <b>president</b> [1] - 26:25 <b>pressed</b> [1] - 127:19 <b>pressing</b> [1] - 246:2 <b>pressure</b> [4] - 39:4,
--	---	---	--	--

<p>39:15, 40:18, 148:1  <b>presumption</b> [4] - 198:10, 200:10, 200:11, 200:15  <b>pretense</b> [1] - 24:10  <b>pretty</b> [12] - 38:9, 39:13, 119:10, 126:6, 131:24, 144:21, 181:18, 191:3, 205:19, 207:1, 232:14, 249:18  <b>previous</b> [4] - 19:14, 36:21, 48:14, 93:6  <b>previously</b> [1] - 73:15  <b>price</b> [9] - 172:7, 195:1, 196:24, 197:6, 226:24, 232:24, 233:3, 237:18, 243:3  <b>prices</b> [6] - 172:4, 211:4, 228:17, 233:1, 233:2, 243:5  <b>primarily</b> [2] - 27:24, 115:22  <b>primary</b> [3] - 32:15, 85:10, 143:17  <b>principles</b> [4] - 54:14, 219:17, 220:7, 242:4  <b>private</b> [10] - 61:3, 61:4, 65:2, 65:10, 66:5, 79:7, 142:18, 150:21, 150:23, 169:24  <b>problem</b> [24] - 16:3, 23:13, 43:24, 50:16, 50:18, 51:21, 62:4, 68:14, 69:15, 87:21, 133:2, 133:4, 134:21, 138:18, 139:12, 142:3, 149:2, 152:16, 181:6, 185:1, 191:21, 210:20, 227:22, 251:2  <b>problems</b> [9] - 18:2, 30:12, 72:21, 90:20, 142:19, 160:2, 191:8, 249:19, 249:20  <b>procedural</b> [1] - 209:25  <b>procedurally</b> [1] - 145:23  <b>procedure</b> [7] - 16:5, 49:14, 51:12, 57:14, 160:5, 199:4, 243:17  <b>Procedures</b> [1] - 205:15  <b>procedures</b> [7] -</p>	<p>18:23, 50:4, 53:21, 97:24, 97:25, 98:3, 119:16  <b>proceed</b> [3] - 88:13, 225:2, 236:7  <b>proceeded</b> [1] - 213:22  <b>proceeding</b> [7] - 26:21, 145:1, 211:25, 212:4, 212:8, 214:4, 217:18  <b>proceedings</b> [1] - 212:25  <b>proceeds</b> [1] - 55:9  <b>process</b> [83] - 16:13, 17:2, 18:2, 20:16, 23:14, 23:16, 34:8, 35:16, 36:20, 41:18, 41:24, 42:5, 43:8, 43:18, 49:12, 51:12, 52:6, 54:21, 55:1, 55:5, 55:12, 56:14, 61:5, 62:6, 62:9, 68:16, 68:21, 69:15, 71:10, 71:17, 71:18, 71:19, 71:22, 72:22, 75:19, 86:3, 88:5, 93:9, 95:23, 96:1, 96:17, 97:14, 97:21, 100:19, 101:15, 102:8, 102:12, 102:13, 103:13, 103:20, 103:22, 107:25, 116:19, 117:1, 118:6, 118:18, 122:3, 127:10, 129:6, 138:22, 142:20, 143:19, 144:11, 145:16, 145:18, 152:20, 203:20, 204:24, 205:1, 205:5, 205:6, 205:8, 207:5, 208:5, 210:10, 213:1, 219:2, 221:5, 223:19, 236:7, 252:4, 252:18  <b>produce</b> [9] - 44:14, 44:16, 124:23, 125:5, 202:16, 203:21, 203:23, 206:14, 206:17  <b>produced</b> [8] - 101:17, 103:6, 106:2, 118:23, 119:2, 119:14, 161:13, 224:10  <b>producers</b> [1] - 41:8  <b>produces</b> [2] - 105:6,</p>	<p>105:12  <b>producing</b> [1] - 108:1  <b>product</b> [2] - 76:19, 106:6  <b>productive</b> [3] - 97:13, 97:20, 148:9  <b>productivity</b> [1] - 127:22  <b>products</b> [4] - 103:7, 103:13, 103:20, 103:22  <b>profession</b> [2] - 26:14, 30:1  <b>professional</b> [15] - 77:4, 79:10, 79:11, 82:1, 82:2, 87:22, 89:11, 89:16, 90:4, 90:23, 99:24, 99:25, 100:14, 164:6, 193:22  <b>professionally</b> [17] - 158:24, 159:6, 192:22, 193:5, 193:8, 193:10, 193:15, 194:3, 195:18, 200:25, 201:20, 202:2, 226:18, 230:24, 231:4, 231:9, 231:12  <b>Professionally</b> [1] - 159:2  <b>professionally-accepted</b> [14] - 193:5, 193:8, 193:10, 193:15, 194:3, 195:18, 200:25, 201:20, 202:2, 226:18, 230:24, 231:4, 231:9, 231:12  <b>professionals</b> [1] - 234:2  <b>Professionals</b> [1] - 36:17  <b>professor</b> [2] - 144:4, 144:23  <b>profits</b> [1] - 194:7  <b>Program</b> [1] - 123:11  <b>program</b> [5] - 98:15, 98:23, 226:6, 226:10, 229:22  <b>promise</b> [1] - 109:13  <b>promises</b> [1] - 109:18  <b>promoted</b> [1] - 233:19  <b>promoting</b> [1] - 23:24  <b>promulgate</b> [1] - 16:19  <b>promulgated</b> [2] - 18:8, 146:5  <b>proof</b> [5] - 82:14,</p>	<p>82:16, 95:22, 145:13, 200:2  <b>proper</b> [6] - 40:12, 57:14, 72:18, 150:11, 220:13, 243:21  <b>property</b> [4] - 122:6, 143:22, 233:18, 236:11  <b>properties</b> [8] - 194:21, 196:22, 196:23, 199:21, 199:23, 229:24, 247:24, 248:4  <b>property</b> [210] - 3:18, 3:23, 8:20, 9:12, 9:14, 17:15, 18:6, 19:20, 20:24, 21:5, 21:6, 21:23, 22:19, 22:25, 23:3, 23:12, 23:18, 28:10, 28:16, 30:21, 30:25, 36:16, 36:23, 37:2, 37:11, 37:15, 37:21, 37:24, 38:2, 38:14, 39:4, 44:12, 44:24, 45:13, 47:17, 47:21, 47:23, 51:25, 52:1, 52:22, 53:7, 55:4, 56:24, 61:22, 62:23, 63:17, 64:9, 64:12, 64:17, 71:25, 74:7, 74:12, 74:15, 75:1, 75:18, 77:7, 78:13, 78:16, 78:22, 80:3, 80:4, 80:20, 80:21, 81:16, 86:2, 87:1, 93:12, 94:7, 95:20, 95:22, 97:20, 97:24, 98:3, 98:25, 99:1, 99:18, 100:3, 100:10, 100:11, 101:22, 102:7, 102:11, 102:22, 116:24, 117:13, 118:9, 118:17, 127:15, 127:25, 128:6, 132:19, 134:4, 134:22, 134:25, 137:1, 137:15, 137:23, 138:10, 141:9, 148:11, 149:5, 150:11, 151:25, 153:22, 153:23, 156:19, 157:5, 157:6, 157:13, 158:6, 158:21, 158:22, 159:21, 160:8, 160:14, 164:10, 168:15, 170:25,</p>	<p>171:1, 171:20, 171:22, 171:24, 172:3, 174:25, 175:7, 180:1, 180:7, 183:7, 183:11, 183:19, 184:10, 184:14, 192:20, 192:24, 193:13, 194:1, 195:8, 195:10, 196:5, 196:23, 197:15, 197:17, 197:23, 198:13, 200:7, 200:23, 207:25, 208:14, 208:16, 212:12, 222:18, 222:21, 225:20, 225:21, 226:12, 226:13, 226:16, 226:20, 227:25, 228:5, 229:10, 229:12, 229:14, 229:25, 230:9, 232:23, 233:6, 233:12, 233:20, 233:23, 234:16, 234:17, 234:20, 235:4, 235:6, 235:24, 236:12, 236:15, 236:20, 236:22, 237:11, 237:18, 237:21, 238:4, 238:9, 238:17, 240:5, 241:2, 242:7, 242:12, 242:20, 243:2, 243:4, 243:9, 243:12, 243:20, 243:24, 244:11, 244:13, 244:17, 244:25, 245:3, 246:6, 249:9, 250:15, 250:24, 251:19, 251:24, 252:24  <b>Property</b> [14] - 2:11, 17:10, 36:17, 38:24, 62:18, 69:4, 71:16, 98:10, 123:3, 123:11, 131:18, 137:19, 155:11, 212:6  <b>proponents</b> [2] - 219:25, 220:11  <b>proposal</b> [14] - 110:11, 160:20, 162:23, 163:1, 166:23, 166:24, 166:25, 167:1, 167:2, 167:24, 171:2, 171:5, 173:6,</p>
--	--	--	--	--



<p>176:10  <b>propose</b> [1] - 248:20  <b>proposed</b> [2] - 87:6, 175:8  <b>proposes</b> [1] - 167:2  <b>proposition</b> [2] - 14:1, 153:9  <b>protect</b> [3] - 27:8, 48:24, 68:16  <b>protecting</b> [1] - 57:6  <b>protection</b> [4] - 66:23, 118:7, 139:7, 139:10  <b>protections</b> [2] - 49:19, 73:14  <b>prove</b> [3] - 197:12, 197:16, 200:3  <b>proves</b> [1] - 54:1  <b>provide</b> [17] - 26:15, 27:25, 49:23, 51:10, 56:16, 56:17, 93:14, 95:18, 100:14, 101:10, 108:14, 110:1, 110:14, 119:9, 141:17, 155:4, 227:24  <b>provided</b> [5] - 126:3, 163:10, 166:12, 175:24, 176:18  <b>provides</b> [1] - 218:20  <b>providing</b> [2] - 58:13, 57:6  <b>provisions</b> [2] - 56:10, 93:16  <b>PTO</b> [7] - 81:3, 81:6, 81:8, 81:10, 81:15, 88:8, 89:16  <b>public</b> [52] - 2:13, 2:17, 4:6, 15:1, 15:9, 19:10, 19:12, 33:2, 38:1, 53:16, 68:5, 71:10, 92:20, 93:22, 94:11, 98:4, 98:9, 99:18, 104:9, 106:16, 107:4, 107:12, 107:22, 108:3, 108:4, 108:6, 108:18, 108:22, 109:6, 109:11, 111:16, 114:4, 114:8, 120:11, 120:13, 120:17, 121:21, 121:22, 124:1, 130:4, 131:3, 144:23, 150:21, 150:22, 160:12, 188:21, 192:1, 202:13, 202:17, 206:9, 207:14  <b>publicly</b> [2] - 39:1, 39:3</p>	<p><b>publish</b> [2] - 109:14, 170:14  <b>published</b> [3] - 48:17, 94:10, 104:11  <b>publishing</b> [2] - 105:24, 106:1  <b>pull</b> [1] - 238:16  <b>pulled</b> [3] - 98:21, 148:6, 237:20  <b>pulling</b> [1] - 177:15  <b>purely</b> [1] - 55:10  <b>purpose</b> [8] - 13:8, 55:11, 65:20, 68:20, 208:6, 243:12  <b>purposes</b> [4] - 64:9, 237:2, 248:10, 248:11  <b>pursuant</b> [2] - 3:25, 244:5  <b>pursuit</b> [1] - 147:5  <b>put</b> [44] - 43:6, 44:19, 57:9, 60:18, 78:20, 107:2, 111:14, 120:25, 124:21, 134:18, 134:19, 134:20, 135:2, 135:9, 135:14, 140:7, 140:25, 141:21, 148:4, 157:13, 157:23, 161:2, 191:11, 197:11, 199:10, 201:17, 204:17, 205:11, 205:19, 208:25, 207:5, 207:13, 208:12, 215:12, 215:15, 219:7, 224:7, 232:5, 237:8, 237:13, 239:7, 240:18, 246:15  <b>Put</b> [1] - 252:24  <b>puts</b> [1] - 247:23  <b>putting</b> [7] - 144:2, 159:18, 197:18, 205:24, 206:10, 207:6, 223:9  <b>puzzle</b> [1] - 245:2</p>	<p>82:9  <b>questioned</b> [1] - 214:10  <b>questioning</b> [3] - 110:17, 187:1, 187:5  <b>questions</b> [18] - 4:17, 5:9, 5:24, 14:10, 47:15, 116:25, 152:25, 160:16, 184:7, 188:24, 189:3, 189:12, 192:13, 192:14, 192:15, 192:16, 196:15, 236:1  <b>quick</b> [8] - 59:2, 59:5, 59:14, 60:5, 60:8, 153:20, 154:17, 160:6  <b>quicker</b> [1] - 152:21  <b>Quite</b> [1] - 43:17  <b>quite</b> [3] - 127:10, 137:14, 152:6  <b>quits</b> [1] - 253:16  <b>quitting</b> [1] - 253:19  <b>quote</b> [41] - 94:21, 95:1, 95:9, 95:11, 96:25, 97:23, 98:6, 98:13, 98:23, 99:2, 107:9, 107:14, 107:25, 108:2, 108:4, 109:2, 109:8, 109:15, 110:7, 158:16, 158:22, 159:4, 159:17, 160:3, 160:4, 177:12, 202:20, 226:3, 226:8, 226:9, 227:4, 227:10, 227:18, 229:3, 229:15, 229:16, 229:21, 230:2, 230:5, 230:12, 230:13  <b>Quote</b> [2] - 95:15, 226:10  <b>quoted</b> [1] - 177:6  <b>quotes</b> [3] - 159:24, 232:13, 235:20  <b>quoting</b> [1] - 158:14</p>	<p>230:18  <b>rate</b> [13] - 229:10, 234:22, 240:17, 241:3, 241:5, 241:6, 241:15, 241:16, 244:10, 244:15, 244:16, 248:13  <b>rates</b> [3] - 132:5, 235:1, 241:7  <b>rather</b> [3] - 42:21, 53:18, 178:13  <b>ratio</b> [4] - 98:25, 237:21, 243:5, 243:17  <b>rationale</b> [1] - 245:21  <b>re</b> [1] - 35:20  <b>re-writing</b> [1] - 35:20  <b>reached</b> [1] - 149:17  <b>reactionary</b> [1] - 222:19  <b>read</b> [24] - 4:25, 21:16, 24:25, 30:6, 50:20, 55:19, 66:12, 77:22, 85:20, 95:7, 109:17, 116:5, 155:7, 178:11, 178:18, 183:14, 191:7, 191:24, 192:4, 192:10, 202:7, 232:12, 242:2, 243:14  <b>reader</b> [2] - 30:9, 178:23  <b>readily</b> [1] - 55:24  <b>reading</b> [10] - 12:3, 12:5, 13:5, 50:5, 51:11, 51:23, 113:21, 191:8, 191:21, 242:16  <b>ready</b> [3] - 83:10, 204:4, 217:13  <b>Real</b> [1] - 70:19  <b>real</b> [26] - 3:18, 3:22, 40:16, 42:1, 49:14, 64:9, 64:12, 72:12, 77:8, 87:13, 87:21, 118:10, 125:19, 129:12, 142:2, 168:15, 230:9, 243:4, 244:13, 244:14, 246:8, 246:11, 246:15, 246:19, 248:2, 248:23  <b>realize</b> [2] - 213:11, 249:2  <b>Really</b> [2] - 191:15, 191:18  <b>really</b> [5] - 7:23, 16:7, 18:10, 19:2, 20:18,</p>	<p>27:4, 31:16, 32:9, 35:11, 40:14, 42:9, 49:17, 54:2, 54:17, 59:13, 76:2, 82:8, 112:13, 120:2, 120:7, 121:13, 121:17, 122:11, 127:6, 129:1, 133:3, 133:7, 133:9, 133:15, 137:19, 140:14, 150:17, 153:16, 153:20, 169:15, 182:1, 188:4, 191:9, 192:14, 193:2, 210:1, 219:9, 224:24, 235:22, 235:25, 236:1, 236:3, 246:25, 248:16, 249:4, 249:14  <b>reason</b> [12] - 17:8, 28:8, 31:2, 36:1, 36:3, 37:7, 67:21, 120:9, 120:10, 147:2, 168:24, 170:23  <b>reasonable</b> [6] - 19:1, 25:9, 25:12, 25:17, 111:9, 184:21  <b>reasons</b> [1] - 237:20  <b>reassure</b> [1] - 60:19  <b>rebuttal</b> [3] - 128:3, 133:15, 133:19  <b>Recalling</b> [1] - 12:9  <b>receipt</b> [1] - 69:11  <b>receive</b> [4] - 52:5, 102:4, 115:4, 119:13  <b>received</b> [14] - 5:4, 14:21, 52:11, 52:24, 53:2, 53:3, 53:11, 53:14, 107:15, 109:3, 112:13, 125:22, 202:12, 202:21  <b>receives</b> [1] - 146:21  <b>receiving</b> [2] - 100:7, 100:21  <b>recent</b> [2] - 69:6, 210:18  <b>recently</b> [2] - 70:21, 218:20  <b>recess</b> [13] - 128:10, 129:4, 129:23, 131:1, 143:6, 143:12, 155:1, 187:17, 187:18, 187:20, 187:22, 209:8, 253:22  <b>recessed</b> [2] - 142:13,</p>
	<b>Q</b>			
	<p><b>qualified</b> [3] - 72:12, 72:24, 91:18  <b>qualifying</b> [2] - 237:14, 237:16  <b>quasi</b> [1] - 197:14  <b>quasi-judicial</b> [1] - 197:14  <b>questionable</b> [1] -</p>		<b>R</b>	
		<p><b>raise</b> [3] - 83:6, 116:25, 153:12  <b>raised</b> [3] - 138:19, 139:4, 211:21  <b>raises</b> [1] - 240:5  <b>random</b> [1] - 70:21  <b>range</b> [2] - 230:7,</p>		

<p>254:12</p> <p><b>Recessed</b> [1] - 142:15</p> <p><b>recessing</b> [3] - 253:18, 253:20, 253:21</p> <p><b>recite</b> [1] - 121:9</p> <p><b>recognized</b> [2] - 210:9, 228:2</p> <p><b>recollection</b> [2] - 52:23, 167:8</p> <p><b>recommend</b> [7] - 59:13, 60:7, 98:15, 129:4, 147:20, 226:5, 249:7</p> <p><b>recommendation</b> [3] - 58:18, 126:22, 128:10</p> <p><b>recommendations</b> [1] - 60:3</p> <p><b>recommended</b> [1] - 38:21</p> <p><b>reconvene</b> [3] - 92:9, 92:14, 154:23</p> <p><b>reconvened</b> [3] - 92:12, 154:20, 217:10</p> <p><b>record</b> [2] - 5:1, 5:13, 19:21, 36:14, 51:23, 58:2, 64:10, 76:7, 87:17, 114:3, 116:13, 118:25, 120:23, 157:14, 160:19, 198:7, 200:17, 200:19, 238:24, 239:3, 239:14</p> <p><b>recorded</b> [9] - 4:13, 172:4, 172:7, 211:4, 223:24, 225:21, 226:24, 228:17, 233:24</p> <p><b>recording</b> [1] - 227:25</p> <p><b>records</b> [6] - 15:1, 69:13, 93:23, 94:11, 114:8, 222:16</p> <p><b>red</b> [1] - 250:21</p> <p><b>redacted</b> [1] - 211:3</p> <p><b>redaction</b> [1] - 144:7</p> <p><b>redesign</b> [2] - 107:9, 170:16</p> <p><b>redline</b> [10] - 14:19, 99:13, 108:1, 108:25, 161:13, 163:21, 168:6, 168:10, 192:19, 202:14</p> <p><b>redlined</b> [1] - 103:15</p> <p><b>redlining</b> [1] - 106:12</p> <p><b>redraft</b> [1] - 149:14</p> <p><b>redrafted</b> [1] - 81:18</p>	<p><b>redress</b> [3] - 31:3, 31:6, 33:22</p> <p><b>reduced</b> [3] - 34:9, 196:24, 230:10</p> <p><b>reducing</b> [2] - 69:18, 70:3</p> <p><b>reduction</b> [5] - 29:4, 222:6, 222:11, 229:19, 230:14</p> <p><b>reductions</b> [1] - 251:23</p> <p><b>redundancy</b> [7] - 19:4, 19:5, 39:25, 51:13, 51:21, 65:10, 186:8</p> <p><b>redundant</b> [3] - 40:3, 53:5, 60:9</p> <p><b>refer</b> [1] - 94:3</p> <p><b>reference</b> [8] - 51:18, 60:5, 60:8, 113:9, 149:11, 149:25, 163:19, 232:19</p> <p><b>referenced</b> [3] - 20:14, 58:23, 70:24</p> <p><b>references</b> [3] - 59:2, 192:20, 192:25</p> <p><b>referring</b> [5] - 15:18, 70:9, 113:5, 149:19, 232:18</p> <p><b>reflect</b> [4] - 101:19, 170:16, 215:7, 243:6</p> <p><b>regard</b> [6] - 5:24, 60:6, 98:14, 143:15, 221:22, 226:4</p> <p><b>regarding</b> [8] - 58:14, 96:21, 108:13, 110:1, 110:14, 110:22, 111:12, 224:16</p> <p><b>regardless</b> [2] - 223:19, 242:8</p> <p><b>regularly</b> [1] - 26:12</p> <p><b>regulated</b> [1] - 72:24</p> <p><b>regulation</b> [2] - 32:17, 144:10</p> <p><b>regulations</b> [2] - 72:21, 98:2</p> <p><b>regulatory</b> [2] - 150:9, 151:8</p> <p><b>Regulatory</b> [2] - 151:5, 151:7</p> <p><b>reinstatement</b> [1] - 71:5</p> <p><b>rejected</b> [8] - 104:23, 212:16, 213:14, 213:21, 217:20, 218:2, 218:19, 243:5</p> <p><b>related</b> [2] - 20:10, 96:22</p> <p><b>relates</b> [2] - 225:17, 229:24</p>	<p><b>relative</b> [1] - 151:2</p> <p><b>relatively</b> [2] - 7:18, 236:5</p> <p><b>relay</b> [1] - 130:9</p> <p><b>relayed</b> [1] - 190:5</p> <p><b>relaying</b> [2] - 199:3, 199:16</p> <p><b>release</b> [2] - 188:17, 188:19</p> <p><b>released</b> [2] - 70:21, 108:25</p> <p><b>relevant</b> [4] - 84:22, 19:5, 93:16, 193:20</p> <p><b>relled</b> [2] - 156:13, 214:12</p> <p><b>relief</b> [1] - 138:17</p> <p><b>reluctant</b> [1] - 26:3</p> <p><b>reluctantly</b> [1] - 26:4</p> <p><b>rely</b> [1] - 101:21</p> <p><b>remain</b> [1] - 220:1</p> <p><b>remaining</b> [1] - 249:19</p> <p><b>remarkably</b> [2] - 242:21, 242:22</p> <p><b>remedial</b> [1] - 109:16</p> <p><b>remedy</b> [1] - 138:2</p> <p><b>remember</b> [7] - 4:14, 52:8, 77:23, 123:5, 155:14, 237:14, 250:18</p> <p><b>remembering</b> [1] - 212:11</p> <p><b>remind</b> [3] - 5:3, 55:10, 78:10</p> <p><b>reminder</b> [1] - 54:24</p> <p><b>reminds</b> [1] - 50:21</p> <p><b>remotely</b> [1] - 102:2</p> <p><b>removal</b> [1] - 49:5</p> <p><b>remove</b> [5] - 59:20, 70:12, 163:7, 176:15, 227:6</p> <p><b>removed</b> [8] - 12:22, 49:4, 156:18, 167:24, 167:25, 189:16, 209:2, 212:18</p> <p><b>removing</b> [3] - 23:10, 59:7, 59:10</p> <p><b>Removing</b> [2] - 6:15, 6:17</p> <p><b>render</b> [3] - 108:12, 109:25, 110:13</p> <p><b>renders</b> [1] - 102:12</p> <p><b>rendition</b> [1] - 127:1</p> <p><b>rep</b> [1] - 248:1</p> <p><b>repeat</b> [3] - 65:6, 142:21, 222:7</p> <p><b>repeated</b> [3] - 124:19, 142:24, 165:13</p> <p><b>repeatedly</b> [1] - 93:7</p> <p><b>repeating</b> [1] - 10:2</p>	<p><b>repetitive</b> [1] - 53:5</p> <p><b>repetitiveness</b> [2] - 183:16, 183:18</p> <p><b>Report</b> [1] - 247:3</p> <p><b>report</b> [7] - 69:6, 69:14, 69:23, 69:24, 103:1, 147:12, 239:4</p> <p><b>reported</b> [7] - 102:25, 193:14, 194:2, 200:24, 238:4, 238:15, 247:3</p> <p><b>reporter</b> [4] - 14:13, 47:1, 215:23, 253:3</p> <p><b>REPORTER</b> [14] - 5:14, 5:17, 46:25, 85:2, 130:23, 132:16, 153:1, 154:15, 158:25, 169:16, 189:5, 189:8, 215:21, 253:4</p> <p><b>reports</b> [3] - 93:7, 207:21, 207:22</p> <p><b>represent</b> [12] - 29:10, 29:11, 29:13, 46:4, 46:8, 48:20, 60:24, 60:25, 65:19, 68:8, 92:23, 100:15</p> <p><b>representation</b> [2] - 99:24, 100:1</p> <p><b>representative</b> [3] - 37:16, 116:23, 196:17</p> <p><b>Representative</b> [4] - 80:6, 245:23, 245:25, 246:1</p> <p><b>representatives</b> [10] - 17:9, 18:6, 41:21, 53:9, 74:8, 74:13, 75:2, 117:14, 125:24, 233:21</p> <p><b>Representatives</b> [3] - 80:9, 110:18, 111:3</p> <p><b>represented</b> [2] - 92:24, 158:12</p> <p><b>representing</b> [10] - 17:17, 38:10, 38:13, 45:8, 61:19, 100:18, 195:16, 213:8, 213:16, 222:18</p> <p><b>represents</b> [3] - 38:12, 196:12, 196:14</p> <p><b>reps</b> [4] - 28:7, 156:7, 156:20, 252:23</p> <p><b>request</b> [12] - 15:2, 93:23, 94:11, 95:3, 104:12, 114:8, 142:17, 142:23, 163:1, 173:6, 176:10, 244:4</p> <p><b>requested</b> [3] -</p>	<p>106:21, 113:11, 118:8</p> <p><b>requesting</b> [1] - 14:22</p> <p><b>requests</b> [1] - 14:18</p> <p><b>require</b> [3] - 205:15, 227:9, 227:12</p> <p><b>required</b> [9] - 19:20, 26:13, 26:16, 30:1, 33:6, 172:12, 200:8, 213:24, 225:20</p> <p><b>requirements</b> [4] - 69:18, 70:4, 95:25, 101:4</p> <p><b>requires</b> [4] - 50:25, 205:16, 221:1, 246:11</p> <p><b>requiring</b> [3] - 26:3, 56:22, 222:8</p> <p><b>review</b> [1] - 59:20</p> <p><b>research</b> [3] - 55:23, 56:21, 57:12</p> <p><b>resemble</b> [1] - 73:13</p> <p><b>resembles</b> [1] - 102:2</p> <p><b>reservation</b> [1] - 128:24</p> <p><b>residential</b> [1] - 27:20</p> <p><b>resolve</b> [4] - 94:24, 135:8, 139:13, 212:14</p> <p><b>resolved</b> [2] - 219:10, 223:18</p> <p><b>resolving</b> [1] - 210:16</p> <p><b>resources</b> [5] - 68:5, 69:19, 70:5, 70:7, 109:18</p> <p><b>respect</b> [5] - 88:1, 96:5, 150:11, 151:24, 152:17, 250:2</p> <p><b>respond</b> [4] - 5:1, 68:12, 88:14, 211:22</p> <p><b>responded</b> [3] - 162:25, 189:13, 214:16</p> <p><b>responding</b> [1] - 47:13</p> <p><b>responds</b> [1] - 105:25</p> <p><b>response</b> [2] - 162:25, 181:22</p> <p><b>responsibilities</b> [1] - 51:1</p> <p><b>responsibility</b> [4] - 12:13, 61:8, 123:14, 219:13</p> <p><b>responsible</b> [2] - 6:2, 6:7</p> <p><b>responsive</b> [1] - 202:17</p> <p><b>rest</b> [3] - 105:2, 238:17, 253:10</p>
---	---	--	---	---

<p><b>restore</b> [1] - 96:1  <b>restoring</b> [1] - 71:10  <b>resubmit</b> [1] - 152:19  <b>result</b> [4] - 33:2, 103:12, 136:12, 248:6  <b>resulted</b> [1] - 21:24  <b>resulting</b> [2] - 106:17, 108:23  <b>retired</b> [4] - 11:22, 27:13, 28:1, 169:10  <b>retirement</b> [1] - 202:8  <b>retrospect</b> [1] - 127:20  <b>revenue</b> [2] - 146:21, 150:23  <b>Revenue</b> [50] - 3:10, 7:1, 8:13, 10:8, 28:9, 30:19, 38:24, 49:23, 50:4, 57:5, 57:13, 62:5, 68:2, 77:5, 81:3, 83:21, 93:14, 94:8, 94:12, 96:11, 96:13, 99:6, 101:10, 101:21, 103:3, 103:18, 104:24, 110:4, 110:19, 112:12, 113:2, 119:6, 122:24, 123:10, 158:12, 160:21, 177:3, 182:21, 192:18, 202:12, 202:15, 202:20, 205:18, 213:17, 213:21, 220:21, 228:5, 229:12, 245:21, 247:14  <b>Revenue's</b> [12] - 63:17, 96:17, 97:16, 98:7, 99:16, 102:12, 103:19, 111:6, 219:11, 219:20, 225:22, 230:6  <b>revert</b> [1] - 59:17  <b>review</b> [19] - 48:19, 71:25, 72:12, 95:20, 105:17, 106:9, 109:3, 109:4, 119:13, 119:19, 120:13, 121:21, 158:15, 202:20, 202:22, 207:13, 212:19, 232:3, 238:14  <b>reviewing</b> [4] - 19:10, 122:19, 172:8, 228:8  <b>reviews</b> [1] - 231:19  <b>revise</b> [3] - 123:12, 168:8, 168:13  <b>revised</b> [16] - 16:19,</p>	<p>109:4, 109:7, 109:14, 202:17, 202:21, 202:25, 203:1, 203:6, 203:8, 204:16, 204:17, 205:9, 205:10, 207:6, 207:10  <b>revising</b> [1] - 68:3  <b>revision</b> [5] - 206:5, 206:9, 206:10, 207:18, 208:20  <b>revisions</b> [1] - 115:21  <b>revisit</b> [1] - 147:16  <b>revolt</b> [1] - 147:7  <b>revolution</b> [1] - 25:9  <b>reworked</b> [1] - 114:1  <b>rewrite</b> [2] - 10:9, 10:17  <b>rewrites</b> [1] - 10:6  <b>rewritten</b> [1] - 6:25  <b>rid</b> [2] - 6:13, 56:2  <b>ridiculous</b> [2] - 102:9, 102:16  <b>rights</b> [6] - 41:17, 57:6, 61:5, 62:9, 68:16  <b>ripped</b> [1] - 87:23  <b>ripping</b> [1] - 170:23  <b>rode</b> [1] - 246:23  <b>role</b> [12] - 49:21, 57:5, 76:8, 115:3, 211:6, 211:7, 219:11, 219:12, 219:20, 220:3, 220:5  <b>roll</b> [16] - 45:12, 62:24, 145:25, 148:2, 152:4, 201:11, 237:24, 247:10, 247:13, 247:14, 247:17, 247:18, 247:22, 247:23, 248:22, 249:3  <b>rolling</b> [2] - 18:20, 23:25  <b>rolls</b> [3] - 34:15, 230:15, 246:25  <b>Ron</b> [1] - 80:2  <b>room</b> [19] - 47:10, 47:13, 64:16, 64:17, 117:10, 120:4, 123:7, 127:18, 128:14, 128:23, 130:12, 131:14, 152:23, 171:14, 213:7, 234:4, 237:6, 245:17, 252:12  <b>rooms</b> [1] - 21:23  <b>roughly</b> [1] - 15:6  <b>row</b> [1] - 8:8  <b>rubs</b> [1] - 210:11</p>	<p><b>rude</b> [2] - 191:14, 191:24  <b>Rule</b> [3] - 128:3, 141:19, 155:18  <b>rule</b> [13] - 34:11, 43:6, 43:9, 43:13, 56:18, 75:10, 95:15, 157:9, 177:6, 212:15, 212:25, 213:1  <b>rule-making</b> [2] - 212:25, 213:1  <b>ruled</b> [2] - 25:7, 213:22  <b>rulemaking</b> [1] - 219:22  <b>rules</b> [23] - 18:8, 43:3, 43:23, 45:1, 70:24, 72:20, 96:7, 145:7, 145:10, 148:4, 170:10, 172:22, 173:15, 177:24, 178:6, 178:20, 180:20, 180:23, 181:9, 181:24, 187:18, 230:7, 236:15  <b>ruling</b> [1] - 136:10  <b>run</b> [3] - 44:25, 150:20, 151:10  <b>rundown</b> [1] - 53:13  <b>running</b> [2] - 41:9, 153:1  <b>runs</b> [1] - 42:12  <b>Rushmore</b> [1] - 132:4</p>	<p>242:18, 242:25, 243:3, 243:4, 243:5  <b>SAME</b> [1] - 132:15  <b>Sara</b> [1] - 92:22  <b>sat</b> [2] - 90:7, 199:4  <b>satisfied</b> [1] - 179:5  <b>satisfy</b> [1] - 181:15  <b>save</b> [1] - 17:7  <b>saves</b> [1] - 150:7  <b>saw</b> [5] - 19:10, 38:9, 48:15, 146:6, 164:15  <b>scalpel</b> [2] - 90:3, 91:6  <b>scenes</b> [1] - 39:3  <b>schedule</b> [3] - 2:25, 108:17, 130:4  <b>scheduled</b> [1] - 143:3  <b>scheduling</b> [1] - 108:3  <b>school</b> [8] - 24:14, 24:18, 30:4, 32:22, 144:5, 151:17, 196:9, 248:15  <b>Schuler</b> [1] - 149:9  <b>Schultz</b> [4] - 80:2, 80:19, 84:1, 88:2  <b>seasoned</b> [1] - 77:3  <b>seat</b> [4] - 2:3, 91:5, 148:1, 154:22  <b>sec</b> [1] - 154:13  <b>second</b> [12] - 2:16, 6:22, 28:1, 72:5, 91:22, 130:21, 142:12, 160:22, 169:21, 216:13, 217:12, 247:18  <b>Second</b> [3] - 135:23, 135:25, 215:5  <b>seconds</b> [1] - 154:12  <b>secret</b> [16] - 9:6, 9:8, 16:8, 16:12, 108:11, 108:15, 109:23, 110:6, 110:11, 110:22, 111:1, 111:4, 139:17, 139:18, 152:5, 212:16  <b>secretive</b> [4] - 96:18, 103:19, 106:14, 108:20  <b>secretively</b> [1] - 117:12  <b>section</b> [1] - 182:5  <b>Section</b> [9] - 163:3, 163:8, 172:5, 172:12, 176:17, 227:11, 228:1, 231:13  <b>Sections</b> [4] - 102:5, 103:5, 173:2, 227:15  <b>sections</b> [2] - 51:22, 231:20</p>	<p><b>sector</b> [5] - 79:8, 150:21, 150:22, 150:23  <b>secured</b> [1] - 12:15  <b>see</b> [43] - 4:15, 13:9, 13:14, 13:17, 17:5, 24:24, 25:18, 38:6, 53:16, 59:6, 60:9, 70:2, 75:8, 86:4, 106:12, 112:19, 126:18, 127:22, 127:23, 130:4, 141:24, 142:23, 148:17, 158:13, 160:23, 162:7, 166:19, 168:9, 171:14, 178:21, 179:9, 188:3, 189:20, 202:7, 202:10, 204:10, 217:2, 227:21, 232:12, 234:17, 235:22, 239:15  <b>seeing</b> [4] - 91:15, 147:25, 162:8, 239:25  <b>seek</b> [1] - 116:1  <b>seeks</b> [1] - 174:2  <b>seem</b> [2] - 133:18, 206:23  <b>seller</b> [1] - 232:22  <b>selling</b> [7] - 172:4, 211:4, 228:17, 232:23, 233:1, 233:3  <b>Senate</b> [4] - 22:4, 26:25, 96:24, 97:22  <b>send</b> [4] - 105:16, 181:22, 216:20, 244:3  <b>sending</b> [1] - 104:9  <b>sends</b> [4] - 64:17, 105:20, 107:21, 109:1  <b>Senior</b> [2] - 3:9, 3:11  <b>sense</b> [3] - 19:2, 40:14, 253:9  <b>sensitive</b> [1] - 147:4  <b>sent</b> [19] - 15:3, 93:24, 104:4, 104:11, 104:13, 104:17, 105:1, 106:7, 106:25, 107:6, 107:14, 110:9, 113:12, 113:13, 113:15, 192:10, 207:20, 207:21, 218:5  <b>separate</b> [2] - 3:20, 213:19  <b>separates</b> [1] - 159:15</p>
<b>S</b>				
<p><b>safe</b> [1] - 247:20  <b>sale</b> [34] - 75:9, 98:14, 98:17, 98:20, 98:24, 99:7, 132:10, 133:13, 164:12, 165:2, 165:3, 168:15, 172:7, 193:13, 200:24, 225:19, 226:5, 226:7, 226:11, 227:6, 228:1, 229:23, 230:11, 230:23, 231:3, 231:9, 237:16, 237:17, 237:25, 242:20, 243:2, 246:6, 246:7, 246:8  <b>sales</b> [14] - 32:23, 194:2, 195:1, 196:24, 226:24, 234:20, 234:23, 234:24, 237:15,</p>				

<p><b>separation</b> [1] - 220:7</p> <p><b>September</b> [7] - 107:23, 107:24, 203:5, 203:9, 203:12, 203:16, 229:18</p> <p><b>serious</b> [1] - 116:25</p> <p><b>seriously</b> [1] - 54:1</p> <p><b>service</b> [2] - 221:24, 246:7</p> <p><b>Services</b> [1] - 71:16</p> <p><b>servicing</b> [1] - 66:5</p> <p><b>session</b> [2] - 8:11, 75:21</p> <p><b>set</b> [10] - 35:14, 53:23, 65:13, 66:1, 67:5, 76:7, 143:1, 160:6, 210:21, 222:9</p> <p><b>sets</b> [3] - 56:11, 211:1, 242:9</p> <p><b>setting</b> [2] - 67:6, 67:24</p> <p><b>settle</b> [1] - 217:23</p> <p><b>settlement</b> [16] - 87:6, 160:13, 160:19, 160:20, 176:6, 176:8, 208:17, 211:23, 212:5, 212:14, 212:15, 213:6, 213:11, 213:12, 217:18, 217:20</p> <p><b>seven</b> [5] - 33:13, 44:13, 108:5, 109:10, 154:25</p> <p><b>several</b> [12] - 6:8, 15:19, 25:16, 25:17, 53:3, 63:20, 99:4, 104:2, 120:3, 124:15, 209:1, 246:4</p> <p><b>Several</b> [1] - 30:2</p> <p><b>severing</b> [1] - 74:24</p> <p><b>shadows</b> [1] - 112:23</p> <p><b>shaft</b> [1] - 137:20</p> <p><b>shake</b> [2] - 28:24, 38:16</p> <p><b>shaking</b> [3] - 25:18, 76:22, 77:10</p> <p><b>shall</b> [1] - 54:21</p> <p><b>sham</b> [1] - 102:13</p> <p><b>shame</b> [1] - 42:7</p> <p><b>shape</b> [1] - 144:18</p> <p><b>share</b> [1] - 229:14</p> <p><b>shared</b> [1] - 76:15</p> <p><b>sharply</b> [2] - 215:3, 220:20</p> <p><b>Shelia</b> [1] - 60:23</p> <p><b>Shepherd</b> [24] - 92:3, 101:25, 102:18, 104:22, 106:18,</p>	<p>131:4, 131:16, 131:19, 143:17, 146:4, 153:7, 160:21, 167:23, 168:5, 172:15, 172:17, 209:21, 228:14, 229:1, 230:21, 239:17, 250:3, 250:13, 251:1</p> <p><b>SHEPHERD</b> [9] - 131:11, 132:18, 140:3, 140:5, 153:8, 154:11, 239:18, 250:6, 250:18</p> <p><b>Shepherd's</b> [1] - 212:9</p> <p><b>shocked</b> [3] - 126:23, 224:20, 224:24</p> <p><b>shocking</b> [1] - 112:9</p> <p><b>shoes</b> [1] - 57:10</p> <p><b>short</b> [3] - 119:18, 154:15, 156:25</p> <p><b>shortcoming</b> [1] - 79:17</p> <p><b>shorten</b> [1] - 181:25</p> <p><b>shorter</b> [2] - 17:8, 51:5</p> <p><b>shot</b> [5] - 23:17, 23:21, 41:9, 137:17, 209:8</p> <p><b>Show</b> [2] - 83:24, 84:4</p> <p><b>show</b> [16] - 85:19, 86:7, 86:9, 136:21, 145:13, 148:10, 148:11, 148:12, 174:12, 174:20, 196:22, 197:11, 197:24, 198:5, 233:18, 241:25, 242:1</p> <p><b>showed</b> [4] - 18:1, 148:12, 164:20, 195:17</p> <p><b>showing</b> [7] - 72:17, 72:19, 72:20, 104:18, 105:3, 204:16</p> <p><b>shown</b> [2] - 86:18, 86:20</p> <p><b>shows</b> [6] - 93:23, 116:13, 193:14, 194:2, 194:6, 200:24</p> <p><b>shy</b> [1] - 5:11</p> <p><b>sic</b> [2] - 36:10, 86:22</p> <p><b>sic</b> [1] - 107:23</p> <p><b>side</b> [17] - 12:7, 44:11, 44:14, 45:7, 54:4, 56:9, 134:6, 138:8, 149:5, 156:20, 157:6, 157:13, 157:16, 239:22, 249:5, 252:23,</p>	<p>252:24</p> <p><b>sided</b> [2] - 48:21, 91:17</p> <p><b>sides</b> [13] - 134:3, 134:6, 134:7, 134:19, 135:14, 136:22, 136:24, 140:11, 140:25, 141:22, 143:20, 144:2, 156:1</p> <p><b>sides'</b> [1] - 213:11</p> <p><b>signed</b> [1] - 210:25</p> <p><b>significant</b> [2] - 91:24, 119:20</p> <p><b>significantly</b> [3] - 7:19, 121:4, 123:23</p> <p><b>similar</b> [4] - 41:23, 41:25, 75:7, 213:5</p> <p><b>simple</b> [7] - 74:11, 118:10, 138:16, 138:22, 160:6, 172:10, 179:13</p> <p><b>simplify</b> [2] - 49:15, 53:6</p> <p><b>simply</b> [1] - 221:13</p> <p><b>sine</b> [1] - 187:21</p> <p><b>single</b> [11] - 27:20, 38:22, 93:25, 94:22, 104:6, 111:10, 134:24, 134:25, 218:12, 228:13, 231:6</p> <p><b>single-family</b> [1] - 27:20</p> <p><b>slit</b> [5] - 64:24, 148:20, 152:23, 181:5, 187:25</p> <p><b>sitting</b> [8] - 49:13, 67:12, 91:14, 119:23, 148:7, 149:24, 184:9, 186:14</p> <p><b>situation</b> [5] - 93:13, 127:8, 127:13, 196:3, 249:13</p> <p><b>situations</b> [3] - 93:19, 101:5, 124:12</p> <p><b>six</b> [28] - 10:5, 11:23, 24:18, 33:13, 39:23, 104:18, 104:19, 104:20, 105:4, 165:19, 170:9, 173:14, 177:17, 177:23, 178:8, 180:22, 183:8, 183:9, 189:4, 189:18, 190:3, 190:12, 190:22, 208:23, 232:10</p> <p><b>size</b> [1] - 144:18</p>	<p><b>slammed</b> [2] - 29:21, 38:5</p> <p><b>slander</b> [2] - 83:20, 83:22</p> <p><b>slandering</b> [1] - 82:25</p> <p><b>slipped</b> [1] - 131:5</p> <p><b>Slow</b> [1] - 158:25</p> <p><b>slow</b> [1] - 178:23</p> <p><b>small</b> [14] - 25:8, 31:20, 32:4, 40:22, 58:17, 71:21, 71:23, 72:13, 99:22, 100:12, 101:23, 196:7, 221:22, 251:12</p> <p><b>SMITH</b> [1] - 58:9</p> <p><b>Smith</b> [1] - 58:9</p> <p><b>sold</b> [8] - 74:15, 171:18, 171:22, 171:24, 194:21, 197:23, 199:11, 237:22</p> <p><b>solely</b> [2] - 53:18, 58:14</p> <p><b>solution</b> [2] - 136:17, 152:21</p> <p><b>solved</b> [1] - 210:19</p> <p><b>Someday</b> [1] - 26:24</p> <p><b>Someone</b> [1] - 251:11</p> <p><b>someone</b> [4] - 51:11, 76:10, 140:24, 247:23</p> <p><b>Sometime</b> [1] - 28:20</p> <p><b>sometime</b> [3] - 28:21, 34:18, 243:23</p> <p><b>Sometimes</b> [1] - 213:12</p> <p><b>sometimes</b> [4] - 51:14, 213:13, 243:10</p> <p><b>somewhere</b> [7] - 28:18, 40:3, 40:6, 40:17, 41:5, 43:7, 165:13</p> <p><b>sooner</b> [1] - 69:1</p> <p><b>sophisticated</b> [2] - 138:20, 138:21</p> <p><b>Sorry</b> [9] - 52:13, 52:17, 68:25, 163:15, 169:25, 211:15, 215:8, 215:17, 245:14</p> <p><b>sorry</b> [23] - 4:10, 11:12, 28:23, 42:1, 47:3, 61:11, 65:6, 65:21, 68:11, 87:20, 113:13, 114:24, 152:10, 152:13, 154:6, 164:20, 166:24, 185:19,</p>	<p>189:10, 205:12, 209:11, 216:25, 234:15</p> <p><b>sort</b> [4] - 10:19, 13:17, 248:17, 252:22</p> <p><b>sought</b> [1] - 87:7</p> <p><b>sounds</b> [2] - 206:21, 242:22</p> <p><b>Sounds</b> [1] - 242:21</p> <p><b>source</b> [2] - 62:13, 64:22</p> <p><b>sources</b> [2] - 32:23, 232:7</p> <p><b>South</b> [2] - 73:16, 73:18</p> <p><b>space</b> [1] - 62:22</p> <p><b>spawn</b> [2] - 120:7, 122:2</p> <p><b>speaker</b> [3] - 26:24, 30:9, 47:13</p> <p><b>speakers</b> [1] - 48:14</p> <p><b>speaking</b> [3] - 21:11, 47:10, 61:3</p> <p><b>Special</b> [3] - 69:9, 146:19, 148:12</p> <p><b>special</b> [40] - 18:11, 22:15, 25:16, 25:23, 26:5, 26:11, 29:16, 34:10, 34:19, 34:25, 35:1, 37:22, 38:3, 44:22, 49:24, 50:18, 61:21, 63:14, 64:22, 69:13, 70:1, 74:9, 99:9, 101:2, 126:1, 133:5, 133:23, 134:12, 134:17, 135:5, 135:12, 138:24, 149:24, 156:5, 222:9, 222:14, 223:7, 231:17, 251:16, 251:22</p> <p><b>Specialist</b> [1] - 3:12</p> <p><b>specialized</b> [1] - 97:8</p> <p><b>specialty</b> [1] - 29:12</p> <p><b>specific</b> [7] - 24:7, 40:1, 48:25, 110:17, 129:11, 181:23, 226:19</p> <p><b>specifically</b> [14] - 21:11, 24:3, 34:5, 37:2, 58:20, 69:19, 70:4, 70:7, 78:12, 88:18, 179:20, 184:25, 214:11, 240:20</p> <p><b>specificity</b> [1] - 76:4</p> <p><b>specifics</b> [1] - 12:14</p> <p><b>specify</b> [1] - 212:21</p> <p><b>speech</b> [2] - 52:20,</p>
--	--	--	---	---

<p>66:20  <b>spell</b> [2] - 139:9,  242:12  <b>Spell</b> [1] - 11:11  <b>spend</b> [4] - 29:13,  73:17, 89:22, 253:9  <b>spending</b> [1] - 68:4  <b>spent</b> [3] - 91:14,  91:24, 148:6  <b>splits</b> [1] - 135:21  <b>spoken</b> [2] - 105:9,  225:10  <b>spring</b> [1] - 218:1  <b>stacked</b> [1] - 146:25  <b>Staff</b> [2] - 110:4, 123:3  <b>staff</b> [7] - 35:22,  98:15, 98:24, 99:6,  109:20, 226:6,  226:10  <b>stage</b> [1] - 88:15  <b>Stalling</b> [1] - 246:1  <b>stamp</b> [1] - 246:10  <b>stamps</b> [1] - 246:16  <b>Stan</b> [4] - 73:9,  128:25, 130:24,  209:10  <b>stand</b> [4] - 152:3,  191:20, 235:18,  248:20  <b>standard</b> [11] - 3:17,  3:21, 45:2, 95:21,  208:11, 228:7,  229:4, 229:12,  243:8, 250:21,  250:22  <b>standards</b> [3] -  242:10, 250:16,  251:8  <b>standing</b> [1] - 250:3  <b>standpoint</b> [4] - 45:8,  115:5, 119:10,  247:12  <b>stands</b> [1] - 64:18  <b>start</b> [16] - 43:14,  73:23, 76:14,  128:21, 129:5,  129:6, 129:7, 129:8,  154:18, 161:15,  178:16, 179:1,  179:3, 179:4,  182:25, 242:24  <b>started</b> [10] - 2:4, 3:5,  3:14, 4:5, 5:8, 16:13,  76:19, 77:9, 147:8,  188:23  <b>starting</b> [5] - 23:14,  111:15, 111:17,  147:18, 182:8  <b>starts</b> [3] - 165:7,  166:15, 178:22</p>	<p><b>State</b> [12] - 25:18,  80:5, 127:9, 219:11,  227:6, 227:9,  227:18, 227:20,  230:2, 230:4, 248:9,  248:15  <b>state</b> [44] - 14:13,  25:22, 27:7, 27:9,  28:4, 30:12, 30:15,  30:18, 31:1, 33:4,  34:11, 38:14, 47:1,  53:17, 56:19, 57:7,  61:20, 66:13, 71:18,  72:9, 72:11, 72:14,  72:16, 73:1, 73:7,  81:16, 132:12,  141:12, 142:25,  152:1, 152:7,  162:22, 177:19,  213:4, 215:1, 220:8,  220:15, 221:24,  222:6, 222:11,  229:13, 248:23,  249:22, 251:20  <b>statement</b> [12] - 3:14,  31:22, 47:16, 57:21,  61:6, 82:4, 82:22,  86:6, 97:24, 107:8,  176:9, 218:17  <b>statements</b> [4] - 4:2,  69:11, 96:21, 214:7  <b>states</b> [5] - 28:6,  107:24, 158:13,  215:6, 249:18  <b>States</b> [2] - 32:14,  34:3  <b>statewide</b> [7] - 37:5,  38:22, 41:24, 41:25,  45:2, 157:21, 208:10  <b>stating</b> [4] - 15:5,  107:14, 109:2,  227:18  <b>statistic</b> [1] - 154:4  <b>statistical</b> [6] - 234:7,  234:15, 234:16,  237:20, 237:23,  251:8  <b>statistician</b> [1] - 195:3  <b>statistics</b> [2] - 234:18,  234:19  <b>Statute</b> [1] - 62:25  <b>statute</b> [13] - 3:19,  34:1, 50:5, 64:12,  150:5, 183:20,  208:8, 221:11,  227:14, 242:8,  242:23, 244:6, 248:9  <b>statutes</b> [16] - 17:13,  31:5, 43:23, 170:11,  172:21, 173:15,</p>	<p>177:25, 178:7,  178:20, 180:20,  181:9, 181:24,  227:12, 234:10,  242:15, 243:7  <b>Statutes</b> [13] - 100:9,  102:6, 163:4, 163:9,  172:13, 176:18,  194:4, 195:19,  201:1, 227:15,  227:23, 231:5,  231:20  <b>statutory</b> [8] - 98:3,  107:10, 150:9,  170:17, 170:20,  172:12, 186:9,  230:12  <b>stay</b> [3] - 112:23,  129:25, 140:11  <b>staying</b> [1] - 221:17  <b>step</b> [11] - 50:12,  54:13, 101:9, 134:1,  134:9, 134:14,  135:10, 148:18,  217:14, 254:2  <b>step-by-step</b> [1] -  50:12  <b>stepped</b> [1] - 147:23  <b>stepping</b> [1] - 40:24  <b>steps</b> [1] - 156:17  <b>Steve</b> [8] - 93:24,  104:4, 104:13,  105:8, 106:20,  117:23, 121:16,  156:12  <b>stick</b> [1] - 235:17  <b>still</b> [24] - 24:23,  25:16, 44:10, 46:15,  46:18, 52:14, 69:22,  75:6, 82:23, 83:2,  109:13, 117:11,  117:19, 118:3,  124:8, 144:15,  175:13, 198:4,  211:12, 215:17,  215:19, 216:12,  225:1, 235:7  <b>stomp</b> [1] - 100:5  <b>stop</b> [5] - 32:2, 142:7,  142:8, 187:23, 212:1  <b>stopped</b> [1] - 22:21  <b>stops</b> [3] - 185:17,  185:22, 217:2  <b>story</b> [3] - 76:1,  116:14, 119:18  <b>straight</b> [3] - 37:23,  76:7, 250:4  <b>Stranburg</b> [15] -  96:14, 107:6,  108:21, 110:20,</p>	<p>110:24, 120:6,  120:11, 122:25,  142:17, 143:1,  186:23, 187:2,  187:7, 225:9, 253:24  <b>strata</b> [2] - 153:25,  194:7  <b>stratas</b> [1] - 238:13  <b>strategy</b> [1] - 42:25  <b>streamline</b> [6] - 53:6,  70:14, 120:1,  123:20, 124:2,  124:11  <b>streamlining</b> [1] -  123:22  <b>strides</b> [1] - 236:10  <b>strike</b> [4] - 17:6,  161:25, 162:2, 162:7  <b>String</b> [3] - 11:4, 11:8,  11:10  <b>string</b> [4] - 11:9,  12:18, 55:22, 58:1  <b>stripped</b> [1] - 74:23  <b>strong</b> [1] - 33:25  <b>strongly</b> [2] - 102:1,  218:25  <b>structurally</b> [1] -  145:23  <b>structure</b> [1] - 97:5  <b>structured</b> [1] - 114:9  <b>structuring</b> [1] - 21:1  <b>struggle</b> [2] - 96:10,  96:11  <b>stuck</b> [1] - 142:2  <b>student</b> [1] - 81:9  <b>studied</b> [3] - 116:8,  199:15, 220:24  <b>studies</b> [3] - 98:25,  243:5, 243:18  <b>study</b> [8] - 51:1,  151:22, 151:23,  154:4, 220:18,  221:1, 237:21,  237:24  <b>stuff</b> [27] - 15:10, 16:8,  16:11, 16:12, 18:7,  21:21, 23:6, 29:23,  35:8, 40:1, 41:14,  88:24, 113:21,  121:12, 132:6,  148:25, 150:9,  164:18, 171:8,  176:12, 177:16,  187:24, 208:21,  234:10, 244:18,  249:16  <b>Subcommittee</b> [2] -  110:18, 110:24  <b>subject</b> [6] - 9:21,  25:9, 78:14, 96:8,</p>	<p>226:20, 246:3  <b>submit</b> [3] - 191:6,  218:21, 240:1  <b>submitted</b> [7] - 47:18,  113:9, 126:15,  160:12, 214:21,  214:22, 239:18  <b>subparagraph</b> [1] -  58:24  <b>Subsection</b> [1] - 167:7  <b>substance</b> [1] -  155:22  <b>substantial</b> [3] - 68:4,  242:19, 243:1  <b>substantially</b> [1] -  229:13  <b>substantive</b> [4] -  163:2, 169:5, 173:7,  176:11  <b>subtract</b> [1] - 19:15  <b>succeeded</b> [1] - 124:6  <b>successful</b> [1] - 222:2  <b>sudden</b> [2] - 39:16,  137:13  <b>Sue</b> [5] - 105:19,  105:20, 106:1,  109:21, 185:12  <b>sue</b> [2] - 63:12, 246:17  <b>sued</b> [3] - 164:10,  164:11, 164:12  <b>sufficient</b> [2] - 51:10,  100:14  <b>suggest</b> [4] - 145:22,  147:15, 215:1, 220:1  <b>suggested</b> [1] -  210:18  <b>suggesting</b> [2] -  10:15, 210:15  <b>suggestion</b> [6] - 4:25,  130:3, 130:10,  130:22, 142:13,  209:8  <b>suggestions</b> [7] - 4:8,  113:22, 155:4,  158:3, 209:16,  232:1, 254:8  <b>suggests</b> [1] - 215:6  <b>sult</b> [2] - 63:8, 213:10  <b>Sunshine</b> [10] - 8:16,  8:21, 9:24, 110:5,  111:8, 127:16,  202:16, 204:7,  207:3, 207:4  <b>superseded</b> [2] -  149:8, 149:13  <b>supervisor</b> [2] -  114:20, 114:23  <b>supplement</b> [1] -  222:3  <b>supplemented</b> [1] -</p>
---	--	--	--	---

<p>107:18  <b>support</b> [5] - 19:4,  232:7, 232:8,  235:20, 235:22  <b>supported</b> [26] -  163:5, 170:10,  173:8, 173:14,  175:21, 176:13,  177:19, 177:24,  178:6, 178:19,  180:20, 180:22,  181:9, 181:23,  182:10, 182:24,  183:2, 186:11,  189:19, 189:24,  190:13, 190:22,  208:15, 208:18,  208:22, 209:3  <b>supposed</b> [12] - 3:16,  61:24, 61:25, 85:19,  94:21, 110:4,  131:22, 134:16,  135:11, 138:15,  208:9, 217:21  <b>supposedly</b> [1] -  111:5  <b>Supreme</b> [2] - 34:3,  215:4  <b>surely</b> [1] - 8:4  <b>surgeon</b> [1] - 79:1  <b>surgery</b> [1] - 82:11  <b>surprise</b> [1] - 44:6  <b>surprised</b> [2] - 224:13,  246:10  <b>surrendered</b> [1] -  96:13  <b>surrogate</b> [1] - 86:25  <b>surrounds</b> [1] - 26:22  <b>suspect</b> [2] - 117:20,  239:24  <b>sway</b> [1] - 22:24  <b>sweating</b> [2] - 169:14,  169:18  <b>switch</b> [1] - 214:22  <b>synonymous</b> [8] -  215:2, 218:10,  218:13, 219:6,  232:20, 233:7,  237:2, 239:12  <b>System</b> [1] - 98:11  <b>system</b> [12] - 17:24,  37:2, 41:12, 56:19,  62:4, 93:12, 98:5,  99:19, 99:20,  146:17, 237:4,  249:17  <b>systematic</b> [1] - 95:16  <b>systems</b> [1] - 32:22</p>	<p style="text-align: center;"><b>T</b></p> <p><b>table</b> [6] - 129:10,  148:2, 148:7, 149:6,  150:1, 161:2  <b>tact</b> [1] - 221:9  <b>TALKING</b> [1] - 132:14  <b>talks</b> [1] - 163:22  <b>Tallahassee</b> [12] -  2:19, 2:21, 10:4,  73:19, 75:21, 79:21,  80:6, 128:13,  155:16, 191:2,  191:4, 211:20  <b>Tampa</b> [1] - 240:16  <b>tandem</b> [1] - 218:23  <b>tangential</b> [1] - 150:13  <b>tangible</b> [8] - 3:18,  3:23, 77:6, 183:6,  183:11, 183:19,  184:10, 184:14  <b>tangibles</b> [2] - 75:3,  184:4  <b>target</b> [1] - 252:8  <b>task</b> [5] - 36:23, 36:24,  38:19, 42:4, 78:17  <b>taught</b> [1] - 144:5  <b>tax</b> [58] - 20:24, 28:7,  32:20, 32:21, 32:23,  32:24, 34:15, 36:16,  36:23, 37:2, 38:14,  38:18, 53:9, 62:24,  63:2, 63:17, 64:9,  71:25, 72:9, 72:10,  72:11, 72:14, 72:17,  78:23, 93:12, 94:24,  95:22, 97:5, 97:20,  97:24, 98:3, 98:9,  99:17, 99:18,  100:10, 101:22,  102:11, 116:24,  134:22, 134:25,  151:22, 151:25,  156:7, 156:20,  184:11, 210:24,  230:14, 233:20,  237:4, 237:24,  247:10, 247:17,  247:23, 248:1,  248:10, 252:23  <b>Tax</b> [11] - 2:11, 3:11,  36:17, 38:24, 62:18,  69:4, 71:16, 98:10,  123:3, 123:11,  151:23  <b>tax-paying</b> [2] - 98:9,  99:17  <b>taxation</b> [5] - 96:22,  96:25, 97:4, 97:10,</p>	<p>97:11  <b>Taxation</b> [2] - 96:24,  97:22  <b>taxes</b> [10] - 32:17,  33:18, 61:15, 61:17,  62:10, 78:13, 78:16,  86:2, 248:15, 248:23  <b>taxing</b> [2] - 100:2,  152:11  <b>taxpayer</b> [30] - 27:15,  38:4, 40:2, 44:3,  44:11, 48:24, 49:4,  49:6, 49:19, 52:25,  53:1, 54:4, 57:6,  61:4, 61:13, 74:6,  91:10, 92:23, 100:4,  100:15, 100:20,  102:18, 103:4,  137:20, 147:7,  148:24, 158:16,  163:25, 171:13,  183:10  <b>taxpayer's</b> [1] - 35:21  <b>taxpayers</b> [48] - 17:17,  18:5, 19:21, 20:17,  21:23, 22:3, 23:16,  28:22, 48:20, 51:25,  52:21, 56:22, 56:25,  59:13, 60:25, 61:10,  63:7, 63:22, 74:22,  80:22, 91:16, 95:3,  95:18, 98:13, 99:23,  99:24, 100:12,  100:13, 101:23,  102:4, 102:7,  117:14, 117:15,  118:7, 125:24,  129:12, 138:20,  152:9, 156:21,  159:23, 209:23,  213:9, 226:4,  228:20, 231:16,  233:21, 234:1,  235:10  <b>taxpayers'</b> [3] - 18:6,  64:1, 68:16  <b>teach</b> [1] - 24:10  <b>team</b> [1] - 92:4  <b>tear</b> [2] - 40:19, 42:14  <b>tearing</b> [1] - 39:17  <b>technical</b> [1] - 221:18  <b>technically</b> [1] - 35:9  <b>techniques</b> [1] -  243:22  <b>telephone</b> [1] - 58:5  <b>TELEPHONE</b> [2] -  46:22, 112:5  <b>television</b> [1] - 33:13  <b>ten</b> [13] - 7:1, 19:1,  33:14, 105:13,</p>	<p>110:10, 117:5,  194:10, 202:11,  222:14, 248:21,  249:3, 249:8, 249:10  <b>tend</b> [1] - 243:12  <b>tendency</b> [1] - 250:11  <b>term</b> [1] - 122:2  <b>terms</b> [6] - 3:19,  49:15, 51:13,  151:24, 228:11  <b>test</b> [3] - 26:5, 141:16,  222:9  <b>testify</b> [1] - 26:13  <b>testimony</b> [4] - 83:7,  127:14, 129:13,  156:14  <b>tests</b> [1] - 251:3  <b>Texas</b> [11] - 27:10,  33:12, 33:15, 33:18,  33:22, 33:24, 33:25,  151:2, 151:3, 151:4,  151:16  <b>textbooks</b> [1] - 24:15  <b>THE</b> [15] - 5:14, 5:17,  46:25, 85:2, 130:23,  132:14, 132:16,  153:1, 154:15,  158:25, 169:16,  189:5, 189:8,  215:21, 253:4  <b>theirs</b> [1] - 44:13  <b>themselves</b> [4] - 3:7,  47:11, 67:24, 74:6  <b>theories</b> [1] - 125:2  <b>thereby</b> [1] - 103:3  <b>Therefore</b> [3] - 97:8,  163:5, 176:13  <b>therefore</b> [5] - 26:17,  36:5, 173:9, 196:2,  213:25  <b>They've</b> [1] - 239:8  <b>they've</b> [5] - 23:5,  65:17, 199:5,  199:14, 233:15  <b>thinking</b> [3] - 116:11,  186:15, 235:16  <b>thinks</b> [4] - 42:2,  50:19, 188:13,  215:23  <b>Third</b> [2] - 135:24,  136:2  <b>third</b> [1] - 141:6  <b>thirties</b> [1] - 247:5  <b>thorough</b> [1] - 219:10  <b>thoughts</b> [1] - 144:20  <b>thousand</b> [9] - 18:21,  18:24, 164:19,  171:16, 171:18,  171:24, 171:25,  246:14, 246:16</p>	<p><b>thousands</b> [1] - 38:12  <b>three</b> [23] - 6:25, 7:4,  8:8, 17:11, 17:12,  17:23, 30:25, 33:14,  53:12, 80:8, 122:9,  124:20, 128:4,  128:5, 128:8,  133:17, 140:9,  147:1, 199:5,  207:15, 214:24,  237:15, 238:25  <b>throughout</b> [4] - 21:8,  56:19, 57:7, 61:20  <b>thrown</b> [1] - 139:2  <b>tickling</b> [1] - 235:13  <b>tied</b> [4] - 53:15,  244:23, 244:24,  245:4  <b>tightly</b> [1] - 146:9  <b>Tim</b> [1] - 69:3  <b>TIME</b> [1] - 132:15  <b>timeline</b> [4] - 76:3,  76:15, 78:6, 79:12  <b>timely</b> [1] - 167:10  <b>timing</b> [1] - 223:17  <b>title</b> [1] - 168:3  <b>titled</b> [1] - 71:9  <b>titles</b> [1] - 167:21  <b>today</b> [43] - 2:20, 6:2,  8:23, 16:25, 17:2,  19:16, 29:1, 32:12,  38:11, 47:18, 49:2,  55:15, 58:15, 59:1,  61:3, 73:10, 80:11,  83:7, 119:23,  127:23, 128:19,  129:13, 143:8,  143:12, 153:4,  158:4, 163:20,  170:5, 181:15,  184:9, 203:19,  205:5, 206:19,  220:17, 224:2,  233:10, 234:18,  236:2, 249:16,  251:9, 252:3,  252:19, 254:8  <b>Today</b> [1] - 253:25  <b>today's</b> [1] - 155:13  <b>Todd</b> [1] - 143:14  <b>together</b> [8] - 53:16,  127:5, 129:11,  135:2, 152:23,  187:23, 232:6, 239:8  <b>Tokal</b> [4] - 183:6,  184:4, 184:10,  218:20  <b>tomorrow</b> [1] - 254:5  <b>tonight</b> [1] - 129:1  <b>Tony</b> [5] - 105:8,</p>
--	--	--	---	--

<p>107:7, 115:15, 115:23, 123:4</p> <p><b>took</b> [14] - 22:17, 24:21, 54:5, 55:13, 61:11, 79:9, 91:6, 124:12, 149:16, 173:23, 197:22, 198:14, 220:21, 235:11</p> <p><b>tool</b> [3] - 59:5, 59:6, 60:10</p> <p><b>top</b> [2] - 128:18, 230:13</p> <p><b>topic</b> [3] - 8:22, 21:14, 144:20</p> <p><b>TORRES</b> [1] - 155:10</p> <p><b>Torres</b> [1] - 155:10</p> <p><b>totally</b> [1] - 19:4</p> <p><b>touch</b> [2] - 58:22, 254:11</p> <p><b>touched</b> [1] - 88:8</p> <p><b>toward</b> [1] - 210:6</p> <p><b>towards</b> [1] - 109:22</p> <p><b>tower</b> [1] - 148:16</p> <p><b>tracing</b> [1] - 29:18</p> <p><b>track</b> [5] - 65:21, 104:17, 106:11, 146:4, 156:23</p> <p><b>tracks</b> [1] - 146:8</p> <p><b>train</b> [2] - 13:20, 13:21</p> <p><b>trained</b> [7] - 17:18, 17:19, 17:20, 37:22, 141:17, 144:9</p> <p><b>Training</b> [1] - 2:14</p> <p><b>training</b> [198] - 2:21, 3:15, 3:20, 3:25, 4:1, 8:24, 12:9, 12:18, 13:8, 13:11, 15:16, 15:18, 15:24, 16:19, 17:14, 18:3, 18:19, 18:20, 19:11, 19:15, 19:23, 20:10, 21:19, 22:15, 23:8, 37:20, 41:25, 42:21, 43:3, 43:5, 44:21, 47:19, 50:6, 51:2, 59:17, 60:10, 60:17, 62:15, 69:10, 69:12, 69:13, 69:17, 69:18, 69:20, 70:1, 70:4, 70:5, 70:8, 70:13, 71:2, 71:4, 71:6, 74:20, 81:18, 84:5, 86:23, 87:8, 90:18, 92:19, 93:15, 93:20, 94:1, 94:14, 94:15, 95:4, 95:8, 96:7, 96:17, 96:23, 98:16, 98:19, 98:21, 99:6, 99:10, 99:12, 99:21,</p>	<p>100:25, 101:11, 101:12, 101:17, 102:13, 103:7, 103:12, 103:20, 103:22, 104:7, 104:14, 105:2, 105:6, 105:10, 105:14, 105:17, 105:23, 106:2, 106:4, 106:5, 106:9, 106:10, 106:21, 107:9, 107:13, 107:16, 107:17, 107:22, 108:1, 108:11, 108:14, 108:25, 109:17, 109:23, 110:2, 110:6, 110:12, 110:15, 110:22, 111:1, 111:4, 111:12, 113:2, 115:18, 118:2, 118:23, 119:2, 119:8, 119:17, 121:18, 122:20, 123:12, 124:15, 124:24, 131:22, 134:5, 134:19, 139:17, 141:15, 141:22, 142:20, 144:13, 147:11, 149:23, 150:4, 155:17, 155:24, 156:6, 156:10, 157:8, 157:11, 159:12, 163:7, 168:21, 170:21, 172:24, 173:10, 173:19, 174:16, 175:8, 175:25, 176:15, 185:4, 188:17, 188:20, 192:19, 192:25, 202:14, 202:17, 207:7, 207:23, 208:4, 208:6, 211:25, 212:3, 212:18, 212:21, 213:23, 213:25, 214:25, 218:15, 220:1, 220:4, 220:12, 220:23, 221:1, 221:6, 223:11, 224:3, 224:4, 224:14, 225:24, 226:6, 228:9, 228:25, 230:25, 231:15, 232:10</p> <p><b>transaction</b> [4] - 196:18, 246:12,</p>	<p>246:18, 246:19</p> <p><b>transcript</b> [10] - 5:5, 77:21, 77:24, 78:12, 85:5, 122:17, 170:8, 177:22, 192:10, 214:18</p> <p><b>transcripts</b> [1] - 21:15</p> <p><b>transfer</b> [3] - 232:23, 243:10, 249:23</p> <p><b>transparency</b> [2] - 102:3, 171:11</p> <p><b>transparent</b> [4] - 122:4, 198:23, 198:24, 202:16</p> <p><b>traveled</b> [1] - 254:9</p> <p><b>treat</b> [1] - 247:17</p> <p><b>treated</b> [2] - 98:13, 226:4</p> <p><b>treatment</b> [1] - 235:10</p> <p><b>tremendous</b> [3] - 25:21, 32:12, 32:16</p> <p><b>trial</b> [1] - 44:5</p> <p><b>tried</b> [3] - 70:11, 125:11, 143:18</p> <p><b>triers</b> [1] - 44:21</p> <p><b>troubled</b> [1] - 118:3</p> <p><b>true</b> [5] - 83:8, 170:1, 174:10, 195:12, 195:14</p> <p><b>truly</b> [2] - 112:10, 210:6</p> <p><b>trust</b> [3] - 71:10, 96:1, 111:10</p> <p><b>truth</b> [3] - 231:16, 233:25, 250:1</p> <p><b>try</b> [22] - 3:3, 38:19, 45:24, 46:19, 46:20, 70:10, 70:18, 92:15, 92:18, 94:24, 119:25, 124:23, 129:9, 130:18, 154:22, 155:1, 176:24, 215:21, 223:18, 236:3, 253:25, 254:5</p> <p><b>trying</b> [31] - 16:16, 20:19, 22:8, 26:7, 27:12, 29:1, 29:6, 32:1, 40:23, 45:12, 45:21, 45:22, 49:15, 70:12, 70:14, 120:1, 124:22, 130:15, 136:5, 141:12, 159:18, 169:22, 172:15, 184:8, 184:23, 198:20, 203:20, 222:1, 233:11, 237:9, 253:9</p> <p><b>turned</b> [2] - 176:6, 176:8</p>	<p><b>Turner</b> [1] - 212:10</p> <p><b>turning</b> [1] - 163:16</p> <p><b>turns</b> [1] - 194:25</p> <p><b>Tweak</b> [1] - 46:11</p> <p><b>tweaks</b> [1] - 207:2</p> <p><b>twice</b> [1] - 126:23</p> <p><b>two</b> [37] - 2:16, 8:2, 8:7, 8:17, 12:15, 27:17, 32:15, 32:23, 35:20, 36:22, 36:25, 39:17, 44:11, 53:12, 54:20, 58:13, 58:17, 60:2, 72:3, 118:16, 122:9, 122:11, 127:1, 129:19, 133:25, 140:9, 151:15, 164:19, 165:17, 181:1, 181:10, 187:20, 218:8, 219:19, 231:13, 239:7, 244:19</p> <p><b>two-part</b> [1] - 2:16</p> <p><b>type</b> [10] - 16:10, 57:16, 119:8, 210:10, 229:10, 243:9, 243:19, 243:20, 254:3</p> <p><b>types</b> [1] - 243:24</p> <p><b>typical</b> [2] - 243:19, 246:5</p> <p><b>typically</b> [2] - 174:1, 230:10</p>	<p>223:10, 223:14, 223:17, 231:5, 231:13, 231:19, 236:14, 239:2</p> <p><b>Under</b> [2] - 168:2, 187:18</p> <p><b>underground</b> [1] - 39:14</p> <p><b>underlying</b> [1] - 219:17</p> <p><b>understood</b> [1] - 151:18</p> <p><b>undue</b> [14] - 75:18, 81:13, 82:9, 96:12, 99:13, 101:14, 101:20, 102:24, 102:25, 103:17, 106:17, 108:23, 122:4, 125:21</p> <p><b>uneven</b> [1] - 44:18</p> <p><b>unfair</b> [2] - 38:10, 136:13</p> <p><b>unfairness</b> [1] - 45:11</p> <p><b>unfolded</b> [2] - 16:5, 16:23</p> <p><b>unfortunately</b> [2] - 74:8, 252:5</p> <p><b>Unfortunately</b> [3] - 94:6, 138:24, 216:24</p> <p><b>uniform</b> [5] - 18:22, 26:2, 56:19, 141:17, 229:10</p> <p><b>uniformity</b> [6] - 56:13, 57:7, 93:9, 142:1, 208:7, 208:10</p> <p><b>uniformly</b> [1] - 229:18</p> <p><b>uninformed</b> [1] - 233:25</p> <p><b>unique</b> [3] - 93:11, 184:3, 246:22</p> <p><b>United</b> [2] - 32:14, 34:3</p> <p><b>units</b> [1] - 101:21</p> <p><b>University</b> [1] - 144:5</p> <p><b>unjust</b> [1] - 37:5</p> <p><b>unknown</b> [1] - 170:23</p> <p><b>unless</b> [5] - 4:15, 74:15, 126:7, 165:19, 175:12</p> <p><b>unrepresentative</b> [1] - 243:3</p> <p><b>unrepresented</b> [3] - 92:25, 95:3, 100:6</p> <p><b>unsupportable</b> [1] - 137:2</p> <p><b>untoward</b> [1] - 217:16</p> <p><b>unusual</b> [2] - 127:7, 246:21</p> <p><b>up</b> [84] - 2:25, 5:9, 5:16, 13:6, 14:16,</p>
<b>U</b>				
		<p><b>ultimate</b> [1] - 210:3</p> <p><b>ultimately</b> [1] - 23:13</p> <p><b>unambiguous</b> [1] - 95:16</p> <p><b>unbiased</b> [1] - 100:21</p> <p><b>unclear</b> [1] - 119:16</p> <p><b>uncommon</b> [1] - 136:4</p> <p><b>unconstitutional</b> [7] - 171:21, 172:6, 180:8, 180:12, 208:3, 227:1, 231:11</p> <p><b>undated</b> [1] - 170:14</p> <p><b>undecided</b> [1] - 132:23</p> <p><b>under</b> [28] - 23:4, 26:16, 60:25, 62:25, 80:22, 117:6, 144:10, 153:24, 156:14, 166:20, 172:5, 172:8, 184:12, 194:3, 195:18, 201:1, 212:24, 218:16,</p>		

<p>17:10, 18:3, 19:9, 20:6, 22:13, 26:5, 35:14, 36:25, 37:7, 37:14, 37:15, 39:8, 40:2, 40:22, 42:14, 42:15, 46:25, 47:11, 51:15, 52:8, 57:25, 58:20, 60:13, 60:20, 66:15, 66:18, 66:21, 72:17, 72:19, 72:20, 79:2, 79:13, 82:21, 83:9, 121:8, 124:16, 128:18, 129:5, 129:22, 131:7, 140:20, 140:25, 143:1, 148:10, 148:11, 148:12, 148:13, 152:18, 155:5, 155:15, 155:17, 157:9, 160:6, 160:24, 161:2, 174:18, 181:25, 191:20, 193:8, 197:6, 202:8, 203:4, 203:12, 203:15, 205:1, 216:7, 216:9, 217:4, 222:9, 223:5, 223:22, 225:13, 237:5, 238:25, 246:23, 246:25, 249:2</p> <p><b>update</b> [4] - 20:14, 118:4, 224:6, 224:15</p> <p><b>updated</b> [1] - 48:13</p> <p><b>updating</b> [1] - 49:18</p> <p><b>upward</b> [1] - 248:14</p> <p><b>urban</b> [2] - 245:16, 251:5</p> <p><b>usage</b> [1] - 159:6</p> <p><b>useful</b> [4] - 13:13, 59:6, 94:1, 104:6</p> <p><b>uses</b> [2] - 34:23, 194:15</p> <p><b>USPAP</b> [1] - 26:16</p> <p><b>utilities</b> [4] - 252:9, 252:11, 252:16</p> <p><b>utilized</b> [3] - 69:19, 70:5, 70:8</p>	<p>94:13, 94:15, 94:20, 94:21, 95:3, 95:8, 99:11, 99:21, 100:1, 100:18, 101:5, 101:11, 101:15, 101:17, 102:12, 102:25, 103:7, 103:11, 103:20, 103:22, 104:7, 104:14, 105:6, 105:13, 105:17, 105:22, 106:5, 106:9, 106:10, 106:21, 107:16, 107:22, 108:14, 108:25, 109:23, 110:1, 110:6, 110:14, 110:22, 111:4, 111:12, 132:1, 134:9, 134:15, 135:12, 135:13, 138:14, 140:12, 144:25, 146:17, 148:10, 159:23, 172:6, 172:23, 195:25, 197:1, 197:13, 200:2, 200:4, 209:23, 211:25, 212:2, 212:21, 213:23, 214:3, 214:23, 214:25, 225:24, 226:22, 228:9, 228:20, 230:25, 231:11, 231:15, 231:17, 233:21, 240:6, 240:8, 240:14, 241:11, 241:12, 241:14, 244:23, 245:17, 252:15, 252:17</p> <p><b>VAB's</b> [2] - 93:3, 93:18</p> <p><b>VAB@dor.state.fl.us</b> [1] - 4:23</p> <p><b>VABs</b> [1] - 89:7, 69:16, 69:25, 99:8, 101:1, 156:4, 180:13, 213:24, 223:6, 228:7, 231:16</p> <p><b>vacancy</b> [5] - 240:17, 240:24, 241:16, 244:9, 244:15</p> <p><b>valorem</b> [3] - 30:8, 32:21, 32:23, 33:1, 33:17, 34:14, 61:13, 61:14</p> <p><b>valuation</b> [3] - 12:14, 150:11, 229:4</p> <p><b>valuations</b> [5] - 95:20,</p>	<p>228:19, 228:21, 230:24, 231:19</p> <p><b>value</b> [101] - 3:17, 3:22, 18:14, 18:15, 26:20, 27:8, 33:23, 34:16, 34:25, 35:15, 37:3, 37:12, 37:13, 37:23, 49:24, 50:10, 58:11, 59:6, 59:21, 60:9, 61:18, 62:16, 62:21, 63:9, 63:12, 74:14, 94:19, 95:22, 132:3, 132:5, 139:1, 147:3, 158:18, 158:21, 158:22, 159:14, 159:19, 159:20, 160:1, 160:2, 160:5, 160:7, 168:9, 168:13, 172:1, 172:5, 172:8, 183:21, 207:24, 209:24, 210:1, 211:5, 215:1, 215:2, 218:6, 218:7, 219:5, 219:6, 221:5, 226:24, 227:8, 228:3, 228:6, 228:11, 228:12, 228:18, 228:21, 228:22, 229:6, 229:7, 229:24, 230:1, 230:16, 230:19, 231:7, 232:20, 233:2, 233:6, 233:7, 236:20, 236:21, 236:22, 236:23, 237:1, 237:2, 237:4, 239:2, 239:9, 239:11, 239:12, 239:15, 243:4, 243:6, 246:11, 246:12, 251:21, 252:25</p> <p><b>Value</b> [2] - 2:14, 62:14</p> <p><b>valued</b> [3] - 171:16, 171:17, 197:5</p> <p><b>variations</b> [1] - 97:25</p> <p><b>varied</b> [1] - 229:8</p> <p><b>various</b> [5] - 14:24, 93:18, 101:4, 109:20, 153:25</p> <p><b>vast</b> [1] - 213:7</p> <p><b>vehement</b> [1] - 80:24</p> <p><b>vehemently</b> [1] - 102:16</p> <p><b>venue</b> [2] - 17:16, 138:16</p> <p><b>verbally</b> [1] - 110:25</p> <p><b>verified</b> [1] - 69:10</p>	<p><b>version</b> [42] - 14:19, 14:23, 15:15, 15:23, 20:1, 20:9, 60:19, 71:2, 94:1, 104:1, 104:6, 105:22, 106:2, 106:4, 108:1, 117:22, 118:22, 119:3, 119:4, 119:17, 119:20, 119:21, 119:24, 121:3, 121:6, 121:14, 121:17, 142:22, 156:10, 161:13, 168:11, 170:6, 174:9, 174:11, 174:12, 174:23, 184:13, 188:19, 224:11</p> <p><b>versions</b> [2] - 105:6, 105:13</p> <p><b>versus</b> [7] - 132:4, 133:14, 136:25, 164:5, 164:9, 164:11, 241:23</p> <p><b>vested</b> [1] - 66:4</p> <p><b>vetted</b> [2] - 39:12, 122:6</p> <p><b>VIA</b> [2] - 46:22, 112:5</p> <p><b>vice</b> [1] - 103:3</p> <p><b>Vickers</b> [1] - 148:8</p> <p><b>video</b> [1] - 102:21</p> <p><b>videotaped</b> [1] - 110:17</p> <p><b>view</b> [5] - 103:8, 163:2, 173:7, 176:11, 212:24</p> <p><b>views</b> [1] - 214:12</p> <p><b>violated</b> [1] - 9:23</p> <p><b>violation</b> [5] - 8:16, 8:21, 34:7, 127:16, 127:20</p> <p><b>violations</b> [1] - 111:9</p> <p><b>Virginia</b> [1] - 34:4</p> <p><b>visit</b> [1] - 252:21</p> <p><b>vital</b> [1] - 74:25</p> <p><b>voice</b> [1] - 95:17</p> <p><b>voices</b> [1] - 51:9</p> <p><b>void</b> [1] - 79:17</p> <p><b>volume</b> [2] - 139:10, 202:13</p> <p><b>volunteered</b> [1] - 75:22</p> <p><b>vote</b> [5] - 80:11, 80:13, 80:14, 80:16, 80:18</p> <p><b>voted</b> [1] - 80:9</p> <p><b>vs</b> [3] - 25:8, 34:4, 132:21</p>	<p style="text-align: center;"><b>W</b></p> <p><b>wade</b> [2] - 134:2, 140:8</p> <p><b>wait</b> [3] - 21:7, 85:2, 89:19, 132:16, 202:25, 215:25, 240:25</p> <p><b>wait</b> [3] - 85:2, 132:16, 189:5</p> <p><b>waled</b> [2] - 108:5, 109:10</p> <p><b>waiting</b> [2] - 211:17, 216:5</p> <p><b>walk</b> [3] - 27:15, 233:21, 251:13</p> <p><b>walked</b> [1] - 45:18</p> <p><b>walking</b> [1] - 195:5</p> <p><b>walking-around- talking-around</b> (1) - 195:5</p> <p><b>walks</b> [1] - 233:11</p> <p><b>wallets</b> [1] - 148:20</p> <p><b>Walter</b> [1] - 149:8</p> <p><b>wants</b> [5] - 14:2, 36:3, 36:5, 146:15, 146:23</p> <p><b>warmth</b> [1] - 131:13</p> <p><b>waste</b> [3] - 180:25, 181:14, 252:13</p> <p><b>wasting</b> [2] - 11:20, 40:14</p> <p><b>watch</b> [1] - 80:22</p> <p><b>watching</b> [1] - 29:19</p> <p><b>water</b> [1] - 117:6</p> <p><b>watered</b> [1] - 45:10</p> <p><b>ways</b> [2] - 25:3, 233:12</p> <p><b>wealth</b> [1] - 73:14</p> <p><b>website</b> [3] - 5:5, 5:6, 10:14, 15:8, 15:10, 15:15, 104:8, 105:21</p> <p><b>Webster</b> [2] - 34:4, 103:24</p> <p><b>Wednesday</b> (1) - 253:25</p> <p><b>week</b> [3] - 207:20, 254:1, 254:6</p> <p><b>weekly</b> [1] - 151:13</p> <p><b>weeks</b> [1] - 44:11</p> <p><b>weigh</b> [1] - 143:15</p> <p><b>weighed</b> [2] - 147:9, 148:13</p> <p><b>weight</b> [4] - 23:7, 23:8, 23:10</p> <p><b>Weisman</b> [1] - 241:23</p> <p><b>welcome</b> [5] - 2:12, 14:8, 31:11, 77:25, 88:9</p> <p><b>welcomed</b> (1) - 71:9</p>
<p style="text-align: center;"><b>V</b></p> <p><b>VAB</b> [109] - 8:24, 15:16, 23:16, 28:24, 29:19, 38:5, 44:24, 53:10, 62:17, 69:12, 71:17, 71:19, 72:22, 90:7, 91:24, 92:3, 92:25, 93:1, 93:9, 93:15, 93:20, 94:1,</p>				



<p><b>well-established</b> [2] - 111:7, 219:16</p> <p><b>West</b> [2] - 34:4, 61:1</p> <p><b>Westshore</b> [1] - 241:6</p> <p><b>whatnot</b> [1] - 190:15</p> <p><b>whatsoever</b> [4] - 83:1, 139:23, 171:5, 213:3</p> <p><b>Whitman</b> [1] - 241:23</p> <p><b>whole</b> [22] - 21:8, 21:17, 23:14, 24:22, 24:24, 35:8, 35:24, 35:25, 39:17, 44:1, 54:24, 91:1, 118:5, 120:8, 127:13, 144:17, 149:18, 149:22, 159:25, 182:5, 183:23, 223:19</p> <p><b>wholesale</b> [2] - 17:3, 19:3</p> <p><b>wide</b> [1] - 230:16</p> <p><b>widely</b> [1] - 228:2</p> <p><b>widespread</b> [1] - 98:4</p> <p><b>wielding</b> [1] - 102:23</p> <p><b>Will's</b> [1] - 150:8</p> <p><b>willing</b> [11] - 143:6, 153:15, 163:6, 173:9, 176:14, 176:22, 202:9, 210:5, 225:11, 232:22</p> <p><b>win</b> [5] - 23:20, 28:15, 137:16, 138:11, 235:7</p> <p><b>wise</b> [1] - 131:25</p> <p><b>wish</b> [3] - 78:1, 78:5, 139:17</p> <p><b>witch</b> [1] - 137:13</p> <p><b>withdraw</b> [4] - 89:23, 147:20, 152:3, 152:19</p> <p><b>witness</b> [1] - 86:8</p> <p><b>witnessed</b> [2] - 8:14, 194:8</p> <p><b>women</b> [1] - 53:20</p> <p><b>won</b> [1] - 222:21</p> <p><b>wonder</b> [2] - 79:8, 81:12</p> <p><b>wondering</b> [2] - 81:17, 223:6</p> <p><b>Woo</b> [1] - 247:16</p> <p><b>Wood</b> [1] - 246:4</p> <p><b>Word</b> [3] - 104:13, 104:18, 115:6</p> <p><b>word</b> [10] - 11:13, 19:6, 103:25, 142:14, 142:21, 146:7, 188:3</p> <p><b>words</b> [3] - 42:21, 74:2, 99:3</p>	<p><b>works</b> [8] - 81:15, 87:22, 124:24, 197:7, 199:15, 218:23, 245:7</p> <p><b>workshop</b> [7] - 73:17, 128:12, 129:5, 142:18, 143:15, 225:3, 237:13</p> <p><b>workshops</b> [2] - 111:18, 148:7</p> <p><b>worth</b> [2] - 150:8, 246:16</p> <p><b>wow</b> [1] - 35:20</p> <p><b>Wow</b> [1] - 191:25</p> <p><b>wrap</b> [1] - 236:3</p> <p><b>write</b> [1] - 239:2</p> <p><b>writing</b> [7] - 35:20, 39:11, 110:25, 142:24, 216:20, 239:23, 240:2</p> <p><b>written</b> [13] - 7:4, 37:10, 48:1, 77:7, 112:14, 164:16, 181:22, 192:6, 192:7, 214:15, 239:18, 245:24, 251:7</p> <p><b>wrote</b> [5] - 76:10, 78:11, 95:12, 98:12, 121:11</p>	<p>237:14, 249:8</p> <p><b>yesterday</b> [1] - 52:10</p> <p><b>Yesterday</b> [1] - 62:11</p> <p><b>yield</b> [1] - 125:12</p> <p><b>York</b> [2] - 32:13, 151:13</p> <p><b>young</b> [1] - 81:9</p> <p><b>yourself</b> [7] - 21:5, 27:8, 57:9, 90:21, 122:12, 191:12, 196:13</p>
<b>Z</b>		
<p><b>ZACHEM</b> [72] - 5:13, 5:15, 5:20, 6:6, 6:11, 6:14, 6:17, 6:21, 7:9, 7:13, 7:16, 7:20, 7:22, 8:25, 9:4, 9:6, 9:10, 9:13, 9:16, 9:20, 9:23, 10:1, 10:16, 10:21, 11:1, 11:3, 11:9, 11:12, 11:16, 11:21, 11:25, 12:10, 12:20, 12:23, 13:2, 13:4, 13:9, 13:14, 13:17, 13:21, 13:25, 14:6, 14:9, 25:6, 31:14, 32:7, 32:9, 32:11, 32:19, 34:18, 34:23, 44:8, 126:20, 129:3, 130:25, 140:17, 140:21, 141:3, 142:8, 142:15, 187:17, 188:7, 215:13, 221:21, 225:1, 225:6, 245:11, 245:15, 250:7, 250:20, 252:16, 253:20</p> <p><b>Zachem</b> [21] - 5:15, 8:23, 14:16, 31:12, 36:7, 41:7, 46:3, 72:6, 126:19, 126:21, 139:4, 140:21, 142:11, 144:1, 154:6, 209:17, 221:20, 221:21, 222:24, 238:8, 245:10</p> <p><b>Zachem's</b> [2] - 130:21, 142:12</p> <p><b>Zamer</b> [1] - 25:7</p> <p><b>zebra</b> [1] - 5:22</p> <p><b>zero</b> [1] - 137:19</p> <p><b>Zimbabwe</b> [1] - 36:22</p>		
<b>X</b>		
<p><b>X-Flight</b> [1] - 32:13</p>		
<b>Y</b>		
<p><b>y'all</b> [2] - 139:18, 205:3</p> <p><b>year</b> [15] - 20:11, 40:10, 61:20, 63:2, 114:10, 207:7, 210:25, 220:22, 220:23, 223:20, 224:8, 225:21, 239:16, 251:22, 251:23</p> <p><b>years</b> [39] - 6:25, 7:1, 7:4, 8:2, 8:5, 8:8, 8:15, 10:5, 17:23, 18:9, 27:17, 28:20, 35:20, 39:17, 48:6, 53:12, 54:5, 55:17, 74:12, 75:6, 80:3, 96:25, 97:23, 99:4, 127:7, 144:6, 147:9, 153:14, 154:5, 210:18, 219:19, 234:3, 234:4,</p>		

**From:** [hong.wang](mailto:hong.wang)  
**To:** [Governor Rick Scott](mailto:Governor.Rick.Scott)  
**Subject:** Update Report : the dishonestly of Trump over national security vs his own family profits  
**Date:** Sunday, July 3, 2016 4:20:15 AM

---

Dear Delegate

Good morning, I am writing to you to report the dishonestly of Trump over national security vs his own family profits.

On Mon, Jun 20, 2016 at 5:55 AM , I wrote an email to Trump titled "Please help investigate : Your daughter Ivanka Trump's best friend, Wendi Deng, ex-wife of Rupert Murdoch , is a Chinese Top level spy (The general political department), " to ask him to investigate Wendi Deng, based on report she was a top Chinese Spy ( email forwarded to you separately before ).

He did not reply, instead, one big thing happened on 6/20 morning, his campaign manger got fired 8:30 am, media reported that Ivanka Trump played role in campaign manager's firing. Lewandowski had sought to plant negative stories about her husband, Jared Kushner.

On Jun 23, I wrote him another email titled "Re: Lying Crooked Hillary ", describe possible lie of Hillary Clinton on Wang Iijun visited Cheng Du USA consulate issue related to Genocide and Forced Organ harvesting in China. This time trump politely responded ( email forwarded to you separately before ).

I was wondering why Lewandowski had sought to plant negative stories about her husband, Jared Kushner. Why Trump did not response on investigate Wendi Deng, a top level Chinese Spy. This is a serious issue.

So I went on to do more research, and here is what I found out this report :

Trump Tower Funded by Rich Chinese Who Invest Cash for Visas  
<http://www.bloomberg.com/politics/articles/2016-03-07/trump-tower-financed-by-rich-chinese-who-invest-cash-for-visas>

Trump Bay Street is a 50-story luxury rental apartment building being built by Kushner Companies, whose chief executive officer, Jared Kushner, is married to Trump's daughter Ivanka. The firm that was hired to seek investors, US Immigration Fund, is run by Florida developer Nicholas Mastroianni, who announced a partnership last year with a Trump golf course in Jupiter, Florida.

The visa program is known as EB-5. In exchange for investing at least \$500,000 in a project promising to create jobs, foreigners receive a two-year visa with a good chance of obtaining permanent residency for them and their families.

I went on to do more research, and find out that US Immigration Fund ( Chinese name 美国移民基金 ) has a Chinese partner in China called qiaowai (侨外) to do advertising for Trump's program and other programs in China. qiaowai (侨外) is almost rank No 1 in EB-5 projects in China. In the QiaoWai website, it stated Kushner 88 Trump Bay Street project, started 2013, is the only one that I-526 ( for EB-5 visa) got urgent approved due to Hurricane Sandy in 2012. And it also stated that it has good relationship with Democracy party supporting from Debbie Wasserman -Schultz and Ron Klein . This is Kushner 88 Trump Bay Street project QiaoWai website link <http://www.qiaowai.net/zhuanti/xzx/> . You could also see QiaoWai CEO dingyingvivan picture with president Obama in her weibo <http://weibo.com/dingyingvivan> , it was broken now so I uploaded picture here <https://www.dropbox.com/s/86zrrnzz2wx0h35/qiaowaiCEO.jpg?dl=0>

Throughout his presidential campaign, Donald Trump has attacked China and warned about the dangers of deficient immigrant screening. However, Trump Never mentioned EB-5 in any of his proposal, which is very controversial especially in terms of security, and will be end in September 30 this year. EB5 I-526 could be approved within

several days up to 6 months, there is no way to do background checks in such small time frame, which is why EB-5 is controversial and is a national security issue. I was so surprised to find out that Trump did not push investigation on Wendi Deng, who is best friend of his daughter Ivanka Trump for such a big national security issue. Instead, he fired his campaign manger . I am very worried about those immigrants in Trump Tower. I strongly request background check for all of them.

Thus I am really question on Trump's eligibility as presidential candidate. He put his family profit and interest in front of national security. I am afraid he would even sell USA freedom for his own profit.

In addition, as in "Trump Tower Funded by Rich Chinese Who Invest Cash for Visas report", Kushner Companies is a New Jersey-based real estate firm built by Kushner's father Charles, a former rainmaker in New Jersey Democratic politics who pleaded guilty to a federal campaign finance violation, filing false tax returns as well as attempts to silence a witness. Charles was sentenced in 2005 to a prison term of two years. He remains active in the company. Jersey City is the first and, so far, only Trump project for the company .

Thank you so much for your attention to this matter.

Sincerely

Hong

P.S. ( those are copies from Trump Building Ads in QiaoWai <http://www.qiaowai.net/zhuanti/szx/> )

QiaoWai ads for Trump Tower shows support from Debbie Wasserman -Schultz and Ron Klein .

[https://www.dropbox.com/s/64fqtsomlqkm3ix/QiaoWai\\_TrumpAdsPag1.png?dl=0](https://www.dropbox.com/s/64fqtsomlqkm3ix/QiaoWai_TrumpAdsPag1.png?dl=0)

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