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COURT FILE NUMBER: 1103 14112
COURT: COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE: EDMONTON

IN THE MATTER OF THE TRUSTEE ACT,
R.S.A 2000, C. T-8, AS AMENDED

IN THE MATTER OF THE SAWRIDGE BAND
INTER VIVOS SETTLEMENT CREATED BY
CHIEF WALTER PATRICK TWINN, OF THE
SAWRIDGE INDIAN BAND, NO. 19, now
known as SAWRIDGE FIRST NATION, ON
APRIL 15, 1985 (the "1985" Sawridge
Trust")

APPLICANTS: ROLAND TWINN, CATHERINE TWINN, WALTER
FELIX TWIN, BERTHA L'HIRONDELLE, and
CLARA MIDBO, as Trustees for the 1985
Sawridge Trust

APPLICANT in this
Application: OFFICE OF THE PUBLIC TRUSTEE OF
ALBERTA

RESPONDENT in this
Application: THE SAWRIDGE FIRST NATION

QUESTIONING ON AFFIDAVIT

OF

PAUL BUJOLD

E. H. Molstad, Q.C.	For Sawridge First Nation
D. C. E. Bonora, Ms.	For Sawridge Trustees
J. L. Hutchison, Ms.	For Office of the Public Trustee of Alberta
Allison Hawkins, CSR(A)	Court Reporter

Edmonton, Alberta
July 27, 2016

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INDEXQUESTIONING OF PAUL BUJOLDPAGE

Questioned by Mr. E. H. Molstad

5

Questioned by Ms. D. C. E. Bonora:

78

INDEX OF UNDERTAKINGS

(Undertakings are provided for your assistance.
Counsel's records may differ. Please check to
ensure that all undertakings have been listed
according to your records.)

<u>NO.</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
1	Advise what the value of the Trust was in 2015, as well as the value of the Trust today.	39

INDEX OF EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
1	Letter dated June 17th, 2016, from Hutchison Law	11
2	Letter from Parlee McLaws addressed to Ms. Hutchison setting out the schedule agreed to between the Office of the Public Trustee and Sawridge First Nation	12
3	Email from Hutchison Law dated July 7th, 2016, with a letter attached to it	13
4	Letter without enclosures from Parlee McLaws to Hutchison Law, Ms. Hutchison, on behalf of the Public Trustee	14
5	Email from Ms. Bonora attaching a draft of the clarification on the transfer issued for review and comments	28
6	Letter from Mr. Poretti to Ms. Hutchison and McLennan Ross dated July 26, 2016, enclosing a proposed consent order	29
7	Order of Mr. Justice Thomas, signed by all counsel in the proceedings	73
8	Copy of letter sent to the Public Trustee dated July 27, 2016	77

1 PAUL BUJOLD, SWORN AT 9:37 A.M.,

2 QUESTIONED BY MR E. H. MOLSTAD:

3 Q MR. MOLSTAD: So I -- first of all, I
4 thought I'd just explain why we're here. The --
5 Mr. Bujold, the questioning today is in relation to
6 your affidavits and the evidence that the Public
7 Trustee has tendered and purports to rely upon in
8 their applications, pursuant to rule 5.13,
9 compelling the Sawridge First Nation to produce
10 documents, and Sawridge First Nation is named as a
11 respondent in these two applications, and I, of
12 course, represent Sawridge First Nation.

13 MR. MOLSTAD: And I understand,
14 Ms. Hutchison, that you want to make a statement
15 for the record?

16 MS. HUTCHISON: Yes. Thank you very much,
17 Mr. Molstad. Just wanted to make note of the fact
18 that as of this morning, there has been an
19 agreement on the trustees' clarification on assets
20 consent order, and in light of that consent order
21 being finalized, and -- and assuming, I should say,
22 that it is finalized, the Public Trustee's
23 instructions are to withdraw their rule 5.13
24 application on assets, so that will change the
25 scope of the 5.13 applications before the Court.

26 And, Mr. Molstad, the other --
27 the other point we just wanted to put on the

1 record, we're not entirely clear about what the
2 proposed scope of the questioning is today. Rather
3 than waste anyone's time and resources on multiple
4 objections or interruptions, we're -- we're going
5 to attend and listen, and we'll review the
6 transcript after the fact. Please don't take our
7 silence as an acceptance that the evidence is
8 relevant or even admissible, but we'll address
9 those issues to the Court, as opposed to raising
10 individual objections to the questions.

11 MR. MOLSTAD: That's fine. Likewise, the
12 evidence that you have tendered is, in our
13 respectful submission, in many respects,
14 inadmissible, but unfortunately, from our
15 perspective, much of it is incorrect, and so we
16 will have to put questions to this witness to
17 correct that evidence, but I understand your
18 position.

19 In terms of the comments you
20 made about the consent order, as I understand it,
21 and I want to be clear, I understood you to say
22 that assuming the consent order is agreed to and
23 ultimately filed, which Sawridge First Nation has
24 no control over, you will then withdraw your
25 application; is that correct?

26 MS. HUTCHISON: Mr. Molstad, to be clear, my
27 understanding is that we haven't secured consent

1 from Trustee Twinn at this point in time. So if it
2 were a situation where the consent order could not
3 go forward because of Trustee Twinn's lack of
4 consent, it could affect what the OPGT does with
5 the 5.13 assets application. Although, frankly, I
6 would hope that the other parties would proceed to
7 present that order to the Court and ask it for
8 endorsement, in which case the OPGT would still be
9 withdrawing its 5.13 application. I'm hopeful that
10 with or without Trustee Twinn's consent, that order
11 that everyone's worked quite hard to prepare, would
12 be presented to the Court. So as long as there's
13 no issue that the consent order on asset
14 clarification is presented to the Court on August
15 21st -- or 24th for approval, the assets
16 application -- the 5.13 assets application will be
17 withdrawn.

18 I -- and perhaps we can ask --
19 I realize we're all dealing with this sort of on
20 short notice this morning. Ms. Bonora, would you
21 agree that we would present that order to the Court
22 regardless of Trustee Twinn's consent?

23 MS. BONORA: Yes. I -- we're very happy to
24 have your consent, and -- on that order, and we
25 would be prepared to go ahead and join forces to
26 say that should go ahead, even if Catherine Twinn
27 objected, we'd leave her to make her objections, if

1 she decided to do that.

2 MS. HUTCHISON: Okay. So, Mr. Molstad, on
3 that basis, we are withdrawing our 5.13 assets
4 application. Everyone in this room is agreed on
5 the assets clarification.

6 MR. MOLSTAD: So --

7 MS. HUTCHISON: And I will -- I will confirm
8 that in a letter to counsel and the Court once I'm
9 not sitting at this boardroom table.

10 MR. MOLSTAD: Yeah. And -- and when you say
11 you're withdrawing the 5.13 application, in
12 relation to the asset transfer?

13 MS. HUTCHISON: To the asset transfer.

14 MR. MOLSTAD: Yeah.

15 MS. HUTCHISON: And as you're aware, the
16 5.13 application on membership is going forward on
17 the basis outlined in our correspondence to you,
18 essentially, a reporting to the Court.

19 MR. MOLSTAD: Yeah, we'll deal with that.

20 MS. HUTCHISON: And I will now be quiet,
21 Mr. Molstad.

22 MR. MOLSTAD: Okay.

23 MS. HUTCHISON: This is your transcript, so...

24 MR. MOLSTAD: All right.

25 Q MR. MOLSTAD: All right. Mr. Bujold, my
26 questioning of you today, I will refer to the 1982
27 Sawridge First Nation Trust as the 1982 Trust, and

1 you'll understand what I'm referring to?

2 A Yes, I will.

3 Q And I'll refer to the 1985 Sawridge First Nation
4 Trust as the 1985 Trust, and you'll understand what
5 I'm referring to?

6 A Yes, I will.

7 Q And I will refer to the 1986 Sawridge First Nation
8 Trust as the 1986 Trust --

9 A Okay.

10 Q -- and you'll understand what I'm referring to?

11 A I will.

12 Q And in terms of the trustees of the 1985 Trust and
13 the 1986 Trust, I will refer to them as the
14 Sawridge trustees, and that -- you'll understand
15 what I'm referring to?

16 A I will.

17 Q And today we're going to ask you questions in
18 relation to two affidavits and also evidence that's
19 been tendered by the Public Trustee. The
20 affidavits that we're going to be asking questions
21 in relation to are your affidavit that was sworn on
22 August 30th, 2011, and filed September 6th, 2011.
23 Do you have that in front of you?

24 A Yes, I do.

25 MR. MOLSTAD: Excuse me just for one moment,
26 please.

27 MS. BONORA: Yeah.

1 MR. MOLSTAD: Okay.

2 Q MR. MOLSTAD: And this affidavit that was
3 sworn on August 30th, 2011, was sworn by you, sir;
4 is that correct?

5 A That's -- that's right, sir.

6 COURT REPORTER: Sorry?

7 A That's right, yes.

8 Q MR. MOLSTAD: And the other affidavit that I
9 will question on is the affidavit sworn on
10 September 12th, 2011, filed September 13th, 2011,
11 and this affidavit you have before you, and it was
12 sworn by you?

13 A I do, yes.

14 Q Yeah. Now, your counsel has provided you with
15 copies of the correspondence in relation to these
16 proceedings, as I understand it --

17 A Yes.

18 Q -- that have been exchanged between counsel?

19 A Yes.

20 Q And -- now, I'm showing you -- I'm showing you a
21 letter dated June 17th, 2016, from Hutchison Law
22 addressed to four counsel in relation to these
23 proceedings. You received a copy of this?

24 A I did.

25 MR. MOLSTAD: We would ask that this be
26 marked as an exhibit, please.

27

1 EXHIBIT 1:
2 Letter dated June 17th, 2016, from
3 Hutchison Law

4 Q MR. MOLSTAD: So if you could just take a
5 look at Exhibit 1. Do you have Exhibit 1 in front
6 of you, sir?

7 A I do.

8 Q On page 2 of this letter, you'll see at the top of
9 the page, Ms. Hutchison indicates that in relation
10 to the 5.13 application regarding the membership,
11 the -- the OPGT, which refers to the Public
12 Trustee, will be filing a brief written submission
13 on that application and then goes on to say that
14 the OPGT, which is the Public Trustee, will not be
15 seeking to file affidavit evidence in relation to
16 that application and anticipates its submissions
17 will be relatively brief, similar in length to the
18 Sawridge First Nation's submissions.

19 That's the position that was
20 communicated both to yourself and the Sawridge
21 First Nation at that time; is that correct?

22 A That's correct.

23 Q And if you look at the bottom of the second page of
24 Exhibit 1, they -- you'll see in the third-last
25 paragraph, they summarize what they intend to do in
26 relation to the 5.13 assets application, and in the
27 last paragraph, they indicate that the Public

1 Trustee will not be filing affidavit evidence in
2 support of this submission. And, also, they
3 indicate that they will not be seeking to conclude
4 Paul Bujold's questioning prior to the August 24th,
5 2016, hearing, and go on to explain why they take
6 that position.

7 This also was a position that
8 was put to both the Sawridge trustees and Sawridge
9 First Nation; correct?

10 A That's correct, yes.

11 Q Now, the next document I want to take -- take you
12 to is -- is an email to your counsel, which I'm
13 showing you now, sir. It's this one. Sorry. And
14 it's a -- it attaches a letter from Parlee McLaws
15 addressed to Ms. Hutchison setting out the schedule
16 agreed to between the Office of the Public Trustee
17 and Sawridge First Nation. You received a copy of
18 this, sir, did you?

19 A I did.

20 MR. MOLSTAD: I'd like to mark that as the
21 next exhibit.

22 EXHIBIT 2:

23 Letter from Parlee McLaws addressed to
24 Ms. Hutchison setting out the schedule
25 agreed to between the Office of the
26 Public Trustee and Sawridge First Nation

27 Q MR. MOLSTAD: The next document is an email,

1 sorry, which I'm showing you, which is from
2 Ms. Hutchison's office dated July 7th, 2016, and a
3 letter attached to it. You received a copy of this
4 through your counsel; is that correct?

5 A I did.

6 MR. MOLSTAD: Can we mark that as the next
7 exhibit, please?

8 EXHIBIT 3:

9 Email from Hutchison Law dated July 7th,
10 2016, with a letter attached to it

11 Q MR. MOLSTAD: Now, Exhibit 3, which is the
12 email and the letter, includes a description of the
13 evidence that the Public Trustee will rely upon in
14 relation to the 5.13 membership application and the
15 5.13 assets application; is that correct?

16 A Yes, it does.

17 Q And part of this evidence is in relation to both
18 applications, answers to undertakings of yourself,
19 and, specifically, some are certain undertakings.
20 Do you see that?

21 A Yes.

22 Q And as I understand it, the Public Trustee has not
23 questioned you at this point in time in relation to
24 any of these undertakings that you've provided; is
25 that correct?

26 A That's correct.

27 Q Now, the next document is a letter without the

1 enclosures, it should be now, from our offices to
2 Hutchison Law, Ms. Hutchison, on behalf of the
3 Public Trustee. It does not have the enclosures in
4 it. This letter was received -- a copy of it
5 received by you through your counsel; is that
6 correct?

7 A That's correct.

8 MR. MOLSTAD: Can we mark that as the next
9 exhibit, please? Thank you.

10 EXHIBIT 4:

11 Letter without enclosures from Parlee
12 McLaws to Hutchison Law, Ms. Hutchison,
13 on behalf of the Public Trustee

14 Q MR. MOLSTAD: The -- the next document is
15 a -- an email, but it unfortunately attaches what I
16 consider to be confidential information, and I'm
17 just going to ask you some questions about it,
18 rather than mark it, because of that, Mr. Bujold.
19 It's an email from Ms. Bonora to Janet Hutchison,
20 counsel for the Public Trustee, and -- and it
21 encloses the list -- an updated list of the minors,
22 and what it provided the Public Trustee with at
23 that time was a list of the minors with the changes
24 since 2011, and that would have been as at
25 April 5th, 2016; correct?

26 A That's correct.

27 Q And it is also noted that eight of the minors

1 listed had become adults, and -- and of the eight
2 that are listed, two would become adults that year;
3 correct?

4 A That's correct.

5 Q It also indicated there were five new minors;
6 correct?

7 A That's correct.

8 Q And you indicate in this email that you are only
9 providing this list to you and Mr. Molstad, as the
10 minors' personal information is provided, and thus
11 it's not appropriate to share with all the parties;
12 correct?

13 A That's correct, yes.

14 Q You state in this email as well that it -- it's
15 your experience with the Public Trustee that the
16 Public Trustee will not continue to act for a minor
17 once they become an adult, and you state that you
18 assume that that is true in your case, especially
19 given the December 17th, 2016, directions. And you
20 ask that the Public Trustee confirm that it will
21 only be representing the minors on the list in
22 accordance with that decision and not representing
23 the adults. That's what you've asked her to
24 advise; correct?

25 A That's right.

26 Q Did you receive a response to that?

27 A Not that I know of.

1 Q okay. I'll just get that back, then, from you.
2 I'm not going to -- or you can keep that. It's
3 your document.

4 So I want to take you now to
5 the affidavit that was sworn by yourself
6 August 30th, 2011, and filed September 6, 2011. Do
7 you have that in front of you?

8 A I do.

9 Q I'd like to direct your attention to paragraphs 10,
10 11, and 12 of this affidavit, where you describe a
11 considerable amount of information in relation to
12 beneficiaries and potential beneficiaries. Do you
13 see that?

14 A I do.

15 Q Now, did you -- I understand you requested the
16 assistance from the Sawridge First Nation in
17 compiling these lists?

18 A I did.

19 Q And can you also confirm that the Sawridge First
20 Nation cooperated with you fully and provided you
21 with the information --

22 A It did.

23 Q -- you'd requested?

24 A It did, yes.

25 Q Other than with respect to legislation regarding
26 protection and privacy, did the Sawridge First
27 Nation ever refuse to provide you with any

1 information requested?

2 A No, they didn't.

3 Q Okay. I'll just now turn you to the next
4 affidavit, the affidavit of yourself sworn
5 September 12th, 2011, and filed September 13th,
6 2011. Do you have that in front of you?

7 A I do.

8 Q In paragraph 1, you state that you're the chief
9 executive officer of the Sawridge Trust. You're
10 speaking of the 1985 Trust and the 1986 Trust; is
11 that correct?

12 A That's correct.

13 Q And when did you first become chief executive
14 officer?

15 A In September 2009.

16 Q Okay. And in paragraph 3, it -- it states who the
17 trustees were of the '85 Trust at that time.
18 who -- who are the trustees of the '85 -- 1985
19 Trust today?

20 A Bertha L'Hirondelle, Catherine Twinn, Roland Twinn,
21 Justin Twin, and Margaret Ward.

22 Q Okay. And is Margaret Ward sometimes referred to
23 as Peggy Ward?

24 A She is.

25 Q And in paragraph 4 and 5 of your affidavit, it's
26 indicated that the trustees would like to make
27 distributions in relation -- or from the 1985 Trust

1 for the benefit of beneficiaries, and concerns have
2 been raised on these two matters: One, regarding
3 the definition of beneficiaries contained in the
4 1985 Trust; and, secondly, the transfer of assets
5 into the 1985 Trust.

6 And as I understand it, the
7 Sawridge trustees are seeking to expand the
8 definition of beneficiaries of the 1985 Trust to
9 include all members of the Sawridge First Nation?

10 A That's correct.

11 Q And -- and the purpose of that objective on the
12 part of the Sawridge trustees is to eliminate
13 discrimination?

14 A That's correct.

15 Q And, in fact, based upon the definition of the
16 beneficiaries of the 1985 Trust, persons who were
17 declared by the Court to be members pursuant to
18 formally Bill C-31, have been excluded as
19 beneficiaries of the 1985 Trust?

20 A That's correct because they're women who were
21 enfranchised --

22 Q Right.

23 A -- through marriage.

24 Q And in terms of the investigation that you've done
25 in reviewing the records and gathering the
26 documents that you've gathered, I understand that
27 you have satisfied yourself that you have seen all

1 of the documents and all of the information with
2 respect to the transfer of the assets from the 1982
3 Trust to the 1985 Trust, and that -- in other
4 words, you've exhausted your efforts in that
5 respect?

6 A That's correct.

7 Q And all of the documents that you've gathered
8 demonstrate that all of the assets of the 1982
9 Trust were transferred to the 1985 Trust, and
10 that's why you seek the Court's order approving
11 that transfer?

12 A That's correct.

13 Q In paragraph 9 of your affidavit, you make
14 reference to Ronald Ewaniuk, CA. Do you know when
15 Mr. Ewaniuk first became involved with the 1985
16 Trust and the 1986 Trust?

17 A I am not sure exactly of the date. I -- I could
18 research the documents that I've got to see if I
19 can find that.

20 Q Yeah. Was it -- you know, he was involved for
21 quite some time, though, wasn't he?

22 A Yes, he was. He was involved in different
23 capacities, so in the early days, he was involved
24 as a partner -- as a senior partner of Deloitte --

25 Q Okay.

26 A -- Touche.

27 Q Yeah.

1 A And later, he was involved as a -- as a consultant.

2 Q And when you contacted him and made an effort to
3 get what information he had, would it be correct to
4 state that it was his information that all of the
5 assets of the -- in the 1982 Trust were transferred
6 to the 1985 Trust?

7 A Yes.

8 Q And that was the information of the Sawridge First
9 Nation that was provided to you?

10 A That's right.

11 Q Paragraph 10 of your affidavit sworn
12 September 12th, 2011, refers to Exhibit B, and if
13 you just go to Exhibit B in the affidavit.

14 MS. HUTCHISON: Sorry, Mr. Molstad. Exhibit B
15 or D?

16 MR. MOLSTAD: B. B as in Bob. Yeah.

17 MS. HUTCHISON: Thank you.

18 Q MR. MOLSTAD: And you found Exhibit B there?

19 A Yes, I did.

20 Q The -- you'll see that in -- that this is a -- a
21 record of the meeting of the trustees and settlers
22 of the Sawridge Band Trust, and that -- in
23 paragraph 3, it -- it's -- they include a -- a
24 resolution that the Sawridge trustees then
25 instructed the solicitors to prepare the necessary
26 documentation to transfer all property presently
27 held by themselves to the Trust and to present the

1 documentation for review and approval. I just want
2 to point out that it does describe all property,
3 and from your investigation, is it your information
4 that that happened?

5 A Yes, it is.

6 Q Do you have any information to suggest it did not
7 happen?

8 A None at all.

9 Q Yeah. Paragraph 11 and 12 of your affidavit refers
10 to Exhibit D, and I'd like to take you to Exhibit D
11 of your affidavit. Are you there?

12 A I am.

13 Q Yeah. The second page of Exhibit D -- and this is
14 a -- an agreement between the trustees of the
15 old -- or I assume this is the '82 Trust. Is that
16 your information, in the 1985 Trust?

17 A It is, yes.

18 Q Yeah. And on page 2, it -- it describes that each
19 of the old trustees hereby transfers all of his
20 legal interest in each of the properties listed in
21 Appendix A attached hereto to the new trustees as
22 joint tenants to be held by the new trustees on the
23 terms and conditions set out in the Sawridge Band
24 Trust and is part of the said Trust.

25 Is it your information that
26 that, in fact, happened?

27 A Yes, it is.

1 Q Now, in paragraph 13 to 15 of your affidavit, this
2 refers to the legislation that we know previously
3 referred to as Bill C-31, and you're, I assume,
4 familiar with the fact that the Sawridge First
5 Nation challenged the constitutionality of the
6 legislation in litigation where they asserted a
7 right that they, as a First Nation, had the right
8 to determine their membership?

9 A Yes, I am aware of that.

10 Q And it was during that challenge that the women
11 that include, for example, Ms. Poytras were ordered
12 to be added as members of the Sawridge First
13 Nation, and as a result of the way in which the
14 1985 Trust was structured, she did not become a
15 beneficiary when the Court declared her to be a
16 member of the Sawridge First Nation?

17 A No.

18 Q Is that correct?

19 A That's correct.

20 Q Yeah. So if I go to paragraph 19, it refers to
21 Exhibit H. Can I just get you to look at that?

22 Now, this is a -- a --

23 Exhibit H is the resolution of the trustees, again,
24 transferring all of the assets of the 1982 Trust to
25 the 1985 Trust. Do you agree with that?

26 A Yes, I do.

27 Q And -- and that -- that, as you've already

1 testified, happened? That event took place?

2 A Yes, it did.

3 Q And what we know, at this time, was that the
4 purpose of the 1985 Trust, when it was structured,
5 was to protect the assets of that Trust from those
6 persons who might be forced upon the Sawridge First
7 Nation as members under what was then Bill C-31?

8 A That's correct.

9 Q And -- and having reviewed all of the records that
10 you've been able to gather, do you have any
11 information that the resolution, Exhibit H, was not
12 carried out?

13 A None.

14 Q Okay.

15 A None whatsoever.

16 Q would you agree with me that based upon the purpose
17 of the transfer of the assets from the 1982 Trust
18 to the 1985 Trust, there would be no reason for the
19 Sawridge trustees, the Sawridge First Nation, or
20 chief and council to withhold the transfer of any
21 assets?

22 A Not that I could think of.

23 Q They were trying to protect these assets, so their
24 objective was to transfer the assets?

25 A We had a telephone conversation with Morris
26 Cullity, who was the -- the solicitor working with
27 them at the time on the transfer and on the

1 structure of the '85 Trust.

2 Q M-hm.

3 A His -- in -- in his view, the intent of the 1985
4 Trust was simply to protect the assets, pending the
5 completion of the constitutional challenge. Once
6 that was complete, the intent was to merge the two
7 Trusts back to -- using the 1986 Trust definition,
8 to go back to that and merge the two Trusts.

9 Q But -- but in terms of the 1985 Trust, in -- in --
10 in those circumstances, both the Sawridge First
11 Nation and the trustees would be motivated to
12 ensure that all assets were transferred?

13 A That's right. Absolutely.

14 Q The reason is to fulfill the purpose at that time?

15 A That's right. And to protect those assets.

16 Q Yeah.

17 A Yes.

18 Q If you look at -- at paragraphs 9 to 28 of this
19 affidavit -- and I don't want you to rush through
20 it. Just take a look at them because a lot of this
21 information was information that you obtained from
22 the Sawridge First Nation; is that correct?

23 A That's correct, yes.

24 Q And I think you've confirmed that Sawridge First
25 Nation was cooperative, and they were cooperative
26 in providing this information as well?

27 A They were, yes.

1 Q In paragraph 20 of the affidavit sworn
2 September 12th, 2011, it refers to Exhibit I, and
3 can I just take you to that exhibit?

4 A Okay.

5 Q This is a document entitled "Sawridge Band
6 Resolution" and has a number of signatures which
7 appear to be, obviously, signatures of persons in
8 addition to the chief and council of the Sawridge
9 First Nation. Would you agree with that?

10 A Yes, I would.

11 Q And this recites, in the first paragraph, that the
12 trustees of the 1982 Trust have authorized a
13 transfer of the Trust assets to the trustees of
14 what is, essentially, the 1985 Trust; is that
15 correct?

16 A That's correct.

17 Q And the second paragraph recites that these assets
18 have actually been transferred, and that's a
19 reference to the assets of the 1982 Trust having
20 been already transferred to the 1985 Trust; is that
21 correct?

22 A That's correct.

23 Q And it would appear that the Sawridge First Nation,
24 in the last paragraph of this document, is, for
25 whatever reason, approving and ratifying this
26 transfer?

27 A That's correct.

1 Q Okay. Paragraph 23 and 24 of your affidavit. You
2 indicate that the transfer was carried out under
3 the guidance of accountants and lawyers, and based
4 upon your review and a review of all of the
5 information that you gathered, would you agree that
6 it supports the proposition that all property in
7 the 1982 Trust was transferred to the 1985 Trust?

8 A Yes, I do.

9 Q I -- I want to confirm what the Sawridge trustees
10 are not seeking in relation to their efforts to
11 normalize the 1985 Trust and be in a position to
12 provide benefits to beneficiaries, and can you just
13 confirm that the Sawridge trustees do not seek any
14 declaration or remedy in relation to the assets
15 before 1985?

16 A That's correct.

17 Q And the Sawridge trustees do not seek any
18 declaration or remedy in relation to the assets
19 held in the 1982 Trust?

20 A That's correct.

21 Q And the Sawridge trustees do not seek any
22 declaration or remedy in relation to an accounting
23 of the assets in the 1982 Trust?

24 A That's correct.

25 Q And the Sawridge trustees do not seek any
26 declaration or remedy in relation to an accounting
27 of the assets in the 1985 Trust?

1 A That's correct.

2 Q And the Sawridge trustees do not seek any
3 declaration or remedy in relation to assets prior
4 to the 1982 Trust?

5 A That's correct.

6 Q And this order being sought by the Sawridge
7 trustees does not prevent a beneficiary from
8 seeking an accounting of the 1985 Trust?

9 A That's correct.

10 Q Do you have any information that there are any
11 other relevant documents that relate to the
12 transfer of assets from the '82 Trust to the 1985
13 Trust that have not been produced?

14 A I -- no. I think the search was exhaustive.

15 Q Yeah. In paragraph 28 of your affidavit, you state
16 that: (As read)

17 To unravel the assets of the 1985
18 Trust after 26 years would create
19 enormous costs and will likely
20 destroy the Trust.

21 Could you just give a brief explanation of what you
22 mean there?

23 A well, if -- if the 1985 Trust were to fail, all the
24 assets -- because the 1982 Trust no longer exists,
25 all the -- all the assets would either have to be
26 sold and -- and they're -- the results then
27 distributed among the beneficiaries, but we'd first

1 have to identify the beneficiaries. Or the Court
2 could order a return of those assets to the 1982
3 Trust, and so it would essentially destroy the 1985
4 Trust.

5 Q And the cost of that happening, would it be to the
6 detriment of the beneficiaries?

7 A Oh, it would be enormous detriment to the
8 beneficiaries because of all of the costs for
9 assessment, for sale, for transfer would all be
10 taken out of the Trust, and it would, in essence,
11 destroy the -- not only the assets of the 1985
12 Trust, but the assets of the 1986 Trust, since the
13 two are intertwined.

14 Q Yeah. I have another document I want to put to
15 you. It's a -- an email from your counsel,
16 Ms. Bonora, to other counsel, which attaches a
17 draft of the clarification on the transfer issued
18 for review and comments and proposes that if this
19 clarification is acceptable, a consent order could
20 be drafted. You received a copy of this, did you?

21 A I did.

22 MR. MOLSTAD: I wonder if that could be
23 marked as an exhibit, please.

24 EXHIBIT 5:

25 Email from Ms. Bonora attaching a draft
26 of the clarification on the transfer
27 issued for review and comments

1 Q MR. MOLSTAD: And there's another document I
2 want to put to you. It's a letter from
3 Ms. Hutchison to counsel -- I'm sorry. It's from
4 Mr. Poretti to Ms. Hutchison and McLennan Ross
5 dated July 26, 2016, enclosing a proposed consent
6 order. You received a copy of this?

7 A I did.

8 MR. MOLSTAD: I'd like to mark this as an
9 exhibit, please.

10 EXHIBIT 6:

11 Letter from Mr. Poretti to Ms. Hutchison
12 and McLennan Ross dated July 26, 2016,
13 enclosing a proposed consent order

14 Q MR. MOLSTAD: Now, I want to turn now to
15 you -- the questioning on affidavit of yourself.
16 Do you have a copy of that transcript with you?

17 A I do.

18 Q This is a transcript of the questioning on your
19 affidavits that was conducted on the 27th and 28th
20 of May 2014, which we're advised will be relied
21 upon by the Public Trustee in relation to these
22 applications, and I have a few questions about your
23 evidence in this transcript.

24 If you go to page 9 of the
25 transcript -- and I think that we talked already
26 about who the trustees are. How many of the five
27 trustees are members of chief and council of the

1 Sawridge First Nation?

2 A One.

3 Q And who is that?

4 A Roland Twinn.

5 Q And Ms. Catherine Twinn is also a trustee of the
6 Sawridge Trust; is that correct?

7 A That's correct.

8 Q And in terms of Ms. Catherine Twinn's roles with
9 the First Nation, she was part of the Sawridge
10 First Nation membership committee for many years?

11 A That's right.

12 Q Ms. Catherine Twinn was also one of the legal
13 counsel who acted for the Sawridge First Nation in
14 the lawsuit where the Sawridge First Nation was
15 challenging the constitutionality of Bill C-31?

16 A That's correct.

17 Q And -- and do you know if Ms. Catherine Twinn also
18 participated in preparing the Sawridge First Nation
19 membership code?

20 A As far as I know, she did, yes.

21 Q Yeah. And Ms. Catherine Twinn is an elector of the
22 Sawridge First Nation?

23 A That's right.

24 Q And Ms. Catherine Twinn is also a beneficiary of
25 both the 1985 Trust and the 1986 Trust?

26 A Yes, so far as we're able to determine on the 1985
27 Trust.

1 Q Okay. And since these trusts were first
2 established, both the 1985 Trust and the 1986
3 Trust, the trustees have included members from the
4 same family and also members from chief and
5 council; correct?

6 A That's correct.

7 Q And do you know who the members of chief and
8 council are today?

9 A Yes.

10 Q And who are they?

11 A Chief Roland Twin, Councillor Tracey
12 Poitras-Collins, and councillor -- who's the third
13 one?

14 Q Is it Darcy Twin?

15 A Yes, Darcy. Sorry. My mind was blanking.

16 Q Yeah. And when you say Councillor Tracey, it's
17 Councillor Tracey Poitras-Collins, is it?

18 A Poitras-Collins, yes.

19 Q Yeah. And in relation to your efforts to have
20 these trusts normalized, the Sawridge First Nation
21 provided you with much of their records, including
22 their code of conduct, their constitution, their
23 Governance Act, and other documentation, whenever
24 requested?

25 A That's correct.

26 Q And we've asked you about the documents, but do you
27 believe that after all of your efforts to gather

1 documents and to speak to people who have
2 involvement in -- historically and to make written
3 inquiries of those persons, that you have all of
4 the information that still exists in relation to
5 the transfer of the assets from the 1982 Trust to
6 the 1985 Trust?

7 A Yes, I think I do.

8 Q If I can -- I'll get you to go to page 45 of the
9 transcript. I'm just going to read to you part of
10 this transcript, beginning at line 19: (As read)

11 Q Do you have any information to
12 indicate that the assets that
13 individuals were holding between
14 the early 1970s and 1982, that
15 some of those assets were not
16 ultimately transferred into the
17 1982 Trust?

18 A From the records that we have
19 got, my understanding is that all
20 of the assets that were held by
21 individuals for the 1982 Trust
22 eventually ended up in the 1982
23 Trust, and those assets were then
24 transferred in full to the 1985
25 Trust.

26 That is your information today; correct?

27 A It is.

1 Q And at page 63 of the transcript of your
2 evidence -- and this is when you were being
3 questioned by Ms. Hutchison in relation to your
4 affidavits, page 63, lines 15 to 22: (As read)

5 Q So going back, Mr. Bujold, to
6 paragraph 7, 8, 9, and 10 of your
7 September 12th, 2011, affidavit,
8 what I am sort of focusing on
9 there is that if I understand
10 what you are saying, your belief
11 is that -- and I apologize. I am
12 actually looking at paragraph 22.
13 So you indicate that your belief
14 is that all of the assets from
15 the 1982 Trust were actually
16 transferred over to the 1985
17 Trust?

18 A Yes.

19 That is and continues to be your belief today?

20 A It is.

21 Q At page 103 and 104 -- actually, I take that back.
22 Let me just ask you: As I understand it, that in
23 relation to the 1985 Trust definition of
24 beneficiaries, if it is not changed, if it
25 continues to be in accordance with that trustee, it
26 will create certain problems for the trustees, as I
27 understand it; is that correct?

1 A That's correct.

2 Q And some of those problems include the fact that
3 it -- it discriminates against women who married
4 non-First Nation men and discriminates against
5 their children?

6 A Yes, it does.

7 Q And do you recall some of the other problems that
8 will be created by that?

9 A Well, it discriminates, also, against anyone who's
10 enfranchised, although that clause no longer exists
11 in the *Indian Act*.

12 Q Yeah.

13 A It -- it discriminates against anyone who's
14 illegitimate, and that's all I can think of at the
15 moment.

16 Q Okay. The -- if you go to page 127 of your
17 transcript of questioning by Ms. Hutchison, at line
18 6 to 27, if you just take a quick look at that, as
19 I understand it, that Sawridge First Nation
20 provided the Sawridge trustees with information
21 about the number of applications for membership and
22 this was passed on to the Public Trustee; correct?

23 A That's correct, yes.

24 Q And I'm referring to page 147, lines 4 to 13 of
25 your transcript, and just want to confirm that
26 Sawridge First Nation provided to the Sawridge
27 trustees their membership application form, a flow

1 chart for the membership application process,
2 Sawridge First Nation membership rules, and all of
3 this information was passed on by the Sawridge
4 trustees to the Public Trustee?

5 A That's correct.

6 Q At page 150 of the transcript, as I understand it,
7 the -- Sawridge First Nation provided the Sawridge
8 trustees with letters of acceptance and rejection
9 in relation to membership applications, and these
10 were provided by the Sawridge trustees to the
11 Public Trustee?

12 A That's correct.

13 Q And if you go to page 180 of the transcript, you'll
14 see there there's an undertaking listed as
15 undertaking number 49, at the bottom of the page?

16 A Yes.

17 Q It says: (As read)

18 Inquire of Catherine Twinn her
19 recollection of what was discussed
20 at the April 15th, 1985, meeting
21 that the Sawridge Band resolution
22 presented at Exhibit I of
23 Mr. Bujold's September 12, 2011,
24 affidavit dealt with. Specifically,
25 does she recall if there was any
26 discussion or documentation
27 presented in relation to the

1 transfer of assets from the 1982
2 Trust to the 1985 Trust. Also,
3 inquire if Ms. Twinn has any
4 documentation of that particular
5 meeting.

6 And that undertaking was followed through, and
7 you -- Sawridge trustees requested that
8 Ms. Catherine Twinn advise you of her response, and
9 as I understand it, Ms. Catherine Twinn's response
10 to that was that she had no memory of the meeting
11 and no documents in her possession?

12 A That's correct.

13 Q If I could get you to turn over to page 181 of the
14 transcript of your questioning on your affidavit,
15 beginning at line 13, and I'm just going to read to
16 you some of this evidence: (As read)

17 Q MS. HUTCHISON: Mr. Bujold,
18 just looking at Exhibit A of your
19 August 30th, 2011, affidavit, so
20 that is the 1982 Declaration of
21 Trust, and I am looking at
22 paragraph 10 of that instrument.

23 A Which one?

24 Q Paragraph 10, on page 5.

25 So I just want to be
26 clear in some of the discussions
27 that we have had around the

1 transfer of assets from the --
2 from the '82 Trust to the '85
3 Trust. I take it that you have,
4 at this point, made every inquiry
5 that you have been able to to try
6 and locate any documentation that
7 would have been kept pursuant to
8 this paragraph?

9 A Yes.

10 Q You have. Okay. And you have
11 provided us with copies of
12 anything that in any way relates
13 to -- or you will be by way of
14 undertaking -- anything that
15 relates to the transfer of the
16 assets in the 1982 Trust to the
17 1985 Trust?

18 A Yes.

19 And that information is accurate today, is it?

20 A Yes, it is.

21 Q Okay. I'm finished with that transcript.

22 Now, the affidavit of
23 Ms. Catherine Twinn sworn September 23rd, 2015, and
24 filed September 30th, 2015, has been served on the
25 Sawridge First Nation in support of the Public
26 Trustee's applications. And have you read this
27 affidavit?

1 A Yes, I have.

2 Q Okay. And -- and I think we've already confirmed
3 that this is the same Ms. Catherine Twinn that
4 acted for the Sawridge First Nation as one of their
5 legal counsel when the Sawridge First Nation
6 challenged the constitutionality of the legislation
7 formally referred to as Bill C-31?

8 A That's correct.

9 Q And in paragraph 3 of Ms. Twinn's affidavit, she
10 states that the Trust will have a collective asset
11 value of approximately 213 million by 2015. It --
12 was that the value in 2015?

13 A Not that I know of. I have no idea where she got
14 that number.

15 Q What was the value in 2015?

16 A I'd have to get that information for you, but it
17 was closer to 120 million, combined.

18 Q A hundred and...

19 A Hundred and twenty.

20 Q Million, combined. Yeah.

21 A And that's not accurate. I'd -- I'd need to -- if
22 you want accurate figures, I'd need to get that.

23 Q Yeah. Perhaps if you don't mind, you could
24 undertake to --

25 A I can get that.

26 Q -- tell us what the value is --

27 A Yes.

1 Q -- in --

2 A Do you want it -- do you want the values as of
3 2015?

4 Q And the value today too.

5 A Okay.

6 MR. HEIDECKER: So December 31st, 2015, and
7 today?

8 Q MR. MOLSTAD: Is that a hard task --

9 A No. No.

10 Q -- or is that -- no? Okay.

11 MR. HEIDECKER: Just for clarification.

12 MR. MOLSTAD: Yeah. Yeah.

13 UNDERTAKING NO. 1:

14 Advise what the value of the Trust was in
15 2015, as well as the value of the Trust
16 today.

17 Q MR. MOLSTAD: In paragraph 5 of Ms. Twinn's
18 affidavit, she refers to family groups as being
19 part of the First Nation. Obviously Sawridge First
20 Nation is a relatively small First Nation. Do you
21 know -- well, first of all, does Sawridge First
22 Nation provide you information about who are
23 members of their First Nation in order to
24 administrate the Trust?

25 A Yes, they do.

26 Q Yeah. And do you know how many members of the
27 Sawridge First Nation today are minors?

1 A One.

2 Q And paragraph 6 of this affidavit sets out that --
3 that the trustees have taken the position that
4 membership in the Band is definitive of the
5 beneficiary status. Would it be more accurate to
6 state that the position of the Sawridge trustee is
7 based upon the declaration of the Trust?

8 A Yes, it is. Yes.

9 Q And you, I assume, as trustees, have received
10 advice through experts that the definition of the
11 beneficiaries under the 1985 Trust is
12 discriminatory; is that correct?

13 A Yes. From multiple sources.

14 Q Yeah. And would you agree that there is no process
15 that is necessary to determine the 1985
16 beneficiaries if the definition is changed to
17 members?

18 A Until we know what the definition is that the Court
19 will approve, there's no way of defining who the --
20 the beneficiaries are.

21 Q Right. But if the Court doesn't change the
22 definition of beneficiaries, you have what it is.

23 A Then we'll have to use the provisions of the 1970s
24 *Indian Act*.

25 Q Right. In paragraph 9 of Ms. Twinn's affidavit,
26 she speaks about who the current trustees were when
27 she swore this affidavit September 23rd, 2015, but

1 even at that time, as I understand it, Mr. Justin
2 Twin had ceased to be an elected official or
3 councillor on February 20th, 2015; is that correct?

4 A That's correct.

5 Q And Ms. Bertha L'Hirondelle ceased to be an elected
6 elder on February 20th, 2015?

7 A That's correct.

8 Q In paragraph 10 of Ms. Twinn's affidavit, the
9 reference to determine the age of the membership, I
10 assume that you were aware that for many years
11 there was a -- a process for application for
12 membership that went to a membership committee
13 first?

14 A Yes, I am.

15 Q And after the membership committee, it then went to
16 chief and council?

17 A That's right.

18 Q And after chief and council, if anyone was
19 dissatisfied, they could lodge an appeal to the
20 Sawridge First Nation electors?

21 A That's correct.

22 Q Yeah. And this membership committee, I think, was
23 disbanded last year?

24 A Yes, as far as I know.

25 Q And now it just goes to chief and council?

26 A That's right.

27 Q But Catherine -- Ms. Catherine Twinn served on this

1 membership committee during all the years that it
2 existed?

3 A That's right.

4 Q And is it true the trustees, in their role as
5 trustees, do not participate, in any way, in
6 applications for membership in the Sawridge First
7 Nation?

8 A Not as trustees, no.

9 Q And in relation to paragraph 14 of Ms. Twinn's
10 affidavit, she refers to what may be the intent.
11 Are you able to confirm that the -- Chief Walter P.
12 Twinn continued in a practice, up until the time of
13 his death, where he involved elected officials as
14 trustees?

15 A Yes. There were elected officials on -- as
16 trustees up to his -- his passing in
17 October 1997 --

18 Q Right.

19 A -- and there continued to be after his passing.

20 Q Right. In paragraph 15 of Ms. Twinn's affidavit,
21 she mentions about Walter Felix Twin and his
22 resignation. Would it be fair to say that the
23 trustees expected that to happen because Mr. Walter
24 Felix Twin was having some health problems?

25 A Yes. He'd had major surgery in -- in November,
26 December of the previous year.

27 Q And in paragraph 16 of Ms. Twinn's affidavit, where

1 she talks about what happened at the next meeting,
2 there was, in fact, at that meeting, discussion
3 about appointment of Justin Twin as a trustee; is
4 that correct?

5 A That's correct.

6 Q And the motions that were actually presented were
7 drafted, in fact, at the meeting that took place;
8 is that correct?

9 A That's correct.

10 Q And as I understand it, there was some urgency in
11 terms of the appointment of a trustee as a result
12 of a -- a transaction involving one of the
13 corporations, and this was explained to the
14 trustees?

15 A It was. There was also another complication, and
16 that is that we have to have five trustees at all
17 times in order to carry out business.

18 Q Okay. And -- and the succession plan that is
19 referred to in paragraph 16 had never been agreed
20 to by the trustees; is that correct?

21 A That's correct.

22 Q And with respect to and prior to the appointment of
23 Justin Twin as one of the trustees, it's my
24 understanding that you obtained information to show
25 that Justin Twin was a beneficiary of the 1985
26 Trust?

27 A That's correct.

1 Q And the --

2 MS. HUTCHISON: Mr. Molstad --

3 MR. MOLSTAD: Yeah?

4 MS. HUTCHISON: -- I know I said I was going
5 to be quiet. I'm just struggling with how this is
6 relevant to the 5.13 application, or is there -- is
7 there another -- is it the position of the Sawridge
8 First Nation that this questioning can be used for
9 another purpose?

10 MR. MOLSTAD: well, you've put the evidence
11 in. You tell me how it's relevant.

12 MS. HUTCHISON: I'll -- I'll reserve my
13 objections --

14 MR. MOLSTAD: Yeah.

15 MS. HUTCHISON: -- for -- for the Court, then.
16 Thank you, Mr. Molstad.

17 MR. MOLSTAD: This is the evidence that
18 you've tendered, and we're questioning the witness
19 about the evidence, and our objective is -- is to
20 ensure that the evidence before the Court is
21 factual.

22 Q MR. MOLSTAD: And as I understand it, at --
23 at this time, when Justin Twin was appointed, it
24 necessitated a court application?

25 A That's correct.

26 Q And what was that application in relation to?

27 A It was to transfer the assets from the old group of

1 trustees to the new group of trustees.

2 Q And why was it necessary to go to court?

3 A Because Catherine Twinn refused to sign either the
4 appointment -- or the resolution appointing Justin
5 Twin as a trustee or the transfer of assets from
6 the old group of trustees to the new group of
7 trustees.

8 Q And were the Sawridge trustees successful in
9 obtaining an order of the court?

10 A Yes. The Court ordered that we proceed under my
11 direction, as the Trust administrator, without
12 Catherine's consent --

13 Q And --

14 A -- and that the transfer be effected that way.

15 Q And the transfer was effected that way?

16 A That's right.

17 Q And was that order appealed?

18 A No. There was no appeal.

19 Q Paragraph 18 of Ms. Twinn's affidavit. She
20 attaches Exhibit A to her affidavit as a document
21 tendered, and I just want to confirm that
22 Exhibit A, although presented, was never approved
23 or adopted by the Sawridge trustees in relation to
24 either the 1985 Trust or the 1986 Trust?

25 A No. It was a brainstorming planning document. It
26 was never a policy document.

27 Q Yeah. And is it true that there were no written

1 policies with respect to unanimous approval?

2 A There were and are no written policies regarding
3 unanimous approval.

4 Q And was -- and that's both in relation to the 1985
5 Trust and the 1986 Trust?

6 A That's correct.

7 Q And is it also true that there was no unwritten
8 policy requiring unanimous approval?

9 A Not as far as I know.

10 Q Yeah. And is it fair to say that the Trust deeds
11 govern the conduct?

12 A They always have, and we continue to follow that --

13 Q Yeah.

14 A -- that the Trust deeds are the governing
15 documents.

16 Q In paragraph 19 of Ms. Twinn's affidavit, you'll
17 see that she refers to raising issues about whether
18 Justin Twin was an eligible beneficiary --

19 A Can I just go back to 18 for a second?

20 Q Yeah.

21 A In the memo both for the appointment of Justin Twin
22 and -- and later for the appointment of -- of Peggy
23 Ward, I -- I sent the trustees the quotes right out
24 of the Trust deed regarding the process for
25 appointing, that it had to be by a majority
26 decision, that it was -- and it -- there was no
27 contesting at the meeting that -- you know, that

1 the Trust deeds were inaccurate.

2 Q Okay. Thank you. Paragraph 19 of Ms. Twinn's
3 affidavit. She indicates she raised concerns with
4 the other trustees, and with yourself, whether
5 Justin was an eligible beneficiary under the 1985
6 Trust. And as I understand it, the Sawridge
7 trustees saw it and received a legal opinion on
8 Justin Twin's membership status?

9 A That's correct.

10 Q And that was from Mr. McKinney, in-house legal
11 counsel for Sawridge First Nation?

12 A That's right.

13 Q And he concluded that Mr. Justin Twin was a member?

14 A That's right.

15 Q And I also understand that the Sawridge trustees
16 also received that confirmation, either directly
17 from INAC or through the Sawridge First Nation from
18 INAC, confirming in writing that Justin Twin was a
19 member of Sawridge First Nation?

20 A Yes, that's right.

21 Q And I just want to confirm that Sawridge First
22 Nation -- to your knowledge, chief and council did
23 not conduct a vote with respect to whether Justin
24 Twin was a member of Sawridge First Nation?

25 A No, they didn't.

26 Q And do you have knowledge of any person having been
27 removed as a member of the Sawridge First Nation

1 once they have achieved membership?

2 A I've never heard of it.

3 Q Paragraph 20 of Ms. Twinn's affidavit. You know,
4 first of all, the Sawridge trustees relied on the
5 legal counsel for the Sawridge First Nation and
6 INAC regarding Justin Twin's membership status;
7 correct?

8 A That's correct.

9 Q And the 1985 Trust and the 1986 Trust did not
10 retain Mr. Gilbert to do an opinion?

11 A No, they did not.

12 Q No. And if you look at Mr. Gilbert's opinion,
13 which is attached as Exhibit B to Ms. Twinn's
14 affidavit, there are just a couple points I want to
15 take you to there. On page 4 of Mr. Gilbert's
16 opinion, the last three lines, Mr. Gilbert
17 states -- and I'll read the last full paragraph
18 there. He says: (As read)

19 These questions arise because
20 recently Justin McCoy Twin was made
21 a beneficiary and appointed as a
22 trustee of that Trust by chief and
23 council of the Sawridge Indian Band.

24 well, first of all, that's not true, is it?

25 A No. Trustees can only be appointed by trustees.

26 Q Right. And, also, if you go over to page 6 of this
27 document -- oh, sorry, I guess it's page 5 -- the

1 bottom of page 5. They quote paragraph 6. Is that
2 paragraph 6 of the '82 -- 1982 Trust?

3 A No. 1982.

4 Q I -- that's what it's referred to.

5 A Oh, okay.

6 Q And what he says in terms of dealing with intention
7 is an interesting comment because he says that --
8 on page 6, in the first full paragraph there: (As
9 read)

10 By virtue of paragraph 6 of the
11 Declaration of Trust, Sawridge Band
12 Trust dated April 15th, 1982, I
13 believe it was the intention of the
14 settler of the 1985 Trust to exclude
15 illegitimate children from being
16 beneficiaries of the Trust.

17 And if you look up above there, you see that the
18 trustees: (As read)

19 shall be specifically entitled not
20 to grant any benefit during the
21 duration of the Trust or at the end
22 thereof to any illegitimate children
23 of Indian women, even though that
24 child or those children may be
25 registered under the *Indian Act*, and
26 their status may not have been
27 protested under section 12(2)

1 thereunder.

2 I put it to you that that does not mean that they
3 are not -- or that they are excluding illegitimate
4 children. It gives a discretion.

5 A Yes. This -- this paragraph is included in both
6 the 1982 Trust --

7 Q And --

8 A -- the documents, and the 1985 Trust documents.

9 Q Okay.

10 A And -- and it doesn't -- it doesn't insist that
11 they exclude. It just says that they can if they
12 want.

13 Q Right. And in terms of the make-up of the trustees
14 of the 1985 Trust and the 1986 Trust, as a result
15 of the appointment of Margaret Ward as a trustee,
16 it doesn't matter if Justin Twin is a beneficiary
17 or not, does it?

18 A No, it doesn't.

19 Q Now, paragraph 22 of Ms. Twinn's affidavit. The --
20 I understand that you -- you and -- were not aware
21 that Clara Midbo was terminally ill and, to your
22 knowledge, the other trustees were not aware of
23 this?

24 A No. She was very ill, but we didn't --

25 Q Yeah.

26 A -- we didn't realize it was terminal.

27 Q She was at the June 2014 trustees meeting?

1 A That's right.

2 Q And she passed away the following month?

3 A That's right.

4 Q Yeah. And in paragraph 24, Ms. Twinn states that
5 she emailed you, sir, and the other trustees asking
6 who was being proposed, and she did not receive a
7 response. And I understand that you did phone her
8 and told her what the plan was?

9 A Yeah. I -- she didn't receive a response to the
10 email, but I did speak to her on the phone, where
11 she inquired who was being proposed, and I told her
12 then that there was no proposals. It would be
13 discussed at the trustee meeting, like it had been
14 at the last -- in the last case.

15 Q Right. So it was to be discussed at the next
16 trustee meeting?

17 A That's right.

18 Q Okay. And you communicated that to Ms. Twinn?

19 A Yes, I did, verbally.

20 Q If you go to paragraph 25 of the affidavit of
21 Ms. Twinn, there was discussion at this trustee
22 meeting about -- and Ms. Twinn proposed that an
23 independent outside trustee be appointed; correct?

24 A That's right.

25 Q And Chief Roland Twinn basically responded that, in
26 his view, the beneficiaries would not be open to
27 outsiders as trustees; is that correct?

- 1 A That's correct.
- 2 Q And at this meeting, the trustees offered to
3 consider Ms. Catherine Twinn's proposal for an
4 independent board in October; correct?
- 5 A That's correct.
- 6 Q And they asked Ms. Catherine Twinn to proceed with
7 the appointment of a trustee to replace Clara
8 Midbo, and I understand that Ms. Twinn refused to
9 do so?
- 10 A That's right.
- 11 Q And I understand that Ms. Twinn also, again,
12 refused to sign the transfer of assets?
- 13 A Yes, she did.
- 14 Q And this, again, required an application to the
15 Court to deal with the transfer of assets?
- 16 A It did.
- 17 Q And that application proceeded and what was the
18 result?
- 19 A The result was that the Court ordered Catherine to
20 sign the transfer documents and the appointment of
21 the trustee.
- 22 Q And was that then -- did that result in the
23 transfer being signed?
- 24 A It did.
- 25 Q Was that order appealed?
- 26 A No.
- 27 Q Paragraph 26 of Ms. Twinn's affidavit, she talks

1 about the Sawridge group of companies and outside
2 management. Can you respond to that? The -- the
3 trustees were the shareholders and directors of the
4 companies; is that correct?

5 A That's right.

6 Q And Mr. Mike McKinney was a director of the
7 companies?

8 A He was at the time, yes.

9 Q And the Band council had no control over the
10 companies?

11 A No, they did not.

12 Q And I believe that Mr. McKinney continues as an
13 executive director and general counsel to these
14 companies?

15 A To -- yes, he does.

16 Q Paragraph 27, the -- I think we dealt with this.
17 Bottom line is that the trustees -- the majority of
18 the trustees -- Sawridge trustees did not agree to
19 delay the appointment of Justin Twin and Margaret
20 Ward; is that correct?

21 A No, they did not.

22 Q And paragraph 28, with respect to Margaret Ward,
23 who is referred to as Peggy Ward in Ms. Twinn's
24 affidavit, as I understand it, the Sawridge
25 trustees had established a process way back in --
26 in 2004 to try to develop candidates who might be
27 able to serve as trustees; is that correct?

1 A That's correct. From 2004 to 2007.

2 Q Yeah. And the four candidates that were considered
3 at that time as potential trustees were Justin
4 Twin, David Midbo, Deanna Morton, and Margaret
5 ward?

6 A That's correct.

7 Q And -- and I understand that Catherine -- or
8 Ms. Catherine Twinn advised you about Margaret Ward
9 and about how she had done research on indigenous
10 education and written a paper, and that she had a
11 PhD; is that correct?

12 A That's correct. I -- that paper was written
13 specifically at the direction of the trustees --

14 Q Oh.

15 A -- and at the request of the trustees by Margaret,
16 and Catherine Twinn also told me that Margaret Ward
17 had been a trustee in training.

18 Q Okay. So the -- the Sawridge trustees were aware
19 of Margaret Ward's background, and -- in addition
20 to the fact that she was a beneficiary of both the
21 1985 and 1986 Trust?

22 A Absolutely.

23 Q Yeah. Paragraph 29 of Ms. Catherine Twinn's
24 affidavit. Previously and historically,
25 Ms. Catherine Twinn had agreed with appointment of
26 Bertha L'Hirondelle, when she was chief, and Walter
27 Twin, a councillor, and Roland Twinn, a councillor?

1 A That's correct.

2 Q And in terms of the time that Ms. Catherine Twinn
3 was on the membership committee, I think it was
4 from -- actually, I may have misspoke. It was from
5 1985 to March 31st, 2016. Is that your
6 information?

7 A Yes, as far as I understand.

8 Q Yeah. I -- I believe it was March 31st of '16 that
9 the membership committee ceased and applications
10 for membership went to chief and council after
11 that.

12 A Okay.

13 Q Now, in paragraph 29 of Catherine Twinn's
14 affidavit, she does refer to political and personal
15 agendas. The fact of the matter is that there has
16 been, to this date, no distribution from the 1985
17 Trust; correct?

18 A That's correct.

19 Q In paragraph 29, in the first part of this
20 paragraph, Ms. Catherine Twinn states that when her
21 concerns are expressed to the other trustees, the
22 Chair, and Mr. Bujold, she is either ignored or met
23 with varying degrees of ridicule, denial, reprisal,
24 and/or contempt. Would you comment and respond to
25 that allegation?

26 A I -- I don't think that any of the trustees or the
27 chair or myself ignore Catherine, ever, in a

1 meeting. She makes it very difficult to be
2 ignored, and we don't -- certainly don't engage in
3 ridicule, denial, reprisal, or contempt. We
4 certainly may disagree with her ideas, but we try,
5 as much as possible, not to engage in personal
6 attacks.

7 Q Okay. In paragraph 29(a) of this affidavit,
8 mention is made of Chief Roland Twinn's children
9 were quickly added to the Band membership list.
10 It's my understanding that Chief Twinn's children's
11 applications were dealt with, in one case, over a
12 period of time of 557 days and, in another case,
13 266 days, and when they were dealt with, Chief
14 Roland Twinn abstained. Is that consistent with
15 what you know?

16 A Yes, it is.

17 Q And I think we've confirmed that the Sawridge
18 trustees have no role in determination of
19 membership when they are acting as trustees?

20 A None.

21 MR. MOLSTAD: why don't we take -- why don't
22 we take 15 minutes? Okay?

23 MS. BONORA: Yeah. Thank you.

24 (ADJOURNMENT)

25 Q MR. MOLSTAD: If I could continue now the
26 affidavit of Ms. Catherine Twinn in paragraph
27 29(b). In terms of these remarks about Alfred

1 Potskin, it's my understanding that Mr. Alfred
2 Potskin was enfranchised May 28th, 1952?

3 A Yes, as far as I know.

4 Q Okay. And although she makes reference to the
5 membership committee, I -- I believe the fact is
6 that it is chief and council that an application
7 goes to now; correct?

8 A That's correct.

9 Q And --

10 A Even the membership committee simply recommended to
11 council -- chief and council. It never actually --

12 Q Never --

13 A -- made a decision.

14 Q -- never decided. Right.

15 And in terms of the 17
16 children that have been admitted into membership,
17 are you aware that six of those never had a parent
18 on council?

19 A Yes.

20 Q Okay. 29(c). Do you have any knowledge about what
21 Ms. Catherine Twinn is speaking of in making this
22 allegation?

23 A I think that she is referring to the case of
24 Elizabeth Poytras, but we -- well, in our
25 examination of Elizabeth, there were problems with
26 her filling out the application. It was never
27 completed.

1 Q But the fact is that Elizabeth Poytras was that --
2 one of those person who was declared to be a member
3 by the --

4 A She was declared in -- yeah, by Justice Hugessen.

5 Q Right. Paragraph 29(d) of Ms. Catherine Twinn's
6 affidavit, as I understand it, in response to this,
7 the Sawridge trustees very specifically sought the
8 direction of the Court to determine what it should
9 do; is that correct?

10 A That's correct.

11 Q And the trustees never made decisions to restrict
12 Sawridge First Nation membership; correct?

13 A No. No, they haven't.

14 Q Yeah. And at the -- at the -- at the present time,
15 there's only one elected official who's the
16 trustee; correct?

17 A That's correct.

18 Q And is it fair to say that it is, in fact, useful
19 to the board of trustees that you've observed them
20 when they do have an elected official -- an elected
21 official to come report on the needs of the nation?

22 A Yes, it's been very useful.

23 Q Referring to paragraph 29(e) of
24 Ms. Catherine Twinn's affidavit, since the matter
25 has been referred to the Court, the statement that
26 "we don't know who they are" may be, in fact,
27 correct. Is that fair?

1 A Yes, that is, in fact, correct. Until the Court
2 advises us who or what the definition will be --

3 Q Right.

4 A -- we have no way of choosing.

5 Q I think you mentioned that as far as you know, the
6 intention, once the impact of Bill C-31 was
7 determined, would be to ensure that all members
8 were beneficiaries of the Trust?

9 A Well, the 1982 Trust were for the Band members.
10 1985 Trust, I think, had the same intent. It just
11 wanted to restrict anyone who could claim
12 membership --

13 Q Yeah.

14 A -- through Bill C-31.

15 Q Okay. Paragraph 29(f) of Ms. Catherine Twinn's
16 affidavit. The -- would you agree that the -- that
17 how membership of -- in Sawridge First Nation is
18 determined is the responsibility of the Sawridge
19 First Nation?

20 A We had a very clear legal opinion provided us -- to
21 the trustees on that -- on that very point, and it
22 was very clear that the trustees had no business
23 interfering in any way with the determination of
24 membership.

25 Q Okay. And do you also understand that the Sawridge
26 First Nation membership code was drafted to
27 effectively give Sawridge First Nation control over

1 membership and that it wanted that complete
2 control?

3 A Yes.

4 Q 29(g) of Ms. Catherine Twinn's affidavit. And this
5 issue that she raises having been discussed, it's
6 my understanding that the Sawridge trustees have
7 discussed it, and the majority of the Sawridge
8 trustees have decided that Band membership is the
9 jurisdiction of the Sawridge First Nation?

10 A That's correct.

11 Q And is it also correct that the Sawridge trustees
12 did, in fact, obtain a legal opinion provided by
13 Donovan Waters that the trustees had no business
14 interfering in the membership process?

15 A That's correct.

16 Q Exhibit -- or Catherine Twinn's affidavit -- or
17 Ms. Catherine Twinn's affidavit at paragraph 29(h).
18 And I just want to confirm that in that there has
19 been no distribution from the 1985 Trust, one of
20 the purposes of your -- your application, your
21 questions that are being put to the Court, is to
22 allow you to provide benefits from the 1985 Trust
23 to the beneficiaries?

24 A That's correct.

25 Q Paragraph 29(i) of Ms. Catherine Twinn's affidavit.
26 Do you have any information that Sawridge Resource
27 Developments [sic] does not operate in accordance

1 with the laws and good governance?

2 A Not that I know of.

3 Q 29(j) of Ms. Catherine Twinn's affidavit. Have you
4 ever received any information or seen anything that
5 suggests that Chief Roland Twinn has threatened to
6 take Catherine Twinn's home away?

7 A Certainly not at a trustee meeting. I've never
8 seen it there.

9 Q Yeah. And have you spoken to Chief Roland Twinn
10 about these allegations in 29(j) of Ms. Catherine
11 Twinn's affidavit?

12 A He's -- he's had conversations with me about --
13 about this allegation, but he's indicated he
14 never --

15 Q Yeah.

16 A -- never said that.

17 Q Did he deny this allegation?

18 A Yes, he did.

19 Q Yeah. It -- it says in paragraph 29(j) of
20 Ms. Catherine Twinn's affidavit that she's afraid
21 that if she speak out at trustee meetings, she'll
22 be faced with reprisal from her because of Chief
23 Roland Twinn.

24 when you are in attendance at
25 the Sawridge trustees meetings, does Ms. Catherine
26 Twinn's behaviour ever demonstrate that she's
27 afraid to speak out?

1 A Quite the contrary. She'll speak out on anything,
2 any time, and will often oppose Chief Roland
3 Twinn's proposals and will oppose motions that he
4 votes on.

5 Q Yeah. 29 -- at paragraph 29(k) of Ms. Catherine
6 Twinn's affidavit --

7 A M-hm.

8 Q -- it refers to legal fees, and it's my
9 understanding that the Sawridge trustees, including
10 Ms. Catherine Twinn, agreed to pay the legal fees
11 of the Sawridge First Nation when it became clear
12 that considerable work would have to be done by the
13 Sawridge First Nation for the Trust to complete
14 their -- their application in relation to the
15 transfer of the assets in the definition of
16 beneficiaries; is that correct?

17 A That's correct. I would have to get an
18 undertaking -- or do an undertaking with you to
19 provide the exact motion to ensure that Catherine
20 actually voted in favour. It was discussed on a
21 couple of occasions, and I think in the first
22 occasion, yes, she was in favour. I think in the
23 second occasion, she may have objected.

24 Q Right. well, the -- the -- the majority of the
25 trustees --

26 A But the majority of the trustees certainly --

27 Q -- were in favour?

1 A -- were in favour, yes.

2 Q Yeah. And in --

3 MS. BONORA: Mr. Molstad, do you want that
4 undertaking? You don't want -- you're satisfied
5 with that answer?

6 MR. MOLSTAD: Yeah, I am. Yeah.

7 Q MR. MOLSTAD: Paragraph 29(1) of
8 Ms. Catherine Twinn's affidavit.

9 A M-hm. Yes.

10 Q This concern expressed about Mr. Poretti, it's my
11 understanding that although Mr. Poretti was one of
12 the counsel in relation to the Bill C-31
13 constitutional challenge advanced by the Sawridge
14 First Nation, the issue of conflicts of interest
15 were examined when he was first involved in the
16 Trust application, and no conflict was identified
17 by the Sawridge trustees at that time; is that
18 correct?

19 A That's correct, and he also indicated very clearly
20 that he wouldn't share any information from that
21 previous action.

22 Q Yeah. Paragraph 29(m) of Ms. Catherine Twinn's
23 affidavit. I understand that you conducted, or
24 someone on your behalf conducted, an investigation
25 to determine what, if any, records in the Sawridge
26 First Nation storage building in Slave Lake were
27 destroyed, and it was determined that these records

1 were bar chits from the liquor services at the
2 Sawridge Inn Slave Lake from the early days, late
3 1970s, and that they had no relevance since the
4 financial information was contained in the company,
5 financial statements obtained by the Trust. Is
6 that -- is that true?

7 A That's correct, and I undertook that investigation
8 myself.

9 Q Okay. Paragraph 29(n) of Ms. Catherine Twinn's
10 affidavit. When she refers to this proposal, it's
11 my understanding that the proposal for a community
12 centre was to see if there were other ways that the
13 Trust could benefit the beneficiaries, and it was,
14 in fact, recognized that the Trust funds could not
15 be paid to the First Nation, and one of the
16 proposals that was put forward was that the company
17 pay licencing fees to the Sawridge First Nation of
18 50,000 over ten years for the use of the Sawridge
19 name and that that money, in turn, could be used by
20 the Sawridge First Nation to assist in a
21 building -- a new office building on the Reserve,
22 but the agreement was never concluded or
23 implemented; is that correct?

24 A That's correct.

25 Q And the fact is that 19 of the 44 beneficiaries of
26 the Sawridge Trust live away from the Reserve,
27 while 25 of 44 and their families live on the

1 Reserve or close by?

2 A That's correct.

3 Q And that's the beneficiaries of the 1986 Trust?

4 A That's right.

5 Q Paragraph 30 of Ms. Catherine Twinn's affidavit
6 refers to the code of conduct, which is Exhibit E
7 to her affidavit.

8 A Yes.

9 Q If I could just turn -- or have you turn to that
10 document.

11 Did Ms. Catherine Twinn draft
12 this code of conduct?

13 A She played a large part in drafting it, yes.

14 Q Yeah. And the trustees, including Ms. Catherine
15 Twinn, signed this code of conduct, Exhibit E?

16 A Yes, she did.

17 Q And in paragraph 6 of this code of conduct, it
18 deals with confidentiality --

19 A Yes.

20 Q -- and an obligation of the trustees to maintain a
21 confidentiality of the deliberations and other
22 confidential information. Was an application made
23 on behalf of Ms. Catherine Twinn to seal this
24 affidavit?

25 A Yes, it was. Well, it -- she never actually made
26 the application. She requested it at -- at a
27 hearing in front of Justice Thomas, and he said he

1 wouldn't -- that there had to be a whole process
2 that they had to go through.

3 Q Right. They would have had to serve notice on --

4 A On the media.

5 Q -- the media?

6 A Yeah.

7 Q And do you know if that happened?

8 A No, it didn't.

9 Q So there's been no application to seal this
10 affidavit?

11 A No.

12 Q If you go to Schedule A of the code of conduct
13 that's been signed by the Sawridge trustees, it
14 describes the responsibilities of the trustees, and
15 under the title "Beneficiaries" -- and describes
16 who they are. So the trustees, when they sign this
17 code of conduct, undoubtedly, would have seen
18 and -- the definition of the beneficiaries, as it's
19 described in this document?

20 A Yes.

21 Q And is this an accurate description of the
22 beneficiaries?

23 A Yes, it is.

24 Q And just for the record, the definition of
25 beneficiaries in Schedule A of the code of conduct
26 are described as follows: (As read)

27 Paragraph 2(a) of the Trust deed

1 applying to the 1985 Trust defines
2 beneficiaries for the purposes of
3 that trust as: All persons who at
4 any particular time qualify as
5 members of the Sawridge Indian Band,
6 pursuant to the provisions of the
7 *Indian Act*, as those provisions
8 existed on April 15th, 1982.

9 Paragraph 2(a) of the Trust
10 deed applying to the 1986 Trust
11 defines beneficiaries for the
12 purposes of that Trust as: All
13 persons who at any particular time
14 qualify as members of the Sawridge
15 Indian Band under the laws of Canada
16 in force from time to time,
17 including the membership rules and
18 customary laws with the Sawridge
19 Indian Band, as they exist from time
20 to time, to the extent that such
21 membership, rules, and customary
22 laws are incorporated into or
23 recognized by the laws of Canada.

24 And that summary is a -- a reasonably accurate
25 summary of the beneficiaries?

26 A It is.

27 Q Okay. Paragraph 33 of the affidavit of

1 Ms. Catherine Twinn. This deals with an allegation
2 of -- of conflict, which we'll deal with later in
3 terms of the direction of the Court, but would you
4 agree that, to date, there has been no conflict in
5 terms of a conflict of interest when the Sawridge
6 trustees are addressing issues that they have to
7 address?

8 A Other than Catherine Twinn's general allegations,
9 there have never been any specific --

10 Q Yeah.

11 A -- allegations of conflict of interest.

12 Q And although Ms. Twinn has suggested independent
13 trustees, that, in fact, would require an amendment
14 to the Trust, which would require 80 percent of the
15 beneficiaries to agree to that; is that correct?

16 A That's correct.

17 Q And that may be rather difficult in terms of the
18 1985 Trust, when you don't know who all the
19 beneficiaries are?

20 A That's correct.

21 Q And is it fair to say that the Sawridge trustees --
22 or the majority of the Sawridge trustees believe
23 that the beneficiaries do not want the Trust run by
24 outside trustees that are not part of the
25 community?

26 A That's correct.

27 Q Yeah. And in terms of your observation, have you

1 observed that the trustees, four of them are not
2 elected to chief or council, are, in any way,
3 reluctant to take positions that -- when they
4 attend at meetings?

5 A No. They're -- they're all very eager to
6 participate fully in the -- the affairs of the
7 Trust.

8 Q Right. Paragraph 34 of Ms. Catherine Twinn's
9 affidavit. Would you -- you know, I -- I believe
10 it's alleged that Chief Roland Twinn is a primary
11 influence of the trustee decisions. Would you
12 agree that the decisions are made after discussion
13 and appear to be independent decisions of each
14 trustee?

15 A They are. I -- I would disagree that Chief Roland
16 Twinn is the primary motivator of -- of ideas that
17 come before the Trust. I think Catherine Twinn
18 is -- would be the one that brings most of the
19 ideas.

20 Q In paragraph 34 of Ms. Catherine Twinn's affidavit,
21 she indicates that she finds it hard as a
22 non-elected trustee to cast a vote against the
23 chief and other elected Band officials who are
24 trustees for fear of political, legal, financial,
25 and other repercussions. What is your observation
26 in relation to that statement?

27 A As I stated before, I -- Catherine Twinn never --

1 is never reluctant to express her opinion on
2 anything and is certainly not afraid to cast an
3 opposing vote or to abstain and to explain why she
4 is opposing or abstaining. I -- I've never seen
5 any reluctance at all in Catherine's participation.

6 Q And in past, is it correct to state that
7 Ms. Catherine Twinn has voted against positions of
8 the elected officials?

9 A On a number of occasions, yes.

10 Q Yeah. And -- now, the Sawridge First Nation is a
11 small First Nation relative to other First Nations
12 in Canada?

13 A That's correct.

14 Q And if you removed elected officials from the
15 ability to serve as Sawridge trustees, would you
16 lose a number of eligible candidates?

17 A If you were to remove the 5 people who are elected
18 out of 44, that would make a significant reduction
19 in qualified candidates as trustees, yes.

20 Q Yeah. And, generally, when the trustees make
21 decisions, those decisions are voted on after there
22 has been discussion of the issues?

23 A Considerable discussion, yes, and research, often.

24 Q Yeah. In paragraph 35 of Ms. Catherine Twinn's
25 affidavit, she makes mention of some First Nations
26 who structure their trust different from the
27 Sawridge First Nation. Would you agree that there

1 are a number of trusts that have been established
2 by First Nations who -- or that involve their
3 elected officials as trustees?

4 A Yes. The -- there's -- there's over 600 First
5 Nations in Canada, and of these, a number of these
6 would probably have trusts and a number of those
7 trusts are -- have Band officials and elected
8 members as -- as trustees.

9 Q Yeah. Okay.

10 MS. HUTCHISON: Are you done with that
11 affidavit, Mr. Molstad?

12 MR. MOLSTAD: Yes, I think I'm done with
13 that affidavit for now.

14 MS. HUTCHISON: I just would like to note on
15 the record, we were on that affidavit, by my count,
16 for over an hour.

17 Our letter of June 7th, 2016,
18 made note that we would make limited use of this
19 affidavit and maybe only refer to paragraph 29, and
20 that was 18 minutes of the questioning on
21 paragraph 29. We will be taking the position that
22 the vast majority of the questions on this
23 affidavit were completely irrelevant to the 5.13
24 application. Thank you, Mr. Molstad.

25 MR. MOLSTAD: The -- the evidence that you
26 have adduced in support of your application is the
27 whole of the affidavit.

1 MS. HUTCHISON: I -- I would just refer you to
2 the letter you've entered as an exhibit.

3 MR. MOLSTAD: I read your letter, and --

4 MS. HUTCHISON: Yeah.

5 MR. MOLSTAD: -- and your letter didn't say
6 that you would be relying on only that paragraph.
7 You said you would be relying mainly on that
8 paragraph, and until you tell me precisely what you
9 are relying upon, I will continue to ask questions
10 in terms of the correctness of the evidence that
11 you're putting forward.

12 MS. HUTCHISON: The questions, Mr. Molstad,
13 must remain relevant to the application that is
14 before the Court, which is a 5.13 application on
15 membership production.

16 MR. MOLSTAD: Well, right now we have two
17 applications before the Court. I understand what
18 you've told me in terms of the application in terms
19 of the transfer of assets, but that application has
20 not yet been resolved, dismissed, and is before the
21 Court, so...

22 I understand what your
23 position is, and, you know, if we want to put our
24 positions on the record, let me put mine on on
25 behalf of the Sawridge First Nation, that these
26 applications pursuant to 5.13 are duplicitous.
27 They are completely devoid of merit. They are a

1 waste of resources in terms of the Sawridge First
2 Nation, and we, on behalf of the Sawridge First
3 Nation, will be seeking solicitor-client costs
4 against the Public Trustee in relation to these
5 applications on the basis that the Public Trustee
6 is not indemnified from the Sawridge Trust. So --

7 MS. HUTCHISON: Thank you, Mr. Molstad. And
8 I -- I assume that in those submissions, you'll
9 provide the Court with evidence about which of your
10 accounts were paid by the Sawridge Trust?

11 MR. MOLSTAD: No, we won't. I'll just take
12 a moment here.

13 Q MR. MOLSTAD: I'm showing you now an order
14 that's been signed by all of the counsel on these
15 proceedings that flow from the decision of
16 Mr. Justice Thomas, which, unfortunately, has
17 yet -- not yet been signed by the Court. So I'm
18 going to ask that this be marked -- this -- as an
19 exhibit. You've seen this, I assume, sir?

20 A Yes, I have. Yes.

21 MR. MOLSTAD: I'd ask that it be marked as
22 an exhibit.

23 EXHIBIT 7:

24 Order of Mr. Justice Thomas, signed by
25 all counsel in the proceedings

26 Q MR. MOLSTAD: The -- Exhibit 7, which is the
27 order of the Court. Do you have that in front of

1 you, sir?

2 A I do.

3 Q Appreciating that it has not yet been signed by the
4 Court but it has been approved by all counsel,
5 the -- I -- I want to take to you some of the
6 provisions of this and just ultimately ask you a
7 few questions.

8 In paragraph 5 of -- or,
9 sorry, paragraph 3 of this order, it was ordered by
10 the Court that: (As read)

11 The Public Trustee shall not conduct
12 an open-ended inquiry into the
13 membership of the Sawridge First
14 Nation and the historic disputes
15 that relate to that subject.

16 And in paragraph 4, it states that: (As read)

17 The Public Trustee shall not conduct
18 a general inquiry into potential
19 conflicts of interest between
20 Sawridge First Nation, its
21 administration, and the Sawridge
22 trustees.

23 And over on the next page, it states that: (As
24 read)

25 The Sawridge First Nation shall
26 provide the following to the Public
27 Trustee by January 29th, 2016:

1 (a) The names of individuals who
2 have:

3 (i) Made
4 applications to join the Sawridge
5 First Nation which are pending; and

6 (ii) Had the
7 applications to join the Sawridge
8 First Nation rejected and are
9 subject to challenge.

10 (b) The contact information for
11 those individuals were available.

12 And in paragraph 13 it states: (As read)

13 The Public Trustee is instructed
14 that if it requires any additional
15 documents from the Sawridge First
16 Nation to assist it in identifying
17 the current and possible members of
18 category 2, minors who are children
19 of members of the Sawridge First
20 Nation, the Public Trustee shall
21 file a Rule 5.13(1) application by
22 January 29th, 2016.

23 Now, I think we've already marked as an exhibit the
24 letter that was sent to the Public Trustee
25 responding to the direction to the Sawridge First
26 Nation, which was sent out, I believe, on -- on
27 January 18th and has been marked as Exhibit 4 in

1 these proceedings.

2 After that letter was sent,
3 did the Public Trustee, through their counsel,
4 request any additional information from the
5 Sawridge trustees in relation to membership?

6 A No.

7 Q And paragraph 15 also states that: (As read)

8 The Public Trustee shall not engage
9 in collateral attacks on membership
10 processes of the Sawridge First
11 Nation, and the Sawridge trustees
12 shall not engage in collateral
13 attacks on Sawridge First Nation's
14 membership processes.

15 The Sawridge First Nation was not requested by --
16 or, sorry. The -- the Sawridge trustees were not
17 requested by the Public Trustee to provide any
18 information following this letter in January of
19 2016 in relation to the membership process; is that
20 correct?

21 A That's correct.

22 Q Now --

23 MR. MOLSTAD: off the record.

24 (DISCUSSION OFF THE RECORD)

25 Q MR. MOLSTAD: The -- your counsel has
26 provided you with a -- a copy of their letter to
27 the Public Trustee, which is dated today -- oh,

1 wait a minute. This is without prejudice.

2 A No. It's with prejudice.

3 MS. BONORA: It -- it's with prejudice.

4 Is -- are you referring --

5 MR. MOLSTAD: Oh, sorry. Yeah, it is
6 with --

7 MS. BONORA: -- to the July 27th --

8 MR. MOLSTAD: Yeah. Yeah. Sorry. Sorry.

9 Q MR. MOLSTAD: Yeah. This is a copy of what
10 your counsel sent to the Public Trustee today; is
11 that correct?

12 A That's correct, yes.

13 MR. MOLSTAD: Could we mark that as the next
14 exhibit, please?

15 EXHIBIT 8:

16 Copy of letter sent to the Public Trustee
17 dated July 27, 2016

18 Q MR. MOLSTAD: So Exhibit 8, which is the
19 letter from Mr. Poretti to the -- counsel for the
20 Public Trustee and to McLennan Ross is the form of
21 the order that the -- I understand, that the Public
22 Trustee has advised you today that they are
23 prepared to agree to; is that correct?

24 A That's correct.

25 Q And we don't know whether Ms. Platten, on --
26 counsel on behalf of Catherine Twinn, will agree to
27 this at this time, do we?

1 A No, we do not.

2 MR. MOLSTAD: Yeah. Those are the questions
3 that I have in cross-examination.

4 MS. BONORA: I have a couple of questions
5 I'd like to just put on the record for
6 clarification.

7 PAUL BUJOLD, PREVIOUSLY SWORN,
8 QUESTIONED BY MS. D. C. E. BONORA:

9 Q MS. BONORA: Mr. Bujold, the -- you were
10 asked questions about two different orders with
11 respect to the appointment of Justin Twin and
12 Margaret Ward. You were specifically asked whether
13 the order in respect of the appointment of Margaret
14 Ward and the transfer of assets was appealed. Can
15 you tell me whether the order with respect to the
16 appointment of Justin Twin and the transfer of
17 assets was appealed?

18 A No, it was not.

19 Q In respect of the appointment of Justin Twin, can
20 you tell me the order in terms of events, in terms
21 of when Justin Twin was appointed as a trustee and
22 when you received information in respect of his
23 membership status?

24 A Justin Twin was -- I mean, the -- the vote was
25 taken at the January 21st meeting, 2014. Justin
26 signed the documents in February of that year. The
27 letters from Mike McKinney and Indian Affairs were

1 received subsequent to that.

2 Q Can you just advise and put on the record what was
3 in the package that was sent to the trustees before
4 Margaret Ward -- before the meeting which Margaret
5 Ward was appointed as trustee?

6 A What was included was a notice of meeting, that it
7 was a special meeting, the requirements under the
8 Trust deeds on how trustees can be appointed, and,
9 basically, the date and place of the meeting.

10 Q And --

11 A Oh, and the other thing is that we had -- we had
12 designed resolutions to be passed by the trustees
13 with Justin -- with Justin's appointment -- or
14 prior to Justin's appointment. We had designed two
15 resolutions: one for transferring -- or -- or
16 appointing the trustee and transferring the assets
17 and one for limiting the term of -- of appointment.
18 And so those were presented in draft form.

19 Q I -- I just want to take you back to a letter which
20 was not marked as an exhibit for privacy reasons,
21 which is a letter to -- or an email from Dentons to
22 Hutchison Law dated April 5th, 2016.

23 A Yes.

24 Q And I believe you were asked the question, was
25 there any information requested with respect to
26 paragraph 13 of the order resulting from the
27 December 17th decision? And I believe your answer

1 was, No. And I want you to look at this and advise
2 whether you think that there was, in fact, any
3 information requested and then provided to the
4 Public Trustee's office.

5 A The request was for the list of minors. We updated
6 the minors as of -- as of the date of this email.
7 No other -- no further information was requested,
8 as far as I know.

9 MS. BONORA: Okay. Those are all my
10 questions.

11 MR. MOLSTAD: Okay. Anything else?

12 MS. HUTCHISON: No. Thanks, Ed.

13 MR. MOLSTAD: Okay. Thanks very much.

14 MS. HUTCHISON: Thank you.

15 MR. MOLSTAD: Thank you.

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17 PROCEEDINGS ADJOURNED 12:04 P.M.

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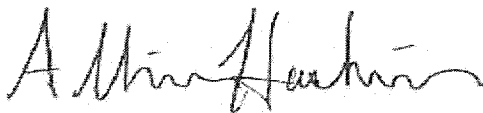
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CERTIFICATE OF TRANSCRIPT

I, the undersigned, hereby certify that the foregoing pages are a complete and accurate transcript of the proceedings taken down by me in shorthand and transcribed from my shorthand notes to the best of my skill and ability.

Dated at the City of Edmonton, Province of Alberta, this 2nd day of August, 2016.



Allison Hawkins, CSR(A)
Court Reporter

	20:6, 21:16, 22:14, 22:25, 23:4, 23:18, 24:3, 24:9, 25:14, 25:20, 26:7, 26:11, 26:15, 26:27, 27:8, 27:12, 27:17, 27:23, 28:3, 28:11, 30:25, 30:26, 31:2, 32:6, 32:24, 33:16, 33:23, 35:20, 36:2, 37:17, 40:11, 40:15, 43:25, 45:24, 46:4, 47:5, 48:9, 49:14, 50:8, 50:14, 54:21, 55:5, 55:16, 59:10, 60:19, 60:22, 67:1, 68:18 1986 [16] - 9:7, 9:8, 9:13, 17:10, 19:16, 24:7, 28:12, 30:25, 31:2, 45:24, 46:5, 48:9, 50:14, 54:21, 65:3, 67:10 1997 [1] - 42:17	53:22 28th [2] - 29:19, 57:2 29 [7] - 4:19, 54:23, 55:13, 55:19, 62:5, 71:19, 71:21 29(a) [1] - 56:7 29(b) [1] - 56:27 29(c) [1] - 57:20 29(d) [1] - 58:5 29(e) [1] - 58:23 29(f) [1] - 59:15 29(g) [1] - 60:4 29(h) [1] - 60:17 29(i) [1] - 60:25 29(j) [3] - 61:3, 61:10, 61:19 29(k) [1] - 62:5 29(l) [1] - 63:7 29(m) [1] - 63:22 29(n) [1] - 64:9 29th [2] - 74:27, 75:22 2nd [1] - 81:9	49:2, 49:8, 49:10, 65:17 600 [1] - 71:4 63 [2] - 33:1, 33:4 6th [1] - 9:22		
1			7		
1 [8] - 3:9, 4:5, 11:1, 11:5, 11:24, 17:8, 39:13 10 [6] - 16:9, 20:11, 33:6, 36:22, 36:24, 41:8 103 [1] - 33:21 104 [1] - 33:21 11 [3] - 4:5, 16:10, 21:9 1103 [1] - 1:2 12 [4] - 4:7, 16:10, 21:9, 35:23 12(2) [1] - 49:27 120 [1] - 38:17 127 [1] - 34:16 12:04 [1] - 80:17 12th [5] - 10:10, 17:5, 20:12, 25:2, 33:7 13 [6] - 4:11, 22:1, 34:24, 36:15, 75:12, 79:26 13th [2] - 10:10, 17:5 14 [2] - 4:13, 42:9 14112 [1] - 1:2 147 [1] - 34:24 15 [6] - 1:9, 22:1, 33:4, 42:20, 56:22, 76:7 150 [1] - 35:6 15th [3] - 35:20, 49:12, 67:8 16 [2] - 42:27, 43:19 17 [1] - 57:15 17th [5] - 4:5, 10:21, 11:2, 15:19, 79:27 18 [3] - 45:19, 46:19, 71:20 180 [1] - 35:13 181 [1] - 36:13 18th [1] - 75:27 19 [6] - 1:8, 22:20, 32:10, 46:16, 47:2, 64:25 1952 [1] - 57:2 1970s [3] - 32:14, 40:23, 64:3 1982 [30] - 8:26, 8:27, 19:2, 19:8, 20:5, 22:24, 23:17, 25:12, 25:19, 26:7, 26:19, 26:23, 27:4, 27:24, 28:2, 32:5, 32:14, 32:17, 32:21, 32:22, 33:15, 36:1, 36:20, 37:16, 49:2, 49:3, 49:12, 50:6, 59:9, 67:8 1985 [65] - 1:9, 1:11, 9:3, 9:4, 9:12, 17:10, 17:18, 17:27, 18:4, 18:5, 18:8, 18:16, 18:19, 19:3, 19:9, 19:15,	26:6, 27:8, 73:23, 73:26 73 [1] - 4:22 77 [1] - 4:24 78 [1] - 2:6 7th [4] - 4:11, 13:2, 13:9, 71:17				
	2		8		
2 [5] - 4:7, 11:8, 12:22, 21:18, 75:18 2(a) [2] - 66:27, 67:9 20 [2] - 25:1, 48:3 2000 [1] - 1:5 2004 [2] - 53:26, 54:1 2007 [1] - 54:1 2009 [1] - 17:15 2011 [15] - 9:22, 10:3, 10:10, 14:24, 16:6, 17:5, 17:6, 20:12, 25:2, 33:7, 35:23, 36:19 2014 [3] - 29:20, 50:27, 78:25 2015 [12] - 3:10, 37:23, 37:24, 38:11, 38:12, 38:15, 39:3, 39:6, 39:15, 40:27, 41:3, 41:6 2016 [22] - 1:27, 4:5, 4:12, 4:20, 4:25, 10:21, 11:2, 12:5, 13:2, 13:10, 14:25, 15:19, 29:5, 29:12, 55:5, 71:17, 74:27, 75:22, 76:19, 77:17, 79:22, 81:9 20th [2] - 41:3, 41:6 213 [1] - 38:11 21st [2] - 7:15, 78:25 22 [3] - 33:4, 33:12, 50:19 23 [1] - 26:1 23rd [2] - 37:23, 40:27 24 [2] - 26:1, 51:4 24th [2] - 7:15, 12:4 25 [2] - 51:20, 64:27 26 [5] - 4:20, 27:18, 29:5, 29:12, 52:27 266 [1] - 56:13 27 [5] - 1:27, 4:25, 34:18, 53:16, 77:17 27th [2] - 29:19, 77:7 28 [4] - 4:16, 24:18, 27:15,		8 [4] - 4:24, 33:6, 77:15, 77:18 80 [1] - 68:14			
		3	9		
		3 [7] - 4:11, 13:8, 13:11, 17:16, 20:23, 38:9, 74:9 30 [1] - 65:5 30th [5] - 9:22, 10:3, 16:6, 36:19, 37:24 31st [3] - 39:6, 55:5, 55:8 33 [1] - 67:27 34 [2] - 69:8, 69:20 35 [1] - 70:24 39 [1] - 3:9	9 [5] - 19:13, 24:18, 29:24, 33:6, 40:25 9:37 [1] - 5:1		
			A		
		4	A.M [1] - 5:1 ability [2] - 70:15, 81:7 able [5] - 23:10, 30:26, 37:5, 42:11, 53:27 absolutely [2] - 24:13, 54:22 abstain [1] - 70:3 abstained [1] - 56:14 abstaining [1] - 70:4 acceptable [1] - 28:19 acceptance [2] - 6:7, 35:8 accordance [3] - 15:22, 33:25, 60:27 according [1] - 3:5 accountants [1] - 26:3 accounting [3] - 26:22, 26:26, 27:8 accounts [1] - 73:10 accurate [7] - 37:19, 38:21, 38:22, 40:5, 66:21, 67:24, 81:4 achieved [1] - 48:1 act [1] - 15:16 Act [5] - 31:23, 34:11, 40:24, 49:25, 67:7 ACT [1] - 1:5 acted [2] - 30:13, 38:4 acting [1] - 56:19 action [1] - 63:21 added [2] - 22:12, 56:9 addition [2] - 25:8, 54:19 additional [2] - 75:14, 76:4 address [2] - 6:8, 68:7		
		4 [7] - 4:13, 14:10, 17:25, 34:24, 48:15, 74:16, 75:27 44 [3] - 64:25, 64:27, 70:18 45 [1] - 32:8 49 [1] - 35:15			
		5			
		5 [10] - 2:5, 4:16, 17:25, 28:24, 36:24, 39:17, 48:27, 49:1, 70:17, 74:8 5.13 [17] - 5:8, 5:23, 5:25, 7:5, 7:9, 7:16, 8:3, 8:11, 8:16, 11:10, 11:26, 13:14, 13:15, 44:6, 71:23, 72:14, 72:26 5.13(1) [1] - 75:21 50,000 [1] - 64:18 557 [1] - 56:12 5th [2] - 14:25, 79:22			
			6		
			6 [11] - 4:19, 16:6, 29:10, 34:18, 40:2, 48:26, 49:1,		
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addressed [4] - 4:7, 10:22, 12:15, 12:23
 addressing [1] - 68:6
 adduced [1] - 71:26
 ADJOURNED [1] - 80:17
 ADJOURNMENT [1] - 56:24
 administrate [1] - 39:24
 administration [1] - 74:21
 administrator [1] - 45:11
 admissible [1] - 6:8
 admitted [1] - 57:16
 adopted [1] - 45:23
 adult [1] - 15:17
 adults [3] - 15:1, 15:2, 15:23
 advanced [1] - 63:13
 advice [1] - 40:10
 Advise [2] - 3:9, 39:14
 advise [4] - 15:24, 36:8, 79:2, 80:1
 advised [3] - 29:20, 54:8, 77:22
 advises [1] - 59:2
 affairs [1] - 69:6
 Affairs [1] - 78:27
 affect [1] - 7:4
 AFFIDAVIT [1] - 1:18
 affidavit [80] - 9:21, 10:2, 10:8, 10:9, 10:11, 11:15, 12:1, 16:5, 16:10, 17:4, 17:25, 19:13, 20:11, 20:13, 21:9, 21:11, 22:1, 24:19, 25:1, 26:1, 27:15, 29:15, 33:7, 35:24, 36:14, 36:19, 37:22, 37:27, 38:9, 39:18, 40:2, 40:25, 40:27, 41:8, 42:10, 42:20, 42:27, 45:19, 45:20, 46:16, 47:3, 48:3, 48:14, 50:19, 51:20, 52:27, 53:24, 54:24, 55:14, 56:7, 56:26, 58:6, 58:24, 59:16, 60:4, 60:16, 60:17, 60:25, 61:3, 61:11, 61:20, 62:6, 63:8, 63:23, 64:10, 65:5, 65:7, 65:24, 66:10, 67:27, 69:9, 69:20, 70:25, 71:11, 71:13, 71:15, 71:19, 71:23, 71:27
 affidavits [5] - 5:6, 9:18, 9:20, 29:19, 33:4
 afraid [3] - 61:20, 61:27, 70:2
 age [1] - 41:9
 agendas [1] - 55:15
 agree [14] - 7:21, 22:25, 23:16, 25:9, 26:5, 40:14, 53:18, 59:16, 68:4, 68:15, 69:12, 70:27, 77:23, 77:26
 agreed [8] - 4:9, 6:22, 8:4, 12:16, 12:25, 43:19, 54:25, 62:10
 agreement [3] - 5:19, 21:14,

64:22
 ahead [2] - 7:25, 7:26
 ALBERTA [2] - 1:3, 1:13
 Alberta [3] - 1:24, 1:27, 81:8
 Alfred [2] - 56:27, 57:1
 allegation [5] - 55:25, 57:22, 61:13, 61:17, 68:1
 allegations [3] - 61:10, 68:8, 68:11
 alleged [1] - 69:10
 Allison [2] - 1:25, 81:13
 allow [1] - 60:22
 AMENDED [1] - 1:5
 amendment [1] - 68:13
 amount [1] - 16:11
 and.. [1] - 38:18
 answer [2] - 63:5, 79:27
 answers [1] - 13:18
 anticipates [1] - 11:16
 apologize [1] - 33:11
 appeal [2] - 41:19, 45:18
 appealed [4] - 45:17, 52:25, 78:14, 78:17
 appear [3] - 25:7, 25:23, 69:13
 Appendix [1] - 21:21
 APPLICANT [1] - 1:13
 APPLICANTS [1] - 1:10
 application [38] - 5:24, 6:25, 7:5, 7:9, 7:16, 8:4, 8:11, 8:16, 11:10, 11:13, 11:16, 11:26, 13:14, 13:15, 34:27, 35:1, 41:11, 44:6, 44:24, 44:26, 52:14, 52:17, 57:6, 57:26, 60:20, 62:14, 63:16, 65:22, 65:26, 66:9, 71:24, 71:26, 72:13, 72:14, 72:18, 72:19, 75:21
 Application [2] - 1:13, 1:15
 applications [16] - 5:8, 5:11, 5:25, 13:18, 29:22, 34:21, 35:9, 37:26, 42:6, 55:9, 56:11, 72:17, 72:26, 73:5, 75:4, 75:7
 applying [2] - 67:1, 67:10
 appointed [7] - 44:23, 48:21, 48:25, 51:23, 78:21, 79:5, 79:8
 appointing [3] - 45:4, 46:25, 79:16
 appointment [18] - 43:3, 43:11, 43:22, 45:4, 46:21, 46:22, 50:15, 52:7, 52:20, 53:19, 54:25, 78:11, 78:13, 78:16, 78:19, 79:13, 79:14, 79:17
 appreciating [1] - 74:3
 appropriate [1] - 15:11
 approval [5] - 7:15, 21:1, 46:1, 46:3, 46:8

approve [1] - 40:19
 approved [2] - 45:22, 74:4
 approving [2] - 19:10, 25:25
 APRIL [1] - 1:9
 April [5] - 14:25, 35:20, 49:12, 67:8, 79:22
 arise [1] - 48:19
 AS [1] - 1:5
 asserted [1] - 22:6
 assessment [1] - 28:9
 asset [4] - 7:13, 8:12, 8:13, 38:10
 assets [55] - 5:19, 5:24, 7:5, 7:15, 7:16, 8:3, 8:5, 11:26, 13:15, 18:4, 19:2, 19:8, 20:5, 22:24, 23:5, 23:17, 23:21, 23:23, 23:24, 24:4, 24:12, 24:15, 25:13, 25:17, 25:19, 26:14, 26:18, 26:23, 26:27, 27:3, 27:12, 27:17, 27:24, 27:25, 28:2, 28:11, 28:12, 32:5, 32:12, 32:15, 32:20, 32:23, 33:14, 36:1, 37:1, 37:16, 44:27, 45:5, 52:12, 52:15, 62:15, 72:19, 78:14, 78:17, 79:16
 assist [2] - 64:20, 75:16
 assistance [2] - 3:2, 16:16
 assume [7] - 15:18, 21:15, 22:3, 40:9, 41:10, 73:8, 73:19
 assuming [2] - 5:21, 6:22
 AT [1] - 5:1
 attached [5] - 4:12, 13:3, 13:10, 21:21, 48:13
 attaches [4] - 12:14, 14:15, 28:16, 45:20
 attaching [2] - 4:16, 28:25
 attacks [3] - 56:6, 76:9, 76:13
 attend [2] - 6:5, 69:4
 attendance [1] - 61:24
 attention [1] - 16:9
 August [7] - 7:14, 9:22, 10:3, 12:4, 16:6, 36:19, 81:9
 authorized [1] - 25:12
 available [1] - 75:11
 aware [7] - 8:15, 22:9, 41:10, 50:20, 50:22, 54:18, 57:17

B

background [1] - 54:19
 BAND [2] - 1:6, 1:8
 Band [16] - 20:22, 21:23, 25:5, 35:21, 40:4, 48:23, 49:11, 53:9, 56:9, 59:9, 60:8, 67:5, 67:15, 67:19, 69:23, 71:7
 bar [1] - 64:1

based [4] - 18:15, 23:16, 26:3, 40:7
 basis [3] - 8:3, 8:17, 73:5
 became [2] - 19:15, 62:11
 become [5] - 15:1, 15:2, 15:17, 17:13, 22:14
 beginning [2] - 32:10, 36:15
 behalf [8] - 4:15, 14:2, 14:13, 63:24, 65:23, 72:25, 73:2, 77:26
 behaviour [1] - 61:26
 belief [3] - 33:10, 33:13, 33:19
 BENCH [1] - 1:3
 beneficiaries [34] - 16:12, 18:1, 18:3, 18:8, 18:16, 18:19, 26:12, 27:27, 28:1, 28:6, 28:8, 33:24, 40:11, 40:16, 40:20, 40:22, 49:16, 51:26, 59:8, 60:23, 62:16, 64:13, 64:25, 65:3, 66:18, 66:22, 66:25, 67:2, 67:11, 67:25, 68:15, 68:19, 68:23
 Beneficiaries [1] - 66:15
 beneficiary [10] - 22:15, 27:7, 30:24, 40:5, 43:25, 46:18, 47:5, 48:21, 50:16, 54:20
 benefit [3] - 18:1, 49:20, 64:13
 benefits [2] - 26:12, 60:22
 BERTHA [1] - 1:11
 Bertha [3] - 17:20, 41:5, 54:26
 best [1] - 81:7
 between [7] - 4:9, 10:18, 12:16, 12:25, 21:14, 32:13, 74:19
 Bill [8] - 18:18, 22:3, 23:7, 30:15, 38:7, 59:6, 59:14, 63:12
 blanking [1] - 31:15
 board [2] - 52:4, 58:19
 boardroom [1] - 8:9
 Bob [1] - 20:16
 Bonora [7] - 1:23, 2:6, 4:16, 7:20, 14:19, 28:16, 28:25
 BONORA [10] - 7:23, 9:27, 56:23, 63:3, 77:3, 77:7, 78:4, 78:8, 78:9, 80:9
 bottom [4] - 11:23, 35:15, 49:1, 53:17
 brainstorming [1] - 45:25
 brief [3] - 11:12, 11:17, 27:21
 brings [1] - 69:18
 building [3] - 63:26, 64:21
 Bujold [7] - 5:5, 8:25, 14:18, 33:5, 36:17, 55:22, 78:9
 BUJOLD [4] - 1:20, 2:3, 5:1, 78:7

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Bujold's [2] - 12:4, 35:23 business [3] - 43:17, 59:22, 60:13 BY [3] - 1:7, 5:2, 78:8	56:8, 56:10, 56:13, 61:5, 61:9, 61:22, 62:2, 69:10, 69:15 chief [19] - 17:8, 17:13, 23:20, 25:8, 29:27, 31:4, 31:7, 31:11, 41:16, 41:18, 41:25, 47:22, 48:22, 54:26, 55:10, 57:6, 57:11, 69:2, 69:23 CHIEF [1] - 1:7 child [1] - 49:24 children [8] - 34:5, 49:15, 49:22, 49:24, 50:4, 56:8, 57:16, 75:18 children's [1] - 56:10 chits [1] - 64:1 choosing [1] - 59:4 circumstances [1] - 24:10 City [1] - 81:8 claim [1] - 59:11 Clara [2] - 50:21, 52:7 CLARA [1] - 1:11 clarification [9] - 4:17, 5:19, 7:14, 8:5, 28:17, 28:19, 28:26, 39:11, 78:6 clause [1] - 34:10 clear [7] - 6:1, 6:21, 6:26, 36:26, 59:20, 59:22, 62:11 clearly [1] - 63:19 client [1] - 73:3 close [1] - 65:1 closer [1] - 38:17 code [10] - 30:19, 31:22, 59:26, 65:6, 65:12, 65:15, 65:17, 66:12, 66:17, 66:25 collateral [2] - 76:9, 76:12 collective [1] - 38:10 Collins [3] - 31:12, 31:17, 31:18 combined [2] - 38:17, 38:20 comment [2] - 49:7, 55:24 comments [4] - 4:18, 6:19, 28:18, 28:27 committee [9] - 30:10, 41:12, 41:15, 41:22, 42:1, 55:3, 55:9, 57:5, 57:10 communicated [2] - 11:20, 51:18 community [2] - 64:11, 68:25 companies [5] - 53:1, 53:4, 53:7, 53:10, 53:14 company [2] - 64:4, 64:16 compelling [1] - 5:9 compiling [1] - 16:17 complete [4] - 24:6, 60:1, 62:13, 81:4 completed [1] - 57:27 completely [2] - 71:23, 72:27 completion [1] - 24:5 complication [1] - 43:15	concern [1] - 63:10 concerns [3] - 18:1, 47:3, 55:21 conclude [1] - 12:3 concluded [2] - 47:13, 64:22 conditions [1] - 21:23 conduct [12] - 31:22, 46:11, 47:23, 65:6, 65:12, 65:15, 65:17, 66:12, 66:17, 66:25, 74:11, 74:17 conducted [3] - 29:19, 63:23, 63:24 confidential [2] - 14:16, 65:22 confidentiality [2] - 65:18, 65:21 confirm [10] - 8:7, 15:20, 16:19, 26:9, 26:13, 34:25, 42:11, 45:21, 47:21, 60:18 confirmation [1] - 47:16 confirmed [3] - 24:24, 38:2, 56:17 confirming [1] - 47:18 conflict [5] - 63:16, 68:2, 68:4, 68:5, 68:11 conflicts [2] - 63:14, 74:19 consent [16] - 4:21, 5:20, 6:20, 6:22, 6:27, 7:2, 7:4, 7:10, 7:13, 7:22, 7:24, 28:19, 29:5, 29:13, 45:12 consider [2] - 14:16, 52:3 considerable [3] - 16:11, 62:12, 70:23 considered [1] - 54:2 consistent [1] - 56:14 constitution [1] - 31:22 constitutional [2] - 24:5, 63:13 constitutionality [3] - 22:5, 30:15, 38:6 consultant [1] - 20:1 contact [1] - 75:10 contacted [1] - 20:2 contained [2] - 18:3, 64:4 contempt [2] - 55:24, 56:3 contesting [1] - 46:27 continue [4] - 15:16, 46:12, 56:25, 72:9 continued [2] - 42:12, 42:19 continues [3] - 33:19, 33:25, 53:12 contrary [1] - 62:1 control [4] - 6:24, 53:9, 59:27, 60:2 conversation [1] - 23:25 conversations [1] - 61:12 cooperated [1] - 16:20 cooperative [2] - 24:25 copies [2] - 10:15, 37:11 copy [1] - 4:24, 77:16	copy [9] - 10:23, 12:17, 13:3, 14:4, 28:20, 29:6, 29:16, 76:26, 77:9 corporations [1] - 43:13 correct [126] - 6:17, 6:25, 10:4, 11:21, 11:22, 12:9, 12:10, 13:4, 13:15, 13:25, 13:26, 14:6, 14:7, 14:25, 14:26, 15:3, 15:4, 15:6, 15:7, 15:12, 15:13, 15:24, 17:11, 17:12, 18:10, 18:14, 18:20, 19:6, 19:12, 20:3, 22:18, 22:19, 23:8, 24:22, 24:23, 25:15, 25:16, 25:21, 25:22, 25:27, 26:16, 26:20, 26:24, 27:1, 27:5, 27:9, 30:6, 30:7, 30:16, 31:5, 31:6, 31:25, 32:26, 33:27, 34:1, 34:22, 34:23, 35:5, 35:12, 36:12, 38:8, 40:12, 41:3, 41:4, 41:7, 41:21, 43:4, 43:5, 43:8, 43:9, 43:20, 43:21, 43:27, 44:25, 46:6, 47:9, 48:7, 48:8, 51:23, 51:27, 52:1, 52:4, 52:5, 53:4, 53:20, 53:27, 54:1, 54:6, 54:11, 54:12, 55:1, 55:17, 55:18, 57:7, 57:8, 58:9, 58:10, 58:12, 58:16, 58:17, 58:27, 59:1, 60:10, 60:11, 60:15, 60:24, 62:16, 62:17, 63:18, 63:19, 64:7, 64:23, 64:24, 65:2, 68:15, 68:16, 68:20, 68:26, 70:6, 70:13, 76:20, 76:21, 77:11, 77:12, 77:23, 77:24 correctness [1] - 72:10 correspondence [2] - 8:17, 10:15 cost [1] - 28:5 costs [3] - 27:19, 28:8, 73:3 council [17] - 23:20, 25:8, 29:27, 31:5, 31:8, 41:16, 41:18, 41:25, 47:22, 48:23, 53:9, 55:10, 57:6, 57:11, 57:18, 69:2 Councillor [3] - 31:11, 31:16, 31:17 councillor [4] - 31:12, 41:3, 54:27 counsel [26] - 4:23, 8:8, 10:14, 10:18, 10:22, 12:12, 13:4, 14:5, 14:20, 28:15, 28:16, 29:3, 30:13, 38:5, 47:11, 48:5, 53:13, 63:12, 73:14, 73:25, 74:4, 76:3, 76:25, 77:10, 77:19, 77:26 Counsel's [1] - 3:3 count [1] - 71:15 couple [3] - 48:14, 62:21,
--	--	---	---

A.C.E. Reporting Services Inc.

Certified Court Reporters

<p>78:4 course [1] - 5:12 Court [33] - 1:25, 5:25, 6:9, 7:7, 7:12, 7:14, 7:21, 8:8, 8:18, 18:17, 22:15, 28:1, 40:18, 40:21, 44:15, 44:20, 45:10, 52:15, 52:19, 58:8, 58:25, 59:1, 60:21, 68:3, 72:14, 72:17, 72:21, 73:9, 73:17, 73:27, 74:4, 74:10, 81:14 court [3] - 44:24, 45:2, 45:9 COURT [4] - 1:2, 1:3, 10:6 Court's [1] - 19:10 create [2] - 27:18, 33:26 created [1] - 34:8 CREATED [1] - 1:7 cross [1] - 78:3 cross-examination [1] - 78:3 CSR(A) [2] - 1:25, 81:13 Cullity [1] - 23:26 current [2] - 40:26, 75:17 customary [2] - 67:18, 67:21</p>	<p>deeds [4] - 46:10, 46:14, 47:1, 79:8 defines [2] - 67:1, 67:11 defining [1] - 40:19 definition [13] - 18:3, 18:8, 18:15, 24:7, 33:23, 40:10, 40:16, 40:18, 40:22, 59:2, 62:15, 66:18, 66:24 definitive [1] - 40:4 degrees [1] - 55:23 delay [1] - 53:19 deliberations [1] - 65:21 Deloitte [1] - 19:24 demonstrate [2] - 19:8, 61:26 denial [2] - 55:23, 56:3 Dentons [1] - 79:21 deny [1] - 61:17 describe [2] - 16:10, 21:2 described [2] - 66:19, 66:26 describes [3] - 21:18, 66:14, 66:15 DESCRIPTION [2] - 3:7, 4:3 description [2] - 13:12, 66:21 designed [2] - 79:12, 79:14 destroy [3] - 27:20, 28:3, 28:11 destroyed [1] - 63:27 determination [2] - 56:18, 59:23 determine [6] - 22:8, 30:26, 40:15, 41:9, 58:8, 63:25 determined [3] - 59:7, 59:18, 63:27 detriment [2] - 28:6, 28:7 develop [1] - 53:26 Developments [1] - 60:27 devoid [1] - 72:27 differ [1] - 3:3 different [3] - 19:22, 70:26, 78:10 difficult [2] - 56:1, 68:17 direct [1] - 16:9 direction [5] - 45:11, 54:13, 58:8, 68:3, 75:25 directions [1] - 15:19 directly [1] - 47:16 director [2] - 53:6, 53:13 directors [1] - 53:3 disagree [2] - 56:4, 69:15 disbanded [1] - 41:23 discretion [1] - 50:4 discriminates [4] - 34:3, 34:4, 34:9, 34:13 discrimination [1] - 18:13 discriminatory [1] - 40:12 discussed [6] - 35:19, 51:13, 51:15, 60:5, 60:7, 62:20</p>	<p>DISCUSSION [1] - 76:24 discussion [6] - 35:26, 43:2, 51:21, 69:12, 70:22, 70:23 discussions [1] - 36:26 dismissed [1] - 72:20 disputes [1] - 74:14 dissatisfied [1] - 41:19 distributed [1] - 27:27 distribution [2] - 55:16, 60:19 distributions [1] - 17:27 document [15] - 12:11, 12:27, 13:27, 14:14, 16:3, 25:5, 25:24, 28:14, 29:1, 45:20, 45:25, 45:26, 48:27, 65:10, 66:19 documentation [6] - 20:26, 21:1, 31:23, 35:26, 36:4, 37:6 documents [15] - 5:10, 18:26, 19:1, 19:7, 19:18, 27:11, 31:26, 32:1, 36:11, 46:15, 50:8, 52:20, 75:15, 78:26 done [5] - 18:24, 54:9, 62:12, 71:10, 71:12 Donovan [1] - 60:13 down [1] - 81:5 draft [5] - 4:16, 28:17, 28:25, 65:11, 79:18 drafted [3] - 28:20, 43:7, 59:26 drafting [1] - 65:13 duplicitous [1] - 72:26 duration [1] - 49:21 during [3] - 22:10, 42:1, 49:20</p>	<p>electors [1] - 41:20 eligible [3] - 46:18, 47:5, 70:16 eliminate [1] - 18:12 Elizabeth [3] - 57:24, 57:25, 58:1 Email [3] - 4:11, 4:16, 13:9 email [12] - 12:12, 12:27, 13:12, 14:15, 14:19, 15:8, 15:14, 28:15, 28:25, 51:10, 79:21, 80:6 emailed [1] - 51:5 encloses [1] - 14:21 enclosing [3] - 4:21, 29:5, 29:13 enclosures [4] - 4:13, 14:1, 14:3, 14:11 end [1] - 49:21 ended [2] - 32:22, 74:12 endorsement [1] - 7:8 enfranchised [3] - 18:21, 34:10, 57:2 engage [4] - 56:2, 56:5, 76:8, 76:12 enormous [2] - 27:19, 28:7 ensure [5] - 3:4, 24:12, 44:20, 59:7, 62:19 entered [1] - 72:2 entirely [1] - 6:1 entitled [2] - 25:5, 49:19 especially [1] - 15:18 essence [1] - 28:10 essentially [3] - 8:18, 25:14, 28:3 established [3] - 31:2, 53:25, 71:1 event [1] - 23:1 events [1] - 78:20 eventually [1] - 32:22 evidence [19] - 5:6, 6:7, 6:12, 6:17, 9:18, 11:15, 12:1, 13:13, 13:17, 29:23, 33:2, 36:16, 44:10, 44:17, 44:19, 44:20, 71:25, 72:10, 73:9 Ewaniuk [1] - 19:14 ewaniuk [1] - 19:15 exact [1] - 62:19 exactly [1] - 19:17 examination [2] - 57:25, 78:3 examined [1] - 63:15 example [1] - 22:11 exchanged [1] - 10:18 exclude [2] - 49:14, 50:11 excluded [1] - 18:18 excluding [1] - 50:3 Excuse [1] - 9:25 executive [3] - 17:9, 17:13, 53:13 exhausted [1] - 19:4</p>
<p>D</p> <p>Darcy [2] - 31:14, 31:15 date [5] - 19:17, 55:16, 68:4, 79:9, 80:6 dated [14] - 4:5, 4:11, 4:20, 4:25, 10:21, 11:2, 13:2, 13:9, 29:5, 29:12, 49:12, 76:27, 77:17, 79:22 Dated [1] - 81:8 David [1] - 54:4 days [4] - 19:23, 56:12, 56:13, 64:2 deal [3] - 8:19, 52:15, 68:2 dealing [2] - 7:19, 49:6 deals [2] - 65:18, 68:1 dealt [4] - 35:24, 53:16, 56:11, 56:13 Deanna [1] - 54:4 death [1] - 42:13 December [4] - 15:19, 39:6, 42:26, 79:27 decided [3] - 8:1, 57:14, 60:8 decision [5] - 15:22, 46:26, 57:13, 73:15, 79:27 decisions [6] - 58:11, 69:11, 69:12, 69:13, 70:21 Declaration [2] - 36:20, 49:11 declaration [6] - 26:14, 26:18, 26:22, 26:26, 27:3, 40:7 declared [4] - 18:17, 22:15, 58:2, 58:4 deed [3] - 46:24, 66:27, 67:10</p>	<p>designed [2] - 79:12, 79:14 destroy [3] - 27:20, 28:3, 28:11 destroyed [1] - 63:27 determination [2] - 56:18, 59:23 determine [6] - 22:8, 30:26, 40:15, 41:9, 58:8, 63:25 determined [3] - 59:7, 59:18, 63:27 detriment [2] - 28:6, 28:7 develop [1] - 53:26 Developments [1] - 60:27 devoid [1] - 72:27 differ [1] - 3:3 different [3] - 19:22, 70:26, 78:10 difficult [2] - 56:1, 68:17 direct [1] - 16:9 direction [5] - 45:11, 54:13, 58:8, 68:3, 75:25 directions [1] - 15:19 directly [1] - 47:16 director [2] - 53:6, 53:13 directors [1] - 53:3 disagree [2] - 56:4, 69:15 disbanded [1] - 41:23 discretion [1] - 50:4 discriminates [4] - 34:3, 34:4, 34:9, 34:13 discrimination [1] - 18:13 discriminatory [1] - 40:12 discussed [6] - 35:19, 51:13, 51:15, 60:5, 60:7, 62:20</p>	<p>E</p> <p>eager [1] - 69:5 early [3] - 19:23, 32:14, 64:2 Ed [1] - 80:12 EDMONTON [1] - 1:4 Edmonton [2] - 1:27, 81:8 education [1] - 54:10 effected [2] - 45:14, 45:15 effectively [1] - 59:27 effort [1] - 20:2 efforts [4] - 19:4, 26:10, 31:19, 31:27 eight [2] - 14:27, 15:1 either [5] - 27:25, 45:3, 45:24, 47:16, 55:22 elder [1] - 41:6 elected [15] - 41:2, 41:5, 42:13, 42:15, 58:15, 58:20, 69:2, 69:22, 69:23, 70:8, 70:14, 70:17, 71:3, 71:7 elector [1] - 30:21</p>	<p>electors [1] - 41:20 eligible [3] - 46:18, 47:5, 70:16 eliminate [1] - 18:12 Elizabeth [3] - 57:24, 57:25, 58:1 Email [3] - 4:11, 4:16, 13:9 email [12] - 12:12, 12:27, 13:12, 14:15, 14:19, 15:8, 15:14, 28:15, 28:25, 51:10, 79:21, 80:6 emailed [1] - 51:5 encloses [1] - 14:21 enclosing [3] - 4:21, 29:5, 29:13 enclosures [4] - 4:13, 14:1, 14:3, 14:11 end [1] - 49:21 ended [2] - 32:22, 74:12 endorsement [1] - 7:8 enfranchised [3] - 18:21, 34:10, 57:2 engage [4] - 56:2, 56:5, 76:8, 76:12 enormous [2] - 27:19, 28:7 ensure [5] - 3:4, 24:12, 44:20, 59:7, 62:19 entered [1] - 72:2 entirely [1] - 6:1 entitled [2] - 25:5, 49:19 especially [1] - 15:18 essence [1] - 28:10 essentially [3] - 8:18, 25:14, 28:3 established [3] - 31:2, 53:25, 71:1 event [1] - 23:1 events [1] - 78:20 eventually [1] - 32:22 evidence [19] - 5:6, 6:7, 6:12, 6:17, 9:18, 11:15, 12:1, 13:13, 13:17, 29:23, 33:2, 36:16, 44:10, 44:17, 44:19, 44:20, 71:25, 72:10, 73:9 Ewaniuk [1] - 19:14 ewaniuk [1] - 19:15 exact [1] - 62:19 exactly [1] - 19:17 examination [2] - 57:25, 78:3 examined [1] - 63:15 example [1] - 22:11 exchanged [1] - 10:18 exclude [2] - 49:14, 50:11 excluded [1] - 18:18 excluding [1] - 50:3 Excuse [1] - 9:25 executive [3] - 17:9, 17:13, 53:13 exhausted [1] - 19:4</p>

A.C.E. Reporting Services Inc.

Certified Court Reporters

<p>exhaustive [1] - 27:14</p> <p>exhibit [13] - 10:26, 12:21, 13:7, 14:9, 25:3, 28:23, 29:9, 72:2, 73:19, 73:22, 75:23, 77:14, 79:20</p> <p>EXHIBIT [8] - 11:1, 12:22, 13:8, 14:10, 28:24, 29:10, 73:23, 77:15</p> <p>Exhibit [26] - 11:5, 11:24, 13:11, 20:12, 20:13, 20:14, 20:18, 21:10, 21:13, 22:21, 22:23, 23:11, 25:2, 35:22, 36:18, 45:20, 45:22, 48:13, 60:16, 65:6, 65:15, 73:26, 75:27, 77:18</p> <p>EXHIBITS [1] - 4:1</p> <p>exist [1] - 67:19</p> <p>existed [2] - 42:2, 67:8</p> <p>exists [3] - 27:24, 32:4, 34:10</p> <p>expand [1] - 18:7</p> <p>expected [1] - 42:23</p> <p>experience [1] - 15:15</p> <p>experts [1] - 40:10</p> <p>explain [3] - 5:4, 12:5, 70:3</p> <p>explained [1] - 43:13</p> <p>explanation [1] - 27:21</p> <p>express [1] - 70:1</p> <p>expressed [2] - 55:21, 63:10</p> <p>extent [1] - 67:20</p>	<p>FILE [1] - 1:2</p> <p>filed [6] - 6:23, 9:22, 10:10, 16:6, 17:5, 37:24</p> <p>filing [2] - 11:12, 12:1</p> <p>filling [1] - 57:26</p> <p>finalized [2] - 5:21, 5:22</p> <p>financial [3] - 64:4, 64:5, 69:24</p> <p>fine [1] - 6:11</p> <p>finished [1] - 37:21</p> <p>FIRST [2] - 1:8, 1:14</p> <p>First [96] - 1:22, 4:10, 5:9, 5:10, 5:12, 6:23, 8:27, 9:3, 9:7, 11:18, 11:21, 12:9, 12:17, 12:26, 16:16, 16:19, 16:26, 18:9, 20:8, 22:4, 22:7, 22:12, 22:16, 23:6, 23:19, 24:10, 24:22, 24:24, 25:9, 25:23, 30:1, 30:9, 30:10, 30:13, 30:14, 30:18, 30:22, 31:20, 34:4, 34:19, 34:26, 35:2, 35:7, 37:25, 38:4, 38:5, 39:19, 39:20, 39:21, 39:23, 39:27, 41:20, 42:6, 44:8, 47:11, 47:17, 47:19, 47:21, 47:24, 47:27, 48:5, 58:12, 59:17, 59:19, 59:26, 59:27, 60:9, 62:11, 62:13, 63:14, 63:26, 64:15, 64:17, 64:20, 70:10, 70:11, 70:25, 70:27, 71:2, 71:4, 72:25, 73:1, 73:2, 74:13, 74:20, 74:25, 75:5, 75:8, 75:15, 75:19, 75:25, 76:10, 76:13, 76:15</p> <p>first [14] - 5:3, 17:13, 19:15, 25:11, 27:27, 31:1, 39:21, 41:13, 48:4, 48:24, 49:8, 55:19, 62:21, 63:15</p> <p>five [3] - 15:5, 29:26, 43:16</p> <p>flow [2] - 34:27, 73:15</p> <p>focusing [1] - 33:8</p> <p>follow [1] - 46:12</p> <p>followed [1] - 36:6</p> <p>following [3] - 51:2, 74:26, 76:18</p> <p>follows [1] - 66:26</p> <p>force [1] - 67:16</p> <p>forced [1] - 23:6</p> <p>forces [1] - 7:25</p> <p>foregoing [1] - 81:4</p> <p>form [3] - 34:27, 77:20, 79:18</p> <p>formally [2] - 18:18, 38:7</p> <p>forward [4] - 7:3, 8:16, 64:16, 72:11</p> <p>four [3] - 10:22, 54:2, 69:1</p> <p>frankly [1] - 7:5</p> <p>front [6] - 9:23, 11:5, 16:7, 17:6, 65:27, 73:27</p> <p>fulfill [1] - 24:14</p>	<p>full [3] - 32:24, 48:17, 49:8</p> <p>fully [2] - 16:20, 69:6</p> <p>funds [1] - 64:14</p> <p>G</p> <p>gather [2] - 23:10, 31:27</p> <p>gathered [3] - 18:26, 19:7, 26:5</p> <p>gathering [1] - 18:25</p> <p>general [3] - 53:13, 68:8, 74:18</p> <p>generally [1] - 70:20</p> <p>Gilbert [2] - 48:10, 48:16</p> <p>Gilbert's [2] - 48:12, 48:15</p> <p>given [1] - 15:19</p> <p>govern [1] - 46:11</p> <p>Governance [1] - 31:23</p> <p>governance [1] - 61:1</p> <p>governing [1] - 46:14</p> <p>grant [1] - 49:20</p> <p>group [5] - 44:27, 45:1, 45:6, 53:1</p> <p>groups [1] - 39:18</p> <p>guess [1] - 48:27</p> <p>guidance [1] - 26:3</p> <p>H</p> <p>happy [1] - 7:23</p> <p>hard [3] - 7:11, 39:8, 69:21</p> <p>Hawkins [2] - 1:25, 81:13</p> <p>health [1] - 42:24</p> <p>heard [1] - 48:2</p> <p>hearing [2] - 12:5, 65:27</p> <p>HEIDECKER [2] - 39:6, 39:11</p> <p>held [4] - 20:27, 21:22, 26:19, 32:20</p> <p>hereby [2] - 21:19, 81:3</p> <p>hereto [1] - 21:21</p> <p>historic [1] - 74:14</p> <p>historically [2] - 32:2, 54:24</p> <p>hm [3] - 24:2, 62:7, 63:9</p> <p>holding [1] - 32:13</p> <p>home [1] - 61:6</p> <p>hope [1] - 7:6</p> <p>hopeful [1] - 7:9</p> <p>hour [1] - 71:16</p> <p>house [1] - 47:10</p> <p>Hugessen [1] - 58:4</p> <p>hundred [2] - 38:18, 38:19</p> <p>HUTCHISON [23] - 5:16, 6:26, 8:2, 8:7, 8:13, 8:15, 8:20, 8:23, 20:14, 20:17, 36:17, 44:2, 44:4, 44:12, 44:15, 71:10, 71:14, 72:1, 72:4, 72:12, 73:7, 80:12, 80:14</p> <p>Hutchison [25] - 1:24, 4:6,</p>	<p>4:8, 4:11, 4:14, 4:19, 5:14, 10:21, 11:3, 11:9, 12:15, 12:24, 13:9, 14:2, 14:12, 14:19, 29:3, 29:4, 29:11, 33:3, 34:17, 79:22</p> <p>Hutchison's [1] - 13:2</p> <p>I</p> <p>idea [1] - 38:13</p> <p>ideas [3] - 56:4, 69:16, 69:19</p> <p>identified [1] - 63:16</p> <p>identify [1] - 28:1</p> <p>identifying [1] - 75:16</p> <p>ignore [1] - 55:27</p> <p>ignored [2] - 55:22, 56:2</p> <p>ii [1] - 75:6</p> <p>ill [2] - 50:21, 50:24</p> <p>illegitimate [4] - 34:14, 49:15, 49:22, 50:3</p> <p>impact [1] - 59:6</p> <p>implemented [1] - 64:23</p> <p>IN [2] - 1:5, 1:6</p> <p>in-house [1] - 47:10</p> <p>INAC [3] - 47:17, 47:18, 48:6</p> <p>inaccurate [1] - 47:1</p> <p>inadmissible [1] - 6:14</p> <p>include [4] - 18:9, 20:23, 22:11, 34:2</p> <p>included [3] - 31:3, 50:5, 79:6</p> <p>includes [1] - 13:12</p> <p>including [4] - 31:21, 62:9, 65:14, 67:17</p> <p>incorporated [1] - 67:22</p> <p>incorrect [1] - 6:15</p> <p>indemnified [1] - 73:6</p> <p>independent [4] - 51:23, 52:4, 68:12, 69:13</p> <p>INDEX [3] - 2:1, 3:1, 4:1</p> <p>INDIAN [1] - 1:8</p> <p>Indian [10] - 34:11, 40:24, 48:23, 49:23, 49:25, 67:5, 67:7, 67:15, 67:19, 78:27</p> <p>indicate [6] - 11:27, 12:3, 15:8, 26:2, 32:12, 33:13</p> <p>indicated [4] - 15:5, 17:26, 61:13, 63:19</p> <p>indicates [3] - 11:9, 47:3, 69:21</p> <p>indigenous [1] - 54:9</p> <p>individual [1] - 6:10</p> <p>individuals [4] - 32:13, 32:21, 75:1, 75:11</p> <p>influence [1] - 69:11</p> <p>information [41] - 14:16, 15:10, 16:11, 16:21, 17:1, 19:1, 20:3, 20:4, 20:8, 21:3, 21:6, 21:16, 21:25, 23:11, 24:21, 24:26, 26:5,</p>
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<p>27:10, 32:4, 32:11, 32:26, 34:20, 35:3, 37:19, 38:16, 39:22, 43:24, 55:6, 60:26, 61:4, 63:20, 64:4, 65:22, 75:10, 76:4, 76:18, 78:22, 79:25, 80:3, 80:7</p> <p>Inn [1] - 64:2</p> <p>inquire [2] - 35:18, 36:3</p> <p>inquired [1] - 51:11</p> <p>inquiries [1] - 32:3</p> <p>inquiry [3] - 37:4, 74:12, 74:18</p> <p>insist [1] - 50:10</p> <p>instructed [2] - 20:25, 75:13</p> <p>instructions [1] - 5:23</p> <p>instrument [1] - 36:22</p> <p>intend [1] - 11:25</p> <p>intent [4] - 24:3, 24:6, 42:10, 59:10</p> <p>intention [3] - 49:6, 49:13, 59:6</p> <p>INTER [1] - 1:7</p> <p>interest [5] - 21:20, 63:14, 68:5, 68:11, 74:19</p> <p>interesting [1] - 49:7</p> <p>interfering [2] - 59:23, 60:14</p> <p>interruptions [1] - 6:4</p> <p>intertwined [1] - 28:13</p> <p>investigation [4] - 18:24, 21:3, 63:24, 64:7</p> <p>involve [1] - 71:2</p> <p>involved [7] - 19:15, 19:20, 19:22, 19:23, 20:1, 42:13, 63:15</p> <p>involvement [1] - 32:2</p> <p>involving [1] - 43:12</p> <p>irrelevant [1] - 71:23</p> <p>issue [3] - 7:13, 60:5, 63:14</p> <p>issued [3] - 4:18, 28:17, 28:27</p> <p>issues [4] - 6:9, 46:17, 68:6, 70:22</p>	<p>Justin [26] - 17:21, 41:1, 43:3, 43:23, 43:25, 44:23, 45:4, 46:18, 46:21, 47:5, 47:8, 47:13, 47:18, 47:23, 48:6, 48:20, 50:16, 53:19, 54:3, 78:11, 78:16, 78:19, 78:21, 78:24, 78:25, 79:13</p> <p>Justin's [2] - 79:13, 79:14</p>	<p>53:17</p> <p>lines [3] - 33:4, 34:24, 48:16</p> <p>liquor [1] - 64:1</p> <p>list [7] - 14:21, 14:23, 15:9, 15:21, 56:9, 80:5</p> <p>listed [5] - 3:4, 15:1, 15:2, 21:20, 35:14</p> <p>listen [1] - 6:5</p> <p>lists [1] - 16:17</p> <p>litigation [1] - 22:6</p> <p>live [2] - 64:26, 64:27</p> <p>locate [1] - 37:6</p> <p>lodge [1] - 41:19</p> <p>look [9] - 11:5, 11:23, 22:21, 24:18, 24:20, 34:18, 48:12, 49:17, 80:1</p> <p>looking [3] - 33:12, 36:18, 36:21</p> <p>lose [1] - 70:16</p>	<p>79:7, 79:9</p> <p>meetings [3] - 61:21, 61:25, 69:4</p> <p>member [6] - 22:16, 47:13, 47:19, 47:24, 47:27, 58:2</p> <p>members [18] - 18:9, 18:17, 22:12, 23:7, 29:27, 31:3, 31:4, 31:7, 39:23, 39:26, 40:17, 59:7, 59:9, 67:5, 67:14, 71:8, 75:17, 75:19</p> <p>membership [47] - 8:16, 11:10, 13:14, 22:8, 30:10, 30:19, 34:21, 34:27, 35:1, 35:2, 35:9, 40:4, 41:9, 41:12, 41:15, 41:22, 42:1, 42:6, 47:8, 48:1, 48:6, 55:3, 55:9, 55:10, 56:9, 56:19, 57:5, 57:10, 57:16, 58:12, 59:12, 59:17, 59:24, 59:26, 60:1, 60:8, 60:14, 67:17, 67:21, 72:15, 74:13, 76:5, 76:9, 76:14, 76:19, 78:23</p> <p>memo [1] - 46:21</p> <p>memory [1] - 36:10</p> <p>men [1] - 34:4</p> <p>mention [2] - 56:8, 70:25</p> <p>mentioned [1] - 59:5</p> <p>mentions [1] - 42:21</p> <p>merge [2] - 24:6, 24:8</p> <p>merit [1] - 72:27</p> <p>met [1] - 55:22</p> <p>MIDBO [1] - 1:11</p> <p>Midbo [3] - 50:21, 52:8, 54:4</p> <p>might [2] - 23:6, 53:26</p> <p>Mike [1] - 78:27</p> <p>mike [1] - 53:6</p> <p>million [3] - 38:11, 38:17, 38:20</p> <p>mind [2] - 31:15, 38:23</p> <p>mine [1] - 72:24</p> <p>minor [1] - 15:16</p> <p>minors [9] - 14:21, 14:23, 14:27, 15:5, 15:21, 39:27, 75:18, 80:5, 80:6</p> <p>minors' [1] - 15:10</p> <p>minute [1] - 77:1</p> <p>minutes [2] - 56:22, 71:20</p> <p>misspoke [1] - 55:4</p> <p>Molstad [16] - 1:22, 2:5, 5:17, 5:26, 6:26, 8:2, 8:21, 15:9, 20:14, 44:2, 44:16, 63:3, 71:11, 71:24, 72:12, 73:7</p> <p>MOLSTAD [61] - 5:2, 5:3, 5:13, 6:11, 8:6, 8:10, 8:14, 8:19, 8:22, 8:24, 8:25, 9:25, 10:1, 10:2, 10:8, 10:25, 11:4, 12:20, 12:27, 13:6, 13:11, 14:8, 14:14, 20:16, 20:18, 28:22, 29:1,</p>
<p>J</p> <p>Janet [1] - 14:19</p> <p>January [5] - 74:27, 75:22, 75:27, 76:18, 78:25</p> <p>join [3] - 7:25, 75:4, 75:7</p> <p>joint [1] - 21:22</p> <p>JUDICIAL [1] - 1:4</p> <p>July [10] - 1:27, 4:11, 4:20, 4:25, 13:2, 13:9, 29:5, 29:12, 77:7, 77:17</p> <p>June [5] - 4:5, 10:21, 11:2, 50:27, 71:17</p> <p>jurisdiction [1] - 60:9</p> <p>justice [1] - 73:16</p> <p>Justice [4] - 4:22, 58:4, 65:27, 73:24</p>	<p>K</p> <p>keep [1] - 16:2</p> <p>kept [1] - 37:7</p> <p>knowledge [4] - 47:22, 47:26, 50:22, 57:20</p> <p>known [1] - 1:8</p>	<p>L</p> <p>L'Hirondelle [3] - 17:20, 41:5, 54:26</p> <p>L'HIRONDELLE [1] - 1:11</p> <p>lack [1] - 7:3</p> <p>Lake [2] - 63:26, 64:2</p> <p>large [1] - 65:13</p> <p>last [8] - 11:24, 11:27, 25:24, 41:23, 48:16, 48:17, 51:14</p> <p>late [1] - 64:2</p> <p>Law [9] - 4:6, 4:11, 4:14, 10:21, 11:3, 13:9, 14:2, 14:12, 79:22</p> <p>laws [5] - 61:1, 67:15, 67:18, 67:22, 67:23</p> <p>lawsuit [1] - 30:14</p> <p>lawyers [1] - 26:3</p> <p>leave [1] - 7:27</p> <p>legal [11] - 21:20, 30:12, 38:5, 47:7, 47:10, 48:5, 59:20, 60:12, 62:8, 62:10, 69:24</p> <p>legislation [4] - 16:25, 22:2, 22:6, 38:6</p> <p>length [1] - 11:17</p> <p>Letter [5] - 4:5, 4:7, 4:13, 4:19, 29:11</p> <p>letter [27] - 4:12, 4:24, 8:8, 10:21, 11:2, 11:8, 12:14, 12:23, 13:3, 13:10, 13:12, 13:27, 14:4, 14:11, 29:2, 71:17, 72:2, 72:3, 72:5, 75:24, 76:2, 76:18, 76:26, 77:16, 77:19, 79:19, 79:21</p> <p>letters [2] - 35:8, 78:27</p> <p>licencing [1] - 64:17</p> <p>light [1] - 5:20</p> <p>likely [1] - 27:19</p> <p>likewise [1] - 6:11</p> <p>limited [1] - 71:18</p> <p>limiting [1] - 79:17</p> <p>line [4] - 32:10, 34:17, 36:15,</p>	<p>M</p> <p>m-hm [3] - 24:2, 62:7, 63:9</p> <p>maintain [1] - 65:20</p> <p>major [1] - 42:25</p> <p>majority [7] - 46:25, 53:17, 60:7, 62:24, 62:26, 68:22, 71:22</p> <p>make-up [1] - 50:13</p> <p>management [1] - 53:2</p> <p>March [2] - 55:5, 55:8</p> <p>Margaret [14] - 17:21, 17:22, 50:15, 53:19, 53:22, 54:4, 54:8, 54:15, 54:16, 54:19, 78:12, 78:13, 79:4</p> <p>mark [6] - 12:20, 13:6, 14:8, 14:18, 29:8, 77:13</p> <p>marked [7] - 10:26, 28:23, 73:18, 73:21, 75:23, 75:27, 79:20</p> <p>marriage [1] - 18:23</p> <p>married [1] - 34:3</p> <p>MATTER [2] - 1:5, 1:6</p> <p>matter [3] - 50:16, 55:15, 58:24</p> <p>matters [1] - 18:2</p> <p>McCoy [1] - 48:20</p> <p>McKinney [4] - 47:10, 53:6, 53:12, 78:27</p> <p>McLaws [5] - 4:7, 4:14, 12:14, 12:23, 14:12</p> <p>McLennan [4] - 4:20, 29:4, 29:12, 77:20</p> <p>mean [3] - 27:22, 50:2, 78:24</p> <p>media [2] - 66:4, 66:5</p> <p>meeting [20] - 20:21, 35:20, 36:5, 36:10, 43:1, 43:2, 43:7, 46:27, 50:27, 51:13, 51:16, 51:22, 52:2, 56:1, 61:7, 78:25, 79:4, 79:6,</p>

A.C.E. Reporting Services Inc.

Certified Court Reporters

<p>29:8, 29:14, 39:8, 39:12, 39:17, 44:3, 44:10, 44:14, 44:17, 44:22, 56:21, 56:25, 63:6, 63:7, 71:12, 71:25, 72:3, 72:5, 72:16, 73:11, 73:13, 73:21, 73:26, 76:23, 76:25, 77:5, 77:8, 77:9, 77:13, 77:18, 78:2, 80:11, 80:13, 80:15</p> <p>moment [3] - 9:25, 34:15, 73:12</p> <p>money [1] - 64:19</p> <p>month [1] - 51:2</p> <p>morning [2] - 5:18, 7:20</p> <p>Morris [1] - 23:25</p> <p>Morton [1] - 54:4</p> <p>most [1] - 69:18</p> <p>motion [1] - 62:19</p> <p>motions [2] - 43:6, 62:3</p> <p>motivated [1] - 24:11</p> <p>motivator [1] - 69:16</p> <p>MR [63] - 5:2, 5:3, 5:13, 6:11, 8:6, 8:10, 8:14, 8:19, 8:22, 8:24, 8:25, 9:25, 10:1, 10:2, 10:8, 10:25, 11:4, 12:20, 12:27, 13:6, 13:11, 14:8, 14:14, 20:16, 20:18, 28:22, 29:1, 29:8, 29:14, 39:6, 39:8, 39:11, 39:12, 39:17, 44:3, 44:10, 44:14, 44:17, 44:22, 56:21, 56:25, 63:6, 63:7, 71:12, 71:25, 72:3, 72:5, 72:16, 73:11, 73:13, 73:21, 73:26, 76:23, 76:25, 77:5, 77:8, 77:9, 77:13, 77:18, 78:2, 80:11, 80:13, 80:15</p> <p>MS [33] - 5:16, 6:26, 7:23, 8:2, 8:7, 8:13, 8:15, 8:20, 8:23, 9:27, 20:14, 20:17, 36:17, 44:2, 44:4, 44:12, 44:15, 56:23, 63:3, 71:10, 71:14, 72:1, 72:4, 72:12, 73:7, 77:3, 77:7, 78:4, 78:8, 78:9, 80:9, 80:12, 80:14</p> <p>multiple [2] - 6:3, 40:13</p> <p>must [1] - 72:13</p>	<p>18:9, 20:9, 22:5, 22:7, 22:13, 22:16, 23:7, 23:19, 24:11, 24:22, 24:25, 25:9, 25:23, 30:1, 30:9, 30:10, 30:13, 30:14, 30:18, 30:22, 31:20, 34:4, 34:19, 34:26, 35:2, 35:7, 37:25, 38:4, 38:5, 39:19, 39:20, 39:22, 39:23, 39:27, 41:20, 42:7, 44:8, 47:11, 47:17, 47:19, 47:22, 47:24, 47:27, 48:5, 58:12, 59:17, 59:19, 59:26, 59:27, 60:9, 62:11, 62:13, 63:14, 63:26, 64:15, 64:17, 64:20, 70:10, 70:11, 70:27, 72:25, 73:2, 73:3, 74:14, 74:20, 74:25, 75:5, 75:8, 75:16, 75:20, 75:26, 76:11, 76:15</p> <p>Nation's [2] - 11:18, 76:13</p> <p>Nations [4] - 70:11, 70:25, 71:2, 71:5</p> <p>necessary [3] - 20:25, 40:15, 45:2</p> <p>necessitated [1] - 44:24</p> <p>need [2] - 38:21, 38:22</p> <p>needs [1] - 58:21</p> <p>never [19] - 43:19, 45:22, 45:26, 48:2, 57:11, 57:12, 57:14, 57:17, 57:26, 58:11, 61:7, 61:14, 61:16, 64:22, 65:25, 68:9, 69:27, 70:1, 70:4</p> <p>new [6] - 15:5, 21:21, 21:22, 45:1, 45:6, 64:21</p> <p>next [12] - 12:11, 12:21, 12:27, 13:6, 13:27, 14:8, 14:14, 17:3, 43:1, 51:15, 74:23, 77:13</p> <p>NO [4] - 1:8, 3:7, 4:3, 39:13</p> <p>non [2] - 34:4, 69:22</p> <p>non-elected [1] - 69:22</p> <p>non-First [1] - 34:4</p> <p>none [4] - 21:8, 23:13, 23:15, 56:20</p> <p>normalize [1] - 26:11</p> <p>normalized [1] - 31:20</p> <p>note [3] - 5:17, 71:14, 71:18</p> <p>noted [1] - 14:27</p> <p>notes [1] - 81:6</p> <p>notice [3] - 7:20, 66:3, 79:6</p> <p>November [1] - 42:25</p> <p>NUMBER [1] - 1:2</p> <p>number [9] - 25:6, 34:21, 35:15, 38:14, 70:9, 70:16, 71:1, 71:5, 71:6</p>	<p>objections [4] - 6:4, 6:10, 7:27, 44:13</p> <p>objective [3] - 18:11, 23:24, 44:19</p> <p>obligation [1] - 65:20</p> <p>observation [2] - 68:27, 69:25</p> <p>observed [2] - 58:19, 69:1</p> <p>obtain [1] - 60:12</p> <p>obtained [3] - 24:21, 43:24, 64:5</p> <p>obtaining [1] - 45:9</p> <p>obviously [1] - 25:7</p> <p>Obviously [1] - 39:19</p> <p>occasion [2] - 62:22, 62:23</p> <p>occasions [2] - 62:21, 70:9</p> <p>October [2] - 42:17, 52:4</p> <p>OF [12] - 1:3, 1:5, 1:6, 1:7, 1:13, 1:19, 2:3, 3:1, 4:1, 81:1</p> <p>OFF [1] - 76:24</p> <p>offered [1] - 52:2</p> <p>office [3] - 13:2, 64:21, 80:4</p> <p>OFFICE [1] - 1:13</p> <p>Office [4] - 1:24, 4:9, 12:16, 12:25</p> <p>officer [2] - 17:9, 17:14</p> <p>offices [1] - 14:1</p> <p>official [4] - 41:2, 58:15, 58:20, 58:21</p> <p>officials [7] - 42:13, 42:15, 69:23, 70:8, 70:14, 71:3, 71:7</p> <p>often [2] - 62:2, 70:23</p> <p>old [4] - 21:15, 21:19, 44:27, 45:6</p> <p>ON [2] - 1:8, 1:18</p> <p>once [5] - 8:8, 15:17, 24:5, 48:1, 59:6</p> <p>one [20] - 9:25, 12:13, 18:2, 30:2, 30:12, 31:13, 36:23, 38:4, 40:1, 43:12, 43:23, 56:11, 58:2, 58:15, 60:19, 63:11, 64:15, 69:18, 79:15, 79:17</p> <p>open [2] - 51:26, 74:12</p> <p>open-ended [1] - 74:12</p> <p>operate [1] - 60:27</p> <p>OPGT [4] - 7:4, 7:8, 11:11, 11:14</p> <p>opinion [7] - 47:7, 48:10, 48:12, 48:16, 59:20, 60:12, 70:1</p> <p>oppose [2] - 62:2, 62:3</p> <p>opposed [1] - 6:9</p> <p>opposing [2] - 70:3, 70:4</p> <p>order [30] - 4:21, 5:20, 6:20, 6:22, 7:2, 7:7, 7:10, 7:13, 7:21, 7:24, 19:10, 27:6, 28:2, 28:19, 29:6, 29:13</p>	<p>39:23, 43:17, 45:9, 45:17, 52:25, 73:13, 73:27, 74:9, 77:21, 78:13, 78:15, 78:20, 79:26</p> <p>Order [2] - 4:22, 73:24</p> <p>ordered [4] - 22:11, 45:10, 52:19, 74:9</p> <p>orders [1] - 78:10</p> <p>outlined [1] - 8:17</p> <p>outside [3] - 51:23, 53:1, 68:24</p> <p>outsiders [1] - 51:27</p>
P			
<p>P.M [1] - 80:17</p> <p>package [1] - 79:3</p> <p>PAGE [3] - 2:3, 3:7, 4:3</p> <p>page [23] - 11:8, 11:9, 11:23, 21:13, 21:18, 29:24, 32:8, 33:1, 33:4, 33:21, 34:16, 34:24, 35:6, 35:13, 35:15, 36:13, 36:24, 48:15, 48:26, 48:27, 49:1, 49:8, 74:23</p> <p>pages [1] - 81:4</p> <p>paid [2] - 64:15, 73:10</p> <p>paper [2] - 54:10, 54:12</p> <p>paragraph [81] - 11:25, 11:27, 17:8, 17:16, 17:25, 19:13, 20:11, 20:23, 21:9, 22:1, 22:20, 25:1, 25:11, 25:17, 25:24, 26:1, 27:15, 33:6, 33:12, 36:22, 36:24, 37:8, 38:9, 39:17, 40:2, 40:25, 41:8, 42:9, 42:20, 42:27, 43:19, 45:19, 46:16, 47:2, 48:3, 48:17, 49:1, 49:2, 49:8, 49:10, 50:5, 50:19, 51:4, 51:20, 52:27, 53:16, 53:22, 54:23, 55:13, 55:19, 55:20, 56:7, 56:26, 58:5, 58:23, 59:15, 60:17, 60:25, 61:19, 62:5, 63:7, 63:22, 64:9, 65:5, 65:17, 66:27, 67:9, 67:27, 69:8, 69:20, 70:24, 71:19, 71:21, 72:6, 72:8, 74:8, 74:9, 74:16, 75:12, 76:7, 79:26</p> <p>paragraphs [2] - 16:9, 24:18</p> <p>parent [1] - 57:17</p> <p>Parlee [5] - 4:7, 4:13, 12:14, 12:23, 14:11</p> <p>part [9] - 13:17, 18:12, 21:24, 30:9, 32:9, 39:19, 55:19, 65:13, 68:24</p> <p>participate [2] - 42:5, 69:6</p> <p>participated [1] - 30:18</p> <p>participation [1] - 70:5</p> <p>particular [3] - 36:4, 67:4, 67:13</p>			

A.C.E. Reporting Services Inc.

Certified Court Reporters

<p>parties [2] - 7:6, 15:11</p> <p>partner [2] - 19:24</p> <p>passed [4] - 34:22, 35:3, 51:2, 79:12</p> <p>passing [2] - 42:16, 42:19</p> <p>past [1] - 70:6</p> <p>PATRICK [1] - 1:7</p> <p>Paul [1] - 12:4</p> <p>PAUL [4] - 1:20, 2:3, 5:1, 78:7</p> <p>pay [2] - 62:10, 64:17</p> <p>Peggy [3] - 17:23, 46:22, 53:23</p> <p>pending [2] - 24:4, 75:5</p> <p>people [2] - 32:1, 70:17</p> <p>percent [1] - 68:14</p> <p>perhaps [2] - 7:18, 38:23</p> <p>period [1] - 56:12</p> <p>person [2] - 47:26, 58:2</p> <p>personal [3] - 15:10, 55:14, 56:5</p> <p>persons [6] - 18:16, 23:6, 25:7, 32:3, 67:3, 67:13</p> <p>perspective [1] - 6:15</p> <p>PhD [1] - 54:11</p> <p>phone [2] - 51:7, 51:10</p> <p>place [3] - 23:1, 43:7, 79:9</p> <p>plan [2] - 43:18, 51:8</p> <p>planning [1] - 45:25</p> <p>Platten [1] - 77:25</p> <p>played [1] - 65:13</p> <p>point [6] - 5:27, 7:1, 13:23, 21:2, 37:4, 59:21</p> <p>points [1] - 48:14</p> <p>Poitrass [3] - 31:12, 31:17, 31:18</p> <p>Poitrass-Collins [3] - 31:12, 31:17, 31:18</p> <p>polices [2] - 46:1, 46:2</p> <p>policy [2] - 45:26, 46:8</p> <p>political [2] - 55:14, 69:24</p> <p>Poretti [6] - 4:19, 29:4, 29:11, 63:10, 63:11, 77:19</p> <p>position [10] - 6:18, 11:19, 12:6, 12:7, 26:11, 40:3, 40:6, 44:7, 71:21, 72:23</p> <p>positions [3] - 69:3, 70:7, 72:24</p> <p>possession [1] - 36:11</p> <p>possible [2] - 56:5, 75:17</p> <p>potential [3] - 16:12, 54:3, 74:18</p> <p>Potskin [2] - 57:1, 57:2</p> <p>Poytras [3] - 22:11, 57:24, 58:1</p> <p>practice [1] - 42:12</p> <p>precisely [1] - 72:8</p> <p>prejudice [3] - 77:1, 77:2, 77:3</p>	<p>prepare [2] - 7:11, 20:25</p> <p>prepared [2] - 7:25, 77:23</p> <p>preparing [1] - 30:18</p> <p>present [4] - 7:7, 7:21, 20:27, 58:14</p> <p>presented [7] - 7:12, 7:14, 35:22, 35:27, 43:6, 45:22, 79:18</p> <p>presently [1] - 20:26</p> <p>prevent [1] - 27:7</p> <p>previous [2] - 42:26, 63:21</p> <p>PREVIOUSLY [1] - 78:7</p> <p>previously [2] - 22:2, 54:24</p> <p>primary [2] - 69:10, 69:16</p> <p>privacy [2] - 16:26, 79:20</p> <p>problems [5] - 33:26, 34:2, 34:7, 42:24, 57:25</p> <p>proceed [3] - 7:6, 45:10, 52:6</p> <p>proceeded [1] - 52:17</p> <p>proceedings [7] - 4:23, 10:16, 10:23, 73:15, 73:25, 76:1, 81:5</p> <p>PROCEEDINGS [1] - 80:17</p> <p>process [8] - 35:1, 40:14, 41:11, 46:24, 53:25, 60:14, 66:1, 76:19</p> <p>processes [2] - 76:10, 76:14</p> <p>produce [1] - 5:9</p> <p>produced [1] - 27:13</p> <p>production [1] - 72:15</p> <p>properties [1] - 21:20</p> <p>property [3] - 20:26, 21:2, 26:6</p> <p>proposal [3] - 52:3, 64:10, 64:11</p> <p>proposals [3] - 51:12, 62:3, 64:16</p> <p>proposed [7] - 4:21, 6:2, 29:5, 29:13, 51:6, 51:11, 51:22</p> <p>proposes [1] - 28:18</p> <p>proposition [1] - 26:6</p> <p>protect [4] - 23:5, 23:23, 24:4, 24:15</p> <p>protection [1] - 16:26</p> <p>protested [1] - 49:27</p> <p>provide [8] - 16:27, 26:12, 39:22, 60:22, 62:19, 73:9, 74:26, 76:17</p> <p>provided [17] - 3:2, 10:14, 13:24, 14:22, 15:10, 16:20, 20:9, 31:21, 34:20, 34:26, 35:7, 35:10, 37:11, 59:20, 60:12, 76:26, 80:3</p> <p>providing [2] - 15:9, 24:26</p> <p>Province [1] - 81:8</p> <p>provisions [4] - 40:23, 67:6, 67:7, 74:6</p> <p>PUBLIC [1] - 1:13</p> <p>Public [43] - 1:24, 4:10, 4:15, 4:24, 5:6, 5:22, 9:19, 11:11, 11:14, 11:27, 12:16, 12:26, 13:13, 13:22, 14:3, 14:13, 14:20, 14:22, 15:15, 15:16, 15:20, 29:21, 34:22, 35:4, 35:11, 37:25, 73:4, 73:5, 74:11, 74:17, 74:26, 75:13, 75:20, 75:24, 76:3, 76:8, 76:17, 76:27, 77:10, 77:16, 77:20, 77:21, 80:4</p>	<p>purports [1] - 5:7</p> <p>purpose [5] - 18:11, 23:4, 23:16, 24:14, 44:9</p> <p>purposes [3] - 60:20, 67:2, 67:12</p> <p>pursuant [5] - 5:8, 18:17, 37:7, 67:6, 72:26</p> <p>put [13] - 5:27, 6:16, 12:8, 28:14, 29:2, 44:10, 50:2, 60:21, 64:16, 72:23, 72:24, 78:5, 79:2</p> <p>putting [1] - 72:11</p>	<p>Q</p> <p>Q.C [1] - 1:22</p> <p>qualified [1] - 70:19</p> <p>qualify [2] - 67:4, 67:14</p> <p>QUEEN'S [1] - 1:3</p> <p>questioned [2] - 13:23, 33:3</p> <p>Questioned [2] - 2:5, 2:6</p> <p>QUESTIONED [2] - 5:2, 78:8</p> <p>QUESTIONING [2] - 1:18, 2:3</p> <p>questioning [11] - 5:5, 6:2, 8:26, 12:4, 29:15, 29:18, 34:17, 36:14, 44:8, 44:18, 71:20</p> <p>questions [16] - 6:10, 6:16, 9:17, 9:20, 14:17, 29:22, 48:19, 60:21, 71:22, 72:9, 72:12, 74:7, 78:2, 78:4, 78:10, 80:10</p> <p>quick [1] - 34:18</p> <p>quickly [1] - 56:9</p> <p>quiet [2] - 8:20, 44:5</p> <p>quite [3] - 7:11, 19:21, 62:1</p> <p>quote [1] - 49:1</p> <p>quotes [1] - 46:23</p>	<p>49:18, 66:26, 72:3, 74:10, 74:16, 74:24, 75:12, 76:7</p> <p>realize [2] - 7:19, 50:26</p> <p>reason [3] - 23:18, 24:14, 25:25</p> <p>reasonably [1] - 67:24</p> <p>reasons [1] - 79:20</p> <p>receive [3] - 15:26, 51:6, 51:9</p> <p>received [13] - 10:23, 12:17, 13:3, 14:4, 14:5, 28:20, 29:6, 40:9, 47:7, 47:16, 61:4, 78:22, 79:1</p> <p>recently [1] - 48:20</p> <p>recites [2] - 25:11, 25:17</p> <p>recognized [2] - 64:14, 67:23</p> <p>recollection [1] - 35:19</p> <p>recommended [1] - 57:10</p> <p>RECORD [1] - 76:24</p> <p>record [9] - 5:15, 6:1, 20:21, 66:24, 71:15, 72:24, 76:23, 78:5, 79:2</p> <p>records [8] - 3:3, 3:5, 18:25, 23:9, 31:21, 32:18, 63:25, 63:27</p> <p>reduction [1] - 70:18</p> <p>refer [7] - 8:26, 9:3, 9:7, 9:13, 55:14, 71:19, 72:1</p> <p>reference [4] - 19:14, 25:19, 41:9, 57:4</p> <p>referred [7] - 17:22, 22:3, 38:7, 43:19, 49:4, 53:23, 58:25</p> <p>referring [8] - 9:1, 9:5, 9:10, 9:15, 34:24, 57:23, 58:23, 77:4</p> <p>refers [12] - 11:11, 20:12, 21:9, 22:2, 22:20, 25:2, 39:18, 42:10, 46:17, 62:8, 64:10, 65:6</p> <p>refuse [1] - 16:27</p> <p>refused [3] - 45:3, 52:8, 52:12</p> <p>regarding [6] - 11:10, 16:25, 18:2, 46:2, 46:24, 48:6</p> <p>regardless [1] - 7:22</p> <p>registered [1] - 49:25</p> <p>rejected [1] - 75:8</p> <p>rejection [1] - 35:8</p> <p>relate [2] - 27:11, 74:15</p> <p>relates [2] - 37:12, 37:15</p> <p>relation [37] - 5:5, 8:12, 9:18, 9:21, 10:15, 10:22, 11:9, 11:15, 11:26, 13:14, 13:17, 13:23, 16:11, 17:27, 26:10, 26:14, 26:18, 26:22, 26:26, 27:3, 29:21, 31:19, 32:4, 33:3, 33:23, 35:9, 35:27, 42:9, 44:26, 45:23, 46:4, 62:14, 63:12, 69:26, 73:4,</p>
R				
<p>R.S.A [1] - 1:5</p> <p>raised [2] - 18:2, 47:3</p> <p>raises [1] - 60:5</p> <p>raising [2] - 6:9, 46:17</p> <p>rather [3] - 6:2, 14:18, 68:17</p> <p>ratifying [1] - 25:25</p> <p>read [19] - 27:16, 32:9, 32:10, 33:4, 35:17, 36:15, 36:16, 37:26, 48:17, 48:18, 49:9,</p>				

A.C.E. Reporting Services Inc.

Certified Court Reporters

76:5, 76:19
relative [1] - 70:11
relatively [2] - 11:17, 39:20
relevance [1] - 64:3
relevant [5] - 6:8, 27:11, 44:6, 44:11, 72:13
relied [2] - 29:20, 48:4
reluctance [1] - 70:5
reluctant [2] - 69:3, 70:1
rely [2] - 5:7, 13:13
relying [3] - 72:6, 72:7, 72:9
remain [1] - 72:13
remarks [1] - 56:27
remedy [5] - 26:14, 26:18, 26:22, 26:26, 27:3
remove [1] - 70:17
removed [2] - 47:27, 70:14
repercussions [1] - 69:25
replace [1] - 52:7
report [1] - 58:21
Reporter [2] - 1:25, 81:14
REPORTER [1] - 10:6
reporting [1] - 8:18
represent [1] - 5:12
representing [2] - 15:21, 15:22
reprisal [3] - 55:23, 56:3, 61:22
request [3] - 54:15, 76:4, 80:5
requested [11] - 16:15, 16:23, 17:1, 31:24, 36:7, 65:26, 76:15, 76:17, 79:25, 80:3, 80:7
require [2] - 68:13, 68:14
required [1] - 52:14
requirements [1] - 79:7
requires [1] - 75:14
requiring [1] - 46:8
research [3] - 19:18, 54:9, 70:23
reserve [1] - 44:12
Reserve [3] - 64:21, 64:26, 65:1
resignation [1] - 42:22
Resolution [1] - 25:6
resolution [5] - 20:24, 22:23, 23:11, 35:21, 45:4
resolutions [2] - 79:12, 79:15
resolved [1] - 72:20
Resource [1] - 60:26
resources [2] - 6:3, 73:1
respect [13] - 16:25, 19:2, 19:5, 43:22, 46:1, 47:23, 53:22, 78:11, 78:13, 78:15, 78:19, 78:22, 79:25
respectful [1] - 6:13
respects [1] - 6:13

respond [2] - 53:2, 55:24
responded [1] - 51:25
respondent [1] - 5:11
RESPONDENT [1] - 1:14
responding [1] - 75:25
response [6] - 15:26, 36:8, 36:9, 51:7, 51:9, 58:6
responsibilities [1] - 66:14
responsibility [1] - 59:18
restrict [2] - 58:11, 59:11
result [6] - 22:13, 43:11, 50:14, 52:18, 52:19, 52:22
resulting [1] - 79:26
results [1] - 27:26
retain [1] - 48:10
return [1] - 28:2
review [7] - 4:18, 6:5, 21:1, 26:4, 28:18, 28:27
reviewed [1] - 23:9
reviewing [1] - 18:25
ridicule [2] - 55:23, 56:3
ROLAND [1] - 1:10
Roland [12] - 17:20, 31:11, 51:25, 54:27, 56:8, 56:14, 61:5, 61:9, 61:23, 62:2, 69:10, 69:15
roland [1] - 30:4
role [2] - 42:4, 56:18
roles [1] - 30:8
Ronald [1] - 19:14
room [1] - 8:4
Ross [4] - 4:20, 29:4, 29:12, 77:20
Rule [1] - 75:21
rule [2] - 5:8, 5:23
rules [3] - 35:2, 67:17, 67:21
run [1] - 68:23
rush [1] - 24:19

S

sale [1] - 28:9
satisfied [2] - 18:27, 63:4
saw [1] - 47:7
SAWRIDGE [4] - 1:6, 1:8, 1:8, 1:14
Sawridge [150] - 1:9, 1:12, 1:22, 1:23, 4:10, 5:9, 5:10, 5:12, 6:23, 8:27, 9:3, 9:7, 9:14, 11:18, 11:20, 12:8, 12:17, 12:26, 16:16, 16:19, 16:26, 17:9, 18:7, 18:9, 18:12, 20:8, 20:22, 20:24, 21:23, 22:4, 22:12, 22:16, 23:6, 23:19, 24:10, 24:22, 24:24, 25:5, 25:8, 25:23, 26:9, 26:13, 26:17, 26:21, 26:25, 27:2, 27:6, 30:1, 30:6, 30:9, 30:13, 30:14, 30:18, 30:22, 31:20, 34:19,

34:20, 34:26, 35:2, 35:3, 35:7, 35:10, 35:21, 36:7, 37:25, 38:4, 38:5, 39:19, 39:21, 39:27, 40:6, 41:20, 42:6, 44:7, 45:8, 45:23, 47:6, 47:11, 47:15, 47:17, 47:19, 47:21, 47:24, 47:27, 48:4, 48:5, 48:23, 49:11, 53:1, 53:18, 53:24, 54:18, 56:17, 58:7, 58:12, 59:17, 59:18, 59:25, 59:27, 60:6, 60:7, 60:9, 60:11, 60:26, 61:25, 62:9, 62:11, 62:13, 63:13, 63:17, 63:25, 64:2, 64:17, 64:18, 64:20, 64:26, 66:13, 67:5, 67:14, 67:18, 68:5, 68:21, 68:22, 70:10, 70:15, 70:27, 72:25, 73:1, 73:2, 73:6, 73:10, 74:13, 74:20, 74:21, 74:25, 75:4, 75:7, 75:15, 75:19, 75:25, 76:5, 76:10, 76:11, 76:13, 76:15, 76:16
schedule [3] - 4:8, 12:15, 12:24
Schedule [2] - 66:12, 66:25
scope [2] - 5:25, 6:2
seal [2] - 65:23, 66:9
search [1] - 27:14
second [5] - 11:23, 21:13, 25:17, 46:19, 62:23
secondly [1] - 18:4
section [1] - 49:27
secured [1] - 6:27
see [10] - 11:8, 11:24, 13:20, 16:13, 19:18, 20:20, 35:14, 46:17, 49:17, 64:12
seek [6] - 19:10, 26:13, 26:17, 26:21, 26:25, 27:2
seeking [6] - 11:15, 12:3, 18:7, 26:10, 27:8, 73:3
senior [1] - 19:24
sent [8] - 4:24, 46:23, 75:24, 75:26, 76:2, 77:10, 77:16, 79:3
September [14] - 9:22, 10:10, 16:6, 17:5, 17:15, 20:12, 25:2, 33:7, 35:23, 37:23, 37:24, 40:27
serve [3] - 53:27, 66:3, 70:15
served [2] - 37:24, 41:27
services [1] - 64:1
set [1] - 21:23
sets [1] - 40:2
setting [3] - 4:8, 12:15, 12:24
SETTLEMENT [1] - 1:7
settler [1] - 49:14
settlers [1] - 20:21
shall [7] - 49:19, 74:11, 74:17, 74:25, 75:20, 76:8,

76:12
share [2] - 15:11, 63:20
shareholders [1] - 53:3
short [1] - 7:20
shorthand [2] - 81:6
show [1] - 43:24
showing [5] - 10:20, 12:13, 13:1, 73:13
sic [1] - 60:27
sign [4] - 45:3, 52:12, 52:20, 66:16
signatures [2] - 25:6, 25:7
signed [9] - 4:22, 52:23, 65:15, 66:13, 73:14, 73:17, 73:24, 74:3, 78:26
significant [1] - 70:18
silence [1] - 6:7
similar [1] - 11:17
simply [2] - 24:4, 57:10
sitting [1] - 8:9
situation [1] - 7:2
six [1] - 57:17
skill [1] - 81:7
Slave [2] - 63:26, 64:2
small [2] - 39:20, 70:11
so.. [2] - 8:23, 72:21
sold [1] - 27:26
solicitor [2] - 23:26, 73:3
solicitor-client [1] - 73:3
solicitors [1] - 20:25
someone [1] - 63:24
sometimes [1] - 17:22
sorry [12] - 10:6, 12:13, 13:1, 20:14, 29:3, 31:15, 48:27, 74:9, 76:16, 77:5, 77:8
sort [2] - 7:19, 33:8
sought [2] - 27:6, 58:7
sources [1] - 40:13
speaking [2] - 17:10, 57:21
speaks [1] - 40:26
special [1] - 79:7
specific [1] - 68:9
specifically [6] - 13:19, 35:24, 49:19, 54:13, 58:7, 78:12
spoken [1] - 61:9
state [7] - 15:14, 15:17, 17:8, 20:4, 27:15, 40:6, 70:6
statement [3] - 5:14, 58:25, 69:26
statements [1] - 64:5
states [9] - 17:16, 38:10, 48:17, 51:4, 55:20, 74:16, 74:23, 75:12, 76:7
status [5] - 40:5, 47:8, 48:6, 49:26, 78:23
still [2] - 7:8, 32:4
storage [1] - 63:26
structure [2] - 24:1, 70:26

A.C.E. Reporting Services Inc.

Certified Court Reporters

<p>structured [2] - 22:14, 23:4 struggling [1] - 44:5 subject [2] - 74:15, 75:9 submission [3] - 6:13, 11:12, 12:2 submissions [3] - 11:16, 11:18, 73:8 subsequent [1] - 79:1 successful [1] - 45:8 succession [1] - 43:18 suggest [1] - 21:6 suggested [1] - 68:12 suggests [1] - 61:5 summarize [1] - 11:25 summary [2] - 67:24, 67:25 support [3] - 12:2, 37:25, 71:26 supports [1] - 26:6 surgery [1] - 42:25 swore [1] - 40:27 SWORN [2] - 5:1, 78:7 sworn [10] - 9:21, 10:3, 10:9, 10:12, 16:5, 17:4, 20:11, 25:1, 37:23</p>	<p>32:26, 33:19, 37:19, 39:4, 39:7, 39:16, 39:27, 76:27, 77:10, 77:22 took [2] - 23:1, 43:7 top [1] - 11:8 Touche [1] - 19:26 Tracey [3] - 31:11, 31:16, 31:17 training [1] - 54:17 transaction [1] - 43:12 transcribed [1] - 81:6 transcript [16] - 6:6, 8:23, 29:16, 29:18, 29:23, 29:25, 32:9, 32:10, 33:1, 34:17, 34:25, 35:6, 35:13, 36:14, 37:21, 81:5 TRANSCRIPT [1] - 81:1 transfer [34] - 4:17, 8:12, 8:13, 18:4, 19:2, 19:11, 20:26, 23:17, 23:20, 23:24, 23:27, 25:13, 25:26, 26:2, 27:12, 28:9, 28:17, 28:26, 32:5, 36:1, 37:1, 37:15, 44:27, 45:5, 45:14, 45:15, 52:12, 52:15, 52:20, 52:23, 62:15, 72:19, 78:14, 78:16 transferred [9] - 19:9, 20:5, 24:12, 25:18, 25:20, 26:7, 32:16, 32:24, 33:16 transferring [3] - 22:24, 79:15, 79:16 transfers [1] - 21:19 true [6] - 15:18, 42:4, 45:27, 46:7, 48:24, 64:6 trust [2] - 67:3, 70:26 Trust [15] - 1:9, 1:12, 3:9, 3:11, 8:27, 9:4, 9:8, 9:12, 9:13, 17:9, 17:10, 17:17, 17:19, 17:27, 18:4, 18:5, 18:8, 18:16, 18:19, 19:3, 19:9, 19:16, 20:5, 20:6, 20:22, 20:27, 21:15, 21:16, 21:24, 22:14, 22:24, 22:25, 23:4, 23:5, 23:17, 23:18, 24:1, 24:4, 24:7, 24:9, 25:12, 25:13, 25:14, 25:19, 25:20, 26:7, 26:11, 26:19, 26:23, 26:27, 27:4, 27:8, 27:12, 27:13, 27:18, 27:20, 27:23, 27:24, 28:3, 28:4, 28:10, 28:12, 30:6, 30:25, 30:27, 31:2, 31:3, 32:5, 32:6, 32:17, 32:21, 32:23, 32:25, 33:15, 33:17, 33:23, 36:2, 36:21, 37:2, 37:3, 37:16, 37:17, 38:10, 39:14, 39:15, 39:24, 40:7, 40:11, 43:26, 45:11, 45:24, 46:5, 46:10, 46:14, 46:24, 47:1, 47:6, 48:9, 48:22, 49:2,</p>	<p>49:11, 49:12, 49:14, 49:16, 49:21, 50:6, 50:8, 50:14, 54:21, 55:17, 59:8, 59:9, 59:10, 60:19, 60:22, 62:13, 63:16, 64:5, 64:13, 64:14, 64:26, 65:3, 66:27, 67:1, 67:9, 67:10, 67:12, 68:14, 68:18, 68:23, 69:7, 69:17, 73:6, 73:10, 79:8 trustee [24] - 30:5, 33:25, 40:6, 43:3, 43:11, 45:5, 48:22, 50:15, 51:13, 51:16, 51:21, 51:23, 52:7, 52:21, 54:17, 58:16, 61:7, 61:21, 69:11, 69:14, 69:22, 78:21, 79:5, 79:16 Trustee [44] - 1:24, 4:10, 4:15, 4:25, 5:7, 7:1, 7:3, 7:10, 7:22, 9:19, 11:12, 11:14, 12:1, 12:16, 12:26, 13:13, 13:22, 14:3, 14:13, 14:20, 14:22, 15:15, 15:16, 15:20, 29:21, 34:22, 35:4, 35:11, 73:4, 73:5, 74:11, 74:17, 74:27, 75:13, 75:20, 75:24, 76:3, 76:8, 76:17, 76:27, 77:10, 77:16, 77:20, 77:22 TRUSTEE [2] - 1:5, 1:13 Trustee's [3] - 5:22, 37:26, 80:4 trustees [12] - 9:12, 9:14, 12:8, 17:17, 17:18, 17:26, 18:7, 18:12, 20:21, 20:24, 21:14, 21:19, 21:21, 21:22, 22:23, 23:19, 24:11, 25:12, 25:13, 26:9, 26:13, 26:17, 26:21, 26:25, 27:2, 27:7, 29:26, 29:27, 31:3, 33:26, 34:20, 34:27, 35:4, 35:8, 35:10, 36:7, 40:3, 40:9, 40:26, 42:4, 42:5, 42:8, 42:14, 42:16, 42:23, 43:14, 43:16, 43:20, 43:23, 45:1, 45:6, 45:7, 45:8, 45:23, 46:23, 47:4, 47:7, 47:15, 48:4, 48:25, 49:18, 50:13, 50:22, 50:27, 51:5, 51:27, 52:2, 53:3, 53:17, 53:18, 53:25, 53:27, 54:3, 54:13, 54:15, 54:18, 55:21, 55:26, 56:18, 56:19, 58:7, 58:11, 58:19, 59:21, 59:22, 60:6, 60:8, 60:11, 60:13, 61:25, 62:9, 62:25, 62:26, 63:17, 65:14, 65:20, 66:13, 66:14, 66:16, 68:6, 68:13, 68:21, 68:22, 68:24, 69:1, 69:24, 70:15, 70:19, 70:20, 71:3, 71:8, 74:22, 76:5, 76:11,</p>	<p>76:16, 79:3, 79:8, 79:12 Trustees [2] - 1:11, 1:23 trustees' [1] - 5:19 Trusts [2] - 24:7, 24:8 trusts [5] - 31:1, 31:20, 71:1, 71:6, 71:7 try [3] - 37:5, 53:26, 56:4 trying [1] - 23:23 turn [6] - 17:3, 29:14, 36:13, 64:19, 65:9 twenty [1] - 38:19 TWIN [1] - 1:11 Twin [26] - 17:21, 31:11, 31:14, 41:2, 42:21, 42:24, 43:3, 43:23, 43:25, 44:23, 45:5, 46:18, 46:21, 47:13, 47:18, 47:24, 48:20, 50:16, 53:19, 54:4, 54:27, 78:11, 78:16, 78:19, 78:21, 78:24 Twin's [2] - 47:8, 48:6 Twinn [42] - 7:1, 7:26, 17:20, 30:4, 30:5, 30:12, 30:17, 30:21, 30:24, 35:18, 36:8, 37:23, 38:3, 41:27, 42:12, 45:3, 51:25, 52:6, 54:8, 54:16, 54:25, 54:27, 55:2, 55:20, 56:14, 56:26, 57:21, 61:5, 61:9, 61:23, 62:10, 65:11, 65:15, 65:23, 68:1, 69:10, 69:16, 69:17, 69:27, 70:7, 77:26 twinn [8] - 36:3, 51:4, 51:18, 51:21, 51:22, 52:8, 52:11, 68:12 TWINN [3] - 1:7, 1:10 Twinn's [42] - 7:3, 7:10, 7:22, 30:8, 36:9, 42:20, 42:27, 45:19, 46:16, 47:2, 48:3, 48:13, 50:19, 52:3, 52:27, 53:23, 54:23, 55:13, 56:8, 56:10, 58:5, 58:24, 59:15, 60:4, 60:16, 60:17, 60:25, 61:3, 61:6, 61:11, 61:20, 61:26, 62:3, 62:6, 63:8, 63:22, 64:9, 65:5, 68:8, 69:8, 69:20, 70:24 twinn's [5] - 38:9, 39:17, 40:25, 41:8, 42:9 two [10] - 5:11, 9:18, 15:2, 18:2, 24:6, 24:8, 28:13, 72:16, 78:10, 79:14</p>
<p style="text-align: center;">T</p> <p>T-8 [1] - 1:5 table [1] - 8:9 talks [2] - 43:1, 52:27 task [1] - 39:8 telephone [1] - 23:25 ten [1] - 64:18 tenants [1] - 21:22 tendered [5] - 5:7, 6:12, 9:19, 44:18, 45:21 term [1] - 79:17 terminal [1] - 50:26 terminally [1] - 50:21 terms [22] - 6:19, 9:12, 18:24, 21:23, 24:9, 30:8, 43:11, 49:6, 50:13, 55:2, 56:27, 57:15, 68:3, 68:5, 68:17, 68:27, 72:10, 72:18, 73:1, 78:20 testified [1] - 23:1 THE [8] - 1:5, 1:6, 1:7, 1:13, 1:14, 76:24 themselves [1] - 20:27 thereof [1] - 49:22 thereunder [1] - 50:1 third [2] - 11:24, 31:12 third-last [1] - 11:24 Thomas [4] - 4:22, 65:27, 73:16, 73:24 threatened [1] - 61:5 three [1] - 48:16 title [1] - 66:15 today [17] - 3:11, 5:5, 6:2, 8:26, 9:17, 17:19, 31:8,</p>	<p>32:26, 33:19, 37:19, 39:4, 39:7, 39:16, 39:27, 76:27, 77:10, 77:22 took [2] - 23:1, 43:7 top [1] - 11:8 Touche [1] - 19:26 Tracey [3] - 31:11, 31:16, 31:17 training [1] - 54:17 transaction [1] - 43:12 transcribed [1] - 81:6 transcript [16] - 6:6, 8:23, 29:16, 29:18, 29:23, 29:25, 32:9, 32:10, 33:1, 34:17, 34:25, 35:6, 35:13, 36:14, 37:21, 81:5 TRANSCRIPT [1] - 81:1 transfer [34] - 4:17, 8:12, 8:13, 18:4, 19:2, 19:11, 20:26, 23:17, 23:20, 23:24, 23:27, 25:13, 25:26, 26:2, 27:12, 28:9, 28:17, 28:26, 32:5, 36:1, 37:1, 37:15, 44:27, 45:5, 45:14, 45:15, 52:12, 52:15, 52:20, 52:23, 62:15, 72:19, 78:14, 78:16 transferred [9] - 19:9, 20:5, 24:12, 25:18, 25:20, 26:7, 32:16, 32:24, 33:16 transferring [3] - 22:24, 79:15, 79:16 transfers [1] - 21:19 true [6] - 15:18, 42:4, 45:27, 46:7, 48:24, 64:6 trust [2] - 67:3, 70:26 Trust [15] - 1:9, 1:12, 3:9, 3:11, 8:27, 9:4, 9:8, 9:12, 9:13, 17:9, 17:10, 17:17, 17:19, 17:27, 18:4, 18:5, 18:8, 18:16, 18:19, 19:3, 19:9, 19:16, 20:5, 20:6, 20:22, 20:27, 21:15, 21:16, 21:24, 22:14, 22:24, 22:25, 23:4, 23:5, 23:17, 23:18, 24:1, 24:4, 24:7, 24:9, 25:12, 25:13, 25:14, 25:19, 25:20, 26:7, 26:11, 26:19, 26:23, 26:27, 27:4, 27:8, 27:12, 27:13, 27:18, 27:20, 27:23, 27:24, 28:3, 28:4, 28:10, 28:12, 30:6, 30:25, 30:27, 31:2, 31:3, 32:5, 32:6, 32:17, 32:21, 32:23, 32:25, 33:15, 33:17, 33:23, 36:2, 36:21, 37:2, 37:3, 37:16, 37:17, 38:10, 39:14, 39:15, 39:24, 40:7, 40:11, 43:26, 45:11, 45:24, 46:5, 46:10, 46:14, 46:24, 47:1, 47:6, 48:9, 48:22, 49:2,</p>	<p>49:11, 49:12, 49:14, 49:16, 49:21, 50:6, 50:8, 50:14, 54:21, 55:17, 59:8, 59:9, 59:10, 60:19, 60:22, 62:13, 63:16, 64:5, 64:13, 64:14, 64:26, 65:3, 66:27, 67:1, 67:9, 67:10, 67:12, 68:14, 68:18, 68:23, 69:7, 69:17, 73:6, 73:10, 79:8 trustee [24] - 30:5, 33:25, 40:6, 43:3, 43:11, 45:5, 48:22, 50:15, 51:13, 51:16, 51:21, 51:23, 52:7, 52:21, 54:17, 58:16, 61:7, 61:21, 69:11, 69:14, 69:22, 78:21, 79:5, 79:16 Trustee [44] - 1:24, 4:10, 4:15, 4:25, 5:7, 7:1, 7:3, 7:10, 7:22, 9:19, 11:12, 11:14, 12:1, 12:16, 12:26, 13:13, 13:22, 14:3, 14:13, 14:20, 14:22, 15:15, 15:16, 15:20, 29:21, 34:22, 35:4, 35:11, 73:4, 73:5, 74:11, 74:17, 74:27, 75:13, 75:20, 75:24, 76:3, 76:8, 76:17, 76:27, 77:10, 77:16, 77:20, 77:22 TRUSTEE [2] - 1:5, 1:13 Trustee's [3] - 5:22, 37:26, 80:4 trustees [12] - 9:12, 9:14, 12:8, 17:17, 17:18, 17:26, 18:7, 18:12, 20:21, 20:24, 21:14, 21:19, 21:21, 21:22, 22:23, 23:19, 24:11, 25:12, 25:13, 26:9, 26:13, 26:17, 26:21, 26:25, 27:2, 27:7, 29:26, 29:27, 31:3, 33:26, 34:20, 34:27, 35:4, 35:8, 35:10, 36:7, 40:3, 40:9, 40:26, 42:4, 42:5, 42:8, 42:14, 42:16, 42:23, 43:14, 43:16, 43:20, 43:23, 45:1, 45:6, 45:7, 45:8, 45:23, 46:23, 47:4, 47:7, 47:15, 48:4, 48:25, 49:18, 50:13, 50:22, 50:27, 51:5, 51:27, 52:2, 53:3, 53:17, 53:18, 53:25, 53:27, 54:3, 54:13, 54:15, 54:18, 55:21, 55:26, 56:18, 56:19, 58:7, 58:11, 58:19, 59:21, 59:22, 60:6, 60:8, 60:11, 60:13, 61:25, 62:9, 62:25, 62:26, 63:17, 65:14, 65:20, 66:13, 66:14, 66:16, 68:6, 68:13, 68:21, 68:22, 68:24, 69:1, 69:24, 70:15, 70:19, 70:20, 71:3, 71:8, 74:22, 76:5, 76:11,</p>	<p>76:16, 79:3, 79:8, 79:12 Trustees [2] - 1:11, 1:23 trustees' [1] - 5:19 Trusts [2] - 24:7, 24:8 trusts [5] - 31:1, 31:20, 71:1, 71:6, 71:7 try [3] - 37:5, 53:26, 56:4 trying [1] - 23:23 turn [6] - 17:3, 29:14, 36:13, 64:19, 65:9 twenty [1] - 38:19 TWIN [1] - 1:11 Twin [26] - 17:21, 31:11, 31:14, 41:2, 42:21, 42:24, 43:3, 43:23, 43:25, 44:23, 45:5, 46:18, 46:21, 47:13, 47:18, 47:24, 48:20, 50:16, 53:19, 54:4, 54:27, 78:11, 78:16, 78:19, 78:21, 78:24 Twin's [2] - 47:8, 48:6 Twinn [42] - 7:1, 7:26, 17:20, 30:4, 30:5, 30:12, 30:17, 30:21, 30:24, 35:18, 36:8, 37:23, 38:3, 41:27, 42:12, 45:3, 51:25, 52:6, 54:8, 54:16, 54:25, 54:27, 55:2, 55:20, 56:14, 56:26, 57:21, 61:5, 61:9, 61:23, 62:10, 65:11, 65:15, 65:23, 68:1, 69:10, 69:16, 69:17, 69:27, 70:7, 77:26 twinn [8] - 36:3, 51:4, 51:18, 51:21, 51:22, 52:8, 52:11, 68:12 TWINN [3] - 1:7, 1:10 Twinn's [42] - 7:3, 7:10, 7:22, 30:8, 36:9, 42:20, 42:27, 45:19, 46:16, 47:2, 48:3, 48:13, 50:19, 52:3, 52:27, 53:23, 54:23, 55:13, 56:8, 56:10, 58:5, 58:24, 59:15, 60:4, 60:16, 60:17, 60:25, 61:3, 61:6, 61:11, 61:20, 61:26, 62:3, 62:6, 63:8, 63:22, 64:9, 65:5, 68:8, 69:8, 69:20, 70:24 twinn's [5] - 38:9, 39:17, 40:25, 41:8, 42:9 two [10] - 5:11, 9:18, 15:2, 18:2, 24:6, 24:8, 28:13, 72:16, 78:10, 79:14</p>
			<p style="text-align: center;">U</p>
			<p>ultimately [3] - 6:23, 32:16, 74:6 unanimous [3] - 46:1, 46:3, 46:8 under [10] - 23:7, 26:2, 40:11, 45:10, 47:5, 49:25,</p>

A.C.E. Reporting Services Inc.

Certified Court Reporters

<p>49:27, 66:15, 67:15, 79:7 undersigned [1] - 81:3 understood [1] - 6:21 undertake [1] - 38:24 undertaking [7] - 35:14, 35:15, 36:6, 37:14, 62:18, 63:4 UNDERTAKING [1] - 39:13 UNDERTAKINGS [1] - 3:1 Undertakings [1] - 3:2 undertakings [4] - 3:4, 13:18, 13:19, 13:24 undertook [1] - 64:7 undoubtedly [1] - 66:17 unfortunately [3] - 6:14, 14:15, 73:16 unravel [1] - 27:17 unwritten [1] - 46:7 up [5] - 32:22, 42:12, 42:16, 49:17, 50:13 updated [2] - 14:21, 80:5 urgency [1] - 43:10 useful [2] - 58:18, 58:22</p>	<p>8:11 withdrawn [1] - 7:17 withhold [1] - 23:20 witness [2] - 6:16, 44:18 women [4] - 18:20, 22:10, 34:3, 49:23 wonder [1] - 28:22 words [1] - 19:4 writing [1] - 47:18 written [6] - 11:12, 32:2, 45:27, 46:2, 54:10, 54:12</p>
V	Y
<p>value [9] - 3:9, 3:10, 38:11, 38:12, 38:15, 38:26, 39:4, 39:14, 39:15 values [1] - 39:2 varying [1] - 55:23 vast [1] - 71:22 verbally [1] - 51:19 view [2] - 24:3, 51:26 virtue [1] - 49:10 VIVOS [1] - 1:7 vote [4] - 47:23, 69:22, 70:3, 78:24 voted [3] - 62:20, 70:7, 70:21 votes [1] - 62:4</p>	<p>year [4] - 15:2, 41:23, 42:26, 78:26 years [5] - 27:18, 30:10, 41:10, 42:1, 64:18 yourself [7] - 11:20, 13:18, 16:5, 17:4, 18:27, 29:15, 47:4</p>
W	
<p>wait [1] - 77:1 WALTER [2] - 1:7, 1:10 Walter [4] - 42:11, 42:21, 42:23, 54:26 Ward [15] - 17:21, 17:22, 17:23, 46:23, 50:15, 53:20, 53:22, 53:23, 54:5, 54:8, 54:16, 78:12, 78:14, 79:4, 79:5 Ward's [1] - 54:19 waste [2] - 6:3, 73:1 Waters [1] - 60:13 ways [1] - 64:12 whatsoever [1] - 23:15 whole [2] - 66:1, 71:27 withdraw [2] - 5:23, 6:24 withdrawing [3] - 7:9, 8:3,</p>	