

1 UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

2 -----x  
3 UNITED STATES OF AMERICA,

18-CR-681 (WFK)

4 Plaintiff,

United States Courthouse  
Brooklyn, New York

5 -against-

October 17, 2019  
9:30 a.m.

6 JEAN BOUSTANI,

7 Defendant.  
8 -----x

9 TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL  
BEFORE THE HONORABLE WILLIAM F. KUNTZ, II  
10 UNITED STATES DISTRICT JUDGE  
BEFORE A JURY

11 APPEARANCES

For the Government:

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PHILIP F. DISANTO, ESQ.  
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25 Proceedings recorded by mechanical stenography. Transcript  
produced by computer-aided transcription.

1 (In open court.)

2 COURTROOM DEPUTY: Criminal cause for trial, Docket  
3 No. 16-CR-681.

4 State your appearances for the record.

5 MR. BINI: Mark Bini, Hiral Mehta, Margaret Moeser,  
6 Lillian DiNardo, Katherine Nielsen, and Special Agent Angela  
7 Tassone for the United States.

8 Good morning, your Honor.

9 THE COURT: We have the spellings. You may be  
10 seated in the public as well.

11 (Defendant enters the courtroom at 10:22 a.m.)

12 MR. JACKSON: Randall Jackson on behalf of  
13 Mr. Boustani.

14 Good morning, your Honor.

15 THE COURT: Good morning.

16 MR. SCHACHTER: Michael Schachter on behalf of  
17 Mr. Boustani.

18 Good morning, your Honor.

19 MS. DONNELLY: Good morning, your Honor. Casey  
20 Donnelly on behalf of Mr. Boustani.

21 MR. DISANTO: Good morning, your Honor. Phil  
22 DiSanto on behalf of Mr. Boustani.

23 MR. MCLEOD: Good morning, your Honor. Ray McLeod  
24 on behalf of Mr. Boustani.

25 THE COURT: All right. Do we have any procedural

1 issues before we bring in the jury?

2 MR. BINI: Just briefly, your Honor.

3 The parties exchanged drafts and agreed to redacted  
4 language as to Government's Exhibit 2212, an exhibit that the  
5 Government anticipates offering so we redacted appropriately  
6 based on that agreement, first.

7 Second, the parties agreed that a limiting  
8 instruction should be given by your Honor to the jury  
9 regarding the testimony that was at issue late yesterday.

10 THE COURT: Have you reduced the suggested limiting  
11 instruction to writing?

12 MR. BINI: The Government has a proposed limiting  
13 instruction that it would hand up.

14 THE COURT: Okay.

15 MR. BINI: The defense agrees that it should be  
16 given, but I think it indicates that they believe it's  
17 insufficient as to one sentence.

18 THE COURT: Hang on.

19 Do you have an agreed stipulation or not? I take it  
20 the answer is not. Either it's a stipulation or it's not a  
21 stipulation. I can deal with dueling stipulations and I can  
22 rule, and you'll get the stipulation or you'll get the order  
23 that I give you or you can stipulate.

24 Now, if you're close enough that you think another  
25 hour or two maybe at the break you can close the gap and give

1 me a real stipulation, fine. Otherwise, you can give me  
2 competing stipulations, I will look at them and then heaven  
3 help you I will rule. I'll do it either way.

4 How would you prefer?

5 MR. JACKSON: Your Honor, we think this is an  
6 appropriate stipulation. And the second part of our point is  
7 just of our agreement, what the parties agreed on is that  
8 because of the nature of what was asked, it would simply be  
9 appropriate for us to cross-examine the witness as to the  
10 further issue and to clarify the issue further on  
11 cross-examination subject to our objection about it being  
12 asked in the first place.

13 THE COURT: Let me put it this way. I'm happy  
14 either to do it either by way of stipulation or to let the  
15 matter stick where it is and then you will cross-examine as  
16 you see fit. My own trial experience always reminded me that  
17 as soon as a judge said to a jury, Ladies and gentlemen, I am  
18 instructing you to put out of your mind all testimony you just  
19 heard about a rhinoceros, the one thing you know the jurors  
20 were thinking about is the rhinoceros. I lost several  
21 rhinoceri cases, so you get the benefit of my school of hard  
22 knocks.

23 So it's totally up to you, and I'm not saying that  
24 that wasn't a bell ringer for the jury, or, on the other hand,  
25 it may have been a, "huh" moment for the jury.

1           However you want to play it, I think perhaps the  
2 better approach would be, at least now, let it be for now,  
3 we'll have cross-examination, and then if we get into  
4 observations on cross, fine, and I will rule on the  
5 objections. And then if you folks want to put in either an  
6 agreed-upon stipulation or dueling proposed orders with  
7 respect to the rhinoceros that's fine, too.

8           But forgive me, in my limited 33 years of experience  
9 as a litigator and eight years as a trial judge, it doesn't  
10 end well usually for people who want to minimize an issue to  
11 go back to that issue with limiting instructions even though  
12 the rules, of course, pretend that that's not the case.

13           MR. JACKSON: Your Honor, we think that the Court's  
14 suggestion is wise and we would -- we think then that we  
15 should table the limiting instruction for now, attempt to  
16 address it in cross-examination and then revisit if necessary  
17 later.

18           THE COURT: I think that's appropriate. Is that  
19 acceptable to the Government, too?

20           MR. BINI: Yes, Your Honor.

21           THE COURT: Any other issues before the jury comes  
22 out?

23           MR. BINI: Not from the Government.

24           THE COURT: From defense?

25           MR. JACKSON: No, Your Honor.

1 THE COURT: All right. Mr. Jackson let the CSOs  
2 know we're ready to bring the jury now.

3 MR. BINI: May the witness resume the witness stand.

4 THE COURT: Yes, I think that would be appropriate.

5 COURTROOM DEPUTY: Jury entering.

6 (Jury enters courtroom at 10: 28a.m.)

7 THE COURT: Good morning, ladies and gentlemen of  
8 the jury, welcome back and thank you again for being here in a  
9 timely fashion. Please be seated.

10 We're going to recall the witness and he will resume  
11 his direct testimony and then we'll have cross-examination.

12 So if you could have the witness brought forward I  
13 would appreciate it.

14 (Witness takes the witness stand.)

15 THE COURT: Please come forward, sir, and resume the  
16 witness stand.

17 And I'm going to ask you as I said I would, sir:  
18 Have you spoken with anyone about your testimony since leaving  
19 that chair?

20 THE WITNESS: I have not your Honor.

21 THE COURT: Thank you. Please be seated.

22 You can continue the examination. Then we'll have  
23 cross-examination, then redirect then recross, then the  
24 witness will be done and we'll get to the next witness. This  
25 is the evidence.

1           And, again, ladies and gentlemen of the jury, do not  
2 talk about the case amongst yourselves until it's over. So  
3 have at it, sir.

4   ANDREW PEARSE, called as a witness, having been previously  
5 duly previously sworn, was examined and testified further as  
6 follows:

7           MR. BINI: Thank you, your Honor.

8           At this time, your Honor, the Government would seek  
9 to admit certain exhibits that I discussed with defense  
10 counsel.

11           2073.

12           THE COURT: Any objection to 2073?

13           MR. JACKSON: No, Your Honor.

14           THE COURT: Admitted.

15           (Government Exhibit 2073, was received in evidence.)

16           THE COURT: Next.

17           MR. BINI: 2073-A.

18           THE COURT: Any objection?

19           MR. JACKSON: No.

20           THE COURT: Admitted.

21           (Government Exhibit 2073-A, was received in  
22 evidence.)

23           MR. BINI: 2074.

24           THE COURT: Any objection?

25           MR. JACKSON: No.

1 THE COURT: Admitted.

2 (Government Exhibit 2074, was received in evidence.)

3 MR. BINI: 2078.

4 THE COURT: Any objection?

5 MR. JACKSON: No.

6 THE COURT: Admitted.

7 (Government Exhibit 2078, was received in evidence.)

8 MR. BINI: 2078-A and B.

9 THE COURT: Any objection?

10 MR. JACKSON: No, Your Honor.

11 THE COURT: Admitted.

12 (Government Exhibit 2078-A and B, was received in  
13 evidence.)

14 MR. BINI: 2081.

15 THE COURT: Any objection?

16 MR. JACKSON: No, your Honor.

17 THE COURT: Admitted.

18 (Government Exhibit 2081, was received in evidence.)

19 THE COURT: You may publish to the jury so they can  
20 see them.

21 MR. BINI: Thank you, your Honor.

22 If I could show the witness 2073. If we can blow  
23 that up, Ms. DiNardo, so the jury can see what is shown in  
24 that exhibit.

25 THE COURT: You might want to dim the lights



1 slightly. It might be more accessible to those looking at the  
2 screen in the back row.

3 Thank you. Go ahead.

4 DIRECT EXAMINATION

5 BY MR. BINI:

6 (Continuing.)

7 Q Mr. Pearse, do you recognize this e-mail?

8 A Yes, sir, I do.

9 Q What's the date of this e-mail?

10 A It's the 4th of October 2012.

11 Q And can you tell us what you were doing in the top  
12 e-mail?

13 A I'm sorry, can you repeat the question.

14 THE COURT: Why don't you ask him who wrote it.

15 Q Who wrote this e-mail, Mr. Pearse?

16 A It is from me, sir.

17 Q And who were you e-mailing?

18 A It was addressed to Jean Boustani.

19 Q What did you write it him?

20 A I wrote, Hi, Jean. As promised attached is the draft  
21 loan agreement. We will send the feeler shortly. How are you  
22 getting on with your agreement?

23 Q Why were you e-mailing the defendant, Jean Boustani?

24 A I was sending a draft of the proposed loan agreement for  
25 the loan that was to be made for the Proindicus project. I was

1 sending it to him at his request.

2 Q What agreement were you speaking about when you wrote,  
3 How are you getting on with your agreement?

4 A That was a reference to the agreement between Privinvest  
5 and Proindicus for the supplies of goods and services. We  
6 call that the procurement contract.

7 Q Okay. If we can look at Government's Exhibit 2073-A.  
8 What is 2073-A, Mr. Pearse?

9 A This is the front page of a loan agreement that was  
10 proposed to be entered into between Credit Suisse, my  
11 employer, and the Republic of Mozambique.

12 Q Is this what was attached to your e-mail to the  
13 defendant, Jean Boustani?

14 A Yes, sir, that's right.

15 Q Did you send it to the Mozambicans at this point?

16 A No.

17 Q Why not?

18 A At this point, I had not been to Mozambique. I had never  
19 met a Mozambican official as far as I recall and Mr. Boustani  
20 was acting as the intermediary for sending documents to the  
21 relevant Mozambican parties.

22 Q Was he the person you dealt with to negotiate the terms  
23 of this agreement?

24 A Yes, he was the person that negotiated the primary terms  
25 which were contained in the term sheet which were then

1 reflected in this agreement.

2 Q Okay. I'm not going to go through the loan agreement in  
3 detail, I'll wait until we get to another loan agreement.

4 Let's go to Government's Exhibit 2074.

5 MR. BINI: And actually, Ms. DiNardo, may we go to  
6 the bottom e-mail that's on pages -- the bottom of Page 1 and  
7 the top of Page 2.

8 Q Who is this e-mail from, Mr. Pearse?

9 A This is from Jean Boustani.

10 Q Who is it to?

11 A It's to myself, Nguila Guidema, Detelina Subeva, and Said  
12 Freiha.

13 Q What's the date of this e-mail?

14 A October 10, 2012.

15 Q Do you see the e-mail that's nguila.guidema@gmail.com?

16 A Yes.

17 Q Do you know who that is?

18 A That's the e-mail address for Teofilo Nhangumele.

19 Q And where were you working at the time of the e-mail that  
20 we looked at before and this e-mail we're looking at right  
21 now?

22 A In October 2012, I was working for Credit Suisse.

23 Q What did Mr. Boustani, the defendant, write in his e-mail  
24 to you and these other individuals?

25 A Would you like me to read it, sir?

1 Q If you could.

2 A "Dear Andrew, pursuant to our discussion yesterday and to  
3 Teo's meeting with MoF following are the updates and way  
4 forward."

5 Then there was a series of bullets which I will  
6 read.

7 "GoM will form an SPV owned solely by 5 ministries."

8 Q Let me stop you there and ask you. Did you understand  
9 what GoM referred to?

10 A Yes, Government of Mozambique.

11 Q What did SPV refer to?

12 A That is an acronym which means Special Purpose Vehicle  
13 which is a company which is set up exclusively for one purpose  
14 in this case. It was what would become Proindicus, the  
15 project company.

16 Q What did you understand "solely by five ministries."  
17 What does that mean?

18 A My understanding of that was the company that is to be  
19 formed is going to be owned by five ministries of the  
20 Government of Mozambique.

21 Q What was the next bullet point?

22 A "This SPV will contractually engage with Privinvest and  
23 Abu Dhabi MAR for the acquisition of the EEZ system."

24 Q What's Abu Dhabi MAR?

25 A Abu Dhabi MAR is a subsidiary of Privinvest which has a

1 shipyard in Abu Dhabi, United Arab Emirates.

2 Q What's the EEZ system?

3 A That is the coast guard-type system I described  
4 yesterday. EEZ stands for Exclusive Economic Zone.

5 Q If you could read next bullet point.

6 A This SPV will be the owner and operator of the EEZ  
7 system.

8 Q What does that mean?

9 A I took that to mean that the Special Purpose Vehicle that  
10 was to be established would be the project company that would  
11 run and manage the EEZ system, the coast guard system, that  
12 was being developed.

13 Q What was the next bullet point?

14 A "MoF requested to simplify the logic of the funding  
15 transaction whereby CS lends the SPV directly instead of the  
16 indirect route through the Ministry of Finance."

17 Q What is MoF?

18 A MoF stands for Ministry of Finance or Minister of  
19 Finance.

20 Q Mr. Pearse, did you understand the defendant to be  
21 proposing a new structure for the loan?

22 A Yes, that's what I understood.

23 Q Can you explain how that structure is different from the  
24 original proposed structure of the loan for this project?

25 A Yes. In the term sheet that we saw yesterday in the loan

1 document that was just shown as an exhibit, the original  
2 proposal was that Credit Suisse would lend the money directly  
3 to the Government of Mozambique.

4 The change to that structure was being proposed by  
5 Jean Boustani here such that rather than lending the money  
6 directly to the Government of Mozambique, the loan would be to  
7 a Special Purpose Vehicle, in this case, Proindicus. And  
8 that, ultimately, that loan will be guaranteed by the  
9 Government of Mozambique.

10 Q By the way, who is the Mozambican individual who is on  
11 this e-mail?

12 A Teofilo Nhangumele.

13 Q Is he again using that e-mail, nguila.guidema?

14 A Yes, I understood that to be his e-mail address.

15 Q Who is proposing the new structure of the loan?

16 A Jean Boustani.

17 Q How did you respond to the defendant's proposed new  
18 structure?

19 A "Thanks, Jean. The revised structure below was fine with  
20 us. We will revised the term sheet and revert.

21 Unfortunately, due to travel schedules, we won't be able to  
22 get a document to you before tomorrow evening. Hope that  
23 works. All the best."

24 Q What did you mean by, "Will revise the term sheet"?

25 A At this point in time, the term sheet that existed was

1 one that reflected a loan directly to the Government of  
2 Mozambique. So the next step as a bank was to update the term  
3 sheet to reflect the fact that now the loan would be to the  
4 project company with a guaranty from the Government of  
5 Mozambique.

6 Q How did the defendant respond to your e-mail?

7 A "Okay. No problem, Andrew. Thank you, Jean."

8 Q Now, I'll ask you to look at Government's Exhibit 2078 in  
9 evidence.

10 And, again, I'm going to ask you to begin with the  
11 earliest e-mail at the bottom of the page.

12 What's the date of this e-mail?

13 A 17th of October 2012.

14 Q Who is it from?

15 A It's from Jean Boustani.

16 Q Who did he e-mail?

17 A Detelina Subeva, Said Freiha, Andrew Pearse, and David  
18 Langford.

19 Q Who were those individuals?

20 A Ms. Subeva, Mr. Freiha, and myself were employees of  
21 Credit Suisse. David Langford works for Iskandar Safa and  
22 Prinvest.

23 Q What did the defendant write?

24 A "Hi, Lina. Please don't forget the DD checklist so we  
25 answer your queries ASAP. Thanks, Jean."

1 Q What did you understand the DD checklist to mean?

2 A DD stands for due diligence, so these are the questions  
3 that the bank needs to have answered by the parties that are  
4 involved in the loan in order to have the information to  
5 decide whether to make the loan.

6 Q Are you familiar with the term "deal team"?

7 A Yes.

8 Q What's a deal team?

9 A A deal team is a group of individuals or team of  
10 individuals that, in the case of my employer within the bank,  
11 who were primarily responsible for the transaction that was  
12 being done by the bank in that instance.

13 Q Who would be the individuals who would be part of a deal  
14 team for what would be the Proindicus loan?

15 A The Credit Suisse individuals who were involved were  
16 myself as the head of the team the group. Surjan Singh,  
17 Detelina Subeva, Said Freiha, and Adel Afiouni.

18 Q Did you have responsibilities regarding due diligence for  
19 the deal?

20 A I had part of the responsibility for the due diligence.  
21 So my team had responsibility for diligencing the project, the  
22 Government of Mozambique to establish the nature of the  
23 project and, sorry, projects and the credit risk. Adel  
24 Afiouni and Said Freiha were responsible for the diligence  
25 relating to the counterparty that was to become a client i.e.,



1 Prinvest.

2 Q Okay. How did Ms. Subeva respond to Mr. Boustani's  
3 request for the checklist for due diligence?

4 A "Dear Jean, as discussed attached please find two due  
5 diligence lists. One with questions specific to the  
6 Government of Mozambique and one specific to the contractor.  
7 We would like to set up a meeting on Wednesday, October 24th,  
8 in Abu Dhabi to go through the contractor questions. Could  
9 you please advise the time that works so we can fix it in the  
10 calendars. Any materials you can send me in advance of the  
11 meeting will be very helpful."

12 Q What meeting was Ms. Subeva referring to?

13 A She was referring to a meeting in Abu Dhabi with  
14 representatives of Prinvest.

15 Q What was the purpose of the meeting?

16 A At this point in time, Prinvest was not a company that  
17 was a client of Credit Suisse or indeed known to Credit  
18 Suisse, but was an important party in the proposed project.  
19 So the purpose of the meeting was to understand what  
20 Prinvest is as a business and to meet key executives who  
21 were running that business.

22 Q Now, I'll ask you to look at Government's Exhibit 2078-A.

23 Mr. Pearse, what is this exhibit and what relation  
24 does it have to the e-mail that you just read to us?

25 A This is the one of the due diligence checklists that were

A. Pearse - Direct/Mr. Bini

1 attached to that e-mail from Ms. Subeva and is the one that  
2 has questions relating to the contractor, I believe.

3 Q Who was this sent to?

4 A Mr. Boustani.

5 Q If we can look it 2078-B.

6 THE COURT: It's difficult to read. Could you make  
7 it a little bit clearer for the jury.

8 MR. BINI: Thank you, your Honor.

9 THE COURT: Thank you.

10 Q Mr. Pearse, can you explain to the jury what 2078-B is?

11 A This is the second document that was attached to the  
12 e-mail sent by Ms. Subeva. And these are due diligence  
13 questions that need to be answered by the Government of  
14 Mozambique, I believe.

15 Q Who was this sent to?

16 A Mr. Boustani.

17 Q Now, Mr. Pearse, I'd like to ask you to look at  
18 Government's Exhibit 2081 in evidence. And if we could start  
19 with the bottom e-mail.

20 What's the date of this e-mail?

21 A November 5, 2012.

22 Q Who is it from?

23 A Teofilo Nhangumele.

24 Q By the way, do you recognize this e-mail address --

25 MR. BINI: Ms. DiNardo can you highlight that.

1 Q -- for Mr. Nhangumele?

2 A Yes, at this stage I believe he changed his e-mail  
3 address.

4 Q What is this e-mail address?

5 A Teonhangumele@yahoo.com.

6 Q Is that the e-mail address you typically exchanged with  
7 him?

8 A At this point, previously, he had sent an e-mail, if I  
9 recall correctly, asking me to communicate with an e-mail  
10 address we had seen previously for him.

11 Q Okay. And what, if anything, did Mr. Nhangumele write in  
12 the e-mail?

13 A Sir, would you like me to read it?

14 Q Yes, please.

15 A "My friends, hi. It has been a while since we last spoke  
16 and unfortunately things have not been running at the speed we  
17 would have liked. Nonetheless, we are making steady but slow  
18 progress. Now, we are busy setting up the SPV which will be  
19 responsible for implementing the project. The SPV will be  
20 responsible of signing the financing agreement supply contract  
21 agreement and the maintenance agreement which is to say that  
22 we have to wait until the SPV is completed. From my  
23 experience, the whole process could take less than a month.  
24 But, as I said earlier, the progress is slow due to human  
25 factor. I'm very excited with the positive engagement and

1 support I'm getting from the main stakeholders -- well, my  
2 friends, this is it for now and I will keep you posted on  
3 further developments. I will try to update you on a weekly  
4 basis.

5 Q Had you met Teofilo Nhangumele at this point, Mr. Pearse?

6 A I have not.

7 Q Did there come a time when you did meet him?

8 A Yes, I met him in January of 2013.

9 Q And what position, if any, did he indicate he held with  
10 respect to Proindicus?

11 A He was introduced to myself and other members of the  
12 Credit Suisse team as the person responsible within the  
13 Government of Mozambique for delivering the Proindicus  
14 project.

15 Q Is this the same individual who you described yesterday  
16 as having conversations with the defendant about regarding  
17 payment?

18 A Yes.

19 Q What did the defendant say to you about Mr. Nhangumele?

20 A He expressed his displeasure at the fact that Teofilo had  
21 asked for additional payments in relation to the Proindicus  
22 transaction.

23 Q Okay. And if we can go now to the response to  
24 Mr. Nhangumele's e-mail.

25 Who responded to the e-mail?

1 A Said Freiha.

2 (Continued on the next page.)

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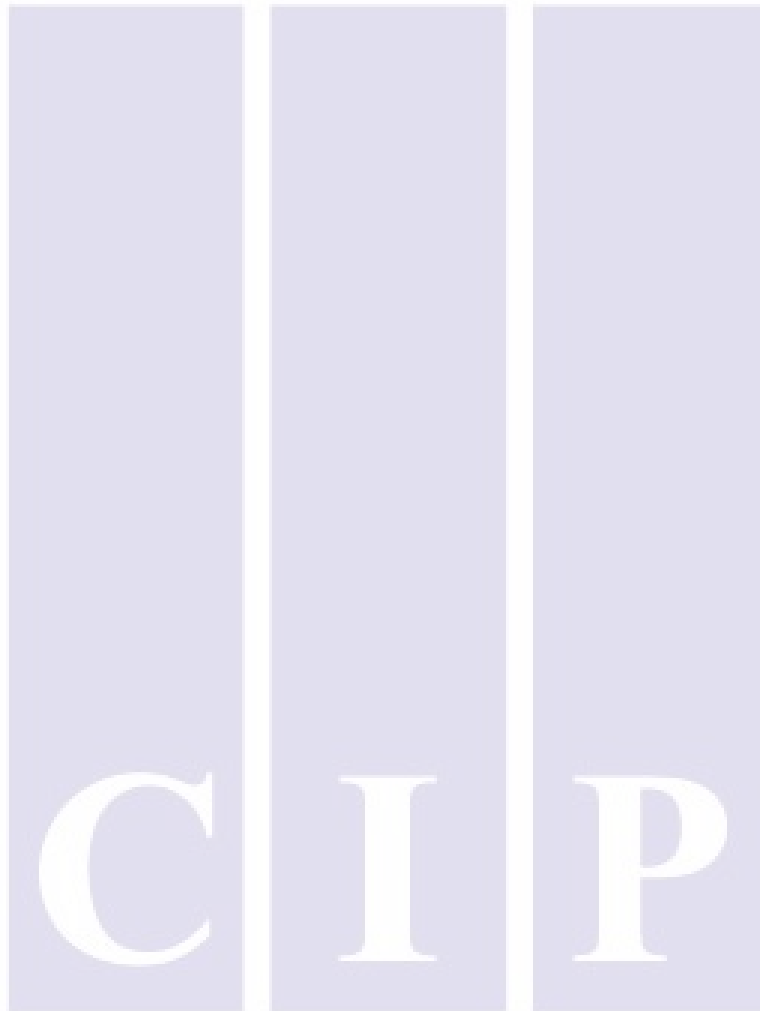
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1 BY MR. BINI:

2 Q What did he write?

3 A "Dear Teo, thank you very much for the update. Please  
4 note that given that we will be financing a SPV, CS will need  
5 a guaranty from the government of Mozambique."

6 Q Let me stop you there for a moment. First of all, who is  
7 Said Freiha again?

8 A Said Freiha was an employee of Credit Suisse whose  
9 responsibility within Credit Suisse was to manage the  
10 relationships with clients. In this case, Privinvest.

11 Q What did you understand Mr. Freiha to mean when he wrote  
12 CS? What's CS?

13 A CS stands for Credit Suisse.

14 Q "CS will need a guaranty from the government of  
15 Mozambique." What guaranty is he referring to?

16 A As I said earlier, the result of changing the structure  
17 of the loan from being a direct loan to the government of  
18 Mozambique to being a loan to a special purpose company meant  
19 that the loan required a guaranty from the government of  
20 Mozambique to enable Credit Suisse to undertake -- to make the  
21 loan. The risk that -- the only risk that Credit Suisse was  
22 ever prepared to take was the government of Mozambique, not  
23 the project.

24 Q Okay. If you could read the rest of the email from  
25 Mr. Freiha.

1 A "Furthermore, it will be much easier if we could finance  
2 the SPV at the full rate without getting any contractor  
3 subsidy. The SPV will pay the rate but not the government of  
4 Mozambique. The government of Mozambique will just provide a  
5 guaranty. We will very much like to have a call with you at  
6 your convenience to discuss the above. Let me know when is a  
7 convenient time for you."

8 Q How did Mr. Nhangumele respond?

9 A "Said, hi. From now on, please reach me on this email.  
10 In fact, Jean had raised this issue with me and I told him  
11 that we must keep things as they are and the details of the  
12 arrangement should not be raised or discussed by email or  
13 phone. Even the details around the SPV should not be made  
14 known to anyone. Next time we meet, I will give you details."

15 Q What email address did Mr. Nhangumele use here?

16 A Nguila.guidema@gmail.com.

17 Q What did you understand Mr. Nhangumele to mean when he  
18 wrote, "the details of the arrangement should not be raised or  
19 discussed by email or phone"?

20 A I took that to mean that he would like to discuss the  
21 arrangements in person.

22 MR. BINI: Okay. At this time, Your Honor, the  
23 government would seek to admit Government Exhibits 2082 --

24 THE COURT: Any objection to 2082?

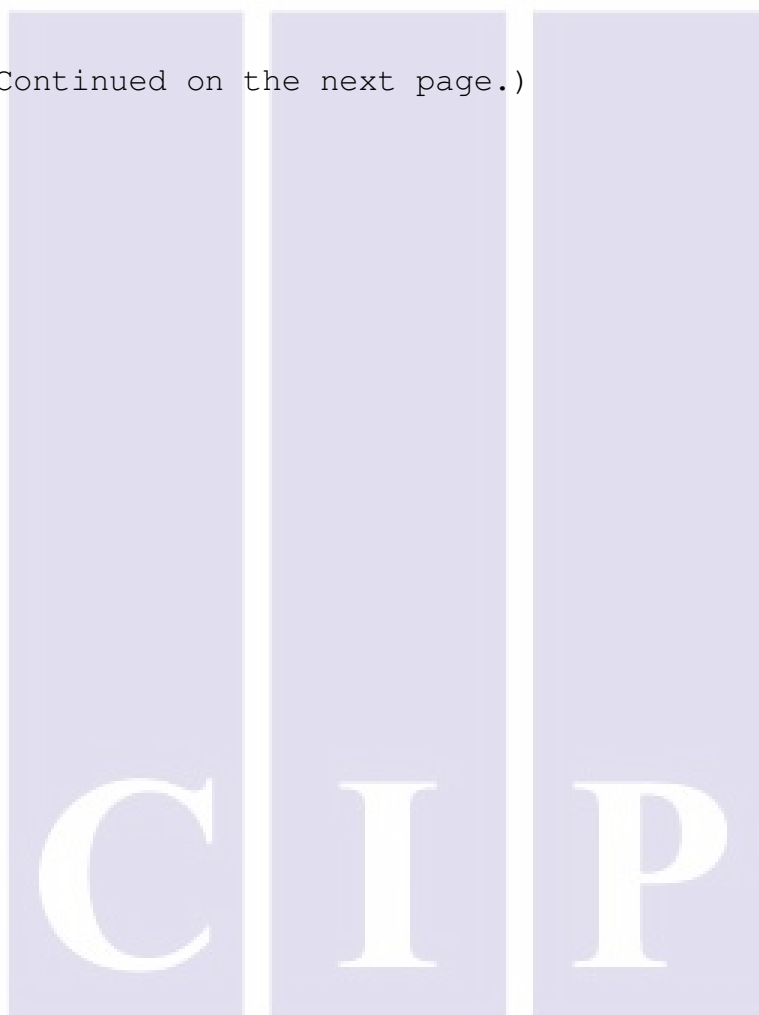
25 MR. BINI: You raised this earlier, Mr. Schachter.

1 THE COURT: Any objection? Address the Court,  
2 please. Any objection to 2082?

3 MR. SCHACHTER: Yes, Your Honor, we object.

4 THE COURT: All right. Let's have a sidebar.  
5 Sorry, ladies and gentlemen of the jury. I try to avoid them  
6 but...

7 (Continued on the next page.)



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1 (The following occurred at sidebar.)

2 THE COURT: May I have the document, please?

3 MR. BINI: Yes, Your Honor.

4 THE COURT: Take your time. What is 2082?

5 MR. BINI: Your Honor, this is a November 19th email  
6 between Andrew Pearse and co-conspirators, Said Freiha and  
7 Surjan Singh.

8 THE COURT: This was drafted and sent by the  
9 witness?

10 MR. BINI: Yes, Your Honor.

11 THE COURT: What is the objection?

12 MR. SCHACHTER: Your Honor, there's a reference in  
13 the second email on the bottom email to the issues relating to  
14 the chairman, Mr. Safa, and a discussion about the issue being  
15 in the late '80s.

16 THE COURT: You can cross-examine him about it, but  
17 this is an email he wrote relating to the transaction. I'm  
18 going to overrule the objection, but the record is preserved.

19 If you have other emails of this ilk, you can make  
20 the objections on the same basis we talked about before where  
21 you say you've objected. The record is preserved. I'll  
22 overrule it. We can keep rolling. You don't have to stop for  
23 each one. Your record is preserved.

24 But certainly emails the witness authored, I'm going  
25 to allow questioning about it as long as it relates to the

1 issue in the case. Why don't we proceed in that fashion.  
 2 We'll just keep rolling through the documents. That makes  
 3 sense, both sides?

4 MR. BINI: Yes, Your Honor.

5 MR. SCHACHTER: Yes, Your Honor.

6 THE COURT: Thank you very much.

7 (End of sidebar conference.)

8 (Continued on the next page.)

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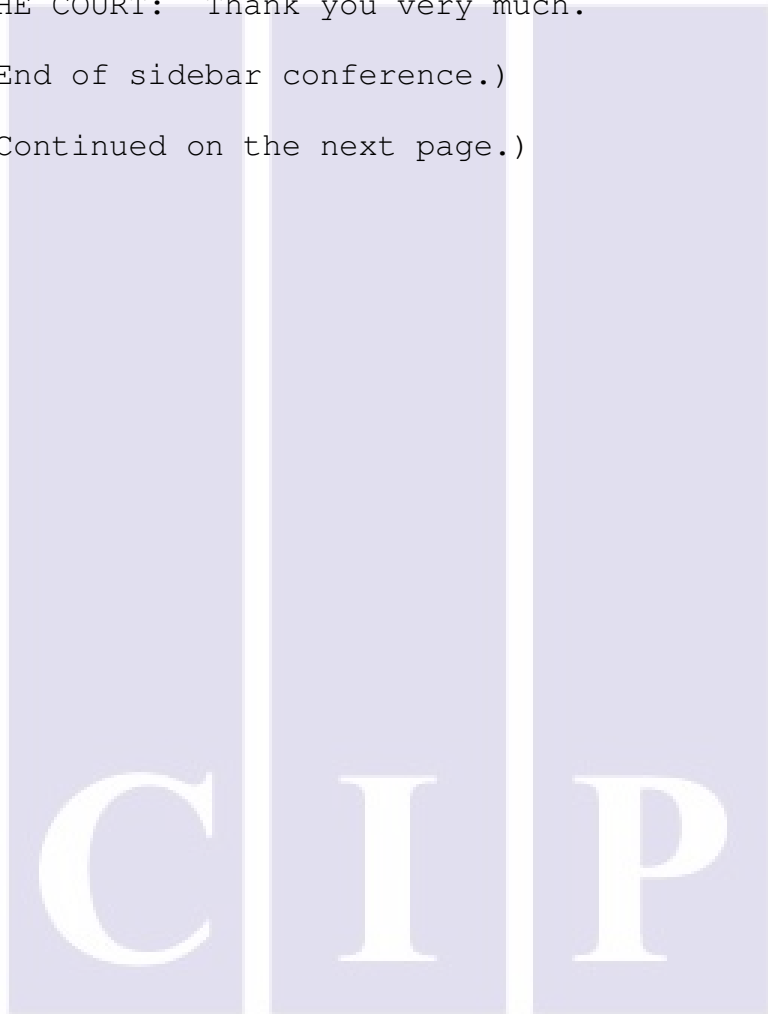
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1 (In open court.)

2 THE COURT: The objection is overruled.

3 What's the next document.

4 MR. BINI: 2082, Your Honor.

5 THE COURT: Any objection?

6 MR. BINI: That's the one, I'm sorry, that I just  
7 moved, 2082.

8 THE COURT: All right. That objection was  
9 overruled. What's the next document?

10 MR. BINI: 2085.

11 THE COURT: Any objection?

12 MR. SCHACHTER: It's the same objection.

13 THE COURT: All right. Overruled.

14 (Government Exhibit 2085, was received in evidence.)

15 THE COURT: Next?

16 MR. BINI: 5006.

17 THE COURT: Any objection?

18 MR. SCHACHTER: No, Your Honor.

19 THE COURT: Admitted.

20 (Government Exhibit 5006, was received in evidence.)

21 MR. BINI: 5006A.

22 THE COURT: Any objection?

23 MR. SCHACHTER: No.

24 THE COURT: Admitted.

25 (Government Exhibit 5006A, was received in

1 evidence.)

2 MR. BINI: 5007.

3 THE COURT: Any objection?

4 MR. SCHACHTER: No.

5 THE COURT: Admitted.

6 (Government Exhibit 5007, was received in evidence.)

7 MR. BINI: 5007A and B.

8 THE COURT: Any objection?

9 MR. SCHACHTER: No objection, Your Honor.

10 THE COURT: Admitted.

11 (Government Exhibit 5007 A and B, was received in  
12 evidence.)

13 MR. BINI: 2121.

14 THE COURT: Any objection?

15 MR. SCHACHTER: No objection, Your Honor.

16 THE COURT: Admitted.

17 (Government Exhibit 2121, was received in evidence.)

18 MR. BINI: 2096.

19 THE COURT: Any objection?

20 MR. SCHACHTER: No objection.

21 THE COURT: Admitted.

22 (Government Exhibit 2096, was received in evidence.)

23 MR. BINI: 2097.

24 THE COURT: Any objection?

25 MR. SCHACHTER: No, Your Honor.

1 THE COURT: Admitted.

2 (Government Exhibit 2097, was received in evidence.)

3 MR. BINI: 2109.

4 THE COURT: Any objection?

5 MR. SCHACHTER: No, Your Honor.

6 THE COURT: Admitted.

7 (Government Exhibit 2109, was received in evidence.)

8 MR. BINI: 2110.

9 THE COURT: Any objection?

10 MR. SCHACHTER: No, Your Honor.

11 THE COURT: Admitted.

12 (Government Exhibit 2110, was received in evidence.)

13 MR. BINI: 2114.

14 THE COURT: Any objection?

15 MR. SCHACHTER: No objection.

16 THE COURT: Admitted.

17 (Government Exhibit 2114, was received in evidence.)

18 MR. BINI: 2142.

19 THE COURT: Any objection?

20 MR. SCHACHTER: No, Your Honor.

21 THE COURT: Admitted.

22 (Government Exhibit 2142, was received in evidence.)

23 MR. BINI: 5047.

24 THE COURT: Any objection?

25 MR. SCHACHTER: No, Your Honor.

1 THE COURT: Admitted.

2 (Government Exhibit 5047, was received in evidence.)

3 MR. BINI: And 5009 through 5012.

4 THE COURT: Any objection?

5 MR. SCHACHTER: No.

6 THE COURT: Admitted.

7 (Government Exhibit 5009 through 5012, was received  
8 in evidence.)

9 THE COURT: You may publish those to the jury.

10 (Exhibits published.)

11 MR. BINI: Thank you, Your Honor.

12 THE COURT: Of course.

13 BY MR. BINI:

14 Q If I can ask you, Mr. Pearse, to look at Government's  
15 Exhibit 2082. Looking to the bottom email, who is this email  
16 from?

17 A This is from Said Freiha.

18 Q And who is it to?

19 A It's to Surjan Singh, Adel Afiouni, and myself.

20 Q What's the date of this email?

21 A November 19th, 2012.

22 Q What does Mr. Freiha indicate?

23 A Again, would you like me to read it?

24 Q Yes, please.

25 A "Hi, Andrew. We had a couple of meetings with Jean

1 Boustani in Beirut --"

2 THE COURT: Whoa, whoa, slow it down. Lord Vader,  
3 not Chris Rock. Slow it down.

4 THE WITNESS: Apologies, Your Honor.

5 "Hi, Andrew. We had a couple of meetings with Jean  
6 Boustani in Beirut. We would be facing Abu Dhabi MAR, which  
7 is 51 percent owned by His Royal Highness, Sheikh Hamdan bin  
8 Zayed. As mentioned previously by Jean, they have worked on a  
9 couple of major EEZs. Will call you to discuss."

10 Q Below that does he attach some information regarding  
11 Privinvest?

12 A Yes. He's attached two links which were designed to  
13 provide an overview, a summary of Privinvest and the business  
14 that they undertake.

15 THE COURT: You can pull that microphone a little  
16 closer to you, sir. It will come to you. Then just tilt it  
17 up like this. It will swivel. Push it down a little bit,  
18 tilt it up to you, and you'll be heard more clearly by the  
19 court reporter and by the jury.

20 Go ahead, please.

21 Q What did you understand Mr. Freiha to mean when he wrote,  
22 "We would be facing Abu Dhabi MAR, which is 51 percent owned  
23 by HH Sheikh Hamdan bin Zayed?

24 A He was identifying to me who the contractor would be in  
25 relation to the project in Mozambique.

1 Q And who was the contractor to be?

2 A Abu Dhabi MAR.

3 Q You had extensive dealings with Privinvest and Abu Dhabi  
4 MAR during the course of your criminal conduct; is that right,  
5 Mr. Pearse?

6 A Yes, sir, I did.

7 Q Do you know if Abu Dhabi MAR is 51 percent owned by  
8 Sheikh Hamdan bin Zayed?

9 A To the best of my knowledge, it is not owned by Sheikh  
10 Hamdan bin Zayed.

11 Q Was this information that Said Freiha put in this email  
12 significant?

13 A It was very significant as part of the due diligence  
14 exercise that Credit Suisse was carrying out in relation to  
15 Privinvest and the owners of Privinvest, and it was one of the  
16 elements which was, in my opinion, pivotal to Credit Suisse  
17 accepting Privinvest as a client.

18 Q Why was the ownership by this individual, Sheikh Hamdan  
19 bin Zayed, important to Credit Suisse's approval of working  
20 with this contractor?

21 A Initial due diligence inquiries had revealed that the  
22 owner and chairman of Privinvest had --

23 Q I don't want you to talk about other than were there  
24 issues surrounding Iskandar Safa that you discussed yesterday?

25 A Yes.



1 Q Okay. Was this email indicating that this entity was not  
2 actually owned by Iskandar Safa?

3 A No, but it was indicating that the majority of Abu Dhabi  
4 MAR was owned by a significant member of the royal family in  
5 the United Arab Emirates whose reputation was acceptable to  
6 the bank.

7 Q So was this important to Credit Suisse in giving the okay  
8 to working with Privinvest?

9 A As I said earlier, I think this was one of the more  
10 important elements of that decision-making process.

11 Q Okay. In your next email on November 19th of 2012, what  
12 did you write?

13 A "What about the issues relating to the chairman? What  
14 did you discuss?"

15 Q And were you referring to Iskandar Safa?

16 A Yes, I was.

17 Q How did Mr. Freiha respond?

18 A "I discussed it with the PEP desk and they said that he  
19 is not a PEP, and the only issue was in the late '80s and it  
20 was cleared. They said it is a reputational issue."

21 Q What is the PEP desk?

22 A "PEP" stands for politically exposed person. That is  
23 a -- either a serving minister or member of government or  
24 their relatives, and Credit Suisse has an individual who was  
25 responsible for assessing whether clients had potential PEP

1 risk. So involved people who were politically exposed.

2 Q Okay. And did you understand Mr. Freiha to be saying  
3 that the issues with respect to Mr. Safa had been cleared?

4 A In relation to the question as to whether he was a  
5 politically exposed person, the issues were cleared.

6 Q Then how did he end his email?

7 A They said it is a reputational issue.

8 Q What's a reputational issue?

9 A Within the -- within the approval processes of a bank, in  
10 order to make a loan or to take on client there is two  
11 different channels. One was to assess the risk that the bank  
12 was taking, the chance that the borrower wouldn't pay the  
13 money back or going to pay the money back.

14 There is a separate process, which even if the  
15 borrower was able to pay the money back, was this a  
16 borrower -- did this transaction involve people that could  
17 cause reputational damage to the bank? And on either basis,  
18 the bank could decline to enter into a transaction, either for  
19 credit risks reasons, for potential default reasons, or  
20 reputational reasons.

21 Q How did you respond?

22 A "Okay, but Fawzi has said no to the combination of Moz  
23 and your friend. So we need to structure him out of the  
24 picture. If RAK closes, we should go and see Jean later this  
25 week and understand what flexibility there is on this point."

1 Q Who is Fawzi?

2 A Fawzi was a senior member of Credit Suisse in London. I  
3 believe he was the head of Credit Suisse London.

4 Q What was his full name?

5 A Excuse me. His name is Fawzi Kyriakos Saad.

6 Q When you wrote to Mr. Freiha and Mr. Singh that he said  
7 no to the combination of Moz and your friend, what was "Moz"  
8 referring to?

9 A Mozambique.

10 Q Who is your friend?

11 A I was referring to the chairman of Privinvest, Iskandar  
12 Safa.

13 Q Were you indicating that this transaction could not take  
14 place with Mozambique and Iskandar Safa?

15 A I was telling Said Freiha and Adel Afiouni the  
16 conversation I had had with Fawzi Kyriakos Saad where he said  
17 that he would not support a transaction involving both  
18 Mozambique and Iskandar Safa.

19 Q Was that because of reputational risk concerns?

20 A Yes.

21 Q You indicated, "So we need to structure him out of the  
22 picture." What did you mean by that, Mr. Pearse?

23 A I meant that in order to deal with Fawzi's concern,  
24 Iskandar Safa would have to not be a significant party in the  
25 transaction.

1 Q Did that happen?

2 A No.

3 Q Was he structured out of the transaction?

4 A He was not.

5 Q Was Privinvest structured out of the transaction?

6 A No, they were the contractor.

7 Q Isn't that what you're indicating was supposed to happen  
8 in this email?

9 A I'm sorry. I don't understand your question, sir.

10 Q I thought you said that we need to structure Mr. Safa out  
11 of the picture?

12 A Yes. At this point in time based upon my conversation  
13 with Fawzi, my understanding was that Fawzi would not allow  
14 the transaction to go ahead unless Iskandar Safa was not a  
15 major part of the transaction structure.

16 Q But the transaction did eventually go ahead and he was a  
17 part of the structure; is that right?

18 A Yes, that's correct.

19 Q Then you write, "If RAK closes." What's RAK?

20 A RAK is acronym. It stands for Ras Al Khaimah.

21 Q What were you referring to?

22 A Ras Al Khaimah is one of the Emirates that makes up the  
23 United Arab Emirates. I was working on a different  
24 transaction with that -- with that client at the time.

25 Q After that you wrote, "We should go and see Jean later

1 this week." What did you mean?

2 A I was very busy on the Ras Al Khaimah transactions. If I  
3 had time, I was indicating to Said Freiha that I would be able  
4 to meet Jean Boustani later in the week when this email was  
5 sent.

6 MR. BINI: If we can look to Government's  
7 Exhibit 2085.

8 Q If I can ask you to look on the email from November 19th,  
9 2012, at 14:09, from Adel Afiouni, about the middle of the  
10 first page.

11 What did Mr. Afiouni write to you, Said Freiha, and  
12 Surjan Singh?

13 A He wrote, "Jean has two conditions. They don't want the  
14 money to pass by the government first. Want it to go into an  
15 escrow account dedicated for this project so the government  
16 does not delay or divert use. Secondly, the government does  
17 not want to pay anything above the levels agreed nor for the  
18 extra spread to pass through government entity. It has to be  
19 paid direct to us by contractor. We suggested several ideas  
20 but none would pass these two. Ideas welcome. Said."

21 Q Who did you understand Mr. Afiouni to be referring to  
22 when he said Jean has two conditions?

23 A I understood that to be a reference to Jean Boustani.

24 Q What did you understand the defendant's first condition  
25 to be?

1 A I understood that to mean that he did not want Credit  
2 Suisse to send the money that was to be lent to the project  
3 company to the government or to the project company but rather  
4 to go into an account called an escrow account dedicated for  
5 the project so that the money that was going to be lent wasn't  
6 diverted or delayed.

7 Q What does "divert money" mean?

8 A I took that to mean that he was concerned that the money  
9 would be used for purposes other than paying for the project.

10 Q But didn't the defendant ultimately use the money to pay  
11 you?

12 MR. SCHACHTER: Objection.

13 THE COURT: Overruled. He can answer.

14 A I was paid in relation to these transactions by  
15 Privinvest, yes.

16 Q What's the second point?

17 A This relates to the fact that the Mozambican government  
18 did not want to pay interest rates at market levels. They  
19 wanted to pay an interest rate which was lower than was  
20 required by the banks in order to make the loan. The second  
21 point references that and requests that -- the request from  
22 Mr. Boustani is that the extra spread, which ultimately came  
23 as a subvention fee, is paid directly by the contractor, not  
24 by the government.

25 Q How did you respond to Mr. Afiouni's email?

1 A "Thanks. On point one, I thought that Moz had agreed to  
2 pay the full contractual amount upfront with AM providing bank  
3 guaranties to return the money if they did not supply the  
4 goods/services."

5 Q What did you understand -- or what did you mean, rather,  
6 when you wrote, "I thought Moz had agreed to pay the full  
7 contractual amount upfront"?

8 A I understood at that point in time that the agreement  
9 between the Mozambican government and Privinvest was to pay  
10 the full amount under the contract to supply goods and  
11 services on day one.

12 Q Was that something that you described to the jury  
13 yesterday regarding these contracts?

14 A Yes, it was.

15 Q Was that unusual?

16 A As I said yesterday, in the context of a project which is  
17 going to take 12 to 24 months to build, it was unusual for the  
18 contractors to be paid on the first day of that project rather  
19 than be paid over time as the contractors delivered the  
20 relevant goods and services.

21 Q Now I'll ask you look at Government's 5006 in evidence.  
22 What's the date of this email?

23 A December 4th, 2012.

24 Q Who is it from?

25 A Jean Boustani.

1 Q Who did the defendant write to?

2 A Surjan Singh, Detelina Subeva, and myself.

3 Q What did he write?

4 A "FYI, so we expedite the process."

5 Q Was there something attached to this letter?

6 A Yes, there was.

7 Q Can we look to the attachment 5006A. Look to the top.

8 Is this the letter that was attached to the email?

9 A Yes, sir.

10 Q And who was the letter to?

11 A The letter is addressed to HE President Armando Emilio  
12 Guebuza.

13 Q Who was HE President Armando Emilio Guebuza?

14 A He was the president of Mozambique at this date.

15 Q What do you understand "HE" to refer to?

16 A His Excellency.

17 Q And if we look to the second page of this letter, who  
18 sent this letter?

19 A The letter is signed by Iskandar Safa.

20 Q As chairman of what?

21 A Chairman of Abu Dhabi MAR.

22 Q We can go back to the first page. What was Mr. Safa  
23 sending to the president in this letter?

24 A Could I have the opportunity to read it, please?

25 Q Yes.



1 A This is a letter which sets out the status of the  
2 Proindicus project as far as Mr. Safa was aware at the time,  
3 and he's notifying the president of Mozambique of certain key  
4 elements, certain key things that happened in relation to the  
5 project. Apologies. Including the fact that Credit Suisse  
6 had, by this stage, offered to finance the project.

7 Q Did you have any understanding why the defendant was  
8 sending you and Credit Suisse personnel this letter?

9 A Yes. This was a project that had come to the attention  
10 of the bank in the first quarter of 2012. It had been very  
11 slow to progress. It was not clear that there was engagement  
12 from the Mozambican authorities to do the transaction, and at  
13 times there was a feeling within the bank that the transaction  
14 would not take place.

15 And this letter was at a time when there had been  
16 some progress from Credit Suisse in providing the terms of the  
17 loan, but having very little in terms of progress from the  
18 Mozambican side of approving the loan.

19 So this, as I understood it, this letter was sent to  
20 try and push the project along by sending a letter directly to  
21 the president so that he would be aware and ideally approve  
22 the project.

23 MR. BINI: Your Honor, I see I'm coming up on 11:15.

24 THE COURT: Is this a good convenient time for you  
25 to take a break and then we'll have our mid-morning break

1 here, 15 minutes. Ladies and gentlemen of the jury, is that  
2 acceptable?

3 All right. So we'll take our 15-minute break.  
4 Please do not talk about the case. Again, sir, do not talk  
5 with anyone during the break about your testimony.

6 Thank you, ladies and gentlemen.

7 (Jury exits courtroom.)

8 THE COURT: You may step down, Mr. Pearse. Thank  
9 you.

10 (The witness stepped down.)

11 THE COURT: All right. You may be seated. Do we  
12 have any -- the jury has left the courtroom. Do we have any  
13 procedural issues to discuss in the absence of the jury?

14 MR. BINI: Not from the government.

15 THE COURT: From the defense?

16 MR. JACKSON: No, Your Honor.

17 THE COURT: Thank you. Enjoy your 15-minute break  
18 and we'll resume in 15 minutes.

19 MR. MEHTA: Thank you, Your Honor.

20 THE COURT: Thank you.

21 (Recess.)  
22  
23  
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1 (In open court; jury not present.)

2 THE COURTROOM DEPUTY: All rise. Judge Kuntz  
3 presiding.

4 THE COURT: Thank you. All counsel and we have the  
5 defendant produced again in our presence. You may be seated.

6 Do we have any procedural issues to discuss before  
7 the jury comes in?

8 MR. BINI: Not for the government.

9 MR. JACKSON: No, Your Honor.

10 THE COURT: All right. We can have the witness back  
11 on the stand, please.

12 MR. BINI: Yes, Your Honor. I'll get him.

13 THE COURT: And let's bring in the jury.

14 MR. SCHACHTER: Your Honor.

15 THE COURT: We do -- hang on.

16 MR. SCHACHTER: Mr. Boustani is not out yet. The  
17 marshals are --

18 THE COURT: No, I know. But like I said, you're out  
19 of them.

20 MR. SCHACHTER: Yes, sir.

21 THE COURT: Right.

22 Welcome back.

23 THE DEFENDANT: Thank you. Hi.

24 THE COURT: The jury will be back in a minute, so  
25 please sit down.

1 THE WITNESS: Thank you, Your Honor.

2 (The witness resumed the stand.)

3 (Jury enters courtroom.)

4 THE COURT: Welcome back, ladies and gentlemen of  
5 the jury. Hopefully we got the temperature a little better  
6 under control than we had the other day. Sometimes we have to  
7 fiddle with the controls.

8 Please be seated as well.

9 Mr. Pearse, did you speak with anyone about your  
10 testimony during the break?

11 THE WITNESS: I did not.

12 THE COURT: Thank you, sir. Please be seated.

13 And you will continue, sir, with direct examination.

14 MR. BINI: Thank you, Your Honor.

15 BY MR. BINI:

16 Q Mr. Pearse, I would ask you to look at Government's  
17 Exhibit 2096. What's the date of this email?

18 A Ninth of January of 2013.

19 Q Who is it from and who is it to?

20 A It is from Detelina Subeva to Jean Boustani, copying  
21 myself and Surjan Singh.

22 Q What did Ms. Subeva send to the defendant?

23 A She sent the final term sheet.

24 MR. BINI: We can look to Government's Exhibit 2097.

25 Q Is this the term sheet that Ms. Subeva sent to the

1 defendant?

2 A Yes. That was the term sheet that was attached to the  
3 email.

4 Q Was this different than the earlier term sheet we looked  
5 at?

6 A Yes, sir. It's different in that the borrower is now  
7 Proindicus, the Mozambican special purpose company.

8 Q Who is the contractor?

9 A The contractor is also different. It is now Privinvest  
10 Shipbuilding, SAL Holding, the Abu Dhabi branch.

11 Q Who is the guarantor?

12 A The guarantor is the government of the Republic of  
13 Mozambique, acting through the Ministry of Finance.

14 Q Is the amount of the loan indicated?

15 You can go to facility amount, Ms. DiNardo.

16 A Yes, the facility amount, which is the amount of the  
17 loan, is \$370 million.

18 MR. BINI: If we go to page 3 of the term sheet.

19 And if I can ask you, Ms. DiNardo, to blow up the section that  
20 says, "Syndication, assignment, and transfer."

21 Q Does it indicate whether this would be a syndicated loan?

22 A Yes. The term sheet included the right for the bank to  
23 transfer parts of the loan to third parties.

24 Q When you say "transfer," do you mean sell to third  
25 parties?

1 A Yes, excuse me, yes, or syndicate.

2 Q Okay. Now I'll ask you to look at Government's  
3 Exhibit 2109. What is the date of this email, Mr. Pearse?

4 A Nineteenth of January 2013.

5 Q Who is it from and who is it to?

6 A It's from Jean Boustani to Surjan Singh, Detelina Subeva,  
7 Said Freiha, Adel Afiouni, and myself.

8 Q What is attached to the email?

9 A The procurement contract.

10 Q You see in the email where the defendant writes, "Teo is  
11 awaiting the checklist of required docs and agenda for the  
12 next steps so the program is promptly organized."

13 What did you understand the defendant to mean?

14 A I understood that to mean that Teo was waiting for the  
15 due diligence checklist, the areas and items of information  
16 which were required for the banks, plus the agenda for -- the  
17 timetable for advancing the project from this point onwards.

18 Q Are any of the Mozambicans that you dealt with on this  
19 email?

20 A No.

21 MR. BINI: We can look to Government's Exhibit 2110.

22 Q Was this attached to Government's Exhibit 2109?

23 A Yes, it was.

24 Q What is it?

25 A This is the front page of a -- of the contract that was

1 between Privinvest Shipbuilding SAL and Proindicus. This is  
2 the contract which I referred previously to. It's a  
3 procurement contract or the contract under which Privinvest  
4 would supply the goods and services to Proindicus.

5 Q How does this contract relate to the Proindicus loan?

6 A The payment of the -- for the goods and services that  
7 were to be provided under this contract was paid for using the  
8 monies that were borrowed under the loan.

9 Q Okay. If we can page through to the second page. Is  
10 this a table of contents, Mr. Pearse, for the contract?

11 A Yes.

12 Q And page through to the third page. Looking to the  
13 preamble section, can you take a look at that and explain it  
14 in your own words to the jury?

15 A So the preamble in a contract is a short summary of what  
16 is included in the contract, and this preamble talks about the  
17 reason -- states that the government of Mozambique had a  
18 desire to protect its Exclusive Economic Zone, which is a  
19 right that it has under the United Nations Convention on the  
20 Law of the Sea. And that as a result of that, the Republic of  
21 Mozambique had entered into the project with -- entered in  
22 through Proindicus with the contractor to acquire the goods  
23 and services which are described for the system in the  
24 agreement.

25 Q Below that is there a definition of "project" in the

1 definition section?

2 A Yes, if I may just read it?

3 Q Yes.

4 A It defines "project" as The assets and services in total  
5 as laid down in the EEZ technical project description.

6 Document Number 013-C-TPD-000-N-001PR-02-B, EEZ monitoring and  
7 protection for the Republic of Mozambique.

8 Q If we go to the next page, is there a Roman numeral II  
9 that's titled, "Subject of contract"?

10 A Yes, there is.

11 Q Mr. Pearse, can you summarize what's set out?

12 A This sets out the key assets or goods that were to be  
13 delivered by Privinvest under the terms of this contract. It  
14 included radar stations, various types of ships, aircraft,  
15 training center, and satellite surveillance facilities for the  
16 coastline.

17 MR. BINI: If we can go to the next page, the Roman  
18 numeral VII. If you can blow that up, Ms. DiNardo.

19 Q What does Roman numeral VII indicate the price for the  
20 project is?

21 A The price indicated here is \$366 million U.S.

22 MR. BINI: And if we can keep flipping through, I'd  
23 like to ask you to go to page 9 of 12, Ms. DiNardo, Section M,  
24 or Clause M in the basic terms and conditions section.

25 Q What's the title of this clause?



1 A "Remuneration to third parties."

2 Q What's remuneration?

3 A Payment.

4 Q What does it say?

5 A "The contractor, as well as customer, represents and  
6 warrants that it and no person interested or connected with  
7 it, has not and shall not offer, pay, or propose to pay money  
8 or to give anything of value, directly or indirectly, to any  
9 civil servant or any other person holding a governmental  
10 position."

11 Q What did you understand Clause M to mean?

12 A It was a statement from the contractor and the customer  
13 that neither of those two parties had paid bribes.

14 Q Would this provision have been important to Credit Suisse  
15 in consideration of this transaction?

16 MR. SCHACHTER: Objection.

17 THE COURT: Overruled. If you know.

18 A In my opinion, yes.

19 Q Why?

20 A It was well known at Credit Suisse through the  
21 publication of external sources of information -- from receipt  
22 of external sources of information, that Mozambique was a  
23 country with a high probability of corruption. The bank,  
24 being Credit Suisse, would not want to enter into a  
25 transaction where there was a risk of corruption being

1 involved with any of the parties of that transaction.

2 Q Would Credit Suisse have approved this transaction if  
3 this clause said Privinvest would make payments to Mozambican  
4 government officials?

5 MR. SCHACHTER: Objection.

6 THE COURT: If you know.

7 A In my opinion they would not.

8 Q Why not?

9 A Because Credit Suisse is a large international bank with  
10 a very good reputation which it looks to protect it. It would  
11 never enter into a transaction where knowing these bribes or  
12 other corrupt payments would be made.

13 Q If I can ask you to look at Government's Exhibit 2114 in  
14 evidence.

15 What's the date of this email, Mr. Pearse?

16 A This is the 19th of January, 2013.

17 Q Who is it from?

18 A It's from Jean Boustani.

19 Q Do you see where he indicates, And there will be a 49M\$  
20 subsidy by Privinvest?

21 A I'm sorry. I don't.

22 MR. BINI: If we can blow that top email up,  
23 Ms. DiNardo. Can you highlight the portion of 49 million?

24 Q What did you understand the defendant to be referring to  
25 "49M\$ subsidy by Privinvest"?

1 A I knew that to refer to the \$45 million that was to be  
2 paid by Privinvest as a fee to the bank, the subvention fee or  
3 subsidy I described yesterday.

4 Q Forty-five or 49?

5 A Excuse me, 49.

6 Q Okay. Is that the subsidy that you negotiated your first  
7 kickbacks with the defendant regarding?

8 A Yes. It was a reduction of that subsidy that led to my  
9 kickback.

10 MR. BINI: If we can go to Government's  
11 Exhibit 2142. You know what? Let's skip 2142. Let's go  
12 ahead to Government's Exhibit 5047.

13 Q I want to ask you about the email from the defendant,  
14 Jean Boustani, to Ms. Subeva that gets forwarded to you. That  
15 one that begins, "Hi, Lina."

16 MR. BINI: If we can go to the first page of the  
17 email, Ms. DiNardo.

18 Q I specifically want to ask you regarding the statement,  
19 "However, the attorney general opinion is not mandatory and is  
20 being pushed by Clifford Chance. I believe this will not be  
21 accepted by Proindicus" --

22 THE COURT: Whoa, whoa. Vader.

23 MR. BINI: Sorry, Your Honor.

24 Q "I believe this will not be accepted by Proindicus since  
25 its owner wanted to bypass public tender and normal

1 bureaucratic procedures from day one by creating a private  
2 entity."

3 Mr. Pearse, what was going on in the Proindicus  
4 negotiations at this point?

5 A At this point Credit Suisse had appointed lawyers,  
6 Clifford Chance is a large English law firm, and also lawyers  
7 in Mozambique and were in the process of finalizing the loan  
8 documentation, and the -- as part of that process, the lawyers  
9 are required to issue legal opinions.

10 Those legal opinions require the lawyers to receive  
11 certain pieces of information in order for them to issue that  
12 opinion, and there was a process at that time where between  
13 the English and Mozambican lawyers they were defining what  
14 pieces of paper would be required for the approval processes  
15 in Mozambique to be conducted correctly.

16 The second part of this email -- the second sentence  
17 of this email related to the requirement for -- the normal  
18 requirement for governmental agencies I believe in most  
19 countries, and I believe certainly where I come from, require  
20 a public tender process to be gone through in order to award a  
21 contract from a governmental agency to a third party.

22 In this case there was no public tender process for  
23 the award of the contract from Proindicus to Privinvest. The  
24 reason for that was because under Mozambican law there is a  
25 legitimate exclusion for -- from public tender where the

1 contract involves a member of the national security or defense  
2 contractor. That is also something which, in my  
3 understanding, applies in other western European countries and  
4 the country I am from.

5 Q What is public tender?

6 A I'm sorry. Let me try explain that a bit better.

7 In order to avoid -- or to ensure public money is  
8 spent as efficiently as possible, from my experience from the  
9 country I come from, if a government agency is to buy any  
10 goods or services from a third party, he can't just buy them  
11 from one -- can't just accept the first offer. It has to get  
12 at least a certain number, two, three, five offers and compare  
13 them and choose the one which is either most economical or  
14 best fits the purpose for that particular project.

15 Q There is also a statement by the defendant, "So they will  
16 never accept to inform the attorney general."

17 What did you understand the defendant to mean?

18 A Again, at this point the lawyers were trying to define  
19 the conditions or the requirements that were -- that they  
20 needed to see or receive from the Mozambican authorities to  
21 issue their legal opinions. At the time neither -- well,  
22 Clifford Chance -- neither Clifford Chance, the English  
23 lawyers, nor Credit Suisse had ever done a transaction in  
24 Mozambique. So this is a list of requirements that was being  
25 defined during this period of time. There was no previous

1 example of it that either of those two entities had.

2 And at one point during that process, Clifford  
3 Chance had asked for an attorney general's opinion in relation  
4 to whether or not the guaranty had been signed appropriately  
5 by the minister of finance.

6 The defendant here is saying that the government  
7 will never accept to inform the attorney general in his  
8 opinion, I took that to mean that the attorney general opinion  
9 was not required.

10 Q Was he asking to remove the condition of informing the  
11 attorney general of Mozambique of the loan?

12 A No. He's -- he's making a statement.

13 Q About who is will never accept this condition?

14 A The Mozambican parties involved in the transaction.

15 Q How did you respond?

16 MR. BINI: If we go up to the final email.

17 A "Okay. Let's not give Jean a heart attack if we can  
18 avoid it."

19 Q Was that condition removed?

20 A Yes, it was.

21 MR. BINI: If we can go to Government's Exhibit  
22 5009.

23 Q What's the date of this email?

24 A Twenty-second of January 2013.

25 (Continued on the next page.)

1 EXAMINATION BY

2 MR. BINI:

3 (Continuing.)

4 Q Who is it from and who is it to?

5 A It's from Detelina Subeva to Jean Boustani copying Surjan  
6 Singh and myself.

7 Q What's the subject?

8 A "Proindicus Financing Documents."

9 Q What was Ms. Subeva e-mailing to the defendant?

10 A She was e-mailing three documents.

11 Q What documents?

12 A A draft of the guaranty to be signed by the Ministry of  
13 Finance. A draft of the loan agreement between Proindicus and  
14 Credit Suisse. And a conditions precedent schedule for the  
15 Ministry of Finance and Proindicus.

16 Q Were these documents important to the Proindicus loan?

17 A Yes, they were the key documents that were signed in  
18 relation to the loan.

19 Q Why was Ms. Subeva sending them to the defendant?

20 A Because the defendant was the person who was liaising  
21 with Credit Suisse and receiving all the documentation on  
22 behalf of the Mozambican parties involved.

23 Q We can look at Government's Exhibit 5010. Is that one of  
24 the attachments to 5009?

25 A Yes.

1 Q What is this?

2 A This is the front page of the draft government guaranty.

3 Q What's the government guaranty?

4 A This is the document that was given by the Republic of  
5 Mozambique to Credit Suisse which essentially says, If  
6 Proindicus cannot pay you back, the Government of Mozambique  
7 will pay back the loan.

8 Q If we can look Government's Exhibit 5011. What's that?

9 A That is the front page of the loan document between  
10 Proindicus as the borrower and Credit Suisse as the original  
11 lender.

12 Q What's the importance of this document?

13 A This is the document under which Credit Suisse would  
14 provide a loan of \$372 million to Proindicus for the  
15 furtherance of that project.

16 Q If we go to the second page of this document. Does this  
17 list a table of contents with the vary clauses in the loan  
18 agreement?

19 A Yes, it is.

20 Q Okay. I'm going to wait to ask you about the final loan  
21 agreement rather than asking you about this one. If I can now  
22 ask you to look at Government's Exhibit 5012. Was this also  
23 attached among the documents that Ms. Subeva sent to the  
24 defendant?

25 A Yes, this was the third of those attachments I described



1 earlier.

2 Q What is the title of it?

3 A "Conditions Precedent Checklist."

4 Q What's that?

5 A In a loan document, there are a series of conditions  
6 which are required to be fulfilled by the borrower or the  
7 guarantor prior to the loan being made available. And this  
8 document sets out the list of things that need to be provided  
9 or things that need to happen in order for the loan to be  
10 made.

11 Q Are we getting close in time to the actual closing of the  
12 Proindicus loan?

13 A This draft is dated the 21st of January, 2013 which is  
14 approximately two months prior to the loan being made.

15 Q If we look to 5009, the e-mail than attached it, what was  
16 the date of that?

17 A The 22nd of January, 2013.

18 Q Okay. Now, I'll ask you to go to Government's Exhibit  
19 2182.

20 MR. BINI: Actually, before we do that. Your Honor,  
21 I have to offer it. So I'm going to ask to -- if I could  
22 admit Government Exhibit 2182.

23 THE COURT: Hang on. Any objection to 2182?

24 MR. SCHACHTER: No objection, your Honor.

25 THE COURT: Admitted.

## A. Pearse - Direct/Mr. Bini

1 (Government Exhibit 2182, was received in evidence.)

2 MR. BINI: 2183.

3 THE COURT: Objection?

4 MR. SCHACHTER: No, your Honor.

5 THE COURT: Admitted.

6 (Government Exhibit 2183, was received in evidence.)

7 MR. BINI: 2186.

8 THE COURT: Any objection?

9 MR. SCHACHTER: No, your Honor.

10 THE COURT: Admitted.

11 (Government Exhibit 2186, was received in evidence.)

12 MR. BINI: 2206.

13 THE COURT: Any objection?

14 MR. SCHACHTER: No, your Honor.

15 THE COURT: Admitted.

16 (Government Exhibit 2206, was received in evidence.)

17 (Government Exhibit 2207, was received in evidence.)

18 MR. BINI: 2237.

19 THE COURT: Any objection?

20 MR. SCHACHTER: No.

21 THE COURT: Admitted.

22 (Government Exhibit 2237, was received in evidence.)

23 MR. BINI: 2256 and 2256-A.

24 THE COURT: Any objection?

25 MR. SCHACHTER: No objection.

1 THE COURT: Admitted.

2 (Government Exhibit 2256 and 2256-A, was received in  
3 evidence.)

4 MR. BINI: 2262.

5 THE COURT: Any objection?

6 MR. SCHACHTER: No objection.

7 THE COURT: Admitted.

8 (Government Exhibit 2262, was received in evidence.)

9 MR. BINI: 2306 and 2306-A.

10 THE COURT: Any objection?

11 MR. SCHACHTER: No, your Honor.

12 THE COURT: Admitted.

13 (Government Exhibit 2306 and 2306-A, was received in  
14 evidence.)

15 MR. BINI: 3124.

16 THE COURT: Any objection?

17 MR. SCHACHTER: No.

18 THE COURT: Admitted.

19 (Government Exhibit 3124, was received in evidence.)

20 MR. BINI: 3132.

21 THE COURT: Any objection?

22 MR. SCHACHTER: No, your Honor.

23 THE COURT: Admitted.

24 (Government Exhibit 3132, was received in evidence.)

25 MR. BINI: 2317.

1 THE COURT: Any objection?

2 MR. SCHACHTER: No, your Honor.

3 THE COURT: Admitted.

4 (Government Exhibit 2317, was received in evidence.)

5 MR. BINI: 1821.

6 THE COURT: Any objection?

7 MR. SCHACHTER: No, your Honor.

8 THE COURT: Admitted.

9 (Government Exhibit 1821, was received in evidence.)

10 THE COURT: You may publish any of those. Go ahead.

11 MR. BINI: 2322.

12 THE COURT: Any objections?

13 MR. SCHACHTER: No, your Honor.

14 THE COURT: Admitted.

15 (Government Exhibit 2322, was received in evidence.)

16 MR. BINI: 2320.

17 THE COURT: Any objection?

18 MR. SCHACHTER: No, your Honor.

19 THE COURT: Admitted.

20 (Government Exhibit 2320, was received in evidence.)

21 MR. BINI: 2320-A.

22 THE COURT: Any objection.

23 MR. SCHACHTER: No, your Honor.

24 THE COURT: Admitted.

25 (Government Exhibit 2320-A, was received in

1 evidence.)

2 MR. BINI: 2320-B.

3 THE COURT: Any objection?

4 MR. SCHACHTER: No, your Honor.

5 THE COURT: Admitted.

6 (Government Exhibit 2320-B, was received in  
7 evidence.)

8 MR. BINI: 2328.

9 THE COURT: Any objection?

10 MR. SCHACHTER: No, your Honor.

11 THE COURT: Admitted.

12 (Government Exhibit 2328, was received in evidence.)

13 MR. BINI: 2328-A and B.

14 THE COURT: Any objection?

15 MR. SCHACHTER: No.

16 THE COURT: Admitted.

17 (Government Exhibit 2328-A and B, was received in  
18 evidence.)

19 MR. BINI: 2329.

20 THE COURT: Any objection?

21 MR. SCHACHTER: No, your Honor.

22 THE COURT: Admitted.

23 (Government Exhibit 2329, was received in evidence.)

24 MR. BINI: 5062.

25 THE COURT: Any objection?

1 MR. SCHACHTER: No, your Honor.

2 THE COURT: Admitted.

3 (Government Exhibit 5062, was received in evidence.)

4 MR. MEHTA: 5062-A.

5 THE COURT: Any objection?

6 MR. SCHACHTER: No.

7 THE COURT: Admitted.

8 (Government Exhibit 5062-A, was received in  
9 evidence.)

10 MR. BINI: 3031 and 3031-A.

11 THE COURT: Any objection?

12 MR. SCHACHTER: Did you mean 3131?

13 MR. BINI: Yes, I'm sorry.

14 THE COURT: Keep your voice up.

15 I'm sorry. Read the numbers again.

16 MR. BINI: I should have said, your Honor, 3031,  
17 3031-A, and 3031-B.

18 THE COURT: Any objection?

19 MR. SCHACHTER: I think Mr. Bini meant 3131.

20 THE COURT: Slow it down. We're getting tired,  
21 okay?

22 So one at a time.

23 MR. BINI: Okay.

24 THE COURT: First one.

25 MR. BINI: 3031.

## A. Pearse - Direct/Mr. Bini

1 THE COURT: Any objection to 3031?

2 MR. BINI: 3131.

3 THE COURT: Strike that. Try it again.

4 MR. BINI: 3131.

5 THE COURT: Any objection?

6 MR. SCHACHTER: No, your Honor.

7 THE COURT: Admitted.

8 (Government Exhibit 3131, was received in evidence.)

9 THE COURT: Next.

10 MR. BINI: 3131-A.

11 THE COURT: Any objection.

12 MR. SCHACHTER: No, your Honor.

13 THE COURT: Admitted.

14 (Government Exhibit 3131-A, was received in  
15 evidence.)

16 MR. BINI: 3131-B.

17 THE COURT: Any objection?

18 MR. SCHACHTER: No, your Honor.

19 THE COURT: Admitted.

20 (Government Exhibit 3131-B, was received in  
21 evidence.)

22 MR. BINI: 2337.

23 THE COURT: Any objection.

24 MR. SCHACHTER: No, your Honor.

25 THE COURT: Admitted.

1 (Government Exhibit 2337, was received in evidence.)

2 MR. BINI: 2338.

3 THE COURT: Any objection?

4 MR. SCHACHTER: None.

5 THE COURT: Admitted.

6 (Government Exhibit 2338, was received in evidence.)

7 MR. BINI: 2339.

8 THE COURT: Any objection?

9 MR. SCHACHTER: None.

10 THE COURT: Admitted.

11 (Government Exhibit 2339, was received in evidence.)

12 MR. BINI: 2339-A.

13 THE COURT: Any objection?

14 MR. SCHACHTER: None.

15 THE COURT: Admitted.

16 (Government Exhibit 2339-A, was received in  
17 evidence.)

18 MR. BINI: 3083.

19 THE COURT: Any objection?

20 MR. SCHACHTER: No, your Honor.

21 THE COURT: Admitted.

22 (Government Exhibit 3083, was received in evidence.)

23 MR. BINI: 2347.

24 THE COURT: Any objection.

25 MR. SCHACHTER: None.



1 THE COURT: Admitted.

2 (Government Exhibit 2347, was received in evidence.)

3 THE COURT: You may publish those documents to the  
4 jury.

5 MR. BINI: Okay. I'm going to actually go to 2183,  
6 Government's Exhibit 2183.

7 EXAMINATION BY

8 MR. BINI:

9 (Continuing.)

10 Q And ask you, Mr. Pearse, what's the date of this e-mail?

11 A February the 25th, 2013.

12 Q Where were you on February 25, 2013?

13 A I was in Maputo, Mozambique.

14 Q Who did you e-mail at 11:15 a.m.?

15 A I e-mailed Surjan Singh and Detelina Subeva.

16 Q What did you e-mail them?

17 A I'm sorry, sir, could you repeat that the question?

18 Q What did you e-mail Surjan Singh and Detelina Subeva?

19 A I wrote, "He wants to reduce it by one-third. Does that  
20 work? Presume not. Can you please rerun total P and L and  
21 ROE calcs based on latest fee on distribution. Thanks."

22 Q Who were you indicating he wants to reduce by one-third?

23 A I was referring to Jean Boustani.

24 Q Why did you send this e-mail?

25 A I sent this to indicate that -- this e-mail was designed

1 to indicate that Jean Boustani had asked to reduce the  
2 subvention fee by one-third from the \$49 million that had  
3 agreed previously.

4 Q Was that true?

5 A No, it wasn't.

6 Q Why did you send this e-mail then?

7 A I sent it to hide my involvement in the process to agree  
8 to reduction of the subvention fee.

9 Q Is this at the point where you had conversations with the  
10 defendant regarding that?

11 A I indicated to the defendant at this point that the  
12 subvention fee was capable of being reduced, yes.

13 THE COURT: What does P and L mean?

14 THE WITNESS: Profit and Loss, your Honor.

15 THE COURT: What does ROE mean?

16 THE WITNESS: Return on Equity.

17 THE COURT: Thank you. Go ahead.

18 Q And did you reach an agreement with the defendant later?

19 A Yes.

20 Q What was your agreement?

21 A Ultimately, the agreement was to reduce the subvention  
22 fee by \$11 million and for half of that to be paid to me.

23 Q Where did you reach that agreement with the defendant?

24 A In Maputo, Mozambique.

25 Q Where were you when you had your conversation with the

1 defendant regarding that?

2 A Besides the swimming pool at the hotel.

3 Q Why do you remember that?

4 A I remember it very clearly because it was a significant  
5 point in my life where it was the first time I'd been offered  
6 a kickback.

7 Q If I can ask you to look at Government's Exhibit 2186.  
8 What is the date of this e-mail?

9 A February 25, 2013.

10 Q Who is it from and who is it to?

11 A It's at that Detelina Subeva to myself copying Surjan  
12 Singh.

13 Q Do you see the section where Ms. Subeva says, "For IMF  
14 and World Bank, we have replaced the rep that they have  
15 notified with a rep that they are in complains with their IMF  
16 and World Bank obligations."

17 Mr. Pearse, can you explain what Ms. Subeva was  
18 e-mailing to you?

19 A Yes. In order to do so, I need to explain the background  
20 if I may?

21 Q Okay.

22 A At that point in time, Mozambique had an agreement with  
23 the International Monetary Fund, the IMF, under which the IMF  
24 provided support to Mozambique in the form of financial  
25 assistance, money, and also advice to the Government on their

1 budgeting. That agreement was called a Program required  
2 Mozambique to provide information to the IMF. The IMF also  
3 publishes data every three months or six months about the  
4 country, how the economy is doing, how much money they've  
5 borrowed, key economic indicators.

6 Q And was anyone in Mozambique concerned about this  
7 particular provision in the loan agreement?

8 A Yes.

9 Q Who?

10 A The only real third-party source of information that  
11 Credit Suisse or any other bank had in relation to Mozambique  
12 was information published by the IMF and by arranging  
13 agencies. The IMF was one of the key sources of information.  
14 It is also seen as being objective and a source that was  
15 trustworthy as opposed to information directly from Mozambican  
16 Government.

17 It was important also that within the program that  
18 was agreed between the IMF and Mozambique, Mozambique had  
19 agreed not to borrow more than a certain amount of money from  
20 commercial banks. And that number was publicly known and it  
21 was very important to Credit Suisse that the loan was made to  
22 Mozambique, was within the agreed limit between the IMF and  
23 Mozambique, and that the IMF was aware of the fact that the  
24 Proindicus loan was being made.

25 Q Did you ever have discussions with the finance minister,

1 Manuel Chang, regarding this provision?

2 A Yes, I met with him on or about this date in Mozambique,  
3 and the original provision that Credit Suisse had asked for  
4 from the Government of Mozambique was confirmation that  
5 Mozambique would notify the IMF about the loan, the Proindicus  
6 loan.

7 Q What, if anything, did the finance minister ask you  
8 regarding that provision?

9 A When I met with the finance minister, he refused to agree  
10 to do that. Instead, we agreed that a possible alternative  
11 solution would be that the Government of Mozambique would  
12 confirm that they were in compliance with all their  
13 obligations to the IMF under the program documents. I knew  
14 that one of the requirements under the program documents was  
15 for the Mozambican government to disclose the existence of  
16 debt to the IMF.

17 Q Did you ever learn whether the finance minister, Manuel  
18 Chang, had informed IMF about the Proindicus loan?

19 MR. SCHACHTER: Objection.

20 THE COURT: If you know.

21 A I'm not aware of Manuel Chang informing the IMF.

22 Q Did you later learn that, in fact, he had not?

23 MR. SCHACHTER: Objection.

24 THE COURT: If you know.

25 A I'm aware that he did not.

1 Q Your Honor at this time?

2 A Can I correct that statement please?

3 THE COURT: Put question the again so it's clear for  
4 the jury what you're asking and what the witness is answering.

5 MR. BINI: Yes, your Honor.

6 Q Did you later learn that Manuel Chang had not informed  
7 the IMF regarding the Proindicus loan?

8 A I'm not aware of the conversation that Manuel Chang had  
9 with the IMF; however, I'm aware that in subsequent reports  
10 that were published in the international community, the  
11 Proindicus loan was not included in the IMF data. And  
12 subsequently, I discovered that the Government of Mozambique  
13 had not informed the IMF.

14 MR. SCHACHTER: Objection. Move to strike.

15 THE COURT: Overruled.

16 Q At this point, I want to ask you about a few deal  
17 documents. And to do that, I would ask to move in  
18 Government's Exhibit 2212.

19 THE COURT: Any objection? Any objection to 2212?

20 MR. SCHACHTER: May I have just a moment?

21 MR. BINI: That was the one we discussed this  
22 morning.

23 THE COURT: Hang on. Hang on.

24 MR. BINI: Oh, I'm sorry.

25 THE COURT: So we learn how to do this. You address

1 the Court, you offer the document; I ask defense counsel if  
2 there is any objection. The answer is either yes, there is or  
3 no, there isn't.

4 So the document number again, please, Counsel?

5 MR. BINI: 2212.

6 THE COURT: Any objection to 2212?

7 MR. SCHACHTER: No objection subject to --

8 THE COURT: No objection. It's been admitted.

9 (Government Exhibit 2212, was received in evidence.)

10 THE COURT: Next. We're at a trial not a deposition  
11 anymore.

12 Go ahead.

13 MR. BINI: If I can ask to show 2212, the first  
14 page.

15 THE COURT: You may publish it. It's admitted.

16 (The above-referred to exhibit was published in open  
17 court.)

18 Q What is this document, Mr. Pearse?

19 A This is an internal document from Credit Suisse which is  
20 sent to the Credit Risk Management Department to obtain  
21 approval to make a loan. And, in this case, the loan was the  
22 \$372 million loan for Proindicus.

23 Q Is this called a Credit Risk Memo?

24 A Yes, it is.

25 Q And if we can blow up who the members of the Coverage

1 Group are, Ms. DiNardo.

2 You see where it says GFG CEEMEA, Mr. Pearse?

3 A Yes, I do.

4 Q What's that?

5 A Global Finance Group and CEEMEA stands for be Central  
6 Eastern Europe, Mideast, and Africa. That was the  
7 geographical area that I was responsible for with this  
8 business.

9 Q What bankers who were part of the criminal conduct you  
10 described were part of the group on this Credit Risk Memo?

11 A Myself, Surjan Singh, and Detelina Subeva.

12 Q What is the purpose of the Credit Risk Memorandum,  
13 Mr. Pearse?

14 A This is a document that captures all the information that  
15 the bank and the bankers have been able to obtain in relation  
16 to a proposed loan. It is being provided to the Credit Risk  
17 Department who ultimately are the department that have to  
18 approve any loan that is made by a bank.

19 So the purpose of this document is to inform the  
20 Credit Risk Department of all information that we have not  
21 just in relation to the economic terms, but every bit of  
22 information the bank has received about all parties involved  
23 in the transaction.

24 MR. BINI: Your Honor, at this time I would seek to  
25 move Government's Exhibit 3.



1 THE COURT: Any objection?

2 MR. SCHACHTER: No objection, your Honor.

3 THE COURT: It's admitted. You pay publish.

4 (Government Exhibit 3, was received in evidence.)

5 (The above-referred to exhibit was published in open  
6 court.)

7 Q If you can blow up the top of that, Ms. DiNardo.

8 Mr. Pearse, what is Government's Exhibit 3?

9 A This is a Confidential Information Memorandum in relation  
10 to the Proindicus loan for \$372 million.

11 Q What is a Confidential Information Memorandum?

12 A This is a document that a bank sends to potential  
13 investors or other banks who may be looking to sell or  
14 transfer the loan.

15 Q Who prepared this document, if you know?

16 A This was prepared by the Deal Team that were involved in  
17 my group.

18 Q Who would that be?

19 A Surjan Singh, Detelina Subeva, and Dominic Schultens.

20 Q Who is Dominic Schultens?

21 A He was the person who worked for me who was responsible  
22 for selling loans. He was head of Syndication.

23 Q Was this loan syndicated?

24 A Yes, it was.

25 Q How were the interests in the Proindicus loan syndicated

1 and sold to outside investors?

2 A So can you explain the question to me, please.

3 Q How were interests in the Proindicus loan sold to outside  
4 investors?

5 A The process is the bank has a list of clients who are  
6 investors, and the process internally is for those investors  
7 to be identified. The bank would do that using the expertise  
8 it has from within the bank, people that have relationships  
9 with those investors. And a list of potential investors would  
10 be drawn up that the bank expects would at least have an  
11 interest in this type of loan, a loan in Africa to a sovereign  
12 government.

13 From that point onwards, once that list was drawn  
14 up, this document would then be sent by the Syndication Group  
15 that Dominic Schultens through the relevant parties to the  
16 bank that had relationships with the investors to the end  
17 investor.

18 Q Okay. And if we look to the next page, is that a table  
19 of contents, Mr. Pearse?

20 A Yes.

21 Q Does it set out what's in the Confidential Information  
22 Memorandum?

23 A Yes, it does.

24 Q I'm going to ask you about Section 3, so I'm going to ask  
25 Ms. DiNardo to go to Page 40 of the Confidential Information

1 Memorandum.

2 What's the title of this section, Mr. Pearse?

3 A "Project Overview, Project Rationale."

4 Q What is set out here?

5 A It sets out the understanding as to why the project is  
6 going ahead or the basis for why Mozambique would enter into  
7 this project.

8 Q We can go to Page 43. Section titled, "Project  
9 Economics."

10 Do you see this table with "Management Estimates"?

11 A Yes, sir.

12 Q What is set out in this table?

13 A This --

14 THE COURT: It's not legible. Could you make it  
15 legible for the jury, please, so they can follow along.

16 Thank you.

17 A There is a series of tables. The top table sets out the  
18 revenue projections that are expected to be made by  
19 Proindicus. The next section relates to the costs involved in  
20 operating the business, direct and indirect costs, which leads  
21 to the bottom of the tables. There's a line called EBIDTA  
22 which sets out essentially the balance that is left after the  
23 costs are taken off the revenues.

24 THE COURT: What's is EBIDTA? What does it stand  
25 for.

1 THE WITNESS: Earnings Before Interest, Tax,  
2 Depreciation, and Amortization, your Honor.

3 THE COURT: Continue.

4 Q Now, I'm going to ask you to look at a second spreadsheet  
5 on Page 47. We can blow that up so the jury can look at that.

6 Can you describe what is set out in this  
7 spreadsheet, Mr. Pearse?

8 A So the tables here are in the top section, the top three  
9 tables are as I've described. Additionally below the EBIDTA  
10 line, there are a series of lines showing cash flow after debt  
11 service. That number is the number which is left for  
12 Proindicus after paying the documents that are due in respect  
13 to the loan from Credit Suisse.

14 THE COURT: Could you make it a bit more legible,  
15 please.

16 Thank you.

17 MR. BINI: Could you just blow up the part,  
18 Ms. DiNardo, that has "Cash Flow After Debt Service."

19 Q Why don't we start with the first. Does it go year by  
20 year?

21 A Yes.

22 MR. BINI: I think it's going to be easier to see if  
23 we blow it up just the part that says, "Year 1."

24 Go to the top so we can see year one.

25 Q What does it show Proindicus would have after debt

A. Pearse - Direct/Mr. Bini

1 service for year one of the Proindicus loan?

2 A So, by debt service, we mean all amounts that are  
3 required to be paid on the loan by way of interest or  
4 repayment of the loan in that year. And, in this case, in the  
5 first year, the projection was that there would be interest of  
6 14,888,000 leaving a balance for Proindicus, like, money in  
7 for Proindicus after payment of interest of \$37,858,851.

8 Q So, in year one, Proindicus would be able to pay  
9 \$14 million towards the Proindicus loan?

10 A Almost 15 million.

11 Q And how much would it have left from its revenues?

12 A Almost 38 million.

13 Q What about in year two? What was projected in this  
14 Confidential Information Memorandum?

15 A In year two, it was expected that if Proindicus would  
16 have to pay the same amount of interest but would have to  
17 start repaying the loan and the amount that they would have to  
18 start repaying in year two was \$37,200,000.

19 Q Mr. Pearse, did Proindicus make the revenues that are set  
20 out in this memorandum?

21 A No, it didn't.

22 Q Did it make any revenues?

23 A I am not aware of it making any revenues.

24 Q Mr. Pearse, does this document summarize the specifics of  
25 the Proindicus loan to potential investors?

1 A Yes. This is the document that was sent by Credit Suisse  
2 to potential investors in order for those investors to make  
3 the decision whether to purchase part of the Proindicus loan.

4 Q Does the Confidential Information Memorandum set out  
5 anywhere the defendant was going to pay you \$5.5 million to  
6 reduce the subvention fee?

7 A I'm not aware of that statement in this document.

8 Q Okay.

9 MR. BINI: Your Honor, at this time, I would seek to  
10 move in Government's Exhibit 4.

11 THE COURT: Any objection to four?

12 MR. SCHACHTER: No objection, your Honor.

13 THE COURT: It's admitted. You pay publish.

14 (Government Exhibit 4, was received in evidence.)

15 (The above-referred to exhibit was published in open  
16 court.)

17 Q What is Government's Exhibit 4?

18 A That is the front page of the loan agreement for  
19 \$372 million between Credit Suisse and Proindicus dated  
20 28th of February 2013.

21 Q How much longer after your kickback agreement with the  
22 defendant did this loan get signed?

23 A Approximately two days.

24 Q Who were the parties to the loan agreement?

25 A Proindicus, S.A. as borrower; Credit Suisse International

1 as arranger; Credit Suisse AG London Branch as facility agent;  
2 and the institution is listed in Schedule 1.

3 Q Under the loan agreement for Proindicus, did Credit  
4 Suisse receive fees?

5 A Yes.

6 Q In what range?

7 A It received an arranger fee of, as I recall, 1.6 percent.

8 Q Mr. Pearse, are you aware if there's any provisions in  
9 the loan agreement that set out that fees could be secretly  
10 paid to you?

11 A No, it doesn't include that.

12 Q Okay. If we go to the end of the loan agreement to  
13 Page 96. Who signed the loan agreement for Proindicus?

14 A Eugenio Henrique Matlaba and Antonio Carlos do Rosario.

15 Q Who is Mr. Matlaba, if you know?

16 A He was a member of the board of Proindicus.

17 Q Who signed on behalf of Credit Suisse if we look to the  
18 next page.

19 A It's signed by Surjan Singh.

20 Q At this time, who was Surjan Singh's supervisor?

21 A He reported directly to me.

22 Q Did you have any suggestion with him regarding the  
23 signature of this document?

24 A Yes, I was aware that he was going to sign the document.

25 THE COURT: He being?

1 THE WITNESS: Surjan Singh, your Honor.

2 THE COURT: Go ahead.

3 Q What, if anything, did Surjan Singh's memo about your  
4 involvement in the subvention fee kickback?

5 A He was aware that I had agreed to reduce the subvention  
6 fee. I don't know at this point in time he was aware of the  
7 exact agreement to share the subvention fee.

8 Q At some point in time, did you inform him?

9 A Yes, I did.

10 Q If we can go to Page 16 of the loan agreement?

11 THE COURT: Page 1-6?

12 MR. BINI: Your Honor.

13 Q I'm going to ask you about Clause 3.1. What does it  
14 indicate is the purpose of this loan?

15 A If I may read it, sir.

16 Q Yes, Mr. Pearse?

17 A It says, "The borrower shall apply all amounts borrowed  
18 by it under the facility towards the financing of the project  
19 (including any fees, costs and expenses, stamp, registration,  
20 or other taxes incurred by any obligor in connection with the  
21 finance documents).

22 Q If we can look back to Page 11. Is there a definition  
23 for project?

24 MR. BINI: Could you blow that up, Ms. DiNardo?

25 A Yes.



1 Q Can you explain what the definition is?

2 A The project was defined as "The construction by the  
3 contractor of the Exclusive Economic Zone monitoring and  
4 protection system, as detailed in the construction contract."

5 Q Can we go back to Page 4?

6 Is there at the bottom of Page 4, a definition of  
7 construction contract?

8 A Yes, there is.

9 Q If you could read that, and then on Page 5 contractor.

10 Can you tell the jury what's the construction --  
11 first, what's the construction contract?

12 A Construction contract is defined as the main contract  
13 dated on or about the date of this agreement made between the  
14 borrower and the contractor.

15 Q And on Page 5, how is contractor defined?

16 A Contractor is defined as Privinvest Shipbuilding, SAL  
17 Holdings Abu Dhabi branch.

18 Q Now, I'd like to ask you to look at Clause 17 on Page 32.

19 Do you see the section, "Representations,  
20 undertakings, and events of default"?

21 A Yes, I do.

22 Q What's a representation?

23 A A representation is a statement that is made by, in this  
24 case, the borrower to the bank which is the basis upon which  
25 the bank agrees to make the loan.

1 Q What's an undertaking?

2 A An undertaking is a promise from one party to another, in  
3 this case, the borrower to the bank to do certain things or  
4 not to do certain things.

5 Q Now, if I can ask you to look to a specific clause in  
6 this Section 17.17 on Page 36.

7 What is, "The borrower indicate"?

8 A The borrower is making a statement that it has not  
9 breached any anti-corruption laws or any other laws to which  
10 it may be subject where failure so to comply would materially  
11 impair its ability to perform its obligations under the  
12 transaction documents to which it is a party.

13 Q Okay. And now, if we can go back to Page 1, is there a  
14 definition for anti-corruption act or anti-corruption laws,  
15 excuse me.

16 A Yes, there is.

17 Q How is it defined?

18 A It refers to another definition. It refers to the  
19 definition of "corrupt act" to define it.

20 Q Let's go to Page 5 and look at "corrupt act."

21 MR. BINI: And if you can blow up, Ms. DiNardo, this  
22 Corrupt Act, section through A, it's pretty dense.

23 Q What is a "corrupt act" defined as?

24 A A corrupt act means in connection with the project, any  
25 act or omission which would, in the ordinary course of

1 business, be understood to be corrupt, wrongful, dishonest or  
2 criminal in nature, including:

3 The offering of any payment, reward or other  
4 advantage to any person, including employees of the borrower  
5 or any other person, in order to improperly influence the  
6 person concerned in the exercise of his or her duties.

7 Q What did you understand this provision to require?

8 A This required the borrower not to make kickbacks or  
9 unlawful payments or bribes.

10 Q Is there a Section E? If you could read what this  
11 section of "corrupt act" precludes?

12 A Any other violation of any anti-bribery or  
13 anti-corruption laws or regulations including, without  
14 limitation, the U.S. Foreign Corrupt Practices Act, the UK  
15 Bribery Act, the Mozambican Anti-Corruption Legislation, and  
16 any implementing legislation enacted pursuant to the OECD  
17 Convention Combating Bribery of Foreign Public Officials in  
18 International Business Transactions, in each case as amended  
19 from time to time and regardless of whether or not they are  
20 technically applicable to, or binding on the borrower or any  
21 other relevant person.

22 Q What did you understand this to prohibit?

23 A Bribery.

24 Q Now, I'll ask you to go to Page 41. Is there a section  
25 called, "General Undertakings"?

1 A Yes.

2 Q What are "general undertakings"?

3 A These are promises that are made by the relevant party,  
4 in this case, the borrower to the bank and what promises to do  
5 or not do certain things which are listed in the undertakings.

6 Q Are these forward looking?

7 A Yes.

8 Q Okay. Looking to 19.2, Compliance with Laws. Does this  
9 look pretty similar to what we just read in Clause 17?

10 A Yes. This is designed to cover the same thing that we  
11 discussed in Clause 17. The reason it's the same is it  
12 applies for the entire life of the loan. It's a forward  
13 looking statement as opposed to a representation which is a  
14 statement of fact as at the time it's made.

15 Q Mr. Pearse, based upon your experience at Credit Suisse,  
16 would Credit Suisse have ever agreed to the syndicated loan if  
17 they had known you were receiving kickbacks at the time this  
18 loan was signed?

19 A They never would have agreed to make the loan, no.

20 THE COURT: And I would never have credibility with  
21 my jury if we did not now break for lunch.

22 It's 1:00 o'clock. Ladies and gentlemen of the  
23 jury, please do not talk about the case yet. Enjoy your  
24 lunch.

25 It's a little after 1:00 o'clock, so why don't we

1 resume at 2:15. Does that work? An hour and 15 minutes for  
2 lunch? Okay.

3 We'll see you then. Thank you very much.

4 (Jury exits courtroom.)

5 THE COURT: You may step down, Mr. Pearse.

6 (Witness leaves the witness stand.)

7 THE COURT: The jury has left courtroom. You may be  
8 seated, ladies and gentlemen.

9 Do we have any procedural issues to address outside  
10 the presence of the jury before we take other lunch break?

11 MR. BINI: Not from the Government.

12 THE COURT: From the defense?

13 MR. JACKSON: No, your Honor.

14 THE COURT: Thank you. Enjoy your lunch. We'll see  
15 you at 2:15.

16 MR. MEHTA: Thank you, your Honor.

17 THE COURT: I'm sorry.

18 MR. MEHTA: I said, "Thank you, your Honor."

19 THE COURT: You're welcome.

20 (Defendant exits from courtroom.)

21 (Luncheon recess taken.)

22 (Continued on the next page.)

23

24

25

1 A F T E R N O O N S E S S I O N

2 (2:30 p.m.)

3 THE COURTROOM DEPUTY: All rise.

4 THE COURT: Yes, we have appearances already. All  
5 counsel are present and the defendant is being produced again  
6 and we'll have a preliminary -- you may be seated. I'm sorry,  
7 ladies and gentlemen.

8 Before we bring the jury in and before we bring the  
9 witness out to the floor, we have a procedural matter to deal  
10 with. I'm going to ask my law clerks to give you a document  
11 that is under seal. I'm going to ask counsel to review it and  
12 to discuss it with their respective clients and to advise the  
13 Court as to how you suggest the Court respond to what is  
14 Court 4 under seal.

15 (Court Exhibit 4, was received in evidence.)

16 THE COURT: And counsel should feel free to confer  
17 with each other like you did the other day if you want to come  
18 to a collective response.

19 (Pause in proceedings.)

20 THE COURT: White noise.

21 (Pause in proceedings.)

22 THE COURT: Counsel, have you had an opportunity to  
23 review the document in question, Court 4 under seal, and  
24 discuss it with your respective clients?

25 MR. BINI: We have, Your Honor.

1 MR. JACKSON: Yes, Your Honor.

2 THE COURT: All right. I'll hear first from the  
3 government and then from defense counsel. Do you have a  
4 suggested response for the Court?

5 MR. BINI: Yes, Your Honor. The government would  
6 ask if Your Honor would have a colloquy with the juror to ask  
7 him whether he can change his trip.

8 THE COURT: All right. What is the -- does that  
9 complete your observation or your request?

10 MR. BINI: Yes.

11 THE COURT: Yes. All right. What is the view of  
12 defense counsel with respect to that?

13 MR. JACKSON: Your Honor, we largely agree.

14 THE COURT: Tell me about the part you don't agree  
15 with.

16 MR. JACKSON: No, I just meant I would add to that,  
17 you know, we really feel like we absolutely can't miss that  
18 week. So we would join in the request that Your Honor have a  
19 colloquy.

20 THE COURT: All right. What I would suggest then if  
21 you both want colloquy, I will have a colloquy -- we're at  
22 Thursday now, so I will send a note that indicates I will have  
23 the colloquy tomorrow at the end of the trial day to address  
24 the issue.

25 Now, the question is: Do you want to do that

1 appropriately in open court? Do you want to do that at  
2 sidebar? Do you want me to do it on the record? Think about  
3 how you want me to do it. You don't have to decide that right  
4 now, and I'm open to whatever the parties agree to.

5 There are a number of ways to do this. The best way  
6 is for you folks to put your heads together and advise the  
7 Court as to how you would like me to do it. I'm just  
8 suggesting the time, at the close of the proceedings, at the  
9 end of the tomorrow, that's Friday, which seemed to be a  
10 logical time to have the colloquy. It doesn't eat into the  
11 court time.

12 Is that acceptable?

13 MR. BINI: Yes, Your Honor.

14 THE COURT: Is that acceptable?

15 MR. JACKSON: Yes, Your Honor.

16 THE COURT: All right. So we'll do it that way.

17 All right. Any other issues that we need to address  
18 procedurally before the jury comes back?

19 MR. BINI: Not from the government.

20 MR. JACKSON: No, Your Honor.

21 THE COURT: Okay. Thank you.

22 You can get the witness back in. Thank you.

23 And, Mr. Jackson, will you tell the CSO to bring the  
24 jury back. Thanks.

25 (Jury enters courtroom.)



1 THE COURT: Welcome back, ladies and gentlemen of  
2 the jury. Thank you again so much. I hope you had a nice  
3 lunch. Please be seated. Those of you in the audience please  
4 be seated as well.

5 Mr. Pearse, please resume the witness stand. I will  
6 ask you, as I said I would, have you spoken with anyone about  
7 your testimony during the break?

8 THE WITNESS: No, sir.

9 THE COURT: Thank you. Please be seated.

10 You may continue to inquire, counsel.

11 MR. BINI: Thank you, Your Honor.

12 Direct Examination(Continued)

13 BY MR. BINI:

14 Q Mr. Pearse, you testified earlier today about your  
15 conversations with the defendant regarding the reduction of  
16 this subvention fee from 49 million to \$38 million.

17 Why did you raise the subvention fee to the  
18 defendant at all?

19 A At that point in time, I was trying to leave Credit  
20 Suisse. I resigned at the end of 2012 but had agreed to stay  
21 on. But I wanted to create a change, and I had spoken to the  
22 defendant about setting up a company together to replicate the  
23 business model that we had with Proindicus to replicate that  
24 type of project. I thought it was a good project.

25 And so in order to ingratiate myself to the

1 defendant and to his boss, I identified the opportunity to  
2 reduce the fee that was to be by Credit Suisse from 49 million  
3 to ultimately \$38 million.

4 Q What do you mean by ingratiate yourself?

5 THE COURT: I'm going to ask you, sir, again you  
6 pull the microphone to you and keep your voice up so we can  
7 hear more clearly. Thanks.

8 Go ahead.

9 A I wanted to work with them. I wanted to establish a  
10 business with them. So I wanted to do them a favor,  
11 ingratiate, help them out by identifying that, actually, they  
12 could save money by paying less to Credit Suisse as a fee.

13 So does that answer your question, sir?

14 Q Were you hoping that that would help you in your  
15 relationship with the defendant?

16 A Yes. At this point it was a fairly on -- fairly on in  
17 the relationship I had with them. I had met Mr. Boustani for  
18 the first time in September of the preceding year. Whilst  
19 this project was going well and it looked like it would be  
20 successful, I wanted to, you know, show good favor to them,  
21 curry favor, if you like, by identifying an opportunity for  
22 them to save money.

23 Q You testified yesterday regarding having a romantic  
24 relationship with Ms. Subeva. Did your relationship with  
25 Ms. Subeva have any involvement in your desire to leave Credit

1 Suisse?

2 A Yes, it did.

3 Q Why?

4 A At that time, we -- Ms. Subeva and I had a very deep  
5 romantic relationship and we were both married at the time and  
6 it was difficult to see each other, other than when we  
7 traveled. And so the opportunity to establish Palomar, which  
8 would have -- which necessitate -- which required us to travel  
9 extensively, helped us to see each other more often and  
10 allowed that relationship to continue unobserved.

11 Because also at Credit Suisse it was a breach of  
12 regulation to have a relationship with a subordinate unless  
13 you reported that; I hadn't done that, and it was increasingly  
14 obvious to people in Credit Suisse that that relationship  
15 existed.

16 So, sorry, the long-winded way of saying I wanted  
17 that relationship to continue. I wanted to leave Credit  
18 Suisse. I wanted to be with Ms. Subeva at the time, and this  
19 was part of the motivation for leaving Credit Suisse and  
20 establishing Palomar.

21 MR. BINI: Okay. If we can go back to Government's  
22 Exhibit 4. Let me show that to the jury, the loan agreement.  
23 I'd like to ask you now about page 50, Clause 21.

24 Q Do you see how this section is called, "Section 8,  
25 Changes to the parties," Mr. Pearse?

1 A Yes, I do.

2 Q Who is the original lender for the Proindicus loan?

3 A Credit Suisse.

4 Q Were they invested in the loan?

5 A Yes.

6 Q What does Section 21 permit with respect to the  
7 Proindicus loan?

8 A Section 21 permits the lender, in this case Credit  
9 Suisse, to transfer parts of the loan to third parties.

10 Q Can you explain to the jury how this clause permits that?

11 A It's an explicit agreement by the borrower to allow  
12 the -- any lender, including at this point the only lender was  
13 Credit Suisse, to transfer its rights and its obligations to  
14 any other financial institution or any other entity which  
15 generally invests in loans or these types of financial assets.

16 Does that answer your question, sir?

17 Q Yes, Mr. Pearse.

18 MR. BINI: If I may now ask you to look to page 66  
19 and the clause that's titled, "Payment mechanics." Can you  
20 blow up the top part of it, Ms. DiNardo?

21 Q What is the payment -- well, let me ask you a question.  
22 Let me strike that and ask you this: Is the loan agreement we  
23 are looking at a standard form of loan agreement?

24 A Yes. It is based very heavily on a standard form which  
25 is written by the Loan Market Association in the United

1 Kingdom.

2 Q Are many of these clauses standard clauses in loan  
3 agreements under the LMA, the Loan Market Association?

4 A Yes, they are.

5 Q Is payment mechanics typically one of the clauses in a  
6 loan agreement?

7 A Yes.

8 Q Can you explain what a facility agent is? Do you see  
9 there it says payments to a facility agent?

10 A Yes, I do.

11 Q What is a facility agent?

12 A So when you have a syndicated loan, a loan that can have  
13 multiple, multiple lenders, a facility agent is the party that  
14 receives all payments and makes all payments in -- on behalf  
15 of the lenders. So it's a point of contact, if you like, for  
16 the borrower. Rather than having to deal with all the lenders  
17 who could make up the syndicate, you have a facility agent who  
18 acts on behalf of them.

19 Q Okay. And does 26.1(b) set out where payment should be  
20 made?

21 A Yes, it does.

22 Q Can you read what 26.1(b) states?

23 A "Payment shall be made to such account in New York as the  
24 facility agent specifies by not less than 10 business days  
25 notice being initially the following account. It then

1 provides details of the Credit Suisse AG bank accounts and the  
2 Bank of New York in New York City.

3 Q What's the account bank address?

4 A One Wall Street, New York, NY 10015, U.S.A.

5 Q What does this mean?

6 A Sorry. What does what mean?

7 Q What does this specification of the Bank of New York --  
8 what does it relate to the payment mechanics?

9 A Oh, excuse me. I apologize. This is where the borrower  
10 is required to pay amounts that are due under the loan  
11 agreement to the project lenders.

12 Q What is the payment details -- let me stop and ask you  
13 first: What is CHIPS? Do you know what that is?

14 A I'm afraid I don't, sir.

15 Q Okay. Do you understand what the payment details sets  
16 out?

17 A Yes. So when making payments to this account at Credit  
18 Suisse, it's important to add a reference or a note -- a  
19 notification on the payment so that a Credit Suisse facility  
20 agent would realize the payment was being made in respect of  
21 the Mozambique loan.

22 Q Thank you.

23 MR. BINI: Your Honor, at this point I would like to  
24 admit Government's Exhibit 5.

25 THE COURT: Any objection to 5?

1 MR. SCHACHTER: No objection, Your Honor.

2 THE COURT: You may publish it to the jury. It's  
3 admitted.

4 MR. BINI: Thank you, Your Honor.

5 (Government Exhibit 5, was received in evidence.)

6 (Exhibit published.)

7 BY MR. BINI:

8 Q Mr. Pearse, what is Government's Exhibit 5?

9 A This is the front page of the government guaranty entered  
10 into between the Republic of Mozambique, acting through the  
11 Ministry of Finance, and Credit Suisse, international  
12 arranger, and Credit Suisse, London branch, as the facility  
13 agent. It is dated the 28th of February 2013.

14 Q If we look to page 20 -- there is two pages 20 at the  
15 back. If I can ask you who signed on behalf of the Republic  
16 of Mozambique?

17 A Sorry. It's unsigned. You have a different page.

18 Q There's two copies of a page.

19 A Apologies. It's signed by Manuel Chang, the minister of  
20 finance at that time.

21 Q Now I'm going to ask you to go to that second page 20.  
22 Who signed on behalf of Credit Suisse?

23 A It is signed by Surjan Singh and Tim Malton.

24 Q In your experience, is the government guaranty important  
25 to Credit Suisse in providing a loan like this?

1 A Without the guaranty, Credit Suisse would not have made  
2 the loan.

3 Q Why is that, in your experience, Mr. Pearse?

4 A The bank was not prepared to write -- to give a loan for  
5 a project of this type without a guaranty from the government.  
6 The only risk that the bank was prepared to take was  
7 government of Mozambique risk.

8 Q If I can ask you to go to page 9 of the guaranty. I'll  
9 ask you about the section titled, "5.4, IMF and the World  
10 Bank." Can you read Section 5.4.2?

11 A "The guarantor is in compliance in all respects with its  
12 obligations to the IMF and the World Bank."

13 Q Does this relate to any of the emails that we reviewed  
14 before lunch?

15 A Yes, it does.

16 Q Can you explain?

17 A This was the wording that was agreed between myself and  
18 Manuel Chang, the minister of finance, in the meeting on or  
19 about the 25th of February 2013 as being a compromise.  
20 Because Manuel Chang refused to include a provision in the  
21 guaranty confirming that Mozambique would notify the IMF. So  
22 these words were ones that replaced that language and were  
23 ultimately signed in the guaranty.

24 MR. BINI: Ms. DiNardo, if I can ask you to put side  
25 by side Government's Exhibit 4 and Government's Exhibit 5.



1 Q Mr. Pearse, were the loan agreement and the government  
2 guaranty sent to potential investors in Proindicus?

3 A Yes.

4 Q By whom?

5 A By Credit Suisse.

6 Q Who on your desk would be responsible for doing that?

7 A Dominic Schultens.

8 Q Why would --

9 THE COURT REPORTER: Sorry. Say it again?

10 THE WITNESS: Dominic Schultens. Would you like me  
11 to spell it?

12 THE COURT REPORTER: Yes.

13 THE WITNESS: S-C-H-U-L-T-E-N-S.

14 THE COURT REPORTER: Thank you.

15 BY MR. BINI:

16 Q Mr. Pearse, why would Dominic Schultens send a loan  
17 agreement and the government guaranty to potential investors?

18 A Because those investors were purchasing a piece of this  
19 loan. So they -- and the loan was guaranteed under the terms  
20 of the government guaranty document. So those investors would  
21 need to understand what was in those documents in order to  
22 decide whether to invest and also to comply with the terms.  
23 Because by investing in a loan, you become a party to these  
24 documents.

25 Q You become part of the loan agreement?

1 A Yes, that's right.

2 MR. BINI: I'd like to ask you to look at  
3 Government's Exhibit 2206 and the attachment to it, 2207. If  
4 we could side by side those two documents, Ms. DiNardo.

5 Q Looking at 2206, first, who is this email from?

6 A This from Jean Boustani.

7 Q To whom?

8 A Detelina Subeva and myself.

9 Q What's the date?

10 A Twenty-eighth of February, 2013.

11 Q Did it attach 2207?

12 A Yes.

13 MR. BINI: If we can just show now 2207 so we can  
14 see that better, Ms. DiNardo.

15 Q What is 2207?

16 A This is a copy of the invoice issued by Privinvest  
17 Shipbuilding SAL to Proindicus for \$366 million.

18 Q Is this a one-page document?

19 A Yes, I believe it is.

20 Q How much was Privinvest receiving?

21 A \$366 million.

22 Q Following the --

23 MR. BINI: You can take that down.

24 Q Following the close of the Proindicus loan, what meeting,  
25 if any, did you have with the defendant and Iskandar Safa?

1 A The Proindicus loan closed, by which I mean funds were  
2 provided from the bank on the 22nd of March 2013.

3 Subsequent to that, at the end of March, I had a  
4 meeting at the estates of Iskandar Safa in the south of France  
5 where the terms of my kickback were agreed with Iskandar Safa  
6 and Jean Boustani, and it was agreed that I would be paid a  
7 fee for any further loans made by Credit Suisse in relation to  
8 any Privinvest project.

9 Q What conversation, if any, did you have with the  
10 defendant, Iskandar Safa, regarding how you would describe why  
11 you were being paid?

12 A It was necessary to agree to the terms under which I was  
13 receiving a kickback. It was not possible to describe it as a  
14 kickback for obvious reasons, I believe. It was the  
15 suggestion of Iskandar Safa to describe the payments that I  
16 was to receive from Privinvest as payments under a consultancy  
17 agreement under which I would provide consulting services to  
18 Privinvest and to help them gain access to markets in Russia  
19 and Azerbaijan.

20 Q Was that true?

21 A No, it wasn't true.

22 Q Were you doing any consulting work in Russian and  
23 Azerbaijan?

24 A No. I -- I had significant experience in those countries  
25 from having worked at Credit Suisse, but I at no point did any

1 consultancy work for Privinvest in those countries.

2 Q Now I'd like to ask you about Government's Exhibit 2237.

3 What's the date of this email?

4 A This is dated 12th of March 2013.

5 Q Who is it from? Who is it to?

6 A It's from myself to Dominic Schultens, Surjan Singh, and  
7 Detelina Subeva.

8 Q What are you setting out in this email?

9 A I'm setting out the key elements, key assets, key things  
10 that were supplied from the Proindicus loan -- I'm sorry --  
11 under the Proindicus procurement contract. So shore radar,  
12 shore base, shore vessels were the key elements that were  
13 being provided, and next to that I was indicating the value of  
14 each of those elements in the context of the total loan.

15 Q I'm going to ask you about this portion where you say,  
16 "Please put into" -- you see the bottom, P-L-S-E --

17 MR. BINI: Can you blow that out, Ms. DiNardo? No,  
18 I'm sorry. A little bit -- not the bloody CS system, but...

19 Q Can you read that to the jury?

20 A Yes. "Please put into a spreadsheet and make sure it  
21 sums to 366 million. If you can get away with aggregating  
22 some of the above, please do in round the numbers."

23 Q What did you mean if you can get away with aggregating  
24 some of the above?

25 A So this email was written by me in response to a request

1 from Dominic Schultens who had -- had that request from  
2 potential investors to identify how much each of the elements  
3 of the project were costing and to break down the project into  
4 its constituent elements to allocate a price per item that was  
5 being supplied. There was a reluctance on the part of  
6 Privinvest to do that. I was aware of that.

7 Q How were you aware of that?

8 A The defendant told me.

9 Q What did the defendant tell you was the reason why he  
10 didn't want to reveal the numbers of what things cost?

11 A He told me he -- he firmly disagreed with the principle  
12 because it was a turnkey project and there was no reason why  
13 anyone should need to know what the individual items cost  
14 because it was a matter of -- it was a commercial secret for  
15 Privinvest. That's my recollection.

16 Q Was that something he said to you on multiple occasions?

17 A Yes. Throughout knowing the defendant and for each of  
18 the different loans that were entered into, the request to  
19 break down or individualize the items that were being supplied  
20 or the cost of the items being supplied was a -- was a theme.  
21 It came up on a number of occasions, and each time the  
22 defendant would violently object to providing that  
23 information.

24 Q Mr. Pearse --

25 MR. BINI: You can take that down, Ms. DiNardo.

1 Q -- we've been looking at a number of emails from you  
2 relating to the Proindicus transaction. What email address  
3 were they from?

4 A My email, sir?

5 Q Yes.

6 A In some cases my email at Credit Suisse and then in some  
7 cases my Hotmail.

8 Q Well, let's look at one from your Hotmail. We can look  
9 at Government's Exhibit 2256. I want to start with the email  
10 from the defendant, Jean Boustani, to you, March 21st, 2013,  
11 at 5:05.

12 What did the defendant write to you?

13 A He writes, "Lina's residency visa. The original is with  
14 us. It is very important for my people to be informed before  
15 Lina arrives, preferably to Abu Dhabi, so we put the original  
16 at the airport. She will need an hour to complete  
17 procedures."

18 Q Why were you using your personal email? Was this related  
19 to Proindicus?

20 A This email is related to the application for Ms. Subeva's  
21 residency in UAE, which was a bi-product of her and my  
22 involvement in Proindicus, yes.

23 Q Were you allowed to use your personal email in connection  
24 with Credit Suisse business?

25 A No. It was expressly forbidden to use personal email or

1 to send emails from Credit Suisse email to your own email  
2 address.

3 Q Why were you using your Hotmail?

4 A In this instance, to hide from Credit Suisse my  
5 involvement in -- in the scheme, in this case involved in  
6 Detelina applying for a residency in the UAE.

7 Q Okay. And if we can look -- was the defendant aware of  
8 that?

9 A Yes. Yes, he was.

10 Q How was he aware?

11 A I discussed it with him.

12 Q If we can look at Government's Exhibit 2256A, I'll ask  
13 you: What's that?

14 A This is an entry permit for Ms. Subeva to enter the UAE  
15 as an employee of Logistics International.

16 Q What does it indicate Ms. Subeva's position was?

17 A Financial analyst.

18 Q If we go down further, does it indicate a sponsor name?

19 A Yes, it does, Logistics International SAL Offshore, Abu  
20 Dhabi.

21 Q Where was Ms. Subeva working at this point?

22 A Credit Suisse.

23 Q Do you know who obtained this document for her?

24 A It was obtained by -- it was sent to me by the defendant,  
25 and it was obtained by Privinvest personnel in Abu Dhabi as

1 far as I'm aware.

2 Q Was the information on this true?

3 A No. She was not a financial analyst. She was working at  
4 Credit Suisse.

5 Q Now I'm going to ask you to -- I'm sorry. I should ask  
6 you, Mr. Pearse, we've spoken a great deal about Privinvest.  
7 We've spoken about Abu Dhabi Mar. What's Logistics?

8 A Logistics International is a subsidiary of Privinvest.  
9 It's based in, as far as I'm aware, in Abu Dhabi.

10 Q Okay. If we can look to Government's Exhibit 2262. Is  
11 this on your work email?

12 A Yes, it is.

13 Q What's the date?

14 A Twenty-eighth of March 2013.

15 Q Is this email from you?

16 A Yes.

17 Q Who did you write to?

18 A Surjan Singh, Detelina Subeva, Yasir Muhammad Sheik, Tim  
19 Malton, and Dominic Schultens.

20 Q Can you read first two sentences to the jury and I have a  
21 question?

22 A "Moz have asked whether we can upsize the trade by 200 to  
23 250 million. They believe the project will support it and  
24 they have further equipment, (more boats) they intend to buy.  
25 Can we do this and in a way that doesn't destroy the mark on



1 the existing trade?"

2 Q Mr. Pearse, what were you outlining in those first two  
3 sentences?

4 A I was bringing to the attention of the people that were  
5 Credit Suisse employees who were being written to the  
6 opportunity to increase the Proindicus loan from \$372 million  
7 by further 200 to \$250 million.

8 Q Why did you raise that?

9 A In the hope that more money could be raised for the  
10 project. At the time that the first transaction was done,  
11 Credit Suisse had never done a transaction in Mozambique  
12 before. There was no certainty as to how much money could be  
13 raised and also what the investor appetite would be.

14 Q What's investor appetite?

15 A How much the investors -- how much money investors would  
16 want to invest in Mozambique as a country in these types of  
17 loans. As Credit Suisse went through process of underwriting  
18 and making the first loan, the bank gained more and more  
19 knowledge about the appetite, the ability for investors to  
20 invest in loans of this type.

21 And as a result of that, it was clear that the  
22 investor community was larger than had been thought when the  
23 first Proindicus loan had first been -- first had been  
24 proposed, first came to our attention.

25 Q Who asked you for this upside of 200 to \$250 million in

1 the loan?

2 A The defendant.

3 Q Were you interested in doing it?

4 A Very, yes.

5 Q Why?

6 A Two reasons: One, I stood to gain personally from any  
7 amount that the loan was increased by. I had an agreement by  
8 this stage with Iskandar Safa and the defendant to be paid a  
9 fee in relation to any increases.

10 And, secondly, the bank made a lot of money from  
11 these transactions, so it was good for -- it was good for  
12 Credit Suisse.

13 Q How much were you to receive from this upsize?

14 A The agreement I had with Iskandar Safa and Jean Boustani  
15 was to receive 2.5 percent of any amounts increased over the  
16 \$372 million originally loaned.

17 Q What's two and a half percent of \$250 million?

18 A Just over \$6 million.

19 Q Did there come a time that you opened a bank account in  
20 order to receive the funds that the defendant and Prinvest  
21 were secretly paying you?

22 A Yes, I did.

23 MR. BINI: We can look to Government's Exhibit --  
24 actually, at this time I will move Government's Exhibit 1841,  
25 Your Honor.

1 THE COURT: Any objection?

2 MR. SCHACHTER: May I just have a moment, Your  
3 Honor?

4 THE COURT: 1841. Any objection?

5 MR. SCHACHTER: No objection, Your Honor.

6 THE COURT: It's admitted. You may publish.

7 (Government Exhibit 1841, was received in evidence.)

8 (Exhibit published.)

9 Q Mr. Pearse, what is Government's Exhibit 1841?

10 A It is one page of an account opening form at Abu Dhabi  
11 Commercial Banks.

12 Q If we can -- I'll ask you to go to the page that has the  
13 Bates stamp ending in 77, and I'll ask you: What is shown on  
14 this page?

15 A This is an extract from my passport in which there is a  
16 United Arab Emirates residency permit.

17 Q How did you obtain this residency permit?

18 A I obtained this at the suggestion of the defendant and  
19 with the help of the defendant and other employees of  
20 Privinvest.

21 Q When approximately did you obtain it?

22 A In March of 2013.

23 Q Who is the sponsor indicated?

24 A Logistics International SAL Offshore, Abu Dhabi.

25 Q What did it indicate your profession was?

1 A I was a tube welder.

2 Q Who put down on this form that you were a tube welder?

3 A On the bank form, sir?

4 Q Starting with the residency permit.

5 A The residency I do not know. On the bank form I wrote  
6 that.

7 Q Did you ask anyone why you were indicated as a tube  
8 welder on your residency permit?

9 A Yes, I did.

10 Q Who did you ask?

11 A I asked Najib Allam.

12 Q What did he tell you?

13 A He told me it was because it needed to be a profession  
14 which was consistent with the other residency permits they had  
15 applied for in the past, and the majority of those had related  
16 to their activities as a shipbuilder in Abu Dhabi. So my  
17 profession was required to be something that could be done in  
18 the context of building ships.

19 (Continued on the next page.)

20

21

22

23

24

25

1 EXAMINATION BY

2 MR. BINI:

3 (Continuing.)

4 Q At this point, were you actually a managing director at  
5 Credit Suisse making several million dollars a year?

6 A Yes, I was.

7 Q Do you have any background in tube welding?

8 A No, not at all.

9 Q Did you have to set up a medical appointment in  
10 connection with your residency visa?

11 A Yes.

12 Q Could you please describe that to the jury?

13 A We've all -- may I start again?

14 THE COURT: Yes, of course.

15 A I was in Abu Dhabi and I was taken by a representative  
16 from Privinvest to a private medical facility where I had  
17 blood taken and various tests done -- thoracic x-ray -- in  
18 order to comply with UAE laws for receiving a residency  
19 permit.

20 MR. BINI: Ms. DiNardo, if I can ask you to advance  
21 to the page ending in 84.

22 Q Is this another part of your bank account opening  
23 documents?

24 A Yes, it is.

25 Q Did you fill out this information or did someone else?

1 A Someone else filled it out, but I was present.

2 Q Who was that other person?

3 A Pauline Camel.

4 Q Who is Pauline Camel?

5 A She was an employee of Abu Dhabi Commercial Bank who is  
6 responsible for relationships with customers.

7 Q Who, if anyone, put you in contact with Pauline Camel at  
8 Abu Dhabi Commercial Bank?

9 A The defendant.

10 Q And does this list your employer?

11 A Yes, it does.

12 Q And who is your employer listed here as?

13 A Logistics International, SAL (Offshore) Abu Dhabi.

14 Q Does it list your position?

15 A Yes, a tube welder.

16 Q How long did it indicate you were a tube welder?

17 A One year.

18 Q What did you indicate your salary was?

19 A 1 million dirham per year.

20 Q What is dirham?

21 A It is the local currency of the United Arab Emirates.

22 Q What would that approximately be in the United States?

23 A About \$250,000.

24 Q Any of this information true?

25 A Not one word of it is true.

## A. Pearse - Direct/Mr. Bini

1 MR. BINI: Your Honor, at this time, I would seek to  
2 admit Government's Exhibits 1818.

3 THE COURT: Any objection to Exhibit 1818?

4 MR. SCHACHTER: No objection, your Honor, your  
5 Honor.

6 THE COURT: Admitted. You may publish.

7 (Government Exhibit 1818, was received in evidence.)

8 MR. BINI: May I also move in 1819?

9 THE COURT: Any objection?

10 MR. SCHACHTER: No, your Honor.

11 THE COURT: 1819 is admitted.

12 (Government Exhibit 1819, was received in evidence.)

13 MR. BINI: 1820.

14 THE COURT: Any objection?

15 MR. SCHACHTER: None.

16 THE COURT: 1820 is admitted.

17 (Government Exhibit 1820, was received in evidence.)

18 MR. BINI: And 1821.

19 THE COURT: Any objection?

20 MR. SCHACHTER: No, your Honor.

21 THE COURT: 1821 is admitted. You may publish.

22 (Government Exhibit 1821, was received in evidence.)

23 (The above-referred to exhibit was published in open  
24 court.)

25 MR. BINI: Thank you, your Honor.

1 EXAMINATION BY

2 MR. BINI:

3 (Continuing.)

4 Q What is 1818, Mr. Pearse?

5 A This is a copy of my bank statement for an account that I  
6 held in U.S. Dollars at Abu Dhabi Commercial Bank.

7 Q And when, approximately, did you open this?

8 A In April of 2013.

9 THE COURT: Would you highlight it, please, so it  
10 could be read by the jury whatever portions you want --

11 MR. BINI: Yes, your Honor.

12 THE COURT: -- to focus on.

13 MR. BINI: I would ask for the first credit into the  
14 account of 2.5 million dollars.

15 Can you highlight that, Ms. DiNardo? Can you make  
16 that bigger since it's pretty small.

17 Q Mr. Pearse, reading from the left what date is that entry  
18 for?

19 A That's the 24th of April, 2013.

20 Q What happened on that day?

21 A On that day, I received two and a half million dollars  
22 from Prinvest Shipbuilding, SAL holdings.

23 Q Who paid that you money?

24 A Prinvest.

25 Q What was it for?



A. Pearse - Direct/Mr. Bini

1 A It was the first installment of my kickback that I had  
2 agreed in relation to reducing the subvention fee.

3 Q When was the next kickback?

4 A Next payment I received was the 29th of May 2013.

5 MR. BINI: Can you highlight that, Ms. DiNardo.

6 Q How much was that?

7 A That was \$1 million.

8 Q When was your next kickback?

9 A That was received by me on the 27th of June, 2013 and  
10 that was another million dollars.

11 Q What are these million -- two million dollar payments?

12 A They are the second and third installments of the five  
13 and a half million dollar kickback that I had agreed to be  
14 paid by Privinvest.

15 Q What happened on July 27, 2013?

16 A I received a further \$1 million from Privinvest  
17 Shipbuilding, SAL holdings.

18 Q What about September 4, 2013?

19 A I received another million dollars from Privinvest  
20 Shipbuilding, SAL Holdings.

21 Q During this time period where were you working?

22 A Credit Suisse.

23 Q I want to ask you about September 13th, excuse me,  
24 September 16, 2013. What happened that day? Did you make a  
25 payment out?

1 A Yes I transferred \$1 million on that day.

2 Q Did you make another \$1 million payment shortly  
3 thereafter?

4 A Yes, on the 18th of September, 2013, I made a further  
5 payment of \$1 million.

6 Q Who were you paying?

7 A I was paying Surjan Singh \$1 million and Detelina Subeva  
8 \$1 million.

9 Q Why did you pay Surjan Singh?

10 A For his help with the increase of the Proindicus loan.

11 Q Where was he working at that point?

12 A Credit Suisse.

13 Q Why did you pay Ms. Subeva?

14 A I gave it to her as a gift.

15 Q Where were these funds from?

16 A All these funds were from the proceeds I had received by  
17 way of kickback from Privinvest.

18 Q When did you leave Credit Suisse?

19 A Approximately the 13th of September, 2013.

20 Q What happened on September 26th of 2013?

21 A I received into my bank account \$15.6 million.

22 Q What was that for?

23 A That was payment received for the first part of the  
24 EMATUM loan, first \$500 million in the EMATUM loan.

25 Q Who paid you?

A. Pearse - Direct/Mr. Bini

1 A Palomar Holdings, Ltd.

2 Q What was Palomar Holdings?

3 A Palomar Holdings was the holding company of Palomar  
4 Capital Advisors. It was a company that was a partnership  
5 between myself, Iskandar Safa, and Jean Boustani.

6 Q You said this was for the portion of the EMATUM loan that  
7 you worked on where?

8 A Partly while I was at Credit Suisse and partly after I  
9 left.

10 Q Did you receive additional payments from Privinvest. If  
11 we can go to the second page of Government's Exhibit 1818  
12 after you left Credit Suisse?

13 A Yes, I did. I received a further \$1 million on the first  
14 of October 2013. I received \$7.8 million on the 24th of  
15 October 2013.

16 Q What were those payments for?

17 A One was for the increase of Proindicus that was the  
18 \$1 million payment. The \$7.8 million payment was received in  
19 respect of the second EMATUM loan that was made which was the  
20 \$350 million loan made by VTB which increased the EMATUM loan  
21 to a total of \$850 million.

22 Q Did you make a payment on October 27th of 2013?

23 A Yes, I made a payment. I made two payments on that date.  
24 Both of \$1 million.

25 Q Who did you pay?

1 A Surjan Singh and Detelina Subeva.

2 Q Why did you pay a million dollars to Surjan Singh?

3 A Surjan Singh was still at Credit Suisse and he had been  
4 instrumental in helping to have the EMATUM loan underwritten  
5 by Credit Suisse.

6 Q Why did you are play Detelina Subeva?

7 A It was a gift from me to her.

8 Q What was the next payment you received from Privinvest?

9 A It was \$1 million received on the 3rd of November, 2013.

10 Q What was that for?

11 A That was, again, in relation to the increase of the  
12 Proindicus loan from 372 million to \$622 million.

13 Q Was that the upsize that you were talking about in that  
14 e-mail that we read a little while ago?

15 A That e-mail discussed the possibility of increasing the  
16 Proindicus loan. Ultimately, over the course of the period  
17 between March of 2013 and the end of 2013, the loan was  
18 increased by a further \$250 million in three installments.

19 Q What's the next payment you received from Privinvest?

20 A On the 4th of December, 2013, I received a further  
21 \$1 million.

22 Q What was that for?

23 A That was related to the increase of Proindicus.

24 Q Did you get paid again on Christmas Eve of 2013?

25 A Yes, I did. A further \$1 million.

1 Q What was that for?

2 A The increase on Proindicus.

3 Q We can now look to Government's Exhibit 1819. By the  
4 way, what type of account is the bank account that we're  
5 looking at?

6 A This is a U.S. Dollar account held in Abu Dhabi  
7 Commercial Bank.

8 Q We just looked at 1818 for the year 2013.

9 Now, I'd like to ask you to look at 2014.

10 Did you receive additional payments from Privinvest?

11 A Yes, I did. On the 28th of January, 2014, I received  
12 \$1 million. On the 1st of March, 2014 I received \$250,000.

13 Q And what happened on June 4th of 2014?

14 A I received a payment from Palomar Holdings of  
15 \$10,050,000.

16 Q What was that for?

17 A That was a payment that I was made to me by Palomar  
18 Holdings in relation to the Mozambique Asset Management loan.

19 Q Okay. You can take that down.

20 I'd like to ask you to look at Government's Exhibit  
21 5058.

22 THE COURT: Is that in evidence, Counsel?

23 MR. BINI: I apologize, your Honor, I have not yet  
24 offered it.

25 May I offer Government's Exhibit 5058 and 5058-A in

1 evidence.

2 THE COURT: Any objection?

3 MR. SCHACHTER: May I have just a moment, your  
4 Honor.

5 THE COURT: 5058 and 5058-A.

6 MR. SCHACHTER: Your Honor, we'll need a moment. I  
7 don't think this is one of the ones the Government --

8 THE COURT: I'm sorry, any objection?

9 MR. SCHACHTER: We need a moment to find the  
10 exhibit, your Honor.

11 THE COURT: That's all right.

12 You might want to turn off your microphones if  
13 you're going to be discussing. Turn off the green light.

14 (A brief pause in the proceedings was held.)

15 MR. SCHACHTER: No objection, your Honor.

16 THE COURT: You may publish. They're admitted.

17 (Government Exhibit 5058 and 5058-A, was received  
18 in evidence.)

19 (The above-referred to exhibit was published in open  
20 court.)

21 EXAMINATION BY

22 MR. BINI:

23 (Continuing.)

24 Q Looking to the bottom e-mail. What's the date of that  
25 e-mail?

1 A 29th of April, 2013.

2 Q Who is it from?

3 A Jean Boustani.

4 Q Who is it to?

5 A Myself.

6 Q What did the defendant write?

7 A "FYI," which is for your interest, "bro."

8 Q What was he sending you?

9 A A copy of my United Arab Emirates I.D.

10 Q Why did you need to?

11 A I needed it in order to provide to Abu Dhabi Commercial  
12 Bank in order to get a credit card.

13 Q If we can look at 5058-A. What's that?

14 A That is a copy of the residency card described in the  
15 previous e-mail.

16 Q You can take that down. And now I'd like to ask you  
17 about Government's Exhibit 2306.

18 THE COURT: In evidence?

19 MR. BINI: Yes.

20 THE COURT: Okay. Go ahead. You may publish.

21 Q What is the bottom e-mail. What's the date of that  
22 e-mail, Mr. Pearse?

23 A 10th of May, 2013.

24 Q Who did you address your e-mail to?

25 A Jean and Sandy.

1 Q Who is Jean?

2 A Jean is Jean Boustani the defendant.

3 Q Who is Sandy?

4 A Sandy is Iskandar Safa.

5 Q What is the subject of this e-mail?

6 A Palomar.

7 Q Why did you address this e-mail to the defendant and  
8 Iskandar Safa?

9 A This e-mail and attached presentation which set out how I  
10 saw Palomar being established and working as a business and it  
11 was sent to Jean and Sandy, Iskandar Safa, because the  
12 intention was to establish Palomar as a partnership between  
13 the three of us.

14 Q You see the portion of the e-mail where you wrote, "I  
15 have noted your disquiet with the costs."

16 A Yes, sir.

17 Q What were you referring to, Mr. Pearse?

18 A These setup costs for Palomar were quite substantial both  
19 in acquiring the companies for the business and also the  
20 operating cost with the employees that were required for the  
21 business. And the defendant had discussed with me prior to  
22 this e-mail the fact that there was a lot of money, so I  
23 looked at where to try to reduce those costs.

24 Q There is a reference to ADM. What is ADM refer to?

25 A Abu Dhabi MAR.



1 Q Just above that you write, "I will bear one-third of the  
2 startup costs."

3 What were you referring to?

4 A There were costs associated with setting up the business.  
5 The Palomar company that we used was one I purchased what we  
6 purchased from a friend of mine. We had a ten-year history  
7 and there were other costs associated with, legal costs, and  
8 other costs associated with setting under the Palomar  
9 business. And as a one-third partner in the proposed Palomar  
10 business, I was offering to pay one-third of those costs.

11 Q Who is the friend that you referenced?

12 A Marcus Kroll.

13 Q What was his role, if any, in Palomar?

14 A He has established Palomar Capital Advisors ten years  
15 earlier. He had unsuccessfully tried to set up a consulting  
16 business using that name. He's an old friend of mine, I knew  
17 he had the business and he didn't need the company anymore.  
18 So I offered to buy that company from him together with Jean  
19 Boustani and Iskandar Safa.

20 Q Do you know, approximately, how you paid for it?

21 A I think, approximately, 5 to \$600,000.

22 Q Where were you working when you were setting up Palomar?

23 A At this time, I was the managing director at Credit  
24 Suisse.

25 Q What e-mail were you using it set up this secret

1 business?

2 A It was my private Hot Mail e-mail.

3 Q Why were you using that?

4 A I did not want to disclose the fact that I was setting up  
5 this business to my employer. At that time, Credit Suisse  
6 e-mails were monitored by compliance, a legal function, so my  
7 e-mails were frequently reviewed and read by the bias team and  
8 my supervisor.

9 Q Did the defendant know you were secretly setting up this  
10 business to hide it from Credit Suisse?

11 A He knew we were setting up the business and he knew that  
12 I was not disclosing it to Credit Suisse.

13 Q How do you know?

14 A Because I told him.

15 Q If we can look at Government's Exhibit 2306-A. What's  
16 the title of this document.

17 A "Palomar Group and Palomar Strategy."

18 Q Was this attached to your e-mail?

19 A Yes, it was.

20 Q If we can look to the second page.

21 I'll ask you to look to the second bullet point,  
22 what is that?

23 Can you read that to the jury, Mr. Pearse?

24 A May I correct previous statement as to the price of  
25 Palomar.

1 Q Please do. What was the price, if you know?

2 A Having the opportunity to refresh my recollection it was  
3 800,000 Swiss francs which was approximately \$1 million, not  
4 600,000 as I previously indicated.

5 Q Is that in that first bullet point?

6 A Yes, sir, it is.

7 Q If you can read the second bullet point to the jury?

8 A "The Palomar will be owned two-thirds by Abu Dhabi MAR  
9 and one-third by Andrew Pearse together with the shareholders.  
10 Each party will contribute the relevant pro rata portion of  
11 the purchase price of Palomar."

12 Q What does this mean?

13 A This means that the shareholding structure, the owners,  
14 the official legal owners of Palomar, would be Abu Dhabi MAR  
15 and two-thirds and one-third as to myself. And each of Abu  
16 Dhabi MAR and myself would pay one-third or two-thirds  
17 depending on the ownership of the costs of the purchase price  
18 of Palomar of that \$1 million.

19 Q We can go to Page 3. What is set out on Page 3 of the  
20 PowerPoint?

21 A This describes the business that I was proposing that  
22 Palomar enter into.

23 Q Was part of that a Natural Resources Fund?

24 A Yes, it was.

25 Q What was that going to do?

1 A That was envisaged to be an investment fund, a private  
2 equity fund where money was used to invest in companies or  
3 projects.

4 Q What about the portion, the third, excuse me, the second  
5 bullet point titled, "Financial Advisory."

6 A Yes.

7 Q What does that set out?

8 A That was the second element of the Palomar business.  
9 This was the primary role of Palomar which is to provide  
10 advice to clients on how to raise debt from the financial  
11 markets.

12 Q How much would Palomar be paid?

13 A Palomar was to be paid ten percent of the amount of any  
14 debt or equity raised for Privinvest.

15 Q If we can go to Page 4, did you set out any personnel?

16 A Yes, I did.

17 Q Who was set out?

18 A I identified myself as CEO and Marcus Kroll as initially  
19 the CEO and then ultimately the chief operating officer or COO  
20 and it indicate aid need to hire a junior resource from an  
21 investment bank.

22 Q And in the 2013 "Costs to Run Proindicus Mandate"  
23 section, did you have a recommendation of someone to hire?

24 A Yes, I recommended that Ms. Subeva be hired.

25 MR. BINI: Your Honor, if I could show 3124 in

1 evidence.

2 THE COURT: Yes, you may publish.

3 Q I want to look is the top e-mail a response to the last  
4 e-mail we were looking at?

5 A Yes, it is.

6 Q Who is it from?

7 A Jean Boustani.

8 THE COURT: I have a technical question. How does  
9 he spell his name, his last name?

10 THE WITNESS: Your Honor, I knew the spelling to be  
11 B-o-u-s-t-a-n-y.

12 THE COURT: Is that the proper spelling of it  
13 because I've seen it with an Y and I've seen with an I in  
14 other matters just so we're clear we're talking about the same  
15 person.

16 THE WITNESS: The defendant is the person I knew by  
17 the name Jean Boustani.

18 THE COURT: Have you seen his name spelled both ways  
19 or one way or --

20 THE WITNESS: Not at this time, I did not.

21 THE COURT: At any time?

22 THE WITNESS: Only subsequently, yes, I have seen  
23 it.

24 THE COURT: Okay. You don't know why it's spelled  
25 with a Y here and an I other places?

1 THE WITNESS: No, your Honor, I do not.

2 THE COURT: Okay. The jury might be wondering and I  
3 was kind of wondering so now you've answered it.

4 Go ahead.

5 MR. BINI: Thank you, your Honor.

6 Q And looking to this response, what does the defendant  
7 indicate in the very first sentence?

8 A "Just finalized the BP discussions with Sandy. Some  
9 conclusions/questions for your feedback, bro."

10 Q What is BP discussions?

11 A Business plan discussions.

12 Q And who is sanding referring to?

13 A Iskandar Safa.

14 Q Do you have any understanding of the relationship  
15 professionally between Iskandar Safa and the defendant?

16 A Yes. The defendant was a senior executive who worked for  
17 Iskandar Safa.

18 Q Did the defendant set out 11 points in response to your  
19 business plan?

20 A Yes, he did.

21 Q I just want to ask you about a few of them. Point five,  
22 can you read that to the jury and then explain it?

23 A "The ten percent fees over transactions: Is this viable  
24 even if Palomar is not the sole arranger with banks? What if  
25 we needed to bring on board CS and/or subsidize the funding?"

1 Q What did you understand the defendant to mean?

2 A In the presentation, I had indicated that Palomar should  
3 receive a fee for as a financial advisor to Privinvest for  
4 arranging financing. He's asking what if there are other fees  
5 to be paid to the banks should that be taken into account when  
6 deciding how much Palomar should be paid.

7 Q If we can go to point seven.

8 What did the defendant write as point seven in  
9 response to your proposed business plan?

10 A Upsize of Proindicus loan cannot be part of Palomar. (As  
11 discussed, we leave the same initial parameters).

12 Q What did you understand the defendant to mean?

13 A I understood that in relation to the increase, any  
14 increase in the size of the Proindicus loan, Palomar would not  
15 receive ten percent, but I would receive two and a half  
16 percent of the increased amount.

17 Q If we can look to point nine. What did the defendant  
18 write?

19 A "When would you leave Credit Suisse? Is it better to  
20 leave Credit Suisse after looking the upsize of Proindicus at  
21 least? Plus Senegal, let's say, e-mail is account off but I  
22 believe or Surj can take care of it.

23 Q What did you understand the defendant to mean there in  
24 point nine?

25 A As I mentioned earlier, sir, the defendant was aware of

1 my intention to leave Credit Suisse. He's asking whether it  
2 made sense for me to leave before or after the additional loan  
3 amounts were made to Proindicus to reach the \$622 million.

4 Q What did you understand to mean when he wrote, "or Surj  
5 can take care of it"?

6 A He's asking me whether if I don't need to be there.  
7 Surjan Singh would be in a position to ensure that Credit  
8 Suisse made their loans and support the Privinvest increase in  
9 Proindicus which would benefit Privinvest.

10 Q Ultimately, when you left Credit Suisse, who, if anyone,  
11 took over your position?

12 A Surjan Singh.

13 Q Did the defendant know that?

14 A Yes, he did.

15 Q Was it important to this criminal scheme?

16 A Yes, it was.

17 Q Why?

18 A Because in order for the loans to be made, it was  
19 important to have what I would colloquially describe as an  
20 inside man, someone working within Credit Suisse, who could  
21 ensure that to the best of his or her ability the loans were  
22 made by the bank.

23 MR. BINI: You can take that down.

24 Q Was Palomar involved in the loan that would become  
25 EMATUM?



1 A Yes.

2 Q Was there interest in Mozambique in acquiring a tuna  
3 fleet?

4 A Yes, there was.

5 Q Why?

6 A Mozambique has got a very long coastline. It's on the  
7 eastern side of southern Africa and there is -- it is a  
8 migratory path for tuna. Historically, that tuna has been  
9 fished by foreign vessels from Japan and the European Union.  
10 And, at that time, there was a significant push within African  
11 nations to take back their natural resources from or what were  
12 perceived as the former colonial powers and maximize the  
13 resource for the benefit of those countries themselves.

14 Q How large were the original tuna plan designed for in  
15 Mozambique?

16 A The concept that I was aware of started as a \$250 million  
17 loan.

18 Q How big did the EMATUM loan get?

19 A Ultimately, it was \$850 million.

20 Q Did you or Palomar have any incentive in the size of the  
21 EMATUM transaction?

22 A Yes. The larger the loan, the more I got paid.

23 Q Did you ultimately receive payments from the EMATUM loan?

24 A Yes, the payments we looked at everything on my bank  
25 account related to EMATUM. Part of it relates to EMATUM. In

1 total, I received almost \$24 million for that transaction.

2 Q When did EMATUM close at Credit Suisse?

3 A Early September, 2013.

4 Q Were you on Garden Leave at Credit Suisse at that point?

5 A Yes, I was.

6 Q What's Garden Leave?

7 A Under the terms of my employment contract, I was required  
8 to give notice to my employer if I wished to leave that notice  
9 period was between two and three months. Your employer could  
10 offer you two things: Either you work for that period once  
11 you run your notice, or they could ask you to leave the  
12 building and not work for anyone else, effectively, take a  
13 holiday for that same notice period. And when you take the  
14 second option, and you're on holiday, it's called Garden Leave  
15 in the UK.

16 Q Besides you, did anyone else who was at Credit Suisse,  
17 formerly from Credit Suisse, receive payments for EMATUM?

18 A Yes.

19 Q Who?

20 A Surjan Singh.

21 Q Was he at Credit Suisse when he received those payments?

22 A Yes, he was.

23 Q Who paid him?

24 A Privinvest paid him \$4 million or just over \$4 million  
25 and I paid him \$2 million.

1 Q I would like to ask you about some additional e-mails and  
2 documents regarding EMATUM.

3 MR. BINI: First, if we can look to 3122.

4 THE COURT: Is it in evidence?

5 MR. BINI: Yes, it is, your Honor.

6 THE COURT: You may publish. Maybe another five  
7 minutes and then we'll take a brief break and then we'll go on  
8 to 5:00 if that's acceptable to you, ladies and gentlemen of  
9 the jury?

10 Would you like a comfort break or would you like to  
11 go straight through to 5:00?

12 JUROR: Go straight through.

13 THE COURT: You got it.

14 Go ahead.

15 MR. BINI: Thank you, your Honor.

16 Q Looking to Government's Exhibit 3122, if we can look to  
17 the second page. What did you write to the defendant?

18 A This is the e-mail from the 12th of May 2013.

19 Q Yes.

20 A "Bro, you update to reflect our conversation. Let me  
21 know if I missed anything."

22 Q What's the subject of that?

23 A Palomar.

24 Q How did the defendant respond?

25 A "Morning, bro. Sandy and I went through the latest

1 version and we are okay. So let's go at full speed, bro."

2 Q What did you understand the defendant to mean?

3 A That Iskandar Safa and Jean Boustani had reviewed the  
4 revised business plan for Palomar and agreed with it and were  
5 ready to proceed with that plan.

6 Q How did you respond?

7 A "Great. Will do. By the way, Moz gets a new IMF limit  
8 in June. Let's start keeping up with you guys."

9 Q What did you mean a new IMF limit in June?

10 A As part of the agreement between Mozambique and the IMF,  
11 in return for the IMF providing financial support to  
12 Mozambique, Mozambique had agreed to restrict the amount of  
13 borrowing it made or took from commercial banks and that was  
14 known as "the IMF limit." The maximum amount that Mozambique  
15 was allowed to borrow from commercial banks under the terms of  
16 its agreement with the IMF.

17 Q Looking to the top, did the defendant write in response,  
18 "That is why we need to maximize EEZ upsize."

19 A Yes, he did.

20 Q What did you understand him to mean?

21 A That we should maximize the size of the Proindicus loan.

22 Q Okay. If we can go to the first page. I'm going to ask  
23 you to look at the e-mail at 11:44 a.m. from you to the  
24 defendant.

25 What did you write?

1 A "By the way, I can make huge dollars if I can structure  
2 the loan as a bond. Will explain when we see each other. If  
3 so, can definitely get to 1 billion."

4 Q What did you mean by that?

5 A At this point, I had identified the fact that there was  
6 another source of potential investors in Mozambique Government  
7 Risk and that those were bond investors, international bond  
8 investors. And that community of investors is significantly  
9 larger than loan investors. And by this e-mail, I was  
10 explaining to the defendant that this was an opportunity to do  
11 even larger loan and even a larger loan to Mozambique because  
12 there was potentially a much larger pool of investors who  
13 could be approached.

14 Q How did the defendant respond?

15 A Will push for it like that then.

16 Q What did you understand him to mean?

17 A I understood that to mean that he would use his influence  
18 to ensure that the next facet can be structured as a bond  
19 rather than as a loan.

20 Q You can take this e-mail down.

21 And now I would like to ask you about Government's  
22 Exhibit 2317 in evidence.

23 MR. BINI: May I publish that, your Honor.

24 THE COURT: Yes, you may. It's in evidence.

25 Q What's the date of this e-mail?

1 A The 5th of June, 2013.

2 Q Who is it from?

3 A From Detelina Subeva.

4 Q Who did she write this e-mail to?

5 A Jean Boustani and myself.

6 Q What e-mail address is Ms. Subeva use?

7 A She was using her G-mail address.

8 Q Where was she working at this point?

9 A Credit Suisse.

10 Q Why was she using her G-Mail?

11 A To avoid detection by Credit Suisse.

12 Q What did Ms. Subeva write?

13 A "Hi Jean. Tomorrow I will send you all Proindicus KYC  
14 files to just forward to my personal G-Mail address. We need  
15 any advise from Clyde and will be good to have handy for the  
16 future anyway."

17 Q What are KYC files?

18 A They are "Know Your Client" files. These are documents  
19 which are required by all banks in Europe in order to open a  
20 bank account.

21 Q What did you understand Ms. Subeva to be telling the  
22 defendant she would do the next day?

23 A The next day, Ms. Subeva was going to send the defendant  
24 an e-mail from her Credit Suisse account attaching the KYC  
25 files she had received as an employee of Credit Suisse in

1 order that defendant would then receive those and forward them  
2 to her G-Mail account.

3 Q Didn't she just forward them to her own G-Mail account?

4 A There was a Credit Suisse policy that was rigorously  
5 enforced against that.

6 MR. BINI: If I can briefly go to Government's  
7 Exhibit 1821 in evidence.

8 THE COURT: You may.

9 Q Is this one of your bank accounts, Mr. Pearse?

10 A Yes, this is a copy of the bank statement for my United  
11 Arab Emirates account.

12 Q I would like to ask you about June 12, 2013?

13 A Yes.

14 MR. BINI: If you can blow that portion up,  
15 Ms. DiNardo. June 12, 2013.

16 Q What happened on that day?

17 A On that day, I made an a payment of 750,000 dirham to  
18 Ms. Subeva.

19 Q Why did you do that?

20 A It was a gift from me to her.

21 Q What proceeds did you use to pay her?

22 A The proceeds of crime.

23 Q What crime?

24 A The kickback that I received.

25 Q How much is 750,000 dirham in United States dollars,

1 approximately?

2 A Just over \$200,000.

3 MR. BINI: Your Honor, at this time, I would like to  
4 admit Government's Exhibit 29 in evidence.

5 THE COURT: Any objection to 29?

6 MR. SCHACHTER: No objection, your Honor.

7 THE COURT: It's admitted. You may publish.

8 (Government Exhibit 29, was received in evidence.)

9 (The above-referred to exhibit was published in open  
10 court.)

11 Q While you were beginning EMATUM, were you still doing  
12 increases on Proindicus?

13 A Yes, Proindicus was increased three times before the end  
14 of 2013.

15 Q What is this document?

16 A This is a copy of the front page of the document which  
17 amended the original loan agreement for 372 million to allow  
18 for the loan agreement to be increased by a further  
19 \$250 million.

20 Q Are the clauses in this amendment agreement the same as  
21 loan agreement we went through earlier in detail today?

22 A Yes, the majority are the same.

23 MR. BINI: If we can look to the back on the  
24 signatures, there is a document, second from the last page,  
25 that has Page 7 at the bottom.



1 All the way at the bottom, Ms. DiNardo, like the  
2 second-to-last page. If you can blow up the signature block.

3 Q Who signed for Credit Suisse?

4 A Myself and Chris Chapman.

5 Q Did you have an interest in getting this upsized?

6 A Yes, I did.

7 Q What was that interest?

8 A I was paid two and a half percent of the amount of any  
9 additional loans that were made.

10 Q And who was paying you?

11 A Prinvest.

12 Q If I can ask you about Government's Exhibit 2328 in  
13 evidence.

14 What is 2328 in evidence?

15 A That's an e-mail from Antonio do Rosario to Jean  
16 Boustani, myself, and Detelina Subeva and it attaches a  
17 utilization request and increase notice.

18 Q Okay. From your time at Credit Suisse, are you familiar  
19 with what a utilization request is?

20 A Yes, I am.

21 Q If we can go to 2328-A. If we can go to the second page.  
22 Who signed this document.

23 A Eugenio Matlaba and Antonio Carlos do Rosario.

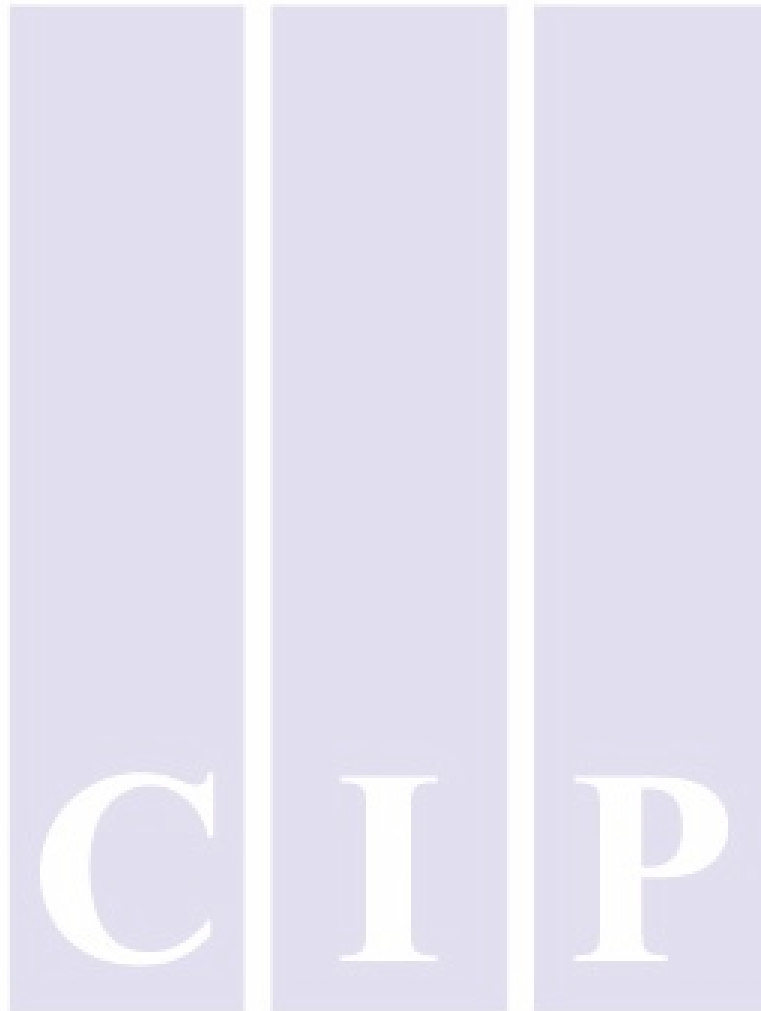
24 Q On behalf of whom?

25 A Proindicus.

1 Q And if we can go to the first page. Who does this  
2 document to?

3 A This is a letter effectively from the borrower to Credit  
4 Suisse asking to borrow more money.

5 (Continued on the next page.)



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1 BY MR. BINI:

2 Q If we go to paragraph 2, how much is being requested at  
3 this point?

4 A The request is to borrow \$100 million.

5 Q And in paragraph 3, what does it state, Mr. Pearse?

6 A It says, "The proceeds of this loan, after the deduction  
7 mentioned in paragraph 4 below, should be applied in payment  
8 of the contractor portion to the account of the contractor in  
9 accordance with paragraph 5 below."

10 Q Let me stop you there and ask you: Who is the  
11 contractor?

12 A Prinvest.

13 Q In paragraph 3, does it repeat any of the clauses that we  
14 looked at in the loan agreement earlier today?

15 A Yes. It confirms the proceeds of the loan will be  
16 applied in accordance with the corruption clause, which was  
17 the clause we referred to the construction of EEZ project and  
18 Clause 19-2 which was the promise to comply with all  
19 anti-corruption laws.

20 Q In paragraph 5, what is authorized?

21 A The borrower authorizes the bank, Credit Suisse, to apply  
22 98,290,000 of the loan proceeds to the account of the  
23 contractor.

24 MR. BINI: Ms. DiNardo, if you can show us --  
25 because paragraph 5 splits on to the next page.

1 Q Where is it that the money has to be paid?

2 A Five sets out the account details, the bank account  
3 details of Privinvest shipbuilding contractor. The  
4 destination account was First Gulf Bank, which is a bank in  
5 the United Arab Emirates.

6 Q And what correspondent bank is to be used?

7 A The Bank of New York.

8 Q If we can go to 2328B in evidence. What's this document?

9 A This is an increase notice.

10 Q What's an increase notice?

11 A It's a letter from the borrower to Credit Suisse, the  
12 bank, to increase the size of the loan.

13 Q Okay. If we can look to Government's Exhibit 2329 in  
14 evidence. I'll ask you to look at the email on the bottom.  
15 What's the date of this email?

16 A Twenty-fourth of June.

17 Q Who is it from?

18 A It is from Dominic Schultens.

19 Q Who is it to?

20 A Surjan Singh, Detelina Subeva, and myself.

21 Q What did Dominic Schultens write?

22 A "All: Access will revert to us tomorrow morning. So we  
23 will let you know what the outcome as soon as I know it  
24 myself. In the meantime, plan B has been put into effect. I  
25 have asked Dan Jurkowitz to check with TCW and ICE Canyon."

1 Q Let me stop you there. Who is Dan Jurkowitz?

2 A He was a salesman, he's a managing director at Credit  
3 Suisse, who was a salesman for bonds and loans.

4 Q Where was he based, if you know?

5 A New York.

6 Q What's TCW?

7 A I believe it's a U.S. fund.

8 Q What's ICE Canyon?

9 A A U.S. fund.

10 Q Where are they located?

11 A TCW, sir, or ICE Canyon?

12 Q ICE Canyon.

13 A ICE Canyon is based in Los Angeles.

14 Q Do you know if ICE Canyon invested in the Proindicus  
15 loan?

16 A Two of ICE Canyon's investment vehicles invested in the  
17 Proindicus loan, yes.

18 Q Did the defendant, Jean Boustani, know that?

19 A Yes, he did.

20 Q At this point had ICE Canyon invested yet?

21 A No.

22 Q How did you respond to Dominic Schultens?

23 A "Very good."

24 Q What were you responding to?

25 A I was responding to his email, which it was conveying a

1 positive message that there was -- that Dominic would be able  
2 to syndicate more of the Proindicus loan.

3 MR. BINI: You can take that down. I'll ask you to  
4 look at Government's Exhibit 5062 in evidence.

5 Q What is the date of this email? The top email.

6 A Twenty-fifth of June 2013.

7 Q Who is it from? Who is it to?

8 A It's from myself to Jean Boustani, copying Said Freiha  
9 and Detelina Subeva.

10 Q What happened on June 25th, 2013?

11 A I believe that is the date when the Proindicus loan was  
12 increased by an additional \$100 million.

13 Q What did you write to defendant?

14 A "Dear Jean, money is on its way. Please confirm receipt  
15 tomorrow. All the best."

16 Q Did you attach something to your email sent to the  
17 defendant?

18 A Yes, I believe a swift confirmation is attached.

19 Q What's a swift confirmation?

20 A It's a document which evidences the transfer of money  
21 between banks. It's like a receipt.

22 Q If we can go to Government's Exhibit 5062A. Is this the  
23 attachment, sir?

24 THE WITNESS: Would you mind making it a little bit  
25 larger, please? Yes, it is.

1 Q And what does it show?

2 A It shows the payment from Credit Suisse, London branch,  
3 as the sender to the Bank of New York Mellon of an amount  
4 equal to \$90,190,000.

5 Q Why was it going to the Bank of New York Mellon?

6 A The Bank of New York Mellon was the correspondent bank  
7 for First Gulf Bank.

8 Q Who has an account at First Gulf Bank?

9 A This was the Privinvest Shipbuilding account at First  
10 Gulf Bank.

11 MR. BINI: You can take that down.

12 Q What began in July 2013 for you at Credit Suisse?

13 A My garden leave.

14 Q Were you required during your garden leave to follow all  
15 Credit Suisse policies and conditions?

16 A Yes. Whilst you're not physically in the office whilst  
17 on garden leave, you're still an employee and required to  
18 follow all of the terms of your employment contract and all  
19 the regulations that are in place as an employee.

20 MR. BINI: Your Honor, at this time I would ask to  
21 publish Government's Exhibit 3031 in evidence -- no, 3131. I  
22 can never remember that.

23 THE COURT: That's all right.

24 MR. BINI: I apologize, Your Honor.

25 THE COURT: 3131 in evidence. You may publish.

1 (Exhibit published.)

2 Q What's the date of this email, Mr. Pearse?

3 A The second of July 2013.

4 Q Who is it from and who is it to?

5 A It's from David Langford to myself, Jean Boustani, and  
6 Safa.

7 Q Is David Langford that individual that works with Safa?

8 A Yes, he is a lawyer who works for Iskandar Safa.

9 Q And is this sent to your personal email?

10 A Yes, it is.

11 Q Is Mr. Safa on this email?

12 A Yes, he's the second recipient. Safa Logistics  
13 International Emirates.

14 Q What's the subject of this email?

15 A Trawlers.

16 Q What is this about?

17 A This is an email which is attaching a contract for the  
18 purchase of fishing trawlers.

19 Q How much was the initial idea for the EMATUM project in  
20 Mozambique?

21 A In March of 2013, the original proposal was for a  
22 \$250 million project.

23 Q Let's look to the contract. Is there a proposed contract  
24 attached to 3031 -- 3131?

25 A Yes.



1 Q Let's look to 3131A in evidence. What's that?

2 A That is a copy of the contract for the supply of 30  
3 trawlers between Abu Dhabi MAR and as of yet to be identified  
4 customer.

5 Q If we can go to page 3 of this draft contract. What is  
6 the subject of the contract?

7 A The provision of 30 trawlers with basic onboard spare  
8 parts and operator training.

9 Q What are trawlers?

10 A These are fishing trawlers, fishing boats.

11 Q Looking to Roman numeral VII, what was the price of the  
12 trawlers to be?

13 A \$500 million.

14 Q Is that bigger than the original idea of this tuna  
15 project?

16 A Yes, it is twice as much.

17 MR. BINI: If you can go to the paragraph that has  
18 "J, remuneration to third parties." If you can blow that up,  
19 Ms. DiNardo.

20 Q Is this similar to that provision we saw in the  
21 Proindicus contract?

22 A Yes. This is the same provision which confirms that the  
23 contractor -- neither the contractor nor the customer will pay  
24 bribes.

25 Q Who is the contractor for this?

1 A Abu Dhabi MAR.

2 Q Is that a Privinvest company?

3 A Yes.

4 Q If we can go to 3131B in evidence, what is this?

5 A This is a specification document for the fishing vessels.

6 Q As far as you're aware, what types of ships did  
7 Privinvest and Abu Dhabi MAR build?

8 A As far as I was aware, they built naval vessels and super  
9 yachts.

10 Q Were you aware of them building fishing boats?

11 A I had not been aware, no.

12 Q If we can go to Government's Exhibit 2337 in evidence.

13 If we can go to the bottom email on page 1, I'll ask you: Who  
14 is that email from and who is it to?

15 A It's from myself to Jean Boustani, copying Detelina  
16 Subeva.

17 Q Are you using your personal Hotmail again?

18 A Yes.

19 Q Why did you write, "Jean, some questions for you and some  
20 for Antonio"? What did you mean?

21 A The email was designed to ask a number of questions which  
22 related to the EMATUM project, the fishing project, and some  
23 of which would be answerable by Mr. Boustani and some which  
24 were addressed to Antonio do Rosario.

25 Q I want to ask you about your point 2. What did you

1 write?

2 A "Can we use the bond market?"

3 Q Why did you write that?

4 A I was asking whether or not -- I was asking Mr. Boustani  
5 whether or not he had sought approval to structure the loan as  
6 a bond.

7 Q How did the defendant respond?

8 A "Bro, Antonio will go ahead and" --

9 THE COURT: Slow. Slow it down. Vader.

10 THE WITNESS: Apologies, Your Honor. "Bro, Antonio  
11 will go ahead and all suggestions needed in order to maximize  
12 the funding size. So I suggest we tell him what we need and  
13 he will implement it. As for contract and pricing and specs,  
14 they are all with David."

15 Q What did you understand the defendant to mean when he  
16 wrote, "Antonio will go ahead and all suggestions needed in  
17 order to maximize the funding size?"

18 A I understood that he meant that Antonio do Rosario would  
19 speak to the relevant people within the Mozambican government  
20 to maximize the size of the loan.

21 Q I don't understand. Who is buying these boats?

22 A An entity owned by the government of Mozambique.

23 Q Who is Antonio do Rosario again?

24 A He was the chief -- the CEO of Proindicus at this point.

25 Q Would he become the individual who would be the head of

1 EMATUM as well?

2 A Yes. He was also the CEO of EMATUM as well.

3 Q Would they be buying the fishing boats?

4 A Yes.

5 Q Is he on this email?

6 A No, he's not.

7 Q Who is speaking for the Mozambicans?

8 A This is an email from Mr. Boustani.

9 Q How did you respond after the defendant told you that  
10 Antonio do Rosario would do whatever was necessary to maximize  
11 funding?

12 A "Okay. Should have a plan for maximizing funding by the  
13 end of week. Got the spec, et cetera, missed the David email  
14 until this AM."

15 MR. BINI: Your Honor, at this time I would like to  
16 move into evidence Government's Exhibit 3081.

17 THE COURT: Any objection?

18 MR. SCHACHTER: May I have just a moment, Your  
19 Honor?

20 THE COURT: Of course.

21 MR. SCHACHTER: No objection.

22 THE COURT: It's admitted. You may publish.

23 (Government Exhibit 3081, was received in evidence.)

24 (Exhibit published.)

25 MR. BINI: Thank you, Your Honor. If we can publish

1 it and start, Ms. DiNardo, with the bottom email.

2 Q I'll just ask you, Mr. Pearse, I want you to walk through  
3 the email. Was this eventually forwarded to you, this email  
4 chain?

5 A I believe it was, yes.

6 Q Look at the bottom email from July 4th, 2013, at 18:49,  
7 who was that from?

8 A That's from Jean Boustani.

9 Q What did the defendant write?

10 A "Hi, Najib. We need please to get Mr. Surjan Singh, a  
11 British national, a UAE residency on Logistics I guess.  
12 Andrew will coordinate the matter with you. Surjan might be  
13 arriving next week. Thanks.

14 "Andrew: Najib is the CFO of the group. His mobile  
15 number is 971 50 772 5354.

16 Q How did Najib Allam respond?

17 A "Okay. And yes on Logistics."

18 Q How did you respond?

19 A "Thanks, Najib. Is Monday okay to do everything?"

20 Q What's going on? What are you talking about in these  
21 emails?

22 A This is the beginning of the process to acquire a  
23 residency permit in the UAE for Surjan Singh.

24 Q Did you have any discussions with defendant about that?

25 A Yes.

1 Q Why was Privinvest assisting you to get a residency  
2 permit for Surjan Singh?

3 A In order so Surjan Singh could open a bank account in the  
4 United Arab Emirates.

5 Q Why?

6 A In order that he could receive monies that were to be  
7 paid by the investor of the kickback into that account.

8 MR. BINI: Your Honor, at this time I would like to  
9 publish 2338 which is in evidence.

10 THE COURT: You may publish.

11 (Exhibit published.)

12 Q Do you -- 2338.

13 Do you recognize this email chain, if we just look  
14 to the top for a moment?

15 A Yes, I do.

16 Q Who are the participants in the email chain?

17 A Ms. Subeva, Mr. Boustani, David Langford, and myself.

18 Q Does this relate to what would be the ultimate EMATUM  
19 contract?

20 A Yes.

21 Q The last email that we viewed regarding the size of the  
22 contract, how much was it on July 2nd, 2013?

23 A \$500 million.

24 Q If we can go to page 3, I'm going to ask you to look at  
25 the email from the defendant on July 4th, 2013, at 17:46.

1 What did the defendant write?

2 A "David, it seems we can reach a volume of 750 million  
3 U.S.D. So kindly adjust the number of trawlers to 45 instead  
4 of 30. Thanks, mate."

5 Q Who did the defendant write this email to?

6 A He wrote it to myself, David Langford, Safa, and Detelina  
7 Subeva.

8 Q How much had the potential transaction increased?

9 A By this point it was clear that the transaction could be  
10 increased from 500 million to \$750 million.

11 Q Was that 500 million figure the one we saw from July 2nd,  
12 two days ago?

13 A Yes.

14 Q If we can go to the first page of the email chain. I'll  
15 ask you to look at the email from July 5th, 2013, at 11:12.

16 Had Ms. Subeva in the interim emails asked a number  
17 of questions regarding how to justify this price?

18 A Yes.

19 Q What did the defendant write?

20 A "Hi, Lina. Antonio is" -- excuse me. "Antonio is the  
21 perfect person to feed us with all data, rationale, et cetera,  
22 in Moz. We just give him the headlines, technology transfer,  
23 empowerment of people, establishing the shipbuilding industry,  
24 fish revenues, et cetera."

25 Q What did you understand the defendant to mean?

1 A There was certain information that Ms. Subeva and I  
2 needed in relation to building a business plan for the EMATUM  
3 transaction, and the defendant was identifying Antonio  
4 do Rosario as the perfect person who could provide us with  
5 that information.

6 Q Okay. If you can go to Government's Exhibit 2339 in  
7 evidence.

8 MR. BINI: May I publish that, Your Honor?

9 THE COURT: You may.

10 (Exhibit published.)

11 Q What is the date of this email, Mr. Pearse?

12 A Fifth of July 2013.

13 Q Who is it from and who is it to?

14 A It's from myself to Antonio do Rosario, Jean Boustani,  
15 and Detelina Subeva.

16 Q What is the subject of the email?

17 A Fishing fleet financing.

18 Q What did you write?

19 A "Dear Antonio, attached is a presentation outlining the  
20 proposed structure for the financing and the areas we will  
21 need to cover as diligence. I look forward to seeing you on  
22 July 15. All the best."

23 Q Why were you emailing Antonio do Rosario?

24 A I was -- Antonio do Rosario was the CEO of Proindicus,  
25 the person I knew who represented the Mozambican government at



1 that time, and I was sending him a proposal to -- on how to  
2 structure the EMATUM or the tuna fishing fleet financing, and  
3 also to highlight the diligence questions in areas that would  
4 be asked by the banks in relation to their diligence of that  
5 project.

6 Q And why were you copying the defendant on this?

7 A Because the defendant was the person who had the  
8 relationships in Mozambique and was copied on all issues of --  
9 related to these transactions.

10 Q If we can go to the attachment 2339-A in evidence. Is  
11 this the PowerPoint that was attached that you sent to Antonio  
12 do Rosario, the defendant, and Detelina Subeva?

13 A Yes, it was.

14 Q What's the title?

15 A "Fishing fleet financing."

16 Q If we can go to the second page. What does it indicate  
17 that Palomar will arrange at the very top of the document?

18 A Seven-year, \$750 million financing for the Republic of  
19 Mozambique to acquire a fleet of 45 fishing trawlers.

20 Q Does it indicate a guaranty?

21 A Yes, it does.

22 Q Who is going to guaranty this bond?

23 A The Ministry of Finance of Mozambique.

24 Q How did it say the financing would be raised?

25 A The intention was to raise the financing in the

1 international bond markets.

2 Q Why were you using the international bond markets for the  
3 EMATUM loan?

4 A To maximize the size of it.

5 Q What was the difference between this and the syndicated  
6 loan that was Proindicus?

7 A Firstly, the structure of the financing was different,  
8 slightly more complicated. But the objective of having this  
9 more complicated structure was to convert the loan into a  
10 bond, and the objective of that was to sell that bond to  
11 international investors because the bond market is  
12 substantially larger in size than the loan market.

13 MR. BINI: You can take that down.

14 Your Honor, may I publish Government's Exhibit 2347  
15 in evidence?

16 THE COURT: You may.

17 (Exhibit published.)

18 Q What's the date of this email?

19 A Twenty-first of July 2013.

20 MR. BINI: Okay. I'm going to ask you now,

21 Ms. DiNardo, to go to the email on page 2. An email from the  
22 defendant on July 21st, 2013, at 10:27.

23 Q What's the subject of this email?

24 A Fishing project timeline.

25 Q Who is it from and who is it to?

1 A It's from Jean Boustani to Detelina Subeva, Antonio  
2 do Rosario, and myself.

3 Q Was the defendant responding to Ms. Subeva's email below?

4 A Yes.

5 Q What did he write?

6 A "Hi, Lina. Antonio is now addressed.

7 My brother, we need your marshal skills to finish by  
8 August 19 as per the below email. You'll have my final  
9 adjusted contract by Tuesday. We will go for 800 million so  
10 we keep a cushion for Proindicus interest payment next year."

11 Q What did you understand the defendant to mean when he  
12 said, "Antonio is now addressed"?

13 A I took that to mean that Antonio do Rosario had been  
14 copied into the email chain.

15 Q Did Ms. Subeva not have his email?

16 A I do not know whether she had his email. I believe she  
17 did.

18 Q But he was not on the email below from Ms. Subeva. Is  
19 that what he's referring to?

20 THE WITNESS: Could you go up?

21 A No, he was not.

22 Q Okay. Going back up to the email from the defendant, did  
23 you have any understanding of what he meant when he wrote, "My  
24 brother, we need your marshal skills to finish by August 19"?

25 A He was referring -- he was addressing that particular

1 line to Antonio do Rosario, and he was asking Antonio to use  
2 his political skills in Mozambique to finish the project by  
3 August 19.

4 Q How big is the EMATUM deal now, according to the  
5 defendant's email?

6 A Excuse me. \$800 million.

7 Q What did you understand the defendant to mean, "so we  
8 keep a cushion for the Proindicus interest payment next year"?

9 A The intention here was that from the \$800 million that  
10 was raised, an amount would be set aside to pay the interest  
11 payments that was due in March of 2014 on the Proindicus  
12 loans.

13 Q Was there a concern about Proindicus' health at this  
14 point?

15 A There was developing concern, yes.

16 Q Was that money, in fact, set aside?

17 A No, it wasn't.

18 Q If we can go to the first page, I want to ask you about  
19 an email on July 21st, 2013, at 8:44 p.m.

20 Is that email from you, Mr. Pearse?

21 A Yes, it is.

22 Q What did you write?

23 A "We have a unique opportunity to get this done within the  
24 next month. If we miss this window, there is no guaranty that  
25 we will get the bond done this year."

1 Q Why did you write that, Mr. Pearse?

2 A I received information from Surjan Singh at Credit Suisse  
3 that the bond market was -- the bond market was ripe for a  
4 transaction of this type now. The bond market is seasonal,  
5 and it's not always the case that bond investors want to buy  
6 this type of risk, but at this point in time it was clear that  
7 it could be sold to investors.

8 Q How did the defendant respond?

9 THE WITNESS: I'm sorry. Would you expand the  
10 email, please, so I can see the one below?

11 A He responds, "We can decrease the trawlers to 25 and add  
12 two 45-meter OPVs with special systems to protect the  
13 trawlers. Is that better, Andrew?"

14 Q What did you understand the defendant to mean in that  
15 sentence?

16 A He was adjusting the number of fishing trawlers that  
17 would be supplied under the contract to reduce it to 25 but  
18 also to add two 45-meter offshore patrol vessels.

19 Q Was he changing the number of boats?

20 A Yes, he was.

21 Q And the types of boats?

22 A Yes.

23 Q Was he asking you for your opinion?

24 A He was, yes.

25 Q Did you have a background in tuna fishing?

1 A No.

2 Q Did he ask Antonio do Rosario, the Mozambican person who  
3 is the head of EMATUM, to make this change?

4 A Not that I'm aware of.

5 Q How did you respond?

6 A "Two big fisheries protection boats makes a lot of sense  
7 and ties into fisheries master plan."

8 Q What did you mean?

9 A My concern related to the diligence the banks would be  
10 conducting on this transaction. One of the useful things that  
11 existed was -- or had preexisted this proposal was a fisheries  
12 master plan by the Mozambican government itself. They had  
13 from, I believe, 2011 identified the need to develop a fishing  
14 fleet. That fisheries master plan was something I had seen,  
15 and in that plan there was an element for having fishing --  
16 fisheries protection vessels. These are boats designed to  
17 make sure that the foreign fishing boats or fishing trawlers  
18 were honestly telling the government how much they caught,  
19 declaring what they caught correctly.

20 So adding two fisheries protection boats was better,  
21 in my opinion, because it tied into that plan, the fisheries  
22 master plan.

23 Q Did you think it would be easier to push through the  
24 loan?

25 MR. SCHACHTER: Objection.

1 THE COURT: Overruled. Asking his opinion.

2 A In my opinion, the banks would -- Credit Suisse would --  
3 would find that comforting, yes, that the proposed project was  
4 in line with the fisheries master plan from some time ago.

5 Q How did the defendant respond to your email?

6 A "Perfect. Brother Tony have now a perfect package, 21  
7 trawlers and three 45 meters for \$800 million."

8 MR. BINI: Your Honor, at this time I would seek to  
9 admit Government's Exhibit 2355.

10 THE COURT: Any objection to 2355?

11 MR. SCHACHTER: No, Your Honor.

12 THE COURT: It's admitted.

13 (Government Exhibit 2355, was received in evidence.)

14 MR. BINI: If I can publish it?

15 THE COURT: You may.

16 (Exhibit published.)

17 MR. BINI: If you can go to the second page,  
18 Ms. DiNardo, and the bottom email.

19 Q Who is this email from and who is it to?

20 A It is from Detelina Subeva to Jean Boustani and myself.

21 Q What did Ms. Subeva -- I'm sorry. What's the date of the  
22 email?

23 A Twenty-fourth of July 2013.

24 Q What's the subject?

25 A "Document for Surjan."

1 Q What did Ms. Subeva write to the defendant?

2 A "Hi, Jean. I will send you now a clean email with a tuna  
3 master plan to please send to Surjan for translation. It  
4 can't come from me just yet, so please could you" -- let me  
5 start again. "So please could you send on just the document  
6 without including my email? Thanks so much, Lina."

7 Q What did you understand Ms. Subeva to be asking the  
8 defendant to do?

9 A To send a document to Surjan Singh at Credit Suisse which  
10 she could not send herself.

11 Q Why couldn't she send it?

12 A Because that would have revealed that she was working on  
13 the EMATUM project whilst still being an employee of Credit  
14 Suisse.

15 Q How did the defendant respond to Ms. Subeva's request?

16 A "Sure, habibi."

17 Q What does "habibi" mean?

18 A I believe it means "dear."

19 MR. BINI: Your Honor, at this time I would seek to  
20 admit Government's Exhibit 3134 in evidence.

21 THE COURT: Any objection?

22 MR. SCHACHTER: No, Your Honor.

23 THE COURT: You may publish.

24 (Government Exhibit 3134, was received in evidence.)

25 (Exhibit published.)



1 Q Looking to the earliest email, Mr. Pearse, on the last  
2 page, what is the date of that email?

3 A Twenty-fourth of July 2013.

4 Q Who is it from?

5 A David Langford.

6 Q Who is it to?

7 A Detelina Subeva, myself, and Jean Boustani.

8 Q Is it at your personal email?

9 A Yes, it is.

10 Q And Ms. Subeva's personal email?

11 A Yes.

12 Q What did Mr. Langford send?

13 A He sent the tuna contract, which was the procurement  
14 contract for the tuna fishing fleet.

15 Q Did you respond?

16 A Yes, I did.

17 Q I want to ask you about points two and points four. In  
18 point two, why did you write, "Can we increase the storage  
19 capacity on the trawlers from 24 tons to 30 tons?"

20 A The document that I had received from David Langford  
21 included the technical specification of the fishing boats that  
22 were to be supplied. At the same time I had been preparing a  
23 business plan for EMATUM which projected a certain amount of  
24 fish to be caught and revenue generated from fishing. That  
25 required the trawlers, the fishing trawlers to stay at sea for

1 a certain number of days a year and to be able to catch a  
2 certain amount of fish whilst they were at sea, and in order  
3 to do that, they need to be able to -- they needed the storage  
4 capacity on the vessel to stay at sea long enough to catch  
5 30 tons every time they went out.

6 The business plan was built to be a model which said  
7 amount of -- the number of vessels, the amount of fish they  
8 caught, multiplied by the value of the fish, and that was the  
9 basis for which the revenue model was constructed.

10 Q I want to ask you about point four.

11 MR. BINI: Ms. DiNardo, could you blow that up?

12 Q Why did you write, "Also, the boats need to be able to  
13 operate for longer and must have freezing capabilities in its  
14 fish store"?

15 A The ability for the vessels to stay at sea longer was for  
16 the reason I just described, so in order to be able to  
17 theoretically catch the number -- or the amount of fish  
18 required to generate the revenue to sustain the business  
19 model.

20 In addition, the business plan assumed that the tuna  
21 that was caught would be sold into more lucrative tuna  
22 markets, the most lucrative being the sushi market, whether  
23 that's in Europe or Japan. There was a technical requirement  
24 for tuna be frozen to minus 60 at least in order to be  
25 eligible for -- to be sold as tuna for sushi. The

1 specification that had been provided by David Langford did not  
2 have that freezing capability.

3 MR. BINI: Your Honor, at this time if I could admit  
4 2361?

5 THE COURT: Any objection to 2361?

6 MR. SCHACHTER: No objection.

7 THE COURT: It's admitted. You may publish.

8 MR. BINI: Thank you, Your Honor.

9 (Government Exhibit 2361, was received in evidence.)

10 (Exhibit published.)

11 Q Looking to the bottom email, who is that email from?

12 A Surjan Singh.

13 Q Who is it to?

14 A Jean Boustani.

15 Q What was -- which email for Surjan Singh is it from?

16 A It's from his Credit Suisse email.

17 Q And what was he sending the defendant, Jean Boustani?

18 A He was sending copies of the loan agreement guaranty and  
19 fee letter for the Mozambican government.

20 Q Is this in relation to EMATUM?

21 A Yes, it is.

22 Q If we go to the first page, did the defendant respond?

23 A Yes, he did.

24 Q Who did he add to the email?

25 A Antonio do Rosario and Isaltina Lucas.

1 Q Was this email then forwarded to you and Ms. Subeva?

2 A I believe it is.

3 MR. BINI: If we can work our way up in the email  
4 chain.

5 Q What was the defendant asking?

6 A He asked, "What is right up/model?"

7 Q Was that a question asked by Surjan Singh?

8 A Yes, it was.

9 Q If we go the top email from July 27, 2013, at 7:17 p.m.  
10 What did you write to defendant?

11 A "We're going to send both shortly. Please, bro, don't  
12 just forward but rather create a new email and attach the  
13 docs. CS is very sensitive to seeing our names involved. PS,  
14 also please take a quick look to make sure nothing you object  
15 to."

16 MR. BINI: If we can -- all right. The government  
17 would now seek to admit, Your Honor, Government's  
18 Exhibit 2362.

19 THE COURT: Any objection to 2362?

20 MR. SCHACHTER: No objection.

21 THE COURT: It's admitted. You may publish it.

22 (Government Exhibit 2362, was received in evidence.)

23 (Exhibit published.)

24 Q I want to ask you about the top email from July 27th.

25 MR. BINI: If you can blow up that top email,

1 Ms. DiNardo.

2 Q What's the date of this email?

3 A Twenty-seventh of July 2013.

4 Q Who is it from? Who is it to?

5 A It's from Ms. Subeva to Mr. Boustani and myself.

6 Q What did Ms. Subeva write?

7 A "Hi, Jean. Sending you a full info package to please  
8 send to Surjan in a clean email without my email details. I  
9 will send you a separate email for Isaltina. As for her, it  
10 will just be the presentation. Thanks so much, Lina."

11 Q What did you understand Ms. Subeva to mean?

12 A She was sending the information package that Surjan had  
13 requested in the previous email to Mr. Boustani and asking  
14 Mr. Boustani to create a clean email and attach that  
15 information package before sending it to Surjan.

16 MR. BINI: Your Honor, at this time if the  
17 government could admit Government's Exhibit 2365.

18 THE COURT: Any objection?

19 MR. SCHACHTER: No, Your Honor.

20 THE COURT: It's admitted. You may publish.

21 (Government Exhibit 2365, was received in evidence.)

22 (Exhibit published.)

23 Q Is this a related email, Mr. Pearse?

24 A Yes, it is.

25 Q What did you write on July 27th, 2013, at 9:47 p.m. to

1 the defendant and Detelina Subeva?

2 A "By the way, if you go into the properties for each doc,  
3 it shows you as the author. You may want to delete and  
4 resend."

5 Q What did you mean by that?

6 A In the preceding email Ms. Subeva had sent the  
7 feasibility materials for the financial model to Mr. Boustani.  
8 If you go to the properties of a Word or Excel document, you  
9 can establish who the author of that document is. It is  
10 written in the properties of the top section of the Word or  
11 email -- sorry -- Word or Excel file. And I was suggesting  
12 that Ms. Subeva delete the fact that she was the author of  
13 those documents before they were sent.

14 THE COURT: I am suggesting that it is now 5 p.m.  
15 and I'm keeping my word. We are going to adjourn for the day.

16 Ladies and gentlemen of the jury, do not discuss the  
17 case.

18 Mr. Pearse, do not discuss the case while you're off  
19 the witness stand.

20 Have a good night, ladies and gentlemen. We'll see  
21 you tomorrow morning at 9:30. Thank you. We're adjourned for  
22 the day.

23 (Jury exits courtroom.)

24 THE COURT: You may step down, Mr. Pearse. Thank  
25 you.

1 THE WITNESS: Thank you, Your Honor.

2 THE COURT: See you tomorrow morning.

3 All right. Do we have any issues to address outside  
4 of the presence of the jury while the defendant is present?  
5 Any procedural issues?

6 MR. JACKSON: None from the defendant. Thank you,  
7 Your Honor.

8 THE COURT: From the government?

9 MR. BINI: Your Honor, I realize --

10 THE COURT: Why don't you sit down and use the  
11 microphone. Everyone can sit. I'm sorry, ladies and  
12 gentlemen. Be seated.

13 MR. BINI: I apologize. When I admitted  
14 Government's Exhibit 2206, there was an email attached to it,  
15 2207, and I did not seek its admission. It was an invoice.

16 So I would apologize for not seeking its admission.  
17 I thought I admitted it, but I would seek its admission now.

18 THE COURT: Any objection to 2207?

19 MR. SCHACHTER: We have no objection.

20 THE COURT: All right. It's admitted.

21 MR. BINI: Thank you.

22 THE COURT: We'll deem it to relate back to the time  
23 it was published to the jury.

24 MR. BINI: Thank you, Your Honor.

25 THE COURT: Thank you. Anything else from the

1 government?

2 MR. BINI: No, Your Honor.

3 THE COURT: From the defense?

4 MR. JACKSON: One slight issue, Your Honor. I just  
5 want to memorialize, I think the parties understand one of the  
6 exhibits that came in today came in subject to redactions that  
7 the parties have agreed on. I believe that's 2212. So the  
8 parties have agreed on those redactions.

9 THE COURT: I'm sorry. I had understood that the  
10 redacted maybe it's a -- I apologize. I understood that what  
11 was being presented, in fact, was a redacted version. You're  
12 telling me that what was presented to the jury was the  
13 unredacted version or was it the redacted version?

14 MR. BINI: We redacted it.

15 THE COURT: So the jury has not seen the unredacted  
16 version? The jury has seen the appropriately redacted  
17 version; is that correct?

18 MR. BINI: Absolutely.

19 THE COURT: Is that correct?

20 MR. JACKSON: Yes, Your Honor.

21 THE COURT: Okay. So that's fine.

22 MR. JACKSON: I just --

23 THE COURT: No, no. That's the way it should be,  
24 but the way you articulated it -- I have had cases where  
25 occasionally lawyers have attempted to, quote/unquote, redact



1 after the document has been shown to the jury, and that  
2 creates what we technically refer to in the law as source,  
3 which I assume not happen.

4 All right. Anything else?

5 MR. JACKSON: No. Thank you, Judge.

6 THE COURT: All right. Thank you. We're adjourned  
7 for the day. See you tomorrow at 9:30.

8 MR. SCHACHTER: Thank you, Your Honor.

9 MR. BINI: Thank you, Your Honor.

10 (Whereupon, the trial adjourned at 5:00 p.m. to  
11 resume Friday, October 18, 2019 at 9:30 a.m.)

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WITNESS		PAGE
ANDREW PEARSE		
DIRECT EXAMINATION	BY MR. BINI	331

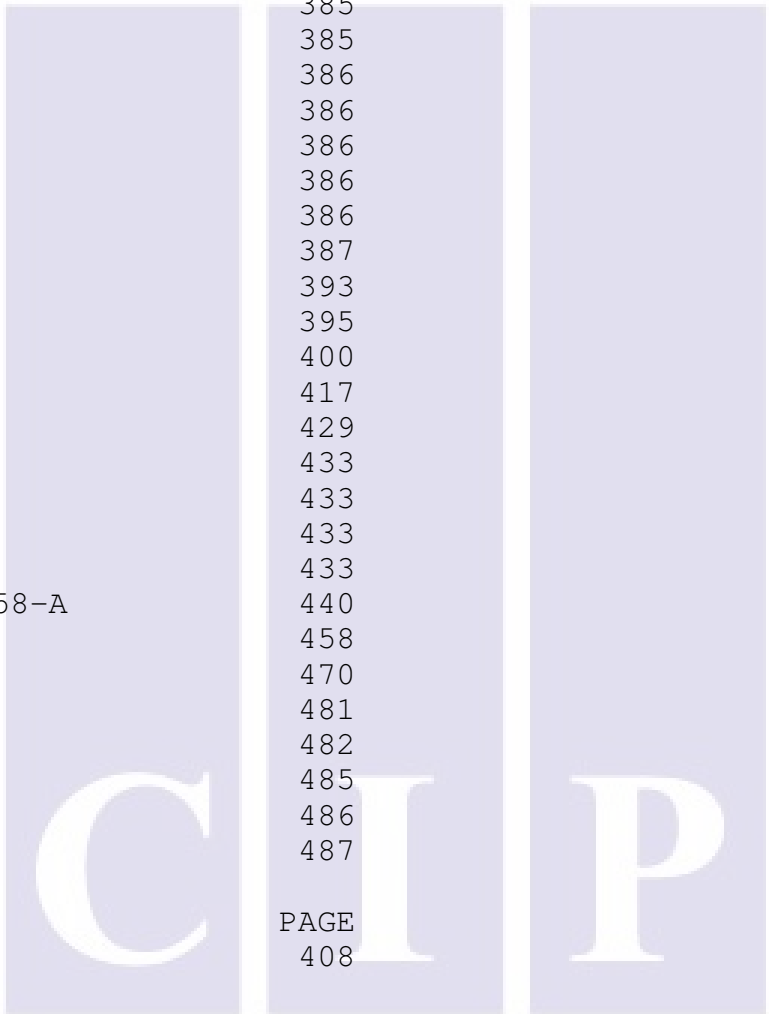
E X H I B I T S

GOVERNMENT	PAGE
2073	329
2073-A	329
2074	330
2078	330
2078-A and B	330
2081	330
2085	349
5006	349
5006A	349
5007	350
5007 A and B	350
2121	350
2096	350
2097	351
2109	351
2110	351
2114	351
2142	351
5047	352
5009 through 5012	352
2182	380
2183	380
2186	380
2206	380
2207	380
2237	380
2256 and 2256-A	381
2262	381
2306 and 2306-A	381
3124	381
3132	381
2317	382
1821	382
2322	382
2320	382
2320-A	382

E X H I B I T S

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

GOVERNMENT	PAGE
2320-B	383
2328	383
2328-A and B	383
2329	383
5062	384
5062-A	384
3131	385
3131-A	385
3131-B	385
2337	386
2338	386
2339	386
2339-A	386
3083	386
2347	387
2212	393
3	395
4	400
5	417
1841	429
1818	433
1819	433
1820	433
1821	433
5058 and 5058-A	440
29	458
3081	470
2355	481
3134	482
2361	485
2362	486
2365	487
COURT	PAGE
4	408



<p><b>(Jury enters courtroom at 10: [1]</b> 328/5 <b>COURTROOM DEPUTY: [2]</b> 324/1 328/4 <b>JUROR: [1]</b> 453/11 <b>MR. BINI: [175]</b> <b>MR. DISANTO: [1]</b> 324/20 <b>MR. JACKSON: [23]</b> 324/11 326/4 327/12 327/24 329/12 329/18 329/24 330/4 330/9 330/15 364/15 365/8 407/12 408/25 409/12 409/15 410/14 410/19 489/5 490/3 490/19 490/21 491/4 <b>MR. MCLEOD: [1]</b> 324/22 <b>MR. MEHTA: [4]</b> 364/18 384/3 407/15 407/17 <b>MR. SCHACHTER: [85]</b> 324/15 346/2 347/11 348/4 349/11 349/17 349/22 350/3 350/8 350/14 350/19 350/24 351/4 351/9 351/14 351/19 351/24 352/4 360/11 365/13 365/15 365/19 371/15 372/4 379/23 380/3 380/8 380/13 380/19 380/24 381/5 381/10 381/16 381/21 382/1 382/6 382/12 382/17 382/22 383/3 383/9 383/14 383/20 383/25 384/5 384/11 384/18 385/5 385/11 385/17 385/23 386/3 386/8 386/13 386/19 386/24 391/18 391/22 392/13 392/19 393/6 395/1 400/11 416/25 429/1 429/4 433/3 433/9 433/14 433/19 440/2 440/5 440/8 440/14 458/5 470/17 470/20 480/24 481/10 482/21 485/5 486/19 487/18 489/18 491/7 <b>MS. DONNELLY: [1]</b> 324/18 <b>THE COURT REPORTER: [3]</b> 419/8 419/11 419/13 <b>THE COURT: [289]</b> <b>THE COURTROOM DEPUTY: [2]</b> 365/1 408/2 <b>THE DEFENDANT: [1]</b> 365/22 <b>THE WITNESS: [21]</b> 328/19 353/3 365/25 366/10 388/13 388/15 397/25 401/25 411/7 419/9 419/12 447/9 447/15 447/19 447/21 447/25 464/23 469/9 477/19 479/8 488/25</p>	<p><b>\$15.6 [1]</b> 436/21 <b>\$15.6 million [1]</b> 436/21 <b>\$2 [1]</b> 452/25 <b>\$2 million [1]</b> 452/25 <b>\$200,000 [1]</b> 458/2 <b>\$24 [1]</b> 452/1 <b>\$24 million [1]</b> 452/1 <b>\$250 [7]</b> 427/7 427/25 428/17 438/18 451/16 458/19 466/22 <b>\$250 million [6]</b> 427/7 428/17 438/18 451/16 458/19 466/22 <b>\$250,000 [2]</b> 432/23 439/12 <b>\$350 [1]</b> 437/20 <b>\$350 million [1]</b> 437/20 <b>\$366 [3]</b> 370/21 420/17 420/21 <b>\$366 million [3]</b> 370/21 420/17 420/21 <b>\$37,200,000 [1]</b> 399/18 <b>\$37,858,851 [1]</b> 399/7 <b>\$370 [1]</b> 367/17 <b>\$370 million [1]</b> 367/17 <b>\$372 [6]</b> 378/14 393/22 395/10 400/19 427/6 428/16 <b>\$372 million [6]</b> 378/14 393/22 395/10 400/19 427/6 428/16 <b>\$38 [2]</b> 411/16 412/3 <b>\$38 million [2]</b> 411/16 412/3 <b>\$4 [2]</b> 452/24 452/24 <b>\$4 million [2]</b> 452/24 452/24 <b>\$45 [1]</b> 373/1 <b>\$45 million [1]</b> 373/1 <b>\$49 [1]</b> 388/2 <b>\$49 million [1]</b> 388/2 <b>\$5.5 [1]</b> 400/5 <b>\$5.5 million [1]</b> 400/5 <b>\$500 [3]</b> 436/24 467/13 472/23 <b>\$500 million [3]</b> 436/24 467/13 472/23 <b>\$6 [1]</b> 428/18 <b>\$6 million [1]</b> 428/18 <b>\$600,000 [1]</b> 443/21 <b>\$622 [2]</b> 438/12 450/3 <b>\$622 million [2]</b> 438/12 450/3 <b>\$7.8 [2]</b> 437/14 437/18 <b>\$7.8 million [2]</b> 437/14 437/18 <b>\$750 [2]</b> 473/10 475/18 <b>\$750 million [1]</b> 473/10 <b>\$800 [3]</b> 478/6 478/9 481/7 <b>\$800 million [2]</b> 478/9 481/7 <b>\$850 [2]</b> 437/21 451/19 <b>\$850 million [2]</b> 437/21 451/19 <b>\$90,190,000 [1]</b> 465/4</p>	<p><b>1</b> <b>1.6 percent [1]</b> 401/7 <b>10 [2]</b> 333/14 415/24 <b>10015 [1]</b> 416/4 <b>10019-6099 [1]</b> 323/19 <b>10:22 [1]</b> 324/11 <b>10:27 [1]</b> 476/22 <b>10th [1]</b> 441/23 <b>11 [1]</b> 402/22 <b>11 points [1]</b> 448/18 <b>11201 [1]</b> 323/13 <b>11:12 [1]</b> 473/15 <b>11:15 [1]</b> 363/23 <b>11:15 a.m [1]</b> 387/14 <b>11:44 a.m [1]</b> 454/23 <b>12 [4]</b> 361/17 370/23 457/12 457/15 <b>12th [2]</b> 422/4 453/18 <b>13th [2]</b> 435/23 436/19 <b>14,888,000 [1]</b> 399/6 <b>1400 [1]</b> 323/16 <b>14:09 [1]</b> 359/9 <b>15 [4]</b> 364/1 364/18 399/10 474/22 <b>15 minutes [1]</b> 407/1 <b>15-minute [2]</b> 364/3 364/17 <b>16 [2]</b> 402/10 435/24 <b>17 [4]</b> 323/5 403/18 406/9 406/11 <b>17.17 [1]</b> 404/6 <b>17:46 [1]</b> 472/25 <b>17th [1]</b> 337/13 <b>18 [1]</b> 491/11 <b>18-CR-681 [1]</b> 323/2 <b>1818 [6]</b> 433/2 433/3 433/7 434/4 437/11 439/8 <b>1819 [4]</b> 433/8 433/11 433/12 439/3 <b>1820 [3]</b> 433/13 433/16 433/17 <b>1821 [6]</b> 382/5 382/9 433/18 433/21 433/22 457/7 <b>1841 [4]</b> 428/24 429/4 429/7 429/9 <b>18:49 [1]</b> 471/6 <b>18th [1]</b> 436/4 <b>19 [3]</b> 477/8 477/24 478/3 <b>19-2 [1]</b> 461/18 <b>19.2 [1]</b> 406/8 <b>19th [5]</b> 347/5 352/21 355/11 359/8 372/16 <b>1:00 o'clock [2]</b> 406/22 406/25 <b>1st [1]</b> 439/12</p>
<p><b>\$</b> <b>\$1 [16]</b> 435/7 435/16 436/1 436/2 436/5 436/7 436/8 437/13 437/18 437/24 438/9 438/21 438/25 439/12 445/3 445/18 <b>\$1 million [16]</b> 435/7 435/16 436/1 436/2 436/5 436/7 436/8 437/13 437/18 437/24 438/9 438/21 438/25 439/12 445/3 445/18 <b>\$10,050,000 [1]</b> 439/15 <b>\$100 [2]</b> 461/4 464/12 <b>\$100 million [2]</b> 461/4 464/12 <b>\$11 [1]</b> 388/22 <b>\$11 million [1]</b> 388/22 <b>\$14 [1]</b> 399/9 <b>\$14 million [1]</b> 399/9</p>	<p><b>'</b> <b>'80s [2]</b> 347/15 355/19 <b>-</b> <b>-- for [1]</b> 341/1 <b>-- to [1]</b> 434/12 -----x [2] 323/2 323/7 <b>-against [1]</b> 323/5 <b>0</b> <b>013-C-TPD-000-N-001PR-02-B [1]</b> 370/6</p>	<p><b>2</b> <b>2.5 million [1]</b> 434/14 <b>2.5 percent [1]</b> 428/15 <b>20 [3]</b> 417/14 417/14 417/21 <b>200 [3]</b> 426/22 427/7 427/25 <b>20001 [1]</b> 323/16 <b>2011 [1]</b> 480/13 <b>2012 [11]</b> 331/10 333/14 333/22 337/13 340/21 352/21 355/11 359/9 361/23 363/10 411/20 <b>2013 [65]</b> 342/8 366/18 368/4 372/16 376/24 379/13 379/17 387/11 387/12 389/9 400/20 417/13 418/19 420/10 421/2 422/4 424/10 426/14 429/22 434/8 434/19 435/4 435/9 435/15 435/18 435/24 436/4 436/19 436/20</p>

<p><b>2</b></p> <p><b>2013...</b> [36] 437/14 437/15 437/22 438/9 438/17 438/17 438/20 438/24 439/8 441/1 441/23 446/22 452/3 453/18 456/1 457/12 457/15 458/14 464/6 464/10 465/12 466/3 466/21 471/6 472/22 472/25 473/15 474/12 476/19 476/22 478/19 481/23 483/3 486/9 487/3 487/25</p> <p><b>2014</b> [5] 439/9 439/11 439/12 439/13 478/11</p> <p><b>2019</b> [2] 323/5 491/11</p> <p><b>2073</b> [4] 329/11 329/12 329/15 330/22</p> <p><b>2073-A</b> [4] 329/17 329/21 332/7 332/8</p> <p><b>2074</b> [3] 329/23 330/2 333/4</p> <p><b>2078</b> [3] 330/3 330/7 337/8</p> <p><b>2078-A</b> [3] 330/8 330/12 339/22</p> <p><b>2078-B</b> [2] 340/5 340/10</p> <p><b>2081</b> [3] 330/14 330/18 340/18</p> <p><b>2082</b> [7] 345/23 345/24 346/2 347/4 349/4 349/7 352/15</p> <p><b>2085</b> [3] 349/10 349/14 359/7</p> <p><b>2096</b> [3] 350/18 350/22 366/17</p> <p><b>2097</b> [3] 350/23 351/2 366/24</p> <p><b>21</b> [4] 413/23 414/6 414/8 481/6</p> <p><b>2109</b> [4] 351/3 351/7 368/3 368/22</p> <p><b>2110</b> [3] 351/8 351/12 368/21</p> <p><b>2114</b> [3] 351/13 351/17 372/13</p> <p><b>2121</b> [2] 350/13 350/17</p> <p><b>2142</b> [4] 351/18 351/22 373/11 373/11</p> <p><b>2182</b> [4] 379/19 379/22 379/23 380/1</p> <p><b>2183</b> [4] 380/2 380/6 387/5 387/6</p> <p><b>2186</b> [3] 380/7 380/11 389/7</p> <p><b>21st</b> [3] 424/10 476/22 478/19</p> <p><b>21st of</b> [1] 379/13</p> <p><b>2206</b> [5] 380/12 380/16 420/3 420/5 489/14</p> <p><b>2207</b> [7] 380/17 420/3 420/11 420/13 420/15 489/15 489/18</p> <p><b>2212</b> [8] 325/4 392/18 392/19 393/5 393/6 393/9 393/13 490/7</p> <p><b>2237</b> [3] 380/18 380/22 422/2</p> <p><b>2256</b> [3] 380/23 381/2 424/9</p> <p><b>2256-A</b> [2] 380/23 381/2</p> <p><b>2256A</b> [1] 425/12</p> <p><b>2262</b> [3] 381/4 381/8 426/10</p> <p><b>22nd</b> [1] 421/2</p> <p><b>22nd of</b> [1] 379/17</p> <p><b>2306</b> [3] 381/9 381/13 441/17</p> <p><b>2306-A</b> [3] 381/9 381/13 444/15</p> <p><b>2317</b> [3] 381/25 382/4 455/22</p> <p><b>2320</b> [2] 382/16 382/20</p> <p><b>2320-A</b> [2] 382/21 382/25</p> <p><b>2320-B</b> [2] 383/2 383/6</p> <p><b>2322</b> [2] 382/11 382/15</p> <p><b>2328</b> [4] 383/8 383/12 459/12 459/14</p> <p><b>2328-A</b> [3] 383/13 383/17 459/21</p> <p><b>2328B</b> [1] 462/8</p> <p><b>2329</b> [3] 383/19 383/23 462/13</p> <p><b>2337</b> [3] 385/22 386/1 468/12</p> <p><b>2338</b> [4] 386/2 386/6 472/9 472/12</p> <p><b>2339</b> [3] 386/7 386/11 474/6</p> <p><b>2339-A</b> [3] 386/12 386/16 475/10</p> <p><b>2347</b> [3] 386/23 387/2 476/14</p>	<p><b>2355</b> [3] 481/9 481/10 481/13</p> <p><b>2361</b> [3] 485/4 485/5 485/9</p> <p><b>2362</b> [3] 486/18 486/19 486/22</p> <p><b>2365</b> [2] 487/17 487/21</p> <p><b>24</b> [1] 361/17</p> <p><b>24 tons</b> [1] 483/19</p> <p><b>24th</b> [3] 339/7 434/19 437/14</p> <p><b>25</b> [4] 387/12 389/9 479/11 479/17</p> <p><b>250</b> [1] 426/23</p> <p><b>25th</b> [3] 387/11 418/19 464/10</p> <p><b>26.1</b> [2] 415/19 415/22</p> <p><b>26th</b> [1] 436/20</p> <p><b>27</b> [2] 435/15 486/9</p> <p><b>271</b> [1] 323/12</p> <p><b>2777</b> [1] 323/23</p> <p><b>27th</b> [4] 435/9 437/22 486/24 487/25</p> <p><b>28a.m</b> [1] 328/6</p> <p><b>28th</b> [2] 417/13 439/11</p> <p><b>28th of</b> [1] 400/20</p> <p><b>29</b> [3] 458/4 458/5 458/8</p> <p><b>29th</b> [2] 435/4 441/1</p> <p><b>2:15</b> [2] 407/1 407/15</p> <p><b>2:30</b> [1] 408/2</p> <p><b>2nd</b> [2] 472/22 473/11</p> <hr/> <p><b>3</b></p> <p><b>3.1</b> [1] 402/13</p> <p><b>30</b> [3] 467/2 467/7 473/4</p> <p><b>30 tons</b> [2] 483/19 484/5</p> <p><b>3031</b> [6] 384/10 384/16 384/25 385/1 465/21 466/24</p> <p><b>3031-A</b> [2] 384/10 384/17</p> <p><b>3031-B</b> [1] 384/17</p> <p><b>3081</b> [2] 470/16 470/23</p> <p><b>3083</b> [2] 386/18 386/22</p> <p><b>3122</b> [2] 453/3 453/16</p> <p><b>3124</b> [3] 381/15 381/19 446/25</p> <p><b>3131</b> [8] 384/12 384/19 385/2 385/4 385/8 465/21 465/25 466/24</p> <p><b>3131-A</b> [2] 385/10 385/14</p> <p><b>3131-B</b> [2] 385/16 385/20</p> <p><b>3131A</b> [1] 467/1</p> <p><b>3131B</b> [1] 468/4</p> <p><b>3132</b> [2] 381/20 381/24</p> <p><b>3134</b> [2] 482/20 482/24</p> <p><b>32</b> [1] 403/18</p> <p><b>33 years</b> [1] 327/8</p> <p><b>36</b> [1] 404/6</p> <p><b>366 million</b> [1] 422/21</p> <p><b>372</b> [2] 438/12 458/17</p> <p><b>38</b> [1] 399/12</p> <p><b>3rd</b> [1] 438/9</p> <hr/> <p><b>4</b></p> <p><b>40</b> [1] 396/25</p> <p><b>41</b> [1] 405/24</p> <p><b>43</b> [1] 397/8</p> <p><b>45</b> [2] 473/3 475/19</p> <p><b>45 meters</b> [1] 481/7</p> <p><b>45-meter</b> [2] 479/12 479/18</p> <p><b>47</b> [1] 398/5</p> <p><b>49</b> [4] 372/23 373/4 373/5 411/16</p> <p><b>49 million</b> [1] 412/2</p> <p><b>49M</b> [2] 372/19 372/25</p> <p><b>4th</b> [6] 331/10 361/23 438/20 439/13</p>	<p>471/6 472/25</p> <hr/> <p><b>5</b></p> <p><b>5 p.m</b> [1] 488/14</p> <p><b>5.4</b> [1] 418/9</p> <p><b>5.4.2</b> [1] 418/10</p> <p><b>50</b> [2] 413/23 471/15</p> <p><b>500 million</b> [2] 473/10 473/11</p> <p><b>5006</b> [3] 349/16 349/20 361/21</p> <p><b>5006A</b> [3] 349/21 349/25 362/7</p> <p><b>5007</b> [3] 350/2 350/6 350/11</p> <p><b>5007A</b> [1] 350/7</p> <p><b>5009</b> [5] 352/3 352/7 376/22 377/24 379/15</p> <p><b>5010</b> [1] 377/23</p> <p><b>5011</b> [1] 378/8</p> <p><b>5012</b> [3] 352/3 352/7 378/22</p> <p><b>5047</b> [3] 351/23 352/2 373/12</p> <p><b>5058</b> [4] 439/21 439/25 440/5 440/17</p> <p><b>5058-A</b> [4] 439/25 440/5 440/17 441/13</p> <p><b>5062</b> [3] 383/24 384/3 464/4</p> <p><b>5062-A</b> [2] 384/4 384/8</p> <p><b>5062A</b> [1] 464/22</p> <p><b>51 percent</b> [3] 353/7 353/22 354/7</p> <p><b>5354</b> [1] 471/15</p> <p><b>5:00</b> [3] 453/8 453/11 491/10</p> <p><b>5:05</b> [1] 424/11</p> <p><b>5th</b> [2] 456/1 473/15</p> <hr/> <p><b>6</b></p> <p><b>60</b> [1] 484/24</p> <p><b>600,000</b> [1] 445/4</p> <p><b>6099</b> [1] 323/19</p> <p><b>66</b> [1] 414/18</p> <p><b>681</b> [2] 323/2 324/3</p> <hr/> <p><b>7</b></p> <p><b>718</b> [1] 323/23</p> <p><b>750 million</b> [1] 473/2</p> <p><b>750,000</b> [2] 457/17 457/25</p> <p><b>77</b> [1] 429/13</p> <p><b>772</b> [1] 471/15</p> <p><b>787</b> [1] 323/19</p> <p><b>7:17 p.m</b> [1] 486/9</p> <hr/> <p><b>8</b></p> <p><b>800 million</b> [1] 477/9</p> <p><b>800,000</b> [1] 445/3</p> <p><b>804-2777</b> [1] 323/23</p> <p><b>84</b> [1] 431/21</p> <p><b>8:44 p.m</b> [1] 478/19</p> <hr/> <p><b>9</b></p> <p><b>96</b> [1] 401/13</p> <p><b>971</b> [1] 471/15</p> <p><b>98,290,000</b> [1] 461/22</p> <p><b>9:30</b> [4] 323/5 488/21 491/7 491/11</p> <p><b>9:47 p.m</b> [1] 487/25</p> <hr/> <p><b>A</b></p> <p><b>a.m</b> [5] 323/5 324/11 387/14 454/23 491/11</p> <p><b>ability</b> [4] 404/11 427/19 450/21 484/15</p> <p><b>able</b> [10] 336/21 356/15 359/3 394/15</p>
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<p><b>A</b></p> <p><b>able...</b> [6] 399/8 464/1 484/1 484/3 484/12 484/16</p> <p><b>above-referred</b> [6] 393/16 395/5 400/15 433/23 440/19 458/9</p> <p><b>absence</b> [1] 364/13</p> <p><b>absolutely</b> [2] 409/17 490/18</p> <p><b>Abu</b> [37] 334/23 334/24 334/25 335/1 339/8 339/13 353/6 353/22 354/2 354/3 354/7 355/3 362/21 367/10 403/17 424/15 425/19 425/25 426/7 426/9 429/10 429/24 430/16 431/15 432/5 432/8 432/13 434/6 439/6 441/11 442/25 445/8 445/14 445/15 467/3 468/1 468/7</p> <p><b>Abu Dhabi</b> [7] 335/1 339/8 403/17 431/15 432/5 432/8 432/13</p> <p><b>Abu Dhabi MAR</b> [3] 334/23 334/24 334/25</p> <p><b>accept</b> [4] 375/11 375/16 376/7 376/13</p> <p><b>acceptable</b> [6] 327/19 355/5 364/2 410/12 410/14 453/8</p> <p><b>accepted</b> [2] 373/21 373/24</p> <p><b>accepting</b> [1] 354/17</p> <p><b>access</b> [2] 421/18 462/22</p> <p><b>accessible</b> [1] 331/1</p> <p><b>accordance</b> [2] 461/9 461/16</p> <p><b>according</b> [1] 478/4</p> <p><b>account</b> [33] 359/15 360/4 360/4 415/23 415/25 416/3 416/17 428/19 429/10 431/22 434/5 434/14 436/21 439/4 439/4 439/6 449/5 449/21 451/25 456/20 456/24 457/2 457/3 457/11 461/8 461/22 462/2 462/2 462/4 465/8 465/9 472/3 472/7</p> <p><b>accounts</b> [2] 416/1 457/9</p> <p><b>acquire</b> [3] 369/22 471/22 475/19</p> <p><b>acquiring</b> [2] 442/19 451/2</p> <p><b>acquisition</b> [1] 334/23</p> <p><b>acronym</b> [2] 334/12 358/20</p> <p><b>act</b> [10] 404/14 404/19 404/20 404/22 404/23 404/24 404/25 405/11 405/14 405/15</p> <p><b>acting</b> [3] 332/20 367/13 417/10</p> <p><b>activities</b> [1] 430/16</p> <p><b>acts</b> [1] 415/18</p> <p><b>actual</b> [1] 379/11</p> <p><b>add</b> [5] 409/16 416/18 479/11 479/18 485/24</p> <p><b>adding</b> [1] 480/20</p> <p><b>addition</b> [1] 484/20</p> <p><b>additional</b> [7] 342/21 437/10 439/10 450/2 453/1 459/9 464/12</p> <p><b>Additionally</b> [1] 398/9</p> <p><b>address</b> [23] 327/16 333/18 336/14 340/24 341/3 341/4 341/6 341/10 345/15 346/1 392/25 407/9 409/23 410/17 416/3 424/2 425/2 441/24 442/7 456/6 456/7 456/14 489/3</p> <p><b>addressed</b> [5] 331/18 362/11 468/24 477/6 477/12</p> <p><b>addressing</b> [1] 477/25</p> <p><b>Adel</b> [6] 338/17 338/23 352/19 357/15 359/9 368/7</p>	<p><b>adjourn</b> [1] 488/15</p> <p><b>adjourned</b> [3] 488/21 491/6 491/10</p> <p><b>adjust</b> [1] 473/3</p> <p><b>adjusted</b> [1] 477/9</p> <p><b>adjusting</b> [1] 479/16</p> <p><b>ADM</b> [2] 442/24 442/24</p> <p><b>admission</b> [3] 489/15 489/16 489/17</p> <p><b>admit</b> [11] 329/9 345/23 379/22 416/24 433/2 458/4 481/9 482/20 485/3 486/17 487/17</p> <p><b>admitted</b> [69] 329/14 329/20 330/1 330/6 330/11 330/17 349/19 349/24 350/5 350/10 350/16 350/21 351/1 351/6 351/11 351/16 351/21 352/1 352/6 379/25 380/5 380/10 380/15 380/21 381/1 381/7 381/12 381/18 381/23 382/3 382/8 382/14 382/19 382/24 383/5 383/11 383/16 383/22 384/2 384/7 385/7 385/13 385/19 385/25 386/5 386/10 386/15 386/21 387/1 393/8 393/15 395/3 400/13 417/3 429/6 433/6 433/11 433/16 433/21 440/16 458/7 470/22 481/12 485/7 486/21 487/20 489/13 489/17 489/20</p> <p><b>advance</b> [2] 339/10 431/20</p> <p><b>advancing</b> [1] 368/17</p> <p><b>advantage</b> [1] 405/4</p> <p><b>advice</b> [2] 389/25 446/10</p> <p><b>advise</b> [4] 339/9 408/12 410/6 456/15</p> <p><b>advisor</b> [1] 449/3</p> <p><b>Advisors</b> [2] 437/4 443/14</p> <p><b>Advisory</b> [1] 446/5</p> <p><b>Afiouni</b> [8] 338/17 338/24 352/19 357/15 359/9 359/11 359/21 368/7</p> <p><b>Afiouni's</b> [1] 360/25</p> <p><b>afraid</b> [1] 416/14</p> <p><b>Africa</b> [3] 394/6 396/11 451/7</p> <p><b>African</b> [1] 451/10</p> <p><b>after</b> [16] 358/25 397/22 398/10 398/12 398/18 398/25 399/7 400/21 406/25 437/8 437/12 449/20 450/2 461/6 470/9 491/1</p> <p><b>AG</b> [2] 401/1 416/1</p> <p><b>against</b> [2] 323/5 457/5</p> <p><b>agencies</b> [2] 374/18 390/13</p> <p><b>agency</b> [2] 374/21 375/9</p> <p><b>agenda</b> [2] 368/11 368/16</p> <p><b>agent</b> [10] 324/6 401/1 415/8 415/9 415/11 415/13 415/17 415/24 416/20 417/13</p> <p><b>aggregating</b> [2] 422/21 422/23</p> <p><b>ago</b> [3] 438/14 473/12 481/4</p> <p><b>agree</b> [6] 388/7 391/9 409/13 409/14 410/4 421/12</p> <p><b>agreed</b> [26] 325/3 325/7 325/19 326/7 327/6 359/17 361/1 361/6 388/3 390/18 390/19 390/22 391/10 402/5 406/16 406/19 411/20 418/17 421/5 421/6 435/2 435/13 454/4 454/12 490/7 490/8</p> <p><b>agreed-upon</b> [1] 327/6</p> <p><b>agreement</b> [58] 325/6 326/7 331/21 331/22 331/24 332/2 332/3 332/4 332/9 332/23 333/1 333/2 333/3 341/20 341/21 341/21 361/8 369/24 377/13 378/18 378/21 388/18 388/20 388/21</p>	<p>388/23 389/22 390/1 390/7 400/18 400/21 400/24 401/3 401/9 401/12 401/13 402/7 402/10 403/13 413/22 414/11 414/22 414/23 415/6 416/11 419/1 419/17 419/25 421/17 428/7 428/14 454/10 454/16 458/17 458/18 458/20 458/21 461/14 485/18</p> <p><b>agreements</b> [1] 415/3</p> <p><b>agrees</b> [2] 325/15 403/25</p> <p><b>ahead</b> [17] 331/3 353/20 358/14 358/16 373/12 382/10 388/17 393/12 397/6 402/2 412/8 441/20 448/4 453/14 469/8 469/11 469/16</p> <p><b>aid</b> [1] 446/20</p> <p><b>aided</b> [1] 323/25</p> <p><b>aircraft</b> [1] 370/14</p> <p><b>airport</b> [1] 424/16</p> <p><b>AI</b> [3] 358/20 358/22 359/2</p> <p><b>all -- may</b> [1] 431/13</p> <p><b>Allam</b> [2] 430/11 471/16</p> <p><b>allocate</b> [1] 423/4</p> <p><b>allow</b> [4] 347/25 358/13 414/11 458/17</p> <p><b>allowed</b> [3] 413/10 424/23 454/15</p> <p><b>almost</b> [3] 399/10 399/12 452/1</p> <p><b>alternative</b> [1] 391/10</p> <p><b>always</b> [2] 326/16 479/5</p> <p><b>am</b> [7] 326/17 361/2 375/4 399/23 459/20 470/14 488/14</p> <p><b>amended</b> [2] 405/18 458/17</p> <p><b>amendment</b> [1] 458/20</p> <p><b>AMERICA</b> [1] 323/3</p> <p><b>Amortization</b> [1] 398/2</p> <p><b>amount</b> [23] 361/2 361/7 361/10 367/14 367/15 367/16 367/16 390/19 399/16 399/17 428/7 446/13 449/16 454/12 454/14 459/8 465/3 478/10 483/23 484/2 484/7 484/7 484/17</p> <p><b>amounts</b> [5] 399/2 402/17 416/10 428/15 450/3</p> <p><b>analyst</b> [2] 425/17 426/3</p> <p><b>and/or</b> [1] 448/25</p> <p><b>ANDREW</b> [11] 329/4 334/2 337/7 337/17 347/6 352/25 353/5 445/9 471/12 471/14 479/13</p> <p><b>Angela</b> [1] 324/6</p> <p><b>Angeles</b> [1] 463/13</p> <p><b>another</b> [10] 325/24 333/3 404/2 404/18 431/22 435/10 435/19 436/2 453/6 455/6</p> <p><b>answer</b> [6] 325/20 337/25 360/13 393/2 412/13 414/16</p> <p><b>answerable</b> [1] 468/23</p> <p><b>answered</b> [3] 338/3 340/13 448/3</p> <p><b>answering</b> [1] 392/4</p> <p><b>anti</b> [7] 404/9 404/14 404/14 405/12 405/13 405/15 461/19</p> <p><b>anti-bribery</b> [1] 405/12</p> <p><b>anti-corruption</b> [6] 404/9 404/14 404/14 405/13 405/15 461/19</p> <p><b>anticipates</b> [1] 325/5</p> <p><b>Antonio</b> [27] 401/14 459/15 459/23 468/20 468/24 469/8 469/10 469/16 469/18 469/23 470/10 473/20 473/20 474/3 474/14 474/19 474/23 474/24 475/11 477/1 477/6 477/12 477/13</p>
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<p><b>A</b></p> <p><b>Antonio...</b> [4] 478/1 478/1 480/2 485/25</p> <p><b>anymore</b> [2] 393/11 443/17</p> <p><b>anyway</b> [1] 456/16</p> <p><b>Apologies</b> [4] 353/4 363/5 417/19 469/10</p> <p><b>apologize</b> [6] 416/9 439/23 465/24 489/13 489/16 490/10</p> <p><b>appearances</b> [3] 323/11 324/4 408/4</p> <p><b>appetite</b> [3] 427/13 427/14 427/19</p> <p><b>applicable</b> [1] 405/20</p> <p><b>application</b> [1] 424/20</p> <p><b>applied</b> [3] 430/15 461/7 461/16</p> <p><b>applies</b> [2] 375/3 406/12</p> <p><b>apply</b> [2] 402/17 461/21</p> <p><b>applying</b> [1] 425/6</p> <p><b>appointed</b> [1] 374/5</p> <p><b>appointment</b> [1] 431/9</p> <p><b>appreciate</b> [1] 328/13</p> <p><b>approach</b> [1] 327/2</p> <p><b>approached</b> [1] 455/13</p> <p><b>appropriate</b> [4] 326/6 326/9 327/18 328/4</p> <p><b>appropriately</b> [4] 325/5 376/4 410/1 490/16</p> <p><b>approval</b> [5] 354/19 356/9 374/14 393/21 469/5</p> <p><b>approve</b> [2] 363/21 394/18</p> <p><b>approved</b> [1] 372/2</p> <p><b>approving</b> [1] 363/18</p> <p><b>approximately</b> [10] 379/14 400/23 429/21 432/22 434/7 436/19 443/20 443/21 445/3 458/1</p> <p><b>April</b> [3] 434/8 434/19 441/1</p> <p><b>Arab</b> [9] 335/1 355/5 358/23 429/16 432/21 441/9 457/11 462/5 472/4</p> <p><b>area</b> [1] 394/7</p> <p><b>areas</b> [3] 368/15 474/20 475/3</p> <p><b>Armando</b> [2] 362/11 362/13</p> <p><b>around</b> [1] 345/13</p> <p><b>arrange</b> [1] 475/17</p> <p><b>arrangement</b> [2] 345/12 345/18</p> <p><b>arrangements</b> [1] 345/21</p> <p><b>arranger</b> [4] 401/1 401/7 417/12 448/24</p> <p><b>arranging</b> [2] 390/12 449/4</p> <p><b>arrives</b> [1] 424/15</p> <p><b>arriving</b> [1] 471/13</p> <p><b>articulated</b> [1] 490/24</p> <p><b>ASAP</b> [1] 337/25</p> <p><b>aside</b> [2] 478/10 478/16</p> <p><b>assess</b> [1] 356/11</p> <p><b>assessing</b> [1] 355/25</p> <p><b>Asset</b> [1] 439/18</p> <p><b>assets</b> [4] 370/4 370/12 414/15 422/9</p> <p><b>assignment</b> [1] 367/20</p> <p><b>assistance</b> [1] 389/25</p> <p><b>assisting</b> [1] 472/1</p> <p><b>associated</b> [3] 443/4 443/7 443/8</p> <p><b>Association</b> [2] 414/25 415/3</p> <p><b>assume</b> [1] 491/3</p> <p><b>assumed</b> [1] 484/20</p> <p><b>attach</b> [5] 353/10 420/11 464/16</p>	<p>486/12 487/14</p> <p><b>attached</b> [20] 331/20 332/12 339/4 340/1 340/11 353/12 362/5 362/8 367/2 368/8 368/22 378/23 379/15 442/9 444/18 464/18 466/24 474/19 475/11 489/14</p> <p><b>attaches</b> [1] 459/16</p> <p><b>attaching</b> [2] 456/24 466/17</p> <p><b>attachment</b> [4] 362/7 420/3 464/23 475/10</p> <p><b>attachments</b> [2] 377/24 378/25</p> <p><b>attack</b> [1] 376/17</p> <p><b>attempt</b> [1] 327/15</p> <p><b>attempted</b> [1] 490/25</p> <p><b>attention</b> [3] 363/9 427/4 427/24</p> <p><b>attorney</b> [6] 373/19 375/16 376/3 376/7 376/8 376/11</p> <p><b>ATTORNEY'S</b> [1] 323/11</p> <p><b>audience</b> [1] 411/3</p> <p><b>August</b> [3] 477/8 477/24 478/3</p> <p><b>August 19</b> [3] 477/8 477/24 478/3</p> <p><b>AUSA</b> [2] 323/13 323/14</p> <p><b>author</b> [3] 488/3 488/9 488/12</p> <p><b>authored</b> [1] 347/24</p> <p><b>authorities</b> [2] 363/12 375/20</p> <p><b>authorized</b> [1] 461/20</p> <p><b>authorizes</b> [1] 461/21</p> <p><b>available</b> [1] 379/7</p> <p><b>Avenue</b> [2] 323/16 323/19</p> <p><b>avoid</b> [4] 346/5 375/7 376/18 456/11</p> <p><b>awaiting</b> [1] 368/11</p> <p><b>award</b> [2] 374/20 374/23</p> <p><b>aware</b> [26] 363/2 363/21 390/23 391/21 391/25 392/8 392/9 399/23 400/7 401/8 401/24 402/5 402/6 423/6 423/7 425/7 425/10 426/1 426/9 449/25 451/16 468/6 468/8 468/10 468/11 480/4</p> <p><b>away</b> [2] 422/21 422/23</p> <p><b>Azerbaijan</b> [2] 421/19 421/23</p> <hr/> <p><b>B</b></p> <p><b>B-o-u-s-t-a-n-y</b> [1] 447/11</p> <p><b>back</b> [26] 327/11 328/8 331/2 356/13 356/13 356/15 362/22 365/10 365/22 365/24 366/4 378/6 378/7 402/22 403/5 404/13 410/18 410/22 410/24 411/1 413/21 417/15 451/11 458/23 477/22 489/22</p> <p><b>background</b> [3] 389/19 431/7 479/25</p> <p><b>balance</b> [2] 397/22 399/6</p> <p><b>bank</b> [76] 337/2 338/3 338/10 338/12 355/6 356/9 356/11 356/17 356/18 361/2 363/10 363/13 367/22 371/23 372/9 373/2 389/14 389/16 390/11 394/15 394/18 394/22 395/12 396/5 396/7 396/8 396/10 396/16 403/24 403/25 404/3 406/4 416/1 416/2 416/3 416/7 418/4 418/6 418/10 418/12 421/2 427/18 428/10 428/19 430/3 430/5 431/22 432/5 432/8 434/5 434/6 436/21 439/4 439/7 441/12 446/21 450/22 451/24 456/20 457/9 457/10 461/21 462/2 462/4 462/4 462/6 462/7 462/12 465/3 465/5 465/6 465/6 465/7 465/8</p>	<p>465/10 472/3</p> <p><b>bankers</b> [2] 394/9 394/15</p> <p><b>banks</b> [14] 360/20 368/16 390/20 395/13 429/11 448/24 449/5 454/13 454/15 456/19 464/21 475/4 480/9 481/2</p> <p><b>base</b> [1] 422/12</p> <p><b>based</b> [8] 325/6 358/12 387/21 406/15 414/24 426/9 463/4 463/13</p> <p><b>basic</b> [2] 370/24 467/7</p> <p><b>basis</b> [6] 342/4 347/20 356/17 397/6 403/24 484/9</p> <p><b>Bates</b> [1] 429/13</p> <p><b>bear</b> [1] 443/1</p> <p><b>become</b> [6] 334/14 338/25 419/23 419/25 450/24 469/25</p> <p><b>began</b> [1] 465/12</p> <p><b>begin</b> [1] 337/10</p> <p><b>beginning</b> [2] 458/11 471/22</p> <p><b>begins</b> [1] 373/15</p> <p><b>behalf</b> [12] 324/12 324/16 324/20 324/22 324/24 377/22 401/17 415/14 415/18 417/15 417/22 459/24</p> <p><b>Beirut</b> [2] 353/1 353/6</p> <p><b>bell</b> [1] 326/24</p> <p><b>below</b> [10] 336/19 353/10 369/25 398/9 461/7 461/9 477/3 477/8 477/18 479/10</p> <p><b>benefit</b> [3] 326/21 450/9 451/13</p> <p><b>Besides</b> [2] 389/2 452/16</p> <p><b>best</b> [7] 336/23 354/9 375/14 410/5 450/21 464/15 474/22</p> <p><b>better</b> [7] 327/2 366/5 375/6 420/14 449/19 479/13 480/20</p> <p><b>Betts</b> [1] 323/23</p> <p><b>between</b> [23] 332/4 332/10 347/6 361/9 369/1 374/12 377/13 378/9 390/18 390/22 400/19 403/13 417/10 418/17 437/5 438/17 442/12 448/15 452/9 454/10 464/21 467/3 476/5</p> <p><b>bi</b> [1] 424/21</p> <p><b>bi-product</b> [1] 424/21</p> <p><b>bias</b> [1] 444/7</p> <p><b>big</b> [3] 451/18 478/4 480/6</p> <p><b>bigger</b> [2] 434/16 467/14</p> <p><b>billion</b> [1] 455/3</p> <p><b>bin</b> [5] 353/7 353/23 354/8 354/10 354/19</p> <p><b>binding</b> [1] 405/20</p> <p><b>BINI</b> [11] 323/13 324/5 331/5 377/2 383/8 384/19 387/8 431/2 434/2 440/22 492/4</p> <p><b>bit</b> [7] 340/7 353/17 375/6 394/21 398/14 422/18 464/24</p> <p><b>block</b> [1] 459/2</p> <p><b>blood</b> [1] 431/17</p> <p><b>bloody</b> [1] 422/18</p> <p><b>blow</b> [18] 330/22 367/19 370/18 372/22 393/25 395/7 398/5 398/17 398/23 402/24 404/21 414/20 422/17 457/14 459/2 467/18 484/11 486/25</p> <p><b>board</b> [2] 401/16 448/25</p> <p><b>boats</b> [13] 426/24 467/10 468/10 469/21 470/3 479/19 479/21 480/6 480/16 480/17 480/20 483/21 484/12</p>
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<p><b>B</b></p> <p><b>bond [17]</b> 455/2 455/7 455/7 455/18 469/2 469/6 475/22 476/1 476/2 476/10 476/10 476/11 478/25 479/3 479/3 479/4 479/5</p> <p><b>bonds [1]</b> 463/3</p> <p><b>borrow [4]</b> 390/19 454/15 460/4 461/4</p> <p><b>borrowed [3]</b> 369/8 390/5 402/17</p> <p><b>borrower [23]</b> 356/12 356/15 356/16 367/6 378/10 379/6 400/25 402/17 403/14 403/24 404/3 404/7 404/8 405/4 405/8 405/20 406/4 414/11 415/16 416/9 460/3 461/21 462/11</p> <p><b>borrowing [1]</b> 454/13</p> <p><b>boss [1]</b> 412/1</p> <p><b>bottom [19]</b> 333/6 333/6 337/11 340/19 347/13 352/15 397/21 403/6 422/16 440/24 441/21 458/25 459/1 462/14 468/13 471/1 471/6 481/18 485/11</p> <p><b>BOUSTANI [64]</b> 323/6 324/13 324/17 324/20 324/22 324/24 331/18 331/23 332/13 332/19 333/9 333/23 336/5 336/16 337/15 340/4 340/16 353/1 353/6 359/4 359/23 360/22 361/25 365/16 366/20 368/6 372/18 373/14 377/5 387/23 388/1 412/17 420/6 421/6 424/10 428/14 437/5 441/3 442/2 443/19 447/7 447/17 454/3 456/5 459/16 463/18 464/8 466/5 468/15 468/23 469/4 470/8 471/8 472/17 474/14 477/1 481/20 483/7 485/14 485/17 487/5 487/13 487/14 488/7</p> <p><b>Boustani's [1]</b> 339/2</p> <p><b>BP [2]</b> 448/8 448/10</p> <p><b>branch [5]</b> 367/10 401/1 403/17 417/12 465/2</p> <p><b>breach [1]</b> 413/11</p> <p><b>breached [1]</b> 404/9</p> <p><b>break [14]</b> 325/25 363/25 363/25 364/3 364/5 364/17 366/10 406/21 407/10 411/7 423/3 423/19 453/7 453/10</p> <p><b>bribery [4]</b> 405/12 405/15 405/17 405/23</p> <p><b>bribes [4]</b> 371/13 372/11 405/9 467/24</p> <p><b>brief [2]</b> 440/14 453/7</p> <p><b>briefly [2]</b> 325/2 457/6</p> <p><b>bring [7]</b> 325/1 328/2 365/13 408/8 408/8 410/23 448/25</p> <p><b>bringing [1]</b> 427/4</p> <p><b>British [1]</b> 471/11</p> <p><b>bro [8]</b> 441/7 448/9 453/20 453/25 454/1 469/8 469/10 486/11</p> <p><b>Brooklyn [2]</b> 323/4 323/13</p> <p><b>brother [3]</b> 477/7 477/24 481/6</p> <p><b>brought [1]</b> 328/12</p> <p><b>budgeting [1]</b> 390/1</p> <p><b>build [2]</b> 361/17 468/7</p> <p><b>building [4]</b> 430/18 452/12 468/10 474/2</p> <p><b>built [2]</b> 468/8 484/6</p> <p><b>bullet [7]</b> 334/21 335/5 335/13 444/21 445/5 445/7 446/5</p> <p><b>bullets [1]</b> 334/5</p>	<p><b>bureaucratic [1]</b> 374/1</p> <p><b>business [34]</b> 339/20 339/21 353/13 394/8 397/20 405/1 405/18 411/23 412/10 415/24 424/24 442/10 442/19 442/21 443/4 443/9 443/10 443/16 443/17 444/1 444/5 444/10 444/11 445/21 446/8 448/11 448/19 449/9 454/4 474/2 483/23 484/6 484/18 484/20</p> <p><b>busy [2]</b> 341/18 359/2</p> <p><b>buy [5]</b> 375/9 375/10 426/24 443/18 479/5</p> <p><b>buying [2]</b> 469/21 470/3</p> <p><b>bypass [1]</b> 373/25</p> <p><b>C</b></p> <p><b>Cadman [1]</b> 323/12</p> <p><b>calcs [1]</b> 387/21</p> <p><b>calendars [1]</b> 339/10</p> <p><b>call [3]</b> 332/6 345/5 353/9</p> <p><b>called [8]</b> 329/4 360/4 390/1 393/23 397/21 405/25 413/24 452/14</p> <p><b>Camel [3]</b> 432/3 432/4 432/7</p> <p><b>cannot [2]</b> 378/6 449/10</p> <p><b>Canyon [7]</b> 462/25 463/8 463/11 463/12 463/13 463/14 463/20</p> <p><b>Canyon's [1]</b> 463/16</p> <p><b>capabilities [1]</b> 484/13</p> <p><b>capability [1]</b> 485/2</p> <p><b>capable [1]</b> 388/12</p> <p><b>capacity [2]</b> 483/19 484/4</p> <p><b>Capital [2]</b> 437/4 443/14</p> <p><b>captures [1]</b> 394/14</p> <p><b>card [2]</b> 441/12 441/14</p> <p><b>care [2]</b> 449/22 450/5</p> <p><b>Carlos [2]</b> 401/14 459/23</p> <p><b>carrying [1]</b> 354/14</p> <p><b>case [21]</b> 327/12 329/2 334/14 336/7 338/10 344/10 348/1 364/4 374/22 393/21 399/4 403/24 404/3 405/18 406/4 406/23 414/8 425/5 479/5 488/17 488/18</p> <p><b>cases [4]</b> 326/21 424/6 424/7 490/24</p> <p><b>CASEY [2]</b> 323/21 324/19</p> <p><b>cash [2]</b> 398/10 398/18</p> <p><b>catch [3]</b> 484/1 484/4 484/17</p> <p><b>caught [5]</b> 480/18 480/19 483/24 484/8 484/21</p> <p><b>cause [3]</b> 323/8 324/2 356/17</p> <p><b>CCR [1]</b> 323/23</p> <p><b>CEEMEA [2]</b> 394/2 394/5</p> <p><b>center [1]</b> 370/15</p> <p><b>Central [1]</b> 394/5</p> <p><b>CEO [5]</b> 446/18 446/19 469/24 470/2 474/24</p> <p><b>certain [13]</b> 329/9 363/3 363/4 374/11 375/12 390/19 404/3 404/4 406/5 474/1 483/23 484/1 484/2</p> <p><b>certainly [2]</b> 347/24 374/19</p> <p><b>certainty [1]</b> 427/12</p> <p><b>cetera [3]</b> 470/13 473/21 473/24</p> <p><b>CFO [1]</b> 471/14</p> <p><b>chain [6]</b> 471/4 472/13 472/16 473/14 477/14 486/4</p> <p><b>chair [1]</b> 328/19</p>	<p><b>chairman [6]</b> 347/14 354/22 355/13 357/11 362/20 362/21</p> <p><b>chance [6]</b> 356/12 373/20 374/6 375/22 375/22 376/3</p> <p><b>Chang [8]</b> 391/1 391/18 391/21 392/6 392/8 417/19 418/18 418/20</p> <p><b>change [4]</b> 336/4 409/7 411/21 480/3</p> <p><b>changed [1]</b> 341/2</p> <p><b>Changes [1]</b> 413/25</p> <p><b>changing [2]</b> 344/16 479/19</p> <p><b>channels [1]</b> 356/11</p> <p><b>Chapman [1]</b> 459/4</p> <p><b>check [1]</b> 462/25</p> <p><b>checklist [6]</b> 337/24 338/1 339/3 368/11 368/15 379/3</p> <p><b>checklists [1]</b> 339/25</p> <p><b>chief [2]</b> 446/19 469/24</p> <p><b>CHIPS [1]</b> 416/13</p> <p><b>choose [1]</b> 375/13</p> <p><b>Chris [2]</b> 353/3 459/4</p> <p><b>Christmas [1]</b> 438/24</p> <p><b>City [1]</b> 416/2</p> <p><b>civil [1]</b> 371/9</p> <p><b>clarify [1]</b> 326/10</p> <p><b>clause [15]</b> 370/24 370/25 371/11 372/3 402/13 403/18 404/5 406/9 406/11 413/23 414/10 414/19 461/16 461/17 461/18</p> <p><b>Clause 17 [3]</b> 403/18 406/9 406/11</p> <p><b>clauses [6]</b> 378/17 415/2 415/2 415/5 458/20 461/13</p> <p><b>clean [3]</b> 482/2 487/8 487/14</p> <p><b>clear [6]</b> 363/11 392/3 427/21 447/14 473/9 479/6</p> <p><b>cleared [3]</b> 355/20 356/3 356/5</p> <p><b>clearer [1]</b> 340/7</p> <p><b>clearly [3]</b> 353/18 389/4 412/7</p> <p><b>clerks [1]</b> 408/10</p> <p><b>client [6]</b> 338/25 339/17 354/17 356/10 358/24 456/18</p> <p><b>clients [6]</b> 344/10 355/25 396/5 408/12 408/24 446/10</p> <p><b>Clifford [5]</b> 373/20 374/6 375/22 375/22 376/2</p> <p><b>close [6]</b> 325/24 325/25 379/11 410/8 420/24 452/2</p> <p><b>closed [1]</b> 421/1</p> <p><b>closer [1]</b> 353/16</p> <p><b>closes [2]</b> 356/24 358/19</p> <p><b>closing [1]</b> 379/11</p> <p><b>Clyde [1]</b> 456/15</p> <p><b>co [1]</b> 347/6</p> <p><b>co-conspirators [1]</b> 347/6</p> <p><b>coast [2]</b> 335/3 335/11</p> <p><b>coastline [2]</b> 370/16 451/6</p> <p><b>collective [1]</b> 408/18</p> <p><b>colloquially [1]</b> 450/19</p> <p><b>colloquy [6]</b> 409/6 409/19 409/21 409/21 409/23 410/10</p> <p><b>colonial [1]</b> 451/12</p> <p><b>Combating [1]</b> 405/17</p> <p><b>combination [2]</b> 356/22 357/7</p> <p><b>comfort [1]</b> 453/10</p> <p><b>comforting [1]</b> 481/3</p> <p><b>coming [1]</b> 363/23</p>
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<p><b>C</b></p> <p><b>commercial</b> [10] 390/20 423/14 429/11 432/5 432/8 434/6 439/7 441/11 454/13 454/15</p> <p><b>communicate</b> [1] 341/9</p> <p><b>community</b> [3] 392/10 427/22 455/8</p> <p><b>companies</b> [2] 442/19 446/2</p> <p><b>company</b> [17] 334/13 334/15 334/18 335/10 337/4 339/16 344/18 360/3 360/3 367/7 411/22 437/3 437/4 443/5 443/17 443/18 468/2</p> <p><b>compare</b> [1] 375/12</p> <p><b>competing</b> [1] 326/2</p> <p><b>complains</b> [1] 389/15</p> <p><b>complete</b> [2] 409/9 424/16</p> <p><b>completed</b> [1] 341/22</p> <p><b>compliance</b> [4] 391/12 406/8 418/11 444/6</p> <p><b>complicated</b> [2] 476/8 476/9</p> <p><b>comply</b> [4] 404/10 419/22 431/18 461/18</p> <p><b>compromise</b> [1] 418/19</p> <p><b>computer</b> [1] 323/25</p> <p><b>computer-aided</b> [1] 323/25</p> <p><b>concept</b> [1] 451/16</p> <p><b>concern</b> [4] 357/23 478/13 478/15 480/9</p> <p><b>concerned</b> [3] 360/8 390/6 405/6</p> <p><b>concerns</b> [1] 357/19</p> <p><b>conclusions</b> [1] 448/9</p> <p><b>conclusions/questions</b> [1] 448/9</p> <p><b>condition</b> [4] 359/24 376/10 376/13 376/19</p> <p><b>conditions</b> [8] 359/13 359/22 370/24 375/19 377/14 379/3 379/5 465/15</p> <p><b>conduct</b> [2] 354/4 394/9</p> <p><b>conducted</b> [1] 374/15</p> <p><b>conducting</b> [1] 480/10</p> <p><b>confer</b> [1] 408/16</p> <p><b>conference</b> [1] 348/7</p> <p><b>Confidential</b> [6] 395/9 395/11 396/21 396/25 399/14 400/4</p> <p><b>confirm</b> [2] 391/12 464/14</p> <p><b>confirmation</b> [3] 391/4 464/18 464/19</p> <p><b>confirming</b> [1] 418/21</p> <p><b>confirms</b> [2] 461/15 467/22</p> <p><b>connected</b> [1] 371/6</p> <p><b>connection</b> [4] 402/20 404/24 424/23 431/10</p> <p><b>consideration</b> [1] 371/15</p> <p><b>consistent</b> [1] 430/14</p> <p><b>conspirators</b> [1] 347/6</p> <p><b>constituent</b> [1] 423/4</p> <p><b>constructed</b> [1] 484/9</p> <p><b>construction</b> [7] 403/2 403/4 403/7 403/10 403/11 403/12 461/17</p> <p><b>consultancy</b> [2] 421/16 422/1</p> <p><b>consulting</b> [3] 421/17 421/22 443/15</p> <p><b>contact</b> [2] 415/15 432/7</p> <p><b>contained</b> [1] 332/25</p> <p><b>contents</b> [3] 369/10 378/17 396/19</p> <p><b>context</b> [3] 361/16 422/14 430/18</p> <p><b>continue</b> [6] 328/22 366/13 398/3 411/10 413/10 413/17</p>	<p><b>Continued</b> [8] 343/2 346/7 348/8 376/25 407/22 411/12 430/19 460/5</p> <p><b>Continuing</b> [6] 331/6 377/3 387/9 431/3 434/3 440/23</p> <p><b>contract</b> [40] 332/6 341/20 361/10 368/9 368/25 369/2 369/3 369/3 369/5 369/7 369/10 369/15 369/16 370/9 370/13 374/21 374/23 375/1 403/4 403/7 403/11 403/12 403/12 422/11 452/7 465/18 466/17 466/23 466/23 467/2 467/5 467/6 467/21 469/13 472/19 472/22 477/9 479/17 483/13 483/14</p> <p><b>contractor</b> [29] 339/6 339/8 340/2 345/2 353/24 354/1 354/20 358/6 359/19 360/23 367/8 367/9 369/22 371/5 371/12 375/2 403/3 403/9 403/14 403/15 403/16 461/8 461/8 461/11 461/23 462/3 467/23 467/23 467/25</p> <p><b>contractors</b> [2] 361/18 361/19</p> <p><b>contracts</b> [1] 361/13</p> <p><b>contractual</b> [2] 361/2 361/7</p> <p><b>contractually</b> [1] 334/22</p> <p><b>contribute</b> [1] 445/10</p> <p><b>control</b> [1] 366/6</p> <p><b>controls</b> [1] 366/7</p> <p><b>convenience</b> [1] 345/6</p> <p><b>convenient</b> [2] 345/7 363/24</p> <p><b>Convention</b> [2] 369/19 405/17</p> <p><b>conversation</b> [6] 357/16 358/12 388/25 392/8 421/9 453/20</p> <p><b>conversations</b> [3] 342/16 388/9 411/15</p> <p><b>convert</b> [1] 476/9</p> <p><b>conveying</b> [1] 463/25</p> <p><b>COO</b> [1] 446/19</p> <p><b>coordinate</b> [1] 471/12</p> <p><b>copied</b> [2] 475/8 477/14</p> <p><b>copies</b> [2] 417/18 485/18</p> <p><b>copy</b> [7] 420/16 434/5 441/9 441/14 457/10 458/16 467/2</p> <p><b>copying</b> [6] 366/20 377/5 389/11 464/8 468/15 475/6</p> <p><b>correct</b> [5] 358/18 392/2 444/24 490/17 490/19</p> <p><b>correctly</b> [3] 341/9 374/15 480/19</p> <p><b>correspondent</b> [2] 462/6 465/6</p> <p><b>corrupt</b> [9] 372/12 404/19 404/20 404/22 404/23 404/24 405/1 405/11 405/14</p> <p><b>corruption</b> [9] 371/23 371/25 404/9 404/14 404/14 405/13 405/15 461/16 461/19</p> <p><b>cost</b> [4] 423/10 423/13 423/20 442/20</p> <p><b>costing</b> [1] 423/3</p> <p><b>costs</b> [15] 397/19 397/20 397/23 402/19 442/15 442/18 442/23 443/2 443/4 443/7 443/7 443/8 443/10 445/17 446/22</p> <p><b>counsel</b> [12] 329/10 365/4 393/1 393/4 408/5 408/11 408/16 408/22 409/3 409/12 411/10 439/22</p> <p><b>counterparty</b> [1] 338/25</p> <p><b>countries</b> [5] 374/19 375/3 421/24 422/1 451/13</p>	<p><b>country</b> [5] 371/23 375/4 375/9 390/4 427/16</p> <p><b>couple</b> [3] 352/25 353/5 353/9</p> <p><b>course</b> [7] 327/12 352/12 354/4 404/25 431/14 438/16 470/20</p> <p><b>court</b> [24] 323/1 323/23 324/1 346/1 349/1 353/19 365/1 393/1 393/17 395/6 400/16 408/13 408/13 408/14 408/15 408/23 409/4 410/1 410/7 410/11 433/24 440/20 458/10 493/19</p> <p><b>Court 4</b> [2] 408/14 408/23</p> <p><b>Court's</b> [1] 327/13</p> <p><b>Courthouse</b> [1] 323/3</p> <p><b>courtroom</b> [9] 324/11 364/7 364/12 366/3 407/4 407/7 407/20 410/25 488/23</p> <p><b>cover</b> [2] 406/10 474/21</p> <p><b>Coverage</b> [1] 393/25</p> <p><b>CR</b> [2] 323/2 324/3</p> <p><b>create</b> [3] 411/21 486/12 487/14</p> <p><b>creates</b> [1] 491/2</p> <p><b>creating</b> [1] 374/1</p> <p><b>credibility</b> [1] 406/20</p> <p><b>credit</b> [133] 332/10 333/22 336/2 337/21 338/15 338/23 339/17 339/17 342/12 344/8 344/9 344/13 344/20 344/21 354/14 354/16 354/19 355/7 355/24 356/19 357/2 357/3 360/1 363/5 363/8 363/16 371/14 371/20 371/24 372/2 372/9 374/5 375/23 377/14 377/21 378/5 378/10 378/13 390/11 390/21 391/3 393/19 393/20 393/23 394/10 394/12 394/16 394/20 398/13 400/1 400/19 400/25 401/1 401/3 401/17 406/15 406/16 411/19 412/2 412/12 412/25 413/11 413/14 413/17 413/19 414/3 414/8 414/13 416/1 416/17 416/19 417/11 417/12 417/22 417/25 418/1 419/5 421/7 421/25 424/6 424/24 425/1 425/4 425/22 426/4 427/5 427/11 427/17 428/12 431/5 434/13 435/22 436/12 436/18 437/8 437/12 438/3 438/5 441/12 443/23 444/5 444/10 444/12 449/19 449/20 450/1 450/7 450/10 450/20 452/2 452/4 452/16 452/17 452/21 456/9 456/11 456/24 456/25 457/4 459/3 459/18 460/3 461/21 462/11 463/2 465/2 465/12 465/15 479/2 481/2 482/9 482/13 485/16</p> <p><b>crime</b> [2] 457/22 457/23</p> <p><b>criminal</b> [7] 323/8 323/15 324/2 354/4 394/9 405/2 450/15</p> <p><b>cross</b> [9] 326/9 326/11 326/15 327/3 327/4 327/16 328/11 328/23 347/16</p> <p><b>cross-examination</b> [5] 326/11 327/3 327/16 328/11 328/23</p> <p><b>cross-examine</b> [3] 326/9 326/15 347/16</p> <p><b>CS</b> [9] 335/15 344/4 344/12 344/12 344/13 344/14 422/18 448/25 486/13</p> <p><b>CSO</b> [1] 410/23</p> <p><b>CSOs</b> [1] 328/1</p> <p><b>currency</b> [1] 432/21</p> <p><b>curry</b> [1] 412/21</p>
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<p><b>C</b></p> <p><b>cushion [2]</b> 477/10 478/8</p> <p><b>customer [4]</b> 371/5 371/12 467/4 467/23</p> <p><b>customers [1]</b> 432/6</p>	<p>428/2 428/8 428/20 429/18 429/19 432/9 441/6 442/2 442/7 442/21 444/9 447/16 448/6 448/15 448/16 448/18 449/1 449/8 449/12 449/17 449/23 449/25 450/13 453/17 453/24 454/2 454/17 454/24 455/10 455/14 456/22 456/23 457/1 463/18 464/13 464/17 469/7 469/15 470/9 471/9 471/24 472/25 473/1 473/5 473/19 473/25 474/3 475/6 475/7 475/12 476/22 477/3 477/11 477/22 478/7 479/8 479/14 481/5 482/1 482/8 482/15 485/17 485/22 486/5 486/10 488/1 489/4 489/6</p> <p><b>defendant's [3]</b> 336/17 359/24 478/5</p> <p><b>defense [10]</b> 325/15 327/24 329/9 364/15 375/1 393/1 407/12 409/3 409/12 490/3</p> <p><b>define [2]</b> 375/18 404/19</p> <p><b>defined [7]</b> 375/25 403/2 403/12 403/15 403/16 404/17 404/23</p> <p><b>defines [1]</b> 370/4</p> <p><b>defining [1]</b> 374/13</p> <p><b>definitely [1]</b> 455/3</p> <p><b>definition [8]</b> 369/25 370/1 402/22 403/1 403/6 404/14 404/18 404/19</p> <p><b>delay [1]</b> 359/16</p> <p><b>delayed [1]</b> 360/6</p> <p><b>delete [2]</b> 488/3 488/12</p> <p><b>delivered [2]</b> 361/19 370/13</p> <p><b>delivering [1]</b> 342/13</p> <p><b>dense [1]</b> 404/22</p> <p><b>department [5]</b> 323/15 393/20 394/17 394/17 394/20</p> <p><b>depending [1]</b> 445/17</p> <p><b>deposition [1]</b> 393/10</p> <p><b>Depreciation [1]</b> 398/2</p> <p><b>describe [6]</b> 398/6 421/10 421/13 421/15 431/12 450/19</p> <p><b>described [10]</b> 335/3 342/15 361/12 369/23 373/3 378/25 394/10 398/9 441/14 484/16</p> <p><b>describes [1]</b> 445/21</p> <p><b>description [1]</b> 370/5</p> <p><b>designed [6]</b> 353/12 387/25 406/10 451/14 468/21 480/16</p> <p><b>desire [2]</b> 369/18 412/25</p> <p><b>desk [3]</b> 355/18 355/21 419/6</p> <p><b>destination [1]</b> 462/4</p> <p><b>destroy [1]</b> 426/25</p> <p><b>detail [2]</b> 333/3 458/21</p> <p><b>detailed [1]</b> 403/4</p> <p><b>details [10]</b> 345/11 345/13 345/14 345/18 416/1 416/12 416/15 462/2 462/3 487/8</p> <p><b>detection [1]</b> 456/11</p> <p><b>Detelina [31]</b> 333/11 337/17 338/17 362/2 366/20 368/6 377/5 387/15 387/18 389/11 394/11 395/19 420/8 422/7 425/6 426/18 436/7 438/1 438/6 456/3 459/16 462/20 464/9 468/15 473/6 474/15 475/12 477/1 481/20 483/7 488/1</p> <p><b>develop [1]</b> 480/13</p> <p><b>developed [1]</b> 335/12</p> <p><b>developing [1]</b> 478/15</p>	<p><b>developments [1]</b> 342/3</p> <p><b>Dhabi [37]</b> 334/23 334/24 334/25 335/1 339/8 339/13 353/6 353/22 354/2 354/3 354/7 355/3 362/21 367/10 403/17 424/15 425/20 425/25 426/7 426/9 429/10 429/24 430/16 431/15 432/5 432/8 432/13 434/6 439/6 441/11 442/25 445/8 445/14 445/16 467/3 468/1 468/7</p> <p><b>difference [1]</b> 476/5</p> <p><b>different [9]</b> 335/23 356/11 358/23 367/4 367/6 367/9 417/17 423/18 476/7</p> <p><b>difficult [2]</b> 340/6 413/6</p> <p><b>diligence [15]</b> 338/2 338/18 338/20 338/24 339/3 339/5 339/25 340/12 354/13 354/21 368/15 474/21 475/3 475/4 480/9</p> <p><b>diligencing [1]</b> 338/21</p> <p><b>dim [1]</b> 330/25</p> <p><b>DiNardo [34]</b> 324/6 330/23 333/5 340/25 367/15 367/19 370/18 370/23 372/23 373/17 394/1 395/7 396/25 398/18 402/24 404/21 414/20 418/24 420/4 420/14 422/17 423/25 431/20 434/15 435/5 457/15 459/1 461/24 467/19 471/1 476/21 481/18 484/11 487/1</p> <p><b>direct [7]</b> 328/11 331/4 344/17 359/19 366/13 397/20 411/12</p> <p><b>directly [9]</b> 335/15 336/2 336/6 337/1 360/23 363/20 371/8 390/15 401/21</p> <p><b>director [3]</b> 431/4 443/23 463/2</p> <p><b>dirham [4]</b> 432/19 432/20 457/17 457/25</p> <p><b>disagreed [1]</b> 423/11</p> <p><b>DISANTO [2]</b> 323/21 324/22</p> <p><b>disclose [2]</b> 391/15 444/4</p> <p><b>disclosing [1]</b> 444/12</p> <p><b>discovered [1]</b> 392/12</p> <p><b>discuss [10]</b> 345/6 345/20 353/9 355/14 364/13 365/6 408/12 408/24 488/16 488/18</p> <p><b>discussed [12]</b> 329/9 339/4 345/12 345/19 354/24 355/18 392/21 406/11 425/11 438/15 442/21 449/11</p> <p><b>discussing [1]</b> 440/13</p> <p><b>discussion [2]</b> 334/2 347/14</p> <p><b>discussions [5]</b> 390/25 448/8 448/10 448/11 471/24</p> <p><b>dishonest [1]</b> 405/1</p> <p><b>displeasure [1]</b> 342/20</p> <p><b>disquiet [1]</b> 442/15</p> <p><b>distribution [1]</b> 387/21</p> <p><b>DISTRICT [4]</b> 323/1 323/1 323/9 323/12</p> <p><b>divert [2]</b> 359/16 360/7</p> <p><b>diverted [1]</b> 360/6</p> <p><b>DIVISION [1]</b> 323/15</p> <p><b>do Rosario [17]</b> 401/14 459/15 459/23 468/24 469/18 469/23 470/10 474/4 474/14 474/23 474/24 475/12 477/2 477/13 478/1 480/2 485/25</p> <p><b>doc [1]</b> 488/2</p> <p><b>Docket [1]</b> 324/2</p> <p><b>docs [2]</b> 368/11 486/13</p>
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<p><b>D</b></p> <p><b>document</b> [50] 336/1 336/22 340/11 347/2 349/3 349/9 370/6 378/4 378/9 378/12 378/13 378/16 379/5 379/8 393/1 393/4 393/18 393/19 394/14 394/19 395/12 395/15 396/14 399/24 400/1 400/7 401/23 401/24 408/10 408/23 419/20 420/18 425/23 444/16 458/15 458/16 458/24 459/22 460/2 462/8 464/20 468/5 475/17 481/25 482/5 482/9 483/20 488/8 488/9 491/1</p> <p><b>documentation</b> [2] 374/8 377/21</p> <p><b>documents</b> [22] 332/20 348/2 377/8 377/10 377/11 377/16 377/17 378/23 387/3 391/13 391/14 392/17 398/12 402/21 404/12 419/21 419/24 420/4 431/23 453/2 456/18 488/13</p> <p><b>dollar</b> [3] 435/11 435/13 439/6</p> <p><b>dollars</b> [9] 431/5 434/6 434/14 434/21 435/10 435/19 438/2 455/1 457/25</p> <p><b>Dominic</b> [13] 395/19 395/20 396/15 419/7 419/10 419/16 422/6 423/1 426/19 462/18 462/21 463/22 464/1</p> <p><b>done</b> [10] 328/24 338/12 375/23 413/13 427/10 427/11 430/17 431/17 478/23 478/25</p> <p><b>DONNELLY</b> [2] 323/21 324/20</p> <p><b>down</b> [25] 353/2 353/3 353/17 364/8 364/10 365/25 370/5 384/20 407/5 420/23 423/3 423/19 423/25 425/18 430/2 439/19 441/16 450/23 455/20 464/3 465/11 469/9 476/13 488/24 489/10</p> <p><b>draft</b> [7] 331/20 331/24 377/12 377/13 378/2 379/13 467/5</p> <p><b>drafted</b> [1] 347/8</p> <p><b>drafts</b> [1] 325/3</p> <p><b>drawn</b> [2] 396/10 396/13</p> <p><b>due</b> [15] 336/21 338/2 338/18 338/20 339/3 339/4 339/25 340/12 341/24 354/13 354/21 368/15 398/12 416/10 478/11</p> <p><b>dueling</b> [2] 325/21 327/6</p> <p><b>duly</b> [1] 329/5</p> <p><b>during</b> [8] 354/4 364/5 366/10 375/25 376/2 411/7 435/21 465/14</p> <p><b>duties</b> [1] 405/6</p>	<p><b>e-mailed</b> [1] 387/15</p> <p><b>e-mailing</b> [4] 331/23 377/9 377/10 389/18</p> <p><b>e-mails</b> [3] 444/6 444/7 453/1</p> <p><b>earliest</b> [2] 337/11 483/1</p> <p><b>Early</b> [1] 452/3</p> <p><b>Earnings</b> [1] 398/1</p> <p><b>easier</b> [3] 345/1 398/22 480/23</p> <p><b>East</b> [1] 323/12</p> <p><b>eastern</b> [4] 323/1 323/12 394/6 451/7</p> <p><b>eat</b> [1] 410/10</p> <p><b>EBIDTA</b> [3] 397/21 397/24 398/9</p> <p><b>economic</b> [5] 335/4 369/18 390/5 394/21 403/3</p> <p><b>economical</b> [1] 375/13</p> <p><b>Economics</b> [1] 397/9</p> <p><b>economy</b> [1] 390/4</p> <p><b>EEZ</b> [9] 334/23 335/2 335/4 335/6 335/11 370/5 370/6 454/18 461/17</p> <p><b>EEZs</b> [1] 353/9</p> <p><b>effect</b> [1] 462/24</p> <p><b>effectively</b> [2] 452/12 460/3</p> <p><b>efficiently</b> [1] 375/8</p> <p><b>eight</b> [1] 327/9</p> <p><b>eighth</b> [2] 420/10 426/14</p> <p><b>either</b> [12] 325/20 326/3 326/14 326/14 327/5 355/23 356/17 356/18 375/13 376/1 393/2 452/10</p> <p><b>element</b> [2] 446/8 480/15</p> <p><b>elements</b> [8] 354/16 355/10 363/4 422/9 422/12 422/14 423/2 423/4</p> <p><b>eligible</b> [1] 484/25</p> <p><b>email</b> [129] 323/24 344/24 345/9 345/12 345/15 345/19 347/5 347/13 347/13 347/17 352/15 352/15 352/20 354/11 355/1 355/11 356/6 358/8 359/4 359/8 360/25 361/22 362/8 366/17 367/3 368/3 368/8 368/10 368/19 372/15 372/22 373/13 373/17 374/16 374/17 376/16 376/23 420/5 422/3 422/8 422/25 424/2 424/4 424/6 424/9 424/18 424/20 424/23 424/25 425/1 425/1 426/11 426/15 462/14 462/15 463/25 464/5 464/5 464/16 466/2 466/9 466/11 466/14 466/17 468/13 468/14 468/21 470/5 470/8 470/13 471/1 471/3 471/3 471/6 472/13 472/16 472/21 472/25 473/5 473/14 473/15 474/11 474/16 476/18 476/21 476/21 476/23 477/3 477/8 477/14 477/15 477/16 477/18 477/22 478/5 478/19 478/20 479/10 481/5 481/18 481/19 481/22 482/2 482/6 483/1 483/2 483/8 483/10 485/11 485/11 485/15 485/16 485/24 486/1 486/3 486/9 486/12 486/24 486/25 487/2 487/8 487/8 487/9 487/13 487/14 487/23 488/6 488/11 489/14</p> <p><b>emailing</b> [1] 474/23</p> <p><b>emails</b> [7] 347/19 347/24 418/13 424/1 425/1 471/21 473/16</p> <p><b>EMATUM</b> [29] 436/24 436/24 437/6 437/19 437/20 438/4 450/25 451/18 451/21 451/23 451/25 451/25 452/2 452/17 453/2 458/11 466/19 468/22 470/1 470/2 472/18 474/2 475/2 476/3</p>	<p>478/4 480/3 482/13 483/23 485/20</p> <p><b>Emilio</b> [2] 362/11 362/13</p> <p><b>Emirates</b> [11] 335/1 355/5 358/22 358/23 429/16 432/21 441/9 457/11 462/5 466/13 472/4</p> <p><b>employee</b> [7] 344/8 425/15 432/5 456/25 465/17 465/19 482/13</p> <p><b>employees</b> [5] 337/20 405/4 427/5 429/19 442/20</p> <p><b>employer</b> [7] 332/11 338/10 432/10 432/12 444/5 452/8 452/9</p> <p><b>employment</b> [2] 452/7 465/18</p> <p><b>empowerment</b> [1] 473/23</p> <p><b>enable</b> [1] 344/20</p> <p><b>enacted</b> [1] 405/16</p> <p><b>end</b> [12] 327/10 348/7 356/6 396/16 401/12 409/23 410/9 411/20 421/3 438/17 458/13 470/13</p> <p><b>ending</b> [2] 429/13 431/21</p> <p><b>enforced</b> [1] 457/5</p> <p><b>engage</b> [1] 334/22</p> <p><b>engagement</b> [2] 341/25 363/11</p> <p><b>English</b> [3] 374/6 374/13 375/22</p> <p><b>Enjoy</b> [3] 364/17 406/23 407/14</p> <p><b>enough</b> [2] 325/24 484/4</p> <p><b>ensure</b> [4] 375/7 450/7 450/21 455/18</p> <p><b>enter</b> [6] 356/18 371/24 372/11 397/6 425/14 445/22</p> <p><b>entered</b> [5] 332/10 369/21 369/21 417/9 423/18</p> <p><b>entering</b> [1] 328/5</p> <p><b>enters</b> [3] 324/11 366/3 410/25</p> <p><b>entire</b> [1] 406/12</p> <p><b>entities</b> [1] 376/1</p> <p><b>entity</b> [5] 355/1 359/18 374/2 414/14 469/22</p> <p><b>entry</b> [2] 425/14 434/17</p> <p><b>envisaged</b> [1] 446/1</p> <p><b>equal</b> [1] 465/4</p> <p><b>equipment</b> [1] 426/24</p> <p><b>equity</b> [3] 388/16 446/2 446/14</p> <p><b>escrow</b> [2] 359/15 360/4</p> <p><b>ESQ</b> [7] 323/17 323/17 323/20 323/20 323/21 323/21 323/22</p> <p><b>essentially</b> [2] 378/5 397/22</p> <p><b>establish</b> [5] 338/22 412/9 413/7 442/12 488/9</p> <p><b>established</b> [3] 335/10 442/10 443/14</p> <p><b>establishing</b> [2] 413/20 473/23</p> <p><b>estates</b> [1] 421/4</p> <p><b>Estimates</b> [1] 397/10</p> <p><b>et</b> [3] 470/13 473/21 473/24</p> <p><b>Eugenio</b> [2] 401/14 459/23</p> <p><b>Europe</b> [3] 394/6 456/19 484/23</p> <p><b>European</b> [2] 375/3 451/9</p> <p><b>European Union</b> [1] 451/9</p> <p><b>Eve</b> [1] 438/24</p> <p><b>evening</b> [1] 336/22</p> <p><b>events</b> [1] 403/20</p> <p><b>eventually</b> [2] 358/16 471/3</p> <p><b>everything</b> [2] 451/24 471/19</p> <p><b>evidence</b> [99] 328/25 329/15 329/22 330/2 330/7 330/13 330/18 337/9 340/18 349/14 349/20 350/1 350/6 350/12 350/17 350/22 351/2 351/7</p>
<p><b>E</b></p> <p><b>e-mail</b> [71] 331/7 331/9 331/12 331/15 332/12 333/6 333/8 333/13 333/15 333/18 333/19 333/20 333/23 336/11 336/13 336/14 337/6 337/11 337/12 337/16 339/24 340/1 340/12 340/19 340/20 340/24 341/2 341/4 341/6 341/8 341/9 341/12 342/24 342/25 379/15 387/10 387/14 387/16 387/18 387/24 387/25 388/6 389/8 438/14 438/15 440/24 440/25 441/15 441/21 441/22 441/24 442/5 442/7 442/9 442/14 442/22 443/25 444/2 444/18 447/3 447/4 449/21 453/18 454/23 455/9 455/20 455/25 456/4 456/6 456/24 459/15</p>		



<p><b>E</b></p> <p><b>evidence...</b> [81] 351/12 351/17 351/22 352/2 352/8 361/21 372/14 380/1 380/6 380/11 380/16 380/17 380/22 381/3 381/8 381/14 381/19 381/24 382/4 382/9 382/15 382/20 383/1 383/7 383/12 383/18 383/23 384/3 384/9 385/8 385/15 385/21 386/1 386/6 386/11 386/17 386/22 387/2 393/9 395/4 400/14 408/15 417/5 429/7 433/7 433/12 433/17 433/22 439/22 440/1 440/18 441/18 447/1 453/4 455/22 455/24 457/7 458/4 458/8 459/13 459/14 462/8 462/14 464/4 465/21 465/25 467/1 468/4 468/12 470/16 470/23 472/9 474/7 475/10 476/15 481/13 482/20 482/24 485/9 486/22 487/21</p> <p><b>evidences</b> [1] 464/20</p> <p><b>exact</b> [1] 402/7</p> <p><b>examination</b> [14] 326/11 327/3 327/16 328/11 328/22 328/23 331/4 366/13 377/1 387/7 411/12 431/1 434/1 440/21</p> <p><b>examine</b> [3] 326/9 326/15 347/16</p> <p><b>examined</b> [1] 329/5</p> <p><b>example</b> [1] 376/1</p> <p><b>Excel</b> [2] 488/8 488/11</p> <p><b>Excellency</b> [1] 362/16</p> <p><b>exchanged</b> [2] 325/3 341/6</p> <p><b>excited</b> [1] 341/25</p> <p><b>exclusion</b> [1] 374/25</p> <p><b>Exclusive</b> [3] 335/4 369/18 403/3</p> <p><b>exclusively</b> [1] 334/13</p> <p><b>excuse</b> [9] 357/5 368/1 373/5 404/15 416/9 435/23 446/4 473/20 478/6</p> <p><b>executive</b> [1] 448/16</p> <p><b>executives</b> [1] 339/20</p> <p><b>exercise</b> [2] 354/14 405/6</p> <p><b>exhibit</b> [159] 325/4 325/4 329/15 329/21 330/2 330/7 330/12 330/18 330/24 332/7 333/4 336/1 337/8 339/22 339/23 340/18 349/14 349/20 349/25 350/6 350/11 350/17 350/22 351/2 351/7 351/12 351/17 351/22 352/2 352/7 352/15 359/7 366/17 366/24 368/3 368/21 368/22 372/13 373/11 373/12 376/21 377/23 378/8 378/22 379/18 379/22 380/1 380/6 380/11 380/16 380/17 380/22 381/2 381/8 381/13 381/19 381/24 382/4 382/9 382/15 382/20 382/25 383/6 383/12 383/17 383/23 384/3 384/8 385/8 385/14 385/20 386/1 386/6 386/11 386/16 386/22 387/2 387/6 389/7 392/18 393/9 393/16 394/25 395/4 395/5 395/8 400/10 400/14 400/15 400/17 408/15 413/22 416/24 417/5 417/6 417/8 418/25 418/25 420/3 422/2 424/9 425/12 426/10 428/23 428/24 429/7 429/8 429/9 433/3 433/7 433/12 433/17 433/22 433/23 437/11 439/3 439/20 439/25 440/10 440/17 440/19 441/17 444/15 453/16 455/22 457/7 458/4 458/8 458/9 459/12 462/13 464/4</p>	<p>464/22 465/21 466/1 468/12 470/16 470/23 470/24 472/11 474/6 474/10 476/14 476/17 481/9 481/13 481/16 482/20 482/24 482/25 485/9 485/10 486/18 486/22 486/23 487/17 487/21 487/22 489/14</p> <p><b>Exhibit 1841</b> [2] 428/24 429/9</p> <p><b>Exhibit 2082</b> [1] 352/15</p> <p><b>Exhibit 2085</b> [1] 359/7</p> <p><b>Exhibit 2096</b> [1] 366/17</p> <p><b>Exhibit 2097</b> [1] 366/24</p> <p><b>Exhibit 2109</b> [2] 368/3 368/22</p> <p><b>Exhibit 2110</b> [1] 368/21</p> <p><b>Exhibit 2114</b> [1] 372/13</p> <p><b>Exhibit 2142</b> [1] 373/11</p> <p><b>Exhibit 2206</b> [2] 420/3 489/14</p> <p><b>Exhibit 2237</b> [1] 422/2</p> <p><b>Exhibit 2256</b> [1] 424/9</p> <p><b>Exhibit 2256A</b> [1] 425/12</p> <p><b>Exhibit 2329</b> [1] 462/13</p> <p><b>Exhibit 2337</b> [1] 468/12</p> <p><b>Exhibit 2339</b> [1] 474/6</p> <p><b>Exhibit 2347</b> [1] 476/14</p> <p><b>Exhibit 2355</b> [1] 481/9</p> <p><b>Exhibit 2362</b> [1] 486/18</p> <p><b>Exhibit 2365</b> [1] 487/17</p> <p><b>Exhibit 3031</b> [1] 465/21</p> <p><b>Exhibit 3081</b> [1] 470/16</p> <p><b>Exhibit 3134</b> [1] 482/20</p> <p><b>Exhibit 4</b> [2] 413/22 418/25</p> <p><b>Exhibit 5</b> [3] 416/24 417/8 418/25</p> <p><b>Exhibit 5047</b> [1] 373/12</p> <p><b>exhibits</b> [5] 329/9 345/23 352/10 433/2 490/6</p> <p><b>Exhibits 1818</b> [1] 433/2</p> <p><b>Exhibits 2082</b> [1] 345/23</p> <p><b>existed</b> [3] 336/25 413/15 480/11</p> <p><b>existence</b> [1] 391/15</p> <p><b>existing</b> [1] 427/1</p> <p><b>exits</b> [4] 364/7 407/4 407/20 488/23</p> <p><b>expand</b> [1] 479/9</p> <p><b>expected</b> [2] 397/18 399/15</p> <p><b>expects</b> [1] 396/10</p> <p><b>expedite</b> [1] 362/4</p> <p><b>expenses</b> [1] 402/19</p> <p><b>experience</b> [8] 326/16 327/8 341/23 375/8 406/15 417/24 418/3 421/24</p> <p><b>expertise</b> [1] 396/7</p> <p><b>explain</b> [13] 335/23 340/10 369/13 375/6 389/17 389/19 396/2 403/1 414/10 415/8 418/16 448/22 455/2</p> <p><b>explaining</b> [1] 455/10</p> <p><b>explicit</b> [1] 414/11</p> <p><b>exposed</b> [3] 355/22 356/1 356/5</p> <p><b>expressed</b> [1] 342/20</p> <p><b>expressly</b> [1] 424/25</p> <p><b>extensive</b> [1] 354/3</p> <p><b>extensively</b> [1] 413/9</p> <p><b>external</b> [2] 371/21 371/22</p> <p><b>extra</b> [2] 359/18 360/22</p> <p><b>extract</b> [1] 429/15</p>	<p><b>facility</b> [13] 367/15 367/16 401/1 402/18 415/8 415/9 415/11 415/13 415/17 415/24 416/19 417/12 431/16</p> <p><b>facing</b> [2] 353/6 353/22</p> <p><b>fact</b> [14] 337/3 342/20 345/10 360/17 363/5 390/23 391/22 406/14 442/22 444/4 455/5 478/16 488/12 490/11</p> <p><b>factor</b> [1] 341/25</p> <p><b>failure</b> [1] 404/10</p> <p><b>fairly</b> [2] 412/16 412/16</p> <p><b>familiar</b> [2] 338/6 459/18</p> <p><b>family</b> [1] 355/4</p> <p><b>far</b> [6] 332/19 363/2 426/1 426/9 468/6 468/8</p> <p><b>FARR</b> [1] 323/18</p> <p><b>fashion</b> [2] 328/9 348/1</p> <p><b>favor</b> [3] 412/10 412/20 412/21</p> <p><b>Fawzi</b> [7] 356/22 357/1 357/2 357/5 357/16 358/13 358/13</p> <p><b>Fawzi's</b> [1] 357/23</p> <p><b>FCRR</b> [1] 323/23</p> <p><b>feasibility</b> [1] 488/7</p> <p><b>February</b> [7] 387/11 387/12 389/9 400/20 417/13 418/19 420/10</p> <p><b>February 2013</b> [1] 418/19</p> <p><b>February 25</b> [1] 387/12</p> <p><b>fee</b> [22] 360/23 373/2 373/2 387/21 388/2 388/8 388/12 388/22 400/6 401/7 402/4 402/6 402/7 411/16 411/17 412/2 412/12 421/7 428/9 435/2 449/3 485/19</p> <p><b>feed</b> [1] 473/21</p> <p><b>feedback</b> [1] 448/9</p> <p><b>feel</b> [2] 408/16 409/17</p> <p><b>feeler</b> [1] 331/21</p> <p><b>feeling</b> [1] 363/13</p> <p><b>fees</b> [5] 401/4 401/9 402/19 448/23 449/4</p> <p><b>few</b> [2] 392/16 448/21</p> <p><b>fiddle</b> [1] 366/7</p> <p><b>fifth</b> [2] 464/6 474/12</p> <p><b>figure</b> [1] 473/11</p> <p><b>file</b> [1] 488/11</p> <p><b>files</b> [4] 456/14 456/17 456/18 456/25</p> <p><b>fill</b> [1] 431/25</p> <p><b>filled</b> [1] 432/1</p> <p><b>final</b> [4] 366/23 376/16 378/20 477/8</p> <p><b>finalized</b> [1] 448/8</p> <p><b>finalizing</b> [1] 374/7</p> <p><b>finance</b> [19] 335/16 335/18 335/19 345/1 363/6 367/13 376/5 377/13 377/15 390/25 391/7 391/9 391/17 394/5 402/21 417/11 417/20 418/18 475/23</p> <p><b>financial</b> [10] 389/24 414/14 414/15 425/17 426/3 446/5 446/10 449/3 454/11 488/7</p> <p><b>financing</b> [13] 341/20 344/4 377/8 402/18 449/4 474/17 474/20 475/2 475/15 475/18 475/24 475/25 476/7</p> <p><b>find</b> [3] 339/4 440/9 481/3</p> <p><b>fine</b> [5] 326/1 327/4 327/7 336/19 490/21</p> <p><b>finish</b> [3] 477/7 477/24 478/2</p> <p><b>firm</b> [1] 374/6</p> <p><b>firmly</b> [1] 423/11</p>
<p><b>F</b></p>	<p><b>facet</b> [1] 455/18</p> <p><b>facilities</b> [1] 370/15</p>	

<p><b>F</b></p> <p><b>first</b> [48] 325/6 326/12 344/6 359/10 359/14 359/24 361/18 362/22 363/10 373/6 373/16 375/11 384/24 389/5 393/13 398/19 399/5 403/11 409/2 412/18 416/13 420/5 426/20 427/2 427/10 427/18 427/23 427/23 427/23 427/24 434/13 435/1 436/23 436/24 437/13 445/5 448/7 453/3 454/22 460/1 462/4 465/7 465/8 465/9 473/14 476/19 478/18 485/22</p> <p><b>Firstly</b> [1] 476/7</p> <p><b>fish</b> [7] 473/24 483/24 484/2 484/7 484/8 484/14 484/17</p> <p><b>fished</b> [1] 451/9</p> <p><b>fisheries</b> [8] 480/6 480/7 480/11 480/14 480/16 480/20 480/21 481/4</p> <p><b>fishing</b> [22] 466/18 467/10 467/10 468/5 468/10 468/22 470/3 474/17 475/2 475/15 475/19 476/24 479/16 479/25 480/13 480/15 480/17 480/17 483/14 483/21 483/24 483/25</p> <p><b>fit</b> [1] 326/16</p> <p><b>fits</b> [1] 375/14</p> <p><b>five</b> [8] 334/16 334/19 373/4 375/12 435/12 448/21 453/6 462/2</p> <p><b>fix</b> [1] 339/9</p> <p><b>fleet</b> [7] 451/3 474/17 475/2 475/15 475/19 480/14 483/14</p> <p><b>flexibility</b> [1] 356/25</p> <p><b>flipping</b> [1] 370/22</p> <p><b>floor</b> [1] 408/9</p> <p><b>flow</b> [2] 398/10 398/18</p> <p><b>focus</b> [1] 434/12</p> <p><b>folks</b> [2] 327/5 410/6</p> <p><b>follow</b> [3] 397/15 465/14 465/18</p> <p><b>following</b> [5] 334/3 347/1 415/25 420/22 420/24</p> <p><b>follows</b> [1] 329/6</p> <p><b>forbidden</b> [1] 424/25</p> <p><b>foreign</b> [4] 405/14 405/17 451/9 480/17</p> <p><b>forget</b> [1] 337/24</p> <p><b>forgive</b> [1] 327/8</p> <p><b>form</b> [8] 334/7 389/24 414/23 414/24 429/10 430/2 430/3 430/5</p> <p><b>formed</b> [1] 334/19</p> <p><b>former</b> [1] 451/12</p> <p><b>formerly</b> [1] 452/17</p> <p><b>Forty</b> [1] 373/4</p> <p><b>Forty-five</b> [1] 373/4</p> <p><b>forward</b> [10] 328/12 328/15 334/4 406/6 406/12 456/14 457/1 457/3 474/21 486/12</p> <p><b>forwarded</b> [3] 373/14 471/3 486/1</p> <p><b>four</b> [3] 400/11 483/17 484/10</p> <p><b>fourth</b> [3] 462/16 481/23 483/3</p> <p><b>France</b> [1] 421/4</p> <p><b>francs</b> [1] 445/3</p> <p><b>free</b> [1] 408/16</p> <p><b>freezing</b> [2] 484/13 485/2</p> <p><b>Freiha</b> [23] 333/12 337/17 337/20 338/17 338/24 343/1 344/7 344/8 344/11 344/25 347/6 352/17 352/22</p>	<p>353/21 354/11 355/17 356/2 357/6 357/15 359/3 359/11 368/7 464/8</p> <p><b>frequently</b> [1] 444/7</p> <p><b>Friday</b> [2] 410/9 491/11</p> <p><b>friend</b> [6] 356/23 357/7 357/10 443/6 443/11 443/16</p> <p><b>friends</b> [2] 341/15 342/2</p> <p><b>front</b> [7] 332/9 368/25 378/2 378/9 400/18 417/9 458/16</p> <p><b>frozen</b> [1] 484/24</p> <p><b>fulfilled</b> [1] 379/6</p> <p><b>full</b> [7] 345/2 357/4 361/2 361/6 361/10 454/1 487/7</p> <p><b>function</b> [1] 444/6</p> <p><b>fund</b> [6] 389/23 445/23 446/1 446/2 463/7 463/9</p> <p><b>funding</b> [6] 335/14 448/25 469/12 469/17 470/11 470/12</p> <p><b>funds</b> [4] 421/1 428/20 436/15 436/16</p> <p><b>further</b> [15] 326/10 326/10 329/5 342/3 421/7 425/18 426/24 427/7 435/16 436/4 437/13 438/18 438/20 438/25 458/18</p> <p><b>furtherance</b> [1] 378/15</p> <p><b>Furthermore</b> [1] 345/1</p> <p><b>future</b> [1] 456/16</p> <p><b>FYI</b> [2] 362/4 441/7</p> <hr/> <p><b>G</b></p> <p><b>G-mail</b> [5] 456/7 456/10 456/14 457/2 457/3</p> <p><b>gain</b> [2] 421/18 428/6</p> <p><b>gained</b> [1] 427/18</p> <p><b>GALLAGHER</b> [1] 323/18</p> <p><b>gap</b> [1] 325/25</p> <p><b>garden</b> [6] 452/4 452/6 452/14 465/13 465/14 465/17</p> <p><b>gave</b> [1] 436/14</p> <p><b>general</b> [7] 373/19 375/16 376/7 376/8 376/11 405/25 406/2</p> <p><b>general's</b> [1] 376/3</p> <p><b>generally</b> [1] 414/15</p> <p><b>generate</b> [1] 484/18</p> <p><b>generated</b> [1] 483/24</p> <p><b>gentlemen</b> [15] 326/17 328/7 329/1 346/5 364/1 364/6 366/4 406/22 407/8 408/7 411/1 453/8 488/16 488/20 489/12</p> <p><b>geographical</b> [1] 394/7</p> <p><b>Georgette</b> [1] 323/23</p> <p><b>Georgette25</b> [1] 323/24</p> <p><b>GFG</b> [1] 394/2</p> <p><b>GFG CEEMEA</b> [1] 394/2</p> <p><b>gift</b> [3] 436/14 438/7 457/20</p> <p><b>given</b> [4] 325/8 325/16 344/4 378/4</p> <p><b>Global</b> [1] 394/5</p> <p><b>gmail.com</b> [3] 323/24 333/15 345/16</p> <p><b>GoM</b> [2] 334/7 334/9</p> <p><b>good</b> [17] 324/8 324/14 324/15 324/18 324/19 324/21 324/23 328/7 363/24 372/10 411/24 412/20 428/11 428/11 456/15 463/23 488/20</p> <p><b>goods</b> [9] 332/5 361/4 361/10 361/20 369/4 369/6 369/22 370/12 375/10</p> <p><b>goods/services</b> [1] 361/4</p>	<p><b>government</b> [146] 323/11 325/5 325/12 327/19 327/23 329/8 329/15 329/21 330/2 330/7 330/12 330/18 334/10 334/20 336/3 336/6 336/9 337/1 337/4 338/22 339/6 340/13 342/13 344/5 344/14 344/17 344/19 344/22 345/3 345/4 345/23 345/23 349/14 349/20 349/25 350/6 350/11 350/17 350/22 351/2 351/7 351/12 351/17 351/22 352/2 352/7 355/23 359/14 359/15 359/16 359/18 360/3 360/17 360/24 361/9 364/14 365/8 367/12 369/17 372/4 375/9 376/6 378/2 378/3 378/6 379/22 380/1 380/6 380/11 380/16 380/17 380/22 381/2 381/8 381/13 381/19 381/24 382/4 382/9 382/15 382/20 382/25 383/6 383/12 383/17 383/23 384/3 384/8 385/8 385/14 385/20 386/1 386/6 386/11 386/16 386/22 387/2 389/25 390/16 391/4 391/11 391/15 392/12 393/9 395/4 396/12 400/14 407/11 409/3 409/5 410/19 417/5 417/9 417/24 418/5 418/7 419/1 419/17 419/20 429/7 433/7 433/12 433/17 433/22 440/7 440/17 455/6 458/8 469/19 469/22 470/23 474/25 480/12 480/18 481/13 482/24 485/9 485/19 486/16 486/22 487/17 487/21 489/8 490/1 492/6 493/2</p> <p><b>Government Exhibit 2182</b> [1] 379/22</p> <p><b>Government's</b> [67] 325/4 332/7 333/4 337/8 339/22 340/18 352/14 359/6 361/21 366/16 366/24 368/2 368/21 368/22 372/13 373/10 373/12 376/21 377/23 378/8 378/22 379/18 387/6 389/7 392/18 394/25 395/8 400/10 400/17 413/21 416/24 417/8 418/25 418/25 420/3 422/2 424/9 425/12 426/10 428/23 428/24 429/9 433/2 437/11 439/3 439/20 439/25 441/17 444/15 453/16 455/21 457/6 458/4 459/12 462/13 464/4 464/22 465/21 468/12 470/16 474/6 476/14 481/9 482/20 486/17 487/17 489/14</p> <p><b>governmental</b> [3] 371/9 374/18 374/21</p> <p><b>great</b> [2] 426/6 454/7</p> <p><b>green</b> [1] 440/13</p> <p><b>group</b> [9] 338/9 338/16 394/1 394/5 394/10 395/17 396/14 444/17 471/14</p> <p><b>guaranteed</b> [2] 336/8 419/19</p> <p><b>guaranties</b> [1] 361/3</p> <p><b>guarantor</b> [4] 367/11 367/12 379/7 418/11</p> <p><b>guaranty</b> [24] 337/4 344/5 344/14 344/15 344/19 345/5 376/4 377/12 378/2 378/3 417/9 417/24 418/1 418/5 418/8 418/21 418/23 419/2 419/17 419/20 475/20 475/22 478/24 485/18</p> <p><b>guard</b> [2] 335/3 335/11</p> <p><b>guard-type</b> [1] 335/3</p> <p><b>Guebuza</b> [2] 362/12 362/13</p> <p><b>guess</b> [1] 471/11</p> <p><b>Guidema</b> [1] 333/11</p> <p><b>Gulf</b> [4] 462/4 465/7 465/8 465/10</p> <p><b>guys</b> [1] 454/8</p>
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<p><b>H</b></p> <p><b>habibi</b> [2] 482/16 482/17  <b>hadn't</b> [1] 413/13  <b>half</b> [6] 388/22 428/17 434/21 435/13 449/15 459/8  <b>half percent</b> [1] 428/17  <b>Hamdan</b> [5] 353/7 353/23 354/8 354/10 354/18  <b>hand</b> [2] 325/13 326/24  <b>handy</b> [1] 456/15  <b>hang</b> [5] 325/18 365/15 379/23 392/23 392/23  <b>happen</b> [4] 358/1 358/7 379/9 491/3  <b>happened</b> [8] 363/4 434/20 435/15 435/24 436/20 439/13 457/16 464/10  <b>happy</b> [1] 326/13  <b>hard</b> [1] 326/21  <b>having</b> [9] 329/4 342/16 363/17 412/23 415/16 421/25 445/2 476/8 480/15  <b>head</b> [5] 338/16 357/3 395/22 469/25 480/3  <b>headlines</b> [1] 473/22  <b>heads</b> [1] 410/6  <b>health</b> [1] 478/13  <b>hear</b> [2] 409/2 412/7  <b>heard</b> [2] 326/19 353/18  <b>heart</b> [1] 376/17  <b>heaven</b> [1] 326/2  <b>heavily</b> [1] 414/24  <b>held</b> [4] 342/9 434/6 439/6 440/14  <b>help</b> [6] 326/3 412/11 412/14 421/18 429/19 436/10  <b>helped</b> [1] 413/9  <b>helpful</b> [1] 339/11  <b>helping</b> [1] 438/4  <b>Henrique</b> [1] 401/14  <b>herself</b> [1] 482/10  <b>HH</b> [1] 353/23  <b>hi</b> [14] 331/20 337/24 341/15 345/9 352/25 353/5 365/23 373/15 456/13 471/10 473/20 477/6 482/2 487/7  <b>hide</b> [3] 388/7 425/4 444/10  <b>high</b> [1] 371/23  <b>highlight</b> [6] 340/25 372/23 434/9 434/15 435/5 475/3  <b>Highness</b> [1] 353/7  <b>HIRAL</b> [2] 323/14 324/5  <b>hire</b> [2] 446/20 446/23  <b>hired</b> [1] 446/24  <b>Historically</b> [1] 451/8  <b>history</b> [1] 443/6  <b>holding</b> [3] 367/10 371/9 437/3  <b>holdings</b> [9] 403/17 434/22 435/17 435/20 437/1 437/2 437/3 439/14 439/18  <b>holiday</b> [2] 452/13 452/14  <b>honestly</b> [1] 480/18  <b>Honor</b> [147] 324/8 324/14 324/18 324/19 324/21 324/23 325/2 325/8 326/5 327/13 327/20 327/25 328/20 329/7 329/8 329/13 330/10 330/16 330/21 340/8 345/22 346/3 347/3 347/5 347/10 347/12 348/4 348/5 349/4 349/18 350/9 350/15 350/25 351/5</p>	<p>351/10 351/20 351/25 352/11 353/4 363/23 364/16 364/19 365/9 365/12 365/14 366/1 366/14 373/23 379/20 379/24 380/4 380/9 380/14 381/11 381/22 382/2 382/7 382/13 382/18 382/23 383/4 383/10 383/21 384/1 384/16 385/6 385/12 385/18 385/24 386/20 388/14 392/1 392/5 394/24 395/2 398/2 400/9 400/12 402/1 402/12 407/13 407/16 407/18 408/25 409/1 409/5 409/6 409/13 409/18 410/13 410/15 410/20 411/11 416/23 417/1 417/4 428/25 429/3 429/5 433/1 433/4 433/5 433/10 433/20 433/25 434/11 439/23 440/4 440/6 440/10 440/15 446/25 447/10 448/1 448/5 453/5 453/15 455/23 458/3 458/6 465/20 465/24 469/10 470/15 470/19 470/25 472/8 474/8 476/14 481/8 481/11 482/19 482/22 485/3 485/8 486/17 487/16 487/19 489/1 489/7 489/9 489/24 490/2 490/4 490/20 491/8 491/9  <b>HONORABLE</b> [1] 323/9  <b>hope</b> [3] 336/22 411/2 427/9  <b>Hopefully</b> [1] 366/5  <b>hoping</b> [1] 412/14  <b>Hot</b> [1] 444/2  <b>Hot Mail</b> [1] 444/2  <b>hotel</b> [1] 389/2  <b>Hotmail</b> [4] 424/7 424/8 425/3 468/17  <b>hour</b> [3] 325/25 407/1 424/16  <b>huge</b> [1] 455/1  <b>huh</b> [1] 326/25  <b>human</b> [1] 341/24</p>	<p><b>incentive</b> [1] 451/20  <b>include</b> [2] 401/11 418/20  <b>included</b> [5] 367/22 369/16 370/14 392/11 483/21  <b>including</b> [7] 363/5 402/19 405/2 405/4 405/13 414/12 482/6  <b>increase</b> [14] 427/6 436/10 437/17 438/11 438/23 439/2 449/13 449/14 450/8 459/17 462/9 462/10 462/12 483/18  <b>increased</b> [10] 428/7 428/15 437/20 438/18 449/16 458/13 458/18 464/12 473/8 473/10  <b>increases</b> [2] 428/9 458/12  <b>increasing</b> [1] 438/15  <b>increasingly</b> [1] 413/13  <b>incurred</b> [1] 402/20  <b>indeed</b> [1] 339/17  <b>indicate</b> [17] 342/9 352/22 367/21 370/19 387/25 388/1 402/14 404/7 425/16 425/18 429/25 432/16 432/18 446/20 448/7 475/16 475/20  <b>indicated</b> [8] 357/21 367/14 370/21 388/11 429/23 430/7 445/4 449/2  <b>indicates</b> [3] 325/16 372/19 409/22  <b>indicating</b> [7] 355/1 355/3 357/13 358/7 359/3 387/22 422/13  <b>indicators</b> [1] 390/5  <b>indirect</b> [2] 335/16 397/20  <b>indirectly</b> [1] 371/8  <b>individual</b> [7] 336/10 342/15 354/18 355/24 423/3 466/7 469/25  <b>individualize</b> [1] 423/19  <b>individuals</b> [6] 333/24 337/19 338/9 338/10 338/13 338/15  <b>industry</b> [1] 473/23  <b>influence</b> [2] 405/5 455/17  <b>info</b> [1] 487/7  <b>inform</b> [4] 375/16 376/7 394/19 402/8  <b>information</b> [30] 338/4 353/10 354/11 368/15 371/21 371/22 374/11 390/2 390/10 390/12 390/13 390/15 394/14 394/20 394/22 395/9 395/11 396/21 396/25 399/14 400/4 423/23 426/2 431/25 432/24 474/1 474/5 479/2 487/12 487/15  <b>informed</b> [4] 391/18 392/6 392/13 424/14  <b>informing</b> [2] 376/10 391/21  <b>ingratiate</b> [3] 411/25 412/4 412/11  <b>initial</b> [3] 354/21 449/11 466/19  <b>initially</b> [2] 415/25 446/18  <b>inquire</b> [1] 411/10  <b>inquiries</b> [1] 354/21  <b>inside</b> [1] 450/20  <b>installment</b> [1] 435/1  <b>installments</b> [2] 435/12 438/18  <b>instance</b> [2] 338/12 425/4  <b>instead</b> [3] 335/15 391/10 473/3  <b>institution</b> [2] 401/2 414/14  <b>instructing</b> [1] 326/18  <b>instruction</b> [4] 325/8 325/11 325/13 327/15  <b>instructions</b> [1] 327/11  <b>instrumental</b> [1] 438/4</p>
<p><b>I</b></p> <p><b>I.D</b> [1] 441/9  <b>i.e</b> [1] 338/25  <b>ICE</b> [8] 462/25 463/8 463/11 463/12 463/13 463/14 463/16 463/20  <b>idea</b> [2] 466/19 467/14  <b>ideally</b> [1] 363/21  <b>ideas</b> [2] 359/19 359/20  <b>identified</b> [6] 396/7 412/1 446/18 455/5 467/3 480/13  <b>identify</b> [1] 423/2  <b>identifying</b> [4] 353/24 412/11 412/21 474/3  <b>II</b> [2] 323/9 370/8  <b>ilk</b> [1] 347/19  <b>IMF</b> [29] 389/13 389/15 389/23 389/23 390/2 390/2 390/12 390/13 390/18 390/22 390/23 391/5 391/13 391/16 391/18 391/21 392/7 392/9 392/11 392/13 418/9 418/12 418/21 454/7 454/9 454/10 454/11 454/14 454/16  <b>impair</b> [1] 404/11  <b>implement</b> [1] 469/13  <b>implementing</b> [2] 341/19 405/16  <b>importance</b> [1] 378/12  <b>important</b> [13] 339/18 354/19 355/7 355/10 371/14 377/16 390/17 390/21 416/18 417/24 424/14 450/15 450/19  <b>improperly</b> [1] 405/5  <b>in</b> [483]</p>		



<p><b>I</b></p> <p><b>insufficient</b> [1] 325/17</p> <p><b>intend</b> [1] 426/24</p> <p><b>intention</b> [4] 442/12 450/1 475/25 478/9</p> <p><b>interest</b> [15] 360/18 360/19 396/11 398/1 399/3 399/5 399/7 399/16 441/7 451/2 459/5 459/7 477/10 478/8 478/10</p> <p><b>interested</b> [2] 371/6 428/3</p> <p><b>interests</b> [2] 395/25 396/3</p> <p><b>interim</b> [1] 473/16</p> <p><b>intermediary</b> [1] 332/20</p> <p><b>internal</b> [1] 393/19</p> <p><b>internally</b> [1] 396/6</p> <p><b>international</b> [16] 372/9 389/23 392/10 400/25 405/18 417/11 425/15 425/19 426/8 429/24 432/13 455/7 466/13 476/1 476/2 476/11</p> <p><b>introduced</b> [1] 342/11</p> <p><b>invest</b> [4] 419/22 427/16 427/20 446/2</p> <p><b>invested</b> [4] 414/4 463/14 463/16 463/20</p> <p><b>investing</b> [1] 419/23</p> <p><b>investment</b> [3] 446/1 446/21 463/16</p> <p><b>investor</b> [5] 396/17 427/13 427/14 427/22 472/7</p> <p><b>investors</b> [28] 395/13 396/1 396/4 396/6 396/6 396/9 396/9 396/16 399/25 400/2 400/2 419/2 419/17 419/18 419/20 423/2 427/15 427/15 427/19 455/6 455/7 455/8 455/8 455/9 455/12 476/11 479/5 479/7</p> <p><b>invests</b> [1] 414/15</p> <p><b>invoice</b> [2] 420/16 489/15</p> <p><b>involve</b> [1] 356/16</p> <p><b>involved</b> [12] 338/4 338/15 356/1 372/1 376/14 377/22 394/22 395/16 397/19 425/5 450/24 486/13</p> <p><b>involvement</b> [5] 388/7 402/4 412/25 424/22 425/5</p> <p><b>involves</b> [1] 375/1</p> <p><b>involving</b> [1] 357/17</p> <p><b>is -- it</b> [1] 451/7</p> <p><b>Isaltina</b> [2] 485/25 487/9</p> <p><b>Iskandar</b> [27] 337/21 354/24 355/2 355/15 357/11 357/14 357/18 357/24 358/14 362/19 420/25 421/4 421/5 421/10 421/15 428/8 428/14 437/5 442/4 442/8 442/11 443/19 448/13 448/15 448/17 454/3 466/8</p> <p><b>isn't</b> [2] 358/7 393/3</p> <p><b>issue</b> [17] 325/9 326/10 326/10 327/10 327/11 345/10 347/14 348/1 355/19 355/20 356/7 356/8 374/9 374/11 375/21 409/24 490/4</p> <p><b>issued</b> [1] 420/16</p> <p><b>issues</b> [14] 325/1 327/21 347/13 354/24 355/13 356/3 356/5 364/13 365/6 407/9 410/17 475/8 489/3 489/5</p> <p><b>item</b> [1] 423/4</p> <p><b>items</b> [4] 368/15 423/13 423/19 423/20</p> <p><b>itself</b> [1] 480/12</p>	<p>410/23</p> <p><b>January</b> [8] 342/8 366/18 368/4 372/16 376/24 379/13 379/17 439/11</p> <p><b>January 2013</b> [1] 368/4</p> <p><b>Japan</b> [2] 451/9 484/23</p> <p><b>JEAN</b> [65] 323/6 331/18 331/20 331/23 332/13 333/9 336/5 336/16 336/19 337/7 337/15 337/25 339/4 345/10 352/25 353/5 353/8 356/24 358/25 359/4 359/13 359/22 359/23 361/25 366/20 368/6 372/18 373/14 376/17 377/5 387/23 388/1 420/6 421/6 424/10 428/14 437/5 441/3 441/25 442/1 442/2 442/2 442/11 443/18 447/7 447/17 454/3 456/5 456/13 459/15 463/18 464/8 464/14 466/5 468/15 468/19 471/8 474/14 477/1 481/20 482/2 483/7 485/14 485/17 487/7</p> <p><b>join</b> [1] 409/18</p> <p><b>judge</b> [5] 323/9 326/17 327/9 365/2 491/5</p> <p><b>July</b> [19] 435/15 465/12 466/3 471/6 472/22 472/25 473/11 473/15 474/12 474/22 476/19 476/22 478/19 481/23 483/3 486/9 486/24 487/3 487/25</p> <p><b>July 15</b> [1] 474/22</p> <p><b>July 2013</b> [3] 465/12 466/3 487/3</p> <p><b>July 21st</b> [2] 476/22 478/19</p> <p><b>July 27</b> [2] 435/15 486/9</p> <p><b>July 27th</b> [2] 486/24 487/25</p> <p><b>July 2nd</b> [2] 472/22 473/11</p> <p><b>July 4th</b> [2] 471/6 472/25</p> <p><b>July 5th</b> [1] 473/15</p> <p><b>June</b> [10] 435/9 439/13 454/8 454/9 456/1 457/12 457/15 462/16 464/6 464/10</p> <p><b>June 12</b> [2] 457/12 457/15</p> <p><b>June 25th</b> [1] 464/10</p> <p><b>June 4th</b> [1] 439/13</p> <p><b>junior</b> [1] 446/20</p> <p><b>Jurkowitz</b> [2] 462/25 463/1</p> <p><b>juror</b> [1] 409/6</p> <p><b>jurors</b> [1] 326/19</p> <p><b>jury</b> [65] 323/10 325/1 325/8 326/17 326/24 326/25 327/21 328/2 328/5 328/8 329/1 330/19 330/23 340/7 340/10 346/5 352/9 353/19 361/12 364/1 364/7 364/12 364/13 365/1 365/7 365/13 365/24 366/3 366/5 369/14 387/4 392/4 397/15 398/5 403/10 406/21 406/23 407/4 407/7 407/10 408/8 410/18 410/24 410/25 411/2 413/22 414/10 417/2 422/19 426/20 431/12 434/10 444/23 445/7 448/2 448/22 453/9 488/16 488/23 489/4 489/23 490/12 490/15 490/16 491/1</p> <p><b>JUSTICE</b> [1] 323/15</p> <p><b>justify</b> [1] 473/17</p>	<p>377/17 390/5 390/13 422/9 422/9 422/9 422/12</p> <p><b>Khaimah</b> [3] 358/20 358/22 359/2</p> <p><b>kickback</b> [14] 373/9 389/6 400/21 402/4 421/5 421/13 421/14 435/1 435/3 435/8 435/13 436/17 457/24 472/7</p> <p><b>kickbacks</b> [3] 373/7 405/8 406/17</p> <p><b>kind</b> [1] 448/3</p> <p><b>kindly</b> [1] 473/3</p> <p><b>Kingdom</b> [1] 415/1</p> <p><b>knew</b> [8] 373/1 391/13 443/16 444/11 444/11 447/10 447/16 474/25</p> <p><b>knocks</b> [1] 326/22</p> <p><b>know</b> [34] 326/19 328/2 333/17 345/6 354/7 365/18 371/17 372/6 373/11 391/20 391/24 395/15 401/15 402/6 409/17 412/20 416/13 423/13 425/23 430/5 443/20 444/9 444/13 445/1 447/24 450/13 453/21 456/18 462/23 462/23 463/4 463/14 463/18 477/16</p> <p><b>knowing</b> [2] 372/11 423/17</p> <p><b>knowledge</b> [2] 354/9 427/19</p> <p><b>known</b> [6] 339/17 345/14 371/20 390/20 406/17 454/14</p> <p><b>Kroll</b> [2] 443/12 446/18</p> <p><b>KUNTZ</b> [2] 323/9 365/2</p> <p><b>KYC</b> [3] 456/13 456/17 456/24</p> <p><b>Kyriakos</b> [2] 357/5 357/16</p>
<p><b>J</b></p> <p><b>JACKSON</b> [4] 323/20 324/12 328/1</p>	<p><b>K</b></p> <p><b>KATHERINE</b> [2] 323/17 324/6</p> <p><b>keep</b> [9] 342/2 345/11 347/22 348/2 370/22 384/14 412/6 477/10 478/8</p> <p><b>keeping</b> [2] 454/8 488/15</p> <p><b>key</b> [11] 339/20 363/3 363/4 370/12</p>	<p><b>L</b></p> <p><b>ladies</b> [15] 326/17 328/7 329/1 346/5 364/1 364/6 366/4 406/22 407/8 408/7 411/1 453/8 488/16 488/20 489/11</p> <p><b>laid</b> [1] 370/5</p> <p><b>Langford</b> [10] 337/18 337/21 466/5 466/7 472/17 473/6 483/5 483/12 483/20 485/1</p> <p><b>language</b> [2] 325/4 418/22</p> <p><b>large</b> [3] 372/9 374/6 451/14</p> <p><b>largely</b> [1] 409/13</p> <p><b>larger</b> [8] 427/22 451/22 455/9 455/11 455/11 455/12 464/25 476/12</p> <p><b>last</b> [7] 341/15 447/3 447/9 458/24 459/2 472/21 483/1</p> <p><b>late</b> [3] 325/9 347/15 355/19</p> <p><b>later</b> [7] 327/17 356/24 358/25 359/4 388/18 391/22 392/6</p> <p><b>latest</b> [2] 387/21 453/25</p> <p><b>law</b> [5] 369/20 374/6 374/24 408/10 491/2</p> <p><b>laws</b> [7] 404/9 404/9 404/14 405/13 406/8 431/18 461/19</p> <p><b>lawyer</b> [1] 466/8</p> <p><b>lawyers</b> [8] 374/5 374/6 374/8 374/10 374/13 375/18 375/23 490/25</p> <p><b>leads</b> [1] 397/20</p> <p><b>learn</b> [4] 391/17 391/22 392/6 392/25</p> <p><b>least</b> [5] 327/2 375/12 396/10 449/21 484/24</p> <p><b>leave</b> [17] 411/19 412/25 413/17 436/18 449/11 449/19 449/20 450/1 450/2 452/4 452/6 452/8 452/11 452/14 465/13 465/14 465/17</p> <p><b>leaves</b> [1] 407/6</p> <p><b>leaving</b> [3] 328/18 399/6 413/19</p>

<p><b>L</b></p> <p><b>led [1]</b> 373/8</p> <p><b>left [9]</b> 364/12 397/22 398/11 399/11 407/7 434/17 437/9 437/12 450/10</p> <p><b>legal [6]</b> 374/9 374/10 375/21 443/7 444/6 445/14</p> <p><b>legible [3]</b> 397/14 397/15 398/14</p> <p><b>legislation [2]</b> 405/15 405/16</p> <p><b>legitimate [1]</b> 374/25</p> <p><b>lend [1]</b> 336/2</p> <p><b>lender [5]</b> 378/11 414/2 414/8 414/12 414/12</p> <p><b>lenders [4]</b> 415/13 415/15 415/16 416/11</p> <p><b>lending [1]</b> 336/5</p> <p><b>lends [1]</b> 335/15</p> <p><b>lent [2]</b> 360/2 360/5</p> <p><b>less [3]</b> 341/23 412/12 415/24</p> <p><b>letter [16]</b> 362/5 362/8 362/10 362/11 362/17 362/18 362/19 362/23 363/1 363/8 363/15 363/19 363/20 460/3 462/11 485/19</p> <p><b>levels [2]</b> 359/17 360/18</p> <p><b>liaising [1]</b> 377/20</p> <p><b>life [2]</b> 389/5 406/12</p> <p><b>light [1]</b> 440/13</p> <p><b>lights [1]</b> 330/25</p> <p><b>Lillian [1]</b> 324/6</p> <p><b>limit [4]</b> 390/22 454/7 454/9 454/14</p> <p><b>limitation [1]</b> 405/14</p> <p><b>limited [1]</b> 327/8</p> <p><b>limiting [5]</b> 325/7 325/10 325/12 327/11 327/15</p> <p><b>Lina [7]</b> 337/24 373/15 424/15 473/20 477/6 482/6 487/10</p> <p><b>Lina's [1]</b> 424/13</p> <p><b>line [4]</b> 397/21 398/10 478/1 481/4</p> <p><b>lines [1]</b> 398/10</p> <p><b>links [1]</b> 353/12</p> <p><b>list [8]</b> 375/24 378/17 379/8 396/5 396/9 396/13 432/10 432/14</p> <p><b>listed [3]</b> 401/2 406/5 432/12</p> <p><b>lists [1]</b> 339/5</p> <p><b>litigator [1]</b> 327/9</p> <p><b>little [9]</b> 340/7 353/15 353/17 363/17 366/5 406/25 422/18 438/14 464/24</p> <p><b>LMA [1]</b> 415/3</p> <p><b>loan [168]</b> 331/21 331/24 331/25 332/9 333/2 333/3 335/21 335/24 335/25 336/6 336/8 336/15 337/1 337/3 338/4 338/5 338/14 344/17 344/17 344/18 344/19 344/21 356/10 360/20 363/17 363/18 367/14 367/17 367/21 367/23 369/5 369/8 374/7 376/11 377/13 377/16 377/18 378/7 378/9 378/14 378/17 378/20 379/5 379/7 379/9 379/12 379/14 390/7 390/21 390/24 391/5 391/6 391/18 392/7 392/11 393/21 393/21 393/22 394/16 394/18 395/10 395/14 395/23 395/25 396/3 396/11 396/11 398/13 399/1 399/3 399/4 399/9 399/17 399/25 400/3 400/18 400/22 400/24 401/3 401/9 401/12 401/13 402/10 402/14 403/25</p>	<p>406/12 406/16 406/18 406/19 413/22 414/2 414/4 414/7 414/9 414/22 414/23 414/25 415/2 415/3 415/6 415/12 415/12 416/10 416/21 417/25 418/2 418/4 419/1 419/16 419/19 419/19 419/23 419/25 420/24 421/1 422/10 422/14 427/6 427/18 427/23 428/1 428/7 436/10 436/24 436/24 437/6 437/19 437/20 437/20 438/4 438/12 438/16 438/17 439/18 449/10 449/14 450/2 450/24 451/17 451/18 451/22 451/23 454/21 455/2 455/9 455/11 455/11 455/19 458/17 458/18 458/21 461/6 461/14 461/15 461/22 462/12 463/15 463/17 464/2 464/11 469/5 469/20 476/3 476/6 476/9 476/12 480/24 485/18</p> <p><b>loaned [1]</b> 428/16</p> <p><b>loans [12]</b> 395/22 414/15 421/7 423/18 427/17 427/20 450/8 450/18 450/21 459/9 463/3 478/12</p> <p><b>local [1]</b> 432/21</p> <p><b>located [1]</b> 463/10</p> <p><b>logic [1]</b> 335/14</p> <p><b>logical [1]</b> 410/10</p> <p><b>Logistics [9]</b> 425/15 425/19 426/7 426/8 429/24 432/13 466/12 471/11 471/17</p> <p><b>London [5]</b> 357/2 357/3 401/1 417/12 465/2</p> <p><b>long [5]</b> 347/25 413/16 432/16 451/6 484/4</p> <p><b>long-winded [1]</b> 413/16</p> <p><b>longer [3]</b> 400/21 484/13 484/15</p> <p><b>look [66]</b> 326/2 332/7 337/8 339/22 340/5 340/17 352/14 359/6 359/8 361/21 362/7 362/7 362/17 366/16 366/24 368/2 368/21 369/13 372/13 377/23 378/8 378/22 379/15 389/7 396/18 398/4 398/5 401/17 402/22 403/18 404/5 404/20 406/9 414/18 417/14 420/2 424/8 424/8 425/7 425/12 426/10 428/23 439/3 439/9 439/20 441/13 444/15 444/20 444/21 447/3 449/17 453/3 453/16 454/23 458/23 462/13 462/14 464/4 466/23 467/1 471/6 472/13 472/24 473/15 474/21 486/14</p> <p><b>looked [7]</b> 333/20 367/4 412/19 439/8 442/23 451/24 461/14</p> <p><b>looking [21]</b> 331/1 333/20 352/15 369/12 395/13 406/6 406/8 406/13 414/23 420/5 424/1 439/5 440/24 447/4 448/6 449/20 453/16 454/17 467/11 483/1 485/11</p> <p><b>looks [1]</b> 372/10</p> <p><b>Lord [1]</b> 353/2</p> <p><b>Los [1]</b> 463/13</p> <p><b>Loss [1]</b> 388/14</p> <p><b>lost [1]</b> 326/20</p> <p><b>lot [3]</b> 428/10 442/22 480/6</p> <p><b>lower [1]</b> 360/19</p> <p><b>Ltd [1]</b> 437/1</p> <p><b>Lucas [1]</b> 485/25</p> <p><b>lucrative [2]</b> 484/21 484/22</p>	<p><b>lunch [7]</b> 406/21 406/24 407/2 407/10 407/14 411/3 418/14</p> <p><b>Luncheon [1]</b> 407/21</p> <p><b>M</b></p> <p><b>mail [77]</b> 331/7 331/9 331/12 331/15 332/12 333/6 333/8 333/13 333/15 333/18 333/19 333/20 333/23 336/11 336/13 336/14 337/6 337/11 337/12 337/16 339/24 340/1 340/12 340/19 340/20 340/24 341/2 341/4 341/6 341/8 341/9 341/12 342/24 342/25 379/15 387/10 387/14 387/16 387/18 387/24 387/25 388/6 389/8 438/14 438/15 440/24 440/25 441/15 441/21 441/22 441/24 442/5 442/7 442/9 442/14 442/22 443/25 444/2 444/2 444/18 447/3 447/4 449/21 453/18 454/23 455/9 455/20 455/25 456/4 456/6 456/7 456/10 456/14 456/24 457/2 457/3 459/15</p> <p><b>mailed [1]</b> 387/15</p> <p><b>mailing [5]</b> 331/17 331/23 377/9 377/10 389/18</p> <p><b>mails [3]</b> 444/6 444/7 453/1</p> <p><b>main [2]</b> 342/1 403/12</p> <p><b>maintenance [1]</b> 341/21</p> <p><b>major [2]</b> 353/9 358/15</p> <p><b>majority [3]</b> 355/3 430/15 458/22</p> <p><b>Malton [2]</b> 417/23 426/19</p> <p><b>man [1]</b> 450/20</p> <p><b>manage [2]</b> 335/11 344/9</p> <p><b>Management [3]</b> 393/20 397/10 439/18</p> <p><b>managing [3]</b> 431/4 443/23 463/2</p> <p><b>Mandate [1]</b> 446/22</p> <p><b>mandatory [1]</b> 373/19</p> <p><b>Manuel [8]</b> 391/1 391/17 391/21 392/6 392/8 417/19 418/18 418/20</p> <p><b>many [1]</b> 415/2</p> <p><b>Maputo [2]</b> 387/13 388/24</p> <p><b>MAR [18]</b> 334/23 334/24 334/25 353/6 353/22 354/2 354/4 354/7 355/4 362/21 426/7 442/25 445/8 445/14 445/16 467/3 468/1 468/7</p> <p><b>March [10]</b> 421/2 421/3 422/4 424/10 426/14 429/22 438/17 439/12 466/21 478/11</p> <p><b>March 2013 [1]</b> 422/4</p> <p><b>March 21st [1]</b> 424/10</p> <p><b>Marcus [2]</b> 443/12 446/18</p> <p><b>MARGARET [2]</b> 323/17 324/5</p> <p><b>mark [3]</b> 323/13 324/5 426/25</p> <p><b>market [10]</b> 360/18 414/25 415/3 469/2 476/11 476/12 479/3 479/3 479/4 484/22</p> <p><b>markets [5]</b> 421/18 446/11 476/1 476/2 484/22</p> <p><b>married [1]</b> 413/5</p> <p><b>marshal [2]</b> 477/7 477/24</p> <p><b>marshals [1]</b> 365/17</p> <p><b>master [6]</b> 480/7 480/12 480/14 480/22 481/4 482/3</p> <p><b>mate [1]</b> 473/4</p> <p><b>materially [1]</b> 404/10</p>
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<p><b>M</b></p> <p><b>materials [2]</b> 339/10 488/7</p> <p><b>Matlaba [3]</b> 401/14 401/15 459/23</p> <p><b>matter [4]</b> 326/15 408/9 423/14 471/12</p> <p><b>matters [1]</b> 447/14</p> <p><b>maximize [8]</b> 451/12 454/18 454/21 469/11 469/17 469/20 470/10 476/4</p> <p><b>maximizing [1]</b> 470/12</p> <p><b>maximum [1]</b> 454/14</p> <p><b>maybe [3]</b> 325/25 453/6 490/10</p> <p><b>MCLEOD [2]</b> 323/22 324/23</p> <p><b>mean [52]</b> 334/17 335/8 335/9 336/24 338/1 344/11 345/17 345/20 353/21 357/22 359/1 360/1 360/7 360/8 361/5 367/24 368/13 368/14 371/11 375/17 376/8 384/12 388/13 388/15 399/2 412/4 416/5 416/6 421/1 422/23 445/12 449/1 449/12 449/23 450/4 454/2 454/9 454/20 455/4 455/16 455/17 468/20 469/15 473/25 477/11 477/13 478/7 479/14 480/8 482/17 487/11 488/5</p> <p><b>means [4]</b> 334/12 404/24 445/13 482/18</p> <p><b>meant [6]</b> 344/18 357/23 384/19 409/16 469/18 477/23</p> <p><b>meantime [1]</b> 462/24</p> <p><b>mechanical [1]</b> 323/24</p> <p><b>mechanics [3]</b> 414/19 415/5 416/8</p> <p><b>medical [2]</b> 431/9 431/16</p> <p><b>meet [4]</b> 339/20 342/7 345/14 359/4</p> <p><b>meeting [10]</b> 334/3 339/7 339/11 339/12 339/13 339/15 339/19 418/18 420/24 421/4</p> <p><b>meetings [2]</b> 352/25 353/5</p> <p><b>MEHTA [2]</b> 323/14 324/5</p> <p><b>Mellon [3]</b> 465/3 465/5 465/6</p> <p><b>member [5]</b> 355/4 355/23 357/2 375/1 401/16</p> <p><b>members [2]</b> 342/11 393/25</p> <p><b>memo [3]</b> 393/23 394/10 402/3</p> <p><b>memorandum [8]</b> 394/12 395/9 395/11 396/22 397/1 399/14 399/20 400/4</p> <p><b>memorialize [1]</b> 490/5</p> <p><b>mentioned [3]</b> 353/8 449/25 461/7</p> <p><b>message [1]</b> 464/1</p> <p><b>met [6]</b> 332/19 342/5 342/8 391/2 391/9 412/17</p> <p><b>meter [2]</b> 479/12 479/18</p> <p><b>meters [1]</b> 481/7</p> <p><b>MICHAEL [2]</b> 323/20 324/16</p> <p><b>microphone [3]</b> 353/15 412/6 489/11</p> <p><b>microphones [1]</b> 440/12</p> <p><b>mid [1]</b> 363/25</p> <p><b>mid-morning [1]</b> 363/25</p> <p><b>middle [1]</b> 359/9</p> <p><b>Mideast [1]</b> 394/6</p> <p><b>might [5]</b> 330/25 331/1 440/12 448/2 471/12</p> <p><b>migratory [1]</b> 451/8</p> <p><b>million [86]</b> 367/17 370/21 372/23 373/1 378/14 388/2 388/22 393/22 395/10 399/9 399/10 399/12 400/5 400/19 411/16 411/16 412/2 412/3</p>	<p>420/17 420/21 422/21 426/23 427/6 427/7 427/25 428/16 428/17 428/18 431/5 432/19 434/14 434/21 435/7 435/10 435/11 435/11 435/13 435/16 435/19 436/1 436/2 436/5 436/7 436/8 436/21 436/24 437/13 437/14 437/18 437/18 437/20 437/21 437/24 438/2 438/9 438/12 438/12 438/18 438/21 438/25 439/12 445/3 445/18 450/3 451/16 451/19 452/1 452/24 452/24 452/25 458/17 458/19 461/4 464/12 466/22 467/13 472/23 473/2 473/10 473/10 473/11 475/18 477/9 478/6 478/9 481/7</p> <p><b>mind [2]</b> 326/18 464/24</p> <p><b>mine [2]</b> 443/6 443/16</p> <p><b>minimize [1]</b> 327/10</p> <p><b>minister [9]</b> 335/18 355/23 376/5 390/25 391/7 391/9 391/17 417/19 418/18</p> <p><b>ministries [3]</b> 334/7 334/16 334/19</p> <p><b>Ministry [7]</b> 335/16 335/18 367/13 377/12 377/15 417/11 475/23</p> <p><b>minus [1]</b> 484/24</p> <p><b>minute [3]</b> 364/3 364/17 365/24</p> <p><b>minutes [4]</b> 364/1 364/18 407/1 453/7</p> <p><b>miss [2]</b> 409/17 478/24</p> <p><b>missed [2]</b> 453/21 470/13</p> <p><b>mobile [1]</b> 471/14</p> <p><b>model [6]</b> 411/23 484/6 484/9 484/19 486/6 488/7</p> <p><b>MOESER [2]</b> 323/17 324/5</p> <p><b>MoF [4]</b> 334/3 335/14 335/17 335/18</p> <p><b>moment [9]</b> 326/25 344/6 392/20 429/2 440/3 440/6 440/9 470/18 472/14</p> <p><b>Monday [1]</b> 471/19</p> <p><b>Monetary [1]</b> 389/23</p> <p><b>money [32]</b> 336/2 336/5 356/13 356/13 356/15 359/14 360/2 360/5 360/7 360/8 360/10 361/3 371/7 375/7 389/25 390/4 390/19 399/6 412/12 412/22 427/9 427/12 427/15 428/10 434/23 442/22 446/2 460/4 462/1 464/14 464/20 478/16</p> <p><b>monies [2]</b> 369/8 472/6</p> <p><b>monitored [1]</b> 444/6</p> <p><b>monitoring [2]</b> 370/6 403/3</p> <p><b>month [2]</b> 341/23 478/24</p> <p><b>months [5]</b> 361/17 379/14 390/3 390/3 452/9</p> <p><b>more [17]</b> 331/1 353/18 355/9 390/19 398/14 412/7 413/9 426/24 427/9 427/18 427/18 451/22 460/4 464/2 476/8 476/9 484/21</p> <p><b>morning [14]</b> 324/8 324/14 324/15 324/18 324/19 324/21 324/23 328/7 363/25 392/22 453/25 462/22 488/21 489/2</p> <p><b>most [3]</b> 374/18 375/13 484/22</p> <p><b>motivation [1]</b> 413/19</p> <p><b>move [7]</b> 392/14 392/17 394/25 400/10 428/24 433/8 470/16</p> <p><b>moved [1]</b> 349/7</p> <p><b>Moz [8]</b> 356/22 357/7 357/7 361/1 361/6 426/22 454/7 473/22</p>	<p><b>Mozambican [22]</b> 332/19 332/21 336/10 360/17 361/9 363/12 363/18 367/7 372/3 374/13 374/24 375/20 376/14 377/22 390/15 391/15 405/15 469/19 474/25 480/2 480/12 485/19</p> <p><b>Mozambicans [3]</b> 332/15 368/18 470/7</p> <p><b>Mozambique [77]</b> 332/11 332/18 334/10 334/20 336/3 336/6 336/9 337/2 337/5 338/22 339/6 340/14 342/13 344/5 344/15 344/18 344/20 344/22 345/4 345/4 353/25 357/9 357/14 357/18 362/14 363/3 367/13 369/17 369/21 370/7 371/22 374/7 374/15 375/24 376/11 378/5 378/6 387/13 388/24 389/22 389/24 390/2 390/6 390/11 390/18 390/18 390/22 390/23 391/2 391/4 391/5 391/11 392/12 397/6 416/21 417/10 417/16 418/7 418/21 427/11 427/16 439/18 451/2 451/6 451/15 454/10 454/12 454/12 454/14 455/6 455/11 466/20 469/22 475/8 475/19 475/23 478/2</p> <p><b>Mr. Afiouni [2]</b> 359/11 359/21</p> <p><b>Mr. Afiouni's [1]</b> 360/25</p> <p><b>Mr. Bini [1]</b> 384/19</p> <p><b>Mr. Boustani [17]</b> 324/13 324/17 332/19 333/23 340/4 340/16 360/22 365/16 412/17 468/23 469/4 470/8 472/17 487/5 487/13 487/14 488/7</p> <p><b>Mr. Boustani's [1]</b> 339/2</p> <p><b>Mr. Freiha [8]</b> 337/20 344/11 344/25 352/22 353/21 355/17 356/2 357/6</p> <p><b>Mr. Jackson [2]</b> 328/1 410/23</p> <p><b>Mr. Langford [1]</b> 483/12</p> <p><b>Mr. Matlaba [1]</b> 401/15</p> <p><b>Mr. Nhangumele [6]</b> 341/1 341/11 342/19 345/8 345/15 345/17</p> <p><b>Mr. Nhangumele's [1]</b> 342/24</p> <p><b>Mr. Pearse [39]</b> 331/7 331/15 332/8 333/8 335/20 339/23 340/10 340/17 342/5 352/14 357/22 364/8 366/9 366/16 368/3 369/10 387/10 389/17 393/18 394/2 394/13 395/8 396/19 397/2 398/7 399/19 399/24 401/8 402/16 406/15 407/5 434/4 434/17 441/22 442/17 444/23 457/9 471/2 483/1</p> <p><b>Mr. Safa [6]</b> 347/14 356/3 358/10 362/22 363/2 466/11</p> <p><b>Mr. Schachter [1]</b> 345/25</p> <p><b>Mr. Singh [1]</b> 357/6</p> <p><b>Mr. Surjan [1]</b> 471/10</p> <p><b>Ms. DiNardo [32]</b> 330/23 333/5 340/25 367/15 367/19 370/18 370/23 372/23 373/17 394/1 395/7 396/25 398/18 402/24 404/21 414/20 418/24 420/4 420/14 422/17 423/25 431/20 434/15 435/5 457/15 459/1 461/24 467/19 476/21 481/18 484/11 487/1</p> <p><b>Ms. Subeva [40]</b> 337/20 339/2 339/12 340/1 340/12 366/22 366/25 373/14 377/9 377/19 378/23 389/13 389/17 412/24 412/25 413/4 413/18 425/14 425/21 436/13 446/24 456/6 456/12</p>
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<p><b>M</b></p> <p><b>Ms. Subeva...</b> [17] 456/21 456/23 457/18 472/17 473/16 474/1 477/15 477/18 481/21 482/1 482/7 486/1 487/5 487/6 487/11 488/6 488/12</p> <p><b>Ms. Subeva's</b> [5] 424/20 425/16 477/3 482/15 483/10</p> <p><b>much</b> [28] 344/3 345/1 345/5 348/6 390/4 399/11 400/21 407/3 411/2 420/20 423/2 427/12 427/15 427/15 428/13 435/6 446/12 449/6 455/12 457/25 461/2 466/19 467/16 472/22 473/8 480/18 482/6 487/10</p> <p><b>Muhammad</b> [1] 426/18</p> <p><b>multiple</b> [3] 415/13 415/13 423/16</p> <p><b>multiplied</b> [1] 484/8</p> <p><b>must</b> [2] 345/11 484/13</p> <p><b>myself</b> [35] 333/11 337/20 338/16 342/11 352/19 362/2 366/21 368/7 377/6 389/11 394/11 411/25 418/17 420/8 422/6 437/5 441/5 445/15 445/16 446/18 456/5 459/4 459/16 462/20 462/24 464/8 466/5 468/15 472/17 473/6 474/14 477/2 481/20 483/7 487/5</p>	<p>430/19 435/3 435/4 435/8 438/8 438/19 455/18 456/22 456/23 460/5 461/25 471/13 477/10 478/8 478/24</p> <p><b>Nguila</b> [1] 333/11</p> <p><b>nguila.guidema</b> [3] 333/15 336/13 345/16</p> <p><b>Nhangumele</b> [10] 333/18 336/12 340/23 341/1 341/11 342/5 342/19 345/8 345/15 345/17</p> <p><b>Nhangumele's</b> [1] 342/24</p> <p><b>nice</b> [1] 411/2</p> <p><b>NIELSEN</b> [2] 323/17 324/6</p> <p><b>night</b> [1] 488/20</p> <p><b>nine</b> [2] 449/17 449/24</p> <p><b>Nineteenth</b> [1] 368/4</p> <p><b>Ninth</b> [1] 366/18</p> <p><b>No.</b> [1] 324/3</p> <p><b>No. 16-CR-681</b> [1] 324/3</p> <p><b>noise</b> [1] 408/20</p> <p><b>none</b> [7] 359/20 386/4 386/9 386/14 386/25 433/15 489/6</p> <p><b>Nonetheless</b> [1] 341/17</p> <p><b>nor</b> [3] 359/17 375/23 467/23</p> <p><b>normal</b> [2] 373/25 374/17</p> <p><b>note</b> [3] 344/4 409/22 416/18</p> <p><b>noted</b> [1] 442/15</p> <p><b>nothing</b> [1] 486/14</p> <p><b>notice</b> [8] 415/25 452/8 452/8 452/11 452/13 459/17 462/9 462/10</p> <p><b>notification</b> [1] 416/19</p> <p><b>notified</b> [1] 389/15</p> <p><b>notify</b> [2] 391/5 418/21</p> <p><b>notifying</b> [1] 363/3</p> <p><b>November</b> [6] 340/21 347/5 352/21 355/11 359/8 438/9</p> <p><b>November 19th</b> [4] 347/5 352/21 355/11 359/8</p> <p><b>November 5</b> [1] 340/21</p> <p><b>number</b> [18] 370/6 375/12 390/20 393/4 398/11 398/11 410/5 423/21 424/1 468/21 471/15 473/3 473/16 479/16 479/19 484/1 484/7 484/17</p> <p><b>numbers</b> [3] 384/15 422/22 423/10</p> <p><b>numeral</b> [4] 370/8 370/18 370/19 467/11</p> <p><b>numeral II</b> [1] 370/8</p> <p><b>numeral VII</b> [3] 370/18 370/19 467/11</p> <p><b>NY</b> [1] 416/4</p>	<p>384/5 384/11 384/18 385/1 385/5 385/11 385/17 385/23 386/3 386/8 386/13 386/19 386/24 391/19 391/23 392/14 392/19 392/19 393/2 393/6 393/7 393/8 395/1 395/2 400/11 400/12 416/25 417/1 429/1 429/4 429/5 433/3 433/4 433/9 433/14 433/19 440/2 440/8 440/15 458/5 458/6 470/17 470/21 480/25 481/10 482/21 485/5 485/6 486/19 486/20 487/18 489/18 489/19</p> <p><b>objections</b> [3] 327/5 347/20 382/12</p> <p><b>objective</b> [3] 390/14 476/8 476/10</p> <p><b>obligations</b> [5] 389/16 391/13 404/11 414/13 418/12</p> <p><b>obligor</b> [1] 402/20</p> <p><b>observation</b> [1] 409/9</p> <p><b>observations</b> [1] 327/4</p> <p><b>obtain</b> [4] 393/20 394/15 429/17 429/21</p> <p><b>obtained</b> [4] 425/23 425/24 425/25 429/18</p> <p><b>obvious</b> [2] 413/14 421/14</p> <p><b>occasionally</b> [1] 490/25</p> <p><b>occasions</b> [2] 423/16 423/21</p> <p><b>occurred</b> [1] 347/1</p> <p><b>October</b> [10] 323/5 331/10 333/14 333/22 337/13 339/7 437/14 437/15 437/22 491/11</p> <p><b>October 10</b> [1] 333/14</p> <p><b>October 2012</b> [1] 333/22</p> <p><b>October 24th</b> [1] 339/7</p> <p><b>October 27th</b> [1] 437/22</p> <p><b>OECD</b> [1] 405/16</p> <p><b>offer</b> [6] 371/7 375/11 379/21 393/1 439/25 452/10</p> <p><b>offered</b> [4] 363/6 389/5 439/24 443/18</p> <p><b>offering</b> [3] 325/5 405/3 443/10</p> <p><b>offers</b> [1] 375/12</p> <p><b>office</b> [2] 323/11 465/16</p> <p><b>officer</b> [1] 446/19</p> <p><b>official</b> [2] 332/19 445/14</p> <p><b>officials</b> [2] 372/4 405/17</p> <p><b>offshore</b> [4] 425/19 429/24 432/13 479/18</p> <p><b>often</b> [1] 413/9</p> <p><b>Oh</b> [2] 392/24 416/9</p> <p><b>old</b> [1] 443/16</p> <p><b>omission</b> [1] 404/25</p> <p><b>onboard</b> [1] 467/7</p> <p><b>once</b> [2] 396/13 452/10</p> <p><b>one-page</b> [1] 420/18</p> <p><b>one-third</b> [9] 387/19 387/22 388/2 443/1 443/9 443/10 445/9 445/15 445/16</p> <p><b>ones</b> [2] 418/22 440/7</p> <p><b>onwards</b> [2] 368/17 396/13</p> <p><b>open</b> [14] 324/1 349/1 365/1 393/16 395/5 400/15 410/1 410/4 433/23 434/7 440/19 456/19 458/9 472/3</p> <p><b>opened</b> [1] 428/19</p> <p><b>opening</b> [2] 429/10 431/22</p> <p><b>operate</b> [1] 484/13</p> <p><b>operating</b> [3] 397/20 442/20 446/19</p> <p><b>operator</b> [2] 335/6 467/8</p> <p><b>opinion</b> [12] 354/16 371/18 372/7</p>
<p><b>N</b></p> <p><b>Najib</b> [5] 430/11 471/10 471/14 471/16 471/19</p> <p><b>name</b> [8] 357/4 357/5 425/18 443/16 447/9 447/9 447/17 447/18</p> <p><b>names</b> [1] 486/13</p> <p><b>national</b> [2] 375/1 471/11</p> <p><b>nations</b> [2] 369/19 451/11</p> <p><b>natural</b> [2] 445/23 451/11</p> <p><b>nature</b> [3] 326/8 338/22 405/2</p> <p><b>naval</b> [1] 468/8</p> <p><b>necessary</b> [3] 327/16 421/12 470/10</p> <p><b>necessitate</b> [1] 413/8</p> <p><b>need</b> [29] 340/13 344/4 344/14 356/23 357/21 358/10 379/8 379/9 389/19 410/17 419/21 423/13 424/16 440/6 440/9 441/10 443/17 446/20 450/6 454/18 456/14 469/12 471/10 474/21 477/7 477/24 480/13 484/3 484/12</p> <p><b>needed</b> [8] 375/20 430/13 441/11 448/25 469/11 469/16 474/2 484/3</p> <p><b>needs</b> [1] 338/3</p> <p><b>negotiate</b> [1] 332/22</p> <p><b>negotiated</b> [2] 332/24 373/6</p> <p><b>negotiations</b> [1] 374/4</p> <p><b>neither</b> [4] 371/13 375/21 375/22 467/23</p> <p><b>never</b> [9] 332/18 372/11 375/16 376/7 376/13 406/19 406/20 427/11 465/22</p> <p><b>new</b> [23] 323/1 323/4 323/12 323/13 323/16 323/19 323/19 335/21 336/15 336/17 415/23 416/2 416/2 416/4 416/7 454/7 454/9 462/7 463/5 465/3 465/5 465/6 486/12</p> <p><b>next</b> [40] 328/24 329/16 334/21 335/5 335/13 337/2 343/2 345/14 346/7 348/8 349/3 349/9 349/15 355/11 368/12 370/8 370/17 376/25 385/9 393/10 396/18 397/19 401/18 407/22 422/13</p>	<p><b>O</b></p> <p><b>o'clock</b> [2] 406/22 406/25</p> <p><b>object</b> [3] 346/3 423/22 486/14</p> <p><b>objected</b> [1] 347/21</p> <p><b>objection</b> [112] 326/11 329/12 329/18 329/24 330/4 330/9 330/15 345/24 346/1 346/2 347/11 347/18 349/2 349/5 349/8 349/11 349/12 349/17 349/22 350/3 350/8 350/9 350/14 350/15 350/19 350/20 350/24 351/4 351/9 351/14 351/15 351/19 351/24 352/4 360/12 371/16 372/5 379/23 379/24 380/3 380/8 380/13 380/19 380/24 380/25 381/5 381/6 381/10 381/16 381/21 382/1 382/6 382/17 382/22 383/3 383/9 383/14 383/20 383/25</p>	

<p><b>O</b></p> <p><b>opinion...</b> [9] 373/19 374/12 376/3 376/8 376/8 479/23 480/21 481/1 481/2</p> <p><b>opinions</b> [3] 374/9 374/10 375/21</p> <p><b>opportunity</b> [9] 362/24 408/22 412/1 412/21 413/7 427/6 445/2 455/10 478/23</p> <p><b>opposed</b> [2] 390/15 406/13</p> <p><b>option</b> [1] 452/14</p> <p><b>OPVs</b> [1] 479/12</p> <p><b>order</b> [28] 325/22 338/4 356/10 357/23 360/20 374/11 374/20 375/7 379/9 389/19 400/2 405/5 411/25 419/21 428/20 431/18 441/11 441/12 450/18 456/19 457/1 469/11 469/17 472/3 472/6 484/2 484/16 484/24</p> <p><b>orders</b> [1] 327/6</p> <p><b>ordinary</b> [1] 404/25</p> <p><b>organized</b> [1] 368/12</p> <p><b>original</b> [11] 335/24 336/1 378/10 391/3 414/2 424/13 424/15 451/14 458/17 466/21 467/14</p> <p><b>originally</b> [1] 428/16</p> <p><b>Otherwise</b> [1] 326/1</p> <p><b>outcome</b> [1] 462/23</p> <p><b>outlining</b> [2] 427/2 474/19</p> <p><b>outside</b> [4] 396/1 396/3 407/9 489/3</p> <p><b>overrule</b> [2] 347/18 347/22</p> <p><b>overruled</b> [7] 349/2 349/9 349/13 360/13 371/17 392/15 481/1</p> <p><b>overview</b> [2] 353/13 397/3</p> <p><b>own</b> [4] 326/16 369/14 425/1 457/3</p> <p><b>owned</b> [10] 334/7 334/19 353/7 353/22 354/7 354/9 355/2 355/4 445/8 469/22</p> <p><b>owner</b> [3] 335/6 354/22 373/25</p> <p><b>owners</b> [3] 354/15 445/13 445/14</p> <p><b>ownership</b> [2] 354/18 445/17</p>	<p><b>Page 11</b> [1] 402/22</p> <p><b>Page 16</b> [1] 402/10</p> <p><b>page 2</b> [2] 333/7 476/21</p> <p><b>page 20</b> [2] 417/14 417/21</p> <p><b>page 3</b> [5] 367/18 445/19 445/19 467/5 472/24</p> <p><b>Page 32</b> [1] 403/18</p> <p><b>Page 36</b> [1] 404/6</p> <p><b>Page 4</b> [3] 403/5 403/6 446/15</p> <p><b>Page 40</b> [1] 396/25</p> <p><b>Page 41</b> [1] 405/24</p> <p><b>Page 43</b> [1] 397/8</p> <p><b>Page 47</b> [1] 398/5</p> <p><b>Page 5</b> [3] 403/9 403/15 404/20</p> <p><b>page 50</b> [1] 413/23</p> <p><b>page 66</b> [1] 414/18</p> <p><b>Page 7</b> [1] 458/25</p> <p><b>page 9</b> [2] 370/23 418/8</p> <p><b>Page 96</b> [1] 401/13</p> <p><b>pages</b> [2] 333/6 417/14</p> <p><b>paid</b> [30] 359/19 360/14 360/23 361/18 361/19 369/7 371/13 373/2 388/22 399/3 401/10 421/6 421/11 428/8 434/23 435/14 436/25 438/24 443/20 446/12 446/13 449/5 449/6 451/22 452/23 452/24 452/25 459/8 462/1 472/7</p> <p><b>Palomar</b> [40] 413/7 413/20 437/1 437/2 437/3 437/3 439/14 439/17 442/6 442/10 442/12 442/18 443/5 443/8 443/9 443/13 443/14 443/22 444/17 444/17 444/25 445/8 445/11 445/14 445/18 445/22 446/8 446/9 446/12 446/13 448/24 449/2 449/6 449/10 449/14 450/24 451/20 453/23 454/4 475/17</p> <p><b>paper</b> [1] 374/14</p> <p><b>paragraph</b> [8] 461/2 461/5 461/7 461/9 461/13 461/20 461/25 467/17</p> <p><b>paragraph 2</b> [1] 461/2</p> <p><b>paragraph 3</b> [2] 461/5 461/13</p> <p><b>paragraph 4</b> [1] 461/7</p> <p><b>paragraph 5</b> [3] 461/9 461/20 461/25</p> <p><b>parameters</b> [1] 449/11</p> <p><b>part</b> [24] 326/6 338/13 338/20 354/13 358/15 358/17 374/8 374/16 394/9 394/10 398/17 398/23 400/3 409/14 413/19 414/20 419/25 423/5 431/22 436/23 445/23 449/10 451/25 454/10</p> <p><b>participants</b> [1] 472/16</p> <p><b>particular</b> [3] 375/14 390/7 477/25</p> <p><b>parties</b> [22] 325/3 325/7 326/7 332/21 338/3 367/23 367/25 371/1 371/13 372/1 376/14 377/22 394/22 396/15 400/24 410/4 413/25 414/9 467/18 490/5 490/7 490/8</p> <p><b>partly</b> [2] 437/8 437/8</p> <p><b>partner</b> [1] 443/9</p> <p><b>partnership</b> [2] 437/4 442/12</p> <p><b>parts</b> [3] 367/23 414/9 467/8</p> <p><b>party</b> [11] 339/18 357/24 374/21 375/10 390/10 404/2 404/12 406/3 415/13 419/23 445/10</p> <p><b>pass</b> [3] 359/14 359/18 359/20</p> <p><b>passport</b> [1] 429/15</p>	<p><b>past</b> [1] 430/15</p> <p><b>path</b> [1] 451/8</p> <p><b>patrol</b> [1] 479/18</p> <p><b>Pauline</b> [3] 432/3 432/4 432/7</p> <p><b>pause</b> [3] 408/19 408/21 440/14</p> <p><b>pay</b> [30] 345/3 356/12 356/13 356/15 359/17 360/10 360/18 360/19 361/2 361/6 361/9 371/7 371/7 378/6 378/7 395/3 399/8 399/16 400/5 400/13 416/10 436/9 436/13 437/25 438/2 443/10 445/16 457/21 467/23 478/10</p> <p><b>paying</b> [7] 360/9 398/12 412/12 428/21 436/6 436/7 459/10</p> <p><b>payment</b> [33] 342/17 369/6 371/3 399/7 405/3 414/19 414/21 415/5 415/19 415/23 416/8 416/12 416/15 416/19 416/20 435/4 435/25 436/2 436/5 436/23 437/18 437/18 437/22 437/23 438/8 438/19 439/14 439/17 457/17 461/7 465/2 477/10 478/8</p> <p><b>payments</b> [20] 342/21 372/3 372/12 405/9 415/9 415/14 415/14 416/17 421/15 421/16 435/11 437/10 437/16 437/23 439/10 451/23 451/24 452/17 452/21 478/11</p> <p><b>PEARSE</b> [67] 329/4 331/7 331/15 332/8 333/8 335/20 337/17 339/23 340/10 340/17 342/5 347/6 352/14 354/5 357/22 364/8 366/9 366/16 368/3 369/10 370/11 372/15 374/3 387/10 389/17 393/18 394/2 394/13 395/8 396/19 397/2 398/7 399/19 399/24 401/8 402/16 406/15 407/5 411/5 411/14 413/25 414/17 417/8 418/3 419/1 419/16 423/24 426/6 427/2 429/9 434/4 434/17 441/22 442/17 444/23 445/9 457/9 461/5 466/2 471/2 474/11 478/20 479/1 483/1 487/23 488/18 488/24</p> <p><b>people</b> [9] 327/10 356/1 356/16 396/8 413/14 424/14 427/4 469/19 473/23</p> <p><b>PEP</b> [5] 355/18 355/19 355/21 355/22 355/25</p> <p><b>per</b> [3] 423/4 432/19 477/8</p> <p><b>perceived</b> [1] 451/12</p> <p><b>percent</b> [11] 353/7 353/22 354/7 401/7 428/15 428/17 446/13 448/23 449/15 449/16 459/8</p> <p><b>perfect</b> [4] 473/21 474/4 481/6 481/6</p> <p><b>perform</b> [1] 404/11</p> <p><b>perhaps</b> [1] 327/1</p> <p><b>period</b> [6] 375/25 435/21 438/16 452/9 452/10 452/13</p> <p><b>permit</b> [9] 414/6 425/14 429/16 429/17 430/4 430/8 431/19 471/23 472/2</p> <p><b>permits</b> [3] 414/8 414/10 430/14</p> <p><b>person</b> [21] 332/22 332/24 345/21 355/22 356/5 371/6 371/9 377/20 395/21 405/4 405/5 405/6 405/21 432/2 447/15 447/16 473/21 474/4 474/25 475/7 480/2</p> <p><b>personal</b> [8] 424/18 424/23 424/25 456/14 466/9 468/17 483/8 483/10</p> <p><b>personally</b> [1] 428/6</p> <p><b>personnel</b> [3] 363/8 425/25 446/15</p>
<p><b>P</b></p> <p><b>P-L-S-E</b> [1] 422/16</p> <p><b>p.m</b> [6] 408/2 478/19 486/9 487/25 488/14 491/10</p> <p><b>package</b> [4] 481/6 487/7 487/12 487/15</p> <p><b>page</b> [88] 332/9 333/6 333/7 337/11 343/2 346/7 348/8 359/10 362/17 362/22 367/18 368/25 369/9 369/9 369/12 369/12 370/8 370/17 370/23 373/16 376/25 378/2 378/9 378/16 393/14 396/18 396/25 397/8 398/5 400/18 401/13 401/18 402/10 402/11 402/22 403/5 403/6 403/9 403/15 403/18 404/6 404/13 404/20 405/24 407/22 413/23 414/18 417/9 417/14 417/17 417/18 417/21 418/8 420/18 429/10 429/12 429/14 430/19 431/21 437/11 444/20 445/19 445/19 446/15 453/17 454/22 458/16 458/24 458/25 459/2 459/21 460/1 460/5 461/25 467/5 468/13 472/24 473/14 475/16 476/21 478/18 481/17 483/2 485/22 492/2 492/6 493/2 493/19</p> <p><b>page 1</b> [3] 333/6 404/13 468/13</p> <p><b>Page 1-6</b> [1] 402/11</p>		



<p><b>P</b></p> <p><b>Phil</b> [1] 324/21</p> <p><b>PHILIP</b> [1] 323/21</p> <p><b>phone</b> [3] 323/23 345/13 345/19</p> <p><b>physically</b> [1] 465/16</p> <p><b>picture</b> [3] 356/24 357/22 358/11</p> <p><b>piece</b> [1] 419/18</p> <p><b>pieces</b> [2] 374/11 374/14</p> <p><b>pivotal</b> [1] 354/16</p> <p><b>place</b> [4] 326/12 357/14 363/14 465/19</p> <p><b>places</b> [1] 447/25</p> <p><b>Plaintiff</b> [1] 323/4</p> <p><b>plan</b> [20] 448/11 448/19 449/9 451/14 454/4 454/5 462/24 470/12 474/2 480/7 480/12 480/14 480/15 480/21 480/22 481/4 482/3 483/23 484/6 484/20</p> <p><b>play</b> [2] 327/1 438/6</p> <p><b>Plaza</b> [1] 323/12</p> <p><b>plus</b> [2] 368/16 449/21</p> <p><b>point</b> [59] 326/6 332/15 332/18 334/21 335/5 335/13 336/25 339/16 341/8 342/5 356/25 358/12 360/16 360/21 361/1 361/8 368/17 374/4 374/5 375/18 376/2 388/9 388/11 389/5 389/22 392/16 396/13 402/6 402/8 411/19 412/16 414/12 415/15 416/23 421/25 425/21 431/4 436/11 444/21 445/5 445/7 446/5 448/21 449/7 449/8 449/17 449/24 452/4 455/5 456/8 461/3 463/20 468/25 469/24 473/9 478/14 479/6 483/18 484/10</p> <p><b>points</b> [3] 448/18 483/17 483/17</p> <p><b>policies</b> [1] 465/15</p> <p><b>policy</b> [1] 457/4</p> <p><b>political</b> [1] 478/2</p> <p><b>politically</b> [3] 355/22 356/1 356/5</p> <p><b>pool</b> [2] 389/2 455/12</p> <p><b>portion</b> [8] 372/23 422/15 437/6 442/14 445/10 446/4 457/14 461/8</p> <p><b>portions</b> [1] 434/10</p> <p><b>position</b> [6] 342/9 371/10 425/16 432/14 450/7 450/11</p> <p><b>positive</b> [2] 341/25 464/1</p> <p><b>possibility</b> [1] 438/15</p> <p><b>possible</b> [3] 375/8 391/10 421/13</p> <p><b>posted</b> [1] 342/2</p> <p><b>potential</b> [11] 355/25 356/19 395/12 396/9 399/25 400/2 419/2 419/17 423/2 455/6 473/8</p> <p><b>potentially</b> [1] 455/12</p> <p><b>PowerPoint</b> [2] 445/20 475/11</p> <p><b>powers</b> [1] 451/12</p> <p><b>Practices</b> [1] 405/14</p> <p><b>preamble</b> [3] 369/13 369/15 369/16</p> <p><b>precedent</b> [2] 377/14 379/3</p> <p><b>preceding</b> [2] 412/18 488/6</p> <p><b>precludes</b> [1] 405/11</p> <p><b>preexisted</b> [1] 480/11</p> <p><b>prefer</b> [1] 326/4</p> <p><b>preferably</b> [1] 424/15</p> <p><b>preliminary</b> [1] 408/6</p> <p><b>prepared</b> [5] 344/22 395/15 395/16 418/4 418/6</p> <p><b>preparing</b> [1] 483/22</p>	<p><b>presence</b> [3] 365/5 407/10 489/4</p> <p><b>present</b> [4] 365/1 408/5 432/1 489/4</p> <p><b>presentation</b> [4] 442/9 449/2 474/19 487/10</p> <p><b>presented</b> [2] 490/11 490/12</p> <p><b>preserved</b> [3] 347/18 347/21 347/23</p> <p><b>president</b> [6] 362/11 362/13 362/14 362/23 363/3 363/21</p> <p><b>presiding</b> [1] 365/3</p> <p><b>Presume</b> [1] 387/20</p> <p><b>pretend</b> [1] 327/12</p> <p><b>pretty</b> [3] 404/22 406/9 434/16</p> <p><b>previous</b> [4] 375/25 441/15 444/24 487/13</p> <p><b>previously</b> [8] 329/4 329/5 341/8 341/10 353/8 369/2 388/3 445/4</p> <p><b>price</b> [9] 370/19 370/21 423/4 444/24 445/1 445/11 445/17 467/11 473/17</p> <p><b>pricing</b> [1] 469/13</p> <p><b>primarily</b> [1] 338/11</p> <p><b>primary</b> [2] 332/24 446/9</p> <p><b>principle</b> [1] 423/11</p> <p><b>prior</b> [3] 379/7 379/14 442/21</p> <p><b>private</b> [4] 374/1 431/16 444/2 446/1</p> <p><b>Prinvest</b> [67] 332/4 334/22 334/25 337/22 339/1 339/14 339/16 339/20 344/10 353/11 353/13 354/3 354/15 354/15 354/17 354/22 355/8 357/11 358/5 360/15 361/9 367/9 369/1 369/3 370/13 372/3 372/20 372/25 373/2 374/23 403/16 420/16 420/20 421/8 421/16 421/18 422/1 423/6 423/15 425/25 426/6 426/8 428/20 429/20 431/16 434/22 434/24 435/14 435/16 435/19 436/17 437/10 438/8 438/19 439/10 446/14 449/3 450/8 450/9 452/24 459/11 461/12 462/3 465/9 468/2 468/7 472/1</p> <p><b>pro</b> [1] 445/10</p> <p><b>probability</b> [1] 371/23</p> <p><b>problem</b> [1] 337/7</p> <p><b>procedural</b> [6] 324/25 364/13 365/6 407/9 408/9 489/5</p> <p><b>procedurally</b> [1] 410/18</p> <p><b>procedures</b> [2] 374/1 424/17</p> <p><b>proceed</b> [2] 348/1 454/5</p> <p><b>proceedings</b> [5] 323/24 408/19 408/21 410/8 440/14</p> <p><b>proceeds</b> [6] 436/16 457/21 457/22 461/6 461/15 461/22</p> <p><b>process</b> [15] 341/23 355/10 356/14 362/4 374/7 374/8 374/12 374/20 374/22 376/2 388/7 396/5 396/6 427/17 471/22</p> <p><b>processes</b> [2] 356/9 374/14</p> <p><b>procurement</b> [5] 332/6 368/9 369/3 422/11 483/13</p> <p><b>produced</b> [3] 323/25 365/5 408/5</p> <p><b>product</b> [1] 424/21</p> <p><b>profession</b> [3] 429/25 430/13 430/17</p> <p><b>professionally</b> [1] 448/15</p> <p><b>Profit</b> [1] 388/14</p> <p><b>program</b> [5] 368/12 390/1 390/17 391/13 391/14</p> <p><b>progress</b> [5] 341/18 341/24 363/11</p>	<p>363/16 363/17</p> <p><b>prohibit</b> [1] 405/22</p> <p><b>Proindicus</b> [94] 331/25 332/5 334/14 336/7 338/14 342/10 342/13 342/21 363/2 367/7 369/1 369/4 369/5 369/22 373/21 373/24 374/3 374/23 377/8 377/13 377/15 377/16 378/6 378/10 378/14 379/12 390/24 391/5 391/18 392/7 392/11 393/22 395/10 395/25 396/3 397/19 398/12 398/25 399/1 399/6 399/7 399/8 399/9 399/15 399/19 399/25 400/3 400/19 400/25 401/3 401/13 401/16 411/23 414/2 414/7 419/2 420/17 420/24 421/1 422/10 422/11 424/2 424/19 424/22 427/6 427/23 436/10 437/17 438/12 438/16 438/23 439/2 446/22 449/10 449/14 449/20 450/3 450/9 454/21 456/13 458/12 458/13 459/25 463/14 463/17 464/2 464/11 467/21 469/24 474/24 476/6 477/10 478/8 478/11</p> <p><b>Proindicus'</b> [1] 478/13</p> <p><b>project</b> [64] 331/25 334/15 335/10 335/24 337/4 338/21 338/23 339/18 341/19 342/14 344/23 353/25 359/15 360/2 360/3 360/5 360/9 361/16 361/18 363/2 363/5 363/6 363/9 363/20 363/22 368/17 369/21 369/25 370/4 370/5 370/20 375/14 378/15 397/3 397/3 397/5 397/7 397/8 402/18 402/23 403/2 404/24 411/24 411/24 412/19 416/11 418/5 421/8 423/3 423/3 423/12 426/23 427/10 461/17 466/19 466/22 467/15 468/22 468/22 475/5 476/24 478/2 481/3 482/13</p> <p><b>projected</b> [2] 399/13 483/23</p> <p><b>projection</b> [1] 399/5</p> <p><b>projections</b> [1] 397/18</p> <p><b>projects</b> [2] 338/23 446/3</p> <p><b>promise</b> [2] 404/2 461/18</p> <p><b>promised</b> [1] 331/20</p> <p><b>promises</b> [2] 406/3 406/4</p> <p><b>promptly</b> [1] 368/12</p> <p><b>proper</b> [1] 447/12</p> <p><b>properties</b> [3] 488/2 488/8 488/10</p> <p><b>proposal</b> [4] 336/2 466/21 475/1 480/11</p> <p><b>propose</b> [1] 371/7</p> <p><b>proposed</b> [15] 325/12 327/6 331/24 332/10 335/24 336/4 336/17 339/18 394/16 427/24 443/9 449/9 466/23 474/20 481/3</p> <p><b>proposing</b> [3] 335/21 336/15 445/21</p> <p><b>protect</b> [3] 369/18 372/10 479/12</p> <p><b>protection</b> [5] 370/7 403/4 480/6 480/16 480/20</p> <p><b>provide</b> [8] 345/4 353/13 378/14 390/2 421/17 441/11 446/9 474/4</p> <p><b>provided</b> [7] 369/7 379/8 389/24 394/16 421/2 422/13 485/1</p> <p><b>provides</b> [1] 416/1</p> <p><b>providing</b> [5] 361/2 363/16 417/25 423/22 454/11</p> <p><b>provision</b> [10] 371/14 390/7 391/1 391/3 391/8 405/7 418/20 467/7 467/20</p>
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<p><b>P</b></p> <p><b>provision...</b> [1] 467/22</p> <p><b>provisions</b> [1] 401/8</p> <p><b>PS</b> [1] 486/13</p> <p><b>public</b> [8] 324/10 373/25 374/20 374/22 374/25 375/5 375/7 405/17</p> <p><b>publication</b> [1] 371/21</p> <p><b>publicly</b> [1] 390/20</p> <p><b>publish</b> [30] 330/19 352/9 382/10 387/3 393/15 395/3 400/13 417/2 429/6 433/6 433/21 440/16 441/20 447/2 453/6 455/23 458/7 465/21 465/25 470/22 470/25 472/9 472/10 474/8 476/14 481/14 482/23 485/7 486/21 487/20</p> <p><b>published</b> [22] 352/10 390/12 392/10 393/16 395/5 400/15 417/6 429/8 433/23 440/19 458/9 466/1 470/24 472/11 474/10 476/17 481/16 482/25 485/10 486/23 487/22 489/23</p> <p><b>publishes</b> [1] 390/3</p> <p><b>pull</b> [2] 353/15 412/6</p> <p><b>purchase</b> [4] 400/3 445/11 445/17 466/18</p> <p><b>purchased</b> [2] 443/5 443/6</p> <p><b>purchasing</b> [1] 419/18</p> <p><b>purpose</b> [13] 334/12 334/13 335/9 336/7 339/15 339/19 342/12 344/18 367/7 375/14 394/12 394/19 402/14</p> <p><b>purposes</b> [1] 360/9</p> <p><b>pursuant</b> [2] 334/2 405/16</p> <p><b>push</b> [5] 353/17 363/20 451/10 455/15 480/23</p> <p><b>pushed</b> [1] 373/20</p> <p><b>put</b> [13] 326/13 326/18 327/5 354/11 392/3 410/6 418/24 422/16 422/20 424/15 430/2 432/7 462/24</p>	<p><b>rate</b> [3] 345/2 345/3 360/19</p> <p><b>rates</b> [1] 360/18</p> <p><b>rather</b> [8] 336/5 360/3 361/5 361/18 378/21 415/16 455/19 486/12</p> <p><b>rationale</b> [2] 397/3 473/21</p> <p><b>ray</b> [2] 324/23 431/17</p> <p><b>RAYMOND</b> [1] 323/22</p> <p><b>reach</b> [5] 345/9 388/18 388/23 450/3 473/2</p> <p><b>read</b> [25] 333/25 334/6 335/5 339/24 340/6 341/13 344/24 352/23 362/24 370/2 384/15 402/15 403/9 405/10 406/9 415/22 418/10 422/19 426/20 434/10 438/14 444/7 444/23 445/7 448/22</p> <p><b>reading</b> [1] 434/17</p> <p><b>ready</b> [2] 328/2 454/5</p> <p><b>real</b> [2] 326/1 390/10</p> <p><b>realize</b> [2] 416/20 489/9</p> <p><b>really</b> [1] 409/17</p> <p><b>reason</b> [6] 369/17 374/24 406/11 423/9 423/12 484/16</p> <p><b>reasons</b> [5] 356/19 356/19 356/20 421/14 428/6</p> <p><b>recall</b> [4] 328/10 332/19 341/9 401/7</p> <p><b>receipt</b> [3] 371/21 464/14 464/21</p> <p><b>receive</b> [16] 374/10 375/20 401/4 421/16 428/13 428/15 428/20 437/10 439/10 449/3 449/15 449/15 451/23 452/17 457/1 472/6</p> <p><b>received</b> [95] 329/15 329/21 330/2 330/7 330/12 330/18 349/14 349/20 349/25 350/6 350/11 350/17 350/22 351/2 351/7 351/12 351/17 351/22 352/2 352/7 380/1 380/6 380/11 380/16 380/17 380/22 381/2 381/8 381/13 381/19 381/24 382/4 382/9 382/15 382/20 382/25 383/6 383/12 383/17 383/23 384/3 384/8 385/8 385/14 385/20 386/1 386/6 386/11 386/16 386/22 387/2 393/9 394/22 395/4 400/14 401/7 408/15 417/5 429/7 433/7 433/12 433/17 433/22 434/21 435/4 435/9 435/16 435/19 436/16 436/21 436/23 437/13 437/14 437/18 438/8 438/9 438/19 438/20 439/11 439/12 439/14 440/17 452/1 452/21 456/25 457/24 458/8 470/23 479/2 481/13 482/24 483/20 485/9 486/22 487/21</p> <p><b>receives</b> [1] 415/14</p> <p><b>receiving</b> [5] 377/21 406/17 420/20 421/13 431/18</p> <p><b>recess</b> [2] 364/21 407/21</p> <p><b>recipient</b> [1] 466/12</p> <p><b>recognize</b> [3] 331/7 340/24 472/13</p> <p><b>recollection</b> [2] 423/15 445/2</p> <p><b>recommendation</b> [1] 446/23</p> <p><b>recommended</b> [1] 446/24</p> <p><b>record</b> [5] 324/4 347/18 347/21 347/23 410/2</p> <p><b>recorded</b> [1] 323/24</p> <p><b>recross</b> [1] 328/23</p> <p><b>redact</b> [1] 490/25</p> <p><b>redacted</b> [7] 325/3 325/5 490/10 490/11 490/13 490/14 490/16</p>	<p><b>redactions</b> [2] 490/6 490/8</p> <p><b>redirect</b> [1] 328/23</p> <p><b>reduce</b> [9] 387/19 387/22 388/1 388/21 400/6 402/5 412/2 442/23 479/17</p> <p><b>reduced</b> [2] 325/10 388/12</p> <p><b>reducing</b> [1] 435/2</p> <p><b>reduction</b> [3] 373/8 388/8 411/15</p> <p><b>refer</b> [5] 334/11 362/15 373/1 442/24 491/2</p> <p><b>reference</b> [5] 332/4 347/12 359/23 416/18 442/24</p> <p><b>referenced</b> [1] 443/11</p> <p><b>references</b> [1] 360/21</p> <p><b>referred</b> [9] 334/9 369/2 393/16 395/5 400/15 433/23 440/19 458/9 461/17</p> <p><b>referring</b> [15] 339/12 339/13 344/15 355/15 357/8 357/11 358/21 359/21 372/24 387/23 442/17 443/3 448/12 477/19 477/25</p> <p><b>refers</b> [2] 404/18 404/18</p> <p><b>reflect</b> [2] 337/3 453/20</p> <p><b>reflected</b> [2] 333/1 337/1</p> <p><b>refresh</b> [1] 445/2</p> <p><b>refused</b> [2] 391/9 418/20</p> <p><b>regarding</b> [19] 325/9 338/18 342/16 353/10 361/13 373/7 373/18 388/10 389/1 391/1 391/8 392/7 401/22 411/15 412/23 421/10 453/2 472/21 473/17</p> <p><b>regardless</b> [1] 405/19</p> <p><b>registration</b> [1] 402/19</p> <p><b>regulation</b> [1] 413/12</p> <p><b>regulations</b> [2] 405/13 465/19</p> <p><b>relate</b> [5] 369/5 416/8 418/13 472/18 489/22</p> <p><b>related</b> [10] 374/17 424/18 424/20 430/15 438/23 451/25 468/22 475/9 480/9 487/23</p> <p><b>relates</b> [4] 347/25 360/17 397/19 451/25</p> <p><b>relating</b> [6] 338/25 340/2 347/13 347/17 355/13 424/2</p> <p><b>relation</b> [22] 339/23 342/21 353/25 354/14 356/4 360/14 363/4 376/3 377/18 390/11 394/15 394/21 395/9 421/7 428/9 435/2 438/11 439/18 449/13 474/2 475/4 485/20</p> <p><b>relationship</b> [10] 412/15 412/17 412/24 412/24 413/5 413/10 413/12 413/14 413/17 448/14</p> <p><b>relationships</b> [5] 344/10 396/8 396/16 432/6 475/8</p> <p><b>relatives</b> [1] 355/24</p> <p><b>relevant</b> [7] 332/21 361/20 396/15 405/21 406/3 445/10 469/19</p> <p><b>reluctance</b> [1] 423/5</p> <p><b>remember</b> [3] 389/3 389/4 465/22</p> <p><b>reminded</b> [1] 326/16</p> <p><b>remove</b> [1] 376/10</p> <p><b>removed</b> [1] 376/19</p> <p><b>remuneration</b> [3] 371/1 371/2 467/18</p> <p><b>rep</b> [2] 389/14 389/15</p> <p><b>repaying</b> [2] 399/17 399/18</p> <p><b>repayment</b> [1] 399/4</p> <p><b>repeat</b> [3] 331/13 387/17 461/13</p>
<p><b>Q</b></p> <p><b>quarter</b> [1] 363/10</p> <p><b>queries</b> [1] 337/25</p> <p><b>question</b> [14] 331/13 356/4 358/9 387/17 392/3 396/2 408/23 409/25 412/13 414/16 414/21 426/21 447/8 486/7</p> <p><b>questioning</b> [1] 347/25</p> <p><b>questions</b> [10] 338/2 339/5 339/8 340/2 340/13 448/9 468/19 468/21 473/17 475/3</p> <p><b>quick</b> [1] 486/14</p> <p><b>quite</b> [1] 442/18</p> <p><b>quote</b> [1] 490/25</p> <p><b>quote/unquote</b> [1] 490/25</p>		
<p><b>R</b></p> <p><b>radar</b> [2] 370/14 422/11</p> <p><b>raise</b> [4] 411/17 427/8 446/10 475/25</p> <p><b>raised</b> [9] 345/10 345/12 345/18 345/25 427/9 427/13 446/14 475/24 478/10</p> <p><b>RAK</b> [4] 356/24 358/19 358/19 358/20</p> <p><b>RANDALL</b> [2] 323/20 324/12</p> <p><b>range</b> [1] 401/6</p> <p><b>Ras</b> [3] 358/20 358/22 359/2</p> <p><b>rata</b> [1] 445/10</p>		

<p><b>R</b></p> <p><b>replaced</b> [2] 389/14 418/22</p> <p><b>replicate</b> [2] 411/22 411/23</p> <p><b>reported</b> [2] 401/21 413/13</p> <p><b>reporter</b> [2] 323/23 353/19</p> <p><b>reports</b> [1] 392/9</p> <p><b>representation</b> [3] 403/22 403/23 406/13</p> <p><b>Representations</b> [1] 403/19</p> <p><b>representative</b> [1] 431/15</p> <p><b>representatives</b> [1] 339/14</p> <p><b>represented</b> [1] 474/25</p> <p><b>represents</b> [1] 371/5</p> <p><b>Republic</b> [8] 332/11 367/12 369/20 370/7 378/4 417/10 417/15 475/18</p> <p><b>reputation</b> [2] 355/5 372/10</p> <p><b>reputational</b> [6] 355/20 356/7 356/8 356/17 356/20 357/19</p> <p><b>request</b> [12] 332/1 339/3 360/21 409/9 409/18 422/25 423/1 423/18 459/17 459/19 461/4 482/15</p> <p><b>requested</b> [3] 335/14 461/2 487/13</p> <p><b>requests</b> [1] 360/21</p> <p><b>require</b> [3] 374/10 374/19 405/7</p> <p><b>required</b> [21] 344/19 360/20 368/11 368/16 374/9 374/14 376/9 379/6 390/1 399/3 405/8 413/8 416/10 430/17 442/20 452/7 456/19 465/14 465/17 483/25 484/18</p> <p><b>requirement</b> [3] 374/17 374/18 484/23</p> <p><b>requirements</b> [3] 375/19 375/24 391/14</p> <p><b>rerun</b> [1] 387/20</p> <p><b>resend</b> [1] 488/4</p> <p><b>residency</b> [15] 424/13 424/21 425/6 429/16 429/17 430/4 430/5 430/8 430/14 431/10 431/18 441/14 471/11 471/23 472/1</p> <p><b>resigned</b> [1] 411/20</p> <p><b>resource</b> [2] 446/20 451/13</p> <p><b>resources</b> [2] 445/23 451/11</p> <p><b>respect</b> [8] 327/7 342/10 356/3 398/12 409/12 414/6 416/20 437/19</p> <p><b>respective</b> [2] 408/12 408/24</p> <p><b>respects</b> [1] 418/11</p> <p><b>respond</b> [23] 336/17 337/6 339/2 345/8 355/17 356/21 360/25 376/15 408/13 453/24 454/6 455/14 463/22 469/7 470/9 471/16 471/18 479/8 480/5 481/5 482/15 483/15 485/22</p> <p><b>responded</b> [1] 342/25</p> <p><b>responding</b> [3] 463/24 463/25 477/3</p> <p><b>responds</b> [1] 479/11</p> <p><b>response</b> [9] 342/23 408/18 409/4 422/25 447/3 448/6 448/18 449/9 454/17</p> <p><b>responsibilities</b> [1] 338/18</p> <p><b>responsibility</b> [3] 338/20 338/21 344/9</p> <p><b>responsible</b> [10] 338/11 338/24 341/19 341/20 342/12 355/25 394/7 395/21 419/6 432/6</p> <p><b>rest</b> [1] 344/24</p> <p><b>restrict</b> [1] 454/12</p> <p><b>result</b> [3] 344/16 369/20 427/21</p>	<p><b>resume</b> [7] 328/3 328/10 328/15 364/18 407/1 411/5 491/11</p> <p><b>resumed</b> [1] 366/2</p> <p><b>return</b> [3] 361/3 388/16 454/11</p> <p><b>reveal</b> [1] 423/10</p> <p><b>revealed</b> [2] 354/21 482/12</p> <p><b>revenue</b> [4] 397/18 483/24 484/9 484/18</p> <p><b>revenues</b> [6] 397/23 399/11 399/19 399/22 399/23 473/24</p> <p><b>revert</b> [2] 336/20 462/22</p> <p><b>review</b> [2] 408/11 408/23</p> <p><b>reviewed</b> [3] 418/13 444/7 454/3</p> <p><b>revise</b> [1] 336/24</p> <p><b>revised</b> [3] 336/19 336/20 454/4</p> <p><b>revisit</b> [1] 327/16</p> <p><b>reward</b> [1] 405/3</p> <p><b>rhinoceri</b> [1] 326/21</p> <p><b>rhinoceros</b> [3] 326/19 326/20 327/7</p> <p><b>right</b> [31] 324/25 328/1 332/14 333/20 346/4 349/8 349/13 354/4 358/17 364/3 364/11 365/10 365/21 367/22 369/19 409/2 409/8 409/11 409/20 410/3 410/16 410/17 420/1 440/11 465/23 486/6 486/16 489/3 489/20 491/4 491/6</p> <p><b>rights</b> [1] 414/13</p> <p><b>rigorously</b> [1] 457/4</p> <p><b>ringer</b> [1] 326/24</p> <p><b>ripe</b> [1] 479/3</p> <p><b>rise</b> [2] 365/2 408/3</p> <p><b>risk</b> [17] 338/23 344/21 344/21 356/1 356/11 357/19 371/25 393/20 393/23 394/10 394/12 394/16 394/20 418/6 418/7 455/7 479/6</p> <p><b>risks</b> [1] 356/19</p> <p><b>Rock</b> [1] 353/3</p> <p><b>ROE</b> [2] 387/21 388/15</p> <p><b>role</b> [2] 443/13 446/9</p> <p><b>rolling</b> [2] 347/22 348/2</p> <p><b>Roman</b> [4] 370/8 370/17 370/19 467/11</p> <p><b>romantic</b> [2] 412/23 413/5</p> <p><b>Rosario</b> [17] 401/14 459/15 459/23 468/24 469/18 469/23 470/10 474/4 474/14 474/23 474/24 475/12 477/2 477/13 478/1 480/2 485/25</p> <p><b>round</b> [1] 422/22</p> <p><b>route</b> [1] 335/16</p> <p><b>row</b> [1] 331/2</p> <p><b>royal</b> [2] 353/7 355/4</p> <p><b>RPR</b> [1] 323/23</p> <p><b>rule</b> [3] 325/22 326/3 327/4</p> <p><b>rules</b> [1] 327/12</p> <p><b>run</b> [3] 335/11 446/22 452/11</p> <p><b>running</b> [2] 339/21 341/16</p> <p><b>Russia</b> [1] 421/18</p> <p><b>Russian</b> [1] 421/22</p> <p><b>S</b></p> <p><b>S-C-H-U-L-T-E-N-S</b> [1] 419/13</p> <p><b>S.A</b> [1] 400/25</p> <p><b>Saad</b> [2] 357/5 357/16</p> <p><b>Safa</b> [37] 337/21 347/14 354/24 355/2 355/15 356/3 357/12 357/14 357/18 357/24 358/10 358/14 362/19 362/22</p>	<p>363/2 420/25 421/4 421/5 421/10 421/15 428/8 428/14 437/5 442/4 442/8 442/11 443/19 448/13 448/15 448/17 454/3 466/6 466/7 466/8 466/11 466/12 473/6</p> <p><b>SAL</b> [10] 367/10 369/1 403/16 420/17 425/19 429/24 432/13 434/22 435/17 435/20</p> <p><b>salary</b> [1] 432/18</p> <p><b>salesman</b> [2] 463/2 463/3</p> <p><b>sanding</b> [1] 448/12</p> <p><b>Sandy</b> [6] 441/25 442/3 442/4 442/11 448/8 453/25</p> <p><b>satellite</b> [1] 370/15</p> <p><b>save</b> [2] 412/12 412/22</p> <p><b>saying</b> [4] 326/23 356/2 376/6 413/16</p> <p><b>says</b> [8] 367/20 378/5 389/13 394/2 398/23 402/17 415/9 461/6</p> <p><b>SCHACHTER</b> [3] 323/20 324/16 345/25</p> <p><b>schedule</b> [2] 377/14 401/2</p> <p><b>schedules</b> [1] 336/21</p> <p><b>scheme</b> [2] 425/5 450/15</p> <p><b>school</b> [1] 326/21</p> <p><b>Schultens</b> [12] 395/19 395/20 396/15 419/7 419/10 419/16 422/6 423/1 426/19 462/18 462/21 463/22</p> <p><b>screen</b> [1] 331/2</p> <p><b>sea</b> [5] 369/20 483/25 484/2 484/4 484/15</p> <p><b>seal</b> [3] 408/11 408/14 408/23</p> <p><b>seasonal</b> [1] 479/4</p> <p><b>seated</b> [13] 324/10 328/9 328/21 364/11 365/5 366/8 366/12 407/8 408/6 411/3 411/4 411/9 489/12</p> <p><b>second</b> [31] 325/7 326/6 340/11 347/13 360/16 360/20 362/17 369/9 374/16 374/16 376/24 378/16 398/4 417/21 435/12 437/11 437/19 444/20 444/21 445/7 446/4 446/8 452/14 453/17 458/24 459/2 459/21 466/3 466/12 475/16 481/17</p> <p><b>second-to-last</b> [1] 459/2</p> <p><b>secondly</b> [2] 359/16 428/10</p> <p><b>secret</b> [2] 423/14 443/25</p> <p><b>secretly</b> [3] 401/9 428/21 444/9</p> <p><b>section</b> [25] 367/19 369/13 370/1 370/23 370/24 389/13 396/24 397/2 397/8 397/19 398/8 403/19 404/6 404/22 405/10 405/11 405/24 413/24 413/24 414/6 414/8 418/9 418/10 446/23 488/10</p> <p><b>Section 17.17</b> [1] 404/6</p> <p><b>Section 21</b> [2] 414/6 414/8</p> <p><b>Section 3</b> [1] 396/24</p> <p><b>Section 5.4.2</b> [1] 418/10</p> <p><b>Section 8</b> [1] 413/24</p> <p><b>Section E</b> [1] 405/10</p> <p><b>security</b> [1] 375/1</p> <p><b>see</b> [30] 326/16 330/20 330/23 333/15 356/24 358/25 363/23 368/10 372/19 375/20 389/13 394/2 397/10 398/22 398/24 403/19 407/3 407/14 413/6 413/9 413/24 415/8 420/14 422/16 442/14 455/2 479/10 488/20 489/2</p>
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<p><b>S</b></p> <p><b>see... [1]</b> 491/7</p> <p><b>seeing [2]</b> 474/21 486/13</p> <p><b>seek [10]</b> 329/8 345/23 394/24 400/9 433/1 481/8 482/19 486/17 489/15 489/17</p> <p><b>seeking [1]</b> 489/16</p> <p><b>sell [3]</b> 367/24 395/13 476/10</p> <p><b>selling [1]</b> 395/22</p> <p><b>send [22]</b> 331/21 332/15 339/10 360/2 366/22 387/24 388/6 409/22 419/16 425/1 456/13 456/23 482/2 482/3 482/5 482/9 482/10 482/11 483/12 486/11 487/8 487/9</p> <p><b>sender [1]</b> 465/3</p> <p><b>sending [14]</b> 331/24 332/1 332/20 362/23 363/8 363/20 377/19 441/8 475/1 485/17 485/18 487/7 487/12 487/15</p> <p><b>sends [1]</b> 395/12</p> <p><b>Senegal [1]</b> 449/21</p> <p><b>senior [2]</b> 357/2 448/16</p> <p><b>sense [3]</b> 348/3 450/2 480/6</p> <p><b>sensitive [1]</b> 486/13</p> <p><b>sent [25]</b> 340/3 340/12 340/15 341/8 347/8 359/5 362/18 363/19 366/23 366/25 378/23 387/25 388/7 393/20 396/14 400/1 419/2 425/24 442/11 464/16 466/9 475/11 483/13 488/6 488/13</p> <p><b>sentence [4]</b> 325/17 374/16 448/7 479/15</p> <p><b>sentences [2]</b> 426/20 427/3</p> <p><b>separate [2]</b> 356/14 487/9</p> <p><b>September [8]</b> 412/18 435/18 435/23 435/24 436/4 436/19 436/20 452/3</p> <p><b>September 13th [1]</b> 435/23</p> <p><b>September 16 [1]</b> 435/24</p> <p><b>September 26th [1]</b> 436/20</p> <p><b>September 4 [1]</b> 435/18</p> <p><b>series [4]</b> 334/5 379/5 397/17 398/10</p> <p><b>servant [1]</b> 371/9</p> <p><b>service [4]</b> 398/11 398/18 399/1 399/2</p> <p><b>services [10]</b> 332/5 361/4 361/11 361/20 369/4 369/6 369/23 370/4 375/10 421/17</p> <p><b>serving [1]</b> 355/23</p> <p><b>set [22]</b> 334/13 339/7 370/11 396/21 397/4 397/12 398/6 399/19 400/4 401/9 415/19 431/9 442/9 443/15 443/25 445/19 446/7 446/15 446/17 448/18 478/10 478/16</p> <p><b>sets [8]</b> 363/1 370/12 379/8 397/5 397/17 397/22 416/15 462/2</p> <p><b>setting [10]</b> 341/18 411/22 422/8 422/9 443/4 443/8 443/22 444/4 444/9 444/11</p> <p><b>setup [1]</b> 442/18</p> <p><b>seven [3]</b> 449/7 449/8 475/18</p> <p><b>Seven-year [1]</b> 475/18</p> <p><b>seventh [2]</b> 323/19 487/3</p> <p><b>several [3]</b> 326/20 359/19 431/5</p> <p><b>shall [3]</b> 371/7 402/17 415/23</p> <p><b>share [1]</b> 402/7</p>	<p><b>shareholders [1]</b> 445/9</p> <p><b>shareholding [1]</b> 445/13</p> <p><b>sheet [12]</b> 332/25 335/25 336/20 336/24 336/25 337/3 366/23 366/25 367/2 367/4 367/18 367/22</p> <p><b>Sheik [1]</b> 426/18</p> <p><b>Sheikh [5]</b> 353/7 353/23 354/8 354/9 354/18</p> <p><b>shipbuilder [1]</b> 430/16</p> <p><b>shipbuilding [10]</b> 367/10 369/1 403/16 420/17 434/22 435/17 435/20 462/3 465/9 473/23</p> <p><b>ships [3]</b> 370/14 430/18 468/6</p> <p><b>shipyard [1]</b> 335/1</p> <p><b>shore [3]</b> 422/11 422/12 422/12</p> <p><b>short [1]</b> 369/15</p> <p><b>shortly [3]</b> 331/21 436/2 486/11</p> <p><b>show [9]</b> 330/22 393/13 398/25 412/20 413/22 420/13 446/25 461/24 465/1</p> <p><b>showing [1]</b> 398/10</p> <p><b>shown [4]</b> 330/23 336/1 429/13 491/1</p> <p><b>shows [2]</b> 465/2 488/3</p> <p><b>side [6]</b> 363/18 418/24 418/25 420/4 420/4 451/7</p> <p><b>sidebar [4]</b> 346/4 347/1 348/7 410/2</p> <p><b>sides [1]</b> 348/3</p> <p><b>sign [1]</b> 401/24</p> <p><b>signature [2]</b> 401/23 459/2</p> <p><b>signatures [1]</b> 458/24</p> <p><b>signed [16]</b> 362/19 376/4 377/12 377/17 400/22 401/13 401/17 401/19 406/18 417/15 417/19 417/22 417/23 418/23 459/3 459/22</p> <p><b>significant [7]</b> 354/12 354/13 355/4 357/24 389/4 421/24 451/10</p> <p><b>significantly [1]</b> 455/8</p> <p><b>signing [1]</b> 341/20</p> <p><b>similar [2]</b> 406/9 467/20</p> <p><b>simplify [1]</b> 335/14</p> <p><b>simply [1]</b> 326/8</p> <p><b>Singh [37]</b> 338/16 347/7 352/19 357/6 359/12 362/2 366/21 368/6 377/6 387/15 387/18 389/12 394/11 395/19 401/19 402/1 417/23 422/6 426/18 436/7 436/9 438/1 438/2 438/3 450/7 450/12 452/20 462/20 471/10 471/23 472/2 472/3 479/2 482/9 485/12 485/15 486/7</p> <p><b>Singh's [2]</b> 401/20 402/3</p> <p><b>sit [3]</b> 365/25 489/10 489/11</p> <p><b>six [1]</b> 390/3</p> <p><b>six months [1]</b> 390/3</p> <p><b>size [10]</b> 449/14 451/20 454/21 462/12 469/12 469/17 469/20 472/21 476/4 476/12</p> <p><b>skills [3]</b> 477/7 477/24 478/2</p> <p><b>skip [1]</b> 373/11</p> <p><b>slight [1]</b> 490/4</p> <p><b>slightly [2]</b> 331/1 476/8</p> <p><b>slow [8]</b> 341/17 341/24 353/2 353/3 363/11 384/20 469/9 469/9</p> <p><b>small [1]</b> 434/16</p> <p><b>sold [5]</b> 396/1 396/3 479/7 484/21 484/25</p> <p><b>sole [1]</b> 448/24</p>	<p><b>solely [2]</b> 334/7 334/16</p> <p><b>solution [1]</b> 391/11</p> <p><b>Sometimes [1]</b> 366/6</p> <p><b>soon [2]</b> 326/17 462/23</p> <p><b>sorry [27]</b> 331/13 338/23 346/5 349/6 358/9 372/21 373/23 375/6 384/13 384/15 387/17 392/24 407/17 408/6 413/16 416/6 417/17 419/9 422/10 422/18 426/5 440/8 479/9 481/21 488/11 489/11 490/9</p> <p><b>sought [1]</b> 469/5</p> <p><b>source [4]</b> 390/10 390/14 455/6 491/2</p> <p><b>sources [3]</b> 371/21 371/22 390/13</p> <p><b>south [1]</b> 421/4</p> <p><b>southern [1]</b> 451/7</p> <p><b>sovereign [1]</b> 396/11</p> <p><b>spare [1]</b> 467/7</p> <p><b>speak [2]</b> 366/9 469/19</p> <p><b>speaking [2]</b> 332/2 470/7</p> <p><b>spec [1]</b> 470/13</p> <p><b>special [7]</b> 324/6 334/12 335/9 336/7 344/18 367/7 479/12</p> <p><b>Special Agent Angela [1]</b> 324/6</p> <p><b>specific [3]</b> 339/5 339/6 404/5</p> <p><b>specifically [1]</b> 373/18</p> <p><b>specification [4]</b> 416/7 468/5 483/21 485/1</p> <p><b>specifics [1]</b> 399/24</p> <p><b>specifies [1]</b> 415/24</p> <p><b>specs [1]</b> 469/13</p> <p><b>speed [2]</b> 341/16 454/1</p> <p><b>spell [2]</b> 419/11 447/9</p> <p><b>spelled [2]</b> 447/18 447/24</p> <p><b>spelling [2]</b> 447/10 447/12</p> <p><b>spellings [1]</b> 324/9</p> <p><b>spent [1]</b> 375/8</p> <p><b>splits [1]</b> 461/25</p> <p><b>spoke [1]</b> 341/15</p> <p><b>spoken [5]</b> 328/18 411/6 411/21 426/6 426/7</p> <p><b>sponsor [2]</b> 425/18 429/23</p> <p><b>spread [2]</b> 359/18 360/22</p> <p><b>spreadsheet [3]</b> 398/4 398/7 422/20</p> <p><b>SPV [12]</b> 334/7 334/11 334/22 335/6 335/15 341/18 341/19 341/22 344/4 345/2 345/3 345/13</p> <p><b>stage [3]</b> 341/2 363/6 428/8</p> <p><b>stakeholders [1]</b> 342/1</p> <p><b>stakeholders -- well [1]</b> 342/1</p> <p><b>stamp [2]</b> 402/19 429/13</p> <p><b>stand [9]</b> 328/3 328/14 328/16 365/11 366/2 397/24 407/6 411/5 488/19</p> <p><b>standard [3]</b> 414/23 414/24 415/2</p> <p><b>stands [7]</b> 335/4 335/18 338/2 344/13 355/22 358/20 394/5</p> <p><b>start [9]</b> 340/18 398/19 399/17 399/18 424/9 431/13 454/8 471/1 482/5</p> <p><b>started [1]</b> 451/16</p> <p><b>Starting [1]</b> 430/4</p> <p><b>startup [1]</b> 443/2</p> <p><b>state [2]</b> 324/4 461/5</p> <p><b>statement [13]</b> 371/12 373/18 375/15 376/12 392/2 400/7 403/23 404/8 406/13 406/14 434/5 444/24 457/10</p> <p><b>states [10]</b> 323/1 323/3 323/3 323/9</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p><b>S</b></p> <p><b>states...</b> [6] 323/11 324/7 369/17 415/22 432/22 457/25</p> <p><b>stations</b> [1] 370/14</p> <p><b>status</b> [1] 363/1</p> <p><b>stay</b> [4] 411/20 483/25 484/4 484/15</p> <p><b>steady</b> [1] 341/17</p> <p><b>stenography</b> [1] 323/24</p> <p><b>step</b> [4] 337/2 364/8 407/5 488/24</p> <p><b>stepped</b> [1] 364/10</p> <p><b>steps</b> [1] 368/12</p> <p><b>stick</b> [1] 326/15</p> <p><b>still</b> [4] 438/3 458/11 465/17 482/13</p> <p><b>stipulate</b> [1] 325/23</p> <p><b>stipulation</b> [8] 325/19 325/20 325/21 325/22 326/1 326/6 326/14 327/6</p> <p><b>stipulations</b> [2] 325/21 326/2</p> <p><b>stood</b> [1] 428/6</p> <p><b>stop</b> [6] 334/8 344/6 347/22 416/12 461/10 463/1</p> <p><b>storage</b> [2] 483/18 484/3</p> <p><b>store</b> [1] 484/14</p> <p><b>straight</b> [2] 453/11 453/12</p> <p><b>Strategy</b> [1] 444/17</p> <p><b>Street</b> [1] 416/4</p> <p><b>strike</b> [3] 385/3 392/14 414/22</p> <p><b>structure</b> [20] 335/21 335/23 335/24 336/4 336/15 336/18 336/19 344/16 356/23 357/21 358/10 358/15 358/17 445/13 455/1 469/5 474/20 475/2 476/7 476/9</p> <p><b>structured</b> [3] 358/3 358/5 455/18</p> <p><b>Subeva</b> [70] 333/11 337/17 337/20 338/17 339/2 339/12 340/1 340/12 362/2 366/20 366/22 366/25 368/6 373/14 377/5 377/9 377/19 378/23 387/15 387/18 389/11 389/13 389/17 394/11 395/19 412/24 412/25 413/4 413/18 420/8 422/7 425/14 425/21 426/18 436/7 436/13 438/1 438/6 446/24 456/3 456/6 456/12 456/21 456/23 457/18 459/16 462/20 464/9 468/16 472/17 473/7 473/16 474/1 474/15 475/12 477/1 477/15 477/18 481/20 481/21 482/1 482/7 483/7 486/1 487/5 487/6 487/11 488/1 488/6 488/12</p> <p><b>Subeva's</b> [5] 424/20 425/16 477/3 482/15 483/10</p> <p><b>subject</b> [13] 326/11 370/9 377/7 393/7 404/10 442/5 453/22 466/14 467/6 474/16 476/23 481/24 490/6</p> <p><b>subordinate</b> [1] 413/12</p> <p><b>subsequent</b> [2] 392/9 421/3</p> <p><b>subsequently</b> [2] 392/12 447/22</p> <p><b>subsidiary</b> [2] 334/25 426/8</p> <p><b>subsidize</b> [1] 448/25</p> <p><b>subsidy</b> [6] 345/3 372/20 372/25 373/3 373/6 373/8</p> <p><b>substantial</b> [1] 442/18</p> <p><b>substantially</b> [1] 476/12</p> <p><b>subvention</b> [13] 360/23 373/2 388/2 388/8 388/12 388/21 400/6 402/4 402/5 402/7 411/16 411/17 435/2</p> <p><b>successful</b> [1] 412/20</p>	<p><b>suggest</b> [3] 408/13 409/20 469/12</p> <p><b>suggested</b> [3] 325/10 359/19 409/4</p> <p><b>suggesting</b> [3] 410/8 488/11 488/14</p> <p><b>suggestion</b> [4] 327/14 401/22 421/15 429/18</p> <p><b>suggestions</b> [2] 469/11 469/16</p> <p><b>Suisse</b> [122] 332/10 333/22 336/2 337/21 338/15 339/17 339/18 342/12 344/8 344/9 344/13 344/20 344/21 354/14 354/16 355/7 355/24 357/2 357/3 360/2 363/5 363/8 363/16 371/14 371/20 371/24 372/2 372/9 374/5 375/23 377/14 377/21 378/5 378/10 378/13 390/11 390/21 391/3 393/19 398/13 400/1 400/19 400/25 401/1 401/4 401/17 406/15 406/16 411/20 412/2 412/12 413/1 413/11 413/14 413/18 413/19 414/3 414/9 414/13 416/1 416/18 416/19 417/11 417/12 417/22 417/25 418/1 419/5 421/7 421/25 424/6 424/24 425/1 425/4 425/22 426/4 427/5 427/11 427/17 428/12 431/5 435/22 436/12 436/18 437/8 437/12 438/3 438/5 443/24 444/5 444/10 444/12 449/19 449/20 450/1 450/8 450/10 450/20 452/2 452/4 452/16 452/17 452/21 456/9 456/11 456/24 456/25 457/4 459/3 459/18 460/4 461/21 462/11 463/3 465/2 465/12 465/15 479/2 481/2 482/9 482/14 485/16</p> <p><b>Suisse's</b> [1] 354/19</p> <p><b>summarize</b> [2] 370/11 399/24</p> <p><b>summary</b> [2] 353/13 369/15</p> <p><b>sums</b> [1] 422/21</p> <p><b>super</b> [1] 468/8</p> <p><b>supervisor</b> [2] 401/20 444/8</p> <p><b>supplied</b> [6] 422/10 423/5 423/19 423/20 479/17 483/22</p> <p><b>supplies</b> [1] 332/5</p> <p><b>supply</b> [5] 341/20 361/3 361/10 369/4 467/2</p> <p><b>support</b> [6] 342/1 357/17 389/24 426/23 450/8 454/11</p> <p><b>supposed</b> [1] 358/7</p> <p><b>Surj</b> [2] 449/22 450/4</p> <p><b>Surjan</b> [44] 338/16 347/7 352/19 359/12 362/2 366/21 368/6 377/5 387/15 387/18 389/11 394/11 395/19 401/19 401/20 402/1 402/3 417/23 422/6 426/18 436/7 436/9 438/1 438/2 438/3 450/7 450/12 452/20 462/20 471/10 471/12 471/23 472/2 472/3 479/2 481/25 482/3 482/9 485/12 485/15 486/7 487/8 487/12 487/15</p> <p><b>surrounding</b> [1] 354/24</p> <p><b>surveillance</b> [1] 370/15</p> <p><b>sushi</b> [2] 484/22 484/25</p> <p><b>sustain</b> [1] 484/18</p> <p><b>swift</b> [2] 464/18 464/19</p> <p><b>swimming</b> [1] 389/2</p> <p><b>Swiss</b> [1] 445/3</p> <p><b>swivel</b> [1] 353/17</p> <p><b>sworn</b> [1] 329/5</p> <p><b>syndicate</b> [3] 368/1 415/17 464/2</p>	<p><b>syndicated</b> [6] 367/21 395/23 395/25 406/16 415/12 476/5</p> <p><b>Syndication</b> [3] 367/20 395/22 396/14</p> <p><b>system</b> [9] 334/23 335/2 335/3 335/7 335/11 335/11 369/23 403/4 422/18</p> <p><b>systems</b> [1] 479/12</p> <p><b>T</b></p> <p><b>table</b> [7] 327/15 369/10 378/17 396/18 397/10 397/12 397/17</p> <p><b>tables</b> [4] 397/17 397/21 398/8 398/9</p> <p><b>talks</b> [1] 369/16</p> <p><b>Tassone</b> [1] 324/7</p> <p><b>Tax</b> [1] 398/1</p> <p><b>taxes</b> [1] 402/20</p> <p><b>TCW</b> [3] 462/25 463/6 463/11</p> <p><b>team</b> [10] 338/6 338/8 338/9 338/9 338/14 338/16 338/21 342/12 395/16 444/7</p> <p><b>technical</b> [4] 370/5 447/8 483/21 484/23</p> <p><b>technically</b> [2] 405/20 491/2</p> <p><b>technology</b> [1] 473/22</p> <p><b>temperature</b> [1] 366/5</p> <p><b>ten</b> [5] 443/6 443/14 446/13 448/23 449/15</p> <p><b>ten-year</b> [1] 443/6</p> <p><b>tender</b> [5] 373/25 374/20 374/22 374/25 375/5</p> <p><b>Teo</b> [3] 344/3 368/10 368/14</p> <p><b>Teo's</b> [1] 334/3</p> <p><b>Teofilo</b> [5] 333/18 336/12 340/23 342/5 342/20</p> <p><b>Teonhangumele</b> [1] 341/5</p> <p><b>term</b> [13] 332/25 335/25 336/20 336/24 336/25 337/2 338/6 366/23 366/25 367/2 367/4 367/18 367/22</p> <p><b>terms</b> [14] 332/22 332/24 363/16 363/17 370/13 370/24 394/21 419/19 419/22 421/5 421/12 452/7 454/15 465/18</p> <p><b>testified</b> [3] 329/5 411/14 412/23</p> <p><b>testimony</b> [7] 325/9 326/18 328/11 328/18 364/5 366/10 411/7</p> <p><b>tests</b> [1] 431/17</p> <p><b>that -- this</b> [1] 387/25</p> <p><b>the 25th</b> [1] 387/11</p> <p><b>theme</b> [1] 423/20</p> <p><b>themselves</b> [1] 451/13</p> <p><b>theoretically</b> [1] 484/17</p> <p><b>thereafter</b> [1] 436/3</p> <p><b>they've</b> [1] 390/4</p> <p><b>thinking</b> [1] 326/20</p> <p><b>third</b> [21] 367/23 367/24 369/12 371/1 374/21 375/10 378/25 387/19 387/22 388/2 390/10 414/9 435/12 443/1 443/9 443/10 445/9 445/15 445/16 446/4 467/18</p> <p><b>third-party</b> [1] 390/10</p> <p><b>thirds</b> [3] 445/8 445/15 445/16</p> <p><b>thoracic</b> [1] 431/17</p> <p><b>though</b> [1] 327/11</p> <p><b>thought</b> [6] 358/10 361/1 361/6 411/24 427/22 489/17</p> <p><b>three</b> [9] 375/12 377/10 390/3 398/8</p>
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<p><b>T</b></p> <p><b>three...</b> [5] 438/18 442/13 452/9 458/13 481/7</p> <p><b>three months</b> [1] 452/9</p> <p><b>through</b> [24] 333/2 335/16 339/8 348/2 352/3 352/7 359/18 367/13 369/9 369/12 369/22 370/22 371/20 374/20 396/15 404/22 417/10 427/17 453/11 453/12 453/25 458/21 471/2 480/23</p> <p><b>Throughout</b> [1] 423/17</p> <p><b>Thursday</b> [1] 409/22</p> <p><b>tied</b> [1] 480/21</p> <p><b>ties</b> [1] 480/7</p> <p><b>tilt</b> [2] 353/16 353/18</p> <p><b>Tim</b> [2] 417/23 426/18</p> <p><b>time</b> [70] 329/8 333/19 336/25 339/9 339/16 342/7 345/7 345/14 345/22 347/4 358/12 358/24 359/3 361/8 361/19 363/2 363/15 363/24 374/12 375/21 375/25 379/11 384/22 389/5 389/22 392/1 394/24 400/9 401/20 402/6 402/8 405/19 405/19 406/14 406/17 410/8 410/10 410/11 411/19 412/18 413/4 413/5 413/18 417/20 423/21 427/10 428/19 428/24 433/1 435/21 443/23 444/5 447/20 447/21 451/10 458/3 459/18 465/20 470/15 472/8 475/1 479/6 481/4 481/8 482/19 483/22 484/5 485/3 487/16 489/22</p> <p><b>timeline</b> [1] 476/24</p> <p><b>timely</b> [1] 328/9</p> <p><b>times</b> [2] 363/13 458/13</p> <p><b>timetable</b> [1] 368/17</p> <p><b>tired</b> [1] 384/20</p> <p><b>title</b> [5] 370/25 379/2 397/2 444/16 475/14</p> <p><b>titled</b> [5] 370/9 397/8 414/19 418/9 446/5</p> <p><b>to -- if</b> [1] 379/21</p> <p><b>today</b> [4] 411/14 458/21 461/14 490/6</p> <p><b>together</b> [4] 410/6 411/22 443/18 445/9</p> <p><b>told</b> [6] 345/10 423/8 423/11 430/13 444/14 470/9</p> <p><b>tomorrow</b> [9] 336/22 409/23 410/9 456/13 462/22 464/15 488/21 489/2 491/7</p> <p><b>tons</b> [3] 483/19 483/19 484/5</p> <p><b>Tony</b> [1] 481/6</p> <p><b>took</b> [7] 335/9 345/20 360/8 376/8 450/11 454/13 477/13</p> <p><b>top</b> [19] 331/11 333/7 362/7 372/22 395/7 397/17 398/8 398/8 398/24 414/20 447/3 454/17 464/5 472/14 475/17 486/9 486/24 486/25 488/10</p> <p><b>total</b> [5] 370/4 387/20 422/14 437/21 452/1</p> <p><b>totally</b> [1] 326/23</p> <p><b>towards</b> [2] 399/9 402/18</p> <p><b>TPD</b> [1] 370/6</p> <p><b>trade</b> [2] 426/22 427/1</p> <p><b>training</b> [2] 370/15 467/8</p> <p><b>transaction</b> [36] 335/15 338/11 342/22 347/17 356/16 356/18 357/13 357/17</p>	<p>357/25 358/3 358/5 358/14 358/15 358/16 358/24 363/12 363/13 371/15 371/25 372/1 372/2 372/11 375/23 376/14 394/23 404/12 424/2 427/10 427/11 451/21 452/1 473/8 473/9 474/3 479/4 480/10</p> <p><b>transactions</b> [6] 359/2 360/14 405/18 428/11 448/23 475/9</p> <p><b>TRANSCRIPT</b> [2] 323/8 323/24</p> <p><b>transcription</b> [1] 323/25</p> <p><b>transfer</b> [8] 367/20 367/23 367/24 395/14 414/9 414/13 464/20 473/22</p> <p><b>transferred</b> [1] 436/1</p> <p><b>translation</b> [1] 482/3</p> <p><b>travel</b> [2] 336/21 413/8</p> <p><b>traveled</b> [1] 413/7</p> <p><b>trawlers</b> [17] 466/15 466/18 467/3 467/7 467/9 467/10 467/12 473/3 475/19 479/11 479/13 479/16 480/17 481/7 483/19 483/25 483/25</p> <p><b>trial</b> [7] 323/8 324/2 326/16 327/9 393/10 409/23 491/10</p> <p><b>tried</b> [1] 443/15</p> <p><b>trip</b> [1] 409/7</p> <p><b>true</b> [6] 388/4 421/20 421/21 426/2 432/24 432/25</p> <p><b>trustworthy</b> [1] 390/15</p> <p><b>try</b> [6] 342/3 346/5 363/20 375/6 385/3 442/23</p> <p><b>trying</b> [2] 375/18 411/19</p> <p><b>tube</b> [6] 430/1 430/2 430/7 431/7 432/15 432/16</p> <p><b>Tuesday</b> [1] 477/9</p> <p><b>tuna</b> [14] 451/2 451/8 451/8 451/14 467/14 475/2 479/25 482/2 483/13 483/14 484/20 484/21 484/24 484/25</p> <p><b>turn</b> [2] 440/12 440/13</p> <p><b>turnkey</b> [1] 423/12</p> <p><b>Twenty</b> [9] 376/24 420/10 426/14 462/16 464/6 476/19 481/23 483/3 487/3</p> <p><b>Twenty-eighth</b> [2] 420/10 426/14</p> <p><b>Twenty-fifth</b> [1] 464/6</p> <p><b>Twenty-first</b> [1] 476/19</p> <p><b>Twenty-fourth</b> [3] 462/16 481/23 483/3</p> <p><b>Twenty-second</b> [1] 376/24</p> <p><b>Twenty-seventh</b> [1] 487/3</p> <p><b>twice</b> [1] 467/16</p> <p><b>two-thirds</b> [3] 445/8 445/15 445/16</p> <p><b>type</b> [8] 335/3 396/11 411/24 418/5 427/20 439/4 479/4 479/6</p> <p><b>types</b> [5] 370/14 414/15 427/16 468/6 479/21</p> <p><b>typically</b> [2] 341/6 415/5</p>	<p>471/11 471/23</p> <p><b>UK</b> [2] 405/14 452/15</p> <p><b>ultimate</b> [1] 472/18</p> <p><b>ultimately</b> [12] 336/8 360/10 360/22 388/21 394/17 412/3 418/23 438/16 446/19 450/10 451/19 451/23</p> <p><b>under</b> [29] 361/10 366/6 369/3 369/7 369/8 369/19 370/13 374/24 378/13 389/23 391/13 391/14 401/3 402/18 404/11 408/11 408/14 408/23 415/3 416/10 419/19 421/12 421/16 421/17 422/11 443/8 452/7 454/15 479/17</p> <p><b>understood</b> [13] 335/22 336/14 359/23 360/1 361/8 363/19 368/14 405/1 449/13 455/17 469/18 490/9 490/10</p> <p><b>undertake</b> [2] 344/20 353/14</p> <p><b>undertaking</b> [2] 404/1 404/2</p> <p><b>undertakings</b> [4] 403/20 405/25 406/2 406/5</p> <p><b>underwriting</b> [1] 427/17</p> <p><b>underwritten</b> [1] 438/4</p> <p><b>unfortunately</b> [2] 336/21 341/16</p> <p><b>Union</b> [1] 451/9</p> <p><b>unique</b> [1] 478/23</p> <p><b>UNITED</b> [19] 323/1 323/3 323/3 323/9 323/11 324/7 335/1 355/5 358/23 369/19 414/25 429/16 432/21 432/22 441/9 457/10 457/25 462/5 472/4</p> <p><b>United States</b> [3] 324/7 432/22 457/25</p> <p><b>unlawful</b> [1] 405/9</p> <p><b>unless</b> [2] 358/14 413/12</p> <p><b>unobserved</b> [1] 413/10</p> <p><b>unquote</b> [1] 490/25</p> <p><b>unredacted</b> [2] 490/13 490/15</p> <p><b>unsigned</b> [1] 417/17</p> <p><b>unsuccessfully</b> [1] 443/15</p> <p><b>unusual</b> [2] 361/15 361/17</p> <p><b>up</b> [47] 325/13 326/23 330/23 334/13 339/7 341/18 353/17 353/18 358/22 363/23 367/19 370/18 372/22 376/16 384/14 393/25 395/7 396/10 396/14 398/5 398/17 398/23 402/24 404/21 411/22 412/6 414/20 415/17 423/21 431/9 443/4 443/15 443/22 443/25 444/4 444/9 444/11 454/8 457/14 459/2 467/18 477/20 477/22 484/11 486/3 486/6 486/25</p> <p><b>up/model</b> [1] 486/6</p> <p><b>update</b> [4] 337/2 342/3 344/3 453/20</p> <p><b>updates</b> [1] 334/3</p> <p><b>upfront</b> [2] 361/2 361/7</p> <p><b>upon</b> [4] 327/6 358/12 403/24 406/15</p> <p><b>upsized</b> [7] 426/22 427/25 428/13 438/13 449/10 449/20 454/18</p> <p><b>upsized</b> [1] 459/5</p> <p><b>us</b> [13] 326/9 331/11 336/20 339/24 359/19 413/8 413/9 424/14 442/13 461/24 462/22 473/21 474/4</p> <p><b>useful</b> [1] 480/10</p> <p><b>utilization</b> [2] 459/17 459/19</p>
	<p><b>U</b></p> <p><b>U.S</b> [3] 370/21 463/7 463/9</p> <p><b>U.S.</b> [3] 405/14 434/6 439/6</p> <p><b>U.S. Dollar</b> [1] 439/6</p> <p><b>U.S. Dollars</b> [1] 434/6</p> <p><b>U.S. Foreign</b> [1] 405/14</p> <p><b>U.S.A</b> [1] 416/4</p> <p><b>U.S.D</b> [1] 473/3</p> <p><b>UAE</b> [6] 424/21 425/6 425/14 431/18</p>	<p><b>V</b></p> <p><b>Vader</b> [3] 353/2 373/22 469/9</p> <p><b>value</b> [3] 371/8 422/13 484/8</p>

<p><b>V</b></p> <p><b>various</b> [2] 370/14 431/17  <b>vary</b> [1] 378/17  <b>Vehicle</b> [3] 334/12 335/9 336/7  <b>vehicles</b> [1] 463/16  <b>version</b> [6] 454/1 490/11 490/13  490/13 490/16 490/17  <b>vessel</b> [1] 484/4  <b>vessels</b> [8] 422/12 451/9 468/5 468/8  479/18 480/16 484/7 484/15  <b>viable</b> [1] 448/23  <b>view</b> [1] 409/11  <b>viewed</b> [1] 472/21  <b>VII</b> [3] 370/18 370/19 467/11  <b>violation</b> [1] 405/12  <b>violently</b> [1] 423/22  <b>visa</b> [2] 424/13 431/10  <b>voice</b> [2] 384/14 412/6  <b>volume</b> [1] 473/2  <b>VTB</b> [1] 437/20</p>	<p><b>within</b> [13] 338/10 342/12 344/9 356/9  356/9 363/13 390/17 390/22 396/8  450/20 451/10 469/19 478/23  <b>without</b> [6] 345/2 405/13 418/1 418/5  482/6 487/8  <b>witness</b> [25] 326/9 328/3 328/3 328/10  328/12 328/14 328/14 328/16 328/24  328/24 329/4 330/22 347/9 347/24  364/10 365/10 366/2 392/4 407/6 407/6  408/9 410/22 411/5 488/19 492/2  <b>won't</b> [1] 336/21  <b>wondering</b> [2] 448/2 448/3  <b>word</b> [5] 432/25 488/8 488/10 488/11  488/15  <b>wording</b> [1] 418/17  <b>words</b> [2] 369/14 418/22  <b>work</b> [9] 387/20 407/1 412/9 421/22  422/1 426/11 452/10 452/12 486/3  <b>worked</b> [5] 353/8 395/21 421/25 437/7  448/16  <b>working</b> [14] 333/19 333/22 354/19  355/8 358/23 425/21 426/3 435/21  436/11 442/10 443/22 450/20 456/8  482/12  <b>works</b> [5] 336/23 337/21 339/9 466/7  466/8  <b>World</b> [4] 389/14 389/16 418/9 418/12  <b>World Bank</b> [2] 389/14 389/16  <b>would -- we</b> [1] 327/14  <b>wouldn't</b> [1] 356/12  <b>write</b> [41] 331/19 333/23 337/23  341/11 344/2 355/12 358/19 359/11  362/1 362/3 418/4 424/12 426/17 441/6  443/1 449/8 449/18 453/17 454/17  454/25 456/4 456/12 462/21 464/13  468/19 469/1 469/3 471/9 473/1 473/5  473/19 474/18 477/5 478/22 479/1  482/1 483/18 484/12 486/10 487/6  487/25  <b>writes</b> [2] 368/10 424/13  <b>writing</b> [1] 325/11  <b>written</b> [4] 414/25 422/25 427/5  488/10  <b>wrongful</b> [1] 405/1  <b>wrote</b> [19] 331/14 331/15 331/20  332/2 344/11 345/18 347/17 353/21  357/6 358/25 359/13 361/6 387/19  430/5 442/14 450/4 469/16 473/6  477/23</p>	<p>373/3 412/23  <b>YORK</b> [17] 323/1 323/4 323/12 323/13  323/16 323/19 323/19 415/23 416/2  416/2 416/4 416/7 462/7 463/5 465/3  465/5 465/6  <b>you e-mailing</b> [1] 331/17  <b>yourself</b> [1] 412/4  <b>yourselves</b> [1] 329/2</p>
<p><b>W</b></p> <p><b>wait</b> [3] 333/3 341/22 378/20  <b>waiting</b> [1] 368/14  <b>walk</b> [1] 471/2  <b>Wall</b> [1] 416/4  <b>wants</b> [2] 387/19 387/22  <b>warrants</b> [1] 371/6  <b>Washington</b> [1] 323/16  <b>ways</b> [2] 410/5 447/18  <b>Wednesday</b> [1] 339/7  <b>week</b> [6] 356/25 359/1 359/4 409/18  470/13 471/13  <b>weekly</b> [1] 342/3  <b>welcome</b> [6] 328/8 359/20 365/22  366/4 407/19 411/1  <b>welder</b> [5] 430/1 430/2 430/8 432/15  432/16  <b>welding</b> [1] 431/7  <b>western</b> [1] 375/3  <b>WFK</b> [1] 323/2  <b>whereby</b> [1] 335/15  <b>whilst</b> [5] 412/18 465/16 465/16  482/13 484/2  <b>White</b> [1] 408/20  <b>whoa</b> [4] 353/2 353/2 373/22 373/22  <b>whole</b> [1] 341/23  <b>why</b> [55] 331/14 331/23 332/17 348/1  354/18 363/7 371/19 372/8 377/19  387/24 388/6 389/3 397/5 397/6 398/19  406/25 411/17 413/3 418/3 419/8  419/16 421/10 423/9 423/12 424/18  425/3 427/8 428/5 430/7 436/9 436/13  438/2 438/6 441/10 442/7 444/3 447/24  450/17 451/5 454/18 456/10 457/19  465/5 468/19 469/3 472/1 472/5 474/23  475/6 476/2 479/1 482/11 483/18  484/12 489/10  <b>WILLIAM</b> [1] 323/9  <b>WILLKIE</b> [1] 323/18  <b>winded</b> [1] 413/16  <b>window</b> [1] 478/24  <b>wise</b> [1] 327/14  <b>wished</b> [1] 452/8</p>	<p><b>X</b></p> <p><b>x-ray</b> [1] 431/17</p> <p><b>Y</b></p> <p><b>yachts</b> [1] 468/9  <b>yahoo.com</b> [1] 341/5  <b>Yasir</b> [1] 426/18  <b>year</b> [22] 398/19 398/20 398/23 398/24  399/1 399/4 399/5 399/8 399/13 399/15  399/18 412/18 431/5 432/17 432/19  439/8 443/6 475/18 477/10 478/8  478/25 484/1  <b>years</b> [3] 327/8 327/9 443/14  <b>yesterday</b> [10] 325/9 334/2 335/4  335/25 342/15 354/24 361/13 361/16</p>	<p><b>Z</b></p> <p><b>Zayed</b> [5] 353/8 353/23 354/8 354/10  354/19  <b>Zone</b> [3] 335/4 369/18 403/3</p>