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	1002		1	P R O C E E D I N G S
		01:33:09PM	2	
	TATES DISTRICT COURT DISTRICT OF COLUMBIA	01:33:09PM		COURTROOM DEPUTY: Please come to order and remain
FOR THE	DISTRICT OF COHOMBIA	01:33:11PM	3	seated.
ELOUISE PEPION COBELL, et		01:33:12PM	4	THE COURT: All right, Mr. Dorris.
al.	÷	01:33:13PM	5	MR. DORRIS: Thank you, your Honor.
Plaintiffs,	Civil Action 96-1285	01:33:14PM	6	FRITZ SCHEUREN, Ph.D., WITNESS FOR THE GOVERNMENT,
v.	Washington, D.C.	01:33:14PM	7	PREVIOUSLY SWORN
DIRK KEMPTHORNE, Secretary of the Interior, et al.		01:33:14PM	8	CROSS-EXAMINATION
Defendants.	•	01:33:14PM	9	BY MR. DORRIS (continuing):
		01:33:15PM	10	Q. Good afternoon, Dr. Scheuren.
		01:33:16PM	11	A. Good afternoon to you.
BEFORE THE H	TRIAL - AFTERNOON SESSION ONORABLE JAMES ROBERTSON	01:33:18PM	12	Q. Let me move to a little different subject than where we
	TATES DISTRICT JUDGE	01:33:21PM	13	were before the lunch break. You testified some about changes
APPEARANCES:				
For the Plaintiffs:	DENNIS GINGOLD, ESQ. Law Offices of Dennis Gingold	01:33:28PM	14	that were made in some of the information that was given to us
	607 14th Street, NW Ninth Floor	01:33:34PM	15	from some information that was provided on May 30th to us and
	Washington, D.C. 20005 202-824-1448	01:33:41PM	16	then information that was provided to us on June 4th. Do you
	ELLIOTT H. LEVITAS, ESQ. WILLIAM E. DORRIS, ESQ.	01:33:44PM	17	recall testifying about that during your direct?
	William E. Borkis, ESg. Kilpatrick Stockton, LLP 1100 Peachtree Street	01:33:46PM	18	A. I do.
	Suite 2800 Atlanta, Georgia 30309-4530	01:33:47PM	19	Q. I'm going to ask that we bring up on the screen Plaintiffs'
	404-815-6450	01:33:50PM	20	Exhibit 117. Maybe I've got the wrong number.
	KEITH HARPER, ESQ. JUSTIN GUILDER, ESQ.	01:34:05PM	21	Can I have just a minute, your Honor?
	Kilpatrick Stockton, LLP 607 14th Street, NW	01:34:07PM	22	(Pause in the proceedings).
	Suite 900 Washington, D.C. 20005	01:34:26PM	23	MR. DORRIS: I'm sorry, your Honor. I had written
	202-585-0053	01:34:29PM	24	down the wrong exhibit number. Oh, here it is. Do you show
APPEARANCES con't. on next	page.	01:34:32PM	25	what exhibit number that is? Okay.
				Jacqueline M. Sullivan, RPR
	ine M. Sullivan, RPR sial Court Reporter			Official Court Reporter
	1003			1005
APPEARANCES, con't.			4	
		01:34:41PM	1	BY MR. DORRIS:
DAVIDC	. SMITH, ESQ.	01:34:43PM	2	Q. I believe it has been marked as 117. And in looking at
	_ R. TAYLOR, JR., ESQ. ick Stockton, LLP	01:34:48PM	3	this I want you to look at the bottom two that are referenced at
1001 W	est Fourth Street	01:34:54PM	4	AR-171R1, the May 30th, and then AR-171R2, which is the June 4.
	n-Salem, North Carolina 27101 7-7392	01:35:05PM	5	Do you see those?
For the Defendants:	ROBERT E. KIRSCHMAN, JR., ESQ.	01:35:06PM	6	A. Yes.
JOHN V	VARSHAWSKY, ESQ.	01:35:06PM	7	Q. Okay. And if you look over, and this is just revenues,
	STOPHER KOHN, ESQ. partment of Justice	01:35:11PM	8	okay, this doesn't address disbursements or other information.
	Street, NW agton, D.C. 20005	01:35:16PM	9	Do you see that between the information we were provided on May
	7-0010	01:35:21PM	10	30th showed total revenues in the pre-1972 time frame of almost
ЈОНИ S	TEMPLEWICZ, ESQ.	01:35:30PM	11	\$3.4 billion?
	Trial Attorney partment of Justice	01:35:32PM	12	A. I do.
Comme	rcial Litigation Branch	01:35:33PM	13	Q. And then in as of June 4, 2008, they'd fallen to about \$2.8
Civil Di Ben Fra	vision Inklin Station	01:35:43PM	14	billion. Do you see that?
P.O. Bo		01:35:44PM	15	A. I do.
202-30		01:35:45PM	16	Q. Okay. Now, I don't believe that there were any changes in
Court Reporter: JA	CQUELINE M. SULLIVAN, RPR	01:35:54PM	17	what we were provided between those two between 1972 and the end
	Court Reporter rthouse, Room 6720		18	of the chart, which I think is 2007. Do you know whether there
333 Cons	stitution Avenue, NW	01:36:02PM		·
Washing 202-354	ton, D.C. 20001 -3187	01:36:06PM	19	were any changes in that later time frame?
		01:36:09PM	20	A. To my knowledge, no.
			21	Q. Okay. So all of the changes that occurred between these
		01:36:10PM		
		01:36:10PM 01:36:15PM	22	two runs or whatever occurred made changes in the pre-1972
Proceedings reported by	machine shorthand transcript produced		23	time frame, fair?
Proceedings reported by r by computer-aided transc	nachine shorthand, transcript produced ription.	01:36:15PM		
		01:36:15PM 01:36:22PM	23	time frame, fair?
by computer-aided transc	ription.	01:36:15PM 01:36:22PM 01:36:23PM	23 24	time frame, fair? A. Yes.
by computer-aided transc Jacquel		01:36:15PM 01:36:22PM 01:36:23PM 01:36:24PM	23 24 25	time frame, fair? A. Yes. Q. Now, you testified, and I tried to follow but I couldn't Jacqueline M. Sullivan, RPR Official Court Reporter

	1006	1	1008
01:36:32PM 1	exactly, why there were further changes made between May 30 and	01:40:23PM 1	A. That needs to be footnoted, though.
01:36:39PM 2	June 4, 2008. Did I understand you to say that the process you	01:40:26PM 2	Q. That needs to be footnoted?
01:36:46PM 3	were going through simply wasn't complete on May 30, 2008?	01:40:29PM 3	A. Yes, because of the way we did this.
01:36:53PM 4	A. That is correct.	01:40:30PM 4	Q. Can I ask this, it's not footnoted on anywhere on what
01:36:57PM 5	Q. And did you get it completed by June 4th?	01:40:34PM 5	you've done, is it?
01:37:01PM 6	A. I believe it is.	01:40:35PM 6	A. No.
01:37:01PM 7	Q. Now, what changes, if you know, were made between those two	01:40:35PM 7	Q. Okay. You said it needed to be footnoted. Would you say
01:37:08PM 8	analyses that would cause about \$600,000,000 in revenues to go	01:40:39PM 8	what you mean?
01:37:20PM 9	down during that period, the pre-'72 period?	01:40:40PM 9	A. What I need to do is explain to you that we actually had to
01:37:25PM 10	A. We did two things. I already said some of this to you. We	01:40:44PM 10	make a starting value, okay, in this area, and grew out of the
01:37:34PM 11	looked at the imputation model and we improved it. We were not	01:40:50PM 11	model that we chose, which we had to go back seven years, as you
01:37:38PM 12	happy with the well, with how good it was working for us, and	01:40:55PM 12	remember this from this morning, and were not showing all those
01:37:43PM 13	we improved the model. And then we also looked at the reported	01:41:00PM 13	seven years. We're just showing first of the years, 1887, so
01:37:47PM 14	data, okay, which we had not factored into the uncertainty in	01:41:03PM 14	that number is coming from, you know, coming from a process you
01:37:55PM 15	the unreported data at that point.	01:41:08PM 15	haven't fully seen.
01:37:56PM 16	Q. Okay. So you looked at it, the model, because you weren't	01:41:10PM 16	Q. Okay. Now, so there was some analysis, further analysis
01:37:59PM 17	happy with it, correct?	01:41:15PM 17	between May 30 and June 4 for a time period between 1880 and
01:38:00PM 18	A. That's correct.	01:41:21PM 18	1887, correct?
01:38:01PM 19	Q. Why weren't you happy with it?	01:41:22PM 19	A. Yes.
01:38:03PM 20	A. The disbursement it was getting negative values for the	01:41:23PM 20	Q. Where you were finding that or establishing in some fashion
01:38:11PM 21	balances, and this is over the whole life of the trust, that	01:41:30PM 21	that there was money coming into the government for individual
01:38:15PM 22	couldn't be right, so we tried to find out what it was, and I've	01:41:37PM 22	Indian allotted lands, correct?
01:38:20PM 23	already mentioned to you that one of the it doesn't sound	01:41:39PM 23	A. I don't know how to answer that. We were not really doing
01:38:23PM 24	like it's a big deal, but one of the things that hit us was we	01:41:47PM 24	that. We were trying to fix this model so it worked for us. If
01:38:27PM 25	had used the value in 1887 as if the trust started in 1887,	01:41:52PM 25	you look at these numbers here you will see that the collection
	Jacqueline M. Sullivan, RPR Official Court Reporter		Jacqueline M. Sullivan, RPR Official Court Reporter
	Official Court (reporter		Official Court (Neporter
	1007		1009
01:38:33PM 1	1007 which in fact in some senses it didn't.	01:41:56PM 1	numbers for 1887 were 2.2 million and disbursement 2.1 million
01:38:33PM 1		01:41:56PM 1	numbers for 1887 were 2.2 million and disbursement 2.1 million
	which in fact in some senses it didn't.	_	
01:38:36PM 2	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how?	01:42:03PM 2	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1
01:38:36PM 2 01:38:40PM 3	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning.	01:42:03PM 2 01:42:07PM 3	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously
01:38:36PM 2 01:38:40PM 3 01:38:41PM 4	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th	01:42:03PM 2 01:42:07PM 3 01:42:10PM 4	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and
01:38:36PM 2 01:38:40PM 3 01:38:41PM 4 01:38:47PM 5	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was	01:42:03PM 2 01:42:07PM 3 01:42:10PM 4 01:42:13PM 5	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually
01:38:36PM 2 01:38:40PM 3 01:38:41PM 4 01:38:47PM 5 01:38:50PM 6	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887?	01:42:03PM 2 01:42:07PM 3 01:42:10PM 4 01:42:13PM 5 01:42:13PM 6	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen.
01:38:36PM 2 01:38:40PM 3 01:38:41PM 4 01:38:47PM 5 01:38:50PM 6 01:38:53PM 7	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection.	01:42:03PM 2 01:42:07PM 3 01:42:10PM 4 01:42:13PM 5 01:42:21PM 6 01:42:23PM 7	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me
01:38:36PM 2 01:38:46PM 3 01:38:47PM 4 01:38:47PM 5 01:38:56PM 6 01:38:55PM 8	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us,	01:42:03PM 2 01:42:03PM 3 01:42:10PM 4 01:42:13PM 5 01:42:23PM 6 01:42:23PM 7 01:42:23PM 8	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is
01:38:36PM 2 01:38:41PM 4 01:38:41PM 5 01:38:54PM 6 01:38:55PM 7 01:38:55PM 8 01:39:03PM 9 01:39:04PM 10 01:39:04PM 11	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you?	01:42:03PM 2 01:42:07PM 3 01:42:10PM 4 01:42:13PM 5 01:42:21PM 6 01:42:23PM 7 01:42:23PM 8 01:42:32PM 9 01:42:33PM 10 01:42:33PM 11	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through
01:38:36PM 2 01:38:40PM 3 01:38:41PM 4 01:38:47PM 5 01:38:55PM 6 01:38:55PM 8 01:39:03PM 9 01:39:03PM 10 01:39:03PM 11 01:39:15PM 12	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you? A. No, I have not. I think I also said this morning that we	01:42:03PM 2 01:42:03PM 3 01:42:10PM 4 01:42:13PM 5 01:42:21PM 6 01:42:23PM 7 01:42:23PM 8 01:42:32PM 9 01:42:33PM 10 01:42:34PM 11 01:42:42PM 12	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through that process, correct?
01:38:36PM 2 01:38:40PM 3 01:38:41PM 4 01:38:41PM 5 01:38:56PM 6 01:38:55PM 7 01:38:55PM 8 01:39:03PM 9 01:39:03PM 10 01:39:04PM 11 01:39:15PM 12 01:39:15PM 13	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you? A. No, I have not. I think I also said this morning that we used only a small number of iterations, only a thousand, in the	01:42:03PM 2 01:42:03PM 3 01:42:10PM 4 01:42:13PM 5 01:42:21PM 6 01:42:23PM 7 01:42:23PM 9 01:42:32PM 10 01:42:33PM 11 01:42:43PM 11 01:42:45PM 13	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through that process, correct? A. That is what is happening, yes.
01:38:36PM 2 01:38:41PM 4 01:38:41PM 5 01:38:56PM 6 01:38:55PM 7 01:38:55PM 8 01:39:36PM 10 01:39:06PM 11 01:39:36PM 12 01:39:36PM 13 01:39:36PM 13	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you? A. No, I have not. I think I also said this morning that we used only a small number of iterations, only a thousand, in the May 30 data. Like ten thousand.	01:42:03PM 2 01:42:07PM 3 01:42:10PM 4 01:42:10PM 5 01:42:21PM 6 01:42:23PM 7 01:42:23PM 9 01:42:33PM 10 01:42:33PM 11 01:42:43PM 12 01:42:45PM 13 01:42:45PM 13	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through that process, correct? A. That is what is happening, yes. Q. Okay. Am I correct when I look at the top line of
01:38:36PM 2 01:38:47PM 4 01:38:47PM 5 01:38:56PM 6 01:38:55PM 8 01:39:03PM 10 01:39:03PM 11 01:39:03PM 12 01:39:26PM 13 01:39:26PM 14 01:39:31PM 15	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you? A. No, I have not. I think I also said this morning that we used only a small number of iterations, only a thousand, in the May 30 data. Like ten thousand. Q. So between May 30 and June 4 we've identified a couple things, and keep me straight. We've identified that you've now put a balance in for 1887 and you ran ten times the number of	01:42:03PM 2 01:42:03PM 3 01:42:10PM 4 01:42:13PM 5 01:42:21PM 6 01:42:23PM 7 01:42:23PM 8 01:42:32PM 10 01:42:33PM 11 01:42:43PM 12 01:42:43PM 13 01:42:53PM 14 01:42:53PM 14	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through that process, correct? A. That is what is happening, yes. Q. Okay. Am I correct when I look at the top line of Defendants' Exhibit 462, that collections of 2.2 million less disbursements of 2.1 million ends up with a balance at the end of fiscal year 1887 of \$5.8 million, am I reading the chart
01:38:36PM 2 01:38:46PM 4 01:38:47PM 5 01:38:56PM 6 01:38:56PM 8 01:38:56PM 9 01:38:56PM 10 01:38:56PM 12 01:39:36PM 12 01:39:36PM 12 01:39:36PM 14 01:39:36PM 15 01:39:36PM 15	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you? A. No, I have not. I think I also said this morning that we used only a small number of iterations, only a thousand, in the May 30 data. Like ten thousand. Q. So between May 30 and June 4 we've identified a couple things, and keep me straight. We've identified that you've now put a balance in for 1887 and you ran ten times the number of imputations, correct?	01:42:03PM 2 01:42:03PM 3 01:42:10PM 4 01:42:13PM 5 01:42:23PM 6 01:42:23PM 7 01:42:23PM 9 01:42:33PM 10 01:42:33PM 11 01:42:34PM 12 01:42:43PM 13 01:42:53PM 14 01:42:53PM 15	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through that process, correct? A. That is what is happening, yes. Q. Okay. Am I correct when I look at the top line of Defendants' Exhibit 462, that collections of 2.2 million less disbursements of 2.1 million ends up with a balance at the end of fiscal year 1887 of \$5.8 million, am I reading the chart correctly?
013836PM 2 013846PM 3 013841PM 4 013847PM 5 013856PM 6 013856PM 7 013856PM 9 013804PM 10 013903PM 11 013903PM 12 013903PM 13 013903PM 14 013915PM 15 013941PM 16 013944PM 16	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you? A. No, I have not. I think I also said this morning that we used only a small number of iterations, only a thousand, in the May 30 data. Like ten thousand. Q. So between May 30 and June 4 we've identified a couple things, and keep me straight. We've identified that you've now put a balance in for 1887 and you ran ten times the number of imputations, correct? A. I didn't put a balance in. I did I didn't force a	01:42:03PM 2 01:42:03PM 3 01:42:10PM 4 01:42:13PM 5 01:42:21PM 6 01:42:23PM 7 01:42:23PM 9 01:42:23PM 10 01:42:32PM 11 01:42:43PM 11 01:42:43PM 12 01:42:45PM 13 01:42:53PM 14 01:42:53PM 14 01:42:53PM 15 01:43:03PM 16 01:43:03PM 16	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through that process, correct? A. That is what is happening, yes. Q. Okay. Am I correct when I look at the top line of Defendants' Exhibit 462, that collections of 2.2 million less disbursements of 2.1 million ends up with a balance at the end of fiscal year 1887 of \$5.8 million, am I reading the chart correctly? A. You are correct.
01:38:36PM 2 01:38:47PM 4 01:38:47PM 5 01:38:56PM 6 01:38:55PM 7 01:38:55PM 8 01:38:55PM 10 01:39:05PM 11 01:39:05PM 12 01:39:05PM 13 01:39:05PM 14 01:39:05PM 15 01:39:05PM 15 01:39:05PM 17 01:39:05PM 15	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you? A. No, I have not. I think I also said this morning that we used only a small number of iterations, only a thousand, in the May 30 data. Like ten thousand. Q. So between May 30 and June 4 we've identified a couple things, and keep me straight. We've identified that you've now put a balance in for 1887 and you ran ten times the number of imputations, correct? A. I didn't put a balance in. I did I didn't force a balance of zero, okay, in 1887, which we had done earlier.	01:42:03PM 2 01:42:03PM 3 01:42:10PM 4 01:42:13PM 5 01:42:21PM 6 01:42:23PM 7 01:42:23PM 10 01:42:33PM 11 01:42:43PM 12 01:42:43PM 13 01:42:43PM 13 01:42:43PM 14 01:42:43PM 15 01:43:03PM 16 01:43:03PM 17 01:43:03PM 17	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through that process, correct? A. That is what is happening, yes. Q. Okay. Am I correct when I look at the top line of Defendants' Exhibit 462, that collections of 2.2 million less disbursements of 2.1 million ends up with a balance at the end of fiscal year 1887 of \$5.8 million, am I reading the chart correctly? A. You are correct. Q. So the beginning balance at the end of fiscal year 1886
01:38:36PM 2 01:38:46PM 4 01:38:47PM 5 01:38:56PM 6 01:38:56PM 8 01:38:56PM 10 01:38:56PM 11 01:38:56PM 11 01:39:36PM 12 01:39:36PM 15 01:39:36PM 15 01:39:36PM 16 01:39:36PM 17 01:39:46PM 18 01:39:46PM 18	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you? A. No, I have not. I think I also said this morning that we used only a small number of iterations, only a thousand, in the May 30 data. Like ten thousand. Q. So between May 30 and June 4 we've identified a couple things, and keep me straight. We've identified that you've now put a balance in for 1887 and you ran ten times the number of imputations, correct? A. I didn't put a balance in. I did I didn't force a balance of zero, okay, in 1887, which we had done earlier. Q. Okay. You didn't put a balance in, but you let this model	01:42:03PM 2 01:42:03PM 3 01:42:10PM 4 01:42:13PM 5 01:42:13PM 6 01:42:23PM 7 01:42:23PM 9 01:42:33PM 10 01:42:33PM 11 01:42:34PM 11 01:42:43PM 13 01:42:53PM 14 01:42:53PM 15 01:43:03PM 16 01:43:03PM 17 01:43:05PM 17	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through that process, correct? A. That is what is happening, yes. Q. Okay. Am I correct when I look at the top line of Defendants' Exhibit 462, that collections of 2.2 million less disbursements of 2.1 million ends up with a balance at the end of fiscal year 1887 of \$5.8 million, am I reading the chart correctly? A. You are correct. Q. So the beginning balance at the end of fiscal year 1886 under this would be 5.7 million, correct?
01:38:36PM 2 01:38:46PM 3 01:38:47PM 5 01:38:56PM 6 01:38:56PM 9 01:38:56PM 10 01:38:56PM 11 01:38:56PM 12 01:39:36PM 15 01:39:36PM 15 01:39:36PM 16 01:39:36PM 16 01:39:36PM 17 01:39:36PM 18 01:39:36PM 18 01:39:36PM 19 01:39:36PM 19	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you? A. No, I have not. I think I also said this morning that we used only a small number of iterations, only a thousand, in the May 30 data. Like ten thousand. Q. So between May 30 and June 4 we've identified a couple things, and keep me straight. We've identified that you've now put a balance in for 1887 and you ran ten times the number of imputations, correct? A. I didn't put a balance in. I did I didn't force a balance of zero, okay, in 1887, which we had done earlier. Q. Okay. You didn't put a balance in, but you let this model that you created generate a value for that missing information?	01:42:03PM 2 01:42:03PM 3 01:42:10PM 4 01:42:13PM 5 01:42:21PM 6 01:42:23PM 7 01:42:23PM 9 01:42:32PM 10 01:42:32PM 11 01:42:32PM 11 01:42:32PM 15 01:42:33PM 16 01:43:03PM 16 01:43:03PM 17 01:43:03PM 18 01:43:11PM 19 01:43:14PM 19	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through that process, correct? A. That is what is happening, yes. Q. Okay. Am I correct when I look at the top line of Defendants' Exhibit 462, that collections of 2.2 million less disbursements of 2.1 million ends up with a balance at the end of fiscal year 1887 of \$5.8 million, am I reading the chart correctly? A. You are correct. Q. So the beginning balance at the end of fiscal year 1886 under this would be 5.7 million, correct? A. If it's footed, yes.
013836PM 2 013846PM 3 013841PM 4 013847PM 5 013856PM 6 013856PM 9 013856PM 10 013853PM 7 013854PM 12 013904PM 15 013904PM 15 013904PM 15 013904PM 16 013904PM 17 013904PM 18 013904PM 18 013904PM 18 013904PM 20 014002PM 21	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you? A. No, I have not. I think I also said this morning that we used only a small number of iterations, only a thousand, in the May 30 data. Like ten thousand. Q. So between May 30 and June 4 we've identified a couple things, and keep me straight. We've identified that you've now put a balance in for 1887 and you ran ten times the number of imputations, correct? A. I didn't put a balance in. I did I didn't force a balance of zero, okay, in 1887, which we had done earlier. Q. Okay. You didn't put a balance in, but you let this model that you created generate a value for that missing information? A. Correct.	01:42:03PM 2 01:42:03PM 3 01:42:10PM 4 01:42:13PM 5 01:42:21PM 6 01:42:23PM 7 01:42:23PM 9 01:42:23PM 10 01:42:33PM 11 01:42:34PM 12 01:42:34PM 13 01:42:35PM 14 01:42:35PM 15 01:43:03PM 16 01:43:03PM 16 01:43:03PM 17 01:43:03PM 18 01:43:14PM 20 01:43:14PM 20 01:43:14PM 20	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through that process, correct? A. That is what is happening, yes. Q. Okay. Am I correct when I look at the top line of Defendants' Exhibit 462, that collections of 2.2 million less disbursements of 2.1 million ends up with a balance at the end of fiscal year 1887 of \$5.8 million, am I reading the chart correctly? A. You are correct. Q. So the beginning balance at the end of fiscal year 1886 under this would be 5.7 million, correct? A. If it's footed, yes. Q. Now, for those seven years then the average amount would be
01:38:36PM 2 01:38:46PM 4 01:38:47PM 5 01:38:56PM 6 01:38:56PM 8 01:38:56PM 10 01:38:56PM 11 01:38:56PM 11 01:38:56PM 11 01:38:56PM 15 01:38:56PM 17 01:38:56PM 18 01:38:56PM 18 01:38:56PM 18 01:38:56PM 18 01:38:56PM 18 01:38:56PM 18 01:38:56PM 19 01:38:56PM 20 01:40:02PM 21 01:40:02PM 22	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you? A. No, I have not. I think I also said this morning that we used only a small number of iterations, only a thousand, in the May 30 data. Like ten thousand. Q. So between May 30 and June 4 we've identified a couple things, and keep me straight. We've identified that you've now put a balance in for 1887 and you ran ten times the number of imputations, correct? A. I didn't put a balance in. I did I didn't force a balance of zero, okay, in 1887, which we had done earlier. Q. Okay. You didn't put a balance in, but you let this model that you created generate a value for that missing information? A. Correct. Q. And it generated a value of \$5.8 million balance in 1887,	01:42:03PM 2 01:42:03PM 3 01:42:10PM 4 01:42:13PM 5 01:42:13PM 6 01:42:23PM 7 01:42:23PM 10 01:42:33PM 11 01:42:34PM 11 01:42:34PM 13 01:42:34PM 15 01:42:35PM 15 01:43:03PM 16 01:43:03PM 16 01:43:03PM 17 01:43:03PM 18 01:43:14PM 20 01:43:14PM 20 01:43:14PM 20	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through that process, correct? A. That is what is happening, yes. Q. Okay. Am I correct when I look at the top line of Defendants' Exhibit 462, that collections of 2.2 million less disbursements of 2.1 million ends up with a balance at the end of fiscal year 1887 of \$5.8 million, am I reading the chart correctly? A. You are correct. Q. So the beginning balance at the end of fiscal year 1886 under this would be 5.7 million, correct? A. If it's footed, yes. Q. Now, for those seven years then the average amount would be approximately eight hundred to nine hundred thousand dollars in
01:38:36PM 2 01:38:46PM 3 01:38:47PM 5 01:38:56PM 6 01:38:56PM 8 01:38:56PM 9 01:38:56PM 10 01:38:56PM 11 01:39:36PM 12 01:39:36PM 12 01:39:36PM 15 01:39:36PM 15 01:39:36PM 16 01:39:36PM 17 01:38:46PM 16 01:39:36PM 19 01:39:57PM 20 01:40:02PM 22 01:40:02PM 22 01:40:02PM 22	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you? A. No, I have not. I think I also said this morning that we used only a small number of iterations, only a thousand, in the May 30 data. Like ten thousand. Q. So between May 30 and June 4 we've identified a couple things, and keep me straight. We've identified that you've now put a balance in for 1887 and you ran ten times the number of imputations, correct? A. I didn't put a balance in. I did I didn't force a balance of zero, okay, in 1887, which we had done earlier. Q. Okay. You didn't put a balance in, but you let this model that you created generate a value for that missing information? A. Correct. Q. And it generated a value of \$5.8 million balance in 1887, correct?	01:42:03PM 2 01:42:03PM 3 01:42:10PM 4 01:42:13PM 5 01:42:13PM 6 01:42:23PM 7 01:42:23PM 10 01:42:33PM 11 01:42:33PM 11 01:42:33PM 11 01:42:43PM 12 01:42:43PM 15 01:42:53PM 14 01:42:53PM 15 01:43:03PM 16 01:43:03PM 17 01:43:03PM 17 01:43:03PM 19 01:43:13PM 19 01:43:13PM 20 01:43:13PM 21 01:43:23PM 21	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through that process, correct? A. That is what is happening, yes. Q. Okay. Am I correct when I look at the top line of Defendants' Exhibit 462, that collections of 2.2 million less disbursements of 2.1 million ends up with a balance at the end of fiscal year 1887 of \$5.8 million, am I reading the chart correctly? A. You are correct. Q. So the beginning balance at the end of fiscal year 1886 under this would be 5.7 million, correct? A. If it's footed, yes. Q. Now, for those seven years then the average amount would be approximately eight hundred to nine hundred thousand dollars in a buildup of the balance, correct?
01:38:36PM 2 01:38:46PM 3 01:38:47PM 5 01:38:56PM 6 01:38:56PM 9 01:38:56PM 10 01:38:56PM 11 01:38:56PM 12 01:38:56PM 15 01:38:56PM 15 01:38:56PM 16 01:38:56PM 17 01:38:56PM 16 01:38:56PM 17 01:38:56PM 18 01:38:56PM 19 01:38:56PM 19 01:38:56PM 20 01:40:36PM 22 01:40:36PM 23 01:40:36PM 23 01:40:36PM 23	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you? A. No, I have not. I think I also said this morning that we used only a small number of iterations, only a thousand, in the May 30 data. Like ten thousand. Q. So between May 30 and June 4 we've identified a couple things, and keep me straight. We've identified that you've now put a balance in for 1887 and you ran ten times the number of imputations, correct? A. I didn't put a balance in. I did I didn't force a balance of zero, okay, in 1887, which we had done earlier. Q. Okay. You didn't put a balance in, but you let this model that you created generate a value for that missing information? A. Correct. Q. And it generated a value of \$5.8 million balance in 1887, correct? A. Yes.	01:42:03PM 2 01:42:03PM 3 01:42:10PM 4 01:42:13PM 5 01:42:21PM 6 01:42:23PM 7 01:42:23PM 9 01:42:32PM 10 01:42:32PM 11 01:42:43PM 12 01:42:45PM 13 01:42:45PM 14 01:42:57PM 15 01:43:03PM 16 01:43:03PM 17 01:43:03PM 18 01:43:11PM 19 01:43:14PM 20 01:43:14PM 20 01:43:15PM 21 01:43:24PM 21 01:43:24PM 22 01:43:24PM 22	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through that process, correct? A. That is what is happening, yes. Q. Okay. Am I correct when I look at the top line of Defendants' Exhibit 462, that collections of 2.2 million less disbursements of 2.1 million ends up with a balance at the end of fiscal year 1887 of \$5.8 million, am I reading the chart correctly? A. You are correct. Q. So the beginning balance at the end of fiscal year 1886 under this would be 5.7 million, correct? A. If it's footed, yes. Q. Now, for those seven years then the average amount would be approximately eight hundred to nine hundred thousand dollars in a buildup of the balance, correct? A. I think I need to give you more information than this, but,
01:38:36PM 2 01:38:46PM 3 01:38:47PM 5 01:38:56PM 6 01:38:56PM 8 01:38:56PM 9 01:38:56PM 10 01:38:56PM 11 01:39:36PM 12 01:39:36PM 12 01:39:36PM 15 01:39:36PM 15 01:39:36PM 16 01:39:36PM 17 01:38:46PM 16 01:39:36PM 19 01:39:57PM 20 01:40:02PM 22 01:40:02PM 22 01:40:02PM 22	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you? A. No, I have not. I think I also said this morning that we used only a small number of iterations, only a thousand, in the May 30 data. Like ten thousand. Q. So between May 30 and June 4 we've identified a couple things, and keep me straight. We've identified that you've now put a balance in for 1887 and you ran ten times the number of imputations, correct? A. I didn't put a balance in. I did I didn't force a balance of zero, okay, in 1887, which we had done earlier. Q. Okay. You didn't put a balance in, but you let this model that you created generate a value for that missing information? A. Correct. Q. And it generated a value of \$5.8 million balance in 1887, correct? A. Yes. Q. Now	01:42:03PM 2 01:42:03PM 3 01:42:10PM 4 01:42:13PM 5 01:42:13PM 6 01:42:23PM 7 01:42:23PM 10 01:42:33PM 11 01:42:33PM 11 01:42:33PM 11 01:42:43PM 12 01:42:43PM 15 01:42:53PM 14 01:42:53PM 15 01:43:03PM 16 01:43:03PM 17 01:43:03PM 17 01:43:03PM 19 01:43:13PM 19 01:43:13PM 20 01:43:13PM 21 01:43:23PM 21	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through that process, correct? A. That is what is happening, yes. Q. Okay. Am I correct when I look at the top line of Defendants' Exhibit 462, that collections of 2.2 million less disbursements of 2.1 million ends up with a balance at the end of fiscal year 1887 of \$5.8 million, am I reading the chart correctly? A. You are correct. Q. So the beginning balance at the end of fiscal year 1886 under this would be 5.7 million, correct? A. If it's footed, yes. Q. Now, for those seven years then the average amount would be approximately eight hundred to nine hundred thousand dollars in a buildup of the balance, correct? A. I think I need to give you more information than this, but, yes, that is a logical conclusion, yes.
01:38:36PM 2 01:38:46PM 3 01:38:47PM 5 01:38:56PM 6 01:38:56PM 9 01:38:56PM 10 01:38:56PM 11 01:38:56PM 12 01:38:56PM 15 01:38:56PM 15 01:38:56PM 16 01:38:56PM 17 01:38:56PM 16 01:38:56PM 17 01:38:56PM 18 01:38:56PM 19 01:38:56PM 19 01:38:56PM 20 01:40:36PM 22 01:40:36PM 23 01:40:36PM 23 01:40:36PM 23	which in fact in some senses it didn't. Q. Oh, okay. So that was one thing you did talk about, how? A. This morning. Q. And the model that was run that generated the May 30th information we were given, are you saying that that was presumably a zero balance as of 1887? A. That is my recollection. Q. Okay. You've never produced the analysis for May 30 to us, have you? A. No, I have not. I think I also said this morning that we used only a small number of iterations, only a thousand, in the May 30 data. Like ten thousand. Q. So between May 30 and June 4 we've identified a couple things, and keep me straight. We've identified that you've now put a balance in for 1887 and you ran ten times the number of imputations, correct? A. I didn't put a balance in. I did I didn't force a balance of zero, okay, in 1887, which we had done earlier. Q. Okay. You didn't put a balance in, but you let this model that you created generate a value for that missing information? A. Correct. Q. And it generated a value of \$5.8 million balance in 1887, correct? A. Yes.	01:42:03PM 2 01:42:03PM 3 01:42:10PM 4 01:42:13PM 5 01:42:21PM 6 01:42:23PM 7 01:42:23PM 9 01:42:32PM 10 01:42:32PM 11 01:42:43PM 12 01:42:45PM 13 01:42:45PM 14 01:42:57PM 15 01:43:03PM 16 01:43:03PM 17 01:43:03PM 18 01:43:11PM 19 01:43:14PM 20 01:43:14PM 20 01:43:15PM 21 01:43:24PM 21 01:43:24PM 22 01:43:24PM 22	numbers for 1887 were 2.2 million and disbursement 2.1 million and that meant there was a balance increase for that year of 2.1 million, so where does the other money come from? It obviously comes from the past, okay. It has to come from the past, and this issue is one that we're we don't have we actually it comes out of the process that you haven't seen. Q. Okay. And this process I haven't seen would indicate to me that on average over a course of six or seven years there is approximately \$5.8 million balance that is generated through that process, correct? A. That is what is happening, yes. Q. Okay. Am I correct when I look at the top line of Defendants' Exhibit 462, that collections of 2.2 million less disbursements of 2.1 million ends up with a balance at the end of fiscal year 1887 of \$5.8 million, am I reading the chart correctly? A. You are correct. Q. So the beginning balance at the end of fiscal year 1886 under this would be 5.7 million, correct? A. If it's footed, yes. Q. Now, for those seven years then the average amount would be approximately eight hundred to nine hundred thousand dollars in a buildup of the balance, correct? A. I think I need to give you more information than this, but,

4	1010		1012
01:43:37PM 1	Q. And then after that there isn't another year where this	01:47:01PM 1	talking from my notes, not from the transcript, but it was
01:43:41PM 2	model that you have constructed would show that much build up in	01:47:05PM 2	something about that the model was so unstable that you treated
01:43:46PM 3	the balance until which year?	01:47:11PM 3	1996 and beyond as actual data, at least that's the gist of what
11:43:48PM 4	A. Well, in looking at the data it looks like 1903.	01:47:19PM 4	I heard you say.
1:43:56PM 5	Perhaps I'm not sure what you mean. 5.8 to 10, what is that?	01:47:20PM 5	A. That is not what I said.
1:44:00PM 6	Q. Well, it looks like to me there's a \$400,000 difference	01:47:21PM 6	Q. Okay. Is that true?
1:44:03PM 7	between collections and disbursements in 1903.	01:47:23PM 7	A. Let me separate the truths that you're saying into pieces
11:44:10PM 8	A. Yes, but you're not looking at the balances. The	01:47:29PM 8	and then see what the causal links are, if there are causal
1:44:12PM 9	difference between the two balances is \$3 million.	01:47:34PM 9	links. May I start?
:44:15PM 10	Q. Oh, okay. So you're saying, well, look at the balances,	01:47:35PM 10	Q. Please.
:44:18PM 11	don't look at the collections and disbursements?	01:47:35PM 11	A. The first thing to remember is that the 1996 data, which
:44:20PM 12	A. Well, I won't say don't. Don't just look at the	01:47:39PM 12	was very useful, has been audited it. All the data since 1996
:44:24PM 13	collections and disbursements. We do not this system does	01:47:44PM 13	has been audited and all of it is footed. It behaves in the
:44:27PM 14	not foot until 1996, and the balance information is in the	01:47:49PM 14	proper way, is an accounting system. The earlier data does not
:44:34PM 15	system but it's not is tied perhaps it's timing or	01:47:53PM 15	behave in that way, which made us suspicious of it. We took the
:44:40PM 16	whatever it is, but it's not tied closely.	01:48:01PM 16	1996 data as useful in understanding the earlier data, but we
44:42PM 17	Q. You said it didn't foot until 1996?	01:48:06PM 17	didn't change it.
44:46PM 18	A. That's correct.	01:48:07PM 18	Q. Okay. Did you say, did you talk at all during your direct
44:46PM 19	Q. Did I understand you correctly?	01:48:14PM 19	examination about any instability in the model as it relates to
44:48PM 20	A. That's what these data show.	01:48:19PM 20	these years 1996 and beyond?
44:50PM 21	Q. That's what this model shows, correct?	01:48:21PM 21	A. No, not about that year.
44:52PM 22	A. Well, there is two ways to answer that. One of them is in	01:48:24PM 22	Q. Now, so you are taking from 1996 through 2007 because there
14:59PM 23	those years we have data, collections, disbursements, and	01:48:35PM 23	are audited financial statements, you're accepting those as
45:03PM 24	balances. The only years which we have data in foots begin in	01:48:37PM 24	being correct?
45:07PM 25	1996.	01:48:38PM 25	A. I'm accepting those, yes. The word "correct" is your word.
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
4	1011	1	1013
45:08PM 1	Q. Okay. Now, is that something that you set the model up to	01:48:44PM 1	Q. Okay. When you say you're accepting them, is there still a
15:19PM 2	do, to make sure it footed as of 1996?	01:48:48PM 2	part of your analysis that assumes any uncertainty with respect
	A No. 14 days Thatle was bloke	2	
4	A. No. It does. That's real data.	01:48:55PM 3	to the data from 1996 forward?
15:27PM 4	Q. Okay. Then let me ask this: The data for 1996 is real	01:48:58PM 4	to the data from 1996 forward? A. No.
45:27PM 4 45:23PM 5	Q. Okay. Then let me ask this: The data for 1996 is real data, is what you're saying?	01:48:59PM 5	to the data from 1996 forward? A. No. Q. Okay. So you are not viewing that as being uncertain in
45:27PM 4 45:33PM 5 45:34PM 6	Q. Okay. Then let me ask this: The data for 1996 is real data, is what you're saying?A. Yes, sir.	01:48:58PM	to the data from 1996 forward? A. No. Q. Okay. So you are not viewing that as being uncertain in the least?
4 15:33PM 5 15:34PM 6 15:34PM 7	 Q. Okay. Then let me ask this: The data for 1996 is real data, is what you're saying? A. Yes, sir. Q. And is that different than the other data that you show 	01:48:58PM	to the data from 1996 forward? A. No. Q. Okay. So you are not viewing that as being uncertain in the least? A. It is not part of the modeling process, correct.
4 435:33PM 5 435:33PM 6 435:34PM 7 435:34PM 8	 Q. Okay. Then let me ask this: The data for 1996 is real data, is what you're saying? A. Yes, sir. Q. And is that different than the other data that you show here as reported values? Are you treating that different in 	01:48:58PM	to the data from 1996 forward? A. No. Q. Okay. So you are not viewing that as being uncertain in the least? A. It is not part of the modeling process, correct. Q. I did not understand what you said.
5:33PM 5 5:33PM 6 6:5:34PM 7 8:5:42PM 8 9	 Q. Okay. Then let me ask this: The data for 1996 is real data, is what you're saying? A. Yes, sir. Q. And is that different than the other data that you show here as reported values? Are you treating that different in some fashion? 	01:48:58PM	to the data from 1996 forward? A. No. Q. Okay. So you are not viewing that as being uncertain in the least? A. It is not part of the modeling process, correct. Q. I did not understand what you said. A. It is not our focus of the modeling.
4 35.33PM 5 35.33PM 6 35.34PM 7 35.34PM 8 35.34PM 9 10.534PM 10	 Q. Okay. Then let me ask this: The data for 1996 is real data, is what you're saying? A. Yes, sir. Q. And is that different than the other data that you show here as reported values? Are you treating that different in some fashion? A. You're right in that some of the data, the data that's in 	01:48:58PM 4 01:48:58PM 5 01:49:05PM 6 01:49:05PM 7 01:49:11PM 8 01:49:13PM 9 01:49:13PM 10	to the data from 1996 forward? A. No. Q. Okay. So you are not viewing that as being uncertain in the least? A. It is not part of the modeling process, correct. Q. I did not understand what you said. A. It is not our focus of the modeling. Q. Can you just repeat your answer?
45:37PM 4 45:33PM 5 45:34PM 6 45:34PM 7 845:42PM 8 45:42PM 9 45:43PM 10 45:55PM 11	 Q. Okay. Then let me ask this: The data for 1996 is real data, is what you're saying? A. Yes, sir. Q. And is that different than the other data that you show here as reported values? Are you treating that different in some fashion? A. You're right in that some of the data, the data that's in the boxes, okay, was reported data, but has been model adjusted. 	01:48:58PM 4 01:48:58PM 5 01:49:05PM 6 01:49:05PM 7 01:49:11PM 8 01:49:13PM 9 01:49:15PM 10 01:49:15PM 11	to the data from 1996 forward? A. No. Q. Okay. So you are not viewing that as being uncertain in the least? A. It is not part of the modeling process, correct. Q. I did not understand what you said. A. It is not our focus of the modeling. Q. Can you just repeat your answer? A. I can't do that exactly but I'll say it differently maybe
4 55.527PM 4 5 55.534PM 6 7 8 9 9 15.545PM 10 11 12 55.55PM 11 12	 Q. Okay. Then let me ask this: The data for 1996 is real data, is what you're saying? A. Yes, sir. Q. And is that different than the other data that you show here as reported values? Are you treating that different in some fashion? A. You're right in that some of the data, the data that's in the boxes, okay, was reported data, but has been model adjusted. The data that was not in the does not have a box around it 	01:48:58PM 4 01:48:58PM 5 01:49:05PM 6 01:49:05PM 7 01:49:11PM 8 01:49:13PM 9 01:49:18PM 10 01:49:15PM 11	to the data from 1996 forward? A. No. Q. Okay. So you are not viewing that as being uncertain in the least? A. It is not part of the modeling process, correct. Q. I did not understand what you said. A. It is not our focus of the modeling. Q. Can you just repeat your answer? A. I can't do that exactly but I'll say it differently maybe and that will help you.
4	 Q. Okay. Then let me ask this: The data for 1996 is real data, is what you're saying? A. Yes, sir. Q. And is that different than the other data that you show here as reported values? Are you treating that different in some fashion? A. You're right in that some of the data, the data that's in the boxes, okay, was reported data, but has been model adjusted. The data that was not in the does not have a box around it and is not color-coded is reported data. 	01:48:58PM 4 01:48:58PM 5 01:49:05PM 6 01:49:05PM 7 01:49:11PM 8 01:49:13PM 9 01:49:13PM 10 01:49:15PM 11 01:49:22PM 12	to the data from 1996 forward? A. No. Q. Okay. So you are not viewing that as being uncertain in the least? A. It is not part of the modeling process, correct. Q. I did not understand what you said. A. It is not our focus of the modeling. Q. Can you just repeat your answer? A. I can't do that exactly but I'll say it differently maybe and that will help you. Q. Okay.
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45.33PM 4 45.33PM 5 6 6 7 7 45.34PM 8 9 9 10.45.36PM 10 11.45.36PM 11 12 46.02PM 12 13 46.02PM 13 14 46.11PM 14 15	 Q. Okay. Then let me ask this: The data for 1996 is real data, is what you're saying? A. Yes, sir. Q. And is that different than the other data that you show here as reported values? Are you treating that different in some fashion? A. You're right in that some of the data, the data that's in the boxes, okay, was reported data, but has been model adjusted. The data that was not in the does not have a box around it and is not color-coded is reported data. Q. Okay. So when I look under the columns Collections and Disbursements on Defendants' Exhibit 462, everything that was a 	01:48:58PM 4 01:48:58PM 5 01:49:05PM 6 01:49:05PM 7 01:49:11PM 8 01:49:13PM 10 01:49:15PM 11 01:49:23PM 12 01:49:23PM 13 01:49:24PM 14 01:49:28PM 15	to the data from 1996 forward? A. No. Q. Okay. So you are not viewing that as being uncertain in the least? A. It is not part of the modeling process, correct. Q. I did not understand what you said. A. It is not our focus of the modeling. Q. Can you just repeat your answer? A. I can't do that exactly but I'll say it differently maybe and that will help you. Q. Okay. A. And of course you'll have the transcript too to compare what I said the first time to what I said now.
4	 Q. Okay. Then let me ask this: The data for 1996 is real data, is what you're saying? A. Yes, sir. Q. And is that different than the other data that you show here as reported values? Are you treating that different in some fashion? A. You're right in that some of the data, the data that's in the boxes, okay, was reported data, but has been model adjusted. The data that was not in the does not have a box around it and is not color-coded is reported data. Q. Okay. So when I look under the columns Collections and Disbursements on Defendants' Exhibit 462, everything that was a reported value earlier now shows as being a model adjusted value 	01:48:58PM 4 01:48:58PM 5 01:49:05PM 6 01:49:05PM 7 01:49:13PM 8 01:49:13PM 10 01:49:13PM 11 01:49:23PM 13 01:49:23PM 14 01:49:23PM 14 01:49:24PM 14 01:49:24PM 15	 to the data from 1996 forward? A. No. Q. Okay. So you are not viewing that as being uncertain in the least? A. It is not part of the modeling process, correct. Q. I did not understand what you said. A. It is not our focus of the modeling. Q. Can you just repeat your answer? A. I can't do that exactly but I'll say it differently maybe and that will help you. Q. Okay. A. And of course you'll have the transcript too to compare what I said the first time to what I said now. We know the data was audited in 1996. It foots, it
4 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5	 Q. Okay. Then let me ask this: The data for 1996 is real data, is what you're saying? A. Yes, sir. Q. And is that different than the other data that you show here as reported values? Are you treating that different in some fashion? A. You're right in that some of the data, the data that's in the boxes, okay, was reported data, but has been model adjusted. The data that was not in the does not have a box around it and is not color-coded is reported data. Q. Okay. So when I look under the columns Collections and Disbursements on Defendants' Exhibit 462, everything that was a reported value earlier now shows as being a model adjusted value all the way up until 1996, correct? 	01:48:58PM 4 01:48:58PM 5 01:49:05PM 6 01:49:05PM 7 01:49:13PM 9 01:49:13PM 10 01:49:13PM 11 01:49:23PM 12 01:49:23PM 13 01:49:23PM 14 01:49:33PM 15 01:49:33PM 16 01:49:33PM 16	 A. No. Q. Okay. So you are not viewing that as being uncertain in the least? A. It is not part of the modeling process, correct. Q. I did not understand what you said. A. It is not our focus of the modeling. Q. Can you just repeat your answer? A. I can't do that exactly but I'll say it differently maybe and that will help you. Q. Okay. A. And of course you'll have the transcript too to compare what I said the first time to what I said now. We know the data was audited in 1996. It foots, it makes sense in terms of the earlier data, okay, for use earlier
4 3 53279M 4 5 6 6 6 5349PM 7 7 8 9 9 10 11 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	 Q. Okay. Then let me ask this: The data for 1996 is real data, is what you're saying? A. Yes, sir. Q. And is that different than the other data that you show here as reported values? Are you treating that different in some fashion? A. You're right in that some of the data, the data that's in the boxes, okay, was reported data, but has been model adjusted. The data that was not in the does not have a box around it and is not color-coded is reported data. Q. Okay. So when I look under the columns Collections and Disbursements on Defendants' Exhibit 462, everything that was a reported value earlier now shows as being a model adjusted value all the way up until 1996, correct? A. When we're talking about collections and disbursements, 	01:48:58PM 4 01:48:58PM 5 01:49:05PM 6 01:49:05PM 7 01:49:18PM 9 01:49:18PM 10 01:49:18PM 11 01:49:23PM 12 01:49:23PM 14 01:49:23PM 15 01:49:35PM 16 01:49:35PM 17 01:49:35PM 17	 to the data from 1996 forward? A. No. Q. Okay. So you are not viewing that as being uncertain in the least? A. It is not part of the modeling process, correct. Q. I did not understand what you said. A. It is not our focus of the modeling. Q. Can you just repeat your answer? A. I can't do that exactly but I'll say it differently maybe and that will help you. Q. Okay. A. And of course you'll have the transcript too to compare what I said the first time to what I said now. We know the data was audited in 1996. It foots, it makes sense in terms of the earlier data, okay, for use earlier and collections and disbursements. And we took we took that
4 35.35PM 4 5 5 6 6 7 7 8 55.34PM 8 9 9 10 11 11 12 15.55PM 11 12 15.55PM 11 14 15.55PM 15.55P	 Q. Okay. Then let me ask this: The data for 1996 is real data, is what you're saying? A. Yes, sir. Q. And is that different than the other data that you show here as reported values? Are you treating that different in some fashion? A. You're right in that some of the data, the data that's in the boxes, okay, was reported data, but has been model adjusted. The data that was not in the does not have a box around it and is not color-coded is reported data. Q. Okay. So when I look under the columns Collections and Disbursements on Defendants' Exhibit 462, everything that was a reported value earlier now shows as being a model adjusted value all the way up until 1996, correct? A. When we're talking about collections and disbursements, what you said is true. The balances were not model adjusted. 	01:48:58PM 4 01:48:58PM 5 01:49:05PM 6 01:49:05PM 7 01:49:15PM 9 01:49:15PM 10 01:49:15PM 11 01:49:23PM 13 01:49:23PM 14 01:49:23PM 15 01:49:35PM 16 01:49:35PM 17 01:49:35PM 18 01:49:35PM 18	 to the data from 1996 forward? A. No. Q. Okay. So you are not viewing that as being uncertain in the least? A. It is not part of the modeling process, correct. Q. I did not understand what you said. A. It is not our focus of the modeling. Q. Can you just repeat your answer? A. I can't do that exactly but I'll say it differently maybe and that will help you. Q. Okay. A. And of course you'll have the transcript too to compare what I said the first time to what I said now. We know the data was audited in 1996. It foots, it makes sense in terms of the earlier data, okay, for use earlier and collections and disbursements. And we took we took that data as a given and not a need of any further adjustment, either
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	1014		1016
01:50:12PM 1	Q. Okay. I got off on this as I was trying to find out what	01:53:52PM 1	this is the answer I have right now.
01:50:16PM 2	went on in these two different analyses for the pre-1972 period,	01:53:53PM 2	Q. Okay. Well, let's do move on. Have you ever applied this
01:50:21PM 3	and let's go back to what I'm calling Plaintiffs' Exhibit 117.	01:54:12PM 3	multiple imputation model to a situation such as this one?
01:50:28PM 4	Now, you told me that part of the reason these changed had to do	01:54:18PM 4	A. The degree to which the situations are similar is in the
01:50:35PM 5	with the that you included 1980 through 1986 in your	01:54:25PM 5	eye of the be holder. I've applied multiple imputation in lots
01:50:42PM 6	analysis, correct, is one reason that the numbers changed? I	01:54:29PM 6	of situations. Exactly like this, never.
01:50:49PM 7	may have said 19. I should be saying 1880 to 1886.	01:54:32PM 7	Q. Okay. Now, as I have read your article that was produced
01:50:53PM 8	A. That would help me, yes.	01:54:37PM 8	today and other articles on multiple imputation, it originally
01:50:54PM 9	Q. I'm sorry I misspoke. Can you explain any of the other	01:54:43PM 9	grew out of trying to impute values for missing data in
01:50:59PM 10	reasons that the numbers changed between May 30 and June 4?	01:54:49PM 10	extremely large surveys, correct?
01:51:04PM 11	A. We of course are fitting a different model, okay, than we	01:54:51PM 11	A. Correct.
01:51:09PM 12	were fitting earlier, all right. A model which we liked better	01:54:52PM 12	Q. And those values needed to be imputed in those surveys so
01:51:13PM 13	and we were comfortable with, and also I mentioned earlier that	01:54:59PM 13	that then-existing techniques for studying a completed data set
01:51:16PM 14	we had we have, subsequent to the multiple imputation, we had	01:55:09PM 14	could be run on those sets, correct?
01:51:22PM 15	done the model adjustments for the reported values, and I'm	01:55:11PM 15	A. That is correct. Those techniques of course are still
01:51:27PM 16	pretty sure that those were not done until after May 30th,	01:55:14PM 16	being used.
01:51:31PM 17	although we may have done them, but the version you got on May	01:55:14PM 17	Q. And that's the reason why in those surveys that you want to
01:51:35PM 18	30th did not have them.	01:55:20PM 18	impute or put some value in for the missing data?
01:51:36PM 19	Q. Okay. And when you talk about the model-adjusted numbers,	01:55:23PM 19	A. The value of the imputation, the multiple imputation
01:51:40PM 20	those are the ones on DX 462 that show up in the black boxes?	01:55:29PM 20	important word was to get to uncertainty, but the analysis
01:51:45PM 21	A. That's correct.	01:55:34PM 21	had to be done, especially given this offer in those days, was
01:51:45PM 22	Q. Okay. And certainly the addition and subtraction of those	01:55:37PM 22	to make the data look like a complete data set because the
01:51:52PM 23	don't come anywhere, the addition of all the additional revenue	01:55:42PM 23	methodologies for those complete data sets already existed.
01:51:56PM 24	reflected here, are you saying that that more is shown in those	01:55:45PM 24	Q. Okay. You say that similarities or whatever are in the eye
01:52:03PM 25	boxes than that that explains a \$600 million difference?	01:55:49PM 25	of the beholder. Let me ask you, as the beholder, can you
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1015		1017
01:52:09PM 1	1015 A. Let me try to answer the question in a somewhat different	01:55:53PM 1	1017 describe for us the closest situation to this that you have ever
01:52:09PM 1 01:52:13PM 2		01:55:53PM 1 01:55:59PM 2	
	A. Let me try to answer the question in a somewhat different		describe for us the closest situation to this that you have ever
01:52:13PM 2	A. Let me try to answer the question in a somewhat different way. I am not claiming that the difference, numerical	01:55:59PM 2	describe for us the closest situation to this that you have ever used multiple imputation for?
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01:52:13PM 2 01:52:18PM 3 01:52:22PM 4	A. Let me try to answer the question in a somewhat different way. I am not claiming that the difference, numerical difference between these numbers is due to A, B, C and D. What I am telling you is what A, B, C and D, which is what we did,	01:55:59PM 2 01:56:02PM 3 01:56:11PM 4	describe for us the closest situation to this that you have ever used multiple imputation for? A. I wish I had known you were going to ask that question. I would you have thought about a better answer, but most of my
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01:52:13PM 2 01:52:13PM 3 01:52:22PM 4 01:52:22PM 5 01:52:33PM 6 01:52:33PM 7 01:52:33PM 10 01:52:43PM 11 01:52:53PM 11 01:52:53PM 11 01:52:54PM 12 01:52:54PM 15 01:53:04PM 15 01:53:04PM 15 01:53:04PM 17 01:53:14PM 19 01:53:14PM 19 01:53:14PM 20 01:53:24PM 21 01:53:33PM 22 01:53:33PM 23 01:53:33PM 24	A. Let me try to answer the question in a somewhat different way. I am not claiming that the difference, numerical difference between these numbers is due to A, B, C and D. What I am telling you is what A, B, C and D, which is what we did, occurred between these two numbers. We went away from this model. We were in happy with it. And the fact that we're continuing to talk about it is your prerogative, but I'm not happy with this model. Q. And can you list to me the primary reasons you were not happy with the model of May that resulted in the May 30 numbers? A. Well, I told you two of them and I'll mention them again. And to order them in terms of a report I don't know if I can do that right now. First thing is that we're getting some negative values from the earlier value. Q. Say it again. A. Negative values. The balance over the whole life of the trust was negative, and that didn't make sense. That did not make sense. And the second reason was that we had in 1887 things, so as soon as we got rid of the 1887 problem that we treated as a zero the model behaved in a way that made sense, and then we went on to do the model-adjusted steps for the reported values. I didn't realize that I was going to have to be asked to talk about this. I'm happy to talk about it of	01:55:59PM 2 01:56:02PM 3 01:56:11PM 4 01:56:13PM 5 01:56:13PM 6 01:56:13PM 7 01:56:23PM 8 01:56:34PM 9 01:56:34PM 10 01:56:34PM 11 01:56:56PM 12 01:57:00PM 13 01:57:00PM 15 01:57:11PM 16 01:57:11PM 16 01:57:13PM 17 01:57:24PM 19 01:57:24PM 20 01:57:33PM 21 01:57:34PM 21 01:57:34PM 22 01:57:44PM 23	describe for us the closest situation to this that you have ever used multiple imputation for? A. I wish I had known you were going to ask that question. I would you have thought about a better answer, but most of my applications have been in administrative records when I was at the IRS, and in surveys. Q. Okay. Would it be fair to say that this is the first time that you've used multiple imputation in trying to develop missing values for a trust or banking situation? A. That's a bit broad, but it's certainly true that I 've not done this kind of analysis before. Q. Now, when you look at you used a phrase during your direct, a word that I guess is one of those words that statisticians come up with. You said the "missingness" of certain data. Do you remember using that word? A. Yes, I did. I do use it, yes. Q. Now, if you would bring up Defendants' Exhibit 461. Can you describe to me what you mean by the missingness of data? A. Well, there are multiple measures of that that you can have. One of them is simply to look at the number of missing cells relative to the total number of cells. Another one is to look at the dollars in the imputed data and in the reported data, how many of the dollars have been imputed. That's another kind of degree of missingness, okay.

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01:57:52PM 1	the imputed information is when you've got Defendants' Exhibit	02:00:56PM	is labeled Collections were all missing between 1927 and 1949,
01:57:56PM 2	461, correct?	02:01:02PM 2	
4	A. That's correct.	02:01:06PM 3	, , , , , , , , , , , , , , , , , , ,
U1:57:50PM -	Q. And when you make an assessment, for example, of the first	02:01:09PM 4	but I'll say it a different way as I think as you've already
	page of Defendants' 461, how would you characterize the	02:01:12PM 5	anticipated my answer here.
01:58:06PM 6	missingness of the data on that chart?	02:01:13PM 6	,
01:58:08PM /	A. Considerable. It's considerable.	02:01:17PM /	then what I said would be correct.
	Q. Is there a point where you have so much missing data that	02:01:18PM 8	
01:58:16PM 9	multiple imputation is not a good device to use?	02:01:21PM 9	' '
01:58:21PM 10	A. I'm sure there is.	02:01:27PM 10	to try to project a missing data, correct?
01:58:23PM 11	Q. And we're at that point if this was the only page that we	02:01:29PM 11	A. If I might interject a word, the word "strong model." I
01:58:29PM 12	had in Defendants' Exhibit 461?	02:01:34PM 12	
	A. I admit we are, yeah.	02:01:38PM 13	ŭ
01:58:33PM 14	Q. Look at the next page. If I told you on the next page, Dr.	02:01:45PM 14	, , , , , , , , , , , , , , , , , , ,
01:58:43PM 15	Scheuren, to assume that all of the values that are stated for	02:01:48PM 15	
01:58:47PM 16	collections between the years 1927 through 1949 are incorrect	02:01:50PM 16	Q. So that when what you're saying is you could still model it
01:58:54PM 1/	and you should disregard them, in other words, if all of that	02:01:54PM 17	but you wouldn't find that to be reliable?
01:58:58PM 18	was yellow, would you agree with me then that there was too much	02:01:57PM 18	3
01:59:03PM 19	missingness on that page to use for a multiple imputation	02:02:01PM 19	Q. Okay. Now, you've been in court on and off since the trial
01:59:09PM 20	process?	02:02:06PM 20	started, correct?
01:59:11PM 21	A. 1927 to 1949, is that what you said?	02:02:07PM 21	A. Yes, I have.
	Q. Yes, for the collections column. You have reported values	02:02:09PM 22	Q. And are you aware of there being any questions or concerns
01:59:18PM 23	there and I've asked you to assume those are all missing and are	02:02:14PM 23	about the collection information that has been used in the
01:59:21PM 24	yellow.	02:02:19PM 24	period from roughly 1922 or 3 all the way through 1949?
01:59:21PM 25	A. Let me make two comments. First is to compare the first	02:02:26PM 25	A. I'm afraid you're going to have to refresh my memory here.
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1019		1021
01:59:24PM 1	page to the second page if you would let me, and then second is	02:02:30PM 1	I'm not sure what I was hearing. Some of the time I wasn't
01:59:27PM 2	to answer your question directly.	02:02:32PM 2	paying as much attention as at other times.
01:59:29PM 3	Q. Yes. Would you show	02:02:36PM 3	Q. Let's pull up Defendants' Exhibit 372, and look at page
01:59:32PM 4	A. I don't need to see it again. There is considerably more	02:03:00PM 4	eight.
01:59:37PM 5	data here even if those, that second column, disbursement	02:03:07PM 5	I've called out the wrong page. Go back well, hold
01:59:41PM 6	column, were yellow, than there is on the first page. What is	02:03:11PM 6	on just a second. Go back to page four, please. And then
01:59:46PM 7	weakened here greatly is the relationship between collections		
01:59:49PM 8	weakened here greatly is the relationship between collections	02:03:32PM 7	let's
01:59:52PM 9	and disbursements in that second well, it's the third column	02:03:33PM 7 02:03:33PM 8	
01:59:57PM 10			Your Honor, may I get my notebook? I'm sorry, I don't
	and disbursements in that second well, it's the third column	02:03:33PM 8	Your Honor, may I get my notebook? I'm sorry, I don't have it at the podium.
02:00:01PM 11	and disbursements in that second well, it's the third column on the page if the disbursement column were yellow, so my answer	02:03:33PM	Your Honor, may I get my notebook? I'm sorry, I don't have it at the podium. THE COURT: Sure. BY MR. DORRIS:
02:00:07PM 12	and disbursements in that second well, it's the third column on the page if the disbursement column were yellow, so my answer here on this page was that it depends on what it is you are	02:03:33PM 8 02:03:33PM 9 02:03:33PM 10 02:03:40PM 11 02:03:53PM 12	Your Honor, may I get my notebook? I'm sorry, I don't have it at the podium. THE COURT: Sure. BY MR. DORRIS: Q. Page ten, Defendants' Exhibit 372, page ten, and I'll tell
02:00:07PM 12 02:00:12PM 13	and disbursements in that second well, it's the third column on the page if the disbursement column were yellow, so my answer here on this page was that it depends on what it is you are trying to impute here. What's your final number? If you're	02:03:38PM 9 02:03:38PM 10 02:03:40PM 11 02:03:40PM 12 02:04:00PM 13	Your Honor, may I get my notebook? I'm sorry, I don't have it at the podium. THE COURT: Sure. BY MR. DORRIS: Q. Page ten, Defendants' Exhibit 372, page ten, and I'll tell you what. If you blow up the top part so that Dr. Scheuren can
02:00:07PM 12 02:00:12PM 13 02:00:15PM 14	and disbursements in that second well, it's the third column on the page if the disbursement column were yellow, so my answer here on this page was that it depends on what it is you are trying to impute here. What's your final number? If you're into, and we are, into a balance figure displacement,	02:03:38PM 8 02:03:38PM 9 02:03:38PM 10 02:03:40PM 11 02:03:58PM 12 02:04:04PM 13	Your Honor, may I get my notebook? I'm sorry, I don't have it at the podium. THE COURT: Sure. BY MR. DORRIS: Q. Page ten, Defendants' Exhibit 372, page ten, and I'll tell you what. If you blow up the top part so that Dr. Scheuren can see that. And you see that this particular chart is referring
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02:00:07PM 12 02:00:12PM 13 02:00:15PM 14 02:00:17PM 15 02:00:24PM 16 02:00:24PM 17 02:00:34PM 18 02:00:34PM 19 02:00:34PM 20 02:00:34PM 21 02:00:34PM 21 02:00:34PM 21	and disbursements in that second well, it's the third column on the page if the disbursement column were yellow, so my answer here on this page was that it depends on what it is you are trying to impute here. What's your final number? If you're into, and we are, into a balance figure displacement, collections minus disbursements, then I would be worried about this probably if that were the case. Q. Okay. To make clear, your answer when you referred to the second column, you're referring to the column entitled Collections, and when you refer to the third column you were referring to the column entitled Disbursements, correct? A. Yes. And your question was about the disbursement column, I believe. Q. No, it was about the collection column, that if you A. Oh, I'm sorry. Q. That if you did not let's make sure it's clear because I think your answer is the same. But if on the second page of	02:03:38PM 8 02:03:38PM 9 02:03:38PM 10 02:03:40PM 11 02:03:53PM 12 02:04:04PM 14 02:04:16PM 15 02:04:16PM 17 02:04:16PM 17 02:04:16PM 18 02:04:28PM 20 02:04:38PM 21 02:04:38PM 21 02:04:38PM 22 02:04:38PM 22	Your Honor, may I get my notebook? I'm sorry, I don't have it at the podium. THE COURT: Sure. BY MR. DORRIS: Q. Page ten, Defendants' Exhibit 372, page ten, and I'll tell you what. If you blow up the top part so that Dr. Scheuren can see that. And you see that this particular chart is referring to the years 1934 through 1949. Are you with me? A. Yes, I am. Q. And then it gives a document reference to the far right column, footnote two. Do you see that? A. I do. Q. Okay. And then if you would blow up footnote two. Dr. Scheuren, we've read this many times. I would ask you to read footnote two to yourself. A. Yes, I've read it. Q. Those indicate that the reports on which the collections

	1022		1024
02:04:54PM 1	receipts. Do you see that?	02:08:29PM 1	A. I'm getting there.
02:04:55PM 2	A. I do, but I remind you that you're looking at tribal here,	02:08:33PM 2	Q. And then do you see for Tribal IIM, if you'll point the
02:04:59PM 3	not the total.	02:08:41PM 3	arrow at it, the footnote, you see Tribal IIM and then you see
02:05:02PM 4	Q. Okay.	02:08:47PM 4	the footnote next to it that you look at page A-1.1 page one?
02:05:02PM 5	A. Pull back up to the top. You're looking at tribal.	02:08:52PM 5	A. Um-hmm.
02:05:05PM 6	Q. Okay. Let's go there. Go to 1934 and kind of blow up the	02:08:53PM 6	Q. And then if you go to page ten, and that's the page we were
02:05:14PM 7	top year so we get it nice and large.	02:09:00PM 7	just looking at with the note on it, do you see that?
02:05:20PM 8	You say it's highlighted there. The receipts that are	02:09:03PM 8	A. Yes.
02:05:23PM 9	being referred to there, sir, are receipts, those are receipts	02:09:03PM 9	Q. And that has to do with A-1.1. So do you see how this
02:05:28PM 10	that were used well, you tell me. What did you use in your	02:09:12PM 10	document fits together?
02:05:34PM 11	model on let's just look at this number. See the 10.6	02:09:13PM 11	A. Yes, but you're moving a little fast for me. Remember my
02:05:39PM 12	million?	02:09:20PM 12	vision is a little slower than that, but, yes, I see this. I
02:05:39PM 13	A. I see it.	02:09:25PM 13	commend you for putting this together. Thank you.
02:05:40PM 14	Q. And that's for 1934. You're with me, the 10.6.	02:09:26PM 14	Q. Let me ask it to you in a question this way since you're
02:05:52PM 15	Let's pull up Defendants' Exhibit 461 and go to the	02:09:30PM 15	testifying as an expert statistician. If I ask you to assume
02:06:01PM 16	second page.	02:09:35PM 16	that all of the collection information shown on Defendants'
02:06:03PM 17	And do you see under 1934 you used as a starting, as a	02:09:49PM 17	Exhibit 461 as reported values from 1923 through 1949 are likely
02:06:10PM 18	reported value 10.6. Are you with me now?	02:09:56PM 18	understated, what modifications or adjustments, if any, would
02:06:15PM 19	A. I do see the coincidence, yes.	02:10:02PM 19	you make to what you have done?
02:06:17PM 20	Q. That's not tribal, is it?A. No, it's not.	02:10:04PM 20 02:10:12PM 21	A. If that's the case then I would have wanted to have
20		02:10:12PM 21	adjusted them up to account for that before I did the rest of
22	Q. And do you see there where we saw a footnote there that indicated that the information from which that was taken and	02:10:17PM 22	the analysis. Q. And that was not done, was it?
02:06:23PM 23	then a statement that Ms. Herman I believe testified that she	02:10:17PM 23	A. It was not. We did take into account uncertainty in the
02:06:34PM 25	and Dr. Angel prepared together that says that all those revenue	02:10:20PM 25	data, as you heard me tell you, but we did not expect to model
02.00.04 M	Jacqueline M. Sullivan, RPR	02.10.20111	Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1023		1025
02:06:39PM 1	figures are likely understated, were you aware of that before	02:10:30PM 1	any bias in the data.
02:06:43PM 2	right now?	02:10:31PM 2	Q. Okay. I don't understand the last phrase you did not
02:06:44PM 3	A. I heard this business about understatement, of course.	02:10:35PM 3	expect any modeling bias in the data. What does that mean?
02:06:48PM 4	This connection that you've just made between these two exhibits	02:10:39PM 4	A. I don't think I quite said that.
02:06:53PM 5	I am hearing and seeing for the first time.	02:10:42PM 5	Q. Tell me what you said.
02:06:54PM 6	Q. Go back to page on Defendants' Exhibit 372 to the	02:10:43PM 6	A. Suppose that every one of those values was off by \$3
02:07:03PM 7	first to page four. And blow up kind of, I need to go to the	02:10:48PM 7	million, okay, every year.
02:07:15PM 8	other over to the Other Receipts column, the first seven or	02:10:49PM 8	Q. Off by what?
02:07:20PM 9	eight lines. Do you see over there under the Other Receipts	02:10:51PM 9	A. By \$3 million, just hypothetically. You give me a
02:07:26PM 10	column here on this front page where it is showing that you look	02:10:55PM 10	hypothetical I give you one back, okay? So off by \$3 million
02:07:31PM 11	at schedule A-1 page one in order to get the numbers that are	02:10:57PM 11	and I was able to learn that somehow. I mean, enormously expert
02:07:38PM 12	there?	02:11:02PM 12	people in the room here at Angel and Michelle Herman, and if
02:07:40PM 13 02:07:43PM 14	A. Apparently there is come kind of a footnote here that I'm not seeing.	02:11:05PM 13	they had come to me and said these data are off by \$3 million I would have adjusted them upwards by \$3 million. I would have
02:07:43PM 14 02:07:43PM 15	Q. Okay. And then do you	02:11:08PM 14 02:11:12PM 15	told you that.
02:07:43PM 15	A. So my answer to your question is no, I do not see it.	02:11:12PM 13	Q. And if they were not able to come up with a reasonable
02:07:48PM 17	Q. Would you point the arrow under Tribal IIM to the footnote	02:11:13PM 10	estimate for you as to how understated those values were, what
02:07:56PM 18	A-1-1? Do you see where the red arrow is pointing now?	02:11:10PM 17	would you do?
02:08:01PM 19	A. I do.	02:11:24PM 19	A. I would not have been able to have done any more than I
02:08:02PM 20	Q. Do you see the footnote?	02:11:27PM 20	did.
02:08:04PM 21	A. No, I haven't seen the footnote. Let me see the footnote.	02:11:27PM 21	Q. So you would have run them in the model just like you have,
02:08:07PM 22	Q. No, but you just see the reference to A-1 page one?	02:11:31PM 22	even though they're
02:08:11PM 23	A. Yes, sir.	02:11:33PM 23	A. If I knew they were consistently understated I would have
02:08:11PM 24	Q. And when we turned to A-1 page one in this exhibit, it is	02:11:36PM 24	developed an adjustment process that was asymmetric. The
02:08:19PM 25	page number eight. Are you with me?	02:11:41PM 25	process we used assumed errors in reporting in both directions.
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter

	1026		1028
02:11:46PM 1	I would have adjusted it only reporting errors in one direction.	02:15:14PM 1	Q. Okay. Well, let me ask this. When I compare the reported
02:11:50PM 2	I did not do that, though.	02:15:17PM 2	values on Defense Exhibit 461 to the model adjusted values on
02:11:52PM 3	Q. All right. And those are adjustments that you would have	02:15:23PM 3	Defendants' 462, I actually find that the model adjusted the
02:11:54PM 4	made before you ran the model, correct?	02:15:31PM 4	collections for those three years up by about \$100,000 or
02:11:58PM 5	A. What we actually did, of course, is we took out the really	02:15:36PM 5	\$200,000 and the disbursements down.
02:12:04PM 6	extreme outliers as we thought them outliers, and then knowing	02:15:40PM 6	Can you put the other one next to it? Thank you. I
02:12:08PM 7	they were reporting errors we went ahead and did the imputation	02:15:44PM 7	don't know if you can then blow up those particular areas.
02:12:11PM 8	and then we went back in afterwards and adjusted the reporting	02:15:46PM 8	It's not a lot of numbers, but it's odd to me. Can
02:12:16PM 9	and imputed the data. And the reason we did that is because the	02:15:55PM 9	you see the screen at all?
02:12:19PM 10	system is so sparse that we needed the imputed data to help us	02:15:56PM 10	A. I can see. What I hear
02:12:26PM 11	to decide how to adjust the reported data and the imputed data	02:16:03PM 11	Q. It's coming. You see in 1909
02:12:30PM 12	together.	02:16:08PM 12	THE COURT: The story of this trial, you know, is
02:12:30PM 13	Q. So that even with all of the reported values that you've	02:16:10PM 13	going to be the dualing laptops. These guys are both good.
02:12:40PM 14	used such as they are, the data was so scarce that you actually	02:16:14PM 14	MR. DORRIS: They are, and it makes it much more
02:12:44PM 15	needed to run an imputation and impute values in order to then	02:16:17PM 15	efficient.
02:12:52PM 16	make further changes to the model?	02:16:18PM 16	BY MR. DORRIS:
02:12:54PM 17	A. To the reported data, yes.	02:16:19PM 17	Q. And now, Dr. Scheuren, do you see, for example, what I said
02:12:56PM 18	Q. To the reported data?	02:16:22PM 18	in looking at DX 461 for the years 1909, 1910, and 1911 and
02:12:57PM 19	A. And the imputed data at the same time.	02:16:29PM 19	comparing that to those same years for collections in Defense
02:12:59PM 20	Q. Let's go back to Defendants' Exhibit 462. Do you see the	02:16:34PM 20 02:16:39PM 21	Exhibit 462, how each of those numbers has been increased by one
22	years 1909 through 1911 are now in black boxes as being model	22	hundred or \$200,000?
02:13:20PM ZZ	adjusted values? Do you see that? A. I of course do.	02:16:40PM 22	A. I do see that, correct, yes. Q. And do you see similarly with the disbursements for those
02:13:21PM 23	Q. That was some of the reported value you had before,	02:16:41PM 23	three years from Defendants' Exhibit 461 to 462, the
02:13:28PM 25	correct?	02:16:48PM 25	disbursements were all decreased?
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1027		1029
02:13:28PM 1	1027 A. Correct.	02:16:51PM 1	·
02:13:28PM 1 02:13:29PM 2		02:16:51PM 1 02:16:51PM 2	1029
2	A. Correct.		1029 A. No.
02:13:29PM 2 02:13:38PM 3 02:13:43PM 4	A. Correct.Q. And explain to us why the model adjusted the values for	02:16:51PM 2	A. No. Q. The disbursements were all increased by \$100,000; is that
02:13:29PM	A. Correct.Q. And explain to us why the model adjusted the values for these reported amounts.	02:16:51PM 2 02:16:56PM 3 02:16:56PM 4 02:16:57PM 5	A. No. Q. The disbursements were all increased by \$100,000; is that correct?
02:13:29PM	 A. Correct. Q. And explain to us why the model adjusted the values for these reported amounts. A. What we had done is we had fit a time series model to the whole data set after we had done the imputation and identified a degree to which the model did not fit, and then we took the 	02:16:51PM 2 02:16:56PM 3 02:16:56PM 4 02:16:57PM 5 02:17:01PM 6	A. No. Q. The disbursements were all increased by \$100,000; is that correct? A. Thank you. Yes. Q. All right. So why did the model make those kind of adjustments, do you know?
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	1030		1032
D2:18:12PM 1	Q. Until we get the 1996?	02:22:21PM 1	it, but I would have accepted it.
2:18:14PM 2	A. That's correct.	02:22:22PM 2	Q. And you would have checked it by doing what, sir?
2:18:15PM 3	Q. It didn't change those after that time, did it?	02:22:24PM 3	A. Get into the actual report itself and understand it,
18:19PM 4	A. We did not do any imputations in 1996 and later.	02:22:28PM 4	because often times are these subtle definitional issues, and
18:23PM 5	Q. Now, in terms of these values, if we take away that	02:22:33PM 5	remember we're different, we think differently here, and there
18:33PM 6	comparison but leave the two slides up, do you see down at the	02:22:35PM 6	are many different disciplines in this room right now, and I
18:39PM 7	bottom of the page I'm not going to ask you to read the	02:22:39PM 7	apologize to all those who don't think the way I do, but I'm
18:42PM 8	numbers but the concept, that similarly for the years	02:22:44PM 8	glad that you're helping me explain myself better, but we're
18:46PM 9	beginning in 1923 that the model adjusted the reported values in	02:22:48PM 9	thinking differently, even Dr. Angel and I, who have worked
18:52PM 10	disbursements and collections from 1923 through, and if we'll	02:22:51PM 10	together for a long time.
8:58PM 11	look at the second page of 462, all the way through 1949 except	02:22:52PM 11	Q. With the information that Dr. Angel provided to you did you
9:12PM 12	for the disbursements in 1945, correct?	02:22:57PM 12	ask him to provide you with the backup documentation for that
19:25PM 13	A. I'm trying to understand the yellow in 1945.	02:23:01PM 13	information?
19:33PM 14	Q. Well, it was saying that's imputed for missing data. In	02:23:01PM 14	A. For this particular year you're talking about, no, we did
9:38PM 15	other words, no reported value in the year. If you look over to	02:23:06PM 15	not.
9:41PM 16	the left of the charts you'll see 1945 and the	02:23:06PM 16	Q. Oh. I'm not saying he provided you any information about
9:44PM 17	A. That's the answer, yes.	02:23:10PM 17	this year, but for the information that he did provide to you,
19:45PM 18	Q. Okay. And again you can't explain why the model changed	02:23:12PM 18	did you ask him for documentary support for each of those
9:51PM 19	reported value in those years, can you?	02:23:18PM 19	figures he provided to you?
9:52PM 20	A. I don't think that's what I said.	02:23:19PM 20	A. Let me go back and raise another question. The answer to
9:56PM 21	Q. Okay. Sitting here today without going and	02:23:25PM 21	your questions is yes, we did every year that Dr. Angel provided
10:00PM 22	A. In terms of a specific number, I cannot. In terms of a	02:23:29PM 22	me before 1972 we had full documentation for and confirmed.
0:05PM 23	process, I have already described it in general, and if you	02:23:34PM 23	This I think is a this is a what is it, 1960? What is the
0:08PM 24	allow me to go in and look at the data, which you all have, we	02:23:40PM 24	year we're looking at here? What is the year we're looking at
10:14PM 25	can do more than that.	02:23:43PM 25	here, '68?
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1031		1033
20:14PM 1	Q. Let's look at Defendants' Exhibit 462, page three. Let's	02:23:45PM 1	Q. 1968 was the year. I started asking you questions about
0:22PM 2	blow that up where it sits by itself. There we go. Blow up	02:23:49PM 2	it. Did you personally look at any of that documentation or did
0:36PM 3	right at the top 1968.	02:23:52PM 3	you have your staff do it?
0:41PM 4	Do you see where in 1968 now it is showing that this	02:23:53PM 4	A. I looked at some of it, but no, I didn't do all of it at
0:47PM 5	model imputed a missing value for that year in collections of a	02:23:57PM 5	all.
0:52PM 6	hundred million dollars?	02:23:57PM 6	Q. How much of it did you look at?
0:53PM 7	A. I do, I do.	02:23:59PM 7	A. Fifteen percent, twenty percent; something like that.
0:56PM 8	Q. And let's look at the prior page of this Defendants'	1	
	And let's look at the prior page of this beleficants	02:24:02PM 8	Q. If you pull up Defendants' Exhibit 72 and go to page four.
0:59PM 9	Exhibit 462, which would be page two?	02:24:02PM 8 02:24:11PM 9	Q. If you pull up Defendants' Exhibit 72 and go to page four. Your Honor, I know you've seen this many times, but in
-			3 1 3
:02PM 10	Exhibit 462, which would be page two?	02:24:11PM 9	Your Honor, I know you've seen this many times, but in
:02PM 10	Exhibit 462, which would be page two? Down at the bottom let's look at 1965 through 1967.	02:24:11PM 9 02:24:17PM 10	Your Honor, I know you've seen this many times, but in light of the witness' testimony I'd like to show it to him.
10 11 11 11 12 13PM 12	Exhibit 462, which would be page two? Down at the bottom let's look at 1965 through 1967. And do you see where in 19 well, you see 1964 it's \$100.2	02:24:11PM 9 02:24:17PM 10 02:24:20PM 11	Your Honor, I know you've seen this many times, but in light of the witness' testimony I'd like to show it to him. I'm sorry. Let's go back to page one so we can
102PM 10 11PM 11 118PM 12 125PM 13	Exhibit 462, which would be page two? Down at the bottom let's look at 1965 through 1967. And do you see where in 19 well, you see 1964 it's \$100.2 million. In '65 it's \$93.4 million. In '66 it's \$95.4, and in	02:24:11PM 9 02:24:17PM 10 02:24:20PM 11 02:24:23PM 12	Your Honor, I know you've seen this many times, but in light of the witness' testimony I'd like to show it to him. I'm sorry. Let's go back to page one so we can orient, Dr. Scheuren. This is an audit report from you see
102PM 10 1111PM 11 118PM 12 125PM 13 1227PM 14	Exhibit 462, which would be page two? Down at the bottom let's look at 1965 through 1967. And do you see where in 19 well, you see 1964 it's \$100.2 million. In '65 it's \$93.4 million. In '66 it's \$95.4, and in 1967 it's a hundred million. Do you see that?	02:24:11PM 9 02:24:17PM 10 02:24:20PM 11 02:24:23PM 12 02:24:30PM 13	Your Honor, I know you've seen this many times, but in light of the witness' testimony I'd like to show it to him. I'm sorry. Let's go back to page one so we can orient, Dr. Scheuren. This is an audit report from you see March 1969 on it?
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10 1.1.102PM 10 11 1.1.112PM 11 12 1.1.18PM 13 1.1.22PM 14 1.1.22PM 16 1.1.32PM 16 1.1.32PM 17 18 1.1.32PM 19 20 1.1.53PM 20 21 1.53PM 22 22 2.2.02PM 22 23	Exhibit 462, which would be page two? Down at the bottom let's look at 1965 through 1967. And do you see where in 19 well, you see 1964 it's \$100.2 million. In '65 it's \$93.4 million. In '66 it's \$95.4, and in 1967 it's a hundred million. Do you see that? A. I do. Q. And if I told you that there was an audit report that states in that for 196 as of 1968 that collections in the IIM system were averaging \$121 million, what adjustments, if any, would you make? A. Well, if I had the report I would of course have used it. And we would have adjusted this data to conform with that if we found it reliable. Q. Okay. And if Dr. Angel considered it to be a reliable	02:24:1FPM 9 02:24:17PM 10 02:24:28PM 12 02:24:38PM 13 02:24:38PM 15 02:24:38PM 15 02:24:38PM 16 02:24:48PM 17 02:24:48PM 18 02:24:48PM 19 02:24:54PM 20 02:24:54PM 20 02:24:54PM 20	Your Honor, I know you've seen this many times, but in light of the witness' testimony I'd like to show it to him. I'm sorry. Let's go back to page one so we can orient, Dr. Scheuren. This is an audit report from you see March 1969 on it? A. Not yet. You have to bring it up for me if you want me to see it here. I do see March 1969. Thank you. Q. Can you see March 1969 now? A. Yes, sir. Q. Let's go to page four, and if you'll bring up the highlighted information there. All right. Let me let you look at that. A. I see that. Q. And it says, Cash receipts are running at the rate of 121
10 11 102PM 10 11 11 11 12 11 13PM 12 11 13PM 13 11 14 11 15PM 15 11 13PM 16 11 13PM 16 11 13PM 17 18 11 13PM 19 20 11 15PM 20 21 22 23PM 22 23 24	Exhibit 462, which would be page two? Down at the bottom let's look at 1965 through 1967. And do you see where in 19 well, you see 1964 it's \$100.2 million. In '65 it's \$93.4 million. In '66 it's \$95.4, and in 1967 it's a hundred million. Do you see that? A. I do. Q. And if I told you that there was an audit report that states in that for 196 as of 1968 that collections in the IIM system were averaging \$121 million, what adjustments, if any, would you make? A. Well, if I had the report I would of course have used it. And we would have adjusted this data to conform with that if we found it reliable. Q. Okay. And if Dr. Angel considered it to be a reliable statement of the average collections up to the 1968, for some	0224-11PM 9 0224-17PM 10 0224-20PM 11 0224-23PM 12 0224-30PM 13 0224-36PM 15 0224-36PM 15 0224-36PM 17 0224-34PM 17 0224-34PM 19 0224-36PM 20 0224-36PM 20 0224-36PM 20 0224-36PM 21 0224-36PM 21 0224-36PM 21 0224-36PM 21 0224-36PM 22	Your Honor, I know you've seen this many times, but in light of the witness' testimony I'd like to show it to him. I'm sorry. Let's go back to page one so we can orient, Dr. Scheuren. This is an audit report from you see March 1969 on it? A. Not yet. You have to bring it up for me if you want me to see it here. I do see March 1969. Thank you. Q. Can you see March 1969 now? A. Yes, sir. Q. Let's go to page four, and if you'll bring up the highlighted information there. All right. Let me let you look at that. A. I see that. Q. And it says, Cash receipts are running at the rate of 121 million per year. Do you see that?
9 10.59PM 9 10 11.11PM 11 11.11PM 12 11.11PM 14 12.11PM 14 15 15.11PM 15 16 16.11SPM 16 17 18 11.5PM 20 21.11SPM 21.11SP	Exhibit 462, which would be page two? Down at the bottom let's look at 1965 through 1967. And do you see where in 19 well, you see 1964 it's \$100.2 million. In '65 it's \$93.4 million. In '66 it's \$95.4, and in 1967 it's a hundred million. Do you see that? A. I do. Q. And if I told you that there was an audit report that states in that for 196 as of 1968 that collections in the IIM system were averaging \$121 million, what adjustments, if any, would you make? A. Well, if I had the report I would of course have used it. And we would have adjusted this data to conform with that if we found it reliable. Q. Okay. And if Dr. Angel considered it to be a reliable statement of the average collections up to the 1968, for some period you would accept that, correct?	0224:17PM 9 0224:20PM 11 0224:20PM 12 0224:30PM 13 0224:30PM 14 0224:38PM 15 0224:38PM 16 0224:38PM 17 02:24:38PM 19 02:24:54PM 20 02:24:54PM 20 02:24:54PM 21 02:24:54PM 22 02:25:02PM 23 02:25:04PM 24	Your Honor, I know you've seen this many times, but in light of the witness' testimony I'd like to show it to him. I'm sorry. Let's go back to page one so we can orient, Dr. Scheuren. This is an audit report from you see March 1969 on it? A. Not yet. You have to bring it up for me if you want me to see it here. I do see March 1969. Thank you. Q. Can you see March 1969 now? A. Yes, sir. Q. Let's go to page four, and if you'll bring up the highlighted information there. All right. Let me let you look at that. A. I see that. Q. And it says, Cash receipts are running at the rate of 121 million per year. Do you see that? A. I do.

	1034		1036
02:25:09PM 1 A		02:28:11PM 1	as the CD&L information that was a period between 1972 and 1985,
02:25:14PM 2 th	hese reports there are statements that are not net necessarily	02:28:18PM 2	correct?
•	nade by people close to the system. They're using overall	02:28:18PM 3	A. Correct.
	verages or impressions. But if it was a real number, after I	02:28:20PM 4	Q. And what I understood you to say is that as a result of
02:25:24PM 5 h	ad done that review then I would have wanted to have that	02:28:24PM 5	hearing that testimony you did some further analysis about the
02:25:28РМ 6 а	verage be met in the data.	02:28:29PM 6	missing information on the spreadsheets that were used to
02:25:30PM 7 C	Okay. And the average that we've seen in the data for the	02:28:33PM 7	support her numbers and therefore you prepared a new histogram
02:25:35PM 8 p	eriod coming up, that would be something between, say, probably	02:28:39PM 8	the day that we looked it; is that correct?
	bout ninety and a hundred million dollars, correct?	02:28:41PM 9	A. Let's me say it a little bit differently. I already
02:25:43PM 10 A	Let's a little over a hundred in a couple years, but yes,	02:28:48PM 10	commended you and thanked you for pointing those out, and when
02:25:47PM 11 it	t's under this number considerably.	02:28:51PM 11	we went back in and looked at that as you pointed it out to us
	And so that you would want to go then go in and put as a	02:28:58PM 12	we did not change the histogram itself. I used the histogram to
4.0	eported value \$121 million for a certain number of years	02:29:01PM 13	make an assessment. This is obviously somewhat perhaps
	eading up to 1968?	02:29:07PM 14	incomplete to move the upper bound, the 95 percent upper bound,
02:26:00PM 15 A		02:29:11PM 15	to a higher value in order to deal with the fact that there was
	eference to, but remember I have to change the disbursements	02:29:16PM 16	more uncertainty in the system than I had expected.
4-	oo. I can't just change the collections because if this number	02:29:21PM 17	Q. And when you're talking about more uncertainty in the
	s if the numbers I have about collections are too low and	02:29:24PM 18	system that you expected, you were talking specifically about
40	hey get raised, then I have to raise the disbursements too or I	02:29:28PM 19	that 13- or 14-year period, correct?
00	have to have an explanation for why I can't raise the	02:29:31PM 20	A. That's correct.
•	lisbursements.	02:29:31PM 21	Q. You said that you got Dr. Angel to provide you with backup
02:26:28PM 22 C	Q. Do you remember that we saw the year 1945 where you had a	02:29:35PM 22	documentation for all the information he gave to NORC. Did you
D2:26:32PM 23 re	eported value of collections and no report on disbursements?	02:29:39PM 23	have Ms. Herman likewise provide the supporting information for
D2:26:37PM 24 A	. I do.	02:29:44PM 24	all the data and the reported value she gave to you?
02:26:37PM 25 C	Q. We just looked at that.	02:29:47PM 25	A. Generally, no.
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1035		1037
02:26:38PM 1 A	L I do.	02:29:49PM 1	Q. Why the difference, sir?
02:26:41PM 2 C	2. So for 1968 and the prior years, you could enter a value	02:29:51PM 2	A. We had been looking at the '72 forward data for a long
02:26:45PM 3 fo	or collections without putting a value in for disbursements,		
	of concentrict without parting a value in for dispursements,	02:30:01PM 3	time. It appears in one of the earlier reports. We thought we
02:26:49PM 4 CO	orrect?	02:30:01PM 3 02:30:09PM 4	time. It appears in one of the earlier reports. We thought we knew what we were looking at, and we've been following the
	orrect?		
D2:26:49PM	orrect? L I could have imputed it, yes.	02:30:09PM 4	knew what we were looking at, and we've been following the
02:26:49PM	orrect? L I could have imputed it, yes. D. You could have?	02:30:09PM 4 02:30:13PM 5	knew what we were looking at, and we've been following the changes in the micro data that Ms. Herman and her team has been
5 A 32:26:49PM	orrect? L I could have imputed it, yes. D. You could have?	02:30:09PM	knew what we were looking at, and we've been following the changes in the micro data that Ms. Herman and her team has been introducing over the years in the ways that she has described
5 A 02:26:49PM	orrect? L I could have imputed it, yes. L You could have? L I could have left it blank, but if I had the numbers, if I	02:30:09PM	knew what we were looking at, and we've been following the changes in the micro data that Ms. Herman and her team has been introducing over the years in the ways that she has described here, so we thought we knew who we were getting.
D22649PM	orrect? L I could have imputed it, yes. D. You could have? L I could have left it blank, but if I had the numbers, if I had both numbers, disbursements and collections, I would have	02:30:05PM 4 02:30:15PM 5 02:30:20PM 6 02:30:22PM 7 02:30:22PM 8	knew what we were looking at, and we've been following the changes in the micro data that Ms. Herman and her team has been introducing over the years in the ways that she has described here, so we thought we knew who we were getting. Q. In light of the uncertainty in the system I think as you've
D22649PM 5 A D22659PM 6 C D22657PM 7 A D22657PM 8 h D22701PM 9 g D22705PM 10 C D22705PM 11 tt	orrect? L I could have imputed it, yes. L You could have? L I could have left it blank, but if I had the numbers, if I had both numbers, disbursements and collections, I would have lone to Ed and asked him for his advice about what to do.	02:30:06PM 4 02:30:13PM 5 02:30:20PM 6 02:30:22PM 7 02:30:22PM 8 02:30:33PM 9	knew what we were looking at, and we've been following the changes in the micro data that Ms. Herman and her team has been introducing over the years in the ways that she has described here, so we thought we knew who we were getting. Q. In light of the uncertainty in the system I think as you've referred to it, that you heard regarding the CD&L period, you
5 A 222645PM 5 A 222655PM 6 C 222657PM 7 A 222657PM 8 h 222705PM 10 C 222705PM 11 tt	I could have imputed it, yes. You could have? I could have left it blank, but if I had the numbers, if I had both numbers, disbursements and collections, I would have none to Ed and asked him for his advice about what to do. And go back to the first page of this exhibit and blow up	02:30:06PM 4 02:30:18PM 5 02:30:20PM 6 02:30:22PM 7 02:30:22PM 8 02:30:33PM 9 02:30:38PM 10	knew what we were looking at, and we've been following the changes in the micro data that Ms. Herman and her team has been introducing over the years in the ways that she has described here, so we thought we knew who we were getting. Q. In light of the uncertainty in the system I think as you've referred to it, that you heard regarding the CD&L period, you think that the upper bounds of the competencies at this level
5 A 222649PM 5 A 222653PM 6 C 222653PM 7 A 222657PM 8 h 222703PM 10 C 222705PM 11 th 222713PM 12 222713PM 12	orrect? L I could have imputed it, yes. L You could have? L I could have left it blank, but if I had the numbers, if I had both numbers, disbursements and collections, I would have none to Ed and asked him for his advice about what to do. L And go back to the first page of this exhibit and blow up the title at the top.	02:30:08PM 4 02:30:18PM 5 02:30:20PM 6 02:30:22PM 7 02:30:23PM 9 02:30:38PM 10 02:30:48PM 11 02:30:48PM 12	knew what we were looking at, and we've been following the changes in the micro data that Ms. Herman and her team has been introducing over the years in the ways that she has described here, so we thought we knew who we were getting. Q. In light of the uncertainty in the system I think as you've referred to it, that you heard regarding the CD&L period, you think that the upper bounds of the competencies at this level that should be used is 97.5 percent?
2022649PM 5 A 2022659PM 6 C 2022657PM 7 A 2022657PM 8 h 2022701PM 9 g 2022709PM 10 C 2022709PM 11 th 2022719PM 12 2022719PM 13 S 2022718PM 14 A	orrect? L I could have imputed it, yes. L You could have? L I could have left it blank, but if I had the numbers, if I had both numbers, disbursements and collections, I would have none to Ed and asked him for his advice about what to do. And go back to the first page of this exhibit and blow up the title at the top. And do you see that this was done by the Office of survey and Review for the Department of Interior?	02:30:08PM 4 02:30:18PM 5 02:30:20PM 6 02:30:22PM 7 02:30:28PM 8 02:30:38PM 10 02:30:38PM 11 02:30:48PM 12 02:30:48PM 13 02:30:48PM 13	knew what we were looking at, and we've been following the changes in the micro data that Ms. Herman and her team has been introducing over the years in the ways that she has described here, so we thought we knew who we were getting. Q. In light of the uncertainty in the system I think as you've referred to it, that you heard regarding the CD&L period, you think that the upper bounds of the competencies at this level that should be used is 97.5 percent? A. That is correct.
D22649PM 5 A D22653PM 6 C D22657PM 7 A D22657PM 8 h D22701PM 9 G D22705PM 10 C D22705PM 11 th D22705PM 12 S D22715PM 13 S D22715PM 14 A D22715PM 14 A	I could have imputed it, yes. You could have? I could have left it blank, but if I had the numbers, if I had both numbers, disbursements and collections, I would have none to Ed and asked him for his advice about what to do. And go back to the first page of this exhibit and blow up the title at the top. And do you see that this was done by the Office of survey and Review for the Department of Interior? Yes.	02:30:36PM 4 02:30:13PM 5 02:30:20PM 6 02:30:22PM 7 02:30:26PM 8 02:30:33PM 9 02:30:38PM 10 02:30:43PM 11 02:30:45PM 12 02:30:45PM 13 02:30:51PM 14 02:30:56PM 15	knew what we were looking at, and we've been following the changes in the micro data that Ms. Herman and her team has been introducing over the years in the ways that she has described here, so we thought we knew who we were getting. Q. In light of the uncertainty in the system I think as you've referred to it, that you heard regarding the CD&L period, you think that the upper bounds of the competencies at this level that should be used is 97.5 percent? A. That is correct. Q. Why wouldn't it be 99 percent, sir?
5 A 02:26:5PM 6 C 02:26:5PM 7 A 02:26:5PM 8 h 02:27:5PM 10 C 02:27:5PM 11 th 02:27:5PM 12 02:27:15PM 12 02:27:15PM 14 A 02:27:15PM 15 C 02:27:15PM 15 C 02:27:15PM 15 C	I could have imputed it, yes. You could have? I could have left it blank, but if I had the numbers, if I had both numbers, disbursements and collections, I would have none to Ed and asked him for his advice about what to do. And go back to the first page of this exhibit and blow up the title at the top. And do you see that this was done by the Office of survey and Review for the Department of Interior? Yes.	02:30:05PM 4 02:30:13PM 5 02:30:20PM 6 02:30:22PM 7 02:30:28PM 8 02:30:33PM 9 02:30:38PM 10 02:30:48PM 11 02:30:48PM 12 02:30:48PM 13 02:30:51PM 14	knew what we were looking at, and we've been following the changes in the micro data that Ms. Herman and her team has been introducing over the years in the ways that she has described here, so we thought we knew who we were getting. Q. In light of the uncertainty in the system I think as you've referred to it, that you heard regarding the CD&L period, you think that the upper bounds of the competencies at this level that should be used is 97.5 percent? A. That is correct. Q. Why wouldn't it be 99 percent, sir? A. It could be 99 percent. I indicated in a conversation that
5 A C C C C C C C C C C C C C C C C C C	I could have imputed it, yes. You could have? I could have left it blank, but if I had the numbers, if I had both numbers, disbursements and collections, I would have none to Ed and asked him for his advice about what to do. And go back to the first page of this exhibit and blow up the title at the top. And do you see that this was done by the Office of survey and Review for the Department of Interior? Yes. And you would expect them to be knowledgeable of the IIM system?	02:30:05PM 4 02:30:15PM 5 02:30:25PM 6 02:30:25PM 7 02:30:25PM 8 02:30:35PM 10 02:30:35PM 11 02:30:45PM 12 02:30:45PM 13 02:30:56PM 15 02:30:56PM 15 02:30:56PM 16	knew what we were looking at, and we've been following the changes in the micro data that Ms. Herman and her team has been introducing over the years in the ways that she has described here, so we thought we knew who we were getting. Q. In light of the uncertainty in the system I think as you've referred to it, that you heard regarding the CD&L period, you think that the upper bounds of the competencies at this level that should be used is 97.5 percent? A. That is correct. Q. Why wouldn't it be 99 percent, sir? A. It could be 99 percent. I indicated in a conversation that you heard, bringing the judge into this, that is a decision that
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	1020		4040
4	1038	4	1040
02:31:50PM I	favor?	02:35:11PM	MR. WARSHAWSKY: I don't want to take your marked-up
02:31:50PM 2	A. I do remember saying that, yes.	02:35:13PM 2	copy.
02:31:52PM 3	Q. If I ask you to apply that same principal, would that point	02:35:14PM 3	MR. DORRIS: It will be helpful to ask you to follow
02:31:55PM 4	toward using a 99 percent confidence level rather than a	02:35:17PM 4	along.
	97-and-a-half percent?	6	MR. WARSHAWSKY: Maybe.
02:32:02PM 6	A. I've already told you that I moved from 95 to 97-and-a-half	02:35:19PM 6	MR. DORRIS: I know what I want to ask about this one.
02:32:09PM /	because I felt that it was appropriate in the context of what I	02:35:22PM	BY MR. DORRIS:
02:32:13PM 8	said about scoring things. I don't think it goes to 99, but	02:35:22PM 8	Q. Professor Schaefer is someone that you know and works in
02:32:16PM 9	it's not my decision. It's the judge's decision.	02:35:25PM 9	and is knowledgeable in the field of imputation, correct?
02:32:20PM 10	Q. Now, let me ask this: If in fact some of the information	02:35:28PM 10	A. Yes. I know him quite well. I'm mentioned in his book.
02:32:25PM 11	that has been used in your system reported value as deemed to be	02:35:32PM 11	I'm mentioned in a lot of books.
02:32:31PM 12	so uncertain that it should not be used as a reported value,	02:35:36PM 12 02:35:43PM 13	Q. I made it through the first two pages of this article
02:32:38PM 13	what effect, if any, does that have on the upper bounds of the		before I couldn't follow it anymore. He's written here you say
02:32:44PM 14	confidence factors?	02:35:48PM 14	a primer for people on multiple imputation. Do you see that?
02:32:45PM 15	A. That is a question I can't answer without doing it both	02:35:52PM 15	A. His model is what we're using for MPI analysis.
02:32:51PM 16	ways, and if I do it both ways I would expect and this is I	02:35:59PM 16	Q. I want to concentrate on this paragraph that runs over to
02:32:56PM 17	think where you're going with this I would expect that	02:36:02PM 17	the next page.
02:32:59PM 18	treating it as missing incompletely would increase the	02:36:03PM 18	If you will blow this up.
02:33:04PM 19	uncertainty level to treating it as partially reported, which is	02:36:04PM 19	And he refers to multiple imputations, MI. Do you see
02:33:10PM 20	the way we're doing it with most of the data here that is	02:36:10PM 20	that?
02:33:13PM 21	reported.	02:36:11PM 21	A. MI is not the only principal method for handling missing
02:33:13PM 22	Q. And that would cause the upper bound to be a higher total amount, correct?	22	values, nor is it necessarily the best for any given problem. Q. That's entirely consistent with what you've testified to?
02:33:20PM 23	A. That's correct. And we had various looks at what if we	02:36:20PM 23	A. Yes, I agree with that. The word "principal" means that
02:33:25PM 25	were to impute all the data in the data process going from where	02:36:26PM 25	you know statistically the principal.
02.00.20 10	Jacqueline M. Sullivan, RPR	01.50.10 W	Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1039		1041
02:33:31PM 1		02:36:29PM 1	1041 Q. If you want to read the in between be my quest, but I want
02:33:31PM 1	1039 we are now into the future. There's a way to do that. We haven't done that. One of the things that repeatedly you've	02:36:29PM 1 02:36:35PM 2	
_	we are now into the future. There's a way to do that. We	_	Q. If you want to read the in between be my guest, but I want
02:33:37PM 2	we are now into the future. There's a way to do that. We haven't done that. One of the things that repeatedly you've	02:36:35PM 2	Q. If you want to read the in between be my guest, but I want you to go to the highlighted part that begins down at the bottom
02:33:37PM 2 02:33:41PM 3	we are now into the future. There's a way to do that. We haven't done that. One of the things that repeatedly you've heard with other witnesses is that with me more could be done,	02:36:35PM 2 02:36:40PM 3	Q. If you want to read the in between be my guest, but I want you to go to the highlighted part that begins down at the bottom of the page. It says, Given sufficient time and resources one
02:33:37PM	we are now into the future. There's a way to do that. We haven't done that. One of the things that repeatedly you've heard with other witnesses is that with me more could be done, and we are happy with this analysis given the time that we were	02:36:35PM 2 02:36:40PM 3 02:36:43PM 4	Q. If you want to read the in between be my guest, but I want you to go to the highlighted part that begins down at the bottom of the page. It says, Given sufficient time and resources one could perhaps derive a better statistical procedure than MI for
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	1042		1044
02:38:37PM 1	Schaeffer is implying that it should be used where missing data	02:42:10PM 1	framework, correct?
02:38:40PM 2	is a nuisance rather than the major focus of scientific inquiry,	02:42:11PM 2	A. The word "model" and the word "analytical framework" phrase
02:38:44PM 3	you wouldn't agree with that?	02:42:18PM 3	are not equivalent.
02:38:47PM 4	A. I couldn't agree with it, no.	02:42:24PM 4	Q. Let me ask you to step back, and there's a paragraph on the
02:38:48PM 5	Q. Now, let me ask you to look at your article. Do you have	02:42:27PM 5	other column just above where you've highlight there that begins
02:38:52PM 6	that? It was passed out today. It's Defendants' Exhibit 507.	02:42:31PM 6	the non-ignorable case. Do you see that sentence that begins,
02:38:59PM 7	I suspect you have a copy with you, Dr. Scheuren.	02:42:37PM 7	The non-ignorable case NMAR which adds variance with intractable
02:39:04PM 8	A. Am I allowed to elaborate on what you just said?	02:42:48PM 8	bias is a generally have-to-live-with form of missingness?
02:39:07PM 9	Q. You can answer any questions that the government asks you.	02:42:49PM 9	A. That's correct.
02:39:11PM 10	A. Go ahead then.	02:42:49PM 10	Q. Can you state that in more layman's language?
02:39:19PM 11	Q. Looking at your article I'm going to pause just for a	02:42:55PM 11	A. There are three types of missingness that are described in
02:39:22PM 12	moment till it's brought you need to switch over, I think.	02:43:02PM 12	here by the people at Don Rubin in 1976. One kind is just have
02:39:27PM 13	Sorry to do that to you.	02:43:08PM 13	data that is not there. There's nothing particularly bad about
02:39:45PM 14	I'll tell you what I am working with now.	02:43:13PM 14	it except that your sample is too small and you don't have as
02:39:47PM 15	Go to the third page of this exhibit, please, and go	02:43:19PM 15	much data as you thought. There's nothing you need to do about
02:39:50PM 16	under 4.2, the second paragraph, and blow that up for me.	02:43:22PM 16	it except not over-react to it. The second phase which is
02:39:59PM 17	The part I'd like you to look at and I'd ask to	02:43:27PM 17	missing at random is a case where if you know what's missing and
02:40:03PM 18	highlight is a sentence that begins about halfway down there and	02:43:32PM 18	how to fix it then you can adjust the data so that it gives you
02:40:06PM 19	says "I still remain skeptical of models, however, and worry	02:43:38PM 19	answers that are not biased, but if you don't have enough
02:40:10PM 20	about people complaints believing them too much."	02:43:42PM 20	information from the data set to deal with certain things, then
02:40:14PM 21	Can you highlight that statement for me, please, sir?	02:43:49PM 21	you cannot adjust for the missing the non-ignorable portion.
02:40:18PM 22	Exactly.	02:43:54PM 22	Because the non-ignorable portion is usually something that you
02:40:19PM 23	Do you see that?	02:43:57PM 23	don't know, not in the data set, somewhere else, and maybe not
02:40:20PM 24	A. I do.	02:44:01PM 24	on anyone's radar screen, and that is affecting the results.
02:40:20PM 25	Q. What were you saying about that?	02:44:08PM 25	Sometimes you can't even tell that it's there, and in this sort
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1043		1045
02:40:25PM 1	A. Let me give you some background, if I might. In the world	02:44:11PM 1	of philosophical discussion, which is what this is, and
2	of sampling that I'm in, one of the greatest statisticians, who	02:44:17PM 2	recollection, you need to be cognizant of that.
4	recently died, W. Edwards Demming, did not believe in models.	4	Q. And the missing data that we're confronted with in this
02:40:42PM 4	He thought that we should base our inferences on what are called	_	matter is which of the three types? A. It's all three.
02:40:48PM 5	frequentious-based as the same from Bayesian methods. And frequentious-based methods are what we usually do when we're in	02:44:25PM 5	A. It's all three. Q. Okay.
7	the world I live in, in the sampling world, because of Demming,	02:44:25PM 7	A. I've been talking about the all three part for quite a
02:40:57PM 7	and we, because of Demming, did not adequately pay attention to	02:44:25PM 8	while.
02:41:07PM 9	the fact that we really needed to use models for a whole lot of	02:44:33PM 9	Q. Let's look at the next page. There is one last quote I
02:41:11PM 10	settings that we weren't using them for, and where it's	02:44:36PM 10	want to ask you about in this article. Under 6.1, if you would
02:41:13PM 11	particular when there are missing and misreported observations.	02:44:46PM 11	pull that up and highlight that in the first sentence, it's kind
02:41:18PM 12	Even Demming would have agreed that we need missing data models	02:44:49PM 12	of a long sentence, you see there you wrote, Typically in my
02:41:22PM 13	for missingness, but to the extent to which you have only one	02:44:54PM 13	practice subject matter experts believe in their imputation
02:41:27PM 14	model is a problem, because you really need to look at multiple	02:44:56PM 14	models more than is warranted, possibly in part to the chronic
02:41:35PM 15	models because you need to look at the fact that the models	02:44:56PM 15	problem we have had in many surveys of underestimating
02:41:36PM 16	themselves have concerns with them, and we've been doing that	02:44:56PM 16	imputation variance and expense taken in time and money in
02:41:40PM 17	here, and because of the way this is being done, we're	02:45:12PM 17	adjusting for missingness. Do you see that?
02:41:43PM 18	presenting a model without all the models.	02:45:16PM 18	A. Yes, I do. I think it applies in this case.
02:41:48PM 19	Q. And you really have looked at one model; is that correct?	02:45:17PM 19	Q. How does it apply in this case?
02:41:54PM 20	A. No. You've actually called my attention to something we	02:45:19PM 20	A. I think Professor Cornell believes that about his model.
02:41:56PM 21	gave you earlier, which is we've looked at at least two models,	02:45:19PM 21	Q. Okay.
02:41:58PM 22	and you asked me about the difference between those two models.	02:45:23PM 22	A. It doesn't have any measure of uncertainty.
02:42:02PM 23	We spent quite a bit of time on that. There were other models	02:45:23PM 23	Q. So what I hear you saying, because you recognize that there
02:42:05PM 24	we looked at too.	02:45:27PM 24	is tremendous uncertainty here well, you may not like that
02:42:06PM 25	Q. Two models constructed or run in the same analytical	02:45:32PM 25	word, tremendous. Would you agree there is tremendous
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
			· · · · · · · · · · · · · · · · · · ·

	1046		1048
02:45:40PM 1	uncertainty in the data here?	02:49:12PM 1	going to do our best to make an estimate from the available data
02:45:40PM 2	A. A little more quantative and less qualitative, but yes,	02:49:18PM 2	of what the mean and the variance of this data set are. A
02:45:43PM 3	I'll let you get away with that. You're doing a good job, by	02:49:23PM 3	vector mean and a coprehence (ph) matrix, and we do that, and
02:45:47PM 4	the way. Thank you.	02:49:29PM 4	then we use the results, okay, the distribution we've created,
02:45:48PM 5	MR. DORRIS: There's one thing we can agree on, your	02:49:34PM 5	to draw an observation from random numbers, using random numbers
02:45:51PM 6	Honor. Civility here. The questioner and the witness can	02:49:39PM 6	from that distribution.
02:45:53PM 7	stipulate to one thing. I'm sorry for the interruption there.	02:49:40PM 7	Q. Okay. So that there is work done based on certain beliefs
02:45:59PM 8	BY MR. DORRIS:	02:49:45PM 8	that you have that then lead to the selection of the random data
02:46:00PM 9	Q. Okay. Dr. Scheuren, you used a phrase in your direct	02:49:52PM 9	to put in for the imputed data, correct?
02:46:09PM 10	examination that I didn't understand. You said that the	02:49:56PM 10	A. I have prior beliefs and I have the data itself, the
02:46:14PM 11	statistician need to let the data speak to them.	02:50:02PM 11	reported data, and I use those to produce an initial starting
02:46:17PM 12	A. That's correct.	02:50:06PM 12	point for the multiple imputation, and then I repeat that
02:46:17PM 13	Q. What do you mean?	02:50:10PM 13	process over and over again and going back and forth until the
02:46:22PM 14	A. Well, it means a simple as you used this illustration	02:50:14PM 14	process converges, and then I stop and then I do another one and
02:46:31PM 15	earlier as doing chatter blots with the data as relating the	02:50:19PM 15	so forth.
02:46:34PM 16	data you have with other things you think are true, okay, or	02:50:20PM 16	Q. Is there any way, looking at the information that you
02:46:39PM 17	with experts who may have created the data or who have knowledge	02:50:23PM 17	provided to us electronically, for us to see these prior beliefs
02:46:45PM 18	of what it means and all of that you factor into your	02:50:29PM 18	that you have that lead to this first step or this really second
02:46:49PM 19	understanding of what the data is and allowing it to speak.	02:50:34PM 19	step that you're talking about here?
02:46:54PM 20	Q. For example, of what we went through before lunch when I	02:50:36PM 20	A. I think it's embedded in the software that we gave you
02:46:56PM 21	showed you the collection and disbursement data from 1909 to	02:50:40PM 21	access to. Seeing the way you've conceptualized it I think we
02:47:01PM 22	1911 and we looked at what the rate was there and then looked at	02:50:47PM 22	probably would have to do a little more to make it visible for
02:47:04PM 23	how the rates before and after were different than that, do you	02:50:50PM 23	you.
02:47:08PM 24	remember us going through that?	02:50:50PM 24	Q. And it's not visible?
02:47:08PM 25	A. Oh, I certainly do. It was very well done.	02:50:52PM 25	A. It's in the software. It's in the proc MI, the multiple
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1047		1049
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	1050		1052
02:52:48PM 1	from that, that once that's provided we could then ask any	02:55:36PM 1	Q. When you say "modern times," what time period begins
02:52:54PM 2	follow-up questions, if any, that we have of Dr. Scheuren on	02:55:41PM 2	"modern times" for that answer?
02:52:58PM 3	that.	02:55:43PM 3	A. I know the answer to that but I can't give it to you right
02:52:58PM 4	THE COURT: We'll talk more about that. Go as far as	02:55:46PM 4	now. Sorry. I just don't know. It's been a long time since
02:53:05PM 5	you can and then we'll talk about it.	02:55:49PM 5	this change has occurred.
02:53:07PM 6	MR. DORRIS: Okay.	02:55:50PM 6	Q. Okay. But before that period of time they are not linked
02:53:08PM 7	BY MR. DORRIS:	02:55:58PM 7	as a result of that policy; is that correct?
02:53:12PM 8	Q. Now, let me ask you this question about the relationship	02:55:59PM 8	A. That's correct.
02:53:15PM 9	between revenues and disbursements. You explained to me I think	02:55:59PM 9	Q. And so that while your data established a colinear
02:53:20PM 10	before lunch that you would look at that and there would be some	02:56:05PM 10	relationship between collections and disbursements, actually
02:53:25PM 11	type of coefficient or colinear relationship between those two,	02:56:08PM 11	market forces affect those two numbers in very different
02:53:30PM 12	correct?	02:56:13PM 12	fashions, don't they?
02:53:30PM 13	A. We would look for that, and in fact we found it, yes.	02:56:15PM 13	A. You just ignored what I said, didn't you?
02:53:33PM 14	Q. And let me ask it to you this way: The revenues are to a	02:56:18PM 14	Q. I may not have understood what you told me.
02:53:40PM 15	large extent driven by market forces, correct?	02:56:21PM 15	A. Part of this time, part of this historical period, that is
02:53:44PM 16	A. Can we use "collection" instead of "revenue"? Whatever you	02:56:24PM 16	correct, but although you don't establish that the effect of
02:53:52PM 17	want to do.	02:56:29PM 17	disbursements, you just said something about revenue. Revenue
02:53:52PM 18	Q. I'll be glad to use collection.	02:56:33PM 18	and disbursements are linked in modern times. In earlier
02:53:52PM 10	A. Okay.	02:56:39PM 19	periods they were not necessarily linked. But if you look at
02:53:55PM 20	Q. What do you mean by "collection"?	02:56:44PM 20	the data during the Great Depression in our data set you will
02:53:57PM 21	A. Well, because there's a lot of things in the HM system	02:56:47PM 21	see that disbursements exceed collections year after year, and
02:54:01PM 22	that aren't really revenues, okay? For example, bid deposits,	02:56:50PM 22	that's perfectly understandable. The money was coming out of
02:54:05PM 23	okay, it's not revenue. It's just a deposit.	02:56:53PM 23	the trust in order to feed people.
02:54:07PM 24	Q. So where you've put "collections" on your chart you've just	02:56:55PM 24	Q. And that's that same period where we've seen even what Dr.
02:54:11PM 25	tried to have those include things that are not the total	02:57:02PM 25	Angel and Ms. Herman note, that the revenues, their word was
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1051		1053
02:54:18PM 1	1051 revenue but only collections; is that right?	02:57:06PM 1	1053 "revenues," were understated during that same period, correct?
02:54:18PM 1 02:54:21PM 2		02:57:06PM 1 02:57:09PM 2	
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02:54:21PM 2	revenue but only collections; is that right? A. Collection is the total is the thing we're looking at	02:57:09PM 2	"revenues," were understated during that same period, correct? A. I'm not sure when the beginning. I remember the 1949 end
02:54:21PM 2 02:54:26PM 3	revenue but only collections; is that right? A. Collection is the total is the thing we're looking at here. What's coming into the system is what we're calling a	02:57:09PM 2 02:57:16PM 3	"revenues," were understated during that same period, correct? A. I'm not sure when the beginning. I remember the 1949 end point, but I don't remember what the early point is.
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02:54:21PM 2 02:54:21PM 4 02:54:31PM 5 02:54:31PM 5 02:54:31PM 6 02:54:34PM 9 02:54:34PM 10 02:54:34PM 11 02:54:54PM 12 02:54:54PM 15 02:54:54PM 15 02:54:54PM 15 02:54:57PM 16 02:55:57PM 17 02:55:03PM 18 02:55:13PM 20 02:55:27PM 21 02:55:27PM 22 02:55:27PM 23 02:55:30PM 24	 A. Collection is the total is the thing we're looking at here. What's coming into the system is what we're calling a collection. Q. For example, you gave bid deposits. Are those in your collection number or not? A. They're in the collection number. Q. I'll use collections with you. Now, collections are driven to some extent by market forces, correct? A. Of course. Q. The price of all the price of a quart of timber, grazing rights and the like? A. All of that's true. Q. Disbursements are not driven as much by market forces, are they? A. There are different periods in this time period. You know, once you know, at some point until you remember what year it is, if you have more than \$5.00 in oil receipts you got a \$5.00-check and disbursements of, you know, disbursements of other kinds of revenue as well, so once you receive a certain threshold you got the money. In the old times that wasn't always done. Q. Well, let me ask you if this. A. So they're linked, by the way, in modern times because of 	02:57:09PM 2 02:57:16PM 4 02:57:48PM 5 02:57:50PM 6 02:57:50PM 7 02:57:57PM 8 02:58:04PM 9 02:58:04PM 10 02:58:16PM 11 02:58:16PM 12 02:58:27PM 14 02:58:27PM 15 02:58:37PM 16 02:58:37PM 17 02:58:37PM 17 02:58:35PM 19 02:58:05PM 20 02:59:05PM 21 02:59:07PM 22 02:59:11PM 23 02:59:15PM 24	"revenues," were understated during that same period, correct? A. I'm not sure when the beginning. I remember the 1949 end point, but I don't remember what the early point is. Q. How can there be a colinear relationship between balance information and collections and disbursements when even according to you the balances do not foot with the collection and disbursement amounts? A. Well, there are two things going on in which you've said. First of all, a correlation can exist even though there is not a direct functional relationship between something because there's uncertainty. The extent of the correlation is a measure of that, so of course there can be a correlation between these values, even if they don't foot. Q. Now, there are times in your numbers, for example, where there are known information. Let's pull up Defendants' Exhibit 462 to 19, the second page, and blow up the first four lines or so. Let me just ask you this: You see we're going along and there is a missing value for the balance in 1929. Do you see that? A. Yes, I do. Q. And so you're working with reported values for collections and disbursements in the years before and after where that missing data is. Do you see that?

	1054		1056
02:59:20PM 1	Q. And you see that it says the balance as of the end of the	03:02:08PM 1	MR. WARSHAWSKY: It's an attempt to reconstruct Dr.
02:59:24PM 2	year, fiscal year 1928, is \$74.7 million, correct?	03:02:11PM 2	Cornell's model. We've never been provided any of the data or
02:59:29PM 3	A. I do.	03:02:15PM 3	information regarding Dr. Cornell's model. We first learned of
02:59:31PM 4	Q. And then the next year there is about \$9.5 million more	03:02:18PM 4	it, it was actually Wednesday, last Wednesday when he testified.
02:59:40PM 5	collected than disbursed, correct?	03:02:21PM 5	We had the good fortune that I would say that his model
02:59:41PM 6	A. Correct.	03:02:25PM 6	apparently didn't change since the March 2008 brief that
02:59:42PM 7	Q. And then your imputation model has put in a balance that,	03:02:29PM 7	plaintiffs filed. He made no adjustments even though we had
02:59:47PM 8	if I did the math right, would be at about \$85 million, it puts	03:02:33PM 8	provided information in our brief, but although Thursday we
02:59:54PM 9	in a value of \$33.3 million there, correct?	03:02:37PM 9	were, told both sides had been told to provide this information,
02:59:58PM 10	A. Yes, I know that. I've analyzed this data, as I already	03:02:40PM 10	we still haven't received anything about Dr. Cornell's model, so
03:00:01PM 11	told you. I noticed this when I saw it.	03:02:46PM 11	that's what we've got, is an attempt to reconstruction Dr.
03:00:04PM 12	Q. Okay. So even when the model then comes and imputes	03:02:53PM 12	Cornell's efforts and NORC's conclusions and now plaintiffs have
03:00:09PM 13	balances, it imputes balances that don't foot, correct?	03:02:55PM 13	it. I'm certainly prepared to do the redirect on everything but
03:00:14PM 14	A. That's correct.	03:02:57PM 14	this and we can have Dr. Scheuren come back tomorrow if that's
03:00:15PM 15	Q. Is that because of the tremendous uncertainty in the data?	03:03:01PM 15	the Court's wishes.
03:00:22PM 16	A. We looked at this data and we actually we had this	03:03:02PM 16	THE COURT: You're turning over the SAS application
03:00:26PM 17	procedure of looking for outlies, and one of the things that we	03:03:05PM 17	and the spreadsheet?
03:00:29PM 18	did with the data that you have here is that we looked at the	03:03:07PM 18	MR. WARSHAWSKY: It's an Excel document, and Dr.
03:00:33PM 19	outlies here too, and this is the worst. There are other out-	03:03:11PM 19	Scheuren could probably tell you about it, but basically my
03:00:38PM 20	lies but they're mostly small. This is a spectacularly bad	03:03:15PM 20	understanding is it's the inputs that go into the application.
03:00:43PM 21	outlier.	03:03:19PM 21	THE COURT: I thought I heard Mr. Dorris asking more
03:00:43PM 22	Q. The one that I just give you?	03:03:21PM 22	than that. I think he wants to look inside the opaque box.
03:00:45PM 23	A. That's correct. I'm not surprised given who you are that	03:03:21PM 23	MR. WARSHAWSKY: Well, your Honor, I'm glad you asked
03:00:48PM 24	you would have noticed it, and we noticed it too and we went	03:03:29PM 24	about the opaque box. The opaque box is a reference to the SAS
03:00:52PM 25	back and looked at that. Our focus here is not on the balance.	03:03:31PM 25	application. I advised Mr. Smith before we had any discussion
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1055		1057
03:00:58PM 1	Our focus is here on the collections and disbursements, okay,	03:03:35PM 1	with the Court, I should say before we had the change, I advised
	-		mar the seart, renealed say series the riad the sharinge, readmiss
03:01:03PM 2	and so we didn't like it but we left it.	03:03:39PM 2	him Thursday that the application was a multiple imputation
03:01:03PM 2 03:01:07PM 3	and so we didn't like it but we left it. Q. You didn't like it but you didn't do anything about it,	03:03:39PM 2 03:03:43PM 3	-
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03:01:07РМ 3	Q. You didn't like it but you didn't do anything about it,	03:03:43PM 3	him Thursday that the application was a multiple imputation application, and in fact when we delivered it on Friday I told
03:01:07PM 3 03:01:11PM 4	Q. You didn't like it but you didn't do anything about it, correct?	03:03:43PM 3 03:03:47PM 4	him Thursday that the application was a multiple imputation application, and in fact when we delivered it on Friday I told him that we had somebody from NORC waiting by if they needed any
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	1058		1060
03:05:04PM 1	THE WITNESS: We have a knowledge that we have from	03:08:24PM 1	right now, but it is sensitive in the early period, before 1909.
03:05:10PM 2	the data to begin with and we use that to start the modeling	03:08:28PM 2	It is sensitive. It's not going to make much difference.
03:05:15PM 3	process. We bring it in. We then use random numbers to	03:08:33PM 3	THE COURT: If you ran it with the Osage numbers you'd
03:05:18PM 4	actually do the simulations so each simulation is different	03:08:36PM 4	get what, higher balances or lower calculated balances?
03:05:23PM 5	because of the randomness that we're adding, but they're	03:08:40PM 5	THE WITNESS: I'm not sure what I would do if I
03:05:26PM 6	constrained by what we know about the model, so after we do the	03:08:42PM 6	were I don't know the answer to that question, your Honor.
03:05:30PM 7	first iteration we construct the posterior from the data. And	03:08:44PM 7	If I were really pressed and said you can't use Osage because
03:05:37PM 8	we compare the results, the parameters that we're interested in,	03:08:49PM 8	it's this, that or the other thing, then I would probably go
03:05:42PM 9	which was usually the means and variance, covariances in this	03:08:52PM 9	look for some other variables which I didn't think was
03:05:46PM 10	world, we compare them to what or what our starting values were,	03:08:57PM 10	particular relevant, but I would check and maybe find them to be
03:05:51PM 11	and if they're not close, and close is really quite close, if	03:09:00PM 11	relevant.
03:05:54PM 12	they're not close we average the first iteration with our	03:09:01PM 12	One thing that's been said a lot is we're operating
03:06:00PM 13	estimate, our starting value, and then we do it again and we	03:09:04PM 13	quickly here. If we had more time, you heard me make a comment
03:06:05PM 14	keep doing that until the numbers converge, so we get estimates	03:09:07РМ 14	just a little while ago about an outlier that was identified by
03:06:11PM 15	of the means and totals, means variances that are the same from	03:09:11PM 15	plaintiff, the Plaintiffs' lawyers, which we identified
03:06:17PM 16	one iteration to the next, and this goes on a long time. Of	03:09:14PM 16	ourselves but after we delivered this. And of course I would
03:06:22PM 17	course it's microseconds because it's in the computer, and that	03:09:18PM 17	have fixed that, okay, but I don't think it would make much
03:06:24PM 18	is the first iteration, that is the first imputation that we do,	03:09:22PM 18	difference so I didn't bring it up, but we've looked at all the
03:06:30PM 19	and then we start begin, okay, a new starting point and do the	03:09:26PM 19	outliers. If we had more time we'd do better, but I think the
03:06:34PM 20	process over and over again until we've done ten thousand of	03:09:31PM 20	basic results that we have
03:06:37PM 21	those. That's how we did it.	03:09:33PM 21	THE COURT: You're comfortable with them?
03:06:40PM 22	THE COURT: If I were to sit down at a keyboard with	03:09:35PM 22	THE WITNESS: With the terms of the overall
03:06:42PM 23	that software would it show me what you mean?	03:09:37PM 23	uncertainty. I mean, we're looking at something there's a
03:06:45PM 24	THE WITNESS: Yes, yes. You have to have SAS on your	03:09:40PM 24	lot of uncertainty here and the uncertainty cuts against the
03:06:49PM 25	computer and things like that, but yes.	03:09:44PM 25	government, but the kind of uncertainty that is on the table
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
4	1059	1	1061
03:06:51PM I	THE COURT: The other thing I want to talk about is	03:09:49PM 1	here is rather different in size than the numbers that you've
2	the use of the Osage average share as one of the five variables because you've got nothing about a year and an Osage variable.	03:09:52PM 2	seen from the plaintiffs by a factor of ten. THE COURT: Yes. Okay. Thank you.
03:07:01PM 3	Now, is that variable useful because of the quantity of it, or	03:09:58PM 4	Do you want to do some redirect, Mr. Warshawsky?
03:07:13PM 5	is it useful because of the comparative size to this year's to	03:10:01PM 5	THE WITNESS: Thank you, your Honor.
03:07:16PM 6	next year's to the year after that, or does it have anything to	03:10:07PM 6	MR. WARSHAWSKY: Thank you, your Honor. I just have a
03:07:19PM 7	do with oil price versus timer price?	03:10:09PM 7	couple of redirect.
03:07:23PM 8	THE WITNESS: I can't speak to oil price versus timber	03:10:09PM 8	REDIRECT EXAMINATION
03:07:27PM 9	price. It does give us some information about what's going on	03:10:10PM 9	BY MR. WARSHAWSKY:
03:07:30PM 10	with the economy generally, and of course it says specifically	03:10:10PM 10	Q. Dr. Scheuren, I'd like to ask you about a couple of things
03:07:34PM 11	regarding oil, and it goes all the way back into this period,	03:10:13PM 11	that Mr. Dorris inquired about with respect to information you
03:07:37PM 12	and it is directly relevant to the Indian trust system. We	03:10:16PM 12	received from Morgan Angel.
03:07:48PM 13	could have added other variables.	03:10:18PM 13	A. Yes.
l	THE COURT: Like what?	03:10:18PM 14	Q. Now, you may recall on cross you were being asked about
03:07:50PM 14	THE COURT: Like what?	03.10.10FW	• Now, you may recall on cross you were being asked about
03:07:50PM 14 03:07:51PM 15	THE WITNESS: Price indices, GDP, you know, general	03:10:23PM 15	some of the collection figures from 1922 to 1949.

regional areas where these general kinds of variables might not get us down from enough or have any more predictive value than the Osage did. THE COURT: You said at one point, I think, you could have run this without the Osage numbers. THE WITNESS: We have done that, yes.

20 21

22 03:08:19PM **23** THE COURT: What's the result? How sensitive is this 03:08:21PM **24** model to using the Osage?

THE WITNESS: I can't give you the answer to that

Jacqueline M. Sullivan, RPR

Official Court Reporter

03:10:31PM 17 Q. Do you remember having any conversations with anybody from 03:10:34PM 18 Morgan Angel about disbursements during those periods? 03:10:37PM 19 A. No. 03:10:37PM **20** Q. If the disbursements -- let me ask it this way. If the 03:10:41PM **21** disbursements were similarly understated, there is a discussion 03:10:44PM **22** about collections being understated, how would that impact your 03:10:48PM **23** calculated balance estimates? 03:10:53PM **24** A. It wouldn't have changed the balances potentially at all. 03:10:56PM **25** The things we saw going forward, especially in the period Jacqueline M. Sullivan, RPR

Official Court Reporter

03:08:23PM **25**

03:08:01PM 17

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	1062		1064
03:11:00PM 1	before, the early period, is that even though it doesn't have to	03:14:34PM 1	friends and influence people so he's careful and he's modest in
03:11:03PM 2	move together, as I've stipulated, it tended to move together	03:14:38PM 2	his statement. I actually believe that is much more of an
03:11:08PM 3	up or down, except during the great economic stress during the	03:14:42PM 3	advocate for multiple imputation than that, but he's trying to
03:11:11PM 4	Depression.	03:14:47PM 4	deal with people who and there's some controversy among
03:11:11PM 5	Q. And just to be clear, when you're talking about things	03:14:51PM 5	multiple imputation. If you looked a little bit at the material
03:11:14PM 6	moving together, you're talking about the collections and	03:14:57PM 6	that I had in the paper that we looked at this morning, all you
03:11:16PM 7	disbursement?	03:15:01PM 7	Google when you Google I'm very sorry, Jackie you Google
03:11:17PM 8	A. Yes. If collection was up disbursement would also go up	03:15:09PM 8	this issue, the first thing that comes up is a paper by a good
03:11:20PM 9	and vice versa.	03:15:13PM 9	friend of mine, Bob Fay, that has some problems with multiple
03:11:21PM 10	Q. And your focus is the calculated balances?	03:15:17PM 10	imputation, so there's some underbrush here. However, that kind
03:11:24PM 11	A. That's what we're after, yes. We're not trying to make	03:15:21PM 11	of underbrush actually leads to a particular kind of problem
03:11:27PM 12	best estimates for each of these cells.	03:15:24PM 12	which is the opposite of the problem here. If there is a
03:11:29PM 13	Q. Now, if you could pull up Defendants' Exhibit 72, please,	03:15:29PM 13	problem with the multiple imputation in this particular setting,
03:11:36PM 14	page four. Okay. And if you could highlight the section that	03:15:35PM 14	it doesn't affect our result except that we may have slightly
03:12:03PM 15	Mr. Dorris asked about here.	03:15:39PM 15	overstated the uncertainty as a result of it. Slightly
03:12:07PM 16	Do you remember the discussion about cash receipts are	03:15:44PM 16	overstated.
03:12:14PM 17	running at a rate of \$121 million per year?	03:15:45PM 17	Q. And what is the significance if you overstate the
03:12:17PM 18	A. Yes, I do.	03:15:47PM 18	uncertainty in this case?
03:12:17PM 19	Q. Do you know if Dr. Angel actually used that figure in his	03:15:49PM 19	A. That the amount of money that is at issue here is larger,
03:12:20PM 20	analysis?	03:15:54PM 20	but we've already done that and I think I'm weighing all these
03:12:21PM 21	A. I don't know. I don't think he did, but I don't know.	03:16:00PM 21	things, and what I heard the other day from Michelle Herman and
03:12:23PM 22	Q. You weren't present this morning when Dr. Angel explained	03:16:05PM 22	her response from the Plaintiffs' lawyers, I weigh that in with
03:12:26PM 23	on his redirect why he didn't use that, were you?	03:16:09PM 23	the fact that we may slightly have overstated, but I don't think
03:12:28PM 24	A. No, I was not.	03:16:12PM 24	that's very important in this case and I think that a modest
03:12:30PM 25	Q. So you don't know the reasons that he rejected that figure?	03:16:15PM 25	adjustment to a 97.5 upward bound is the right answer here in
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1063		1065
03:12:34PM 1	1063 A. No, I don't.	03:16:23PM 1	1065 rough justice.
03:12:34PM 1 03:12:35PM 2		03:16:23PM 1 03:16:23PM 2	
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03:12:35PM 2	A. No, I don't. I want to make this point. I asked for data from Dr.	03:16:23PM 2	rough justice. Q. And to the extent you overstated, does that inure to the
03:12:35PM 2 03:12:40PM 3	A. No, I don't. I want to make this point. I asked for data from Dr. Angel that was connected directly to a historical, you know,	03:16:23PM 2 03:16:29PM 3	rough justice. Q. And to the extent you overstated, does that inure to the benefit of the plaintiff or the defendant?
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	1066		1068
1		1	TERENCE KEHOE, Ph.D, WITNESS FOR THE GOVERNMENT, SWORN
03:27:43PM 1	Also, if we could get an indication as to when Dr. Scheuren is to be recalled so we can make sure he's here.	03:30:30PM	DIRECT EXAMINATION
3	THE COURT: Does anybody want to respond to any of	3	BY MR. SIEMIETKOWSKI:
03:27:53PM 3	that? Mr. Dorris?	03:30:32PM 3	Q. Dr. Kehoe, would you please state your full name?
03:27:55PM 4		03:30:32PM 4	A. Terrence Patrick Kehoe.
6	MR. DORRIS: If Mr. Warshawsky had asked me about it	6	Q. Where do you work?
7	at the break I would have been glad to address that with him. I don't know what backup from Dr. Cornell he wants. We gave him	03:30:38PM 7	Where do you work? I work at Morgan Angel & Associates in Washington, D.C.
03:28:05PM 7	· · · · · · · · · · · · · · · · · · ·		Q. What's your profession?
0	all of the information with the documents supporting it on March		A. I'm a historian.
10	19 and there hasn't been further analysis. Will there be?	03:30:44PM 9	
44	We've indicated to Mr. Warshawsky we think there will be and	44	Q. Dr. Kehoe, would you please explain your educational
40	that we'll provide that to him as soon as it's done and that's	40	background? A. I have a bachelor of science degree in business
40	what we're committed to doing, but that has not that process	42	S .
4.4	is not done and we don't have anything further to provide to him	4.4	administration from Bowling Green State University and a
03:28:37PM 14 03:28:38PM 15	at this point.	45	master's and a Ph.D in American history from Ohio State
4.0	THE COURT: Okay. What about Scheuren, when do you	40	University.
47	want to bring Scheuren back?	03:31:00PM 16	Q. In the course of your formal studies have you had a chance
03:28:43PM 17	MR. DORRIS: Your Honor, they provided information,	03:31:05PM 17	to learn the conduct of historical records research?
03:28:45PM 18	and I would think given the witnesses I'm responsible for	03:31:10PM 18	A. Yes. In graduate school I had extensive experience
03:28:49PM 19	tomorrow that Thursday would probably be better. Today is	03:31:16PM 19	researching public policy and how it changed over time working
03:28:52PM 20	Tuesday. Thursday would probably be best for Dr. Scheuren.	03:31:19PM 20	in various state and federal archives primarily in government
03:28:56PM 21	That gives me tomorrow to look at it.	03:31:23PM 21	records of various kinds.
03:28:59PM 22	THE COURT: Let's ask Dr. Scheuren to be available on	03:31:25PM 22	Q. What about your employment, Dr. Kehoe, have you ever taught
03:29:02PM 23	Thursday.	03:31:29PM 23	at all at the university level?
03:29:02PM 24	MR. WARSHAWSKY: Very good, your Honor.	03:31:31PM 24	A. Yes. I was a visiting professor at Wake Forest University
03:29:04PM 25	THE COURT: Mr. Siemietkowski?	03:31:37PM 25	for like two years, and among the courses that I taught there
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1067		1069
03:29:06РМ 1	1067 MR. SIEMIETKOWSKI: Your Honor, the defense calls	03:31:40PM 1	1069 was American environmental history, history of the American
03:29:06PM 1		03:31:44PM 1	
_	MR. SIEMIETKOWSKI: Your Honor, the defense calls Terence Kehoe. THE COURT: All right.		was American environmental history, history of the American West, the United States since 1945. Q. Did any of those courses taught at Lake Forest University
03:29:10PM 2	MR. SIEMIETKOWSKI: Your Honor, the defense calls Terence Kehoe.	03:31:44PM 2	was American environmental history, history of the American West, the United States since 1945.
03:29:10PM	MR. SIEMIETKOWSKI: Your Honor, the defense calls Terence Kehoe. THE COURT: All right. COURTROOM DEPUTY: Please raise your right hand. Do you solemnly swear that the testimony you give to the Court in	03:31:44PM 2 03:31:49PM 3 03:31:53PM 4 03:31:54PM 5	was American environmental history, history of the American West, the United States since 1945. Q. Did any of those courses taught at Lake Forest University touch about Indian matters? A. Certainly the course on environmental history did, and most
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	1070		1072
03:33:02PM 1	A. The work that I have done involving American Indian policy	03:36:09PM 1	facility in Lenexa.
03:33:06PM 2	has been for the Office of Historical Trust Accounting and the	03:36:11PM 2	Q. Dr. Kehoe, do belong to any professional organizations?
03:33:10PM 3	Department of the Interior, the Department of Justice, and the	03:36:15PM 3	A. I belong to several. American Society For Environmental
03:33:13PM 4	Department of the Treasury.	03:36:18PM 4	History, the Business History Conference, and the Organization
03:33:15PM 5	Q. Have you written my papers for these clients?	03:36:21PM 5	for American Historians.
03:33:20PM 6	A. Yes, I have. I've written a number of major papers,	03:36:22PM 6	Q. Earlier, Dr. Kehoe, you mentioned teaching at Wake Forest
03:33:24PM 7	research papers, that have run between about 20 and 75 typed	03:36:27PM 7	University. Have you taught any Indian courses here in
03:33:30PM 8	pages.	03:36:30PM 8	Washington, D.C.?
03:33:30PM 9	Q. Are some of those papers reflected on the screen that's	03:36:31PM 9	A. I team-taught a course with other staff members at Morgan
03:33:33PM 10	shown now?	03:36:36PM 10	Angel in 2000 at George Washington University.
03:33:34PM 11	A. Yes, they are. And as you can see, I've written somewhat	03:36:40PM 11	Q. Did that course involve Indian matters?
03:33:41PM 12	about natural resource issues, but again, the primary focus has	03:36:43PM 12	A. The primary focus was the history of federal policy towards
03:33:44PM 13	been on the government's administration of Indian trust funds.	03:36:49PM 13	Native Americans.
03:33:47PM 14	As you can see here, the Treasury as well in the administration	03:36:50PM 14	Q. How does the Indian research you've done for Morgan Angel
03:33:50PM 15	of travel trust funds, investment of travel trust funds. I've	03:36:55PM 15	compare with the research you did to earn your Ph.D?
03:33:53PM 16	written on ITM banking policy. And if you can scroll to the	03:36:59PM 16	A. Although the topics are very different, they're both
03:33:57PM 17	next page on my resume.	03:37:02PM 17	examples I think of public policy research that is doing
03:33:59PM 18	MR. SIEMIETKOWSKI: Technical difficulties. They're	03:37:04PM 18	extensive research at the archival level and government records
03:34:03PM 19	not getting in. Let's hold up a second, Dr. Kehoe, until we get	03:37:09PM 19	trying to trace changes in policy over time. I would say it's
03:34:15PM 20	the screen working on both sides.	03:37:15PM 20	fair to say I've done far more research and writing for Morgan
03:34:17PM 21	BY MR. SIEMIETKOWSKI:	03:37:20PM 21	Angel than I did during my Ph.D at Ohio State.
03:34:18PM 22	Q. You wanted to refer to the papers that you've written?	03:37:23PM 22	Q. Thank you, Dr. Kehoe.
03:34:20PM 23	A. As noted here, in addition to those research papers I've	03:37:25PM 23	At this time, your Honor, we offer Dr. Kehoe as an
03:34:23PM 24	also submitted 29 reservation histories to the Office of	03:37:27PM 24	expert in the history of federal Indian relations and in federal
03:34:25PM 25	Historical Trust Accounting. These are brief studies about 15	03:37:31PM 25	Indian records.
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1071		1073
03:34:32PM 1	to 20 pages, primarily narrative, but with some historic data	03:37:32PM 1	THE COURT: Any objection or voir dire?
03:34:32PM 1 03:34:37PM 2		03:37:35PM 2	
_	to 20 pages, primarily narrative, but with some historic data	03:37:35PM 2 03:37:38PM 3	THE COURT: Any objection or voir dire? MR. HARPER: Yes, a little voir dire, if I could, your Honor. Good afternoon, your Honor.
03:34:37PM 2	to 20 pages, primarily narrative, but with some historic data focused primarily on the history of land tenure on that	03:37:35PM 2 03:37:38PM 3 03:37:39PM 4	THE COURT: Any objection or voir dire? MR. HARPER: Yes, a little voir dire, if I could, your Honor. Good afternoon, your Honor. THE COURT: Good afternoon.
03:34:37PM 2 03:34:40PM 3	to 20 pages, primarily narrative, but with some historic data focused primarily on the history of land tenure on that reservation, focusing on allotment, changes in land tenure over time, and also the history of natural resource development on those particular reservations. Of course, every reservation has	03:37:38PM 2 03:37:38PM 3	THE COURT: Any objection or voir dire? MR. HARPER: Yes, a little voir dire, if I could, your Honor. Good afternoon, your Honor. THE COURT: Good afternoon. VOIR DIRE
03:34:37PM	to 20 pages, primarily narrative, but with some historic data focused primarily on the history of land tenure on that reservation, focusing on allotment, changes in land tenure over time, and also the history of natural resource development on those particular reservations. Of course, every reservation has its own unique history.	03:37:35PM 2 03:37:35PM 3 03:37:39PM 4	THE COURT: Any objection or voir dire? MR. HARPER: Yes, a little voir dire, if I could, your Honor. Good afternoon, your Honor. THE COURT: Good afternoon. VOIR DIRE BY MR. HARPER:
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03:34:37PM 2 03:34:40PM 3 03:34:47PM 4 03:34:50PM 5 03:34:53PM 6 03:34:55PM 7 03:34:57PM 8	to 20 pages, primarily narrative, but with some historic data focused primarily on the history of land tenure on that reservation, focusing on allotment, changes in land tenure over time, and also the history of natural resource development on those particular reservations. Of course, every reservation has its own unique history. Q. Have you performed any Indian research at the National Archives and its facilities?	03:37:35PM 2 03:37:35PM 3 03:37:35PM 4 03:37:40PM 5 03:37:40PM 6 03:37:45PM 7 03:37:46PM 8	THE COURT: Any objection or voir dire? MR. HARPER: Yes, a little voir dire, if I could, your Honor. Good afternoon, your Honor. THE COURT: Good afternoon. VOIR DIRE BY MR. HARPER: Q. Good afternoon, Dr. Kehoe. I'm Keith Harper, counsel for the plaintiffs. I'm just going to ask you a few questions about
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03:34:37PM 2 03:34:37PM 4 03:34:50PM 5 03:34:50PM 6 03:34:55PM 7 03:34:55PM 9 03:35:05PM 10 03:35:05PM 11 03:35:05PM 12 03:35:15PM 15 03:35:15PM 15 03:35:15PM 17 03:35:40PM 19 03:35:40PM 19 03:35:40PM 19 03:35:47PM 21 03:35:52PM 21	to 20 pages, primarily narrative, but with some historic data focused primarily on the history of land tenure on that reservation, focusing on allotment, changes in land tenure over time, and also the history of natural resource development on those particular reservations. Of course, every reservation has its own unique history. Q. Have you performed any Indian research at the National Archives and its facilities? A. Yes. That's one of the primary places where we conduct research here at the main building in Washington, D.C. and also at College Park and also at some of the regional archives scattered across the country. Q. Have you conducted any Indian records research at the American Indians Record Repository? A. Yes. I've made a number of trips to Lenexa to conduct research. Q. What about federal records center? A. I've also conduced work there as well. Q. You mentioned that Interior is one of your clients. Have you conducted any Indian research at Interior? A. Well, I've made extensive use of the Department of Interior library in their main building, and I also made several research trips to what was called the Office of Trust Records in Albuquerque, New Mexico, working in more recent Indian records, and again I believe most of those records have been moved to the	03:37:35PM 2 03:37:35PM 4 03:37:40PM 5 03:37:40PM 6 03:37:40PM 7 03:37:40PM 9 03:37:50PM 9 03:37:50PM 11 03:37:50PM 12 03:37:50PM 15 03:37:50PM 15 03:38:04PM 16 03:38:04PM 16 03:38:04PM 17 03:38:04PM 18 03:38:04PM 20 03:38:16PM 20 03:38:16PM 20 03:38:18PM 21 03:38:23PM 22 03:38:23PM 22 03:38:31PM 24	THE COURT: Any objection or voir dire? MR. HARPER: Yes, a little voir dire, if I could, your Honor. Good afternoon, your Honor. THE COURT: Good afternoon. VOIR DIRE BY MR. HARPER: Q. Good afternoon, Dr. Kehoe. I'm Keith Harper, counsel for the plaintiffs. I'm just going to ask you a few questions about your experience. A. Certainly. Q. First let me ask you, are you an accountant? A. No, I am not. Q. Are you an econometrician? A. No, I am not. Q. Are you an economist? A. No. Q. Statistician? A. No, I am not. Q. Do you claim any expertise in the management practices of the Office of the Comptroller of the Currency? A. I'm somewhat familiar with the comptroller of the currency and its historical role with regard to failed banking institutions. That's been part of my research. Q. Again, do you claim expertise in the management practices and policies of the Office of the Comptroller of the currency,
03:34:37PM 2 03:34:37PM 4 03:34:50PM 5 03:34:50PM 6 03:34:55PM 7 03:34:55PM 9 03:34:55PM 10 03:35:05PM 11 03:35:05PM 12 03:35:14PM 14 03:35:14PM 15 03:35:14PM 15 03:35:14PM 17 03:35:40PM 18 03:35:40PM 19 03:35:40PM 20 03:35:47PM 21 03:35:52PM 21 03:35:52PM 21 03:35:57PM 23 03:36:05PM 24	to 20 pages, primarily narrative, but with some historic data focused primarily on the history of land tenure on that reservation, focusing on allotment, changes in land tenure over time, and also the history of natural resource development on those particular reservations. Of course, every reservation has its own unique history. Q. Have you performed any Indian research at the National Archives and its facilities? A. Yes. That's one of the primary places where we conduct research here at the main building in Washington, D.C. and also at College Park and also at some of the regional archives scattered across the country. Q. Have you conducted any Indian records research at the American Indians Record Repository? A. Yes. I've made a number of trips to Lenexa to conduct research. Q. What about federal records center? A. I've also conduced work there as well. Q. You mentioned that Interior is one of your clients. Have you conducted any Indian research at Interior? A. Well, I've made extensive use of the Department of Interior library in their main building, and I also made several research trips to what was called the Office of Trust Records in Albuquerque, New Mexico, working in more recent Indian records,	03:37:35PM 2 03:37:35PM 4 03:37:40PM 5 03:37:40PM 6 03:37:40PM 7 03:37:40PM 9 03:37:50PM 9 03:37:50PM 11 03:37:50PM 12 03:37:50PM 15 03:37:50PM 15 03:38:04PM 16 03:38:04PM 16 03:38:04PM 17 03:38:04PM 18 03:38:04PM 20 03:38:16PM 20 03:38:16PM 20 03:38:18PM 21 03:38:23PM 22 03:38:23PM 22 03:38:31PM 24	THE COURT: Any objection or voir dire? MR. HARPER: Yes, a little voir dire, if I could, your Honor. Good afternoon, your Honor. THE COURT: Good afternoon. VOIR DIRE BY MR. HARPER: Q. Good afternoon, Dr. Kehoe. I'm Keith Harper, counsel for the plaintiffs. I'm just going to ask you a few questions about your experience. A. Certainly. Q. First let me ask you, are you an accountant? A. No, I am not. Q. Are you an econometrician? A. No, I am not. Q. Are you an economist? A. No. Q. Statistician? A. No, I am not. Q. Do you claim any expertise in the management practices of the Office of the Comptroller of the Currency? A. I'm somewhat familiar with the comptroller of the currency and its historical role with regard to failed banking institutions. That's been part of my research. Q. Again, do you claim expertise in the management practices

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03:38:39PM 1	do you consider yourself an expert in that?	03:41:47PM 1	A. No, that's right.
03:38:40PM 2	A. No, I do not.	03:41:48PM 2	Q. So that is true, that you do not have any, correct?
03:38:41PM 3	Q. Do you consider yourself an expert in the United States	03:41:52PM 3	A. That is true.
03:38:44PM 4	budgetary processes?	03:41:53PM 4	Q. Thank you. And what areas of Indian policy do you consider
03:38:45PM 5	A. No, I do not.	03:42:02PM 5	yourself an expert?
03:38:47PM 6	Q. Do you consider yourself an expert in the debt management	03:42:10PM 6	MR. SIEMIETKOWSKI: Objection, your Honor; relevance.
03:38:51PM 7	practices of the Department of Treasury?	03:42:12PM 7	We've offered him as an expert in two particular areas only.
03:38:53PM 8	A. No, I do not.	03:42:15PM 8	MR. HARPER: I understood the offer was for generally
03:38:54PM 9	Q. Do you consider yourself an expert on the management	03:42:26PM 9	on Indian Affairs, your Honor. I mean, that's a
03:38:57PM 10	practices at the Department of Treasury?	03:42:32PM 10	THE COURT: Stand up and repeat your labels for the
03:38:59PM 11	A. No, I do not.	03:42:37PM 11	areas in which you expect to ask questions.
03:39:00PM 12	Q. Do you believe that you are an expert in the borrowing	03:42:42PM 12	MR. SIEMIETKOWSKI: We asked to qualify Dr. Kehoe,
03:39:06PM 13	decisions and the way borrowing decisions are made by the	03:42:45PM 13	your Honor, as an expert in the history of federal Indian
03:39:09PM 14	Department of Treasury?	03:42:48PM 14	relations and in federal Indian records.
03:39:10PM 15	A. No, I am not.	03:42:52PM 15	MR. HARPER: Your Honor, federal Indian relations is a
03:39:11PM 16	Q. Do you have any expertise regarding the national debt?	03:42:56PM 16	very broad topic area.
03:39:20PM 17	A. No, I do not.	03:42:58PM 17	THE COURT: I understand that. I understand that, but
03:39:22PM 18	Q. Do you have any expertise in the rules and regulations	03:43:03PM 18	he knows a lot more about it than I do, and we're talking about
03:39:26PM 19	associated with the regulation of national banks?	03:43:06PM 19	aiding the finder of fact here, so if he's got something that
03:39:29PM 20	A. No, I do not.	03:43:11PM 20	will help me I'm going to listen to it.
03:39:34PM 21	Q. Do you have expertise in what's called the FDIC? Do you	03:43:14PM 21	MR. HARPER: Thank you, your Honor. Well, then, at
03:39:42PM 22	know the term FDIC, Federal Deposit Insurance?	03:43:17PM 22	this time I will withdraw my objections on those two topic
03:39:46PM 23	A. Yes, I'm familiar with its general rule and how federal	03:43:21PM 23	areas.
03:39:48PM 24	deposit insurance is applied.	03:43:22PM 24	THE COURT: All right. Thank you.
03:39:51PM 25	Q. Would you consider yourself an expert in that field?	03:43:22PM 25	BY MR. SIEMIETKOWSKI:
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1075		1077
03:39:53PM 1	A. No, I would not describe myself as an expert in that field.	03:43:39PM 1	Q. Dr. Kehoe, let's talk first about IIM banking policy,
03:39:59PM Z	Q. Do you consider yourself an expert in public securities?	03:43:44PM 2	specifically where the IIM was. Have you looked at the
03:40:08PM 3	A. No, I do not. Q. Do you consider yourself an expert on how monies are	03:43:48PM 3	placement of IIM throughout its history? A. Yes, I have, and historically I think I can say that IIM
_		_	
6	collected at the Department of Treasury? A. Again, I have some familiarity with these procedures, but,	6	has been placed in three general areas or categories, and that is in commercial banks, invested in federal securities, or in
03:40:36PM 0	no, I would not describe myself as an expert in that area.	7	checking accounts with the Treasury under the control of BIA
03:40:44PM 7	Q. And what about how disbursements are made from the	03:44:07PM 8	disbursing agents.
03:40:50PM 9	Department of Treasury?	03:44:15PM 9	Q. Now, as you discussed these three categories during your
03:40:51PM 10	A. My answer would be the same.	03:44:20PM 10	testimony, Dr. Kehoe, have you prepared any exhibit which might
03:40:56PM 11	Q. Do you consider yourself an expert on what is called the	03:44:23PM 11	assist in your testimony today?
03:41:04PM 12	Treasury general account?	03:44:24PM 12	A. I prepared a Power Point presentation.
03:41:06PM 13	A. No, I do not.	03:44:27PM 13	Q. I ask you to look at DX 497 on your screen, please. This
03:41:08PM 14	Q. Now, you talked a little bit about your experience with	03:44:35PM 14	is a twelve-slide Power Point show. Do you recognize it?
03:41:17PM 15	Indian Affairs?	03:44:38PM 15	A. Yes, I do.
03:41:18PM 16	A. Yes, sir.	03:44:44PM 16	Q. Who prepared it?
03:41:18PM 17	Q. Do you recall that? And I noticed on your resume,	03:44:45PM 17	A. I prepared it.
03:41:24PM 18	however we can look on the publication section are any of	03:44:46PM 18	Q. I ask you now, Dr. Kehoe, to look at slide two, please.
03:41:29PM 19	the actual publications and journals that you have written, they	03:44:51PM 19	Dr. Kehoe, why does your slide or your timeline begin in 1898?
03:41:33PM 20	seem to be environmental principally; is that correct?	03:44:56PM 20	A. I chose 1898 because the law was enacted that made BIA
03:41:35PM 21	A. My publications have been in the field of environmental	03:45:04PM 21	disbursing agents legally accountable under their personal bond
03:41:39PM 22	history, that is correct.	03:45:10PM 22	for all monies that came into their possession, the key being
03:41:40PM 23	Q. So you haven't had any publications, any journals presently	03:45:15PM 23	all monies, not just public funds, and this clarified their
03:41:44PM 24	as of today on any subjects related to Indian Affairs; is that	03:45:19PM 24	legal responsibility for handling IIM.
03:41:47PM 25	fair?	03:45:21PM 25	Q. Dr. Kehoe, what's the significance for the Court of the
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter	1077 of 11	Official Court Reporter 24 06/19/2008 11:12:44 AM

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03:45:24PM 1	three dates on slide two?	03:48:15PM 1	Q. Now, the dollar value figures, Dr. Kehoe, where are they
03:45:24PM 2	A. Well, these are three important milestones, I would say, in	03:48:15PM 2	from?
2	the history of the handling of IIM.	•	A. For this period they're taken from the annual reports of
03:45:31PM 3	Q. Now, regarding 1908, what kind of deposits are we talking	03:48:20PM 3	the commissioner of Indian affairs.
	about there?	-	Q. What about the percentage figures, who were they taken
6		•	
7		_	from? A. Those were just simple calculations that we did.
03:45:46PM 7	to a policy BIA had been following for some time. Since at least 1899 they had been placing LIM in commercial banks either		A. Those were just simple calculations that we did. Q. Well, let me show you next DX 33 previously admitted in
		03:48:32PM 9	October. Do you recognize that, Dr. Kehoe?
03:45:55PM 9	in checking accounts or in time deposits. Q. And what's the difference between a time deposit and	03:48:39PM 3	
03:45:58PM 10 03:46:02PM 11	another kind of deposit?	03:48:46PM 10	A. Yes. I believe the Court is probably quite familiar with
03:46:02PM 11 03:46:03PM 12		03:48:49PM 11 03:48:52PM 12	this document by now. It's the annual report of the commissioner of Indian affairs for 1910.
03:46:03PM 12 03:46:09PM 13	A. Well, to put it simply, in a time deposit the depositor	03:48:52PM 12 03:48:55PM 13	
03:46:09PM 13	guarantees that the funds will be placed in the bank for a	03:48:55PM 13	Q. I ask you next to look at page two of this document, Dr. Kehoe. And what if any data did you use on this for your Power
03:46:12PM 14 03:46:15PM 15	certain amount of time and will therefore receive a certain rate of interest because of that.	03:48:58PM 14 03:49:05PM 15	
40	_	03:49:05PM 15	Point slide that you were just discussing?
47	Q. And what's the contrasted? A. Contrasted with a demand deposit or what they would call a	47	A. In the highlighted area I drew upon two figures. The
40	A. Contrasted with a demand deposit or what they would call a checking account in which the money is available at any time.	03:49:12PM 17	figure of approximately \$2.6 million for in hands of disbursing officers, and the figure for approximately \$6.8 million in
40		40	bonded banks to credit of individual Indians.
03:46:28PM 19	Q. Was interest paid on those typically?A. In this period they were.	00	Q. Now, to see this more clearly I ask that we look at the
03:46:31PM 20	Q. Let me show you next slide, three, Dr. Kehoe. Now, why	03:49:24PM 20	first split screen. Could you kind of talk us through those two
03:46:31PM 21	does this period go up to 1933 in your analysis?	03:49:27PM 21	screens and how they transpose in terms of data from one to
03:46:40PM 23	A. As I'll be discussing, 1933 is when an important federal	03:49:41PM 23	another?
03:46:44PM 24	law was enacted that really had a big impact on the management	03:49:41PM 23	A. Well, I think it's pretty straightforward. In balance
03:46:48PM 25	of the HM.	03:49:47PM 25	excuse me, in hands of disbursing officers is under that second
00.40.40 M	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
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03:46:49PM 1	Q. And what law was that?	03:49:51PM 1	1081 column for 1910 that says in hands of disbursing officers, and
03:46:49PM 1 03:46:50PM 2		03:49:51PM 1 03:49:56PM 2	
_	Q. And what law was that?	_	column for 1910 that says in hands of disbursing officers, and
03:46:50PM 2	Q. And what law was that?A. That was the Banking Act of 1933, sometimes referred to as	03:49:56PM 2	column for 1910 that says in hands of disbursing officers, and that \$6.8 million figure in bonded banks to credit of individual
03:46:50PM 2 03:46:55PM 3	Q. And what law was that?A. That was the Banking Act of 1933, sometimes referred to as the Glass Ceiling Act.	03:49:56PM 2 03:50:00PM 3	column for 1910 that says in hands of disbursing officers, and that \$6.8 million figure in bonded banks to credit of individual Indians is in that first column next to 1910.
03:46:50PM 2 03:46:55PM 3 03:46:56PM 4	 Q. And what law was that? A. That was the Banking Act of 1933, sometimes referred to as the Glass Ceiling Act. Q. Before we get to that, let's talk about the different 	03:49:56PM 2 03:50:00PM 3 03:50:04PM 4	column for 1910 that says in hands of disbursing officers, and that \$6.8 million figure in bonded banks to credit of individual Indians is in that first column next to 1910. Q. Let's go to slide four then of your slide show then, Dr.
03:46:50PM 2 03:46:55PM 3 03:46:56PM 4 03:46:59PM 5	 Q. And what law was that? A. That was the Banking Act of 1933, sometimes referred to as the Glass Ceiling Act. Q. Before we get to that, let's talk about the different columns here on slide three. What is meant by in "bonded banks" 	03:50:00PM	column for 1910 that says in hands of disbursing officers, and that \$6.8 million figure in bonded banks to credit of individual Indians is in that first column next to 1910. Q. Let's go to slide four then of your slide show then, Dr. Kehoe. Now, why here, Dr. Kehoe, do the top horizontal columns
03:46:50PM 2 03:46:55PM 3 03:46:56PM 4 03:46:56PM 5 03:47:04PM 6	 Q. And what law was that? A. That was the Banking Act of 1933, sometimes referred to as the Glass Ceiling Act. Q. Before we get to that, let's talk about the different columns here on slide three. What is meant by in "bonded banks to the credit of individual Indians"? 	03:49:56PM 2 03:50:00PM 3 03:50:04PM 4 03:50:08PM 5 03:50:20PM 6	column for 1910 that says in hands of disbursing officers, and that \$6.8 million figure in bonded banks to credit of individual Indians is in that first column next to 1910. Q. Let's go to slide four then of your slide show then, Dr. Kehoe. Now, why here, Dr. Kehoe, do the top horizontal columns change names?
03:46:50PM 2 03:46:55PM 3 03:46:56PM 4 03:46:56PM 5 03:47:04PM 6 03:47:07PM 7	 Q. And what law was that? A. That was the Banking Act of 1933, sometimes referred to as the Glass Ceiling Act. Q. Before we get to that, let's talk about the different columns here on slide three. What is meant by in "bonded banks to the credit of individual Indians"? A. Before we go any further, Mr. Siemietkowski, can I just 	03:49:56PM 2 03:50:00PM 3 03:50:04PM 4 03:50:08PM 5 03:50:20PM 6 03:50:20PM 7	column for 1910 that says in hands of disbursing officers, and that \$6.8 million figure in bonded banks to credit of individual Indians is in that first column next to 1910. Q. Let's go to slide four then of your slide show then, Dr. Kehoe. Now, why here, Dr. Kehoe, do the top horizontal columns change names? A. Well, in this period in the subsequent periods that we'll
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	1082			1084
03:51:36PM 1 Q. L6	et's turn next to the next slide, Dr. Kehoe. Why does the	03:54:37PM	1	other types of IIM accounts.
03:51:43PM 2 next pe	riod in your analysis go to 1966?	03:54:40PM	2	Q. Let's move from slide five and show you slide six, Dr.
:51:47PM 3 A. 1	966, as we'll be discussing, is when the BIA began to	03:54:45PM	3	Kehoe. What is the significance in the first bullet there?
51:51PM 4 centra	lize IIM investment. Prior at this it had been quite	03:54:48PM	4	A. Well, this indicates a major trend in investments. Between
1:56PM 5 decent	ralized.	03:54:56PM	5	the mid-30s and the mid-1940s almost all of the IIM that had
51:56PM 6 Q. L6	et's talk, before we get to that, about 1933. You touched	03:55:00PM	6	still been maintained in time deposits was gradually shifted
1:59PM 7 upon th	is briefly a moment ago, but what was the impact as	03:55:06PM	7	into federal securities so very little money in banks by, say,
52:03PM 8 reflecte	d in your second sentence there of glass ceiling?	03:55:10PM	8	the late 1940s.
52:06PM 9 A. W	/ell, glass ceiling prohibited banks from paying interest	03:55:12PM	9	Q. And what about 1960, why did you add that date to the
10 on den	nand deposits or checking accounts, so the BIA had no	03:55:15PM	10	slide?
11 choice	but to close all of the checking accounts at commercial	03:55:15PM	11	A. This is when the commissioner of Indian affairs began to
52:19PM 12 banks	that had been handling IIM, and move those funds into the	03:55:19PM	12	implement a policy in which once again large amounts of IIM
223PM 13 Treasu	ry checking accounts controlled by special disbursing	03:55:23PM	13	would be placed back in commercial banks, I should note strictly
_{32:27РМ} 14 agents		03:55:27PM	14	for purposes of investment, that is, in time deposits, later
2:27PM 15 Q. AI	nd Dr. Kehoe, what's the significance of 1938?	03:55:32PM	15	certificates of deposit, but not in checking accounts.
2:30PM 16 A. TI	nis is an important general investment law for Indian	03:55:35PM	16	Q. I'm going to show you slide seven, Dr. Kehoe. What trend,
2:36PM 17 trust fo	unds. I believe its basic structure is still in place	03:55:42PM	17	if any, is evident on this chart?
2:40PM 18 today a	and it lays out the legal investments for ITM, again,	03:55:45PM	18	A. Well, I think it's clear that we see a decline in IIM kept
2:45PM 19 federa	securities, and also it can be placed in banks, paying a	03:55:51PM	19	in commercial banks and federal securities become overwhelmingl
2:50PM 20 more r	easonable rate of interest.	03:55:56PM	20	the main avenue of investment with the remaining funds held in
2:52PM 21 Q. D	r. Kehoe, the Great Depression happened during this time	03:56:01PM	21	the Treasury.
22:54PM 22 period,	did it not?	03:56:02PM	22	Q. Let me show you DX 408, if I could briefly, Dr. Kehoe. Now
23 A. Y	es, sir.	03:56:19PM	23	I'll ask you to look at page seven of this, please. What is
22:56РМ 24 Q. D	id the Great Depression affect IIM?	03:56:28PM	24	this, if you recognize it, please?
33:00PM 25 A. It	certainly did. It affected everything in the United	03:56:29PM	25	A. This is part of one of those annual reports of the balances
	Jacqueline M. Sullivan, RPR			Jacqueline M. Sullivan, RPR
	Official Court Reporter			Official Court Reporter
	1083			1085
•	At the reservation level certainly this slowed leasing	03:56:35PM	1	of Indian service special disbursing agents that the BIA
•	her economic operations, so ITM revenue would certainly be	03:56:39PM	2	submitted to the Treasury on an annual basis during this period.
	sed. Oh, and it certainly impacted the financial sector.	03:56:43PM	3	Q. Now, using our second split screen, I'll ask you to please
	panks failed during this period.	03:56:47PM	4	describe for the Court how you used that data for use in your
•	id any of those banks that failed include IIM?	03:56:49PM	5	Power Point slide.
	es. Quite a few did.	03:56:51PM	6	A. This requires a little more explanation. Down at the
_	nd how, if at all, did Interior and Congress react to	03:57:03PM	7	bottom left-hand column of the lower excerpt deposits in banks
	ank failures?	03:57:09PM	8	and cash and personal possession of disbursing officers, \$3.9
40	/ell, the BIA had been following a policy for some time of	03:57:14PM	9	million roughly that goes to the column in my table IIM system
	ng IIM deposits either by requiring banks to purchase a		10	funds in banks. Above that under that subheading with the
40	bond or else to purchase federal securities and to post		11	Treasury of the United States it reads subject to check of.
40 -	is collateral.		12	\$6.3 million. That was placed in the column for IIM system
4.4	ow effective were those surety bonds or collateral in		13	funds held at Treasury. The remaining two values, investments
45 .	ing any losses?		14	and first we see investments with the Treasury of the United
40	y research indicates that those safeguards were quite		15 16	States and then investments with other depositories, adding
4=	ve, and just about all the cases that I've seen discussed		16 4-7	those two together we get the total for IIM invested in federal
40	rred to it appears that all of that money that was	03:57:55PM		securities.
	rary unavailable because the bank closed was made available	03:57:57PM		Q. Let's talk next about slide eight, Dr. Kehoe. Now, why
00	BIA when the surety bond paid up or those collateral	03:58:09PM		does this chart have less data?
04 -	ies were turned over to the BIA.	03:58:11PM		A. Well, this reflects the fact that between the mid-1940s and
00	r. Kehoe, did tribal IIM have a role during this time	03:58:19PM		the mid-'60s I was able to find just a couple of years which
4:22PM 22 period?		03:58:23PM		provided hard data that addresses all three of these general
	/ell, I believe that the tribal IIM accounts really		23	categories: banks, securities, and held at Treasury.
_	ited in the 1930s after the Indian Reorganization Act, and	03:58:34PM		Q. We'll move next to slight nine, Dr. Kehoe. Now, why are
54:32PM 25 my res	earch indicates that they were invested very much like the	03:58:41PM	25	these dates important?
	Jacqueline M. Sullivan, RPR			Jacqueline M. Sullivan, RPR

	1086		1088
1	A. Well, as I mentioned, 1966 is when the BIA took steps to	04:02:15PM 1	looked at, this represents a snapshot in time where HM was
03:58:42PM 1	centralize the investment function, and in 1985 has been	04:02:15PM 1	invested at this point in time.
3	referred to at the beginning of the so-called electronic era in	2	Q. Now, once more we'll go to the third and last split screen,
03:58:51PM 3	terms of ITM accounting.	04:02:21PM 3	and I'll ask you to please describe for the Court how you used
03:58:55PM 4	Q. You talk a little bit about your 1980s bullet?	04:02:25PM 4	that data for your Power Point slide.
6		6	
7	A. Well, this refers to the fact that the 1980s in a way was so much similar to the 1930s. It was a period of instability in	7	A. Well, looking at the lower excerpt, the one under the
	·		September 30th, 1980 heading, if you go down to the bottom row,
	the financial industry and as a result some IIMs were lost when depository institutions of different kinds, banks, savings and	04:02:41PM 9	deposit funds, ISSDA, that refers to the IIM, about 230,000 accounts, and if you move over to the first column you see about
10	loans, credit unions, became insolvent.	40	
03:59:21PM 10 03:59:26PM 11	Q. Now, you talk about funds being lost. Do you know whether	04:02:55PM 10 04:02:59PM 11	\$135,800,000 in time certificates of deposit, that is bank CDs, I've taken that figure and placed in the column for IIM system
03:59:30PM 12	Interior or Congress reacted to that at all?	04:02:59PM 11	funds in banks.
03:59:33PM 13	A. Well, eventually when, and we're talking here about funds	04:03:05PM 12	Q. Thank you. Let's look next at slide, eleven, Dr. Kehoe.
03:59:38PM 14	that were lost and could not be regained through federal deposit	04:03:06PM 13	Now, why does that first bullet cover a two-year period?
03:59:42PM 15	insurance coverage or through those collateral securities, in	04:03:22PM 15	A. Well, again, 1986 is when the so-called electronic era
03:59:42PM 16	those cases the Interior department went to Congress and	04:03:22PM 16	started in ITM accounting, and I thought it appropriate to try
03:59:52PM 17	requested that money be appropriated to cover those loses, which	04:03:37PM 17	to take the story up to the present day, 2008.
03:59:57PM 18	it was	04:03:41PM 18	Q. Now, the last bullet there, 1995, is that the same
03:59:57PM 19	Q. I'm sorry. What was the last part of your answer?	04:03:41PM 19	information you were testifying to a few moments ago regarding
04:00:00PM 20	A. Money was appropriated to cover those losses.	04:03:59PM 20	covering losses?
04:00:03PM 21	Q. Dr. Kehoe, let's talk next about slide ten, please. I want	04:04:00PM 21	A. That's right. Ultimately approximately \$5.7 million was
04:00:07PM 22	to focus you here initially on the note on the far right column.	04:04:05PM 22	appropriated by Congress to reimburse IIM trust funds for money
04:00:11PM 23	What does that refer to?	04:04:12PM 23	that had been lost when depository institutions failed, and I
04:00:13PM 24	A. This refers to the fact that by this period, the 1970s, IIM	04:04:15PM 24	should be clear on this. They reimbursed principal lost at
04:00:23PM 25	investment was completely centralized and investing as much IIM	04:04:19PM 25	these failed institutions and interest that was earned up to the
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
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04:00:32PM 1	as at all possible was a priority for the BIA investment branch.	04:04:23PM 1	date of the closure of these institutions.
04:00:32PM 1 04:00:38PM 2		04:04:23PM 1 04:04:26PM 2	
_	as at all possible was a priority for the BIA investment branch.	_	date of the closure of these institutions.
04:00:38PM 2	as at all possible was a priority for the BIA investment branch. Those wanted to keep IIM fully invested as much as they could.	04:04:26PM 2	date of the closure of these institutions. Q. Lastly, in your slide show, Dr. Kehoe, we'll look at slide
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04:00:38PM 2 04:00:48PM 4 04:00:58PM 5 04:00:58PM 6 04:00:58PM 7 04:00:58PM 10 04:01:08PM 10 04:01:08PM 11 04:01:28PM 11 04:01:28PM 15 04:01:28PM 16 04:01:28PM 16 04:01:38PM 17 04:01:38PM 19 04:01:58PM 20 04:01:58PM 20 04:01:58PM 20 04:01:58PM 21 04:01:58PM 21 04:01:58PM 21	as at all possible was a priority for the BIA investment branch. Those wanted to keep ITM fully invested as much as they could. Therefore, I made the assumption that together ITM and banks and in securities constitutes the great majority of the ITM system funds in any particular year, but keeping in mind that there was always a small amount of ITM on any particular day that would not have been invested. Q. Now, what trend, if any, is evident on this chart? A. Well, I think you see that during this period money could shift back and forth in its concentration in terms of investment, that is, in certain years the majority of it is in federal securities and in other years it's in banks, certificates of deposit, and then this just reflects the fact that the investment branch was intent on trying to obtain the highest return possible for ITM. Q. Let me show you now, Dr. Kehoe, DX 380. If we can enlarge that a bit so Dr. Kehoe can see the first page, please. Do you recognize that, and, if so, what is it? A. Yes, I do. That's one of the annual investment reports that was issued by the Bureau of Indian Affairs during this period. Q. And I'll direct your attention to page nine of this report. What does this show, Dr. Kehoe?	04.04.26PM 2 04.04.30PM 4 04.04.36PM 5 04.04.36PM 6 04.04.36PM 7 04.04.36PM 8 04.04.55PM 9 04.04.55PM 10 04.05.36PM 12 04.05.36PM 13 04.05.36PM 15 04.05.36PM 17 04.05.36PM 17 04.05.36PM 18 04.05.36PM 19 04.05.36PM 20 04.05.36PM 21 04.05.36PM 23 04.06.06PM 23	date of the closure of these institutions. Q. Lastly, in your slide show, Dr. Kehoe, we'll look at slide number twelve. What are these? A. This merely refers to the sources for the data in the various tables that I've discussed. Q. Are these sources publicly available? A. Yes. Some of them could probably be obtained at libraries, Didn't of Interior library, maybe the Library of Congress, and the others I believe are all collected at various archives. Q. Thank you. Now, when you reviewed of all these sources, Dr. Kehoe, and in your preparation of these slides, didn't you see any evidence of IIM sitting outside of those three categories you described at the beginning of your testimony? A. No, no, I have not. Q. In reviewing your sources and in preparing your slide presentation, did you see any evidence of IIM wrongfully withheld from beneficiaries? A. No. During certain periods it's clear that the BIA was withholding money from accountholders, but this was considered the proper policy at the time. There was nothing illegal about it. That was just the policy. Q. Dr. Kehoe, let's change gears here now, and having talked about where the IIM has been throughout the history of the IIM
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	1090		1092
04:06:17PM 1	Plaintiffs' March 19 remedies brief, including its attachments?	04:09:20PM 1	THE COURT: That kind of speaks for itself, doesn't
04:06:17PM 2	A. Yes, I have.	04:09:20PM 2	it, counsel?
04:06:21PM 2	Q. Have you reviewed and analyzed Plaintiffs' April 22 reply	04:09:23PM 2	MR. SIEMIETKOWSKI: It does, your Honor. What I would
04:06:26PM 4	brief?	04:09:25PM 4	like then to do is show the Court slide seven once the court has
04:06:26PM 5	A. Yes, I have.	04:09:30PM 5	finished looking at slide four.
04:06:27PM 6	Q. Do you recall the term "in bonded banks to the credit of	04:09:32PM 6	THE COURT: I'm finished.
04:06:40PM 7	individual Indians" from your slides?	04:09:36PM 7	MR. SIEMIETKOWSKI: Slide seven, please.
04:06:41PM 8	A. Certainly.	04:09:49PM 8	And then again, once the Court is finished we'd like
04:06:42PM 9	Q. Dr. Kehoe, does your historical research show any benefit	04:09:52PM 9	to show slide eight.
04:06:47PM 10	to the government from funds held in bonded banks to the credit	04:09:53PM 10	THE COURT: I'm finished with that one and that one.
04:06:52PM 11	of individual Indians?	04:09:57PM 11	MR. SIEMIETKOWSKI: Slide ten, please.
04:06:54PM 12	MR. HARPER: Objection, your Honor. This is well	04:09:58PM 12	THE COURT: And that one.
04:06:56PM 13	beyond the scope of his expertise.	04:10:01PM 13	MR. SIEMIETKOWSKI: And slide eleven.
04:06:58PM 14	THE COURT: Sustained.	04:10:10PM 14	THE COURT: All right.
04:07:07PM 15	BY MR. SIEMIETKOWSKI:	04:10:11PM 15	BY MR. SIEMIETKOWSKI:
04:07:07PM 16	Q. Dr. Kehoe, in looking at the historical documents which	04:10:11PM 16	Q. Dr. Kehoe, from your review of Plaintiffs' two pleadings
04:07:12PM 17	you've reviewed to prepare your slide show, did those documents	04:10:15PM 17	which were earlier discussed, did they ever consider where the
04:07:17PM 18	show anything or indicate anything or ever address in any way a	04:10:18PM 18	money was in arguing for an added benefit to the government?
04:07:24PM 19	benefit to the government from funds held in government	04:10:21PM 19	A. There appeared to be an assumption that the money was
04:07:26PM 20	securities?	04:10:25PM 20	always kept in the U.S. Treasury, and that would appear to me to
04:07:28PM 21	MR. HARPER: Objection, your Honor; relevance.	04:10:29PM 21	be a weakness of the model of that assumption.
04:07:29PM 22	THE COURT: Sustained. "Relevance" isn't your	04:10:33PM 22	MR. HARPER: Again, your Honor, I just renew my
04:07:34PM 23	objection, but I'll sustain the objection anyway.	04:10:35PM 23	objection. Again, that is well beyond the scope of his
04:07:38PM 24	BY MR. SIEMIETKOWSKI:	04:10:37PM 24	expertise.
04:07:38PM 25	Q. Dr. Kehoe, let me show you slide four of your presentation	04:10:38PM 25	THE COURT: I'm going to allow the answer, but barely.
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	1091		1093
04:07:42PM 1	if I could, please. Regarding the far right column, system	04:10:45PM 1	MR. SIEMIETKOWSKI: Obviously, your Honor, the witness
04:07:56PM 2	funds held at Treasury, do you have from your historical	04:10:46PM 2	is testifying as a historian. If he's testifying as to where
04:08:02PM 3	research any familiarity with the ability of the government to	04:10:49PM 3	the money is historically.
04:08:09PM 4	spend funds in that column?	04:10:51PM 4	THE COURT: Look, I gave a little brief little seminar
04:08:13PM 5	MR. HARPER: Objection, your Honor. He testified that	04:10:54PM 5	on this whole subject yesterday morning. The burden hasn't even
04:08:14PM 6	he is not an expert with respect to anything related to the	04:10:58PM 6	shifted to the government on this question yet in my view, and
04:08:18PM 7	Department of Treasury.	04:11:07PM 7	you're basically now adding filigree to the numbers that you've
04:08:19PM 8	MR. SIEMIETKOWSKI: Your Honor, we're not asking	04:11:11PM 8	already shown me. If somebody from the Treasury department
04:08:21PM 9	MR. HARPER: This is about Department of Treasury.	04:11:14PM 9	wants to come in here and tell me about how those balances are
04:08:24PM 10	THE COURT: I'll overrule that objection and let the	04:11:18PM 10	dealt with in the Treasury department I'll listen to it, but I
04:08:26PM 11			
40	witness answer, if he can.	04:11:22PM 11	don't think it's really a historical matter.
04:08:29PM 12	THE WITNESS: Could you please restate the question?	04:11:24PM 12	MR. SIEMIETKOWSKI: Yes, your Honor.
04:08:32PM 13	THE WITNESS: Could you please restate the question? BY MR. SIEMIETKOWSKI:	04:11:24PM 12 04:11:26PM 13	MR. SIEMIETKOWSKI: Yes, your Honor. BY MR. SIEMIETKOWSKI:
04:08:32PM 13 04:08:32PM 14	THE WITNESS: Could you please restate the question? BY MR. SIEMIETKOWSKI: Q. Yes. Dr. Kehoe, do you have through your historical	04:11:24PM 12 04:11:26PM 13 04:11:26PM 14	MR. SIEMIETKOWSKI: Yes, your Honor. BY MR. SIEMIETKOWSKI: Q. To conclude your testimony then, Dr. Kehoe, what is your
04:08:32PM 13 04:08:32PM 14 04:08:35PM 15	THE WITNESS: Could you please restate the question? BY MR. SIEMIETKOWSKI: Q. Yes. Dr. Kehoe, do you have through your historical research any familiarity with the government's ability to spend	04:11:24PM 12 04:11:26PM 13 04:11:26PM 14 04:11:32PM 15	MR. SIEMIETKOWSKI: Yes, your Honor. BY MR. SIEMIETKOWSKI: Q. To conclude your testimony then, Dr. Kehoe, what is your opinion regarding what the historical records show regarding the
04:08:32PM 13 04:08:32PM 14 04:08:35PM 15 04:08:38PM 16	THE WITNESS: Could you please restate the question? BY MR. SIEMIETKOWSKI: Q. Yes. Dr. Kehoe, do you have through your historical research any familiarity with the government's ability to spend the funds that you reference in the far right column held at	04:11:24PM 12 04:11:26PM 13 04:11:26PM 14 04:11:32PM 15 04:11:36PM 16	MR. SIEMIETKOWSKI: Yes, your Honor. BY MR. SIEMIETKOWSKI: Q. To conclude your testimony then, Dr. Kehoe, what is your opinion regarding what the historical records show regarding the placement of IIM?
04:08:32PM 13 04:08:32PM 14 04:08:35PM 15 04:08:35PM 16 04:08:34PM 17	THE WITNESS: Could you please restate the question? BY MR. SIEMIETKOWSKI: Q. Yes. Dr. Kehoe, do you have through your historical research any familiarity with the government's ability to spend the funds that you reference in the far right column held at Treasury?	04:11:24PM 12 04:11:25PM 13 04:11:25PM 14 04:11:35PM 15 04:11:36PM 16 04:11:36PM 17	MR. SIEMIETKOWSKI: Yes, your Honor. BY MR. SIEMIETKOWSKI: Q. To conclude your testimony then, Dr. Kehoe, what is your opinion regarding what the historical records show regarding the placement of IIM? A. Well, I would say the historical record indicates that
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04:08:32PM 13 04:08:32PM 14 04:08:32PM 15 04:08:35PM 16 04:08:34PM 17 04:08:41PM 18 04:08:47PM 19 04:08:55PM 20 04:08:55PM 21 04:08:55PM 22 04:09:01PM 23	THE WITNESS: Could you please restate the question? BY MR. SIEMIETKOWSKI: Q. Yes. Dr. Kehoe, do you have through your historical research any familiarity with the government's ability to spend the funds that you reference in the far right column held at Treasury? A. As I mentioned, this refers to funds that were held in what were called Treasury checking accounts that were under the supervision under the control, rather, of BIA disbursing agents in the field, and they certainly had the authority to disburse IIM from these checking accounts just as they did to disburse IIM from banks. Q. Now, Dr. Kehoe, looking at slide four, during this time period, 1898 to 1933, where was most of the IIM held?	04:11:24PM 12 04:11:26PM 13 04:11:26PM 14 04:11:32PM 15 04:11:32PM 16 04:11:30PM 17 04:11:32PM 19 04:12:03PM 20 04:12:03PM 21 04:12:03PM 22 04:12:03PM 23 04:12:03PM 24	MR. SIEMIETKOWSKI: Yes, your Honor. BY MR. SIEMIETKOWSKI: Q. To conclude your testimony then, Dr. Kehoe, what is your opinion regarding what the historical records show regarding the placement of IIM? A. Well, I would say the historical record indicates that throughout the 20th century the majority of IIM was kept outside of the Treasury. In some years the great majority and that those funds kept outside the Treasury also earned interest for the accountholders. MR. SIEMIETKOWSKI: Thank you, your Honor. That concludes my direct. We would like to move the admission of two exhibits. That would be DX 497, Dr. Kehoe's Power Point show, and then DX
04:08:32PM 13 04:08:32PM 14 04:08:35PM 15 04:08:35PM 16 04:08:41PM 17 04:08:41PM 18 04:08:47PM 19 04:08:55PM 20 04:08:55PM 21 04:08:55PM 22 04:09:01PM 23 04:09:03PM 24	THE WITNESS: Could you please restate the question? BY MR. SIEMIETKOWSKI: Q. Yes. Dr. Kehoe, do you have through your historical research any familiarity with the government's ability to spend the funds that you reference in the far right column held at Treasury? A. As I mentioned, this refers to funds that were held in what were called Treasury checking accounts that were under the supervision under the control, rather, of BIA disbursing agents in the field, and they certainly had the authority to disburse ITM from these checking accounts just as they did to disburse ITM from banks. Q. Now, Dr. Kehoe, looking at slide four, during this time	04:11:24PM 12 04:11:26PM 13 04:11:26PM 14 04:11:32PM 15 04:11:32PM 16 04:11:30PM 17 04:11:32PM 19 04:12:03PM 20 04:12:03PM 21 04:12:03PM 22 04:12:03PM 23 04:12:03PM 24	MR. SIEMIETKOWSKI: Yes, your Honor. BY MR. SIEMIETKOWSKI: Q. To conclude your testimony then, Dr. Kehoe, what is your opinion regarding what the historical records show regarding the placement of IIM? A. Well, I would say the historical record indicates that throughout the 20th century the majority of IIM was kept outside of the Treasury. In some years the great majority and that those funds kept outside the Treasury also earned interest for the accountholders. MR. SIEMIETKOWSKI: Thank you, your Honor. That concludes my direct. We would like to move the admission of two exhibits.

	1094		1096
04:12:18PM 1	498, his C.V. as well.	04:15:06PM 1	Now, are the funds on page 004 from the period 19 excuse me
04:12:20PM 2	THE COURT: 497 and 498 will be received.	04:15:11PM 2	1899 to 1933 and the ones later on on 010 from 1966 to 1985,
04:12:24PM 3	MR. SIEMIETKOWSKI: Thank you, sir.	04:15:20PM 3	when you use that term IIM System Funds in Banks, are those
04:12:24PM 4	(Exhibit Nos. DX 497 and DX 498 received into evidence	04:15:23PM 4	funds treated any differently in those two periods?
04:12:24PM 5	at about 4:12 p.m.)	04:15:36PM 5	A. I'm not sure I understand your question. Could you
04:12:26PM 6	CROSS-EXAMINATION	04:15:36PM 6	rephrase it for me?
04:12:26PM 7	BY MR. HARPER:	04:15:36PM 7	Q. Okay. So we have two periods of time where you use the
04:12:36PM 8	Q. Dr. Kehoe, I'd like to start with your Power Point	04:15:37PM 8	same diction, correct?
04:12:38PM 9	presentation, if I could.	04:15:38PM 9	A. Yes.
04:12:40PM 10	A. Certainly.	04:15:38PM 10	Q. To describe how funds are being held, correct?
04:12:41PM 11	Q. And ask that we turn to DX 497, 0010. Do you recall	04:15:42PM 11	A. That's right.
04:12:57PM 12	testifying about this page?	04:15:43PM 12	Q. Are they being held in identical ways in both instances?
04:12:58PM 13	A. Yes, I do.	04:15:50PM 13	A. No, they are not.
04:13:00PM 14	Q. Now, first I'd like to ask you, who came up with this Power	04:15:51PM 14	Q. So you use the exact same term but they're held in really
04:13:06PM 15	Point and the titles in the Power Point?	04:15:55PM 15	very different ways, correct?
04:13:08PM 16	A. This is my creation, this Power Point.	04:15:56PM 16	A. They're held in somewhat different ways. It's a general
04:13:11PM 17	Q. Yours and yours solely?	04:15:59PM 17	descriptive term that I think is appropriate.
04:13:13PM 18	A. I made the final decisions about what to include.	04:16:01PM 18	Q. Okay. In the later period when you're saying IIM system
04:13:17PM 19	Q. Who else was involved in forming the analysis as to what to	04:16:05PM 19	funds held in banks, how were they held?
04:13:22PM 20	include?	04:16:07PM 20	A. Primarily through the purchase of bank CDs, certificates of
04:13:22PM 21	A. Well, I also collaborated with a few members of the staff	04:16:12PM 21	deposit.
04:13:27PM 22	at Morgan Angel.	04:16:13PM 22	Q. By whom?
04:13:28PM 23	Q. And that was it?	04:16:14PM 23	A. Well, they're purchased on behalf of IIM accountholders.
04:13:29PM 24	A. Could you clarify your question as to what was involved in	04:16:20PM 24 04:16:20PM 25	Q. By whom?
04:13:38PM ZJ	creating the Power Point? Jacqueline M. Sullivan, RPR	04:16:20PM ZJ	By the Bureau of Indian Affairs. Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
	·		·
	1095		1097
04:13:39PM 1	1095 Q. Let me ask some specifics about it.	04:16:22PM 1	1097 Q. By the Bureau of Indian Affairs or the Department of
04:13:39PM 1 04:13:41PM 2	_	04:16:22PM 1 04:16:25PM 2	Q. By the Bureau of Indian Affairs or the Department of Treasury?
2	Q. Let me ask some specifics about it.	_	Q. By the Bureau of Indian Affairs or the Department of
04:13:41PM 2	Q. Let me ask some specifics about it.A. Okay.	04:16:25PM 2	Q. By the Bureau of Indian Affairs or the Department of Treasury?
04:13:41PM 2 04:13:41PM 3	Q. Let me ask some specifics about it.A. Okay.Q. You have three columns, correct?	04:16:25PM 2 04:16:25PM 3	Q. By the Bureau of Indian Affairs or the Department of Treasury?A. I'm trying to recall exactly who executed the transactions
04:13:41PM 2 04:13:41PM 3 04:13:43PM 4	 Q. Let me ask some specifics about it. A. Okay. Q. You have three columns, correct? A. Yes, I do. 	04:16:25PM 2 04:16:25PM 3 04:16:38PM 4	 Q. By the Bureau of Indian Affairs or the Department of Treasury? A. I'm trying to recall exactly who executed the transactions purchasing the CDs. If the Treasury didn't execute the
04:13:41PM 2 04:13:41PM 3 04:13:43PM 4 04:13:44PM 5	 Q. Let me ask some specifics about it. A. Okay. Q. You have three columns, correct? A. Yes, I do. Q. And you have three columns in a number of different eras, 	04:16:25PM 2 04:16:25PM 3 04:16:35PM 4 04:16:42PM 5	 Q. By the Bureau of Indian Affairs or the Department of Treasury? A. I'm trying to recall exactly who executed the transactions purchasing the CDs. If the Treasury didn't execute the transactions they were still acting at the behest of the BIA.
04:13:41PM 2 04:13:41PM 3 04:13:41PM 4 04:13:44PM 5 04:13:47PM 6	 Q. Let me ask some specifics about it. A. Okay. Q. You have three columns, correct? A. Yes, I do. Q. And you have three columns in a number of different eras, is that a fair statement? 	04:16:25PM 2 04:16:25PM 3 04:16:35PM 4 04:16:42PM 5 04:16:46PM 6	 Q. By the Bureau of Indian Affairs or the Department of Treasury? A. I'm trying to recall exactly who executed the transactions purchasing the CDs. If the Treasury didn't execute the transactions they were still acting at the behest of the BIA. It was the BIA who was making these investment decisions.
04:13:41PM 2 04:13:41PM 3 04:13:43PM 4 04:13:44PM 5 04:13:44PM 6 04:13:48PM 7	 Q. Let me ask some specifics about it. A. Okay. Q. You have three columns, correct? A. Yes, I do. Q. And you have three columns in a number of different eras, is that a fair statement? A. Yes, I do. 	04:16:25PM 2 04:16:25PM 3 04:16:33PM 4 04:16:42PM 5 04:16:46PM 6 04:16:50PM 7	 Q. By the Bureau of Indian Affairs or the Department of Treasury? A. I'm trying to recall exactly who executed the transactions purchasing the CDs. If the Treasury didn't execute the transactions they were still acting at the behest of the BIA. It was the BIA who was making these investment decisions. Q. Fair enough. BIA is making the investment decisions but
04:13:41PM 2 04:13:41PM 3 04:13:43PM 4 04:13:44PM 5 04:13:44PM 6 04:13:48PM 7 04:13:48PM 8	 Q. Let me ask some specifics about it. A. Okay. Q. You have three columns, correct? A. Yes, I do. Q. And you have three columns in a number of different eras, is that a fair statement? A. Yes, I do. Q. And the same three columns, correct? 	04:16:25PM 2 04:16:25PM 3 04:16:33PM 4 04:16:42PM 5 04:16:45PM 6 04:16:50PM 7 04:16:54PM 8	 Q. By the Bureau of Indian Affairs or the Department of Treasury? A. I'm trying to recall exactly who executed the transactions purchasing the CDs. If the Treasury didn't execute the transactions they were still acting at the behest of the BIA. It was the BIA who was making these investment decisions. Q. Fair enough. BIA is making the investment decisions but the actual action taken on whether to purchase a security or
04:13:41PM 2 04:13:41PM 3 04:13:43PM 4 04:13:43PM 5 04:13:43PM 6 04:13:43PM 7 04:13:43PM 8 04:13:50PM 9 04:13:50PM 10	 Q. Let me ask some specifics about it. A. Okay. Q. You have three columns, correct? A. Yes, I do. Q. And you have three columns in a number of different eras, is that a fair statement? A. Yes, I do. Q. And the same three columns, correct? A. Yes. 	04:16:25PM 2 04:16:25PM 3 04:16:35PM 4 04:16:42PM 5 04:16:45PM 6 04:16:50PM 7 04:16:54PM 8 04:16:57PM 9 04:17:00PM 10 04:17:00PM 11	 Q. By the Bureau of Indian Affairs or the Department of Treasury? A. I'm trying to recall exactly who executed the transactions purchasing the CDs. If the Treasury didn't execute the transactions they were still acting at the behest of the BIA. It was the BIA who was making these investment decisions. Q. Fair enough. BIA is making the investment decisions but the actual action taken on whether to purchase a security or whether to invest it in banks is one done by the Department of
04:13:41PM 2 04:13:41PM 3 04:13:43PM 4 04:13:43PM 5 04:13:43PM 6 04:13:48PM 7 04:13:48PM 9 04:13:50PM 10 04:13:50PM 11	 Q. Let me ask some specifics about it. A. Okay. Q. You have three columns, correct? A. Yes, I do. Q. And you have three columns in a number of different eras, is that a fair statement? A. Yes, I do. Q. And the same three columns, correct? A. Yes. Q. And one of those three columns is IIM System Funds in 	04:16:25PM 2 04:16:25PM 3 04:16:35PM 4 04:16:42PM 5 04:16:42PM 6 04:16:50PM 7 04:16:54PM 8 04:16:57PM 9 04:17:00PM 10 04:17:00PM 11 04:17:00PM 12	 Q. By the Bureau of Indian Affairs or the Department of Treasury? A. I'm trying to recall exactly who executed the transactions purchasing the CDs. If the Treasury didn't execute the transactions they were still acting at the behest of the BIA. It was the BIA who was making these investment decisions. Q. Fair enough. BIA is making the investment decisions but the actual action taken on whether to purchase a security or whether to invest it in banks is one done by the Department of Treasury, correct?
04:13:41PM 2 04:13:41PM 3 04:13:43PM 4 04:13:43PM 5 04:13:43PM 6 04:13:43PM 7 04:13:48PM 7 04:13:50PM 9 04:13:50PM 10 04:13:50PM 11 04:13:55PM 11	 Q. Let me ask some specifics about it. A. Okay. Q. You have three columns, correct? A. Yes, I do. Q. And you have three columns in a number of different eras, is that a fair statement? A. Yes, I do. Q. And the same three columns, correct? A. Yes. Q. And one of those three columns is IIM System Funds in Banks, correct? A. That's right. Q. Okay. Who came up with that specific title? 	04:16:25PM 2 04:16:25PM 3 04:16:35PM 4 04:16:42PM 5 04:16:45PM 6 04:16:45PM 7 04:16:54PM 8 04:16:57PM 9 04:17:00PM 10 04:17:00PM 11 04:17:03PM 12 04:17:05PM 13	 Q. By the Bureau of Indian Affairs or the Department of Treasury? A. I'm trying to recall exactly who executed the transactions purchasing the CDs. If the Treasury didn't execute the transactions they were still acting at the behest of the BIA. It was the BIA who was making these investment decisions. Q. Fair enough. BIA is making the investment decisions but the actual action taken on whether to purchase a security or whether to invest it in banks is one done by the Department of Treasury, correct? A. Could you rephrase the question again? I want to make sure I understand the word correctly, Mr. Harper. Q. Whether you're investing in banks or investing in federal
04:13:41PM 2 04:13:41PM 3 04:13:43PM 4 04:13:43PM 5 04:13:43PM 6 04:13:48PM 7 04:13:48PM 8 04:13:50PM 10 04:13:50PM 11 04:13:55PM 12 04:13:55PM 12 04:13:56PM 13	 Q. Let me ask some specifics about it. A. Okay. Q. You have three columns, correct? A. Yes, I do. Q. And you have three columns in a number of different eras, is that a fair statement? A. Yes, I do. Q. And the same three columns, correct? A. Yes. Q. And one of those three columns is IIM System Funds in Banks, correct? A. That's right. Q. Okay. Who came up with that specific title? A. The Department of Justice requested that we use the term 	04:16:25PM 2 04:16:25PM 3 04:16:35PM 4 04:16:42PM 5 04:16:45PM 6 04:16:50PM 7 04:16:54PM 8 04:16:57PM 9 04:17:00PM 10 04:17:00PM 11 04:17:05PM 12 04:17:05PM 13 04:17:05PM 14	 Q. By the Bureau of Indian Affairs or the Department of Treasury? A. I'm trying to recall exactly who executed the transactions purchasing the CDs. If the Treasury didn't execute the transactions they were still acting at the behest of the BLA. It was the BLA who was making these investment decisions. Q. Fair enough. BLA is making the investment decisions but the actual action taken on whether to purchase a security or whether to invest it in banks is one done by the Department of Treasury, correct? A. Could you rephrase the question again? I want to make sure I understand the word correctly, Mr. Harper. Q. Whether you're investing in banks or investing in federal securities, the person deciding where to invest it is the
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04:13:41PM 2 04:13:41PM 3 04:13:43PM 4 04:13:43PM 5 04:13:43PM 6 04:13:43PM 7 04:13:48PM 10 04:13:50PM 10 04:13:50PM 11 04:13:50PM 11 04:13:55PM 12 04:14:00PM 14 04:14:00PM 15 04:14:00PM 16 04:14:14PM 17 04:14:23PM 19 04:14:23PM 20 04:14:33PM 21	 Q. Let me ask some specifics about it. A. Okay. Q. You have three columns, correct? A. Yes, I do. Q. And you have three columns in a number of different eras, is that a fair statement? A. Yes, I do. Q. And the same three columns, correct? A. Yes. Q. And one of those three columns is IIM System Funds in Banks, correct? A. That's right. Q. Okay. Who came up with that specific title? A. The Department of Justice requested that we use the term IIM system funds to be consistent with other experts. Q. The Department of Justice directed you to use that title? A. They suggested it, and I was fine with it because before that I was using Total IIM, which I believe is synonymous with IIM system funds. Q. Okay. What about the notion of IIM System Funds in Banks? A. I mean, I have always thought of it and originally used that descriptor in banks. Q. Now, let me ask you to first take note of that, of this page where you say IIM System Funds in Banks, and then if you 	04:16:25PM 2 04:16:25PM 3 04:16:35PM 4 04:16:42PM 5 04:16:42PM 6 04:16:45PM 7 04:16:54PM 8 04:16:54PM 10 04:17:00PM 11 04:17:00PM 12 04:17:00PM 13 04:17:03PM 14 04:17:13PM 16 04:17:13PM 16 04:17:13PM 17 04:17:25PM 20 04:17:25PM 20 04:17:25PM 21 04:17:25PM 21 04:17:25PM 21 04:17:25PM 22 04:17:33PM 22 04:17:33PM 22 04:17:33PM 22	 Q. By the Bureau of Indian Affairs or the Department of Treasury? A. I'm trying to recall exactly who executed the transactions purchasing the CDs. If the Treasury didn't execute the transactions they were still acting at the behest of the BIA. It was the BIA who was making these investment decisions. Q. Fair enough. BIA is making the investment decisions but the actual action taken on whether to purchase a security or whether to invest it in banks is one done by the Department of Treasury, correct? A. Could you rephrase the question again? I want to make sure I understand the word correctly, Mr. Harper. Q. Whether you're investing in banks or investing in federal securities, the person deciding where to invest it is the Department of Treasury, correct? A. No. No. That's exactly wrong. The person making the decision about how and where to invest it is the Bureau of Indian Affairs. Q. Actually it's OFTM, isn't it? A. After 1989. Q. So prior to 1989 the Bureau of Indian Affairs is making this decision but it's executed by the Department of Treasury, they're the ones taking the action on either buying the federal securities or investing it in banks, correct?

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04:17:41PM 1	answered.	04:20:50PM 1	is how the Treasury department is tracking these funds and thei
04:17:42PM 2	THE COURT: Overruled.	04:20:55PM 2	involvement. I know that if these funds are invested in bank
:17:43PM 3	THE WITNESS: Well, I think we need to look at	04:21:01PM 3	CDs they're not held by the Treasury, they're in these bank CDs
17:45PM 4	different periods. If we're looking at this period that you	04:21:07PM 4	belonging to commercial banks.
17:48PM 5	have on the screen, 1928 to 1933, based on the research I've	04:21:10PM 5	Q. Let me try to get at this \$335 million a different way.
7:53PM 6	done, Treasury really had no involvement in placing IIM in	04:21:15PM 6	A. Okay.
7:57PM 7	banks.	04:21:16PM 7	Q. How does the bank get this \$335 million during this period?
17:57PM 8	BY MR. HARPER:	04:21:27PM 8	A. The branch of investment would have used IIM funds
17:58PM 9	Q. Let me ask you a more specific question and we can again	04:21:30PM 9	available to it and purchased a bank certificate of deposit from
8:01PM 10	turn to DEX 4970010. If we can focus on the final line, 1985.	04:21:34PM 10	a financial institution.
11 18:09PM	A. Very well.	04:21:35PM 11	Q. And where do they get the money to do that?
18:10PM 12	Q. Can you make that little bigger, Antonio? Thank you.	04:21:37PM 12	A. It's under their control.
8:19PM 13	Now, you have \$335 million under the heading IIM	04:21:43PM 13	Q. But where, okay? Where is the money derived from by which
8:23PM 14	systems funds in banks, correct?	04:21:48PM 14	they are able to invest \$335 million in banks?
8:26PM 15	A. That is correct.	04:21:53PM 15	A. I understand. In other words, where is the money before
8:27PM 16	Q. And what this really is is funds that are invested at banks	04:21:56PM 16	they buy the CD?
8:35PM 17	for commercial banks for investment purposes, correct?	04:21:57PM 17	Q. Precisely.
8:38PM 18	A. That's right.	04:21:58PM 18	A. It would be in the Treasury.
18:39PM 19	Q. So that is very different from what I think you're	04:21:59PM 19	Q. Okay. So you have Treasury funds and they come in through
8:44PM 20	testifying in the earlier period, which is that there was no	04:22:06PM 20	normal deposit streams just like other Treasury funds into the
8:46PM 21	involvement by the Treasury department whatsoever, correct?	04:22:10PM 21	Department of Treasury, correct?
18:51PM 22	Here there is.	04:22:14PM 22	MR. SIEMIETKOWSKI: Your Honor, objection to the
18:52PM 23	A. In the earlier period that we're looking at, 1920s, 1930s,	04:22:15PM 23	mischaracterization of the testimony. I don't believe the
18:58PM 24	placing ITM in banks, no involvement by the Treasury department.	04:22:18PM 24	witness testified they were Treasury funds. I believe he
19:03PM 25	During the 1980s I'm not sure you're correct about the role	04:22:20PM 25	testified
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
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19:12PM 1	of the Treasury department. The more I think about it I recall	04:22:21PM 1	THE COURT: Overruled. He can answer if he can.
9:15PM 2	there was an auction process set up in which equally qualified	04:22:23PM 2	BY MR. HARPER:
9:20PM 3	banks would bid for having ITMs placed in their CDs and it was	04:22:24PM 3	Q. Let me rephrase the question. These funds are funds that
9:24PM 4	conducted by the branch of investments in the Bureau of Indian	04:22:28PM 4	belong to individual Indians, correct?
9:29PM 5	Affairs. I'm trying to recall Treasury involvement in that	04:22:31PM 5	A. That's right. That's why they're classified as deposit
9:33PM 6	process. I'm just not certain, Mr. Harper.	04:22:33PM 6	funds.
19:39PM 7	Q. Have you ever heard of the term 14X6039 account?	04:22:34PM 7	Q. But the title of the funds are held by the United States
19:43PM 8	A. Yes, I have.	04:22:38PM 8	government, correct?
9:44PM 9	Q. Is this \$335 million while invested in banks credited to	04:22:38PM 9	A. What do you mean, the title of the funds?
19:51PM 10	the 14X6039 account?	04:22:40PM 10	Q. You never heard of that term, title of the funds?
19:53PM 11	A. Well, these are funds that are part of that account which	04:22:43PM 11	MR. SIEMIETKOWSKI: Objection, your Honor. Counsel
19:57PM 12	represents IIM.	04:22:45PM 12	had tried earlier to establish the lack of knowledge of the
	represents ITM. Q. So what is your answer to the question? Is the \$335	04:22:45PM 12 04:22:47PM 13	had tried earlier to establish the lack of knowledge of the witness in this particular field. Now he's pursuing a line of
20:01PM 13			-
20:01PM 13 20:05PM 14	Q. So what is your answer to the question? Is the \$335 million you have cited here credited here to the 14X6039	04:22:47PM 13	witness in this particular field. Now he's pursuing a line of
20:01PM 13 20:05PM 14 20:11PM 15	Q. So what is your answer to the question? Is the \$335 million you have cited here credited here to the 14X6039	04:22:47PM 13 04:22:51PM 14	witness in this particular field. Now he's pursuing a line of questioning in the same field.
13 14 10:05PM 14 10:011PM 15 10:11PM 16	Q. So what is your answer to the question? Is the \$335 million you have cited here credited here to the 14X6039 account?	04:22:47PM 13 04:22:51PM 14 04:22:52PM 15	witness in this particular field. Now he's pursuing a line of questioning in the same field. THE COURT: He's opening a door. You can drive right
20.01PM 13 20.05PM 14 20.11PM 15 20.11PM 16 20.16PM 17	 Q. So what is your answer to the question? Is the \$335 million you have cited here credited here to the 14X6039 account? A. Well, if it's invested in bank CDs it's outside of the 	04:22:47PM 13 04:22:51PM 14 04:22:52PM 15 04:22:54PM 16	witness in this particular field. Now he's pursuing a line of questioning in the same field. THE COURT: He's opening a door. You can drive right through it on redirect if you think it's appropriate.
13 20:01PM 14 10:011PM 15 20:11PM 16 20:11PM 17 20:16PM 17	 Q. So what is your answer to the question? Is the \$335 million you have cited here credited here to the 14X6039 account? A. Well, if it's invested in bank CDs it's outside of the Treasury. 	04:22:47PM 13 04:22:51PM 14 04:22:52PM 15 04:22:54PM 16 04:22:54PM 17	witness in this particular field. Now he's pursuing a line of questioning in the same field. THE COURT: He's opening a door. You can drive right through it on redirect if you think it's appropriate. THE WITNESS: Can you explain what you mean by the
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20:01PM 13 20:05PM 14 20:11PM 15 20:11PM 16 20:16PM 17 20:16PM 18 20:24PM 19 20:25PM 20	 Q. So what is your answer to the question? Is the \$335 million you have cited here credited here to the 14X6039 account? A. Well, if it's invested in bank CDs it's outside of the Treasury. Q. So you're saying it's not credited to the 14X6039, is that your testimony? 	0422-47PM 13 0422-51PM 14 0422-52PM 15 0422-54PM 16 0422-54PM 17 0423-01PM 18 0423-02PM 19	witness in this particular field. Now he's pursuing a line of questioning in the same field. THE COURT: He's opening a door. You can drive right through it on redirect if you think it's appropriate. THE WITNESS: Can you explain what you mean by the term "title of funds"? BY MR. HARPER:
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2001PM 13 2005PM 14 2011PM 15 2011PM 16 2014PM 17 2012PM 20 2012PM 20 2025PM 20 2025PM 21 2035PM 22 2035PM 23 2040PM 24	 Q. So what is your answer to the question? Is the \$335 million you have cited here credited here to the 14X6039 account? A. Well, if it's invested in bank CDs it's outside of the Treasury. Q. So you're saying it's not credited to the 14X6039, is that your testimony? A. I'm not sure. I'm not sure exactly how at the Department of the Treasury in 6039, how this was accounted for. Q. So you really don't know when you say this is outside of the bank, you don't know what the relationship is between this and what is credited at the Department of Treasury, fair? 	0422-47PM 13 0422-51PM 14 0422-52PM 15 0422-54PM 16 0422-54PM 17 0423-01PM 18 0423-02PM 20 0423-02PM 21 0423-05PM 21 0423-05PM 22	witness in this particular field. Now he's pursuing a line of questioning in the same field. THE COURT: He's opening a door. You can drive right through it on redirect if you think it's appropriate. THE WITNESS: Can you explain what you mean by the term "title of funds"? BY MR. HARPER: Q. Well, let me ask, do you know, do you not know what that term means? A. Title of funds? Q. Who holds the title for these funds?
12 13 14 14 15 16 16 17 17 18 19 19 19 19 19 19 19 19 19 19 19 19 19	 Q. So what is your answer to the question? Is the \$335 million you have cited here credited here to the 14X6039 account? A. Well, if it's invested in bank CDs it's outside of the Treasury. Q. So you're saying it's not credited to the 14X6039, is that your testimony? A. I'm not sure. I'm not sure exactly how at the Department of the Treasury in 6039, how this was accounted for. Q. So you really don't know when you say this is outside of the bank, you don't know what the relationship is between this and what is credited at the Department of Treasury, fair? 	0422-47PM 13 0422-51PM 14 0422-52PM 15 0422-52PM 16 0422-54PM 17 0423-01PM 18 0423-02PM 20 0423-02PM 21 0423-02PM 21 0423-03PM 22 0423-03PM 23 0423-13PM 24	witness in this particular field. Now he's pursuing a line of questioning in the same field. THE COURT: He's opening a door. You can drive right through it on redirect if you think it's appropriate. THE WITNESS: Can you explain what you mean by the term "title of funds"? BY MR. HARPER: Q. Well, let me ask, do you know, do you not know what that term means? A. Title of funds? Q. Who holds the title for these funds? A. No, I'm not familiar with that term.

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4	1102		1104
04:23:19PM 1	various commercial banks that are where deposits are made and	04:26:30PM 1	that money and makes the investment decisions, which was the
04:23:23PM 2	they are then credited to Treasury accounts, correct?	04:26:33PM 2	BIA.
04:23:26PM 3	A. They would be credited to the 6039 account at the Treasury.	04:26:35PM 3	Q. Okay. Making the decision is one thing but who holds the
04:23:33PM 4	Q. Well, first they would just come in to the TGA, correct,	04:26:41PM 4	money is a different thing as you just testified, fair
04:23:36PM 5	like all funds collected and deposited, they would come in first	04:26:43PM 5	statement?
04:23:40PM 6	to the TGA and then credited?	04:26:43PM 6	A. Fair statement.
04:23:43PM	A. I'm not familiar enough with the TGA to speak to that, Mr.	04:26:44PM	Q. Okay. So it's fair to say that when you use a term like
04:23:46PM 8	Harper.	04:26:56PM 8	these headings here, they may mean different things in different
04:23:47PM 9	Q. So you wouldn't know one way or the other whether or not	04:27:00PM 9	periods, fair statement?
04:23:49PM 10	when funds initially come in to the Department of Treasury that	04:27:05PM 10	A. Yes, it's a general category, and as we've just discussed,
04:23:53PM 11	are ultimately, as you put it, in funds in banks, that they	04:27:08PM 11	there are some differences between the different periods, yes.
04:23:57PM 12	first go to the TGA account, you wouldn't know that one way or	04:27:11PM 12	Q. Some important differences, no?
04:24:02PM 13	the other?	04:27:12PM 13	A. I suppose it depends on how you understand the term
04:24:02PM 14	A. I'm not familiar enough with the workings of the TGA	04:27:19PM 14	"important." I mean, that's a judgment call.
04:24:05PM 15	account to comment on that.	04:27:22PM 15	Q. Do you know, Dr. Kehoe, what is meant by the term "Treasury
04:24:06PM 16	Q. And you wouldn't know that if monies were somehow not	04:28:06PM 16	depository"?
04:24:09PM 17	properly credited to 14X6039 once after the TGA you would have	04:28:06PM 17	A. Yes, I'm familiar with that term.
04:24:15PM 18	no idea whether those monies are either still in the TGA or	04:28:08PM 18	Q. These funds that are invested in commercial banks, when
04:24:18PM 19	credited some other place in Treasury, correct, you just don't	04:28:14PM 19	they first enter the Department of Treasury do they enter
04:24:21PM 20	have the familiarity with that?	04:28:18PM 20	through Treasury depositories?
04:24:22PM 21	A. As I testified, I'm not that familiar with the Treasury	04:28:20PM 21	A. Well, if they're being deposited to the Treasury I believe
04:24:29PM 22	accounts system once funds have entered the Treasury. Speaking	04:28:25PM 22	they would have to be deposited through a Treasury depository,
04:24:33PM 23	in terms of the broad federal central accounting system, I am	04:28:29PM 23	an official government depository.
04:24:36PM 24	not.	04:28:31PM 24	Q. Can we bring up PX 136 on the front cover, please?
04:24:38PM 25	Q. Do you know what the term "deposit fund" is?	04:28:55PM 25	Dr. Kehoe, do you recognize this document?
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR
	Official Court Reporter		Official Court Reporter
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04:24:43PM 1	A. Yes, I am familiar with that term.	04:28:57PM 1	A. I don't believe I've seen it before.
04:24:43PM 1 04:24:45PM 2		04:28:57PM 1 04:29:06PM 2	
	A. Yes, I am familiar with that term.	_	A. I don't believe I've seen it before.
04:24:45PM 2	A. Yes, I am familiar with that term.Q. And what is the deposit fund?	04:29:06PM 2	A. I don't believe I've seen it before.Q. And do you know approximately how many Treasury
04:24:45PM 2 04:24:47PM 3	A. Yes, I am familiar with that term.Q. And what is the deposit fund?A. A deposit fund refers to monies that are held by the	04:29:06PM 2 04:29:14PM 3	A. I don't believe I've seen it before.Q. And do you know approximately how many Treasury depositories there are presently?
04:24:45PM 2 04:24:47PM 3 04:24:51PM 4	 A. Yes, I am familiar with that term. Q. And what is the deposit fund? A. A deposit fund refers to monies that are held by the federal government for individuals or institutions outside the 	04:29:06PM 2 04:29:14PM 3 04:29:17PM 4	 A. I don't believe I've seen it before. Q. And do you know approximately how many Treasury depositories there are presently? A. No, I do not.
04:24:45PM 2 04:24:47PM 3 04:24:51PM 4 04:24:57PM 5	 A. Yes, I am familiar with that term. Q. And what is the deposit fund? A. A deposit fund refers to monies that are held by the federal government for individuals or institutions outside the government. In other words, it is not government funds. It's 	04:29:06PM 2 04:29:14PM 3 04:29:17PM 4 04:29:19PM 5 04:29:25PM 6 04:29:32PM 7	 A. I don't believe I've seen it before. Q. And do you know approximately how many Treasury depositories there are presently? A. No, I do not. Q. Would it surprise you that there were about five hundred
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	1106		1108
04:30:49PM 1	Q. And those would be the places that you just identified were	04:35:54PM 1	A. It goes to the Indian when it's disbursed.
04:30:54PM 2	individual Indian monies would go into the Treasury department,	04:35:57PM 2	Q. A check is sent and it goes to the Indian once he receives
4:30:57PM 3	fair statement?	04:36:00PM 3	and cashes it, correct?
:30:58РМ 4	A. I believe that's how the system works.	04:36:01PM 4	A. Well, I believe it's the Treasury's bookkeeping practice
31:00PM 5	Q. And so these funds that you're saying this latter period	04:36:10PM 5	that once a check is cut and leaves their system the
31:04PM 6	until 1985 on DX 497, 0010, 1967 to 1985, they would first enter	04:36:15PM 6	disbursement is considered complete, unlike a bank where the
31:15PM 7	Treasury through this system and then they would ultimately get	04:36:19PM 7	disbursement is not considered complete and credited until that
31:20PM 8	invested in various commercial banks, fair statement?	04:36:22PM 8	check is presented for payment.
31:23PM 9	A. I think that's accurate.	04:36:25PM 9	Q. But once the check is issued and sent out to the
31:25PM 10	Q. Now, are you familiar with the practice by which banking	04:36:31PM 10	beneficiary if there is a lapse in time where are the funds
31:47PM 11	services on behalf of the United States are compensated for by	04:36:39PM 11	held, if you know? If you don't know just say you don't know.
B1:55PM 12	investing monies that do not earn interest, are you familiar	04:36:43PM 12	MR. SIEMIETKOWSKI: I'm going to object. This is
1:59PM 13	with that practice?	04:36:45PM 13	beyond the scope of my direct even with regard to the questions
11:59PM 14	A. No, I am not.	04:36:49PM 14	I had asked regarding Treasury.
2:01PM 15	Q. So if I could turn to page four of this same document. And	04:36:51PM 15	MR. HARPER: Your Honor, you allowed at least two
2:30PM 16	we can go down to the seventh bullet point and just the first	04:36:54PM 16	THE COURT: It's cross. Go ahead.
2:37PM 17	two sentences. Yes. So here it says, I'll just read the two	04:36:55PM 17	THE WITNESS: Refresh my memory, Mr. Harper. Would
2:48PM 18	sentences into the record: FMS pays for banking services with	04:36:58PM 18	you mind rephrasing that question? Just state the same question
:55PM 19	compensating balances, i.e it doesn't say "i.e." non-	04:37:01PM 19	again.
3:01PM 20	interest bearing deposits at the bank. These balances are not a	04:37:01PM 20	BY MR. HARPER:
3:04PM 21	part of the FMS appropriation and FMS does not include them in	04:37:01PM 21	Q. You testified that these securities get redeemed?
3:10PM 22	its budget. You can continue to read for context.	04:37:04PM 22	A. Okay.
3:16PM 23	MR. SIEMIETKOWSKI: Your Honor, we have an objection	04:37:05PM 23	Q. They or the investment in the banks get redeemed. That
3:17PM 24	as to relevance. This is not tied, I don't believe, to IIM.	04:37:05PM 23	goes into, in your view, 14X63039. Once a check is cut and it
3:17PM 2-7		04:37:11PM 2-7	is sent out where do the funds go at that point?
3:26PM ZJ	THE COURT: I'm going to allow it.	04:37:19PM 2 J	
	Jacqueline M. Sullivan, RPR Official Court Reporter		Jacqueline M. Sullivan, RPR Official Court Reporter
	1107		1109
33:29PM 1	BY MR. HARPER:	04:37:23PM 1	A. As I stated, my understanding is that the Treasury
3:30PM 2	Q. Did you have any knowledge prior to reading this of this	04:37:27PM 2	department has treated check disbursements as leaving their
3:33PM 3	practice?	04:37:32PM 3	system once the check is cut. Therefore, from an accounting
3:33PM 4	A. No, I did not.	04:37:36PM 4	standpoint, I would have to say that the money has then left the
3:34PM 5	Q. One other question. If we can turn yet again back to the	04:37:39PM 5	IIM system once that check is cut.
4:15PM 6	DX-49710. Concentrating once again, Dr. Kehoe, your attention	04:37:42PM 6	Q. So for a six-month period it's where would you find those
4:26PM 7	to this page, do you understand how or do you have any knowledge	04:37:47PM 7	funds where is it, where are those funds credited, they're just
4:37PM 8	as to how funds from here would then get disbursed to a	04:37:52PM 8	not credited anywhere?
14:41PM 9	beneficiary?	04:37:53PM 9	A. Well, they're considered to be in the hands of the Indian
14:42PM 10	A. Well, this is an investment so the investment would have to	04:37:55PM 10	to whom the check was sent.
44		44	
14:53PM 11 14:58PM 12	be cashed in, you might say. In other words, the certificate of	40	Q. Well, we'll talk a little bit about that further later and
	deposit is allowed to expire and the bank pays the money and		I'll show you some testimony and see if you agree with that.
5:03PM 13	interest to the BIA and then if a disbursement is appropriate	04:38:07PM 13	Now I want to talk a little bit further about your
5:09PM 14	one is made or many are made.	04:38:20PM 14	exhibit here, DX 4970010. And you had testified regarding
15:13PM 15	Q. Once you get back the returns from your investment, where	04:38:31PM 15	actually, let's turn back to page four of this exhibit. Dr.
5:23PM 16	are the returns placed?	04:38:44PM 16	Kehoe, is that all the information you were able to uncover from
15:25PM 17	A. In the Treasury, I believe.	04:38:50PM 17	various places, is all the information you were able to uncover
5:28PM 18	Q. Do you know which account at the Department of Treasury?	04:38:54PM 18	in this chart?
5:28PM 19	A. I assume it would be 6039.	04:38:56PM 19	A. This is all the data that I was able to locate which I
5:31PM 20	Q. But you don't know one way or the other?	04:39:03PM 20	believe provides a complete picture of where ITM is at in a
	A. Based on my knowledge of the Bureau of Indian Affairs, that	04:39:08PM 21	particular year.
	would seem to be logical that we go to 63039. I mean, that is	04:39:09PM 22	Q. So this would not include then, is it fair to say,
	would seem to be logical that we go to 03037. I mean, that is		information where you had one column but not the others?
35:40PM 22	the account for ITM.	04:39:15PM 23	information where you had one column but not the others?
21 335:40PM 22 335:44PM 23 335:44PM 24		04:39:15PM 23 04:39:17PM 24	A. That's right. I did not include years for which we had a
35:40PM 22 35:44PM 23 35:45PM 24	the account for IIM.		
35:40PM 22 35:44PM 23	the account for ITM. Q. And once the check is made out to an individual beneficiary	04:39:17PM 24	A. That's right. I did not include years for which we had a

1110		1112
Q. Okay. And I'd like to bring up PX 124. Dr. Angel, do you	04:42:30PM 1	Q. And what was the reason for that?
recognize this report?	04:42:33PM 2	A. Well, for one thing can I see the footnote to that
A. You mean	04:42:42PM 3	quotation or that statement that you showed me?
Q. I'm sorry. Dr. Kehoe. I saw "Angel" here and I misspoke.	04:42:45PM 4	Q. Sure.
Dr. Kehoe, do you recognize this report?	04:42:51PM 5	A. Those are figures in a letter, so it's not the end of a
A. Yes, I do.	04:42:53PM 6	fiscal year as my other data is. That would be one reason for
Q. And you're the drafter of this document?	04:42:57PM 7	not including it. All of the other data is for the end of the
A. Yes, I am.	04:43:01PM 8	fiscal year. That figure he gave for securities looks like this
Q. And would it be fair to say that one of the things this	04:43:05PM 9	is from a January 23 letter.
document tries to do is talk about the investment history of IIM	04:43:07PM 10	Q. Okay. So all your figures and all your charts are
funds?	04:43:12PM 11	end-of-fiscal-year figures?
A. That's right, with the focus on banks, less so on	04:43:13PM 12	A. I believe.
securities.	04:43:16PM 13	Q. But this is a snapshot figure and those are snapshot
Q. And it also talks a little bit about how at various stages	04:43:20PM 14	figures, correct?
there were people who were trying to get the highest return for	04:43:21PM 15	A. That's true, but I think you want to have a snapshot of the
investment, is that a fair statement?	l	same period the exact same time.
A. Yes, it is.		Q. Because you're using different months with different
		A. Different time periods you might not get an accurate
regularly invested in the early 1900s?		picture.
_		Q. But this is really a balance, correct?
		A. That shows at that point in time how much is in securities,
		if I'm reading this correctly.
	24	Q. Okay. Let me ask you a couple questions about that notion
		of a snapshot, and that does not, the values there associated with those securities, are those face value of the securities?
	04:43:54PM 2 3	Jacqueline M. Sullivan, RPR
		Official Court Reporter
<u> </u>		1113
before that.	04:43:57PM 1	A. I don't believe he specifies how they were valued.
Q. So you wouldn't know before 1899, but since 1899 there's	04:44:01PM 2	Q. You don't know if it's the value at the purchase or at the
been regular investment, is that fair?	04:44:08PM 3	redemption?
A. Yes, that's fair to say.	04:44:08PM 4	A. No. You cannot tell from that statement.
Q. Now I want to turn your attention to page fifteen of this	04:44:10PM 5	Q. What about with respect to your numbers that you use in
document. I'm sorry, it's page sixteen. I'm sorry, page	04:44:14PM 6	your chart?
seventeen.	04:44:14PM 7	A. These were the numbers taken from government documents, and
A. Mr. Harper, I get the sense that there might be a lot of	04:44:24PM 8	I don't recall any descriptive term explaining exactly how the
questions on this report. If that's the case, would I be able	04:44:29PM 9	securities were valued.
to get a paper copy to use?	04:44:31PM 10	Q. But you understood there was a significant difference
Q. Let's see how it goes and then if you like I only have	04:44:35PM 11	between the purchase price of the government's security and what
my one marked-up copy with me. I don't think you're going to	04:44:38PM 12	you would get
have as many questions on this as you may think.	04:44:40PM 13	A. It could be the actual market value might be quite
A. Okay.	04:44:43PM 14	different from the price paid for the security.
Q. And if it turns out differently, then we'll be glad to	04:44:45PM 15	Q. So you don't know whether these are the purchase price or
provide one.	04:44:49PM 16	the redemption value?
If you can turn your attention down to the bottom of	04:44:51PM 17	A. I could not say.
the page, and you note here that by 1926, Commissioner Merit	04:44:52PM 18	Q. Okay. Now, if we can turn back to your Power Point, DX 497
reports \$27 million in monies held in trust for individual		and 004 again, and now I want to concentrate a little bit on the
Indians are invested at the present time in United States bonds	04:45:23PM 20	middle line there. You have there a number of IIM system funds,
	04:45:32PM 21	47.41 percent, dollar value \$35 million, and this is for the
and notes.	00	
A. Yes, I see that.	04:45:40PM 22	year 1928. Do you see that?
A. Yes, I see that.Q. And now you did not include this information in your chart,	04:45:42PM 23	A. That's correct.
A. Yes, I see that.Q. And now you did not include this information in your chart, though, correct?	04:45:42PM 23 04:45:42PM 24	A. That's correct.Q. Okay. These securities are held principally by the
A. Yes, I see that.Q. And now you did not include this information in your chart,	04:45:42PM 23	A. That's correct.
	consider this report? A. You mean Q. I'm sorry. Dr. Kehoe. I saw "Angel" here and I misspoke. Dr. Kehoe, do you recognize this report? A. Yes, I do. Q. And you're the drafter of this document? A. Yes, I do. Q. And would it be fair to say that one of the things this document tries to do is talk about the investment history of IIM funds? A. That's right, with the focus on banks, less so on securities. Q. And it also talks a little bit about how at various stages there were people who were trying to get the highest return for investment, is that a fair statement? A. Yes, it is. Q. And that goes all the way back to these funds being kind of regularly invested in the early 1900s? A. I would say that's a true statement. Q. And even before that there were investments made? A. You say "before that." How far back are you referring to? Q. How far back would you say that they went? A. Well, I have seen documents discussing depositing IIM in banks as early as 1899. I could not speak to twenty years Jacqueline M. Sullivan, RPR Official Court Reporter 1111 before that. Q. So you wouldn't know before 1899, but since 1899 there's been regular investment, is that fair? A. Yes, that's fair to say. Q. Now I want to turn your attention to page fifteen of this document. I'm sorry, it's page sixteen. I'm sorry, page seventeen. A. Mr. Harper, I get the sense that there might be a lot of questions on this report. If that's the case, would I be able to get a paper copy to use? Q. Let's see how it goes and then if you like I only have my one marked-up copy with me. I don't think you're going to have as many questions on this as you may think. A. Okay. Q. And if it turns out differently, then we'll be glad to provide one. If you can turn your attention down to the bottom of the page, and you note here that by 1926, Commissioner Merit	Q. Okay. And I'd like to bring up PX 124. Dr. Angel, do you recognize this report? A. You mean Q. I'm sorry. Dr. Kehoe. I saw "Angel" here and I misspoke. Dr. Kehoe, do you recognize this report? A. Yes, I do. Q. And you're the drafter of this document? A. Yes, I am. Q. And would it be fair to say that one of the things this document tries to do is talk about the investment history of IIM funds? A. That's right, with the focus on banks, less so on securities. Q. And it also talks a little bit about how at various stages there were people who were trying to get the highest return for investment, is that a fair statement? A. Yes, It is. Q. And that goes all the way back to these funds being kind of regularly invested in the early 1900s? A. I would say that's a true statement. Q. And even before that. "How far back are you referring to? Q. How far back would you say that they went? A. Well, I have seen documents discussing depositing IIM in banks as early as 1899. Lould not speak to twenty years Jacqueline M. Sullivan, RPR Official Court Reporter 1111 before that. Q. So you wouldn't know before 1899, but since 1899 there's been regular investment, is that fair? A. Yes, that's fair to say. Q. Now I want to turn your attention to page fifteen of this document. I'm sorry, It's page sixteen. I'm sorry, page seventeen. A. Mr. Harper, I get the sense that there might be a lot of questions on this report. If that's the case, would I be able to get a paper copy to use? Q. Let's see how it goes and then if you like I only have my one marked-up copy with me. I don't think you're going to have as many questions on this as you may think. A. Okay. Q. And filt turns out differently, then we'll be glad to provide one. If you can turn your attention down to the bottom of the page, and you note here that by 1926, Commissioner Merit 18

1114	1116
04.45.50PM 1 A. It was procedure at the time for the BIA to send the stock	0455038PM 1 A. In the revised report I attempted to bring the narrative up
Q4.4655PM 2 certificates you'll get an actual certificate of some kind	obsolispin 2 to the present day, that is, 2008.
3 to the treasurer of the United States to hold for safekeeping.	3 Q. Now I'd like to go back to some of the questions we had
04.46.02PM 4 Q. So it was the policy of the United States to have these at	before about the practices of how money moves, IIM money
04/4608PM 5 the Department of Treasury?	specifically, within the Department of Treasury. Are you
04.46.09PM 6 A. Yes.	o450/43PM 6 familiar with a gentleman by the name of
04.46:12PM 7 Q. If we can bring up PX 135.	MR. SIEMIETKOWSKI: Objection, your Honor; beyond the
04.4633PM 8 Dr. Kehoe, do you recognize this document?	8 scope of my direct and of this witness' knowledge.
04:46:36PM 9 A. Yes, I do.	OH.SO/SIPPM 9 THE COURT: Sustained as to the scope of the direct.
04.46.37PM 10 Q. And could you explain what this document is?	0451:17PM 10 BY MR. HARPER:
04.46.40PM 11 A. This was a report from the comptroller general, that is the	OKST.SZPM 11 Q. Dr. Kehoe, when funds come in to the IIM system, we had
OLIGAGASPM 12 General Accounting Office, on its examination of Indian trust	04.51.559M 12 talked a little bit earlier about how they come in to the
04.4650PM 13 funds.	04.52.029M 13 Department of Treasury. Do you recall that discussion?
04.4651PM 14 Q. And you've relied on this report significantly, is that a	онszоним 14 А. Yes, I do.
o4.47.05PM 15 fair statement, in your reporting?	04.52.05PM 15 Q. Okay. And I'd like to bring up some testimony of
04.47.07PM 16 A. It is a standard source and I have used it, that is	04:52:12PM 16 Commissioner Greg from the Department of Treasury.
04.47:14PM 17 correct.	MR. SIEMIETKOWSKI: Same objection, your Honor.
0447:14PM 18 Q. If I could turn your attention to page 84 of this document.	04.52:19PM 18 MR. HARPER: Your Honor?
04-47-28PM 19 Now, as you'll recall the IIM system funds invested in federal	04.52.20PM 19 THE COURT: I'll hear you, Mr. Harper. Where are you
o4.47:31PM 20 securities on your DX 497004 had a dollar figure of \$35,400,177,	outside 20 going with this? I mean, you're talking about movement of
o4.47.41PM 21 and was that taken from this report?	ousszamm 21 money. He's disclaimed any expertise in that.
04.47.43PM 22 A. It is. Not this page, but it's from the report.	MR. HARPER: Well, your Honor, I think that even
0447-46PM 23 Q. Okay. And as you scroll down the page to the highlighted	o4.52.34PM 23 though there weren't specific questions on it, during the direct
o44752PM 24 section on the bottom, again, that's the reference where they	o4.52.38PM 24 they went over it and what was moved into evidence was an
o44754PM 25 make clear that the vast majority of those funds, some 32	osszazem 25 exhibit which contained some information, and I think it is
Jacqueline M. Sullivan, RPR	Jacqueline M. Sullivan, RPR
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outstanding 1 million, was found in the custody of the Treasury department?	of S247PM 1 intended to give the idea that when funds are held in commercial
04-48:02PM 2 A. That is correct.	banks there is no way for the government to get benefit from
04.48.03PM 3 Q. And indeed isn't it true that it was considered not proper	those funds, but I think the answer to that is that the way
o4.48:13PM 4 internal controls to hold these securities by superintendents?	Money goes in and out of the Department of Treasury that ends up
04.48:18PM 5 A. Generally they were supposed to be forwarded to Washington	5 in that \$335 million in 1985 held by banks is the way in which
6 for safekeeping by the treasurer. The Osage agency might be one	6 you can have funds going to other accounts that aren't credited
7 exception. They were permitted by a couple of laws in the 1920s	7 there, so I want to ask this witness if he's familiar with how
8 to invest IIM outside of federal securities, so if money was	8 those things go in and out, and it answers directly his exhibit.
9 invested it stayed in Oklahoma state bond in a real estate	THE COURT: Go ahead and ask the question, but here's
okasazem 10 mortgage those securities might be held at Osage in order to be	10 what I understand to be the record on this so far. The
o44844PM 11 considered acceptable.	plaintiffs' theory of benefit to the government is that funds on
04-48-46PM 12 Q. And this would be true for all other periods on your line	deposit with the Treasury eliminate the need for Treasury to
04-49:03PM 13 there, that most excuse me not the funds, but most of the	borrow those monies at the ten-year T bill rate or whatever that
outstanding 14 investments are basically held by the Treasury department, is	04.53.50PM 14 rate was. That's the theory of the plaintiffs', benefit to the

04:49:14PM 15 04:53:54PM 15 that a fair statement? government case. Now, the question I suppose is whether monies 04:53:59PM 16 16 held by the Treasury in banks fulfills the same function, and At least through the end of the 1950s. I've collected a 17 number of audit reports from the Treasury of the United States 04:54:05PM 17 I'm not sure that this witness or any witness I've heard yet 04:54:09PM 18 18 to the BIA reporting on their holdings of federal securities answers that question. If money is being held in banks drawing 19 that the BIA could check it against its own records. 04:54:13PM 19 interest it's an interesting concept that the government can 20 04:54:17PM **20** By the way, has this report that you did -- I meant to ask sort of double-count the money that is drawing interest and be 04:49:49PM **21** you this when I had it up and I forgot. What we identified as 04:54:24PM **21** able to borrow money on it. That's a pretty good trick. That's 04:49:55PM **22** PX 124 -- we don't have to put it up, but it's the IIM policy 04:54:32PM **22** the level of my interest in this subject. If this witness knows 04:54:37PM **23** 04:49:59PM **23** report that's been updated and finalized? anything about these subjects, go ahead, feel free. Have a 04:54:42PM **24** 04:50:02PM **24** I have updated the report, yes. field day. And what year have you brought it up-to-date to? 04:54:43PM **25** MR. HARPER: Well, your Honor, I have a couple Jacqueline M. Sullivan, RPR Jacqueline M. Sullivan, RPR

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04:54:48PM 1	questions. If they're not helpful to the Court I'll move on.	04:59:29PM 1	Q. Starting off by quoting on the first highlighted paragraph,	
04:54:53PM 2	BY MR. HARPER:	04:59:35PM 2	a law called section of two, I believe, if I'm reading that	
04:54:53PM 3	Q. If can I turn your attention to July 7, 1999, Commissioner	04:59:41PM 3	right, after you read this could you tell me whether you	
04:55:00PM 4	Greg's testimony, if we can.	04:59:45PM 4	recognize that law?	
04:55:04PM 5	MR. SIEMIETKOWSKI: For the record, your Honor, we'd	04:59:48PM 5	A. I've read the paragraph and I cannot recall seeing this	
04:55:06PM 6	like to add a hearsay objection as well.	05:00:28PM 6	before.	
04:55:07PM 7	THE COURT: Your objection is noted in perpetuity.	05:00:29PM 7	Q. Okay. If you look down at the second highlighted	
04:55:13PM 8	Go ahead.	05:00:39PM 8	paragraph, and I'll read that into the record. The question has	
04:55:16PM 9	BY MR. HARPER:	05:00:45PM 9	arisen whether or not the term "public money" as outlined in the	
04:55:17PM 10	Q. This is an in-court statement, your Honor. If we can turn	05:00:49PM 10	above statute apply to funds of Indian pupils and other	
04:55:50PM 11	to 3350 starting at the top and through line 11, and you can	05:00:54PM 11	individual Indian funds held in trust by disbursing officers of	
04:56:07PM 12	just let me know when you've had a chance to read that.	05:00:58PM 12	the Indian service. While on this particular case the deposit	
04:56:25PM 13	A. I've read it.	05:01:02PM 13	is held in the official credit of Mr. Brown and the Treasury.	
04:56:26PM 14	Q. Is that consistent with your understanding?	05:01:06PM 14	These funds were carried in large measure in bonded depositories	
04:56:34PM 15	A. I'm not sure that I completely understand Mr. Greg's	05:01:13PM 15	scattered over the country, which are not subject to the	
04:56:43PM 16	discussion of the money flow here.	05:01:19PM 16	jurisdiction of the Treasury department. Do you see that?	
04:56:47PM 17	Q. Okay, so you would agree that he says Treasury general	05:01:22PM 17	A. May I have a moment?	
04:56:51PM 18	accounts, the money flows into Treasury general accounts and	05:01:26PM 18	Q. Yes, sure.	
04:57:00PM 19	then into the OTFM account, and that would be what we talked	05:01:37PM 19	A. Well, he is referring to the above statute. I think this	
04:57:00PM 20	about earlier, 14X6039 to the extent that it was credited	05:01:47PM 20	might be a case, Mr. Harper, where I'd really like to see the	
04:57:05PM 21	properly, correct?	05:01:50PM 21	entire document to understand just how the phrase is being used.	
04:57:06PM 22	A. Okay.	22	Q. Sure.	
04:57:07PM 23	Q. So you understand that part. What part do you not	24	MR. HARPER: Your Honor, could I get a copy of it?	
04:57:15PM 24	understand of that or have a question about? A. When he's talking about, quote, what we call the Treasury	05:02:03PM 24	THE COURT: It's five o'clock, Mr. Harper. How much more do you have for this witness?	
04.57:17PM 2-0	Jacqueline M. Sullivan, RPR	U5:U2:U5PW 2-U	Jacqueline M. Sullivan, RPR	
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04:57:29PM 1	general accounts and commercial banks, end quote, I'm not sure	05:02:07PM 1	MR. HARPER: I think I have about an hour more, your	
04:57:35PM 2	exactly what that means.	05:02:09PM 2	Honor.	
04:57:47PM 3	Q. And I'll move on.	05:02:09PM 3	THE COURT: In that case we're not going to get an	
04:57:49PM 4	A. If I can bring up	05:02:11PM 4	answer to that question today. You can give him a copy of the	
04:57:55PM 5	Q. Before I bring up the exhibit, what does the term "public	05:02:13PM 5	document.	
04:58:00PM 6	monies" mean to you?	05:02:14PM 6	MR. HARPER: I will do so.	
04:58:02PM 7	A. I understand public monies to mean government money, money	05:02:15PM 7	THE COURT: That will be his homework assignment.	
04:58:10PM 8	that is owned in effect by the government. They can do with it	05:02:18PM 8	We'll reconvene tomorrow morning.	
04:58:16PM 9	as they please. It is their money. It's public monies.	05:02:20PM 9	MR. SIEMIETKOWSKI: Your Honor, we would like to	
04:58:19PM 10	Q. And you understand individual Indians trust funds for	05:02:22PM 10	request copies of and full copies of all the documents, exhibits	
04:58:22PM 11	purposes of rules related to how money is used were generally	05:02:25PM 11	which plaintiffs are showing this witness.	
04:58:30PM 12	considered public monies, correct?	05:02:27PM 12	THE COURT: Have shown or are showing?	
04:58:32PM 13	A. No, that's not my understanding. There was a series of	05:02:30PM 13	MR. SIEMIETKOWSKI: Have shown and will show.	
04:58:38PM 14	exchanges early in the 20th century on this very issue and the	05:02:31PM 14	THE COURT: You know if he's on cross-examination	
04:58:41PM 15 04:58:44PM 16	BIA wanted ITM to be considered public money but the Treasury	05:02:34PM 15 05:02:38PM 16	you're not going to prep him while he's on cross. You don't do	
04:58:44PM 10 04:58:49PM 17	department was pretty firm that it should not be classified as such.	47	that. If he's on cross he's on cross. You're not to talk to	
04:58:49PM 17 04:58:49PM 18	sucn. Q. If I could put bring up PX 134.	05:02:41PM 17 05:02:44PM 18	these people during cross-examination. MR. SIEMIETKOWSKI: Your Honor, it's not so much to	
04:58:49PM 10 04:59:00PM 19	And this is the best copy we have, your Honor.	05:02:44PM 10 05:02:46PM 19	prep the witness. It's rather for my own preparation.	
04:59:04PM 20	It's an, as you can see from the top, it's a	05:02:48PM 20	THE COURT: You're a quick study. They'll show you	
04:59:07PM 21	comptroller general of the United States report. If we can go	05:02:51PM 21	the documents when they show them to you.	
04:59:11PM 22	up to the top part with the date. This looks like 1928. Dr.	05:02:53PM 22	MR. HARPER: Your Honor, I'll provide documents as I	
04:59:19PM 23	Kehoe, do you recognize this document?	05:02:55PM 23	go along.	
04:59:21PM 24	A. Not at this point. Maybe as we read through it it might	05:02:57PM 24	THE COURT: Mr. Kirschman, I haven't seen you or heard	
04:59:28PM 25	become familiar to me.	05:03:03PM 25	you for days.	
	Jacqueline M. Sullivan, RPR		Jacqueline M. Sullivan, RPR	
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	MD_KIDSCHMANL So so not to disconneigh your result.	1 CERTIFICATE	1124
05:03:07PM 1	MR. KIRSCHMAN: So as not to disappoint you, your	I CERTIFICATE	
05:03:10PM 2	Honor, I'd like to raise a procedural matter, and it goes back	2 I, JACQUELINE M. SULLIVAN, Official Court Reporter,	
05:03:12PM 3	to the argument yesterday and something you said during the	3 certify that the foregoing pages are a correct transcript from	
05:03:15PM 4	course of the recent testimony. Our next two witnesses are	4 the record of proceedings in the above-entitled matter.	
05:03:23PM 5	intended to be Treasury employees who would address the issue of	5	
05:03:27PM 6	benefit. Your Honor just made the statement related to Dr.	JACQUELINE M. SULLIVAN	
05:03:33PM 7	Kehoe's testimony that	6	
05:03:34PM 8	THE COURT: No, no, no. I want to hear them.	7	
05:03:36PM 9	MR. KIRSCHMAN: That was my question, your Honor.	8	
05:03:37PM 10	THE COURT: I want to hear them.	9	
05:03:39PM 11	MR. KIRSCHMAN: They will be here tomorrow.	10	
05:03:40PM 12	THE COURT: Okay.	11	
05:03:42PM 13	All right. We'll adjourn until 9:30 tomorrow morning.	12	
05:03:45PM 14	Thank you.	13	
05:03:54PM 15	COURTROOM DEPUTY: This Honorable Court is adjourned.	14 15	
05:03:57PM 16	(Proceedings adjourned at about 5:03 p.m.)	16	
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