

In The Matter Of:
*ASSOCIATION OF PROFESSIONAL FLIGHT ATTENDANTS AND
AMERICAN AIRLINES, INC.*

INTEREST ARBITRATION

Vol. 2

December 04, 2014



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<p style="text-align: right;">Page 201</p> <p>1 BEFORE RICHARD BLOCH, ROBERTA GOLICK, AND JOSHUA JAVITZ 2 - - - - - x IN THE MATTER OF THE INTEREST : 3 ARBITRATION BETWEEN : 4 ASSOCIATION OF PROFESSIONAL : FLIGHT ATTENDANTS : 5 : and : 6 : AMERICAN AIRLINES, INC. : 7 - - - - - x</p> <p style="text-align: center;">VOLUME 2</p> <p>9 The hearing in the above-entitled matter recommended on December 4, 2014 at 9:41 a.m., at the 10 offices of O'Melveny & Myers, 1625 Eye Street, NW, Washington DC. 11 BEFORE: RICHARD I. BLOCH, IMPARTIAL CHAIRMAN ROBERTA GOLICK, IMPARTIAL ARBITRATOR JOSHUA JAVITS, IMPARTIAL ARBITRATOR PAUL D. JONES, AA BOARD MEMBER CINDI SIMONE, AA BOARD MEMBER JOE BURNS, APFA BOARD MEMBER ROBERT CLAYMAN, APFA BOARD MEMBER 15 ON BEHALF OF APFA: JEFFREY FREUND, ESQ. ROGER POLLAK, ESQ. Bredhoff & Kaiser, PLLC 805 15th Street, NW Washington, DC 20005 (202) 842-2600 jfreund@bredhoff.com rpollak@bredhoff.com 20 21 22</p>	<p style="text-align: right;">Page 203</p> <p>1 I N D E X 2 WITNESS: PAGE 3 DARIN LEE: 4 Direct examination by Mr. Siegel 207 5 Cross-examination by Mr. Freund 248 6 PATRICK GUILTINAN: 7 Direct examination by Mr. Siegel 288 8 Cross-examination by Mr. Freund 297 9 JERROLD GLASS: 10 Direct examination by Mr. Siegel 325 11 Cross-examination by Mr. Freund 334 12 13 E X H I B I T S 14 EXHIBIT PAGE 15 COMPANY 1 205 16 COMPANY 2 206 17 UNION 1 304 18 19 20 21 22</p>
<p style="text-align: right;">Page 202</p> <p>1 ON BEHALF OF AMERICAN AIRLINES, INC.: 2 ROBERT SIEGEL, ESQ. 400 South Hope Street 3 Los Angeles, California 90071 (213) 430-6005 4 rsiegel@omm.com 5 MARK ROBERTSON, ESQ. O'Melveny & Myers, LLP 6 Times Square Tower, 7 Times Square New York, New York 10036 7 (212) 326-2000 mrobertson@omm.com 8 LAURA WATERS, ESQ. O'Melveny & Myers, LLP 1625 Eye Street, NW 10 Washington, DC 20006 (202) 383-5407 11 lwaters@omm.com 12 COURT REPORTER: 13 JOSEPH A. INABNET Inabnet Court Reporting (ICR) 14 9250 Mosby Street, Suite 201 Manassas Church, Virginia 20110 (703) 331-0212 15 office@icrdepos.com 16 17 18 19 20 21 22</p>	<p style="text-align: right;">Page 204</p> <p>1 P R O C E E D I N G S 2 ARBITRATOR BLOCH: This is the fourth of 3 December, and I'll turn it over to Mr. Siegel. 4 Proceed. 5 MR. SIEGEL: Before we start with our 6 witnesses on the record, I want to thank our court 7 reporter, Joey, who has every Christmas season 8 always baked incredible cinnamon cake or whatever 9 you do, Joey, and it's out there on the counter for 10 everybody in the room to enjoy, and I can endorse it 11 as being the very best. So thank you very much. 12 ARBITRATOR BLOCH: Joey also runs a 13 fitness salon. 14 (Laughter.) 15 MR. POLLAK: We can endorse Joey as being 16 the best. 17 MR. SIEGEL: This isn't on the record, 18 SO... 19 All right. We call Dr. Darin Lee as our 20 first witness. 21 ARBITRATOR BLOCH: Welcome, Dr. Lee. 22 THE WITNESS: Good morning.</p>

Page 205	Page 207
<p>1 MR. SIEGEL: And I would like to just 2 present to the Panel the -- Dr. Lee's resume, which 3 I would like to just mark as Company Exhibit 1, and 4 that document has been distributed to counsel and to 5 the Panel members.</p> <p>6 (Thereupon, Company Exhibit No. 1 was 7 marked for identification and received into 8 evidence.)</p> <p>9 MR. SIEGEL: And we are going to save 10 time. I believe we have a stipulation with Jeff 11 that we are proffering Dr. Lee as an expert in 12 economics, labor economics, and the economics of the 13 airline industry.</p> <p>14 And we would like to proffer him as an 15 expert witness at this time.</p> <p>16 MR. FREUND: And we have no objection.</p> <p>17 ARBITRATOR BLOCH: Thank you. Proceed.</p> <p>18 MR. SIEGEL: And I would like to then also 19 have -- I think the best way to do this is we have a 20 PowerPoint presentation that Dr. Lee will work off 21 of.</p> <p>22 And I have distributed that to the Panel</p>	<p>1 Thereupon, 2 DARIN LEE 3 Called for examination by counsel for the 4 Union, was examined and testified as follows: 5 DIRECT EXAMINATION 6 BY MR. SIEGEL:</p> <p>7 Q. So perhaps, Dr. Lee, I can ask -- direct 8 your attention to Company Exhibit 2, and ask you to 9 look at page 2 and just describe to the Panel 10 members what this reflects.</p> <p>11 And please feel free to make a 12 presentation based on your PowerPoint slides from 13 that point.</p> <p>14 A. Thank you. Good morning.</p> <p>15 If at any time during my presentation any 16 of the Board members have a questions, please feel 17 free to -- and I know you will interrupt and ask me 18 questions.</p> <p>19 So I think a good place to -- a logical 20 place to start is kind of where we left off 21 yesterday, which is that APFA has already conceded 22 that the value of their proposed JCBA, absent the</p>
Page 206	Page 208
<p>1 members. And I think perhaps the best way is to 2 mark that as Company Exhibit 2. And then, each page 3 has page numbers. So we'll be able to identify in 4 the record what we're discussing.</p> <p>5 (Thereupon, Company Exhibit No. 2 was 6 marked for identification and received into 7 evidence.)</p> <p>8 MR. SIEGEL: Also, I know we have given 9 hard copies to the Panel members and to counsel, but 10 we will also have it up on the screen because I know 11 we have an audience in the room, and I don't know 12 how visible it is from a distance. But we're just 13 putting up on the screen what we're doing in hard 14 copy as well.</p> <p>15 And then finally, by procedural agreement, 16 we had agreed that testimony could come in on a 17 presentation basis, so we won't do a completely 18 structured direct exam.</p> <p>19 We'll ask the expert to discuss the 20 slides. But I'll -- with some guidance from 21 counsel's questions, but not a structured direct 22 exam as such.</p>	<p>1 three contested items that we're here to discuss, is 2 \$112 million annually. 3 And obviously, everyone in the room is 4 aware the \$112 million represents the average over 5 the five years over the baseline. 6 So I'll just -- I won't state that every 7 time. But it's \$112 million is what APFA has 8 already agreed to and stipulated as the value of 9 their proposed JCBA, absent the three contested 10 issues. 11 And if you look at how that \$112 million 12 annually is broken down, it's broken down into two 13 components. There is the \$50 million per year, 14 which represents, in APFA's view, the market-based 15 in the aggregate value substitute for profit 16 sharing. 17 And then there's the \$62 million a year, 18 which represents the market-based in the aggregate 19 value of the comparator contracts, you know, 20 vis-a-vis the APFA work group and the Company's 21 expected operations over the next five years. 22 And so in addition to those two valued</p>

Page 209	Page 211
<p>1 items, the APFA proposal includes two other what are 2 known as me-too clauses. There's -- in Parts 3(b) 3 and 3(c) there's a profit sharing me-too. And in 4 Part 4, Part 4(a), there's a health insurance 5 me-too.</p> <p>6 And so what I have been asked to do is to 7 provide an economic assessment as to whether or not 8 the inclusion of either of the me-too clauses would 9 push the value of the proposed JCBA above 10 \$112 million.</p> <p>11 But in fact, the question is actually much 12 simpler than that.</p> <p>13 Given that APFA has already agreed and 14 stipulated to the fact that, absent the two me-too 15 clauses, their proposal is valued at \$112 million, 16 really the threshold question then becomes, do 17 either of these me-too proposals have any value. 18 Because if they do, then it falls almost 19 definitionally that the value of their proposed JCBA 20 would be above \$112 million.</p> <p>21 And that's what we'll discuss for the 22 remainder of my presentation.</p>	<p>1 by definition, APFA could garner greater value than 2 the \$112 million. 3 But it's actually a little bit more subtle 4 than that in another instance. 5 So even if the options aren't exercised, 6 okay, so, you know, if it's the case that either 7 they're not triggered, or APFA has the option to 8 invoke me-too but choose not to, okay, even 9 unexercised options have value to the holder of that 10 option. And that's just a basic fundamental tenet 11 of economic theory. 12 And then finally, with regard to the 13 profit sharing me-too, this is one is -- well, we'll 14 discuss this more towards the end of my 15 presentation. 16 This one is particularly valuable for APFA 17 because what it does is it allows APFA to reverse 18 the division that it has already made to take 19 certain guaranteed CBA improvements, the \$50 20 million, in lieu of variable and uncertain profit 21 sharing. It allows them to change that decision 22 actually up to two times in the future based on new</p>
Page 210	Page 212
<p>1 Q. Dr. Lee, direct your attention to Slide 3. 2 Please proceed. 3 A. So page 3 is really just a preview of the 4 remainder of my presentation. But just by way of 5 preview, I thought it would be useful up front to 6 summarize my opinions. 7 So in a nutshell, there's several reasons 8 why the inclusion of either of the me-too proposals 9 that are included in the APFA's proposed JCBA would 10 push the value above \$112 million, why they have 11 value. 12 And there's really three main reasons that 13 are just grounded in basic economics, basic economic 14 theory. The first is that any option, if exercised, 15 provides the holder of that option with a value. 16 Okay. And so it's reasonable to assume 17 that APFA wouldn't exercise either its health 18 insurance me-too or its profit sharing me-too unless 19 it left them better off than what they would receive 20 under the status quo. The status quo being 21 \$112 million. 22 So if either of the options are exercised,</p>	<p>1 information which it currently doesn't possess. 2 And that -- what's important is that that 3 information that they use to make the decision is 4 actually the basis of the \$50 million, what I'll 5 call the certainty equivalence, the amount that they 6 deemed that future uncertain profit sharing was 7 worth. 8 So there's this informational component 9 that, as time passes, APFA will learn additional 10 information as to the state of the industry. And 11 allowing a party to act on information that it 12 doesn't currently have now provides them with 13 additional value. 14 So these are three very basic -- I should 15 really emphasize that these aren't -- these aren't 16 just kind of disputed amongst economists' theories. 17 These are really basic tenets of economics that any 18 economist would also agree to. 19 But just putting those aside, I mean, I 20 think the very fact that we're here today, the very 21 fact that these are contested issues should provide 22 even further evidence to the Board that these are</p>

1 valued by both sides. 2 Q. Let me direct your attention to Slide 4, 3 Dr. Lee. 4 If you would please describe what that 5 reflects. 6 A. Okay. Well, I thought it would be useful 7 to just review the two me-too clauses that are in 8 the APFA proposal. 9 And so in the context of a labor CBA, a 10 CBA between the Union and the Company, we think of 11 these as me-too clauses. But the way an economist 12 would look at these is that they are options. Okay. 13 So they are standard options, and options provide 14 value. 15 The way that an option works is that the 16 holder of the option, okay, is bestowed a right. 17 Okay. And here, the right of APFA under any of 18 these two options is to have the Company match terms 19 on some future event that may happen. 20 So, for example, in the profit sharing 21 me-too, under Part 3(b), APFA's proposal would say 22 that it grants APFA with the option of reversing its	Page 213 1 Okay. So there's two components of the 2 profit sharing option. The other one, which is 3 actually quite interesting as well, is Part 4 3(c)(ii). 5 So if it were the case that the Union 6 exercised its 3(b) option, okay, to reverse its 7 earlier decision to take the \$50 million guaranteed 8 wages or other CBA or other CBA improvements in lieu 9 of profit sharing, if it actually invoked its 3(b) 10 option and decided, No, actually, we would prefer to 11 go with profit sharing, okay, then subsequently, if 12 the profit sharing plan with the other union that 13 the Company agreed to ceases to exist, under 3(c) -- 14 under Part 3(c)(ii), APFA has yet another option, 15 okay. 16 And, again, what they're allowed to do is 17 revisit that earlier decision and, again, go back 18 to, if they so desire, taking the \$50 million in 19 guaranteed wages or continuing with the profit 20 sharing. 21 Okay. So I think what's important is that 22 we all understand that in the profit sharing,
Page 214 1 decision to take \$50 million in lieu of variable 2 profit sharing if the Company were to negotiate a 3 new profit sharing agreement with another work 4 group. 5 Okay. But what's very important is that 6 these are options to APFA. They don't need to 7 exercise them. They can always look at the status 8 quo and say, Well, you know, actually we prefer the 9 decision we made earlier. I can choose not to 10 exercise the option, but these are options. 11 So like any option, okay, it bestows upon 12 the holder of the option a right. But there's a 13 counterparty to that option, which is the Company. 14 And like any other option, the 15 counterparty is essentially conferred with an 16 obligation, okay, an obligation that, if that option 17 is exercised, they have to do something. 18 And so it's just kind of basic option 19 economics or option theory that the holder of the 20 option is granted value, and that the counterpart to 21 that option has an obligation, which comes with a 22 cost.	Page 216 1 there's actually not just one option, but there's 2 actually two options that could happen in sequence. 3 Likewise, in the health insurance, the 4 health insurance provides -- which is in 4(b) of 5 APFA's proposal, provides APFA with the option, if 6 the Company were to agree to a different health 7 insurance plan with another union in the future, 8 APFA is given the right to have that other health 9 insurance plan, or it can stay with its existing 10 health insurance plans. 11 So those are just the basics of the two 12 me-too clauses. 13 But what I think is very important is to 14 understand that these me-too clauses are really 15 options, and that it's just well understood that 16 options confer rights and obligations on the two 17 parties that are party to the option. 18 Q. And let's turn the Slide 5, Doctor. 19 Will you please explain what that 20 reflects? 21 A. Okay. So I think for the rest of my 22 presentation, what I wanted to do now is kind of go

1 back to the three reasons why options have value, 2 what I testified to just a few minutes ago on the 3 summary of opinion slide. 4 So the first one, as you'll recall, is 5 that exercised options provide value to the holder 6 of that option. 7 So it's reasonable to assume that the APFA 8 would only exercise either its health insurance 9 option or its profit sharing option if it made them 10 better off, right, because they always have the 11 choice of not -- of staying with the status quo. 12 I mean, that's the whole nature of an 13 option. It gives you choices. 14 So the very fact that you would observe 15 APFA choosing to exercise an option means that 16 they're better off. That's what economists would 17 refer to as revealed preference; right. 18 ARBITRATOR BLOCH: As what, please? 19 THE WITNESS: As revealed preference. 20 ARBITRATOR BLOCH: Thank you. 21 THE WITNESS: The very fact that they have 22 chosen to exercise the option means that they're	Page 217 1 choose it. If they felt that they weren't going to 2 be better off by electing the alternative profit 3 sharing plan, they would stick with the \$50 million. 4 So, again, the very fact that the option 5 becomes exercised, means definitionally that the 6 APFA's value has grown above \$112 million. 7 BY MR. SIEGEL: 8 Q. Turn to Slide 6, Dr. Lee. 9 A. So I mean, I think the previous point 10 really is very clear and very easy to understand, 11 that exercised options provide the option holder 12 with greater value. 13 What I think is perhaps a little bit more 14 subtle or complicated is the unexercised option. 15 Okay. So, you know, APFA, you know, they 16 may decide not to exercise an option. The options 17 may never even be triggered. And so the question 18 is, well, do those options, those me-too clauses, 19 here, these options, do they provide APFA with any 20 value today? 21 And the answer to that question is also 22 yes.
Page 218 1 better off. 2 So, for example, in the context of the 3 healthcare plan, if the Company agreed to an 4 alternative healthcare plan with another union, and 5 under 3 -- under 4, under 4(a), APFA were to 6 exercise its option, it is reasonable to conclude 7 that the alternative health insurance plan is more 8 valuable to them than their pre-existing health 9 insurance plan. 10 Okay. Therefore, it must be the case that 11 they are left better off; they have more value than 12 they do under the \$112 million status quo. 13 It's just as simple as that. 14 Likewise, with the profit sharing. If 15 they were to -- if the Company, hypothetically, were 16 to agree to a profit sharing plan with another union 17 in the future, and if APFA exercised its right under 18 3(c) to elect for profit sharing, what that means is 19 that, at that point in time, they view future profit 20 sharing to be more valuable than what they're 21 currently getting, the \$50 million in certain wages. 22 Okay. So they -- otherwise, they wouldn't	Page 220 1 And so here, we're going to kind of rely 2 on some very basic fundamental finance theory, okay, 3 which is that all options, okay -- it's well 4 understood that any option, okay, even if it's not 5 exercised, provides the holder with value. 6 And just by way of reference, what I have 7 done here is I have cited from two very well-known 8 finance textbooks. So anyone who, you know, may 9 have taken basic corporate finance in college or any 10 university will be familiar with these concepts. 11 And what I should also emphasize, is that 12 this -- you know, I did not have to go through 13 hundreds of books to find these results. These are 14 basic fundamental tenets of finance theory. 15 And I also mention that they're 16 uncontested. So this is not like we're having a 17 debate as to whether or not quantitative easing was 18 the right thing to do or whether or not a certain 19 type of stimulus program will provide economic 20 benefits in the futures, which economists are well 21 known to debate over. 22 These are really just fundamental results

1 that any person who studies finance would 2 understand. 3 And so the first one, and I'll just read 4 it aloud. 5 "If there's a positive probability of a 6 positive payoff, and if the worst payoff is zero, 7 then the option must be valuable." 8 The only thing I want to note is, it 9 doesn't say that it may be valuable. It says it 10 must be valuable. Okay. 11 Likewise, the second quote, also from a 12 very well-known textbook. 13 "Since the worst that can happen to a call 14 option is that it expires worthless, its value must 15 be positive." 16 Again, the author here didn't say it may 17 be positive. It must be positive, okay. 18 ARBITRATOR BLOCH: Could I just interject? 19 THE WITNESS: Yeah. 20 ARBITRATOR BLOCH: I saw that quote a 21 minute or two ago, and it -- is that -- I understand 22 where the first one is going.	Page 221 1 But what the fundamental basic results is, 2 is that it must be positive. Okay. It's not zero. 3 Okay. It cannot be zero. 4 ARBITRATOR BLOCH: Is that because having 5 it has got to be worth something? 6 THE WITNESS: Absolutely. So like the way 7 I like to think about this is, you know, say, for 8 example, the only thing that you eat in the morning 9 is Cheerios, and your grocery store has 100 10 different types of cereal. Right. Okay. 11 So the very fact that your grocery store 12 offers 100 varieties of cereal provides you with 13 some value, even if you only buy Cheerios. For 20 14 years, all you have eaten are Cheerios. 15 Okay. The very fact that you can go to 16 the grocery store and buy granola and corn flakes 17 and Frosted Flakes actually provides you with some 18 value because you don't know that someday in the 19 future you may develop, you know, an aversion to 20 oats. Right. And you may need to switch from an 21 oat-based cereal to a corn-based cereal. 22 Options provide value to people, even if
Page 222 1 But isn't it really dependent on the 2 positive probability of a payoff? 3 I mean, if there is no probability of a 4 payoff, then, at the least, it's fair to say that 5 the value is considerably diminished. 6 Isn't that true? 7 THE WITNESS: Yeah. 8 That's a very -- 9 ARBITRATOR BLOCH: At least. 10 THE WITNESS: No. Yeah. That's a very 11 good question. 12 And though the pricing of options is a -- 13 again, this is -- now, we're kind of going into a 14 more technical area of option pricing. 15 But your point is well taken, that the 16 price of the option can vary based off a whole 17 number of things. The amount of time of the option 18 is exercisable over the probability of certain 19 events in the future. 20 And it's absolutely the case that the 21 price of the option depends on a whole host of 22 things.	Page 224 1 they don't use them. 2 Because the future, by its very 3 definition, is uncertain. 4 ARBITRATOR BLOCH: Okay. But if I were 5 offered the option to take the first trip to Pluto, 6 I probably would not be interested, and I guess what 7 you're saying is that someone might be. 8 THE WITNESS: Someone might be. 9 And in some types of options, there's 10 well-defined markets where these things are traded 11 and the prices get determined based off a whole 12 variety of factors. 13 Here, this is not a tradeable option. 14 It's an option between APFA and the Company. And so 15 pricing the option may be more complicated because 16 you don't have as many parties interacting in a 17 market to determine what the price should be. 18 ARBITRATOR BLOCH: That's my next 19 question. 20 THE WITNESS: Yeah. 21 ARBITRATOR BLOCH: There's no market for 22 it.

1 THE WITNESS: There's no market for the 2 option. 3 But the key factor is that we have -- what 4 is very important is that we have a party that gets 5 bestowed a right, okay, and a party that is given an 6 obligation. Okay. So there's a party and a 7 counterparty to every option. Okay. 8 So the counterparty here is American 9 Airlines. And as the party that has an obligation 10 that if the option is exercised has to do something 11 that imposes costs. Okay. 12 And on the other side of the ledger, 13 there's benefits. Okay. 14 And this is -- again, this is just basic, 15 you know, basic option economic theory that options 16 provide value. 17 ARBITRATOR BLOCH: Thanks for letting me 18 in. 19 And I think one of our board members may 20 have more. 21 ARBITRATOR GOLICK: Excuse my question. 22 I'm probably more comfortable with the	Page 225 1 But I can tell you for sure, okay, with 2 100 percent certainty is that it does have value, 3 and it does have real economic value. 4 And the reason being -- I mean, the easy 5 one to kind of thing about -- and I have slides that 6 will speak to this. 7 And, for example, on the profit sharing, 8 to kind of maybe put numbers around it that we can 9 maybe jump ahead to that, if you would like. 10 But the -- the issue of economic value is 11 thinking of it in two ways. So you can look at the 12 economic value as what cost does it impose on the 13 Company; right? 14 And so what is the cost of having these 15 me-too clauses would put on the Company. 16 So one example is, what it really does is 17 it limits the options or limits the flexibility of a 18 company going forward to negotiate future CBAs. 19 Now, I think we all understand -- and like 20 there was testimony yesterday that the Company 21 really had no intention -- or they don't want to 22 start to have profit sharing for their other unions,
Page 226 1 Cheerios example. 2 I know that you talked about value, and 3 certainly one can understand that there's value in 4 having a right. 5 But for purposes of this case, what we 6 want to understand is whether it has economic value, 7 you know, or monetary value because that's the 8 challenge that we have. 9 So are you -- will you be explaining to 10 us -- let's even take the Cheerios example -- how 11 one attributes an economic value to a right that may 12 or may not be exercised? 13 THE WITNESS: Well, that's a good 14 question. 15 So I think what's important is that I have 16 not been asked to price the option. Okay. 17 And so if you were to ask me, What is a 18 price you would put on it? Is it \$5 million? Is it 19 \$10 million? Is it \$1 million? 20 I haven't been asked to render an opinion 21 on that. I would have to give it some thought as to 22 what an appropriate value would be.	Page 228 1 but, you know, life is uncertain; right? 2 And as I believe Mr. Glass will testify 3 about later, is that, you know, these twists and 4 turns that happen in labor negotiations, they're 5 really unpredictable. 6 And there may be a time in the future 7 where another work group is at the point where, you 8 know, you're negotiating a contract, and the Company 9 may decide that because the other work group was 10 willing to trade off wages for a better healthcare 11 plan, okay, that it may -- that might be the final 12 thing to seal the deal. Right. 13 But knowing that, APFA would have the 14 right, under 4(a), to receive that better, more 15 expensive -- more expensive to the Company 16 healthcare plan, okay, really limits the flexibility 17 of what the Company can do in its future 18 negotiations. 19 And that does impose a cost; right? That 20 imposes a real economic cost on the Company because 21 when you go into negotiations, as Mr. Glass will 22 testify, you really need to have all of the

<p style="text-align: right;">Page 229</p> <p>1 potential -- you know, you don't want to be 2 restricted in any way. 3 ARBITRATOR GOLICK: So is that a cost that 4 can be attributed to the cost of this Collective 5 Bargaining Agreement? 6 THE WITNESS: It is a cost that could be 7 attributed to the proposed JCBA that APFA is putting 8 forward because it includes these me-too options. 9 ARBITRATOR GOLICK: Thank you. 10 ARBITRATOR JAVITS: Could you explain the 11 size of the pie you make? 12 \$50 million in wages is a different thing 13 than profit sharing. Presumably, profit sharing 14 relates to revenues or how the Company is doing. 15 If the pie is larger than profit sharing, 16 it may constitute an equal value, if you will, to 17 the Company, but a greater value to the Union. 18 Is that distinction proper? 19 THE WITNESS: Well, what's important here 20 is not -- is what APFA has valued profit sharing as. 21 Now, my understanding is that the Company 22 has, for the purposes of this arbitration,</p>	<p style="text-align: right;">Page 231</p> <p>1 it may not be necessarily in their economic 2 interest, but, for other reasons, they exercise the 3 option. 4 THE WITNESS: Well, you know, you raise an 5 interesting point. 6 And so I think what you're asking is 7 whether or not we would have a reason to believe 8 that APFA acts -- well, what economists would refer 9 to as irrational. Right? 10 So if presented with an option to exchange 11 profit sharing for the \$50 million, from an 12 economist's point of view, it is reasonable to 13 believe that APFA would only exercise that right if 14 they believed that they would be left better off 15 with profit sharing, okay, than it would taking the 16 \$50 million. 17 I mean, so if you saying, Well, maybe they 18 just want to do it for some irrational reason -- 19 ARBITRATOR JAVITS: Or political reasons 20 say, you know, APFA agrees to profit sharing. 21 THE WITNESS: You know, again, so I'm not 22 here to -- I really can't speak to the noneconomic</p>
<p style="text-align: right;">Page 230</p> <p>1 acquiesced or agreed to -- and only for the purposes 2 of this arbitration -- the \$50 million valuation. 3 But the \$50 million valuation -- and I was 4 planning on talking about this a couple of slides 5 down the road -- is what APFA has valued based on 6 the information it has today, what I would refer to 7 as the certainty equivalence of taking something 8 certain today for the next five years, \$50 million a 9 year, in lieu of uncertain and variable profit 10 sharing going forward. 11 ARBITRATOR JAVITS: And well, isn't -- I 12 mean, I guess your approach presupposes that there 13 is real value coming if the contingency that another 14 group takes the profit sharing or healthcare, and 15 the Union exercises -- 16 THE WITNESS: Well, yeah. 17 ARBITRATOR JAVITS: -- its option. 18 But might the Union just take it because, 19 let's say the pilots or mechanics have it, so that 20 they are making a decision based on -- not on value, 21 but on simply what another group has done. 22 Kind of behavioral economics analysis that</p>	<p style="text-align: right;">Page 232</p> <p>1 things that are going through APFA's mind. 2 What I can speak to is that the way that 3 people would standardly look at the decisions that 4 are made about certain payments and uncertain 5 payments is that if all the sudden you switch from 6 taking the certainty equivalent over the uncertain 7 payments, that economic logic would dictate that the 8 value of that uncertain payment, i.e., future profit 9 sharing from that point forward, would be more 10 valuable to them than what they had given up, the 11 \$50 million. 12 So I think that takes us to Slide 7. 13 And some of this, now, may be ground that 14 we have now tread on, but just to kind of go back to 15 the presentation. 16 This concept that unexercised options have 17 value is something that sometimes people might have 18 a little bit of trouble kind of getting their head 19 around. So I wanted to just kind of provide a 20 concrete example. 21 And one of the important things about 22 options is that, for future options, is that even if</p>

<p style="text-align: right;">Page 233</p> <p>1 they're unexercised, all other things equal, the 2 unexercised options have the greatest value when 3 they're first issued. 4 Okay. So here, we're looking five years 5 out into the future now. And under APFA's proposal, 6 their two options would last for at least five 7 years, okay, through the course of the JCBA. 8 And this is precisely the time when these 9 options have the most value, all other things equal. 10 And the reason is that even they're 11 unexercised, and end up with having zero value at 12 the end of the period for which they could be 13 exercised, today these options have value. 14 And it's just -- it's a well-known fact, 15 in fact, that the greatest value of an option, of a 16 call option, okay, which these are to APFA or to any 17 option holder, is at the time they're first issued 18 because it gives you the most amount of time to 19 potentially exercise those options in the future. 20 So what I have done here is I have just 21 provided an example using a financial option, which 22 is an option to purchase common shares in Apple.</p>	<p style="text-align: right;">Page 235</p> <p>1 long do I have to exercise that option; right? 2 And so if the option expires next month, 3 January 17, you're not going to be -- it doesn't 4 provide a lot of value. 5 And then what you can see here is that 6 that option is worth -- is trading at five cents. 7 But look what happens as we extend the expiration 8 period a year. 9 Okay. So for the right to purchase Apple 10 shares at \$150 a year from now, okay, what the 11 market price is for that option is \$3.75. 12 Okay. And then, if you extend the period 13 yet another year, okay, is that the market price for 14 that option is \$8.70. 15 And the reason for why that -- as you go 16 out further in time, the option has greater value is 17 because there is a greater amount of time where that 18 option may be exercised. 19 And so here what we're looking at is an 20 option -- it may never be the case that American 21 offers a profit sharing plan or a health sharing 22 plan, which APFA would prefer.</p>
<p style="text-align: right;">Page 234</p> <p>1 Okay. Apple, you know, Apple Computer. 2 And these are the prices of various 3 options as of yesterday. So the common stock of 4 Apple is -- as of yesterday was \$116. 5 And what I put here are three options. 6 Okay. And they're all -- they all have 7 the same what's called -- known as the strike price, 8 \$150. But what they have is they have different 9 expiration dates. 10 Okay. So the first option expires on 11 January 17, 2015. The second option expires on 12 January 15, 2016, so the next year. And then third 13 option expires on January 20, 2017. 14 And the point is here -- so just to back 15 up. What a call option does is it provides the 16 holder of that option with the rights to buy, in 17 this case, Apple shares at \$150. 18 Okay. So if today Apple is trading at 19 \$116, the question is well, how much would you be 20 willing to pay for the right to buy Apple at \$150? 21 Well, you kind of say, Well, it's only at 22 116. So, you know, it really would depend on how</p>	<p style="text-align: right;">Page 236</p> <p>1 And it could very well be the case that at 2 the end of the five-year term of the JCBA, those 3 options expire and are not exercised. 4 But today, because there's five years 5 ahead of us, these options are at their peak value. 6 ARBITRATOR BLOCH: But -- and I'm sorry to 7 interrupt you. I'm just playing with theories here. 8 Isn't there a distinction to be drawn for 9 a couple of reasons that occur to me. 10 First of all, there -- the option in the 11 hands of the flight attendants in -- early on, when, 12 in a market situation, I think you correctly 13 observed that it's at its highest. 14 In this case, that option has no value at 15 all unless you have the contingency of the Company 16 offering this plan to another group. 17 THE WITNESS: No. So that's actually 18 incorrect. 19 So the time value of an option is positive 20 even if that option isn't -- it wouldn't make sense 21 to exercise it, or in this case wouldn't be 22 exercisable; right?</p>

1 ARBITRATOR BLOCH: It can't be exercised. 2 THE WITNESS: Yeah. So the very fact that 3 you have a future option to do something that you 4 wouldn't otherwise have the ability to do, by 5 definition, means that it has value. 6 ARBITRATOR BLOCH: Some value maybe. 7 But I guess what I'm just trying to get 8 ahold of is, here, I think you postulate a slope 9 downward as the expiration date draws closer. 10 In this case, wouldn't it go the other 11 way? 12 THE WITNESS: No. No. Because what we 13 have before us, we're -- the JCBA contemplates a 14 five-year period. 15 My understanding -- and I'm sure Mr. Glass 16 can provide additional testimony on this -- is that 17 the Company has before it multiple additional CBAs 18 that it needs to negotiate because of the merger. 19 And these may take time. Okay. 20 They may -- some of them might happen next 21 year; some of them might happen the year after; some 22 of them could drag out for the entire period.	1 was, doesn't that presume that you are able, not 2 necessarily rationally, but you are able to exercise 3 it at any time during that period? 4 THE WITNESS: No. 5 It only means that the time at which the 6 option could potentially become valuable to you, 7 potentially become exercisable to you. 8 So like, for example, if you look at this 9 Apple thing; right? You know, if you held the 10 option to purchase Apple at \$150 a share today, you 11 know, you're probably not going to exercise it; 12 right? Because you would -- you would buy someone's 13 shares at \$150, but the market value is only 117. 14 So there's all sorts of options that 15 aren't exercised. Right. But that doesn't mean 16 that they don't have value. 17 ARBITRATOR BLOCH: By that you mean 18 effectively un-exercisable. 19 THE WITNESS: Exactly. And that doesn't 20 mean that they don't have value. 21 As we can see, the market is trading at 5 22 cents right now. Okay. So the main element -- the
1 So the great -- all I'm saying here is 2 that the greater the time period that is covered, 3 okay, by the right, the greater the value must be; 4 right? 5 And the time that is worth the most, the 6 time when it's worth the most is when the amount of 7 time ahead of you to potentially exercise that 8 option is the longest. All right. 9 And so I think what you may be asking is 10 well, again, so if they never exercise it, you know, 11 how could it have the value? 12 But what I'm saying is that, if you accept 13 the premise that any option, even if it's 14 unexercised has value, which is a fundamental tenet 15 of basic finance theory, then all I'm saying in this 16 slide here is that the time when the option has the 17 maximum value -- 18 ARBITRATOR BLOCH: Right. 19 THE WITNESS: -- is the time when you have 20 the greatest amount of time in the future that you 21 may potentially exercise that option. 22 ARBITRATOR BLOCH: And my only question	1 main point of this slide is really just time value. 2 Right. Is that the time when the options, 3 even those that never end up being exercised, are at 4 their peak values when they're first exercised, all 5 other things equal. 6 ARBITRATOR BLOCH: Okay. And I do 7 understand that. I thank you for that. 8 But let me just ask one more point. 9 THE WITNESS: Okay. 10 ARBITRATOR BLOCH: And that is, for 11 purpose of this analysis, I take it you do discount 12 as irrelevant the absence of a market here. 13 None of these options can be traded. 14 THE WITNESS: Yeah. Well, it's not like I 15 discounted them. 16 But I don't know -- they're not relevant 17 to the question as to whether or not they have 18 value. 19 So there's all sorts of financial 20 instruments that may not be traded openly in the 21 marketplace but nonetheless have value. 22 ARBITRATOR BLOCH: Thank you.

1 I apologize for interrupting. 2 THE WITNESS: Oh, no. Absolutely. 3 ARBITRATOR BLOCH: I appreciate it. 4 BY MR. SIEGEL: 5 Q. Slide 8, Dr. Lee. 6 A. Oh, okay. Slide 8. 7 So now, we have covered the first two -- 8 the first two reasons why options have value. 9 The last reason why these particular 10 options have value is because of the informational 11 component in the profit sharing. 12 So just by way of kind of laying some 13 groundwork. 14 So APFA has determined its valuation for 15 uncertain profit sharing is \$50 million a year. 16 Okay. So that's the amount that APFA has ascribed 17 to the value of future uncertain and variable 18 compensation in terms of profit sharing. 19 Okay. So what -- what an economist would 20 refer to this as is the certainty equivalent. All 21 right. So the certainty equivalent is the value of 22 taking a certain payment over essentially taking the	Page 241 1 profit sharing -- that the profit sharing me-too 2 options have been structured, they are structured in 3 such a way that it allows APFA to take advantage of 4 information that it doesn't currently possess, and 5 that was the basis of its \$50 million certainty 6 equivalence determination at times in the future to 7 its benefit. Okay. 8 And so if you look at, for example, at the 9 first of the two profit sharing options, 3(a) (sic), 10 what it allows APFA to do is at some point in 11 future, if the Company were to grant another union a 12 profit sharing plan, it allows it to essentially 13 revisit the decision it has made today, okay, 14 regarding taking \$50 million or uncertain profit 15 sharing with the benefit of additional information 16 that it doesn't currently have about the state of 17 the industry as to, you know, the price of fuel, all 18 sorts of things. 19 Okay. So that, by definition, is 20 providing it with more value because it's allowing 21 it to leverage additional information about a 22 decision which it's making under uncertainty. Okay.
Page 242 1 gamble of future uncertain payments. 2 But what's very important about the 3 \$50 million certainty equivalence of APFA is that 4 it's based on the information that APFA had as of 5 the time of its proposal regarding the future state 6 of profitability for the Company and for the 7 industry. Okay. 8 Now, information, of course, is key to a 9 number of -- the value of a number of things. And 10 particularly when you think about the airline 11 industry and how variable and uncertain and the 12 shocks that can happen. 13 Future information, additional information 14 that you can receive in the future about how well 15 the industry is doing, how well the synergies from 16 the merger, how they become realized, the price of 17 fuel, all of these things, additional information 18 that you get in the future could cause you to change 19 your value of a certainty equivalence, higher or 20 lower, for that matter. 21 So I'm just turning now to page 9. 22 So when you think about the way that the	Page 242 Page 244 1 Now, the second part of the profit sharing 2 me-too is kind of more interesting because Part 3 3(c)(ii) would allow APFA to, again, switch back to 4 taking the certain payments, \$50 million a year, in 5 lieu of the profit sharing, which it had previously 6 decided that it didn't want, and then it did want, 7 and now it can actually switch back to taking a 8 certainty equivalent. 9 And this one is actually kind of easier to 10 see. I think this may address the Board's earlier 11 question, which is kind of in terms of dollars, what 12 would this mean. 13 So just suppose that the Company did, 14 hypothetically, propose or offer another union 15 profit sharing. And suppose that the APFA exercised 16 its rights under its proposed Part 3(b) and took 17 that profit sharing and decided to give back the 18 \$50 million and choose variable and uncertain profit 19 sharing. 20 And then further suppose that the other 21 profit sharing CBA with the other union expired in 22 2017 or some other future date. And now, APFA is

1 presented, again, with a right to exercise its 2 subsequent 3(c)(ii) option. 3 If the economy were going into the tank 4 into some deep recession or, God forbid, there had 5 been another terrorist attack or outbreak of Ebola 6 or whatever, the Union would be able to use the 7 information at that point in time. 8 The information which it currently doesn't 9 have, it would be able to use that information at 10 that time and make an informed judgment as to 11 whether or not it wants to take the \$50 million in 12 certainty or give back profit sharing. 13 So it could potentially realize 14 \$50 million of certain payment instead of -- you 15 know, there have certainly been times, 2001, 2002, 16 where it was fairly certain that the Company was not 17 going to make any money, and the profit sharing 18 would be zero. 19 And so this option -- the second option, 20 the second component of the profit sharing option, 21 which essentially allows them to give back the 22 profit sharing risk and take the \$50 million	Page 245 1 BY MR. SIEGEL: 2 Q. Dr. Lee, thank you. 3 If I could direct you to Slide 10, and if 4 you could summarize your conclusion. 5 A. Well, by this time, my conclusions, I 6 think, hopefully, are fairly clear, but just in sum. 7 Because APFA has already stipulated that 8 the value of the JCBA, excluding the me-too options, 9 is 112 million; and because that is the market-based 10 standard, okay; and because the me-too clauses are 11 options that, by definition, by their very 12 definition, have value irrespective of whether or 13 not they're exercised, it must be the case that the 14 proposed JCBA is worth more than \$112 million. 15 MR. SIEGEL: Doctor, we thank you for your 16 testimony. 17 And that concludes the presentation. 18 ARBITRATOR BLOCH: Mr. Freund, any 19 questions for the witness? 20 MR. FREUND: What I would like to do with 21 the Panel's permission and Bob's acquiescence, would 22 be -- and I do this often with experts, is to maybe
Page 246 1 certainty, allows them to leverage this potential 2 information about the state of the industry and take 3 certain money at a time when they can be fairly 4 certain that the Company may not have made any money 5 that year. 6 So the way I like to think about this is, 7 is it's almost like being able to go to Las Vegas 8 and sit yourself down at a blackjack table and not 9 place your bet until you have been dealt your first 10 two cards. 11 But that's not how it works; right? 12 You put your bet. You get dealt your 13 cards. And, you know, the cards that you're dealt 14 are the ones that you have to play. 15 So the way that the 3(b) and 3(c) profit 16 sharing has been structured by APFA, under their 17 proposal, essentially allows them to wait until they 18 see the cards and then place their bet. 19 Okay. And that's not -- that clearly 20 provides value above and beyond the \$112 million 21 because that's not what the \$50 million certainty 22 equivalence represents.	Page 248 1 ask a couple of preliminary foundational questions, 2 and then maybe take a little break to think about 3 what more I might want to ask. 4 ARBITRATOR BLOCH: And I have no problem 5 with that. 6 Proceed. 7 CROSS-EXAMINATION 8 BY MR. FREUND: 9 Q. Dr. Lee, good morning. 10 A. Good morning. 11 Q. Just -- I think the answer to the 12 questions that I'm going to ask are embedded in your 13 direct testimony, but I just want to clarify it for 14 a moment. 15 Before, as you heard, I'm going to take a 16 couple of minutes to think about what else I want to 17 ask you. 18 A. Okay. 19 Q. I want to be clear that I understand the 20 shape and scope of the assignment that you were 21 given in the first instance. 22 And I understand that that's, you know,

1 encapsulated essentially in the last paragraph on 2 page -- on Slide No. 2. 3 A. Yes. 4 Q. And that is that you have been asked to 5 provide what I think I would describe as a sort of a 6 economics theory or finance theory on the value of 7 options; correct? 8 A. Well, I think that's one component of what 9 I was asked to do. 10 I mean, I think the question -- that is a 11 large part of what I needed to do in order to arrive 12 to my conclusion. 13 But, you know, I think what I was asked to 14 do is to, you know, look at the proposed JCBA, okay. 15 And, in light of the stipulation, determine whether 16 or not from an economics point of view the me-too 17 clauses would result in the economic value of their 18 proposal exceeding \$112 million. 19 Now, because APFA has conceded that the 20 JCBA excluding the me-toos and excluding the back 21 pay issue is equal to \$112 million, what it 22 effectively boiled down to was whether or not me-too	Page 249 1 understand in the context of the Collective 2 Bargaining Agreement, the proposed Collective 3 Bargaining Agreement and the context of what else is 4 going on in the airline industry and at the Company. 5 Q. But look, I mean, again, just so we're on 6 the same page, if you had never seen the Collective 7 Bargaining Agreement and you never knew anything at 8 all about the Collective Bargaining Agreement, you 9 would testify, I think, as you just described a 10 moment ago, that if you were asked at a proceeding 11 such as this whether options of any kind, whatever 12 they are, in any context have value, your answer 13 would be yes, they have value. 14 How much value they might have is a more 15 complex issue than one you have ever addressed, 16 particularly, in this testimony, but you would 17 testify that options have value. 18 A. Yeah. I mean, it's always hard to -- you 19 know, from the point of view of someone who, you 20 know, just lives in the airline industry, I always 21 like to have the broader context. 22 But, you know, I suppose if you were to
Page 250 1 clauses provided any economic value. 2 Q. Right. So at the end of the day, given 3 the starting point, namely, that there's a 4 stipulated value to the Joint Collective Bargaining 5 Agreement and a stipulated value as to what the 6 Panel's standard is to apply in creating a Joint 7 Collective Bargaining Agreement, at the end of the 8 day, what your -- the burden of your testimony is 9 simply a description of economic theory regarding 10 the general valuation of options, as opposed to 11 these particular options? 12 A. No. 13 I mean, I think that the context under 14 which these me-too clauses are being contemplated is 15 important. 16 So, you know, you could find thousands of 17 people who trade options and ask them, do options 18 have value, you'll get exactly the same answer. 19 Right. Everyone will tell you -- everyone 20 will tell you, that has taken any kind of basic 21 economics or finance class that options have value. 22 But I think here what's important is to	Page 250 1 say take me outside of this arbitration in the 2 middle of the street and you say, Do options have 3 value? I think I would answer that all options have 4 value. 5 Q. Okay. That's all I was trying to get to 6 on that point. 7 A. Yeah. 8 Q. And then switching gears just a tad, just 9 to be clear that I understand what was not within 10 your bailiwick, and that is you weren't asked to 11 review any of the costing exercise that was done as 12 between the parties in connection with the 13 negotiation of the Joint Collective Bargaining 14 Agreement, the building of the model and the values 15 that are contained in the model? 16 A. Well, what I would say is that as I think 17 everyone is fairly well aware that the disputed 18 issues in this particular matter only became known 19 towards the end. 20 And I certainly became familiar with and 21 developed an understanding of the basics of the -- I 22 mean, I'm certainly not to perhaps the level of

Page 253	Page 255
<p>1 Mr. Akins or the costing team at American, but with 2 the general framework.</p> <p>3 Because certainly, we didn't know what the 4 disputed issues were going to be. And the disputes 5 issues may have had to perform some analysis or 6 provide an opinion may have, you know, been beyond 7 what I'm here to testify about today.</p> <p>8 Because really, as you know better than 9 anyone, the evolution of what we're arbitrating over 10 was quite fluid.</p> <p>11 Q. I don't know that I know it better than 12 anyone, but I know it at least as well as others.</p> <p>13 So that was a long answer to my question, 14 and let me try to narrow it down just a tad.</p> <p>15 You did not participate in any of the 16 decision making with respect to either the 17 assumptions or the values attached to the 18 assumptions that are contained in the model upon 19 which is \$112 million number?</p> <p>20 A. That's a fair characterization there.</p> <p>21 MR. FREUND: All right. I think that's 22 all I want to do for the moment.</p>	<p>1 that you were talking about, for example, the Apple 2 option, were the same or different than the option 3 contained in APFA's proposal with respect to both 4 profit sharing and the medical insurance plan in the 5 context of whether they were tradeable.</p> <p>6 And your answer was, Well, there are lots 7 of options that are traded. There are options, of 8 course, that are traded on broad markets, and then 9 there are options that are not traded on broad 10 markets but still are traded. And there's a 11 mechanism for trading and therefore value; correct?</p> <p>12 A. Yeah. I think I said that there's a lot 13 of -- not specifically options, but just financial 14 instruments.</p> <p>15 Q. Instruments?</p> <p>16 A. Yeah. That are -- where there's 17 well-defined markets.</p> <p>18 And then, there's other types of -- I 19 mean, at the end of the day, a financial instrument 20 is a contract between two parties; right?</p> <p>21 And so there's all sorts of different 22 types of contracts that people enter in that are</p>
Page 254	Page 256
<p>1 ARBITRATOR BLOCH: All right. 2 Let's take a brief recess.</p> <p>3 Any guesstimate on how much time you want?</p> <p>4 MR. FREUND: No. I think I'm only going 5 to need 15 minutes, but that means it will probably 6 be a half an hour.</p> <p>7 ARBITRATOR BLOCH: Okay. Off the record. 8 (A recess was taken.)</p> <p>9 ARBITRATOR BLOCH: Mr. Freund, any 10 additional questions?</p> <p>11 MR. FREUND: I have a few.</p> <p>12 BY MR. FREUND:</p> <p>13 Q. Dr. Lee, the Panel asked most of the 14 questions that I was interested in from both an 15 academic standpoint and a real world standpoint.</p> <p>16 But I want to ask a couple that they may 17 have been asked already, just to clarify in my own 18 mind, and then a few others that actually touch the 19 real world as opposed to the world of theoretical 20 economics.</p> <p>21 The Panel asked you questions about 22 whether the options that you -- the kinds of options</p>	<p>1 bilateral between two people.</p> <p>2 I can have a handshake agreement with my 3 neighbor that I'll mow his lawn. And that's not 4 really anything I can trade, but it provides him 5 with a benefit and imposes a burden on me.</p> <p>6 Q. Well, you could trade and get somebody 7 else to mow the lawn.</p> <p>8 And there's a variety of ways --</p> <p>9 A. I suppose I could try to set up a little 10 market and get my neighbor's son or somebody to do 11 it.</p> <p>12 Q. Right. But the options -- and we'll just 13 keep calling them options --</p> <p>14 A. Okay.</p> <p>15 Q. -- for the sake of discussion.</p> <p>16 The options that are contained in APFA's 17 proposal have no market and can have no market; 18 correct?</p> <p>19 A. Well, I never like to paint things in 20 absolutes in that way.</p> <p>21 But I think it's -- I would concede that 22 it's unlikely that a market would develop for these</p>

Page 257	Page 259
<p>1 options. But, you know, it's -- one could conceive 2 of a market that could develop.</p> <p>3 But I'm not -- I won't, for the point, you 4 know -- I'll grant you that there's unlikely to be a 5 market in the future for this particular option.</p> <p>6 Q. All right. I'm glad you granted me that 7 because if you hadn't, I was going to ask you to 8 describe the way that a market would have been 9 created.</p> <p>10 And I would have been interested in 11 hearing what you say. But now I don't have to.</p> <p>12 And then, I think you also answered this 13 question as well, but I would like to probe it a 14 little bit further.</p> <p>15 Looking at Slide No. 7, the Apple options, 16 at each day of the time period between January -- 17 between today really, and January 20, 2017, those 18 options -- and maybe this is a question that is 19 based on the last set of questions I asked you.</p> <p>20 Those options could be traded or 21 exercised; correct?</p> <p>22 A. Well, traded and exercised are slightly</p>	<p>1 exercise that option than getting to January 15, 2 2016; correct?</p> <p>3 A. Well, I'm not sure what you say nothing 4 more needs to happen, but at any point in what's 5 called an American style option, you --</p> <p>6 Q. American, not the airlines, but 7 American --</p> <p>8 A. No. American in -- no.</p> <p>9 I don't want to delve into the difference 10 between American and European style options, but 11 American style options, US, are exercisable at any 12 date between the date of issue and the date of 13 expiration.</p> <p>14 That's correct.</p> <p>15 Q. And literally, nothing has to happen other 16 than the holder of the option choosing to exercise 17 it.</p> <p>18 A. That is correct.</p> <p>19 Q. It maybe a bad choice, maybe a good 20 choice, but he has the absolute right to exercise 21 that option at any point?</p> <p>22 A. That's correct.</p>
Page 258	Page 260
<p>1 two different concepts of an option.</p> <p>2 Q. Okay. Fair point.</p> <p>3 A. So remember that an option is essentially 4 either a liability or a commitment. And you can 5 trade away that liability or that commitment on the 6 open market.</p> <p>7 Exercising is very different. Exercising 8 means that you are specifically engaging the rights 9 provided to you by that option to force the 10 counterparty to essentially make do on that 11 commitment.</p> <p>12 So they're a little bit different.</p> <p>13 Q. Okay. Fair point.</p> <p>14 So let's say with exercise because --</p> <p>15 A. Okay.</p> <p>16 Q. -- what's at stake in the APFA options is 17 exercise, not trade; correct?</p> <p>18 A. Exercise is the relevant thing here, yeah.</p> <p>19 Q. Okay. So looking at the bar graph on page 20 7, just picking by way of example, the January 15, 21 2016 option to buy at -- by Apple at \$150 a share.</p> <p>22 Nothing more needs to happen to be able to</p>	<p>1 Q. Okay. That is not the case with the APFA 2 options; correct?</p> <p>3 A. Well, I would agree with you that there is 4 an additional trigger event that needs to occur.</p> <p>5 I think where your confusion may lie or 6 where maybe I wasn't clear in my initial explanation 7 is that the options don't have value because they -- 8 I think it would be easier if we went back to like 9 page 6, and we just -- we go back and we read.</p> <p>10 Again, these are the standard most well 11 known -- or two of the most well-known books in 12 corporate finance.</p> <p>13 It's -- it's the issue of -- if there's 14 any positive chance, okay, that at some time in the 15 future it could provide you with value, okay, then 16 they cannot be worth zero.</p> <p>17 And so you're suggesting well, something 18 has to happen. Well, yeah, something has to happen. 19 But that doesn't negate the fact that there is still 20 a positive probability. Okay. I don't know if it's 21 1 percent or if it's 50 percent. But it's nonzero.</p> <p>22 There's a positive probability that APFA</p>

<p style="text-align: right;">Page 261</p> <p>1 will be given the choice of some time down in the 2 future being able to exercise its option, and 3 therefore, by definition, it must have positive 4 value.</p> <p>5 Q. Okay. I understand what the finance, 6 theoretical finance experts have said and what you 7 have said, but I just want to make sure that we're 8 on the same page.</p> <p>9 If APFA -- if this Panel were to grant the 10 options that APFA has asked for, APFA could do 11 absolutely nothing with those options, absolutely 12 nothing with those options until and unless the 13 Company either provided a profit sharing plan on one 14 hand or provided a different health insurance plan 15 on the other hand; correct?</p> <p>16 A. That is correct.</p> <p>17 But that doesn't affect the fact that they 18 have value. It's irrelevant to the question of 19 whether or not they have value.</p> <p>20 Q. The \$112 million number that we have been 21 bandying about is a number which represents dollars 22 and cents in one way or another in the pockets of</p>	<p style="text-align: right;">Page 263</p> <p>1 that it would still have the option value, okay, so 2 it still provides them with a value.</p> <p>3 But in terms of whether wages go up, their 4 wages wouldn't go up because the option -- you know, 5 they haven't exercised anything. But they would 6 still have the option value a year later.</p> <p>7 Now, whether or not it has gone up or 8 down, I would tend to think it probably would have 9 decreased. But it really would depend on whether or 10 not the Company had reached agreements with other 11 labor groups by then.</p> <p>12 Q. At the end of the year, would they have 13 had any more than \$112 million in their pockets, 14 using that as the shorthand, and we know it's a 15 billion some odd dollars.</p> <p>16 But would they have any more than 112 17 million in their pockets?</p> <p>18 A. They would not have any more dollars than 19 112 in their pockets.</p> <p>20 Nevertheless, they would have still 21 benefited from that optionality over that period.</p> <p>22 Q. And in year two, if the Company didn't</p>
<p style="text-align: right;">Page 262</p> <p>1 the flight attendants; correct?</p> <p>2 A. That is correct.</p> <p>3 Q. The option in the context that I have just 4 described and that we would understand it to operate 5 if it were to be granted, and if in year one of the 6 Collective Bargaining Agreement the Company -- let 7 me back up and sort of restructure the hypothetical 8 because it's \$112 million on average.</p> <p>9 A. Sure.</p> <p>10 Q. So some years it's less and some years 11 it's more.</p> <p>12 But let's pretend that it's actually 13 \$112 million each year for five years.</p> <p>14 If the Panel were to grant the requested 15 options that APFA has asked for, and in year one of 16 the Collective Bargaining Agreement, the Company did 17 not provide profit sharing and did not provide a 18 different health insurance plan to somebody, the 19 valval of the Collective Bargaining Agreement to the 20 flight attendants would be -- in terms of in their 21 pocket, would be \$112 million; correct?</p> <p>22 A. Well, again, I think what I would say is</p>	<p style="text-align: right;">Page 264</p> <p>1 provide a health -- a different health plan or 2 profit sharing plan to any other groups, they would 3 still have, in year 2, \$112 million in their pockets 4 and not a penny more.</p> <p>5 A. You know, so, again, I will agree with you 6 that, unless the wages change or the, you know, the 7 benefits were changing, that the amount of actual 8 money that's changing hands hasn't changed.</p> <p>9 But, again, what was perfectly clear is 10 that the fact that they have had that option 11 value -- and, again, you're looking at only -- I 12 think another thing that's useful is you're only 13 really looking at it from the point of view of the 14 value to the flight attendants.</p> <p>15 But remember that there's -- the real 16 issue here is if there's value to the flight 17 attendants, then there's cost to the Company.</p> <p>18 Q. Believe me, I'm coming to that.</p> <p>19 A. Right. And throughout this entire period, 20 this fact that these me-too clauses exist is 21 imposing a cost burden on the Company.</p> <p>22 Q. Yeah, okay. But, again, just so we're</p>

Page 265	Page 267
<p>1 cleared up, so we're tied down, you're agreeing with 2 me that it would not provide more than \$112 million 3 into the pockets of the flight attendants?</p> <p>4 A. Into the -- so form a kind of the 5 accounting into the pockets --</p> <p>6 Q. The grocery bag, the ability to go to the 7 grocery store.</p> <p>8 A. The ability to go to the grocery store. 9 Yeah. If the options aren't exercised, 10 the ability to go to the grocery store hasn't 11 necessarily changed.</p> <p>12 But nevertheless, those options are 13 providing value.</p> <p>14 Q. All right. I think we get each other. 15 A. Okay.</p> <p>16 Q. So now let me flip to the other side, 17 because you anticipated the next set of questions I 18 was going to ask.</p> <p>19 You said that one of the ways in which the 20 options have an effect on one or another party's 21 economic position is that they, at least in theory, 22 impinge on the Company's ability to negotiate</p>	<p>1 A. Broadly speaking. 2 Q. Okay. All right. And so as a consequence 3 of that paradigm and as a consequence of that push 4 and tug, it winds up reaching the collective 5 bargaining agreement with this other Union X or Work 6 Group Y that has higher wages. 7 And on balance, it's more expensive to the 8 Company than it would have been if they had been 9 able to make that trade?</p> <p>10 A. I think that's a fair characterization. 11 Q. That doesn't put any more than \$112 12 million into the pockets of the flight attendants, 13 does it?</p> <p>14 A. No. 15 But remember that throughout the entire 16 hypothetical that you just described, what it has 17 done is that it has increased the cost to the 18 Company. 19 And again -- 20 Q. I was talking about -- and I don't mean to 21 cut you off. 22 A. Yeah. So remember that this is an option</p>
Page 266	Page 268
<p>1 tradeoffs with other work groups that might be 2 valuable tradeoffs from the Company's standpoint?</p> <p>3 A. I think that's correct.</p> <p>4 Q. So let's accept that as a proposition that 5 they would. 6 And that is, let's just assume -- let's 7 just take by way of example there's at least one 8 collective bargaining agreement that needs to be 9 closed at American. And the Company could strike a 10 deal with that union, let's assume hypothetically, 11 by providing a different health benefits plan, a 12 better health benefits plan. 13 And in doing so, it would conclude that it 14 could save more in wages by providing a better 15 health plan. But in thinking about that possible 16 transaction, the Company recognizes that if it does 17 that in the face of a health benefits me-too, it 18 would have additional costs attributed to having to 19 meet that with the flight attendants, and, 20 therefore, it chooses not to. 21 And that's the paradigm that you 22 described?</p>	<p>1 where there's two sides to the transaction. 2 There's the benefit to APFA, and then 3 there's the cost to the Company. 4 And throughout this entire hypothetical 5 that you just described, where you're reducing the 6 choice set of the Company in future negotiations, 7 that is imposing a burden and a cost on the Company. 8 Q. All right. For purposes of that 9 hypothetical, I'll concede that. 10 And I simply want to make sure that you 11 and I agree that, even in that context, the flight 12 attendants don't receive one penny more than 13 \$112 million. 14 A. In the hypothetical scenario that you 15 described, they have not exercised the option. 16 That's correct. 17 So they did not exercise the option. That 18 doesn't change the fact that they have always had 19 that option in your hypothetical, which has provided 20 them with value. 21 Q. Correct. But you -- again, just to be 22 clear, you agree that at the end of the day in that</p>

1 scenario the flight attendants don't receive any 2 more than \$112 million in those years? 3 A. Yes. You have got to remember this -- I 4 mean, this has been -- there's no dispute, right, 5 that the parties have agreed that the value of the 6 JCBA, absent these three items, is \$112 million. 7 All right. So you're creating 8 hypotheticals that say okay, well, these other three 9 items are kind of nonexistent, more or less, and so 10 yes, the value is \$112 million. 11 But by including them into the JCBA, it 12 increases the value above \$112 million because of 13 the fact that their very inclusion, okay, today, 14 provides APFA with a positive chance that down the 15 road sometime over the next five years they will be 16 able to be -- exercise the options and be left 17 better off. 18 That's kind of just the end of the story. 19 I mean, it provides them with value. 20 Q. All right. I understand that. I 21 understand that's your point. 22 I'm just trying to plumb as best I can a	Page 269 1 So at this point, questioning someone 2 about what they said in their direct testimony, I 3 think is just off the mark. 4 If this -- the testimony stands for 5 itself, and it's in the transcript. 6 ARBITRATOR BLOCH: Yeah. But nobody 7 remembers what it is. 8 We need Joey. 9 (The record was read back as requested.) 10 THE WITNESS: Oh, so that was just a 11 right. 12 So I think the answer to that question is 13 that was the example I discussed on direct 14 testimony; correct. 15 BY MR. FREUND: 16 Q. Okay. 17 A. Yeah. 18 Q. Okay. And in that circumstance, abiding 19 by -- abiding by the effective constraints of the 20 option, while imposing more cost potentially on the 21 Company in connection with another work group 22 doesn't produce any more dollars than \$112 million
Page 270 1 full understanding of what the real world 2 implications are because one of the real world 3 implications of the option, as you described it, was 4 that by granting the option and then concluding that 5 the Company is going to abide by the consequences of 6 that option, it produces increased cost on the 7 Company in connection with its relationship to some 8 other work group; right? 9 A. Yeah. So I mean, I guess -- 10 Q. Before you answer, and I want you to 11 answer as fully as you want to. 12 But is that -- isn't that what you said in 13 your direct testimony? 14 THE WITNESS: Can I have the question read 15 back? 16 MR. FREUND: Yeah. You want to read that 17 back, Joey? 18 MR. SIEGEL: Can I object? 19 The question about asking somebody what 20 was said in the direct testimony is not a correct 21 question. We can -- the question -- whenever he 22 said in direct is in the record.	Page 270 1 in the pockets of the flight attendants for that 2 period of time; correct? 3 A. So I actually will need that one read back 4 because I'm not sure what the ... 5 Q. Well, let me just -- 6 A. Because I -- 7 Q. I'll just -- let me just re-ask the 8 question. 9 MR. FREUND: Actually, I think I have got 10 enough on the record. I'm happy where we are on 11 that point. 12 ARBITRATOR BLOCH: Go ahead. 13 BY MR. FREUND: 14 Q. So let me change subjects just briefly. 15 If I understand another portion of your 16 testimony correctly, and Bob is right, your 17 testimony will be whatever is written down. 18 But just to make sure I understand it, 19 the -- one of the values of the option is the 20 ability, as you described it, to make a choice based 21 on changed information; correct? 22 A. That's correct.

<p style="text-align: right;">Page 273</p> <p>1 Q. And the ability to make a choice based on 2 changed information enhances the ability -- would 3 enhance the ability in this case of the flight 4 attendants to make a choice as between keeping 5 \$50 million in value built into the contract, or 6 alternatively obtaining the right to a variable 7 compensation scheme going forward?</p> <p>8 A. That's correct.</p> <p>9 Q. All right. But you do understand that the 10 profit sharing proposal would require -- the flight 11 attendants would require APFA to make the choice -- 12 let's talk about years 1, year 2, year 3, rather 13 than calendar numbered years, would require the APFA 14 to make a choice in year 1 as to whether in year 2 15 it was going to reduce its wage rates by a combined 16 value of \$50 million in exchange for profit sharing 17 based on the performance in year 2?</p> <p>18 A. Yeah. I think the answer to your question 19 is I do understand that it is not a decision that 20 APFA is able to first realize, see what the profits 21 were, and then look back and say the profits were X. 22 But what's important is that the</p>	<p style="text-align: right;">Page 275</p> <p>1 and that right became exercisable then. 2 You know, we don't know precisely what 3 profits were going to be in 2002 and 2003, but I 4 think we had a lot more information then we did on 5 September 9, as to what it was going to be. 6 And that's precisely the type of 7 information that they can leverage under the me-too. 8 Q. Well, let's stay with that example for a 9 moment because I was going to go there to make -- to 10 see if I could understand a point a little bit 11 differently. 12 So here's a bit of the real world. 13 In negotiations that led to a Collective 14 Bargaining Agreement with APFA -- between APFA and 15 American Airlines in 1999, a Collective Bargaining 16 Agreement that failed ratification, APFA made a 17 trade of the then existing profit sharing for 18 6 percent wage increase. 19 Just accept that as correct. 20 That Tentative Agreement failed. And 21 there was further bargaining and a new Collective 22 Bargaining Agreement was achieved in 2001, which</p>
<p style="text-align: right;">Page 274</p> <p>1 information regarding future profitability is based 2 off information that we have up until this very 3 moment. Right.</p> <p>4 Q. I see.</p> <p>5 A. And that right now, as of November 27, 6 when they made the proposal, all of the information 7 that APFA had up until November 27 went into the 8 valuation of -- their valuation of \$50 million. 9 And all I'm saying is that I do understand 10 that -- that it's not like they can see the profits 11 for 2015 and then look at it and make a decision. 12 I understand it's not an ex-post decision, 13 but the information that you have for subsequent 14 years is conditioned on everything you have learned 15 up until that point in time. 16 So I think that, you know, the easiest way 17 to think about it is actually in the 3(c)(ii), 18 right, where when you think about 3(c)(ii), where 19 they have the option, again, of trading back for the 20 guaranteed money. Okay. 21 Suppose we were back -- suppose we were 22 back in this position in September 12, 2001, okay,</p>	<p style="text-align: right;">Page 276</p> <p>1 introduced profit sharing. 2 Now, whether there was a trade for wages 3 and profit sharing in connection with that 4 Collective Bargaining Agreement is in a sense beside 5 the point. 6 But let's assume for the sake of 7 discussion that in order to get that profit sharing, 8 APFA had to take a lower wage increase and made that 9 choice. 10 They would have made that choice based 11 upon the circumstances that they understood at the 12 time; correct? 13 A. Correct. 14 Q. And the point of fact, that would have 15 been -- had they made that choice, would have been a 16 poor choice in terms -- as it turned out, in terms 17 of providing value to the flight attendants; 18 correct? 19 A. Ex-post, it would have been. 20 Q. Ex-post, it would have been. 21 So whatever level of information APFA had 22 at the time, didn't ultimately matter when exogenous</p>

Page 277	Page 279
<p>1 events in the real world came into play; correct?</p> <p>2 A. You know, I mean, I think what you're</p> <p>3 suggesting is that information is not valuable.</p> <p>4 And I would argue the opposite, that</p> <p>5 information is valuable.</p> <p>6 It doesn't change the fact that you can</p> <p>7 make decisions that ex-post turn out not to work out</p> <p>8 very well. But always having more information</p> <p>9 provides you -- puts you in a better position that</p> <p>10 gives you a greater probably that your choice will</p> <p>11 turn out to be good.</p> <p>12 Now, of course, in the event of</p> <p>13 September 11, this is an unpredictable shock. No</p> <p>14 one could have predicted that it would have</p> <p>15 happened.</p> <p>16 But that doesn't in one way or another --</p> <p>17 in any way or another alter the fact that having</p> <p>18 more information is always valuable to you when</p> <p>19 you're making a decision based on uncertainty.</p> <p>20 Q. And it sounds, would you agree, again, in</p> <p>21 the real world, having more information in the year</p> <p>22 2000, namely the slope of the economy and the like,</p>	<p>1 risky at best.</p> <p>2 A. I mean, I would agree with you that the</p> <p>3 airline industry is highly variable, highly</p> <p>4 unpredictable.</p> <p>5 But just returning back to -- I mean, you</p> <p>6 kind of altered the 9-11 example that I was talking</p> <p>7 about.</p> <p>8 But, you know, in the version of the</p> <p>9 example that I initially proposed, where you're at</p> <p>10 the juncture of 3(c)(ii), okay, you're at the</p> <p>11 juncture of 3(c)(ii) where APFA has the option to</p> <p>12 revert back to certain payments, okay.</p> <p>13 If they have the option to revert back to</p> <p>14 certain payments, and it's clear that the</p> <p>15 industry -- so you clearly don't know when the</p> <p>16 events will happen. But when they happen, we kind</p> <p>17 of know we're in it. Right?</p> <p>18 So if you're at the juncture of 3(c)(ii)</p> <p>19 and you see that the economy is either in turmoil or</p> <p>20 there has been a terrorist attack, or an outbreak of</p> <p>21 Ebola, having that option to take \$50 million in</p> <p>22 certainty over what would, with a high probability,</p>
Page 278	Page 280
<p>1 proved to be, in a sense, would have proved to be,</p> <p>2 in a sense worse than having less information as</p> <p>3 things turned out?</p> <p>4 A. I think I would disagree with your general</p> <p>5 proposition that more information is worse than less</p> <p>6 information.</p> <p>7 Q. Even though based on that "more</p> <p>8 information," all right, it would have been held --</p> <p>9 the APFA to make a choice of profit sharing in favor</p> <p>10 of wage increases, and that that choice based on</p> <p>11 that greater information proved to be a poor choice.</p> <p>12 A. So, you know, we cannot change what</p> <p>13 happens in the past. We can only use what we have</p> <p>14 learned from the past to make informed judgments</p> <p>15 about the future.</p> <p>16 So if your proposition is that having --</p> <p>17 making decisions in darkness is better than in</p> <p>18 daylight, then I would disagree with that.</p> <p>19 Q. Well, that really isn't my proposition.</p> <p>20 But my proposition is that, particularly</p> <p>21 in the airline industry, particularly in the airline</p> <p>22 industry, basing future judgments on past events is</p>	<p>1 be zero for the next year or two or three years, I</p> <p>2 believe provides extreme amounts of value to APFA.</p> <p>3 Q. And in that circumstance, if APFA made</p> <p>4 that judgment to -- after having chosen to exercise</p> <p>5 its option under 3(c)(i), now chooses -- because an</p> <p>6 event occurs, namely that group that triggered the</p> <p>7 option has now left profit sharing, APFA has an</p> <p>8 option, under 3(c)(ii), to revert from profit</p> <p>9 sharing back to taking a certainty of \$50 million.</p> <p>10 If it exercised that option, it would be</p> <p>11 right back in the posture that we are in today under</p> <p>12 the Tentative Agreement -- the proposal minus their</p> <p>13 options, namely a value of \$112 million.</p> <p>14 A. Absolutely, not.</p> <p>15 Because the -- remember what the</p> <p>16 50 million represents. The 50 million represents a</p> <p>17 certainty equivalence. It's a trade, okay, for</p> <p>18 taking something in certainty over something which</p> <p>19 is variable.</p> <p>20 Now, the reason why it's \$50 million and</p> <p>21 not some other number is because there's some years</p> <p>22 where it could be zero; there's some years where it</p>

1 could one \$100 million. 2 So if they had chosen to exercise 3(a) -- 3 or sorry, 3(b), then presumably they made that 4 decision based on the fact that that profitability 5 was going to be worth more than the \$50 million. 6 Q. Well, but -- 7 A. So they may have had a couple of very good 8 years. 9 MR. SIEGEL: Wait, Jeff. 10 Let him finish. 11 THE WITNESS: They may have had extremely 12 good years where they were making \$100 million more, 13 you know, whatever, you know. 14 And so now, you're saying that I can take 15 the hundreds or the 95 or the 85s and not take -- 16 you know, not have the down side risk of taking the 17 zeros, that's why it's 50. 18 It's this average value of potentially 19 what you would earn. 20 So you're essentially saying, well, it 21 only puts us back to 112. But no, it actually 22 doesn't. Because it means that in previous years	1 So all I'm saying is that by using the 2 additional information in 3(b) to invoke -- to 3 switch from certainty to profit sharing means that 4 that amount of value that was provided to them from 5 that point forward going ahead provides more than 6 \$50 million in certainty equivalence. 7 Q. But you agreed with me a moment ago that 8 when one makes a choice in year 1, to go from a 9 guaranteed payment to a variable payment based on 10 profit sharing using information available in year 11 1, that could easily -- not easily, I don't want to 12 characterize, that could turn out to be a bad bet 13 because of exogenous events. 14 A. It could absolutely turn out to be a bad 15 bet, but that doesn't mean it hasn't increased your 16 certainty equivalence. 17 Q. And if it turns out to be a bad bet and 18 later on the ability to trigger the 3(c)(ii) option 19 occurs, you would agree with me that, if that option 20 is triggered, it would go back -- the payment would 21 go back to \$112 million. 22 A. No.
1 you were making well more than 112 because you 2 invoked the profit sharing. 3 BY MR. FREUND: 4 Q. No. 5 It doesn't mean you're making -- you made 6 more than 112 because you made that choice in year 1 7 with respect to profits that would be earned in year 8 2 that you didn't -- and you didn't know what those 9 profits would be when you made that choice. 10 A. No, absolutely not. 11 You had greater information -- remember 12 that because \$50 million represents today's 13 certainty equivalence, today's certainty 14 equivalence. 15 There's a whole host of reasons why 16 \$50 million might not be the right number. I mean, 17 it's APFA's number. But the industry could evolve 18 in ways that we can't foresee right now. 19 That could mean that that \$50 million 20 might be too low; right? 21 But it could evolve another way where it 22 may be too high.	1 So I think what you're confusing is this 2 whole concept of certainty equivalence; right? 3 So the reason why there's a \$50 million 4 equivalent is because we don't know what the future 5 is; right? We don't know how much the profits are 6 going to be. 7 And APFA has made a decision that it 8 values \$50 million for certainty more than uncertain 9 and variable potential profit sharing; right? 10 But if it chooses to reverse that 11 decision, by definition, that means that it values 12 future profit sharing from that point forward at 13 more than \$50 million. 14 Now, you're saying well, what if they 15 actually didn't get paid \$50 million? Well, that's 16 irrelevant at this point, right, because the value 17 of the \$50 million is a certainty equivalence. 18 Q. I'm talking about, again, in my 19 hypotheticals, actual -- again, actual dollars in 20 actual flight attendant's pockets. 21 And it is correct, is it not, that in year 22 1 -- that in year 1, APFA makes it -- would make a

<p style="text-align: right;">Page 285</p> <p>1 decision to take profit sharing in year 2, and if in 2 year 2, profit sharing produces less than 3 \$50 million, and if in year 2 the events entitling 4 it to go back to \$50 million in year 3 occur, and 5 they would make that choice, and in year 3, they 6 replaced profit sharing with a \$50 million payment, 7 in point of fact, under that set of facts, they 8 would not have received in excess of \$112 million 9 over the course of those years?</p> <p>10 A. See, the problem with your hypothetical is 11 that you're -- I think we have a fundamental 12 disconnect between what \$50 million represents. 13 So and what \$50 million -- and I'll just 14 read from the proposal, \$50 million represents 15 market-based in the aggregate value substitutes. 16 It's a value substitute for the DL -- 17 Delta, United, and Continental profit sharing plan. 18 Okay. 19 So they're taking \$50 million dollars in 20 value substitutes. So when they're getting it, it 21 is \$50 million cold hard cash in their pocket. 22 Q. Absolutely.</p>	<p style="text-align: right;">Page 287</p> <p>1 ex-post world. We're in what's known as an ex-ante 2 world, where we're trying to judge the value of this 3 JCBA going forward. 4 It's very easy to look back and kind of 5 count the beans looking back. 6 But that's not the situation that we in. 7 We're in a situation where today this Board has to 8 decide whether or not the value of the JCBA, going 9 forward, for the next five years with uncertainty is 10 worth more than \$112 million. 11 And what I'm telling is that the option 12 value puts it above that. 13 So it doesn't make any sense to go back 14 five years from now and look back. This is not a 15 look-back issue. 16 This is -- we're sitting here trying to 17 decide how much the contract is worth going forward. 18 So looking back at the ex-post analysis 19 just doesn't really make any sense. 20 MR. FREUND: Well, I think we have 21 ventilated this subject enough. 22 So that's all I have.</p>
<p style="text-align: right;">Page 286</p> <p>1 A. But when they go to profit sharing, okay, 2 we don't know what it's going to be. It could be 3 zero. It could be \$100 million. 4 Okay. So for you to say well, they chose 5 profit sharing, and then it turns out, oh, ah-ha, 6 they only turned out to be on average \$35 million. 7 They were left worse off. I mean, that's just a 8 false proposition. 9 I mean, it makes absolutely no sense in 10 the context of making an exchange for certain money 11 in lieu of variable compensation. 12 Q. At the end of the day, you're just 13 quarreling with my hypothetical. 14 If my hypothetical is, in fact, what 15 happens in the real world, the net result of that is 16 that the flight attendants in that three-year time 17 span that I have described in the hypothetical did 18 not obtain more than \$112 million a year -- 19 A. Again, I think the issue is -- 20 Q. -- in their pocket. 21 A. -- that you're looking ex-post. 22 And as we sit here today, we're not in an</p>	<p style="text-align: right;">Page 288</p> <p>1 ARBITRATOR BLOCH: Are you done? 2 MR. FREUND: Yes. 3 ARBITRATOR BLOCH: Anything further? 4 MR. SIEGEL: No further questions. 5 ARBITRATOR BLOCH: Anything, Gentlemen or 6 Lady? 7 Dr. Lee, thank you very much for your 8 usual endurance and responsiveness. 9 THE WITNESS: Thank you. 10 ARBITRATOR BLOCH: Off the record for a 11 moment. 12 (A recess was taken.) 13 MR. SIEGEL: I'll turn it over to my 14 partner, Mark Robertson. 15 MR. ROBERTSON: Yes. The Company calls 16 Patrick Guiltinan. 17 ARBITRATOR BLOCH: Sir, welcome. 18 Thereupon, 19 PATRICK GUILTINAN 20 Called for examination by counsel for the 21 Company, was examined and testified as follows: 22 DIRECT EXAMINATION</p>

1 BY MR. ROBERTSON: 2 Q. Patrick, will you state your name for the 3 record? 4 A. Yes. My name is Patrick Guiltinan. 5 Q. And where are you employed? 6 A. I am employed by American Airlines. 7 Q. And what is your position at American? 8 A. I am a principal in the Labor Financial 9 Analysis team. 10 Q. And how long have you been there? 11 A. I took the position in February of 2014. 12 Q. And can you describe in general terms your 13 responsibilities? 14 A. Yes. In general, I'm responsible for 15 evaluation activities for the Flight Attendant 16 Collective Bargaining Agreements. 17 And then, I also gave a variety of 18 ancillary responsibilities related to various ad hoc 19 financial analysis related to some of our other 20 unionized workers. 21 Q. And how long have you been with American 22 before you took your current position?	Page 291 1 So as our IT portfolios had ideas for 2 projects that they wanted to purport, it fell within 3 our department to analyze the potential costs and 4 potential benefits of those types of projects to 5 determine whether or not they would be funded. 6 As I moved into Labor Finance and 7 Benchmarking, there I took responsibility for the 8 valuation activities related to the flight attendant 9 union. 10 And that primarily consisted of valuation 11 activities related to the potential cost impacts of 12 the merger and the combined flight attendant 13 agreement. 14 Q. And briefly, your educational background. 15 A. Sure. I graduated from the University of 16 Notre Dame with a Bachelor of Science in Mechanical 17 Engineering. 18 And I later also earned an MBA with a 19 concentration in Finance, also from the University 20 of Notre Dame. 21 Q. Okay. Can you describe for the Panel your 22 role in the negotiations that resulted in the
Page 290 1 A. Yes. I started in July of 2011. 2 Q. And in general terms, can you describe the 3 other positions you have held at American between 4 2011 and 2014? 5 A. Yeah. I started in the IT Finance 6 Department. That was in July of 2011. 7 And I was in that -- was in a financial -- 8 financial analyst position. I held that position 9 until the end of August in 2012, at which time I 10 moved into what was then called the Labor Finance 11 and Benchmarking team. 12 It was kind of a predecessor to the Labor 13 Financial Analysis team. 14 I moved there as a senior financial 15 analyst, and I held that position until I moved into 16 the principal position on the team in February of 17 2014. 18 Q. And your responsibility to those positions 19 in general terms. 20 A. Yeah. In IT Finance, I was basically 21 responsible for due diligence analysis for various 22 IT.	Page 292 1 Tentative Agreement that's part of the APFA 2 proposal? 3 A. Sure. I was the representative from Labor 4 Finance that supported the Negotiating Committee for 5 the Company. 6 So it fell within my responsibility to 7 essentially develop the valuation models that were 8 used to determine the cost impacts of the proposed 9 Tentative Agreement, as well as what the potential 10 impacts would be if moving to a market-based in the 11 aggregate contract that might be awarded in 12 arbitration. 13 Q. And did you hear yesterday the testimony 14 of Mr. Akins, who talked about the development of 15 that valuation model? 16 A. Yes, I did. I was present for that 17 testimony. 18 Q. And do you agree with that testimony in 19 terms of how the model was developed? 20 A. Yes. I think Dan did a very thorough job 21 of explaining the development of that model and 22 describing its structure and some of the inputs and

1 the assumptions that it relied upon as well as the 2 valuations that it produced of both the Tentative 3 Agreement, as well as the market-based in the 4 aggregate scenario. 5 Q. Okay. And I would like to talk now about 6 the retroactive wage portion of the Union's 7 proposal, which is that the wage rates would be 8 retroactive to December 2, 2014, back from the 9 effective date of the JCBA? 10 A. Right. 11 Q. And my question is, is there an economic 12 cost to the Company if wage rates are made 13 retroactive? 14 A. Yes. That is correct. 15 Q. And how much would that increase the 16 average annual cost to the Company? 17 A. Yeah. So it depends on the length between 18 the time that the awarded JCBA would be -- become 19 effective and the time period that they have 20 established, December 2, as the date for the 21 retroactive payments. 22 So the number of months in between the	Page 295 1 112. You would then take the five-year average of 2 that \$3 million payment. So it would roughly be 3 \$.6 million to that \$112 million valuation. 4 So that 112 would increase by .6. 5 Q. Okay. 6 A. For every month that there was a 7 separation between them, the effective date of the 8 contract. 9 Q. So if it's two months, the total would be 10 \$6 million? 11 A. Yeah. The total would be a \$6 million 12 one-time payment for the retroactive payments, which 13 would then affect the overall average cost -- 14 incremental cost of the contract by \$1.2 million. 15 Q. And would making the wage rates 16 retroactive affect any other terms of the JCBA, as 17 you understand it? 18 A. Yes. 19 As I understand it, as it was included in 20 the proposal for APFA, they also included in their 21 rate table the fact that beyond just the effective 22 date of the retroactive payments being December 2,
Page 294 1 effective date of JCBA and that December 2 would 2 change the valuation. 3 But in general, if I jump ahead, it would 4 come out to about \$3 million for every month of 5 difference between that effective date of the JCBA 6 and the retroactive payment date of December 2. 7 Q. So I'm going to take the example counsel 8 used yesterday of an effective date for the JCBA of 9 January 2, 2015. 10 A. Uh-huh. 11 Q. Is it fair to say that retroactive wage 12 rate increase would cost the Company an additional 13 \$3 million? 14 A. That's correct. 15 Q. And then, what would that do to the annual 16 average, \$112 million cost, that is agreed to as the 17 standard? 18 A. Because that would be a one-time 19 retroactive payment that would take place as soon as 20 the effective date of the contract started. 21 It would only apply in year one. So as it 22 relates to the average annual incremental value of	Page 296 1 2014, all of the subsequent annual increases would 2 occur 12 months from that date. 3 So December of 2015, December of 2016, and 4 December of 2017. 5 The valuation that was established in the 6 model assumed that the annual increases would occur 7 12 months after the effective date of the contract. 8 So to take your example of the contract 9 going into effect in January, if we had an effective 10 date of January 2 for the contract, but the first 11 raise would occur in December of 2015, now you have 12 11 months time period in which the flight attendants 13 would operate under the first year wage increases 14 and then subsequently get another raise on top of 15 that. 16 So it would increase the overall value by 17 bringing forward the annual wage increases for the 18 flight attendant. 19 Q. And what is the economic cost to the 20 Company of that? 21 A. So for every month that those wages are 22 put forward, it would be a \$2 million increase per

1 year to that average annual value. 2 So going back to the example of there 3 being a January 2 effective date with a December 2, 4 2015 raise, it would -- in that December 2, '16, 5 '17, '18, the 112 million average annual value would 6 increase to \$114 million. 7 MR. ROBERTSON: Thank you. 8 No further questions. 9 ARBITRATOR BLOCH: Thank you. 10 Mr. Freund. 11 CROSS-EXAMINATION 12 BY MR. FREUND: 13 Q. I have a couple of questions. 14 I will start with the substantive subject 15 that you talked about, and then I want to circle 16 back to your overarching discussion of the modeling 17 process. 18 I understand the math and the valuation 19 that you have attached to a December 2 start date. 20 What would be the effect on the average 21 annual increase, again, assuming that December 2 22 start date for the wage increases, if, as Laura	Page 297	1 making higher payments that we otherwise would not 2 have been. 3 Q. I'm not sure I followed. 4 So I want to assume -- I will ask you to 5 assume the following. 6 Assume that the Panel were to award 7 retroactive payments back to December 2, 2014, 8 pursuant to the wage tables that are contained in 9 the agreement, and set an amendable date of the 10 agreement as December 2, five years down the road. 11 A. Right. So your hypothetical scenario is 12 essentially making what would have been in place had 13 the contract been ratified. 14 Q. Correct. 15 A. And I would agree that it would produce a 16 over that time frame a similar \$112 million 17 valuation. 18 But as I stated earlier, I also -- as I 19 understand it, that was not what was included in the 20 APFA proposal. 21 Q. I understand that. 22 But you did hear Ms. Glading testify about	Page 299
1 Glading suggested in her testimony, the amendable 2 date of the Collective Bargaining Agreement was 3 moved back an equal period, let's assume a month? 4 A. Right. 5 So if you were to take the hypothetical 6 and say that -- let's say that the contract had gone 7 into place as anticipated with the ratification in 8 November of, you know, 2014, and that became 9 effective at that point, you know, your hypothetical 10 scenario would retain the same economics that we had 11 initially modeled. 12 However, as we understand it, the proposal 13 that was included in the APFA proposal was to have 14 the effective date of the December 2 date via a 15 retroactive payment and not necessarily to be the 16 effective date of the contract. 17 And I think you could also make the 18 argument that, at this point, it being December 4, 19 now, if you take a five-year period, it will end up, 20 you know, from the today or whatever the effective 21 date becomes, it will increase our cost obligation 22 because we are now going back to two days prior and	Page 298	1 the prospect of moving an amendable date backward. 2 A. She may -- yes, I heard her say a comment 3 to that effect. 4 Q. All right. I want to switch subjects back 5 a bit to the broader task that you have testified 6 about briefly, namely the modeling exercise that you 7 did and that Dan Akins participated in. 8 That exercise, as Dan described it and as 9 you described it, was designed to establish various 10 values of the market-based contracts, namely United, 11 Continental, and Delta, as applied to the American 12 population, and as well the baseline values of the 13 US Airways and the legacy American Collective 14 Bargaining Agreements, also as applied to the new 15 American; correct? 16 A. Can you say that one more time, please? 17 Q. I don't think so. 18 Let me break it up into a couple of 19 questions. 20 A. Sure. 21 Q. It was designed to establish the market 22 value of the United, Continental, and Delta work --	Page 300

1 well, Continental contracts and Delta work rules, 2 the value of those contracts if applied to the 3 American work force? 4 A. That's correct, so yeah. 5 Q. And then it was designed to establish the 6 value of the legacy US Airways flight attendant 7 contract as applied at American and the legacy 8 American contract as applied at American? 9 A. No. We did not do that exercise. 10 We did not try to apply the existing 11 legacy US flight attendant contract to the 12 population of legacy AA. 13 Flight attendants, in totality, and vice 14 versa, we did not take the legacy US flight 15 attendants and try to determine what the cost impact 16 would be of applying the current active contract, 17 like the TA, to the legacy US flight attendants. 18 What we did was we determined the value of 19 what the proposed JCBA would be as compared to the 20 current active contracts at each carrier. 21 Q. And in doing that exercise, you assigned 22 values to all of the terms of the Collective	Page 301 1 think of it as, you know, savings and spending, I 2 would look at it in totality. 3 What the \$112 million -- or, for the 4 purposes of the, you know, the Tentative Agreement 5 valuation, the 193 that Dan has quoted -- that 193 6 represents in totality both the incremental costs in 7 specific terms and the incremental savings of 8 specific terms. 9 So where the value of a particular item 10 has been reduced and it saves the Company money, 11 that would reduce that 193. 12 Q. Right. Right. Yeah. Obviously, it was 13 always looked it in the totality, but the totality 14 is made up of the various puts and takes that come 15 through the process of bargaining. 16 A. Yes. Yes, I agree. 17 Q. Okay. And similarly, I think you answered 18 this, but just to make sure. 19 The 60, now, \$2 million mark of value was 20 based upon the analysis of the value of those 21 comparator contracts measured against the value of 22 base comparators.
Page 302 1 Bargaining Agreement that -- of the United 2 Collective Bargaining Agreement, the Continental 3 Collective Bargaining Agreement, the Delta work 4 rules, and the base contracts that -- that have 5 value; correct? 6 A. Yes. That was the exercise. 7 We tried to apply the terms of the 8 agreements that had economic value to the flight 9 attendant population. 10 Q. And in the course of considering various 11 proposals for a new agreement during the course of 12 bargaining, you assigned values, both puts and 13 takes, increased costs, and savings from proposals 14 that one side or the other made across the table; 15 correct? 16 A. That's correct. 17 Q. So that if something that had previously 18 been in the US Airways contract was -- if a proposal 19 was made to reduce that value, that was "a savings," 20 that could then be spent later on by a term that 21 would create additional value? 22 A. Yes. I mean, I would just -- rather than	Page 304 1 A. Yes. The way to look at it is we would 2 take the models of our, you know, the individual 3 work groups, the legacy US flight attendants and the 4 legacy AA flight attendants, and try to determine 5 what the overall incremental costs would be if we 6 were to apply a combination of, you know, the Delta, 7 Continental, and United terms to those work rules -- 8 to those work groups. 9 MR. FREUND: Maybe someone can take this 10 down to the witness. 11 Pass this to the Board, and there should 12 be a couple of copies left for Bob. 13 Mark this as Union Exhibit 1. 14 (Thereupon, Union Exhibit No. 1 was marked 15 for identification and received into evidence.) 16 MR. FREUND: All right. I'll represent, 17 obviously subject to Bob's checking it back against 18 the contracts, that this is the list of me-toos that 19 are contained in the Tentative Agreement that was 20 reached and contained in the -- definitionally, then 21 also contained in the APFA proposal. 22

<p style="text-align: right;">Page 305</p> <p>1 BY MR. FREUND:</p> <p>2 Q. Patrick, do you have that list?</p> <p>3 A. Yes, I do.</p> <p>4 Q. So I'm going to just tell you that I don't know if you're familiar with these particular contract terms or the contract section numbers that are next to it, but I'll just represent to you that these are a series of ten me-too provisions in the Tentative Agreement and in the APFA proposal that are me-toos with the pilots.</p> <p>11 That is to say, if the pilots obtain something different or better than is contained in the Collective Bargaining Agreement, flight attendants get the benefit of that.</p> <p>15 Can you accept that for the set of questions that I'm about to ask you?</p> <p>17 A. I will take that for the set of questions that ...</p> <p>19 Q. Okay. Were any of these ones -- any of these items valued in the valuation process?</p> <p>21 A. We did not place specific value to the me-too element of these items.</p>	<p style="text-align: right;">Page 307</p> <p>1 groups, such terms, policies, or arrangements will be provided to the Flight Attendants. Any dispute regarding the interpretation or application of this Paragraph shall be resolved through arbitration under the provisions of [Article] 30."</p> <p>6 Do you see that?</p> <p>7 A. I do.</p> <p>8 Q. And that's a me-too clause?</p> <p>9 It's not on the list of me-too clauses,</p> <p>10 but you understand the me-too clause?</p> <p>11 A. It sounds like something that could be interpreted as a me-too clause.</p> <p>13 Q. And when -- this clause does not appear in the Tentative Agreement; does it?</p> <p>15 A. Correct.</p> <p>16 Q. All right. So when this clause was removed from the -- effectively from the US Airways flight attendant contract for purposes of creating a new contract, was any value attributed to -- back to the Union to be able to spend elsewhere?</p> <p>21 A. No.</p> <p>22 We did not specifically apply any value to</p>
<p style="text-align: right;">Page 306</p> <p>1 Q. So you have got some big exhibit books in front of you, two volumes, I think, down there to your left. And if I could ask you to turn to Tab 7 of Volume 1, please.</p> <p>5 Just to make sure you're looking at the same document I'm looking at, the one I'm looking at at Tab 7, Volume 1 is the US Airways Flight Attendant Collective Bargaining Agreement.</p> <p>9 A. Yes.</p> <p>10 Q. Do you have that as well?</p> <p>11 A. That's what I have.</p> <p>12 Q. And this would have been the Collective Bargaining Agreement that was used for the costing model?</p> <p>15 A. Yes.</p> <p>16 Q. So if you could turn, please, to page 26-12, don't look about 26 pages are the front.</p> <p>18 It's actually pretty far in the back.</p> <p>19 A. Yes.</p> <p>20 Q. Paragraph I on that page reads: "If more favorable Medical/Dental Plan terms, policies, or arrangements are instituted for any other union</p>	<p style="text-align: right;">Page 308</p> <p>1 it.</p> <p>2 Q. Okay. Let's turn to Volume 2.</p> <p>3 Let's look at -- first at Tab 9.</p> <p>4 Do you have it?</p> <p>5 A. Yes.</p> <p>6 Q. Tab 9, in my book, is -- it's titled United, but you understand that to be the Continental -- the legacy Continental contract that you noted?</p> <p>10 A. Yes.</p> <p>11 Q. And that was the legacy Continental and United contract that was used for costing exercises?</p> <p>13 A. That is correct.</p> <p>14 Q. I'm sorry?</p> <p>15 A. That is correct.</p> <p>16 Q. And if I could ask you to turn to page 24-1, which is Section 24, is the benefit section.</p> <p>18 That reads: "Each Flight Attendant covered by this Agreement shall be eligible to participate in certain Company wide benefit programs made available to other employees of the Company on the terms and conditions established in the benefit</p>

1 programs for flight attendants' participation, and 2 pursuant to the terms of such programs. Before any 3 changes are made to such programs, the Company will 4 notify the Union in writing in advance of the 5 effective date of such change(s). Upon request by 6 the Union, the Company will meet to explain the 7 change(s). The Company wide benefit programs 8 presently include:" 9 And then there's a listing of programs and 10 it includes medical programs; correct, medical 11 indemnity programs, health maintenance organization 12 programs; correct? 13 A. Yeah. That's -- are you asking me what it 14 says? 15 Q. I, mean, yeah. 16 And I -- I guess I'm asking if you're 17 seeing the same words. 18 A. I'm seeing the same thing. 19 Q. Okay. And in valuing the base -- not the 20 baseline. In establishing the market value of the 21 United and Continental contracts, did you value in 22 the model -- did you assign any value in the model	Page 309 1 and need to explain the changes. 2 I'm not interpreting this to mean that 3 they are giving the flight attendant the choice to 4 participate in this plan or a different plan. 5 Q. Well, let me ask the question this way, 6 and maybe you're not the right person to ask, but 7 we'll try it anyway. 8 Would you understand the promise in this 9 clause for a single Company plan to mean that if -- 10 whatever that plan was, if a work group negotiated a 11 better plan, then the promise of a single Company 12 plan would result in that -- in the flight 13 attendants migrating to the plan? 14 A. I would refer to -- 15 MR. SIEGEL: Please, don't answer, 16 Patrick. I want to object. 17 He's asking this witness for his 18 interpretation of a Collective Bargaining Agreement, 19 and there's no foundation for that. 20 This witness is not -- and first of all, 21 the issue of interpretation of the Collective 22 Bargaining Agreement is not before this Panel.
Page 310 1 to the fact that in the United contract, the United 2 flight attendants -- I'm sorry. 3 In the United contract, the Continental 4 flight attendants had a provision, which guaranteed 5 them the same medical benefits as other work groups? 6 A. Well, it seems to me that this provides 7 for a single Company plan in that the Union would be 8 notified in writing upon the changes to that plan. 9 Q. Right. So that if they -- but if they 10 changed -- if they changed the -- if the Company 11 chose to change, for example, the pilot plan, if 12 everyone started out on a single plan, and they 13 chose to change that plan for the pilots to 14 something better, under this provision, do you 15 understand that to mean that a single Company plan, 16 that the flight attendants would have to migrate to 17 that plan? 18 A. I'm not sure I'm drawing the same 19 conclusion you are on this one. 20 It says that there's a company-wide 21 benefit plan and that, before the Company makes any 22 changes to that plan, they would notify the unions	Page 312 1 And this -- and the question is seeking a 2 legal conclusion about the meaning of a labor 3 contract from this witness. 4 So I'm going to object to the line of 5 questioning. 6 MR. FREUND: I'm sorry. I'll withdraw the 7 question and rephrase it. 8 BY MR. FREUND: 9 Q. I would like you to assume for the 10 purposes of this question -- whether it's right or 11 not, someone else can decide. 12 But I would like you to assume for the 13 purposes of this question that, under this clause, 14 if the pilots, for example, were successful in 15 negotiating a better medical insurance plan, that 16 the flight attendants would migrate to that plan. 17 I just want you to assume that. It may be 18 right. It may be wrong. I just want you to assume 19 that. 20 On that assumption, did you include in the 21 market -- did you assign in determining the market 22 in the aggregate value of the Continental and United

<p style="text-align: right;">Page 313</p> <p>1 plans any value to that?</p> <p>2 A. Well, we did not assign a hypothetical as</p> <p>3 the value to a hypothetical assumption of a contract</p> <p>4 that I'm not interpreting on.</p> <p>5 Q. All right. Fair enough.</p> <p>6 While we're in that same book, let's go</p> <p>7 back one tab to Tab 8.</p> <p>8 And you understand that to be -- in my</p> <p>9 book, it's the United flight attendants -- the</p> <p>10 legacy United flight attendants' contract at United.</p> <p>11 Is that what's in your book as well?</p> <p>12 A. Yes. Yes.</p> <p>13 Q. And that's the United contract that was</p> <p>14 used for purposes of ascertaining the market value</p> <p>15 in the aggregate of United, Continental, and</p> <p>16 Delta --</p> <p>17 A. Yes.</p> <p>18 Q. I would like to ask you to turn to page</p> <p>19 222, please.</p> <p>20 I don't think there's any ambiguity in the</p> <p>21 clause that I'm going to ask you to look at.</p> <p>22 Do you have that page?</p>	<p style="text-align: right;">Page 315</p> <p>1 Did you assign any value to that me-too</p> <p>2 clause in ascertaining the market value as</p> <p>3 determined by the combination of United,</p> <p>4 Continental --</p> <p>5 A. We did not place a specific value on the</p> <p>6 me-too element of their medical plan.</p> <p>7 Q. Let me ask you in the broadest possible</p> <p>8 terms.</p> <p>9 In designing the model to ascertain either</p> <p>10 the market value in the aggregate or to measure the</p> <p>11 puts and takes from changes to the existing US</p> <p>12 Airways and American Collective Bargaining</p> <p>13 Agreements, did you assign any value at all to any</p> <p>14 me-too clause?</p> <p>15 A. Any me-too in general?</p> <p>16 Q. Correct.</p> <p>17 A. We did not.</p> <p>18 However, I would add that, you know,</p> <p>19 looking through this list of the ten me-toos that</p> <p>20 you have included, you know, as you look through the</p> <p>21 300 page documents and I see items such as substance</p> <p>22 testing, there are certainly elements within these</p>
<p style="text-align: right;">Page 314</p> <p>1 A. 222?</p> <p>2 Q. Yeah. Do you have it?</p> <p>3 A. Yes.</p> <p>4 Q. I would like you to look at the second to</p> <p>5 last paragraph on that page, it's subparagraph "x",</p> <p>6 which reads: "If, during the term of this Agreement</p> <p>7 (2012-2016), the Company agrees to improvements for</p> <p>8 any employee group (union or nonunion) in the terms,</p> <p>9 other than employee contributions, of the medical</p> <p>10 coverage ascribed in this Section 33, such</p> <p>11 improvements will also be provided to active Flight</p> <p>12 Attendants and Flight Attendants retiring on or</p> <p>13 after July 1, 2003."</p> <p>14 Did you assign any value to that?</p> <p>15 Is that the -- strike that.</p> <p>16 That is plainly a me-too clause, as you</p> <p>17 understand it; correct?</p> <p>18 A. Yes.</p> <p>19 Contingent on the fact that it appears to</p> <p>20 be just on plan design and not necessarily on</p> <p>21 employee contribution.</p> <p>22 Q. Correct. Correct. But it is what it is.</p>	<p style="text-align: right;">Page 316</p> <p>1 me-too components that we would consider to have de</p> <p>2 minimis economic value.</p> <p>3 And there are various other components</p> <p>4 within the contract that we may have exclusively</p> <p>5 identified within the model as having substantive</p> <p>6 economic value that were not considered.</p> <p>7 So I would say that, even though we don't</p> <p>8 necessarily assign a value to the me-too clause, it</p> <p>9 was -- you know, a variety of these things that were</p> <p>10 in the agreement were part of essentially what our</p> <p>11 valuation of the proposed JCBA would be.</p> <p>12 Q. Well, the items, for example, hotels,</p> <p>13 obviously hotels had a value; correct?</p> <p>14 A. Correct, they did.</p> <p>15 Q. Okay. And you assigned a value to hotels;</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. But if I understand your testimony</p> <p>19 correctly, you didn't assign any value to the me-too</p> <p>20 component of the contracts?</p> <p>21 A. We did not explicitly separate the me-too.</p> <p>22 However, with items such as the hotel</p>

1 policy, where there may be an operational reason 2 that we would not get away from assigning the 3 different hotels to the flight attendants and 4 pilots, the -- I think the consideration would be 5 that that small -- probably -- you know, microscopic 6 probability that we would get away -- that me-too 7 would ever be triggered was not something that was 8 substantive enough to assign a specific economic 9 value to. 10 And I think that's substantially different 11 than something such as a profit sharing or a medical 12 plan that is a much more significant item of the 13 contract. 14 Q. Well, I'm really not asking you to value 15 the likelihood or the size of the consequence of a 16 particular me-too. 17 My fundamental question is whether you 18 assigned any value at all to the me-too component of 19 these clauses, the me-too component of the United 20 health insurance clause, and the me-too component of 21 the lost US Airways me-too clause. 22 A. We did not assign specific values to	1 If it had to act, the Company would have 2 had to act. But we felt that the potential change 3 there was small enough that it wasn't something that 4 we would necessarily need to specifically value as a 5 component of the valuation. 6 As you page through 300 pages of each of 7 these contracts, there are probably some items in, 8 you know, in Delta, United, Continental's, legacy 9 US, or legacy AA that are very small in nature. 10 And to get to a valuation model that would 11 capture every single minor economic impact would be 12 prohibitively long in terms of how long it would 13 take to be able to come up with a comprehensive 14 valuation. 15 So there are things that we do not include 16 in the model that we don't consider to be 17 substantive or we didn't consider to be -- de 18 minimis. 19 And these are things that, you know, are 20 the collaborative efforts that we had with Dan to 21 make sure that the items that we had identified that 22 were substantive, and we had valued them correctly,
1 these. 2 Q. And you pointed out to -- you pointed out 3 the eighth of the ten me-too clauses when you talked 4 about the substances testing me-too. 5 The crew meals provision surely could have 6 economic value; correct? 7 A. Well, it can, but the assumption that we 8 were acting under was that the way that the model 9 was valued, assumed that flight attendants and 10 pilots were receiving the same -- we used the cost 11 for the pilot meals. 12 And, therefore, we felt that we were 13 capturing the economic impact of the meal policy. 14 In the off chance that there might be a change up or 15 down to those -- to the types of meals that were 16 provided was de minimis in nature, and not something 17 that we would specifically identify within our 18 valuations. 19 Q. So you assumed -- you assumed that the 20 Company would never be in a position to have to act 21 on the me-too provision? 22 A. That's not necessarily true.	1 are things that we had walked through with Dan. 2 He had the opportunity. 3 We had numerous sessions where we sat down 4 together. We had conversations over the phone. We 5 tried to resolve all of the differences in the 6 modeling methodologies, in the inputs, and the 7 assumptions that we used when we came up with the 8 valuation of both the market-based in the aggregate 9 contract as well as the contract, the proposed 10 Tentative Agreement. 11 And so if there were certain items such as 12 a me-too for crew meals that we felt were 13 substantial enough that needed to be included, at 14 that opportunity, we would have tried to include 15 them in the model. 16 Q. And so if I understand your testimony, 17 it's not that a change in the crew meals would have 18 a de minimis -- would necessarily have a de minimus 19 effect, but that the likelihood of triggering that 20 was limited. 21 A. Well, no. 22 It's a -- you know, Dr. Lee talked

1 about -- a little bit about option theory. 2 And some of the valuation of something 3 like a me-too that gets triggered and then goes into 4 effect ends up being discounted by the fact that 5 there is the possibility that that triggering event 6 may never occur. 7 So if you were to try to come up with an 8 accurate valuation of something that we don't know 9 necessarily is going to occur sometime in the 10 future, it would have a discounted economic impact. 11 And so I could speculate all day about 12 what -- would we get some famous chef to, you know, 13 come up with new food arrangements that we're 14 providing our pilots, which would then trigger the 15 me-too to be provided to the flight attendants, 16 which would triple the cost of the value, the value 17 of the meals that we provided. 18 Yes. That would certainly potentially 19 have the ability to increase the economics beyond 20 something that's just a rounding error. But part of 21 the kind of theoretical finance option theory of 22 trying to establish a valuation for those types of	Page 321 1 medical plan, I view those items to be economically 2 impactful enough that if there had been a me-too 3 component to either the medical plan or the 4 profit -- you know, a me-too with profit sharing 5 included in the JCBA at the time that the JCBA -- or 6 the Tentative Agreement had been reached, it would 7 certainly have been something that we -- I don't 8 necessarily know how we would value that me-too, but 9 it would absolutely have played into the 10 decision-making process as to whether that was an 11 agreement that we were agreeable to. 12 Q. So you're distinguishing medical and 13 profit sharing. But just to be clear, you earlier 14 testified that you didn't assign any value to the 15 loss of the US Airways me-too on medical in the 16 costing exercise; correct? 17 A. We did not apply specific value to that. 18 Q. And you didn't assign any value in setting 19 the market in the aggregate to the existence of the 20 me-too clause in the United flight attendant on 21 medical? 22 A. We did not apply specific value to the
Page 322 1 events relies upon the fact that you have to 2 discount some -- you know, that specific valuation 3 because of the uncertainty, so... 4 Q. And the Company has stated in -- I'm not 5 asking you to testify about anything that went on 6 during the negotiations between APFA and the 7 Company. 8 External to those negotiations, the 9 Company has stated plainly and publicly that it 10 intends to have a single health plan for all of its 11 employees; correct? 12 A. Publicly, as I understand it, the goal is 13 to get all of the employees to a single health plan. 14 Q. And it has stated publicly that it does 15 not intend to provide variable compensation through 16 profit sharing to its workers. 17 A. Yes. They have stated publicly that the 18 goal is to have fixed pay for all employees. 19 Q. And so the unlikelihood of either of those 20 happening is de minimis as well; correct? 21 A. I would not draw that conclusion because 22 with elements such as a profit sharing plan or a	Page 324 1 me-too. 2 Q. And assuming for the sake of discussion, 3 without arguing what the clause means, assuming for 4 the sake of discussion that the clause I pointed to 5 in the Continental agreement is also a me-too on 6 healthcare for the Continental pilots, you didn't 7 assign any value for that. 8 A. Well, we didn't assign any value to that 9 me-too. 10 MR. FREUND: All right. That's all I have 11 got. 12 MR. ROBERTSON: Nothing further. 13 ARBITRATOR BLOCH: Thank you very much, 14 sir. 15 Appreciate your help. 16 (The witness stood down.) 17 ARBITRATOR BLOCH: Anything else, 18 gentlemen? 19 MR. ROBERTSON: We have another witness. 20 (A discussion was held off the record.) 21 MR. GLASS: Good afternoon. 22 ARBITRATOR BLOCH: Good afternoon,

1 Mr. Glass. 2 Thereupon, 3 JERROLD GLASS 4 Called for examination by counsel for the 5 Company, was examined and testified as follows: 6 DIRECT EXAMINATION 7 BY MR. ROBERTSON: 8 Q. Mr. Glass, would you state your name for 9 the record. 10 A. Jerrold A. Glass. 11 Q. And where are you employed? 12 A. F&H Solutions Group. 13 Q. And what is F&H Solutions Group? 14 A. It's a management, labor relations, and 15 human resources consulting firm. 16 Q. And what is your role at F&H Solutions? 17 A. I'm the president of the company. 18 Q. And how long have you been president of 19 F&H? 20 A. Well, there was a predecessor company to 21 F&H Solutions Group, which was called J. Glass and 22 Associates. And that started in 1989.	Page 325 1 And I was -- I held that position until 2 the merger with America West Airlines in 3 September 2005. 4 Q. And in your role that US Airways and F&H 5 Solutions, have you been involved in negotiations 6 for collective bargaining agreements? 7 A. Yes, I have. 8 Q. And over the course of your career, 9 approximately how many? 10 A. Probably about 150 contracts. 11 Q. And of those 150 contracts, approximately 12 how many were you the chief negotiator? 13 A. Oh, gosh. 14 I would say probably at least 145 because, 15 generally, I'm the chief negotiator. 16 Q. And were you involved in the negotiations 17 that resulted in the Tentative Agreement that is 18 Joint Exhibit 2? 19 A. Yes, I was. 20 Q. What was your role in those negotiations? 21 A. I was the chief negotiator for the 22 Company.
Page 326 1 So I'm celebrating my 25th anniversary of 2 being in business. 3 Hard to believe. 4 Q. And can you describe in general your 5 responsibilities as president of F&H? 6 A. Well, it's to obviously manage the 7 business. 8 And my specialty area is in labor 9 relations and contract negotiations. 10 My company, we have 17 employees that 11 cover a variety of labor and HR areas. 12 I have, just on the labor practice, I 13 think there are four or five people that work for 14 me. 15 Q. And I understand you worked at US Airways 16 at some point. 17 Can you tell the Panel about your 18 experience there? 19 A. Yes. I was the -- I started out as the 20 Senior Vice President of Employee Relations at US 21 Airways in April of 2002, and then became Executive 22 Vice President and Chief Human Resources Officer.	Page 328 1 Q. Let me ask you, if it's still up there, to 2 look at Union Exhibit 1. 3 A. I think I have over here. 4 Yes. I have it. 5 Q. Okay. And are you familiar with these 6 clauses in the Tentative Agreement? 7 A. Yes, I am. 8 Q. And can you describe for the Panel, from 9 your perspective, what types of issues these 10 provisions address? 11 A. These primarily address operational 12 issues, and what I would call fairness issues with 13 respect to, you know, one specific group, which 14 would be the pilots. 15 Q. Okay. And do any of these items give rise 16 to a significant economic impact? 17 A. No, none of them do. 18 Q. And do you consider these ten items on 19 Union Exhibit 1 to be different than a, for example, 20 profit sharing me-too or health insurance me-too? 21 A. Very different, yes. 22 Q. And is that difference primarily because

1 of the economic impact? 2 A. It's different because of the economic 3 impact, and it's different because of the scope, the 4 depth and the breadth of the me-too proposal by the 5 Union. 6 While these items cover just me-toos with 7 pilots, the proposals on profit sharing and on the 8 medical cover any employee group of the Company. 9 Q. And we heard some questions from opposing 10 counsel about some me-toos in the current US Airways 11 CBA. 12 And I'm wondering -- my question is, did 13 any -- do any of those have a significant economic 14 value from your standpoint? 15 A. Could you ask that again? I'm sorry. 16 Q. In the legacy US Airways contract, are you 17 aware of any me-toos that have significant economic 18 impact in your opinion? 19 A. Yes. One, for example, would be per diem. 20 The current legacy US contract has a 21 me-too with the pilots on per diem. 22 Q. And did that -- that or any other me-toos	Page 329 1 fits into this debate. 2 MR. ROBERTSON: Well, it fits in because 3 it gives rise to costs on the Company, which Dr. Lee 4 has talked about, and impacting the Company's 5 flexibility to negotiate imposes a cost on the 6 Company. 7 And this testimony is relevant to that. 8 ARBITRATOR BLOCH: Well, I think it's fair 9 game to talk about costs rather than the more 10 general labor relations impact. 11 We assume that costs would have such an 12 impact. 13 BY MR. ROBERTSON: 14 Q. From your perspective, Mr. Glass, and 15 based on your experience, does the -- a profit 16 sharing me-too and a health insurance me-too impose 17 costs on Company in terms of its negotiating 18 flexibility? 19 A. Yes, it does, in that if I know, as the 20 chief negotiator, I have a me-too on profit sharing 21 or healthcare, it impacts my ability to do a couple 22 of things.
Page 330 1 in the current legacy US Airways and legacy American 2 CBAs make it into the Tentative Agreement? 3 A. No, none of them did. 4 Q. And based on your experience over these 5 150 negotiations, do me-toos of the type being 6 proposed by the Union, profit sharing and health 7 insurance, have the potential to create labor 8 relations issues going forward? 9 A. Yes, they do. 10 Q. And how so? 11 Can you explain that to the Panel? 12 MR. FREUND: I guess I'm going to object 13 on the grounds that what's at stake is either the 14 standard -- that is whether the me-toos meet the 15 standard or don't meet the standard, or bust through 16 or don't bust through the standard -- I'll put it 17 that way -- and/or specifically -- or additionally 18 with respect to the health me-too, whether there's a 19 separate promise with respect to that health 20 insurance plan. 21 It may or may not have labor relations 22 consequences elsewhere, but I don't see how that	Page 332 1 Number one, it impacts my ability to solve 2 another union's problem, in that even though -- and 3 let me just say this up front. 4 And what Doug Parker and Scott Kirby have 5 said is accurate. That has been my instructions 6 that our goal is to get all of the employee groups 7 under the same medical plan and not to have profit 8 sharing. 9 But the fact of the matter is, if you are 10 in a section -- and let me give a real life example 11 of something that could happen. 12 If I'm in a Section 6 negotiation under 13 the Railway Labor Act, and that union happens to be, 14 for example, the dispatchers union. So there are, 15 what, I don't know, 300 or 400 dispatchers. And the 16 dispatchers decide that for whatever reason they are 17 willing to pay any amount of money to keep the 18 current legacy US medical plan. 19 And I'm in a cooling-off period. And I'm 20 approaching midnight of the last day of the 21 cooling-off period. 22 If I end up because of the situation I'm

Page 333	Page 335
<p>1 in under the Railway Labor Act with a deadline and a 2 possible strike because you can't replace 3 dispatchers, and I have to do -- I have to give them 4 that medical plan, which will have a small financial 5 impact on the dispatchers, 300, but then I have a 6 me-too that applies to 25,000 people, that's a 7 major, major problem for the Company. 8 And that's one of the reasons that a 9 me-too on that kind of a significant item is such a 10 huge problem for a negotiator.</p> <p>11 Q. Moving away from the me-toos and talking 12 about the retroactive wage rate of the Union's 13 proposal.</p> <p>14 Does the Tentative Agreement that is Joint 15 Exhibit 2 provide December 2 or any other specific 16 date for the wage rates to go into effect?</p> <p>17 A. No, it does not.</p> <p>18 Q. And what does it provide?</p> <p>19 A. As somebody -- I think Laura already 20 testified, it states that the pay increase will go 21 into place the first day of the bid month following 22 ratification, which in this case didn't occur.</p>	<p>1 A. Yes. 2 Q. But we're here to create an agreement 3 through this Panel; correct? 4 A. Well, the agreement is largely created. 5 Q. Yes. But we're here to have this Panel 6 finalize and impose, I don't mean that pejoratively, 7 but to actually create and establish what will be 8 the Collective Bargaining Agreement between the 9 Company and the Union; correct? 10 A. Correct. 11 Q. So the fact that something was or was not 12 negotiated in the Collective Bargaining Agreement 13 with respect to retroactivity really is beside the 14 point for purposes of what this Panel's authority 15 and jurisdiction is it, isn't it? 16 A. I'm not going to speak for what the Panel 17 is going to do. 18 My opinion is that when the parties agreed 19 to the first day of the bid month following 20 ratification, they did so for a reason. 21 And the reason they did that is there is a 22 long history, at least on the legacy US side, of</p>
Page 334	Page 336
<p>1 Q. And what was the Company's position on 2 whether wage rates should be retroactive to 3 December 2?</p> <p>4 A. Our view is they should not be 5 retroactive.</p> <p>6 Q. And what's the basis for that?</p> <p>7 A. Well, number one, that is what was 8 negotiated.</p> <p>9 Secondly, there are two existing 10 Collective Bargaining Agreements in place. And both 11 of those agreements, if they continue for any period 12 of time, still have regular pay increases in them.</p> <p>13 So for those two reasons alone, there's 14 really no justification for retroactivity.</p> <p>15 MR. ROBERTSON: Thank you.</p> <p>16 CROSS-EXAMINATION</p> <p>17 BY MR. FREUND:</p> <p>18 Q. Starting with your last point first, you 19 said there are two reasons why the Company doesn't 20 think retro is appropriate.</p> <p>21 One is because that's not what was 22 negotiated in the Tentative Agreement; right?</p>	<p>1 doing exactly that. 2 So, for example, when we negotiated the 3 legacy US contract, the last standalone, there 4 were -- there was a Tentative Agreement reached. 5 And that first Tentative Agreement called 6 for the pay increase to go into effect on the first 7 day of the bid month following ratification. 8 That agreement was rejected. 9 Some months later, we reached a second 10 Tentative Agreement. 11 That second Tentative Agreement stated 12 that the pay increase will go into effect on the 13 first day of the following bid month. The first day 14 of the month -- the first -- you see, even I get 15 confused saying it. I know everybody does. 16 The first day of the bid month following 17 ratification. 18 The second Tentative Agreement was 19 rejected. There was no retroactive pay given after 20 the second Tentative Agreement. 21 A third Tentative Agreement was reached, 22 and the parties had an agreement that a pay raise</p>

Page 337	Page 339
<p>1 would go into effect on the first day of the bid 2 month following ratification. That third agreement 3 was ratified, and there was no retroactivity. 4 The fact of the matter is that this 5 Tentative Agreement is largely based -- the majority 6 of this agreement is based on legacy US language. 7 So I think there is tremendous 8 justification for us to say that that isn't what the 9 parties, you know, ended up agreeing to. They 10 didn't end up December 2. They ended up doing what 11 had been done previously legacy US, like many of the 12 provisions. 13 Q. Absolutely. I don't quarrel with you one 14 bit. 15 A. Good. 16 Q. But the fact remains, does it not, that 17 what we're here to do yesterday and today is to 18 actually create the Collective Bargaining Agreement? 19 And what you're describing is all the 20 reasons why you think it's a bad idea to have 21 retroactivity. 22 But it is certainly something what the</p>	<p>1 handwriting and ask you to follow me. 2 You described in response in direct 3 examination about a legacy US me-too on a per diem 4 that is -- that the flight attendants had a me-too 5 to the pilots on per diem? 6 A. Correct. 7 Q. And that did not make it into the new 8 Tentative Agreement; correct? 9 A. Correct. 10 Q. And you understand we're not proposing a 11 me-too on per diem as part of the APFA's proposal; 12 correct? 13 A. Correct. 14 Q. Okay. Do you know whether the abandonment 15 of that me-too in the US Airways Collective 16 Bargaining Agreement coming over to the Joint 17 Collective Bargaining Agreement was assigned any 18 value in the costing model? 19 A. Yes. It would have been to the extent -- 20 I'm going to try and say it slowly so I can try and 21 articulate it properly. 22 To the extent that any of the legacy US</p>
Page 338	Page 340
<p>1 Union in this interest arbitration can propose and 2 ask the Panel to impose; isn't it? 3 A. Absolutely. 4 Q. Okay. 5 A. Yes. 6 Q. And then your second reason for not 7 wanting -- not thinking that retroactivity is 8 appropriate is that there are extant Collective 9 Bargaining Agreements in place that provide wage 10 scales and presumptively -- not presumptively, 11 actually wage increases in them; correct? 12 A. Correct. 13 Q. But, again, that was a product of prior 14 collective bargaining. 15 And we're now engaged in collective 16 bargaining with respect to this contract; correct? 17 A. Correct. 18 Q. I'm having trouble reading my own 19 handwriting, which is really a problem, so I'll skip 20 over this question. 21 I'll skip over this question for a moment 22 and hope that I can get back to reading my</p>	<p>1 per diem rates, since they were all tied to the 2 pilots, that value of that me-too would have been 3 incorporated into the baseline model for the JCBA. 4 So the answer is yes. 5 Q. Well, I'm not sure I -- let's make sure we 6 understand each other. 7 Are you telling us that the -- that the 8 then existing value of the per diem was included in 9 the baseline? 10 A. Yes. 11 Q. But you're not telling me, are you, that 12 any value attributable to the loss of the right to 13 me-too future increases in the pilot's per diem was 14 included in the costing? 15 A. It was included in the costing. 16 Q. It was included in the costing? 17 A. Yes. And let me explain how. 18 I know there are a lot of heads looking 19 up, so let me explain how. 20 Going into the contract, there was a 21 me-too with the pilots. The pilots entered into the 22 Merger Transition Agreement, the MOU, and they had</p>

1 established future rates. So we knew that if we 2 followed those rates, it would cost the flight 3 attendants X during the JCBA. 4 Knowing that it would cost X, the decision 5 was made that it was too expensive, and the flight 6 attendants elected not to do it and have a different 7 set of per diem rates than the pilots. 8 So in the sense of calculating what an 9 ultimate cost would be based on proposals that were 10 made, that would have been included, valued, and 11 then assessed by the Union. 12 Q. But the loss -- so the rates were actually 13 and the -- the rates were included in the costing. 14 And the difference in what the incremental 15 rates would have been had me-toos been -- had 16 me-toos been exercised was included in the costing 17 of those two; correct? 18 A. Yes. 19 Q. But to the extent that the me-too -- 20 giving up the me-too also gave up the right to 21 me-too any yet future as yet un-negotiated increases 22 with the pilots.	Page 341 1 Q. And to whatever extent -- to whatever 2 extent the me-too on healthcare in the legacy US 3 contract may or may not have impeded -- interfered 4 with your flexibility at US Airways, US Airways 5 nevertheless agreed to and was prepared to live by 6 the me-too in the flight attendants' contract; 7 correct? 8 A. Correct. And there was a reason for that. 9 Back in 2002, when I came to the Company, 10 there were either 18 or 22 different medical plans, 11 and we negotiated it down to one. 12 So we already had a very long history of 13 having a single medical plan for all the employees. 14 So from our standpoint, there wasn't a 15 risk because everybody was already and for many 16 years had been covered under that single plan. 17 It's very different here because we have 18 not yet concluded negotiations with our CWA, IBT 19 union or the TWU or IAM. 20 So we have potentially, hypothetically, 21 significant exposure still with these Collective 22 Bargaining Agreements that haven't been completed.
Page 342 1 That was not included in the costing, was 2 it? 3 A. It wouldn't be. 4 Q. Right. The example that you gave with 5 respect to the dispatchers -- hypothetical 6 dispatchers negotiations. 7 A. Yes. 8 Q. That hypothetical could have -- well, let 9 me go at it a slightly different way. 10 You were here when I was asking Patrick 11 about me-too clauses in the legacy US Collective 12 Bargaining Agreement, specifically the me-too on 13 healthcare; correct? 14 A. Yes. 15 Q. And you're undoubtedly familiar with that 16 one as well. 17 A. Yeah. 18 Q. Okay. The identical hypothetical that you 19 provided us in connection with the dispatchers, the 20 hypothetical dispatchers collective bargaining could 21 have occurred at legacy US; correct? 22 A. Yes. It could have.	Page 342 1 And as a negotiator, you have to weigh all 2 of that. 3 When we had the me-too in the legacy US, 4 we weighed the risks. But we already had a single 5 plan for every single employee for years and years 6 and years. 7 Very different than the situation that 8 we're faced with now. 9 Q. And part of the objective -- part of the 10 objective as legacy US with respect to me-too 11 clauses in the flight attendants contract and 12 actually -- let me pause for a moment. 13 Do you know, sitting here today, whether 14 you had similar me-too clauses on health insurance 15 in all of the other work group collective bargaining 16 agreements? 17 A. I don't off the top of my head, but it 18 wouldn't surprise me if we did. 19 Q. Part of the objective of the me-too clause 20 with the flight attendants and any other work group 21 that you might have it with, part of that objective 22 was to act, in fact, as a governor on the Company's

Page 345	Page 347
<p>1 conduct with respect to bargaining?</p> <p>2 A. It would be, yes.</p> <p>3 And in fact, because we did this</p> <p>4 originally in 2002 during the restructuring,</p> <p>5 everybody wanted to make sure, you know, the pilots</p> <p>6 went first.</p> <p>7 They wanted to make sure they weren't</p> <p>8 going to be out there alone with one plan with a</p> <p>9 very significant employee contribution and that</p> <p>10 everybody would do it.</p> <p>11 Once we got that in place, again, those</p> <p>12 contracts existed with the same medical plan for 10,</p> <p>13 12 years, completely, completely different than the</p> <p>14 situation we are in now.</p> <p>15 Q. Yeah, great. So let's go back to 2002.</p> <p>16 2002, when the pilots went first, the</p> <p>17 me-too -- they negotiated the health insurance plan.</p> <p>18 And they negotiated a me-too to act as a governor on</p> <p>19 the one hand and protection on the other hand just</p> <p>20 to ensure that everybody in the Company had the same</p> <p>21 health plan; correct?</p> <p>22 A. Correct. And all those negotiations were</p>	<p>1 difference in the cost.</p> <p>2 Q. Well, that's an interesting answer, and I</p> <p>3 understand that and appreciate your observation.</p> <p>4 But in fairness, that's both a legal</p> <p>5 question for the Panel to decide whether our</p> <p>6 health -- our promises with regard to health</p> <p>7 insurance are separate from the valuation questions,</p> <p>8 number one.</p> <p>9 And number two, whether in fact a me-too</p> <p>10 as written by the parties has any value.</p> <p>11 But my point -- now I'll ask the question.</p> <p>12 MR. SIEGEL: Could we move to strike the</p> <p>13 closing arguments?</p> <p>14 MR. FREUND: Might as well hear it now.</p> <p>15 It's more effective in the middle of the</p> <p>16 case than it is at the end.</p> <p>17 BY MR. FREUND:</p> <p>18 Q. But my question to you is the same.</p> <p>19 And I think you would agree with me;</p> <p>20 right, that whatever the timing differences might or</p> <p>21 might not have been in the 2002 US Airways pilots</p> <p>22 negotiations as compared to 2014 flight attendant</p>
Page 346	Page 348
<p>1 done almost simultaneously.</p> <p>2 We're not in the same situation because we</p> <p>3 are first starting with CWA and IBT later this</p> <p>4 month. And we have no idea when we're even going to</p> <p>5 start with TWU or -- and IAM.</p> <p>6 So -- there was great comfort back then</p> <p>7 because we were negotiating them simultaneously.</p> <p>8 Here, the situation is, again, totally</p> <p>9 different.</p> <p>10 Q. The flight attendants here in 2014 have</p> <p>11 exactly the same interests in maintaining parity</p> <p>12 with the other work groups on health insurance as</p> <p>13 the pilots did at US Airways in 2002?</p> <p>14 A. They have the same interests, but the</p> <p>15 difference is that here we have negotiated and</p> <p>16 agreed to a market rate of \$112 million.</p> <p>17 Q. Well, that's a --</p> <p>18 A. Okay. And if, in fact, going back to the</p> <p>19 hypothetical, where the TWU keeps the legacy US</p> <p>20 plan, we're not talking about a million or two</p> <p>21 million dollars difference.</p> <p>22 We're talking about a very significant</p>	<p>1 negotiations, the fact remains that the pilots'</p> <p>2 interests in maintaining uniformity of health</p> <p>3 insurance plans is identical to the flight</p> <p>4 attendants' interest now in maintaining the single</p> <p>5 area of health insurance plans.</p> <p>6 A. There's no question that on this</p> <p>7 particular, I agree with you.</p> <p>8 In fact, the Company's interests are</p> <p>9 aligned as well. That's what we want, too.</p> <p>10 Q. Well, we're trying to help you.</p> <p>11 A. I appreciate that.</p> <p>12 Q. By having a Panel put the me-too in.</p> <p>13 A. Look, we are aligned. We have said it.</p> <p>14 There's no question about it.</p> <p>15 My only point, Jeff, is that we're not in</p> <p>16 total control of a situation when we're in a Section</p> <p>17 6 negotiation and faced with a possible strike.</p> <p>18 That doesn't mean we don't want to do it; we're not</p> <p>19 going to try as hard as humanly possible.</p> <p>20 But I can't predict what would happen in</p> <p>21 that situation.</p> <p>22 And if I have to do it or the Company</p>

Page 349	Page 351
<p>1 directs me to do it, meaning agree to a different 2 plan that could end up costing tens of millions of 3 dollars because I have to me-too it with the flight 4 attendants, that is something as a negotiator on the 5 behalf of the Company I have to be concerned with. 6 Doesn't mean we don't have any 7 disagreement on what we want to do and what we're 8 trying to do and what the flight attendants want 9 done.</p> <p>10 No disagreement.</p> <p>11 It's just a fact of reality that as a 12 negotiator, under a Section 6 in the Railway Labor 13 Act, I don't have total control.</p> <p>14 I have got the Mediation Board. I have 15 got the mediators. I have got the pressure that is 16 put on that can -- that can happen to make an 17 agreement.</p> <p>18 And so all of those factors do come into 19 the play. That's all I'm saying.</p> <p>20 Q. And I would say the same -- I would ask 21 the same question, and I suspect you would give the 22 same answer with respect to profit sharing.</p>	<p>1 brief break with the Board here before we wind it 2 up.</p> <p>3 MR. FREUND: Well, let's just see where we 4 are.</p> <p>5 I take it that's your last witness?</p> <p>6 MR. SIEGEL: That's our last witness.</p> <p>7 And so hopefully that's the last witness 8 in for the day.</p> <p>9 MR. FREUND: And maybe, I think we want to 10 take advantage of that break to confirm on our own 11 to decide whether there's anything else we want to 12 do.</p> <p>13 ARBITRATOR BLOCH: That's fine.</p> <p>14 (A recess was taken.)</p> <p>15 ARBITRATOR BLOCH: One note as a result of 16 conversation between Joey, our court reporter, and 17 me a few moments ago, and I think a testament to his 18 excellence and caring on the stuff.</p> <p>19 Joey indicates that in yesterday's 20 transcript, he had heard in the course of our 21 testimony in conversations reference to the "United 22 Continental" contract as to combined</p>
Page 350	Page 352
<p>1 That is, the flight attendants have the 2 identical interest to see to it that they are not 3 treated any differently than any other work group at 4 that point; correct?</p> <p>5 A. Correct.</p> <p>6 MR. FREUND: One second. That's all I 7 have got.</p> <p>8 ARBITRATOR BLOCH: Mr. Robertson, anything 9 else?</p> <p>10 MR. ROBERTSON: No.</p> <p>11 ARBITRATOR BLOCH: Mr. Glass, thank you as 12 well for your participation -- I'm sorry. Excuse 13 me.</p> <p>14 Give me just a moment, please.</p> <p>15 MR. SIEGEL: That's our case.</p> <p>16 ARBITRATOR BLOCH: Let me excuse the 17 witness before you think of something.</p> <p>18 Thank you very much, Mr. Glass. We 19 appreciate it.</p> <p>20 THE WITNESS: Thank you. (The witness stood down.)</p> <p>21 ARBITRATOR BLOCH: Now, could we take a</p>	<p>1 United/Continental contract as distinguished from 2 what was intended was the Continental and the United 3 contracts.</p> <p>4 And so he had erroneously represented that 5 with a slash instead of a comma or a dash. And he 6 informs me that, of course, that will be corrected 7 in the final version that's coming out very quickly.</p> <p>8 So, Joey, I really thank you for your 9 observation and your caring. That's a big deal. 10 Appreciate your bringing it to our attention.</p> <p>11 I am going to suggest to the parties that 12 number one, as anticipated, your presentations have 13 been comprehensive and very responsive to the job 14 that this Board needs to perform.</p> <p>15 And I'm saying that not solely to warm 16 your hearts, but to tell you that I think I am 17 convinced, and I know my colleagues feel the same 18 way, that we do not need closing arguments, per se.</p> <p>19 MR. FREUND: That's because I have already 20 given closing argument in cross-examination.</p> <p>21 ARBITRATOR BLOCH: I was about to say 22 "again."</p>

1 But with obvious thanks for the 2 comprehensiveness of the presentations themselves. 3 And with this one request: We would 4 welcome a short -- and by that I mean, five pages or 5 less -- discussion of the one, call it, legal, 6 contractual question that we have discussed during 7 the course of the hearing. 8 That is the contractual basis, contractual 9 commitment, as has been represented by the Union, 10 underlying the single health system. 11 And I'm referring, at least, to the CLA 12 and the December 31 clarifying document. 13 So if you could do that, my understanding 14 from your representations is that we could have a 15 brief on that a week from today, if that's okay. 16 MR. FREUND: Yes. 17 MR. SIEGEL: Yes. 18 ARBITRATOR BLOCH: And I would ask, if you 19 don't mind, send copies directly to all of the Board 20 members, as well, of course, as to exchange between 21 yourselves. 22 We are going to -- the Board is going to	1 MR. SIEGEL: And certainly thanks to 2 the -- I'm sure Jeff agrees -- thanks very much to 3 the Panel. 4 It's a lot of information, and it's an 5 expedited process, and we very much appreciate your 6 dedication and professionalism. 7 MR. FREUND: Agree absolutely. 8 ARBITRATOR BLOCH: Thanks again. 9 And I'll close the record. 10 (Whereupon, the proceedings in the above-captioned 11 matter were concluded at 1:57 p.m.) 12 13 14 15 16 17 18 19 20 21 22
1 convene right after this to discuss our own 2 calendars because all of us recognize, not only the 3 serious nature of the issues that have been brought 4 forth, but the advisability of getting a response to 5 this just as quickly as we possibly can. 6 So consistent with the requests that I 7 made to counsel on the quick briefing, we would be 8 looking to give you an equally quick response, and 9 we will know a lot more after we have a little 10 lunch. 11 So let me just inquire from counsel, and 12 also my colleagues whether there is anything else I 13 should know? 14 Gentlemen, anything else? 15 MR. FREUND: Nothing for us. 16 MR. SIEGEL: No. 17 ARBITRATOR BLOCH: So in addition to 18 extending my thanks on behalf of all of us to the 19 counsel, to the witnesses, I thank you all for your 20 endurance and patience in sitting through this. 21 And we look forward to getting back to you 22 as quickly as possible.	1 CERTIFICATE OF REPORTER 2 I, Joseph A. Inabnet, do hereby certify 3 that the transcript of the foregoing proceedings was 4 taken by me in Stenotype and thereafter reduced to 5 typewriting under my supervision; that said 6 transcript is a true record of the proceedings; that 7 I am neither counsel for, related to, nor employed 8 by any of the parties to the action in which these 9 proceedings were taken; and further, that I am not a 10 relative or employee of any attorney or counsel 11 employed by the parties thereto, nor financially or 12 otherwise interested in the outcome of the action. 13 14 15 16 17 18 19 20 21 22

\$	[
\$1 (1) 226:19	[Article] (1) 307:5	302:14 act (9) 212:11;318:20; 319:1,2;332:13;333:1; 344:22;345:18;349:13	345:11;346:8;352:22; 355:8 against (2) 303:21;304:17
\$1.2 (1) 295:14	A	aggregate (10) 208:15,18;285:15; 292:11;293:4;312:22; 313:15;315:10;320:8; 323:19	237:8 airline (7) 205:13;242:10; 251:4,20;278:21,21; 279:3
\$10 (1) 226:19	AA (3) 301:12;304:4;319:9	ago (5) 217:2;221:21; 251:10;283:7;351:17	Airlines (5) 225:9;259:6;275:15; 289:6;327:2
\$100 (3) 281:1,12;286:3	abandonment (1) 339:14	agree (17) 212:18;216:6; 218:16;260:3;264:5; 268:11,22;277:20;	Airways (19) 300:13;301:6; 302:18;306:7;307:17; 315:12;317:21; 323:15;326:15,21; 327:4;329:10,16; 330:1;339:15;343:4,4; 346:13;347:21
\$112 (41) 208:2,4,7,11;209:10, 15,20;210:10,21; 211:2;218:12;219:6; 246:20;247:14; 249:18,21;253:19; 261:20;262:8,13,21; 263:13;264:3;265:2; 267:11;268:13;269:2, 6,10,12;271:22; 280:13;283:21;285:8; 286:18;287:10; 294:16;295:3;299:16; 303:3;346:16	abide (1) 270:5	actually (27) 209:11;211:3,22; 212:4;214:8;215:3,9, 10;216:1,2;223:17; 236:17;244:7,9; 254:18;262:12;272:3, 9;274:17;281:21;	Akins (3) 253:1;292:14;300:7
\$114 (1) 297:6	abiding (2) 271:18,19	284:15;306:18;335:7; 337:18;338:11; 341:12;344:12	aligned (2) 348:9,13
\$116 (2) 234:4,19	ability (13) 237:4;265:6,8,10, 22;272:20;273:1,2,3; 283:18;321:19; 331:21;332:1	able (13) 206:3;239:1,2; 245:6,9;246:7;258:22; 261:2;267:9;269:16; 273:20;307:20;319:13	allow (1) 244:3
\$150 (7) 234:8,17,20;235:10; 239:10,13;258:21	above (7) 209:9,20;210:10; 219:6;246:20;269:12; 287:12	ad (1) 289:18	allowed (1) 215:16
\$2 (2) 296:22;303:19	above-captioned (1) 355:10	add (1) 315:18	allowing (2) 212:11;243:20
\$3 (3) 294:4,13;295:2	absence (1) 240:12	addition (2) 208:22;354:17	allows (8) 211:17,21;243:3,10, 12;245:21;246:1,17
\$3.75 (1) 235:11	absent (4) 207:22;208:9; 209:14;269:6	additional (14) 212:9,13;237:16,17; 242:13,17;243:15,21; 254:10;260:4;266:18; 283:2;294:12;302:21	almost (3) 209:18;246:7;346:1
\$35 (1) 286:6	absolute (1) 259:20	additionally (1) 330:17	alone (2) 334:13;345:8
\$5 (1) 226:18	absolutely (14) 222:20;223:6;241:2; 261:11,11;280:14; 282:10;283:14;	address (3) 244:10;328:10,11	aloud (1) 221:4
\$50 (49) 208:13;211:19; 212:4;214:1;215:7,18; 218:21;219:3;229:12; 230:2,3,8;231:11,16; 232:11;241:15;242:3; 243:5,14;244:4,18; 245:11,14,22;246:21; 273:5,16;274:8; 279:21;280:9,20; 281:5;282:12,16,19; 283:6;284:3,8,13,15, 17;285:3,4,6,12,13,14, 19,21	285:22;286:9;323:9; 337:13;338:3;355:7	addressed (1) 251:15	alter (1) 277:17
\$6 (3) 295:3,10,11	absolutes (1) 256:20	advance (1) 309:4	altered (1) 279:6
\$62 (1) 208:17	academic (1) 254:15	advantage (2) 243:3;351:10	alternative (3) 218:4,7;219:2
\$8.70 (1) 235:14	accept (4) 238:12;266:4; 275:19;305:15	advisability (1) 354:4	alternatively (1) 273:6
	accounting (1) 265:5	affect (3) 261:17;295:13,16	always (9) 204:8;214:7;217:10; 251:18,20;268:18; 277:8,18;303:13
	accurate (2) 321:8;332:5	afternoon (2) 324:21,22	ambiguity (1) 313:20
	achieved (1) 275:22	again (31) 215:16,17;219:4; 221:16;222:13;	amendable (3) 298:1;299:9;300:1
	acquiesced (1) 230:1	225:14;231:21;	America (1) 327:2
	acquiescence (1) 247:21	238:10;244:3;245:1; 251:5;260:10;262:22;	American (24) 225:8;235:20;253:1; 259:5,6,7,8,10,11; 266:9;275:15;289:6,7, 21;290:3;300:11,13, 15;301:3,7,8,8;315:12; 330:1
	across (1)	264:5,9,11,22;267:19; 268:21;274:19;	amongst (1) 212:16
		277:20;284:18,19; 286:19;297:21;	amount (10)
		329:15;338:13;	

212:5;222:17; 233:18;235:17;238:6, 20;241:16;264:7; 283:4;332:17 amounts (1) 280:2 analysis (9) 230:22;240:11; 253:5;287:18;289:9, 19;290:13,21;303:20 analyst (2) 290:8,15 analyze (1) 291:3 ancillary (1) 289:18 and/or (1) 330:17 anniversary (1) 326:1 annual (9) 293:16;294:15,22; 296:1,6,17;297:1,5,21 annually (2) 208:2,12 answered (2) 257:12;303:17 anticipated (3) 265:17;298:7; 352:12 APFA (78) 207:21;208:7,20; 209:1,13;210:17; 211:1,7,16,17;212:9; 213:8,17,22;214:6; 215:14;216:5,8;217:7, 15;218:5,17;219:15, 19;224:14;228:13; 229:7,20;230:5;231:8, 13,20;233:16;235:22; 241:14,16;242:3,4; 243:3,10;244:3,15,22; 246:16;247:7;249:19; 258:16;260:1,22; 261:9,10,10;262:15; 268:2;269:14;273:11, 13,20;274:7;275:14, 14,16;276:8,21;278:9; 279:11;280:2,3,7; 284:7,22;292:1; 295:20;298:13; 299:20;304:21;305:9; 322:6 APFA's (11) 208:14;210:9; 213:21;216:5;219:6; 232:1;233:5;255:3; 256:16;282:17;339:11 apologize (1) 241:1 appear (1) 307:13 appears (1)	314:19 Apple (13) 233:22;234:1,1,4,17, 18,20;235:9;239:9,10; 255:1;257:15;258:21 application (1) 307:3 applied (5) 300:11,14;301:2,7,8 applies (1) 333:6 apply (8) 250:6;294:21; 301:10;302:7;304:6; 307:22;323:17,22 applying (1) 301:16 appreciate (7) 241:3;324:15;347:3; 348:11;350:19; 352:10;355:5 approach (1) 230:12 approaching (1) 332:20 appropriate (3) 226:22;334:20; 338:8 approximately (2) 327:9,11 April (1) 326:21 arbitrating (1) 253:9 arbitration (6) 229:22;230:2;252:1; 292:12;307:4;338:1 ARBITRATOR (58) 204:2,12,21;205:17; 217:18,20;221:18,20; 222:9;223:4;224:4,18, 21;225:17,21;229:3,9, 10;230:11,17;231:19; 236:6;237:1,6;238:18, 22;239:17;240:6,10, 22;241:3;247:18; 248:4;254:1,7,9; 271:6;272:12;288:1,3, 5,10,17;297:9;324:13, 17,22;331:8;350:8,11, 16,22;351:13,15; 352:21;353:18; 354:17;355:8 area (3) 222:14;326:8;348:5 areas (1) 326:11 argue (1) 277:4 arguing (1) 324:3 argument (2) 298:18;352:20	arguments (2) 347:13;352:18 around (2) 227:8;232:19 arrangements (3) 306:22;307:1; 321:13 application (1) 306:22;307:1; 321:13 arrive (1) 249:11 articulate (1) 339:21 ascertain (1) 315:9 ascertaining (2) 313:14;315:2 ascribed (2) 241:16;314:10 aside (1) 212:19 assessed (1) 341:11 assessment (1) 209:7 assign (14) 309:22;312:21; 313:2;314:14;315:1, 13;316:8,19;317:8,22; 323:14,18;324:7,8 assigned (5) 301:21;302:12; 316:15;317:18;339:17 assigning (1) 317:2 assignment (1) 248:20 Associates (1) 325:22 assume (14) 210:16;217:7;266:6, 10;276:6;298:3;299:4, 5,6;312:9,12,17,18; 331:11 assumed (4) 296:6;318:9,19,19 assuming (3) 297:21;324:2,3 assumption (3) 312:20;313:3;318:7 assumptions (4) 253:17,18;293:1; 320:7 attached (2) 253:17;297:19 attack (2) 245:5;279:20 Attendant (13) 289:15;291:8,12; 296:18;301:6,11; 302:9;306:8;307:18; 308:18;311:3;323:20; 347:22 attendants (43) 236:11;262:1,20;	264:14,17;265:3; 266:19;267:12; 268:12;269:1;272:1; 273:4,11;276:17; 286:16;296:12; 301:13,15,17;304:3,4; 305:14;307:2;310:2,4, 16;311:13;312:16; 313:9;314:12,12; 317:3;318:9;321:15; 339:4;341:3,6;344:11, 20;346:10;349:4,8; 350:1 attendants' (4) 309:1;313:10;343:6; 348:4 attendant's (1) 284:20 attention (4) 207:8;210:1;213:2; 352:10 attributable (1) 340:12 attributed (4) 229:4,7;266:18; 307:19 attributes (1) 226:11 audience (1) 206:11 August (1) 290:9 author (1) 221:16 authority (1) 335:14 available (2) 283:10;308:21 average (12) 208:4;262:8;281:18; 286:6;293:16;294:16, 22;295:1,13;297:1,5, 20 aversion (1) 223:19 award (1) 299:6 awarded (2) 292:11;293:18 aware (3) 208:4;252:17; 329:17 away (4) 258:5;317:2,6; 333:11 B Bachelor (1) 291:16 back (52) 215:17;217:1; 232:14;234:14;244:3, 309:20;340:3,9 basic (14)
--	--	---	--

210:13,13;211:10; 212:14,17;214:18; 220:2,9,14;223:1; 225:14,15;238:15; 250:20 basically (1) 290:20 basics (2) 216:11;252:21 basing (1) 278:22 basis (5) 206:17;212:4;243:5; 334:6;353:8 beans (1) 287:5 became (5) 252:18,20;275:1; 298:8;326:21 become (4) 239:6,7;242:16; 293:18 becomes (3) 209:16;219:5; 298:21 behalf (2) 349:5;354:18 behavioral (1) 230:22 Benchmarking (2) 290:11;291:7 benefit (10) 243:7,15;256:5; 268:2;305:14;308:17, 20,22;309:7;310:21 benefited (1) 263:21 benefits (8) 220:20;225:13; 264:7;266:11,12,17; 291:4;310:5 beside (2) 276:4;335:13 best (6) 204:11,16;205:19; 206:1;269:22;279:1 bestowed (2) 213:16;225:5 bestows (1) 214:11 bet (6) 246:9,12,18;283:12, 15,17 better (20) 210:19;217:10,16; 218:1,11;219:2; 228:10,14;231:14; 253:8,11;266:12,14; 269:17;277:9;278:17; 305:12;310:14; 311:11;312:15 beyond (4) 246:20;253:6;	295:21;321:19 bid (6) 333:21;335:19; 336:7,13,16;337:1 big (2) 306:1;352:9 bilateral (1) 256:1 billion (1) 263:15 bit (10) 211:3;219:13; 232:18;257:14; 258:12;275:10,12; 300:5;321:1;337:14 blackjack (1) 246:8 BLOCH (51) 204:2,12,21;205:17; 217:18,20;221:18,20; 222:9;223:4;224:4,18, 21;225:17;236:6; 237:1,6;238:18,22; 239:17;240:6,10,22; 241:3;247:18;248:4; 254:1,7,9;271:6; 272:12;288:1,3,5,10, 17;297:9;324:13,17, 22;331:8;350:8,11,16, 22;351:13,15;352:21; 353:18;354:17;355:8 Board (10) 207:16;212:22; 225:19;287:7;304:11; 349:14;351:1;352:14; 353:19,22 Board's (1) 244:10 Bob (2) 272:16;304:12 Bob's (2) 247:21;304:17 boiled (1) 249:22 book (4) 308:6;313:6,9,11 books (3) 220:13;260:11; 306:1 both (9) 213:1;254:14;255:3; 293:2;302:12;303:6; 320:8;334:10;347:4 breadth (1) 329:4 break (4) 248:2;300:18;351:1, 10 brief (3) 254:2;351:1;353:15 briefing (1) 354:7 briefly (3)	272:14;291:14; 300:6 bringing (2) 296:17;352:10 big (2) 255:8,9 broader (2) 251:21;300:5 broadest (1) 315:7 Broadly (1) 267:1 broken (2) 208:12,12 brought (1) 354:3 building (1) 252:14 built (1) 273:5 burden (4) 250:8;256:5;264:21; 268:7 business (2) 326:2,7 bust (2) 330:15,16 buy (6) 223:13,16;234:16, 20;239:12;258:21	244:7;246:3;256:2,4, 17;258:4;269:22; 270:14,18,21;274:10; 275:7;277:6;278:13; 281:14;289:12;290:2; 291:21;300:16;304:9; 305:15;312:11;318:7; 326:4,17;328:8; 330:11;338:1,22; 339:20;349:16,16; 354:5 capture (1) 319:11 capturing (1) 318:13 cards (4) 246:10,13,13,18 career (1) 327:8 caring (2) 351:18;352:9 carrier (1) 301:20 case (17) 211:6;215:5;218:10; 222:20;226:5;234:17; 235:20;236:1,14,21; 237:10;247:13;260:1; 273:3;333:22;347:16; 350:15 cash (1) 285:21 cause (1) 242:18 CBA (7) 211:19;213:9,10; 215:8,8;244:21; 329:11 CBAs (3) 227:18;237:17; 330:2 ceases (1) 215:13 celebrating (1) 326:1 cents (3) 235:6;239:22; 261:22 cereal (4) 223:10,12,21,21 certain (17) 211:19;218:21; 220:18;222:18;230:8; 232:4;241:22;244:4; 245:14,16;246:3,4; 279:12,14;286:10; 308:20;320:11 certainly (10) 226:3;245:15; 252:20,22;253:3; 315:22;321:18;323:7; 337:22;355:1 certainty (25)	212:5;227:2;230:7; 232:6;241:20,21; 242:3,19;243:5;244:8; 245:12;246:1,21; 279:22;280:9,17,18; 282:13,13;283:3,6,16; 284:2,8,17 challenge (1) 226:8 chance (3) 260:14;269:14; 318:14 change (13) 211:21;242:18; 264:6;268:18;272:14; 277:6;278:12;294:2; 310:11,13;318:14; 319:2;320:17 changed (6) 264:8;265:11; 272:21;273:2;310:10, 10 changes (7) 309:3,5,7;310:8,22; 311:1;315:11 changing (2) 264:7,8 characterization (2) 253:20;267:10 characterize (1) 283:12 checking (1) 304:17 Cheerios (5) 223:9,13,14;226:1, 10 chef (1) 321:12 Chief (5) 326:22;327:12,15, 21;331:20 choice (23) 217:11;259:19,20; 261:1;268:6;272:20; 273:1,4,11,14;276:9, 10,15,16;277:10; 278:9,10,11;282:6,9; 283:8;285:5;311:3 choices (1) 217:13 choose (4) 211:8;214:9;219:1; 244:18 chooses (3) 266:20;280:5; 284:10 choosing (2) 217:15;259:16 chose (3) 286:4;310:11,13 chosen (3) 217:22;280:4;281:2 Christmas (1)
---	--	--	--	--

204:7	300:13;301:22;302:2, 3;305:13;306:8,12; 311:18,21;315:12;	comparator (2) 208:19;303:21	308:22	352:2
cinnamon (1)	327:6;334:10;335:8, 12;337:18;338:8,14,	comparators (1) 303:22	conduct (1) 345:1	Continental's (1) 319:8
204:8	15;339:15,17;342:11, 20;343:21;344:15	compared (2) 301:19;347:22	confer (1) 216:16	contingency (2) 230:13;236:15
circle (1)	circumstance (2) 297:15	compensation (4) 241:18;273:7; 286:11;322:15	conferred (1) 214:15	Contingent (1) 314:19
297:15	271:18;280:3	completed (1) 343:22	confirm (1) 351:10	continue (1) 334:11
circumstances (1)	276:11	completely (3) 206:17;345:13,13	confused (1) 336:15	continuing (1) 215:19
276:11	cited (1) 220:7	complex (1) 251:15	confusing (1) 284:1	contract (46) 228:8;255:20;273:5;
CLA (1)	353:11	complicated (2) 219:14;224:15	confusion (1) 260:5	287:17;292:11; 294:20;295:8,14;
353:11	clarify (2) 248:13;254:17	component (10) 212:8;241:11; 245:20;249:8;316:20;	connection (5) 252:12;270:7;	296:7,8,10;298:6,16;
248:13;254:17	clarifying (1) 353:12	317:18,19,20;319:5; 323:3	consequence (3) 267:2,3;317:15	299:13;301:7,8,11,16;
353:12	class (1) 250:21	components (4) 208:13;215:1;316:1, 3	consequences (2) 270:5;330:22	302:18;305:6,6;
250:21	clause (18)	comprehensive (2) 319:13;352:13	consider (4) 316:1;319:16,17; 328:18	307:18,19;308:12;
307:8,10,12,13,16; 311:9;312:13;313:21; 314:16;315:2,14; 316:8;317:20,21; 323:20;324:3,4; 344:19	309:16;352:7	considerably (1) 222:5	consideration (1) 317:4	310:1,3;312:3;313:3;
309:16;352:7	comma (1) 352:5	Computer (1) 234:1	considered (1) 316:6	10,13;316:4;317:13;
352:5	comment (1) 300:2	concede (2) 256:21;268:9	considering (1) 302:10	320:9,9;326:9;329:16;
352:5	300:2	conceded (2) 207:21;249:19	consisted (1) 291:10	20;336:3;338:16;
300:2	commitment (4) 258:4,5,11;353:9	conceive (1) 257:1	consistent (1) 354:6	340:20;343:3,6;
258:4,5,11;353:9	Committee (1) 292:4	concentration (1) 291:19	constitute (1) 229:16	344:11;351:22;352:1
292:4	292:4	concept (2) 232:16;284:2	constraints (1) 271:19	contracts (16) 208:19;255:22;
292:4	common (2) 233:22;234:3	concepts (2) 220:10;258:1	consulting (1) 325:15	300:10;301:1,2,20;
233:22;234:3	Company (91)	concerned (1) 349:5	contained (9) 252:15;253:18;	302:4;303:21;304:18;
Company (91)	205:3,6;206:2,5; 207:8;213:10,18; 214:2,13;215:13;	conclude (2) 218:6;266:13	255:3;256:16;299:8;	309:21;316:20;319:7;
205:3,6;206:2,5; 207:8;213:10,18; 214:2,13;215:13;	224:14;227:13,15,18, 20;228:8,15,17,20;	concluded (2) 343:18;355:11	304:19,20,21;305:12	327:10,11;345:12;
224:14;227:13,15,18, 20;228:8,15,17,20;	229:14,17,21;236:15;	concludes (1) 247:17	contemplated (1) 250:14	352:3
229:14,17,21;236:15;	237:17;242:6;243:11; 244:13;245:16;246:4;	concluding (1) 270:4	contemplates (1) 237:13	contractual (3) 353:6,8,8
244:13;245:16;246:4;	251:4;261:13;262:6, 16;263:10,22;264:17,	conclusion (5) 247:4;249:12;	contested (3) 208:1,9;212:21	contribution (2) 314:21;345:9
251:4;261:13;262:6, 16;263:10,22;264:17,	271:21;288:15,21;	310:19;312:2;322:21	context (11) 213:9;218:2;250:13;	contributions (1) 314:9
271:21;288:15,21;	292:5;293:12,16;	conclusions (1) 247:5	251:1,3,12,21;255:5;	control (2) 348:16;349:13
292:5;293:12,16;	294:12;296:20;	concrete (1) 232:20	262:3;268:11;286:10	convene (1) 354:1
294:12;296:20;	303:10;308:20,21;	conditioned (1) 274:14	Continental (18) 285:17;300:11,22;	conversation (1) 351:16
303:10;308:20,21;	309:3,6,7;310:7,10,15, 21;311:9,11;314:7;	conditions (1)	301:1;302:2;304:7;	conversations (2) 320:4;351:21
309:3,6,7;310:7,10,15, 21;311:9,11;314:7;	318:20;319:1;322:4,7, 9;325:5,17,20;326:10;		308:8,8,11;309:21;	convinced (1) 352:17
318:20;319:1;322:4,7, 9;325:5,17,20;326:10;	327:22;329:8;331:3,6, 17;333:7;334:19;		310:3;312:22;313:15;	cooling-off (2) 332:19,21
327:22;329:8;331:3,6, 17;333:7;334:19;	335:9;343:9;345:20;		315:4;324:5,6;351:22;	copies (3) 206:9;304:12;
335:9;343:9;345:20;	348:22;349:5			353:19
348:22;349:5	Company's (7)			copy (1) 206:14
Collective (43)	208:20;265:22;			corn (1) 223:16
229:4;250:4,7;	266:2;331:4;334:1;			corn-based (1) 223:21
251:1,2,6,8;252:13;	344:22;348:8			corporate (2) 220:9;260:12
262:6,16,19;266:8;	company-wide (1)			corrected (1) 352:6
267:4;275:13,15,21;	310:20			
276:4;289:16;298:2;				

correctly (4) 236:12;272:16; 316:19;319:22	creating (3) 250:6;269:7;307:18	246:9,12,13 debate (3) 220:17,21;331:1	251:9;262:4;266:22; 267:16;268:5,15; 270:3;272:20;286:17;	210:1;213:2;247:3; 248:13;270:13,20,22; 271:2,13;288:22; 325:6;339:2
cost (33) 214:22;227:12,14; 228:19,20;229:3,4,6; 264:17,21;267:17; 268:3,7;270:6;271:20; 291:11;292:8;293:12, 16;294:12,16;295:13, 14;296:19;298:21; 301:15;318:10; 321:16;331:5;341:2,4, 9;347:1	CROSS-EXAMINATION (4) 248:7;297:11; 334:16;352:20	December (22) 204:3;293:8,20; 294:1,6;295:22;296:3, 3,4,11;297:3,4,19,21; 298:14,18;299:7,10; 333:15;334:3;337:10; 353:12	describing (2) 292:22;337:19	directly (1) 353:19
costing (13) 252:11;253:1; 306:13;308:12; 323:16;339:18; 340:14,15,16;341:13, 16;342:1;349:2	current (7) 289:22;301:16,20; 329:10,20;330:1; 332:18	decide (8) 219:16;228:9;287:8, 17;312:11;332:16; 347:5;351:11	description (1) 250:9	directs (1) 349:1
costs (10) 225:11;266:18; 291:3;302:13;303:6; 304:5;331:3,9,11,17	cut (1) 267:21	decided (3) 215:10;244:6,17	design (1) 314:20	disagree (2) 278:4,18
counsel (10) 205:4;206:9;207:3; 288:20;294:7;325:4; 329:10;354:7,11,19	CWA (2) 343:18;346:3	decision (19) 211:21;212:3;214:1, 9;215:7,17;230:20; 243:13,22;253:16; 273:19;274:11,12; 277:19;281:4;284:7, 11;285:1;341:4	designed (3) 300:9,21;301:5	disagreement (2) 349:7,10
counsel's (1) 206:21	D			
count (1) 287:5	Dame (2) 291:16,20	decision-making (1) 323:10	determination (1) 243:6	disconnect (1) 285:12
counter (1) 204:9	Dan (6) 292:20;300:7,8; 303:5;319:20;320:1	decisions (3) 232:3;277:7;278:17	determine (6) 224:17;249:15; 291:5;292:8;301:15; 304:4	discount (2) 240:11;322:2
counterpart (1) 214:20	Darin (2) 204:19;207:2	decreased (1) 263:9	determined (4) 224:11;241:14; 301:18;315:3	discounted (3) 240:15;321:4,10
counterparty (5) 214:13,15;225:7,8; 258:10	darkness (1) 278:17	dedication (1) 355:6	determining (1) 312:21	discuss (5) 206:19;208:1; 209:21;211:14;354:1
couple (10) 230:4;236:9;248:1, 16;254:16;281:7; 297:13;300:18; 304:12;331:21	dash (1) 352:5	deemed (1) 212:6	develop (4) 223:19;256:22; 257:2;292:7	discussed (2) 271:13;353:6
course (12) 233:7;242:8;255:8; 277:12;285:9;302:10, 11;327:8;351:20; 352:6;353:7,20	date (29) 237:9;244:22; 259:12,12,12;293:9, 20;294:1,5,6,8,20; 295:7,22;296:2,7,10; 297:3,19,22;298:2,14, 14,16,21;299:9;300:1; 309:5;333:16	decreased (1) 263:9	developed (2) 252:21;292:19	discussing (1) 206:4
court (2) 204:6;351:16	dates (1) 234:9	dedication (1) 355:6	development (2) 292:14,21	discussion (7) 256:15;276:7; 297:16;324:2,4,20; 353:5
cover (3) 326:11;329:6,8	day (16) 250:2,8;255:19; 257:16;268:22; 286:12;321:11; 332:20;333:21; 335:19;336:7,13,13, 16;337:1;351:8	deemed (1) 212:6	dictate (1) 232:7	dispatchers (9) 332:14,15,16;333:3, 5;342:5,6,19,20
coverage (1) 314:10	daylight (1) 278:18	definition (8) 211:1;224:3;237:5; 243:19;247:11,12; 261:3;284:11	diem (9) 329:19,21;339:3,5, 11;340:1,8,13;341:7	dispute (2) 269:4;307:2
covered (4) 238:2;241:7;308:19; 343:16	days (1) 298:22	definitionally (3) 209:19;219:5; 304:20	difference (7) 259:9;294:5;328:22; 341:14;346:15,21; 347:1	disputed (3) 212:16;252:17; 253:4
create (5) 302:21;330:7;335:2, 7;337:18	de (6) 316:1;318:16; 319:17;320:18,18; 322:20	Delta (8) 285:17;300:11,22; 301:1;302:3;304:6; 313:16;319:8	differences (2) 320:5;347:20	disputes (1) 253:4
created (2) 257:9;335:4	deadline (1) 333:1	delve (1) 259:9	different (29) 216:6;223:10;	distance (1) 206:12
	deal (3) 228:12;266:10; 352:9	Department (2) 290:6;291:3	depth (1) 229:12;234:8;255:2, 21;258:1,7,12;261:14;	distinction (2) 229:18;236:8
	dealt (3)	depend (2) 234:22;263:9	dependent (1) 222:1	distinguished (1) 352:1
		depends (2) 222:21;293:17	describe (9) 207:9;213:4;249:5; 257:8;289:12;290:2; 291:21;326:4;328:8	distinguishing (1) 323:12
		depth (1) 329:4	describe (9) 207:9;213:4;249:5; 257:8;289:12;290:2; 291:21;326:4;328:8	distributed (2) 205:4,22
		diminished (1) 222:5	diligence (1) 290:21	division (1) 211:18
		direct (16) 206:18,21;207:5,7;	diminished (1) 222:5	DL (1) 285:16
			direct (16) 206:18,21;207:5,7;	Doctor (2) 216:18;247:15
				document (3) 205:4;306:6;353:12
				documents (1) 315:21
				dollars (9) 244:11;261:21; 263:15,18;271:22; 284:19;285:19;

346:21;349:3	eat (1) 223:8	elect (1) 218:18	272:10;287:21; 313:5;317:8;319:3;	283:13;285:3;322:1
done (9) 220:7;230:21; 233:20;252:11; 267:17;288:1;337:11; 346:1;349:9	eaten (1) 223:14	elected (1) 341:6	320:13;323:2	everybody (6) 204:10;336:15; 343:15;345:5,10,20
Doug (1) 332:4	Ebola (2) 245:5;279:21	electing (1) 219:2	ensure (1) 345:20	everyone (5) 208:3;250:19,19; 252:17;310:12
down (20) 208:12,12;230:5; 246:8;249:22;253:14; 261:1;263:8;265:1; 269:14;272:17; 281:16;299:10; 304:10;306:2;318:15; 320:3;324:16;343:11; 350:21	economic (32) 209:7;210:13; 211:11;220:19; 225:15;226:6,11; 227:3,10,12;228:20; 231:1;232:7;249:17; 250:1,9;265:21; 293:11;296:19;302:8; 316:2,6;317:8;318:6, 13;319:11;321:10; 328:16;329:1,2,13,17	element (3) 239:22;305:22; 315:6	entered (1) 255:22	evidence (4) 205:8;206:7;212:22; 304:15
downward (1) 237:9	economically (1) 323:1	elements (2) 315:22;322:22	entire (4) 237:22;264:19; 267:15;268:4	evolution (1) 253:9
Dr (16) 204:19,21;205:2,11, 20;207:7;210:1;213:3; 219:8;241:5;247:2; 248:9;254:13;288:7; 320:22;331:3	economics (13) 205:12,12,12; 210:13;212:17; 214:19;230:22;249:6, 16;250:21;254:20; 298:10;321:19	eligible (1) 308:19	entitling (1) 285:3	evolve (2) 282:17,21
drag (1) 237:22	economist (3) 212:18;213:11; 241:19	else (9) 248:16;251:3;256:7; 312:11;324:17;350:9; 351:11;354:12,14	equal (6) 229:16;233:1,9; 240:5;249:21;298:3	Exactly (4) 239:19;250:18; 336:1;346:11
draw (1) 322:21	economists (3) 217:16;220:20; 231:8	elsewhere (2) 307:20;330:22	equally (1) 354:8	exam (2) 206:18,22
drawing (1) 310:18	economist's (1) 212:16	embedded (1) 248:12	equivalence (13) 212:5;230:7;242:3, 19;243:6;246:22;	examination (7) 207:3,5;288:20,22; 325:4,6;339:3
drawn (1) 236:8	economists' (1) 212:16	emphasize (2) 212:15;220:11	280:17;282:13,14; 283:6,16;284:2,17	examined (3) 207:4;288:21;325:5
draws (1) 237:9	economist's (1) 231:12	employed (3) 289:5,6;325:11	equivalent (5) 232:6;241:20,21;	example (30) 213:20;218:2;223:8;
due (1) 290:21	economy (3) 245:3;277:22;	employee (8) 314:8,9;21;326:20; 329:8;332:6;344:5; 345:9	244:8;284:4	226:1,10;227:7,16;
during (8) 207:15;239:3; 302:11;314:6;322:6; 341:3;345:4;353:6	educational (1) 291:14	employees (6) 308:21;322:11,13, 18;326:10;343:13	erroneously (1) 352:4	232:20;233:21;239:8;
	effect (10) 265:20;296:9; 297:20;300:3;320:19; 321:4;333:16;336:6, 12;337:1	encapsulated (1) 249:1	error (1) 321:20	243:8;255:1;258:20;
	effective (18) 271:19;293:9,19; 294:1,5,8,20;295:7,21; 296:7,9;297:3;298:9, 14,16,20;309:5;347:15	end (19) 211:14;233:11,12; 236:2;240:3;250:2,7; 252:19;255:19;	essentially (12) 214:15;241:22;	266:7;271:13;275:8;
	effectively (3) 239:18;249:22; 307:17	ends (1) 263:12;268:22; 269:18;286:12;290:9;	243:12;245:21;	279:6,9;294:7;296:8;
	efforts (1) 319:20	endurance (2) 298:19;332:22;	246:17;249:1;258:3, 10;281:20;292:7;	297:2;310:11;312:14;
	eighth (1) 318:3	ended (2) 337:9,10	299:12;316:10	316:12;328:19;
	either (16) 209:8,17;210:8,17, 22;211:6;217:8;	endorse (2) 204:10,15	establish (5) 300:9,21;301:5;	329:19;332:10,14;
	easing (1) 220:17	ends (1) 321:4	321:22;335:7	336:2;342:4
	easy (3) 219:10;227:4;287:4	engineering (1) 288:8;354:20	established (4) 293:20;296:5;	ex-ante (1) 287:1
		engaged (1) 338:15	308:22;341:1	exceeding (1) 249:18
		engaging (1) 258:8	establishing (1) 309:20	excellence (1) 351:18
		Engineering (1) 291:17	European (1) 259:10	excess (1) 285:8
		enhance (1) 273:3	evaluation (1) 289:15	exchange (4) 231:10;273:16;
		enhances (1) 273:2	even (19) 211:5,8;212:22;	286:10;353:20
		enjoy (1) 204:10	219:17;220:4;223:13,	excluding (3) 247:8;249:20,20
		enough (7)	22:226:10;232:22;	exclusively (1) 316:4
			233:10;236:20;	Excuse (3) 225:21;350:12,16
			238:13;240:3;268:11;	Executive (1) 326:21
			278:7;316:7;332:2;	exercisable (5) 222:18;236:22;
			336:14;346:4	239:7;259:11;275:1
			event (5) 213:19;260:4;	exercise (37) 210:17;214:7,10;
			277:12;280:6;321:5	217:8,15,22;218:6;
			events (7) 222:19;277:1;	219:16;231:2,13;
			278:22;279:16;	233:19;235:1;236:21;
				238:7,10,21;239:2,11;

245:1;252:11;258:14; 17,18;259:1,16,20; 261:2;268:17;269:16; 280:4;281:2;300:6,8; 301:9,21;302:6; 323:16	216:19;229:10; 309:6;311:1;330:11; 340:17,19	222:4;253:20;258:2; 13;267:10;294:11; 313:5;331:8	236:10;240:4;241:7,8; 243:9;246:9;248:21; 273:20;296:10,13;	forbid (1) 245:4
exercised (28)	explaining (2)	fairly (4)	foresee (1)	force (2)
210:14,22;211:5; 214:17;215:6;217:5; 218:17;219:5,11; 220:5;225:10;226:12; 233:13;235:18;236:3; 237:1;239:15;240:3,4; 244:15;247:13; 257:21,22;263:5; 265:9;268:15;280:10; 341:16	226:9;292:21	245:16;246:3;247:6; 252:17	238:18;335:19;336:5, 6,13,13,14,16;337:1;	258:9;301:3
exercises (2)	explanation (1)	fairness (2)	fitness (1)	form (1)
230:15;308:12	260:6	328:12;347:4	204:13	265:4
Exercising (2)	explicitly (1)	false (1)	fits (2)	forth (1)
258:7,7	316:21	286:8	331:1,2	354:4
Exhibit (12)	ex-post (7)	familiar (5)	five (14)	forward (14)
205:3,6;206:2,5; 207:8;304:13,14; 306:1;327:18;328:2, 19;333:15	274:12;276:19,20; 277:7;286:21;287:1, 18	220:10;252:20; 305:5;328:5;342:15	208:5,21;230:8; 233:4,6;235:6;236:4; 262:13;269:15;287:9, 14;299:10;326:13; 353:4	227:18;229:8; 230:10;232:9;273:7; 283:5;284:12;287:3,9, 17;296:17,22;330:8; 354:21
exist (2)	exposure (1)	famous (1)	five-year (4)	foundation (1)
215:13;264:20	343:21	321:12	236:2;237:14;295:1;	311:19
existed (1)	extant (1)	far (1)	298:19	foundational (1)
345:12	338:8	306:18	fixed (1)	248:1
existence (1)	extend (2)	favor (1)	322:18	four (1)
323:19	235:7,12	278:9	flakes (2)	326:13
existing (6)	extending (1)	favorable (1)	223:16,17	fourth (1)
216:9;275:17; 301:10;315:11;334:9; 340:8	354:18	306:21	flexibility (5)	204:2
exogenous (2)	extent (5)	February (2)	227:17;228:16;	frame (1)
276:22;283:13	339:19,22;341:19; 343:1,2	289:11;290:16	331:5,18;343:4	299:16
expected (1)	External (1)	feel (3)	flight (61)	framework (1)
208:21	322:8	207:11,16;352:17	236:11;262:1,20;	253:2
expedited (1)	extreme (1)	fell (2)	264:14,16;265:3;	free (2)
355:5	280:2	291:2;292:6	266:19;267:12;	207:11,17
expensive (4)	extremely (1)	felt (4)	268:11;269:1;272:1;	FREUND (35)
228:15,15;267:7; 341:5	281:11	219:1;318:12;319:2; 320:12	273:3,10;276:17;	205:16;247:18,20;
experience (3)	F	few (4)	284:20;286:16;	248:8;253:21;254:4,9,
326:18;330:4; 331:15	F&H (7)	217:2;254:11,18; 351:17	289:15;291:8,12;	11,12;270:16;271:15;
expert (3)	325:12,13,16,19,21; 326:5;327:4	final (2)	296:12,18;301:6,11, 13,14,17;302:8;304:3,	272:9,13;282:3;
205:11,15;206:19	face (1)	228:11;352:7	4;305:13;306:7;307:2,	287:20;288:2;297:10,
experts (2)	faced (2)	finalize (1)	18;308:18;309:1;	12;304:9,16;305:1;
247:22;261:6	344:8;348:17	335:6	330:12;334:17;	312:6,8;324:10;
expiration (4)	fact (40)	finally (2)	347:14,17;350:6;	330:12;334:17;
234:9;235:7;237:9; 259:13	209:11,14;212:20, 21;217:14,21;219:4; 223:11,15;233:14,15; 237:2;260:19;261:17;	206:15;211:12	351:3,9;352:19;	347:14,17;350:6;
expire (1)	264:10,20;268:18;	finance (18)	353:16;354:15;355:7	353:16;354:15;355:7
236:3	269:13;276:14;277:6, 17;281:4;285:7;	220:2,8,9,14;221:1; 238:15;249:6;250:21;	front (4)	front (4)
expired (1)	314:19;321:4;322:1;	260:12;261:5,6;290:5, 10,20;291:6,19;292:4;	210:5;306:2,17;	223:17
244:21	321:21	321:21	332:3	fuel (2)
expires (5)	factor (1)	financial (11)	242:17;243:17	242:17;243:17
221:14;234:10,11, 13;235:2	225:3	233:21;240:19;	full (1)	full (1)
explain (7)	factors (2)	255:13,19;289:8,19;	270:1	270:1
	224:12;349:18	290:7,8,13,14;333:4	fully (1)	fully (1)
	facts (1)	find (2)	270:11	270:11
	285:7	220:13;250:16	followed (2)	fundamental (8)
	failed (2)	fine (1)	299:3,341:2	211:10;220:2,14,22;
	275:16,20	351:13	following (7)	223:1;238:14;285:11;
	fair (8)	finish (1)	299:5;333:21;	317:17
		281:10	firm (1)	funded (1)
		325:15	335:19;336:7,13,16;	291:5
		first (34)	337:2	further (9)
		204:20;210:14;	follows (3)	212:22;235:16;
		217:4;221:3,22;224:5;	207:4;288:21;325:5	244:20;257:14;
		233:3,17;234:10;	food (1)	275:21;288:3,4;297:8;
			321:13	

324:12	245:4	219:6	218:3,4;228:10,16;	299:11;313:2,3;342:5, 8,18,20;346:19
future (40)	goes (1)	guaranteed (6)	hear (3)	hypothetically (4)
211:22;212:6; 213:19;216:7;218:17, 19;222:19;223:19; 224:2;227:18;228:6, 17;232:8,22;233:5,19; 237:3;238:20;241:17; 242:1,5,13,14,18; 243:6,11;244:22; 257:5;260:15;261:2; 268:6;274:1;278:15, 22;284:4,12;321:10; 340:13;341:1,21	321:3	211:19;215:7,19; 274:20;283:9;310:4	292:13;299:22; 347:14	218:15;244:14; 266:10;343:20
futures (1)	Good (14)	guess (6)	heard (4)	hypotheticals (2)
220:20	204:22;207:14,19; 222:11;226:13;248:9, 10;259:19;277:11; 281:7,12;324:21,22; 337:15	224:6;230:12;237:7; 270:9;309:16;330:12	248:15;300:2;329:9; 351:20	269:8;284:19
G	gosh (1)	guesstimate (1)	hearing (2)	I
gamble (1)	327:13	254:3	257:11;353:7	
242:1	governor (2)	guidance (1)	hearts (1)	IAM (2)
game (1)	344:22;345:18	206:20	352:16	343:19;346:5
331:9	graduated (1)	Guiltinan (3)	held (7)	IBT (2)
garner (1)	291:15	288:16,19;289:4	239:9;278:8;290:3, 8,15;324:20;327:1	343:18;346:3
211:1	granola (1)	H	help (2)	idea (2)
gave (3)	223:16		324:15;348:10	337:20;346:4
289:17;341:20; 342:4	grant (4)	hand (4)	here's (1)	ideas (1)
gears (1)	243:11;257:4;261:9; 262:14	261:14,15;345:19, 19	275:12	291:1
252:8	granted (3)	hands (2)	high (2)	identical (3)
general (11)	214:20;257:6;262:5	236:11;264:8	279:22;282:22	342:18;348:3;350:2
250:10;253:2;278:4; 289:12,14;290:2,19; 294:3;315:15;326:4; 331:10	granting (1)	handshake (1)	higher (3)	identification (3)
generally (1)	270:4	256:2	242:19;267:6;299:1	205:7;206:6;304:15
327:15	grants (1)	handwriting (2)	highest (1)	identified (2)
Gentlemen (3)	213:22	338:19;339:1	236:13	316:5;319:21
288:5;324:18; 354:14	graph (1)	happen (17)	highly (2)	identify (2)
gets (2)	258:19	213:19;216:2; 221:13;228:4;237:20, 21;242:12;258:22;	279:3,3	206:3;318:17
225:4;321:3	great (3)	259:4,15;260:18,18; 279:16,16;332:11; 348:20;349:16	history (2)	ie (1)
given (10)	238:1;345:15;346:6	happened (1)	279:3,3	232:8
206:8;209:13;216:8; 225:5;232:10;248:21; 250:2;261:1;336:19; 352:20	greater (10)	277:15	impact (11)	301:15;318:13;
gives (4)	211:1;219:12; 229:17;235:16,17;	happening (1)	319:11;321:10;	
217:13;233:18; 277:10;331:3	238:2,3;277:10; 278:11;282:11	322:20	328:16;329:1,3,18;	
giving (2)	greatest (3)	happens (4)	331:10,12;333:5	
311:3;341:20	233:2,15;238:20	235:7;278:13; 286:15;332:13	impactful (1)	323:2
glad (1)	grocery (7)	happy (1)	impacting (1)	331:4
257:6	223:9,11,16;265:6,7, 8,10	272:10	impacts (5)	291:11;292:8,10;
Glading (2)	ground (1)	hard (6)	331:21;332:1	
298:1;299:22	232:13	206:9,13;251:18; 285:21;326:3;348:19	impeded (1)	343:3
Glass (12)	grounded (1)	head (2)	impinge (1)	265:22
228:2,21;237:15; 324:21;325:1,3,8,10, 21;331:14;350:11,18	210:13	232:18;344:17	implications (2)	267:22
goal (3)	grounds (1)	heads (1)	270:2,3	
322:12,18;332:6	330:13	340:18	important (12)	212:2;214:5;215:21;
God (1)	group (21)	health (37)	216:13;225:4;226:15;	
	208:20;214:4;228:7, 9;230:14,21;236:16; 267:6;270:8;271:21;	209:4;210:17;216:3, 4,6,8,10;217:8;218:7, 8;235:21;261:14;	229:19;232:21;242:2;	
	280:6;311:10;314:8; 325:12,13,21;328:13;	262:18;264:1,1; 266:11,12,15,17;	250:15;22;273:22	
	329:8;344:15,20; 350:3	309:11;317:20;	impose (5)	227:12;228:19;
	groups (9)	322:10,13;328:20;	331:16;335:6;338:2	
	263:11;264:2;266:1; 304:3,8;307:1;310:5; 332:6;346:12	330:6,18,19;331:16; 344:14;345:17,21;	imposes (4)	331:16;335:6;338:2
	grown (1)	346:12;347:6,6;348:2, 5;353:10	225:11;228:20;	
		healthcare (9)	256:5;331:5	
			imposing (3)	264:21;268:7;
				271:20
			improvements (4)	211:19;215:8;314:7,
				11

include (4) 309:8;312:20; 319:15;320:14	245:10;278:14	interrupt (2) 207:17;236:7	207:22;208:9;209:9, 19;210:9;229:7;233:7;	knew (2) 251:7;341:1
included (16) 210:9;295:19,20; 298:13;299:19; 315:20;320:13;323:5; 340:8,14,15,16; 341:10,13,16;342:1	352:6	interrupting (1) 241:1	236:2;237:13;247:8, 14;249:14,20;269:6, 11;287:3,8;293:9,18;	knowing (2) 228:13;341:4
includes (3) 209:1;229:8;309:10	initial (1) 260:6	into (38) 205:7;206:6;208:12; 222:13;228:21;233:5;	294:1,5,8;295:16; 301:19;316:11;323:5, 5;340:3;341:3	known (6) 209:2;220:21;234:7; 252:18;260:11;287:1
including (1) 269:11	inputs (2) 292:22;320:6	245:3,4;259:9;265:3,4, 5;267:12;269:11;		L
inclusion (3) 209:8;210:8;269:13	inquire (1) 354:11	273:5;274:7;277:1; 290:10,15;291:6;	205:10;281:9; 348:15;355:2	labor (20) 205:12;213:9;228:4; 263:11;289:8;290:10, 12;291:6;292:3;312:2; 325:14;326:8,11,12; 330:7,21;331:10; 332:13;333:1;349:12
incorporated (1) 340:3	instance (2) 211:4;248:21	296:9;298:7;300:18;	JERROLD (2) 325:3,10	Lady (1) 288:6
incorrect (1) 236:18	instead (2) 245:14;352:5	304:15;321:3;323:9;	job (2) 292:20;352:13	language (1) 337:6
increase (14) 275:18;276:8; 293:15;294:12;295:4; 296:16,22;297:6,21; 298:21;321:19; 333:20;336:6,12	instituted (1) 306:22	330:2;331:1;333:16, 21;336:6,12;337:1;	Joey (9) 204:7,9,12,15; 270:17;271:8;351:16, 19;352:8	large (1) 249:11
increased (4) 267:17;270:6; 283:15;302:13	instructions (1) 332:5	339:7;340:3,20,21; 349:18	Joint (6) 276:1	largely (2) 335:4;337:5
increases (11) 269:12;278:10; 296:1,6,13,17;297:22; 334:12;338:11; 340:13;341:21	instrument (1) 255:19	211:8;283:2	judge (1) 287:2	larger (1) 229:15
incredible (1) 204:8	instruments (3) 240:20;255:14,15	invoked (2) 215:9;282:2	judgment (2) 245:10;280:4	Las (1) 246:7
incremental (6) 294:22;295:14; 303:6,7;304:5;341:14	insurance (25) 209:4;210:18;216:3, 4,7,9,10;217:8;218:7, 9;255:4;261:14; 262:18;312:15;	involved (2) 327:5,16	judgments (2) 278:14,22	last (11) 233:6;241:9;249:1; 257:19;314:5;332:20; 334:18;336:3;351:5,6, 7
indemnity (1) 309:11	317:20;328:20;330:7, 20;331:16;344:14; 345:17;346:12;347:7; 348:3,5	irrational (2) 231:9,18	July (3) 290:1,6;314:13	later (7) 228:3;263:6;283:18; 291:18;302:20;336:9; 346:3
indicates (1) 351:19	intend (1) 322:15	irrelevant (3) 240:12;261:18; 284:16	jump (2) 227:9;294:3	Laughter (1) 204:14
individual (1) 304:2	intended (1) 352:2	irrespective (1) 247:12	juncture (3) 279:10,11,18	Laura (2) 297:22;333:19
industry (14) 205:13;212:10; 242:7,11,15;243:17; 246:2;251:4,20; 278:21,22;279:3,15; 282:17	intends (1) 322:10	issued (2) 233:3,17	jurisdiction (1) 335:15	lawn (2) 256:3,7
information (40) 212:1,3,10,11; 230:6;242:4,8,13,13, 17;243:4,15,21;245:7, 8,9;246:2;272:21; 273:2;274:1,2,6,13; 275:4,7;276:21;277:3, 5,8,18,21;278:2,5,6,8, 11;282:11;283:2,10; 355:4	intention (1) 227:21	issues (10) 208:10;212:21; 252:18;253:4,5;328:9, 12,12;330:8;354:3	justification (2) 334:14;337:8	laying (1) 241:12
informational (2) 212:8;241:10	interacting (1) 224:16	item (3) 303:9;317:12;333:9	kind (28) 207:20;212:16;	learn (1) 212:9
informed (2)	interest (4) 231:2;338:1;348:4; 350:2	items (16) 208:1;209:1;269:6, 9;305:20,22;315:21;	214:18;216:22;220:1; 222:13;227:5,8;	learned (2) 274:14;278:14
	interested (3) 224:6;254:14; 257:10	316:12,22;319:7,21; 320:11;323:1;328:15, 18;329:6	230:22;232:14,18,19; 234:21;241:12;244:2,	least (9) 222:4,9;233:6;
	interesting (4) 215:3;231:5;244:2; 347:2		9,11;250:20;251:11;	253:12;265:21;266:7;
	interests (4) 346:11,14;348:2,8		265:4;269:9,18;279:6, 16;287:4;290:12;	327:14;335:22;353:11
	interfered (1) 343:3		321:21;333:9	led (1) 275:13
	interject (1) 221:18	January (12) 234:11,12,13;235:3;	kinds (1) 254:22	ledger (1) 225:12
	interpretation (3) 307:3;311:18,21	257:16,17;258:20;	Kirby (1) 332:4	Lee (16) 204:19,21;205:11, 20;207:2,7;210:1;
	interpreted (1) 307:12	259:1;294:9;296:9,10; 297:3		213:3;219:8;241:5; 247:2;248:9;254:13;
	interpreting (2) 311:2;313:4	JAVITS (4) 229:10;230:11,17;		
		231:19		
		JCBA (29)		

288:7;320:22;331:3	257:14;258:12; 275:10;321:1;354:9	333:7,7 majority (1) 337:5	282:22;300:2;312:17, 18;316:4;317:1;321:6; 330:21,21;343:3,3	members (7) 205:5;206:1,9; 207:10,16;225:19; 353:20
left (9) 207:20;210:19; 218:11;231:14; 269:16;280:7;286:7; 304:12;306:3	live (1) 343:5	makes (4) 283:8;284:22;286:9; 310:21	maybe (13) 227:8,9;231:17; 237:6;247:22;248:2; 257:18;259:19,19; 260:6;304:9;311:6; 351:9	mention (1) 220:15
legacy (31) 300:13;301:6,7,11, 12,14,17;304:3,4; 308:8,11;313:10; 319:8,9;329:16,20; 330:1,1;332:18; 335:22;336:3;337:6, 11;339:3,22;342:11, 21;343:2;344:3,10; 346:19	logical (1) 207:19	making (12) 230:20;243:22; 253:16;277:19; 278:17;281:12;282:1, 5;286:10;295:15; 299:1,12	MBA (1) 291:18	merger (5) 237:18;242:16; 291:12;327:2;340:22
legal (3) 312:2;347:4;353:5	long (9) 235:1;253:13; 289:10,21;319:12,12; 325:18;335:22;343:12	management (1) 326:6	meal (1) 318:13	methodologies (1) 320:6
length (1) 293:17	longest (1) 238:8	many (5) 224:16;327:9,12; 337:11;343:15	mean (39) 212:19;217:12; 219:9;222:3;227:4; 230:12;231:17;	me-too (97) 209:2,3,5,8,14,17; 210:8,18,18;211:8,13; 213:7,11,21;216:12, 14;219:18;227:15; 229:8;243:1;244:2; 247:8,10;249:16,22; 250:14;264:20; 266:17;275:7;305:8, 22;307:8,9,10,12;
less (6) 262:10;269:9;278:2, 5;285:2;353:5	look (25) 207:9;208:11; 213:12;214:7;227:11; 232:3;235:7;239:8; 243:8;249:14;251:5; 273:21;274:11;287:4, 14;303:2;304:1;	mark (6) 205:3;206:2;271:3; 288:14;303:19;304:13	marked (3) 18;252:22;255:19; 267:20;269:4,19; 270:9;277:2;279:2,5;	314:16;315:1,6,14,15; 316:1,8,19,21;317:6, 16,18,19,20,21;318:3, 4,21;320:12;321:3,15;
letting (1) 225:17	look-back (1) 287:15	market (26) 224:17,21;225:1; 235:11,13;236:12; 239:13,21;240:12; 256:10,17,17,22; 257:2,5,8;258:6;	market-based (8) 208:14,18;247:9; 285:15;292:10;293:3; 300:10;320:8	323:2,4,8,15,20;324:1, 5,9;328:20,20;329:4, 21;330:18;331:16,16, 20;333:6,9;339:3,4,11, 15;340:2,13,21;
level (2) 252:22;276:21	looked (1) 303:13	marketplace (1) 240:21	meaning (2) 312:2;349:1	341:19,20,21;342:11, 12;343:2,6;344:3,10,
leverage (3) 243:21;246:1;275:7	looking (15) 303:13	markets (4) 224:10;255:8,10,17	means (12) 217:15,22;218:18;	14,19;345:17,18; 347:9;348:12;349:3
liability (2) 258:4,5	loss (3) 315:19;340:18;354:8	match (1) 213:18	market-based (8) 208:14,18;247:9; 285:15;292:10;293:3; 300:10;320:8	me-toos (13) 249:20;304:18;
lie (1) 260:5	lot (6) 323:15;340:12;	math (1) 297:18	measure (1) 315:10	305:10;315:19;329:6, 10,17,22;330:5,14;
lieu (6) 211:20;214:1;215:8; 230:9;244:5;286:11	lost (1) 341:12	matter (6) 242:20;252:18;	measured (1) 303:21	333:11;341:15,16
life (2) 228:1;332:10	lot (6) 317:21	match (1) 276:22;332:9;337:4;	Mechanical (1) 291:16	microscopic (1) 317:5
light (1) 249:15	lower (2) 242:20;276:8	math (1) 355:11	mechanics (1) 230:19	middle (2) 252:2;347:15
likelihood (2) 317:15;320:19	lunch (1) 354:10	maximum (1) 238:17	mechanism (1) 255:11	midnight (1) 332:20
Likewise (3) 216:3;218:14; 221:11		may (44) 213:19;219:16,17;	Mediation (1) 349:14	might (18) 224:7,8;228:11;
limited (1) 320:20		220:8;221:9,16;	mediators (1) 349:15	230:18;232:17;
limits (3) 227:17,17;228:16		223:19,20;224:15;	medical (20) 255:4;309:10,10;	237:20,21;248:3;
line (1) 312:4		225:19;226:11,12;	310:5;312:15;314:9;	251:14;266:1;282:16;
list (4) 304:18;305:2;307:9; 315:19		228:6,9,11;229:16;	315:6;317:11;323:1,3,	20;292:11;318:14;
listing (1) 309:9		231:1;232:13;235:18,	12,15,21;329:8;332:7;	344:21;347:14,20,21
literally (1) 259:15		20;237:19,20;238:9,	18;333:4;343:10,13;	migrate (2) 310:16;312:16
little (10) 211:3;219:13; 232:18;248:2;256:9;		21:240:20;244:10;	345:12	migrating (1) 311:13
		246:4;253:5,6;254:16;	Medical/Dental (1) 306:21	million (115) 208:2,4,7,11,13,17;
		260:5;281:7,11;	meet (4) 266:19;309:6;	209:10,15,20;210:10;
				21:211:2,20;212:4;
				214:1;215:7,18;
				218:12,21;219:3,6;
				226:18,19,19;229:12;

230:2,3,8;231:11,16; 232:11;241:15;242:3; 243:5,14;244:4,18; 245:11,14,22;246:20, 21;247:9,14;249:18, 21;253:19;261:20; 262:8,13,21;263:13, 17;264:3;265:2; 267:12;268:13;269:2, 6,10,12;271:22;273:5, 16;274:8;279:21; 280:9,13,16,16,20; 281:1,5,12;282:12,16, 19;283:6,21;284:3,8, 13,15,17;285:3,4,6,8, 12,13,14,19,21;286:3, 6,18;287:10;294:4,13, 16;295:2,3,3,10,11,14; 296:22;297:5,6; 299:16;303:3,19; 346:16,20,21	264:8;274:20;286:10; 303:10;332:17	name (3) 289:2,4;325:8 month (13) 235:2;294:4;295:6; 296:21;298:3;333:21; 335:19;336:7,13,14, 16;337:2;346:4 months (6) 293:22;295:9;296:2, 7,12;336:9 more (56) 211:3,14;218:7,11, 20;219:13;222:14; 224:15;225:20,22; 228:14,15;232:9; 240:8;243:20;244:2; 247:14;248:3;251:14; 258:22;259:4;262:11; 263:13,16,18;264:4; 265:2;266:14;267:7, 11;268:12;269:2,9; 271:20,22;275:4; 277:8,18,21;278:5,7; 281:5,12;282:1,6; 283:5;284:8,13; 286:18;287:10; 300:16;306:20; 317:12;331:9;347:15; 354:9	302:11;307:19; 321:13;339:7 next (11) 208:21;224:18; 230:8;234:12;235:2; narrow (1) 253:14 nature (4) 217:12;318:16; 319:9;354:3 necessarily (11) 231:1;239:2;265:11; 298:15;314:20;316:8; 318:22;319:4;320:18; 321:9;323:8 need (9) 214:6;223:20; 228:22;254:5;271:8; 272:3;311:1;319:4; 352:18 needed (2) 249:11;320:13 needs (6) 237:18;258:22; 259:4;260:4;266:8; 352:14 negate (1) 260:19 negotiate (5) 214:2;227:18; 237:18;265:22;331:5 negotiated (9) 311:10;334:8,22; 335:12;336:2;343:11; 345:17,18;346:15 negotiating (5) 228:8;292:4;312:15; 331:17;346:7 negotiation (3) 252:13;332:12; 348:17 negotiations (18) 228:4,18,21;268:6; 275:13;291:22;322:6, 8;326:9;327:5,16,20; 330:5;342:6;343:18; 345:22;347:22;348:1 negotiator (8) 327:12,15,21; 331:20;333:10;344:1; 349:4,12 neighbor (1) 256:3 neighbor's (1) 256:10 multiple (1) 237:17 must (9) 218:10;221:7,10,14, 17;223:2;238:3; 247:13;261:3	305:7 nobody (1) 271:6 None (3) 240:13;328:17; 330:3 noneconomic (1) 231:22 nonetheless (1) 240:21 nonexistent (1) 269:9 nonunion (1) 314:8 nonzero (1) 260:21 note (2) 221:8;351:15 noted (1) 308:9 notified (1) 310:8 notify (2) 309:4;310:22 Notre (2) 291:16,20 November (3) 274:5,7;298:8 number (15) 222:17;242:9,9; 253:19;261:20,21; 280:21;282:16,17; 293:22;332:1;334:7; 347:8,9;352:12 numbered (1) 273:13 numbers (3) 206:3;227:8;305:6 numerous (1) 320:3 nutshell (1) 210:7	obligation (6) 214:16,16,21;225:6, 9;298:21 obligations (1) 216:16 observation (2) 347:3;352:9 observe (1) 217:14 observed (1) 236:13 obtain (2) 286:18;305:11 obtaining (1) 273:6 obvious (1) 353:1 obviously (5) 208:3;303:12; 304:17;316:13;326:6 occur (9) 236:9;260:4;285:4; 296:2,6,11;321:6,9; 333:22 occurred (1) 342:21 occurs (2) 280:6;283:19 odd (1) 263:15 off (22) 205:20;207:20; 210:19;217:10,16; 218:1,11;219:2; 222:16;224:11; 228:10;231:14;254:7; 267:21;269:17;271:3; 274:2;286:7;288:10; 318:14;324:20;344:17 offer (1) 244:14 offered (1) 224:5 offering (1) 236:16 offers (2) 223:12;235:21 Officer (1) 326:22 often (1) 247:22 Once (1) 345:11 one (56) 211:13,16;215:2; 216:1;217:4;221:3,22; 225:19;226:3,11; 227:5,16;232:21; 240:8;244:9;249:8; 251:15;257:1;261:13, 22;262:5,15;265:19, 20;266:7;268:12; 270:2;272:3,19;
model (18) 252:14,15;253:18; 292:15,19,21;296:6; 306:14;309:22,22; 315:9;316:5;318:8; 319:10,16;320:15; 339:18;340:3 modeled (1) 298:11 modeling (3) 297:16;300:6;320:6 models (2) 292:7;304:2 moment (10) 248:14;251:10; 253:22;274:3;275:9; 283:7;288:11;338:21; 344:12;350:14 moments (1) 351:17 monetary (1) 226:7 money (8) 245:17;246:3,4;	MOU (1) 340:22 move (1) 347:12 moved (5) 290:10,14,15;291:6; 298:3 moving (3) 292:10;300:1; 333:11 mow (2) 256:3,7 much (14) 204:11;209:11; 234:19;251:14;254:3; 284:5;287:17;288:7; 293:15;317:12; 324:13;350:18;355:2, 5 multiple (1) 237:17 must (9) 218:10;221:7,10,14, 17;223:2;238:3; 247:13;261:3	O			
	new (8) 211:22;214:3; 275:21;300:14;	oat-based (1) 223:21 oats (1) 223:20 object (4) 286:15 Nevertheless (3) 263:20;265:12; 343:5 new (8) 211:22;214:3; 275:21;300:14;			

277:14,16;281:1; 283:8;294:21;300:16; 302:14;306:6;310:19; 313:7;328:13;329:19; 332:1;333:8;334:7,21; 337:13;342:16; 343:11;345:8,19; 347:8;350:6;351:15; 352:12;353:3,5	258:1,3,9,21;259:1,5, 16,21;261:2;262:3; 263:1,4,6;264:10; 267:22;268:15,17,19; 270:3,4,6;271:20; 272:19;274:19; 279:11,13,21;280:5,7, 8,10;283:18,19; 287:11;321:1,21	overall (3) 295:13;296:16; 304:5 overarching (1) 297:16 own (4) 254:17;338:18; 351:10;354:1	251:16;278:20,21 parties (10) 216:17;224:16; 252:12;255:20;269:5; 335:18;336:22;337:9; 347:10;352:11 partner (1) 288:14 Parts (1) 209:2 party (6) 212:11;216:17; 225:4,5,6,9 party's (1) 265:20 Pass (1) 304:11 passes (1) 212:9 past (3) 278:13,14,22 patience (1) 354:20 Patrick (7) 288:16,19;289:2,4; 305:2;311:16;342:10 pause (1) 344:12 pay (10) 234:20;249:21; 322:18;332:17; 333:20;334:12;336:6, 12,19,22 payment (12) 232:8;241:22; 245:14;283:9,9,20; 285:6;294:6,19;295:2, 12;298:15 payments (12) 232:4,5,7;242:1; 244:4;279:12,14; 293:21;295:12,22; 299:1,7 payoff (4) 221:6,6;222:2,4 peak (2) 236:5;240:4 pejoratively (1) 335:6 penny (2) 264:4;268:12 people (8) 223:22;232:3,17; 250:17;255:22;256:1; 326:13;333:6 per (12) 208:13;296:22; 329:19,21;339:3,5,11; 340:1,8,13;341:7; 352:18 percent (4) 227:2;260:21,21; 275:18	perfectly (1) 264:9 perform (2) 253:5;352:14 performance (1) 273:17 perhaps (4) 206:1;207:7;219:13; 252:22 period (18) 233:12;235:8,12; 237:14,22;238:2; 239:3;257:16;263:21; 264:19;272:2;293:19; 296:12;298:3,19; 332:19,21;334:11 permission (1) 247:21 person (2) 221:1;311:6 perspective (2) 328:9;331:14 phone (1) 320:4 picking (1) 258:20 pie (2) 229:11,15 pilot (2) 310:11;318:11 pilots (22) 230:19;305:10,11; 310:13;312:14;317:4; 318:10;321:14;324:6; 328:14;329:7,21; 339:5;340:2,21,21; 341:7,22;345:5,16; 346:13;347:21 pilots' (1) 348:1 pilot's (1) 340:13 place (13) 207:19,20;246:9,18; 294:19;298:7;299:12; 305:21;315:5;333:21; 334:10;338:9;345:11 plainly (2) 314:16;322:9 plan (65) 215:12;216:7,9; 218:3,4,7,9,16;219:3; 228:11,16;235:21,22; 236:16;243:12;255:4; 261:13,14;262:18; 264:1,2;266:11,12,15; 285:17;306:21;310:7, 8,11,12,13,15,17,21, 22;311:4,4,9,10,11,12, 13;312:15,16;314:20; 315:6;317:12;322:10, 13,22;323:1,3;330:20; 332:7,18;333:4;		
ones (2) 246:14;305:19	optionality (1) 263:21	P	party (6) 212:9 past (3) 278:13,14,22 patience (1) 354:20 Patrick (7) 288:16,19;289:2,4; 305:2;311:16;342:10 pause (1) 344:12 pay (10) 234:20;249:21; 322:18;332:17; 333:20;334:12;336:6, 12,19,22 payment (12) 232:8;241:22; 245:14;283:9,9,20; 285:6;294:6,19;295:2, 12;298:15 payments (12) 232:4,5,7;242:1; 244:4;279:12,14; 293:21;295:12,22; 299:1,7 payoff (4) 221:6,6;222:2,4 peak (2) 236:5;240:4 pejoratively (1) 335:6 penny (2) 264:4;268:12 people (8) 223:22;232:3,17; 250:17;255:22;256:1; 326:13;333:6 per (12) 208:13;296:22; 329:19,21;339:3,5,11; 340:1,8,13;341:7; 352:18 percent (4) 227:2;260:21,21; 275:18	perfectly (1) 264:9 perform (2) 253:5;352:14 performance (1) 273:17 perhaps (4) 206:1;207:7;219:13; 252:22 period (18) 233:12;235:8,12; 237:14,22;238:2; 239:3;257:16;263:21; 264:19;272:2;293:19; 296:12;298:3,19; 332:19,21;334:11 permission (1) 247:21 person (2) 221:1;311:6 perspective (2) 328:9;331:14 phone (1) 320:4 picking (1) 258:20 pie (2) 229:11,15 pilot (2) 310:11;318:11 pilots (22) 230:19;305:10,11; 310:13;312:14;317:4; 318:10;321:14;324:6; 328:14;329:7,21; 339:5;340:2,21,21; 341:7,22;345:5,16; 346:13;347:21 pilots' (1) 348:1 pilot's (1) 340:13 place (13) 207:19,20;246:9,18; 294:19;298:7;299:12; 305:21;315:5;333:21; 334:10;338:9;345:11 plainly (2) 314:16;322:9 plan (65) 215:12;216:7,9; 218:3,4,7,9,16;219:3; 228:11,16;235:21,22; 236:16;243:12;255:4; 261:13,14;262:18; 264:1,2;266:11,12,15; 285:17;306:21;310:7, 8,11,12,13,15,17,21, 22;311:4,4,9,10,11,12, 13;312:15,16;314:20; 315:6;317:12;322:10, 13,22;323:1,3;330:20; 332:7,18;333:4;		
one-time (2) 294:18;295:12	options (83) 210:22;211:5,9; 213:12,13,13,18; 214:6,10;216:2,15,16; 217:1,5;219:11,16,18; 19;220:3;222:12; 223:22;224:9;225:15; 227:17;229:8;232:16; 22,22;233:2,6,9,13,19; 234:3,5;236:3,5; 239:14;240:2,13; 241:8,10;243:2,9; 247:8,11;249:7; 250:10,11,17,17,21; 251:11,17;252:2,3; 254:22,22;255:7,9, 13;256:12,13,16; 257:1,15,18,20; 258:16;259:10,11; 260:2,7;261:10,11,12; 262:15;265:9,12,20; 269:16;280:13	Panel (22) 205:2,5,22;206:9; 207:9;254:13,21; 261:9;262:14;291:21; 299:6;311:22;326:17; 328:8;330:11;335:3,5, 16;338:2;347:5; 348:12;355:3	Panel's (3) 247:21;250:6; 335:14 paint (1) 256:19 Panel (22) 205:2,5,22;206:9; 207:9;254:13,21; 261:9;262:14;291:21; 299:6;311:22;326:17; 328:8;330:11;335:3,5, 16;338:2;347:5; 348:12;355:3	order (2) 249:11;276:7 organization (1) 309:11 originally (1) 345:4 others (2) 253:12;254:18 otherwise (3) 218:22;237:4;299:1 out (21) 204:9;233:5;235:16; 237:22;276:16;277:7, 7,11;278:3;283:12,14, 17;286:5,6;294:4; 310:12;318:2,2; 326:19;345:8;352:7 outbreak (2) 245:5;279:20 outside (1) 252:1 over (23) 204:3;208:4,5,21; 220:21;222:18;232:6; 241:22;253:9;263:21; 269:15;279:22; 280:18;285:9;288:13; 299:16;320:4;327:8; 328:3;330:4;338:20, 21;339:16	Part (17) 209:4,4;213:21; 215:3,14;244:1,2,16; 249:11;292:1;316:10; 321:20;339:11;344:9, 9,19,21 participate (3) 253:15;308:20; 311:4 participated (1) 300:7 participation (2) 309:1;350:12 particular (8) 241:9;250:11; 252:18;257:5;303:9; 305:5;317:16;348:7 particularly (5) 211:16;242:10;	Part (17) 209:4,4;213:21; 215:3,14;244:1,2,16; 249:11;292:1;316:10; 321:20;339:11;344:9, 9,19,21 participate (3) 253:15;308:20; 311:4 participated (1) 300:7 participation (2) 309:1;350:12 particular (8) 241:9;250:11; 252:18;257:5;303:9; 305:5;317:16;348:7 particularly (5) 211:16;242:10;
277:14,16;281:1; 283:8;294:21;300:16; 302:14;306:6;310:19; 313:7;328:13;329:19; 332:1;333:8;334:7,21; 337:13;342:16; 343:11;345:8,19; 347:8;350:6;351:15; 352:12;353:3,5	258:1,3,9,21;259:1,5, 16,21;261:2;262:3; 263:1,4,6;264:10; 267:22;268:15,17,19; 270:3,4,6;271:20; 272:19;274:19; 279:11,13,21;280:5,7, 8,10;283:18,19; 287:11;321:1,21	overall (3) 295:13;296:16; 304:5 overarching (1) 297:16 own (4) 254:17;338:18; 351:10;354:1	251:16;278:20,21 parties (10) 216:17;224:16; 252:12;255:20;269:5; 335:18;336:22;337:9; 347:10;352:11 partner (1) 288:14 Parts (1) 209:2 party (6) 212:9 page (18) 206:2,3;207:9; 210:3;242:21;249:2; 251:6;258:19;260:9; 261:8;306:16,20; 308:16;313:18,22; 314:5;315:21;319:6	perfectly (1) 264:9 perform (2) 253:5;352:14 performance (1) 273:17 perhaps (4) 206:1;207:7;219:13; 252:22 period (18) 233:12;235:8,12; 237:14,22;238:2; 239:3;257:16;263:21; 264:19;272:2;293:19; 296:12;298:3,19; 332:19,21;334:11 permission (1) 247:21 person (2) 221:1;311:6 perspective (2) 328:9;331:14 phone (1) 320:4 picking (1) 258:20 pie (2) 229:11,15 pilot (2) 310:11;318:11 pilots (22) 230:19;305:10,11; 310:13;312:14;317:4; 318:10;321:14;324:6; 328:14;329:7,21; 339:5;340:2,21,21; 341:7,22;345:5,16; 346:13;347:21 pilots' (1) 348:1 pilot's (1) 340:13 place (13) 207:19,20;246:9,18; 294:19;298:7;299:12; 305:21;315:5;333:21; 334:10;338:9;345:11 plainly (2) 314:16;322:9 plan (65) 215:12;216:7,9; 218:3,4,7,9,16;219:3; 228:11,16;235:21,22; 236:16;243:12;255:4; 261:13,14;262:18; 264:1,2;266:11,12,15; 285:17;306:21;310:7, 8,11,12,13,15,17,21, 22;311:4,4,9,10,11,12, 13;312:15,16;314:20; 315:6;317:12;322:10, 13,22;323:1,3;330:20; 332:7,18;333:4;		
only (20) 217:8;221:8;223:8, 13;230:1;231:13; 234:21;238:22;239:5, 13;252:18;254:4; 264:11,12;278:13; 281:21;286:6;294:21; 348:15;354:2	open (1) 258:6 openly (1) 240:20 operate (2) 262:4;296:13 operational (2) 317:1;328:11 operations (1) 208:21 opinion (5) 217:3;226:20;253:6; 329:18;335:18 opinions (1) 210:6 opportunity (2) 320:2,14 opposed (2) 250:10;254:19 opposing (1) 329:9 opposite (1) 277:4 option (126) 210:14,15;211:7,10; 213:15,16,22;214:10, 11,12,13,14,16,18,19, 20,21;215:2,6,10,14; 216:1,5,17;217:6,9,9, 13,15,22;218:6;219:4, 11,14,16;220:4;221:7, 14;222:14,16,17,21; 224:5,13,14,15;225:2, 7,10,15;226:16; 230:17;231:3,10; 233:15,16,17,21,22; 234:10,11,13,15,16; 235:1,2,6,11,14,16,18, 20;236:10,14,19,20; 237:3;238:8,13,16,21; 239:6,10;245:2,19,19, 20;255:2,2;257:5;	order (2) 249:11;276:7 organization (1) 309:11 originally (1) 345:4 others (2) 253:12;254:18 otherwise (3) 218:22;237:4;299:1 out (21) 204:9;233:5;235:16; 237:22;276:16;277:7, 7,11;278:3;283:12,14, 17;286:5,6;294:4; 310:12;318:2,2; 326:19;345:8;352:7 outbreak (2) 245:5;279:20 outside (1) 252:1 over (23) 204:3;208:4,5,21; 220:21;222:18;232:6; 241:22;253:9;263:21; 269:15;279:22; 280:18;285:9;288:13; 299:16;320:4;327:8; 328:3;330:4;338:20, 21;339:16	Part (17) 209:4,4;213:21; 215:3,14;2			

343:13,16;344:5; 345:8,12,17,21; 346:20;349:2 planning (1) 230:4 plans (5) 216:10;313:1; 343:10;348:3,5 play (3) 246:14;277:1; 349:19 played (1) 323:9 playing (1) 236:7 please (12) 207:11,16;210:2; 213:4;216:19;217:18; 300:16;306:4,16; 311:15;313:19;350:14 plumb (1) 269:22 Pluto (1) 224:5 pm (1) 355:11 pocket (3) 262:21;285:21; 286:20 pockets (10) 261:22;263:13,17, 19;264:3;265:3,5; 267:12;272:1;284:20 point (42) 207:13;218:19; 219:9;222:15;228:7; 231:5,12;232:9; 234:14;240:1,8; 243:10;245:7;249:16; 250:3;251:19;252:6; 257:3;258:2,13;259:4, 21;264:13;269:21; 271:1;272:11;274:15; 275:10;276:5,14; 283:5;284:12,16; 285:7;298:9,18; 326:16;334:18; 335:14;347:11; 348:15;350:4 pointed (3) 318:2,2;324:4 policies (2) 306:21;307:1 policy (2) 317:1;318:13 political (1) 231:19 POLLAK (1) 204:15 poor (2) 276:16;278:11 population (3) 300:12;301:12;	302:9 portfolios (1) 291:1 portion (2) 272:15;293:6 position (13) 265:21;274:22; 277:9;289:7,11,22; 290:8,8,15,16;318:20; 327:1;334:1 positions (2) 290:3,18 positive (13) 221:5,6,15,17,17; 222:2;223:2;236:19; 260:14,20,22;261:3; 269:14 possess (2) 212:1;243:4 possibility (1) 321:5 possible (6) 266:15;315:7;333:2; 348:17,19;354:22 possibly (1) 354:5 postulate (1) 237:8 posture (1) 280:11 potential (9) 229:1;246:1;284:9; 291:3,4,11;292:9; 319:2;330:7 potentially (10) 233:19;238:7,21; 239:6,7;245:13; 271:20;281:18; 321:18;343:20 PowerPoint (2) 205:20;207:12 practice (1) 326:12 precisely (3) 233:8;275:2,6 predecessor (2) 290:12;325:20 predict (1) 348:20 predicted (1) 277:14 pre-existing (1) 218:8 prefer (3) 214:8;215:10; 235:22 preference (2) 217:17,19 preliminary (1) 248:1 premise (1) 238:13 prepared (1)	343:5 present (2) 205:2;292:16 presentation (10) 205:20;206:17; 207:12,15;209:22; 210:4;211:15;216:22; 232:15;247:17 presentations (2) 352:12;353:2 presented (2) 231:10;245:1 presently (1) 309:8 president (5) 325:17,18;326:5,20, 22 pressure (1) 349:15 Presumably (2) 229:13;281:3 presume (1) 239:1 presumptively (2) 338:10,10 presupposes (1) 230:12 pretend (1) 262:12 pretty (1) 306:18 preview (2) 210:3,5 previous (2) 219:9;281:22 previously (3) 244:5;302:17; 337:11 price (10) 222:16,21;224:17; 226:16,18;234:7; 235:11,13;242:16; 243:17 prices (2) 224:11;234:2 pricing (3) 222:12,14;224:15 primarily (3) 291:10;328:11,22 principal (2) 289:8;290:16 prior (2) 298:22;338:13 probability (8) 221:5;222:2,3,18; 260:20,22;279:22; 317:6 probably (10) 224:6;225:22; 239:11;254:5;263:8; 277:10;317:5;319:7; 327:10,14 probe (1)	257:13 problem (6) 248:4;285:10;332:2; 333:7,10;338:19 procedural (1) 206:15 Proceed (4) 204:4;205:17;210:2; 248:6 proceeding (1) 251:10 proceedings (1) 355:10 process (5) 297:17;303:15; 305:20;323:10;355:5 produce (2) 271:22;299:15 produced (1) 293:2 produces (2) 270:6;285:2 product (1) 338:13 professionalism (1) 355:6 proffer (1) 205:14 proffering (1) 205:11 profit (90) 208:15;209:3; 210:18;211:13,20; 212:6;213:20;214:2,3; 215:2,9,11,12,19,22; 217:9;218:14,16,18, 19;219:2;227:7,22; 229:13,13,15,20; 230:9,14;231:11,15, 20;232:8;235:21; 241:11,15,18;243:1,1, 9,12,14;244:1,5,15,17, 18,21;245:12,17,20, 22;246:15;255:4; 261:13;262:17;264:2; 273:10,16;275:17; 276:1,3,7;278:9;280:7, 8;282:2;283:3,10; 284:9,12;285:1,2,6,17; 286:1,5;317:11; 322:16,22;323:4,4,13; 328:20;329:7;330:6; 331:15,20;332:7; 349:22 profitability (3) 242:6;274:1;281:4 profits (7) 273:20,21;274:10; 275:3;282:7,9;284:5 program (1) 220:19 programs (9) 308:20;309:1,2,3,7, 342:19 provides (17)	9,10,11,12 prohibitively (1) 319:12 projects (2) 291:2,4 promise (3) 311:8,11;330:19 promises (1) 347:6 proper (1) 229:18 properly (1) 339:21 proposal (27) 209:1,15;213:8,21; 216:5;233:5;242:5; 246:17;249:18;255:3; 256:17;273:10;274:6; 280:12;285:14;292:2; 293:7;295:20;298:12, 13;299:20;302:18; 304:21;305:9;329:4; 333:13;339:11 proposals (6) 209:17;210:8; 302:11,13;329:7; 341:9 propose (2) 244:14;338:1 proposed (16) 207:22;208:9;209:9, 19;210:9;229:7; 244:16;247:14; 249:14;251:2;279:9; 292:8;301:19;316:11; 320:9;330:6 proposing (1) 339:10 proposition (6) 266:4;278:5,16,19, 20;286:8 prospect (1) 300:1 protection (1) 345:19 proved (3) 278:1,1,11 provide (23) 209:7;212:21; 213:13;217:5;219:11, 19;220:19;223:22; 225:16;232:19;235:4; 237:16;249:5;253:6; 260:15;262:17,17; 264:1;265:2;322:15; 333:15,18;338:9 provided (13) 233:21;250:1;258:9; 261:13,14;268:19; 283:4;307:2;314:11; 318:16;321:15,17; 342:19 provides (17)
---	---	--	---	---

210:15;212:12; 216:4,5;220:5;223:12, 17;234:15;246:20; 256:4;263:2;269:14, 19;277:9;280:2;283:5; 310:6	quote (2) 221:11,20 quoted (1) 303:5	22:231:22;234:22; 240:1;253:8;256:4; 257:17;263:9;264:13; 278:19;287:19; 317:14;334:14; 335:13;338:19;352:8	regard (2) 211:12;347:6 regarding (5) 242:5;243:14;250:9; 274:1;307:3 regular (1) 334:12	309:5;353:3 requested (2) 262:14;271:9 requests (1) 354:6 require (3) 273:10,11,13 resolve (1) 320:5 resolved (1) 307:4
providing (6) 243:20;265:13; 266:11,14;276:17; 321:14	R	re-ask (1) 272:7	rejected (2) 336:8,19	
provision (4) 310:4,14;318:5,21	Railway (3) 332:13;333:1; 349:12	reason (14) 227:4;231:7,18; 233:10;235:15;241:9; 280:20;284:3;317:1; 332:16;335:20,21;	related (4) 289:18,19;291:8,11	
provisions (4) 305:8;307:5;328:10; 337:12	raise (5) 231:4;296:11,14; 297:4;336:22	338:6;343:8	relates (2) 229:14;294:22	
purport (1) 291:2	rate (4) 294:12;295:21; 333:12;346:16	reasonable (4) 210:16;217:7;218:6; 231:12	relations (6) 325:14;326:9,20; 330:8,21;331:10	
purchase (3) 233:22;235:9; 239:10	rates (13) 273:15;293:7,12; 295:15;333:16;334:2; 340:1;341:1,2,7,12,13, 15	reasons (12) 210:7,12;217:1; 231:2,19;236:9;241:8; 282:15;333:8;334:13, 19;337:20	relationship (1) 270:7	
purpose (1) 240:11	rather (3) 273:12;302:22; 331:9	recall (1) 217:4	relevant (3) 240:16;258:18; 331:7	
purposes (10) 226:5;229:22;230:1; 268:8;303:4;307:18; 312:10,13;313:14; 335:14	ratification (7) 275:16;298:7; 333:22;335:20;336:7, 17;337:2	receive (5) 210:19;228:14; 242:14;268:12;269:1	relied (1) 293:1	
pursuant (2) 299:8;309:2	ratified (2) 299:13;337:3	received (4) 205:7;206:6;285:8; 304:15	relies (1) 322:1	
push (3) 209:9;210:10;267:3	rationally (1) 239:2	receiving (1) 318:10	rely (1) 220:1	
put (10) 226:18;227:8,15; 234:5;246:12;267:11; 296:22;330:16; 348:12;349:16	reached (6) 263:10;304:20; 323:6;336:4,9,21	recess (4) 254:2,8;288:12; 351:14	remainder (2) 209:22;210:4	
puts (6) 277:9;281:21; 287:12;302:12; 303:14;315:11	reaching (1) 267:4	recession (1) 245:4	remains (2) 337:16;348:1	
putting (3) 206:13;212:19; 229:7	read (7) 338:18,22	recognize (1) 354:2	remember (7) 258:3;264:15; 267:15,22;269:3; 280:15;282:11	
	reads (3) 306:20;308:18; 314:6	recognizes (1) 266:16	remembers (1) 271:7	
	real (13) 227:3;228:20; 230:13;254:15,19; 264:15;270:1,2; 275:12;277:1,21; 286:15;332:10	record (12) 204:6,17;206:4; 254:7;270:22;271:9; 272:10;288:10;289:3; 324:20;325:9;355:9	removed (1) 307:17	
	reality (1) 349:11	reduce (3) 273:15;302:19; 303:11	render (1) 226:20	
	realize (2) 245:13;273:20	reduced (1) 303:10	rephrase (1) 312:7	
	realized (1) 242:16	reducing (1) 268:5	replace (1) 333:2	
	really (29) 209:16;210:3,12; 212:15,17;216:14;	refer (5) 217:17;230:6;231:8; 241:20;311:14	replaced (1) 285:6	
	219:10;220:22;222:1; 227:16,21;228:5,16,	reference (2) 220:6;351:21	reporter (2) 204:7;351:16	
		referring (1) 353:11	represent (2) 304:16;305:7	
		reflects (3) 207:10;213:5; 216:20	representations (1) 353:14	
			representative (1) 292:3	
			represented (2) 352:4;353:9	
			represents (11) 208:4,14,18;246:22; 261:21;280:16,16;	
			282:12;285:12,14; 303:6	
			request (2) 279:5	

revealed (2) 217:17,19	role (4) 291:22;325:16; 327:4,20	seal (1) 228:12	sharing (90) 208:16;209:3; 210:18;211:13,21;	346:1,7
revenues (1) 229:14	room (3) 204:10;206:11; 208:3	season (1) 204:7	single (14) 310:7,12,15;311:9, 11;319:11;322:10,13;	single (14) 310:7,12,15;311:9, 11;319:11;322:10,13;
reverse (3) 211:17;215:6; 284:10	roughly (1) 295:2	second (12) 221:11;234:11; 244:1;245:19,20; 314:4;336:9,11,18,20; 338:6;350:6	second (12) 215:2,9,11,12,20,22; 217:9;218:14,16,18, 20;219:3;227:7,22;	sit (2) 246:8;286:22
reversing (1) 213:22	rounding (1) 321:20	Secondly (1) 334:9	sit (2) 20;232:9;235:21,21;	sitting (3) 287:16;344:13; 354:20
revert (3) 279:12,13;280:8	rules (3) 301:1;302:4;304:7	section (8) 305:6;308:17,17; 314:10;332:10,12;	situation (10) 9,12,15;244:1,5,15,17, 19,21;245:12,17,20,	situation (10) 236:12;287:6,7; 332:22;344:7;345:14;
review (2) 213:7;252:11	runs (1) 204:12	seeing (2) 309:17,18	size (2) 229:11;317:15	size (2) 229:11;317:15
revisit (2) 215:17;243:13		seeking (1) 312:1	skip (2) 338:19,21	skip (2) 338:19,21
right (91) 204:19;213:16,17; 214:12;216:8;217:10, 17;218:17;220:18; 223:10,20;225:5; 226:4,11;227:13; 228:1,12,14,19;231:9, 13;234:20;235:1,9; 236:22;238:3,4,8,18; 239:9,12,15,22;240:2; 241:21;245:1;246:11; 250:2,19;253:21; 254:1;255:20;256:12; 257:6;259:20;264:19; 265:14;267:2;268:8; 269:4,7,20;270:8; 271:11;272:16;273:6, 9;274:3,5,18;275:1; 278:8;279:17;280:11; 282:16,18,20;284:2,5, 9,16;293:10;298:4; 299:11;300:4;303:12, 12;304:16;307:16; 310:9;311:6;312:10, 18;313:5;324:10; 334:22;340:12; 341:20;342:4;347:20; 354:1	salon (1) 204:13	slash (1) 322:16,22;323:4,13;	slash (1) 352:5	
rights (4) 216:16;234:16; 244:16;258:8	same (24) 234:7;250:18;251:6; 255:2;261:8;298:10; 306:6;309:17,18; 310:5,18;313:6; 318:10;332:7;345:12, 20;346:2,11,14; 347:18;349:20,21,22; 352:17	senior (2) 290:14;326:20	shock (1) 277:13	Slide (13) 210:1;213:2;216:18;
rise (2) 328:15;331:3	sat (1) 320:3	sense (8) 236:20;276:4;278:1, 2;286:9;287:13,19;	shocks (1) 242:12	217:3;219:8;232:12; 238:16;240:1;241:5,6; 247:3;249:2;257:15
risk (3) 245:22;281:16; 343:15	save (2) 205:9;266:14	separate (3) 316:21;330:19; 347:7	short (1) 353:4	slides (4) 206:20;207:12;
risks (1) 344:4	saves (1) 303:10	September (4) 274:22;275:5; 277:13;327:3	shorthand (1) 263:14	227:5;230:4
risky (1) 279:1	savings (4) 302:13,19;303:1,7	sequence (1) 216:2	sic (1) 243:9	slightly (2) 257:22;342:9
road (3) 230:5;269:15; 299:10	saw (1) 221:20	series (1) 305:8	side (5) 225:12;265:16;	slope (2) 237:8;277:22
Robertson (12) 288:14,15;289:1; 297:7;324:12,19; 325:7;331:2,13; 334:15;350:8,10	saying (13) 224:7;231:17;238:1, 12,15;274:9;281:14, 20;283:1;284:14; 336:15;349:19;352:15	serious (1) 354:3	sides (2) 213:1;268:1	slowly (1) 339:20
	scales (1) 338:10	sessions (1) 320:3	Siegel (23) 204:3,5,17;205:1,9, 18;206:8;207:6;219:7;	small (4) 317:5;319:3,9;333:4
	scenario (5) 268:14;269:1;293:4; 298:10;299:11	set (9) 256:9;257:19; 265:17;268:6;285:7;	shock (1) 241:4;247:1,15;	solely (1) 352:15
	scheme (1) 273:7	setting (1) 323:18	sequence (1) 13:311:15;347:12;	Solutions (5) 325:12,13,16,21;
	Science (1) 291:16	several (1) 210:7	set (9) 350:15;351:6;353:17;	327:5
	scope (2) 248:20;329:3	shall (2) 307:4;308:19	significant (8) 317:12;328:16;	solve (1) 332:1
	Scott (1) 332:4	shape (1) 248:20	similar (2) 329:13,17;333:9;	somebody (5) 256:6,10;262:18;
	screen (2) 206:10,13	share (2) 239:10;258:21	similarly (1) 343:21;345:9;346:22	270:19;333:19
	se (1) 352:18	shares (4) 233:22;234:17; 235:10;239:13	similar (2) 299:16;344:14	someday (1) 223:18

236:6;281:3;308:14; 310:2;312:6;329:15; 350:12	325:8	315:21		303:7,8;304:7;305:6; 306:21;307:1;308:22; 309:2;314:8;315:8; 319:12;331:17
sort (2) 249:5;262:7	stated (6) 299:18;322:4,9,14, 17;336:11	substances (1) 318:4	T	terrorist (2) 245:5;279:20
sorts (4) 239:14;240:19; 243:18;255:21	states (1) 333:20	substantial (1) 320:13	TA (1) 301:17	testament (1) 351:17
sounds (2) 277:20;307:11	status (5) 210:20,20;214:7; 217:11;218:12	substantially (1) 317:10	Tab (6) 306:3,7;308:3,6; 313:7,7	testified (7) 207:4;217:2;288:21; 300:5;323:14;325:5; 333:20
span (1) 286:17	stay (2) 216:9;275:8	substantive (5) 297:14;316:5;317:8; 319:17,22	table (3) 246:8;295:21; 302:14	testify (7) 228:2,22;251:9,17; 253:7;299:22;322:5
speak (4) 227:6;231:22;232:2; 335:16	staying (1) 217:11	substitute (2) 208:15;285:16	tables (1) 299:8	testimony (22) 206:16;227:20; 237:16;247:16;
speaking (1) 267:1	stick (1) 219:3	substitutes (2) 285:15,20	tad (2) 252:8;253:14	248:13;250:8;251:16; 270:13,20;271:2,4,14; 272:16,17;292:13,17, 18;298:1;316:18; 320:16;331:7;351:21
specialty (1) 326:8	still (10) 255:10;260:19; 263:1,2,6,20;264:3; 328:1;334:12;343:21	subtle (2) 211:3;219:14	talk (3) 273:12;293:5;331:9	testing (2) 315:22;318:4
specific (11) 303:7,8;305:21; 315:5;317:8,22;322:2; 323:17,22;328:13; 333:15	stimulus (1) 220:19	successful (1) 312:14	talked (6) 226:2;292:14; 297:15;318:3;320:22; 331:4	textbook (1) 221:12
specifically (7) 255:13;258:8; 307:22;318:17;319:4; 330:17;342:12	stipulated (5) 208:8;209:14;247:7; 250:4,5	sudden (1) 232:5	talking (8) 230:4;255:1;267:20; 279:6;284:18;333:11; 346:20,22	textbooks (1) 220:8
speculate (1) 321:11	stipulation (2) 205:10;249:15	sum (1) 247:6	tank (1) 245:3	Thanks (6) 225:17;353:1; 354:18;355:1,2,8
spend (1) 307:20	stock (1) 234:3	summarize (2) 210:6;247:4	task (1) 300:5	theoretical (3) 254:19;261:6; 321:21
spending (1) 303:1	stood (2) 324:16;350:21	summary (1) 217:3	team (5) 253:1;289:9;290:11, 13,16	theories (2) 212:16;236:7
spent (1) 302:20	store (6) 223:9,11,16;265:7,8, 10	supported (1) 292:4	technical (1) 222:14	theory (13) 210:14;211:11; 214:19;220:2,14;
stake (2) 258:16;330:13	story (1) 269:18	suppose (7) 244:13,15,20; 251:22;256:9;274:21, 21	telling (3) 287:11;340:7,11	225:15;238:15;249:6, 6;250:9;265:21;321:1, 21
standalone (1) 336:3	street (1) 252:2	sure (21) 227:1;237:15;259:3; 261:7;262:9;268:10; 272:4,18;291:15;	ten (4) 305:8;315:19;318:3; 328:18	Therefore (5) 218:10;255:11; 261:3;266:20;318:12
standard (9) 213:13;247:10; 250:6;260:10;294:17; 330:14,15,15,16	strike (6) 292:22	structured (5) 206:18,21;243:2,2; 246:16	tend (1) 263:8	Thereupon (6) 205:6;206:5;207:1; 288:18;304:14;325:2
standardly (1) 232:3	studies (1) 221:1	studies (1) 259:5,10,11	tenet (2) 211:10;238:14	thinking (3) 227:11;266:15; 338:7
standpoint (5) 254:15,15;266:2; 329:14;343:14	stuff (1) 351:18	subject (3) 287:21;297:14; 304:17	tens (1) 349:2	third (3) 234:12;336:21; 337:2
stands (1) 271:4	style (3) 259:5,10,11	subjects (2) 272:14;300:4	Tentative (25) 275:20;280:12; 292:1,9;293:2;303:4;	thorough (1) 292:20
start (7) 204:5;207:20; 227:22;297:14,19,22; 346:5	subparagraph (1) 314:5	subsequent (3) 245:2;274:13;296:1	suspect (1) 304:19;305:9;307:14;	though (4) 222:12;278:7;316:7; 332:2
started (6) 290:1,5;294:20; 310:12;325:22;326:19	subsequently (2) 215:11;296:14	substance (1)	switch (6) 223:20;232:5;244:3, 7;283:3;300:4	thought (3) 210:5;213:6;226:21
starting (3) 250:3;334:18;346:3			switching (1) 252:8	thousands (1)
state (7) 208:6;212:10;242:5; 243:16;246:2;289:2;			synergies (1) 242:15	

250:16	trading (5)	220:7;221:21;227:11; 233:6;241:7,8;243:9; 246:10;255:20;256:1;	243:11;244:14,21; 245:6;266:10;267:5;	210:5;213:6;264:12
three (9)	234:18;235:6; 239:21;255:11;274:19	258:1;260:11;263:22; 268:1;280:1;295:9;	291:9;304:13,14; 306:22;307:20;309:4;	using (4) 233:21;263:14;
208:1,9;210:12; 212:14;217:1;234:5; 269:6,8;280:1	transaction (2)	298:22;306:2;334:9, 13,19;341:17;346:20;	6;310:7;314:8;328:2;	283:1,10
three-year (1)	266:16;268:1	347:9	19;329:5;330:6;	usual (1)
286:16	transcript (2)	TWU (3)	332:13,14;335:9;	288:8
threshold (1)	271:5;351:20	343:19;346:5,19	338:1;341:11;343:19;	
209:16	Transition (1)	type (3)	353:9	V
throughout (3)	340:22	220:19;275:6;330:5	unionized (1)	
264:19;267:15; 268:4	tread (1)	227:22;310:22	289:20	valuable (12)
tied (2)	232:14	types (8)	unions (2)	211:16;218:8,20;
265:1;340:1	treated (1)	223:10;224:9; 255:18,22;291:4;	227:22;310:22	221:7,9,10;232:10;
times (3)	350:3	318:15;321:22;328:9	Union's (3)	239:6;266:2;277:3,5,
211:22;243:6; 245:15	tremendous (1)	U	18	
timing (1)	337:7	ultimate (1)	United (23)	valuation (27)
347:20	tried (3)	341:9	285:17;300:10,22;	230:2,3;241:14;
titled (1)	302:7;320:5,14	ultimately (1)	302:1;304:7;308:7,12;	250:10;274:8,8;291:8;
308:6	trigger (3)	276:22	309:21;310:1,1,3;	10;292:7,15;294:2;
today (19)	260:4;283:18;	uncertain (15)	312:22;313:9,10,10,	295:3;296:5;297:18;
212:20;219:20; 230:6,8;233:13; 234:18;236:4;239:10;	321:14	13,15;315:3;317:19;	299:17;303:5;305:20;	
243:13;253:7;257:17;	triggered (6)	319:8;323:20;351:21;	316:11;319:5,10,14;	
269:13;280:11; 286:22;287:7;298:20;	320:19;321:5	352:2	320:8;321:2,8,22;	
337:17;344:13;353:15	triggering (2)	United/Continental (1)	322:2;347:7	
today's (2)	320:19;321:5	352:1	valuations (2)	
282:12,13	trip (1)	university (3)	293:2;318:18	
together (1)	224:5	220:10;291:15,19	value (179)	
320:4	triple (1)	unless (4)	207:22;208:8,15,19;	
took (4)	321:16	210:18;236:15;	209:9,17,19;210:10,	
244:16;289:11,22; 291:7	trouble (2)	261:12;264:6	11,15;211:1,9;212:13;	
top (2)	232:18;338:18	unlikelihood (1)	213:14;214:20;217:1,	
296:14;344:17	true (2)	322:19	5;218:11;219:6,12,20;	
total (4)	222:6;318:22	unlikely (2)	220:5;221:14;222:5;	
295:9,11;348:16; 349:13	try (10)	256:22;257:4	223:13,18,22;225:16;	
totality (5)	253:14;256:9; 301:10,15;304:4;	un-negotiated (1)	226:2,3,6,7,11,22;	
301:13;303:2,6,13, 13	311:7;321:7;339:20, 20;348:19	341:21	227:2,3,10,12;229:16,	
totally (1)	trying (8)	unpredictable (3)	17;230:13,20;232:8,	
346:8	237:7;252:5;269:22;	228:5;277:13;279:4	17;233:2,9,11,13,15;	
touch (1)	287:2,16;321:22;	up (38)	235:4,16;236:5,14,19;	
254:18	348:10;349:8	206:10,13;210:5;	237:5,6;238:3,11,14;	
towards (2)	tug (1)	211:22;232:10;	17;239:13,16,20;	
211:14;252:19	267:4	233:11;234:15;240:3;	240:1,18,21;241:8,10,	
trade (10)	turmoil (1)	256:9;262:7;263:3,4,	17,21;242:9,19;	
228:10;250:17; 256:4,6;258:5,17; 267:9;275:17;276:2;	279:19	7;265:1;267:4;274:2,	243:20;246:20;247:8,	
280:17	turn (13)	7,15;298:19;300:18;	12;249:6;17;250:1,4,5,	
tradeable (2)	204:3;216:18;219:8; 277:7,11;283:12,14;	303:14;318:14;	18,21;251:12,13,14,	
224:13;255:5	288:13;306:3,16;	319:13;320:7;321:4,7,	17;252:3,4;255:11;	
traded (9)	308:2,16;313:18	13;328:1;332:3,22;	260:7,15;261:4,18,19;	
224:10;240:13,20; 255:7,8,9,10;257:20, 22	turned (3)	337:9,10,10;340:19;	263:1,2,6;264:11,14,	
tradeoffs (2)	276:16;278:3;286:6	341:20,20;349:2;	16;265:13;268:20;	
266:1,2	turning (1)	351:2	269:5,10,12,19;273:5,	
	242:21	upon (8)	16;276:17;280:2,13;	
	turns (3)	214:11;253:18;	281:18;283:4;284:16;	
	228:4;283:17;286:5	276:11;293:1;303:20;	285:15,16,20;287:2,8,	
	twists (1)	309:5;310:8;322:1	12;294:22;296:16;	
	228:3	use (5)	297:1,5;300:22;301:2,	
	two (35)	212:3;224:1;245:6,	6,18;302:5,8,19,21;	
	208:12,22;209:1,14;	9;278:13	303:9,19,20,21;	
	211:22;213:7,18;	used (7)	305:21;307:19,22;	
	215:1;216:2,11,16;	292:8;294:8;306:13;	309:20,21,22;312:22;	
		308:12;313:14;	313:1,3,14;314:14;	
		318:10;320:7	315:1,2,5,10,13;316:2,	
			6,8,13,15,19;317:9,14,	
			18;318:6;319:4;	

321:16,16;323:8,14, 17,18,22;324:7,8; 329:14;339:18;340:2, 8,12;347:10	wage (18) 273:15;275:18; 276:8;278:10;293:6,7, 12;294:11;295:15; 296:13,17;297:22; 299:8;333:12,16; 334:2;338:9,11	whole (6) 217:12;222:16,21; 224:11;282:15;284:2	221:6,13	355:11
valued (9) 208:22;209:15; 213:1;229:20;230:5; 305:20;318:9;319:22; 341:10	wide (2) 308:20;309:7	wide (2) 238:5,6;247:14; 260:16;281:5;287:10,	worth (10) 212:7;223:5;235:6; 238:5,6;247:14;	10 (2) 247:3;345:12
values (11) 240:4;252:14; 253:17;272:19;284:8, 11;300:10,12;301:22; 302:12;317:22	willing (3) 228:10;234:20; 332:17	willing (3) 17	100 (3) 223:9,12;227:2	100 (3) 223:9,12;227:2
valuing (1) 309:19	wages (12) 215:8,19;218:21; 228:10;229:12;263:3, 4;264:6;266:14;267:6; 276:2;296:21	wages (12) 215:8,19;218:21; 228:10;229:12;263:3, 4;264:6;266:14;267:6; 276:2;296:21	worthless (1) 221:14	11 (2) 277:13;296:12
valval (1) 262:19	wait (2) 246:17;281:9	wait (2) 246:17;281:9	writing (2) 309:4;310:8	112 (9) 247:9;263:16,19; 281:21;282:1,6;295:1, 4;297:5
variable (13) 211:20;214:1;230:9; 241:17;242:11; 244:18;273:6;279:3; 280:19;283:9;284:9; 286:11;322:15	walked (1) 320:1	walked (1) 320:1	written (2) 272:17;347:10	116 (1) 234:22
varieties (1) 223:12	wants (1) 245:11	wants (1) 245:11	wrong (1) 312:18	117 (1) 239:13
variety (5) 224:12;256:8; 289:17;316:9;326:11	warm (1) 352:15	warm (1) 352:15		12 (4) 274:22;296:2,7; 345:13
various (7) 234:2;289:18; 290:21;300:9;302:10; 303:14;316:3	way (30) 205:19;206:1;210:4; 213:11,15;220:6; 223:6;229:2;232:2; 237:11;241:12; 242:22;243:3;246:6, 15;256:20;257:8; 258:20;261:22;266:7; 274:16;277:16,17; 282:21;304:1;311:5; 318:8;330:17;342:9; 352:18	way (30) 205:19;206:1;210:4; 213:11,15;220:6; 223:6;229:2;232:2; 237:11;241:12; 242:22;243:3;246:6, 15;256:20;257:8; 258:20;261:22;266:7; 274:16;277:16,17; 282:21;304:1;311:5; 318:8;330:17;342:9; 352:18		145 (1) 327:14
vary (1) 222:16	ways (4) 227:11;256:8; 265:19;282:18	ways (4) 227:11;256:8; 265:19;282:18		15 (4) 234:12;254:5; 258:20;259:1
Vegas (1) 246:7	week (1) 353:15	week (1) 353:15		150 (3) 327:10,11;330:5
ventilated (1) 287:21	weigh (1) 344:1	weigh (1) 344:1		16 (1) 297:4
versa (1) 301:14	weighed (1) 344:4	weighed (1) 344:4		17 (4) 234:11;235:3;297:5; 326:10
version (2) 279:8;352:7	Welcome (3) 204:21;288:17; 353:4	Welcome (3) 204:21;288:17; 353:4		18 (2) 297:5;343:10
via (1) 298:14	well-defined (2) 224:10;255:17	well-defined (2) 224:10;255:17		193 (3) 303:5,5,11
vice (3) 301:13;326:20,22	well-known (4) 220:7;221:12; 233:14;260:11	well-known (4) 220:7;221:12; 233:14;260:11		1989 (1) 325:22
view (8) 208:14;218:19; 231:12;249:16; 251:19;264:13;323:1; 334:4	weren't (3) 219:1;252:10;345:7	weren't (3) 219:1;252:10;345:7		1999 (1) 275:15
vis-a-vis (1) 208:20	West (1) 327:2	West (1) 327:2		2
visible (1) 206:12	what's (15) 212:2;214:5;215:21; 226:15;229:19;234:7; 242:2;250:22;258:16; 259:4;273:22;287:1; 313:11;330:13;334:6	what's (15) 212:2;214:5;215:21; 226:15;229:19;234:7; 242:2;250:22;258:16; 259:4;273:22;287:1; 313:11;330:13;334:6		2 (34) 206:2,5;207:8,9; 249:2;264:3;273:12, 14,17;282:8;285:1,2,3; 293:8,20;294:1,6,9;
Volume (3) 306:4,7;308:2	workers (2) 289:20;322:16	workers (2) 289:20;322:16		295:22;296:10;297:3, 3,4,19,21;298:14;
volumes (1) 306:2	works (2) 213:15;246:11	works (2) 213:15;246:11		299:7,10;308:2;
	world (11) 254:15,19,19;270:1, 2,275:12;277:1,21; 286:15;287:1,2	world (11) 254:15,19,19;270:1, 2,275:12;277:1,21; 286:15;287:1,2		327:18;333:15,15;
	worse (3) 278:2,5;286:7	worse (3) 278:2,5;286:7		334:3;337:10
	worst (2) 355:10	worst (2) 355:10		20 (3) 223:13;234:13; 257:17
				2000 (1) 277:22
				2001 (3) 245:15;274:22;
				275:22
				2002 (9) 245:15;275:3;
				326:21;343:9;345:4, 15,16;346:13;347:21
W				

2003 (2) 275:3;314:13	209:3;215:13; 218:18;246:15			
2005 (1) 327:3	3ci (1) 280:5			
2011 (3) 290:1,4,6	3cii (11) 215:4,14;244:3; 245:2;274:17,18; 279:10,11,18;280:8; 283:18			
2012 (1) 290:9				
2012-2016 (1) 314:7				
2014 (9) 289:11;290:4,17; 293:8;296:1;298:8; 299:7;346:10;347:22	4			
2015 (6) 234:11;274:11; 294:9;296:3,11;297:4	4 (4) 209:4;213:2;218:5; 298:18			
2016 (4) 234:12;258:21; 259:2;296:3	400 (1) 332:15			
2017 (4) 234:13;244:22; 257:17;296:4	4a (3) 209:4;218:5;228:14			
22 (1) 343:10	4b (1) 216:4			
222 (2) 313:19;314:1	5			
24 (1) 308:17	5 (2) 216:18;239:21			
24-1 (1) 308:17	50 (4) 260:21;280:16,16; 281:17			
25,000 (1) 333:6	6			
25th (1) 326:1	6 (7) 219:8;260:9;275:18; 295:4;332:12;348:17;			
26 (1) 306:17	349:12			
26-12 (1) 306:17	60 (1) 303:19			
27 (2) 274:5,7	7			
3	7 (5) 232:12;257:15; 258:20;306:3,7			
3 (6) 210:1,3;218:5; 273:12;285:4,5	8			
30 (1) 307:5	8 (3) 241:5,6;313:7			
300 (4) 315:21;319:6; 332:15;333:5	85s (1) 281:15			
31 (1) 353:12	9			
33 (1) 314:10	9 (4) 242:21;275:5;308:3;			
3a (2) 243:9;281:2	6			
3b (8) 209:2;213:21;215:6, 9;244:16;246:15; 281:3;283:2	9-11 (1) 279:6			
3c (4)	95 (1) 281:15			