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LOUISIANA USED MOTOR VEHICLE COMMISSION
STATE OF LOUISIANA

REGULAR MEETING
NOVEMBER 20, 2017
BEGINNING AT 9:30 A.M.

3132 VALLEY CREEK
BATON ROUGE, LOUISIANA

REPORTED BY:
BETTY D. GLISSMAN, CCR

1 APPEARANCES :

2

3 CHAIRMAN :

MR. JOHN POTEET

4

COMMISSIONERS PRESENT :

5

6 MR. RICKY DONNELL

7 MR. RON DUPLESSIS

8 MR. STEPHEN OLAVE

9 MR. MATTHEW PEDERSON

10 MR. HENRY "DARTY" SMITH

11 MR. DINO TAYLOR

12 MR. RICHARD WATTS

13

14

15

16 REPRESENTING THE LOUISIANA USED MOTOR

17 VEHICLE COMMISSION :

18

19 ROBERT W. HALLACK, ESQUIRE

HALLACK LAW OFFICE

20 13007 JUSTICE AVENUE

BATON ROUGE, LOUISIANA 70816

21

22 SHERI MORRIS, ESQUIRE

ROEDEL, PARSONS, KOCH, BLACHE,

BALHOFF & McCOLLISTER

23 8440 JEFFERSON HIGHWAY, SUITE 301

BATON ROUGE, LOUISIANA 70809

24

25

1 ALSO PRESENT:

2 MS. KIM BARON

3 MR. DEREK PARNELL

4 MS. MONA ANDERSON

5 MS. TONYA BURKS

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1 (Pledge of Allegiance)

2 MR. POTEET:

3 Kim, roll call, please.

4 MS. BARON:

5 John Poteet?

6 MR. POTEET:

7 Here.

8 MS. BARON:

9 Dino Taylor?

10 MR. TAYLOR:

11 Here.

12 MS. BARON:

13 Tony Cormier?

14 MR. CORMIER:

15 (No response.)

16 MS. BARON:

17 Ron Duplessis?

18 MR. DUPLESSIS:

19 Here.

20 MS. BARON:

21 George Floyd?

22 MR. FLOYD:

23 (No response.)

24 MS. BARON:

25 Darty Smith?

1 MR. SMITH:

2 Here.

3 MS. BARON:

4 Steve Olave?

5 MR. OLAVE:

6 Here.

7 MS. BARON:

8 Ricky Donnell?

9 MR. DONNELL:

10 Here.

11 MS. BARON:

12 Richard Watts?

13 MR. WATTS:

14 Here.

15 MS. BARON:

16 And Matthew Pederson?

17 MR. PEDERSON:

18 Here.

19 MS. BARON:

20 Mr. Chairman, we have a quorum.

21 MR. POTEET:

22 Excellent. Okay. Anyone here
23 for public comments today?

24 MS. BARON:

25 There is not.

1 MR. POTEET:

2 Okay. Everyone had a chance to
3 read the minutes of the October meeting.
4 And any comments or questions about any of
5 that?

6 (No response.)

7 MR. POTEET:

8 Okay.

9 MR. SMITH:

10 I'll make a motion to approve.

11 MR. POTEET:

12 Okay. I've got a motion.

13 MR. OLAVE:

14 Second.

15 MR. POTEET:

16 Second over here, Mr. Olave.

17 All in favor, say, "Aye."

18 (All "Aye" responses.)

19 MR. POTEET:

20 Any opposed?

21 (No response.)

22 MR. POTEET:

23 The motion carries.

24 All right. The next thing is

25 financial matters.

1 MS. ANDERSON:

2 If you'll turn in your binders to
3 the financial statement for the month of
4 October 2017. Under the statement of net
5 position -- these financials include the
6 audit adjusting journal entries after the
7 audit was completed last month. And so we
8 adjusted the statement of net position to
9 reflect the audit. The balance in the
10 operating account decreased \$25,700 to a
11 balance of \$2,033,365 and that was due to
12 lower -- the lower revenues before we
13 started the renewal period. The fines
14 accounts receivable were \$39,588. Again,
15 some of the fines that were sent to the
16 Attorney General were -- for collection were
17 written off during the audit. That doesn't
18 mean that we can't collect them and put them
19 back on the books, but we're required to not
20 keep our receivables on there indefinitely.

21 The noncurrent assets increased.
22 We purchased some equipment to allow our new
23 IT company to consistently monitor and
24 maintain our servers and our computers
25 remotely. The -- we purchased new licensing

1 computers to replace those that were six
2 years old. They only have a life expectancy
3 of about five years or less. We also
4 purchased a new vehicle, so that we could
5 retire the oldest of our fleet -- the oldest
6 vehicle in our fleet. The current
7 liabilities all had -- on the bottom of the
8 page all had normal balances for employee
9 benefits at the end of the month.

10 On page 2, the long-term
11 liabilities included -- they now include the
12 '18-'19 deferred inflows totaling \$365,900.
13 Again, as every year in January, we will
14 move the '18 deferred money into the regular
15 revenues. And as we discussed last month,
16 the net pension liability decreased
17 approximately \$948,000 after we entered the
18 prior period audit adjustment to correct the
19 figures that we got -- we received to
20 calculate that.

21 On page 3 is your statement of
22 revenues, expenses, and changes in net
23 position. The year-to-date revenues were
24 \$297,787 compared to \$357,000 last year.
25 And the main part of that was a decrease in

1 fine -- in hearing fines of 43,000. On the
2 following page are your expenses. The
3 salaries and related benefits were higher
4 this year. Year to date, we added
5 additional staff members and the benefits
6 had a rate increase in January.

7 So moving on, the ending -- the
8 end of the month was \$23,386 and the year to
9 date was a negative \$78,789. And, again,
10 that's because we are just now moving into
11 our renewal period. The following page 6
12 has the four-year revenue. So you can more
13 accurately compare the '17-'18 period to the
14 same renewals for '15-'16 as our fees renew
15 every -- our licenses renew every other
16 year. The following page is a graph of that
17 four-year revenue. And page 8 gives you a
18 four-year picture of the expenditures, both
19 salaries and related benefits, and operating
20 expenditures.

21 Page 9 is the certificate of
22 deposit summary and there were no changes
23 from last month on this report. The
24 accounts receivable on page 10 show the
25 October -- the fines that were approved in

1 October and most of which were collected in
2 October. And, again, the balance there at
3 the bottom is \$39,588 and that went down
4 significantly because of those write offs
5 that we did on the audit.

6 And so unless there are any
7 questions, Mr. Chairman, that concludes my
8 report of the financial statements for
9 October.

10 MR. POTEET:

11 Thank you, Mona.

12 Does anybody have any questions?

13 (No response.)

14 MR. POTEET:

15 All right. No questions. Then,

16 I -- -

17 MR. DONNELL:

18 I make a motion to accept.

19 MR. SMITH:

20 I second the motion, Mr.

21 Chairman.

22 MR. POTEET:

23 Second Mr. Smith.

24 All in favor, say, "Aye."

25 (All "Aye" responses.)

1 MR. POTEET:

2 Any opposed?

3 (No response.)

4 MR. POTEET:

5 All right. Now, we'll move on to
6 the budget.

7 MS. ANDERSON:

8 Okay. Also, in your binder is
9 the proposed budget for the 2018-'19 fiscal
10 year. The budgeted revenues are \$1,585,935,
11 which is approximately a 3 percent increase
12 over the estimated actual for '17-'18. The
13 estimated license fees for the budget are
14 \$1,423,937. Enforcement is approximately
15 138,000 and the remaining miscellaneous
16 revenues are 23,950.

17 Now, if you'll turn on -- in the
18 budget on page BC6, we're going to kind of
19 flip back and forth in these pages to show
20 you how the budget operates. This page, 6A,
21 shows you the individual -- the detail of
22 the salaries. This year, the Civil Service
23 -- Civil Service came up with a compensation
24 redesign plan and it's a two phase plan.
25 They're going to have part of the plan go

1 into effect January 1, 2018. So that will
2 affect this year's budget. And then the
3 remaining increases will be effective July
4 1st. So that's what you see reflected
5 there.

6 The figures in the '17-'18 have
7 not happened yet, because it won't come into
8 effect until 2018. The budget anticipates
9 about a 10 percent increase in health
10 insurance and a small increase in the
11 retirement funds. What you see there are
12 the -- is the agency contribution to the
13 retirement fund. And, of course, you know,
14 because we have a defined benefit plan,
15 that's not what employees actually receive.
16 They receive a benefit based on their salary
17 when they retire and -- but this part of the
18 funds that the agency pays to LASERS is to
19 take care of the unfunded liability that
20 LASERS has. And so on page -- on the
21 following page, you can see your
22 compensation.

23 On page 7 is the travel expense
24 for both Commissioners and employees. The
25 following page is -- on page 8 are -- is a

1 recap of the operating expenses. The budget
2 includes about a 15 percent increase over
3 the '17-'18 estimated actual expenses. The
4 line item for maintenance/other includes
5 regular operating expenses like the alarm,
6 the janitorial service, lawn and landscape,
7 that type of expense. Other miscellaneous
8 expenses is sort of a catchall in the budget
9 for all the other expenses, which includes
10 primarily the bank fees and merchant account
11 fees that we pay for our online payment
12 operation.

13 On page 9 is a recap of our
14 professional services contracts, which are
15 pretty much the same as they were last year.
16 We may incur some increase for the auditor.
17 As you know, he let us know this year that
18 the legislative auditor is putting
19 additional requirements on him. So he may
20 have to go up on that fee a little bit. We
21 have -- are phasing out the contract with
22 Keith Horton in favor of a contract with
23 Transformyx. Transformyx does a lot of our
24 computer maintenance remotely and they have
25 a more -- a larger staff to more proactively

1 manage our servers and computers.

2 And turning on to page 10, the --
3 what's other charges, those are basically IT
4 related charges and we included in here --
5 we're investigating using CAVU on an ongoing
6 basis instead of changing to another
7 program. We're working with them right now
8 to see what their proposal on that is. But
9 included in the budget is a maintenance fee
10 for that company, MicroPac, and also we
11 included a \$10,000 amount for if we need to
12 have any special modifications to the
13 program. So we're hoping that we'll get a
14 better price and a better reaction time out
15 of this company than we have from the
16 companies that previously owned CAVU.

17 Turning on to page 11 are our
18 acquisitions, major purchases. We included
19 the acquisition of an additional vehicle,
20 which we do every year to retire aging
21 vehicles and put a new vehicle in place.
22 Our servers -- Transformyx has brought to
23 our attention that our servers are past
24 their prime. They've exceeded their
25 estimated useful life of five years and new

1 servers will need to be purchased. So that
2 will allow us to save our fees -- save on
3 our fees for Transformyx and it will allow a
4 better performance of our servers, less risk
5 of losing data and that type of thing.
6 Okay.

7 So, now, moving back to page BC2,
8 you can see a recap of all those things that
9 we just discussed, all of the salaries,
10 benefits, operating expenses, contracts,
11 acquisitions, so and so forth. And our
12 estimated expenses for the year are
13 \$1,607,272. On BC3, you can see that we've
14 -- there are three years of our -- both our
15 net position -- our total net position,
16 formerly called fund balance, and the net
17 position -- the annual net position down at
18 the bottom. It is a negative annual
19 position, but we feel like that we rarely
20 use all of our contracts. Even though we
21 budget to use the entire contract, we rarely
22 do. And so we feel like we can endeavor to
23 increase our revenues and minimize our costs
24 in order to end the year on a positive note.
25 Additional staff and technology is going to

1 allow us to be a more efficient operation.

2 And, of course, you know, the
3 bottom figure, the net position for the
4 year, does not include the total net
5 position on your -- on your statement of net
6 position. That is a positive amount. So
7 that's an amount that we carry forward from
8 previous years. So unless anyone has any
9 questions, that concludes my report on the
10 proposed 2018-'19 budget.

11 Mr. Chairman, we need a
12 resolution to adopt the budget.

13 MR. POTEET:

14 All right.

15 MR. TAYLOR:

16 Let me ask you, on CAVU, I
17 noticed it went up 7,000 year before last
18 and the fees went up 8,000. When does that
19 cap out?

20 MR. PARNELL:

21 It does plateau in regard to
22 that. So I think it does continually go up.
23 With CPI, it goes up. Every year, they do
24 increase it. That was one of the reasons
25 why we wanted to get away from it, because

1 what we were paying for, we weren't getting
2 any products back that we felt really
3 comfortable with. But, now, with the new
4 program -- the new company that owns them,
5 we feel a little bit better about the
6 situation. We don't feel great about it,
7 but we feel like we can at least try to see
8 what they can do for us as it relates to
9 getting the upgrade taken care of and trying
10 to move us in a different direction. They
11 did make some changes to it. We're just
12 kind of far behind on the upgrade, but, yes,
13 that cost, it keeps moving.

14 MS. ANDERSON:

15 And that is just an estimate.
16 They have not given us that figure that's in
17 there. I just built that in there based on
18 their past years' records. So they could
19 hold firm with what they're -- what we're
20 paying now, which is 35, I believe.

21 MR. PARNELL:

22 35,000.

23 MS. ANDERSON:

24 It could stay at that, but if
25 not, we have --

1 MR. TAYLOR:

2 I'm sure they -- I'm sure they
3 will.

4 MS. ANDERSON:

5 We found with other companies,
6 the cost to convert our data, CAVU is more
7 than what you see here, so, you know.

8 MR. TAYLOR:

9 Okay.

10 MR. POTEET:

11 I think we already determined it
12 was kind of the devil you know is the better
13 than the devil you don't know.

14 MS. ANDERSON:

15 Correct.

16 MR. POTEET:

17 That's our official Commission
18 position. So, you know, the problem with
19 software -- of course, we had the same thing
20 in our business. I'm actually on the board
21 of directors of the software company that we
22 use and these are the things that are
23 occurring in software development these days
24 is that as things become more and more
25 complicated, you need more and more

1 programmers and you need better programmers.
2 And, you know, 12 or 15 years ago, we didn't
3 spend a lot of time worrying about security.
4 And, now, we spend an enormous amount of
5 time and you have two or three software
6 developers, that's all they're working on.
7 So it does keep going up, because it becomes
8 more and more complicated. I don't know
9 where it ends, but, you know, it's something
10 that we face in our industry and I'm sure
11 most people that have sophisticated
12 complicated systems have the same problem.

13 MS. ANDERSON:

14 And if you don't update, then
15 later on, you pay the price for that --

16 MR. POTEET:

17 Right.

18 MS. ANDERSON:

19 -- is what we found out, you
20 know.

21 MR. POTEET:

22 Pay me now or pay me later.

23 MS. ANDERSON:

24 You'll pay for it later.

25 MR. POTEET:

1 Any other -- any other questions
2 regarding the budget?

3 (No response.)

4 MR. POTEET:

5 Yes. I think that's a good
6 conservative budget, which is what we need
7 to work with. So I would entertain a motion
8 to --

9 MR. SMITH:

10 I'll make a motion.

11 MR. DONNELL:

12 Second.

13 MR. POTEET:

14 Second from Mr. Donnell.

15 All in favor, say, "Aye."

16 (All "Aye" responses.)

17 MR. POTEET:

18 Any opposed?

19 (No response.)

20 MR. POTEET:

21 That passes. So here is the
22 resolution. Thank you, Mona.

23 MS. ANDERSON:

24 Thank you.

25 MR. POTEET:

1 Good work.

2 All right. The next thing -- the
3 next thing, we've got a couple of items that
4 we wanted to -- that there were requests to
5 add to the agenda for discussion. The first
6 one is concerning the regulating of
7 non-licensed dealers that act as dealers.

8 Is this the one, Dino, that you
9 had brought up?

10 MR. TAYLOR:

11 I did. I brought it up in light
12 of our ruling with Avery Goins last week --
13 or last month. What was it, 32:784?

14 Robert, are you familiar with
15 32:784, it looks like, A. A-1.

16 MR. HALLACK:

17 Can I cite it verbatim?

18 MR. TAYLOR:

19 Yes. So, anyway, I was just
20 curious about that hearing last week, how we
21 came to that decision.

22 MR. HALLACK:

23 I wrote an opinion letter out on
24 it. I don't -- you know, I don't think it's
25 in your packet. I think some people were

1 given it. I don't know if all people were
2 given it. But it kind of explains my
3 position on regulating non-licensed dealers
4 and non-licensed salespeople.

5 Do we have that?

6 MR. PARNELL:

7 I don't have it with me.

8 MR. HALLACK:

9 Okay.

10 MR. TAYLOR:

11 I think --

12 MR. HALLACK:

13 You got a copy, right? Okay.

14 MR. TAYLOR:

15 Yes. Can you just share with us
16 your opinion?

17 MR. HALLACK:

18 Well, I mean, there are two or
19 three parts in our statute that say that it
20 is a violation for someone to act as a used
21 motor vehicle dealer without a license. 784
22 -- let's see.

23 Do you have it, Kim?

24 MS. BARON:

25 I have 784.

1 MR. TAYLOR:

2 I think that you --

3 MR. HALLACK:

4 Well, 784 is -- 784, all it does
5 is gives you an exclusive listing of what we
6 are supposed to license. That's not the
7 primary statute. The statute that you want
8 to have, I think, is 791. So 784 gives you
9 an exclusive listing of all the businesses
10 this Commission licenses and regulates,
11 okay. 791, if you'll scroll to the top of
12 it, it's a criminal violation for any person
13 to act as a used motor vehicle dealer or as
14 a salesperson without a license. That's
15 791-A. And then if you look at, I believe,
16 788, that's -- scroll down just a little
17 bit, so I can read the top of it. It's
18 civil penalties for someone who is operating
19 without a license. If you go to, I think,
20 787, that's criminal penalties.

21 But, anyway, there is a case on
22 point where the First Circuit looked at --
23 we had a used motor vehicle dealer, he had
24 never had a license in his name. His name
25 is Kimuel Lee. Kimuel Lee used to run a

1 business called Foreign Cars. Kimuel Lee
2 never had a license in his name. He always
3 had it in his father's name. He always had
4 it in his wife's name. Well, Kimuel Lee
5 tried to go to Copart to bid on a car back
6 in the old days when we used to have the
7 buyer's ID card, and Copart said, no, you
8 don't have a license. You cannot -- you
9 don't have a buyer's ID card. You cannot
10 bid on parts here. So he got upset. He
11 went home. He took his wife's buyer's ID
12 card, scratched out her photo and put his
13 photo on it, went back up there, and then
14 Copart called us and said, I think we've got
15 a problem. We've got a guy that has forged
16 his by buyer's ID card. So we looked into
17 it and, sure enough, he had. So we violated
18 him. We violated also the dealership for
19 allowing him to do this. There were some
20 other violations that the dealership had
21 committed, too. But we violated Kimuel Lee.

22 Kimuel Lee, his argument at
23 district court on appeal and his argument at
24 the First Circuit Court of Appeal was, hey,
25 I'm not a dealer. They have no jurisdiction

1 and authority over me. And the First
2 Circuit said, that's absurd. Of course,
3 they have jurisdiction and authority over
4 you. So I cited that in that opinion letter
5 that I wrote. I don't know who's all had a
6 chance to look at it or not. But,
7 basically, yes, we do have jurisdiction and
8 authority over anybody that's not licensed.
9 We even have what is called the black market
10 sales, somebody pretending to be a dealer
11 for the purpose of trying to get around
12 sales tax or to get around our provisions.
13 We can add extra fines on that person. So,
14 there again, that's somebody who's
15 pretending to be a dealer and he's
16 pretending to be a dealer for the purpose of
17 getting around sales tax or getting around
18 the provisions of our law and that's extra
19 fines. We call that the black sales --

20 MS. MORRIS:

21 Black market.

22 MR. HALLACK:

23 -- black market. It's a fancy
24 word for curbstoning. So we've always had
25 jurisdiction and authority over curbstoners.

1 We've always had jurisdiction and authority
2 over people who were acting as salespeople
3 without a license.

4 MR. POTEET:

5 Well, I guess -- as I remember
6 what went on in the meeting was that we --
7 you know, we had everything, but when it got
8 down to the fines, there was a conflict
9 between two attorneys in here. I still
10 don't know -- I need the two attorneys to
11 tell me what we should do.

12 MR. HALLACK:

13 I think I just told you, that --

14 MR. POTEET:

15 Do you agree with what he just
16 said?

17 MS. MORRIS:

18 I agree with what he said as to
19 the jurisdiction. I don't think the notice
20 of hearing cited the appropriate statutes in
21 that case. So that is based upon the facts
22 that we had at that point. I mean, after
23 all of -- you know, looking at all of this,
24 I think that it is something that needs to
25 be clarified in our legislative packet, so

1 it's much clearer. And then that will help
2 the staff to be able to pick up the
3 clarified statute rather than going through
4 all these different statutes. He doesn't
5 cite it as a curbstoner. It wasn't a black
6 market sale. It was -- and then the
7 criminal penalties, we can't impose the
8 criminal penalties, because we don't have
9 criminal jurisdiction. So I think it's
10 abundantly clear that we need jurisdiction
11 and have jurisdiction over parts of it, but
12 as to the criminal portion, that fine has to
13 be levied by the district attorney.

14 MR. HALLACK:

15 And I disagree, because the Court
16 of Appeal has addressed the very issue. I
17 don't -- I don't have the hearing notice in
18 front of me. I don't know what he was cited
19 for. I don't remember there being any
20 problem with the hearing notice, you know.
21 He did not complain that he could not
22 understand what he was being charged with.

23 MR. POTEET:

24 I see what you're saying and I
25 don't disagree with you, but I also have --

1 I mean, again, we have -- we have two -- we
2 need to make a decision on how to go forward
3 with these kinds of things in the future. I
4 need to have my attorneys come up with
5 something that they both agree on or fire
6 one of you. I mean, we could always do
7 that. Then, I'll only have one attorney.

8 MS. MORRIS:

9 Then, you'll have to determine
10 what it is.

11 MR. POTEET:

12 Exactly.

13 MS. MORRIS:

14 It's complicated because of the
15 black market sales, the criminal statute.
16 It's complicated. It's not -- you need to
17 pick up a statute, but I think we can fix
18 that in our legislative package, and then it
19 will be abundantly clear, and then that is
20 the statute that needs to be in the notice
21 if it's an unlicensed person.

22 MR. POTEET:

23 I mean, that's my position on it.
24 So I feel like if you two could get together
25 and just give me a more definitive answer

1 that you two can agree on.

2 MR. HALLACK:

3 Well, we've got to come to some
4 kind of agreement now, because we have other
5 cases that are coming before this Commission
6 on the same issue. We have people who
7 operate without licenses and we cite them
8 all the time.

9 MR. DUPLESSIS:

10 It's not something that's going
11 to be in our legislation.

12 MS. MORRIS:

13 You have to get the notice
14 correct. It's got to be in the notice.

15 MR. HALLACK:

16 Show us in the notice where it's
17 incorrect.

18 MS. MORRIS:

19 I don't have the file, but I'll
20 go through that with the staff.

21 MR. DUPLESSIS:

22 I take it that the criminal
23 statute is still open to pursue.

24 MS. MORRIS:

25 We cannot enforce a criminal

1 statute.

2 MR. DUPLESSIS:

3 I didn't say that.

4 MS. MORRIS:

5 We would have to turn it over to
6 the DA and the DA has to do that.

7 MR. DUPLESSIS:

8 That's not what I said. I said,
9 we can still pursue it. That's an option.

10 MS. MORRIS:

11 Pursue, what do you mean?

12 MR. DUPLESSIS:

13 But we're not criminal. The
14 correct criminal agency has to pursue it.
15 We agree on that. So we can turn the
16 evidence and the findings of this Commission
17 to the proper authority, which should be the
18 DA in Monroe and he can pursue it as to the
19 actions that we cited in our decision.

20 MR. HALLACK:

21 And we used to do this a lot. We
22 used to do this. We would tell our
23 investigators, you need to go down, find a
24 sheriff's deputy or find a police officer
25 and tell them that you have a violation of

1 this law and they need to swear out an
2 affidavit and that begins the process.
3 Whether or not the sheriff or the police
4 officer at that point, whether or not they
5 pursue it, that's their problem. But we
6 have done it in the past. We've had Ronnie
7 Wisenor find a sheriff's deputy and tell the
8 sheriff's deputy, I've got this violation.
9 And they go out there and they write a
10 ticket for it. It's happened many times.
11 We used to do it a lot more 10, 12 years ago
12 than we do now.

13 MS. MORRIS:

14 Some of the boards in their
15 statutes says that if the board staff is
16 aware of a violation under the criminal
17 statute, they have to report it to law
18 enforcement. Yours doesn't say that. But
19 some of the licensing boards say that the
20 staff has a duty to report it to law
21 enforcement. Now, whether or not law
22 enforcement does something about it is a
23 whole other question, but your statute is
24 not worded that way and some of them are.
25 So then the person can't say, well, you

1 picked on me by reporting it to law
2 enforcement, because the law says that they
3 have to. And it's not that they're picking
4 or choosing, but they have knowledge of
5 possible unlicensed action that falls within
6 that scope of all those that get reported.

7 MR. POTEET:

8 You just make it a matter of
9 course. That's what we do.

10 MS. MORRIS:

11 So whether or not you want that
12 in your statute is another -- you know,
13 that's a policy consideration, but some --
14 you know, to avoid that we were picking on
15 somebody by reporting them to the law
16 enforcement or we're only reporting certain
17 areas or whatever, everybody -- all the
18 inspectors have to do it.

19 MR. HALLACK:

20 See, there's a notice of hearing
21 for Avery Goins on the screen right now. It
22 says, it shall be unlawful and shall
23 constitute a misdemeanor. So it says,
24 unlawful, which is -- that -- that's what we
25 were pursuing. It's unlawful for anybody to

1 act as a used motor vehicle dealer without
2 first obtaining a license.

3 MS. MORRIS:

4 It's 791. It's the criminal
5 statute.

6 MR. HALLACK:

7 But it says, it shall be
8 unlawful. That's it. And that's the --
9 that's the provision that the First Circuit
10 interpreted to say, you have jurisdiction
11 and authority over unlicensed people.

12 MS. MORRIS:

13 But you have to notify them what
14 the charge is and that's not the charge.
15 That's just --

16 MR. HALLACK:

17 Okay. Well, I don't know. I
18 wrote an opinion letter on that. I think
19 you've seen it.

20 MR. POTEET:

21 I have seen it.

22 MR. DUPLESSIS:

23 Mr. Hallack, in the legislative
24 session, we'll just add that to the list of
25 clean up items.

1 MR. POTEET:

2 Yes. I think that's the best
3 way. Nobody is going to object to that, to
4 cleaning it up. And then we won't have the
5 difference of opinion. I mean, I have to
6 make a decision. I'm like a judge here. I
7 have the two lawyers telling me two
8 different things. And, I mean, you both
9 make sense.

10 MS. MORRIS:

11 And it's not clear just by the
12 fact that Mr. Hallack has gone through -- he
13 had to go through three statutes and the
14 case law is not clear cut, I think --

15 MR. POTEET:

16 I agree with that.

17 MS. MORRIS:

18 -- that we have to look at so
19 many different provisions in the case law
20 and interpret.

21 MR. HALLACK:

22 Well, let me get this straight.
23 Going forward, do we not -- do we dismiss
24 the cases against people who do not have a
25 license?

1 MR. POTEET:

2 Well, I don't think we dismiss
3 the case.

4 MS. MORRIS:

5 You don't notice under statute
6 791.

7 MR. HALLACK:

8 Show me another provision that we
9 should notice it for.

10 MR. POTEET:

11 Let's talk about this after.
12 Okay.

13 Proposed changes to rules and
14 regulations, I think we have an exhibit in
15 here of that. So let's flip over to that.
16 I think it's got a little blue tab on it.
17 Who wants to talk about all of this?

18 MR. DUPLESSIS:

19 Well, rules and regs don't belong
20 in the legislation unless they're going to
21 become law.

22 MR. HALLACK:

23 Rules and regs aren't law.

24 MR. DUPLESSIS:

25 Well, rules are, yes.

1 MR. HALLACK:

2 I think we should defer this to
3 the legislative meeting.

4 MR. DUPLESSIS:

5 This whole thing?

6 MR. HALLACK:

7 Yes. I mean, we talked about it
8 last meeting.

9 MR. POTEET:

10 Ron?

11 MR. DUPLESSIS:

12 I have no objection.

13 MR. POTEET:

14 All right. We'll talk about that
15 at the legislative meeting. Okay.

16 Mr. Parnell, we've got some
17 ratification of imposed penalties.

18 MR. PARNELL:

19 Commissioners, you will find in
20 your packet a chart that illustrates dealers
21 that are in violation of violating the state
22 of Louisiana statutes. I have determined
23 that the public interest can be served
24 without further administrative proceeding.
25 Civil penalties were imposed. I will

1 announce the names, as usual, of the
2 dealers. And if we have someone present, we
3 will have them speak.

4 Do we have anyone present?

5 MS. BARON:

6 I can check. No, sir.

7 MR. PARNELL:

8 All right. I'll go through the
9 list of imposed penalties. The first one on
10 the list is Auto King of Baton Rouge, LLC.
11 They're located in Hammond, Louisiana. The
12 fine amount is \$1,200. The second one on
13 the list is Scoop's Auto, LLC in Baton
14 Rouge, Louisiana. The fine amount is
15 \$1,850. The total amount of fines that were
16 imposed on the dealers is \$3,050.
17 Commissioners, I'd ask that you ratify the
18 imposed civil penalties assessed.

19 MR. SMITH:

20 I make a motion.

21 MR. POTEET:

22 Mr. Smith.

23 Second?

24 MR. WATTS:

25 Second.

1 MR. POTEET:

2 All in favor, say, "Aye."

3 (All "Aye" responses.)

4 MR. POTEET:

5 Any opposed?

6 (No response.)

7 MR. POTEET:

8 Those are ratified.

9 All right. Mr. Parnell, continue
10 with your Executive Director's report.

11 MR. PARNELL:

12 Commissioners, you'll also find
13 in your chart -- in your packet a chart that
14 illustrates the amount of issues that are
15 alleged in the investigative side of things.
16 The first one you'll see is the alleged
17 issue count, which is 52 alleged issues in
18 the month of October 2017. So the next
19 document you will see is the case report
20 that illustrates the amount of cases that
21 were assigned to the investigators during
22 that month. 33 cases were assigned. 10 of
23 those cases were completed in the month and
24 we had remaining 23 cases left open. The
25 total number of cases that were closed in

1 October were 51 total cases closed.
2 Commissioners, there were -- the field
3 staff, they did -- 10 five-day notices were
4 issued. 47 physical inspections. 95 site
5 visits. And assisted helping consumers
6 getting monies returned back to them was
7 \$2,400.

8 Commissioners, right now
9 currently, we did -- if you noticed in the
10 budget, we did increase on staff. We
11 increased our staff size. One thing I want
12 to try to see us do is get more proactive on
13 what we're doing. We're still a long ways
14 off from doing that, but in order to really
15 keep moving with the 14-day turnaround that
16 I've imposed on our licensing department and
17 accounting apartment, I have to make sure we
18 up that staff size. So we're pretty much a
19 full staff right now. I'm still one
20 investigator short. I still want to include
21 one additional investigator. Then, we'll
22 have seven. With that said, this is
23 probably the largest staff that we've had
24 since I've been here. So, hopefully, we can
25 get our turnaround a lot faster and we can

1 keep moving forward and progressing in the
2 direction we're trying to go. So that's
3 pretty much all I have as the Executive
4 Director.

5 MR. POTEET:

6 Good. Does anyone have any
7 questions for Derek?

8 (No response.)

9 MR. POTEET:

10 Thank you.

11 Well, the next thing is the
12 regular legislative session and we're
13 planning to have a meeting after this. So I
14 don't think we need to discuss much here,
15 unless somebody has something they want to
16 bring up.

17 (No response.)

18 MR. POTEET:

19 Okay. Then, we'll do it in the
20 legislative meeting.

21 Okay. Does anybody have any
22 items for the next agenda? Which the next
23 meeting will be December 18th.

24 (No response.)

25 MR. POTEET:

1 All right. The only thing left
2 we have is, we have a hearing. So I guess
3 we need to adjourn.

4 MR. SMITH:

5 I make a motion to adjourn.

6 MR. DONNELL:

7 Second.

8 MR. POTEET:

9 Motion and second.

10 All in favor, say, "Aye."

11 (All "Aye" responses.)

12 MR. POTEET:

13 All right. We'll adjourn for 10
14 minutes.

15

16

17 (Meeting adjourned at 10:09 a.m.)

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REPORTER'S CERTIFICATE

1
2
3 I, BETTY D. GLISSMAN, Certified Court
4 Reporter, Certificate No. 86150, in and for
5 the State of Louisiana, do hereby certify
6 that the Louisiana Used Motor Vehicle
7 Commission November 20, 2017, meeting was
8 reported by me in the stenotype reporting
9 method, was prepared and transcribed by me
10 or under my personal direction and
11 supervision, and is a true and correct
12 transcript to the best of my ability and
13 understanding.

14 This November 29, 2017, Baton Rouge,
15 Louisiana.

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22

23 BETTY D. GLISSMAN, CCR
24 CERTIFIED COURT REPORTER
25

Betty D. Glissman, CCR

\$	23 [1] - 38:24 23,950 [1] - 11:16 29 [1] - 42:14	9:30 [1] - 1:15	30:15, 34:16 agreement [1] - 29:4 alarm [1] - 13:5 alleged [3] - 38:15, 38:16, 38:17 Allegiance [1] - 4:1 allow [4] - 7:22, 15:2, 15:3, 16:1 allowing [1] - 24:19 amount [9] - 14:11, 16:6, 16:7, 19:4, 37:12, 37:14, 37:15, 38:14, 38:20 ANDERSON [11] - 3:4, 7:1, 11:7, 17:14, 17:23, 18:4, 18:14, 19:13, 19:18, 19:23, 20:23 announce [1] - 37:1 annual [2] - 15:17, 15:18 answer [1] - 28:25 anticipates [1] - 12:8 anyway [2] - 21:19, 23:21 apartment [1] - 39:17 appeal [1] - 24:23 Appeal [2] - 24:24, 27:16 APPEARANCES [1] - 2:1 appropriate [1] - 26:20 approve [1] - 6:10 approved [1] - 9:25 areas [1] - 32:17 argument [2] - 24:22, 24:23 assessed [1] - 37:18 assets [1] - 7:21 assigned [2] - 38:21, 38:22 assisted [1] - 39:5 AT [1] - 1:15 attention [1] - 14:23 attorney [2] - 27:13, 28:7 Attorney [1] - 7:16 attorneys [3] - 26:9, 26:10, 28:4 audit [6] - 7:6, 7:7, 7:9, 7:17, 8:18, 10:5 auditor [2] - 13:16, 13:18 authority [7] - 25:1, 25:3, 25:8, 25:25, 26:1, 30:17, 33:11 Auto [2] - 37:10, 37:13	AVENUE [1] - 2:20 Avery [2] - 21:12, 32:21 avoid [1] - 32:14 aware [1] - 31:16 Aye [10] - 6:17, 6:18, 10:24, 10:25, 20:15, 20:16, 38:2, 38:3, 41:10, 41:11	
\$1,200 [1] - 37:12 \$1,423,937 [1] - 11:14 \$1,585,935 [1] - 11:10 \$1,607,272 [1] - 15:13 \$1,850 [1] - 37:15 \$10,000 [1] - 14:11 \$2,033,365 [1] - 7:11 \$2,400 [1] - 39:7 \$23,386 [1] - 9:8 \$25,700 [1] - 7:10 \$297,787 [1] - 8:24 \$3,050 [1] - 37:16 \$357,000 [1] - 8:24 \$365,900 [1] - 8:12 \$39,588 [2] - 7:14, 10:3 \$78,789 [1] - 9:9 \$948,000 [1] - 8:17	3	A			
'	4	A-1 [1] - 21:15 a.m [1] - 41:17 A.M [1] - 1:15 ability [1] - 42:12 able [1] - 27:2 absurd [1] - 25:2 abundantly [2] - 27:10, 28:19 accept [1] - 10:18 account [2] - 7:10, 13:10 accounting [1] - 39:17 accounts [2] - 7:14, 9:24 accurately [1] - 9:13 acquisition [1] - 14:19 acquisitions [2] - 14:18, 15:11 act [4] - 21:7, 22:20, 23:13, 33:1 acting [1] - 26:2 action [1] - 32:5 actions [1] - 30:19 actual [2] - 11:12, 13:3 add [3] - 21:5, 25:13, 33:24 added [1] - 9:4 additional [5] - 9:5, 13:19, 14:19, 15:25, 39:21 addressed [1] - 27:16 adjourn [3] - 41:3, 41:5, 41:13 adjourned [1] - 41:17 adjusted [1] - 7:8 adjusting [1] - 7:6 adjustment [1] - 8:18 administrative [1] - 36:24 adopt [1] - 16:12 affect [1] - 12:2 affidavit [1] - 31:2 agency [3] - 12:12, 12:18, 30:14 agenda [2] - 21:5, 40:22 aging [1] - 14:20 ago [2] - 19:2, 31:11 agree [6] - 26:15, 26:18, 28:5, 29:1,	3 [2] - 8:21, 11:11 301 [1] - 2:23 3132 [1] - 1:20 32:784 [2] - 21:13, 21:15 33 [1] - 38:22 35 [1] - 17:20 35,000 [1] - 17:22		
1	5				
'15-'16 [1] - 9:14 '17-'18 [4] - 9:13, 11:12, 12:6, 13:3 '18 [1] - 8:14 '18-'19 [1] - 8:12	43,000 [1] - 9:1 47 [1] - 39:4				
1	6				
1 [1] - 12:1 10 [7] - 9:24, 12:9, 14:2, 31:11, 38:22, 39:3, 41:13 10:09 [1] - 41:17 11 [1] - 14:17 12 [2] - 19:2, 31:11 13007 [1] - 2:20 138,000 [1] - 11:15 14-day [1] - 39:15 15 [2] - 13:2, 19:2 18th [1] - 40:23 1st [1] - 12:4	51 [1] - 39:1 52 [1] - 38:17				
2	7				
2 [1] - 8:10 20 [2] - 1:14, 42:7 2017 [5] - 1:14, 7:4, 38:18, 42:7, 42:14 2018 [2] - 12:1, 12:8 2018-'19 [2] - 11:9, 16:10	6 [1] - 9:11 6A [1] - 11:20				
	8				
	7 [1] - 12:23 7,000 [1] - 16:17 70809 [1] - 2:23 70816 [1] - 2:20 784 [5] - 22:21, 22:25, 23:4, 23:8 787 [1] - 23:20 788 [1] - 23:16 791 [4] - 23:8, 23:11, 33:4, 35:6 791-A [1] - 23:15				
	9				
	8 [2] - 9:17, 12:25 8,000 [1] - 16:18 8440 [1] - 2:23 86150 [1] - 42:4				
	9 [2] - 9:21, 13:13 95 [1] - 39:4				

<p>27:5, 28:15 blue [1] - 35:16 board [2] - 18:20, 31:15 boards [2] - 31:14, 31:19 books [1] - 7:19 bottom [4] - 8:7, 10:3, 15:18, 16:3 bring [1] - 40:16 brought [3] - 14:22, 21:9, 21:11 budget [16] - 11:6, 11:9, 11:13, 11:18, 11:20, 12:2, 12:8, 13:1, 13:8, 14:9, 15:21, 16:10, 16:12, 20:2, 20:6, 39:10 budgeted [1] - 11:10 built [1] - 17:17 BURKS [1] - 3:5 business [2] - 18:20, 24:1 businesses [1] - 23:9 buyer's [4] - 24:7, 24:9, 24:11, 24:16 BY [1] - 1:24</p>	<p>CERTIFIED [1] - 42:24 certify [1] - 42:5 Chairman [1] - 5:20 CHAIRMAN [1] - 2:3 chairman [3] - 10:7, 10:21, 16:11 chance [2] - 6:2, 25:6 changes [4] - 8:22, 9:22, 17:11, 35:13 changing [1] - 14:6 charge [2] - 33:14 charged [1] - 27:22 charges [2] - 14:3, 14:4 chart [3] - 36:20, 38:13 check [1] - 37:6 choosing [1] - 32:4 Circuit [4] - 23:22, 24:24, 25:2, 33:9 cite [3] - 21:17, 27:5, 29:7 cited [4] - 25:4, 26:20, 27:18, 30:19 Civil [2] - 11:22, 11:23 civil [3] - 23:18, 36:25, 37:18 clarified [2] - 26:25, 27:3 clean [1] - 33:25 cleaning [1] - 34:4 clear [4] - 27:10, 28:19, 34:11, 34:14 clearer [1] - 27:1 closed [2] - 38:25, 39:1 collect [1] - 7:18 collected [1] - 10:1 collection [1] - 7:16 comfortable [1] - 17:3 coming [1] - 29:5 comments [2] - 5:23, 6:4 COMMISSION [2] - 1:5, 2:17 Commission [5] - 18:17, 23:10, 29:5, 30:16, 42:7 commissioners [3] - 37:17, 38:12, 39:8 COMMISSIONERS [1] - 2:4 Commissioners [3] - 12:24, 36:19, 39:2 committed [1] - 24:21</p>	<p>companies [2] - 14:16, 18:5 company [5] - 7:23, 14:10, 14:15, 17:4, 18:21 compare [1] - 9:13 compared [1] - 8:24 compensation [2] - 11:23, 12:22 complain [1] - 27:21 completed [2] - 7:7, 38:23 complicated [5] - 18:25, 19:8, 19:12, 28:14, 28:16 computer [1] - 13:24 computers [3] - 7:24, 8:1, 14:1 concerning [1] - 21:6 concludes [2] - 10:7, 16:9 conflict [1] - 26:8 conservative [1] - 20:6 consideration [1] - 32:13 consistently [1] - 7:23 constitute [1] - 32:23 consumers [1] - 39:5 continually [1] - 16:22 continue [1] - 38:9 contract [3] - 13:21, 13:22, 15:21 contracts [3] - 13:14, 15:10, 15:20 contribution [1] - 12:12 convert [1] - 18:6 Copart [3] - 24:5, 24:7, 24:14 copy [1] - 22:13 Cormier [1] - 4:13 CORMIER [1] - 4:14 correct [5] - 8:18, 18:15, 29:14, 30:14, 42:11 cost [2] - 17:13, 18:6 costs [1] - 15:23 count [1] - 38:17 couple [1] - 21:3 course [5] - 12:13, 16:2, 18:19, 25:2, 32:9 COURT [1] - 42:24 court [1] - 24:23 Court [3] - 24:24, 27:15, 42:3</p>	<p>CPI [1] - 16:23 CREEK [1] - 1:20 criminal [13] - 23:12, 23:20, 27:7, 27:8, 27:9, 27:12, 28:15, 29:22, 29:25, 30:13, 30:14, 31:16, 33:4 curbstoner [1] - 27:5 curbstoners [1] - 25:25 curbstoning [1] - 25:24 curious [1] - 21:20 current [1] - 8:6 cut [1] - 34:14</p>	<p>18:23 devil [2] - 18:12, 18:13 difference [1] - 34:5 different [4] - 17:10, 27:4, 34:8, 34:19 Dino [2] - 4:9, 21:8 DINO [1] - 2:11 direction [3] - 17:10, 40:2, 42:10 Director [1] - 40:4 Director's [1] - 38:10 directors [1] - 18:21 disagree [2] - 27:15, 27:25 discuss [1] - 40:14 discussed [2] - 8:15, 15:9 discussion [1] - 21:5 dismiss [2] - 34:23, 35:2 district [2] - 24:23, 27:13 document [1] - 38:19 done [1] - 31:6 DONNELL [5] - 2:6, 5:9, 10:17, 20:11, 41:6 Donnell [2] - 5:8, 20:14 down [5] - 10:3, 15:17, 23:16, 26:8, 30:23 due [1] - 7:11 Duplessis [1] - 4:17 DUPLESSIS [12] - 2:7, 4:18, 29:9, 29:21, 30:2, 30:7, 30:12, 33:22, 35:18, 35:24, 36:4, 36:11 during [2] - 7:17, 38:21 duty [1] - 31:20</p>
C		D		
<p>calculate [1] - 8:20 cannot [3] - 24:8, 24:9, 29:25 cap [1] - 16:19 car [1] - 24:5 card [4] - 24:7, 24:9, 24:12, 24:16 care [2] - 12:19, 17:9 carries [1] - 6:23 carry [1] - 16:7 Cars [1] - 24:1 case [6] - 23:21, 26:21, 34:14, 34:19, 35:3, 38:19 cases [8] - 29:5, 34:24, 38:20, 38:22, 38:23, 38:24, 38:25, 39:1 catchall [1] - 13:8 CAVU [4] - 14:5, 14:16, 16:16, 18:6 CCR [2] - 1:25, 42:23 certain [1] - 32:16 certificate [1] - 9:21 CERTIFICATE [1] - 42:1 Certificate [1] - 42:4 Certified [1] - 42:3</p>			<p>DA [3] - 30:6, 30:18 DARTY [1] - 2:10 Darty [1] - 4:25 data [2] - 15:5, 18:6 date [3] - 8:23, 9:4, 9:9 days [2] - 18:23, 24:6 dealer [8] - 22:21, 23:13, 23:23, 24:25, 25:10, 25:15, 25:16, 33:1 dealers [6] - 21:7, 22:3, 36:20, 37:2, 37:16 dealership [2] - 24:18, 24:20 December [1] - 40:23 decision [4] - 21:21, 28:2, 30:19, 34:6 decrease [1] - 8:25 decreased [2] - 7:10, 8:16 defer [1] - 36:2 deferred [2] - 8:12, 8:14 defined [1] - 12:14 definitive [1] - 28:25 department [1] - 39:16 deposit [1] - 9:22 deputy [3] - 30:24, 31:7, 31:8 Derek [1] - 40:7 DEREK [1] - 3:3 detail [1] - 11:21 determine [1] - 28:9 determined [2] - 18:11, 36:22 developers [1] - 19:6 development [1] -</p>	E
			<p>effect [2] - 12:1, 12:8 effective [1] - 12:3 efficient [1] - 16:1 employee [1] - 8:8 employees [2] - 12:15, 12:24 end [3] - 8:9, 9:8, 15:24 endeavor [1] - 15:22 ending [1] - 9:7 ends [1] - 19:9 enforce [1] - 29:25 enforcement [6] -</p>	

<p>11:14, 31:18, 31:21, 31:22, 32:2, 32:16 enormous [1] - 19:4 entered [1] - 8:17 entertain [1] - 20:7 entire [1] - 15:21 entries [1] - 7:6 equipment [1] - 7:22 ESQUIRE [2] - 2:19, 2:21 estimate [1] - 17:15 estimated [5] - 11:12, 11:13, 13:3, 14:25, 15:12 evidence [1] - 30:16 exactly [1] - 28:12 exceeded [1] - 14:24 excellent [1] - 5:22 exclusive [2] - 23:5, 23:9 Executive [2] - 38:10, 40:3 exhibit [1] - 35:14 expectancy [1] - 8:2 expenditures [2] - 9:18, 9:20 expense [2] - 12:23, 13:7 expenses [9] - 8:22, 9:2, 13:1, 13:3, 13:5, 13:8, 13:9, 15:10, 15:12 explains [1] - 22:2 extra [2] - 25:13, 25:18</p>	<p>12:6 file [1] - 29:19 financial [3] - 6:25, 7:3, 10:8 financials [1] - 7:5 findings [1] - 30:16 fine [4] - 9:1, 27:12, 37:12, 37:14 finer [8] - 7:13, 7:15, 9:1, 9:25, 25:13, 25:19, 26:8, 37:15 fire [1] - 28:5 firm [1] - 17:19 First [4] - 23:22, 24:24, 25:1, 33:9 first [4] - 21:5, 33:2, 37:9, 38:16 fiscal [1] - 11:9 five [3] - 8:3, 14:25, 39:3 five-day [1] - 39:3 fix [1] - 28:17 fleet [2] - 8:5, 8:6 flip [2] - 11:19, 35:15 Floyd [1] - 4:21 FLOYD [1] - 4:22 following [5] - 9:2, 9:11, 9:16, 12:21, 12:25 Foreign [1] - 24:1 forged [1] - 24:15 formerly [1] - 15:16 forth [2] - 11:19, 15:11 forward [4] - 16:7, 28:2, 34:23, 40:1 four [3] - 9:12, 9:17, 9:18 four-year [3] - 9:12, 9:17, 9:18 front [1] - 27:18 full [1] - 39:19 fund [2] - 12:13, 15:16 funds [2] - 12:11, 12:18 future [1] - 28:3</p>	<p>great [1] - 17:6 guess [2] - 26:5, 41:2 guy [1] - 24:15</p> <p style="text-align: center;">H</p> <p>Hallack [2] - 33:23, 34:12 HALLACK [22] - 2:19, 2:19, 21:16, 21:22, 22:8, 22:12, 22:17, 23:3, 25:22, 26:12, 27:14, 29:2, 29:15, 30:20, 32:19, 33:6, 33:16, 34:21, 35:7, 35:22, 36:1, 36:6 Hammond [1] - 37:11 health [1] - 12:9 hearing [7] - 9:1, 21:20, 26:20, 27:17, 27:20, 32:20, 41:2 help [1] - 27:1 helping [1] - 39:5 HENRY [1] - 2:10 hereby [1] - 42:5 higher [1] - 9:3 HIGHWAY [1] - 2:23 hold [1] - 17:19 home [1] - 24:11 hopefully [1] - 39:24 hoping [1] - 14:13 Horton [1] - 13:22</p>	<p>increased [2] - 7:21, 39:11 increases [1] - 12:3 incur [1] - 13:16 indefinitely [1] - 7:20 individual [1] - 11:21 industry [1] - 19:10 inflows [1] - 8:12 inspections [1] - 39:4 inspectors [1] - 32:18 instead [1] - 14:6 insurance [1] - 12:10 interest [1] - 36:23 interpret [1] - 34:20 interpreted [1] - 33:10 investigating [1] - 14:5 investigative [1] - 38:15 investigator [2] - 39:20, 39:21 investigators [2] - 30:23, 38:21 issue [3] - 27:16, 29:6, 38:17 issued [1] - 39:4 issues [2] - 38:14, 38:17 IT [2] - 7:23, 14:3 item [1] - 13:4 items [3] - 21:3, 33:25, 40:22</p>	<p>39:15, 40:1 keeps [1] - 17:13 Keith [1] - 13:22 KIM [1] - 3:2 Kim [2] - 4:3, 22:23 Kimuel [6] - 23:25, 24:1, 24:4, 24:21, 24:22 kind [5] - 11:18, 17:12, 18:12, 22:2, 29:4 kinds [1] - 28:3 King [1] - 37:10 knowledge [1] - 32:4 KOCH [1] - 2:22</p>
F		I	J	L
<p>face [1] - 19:10 fact [1] - 34:12 facts [1] - 26:21 falls [1] - 32:5 familiar [1] - 21:14 fancy [1] - 25:23 far [1] - 17:12 faster [1] - 39:25 father's [1] - 24:3 favor [6] - 6:17, 10:24, 13:22, 20:15, 38:2, 41:10 fee [2] - 13:20, 14:9 fees [7] - 9:14, 11:13, 13:10, 13:11, 15:2, 15:3, 16:18 felt [1] - 17:2 field [1] - 39:2 figure [2] - 16:3, 17:16 figures [2] - 8:19,</p>	<p style="text-align: center;">G</p> <p>General [1] - 7:16 George [1] - 4:21 given [3] - 17:16, 22:1, 22:2 GLISSMAN [3] - 1:25, 42:3, 42:23 Goins [2] - 21:12, 32:21 graph [1] - 9:16</p>	<p>ID [4] - 24:7, 24:9, 24:11, 24:16 illustrates [3] - 36:20, 38:14, 38:20 impose [1] - 27:7 imposed [6] - 36:17, 36:25, 37:9, 37:16, 37:18, 39:16 include [4] - 7:5, 8:11, 16:4, 39:20 included [5] - 8:11, 14:4, 14:9, 14:11, 14:18 includes [3] - 13:2, 13:4, 13:9 incorrect [1] - 29:17 increase [9] - 9:6, 11:11, 12:9, 12:10, 13:2, 13:16, 15:23, 16:24, 39:10</p>	<p>janitorial [1] - 13:6 January [3] - 8:13, 9:6, 12:1 JEFFERSON [1] - 2:23 JOHN [1] - 2:3 John [1] - 4:5 journal [1] - 7:6 judge [1] - 34:6 July [1] - 12:3 jurisdiction [10] - 24:25, 25:3, 25:7, 25:25, 26:1, 26:19, 27:9, 27:10, 27:11, 33:10 JUSTICE [1] - 2:20</p> <p style="text-align: center;">K</p> <p>keep [4] - 7:20, 19:7,</p>	<p>landscape [1] - 13:6 larger [1] - 13:25 largest [1] - 39:23 LASERS [2] - 12:18, 12:20 last [10] - 7:7, 8:15, 8:24, 9:23, 13:15, 16:17, 21:12, 21:13, 21:20, 36:8 LAW [1] - 2:19 law [12] - 25:18, 31:1, 31:17, 31:20, 31:21, 32:1, 32:2, 32:15, 34:14, 34:19, 35:21, 35:23 lawn [1] - 13:6 lawyers [1] - 34:7 least [1] - 17:7 Lee [6] - 23:25, 24:1, 24:4, 24:21, 24:22 left [2] - 38:24, 41:1 legislation [2] - 29:11, 35:20 legislative [8] - 13:18, 26:25, 28:18, 33:23, 36:3, 36:15, 40:12, 40:20 less [2] - 8:3, 15:4 letter [3] - 21:23, 25:4, 33:18 levied [1] - 27:13 liabilities [2] - 8:7, 8:11 liability [2] - 8:16, 12:19 license [11] - 11:13, 22:21, 23:6, 23:14, 23:19, 23:24, 24:2, 24:8, 26:3, 33:2, 34:25 licensed [4] - 21:7,</p>

<p>22:3, 22:4, 25:8 licenses [3] - 9:15, 23:10, 29:7 licensing [3] - 7:25, 31:19, 39:16 life [2] - 8:2, 14:25 light [1] - 21:11 line [1] - 13:4 list [4] - 33:24, 37:9, 37:10, 37:13 listing [2] - 23:5, 23:9 LLC [2] - 37:10, 37:13 located [1] - 37:11 long-term [1] - 8:10 look [3] - 23:15, 25:6, 34:18 looked [2] - 23:22, 24:16 looking [1] - 26:23 looks [1] - 21:15 losing [1] - 15:5 LOUISIANA [6] - 1:5, 1:6, 1:21, 2:16, 2:20, 2:23 Louisiana [6] - 36:22, 37:11, 37:14, 42:5, 42:6, 42:15 lower [2] - 7:12</p>	<p>Meeting [1] - 41:17 members [1] - 9:5 merchant [1] - 13:10 method [1] - 42:9 MicroPac [1] - 14:10 minimize [1] - 15:23 minutes [2] - 6:3, 41:14 miscellaneous [2] - 11:15, 13:7 misdemeanor [1] - 32:23 modifications [1] - 14:12 Mona [2] - 10:11, 20:22 MONA [1] - 3:4 money [1] - 8:14 monies [1] - 39:6 monitor [1] - 7:23 Monroe [1] - 30:18 month [10] - 7:3, 7:7, 8:9, 8:15, 9:8, 9:23, 21:13, 38:18, 38:22, 38:23 MORRIS [17] - 2:21, 25:20, 26:17, 28:8, 28:13, 29:12, 29:18, 29:24, 30:4, 30:10, 31:13, 32:10, 33:3, 33:12, 34:10, 34:17, 35:4 most [2] - 10:1, 19:11 Motion [1] - 41:9 motion [9] - 6:10, 6:12, 6:23, 10:18, 10:20, 20:7, 20:10, 37:20, 41:5 Motor [1] - 42:6 motor [4] - 22:21, 23:13, 23:23, 33:1 MOTOR [2] - 1:5, 2:16 move [3] - 8:14, 11:5, 17:10 moving [6] - 9:7, 9:10, 15:7, 17:13, 39:15, 40:1 MR [109] - 2:3, 2:10, 2:11, 2:12, 3:3, 4:2, 4:6, 4:10, 4:14, 4:18, 5:5, 5:9, 5:13, 5:17, 5:21, 6:1, 6:7, 6:9, 6:11, 6:13, 6:15, 6:19, 6:22, 10:10, 10:14, 10:17, 10:19, 10:22, 11:1, 11:4, 16:13, 16:15, 17:21, 18:1, 18:8, 18:10, 18:16,</p>	<p>19:16, 19:21, 19:25, 20:4, 20:9, 20:11, 20:13, 20:17, 20:20, 20:25, 21:10, 21:16, 21:18, 21:22, 22:10, 22:12, 22:14, 22:17, 23:1, 23:3, 25:22, 26:4, 26:12, 26:14, 27:14, 27:23, 28:11, 28:22, 29:2, 29:9, 29:15, 29:21, 30:2, 30:7, 30:12, 30:20, 32:7, 32:19, 33:6, 33:16, 33:20, 33:22, 34:1, 34:15, 34:21, 35:1, 35:7, 35:10, 35:18, 35:22, 35:24, 36:1, 36:4, 36:6, 36:9, 36:11, 36:13, 36:18, 37:7, 37:19, 37:21, 37:24, 38:4, 38:7, 38:11, 40:5, 40:9, 40:18, 40:25, 41:4, 41:6, 41:8 MS [40] - 3:2, 3:4, 4:8, 4:12, 4:20, 4:24, 5:3, 5:7, 5:11, 5:15, 5:19, 5:24, 7:1, 11:7, 17:14, 17:23, 18:4, 18:14, 19:13, 19:18, 19:23, 20:23, 22:24, 25:20, 26:17, 28:8, 28:13, 29:12, 29:18, 29:24, 30:4, 30:10, 31:13, 32:10, 33:3, 33:12, 34:10, 34:17, 35:4, 37:5</p>	<p>8:4, 14:21, 14:25, 17:3, 17:4 next [7] - 6:24, 21:2, 21:3, 38:18, 40:11, 40:22 nobody [1] - 34:3 non [3] - 21:7, 22:3, 22:4 non-licensed [3] - 21:7, 22:3, 22:4 noncurrent [1] - 7:21 normal [1] - 8:8 note [1] - 15:24 notice [10] - 26:19, 27:17, 27:20, 28:20, 29:13, 29:14, 29:16, 32:20, 35:5, 35:9 noticed [2] - 16:17, 39:9 notices [1] - 39:3 notify [1] - 33:13 NOVEMBER [1] - 1:14 November [2] - 42:7, 42:14 number [1] - 38:25</p>	<p>15:10, 23:18 operation [2] - 13:12, 16:1 opinion [5] - 21:23, 22:16, 25:4, 33:18, 34:5 opposed [4] - 6:20, 11:2, 20:18, 38:5 option [1] - 30:9 order [2] - 15:24, 39:14 owned [1] - 14:16 owns [1] - 17:4</p>
M		N	O	P
<p>main [1] - 8:25 maintain [1] - 7:24 maintenance [2] - 13:24, 14:9 maintenance/other [1] - 13:4 major [1] - 14:18 manage [1] - 14:1 market [5] - 25:9, 25:21, 25:23, 27:6, 28:15 matter [1] - 32:8 matters [1] - 6:25 Matthew [1] - 5:16 MATTHEW [1] - 2:9 McCOLLISTER [1] - 2:22 mean [10] - 7:18, 22:18, 26:22, 28:1, 28:6, 28:23, 30:11, 34:5, 34:8, 36:7 MEETING [1] - 1:13 meeting [9] - 6:3, 26:6, 36:3, 36:8, 36:15, 40:13, 40:20, 40:23, 42:7</p>	<p>name [5] - 23:24, 24:2, 24:3, 24:4 names [1] - 37:1 need [15] - 14:11, 15:1, 16:11, 18:25, 19:1, 20:6, 26:10, 27:10, 28:2, 28:4, 28:16, 30:23, 31:1, 40:14, 41:3 needs [2] - 26:24, 28:20 negative [2] - 9:9, 15:18 net [11] - 7:4, 7:8, 8:16, 8:22, 15:15, 15:16, 15:17, 16:3, 16:4, 16:5 never [2] - 23:24, 24:2 new [7] - 7:22, 7:25,</p>	<p>object [1] - 34:3 objection [1] - 36:12 obtaining [1] - 33:2 occurring [1] - 18:23 October [8] - 6:3, 7:4, 9:25, 10:1, 10:2, 10:9, 38:18, 39:1 OF [1] - 1:6 OFFICE [1] - 2:19 officer [2] - 30:24, 31:4 official [1] - 18:17 offs [1] - 10:4 OLAVE [3] - 2:8, 5:5, 6:13 Olave [2] - 5:4, 6:16 old [2] - 8:2, 24:6 oldest [2] - 8:5 one [11] - 16:24, 21:6, 21:8, 28:6, 28:7, 37:9, 37:12, 38:16, 39:11, 39:19, 39:21 ongoing [1] - 14:5 online [1] - 13:11 open [2] - 29:23, 38:24 operate [1] - 29:7 operates [1] - 11:20 operating [6] - 7:10, 9:19, 13:1, 13:5,</p>	<p>package [1] - 28:18 packet [4] - 21:25, 26:25, 36:20, 38:13 page [20] - 8:8, 8:10, 8:21, 9:2, 9:11, 9:16, 9:17, 9:21, 9:24, 11:18, 11:20, 12:20, 12:21, 12:23, 12:25, 13:13, 14:2, 14:17, 15:7 pages [1] - 11:19 Parnell [2] - 36:16, 38:9 PARNELL [7] - 3:3, 16:20, 17:21, 22:6, 36:18, 37:7, 38:11 PARSONS [1] - 2:22 part [3] - 8:25, 11:25, 12:17 parts [3] - 22:19, 24:10, 27:11 passes [1] - 20:21 past [3] - 14:23, 17:18, 31:6 pay [5] - 13:11, 19:15, 19:22, 19:24 paying [2] - 17:1, 17:20 payment [1] - 13:11 pays [1] - 12:18 PEDERSON [2] - 2:9, 5:17 Pederson [1] - 5:16 penalties [8] - 23:18, 23:20, 27:7, 27:8, 36:17, 36:25, 37:9, 37:18 pension [1] - 8:16 people [7] - 19:11, 21:25, 22:1, 26:2, 29:6, 33:11, 34:24 percent [3] - 11:11, 12:9, 13:2</p>	

<p>performance [1] - 15:4</p> <p>period [4] - 7:13, 8:18, 9:11, 9:13</p> <p>person [4] - 23:12, 25:13, 28:21, 31:25</p> <p>personal [1] - 42:10</p> <p>phase [1] - 11:24</p> <p>phasing [1] - 13:21</p> <p>photo [2] - 24:12, 24:13</p> <p>physical [1] - 39:4</p> <p>pick [2] - 27:2, 28:17</p> <p>picked [1] - 32:1</p> <p>picking [2] - 32:3, 32:14</p> <p>picture [1] - 9:18</p> <p>place [1] - 14:21</p> <p>plan [4] - 11:24, 11:25, 12:14</p> <p>planning [1] - 40:13</p> <p>plateau [1] - 16:21</p> <p>pledge [1] - 4:1</p> <p>point [3] - 23:22, 26:22, 31:4</p> <p>police [2] - 30:24, 31:3</p> <p>policy [1] - 32:13</p> <p>portion [1] - 27:12</p> <p>position [14] - 7:5, 7:8, 8:23, 15:15, 15:17, 15:19, 16:3, 16:5, 16:6, 18:18, 22:3, 28:23</p> <p>positive [2] - 15:24, 16:6</p> <p>possible [1] - 32:5</p> <p>POTEET [1] - 35:10</p> <p>POTEET [48] - 2:3, 4:2, 4:6, 5:21, 6:1, 6:7, 6:11, 6:15, 6:19, 6:22, 10:10, 10:14, 10:22, 11:1, 11:4, 16:13, 18:10, 18:16, 19:16, 19:21, 19:25, 20:4, 20:13, 20:17, 20:20, 20:25, 26:4, 26:14, 27:23, 28:11, 28:22, 32:7, 33:20, 34:1, 34:15, 35:1, 36:9, 36:13, 37:21, 38:1, 38:4, 38:7, 40:5, 40:9, 40:18, 40:25, 41:8, 41:12</p> <p>Poteet [1] - 4:5</p> <p>prepared [1] - 42:9</p> <p>present [2] - 37:2, 37:4</p> <p>PRESENT [2] - 2:4, 3:1</p>	<p>pretending [3] - 25:10, 25:15, 25:16</p> <p>pretty [3] - 13:15, 39:18, 40:3</p> <p>previous [1] - 16:8</p> <p>previously [1] - 14:16</p> <p>price [2] - 14:14, 19:15</p> <p>primarily [1] - 13:10</p> <p>primary [1] - 23:7</p> <p>prime [1] - 14:24</p> <p>proactive [1] - 39:12</p> <p>proactively [1] - 13:25</p> <p>problem [5] - 18:18, 19:12, 24:15, 27:20, 31:5</p> <p>proceeding [1] - 36:24</p> <p>process [1] - 31:2</p> <p>products [1] - 17:2</p> <p>professional [1] - 13:14</p> <p>program [3] - 14:7, 14:13, 17:4</p> <p>programmers [2] - 19:1</p> <p>progressing [1] - 40:1</p> <p>proper [1] - 30:17</p> <p>proposal [1] - 14:8</p> <p>Proposed [1] - 35:13</p> <p>proposed [2] - 11:9, 16:10</p> <p>provision [2] - 33:9, 35:8</p> <p>provisions [3] - 25:12, 25:18, 34:19</p> <p>public [2] - 5:23, 36:23</p> <p>purchased [4] - 7:22, 7:25, 8:4, 15:1</p> <p>purchases [1] - 14:18</p> <p>purpose [2] - 25:11, 25:16</p> <p>pursue [5] - 29:23, 30:9, 30:14, 30:18, 31:5</p> <p>Pursue [1] - 30:11</p> <p>pursuing [1] - 32:25</p> <p>put [3] - 7:18, 14:21, 24:12</p> <p>putting [1] - 13:18</p>	<p>10:7, 10:12, 10:15, 16:9, 20:1, 40:7</p> <p>quorum [1] - 5:20</p>	<p>report [7] - 9:23, 10:8, 16:9, 31:17, 31:20, 38:10, 38:19</p> <p>REPORTED [1] - 1:24</p> <p>reported [2] - 32:6, 42:8</p> <p>Reporter [1] - 42:4</p> <p>REPORTER [1] - 42:24</p> <p>REPORTER'S [1] - 42:1</p> <p>reporting [4] - 32:1, 32:15, 32:16, 42:8</p> <p>REPRESENTING [1] - 2:16</p> <p>requests [1] - 21:4</p> <p>required [1] - 7:19</p> <p>requirements [1] - 13:19</p> <p>resolution [2] - 16:12, 20:22</p> <p>response [12] - 4:15, 4:23, 6:6, 6:21, 10:13, 11:3, 20:3, 20:19, 38:6, 40:8, 40:17, 40:24</p> <p>responses [5] - 6:18, 10:25, 20:16, 38:3, 41:11</p> <p>retire [3] - 8:5, 12:17, 14:20</p> <p>retirement [2] - 12:11, 12:13</p> <p>returned [1] - 39:6</p> <p>revenue [2] - 9:12, 9:17</p> <p>revenues [7] - 7:12, 8:15, 8:22, 8:23, 11:10, 11:16, 15:23</p> <p>richard [1] - 5:12</p> <p>RICHARD [1] - 2:12</p> <p>ricky [1] - 5:8</p> <p>RICKY [1] - 2:6</p> <p>risk [1] - 15:4</p> <p>Robert [1] - 21:14</p> <p>ROBERT [1] - 2:19</p> <p>ROEDEL [1] - 2:22</p> <p>roll [1] - 4:3</p> <p>RON [1] - 2:7</p> <p>Ron [2] - 4:17, 36:10</p> <p>Ronnie [1] - 31:6</p> <p>ROUGE [3] - 1:21, 2:20, 2:23</p> <p>Rouge [3] - 37:10, 37:14, 42:14</p> <p>rules [4] - 35:13, 35:19, 35:23, 35:25</p> <p>ruling [1] - 21:12</p> <p>run [1] - 23:25</p>	<p>S</p> <p>salaries [4] - 9:3, 9:19, 11:22, 15:9</p> <p>salary [1] - 12:16</p> <p>sale [1] - 27:6</p> <p>sales [5] - 25:10, 25:12, 25:17, 25:19, 28:15</p> <p>salespeople [2] - 22:4, 26:2</p> <p>salesperson [1] - 23:14</p> <p>save [2] - 15:2</p> <p>Scoop's [1] - 37:13</p> <p>scope [1] - 32:6</p> <p>scratched [1] - 24:12</p> <p>screen [1] - 32:21</p> <p>scroll [2] - 23:11, 23:16</p> <p>second [11] - 6:14, 6:16, 10:20, 10:23, 20:12, 20:14, 37:12, 37:23, 37:25, 41:7, 41:9</p> <p>security [1] - 19:3</p> <p>see [14] - 12:4, 12:11, 12:21, 14:8, 15:8, 15:13, 17:7, 18:7, 22:22, 27:24, 32:20, 38:16, 38:19, 39:12</p> <p>sense [1] - 34:9</p> <p>sent [1] - 7:15</p> <p>served [1] - 36:23</p> <p>servers [5] - 14:1, 14:22, 14:23, 15:1, 15:4</p> <p>Service [2] - 11:22, 11:23</p> <p>service [1] - 13:6</p> <p>services [1] - 13:14</p> <p>session [2] - 33:24, 40:12</p> <p>seven [1] - 39:22</p> <p>severs [1] - 7:24</p> <p>shall [3] - 32:22, 33:7</p> <p>share [1] - 22:15</p> <p>SHERI [1] - 2:21</p> <p>sheriff [1] - 31:3</p> <p>sheriff's [3] - 30:24, 31:7, 31:8</p> <p>short [1] - 39:20</p> <p>show [4] - 9:24, 11:19, 29:16, 35:8</p> <p>shows [1] - 11:21</p> <p>side [1] - 38:15</p> <p>significantly [1] - 10:4</p>
	<p>Q</p> <p>questions [7] - 6:4,</p>			

<p>site [1] - 39:4 situation [1] - 17:6 six [1] - 8:1 size [2] - 39:11, 39:18 small [1] - 12:10 SMITH [7] - 2:10, 5:1, 6:9, 10:19, 20:9, 37:19, 41:4 Smith [3] - 4:25, 10:23, 37:22 software [4] - 18:19, 18:21, 18:23, 19:5 someone [3] - 22:20, 23:18, 37:2 sophisticated [1] - 19:11 sort [1] - 13:8 special [1] - 14:12 spend [2] - 19:3, 19:4 staff [13] - 9:5, 13:25, 15:25, 27:2, 29:20, 31:15, 31:20, 39:3, 39:10, 39:11, 39:18, 39:19, 39:23 started [1] - 7:13 State [1] - 42:5 STATE [1] - 1:6 state [1] - 36:21 statement [5] - 7:3, 7:4, 7:8, 8:21, 16:5 statements [1] - 10:8 statute [14] - 22:19, 23:7, 27:3, 28:15, 28:17, 28:20, 29:23, 30:1, 31:17, 31:23, 32:12, 33:5, 35:5 statutes [5] - 26:20, 27:4, 31:15, 34:13, 36:22 stay [1] - 17:24 stenotype [1] - 42:8 STEPHEN [1] - 2:8 steve [1] - 5:4 still [6] - 26:9, 29:23, 30:9, 39:13, 39:19, 39:20 straight [1] - 34:22 SUITE [1] - 2:23 summary [1] - 9:22 supervision [1] - 42:11 supposed [1] - 23:6 swear [1] - 31:1 systems [1] - 19:12</p>	<p style="text-align: center;">T</p> <p>tab [1] - 35:16 tax [2] - 25:12, 25:17 Taylor [1] - 4:9 tAYLOR [1] - 18:1 TAYLOR [9] - 2:11, 4:10, 16:15, 18:8, 21:10, 21:18, 22:10, 22:14, 23:1 technology [1] - 15:25 term [1] - 8:10 THE [1] - 2:16 they've [1] - 14:24 three [4] - 15:14, 19:5, 22:19, 34:13 ticket [1] - 31:10 today [1] - 5:23 together [1] - 28:24 Tony [1] - 4:13 TONYA [1] - 3:5 took [1] - 24:11 top [2] - 23:11, 23:17 total [5] - 15:15, 16:4, 37:15, 38:25, 39:1 totaling [1] - 8:12 transcribed [1] - 42:9 transcript [1] - 42:12 Transformyx [4] - 13:23, 14:22, 15:3 travel [1] - 12:23 tried [1] - 24:5 true [1] - 42:11 try [2] - 17:7, 39:12 trying [3] - 17:9, 25:11, 40:2 turn [4] - 7:2, 11:17, 30:5, 30:15 turnaround [2] - 39:15, 39:25 turning [2] - 14:2, 14:17 two [10] - 11:24, 19:5, 22:18, 26:9, 26:10, 28:1, 28:24, 29:1, 34:7 type [2] - 13:7, 15:5</p> <p style="text-align: center;">U</p> <p>under [4] - 7:4, 31:16, 35:5, 42:10 unfunded [1] - 12:19 unlawful [4] - 32:22, 32:24, 32:25, 33:8</p>	<p>unless [4] - 10:6, 16:8, 35:20, 40:15 unlicensed [3] - 28:21, 32:5, 33:11 up [17] - 11:23, 13:20, 16:17, 16:18, 16:22, 16:23, 19:7, 21:9, 21:11, 24:13, 27:2, 28:4, 28:17, 33:25, 34:4, 39:18, 40:16 update [1] - 19:14 upgrade [2] - 17:9, 17:12 upset [1] - 24:10 USED [2] - 1:5, 2:16 useful [1] - 14:25 usual [1] - 37:1</p> <p style="text-align: center;">V</p> <p>VALLEY [1] - 1:20 vehicle [8] - 8:4, 8:6, 14:19, 14:21, 22:21, 23:13, 23:23, 33:1 Vehicle [1] - 42:6 VEHICLE [2] - 1:5, 2:17 vehicles [1] - 14:21 verbatim [1] - 21:17 violated [3] - 24:17, 24:18, 24:21 violating [1] - 36:21 violation [6] - 22:20, 23:12, 30:25, 31:8, 31:16, 36:21 violations [1] - 24:20 visits [1] - 39:5</p> <p style="text-align: center;">W</p> <p>wants [1] - 35:17 WATTS [3] - 2:12, 5:13, 37:24 Watts [1] - 5:12 ways [1] - 39:13 week [2] - 21:12, 21:20 whole [2] - 31:23, 36:5 wife's [2] - 24:4, 24:11 Wisenor [1] - 31:7 word [1] - 25:24 worded [1] - 31:24 worrying [1] - 19:3 write [2] - 10:4, 31:9 written [1] - 7:17</p>	<p>wrote [3] - 21:23, 25:5, 33:18</p> <p style="text-align: center;">Y</p> <p>year [20] - 8:13, 8:23, 8:24, 9:4, 9:8, 9:12, 9:16, 9:17, 9:18, 11:10, 11:22, 13:15, 13:17, 14:20, 15:12, 15:24, 16:4, 16:17, 16:23 year's [1] - 12:2 year-to-date [1] - 8:23 years [7] - 8:2, 8:3, 14:25, 15:14, 16:8, 19:2, 31:11 years' [1] - 17:18</p>
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