

**EXHIBIT B TO**

**AFFIDAVIT OF**

**SCOTT G. KNUDSON**

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

= = = = =  
SPRINT COMMUNICATIONS  
COMPANY, L.P.,

Plaintiff,

vs.

Civ. 10-4110

NATIVE AMERICAN TELECOM, LLC,  
B.J. JONES, in his official capacity  
as Special Judge of Tribal Court; and  
CROW CREEK SIOUX TRIBAL COURT,

Defendants.

= = = = =  
Deposition of: CARLOS CESTERO  
Date: March 1, 2011  
Time: 9:05 a.m.

= = = = =  
APPEARANCES: Mr. Scott G. Knudson  
Briggs & Morgan, P.A.  
2200 IDS Center  
80 South Eighth Street  
Minneapolis, Minnesota 55402-2157,  
appearing on behalf of the plaintiffs;

Mr. Scott R. Swier  
Swier Law Firm, Prof. LLC  
133 North Main Street  
Avon, South Dakota 57315,  
appearing on behalf of the defendant;  
Native American Telecom, LLC.

ALSO PRESENT: Jeff Holoubek, Native American Telecom

REPORTED BY: Audrey M. Barbush, RPR



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1                   S T I P U L A T I O N

2     It is hereby stipulated and agreed, by and between the

3 above-named parties through their attorneys of record, whose

4 appearances have been hereinabove noted, that the deposition

5 of CARLOS CESTERO may be taken at this time and place; that

6 is, at the Sioux Falls-City Centre Holiday Inn, 100 West

7 8th Street, Sioux Falls, South Dakota, on the 1st day of

8 March, 2011, commencing at the hour of 9:05 a.m.; said

9 deposition taken before Audrey M. Barbush, a Registered

10 Professional Reporter and Notary Public within and for the

11 State of South Dakota. Insofar as counsel are concerned,

12 the reading and signing of the transcript by the witness is

13 waived.

14                                 -oOo-

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23                   CARLOS CESTERO,

24     called as a witness, having been first duly sworn,

25     testified as follows:

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1                   EXAMINATION

2 BY MR. KNUDSON:

3 Q Mr. Cestero --

4     Am I pronouncing your name correctly?

5 A Yes.

6 Q -- would you give us your full name and spell it for

7 the court reporter, please.

8 A Sure. It's Carlos Cestero. Last name is spelled

9 C-e-s-t-e-r-o. First name --

10     Do you need me to spell the first name?

11 Q Please.

12 A C-a-r-l-o-s.

13 Q Mr. Cestero, you're appearing here to give a deposition

14 in a case involving Sprint Communications Company vs.

15 Native American Telecom. Is that right?

16 A Yes.

17     MR. KNUDSON: Before we proceed further, a few

18 preliminaries I'd like to take up with Mr. Swier, who

19 represents Native American Telecom:

20     Scott, you have here with you Jeff Holoubek.

21     Is that correct?

22     MR. SWIER: Holoubek, yes. It's H-o-l-o-u-b-e-k.

23     MR. KNUDSON: And you've told me he's now the

24 President of Native American Telecom?

25     MR. SWIER: Yes. He serves as President of NAT.

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1 BY MR. KNUDSON:

2 Q Just so, Mr. Cestero, you and I are in agreement here,

3 when I refer to Native American Telecom, I'm going to

4 call it NAT if that's all right. Do you agree?

5 A That's right.

6     MR. KNUDSON: Mr. Swier, I also had expected to

7 take Tom Reiman's deposition. I take it it's your

8 position that, since he's not a witness in the

9 proceeding on Thursday, you're not making him available

10 for his deposition today?

11     MR. SWIER: That's correct.

12     MR. KNUDSON: And you'd move for a protective

13 order to prevent that deposition from taking place

14 which was scheduled for 9:00 a.m. this morning?

15     MR. SWIER: Yeah, we have moved for a protective

16 order and are awaiting a decision from either

17 Judge Simko or Judge Schreier.

18     MR. KNUDSON: And, just to make it clear,

19 Mr. Holoubek is not testifying on Thursday. Correct?

20     MR. SWIER: Correct. He will not be testifying

21 on Thursday.

22     MR. KNUDSON: So your two witnesses, then, are

23 Mr. Cestero and Eric Big Eagle. Is that correct?

24     MR. SWIER: That's correct.

25     MR. KNUDSON: Eric Big Eagle, his position with

Page 6	Page 8
<p>1 the tribe is what?</p> <p>2 MR. SWIER: He is on the tribal council. I don't</p> <p>3 know his exact position, but he is one of the elected</p> <p>4 tribal council members.</p> <p>5 BY MR. KNUDSON:</p> <p>6 Q Mr. Cestero, have you had your deposition taken before?</p> <p>7 A No.</p> <p>8 Q I assume you've been briefed a little bit; but, just so</p> <p>9 we know what the ground rules are: We have a court</p> <p>10 reporter in here who is taking down a transcript of</p> <p>11 everything you and I say. Correct?</p> <p>12 A Correct.</p> <p>13 Q And, because she is taking down what we say, we have to</p> <p>14 communicate verbally. So, it's not a nod of a head or</p> <p>15 a shake of a head. It's a yes or a no; and it's better</p> <p>16 to be "yes" or "no" than "uh-huh," "um-hum," because</p> <p>17 those are sometimes ambiguous as to what you meant.</p> <p>18 The other thing here is that I like to ask a</p> <p>19 question, and I'd like you to wait until I finish my</p> <p>20 question so she's not trying to take down what both of</p> <p>21 us are saying at the same time.</p> <p>22 Does that seem simple enough?</p> <p>23 A Yes.</p> <p>24 Q Well, then, tell me, what is your position at NAT?</p> <p>25 A My position at NAT?</p>	<p>1 Before 2010?</p> <p>2 Q July, 2010.</p> <p>3 A Free Conferencing Corporation.</p> <p>4 Q How long have you worked for Free Conferencing</p> <p>5 Corporation?</p> <p>6 A Since September of '09.</p> <p>7 Q Have you had any other experience in the accounting</p> <p>8 field?</p> <p>9 A Yes.</p> <p>10 Q Could you give us, briefly, what your prior accounting</p> <p>11 experience has been since before September, 2009?</p> <p>12 A I've handled the books for three other companies in</p> <p>13 positions of CFO, COO, securitization accountant.</p> <p>14 Q What industry was that?</p> <p>15 A Equipment leasing.</p> <p>16 Q Where do you office?</p> <p>17 A Where is my --</p> <p>18 Q Your office today.</p> <p>19 A Long Beach, California.</p> <p>20 Q And the street address, sir?</p> <p>21 A It's 110 West Ocean Boulevard, Suite A, Long Beach,</p> <p>22 California 90802.</p> <p>23 Q Is that the address for NAT?</p> <p>24 A No.</p> <p>25 Q What address is that for? Is that for</p>
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<p>1 Q Yes.</p> <p>2 A I handle the books.</p> <p>3 Q Do you have a title?</p> <p>4 A No.</p> <p>5 Q You signed an affidavit in this case.</p> <p>6 Do you recall that?</p> <p>7 A Yes.</p> <p>8 Q In that affidavit didn't you say you were the</p> <p>9 controller of NAT?</p> <p>10 A Well, I serve -- I do the functions of a controller,</p> <p>11 but I'm not the controller. I don't have a title.</p> <p>12 Q Do you have any title at all?</p> <p>13 A Not with NAT.</p> <p>14 Q Do you work for any other companies besides NAT?</p> <p>15 A I do.</p> <p>16 Q Who? Which companies?</p> <p>17 A Free Conferencing Corporation.</p> <p>18 Q What is Free Conferencing Corporation?</p> <p>19 A They provide conferencing services.</p> <p>20 Q How long have you had some position with NAT?</p> <p>21 A Since July of 2010.</p> <p>22 Q Did you do any work for NAT before July, 2010?</p> <p>23 A No.</p> <p>24 Q Prior to July, 2010, who was your employer?</p> <p>25 A Free Conferencing Corporation -- oh, I'm sorry.</p>	<p>1 Free Conferencing Corporation?</p> <p>2 A For Free Conferencing Corporation.</p> <p>3 Q So you do your work for NAT while serving as an</p> <p>4 employee of Free Conferencing Corporation at its</p> <p>5 offices in Long Beach. Is that right?</p> <p>6 A I was asked to do the books for NAT.</p> <p>7 Q When you get a paycheck, whose company pays you?</p> <p>8 A Free Conferencing.</p> <p>9 Q Do you know of a company called WideVoice?</p> <p>10 A Yes, I do.</p> <p>11 Q What is WideVoice?</p> <p>12 A They're a telephone carrier.</p> <p>13 Q Do you know the ownership of Free Conferencing</p> <p>14 Corporation?</p> <p>15 A I'm familiar with it.</p> <p>16 Q Who are the owners?</p> <p>17 A David Erickson.</p> <p>18 Q Anyone else?</p> <p>19 A A few shareholders.</p> <p>20 Q Was David Erickson the founder of Free Conferencing</p> <p>21 Corporation?</p> <p>22 A I believe so.</p> <p>23 Q What about WideVoice, where is it located?</p> <p>24 A Nevada.</p> <p>25 Q Does it have an office as well in Long Beach?</p>

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1 A No.  
2 Q Do you know who was the founder of WideVoice?  
3 A I do not know.  
4 Q Do you know who the owners of WideVoice are?  
5 A I do.  
6 Q Who are they?  
7 A Pat Chicas, David Erickson, and Tandy DeCosta.  
8 MR. SWIER: Carlos, would you please spell  
9 Tandy DeCosta, if you could, for Audrey.  
10 THE WITNESS: Sure. Tandy is T-a-n-d-y.  
11 Last name: D-e-C-o-s-t-a.  
12 BY MR. KNUDSON:  
13 Q Have you ever heard of an entity called Wydevoice  
14 that's spelled differently?  
15 And I'll spell it for you: W-y-d-e-v-o-i-c-e.  
16 A Yes, I have.  
17 Q What is Wydevoice, with a Y?  
18 A They manufacture conferencing bridges.  
19 Q So it's a hardware company?  
20 A It's software and hardware.  
21 Q Where is its office?  
22 A Long Beach.  
23 Q Is it in the same place as Free Conferencing  
24 Corporation?  
25 A Yes.

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1 Q Do you know who the owners of Wydevoice, with a Y, are?  
2 A Yes.  
3 Q Who are they?  
4 A David Erickson and Eugene -- I cannot say his last  
5 name. It's Teipnjatov. I cannot spell it.  
6 Q We'll give it a phonetic.  
7 A Yeah.  
8 Q Why don't you give the court reporter your best  
9 phonetic spelling.  
10 A You know, I don't even know. T-s-y-p-y-a-t-o-v (sic).  
11 That's not right. I don't even -- I really don't know  
12 his spelling.  
13 Q Now, Mr. Holoubek, does he have a position with  
14 Free Conferencing Corporation?  
15 A Free Conferencing Corporation, yes.  
16 Q What is his position there?  
17 A He's the Director of Legal and Finance.  
18 Q Excuse me. Legal what?  
19 A Director of Legal and Finance.  
20 Q Is Mr. Holoubek a lawyer?  
21 A I don't know.  
22 Q Does Mr. Holoubek have a position with WideVoice?  
23 A I don't know.  
24 Q Does he have a position with Wydevoice with a Y?  
25 A I don't know.

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1 Q Just so I'm clear, then, the work you do for NAT as an  
2 employee of Free Conferencing Corporation is done at  
3 the location at 110 West Ocean Boulevard, Long Beach.  
4 Correct?  
5 A That's where I am.  
6 Q What are your duties for Free Conferencing Corporation?  
7 A I handle the books.  
8 Q And you handle the books for Free Conferencing  
9 Corporation at the same location as you do for NAT.  
10 Correct?  
11 A Yes.  
12 Q Do you recall preparing some documents to be produced  
13 in this litigation?  
14 A I do.  
15 Q What were you asked to pull together?  
16 A I was asked to give financials. I don't recall  
17 everything that I was asked to produce. I apologize.  
18 MR. KNUDSON: Well, let me mark this as Cestero  
19 Number 1.  
20 (Exhibit 1 is marked for identification.)  
21 MR. KNUDSON: Before I hand to you, Mr. Cestero,  
22 what's been marked as your Deposition Exhibit Number 1,  
23 I'd like to have a little discussion with Mr. Swier.  
24 Scott, some of these documents are bank records,  
25 as you know -- you've looked at them, I'm sure -- and

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1 it would appear that the Wells Fargo documents do not  
2 contain the full account number, but the First Dakota  
3 Bank has the full primary account number on it. I was  
4 not in a position when I looked at these yesterday to  
5 be able to blank out sufficient amounts of the account  
6 number to keep it confidential, but this is how they  
7 were produced to us. I don't know if you have an issue  
8 of just leaving it the way it is or not.  
9 MR. SWIER: You're looking for a redaction on  
10 this, Scott?  
11 MR. KNUDSON: Well, I'm fine one way or the other.  
12 I'm really just offering to you --  
13 MR. SWIER: Why don't we go ahead and do this,  
14 similar to what I did in our discovery answers and  
15 responses to you: I think I just X'd out the last four  
16 numbers of the account. For instance, if you look on  
17 Page 1 there, the account number is 319099 and then  
18 XXXX.  
19 MR. KNUDSON: So, if we could turn to our court  
20 reporter, are you able to do this redaction?  
21 (Discussion off the record.)  
22 MR. KNUDSON: So we'll trust for the court  
23 reporter to take care of that, Mr. Swier?  
24 MR. SWIER: Yes, you bet.  
25

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1 BY MR. KNUDSON:  
2 Q Mr. Cestero, I'm handing you what's been marked as your  
3 Deposition Exhibit Number 1. It starts with a cover  
4 sheet that's unnumbered; and then it begins with a  
5 numbering sequence that we've given to it, NAT 0001  
6 through NAT 00083. Does that seem correct?  
7 A Yeah.  
8 Q Are these the documents you were asked to pull  
9 together?  
10 A They appear to be.  
11 Q Very good. We'll go through parts of this exhibit so I  
12 can get a better understanding of the financial picture  
13 of NAT. Let's turn now for the moment, then, to the  
14 back of Exhibit 1.  
15 Let's just go to NAT 00082, which is the balance  
16 sheet as of December 31, 2010. Do you see that, sir?  
17 A I do.  
18 Q Was it among your duties for NAT to prepare this  
19 balance sheet?  
20 A Yes.  
21 Q So let me just look at this. Going down the column --  
22 Do you have that in front of you, sir?  
23 A I do.  
24 Q -- it shows checking accounts. There's a First Dakota  
25 checking account with a balance of \$1,814.19. Correct?

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1 A Correct.  
2 Q Where is that account maintained?  
3 A At First Dakota Bank.  
4 Q Yes. But, at what branch, do you know?  
5 A Oh, I do not know.  
6 Q Do you know who the signers are for that account?  
7 A Yes.  
8 Q Who are they?  
9 A It's Tom Reiman and Gene DeJordy.  
10 Q Do you or anyone else at Free Conferencing Corporation  
11 have the power to sign checks on that account?  
12 A No.  
13 Q Then looking down at the next line here, "WFB  
14 Checking 5526."  
15 Do you see that, sir?  
16 A Yes.  
17 Q It has about \$10,000 in it as of December 31?  
18 A Correct.  
19 Q And WFB, that's Wells Fargo Bank. Is that correct?  
20 A Yes.  
21 Q What office or branch is that account maintained at?  
22 A That's in Long Beach.  
23 Q Who has the power to sign checks on that account?  
24 A Myself and Jeff Holoubek.  
25 Q Anyone else?

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1 A No.  
2 Q Now, I just want to confirm, then, that First Dakota  
3 and Wells Fargo Bank are the only checking accounts  
4 maintained by NAT. Is that correct?  
5 A That's correct.  
6 Q Would it be fair to say, then, that all money going  
7 into NAT must flow through those two accounts.  
8 Is that correct?  
9 A Yes.  
10 Q Moving on to fixed assets, it shows here computer  
11 equipment of \$8,210.33. Is that at acquisition cost?  
12 A Yes.  
13 Q Where is that computer equipment located?  
14 A That's at the reservation in Crow Creek.  
15 Q Do you have an inventory schedule that would tell you  
16 what the \$8,200 represents?  
17 A Yes.  
18 Q What kind of equipment, then, sir?  
19 A It's computers, monitors, keyboards.  
20 Q How many computers?  
21 A I don't know.  
22 Q How many monitors?  
23 A I don't know.  
24 Q Who would know that information?  
25 A I would. I just don't know right now.

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1 Q You just don't recall?  
2 A I don't recall.  
3 Q The Wi-Max line there, it's \$216,086.81, what does that  
4 represent?  
5 A That's the cost for the communications tower and  
6 related equipment to bring broadband into the area.  
7 Q So is that the so-called radio hut located on the  
8 reservation?  
9 A I don't know how you refer to it.  
10 Q It's the Wi-Max equipment at Fort Thompson. Correct?  
11 A Yes.  
12 Q The furniture and equipment for \$617, where is that  
13 located?  
14 A At the reservation as well.  
15 Q So there are no assets for NAT that are located in  
16 Long Beach. Is that correct?  
17 A No.  
18 Q I'm just wondering: Have you taken any depreciation  
19 yet against this equipment?  
20 A Not yet.  
21 Q When was the Wi-Max equipment purchased?  
22 A That was purchased throughout -- it was, I believe, in  
23 late 2009 and part of 2010.  
24 Q Who made the decision to purchase that equipment?  
25 A I don't know.

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1 Q Then looking here at WideVoice Communications here on  
2 the liabilities side of the balance sheet, do you see  
3 that, sir?  
4 A Yes, I do.  
5 Q It shows \$474,949.38. That's money owed to WideVoice  
6 Communications. Is that correct?  
7 A Yes, it is.  
8 Q And that's this Nevada LLC. Is that right?  
9 A Yes -- no. It's actually not an LLC. It's an S-corp.  
10 Q Sub S. Right?  
11 A Yes.  
12 Q And that's incorporated under the laws of Nevada.  
13 Correct?  
14 A Yes.  
15 Q How to you keep track of what's due WideVoice  
16 Communications?  
17 A Through journal entries.  
18 Q So there's an underlying journal entry that would have  
19 all of the loans from WideVoice Communications to NAT.  
20 Correct?  
21 A Correct.  
22 Q And that schedule would show when those were made.  
23 Correct?  
24 A Yes, it would.  
25 Q Were you asked to produce that schedule?

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1 A No.  
2 Q Then looking here at this line for shareholder  
3 distributions, do you see that, sir?  
4 A I do.  
5 Q Does that represent a distribution to shareholders?  
6 A They're expenses that were incurred on behalf of  
7 Tom Reiman and Gene DeJordy that the tribe had asked to  
8 classify it this way until they figure out whether  
9 they're going to -- how they want to record it going  
10 forward.  
11 Q So, by "shareholder distributions" -- you understand  
12 NAT is a limited liability company. Correct?  
13 A Yes.  
14 Q So, technically, there are no shareholders of an LLC,  
15 are there?  
16 A Well, there's members.  
17 Q Members, yeah.  
18 A Yes.  
19 Q But not shareholders. They're members.  
20 A Right, right.  
21 Q So this would be, for an LLC, really a member  
22 distribution. Correct?  
23 A Correct.  
24 Q And so, if I understand correctly, then, Tom Reiman and  
25 Gene DeJordy have received from NAT \$27,584.62.

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1 Correct?  
2 A No. Those are expenses that were incurred through the  
3 bank account for certain expenses that they incurred in  
4 the building of NAT.  
5 Q I'm trying to understand your answer, then, sir.  
6 You're saying this is money Reiman and DeJordy put  
7 into NAT?  
8 A They didn't put into NAT. It was money in the account  
9 that they used for meals and fuel and airfare, other  
10 business-related expenses.  
11 Q So, in other words, this is distributions to them in  
12 the nature of reimbursement for personal expenses.  
13 Is that right?  
14 A No, I wouldn't say they're personal expenses. They  
15 could be expenses related to the entity. However, the  
16 tribe had asked that we record it this way until they  
17 figure out how we want to classify it. The company  
18 didn't have any money since Sprint stopped paying; so,  
19 as a result, they didn't want to record it as an  
20 expense on the books.  
21 Q Who at the tribe made that decision?  
22 A I don't know.  
23 Q Well, how do you know it was the tribe that made that  
24 decision?  
25 A I was told by the tribe they made that decision.

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1 Q And who told you that?  
2 A Jeff Holoubek.  
3 Q Then the last item there, it says net income of a  
4 negative \$134,609.40. That's the operating loss for  
5 NAT for 2010?  
6 A That's correct.  
7 Q Let's go back to this WideVoice Communications line.  
8 You said you had a journal entry that would record all  
9 of the loans made from WideVoice to NAT.  
10 Is that right?  
11 A That's not what I said.  
12 Q Well, you said --  
13 A I said journal entries, not journal entry. I mean it's  
14 a series of journal entities. I mean it's  
15 transactions.  
16 Q So there is a journal schedule that would show all the  
17 entries showing the loans made?  
18 A Correct.  
19 Q Is there a loan agreement between WideVoice  
20 Communications and NAT?  
21 A I don't know.  
22 Q Do you know if there's interest to be charged to NAT?  
23 A I do not know.  
24 Q When the money comes in from WideVoice, where does it  
25 come from?

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1 A The money that comes in from WideVoice?  
2 Q Yes.  
3 A It comes from WideVoice.  
4 Q From what bank?  
5 A Oh, from one of the bank accounts from WideVoice.  
6 Q Do you recall which?  
7 A The Wells Fargo Bank, the Wells Fargo checking.  
8 Q Is there a separate checking account that WideVoice has  
9 that sends the money?  
10 A Yes.  
11 Q Is that also located in Long Beach?  
12 A The account?  
13 Q Yes.  
14 A Yes -- actually, no. No. That account -- I'm sorry.  
15 I'm sorry. That account is actually in Nevada.  
16 Q Where in Nevada is that?  
17 A I don't know.  
18 Q Is it Reno?  
19 A I don't know.  
20 Q Let's move, then, to the profit and loss statement; and  
21 that's NAT 00083. Do you see that, sir?  
22 A Yes, sir.  
23 Q Did you prepare that profit and loss statement?  
24 A I did.  
25 Q It's kind of an income statement. Is that right?

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1 A It is.  
2 Q Now, sir, on the income line, it shows that there was  
3 income into NAT for 2010 of \$1,148,925.84. Correct?  
4 A Right.  
5 Q It's described as "CABS Collection Income."  
6 Do you see that, sir?  
7 A Um-hum.  
8 Q What does the phrase "CABS Collection Income" mean?  
9 A That's just what it's been called since I started, so I  
10 continued the same methodology. It's income that comes  
11 in from the carriers.  
12 Q Do you know what "CABS" stands for?  
13 A I do not know.  
14 Q Do you know that there's a billing service known as  
15 CABS Agent that NAT has employed?  
16 A Yes.  
17 Q Does NAT continue to employ CABS Agent?  
18 A No.  
19 Q When did it stop employing CABS Agent?  
20 A I do not know the exact month.  
21 Q Sometime in 2010?  
22 A Yes.  
23 Q Would it be coincident with the creation of the  
24 Wells Fargo account?  
25 A I do not know.

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1 Q Do you understand CABS Agent was a third-party billing  
2 service NAT employed?  
3 A Yes.  
4 Q And CABS Agent was employed to bill all the  
5 long-distance carriers. Correct?  
6 A That's my understanding.  
7 Q Well, you understand that Sprint has not paid any of  
8 these invoices since early in 2010. Correct?  
9 A Correct.  
10 Q They only paid two invoices. Correct?  
11 A Correct.  
12 Q So there was income coming into NAT even after Sprint  
13 stopped paying. Correct?  
14 A Not much after.  
15 Q Well, do you know how much Sprint paid? It's under  
16 \$30,000. Correct?  
17 A I don't know how much Sprint paid.  
18 Q Well, who are the other carriers that were paying into  
19 NAT?  
20 A I don't know which ones actually were paying.  
21 Q You don't review the detail from CABS Agent that  
22 indicates which carriers were paying?  
23 A I don't recall.  
24 Q You understand that this litigation concerns a dispute  
25 over whether or not Sprint or other long-distance

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1 carriers have to pay terminating access charges to NAT.  
2 Correct?  
3 A Yes.  
4 Q And that there are other carriers besides Sprint that  
5 are involved in this service. Correct?  
6 A Excuse me? Rephrase that.  
7 Q Do you know if CABS Agent billed AT&T on behalf of NAT?  
8 A Yes.  
9 Q Did AT&T pay those invoices?  
10 A They did, some.  
11 Q How much did AT&T pay?  
12 A I don't recall.  
13 Q But that would show on a journal entry somewhere, would  
14 it not?  
15 A That would be included in that CABS collection income.  
16 Q Did Qwest pay any of the invoices from CABS Agent?  
17 A I don't recall.  
18 Q So, as you sit here today, you can't say one way or the  
19 other?  
20 A I don't know which ones paid. I know some paid, some  
21 didn't. Most of them did not pay as soon as Sprint  
22 stopped paying.  
23 Q Well, we'll go through the detail a little bit more;  
24 but, did Verizon pay any of the invoices from  
25 CABS Agent?



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1 A I don't recall.  
2 Q Do you know if any other long-distance carrier paid any  
3 of the invoices from CABS Agent?  
4 A Some have, yes.  
5 Q Tell me who.  
6 A I don't recall all of them. I could tell you Level 3  
7 paid, AT&T. Sprint paid, obviously. Excel. I don't  
8 recall much else.  
9 Q But that would be in the journal entry showing who was  
10 paying. Correct?  
11 A Correct.  
12 Q Were you asked to produce those journal entries to  
13 Sprint?  
14 A Not as part of this deposition.  
15 Q How about as part of the document production that  
16 Sprint requested?  
17 A Yes, I believe so. I just don't recall the exact  
18 figures.  
19 Q So you gave the journal entries to someone?  
20 A I didn't give the journal entries.  
21 Q Did you obtain them for production to Sprint?  
22 A I produced a summary based on the journal entries.  
23 Q And the summary is this profit and loss statement?  
24 A Part of it, yes.  
25 Q Where is the rest of the summary? What did it

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1 look like?  
2 A It was a spreadsheet that we maintain.  
3 MR. SWIER: It was what, Carlos?  
4 THE WITNESS: It's a spreadsheet.  
5 BY MR. KNUDSON:  
6 Q So where is this spreadsheet currently?  
7 A On my computer.  
8 Q Where is that, down in Long Beach?  
9 A Where I work, yes.  
10 Q Are you able to get it sent to you today?  
11 A No.  
12 Q Could you get it sent to you tomorrow?  
13 A I don't know. I'd have to see.  
14 Q Could you get it sent to you before Thursday's hearing?  
15 A Probably.  
16 Q Do you have your computer with you?  
17 A I don't.  
18 Q But somebody could print it off and fax it to Mr. Swier  
19 or to you?  
20 A Possibly.  
21 Q Are you staying at a hotel in Sioux Falls?  
22 A Yes.  
23 Q So there's a fax machine there that could receive this  
24 spreadsheet?  
25 A Possibly.

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1 MR. KNUDSON: Well, Mr. Swier, I think this is a  
2 responsive document; and I would like it produced as  
3 soon as possible.  
4 MR. SWIER: How quickly can we get it produced?  
5 If we take a break, can we go ahead and get it  
6 sent to us?  
7 THE WITNESS: Yeah. I'll have to go call. I have  
8 to see if somebody is there.  
9 MR. SWIER: Okay.  
10 MR. KNUDSON: At the same time, let's get the  
11 journal entry backing up the WideVoice Communications  
12 loans then as well. Okay? Agreed? Will you do that?  
13 THE WITNESS: Sure. Yes.  
14 MR. KNUDSON: So would it be appropriate to make a  
15 call to your office right now so you can get that  
16 arranged?  
17 THE WITNESS: Yes.  
18 MR. SWIER: Would anybody be there at this time in  
19 Long Beach?  
20 THE WITNESS: I don't know.  
21 MR. SWIER: Well, should we take a quick break,  
22 Scott?  
23 MR. KNUDSON: Why don't we do that.  
24 MR. SWIER: All right. Sounds good.  
25 (A short recess is taken.)

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1 MR. SWIER: Scott, we are going to try to get  
2 those. I question, number one, as to whether those  
3 were requested, those journal entries. Nonetheless, we  
4 are willing to get them. What it's going to take is  
5 for the shop to open up in Long Beach, and then Carlos  
6 is going to have to walk the administrative assistant  
7 through the process on his computer to get them; but  
8 we'll get them for you.  
9 MR. KNUDSON: Good.  
10 When do you think you'll hear when they're  
11 available?  
12 THE WITNESS: I don't know.  
13 MR. SWIER: When does Camille get into the office?  
14 THE WITNESS: She should be there within the next  
15 30 minutes or so.  
16 MR. SWIER: Okay.  
17 BY MR. KNUDSON:  
18 Q So let's go back, then, to the P&L for 2010.  
19 Do you have that in front of you now, sir?  
20 A I do.  
21 Q The advertising expenses of \$4,622.13, what was that  
22 for?  
23 A Those are expenses that were incurred for advertising.  
24 Q Where was the advertising purchased?  
25 A I don't know exactly where it was purchased.

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1 Q What kinds of advertising media were used?  
2 A I don't recall exactly.  
3 Q Do you know in which markets the advertising was  
4 placed?  
5 A I do not.  
6 Q Who would know that?  
7 A I would. I just don't recall.  
8 Q CABS collection and billing expense, do you see that,  
9 for \$96,967?  
10 A Yes.  
11 Q What does that line represent?  
12 A That's for the CABS billing agent. Those are the fees  
13 associated.  
14 Q Those are the fees associated with the revenue from  
15 CABS of over \$1 million?  
16 A For the billing and the collection.  
17 Q Is there a written agreement between NAT and CABS Agent  
18 that you've seen?  
19 A I don't know.  
20 Q Do you know how CABS Agent prices its services?  
21 A Rephrase that, please.  
22 Q Well, does CABS Agent charge a percentage of what it  
23 invoices to NAT?  
24 A I don't know the exact pricing model.  
25 Q So you don't know if it's a percentage of billings or

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1 percentage of receipts?  
2 A I do not know.  
3 Q Who would know that information?  
4 A I would, but I don't recall.  
5 Q There's a line item for consulting expense.  
6 Do you see that, sir?  
7 A Yes.  
8 Q What kinds of consulting expenses would that be?  
9 A That would be for anyone offering some services.  
10 Q Who? Who was paid?  
11 A I don't recall exactly who was paid there.  
12 Q Was Tom Reiman paid any money as a consultant?  
13 A Yes.  
14 Q Do you know how much?  
15 A I do not know the exact amount.  
16 Q Was Gene DeJordy paid for any consulting?  
17 A He was not.  
18 Q Were any other people paid for consulting services?  
19 A I'm not certain.  
20 Q Then let's take a look here at gifts and charitable  
21 contributions, \$3,451. Do you see that, sir?  
22 A Yes.  
23 Q What kind of expenses does this cover?  
24 A Those are for softball, charity things that we do on  
25 the reservation, and other related items.

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1 Q Did you make a charitable contribution to any charity  
2 on the reservation?  
3 A No.  
4 Q Did you give gifts to anybody on the reservation?  
5 A I'm not certain.  
6 Q Is there a list of that somewhere?  
7 A There is.  
8 Q Where is that list?  
9 A I would have to pull it up.  
10 Q And that's part of the financial records of NAT.  
11 Correct?  
12 A Correct.  
13 MR. KNUDSON: Well, why don't you get that sent  
14 here, too, then, sir. Okay?  
15 MR. SWIER: Yeah, we'll take a look at it.  
16 BY MR. KNUDSON:  
17 Q Now, marketing expense, this is the biggest expense  
18 item on the P&L. Isn't that correct?  
19 A It is.  
20 Q \$794,307.49. Do you see that, sir?  
21 A Yes.  
22 Q Can you explain what that marketing expense is?  
23 A That's to pay for the conferencing.  
24 Q So, in other words, that's money paid to  
25 Free Conferencing Corporation?

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1 A Yes.  
2 Q Is there a written agreement between NAT and  
3 Free Conferencing Corporation to determine how much it  
4 gets repaid for marketing expenses?  
5 A I don't know.  
6 Q Have you ever looked for such a document?  
7 A I have not.  
8 Q Who determines how much Free Conferencing Corporation  
9 gets paid?  
10 A I don't know.  
11 Q Well, do you get instructions to deliver so much money  
12 to Free Conferencing Corporation?  
13 A Yes.  
14 Q Who gives you those instructions?  
15 A Jeff Holoubek.  
16 Q Does he tell you how he calculates the amount due  
17 Free Conferencing Corporation?  
18 A No.  
19 Q He just tells you the amount to transfer to  
20 Free Conferencing Corporation?  
21 A Correct.  
22 Q Has he ever told you what the formal arrangement is  
23 between NAT and Free Conferencing Corporation for  
24 reimbursement of marketing expenses?  
25 A Yes.

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1 Q What did he say?  
2 A It's about 75 percent.  
3 Q So 75 percent of the revenue received goes back to  
4 Free Conferencing Corporation?  
5 A Yes. And NAT keeps 25 percent to pay for all its  
6 expenses.  
7 Q But you've not seen anything in writing that would set  
8 forth that arrangement. Is that right?  
9 A I have not.  
10 Q So, payroll expenses, what does that represent?  
11 A Employees.  
12 Q Employees of NAT. Correct?  
13 A Correct.  
14 Q For 2010 it had payroll expense of just over \$25,000.  
15 Is that right?  
16 A Yes.  
17 Q Those employees, would those be people working on the  
18 equipment on the reservation?  
19 A They're working in the communications center as well as  
20 on the reservation.  
21 Q Where is the communications center located?  
22 A On the reservation.  
23 Q So the only location for NAT employees is on the  
24 reservation. Is that right?  
25 A Correct.

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1 Q As of today, how many employees does NAT have?  
2 A Four.  
3 Q What do they do?  
4 A They manage the communications center and help with any  
5 computer problems that people have, the residents have,  
6 on the reservation, for the routers and so forth for  
7 the broadband service.  
8 Q Do you know what the monthly payroll expense is for  
9 NAT?  
10 A The monthly payroll expense?  
11 Q Yes.  
12 A I don't know exactly.  
13 Q Moving down this here to professional fees for 2010, a  
14 figure over \$85,000, what are those for?  
15 A Those would be legal fees.  
16 Q Besides Mr. Swier, are there any other lawyers being  
17 paid in that figure?  
18 A I believe so, yes.  
19 Q Do you pay any Washington, D.C., attorneys to work for  
20 NAT?  
21 A I don't know.  
22 Q Repairs and maintenance, almost \$99,000.  
23 Is that correct?  
24 A Yes.  
25 Q What do these expenses represent?

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1 A Those are expenses related to the build-out of the  
2 communications center.  
3 Q So it's really not maintenance or repairs as such.  
4 It's actually new construction?  
5 A Some of it.  
6 Q The build-out of the communications center cost how  
7 much?  
8 A I don't know.  
9 Q Where is that shown on the balance sheet?  
10 A Some of it would be possibly in the Wi-Max. I don't  
11 know.  
12 Q Let's go down to telephone and circuit expenses of  
13 almost \$127,000. Do you see that, sir?  
14 A Yes.  
15 Q What are those expenses?  
16 A Those are expenses for the circuits, to maintain the  
17 conferencing on the reservation.  
18 Q "Circuit expenses," what does that particular phrase  
19 refer to?  
20 A I don't know. I'm not a circuit expert.  
21 Q Does any of this expense go to equipment that  
22 Free Conferencing Corporation maintains?  
23 A I would assume that it goes towards the communications,  
24 the overall. I don't know exactly what it pertains to.  
25 Q Does any of it go to WideVoice?

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1 A Say that again.  
2 Q Does any of that circuit expenses go to WideVoice?  
3 A What do you mean, "go to WideVoice"?  
4 Q In other words, it maintains equipment that it allows  
5 NAT to use.  
6 A You know, I don't know what these -- what the exact  
7 circuits are for. You know, we get bills; and we pay  
8 them.  
9 Q Do you get bills from WideVoice for services?  
10 A No.  
11 Q Do you get bills from Free Conferencing Corporation for  
12 services?  
13 A No.  
14 Q Then who is billing you for circuit expenses?  
15 A SDN.  
16 Q SDN, South Dakota Network?  
17 A Yes.  
18 Q What about Midstate Communications?  
19 A Yes.  
20 Q What about AT&T?  
21 A I don't know.  
22 Q Do you know who Keith Williams is?  
23 A Yes.  
24 Q Who is he, sir?  
25 A He is someone that works on behalf of NAT to set up all

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1 the circuits.  
2 Q Is he a Free Conferencing Corporation employee?  
3 A No.  
4 Q Is he a WideVoice employee?  
5 A Yes.  
6 Q Mr. Williams testified in October that there's a  
7 dedicated Internet line from the WideVoice switch in  
8 Los Angeles back to SDN in Sioux Falls.  
9 Does that seem correct?  
10 A Like I said, I'm not a circuits expert. I don't know  
11 the circuits.  
12 Q Does AT&T bill NAT for the use of that line?  
13 A I don't know.  
14 Q Does it bill WideVoice for that, then?  
15 A Maybe. I don't know.  
16 Q Travel expenses of \$15,575.77, do you see that, sir?  
17 A Yes.  
18 Q What kind of travel is that?  
19 A Trips to Washington, D.C., and other miscellaneous  
20 trips.  
21 Q What business does NAT have in Washington, D.C.?  
22 A I don't know. I don't know.  
23 MR. KNUDSON: Let's mark this as Cestero Number 2.  
24 (Exhibit 2 is marked for identification.)  
25

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1 BY MR. KNUDSON:  
2 Q Mr. Cestero, I'm handing you what's been marked by the  
3 court reporter as your Deposition Exhibit Number 2.  
4 Take a moment to look at it, and tell me if you  
5 recognize it.  
6 A (Witness examines document.) I do.  
7 Q What is it, sir?  
8 A It's the profit and loss for January for NAT.  
9 MR. KNUDSON: Let's go off the record a second.  
10 (Discussion off the record.)  
11 MR. KNUDSON: Let's go back on the record.  
12 Q Mr. Cestero, would you kindly identify what Exhibit 2  
13 represents?  
14 A Yes. It's the balance sheet and the profit and loss  
15 for NAT as of January 31, 2011.  
16 Q Would it be correct to say that's for one month?  
17 A Correct.  
18 Q So let's just take a look here; and, if you can, refer  
19 back to the balance sheet for the year ending  
20 December 31 in Exhibit 1.  
21 A Okay.  
22 Q So now you have Exhibit 1, NAT 82, in front of you and  
23 the balance sheet for January 31 as well. Correct?  
24 A Yes.  
25 Q Let's just look here, then, at the checking account.

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1 At the end of December 31 there was just over \$10,000.  
2 Correct?  
3 A Correct.  
4 Q And then at the end of January it had gone up to  
5 \$23,702. Correct?  
6 A Correct.  
7 Q How, if there's an operating loss for January, do you  
8 end up with more money in your checking account?  
9 A Loans from WideVoice.  
10 Q How much of a loan did you receive in January, 2011,  
11 from WideVoice?  
12 A I don't know the exact amount.  
13 Q Well, would it be to compare the liabilities due  
14 WideVoice at month-end to what's due WideVoice at the  
15 year-end?  
16 A Yes. That would be the net amount, yeah.  
17 Q Would you agree that it's approximately a \$55,000  
18 increase in what's owing WideVoice?  
19 A Yes.  
20 Q If we saw a checking account statement for January,  
21 2011, would we see deposits of that amount from  
22 WideVoice?  
23 A You would see several deposits, and then you'd see  
24 expenses reducing the cash balance.  
25 Q But you'd agree that, if WideVoice was loaning money to

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1 NAT, it would show up in the Wells Fargo checking  
2 account?  
3 A Yes.  
4 Q Can we get a copy of the January checking account  
5 statement from Wells Fargo?  
6 A Yes.  
7 Q Can we make arrangements to get that sent to us as  
8 well?  
9 Is that a yes or no?  
10 A Yes. Sorry. I was watching him write.  
11 Q Then, if we could take a look at P&L for January, 2011,  
12 Exhibit 2, do you see an entry for CABS collection  
13 income of \$31.02?  
14 A Yes.  
15 Q What carrier was paying CABS Agent in January, 2011?  
16 A That I don't recall.  
17 Q But you would agree there was one carrier who paid you  
18 \$31. Is that right?  
19 A At least one.  
20 Q CABS Agent charged you \$771 to collect that \$31,  
21 didn't they?  
22 A Yes.  
23 Q So, although you said earlier that you were no longer  
24 using CABS Agent to bill, apparently they're still  
25 billing on your behalf. Is that right?

<p style="text-align: right;">Page 42</p> <p>1 A We have a different company. 2 Q Who is your billing agent now? 3 A It's CDG. 4 Q Can you -- 5 A Communications Data Group. 6 Q How long has CDG been the billing agent? 7 A I don't know. 8 Q But at some point in 2010 it replaced CABS Agent. 9 Correct? 10 A Correct. 11 Q But you haven't changed the description on your 12 financial records, have you? 13 A No. No need to. 14 Q Now, you paid \$3,000 in consulting expenses in January 15 of 2011. Right? 16 A Correct. 17 Q Who got the \$3,000? 18 A Tom Reiman. 19 Q What did he do for those services? 20 A He made sure the reservation was operating. 21 Q Well, you have employees on the reservation as well, 22 don't you? 23 A Yes. 24 Q In fact, your payroll expense for January was about 25 \$1,900. Correct?</p>	<p style="text-align: right;">Page 44</p> <p>1 A That would be Tom DeJordy and Tom Reiman. 2 MR. SWIER: Gene DeJordy. 3 THE WITNESS: I mean Gene. I'm sorry. Let me 4 reanswer that: Tom Reiman and Gene DeJordy. 5 BY MR. KNUDSON: 6 Q Duly noted. 7 So, although WideVoice is an owner of NAT, it's 8 also a lender to NAT. Is that right? 9 A Yes. 10 Q And you're recording these transfers from WideVoice 11 Communications to NAT as a loan and not an investment. 12 Correct? 13 A Correct. 14 Q Yet you've never seen a document that would evidence 15 that this is an actual creditor-lender relationship. 16 Correct? 17 A I have not. 18 Q Let's take a look now back to Exhibit 1. The first 19 page, NAT 0001, what does that represent? 20 A These are reports that are required to support the 21 amount of minutes. 22 Q So this is a minutes of usage report for NAT? 23 A Yes. 24 Q So the total number of minutes of use for January, 25 2011, was over 12 million. Is that right?</p>
<p style="text-align: right;">Page 43</p> <p>1 A That's what it shows, yes. 2 Q Professional fees of \$23,543, what are those fees for? 3 A I don't know exactly, but some would be legal. 4 Q What other kind of professional fees does NAT incur? 5 A Accounting. 6 Q Do you have like an outside auditor examine the books 7 and records of NAT? 8 A We have someone that prepares the payroll tax. 9 Q Then again there's travel expense of \$720. 10 What's that for? 11 A I don't know. 12 Q Now, let's go back to Exhibit 1. Before we get too 13 much further into this, do you know who the owners are 14 of NAT? 15 A The owners of NAT? 16 Q Yeah. 17 A The members? 18 Q Yes. 19 A Yes. 20 Q Who are they? 21 A It's the Native American tribe. It's WideVoice 22 Communications, and it's Native American Telecom 23 Enterprise. 24 Q Who are the members of Native American Telecom 25 Enterprise, or NAT Enterprise?</p>	<p style="text-align: right;">Page 45</p> <p>1 A That's what the report shows. 2 Q Who prepared this report? 3 A I don't know. 4 Q But you recognize it for what it is? 5 A I do. 6 Q Let's move on to the bank statements. Let's segregate, 7 first of all, that from NAT 0002 through NAT 00012, 8 those are checking account statements from the 9 Wells Fargo account. Correct? 10 A Yes, they are. 11 Q And that's the account for which you and Mr. Holoubek 12 are signers. Correct? 13 A Yes. 14 Q Where are the underlying copies of cancelled checks 15 kept? 16 A Copies of cancelled checks? 17 Q Yes. 18 A They're all online. 19 Q When you get these statements, do you get copies of the 20 checks as they've been processed? 21 A We do not. 22 Q You'd have to go online and download that information? 23 A Yes, sir. 24 Q Do you do that on a monthly basis? 25 A I reconcile the accounts every single month.</p>

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<p>1 Q So, the first one, NAT 2, Page 1 of 1, the account is 2 opened, if I'm correct, then, on July 23, 2010? 3 A Correct. 4 Q Did you open that account? 5 A Yes. 6 Q If you go to the next page, NAT 0003, and you go on to 7 the next page after that, NAT 0004, is that the 8 statement for August, 2010? 9 A Yes, it is. 10 Q Here we show some deposits of \$75,000 and \$128,855.42. 11 These are wire transfers from First Dakota National 12 Bank to this Wells Fargo account. Correct? 13 A Yes. 14 Q So, in essence, what happened then in August is that 15 you transferred the bulk of the money out of the 16 First Dakota accounts to Wells Fargo. Correct? 17 A Correct. 18 Q And, since then, that First Dakota account has been 19 pretty much inactive. Right? 20 A Correct. 21 Q Then on August 9, if you'd look here on NAT 0003, there 22 is a transfer on August 9 of \$96,641.53. 23 Do you see that, sir? 24 A Yes. 25 Q That's the transfer to Free Conferencing Corporation?</p>	<p>1 A I'd have to look at the ledger. 2 Q You can't say one way or another whether these are from 3 long-distance carriers or not, then. 4 Is that right, sir? 5 A It's impossible to say from the statement. 6 Q But these are not loans from WideVoice Communications, 7 are they? 8 A I don't know. 9 Q Well, let's take a look, then, at NAT 0007 and 8. 10 Is that the Wells Fargo statement for October, 2010? 11 A Yes, it is. 12 Q Well, do you see on NAT 0007 an online transfer of 13 \$6,000? 14 A Yes. 15 Q Was that a loan from WideVoice Communications? 16 A That would be a loan. 17 Q How can you tell that that is a loan? 18 A It says, "Online Transfer Loan to Natcc." 19 Q So, if it's coming in as a loan, you make a notation 20 that it would be a loan. Is that right? 21 A When I make the transfer, yes. 22 Q But, if it came in as a check from CDG, it would be 23 recorded as a deposit. Is that right? 24 A A check from CDG would be recorded as a deposit. 25 Q So is it fair to say that in September of 2010,</p>
Page 47	Page 49
<p>1 A Yes. 2 Q And that transfer was at the direction of Mr. Holoubek. 3 Is that right? 4 A Correct. 5 Q Did you prepare the paperwork for the transfer? 6 A I did the transfer. 7 Q Did you ask for any documentation of the accuracy of 8 the amount to be transferred, sir? 9 A No. 10 Q Then take a look at NAT 0004. 11 Do you see these checks being paid? 12 A Yes. 13 Q What are these checks being paid for, do you recall? 14 A I do not recall. 15 Q If we move on, then, the next two pages in Exhibit 1, 16 NAT 0005 through 6, are the statement for September, 17 2010? 18 A Yes. 19 Q Here we see some deposits that total \$38,765.67. 20 Do you see that, sir? 21 A Yes. 22 Q Are these deposits revenues being received from 23 long-distance carriers paying NAT? 24 A I can't tell from here. 25 Q How would you determine where the money came from?</p>	<p>1 NAT 0005, that those are deposits from CDG? 2 A I can't tell from here. 3 Q You'd have to look at what, sir, to know? 4 A I'd have to look at the ledger for the detail. 5 Q Were you paying Free Conferencing Corporation any money 6 in October of 2010? 7 A No. 8 Q How do you know that? 9 A Not from here. It doesn't look like any money was paid 10 out. 11 Q The next two pages of Exhibit 1, NAT 0009 through 10, 12 is that the account statement for November? 13 A Yes. 14 Q Now look at the deposits. You see there are three 15 deposits. Are these all loans from WideVoice 16 Communications? 17 A The ones for \$51,000? 18 Q Yes. 19 A Yes. 20 Q The next two pages, NAT 00011 through 12, is that the 21 account statement from Wells Fargo for NAT for 22 December, 2010? 23 A It is. 24 Q Again there's a deposit of \$3,519.77. 25 Would that be a check received from CDG?</p>

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1 A I can't tell from here.  
2 Q What other sources of cash for NAT in December, 2010,  
3 were there except either a deposit from CDG or a loan  
4 from WideVoice Communications?  
5 A I don't know.  
6 Q Well, you're in charge of the financial records of NAT,  
7 are you not?  
8 A Yes, but from here I can't tell.  
9 Q Well, I'm asking you: Was there any other source of  
10 cash besides either a deposit from CDG or a loan from  
11 WideVoice?  
12 A Again, from here I can't tell.  
13 Q I'm not asking you from this statement; but, do you  
14 recall whether there was --  
15 A I don't recall, no.  
16 MR. SWIER: Make sure you let Scott finish his  
17 question.  
18 THE WITNESS: Oh, I'm sorry.  
19 MR. KNUDSON: It's not for my benefit. It's for  
20 our court reporter's benefit.  
21 THE WITNESS: I understand.  
22 BY MR. KNUDSON:  
23 Q So, WideVoice loaned \$44,000 to NAT in December, 2010?  
24 A That's the way it appears, yes.  
25 Q Again, all loans that WideVoice made to NAT from the

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1 period of August, 2010, through December, 2010, would  
2 be reflected in the bank statements from Wells Fargo.  
3 Correct?  
4 A They would, yes.  
5 Q Let's move a little further into Exhibit 1. I think,  
6 if you'll take a look at Exhibit 1, all the way to the  
7 very end, except for the balance sheet and income  
8 statement for 2010, would you agree with me that these  
9 are the bank statements for the account Native American  
10 Telecom maintained at First Dakota?  
11 A Yes, they are.  
12 Q Are these all the bank statements available for this  
13 account at First Dakota?  
14 A Through December 31st, yes.  
15 Q So we start with, on NAT 00013 through 14, the account  
16 statement for August, 2009?  
17 A Yes.  
18 Q That's the first statement available from First Dakota.  
19 Correct?  
20 A Yes.  
21 Q So the account was opened at some point in time in  
22 August, 2009. Correct?  
23 A I don't know. I wasn't there.  
24 Q Well, it shows an opening deposit on Page 00013  
25 of \$100, doesn't it?

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1 A Yes.  
2 Q Wouldn't that suggest that was the opening deposit?  
3 A You could assume.  
4 Q Let's take a look here at September, which is  
5 NAT 00015. It's the only page I have for September.  
6 Would you agree that's the only page for  
7 September, 2009?  
8 A Yes.  
9 Q Again it shows a minor deposit from Reiman Rentals of  
10 \$50. Correct?  
11 A Yes.  
12 Q Let's move on to October. That's NAT 00016.  
13 Again a minor transfer from Tom's account is the  
14 only revenue coming in. Correct?  
15 A Correct.  
16 Q Let's look at the account statement for November, 2009,  
17 NAT 00017. Again it shows just a miscellaneous  
18 transfer from Tom's account as revenue. Correct?  
19 A Correct.  
20 Q Now let's move to December, 2009. Do you see that?  
21 That's a two-page statement, NAT 00018 through 19.  
22 Do you see that, sir?  
23 A Yes, I do.  
24 Q Now, I see two deposits. Do you see an incoming wire  
25 transfer from WideVoice?

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1 A Yes.  
2 Q Do you know if that's a loan?  
3 A That would be a loan.  
4 Q So that is the first loan from WideVoice in 2009.  
5 Isn't that correct?  
6 A Yes.  
7 Q Now let's just take a look here at this withdrawal,  
8 December 31, on Page NAT 00018. Do you see that entry  
9 for \$318.40 transferred to Tom's account?  
10 A Yes.  
11 Q Now, is this one of those expense items that's a part  
12 of the balance sheet that the tribe has asked it be  
13 characterized in a special way?  
14 A Yes.  
15 MR. SWIER: Scott, do we want to take a break so  
16 we can call and see if we can --  
17 MR. KNUDSON: Yeah, why don't we do that.  
18 (A short recess is taken.)  
19 (Exhibit 3 is marked for identification.)  
20 BY MR. KNUDSON:  
21 Q Mr. Cestero, we're back on the record. I'm handing you  
22 what's been marked as Cestero Exhibit Number 3. Take a  
23 moment to look at it. Tell me if you can recognize it.  
24 A Yes, I recognize it.  
25 Q What is it?

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1 A It's the "due to" WideVoice Communications from NAT.  
2 Q This would be the journal backup for the balance sheet,  
3 is that right, for 2010?  
4 A Correct.  
5 Q Now, I believe I had asked you to provide me with the  
6 journal backup for the P&L for 2010 which would show  
7 the detail for the income coming into NAT for 2010.  
8 Do you recall that, sir?  
9 A I don't. I'm sorry.  
10 Q Well, Exhibit 3 is your journal entry support for your  
11 balance sheet that shows the amount due WideVoice  
12 Communications. Correct?  
13 A Yes.  
14 Q There is another journal entry, is there not, in the  
15 records of NAT that would be backup for the revenue  
16 statement, showing the amount of income received from  
17 what source in 2010. Right?  
18 A Yes, but I believe he already discussed that.  
19 Q Well, before we get to that, that documentation is  
20 available. Correct?  
21 A Yes.  
22 Q And you could have printed it off for me on recess  
23 right now. Correct?  
24 A Yes.  
25 Q And you're not producing that backup documentation on

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1 instructions from your counsel. Correct?  
2 A Correct.  
3 MR. KNUDSON: Mr. Swier, we'll bring this up with  
4 the Court on Thursday; but I think we're entitled to  
5 know where the money came from in 2010 because it added  
6 up to a substantial amount of money.  
7 MR. SWIER: Objection duly noted.  
8 BY MR. KNUDSON:  
9 Q Let's just go back to Exhibit 3 now for a moment; and  
10 just kind of, if you will, generally walk me through  
11 what this exhibit represents.  
12 A Well, it represents payments that have been made by  
13 WideVoice on behalf of NAT in addition to loans made  
14 directly to NAT by WideVoice.  
15 Q So, when I look at an entry that says: "General  
16 Journal, 6-4-2009, Number 6, Wirefree Communications,"  
17 that's money, \$47,750, that WideVoice paid Wirefree  
18 Communications for technology to place on the  
19 reservation. Is that right?  
20 A Correct.  
21 Q When it says: General Journal entry, 6-4-2009,  
22 Number 6, that's the sixth entry in the general  
23 journal. Is that correct?  
24 A Yes.  
25 Q So there's a sequential log here of the entries in the

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1 general journal. Do you see that, sir?  
2 A Yes.  
3 Q Now, on Exhibit 3, then, this shows all the cash loans  
4 made to NAT in 2010. Correct?  
5 A Correct.  
6 Q There is, however, a loan repayment in 2010, is  
7 there not?  
8 A Yes.  
9 Q Do you see that on February 12, 2010, \$5,000 was repaid  
10 to WideVoice. Correct?  
11 A Yes.  
12 Q That was a repayment of an advance made in December,  
13 2009. Correct?  
14 A Yes.  
15 Q So the total on this schedule adds up to \$479,949; and  
16 that's the line entry, then, on the balance sheet on  
17 Exhibit 1, NAT 82? I just want to tie these two  
18 together.  
19 A It's \$474,000, not \$479,000 as you stated. You're  
20 looking at the wrong column.  
21 Q I am, indeed. Thank you.  
22 So, \$474,949 ties, from Exhibit 3, to the balance  
23 sheet, which is Exhibit 1. Correct?  
24 A Yes, sir.  
25 Q Thank you. Now, if you go back to the first page of

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1 Exhibit 1 for a second, that's this minutes of usage  
2 report. Do you see that, sir?  
3 A Yes.  
4 Q What percentage of the minutes of usage in January,  
5 2011, were to numbers maintained by Free Conferencing  
6 Corporation?  
7 A I don't know.  
8 Q Who would know that information?  
9 A I don't know.  
10 Q Let's go back to the detail here, then, on Exhibit 1.  
11 Let's go to the statement for January, 2010. That's  
12 NAT 20.  
13 A Okay.  
14 Q It's a two-page statement, is it not, NAT 20 and 21?  
15 A It is, yes.  
16 Q So, if we look at the first page of the statement --  
17 MR. KNUDSON: Just, by the way, Mr. Swier, the  
18 court reporter during the recess went through this and,  
19 I believe, has tried to redact all the identifying  
20 information.  
21 MR. SWIER: That'd be great. Thank you.  
22 BY MR. KNUDSON:  
23 Q Back again, then, to NAT 20, the first page of the  
24 statement for January, 2010, the deposit line shows no  
25 deposits. Is that right?



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<p>1 A Correct.</p> <p>2 Q So there was no revenue coming into NAT in January,</p> <p>3 2010. Correct?</p> <p>4 A No, not to this account.</p> <p>5 Q Is that right? There was no money coming in?</p> <p>6 A There was no money.</p> <p>7 Q Then if you turn to Page 2 -- on NAT 21, it would be --</p> <p>8 do you see the handwritten notation, "Tom \$2,400"?</p> <p>9 A Yes.</p> <p>10 Q Is that your handwriting?</p> <p>11 A No.</p> <p>12 Q Does that represent the amount of money that was paid</p> <p>13 to Tom Reiman in January, 2010?</p> <p>14 A I don't know what that is.</p> <p>15 Q If we go back to the first page of the statement, don't</p> <p>16 we see a number of transfers to Tom's account: \$1,000,</p> <p>17 \$500, \$500, and \$400?</p> <p>18 A Yes.</p> <p>19 Q Does that add up to \$2,400?</p> <p>20 A It does.</p> <p>21 Q Then let's move to the statement for February, 2010,</p> <p>22 NAT 22 through 23. Do you see that, sir?</p> <p>23 A Yes.</p> <p>24 Q That is the statement for February, 2010?</p> <p>25 A It is.</p>	<p>1 A It would be, yes.</p> <p>2 Q So NAT paid some of this directly as well.</p> <p>3 Is that correct?</p> <p>4 A Yes.</p> <p>5 Q Go to the next page of the statement. Do you see the</p> <p>6 outgoing wire transfer to Free Conferencing Corp on</p> <p>7 February 5?</p> <p>8 A I do.</p> <p>9 Q Is that, then, its share of the revenues coming in?</p> <p>10 A It would be.</p> <p>11 Q Then there is the February 12 outgoing transfer to</p> <p>12 WideVoice Communications. That's the repayment of the</p> <p>13 loan made in December. Correct?</p> <p>14 A Correct.</p> <p>15 Q Let's move on to the March statement. This one is a</p> <p>16 little longer. It goes on for eight pages, beginning</p> <p>17 with NAT 24 and ending with NAT 31. Is that right?</p> <p>18 A Yes.</p> <p>19 Q Let's go back to the first page of the statement; and</p> <p>20 again we see a deposit on March 3 with the entry, "WFB</p> <p>21 Direct Pay CCD," for \$142,043.72.</p> <p>22 Do you see that, sir?</p> <p>23 A Yes.</p> <p>24 Q But you can't tell me whether that's revenue from</p> <p>25 long-distance carriers that were paying NAT's invoices?</p>
Page 59	Page 61
<p>1 Q Now, you recall that in January there were no deposits,</p> <p>2 no revenue coming in. Correct?</p> <p>3 A Yes.</p> <p>4 Q Now, we see a deposit of \$114,138.47.</p> <p>5 Do you see that, sir?</p> <p>6 A Yes.</p> <p>7 Q It says here, "WFB Direct Pay CCD." Do you know what</p> <p>8 that entry stands for?</p> <p>9 A I do not.</p> <p>10 Q Do you know if it's Wells Fargo Bank?</p> <p>11 A I don't know.</p> <p>12 Q Do you know, is this revenue coming in from CABS Agent,</p> <p>13 from invoices it sent to long-distance carriers?</p> <p>14 A I'm not certain. I can't base it off of this</p> <p>15 statement.</p> <p>16 Q So, in order to know whether this was revenue from</p> <p>17 long-distance carriers, we'd have to look at that</p> <p>18 schedule that backs up the income statement for 2010.</p> <p>19 Correct?</p> <p>20 A I'd have to refer to the ledger.</p> <p>21 Q Then, if we go down on Page 1 of the statement, do you</p> <p>22 see the outgoing wire transfer to Wire Free Comm for</p> <p>23 \$6,925?</p> <p>24 A Yes.</p> <p>25 Q Is that part of the build-out on the reservation?</p>	<p>1 A Not from here I can't tell.</p> <p>2 Q But, if we turn to the second page of the statement,</p> <p>3 sir, and we look at the outgoing wire transfer on</p> <p>4 March 4, a day later, to Free Conferencing Corp of</p> <p>5 \$106,532.79, that's Free Conferencing Corporation's</p> <p>6 share of the revenues from NAT. Correct?</p> <p>7 A I would assume so, yes.</p> <p>8 Q Do you have a calculator with you?</p> <p>9 A No, not with me.</p> <p>10 Q Can you work a calculator from my cell phone?</p> <p>11 A Sure. I could try.</p> <p>12 Q Let's just do this in round numbers. Divide 106 -- and</p> <p>13 we'll round that to, let's say, \$107,000 -- by</p> <p>14 \$142,000.</p> <p>15 A Where is your "divide by"? I don't know how to use</p> <p>16 your phone. Sorry.</p> <p>17 MR. SWIER: Do you want mine? Mine might be</p> <p>18 easier?</p> <p>19 Scott, do you mind if he uses mine?</p> <p>20 MR. KNUDSON: Not at all.</p> <p>21 (Discussion off the record.)</p> <p>22 BY MR. KNUDSON:</p> <p>23 Q So the court reporter has handed you her cell phone set</p> <p>24 up to do the calculation. Why don't you do \$106,532 by</p> <p>25 \$142,043.</p>

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<p>1 A (Witness calculates.) Okay.</p> <p>2 Q What do you get?</p> <p>3 A .75.</p> <p>4 Q So that percentage, you would agree that's 75 percent?</p> <p>5 A Yes.</p> <p>6 Q And that's consistent with what you testified to</p> <p>7 earlier that the agreement between Free Conferencing</p> <p>8 Corporation and NAT was, that Free Conferencing would</p> <p>9 get 75 percent of the revenues NAT was bringing in.</p> <p>10 Correct?</p> <p>11 A My understanding is that they received 75 percent.</p> <p>12 Q So that would make sense, then, if the \$142,000 we saw</p> <p>13 on the first page of the statement was, in fact, the</p> <p>14 revenues derived from the invoices being paid by the</p> <p>15 long-distance carriers. Correct?</p> <p>16 A Yes.</p> <p>17 Q Let's go to the next statement for April, 2010. It</p> <p>18 begins at NAT 00032 and goes on for eight pages and</p> <p>19 ends on NAT 00040. Do you see that, sir?</p> <p>20 A Yes.</p> <p>21 Q You'll agree this is the First Dakota statement for NAT</p> <p>22 for April, 2010. Right?</p> <p>23 A Yes.</p> <p>24 Q Do you see that, on the first page of the statement,</p> <p>25 there's a deposit of \$7,909.88 on April 5. Correct?</p>	<p>1 NAT for May, 2010. Correct?</p> <p>2 A Correct.</p> <p>3 Q Now let's take a look at the entry on the first page</p> <p>4 from May 4. There's a deposit of \$217,877.45.</p> <p>5 Do you see that, sir?</p> <p>6 A Yes.</p> <p>7 Q Again, it says, "WFB Direct Pay CCD." Correct?</p> <p>8 A Correct.</p> <p>9 Q Now, it goes from around \$7,000 in April to \$217,000 in</p> <p>10 May. Does that indicate that some long-distance</p> <p>11 carriers were still paying NAT?</p> <p>12 A You could infer that, yes.</p> <p>13 Q Then we go to the next page, NAT 42; and we see a debit</p> <p>14 memo of May 10 for \$163,448.09. Would you say that</p> <p>15 that's a payment to Free Conferencing Corporation?</p> <p>16 A I can't tell from here.</p> <p>17 Q Should we do the math again?</p> <p>18 A Sure. (Witness calculates.) Seventy-five percent.</p> <p>19 Q So that would reflect what would be Free Conferencing</p> <p>20 Corporation's share of the revenues received by NAT.</p> <p>21 Correct?</p> <p>22 A I would assume that to be.</p> <p>23 Q Stay with Page 2 of the statement if you would, sir.</p> <p>24 A Okay.</p> <p>25 Q Then, just above that large debit memo, you see four</p>
Page 63	Page 65
<p>1 A Correct.</p> <p>2 Q It has the same notation as the deposits in February</p> <p>3 and March of "WFB Direct Pay CCD." Correct?</p> <p>4 A Correct.</p> <p>5 Q Would it stand to reason, then, that this is a</p> <p>6 similar -- it's revenue received from invoices paid by</p> <p>7 long-distance carriers?</p> <p>8 A Again, I mean, I'd have to look at the ledger just to</p> <p>9 confirm.</p> <p>10 Q Now, that \$7,900 number is quite a bit lower than the</p> <p>11 previous month when it was \$142,000. Correct?</p> <p>12 A Correct.</p> <p>13 Q Do you recall why the revenue dropped off so much in</p> <p>14 April, 2010?</p> <p>15 A I believe that's when everybody, for the most part,</p> <p>16 stopped paying. As soon as Sprint brought the case on,</p> <p>17 most of the other companies stopped paying.</p> <p>18 Q So it's your testimony, then, it dropped so much</p> <p>19 because most of the long-distance carriers stopped</p> <p>20 paying NAT's invoices then. Correct?</p> <p>21 A A good number of them.</p> <p>22 Q So then let's look at May, 2010. It begins on</p> <p>23 NAT 00041 and ends on NAT 00048. Do you see that, sir?</p> <p>24 A Yes.</p> <p>25 Q You'd agree this is the statement from First Dakota for</p>	<p>1 entries that are ATM withdrawals?</p> <p>2 A Yes.</p> <p>3 Q One is a transfer to Tom's account, but three of</p> <p>4 these -- May 6, May 6, and May 10 -- these are all ATM</p> <p>5 withdrawals on something that says "NCL-Pearl."</p> <p>6 How about that Norwegian Cruise Line's the Pearl,</p> <p>7 that's down in Miami.</p> <p>8 Is that right?</p> <p>9 A I don't know what those charges are for.</p> <p>10 Q Do you know if Tom Reiman took a cruise in Miami in May</p> <p>11 of 2010?</p> <p>12 A You know what? I don't know.</p> <p>13 Q Now, he had a debit card, did he not?</p> <p>14 A He did.</p> <p>15 Q Did Gene DeJordy have a debit card?</p> <p>16 A I'm not certain if he did or not.</p> <p>17 Q So somebody is down in Miami drawing funds out of the</p> <p>18 account, though. You'd agree with that. Correct?</p> <p>19 A Yes.</p> <p>20 Q Then there's somebody that's got some handwriting</p> <p>21 there. It says, "S/H Distribution NATE."</p> <p>22 What does that represent?</p> <p>23 A NATE is Native American Telecom Enterprise.</p> <p>24 Q That's DeJordy and Reiman's company. Right?</p> <p>25 A Yes, it is.</p>

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1 Q Is that your handwriting?  
2 A This appears to be my handwriting, yes.  
3 Q Are you saying, then, you added those up and this  
4 should be money that should be allocated as a  
5 distribution to NATE. Correct?  
6 A Yes.  
7 Q In fact, that becomes part of the \$27,000 figure that's  
8 on the balance sheet, too?  
9 A Yes.  
10 I do want to make a correction, though, on the  
11 shareholder distribution. I think I may have misspoken  
12 or misunderstood the question. I'm not sure.  
13 But, the shareholder distributions that are on the  
14 balance sheet were not something that the tribe  
15 instructed me to classify. That was something that the  
16 board decided to classify that way because it was in  
17 the middle of -- the tribe was in the middle of  
18 reorganizing, and they figured that was the most  
19 conservative way to classify it. So, I just wanted to  
20 put it on the record that --  
21 Q I appreciate your correction. And what led you to  
22 change your testimony?  
23 A Because, after I realized I said it, I thought about  
24 it; and it was inaccurate.  
25 Q So, when you refer to the board making the

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1 determination to reclassify the expenses, who are you  
2 referring to?  
3 A The board?  
4 Q Yeah.  
5 A The members of the board?  
6 Q Yeah.  
7 A That would be Jeff Holoubek, David Erickson,  
8 Pat Chicas, and the Native Americans.  
9 Q Who are the tribal members of the board?  
10 A I don't know.  
11 Q So we've got David Erickson, Jeff Holoubek, and Pat --  
12 A Chicas.  
13 Q -- Chicas. And they all work for Free Conferencing  
14 Corporation?  
15 A No, they don't.  
16 Q Who does David Erickson work for?  
17 A He is Free Conferencing.  
18 Q And Jeff Holoubek?  
19 A Free Conferencing.  
20 Q Pat Chicas?  
21 A He is WideVoice.  
22 Q So he is WideVoice's representative on the board?  
23 A I don't know.  
24 Q How many tribal members are on the board?  
25 A I don't know.

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1 Q You said something about the tribe going through some  
2 kind of reorganization. When was that?  
3 A I don't remember.  
4 Q Well, can you say, was it around May, 2010?  
5 A I don't know exactly the month.  
6 Q Was it last year?  
7 A Yes.  
8 Q Was it in the last half of last year?  
9 A I don't know.  
10 Q When you say "reorganization," what kind of  
11 reorganization were you referring to?  
12 A I really don't know much about the reorganization at  
13 all.  
14 Q How did you come to believe it was a reorganization of  
15 the tribe?  
16 A I just overheard it.  
17 Q Who did you overhear it from?  
18 A Jeff Holoubek.  
19 Q Where were you when you overheard that?  
20 A I don't recall.  
21 Q Were you at your offices in Long Beach?  
22 A I'd assume so.  
23 Q Did Mr. Holoubek say how he came to understand that the  
24 tribe was reorganizing?  
25 A No. I don't know.

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1 Q You don't know, or you don't recall?  
2 A I don't recall.  
3 Q Let's move on to the next statement from First Dakota.  
4 That's June, 2010, NAT 49 through NAT 54.  
5 Do you see that, sir?  
6 A Yes.  
7 Q You'd agree that's the statement for June, 2010.  
8 Correct?  
9 A It is, yes.  
10 Q So now we see another deposit on June 3, \$239,879.58.  
11 Again, WFB Direct Pay CCD.  
12 So would that be the revenues NAT was receiving  
13 from the long-distance carriers that were paying  
14 invoices?  
15 A Again, I can't tell from here.  
16 Q There is a corresponding outgoing wire transfer to  
17 Free Conferencing Corp the next day for \$137,909.69 on  
18 Page 2. Isn't that true?  
19 A Yes.  
20 Q Again, should we do the numbers; or would you believe  
21 that that's Free Conferencing Corporation's share of  
22 the \$239,000 that was received the day before?  
23 A I would believe that that's the Free Conferencing --  
24 yeah.  
25 Q That would be the Free Conferencing Corporation's

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1 share --  
2 A Share, yes.  
3 Q Let's look at NAT 53. That's Page 5 of the June  
4 statement. Do you see that down towards the bottom  
5 there, there are two entries for \$177.40?  
6 A Yes.  
7 Q And they reference Delta Airlines. Correct?  
8 A Correct.  
9 Q Would this be for airfare on Delta Airlines?  
10 A I would assume so.  
11 Q Would these be part of the travel expenses that show up  
12 on the expense statement for 2010?  
13 A I can't be sure. I do not know.  
14 Q So you don't know if it's part of the travel expenses  
15 that are listed on the income and loss statement, or is  
16 it part of the money that's supposedly attributable to  
17 Reiman and DeJordy?  
18 A It's going to be either of those two. Don't know.  
19 Q Let's go to July, 2010. That's the statement -- this  
20 is a longer one, quite a bit longer, in fact. I have  
21 it going on for 17 pages, beginning with NAT 00055 and  
22 ending with NAT 71.  
23 A Yes.  
24 Q Would you agree, sir, that that's the statement from  
25 First Dakota for NAT for July, 2010?

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1 A I do.  
2 Q Again let's look at the first page of the statement.  
3 We see a deposit on July 7, \$158,955.70; and again it  
4 says: "WFB Direct Pay CCD." Do you see that, sir?  
5 A I do.  
6 Q Would that be, again, the revenues received from  
7 long-distance carriers that were paid to NAT?  
8 A Again, I can't confirm that.  
9 Q You'd have to look at that --  
10 A I'd have to look at the ledger.  
11 Q But, if you look further at Page 4, there's a transfer  
12 of \$119,216 to Free Conferencing Corporation. Correct?  
13 A Correct.  
14 Q That would stand to reason, then, that that represents  
15 Free Conferencing Corporation's share of the revenues  
16 received by NAT for July of 2010. Correct?  
17 A I would presume, yes.  
18 Q Let's go back to Page 2 of this statement. There is an  
19 outgoing wire on July 1 to Nevada State Bank for  
20 \$18,657.48. What was that for?  
21 A I don't know.  
22 Q Would that have been something paid to WideVoice  
23 Communications?  
24 A No.  
25 Q Well, do you know if WideVoice Communications -- you

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1 said that was based in Nevada. Correct?  
2 A Yes, but they don't have a Nevada State Bank.  
3 Q So you don't know if this is WideVoice's bank account  
4 or not?  
5 A I don't, but I can only assume that it's not.  
6 Q You can -- excuse me, sir?  
7 A I can only assume that it's not.  
8 MR. SWIER: Carlos, just remember to answer  
9 Scott's questions. If you don't know, don't assume.  
10 Okay?  
11 THE WITNESS: Okay. Then no.  
12 The answer is: I don't know.  
13 BY MR. KNUDSON:  
14 Q Then how would you find out since you're in charge of  
15 the books and records of NAT?  
16 A I would have to look at the detail on this transaction.  
17 Q What kind of detail are you referring to?  
18 A I'd have to look in the ledger.  
19 Q The general ledger?  
20 A Correct.  
21 Q Let's go further into the statement to Page 10.  
22 MR. SWIER: Scott, what's the Bates number on  
23 that?  
24 MR. KNUDSON: NAT 64.  
25 MR. SWIER: Thank you.

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1 BY MR. KNUDSON:  
2 Q Do you see that transfer to NATE for \$1,417.08?  
3 A Yes, I do.  
4 Q Do you know who authorized that transfer?  
5 A I do not.  
6 Q Were you handling the checking account at this time at  
7 First Dakota?  
8 A I was not.  
9 Q Where did this \$1,400 transfer show up on the balance  
10 sheet for NAT for 2010?  
11 A I don't know.  
12 Q Would it be part of the shareholder distributions?  
13 A I don't know.  
14 Q You'd have to look at the general ledger detail?  
15 A I would.  
16 Q Turning to Page 12 of this July statement -- it's  
17 NAT 66 -- now, there's a debit card entry for  
18 Radisson Hotels on July 19 for Bismarck, North Dakota,  
19 \$129.96.  
20 Do you see that, sir?  
21 A I do.  
22 Q What kind of business does NAT have in Bismarck,  
23 North Dakota?  
24 A I don't know.  
25 Q And then the same day somebody's running a debit charge

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1 at Donovan House in Washington, D.C., for \$926.06.  
2 Do you see that, sir?  
3 A I do.  
4 Q Is that a hotel in D.C.?  
5 A I do not know.  
6 Q Do you know what business NAT had in Washington, D.C.,  
7 on July 19, 2010?  
8 A I do not.  
9 Q Taking both these Radisson and Donovan House charges  
10 together, where did they end up on NAT's balance sheet  
11 for 2010?  
12 A I don't know.  
13 Q Then there's a charge in New Town, North Dakota, on  
14 July 20 for \$31.90. What business does NAT have in  
15 New Town?  
16 A I don't know.  
17 Q Let's take a look at August, 2010, for NAT. This is  
18 the First Dakota statement. It starts with NAT 00072  
19 and finishes with NAT 00076. Do you see that, sir?  
20 Would you agree that's the August, 2010, statement from  
21 First Dakota for NAT?  
22 A Yes.  
23 Q One thing I noticed here is there's a new address noted  
24 on there: 400 North Main Avenue, Apartment 310,  
25 Sioux Falls, South Dakota. Do you know whose address

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1 that is?  
2 A I believe that's Tom Reiman's.  
3 Q That's his home address?  
4 A I don't know his home address.  
5 Q Then on August 6 -- this is Page 1 of the statement --  
6 there's a deposit from WFB Direct Pay CCD of  
7 \$128,855.42. Do you see that, sir?  
8 A Yes, I do.  
9 Q Then let's look at Page 2. There's a debit memo on  
10 August 4 of \$75,030.  
11 Is this the first transfer into the Wells Fargo  
12 Bank account that was set up July, 2010?  
13 A I don't know.  
14 Q Let's see if we can tie it together, then. Let's go  
15 take a look at NAT 0003 of Exhibit 1, and keep 73 up as  
16 well because that will show -- if you look on Page 3,  
17 that would be the statement for August, 2010, of  
18 Wells Fargo. There's a transfer on August 4 of  
19 \$75,000. Correct?  
20 A Correct.  
21 Q Would that correspond to the debit memo plus wire  
22 charges that was the First Dakota entry on August 4,  
23 2010?  
24 A I can't confirm that. I don't know what the -- I'd  
25 have to look at the entry.

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1 Q Well, look at the entry from Wells Fargo. It says it  
2 came from First Dakota National Bank, does it not?  
3 A It does, yes.  
4 Q So isn't this \$75,000 coming out of the First Dakota  
5 Bank and going to the Wells Fargo Bank on August 4,  
6 2010?  
7 A They're two separate amounts. I don't know.  
8 Q There's a wire transfer fee that would explain the  
9 difference, isn't there?  
10 A That's you assuming that.  
11 Q Again we'd have to look at the journal detail to know  
12 for sure. Is that correct?  
13 A To be sure, yes.  
14 Q You will agree with me, though, that, if you're still  
15 holding the first page of the Wells Fargo statement,  
16 there's a transfer for \$128,855.42. Yes?  
17 A Yes.  
18 Q That's on August 9, and that corresponds to the precise  
19 amount of the deposit at First Dakota on August 6.  
20 Correct?  
21 A Say that again. I'm sorry.  
22 Q On August 6 --  
23 A Yes.  
24 Q -- the First Dakota Bank received a deposit of  
25 \$128,855.42. Correct?

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1 A Correct.  
2 Q Then on August 9 the Wells Fargo account gets  
3 \$128,855.42; and that's the exact same amount, is it  
4 not?  
5 A It is.  
6 Q And it indicates it's a transfer from First Dakota  
7 National Bank. Correct?  
8 A Correct.  
9 Q So is it fair to conclude that what happened in August,  
10 2010, is most of the money in the First Dakota Bank was  
11 transferred to the Wells Fargo account? Correct?  
12 A Yes.  
13 Q Then if you look at the remainder of the statements for  
14 the First Dakota account through December -- that would  
15 be September, October, November, December, beginning  
16 with NAT 0077 through NAT 00081 -- confirm that those  
17 are the statements for those months, sir.  
18 A Yes.  
19 Q Take a look at the deposits in each line.  
20 Is there any revenue coming in?  
21 A No.  
22 Q So, essentially, any revenue that was coming into NAT  
23 beginning in September, 2010, was coming into the  
24 Wells Fargo account. Correct?  
25 A I'd have to look at the Wells Fargo account.

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<p>1 Q Well, there's no other revenue coming into the 2 First Dakota account. Correct? 3 A Right. 4 Q And you testified there are only two accounts 5 maintained by NAT. Correct? 6 A Correct. 7 Q So, if there is any revenue coming into NAT, it would 8 go into the Wells Fargo account beginning in September 9 of 2010. Correct? 10 A I don't know. I'd have to look at the statements to 11 see where the money went. 12 Q Well, if the statements show that there's revenue 13 coming in, it's coming in from where, sir? 14 Should we look at the statements again? 15 A Sure. 16 Q Let's go back to the Wells Fargo accounts. 17 A Okay. 18 Q Let's start with the August statement. 19 Do you see the credits there? 20 A Yes. 21 Q Those are all transfers from the First Dakota account. 22 Correct? 23 A Correct. 24 Q Now, in September, if we go there -- that's NAT 5 -- we 25 see some deposits, but we don't see any detail as to</p>	<p>1 A Correct. 2 Q If I found a check, of course, that was 75 percent of 3 that number, would that represent a payment to 4 Free Conferencing Corporation? 5 A I couldn't say. Couldn't be certain. 6 Q Do you know who, which of the long-distance carriers, 7 was paying NAT in December, 2010? 8 A I do not. 9 Q You'd have to look at the journal detail? 10 A Yes. 11 Q Now, you said the invoicing entity had changed from 12 CABS Agent to CDG. Correct? 13 A Yes. 14 Q And that was in 2010, but you can't tell me when that 15 was? 16 A I don't recall the month, no. 17 Q Is CDG affiliated with WideVoice? 18 A I don't know. No. I don't know. 19 Q Is it affiliated with Free Conferencing Corporation? 20 A I don't know. 21 Q Do you know where its headquarters are? 22 A No. 23 Q Do you see the invoices that come from CDG? 24 A Yes. 25 Q Does it indicate a mailing address for CDG?</p>
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<p>1 where they came from. Correct? 2 A Correct. 3 Q There's no notation that it's a loan from WideVoice, 4 is there? 5 A No. 6 Q Then looking at the October statement -- 7 MR. SWIER: Scott, I'm sorry. Which number? 8 MR. KNUDSON: That's NAT 7. 9 MR. SWIER: Thank you. 10 BY MR. KNUDSON: 11 Q -- the only deposit coming in is \$6.54. Correct? 12 A Correct. 13 Q Otherwise, there's a loan from WideVoice. Correct? 14 A Yes. 15 Q Then in November, 2010 -- that's NAT 9 -- there's a 16 deposit of \$7,077.69. Do you see that, sir? 17 A Yes. 18 Q Without looking at the detail on the journal, you can't 19 tell where that came from? 20 A Correct. 21 Q Then there's a deposit in December of \$3,519.77. 22 Do you see that, sir? 23 A Yes. 24 Q Again, without looking at the detail, you can't tell 25 where that came from. Is that right?</p>	<p>1 A I would assume so. I don't know. 2 Q Let's go back here. Just take a look at NAT 74 for a 3 second. 4 A NAT 74? 5 Q Yeah, in Exhibit 1. 6 A Okay. 7 Q That's Page 3 of the August, 2010, statement. 8 Would you agree with me that on the right-hand 9 side of the page there's some handwriting that's been 10 redacted? 11 A Yes. 12 Q Do you know who did that redacting? 13 A That was me. 14 Q What did you redact? What information? 15 A Oh, just notes for which accounts to record to. 16 Q Why did you redact that information? 17 A I wanted to give you clean statements. 18 Q Do you have the statements in the original with your 19 handwriting on them still? 20 A I do. 21 MR. KNUDSON: Counsel, I'd like a copy of those 22 statements without the redacting. 23 MR. SWIER: We'll take it under advisement, and 24 I'll look and see what the writing is. 25</p>

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1 BY MR. KNUDSON:  
2 Q So is it correct that in August, 2010, the management  
3 of NAT moved to Free Conferencing Corporation in  
4 Long Beach, California?  
5 A Excuse me? Say that again.  
6 Q Well, the money transferred from First Dakota to  
7 Wells Fargo in an account in Long Beach, California, in  
8 August of 2010. Isn't that true?  
9 A Yes.  
10 Q And you said you started working for NAT in July, 2010.  
11 Correct?  
12 A I started doing the books.  
13 Q Doing the books, okay. So, in July, 2010, did  
14 Free Conferencing Corporation take over the management  
15 and the financial affairs of NAT?  
16 MR. SWIER: Objection.  
17 It's an ambiguous and vague question.  
18 I guess answer it if you can, Carlos.  
19 THE WITNESS: No.  
20 BY MR. KNUDSON:  
21 Q When did Free Conferencing Corporation take over the  
22 management of the financial affairs of NAT?  
23 MR. SWIER: Same objection. Vague, ambiguous, and  
24 assumes facts not in evidence.  
25 Answer if you can.

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1 THE WITNESS: They never took over. I handle the  
2 books.  
3 BY MR. KNUDSON:  
4 Q You started handling the books in July of 2010.  
5 Correct?  
6 A Around July.  
7 Q Well, by "around July" -- you opened an account in  
8 July, 2010, did you not?  
9 A Yes. It was the tail end of July, yes.  
10 Q And then in the first part of August, 2010, you moved  
11 all the money into that account. Correct?  
12 A Correct.  
13 Q And since then you've been managing the financial  
14 affairs of NAT. Correct?  
15 A I've been handling the books.  
16 Q The books.  
17 A Yes.  
18 Q When you draw a distinction between the books and the  
19 financial affairs, what distinction are you drawing  
20 between those two terms?  
21 A I don't make decisions. I record.  
22 Q So who makes decisions about the financial affairs of  
23 NAT?  
24 A Not me.  
25 Q Who does?

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1 A I don't know.  
2 Q Who do you report to?  
3 A Jeff Holoubek.  
4 Q And he's the President of NAT. Is that right?  
5 A Correct.  
6 Q When did he become the President of NAT?  
7 A I don't know.  
8 Q When did Tom Reiman stop being the President of NAT?  
9 A I don't know.  
10 Q Are there any other officers of NAT located in  
11 Long Beach?  
12 A Officers of NAT located in Long Beach? I don't know.  
13 Q Are there any other people who work for  
14 Free Conferencing Corporation who have any involvement  
15 in the affairs of NAT?  
16 A Not that I'm aware of. I don't know. I don't know the  
17 question. I'm sorry.  
18 Q Well, you handle the books for NAT. Correct?  
19 A Right.  
20 Q And Jeff Holoubek is the man who makes decisions for  
21 NAT. Correct?  
22 A Yes.  
23 Q Is there any other person at Free Conferencing  
24 Corporation that makes decisions for NAT?  
25 A I don't know.

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1 Q If there were, would you know?  
2 A No.  
3 Q Well, this revenue that was coming in through August  
4 and then tails off to very small amounts, would you  
5 agree, in September, beginning in September?  
6 A I'm sorry. Repeat the question. I'm sorry.  
7 Q Well, during 2010, there was money coming into NAT from  
8 this Wells Fargo transfer; and it went from \$114,000 in  
9 February to as much as -- would you agree in June it  
10 was almost \$240,000?  
11 A I don't know. I'm not looking at anything. Sorry.  
12 Q Well, let's just kind of walk through this, then,  
13 because I want to get a sense of the revenue stream.  
14 Let's take a look at NAT 22.  
15 A Okay.  
16 Q There there's a deposit of \$114,138 on February 3,  
17 2010. Correct?  
18 A Correct.  
19 Q And that's consistent with receiving money from  
20 CABS Agent or some other billing service for money  
21 received from long-distance carriers for NAT. Correct?  
22 A I'm assuming, yes.  
23 Q Then let's take a look at NAT 49, then. This would be  
24 Page 1 of the statement from First Dakota for June,  
25 2010.

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1 Do you see a deposit on June 3 from WFB Direct Pay  
2 CCD of \$239,879.58. Correct?  
3 A I do, yes.  
4 Q And so the deposits from this source, WFB Direct Pay,  
5 went from \$114,000 in February to nearly \$240,000 in  
6 June. Correct?  
7 A Yes.  
8 Q Now, do you remember the last time Sprint paid an  
9 invoice of NAT's?  
10 A Yes.  
11 Q When was that?  
12 A In February, 2010.  
13 Q So, even though Sprint stopped paying, other  
14 long-distance carriers were paying, correct, over this  
15 period of time?  
16 A I'm sorry. Say that again.  
17 Q Even though Sprint stopped paying in February of 2010,  
18 the dollars received by NAT continued to increase from  
19 February to June, 2010. Correct?  
20 A We got money in June.  
21 Q Try my question, though: From February, when Sprint  
22 stopped paying, 2010, to June of 2010, the money NAT  
23 received continued to increase. Correct?  
24 A Well, minutes increased at the same time.  
25 Q Answer my question, though. Did the money coming into

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1 NAT increase?  
2 A Yes.  
3 Q And it peaked in June because, if we look at NAT 55 --  
4 that's the statement for July, 2010 -- it drops from  
5 \$239,000 and change to nearly \$159,000.  
6 Isn't that correct?  
7 A Where are we looking? I'm sorry.  
8 Q It's NAT 55, which is Page 1 of the July statement.  
9 A Okay.  
10 Q Isn't it true that it dropped down to nearly \$159,000?  
11 A Yes.  
12 Q So the peak was June, 2010. Correct?  
13 A I can't speak to the peak. I'm only looking at two  
14 numbers.  
15 Q Let's look at another number. Let's look at August,  
16 2010. The number drops down again, does it not, from  
17 July?  
18 MR. SWIER: Which number, Counsel, are you looking  
19 at? The NAT number?  
20 MR. KNUDSON: Yeah. That's NAT 72.  
21 MR. SWIER: Thank you.  
22 BY MR. KNUDSON:  
23 Q It drops down to \$128,000 and change. Right?  
24 A From the previous month, yes.  
25 Q Now, the money is coming into Wells Fargo; so let's

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1 take a look at what's happening still.  
2 We have August. That's NAT 3 and 4. That's the  
3 money coming from the First Dakota account.  
4 Then, if you look at the detail, the deposits --  
5 it would be NAT 5 -- for September, the deposits drop  
6 down to \$38,765.67. Correct?  
7 A Correct.  
8 Q Then, if we go to October -- that's NAT 7 -- the  
9 deposit drops to \$6.54. Correct?  
10 A Yes.  
11 Q Then it bounces back up in November a little bit to  
12 \$7,077.69. Correct?  
13 A Correct.  
14 Q And then it's down a little bit in December -- that's  
15 NAT 11 -- \$3,519.77. Correct?  
16 A Correct.  
17 Q You would agree, though, that, in terms of the size of  
18 the deposits coming into NAT, they dropped off  
19 considerably after August of 2010, did they not?  
20 A Yes.  
21 Q So it's fair to conclude that there are other  
22 long-distance carriers that have determined not to pay  
23 NAT's invoices?  
24 A I don't know if that's a conclusion.  
25 Q So you don't know one way or the other?

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1 A I don't know why they stopped paying.  
2 Q You'd agree they've stopped paying, though?  
3 A Certain ones have stopped paying, yeah.  
4 Q Do you know if any of these long-distance carriers have  
5 resorted to blocking NAT's exchange numbers?  
6 A I don't know anything about that.  
7 Q You understand Free Conferencing Corporation's business  
8 model is to provide free conferencing services to  
9 people who sign up to use it. Correct?  
10 A That's my understanding, yes.  
11 Q Do you understand that there are other competitors of  
12 Free Conferencing Corporation providing similar  
13 services?  
14 A Yes.  
15 Q Do you know if any of those competitors of  
16 Free Conferencing Corporation have located any of their  
17 business on the Crow Creek reservation?  
18 A I don't know.  
19 Q So you don't know one way or the other?  
20 A I don't.  
21 Q Now, you've mentioned that WideVoice is one of the  
22 creditors of NAT. Correct?  
23 A Yes.  
24 Q Are there any other creditors of NAT?  
25 A No.



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1 (Exhibit 4 is marked for identification.)  
2 BY MR. KNUDSON:  
3 Q Mr. Cestero, I'm handing you what's been marked as your  
4 Deposition Exhibit Number 4. It says it's Defendant  
5 Native American Telecom's Answers to Plaintiff  
6 Sprint Communications Company's First Set of  
7 Interrogatories.  
8 Take a moment, sir, and see if you can identify  
9 this document.  
10 A (Witness examines document.) Yes.  
11 Q What is Exhibit 4?  
12 A It's the interrogatory -- do you want me to give you  
13 the title?  
14 Q No. It's NAT's Answers to Sprint's Interrogatories?  
15 A Yes. Right.  
16 Q And that's your signature on Page 10. Correct?  
17 A It is.  
18 Q When it says, "Subscribed and sworn to before me,"  
19 you're attesting to the truthfulness of the answers in  
20 this document, are you not?  
21 A Yes.  
22 Q So let's go for the moment to Page 5, and I'll read  
23 what Interrogatory Number 8 is:  
24 "Provide an employee count by month since NAT was  
25 started to the present and identify each employee's

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1 primary location of employment."  
2 Then is it correct to say that there's a table  
3 that gives the information requested in that  
4 interrogatory?  
5 A Yes.  
6 Q You prepared these Interrogatories, you say?  
7 A I prepared this table, yes.  
8 Q Where did you get the information for the employee head  
9 count?  
10 A From the payroll records.  
11 Q NAT's employees, since it started having employees,  
12 then, were exclusively on the reservation.  
13 Is that correct?  
14 A Correct.  
15 Q It peaked in July, 2010, with ten employees.  
16 Is that right?  
17 A Yes.  
18 Q Why did it peak in July, 2010?  
19 A Why did it peak?  
20 Q Yeah.  
21 A That's when the construction of the communications  
22 center was going on.  
23 Q So, for February, 2010, you have four employees on the  
24 payroll. Is that right?  
25 A February of 2010?

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1 Q '11, excuse me.  
2 A February, 2011, we've got four employees, yes.  
3 Q I think you testified that -- this is Exhibit 2 -- that  
4 the payroll for those four employees for that month  
5 was, it shows in Exhibit 2, \$1,906.91. Correct?  
6 A For January?  
7 Q Well, that would be January. That was five employees.  
8 Correct?  
9 A January would have five employees, yes.  
10 Q And that added up to \$1,906.91?  
11 A Yes.  
12 Q Do you know why the head count went down from five to  
13 four?  
14 A I do not.  
15 Q And these are the people that are running the Internet  
16 cafe. Is that right?  
17 A Yes. The communications center, the Internet cafe,  
18 yes.  
19 Q Do you know what the hours of operation are for the  
20 communications center?  
21 A I don't know.  
22 Q Who would know that information?  
23 A Tom Reiman.  
24 Q What role does he have in overseeing the communications  
25 center?

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1 A He oversees the communications center.  
2 Q For which he gets a consulting fee of \$3,000 a month?  
3 A Yes, in addition to other services he provides.  
4 Q Is there a consulting agreement between NAT and  
5 Tom Reiman?  
6 A I don't know.  
7 Q Now, Interrogatory Number 9, do you see that on Page 6?  
8 A Yes.  
9 Q That shows that WideVoice Communications loaned NAT a  
10 total of over \$530,000. Is that correct?  
11 A Yes.  
12 Q And that's through January 31, 2011. Correct?  
13 A Yes.  
14 Q So we would have to take the detail on Exhibit 3 from  
15 the general ledger and add what would show up for  
16 January to get to that number, \$530,689?  
17 A Yes.  
18 Q Now, it's March 1, correct, today?  
19 A Yes.  
20 Q Do you know what WideVoice has loaned Native American  
21 Telecom through February 28, 2011?  
22 A What the balance is?  
23 Q Yes.  
24 A It's about \$400,000.  
25 Q In other words, the amount WideVoice has loaned NAT has

<p style="text-align: right;">Page 94</p> <p>1 gone down from \$530,000 to \$400,000?</p> <p>2 A Yes.</p> <p>3 Q Who paid down that amount?</p> <p>4 A NAT did.</p> <p>5 Q Where did NAT get the resources to do that?</p> <p>6 A They received a payment, and they paid it.</p> <p>7 Q Who made that payment?</p> <p>8 A NAT did.</p> <p>9 Q No. Who made a payment to NAT to give them the</p> <p>10 resources to pay down the WideVoice Communications?</p> <p>11 A I believe it was AT&amp;T.</p> <p>12 Q In the amount of about \$130,000?</p> <p>13 A I believe the amount was \$150,000.</p> <p>14 Q So Free Conferencing got 25 percent of that. Correct?</p> <p>15 A No, they did not.</p> <p>16 Q How much did they get?</p> <p>17 A It went immediately -- it went to pay WideVoice.</p> <p>18 Q So the \$150,000 went to WideVoice entirely?</p> <p>19 A \$140,000 went to WideVoice.</p> <p>20 Q So now the amount owing WideVoice is \$390,000.</p> <p>21 Is that correct?</p> <p>22 A It's just short of \$400,000.</p> <p>23 Q And that's the result of a payment that AT&amp;T made to</p> <p>24 NAT of about \$140,000 in February of 2011. Correct?</p> <p>25 A Correct.</p>	<p style="text-align: right;">Page 96</p> <p>1 A Correct.</p> <p>2 Q That means you're attesting to the truthfulness of</p> <p>3 what's in this affidavit. Correct?</p> <p>4 A Yes.</p> <p>5 Q There's a reference in Paragraph 9 of your affidavit on</p> <p>6 Page 2 to the amount that you say Sprint has refused to</p> <p>7 pay, and it's approximately \$674,000 of invoices.</p> <p>8 Is that correct?</p> <p>9 A Yes.</p> <p>10 Q Do you know what time period is encompassed with that</p> <p>11 figure? It says beginning March, 2010.</p> <p>12 What is the ending point?</p> <p>13 A I don't recall.</p> <p>14 Q What is the last invoice you say Sprint has refused</p> <p>15 to pay?</p> <p>16 A The February.</p> <p>17 Q February, 2011?</p> <p>18 A Yeah.</p> <p>19 Q Is that based on the tariff NAT filed with the FCC?</p> <p>20 A I don't know.</p> <p>21 Q Now, you make reference to the financial condition of</p> <p>22 NAT in Paragraph 12 of your affidavit.</p> <p>23 Do you see that?</p> <p>24 A Yes.</p> <p>25 Q It says that, using your words, "NAT's current</p>
<p style="text-align: right;">Page 95</p> <p>1 Q Do you know what NAT's operating expenses were for</p> <p>2 February, 2011?</p> <p>3 A For February, 2011, I don't have that in front of me,</p> <p>4 no.</p> <p>5 Q As you best can recollect sitting here today, what were</p> <p>6 the operating expenses for NAT for February, 2011?</p> <p>7 A Around \$40,000.</p> <p>8 Q You recall preparing your affidavit as part of this</p> <p>9 lawsuit?</p> <p>10 A I do.</p> <p>11 (Exhibit 5 is marked for identification.)</p> <p>12 BY MR. KNUDSON:</p> <p>13 Q Mr. Cestero, I'm handing you what's been marked as</p> <p>14 Exhibit 5. It appears to be your affidavit. Would you</p> <p>15 take a moment and take a look at it, please.</p> <p>16 A (Witness examines document.)</p> <p>17 Q Would you identify it for us, sir?</p> <p>18 A Yes. I'm still looking at it. Yes.</p> <p>19 Q Please do identify the document.</p> <p>20 A It is the Affidavit of Carlos Cestero in Support of</p> <p>21 Native American Telecom.</p> <p>22 Q So is that your signature on Page 3?</p> <p>23 A That is.</p> <p>24 Q Again it's noted as, "Subscribed and sworn to before me</p> <p>25 this 11th day of January, 2011," on Page 3?</p>	<p style="text-align: right;">Page 97</p> <p>1 financial condition is perilous." Correct?</p> <p>2 A Yes.</p> <p>3 Q And then you say, "Because of Sprint's conduct," that's</p> <p>4 the reason. Correct?</p> <p>5 A Yes.</p> <p>6 Q Isn't it also true that there are other long-distance</p> <p>7 carriers that haven't paid NAT?</p> <p>8 A They were all paying until Sprint stopped paying.</p> <p>9 Q Isn't it true at the date you wrote this affidavit that</p> <p>10 there were other long-distance carriers that weren't</p> <p>11 paying NAT's invoices?</p> <p>12 A Yes.</p> <p>13 Q Have you or anybody on behalf of NAT, to your</p> <p>14 knowledge, undertaken an effort to reduce the operating</p> <p>15 costs of NAT?</p> <p>16 A Yes. That's the reason why I'm preparing the books.</p> <p>17 They can't afford to hire an accountant.</p> <p>18 Q Well, that began in July --</p> <p>19 A Yes.</p> <p>20 Q -- of 2010. Correct?</p> <p>21 A Right.</p> <p>22 Q Let's take a look, though, at the operating statement</p> <p>23 for January of 2011. Have you gone and attempted to</p> <p>24 reduce any of these other operating expenses?</p> <p>25 A There's nothing we can reduce here. These are all</p>

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<p>1 required.</p> <p>2 Q What about professional fees?</p> <p>3 A Those are required. There's legal fees to fight cases</p> <p>4 like this.</p> <p>5 Q Well, why are you paying a billing agent when you're</p> <p>6 hardly collecting any money?</p> <p>7 A Well, someone has to bill.</p> <p>8 Q Let's look at Paragraph 15. Do you see where you're</p> <p>9 saying that NAT will be out of business or into</p> <p>10 bankruptcy before this matter can be brought to trial?</p> <p>11 A Yes.</p> <p>12 Q Do you know how fast cases can be brought to trial in</p> <p>13 the District of South Dakota?</p> <p>14 A Excuse me?</p> <p>15 Q How quickly cases can be brought to trial in the</p> <p>16 District of South Dakota, do you know?</p> <p>17 A I do not know.</p> <p>18 Q So you have no factual basis for making that assertion,</p> <p>19 do you?</p> <p>20 A I do. It's based on what I've heard of WideVoice,</p> <p>21 that, if we lose this case, they're not going to</p> <p>22 provide any funds to NAT anymore; and it will force</p> <p>23 them into bankruptcy.</p> <p>24 Q So WideVoice is saying, if you lose this case, they'll</p> <p>25 stop funding. Is that what they're saying?</p>	<p>1 BY MR. KNUDSON:</p> <p>2 Q Let's look at Exhibit 1 again, sir. Do you remember</p> <p>3 talking about the minutes of usage report?</p> <p>4 A Um-hum.</p> <p>5 Q That shows 12 million minutes of usage for January,</p> <p>6 2011. Do you see that?</p> <p>7 A Yes.</p> <p>8 Q Do you know what percentage of those minutes were</p> <p>9 minutes that were billed to Sprint?</p> <p>10 A I do not know.</p> <p>11 Q So you couldn't say whether it's 5 percent, 10 percent,</p> <p>12 or 15 percent?</p> <p>13 A I don't know.</p> <p>14 Q You have no idea at all?</p> <p>15 A No.</p> <p>16 MR. KNUDSON: That's all.</p> <p>17 MR. SWIER: Carlos, I have a couple questions for</p> <p>18 you.</p> <p>19 EXAMINATION</p> <p>20 BY MR. SWIER:</p> <p>21 Q Earlier you talked with Mr. Knudson about the fact</p> <p>22 that, if NAT lost this case, it would look to file for</p> <p>23 bankruptcy or go out of business. Is that right?</p> <p>24 A Yes.</p> <p>25 Q When you talk about "this case," are you talking about</p>
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<p>1 A That's correct.</p> <p>2 Q But they'll keep funding until this has been decided.</p> <p>3 Correct?</p> <p>4 A At this point, I don't know if they even feel like</p> <p>5 providing more funds.</p> <p>6 Q Did they loan any money to NAT in February, 2011?</p> <p>7 A I don't know. I don't recall.</p> <p>8 Q Would that show up in a general ledger journal entry?</p> <p>9 A It would.</p> <p>10 MR. KNUDSON: Counsel, that's another document I'd</p> <p>11 like to see before Thursday.</p> <p>12 MR. SWIER: Yeah, I'll take it under advisement.</p> <p>13 I'm not going to commit to giving you anything until I</p> <p>14 look at it.</p> <p>15 MR. KNUDSON: I have nothing further.</p> <p>16 MR. SWIER: I want to take one quick break, about</p> <p>17 a five-minute break. We'll be right back.</p> <p>18 (A short recess is taken.)</p> <p>19 MR. SWIER: Scott, did you have any further</p> <p>20 questions for Carlos?</p> <p>21 MR. KNUDSON: Are you going to have any?</p> <p>22 MR. SWIER: I have two.</p> <p>23 MR. KNUDSON: Well, I just thought of one, and it</p> <p>24 will be very quick.</p> <p>25 MR. SWIER: You bet.</p>	<p>1 this case to the end to the case; or were you talking</p> <p>2 about Thursday's preliminary injunction hearing?</p> <p>3 A I'm talking about Thursday's preliminary injunction</p> <p>4 hearing.</p> <p>5 Q So, if NAT loses this preliminary injunction hearing,</p> <p>6 then the chips will fall, so to speak?</p> <p>7 MR. KNUDSON: Leading. Objection.</p> <p>8 THE WITNESS: Yes.</p> <p>9 BY MR. SWIER:</p> <p>10 Q Have you been told anything about, again, what</p> <p>11 WideVoice's intent would be if the preliminary</p> <p>12 injunction hearing on Thursday is not successful?</p> <p>13 MR. KNUDSON: Objection. Hearsay.</p> <p>14 THE WITNESS: Yes. They'll proceed with</p> <p>15 bankruptcy.</p> <p>16 MR. SWIER: I don't have any further questions.</p> <p>17 Thank you.</p> <p>18 FURTHER EXAMINATION</p> <p>19 BY MR. KNUDSON:</p> <p>20 Q Now, you say that it's your understanding, if the</p> <p>21 preliminary injunction hearing goes adverse to NAT, you</p> <p>22 have been told that NAT will file for bankruptcy?</p> <p>23 A Yes.</p> <p>24 Q Who told you that?</p> <p>25 A Jeff Holoubek.</p>

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1 Q So, when you have in your affidavit that NAT will  
2 likely be forced out of business or into bankruptcy  
3 before this matter can be brought to trial, you're  
4 really talking about what you know from Jeff Holoubek.  
5 Correct?  
6 A Correct.  
7 Q So, absent what he told you, you have no independent  
8 basis for knowing whether or not NAT would file  
9 bankruptcy. Correct?  
10 A Correct.  
11 MR. KNUDSON: I have nothing further.  
12 MR. SWIER: Carlos, you have the ability to either  
13 read the transcript of your deposition or the ability  
14 to waive that reading. I fully trust Audrey; and,  
15 since we are on a short time schedule here, I would  
16 advise you to waive the reading of your deposition so  
17 that we can move this matter along and both parties can  
18 have as much time as possible to review the transcript.  
19 THE WITNESS: She looks trusting. Okay. I will.  
20 MR. SWIER: You'll waive?  
21 THE WITNESS: Yes, I will waive.  
22 (Discussion off the record.)  
23 MR. SWIER: Sprint's counsel has asked us to  
24 produce Eric Big Eagle, who is a member of the  
25 Crow Creek Sioux Tribal Council. Mr. Big Eagle will be

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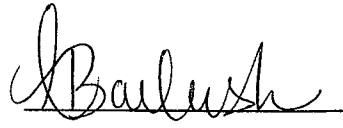
1 available for a deposition tomorrow, Wednesday,  
2 March 2nd of 2010. Mr. Big Eagle has been contacted.  
3 There was never a Notice of Deposition that was  
4 served on Mr. Big Eagle. However, I am more than  
5 willing to accommodate the best we can to have Sprint's  
6 counsel depose Mr. Big Eagle; and the soonest I can do  
7 that, with both my schedule and his, is 5:00 o'clock on  
8 Wednesday.  
9 I understand that's a short turnaround time, but  
10 we think that we are being very accommodating in  
11 producing a witness that there was not a Notice of  
12 Deposition filed.  
13 And I'd also like the record to reflect I just did  
14 notify Mr. Knudson a few days ago that we would have  
15 Mr. Big Eagle; so this is why I'm making the  
16 accommodation, but that's the best I can do in a tight  
17 time frame.  
18 MR. KNUDSON: I have a question for the court  
19 reporter.  
20 (Discussion off the record.)  
21 MR. KNUDSON: In response to Mr. Swier's offering  
22 to make Eric Big Eagle available, it was rather short  
23 notice that he'd be on the witness list and not  
24 Peter Lengkeek; so I appreciate the offer.  
25 We will take up the opportunity to take his

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1 deposition at 5:00 p.m. tomorrow here at the hotel and,  
2 in fact, this very room.  
3 That's all I have.  
4 (12:30 p.m.)  
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1 STATE OF SOUTH DAKOTA  
2  
3 COUNTY OF MINNEHAHA  
4 I, Audrey M. Barbush, a Registered Professional  
5 Reporter and Notary Public, do hereby certify that the  
6 witness was first duly sworn by me to testify to the truth,  
7 the whole truth, and nothing but the truth relative to the  
8 matter under consideration; that the foregoing Pages 4-104,  
9 inclusive, are a true and correct transcript of my stenotype  
10 notes.  
11 I further certify that I am not a relative or employee  
12 or attorney or counsel of any of the parties or a relative  
13 or employee of such attorney or counsel, and that I am not  
14 financially interested in this action.  
15 In testimony whereof, I have hereto affixed my  
16 signature this 2nd day of March, 2011.  
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Audrey M. Barbush  
Commission Expires: 3/8/2011