

# TRANSCRIPT OF PROCEEDINGS

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IN THE MATTER OF:                    )  
  )  
AUDIT HEARING:                        )  
UTEPAC                                    )

Pages:       1 through 23  
Place:       Washington, D.C.  
Date:        February 17, 2022

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FEDERAL ELECTION COMMISSION

IN THE MATTER OF: )  
 )  
AUDIT HEARING: )  
UTEPAC )

Remote Hearing  
Suite 206  
Heritage Reporting Corporation  
1220 L Street, N.W.  
Washington, D.C. 20005

Thursday,  
February 17, 2022

The parties met remotely, pursuant to the notice,  
at 11:04 a.m.

APPEARANCES:

Commissioners:

CHAIRMAN ALLEN DICKERSON  
VICE CHAIR STEVEN T. WAITHER  
COMMISSIONER SHANA M. BROUSSARD  
COMMISSIONER SEAN J. COOKSEY  
COMMISSIONER JAMES E. "TREY" TRAINOR, III  
COMMISSIONER ELLEN L. WEINTRAUB

Staff:

MAUREEN BENITZ, Moderator  
VICKY ALLEN, Secretary  
LISA J. STEVENSON  
DAYNA BROWN  
RICKIDA MORCOMB  
CHRISTINA CRUSSIAH  
JENNIFR WALDMAN  
JESSICA SELINKOFF

For the Respondent:

ROLLIE WILSON, Esquire  
Patterson Earnhart Real Bird & Wilson LLP

P R O C E E D I N G S

(11:04 a.m.)

1  
2  
3 MS. BENITZ: Mr. Chairman, I can confirm  
4 that we are recording and you may gavel in the hearing  
5 when ready.

6 COMMISSIONER DICKERSON: The audit hearing  
7 UtePAC will now come to order. This hearing will be  
8 conducted pursuant to the procedural rules for audit  
9 hearings adopted by the Commission in 2009. Of course  
10 today we have Rollie Wilson, counsel for the  
11 Respondent committee. Welcome, sir. As I mentioned  
12 earlier, I'm sorry we weren't able to do this in  
13 person, and I appreciate you bearing with us as we  
14 navigate this historical moment.

15 On November 22, 2021, UtePAC received the  
16 Commission's draft final audit report and on December  
17 7th of that year, the Committee timely requested a  
18 hearing before the Commission, which was granted.

19 Counsel, for today's hearing, you may make a  
20 brief opening statement. Following your presentation,  
21 the Commissioners, the general counsel and the staff  
22 director will have the opportunity to ask questions,  
23 and then at the end of today's hearing, you'll have  
24 the opportunity to make a closing statement.

25 Your statements at this hearing should

1 present issues and arguments that you have already  
2 brought to the attention to the audit division and  
3 absent to your request by a Commissioner at this  
4 hearing or intervening events subsequent to your  
5 response to the DFAR, you may only present issues and  
6 arguments at the hearing that were raised in your  
7 response. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] It is acceptable for UtePAC to

17 present any information it wishes about the facts or

18 circumstances underlying the audit and any argument it

19 wishes to make about why it believes the findings in

20 the draft final audit report are incorrect.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

█ [REDACTED]  
█ [REDACTED] With that  
3 admonishment, counsel, you may proceed with your  
4 opening statement.

5 MR. WILSON: Thank you, Mr. Chairman, and I  
6 understand [REDACTED]

█ [REDACTED] [REDACTED]  
█ [REDACTED]

15 Thank you, all, for inviting UtePAC to hold  
16 a hearing before the Commission. It would have been  
17 nice to have done this in person, but I do appreciate  
18 the opportunity to be here with you all and discuss  
19 the audit with you. Last night, I was having lots of  
20 dreams I was going to show up as like a cat on the  
21 Zoom window. I was going to have to explain to the  
22 Judge that I was not a cat, so it looks like I made it  
23 through that hurdle, so hopefully things will be good  
24 from here on out with the technical things, and we  
25 appreciate you making the time.

1           The Ute Indian Tribe is -- well, my name is  
2 Rollie Wilson. I serve as one of the attorneys who is  
3 general counsel for the Ute Indian Tribe. I'm located  
4 here in D.C. and so I handle things like political  
5 matters and this matter before the Federal Elections  
6 Commission. We have a number of other attorneys in  
7 Colorado that also serve as general counsel for the  
8 Ute Indian Tribe.

9           The Tribe wished that they could have  
10 attended this hearing. As you might imagine, the  
11 Tribe is like any other government, and they are very  
12 busy overseeing, managing their lands and resources,  
13 providing governmental services and making sure that  
14 their members receive the benefits and unfortunately  
15 could not be here for this hearing today, but they did  
16 really express their interest in this hearing and  
17 working with the Federal Election Commission to  
18 resolve these issues in the best way possible, and  
19 really that's been the Tribe's perspective on this  
20 hearing from the beginning.

21           The Tribe is not UtePAC. The Tribe is its  
22 own sovereign governmental entity that created UtePac,  
23 so they have a strong, vested interest in what happens  
24 to UtePAC and making sure that UtePAC, with their name  
25 there off of the Ute Indian Tribe, but -- they're also

1 the Ute Indian Tribe, but their name -- that the  
2 reputation of UtePAC stands strong and as one of the  
3 first tribally established political action committees  
4 that UtePAC has a good place in the political  
5 community. So unfortunately they couldn't be here and  
6 they send their regrets, but thank you for having this  
7 hearing.

8 As I mentioned, the Tribe -- I don't know  
9 how often with the Federal Election Commission you all  
10 get to do Indian law, so I'll just briefly note the  
11 Tribe is a sovereign tribal government within the  
12 United States. They have a government-to-government  
13 relationship with the United States, and as I  
14 mentioned, the Tribe exercises many of the same  
15 authorities as the federal government, state  
16 government and local government.

17 The Tribe is also, like other governments, a  
18 major sponsor and employer of the activities occurring  
19 on the reservation and in their region. The Tribe has  
20 a lot of employees within its government but then also  
21 employees of tribal entities that promote economic  
22 development on the reservation. As a part of that,  
23 the Tribe felt that in maintaining relationships with  
24 the state of Utah, surrounding committees and the  
25 United States that it was important to establish a

1 political action committee that could help the Tribe  
2 with its communications in relation to mostly federal  
3 government activities as well as things on the ground  
4 out in the State of Utah.

5           And I emphasize the governmental role of the  
6 Ute Indian Tribe because in a lot of ways they have  
7 the exact same concern that the Federal Election  
8 Commission has with the operation of UtePAC. The  
9 Tribe oversees UtePAC in its governmental capacity and  
10 when it first became -- even before learning about the  
11 FEC audit, the Tribe initiated its own audit of UtePAC  
12 in January of 2020. The Tribe engaged in that audit,  
13 engaged an outside independent consultant in that  
14 audit, and during that audit was unable to get records  
15 from its current treasurer who at the time -- the  
16 former treasurer, who at the time was Mr. Robert  
17 Lucero. He became unresponsive and within a month or  
18 two of initiating that audit, the Tribe fired its  
19 former treasurer, Mr. Robert Lucero.

20           A week or two or so after firing Mr. Lucero,  
21 after the Tribe had put its general counsel, including  
22 myself, in as a manager of UtePAC, I'm a registered  
23 agent of UtePAC, and also the Tribe directed that its  
24 comptroller, who runs our finance and accounting  
25 department, he's a certified public accountant, to

1       oversee the finances of UtePAC. So myself, working  
2       together with the Tribe's comptroller, we were asked  
3       to step in, stabilize UtePAC and also within a couple  
4       weeks, we learned about the Federal Election  
5       Commission's audit of UtePAC that was actually  
6       initiated back in October of 2019.

7               From the five months from when the FEC audit  
8       was initiated until the former treasurer was fired and  
9       we took over UtePAC, at no time during that period did  
10      he ever inform anyone with the Tribe or working with  
11      UtePAC that UtePAC was under audit. So once we  
12      learned about that, the Tribe directed myself and its  
13      comptroller to take every action possible not only to  
14      complete the Tribe's ongoing audit, but also to  
15      respond to and address issues brought up in the  
16      Federal Election Commission's audit.

17              So from the Tribe's perspective, we are  
18      working hand in hand with the Federal Election  
19      Commission not only to produce the records that Mr.  
20      Lucero failed to maintain but also to correct hundreds  
21      and hundreds of reporting violations that Mr. Lucero  
22      made over his time as treasurer at UtePAC, and so  
23      that's what we've been doing for the last year and a  
24      half to two years working very closely with your audit  
25      staff, who many of them I see on the call today, and

1 it's a pleasure to finally meet you in person. They  
2 know that we -- I think they can attest that we have  
3 been working very, very hard to recover records and  
4 correct filings that were made with the Commission.

5 And, in fact, getting those records from  
6 former Treasurer Lucero has been one of the most  
7 challenging firsts of the audit. As I mentioned  
8 earlier, Mr. Lucero he provided some initial documents  
9 but never really responded to the Tribe's audit of  
10 UtePAC. There are in the neighborhood of \$400,000  
11 covering the Tribe's audit from -- excuse me.

12 (Pause.)

13 MR. WILSON: There we go. I lost my notes  
14 on the Tribe's audit. The Tribe's audit from December  
15 2018 to February 2020, there's approximately \$400,000  
16 of unexplained disbursements, cash withdrawals and  
17 checks, and we were not able to get records from Mr.  
18 Lucero explaining the disbursements.

19 In a way, the results of the Federal  
20 Election Commission audit were similar. While we were  
21 able to produce many, many more records, I think  
22 having the authority of the FEC behind the audit  
23 helped with that effort. There still remains  
24 approximately \$300,000 of unexplained disbursements  
25 and activities by Mr. Lucero, so in some ways, your



1 these number than I am, but around 80 to 90 percent of  
2 the funding that is the subject of the FEC audit is  
3 actually tribal governmental funds that were provided  
4 to UtePAC for its operations. UtePAC was not one of  
5 these political action committees that was really good  
6 at raising money. We were not raking in hundreds of  
7 thousands from public sources. The vast majority of  
8 the funding in UtePAC's bank accounts came directly  
9 from the Tribe for Mr. Lucero's operational expenses.

10 I think as an important clarification, I  
11 vote for your oversight of the Committee, certainly  
12 all of the same Federal Election Commission laws need  
13 to be fulfilled and complied with. However, the  
14 subject of those filings were primarily tribal funds  
15 and not public sources of funding.

16 In disbursing those funds to UtePAC, the  
17 Tribe has an extensive and rigorous process in how  
18 it's providing those funds. Mr. Lucero was asked to  
19 come before the Tribe's governing body because of the  
20 business committee and provide an annual or semiannual  
21 budget for how he was going to use funds, and in later  
22 years, he would also report on milestones or  
23 accomplishments in the prior year with that funding.

24 Mr. Lucero's budget included funding for  
25 accounting and legal staff to support his efforts as

1 the director and treasurer of UtePAC, but it appears  
2 on hindsight that he did not use that funding as  
3 provided by the Tribe or he paid himself to do those  
4 activities for UtePAC and all the ways that he did pay  
5 himself beyond his administrative fees are still  
6 unexplained, so he would present those budgets to the  
7 Tribe as far as his accomplishment.

8 According to the Tribe's constitution, all  
9 expenditures would be approved by a resolution, and  
10 after a funding resolution was approved, it would go  
11 through several more internal checks within the Tribe  
12 and sign offs before funding was released to UtePAC.  
13 This included having a funding requisition request and  
14 approval -- an approved and signed resolution, an  
15 improved budget, invoice and signed contract and  
16 supporting documentation, such as a W-9. Excuse me.  
17 The Tribe's executive director and comptroller, who we  
18 are now working with now to stabilize UtePAC, would  
19 sign off on these requisition requests.

20 The Tribe deferred to Mr. Lucero's  
21 expertise. He was hired for his expertise or at least  
22 stated expertise in running PACs and complying with  
23 Federal Election Commission requirements, and he  
24 indicated to the Tribe that further controls over his  
25 spending -- these funds did not need to be implemented

1 by the Tribe because he would comply with all FEC  
2 requirements and reporting and that that would provide  
3 the record of his financial compliance.

4 We now know that Mr. Lucero not only did not  
5 comply with FEC requirements, he did not institute any  
6 internal financial controls in his management of  
7 UtePAC and made a number of false and fictitious  
8 statements.

9 I think the Tribe in hindsight as it has  
10 been investigating his activities, you know, UtePAC  
11 was a small operation. Having two people now working  
12 for UtePAC, we've doubled the staff of UtePAC. At the  
13 time that he was running UtePAC, he was the sole  
14 signer and operator of the PAC's funds and certainly,  
15 in retrospect, having multiple signers at the PAC  
16 level is definitely a best practice that the Ute Tribe  
17 looks forward to implementing once they complete this  
18 audit.

19 So, as I noted, Mr. Lucero was hired for his  
20 experience and he stated that he would comply with FEC  
21 requirements. We now know that he did none of these  
22 things, including the simple act of maintaining  
23 records. As I noted, obtaining records throughout the  
24 audit has been one of the most challenging things and  
25 many of the -- they did not need to be taped together,

1 but many of the records that he eventually scanned and  
2 sent over to us were crumpled up as though they were  
3 in a trash can or in a box somewhere and not properly  
4 filed, so he did not maintain those records with any  
5 care or upon his termination provide us with boxes and  
6 boxes for the three to four years he was managing  
7 UtePAC.

8           Some of the important actions that I wanted  
9 to highlight for you that he took during his tenure as  
10 UtePAC's director and treasurer and one in particular  
11 occurred just before the FEC's audit of UtePAC  
12 started, which was in January -- your all's audit  
13 started in January of 2017. In September and October  
14 of 2016, within a month of his being hired and UtePAC  
15 being set up, this investigation that the Tribe has  
16 conducted produced records showing that one of his  
17 first actions after obtaining funding from the Tribe  
18 to manage UtePAC was to transfer those funds from  
19 UtePAC to another PAC that Mr. Lucero set up called  
20 New Deal PAC.

21           He then used New Deal PAC to pay himself  
22 directly and also to pay an LLC that he set up,  
23 American Systems Group, and this falls outside of the  
24 FEC's audit but it's an early and important sign of  
25 his -- where he was headed with this spending of

1 UtePAC funds and misuse of UtePAC funds for his  
2 personal benefit. Another thing that he did early on  
3 was he set up a contract between UtePAC and his LLC,  
4 so he eventually got the Tribe to sign that contract,  
5 but as the director and treasurer of UtePAC, its sole  
6 representative and also the owner of his new LLC, he  
7 was essentially signing a contract -- making a  
8 contract with himself.

9 Also early on one of his more egregious  
10 activities was he used \$23,000 of UtePAC funding to  
11 purchase a vehicle, which he later sold for \$10,000,  
12 and there's no record what happened to that \$10,000.  
13 All the while, his contracts with UtePAC stated that  
14 he would be charging per mileage driving personal  
15 vehicles to UtePAC events. Another big problem that  
16 we encountered in the audit was documenting  
17 transactions through things like Square and Venmo  
18 accounts. I don't yet have a Venmo account. I think  
19 we have a PayPal account somewhere that I sort of know  
20 how to use. I'm not totally familiar with how Square  
21 and Venmo work, but Mr. Lucero was proficient in  
22 processing -- disbursing UtePAC funds through Square  
23 and Venmo transactions.

24 He also used funds for vehicle repairs,  
25 moving expenses and family travel. These are all

1 things that we learned in cooperation with the Federal  
2 Election Commission audit staff. The Tribe was  
3 pleased to have the assistance of the staff in  
4 producing those results, and I don't want to single  
5 out anyone in particular, but I can tell you that your  
6 all's audit staff worked tirelessly to chase these  
7 things down and help us as a tribal government produce  
8 this information. Certainly, he was nearly  
9 unresponsive to the Tribe's requests for these kinds  
10 of documents.

11 So to get us focused in on the Tribe's  
12 response to the audit, as I've mentioned, the Tribe  
13 takes the audit very seriously, feels that it has the  
14 same governmental responsibilities as the Federal  
15 Election Commission in the oversight of UtePAC in  
16 conducting its own audit, and ever since the Tribe has  
17 learned of the FEC's audit, they've spent the next two  
18 years and directed myself and its comptroller to  
19 correct hundreds of filings with UtePAC and also  
20 produce as many records as possible so that we could  
21 restore the good name of UtePAC.

22 And throughout this effort, we've learned  
23 about his knowing and willful misuse of funds and  
24 reckless failure to maintain records. We did receive  
25 the draft final audit.

1           COMMISSIONER DICKERSON: Mr. Wilson, I'm  
2 sorry to interrupt. I just want to check on the Vice  
3 Chair. Mr. Vice Chair, are you with us?

4           VICE CHAIR WAITHER: Yes, sir.

5           COMMISSIONER DICKERSON: Okay. Excellent.  
6 You may proceed, counsel. I remind you this is  
7 intended to be a short introduction leading into a  
8 question period.

9           MR. WILSON: Oh, I apologize. Thank you. I  
10 will wrap it up, Mr. Chairman. Like a lot of things  
11 in Indian country, we have a long story to tell, so I  
12 appreciate your all's attention, so we did receive the  
13 draft final audit report. The UtePAC believes that  
14 the draft final audit report should reflect extensive  
15 efforts that we've made to correct the record. In  
16 many cases, the response has been well these errors  
17 occurred in the first -- or violations occurred in the  
18 first place, so they can't be removed.

19           We would like to see the items removed that  
20 we've been able to correct, and finally, and in  
21 particular, there is the statement that there was --  
22 in finding 3, a violation in the amount of \$131,300  
23 for cash transactions. That was later explained  
24 through a letter from the bank that these were account  
25 transfers and not cash transactions. So at a minimum,

1 that "violation" should be reduced or explained to say  
2 that those cash transactions were incorrectly  
3 interpreted, as explained by the bank.

4

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9 So, you know, the Ute Indian Tribe and  
10 UtePAC are not here to contest the audit findings in  
11 general, although we would like to see the ones that  
12 we've corrected removed, but as a governmental entity,  
13 we're here to comply and see what we can do to get  
14 UtePAC moving forward in a good way.

15 I apologize if I ran on too long. Thank you  
16 so much for your attention. I'm happy to answer any  
17 questions that you all may have.

18 COMMISSIONER DICKERSON: Thank you,  
19 counselor. Colleagues? Is there any questions from  
20 the staff director or the Office of General Counsel?

21 VICE CHAIR WAITHER: Mr. Chairman?

22 COMMISSIONER DICKERSON: Mr. Vice Chair.

23 VICE CHAIR WAITHER: I would be interested  
24 to know what information we're still seeking at this  
25 point, or do we believe we've obtained all that we're

1 likely to get at this point?

2 COMMISSIONER DICKERSON: Mr. Wilson?

3 MR. WILSON: Mr. Chairman, thank you Mr.  
4 Vice Chair for the question, and I -- we worked so  
5 closely with your audit staff. I think that they can  
6 attest to this or provide their own view as well.

7 Just roughly speaking, for the time period  
8 that UtePAC was under audit by the FEC, this may be --  
9 I don't know -- 30 percent of the records that the  
10 former treasurer was never able to produce or refused  
11 to produce. Sometimes when he would refuse to produce  
12 things, we would investigate and find them on our own,  
13 but after a year and a half of this investigation, I  
14 think we probably have hit as many dead ends as we can  
15 in producing information, and then to the best of our  
16 ability using that information we corrected our  
17 reporting with the FEC.

18 VICE CHAIR WAITHER: Thank you. I used to  
19 represent the Washoe Indians in Nevada for many years.

20 MR. WILSON: Mr. Chairman, I thank you for  
21 the question. Mr. Vice Chair, yes, we've done work in  
22 Nevada, too, and appreciate the Nevada. It's like  
23 many places in Indian country's Nevada Indian Tribes  
24 unique and difficult circumstances and representing  
25 those folks is an important service. Thank you.

1                   COMMISSIONER DICKERSON: Thank you,  
2 counselor.

3                   Commissioner Trainor?

4                   COMMISSIONER TRAINOR: Mr. Wilson, how much  
5 has the Tribe spent in doing its own audit and then  
6 going through this process with the Commission to get  
7 to where we are and just roughly as a guess how many  
8 things have been corrected that were initially  
9 identified?

10                  MR. WILSON: Mr. Chairman, thank you  
11 Commissioner Trainor for the question. That's a great  
12 question. I don't know if it would be possible, Mr.  
13 Chairman, to get back to the Commission with some  
14 written responses. We have been tracking the attorney  
15 time spent on this effort by the Ute Indian Tribe, and  
16 with a little bit of effort, I could produce that  
17 number for you.

18                  COMMISSIONER DICKERSON: Mr. Wilson, I think  
19 the rules do contemplate such an additional filing,  
20 but at least for purposes of the hearing, the  
21 intention is to stay within the four corners of what  
22 was previously briefed, so my recommendation would be  
23 to answer Commissioner Trainor's question in writing  
24 rather than here orally at the table.

25                  MR. WILSON: Mr. Chairman, thank you, and we

1 will do that.

2 COMMISSIONER DICKERSON: Commissioner  
3 Broussard? Any further questions for counsel?

4 Thank you very much. Mr. Wilson, you're  
5 entitled to a closing statement if you choose to move  
6 forward.

7 MR. WILSON: Okay. Well, thank you. I've  
8 probably covered everything in my opening statement  
9 and again appreciate your all's attention. It may be  
10 not the typical PAC situation, and so I think it was  
11 worth the time spent describing the efforts that the  
12 Ute Indian Tribe, as a tribal government, took to do  
13 its own investigation and audit of UtePAC. And again,  
14 our goal, the Tribe's goal is to uncover as much of  
15 this misuse as possible, document it, correct the  
16 record and move UtePAC forward in a good way, and we  
17 appreciate certainly the extensive help of your audit  
18 staff and legal counsel in guiding us through that  
19 process. I hope they feel that we worked with them as  
20 partners, because that's the way that we felt about it  
21 and it was definitely what we were hoping to do.

22 And to the extent that the draft final audit  
23 report -- so to the extent of the final audit report  
24 can remove and eliminate things that we have been able  
25 to correct due to the Tribes extensive efforts doing

1 that, we would certainly appreciate that and make that  
2 request. And thanks so much again.

3 COMMISSIONER DICKERSON: Thank you, Mr.  
4 Wilson. We appreciate your being here, and thank you  
5 for your kind words for our staff here at the  
6 Commission. With that, this hearing's adjourned.

7 (Whereupon, at 11:38 a.m., the hearing in  
8 the above-entitled matter was concluded.)

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REPORTER'S CERTIFICATE

DOCKET NO.: --  
CASE TITLE: Audit Meeting: UtePAC  
HEARING DATE: February 17, 2022  
LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Election Commission.

Date: February 17, 2022



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Angela Brown  
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Washington, D.C. 20005-4018



**UtePAC**  
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March 25, 2021

**Via Email**

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**RE: Corrections to UtePAC Audit Hearing Transcript**

Dear Assistant Staff Director Brown:

Thank you for the opportunity to submit an errata sheet correcting errors in the transcript for the UtePAC Audit Hearing held on February 17, 2022. Thank you for also providing the list of corrections submitted by staff for the Federal Election Commission. We agree with the corrections submitted by staff and provide the following additional corrections:

- On page 4, line 20 insert “for” before “UtePAC”
- On page 8, line 2 replace “the” with “governmental”
- On page 8, line 8 replace “hearing” with “audit”
- On page 8, line 8 and 9 replace “its own” with “a”
- On page 8, line 12 and 13 replace “their name there off” with “the name”
- On page 8, line 13 and 14 delete “but - - they’re also the Ute Indian Tribe, but their name - -”
- On page 8, line 22 delete “with”
- On page 8, line 22 and 23 replace “you all get” with “gets”

- On page 11, line 21 replace “firsts” with “efforts”
- On page 11, line 25 replace “covering the” with “covered by”
- [REDACTED]
- [REDACTED]
- On page 13, line 24 replace “vote” with “note”
- On page 14, line 2 replace “filings” with “funds”
- On page 14, line 6 replace “relying to” with “providing”
- On page 14, line 7 delete “because of”
- On page 14, line 20 replace “as far as” with “as well as”
- On page 15, line 3 replace “improved” with “approved”
- On page 15, line 13 replace “pending” with “spending of”

Please let us know you have any questions or need any other information regarding these corrections to the hearing transcript, as well as any other issue related to the audit.

Sincerely,



**RONNIE WILSON**

Agent, and Counsel for UtePAC  
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