

Amazing reporting it. If you. Forty three m.. Harry capital l c four and on behalf of the front lines for which you acted the best and mantra. Helen. Receives jake again. And you wish you had the and secretary of the partner of the treasury with off the institute for institutional. Thank you harry. Capital l.. We see him right back. Thank you mr cain. For any age if they exist then. You're thinking hey good morning carol. Good morning your honor may please the core of the debt worse wave which is at the center of this case was a massive we submit lawless. Government to explode creation. Of fannie mae and freddie mac.. To publicly held companies pretending to act as a conservatory. Which is required by law to conserve. And preserve the assets. And rehabilitate these companies to a solemn and solvent. Condition. The networks sweep and name. Really says it all worse we systematically drained. These entities. Of all value. Leaving his way to our own so on and so on and insolvent. So nobody's. A golden goose for the treasury. And utterly worthless. For the individuals and institutions. Who in good faith. Invested in them. Their private individuals we submit. They've done this to public companies where the united states government has done here. Yes the see. The justice department will be investigating them. Roger. Prosecuted. In september of two thousand and eight. The f h f eight named itself the conservatory of fannie and freddie. Under the statute. Pursuant to which it. Acted. It. Is required to preserve the assets. And serve the the situation of those companies. And put each. In a sound. And solvent condition and. Rehabilitate them. That is in the statute pursuant to which the. Page. F.a.a. reported back and its regulations which have been cited in the brief. The agency describes the primary objective. The essential function. And the statutory charge of a conservatory is to keep the enterprise going. And bring it back to life to the extent that it needs recess a patient. A conservative or an act is under the statute under the regulations. Of under the same statute the f.b.i. that governs the f.d.i.c. Of had decades of tradition. And common law. A conservatory. Is a trustee for the assets of its war. It has a responsibility to retain the rights of the institution that is protecting. And when this. Conservatorship was created. We have a j.j.. Put out a press release with questions and answers describing what its role would be. This is a. Pages two four four one through two four four three. Of the joint account because it answers these same questions about conserving and preserving and sound and solvent. And under a conservatorship. It says the company is not. Liquidated. Girl and no plans to liquidate the company. And the stockholders writers. Of the company. The book. The stockholders will retain their financial worth. In the institution. Then a few years later on aug seventeenth two thousand and twelve. The net worths we. Was announced. And it did exactly the office. A worker conservator. Is responsible. By law. Tradition on hand and regulation to do. It basically decided to worry about the all the value of fannie and freddie. And make them more of the state. Was the stock so. The price of the stock going to go. I don't know the answer to that i don't know we have not even sure whether it's in the briefs. I'm not sure i would argue that it wouldn't be roll over the. The institutions on questionably. Have been a difficult straits. But the record is now clear. And it is has been clear for quite some time that the in to the entities have turned the corner. And we're moving towards a profitable. Position. Where is that is that accurate my under you talking about twenty thirteen my understanding is that they've either. Their profits have gone down. Markedly and that leads freddie macas been losing money. Again is that accurate or inaccurate where i understand the case to be is that the institutions are. Because of the herd. Access is better than put in place that they had to teach their goals or lose. And return to the treasury. Over fifty billion dollars. Of the i'm upset i'm sure it is a huge i mean if you were there was a big big amount of money and i mean twenty one point thirteen twenty fourteen twenty fifteen after those tax credits were taken out of the picture. They've been back in this position where the amount of profits that they're making may or may not fluctuate. Above or below. The amount of dividend that they would own to treasury. Each year and in fact. Freddie mac. lost money in the third quarter he might be a game of those could have been paid in calling. Which is something that the r one is over will. All that will really be increased to liquidation. Preference but it will preserve the capital of the institution where i was surely that decision whether to require. Dividends in cash or in kind is exactly the type of. Judgment that's going to be conferred on the agencies concerned here and that we couldn't superintend going to agree with that. But what we're

talking about here is the. But would you agree that we certainly couldn't say we couldn't say the consumer erred in enjoin them are required to in judgment lay should we have a liquidation rather than a preference rather than we should mention that. What they were is making a mistake because they were taking they were suing because of the can't percent cash dividend. That would impair the capital all the institutions all at least right of them further towards us all of human time or the word that was not. There was not necessarily referring that pattern of continuing losses. I think twice or three times worse than g.s.t.. These are the recently. Backers of woe is that relieve the payment of a get reset deal and did not have to be done and done. Can't do less than good been done to address which is cover that. That's true but that's just rational decision but if you're old you know that discretionary decision was being used to act in a way that a conservatory. Does not act on. Then there is the rule of this court go under the a.b.a.. And other circumstances to take. Judicial review of the fact that the statute requires the fruits of the conservatory. To kill oneself things. And the network shreve does precisely the opposite i think you made reference to the central realisation tax. It's hardly clear to me. Looks like the tax payers essential whale loss carryforwards. Yes so that's one way to put it. So yes the agency. If the if you know series are going to continue to realise losses. They will not have you positions you think. Well that's only of benefit up to a point what the government did was provide. The agencies. Of the edge tease. From utilizing that. So i want to put ourselves in the position of a fiction fan. Prior to just prior to the third that that one is our understanding the geo cities have been pretty consistently using the prospect of. Really design. Realizing anything on tax rises. Because there will be profitable workers. Projected future years. Looking like twenty thirteen twenty four. Somewhere right hand holding a document suggesting. Treasury. So what with the record is fair we should stansell specially in conjunction with the recently on sealed documents that were made available to us. Just recently that the former l x c s c o o o o o o four zero zero zero zero zero families specifically said there were a likelihood of fifty billion dollars. All profits are going to the hear the testimony is that the corner had been turned because the housing market is going to turn. And at that point with the g.s.t. zest treasury treasury had a very presence to view of this throw the bit that you own. That is own. The record pretty much with a grand jury of which was an expert. Low for the treasury will reserve that carter has been churning. What would we should look around for forgive a very pessimistic home for a long time. Wouldn't put it but the jury that it was roy. Immediately around the time these documents never make it clear the. Time shortly before all the decision was made which was made in two thousand and twelve in august. Oh. The farland said that she's she gives the report. To the treasury department says. The coil has been churning. There's a there's a profit a little close to here. And i think that it will record. Because she didn't say i said. She said i would have something like she's trying to recall where it's from is a lot of matter. Well i have the right there is more here than just a good program i think will directorship or if the probation. The. Tracery got there. Who are seeing what people were being able to see. Including investors. But these institutions are turning a corner. And if they have been off. Oh oh a little later from the probability of their reinstalled by the bush we. The value is the institutions have to turn a profit away think what you're talking about seeing is. There's a short term and a long term problem and there were competing views it looks like within the government. About what these prospects were in reality has confirmed that and a lot of what folks were talking about was the short term profits that would be made when they carry forward that. They were able to take advantage of that tax benefit which is done is inspired at this point and. They know that the concern. As a conservator was. If you have this cycle of drawing money to pay dividends right but you know from the right pocket and put it back into the left pocket. It was going to increase it's not going to be a child this is not worth i'm sure that it was written by a lot to do and the treasuries are not required by law as a conservator permitted by law to say this scheme. That is in place under the first. The p.s.p. isn't the first and second amendment isn't going to work in the long term it's only going to increase the amount of money that they are going to keep. Like you said taking money yet. Probably money just to pay us back money. And instead we need to come up with a new solution. And that new solution. Says you will give us all your dollars profits whatever they are

if there is zero. We get nothing for the money that we're alone in you and the risk that we're exposed to and it's our life and our nineteen million dollar billion. Our dividend. We will have to suffer their loss but what's more. We will get the benefit of what's wrong what's not con. How is that not within the discretion of a conservator. I want to answer them i want to make sure that i reserve the time that i was hoping to reserve for a bottle on the insurer is that to the extent the situation was a native that time. And we should read the decision was made that signed by the treasury department. We can use this to deal with our budget. Insurers and at their choice. Stop being a conservative drug that the treasury department released by the way the f.h.a. decision is supposed to be made without the supervision or direction of the treasury or. The announcements that were raided at that time make it clear that the treasury department was correct in what the f.h.a. f.a.a.. F.a.a. which it was doing at the time. They specifically said. This is going to expedite the wind down. Of. You can grant a band-aid. And we're going to do now. A zero make sure the big s two ships going to be live with it. So what they were doing was changing everything in that it's not a new record it's more complicated and nuanced and that matters that. An awful lot of folks. Both on capitol hill and within the executive branch think that we cannot go back to the pre two thousand and eight situation here. But. We left. F.h. affray are not are not the ones to make that call nor is treasury by itself and we'll see what we will do we do not want to liquidate these two entities that would be extraordinarily damaging to the economy we're going to hold them. We're going to hold them. And said we're going to keep things in a stable condition. Until the policymakers make a decision is not understand. That's not a sound insall that. The statute requires keeping institutions else on the show you look at all this money that sounds like the definition is unsettling john if you want to know if the conservatives or we should support to be acting as a trust deed of to do shiori i do you're here to teach the science. Will take all the profits. And give it to the treasury here in a home because this statute is different it doesn't say a fiduciary to stockholders it's a fiduciary serving the best interests of the entity. Or the agency. You know i should visit that reference. Which is other incidental. How in the statute itself doesn't feel right for why the conservatory. To act didn't. Own best interest. Or in the interest of so mean. What does it mean if you didn't say they can't take something in the interest of well they can you know you're going to have me i see as a family which swallow. All the responsibilities that i'm sure others have had for centuries. Does this is that you can reach south if you really like that vision. I submit that it does not judge ginsburg and i. I think that would be an error. If the court came to the conclusion that that. Referee should ensure no howard which is also. You know they have the i.a.e.a.. Oh you were allowed to i'm sure ashore. Who were supposed to bring. According to statute. And sherman preserve them. And sound and so on it. And rehabilitate the agency and it would almost swallow all of the f.b.i.. He's facing trouble. Banking norms proportions. Largest banks and he says we could. I think is concerned. We could pour our ordinary duties. But still their reserves of you have to assume that it would be a danger to all the other sure. Cers. So we're going to act. To a degree in our own interest rather than. So hidden from us. At that at that point i think if you read the statute as a whole and if you look at the way the f.d.r. gave the f.t. i see a lot of great all these many years. That there is a choice to. Then to decide to move to a position of the receivership. And then why not. The entity which is where the treasury said it was going to do well they are i think his head. Is still in their capacities conservative they haven't yet pulled the trigger. Right. Well they're holding trigger but they're not admitting that there are shoals supposed to be acting as a server tor and then they decide you know we're going to take. Just go back to discover if you want to see some with conflicting views of the use of the long term outlook. I think there was a consensus that there would be a lot of folks ration volatility over any very time. Geo cities. But the was the date of the remember the seventeenth august seventeenth one thousand the quo. So i gave all of us. The the two geo cities. You shoot guns on the thirteenth you and the tech you say we do not expect to generate that income. Comprehensive income in excess of aerial dividend obligation which treasury. Over the long term. We also expect over time or do have an obligation the treasury will recently drive. Future draws on the senior preferred stock purchase. So we are for whatever his time there is before the triggers. All of the juices go out. Within ten pews. And so we have a future and that is the same time. I'll have

and the spitzer reinforced by the documents all recently on seal. That there were projections because of the deferred tax assets. And they were building they were soon to be released. All would be made by date completely different picture. It's not who wins a second sitting in the picture for how long for four. For the foreseeable future national see below your total because it was in the four they listed the set a teaser return fifteen billion dollars to the treasury more than the treasury put into these institutions. And the and the other thing is that what. What the what was done. But. Network a suite doesn't necessarily mean more as fifty million in excess or thank you. V v. The commitment of this. Be among those women return. Exceeds by fifty billion dollars as of now so nest net is fifty eight billion dollars i think that's those record. Yes i think there's still a good but the only optimistic scenario you're. Here is what you know i believe and. I believe that if you. If you look at the. Be of google at a deposition. The just foerster of was a treasury official on the basis to an interesting point. You still maintain the record was absolutely the record was inadequate was not only that it was misleading. It was incomplete. Oh. So you want to basically. Oh yes. The overturn part requires a full and complete administrator for it from what i did not excel partner your first or your first argument the first. You know our first where our preference is that this court recognize that what was done on it in august of two thousand and twelve. Was drawn rightly. Contrary to the responsibilities of the agency. Acting at the direction of the treasury. Which was against the statute and see how that's consistent with signed records. But we hope to learn enough to know that what with the record is nonetheless inaccurate we probably were learning more things. What's happened is that with what we've learned is that there were some other views somewhere. And and in the end. The view of the picture. Started to become who is here and has a different tax assets. Became available. To be released. To change the financial condition. The treasury department said instead of rehabilitating the companies we will take all of their net worth in perpetuity. All that make it impossible for them to be rehabilitated. Would you like them to pose a party like to depose him. Well. Of course we would have been like the notes of meetings. Like that you know. We would like the administrative record to be complete put in addition to that we believe that there is enough in this record to show that what the f. h. h. f. h. f. a did at that time were not justified for what the recent debate gave the don't spiral headstocks through all the records you. Completely completely record and. The first that friends. Just as well had to hold were. I agree that we have minimal working title to a complete administrative record not just somebody's summary of administrative record. And that's all recent park and other. Decisions of this corps. But there isn't enough to know they said the reason they didn't do the ordinary record here is they said that there's just. A.p.a. review. Is injunctive a declaratory and that's in the teeth of. Forty six seventeen f.. We can't have that so what's the point of breaking the record well i think that's their explanation. Well that is what they're saying. But the county of sonoma case the surface but he says that when the. When they go in for actually beyond the plan contrary to its responsibilities as a conservator then. I'm forty six seventeen just not right what are you. And so what exactly is the test we're supposed to apply for acting. Beyond their authority as. Conservatory can't be violated the rights of the a.p.a. or it would be a pointless get probation you have to show what would also things any good intention. A provision that would eliminate any judicial review. Of course the courts of the what is your definition of this is our definition is when they are not acting as if you drove a door if you're buying and selling assets. Of operating a business in a way. Designed to rehabilitate the iraqi music instrument or which are not x. and which action did they do here. That it. If i ever let you hypothetical if there had been known to further tax asset issue. And so. As it turned out. Fannie mae and freddie mac. never made. At any time between two thousand and eight and the present for two thousand and twelve i'm a third and i make a man in the present never made a profit while we're dealing with the what if. If they adopted the third amendment. And there were no profits. So all they did was protect fannie mae and freddie mac. for more and more debt. With that be consistent with being a conservator. No no would not be consistent with being concerned i want to go to washington and act towards rehabilitating the entertainers think he may have or jane if they were just going to keep you imagine they'd just keep losing money or. If they get profits they're less than one think maybe they are possible. They've

made it impossible you're harder for these entities to operate if you can imagine in the private sector. Taking a corporation that. For a bank. Before we should have a responsibility to rehabilitate the keep it sounds solemn. Then issue a degree saying. I'm going to take all of your profits. And give them to my humble. Hard to give to one friend. And so you can operate in that normal way we're going to we're going to chance that we have a different structure here that lets them science and. There's just there's a judgment that is asking a hypothetical. Yes a new home. And the hypothetical is. Let's assume that when. Treasury. Gave up. Its right to do that in the. Entities were not profitable and so in fact. They would have been getting nothing. Because they were no net profit they will still have the right. Judge brown for of providing that to do their bidding. Card which would have increased the liquidation preference. Were bridger. The capital of the interest to know what we're assuming that they that they did the third amendment. Just wasn't successful. That is to say. They gave up their right. To the dividend. And simply said we're going to take whatever. Is generated. As net profit. To these entities. But nothing was generated. And the question is. In other words does. Does the argument that. That they were not acting as a proper conservator. Depend on the fact that they were in fact. Profitable. It depends of no it doesn't. It depends upon one of the actions taken were calculated and had the purpose of keeping he institutions. In a song. And solvent. Condition and were intended to rehabilitate the entities. Were so intense they knew the administration really tight they knew they were going to keep paid expected they were going to keep you there losing money or having profits that were going to fall short of the dividends owed. That was their understanding. How could it not be consistent with managing their keep trying trying to get it in to some sound insolvent. Situation. To say. You don't have to pay that you have to give us what you can i could never get and it was sound and solvent situation. If every new bill. Of profit you make is you move to someone else. You cannot possibly. If you're in the interim or. I think that's going to be true. And i'm going to treasury specifically said morgan further. Spiraling down there. Well. The record i think suggests that the downward spiral of the despite whatever the call is is not justified by the record. We haven't explored. All that well but basically the treasury set itself at the time. Over the last of two thousand and twelve. We're going to make sure that the taxpayers get everything. And the chemist. And the stockholders get nothing. That was their intention. Their intention was to wash down. Compensation for the risk taker. But that was not been acting as a conservatory if they couldn't just side of the flame had to move to a position a little maybe it was through receivership which is also permitted by the statutes. Where this test same statute that we're talking to. You could move to a receivership. Which is an essentially what they did. But they would then have to pay attention to the rights of stockholders and creditors. This press release of excess from the treasury. Yes sir creditor. What's the difference what the choir. Sense about. Ok. So the treasurer treasury is saying what it is doing as. Participating with the f.h.. Every day. And changes in full many of the networks we service and her main concern for her sins are just the treasure is huge it is owed documents that they've been service amish the same thing the treasury is saying. We and they have h f a or i don't i've been doing these things. This is one governments the treasury saying. We can service the offers hugs and said i served her has done x.. Which is inconsistent with being of any reasonable interpretation of what controllers do. And when your game controller. Be retributive both of us. Said this tension. Stated tension. Why now. This is a motion to dismiss this. George bush whatever. When the allegations of the complaint must be taken as true. We have your belly. And we believe the leaks to the extent that we have a record. It demonstrates that their paychecks pay. And the treasury department. Were doing this together. They say and yet. They're doing it together with those allegations must be taken as true. The judge decided to observe the district court decided with all due respect. They decided various different things with respect to purpose. And other evidence yury things that were not in the record. Decided those in favor of the government. Were in hers as an additional complaint which then with the why didn't the straight record on this when you might think. Oh. I wanted to ask you about something that the district court does here which is to say that the. These roles conservator. And receiver. Are not hermetically sealed in that they can sort of follow. What. Into the other. That obviously you don't agree with that. But my question is why is it. In

the statute that you think perc ludes. That kind of. More thing from one to the other. Well. I think that you can become. Oh and you can decide that the role. No longer is appropriate as a conservatory. And then you must be a receiver with the receiver if you're acting and. As a receiver. You can't just say we're doing it and then not respond to the responsibilities of the statute. The statute respect specifically says. In section j.. Act we all powers specifically granted to conservatory. Or receivers respect both respectively. The powers of a receiver and medical. To the powers of a conservatory the. People. When you're acting as a receiver you have a responsibility to stockholders to pressure jury. To behave in a certain way to provide certain notices. To recognize certain obligations. And to deal with it in a certain way so you can change when you say that i guess i want to be precise what exactly is it that your clients. Would get if. If a court wanted to clarify the f.h.a. phrase having been a sub rosa receiver since the from their demand that one way they get that they don't have the words schweder. Is because an invalid. Arbitrary capricious and wallace. Oh administrative action. And always a long as a receipt if it were to be lawless and done as a receiver but not a conservator. They would have to will they would have to behave in a different way the next time asking you i'm asking you is a relief you want to hear an injunction on doing. Ferritin them then sending all these hundreds of millions of dollars back to fannie mae's a man or i really want to finish this or is it a declaration that as in the third amendment they were actually a receiver. And you needed notice. No without action. Under those circumstances when it was acting in its role as a conservative or. Was against the law. It was to get my second reason against the law or. It wasn't it wasn't the. They should have shifted to reese they should have. They could have done it could they have done it as a receiver facing we're taking this into receivership. Here we go. They were giving you your notice could they have done it or would have been law. Unlawfully as we see where she had to go through certain steps which were are related to that. They did not do that on the left. What they have to do you can't just say. Ok. I wonder what to do with under some other statute and so there. That's all there seems to actually let's be clear about that never admit when i do feel the sizing here is that the mistake is not. As you would say. Doing this as a conservator. Because you can't do it the mistake is. They said we're going to just receivership. But what. But what they failed to do was. Then no it isn't statutory requirements. So is a remedy then that it's on the long haul. Or as a first receiver to do this is well or is it just that there's some notice in procedural requirements that should have been there. Not undertake only seen procedural requirements recognition of the assets record. Rights record national property rights your creditors and stockholders. And that sort of thing. So you can't just say. Well. They haven't done it as a receiver. But what the city clinic or the city see for having their people receive or. It might have been something because they wanted to wind down the. The entities that they put a transient. Trace of the. Into the other. Level of responsibility. Played with was requirements there. They did not do that. What we're seeing what about creating a limited life an addict and to take a lot of hassle. That's a different type we're going to do is receiver and you kind of keep the company going for a couple of years and again i know. That doesn't fit the model of what happened here but they certainly would have it because you want done that and it does not fit the model is not. It is not. What about those statutory provisions we're going to do we didn't really address that or the reply just what is the remedy that you want here for a residency is a big relief what the date. Remedy the behavior. Why the action of the network's week in august of two thousand. Well. Was illegal. Not justified by the statute. Arbitrary capricious. An inconsistent with what they were telling the world that they were actually doing. And therefore it was. It was it has to be set aside. Now deep you and i know we are not that details so what happens when one sentence i've heard him haven't we have implementation of that decision is obviously something that the district court would have to work out on. And that's why i said he goes i mean there are important your clients must have something to reagan they have to have stand means they must think there is some remedy they would get out of this what is the remedy. They're going against the. One spinet worst week to set aside the financial circumstances. Of these people that are vested in this company. Believing these statements that the government was giving them. About. We will live with it. We as a conservator. We go in handling what i say those representations of people in

the marketplace. Rely upon. Own. Of their own title. Local. Both of those whites that they had at that time. When the government acted arbitrarily illegally beyond its power. That has to be taken away. And we have to go back to that. Only an end to the extent that there are aspects of the implementation of that to be worked out that's why we have different orders to do that sort of thing where this courtroom sponsibility i submit is to recognize that what happened at that time. In august of two thousand and twelve. Was beyond the power of the page. Every day on the list actually for joy of the which. It was operating. It was supposed to be operated. And the center was offering. It was illegal. It was always same. Makes it illegal to say i want to be crystal clear in what they violated you say is the requirement that main. Management and and betrays a doer and a sound insolvent condition. And preserve in conserve the assets and rehabilitate the entity. This is not free sometime in the no sense in the states where you have millikan where we have military. Rehabilitation the agency to are zombies. So one condition. This is not something that i have come up with this is in the statute. It's in the believe. Regulations that the agency itself has put out. It's. It's in a statement of what the agency said it was going to do and was actually pushed there back in two thousand and eight. On. And did everything going my way. Point. Surge trying to make sure that you want to make sure again. You're right where it says that they have him. I take the meds we really take this and make it profitable again for private investors. Big to read. Oh. Maybe to rather. The powers of the conservatory the agency. Chill take such actions are may be necessary to put the regulated entities in a sound and solvent condition. Now as i will. And then. Small ai to. Appropriate to carry out the business of the regulator the entity and preserve and conserving assets in the property to be regulated and to think and act like if they thought they could in this hypothetical i'm not fighting with your record materials if they thought they were not going to be any profits this was we have to stop the hemorrhaging. We have to stop the hemorrhaging there's never going to be enough profits we think in the foreseeable future. To pay the dividends. And so they do the first amendment. On that basis with that not kept thirty of them was a stock. The reserve has censured with vision. You know part of the record of the group and the arguments there was that essentially star. Workers. They went from being a creditor. To a holder of the all of the common stock by having the ability to take all of the assets that ability to do that was restricted under here on a.g.r. a the statute to end at the end of two thousand and nine. What they did in two thousand and twelve was inconsistent with that limitation on their if your kids are going to remain single because i want to say that you're writing about the sunset profession. Right. That's what you're talking about as you're saying you're arguing about treasury violating the sunset provision as you can i am so want to get back on. To. D. here. A to d. and that is if. If they thought that there weren't going to be any profits or maybe there'd be a blip from one year for tax credits but the going forward. It was going to be hemorrhaging. With that could you take these measures. Big but they don't know when that constitutes as sound and solid as the same can be. By stopping the hemorrhage gene and carrying on the besant. Business and serving the after. Assets by stopping the hemorrhaging. No i don't mean. They weren't stopping me. If it were my article by the fact of the matter what you. But your hypothetical makes up facts that are directly contrary comparison to the damage you know. They had with the state. Why would i want to know when when you talk about what it means to keep something in the sound insolvent condition. And conserving the assets. If they don't think there's going to be a pattern of profits and there's going to be more hemorrhaging and profits when they take a step like this i know you say that isn't this case and that's here. The problem here and the record. You have your record arguments about that but. Could it ever be consistent with conservators duties under the statute to stop the hemorrhaging. By saying. Just give us whatever you can pay. Each year we move demand more than whatever you can pay. No why i am sure that is that they would have that one decided to wind down. The air. Which is what they said they did. You know. August of two thousand and eight. Well they've made. The wind down the n.p.t.. At that point they should have said. We will all week. In the application server. And which by the way is actually just that was working out with we you know on the right they couldn't believe it so. We were wrong. We now want to y. know the answer which is what they said they were doing with the networks we need and we are going to have to move to the

provisions in the same statute. They provide for receivership. And liquidation of the company. That's what they said two thousand and eight. They weren't going to do anything because of your. We're just make sure i understand this year. Your position is if they made this determination that. We can't believe we're just never going to get to a price point of consistent profits. Then they can't conservative anymore that would say made that judgment they have to go to receivership they have twenty years left over both literally and in the air age. If they have under this provision of the laws of the united states. They can act as a conservative or. Are they going to act as a receiver. Being a receiver. Is not a conservatory. We know conservatory. Is not a receiver. If they have decided over the hypothetical that that was something that needed to be done. They had to move into another matter. Operate under the regime. That he is giving our history. A receiver. And you rights the people of that are affected by that decision. They didn't do that again julie. So if he was trough this period you know. For those dreams. As i recall the line for four years studiously used was roughly five trillion. So. Suppose that the so. He some of the record. Would view that. Treasury official face of the view. This is no way to live with the five. We work for all of the possible. Purchasers of pieces of worth only muster five. So we're going to have to wind it down to get to a stage craft. So yeah that will happen. Assuming they don't make profits that no one expects them to make that will happen with this sweet. Reason never happened within a few years that. What i think you're asking me then what should they have done under our theory or we can do whether what they did to him. With wouldn't have been the highest. Well. The beer stuff. It's a good idea. I submit to the record. Supports the proposition the record that we have so far supports the proposition that they saw the. The pot at the end of the pot of gold at the end of the rainbow they decided. We're going to take that away from the stockholders. And we're going to give it to the treasury department. Because we have a budget deficit. And this is going to be a big help for the regular person who saw the whole of the end of the rainbow. Was possibly was for a while. Well it wasn't just mr tech or his guess again and. It is supported by what happened subsequently. That has left him with like. Well. Little racial before speculating about the future we. The better record does supported. Better than the fifty billion dollars that i mention is. Subsequent to that what it was. It was in the part of the record does support. That there wasn't a point which. The amount coming into the treasury exceeded the amount that the treasury and put into the village e.s.c.'s. Sometime after the first man. Yes but to put. If you put them. Based upon what you could see based upon the ten k.'s the word at the end of the year. And so forth. All of the information was available people who score saw that the housing market turned around by then by two thousand and twelve. They should be changed enormously and. We believe not so much that there was. You never you know. We still have students and hughes we have ground. For all that time. Two thousand is the data or has done you. Well would you with us the that. The but so. Before this record. When you're receiving to some humans. As i recall. One of your arguments. Was regrets. Was. We need to know why. What their explanations for why they did. This of this regents of their motivations not all of us question of whether they're. Conform to our yes sir. Israel. Yes. And so if we fully explore that. If you give the opportunity for them to explore that. I'm saying isn't it possible that the things one could turn up. Used tire we often explanation. Because i don't believe it's going to happen because liquidation of that scale. Was not house. Price. You know only by winding it down to of practical scale they ever. Of why don't you. I don't believe that that's what we'll find out your honor what you say is it possible i suppose it's possible but that's what happens when we're both speculating about one cigarette in their bed tonight i'm sure that you're right you're right some of the. So the question of motivation. Could come either way. Here. It might not. You know it certainly is relevant. With respect to whether sure. Of an entity is our operating in a fiduciary capacity as a conservative or that we cause a construe tour has. At the end of the agency motivations relevant to that yes yes yes. District judge disagreed with that. Yes. You have constructed one and i've constructed another scenario where to use wrong. Yes. Yes. I agree with that. I don't know why we should go any further. Well perhaps. I think that you have enough. And i know i think i have tax your patience just round so i sat down with another. Oh. I think you have enough to decide that the that was sweet was not what it was said to be and was not consistent with



acting as a conservatory i think you know enough. But at a minimum. Were entitled to have a record that we can try this and. Where in the title to have a district court decision. That accept as true the allegations of the complaints of the weekend before. Morning your honour's may please the court this is his issue. From bushel of fortune representing the class. Of private. Preferred and common shareholders of fannie and freddie. Your honors class it grants his claims of breach of contract. Which a fiduciary duty. Common market. Just heard a lot about a very important a.p.a. claim that our claims are not a ph. I would urge the court. To free itself from the confines of the a.p.a.. You considering our common core claims. Because we are not limited to the concept of an administrative record. Or the concept of where the agency acted reasonably within the confines of the statute. How question for do sherry duty claims common law can you share do you claim survive. A statute that first assigns all titles. Powers and privileges and rights of stockholders to. F.h. affray and. Provides that any actions offer. The agency to turn can be taken by the agency of a determined to be in the best interests of the regulated n.t. or the agency. How can a common law fiduciary claims survive that. Let me answer that first with a derivative claim that me directly. I might. With respect to a derivative fiduciary duty claim. The. There are two courts of appeal. The federal circuit and the ninth circuit both hell. That the identical statute. In fiery are allowed. A derivative claim. Because of the manifest conflict of interest. When there's a manifest conflict of interest between the conservatory. And whoever is being asked to so. That was well established. From nine hundred ninety nine onwards. And. And it was no small. Decision. It led to a whole slew of cases in the withdrawal of the geisha. Were the billions of dollars in which private shareholders were permitted to pursue those derivative again direct claims. Because the first part of her decision. Didn't just allow the derivative claim where there was a manifest conflict. But also allowed shareholders. Receive a direct claim. And peter just told he told her you know i have got federal circuit decision. And it was a huge deal. It led to these we struck cases that went on and on and on and. Seeking billions of dollars and collecting. Billions of dollars from a government. Congress knew that when it acted here. And you can make the identical statute in here. Knowing that. And on page twenty seven of our opening brief. We cite two decisions. Of this court. City adani every f.a.a. and gordon really count all police both of which say unequivocally that when congress. Adopts a statute that's identical in wording to a prior stature and has been interpreted by the courts. That generally indicates that congress. The doctor did you do. Interpretation or friends. The defendant there has never respond to those cases. You say nothing about them. Fact. The f.h.l. farai. Embraces that concept. In its brief and says. In trying to argue with the a.p.a. case. Since the congress has blessed the third amendment. Because it inactive the consolidated appropriations act of two thousand and sixteen. Which sort of talked about thirty minute. Talk about where the money would be spent and didn't. Didn't say anything bad about the third member. So they missed the proposition that congress knows what's going on. And when congress adopt an identical statute or braces what the courts have said about it. And the courts have said when there's a manifest conflict of interest. Then two congressman said. Courts have said two courts have said that a no court has rejected by the end. Trucks labor the below so we can figure out how. What the conflict of interest is when they're entitled to act in maine agency's best interests. For the fantasies. And the whole point of. Shareholder derivatives hexes appears to be a conflict of interest i just don't understand how it works the judge will i'm going to ask that question because one of the one error in judge lambert's reasoning that i don't think we had clearly identified in our briefs. Business is. Absolutely not correct to say that the exceptions was the rule here. It is absolutely not correct to say that derivative suits. Only exist when there's a conflict of interest in this court's decision in kalmar is a perfect illustration. It was a derivative case. You know which there was no conflict of interest it's just that the company. Chose this decision. In this business judgment that it wasn't worth suing franklin raines and the other officers. The shareholders disagree. It was not a conflict of interest or a lot of manifest inescapable conflict of interest. Just a difference of judgment. That's why the derivative claim generally exists. So there are lots of instances in which truth claims could be brought by shareholders and would be the decision of the conservative. When you're asking the conservatory to sue itself. We haven't gone through the looking glass. Of the world

which certainly. If you say that your words cannot bring that claim and that's what the first one for me to make a decision in the interests of itself. I'm sure additionally agency. Servant or any agency can make a decision in the interests of the agency then it's ok. It seems to me the statute is saying that's not a conflict of interest especially if they take actions as long as in the best interest of the entity or. The agency and seven to sue on the grounds that. Well they won't see it because they made a decision in the best interests of themselves the agency just doesn't understand it doesn't seem to grapple with how these two sections intersect. I don't think it's possible to read the statute. As conferring on the f.h. f.a.. Here toward the to the side where there are just two itself. For violating for the issue duties. It's the succession provisions that are your future as concerned to work. Succeeds to the right. Hours and privileges of the company. With respect to the regulator there should be and it's assets. I would submit to all i feel judgement about. It may be what you're asking if we're in a statute. Can i attach. This notion of a manifest conflict of interest exception. And i would suggest the word conservatory may be the place to put it. Because if they're not acting as if if the question is where they violated different. Event that. The real question is whether they can sit as judge and jury over that claim. I would concede that the statute doesn't talk about an exception and the courts have read it in effect first harvard doesn't really even talk about it as an exception it simply says there's no way congress could have intended that. If there's a manifest conflict of interest. The derivative claim as possible and i think that the backdrop to the matter is a constitutional. Avoidance. Doctrine because you can't read the statute to do something that would be an obvious due process. Violations there's a whole string of supreme court cases going back to the one nine hundred twenty s. as isn't taking of property. The parents taking with us and also the inability to invent your own claim and i think if i were for the court to the plastic bag. I don't see what the inability to advance your own claim if it's not your own claim. Centered around this problem unless the argument is that. They took your claim which is back to taking a property right so that's the only constitutional. I think for the derivative claim. Of a constitutional award this issue may depend in part on whether there's also a direct claim that could be brought. All i'm saying is i think the courts have. Have suggested there may be a due process issue as well in the first trial who cares how much you're going to get just. You hard to say yes. I am a more direct claim i just didn't see you raising that in the district court. Yes i did actually then. I think. All i would say is this judge know if you count seven of our complaint. We did refer to it. If you do treat you to shareholders. Four different times. I'm sorry. Yes we do share a duty to shareholders yes. I would concede that. Clearly which would play and correct claim occurred with to brief it was something to be desired. But we don't know what you can get. You can tell me where you raised it not so clearly. I am. Your honor i think it's perfectly seventy seven. It's in it's and if you look at count seven of our complaint you will see a very rare occurrence. Four different times. I can give you the exact size if you get wise. References to imperfect one seventy six. One seventy seven one eighty twenty someone said i'm sorry said j. erion i'm sorry says this is i don't have a j. site but it's in our third amended complaint. Arm. By. Before i think the way you two are that are simply saying what we say. Produce reload. To be sure voters. Four different times. In those three paragraphs. We british are derivative client. We would submit to things your orders are directed you should be screened first one to believe you know this clipping maybe three things. First i did you know this pleading. I think we said enough. Second that is especially true in light of the fact that the dover courts in the cat's case and the gentile case which are both cited. Repeatedly you know. In the long term some of the briefs. Have recognized that in some situations ada relief you do surely. Breach claim. Can be both direct and. Derivative. Mollifying to something really to have decision. And that. He's very close to the district court. So you see it's not in your complaint if you prefer it to the district court. We do know. You brief us as a server you here. Claim that it's violates part of me that there was a breach of you. Like of. Yes. You do. Yes and i want to turn the corner. That you have successful when he or you have to do for you with claims. I think that's probably correct church going to permit ourselves of you are you know you could have dual loyalties you like and more like a dollar. With life here. And they have to administer that. In here and now it's all over. And in fact if i could. Richard let me just

finish the questions on the direct claim. Judge miller. This court does have the authority its discretion. Really interesting eyes to allow us to a man to add a direct crime and a citation for that is d.p.t. memorial farmy agency for international development. A ten a second twelve thirty six. A total thirty nine. If the court thinks it's necessary after full consideration that we humanity. We asked to a man. But it may not be because i think our breach of contract claim. Or breach implied company claim. Clearly. Must survive. And the decision of all of the reversed in considering our contract claims your honour's. We were urged the court to look at the substance. With basic economic. Substance of what happened. And not accept the highly formalistic arguments of the defendant at the ways and respectfully. Of the district court below. Here's the basic economic substance of what happened. Under the original. P.s.p. and. The treasury department who has seen your preferred stock in titling it. To get a coupon of ten percent every year. On the full amount of its investment. Plus an extra two billion. It also had a right to buy percent of the common stock of these two companies. For a normal price and everyone keeps saying a nominal price. I looked it up i have my math is correct and our price is about ten to fifteen thousand dollars for eighty percent of feigning friday. That starts with a few know what the market value was of the time. I know that. I know that the preferred stock junior preferred stock arm. I know that the prefer start before the third amendment was trading at about. Just over two billion between two and three billion market cap. I don't know at a few cents. But i don't know that i've been a true purpose i don't know from september of zero eight. But i am confident it was more than fifteen thousand dollars. And i'm very confident that the whole equivocation. It would've been worth more than that. But in any event. The original structure was that which is revealing first of all. In showing the treasury. Was a stockholder. All the stuff you're hearing about their owners are for starters have nothing to talk over so gone. They're wiped off the face of the planet's not true at all. The shrubbery is the stock holder they put in their agreement a choice of law cost. And mainly because we're going to let me get their stock or they have rights as a stock or they can litigate as a stockholder their title to do it is a stockholder. First preferred suitor ten percent. Then you percent of a company that is clearly saying. Ok if. If the companies make enough money to pay dividends. In excess of ten percent. And if they decide to do so they first have to pay your preferred whose total she would have dividend. If paid. Beer. Different coupon rates but it is the total face amount of thirty five billion the coupon would maybe be some or five percent summary. Percent and seven percent it would be two point seven billion dollars. Ok. Then if treasury wanted more. You can take the. Ten thousand or fifteen thousand dollars by e. percent of the common. And you get eighty percent of the rest of the do with it. So here's what happened. The companies did become profitable. Susan with farmville you think that fifty billion dollars tax for the price you were reversed. And sardar read the august ninth two thousand and twelve projections. Differently than men who are the worst of course you look at them they were conservative compared to what happened. But they were so off to mr august those two documents submitted with the says i there's an august ninth two thousand and twelve projection and. Almost eleven two thousand total projections. It's really something you know i'm very internal fading projections. And they show a projection of when they do that is will exceed the draws. Into a one thousand for one enterprise and twenty twenty for the other. Now turned out right. I'm sorry. This is a piece of the show when you lose one when the projection was made in the right before the third moment. Projected. Projected that they're going to have gotten more money back and they put it on. In dividends alone. By twenty nine thousand or twenty twenty. So they're not projecting a death spiral. They're projecting a recovery fading for either going to be hugely profitable. Now. They underestimated how profitable. But they were to be profitable. Just much more than these diagrams are. Your use of recently unsealed. That's correct. And i have them unfortunate by these even numbers. They were given in the court of her claim for they were exhibit. G. and h.. But basically that means they were the fifth and sixth. Of the seven documents in order of a hundred different different exhibit number for me to know what's on your dates. Yes the first one is august ninth two thousand and twelve. And the second is this aug eleventh two thousand and twelve. So the august nineteenth vote is rangers. Rejection. That's right. Here it's anything else from david benson of

feigning to or somebody at treasury. Really sending the same projections. So those are the big business. Credit isn't it. I don't know why it's coming from fannie only but freddie. Projections are for fred freddie as well that is a page with both projections. In fact freddie has better projections. They are there to the best and to have returned more money than any money drawn down by two thousand and ninety nine. Here's what actually happened. Then. So the new law for freddie mac. i was different in delaware all right. I'm sorry i just mentioned virginia tech. The delaware law for freddie mac.. I don't think it's different in any material respect here and i haven't heard. The defendants argue that because i don't that's why the. This was. Was coming to us. At this time fannie mae because that's where you had president you didn't have it. From her freddie macin virginia. And iraq. I don't i'm sorry i don't understand question. B. the projections were coming from fannie. It's true that freddie saw it would you know well i think you saw there. She was double wall. And i think the same for purposes of contract claims and by company. Claims and. I think you share duty claims for. Yes i think. Yes i think they are the same word cartoon fire company. Are normal. But whatever differences but those are special for the virgin you need to be a little tougher on the direct proof you do claim and. Delaware. And then. I'm sorry you don't talk and will if you fight me. But if i want you can if you find i mean i would like to just finish short of the presentation of the course of what happened because i've explained you original structure and i want you back. If that's what you're doing on the contract you don't challenge the p.s.p. a's. That's correct you did the p.s.p. a's. Provide the thing that their entities could not make any distributions. Of capital otherwise until treasury's stock was paid off. You know i don't think they say that you can't make the distribution until the stock is paid off and since you can't make the redemption. It can be made here. Redemption of the treasury strong. Until a stronger designer prices and tell me if i'm wrong from twenty four fifty one they may not declare or pay any dividends preferred or otherwise or make any other distribution. By reduction of careful or otherwise whether in cash securities or a combination thereof. Other than. To treasury. Until treasuries paid off am i misunderstanding the treasury has the right to consent to it. I think that's true. Has the right has to consent to any deal again if it is paid they haven't done that. I have done that. So what how does this affect your contract claim. It makes an intelligent. If it simply makes it contingent because this is yours with all of their rights or contention in fact even if you've seen your preferred stock or very much the treasury's dividend rights were contingent on the board declaring. All the bananas in the private stock market and congress has now declared. Passed a law that they can't pay these dividends. Either correct. No need to revamp the no sixteen act prevents them from. Pain back for a year after you can't even sell it stock or have it. I don't trust sixteenth century does not say that they cannot pay dividends. To private shareholders. You know that no you have. You have this provision that says you got to pay treasury. You got to buy treasury off. First and then the twenty sixteen x. says treasury you can't sell anything. And so i'm trying to figure out how those together leave you with. Much of any contract claim. Seems us less think intention at this point. But maybe if i'm misunderstanding please tell me. Well i mean i'm not sure i'm understanding the role and so the. Of the appropriations are. What we're saying is beyond the basic substance of what happened here is that. In the three years after the third moment. Do this work period. From the enterprisers. To. Treasury of one hundred thirty billion dollars. Ok. If dividends have been paid pursuant to the original agreement. Ten percent. Would have gone. I see your preferred star. To the treasury. And start looking one hundred thirty is in excess of the term percent. So the hundred thirty two the dividends that would have been paid and most. Again we don't know the exact amount of the preferred to do that but it would have been somewhere between six and march. Let's call it seven and a half. The remainder a hundred twenty two or so. Would have been divided. Twenty between the current treasury story around one hundred billion dollars over one hundred thirty. I want to give that private shareholders. Anything. So they leave. Or there are mandatory. Dividend rights. In the contracts. And by the way. Just you know if there's something in that appropriations act it's inconsistent and it would be a breach. But the main atory dividends right say you cannot pay anyone junior to os the junior preferred say don't pay me one hundred os until you pay us. And that's exactly what the third amendment did. It gave one hundred thirty billion dollars to the treasury beyond its

you know preferred of it. Some of that had to come to the junior preferred. Then the common have a provision in their contract that says. You have to pay us readably. With any stock that's equal to us. Well their stock is by definition equal to the common stock to treasury would have gotten. So they should've gotten paid. That's the substance of what happened and their answer to it is. And it's rather galling. There is no breach of contract because the. Written terms of this year certificates. Of the private shareholders. Have not been altered. Thanks a lot. We still have a piece of paper with the same words all have the words are being completely disregard the words say. You're not going to pay a dividend. More than the ten percent senior preferred to the treasury. Without paying us first. And people invested on that. Then he went and said through through another just basically asserted through here for many many. They could have done it through by a lot doesn't matter it's a breach either way no matter how they do it or they say we're going to pay dividends to treasury. Beyond it's ten percent. Hundreds of billions of dollars to be honest ten percent. Without pain you first. Even though your contract says you have to get paid first. That's a breach. And it's also a bridge for the common not a peon readably. In addition if you look at the substance of all that there is no way to contest the fact they. Material universally. Harmed the interests of these private sure holders without giving them a vote. And their contracts. Entitle them to a. Two thirds vote for any such change. Again. Especially when there's an implied covenant claim. The don't ever do the courts would look at substance. And not recall. And formalisms. And i think what you're going to hear from the defendants is a lot of formalism. That should use substance not form and governs this case and there are cases that say that i would refer the court for the winston v man door. Dover case on. On page six of our required brief. And another peace prize for the state farm two hundred thirty two thousand and thirteen dollars. Here are your rights as one of two explicitly said that one doesn't apply a company claim to the records look at substance before. How does a couple that work. Well when you die. When they can take an interest. Actions in the interests of the agency as well as the entertain their cases and tell us how you do that. How how that would work. Well that's what i was trying to say at the beginning of battle. Where the our actions were taken in a good faith effort to help the enterprises and help the agency or help the taxpayer. They still have an implied covenant. To respect the terms of their contracts. That they assume. With the private shareholders. And so this whole issue of motive that the court was asking mr olson listens in and out the in another context where the supreme court has explained that when the united states has a fiduciary duty. That you did your duties in peace with its right to acts as sovereign and acting in its sovereign interests. It's consistent with its. Could you share any duties and. If you did your duty for the governmental entities it's just not the same as it might be for a private. To do. Sherry yes. We sounded bad in the start periods in the second circuit. But there's a big difference here. The official say. Has very recently. Asserted. The department of justice has asserted on his behalf. That it isn't all the government or federal claims taking this case. Which judgment you disagree with that. Well. We're saying here. We're saying. Yeah. We are saying that they're very big government and this was two government agencies colluding. But they can't have it both ways. Ok they can say we're not the government you can't sue us for tracking you. But over your district court. But you can have it both ways i herself are going to say i'm pretty sure fire one way or when you say you're right you want to be aware. When you have it both ways. For me not to work for you. If they are the united states. If they are in the united states for these purposes a federal agency for these purposes i can take actions in the interests of the agency in the interest of the united states is sovereign. How could there be an implied. A breach of the implied covenant. Of. Well the good faith. I think i don't think i have much stock in additional right on treasury's decisions anyhow. Than most or that would lead to just a man who really already knows better than most. What are we do judge know what it is that we have to bring this part of government a breach of contract case in the in the other sort of players. That's the most it would be because there's plenty of cases in the court for players. With fire coming. Cars. United states government can breach the contract and be sued for money. And you can reach the high colonic. That happens in the court for a crime so i think a lot of pushing you have simply says. Is about which according to the citizens you think the united states and then does that mean

you agree the contract claim shouldn't be here. You know because i've been hearing for you in the jurisdictional. Or do you have jurisdiction over because you claim here you go. If they are the united states and you're alleging and reach a contract with the united states. As you seem to be quite a federal crimes then. The contract claims need to be there to hear. We explained to you in the very first two pages of our plan. In this case. In the original wholly compliant. That. It's something really. To the extent we're sure you have a sure thing. We're doing as an alternative client. The system set up by congress. Requires. You normally an alternative plane would be the same case. The system created by congress requires us to do it this way that. If you if you agree to the government it's a taking if you're going to try to say you're not a government. Then we have to be a district court. And by the way. If you are a government we have more claims. In court for crimes. And i will keep in mind also there are a breach of contract claims i don't want to you greg i want the record reflect that i've conceded too readily that the defendants. On the other jeff i pay site here. Are governmental because fannie and freddie. Still exist. The actual figures are conservative or. It one of them. But fabian freddie about private entities. They are still getting sued in district courts around the country and i think the balance of the case law. Is that they don't get to a certain unity. So those two entities are still my little piece of cartridge and i don't actually envision a scenario in which we have to sue them in a court of federal claims. So i think our claims against them. Really do belong in district court not just as an alternative playing. But because fay and freddie are not the government here face to face the government and she. But the. But the entities it's running are not going to go his version. We're assuming we're had not yet. Given the human is exceptional while my meager abilities might decide to. If you stop i don't know but. Good idea that we're not we're not suing treasury for our. What we are suing the treasury for breach of fiduciary duty of brushing for ph contract. Thank you very much. It's we're going to the court is going to be. Before the government starts. Thank you thank you thank you thank you and thanks to a thank you and thank the and thanks thanks. You when you hear it. All right all right. I think she may please the court. Howard k. or federal housing finance agency. Fannie mae and freddie mac.. Brothers. Judge my birth. Decision. Should be further. Actually now based on the notice we were provided by the court. Earlier today for three independent reasons. First a statutory jurisdictional court precludes review of plaintiff's coin. In addition to the bar. Leon in our statute your honour's. The statute referenced in the court. Notice the counsel. Also fully precludes. Each and every claim. In this matter seeking relief your honors. So you have both a dispositive jurisdictional. Part of this case you overlooked a dispositive judicial your i worry that this jurisdictional bar. Your honor as in many litigations. This case morphed over time more. Ok. And i would. I said my colleagues i would applaud of the members of the panel or the clerk who saw this. But it just sucks. In the end it's what we have said because. Let me discuss with you saying you have credible partner third man. What sort of third man was discretionary. To supervise reaction. No you are let me. Ok you're telling the. Say the court and this is what. Why is it so clear in the complaints but as the cases developed. And we heard this morning. Plaintiff's essentially. Allege that the. F.h.. F.a. is violating all sorts of rules laws regulations. Safe and sound banking practices. By allowing these institutions to operate with as little as far over capital. That is the point that this statute gives to you or your honor. Because as you court will know from the statute. It says that the. If the agency as regulator. And again your honor. When we follow our papers we are focusing on the conservatorship. Allegations of the complaints but when the agency is regulator. Really classifies or change. Is capital classifications. That might be challenge. But beyond that. Anything relating to a change capital classification according to the statute is not. So it may not be affected in any way by an order of any court so what we have here. If the outset. In two thousand and eight. At the time. These two ships were put into conservatorship. A new capital paradigm. Was established in that capital paradigm. Said is long. By the director of the agency as regulator. And that capital. Paradigm said. As long as these is situations. Are not forced into. Mandatory receivership. They made. Operate. And the new paradigm was rather then require in there to maintain eight percent five percent six percent capital. Whatever the standard was as a normal banking institution. It was determined that as long as the treasury commitment was out they are ready to come in to cure or.

Any insolvency wish. As a court knows. If these intuitions were installing for more than sixty days. The agency would have been forced to place them. Into mandatory receivership. So the new paradigm was. We'll have these hundred two hundred. Eventually. Treasury committed to four hundred sixty seven billion. Birds. Nearly a half a trillion dollars. To support these enterprises. And the regulator. Made the regulatory decision that. We will the agency will allow that to satisfy capital standards so again. This way it was not a challenge at the time. And so where the stature said is says. Is that this action. By the agency. As a regulator. To establish a new capital paradigm. For the duration of the conservatorships. May not be affected by an injunction or otherwise in any manner. Is similar to on the banking side and here in the banking signage call your c h n eighty nine. No court made fact by a juncture otherwise. A cease and desist order. That has been issued. What was happening here. And there's case law on this. This provision essentially parrots. What are called on the banking landscape. Capital directives. Capital directives were first and that did. By congress in one thousand eighty three. Pursuant to the international lending supervision act of one thousand a three. And what a capital directive said that it was issued your orders in response to a fizzer decision. The first circuit back in one thousand eight three a case called. Comptroller currency versus first national bank of bel-air. Role that the comptroller cease and desist order requiring the bank to increase its capital. Was not supported by substantial evidence. And to overrule that decision. The. Congress inactive. What are called. Capital directives and helpful directives. Provide that the agencies the comptroller. The f.t. i see the fed. The n.c.u.a. i believe. Kid. Require institutions to maintain whatever. Capital level. They deem appropriate. Under the circumstances and. This was the key point. Those determinations. Are subject to no judicial review. In nineteen ninety. That point that they were subject to no judicial review which is challenged in the fifth circuit in the case called f.d.i.c versus bankers shot. Reported at nine thirty ten second. Eleven twenty two. And on a three judge fifth circuit panel. In including the used to stephen judge john minor wisdom. The court ruled that the statute comported with through process there is a lengthy analysis. And the statute. The cap or director statute at issue there. That provided no judicial review to banks. When the agency's. Changed increase decrease their capital guidelines. Was not. Judicial review your honour's. That is persuasively what is. Duplicated by the statute that. Employer noon here isn't very challenging in this what you call capital paradigm. That was created here and seen in the thirty minute getting rid of. Obligations that. That the d.n.c. has had under the prior amendments in the p.s.p. a's and replacing them with this just pay a slippy you can each month. That's a new capital paradigm decision by the director. So you know what i'm referring to your honor is the. It's through after a brief sort of came up in my student colleague mr rose students in prison taishan many times that we. The agencies are driving these institutions of business. It's. Allegedly not allowing them to grow capital. It's keeping them with zero how can that be. Well. The reason there can be is. The paradigm. The new capital program. That never has been a challenge that was established in two thousand and eight. Established. Sesh precisely that aig and action was taken by the director at that time. In september two thousand and eight. It said going forward. The normal. Capital classifications whatever the percentage was i recall. Three four five six seven eight percent. No longer apply. Instead. We're going to have this new paradigm. And the new paradigm is. And it will have to understand. Much of the presentation by my colleagues. It's like. What we're doing with this. Factory the sleeve successful financially the situation. And the sure holders are being stripped of their rights. But what we're dealing with are institutions which we all recall that in two thousand and. Eight. We're on the verge of insolvency and. They were threatened with receivership. Which would have had massively. Adverse consequences on the national memorial markets. So. Congress passed. Pressure legislation. And this legislation. Get in politics just get through that. But this legislation is respect to the matters that we hear about conflicts. This legislation was actually included in the charter acts. The charter act of fannie mae. The charter wrecker freddie mac.. So this is both. Federal law. And this is in the governing. Corporate. Instruments of these institutions. This ability of authority. Of treasury to infuse mass of the members of taxpayer dollars. And so while we have a mistress an argument is. As i understand it is the paradigm that you had was in two

thousand and eight and going forward. To up to and through the third amendment. The director's decision was no way do we want this going into mandatory receivership. No way do we want that happening and we must prevent that from happening we do not want. Receivership. Because of the enormous consequences. That would have far. The economy. And treasury. Look up the hose. And we're going to have the money. Running in and do whatever we have to avoid we can to where we have to do to avoid. Receivership. Is that. And that. That was their decision and the director's decision as conservator. That's when that's what was going on here was the agreement your honor. It was executed between the enterprises so it was authorized by the other prize of the treasury so it was authorized by the federal housing finance agency. Its capacity is conservative. And getting back to judge good is burke's question. That's why our. Relieves. Rely on the withdrawal of jurisdiction. That would apply or bar a court. From affecting the operations. Of a conservator with respect to the court's record of castle this morning. The reason i'm referring to the f h f eight as regulator. Is it was the f.h. update as regulator. That made the regulatory decision. That going forward. The capital. Tests that previously had applied to these enterprises. Were off the boards for the indefinite future for the duration of the conservatorship. Instead. As they said. The end of the executives regulator. In that capacity. Authorized this new capital. Paradigm which is true sheree the conservator on behalf the enterprises will enter into an agreement with the department of treasury pursuant to which. The department will commit literally hundreds of billions of tax dollars to the infusion. And to the support of these enterprises and. That will satisfy any capital requirement. We as regulators. Believe there is necessary. And my point simply with respect to the course. Inquiry is. The whole range of relief. Being sought by plaintiffs here. If they were granted. Which directly contradict. Undermine affectively set aside that. Regulatory decision by the agency. Would just one specific. What i used to call. Mr olson is asking for is that the core issue some type of relief. To force these enterprises. To increase their palpable up to some arbitrary level. Well again. They may get that may happen or not but it's not consistent with the. Action taken by the director. Which focuses on keeping these entities. Did business. And then the court. Had there is much back and forth. In the context of the do sherry. Powers for do share interest relating to the statutory provision and. That the agency. As conservator and now. Can take action. In the best interest of the. Enterprises. Or in the best interests of the agency. But i may submit. What that means is. These are very unique. Creatures. They are met as a court has delivered massive financial institutions. But these are not comparable to standalone banks or standalone savings and loans. Because congress had a more fundamental purpose. Congress's purpose. Inec dean in. Authorizing these financial institutions. Wasn't just to have two more banks. It was to provide support to facilitate the operation. Of the national mortgage markets. There was a policy decision by congress congress considered. Absolutely essential that those markets operate. And they operate efficiently. And that was the purpose for these enterprises. So under circumstances such as two thousand and eight. Now. Whenever the concern. Maybe we'll determine well i have a pretty particular choice to make i could run things to try to make this a profitable. More profitable. Or i can run things. To maximize the ability of the enterprise. To facilitate the operation of those markets. Congress. Made the. Policy judgment. To allow the conservator. Without interference by shareholders with all respect. Without interference by the judiciary. To make that decision. And what we have here is getting back to what's being challenged. Again. We have to look at everything in the context of what one is. We have here it. Are the shareholders. Are tentatively. Asking this court. To override the conservators. Judgment. And this is just really. Congress decided. This is the agency this is the expert. We want to rely on being see in these conservator the net effect of what is being asked of this court. Is to second guess the decisions made by the conservator. And how it will handle. Marshall. In mr this. Nearly half a trillion dollars of taxpayer funds. And he can. The record is clear and i'll refer to the statute in a moment. Congress. Put that money in. Clearly not to benefit. Shareholders. Of a new suit to should. That months later became solid. They put it in because the bottom had fallen out of the world. And the united states' national economy. And congress. Believe this is their in their judge. There is the national more do more good sales. Become non-operational. That will just make the heart of the situation. So much



worse. And that is why when i went they would say it was him but what's happening here. What they have said you know is this situation what they are and what their french f.a.a. is doing doesn't look like. What conservators. Usually do it doesn't look like they're getting it back in a solvent condition they can never have a penny. Profit. And on the other hand. You're not in the liquidation hasn't started you're sort of in the us. Your literal mine life support here and trying to figure out how that fits into the statutory scheme as to what. Because congress to choose to call them conservatives and distinguish conservators from receivers so how do you feel upon your honor. This. Everything that's happening. Goes to really call it the heartland the heartland of the conservators statutory powers. And there is a lot of discussion that conservatives are saying and. Receivers are polar opposites they have a whole different set of powers and do it. That's just not the case. Except for the fact that a receiver. Is authorized by stature to liquidate the statutory powers of both are identical. You just have to look at the stature to see that they both have the power to operate and they just. Every target is the same except there's been a follow up provision. The dish will powers of receiver. And this is the receiver. Plan. Liquidate. But where have you zero in some other obligations to write about notice. What with it into liquidation of morse code. Herse made an exception to the succession stature. Because the succession statute applies both to the concert or and to the receiver so in other words. In a conservatorship or the receivership. All the powers of the shareholders. The officers the directors. Anything over the assets the powers. Anything related to the institution for book. A concert or and a receiver. Is by operation of law. Assigned to the conservator. Or the receiver upon the institution of any of those situations it is a tradition of receivership an institution a conservatorship. As we plan our. Briefs. When. All of that is assigned to transfer. Through. When the conservator succeeds to it. There is no exception to that. The conservator exude seach to everything. But. In contrast in the receivership. There is a single exception. And the single exception is in receivership not. With a the fact that everything has also been transferred to the receiver. Claimants against the institution including shareholders. May file. Administrative claims. Pursuant to a comprehensive claim process the stablished by the statute with ultimate review. In the federal courts. And that really deals with many of the arguments about conflicts and looking for exceptions. Congress knew how to draw an exception only statutes one of them wanted in receivership or did give an exception. And the exception was a claim and can file a claim in receivership. Inclusive or ship. Which may lead or often leads to receivership. Claims and not be fog. But your honor i apologize for digressing because the course. She was about. What is a conservative offer us to do and. There's a lot of papers filed well. This isn't look like any conservatorship. Any of the filer should ever saying. Well. It's different because there are never been. Institutions with its records indicate. Five trillion dollars of acids that. Were becoming insolvent and. Typically in the bank contacts. They in this situation that is failing. May sometimes be put in conservatorship. To give the regulator the turf. A chance to terminate. Hand in this business to be saved. Sometimes it can usually can't. And when he can't then it goes to receivership. But there is nothing in the banks that shoots or. In our statute that says. The regulator has to determine within blank days playing. Week. Playing. Years. How long the conservatorship will last. But when you go back to the underlying reason that motivated. Congress to authorize these enterprises. To empower them. That we want to facilitate the operations of the national mortgage markets. Then it's very understandable then just very consistent. These entities are being operated in conservatorship. For the purpose of facilitating those markets. As the court now knows. We have affirmative legislation from congress. That says at least twenty eight teams. We want this status to stay. We don't want anything changed. We want these and to these three main conservatorship. Until we. Congress decide what the next step is in that you're on every first. Relates back to point us earlier about. Statements made by congress about what happens next and congress also said. Even after twenty eight cine. Please understand that it is the sense of congress. That this status. Should continue until when congress. Get around to doing something about it and just another aspect of that. When you think about what congress did their. Congress by statute essentially meant directly mandated that the department of treasury. Continue to hold the shares of holds today. At least two hundred twenty eight teams. So congress is telling

treasury. Continue to hold the shearers the sheerest which are governed by the third amendment now. Until that date. To me and i know they will put in a couple of statements from legislative history. You can understand that provision without recognizing that congress was in fact. I mean off on the current structure of the shares. Because we know from the regulators they saw the one. What is what. What does a twenty sixteen x. direction and how would that if back in the romney task or in this case. Why not at all. I would say one just as it is of itself and. We have this big sense of time value where you this. But it certainly could be argued that the. We're relying on it which certainly can be argued that the twenty sixteen there were bar. The score. From making any change to the actual views of the shares held by treasury. Because congress has in the legislative act said. Treasury. You must hold. The sheer as. Presently constituted and. If his hands are going to lay back to the second amendment. Well that's now where congress told. Treasury to hold on turning as presently constituted does that mean those shares as presently constituted include a different and equal to my hundred percent of any profits. Is that is that you know. This and that there never seems it that you know that's a good got their shares. But you know that's unsettled the term issues because again. We have to go back to the underlying agreements. The whole purpose is to. How could that be a term of the shares because they didn't buy any shares in honey sixteen going to they didn't buy the share their argument is they didn't perk acquire no share as friends there were no new shares. But if certain of the terms. Governing the shares. Change. That's what the third member did change. Of some terms. In those terms. And the shirish. Were the sure issue that congress said the treasury must hold. Were covered by the turbos of the p s p a's. As amended by the second third or the first second third and minutes. So that's what congress had a front of it. That's what congress. Told tracery. To hold it. Also your honor though we heard lots of discussion that this was a take away. This is awful. This is a seizure of assets well. First as i mentioned in the legislation that's part of the charter act would require treasury. To make a three step of emergency determination before it. Grieve to would use these funds and. And that. Three step. Determination required a treasury to consider. Market stability. To prevent disruption from the vale ability of mortgage finance. And to protect taxpayers. That was it wasn't about. Protecting shareholders. And i think that's right. That was treasury. Right. We know that there's a lesson lending its money. And treasury was not the conservative. That first year later. This is the provision that is. Then the charter act of the two enterprises. And it says treasury may lend. Infuses money in such terms as treasury direct. And it says that the enterprise now the conservator. May agree to that. So they can. And when they first agree to as i understand the second amendment right was that they would have. Dividends and. That they had a warrant to buy. Up to eighty percent of the common stock and you're right. And so presumably. Treasury was acting under that mandate plan it me. The second amendment rights credit your honor if i may respectfully correct something. The court has said and. I'm not surprised of course said it because it's consistent with the presentation of. Plaintiffs. When you read. For example the class action brace. You were saying. The original transaction was the exchange of. One story. The. David. That was nineteen million dollars. And that was. That is not the case. There was a second stream. It was called the periodic commitment. And that had been waived for three years. But the period like a minimum fee. Which was a term. Included in the initial agreement. Was sufficiently significant. That subsequent to the inactivity and subsequent to the execution of these agreements. The united states congress passed pressure legislation called the paid back act. That provided any and every. Dollar ever paid. Pursuant to the periodic commitment fifty. Must be directed to the. Pay down. Of the national debt. And how much pain here. Are going to the court. With this have. Net net been more than all the prophets who had been less than all of the prophets. But it's something that plaintive should have presented if you look at the class section brief you'll see the caption is treasury was given the right. Captions of the full sections. Treasury it was granted the right. For all to all. Future profits for zero. No consideration. Well that's just not true. There was a ninety million dollars. And there was this periodic commitment fitty and if the court were a little. Look. You'll see from two thousand and ten. Through the time that the third amendment was sign. There are series of letters from the department of the treasury. To the federal housing finance

agency. Each of which states. And we get this inconsistent with any kind of profit grab going on each of which states that. Due to the adverse economic circumstances of the national mortgage market. We the department of treasury and wave for this quarter. Our right to a fee. Pursuant to the periodic commitment fee. And just to look at the terms of that fee. It says that this is right in the agreement. The periodic commitment fee. Was intended to compensate the tax payers for the martin family who. Of the remaining commitment. By the department of treasury. And we hear a lot in the briefs. And in the discussions this morning. To the effect that. Oh well. Everything's been paid back and more. And so this is all behind us. Now. No one hundred eighty nine billion dollars into the two. Enterprises. Is one. Through today has been fused but as of today. And into perpetuity until these concerts are wound down. United states treasury remains. Obligated to infuse. Up to two hundred fifty eight billion dollars. To assure that these institutions. Based on something that happens tomorrow next week next year. Don't face. Receivership again. So this periodic committed fee that. Class kind of ignored not pushed to the mention that. It is supposed to if it was. Assess how much would that have been. If it hadn't been a wave form. Going forward. You can have a theory. That way and then that abandon them a very memon how much would that in your honor. And i said i have how much was a more than once he waved. I'm sorry. How much with the commitment fees that were waived. Oh you know all i could move the thing has never been determined. All i'm saying is had the third mended. Not been executed. Treasury was giving up. Not only the right to the nineteen billion dollars. It was giving up the right. To the periodic commitment fee which was under the terms of the agreement. It tended to reflect the value of minus two mortgages anyone have any sense of how much that would have been worth the only sense i have your honor is the fact that congress passed the legislation. Indicates well. They thought it was worth. It was significant enough to pass special legislation to do. But to be clear. Even if there was a hurry i committed fifty. There's nothing to examine in this transaction. Because the great bulk of the discussion between the court. And household this morning had to do with. Well what does this term mean and was this a good deal or a bad deal. Well i'll stipulate for this purpose. That's a stipulation that it was a bad deal. And in retrospect. Something else should have been agreed to. But this is not an e.p.a. case. Under any arbitrary and capricious or other state or the only issue for this court to resolve is whether the conservator. Exercise power. Granted by congress. And that in this case. Is a simple determination because the conservator. Exercise the power. The power to operate the institutions. The power to enter into contracts. When it executed the original agreement. In two thousand and eight and. And that was never a challenge. And a warning when we were dealing with him and not actually think. The question here. When it's a question is not whether the consumer to exercise the power. That went there. The power that i think exercised with that power. Authorized by the statute. Are whether they acted. Ultraviolence. Right. Yes your honor and. The power. That i'm suggesting that was exercised here was the power to operate the institutions. The determination was made that. Without these agreements. The institutions. Couldn't operate at all because they go into mandatory receivership and down the road as. Who is laid out in greater detail than our colleagues produce from the department of justice. A determination was made that. If we leave things as they are. There may be a lot of periods are south koreans where the ninety million dollars did a billion dollar dividend. Exceeds the amount of. Profits for that year. Which will have the effect. Reducing the treasury commitment and perhaps shortening the life giving last less. Backup support and. That boy say. You know paradigm of a business judgment. The business judgment was made by the conservator that. This new arrangement. Will better allege the preservation of that commitment. And for the purposes of the court's analysis. I would. The court should consist say. Well that was clearly a wrong judgment. Maybe the second it was better maybe a fourth of the men with a different paradigm would be better. But that is the heartland of what congress said. We are a power the we are the best david in the. Conservator that. We don't want to offer rise. Third parties are sure holders are of course. To challenge we want this drug trade is a business change. I think you know when you started your. Thought you were saying. The only question for the court. Your answer. Revolves. Rises of the forty six twenty three. And i asked you whether this was a situation which he. Discretionary supervised and i think you said no

this was a. We read. Classification of the capital structure. I've spoken with too long and i forget most what i've said already run but. One of the way i would actually question now that we have what i would say now. What it was is. There used to be a. But a capital system. That said the. Enterprises had to have. Capital based on certain percentages and calculations. And that system was eviscerated a living dated as applied to the enterprise. It is totality. And stead there was a new system. And a new system i think was the word parent yes a new parent yes it is your idea. But the new paradigm is a treasury who support. You raise the issue of response to the course having. Asked you to address. Section forty six. History. Section forty six twenty three counsel. Dresses two types. So this is really going through this not as marcus quickly and you can license the subject of a classification. Change. As one who are discretionary supervisory action taken some time as a second. Now i ask you this is a slightly discretionary supervisory action i thought you said. It was a change. Because of this paradigm or. It was a change in the classification. With respect to discount. Change in the system that apply to your conversion business. Yes look of the words are is the change is the subject of a classification. So your post seems to be a statue whole system. Whole time apology. Of classifications. Adequately capitalized and. Under-capitalized than that significantly undercapitalised. Little help. Was that's crazy or change. Yes your honor. That entire system. By virtue of the director's action. Was set aside. There is an issue with why the dreyfus is it is not i was not making a change within the grid it's moving off the. Right i would say that is. Before that change. Institution. You have to apply with this. Comply with this. Now you have to comply with. Ok. That's ok it's not a change in this truth as many as you know it's only discretionary supervisory. Those are the only two possibilities under forty six with. Three. If you think. Forty six twenty years interesting in your honor i'm just at a slight disadvantage because i didn't know this was a come up. I don't have that stature in front of me you address to. But right somebody doesn't like read i read if i walked in your honor. I'm going out with my an i phone. But i may say it. And you know i'm watching. I'm learning. Nicely. And without looking that is in the question of i am this is an action of a director under this some chapter. Within a meaning of study six twenty three. Yes and i'm just looking right now for the withdrawal. Language in the staff and your honor. Cindy. The. Ok so so it says. The withdrawal. In this rose. Period to the withdrawal and do the cap with directives and under the cease and desist proceedings for bank gacy's where it says except just revoke provided the section. No court judge jurisdiction to affect by a juncture otherwise the issuance were correct of this. Of any. Classification or. Action. Of the director under this chapter and. What i suggest to your honor. Is that. The issue where instead of a directive say. Happily classifications. No longer apply during conservatorship. Was an action. Under twelve yo c section forty six twenty three that the court or a court has no jurisdiction to effect by a junction or otherwise just to be good enough because of the change. Question. Just because it was a supervised reaction. Putting the whole classification schemes. So i went to. That there still are you have much notice. But i think accounts for us in that supplemental brief time that that would be over your order now we obviously preserve this in the supplemental. Bruce. But we obviously think the answer is clear but. We'd be happy to document the new good news for you. All right. Oh a survey of the surgeons i will say. We think we understand your argument they say there are just errors. There may please the court. Quit been very generous with its time. This morning and. I have some. Primarily here this point. To answer all the questions that have been raised in the courts mind. By the briefs. The proceeding. Oh. Colloquy ease of sleep. Sort of. Oh. There's been lots of discussion. You know how to survive. What sort of the merits of some of these claims should be the state the obvious. The questions presented by judge by brits opinion is whether the. Two critical. Provisions. Oh there will be explicit bar. On traditional proof. You. And the transfer of rights provision. All are these claims. I have so. I feel it's a number of theories. For why they are. The squared. Should imply an exception in the i think it's very important in this pete. Sort of scene. Sort of and that is in light of sort of the particulars of what was before congress because. Yes this does come from flywheel. You. Yes the fiery it case law. Is relevant but. This is also a very particular kind of. Instance which was going to be apply these. Lived in times understood what was going to be happening here. This is very different from the broader application

of the judicial. Sort of. Removal. Oh. Oh. Of the general preclusion of review of the cases that are going to come up. Sort of. You know in a whole variety of on foreseen contacts with congress now in particular but after the. Sort of ultimate scope of these provisions there's one thing that we know is that this was all an act that is part of congress addressing. Institutions. There are. Undisputedly failing and. This was that to be sure they all. Is the result of this legislation. Will have some suggested that there was some internal disagreements and when i was. Oh i'm sorry ron i was referring to the original. Two thousand dollars. Which sort of. Just in terms of trying to understand what. How we should be interred betting. These provisions. Because what congress one in the congress understood. Was that there was going to be sort of very. Enormous amount of taxpayer money. That was going to go into this at enormous risk me looking back at a lot of the things that happened in two thousand and eight. It's easy to forget. What it all looked like. To regulators in congress at the time. And the extent to which the government was being criticized for putting. Try can take amounts of money on at risk. With no guarantees. Of return. And one thing congress understood was that there was going to be this massive infusion. And it was going away i asked for a long time. This treasury commitment is crucial. And this also. I think is on this beautiful stretch recommitment that remains ongoing and this is an ongoing risk that the can spare. And that's out there. So the question is we congress says. We're transferring all the rights of the shareholders in this instance you should to the conservator and the incidence. There should be no action. To restrain sort of the conduct of this conservator. The congress. For there to be room for claims that this was sort of a bad deal this isn't really the way. You know that a conservator acts this sounds more like somebody who's thinking about who he is sort of like the possibility of liquidation. So maybe that's sort of. Kind of a little bit more than we expected from the conservator. And that is not something that could possibly have been intended nor could it possibly be that he's knowing the stakes. That were involved in this. That congress would come to the actions for precision of. Agreements that were going to govern this. And one thing that we know is that congress knew he was going to keep being in with ron. On what was going on in two thousand and fifteen. Congress aggressing all of the circumstances that are presented here. Says in the dresses. The purchase of green goods. As amended. And you know it's like he threw a. As well as all the other amendments. Says the treasury. You've got to hold on to your preferred stock. You can sell it. And it's the sense of congress that congress should enact in the president should sign legislation. To determine the fate of him being a goof i don't hear anything. When you hear the players have all of the relief they're requesting with the treasury so insurers. Know when i say that. I'm stressed. Pointing to that. Your honor. Because that is a reflection of what it was that link where congress fits into this. Congress is overseeing this kind of the congress acts by you. And i think the staff and mr cain. And you both seem to want to avoid discussing. Terms of the statute in any detail of your willingness of thirty thousand feet. Looking at the purpose of two thousand and eight and so on that we have to grapple with the arms of the statute. Part of which was drafted from the f.b.i. for parts of which were tacked on this occasion and. We're stuck with that. Oh. I couldn't agree more your mother. In the snow today was a very good let's go all right i mean listen this deal. That the statute itself. Doesn't contain words. That permit this. To go forward that we have to comply. Exceptions. I mean. And implying that the rear of the suit and like is based on the reliance of their words. That implied. Exceptions under fire we're now whether or not congress intended to incorporate those exceptions. Sort of that were traditionally implied. Into this language. You know. There's no indication that congress. Believe that. But as we've argued like the in our brief. If congress. Didn't do that. There is no hope for volumes. Action. Oh i want to be ultra vires to say. The one thing we know. A conservator can't do is ensure. It is adopt a plan by which the companies. And the regulated entities. Can never actually become a softened. They just will never have a penny in the bank account. It always goes over to your treasury. How can that be a bad thing that's right they can't be what a conservator does and so that can fall within the forty six seventeen i have i think there are a couple of interest to that i'll forget the second the answer after i get my first one. Tells the second one. I think it is going on you forgot both her own view. And the first when there's a risk of what her conservator. Can do that and i just

sort of say we've got to look to the nature of this statute and. This connection. What we have is the purpose of. This is to fannie mae and freddie back. Performing. The functions that they has. Government sponsored enterprises were supposed to be doing this judge limbered said look we're not even with they should. It's now. These are sort of the. You know. And a half almost four years since the thing. And then i was relieved to hear. There's been a little with asian v. enterprises. Are saw the capital here. Which is the. And the. The. I'm perceived this way. Because oh the money's on the line. Commitment of taxpayer money. And that's one well one. We have certain know the level of hansard risk that the situation. There were no good answers for. Exactly how to proceed in this in this bill treasury's position. You know. For a long time. That ultimately legislation. You know. Is needed to deal with this and indeed that was the sense of the congress resolution also. But you are his knowledge through a sort of like. Well. Here's here's the horrific way of approaching it. Because one way of doing it was like. Treasury going ok let's go i want dividends. You know. Let's do that. You know. That turned out to be for a long time. Fairly. Sort of not. Sort of good for the community for all the reasons. You know that. You know we've discussed in brief. You know and there was you know that. Very severe. Spiral. Since. So one interest to go. And in part is kind of the side of this sort of like right at the beginning could go look. Here's what you know. We've put a lot of money on the line. We're going to waive or periodic committee and fees. We're also in part of the dividends. But we don't want to keep under. We don't want to make you draw on the commitment. So what we'll do is it's come clear. When and if and what extent you're ever going to be making profits. But we will take that risk and. You know and maybe it'll be quarters where we do look for treasury the taxpayer. What do we know. You know. And the others where we don't get anything at all and that. The crew decided to do that right at the outset. And in fact the way that it's played out. Is that. Yeah. As it happens. It was expired. So that in two thousand and thirteen. Sort of in the profitability. Which was all that largely from that. One time recognition of. Tax deferred. Assets. Goes down. Believe the next year the year after that two thousand and fifteen would be paid more under the old beauty and the arrangement. That they were paying. Under the thirty minute. And you don't know what's going to happen in this treasury commitment. Like. I mean. Part of what you know the prices are paying for it. Even though we've waived the periodic commitment fee is the moves now the money has is so cute. But the fact that there remains no line. Sort of this. Two hundred fifty billion approximately. Of taxpayer money. That the enterprises can draw on. And that is absolutely crucial to their existence. And this is what these review. Provisions. You know which is what he said he should hear. Were designed to protect this. You know we don't get to fight. About exactly what the conservator thought was the best way of dealing with this very difficult situation and to say. Well you know a really good conservative would have gone something else. Think. What he did was entirely appropriate and sensible. But with agree with this we would gut that goes right to the kinds of things that were meant to be protected and. Don't fall into would anybody who would sort of pick the characterize. Sort of this all provide a recent sense of there's. Explicit stack to tory prohibition. And you step over that line. There's nothing like that. You have especially as the statute does have a patient. The right question. Here is to ask. Is necessary. Program. You can serve as conserve and. Players came in saying. Yes now. You know whose income we did. Well. I so we take issue with that the. The idea of the teeth ministry it was record. Was incomplete. But certainly what you can learn how things that produced that were not something that i mean you rather. I think you know we rest. In. Like. Imposing the motion to supplement it with our position on why. It would not be appropriate and. I mean you know other things like you know the statement of the senior fellow who says. Well maybe i would have. You know. I would have speeded comment no that statement. Is from like. August two thousand and twelve. I believe this is the same susi ago. Who signed the securities disclosure forms that your honor. Is referring to the content here you can cue that. That sort of like. Contain the whole way which. You know. Your honor. Read out loud. And regardless of what she says. You know. She might have like said to somebody then. She was signing a form. Went to the regulators. And that. The idea of the like this wasn't in sort of the record. You know. Or the kind of thing. That was supposed to be looked at. You know as opposed to doing statements the people made. You know. You

discover we had our own tested. They were their recollections about things that were said to me like. That's really not the way. In the news straight of record could be put to be put together and. That would sort of open up all kinds of history records. The claims of the oceans he's always good are those that. I'm not i don't think so you want me that's true the overton park says that if you. That if you really can't figure out what's going on in the case of the agency explanation isn't adequate. That you can bring into the agency or request additional. That were rationed. From the agency. And we can certainly put in additional declarations. But we think that. What the agency has said which is clear and is this is sort of a funny kind of. A.p.a. case because really this is coming up in the context of a sort of a movement into a purchase agreement doesn't like the issuance. Like of whom he came. So you know i think that that you know could be that exactly what one. That's from the ministry of record. How you pronounce me how do you know what you say. The strengths of the court may require. News for the information was just written to give testimony explaining. Yes remember and they're also. Drummers aware of lots of. Solutions talking about not having. Like administrative officials court just probably doesn't do that well you know. And there should be no basis for doing it here because if you get the flu. If everybody knew. Which of course they could. But if everybody knew. In august of two thousand and twelve. Exactly what the patent was going to be that would be you know for the next three years. You know without it. You go. Well. Ok. Look. That's not like i'm awful. You know. There's no there's no basis for saying that there should be administrative review. Even if you assume that everybody knew exactly what was going to happen. But i would say of imagine if. I assume the worst record. Administrative record possible and that is that. It turns out everybody lined up saying. Whoa whoa whoa. They're now solvent. And we think they're going to stay solvent for the next three or four years. Let's and. Let's let's take let's have a new agreement here and we're going to take all of that money and leave them not a pattern. To get back on their feet with the sec could a conservator do that i've just taken the. The worst administrative record possible with their case on the right things are sure to do that give them the position. With the extent to which like the ongoing treasury. Commitment. You know. Is crucial. We could decide that. But you need to know i mean maybe there are some fact working in that hypothetical that it's extremely problematic. But also. I mean should be clear. Even like. Nothing that has been used since you really sort of would support that kind. Well i mean look what mr olsen says. You know when you were honest. Is look. Would it make it would have made a difference. Like. If everything had gone. Like south. Like in a big way. You know for the next three years since it was not was you know the. It is the you know i mean there is you know. They got to variance with the. Years. Well you know they should know two thousand and twelve things were going to be better at least for a while but. The more fundamental one is no this is just a deal you can't do it doesn't matter how good it's going to be how much it's going to dance. Sort of like. Sort of the interests of everybody involved in a very difficult and perhaps someone who is it so you think that perhaps unique situation. Industries took a position. You think she is he she is away with it then comes the third and is now concrete. Why. Yes. Well we're not going to pull the. Receivership. Through which would of course. Require respecting the liquidation preferences of. Well it's not a liquidation. And this statute. I mean first of all the statute specifically contemplates. Like one down. As being a power that can be asserted like. In the conservatorship. You know. But it's only does what is easy to do. To do it so. The world. Six hundred seventy two which allows the conservators wells to receive or to take actions. For the purposes of reorganizing rehabilitate him or one of the affairs of the g. a c.. Size as i read it it's the word respectively. So you see we want to because. Are a lot of powers that are set out. Specifically for the conservator and receiver. In the statute. This one doesn't make that but i think. More fundamentally. There is like i believe that the three men all talks about an exhilaration of. Like three people like of the country. Rises reducing their with a mortgage for portfolios. And in that sense. They are. That's a kind of winding up. The lid what you have in terms. Just. Of their ongoing functionality is not like in any sort of particular sort of like way it's i'm winding up. What treasury does think. You know is that. Given the difficulties that are involved in the sort of like a recount of all the action and the conservatorship and. You know said this many times that legislation. Is it is appropriate. But when

the third amendment was a treasury said we're going to wind this thing. We're going to kill it. We're going from statements are. Saltier it's ok. No i don't remember that now you can see you started out saying. Yes but that was the just not allowed to be recapitalized. Way to the future that you see so. Well i think with. What treasury has said repeatedly is that he thinks that congressional action is appropriate. And we've discussed. The difficulties are for lack of us to live with those statutes. Yes and it is. I mean. Because the alternatives. Are not good ones. I mean it's not like what they had wasn't a good alternative. I mean that wasn't true well look what's happened now. It's like they're all sort of things to deal with a very difficult situation. I think. Two of her. Accidents are. To her which they were to act as a receiver and move towards the new year i don't think that. This is it moved to its liquidation there has not been a liquidation. And i think you have slowly considering the size of our folio murder theft and if you could do that if you would if that's what they wanted to do. They could do that. So if you're the leader the conservator doing behind a movie in stage. You're not yet liquidating. I said something conservatives do or can only a receiver do them with the new deal of the nation who were a liquid i mean a conservator. Believe go. You know. We're going to like. Sort of that. This isn't working. We're going like. We need to set the stage for liquidation. I don't say that that is what happened if you were wrong no reason to believe that that's the case. You're saying betty conservator could do that and the statute specifically refers to. Rehabilitating we work in icing winding and. Why you know. Those are all things that you look even if it didn't sell well when winding up. Starts and liquidation began because you see a liquidation. We live here right now. This. Lick. These things. These enterprises are functioning. They're performing their statutory purpose. That's what that legislation. Was all about and what the stockholders. Like you know. Are not the people who congress. Wanted to sort of. Be able to come in and sue. And that's all that this with greece is about is to take years to come in and say. I'm not happy with the way that you guys are dealing with let's say. Some of the right. Stockholders. You know. It's true that. Surely means. You know faster sure. Creditors can sell right. Try and so. Oh yeah. Ok. So they come in for a summer. With us they are direct. Now to river house of will not another with the succession clause exceeds the rights to show others. Which will be driven by well. I mean again. I mean that. Here the language is really very poor lot of all rights titles powers. Privileges of the regulated entity in the stock holders to record with respect to the into p.. And the assets of the regulated into the i mean that's really cool. But as we've discussed in the brief look. These are. I mean. It's a quintessential. The river defines what you're saying is that the conservator late isn't minding the store or his wallet in looking after the under privacy for central to the for cruise to the corporation. It's used you want your liquidation preferences that's not a house of cards. Well i mean that's what they say but what they've won yeah assuming everybody wants money for themselves sooner or later. Me like you know that there's always the thing with her directly or not. Actually they are they say that they were the what they thought is that they're still value. Oh you mean like. I mean they don't you know they don't want this in the their monthly. Good action preferences. They want the value of their shares to go up. You know this or that you have at this point we're talking largely about speculators and not your speculations. Why you legitimate you bought low you try to sell like they're going to mice yours will be like how do you know there are no. The congress has also said you don't get to bring these most of us. Well. They had a preexisting. Right to bring loss in succession. Was takes away something you know since but it's way way to directly to take away. Just because a shareholder. This issue doesn't mean. This is the loss of rights of the shareholder. He says loss of rights. You know your other capacity if you're also a trade. It's to retain his trade account. You know those revenues were not the. What we've got here is sort of. Something that's going through fundamentally. To help the enterprise who should be compensated. Or how who or how they should be compensating treasury. Mean and. Planes are the really the. Oh. What they say. Is the harm to the enterprise is not sentenced to over for doing what i think it's i mean we've argued and i think correctly you know greece that. It's a matter of federal law. But federal law which i don't think the complaint doesn't even ask. On their own their shareholder claims does not ask for damages to them and ask for for. Compensatory damages and discarding in the favor of fannie mae. So that sure sounds like they're



not getting a recovery. I think it's a derivative kind there are so far as the brotherhood vision. Has put their leave. But again. That's like like a house. That is sort of the you know. The river oh right it's sort of like home. And there's also like. So far away from being like a right point with a. They don't want. I mean. The purpose of the relief that's being sought here. Like isn't to put. With the director to put this into liquidation so that they can realize their liquidation preferences. Nobody wants that means that really. That really isn't what this lawsuit. Is about what you do. Here's some reservations where if there's a show which will. As you said you have a five person. Sure. Well. I mean their liquidation preference is like having been you know. Taken away. I mean what. You know. You know what they've got. You've got their eyes. You know what they have is a lot more than anybody would have if not for these deals. But you know i'm you know realist like. You know sort of you know drop your bug. You know. This is what i mean in some respects. You know the shareholders are like beneficiaries. I don't was the incidental beneficiaries. Oh. The huge taxpayer risk. You know and. What congress was trying to do was to make sure that the that the. Conservator. Intrusion really. Could take the steps continue to be paid. Everybody was going to be a difficult time with a. Ongoing. Huge. Treasury. Risk. An issue and. We think that these things are really clear. And i thank you so much hard think you know that no one has any time left. Because we used up all of your time. I will give you that. Three mile and. Three minutes. Thank you you are of in the first place. This is who did. What do they do. And why did they do it. We know there was treasury and. F.h. f.a. working together the record is replete with that. The statute precludes. Treasury from. Supervising or directing what the f.h. f.a.a. does whereas with respect to its position as a conservatory. Now. That is one violation of the statute under the reason for that. Because the f.h.a. f.a.a. is supposed to act as a fiduciary. In this capacity as a conservative or. The treasury would have separate. Interest and it has interest. And i saw all over the record two of the tax payer all and so. That's what happened here. We saw the treasury. Directing something that happened on that day. That they decided that was in the best interest of the taxpayer and there's plenty in the record that we have. Probably more on the record that we don't have that this was done to strip the stockholders. Of any residual value now when f.h. f.a.a.. Announced this in the first place. On september seventh two thousand and eight they answered this questionnaire. I referred to it before. Two four four three in the joint appendix. The stockholders will continue to retain all rights. In the stock financial worth. Now we find out that they didn't really intend that. Or the government didn't really intend that. But it will they also said on the same page you can conserve determined to liquidate the company. Answer. But conservator. Cannot make a determination to liquidate the company. Now. That is the f.h.a. f.a.a.. Determining or articulating what powers it has as a conservative. Under the statute that it. And ministers know what we have is a shell game going on here. First of all. The government decides that there's going to be a conservator. And it has and has specific responsibilities and duties. Oh. As a fiduciary. Acting as a conservator. It also been says. Well we can act as a receiver at the same time. Those possess those responsibilities and no statutory. Duties. Are separate and if you have. If you're happy as a conservative that is different than acting as a receiver. What we know now. And i will summarize that what the government. Did acting together. Is decided that this was. It is. It's in the best interests of the taxpayer. Something that congress might have decided to do. And by the way the appropriations act the record is quite clear and we will leave. The on the supervising sponsor of that appropriate that massive appropriations bill didn't validate or ratify what's going on here in the sponsor specifically said so all but but what has happened here is that the. Decided that it would. It would bring these entities to a close and it said that repeatedly to liquidate them. And to make sure that they have no value to the stockholders. They said they have a chip they said in the sand hills case that we quote in our briefs. That they are net worth. Insolvent. Now of the he says that two thousand since this all took place. There hasn't been a single dollar going into these entities from the treasury. Of the record is so. Is it is. Is difficult for us to deal with because the. The treasury department talks about well there may be some things in the record but you really would be concerned about those things. We have a chip a didn't even try to produce them in a straight record they do this you did there you were summary you said your position would be the same. Whatever

the record showed what you want my money may be cracked well. We are entitled to administrative record and to the extent that we are entitled to that it should be rethought remanded to the district judge did to insist on or if you're president because we're entitled to know what happened and why happened. What we can say the same chain frank we're also saying judge millette. Because on the record. That what we do have is we have the a b. f. h. m. pay. Taking the position that it will be a conservative or we know they have said. In there it is said in their statute. It said their regulations have said. A good thing. What they must do which is to return. The entity to someone and solvent. Condition. We know that they haven't done that. We know they've done the reverse of that. They've made it impossible you can't help conservative or take all of the assets. Out of an entity. And the commitment the treasury commitment. Is in the asset they've said that themselves. Not under any standards is that an asset and so the problem is that he will simulate that maybe the third i mean that was a bad deal. And so he says that's just a bad business attachment. So what's your response to that. The response is that it might be a bad business judgment. Perhaps it was but it was not the act of a concert tour. And the power that the government had. Is to make judgments with respect to the benefit of the conservatory. With respect to section. F. which we've talked about here. Oh. We prove the case. Oh. Which specifically talks about the fact that the f.h.. At bay which is an eleven circuit decision in two thousand and twelve. Cannot give a judicial scrutiny by merely labeling its actions with the conservatory spam. And this is on page twelve so it would be eight of the federal records. Oh more over if the f.h.a. if any were to happen you have the statutory or constitutional bounds in a manner that adversely impacted the rights of other section four six one seven have would not bar traditional. Oversight or review of the actions because of the position that they're taking now. Is that we can do anything we want and worm human from judicial scrutiny. That cannot be and that is not what the statute says. Nor the other provisions. I think that you would see scenes of no mistaking the size. Sings. Coming down forty six twenty three. And yes if you. We believe it applies to those sections that are referred to there are of course a fourteen fifteen sixteen. So. Team. Own in. And these out of actions over. We have. Bridgeview heels of men who we will be happy just submit. But we do not apply. We do not believe or remotely applies to the situation and it is incomprehensible that this agency. Never thought to raise what they now say that. At the suggestion of the court that all this lawsuit should never taken place whatsoever. Home. They came to woodley at any rate we think that the area needs to be developed. We have the absolute right to her ovaries and park to look into what what the government was doing wired is doing it. Of the circumstances of. Over. Doing it. Oh well that. This is clear that or. If you are going to act as a conservatory and. The powers of the government can't be in the best interests of the agency which would obliterate all the other provisions in the statute. The agency. When. Acting as a conservative or. May act in the interests of the agency fulfilling those responsibilities. But it doesn't rub out. All the other statutory provisions when you look at the their regulations in seventy six year. Bar. Which we've cited. The primary purpose is to preserve the entity. And return it to a song and solve a condition. Thank you and your honors all be very brief. Mr cain for the year feature face said that the shareholders have more rights. In receivership. Than conservatorship. That is not only want to play impossible. But irreconcilable with the stature forty six seventeen be tuk a roman one says that it is the act of putting the entities into receivership. Only receivership that shall terminate the rights. In claims of the shareholders. Arising out of their status and shareholders. That's the action. And subject to their payment claims. Under see one d. and other provisions recognise they are that it constrains a limitation when it goes into receivership. For shareholders. Before that. They obviously have more rights and it was acknowledged. Mr olson. J.. Twenty four forty three urged the court to look at mr lockhart the director of a feature fair or that it and there are formal written answers say. Shareholders. Contain continue to retain all rights. In the stocks financial worth. They were teen rights. In concerned should the economic price of the shares they can still trade them. That no one said anything that they can't trade they can use the dividends of your the treasury way. A shareholder has rights against trying to change. I'm going to p.s.t.n. seven first and second amendment. No i didn't. No not that i'm aware of that i don't think they changed they were notified

in the third amendment and. Your honor to your question about the third the regional deal. On the prohibition on dividends without treasury's consent. Five point one it clearly says. Without treasury's consent it's not an absolute prohibition of would allow treasury consent. The reason we're not challenging. That's at the so that's the right you had coming to an amendment is no day to day and the treasury is concerned. You know challenger. Let's just asking about a change in the reason we're not challenging the provision in the original p.s.p. that says no dividends without treasury's consent. Is that is not the thing that has caused us not given what you say your trade. The stockholder interests. By the time of third amendment were that we have the right to know i dividend. After treasuries paid with treasury's consent or doesn't see after treasury's been paid. It just sits in the treasury's consent. It's no different than any shareholders' right to a dividend it's contingent on the people who control the company declaring a dividend that's all it says. They have to declare and that's not what happened reason we're not challenging that is that's not the reason we didn't get to do that since i'm running out of time. When they say we don't say anything about the preparing our commitment for you the reason we don't. Is they waited. It had no value. It was at best going to be based on a market value so it's best to create a fact issue of what that would be. And i want to make using it no value. But when they were they waived everything their way. But that doesn't mean it doesn't happen often in the mail has some potential value and. I want to be careful here because this protracted information that's with a court. That would address the issue. I would simply request that the court look at exhibit thirty four. To the instructional claims motion for judicial notice. It's a fact issue of what the value would have been and our musician. It would have people in comparison to the networks we've been one hundred billion dollars and. As of billions of dollars they swept over these. This do big your honour's. Just if i could have it done in direct claims when they said we have no rights and then they said we have no direct claims. They've never said that before. They've never they don't really have to receive no record. As jewish. Each book said no court is ever how the fire rear end. Of succession provision or your succession provision does that. And numerous courts have allowed it. When them and senate because you didn't raise it in your complaint doesn't think anyone and no no no sorry church member. We absolutely raised direct claims or breach of contract claim for an interview with some guy or you can drive which distinguishing because i was your age. Shareholder claims that were derivative and direct and then you are right. As i took everything you also had a contract claim so what you're calling direct claims are the same as your contract claims. Our contract cleaners are direct claims. Yes. They have always been driven to wreck lames. Is going to give you this direct claims. They were analyzed as direct claims and tried to hide the certificate. Yes. It's a contract between. Me the shareholder and you the company. I'm a shareholder i get to enforce the current it is a direct claim. Look at page six of our reply agrees. Those kinds of claims are always a wiser the story was direct claims they didn't even argue this in the district court or in any other case. Encounter in the bar's case actually i should make sure i'm crystal clear understanding this is us. Is your direct claim. Is that just another way of talking about your contract claims argy is a direct claim label. To mean something in addition to your contract claims. You know. I'm sorry. And let me be very clear. Our breach of contract claims our director claims i don't need to suggest there's some other or more first direct. Claim. Our breach of contract claim for all of iraq. Which a contract breach of i'm quite confident. The only issue was whether we said enough for a director producer breach claim. You know on that i'll rest on what i said before which is we think we said enough. If not we has the right to amend. But breach of contract there's no ambiguity. At all those claims were wrong. Direct claims. And we asked for damages in paragraph seven of our prayer for relief. But where were you. Your honor just regiment pay the contractor regularly the shareholders. Directly. Nothing new as to the company's. And that is just to in the barn's case the levin case. Become our case. If if they are the f.t.c. which ever was didn't even try to intervene on behalf of the direct claims. They could be made in future conduct that direct claims. Belong to the shareholders. They never even took the position in any of those cases. Please see the cases and. Footnote six on page four of our reply and also what happened in california. And the car and it does. To what we discussed earlier. Does raise a serious issue of constitutional doubt. To even suggest

that shareholders. When they may have economic rights and interests. Don't have the ability to come to court. To protect them that raises serious constitutional issues as recognized by judge easterbrook. In a loving case in the plaintiff's always strong case and by a judge in court. In the water you case and in the end which is cited in the persian square amicus brief which i did you draw we commend the court to look at picking raises constitutional doubt argument in your opening prayer didn't we in your opening brief i didn't see it and i don't know whether we did but the conversions square amicus brief phrases it and it's most approachable to the direct claims. For your honour's this whole debate about seizure. Conservatorship warmachine we as a country do with these two entities. Is fascinating. But is it relevant to this simple fact that the private shareholders have contractual rights that were breached and are friends of the f.h. if a said well you didn't do anything to save. You can invest. To help rescue the sanity. I want the court to know that of the thirty five billion dollars. Who heard twenty two billion of it was invested in two thousand and seven and zero way. When it was clear that these entities were distressed. And that can be found in the records at f h f a six thirty one. Twenty sixty two a document in the district court twenty four dash ten. At three or two and five sixty. Twenty two billion. In those last two years. Who's going to want to win. And they invest from the strength of those certificates that say they got paid. Before any card. And that's what they've done is they've taken their car line. And just converted it up into their senior preferred in the third amana. Who's going to want to invest in financial distressed entities. If my going to conservatorship. If you recognize the risk of conservatorship. You know they have broader powers. But can they rescue. Made one deal. Four years later when the company's doing better. Just change the deal so that all the money. Normal in the us. It'll be terrible for taxpayers and investors thank you thank you mr hume. The case will be set up with no way to explain any. All right. We would like some to know. We think. On forty six twenty three. By ok. Ten days if any day. Thank you.