

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF: :  
: :  
Case #11-PRO-00087 :  
Indriani International, Inc., : Protest  
t/a Southeast Market : Hearing  
1500 Independence Avenue SE : (Status)  
License #76399 :  
Retailer B :  
ANC-6B :  
Renewal Application :  
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January 25, 2012

The Alcoholic Beverage Control

Board met in the Alcoholic Beverage Control  
Hearing Room, Reeves Building, 2000 14th  
Street, N.W., Washington, D.C., Ruthanne  
Miller, Chairperson, presiding.

PRESENT

- RUTHANNE MILLER, Chairperson
- CALVIN NOPHLIN, Member
- NICK ALBERTI, Member
- DONALD BROOKS, Member
- MIKE SILVERSTEIN, Member
- JEANNETTE MOBLEY, Member

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P-R-O-C-E-E-D-I-N-G-S

9:34 a.m.

CHAIRPERSON MILLER: Good morning ladies and gentlemen. I would like to welcome you to the regularly scheduled meeting of the District of Columbia Alcoholic Beverage Control Board. Today is January 25, 2012. My name is Ruthanne Miller and I'm the Chairperson.

Joining me to my far right is Mr. Calvin Nophlin. To his immediate left is Mr. Donald Brooks. To my immediate right is Mr. Nick Alberti. Mr. Jones is not here today. To my far left is Ms. Jeannette Mobley. To my immediate left is Mr. Mike Silverstein. The Board has six members in attendance for the conduct of business today with three constituting a quorum.

Copies of today's hearing calendar and agenda are available at the receptionist desk. Please be aware that these proceedings are being recorded by a court reporter.

1 Accordingly, we must ask you to refrain from  
2 any disruptive noises or actions in the  
3 hearing room.

4 If you have any electronic  
5 devices, pagers, cell phones, or such, please  
6 make certain that they are turned off to avoid  
7 any interruption of the proceeding.

8 Please note that there is a piece  
9 of paper on each table. When you come forward  
10 as your case is called, please take a seat at  
11 the table and please sign in. This is to  
12 ensure the correct spelling of your name for  
13 the record.

14 The record will be closed at the  
15 conclusion of each case except for any  
16 material specifically requested by the Board.  
17 Or if the parties elect to submit proposed  
18 findings of fact and conclusions of law within  
19 30 calendar days after the conclusion of the  
20 hearing as permitted by 23 DCMR Section  
21 1717.2.

22 After the record is closed, no

1 other information will be accepted by the  
2 Board. Copies of transcripts are available by  
3 contacting ABRA's records manager Bill Hager.  
4 It is the sole responsibility of the parties  
5 to make that request.

6 The Open Meetings Act requires  
7 that the public hearing in each case be open  
8 to the public. The Board may consistent with  
9 Section 405(b) of the Open Meetings Act enter  
10 a closed meeting during or after the public  
11 hearing on a case to consult with an attorney  
12 to obtain legal advice, discuss settlement  
13 agreements, or deliberate upon a decision in  
14 an adjudication proceeding. The Board's  
15 calendar this morning includes protest status  
16 hearings, and show cause hearings.

17 You may be represented by legal  
18 counsel at any of these hearings. All  
19 hearings are conducted before the Board in the  
20 English language.

21 If you or any corporate officer or  
22 any witnesses to be called are deaf, have a

1 hearing impediment, or cannot readily  
2 understand or communicate the spoken English  
3 language, you may request an interpreter by  
4 contacting ABRA's mediation specialist La  
5 Verne Fletcher.

6 I would note that the approximate  
7 time is 9:37 a.m. Our first order of business  
8 is Case #11-PRO-00087, Indriani International,  
9 Inc., trading as Southeast Market, License  
10 #76399 in ANC-6B.

11 Are the parties on this case here?

12 MS. GREEN: Hi.

13 CHAIRPERSON MILLER: Have a seat  
14 at the table and introduce yourself for the  
15 record, please.

16 MS. GREEN: I'm Carol Green. I'm  
17 representing ANC-6B.

18 CHAIRPERSON MILLER: Carol Green.  
19 Okay.

20 MR. RICHARDSON: If the Board  
21 please.

22 CHAIRPERSON MILLER: Yes, sir.

1 You want to take a seat at the table and just  
2 introduce yourself for the record.

3 MEMBER ALBERTI: Mr. Richardson,  
4 why don't you sit at that table in case the  
5 licensee shows up.

6 MS. GREEN: He's here for a  
7 different case.

8 CHAIRPERSON MILLER: Oh, are you?

9 MS. GREEN: Southeast Market.

10 MR. RICHARDSON: Yeah. I mean,  
11 I'm protesting the market also. My case  
12 number is 83 which you dismissed. Therefore,  
13 I'm here on a reconsideration of that  
14 dismissal.

15 CHAIRPERSON MILLER: Okay. We  
16 have -- 83 is coming up second.

17 MR. RICHARDSON: But it's the same  
18 -- basically it's against the same entity.

19 CHAIRPERSON MILLER: Okay, but we  
20 have them in separate cases so you can come up  
21 when we call 83. Just have a seat in the  
22 audience.

1 MR. RICHARDSON: Excuse me, Madam  
2 Chairman. If the Board pleases, I have  
3 protested this matter. I live virtually next  
4 door to the property. I've protested it  
5 before the ANC and the bulk of their  
6 considerations are material that I have  
7 brought before.

8 I was told that I could  
9 participate with the ANC in addition to having  
10 the protest independent. It seems to me to be  
11 -- excuse me. It seems to me to be incorrect  
12 that you have two protests against one entity  
13 and you will be hearing those protests  
14 separately because if in one you grant or you  
15 don't grant it, and the other one you do, I  
16 mean, it's sort of like confusing.

17 It's one case. I really urge the  
18 Board to hear what I have to say because I'm  
19 not listed on there because you have dismissed  
20 me without hearing any type of argument  
21 without even notifying me that you were going  
22 to do it. I was a protestant and you just

1 summarily removed me as a protestant without  
2 a hearing against the Administrative Procedure  
3 Act.

4 The Administrative Procedure Act  
5 makes it clear that you cannot dismiss anybody  
6 unless you give them an opportunity to be  
7 heard. Therefore, I am here to bring that  
8 matter before this Board and to, of course,  
9 protest what is happening in regard to the  
10 market.

11 MEMBER ALBERTI: Mr. Richardson,  
12 you were here -- it's our understanding that  
13 you appeared at the roll call hearing  
14 regarding Pennsylvania Avenue Market, not  
15 Southeast Market. Is that correct? Yes or no  
16 is that correct?

17 MR. RICHARDSON: Pennsylvania  
18 Avenue Market. Oh, yes. Sorry.

19 MEMBER ALBERTI: You were there.  
20 This is for Southeast Market. I know the  
21 addresses are very close but this is another  
22 matter.

1 MR. RICHARDSON: Sorry. I  
2 apologize. You have to understand how I feel  
3 about this living next to this place.

4 MEMBER ALBERTI: We understand.  
5 Thank you.

6 CHAIRPERSON MILLER: Okay. Ms.  
7 Green. You are representing ANC-6B?

8 MS. GREEN: That's right.

9 CHAIRPERSON MILLER: Okay. Do you  
10 have any preliminary matters?

11 CHAIRPERSON MILLER: We met and we  
12 discussed changes that we would like to see to  
13 improve peace, order, and quiet and he seemed  
14 amenable. However, he also has a contract to  
15 sell the market and he doesn't want to sign  
16 anything that might preclude him from being  
17 able to sell. His contract, I understand, is  
18 executable next week so I guess that's why  
19 he's not here.

20 CHAIRPERSON MILLER: I understand,  
21 Ms. Green, you're here for the second one as  
22 well?

1 MS. GREEN: Yes.

2 CHAIRPERSON MILLER: Okay. We're  
3 going to just -- well, it has been suggested  
4 that we might wait a few minutes and see if he  
5 does appear and go on to the next case. We'll  
6 hold this one in abeyance right now.

7 (Whereupon, at 9:43 a.m. off the  
8 record until 9:56 a.m.)

9 CHAIRPERSON MILLER: Okay, we're  
10 going to go back to the first case, 11-PRO-  
11 00087 where we were waiting for the licensee  
12 to appear. I just want to ask if there is  
13 anybody in the audience who is here on behalf  
14 of the licensee in this case, Southeast  
15 Market.

16 Our rule 1603.3 provides that  
17 failure to appear in person or through a  
18 designated representative may result in denial  
19 of the license application or dismissal of  
20 protest unless in the discretion of the Board  
21 good cause is shown for failure to appear.  
22 If that occurs, a request for reinstatement

1 with the Board must be filed within 10 days of  
2 the dismissal or denial date.

3 Ms. Green, you're the only party  
4 here. Do you have a comment on dismissal of  
5 this case?

6 MS. GREEN: I know we have a  
7 protest scheduled for March 28th and I would  
8 like to see if we can push that back a little  
9 bit so that we could work with the new owner  
10 if the sale does take place. That's what I  
11 would like to happen. We don't want to put  
12 these people out of business but we do want to  
13 work with them to improve the quality of life  
14 issues around the market.

15 CHAIRPERSON MILLER: Are you  
16 suggesting the March 28th protest hearing be  
17 postponed to give the licensee time to --

18 MS. GREEN: Right, to work with  
19 us.

20 CHAIRPERSON MILLER: -- work with  
21 you?

22 MS. GREEN: Yes.

1 CHAIRPERSON MILLER: Okay. How  
2 much time would you --

3 MS. GREEN: How about another  
4 month?

5 CHAIRPERSON MILLER: How much time  
6 would you suggest?

7 MS. GREEN: I would suggest  
8 another month if we could go until April. The  
9 end of April.

10 CHAIRPERSON MILLER: Okay. Do  
11 other Board Members have questions?

12 Yes, Mr. Nophlin.

13 MEMBER NOPHLIN: Thank you, Madam  
14 Chair.

15 Could you tell the Board where  
16 they are with regard to the sale of the  
17 property?

18 MS. GREEN: The sticking point is  
19 we have asked them not to sell two-packs  
20 because once they could no longer sell  
21 singles, they started selling two-packs and it  
22 looks like the same littering, loitering,

1 public urination, defecation.

2 All those issues are still there  
3 because of the two-packs. Actually what I  
4 asked him to do is not sell anything less than  
5 a six-pack of 12 ounces. He said maybe he  
6 would consider that but he would be more  
7 comfortable with eliminating two-packs. He is  
8 willing to do it. He didn't know if the new  
9 owner would be willing so that's where we are.

10 MEMBER NOPHLIN: But you have no  
11 recollection in terms of how the sale of the  
12 property is going. Is it going to be two  
13 weeks, three weeks? Is it up for sale?

14 MS. GREEN: What he told me was  
15 the contract, the option to buy, the date on  
16 it was January 31st.

17 MEMBER NOPHLIN: Thank you, Madam  
18 Chair.

19 CHAIRPERSON MILLER: Mr. Alberti.

20 MEMBER ALBERTI: Ms. Green, it's  
21 been the Board's policy in these cases to  
22 dismiss the parties if they do not appear. I

1 mean, we really think it's disrespectful when  
2 someone doesn't appear for a hearing for which  
3 we've notified them well in advance.

4 It is now almost 10:00 and this  
5 hearing was scheduled for 9:30. If the Board  
6 votes to dismiss the application, the license  
7 is still in effect. It would just become --  
8 it wouldn't cancel the license. The license  
9 would still be in effect just like it is  
10 during a renewal period.

11 MS. GREEN: This is the renewal  
12 period.

13 MEMBER ALBERTI: I know. Right.  
14 It's similar to -- basically we are extending  
15 the renewal period. We would re-placard and  
16 this process would start all over again. Of  
17 course, the licensee would have 10 days to  
18 request reinstatement.

19 If they have a valid reason, the  
20 Board will consider their reasons for missing  
21 today's hearing. If they are dismissed, then  
22 the process will start all over again. If the

1 process starts all over again, you will have  
2 your extra time. I would encourage you if we  
3 do dismiss the application to continue  
4 talking.

5 There is no reason why -- this is  
6 more of a procedural thing to keep our policy  
7 in place so that everyone knows that the Board  
8 means business when we say we want you here.  
9 There is no reason why you can't continue  
10 talking and I would encourage you to do that.

11 CHAIRPERSON MILLER: Okay. Do you  
12 have any other comments?

13 It seems to me that the Board has  
14 a choice now to dismiss and let the process  
15 start again perhaps with the new owner to  
16 grant or discontinue.

17 Are there any other comments on  
18 that?

19 MEMBER MOBLEY: No, Madam Chair.

20 CHAIRPERSON MILLER: Okay. All  
21 right. I think either way is okay. Perhaps  
22 it's wise to dismiss and continue our policy.

1 We do not have good cause shown by the  
2 licensee is not here. It may be very clean to  
3 start again with a new owner and in the  
4 meantime the business still has a license to  
5 operate under.

6 Are there any other comments? I  
7 make a motion we dismiss the application for  
8 the renewal pursuant to 1603.3 of our  
9 regulations. Do I have a second?

10 MEMBER NOPHLIN: Second.

11 CHAIRPERSON MILLER: All those in  
12 favor say aye.

13 BOARD MEMBERS: Aye.

14 CHAIRPERSON MILLER: All those  
15 opposed. All those abstaining. The vote is  
16 six to zero to dismiss the application. Thank  
17 you.

18 MEMBER ALBERTI: And just for the  
19 record, the owner has -- the license has 10  
20 days in which to apply for reinstatement.

21 CHAIRPERSON MILLER: Thank you  
22 very much.

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MS. GREEN: Thank you.

(Whereupon, at 10:03 a.m. the  
hearing was adjourned.)



<p style="text-align: center;"><b>I</b></p> <p><b>immediate</b> 2:11,12 2:15</p> <p><b>impediment</b> 5:1</p> <p><b>improve</b> 9:13 11:13</p> <p><b>includes</b> 4:15</p> <p><b>incorrect</b> 7:11</p> <p><b>Independence</b> 1:10</p> <p><b>independent</b> 7:10</p> <p><b>Indriani</b> 1:9 5:8</p> <p><b>information</b> 4:1</p> <p><b>International</b> 1:9 5:8</p> <p><b>interpreter</b> 5:3</p> <p><b>interruption</b> 3:7</p> <p><b>introduce</b> 5:14 6:2</p> <p><b>issues</b> 11:14 13:2</p> <hr/> <p style="text-align: center;"><b>J</b></p> <p><b>January</b> 1:14 2:7 13:16</p> <p><b>Jeannette</b> 1:23 2:14</p> <p><b>Joining</b> 2:10</p> <p><b>Jones</b> 2:13</p> <hr/> <p style="text-align: center;"><b>K</b></p> <p><b>keep</b> 15:6</p> <p><b>know</b> 8:20 11:6 13:8 14:13</p> <p><b>knows</b> 15:7</p> <hr/> <p style="text-align: center;"><b>L</b></p> <p><b>La</b> 5:4</p> <p><b>ladies</b> 2:4</p> <p><b>language</b> 4:20 5:3</p> <p><b>law</b> 3:18</p> <p><b>left</b> 2:11,14,15</p> <p><b>legal</b> 4:12,17</p> <p><b>license</b> 1:11 5:9 10:19 14:6,8,8 16:4,19</p> <p><b>licensee</b> 6:5 10:11 10:14 11:17 14:17 16:2</p> <p><b>life</b> 11:13</p> <p><b>listed</b> 7:19</p>	<p><b>littering</b> 12:22</p> <p><b>little</b> 11:8</p> <p><b>live</b> 7:3</p> <p><b>living</b> 9:3</p> <p><b>loitering</b> 12:22</p> <p><b>longer</b> 12:20</p> <p><b>looks</b> 12:22</p> <hr/> <p style="text-align: center;"><b>M</b></p> <p><b>Madam</b> 7:1 12:13 13:17 15:19</p> <p><b>manager</b> 4:3</p> <p><b>March</b> 11:7,16</p> <p><b>market</b> 1:10 5:9 6:9,11 8:10,14,15 8:18,20 9:15 10:15 11:14</p> <p><b>material</b> 3:16 7:6</p> <p><b>matter</b> 1:8 7:3 8:8 8:22</p> <p><b>matters</b> 9:10</p> <p><b>mean</b> 6:10 7:16 14:1</p> <p><b>means</b> 15:8</p> <p><b>mediation</b> 5:4</p> <p><b>meeting</b> 1:5 2:5 4:10</p> <p><b>Meetings</b> 4:6,9</p> <p><b>Member</b> 1:21,21 1:22,22,23 6:3 8:11,19 9:4 12:13 13:10,17,20 14:13 15:19 16:10,18</p> <p><b>members</b> 2:16 12:11 16:13</p> <p><b>met</b> 1:16 9:11</p> <p><b>Mike</b> 1:22 2:15</p> <p><b>Miller</b> 1:18,20 2:3 2:8 5:13,18,22 6:8 6:15,19 9:6,9,11 9:20 10:2,9 11:15 11:20 12:1,5,10 13:19 15:11,20 16:11,14,21</p> <p><b>minutes</b> 10:4</p> <p><b>missing</b> 14:20</p> <p><b>Mobley</b> 1:23 2:14</p>	<p>15:19</p> <p><b>month</b> 12:4,8</p> <p><b>morning</b> 2:3 4:15</p> <p><b>motion</b> 16:7</p> <hr/> <p style="text-align: center;"><b>N</b></p> <p><b>name</b> 2:8 3:12</p> <p><b>new</b> 11:9 13:8 15:15 16:3</p> <p><b>Nick</b> 1:21 2:13</p> <p><b>noises</b> 3:2</p> <p><b>Nophlin</b> 1:21 2:11 12:12,13 13:10,17 16:10</p> <p><b>note</b> 3:8 5:6</p> <p><b>notified</b> 14:3</p> <p><b>notifying</b> 7:21</p> <p><b>number</b> 6:12</p> <p><b>N.W</b> 1:17</p> <hr/> <p style="text-align: center;"><b>O</b></p> <p><b>obtain</b> 4:12</p> <p><b>occurs</b> 10:22</p> <p><b>officer</b> 4:21</p> <p><b>Oh</b> 6:8 8:18</p> <p><b>okay</b> 5:19 6:15,19 9:6,9 10:2,9 12:1 12:10 15:11,20,21</p> <p><b>once</b> 12:20</p> <p><b>open</b> 4:6,7,9</p> <p><b>operate</b> 16:5</p> <p><b>opportunity</b> 8:6</p> <p><b>opposed</b> 16:15</p> <p><b>option</b> 13:15</p> <p><b>order</b> 5:7 9:13</p> <p><b>ounces</b> 13:5</p> <p><b>owner</b> 11:9 13:9 15:15 16:3,19</p> <hr/> <p style="text-align: center;"><b>P</b></p> <p><b>paggers</b> 3:5</p> <p><b>paper</b> 3:9</p> <p><b>participate</b> 7:9</p> <p><b>parties</b> 3:17 4:4 5:11 13:22</p> <p><b>party</b> 11:3</p> <p><b>peace</b> 9:13</p> <p><b>Pennsylvania</b> 8:14</p>	<p>8:17</p> <p><b>people</b> 11:12</p> <p><b>period</b> 14:10,12,15</p> <p><b>permitted</b> 3:20</p> <p><b>person</b> 10:17</p> <p><b>phones</b> 3:5</p> <p><b>piece</b> 3:8</p> <p><b>place</b> 9:3 11:10 15:7</p> <p><b>please</b> 2:21 3:5,8 3:10,11 5:15,21</p> <p><b>pleases</b> 7:2</p> <p><b>point</b> 12:18</p> <p><b>policy</b> 13:21 15:6 15:22</p> <p><b>postponed</b> 11:17</p> <p><b>preclude</b> 9:16</p> <p><b>preliminary</b> 9:10</p> <p><b>PRESENT</b> 1:19</p> <p><b>presiding</b> 1:18</p> <p><b>procedural</b> 15:6</p> <p><b>Procedure</b> 8:2,4</p> <p><b>proceeding</b> 3:7 4:14</p> <p><b>proceedings</b> 2:21</p> <p><b>process</b> 14:16,22 15:1,14</p> <p><b>property</b> 7:4 12:17 13:12</p> <p><b>proposed</b> 3:17</p> <p><b>protest</b> 1:9 4:15 7:10 8:9 10:20 11:7,16</p> <p><b>protestant</b> 7:22 8:1</p> <p><b>protested</b> 7:3,4</p> <p><b>protesting</b> 6:11</p> <p><b>protests</b> 7:12,13</p> <p><b>provides</b> 10:16</p> <p><b>public</b> 4:7,8,10 13:1</p> <p><b>pursuant</b> 16:8</p> <p><b>push</b> 11:8</p> <p><b>put</b> 11:11</p> <p><b>P-R-O-C-E-E-D-...</b> 2:1</p> <hr/> <p style="text-align: center;"><b>Q</b></p>	<p><b>quality</b> 11:13</p> <p><b>questions</b> 12:11</p> <p><b>quiet</b> 9:13</p> <p><b>quorum</b> 2:18</p> <hr/> <p style="text-align: center;"><b>R</b></p> <p><b>readily</b> 5:1</p> <p><b>really</b> 7:17 14:1</p> <p><b>reason</b> 14:19 15:5,9</p> <p><b>reasons</b> 14:20</p> <p><b>receptionist</b> 2:20</p> <p><b>recollection</b> 13:11</p> <p><b>reconsideration</b> 6:13</p> <p><b>record</b> 3:13,14,22 5:15 6:2 10:8 16:19</p> <p><b>recorded</b> 2:22</p> <p><b>records</b> 4:3</p> <p><b>Reeves</b> 1:17</p> <p><b>refrain</b> 3:1</p> <p><b>regard</b> 8:9 12:16</p> <p><b>regarding</b> 8:14</p> <p><b>regularly</b> 2:5</p> <p><b>regulations</b> 16:9</p> <p><b>reinstatement</b> 10:22 14:18 16:20</p> <p><b>removed</b> 8:1</p> <p><b>renewal</b> 1:13 14:10 14:11,15 16:8</p> <p><b>reporter</b> 2:22</p> <p><b>representative</b> 10:18</p> <p><b>represented</b> 4:17</p> <p><b>representing</b> 5:17 9:7</p> <p><b>request</b> 4:5 5:3 10:22 14:18</p> <p><b>requested</b> 3:16</p> <p><b>requires</b> 4:6</p> <p><b>responsibility</b> 4:4</p> <p><b>result</b> 10:18</p> <p><b>Retailer</b> 1:12</p> <p><b>re-placard</b> 14:15</p> <p><b>Richardson</b> 5:20 6:3,10,17 7:1 8:11 8:17 9:1</p>
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<p><b>right</b> 2:10,12 9:8 10:6 11:18 14:13 15:21 <b>roll</b> 8:13 <b>room</b> 1:17 3:3 <b>rule</b> 10:16 <b>Ruthanne</b> 1:17,20 2:8</p>	<p><b>spoken</b> 5:2 <b>start</b> 14:16,22 15:15 16:3 <b>started</b> 12:21 <b>starts</b> 15:1 <b>status</b> 1:10 4:15 <b>sticking</b> 12:18 <b>Street</b> 1:17 <b>submit</b> 3:17 <b>suggest</b> 12:6,7 <b>suggested</b> 10:3 <b>suggesting</b> 11:16 <b>summarily</b> 8:1</p>	<hr/> <p style="text-align: center;"><b>V</b></p> <hr/> <p><b>valid</b> 14:19 <b>Verne</b> 5:5 <b>virtually</b> 7:3 <b>vote</b> 16:15 <b>votes</b> 14:6</p>	<p><b>11-PRO</b> 10:10 <b>12</b> 13:5 <b>14th</b> 1:17 <b>1500</b> 1:10 <b>1603.3</b> 10:16 16:8 <b>1717.2</b> 3:21</p>
<hr/> <p style="text-align: center;"><b>S</b></p> <hr/> <p><b>sale</b> 11:10 12:16 13:11,13 <b>scheduled</b> 2:5 11:7 14:5 <b>SE</b> 1:10 <b>seat</b> 3:10 5:13 6:1 6:21 <b>second</b> 6:16 9:21 16:9,10 <b>Section</b> 3:20 4:9 <b>see</b> 9:12 10:4 11:8 <b>sell</b> 9:15,17 12:19 12:20 13:4 <b>selling</b> 12:21 <b>separate</b> 6:20 <b>separately</b> 7:14 <b>settlement</b> 4:12 <b>show</b> 4:16 <b>shown</b> 10:21 16:1 <b>shows</b> 6:5 <b>sign</b> 3:11 9:15 <b>Silverstein</b> 1:22 2:15 <b>similar</b> 14:14 <b>singles</b> 12:21 <b>sir</b> 5:22 <b>sit</b> 6:4 <b>six</b> 2:16 16:16 <b>six-pack</b> 13:5 <b>sole</b> 4:4 <b>Sorry</b> 8:18 9:1 <b>sort</b> 7:16 <b>Southeast</b> 1:10 5:9 6:9 8:15,20 10:14 <b>specialist</b> 5:4 <b>specifically</b> 3:16 <b>spelling</b> 3:12</p>	<hr/> <p style="text-align: center;"><b>T</b></p> <hr/> <p><b>table</b> 3:9,11 5:14 6:1,4 <b>take</b> 3:10 6:1 11:10 <b>talking</b> 15:4,10 <b>tell</b> 12:15 <b>terms</b> 13:11 <b>Thank</b> 9:5 12:13 13:17 16:16,21 17:1 <b>thing</b> 15:6 <b>think</b> 14:1 15:21 <b>three</b> 2:17 13:13 <b>time</b> 5:7 11:17 12:2 12:5 15:2 <b>today</b> 2:7,13,17 <b>today's</b> 2:19 14:21 <b>told</b> 7:8 13:14 <b>trading</b> 5:9 <b>transcripts</b> 4:2 <b>turned</b> 3:6 <b>two</b> 7:12 13:12 <b>two-packs</b> 12:19,21 13:3,7 <b>type</b> 7:20 <b>t/a</b> 1:10</p>	<hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>wait</b> 10:4 <b>waiting</b> 10:11 <b>want</b> 6:1 9:15 10:12 11:11,12 15:8 <b>Washington</b> 1:17 <b>way</b> 15:21 <b>week</b> 9:18 <b>weeks</b> 13:13,13 <b>welcome</b> 2:4 <b>We'll</b> 10:5 <b>we're</b> 10:2,9 <b>we've</b> 14:3 <b>willing</b> 13:8,9 <b>wise</b> 15:22 <b>witnesses</b> 4:22 <b>work</b> 11:9,13,18,20 <b>wouldn't</b> 14:8</p>	<hr/> <p style="text-align: center;"><b>2</b></p> <hr/> <p><b>2000</b> 1:17 <b>2012</b> 1:14 2:7 <b>23</b> 3:20 <b>25</b> 1:14 2:7 <b>28th</b> 11:7,16</p>
	<hr/> <p style="text-align: center;"><b>U</b></p> <hr/> <p><b>understand</b> 5:2 9:2 9:4,17,20 <b>understanding</b> 8:12 <b>urge</b> 7:17 <b>urination</b> 13:1</p>	<hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p><b>Yeah</b> 6:10</p> <hr/> <p style="text-align: center;"><b>Z</b></p> <hr/> <p><b>zero</b> 16:16</p> <hr/> <p style="text-align: center;"><b>P</b></p> <hr/> <p><b>p</b> 1:7,13</p> <hr/> <p style="text-align: center;"><b>#</b></p> <hr/> <p><b>#11-PRO-00087</b> 1:9 5:8 <b>#76399</b> 1:11 5:10</p>	<hr/> <p style="text-align: center;"><b>3</b></p> <hr/> <p><b>30</b> 3:19 <b>31st</b> 13:16</p> <hr/> <p style="text-align: center;"><b>4</b></p> <hr/> <p><b>405(b)</b> 4:9</p> <hr/> <p style="text-align: center;"><b>8</b></p> <hr/> <p><b>83</b> 6:12,16,21</p>
		<hr/> <p style="text-align: center;"><b>0</b></p> <hr/> <p><b>00087</b> 10:11</p> <hr/> <p style="text-align: center;"><b>1</b></p> <hr/> <p><b>10</b> 11:1 14:17 16:19 <b>10:00</b> 14:4 <b>10:03</b> 17:2</p>	<hr/> <p style="text-align: center;"><b>9</b></p> <hr/> <p><b>9:30</b> 14:5 <b>9:34</b> 2:2 <b>9:37</b> 5:7 <b>9:43</b> 10:7 <b>9:56</b> 10:8</p>