

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Toran Investment Group, Inc.	
t/a Risky Ventures	Contested Fact
1824 Columbia Road N.W.	Finding Hearing
Retailer CR	
License No. 97484	
ANC 1C	

June 3, 2015

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

PRESENT:

RUTHANNE MILLER, Chairperson

DONALD BROOKS, Member

HERMAN JONES, Member

MICHAEL SILVERSTEIN, Member

HECTOR RODRIGUEZ, Member

JAMES SHORT, Member

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

2 (2:21 p.m.)

3 CHAIR MILLER: Our next hearing is
4 scheduled for 3:30 p.m. It's now 2:21, so I
5 think we should recess and come back at 3:30 P.M.

6 (Whereupon, the above-entitled matter
7 went off the record at 2:21 p.m. and resumed at
8 3:38 p.m.)

9 CHAIR MILLER: We are here for what's
10 been identified as a Contested Fact Finding
11 Hearing for Risky Ventures located at 1824
12 Columbia Road N.W., License No. 97484.

13 And it concerns whether or not the
14 Applicant qualifies to operate an establishment
15 as a restaurant. Do you want to identify
16 yourselves for the record, please?

17 MR. KLINE: Yes, good afternoon.
18 Andrew Kline here on behalf of the Applicant.

19 MR. TORAN: And my name is John Toran,
20 I am the Applicant.

21 CHAIR MILLER: What's your name again,
22 sir?

1 MR. TORAN: John, last name's Toran,
2 T-O-R-A-N.

3 CHAIR MILLER: Got it, okay.

4 MR. KLINE: And he's the principal of
5 Toran Investment Group, Inc. which is the named
6 Applicant in the application.

7 CHAIR MILLER: Okay. And the
8 background on this is we did have a fact finding
9 hearing. It was not a contested fact finding
10 hearing in which we explored whether or not your
11 establishment was upgrading as a restaurant, or
12 could operate as a restaurant.

13 And after that hearing, the Board
14 determined based on the information from that
15 hearing that it did not look, appear that you
16 could, that you had in place what you needed to
17 operate as a restaurant based on that hearing.

18 However, it was not a contested
19 hearing and you were not put on notice that, you
20 know, that that could affect the granting or the
21 denying of your license. And the Board
22 recognized that and issued an Order saying that

1 if you wanted to have a contested hearing you
2 could have it, and that's what this is.

3 And in fact, the proposed Order
4 actually puts you on notice as exactly what the
5 issues were that the Board was concerned with.
6 And so I'm going to now turn to Mr. Kline. I
7 think you know exactly what the parameters are or
8 why you're here. But if you don't, feel free.

9 MR. KLINE: Yes.

10 CHAIR MILLER: Okay.

11 MR. KLINE: I think my initial inquiry
12 is how it was that the initial fact finding
13 hearing came about. It seemed very unusual to me
14 in my experience that the Board would bring an
15 Applicant in on such a fact finding hearing. So
16 I'm just curious as to how it was that that came
17 about and whether, well I'm curious as to how it
18 came about.

19 CHAIR MILLER: Okay. Well, I mean, I
20 can really only give you my perspective so much.
21 And I think that based on the application, it
22 looked to seriously fall short of being a

1 restaurant.

2 And after the Adams Morgan moratorium
3 discussions and order about how they're going to
4 lift the moratorium, people were concerned that
5 all these establishments were going to pretend to
6 be restaurants and in fact they wouldn't be.

7 So the information, I believe, on the
8 application was so lacking with respect to this
9 issue that I think the Board decided to have a
10 hearing separate from a protest because this
11 really wasn't involving protest issues.

12 It's not, you know, too sort of quiet.
13 So before it went on the whole protest track, it
14 was determined to have this hearing. So you
15 know, whether it should have been a contested
16 hearing to begin with or whatever, I really can't
17 say.

18 But I think in this sense, it's
19 unusual but it means that we don't waste the time
20 of having a protest that may not have anything to
21 do with these issues. But in this case at least,
22 you're on notice exactly of what the concerns

1 are.

2 MR. KLINE: Understood.

3 CHAIR MILLER: Okay.

4 MR. KLINE: Should we expect that such
5 hearings will be scheduled with respect to any
6 Adams Morgan CR applications?

7 CHAIR MILLER: Such that on their face
8 look like they're totally lacking the capability
9 to meet the restaurant requirement. Is that the
10 question?

11 MR. KLINE: Well, if that would be the
12 Board's conclusion.

13 CHAIR MILLER: I mean, I can't really
14 say. But you know, we could see. And maybe in
15 the future it would be a contested hearing or
16 whatever. But I think the issue was not having
17 to, we should have resolved that issue separate
18 from appropriateness.

19 MR. KLINE: Okay.

20 CHAIR MILLER: Okay?

21 MR. KLINE: Okay. That's clear.

22 CHAIR MILLER: And if you have any

1 thoughts on process, you know, always I would say
2 I certainly welcome any suggestions. You know,
3 maybe this one wasn't procedurally what you think
4 is a good idea or whatever. If you have other
5 ideas, feel free to, you know, let us know.

6 MR. KLINE: No, the only reason I
7 raised it is my concern is that whenever there's
8 a process outside the ordinary is that Applicants
9 were on notice as to what's expected of them,
10 what the process is, and whether it's a process
11 that's called for by statute or regulations.

12 CHAIR MILLER: Right.

13 MR. KLINE: And if the Board had
14 questions based upon the application, then I
15 understand that. If I may, I think we're ready
16 to proceed. We understand what the Board is
17 looking for today.

18 CHAIR MILLER: Okay.

19 MR. KLINE: I would like to make an
20 opening statement concerning, and then I'll put
21 Mr. Toran on and provide the Board with some
22 documentation and information.

1 CHAIR MILLER: Okay.

2 MR. KLINE: All right. Good
3 afternoon, Madam Chairman, Members of the Board.
4 My understanding is that we are here today to
5 examine the bona fides of Toran Investment Group,
6 Inc. as a restaurant as that term is used in the
7 ABC Statute.

8 I have read the transcript, and of
9 course read the Board's proposed Order. And
10 before hearing the evidence, I just would like to
11 relate to the Board a few things concerning
12 restaurant operations.

13 And I think I start with frankly the
14 first restaurant deal I ever did which
15 coincidentally was in Adams Morgan. This couple
16 came to me, Ethiopian couple. One worked as a
17 cab driver, one worked in a garage. I can never
18 remember which was which, husband and wife.

19 And they wanted to open an Ethiopian
20 restaurant. And I was a young lawyer, I thought
21 I new something. I thought I knew something
22 about business and I proceeded to examine them

1 about what their plans were.

2 And I remember asking them well,
3 what's your break even point? And they said well
4 what do you mean? And I said well how covers do
5 you have to sell to pay your bills? They said we
6 don't know.

7 And I went home that night as a young
8 lawyer and I thought what's my role here? These
9 people investing their life savings in this place
10 and they seem to have no clue as to what it is
11 that they're going to do to make this place
12 successful.

13 Now the reason I tell this story is
14 because 17 years later they not only were still
15 there, they bought the building and they opened
16 their second restaurant in Silver Spring.

17 The point was I didn't know too much.
18 On the other hand, I have people that come to me
19 with the business plans, projections,
20 spreadsheets, and MBAs, hospitality graduates and
21 the like and with loads of money that people are
22 throwing at them to invest. Six months to a year

1 later, they're gone.

2 So my point is as we proceed with this
3 hearing, I hope the Board, and along with that
4 the reason that I came to the conclusion with the
5 first couple that I represented is everybody's
6 got the right to fail.

7 I mean, that's part of business, it's
8 part of this process. Not every ABC Licensee is
9 going to make it. I understand the Board's
10 duties and the Board's charge.

11 But I just want to remind the Board
12 that maybe this Applicant isn't going to do it
13 the way you would do it, maybe his plan is not
14 your plan. Maybe your plan would be more thought
15 out than his plan.

16 But none of that is really relevant to
17 what his intentions are and his ability to meet
18 the requirements of the statute which are pretty
19 clear in my opinion.

20 So in reading the transcript, I was
21 struck with a lot of questions about, you know,
22 do you really know what you're doing and you

1 don't have a plan and you haven't thought it
2 through and so on and so forth, which may be
3 fair.

4 But in the case of at least the first
5 deal I did, it was totally off the mark because I
6 certainly knew less than these people, or didn't
7 appreciate how hard they were going to work to
8 succeed, which they did.

9 So with that opening, I would like to
10 put Mr. Toran on the stand and tender to you some
11 materials from his plan to operate Risky at 1824
12 Columbia Road. We'll put you in that box over
13 there and you're going to be sworn. Is that the
14 Board's intention?

15 CHAIR MILLER: Yes. Thank you. Mr.
16 Toran, I'm going to swear you in. Do you swear
17 to tell the truth, the whole truth, and nothing
18 but the truth?

19 MR. TORAN: I do.

20 CHAIR MILLER: Okay, thank you.

21 MR. KLINE: Thanks. State your name
22 for the record, please.

1 MR. TORAN: My name is John Dean
2 Toran.

3 MR. KLINE: All right. And you are
4 the principal of Toran Investment Group, Inc.?

5 MR. TORAN: That's correct.

6 MR. KLINE: All right. And you plan
7 to open a business at 1824 Columbia Road, is that
8 correct?

9 MR. TORAN: Yes, that's correct.

10 MR. KLINE: All right. Will you tell
11 the Board a little bit about your concept in
12 terms of what you intend to do at that location?

13 MR. TORAN: Basically I plan on having
14 a small restaurant that seats nine people. We're
15 going to focus on sandwiches with the food
16 source, the products sourced from local farmer
17 markets.

18 I do have a farmer's market, like,
19 right at my doorstep. I do have relationships
20 with some of the farmers there to provide me
21 goods on a weekly basis.

22 MR. KLINE: All right. Now when you

1 originally appeared before the Board in the fact
2 finding hearing, in terms of food preparation,
3 you had a slightly different concept, is that
4 correct?

5 MR. TORAN: Yes. What brought me to
6 D.C. was federal contracting. And the federal
7 government encourages teaming relationships. And
8 so I brought that mind set and sort of, you know,
9 and kind of looking for my food solution.

10 So my original presentation to the
11 Board was I identified very popular restaurants
12 in Adams Morgan that didn't have seating. So I
13 wanted to offer a venue where their food could be
14 enjoyed while being seated.

15 MR. KLINE: All right. And since
16 then, have you come up with a plan to prepare
17 food on the premises?

18 MR. TORAN: Yes. Basically, you know,
19 the bulk of my menu was going to be sandwiches.
20 And so I've taken that sandwich making and
21 brought that in-house.

22 MR. KLINE: All right, and --

1 CHAIR MILLER: Sorry, I missed the end
2 of that. Could you say the last sentence again?

3 MR. TORAN: The bulk of my menu were
4 sandwiches. And I was intending on having those
5 sandwiches prepared off-site. But now I've
6 brought that sandwich making on-site.

7 CHAIR MILLER: Okay.

8 MR. KLINE: All right. And do you
9 also intend to feature some salads in the
10 establishment?

11 MR. TORAN: Yes. I plan on featuring
12 salads, sandwiches, and side dishes.

13 MR. KLINE: Now this premises is very
14 small, isn't it?

15 MR. TORAN: Yes. I think it's got an
16 operable space area of about 400 square feet.

17 MR. KLINE: And the capacity, seating
18 capacity is what?

19 MR. TORAN: Nine people.

20 MR. KLINE: Now since the last
21 hearing, have you had occasion to familiarize
22 yourself in more detail with what the

1 requirements are under the ABC Statute?

2 MR. TORAN: Yes. I've had the statute
3 read to me a few more times since then.

4 MR. KLINE: All right. And in terms
5 of what the requirements are for operating as a
6 restaurant with a CR license?

7 MR. TORAN: Yes.

8 MR. KLINE: All right. I want to walk
9 you through the statute. You're aware that there
10 are two different ways of meeting the
11 requirements, correct?

12 MR. TORAN: Yes, I'm aware of this.

13 MR. KLINE: One of those is a
14 percentage requirement?

15 MR. TORAN: Yes.

16 MR. KLINE: And you're familiar with
17 what that percentage is?

18 MR. TORAN: Yes.

19 MR. KLINE: And what is that
20 percentage?

21 MR. TORAN: The percentage requirement
22 requires that 45 percent of my gross sales be

1 food.

2 MR. KLINE: All right. And under that
3 definition, you also know that you're required to
4 keep your kitchen open until at least two hours
5 before closing?

6 MR. TORAN: Yes.

7 MR. KLINE: All right. Now let's talk
8 about kitchen for a minute.

9 MR. TORAN: Okay.

10 MR. KLINE: In terms of a kitchen, in
11 your mind do you have a kitchen, will you have a
12 kitchen on the premises?

13 MR. TORAN: Yes, I do.

14 MR. KLINE: And what will that consist
15 of?

16 MR. TORAN: A dedicated space for the
17 preparation of food.

18 MR. KLINE: All right. And is there
19 certain equipment that you're going to be using
20 in connection with that?

21 MR. TORAN: Yes. Besides, you know,
22 the standard health related stuff, I have a

1 microwave with a browning plate, I have a Panini
2 grill, and then a prep table.

3 MR. KLINE: All right. And where are
4 you, have you had anything reviewed by the Health
5 Department at this point?

6 MR. TORAN: Yes, I have had an initial
7 restaurant inspection by the Health Department.
8 And they've asked me to make some minor changes.

9 MR. KLINE: Okay, and what are those
10 changes?

11 MR. TORAN: Let's see. I needed to
12 put an employees must wash hands at all the hand
13 sinks, I needed to have a paper towel mounted for
14 all of my hand sinks. I needed to have a
15 thermostat in my refrigerator.

16 And I think there was, oh I needed to
17 have my, actually, my food handler's license or
18 manager there on site when inspection happens.
19 But that was basically the gist of it.

20 MR. KLINE: All right. And upon those
21 changes being made, is it your understanding that
22 you'll be approved for the issuance of a basic

1 business license with a restaurant endorsement?

2 MR. TORAN: Yes.

3 MR. KLINE: Now you also know under
4 the definition of restaurant that we were just
5 talking about that you can have recorded and
6 background music without an entertainment
7 endorsement, correct?

8 MR. TORAN: Yes.

9 MR. KLINE: But if you wanted to do
10 more than that, you need an entertainment
11 endorsement, is that correct?

12 MR. TORAN: That's correct.

13 MR. KLINE: All right. And you also
14 know that you're not to have nude performances on
15 the premises under that definition?

16 MR. TORAN: That's correct.

17 MR. KLINE: Okay. So if you do all
18 that, in your mind, in your review of the statute
19 and in looking over the statute, then you would
20 meet these requirements for a CR license?

21 MR. TORAN: Yes.

22 MR. KLINE: Okay. Now there's also

1 another way of meeting the definition, isn't
2 there?

3 MR. TORAN: Yes, there is.

4 MR. KLINE: All right. And that is
5 principally tied to minimum food service amount,
6 isn't it?

7 MR. TORAN: Correct. I believe it's
8 \$2,000 per seat per year.

9 MR. KLINE: All right. And you have
10 nine seats?

11 MR. TORAN: Yes.

12 MR. KLINE: So if you sold \$18,000 of
13 food per year, in your mind, and if you meet the
14 other requirements of that subsection, then you
15 would be in compliance as a restaurant.

16 MR. TORAN: Yes. That would be in
17 compliance with the restaurant, but I don't know
18 if that would be in compliance with the bank
19 because selling really, like, five sandwiches a
20 day would get me to that number. But I expected
21 somewhere like 30.

22 MR. KLINE: Okay. All right, well

1 we'll get to that in a minute.

2 MR. TORAN: Okay.

3 MR. KLINE: Let's walk through the
4 definition and just make sure we're all clear on
5 what it is that you believe you're going to do
6 there. Now what will your hours be?

7 MR. TORAN: Approximately from 5:00
8 p.m. until 2:00 a.m.

9 MR. KLINE: All right. And will those
10 vary depending upon the demands on your business?

11 MR. TORAN: I don't know if I
12 understand that question.

13 MR. KLINE: In other words, if you
14 would get open and there's demand for earlier,
15 then you'll open earlier and if there's no
16 business at 1 o'clock then you might close
17 earlier.

18 MR. TORAN: Yes. I think there's an
19 under served breakfast opportunity in this
20 neighborhood with so many bus stops in the area.
21 And I also think that there's room for more
22 lunch. But again, I just want to focus on this

1 small part right now.

2 MR. KLINE: All right. So on a
3 regular basis, are you going to be ready,
4 willing, and able to serve food on the premises?

5 MR. TORAN: Absolutely.

6 MR. KLINE: And are you going to be
7 ready, willing, and able to prepare food on the
8 premises?

9 MR. TORAN: Absolutely.

10 MR. KLINE: And you'll have a kitchen
11 that you've described which will be regularly
12 open?

13 MR. TORAN: Yes.

14 MR. KLINE: And you'll have the menu?

15 MR. TORAN: Yes.

16 MR. KLINE: And will you have
17 sufficient food on hand to serve patrons from the
18 menu?

19 MR. TORAN: Absolutely.

20 MR. KLINE: And in terms of staff, who
21 is it that will be responsible for food
22 preparation?

1 MR. TORAN: I will have a large part
2 of it. My menu consultant, Elizabeth Stevens
3 will play a small role in it, and I will also
4 hire somebody that's going to be primarily their
5 job to prepare the sandwiches.

6 MR. KLINE: Okay. With seating for
7 nine, you don't anticipate large labor demand in
8 this business, do you?

9 MR. TORAN: No, absolutely not. I
10 think three people can run the entire business.

11 MR. KLINE: And that would include
12 preparing the food and serving the food, correct?

13 MR. TORAN: Correct, correct.

14 MR. KLINE: Now in terms of the way
15 that you intend to present yourself to the Adams
16 Morgan community and Washington D.C. as a whole
17 and the metro area, are you going to hold
18 yourself out primarily as a food service
19 establishment?

20 MR. TORAN: I'm going to hold myself
21 out as a restaurant.

22 MR. KLINE: Okay. And in your

1 advertising, what will you be emphasizing?

2 MR. TORAN: That we are a restaurant.
3 I think another thing that we'll be emphasizing
4 is exclusivity.

5 MR. KLINE: Exclusivity?

6 MR. TORAN: Yes.

7 MR. KLINE: What do you mean by that?

8 MR. TORAN: You know, I mean, because
9 it's a place for there's only nine seats, there's
10 only so much room. And so if we want to, what I
11 want to do is focus on having clientele come from
12 the neighborhood. And so we're going to have
13 things in place to urge our neighbors to visit
14 us.

15 MR. KLINE: Now we talked about hours
16 before and we talked about that those might
17 change depending on business demands. But will
18 you in fact have regular hours that will be
19 posted?

20 MR. TORAN: Yes. I mean, the regular
21 hours right now are approximately 5:00 to 2:00.
22 I say approximately because I'm going to be open

1 on weekends around 11:00 or 12:00.

2 MR. KLINE: 11:00 or 12:00 a.m. or
3 p.m.?

4 MR. TORAN: 11:00, yes, so midday.

5 MR. KLINE: Okay, 11:00 a.m.?

6 MR. TORAN: Yes. And then I'm still
7 going to be open until 2:00 a.m. So we would be
8 serving sandwiches and lunch that entire period
9 of time.

10 MR. KLINE: So that would be on
11 Saturdays and Sundays?

12 MR. TORAN: Correct.

13 MR. KLINE: And you're not going to
14 charge a cover for people to come into the place,
15 are you?

16 MR. TORAN: Absolutely not.

17 MR. KLINE: Will there be any other
18 barriers to entry for people coming in and having
19 a sandwich?

20 MR. TORAN: No.

21 MR. KLINE: And you understand, like
22 the other definition of a restaurant, that you

1 would be required to keep your kitchen facilities
2 open until at least two hours before closing?

3 MR. TORAN: Absolutely.

4 MR. KLINE: And also, if you're going
5 to offer entertainment, you have to have an
6 entertainment endorsement, right?

7 MR. TORAN: That's understood, yes.

8 MR. KLINE: Now you've rethought, as
9 you indicated earlier, how you're going to deal
10 with your food and where it's going to come from.
11 You're going to prepare it on the premises,
12 correct?

13 MR. TORAN: Yes.

14 MR. KLINE: And from where, did you
15 research in terms of where you're going to buy it
16 from or how you're going to get it and how you're
17 going to do all that?

18 MR. TORAN: Yes. I have, Elizabeth
19 Stevens who's sort of served as my menu
20 consultant has been taking me out to farmer's
21 markets every weekend to go meet farmers.

22 So two weeks ago we were at the

1 farmer's market in Eastern Market. I've gotten
2 to know the farmers at the Adams Morgan farmer's
3 market. I do have a card of one person that I
4 had a lot of synergy with.

5 With being a Long Meadows farmer, a
6 Long Meadows farm, one of the challenges of
7 being, you know, such a small business is it just
8 takes time. Everything related to being this
9 small kind of costs more because everything
10 commercial is built on scale.

11 So asking, you know, a farmer to pull
12 out a box of vegetables for my small purpose, you
13 know, not all of them are willing to do that.

14 MR. KLINE: And as the result of that
15 exploration, have you been focusing in on costs
16 in terms of your menu costs for the food that
17 you'll prepare on the premises?

18 MR. TORAN: Yes. I think, you know,
19 just from my values, fresh, organic ingredients
20 are very important to put one, in my body, but
21 also into my clients body.

22 And so that does cost a little bit

1 more. But I think, you know, through the
2 efficiencies that we've, and synergy that we've
3 gained through the menu, we're able to keep our
4 labor costs and our food costs at a point where
5 we'll still be profitable.

6 MR. KLINE: All right. And do you
7 have any idea either from a dollar amount or a
8 percentage standpoint what your food costs might
9 be?

10 MR. TORAN: My food costs, yes. I
11 have it from a percentage standpoint. My food
12 costs, I'm aiming for 50 to 60 percent. And the
13 breakdown on that is I'm looking at a food cost
14 to come in between 25 percent to 35 percent, and
15 then I'm also looking for the labor to come in
16 probably optimistically between 22 percent and
17 30.

18 MR. KLINE: Okay. So the 50 or 60
19 that you're talking about is cost of the product
20 and labor?

21 MR. TORAN: Yes. So those two figures
22 combined.

1 MR. KLINE: Okay, all right.

2 MR. TORAN: Yes.

3 MR. KLINE: And roughly half each,
4 give or take a little bit?

5 MR. TORAN: So it's a quarter each
6 category. Together that equals about half of the
7 gross profit, or gross sales.

8 MR. KLINE: All right. Now you've
9 also I think you, and you testified at the last
10 hearing that as you go down the road, you might
11 look at using sous-vide as a method of providing
12 food in your establishment?

13 MR. TORAN: Yes. Since that meeting,
14 I have secured a vacuum sealer. I got a great
15 deal on it so I picked it up. And I'm waiting to
16 spend money on the circulator until my --

17 MR. KLINE: Keep your voice up.

18 MR. TORAN: Excuse me, I'm waiting to
19 spend money on the circuit, the circulator until
20 I have some kind of certainty of when my legal
21 issues are going to be resolved.

22 MR. KLINE: All right. And tell the

1 Board what a sous-vide is.

2 MR. TORAN: So sous-vide is basically
3 the process of cooking meat in warm water. And
4 so what it does is, a really rudimentary
5 explanation, I'm not a scientist.

6 But you know, heating up any kind of
7 meat destroys, like, the proteins and makes it
8 burst. If you can find, like, the perfect
9 temperature to keep it at, you're able to
10 actually cook the meat without bursting the
11 proteins.

12 And so sous-vide is particularly
13 designed for that. The way that this water
14 circulation happens prevents the meat from
15 getting too hot.

16 One of the drawbacks of cooking sous-
17 vide is that you don't get that caramelized
18 outside, sort of burnt texture on the outside.
19 We also do have a blowtorch so that we can add
20 that caramelized texture before we actually put
21 it into the sous-vide machine.

22 And I do think that the technique will

1 lead to Risky having some of the best steaks in
2 Washington D.C.

3 MR. KLINE: All right. Do you have a
4 copy, you don't have a copy of the packet that we
5 handed the Board in front of you, do you?

6 MR. TORAN: No.

7 MR. KLINE: Now in this packet there's
8 several documents, correct?

9 MR. TORAN: Yes.

10 MR. KLINE: Will you tell the Board
11 what the first document is?

12 MR. TORAN: The first document is our
13 marketing plan. I felt the Board had some
14 concerns about how much market research I had
15 done. And so I just wanted to lay out basically
16 the SWAT analysis that me and my investors went
17 through in order to determine that this was a
18 viable option.

19 And then that runs through Page 7.
20 And you know, it does everything from a general
21 introduction to the restaurant industry in D.C.,
22 a description of the business, as I said the SWAT

1 analysis. And it also shares with you the
2 marketing budget and the techniques used for
3 that.

4 MR. KLINE: And you put this together,
5 correct?

6 MR. TORAN: Yes.

7 MR. KLINE: Okay. And the next
8 document?

9 MR. TORAN: The next document is going
10 to be my menu. This was put together with the
11 assistance of Elizabeth Stevens. I would say
12 that she was the large idea person behind it.
13 And I guess I was sort of the viable person.

14 MR. KLINE: And is this carved in
15 stone in terms of what you're going to do going
16 forward?

17 MR. TORAN: No. One of the things
18 that, you know, since I'm sourcing my goods from
19 farmer's markets, I need to have something with
20 the type of flexibility where I can react to
21 changes in the prices or shortages in goods.

22 So one of the benefits of being a

1 small business and having only one location and
2 one menu to deal with is that, you know, we can
3 change the menu with a few week's notice or one
4 week's notice.

5 MR. KLINE: All right. And then after
6 that, what do we have?

7 MR. TORAN: So the next are what we
8 call, like, prep cards or ingredient sheets.
9 These are going to be posted, and for the next
10 one, two, three, four, it looks like it's the
11 next five pages.

12 So these items are actually going to
13 be posted in the kitchen where the food prep
14 person will, one they'll have a picture of what
15 the final product is supposed to look like, the
16 ingredients, and the directions used for putting
17 the item together.

18 And then so these are everything
19 except for our salads. Following our ingredient
20 cards is our list of equipment. I wasn't
21 prepared last time. The Board asked me about
22 what type of equipment I have. I think I've done

1 a better job of laying out what those are.

2 MR. KLINE: And will that expand as
3 you determine the needs once you open?

4 MR. TORAN: Absolutely, day by day.
5 Largely, you know, all money is being invested in
6 the business right now. So yes, that will
7 expand.

8 MR. KLINE: All right. And the next
9 page?

10 MR. TORAN: So the next page is to, I
11 made some amendments to my original application,
12 specifically on Question 15. I changed the
13 answer to reflect that we're going to be focusing
14 on craft sandwiches and just an additional
15 definition or explanation of what our food will
16 consist of.

17 I also amended Answer 17(A)(I). And
18 I understand that there's two formulas that the
19 Board uses to calculate my food sales. And so I
20 used both formulas, you know, using my actual
21 situation.

22 And using the original, the first test

1 that Mr. Kline mentioned, my sales, my gross
2 sales were \$116,640. And then when I was using
3 the per seat value, I had a food sales of about
4 \$131,000. So the average on that is about
5 \$122,000 either test that you put it under.

6 MR. KLINE: Right but, I mean, let's
7 be clear in terms of under the first test you've
8 got a gross projected food sales. What about
9 your projected alcohol sales for the year?

10 MR. TORAN: I didn't make any changes
11 on those projections from my original
12 application.

13 MR. KLINE: Okay. Got it, okay.

14 MR. TORAN: So I don't think that will
15 change the amount of alcohol that I sell.

16 MR. KLINE: All right. And the next
17 page after that?

18 MR. TORAN: The next page is a floor
19 plan. Again, this is what I made.

20 MR. KLINE: Again, you did this? This
21 is --

22 MR. TORAN: Correct.

1 MR. KLINE: This is pretty rough,
2 isn't it?

3 MR. TORAN: I'm not really sure what
4 other floor plans look like.

5 MR. KLINE: Okay. But I mean, in
6 terms of engaging anything more formal in terms
7 of what you might do to the place?

8 MR. TORAN: Correct, correct. But I
9 mean, we have a total of four tables and then the
10 bar seats.

11 MR. KLINE: Okay.

12 MR. TORAN: So just kind of giving you
13 a layout where those tables are in relation to
14 Columbia Road. There was some questions about
15 where I was going to be storing things. I tried
16 to mark the tier areas, that things were
17 permanently going to be storage. And then also
18 the food prep area, and of course the bar area.

19 MR. KLINE: You're going to have to
20 make use of every inch of that place, aren't you?

21 MR. TORAN: Absolutely.

22 MR. KLINE: Okay. And then --

1 MR. TORAN: And the final document is,
2 again I don't know, I didn't know if the Board
3 was familiar with sous-vide. It is a sort of a
4 cutting edge cooking technique. And so I did
5 provide an article that shared a little bit about
6 the process.

7 MR. KLINE: And the title of that
8 article is?

9 MR. TORAN: Do Real Cooks Use Sous-
10 Vide.

11 MR. KLINE: All right. And in fact,
12 there's some --

13 MR. TORAN: There's an award winning
14 local chef here that actually uses it, from
15 French Laundry I believe.

16 MR. KLINE: Okay.

17 MR. TORAN: I understand that's a
18 little bit out of my pay grade, but it's a very
19 nice restaurant here in Washington.

20 MR. KLINE: Understood. Okay, all
21 right. So that gives the Board some background
22 in terms of what that process is and that it is

1 used by known chefs, correct?

2 MR. TORAN: Yes.

3 MR. KLINE: All right. So at this
4 point, you have a different approach in terms of
5 the operation of this business as a restaurant,
6 correct?

7 MR. TORAN: I don't understand your
8 question.

9 MR. KLINE: Different from what you
10 had when you came in for the fact finding
11 hearing?

12 MR. TORAN: That is correct.

13 MR. KLINE: All right. You're moving
14 the food prep inside?

15 MR. TORAN: Yes.

16 MR. KLINE: Now in reviewing this, did
17 you find any specific definition of a restaurant
18 in any of the materials that you reviewed of
19 definitions that you might have to meet in
20 connection with this process?

21 MR. TORAN: I think the only true
22 definition of a, well, I mean, ABRA has a

1 definition --

2 MR. KLINE: Of a kitchen, I may have
3 misspoke. Kitchen.

4 MR. TORAN: No, no. Kitchen, no, I
5 have never been provided a definition of a
6 kitchen.

7 MR. KLINE: All right, and we'll
8 address that a bit in closing. That's all the
9 questions I have of the witness at this point. I
10 would make him available to the Board for further
11 questions.

12 CHAIR MILLER: Okay. Are there Board
13 questions? Mr. Brooks?

14 MEMBER BROOKS: Thank you, madam
15 Chair. Good afternoon, Mr. Toran.

16 MR. TORAN: Good afternoon, Mr.
17 Brooks.

18 MEMBER BROOKS: I'm looking at, I
19 guess the page you just left concerning your
20 estimates far as gross receipts.

21 MR. TORAN: Yes, sir.

22 MEMBER BROOKS: And let me be sure,

1 which one should I be looking at, the \$116,640 or
2 the \$131,000?

3 MR. TORAN: Sir, actually either
4 answer you can look at. The Statute provides two
5 tests in order to meet the food sales amount.
6 And so either one will, you can use either one
7 depending on which portion of the statute you
8 want to use.

9 MEMBER BROOKS: Okay. And did you say
10 earlier that food costs would include labor,
11 would be about 60 percent?

12 MR. TORAN: It would be between 50 and
13 60 percent, that's correct, sir.

14 MEMBER BROOKS: Okay. So if I used
15 the higher figure, \$131,000 of projected gross
16 annual receipts from food sales, so would I take
17 60 percent of 131?

18 MR. TORAN: Yes.

19 MEMBER BROOKS: Okay. So that's over
20 half of 131, so you have maybe about \$60,000
21 left, or \$65,000 left. And what are you paying
22 for monthly rent?

1 MR. TORAN: My rent is \$3,000 a month.

2 MEMBER BROOKS: Okay, so that's
3 \$36,000.

4 MR. TORAN: Correct.

5 MEMBER BROOKS: And if you add the
6 other expenses, sort of like legal costs, pest
7 control --

8 MR. TORAN: Are legal costs going to
9 be an ongoing expense?

10 MEMBER BROOKS: It may be, it just
11 depends. Employees other than yourself? Are you
12 hiring anyone else?

13 MR. TORAN: Yes. I intend to have one
14 person whose primary job is basically just follow
15 directions.

16 MEMBER BROOKS: Okay.

17 MR. TORAN: They're going to get paid
18 between \$10 and \$12 an hour.

19 MEMBER BROOKS: All right. And
20 utilities, is that part of the lease?

21 MR. TORAN: Yes. Like, garbage is
22 included as part of my lease, recycling is

1 included as part of my lease. You know, it's
2 almost a utility but I have to have a pest
3 service on contract.

4 MEMBER BROOKS: Sure, sure.

5 MR. TORAN: So that's one of the
6 expenses, and electricity. I have an estimate
7 of what electricity has been now, but I don't
8 have an estimate of what the electricity is going
9 to be once I'm actually up and operating.

10 MEMBER BROOKS: Okay.

11 MR. TORAN: I imagine the load's going
12 to be a little bit heavier when I'm actually up
13 and -- I don't know actually if it's going to be
14 heavier up and operating or more heavier using
15 power tools and keeping hand lights on and things
16 like that.

17 MEMBER BROOKS: Okay. And there's
18 such a thing as taxes in this city.

19 MR. TORAN: Yes.

20 MEMBER BROOKS: So did you include
21 those in your estimates?

22 MR. TORAN: No. Those were, those

1 figures were before taxes.

2 MEMBER BROOKS: Okay. And then liquor
3 costs for your liquor.

4 MR. TORAN: Yes. I didn't change or
5 touch any numbers related to my liquor from what
6 I put down on the application. And so just as a
7 food profit margin, that figure was, the figure I
8 gave you of 60 percent was based on just food.

9 MEMBER BROOKS: Food, yes sure.

10 MR. TORAN: My alcohol, I expect it to
11 be much lower.

12 MEMBER BROOKS: Okay. Well I'm just
13 trying to just put some quick numbers together.

14 MR. TORAN: Okay, no problem.

15 MEMBER BROOKS: And looking at your
16 \$131,000 projection, seems to me the other
17 expenses that I just enumerated would pretty much
18 eat all of that up. Did you --

19 MR. TORAN: Was there --

20 MEMBER BROOKS: Where's your bottom
21 line? I mean, you're projecting \$131,000 gross
22 receipts.

1 MR. TORAN: Okay.

2 MEMBER BROOKS: And we just --

3 MR. KLINE: If I may, Mr. Brooks?

4 MEMBER BROOKS: Yes.

5 MR. KLINE: That's food sales.

6 MEMBER BROOKS: Okay.

7 MR. KLINE: We're hoping that he's
8 going to have an alcohol license --

9 MEMBER BROOKS: Yes.

10 MR. KLINE: -- and there would be some
11 additional sales from that.

12 MEMBER BROOKS: Well, but I like to
13 see both, I think, if we're going to see what the
14 figures will come out because I'm looking at the
15 expenses, anticipated expenses.

16 MEMBER JONES: Board Member Brooks?

17 MEMBER BROOKS: Yes.

18 MEMBER JONES: If I may piggyback
19 because --

20 MEMBER BROOKS: Yes.

21 MEMBER JONES: Just really quickly, so
22 I think part of the question that I'm pulling

1 from what Board Member Brooks is asking is it
2 seems pretty clear that you're going to be
3 operating at a loss from a food sales standpoint.

4 And it seems from that standpoint that
5 you are dependent upon the sale of alcohol to be
6 profitable. That's our review of the numbers as
7 they have been presented. If you have a counter
8 position, can you provide that and substantiate
9 it as well?

10 MR. TORAN: I'm a little confused
11 where I've articulated that I'm operating at a
12 loss.

13 MEMBER JONES: So just from Board
14 Member Brooks' questions and your responses to
15 those questions, just quick back of the envelope
16 calculations just from a food sales standpoint,
17 it doesn't appear as if you're going be
18 profitable.

19 MR. KLINE: May I?

20 MEMBER JONES: And if you disagree
21 with that, then please.

22 MR. KLINE: Because one of the issues

1 is Mr. Brooks asked about labor and was he going
2 to hire anyone, and he had already said that
3 those costs were included in that 50 or 60
4 percent.

5 MEMBER JONES: Okay.

6 MR. KLINE: So, I mean, in terms of
7 that being an additional expense, he's already
8 accounted for that.

9 MEMBER JONES: Okay, so that's one
10 item.

11 MR. KLINE: That's number one. Number
12 two, I challenge you to find any restaurant in
13 this town that has a liquor license that doesn't
14 need the sale of alcohol to make a profit. I
15 don't know what to say about that, but that's --

16 MEMBER JONES: So with all due
17 respect, if that's your position, then just state
18 that.

19 MR. KLINE: I just did.

20 MEMBER JONES: So, but that's not your
21 position to state. I think it's the individual
22 that's up here, that's who we're asking the

1 questions. He doesn't seem to be in a position
2 to answer those unless I misunderstood.

3 So I think that's, in all fairness I
4 think that's where Board Member Brooks was, well
5 that's where I'm coming from based on Board
6 Member Brooks, and I think they're perfectly fair
7 questions.

8 MR. KLINE: I'm not challenging the
9 questions. I just want to make sure we're all on
10 the same page.

11 MEMBER JONES: I'm on a page, and I
12 think we're all on the same one at this point.

13 MR. KLINE: Okay.

14 MEMBER JONES: Okay, thank you.

15 MEMBER BROOKS: Well thank you, Board
16 Member Jones. Well, suffice it to say, seems to
17 me just on a back of a postage stamp trying to
18 add these numbers up, estimate it, I don't see
19 how you can make a profit unless you're selling a
20 whole lot of liquor. Madam Chair, I'll defer to
21 other Board Members.

22 CHAIR MILLER: All right. Mr. Short.

1 MEMBER SHORT: Good afternoon, Mr.
2 Toran.

3 MR. TORAN: Good afternoon.

4 MEMBER SHORT: Sounds like you're a
5 little, just a little better prepared than you
6 were the last time you were before this Board.

7 MR. TORAN: Thank you, sir.

8 MEMBER SHORT: And I see where you
9 said the Health Department came by and gave you a
10 preliminary inspection?

11 MR. TORAN: Yes, sir.

12 MEMBER SHORT: And they talked to you
13 about the thermometers in your refrigeration and
14 hand sinks and hand towels?

15 MR. TORAN: Correct.

16 MEMBER SHORT: And those weren't in
17 the plans the last time you were here, correct?

18 MR. TORAN: Correct.

19 MEMBER SHORT: So how prepared are you
20 to open up a restaurant in Adams Morgan?

21 MR. TORAN: I'm very prepared.

22 MEMBER SHORT: So all the questions

1 that have been asked by Mr. Brooks today and
2 backup questions by Mr. Jones, you have answers
3 for them?

4 MR. TORAN: Yes, I do.

5 MEMBER SHORT: Okay. Can you again
6 just run over very briefly your food sales and
7 proposed alcohol sales? What kind of profit do
8 you project the first year you'll be in business
9 should this Board give you a license?

10 MR. TORAN: Yes, I guess I didn't know
11 I was going to be answering the profit margin
12 question today. So I guess I didn't prepare for
13 it. I can sit here and do the math. You know?

14 MEMBER SHORT: Can I tell you why I
15 ask that question?

16 MR. TORAN: Sure.

17 MEMBER SHORT: As you were told before
18 when you were here, there are a lot of
19 restaurants that open up and then morph into
20 alcohol establishments or night clubs or places
21 other than restaurants.

22 We just like to make sure that this

1 community isn't overflow with more alcohol
2 selling places and less places that they can eat
3 food when they come to the District Government
4 and say we want to open up an establishment for
5 people to have good food. Now do you understand
6 our questions?

7 CHAIR MILLER: Okay.

8 MR. KLINE: I don't, frankly.

9 CHAIR MILLER: Can I --

10 MEMBER SHORT: Well, I'm asking him.

11 MR. KLINE: I understand, but I'm
12 going to object to the question because we have a
13 statute. We're here under an ABC statute.

14 MEMBER SHORT: Okay.

15 MR. KLINE: And the ABC statute has
16 certain requirements. One of those requirements
17 is not to come in here and make a showing that
18 you're going to be successful.

19 That was why I made that opening,
20 those opening remarks about people who seem to
21 have no clue as to how they were going to be
22 successful and were going to be successful.

1 And guess what? If the ABC Board in
2 those days had done what I think the Board's
3 trying to do here, they would have never opened
4 and they would have never bought that building
5 and they would have never had the opportunity to
6 be successful.

7 So all we're asking for is that
8 opportunity. And I appreciate your questions.
9 And from a business standpoint, Mr. Short, I
10 share all of those concerns with you.

11 From an ABC licensing standpoint, I
12 think we're constrained by the statute. And the
13 statute says what's required to meet, to qualify
14 for a license, what a restaurant is, what the
15 qualifications are for a restaurant.

16 And if he meets those, he's entitled
17 to fail. Hopefully he won't. I'm not here to
18 root for him to fail. But he's entitled to have
19 that opportunity.

20 MEMBER SHORT: I understand your
21 statements, and I respect your statements. But
22 the last comment I made to the licensee, or

1 proposed licensee is we have right now too many
2 places that are supposed to be one thing and
3 morph into another.

4 How can we be assured, and I'll ask
5 the licensee --

6 CHAIR MILLER: Wait, I want to
7 interject here because in all fairness to this
8 Applicant, this is a special hearing and he got
9 notice of a proposed Order that discussed the
10 reasons that his application may be denied.

11 And it went to, specifically, that we
12 didn't believe that based on a hearing the last
13 time that he met the requirements for a
14 restaurant.

15 So the requirements for a restaurant
16 are totally separate from whether or not he has a
17 good business plan or he's going to make it. So
18 I really think that, and that's why the Applicant
19 has said he didn't prepare to come to talk about
20 his profit margins.

21 This is a specific hearing about
22 whether or not he qualifies as a restaurant. And

1 I think that we ought to stick to that at this
2 hearing.

3 MEMBER SHORT: Madam Chair, with all
4 due respect to you also, I have a vote like you
5 have a vote. And I would like to hear this
6 licensee say to me all the things you just
7 explained, is it going to be, has he met the
8 statute.

9 And I'm asking questions that I would
10 like to have answered. And with due respect to
11 you and to the Counsel, I think the Licensee
12 should have a chance to answer my questions.

13 CHAIR MILLER: But okay, but the point
14 is we could go off and ask him all sorts of
15 questions. We could ask him questions about, you
16 know, what's his security plan or what's his --

17 MEMBER SHORT: I didn't --

18 (Simultaneous speaking)

19 CHAIR MILLER: No, I'm just saying
20 that we gave notice that this is what he needed
21 to prepare for. So if you ask that question, I
22 just, I don't think it's within the bounds of the

1 decision that we need to make and --

2 MEMBER SHORT: Madam Chair?

3 CHAIR MILLER: Yes.

4 MEMBER SHORT: Can you then explain to
5 me exactly what statute we are asking questions
6 on today?

7 CHAIR MILLER: Okay. We are looking
8 at the notice of application denial and order
9 that was issued denying, as a proposed order
10 denying a license. And we're looking at whether
11 or not Risky Ventures can satisfy Section 25-
12 113(a)(1), whether it qualifies as a restaurant.

13 MEMBER SHORT: 25-113?

14 CHAIR MILLER: 113(a)(1) and we also
15 cited in there 25-101 (43)(A)(i) talking about
16 what's the definition of a restaurant.

17 MEMBER SHORT: That's what I want to
18 look at.

19 MR. KLINE: Madam Chair, may I address
20 Mr. Short's remarks --

21 CHAIR MILLER: Okay.

22 (Simultaneous speaking)

1 MR. KLINE: -- helpful.

2 CHAIR MILLER: Okay.

3 MR. KLINE: Mr. Short, I appreciate
4 your concerns.

5 MEMBER SHORT: Thank you.

6 MR. KLINE: And you do have a vote, so
7 I want to address them. And I want to address
8 them in this way. The concerns that I think you
9 raise go to the issue of appropriateness.

10 And those issues would be properly
11 addressed at a protest hearing, which we are now
12 by law overdue in having held because this
13 Licensee by statute was guaranteed a protest
14 hearing within X number of days after the filing
15 of this application.

16 So I think if we could get this behind
17 us, then we can get to a protest hearing, and all
18 the issues that you raised are perfectly
19 appropriate in my opinion, which is just mine,
20 with respect to the issue of appropriateness, no
21 pun intended.

22 MEMBER SHORT: Okay. Well, I wasn't

1 speaking to appropriateness. I was speaking
2 basically when I said my opening statements
3 before my questioning was you're a lot better
4 prepared this time than you were last time, which
5 you was not prepared that well.

6 And I would like to make sure that
7 before I vote one way or the other that I'm
8 assured that meets the code and that knowing just
9 these things about sinks and washing and all of
10 that, that should have been a part of what we saw
11 the last time, and I'm glad we're seeing it
12 today.

13 Also, under appropriateness I'm not
14 asking this question, but under licensure or
15 qualifications for a restaurant, if you're going
16 to run a business, you should know and be able to
17 answer any question this Board asks you when it
18 relates to that.

19 MR. KLINE: Wow. I don't know that
20 any of my clients could meet that standard, I'm
21 afraid.

22 MEMBER SHORT: I hope you prepare them

1 a little better. Thank you.

2 MR. KLINE: Just saying.

3 MEMBER SHORT: Yes, yes. Thank you.

4 CHAIR MILLER: Okay. All right, go
5 ahead, Mr. Rodriguez.

6 MEMBER RODRIGUEZ: I want to try to
7 get as close to the restaurant questions as
8 possible. I would like to know more about this
9 process. You're not using a stove, right?

10 MR. TORAN: What do you mean?

11 MEMBER RODRIGUEZ: You will not have
12 a stove in the restaurant, right, a gas stove or
13 electric stove, right?

14 MR. TORAN: That's correct, sir.

15 MEMBER RODRIGUEZ: And I'm --

16 MR. TORAN: I have a microwave stove,
17 sir.

18 MEMBER RODRIGUEZ: And I'm somewhat
19 interested in knowing, you know, this procedure
20 for cooking to make sure that, you know, that the
21 public health is not in any way impaired by this
22 procedure. I'm concerned about the health of the

1 public here. Is that close enough relationship,
2 Counsel, to a restaurant.

3 MR. KLINE: It seems to me that's the
4 Health Department's concern, not the ABC Board's
5 concern.

6 CHAIR MILLER: Right. Yes.

7 MEMBER RODRIGUEZ: Okay. I'm still
8 interested in knowing --

9 MR. KLINE: I mean, there's a case,
10 Kopff vs. the District of Columbia Alcoholic
11 Beverage Regulation Administration that says that
12 we leave the expertise that's within the purview
13 of other agencies to other agencies.

14 And he's already said he's had his
15 health inspection. They've come in and said yes,
16 there's a few things you have to do.

17 MEMBER RODRIGUEZ: Right.

18 MR. KLINE: And that if he meets those
19 requirements, that he'll be approved for the
20 issuance of a business license.

21 MEMBER RODRIGUEZ: So the --

22 MR. KLINE: To go behind that I think

1 intrudes upon the expertise of another agency.

2 MEMBER RODRIGUEZ: So the process
3 then, for the cooking process, you know, it does
4 impact the public health. We're saying here then
5 that that's up to the Health Department and that
6 any establishment that we license, we don't have
7 to worry about the health. Let the Health
8 Department worry about it.

9 MR. KLINE: Mr. Rodriguez, we're all
10 concerned about health. But from a licensing and
11 a legal standpoint, the issues of food safety are
12 left to the Health Department just as the issues
13 of alcohol safety are left to this Board and to
14 its agency, ABRA.

15 I hope we wouldn't expect the Health
16 Department to weigh in on safe practices with
17 respect to service of alcohol because that's the
18 province of this Board.

19 And with respect to food safety and
20 the health of particular methods of preparation,
21 and I think the perfect example is sous-vide
22 which for years there was a big controversy with

1 the Health Department.

2 And they've finally figured it out and
3 gotten over it and come up with some
4 requirements. But these big name chefs that are
5 named in this article had fights with the Health
6 Department over that very issue.

7 And I would submit that this Board
8 would not be equipped to deal with those fights
9 because this Board isn't charged with having the
10 expertise to do that.

11 MEMBER RODRIGUEZ: I'll let it go at
12 this point and see what the other Board Members,
13 other questions that they have. Madam Chair,
14 thank you.

15 CHAIR MILLER: Yes, Mr. Short.

16 MEMBER SHORT: Okay. Looking at
17 statute, and thank you very much, Madam Chair.
18 I'm looking at Chapter 25-101.1 Definitions, and
19 it goes to (43), restaurant means a space in a
20 building with shell.

21 And then I'll skip over A and I'll go
22 to A-2. And it says be held out to be known by

1 the public as a primarily a food service
2 establishment. So I guess my questions was going
3 to that. Is this going to be primarily a food
4 establishment?

5 MR. TORAN: Yes.

6 MEMBER SHORT: Okay. And the figure
7 you gave us of \$130,000 or \$160,000 is going to
8 be -- if you didn't have alcohol could you make a
9 profit? Would you be primarily a restaurant?

10 MR. TORAN: That's going to my math
11 question. I'm willing to do the math question
12 here, but as we stand on my application, my food
13 sales are more than my alcohol sales.

14 MEMBER SHORT: Okay. Again, the
15 question is will you be held out to be known by
16 the public as primarily a food service
17 establishment?

18 MR. TORAN: Yes.

19 MEMBER SHORT: Thank you. That's the
20 only question I had. Thank you. Is that okay
21 with you?

22 MR. KLINE: Yes, sir. You're the

1 Board. You can ask whatever you want. I just --

2 MEMBER SHORT: Oh, oh.

3 MR. KLINE: -- want to guide it along.

4 MEMBER SHORT: Thank you. I'm trying
5 to do that. Thank you.

6 CHAIR MILLER: Others? Mr. Jones?

7 MEMBER JONES: Thank you, Madam Chair.

8 Sir, I just wanted to, so just for the record, I
9 actually agree wholeheartedly with your Counsel's
10 position in terms of everyone should have an
11 opportunity to fail in that sense.

12 My primary concern, I'm a numbers guy,
13 but that's not really my driver right now. I'm
14 more concerned about just how you're going to
15 operate a restaurant in my understanding of what
16 a restaurant is in accordance with the
17 regulations and the terminology associated
18 therewith.

19 So that's really the crux of my
20 questions, just to lay the foundation so that I
21 don't get interrupted unnecessarily throughout
22 this process.

1 So as far as your floor plan that you
2 have here, I want you to help me understand
3 because this is, just for the record this is, you
4 did this, you, you personally did this floor
5 plan, correct?

6 MR. TORAN: Yes.

7 MEMBER JONES: Okay. So this hasn't
8 been reviewed by any public official, any
9 regulating body? This is just a notional concept
10 of what you think, think may be possible?

11 MR. TORAN: I feel like there's a lot
12 of questions there. But I didn't know that --

13 MEMBER JONES: I can break it down.
14 Did you draw this picture?

15 MR. TORAN: Yes.

16 MEMBER JONES: Okay. Has this been
17 approved by anyone?

18 MR. TORAN: Who would approve -- I
19 don't know who would approve -- I didn't know I
20 had to ask permission to put my tables in a
21 certain place.

22 MEMBER JONES: Okay. So has it been

1 approved by anyone?

2 MR. TORAN: No.

3 MEMBER JONES: No, okay. Has this
4 been presented formally to anyone with detailed
5 knowledge of the laws and regulations associated
6 with operating a restaurant in the District of
7 Columbia?

8 MR. TORAN: Yes.

9 MEMBER JONES: Who?

10 MR. TORAN: The ABRA Board.

11 MEMBER JONES: Outside of us.

12 MR. TORAN: No.

13 MEMBER JONES: No, okay. Has an
14 architect been consulted regarding the continuity
15 and the placement and the distribution and the
16 scale of this diagram?

17 MR. TORAN: Continuity, I don't
18 understand that question.

19 MEMBER JONES: Has this been presented
20 to an architect?

21 MR. TORAN: No.

22 MEMBER JONES: No, okay. So this

1 truly is just a cartoon concept of what may or
2 may not be approved for operation should you get
3 a license.

4 MR. TORAN: It's a cartoon concept of
5 what?

6 MEMBER JONES: A cartoon concept of
7 your operations.

8 MR. TORAN: I'm not familiar with the
9 term cartoon concept.

10 MEMBER JONES: Is this drawn to scale?

11 MR. TORAN: No.

12 MEMBER JONES: Do you have any reason
13 to believe and/or know that it will be approved
14 by a governing body such as DCRA?

15 MR. TORAN: I'm a little confused.

16 MEMBER JONES: Are you familiar with
17 what DCRA is?

18 MR. TORAN: Yes, I am.

19 MEMBER JONES: Okay. Are you
20 familiar, do you believe that you have to submit
21 drawings to DCRA?

22 MR. TORAN: No, I don't have to submit

1 drawings to DCRA.

2 MEMBER JONES: You do not?

3 MR. TORAN: Correct.

4 MEMBER JONES: Okay. So when you get
5 stuff approved for putting in sinks and putting
6 in permanent structures and other things along
7 those lines in this space, that doesn't have to
8 be approved to your knowledge?

9 MR. TORAN: I haven't been making
10 those types of improvements.

11 MEMBER JONES: So I thought you
12 mentioned that you have to put in a sink.

13 MR. TORAN: No. The signs by the hand
14 washing sinks, towels by the hand washing sinks.

15 MEMBER JONES: Oh, I'm sorry. Okay,
16 I misunderstood. I apologize. Where are the
17 hand washing sinks?

18 MR. TORAN: There's a total of three.
19 There's one in the bathroom which isn't on that.
20 There's one behind the bar and there's one in the
21 food prep area.

22 MEMBER JONES: Okay. So this doesn't

1 really capture the whole layout of your place
2 because you mentioned bathrooms and that was one
3 of the questions that I had is I'm not seeing
4 where your patrons are going to relieve
5 themselves.

6 MR. TORAN: Yes, there is a bathroom.

7 MEMBER JONES: Okay. Where is that
8 bathroom? Well I guess, it seems pretty clear
9 that this isn't really, I can't really use this
10 diagram to get a good feel for how your
11 operations is set up or is going to be set up.

12 Would you be amenable to providing,
13 I'm not sure if this is appropriate to ask and
14 I'm sure I'll be chastised if it's not, but to
15 get a real drawn to scale drawing that is truly
16 representative at some point?

17 MR. KLINE: We'll follow within seven
18 days of the hearing.

19 MR. TORAN: Yes, I'll follow up within
20 seven days of the hearing.

21 MEMBER JONES: Okay, because my
22 concern is I'm not seeing how, just so for the

1 record, I'm not seeing where you have sufficient
2 space to accommodate all of the items that you
3 noted. Not saying it's not possible.

4 I'm just, I'm an ignorant person and
5 I need you to help me clarify what I don't
6 understand to get to the point where I'm not as
7 ignorant in terms of how you're going to operate
8 this as truly a restaurant versus a bar.

9 And that's my challenge is I can't see
10 physically from this space layout how that's
11 going to happen. The other aspect of my concern
12 is this really hasn't been approved by any
13 governing body.

14 So there's nothing in stone that says
15 this all won't change and that these tables will
16 go away and this becomes an open floor space for
17 a bar and you'll operate it as a bar for as long
18 as you can until you get your license revoked or
19 something along those lines.

20 And I'm not seeing that here. I'm not
21 saying that that's your intent. But that's a
22 concern that I have that hasn't been addressed.

1 And for the record, how much square footage do
2 you need for your sous-vide, or however it is you
3 pronounce it, this special cooking process?

4 MR. TORAN: Less than 100.

5 MEMBER JONES: You said you need less
6 than 100 square feet?

7 MR. TORAN: Yes.

8 MEMBER JONES: So more than how many
9 square feet?

10 MR. TORAN: I don't know the more than
11 figure.

12 MEMBER JONES: What's the typical size
13 of this device?

14 MR. TORAN: The machine?

15 MEMBER JONES: Yes, the machine.

16 MR. TORAN: Oh, I mean, the machine
17 can be as small as, basically it can be as small
18 as, like, a little pump that you add to a pan
19 that one already has. It could be the size of a
20 toaster, and it can go all the way up to, like,
21 probably about the size of this portion.

22 MEMBER JONES: Okay. So given your

1 anticipated patron load and your budget, what
2 would be the rough estimated size of the unit
3 that you have spec'd out?

4 MR. TORAN: I guess I spec'd it more
5 from price. And so I didn't, I mean, the number
6 that I had, you know, the number that I had in my
7 mind was having a machine large enough to be able
8 to have nine steaks in it.

9 MEMBER JONES: Nine steaks in it
10 simultaneously?

11 MR. TORAN: Correct.

12 MEMBER JONES: Okay. So you're saying
13 you haven't done the assessment to know what
14 size, physical dimensions that is?

15 MR. TORAN: That number wasn't
16 important to me.

17 MEMBER JONES: So that concerns me.

18 MR. TORAN: Well again, we can --

19 MEMBER JONES: And I'll explain why.
20 It concerns me because you have a very small
21 footprint that you have to work with, so every
22 square foot, I think even your Counsel mentioned

1 that every square inch of your place is going to
2 be used because it's so small.

3 And you responded to that in the
4 affirmative, yes. So I think conceptually I get
5 that. I'm just trying to understand how you're
6 going to put these pieces in that you're saying
7 are necessary for it to be a restaurant in the
8 space that you have.

9 MR. TORAN: Again, if I was, you know,
10 if I came in here knowing that specific questions
11 about, like, the size of my sous-vide was going
12 to be asked, I would answer them. You know, if
13 you give me notice of what you're going to, what
14 you want to talk about, I'll do my homework.

15 But when I'm making a business
16 decision on whether a sous-vide machine is going
17 to work for me, I take a look at it, I take a
18 look at the cost, I might look to see if it takes
19 a 240 volt power requirement.

20 But my brain capacity just doesn't
21 work in it's going to be, like, 4.5 liters or
22 something like that. But if somebody tells me I

1 need to remember that, I'll remember that.

2 MEMBER JONES: Okay, that's all I
3 have, Ma'am.

4 CHAIR MILLER: Okay. I'm going to
5 step in, and then if there are other questions,
6 Board members can ask them. But I want to focus
7 on, the reason I want to step in now is because I
8 want to focus on the questions that we put in the
9 Order, put in this Applicant on notice.

10 So this hearing is about that Risky
11 Ventures did not demonstrate to the satisfaction
12 of the Board its ability to operate as a
13 restaurant. I'm reading from Page 3 of the
14 Order.

15 Under Section 25-101 (43)(A)(i), a
16 restaurant must be ready, willing, and able to
17 prepare and serve food, have a kitchen which
18 shall be regularly open, have a menu in use, have
19 sufficient food on hand to serve the patrons from
20 the menu, and have proper staff present to
21 prepare and serve the food.

22 The Board concluded that Risky

1 Ventures will not have sufficient food on hand.
2 The primary item on Risky Venture's menu is
3 popcorn and sandwiches. And, yes, under its
4 current business plan, an employee must go across
5 the street and obtain the sandwich from another
6 vendor as sandwiches are ordered by customers.

7 Under those circumstances, the Board
8 couldn't find that Risky Ventures qualified as a
9 restaurant. And secondly, Paragraph 12 of our
10 Order says that we concluded that Risky Ventures
11 cannot qualify as a restaurant based on its
12 inadequate kitchen.

13 In addition to the definition provided
14 under part (A), an establishment may also qualify
15 as a restaurant under 25-101 (43)(B)(I) by having
16 adequate kitchen and dining facilities.

17 Risky Ventures does not have a stove,
18 has no pots and pans, and has at most five bowls.
19 Under these circumstances, the Board finds that
20 Risky Ventures' food preparation area does not
21 qualify as an adequate kitchen under 25-101
22 (43)(B)(I).

1 Okay, so you have come in with a
2 little bit different plans than we heard at that
3 hearing. Okay, so which directly goes to these
4 two paragraphs, for instance, having the food on
5 hand.

6 You are no longer talking about your
7 employee going across the street and buying a
8 sandwich from So's Your Mom. You are now talking
9 about buying your own food and making it in your
10 kitchen.

11 MR. TORAN: Correct.

12 CHAIR MILLER: Correct?

13 MR. TORAN: Yes.

14 CHAIR MILLER: Okay, that's a major
15 change. I wanted to ask you about that, number
16 one, what is a craft sandwich?

17 MR. TORAN: I guess it's just the
18 fancy adjective in front of a sandwich that makes
19 it sound special.

20 CHAIR MILLER: Okay. And you
21 submitted a menu, an example menu in your packet
22 today.

1 MR. TORAN: This menu is what we're
2 prepared to go with on opening.

3 CHAIR MILLER: Okay. So this is
4 basically an example of what your menu's going to
5 be, but it could change depending on what's being
6 sold in the farm markets, et cetera?

7 MR. TORAN: Correct.

8 CHAIR MILLER: Okay. Are you
9 primarily buying from farm markets?

10 MR. TORAN: Yes, as much as possible.
11 I would like to support the local economy as much
12 as possible, so yes. Where I can source from
13 farmer's market, that would be my preference.

14 CHAIR MILLER: Okay. So you're going
15 to have sandwiches made with your Panini makers?

16 MR. TORAN: Yes. Some of them will
17 require the Panini makers. Let's see. Yes.
18 Largely the Panini maker and the microwave.

19 CHAIR MILLER: And microwave?

20 MR. TORAN: Yes, ma'am.

21 CHAIR MILLER: And/or cold sandwiches?

22 MR. TORAN: Well, cold sandwiches

1 won't receive any heat.

2 CHAIR MILLER: Okay. Are you going to
3 have, at least it sounds like it's not part of
4 your plan right now to have a George Foreman
5 Grill, you're just, you're going to be using just
6 the Panini maker?

7 MR. TORAN: Just Panini maker.

8 CHAIR MILLER: Okay. And you're going
9 to be serving coffee and things like that?

10 MR. TORAN: I have an espresso
11 machine, but that's not part of what I presented
12 here to the Board.

13 CHAIR MILLER: Okay. Okay, so anyway,
14 that is a major change as far as I can see from
15 popcorn and going across the street for
16 sandwiches. Okay.

17 With respect to kitchen facilities, I
18 read to you, I guess, what the Board found were
19 your kitchen facilities, well what weren't in
20 your kitchen facilities. You do have a
21 refrigerator, correct?

22 MR. TORAN: Yes, ma'am.

1 CHAIR MILLER: All right, do you have
2 a freezer too, or just a refrigerator?

3 MR. TORAN: No freezer.

4 CHAIR MILLER: Okay. And no stove,
5 but you have a microwave and a Panini maker,
6 correct? And an espresso machine?

7 MR. TORAN: Yes.

8 CHAIR MILLER: No pots and pans?

9 MR. TORAN: No pots and pans. I do
10 have bowls. There is a complete list of stuff
11 that will be in the kitchen --

12 CHAIR MILLER: Oh, there's a complete
13 list there, I'm sorry. That's in your package
14 today?

15 MR. TORAN: Yes, it is.

16 CHAIR MILLER: All right, I'm sorry.
17 I don't --

18 MEMBER JONES: The page isn't
19 numbered, but it says list of equipment at the
20 top.

21 CHAIR MILLER: Okay. Is it after
22 these ingredients? Yes okay, I see it. Oh,

1 okay. I think, I'm not sure if it's in our order
2 but I know it's in the transcript. Are you going
3 to be using paper plates or are you going to be
4 using china plates or whatever?

5 MR. TORAN: At the recommendation of
6 Elizabeth Stevens, we have been going to yard
7 sales and sourcing ceramic plates.

8 CHAIR MILLER: So you're getting --
9 not going to be using paper plates?

10 MR. TORAN: So we do have a full
11 supply of ceramic plates now.

12 CHAIR MILLER: Okay, all right.

13 MR. TORAN: Along with, like,
14 glassware and silverware. And so we've kind of
15 picked them up from rummage sales around and they
16 have different looks. But yes, they're all
17 ceramic.

18 CHAIR MILLER: Okay, okay. Why do you
19 think, if you do, that you have kitchen
20 facilities, which is not defined in our reg, but
21 --

22 MR. TORAN: Because I have a dedicated

1 space that prepares food.

2 CHAIR MILLER: You have a dedicated
3 space to prepare food?

4 MR. TORAN: Yes, a dedicated space
5 inside of the building that prepares food.

6 CHAIR MILLER: And what does that
7 consist of?

8 MR. TORAN: Well, grilling asparagus
9 for one --

10 CHAIR MILLER: No, I mean, what's the
11 space that's dedicated? What do you have there?
12 I mean, do you have a prep table, do you have --
13 what's your dedicated space?

14 MR. TORAN: So I have a place, an
15 area, in the rentable space an area that is cut
16 off from the public by actual walls.

17 CHAIR MILLER: Okay.

18 MR. TORAN: And a curtain.

19 CHAIR MILLER: Okay.

20 MR. TORAN: And so in there you're
21 going to have a means to clean things, mainly a
22 three hole sink, a place to wash one's hands.

1 CHAIR MILLER: Right.

2 MR. TORAN: A food prep table, a cold
3 storage, knives to prepare food, a Panini grill
4 and a microwave oven in order to heat stuff and
5 cook stuff if need be.

6 CHAIR MILLER: Okay, all right. Okay,
7 thank you.

8 MR. TORAN: Thank you.

9 CHAIR MILLER: Others? Mr. Short?

10 MEMBER SHORT: Again, good afternoon.

11 MR. TORAN: How are you doing?

12 MEMBER SHORT: You've heard our
13 questions, you know, I think some of us are
14 looking forward to seeing you address. It's a
15 very serious business having a restaurant in an
16 area that's already congested and having
17 restaurants that aren't actually restaurants but
18 are morphing as something else. We would like
19 for you to take care of that before we see you
20 again. Is that proper to say?

21 MR. TORAN: Well, I'm not sure quite
22 what was said --

1 CHAIR MILLER: Not sure what you mean.

2 MEMBER SHORT: Okay, well let me --

3 CHAIR MILLER: And --

4 MEMBER SHORT: I'll ask the question.

5 CHAIR MILLER: Okay.

6 MEMBER SHORT: Is your restaurant

7 going to be a primary restaurant for the

8 establishment that you want to open, Risky

9 Business?

10 MR. TORAN: Yes, I think so.

11 MEMBER SHORT: Primary food sales?

12 MR. TORAN: Yes, that's what we do is

13 we sell food.

14 MEMBER SHORT: And you will go to DCRA

15 and find out whether or not you have the space

16 and capacity to do the things you want to do with

17 the seating and the bar and restrooms and all

18 those things that D.C. law require for you to

19 have as a business?

20 MR. TORAN: Yes, sir. I have gotten,

21 I do have my Certificate of Occupancy. So, you

22 know, I --

1 MEMBER SHORT: I understand that.
2 Again, your Certificate of Occupancy is just a
3 general business provision, correct?

4 MR. TORAN: Yes. Well --

5 MEMBER SHORT: Yes or no?

6 MR. TORAN: I don't know. I'm not
7 ready, I wasn't prepared to answer --

8 MEMBER SHORT: Okay, well will you be
9 ready to answer that question or provide that
10 through your attorney to us because basically if
11 you don't know, we don't know.

12 MR. TORAN: Okay.

13 MEMBER SHORT: But you're asking us to
14 trust you to give you a license or give you a
15 permit to do something and you don't have an idea
16 what you're doing. That's what you just said to
17 me.

18 MR. TORAN: I didn't say, I didn't
19 mean it to come across that way.

20 MEMBER SHORT: Okay, well --

21 MR. TORAN: What I was trying to
22 convey is that I didn't really know what -- I

1 wanted to do more homework on what a Certificate
2 of Occupancy represents and be prepared to answer
3 that.

4 MEMBER SHORT: Please do. Please do.

5 MR. TORAN: Okay.

6 MEMBER SHORT: Thank you.

7 MR. TORAN: You're welcome. Thank
8 you.

9 CHAIR MILLER: Okay. Mr. Jones?

10 MEMBER JONES: Thank you, Madam Chair.

11 I just, your attorney asked you some questions
12 earlier about some inspections that you've had.
13 Did I misunderstand or mishear? Do you recall
14 your attorney asking you questions about any
15 inspections you've had?

16 MR. TORAN: No.

17 MEMBER JONES: No? Do you have all of
18 the licensed documents, paperwork necessary to
19 operate as a restaurant without the sale of
20 alcohol in the District of Columbia?

21 MR. TORAN: No.

22 MEMBER JONES: No? Okay. So what has

1 to happen in order for you to have those
2 documents?

3 MR. TORAN: I need to cure the defects
4 identified by the Health Department.

5 MEMBER JONES: Okay, so you did have
6 an inspection by an entity. That entity was the
7 Health Department?

8 MR. TORAN: Correct.

9 MEMBER JONES: Okay. So you did have
10 an inspection?

11 MR. TORAN: Correct.

12 MEMBER JONES: So as part of that
13 inspection they identified, what are the major
14 issues that were identified? Can you repeat the
15 ones that you noted when you were asked by your
16 counsel?

17 MR. TORAN: Not having a food service
18 manager on duty. Not having signs, employees
19 must wash their hands signs posted at the wash
20 sinks. Not having paper towels at all hand
21 washing sinks. And let's see, what else was
22 there? But those are pretty much the major ones.

1 They weren't asking for any -- they
2 wanted a thermostat in my refrigerator. But
3 basically they weren't structural things that
4 they wanted me to change, they just were, they
5 weren't structural things they asked me to
6 change, so nothing that would require a permit.

7 MEMBER JONES: Okay. You mentioned
8 that, when you were responding to the Chairman's
9 questions you mentioned you had a, is it a three
10 bowl sink in your kitchen?

11 MR. TORAN: Correct.

12 MEMBER JONES: Okay, that's currently
13 in place?

14 MR. TORAN: Correct.

15 MEMBER JONES: Okay. And you also
16 currently have a refrigerator?

17 MR. TORAN: Correct.

18 MEMBER JONES: Okay. The only thing
19 that you would need to operate your restaurant
20 that you don't have, well is the only thing that
21 you need that you don't have to operate your
22 restaurant from an equipment or infrastructure

1 standpoint, is it the sous-vide machine?

2 MR. TORAN: No, I don't need that in
3 order to operate.

4 MEMBER JONES: Okay, so you don't need
5 that? So you have everything that you need in
6 order to operate your restaurant as you've
7 promoted it to us as to how you're going to
8 operate it in hand right now?

9 MR. TORAN: So yes. I mean, obviously
10 I need to have a health inspection --

11 MEMBER JONES: No, no, I'm sorry. I
12 just want to make sure I'm clear. I'm just
13 talking from the standpoint of infrastructure?

14 MR. TORAN: Oh, yes, yes.

15 MEMBER JONES: And equipment.

16 MR. TORAN: Yes.

17 MEMBER JONES: So you do not need to
18 buy a sous-vide machine?

19 MR. TORAN: No.

20 MEMBER JONES: Okay. So --

21 MR. TORAN: I would like to buy a
22 sous-vide machine, but I don't need to.

1 MEMBER JONES: Got it, okay. That's
2 fair enough. So from that standpoint, do you
3 have everything that you need positioned as it
4 would be positioned when you're in operation?

5 MR. TORAN: No.

6 MEMBER JONES: No, okay. So how is it
7 scattered throughout your establishment? For
8 example, you mentioned that they said you needed
9 a thermostat in your refrigerator?

10 MR. TORAN: Right.

11 MEMBER JONES: Where is your
12 refrigerator physically located?

13 MR. TORAN: Okay, so I mean, I've
14 moved, like, you know, my pest inspection guy
15 recommended that I move my refrigerator. So I've
16 placed that actually near where one of the tables
17 are in the diagram.

18 MEMBER JONES: So you moved your
19 refrigerator where you're going to be keeping --

20 MR. TORAN: It's not a permanent move.
21 So that the exterminator could get access to a
22 certain hole, I moved the refrigerator.

1 MEMBER JONES: So the exterminator
2 could get access to a certain hole --

3 MR. TORAN: Correct.

4 MEMBER JONES: -- you moved the
5 refrigerator.

6 MR. TORAN: Correct.

7 MEMBER JONES: Okay. But do you have
8 a permanent location as to where you anticipate
9 having your refrigerator when you're in
10 operation?

11 MR. TORAN: Yes.

12 MEMBER JONES: Okay. I'm asking that
13 from the standpoint of the document that you
14 offered to provide in seven days, I would like to
15 have an understanding of where all these elements
16 are.

17 MR. TORAN: Okay.

18 MEMBER JONES: Draw it out to scale so
19 I can have a true appreciation that they actually
20 fit in your restaurant.

21 MR. TORAN: Okay.

22 MEMBER JONES: Okay, thank you. Thank

1 you, Madam Chair.

2 CHAIR MILLER: Okay. All right.

3 MEMBER SHORT: Let me ask one last
4 question, Madam Chair.

5 CHAIR MILLER: Okay, Mr. Short?

6 MEMBER SHORT: The menu you provided
7 for us today, is this a sous-vide menu or can you
8 use a regular stove?

9 MR. TORAN: I don't need any
10 additional equipment to perform my menu.

11 MEMBER SHORT: Do you have a stove?

12 MR. TORAN: No, sir.

13 MEMBER SHORT: You don't have a sous-
14 vide machine?

15 MR. TORAN: No, sir.

16 MEMBER SHORT: So how are you going to
17 warm these sandwiches up or how are you going to
18 cook them?

19 MR. TORAN: I'm going to cook them
20 using a Panini grill and a microwave.

21 MEMBER SHORT: Okay, thank you.

22 MR. TORAN: You're welcome.

1 MEMBER SHORT: That's all I have,
2 Madam Chair.

3 CHAIR MILLER: Mr. Rodriguez?

4 MEMBER RODRIGUEZ: One comment. We do
5 have the concern that, may be Health Department,
6 but it's trash. And today we fined a licensee
7 because of trash problems. That's a health
8 problem.

9 So we do have some purview with
10 respect to health, counsel, the way I see that.
11 But I know where you were getting that, okay. So
12 I'm not going to pick a fight with you today.

13 But I do want to say this, and I'll
14 make an observation that a liquor license would
15 empower this business. It would.

16 MR. TORAN: Yes.

17 MEMBER RODRIGUEZ: Because solely on
18 food I don't know, there have been questions
19 about that. And Counsel indicates and admonishes
20 us to consider that, you know, it's going to be
21 all right with the food and nothing else matters.

22 But, you know, my instincts tell me,

1 and this is why I'm asking about the health
2 related questions, that a liquor license does
3 empower, would empower your business to succeed.
4 That's all I got to say on that.

5 MR. TORAN: A lot of power you guys
6 have.

7 CHAIR MILLER: All right, any other
8 questions? Do you want to ask him any questions?

9 MR. KLINE: Just one or two.

10 CHAIR MILLER: Okay.

11 MR. KLINE: Mr. Toran, there were
12 questions to you about a sous-vide machine and
13 its size. You've seen this sous-vide machine,
14 right?

15 MR. TORAN: Yes.

16 MR. KLINE: How big is it?

17 MR. TORAN: It's this. I mean, it's
18 no bigger --

19 MR. KLINE: Okay. Can you estimate so
20 we have a record --

21 MR. TORAN: I mean, it's like, it's
22 two, three shoe boxes combined. I mean, it's

1 not, you know, it's no bigger than a microwave.

2 And a microwave is bigger than --

3 MR. KLINE: So when you suggested that
4 you needed 100 square feet for that before, were
5 you confused?

6 MR. TORAN: When I answered that
7 question I thought of how much of my space was
8 going to be dedicated to food prep.

9 MR. KLINE: To food prep?

10 MR. TORAN: Correct.

11 MR. KLINE: Okay. But in reality, A
12 sous-vide machine, it sits on a counter and you
13 need maybe two square feet of counter space for
14 that?

15 MR. TORAN: Correct. Correct.

16 MR. KLINE: Okay.

17 MR. TORAN: It's going to take more
18 space for the person to walk and, you know, be
19 able to get the plates and all that stuff than
20 the actual machine is going to take up.

21 MR. KLINE: All right. And we're
22 clear that you did indeed have an inspection by

1 the Health Department?

2 MR. TORAN: Yes.

3 MR. KLINE: And there are certain
4 things that you have to correct?

5 MR. TORAN: Correct.

6 MR. KLINE: And that point you'll have
7 a health inspection, you'll be able to get a
8 basic business license, correct? And at that
9 point you would be free to open to the public to
10 sell food and operate as a restaurant. Is that
11 your understanding?

12 MR. TORAN: That's correct, yes.

13 MR. KLINE: All right, because you
14 have a Certificate of Occupancy?

15 MR. TORAN: Correct.

16 MR. KLINE: And it is for a
17 restaurant?

18 MR. TORAN: It's for prepared food.

19 MR. KLINE: Okay. All right. The
20 only other thing I have is I want to move the
21 amendment to the Application that's part of the
22 package, included it as an attachment. But I

1 want to make clear to the Board that we intend
2 that to be an amendment to the Application.

3 We can submit it to licensing staff if
4 the Board prefers, but I didn't want to get out
5 of here without making sure that I took care of
6 that detail so the Board was clear that, you
7 know, we consider this an amendment to the
8 Application.

9 CHAIR MILLER: All right, let me see.
10 Are there specific pages in here, the amendment?

11 MR. KLINE: Yes. It's the page
12 between the drawing and the list of equipment.
13 And it references 15 and 17(A). And I'll be
14 happy to have my office transmit that to
15 licensing staff with a cover letter, but I didn't
16 want the Board to think that we just put an
17 amendment in the package.

18 CHAIR MILLER: Right.

19 MR. KLINE: And then it wouldn't
20 intend it to be part of the Application.

21 CHAIR MILLER: Okay, okay. All right.
22 So you will be forwarding that to licensing. And

1 we have it, I got it. Okay, we have it here for
2 our knowledge of the amendment that's coming.
3 Okay.

4 (Simultaneous speaking)

5 MR. KLINE: And then for the record,
6 and I would like to make a brief closing before
7 we get out of here also --

8 CHAIR MILLER: Right.

9 MR. KLINE: -- we would like to take
10 Mr. Jones up on his offer to allow us to submit a
11 revised drawing detailing the items that were
12 discussed here today so that everybody's clear as
13 to how the premises lays out along with a copy of
14 the Certificate of Occupancy if that's not
15 already in the Board's files.

16 CHAIR MILLER: So the revised
17 drawing's going to identify what exactly, where
18 things are placed?

19 MR. KLINE: Where the bathrooms are --

20 CHAIR MILLER: Bathrooms, okay.

21 MR. KLINE: -- more detailed where the
22 storage areas are, the --

1 MEMBER JONES: Kitchen layout, where
2 the refrigerator is, sinks are with appropriate
3 dimensions so I know that there's enough walking
4 space between these items, et cetera. Scale
5 drawing.

6 CHAIR MILLER: Scale drawings. And do
7 you mean by an architect?

8 MEMBER JONES: Doesn't have to be by
9 an architect, no.

10 CHAIR MILLER: No? Okay.

11 MEMBER JONES: Just needs to be a
12 scale drawing.

13 CHAIR MILLER: Just want to make sure
14 you two are on the same page so what comes in is
15 what was asked for.

16 MR. KLINE: A competent draft person.

17 CHAIR MILLER: Okay. All right.

18 MEMBER SILVERSTEIN: Something that's
19 not a cartoon.

20 MEMBER JONES: Yes.

21 CHAIR MILLER: Okay. Mr. Toran, we're
22 finished with you as a witness, so you can go and

1 take -- or not.

2 MEMBER RODRIGUEZ: One short comment.

3 CHAIR MILLER: Oh, I'm sorry. Mr.

4 Rodriguez?

5 MEMBER RODRIGUEZ: And that is that we
6 made a commitment to the Adams Morgan community
7 about ensuring that restaurants don't morph into
8 nightclubs. We've had a lot of problems with
9 that.

10 And I live a few blocks from where
11 this potential restaurant is. So I take it
12 personally, really. And so we want to make sure
13 that we don't take too many risks.

14 MR. TORAN: And also to assure you,
15 sir, is I live in the neighborhood also, a couple
16 blocks from where the place exists. It's
17 basically the only neighborhood I've known here
18 in D.C. And so currently I walk through the
19 neighborhood with my head up and I continue to do
20 so.

21 MEMBER RODRIGUEZ: I hope we're on the
22 same page on that issue.

1 MR. TORAN: Absolutely, sir. I mean,
2 yes, absolutely.

3 CHAIR MILLER: I have a question,
4 actually. Are you going to be the chef, or is
5 there going to be, are you going to hire a chef?

6 MR. TORAN: I'm going to primarily be
7 the chef. I'm going to go and get the license.
8 I am using a menu consultant, Elizabeth Stevens.
9 She's helped me put this together.

10 Her food manager license has expired,
11 but she's willing to get, you know, to get that
12 renewed. So creativity is going to come from
13 her, the actual providing the structure for
14 making it happen, you know, the logistics and the
15 management of materials and all that stuff's
16 going to fall on me.

17 And then I would like to have another
18 person there that would be able to basically
19 follow these recipe sheets that we had and put
20 the sandwiches together.

21 CHAIR MILLER: I mean, are you a chef
22 or have you cooked in the past for --

1 MR. TORAN: I have over 20 years
2 experience in the food industry, food services
3 industry.

4 CHAIR MILLER: Okay. Okay.

5 MEMBER JONES: So just to make sure
6 I'm clear, that really wasn't responsive to her
7 question because you could have had experience
8 for 20 years as a bus boy. So she asked you, and
9 I would like to know the answer even if she
10 doesn't, have you been a chef or have you cooked
11 before in your 20 years of experience?

12 MR. TORAN: Yes I've cooked before, no
13 I haven't been a chef.

14 MEMBER JONES: Okay. And the nature
15 of what you've cooked, is it along the same lines
16 as what you're planning to prepare and serve at
17 your restaurant?

18 MR. TORAN: No, I would say that the
19 things that I've served as a line cook, when I
20 served as a line cook they've been probably a
21 little bit more challenging than what we're
22 putting together here at the restaurant.

1 MEMBER JONES: Okay. And have you
2 ever cooked in an environment where you didn't
3 have a stove?

4 MR. TORAN: Yes.

5 MEMBER JONES: Okay. And was it a
6 sous-vide environment?

7 MR. TORAN: No.

8 MEMBER JONES: Okay. Thank you.
9 Thank you, Madam Chair.

10 CHAIR MILLER: Okay, thank you.
11 Anybody else? Okay, all right, now you can go
12 take a seat at the table. Thank you very much.

13 MR. TORAN: Thank you.

14 CHAIR MILLER: Mr. Kline is going to
15 do a closing.

16 MR. KLINE: Yes. Thank you, Madam
17 Chair, Members of the Board. I apologize. It
18 certainly is not my intent to admonish the Board
19 in any way. I just want to make sure that we
20 stay focused on what the law is and try to apply
21 that law.

22 We all have different concepts of what

1 a kitchen looks like, what a restaurant looks
2 like. And in most cases, the Board really has
3 been pretty liberal about what that is. I mean,
4 I can point to a number of licensees and
5 different methods of food preparation.

6 Let's look at the very popular &Pizza
7 which has been licensed by this Board. Please
8 show me where their kitchen is because all I see
9 is a big room with a conveyor belt and a little
10 toasty thing where the pizzas flow through.

11 They're delicious and the food's very
12 good, but in terms of us picking apart what a
13 kitchen looks like and what it's supposed to have
14 to prepare food, it's certainly beyond my
15 expertise.

16 I'll leave that to the Board as to
17 whether they think they have a better idea. But
18 in terms of &Pizza, I can't find a kitchen in
19 there in terms of the traditional kitchen that
20 one might think of.

21 A sushi restaurant that's pure sushi,
22 what do they need? They need a place to store

1 fish, and a place to roll the sushi. And in
2 terms of a stove or an oven or any of that stuff,
3 they don't need any of that.

4 So I just want to make sure that we
5 not get too hung up on thinking of a kitchen like
6 the kitchen in our house, that it has a stove and
7 it has an oven because it may or may not have
8 those things.

9 All the ABC statute requires is that
10 there be a kitchen and you can prepare to serve
11 food. But I've had this conversation with the
12 Health Department which is, again, different
13 board and this Board gets to interpret this law
14 and apply it, and I respect that.

15 But the conversation with the Health
16 Department goes something like this with respect
17 to specifically nightclubs. They require that
18 you have a kitchen. I disagree with them, I
19 think there's a miscellaneous food service
20 license that should be available.

21 And my clients always ask me, they say
22 well, okay we can pay you to fight with them, or

1 what do we have to have to put in a kitchen? And
2 the Health Department will tell us we need the
3 three compartment sink, we need a mop sink, we
4 need a microwave oven, and we need a dishwasher.

5 And without exception, every one of my
6 nightclub clients has looked at me and said, hey
7 you, then said, we think we'll put the kitchen
8 in. So at least from the Health Department
9 standpoint, that's what a kitchen looks like.

10 So I mean, I just, I hope that this
11 Board won't get too hung up on the word kitchen.
12 I think Mr. Toran is sincere. He may not, I
13 mean, this is his first restaurant venture. He's
14 learning as he goes in some ways.

15 I hope he won't be penalized for that
16 because again, and I hate to say it for the third
17 time, but I go back to my first restaurant deal
18 where I went home that night and I thought go
19 home and talk them out of it, save their money,
20 they shouldn't do it, they don't know what
21 they're doing.

22 And I decided not to do that, and lo

1 and behold years later the place was called,
2 those of you that live in Adams Morgan probably
3 remember it, it was Addis Ababa, and it was in
4 the southern end of Adams Morgan, and they were
5 there for 17 or 18 years and they worked probably
6 that many hours a day to make it work.

7 But they made it work even though they
8 couldn't have answered 90 percent of the
9 questions that you put to this gentleman today.
10 But you know what, they still made it and they
11 operated it as a restaurant. So I would just,
12 you know, beg you to keep that in mind as you
13 consider this.

14 In looking at the law and looking at
15 the Order that you wrote where you had some
16 concerns, we believe those concerns have been
17 addressed, or will be completely addressed when
18 we give you the drawing because I recognize that
19 that's still out there.

20 And we hope that you will allow this
21 to proceed because we have another phase. At
22 this point there is a protest pending and we're

1 late in terms of if the Board allows this
2 Application to proceed in terms of having that
3 protest hearing and rendering a decision which by
4 law was supposed to have occurred within 75 days
5 of the end of the protest period. Thank you.

6 CHAIR MILLER: Thank you. I have a
7 question based on your closing. Did you say that
8 Department of Health requires a kitchen for a
9 nightclub? Do they require a kitchen for a
10 restaurant?

11 MR. KLINE: Sure, but the
12 requirements are just as I laid out, I mean, in
13 terms of --

14 CHAIR MILLER: The same thing?

15 MR. KLINE: Yes.

16 CHAIR MILLER: So I didn't hear, I
17 didn't see on this list a dishwasher. Does Mr.
18 Toran's establishment have a dishwasher?

19 MR. KLINE: Is there a dishwasher
20 there?

21 MR. TORAN: No. So I have a three
22 compartment sink, and that's what they let, the

1 Health Department didn't --

2 CHAIR MILLER: They said that was okay
3 for a kitchen?

4 MR. TORAN: Yes.

5 CHAIR MILLER: For your kitchen?

6 MR. TORAN: Right.

7 CHAIR MILLER: Okay. They had to sign
8 off on whether or not you had a kitchen
9 facilities?

10 MR. TORAN: Right, right.

11 CHAIR MILLER: Okay. That's all I
12 have. Yes, Mr. Jones?

13 MEMBER JONES: I think with all due
14 respect to the Applicant in this instance, he's
15 going to have to, if I understand correctly, he's
16 going to have to submit that to us at some point
17 when it gets all approved and checked out anyway.

18 So we're not in a position to make a
19 determination as to what the Health Department
20 will say does or doesn't, we just have to receive
21 their document from them.

22 So he's made the position. Whether

1 he's wrong or right I don't know, but it will
2 play out in the end because he's going to have to
3 submit that confirmation that we receive from
4 that body before we can consider moving forward.

5 So whether Mr. Kline is right or his
6 client is right, it's kind of immaterial to us.
7 It's whatever the Health Department says it is is
8 what he's going to have to submit for us to be
9 able to approve it.

10 CHAIR MILLER: So when is that going
11 to be submitted?

12 MR. KLINE: I don't know if this was
13 a 405.1 or not but, I mean, typically the way
14 your process works is, not your process, it's
15 really your Agency's process.

16 CHAIR MILLER: Yes.

17 MR. KLINE: But the way their process
18 works is we go through this process, there's
19 approval for issuance of the license. Before the
20 license is issued, and the licenses that we
21 handle, my office has to deliver to you a copy of
22 the Certificate of Occupancy, a copy of the

1 restaurant license, and if there's outside
2 seating, a copy of the sidewalk café permit and
3 certificate of use.

4 CHAIR MILLER: Okay. My point is
5 though, we probably won't get that before, I
6 don't think, we make a decision on the motion to
7 vacate the order and the decision whether there
8 will be a protest because then we would be
9 waiting a very long time for the COH
10 determination.

11 MR. KLINE: I would submit it's not
12 material because you have the facts before you.

13 CHAIR MILLER: Right.

14 MR. KLINE: And then if he satisfies
15 the Health Department, he does. If he doesn't,
16 then it's approved and he doesn't get his
17 license.

18 CHAIR MILLER: Right, okay.

19 MR. KLINE: I mean, it's as simple as
20 that.

21 CHAIR MILLER: Okay, but my question

22 --

1 MR. KLINE: And I suspect if we get
2 that far, he's going to work pretty hard to
3 satisfy the Health Department even if he has to -
4 -

5 CHAIR MILLER: Right, okay.

6 MR. KLINE: -- rearrange that drawing
7 that we promised Mr. Jones a little bit and fit
8 in a dishwasher.

9 CHAIR MILLER: I didn't want to get
10 hung up thinking oh, he needs a dishwasher, he
11 doesn't have one so therefore he's not a kitchen
12 and therefore I'm not going to vote to vacate the
13 order. That's where I'm coming from. But you've
14 cleared it up for me anyway.

15 MR. KLINE: Great, thank you.

16 CHAIR MILLER: Okay, anything else?
17 Okay then that completes this hearing, and the
18 Board will now based on this hearing and then the
19 document that's coming in within seven days, then
20 make a determination about vacating the order
21 denying the license application.

22 The Applicant has a motion for us to

1 do that, and that's what's before us. And then
2 if we do vacate the order, then we'll get the
3 protest on track.

4 All right, so that completes this
5 hearing, except I'm going to take a vote on
6 deliberating on this case. And you don't, you
7 can stay or not stay for that.

8 As Chairperson of the Alcoholic
9 Beverage Control Board for the District of
10 Columbia and in accordance with Section 405 of
11 the Open Meetings Amendment Act of 2010, I move
12 that the ABC Board hold a closed meeting for the
13 purpose of seeking legal advise from our counsel
14 on the case of Risky Ventures for Section
15 405(b)iv of the Open Meetings Amendment Act of
16 2010 and deliberate upon this case for the
17 reasons cited in Section 405(b)xiii of the Open
18 Meetings Amendment Act of 2010. Is there a
19 second?

20 MEMBER SHORT: Second.

21 CHAIR MILLER: Mr. Short has seconded
22 the motion. I will now take a roll call vote of

1 the motion on the floor now that has been
2 seconded. Mr. Brooks?

3 MEMBER BROOKS: I agree.

4 CHAIR MILLER: Mr. Rodriguez?

5 MEMBER RODRIGUEZ: I agree.

6 CHAIR MILLER: Ms. Miller agrees. Mr.
7 Silverstein?

8 MEMBER SILVERSTEIN: I agree, Madam.

9 CHAIR MILLER: Mr. Short?

10 MEMBER SHORT: I agree.

11 CHAIR MILLER: Mr. Jones?

12 MEMBER JONES: I agree.

13 CHAIR MILLER: It appears that the
14 motion has passed by a 6-0-0 vote. And I hereby
15 give notice that the ABC Board will hold a closed
16 meeting in the ABC Board room pursuant to the
17 Open Meetings Amendment Act of 2010 on this
18 motion and issue a decision shortly thereafter.
19 Okay, thank you.

20 MR. KLINE: Thank you.

21 CHAIR MILLER: Okay, so we just have
22 a couple of items on our agenda to finish up, so

1 I'm going to go get it. If anybody else has to
2 get it, and we'll pick up with that.

3 (Whereupon, the hearing in the above-
4 entitled matter was concluded at 5:13 p.m.)

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A			
\$10 40:18	advertising 23:1	51:18 71:9 105:14	back 2:5 44:15 46:17
\$116,640 34:2 39:1	advise 109:13	108:22	102:17
\$12 40:18	affect 3:20	Applicants 7:8	background 3:8 18:6
\$122,000 34:5	affirmative 70:4	application 3:6 4:21 5:8	36:21
\$130,000 60:7	afraid 55:21	7:14 33:11 34:12 42:6	backup 48:2
\$131,000 34:4 39:2,15	afternoon 2:17 8:3	51:10 53:8 54:15	bank 19:18
42:16,21	38:15,16 47:1,3 79:10	60:12 92:21 93:2,8,20	bar 35:10,18 65:20 67:8
\$160,000 60:7	agencies 57:13,13	104:2 108:21	67:17,17 80:17
\$18,000 19:12	agency 58:1,14	applications 6:6	barriers 24:18
\$2,000 19:8	Agency's 106:15	apply 99:20 101:14	based 3:14,17 4:21
\$3,000 40:1	agenda 110:22	appreciate 11:7 50:8	7:14 42:8 46:5 51:12
\$36,000 40:3	ago 25:22	54:3	72:11 104:7 108:18
\$60,000 39:20	agree 61:9 110:3,5,8,10	appreciation 87:19	basic 17:22 92:8
\$65,000 39:21	110:12	approach 37:4	basically 12:13 13:18
A-2 59:22	agrees 110:6	appropriate 54:19	17:19 29:2 30:15
a.m 20:8 24:2,5,7	ahead 56:5	66:13 95:2	40:14 55:2 68:17 74:4
Ababa 103:3	aiming 27:12	appropriateness 6:18	81:10 84:3 96:17
ABC 8:7 10:8 15:1	alcohol 34:9,15 42:10	54:9,20 55:1,13	97:18
49:13,15 50:1,11 57:4	43:8 44:5 45:14 48:7	approval 106:19	basis 12:21 21:3
101:9 109:12 110:15	48:20 49:1 58:13,17	approve 62:18,19 106:9	bathroom 65:19 66:6,8
110:16	60:8,13 82:20	approved 17:22 57:19	bathrooms 66:2 94:19
ability 10:17 71:12	Alcoholic 1:2,11,11	62:17 63:1 64:2,13	94:20
able 21:4,7 27:3 29:9	57:10 109:8	65:5,8 67:12 105:17	beg 103:12
55:16 69:7 71:16	allow 94:10 103:20	107:16	behalf 2:18
91:19 92:7 97:18	allows 104:1	approximately 20:7	behold 103:1
106:9	amenable 66:12	23:21,22	believe 5:7 19:7 20:5
above-entitled 2:6	amended 33:17	architect 63:14,20 95:7	36:15 51:12 64:13,20
ABRA 37:22 58:14	amendment 92:21 93:2	95:9	103:16
63:10	93:7,10,17 94:2	area 14:16 20:20 22:17	belt 100:9
absolutely 21:5,9,19	109:11,15,18 110:17	35:18,18 65:21 72:20	benefits 31:22
22:9 24:16 25:3 33:4	amendments 33:11	78:15,15 79:16	best 30:1
35:21 97:1,2	amount 19:5 27:7 34:15	areas 35:16 94:22	better 33:1 47:5 55:3
access 86:21 87:2	39:5	article 36:5,8 59:5	56:1 100:17
accommodate 67:2	analysis 30:16 31:1	articulated 44:11	Beverage 1:2,11,11
accounted 45:8	ANC 1:8	asked 17:8 32:21 45:1	57:11 109:9
Act 109:11,15,18	and/or 64:13 74:21	48:1 70:12 82:11	beyond 100:14
110:17	Andrew 2:18	83:15 84:5 95:15 98:8	big 58:22 59:4 90:16
actual 33:20 78:16	annual 39:16	asking 9:2 26:11 44:1	100:9
91:20 97:13	answer 33:13,17 39:4	45:22 49:10 50:7 52:9	bigger 90:18 91:1,2
Adams 5:2 6:6 8:15	46:2 52:12 55:17	53:5 55:14 81:13	bills 9:5
13:12 22:15 26:2	70:12 81:7,9 82:2	82:14 84:1 87:12 90:1	bit 12:11 26:22 28:4
47:20 96:6 103:2,4	98:9	asks 55:17	36:5,18 38:8 41:12
add 29:19 40:5 46:18	answered 52:10 91:6	asparagus 78:8	73:2 98:21 108:7
68:18	103:8	aspect 67:11	blocks 96:10,16
Addis 103:3	answering 48:11	assessment 69:13	blowtorch 29:19
addition 72:13	answers 48:2	assistance 31:11	board 1:2,11 3:13,21
additional 33:14 43:11	anticipate 22:7 87:8	associated 61:17 63:5	4:5,14 5:9 7:13,16,21
45:7 88:10	anticipated 43:15 69:1	assure 96:14	8:3,11 10:3,11 12:11
address 38:8 53:19	anybody 99:11 111:1	assured 51:4 55:8	13:1,11 29:1 30:5,10
54:7,7 79:14	anyway 75:13 105:17	attachment 92:22	30:13 32:21 33:19
addressed 54:11 67:22	108:14	attorney 81:10 82:11,14	36:2,21 38:10,12
103:17,17	apart 100:12	available 38:10 101:20	43:16 44:1,13 46:4,5
adequate 72:16,21	apologize 65:16 99:17	average 34:4	46:15,21 47:6 48:9
adjective 73:18	appear 3:15 44:17	award 36:13	50:1 55:17 58:13,18
Administration 57:11	appeared 13:1	aware 15:9,12	59:7,9,12 61:1 63:10
admonish 99:18	appears 110:13		71:6,12,22 72:7,19
admonishes 89:19	Applicant 2:14,18,20	B	75:12,18 93:1,4,6,16
	3:6 4:15 10:12 51:8	B 72:15,22	99:17,18 100:2,7,16

101:13,13 102:11
 104:1 108:18 109:9
 109:12 110:15,16
Board's 6:12 8:9 10:9
 10:10 11:14 50:2 57:4
 94:15
body 26:20,21 62:9
 64:14 67:13 106:4
bona 8:5
bottom 42:20
bought 9:15 50:4
bounds 52:22
bowl 84:10
bowls 72:18 76:10
box 11:12 26:12
boxes 90:22
boy 98:8
brain 70:20
break 9:3 62:13
breakdown 27:13
breakfast 20:19
brief 94:6
briefly 48:6
bring 4:14
Brooks 1:17 38:13,14
 38:17,18,22 39:9,14
 39:19 40:2,5,10,16,19
 41:4,10,17,20 42:2,9
 42:12,15,20 43:2,3,4
 43:6,9,12,16,17,20
 44:1,14 45:1 46:4,6
 46:15 48:1 110:2,3
brought 13:5,8,21 14:6
browning 17:1
budget 31:2 69:1
building 1:12 9:15 50:4
 59:20 78:5
built 26:10
bulk 13:19 14:3
burnt 29:18
burst 29:8
bursting 29:10
bus 20:20 98:8
business 8:22 9:19
 10:7 12:7 18:1 20:10
 20:16 22:8,10 23:17
 26:7 30:22 32:1 33:6
 37:5 48:8 50:9 51:17
 55:16 57:20 70:15
 72:4 79:15 80:9,19
 81:3 89:15 90:3 92:8
buy 25:15 85:18,21
buying 73:7,9 74:9

C

cab 8:17
café 107:2
calculate 33:19

calculations 44:16
call 32:8 109:22
called 7:11 103:1
capability 6:8
capacity 14:17,18
 70:20 80:16
capture 66:1
caramelized 29:17,20
card 26:3
cards 32:8,20
care 79:19 93:5
cartoon 64:1,4,6,9
 95:19
carved 31:14
case 5:21 11:4 57:9
 109:6,14,16
cases 100:2
category 28:6
ceramic 77:7,11,17
certain 16:19 49:16
 62:21 86:22 87:2 92:3
certainly 7:2 11:6 99:18
 100:14
certainty 28:20
certificate 80:21 81:2
 82:1 92:14 94:14
 106:22 107:3
cetera 74:6 95:4
Chair 2:3,9,21 3:3,7
 4:10,19 6:3,7,13,20
 6:22 7:12,18 8:1
 11:15,20 14:1,7 38:12
 38:15 46:20,22 49:7,9
 51:6 52:3,13,19 53:2
 53:3,7,14,19,21 54:2
 56:4 57:6 59:13,15,17
 61:6,7 71:4 73:12,14
 73:20 74:3,8,14,19,21
 75:2,8,13 76:1,4,8,12
 76:16,21 77:8,12,18
 78:2,6,10,17,19 79:1
 79:6,9 80:1,3,5 82:9
 82:10 88:1,2,4,5 89:2
 89:3 90:7,10 93:9,18
 93:21 94:8,16,20 95:6
 95:10,13,17,21 96:3
 97:3,21 98:4 99:9,10
 99:14,17 104:6,14,16
 105:2,5,7,11 106:10
 106:16 107:4,13,18
 107:21 108:5,9,16
 109:21 110:4,6,9,11
 110:13,21
Chairman 8:3
Chairman's 84:8
Chairperson 1:12,16
 109:8
challenge 45:12 67:9

challenges 26:6
challenging 46:8 98:21
chance 52:12
change 23:17 32:3
 34:15 42:4 67:15
 73:15 74:5 75:14 84:4
 84:6
changed 33:12
changes 17:8,10,21
 31:21 34:10
Chapter 59:18
charge 10:10 24:14
charged 59:9
carved 66:14
checked 105:17
chef 36:14 97:4,5,7,21
 98:10,13
chefs 37:1 59:4
china 77:4
circuit 28:19
circulation 29:14
circulator 28:16,19
circumstances 72:7,19
cited 53:15 109:17
city 41:18
clarify 67:5
clean 78:21
clear 6:21 10:19 20:4
 34:7 44:2 66:8 85:12
 91:22 93:1,6 94:12
 98:6
cleared 108:14
client 106:6
clientele 23:11
clients 26:21 55:20
 101:21 102:6
close 20:16 56:7 57:1
closed 109:12 110:15
closing 16:5 25:2 38:8
 94:6 99:15 104:7
clubs 48:20
clue 9:10 49:21
code 55:8
coffee 75:9
COH 107:9
coincidentally 8:15
cold 74:21,22 79:2
Columbia 1:1,7 2:12
 11:12 12:7 35:14
 57:10 63:7 82:20
 109:10
combined 27:22 90:22
come 2:5 9:18 13:16
 23:11 24:14 25:10
 27:14,15 43:14 49:3
 49:17 51:19 57:15
 59:3 73:1 81:19 97:12
comes 95:14

coming 24:18 46:5 94:2
 108:13,19
comment 50:22 89:4
 96:2
commercial 26:10
commitment 96:6
community 22:16 49:1
 96:6
compartment 102:3
 104:22
competent 95:16
complete 76:10,12
completely 103:17
completes 108:17
 109:4
compliance 19:15,17
 19:18
concept 12:11 13:3
 62:9 64:1,4,6,9
concepts 99:22
conceptually 70:4
concern 7:7 57:4,5
 61:12 66:22 67:11,22
 89:5
concerned 4:5 5:4
 56:22 58:10 61:14
concerning 7:20 8:11
 38:19
concerns 2:13 5:22
 30:14 50:10 54:4,8
 69:17,20 103:16,16
concluded 71:22 72:10
 111:4
conclusion 6:12 10:4
confirmation 106:3
confused 44:10 64:15
 91:5
congested 79:16
connection 16:20 37:20
consider 89:20 93:7
 103:13 106:4
consist 16:14 33:16
 78:7
constrained 50:12
consultant 22:2 25:20
 97:8
consulted 63:14
contested 1:6 2:10 3:9
 3:18 4:1 5:15 6:15
continue 96:19
continuity 63:14,17
contract 41:3
contracting 13:6
control 1:2,11,11 40:7
 109:9
controversy 58:22
conversation 101:11
 101:15

convey 81:22
conveyor 100:9
cook 29:10 79:5 88:18
 88:19 98:19,20
cooked 97:22 98:10,12
 98:15 99:2
cooking 29:3,16 36:4
 56:20 58:3 68:3
Cooks 36:9
copy 30:4,4 94:13
 106:21,22 107:2
correct 12:5,8,9 13:4
 15:11 18:7,11,12,16
 19:7 22:12,13,13
 24:12 25:12 30:8 31:5
 34:22 35:8,8 37:1,6
 37:12 39:13 40:4
 47:15,17,18 56:14
 62:5 65:3 69:11 73:11
 73:12 74:7 75:21 76:6
 81:3 83:8,11 84:11,14
 84:17 87:3,6 91:10,15
 91:15 92:4,5,8,12,15
correctly 105:15
cost 26:22 27:13,19
 70:18
costs 26:9,15,16 27:4,4
 27:8,10,12 39:10 40:6
 40:8 42:3 45:3
counsel 52:11 57:2
 69:22 83:16 89:10,19
 109:13
Counsel's 61:9
counter 44:7 91:12,13
couple 8:15,16 10:5
 96:15 110:22
course 8:9 35:18
cover 24:14 93:15
covers 9:4
CR 1:7 6:6 15:6 18:20
craft 33:14 73:16
creativity 97:12
crux 61:19
cure 83:3
curious 4:16,17
current 72:4
currently 84:12,16
 96:18
curtain 78:18
customers 72:6
cut 78:15
cutting 36:4

D

D.C 1:12 13:6 22:16
 30:2,21 80:18 96:18
day 19:20 33:4,4 103:6
days 50:2 54:14 66:18

66:20 87:14 104:4
 108:19
DCRA 64:14,17,21 65:1
 80:14
deal 8:14 11:5 25:9
 28:15 32:2 59:8
 102:17
Dean 12:1
decided 5:9 102:22
decision 53:1 70:16
 104:3 107:6,7 110:18
dedicated 16:16 77:22
 78:2,4,11,13 91:8
defects 83:3
defer 46:20
defined 77:20
definition 16:3 18:4,15
 19:1 20:4 24:22 33:15
 37:17,22 38:1,5 53:16
 72:13
definitions 37:19 59:18
deliberate 109:16
deliberating 109:6
delicious 100:11
deliver 106:21
demand 20:14 22:7
demands 20:10 23:17
demonstrate 71:11
denial 53:8
denied 51:10
denying 3:21 53:9,10
 108:21
Department 17:5,7 47:9
 58:5,8,12,16 59:1,6
 83:4,7 89:5 92:1
 101:12,16 102:2,8
 104:8 105:1,19 106:7
 107:15 108:3
Department's 57:4
dependent 44:5
depending 20:10 23:17
 39:7 74:5
depends 40:11
described 21:11
description 30:22
designed 29:13
destroys 29:7
detail 14:22 93:6
detailed 63:4 94:21
detailing 94:11
determination 105:19
 107:10 108:20
determine 30:17 33:3
determined 3:14 5:14
device 68:13
diagram 63:16 66:10
 86:17
different 13:3 15:10

37:4,9 73:2 77:16
 99:22 100:5 101:12
dimensions 69:14 95:3
dining 72:16
directions 32:16 40:15
directly 73:3
disagree 44:20 101:18
discussed 51:9 94:12
discussions 5:3
dishes 14:12
dishwasher 102:4
 104:17,18,19 108:8
 108:10
distribution 63:15
District 1:1 49:3 57:10
 63:6 82:20 109:9
document 30:11,12
 31:8,9 36:1 87:13
 105:21 108:19
documentation 7:22
documents 30:8 82:18
 83:2
doing 10:22 79:11
 81:16 102:21
dollar 27:7
DONALD 1:17
doorstep 12:19
draft 95:16
draw 62:14 87:18
drawbacks 29:16
drawing 66:15 93:12
 94:11 95:5,12 103:18
 108:6
drawing's 94:17
drawings 64:21 65:1
 95:6
drawn 64:10 66:15
driver 8:17 61:13
due 45:16 52:4,10
 105:13
duties 10:10
duty 83:18

E

earlier 20:14,15,17 25:9
 39:10 82:12
Eastern 26:1
eat 42:18 49:2
economy 74:11
edge 36:4
efficiencies 27:2
either 27:7 34:5 39:3,6
 39:6
electric 56:13
electricity 41:6,7,8
elements 87:15
Elizabeth 22:2 25:18
 31:11 77:6 97:8

emphasizing 23:1,3
employee 72:4 73:7
employees 17:12 40:11
 83:18
empower 89:15 90:3,3
encourages 13:7
endorsement 18:1,7,11
 25:6
engaging 35:6
enjoyed 13:14
ensuring 96:7
entertainment 18:6,10
 25:5,6
entire 22:10 24:8
entitled 50:16,18 111:4
entity 83:6,6
entry 24:18
enumerated 42:17
envelope 44:15
environment 99:2,6
equals 28:6
equipment 16:19 32:20
 32:22 76:19 84:22
 85:15 88:10 93:12
equipped 59:8
espresso 75:10 76:6
establishment 2:14
 3:11 14:10 22:19
 28:12 49:4 58:6 60:2
 60:4,17 72:14 80:8
 86:7 104:18
establishments 5:5
 48:20
estimate 41:6,8 46:18
 90:19
estimated 69:2
estimates 38:20 41:21
et 74:6 95:4
Ethiopian 8:16,19
everybody's 10:5 94:12
evidence 8:10
exactly 4:4,7 5:22 53:5
 94:17
examine 8:5,22
example 58:21 73:21
 74:4 86:8
exception 102:5
exclusivity 23:4,5
Excuse 28:18
exists 96:16
expand 33:2,7
expect 6:4 42:10 58:15
expected 7:9 19:20
expense 40:9 45:7
expenses 40:6 41:6
 42:17 43:15,15
experience 4:14 98:2,7
 98:11

expertise 57:12 58:1
59:10 100:15
expired 97:10
explain 53:4 69:19
explained 52:7
explanation 29:5 33:15
exploration 26:15
explored 3:10
exterminator 86:21
87:1

F

face 6:7
facilities 25:1 72:16
75:17,19,20 77:20
105:9
fact 1:6 2:10 3:8,9 4:3
4:12,15 5:6 13:1
23:18 36:11 37:10
facts 107:12
fail 10:6 50:17,18 61:11
fair 11:3 46:6 86:2
fairness 46:3 51:7
fall 4:22 97:16
familiar 15:16 36:3 64:8
64:16,20
familiarize 14:21
fancy 73:18
far 38:20 62:1 75:14
108:2
farm 26:6 74:6,9
farmer 12:16 26:5,11
farmer's 12:18 25:20
26:1,2 31:19 74:13
farmers 12:20 25:21
26:2
feature 14:9
featuring 14:11
federal 13:6,6
feel 4:8 7:5 62:11 66:10
feet 14:16 68:6,9 91:4
91:13
felt 30:13
fides 8:5
fight 89:12 101:22
fight 59:5,8
figure 39:15 42:7,7 60:6
68:11
figured 59:2
figures 27:21 42:1
43:14
files 94:15
filing 54:14
final 32:15 36:1
finally 59:2
find 29:8 37:17 45:12
72:8 80:15 100:18
finding 1:7 2:10 3:8,9

4:12,15 13:2 37:10
finds 72:19
fined 89:6
finish 110:22
finished 95:22
first 8:14 10:5 11:4
30:11,12 33:22 34:7
48:8 102:13,17
fish 101:1
fit 87:20 108:7
five 19:19 32:11 72:18
flexibility 31:20
floor 34:18 35:4 62:1,4
67:16 110:1
flow 100:10
focus 12:15 20:22
23:11 71:6,8
focused 99:20
focusing 26:15 33:13
follow 40:14 66:17,19
97:19
Following 32:19
food 12:15 13:2,9,13,17
16:1,17 17:17 19:5,13
21:4,7,17,21 22:12,12
22:18 25:10 26:16
27:4,8,10,11,13 28:12
32:13 33:15,19 34:3,8
35:18 37:14 39:5,10
39:16 42:7,8,9 43:5
44:3,16 48:6 49:3,5
58:11,19 60:1,3,12,16
65:21 71:17,19,21
72:1,20 73:4,9 78:1,3
78:5 79:2,3 80:11,13
83:17 89:18,21 91:8,9
92:10,18 97:10 98:2,2
100:5,14 101:11,19
food's 100:11
foot 69:22
footage 68:1
footprint 69:21
Foreman 75:4
formal 35:6
formally 63:4
formulas 33:18,20
forth 11:2
forward 31:16 79:14
106:4
forwarding 93:22
found 75:18
foundation 61:20
four 32:10 35:9
frankly 8:13 49:8
free 4:8 7:5 92:9
freezer 76:2,3
French 36:15
fresh 26:19

front 30:5 73:18
full 77:10
further 38:10
future 6:15

G

gained 27:3
garage 8:17
garbage 40:21
gas 56:12
general 30:20 81:3
gentleman 103:9
George 75:4
getting 29:15 77:8
89:11
gist 17:19
give 4:20 28:4 48:9
70:13 81:14,14
103:18 110:15
given 68:22
gives 36:21
giving 35:12
glad 55:11
glassware 77:14
go 25:21 28:10 52:14
54:9 56:4 57:22 59:11
59:21 67:16 68:20
72:4 74:2 80:14 95:22
97:7 99:11 102:17,18
106:18 111:1
goes 59:19 73:3 101:16
102:14
going 4:6 5:3,5 9:11
10:9,12 11:7,13,16
12:15 13:19 16:19
20:5 21:3,6 22:4,17
22:20 23:12,22 24:7
24:13 25:4,9,10,11,15
25:16,17 28:21 31:9
31:15,15 32:9,12
33:13 35:15,17,19
40:8,17 41:8,11,13
43:8,13 44:2,17 45:1
48:11 49:12,18,21,22
51:17 52:7 55:15 60:2
60:3,7,10 61:14 66:4
66:11 67:7,11 70:1,6
70:11,13,16,21 71:4
73:7 74:4,14 75:2,5,8
75:15 77:2,3,6,9
78:21 80:7 85:7 86:19
88:16,17,19 89:12,20
91:8,17,20 94:17 97:4
97:5,5,6,7,12,16
99:14 105:15,16
106:2,8,10 108:2,12
109:5 111:1
good 2:17 7:4 8:2 38:15

38:16 47:1,3 49:5
51:17 66:10 79:10
100:12
goods 12:21 31:18,21
gotten 26:1 59:3 80:20
governing 64:14 67:13
government 13:7 49:3
grade 36:18
graduates 9:20
granting 3:20
great 28:14 108:15
grill 17:2 75:5 79:3
88:20
grilling 78:8
gross 15:22 28:7,7 34:1
34:8 38:20 39:15
42:21
Group 1:6 3:5 8:5 12:4
guaranteed 54:13
guess 31:13 38:19
48:10,12 50:1 60:2
66:8 69:4 73:17 75:18
guide 61:3
guy 61:12 86:14
guys 90:5

H

half 28:3,6 39:20
hand 9:18 17:12,14
21:17 41:15 47:14,14
65:13,14,17 71:19
72:1 73:5 83:20 85:8
handed 30:5
handle 106:21
handler's 17:17
hands 17:12 78:22
83:19
happen 67:11 83:1
97:14
happens 17:18 29:14
happy 93:14
hard 11:7 108:2
hate 102:16
he'll 57:19
head 96:19
health 16:22 17:4,7
47:9 56:21,22 57:4,15
58:4,5,7,7,10,12,15
58:20 59:1,5 83:4,7
85:10 89:5,7,10 90:1
92:1,7 101:12,15
102:2,8 104:8 105:1
105:19 106:7 107:15
108:3
hear 52:5 104:16
heard 73:2 79:12
hearing 1:7,11 2:3,11
3:9,10,13,15,17,19

4:1,13,15 5:10,14,16
6:15 8:10 10:3 13:2
14:21 28:10 37:11
51:8,12,21 52:2 54:11
54:14,17 66:18,20
71:10 73:3 104:3
108:17,18 109:5
111:3

hearings 6:5
heat 75:1 79:4
heating 29:6
heavier 41:12,14,14
HECTOR 1:20
held 54:12 59:22 60:15
help 62:2 67:5
helped 97:9
helpful 54:1
HERMAN 1:18
hey 102:6
higher 39:15
hire 22:4 45:2 97:5
hiring 40:12
hold 22:17,20 109:12
110:15
hole 78:22 86:22 87:2
home 9:7 102:18,19
homework 70:14 82:1
hope 10:3 55:22 58:15
96:21 102:10,15
103:20
Hopefully 50:17
hoping 43:7
hospitality 9:20
hot 29:15
hour 40:18
hours 16:4 20:6 23:15
23:18,21 25:2 103:6
house 101:6
hung 101:5 102:11
108:10
husband 8:18

I

idea 7:4 27:7 31:12
81:15 100:17
ideas 7:5
identified 2:10 13:11
83:4,13,14
identify 2:15 94:17
ignorant 67:4,7
imagine 41:11
immaterial 106:6
impact 58:4
impaired 56:21
important 26:20 69:16
improvements 65:10
in-house 13:21
inadequate 72:12

inch 35:20 70:1
include 22:11 39:10
41:20
included 40:22 41:1
45:3 92:22
indicated 25:9
indicates 89:19
individual 45:21
industry 30:21 98:2,3
information 3:14 5:7
7:22
infrastructure 84:22
85:13
ingredient 32:8,19
ingredients 26:19
32:16 76:22
initial 4:11,12 17:6
inquiry 4:11
inside 37:14 78:5
inspection 17:7,18
47:10 57:15 83:6,10
83:13 85:10 86:14
91:22 92:7

inspections 82:12,15
instance 73:4 105:14
instincts 89:22
intend 12:12 14:9 22:15
40:13 93:1,20
intended 54:21
intending 14:4
intent 67:21 99:18
intention 11:14
intentions 10:17
interested 56:19 57:8
interject 51:7
interpret 101:13
interrupted 61:21
introduction 30:21
intrudes 58:1
invest 9:22
invested 33:5
investing 9:9
Investment 1:6 3:5 8:5
12:4

investors 30:16
involving 5:11
issuance 17:22 57:20
106:19
issue 5:9 6:16,17 54:9
54:20 59:6 96:22
110:18
issued 3:22 53:9
106:20
issues 4:5 5:11,21
28:21 44:22 54:10,18
58:11,12 83:14
item 32:17 45:10 72:2
items 32:12 67:2 94:11

95:4 110:22

J

JAMES 1:21
job 22:5 33:1 40:14
John 2:19 3:1 12:1
Jones 1:18 43:16,18,21
44:13,20 45:5,9,16,20
46:11,14,16 48:2 61:6
61:7 62:7,13,16,22
63:3,9,11,13,19,22
64:6,10,12,16,19 65:2
65:4,11,15,22 66:7,21
68:5,8,12,15,22 69:9
69:12,17,19 71:2
76:18 82:9,10,17,22
83:5,9,12 84:7,12,15
84:18 85:4,11,15,17
85:20 86:1,6,11,18
87:1,4,7,12,18,22
94:10 95:1,8,11,20
98:5,14 99:1,5,8
105:12,13 108:7
110:11,12

June 1:10

K

keep 16:4 25:1 27:3
28:17 29:9 103:12
keeping 41:15 86:19
kind 13:9 26:9 28:20
29:6 35:12 48:7 77:14
106:6
kitchen 16:4,8,10,11,12
21:10 25:1 32:13 38:2
38:3,4,6 71:17 72:12
72:16,21 73:10 75:17
75:19,20 76:11 77:19
84:10 95:1 100:1,8,13
100:18,19 101:5,6,10
101:18 102:1,7,9,11
104:8,9 105:3,5,8
108:11

Kline 2:17,18 3:4 4:6,9
4:11 6:2,4,11,19,21
7:6,13,19 8:2 11:21
12:3,6,10,22 13:15,22
14:8,13,17,20 15:4,8
15:13,16,19 16:2,7,10
16:14,18 17:3,9,20
18:3,9,13,17,22 19:4
19:9,12,22 20:3,9,13
21:2,6,10,14,16,20
22:6,11,14,22 23:5,7
23:15 24:2,5,10,13,17
24:21 25:4,8,14 26:14
27:6,18 28:1,3,8,17
28:22 30:3,7,10 31:4

31:7,14 32:5 33:2,8
34:1,6,13,16,20 35:1
35:5,11,19,22 36:7,11
36:16,20 37:3,9,13,16
38:2,7 43:3,5,7,10
44:19,22 45:6,11,19
46:8,13 49:8,11,15
53:19 54:1,3,6 55:19
56:2 57:3,9,18,22
58:9 60:22 61:3 66:17
90:9,11,16,19 91:3,9
91:11,16,21 92:3,6,13
92:16,19 93:11,19
94:5,9,19,21 95:16
99:14,16 104:11,15
104:19 106:5,12,17
107:11,14,19 108:1,6
108:15 110:20

knew 8:21 11:6

knives 79:3

know 3:20 4:7 5:12,15
6:14 7:1,2,5,5 9:6,17
10:21,22 13:8,18 16:3
16:21 18:3,14 19:17
20:11 23:8 26:2,7,11
26:13,18 27:1 29:6
30:20 31:18 32:2 33:5
33:20 36:2,2 41:1,13
45:15 48:10,13 52:16
55:16,19 56:8,19,20
58:3 62:12,19,19
64:13 68:10 69:6,13
70:9,12 77:2 79:13
80:22 81:6,11,11,22
86:14 89:11,18,20,22
91:1,18 93:7 95:3
97:11,14 98:9 102:20
103:10,12 106:1,12

knowing 55:8 56:19
57:8 70:10

knowledge 63:5 65:8
94:2

known 37:1 59:22
60:15 96:17

Kopff 57:10

L

labor 22:7 27:4,15,20
39:10 45:1
lacking 5:8 6:8
laid 104:12
large 22:1,7 31:12 69:7
Largely 33:5 74:18
late 104:1
Laundry 36:15
law 54:12 80:18 99:20
99:21 101:13 103:14
104:4

laws 63:5
lawyer 8:20 9:8
lay 30:15 61:20
laying 33:1
layout 35:13 66:1 67:10
 95:1
lays 94:13
lead 30:1
learning 102:14
lease 40:20,22 41:1
leave 57:12 100:16
left 38:19 39:21,21
 58:12,13
legal 28:20 40:6,8 58:11
 109:13
let's 16:7 17:11 20:3
 34:6 74:17 83:21
 100:6
letter 93:15
liberal 100:3
license 1:8 2:12 3:21
 15:6 17:17 18:1,20
 43:8 45:13 48:9 50:14
 53:10 57:20 58:6 64:3
 67:18 81:14 89:14
 90:2 92:8 97:7,10
 101:20 106:19,20
 107:1,17 108:21
licensed 82:18 100:7
licensee 10:8 50:22
 51:1,5 52:6,11 54:13
 89:6
licensees 100:4
licenses 106:20
licensing 50:11 58:10
 93:3,15,22
licensure 55:14
life 9:9
lift 5:4
lights 41:15
line 42:21 98:19,20
lines 65:7 67:19 98:15
liquor 42:2,3,5 45:13
 46:20 89:14 90:2
list 32:20 76:10,13,19
 93:12 104:17
liters 70:21
little 12:11 26:22 28:4
 36:5,18 41:12 44:10
 47:5,5 56:1 64:15
 68:18 73:2 98:21
 100:9 108:7
live 96:10,15 103:2
lo 102:22
load 69:1
load's 41:11
loads 9:21
local 12:16 36:14 74:11

located 2:11 86:12
location 12:12 32:1
 87:8
logistics 97:14
long 26:5,6 67:17 107:9
longer 73:6
look 3:15 6:8 28:11
 32:15 35:4 39:4 53:18
 70:17,18,18 100:6
looked 4:22 102:6
looking 7:17 13:9 18:19
 27:13,15 38:18 39:1
 42:15 43:14 53:7,10
 59:16,18 79:14
 103:14,14
looks 32:10 77:16
 100:1,1,13 102:9
loss 44:3,12
lot 10:21 26:4 46:20
 48:18 55:3 62:11 90:5
 96:8
lower 42:11
lunch 20:22 24:8

M

ma'am 71:3 74:20 75:22
machine 29:21 68:14
 68:15,16 69:7 70:16
 75:11 76:6 85:1,18,22
 88:14 90:12,13 91:12
 91:20
madam 8:3 38:14 46:20
 52:3 53:2,19 59:13,17
 61:7 82:10 88:1,4
 89:2 99:9,16 110:8
major 73:14 75:14
 83:13,22
maker 74:18 75:6,7
 76:5
makers 74:15,17
making 13:20 14:6 65:9
 70:15 73:9 93:5 97:14
management 97:15
manager 17:18 83:18
 97:10
margin 42:7 48:11
margins 51:20
mark 11:5 35:16
market 12:18 26:1,1,3
 30:14 74:13
marketing 30:13 31:2
markets 12:17 25:21
 31:19 74:6,9
material 107:12
materials 11:11 37:18
 97:15
math 48:13 60:10,11
matter 1:5 2:6 111:4

matters 89:21
MBAs 9:20
Meadows 26:5,6
mean 4:19 6:13 9:4
 10:7 23:7,8,20 34:6
 35:5,9 37:22 42:21
 45:6 56:10 57:9 68:16
 69:5 78:10,12 80:1
 81:19 85:9 86:13
 90:17,21,22 95:7 97:1
 97:21 100:3 102:10
 102:13 104:12 106:13
 107:19
means 5:19 59:19
 78:21
meat 29:3,7,10,14
meet 6:9 10:17 18:20
 19:13 25:21 37:19
 39:5 50:13 55:20
meeting 1:3 15:10 19:1
 28:13 109:12 110:16
Meetings 109:11,15,18
 110:17
meets 50:16 55:8 57:18
Member 1:17,18,19,20
 1:21 38:14,18,22 39:9
 39:14,19 40:2,5,10,16
 40:19 41:4,10,17,20
 42:2,9,12,15,20 43:2
 43:4,6,9,12,16,16,17
 43:18,20,21 44:1,13
 44:14,20 45:5,9,16,20
 46:4,6,11,14,15,16
 47:1,4,8,12,16,19,22
 48:5,14,17 49:10,14
 50:20 52:3,17 53:2,4
 53:13,17 54:5,22
 55:22 56:3,6,11,15,18
 57:7,17,21 58:2 59:11
 59:16 60:6,14,19 61:2
 61:4,7 62:7,13,16,22
 63:3,9,11,13,19,22
 64:6,10,12,16,19 65:2
 65:4,11,15,22 66:7,21
 68:5,8,12,15,22 69:9
 69:12,17,19 71:2
 76:18 79:10,12 80:2,4
 80:6,11,14 81:1,5,8
 81:13,20 82:4,6,10,17
 82:22 83:5,9,12 84:7
 84:12,15,18 85:4,11
 85:15,17,20 86:1,6,11
 86:18 87:1,4,7,12,18
 87:22 88:3,6,11,13,16
 88:21 89:1,4,17 95:1
 95:8,11,18,20 96:2,5
 96:21 98:5,14 99:1,5
 99:8 105:13 109:20

110:3,5,8,10,12
members 8:3 46:21
 59:12 71:6 99:17
mentioned 34:1 65:12
 66:2 69:22 84:7,9
 86:8
menu 13:19 14:3 21:14
 21:18 22:2 25:19
 26:16 27:3 31:10 32:2
 32:3 71:18,20 72:2
 73:21,21 74:1 88:6,7
 88:10 97:8
menu's 74:4
met 1:11 51:13 52:7
method 28:11
methods 58:20 100:5
metro 22:17
MICHAEL 1:19
microwave 17:1 56:16
 74:18,19 76:5 79:4
 88:20 91:1,2 102:4
midday 24:4
Miller 1:12,16 2:3,9,21
 3:3,7 4:10,19 6:3,7,13
 6:20,22 7:12,18 8:1
 11:15,20 14:1,7 38:12
 46:22 49:7,9 51:6
 52:13,19 53:3,7,14,21
 54:2 56:4 57:6 59:15
 61:6 71:4 73:12,14,20
 74:3,8,14,19,21 75:2
 75:8,13 76:1,4,8,12
 76:16,21 77:8,12,18
 78:2,6,10,17,19 79:1
 79:6,9 80:1,3,5 82:9
 88:2,5 89:3 90:7,10
 93:9,18,21 94:8,16,20
 95:6,10,13,17,21 96:3
 97:3,21 98:4 99:10,14
 104:6,14,16 105:2,5,7
 105:11 106:10,16
 107:4,13,18,21 108:5
 108:9,16 109:21
 110:4,6,6,9,11,13,21
mind 13:8 16:11 18:18
 19:13 69:7 103:12
mine 54:19
minimum 19:5
minor 17:8
minute 16:8 20:1
miscellaneous 101:19
mishear 82:13
missed 14:1
misspoke 38:3
misunderstand 82:13
misunderstood 46:2
 65:16
Mom 73:8

money 9:21 28:16,19
33:5 102:19
month 40:1
monthly 39:22
months 9:22
mop 102:3
moratorium 5:2,4
Morgan 5:2 6:6 8:15
13:12 22:16 26:2
47:20 96:6 103:2,4
morph 48:19 51:3 96:7
morphing 79:18
motion 107:6 108:22
109:22 110:1,14,18
mounted 17:13
move 86:15,20 92:20
109:11
moved 86:14,18,22
87:4
moving 37:13 106:4
music 18:6

N

N.W 1:7,12 2:12
name 2:19,21 11:21
12:1 59:4
name's 3:1
named 3:5 59:5
nature 98:14
near 86:16
necessary 70:7 82:18
need 18:10 31:19 45:14
53:1 67:5 68:2,5 71:1
79:5 83:3 84:19,21
85:2,4,5,10,17,22
86:3 88:9 91:13
100:22,22 101:3
102:2,3,4,4
needed 3:16 17:11,13
17:14,16 52:20 86:8
91:4
needs 33:3 95:11
108:10
neighborhood 20:20
23:12 96:15,17,19
neighbors 23:13
never 8:17 38:5 50:3,4
50:5
new 8:21
nice 36:19
night 9:7 48:20 102:18
nightclub 102:6 104:9
nightclubs 96:8 101:17
nine 12:14 14:19 19:10
22:7 23:9 69:8,9
noted 67:3 83:15
notice 3:19 4:4 5:22 7:9
32:3,4 51:9 52:20

53:8 70:13 71:9
110:15
notional 62:9
nude 18:14
number 19:20 45:11,11
54:14 69:5,6,15 73:15
100:4
numbered 76:19
numbers 42:5,13 44:6
46:18 61:12

O

o'clock 20:16
object 49:12
observation 89:14
obtain 72:5
obviously 85:9
occasion 14:21
Occupancy 80:21 81:2
82:2 92:14 94:14
106:22
occurred 104:4
off-site 14:5
offer 13:13 25:5 94:10
offered 87:14
office 93:14 106:21
official 62:8
oh 17:16 61:2,2 65:15
68:16 76:12,22 85:14
96:3 108:10
okay 3:3,7 4:10,19 6:3
6:19,20,21 7:18 8:1
11:20 14:7 16:9 17:9
18:17,22 19:22 20:2
22:6,22 24:5 27:18
28:1 31:7 34:13,13
35:5,11,22 36:16,20
38:12 39:9,14,19 40:2
40:16 41:10,17 42:2
42:12,14 43:1,6 45:5
45:9 46:13,14 48:5
49:7,14 52:13 53:7,21
54:2,22 56:4 57:7
59:16 60:6,14,20 62:7
62:16,22 63:3,13,22
64:19 65:4,15,22 66:7
66:21 68:22 69:12
71:2,4 73:1,3,14,20
74:3,8,14 75:2,8,13
75:13,16 76:4,21,22
77:1,12,18,18 78:17
78:19 79:6,6 80:2,5
81:8,12,20 82:5,9,22
83:5,9 84:7,12,15,18
85:4,20 86:1,6,13
87:7,12,17,21,22 88:2
88:5,21 89:11 90:10
90:19 91:11,16 92:19

93:21,21 94:1,3,20
95:10,17,21 98:4,4,14
99:1,5,8,10,11 101:22
105:2,7,11 107:4,18
107:21 108:5,16,17
110:19,21
on-site 14:6
once 33:3 41:9
one's 78:22
ones 83:15,22
ongoing 40:9
open 8:19 12:7 16:4
20:14,15 21:12 23:22
24:7 25:2 33:3 47:20
48:19 49:4 67:16
71:18 80:8 92:9
109:11,15,17 110:17
opened 9:15 50:3
opening 7:20 11:9
49:19,20 55:2 74:2
operable 14:16
operate 2:14 3:12,17
11:11 61:15 67:7,17
71:12 82:19 84:19,21
85:3,6,8 92:10
operated 103:11
operating 15:5 41:9,14
44:3,11 63:6
operation 37:5 64:2
86:4 87:10
operations 8:12 64:7
66:11
opinion 10:19 54:19
opportunity 20:19 50:5
50:8,19 61:11
optimistically 27:16
option 30:18
order 3:22 4:3 5:3 8:9
30:17 39:5 51:9 53:8
53:9 71:9,14 72:10
77:1 79:4 83:1 85:3,6
103:15 107:7 108:13
108:20 109:2
ordered 72:6
ordinary 7:8
organic 26:19
original 13:10 33:11,22
34:11
originally 13:1
ought 52:1
outside 7:8 29:18,18
63:11 107:1
oven 79:4 101:2,7
102:4
overdue 54:12
overflow 49:1

P

P-R-O-C-E-E-D-I-N-G-S
2:1
p.m 2:2,4,5,7,8 20:8
24:3 111:4
package 76:13 92:22
93:17
packet 30:4,7 73:21
page 30:19 33:9,10
34:17,18 38:19 46:10
46:11 71:13 76:18
93:11 95:14 96:22
pages 32:11 93:10
paid 40:17
pan 68:18
Panini 17:1 74:15,17,18
75:6,7 76:5 79:3
88:20
pans 72:18 76:8,9
paper 17:13 77:3,9
83:20
paperwork 82:18
Paragraph 72:9
paragraphs 73:4
parameters 4:7
part 10:7,8 21:1 22:1
40:20,22 41:1 43:22
55:10 72:14 75:3,11
83:12 92:21 93:20
particular 58:20
particularly 29:12
passed 110:14
patron 69:1
patrons 21:17 66:4
71:19
pay 9:5 36:18 101:22
paying 39:21
penalized 102:15
pending 103:22
people 5:4 9:9,18,21
11:6 12:14 14:19
22:10 24:14,18 49:5
49:20
percent 15:22 27:12,14
27:14,16 39:11,13,17
42:8 45:4 103:8
percentage 15:14,17,20
15:21 27:8,11
perfect 29:8 58:21
perfectly 46:6 54:18
perform 88:10
performances 18:14
period 24:8 104:5
permanent 65:6 86:20
87:8
permanently 35:17
permission 62:20
permit 81:15 84:6 107:2
person 26:3 31:12,13

32:14 40:14 67:4
91:18 95:16 97:18
personally 62:4 96:12
perspective 4:20
pest 40:6 41:2 86:14
phase 103:21
physical 69:14
physically 67:10 86:12
pick 89:12 111:2
picked 28:15 77:15
picking 100:12
picture 32:14 62:14
pieces 70:6
piggyback 43:18
Pizza 100:6,18
pizzas 100:10
place 3:16 9:9,11 23:9
23:13 24:14 35:7,20
62:21 66:1 70:1 78:14
78:22 84:13 96:16
100:22 101:1 103:1
placed 86:16 94:18
placement 63:15
places 48:20 49:2,2
51:2
plan 10:13,14,14,15
11:1,11 12:6,13 13:16
14:11 30:13 34:19
51:17 52:16 62:1,5
72:4 75:4
planning 98:16
plans 9:1,19 35:4 47:17
73:2
plate 17:1
plates 77:3,4,7,9,11
91:19
play 22:3 106:2
please 2:16 11:22 44:21
82:4,4 100:7
point 9:3,17 10:2 17:5
27:4 37:4 38:9 46:12
52:13 59:12 66:16
67:6 92:6,9 100:4
103:22 105:16 107:4
popcorn 72:3 75:15
popular 13:11 100:6
portion 39:7 68:21
position 44:8 45:17,21
46:1 61:10 105:18,22
positioned 86:3,4
possible 56:8 62:10
67:3 74:10,12
postage 46:17
posted 23:19 32:9,13
83:19
potential 96:11
pots 72:18 76:8,9
power 41:15 70:19 90:5

practices 58:16
preference 74:13
prefers 93:4
preliminary 47:10
premises 13:17 14:13
16:12 18:15 21:4,8
25:11 26:17 94:13
prep 17:2 32:8,13 35:18
37:14 65:21 78:12
79:2 91:8,9
preparation 13:2 16:17
21:22 58:20 72:20
100:5
prepare 13:16 21:7 22:5
25:11 26:17 48:12
51:19 52:21 55:22
71:17,21 78:3 79:3
98:16 100:14 101:10
prepared 14:5 32:21
47:5,19,21 55:4,5
74:2 81:7 82:2 92:18
prepares 78:1,5
preparing 22:12
present 1:15 22:15
71:20
presentation 13:10
presented 44:7 63:4,19
75:11
presiding 1:13
pretend 5:5
pretty 10:18 35:1 42:17
44:2 66:8 83:22 100:3
108:2
prevents 29:14
price 69:5
prices 31:21
primarily 22:4,18 60:1,3
60:9,16 74:9 97:6
primary 40:14 61:12
72:2 80:7,11
principal 3:4 12:4
principally 19:5
probably 27:16 68:21
98:20 103:2,5 107:5
problem 42:14 89:8
problems 89:7 96:8
procedurally 7:3
procedure 56:19,22
proceed 7:16 10:2
103:21 104:2
proceeded 8:22
process 7:1,8,10,10
10:8 29:3 36:6,22
37:20 56:9 58:2,3
61:22 68:3 106:14,14
106:15,17,18
product 27:19 32:15
products 12:16

profit 28:7 42:7 45:14
46:19 48:7,11 51:20
60:9
profitable 27:5 44:6,18
project 48:8
projected 34:8,9 39:15
projecting 42:21
projection 42:16
projections 9:19 34:11
promised 108:7
promoted 85:7
pronounce 68:3
proper 71:20 79:20
properly 54:10
proposed 4:3 8:9 48:7
51:1,9 53:9
proteins 29:7,11
protest 5:10,11,13,20
54:11,13,17 103:22
104:3,5 107:8 109:3
provide 7:21 12:20 36:5
44:8 81:9 87:14
provided 38:5 72:13
88:6
provides 39:4
providing 28:11 66:12
97:13
province 58:18
provision 81:3
public 56:21 57:1 58:4
60:1,16 62:8 78:16
92:9
pull 26:11
pulling 43:22
pump 68:18
pun 54:21
pure 100:21
purpose 26:12 109:13
pursuant 110:16
purview 57:12 89:9
put 3:19 7:20 11:10,12
17:12 26:20 29:20
31:4,10 34:5 42:6,13
62:20 65:12 70:6 71:8
71:9 93:16 97:9,19
102:1,7 103:9
puts 4:4
putting 32:16 65:5,5
98:22

Q

qualifications 50:15
55:15
qualified 72:8
qualifies 2:14 51:22
53:12
qualify 50:13 72:11,14
72:21

quarter 28:5
question 6:10 20:12
33:12 37:8 43:22
48:12,15 49:12 52:21
55:14,17 60:11,11,15
60:20 63:18 80:4 81:9
88:4 91:7 97:3 98:7
104:7 107:21
questioning 55:3
questions 7:14 10:21
35:14 38:9,11,13
44:14,15 46:1,7,9
47:22 48:2 49:6 50:8
52:9,12,15,15 53:5
56:7 59:13 60:2 61:20
62:12 66:3 70:10 71:5
71:8 79:13 82:11,14
84:9 89:18 90:2,8,8
90:12 103:9
quick 42:13 44:15
quickly 43:21
quiet 5:12
quite 79:21

R

raise 54:9
raised 7:7 54:18
react 31:20
read 8:8,9 15:3 75:18
reading 10:20 71:13
ready 7:15 21:3,7 71:16
81:7,9
real 36:9 66:15
reality 91:11
really 4:20 5:11,16 6:13
10:16,22 19:19 29:4
35:3 43:21 51:18
61:13,19 66:1,9,9
67:12 81:22 96:12
98:6 100:2 106:15
rearrange 108:6
reason 7:6 9:13 10:4
64:12 71:7
reasons 51:10 109:17
recall 82:13
receipts 38:20 39:16
42:22
receive 75:1 105:20
106:3
recess 2:5
recipe 97:19
recognize 103:18
recognized 3:22
recommendation 77:5
recommended 86:15
record 2:7,16 11:22
61:8 62:3 67:1 68:1
90:20 94:5

recorded 18:5
recycling 40:22
Reeves 1:12
references 93:13
reflect 33:13
refrigeration 47:13
refrigerator 17:15
 75:21 76:2 84:2,16
 86:9,12,15,19,22 87:5
 87:9 95:2
reg 77:20
regarding 63:14
regular 21:3 23:18,20
 88:8
regularly 21:11 71:18
regulating 62:9
Regulation 57:11
regulations 7:11 61:17
 63:5
relate 8:11
related 16:22 26:8 42:5
 90:2
relates 55:18
relation 35:13
relationship 57:1
relationships 12:19
 13:7
relevant 10:16
relieve 66:4
remarks 49:20 53:20
remember 8:18 9:2
 71:1,1 103:3
remind 10:11
rendering 104:3
renewed 97:12
rent 39:22 40:1
rentable 78:15
repeat 83:14
representative 66:16
represented 10:5
represents 82:2
require 74:17 80:18
 84:6 101:17 104:9
required 16:3 25:1
 50:13
requirement 6:9 15:14
 15:21 70:19
requirements 10:18
 15:1,5,11 18:20 19:14
 49:16,16 51:13,15
 57:19 59:4 104:12
requires 15:22 101:9
 104:8
research 25:15 30:14
resolved 6:17 28:21
respect 5:8 6:5 45:17
 50:21 52:4,10 54:20
 58:17,19 75:17 89:10

 101:14,16 105:14
responded 70:3
responding 84:8
responses 44:14
responsible 21:21
responsive 98:6
restaurant 2:15 3:11,12
 3:17 5:1 6:9 8:6,12,14
 8:20 9:16 12:14 15:6
 17:7 18:1,4 19:15,17
 22:21 23:2 24:22
 30:21 36:19 37:5,17
 45:12 47:20 50:14,15
 51:14,15,22 53:12,16
 55:15 56:7,12 57:2
 59:19 60:9 61:15,16
 63:6 67:8 70:7 71:13
 71:16 72:9,11,15
 79:15 80:6,7 82:19
 84:19,22 85:6 87:20
 92:10,17 96:11 98:17
 98:22 100:1,21
 102:13,17 103:11
 104:10 107:1
restaurants 5:6 13:11
 48:19,21 79:17,17
 96:7
restrooms 80:17
result 26:14
resumed 2:7
Retailer 1:7
rethought 25:8
review 18:18 44:6
reviewed 17:4 37:18
 62:8
reviewing 37:16
revised 94:11,16
revoked 67:18
right 7:12 8:2 10:6 12:3
 12:6,10,19,22 13:15
 13:22 14:8 15:4,8
 16:2,7,18 17:3,20
 18:13 19:4,9,22 20:9
 21:1,2 23:21 25:6
 27:6 28:1,8,22 30:3
 32:5 33:6,8 34:6,16
 36:11,21 37:3,13 38:7
 40:19 46:22 51:1 56:4
 56:9,12,13 57:6,17
 61:13 75:4 76:1,16
 77:12 79:1,6 85:8
 86:10 88:2 89:21 90:7
 90:14 91:21 92:13,19
 93:9,18,21 94:8 95:17
 99:11 105:6,10,10
 106:1,5,6 107:13,18
 108:5 109:4
risks 96:13

Risky 1:6 2:11 11:11
 30:1 53:11 71:10,22
 72:2,8,10,17,20 80:8
 109:14
road 1:7 2:12 11:12
 12:7 28:10 35:14
Rodriguez 1:20 56:5,6
 56:11,15,18 57:7,17
 57:21 58:2,9 59:11
 89:3,4,17 96:2,4,5,21
 110:4,5
role 9:8 22:3
roll 101:1 109:22
room 1:11 20:21 23:10
 100:9 110:16
root 50:18
rough 35:1 69:2
roughly 28:3
rudimentary 29:4
rummage 77:15
run 22:10 48:6 55:16
runs 30:19
Ruthanne 1:12,16

S

safe 58:16
safety 58:11,13,19
salads 14:9,12 32:19
sale 44:5 45:14 82:19
sales 15:22 28:7 33:19
 34:1,2,3,8,9 39:5,16
 43:5,11 44:3,16 48:6
 48:7 60:13,13 77:7,15
 80:11
sandwich 13:20 14:6
 24:19 72:5 73:8,16,18
sandwiches 12:15
 13:19 14:4,5,12 19:19
 22:5 24:8 33:14 72:3
 72:6 74:15,21,22
 75:16 88:17 97:20
satisfaction 71:11
satisfies 107:14
satisfy 53:11 108:3
Saturdays 24:11
save 102:19
savings 9:9
saw 55:10
saying 3:22 52:19 56:2
 58:4 67:3,21 69:12
 70:6
says 50:13 57:11 59:22
 67:14 72:10 76:19
 106:7
scale 26:10 63:16 64:10
 66:15 87:18 95:4,6,12
scattered 86:7
scheduled 2:4 6:5

scientist 29:5
sealer 28:14
seat 19:8 34:3 99:12
seated 13:14
seating 13:12 14:17
 22:6 80:17 107:2
seats 12:14 19:10 23:9
 35:10
second 9:16 109:19,20
seconded 109:21 110:2
secondly 72:9
Section 53:11 71:15
 109:10,14,17
secured 28:14
security 52:16
see 6:14 17:11 43:13,13
 46:18 47:8 59:12 67:9
 70:18 74:17 75:14
 76:22 79:19 83:21
 89:10 93:9 100:8
 104:17
seeing 55:11 66:3,22
 67:1,20 79:14
seeking 109:13
seen 90:13
sell 9:5 34:15 80:13
 92:10
selling 19:19 46:19
 49:2
sense 5:18 61:11
sentence 14:2
separate 5:10 6:17
 51:16
serious 79:15
seriously 4:22
serve 21:4,17 71:17,19
 71:21 98:16 101:10
served 20:19 25:19
 98:19,20
service 19:5 22:18 41:3
 58:17 60:1,16 83:17
 101:19
services 98:2
serving 22:12 24:8 75:9
set 13:8 66:11,11
seven 66:17,20 87:14
 108:19
share 50:10
shared 36:5
shares 31:1
sheets 32:8 97:19
shell 59:20
shoe 90:22
short 1:21 4:22 46:22
 47:1,4,8,12,16,19,22
 48:5,14,17 49:10,14
 50:9,20 52:3,17 53:2
 53:4,13,17 54:3,5,22

55:22 56:3 59:15,16
60:6,14,19 61:2,4
79:9,10,12 80:2,4,6
80:11,14 81:1,5,8,13
81:20 82:4,6 88:3,5,6
88:11,13,16,21 89:1
96:2 109:20,21 110:9
110:10
Short's 53:20
shortages 31:21
shortly 110:18
show 100:8
showing 49:17
side 14:12
sidewalk 107:2
sign 105:7
signs 65:13 83:18,19
Silver 9:16
Silverstein 1:19 95:18
110:7,8
silverware 77:14
simple 107:19
Simultaneous 52:18
53:22 94:4
simultaneously 69:10
sincere 102:12
sink 65:12 78:22 84:10
102:3,3 104:22
sinks 17:13,14 47:14
55:9 65:5,14,14,17
83:20,21 95:2
sir 2:22 38:21 39:3,13
47:7,11 56:14,17
60:22 61:8 80:20
88:12,15 96:15 97:1
sit 48:13
site 17:18
sits 91:12
situation 33:21
Six 9:22
size 68:12,19,21 69:2
69:14 70:11 90:13
skip 59:21
slightly 13:3
small 12:14 14:14 21:1
22:3 26:7,9,12 32:1
68:17,17 69:20 70:2
So's 73:8
sold 19:12 74:6
solely 89:17
solution 13:9
somebody 22:4 70:22
somewhat 56:18
sorry 14:1 65:15 76:13
76:16 85:11 96:3
sort 5:12 13:8 25:19
29:18 31:13 36:3 40:6
sorts 52:14

sound 73:19
sounds 47:4 75:3
source 12:16 74:12
sourced 12:16
sourcing 31:18 77:7
sous 29:16 36:9 88:13
sous-vide 28:11 29:1,2
29:12,21 36:3 58:21
68:2 70:11,16 85:1,18
85:22 88:7 90:12,13
91:12 99:6
southern 103:4
space 14:16 16:16
59:19 65:7 67:2,10,16
70:8 78:1,3,4,11,13
78:15 80:15 91:7,13
91:18 95:4
speaking 52:18 53:22
55:1,1 94:4
spec'd 69:3,4
special 51:8 68:3 73:19
specific 37:17 51:21
70:10 93:10
specifically 33:12
51:11 101:17
spend 28:16,19
spreadsheets 9:20
Spring 9:16
square 14:16 68:1,6,9
69:22 70:1 91:4,13
staff 21:20 71:20 93:3
93:15
stamp 46:17
stand 11:10 60:12
standard 16:22 55:20
standpoint 27:8,11
44:3,4,16 50:9,11
58:11 85:1,13 86:2
87:13 102:9
start 8:13
state 11:21 45:17,21
statement 7:20
statements 50:21,21
55:2
statute 7:11 8:7 10:18
15:1,2,9 18:18,19
39:4,7 49:13,13,15
50:12,13 52:8 53:5
54:13 59:17 101:9
stay 99:20 109:7,7
steaks 30:1 69:8,9
step 71:5,7
Stevens 22:2 25:19
31:11 77:6 97:8
stick 52:1
stone 31:15 67:14
stops 20:20
storage 35:17 79:3
94:22
store 100:22
storing 35:15
story 9:13
stove 56:9,12,12,13,16
72:17 76:4 88:8,11
99:3 101:2,6
street 1:12 72:5 73:7
75:15
struck 10:21
structural 84:3,5
structure 97:13
structures 65:6
stuff 16:22 65:5 76:10
79:4,5 91:19 101:2
stuff's 97:15
submit 59:7 64:20,22
93:3 94:10 105:16
106:3,8 107:11
submitted 73:21 106:11
subsection 19:14
substantiate 44:8
succeed 11:8 90:3
successful 9:12 49:18
49:22,22 50:6
suffice 46:16
sufficient 21:17 67:1
71:19 72:1
suggested 91:3
suggestions 7:2
Sundays 24:11
supply 77:11
support 74:11
supposed 32:15 51:2
100:13 104:4
sure 20:4 35:3 38:22
41:4,4 42:9 46:9
48:16,22 55:6 56:20
66:13,14 77:1 79:21
80:1 85:12 93:5 95:13
96:12 98:5 99:19
101:4 104:11
sushi 100:21,21 101:1
suspect 108:1
SWAT 30:16,22
swear 11:16,16
sworn 11:13
synergy 26:4 27:2

T

T-O-R-A-N 3:2
t/a 1:6
table 17:2 78:12 79:2
99:12
tables 35:9,13 62:20
67:15 86:16
take 28:4 39:16 70:17
70:17 79:19 91:17,20
94:9 96:1,11,13 99:12
109:5,22
taken 13:20
takes 26:8 70:18
talk 16:7 51:19 70:14
102:19
talked 23:15,16 47:12
talking 18:5 27:19
53:15 73:6,8 85:13
taxes 41:18 42:1
teaming 13:7
technique 29:22 36:4
techniques 31:2
tell 9:13 11:17 12:10
28:22 30:10 48:14
89:22 102:2
tells 70:22
temperature 29:9
tender 11:10
term 8:6 64:9
terminology 61:17
terms 12:12 13:2 15:4
16:10 21:20 22:14
25:15 26:16 31:15
34:7 35:6,6 36:22
37:4 45:6 61:10 67:7
100:12,18,19 101:2
104:1,2,13
test 33:22 34:5,7
testified 28:9
tests 39:5
texture 29:18,20
thank 11:15,20 38:14
46:14,15 47:7 54:5
56:1,3 59:14,17 60:19
60:20 61:4,5,7 79:7,8
82:6,7,10 87:22,22
88:21 99:8,9,10,12,13
99:16 104:5,6 108:15
110:19,20
Thanks 11:21
therewith 61:18
thermometers 47:13
thermostat 17:15 84:2
86:9
thing 23:3 41:18 51:2
84:18,20 92:20
100:10 104:14
things 8:11 23:13 31:17
35:15,16 41:15 52:6
55:9 57:16 65:6 75:9
78:21 80:16,18 84:3,5
92:4 94:18 98:19
101:8
think 2:5 4:7,11,21 5:9
5:18 6:16 7:3,15 8:13
14:15 17:16 20:18,21
22:10 23:3 26:18 27:1

28:9 29:22 32:22
 34:14 37:21 43:13,22
 45:21 46:3,4,6,12
 50:2,12 51:18 52:1,11
 52:22 54:8,16 57:22
 58:21 62:10,10 69:22
 70:4 77:1,19 79:13
 80:10 93:16 100:17
 100:20 101:19 102:7
 102:12 105:13 107:6
thinking 101:5 108:10
third 102:16
thought 8:20,21 9:8
 10:14 11:1 65:11 91:7
 102:18
thoughts 7:1
three 22:10 32:10 65:18
 78:22 84:9 90:22
 102:3 104:21
throwing 9:22
tied 19:5
tier 35:16
time 5:19 24:9 26:8
 32:21 47:6,17 51:13
 55:4,4,11 102:17
 107:9
times 15:3
title 36:7
toaster 68:20
toasty 100:10
today 7:17 8:4 48:1,12
 53:6 55:12 73:22
 76:14 88:7 89:6,12
 94:12 103:9
told 48:17
tools 41:15
top 76:20
Toran 1:6 2:19,19 3:1,1
 3:5 7:21 8:5 11:10,16
 11:19 12:1,2,4,5,9,13
 13:5,18 14:3,11,15,19
 15:2,7,12,15,18,21
 16:6,9,13,16,21 17:6
 17:11 18:2,8,12,16,21
 19:3,7,11,16 20:2,7
 20:11,18 21:5,9,13,15
 21:19 22:1,9,13,20
 23:2,6,8,20 24:4,6,12
 24:16,20 25:3,7,13,18
 26:18 27:10,21 28:2,5
 28:13,18 29:2 30:6,9
 30:12 31:6,9,17 32:7
 33:4,10 34:10,14,18
 34:22 35:3,8,12,21
 36:1,9,13,17 37:2,7
 37:12,15,21 38:4,15
 38:16,21 39:3,12,18
 40:1,4,8,13,17,21

41:5,11,19,22 42:4,10
 42:14,19 43:1 44:10
 47:2,3,7,11,15,18,21
 48:4,10,16 56:10,14
 56:16 60:5,10,18 62:6
 62:11,15,18 63:2,8,10
 63:12,17,21 64:4,8,11
 64:15,18,22 65:3,9,13
 65:18 66:6,19 68:4,7
 68:10,14,16 69:4,11
 69:15,18 70:9 73:11
 73:13,17 74:1,7,10,16
 74:20,22 75:7,10,22
 76:3,7,9,15 77:5,10
 77:13,22 78:4,8,14,18
 78:20 79:2,8,11,21
 80:10,12,20 81:4,6,12
 81:18,21 82:5,7,16,21
 83:3,8,11,17 84:11,14
 84:17 85:2,9,14,16,19
 85:21 86:5,10,13,20
 87:3,6,11,17,21 88:9
 88:12,15,19,22 89:16
 90:5,11,15,17,21 91:6
 91:10,15,17 92:2,5,12
 92:15,18 95:21 96:14
 97:1,6 98:1,12,18
 99:4,7,13 102:12
 104:21 105:4,6,10
Toran's 104:18
total 35:9 65:18
totally 6:8 11:5 51:16
touch 42:5
towel 17:13
towels 47:14 65:14
 83:20
town 45:13
track 5:13 109:3
traditional 100:19
transcript 8:8 10:20
 77:2
transmit 93:14
trash 89:6,7
tried 35:15
true 37:21 87:19
truly 64:1 66:15 67:8
trust 81:14
truth 11:17,17,18
try 56:6 99:20
trying 42:13 46:17 50:3
 61:4 70:5 81:21
turn 4:6
two 15:10 16:4 25:2,22
 27:21 32:10 33:18
 39:4 45:12 73:4 90:9
 90:22 91:13 95:14
type 31:20 32:22
types 65:10

typical 68:12
typically 106:13

U

understand 7:15,16
 10:9 20:12 24:21
 33:18 36:17 37:7 49:5
 49:11 50:20 62:2
 63:18 67:6 70:5 81:1
 105:15
understanding 8:4
 17:21 61:15 87:15
 92:11
understood 6:2 25:7
 36:20
unit 69:2
unnecessarily 61:21
unusual 4:13 5:19
upgrading 3:11
urge 23:13
use 35:20 36:9 39:6,8
 66:9 71:18 88:8 107:3
uses 33:19 36:14
utilities 40:20
utility 41:2

V

vacate 107:7 108:12
 109:2
vacating 108:20
vacuum 28:14
value 34:3
values 26:19
vary 20:10
vegetables 26:12
vendor 72:6
venture 102:13
Venture's 72:2
Ventures 1:6 2:11
 53:11 71:11 72:1,8,10
 72:17,20 109:14
venue 13:13
versus 67:8
viable 30:18 31:13
vide 29:17 36:10 88:14
visit 23:13
voice 28:17
volt 70:19
vote 52:4,5 54:6 55:7
 108:12 109:5,22
 110:14
vs 57:10

W

Wait 51:6
waiting 28:15,18 107:9
walk 15:8 20:3 91:18
 96:18

walking 95:3
walls 78:16
want 2:15 10:11 15:8
 20:22 23:10,11 39:8
 46:9 49:4 51:6 53:17
 54:7,7 56:6 61:1,3
 62:2 70:14 71:6,7,8
 80:8,16 85:12 89:13
 90:8 92:20 93:1,4,16
 95:13 96:12 99:19
 101:4 108:9
wanted 4:1 8:19 13:13
 18:9 30:15 61:8 73:15
 82:1 84:2,4
warm 29:3 88:17
wash 17:12 78:22 83:19
 83:19
washing 55:9 65:14,14
 65:17 83:21
Washington 1:12 22:16
 30:2 36:19
wasn't 5:11 7:3 32:20
 54:22 69:15 81:7 98:6
waste 5:19
water 29:3,13
way 10:13 19:1 22:14
 29:13 54:8 55:7 56:21
 68:20 81:19 89:10
 99:19 106:13,17
ways 15:10 102:14
we'll 11:12 20:1 23:3
 27:5 38:7 66:17 102:7
 109:2 111:2
we're 7:15 12:14 20:4
 23:12 27:3 33:13 43:7
 43:13 45:22 46:9,12
 49:13 50:7,12 53:10
 55:11 58:4,9 74:1
 91:21 95:21 96:21
 98:21 103:22 105:18
we've 27:2,2 77:14 96:8
week's 32:3,4
weekend 25:21
weekends 24:1
weekly 12:21
weeks 25:22
weigh 58:16
welcome 7:2 82:7 88:22
went 2:7 5:13 9:7 30:16
 51:11 102:18
weren't 47:16 75:19
 84:1,3,5
wholeheartedly 61:9
wife 8:18
willing 21:4,7 26:13
 60:11 71:16 97:11
winning 36:13
witness 38:9 95:22

word 102:11
words 20:13
work 11:7 69:21 70:17
70:21 103:6,7 108:2
worked 8:16,17 103:5
works 106:14,18
worry 58:7,8
wouldn't 5:6 58:15
93:19
Wow 55:19
wrong 106:1
wrote 103:15

X

X 54:14

Y

yard 77:6
year 9:22 19:8,13 34:9
48:8
years 9:14 58:22 98:1,8
98:11 103:1,5
young 8:20 9:7

Z

0

1

1 20:16
100 68:4,6 91:4
11:00 24:1,2,4,5
113(a)(1) 53:12,14
12 72:9
12:00 24:1,2
131 39:17,20
14th 1:12
15 33:12 93:13
17 9:14 103:5
17(A) 93:13
17(A)(I) 33:17
18 103:5
1824 1:7 2:11 11:11
12:7
1C 1:8

2

2:00 20:8 23:21 24:7
2:21 2:2,4,7
20 98:1,8,11
2000 1:12
2010 109:11,16,18
110:17
2015 1:10
22 27:16
240 70:19
25 27:14 53:11
25-101 53:15 71:15

72:15,21
25-101.1 59:18
25-113 53:13

3

3 1:10 71:13
3:30 2:4,5
3:38 2:8
30 19:21 27:17
35 27:14

4

4.5 70:21
400 14:16
405 109:10
405(b)iv 109:15
405(b)xiii 109:17
405.1 106:13
43 53:15 59:19 71:15
72:15,22
45 15:22

5

5:00 20:7 23:21
5:13 111:4
50 27:12,18 39:12 45:3

6

6-0-0 110:14
60 27:12,18 39:11,13,17
42:8 45:3

7

7 30:19
75 104:4

8

9
