

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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ROLL CALL HEARING

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IN THE MATTER OF: :

Case #13-PRO-00004 :

Amduffy, LLC :

t/a Duffy's Irish Restaurant :

2106 Vermont Avenue, N.W. :

License #ABRA-072539 :

Retailer Class CT :

Substantial Change (Sidewalk :

Caf, with Approximately 40 :

Seats) :

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MONDAY, FEBRUARY 4, 2013

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The Alcoholic Beverage Control Board met in Alcoholic Beverage Control

Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, 4th Floor, Washington, D.C. 20009, Ms. La Verne Fletcher, Agent, presiding.

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

10:09 a.m.

1  
2  
3 AGENT FLETCHER: Would the parties  
4 in the matter of Duffy's Irish Restaurant  
5 please come forward? This is Case Number 13-  
6 PRO-00004, Amduffy, LLC trading as Duffy's  
7 Irish Restaurant, 2106 Vermont Avenue, N.W.,  
8 License Number ABRA-072539. This is a  
9 Retailer CT, Substantial change, sidewalk caf,  
10 with approximately 40 seats.

11 The protest issues are adverse  
12 impact on peace, order and quiet, residential  
13 parking and real property values.

14 My name is La Verne Fletcher and  
15 I'll be conducting the Roll Call Hearing as  
16 the Board's Agent pursuant to D.C. Official  
17 Code 1601.2.

18 Introductions beginning with the  
19 Applicant.

20 MR. KLINE: Yes, good morning.  
21 Andrew Kline on behalf of the Applicant.  
22 Seated to my left is Andy Duffy, Principal of

1 the Applicant.

2 AGENT FLETCHER: Mr. Kline, did  
3 you say Andy Duffy?

4 MR. KLINE: Yes.

5 AGENT FLETCHER: D-U-F-F-Y.  
6 Right?

7 MR. KLINE: Correct.

8 AGENT FLETCHER: And, Mr. Kline,  
9 would you spell your name for the court  
10 reporter?

11 MR. KLINE: Sure. A-N-D-R-E-W.  
12 Last name K-L-I-N-E.

13 AGENT FLETCHER: Thank you. And  
14 present on behalf of the Protestants?

15 MR. CORNELL: I'm Roger Cornell.  
16 I'm here for an abutting property owner C.  
17 Scott Patterson.

18 AGENT FLETCHER: Okay. Do you  
19 have a letter designating -- I'll take that.  
20 Thank you.

21 And could you state your name one  
22 more time and spell it for the record?

1 MR. CORNELL: Roger R-O-G-E-R.

2 AGENT FLETCHER: Um-hum.

3 MR. CORNELL: Cornell C-O-R-N-E-  
4 L-L.

5 AGENT FLETCHER: Thank you, Mr.  
6 Cornell. Okay. And, Mr. Cornell, you're  
7 present on behalf of C. Scott Patterson?

8 MR. CORNELL: I am.

9 AGENT FLETCHER: Thank you and I  
10 have a letter here from Mr. Patterson  
11 designating Mr. Cornell as his representative.  
12 Thank you.

13 Mr. Patterson is granted standing  
14 as a Protestant.

15 Okay. Your name, sir.

16 MR. MAYES: Stanley Mayes S-T-A-N-  
17 L-E-Y M-A-Y-E-S. I'm here appearing on behalf  
18 of Lorraine White who's an abutting property  
19 owner to the Applicants.

20 AGENT FLETCHER: And your name,  
21 ma'am.

22 MS. WHITE: Lorraine J. White.

1                   AGENT FLETCHER: Lorraine J.

2                   White. Okay. Thank you.

3                   Mr. Mayes, would you spell your  
4                   name for the court reporter?

5                   MR. MAYES: M-A-Y-E-S is the last  
6                   name.

7                   AGENT FLETCHER: Thank you. Thank  
8                   you very much.

9                   And Ms, White, could you do the  
10                  same?

11                  MS. WHITE: W-H-I-T-E exactly --

12                  AGENT FLETCHER: Thank you. Thank  
13                  you very much and Lorraine is L-O-R-R-A-I-N-E?

14                  MS. WHITE: L-O-R-R-A-I-N-E.

15                  AGENT FLETCHER: Thank you very  
16                  much.

17                  And, Ms. White, you submitted a  
18                  protest as an abutting property owner and you  
19                  designated Mr. Mayes to represent you in this  
20                  proceedings?

21                  MS. WHITE: Yes, Mr. Mayes is  
22                  representing me.

1                   AGENT FLETCHER: The email that  
2                   you sent was fine, but you would have needed  
3                   to send a protest letter that was actually  
4                   signed by you, your signature and you did  
5                   submit a letter with your signature, but it  
6                   was the letter designating Mr. Mayes to  
7                   represent you. Which is fine. There's no  
8                   problem with that.

9                   The problem is that your protest  
10                  letter was not signed by you and what that  
11                  means is that the protest is dismissed. You  
12                  cannot be granted standing as a protestant  
13                  because you did not sign a protest letter.

14                 The email -- Mr. Mayes did send an  
15                 email to us on your behalf which he copied to  
16                 Charles White who is your co-protestant.  
17                 Charles White. But, we did not receive a  
18                 protest letter from you signed by you and  
19                 therefore, we cannot grant standing to you as  
20                 a protestant in this matter.

21                 MR. MAYES: First of all, let me  
22                 -- for the record, the instructions that were

1 given to me by the ABC staff member was to do  
2 actually what was done and when that took  
3 place, she indicated that I needed to have Ms.  
4 White sign a letter authorizing my  
5 representation and I did exactly that.

6 It would have been absolutely no  
7 problem with having that other document signed  
8 by Ms. White at the same time. I was not  
9 instructed to do that. It was that that could  
10 not be accepted unless Ms. White authorized me  
11 to do that. I complied with that.

12 AGENT FLETCHER: Um-hum.

13 MR. MAYES: And at the time, there  
14 was no instruction to me by the ABC staff to  
15 do anything else. Because the same effort  
16 that it took to have the letter signed was the  
17 same effort it would have taken to have her  
18 sign the protest application except that it  
19 was not requested of --

20 AGENT FLETCHER: There is an email  
21 in the record related to that dated January  
22 23rd from Sarah Fashbaugh. I'll spell that.

1       It's S-A-R-A-H Sarah. Her last name is  
2       Fashbaugh spelled F-A-S-H-B-A-U-G-H. There's  
3       an email in the file from Ms. Fashbaugh to  
4       Stan Mayes regarding Lorraine J. White and the  
5       email says "Mr. Mayes, Did Ms. White also sign  
6       the protest letter as we discussed."

7               So, there's some indication that  
8       there was a discussion about Ms. White signing  
9       the protest letter.

10              MR. MAYES: There's also an -- no,  
11       there was not. There was an -- there's also  
12       an email covering the letter that I --  
13       covering the letter from Ms. White that  
14       indicated that I was doing that as per her  
15       instructions.

16              I attempted to fax the information  
17       to the ABC Board. Their fax machine did not  
18       accept faxes. Numerous attempts to fax that  
19       -- those documents to the Board and finally,  
20       I sent it electronically and with the covering  
21       note saying, I'm doing this as per your  
22       instructions. Not as per part of your

1 instructions. As per your instructions.

2 AGENT FLETCHER: Do you by any  
3 chance have a copy of those documents with you  
4 that you attempted to fax to Ms. Fashbaugh?

5 MR. MAYES: I don't have them in  
6 my possession right now. I didn't know I  
7 would need them for this morning, but I will  
8 certainly -- I can have them to you today.

9 AGENT FLETCHER: And is there --

10 MR. MAYES: And I think the  
11 transmittal itself, the electronic  
12 transmittal --

13 AGENT FLETCHER: Um-hum.

14 MR. MAYES: -- covers that  
15 particular document.

16 AGENT FLETCHER: And is there --  
17 among those documents, is there a signed  
18 protest letter by Ms. White?

19 MR. MAYES: Yes, the -- the  
20 document from Ms. White that was signed was  
21 signed at the same time except that it was not  
22 explained to -- told to me and -- and I had

1 that conversation several times -- well, an  
2 explicit conversation. Because I asked her  
3 when she told me, because I called her after  
4 the document was -- I said I did not get a --  
5 I had not at that point received a  
6 confirmation that you received the document.  
7 So, I called her.

8 AGENT FLETCHER: Um-hum.

9 MR. MAYES: When I called her, she  
10 said yes, I received a -- the document, but  
11 you don't have authorization from Ms. White to  
12 file this protest and she said it's a good  
13 thing you called. You have until 11:59  
14 tonight to get that document -- to get that  
15 in.

16 AGENT FLETCHER: Which is the  
17 document I just referred to.

18 MR. MAYES: No. Well, wait  
19 document are you referring to?

20 AGENT FLETCHER: Well, you --

21 MR. MAYES: Authorization --

22 AGENT FLETCHER: Yes. Yes. Yes,

1 the authorization. You did send an  
2 authorization.

3 MR. MAYES: That's correct and  
4 that's why and so, I said now, I want to make  
5 sure that I'm doing whatever it is that is  
6 necessary so that the protest will be filed  
7 and she said you have to get this in. What  
8 you -- she said we can accept it  
9 electronically. We can accept it  
10 electronically. You need to scan it in and  
11 then send it to me in that manner.

12 I did that approximately 9-  
13 something at night -- that night after  
14 consulting with Ms. White and there -- and  
15 that document -- both documents could have  
16 been sent in, but there was no reference made  
17 to me prior thereto about the -- the protest  
18 document itself. It was authorization from  
19 Ms. White for you to do this and that -- and  
20 as a result, that is what was filed as opposed  
21 to having both -- I mean both scanned and the  
22 other.

1                   But, when I attempted to -- to  
2                   send in the fax, the fax number -- and as a  
3                   matter of fact, I subsequently called because  
4                   it wouldn't go through.

5                   AGENT FLETCHER:   Um-hum.

6                   MR. MAYES:   We called 311.  I mean  
7                   I called 311 and 311 gave me the very same fax  
8                   number that Ms. Fashbaugh had given me, but no  
9                   documents were being received at that number.

10                  Ms. Fashbaugh informed me that I  
11                  could fax the information in, but that it  
12                  might be better to send it electronically  
13                  because apparently you had been experiencing  
14                  some problems with a fax -- with faxing or  
15                  something of that sort.  I don't know.  But --  
16                  but, the only I know is that no faxes were  
17                  being received at that number on numerous --  
18                  numerous attempts.  That it just redialed and  
19                  redialed and redialed and it would not go  
20                  through.

21                  AGENT FLETCHER:   Um-hum.  Well,  
22                  what I'm going to do is for the purpose of the

1 Roll Call, I'm going to have to dismiss the  
2 protest because that signed protest letter is  
3 not in the file at this time, but Mr. Mayes,  
4 if you have a protest letter that was signed  
5 by Ms. White that didn't come through, if you  
6 could submit that at the same time that you  
7 seek reinstatement of the protest.

8 And you may seek reinstatement of  
9 the protest, Ms. White. We would just need to  
10 have a copy of that signed letter for the  
11 Board to consider assuming that the letter  
12 that was signed was submitted prior to the  
13 petition deadline.

14 And, Mr. Mayes, you mentioned a  
15 cover fax. You mentioned a cover. You had a  
16 cover.

17 MR. MAYES: A fax. Yes.

18 AGENT FLETCHER: A fax cover.

19 MR. MAYES: Well, I just, you  
20 know, make out a cover sheet faxing the  
21 documents.

22 AGENT FLETCHER: If you can

1 demonstrate to the Board that there was a  
2 signed protest letter filed by Ms. White  
3 before the end of the petition deadline, then  
4 the Board would take that into consideration.

5 But, for the purpose of Roll Call  
6 today --

7 MR. MAYES: Oh, I'm --

8 AGENT FLETCHER: -- we'll have to  
9 -- for the purpose of the Roll Call today, the  
10 protest will have to dismiss because we don't  
11 have that on record at this time. We only  
12 have the letter from you, Ms. White, that you  
13 signed to authorize Mr. Mayes to represent  
14 you, but we don't have a protest letter from  
15 you that was signed by you.

16 What were you going to say, Mr.  
17 Mayes?

18 MR. MAYES: Well, you said that --  
19 let me see if I understand you correctly. If  
20 I can provide you a document that was signed  
21 by Ms. White that we did not scan in and send  
22 to you electronically because -- I'm a little

1 bit --

2 AGENT FLETCHER: Yes.

3 MR. MAYES: -- I guess confused  
4 about having received an instruction from your  
5 staff as to what to do and having complied  
6 with that to now being told that the staff  
7 didn't tell you what you needed to do and  
8 therefore, what you did was insufficient.  
9 Because that's what it sounds at this side  
10 like you're saying.

11 AGENT FLETCHER: Well, it appears  
12 that Ms. Fashbaugh did send an email to you,  
13 Mr. Mayes, asking you if Ms. White also signed  
14 the protest letter and I don't know what  
15 happened beyond that because there's no  
16 indication --

17 MR. MAYES: Well, that was -- that  
18 was the next day.

19 AGENT FLETCHER: That was the next  
20 day.

21 MR. MAYES: And I talked to her  
22 after I saw that and I said I don't -- I said

1 did you get -- again, I wasn't relying  
2 specifically on the electronic communication.  
3 I physically talked to her to say did you  
4 receive that. Yes, I received it. At which  
5 point, then she said what she said to me  
6 regarding the other thing.

7 But, the fact of the matter is the  
8 day before when I talked to her when there was  
9 adequate time to simply append the signed  
10 document to the authorization letter, that  
11 instruction was not given to me, what was told  
12 to me and I want that -- and I want to make  
13 sure that's on the record here.

14 AGENT FLETCHER: Um-hum.

15 MR. MAYES: What was told to me  
16 was that the protest was not an issue. What  
17 was an issue was the authorization that I had  
18 to represent Ms. White and so, that is what  
19 was complied in the subsequent hours between  
20 the time that I spoke to her about 4:00 in the  
21 afternoon and -- and 9:00 whatever at night  
22 and it would have been obviously -- well,

1       arguably obvious that it would have been no  
2       more problem to send the additional document  
3       along with the protest -- with the  
4       authorization --

5                   AGENT FLETCHER:   The  
6       authorization.   Yes, I understand what you're  
7       saying.

8                   MR. MAYES:   -- had -- had that  
9       been explained to me that it was necessary and  
10      it was not.

11                  AGENT FLETCHER:   Yes.

12                  MR. MAYES:   It was told to me that  
13      what was at issue was the authorization.

14                  AGENT FLETCHER:   And I understand  
15      what you're saying because your authorization  
16      -- the email enclosing your authorization  
17      letter was dated January 22nd and you're  
18      saying that if you had know that Ms. White  
19      needed to sign the protest letter, you could  
20      have sent that as well.   That was the petition  
21      deadline.   You could have sent both in a  
22      timely -- I understand the point that you're

1 making.

2 MR. MAYES: Quite easily.

3 AGENT FLETCHER: Yes.

4 MR. MAYES: I mean it would have  
5 been no more difficulty in sending one as to  
6 sending the other, you know. So, and to the  
7 extent that there were at least a couple of  
8 hours remaining after that, after the time  
9 that it was submitted to send the subsequent  
10 document, that also could have been done, but  
11 that was never and as I said, Ms. Fashbaugh  
12 said to me it's a good thing you called  
13 because I can't accept this protest because  
14 Ms. White's signature -- Ms. White has not  
15 authorized you to represent her.

16 AGENT FLETCHER: Well --

17 MR. MAYES: And so, she said you  
18 have to get something in here with her  
19 signature. I said that's what I need to send  
20 you. She said has to have her signature. I  
21 said give me the fax number and -- and as well  
22 as the electronic. I said I don't want to

1       rely specifically on that. I will -- I will  
2       attempt to fax it to you -- fax it to you as  
3       well and that is what I did and the faxes  
4       would not go through and I have people who can  
5       affidavit to that effect. That the faxes  
6       would not go through including my call to 311  
7       to get -- in case I had the wrong fax number.  
8       Faxes weren't going through.

9                       But, she had warned me that it was  
10       -- that from time to time, there have been  
11       problems according to her that people have  
12       said they were trying to fax something and it  
13       didn't go through. Well, that's what I was  
14       experiencing.

15                      That's why I went to plan B which  
16       was to send the electronic because I thought  
17       I could get a confirmation of the fax at the  
18       time that the fax went through, but the fax  
19       never went through.

20                      So, I sent it -- and then I sent  
21       it electronically and I kept sending it. I  
22       sent it, I think, two or three times so that

1 I would have back up copies of the fact that  
2 -- that it was going -- that I -- that that  
3 effort was made and that that is what has  
4 happened even though I -- until it check off  
5 on my -- on my email that it had gone through.

6 But, to now be informed that  
7 something that would have been so simple to do  
8 given the fact that the other was being done  
9 to now being told that just seems to me that  
10 somehow or another I wasn't being -- as a  
11 member of the public, I wasn't being fully  
12 served here because I was told something which  
13 I did and now being told oh, but you should  
14 have done something also.

15 AGENT FLETCHER: Well --

16 MR. MAYES: Had I been told  
17 something else also --

18 AGENT FLETCHER: You would have  
19 done that as well.

20 MR. MAYES: Exactly.

21 AGENT FLETCHER: And I understand  
22 what you're saying, Mr. Mayes. For the

1 purpose of the Roll Call, I can only make a --

2 MR. MAYES: I understand.

3 AGENT FLETCHER: -- decision based  
4 on what's in the record. I understand exactly  
5 what you're saying and I can see in the record  
6 what you're saying. I will just suggest I  
7 mean, and you might do this anyway, in seeking  
8 restatement, that you say exactly what you  
9 said in seeking restatement.

10 MR. MAYES: I'm going to do  
11 exactly that, but I want to make sure that for  
12 purposes of this Roll Call Hearing --

13 AGENT FLETCHER: Yes.

14 MR. MAYES: -- that that is on the  
15 record because I don't want some other story  
16 to be told at some subsequent time. This is  
17 the first opportunity I've had to make a  
18 representation as to what has occurred and I  
19 want to make sure that that was done.

20 AGENT FLETCHER: And the Board, of  
21 course, will have access to the transcript  
22 from today as well.

1 MR. KLINE: If that's the case,  
2 then there's a couple of things I'd like to  
3 put on the record.

4 AGENT FLETCHER: Yes.

5 MR. KLINE: Which is as follows.  
6 The requirement of a signed protest letter by  
7 the protestant line is jurisdictional. That's  
8 what creates standing.

9 What the potential protestants  
10 will be accorded is not the right to be  
11 reinstated because their standing has never  
12 been recognized. So, what they will be asking  
13 for is that their standing be -- that Ms.  
14 White's standing be recognized. So, I want to  
15 make sure we're clear on that point.

16 AGENT FLETCHER: Yes, that is  
17 correct.

18 MR. KLINE: It's not a  
19 reinstatement.

20 AGENT FLETCHER: Yes.

21 MR. KLINE: The other points I  
22 want to make is that Mr. Mayes relying on

1 staff to the extent that he did does so at his  
2 peril.

3 The regulations are very clear.  
4 The regulations require that there be a signed  
5 protest letter signed by the protestant.

6 Had Mr. Mayes looked at the  
7 regulations, he would have known that.

8 This is not his first experience  
9 down here. He had been involved in several  
10 other protests including in connection with  
11 this establishment at least twice as well as  
12 one other establishment that I'm aware of and  
13 it's also my understanding that Mr. Mayes has  
14 been trained as a lawyer.

15 So, in terms of relying on staff,  
16 the regulations are there. They're published  
17 on ABRA's website. They're there for everyone  
18 to see.

19 Waiting until the last day is  
20 always a risky proposition because things can  
21 go wrong. The availability of fax or  
22 electronic transmission is nowhere provided in

1 the regulations. It's something that's  
2 available as an accommodation to the public  
3 and to licensees and applicants.

4 But, if one wants to make sure  
5 that they get their protest in on time, then  
6 they do two things. One is they make sure  
7 they read the rules so that they comply with  
8 those rules and the other in as much as this  
9 property is probably no more than six/eight  
10 blocks from here, it's pretty simple to walk  
11 or cab or drive over the document that needs  
12 to be filed so that it is done on a timely  
13 basis.

14 So, I certainly am sympathetic to  
15 the apparent confusion, but the requirement  
16 that a signed protest be timely filed is  
17 regulatory. It creates the standing. Without  
18 it, there is no protest.

19 So, I would have saved it for the  
20 Board, but if the Board is going to review  
21 this transcript, I wanted to make sure that I  
22 got all of that on this record which we will

1 certainly put in our opposition to any motion  
2 or recommendation on standing that might be  
3 filed by or on behalf of Ms. White.

4 AGENT FLETCHER: Thank you, Mr.  
5 Kline.

6 MR. MAYES: I also want to note  
7 that on January the 24th in a letter signed by  
8 Sarah Fashbaugh, Ms. White received a document  
9 referring to the protest that you had filed in  
10 the above referenced matter has been timely  
11 filed. The Alcoholic Beverage Control Board  
12 has scheduled a Roll Call Hearing on February  
13 4th and subsequent information in here.

14 At no point does it reference the  
15 fact that there was something not stated in  
16 this.

17 AGENT FLETCHER: Well, that's  
18 because only the ABC Board can determine  
19 whether or not standing will be granted in a  
20 protest.

21 Ms. Fashbaugh will only send a  
22 letter that indicates whether or not it's

1 timely and only the ABC Board can determine  
2 whether or not a protestant has standing and  
3 that is the purpose of the Roll Call Hearing  
4 today.

5 MR. MAYES: Okay. And with regard  
6 to what Mr. Kline referenced, the purpose of  
7 -- there are dual purposes. Many purposes for  
8 having published information. This is not in  
9 and of itself a strictly legal proceeding.

10 There is also -- this is quasi-  
11 legal in my estimation as to whether -- which  
12 is why the Board is very liberal with regard  
13 to its interpretation, rules of evidence and  
14 other things that happen here. With hearsay  
15 and evidence. Because there's a public  
16 service that is manifested here not just the  
17 strict application of legal principle.

18 The purpose of the Board having  
19 staff that interacts with the public cannot  
20 singularly be to provide additional employment  
21 opportunities for people in the District of  
22 Columbia and surrounding jurisdictions, but is

1 also to provide information to people who --  
2 information to the lay public that may or may  
3 not be aware of something as it relates to the  
4 actions that are adjudicated by this Board.

5 And it is not in my estimation  
6 sufficient to say that all of these things  
7 that Mr. Kline referred to have no bearing on  
8 the fact that the public is relying upon staff  
9 regardless of whether you come here or you  
10 don't. If coming here was a requirement, then  
11 Mr. Kline should also recognize and recommend  
12 that that be also codified in the regulations  
13 that you cannot telephone the staff, that you  
14 cannot communication with staff.

15 AGENT FLETCHER: Mr. Mayes, what  
16 I'm --

17 MR. MAYES: That you have to  
18 physically be present here.

19 AGENT FLETCHER: Yes, what I'm  
20 going to do at this stage is I'm going to move  
21 along to the point where -- for the Protestant  
22 that was granted standing today. We need to

1 schedule a hearing.

2 You're free to stay because this  
3 is a public hearing, but with respect to the  
4 protest filed by --

5 MR. MAYES: May I ask one question  
6 before you move on?

7 AGENT FLETCHER: Yes.

8 MR. MAYES: Filing the request for  
9 reinstatement would be done when?

10 AGENT FLETCHER: I'm sorry. What  
11 was that?

12 MR. MAYES: When would the request  
13 for reinstatement or instatement be done?

14 AGENT FLETCHER: Well, you'll  
15 receive -- Ms. White will receive an order  
16 from the ABC Board. It'll be an order of  
17 dismissal of the protest is what it's called.

18 MR. MAYES: Um-hum.

19 AGENT FLETCHER: And it'll have  
20 the instructions in it. You have -- Ms. White  
21 will have ten days from receipt of that  
22 document to seek reinstatement or instatement

1 of the protest.

2 MR. MAYES: Okay. Thank you.

3 AGENT FLETCHER: You're welcome.

4 Mr. Cornell, I'm going to give you some dates  
5 for a mediation, a status hearing and a  
6 protest hearing and Mr. Mayes and Ms. White,  
7 if somehow you submit a request for  
8 reconsideration of the decision today and the  
9 Board grants your request to recognize you as  
10 a protestant, then you would be contacted with  
11 respect to the mediation if it occurs -- that  
12 occurs prior to the mediation or we'll just  
13 have to wait and see. The process will move  
14 forward, but if you are granted standing as a  
15 protestant, then I'll become aware of that.

16 MR. CORNELL: Okay.

17 AGENT FLETCHER: Then we can  
18 proceed with Ms. White from that point.

19 MR. CORNELL: Okay.

20 AGENT FLETCHER: The date for the  
21 status hearing is set for March the 13th, 2013  
22 at 9:30. That's March 13 for the status

1 hearing and --

2 MR. CORNELL: Nine-thirty?

3 AGENT FLETCHER: Yes, at 9:30 a.m.

4 And there will be a protest

5 hearing if this matter cannot be resolved.

6 The Protest Hearing is set for April the 24th,

7 2013 at 4:00 p.m. That's April 24 at 4:00.

8 MR. CORNELL: Will Mr. Patterson

9 be sent this information?

10 AGENT FLETCHER: And what did you

11 say, Mr. --

12 MR. CORNELL: Will Mr. Patterson

13 be sent this information?

14 AGENT FLETCHER: Yes, you'll

15 receive a notice with the dates -- with the

16 hearing dates and the status hearing and the

17 protest hearing take place right here. Those

18 two hearings are before the full Board.

19 That's just for your information.

20 And also, Mr. Patterson must

21 appear for the status hearing in order to

22 maintain -- he's actually granted conditional

1 standing just to clarify the record. He's  
2 actually granted conditional standing today  
3 because you're here on his behalf, but he must  
4 appear for the status hearing in order to  
5 maintain standing as a protestant. Otherwise,  
6 the Board will dismiss his protest at the  
7 status hearing.

8 And we need to set a date for  
9 mediation to occur prior to the March 13th  
10 status hearing and Mr. Patterson will need to  
11 appear for the mediation.

12 I'll give you some dates that are  
13 available.

14 MR. KLINE: I would query as to  
15 whether Mr. Cornell's in a position to  
16 schedule for Mr. Patterson. If not --

17 MR. CORNELL: Not right now. No.  
18 No.

19 MR. KLINE: Then we would suggest  
20 that you be in touch with each of us so that  
21 we can schedule it.

22 AGENT FLETCHER: I can do that.

1 MR. KLINE: Seems to make more  
2 sense rather than Mr. Cornell picking dates.

3 MR. CORNELL: Sure. Yes. My  
4 involvement will end today in the chair as his  
5 representative.

6 AGENT FLETCHER: I'm sorry. What  
7 did you say, Mr. Cornell?

8 MR. CORNELL: My involvement in  
9 the matter further will end today.

10 AGENT FLETCHER: Okay.

11 MR. CORNELL: So, yes, if you can  
12 discuss directly with him.

13 AGENT FLETCHER: Okay.

14 MR. KLINE: And I would ask Mr.  
15 Cornell if he's got an email address for Mr.  
16 Patterson. Perhaps he could provide it to  
17 both of us and that would facilitate the  
18 scheduling.

19 MR. CORNELL: I do.

20 AGENT FLETCHER: There's a sign-in  
21 sheet right there, Mr. Cornell and Mr.  
22 Cornell, do you know when Mr. Patterson will

1 be returning?

2 MR. CORNELL: I'll be back in town  
3 this afternoon.

4 AGENT FLETCHER: Okay. See, Mr.  
5 Kline, may I run two or three dates by you  
6 just so that I can give them to Mr. Patterson  
7 when I contact him?

8 MR. CORNELL: Sure.

9 AGENT FLETCHER: Let's see. Let's  
10 see here. What about Thursday, February --  
11 I'll give you three dates that are available  
12 in February. February 14 which is a Thursday,  
13 February 19 and February 21.

14 MR. MAYES: I'll be out of town  
15 the 19th and 21st.

16 AGENT FLETCHER: Okay.

17 MR. KLINE: I think we'd prefer to  
18 do it later anyway because we do want to make  
19 sure that this issue of standing is resolved  
20 prior to the mediation.

21 AGENT FLETCHER: Okay.

22 MR. KLINE: That may have some

1 bearing on how we proceed.

2 AGENT FLETCHER: Okay. So, then  
3 I'm looking in March. March 7th and 8 are  
4 available. That's a Thursday or Friday or  
5 actually, March 4, 7 or 8. The 4th is a  
6 Monday and the 7th and 8th, Thursday, Friday.

7 MR. KLINE: Let's offer -- the 7th  
8 and the 8th, I'm open at this point and Mr.  
9 Duffy's available. So, why don't we leave  
10 those dates. I'll leave them wide open --

11 AGENT FLETCHER: Okay.

12 MR. KLINE: -- until we hear back  
13 from Mr. Patterson as to whether he might be  
14 available.

15 AGENT FLETCHER: Okay. And the  
16 times available on those two days are 9:00,  
17 10:00, 11:00 and 1:00.

18 MR. KLINE: I think we'd prefer  
19 11:00 or 1:00.

20 AGENT FLETCHER: So, I'll run  
21 those dates by Mr. Patterson, Mr. Kline, and  
22 I'll get back to you.

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MR. KLINE: Great.

AGENT FLETCHER: And so, Mr. Cornell, you've got Mr. Patterson's email address?

MR. CORNELL: I have two emails.

Therefore --

AGENT FLETCHER: Okay. Perfect.

Thank you very much. Then the Roll Call Hearing is concluded.

MR. KLINE: Thank you.

AGENT FLETCHER: Thank you.

(Whereupon, at 10:42 a.m., the hearing was adjourned.)

<b>A</b>	<b>Alcoholic</b> 1:3,19,19 25:11 <b>Amduffy</b> 1:10 2:6 <b>Andrew</b> 2:21 <b>Andy</b> 2:22 3:3 <b>anyway</b> 21:7 33:18 <b>apparent</b> 24:15 <b>apparently</b> 12:13 <b>appear</b> 30:21 31:4 31:11 <b>appearing</b> 4:17 <b>appears</b> 15:11 <b>append</b> 16:9 <b>Applicant</b> 2:19,21 3:1 <b>applicants</b> 4:19 24:3 <b>application</b> 7:18 26:17 <b>approximately</b> 1:14 2:10 11:12 <b>April</b> 30:6,7 <b>arguably</b> 17:1 <b>asked</b> 10:2 <b>asking</b> 15:13 22:12 <b>assuming</b> 13:11 <b>attempt</b> 19:2 <b>attempted</b> 8:16 9:4 12:1 <b>attempts</b> 8:18 12:18 <b>authorization</b> 10:11,21 11:1,2 11:18 16:10,17 17:4,6,13,15,16 <b>authorize</b> 14:13 <b>authorized</b> 7:10 18:15 <b>authorizing</b> 7:4 <b>availability</b> 23:21 <b>available</b> 24:2 31:13 33:11 34:4 34:9,14,16 <b>Avenue</b> 1:12 2:7 <b>aware</b> 23:12 27:3 29:15 <b>A-N-D-R-E-W</b>	3:11 <b>a.m</b> 2:2 30:3 35:12 <hr/> <b>B</b> <b>B</b> 19:15 <b>back</b> 20:1 33:2 34:12,22 <b>based</b> 21:3 <b>basis</b> 24:13 <b>bearing</b> 27:7 34:1 <b>beginning</b> 2:18 <b>behalf</b> 2:21 3:14 4:7,17 6:15 25:3 31:3 <b>better</b> 12:12 <b>Beverage</b> 1:3,19,19 25:11 <b>beyond</b> 15:15 <b>bit</b> 15:1 <b>blocks</b> 24:10 <b>Board</b> 1:3,19 8:17 8:19 13:11 14:1,4 21:20 24:20,20 25:11,18 26:1,12 26:18 27:4 28:16 29:9 30:18 31:6 <b>Board's</b> 2:16 <b>Building</b> 1:20 <hr/> <b>C</b> <b>C</b> 3:16 4:7 <b>cab</b> 24:11 <b>caf</b> 1:14 2:9 <b>call</b> 1:5 2:15 13:1 14:5,9 19:6 21:1 21:12 25:12 26:3 35:8 <b>called</b> 10:3,7,9,13 12:3,6,7 18:12 28:17 <b>case</b> 1:10 2:5 19:7 22:1 <b>certainly</b> 9:8 24:14 25:1 <b>chair</b> 32:4 <b>chance</b> 9:3 <b>change</b> 1:13 2:9 <b>Charles</b> 6:16,17	<b>check</b> 20:4 <b>clarify</b> 31:1 <b>Class</b> 1:13 <b>clear</b> 22:15 23:3 <b>Code</b> 2:17 <b>codified</b> 27:12 <b>Columbia</b> 1:1 26:22 <b>come</b> 2:5 13:5 27:9 <b>coming</b> 27:10 <b>communication</b> 16:2 27:14 <b>complied</b> 7:11 15:5 16:19 <b>comply</b> 24:7 <b>concluded</b> 35:9 <b>conditional</b> 30:22 31:2 <b>conducting</b> 2:15 <b>confirmation</b> 10:6 19:17 <b>confused</b> 15:3 <b>confusion</b> 24:15 <b>connection</b> 23:10 <b>consider</b> 13:11 <b>consideration</b> 14:4 <b>consulting</b> 11:14 <b>contact</b> 33:7 <b>contacted</b> 29:10 <b>Control</b> 1:3,19,19 25:11 <b>conversation</b> 10:1 10:2 <b>copied</b> 6:15 <b>copies</b> 20:1 <b>copy</b> 9:3 13:10 <b>Cornell</b> 3:15,15 4:1 4:3,3,6,6,8,11 29:4,16,19 30:2,8 30:12 31:17 32:2 32:3,7,8,11,15,19 32:21,22 33:2,8 35:3,5 <b>Cornell's</b> 31:15 <b>correct</b> 3:7 11:3 22:17 <b>correctly</b> 14:19	<b>couple</b> 18:7 22:2 <b>course</b> 21:21 <b>court</b> 3:9 5:4 <b>cover</b> 13:15,15,16 13:18,20 <b>covering</b> 8:12,13 8:20 <b>covers</b> 9:14 <b>co-protestant</b> 6:16 <b>creates</b> 22:8 24:17 <b>CT</b> 1:13 2:9 <b>C-O-R-N-E</b> 4:3 <hr/> <b>D</b> <b>date</b> 29:20 31:8 <b>dated</b> 7:21 17:17 <b>dates</b> 29:4 30:15,16 31:12 32:2 33:5 33:11 34:10,21 <b>day</b> 15:18,20 16:8 23:19 <b>days</b> 28:21 34:16 <b>deadline</b> 13:13 14:3 17:21 <b>decision</b> 21:3 29:8 <b>demonstrate</b> 14:1 <b>designated</b> 5:19 <b>designating</b> 3:19 4:11 6:6 <b>determine</b> 25:18 26:1 <b>difficulty</b> 18:5 <b>directly</b> 32:12 <b>discuss</b> 32:12 <b>discussed</b> 8:6 <b>discussion</b> 8:8 <b>dismiss</b> 13:1 14:10 31:6 <b>dismissal</b> 28:17 <b>dismissed</b> 6:11 <b>District</b> 1:1 26:21 <b>document</b> 7:7 9:15 9:20 10:4,6,10,14 10:17,19 11:15,18 14:20 16:10 17:2 18:10 24:11 25:8 28:22
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