

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

2 10:44 a.m.

3 CHAIRPERSON ANDERSON: Good morning,
4 everyone. I'd like to welcome you to the regular
5 scheduled meeting of the District of Columbia
6 Alcohol and Beverage Control Board. Today is
7 Wednesday, August 19th, 2020, and the time is
8 approximately 10:44 a.m.

9 This meeting has been conducted
10 pursuant to guidance made available by the
11 District of Columbia Office of Open Government
12 regarding electronic meetings held by public
13 bodies during the public health emergency.

14 Pursuant to this guidance, notice of
15 today's meetings was provided 48 hours in advance
16 of the meeting on ABRA's website and on the
17 District's central meeting calendar. The notice
18 includes the time, date, agenda, and call-in or
19 login information for public participation. This
20 electronic meeting has been hosted by a WebEx
21 account provided by the District of Columbia
22 government. Please address any questions or
23 complaints to the OOG at OpenGovOffice@DC.gov.

24 My name is Donovan Anderson and I'm
25 Chairman of the Board. I would like to introduce

1 the other members of the Board who are also
2 participating electronically pursuant to Mayor's
3 Order 2020-054.

4 Please respond when I announce your
5 name. Mr. James Short? Mr. Short, please turn -
6 - I cannot hear you. Turn your microphone on.
7 Mr. Short, please open -- please un-mute your --
8 yes. Go ahead, Mr. Short?

9 MEMBER SHORT: Yes, Mr. James Short
10 present.

11 CHAIRPERSON ANDERSON: Thank you, Mr.
12 Short. Mr. Bobby Cato?

13 MEMBER CATO: Bobby Cato, present.

14 CHAIRPERSON ANDERSON: Ms. Rema
15 Wahabzadah?

16 MEMBER WAHABZADAH: Rema Wahabzadah,
17 present.

18 CHAIRPERSON ANDERSON: Ms. Rafi
19 Crockett?

20 MEMBER CROCKETT: Rafi Crockett,
21 present.

22 CHAIRPERSON ANDERSON: Ms. Jeni
23 Hansen?

24 MEMBER HANSEN: Jeni Hansen, present.

25 CHAIRPERSON ANDERSON: The Board has

1 six members in attendance today for the conduct
2 of business, and that constitute a quorum. Our
3 first order of business is today is our calendar,
4 and it's a Fact Finding Hearing by Rhino
5 Investments, LLC, to be determined license no.
6 99467.

7 The request has been made from Rhino
8 for a request to extend their safekeeping. And
9 can we have the representatives from Rhino
10 introduce themselves for the record starting with
11 their attorney?

12 MR. O'BRIEN: Stephen O'Brien.

13 CHAIRPERSON ANDERSON: Mr. O'Brien,
14 good morning.

15 MR. O'BRIEN: Good morning. And I
16 think Justin Hicks representing Rhino is on the
17 call also.

18 CHAIRPERSON ANDERSON: Yeah. Good
19 morning, Mr. Hicks. Mr. Hicks, you need to open
20 your -- we can't hear you, Mr. Hicks, so you need
21 to open your -- we can't hear you. Mr. Hicks, we
22 can't hear -- I don't know what it is you did
23 before, but we heard you before but we can't hear
24 you now.

25 We can't hear you, Mr. Hicks. We

1 still can't hear you. What I suggest that you
2 do, Mr. Hicks, why don't you sign off then sign
3 back in please.

4 And Board Member Grandis has joined
5 us. Mr. Grandis, can you introduce yourself for
6 the record, please?

7 MEMBER GRANDIS: Yes. Good afternoon,
8 my name is Edward Grandis.

9 CHAIRPERSON ANDERSON: And good
10 morning again, Mr. Grandis. So the Board now has
11 seven members. All seven members are here to
12 participate in this meeting today. We're waiting
13 for Mr. Hicks to come back on because he was
14 having some technical issues. So as soon as Mr.
15 Hicks comes back on, we will resume the hearing.

16 MR. HICKS: Can you hear me now?

17 CHAIRPERSON ANDERSON: Yes. We can
18 hear you, Mr. Hicks.

19 MR. HICKS: Perfect.

20 CHAIRPERSON ANDERSON: Thank you. And
21 while you were away, Mr. Hicks, Mr. Grandis has
22 joined us so we now have -- all seven board
23 members are participating.

24 So you know, Mr. O'Brien, we had -- a
25 request was made I think in November for a Fact

1 Finding Hearing. We had a Fact Finding Hearing
2 in November and assurances were made to us by
3 both Mr. Hicks and yourself in November basically
4 telling us that if the Board approve the
5 safekeeping request, if we grant the safekeeping
6 request from March 31st, 2020, that the licensee
7 would not come back to the Board and request
8 another -- no, the licensee basically says that,
9 "If by March 31st, 2020, if we don't have any
10 license in transfer at that point, I will not
11 seek another extension." That was a court that
12 was provided to us by Mr. Hicks at our last
13 hearing in November of 2019.

14 Another request is now being made for
15 another safekeeping request. So maybe, Mr.
16 O'Brien, you can update us where we are and why
17 it's another -- whether or not has that condition
18 been met. And if it has not been met, why
19 another safekeeping request has been made out.

20 MR. O'BRIEN: The answer is doesn't
21 get often met.

22 CHAIRPERSON ANDERSON: It's that it
23 has or has not?

24 MR. O'BRIEN: Has not.

25 CHAIRPERSON ANDERSON: Okay. Go

1 ahead. So why was --

2 MR. O'BRIEN: There is no transfer
3 application to a specific location on file. That
4 was the condition, it has not been met. I'll let
5 Mr. Hicks speak to this more particularly, but
6 the long and short is that the health emergency
7 has upset all apple carts. And that is the,
8 generally speaking, the reason why but I'll let
9 Mr. Hicks elaborate.

10 MR. HICKS: Sure. Thank you for your
11 kindness --

12 CHAIRPERSON ANDERSON: Mr. Hicks?

13 MR. HICKS: -- Chairman and Chairwomen
14 of the Board. Yeah, we were -- early in the
15 year, we were close with many properties and we
16 were absolutely planning on being successful in
17 this endeavor.

18 As you know, the health emergency with
19 COVID came along and upset everything. Since
20 that time, we had to put everything on hold as
21 that business model, at least in our opinion, is
22 not a viable one until there is some clarity and
23 some stability in the market.

24 And then it, you know, there's a path
25 forward to how we can operate -- open and

1 operate, you know, a tavern both safely and
2 profitably in Georgetown. We think that there's
3 opportunity ahead as we get closer towards a
4 vaccine and we get some clarity and the how these
5 businesses will operate.

6 As you well know, you know, not just
7 DC but around the country the bar and restaurant
8 industries been pretty much guesstimated. And,
9 you know, while there may be people opening bars,
10 I don't know, I -- you know, we are not in a
11 position where we feel it's the right time to
12 open one, but we do feel we're in the position
13 that we have got the capital.

14 We still maintain the determination
15 and the will to open one. We think there'll be a
16 rebuilding in Georgetown and in other places
17 around the country. Of course the individual
18 that I work for, the owner of Rhino Investments,
19 is a Georgetown resident. He's got access to
20 lots of capital and looks forward to rebuilding
21 in that area.

22 So I think an extensionable amount to,
23 you know, seize upon an opportunity to open a
24 business at the appropriate time as there's, you
25 know, a little more clarity and stability and be

1 part of that rebuilding effort.

2 CHAIRPERSON ANDERSON: Did you have
3 anything that you want to say on this case, sir,
4 Mr. O'Brien --

5 MR. O'BRIEN: Yes.

6 CHAIRPERSON ANDERSON: -- before the
7 Board asks questions?

8 MR. O'BRIEN: Yes. The issue I think
9 at this point is whether any business that opens
10 with any prospect of success -- now I don't have
11 any statistics but I'm very confident, I know at
12 least from a workflow in our office, that the
13 number of new applications for new licenses for
14 on premises consumption received by ABRA since
15 the emergency began is greatly diminished.

16 I'm not saying there hasn't been any,
17 but they are much fewer and far between. No on
18 premise business is making money now, everyone is
19 losing money. The only issue is how much is one
20 losing. And in that climate, opening a business
21 just doesn't make any sense.

22 One of the points I'd like to make, at
23 the last Fact Finding Hearing, the Chair observed
24 that someone else ought to be given a chance to
25 open a business if Rhino is not going to proceed.

1 But I can assure you what's going to happen is if
2 this license is made available, and ABRA makes a
3 public announcement there's now one tavern
4 license available in Georgetown, a new business I
5 can assure you is not going to come in and say,
6 "Yes, we want it."

7 What's going to happen is an existing
8 CR business that perhaps is marginal with food
9 service, or doesn't want to fool with the
10 quarterly reports anymore, will come in and
11 snatch it up. So there won't be new business
12 opening in Georgetown, just an existing business
13 will convert its ask.

14 At this point, I suggest that the most
15 prudent course of action is for us to await how
16 the COVID-19 shakes out. Anything other than
17 that at this point is I don't think ultimately
18 going to be productive from the Board's point-of-
19 view.

20 CHAIRPERSON ANDERSON: Anything else
21 any of the -- prior to the Board asking
22 questions, anything else you want to say?

23 MR. O'BRIEN: No, I'd be glad to
24 respond to Board questions.

25 CHAIRPERSON ANDERSON: All right. The

1 first question that I have is that the
2 representation was made in November. The
3 representation that was made in November. It was
4 that all this will -- certain events will occur
5 by March 31st.

6 Yes, we're all aware that the pandemic
7 but the pandemic did not -- the public health
8 emergency didn't occur until the latter part of
9 March. So my position is that you had November,
10 December, January, February, and March, and if
11 you're told March.

12 And if you came to the Board and
13 basically stated that, "We found a property, we
14 signed a contract, however based on the pandemic
15 we have to revisit our business model. So
16 because we have to revisit our business model,
17 we're not able to move forward."

18 But you're not telling us that you
19 have even signed a contract. You're basically
20 bootstrapping by saying, you know, "The pandemic,
21 we now need to revisit our business model." And
22 I understand that. Based on the pandemic, yes,
23 everyone is revisiting this business model.

24 But the presentation that was made
25 today, you have not stated to me that we were at

1 the juncture to sign a contract to sign a lease.
2 And that we were -- this is what we were doing,
3 and then the pandemic occurred, so therefore we
4 have to pull back and revisit.

5 I have not heard that, so I'm not
6 quite sure -- it doesn't appear to me that
7 anything has changed from the last time you were
8 in front of the Board. And when you respond, the
9 person's who's responding please identify
10 yourself for the record.

11 MR. O'BRIEN: Yes. This is Steve
12 O'Brien responding, Mr. Chair. I would say two
13 things. Number one, I would ask the Board what
14 the Mr. Hicks just stated, that earlier this year
15 he was getting very close on location. The
16 second thing I would say is although the health
17 emergency got declared in the District until
18 middle of March. In fact, everyone has in the
19 industry has known there was big trouble since at
20 least mid-February.

21 CHAIRPERSON ANDERSON: Hold on before
22 you respond, could I ask all Board members if
23 you're not speaking to put your phone on mute.
24 If you're not speaking, please put your phone on
25 mute. And then once you're allowed to speak, un-

1 mute yourself.

2 Go ahead, respond whoever needs to
3 respond. Please go ahead. Were you done, Mr.
4 O'Brien?

5 MR. O'BRIEN: Yes, I had finished.

6 CHAIRPERSON ANDERSON: Do you have
7 anything you want to ask, Mr. Hicks?

8 MR. HICKS: No, just to -- yes. Up
9 until into March, we were actively negotiating
10 properties we had. While we did not have a
11 contract executed, we had lots of LOIs out. We
12 were actively negotiating what we thought would
13 be successful acquisitions of the property at
14 that time.

15 So we were and I was leading that
16 effort. I'm very active with our real estate
17 brokers in trying to find a good location. And
18 several properties, both one in and Wisconsin, we
19 were in price negotiations with and the LOI
20 stage. A later LOI stage, I should say.

21 MEMBER GRANDIS: Mr. O'Brien?

22 CHAIRPERSON ANDERSON: Oh, no that --
23 that's Mr. Grandis asking a question. Go ahead,
24 Mr. Grandis.

25 MEMBER GRANDIS: Mr. O'Brien, it's

1 good to see you. Would your client be willing to
2 provide the Board any of these LOIs that had been
3 alleged to help us in understanding what exactly
4 was happening regarding trying to find a location
5 in Georgetown for a CT?

6 MR. O'BRIEN: My concern there would
7 be a maintenance of confidentiality. I would not
8 have a problem I think in camera for those non-
9 lawyer -- Mr. Grandis knows what it means, Mr.
10 Anderson knows, for the non-lawyers meaning for
11 the Board to look at them but they not be shared
12 with the public. It's good business negotiation.

13 MEMBER GRANDIS: Yeah, thank you.
14 Thank you, Mr. O'Brien.

15 CHAIRPERSON ANDERSON: All right. Do
16 we have any other questions by any Board members?
17 Go ahead, Ms. Crockett. I see you, go ahead.

18 MEMBER CROCKETT: Mr. Hicks, you said
19 that you were in active negotiations as late as
20 March. Did you decide to cut off those
21 negotiations because of your concern that, you
22 know, opening a restaurant or a tavern during
23 this time would not be profitable? I mean, why
24 did those negotiations stop? Was that on your
25 end, was that at the other party's end? Why did

1 those negotiations come to an end?

2 MR. HICKS: It was our end. And, I
3 mean, that was driven from a -- I represent, you
4 know, the person that owns Rhino. I work for him
5 for another company called MC Dean. We're a
6 government contractor, and I do all the
7 investment for them as well. So it's not only
8 just random investments but MC Dean behind it,
9 you know, who saw this, let's say, economic
10 impact coming.

11 So, you know, cash investments and
12 investments across the Board were put on hold
13 company-wide and that slowed down to these. And
14 we decided that we needed to wait and see how
15 this was going to impact the market. And since
16 that, the pandemic, while we keep an eye on the
17 market and look at -- see what's out there, we
18 don't feel as we mentioned before it's the right
19 time to open a tavern despite the fact that we
20 want to and we want to participate, you know,
21 going forward once there's an ability.

22 But we were the initiator. To answer
23 your question, we were the initiator of pulling
24 out of those LOIs with the exception of one that
25 got sold in March despite we had a higher offer

1 on them.

2 CHAIRPERSON ANDERSON: Any other
3 questions by any other Board members?

4 MEMBER SHORT: Mr. Chairman, Mr.
5 Short.

6 CHAIRPERSON ANDERSON: Yes. Go ahead,
7 Mr. Short.

8 MEMBER SHORT: Yes. Mr. Chairman, I
9 would really like to enter on the record that
10 because of this COVID-19 pandemic, nationwide
11 trends have been to wait. I would like to also
12 go on the record stating that our executives in
13 the most high places in the United States of
14 America try to press things on as they're normal.
15 This is not our normal. This is our new normal.

16 I would like to think that this Board
17 would consider that this COVID-19 has caused a
18 lot of businesses to make decisions that work for
19 the public safety and work for their own pocket
20 safety in that this isn't the end of the line.
21 And I would like to think that we make decisions
22 based on this COVID-19 pandemic now and just be
23 reasonable.

24 There's not a lot of businesses
25 opening up now. In fact, there are a lot of

1 businesses closing down now. And I would like to
2 think that once the COVID is gone, we would
3 reconsider a lot of things that we cannot
4 consider possibly now during the pandemic. Thank
5 you, Mr. Chair. That's all I have to say.

6 CHAIRPERSON ANDERSON: Thank you, Mr.
7 Short. Do we have any questions by any other
8 Board members?

9 All right. Hearing none, either Mr.
10 Hicks or Mr. O'Brien, do you want to make any
11 closing statements please?

12 MR. O'BRIEN: No, sir. This is
13 O'Brien speaking. I'd simply be repeating what I
14 already said.

15 CHAIRPERSON ANDERSON: Thank you, Mr.
16 O'Brien. Mr. Hicks?

17 MR. HICKS: I as well. I just wanted
18 to show you of our, you know, continued
19 determination to do this. We do have an interest
20 and we certainly thank you for all the time in
21 the past that you've given us, and the members of
22 the Board.

23 CHAIRPERSON ANDERSON: All right.
24 Thank you, Mr. O'Brien. Thank you, Mr. Hicks.
25 We'll bring this hearing to a close. The Board

1 will take this matter under advisement and we
2 will get back to you regarding our final
3 determination. Thank you very much and have a
4 great day.

5 MR. HICKS: Thank you.

6 MR. O'BRIEN: Thank you.

7 CHAIRPERSON ANDERSON: All right,
8 thanks.

9 (Whereupon, the above-entitled matter
10 went off the record at 11:06 a.m.)
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12
13
14
15
16
17
18
19
20
21
22
23
24
25

A

a.m 2:2,8 18:10
ability 15:21
able 11:17
above-entitled 18:9
ABRA 9:14 10:2
ABRA's 2:16
absolutely 7:16
access 8:19
account 2:21
acquisitions 13:13
action 10:15
active 13:16 14:19
actively 13:9,12
address 2:22
advance 2:15
advisement 18:1
afternoon 5:7
agenda 2:18
ahead 3:8 7:1 8:3 13:2
 13:3,23 14:17,17 16:6
Alcohol 2:6
Alcoholic 1:2,13
ALIYA 1:17
alleged 14:3
allowed 12:25
America 16:14
amount 8:22
Anderson 1:14,16 2:3
 2:24 3:11,14,18,22,25
 4:13,18 5:9,17,20
 6:22,25 7:12 9:2,6
 10:20,25 12:21 13:6
 13:22 14:10,15 16:2,6
 17:6,15,23 18:7
announce 3:4
announcement 10:3
answer 6:20 15:22
anymore 10:10
appear 12:6
apple 7:7
Applicant 1:22
Applicant's 1:21
application 7:3
applications 9:13
appropriate 8:24
approve 6:4
approximately 2:8
area 8:21
asking 10:21 13:23
asks 9:7
assurances 6:2
assure 10:1,5
attendance 4:1
attorney 4:11
August 1:11 2:7
available 2:10 10:2,4
await 10:15

aware 11:6

B

back 5:3,13,15 6:7 12:4
 18:2
bar 8:7
bars 8:9
based 11:14,22 16:22
basically 6:3,8 11:13,19
began 9:15
Beverage 1:2,13 2:6
big 12:19
board 1:2,13 2:6,25 3:1
 3:25 5:4,10,22 6:4,7
 7:14 9:7 10:21,24
 11:12 12:8,13,22 14:2
 14:11,16 15:12 16:3
 16:16 17:8,22,25
Board's 10:18
Bobby 1:17 3:12,13
bodies 2:13
bootstrapping 11:20
bring 17:25
brokers 13:17
business 4:2,3 7:21
 8:24 9:9,18,20,25
 10:4,8,11,12 11:15,16
 11:21,23 14:12
businesses 8:5 16:18
 16:24 17:1

C

calendar 2:17 4:3
call 4:17
call-in 2:18
called 15:5
camera 14:8
capital 8:13,20
carts 7:7
case 9:3
cash 15:11
Cato 1:17 3:12,13,13
caused 16:17
central 2:17
certain 11:4
certainly 17:20
Chair 9:23 12:12 17:5
Chairman 2:25 7:13
 16:4,8
Chairperson 1:13,16
 2:3 3:11,14,18,22,25
 4:13,18 5:9,17,20
 6:22,25 7:12 9:2,6
 10:20,25 12:21 13:6
 13:22 14:15 16:2,6
 17:6,15,23 18:7
Chairwomen 7:13
chance 9:24

changed 12:7
clarity 7:22 8:4,25
client 14:1
climate 9:20
close 7:15 12:15 17:25
closer 8:3
closing 17:1,11
Columbia 1:1 2:5,11,21
come 5:13 6:7 10:5,10
 15:1
comes 5:15
coming 15:10
company 15:5
company-wide 15:13
complaints 2:23
concern 14:6,21
condition 6:17 7:4
conduct 4:1
conducted 2:9
confident 9:11
confidentiality 14:7
consider 16:17 17:4
constitute 4:2
consumption 9:14
continued 17:18
contract 11:14,19 12:1
 13:11
contractor 15:6
Control 1:2,13 2:6
convert 10:13
Counsel 1:21
country 8:7,17
course 8:17 10:15
court 6:11
COVID 7:19 17:2
COVID-19 10:16 16:10
 16:17,22
CR 10:8
Crockett 1:17 3:19,20
 3:20 14:17,18
CT 1:7 14:5
cut 14:20

D

date 2:18
day 18:4
DC 8:7
Dean 15:5,8
December 11:10
decide 14:20
decided 15:14
decisions 16:18,21
declared 12:17
despite 15:19,25
determination 8:14
 17:19 18:3
determined 1:6 4:5
diminished 9:15

District 1:1 2:5,11,21
 12:17
District's 2:17
doing 12:2
Donovan 1:14,16 2:24
driven 15:3

E

earlier 12:14
early 7:14
economic 15:9
Edward 1:18 5:8
effort 9:1 13:16
either 17:9
elaborate 7:9
electronic 2:12,20
electronically 3:2
emergency 2:13 7:6,18
 9:15 11:8 12:17
endeavor 7:17
enter 16:9
estate 13:16
events 11:4
exactly 14:3
exception 15:24
executed 13:11
executives 16:12
existing 10:7,12
extend 1:9 4:8
extension 6:11
extensionable 8:22
eye 15:16

F

fact 4:4 5:25 6:1 9:23
 12:18 15:19 16:25
Fact-Finding 1:7
far 9:17
February 11:10
feel 8:11,12 15:18
fewer 9:17
file 7:3
final 18:2
find 13:17 14:4
Finding 4:4 6:1,1 9:23
finished 13:5
first 4:3 11:1
food 10:8
fool 10:9
forward 7:25 8:20 11:17
 15:21
found 11:13
front 12:8

G

generally 7:8
Georgetown 8:2,16,19
 10:4,12 14:5

getting 12:15
given 9:24 17:21
glad 10:23
government 2:11,22
 15:6
Grandis 1:18 5:4,5,7,8
 5:10,21 13:21,23,24
 13:25 14:9,13
grant 6:5
greatly 9:15
guesstimated 8:8
guidance 2:10,14

H

Hansen 1:18 3:23,24,24
happen 10:1,7
happening 14:4
health 2:13 7:6,18 11:7
 12:16
hear 3:6 4:20,21,22,23
 4:25 5:1,16,18
heard 4:23 12:5
hearing 1:7 4:4 5:15 6:1
 6:1,13 9:23 17:9,25
held 2:12
help 14:3
Hicks 1:22 4:16,19,19
 4:20,21,25 5:2,13,15
 5:16,18,19,21 6:3,12
 7:5,9,10,12,13 12:14
 13:7,8 14:18 15:2
 17:10,16,17,24 18:5
high 16:13
higher 15:25
hold 7:20 12:21 15:12
hosted 2:20
hours 2:15

I

identify 12:9
impact 15:10,15
includes 2:18
individual 8:17
industries 8:8
industry 12:19
information 2:19
initiator 15:22,23
interest 17:19
introduce 2:25 4:10 5:5
investment 15:7
investments 1:6 4:5
 8:18 15:8,11,12
issue 9:8,19
issues 5:14

J

James 1:19 3:5,9
January 11:10

Jeni 1:18 3:22,24
joined 5:4,22
JR 1:17,19
uncture 12:1
Justin 1:22 4:16

K

keep 15:16
kindness 7:11
known 12:19
knows 14:9,10

L

late 14:19
lawyer 14:9
leading 13:15
lease 12:1
let's 15:9
license 1:8 4:5 6:10
 10:2,4
licensee 6:6,8
licenses 9:13
line 16:20
little 8:25
LLC 1:6 4:5
location 7:3 12:15
 13:17 14:4
login 2:19
LOI 13:19,20
LOIs 13:11 14:2 15:24
long 7:6
look 14:11 15:17
looks 8:20
losing 9:19,20
lot 16:18,24,25 17:3
lots 8:20 13:11

M

maintain 8:14
maintenance 14:7
making 9:18
March 6:6,9 11:5,9,10
 11:11 12:18 13:9
 14:20 15:25
marginal 10:8
market 7:23 15:15,17
matter 1:5 18:1,9
Mayor's 3:2
MC 15:5,8
mean 14:23 15:3
meaning 14:10
means 14:9
meeting 1:3 2:5,9,16,17
 2:20 5:12
meetings 2:12,15
Member 1:17,17,18,18
 1:19,19 3:9,13,16,20
 3:24 5:4,7 13:21,25

14:13,18 16:4,8
members 3:1 4:1 5:11
 5:11,23 12:22 14:16
 16:3 17:8,21
mentioned 15:18
met 1:13 6:18,18,21 7:4
microphone 3:6
mid-February 12:20
middle 12:18
model 7:21 11:15,16,21
 11:23
money 9:18,19
morning 2:3 4:14,15,19
 5:10
move 11:17
mute 12:23,25 13:1

N

name 2:24 3:5 5:8
nationwide 16:10
need 4:19,20 11:21
needed 15:14
needs 13:2
negotiating 13:9,12
negotiation 14:12
negotiations 13:19
 14:19,21,24 15:1
new 9:13,13 10:4,11
 16:15
non- 14:8
non-lawyers 14:10
normal 16:14,15,15
notice 2:14,17
November 5:25 6:2,3
 6:13 11:2,3,9
number 9:13 12:13

O

O'Brien 1:21 4:12,12,13
 4:15 5:24 6:16,20,24
 7:2 9:4,5,8 10:23
 12:11,12 13:4,5,21,25
 14:6,14 17:10,12,13
 17:16,24 18:6
observed 9:23
occur 11:4,8
occurred 12:3
offer 15:25
office 2:11 9:12
once 12:25 15:21 17:2
OOG 2:23
open 2:11 3:7 4:19,21
 7:25 8:12,15,23 9:25
 15:19
OpenGovOffice@DC....
 2:23
opening 8:9 9:20 10:12
 14:22 16:25

opens 9:9
operate 7:25 8:1,5
opinion 7:21
opportunity 8:3,23
order 3:3 4:3
ought 9:24
owner 8:18
owns 15:4

P

P-R-O-C-E-E-D-I-N-G-S
 2:1
pandemic 11:6,7,14,20
 11:22 12:3 15:16
 16:10,22 17:4
part 9:1 11:8
participate 5:12 15:20
participating 3:2 5:23
participation 2:19
particularly 7:5
party's 14:25
path 7:24
people 8:9
Perfect 5:19
person 15:4
person's 12:9
phone 12:23,24
places 8:16 16:13
planning 7:16
please 2:22 3:4,5,7,7
 5:3,6 12:9,24 13:3
 17:11
pocket 16:19
point 6:10 9:9 10:14,17
point-of- 10:18
points 9:22
position 8:11,12 11:9
possibly 17:4
premise 9:18
premises 9:14
present 1:15,20 3:10,13
 3:17,21,24
presentation 11:24
presiding 1:14
press 16:14
pretty 8:8
price 13:19
prior 10:21
problem 14:8
proceed 9:25
productive 10:18
profitable 14:23
profitably 8:2
properties 7:15 13:10
 13:18
property 11:13 13:13
prospect 9:10
provide 14:2

provided 2:15,21 6:12
prudent 10:15
public 2:12,13,19 10:3
 11:7 14:12 16:19
pull 12:4
pulling 15:23
pursuant 2:10,14 3:2
put 7:20 12:23,24 15:12

Q

quarterly 10:10
question 11:1 13:23
 15:23
questions 2:22 9:7
 10:22,24 14:16 16:3
 17:7
quite 12:6
quorum 4:2

R

Rafi 1:17 3:18,20
random 15:8
real 13:16
reason 7:8
reasonable 16:23
rebuilding 8:16,20 9:1
received 9:14
reconsider 17:3
record 4:10 5:6 12:10
 16:9,12 18:10
regarding 2:12 14:4
 18:2
regular 2:4
Rema 1:19 3:14,16
repeating 17:13
reports 10:10
represent 15:3
representation 11:2,3
representatives 4:9
representing 4:16
request 1:9 4:7,8 5:25
 6:5,6,7,14,15,19
resident 8:19
respond 3:4 10:24 12:8
 12:22 13:2,3
responding 12:9,12
restaurant 8:7 14:22
resume 5:15
Retailer 1:7
revisit 11:15,16,21 12:4
revisiting 11:23
Rhino 1:6 4:4,7,9,16
 8:18 9:25 15:4

S

S 1:18
safekeeping 1:9 4:8 6:5
 6:5,15,19

safely 8:1
safety 16:19,20
saw 15:9
saying 9:16 11:20
says 6:8
scheduled 2:5
second 12:16
seek 6:11
seize 8:23
sense 9:21
service 10:9
seven 5:11,11,22
shakes 10:16
shared 14:11
short 1:19 3:5,5,7,8,9,9
 3:12 7:6 16:4,5,7,8
 17:7

show 17:18
sign 5:2,2 12:1,1
signed 11:14,19
simply 17:13
sir 9:3 17:12
six 4:1
slowed 15:13
snatch 10:11
sold 15:25
soon 5:14
speak 7:5 12:25
speaking 7:8 12:23,24
 17:13
specific 7:3
stability 7:23 8:25
stage 13:20,20
starting 4:10
stated 11:13,25 12:14
statements 17:11
States 16:13
stating 16:12
statistics 9:11
Stephen 1:21 4:12
Steve 12:11
stop 14:24
success 9:10
successful 7:16 13:13
suggest 5:1 10:14

T

t/a 1:6
tavern 8:1 10:3 14:22
 15:19
technical 5:14
teleconference 1:13
telling 6:4 11:18
thank 3:11 5:20 7:10
 14:13,14 17:4,6,15,20
 17:24,24 18:3,5,6
thanks 18:8
things 12:13 16:14 17:3

thought 13:12
today 2:6 4:1,3 5:12
 11:25
today's 2:15
told 11:11
transfer 6:10 7:2
trends 16:11
trouble 12:19
try 16:14
trying 13:17 14:4
turn 3:5,6
two 12:12

U

ultimately 10:17
un- 12:25
un-mute 3:7
understand 11:22
understanding 14:3
United 16:13
update 6:16
upset 7:7,19

V

vaccine 8:4
viable 7:22
video 1:13
view 10:19

W

W 1:14,16
Wahabzadah 1:19 3:15
 3:16,16
wait 15:14 16:11
waiting 5:12
wanted 17:17
WebEx 1:13 2:20
website 2:16
Wednesday 1:11 2:7
welcome 2:4
went 18:10
willing 14:1
Wisconsin 13:18
work 8:18 15:4 16:18
 16:19
workflow 9:12

X

Y

year 7:15 12:14

Z

0

1

10:44 2:2,8

11:06 18:10
19 1:11
19th 2:7

2

2019 6:13
2020 1:11 2:7 6:6,9
2020-054 3:3

3

31st 6:6,9 11:5

4

48 2:15

5

6

7

8

9

94467 1:8
99467 4:6

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This is to certify that the foregoing transcript

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Before: DCABRA

Date: 08-19-20

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

Neal R Gross

Court Reporter

NEAL R. GROSS

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