

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: :

Partners at 723 8th Street, SE, LLC :

t/a The Ugly Mug Dining Saloon :

723 8th Street, SE :

License #071793 :

Retailer CR - Substantial Change :

Case #14-PRO-00079 :

MONDAY, NOVEMBER 10, 2014

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The Alcoholic Beverage Control Board met at 2000 14th Street, N.W., Suite 400S Washington, D.C. 20009.

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

10:14 a.m.

MEDIATOR FLETCHER: Are the parties present in the matter of The Ugly Mug Dining Saloon?

(Whereupon, the above-entitled matter went off the record at 10:14 a.m. and resumed at 10:15 a.m.)

MEDIATOR FLETCHER: We're back on the record in the matter of The Ugly Mug. This is Case Number 14-PRO-00079, Partners at 723 8th Street, S.E., LLC, trading as The Ugly Mug Dining Saloon, License Number ABRA-071793.

This is Retailer CR, Substantial Change, expansion to second floor, and the addition of 144 seats. The protest issues are adverse impact on peace, order, and quiet, real property values, parking, and public safety, and sanitation.

My name is LaVerne Fletcher, and I'm conducting the roll call hearing as the Board's agent pursuant to D.C. Official Code

1 1601.2. Introductions beginning with the
2 applicant, please?

3 MR. JABLONSKI: Gaynor Jablonski,
4 owner of The Ugly Mug.

5 MEDIATOR FLETCHER: And would you
6 spell that for the record, please?

7 MR. JABLONSKI: Sure, first name
8 is G-A-Y-N-O-R, last name is J-A-B-L-O-N-S-K-
9 I.

10 MEDIATOR FLETCHER: Thank you, Mr.
11 Jablonski.

12 MR. PASCAL: I'm Paul L. Pascal of
13 Pascal & Weiss on behalf of the applicant.

14 MEDIATOR FLETCHER: Thank you, Mr.
15 Pascal. And Mr. Pascal, that's P-A-S-C-A-L-L?

16 MR. PASCAL: C-A-L.

17 MEDIATOR FLETCHER: Okay, P-A-S-C-
18 A-L?

19 MR. PASCAL: Correct.

20 MEDIATOR FLETCHER: Okay, thank
21 you. And present on behalf of ANC 6-B?

22 MR. FLAHAVEN: Brian Flahaven, and

1 that's F-L-A-H-A-V-E-N.

2 MEDIATOR FLETCHER: Thank you, Mr.
3 Flahaven.

4 MR. FLAHAVEN: And I'm Chair of
5 ANC 6-B.

6 MEDIATOR FLETCHER: Thank you.
7 And we have three abutting property owners,
8 and your name, sir?

9 MR. DOHERTY: Myles J. Doherty,
10 and I have a signed affidavit from Carolyn L.
11 Doherty.

12 MEDIATOR FLETCHER: Okay, Mr.
13 Doherty and Carolyn Doherty, you're both
14 abutting property owners.

15 MR. DOHERTY: And Steve Kinsley is
16 here.

17 MEDIATOR FLETCHER: Thank you.
18 And is Steven Kinsley here as well?

19 MR. KINSLEY: Yes.

20 MEDIATOR FLETCHER: Mr. Kinsley,
21 if you would just come forward and state your
22 name into the microphone, and spell it for the

1 record?

2 MR. KINSLEY: Steven Kinsley.

3 MEDIATOR FLETCHER: Thank you.

4 And Mr. Kinsley, would you spell it for the
5 record, please?

6 MR. KINSLEY: Yes, K-I-N-S-L-E-Y.

7 MEDIATOR FLETCHER: And that's
8 Steven, S-T-E-V-E-N?

9 MR. KINSLEY: Yes.

10 MEDIATOR FLETCHER: Thank you.

11 And so, we also have a group of 17
12 individuals. Myles Doherty, Carolyn Doherty,
13 and Steven Kinsley are also members of that
14 group of 17? Based on the record, I'm just
15 trying to establish the parties present.

16 MR. DOHERTY: Yes.

17 MEDIATOR FLETCHER: Okay, thank
18 you. So you will not need to restate your
19 names. You signed as a you filed the
20 protest as abutting property owners, and you
21 also signed the protest of a group of 17.

22 MR. DOHERTY: Yes.

1 MEDIATOR FLETCHER: I'm just
2 letting you know that you have standing in
3 both cases. I have to keep the groups
4 distinct.

5 MR. DOHERTY: Thank you.

6 MEDIATOR FLETCHER: So knowing
7 that you are a part of the group of 17, are
8 there any other members present from the group
9 of 17?

10 MS. CHARLES: Yes.

11 MEDIATOR FLETCHER: Okay.

12 MS. CHARLES: I'm Barbara Fahs
13 Charles.

14 MEDIATOR FLETCHER: And who is
15 speaking? You're

16 MS. CHARLES: I'm Barbara Fahs
17 I'm speaking.

18 MEDIATOR FLETCHER: Yeah, you need
19 to state that you're speaking so the court
20 reporter can record who's talking. So you're

21

22 MS. CHARLES: I'm speaking for

1 MEDIATOR FLETCHER: You're Ms.
2 Carolyn Doherty?

3 MS. CHARLES: No, I'm with the
4 group of 17.

5 MEDIATOR FLETCHER: Okay, and
6 what's your name again? I'm sorry.

7 MS. CHARLES: Let me go down the
8 list because you have them in an order.

9 MEDIATOR FLETCHER: Yes, are those
10 individuals present?

11 MS. CHARLES: Many of them.

12 MEDIATOR FLETCHER: Okay.

13 MS. CHARLES: And I have
14 affidavits for others.

15 MEDIATOR FLETCHER: Okay, what has
16 to happen first is that the individuals
17 present from the group of 17 need to step up
18 behind the table, state their names, and spell
19 them for the record, if there are any
20 individuals actually present today from the
21 group.

22 MS. CHARLES: Okay, I'll go first.

1 MEDIATOR FLETCHER: No, they go
2 first.

3 MS. CHARLES: But I'm on the list.
4 I'm one of the 17.

5 MEDIATOR FLETCHER: If there are
6 any individuals present from the group of 17,
7 please stand behind the microphone, state your
8 name, and spell it for the record. That
9 happens first.

10 MS. CHARLES: Okay.

11 MEDIATOR FLETCHER: Are there any
12 individuals present

13 MS. CHARLES: Raise your hands,
14 everybody.

15 MEDIATOR FLETCHER: - from the
16 group of 17, what you need to do is stand
17 behind the microphone on the table, state your
18 name, and spell it for the court reporter.

19 MS. CHARLES: Barbara Fahs
20 Charles, B-A-R-B-A-R-A, Fahs F-A-H-S.

21 MEDIATOR FLETCHER: Thank you, Ms.
22 Fahs.

1 MS. CHARLES: And last name
2 Charles, C-H-A-R-L-E-S.

3 MEDIATOR FLETCHER: Thank you.

4 MS. CHARLES: I'm going by the
5 list.

6 MR. STAPLES: Robert Staples.

7 MEDIATOR FLETCHER: Okay, and Mr.
8 Staples, would you spell your name for the
9 court reporter, please?

10 MR. STAPLES: S-T-A-P-L-E-S.

11 MEDIATOR FLETCHER: Thank you.

12 MR. STAPLES: Robert, R-O-B-E-R-T.

13 MEDIATOR FLETCHER: Thank you very
14 much.

15 MR. TRUITT: I'm Joel Truitt, T-R-
16 U-I-T-T-.

17 MEDIATOR FLETCHER: Thank you, Mr.
18 Truitt.

19 MS. CHARLES: Linda?

20 MS. ELLIOTT: Linda Elliott, E-L-
21 L-I-O-T-T.

22 MEDIATOR FLETCHER: Thank you.

1 MS. CHARLES: Donald?

2 MR. CASEY: Donald Casey C-A-S-E-

3 Y.

4 MEDIATOR FLETCHER: Thank you.

5 MS. CHARLES: Margot?

6 MS. KELLY: Margot Kelly K-E-L-L-

7 Y.

8 MS. CHARLES: Peter?

9 MR. BRIGHAM: Peter Brigham B-R-I-

10 G-H-A-M.

11 MEDIATOR FLETCHER: Thank you.

12 MS. CHARLES: And I have
13 affidavits from everyone else except Herbert
14 Kerschbaumer.

15 MEDIATOR FLETCHER: Okay, thank
16 you very much. I'm going to spell for the
17 court reporter the name of Herbel Kerschbaumer
18 that you just mentioned so that you'll have
19 the spelling of that name.

20 The spelling of the name is the
21 first name is Herbel. It's H-E-R-B-E-L. And
22 the last name is spelled K-

1 MS. CHARLES: It's Herbert with a
2 T.

3 MEDIATOR FLETCHER: Okay, thank
4 you. The list has it spelled H-E-R-B-E-L, but
5 we'll correct that. It should be Herbert, Ms.
6 Fahs? Okay, so it's Herbert, H-E-R-B-E-R-T is
7 his first name. And his last name is spelled
8 K-E-R-S-C-H-B-A-U-M-E-R.

9 MR. PASCAL: Ms. Fletcher, the
10 protest did not list a representative, so am
11 I to take it that Ms. Charles will be the
12 representative?

13 MEDIATOR FLETCHER: We're gonna
14 thank you, Mr. Pascal. We're going to find
15 out just momentarily who's going to be the
16 designated representative of the entire group.
17 You're right, the protest letter does not
18 designate a person, but we'll get to that in
19 a moment. I just want to -

20 MR. PASCAL: I have a preliminary
21 matter whenever you want.

22 MEDIATOR FLETCHER: Okay, thank

1 you. From the group of 17, 16 have standing
2 as protestants. Ten of you are present today,
3 so the group is granted full standing today.
4 And you have six letters from individuals that
5 are not present designating you, Ms. Charles,
6 as their representative.

7 So what we have is a group of 16
8 granted standing today. So who's going to be
9 the designated representative for the entire
10 group? It can be a person, or two if you want
11 an alternative.

12 MS. CHARLES: I guess I'm one of
13 them. Would anybody like to be the
14 alternative?

15 MEDIATOR FLETCHER: And you can
16 change that at any point.

17 MS. CHARLES: Linda Elliott would
18 be the alternative.

19 MEDIATOR FLETCHER: Linda Elliott?
20 Okay, so all we need then, Ms. Charles, if you
21 would put your name on that contact sheet? Is
22 it still there?

1 MS. CHARLES: It's been passed
2 around.

3 MEDIATOR FLETCHER: We only needed
4 the name of the designated representatives
5 only.

6 MS. CHARLES: Oh, okay.

7 MEDIATOR FLETCHER: So if you'd
8 just take it and add your name to it, that
9 would be perfect.

10 MS. CHARLES: My name is there.

11 MEDIATOR FLETCHER: Okay, that's
12 perfect then.

13 MS. CHARLES: Do you want Linda
14 Elliott?

15 MEDIATOR FLETCHER: Yeah, and Ms.
16 Elliott.

17 MS. CHARLES: She's there also.

18 MEDIATOR FLETCHER: Okay, well,
19 then that's all I need.

20 MS. CHARLES: Okay.

21 MEDIATOR FLETCHER: I'll get it.
22 So Barbara Fahs Charles

1 MS. CHARLES: Fahs, F-A-H-S.

2 MEDIATOR FLETCHER: F-A-H-S, and
3 Linda Elliott are the designated
4 representatives for the group. Is everyone in
5 agreement in that for the record?

6 (No audible response)

7 MEDIATOR FLETCHER: Okay, thank
8 you. Mr. Pascal, you had a preliminary
9 matter?

10 MR. PASCAL: Yes, I'm questioning
11 the standing of the adjacent property owners.
12 I have a deed that shows that the property is
13 in the name of a trust, so I believe that the
14 protest letter should have been done in the
15 name of the trust as opposed to the
16 individual.

17 I'm a little unclear of state of
18 title because the deed I have as late as March
19 14 shows the trust in the name of the Steven
20 Kinsley trustee for the Ruth Kinsley Family
21 Trust.

22 There was a case a number of years

1 ago where an establishment next door to a
2 Courtyard Marriott filed the protest for the
3 adjacent property owner, and it was done on
4 the stationary of the Courtyard Marriott, when
5 in fact, the property was owned by a trust in
6 the State of New York.

7 And I objected at that time to the
8 standing because of the improper filing, so
9 I'm doing the same here. It's a little
10 unclear from the deed, but it certainly leads
11 us to Mr. Kinsley.

12 And I think it would be incumbent
13 on the others to establish by a copy of the
14 deed that they own the remaining part. If
15 not, I'd ask that the adjacent properties be
16 dismissed.

17 MEDIATOR FLETCHER: Okay. And so,
18 that's related to abutting property owners
19 Myles Doherty, Carolyn Doherty, and Steven -

20 MR. PASCAL: Kinsley.

21 MEDIATOR FLETCHER: - Kinsley.

22 Okay, so Mr. Pascal is challenging the

1 standing of you as abutting property owners,
2 and he is also taking issue with who had
3 standing to file the protest. He is - well,
4 you heard what he said.

5 He believes that he said the
6 property is owned by a trust, and that the
7 protest should have been filed by the trust
8 instead of the individuals. So what we're
9 going to do in that case is the Board is going
10 to have to make a ruling in that matter.

11 Mr. Pascal, I assume you're going
12 to be petitioning the Board in writing to

13 MR. PASCAL: I can, but if they
14 if you'll allow me ten days, I'll certainly
15 take any evidence from the Doherty's. The way
16 I read the deed, it's unclear, and the way the
17 deed was structured.

18 So if the Doherty's show me that
19 they have deeded interest in an adjacent
20 property, I won't object to them. As to Mr.
21 Kinsley, I do object because it should have
22 been done as a trust.

1 MEDIATOR FLETCHER: So whoever's
2 going to speak, if you'll state your name and
3 then for the record, and then speak?

4 MR. DOHERTY: We own there's
5 three of us that own the properties.

6 MEDIATOR FLETCHER: Mr. Kinsley,
7 you're speaking?

8 MR. DOHERTY: I'm sorry, Myles
9 Doherty.

10 MEDIATOR FLETCHER: Myles Doherty
11 is speaking. Okay, thank you.

12 MR. DOHERTY: We own the property
13 jointly, three of the five condos. There are
14 five condos next door. We own excuse me,
15 four of the five condos jointly with the
16 trust.

17 So we do have but when you have
18 condos, you actually don't get a deed for the
19 condos until you sell a condo. So I would
20 show him previous ownership before the condos,
21 which indicate that we own the condos, even
22 though you don't get a deed until you sell it.

1 MEDIATOR FLETCHER: Okay.

2 MR. PASCAL: Well, then I would
3 clearly take the position then as to all three
4 of them that the protest should have been
5 styled in the name of the Ruth Kinsley Trust,
6 and there's no identification on that protest,
7 so that would be my position.

8 MEDIATOR FLETCHER: Thank you.

9 MR. PASCAL: I'll file a motion
10 then.

11 MEDIATOR FLETCHER: Thank you, Mr.
12 Pascal. Did you have other if you have
13 anything say, if you would just please step
14 behind the table, state your name, and

15 MS. CARL: Michelle Carl.

16 MEDIATOR FLETCHER: I'm sorry,
17 what's your name?

18 MS. CARL: Michelle Carl. I just
19 wanted to clarify that if there's four of us -

20 MEDIATOR FLETCHER: Ms. Carl, are
21 you a protestant?

22 MS. CARL: No.

1 MEDIATOR FLETCHER: Okay, now

2 MS. CARL: I just work for the
3 protestants.

4 MEDIATOR FLETCHER: Okay. So
5 you're not a protestant?

6 MS. CARL: No.

7 MEDIATOR FLETCHER: Let me hear
8 from the protestants first. If there is
9 another protestant that has something to say,
10 let's hear from the protestant.

11 MR. KINSLEY: I'm Steven Kinsley,
12 and the property, the trust, where the deed
13 shows Steven Kinsley, it is one-half Ruth's
14 truth and one-half Steven Kinsley.

15 MEDIATOR FLETCHER: Thank you.

16 MR. KINSLEY: I can provide proof
17 of that, but it would take

18 MEDIATOR FLETCHER: Okay.

19 MR. KINSLEY: I can't do it right
20 now.

21 MEDIATOR FLETCHER: Well, thank
22 you very much. Any other protestant have a

1 statement to make? Ms. Carl, would you step
2 up again, please, and identify yourself? And
3 before you do, the protestants present are in
4 agreement with Ms. Carl making this statement?

5 MR. PASCAL: I'm not too certain I
6 am, because if I'm going to file a trust, and
7 if her what's she's going to try to proffer
8 is any evidence on the issue, that should be
9 delayed until such time as, you know, the
10 Board deals with the issue.

11 MEDIATOR FLETCHER: Mr. Pascal -

12 MS. CARL: Can I just have a
13 minute to

14 MEDIATOR FLETCHER: Mr. Pascal
15 objects, so - Ms. Carl.

16 MR. PASCAL: I'll certainly talk
17 to you afterwards.

18 MEDIATOR FLETCHER: Does anyone
19 else have a statement?

20 MR. DOHERTY: I don't see where
21 it's really an issue because we're also on the
22 protest of the 17, so.

1 MEDIATOR FLETCHER: I understand.

2 MR. PASCAL: Well, that's okay

3 then.

4 MR. DOHERTY: But -

5 MR. PASCAL: I mean, if you wanted

6 to withdraw -

7 MR. DOHERTY: No, I'm not

8 withdrawing.

9 MR. PASCAL: Okay.

10 MR. DOHERTY: We can prove
11 ownership of the property. That's no problem.

12 MEDIATOR FLETCHER: Well, thank
13 you. This is an issue -

14 MR. DOHERTY: Do you want the
15 information on ownership?

16 MEDIATOR FLETCHER: This the ABC
17 Board will have to make a ruling on Mr.
18 Pascal's motion. Once he files a motion, you
19 will receive a copy of it. The ABC Board will
20 need to make a ruling on Mr. Pascal's motion.

21 That's not something that can be
22 done at the roll call hearing, and it's not

1 something that can be done by the Board's
2 agent.

3 So for the purpose of roll call
4 hearing, I'm going to grant conditional
5 standing to the abutting property owners
6 contingent upon the Board's review and final
7 decision on the standing of the abutting
8 property owners, which includes Myles Doherty,
9 Carolyn Doherty, and Steven Kinsley.

10 If you would state your name and
11 speak into the microphone?

12 MS. ELLIOTT: Linda Elliott. Just
13 a procedural question. Once Mr. Pascal files
14 his motion, is there automatically a period of
15 time for the abutting property owners to
16 respond?

17 MEDIATOR FLETCHER: Yes.

18 MS. ELLIOTT: So okay, so they
19 can wait for the motion safely without losing
20 their standing?

21 MEDIATOR FLETCHER: No, you're
22 granted conditional standing today. The ABC

1 Board will review this matter and make a
2 decision with respect to whether or not you'll
3 be granted full standing or not. It's just a
4 decision that the ABC Board has to make.

5 MS. ELLIOTT: So let me ask my
6 question a little differently. Will there be
7 will the ABC Board wait until it receives a
8 response to the

9 MEDIATOR FLETCHER: Yes.

10 MS. ELLIOTT: Okay.

11 MEDIATOR FLETCHER: Yes.

12 MS. ELLIOTT: Okay, thank you.

13 MEDIATOR FLETCHER: You're
14 welcome.

15 MR. DOHERTY: So we don't have to
16 file any information? The lawyer will do it
17 with the Board?

18 MEDIATOR FLETCHER: Yeah, when Mr.
19 Pascal files his motion, you will receive a
20 copy of the motion. You'll have an
21 opportunity to respond to the motion, and then
22 the ABC Board will review both sides.

1 MR. PASCAL: No, I think I
2 represented that if they demonstrate to me in
3 the next few days that I'm satisfied that
4 there's ownership, I won't file the motion.
5 But on the other hand, if I'm not satisfied
6 with what they present to me I don't want to
7 waste anybody's time.

8 MEDIATOR FLETCHER: Mm-hmm.

9 MR. PASCAL: At least from the
10 record I have now, there's an issue.

11 MEDIATOR FLETCHER: Well, the

12 MR. PASCAL: My office is on the
13 Hill. They can readily get together with me
14 and demonstrate whatever they have.

15 MEDIATOR FLETCHER: Well, the
16 status hearing is not until December 10, so
17 you have plenty of time to do that or provide
18 the proof that Mr. Pascal's asking for prior
19 to December 10. We need to set a date for the
20 mediation.

21 The ideal situation is that you
22 can establish ownership prior to the mediation

1 so that we can move forward with the abutting
2 property owners in mediation.

3 I'm going to give you some dates
4 and we'll just move through the process, and
5 hopefully the matter will be resolved prior to
6 mediation, and most definitely before the
7 status hearing on December 10. So, Ms.
8 Charles?

9 MS. CHARLES: I have an out of
10 town schedule on December 10. I'm at New
11 Haven.

12 MEDIATOR FLETCHER: What I'm going
13 to do is

14 MR. PASCAL: Can you be there?

15 MS. ELLIOTT: No, I actually am
16 also, in New York.

17 MEDIATOR FLETCHER: Okay, here's
18 what we have to do. The status hearing is
19 already set for December 10.

20 The purpose of the status hearing
21 is for the ABC Board to be informed regarding
22 the status of the case. So you may designate

1 any one person to appear to inform the Board
2 regarding the status of the case.

3 Generally, at the status hearing,
4 you're informing the Board of the outcome of
5 mediation.

6 So there are not any decisions
7 made at a status hearing unless, in this case,
8 Mr. Pascal files a motion, the parties respond
9 to the motion, and the Board decides to make
10 a decision on the motion at the status
11 hearing.

12 Generally, at the status hearing
13 you're just reporting the results of
14 mediation.

15 MR. PASCAL: Have we identified as
16 to the ANC, will Mr. Flahaven be the
17 representative or will you have someone else
18 to be a representative also?

19 MR. FLAHAVEN: We'll probably have
20 another representative as well, and we'll
21 determine that. Of course, as you probably
22 know, we are in a time of transition with ANC

1 6-B, and we'll have a number of commissioners
2 transitioning off the condition seven of our
3 ten conditioners.

4 So we're going to be probably
5 triaging this over the next couple of months
6 as we go through the transition, but we'll
7 certainly be in contact with you about who is
8 representing us, and you will know in advance
9 as well.

10 MR. PASCAL: Thanks.

11 MR. FLAHAVEN: Thank you.

12 MS. ELLIOTT: Could I

13 MEDIATOR FLETCHER: Ms. Elliott?

14 MS. ELLIOTT: Yes, with respect to
15 the status hearing, I'm out that entire week
16 of December, and particularly because of the
17 transition on the ANC, and our ANC
18 representative is one of the transitioning
19 people, I wonder if it's possible to push the
20 status hearing somewhat later than the
21 original date you have?

22 MEDIATOR FLETCHER: Well, let me

1 just give you the dates that I have for today.

2 MS. ELLIOTT: Okay.

3 MEDIATOR FLETCHER: And then you
4 can

5 MR. KINSLEY: We're talking about
6 mediation?

7 MEDIATOR FLETCHER: We're talking
8 about the status hearing.

9 MR. KINSLEY: The status, okay.

10 MEDIATOR FLETCHER: So I'm going
11 to give you the dates that already have been
12 provided for the status hearing, and then we
13 can communicate via email regarding the change
14 of that date, or who you would designate to
15 represent you at the status hearing.

16 Sometimes groups designate the ANC
17 to represent them at the status hearing. I'm
18 not saying that's what you need to do in this
19 case, that's your option.

20 But for the purpose of the roll
21 call, let me give you the dates that I have
22 been given to provide to you, and then we'll

1 work out the logistics later.

2 MS. ELLIOTT: So is it possible to
3 actually continue a status date based on the
4 sort of total transition of our ANC Board and
5 unavailability of the designated people?

6 MEDIATOR FLETCHER: You can
7 petition the ABC Board to change the status
8 date.

9 MS. ELLIOTT: Okay.

10 MEDIATOR FLETCHER: And the ABC
11 Board can

12 (Simultaneous speaking.)

13 MR. DOHERTY: -- after the 16th of
14 December, so the scheduling is going to be a
15 tricky business.

16 MS. ELLIOTT: Okay.

17 MEDIATOR FLETCHER: Well, for the
18 status hearing, basically you're informing the
19 Board of the outcome of mediation. So we'll
20 just deal with that as we get closer to the
21 10th. The date of the status hearing is
22 December 10 at 9:30 a.m.

1 MR. PASCAL: I'd like to have
2 mediation as, you know, as soon as possible.

3 MEDIATOR FLETCHER: Yes, we'll do
4 the mediation as soon as possible. After I
5 give you the date for the protest hearing,
6 I'll give you the very next date available for
7 mediation.

8 MR. PASCAL: Okay.

9 MEDIATOR FLETCHER: The date for
10 the protest hearing is January the 28th, 2015
11 at 1:30 p.m. That's January 28, 2015 at 1:30
12 p.m. for the protest hearing.

13 The next available date for
14 mediation is Thursday, November 20 at 9:00,
15 10:00, 11:00, or 1:00. That's next Thursday,
16 November 20 at 9:00, 10:00, 11:00, or 1:00.

17 MR. PASCAL: 9:00 would be fine
18 that morning.

19 MEDIATOR FLETCHER: Ms. Charles?

20 MS. ELLIOTT: I'm on an airplane
21 returning.

22 MR. FLAHAVEN: That doesn't work

1 for the Commission.

2 MEDIATOR FLETCHER: I'm sorry,
3 what did you say?

4 MS. ELLIOTT: I'm on an airplane
5 returning to Washington at that time.

6 MEDIATOR FLETCHER: Okay, so we'll
7 move to the following week. So we're into the
8 week of Thanksgiving. Is there anyone not
9 here the week of Thanksgiving?

10 MR. PASCAL: I'm here every day
11 that week except that Friday.

12 MS. ELLIOTT: I'm actually away.

13 MEDIATOR FLETCHER: Ms. Elliott?

14 MS. ELLIOTT: I'm away that week.

15 MEDIATOR FLETCHER: Okay.

16 MR. PASCAL: Don't you have Ms.
17 Charles?

18 MS. ELLIOTT: I think they'll all
19 speak up.

20 MEDIATOR FLETCHER: What did you
21 say Ms. Elliott?

22 MS. ELLIOTT: Go ahead.

1 MEDIATOR FLETCHER: Ms. Charles,
2 are you available on the week of Thanksgiving?

3 MS. CHARLES: In general, yes.

4 MEDIATOR FLETCHER: Okay, and Mr.
5 Pascal, you're available any day but that
6 Friday?

7 MR. PASCAL: That's correct, and
8 of course, Thursday.

9 MEDIATOR FLETCHER: And Mr.
10 Flahaven, are you available the week of
11 Thanksgiving?

12 MR. FLAHAIVEN: I'm available on
13 either Monday or Tuesday.

14 MR. DOHERTY: What dates are
15 those?

16 MEDIATOR FLETCHER: The 24th or
17 the 25th, and the 25th is available.

18 MR. PASCAL: That's fine.

19 MEDIATOR FLETCHER: Is that good
20 for you?

21 MR. PASCAL: Yeah.

22 MEDIATOR FLETCHER: Ms. Charles,

1 the 25th?

2 MS. CHARLES: Yes.

3 MEDIATOR FLETCHER: Okay, is there
4 a preference in terms of time, 9:00, 10:00?

5 MR. PASCAL: 9:00 first thing in
6 the morning would be fine.

7 MEDIATOR FLETCHER: Is 9:00 good
8 for you Mr. Flahaven?

9 MR. FLAHAIVEN: I'm just looking
10 here to see.

11 MEDIATOR FLETCHER: Okay.

12 MR. FLAHAIVEN: That probably
13 that would probably work for me.

14 MEDIATOR FLETCHER: Okay.

15 MR. PASCAL: Thank you all.

16 MEDIATOR FLETCHER: And Ms.
17 Charles, is 9:00 good for you?

18 MS. CHARLES: How long is it
19 normally?

20 MEDIATOR FLETCHER: It could take
21 from one to two hours. It depends on how much
22 progress we make. It normally goes pretty

1 quickly. So mediation is set for Tuesday,
2 November 25 at 9:00 a.m.

3 MR. PASCAL: Thank you.

4 MEDIATOR FLETCHER: You're
5 welcome. Any questions?

6 MR. DOHERTY: And where is it,
7 here?

8 MEDIATOR FLETCHER: It's here,
9 yes. Mr. Kinsley, just check in with the
10 receptionist. And when this room is
11 available, we use this room. If this room is
12 not available, we have another room that we
13 use.

14 MR. DOHERTY: Are you the
15 mediator?

16 MEDIATOR FLETCHER: I'm the
17 Board's mediator. My card is on the table if
18 you have any questions beyond today. Any
19 additional questions? Okay, thank you. The
20 roll call hearing is concluded.

21 MR. PASCAL: Thank you very much.

22 (Whereupon, the above-entitled

1 matter went off the record at 10:42 a.m.)

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