

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
: :
YFE, Inc. :
t/a Eighteenth Street :
Lounge :
1230 9th Street NW : Protest Status
Retailer CT - ANC 2F : Hearing
License #118846 :
Case #21-PRO-00079 :
: :
(Application for New :
License) :
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Wednesday
December 1, 2021

The Alcoholic Beverage Control Board
met via WebEx videoconference, Chairperson
Donovan W. Anderson presiding.

PRESENT:

DONOVAN W. ANDERSON, Chairperson
BOBBY CATO, JR., Member
RAFI ALIYA CROCKETT, Member
EDWARD S. GRANDIS, Member
JENI HANSEN, Member
JAMES SHORT, JR., Member

ALSO PRESENT:

SARAH FASHBAUGH, DC ABRA Staff
CANDACE FITCH, Applicant Counsel
FARID NOURI, Applicant
JOHN GUGGENMOS, Commissioner, ANC 2F
ROBERT GOLDBERG, Blagden Alley Naylor Court
Association
JELENA BUDJEVAC, Protestant
VINCENT EASLEY, Protestant
HECTOR PINTO, Protestant

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

2 11:27 a.m.

3 CHAIRPERSON ANDERSON: All right. Our
4 next case is Case Number 21-PRO-00079, Eighteenth
5 Street Lounge, License Number 118846. Ms.
6 Fashbaugh, can you please elevate the rights of
7 the parties in this case, please?

8 MS. FASHBAUGH: Stand by. Candace
9 Fitch, you are a panelist. John Guggenmos, your
10 rights have been elevated. Robert Goldberg, your
11 rights have been elevated. That is all, Mr.
12 Chair.

13 CHAIRPERSON ANDERSON: Thank you. All
14 right. Good morning, everyone. We're here for
15 the protest hearing status for Eighteenth Street
16 Lounge, so we'll start with Ms. Fitch. Can you
17 please state and spell the name for the record
18 and your relationship to this case, ma'am?

19 MS. FITCH: Candace Fitch, C-A-N-D-A-
20 C-E, F-I-T-C-H, F as in Frank, ITCH, and I'm the
21 attorney for the applicant.

22 CHAIRPERSON ANDERSON: Good morning,
23 ma'am. Is the applicant -- is he -- is the
24 applicant here with you this morning?

25 MS. FITCH: To my knowledge, he told

1 me he was on. It's Farid Nouri.

2 CHAIRPERSON ANDERSON: I'm not sure.
3 Can you find out if your client wants to
4 participate, if for some reason we have not
5 elevated his rights? Please let me know if he's
6 having some problems, please?

7 MS. FITCH: Okay. He says he is on.

8 CHAIRPERSON ANDERSON: What's his
9 name?

10 MS. FITCH: Farid, F-A-R-I-D, Nouri,
11 N-O-U-R-I.

12 CHAIRPERSON ANDERSON: Mr. Nouri, can
13 you please spell and state your name for the
14 record, please?

15 MR. NOURI: Sure. It's Farid Nouri,
16 F-A-R-I-D, last name is N-O-U-R-I.

17 CHAIRPERSON ANDERSON: What's your
18 relationship to this case, sir?

19 MR. NOURI: I'm the owner.

20 CHAIRPERSON ANDERSON: Thank you.

21 MR. NOURI: Sure.

22 CHAIRPERSON ANDERSON: All right. So
23 let's go with the protestants. So let's start
24 with Mr. Guggenmos. Can you spell and state your
25 name for the record, please, sir, and your

1 relationship to this case?

2 MR. GUGGENMOS: Sure. It's John
3 Guggenmos, J-O-H-N, G-U-G-G-E-N-M-O-S, and I
4 represent ANC 2F.

5 CHAIRPERSON ANDERSON: Good morning.

6 MR. GUGGENMOS: Good morning

7 CHAIRPERSON ANDERSON: Now has this
8 been protested by ANC or is there other -- or is
9 there a group?

10 MR. GUGGENMOS: No. There are groups
11 as well.

12 CHAIRPERSON ANDERSON: All right. So
13 Mr. Goldberg, can you please spell and state your
14 name for the record, please? We can't hear you,
15 sir.

16 MS. FASHBAUGH: Mr. Chair, is that
17 Robert Goldberg?

18 CHAIRPERSON ANDERSON: Yes.

19 MS. FITCH: We have filed a motion to
20 dismiss their protest, so they were not allowed
21 to be at the roll call hearing. So should they
22 be present at status? We don't really have a
23 status with them.

24 CHAIRPERSON ANDERSON: This is the
25 Eighteenth Street Lounge case, right?

1 MS. FASHBAUGH: Yes, sir. And the
2 motion and their response to their motion is on
3 later on the -- on your schedule later in the
4 day.

5 CHAIRPERSON ANDERSON: Hold on. All
6 right. Well, I just -- let -- I still need him
7 to -- we are not -- we have not publicly voted on
8 your motion as yet, and so we can address this
9 today. We'll address this in this hearing. So
10 Mr. Goldberg, can you state and spell your name
11 for the record, please? Mr. Goldberg?

12 MS. FITCH: I think I saw a chat he
13 was having audio issues. Somewhere I saw him
14 type that.

15 CHAIRPERSON ANDERSON: I'm not keeping
16 up with the chats so. Okay. So it's Mr.
17 Goldberg and whoever, Jelena, are they on the
18 same line or I don't know?

19 MS. BUDJEVAC: Yes.

20 CHAIRPERSON ANDERSON: All right.
21 Okay. If you're on the same, Mr. Goldberg and
22 Budjevac -- I'm sorry, pronounce your name?

23 MS. BUDJEVAC: It's okay. So we have
24 two groups of five as well as Mr. Goldberg with
25 BANCA present.

1 CHAIRPERSON ANDERSON: Okay. All
2 right. The reason why I'm saying --

3 (Simultaneous speaking.)

4 MS. BUDJEVAC: So --

5 CHAIRPERSON ANDERSON: -- I was
6 getting --

7 MS. BUDJEVAC: -- technology issues.

8 CHAIRPERSON ANDERSON: All right. So
9 let's have all the parties then introduce
10 themselves for the record. State and spell your
11 names and your relationship to this protest.

12 MR. GOLDBERG: So first, my name is
13 Robert Goldberg, R-O-B-E-R-T, G-O-L-D-B-E-R-G,
14 and I represent the Blagden Alley Naylor Court
15 Association.

16 CHAIRPERSON ANDERSON: Who is with
17 you, Mr. Goldberg?

18 MR. GOLDBERG: I've got two other
19 groups of five present here.

20 CHAIRPERSON ANDERSON: Can I have them
21 spell and state their name for the record,
22 please?

23 MR. PINTO: My name is Hector Pinto,
24 Hector, H-E-C-T-O-R, Pinto like the bean or the
25 car, P-I-N-T-O.

1 CHAIRPERSON ANDERSON: Thank you, Mr.
2 Pinto. Who else do we have?

3 MR. EASLEY: My name is Vincent
4 Easley, V-I-N-C-E-N-T, last name Easley, E-A-S-L-
5 E-Y.

6 CHAIRPERSON ANDERSON: Thank you. Is
7 that everyone? Has everyone identified
8 themselves?

9 MS. BUDJEVAC: There's one more.

10 CHAIRPERSON ANDERSON: Who's that,
11 please?

12 MS. BUDJEVAC: And there's me, Jelena
13 Budjevac. Unfortunately, my name is spelled
14 visually, but it's J-E-L-E-N-A, sir name B-U-D-J-
15 E-V-A-C, and I represent the Group of Five which
16 is the Blagden alley Group of Five, Hector and
17 Vincent represent the Picnic Bench Group of Five.

18 CHAIRPERSON ANDERSON: All right.
19 Thank you, Ms. Budjevac. One of the reasons why
20 I ask everyone to state and spell your name for
21 the record, we have a court reporter. So the
22 court reporter is not seeing your name -- so they
23 can spell your name correctly for the record, and
24 then each time you're speaking, they can
25 identify. So each time everyone speaks, please

1 identify -- state the name who's speaking.

2 All right. So Ms. Fitch, you had
3 raised -- it's my understanding that you had
4 filed a -- I'm sorry, you had filed a motion to
5 dismiss and you wanted to dismiss -- what group
6 is it that you are trying to dismiss, ma'am?

7 MS. FITCH: Blagden Alley Naylor Court
8 Association.

9 CHAIRPERSON ANDERSON: All right. And
10 that matter was on our -- we were going to
11 address that today on our legal agenda, which we
12 have not addressed publicly. But I believe that
13 we can, since you're here today, you have raised
14 the issue. And can you just orally tell us why
15 is it that you have filed the motion?

16 MS. FITCH: Well, a few different
17 issues. In their motion, they stated that they
18 voted on August 25th and then later voted
19 September 26th, so we were confused as to the
20 date of their meeting, because we did not receive
21 notice of their formal meeting on either of those
22 dates. And we did attend a meeting with them on
23 -- hold on, I can't -- earlier in August, the
24 17th maybe. And at that time, they were not an
25 organized association in the District of

1 Columbia. Their articles were not approved until
2 August 19th.

3 CHAIRPERSON ANDERSON: All right. And
4 I'm sorry, who's the representative of that
5 group. I'm sorry, again.

6 MR. GOLDBERG: Robert Goldberg.

7 CHAIRPERSON ANDERSON: Mr. Goldberg,
8 I'm sorry.

9 MR. GOLDBERG: Goldberg, G-O-L-D-B-E-
10 R-G.

11 CHAIRPERSON ANDERSON: Okay. Good
12 morning, Mr. -- I'm sorry, Mr. Goldberg. So what
13 was your response in your motion, sir?

14 MR. GOLDBERG: My response to this was
15 that we did advise Ms. Fitch in regards to our
16 meeting which she did attend, and we did file a
17 question to both Ms. Nadler and Ms. Candace
18 Fitch. We are required to notify participants
19 via phone. Many of our residents do not have
20 access to email or smart phones, so that is
21 within our bylaws. Our incorporation was done
22 and it was done prior to those conversations.
23 However, please note that the Blagden Alley
24 Naylor Court Association has been around since
25 the 1980's and was the one that founded the

1 historic preservation creating Blagden Alley
2 Naylor Court as a historic place.

3 CHAIRPERSON ANDERSON: All right.

4 Thank you. The -- we -- based on the
5 representation that was made, I'm going to make a
6 motion that the motion be denied, and the reason
7 why that I'm making a motion to the Board for us
8 to vote to the matter of the motion is that the
9 applicant presents no evidence that BANCA is not
10 a qualified association. Furthermore, BANCA has
11 claimed, in its filing, that it provided notice
12 of the September 26, 2021 meeting where it voted
13 to protest the application -- could everyone
14 please mute your phones, please -- filing that it
15 provided notice of the September 26, 2021 meeting
16 where it voted to protest the application to the
17 applicant's counsel on August 25th, 2021 by
18 phone. BANCA then held the noticed meeting on
19 September 26, 2021. BANCA further explained that
20 its original protest letter contained a clerical
21 error regarding the dates. Because the Board
22 credits these uncontroverted statements of fact,
23 BANCA complied with the applicable regulations
24 and the remaining arguments presented by the
25 applicant are mute or too speculative to grant

1 consideration. So those are the reasons why I'm
2 making a motion that the Board denies the motion
3 to dismiss. Is there a second?

4 MEMBER SHORT: Mr. Short. I second.

5 CHAIRPERSON ANDERSON: Mr. Short has
6 seconded the motion. We'll now have a roll call
7 vote on the motion. Mr. Short?

8 MEMBER SHORT: Mr. Short. I agree.

9 CHAIRPERSON ANDERSON: Mr. Cato?

10 MR. CATO: Bobby Cato. I agree.

11 CHAIRPERSON ANDERSON: Ms. Crockett?

12 MS. CROCKETT: Rafi Crockett. I agree.

13 CHAIRPERSON ANDERSON: Ms. Hansen?

14 MS. HANSEN: Jeni Hansen. I agree.

15 CHAIRPERSON ANDERSON: Mr. Grandis?

16 MR. GRANDIS: Edward Grandis. I

17 agree.

18 CHAIRPERSON ANDERSON: And Mr.

19 Anderson. I agree. The matter passes 6-0-0. As
20 said before, we would have addressed it after --
21 prior to our lunch break, I will do the legal
22 agenda, so -- but I will, for the public record,
23 I'll -- but because we had the hearing today --
24 so that's one of the reasons why we are not
25 voting to deny the motion. Okay. So the motion

1 has been denied, and so this matter, we're moving
2 forward with the protestants, the two Groups,
3 with this hearing.

4 Are there any other preliminary
5 matters in this case?

6 MS. FITCH: The applicant has no
7 preliminary matters.

8 CHAIRPERSON ANDERSON: Thank you. Mr.
9 Goldberg, do you have any preliminary matters,
10 sir?

11 MR. GOLDBERG: -- any preliminary
12 matters.

13 CHAIRPERSON ANDERSON: I'm sorry, Mr.
14 Guggenmos, do you have any preliminary matters on
15 behalf of the ANC?

16 MR. GUGGENMOS: John Guggenmos has no
17 preliminary matters on behalf of the ANC.

18 CHAIRPERSON ANDERSON: Thank you. And
19 Ms. -- I think it was Ms. Budjevac?

20 MS. BUDJEVAC: It's all right.

21 CHAIRPERSON ANDERSON: All right.

22 MS. BUDJEVAC: It's painful, I know.
23 I'm so -- I didn't pick my name. So Jelena
24 Budjevac. We have -- I have no preliminary
25 matters for our Group of Five.

1 CHAIRPERSON ANDERSON: All right.
2 Thank you. This matter then is scheduled -- and
3 I'm sorry, this matter then is scheduled for a
4 protest hearing on January 12, 2022, at 1:30 p.m.

5 MR. GOLDBERG: Mr. Anderson, we're
6 missing one of the parties of five, Hector Pinto.

7 CHAIRPERSON ANDERSON: Who's that?

8 MR. GOLDBERG: This is Robert Goldberg
9 speaking, but I'm just -- we didn't recognize the
10 other Group of Five. There are two Groups of
11 Five.

12 CHAIRPERSON ANDERSON: And what is the
13 other group?

14 MR. GOLDBERG: It's the Picnic Bench
15 Group.

16 MR. PINTO: It's the Picnic Bench.
17 It's Hector Pinto.

18 CHAIRPERSON ANDERSON: Oh, I
19 apologize. I thought --

20 MR. PINTO: No problem. It's Tuesday.

21 CHAIRPERSON ANDERSON: Okay. I'm going
22 to blame the protestant -- you know I'm going to
23 blame the protestant, because I can't see you,
24 okay.

25 MR. PINTO: Well, hey, go ahead, put

1 the blame on me. Put the blame on me, I don't
2 care.

3 CHAIRPERSON ANDERSON: Well because I
4 can't see you, I'm going to blame --

5 MR. PINTO: -- I don't care. We can't
6 see a lot of you all.

7 CHAIRPERSON ANDERSON: All right.

8 MR. PINTO: Put it that way.

9 CHAIRPERSON ANDERSON: All right. So
10 I apologize. I --

11 MR. PINTO: No problem, brother. No
12 problem.

13 CHAIRPERSON ANDERSON: Okay. So there
14 are three Groups and the ANC. Am I correct now,
15 there's three Groups and the ANC?

16 MS. BUDJEVAC: Yes, sir.

17 MR. PINTO: Yes, sir.

18 CHAIRPERSON ANDERSON: All right.
19 Thank you. So all the the groups are recognized,
20 and they have standing to move forward with the
21 hearing. However, I want to advise the three
22 groups that if there is a settlement agreement
23 that's reached with the ANC, the Groups -- I'm
24 sorry, no. One is -- okay, I'm -- no. So there
25 -- I'm sorry, there is --

1 MS. BUDJEVAC: There's the BANCA
2 Association with Robert Goldberg.

3 CHAIRPERSON ANDERSON: The BANCA
4 Association.

5 MS. BUDJEVAC: And then two Groups of
6 Five, one of which Jelena Budjevac, is me, and
7 Vincent Easley and Hector Pinto for the Picnic
8 Bench. So two Groups of Five, and one
9 Association.

10 CHAIRPERSON ANDERSON: All right. I
11 apologize.

12 MS. BUDJEVAC: No -- no, it's
13 confusing.

14 CHAIRPERSON ANDERSON: All right. So
15 I just want to advise the two Groups of Five --

16 MR. PINTO: Okay.

17 CHAIRPERSON ANDERSON: -- that if a
18 settlement agreement is reached with the ANC, and
19 if those two Groups of Five are not a part of
20 that settlement agreement, then their protest
21 will fall by operation of law. Just want to let
22 you know that if you're not a part of that
23 settlement -- I have not gone to that issue. I'm
24 just addressing the two Groups of Five. So if
25 there is a settlement agreement reached with the

1 ANC and the two Groups of Five, if they are not a
2 part of that settlement agreement, their protest
3 will fall and the Board does not have any
4 authority to force anyone to make them a part of
5 the settlement agreement.

6 The ANC, they have their own standing.
7 So even if a settlement agreement is reached with
8 the ANC, if they're not part of it, we'll still
9 move forward with the hearing. Just want to --
10 just by operation of law, those are the ones who
11 still have standing whether or not settlement has
12 been reached by either party. However, this is
13 the neighborhood that you all live in and so the
14 Board supports settlements. So because if the
15 parties are able to settle the matter, at least
16 everyone would, I assume, get what it is that
17 they're seeking out of this protest. Now if the
18 Board makes the decision, then one side or the
19 other might be upset with the decision, and so we
20 prefer -- because this is your neighborhood,
21 you're going to live -- this is where you
22 currently live, that if the matter can be
23 settled, the Board supports settlements so the
24 parties can -- yes, I'll say it that way. But if
25 the parties aren't able to settle the matter,

1 then we'll see you in the new year for the
2 hearing on January 12th --

3 MR. PINTO: Okay.

4 CHAIRPERSON ANDERSON: -- at 1:30 p.m.
5 Are there any other questions by anyone?

6 MR. GOLDBERG: No, thank you, Mr.
7 Anderson.

8 CHAIRPERSON ANDERSON: All right.
9 Thank you.

10 MR. PINTO: Thank you, Mr. Anderson.

11 CHAIRPERSON ANDERSON: Now that's Mr.
12 Pinto, right?

13 MR. PINTO: Yes, you know it, buddy.
14 You know it's me.

15 CHAIRPERSON ANDERSON: All right. I
16 just want to make sure. You -- although I can't
17 see you this time, but you sure --

18 MR. PINTO: You're going to see me
19 next time -- you're going to see me next time.

20 CHAIRPERSON ANDERSON: All right.

21 MR. PINTO: You can see me next time.

22 CHAIRPERSON ANDERSON: All right.

23 Thank you. Mr. Guggenmos?

24 MR. GUGGENMOS: Yes, good enough. Yes.

25 CHAIRPERSON ANDERSON: By highlighting

1 your names on your screen, then I can look at the
2 names and try my best not to butcher it. Okay, I
3 try. And Ms. Budjevac, I am sorry, I'm trying.

4 MS. BUDJEVAC: It's okay. It's all
5 right. How about Jelena?

6 CHAIRPERSON ANDERSON: Okay, Jelena.

7 MS. BUDJEVAC: I think Jelena --

8 CHAIRPERSON ANDERSON: I try to be
9 formal but although I'm looking at your name and
10 I'm trying my best.

11 MS. BUDJEVAC: I like just Jelena.

12 CHAIRPERSON ANDERSON: I've tried my
13 best to phonetically pronounce it, so I do
14 apologize if I butcher your name. All right.
15 Thank you.

16 Okay. Now that we have scheduled this
17 matter for a protest hearing, there are a few
18 things that I would like to instruct you about,
19 because the Board's practices under the public
20 emergency has changed. As you know, the Board's
21 hearings are conducted virtually, so it's more
22 important than ever that protest hearings are
23 focused and address only those issues that are
24 being protested.

25 Following this hearing, you will

1 receive an email from our Associate General
2 Counsel, Jonathan Berman, that will include a
3 copy of a protest information form and a copy of
4 an exhibit form as well as specific instructions
5 for the hearing. You're required to complete and
6 submit the protest information form and exhibit
7 form at least seven days before the hearing. If
8 we do not receive a copy of your form seven days
9 before the hearing, your application or your
10 protest may be subject to dismissal. These
11 documents not only need to be submitted to ABRA
12 Legal but also to the opposing parties as well.
13 Please know that these documents greatly assist
14 the Board in narrowing the protest issues,
15 facilitating the process, and keeping the parties
16 on point during the hearing.

17 Each side is limited to no more than
18 five witnesses, and you will only have 60 minutes
19 to present your case. This includes all direct
20 and cross-examination of witnesses. The Board
21 does not intend to hear testimony of matters that
22 are not relevant to the issues that are being
23 protested nor will the Board tolerate repetitive
24 testimony. So basically, what we're saying is
25 that if this goes to a hearing, we'll have -- the

1 ANC will have five witnesses, each of the two
2 protest groups will -- can put on five witnesses,
3 and the civic association can also put on five
4 witnesses. Then if this matter can be settled,
5 the Board will appreciate it. If it cannot be --
6 or if when we do the hearing, if we go to a
7 hearing, if the parties decide to consolidate and
8 have one person present the case, that will be
9 helpful, but just want to let you know that
10 that's the process that we're going to follow if
11 we go to a hearing in January.

12 Okay. All right. We thank you
13 greatly for your cooperation. If you have any
14 questions at any time leading up to the hearing,
15 please do not hesitate to contact Mr. Berman at
16 jonathan.berman@dc.gov. I want to wish everyone
17 a happy holiday. I hope I don't see you in the
18 new year, because I have confidence that you're
19 going to settle the matter. But if I see you in
20 the new year, I won't take it personally but so -
21 - but happy holidays and please, if the matter
22 can be settled, please try to do that. If not,
23 we'll have a hearing.

24 (Whereupon, the above-entitled matter
25 went off the record at 11:50 a.m.)

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| <p>A</p> <p>a.m 2:2 20:25</p> <p>able 16:15,25</p> <p>above-entitled 20:24</p> <p>ABRA 1:21 19:11</p> <p>access 9:20</p> <p>address 5:8,9 8:11 18:23</p> <p>addressed 8:12 11:20</p> <p>addressing 15:24</p> <p>advise 9:15 14:21 15:15</p> <p>agenda 8:11 11:22</p> <p>agree 11:8,10,12,14,17 11:19</p> <p>agreement 14:22 15:18 15:20,25 16:2,5,7</p> <p>ahead 13:25</p> <p>Alcoholic 1:2,13</p> <p>ALIYA 1:17</p> <p>alley 1:23 6:14 7:16 8:7 9:23 10:1</p> <p>allowed 4:20</p> <p>ANC 1:8,22 4:4,8 12:15 12:17 14:14,15,23 15:18 16:1,6,8 20:1</p> <p>Anderson 1:14,16 2:3 2:13,22 3:2,8,12,17 3:20,22 4:5,7,12,18 4:24 5:5,15,20 6:1,5,8 6:16,20 7:1,6,10,18 8:9 9:3,7,11 10:3 11:5 11:9,11,13,15,18,19 12:8,13,18,21 13:1,5 13:7,12,18,21 14:3,7 14:9,13,18 15:3,10,14 15:17 17:4,7,8,10,11 17:15,20,22,25 18:6,8 18:12</p> <p>apologize 13:19 14:10 15:11 18:14</p> <p>applicable 10:23</p> <p>applicant 1:21,22 2:21 2:23,24 10:9,25 12:6</p> <p>applicant's 10:17</p> <p>application 1:10 10:13 10:16 19:9</p> <p>appreciate 20:5</p> <p>approved 9:1</p> <p>arguments 10:24</p> <p>articles 9:1</p> <p>assist 19:13</p> <p>Associate 19:1</p> <p>association 1:23 6:15 8:8,25 9:24 10:10 15:2,4,9 20:3</p> <p>assume 16:16</p> <p>attend 8:22 9:16</p> <p>attorney 2:21</p> | <p>audio 5:13</p> <p>August 8:18,23 9:2 10:17</p> <p>authority 16:4</p> <p>B</p> <p>B-U-D-J- 7:14</p> <p>BANCA 5:25 10:9,10,18 10:19,23 15:1,3</p> <p>based 10:4</p> <p>basically 19:24</p> <p>bean 6:24</p> <p>behalf 12:15,17</p> <p>believe 8:12</p> <p>Bench 7:17 13:14,16 15:8</p> <p>Berman 19:2 20:15</p> <p>best 18:2,10,13</p> <p>Beverage 1:2,13</p> <p>Blagden 1:23 6:14 7:16 8:7 9:23 10:1</p> <p>blame 13:22,23 14:1,1 14:4</p> <p>Board 1:2,13 10:7,21 11:2 16:3,14,18,23 19:14,20,23 20:5</p> <p>Board's 18:19,20</p> <p>Bobby 1:17 11:10</p> <p>break 11:21</p> <p>brother 14:11</p> <p>buddy 17:13</p> <p>Budjevac 1:24 5:19,22 5:23 6:4,7 7:9,12,13 7:19 12:19,20,22,24 14:16 15:1,5,6,12 18:3,4,7,11</p> <p>butcher 18:2,14</p> <p>bylaws 9:21</p> <p>C</p> <p>C-A-N-D-A- 2:19</p> <p>C-E 2:20</p> <p>call 4:21 11:6</p> <p>Candace 1:21 2:8,19 9:17</p> <p>car 6:25</p> <p>care 14:2,5</p> <p>case 1:9 2:4,4,7,18 3:18 4:1,25 12:5 19:19 20:8</p> <p>Cato 1:17 11:9,10,10</p> <p>Chair 2:12 4:16</p> <p>Chairperson 1:14,16 2:3,13,22 3:2,8,12,17 3:20,22 4:5,7,12,18 4:24 5:5,15,20 6:1,5,8 6:16,20 7:1,6,10,18 8:9 9:3,7,11 10:3 11:5</p> | <p>11:9,11,13,15,18 12:8 12:13,18,21 13:1,7,12 13:18,21 14:3,7,9,13 14:18 15:3,10,14,17 17:4,8,11,15,20,22,25 18:6,8,12</p> <p>changed 18:20</p> <p>chat 5:12</p> <p>chats 5:16</p> <p>civic 20:3</p> <p>claimed 10:11</p> <p>clerical 10:20</p> <p>client 3:3</p> <p>Columbia 1:1 9:1</p> <p>Commissioner 1:22</p> <p>complete 19:5</p> <p>complied 10:23</p> <p>conducted 18:21</p> <p>confidence 20:18</p> <p>confused 8:19</p> <p>confusing 15:13</p> <p>consideration 11:1</p> <p>consolidate 20:7</p> <p>contact 20:15</p> <p>contained 10:20</p> <p>Control 1:2,13</p> <p>conversations 9:22</p> <p>cooperation 20:13</p> <p>copy 19:3,3,8</p> <p>correct 14:14</p> <p>correctly 7:23</p> <p>counsel 1:21 10:17 19:2</p> <p>court 1:23 6:14 7:21,22 8:7 9:24 10:2</p> <p>creating 10:1</p> <p>credits 10:22</p> <p>Crockett 1:17 11:11,12 11:12</p> <p>cross-examination 19:20</p> <p>CT 1:8</p> <p>currently 16:22</p> <p>D</p> <p>date 8:20</p> <p>dates 8:22 10:21</p> <p>day 5:4</p> <p>days 19:7,8</p> <p>DC 1:21</p> <p>December 1:12</p> <p>decide 20:7</p> <p>decision 16:18,19</p> <p>denied 10:6 12:1</p> <p>denies 11:2</p> <p>deny 11:25</p> <p>different 8:16</p> <p>direct 19:19</p> | <p>dismiss 4:20 8:5,5,6 11:3</p> <p>dismissal 19:10</p> <p>District 1:1 8:25</p> <p>documents 19:11,13</p> <p>Donovan 1:14,16</p> <p>E</p> <p>E-A-S-L- 7:4</p> <p>E-V-A-C 7:15</p> <p>E-Y 7:5</p> <p>earlier 8:23</p> <p>Easley 1:24 7:3,4,4 15:7</p> <p>Edward 1:18 11:16</p> <p>Eighteenth 1:6 2:4,15 4:25</p> <p>either 8:21 16:12</p> <p>elevate 2:6</p> <p>elevated 2:10,11 3:5</p> <p>email 9:20 19:1</p> <p>emergency 18:20</p> <p>error 10:21</p> <p>evidence 10:9</p> <p>exhibit 19:4,6</p> <p>explained 10:19</p> <p>F</p> <p>F 2:20</p> <p>F-A-R-I-D 3:10,16</p> <p>F-I-T-C-H 2:20</p> <p>facilitating 19:15</p> <p>fact 10:22</p> <p>fall 15:21 16:3</p> <p>Farid 1:22 3:1,10,15</p> <p>Fashbaugh 1:21 2:6,8 4:16 5:1</p> <p>file 9:16</p> <p>filed 4:19 8:4,4,15</p> <p>filing 10:11,14</p> <p>find 3:3</p> <p>first 6:12</p> <p>Fitch 1:21 2:9,16,19,19 2:25 3:7,10 4:19 5:12 8:2,7,16 9:15,18 12:6</p> <p>five 5:24 6:19 7:15,16 7:17 12:25 13:6,10,11 15:6,8,15,19,24 16:1 19:18 20:1,2,3</p> <p>focused 18:23</p> <p>follow 20:10</p> <p>Following 18:25</p> <p>force 16:4</p> <p>form 19:3,4,6,7,8</p> <p>formal 8:21 18:9</p> <p>forward 12:2 14:20 16:9</p> <p>founded 9:25</p> <p>Frank 2:20</p> |
|--|--|--|--|

further 10:19
Furthermore 10:10

G

G-O-L-D-B-E- 9:9
G-O-L-D-B-E-R-G 6:13
G-U-G-G-E-N-M-O-S
4:3
General 19:1
getting 6:6
Goldberg 1:23 2:10
4:13,17 5:10,11,17,21
5:24 6:12,13,17,18
9:6,6,7,9,9,12,14 12:9
12:11 13:5,8,8,14
15:2 17:6
Grandis 1:18 11:15,16
11:16
grant 10:25
greatly 19:13 20:13
group 4:9 7:15,16,17
8:5 9:5 12:25 13:10
13:13,15
groups 4:10 5:24 6:19
12:2 13:10 14:14,15
14:19,22,23 15:5,8,15
15:19,24 16:1 20:2
Guggenmos 1:22 2:9
3:24 4:2,3,6,10 12:14
12:16,16 17:23,24

H

H-E-C-T-O-R 6:24
Hansen 1:18 11:13,14
11:14
happy 20:17,21
hear 4:14 19:21
hearing 1:8 2:15 4:21
5:9 11:23 12:3 13:4
14:21 16:9 17:2 18:17
18:25 19:5,7,9,16,25
20:6,7,11,14,23
hearings 18:21,22
Hector 1:25 6:23,24
7:16 13:6,17 15:7
held 10:18
helpful 20:9
hesitate 20:15
hey 13:25
highlighting 17:25
historic 10:1,2
hold 5:5 8:23
holiday 20:17
holidays 20:21
hope 20:17

I

identified 7:7

identify 7:25 8:1
important 18:22
include 19:2
includes 19:19
incorporation 9:21
information 19:3,6
instruct 18:18
instructions 19:4
intend 19:21
introduce 6:9
issue 8:14 15:23
issues 5:13 6:7 8:17
18:23 19:14,22
ITCH 2:20

J

J-E-L-E-N-A 7:14
J-O-H-N 4:3
JAMES 1:19
January 13:4 17:2
20:11
Jelena 1:24 5:17 7:12
12:23 15:6 18:5,6,7
18:11
Jeni 1:18 11:14
John 1:22 2:9 4:2 12:16
Jonathan 19:2
jonathan.berman@d...
20:16
JR 1:17,19

K

keeping 5:15 19:15
knowledge 2:25

L

law 15:21 16:10
leading 20:14
legal 8:11 11:21 19:12
let's 3:23,23 6:9
letter 10:20
License 1:8,10 2:5
limited 19:17
line 5:18
live 16:13,21,22
look 18:1
looking 18:9
lot 14:6
Lounge 1:7 2:5,16 4:25
lunch 11:21

M

ma'am 2:18,23 8:6
making 10:7 11:2
matter 1:5 8:10 10:8
11:19 12:1 13:2,3
16:15,22,25 18:17
20:4,19,21,24

matters 12:5,7,9,12,14
12:17,25 19:21
meeting 1:3 8:20,21,22
9:16 10:12,15,18
Member 1:17,17,18,18
1:19 11:4,8
met 1:14
minutes 19:18
missing 13:6
morning 2:14,22,24 4:5
4:6 9:12
motion 4:19 5:2,2,8 8:4
8:15,17 9:13 10:6,6,7
10:8 11:2,2,6,7,25,25
move 14:20 16:9
moving 12:1
mute 10:14,25

N

N-O-U-R-I 3:11,16
Nadler 9:17
name 2:17 3:9,13,16,25
4:14 5:10,22 6:12,21
6:23 7:3,4,13,14,20
7:22,23 8:1 12:23
18:9,14
names 6:11 18:1,2
narrowing 19:14
Naylor 1:23 6:14 8:7
9:24 10:2
need 5:6 19:11
neighborhood 16:13,20
new 1:10 17:1 20:18,20
note 9:23
notice 8:21 10:11,15
noticed 10:18
notify 9:18
Nouri 1:22 3:1,10,12,15
3:15,19,21
Number 2:4,5
NW 1:7

O

ones 16:10
operation 15:21 16:10
opposing 19:12
orally 8:14
organized 8:25
original 10:20
owner 3:19

P

P-I-N-T-O 6:25
P-R-O-C-E-E-D-I-N-G-S
2:1
p.m 13:4 17:4
painful 12:22
panelist 2:9

part 15:19,22 16:2,4,8
participants 9:18
participate 3:4
parties 2:7 6:9 13:6
16:15,24,25 19:12,15
20:7
party 16:12
passes 11:19
person 20:8
personally 20:20
phone 9:19 10:18
phones 9:20 10:14
phonetically 18:13
pick 12:23
Picnic 7:17 13:14,16
15:7
Pinto 1:25 6:23,23,24
7:2 13:6,16,17,20,25
14:5,8,11,17 15:7,16
17:3,10,12,13,18,21
place 10:2
please 2:6,7,17 3:5,6,13
3:14,25 4:13,14 5:11
6:22 7:11,25 9:23
10:14,14 19:13 20:15
20:21,22
point 19:16
practices 18:19
prefer 16:20
preliminary 12:4,7,9,11
12:14,17,24
present 1:15,20 4:22
5:25 6:19 19:19 20:8
presented 10:24
presents 10:9
preservation 10:1
presiding 1:14
prior 9:22 11:21
problem 13:20 14:11,12
problems 3:6
process 19:15 20:10
pronounce 5:22 18:13
protest 1:7 2:15 4:20
6:11 10:13,16,20 13:4
15:20 16:2,17 18:17
18:22 19:3,6,10,14
20:2
protestant 1:24,24,25
13:22,23
protestants 3:23 12:2
protested 4:8 18:24
19:23
provided 10:11,15
public 11:22 18:19
publicly 5:7 8:12
put 13:25 14:1,8 20:2,3

Q

| | | | |
|--|---|--|---|
| qualified 10:10 question 9:17 questions 17:5 20:14 <hr/> R R-G 9:10 R-O-B-E-R-T 6:13 Rafi 1:17 11:12 raised 8:3,13 reached 14:23 15:18,25 16:7,12 reason 3:4 6:2 10:6 reasons 7:19 11:1,24 receive 8:20 19:1,8 recognize 13:9 recognized 14:19 record 2:17 3:14,25 4:14 5:11 6:10,21 7:21,23 11:22 20:25 regarding 10:21 regards 9:15 regulations 10:23 relationship 2:18 3:18 4:1 6:11 relevant 19:22 remaining 10:24 repetitive 19:23 reporter 7:21,22 represent 4:4 6:14 7:15 7:17 representation 10:5 representative 9:4 required 9:18 19:5 residents 9:19 response 5:2 9:13,14 Retailer 1:8 rights 2:6,10,11 3:5 Robert 1:23 2:10 4:17 6:13 9:6 13:8 15:2 roll 4:21 11:6 <hr/> S S 1:18 SARAH 1:21 saw 5:12,13 saying 6:2 19:24 says 3:7 schedule 5:3 scheduled 13:2,3 18:16 screen 18:1 second 11:3,4 seconded 11:6 seeing 7:22 seeking 16:17 September 8:19 10:12 10:15,19 settle 16:15,25 20:19 settled 16:23 20:4,22 | settlement 14:22 15:18 15:20,23,25 16:2,5,7 16:11 settlements 16:14,23 seven 19:7,8 Short 1:19 11:4,4,5,7,8 11:8 side 16:18 19:17 Simultaneous 6:3 sir 3:18,25 4:15 5:1 7:14 9:13 12:10 14:16 14:17 smart 9:20 sorry 5:22 8:4 9:4,5,8 9:12 12:13 13:3 14:24 14:25 18:3 speaking 6:3 7:24 8:1 13:9 speaks 7:25 specific 19:4 speculative 10:25 spell 2:17 3:13,24 4:13 5:10 6:10,21 7:20,23 spelled 7:13 Staff 1:21 Stand 2:8 standing 14:20 16:6,11 start 2:16 3:23 state 2:17 3:13,24 4:13 5:10 6:10,21 7:20 8:1 stated 8:17 statements 10:22 status 1:7 2:15 4:22,23 Street 1:6,7 2:5,15 4:25 subject 19:10 submit 19:6 submitted 19:11 supports 16:14,23 <hr/> T t/a 1:6 technology 6:7 tell 8:14 testimony 19:21,24 thank 2:13 3:20 7:1,6 7:19 10:4 12:8,18 13:2 14:19 17:6,9,10 17:23 18:15 20:12 things 18:18 thought 13:19 three 14:14,15,21 today 5:9 8:11,13 11:23 told 2:25 tolerate 19:23 tried 18:12 try 18:2,3,8 20:22 trying 8:6 18:3,10 Tuesday 13:20 | two 5:24 6:18 12:2 13:10 15:5,8,15,19,24 16:1 20:1 type 5:14 <hr/> U uncontroverted 10:22 understanding 8:3 Unfortunately 7:13 upset 16:19 <hr/> V V-I-N-C-E-N-T 7:4 videoconference 1:14 Vincent 1:24 7:3,17 15:7 virtually 18:21 visually 7:14 vote 10:8 11:7 voted 5:7 8:18,18 10:12 10:16 voting 11:25 <hr/> W W 1:14,16 wanted 8:5 wants 3:3 way 14:8 16:24 WebEx 1:14 Wednesday 1:12 went 20:25 wish 20:16 witnesses 19:18,20 20:1,2,4 <hr/> X <hr/> Y year 17:1 20:18,20 YFE 1:6 <hr/> Z <hr/> 0 <hr/> 1 1:30 13:4 17:4 11:27 2:2 11:50 20:25 118846 1:8 2:5 12 13:4 1230 1:7 12th 17:2 17th 8:24 1980's 9:25 19th 9:2 <hr/> 2 | 2021 1:12 10:12,15,17 10:19 2022 13:4 21-PRO-00079 1:9 2:4 25th 8:18 10:17 26 10:12,15,19 26th 8:19 2F 1:8,22 4:4 <hr/> 3 <hr/> 4 <hr/> 5 <hr/> 6 6-0-0 11:19 60 19:18 <hr/> 7 <hr/> 8 <hr/> 9 9th 1:7 |
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In the matter of: Eighteenth Street Lounge

Before: DC ABRA

Date: 12-01-21

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