

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

IN THE MATTER OF: :
 :
Vinnakota Chon, Inc., :
t/a Lax Wine & Spirits :
3035 Naylor Road SE, :
Retailer A - ANC 8B :
License No. 82054 :
Case #18-CMP-00031 :
 :
(Stored Alcoholic :
Beverages off Premises :
Without Board Approval, :
Substantial Change :
Without Board Approval) :

Wednesday
June 20, 2018

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Donovan W. Anderson, presiding.

PRESENT:

- DONOVAN W. ANDERSON, Chairperson
- NICK ALBERTI, Member
- BOBBY CATO, JR., Member
- DONALD ISAAC, SR., Member
- JAMES SHORT, Member
- REMA WAHABZADAH, Member

ALSO PRESENT:

CHRISTINE GEPHARDT, OAG

MAKAN SHIRAFKAN, LICENSEE

ABDUL KUDDUS, LICENSEE

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

2 10:12 a.m.

3 CHAIRPERSON ANDERSON: All right. The
4 next case on our calendar is Case No. 18-CMP-
5 00031, Lax Wine & Spirits, License No. 82054.

6 Will the parties, please, approach and
7 identify themselves for the record, please?

8 MR. SHIRAFKAN: Good morning, Mr.
9 Chair, Members of the Board. Makan Shirafkan on
10 behalf of the licensee.

11 CHAIRPERSON ANDERSON: Good morning,
12 Mr. Shirafkan. Is the licensee here with you?

13 MR. SHIRAFKAN: Mr. Chair, yes.
14 Actually, on Saturday afternoon, Mr. Lax, the
15 owner of the business, his mother passed away in
16 India. He flew out on Saturday night. So he
17 sent a representative from the company to be here
18 and he has authorized me to enter into whatever
19 needs to be done today.

20 CHAIRPERSON ANDERSON: And so who is
21 the person who is with you today, sir?

22 MR. KUDDUS: How you doing? My name

1 is MD Abdul Kuddus.

2 MR. SHIRAFKAN: Mr. Kuddus.

3 CHAIRPERSON ANDERSON: Who is he?

4 MR. SHIRAFKAN: He is the general
5 manager.

6 MR. KUDDUS: I manage at the store.

7 CHAIRPERSON ANDERSON: Just put -- all
8 right. Ms. Gephardt?

9 MR. SHIRAFKAN: Thank you.

10 MS. GEPHARDT: My name is Chrissy
11 Gephardt. I'm here on behalf of the Office of
12 the Attorney General.

13 CHAIRPERSON ANDERSON: All right.
14 Good morning.

15 MS. GEPHARDT: Good morning.

16 CHAIRPERSON ANDERSON: All right. Are
17 there any preliminary matters in this case?

18 MS. GEPHARDT: Yes, there are. The
19 parties have reached an Offer in Compromise to
20 consist of the following:

21 For Charge 1 would be a \$1,250 fine to
22 be paid within 30 days or the license would be

1 suspended indefinitely until the fine is paid.

2 And for Charge 2 a \$1,250 fine to be
3 paid within 30 days or the license would be
4 suspended indefinitely until the fine is paid.

5 CHAIRPERSON ANDERSON: All right.

6 Thank you.

7 Mr. Shirafkan, it's my understanding
8 that there is an Offer in Compromise and the
9 Offer in Compromise is that for Charge 1, there
10 is a fine of \$1,250; for Charge 2 a fine of
11 \$1,250 for a total fine of \$2,500, that the fine
12 will be payable in 30 days.

13 Is this your understanding of the
14 Offer in Compromise?

15 MR. SHIRAFKAN: That is our
16 understanding, Mr. Chair. And they will be
17 paying that today, if possible, as long as the
18 order is done. They will pay that today.

19 I will add that at some juncture,
20 whether its before the decision or after, Mr. Lax
21 wanted me to also, since we are on a bad light,
22 to give some good news as well, so that the Board

1 doesn't just leave it on the bad news.

2 CHAIRPERSON ANDERSON: I was about to
3 say something.

4 MR. SHIRAFKAN: So some good stuff,
5 too.

6 CHAIRPERSON ANDERSON: Once the case
7 is over, I was going to say something. So once
8 we accept the -- then I'll allow you to -- your
9 client can speak.

10 All right. So all right. Now, is
11 your client aware that by accepting an Offer in
12 Compromise, that they are giving up their right
13 to a hearing?

14 MR. SHIRAFKAN: Yes.

15 CHAIRPERSON ANDERSON: And that they
16 are also giving up their right to appeal this
17 matter?

18 MR. SHIRAFKAN: Yes.

19 CHAIRPERSON ANDERSON: All right.
20 With that said, I make a motion that the Offer in
21 Compromise of a fine of for Charge 1, \$1,250 and
22 for Charge 2 a fine of \$1,250 be accepted for a

1 total fine of \$2,500 payable within 30 days be
2 accepted. Is there a second?

3 MEMBER SHORT: Second.

4 CHAIRPERSON ANDERSON: Mr. Short has
5 seconded the motion.

6 All those in favor say aye.

7 ALL: Aye.

8 CHAIRPERSON ANDERSON: Those opposed?

9 The matter passes 5-0-0.

10 I want to thank the parties for coming
11 to this agreement.

12 And now that the case is over, one
13 thing I was going to say, Mr. Shirafkan, you can
14 have your client -- of course since you know what
15 your client is going to say, your client can
16 speak.

17 But one thing I'll say as you were
18 here before and I was talking to the other
19 establishment, who has two primary tier
20 violations, and as an attorney you know what this
21 means, and so I want to advise folks when you
22 start doing primary tier violations, you are

1 going down a very rocky road where you can lose
2 your license.

3 And it's not a matter of well, some
4 times you don't even have the option of losing
5 your license or pay a \$30,000 fine, but maybe the
6 Board won't even offer you that. So when you
7 start doing primary tier violations, that is
8 something that whatever it is that is not going
9 right, it needs to be addressed. But you can
10 state what you need to state.

11 MR. SHIRAFKAN: Mr. Chair, thank you.
12 And I actually went through this and tried think
13 with Mr. Lax as well, I explained to him and then
14 I told him, I said it's always the small problems
15 that get you in more trouble than the big ones,
16 because the big ones you see, you can look out
17 for. I can't do this. I can't do that. But
18 it's the little things.

19 Here the underlying facts of the case,
20 frankly, was his lack of knowledge, which I have
21 explained to him that that's not an excuse. It's
22 never an excuse. Further, it was having a liquor

1 store in the basement of the actual store, which,
2 so if you don't have C of O, that's not allowed
3 as well.

4 But what is more important is (1) he
5 immediately within two days he applied to the
6 Board, got an approval to transfer everything to
7 a separate location next door. He got that
8 approval. And then he also has a Certificate of
9 Occupancy now for the downstairs. That is being
10 done, approved. As a matter of fact, I filed the
11 papers today so that it is updated with the
12 Board.

13 Further, there were some material that
14 I wanted to, and he wanted me to, pass on not to
15 say that he is a good operator, because he is a
16 good guy, but just to give you a little bit of
17 perspective. And again, none of this means that
18 because you are a good guy that means you can
19 violate the law. And I have explained that to
20 him, but I think I also felt it was important,
21 because I was impressed by him. I was impressed
22 by what he does for the community.

1 If Mr. Chair allows it, I would like
2 to pass on some copies, so that the Board can see
3 it.

4 CHAIRPERSON ANDERSON: Give it to --

5 MR. SHIRAFKAN: And just to let you
6 know what these are, these -- he has been
7 involved prior to any infraction and I told him,
8 I said well, you're a great guy for the community
9 and it would be horrible if you get shutdown, the
10 great guy gets shutdown.

11 So again, he understands it. But in
12 your packets, you will see Mr. Lax he does a
13 cookout. There is a community cookout that goes
14 on every three, four months. He sponsors that
15 for the members of the community and there is
16 various pictures and so on.

17 The Police Department, District 7,
18 they do a community outreach once a year where
19 they invite the entire community to come to it.
20 He has sponsored for many years that outreach
21 program by the ANC and MPD.

22 On Easter, he has a habit of -- he

1 gives a turkey and ham to 200 families where they
2 -- you will see on some of the pictures they line
3 up, they come on Easter and kind of bring the
4 festivities to them.

5 On Thanksgiving, he does 200 families
6 turkeys. And on school time, and you will see
7 pictures of those, when school is going back, he
8 sponsors 500 students that every year he provides
9 school supplies for 500 kids to go back to
10 school. And this just again because we are here
11 on something wrong that he has done. He
12 understands it. He has already remedied it and
13 this will never happen again.

14 But I wanted to address it and to
15 close it, I'll repeat myself as I told Mr. Lax.
16 You are doing great for the community. And it
17 would be a shame if you get shutdown and you
18 can't do any of this stuff and your business goes
19 out.

20 So we hope that we will, as much as I
21 like to see you all, but I hope I never have to
22 see you on this matter and this licensee again.

1 CHAIRPERSON ANDERSON: Well, you know
2 that I say that to all. Normally when I see you,
3 it's not -- unless you are getting a new license,
4 it's always an issue. And I don't -- at least
5 I'm not one of the Board Chairs who enjoys this,
6 because it says that there is a business that is
7 not doing something correctly.

8 And so what I'll say is that when you
9 start doing primary tier violations or you do --
10 although it's not in this case or if you do sale
11 to minor, the -- our hands are tied because the
12 statute says what we need to do. And so some
13 things are at our discretion, but the statute is
14 clear it says what you need to do and it's a
15 shame if you are doing all these wonderful things
16 for the community, if, as Mr. Shirafkan stated
17 and the statement, too, the representation of the
18 owner, is that it's the little things you get
19 caught by.

20 If one of your employees doesn't do
21 what they are supposed to do, then you are
22 responsible. And then so I will just say that

1 continue doing the work you are doing for the
2 community, make sure that you also comply with
3 the law, because our job is not to come and say
4 got you, but we are going out to make sure that
5 you are complying with the law.

6 And unfortunately, sometimes you get
7 caught and if you get caught this one time, it's
8 not like we are coming there every day, we don't
9 know what you are doing the other 300-something
10 whatever days that we are not there. So we have
11 to make sure.

12 So thank you for making this
13 presentation today. Thank you for doing the OIC.
14 And just make sure that you comply with the law,
15 because once you start doing primary tier
16 violations, that's when you get yourself in some
17 serious, serious trouble.

18 MEMBER SHORT: I just wanted to make
19 one comment.

20 CHAIRPERSON ANDERSON: Go ahead, Mr.
21 Short.

22 MEMBER SHORT: Mr. Shirafkan, thank

1 you. It's nice to see you this morning again.
2 Does your client have a copy of the Codes, what
3 he can and cannot do with an ABC License in the
4 District of Columbia?

5 MR. SHIRAFKAN: My understanding is
6 that absolutely they have all access to it, every
7 licensee has access to it. Sometimes it's the
8 lack of understanding, but again I have gone over
9 that that ignorance of the law is not an excuse
10 of it and even if you don't understand it, then
11 you need to ask, call ABRA, call your attorney or
12 anyone else.

13 And I have advised him to review the
14 code and just kind of -- because I understand
15 folks may get licenses and they start and they
16 think they know it and, frankly, I have dealt
17 with operators who have been in business for many
18 years and then because they are not lawyers and
19 because they may not have looked at certain
20 areas, thinking well, this is my business, so
21 basement is part of my business.

22 And I will say this, Mr. Short, these

1 are the little things. I even myself had to
2 contact actually ABRA and kind of look into it is
3 the basement of a place that has a C of O
4 expansion of operation? I just had never dealt
5 with that case, but I told him I said well, my
6 business is not selling liquor. My business is
7 law, so I know the laws of what I need to know in
8 my business, so you need to learn your business
9 better than even me, because my family doesn't
10 depend on the Alcohol Law. It depends on how I
11 run my law firm.

12 So I have made that point, hopefully,
13 home with him to understand. Study, learn.

14 MEMBER SHORT: Thank you, sir. Thank
15 you very much.

16 CHAIRPERSON ANDERSON: All right.
17 Have a good day. Thank you.

18 MR. SHIRAFKAN: Thank you very much.
19 I have a Notice of Appearance. I didn't know if
20 I need to hand it to -- thank you.

21 CHAIRPERSON ANDERSON: I think you are
22 opening up a can of worms. Let me see the Notice

1 of Appearance that Mr. Shirafkan has. Let me
2 see. It's a can of worms. You just didn't
3 realize what you walked into this morning.

4 MR. SHIRAFKAN: Okay. I'll withdraw
5 my Notice of Appearance.

6 CHAIRPERSON ANDERSON: No, no, no.
7 I'll say this. I am an attorney and so because
8 I'm an attorney, I'm fine with things that are
9 done. Unfortunately, some Board Members who are
10 not attorneys they have different expectations.

11 MR. SHIRAFKAN: Okay.

12 CHAIRPERSON ANDERSON: So that's the
13 controversy that we have currently with Notice of
14 Appearances, so that's why I'm saying you -- we
15 are going to discuss that later on today, so you
16 have actually walked into something that you
17 didn't know what was an issue that the Board is
18 grappling with, but thank you for this.

19 MR. SHIRAFKAN: Let it be known, I
20 live here to comply with what the Board needs, so
21 however you want me to --

22 CHAIRPERSON ANDERSON: All right.

1 MR. SHIRAFKAN: -- enter my
2 appearance, I'll do accordingly.

3 CHAIRPERSON ANDERSON: Thank you. All
4 right.

5 MR. SHIRAFKAN: Thank you very much.

6 CHAIRPERSON ANDERSON: Have a good
7 day.

8 Is the next case here, Ms. Gephardt?
9 Was that your case or do you know who we --

10 MS. GEPHARDT: Which case, the next
11 one?

12 CHAIRPERSON ANDERSON: Oh, the next
13 case, yeah.

14 MS. GEPHARDT: The next case actually
15 is my case and the licensee said that she would
16 be here between 10:00 and 10:30.

17 CHAIRPERSON ANDERSON: All right. It
18 is not 10:30 yet.

19 MS. GEPHARDT: Okay.

20 CHAIRPERSON ANDERSON: So we will be
21 in recess until 10:30.

22 MS. GEPHARDT: Okay.

1 CHAIRPERSON ANDERSON: Or until the
2 licensee shows up. You can let us know.

3 MS. GEPHARDT: Okay.

4 CHAIRPERSON ANDERSON: All right.

5 MS. GEPHARDT: Great. Thank you.

6 CHAIRPERSON ANDERSON: All right.

7 Thanks.

8 (Whereupon, the Show Cause Hearing was
9 concluded at 10:25 a.m.)

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A

a.m 3:2 18:9
ABC 14:3
Abdul 2:14 4:1
ABRA 14:11 15:2
absolutely 14:6
accept 6:8
accepted 6:22 7:2
accepting 6:11
access 14:6,7
actual 9:1
add 5:19
address 11:14
addressed 8:9
advise 7:21
advised 14:13
afternoon 3:14
agreement 7:11
ahead 13:20
ALBERTI 1:20
Alcohol 15:10
Alcoholic 1:2,9,15,15
allow 6:8
allowed 9:2
allows 10:1
ANC 1:7 10:21
Anderson 1:17,19 3:3
 3:11,20 4:3,7,13,16
 5:5 6:2,6,15,19 7:4,8
 10:4 12:1 13:20 15:16
 15:21 16:6,12,22 17:3
 17:6,12,17,20 18:1,4
 18:6
appeal 6:16
appearance 15:19 16:1
 16:5 17:2
Appearances 16:14
applied 9:5
approach 3:6
approval 1:10,11 9:6,8
approved 9:10
areas 14:20
attorney 4:12 7:20
 14:11 16:7,8
attorneys 16:10
authorized 3:18
aware 6:11
aye 7:6,7

B

back 11:7,9
bad 5:21 6:1
basement 9:1 14:21
 15:3
behalf 3:10 4:11
better 15:9
Beverage 1:2,15,15
Beverages 1:10

big 8:15,16
bit 9:16
Board 1:2,10,11,15 3:9
 5:22 8:6 9:6,12 10:2
 12:5 16:9,17,20
BOBBY 1:20
bring 11:3
Building 1:16
business 3:15 11:18
 12:6 14:17,20,21 15:6
 15:6,8,8

C

C 9:2 15:3
calendar 3:4
call 14:11,11
case 1:8 3:4,4 4:17 6:6
 7:12 8:19 12:10 15:5
 17:8,9,10,13,14,15
CATO 1:20
caught 12:19 13:7,7
Cause 1:7 18:8
certain 14:19
Certificate 9:8
Chair 3:9,13 5:16 8:11
 10:1
Chairperson 1:16,19
 3:3,11,20 4:3,7,13,16
 5:5 6:2,6,15,19 7:4,8
 10:4 12:1 13:20 15:16
 15:21 16:6,12,22 17:3
 17:6,12,17,20 18:1,4
 18:6
Chairs 12:5
Change 1:11
Charge 4:21 5:2,9,10
 6:21,22
Chon 1:6
Chrissy 4:10
CHRISTINE 2:12
clear 12:14
client 6:9,11 7:14,15,15
 14:2
close 11:15
code 14:14
Codes 14:2
Columbia 1:1 14:4
come 10:19 11:3 13:3
coming 7:10 13:8
comment 13:19
community 9:22 10:8
 10:13,15,18,19 11:16
 12:16 13:2
company 3:17
comply 13:2,14 16:20
complying 13:5
Compromise 4:19 5:8,9
 5:14 6:12,21

concluded 18:9
consist 4:20
contact 15:2
continue 13:1
Control 1:2,15,15
controversy 16:13
cookout 10:13,13
copies 10:2
copy 14:2
correctly 12:7
course 7:14
currently 16:13

D

D.C 1:16
day 13:8 15:17 17:7
days 4:22 5:3,12 7:1 9:5
 13:10
dealt 14:16 15:4
decision 5:20
Department 10:17
depend 15:10
depends 15:10
different 16:10
discretion 12:13
discuss 16:15
District 1:1 10:17 14:4
doing 3:22 7:22 8:7
 11:16 12:7,9,15 13:1
 13:1,9,13,15
DONALD 1:21
Donovan 1:17,19
door 9:7
downstairs 9:9

E

Easter 10:22 11:3
employees 12:20
enjoys 12:5
enter 3:18 17:1
entire 10:19
establishment 7:19
excuse 8:21,22 14:9
expansion 15:4
expectations 16:10
explained 8:13,21 9:19

F

fact 9:10
facts 8:19
families 11:1,5
family 15:9
favor 7:6
felt 9:20
festivities 11:4
filed 9:10
fine 4:21 5:1,2,4,10,10
 5:11,11 6:21,22 7:1

8:5 16:8
firm 15:11
flew 3:16
folks 7:21 14:15
following 4:20
four 10:14
frankly 8:20 14:16
Further 8:22 9:13

G

general 4:4,12
Gephardt 2:12 4:8,10
 4:11,15,18 17:8,10,14
 17:19,22 18:3,5
getting 12:3
give 5:22 9:16 10:4
gives 11:1
giving 6:12,16
grappling 16:18

H

habit 10:22
ham 11:1
hand 15:20
hands 12:11
happen 11:13
hearing 1:7,15 6:13
 18:8
home 15:13
hope 11:20,21
hopefully 15:12
horrible 10:9

I

identify 3:7
ignorance 14:9
immediately 9:5
important 9:4,20
impressed 9:21,21
indefinitely 5:1,4
India 3:16
infraction 10:7
invite 10:19
involved 10:7
ISAAC 1:21
issue 12:4 16:17

J

JAMES 1:21
job 13:3
JR 1:20
junction 5:19
June 1:13

K

kids 11:9
knowledge 8:20
known 16:19

Kuddus 2:14 3:22 4:1,2
4:6

L

lack 8:20 14:8
law 9:19 13:3,5,14 14:9
15:7,10,11
laws 15:7
lawyers 14:18
Lax 1:6 3:5,14 5:20 8:13
10:12 11:15
learn 15:8,13
leave 6:1
license 1:8 3:5 4:22 5:3
8:2,5 12:3 14:3
licensee 2:13,14 3:10
3:12 11:22 14:7 17:15
18:2
licenses 14:15
light 5:21
line 11:2
liquor 8:22 15:6
little 8:18 9:16 12:18
15:1
live 16:20
location 9:7
long 5:17
look 8:16 15:2
looked 14:19
lose 8:1
losing 8:4

M

Makan 2:13 3:9
making 13:12
manage 4:6
manager 4:5
material 9:13
matter 1:5 6:17 7:9 8:3
9:10 11:22
matters 4:17
MD 4:1
means 7:21 9:17,18
MEETING 1:3
Member 1:20,20,21,21
1:22 7:3 13:18,22
15:14
members 3:9 10:15
16:9
met 1:15
minor 12:11
months 10:14
morning 3:8,11 4:14,15
14:1 16:3
mother 3:15
motion 6:20 7:5
MPD 10:21

N

N.W 1:16
name 3:22 4:10
Naylor 1:7
need 8:10 12:12,14
14:11 15:7,8,20
needs 3:19 8:9 16:20
never 8:22 11:13,21
15:4
new 12:3
news 5:22 6:1
nice 14:1
NICK 1:20
night 3:16
Normally 12:2
Notice 15:19,22 16:5,13

O

O 9:2 15:3
OAG 2:12
Occupancy 9:9
offer 4:19 5:8,9,14 6:11
6:20 8:6
Office 4:11
OIC 13:13
once 6:6,7 10:18 13:15
ones 8:15,16
opening 15:22
operation 15:4
operator 9:15
operators 14:17
opposed 7:8
option 8:4
order 5:18
outreach 10:18,20
owner 3:15 12:18

P

P-R-O-C-E-E-D-I-N-G-S
3:1
packets 10:12
paid 4:22 5:1,3,4
papers 9:11
part 14:21
parties 3:6 4:19 7:10
pass 9:14 10:2
passed 3:15
passes 7:9
pay 5:18 8:5
payable 5:12 7:1
paying 5:17
person 3:21
perspective 9:17
pictures 10:16 11:2,7
place 15:3
please 3:6,7
point 15:12
Police 10:17

possible 5:17
preliminary 4:17
Premises 1:10
PRESENT 1:18 2:10
presentation 13:13
presiding 1:17
primary 7:19,22 8:7
12:9 13:15
prior 10:7
problems 8:14
program 10:21
provides 11:8
put 4:7

Q

R

reached 4:19
realize 16:3
recess 17:21
record 3:7
Reeves 1:16
REMA 1:22
remedied 11:12
repeat 11:15
representation 12:17
representative 3:17
responsible 12:22
Retailer 1:7
review 14:13
road 1:7 8:1
rocky 8:1
Room 1:16
run 15:11

S

sale 12:10
Saturday 3:14,16
saying 16:14
says 12:6,12,14
school 11:6,7,9,10
SE 1:7
second 7:2,3
seconded 7:5
selling 15:6
sent 3:17
separate 9:7
serious 13:17,17
shame 11:17 12:15
Shirafkan 2:13 3:8,9,12
3:13 4:2,4,9 5:7,15
6:4,14,18 7:13 8:11
10:5 12:16 13:22 14:5
15:18 16:1,4,11,19
17:1,5
Short 1:21 7:3,4 13:18
13:21,22 14:22 15:14
Show 1:7 18:8

shows 18:2
shutdown 10:9,10
11:17
sir 3:21 15:14
small 8:14
speak 6:9 7:16
Spirits 1:6 3:5
sponsored 10:20
sponsors 10:14 11:8
SR 1:21
start 7:22 8:7 12:9
13:15 14:15
state 8:10,10
stated 12:16
statement 12:17
statute 12:12,13
store 4:6 9:1,1
Stored 1:9
Street 1:16
students 11:8
Study 15:13
stuff 6:4 11:18
Substantial 1:11
Suite 1:16
supplies 11:9
supposed 12:21
suspended 5:1,4

T

t/a 1:6
talking 7:18
thank 4:9 5:6 7:10 8:11
13:12,13,22 15:14,14
15:17,18,20 16:18
17:3,5 18:5
Thanks 18:7
Thanksgiving 11:5
things 8:18 12:13,15,18
15:1 16:8
three 10:14
tied 12:11
tier 7:19,22 8:7 12:9
13:15
times 8:4
today 3:19,21 5:17,18
9:11 13:13 16:15
told 8:14 10:7 11:15
15:5
total 5:11 7:1
transfer 9:6
tried 8:12
trouble 8:15 13:17
turkey 11:1
turkeys 11:6
two 7:19 9:5

U

underlying 8:19

understand 14:10,14
15:13
understanding 5:7,13
5:16 14:5,8
understands 10:11
11:12
unfortunately 13:6 16:9
updated 9:11

V

various 10:16
Vinnakota 1:6
violate 9:19
violations 7:20,22 8:7
12:9 13:16

W

W 1:17,19
WAHABZADAH 1:22
walked 16:3,16
wanted 5:21 9:14,14
11:14 13:18
Washington 1:16
Wednesday 1:13
went 8:12
Wine 1:6 3:5
withdraw 16:4
wonderful 12:15
work 13:1
worms 15:22 16:2
wrong 11:11

X

Y

year 10:18 11:8
years 10:20 14:18

Z

0

00031 3:5

1

1,250 4:21 5:2,10,11
6:21,22
10:00 17:16
10:12 3:2
10:25 18:9
10:30 17:16,18,21
14th 1:16
18-CMP- 3:4
18-CMP-00031 1:8

2

2 5:2,10 6:22
2,500 5:11 7:1
20 1:13

200 11:1,5
2000 1:16
20009 1:16
2018 1:13

3

30 4:22 5:3,12 7:1
30,000 8:5
300-something 13:9
3035 1:7

4

400S 1:16

5

5-0-0 7:9
500 11:8,9

6

7

7 10:17

8

82054 1:8 3:5
8B 1:7

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In the matter of: Lax Wine

Before: DC ABRA

Date: 06-20-18

Place: Washington, DC

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Neal R Gross

Court Reporter

NEAL R. GROSS

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