

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:

Whole Foods Market
Group, Inc.
t/a Whole Foods Market
1440-1446 P Street NW
License #ABRA-086071
Retailer DR - License
Renewal
Case #19-PRO-00052

MONDAY, JUNE 10, 2019

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The Alcoholic Beverage Control Board
met in Alcoholic Beverage Control Hearing Room,
Reeves Building, 2000 14th Street N.W.,
Washington, D.C., Ms. LaVerne Fletcher, Board
Agent, presiding.

ALSO PRESENT:

ANDREW KLINE, Attorney for Licensee
JOHN GUGGENMOS, ANC2F02
IAN SIMON, ANC2F06
JULIE EARNE
LAWRENCE WATSON
ROBERT GUIDOS

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

2 10:01 a.m.

3 MS. FLETCHER: Good morning, everyone.

4 May I see who's present from Whole Foods today?

5 From Whole Foods today? Are Julie Earne and

6 Lawrence Watson here? Would you please come

7 forward and have a seat at this table right here,

8 please? And the attorney for Whole Foods, I'm

9 going to call Whole Foods first this morning.

10 What about Tricia Cavell? And Robert

11 Guills?

12 MR. GUILLS: Right here.

13 MS. FLETCHER: If you could come

14 forward also. Is ANC 2F present?

15 MR. KLINE: Yes.

16 MS. FLETCHER: Would the parties in the

17 matter of Whole Foods please come forth? Whole

18 Foods Market. Case #19-PRO-00052, Whole Foods

19 Market Group, Inc. 1440-1446 P Street, NW.

20 License #ABRA-086071. This is a Retailer Class DR

21 License Renewal. The protest issues are adverse

22 impact on peace, order, and quiet.

1 My name is LaVerne Fletcher,
2 conducting the roll call hearing as the Board's
3 agent. Introductions, beginning with the
4 Applicant, please.

5 MR. KLINE: Good morning, Ms. Fletcher.
6 Andrew Kline on behalf of Whole Foods Market.

7 MS. FLETCHER: Thank you, Mr. Kline.
8 Present on behalf of ANC 2F?

9 MR. GUGGENMOS: John Guggenmos, ANC
10 2F02, vice chair of 2F.

11 MS. FLETCHER: Mr. Guggenmos, would you
12 spell your last name, please?

13 MR. GUGGENMOS: Absolutely. G-U-G-G-E-
14 N-M-O-S.

15 MR. SIMON: Also present, Ian Simon,
16 Commissioner, ANC 2F06.

17 MS. FLETCHER: Thank you very much.

18 MR. SIMON: S-I-M-O-N.

19 MS. FLETCHER: Which of you are going
20 to represent ANC 2F?

21 MR. GUGGENMOS: I am.

22 MS. FLETCHER: Mr. Guggenmos.

1 MR. GUGGENMOS: Yes.

2 MS. FLETCHER: We have a sign-in sheet
3 on that table. Would you put your contact
4 information on it when you get a moment?

5 We have several groups, going to try
6 to figure out which individuals are with each
7 group. The protests appear to have been filed in
8 pieces, but maybe not. So what I've done, just to
9 let you know, the groups of individuals, I have
10 grouped you together by where you live. That's
11 number one.

12 There is a group of individuals that
13 live at 1425 Rhode Island Avenue, NW. That's one
14 group. That is a group of 12, represented by
15 Julie Earne and Lawrence Watson. In the protest
16 that the 12 filed, your protest says, The
17 undersigned individuals comprise a group of
18 owners at 1425 Rhode Island Avenue NW, a
19 residential building abutting 1440 - 1446 P
20 Street, Whole Foods. The group of 12 filed the
21 protest as an abutting residential property.

22 MS. EARNE: Would you like us to

1 clarify where

2 MS. FLETCHER: And so, who's speaking?

3 MS. EARNE: This is Julie Earne, 1425.

4 Our residential building is opposite the alley
5 for Whole Foods.

6 MS. FLETCHER: That's what you
7 indicated in your letter. So you did explain
8 where you're located, Ms. Earne.

9 MR. GUIDOS: But none of us share a
10 sidewalk.

11 MS. EARNE: Adjacent about

12 MS. FLETCHER: When you speak, you have
13 to say who's speaking, for the court reporter,
14 because she has to keep track of everything we
15 all say. But that was Mr.

16 MR. GUIDOS: Guidos. But I am from a
17 different group.

18 MS. FLETCHER: Oh, that's right. I have
19 your group.

20 MR. GUIDOS: Robert Guidos.

21 MS. FLETCHER: Thank you. G-U-I-D-O-S?
22 Thank you. In the protest set above by the group

1 above by the group of 12, it does say the
2 Willison is located directly across the alley
3 from P Street Whole Foods. What that means is
4 that the properties don't abut. They don't touch.
5 So you are across the street, but you are not
6 abutting.

7 MS. EARNE: Adjacent.

8 MS. FLETCHER: Abutting. Means the
9 properties are touching. There's a street that
10 separates your group from Whole Foods.

11 MS. EARNE: It's an alley.

12 MS. FLETCHER: Right. So that makes it
13 not abutting, by our definition. And I came to
14 that conclusion because the Board's agent, that's
15 me, I checked the D.C. geographic information
16 system to determine which properties abut. And I
17 realized that that address, 1425, does not abut
18 Whole Foods.

19 What that means is that group does not
20 have standing as protestants, because you filed
21 your protest as abutting property owners, but you
22 don't abut. Were you going to say something, Ms.

1 Earne?

2 MS. EARNE: Yes. Would the word
3 adjacent be more -

4 MS. FLETCHER: Adjacent property owners
5 cannot file a protest. Let me put it this way.
6 Ms. Earne, I understand why you're concerned
7 about this. Abutting property owners can file a
8 protest. If there are, if you want to file a
9 protest as a group of 12, a group of 12 of you
10 could have filed the protest just as residents.
11 12 residents.

12 Abutting is a separate category.
13 Abutting, there's a definition for an abutting
14 property owner. Abutting property owner has to
15 share a common wall.

16 MS. EARNE: Would the committee allow
17 us to file as a group of residents? We are here,
18 we are represented, we have five people, five
19 residents, five owners.

20 MS. FLETCHER: And if you had filed as
21 a group of five or more, then the answer would be
22 yes. So here's what's going to happen.

1 MS. EARNE: We have filed as a group of
2 five.

3 MS. FLETCHER: What the Board's agent
4 has to go by is that you filed as an abutting
5 property owner. That's the basis upon which you
6 filed your protest. So - did you have a question
7 over there?

8 MS. EARNE: Well, we would like to be
9 considered a group of five.

10 MS. FLETCHER: You would have to have
11 done that before the petition deadline. The
12 petition deadline has passed, and so you can't
13 amend the protest letter at a roll call hearing.
14 We have to go with the protest that you actually
15 filed. Who's speaking?

16 MR. WATSON: Lawrence Watson.

17 MS. FLETCHER: Yes, Mr. Watson.

18 MR. WATSON: The way we described that,
19 we used the term abutting in the first sentence,
20 but then in the second sentence we described what
21 we meant by abutting by saying, the Willison is
22 located directly across the alley from P Street

1 Whole Foods. So we were not aware of the precise
2 definition used by the board when we were trying
3 to explain what we meant by abutting there, and
4 clarified it to mean across the alley from.

5 MS. FLETCHER: Here's what you can do.
6 I'm going to dismiss the group of 12 residing at
7 1425 Rhode Island Avenue NW, but what you can do,
8 Mr. Watson, that's just the decision by the
9 Board's agent. When you receive your order
10 dismissing your protest based on what I said
11 today, you may petition the ABC Board to
12 reconsider what I said today and you can explain
13 to them what you just said, and the ABC Board has
14 the ability to overturn anything that I say.

15 So I'm going to dismiss the group of
16 12 residing at 1425 Rhode Island Avenue, because
17 they do not abut. When you receive your order
18 from the Board, petition the board for
19 reinstatement as protestants based on what you
20 said, Mr. Watson. They can overturn anything that
21 I say today.

22 MR. WATSON: Okay. I appreciate that.

1 Thank you.

2 MS. FLETCHER: The board order will go
3 to - So let me ask you this. Mr. Watson, you and
4 Ms. Earne represent the group of 12. Who should
5 get the board order? Ms. Earne?

6 MR. WATSON: Ms. Earne.

7 MS. FLETCHER: Because the board order
8 is going to go to one or the other designated
9 representatives.

10 MR. WATSON: Ms. Earne is fine.

11 MS. FLETCHER: Okay. Is that okay with
12 you, Ms. Earne?

13 MS. EARNE: That's fine.

14 MS. FLETCHER: We then have a group of
15 79.

16 MR. GUIDOS: 94?

17 MS. FLETCHER: I'm going by addresses.
18 You all reside at different addresses, so I'll
19 put the addresses together. So the groups will
20 come together for you, but I had to go by
21 addresses.

22 MS. EARNE: Sure.

1 MS. FLETCHER: Because for the group of
2 79, that letter says those individuals also filed
3 as abutting property owners, and what that letter
4 says is, that letter says, the undersigned
5 individuals comprise a group of owners and/or
6 residents of properties abutting the 1440 through
7 1446 P Street Whole Foods. That's what the letter
8 says.

9 MR. GUIDOS: It says many things in
10 that letter. On the next page, it says, we
11 believe the best way to address this is through a
12 settlement agreement with us, the undersigned
13 adjacent neighbors. So we use adjacent and
14 abutting throughout this petition.

15 MS. FLETCHER: I'm going to go with
16 abutting, because that's how the letter started.
17 What you can do, I'm going to dismiss the group
18 of 79 because I'm going with what you said in the
19 initial sentence, that's what I'm going to go
20 with.

21 MR. GUIDOS: Why go with just the
22 initial sentence when it says -

1 MS. FLETCHER: Because that's what I
2 choose to do. I think that's the appropriate
3 thing to do. Based on the way I read this letter,
4 the intention of the group was to file as
5 abutting property owners. I know you go on to
6 mention adjacent at different points.

7 I'm going to dismiss this protest
8 because you're not abutting property owners and
9 what you can do is the same thing that I
10 mentioned to Mr. Watson. Petition the ABC Board
11 and just tell them exactly what you just told me,
12 that you intended to file as adjacent, but you
13 filed as both. I'm going by your introductory
14 sentence.

15 MR. GUIDOS: Again, Robert Guidos. Is
16 adjacent fine? Does adjacent work?

17 MS. FLETCHER: What happens is this.
18 They have certain bases upon which you can file a
19 protest. You can be an abutting property owner,
20 which is what this says. If you say you're an
21 abutting property owner, the Board's agent has to
22 determine whether or not the properties abut.

1 Being an adjacent property owner is
2 not a basis upon which you can file a protest,
3 but you can file a protest as a group of five or
4 more. There's no adjacent. If you hadn't said
5 abutting and you just said adjacent and there has
6 been at least five of you, then I would be
7 granting you standing right now.

8 MR. GUIDOS: Can I ask you how can we
9 get the Board to make that amendment, and do we
10 have another standing meeting?

11 MS. FLETCHER: What happens is, there's
12 no amendment because the petition deadline has
13 passed, but when you receive the Board's order
14 dismissing the protest, you get to tell the Board
15 what you're telling me right now and the Board
16 can overturn what I'm saying today. And Mr.
17 Guidos, what were you saying?

18 MR. GUIDOS: Do we have to bring a
19 group of five again, because we have eight people
20 here, seven people here.

21 MS. FLETCHER: But you don't have to do
22 anything. The Board will just make a decision and

1 send you a - There won't be another hearing. It
2 will be on paper. When you receive a board order
3 dismissing the protest, it's going to tell you
4 you have ten days to ask the Board to reinstate
5 your group.

6 When you get that order, you'll tell
7 the Board that when you were here for the roll
8 call hearing, the Board's agent, the transcript
9 is there too, it will say that the Board's agent
10 dismissed the protest because the Board's agent
11 determined that the properties did not abut and
12 that was the basis of the protest. You get to
13 tell the ABC board that your intention was to not
14 file as abutting. That your intention was to file
15 as adjacent.

16 The ABC Board can say, that's fine,
17 and you're now granted status as protestants.
18 Once they do that, I'll contact you, because
19 we'll then need to schedule a date for a
20 mediation, we'll need to schedule a date for a
21 status hearing and a protest hearing, which we'll
22 actually do today if there are any parties that

1 are going to be granted standing

2 If the Board grants you standing you
3 are going to get pulled right back in. I'm going
4 to contact you and pull you into the process
5 wherever we are at the time. Mr. Watson?

6 MR. WATSON: Will there be a need
7 subsequent to today if the petition is granted
8 for us to produce at least five signatories
9 again?

10 MS. FLETCHER: No, you're already done
11 that.

12 MR. WATSON: Okay. Thank you.

13 MS. FLETCHER: You have all you need in
14 terms of numbers, but I have to operate within
15 certain guidelines. You won't have to do
16 anything. If the Board says you're in, you're in,
17 and you'll hear from me, and you're going to hear
18 the dates for upcoming hearings. You can just
19 write them down. You'll just come to those.
20 Because I'll know that the Board granted you
21 standing and I'll contact you and let you know
22 that I know.

1 Even if you didn't hear from me, if the
2 Board grants you standing for the hearing dates
3 that I'm about to give you, just come on because
4 I'll know that you've been granted standing.

5 MR. WATSON: Thank you.

6 MS. FLETCHER: Anything else, Mr.
7 Guidos?

8 MR. GUIDOS: No, it's against
9 regulations. Thank you.

10 MS. FLETCHER: You're very welcome.
11 There's a group of 10, going by addresses.
12 There's a group of 10 that reside at 1325 15th
13 Street NW. The other thing, Ms. Earne, Mr. Watson
14 and Mr. Guidos, I also have the maps to show
15 whether or not the properties abut, but you're
16 not saying they abut anyway. You're saying
17 they're adjacent. I always bring the copies of
18 the maps I generate in case you need to look at
19 them, or you want to look at them. So you're
20 welcome to have a copy of the maps that I used,
21 if that would be helpful.

22 MR. GUIDOS: The alleyway is owned by

1 the District?

2 MS. FLETCHER: I don't know that. The
3 geographic information system, the D.C.
4 Government geographic information system doesn't
5 give us that kind of information, but if you have
6 some information to show the Board that you
7 actually do abut, you can provide that to them.
8 The Board goes by the map that I generate, but if
9 you have something to dispute what I provide,
10 then they look at that too.

11 MS. EARNE: This is Julie Earne. What
12 is the definition of abutting?

13 MS. FLETCHER: Share a common wall.
14 They're on one side and you're on the other.
15 Across the street has not been our definition of
16 abutting. You have to share a wall.

17 MS. EARNE: So across the alley

18 MS. FLETCHER: Right, exactly. By our
19 definition, that hasn't been abutting but, Ms.
20 Earne, if you have some information contrary to
21 that to show them that alleyway abuts Whole
22 Foods, you can provide that to the ABC Board.

1 They're looking for whatever other information
2 that you have, and decide what they think would
3 be the best course of action. Mr. Guidos, you
4 want that map?

5 MR. GUIDOS: I would, yes.

6 MS. FLETCHER: Ms. Earne, would you
7 like a copy of the map? This is a map generated
8 by me. What it shows, the yellow if where Whole
9 Foods is, and these are all the addresses in the
10 protest. Mr. Klein, I have one of these for you
11 as well.

12 MS. EARNE: You can give that to Mr.
13 Kline for me.

14 MS. FLETCHER: So, that's showing all
15 the addresses that were filed in the protest,
16 just that they are across the street. As you say,
17 it just shows that they are adjacent. That's all
18 it shows. That's how I made my decision, based on
19 the location of the properties.

20 MR. GUIDOS: This is Robert Guidos
21 again. You were mentioning the other properties,
22 they also signed on to our petition.

1 MS. FLETCHER: There is a group of ten.
2 They live at 1325 15th Street NW, that signed
3 onto your petition. Their protest as the group of
4 ten residing at 1325 15th Street NW says, I
5 hereby sign onto the protest petition in which
6 Tricia Cavell and Robert Guidos are listed as
7 designated representatives. So they signed on to
8 your, they have to sign on to your protest.

9 MS. EARNE: Right.

10 MS. FLETCHER: What that means is that
11 group is also dismissed, because they signed onto
12 your petition, you filed as abutting, they're not
13 abutting either. But if you look at the map, the
14 address is on there.

15 Same thing for the group of ten. When
16 you receive the order dismissing the protest, the
17 order tells you to seek reinstatement of the
18 protest through the ABC Board. If they find in
19 your favor, I'll know, and I'll see you in
20 mediation.

21 MR. GUIDOS: Can I ask

22 MS. FLETCHER: Mr. Guidos?

1 MR. GUIDOS: We are lumping all these
2 three buildings together under one petition.
3 There's not going to be separate groups of ten
4 and 79 and seven.

5 MS. FLETCHER: In cases where
6 individuals claim to be abutting, I have to look
7 at each individual address. If there had been 79
8 addresses, I would have had to look at each
9 individual one. So anytime you claim to be
10 abutting I have to look at where you live. That's
11 why I broke this down by address.

12 MR. GUIDOS: To go forward, when we
13 submit our appeal or whatever we're going to
14 still lump us all together as just one group.

15 MS. FLETCHER: Just put your addresses.
16 Just put your addresses and say that the Board's
17 agent dismissed the protesters residing at the
18 addresses that I mentioned and you are seeking
19 reinstatement because you are all adjacent, and
20 you can say whatever you want to say. If the
21 Board says you're in, you're in, and I'll be in
22 touch. Then I'll see you in mediation.

1 There's a group of five individuals
2 that live at 1437 Rhode Island Avenue. They are
3 also represented by Tricia Cavell and you, Mr.
4 Guidos. They also signed onto the petition, being
5 represented by Ms. Cavell and Mr. Guidos. Same
6 thing. That petition that they signed onto claims
7 to be abutting. They are dismissed for the same
8 reason.

9 Mr. Guidos, you are right, it's all
10 one group. I just had to treat all the groups
11 this way, because the original protest letter
12 that they signed onto claims to be abutting. So
13 you make your case that you're not abutting, and
14 again, for that group of five, see you in
15 mediation, represented by In mediation, just so
16 you know, we would expect the designated
17 representatives to come to mediation.

18 Anybody who filed a protest can come
19 but the designated representatives are normally
20 who come. But it s up to you who comes, but we go
21 by what's in the file. So we would see Ms. Earne,
22 Mr. Watson, Ms. Cavell, Mr. Guidos, in mediation.

1 Unless you decide to do something different.

2 So what this all comes down to is that
3 all of the individuals who signed the protest or
4 signed onto the original protest where the
5 protestants claim to be abutting, all of the
6 individuals and individual groups were dismissed
7 but maybe I'll see you in mediation, assuming
8 that you're going to petition the ABC Board to
9 reinstate the protest. Explain what you intended.
10 If you file a motion to reinstate the protest,
11 copy Mr. Kline, because Mr. Kline, he has an
12 opportunity to respond to your request for
13 reinstatements.

14 MS. EARNE: Why?

15 MS. FLETCHER: Because any time you
16 file a motion, the other side is entitled to a
17 copy to any motion that you file. If Mr. Kline
18 were to file a motion to dismiss your protests,
19 he would have to copy you on it. Anytime a motion
20 is filed, you have to provide a copy to the other
21 side. This gives him an opportunity to respond.

22 MR. WATSON: Lawrence Watson here. Will

1 his contact information be on the petition or
2 copied on your denial that we receive?

3 MS. FLETCHER: You got your answer?

4 MR. WATSON: Yes.

5 MR. GUIDOS: And he'll be copying us on
6 his?

7 MS. FLETCHER: Yes. The other thing I
8 should tell you, just for the record only, is
9 this. The ANC 2F filed a protest. ANC 2F filed a
10 protest. If the group petitions the ABC Board for
11 reinstatement as protestants, and the Board says
12 yes, you are protestants, under our regulations
13 when individual groups of five or more file a
14 protest, if an ANC enters into a settlement
15 agreement with a licensee, the Board
16 automatically will dismiss any individual groups.
17 Unless the ANC and the individual groups enter
18 into a settlement agreement, then the whole case
19 is settled.

20 But if ANC enters into a settlement
21 agreement, it is with individuals as well. The
22 Board dismisses the individuals, but the Board

1 would not dismiss an abutting property owner
2 because an abutting property owner has standing
3 all by him or herself. They would stay in. Just
4 groups of individuals go away, if the ANC enters
5 into a settlement. That may or may not happen,
6 but I just have to tell you. Any questions about
7 that at all?

8 MR. GUIDOS: I'll ask about the
9 process, then.

10 MS. FLETCHER: Yes, Mr. Guidos?

11 MR. GUIDOS: When would those be
12 dismissed if the ANC. It would be after we were
13 negotiating a settlement agreement together or
14 set for?

15 MS. FLETCHER: That would be, if the
16 ANC enters into a settlement agreement with Whole
17 Foods, the Board is going to issue an order.
18 Let's say they approve the settlement agreement.
19 The Board issues an order approving a settlement
20 agreement. In that same order they would dismiss
21 groups of individuals. In that same order. It
22 would all happen at the same time.

1 MR. GUIDOS: It would happen, so after
2 the negotiations have taken place.

3 MS. FLETCHER: Unless, so the ANC and
4 Whole Foods can enter into an agreement any time
5 they want. They can do it today, they could do it
6 tomorrow, but if at the point that they do it,
7 the Board has granted standing to your group as a
8 group of five or more, then it would happen in
9 that board order. Does that clear it up, Mr.
10 Guidos?

11 MR. GUIDOS: Well, I guess we're going
12 to hear when you talk to them about the next
13 steps.

14 MS. FLETCHER: This next step, if the
15 Board reinstates your protest, what I'm about to
16 say is going to apply to you too. I'm going to
17 give you a date for a status hearing and a
18 protest hearing. If you're reinstated, these
19 dates apply to you. But in the board order the
20 dates will be included.

21 The date for the status hearing is
22 September 11. September 11 at 9:30 for the status

1 hearing. The protest hearing is scheduled for
2 October 9 at 4:30 p.m.

3 MR. GUIDOS: What was the time for the
4 September 11?

5 MS. FLETCHER: 9:30 a.m. That's the
6 status hearing. September 11 at 9:30. And the
7 protest hearing is October 9 at 4:30.

8 And as I say, Mr. Guidos, if you're
9 reinstated you're going to hear from me next,
10 because I'll need to contact you to restate these
11 dates to you in an email to you from me.

12 We need to set a date for mediation.
13 I'll give you the next available day. The next
14 available day for mediation is Thursday, June 27,
15 that's Thursday, June 27, at 9:00, 10:00, 11:30.

16 MR. KLINE: That's not a good day for
17 me.

18 MS. FLETCHER: Not a good day? It's the
19 ANC that I'm running these dates by right now,
20 because the ANC is granted standing today. I'm
21 going to keep moving, then. We're going to keep
22 moving into

1 MR. GUIDOS: Does that give us enough
2 time to file our motion?

3 MS. FLETCHER: You can file the motion
4 today. You can file the motion right away.

5 MR. GUIDOS: Oh, I thought we had to
6 hear from them first.

7 MS. FLETCHER: You're going to get a
8 board order. You going to receive a board order
9 dismissing you protest. It won't be today, what's
10 going to happen is, the Board, an order will be
11 issued, it's possible that the order will go on
12 the Board's agenda, because the Board meets every
13 Wednesday.

14 It is possible that an order
15 dismissing the protest will go on the Board's
16 agenda for a signature this coming Wednesday.
17 It's possible. Or it could be next Wednesday. You
18 can wait until you receive the board order to
19 file your request for reinstatement. If you were
20 to send it before that then we would just have
21 it, but you might want to wait to see what the
22 motion says. It's basically going to say what I

1 said, but you'll still get to read it and be in
2 disagreement with it. It'll be in writing.

3 MR. GUIDOS: Mailed to us after
4 Wednesday.

5 MS. FLETCHER: Yes. It's mailed to you
6 on whichever Wednesday the Board signs the order,
7 it's mailed to you within a day or so.

8 MS. EARNE: Julie Earne. Are we able to
9 protest the decision today, today or tomorrow in
10 advance of the Board's potential consideration on
11 Wednesday, so when the Board meets on Wednesday
12 the, our protest will be heard amongst, during
13 that decision, right?

14 MS. FLETCHER: The Board will want to
15 know what I said first, because you're going to
16 be, your motion, your request for reinstatement
17 is going to be asking the Board to consider
18 reinstatement, they're going to take into
19 consideration what I say, overturn what I said
20 and accept what you said.

21 MS. EARNE: Would it be possible in the
22 same meeting for them to hear what you've said

1 and then also hear our response to that
2 immediately?

3 MS. FLETCHER: What happens is, once
4 they procedurally, once the Board signs the
5 motion, it goes out to you, this is the way it
6 normally is. It goes out to you, you file your
7 motion within ten days, our office puts the two
8 documents together and they look at what happened
9 today and they look at your request for
10 reinstatement, and they decide to affirm what I
11 said today or overturn what I said today and go
12 along with the position you took. And the Board
13 only meets on Wednesdays.

14 MS. EARNE: One more question. Let's
15 say we do protest this decision and we are
16 reinstated. If ANC is able to enter into a
17 settlement agreement, that's irrelevant because
18 as groups of five we wouldn't be a part of that
19 anyway.

20 MS. FLETCHER: If you and the ANC
21 entered into an agreement, then you would sign
22 that agreement on behalf of the groups that you

1 represent. But, if the ANC enters into an
2 agreement that you're not in agreement with, the
3 Board dismisses the individual groups.

4 MS. EARNE: Okay.

5 MR. GUIDOS: I'm sorry, the mediation
6 on the 27th, that's just an introduction and the
7 beginning of discussions, and then there's potentially
8 ongoing negotiations after that date if they don't
9 arrive at agreement on that date?

10 MS. FLETCHER: Yes. What happens in
11 mediation, that's the purpose of mediation. The
12 mediation is for us to get together and negotiate a
13 settlement to resolve this matter. That's what we do
14 in mediation. Can you resume negotiations at the
15 mediation? Yes. But that's the purpose of the
16 mediation.

17 MR. GUIDOS: Possible it will all get
18 settled on that day.

19 MS. FLETCHER: It's possible. There's a
20 possibility. It's up to you. A lot of times it does,
21 then it doesn't matter if it happens another day,
22 because you get the process started. That's what

1 you're there for.

2 MR. KLINE: Ms. Fletcher, as I indicated
3 I have a conflict on June 27. I would like to stretch
4 the mediation date out anyway, to give the parties an
5 opportunity to see what they might get resolved
6 without the benefit of mediation and obviously if
7 we're unable to get it fully resolved then we'll meet
8 with you and put any finishing touches on an
9 agreement, if an agreement could be reached.

10 So I would like to look the latter part of
11 July.

12 MR. GUIDOS: ANC agrees.

13 MS. FLETCHER: Okay. How about Thursday,
14 July 18, in the morning or afternoon? 9:00, 10:00,
15 11:00, 1:00, 2:00

16 MR. KLINE: That's fine for me, any of
17 those times.

18 MS. FLETCHER: Mr. Simon or Mr. Guggenmos?

19 MR. GUIDOS: Oh, then 1:00 if we're all
20 good.

21 MR. KLINE: That works.

22 MS. FLETCHER: 1:00? Mediation is set

1 for 1:00 on Thursday, July 18. That gives you
2 time to get an order, file your motion, be
3 reinstated if the Board's going to do it, and
4 then I would see you on the 18th at 1:00.

5 MR. GUIDOS: May I ask one last
6 question?

7 MS. FLETCHER: Yes.

8 MR. GUIDOS: As far as, let's say we
9 were to arrive at an agreement that's filed and
10 blessed by the Board. How is that then enforced?

11 MS. FLETCHER: It's enforced, we have
12 an enforcement division that enforces the
13 agreement if there are any violations of the
14 agreement. We do compliance checks to enforce
15 settlement agreements, or if you have a
16 settlement agreement and you believe it's been
17 violated, you can contact our enforcement
18 division. It's enforced through the contact.

19 MR. GUIDOS: Thank you.

20 MS. FLETCHER: It's enforced through
21 the enforcement division.

22 MR. GUIDOS: Oftentimes the violations

1 are happening at 3:00 in the morning.

2 MS. FLETCHER: We have a hotline you
3 can call at any time. My card is on the table,
4 too, if you have any other questions, too. Any
5 other questions? Thank you for coming, maybe I'll
6 see you at mediation. Thank you.

7 (Whereupon, the above-entitled matter
8 went off the record at 10:39 a.m.)

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This is to certify that the foregoing transcript

In the matter of: Whole Food

Before: DCABRA

Date: 06-10-19

Place: Washington, DC

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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