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Transcript of the Meeting of the  
Nyc Taxi and Limousine Commission

Held on Monday, March 21, 2005

40 Rector Street - 5th Floor

Borough of Manhattan

TANKOOS REPORTING COMPANY, INC.  
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1 Meeting convened at 9:49 a.m.

2 P R E S E N T

3 MATTHEW W. DAUS,  
Chairman

4 ELLIOT SANDER  
5 Commissioner

6 NOACH DEAR  
Commissioner

7 IRIS WEINSHALL  
8 Commissioner

9 ELIAS AROUT  
Commissioner

10 HARRY RUBINSTEIN,  
11 Commissioner

12 CHARLES FRASER,  
General Counsel

13 CHARLES TORTORICI  
14 Deputy General Counsel

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1           P R O C E E D I N G S

2           CHAIRMAN DAUS: All right, good morning,

3 everyone. Sorry for the late start. I'm pleased to

4 start our meeting with a personnel announcement.

5 Sitting to my left is our new General Counsel, Charles

6 Fraser, welcome, Charles. I want to talk a little bit

7 about his background, for those of you who don't know

8 him. I've known him several years in a professional

9 capacity.

10           He's a graduate of Harvard University and

11 Columbia Law School. After law school he worked for a

12 firm in the private sector called Breed Abbott & Morgan,

13 I think the name has probably changed by now, where he

14 practiced securities trademark and public instruction.

15 Then he entered Government service working for the State

16 Attorney General's Office as an Assistant Attorney

17 General and he was involved with cases involving

18 employment law, civil rights, housing, as well as

19 administrative procedure.

20           Then Chuck -- right -- Chuck is what he  
21 prefers, was appointed to the Office of Administrative  
22 Trials and Hearings as an Administrative Law Judge, also  
23 known as OATH, it's the New York City Administrative  
24 Trial Office and he served there for several years, not  
25 only in that capacity, but also as counsel to the Chief

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1 Administrative Law Judge and those were additional  
2 responsibilities that included rule making, legislation  
3 and some policy making, in addition to serving as an  
4 ALJ.

5           Then Chuck went over to the Buildings  
6 Department, where we actually worked very closely with  
7 him. He was Assistant Commissioner for Enforcement at  
8 Buildings and he actually helped us when I was General  
9 Counsel develop a protocol for padlock proceedings,  
10 because a lot of people we were padlocking were moving  
11 out of business establishments and into apartment  
12 buildings where it was beyond our regulations, so Chuck  
13 and his staff at Buildings Department and our staff  
14 developed a protocol, which is technically still in  
15 place to go over to the building owner and issue a

16 violation for allowing an unlicensed car service  
17 operating out of a residential facility.

18 Then Chuck went back to OATH as a  
19 Supervising Administrative Law Judge and he was  
20 appointed, was so confident in TLC that he left his term  
21 of office to join us. We're very pleased about that.

22 A lot of cases Chuck presided over included  
23 personnel, contracts, land use, human rights regulatory  
24 disputes and also licensing cases. Some of you who have  
25 been around at the TLC for a while may remember Judge

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1 Fraser issuing many decisions in the area of zappers.  
2 There was a point of time when zappers were a big  
3 problem in the yellow cab industry and there were many  
4 revocation proceedings brought against not only drivers  
5 but medallion owners for allowing the use of these  
6 devices and prior to the criminal law being passed at  
7 the state level that we lobbied hard for there were a  
8 lot of decisions that were being issued at OATH and  
9 Chuck does have experience as a Judge there hearing  
10 those cases and he did get involved in some of TLC's  
11 regulatory issues as he was at OATH.

12           So he's no stranger to us, but welcome  
13    aboard, thank you for joining us. You are official as  
14    of today. Would you like to say any words?

15           MR. FRASER: No speeches. I'm glad to be  
16    here, I look forward to working with you all. Today is  
17    my first day, so I have the advantage of not actually  
18    being expected to know anything and hopefully by next  
19    month that will be a little bit different. Thank you  
20    very much.

21           CHAIRMAN DAUS: Welcome aboard. Good luck.

22           (Applause.)

23           CHAIRMAN DAUS: I'd also like to take this  
24    opportunity to congratulate and thank Charles Tortorici,  
25    our Deputy General Counsel, you did an admirable job of

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1    holding the fort down. He did a great job considering  
2    the staff and resources you had available to you.

3           Part of issue that Charles -- uh-oh, we have  
4    two Charleses now. What we worked out, Charles Fraser  
5    prefers to be called Chuck and Charles Tortorici prefers  
6    to be called Charles, so that's how we don't get them  
7    confused.

8           But anyway, Charles, and now Chuck will be

9 dealing with some attrition that we've had at the legal  
10 department. We plan to hopefully hire some new staff to  
11 get back up to speed and we have a lot of issues and a  
12 lot of challenges that we're facing and we're also  
13 dealing with the loss of a very, very dear friend,  
14 Barbara Fogel, who really was a key and integral part of  
15 that department morale-wise. So it's been a very long  
16 and difficult time over the last couple of months, we've  
17 been dealing with a lot of challenges, but I think  
18 there's a light at the end of the tunnel, as we told  
19 staff our Friday, and I'm confident we'll begin to build  
20 our legal team with both Chuck and Charles.

21 So congratulations, and thank you, Chuck and  
22 Charles, you really did a great job.

23 (Applause.)

24 CHAIRMAN DAUS: I'd also like to spend a  
25 second having a moment of silence -- well, not a moment

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1 of silence, but to extend condolences on the passing of  
2 two people that you may or may not know. Christie  
3 Nicholas, the president of New York City & Company, her  
4 mother, Mary Ford Lotodano, passed away recently and

5 also for those of you who don't know, Vinny Sapone's  
6 brother, Frank Sapone passed away. I believe the  
7 services are being held now, unfortunately, so if you  
8 wish to pay your respects to those people, I want to  
9 make sure everybody knows about it.

10 On Friday, we testified before the City  
11 Council for a routine preliminary budget hearing. I  
12 distributed a copy, actually, it's not only on the  
13 website, but for the audience, as well as a copy to the  
14 Commissioners. The FY 2006 budget is \$25,836,230, it's  
15 not a tremendous difference from last year and if  
16 anybody has any questions about the testimony,  
17 Commissioners and whatnot, I'd be happy to address them  
18 after the meeting.

19 Item 3, Nassau County reciprocity. We've  
20 had some discussion at the last meeting, Victor  
21 Dizengoff, who is here today, as well as Commissioner  
22 Dear, let me follow up and give you what's happened  
23 since then.

24 March 7th, I was scheduled to meet with  
25 Commissioner Bogsted from Nassau County to come down and

1 take a visit of our facility. He wanted to see how we



2 inspect cabs, he's tremendously interested in it, and  
3 discuss other items. Unexpectedly, he did not show, he  
4 had some issues he had to deal with of a legislative  
5 nature. However, his deputy or assistant, Joe Chierchio  
6 showed also with Steve Hanson, who I believe is an  
7 attorney with the General Counsel of Nassau County,  
8 Consumer Affairs Division. They not only regulate  
9 taxis, but a lot of other businesses in Nassau County.

10 We did have a bit of a discussion on the  
11 issues. We provided and they acknowledged receipt of a  
12 copy of the Westchester County reciprocal agreement or  
13 MOU that we have with them to serve as a guideline or  
14 basis for even making a proposal to us at this point.  
15 Again, we don't have an official position at this point.  
16 A lot of groundwork and research has to be done by  
17 Nassau County, really the ball is in their court and  
18 they basically acknowledged that at the meeting. They  
19 did not have all the information we were looking for to  
20 see whether they even have the authority to sit down and  
21 discuss this matter at length as of yet. They did  
22 promise that they would do so and come back to us.

23 We've also gotten the New York City Law  
24 Department office of Corporation Counsel involved.  
25 There has been an attorney assigned to handle this and

1 work with our legal department. This is one of the  
2 issues Chuck will be getting up to speed on. Charles  
3 has been handling it to date.

4 We are at this point pursuant to our  
5 discussion of March 7th waiting for them to put together  
6 a list of all the different towns, villages and  
7 municipalities in Nassau County, what they require for  
8 licensing per their rules and regs, what they can do and  
9 what they can't do. Until we get that list we're kind  
10 of at a standstill. They did give assurances to us,  
11 though, if they were able to work something out, they  
12 would have to enter into a memorandum of understanding  
13 between the Nassau County Legislature and each and every  
14 single municipal entity within Nassau County. It seems  
15 like a lot of paperwork, but they assured us that if  
16 they were able to reach an agreement, that they would be  
17 able to carry it out with full authority from the State  
18 Legislature. We're going to check that for ourselves in  
19 consultation with the law department, but that's  
20 basically where we left it off.

21 So we were waiting for them to get back to  
22 us with those details. We're really at a loss to have  
23 further discussions until they come back and tell us  
24 this is what we have, this is what we don't have; this  
25 is what we can and can't do. We'll try to get that

1 together in the next two or three weeks.

2 Yes, Commissioner?

3 COMM. DEAR: As a result, they now have a  
4 moratorium for the fee or they want to continue, they  
5 want to charge us \$750?

6 CHAIRMAN DAUS: There was a lawsuit that was  
7 commenced by the Black Car Systems Corporation, Victor  
8 Dizengoff on behalf of the black cars, against the  
9 Nassau County entity in Nassau Supreme Court, there was  
10 an agreement between the parties to extend it for 57  
11 days.

12 COMM. DEAR: Okay.

13 CHAIRMAN DAUS: Which means that the \$750  
14 licensing fee per vehicle has been put on hold until  
15 April 29th unless some type of other arrangement is met  
16 by that. So until April 29th, they'll be reverting,  
17 Commissioner Dear, back to the \$5 fee per vehicle and  
18 then after that, it remains to be seen what happens.

19 COMM. DEAR: What happens after that, that's  
20 what I want to know.

21 CHAIRMAN DAUS: It's going to depend on

22 whether an agreement is reached. If no agreement is  
23 reached, it's possible the parties may agree to extend  
24 the date, but we'll see what happens.

25 COMM. DEAR: Why can't we again use our

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1 leverage, which we do have, to extend it instead of  
2 everybody spending all kinds of monies through the  
3 courts?

4 CHAIRMAN DAUS: Well, we've done that.  
5 We've extended basically the opportunity for  
6 discussions. But we can't have an intelligent  
7 discussion unless they tell us what they -- they weren't  
8 even able to tell us which municipalities do what. They  
9 weren't prepared to discuss it with us.

10 COMM. DEAR: I understand that.

11 CHAIRMAN DAUS: In terms of using our  
12 leverage, if you want to call it that, we made good  
13 faith efforts, the Commissioner is invited to come here  
14 any time to discuss the issues. We were expecting to  
15 meet him that day, he wasn't there, but we're confident  
16 the staff will be having discussions in the future.

17 We have a 60-day window and the Law  
18 Department is involved, so I think there's been

19 significant progress in terms of dealing with the issue.  
20 How we ultimately end up with it is a call not just for  
21 us but the administration. This is an intermunicipal  
22 agreement. The TLC can't enter into an agreement  
23 necessarily with another county without getting  
24 appropriate levels of approval and that's not something  
25 that we're even at at this point. We're not at that

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1 level.

2 COMM. DEAR: Why didn't the Law Department  
3 commence the lawsuit? Why did we have to do private  
4 enterprise?

5 CHAIRMAN DAUS: I don't know if we have  
6 standing to do that.

7 COMM. DEAR: Why not? We license them.  
8 Could we check it? We now have a beautiful, very  
9 intelligent, respected General Counsel, let him look  
10 into it.

11 CHAIRMAN DAUS: Okay, it will be his first  
12 research issue. Also, just because we have standing,  
13 doesn't mean necessarily we agree we should be suing  
14 anybody.

15 COMM. DEAR: Why?

16 CHAIRMAN DAUS: That's a policy decision. I  
17 think we have to discuss that.

18 COMM. DEAR: Of the Board? Of our  
19 Commission?

20 CHAIRMAN DAUS: The Corporation Counsel  
21 makes the decision on whether to sue other entities,  
22 it's his decision.

23 COMM. DEAR: Or could the Commission make a  
24 decision.

25 CHAIRMAN DAUS: I don't know that, but I

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1 know that the ultimate decision has to rest with Corp  
2 Counsel, so either he can do it on his own or we could  
3 agree to do it and he would do it. I'm not certain  
4 that's in our best interests. We should discuss that  
5 before we get involved. I believe the Black Car  
6 Assistance Corporation is well adept in representing the  
7 interests of the black car industry, and I believe that  
8 they have. If it wasn't for Victor and his group, we  
9 wouldn't have this moratorium.

10 COMM. DEAR: We have a responsibility to  
11 protect our licensees, our people. We go out -- just

12 like we go after them, we also have to protect them. If  
13 there is unfair competition among other people and other  
14 areas are siding with us, then we have a right, we  
15 should protect them, be out there protecting them,  
16 that's what we're about.

17 I would like to see us, if we can, sue. I'd  
18 like to have a discussion about this at the next  
19 Commission meeting and I'd like to see. If not, let the  
20 Commission itself make a decision. The Corporation  
21 Counsel is the lawyer for their client, we are their  
22 client, we have to make a decision what we want to do.

23 CHAIRMAN DAUS: We'll have a breakdown in  
24 terms of what we believe are the legal nuances here.

25 COMM. DEAR: We have this Commission, if you

1 look at the history on it, as long as I'm on it, it's  
2 everything yellow, yellow, yellow. I want to see other  
3 colors, too. I'm pushing black cars, other car  
4 services. We have to start thinking about other parts  
5 of the agency that we license, and we should make sure  
6 that we deal with, and the outer boroughs are as  
7 important to me as Manhattan, and that's why to me black

8 cars are important and that's why car services are  
9 important to me.

10 CHAIRMAN DAUS: As I believe, with all due  
11 respect, they are to every Commissioner. I think we  
12 have been dealing with these issues. I don't know if I  
13 agree with you on that, but for the record, I do agree  
14 with you on the issue of protecting the industry to a  
15 certain extent, but I think the overriding issue is  
16 protecting the public.

17 When it comes down to it, we need to protect  
18 the passengers to make sure if there's any agreement  
19 that's potentially entered into, someone gets into a car  
20 that's dispatched from Nassau County, that the drivers  
21 are drug tested, they have proper levels of insurance.  
22 That to me as Chair and Commissioner are the important  
23 things.

24 COMM. DEAR: I agree with you.

25 CHAIRMAN DAUS: Though all of our interests

1 are aligned on this one, I think we see things eye to  
2 eye so far, the real issue is Nassau County has to do  
3 its homework. Unless you have a contrary suggestion,  
4 Commissioner Dear, I don't see what we can possibly do



5 at this point when they can't even set up a meeting and  
6 tell us "we know what our towns and municipalities are  
7 doing." They don't.

8 We asked them, "Could you give us a list of  
9 the different towns and municipalities, what they do and  
10 don't do?" They didn't know.

11 You can call and meet, call and meet, but I  
12 hope you understand our frustration that this is not  
13 something that's a task that we can accomplish until  
14 they're ready to come to the table and propose that  
15 information, unless you have another suggestion.

16 COMM. DEAR: I have. I just said. One is  
17 to take a standing in Court, join them in the lawsuit,  
18 and number two is do enforcement. If we're not happy  
19 with the way they conduct their operation and they're  
20 not safe enough according to our standards, then you  
21 know what, very simple, every car that comes in, we have  
22 a right to inspect it, to make sure it lives up to our  
23 standards, because we have a concern, we have a concern  
24 that you're picking up passengers, even though they're  
25 Nassau County people, you're dropping off in our

1 district and picking up in our district. They have a  
2 right for their safety.

3 Believe me, if we want to find a way, we  
4 can. If you go ahead and let them know we're going to  
5 be tough on this, we're going to start enforcing, I  
6 guarantee in 24 hours you'll have a deal.

7 CHAIRMAN DAUS: Let's take that under  
8 advisement. Chuck, if you can hopefully by the next  
9 meeting get some kind of legal read on the authority of  
10 the Commission with respect to the potential of the  
11 lawsuit, do we have standing, if so, if we decided to  
12 sue, if that's where we got to as an administrative, and  
13 as a TLC who makes the decision, does it require a TLC  
14 vote, does the Corporation Counsel, a lot of preliminary  
15 research can't do any harm and then we'll discuss the  
16 enforcement issue and hopefully we'll continue to meet  
17 and talk to Victor and explore this issue and make sure  
18 we can try to do everything we can to diplomatically  
19 resolve it. I think that's the best way to resolve.

20 Next on the agenda, just to remind everyone,  
21 especially in the yellow cab industry, that we've  
22 extended our S&E hours of the Safety and Emissions  
23 Division from Monday to Friday until 7 p.m. We would  
24 like to get more business, I think we can handle some  
25 more. I'm hoping that the word will get out further.

1           We have copies of the Industry Notice 05-10  
2   dated March 8, 2005, it's outside and we'll continue to  
3   try to get maybe the industry, Allen, the trade papers  
4   to publicize this a little bit more. In particular,  
5   reinspections, hackups and the retrieval of confiscated  
6   credentials are the services we're offering during those  
7   extended hours.

8           The next item is just a quick update on  
9   March Madness. We have an on-line appointment form that  
10   we've put on the website. We have an industry notice  
11   that details the procedures, it's going quite well, from  
12   what I was advised by Andy and Barbara, industry notice  
13   05-08 dated February 24th, '05 is on our website, you  
14   can get a copy here.

15           There's an online form where you can  
16   register and get appointments. We've been keeping those  
17   appointments, I understand new applications and  
18   transfers have been handled in an average of three days,  
19   and renewals have been scheduled for the next business  
20   today. So far, so good. I want to commend the  
21   licensing staff for doing an exemplary job. We have  
22   full operations mode with additional employees working  
23   in a particular area with faxes and are doing quite  
24   well.

25 I also want to thank Sarah Meyers for

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1 getting involved with that as well. Thank you.

2 The service improvements RFP. Just a quick  
3 update on where we are with this. The RFP was issued on  
4 March 2nd of 2005. The bidders conference was held with  
5 Lou Tazzi and Andy Salkin overseeing it last Monday. We  
6 have some comments and we have a transcript if anybody  
7 on the Commission would like a copy, we would be happy  
8 to give it to you.

9 Public comments and questions will continue  
10 to be accepted by our ACCO, our Agency Chief Contracting  
11 Officer is handling the RFP at this point, his name is  
12 Louis Tazzi, he prefers and we all prefer rather than  
13 having telephone questions that you send an e-mail to  
14 rfp@tlc.nyc.gov. We prefer to get the e-mails and Lou  
15 prefers to respond via e-mail.

16 You have until March 29 to continue, if  
17 you're an interested bidder, to pose questions about the  
18 RFP. The proposals at this time are due on May 10,  
19 2005, and Commissioner Giannoulis couldn't be here today  
20 due to a family issue. However, we had some discussions  
21 at our last Commission meeting and we had some

22 subsequent meetings which I want to briefly report on.

23           On Wednesday, March 16, as per an agreement  
24 that we reached with Commissioner Giannoulis, we had a  
25 meeting with various lawyers from the Corporation

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1 Counsel's office, as well as our counsel and DOT counsel  
2 to try to answer some of the questions he posed at the  
3 last meeting.

4           We did agree to clarify that it was our  
5 intention at the last meeting, basically, to get the  
6 input of the Commissioners and to have an open  
7 discussion and get clarity on proposing rules in the  
8 future, but what was important to Commissioner  
9 Giannoulis, I guess, the point he was making and he's  
10 not here, but hopefully at the next meeting we can make  
11 sure he's clear on it. What he was unclear on is  
12 whether he was being put on the spot to vote on  
13 something that he had to vote on, number one, and number  
14 two, that it was making a policy statement that we were  
15 definitely going to do advertising, and what we did  
16 clarify and I think we reached an agreement on, the  
17 lawyers advised Commissioner Giannoulis, that the

18 resolution that we voted on at the last meeting was not  
19 a resolution to say that the Commissioners are  
20 definitely going to consider advertising, commit to  
21 advertising, but that we were going to consider it and  
22 we could ultimately decide not to go with advertising as  
23 a means to pay for the equipment.

24 That's something that's a possibility, and  
25 that was basically his main point, as far as I could

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1 understand, and again, he's not here so I can't speak  
2 for him, but the clarity is, is that the Chair had the  
3 authority all along to just do this on his or her own,  
4 but in accordance with the Charter, however, what we did  
5 is in light of the way we've been getting the  
6 Commissioners more involved with things, bringing items  
7 up before the Commissioners to get their approval or if  
8 not their approval, their comments on certain things  
9 before we initiate them, and that was in direct response  
10 to a lot of concerns that Commissioners had voiced to me  
11 over the years.

12 So that's basically what it was. The  
13 Corporation Counsel advised that the Chair is the CEO, I  
14 could have done it, did the entire RFP on my own.

15 However, I chose to get the Commissioners' input.  
16 That's why we had the discussion, the vote on the  
17 resolution. I want to be sure the industry understands  
18 this is something most of the Commissioners are behind  
19 and this is a process we agree with, because it's a very  
20 public process and that was basically it.

21 So I'm sure if Commissioner Giannoulis has  
22 more concerns, he'll raise them in the future, but I'm  
23 very satisfied that everything the staff and the lawyers  
24 advised on was entirely legal. I sat in for hours on  
25 meetings even before the last Commission meeting, but

21

1 last Wednesday we had a two-hour meeting with  
2 Commissioner Giannoulis and about five or six lawyers, I  
3 believe. We went over every scenario, every question  
4 was asked. He may still respectfully disagree with us,  
5 but I'm very, very confident on the actions we took. So  
6 for the record that's the clarification.

7 Anybody have any questions about that?

8 Okay.

9 The only other thing I'd like to point out  
10 about that, is just for further edification for the

11 record, the reason why the Commissioners, according to  
12 the Law Department can and should not really be involved  
13 in any aspect of this procurement is because we sit as  
14 an appeals body. If a vendor for any contract that the  
15 TLC enters into is found non-responsible, let's say they  
16 have some type of problem, they haven't paid their fines  
17 with the Finance Department or they've done something  
18 that's wrong that renders them non-responsible, any  
19 other agency, the way it works, the agency head serves  
20 as an appeal officer.

21 Because of the way we're structured, the Law  
22 Department advised this Commission and the DOT counsel  
23 as well serves as appellate body or as an agency head  
24 for purposes of procurement. So we are not and should  
25 not be involved in the selection of any people who are

22

1 bidding on an RFP. There's a Proposal Review Committee  
2 that's set up with several different agencies involved,  
3 and that's something that the ACCO will ultimately make  
4 the decision.

5 If there's an appeal from that decision, and  
6 it's possible it could be, the appeal comes before the  
7 Commission. So I want to remind the Commissioners, and



8 give my advice to the Commissioners, the best thing to  
9 do is stay out of it entirely. I would recommend no  
10 Commissioners have any conversations, lunch or any other  
11 contact with vendors or potential bidders on this RFP  
12 that are of a substantive nature that have anything to  
13 do with the issues involving customer service  
14 improvements. That's my advice.

15 If you have any further questions about what  
16 you should or should not be doing, I would contact Chuck  
17 and/or the Conflicts of Interest Board, Wayne Hawley,  
18 the General Counsel as well, if you want an opinion on  
19 whether you can meet with somebody, but I'm just  
20 appealing to you as Chair, to give you my advice, which  
21 is the best thing for the Commission and each and every  
22 one of you is to let the professionals, the people  
23 sitting on the Committee do their work, meet with the  
24 people, make the recommendations and to preserve the  
25 integrity of the Commission, plus to stay away from any

23

1 potential bidders and any conversations with them of a  
2 substantive nature, because we technically kind of serve  
3 in almost a quasi judicial capacity, if there is an

4 issue.

5 Any questions on that? Okay.

6 Two final, quick items. Livescan, the  
7 fingerprinting system, thanks to the persistence of  
8 Commissioner Arout, I know it's taken longer than we  
9 ever thought it would, but Lou Tazzi ordered it, it's  
10 in, actually at the facility, as Barbara informed me,  
11 but what we're waiting for now -- and this is important,  
12 is to put security into the system and we're waiting for  
13 DoITT to help us with that -- security into the system  
14 to make sure that the data that's being transmitted in  
15 and out which is of a very personal nature to people  
16 when you're being fingerprinted and your criminal  
17 history comes up, is secure that it gets transmitted  
18 without people hacking into it and getting access to  
19 that data.

20 That's the only thing we're waiting for and  
21 we'll certainly let you, Commissioner Arout and for  
22 everybody to know when it's up and running. But it's  
23 physically located there, being tested and programmed.

24 So thank you for your assistance.

25 COMM. AROUT: Thank you.

1 CHAIRMAN DAUS: Last, but not least, a  
2 tentative date for our next Commission meeting is  
3 Wednesday, May 4th at 9:30 a.m. Wednesday, May 4th  
4 will be confirmed via e-mail, the website and New York  
5 City Record. We may have some rule making at the time  
6 and we'll have some information for you about that.

7 COMM. SANDER: The April date is canceled?

8 CHAIRMAN DAUS: Yes, well, we did not  
9 announce to the public, we were looking at a date in  
10 April, but due to holidays and all of that, the April  
11 meeting is canceled. Any questions on that?

12 The next item on the minutes is the adoption  
13 of the minutes of the March 5 meeting. Do we have a  
14 motion?

15 COMM. AROUT: Make a motion.

16 COMM. WEINSHALL: Second.

17 CHAIRMAN DAUS: All in favor?

18 (Chorus of "Ayes.")

19 CHAIRMAN DAUS: They're approved  
20 unanimously. I think we have minutes of one of our  
21 prior meetings available?

22 MR. TORTORICI: Yes, they're in the back.

23 CHAIRMAN DAUS: Which date is that?

24 MR. TORTORICI: That's the January 24th  
25 minutes.

1           CHAIRMAN DAUS: The January 24th, 2005  
2 minutes, which are approved, are copied and available to  
3 the general public.

4           Item three. We now have some staff  
5 presentations. I would like to introduce our First  
6 Deputy Commissioner, Andy Salkin, as well as Meg  
7 Scheduling, who works with Andy.

8           DEP. COMM. SALKIN: Thank you,  
9 Commissioners. We're going to make this quick so we can  
10 go on.

11           The staff has been working on a look at our  
12 adjudications process and trying to understand what  
13 exactly happens and how the whole process breaks down  
14 and one of the things that I think was brought before  
15 the Commission before for conversation was the idea of  
16 improving, to improve the adjudication process, to make  
17 a more standardized fine process.

18           So today I want to kind of introduce the  
19 concept, kind of talk about the presentations we're  
20 going to be able to offer over the next couple of  
21 Commission meetings and then Meg is going to get a  
22 little bit more into detail about particular aspects of  
23 this presentation.

24           Can you hear me and can you see it?

25 CHAIRMAN DAUS: Commissioner Sander's

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1 terminal is not working.

2 DEP. COMM. SALKIN: Everybody else, can you  
3 see the presentation? So we call this look at examining  
4 fines, the goal is to increase efficiency and making  
5 everything better.

6 The belief that we have is we can actually  
7 make adjudications more efficient. Efficient means  
8 providing fair and better treatment to the people that  
9 we're serving, while at the same time being able to make  
10 the entire process kind of more equitable and kind of  
11 along those lines.

12 So, definitions. I want everyone to kind of  
13 understand where we're going, we're going to talk about  
14 this a little bit. Right now there are two types of  
15 penalties that we issue for violations. There are  
16 monetary violations and they come in two forms right  
17 now, in the TLC summonses. You can either get a fixed  
18 fine, so it might cost you \$50 if you don't have a  
19 license and you're driving a commuter van or there might  
20 be a range, 150 to \$200 if your seat belts aren't in

21 working order. We want to look at this aspect and say

22 maybe it's better if everything has a set number.

23 In addition to having a set range or set

24 monetary fine, you may also have a suspension,

25 revocation or some points added to your license for this

27

1 behavior. Again, some of these are fixed, and some have

2 a range and we want to look at this and see if there's a

3 way to make things more efficient by fixing them and

4 putting them in a place based on Commission feedback.

5 The next slide shows us the general universe

6 of what we're talking about. There are over 3300 rules

7 the Commission has in its rule book. 770 of these

8 actually have fines associated with them. 240 of the

9 770 have some type of suspension or revocation in

10 addition to monetary problems. So looking at those that

11 have set fines, meaning that it's a set number, 500 have

12 set numbers and 270 have ranges, and 90 of the 500 have

13 fixed suspensions and 150 have range suspensions.

14 Again, when we look at this, we're saying what's the

15 impact on the adjudications process by having these

16 range summonses and what is the actual adjudication

17 process, does it make sense, is it flowing quickly, are

18 people being held out a long time, the person doesn't  
19 get heard for several months after the case, and does  
20 the inspector have the ability to remember exactly what  
21 happened. So are we giving fair adjudications or not?

22 So when we break it down, look at fiscal  
23 year 2003 and 2004, we see that there is a total number  
24 of 170,000 closed hearings, and this represents kind of  
25 a hearing that had a guilty or a not guilty plea

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1 associated with it. If you look a little further, you  
2 see that 105,000 of these summonses there was a guilty  
3 plea associated with it. If you take it a little bit  
4 further, you see that about 83,000 of these 105 were  
5 actually settled by mail or by the person walking up  
6 that day and kind of paying and then going home.

7 So if you go to the next slide. The  
8 question for us is, there's 105 summonses that led to  
9 guilty, but if people are willing to pay up front and  
10 they don't need to appear, but yet we're scheduling a  
11 hearing, we're making them show up, perhaps there's  
12 another way we can look at this.

13 Out of the 83,000, 66,000 people actually

14 showed up to TLC, went to the window, paid the fine and  
15 went home. In the process, we still scheduled a  
16 hearing, had judges' time taken up, inspectors' time  
17 taken up, and more importantly we took time out from the  
18 person who should have been out in the field serving the  
19 passengers of New York.

20 I guess there's a better way, if they wanted  
21 to, if the person has a summons, if they wanted to, they  
22 could plead guilty, pay their fine and go about their  
23 business. A lot of times people said to me, "I know I'm  
24 guilty, I know I did the wrong thing. I want to just  
25 pay the summons and get on with it."

29

1 Again, we're keeping that in mind as we go  
2 forward. Again, the goal here is to improve customer  
3 service by making the hearings and the things that go on  
4 in the court actual hearings that people want to be  
5 involved with.

6 We believe by doing that, by cutting down  
7 the amount of traffic in the hearing room, we can get a  
8 lot achieved. If those 105,000 people who knew they  
9 were guilty chose not to come to court, we would have  
10 basically saved 100,000 hearings over the year, which



11 would have cut the number of hearings in half. Which to  
12 me is important because it would have meant the judges  
13 could have spent the appropriate amount of time, the  
14 inspectors could have thought about it correctly and  
15 perhaps we could have gotten to the person who had the  
16 violation even quicker, meaning it would have been more  
17 fresh in memory and it would have been overall a better  
18 adjudication process.

19 That's the general concept, that's the  
20 framework in which we're going to have the rest of the  
21 conversation. The rest of the conversation is really a  
22 three-part conversation. Today we're going to go over  
23 the first part.

24 Again, under the guise of looking at  
25 efficiency and fairness, we're going to talk today about

30

1 looking at the rules that have ranges of fines, whether  
2 it's monetary or fixed, and then going forward. We're  
3 going to look at standardizing similar rules across  
4 different industries.

5 Again, we have the same fine for a driver in  
6 a taxicab should be the same fine for a driver in an

7 FHV, and so on. Then we're going to talk about  
8 implementation, and different ways we can implement it  
9 better.

10 Before I turn it over to Meg, I want to  
11 thank Meg and Jason and Deputy Commissioner Eckstein for  
12 looking at this, along with Sarah Meyers. We appreciate  
13 any feedback you may have, because we're trying to make  
14 this better and I think you guys offer a lot of  
15 expertise and experience.

16 So if you don't have any questions for me,  
17 I'll turn it over to Meg and Meg will start the next  
18 part of the presentation.

19 CHAIRMAN DAUS: Thank you, Andy.

20 Good morning, Meg.

21 MS. SCHEDING: Can you hear me? As Andy  
22 suggested before, we're going to just be talking about  
23 Project 1 today, and we split Project 1 in two parts, as  
24 there are two parts to a fine, the monetary amount and  
25 non-monetary amount. The way we want to address this is

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1 by talking about efficiency first and then fairness. So  
2 the first phase is addressing the efficiency issues,  
3 i.e., the monetary amount.

4           What we did is we took a look at the  
5 violations summary for the past two fiscal years and  
6 looked at how the rules behave. If you look right now,  
7 as Andy mentioned, there are 774 rules that come with  
8 fines and there are 170,000 that were closed. Of those  
9 closed, meaning they were completely adjudicated to a  
10 final disposition, there were 105,000 that were found  
11 guilty, whether by plea or at a hearing.

12           If you look at the set fines, the rules that  
13 already have set fines, there are 502 and that's about  
14 65 percent of the rules that already have fines. If you  
15 look at the percentage of those rules that are closed,  
16 it's 84 percent, or 144,000, and the number of closed  
17 guilty is 96,000, which is 91 percent of the total  
18 number of closed guilty for rules with fines.

19           Then if you contrast that to the number of  
20 range rules, or the rules that have range fines, there's  
21 272 that currently have range fines. There are  
22 35 percent of the total amount of rules. The difference  
23 is, is that the number of closed in total is only  
24 26,000, which is 16 percent of the number of total  
25 closed for the past two fiscal years.

1           If you go even further, you look at the  
2 number of closed guilty, only 9 percent of the total of  
3 closed guilty of the past two fiscal years were rules  
4 with range fines. So if we look at the behavior, set  
5 fines seem to be able to be adjudicated quicker or in an  
6 easier manner, and we figured that we would have  
7 potential savings, as Andy mentioned, about 100,000  
8 hearings, if people, if they could by default come in  
9 and plead guilty and not have to schedule a hearing, we  
10 would create efficiency that way.

11           So what we identified is the problem right  
12 now is because it's a range fine, it requires a  
13 respondent to come in and schedule a hearing whether or  
14 not they believe they're guilty or not, so that forces  
15 the respondent to come into TLC and it unnecessarily  
16 taxes our adjudication system right now with unneeded  
17 hearings and crowded courtrooms.

18           So the goal for Phase 1 of increasing  
19 efficiency is to provide the respondents with a clearly  
20 defined penalty, i.e., a set amount, and giving the  
21 respondents the option to respond in person or remotely,  
22 eventually and that would eliminate the need for some  
23 hearings.

24           And the way we thought we could do this is  
25 by setting the monetary amount. In doing this, we

1 wanted to create a formula that would be revenue neutral  
2 and fair, but also efficient, and so the method that we  
3 use is we looked at all closed guilty violations. These  
4 are, again, only decisions that we could collect, we  
5 contract the collections for, and we took all of the  
6 past two fiscal years, the guilty violations, we  
7 analyzed how much was issued, how much was paid and the  
8 range for each of the fines.

9         So what we decided to do was create a  
10 formula by taking the minimum of each rule's range, so  
11 for example, it was 100 to 250, we took the minimum,  
12 which was 100 and added 16 percent to 100 which would be  
13 116.

14         An example of this is Rule 107A, which is a  
15 vehicle must be currently licensed by TLC. Right now  
16 under the current rules the range is 50 to 350, and we  
17 set the fine at 65 by using that formula.

18         If you look at the next slide just to insure  
19 it is revenue neutral, we looked at all the fines  
20 issued, whether or not, whatever the violation was, all  
21 of the range rules and looked at the percent change of  
22 revenue and it was less than 1 percent. But you may be  
23 asking, well, what if a rule is really egregious, should

24 it be at such a low amount or fixed amount? So what we  
25 asked adjudications to do and Commissioner Eckstein in

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1 particular, is to look at the non-monetary penalties  
2 which is the next part, Phase 2, which is addressing the  
3 fairness formulas.

4 While revenue neutral is designed to be  
5 fair, it does not account for the severity of the rule.  
6 So what we had adjudications do is put all range rules  
7 into a tier system, what we classified as public safety  
8 rules, to address the fairness of a rule and whether or  
9 not the monetary non-monetary penalties should be a  
10 certain amount. Just to clarify, public safety rules  
11 are egregious. They usually include violations that  
12 deal with crime, integrity, insurance, general public  
13 safety, and they often include suspension, revocation  
14 and points.

15 So what adjudications did is they grouped  
16 the rules by type. They put them into seven tiers and I  
17 can go over each one and give an example, if you would  
18 like. You can look at the slide.

19 Tier 1 is a violent offense. What we did is  
20 set the non-monetary penalty which right now could range

21 from suspension, no suspension to revocation and set it  
22 at a mandatory revocation.

23 Tier 2 we classified that as public trust  
24 and each rule has a set non-monetary amount so it could  
25 be revocation or suspension of ten, thirty days or till

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1 compliance.

2 Tier 3 was licensee conduct. Those had  
3 different ranges of suspension and we set them each for  
4 suspension from five to thirty days or until compliance.

5 The lesser tiers, which we consider Tier 3  
6 through 7, a lot of them don't have suspensions, so, for  
7 example, Tier 4 is equipment safety violations. Some of  
8 them have suspension, some of them don't have any  
9 suspension.

10 Tier 5 is failure to comply with a  
11 directive. That also does not have a non-monetary  
12 penalty and that could be a set non-monetary suspension  
13 of five days until compliance or new suspension.

14 The last one is Tier 6, which is owes money.  
15 We set each rule to have a non-monetary penalty of  
16 suspension till compliance and possibly a monetary

17 penalty and the last one is Tier 7, which deals with  
18 customer service and that's just a monetary penalty, so  
19 there will be no suspensions or revocations.

20 So are there any questions about the tiers  
21 so far? Okay.

22 So we took each of the range rules. We set  
23 them with a non-monetary penalty, which we just went  
24 over, but we also had to set them for their monetary  
25 penalty. As I said, we set a 16 percent formula and

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1 came up with a scheme. However, we decided to set  
2 different tiers to monetary amounts.

3 If you look at Tier 1, which is a violent  
4 offense, we don't have a monetary amount associated, but  
5 the non-monetary amount is revocation. We felt that was  
6 egregious enough. If you look at the revenue impact,  
7 it's only a change of \$1,500.

8 Tier 2, instead of taking it as a formula or  
9 the minimum amount, we decided we should put it to the  
10 maximum of the range, monetary amount, and also the  
11 percent change is high, it's really not a large amount  
12 of money.

13 And the last four tiers, Tiers 3 through 7,



14 we implemented the revenue neutral formula and it was  
15 almost revenue neutral at less than 2 percent.

16 So if you look at Tier 1 and Tier 2, those  
17 are based on fairness, egregiousness of penalties and  
18 how severe a fine is, and Tiers 3 through 7 deal with  
19 efficiency, that's why we used the revenue neutral  
20 16 percent formula.

21 So, in conclusion, as Andy mentioned, what  
22 we're trying to do for setting the monetary and  
23 non-monetary amounts is to create consistent policies  
24 for TLC staff and for our licensees and customers. So  
25 now we'll have penalties that are revenue neutral in

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1 some cases and penalties that are appropriate for the  
2 severity of the crime.

3 In addition, in terms of our operations, we  
4 are creating efficiencies. Licensees can choose not to  
5 schedule hearings, they don't have to come into the  
6 court, which is clearing up the courtroom, allowing our  
7 staff to deal with other priorities, putting more  
8 drivers on the streets and just creating better customer  
9 service in general.

10 CHAIRMAN DAUS: Do the Commissioners have  
11 any questions? Commissioner Sander.

12 COMM. SANDER: First a comment, then a  
13 question.

14 First, the comment is that overall I think  
15 this is long overdue. I want to congratulate the  
16 Agency for putting forward this framework. I certainly  
17 agree with the benefits that you have laid out, long  
18 overdue.

19 Just as an aside, too, just curious and I  
20 agree with the point to be revenue neutral and this is  
21 not the point of this exercise, but any comments as you  
22 looked at the fines for these, is there any  
23 recommendation here for us to also take another look at  
24 any issues related to these fines? You've obviously  
25 been working on this, obviously, we don't want to do

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1 that now, but for the future, do you have any  
2 recommendation about anything else we need to do in  
3 addition to adopting this proposal?

4 DEP. COMM. SALKIN: You obviously can't do  
5 this exercise without saying, wow, that fine seems out  
6 of date and maybe is inappropriate.

7           Again, there are three parts to this  
8 project. Today we're just talking about the monetary  
9 and the suspension revocation piece, so these are the  
10 values as they stand today.

11           The next presentation, we'll probably do  
12 both at our next Commission meeting, our upcoming  
13 Commission meeting, one is equal fine for equal crime  
14 across the industry and the third part is going to be  
15 implementation. That's the part where we envision not  
16 only revisiting the process and how we kind of work with  
17 summonses and issue summonses, but also are the  
18 summonses the appropriate summons.

19           We hope by kind of organizing this whole  
20 process it will be very easy for the Commission to see,  
21 "Wait a second, why is that a Tier 6? That should  
22 really be a Tier 1." There's a real problem here and we  
23 should work to fix that.

24           So we figured by cleaning it up it will  
25 become more clear. When it becomes more clear, that's

1 when we'll go through the exercise of making it better.

2           COMM. SANDER: I can't speak for the

3 details, but, again, upon a conceptual level that seems  
4 excellent.

5 CHAIRMAN DAUS: Certainly the details will  
6 come.

7 Any other questions? Okay, I want to again  
8 not only reiterate the statements of my colleague,  
9 Commissioner Sander, but I want to thank you, Andy. You  
10 and your staff have done a great job on this. This is  
11 one of the items that have been sitting around as a  
12 concept. I know we briefed the Commissioners, it never  
13 went anywhere, but now it's been given a lot of thought  
14 and a real professional presentation and I would  
15 envision that this is a great opportunity for the  
16 Commissioners to have input as we go along through these  
17 presentations as we draft the rules at the same time.

18 DEP. COMM. SALKIN: I want to be clear, the  
19 goal here is to have rule making at the end of the  
20 process. So this is a beginning, nothing's been drafted  
21 and your input would make the process a lot better.

22 COMM. AROUT: Are the Commissioners going to  
23 get copies of this or are you going to wait until the  
24 end to give us a complete copy to study it?

25 DEP. COMM. SALKIN: You're absolutely

1 welcome to this presentation. It will be available next  
2 month.

3 COMM. AROUT: I think it would be good if we  
4 got it now.

5 DEP. COMM. SALKIN: Mind you, we're talking  
6 about potential changes to 772 rules, so that exercise  
7 is going to obviously be intense.

8 COMM. SANDER: Put "draft" on top of it.

9 DEP. COMM. SALKIN: Absolutely.

10 CHAIRMAN DAUS: It's a great opportunity for  
11 Chuck to learn our rules as well. Welcome to the TLC.

12 Thank you again, Andy, you did a great job.

13 Next item is item 4, base licensing  
14 application review.

15 What I thought we did last time worked  
16 pretty well, unless any Commissioners have any comments  
17 I'd like to do that.

18 Barbara, maybe we can read through each base  
19 and if any Commissioner has a question about a  
20 particular base, raise your hand and we'll go back to  
21 them. And we'll couple all those we agree on. Okay?  
22 Commissioner Schechter.

23 DEP. COMM. SCHECHTER: Thank you.

24 Good morning Commissioners, Mr. Chair.

25 I have before us today 23 bases who have

1 submitted renewal applications. We have renewed these  
2 applications and recommended renewal for all 23. I'll  
3 begin reading them.

4 1431 Car Services.

5 COMM. DEAR: I'd like to set that aside.

6 DEP. COMM. SCHECHTER: A.C.A. Car and  
7 Limousine Service.

8 American Dream Car Service?

9 COMM. AROUT: I'd like to set that aside,  
10 please. American Dream.

11 CHAIRMAN DAUS: A.C.A. is all right.

12 DEP. COMM. SCHECHTER: Areas Two  
13 Transportation, Big D Royal Car Service, Black Pearl,  
14 Brownstone Radio Group, Golden Town Car and Limousine  
15 Service.

16 COMM. DEAR: Set it aside, please.

17 DEP. COMM. SCHECHTER: Harbor View  
18 Transportation of Staten Island, Hillside 24 Hours Radio  
19 Dispatch, Ivette Car Service, Linden Car Service, Inc.,  
20 Melmac Service Group Corp., Mexicana High Class, Inc.

21 CHAIRMAN DAUS: I have issues with that one.

22 DEP. COMM. SCHECHTER: New Easy Way Dispatch  
23 Inc., New Elegante Car Service Inc., Park Terrace Car

24 Service, Inc., Stillwell Avenue, Inc.

25 COMM. AROUT: Put aside, please.

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1 DEP. COMM. SCHECHTER: Stillwell?

2 COMM. AROUT: Yes.

3 DEP. COMM. SCHECHTER: T&S Hillside, Inc.,

4 Vin Jac Corp., VIT Car Service, Washington Radio

5 Dispatcher Inc.

6 COMM. AROUT: Put that aside, please.

7 DEP. COMM. SCHECHTER: And Yes Express Inc.

8 CHAIRMAN DAUS: Okay. I'd like to make a

9 motion to vote on the, for approval of the following

10 bases that the Commissioners seem to have no issue with.

11 That would include -- A.C.A. Car & Limo, Areas Two

12 Transportation, Big D Royal car, Black Pearl, Brownstone

13 Radio Group, Harbor View, Hillside 24 hours, Ivette Car

14 Service, Linden Car Service, Melmac Service Group, New

15 Easy Way Radio Dispatch, New Elegante, Park Terrace Car

16 Service, T&S Hillside, Inc., Vin Jac Corp., VIT Car

17 Service and Yes Express.

18 Do I have a second to the motion?

19 COMM. SANDER: Second.

20 CHAIRMAN DAUS: All in favor?  
21 (Chorus of "Ayes.")  
22 CHAIRMAN DAUS: Any opposed? It passes  
23 unanimously.  
24 Commissioner, could we go back to the first  
25 problematic one?

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1 DEP. COMM. SCHECHTER: First problem one is  
2 1431, base number B00983.  
3 COMM. DEAR: I didn't get a violation -- do  
4 they have less violations, more violations?  
5 DEP. COMM. SCHECHTER: Less.  
6 COMM. DEAR: Instead of \$3,200 they owe  
7 \$1,400?  
8 DEP. COMM. SCHECHTER: \$1,400.  
9 COMM. DEAR: Still unlicensed drivers, no  
10 decal --  
11 DEP. COMM. SCHECHTER: I see three  
12 violations of unlicensed drivers in the two-year period.  
13 COMM. DEAR: Hold on a second, what's on the  
14 third page. I'm talking about total.  
15 DEP. COMM. SCHECHTER: Yes?  
16 COMM. DEAR: Yes, what?



17 DEP. COMM. SCHECHTER: I'm sorry, I'm sorry,  
18 it's five. Five violations.  
19 COMM. DEAR: Five violations of unlicensed  
20 drivers.  
21 DEP. COMM. SCHECHTER: No, I'm sorry.  
22 COMM. DEAR: More.  
23 DEP. COMM. SCHECHTER: Let's go back, I  
24 apologize, because this was a recent correction.  
25 For 1431, we have one page of violations

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1 only, and within that one page, we see only two  
2 violations of dispatching unlicensed drivers for a total  
3 fine amount of those two and all the other violations of  
4 \$1,400.  
5 COMM. DEAR: You have also one that says  
6 they operated illegal base station.  
7 DEP. COMM. SCHECHTER: It appears that they  
8 were operating while on suspension.  
9 COMM. DEAR: Good, so -- I want to recommend  
10 that we deny this one.  
11 DEP. COMM. SCHECHTER: They have one such  
12 violation.

13           COMM. DEAR: I want to make a recommendation

14 to deny this base their license.

15           CHAIRMAN DAUS: Does anybody second that?

16           COMM. RUBINSTEIN: How do we just go and

17 deny --

18           COMM. DEAR: Somebody who has so many

19 violations --

20           COMM. RUBINSTEIN: I need more than this,

21 I'm sorry.

22           COMM. DEAR: That means anybody could just

23 operate --

24           COMM. RUBINSTEIN: No, I can't say "yes" or

25 "no", I can't randomly feel, without information do

45

1 this.

2           COMM. DEAR: What information? A person

3 here is operating, he's defying us, operating, sending

4 unlicensed drivers, operating without a license to

5 operate a base station, and you want him to continue.

6           What are we all about, then?

7           DEP. COMM. SALKIN: Comments, Mr. Chair?

8           CHAIRMAN DAUS: I agree with you to a

9 certain extent. I have legal concerns about just being

10 consistent in our decision making. I mean, I totally  
11 agree with you on the concept.

12 I mean, there has to come a point where we  
13 start denying these licenses, especially since, and this  
14 is known as Three Guys Car Service is the d/b/a of this  
15 base. It's got seven cars. It's not like it's got a  
16 thousand cars, it's seven cars, and it's got a pretty  
17 bad record. Then again, there are worse records that  
18 we've approved of licensure to give them a second  
19 chance.

20 COMM. DEAR: I'm willing to set this aside.  
21 I'll do my own thing. I'm going to call them up. I  
22 guarantee they're operating with a lot more cars than  
23 you think and operating an illegal place. Seven cars,  
24 with that many violations, I guarantee they're operating  
25 big time.

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1 Rockaway Parkway, to have a storefront is  
2 not cheap, they must be doing something. That's what I  
3 understand what our staff is doing, I'll go myself, I'll  
4 go make a call right now, send me a car over here, I  
5 guarantee they'll send a straight plate car.

6           COMM. RUBINSTEIN: I think we have to be  
7 consistent. Last time we did this --  
8           COMM. DEAR: But how much more --  
9           COMM. RUBINSTEIN: -- we had a lot more  
10 negative input from the previous base, which we gave  
11 some time to rectify their problem, and here we're just,  
12 boom, saying it's over. That's all I'm saying. I'm not  
13 saying that necessarily what you're saying is wrong, but  
14 as a Commission, we all agree that we have to remain  
15 consistent.  
16           CHAIRMAN DAUS: I would agree with  
17 Commissioner Rubinstein.  
18           COMM. AROUT: I'd have to say the same  
19 thing. I agree with you, but I remember at the last  
20 meeting that they were going to send out a business  
21 letter to these people to control what's happening, and  
22 if it continues, then we will revoke their license. So  
23 I'd have to go that way as of now.  
24           COMM. DEAR: My problem is, is that there is  
25 no sense, there's no rhyme or reason of how we go about

1 and we approve these people. Here's a guy with seven  
2 cars, has all these violations, and he's still in

3 business. I have to tell you something, I'm telling  
4 you, he has a whole bunch of illegal cars with straight  
5 plates. I ask for enforcement --

6 CHAIRMAN DAUS: If we could have our First  
7 Deputy address this, because a lot of enforcement does  
8 go out there. Could you talk a little bit about that?

9 DEP. COMM. SALKIN: At the last Commission  
10 meeting and one of the previous Commission meetings, one  
11 of the things we talked about is the idea we have to be  
12 consistent over the bases that we're reviewing right  
13 now. These are bases that were given the old  
14 application, if you will, for TLC and they were already  
15 kind of in the review process and we asked for them back  
16 from City Council.

17 So I think one of the things we do as we  
18 review, there are about 120 or so and we're right in the  
19 middle of doing this review, was to bring up issues and  
20 have a conversation with the Commissioners. I think the  
21 dialogue we're having today is very significant.

22 And we want to take out of this what is the  
23 piece that you're concerned about out, and this is the  
24 part we want to put in the new application and in the  
25 new application they will be held accountable for other

1 behavior other than what they've been held accountable  
2 for in the past.

3           COMM. RUBINSTEIN: I would like to and I  
4 hope the other Commissioners go along with me on this, I  
5 would make a motion to get a representative of our  
6 inspectors in here and I would like them to discuss  
7 exactly what they're looking for, what they feel is  
8 violations and not, what is significant. I'd really  
9 like to get an overview of what is going on in the  
10 field.

11           I as a Commissioner can succinctly say I am  
12 not familiar with the techniques that are used and I see  
13 here that this particular base has seven vehicles, and  
14 if I look at it from a mathematical equation, okay,  
15 seven vehicles, three years, six or seven fines? That  
16 does not add up to a great deal.

17           But, maybe in terms of context, maybe in  
18 terms of the way inspectors give out fines, maybe these  
19 are egregious fines, I do not know. So I would like to  
20 make a motion to say let's get some more information  
21 about this. Let's find out if these are significant or  
22 if they're not.

23           CHAIRMAN DAUS: I don't think we need to  
24 have a formal vote on it, but in terms of request, I  
25 don't see any problem with that at all and I certainly

1 think that other Commissioners who aren't as involved as  
2 I am with the day-to-day and don't see what the  
3 enforcement does, I think it would certainly benefit.

4 I know Commissioner Arout has come to some  
5 of our MAPP meetings and have seen some of the  
6 presentations, so I think it's a great idea to get  
7 enforcement to come here and talk about it. I don't  
8 think we need an official motion for it, but I certainly  
9 agree with you and that's fine Commissioner Rubinstein,  
10 but I do believe we have a motion on the floor. I don't  
11 believe you got a second for it.

12 Does anybody second it?

13 All right, we understand your point,  
14 Commissioner Dear, but the motion fails. All I can do  
15 at this point is say that I totally understand where  
16 you're coming from. I'm there mentally and  
17 philosophically, but from a legal standpoint in terms of  
18 consistency and fairness to the bases, as a Commission  
19 we voted consistently over the last two meetings to send  
20 a message to the bases; saying we're looking at you now,  
21 we expect you to put a business plan in place and show  
22 us how you're going to do your job over the next two

23 years, and if you don't do what you're supposed to do,  
24 then we're going to come back and be denied licensure.

25 COMM. SANDER: Mr. Chairman, what is the

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1 time frame for them to respond?

2 CHAIRMAN DAUS: Barbara, how much time did  
3 we give them?

4 DEP. COMM. SCHECHTER: We did see one of the  
5 bases whose renewal application was considered at the  
6 last meeting. He did come in. His business plan is due  
7 on March 25th.

8 COMM. SANDER: Specifically for 1431.

9 DEP. COMM. SCHECHTER: For 1431, we could  
10 arrange a meeting tomorrow for him to come in the  
11 following week and then give him, as with the others,  
12 three weeks to develop a comprehensive plan that would  
13 address all the outstanding issues.

14 COMM. SANDER: Is there anything we want to  
15 be more specific of in terms of what they will convey to  
16 this group?

17 COMM. DEAR: The issue I have with this is  
18 what's the minimum amount of cars a base is supposed to  
19 have?



20 CHAIRMAN DAUS: It's ten. However, the law  
21 when it was passed had a grandfather clause in it, so  
22 that if you had less than ten prior to the law being  
23 passed, then you were carried over. I asked the same  
24 question, licensing staff, Bill and Barbara keep track  
25 of that and that's one of these bases.

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1 DEP. COMM. SCHECHTER: That's January 1,  
2 1988 and this base was in business prior to that date.

3 COMM. SANDER: Commissioner Dear is  
4 questioning whether there are not more than ten  
5 vehicles.

6 DEP. COMM. SCHECHTER: As of today they have  
7 seven.

8 COMM. DEAR: They have seven legally.  
9 That's one issue.

10 The second issue, I'm telling you, they're  
11 not operating with seven vehicles. No one operates  
12 seven vehicles and stays in business on Rockaway Parkway  
13 and I'm asking now, to verify -- forget about, before  
14 you bring them in, to do a very thorough investigation  
15 to make sure that they're not operating a hundred

16 vehicles, all straight plates and all kinds of other  
17 plates going on.  
18 Again, this is not fair to the others. I'll  
19 tell you right now. I'm not voting "yes" on this, I'm  
20 going to vote "no" on this, I don't care. I'm going to  
21 continue to be against anybody who operates or defies us  
22 and sends out straight plates. To me, you talk about  
23 public safety, that's the worst public safety issue.  
24 God forbid one person gets killed or a serious accident  
25 in one of those cars, it's going to be all over the

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1 news.  
2 And you see the conditions of these cars? I  
3 see them all over my neighborhood, wherever I go and I  
4 keep on calling, I even call our First Deputy  
5 Commissioner, I keep bugging him whenever I'm on the  
6 road, I see an LA plate, a straight plate. They laugh,  
7 they don't care and we keep on renewing it.  
8 I want some kind of undercover  
9 investigation. I want to somehow go after them.  
10 CHAIRMAN DAUS: It's a good point,  
11 Commissioner Dear, and I agree with you. We did have an  
12 incident last year with Staten Island, Staten Island Car

13 Service, and we put that base out of business with a  
14 number of other bases.

15 Just so the Commissioners feel more  
16 comfortable, when we're renewing licenses, it's a  
17 different function. There's nothing preventing us,  
18 Commissioner Dear, from going out and continuing  
19 enforcement and there are procedures available to revoke  
20 licenses like we that out on Staten Island when there  
21 were two or three bases way out of line and engaging in  
22 the kind of misconduct you're describing.

23 I would ask Andy to meet with Joe Mendolo.  
24 It would be great if we had a briefing for the other  
25 Commissioners on what we do and how we do it, but

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1 there's nothing to prevent us from going forward, Andy,  
2 and enforce the law on bases we view as concerned bases.

3 DEP. COMM. SALKIN: Can I ask a question of  
4 the Commissioners?

5 One idea I believe was thrown out at the  
6 time we first started doing the reviews was perhaps  
7 setting up some type of teeth in the penalties so if  
8 people while they're on, while their license is still

9 active, they get a certain number of penalties and  
10 violations that are egregious in nature, that they  
11 immediately go on suspension.

12 Right now we don't have that kind of ladder,  
13 if you will, the persistent driver protocol, program.  
14 If that's something you're interested in, we could work  
15 on developing something, present a theory to the  
16 Commission for rule making.

17 COMM. SANDER: That's a great idea.

18 CHAIRMAN DAUS: We're talking about having a  
19 point system for bases. You get X number of violations  
20 where you dispatch unlicensed vehicles; one, two, three  
21 strikes you're out. Whatever you think is appropriate.

22 That's really the only standpoint myself and  
23 my fellow colleagues are coming from. We want to be  
24 consistent and fair.

25 How can I in good faith, with all due

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1 respect to you Commissioner Dear, deny this license when  
2 I let a license be renewed last month that was ten times  
3 worse.

4 COMM. DEAR: There was one license where  
5 every public official was against it, we all got hot

6 under the color and we voted against it. I guarantee  
7 you, take that list of violations and this list of  
8 violations we have before us now, I guarantee you it was  
9 probably exactly the same.

10 CHAIRMAN DAUS: That had different issues,  
11 though. That one had congestion --

12 COMM. DEAR: Listen, I've been there, I know  
13 what it's all about. You get a few complaints, a few  
14 residents, all of a sudden everybody gets on top of it,  
15 they come to us, we just went along with the flow. I  
16 have to tell you, it's no different that someone over  
17 here. So we weren't consistent before.

18 COMM. AROUT: Mr. Chairman, I just want to  
19 say to Andy, this is a great idea, try to get this in  
20 the new rules. After they have so many tickets for X  
21 amount of things, they be brought into the Commission to  
22 explain their reason for all these unlicensed vehicles  
23 or whatever it might be. I think -- but this is a good  
24 idea what we have right now, and like, to renew them all  
25 and give them a warning of what we're doing.

1 DEP. COMM. SALKIN: I think hopefully down

2 the road we'll have a new application that has kind of a  
3 new vision from the Commission saying what's good and  
4 what's bad and the bases will know what's bad, so when  
5 they come up for renewals --

6           COMM. DEAR: If we are starting to look at  
7 the renewal process, the whole new procedure, let's look  
8 into new cars and cleaning up that whole industry.

9           CHAIRMAN DAUS: You mean vehicle retirement  
10 for the FHV industry?

11           COMM. DEAR: Absolutely.

12           CHAIRMAN DAUS: So one motion did not carry.

13           Is there another motion on the table? All  
14 right, I'll make one.

15           I'd like to against my better judgment,  
16 renew this base license with the caveat that we actually  
17 go out there and make sure that they give us a business  
18 plan and also we should send enforcement to this base at  
19 some point.

20           COMM. AROUT: I second that.

21           COMM. SANDER: Is it not possible to table  
22 this until we have a review of their business plan and  
23 engage in some of this activity?

24           CHAIRMAN DAUS: We could do that.

25           COMM. RUBINSTEIN: What was done to the

1 previous base where we gave them time?

2 CHAIRMAN DAUS: I just have concerns,

3 because I think, quite frankly, I'm looking at the

4 record here and I believe there are a couple of other

5 bases here that are just as bad, if not worse.

6 COMM. DEAR: Right, let's bring them all in,

7 see if they're serious, then we could vote on it.

8 COMM. RUBINSTEIN: My question is what did

9 we do to the base --

10 COMM. DEAR: This is all new.

11 CHAIRMAN DAUS: We approved them.

12 COMM. DEAR: We could change it. We don't

13 have a track record of six years. This is new for us.

14 CHAIRMAN DAUS: I understand the point.

15 There's a motion on the floor --

16 COMM. AROUT: Second.

17 CHAIRMAN DAUS: -- to approve it with the

18 caveat of some enforcement, but also the caveat of

19 having a business plan like we did the last few months.

20 All in favor?

21 (Chorus of "Ayes.")

22 CHAIRMAN DAUS: Opposed?

23 COMM. DEAR: I vote no.

24 CHAIRMAN DAUS: Commissioner Dear votes no.

25 It's approved.

1 DEP. COMM. SALKIN: Point of clarification.

2 The way this process works, a positive vote  
3 of the Commission today is subsequently followed up with  
4 a letter to the base letting them know that their  
5 license is good in ninety days, and what we do with the  
6 people who have to kind of come in and prove is we kind  
7 of give them, this is a grace period. They have ninety  
8 days to figure it out, and if they don't, and they don't  
9 meet the wishes of the Commission, their license is  
10 rejected.

11 COMM. RUBINSTEIN: Could you repeat that?

12 DEP. COMM. SALKIN: They have ninety days  
13 from the point that you vote today until their license  
14 is renewed. What we're trying to do, not to keep  
15 business moving, but let them know you have to do this,  
16 based on the Commission's desire. In this case, your  
17 license can get renewed, it was passed by the  
18 Commission, but you need to do the following things, and  
19 if you fail to do so to a satisfactory level, you will  
20 be denied.

21 Now, The thing that Commissioner Sander  
22 pointed out, perhaps bringing the base back for a vote



23 in front of the Commission, and you're welcome to do  
24 that, but I just want to point out that that you sort of set  
25 that in motion, they have to perform up to your desire.

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1           COMM. DEAR: Could we now take this  
2 recommendation of Commissioner Sander to make this a  
3 policy of ours that anyone has a history of extensive  
4 violations to come up with a business plan before it  
5 comes for a vote before us, and don't even put it on the  
6 agenda. Come in with a business plan then come before  
7 us for a vote.

8           DEP. COMM. SALKIN: Again, right now, we  
9 don't have a way for the staff to determine what is  
10 egregious violations, because the past practice has been  
11 you can get violations, you go through adjudications and  
12 you pay your fine.

13           What you're saying now is you want to have  
14 some definition and in order to for us do that we need  
15 to engage in rule making, because we're impacting the  
16 public in a different fashion.

17           It's not a bad idea, it's one that gets  
18 reiterated every time we do this, but it's not one we're

19 capable of using under these particular applications.

20 CHAIRMAN DAUS: That's a point well taken.

21 COMM. SANDER: So what needs to occur to  
22 make that happen?

23 DEP. COMM. SALKIN: Well, what we were kind  
24 of under, the intention here, there's about 120 bases  
25 that were called back from City Council and the idea was

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1 they would no longer go to the City Council review, they  
2 would come to the Commission as kind of the ultimate  
3 deciding point and with these bases, we were instructed  
4 that we have to use the old application. So what you're  
5 getting today is we're about what, 60 plus bases into  
6 this, so we're about halfway there.

7 The idea that we viewed it as going through  
8 120 was through the process, we were going to get to  
9 what the new application should be, we were going to  
10 make changes on the application and as long as we're  
11 allowed to do something based on the codes that were  
12 already passed in the APP code and TLC rules, we were  
13 going to ask for additional things.

14 The business plan we believe is clearly  
15 something the TLC can ask for, given the current rules.

16 Telling the base they're suspended because their overall  
17 number of summonses they have look like that they're  
18 egregious, is something the rules don't give the staff  
19 the authority to do.

20 So based on the feedback we've been getting  
21 today, and through the last few meetings, is something  
22 we'll begin to make recommendations to the Commission on  
23 what rules we think -- I guess the point system is  
24 something everyone talked about.

25 COMM. SANDER: What time frame would be

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1 reasonable --

2 DEP. COMM. SALKIN: You're talking about 25  
3 hearings, we're hopefully going to be doing more, 25  
4 bases a month for a Commission meeting. I guess the  
5 goal is to have that done sometime in midsummer or early  
6 summer and after that, it would be new bases, new  
7 applications, and so the idea is we'd like to have  
8 ideally rule making done in time for that.

9 So we'll start work on, sounds like a point  
10 system we could start working on.

11 CHAIRMAN DAUS: Sounds like a good plan.

12 On the remaining applications that have been  
13 identified, I just looked at them. I view them as  
14 having the same issues as we had for Three Guys.

15 Unless anybody has any comments, that they  
16 seem to be bad records and they seem to fall under the  
17 same general category as Three Guys, unless anybody  
18 feels otherwise.

19 Okay, in light of that discussion, I'd like  
20 to couple the remaining bases for a motion to approve  
21 with the same caveat we did for Three Guys.

22 COMM. RUBINSTEIN: I just have a question.  
23 Is there any one of these bases, is there any one these  
24 bases that stand out more in violations in terms of  
25 other ones in comparison, because I'd like that known

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1 for the record.

2 CHAIRMAN DAUS: Yes, I think Mexicana, I'm a  
3 little insulted, to be honest with you, with Mexicana  
4 Car Service. This is a base we relied on to deliver  
5 service during the Queens bus strike and while there was  
6 some drivers there who did an admirable job, I was under  
7 the mistaken assumption this base was doing a great job.

8 Now I'm looking at their record, I have

9 tremendous concerns about them. While I may have  
10 publicly lauded them in the past, upon looking more  
11 closely at their record I have concerns and I think  
12 Mexicana needs to clean up their record with respect to  
13 these other bases, but that one stands out.

14 Any others stand out for particular mention?

15 American Dream.

16 COMM. DEAR: They all do.

17 CHAIRMAN DAUS: American Dream has a pretty  
18 bad record, too.

19 COMM. DEAR: Base violations.

20 CHAIRMAN DAUS: They're all in the "bad"  
21 category. For the record that's American Dream Car  
22 Service, Golden Town Car and Limo, Mexicana High Class,  
23 Stillwell Avenue, also known as TJ's Car Service,  
24 Washington Radio Dispatcher.

25 With that caveat, that they provide a

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1 business plan and that we also conduct some followup  
2 enforcement on these bases, I'd like to make a motion to  
3 approve those bases for now.

4 DEP. COMM. SCHECHTER: That's including

5 1431.

6 CHAIRMAN DAUS: Yes, we already voted on  
7 that, though. Is there a second?

8 COMM. AROUT: I second.

9 CHAIRMAN DAUS: All in favor?

10 (Chorus of "Ayes.")

11 CHAIRMAN DAUS: What about Lee?

12 COMM. RUBINSTEIN: We only need four.

13 CHAIRMAN DAUS: It would be better with Lee.

14 COMM. AROUT: May I make a comment? I'm  
15 very impressed with these car services and limousine  
16 services. Like Melmac, they have 22 vehicles, not one  
17 fine. These people deserve a medal. Not a scratch on  
18 them.

19 CHAIRMAN DAUS: Assuming enforcement has not  
20 been visiting.

21 COMM. DEAR: I don't know where Lee is.  
22 Leave it open until he comes back. I'm voting for the  
23 record "no."

24 CHAIRMAN DAUS: Commissioner Dear votes  
25 "no," everybody else but Commissioner Sander votes

1 "aye," and we're waiting for Commissioner Sander to

2 reenter the room.

3           Some of these have been in business for  
4 many, many years and some of them have no violations.

5 So I would echo that. You complain about the people who  
6 aren't doing the right thing I think we should laud  
7 those who are doing a good job.

8           Harbor View, Hillside 24 Hour Dispatch, and  
9 some of the others here and that's that.

10           So we'll wait for Lee to come back in. Any  
11 other issues or questions?

12           COMM. RUBINSTEIN: I want to reiterate that  
13 inquiry, perhaps you said, that we could have prior to  
14 our meeting an inspector or series of reports filling us  
15 in on what's vital what's not, what are some of the  
16 procedures they use and what really would be pertaining  
17 to important violations in this area.

18           CHAIRMAN DAUS: Sure, it's a great idea.  
19 We'll try to throw that together?

20           DEP. COMM. SALKIN: I was thinking perhaps  
21 what we could do is work on a presentation with a point  
22 system and with that kind of define --

23           COMM. RUBINSTEIN: Even prior to that, have  
24 an inspector come in and say --

25           DEP. COMM. SALKIN: Part of that would be a

1 presentation to the Commission saying, "Here's the  
2 rules, here's how we interpret them, here's what they  
3 look like from the field perspective, from the  
4 adjudication perspective."

5 I think we could work through that and get  
6 to the right conclusions.

7 CHAIRMAN DAUS: How is the new processes  
8 working with the bases we approved so far? You said one  
9 was asked to submit a plan so far?

10 DEP. COMM. SCHECHTER: One was called in and  
11 was asked to submit a plan by this Friday.

12 CHAIRMAN DAUS: So we haven't looked at them  
13 yet.

14 DEP. COMM. SCHECHTER: No, we're just  
15 letting them know what we're looking at and what's  
16 expected from them. Then we have six more expected to  
17 come in next month, also told what is expected of them.

18 CHAIRMAN DAUS: I think it would be helpful  
19 for the Commissioners.

20 Okay, hi, Lee. We had a motion on the  
21 floor, everybody has voted except for you and that was  
22 to take all the other bases that I identified, including  
23 American Dream, Golden Town Car Limo, Mexicana High  
24 Class, Stillwell Avenue and Washington Radio Dispatcher,  
25 which we all believe have similar records to Three Guys



1 Car, they're all bad, no issues of congestion and  
2 quality of life brought up, bad records and we coupled  
3 them in the same category, we all voted to, except for  
4 Noach voted against, to approve these bases with the  
5 caveats they provide a business plan and we conduct  
6 enforcement of those particular bases.

7 COMM. SANDER: Looks like I'm the fifth  
8 vote.

9 CHAIRMAN DAUS: Okay, thank you, so all of  
10 those bases are approved with those caveats and that  
11 concludes our base licensing menu for today.

12 The last item is a motion to close the  
13 meeting. Do we have a motion?

14 COMM. AROUT: Motion to adjourn.

15 CHAIRMAN DAUS: Second. All in favor?

16 (Chorus of "Ayes.")

17 CHAIRMAN DAUS: Okay, we're adjourned until  
18 May 4th.

19 (Time noted: 11:06 a.m.)

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1           C E R T I F I C A T I O N

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4           I, LINDA FISHER, a Registered Professional  
5 Shorthand Reporter and a Notary Public, do hereby  
6 certify that the foregoing is a true and accurate  
7 transcription of my stenographic notes.

8           I further certify that I am not employed by  
9 nor related to any party to this action.

10

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12                   LINDA FISHER,,  
13                   Shorthand Reporter

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