



0000158036

1 BEFORE THE ARIZONA CORPORATION COMMISSION

2 IN THE MATTER OF:) ITEM NUMBER 12

3 PATRICK LEONARD SHUDAK, a single)
4 man;)

5 PROMISE LAND PROPERTIES, LLC, an) DOCKET NO.
6 Arizona limited liability) S-20859A-12-0413
7 company, and)

8 PARKER SKYLAR & ASSOCIATES, LLC,) OPEN MEETING
9 an Arizona limited liability)
10 company,)

11 Respondents.)

12

13

14 At: Phoenix, Arizona

Arizona Corporation Commission

DOCKETED

15 Date: September 9, 2014

NOV 14 2014

16 Filed: November 14, 2014

DOCKETED BY

17

18 TRANSCRIPT OF AUDIO RECORDED PROCEEDINGS

19

AGENDA ITEM 12

20

ORIGINAL

21

22

ARIZONA REPORTING SERVICE, INC.

23

Audio Transcriptions
Suite 502

24

2200 North Central Avenue
Phoenix, Arizona 85004-1481

25

ORIGINAL TRANSCRIPT

26

Transcribed by:
Katherine A. McNally
CERTIFIED TRANSCRIBER
CET**D-323

27

ARIZONA REPORTING SERVICE, INC.
www.az-reporting.com

(602) 274-9944
Phoenix, AZ

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

2014 NOV 14 P 12:46

RECEIVED

**FOR
INTERNAL
&
INTERAGENCY
USE
ONLY**

Pursuant to the contract with Arizona Reporting Service all transcripts are available electronically for internal agency use only.

Do not copy, forward or transmit outside the Arizona Corporation Commission.

1 BE IT REMEMBERED that a Commission Open Meeting
2 was held at the Arizona Corporation Commission,
3 1200 West Washington Street, First Floor, Hearing
4 Room 1, Phoenix, Arizona, commencing on the 9th day of
5 September 2014.

6

7 BEFORE: BOB STUMP, Chairman
8 GARY PIERCE, Commissioner
9 BRENDA BURNS, Commissioner
10 BOB BURNS, Commissioner
11 SUSAN BITTER SMITH, Commissioner

12 SHAYLIN BERNAL, Secretary

13

14

15 APPEARANCES:

16

17 For Arizona Corporation Commission:

18

19 Lyn Farmer, Chief Administrative Law Judge
20 Marc Stern, Administrative Law Judge
21 Belinda Martin, Administrative Law Judge

22

23

24 For Patrick Leonard Shudak, et al.:

25

26 Mr. Brian J. Schulman
27 GREENBERG TRAUIG, LLP
28 2375 East Camelback Road, Suite 700
29 Phoenix, Arizona 85016

30

31

32

33

34

Katherine A. McNally
CERTIFIED TRANSCRIBER
CET**D-323

1 (Commencement of Open Meeting Item Number 12,
2 beginning at 00:01:50.)

3 * * * * *

4 CHMN. STUMP: We will move then immediately into
5 Item 12 and then take up the remaining items on the
6 consent agenda.

7 And is there counsel for Item 12?

8 Hi, Mr. Schulman, come on up. Feel free to sit
9 wherever you'd like.

10 MR. SCHULMAN: Thanks.

11 CHMN. STUMP: Okay.

12 ALJ MARTIN: Good morning, Chairman Stump,
13 Commissioners. Belinda Martin on behalf of the Hearing
14 Division.

15 On September 21st, 2012, the Securities Division
16 filed a Notice of Opportunity against Patrick Leonard
17 Shudak; Promise Land Properties, LLC; and Parker Skylar
18 & Associates, LLC; Arizona limited liability companies,
19 in which the Division alleged multiple violations of the
20 Securities Act.

21 On March 21st, 2013, the Commission issued a
22 default order against Parker Skylar & Associates.

23 On July 30th, 2013, the Commission issued a
24 default order against Promise Land Properties.

25 The Division charged that Mr. Shudak, who is not

1 registered to sell securities in Arizona, sold
2 securities from and within Arizona and engaged in
3 fraudulent acts when doing so.

4 The Division asserted that Mr. Shudak was a
5 controlling person within the meaning of A.R.S. 40-1999
6 and was, therefore, jointly and severally liable with
7 Parker Skylar & Associates for all fraudulent acts
8 pursuant to A.R.S. 40-1991.

9 Mr. Shudak did not deny the investments were
10 securities, but alleged that they were exempt from
11 registration pursuant to A.R.S. 40-18 -- I'm sorry -- it
12 should be 44 -- 18-44(a)(1). He also denied that his
13 actions were in any way fraudulent.

14 The hearing on the charges against Mr. Shudak
15 was held on June 17th through 19th, 2013. Mr. Shudak
16 appeared through counsel, but he was not present at the
17 hearing nor did he call or subpoena any witnesses to
18 testify on his behalf.

19 The Division presented three investors as
20 witnesses, as well as two members of Division Staff.

21 The ROO concluded that the evidence presented by
22 Mr. Shudak at hearing did not prove by a preponderance
23 of the evidence that the securities were part of a
24 private offering, therefore, the securities and
25 Mr. Shudak were not exempt from registration.

1 The evidence also supported a finding that
2 Mr. Shudak had engaged in a number of fraudulent acts,
3 including, among other things, oversubscribing the
4 offering and misuse of funds.

5 Further, the ROO finds that Mr. Shudak was a
6 controlling person of PSA, and they're jointly and
7 severally liable with PSA for its fraudulent acts.

8 The ROO orders Mr. Shudak to cease and desist
9 from his actions and requires him to pay \$1,996,500 in
10 net restitution.

11 Additionally, the ROO imposes \$150,000 in
12 administrative penalties against Mr. Shudak.

13 Mr. Shudak has filed exceptions to the ROO.

14 CHMN. STUMP: Okay. Thank you, Your Honor.

15 Mr. Schulman.

16 MR. SCHULMAN: Good morning, Chairman and
17 Commissioners.

18 Let me begin by saying --

19 CHMN. STUMP: Could you state your name just for
20 the record.

21 MR. SCHULMAN: Sure. My name is Brian Schulman.
22 I represent respondent Patrick Shudak. I'm with the law
23 firm Greenberg Traurig.

24 This is an atypical case in many, many respects.
25 And I should say before I started sitting at that table,

1 for years I sat at that table. And in all of my years I
2 have not seen a case like this one in terms of facts and
3 procedure.

4 There are undeniable consistencies that took
5 place in this case, and as a result of that there have
6 been due process violations that cannot be cured. And
7 those due process violations roll up into the exceptions
8 that we filed.

9 Let me start by saying the obvious, but it needs
10 to be said -- Mr. Shudak -- it is not Mr. Shudak's
11 burden to disprove the Securities Division's case. They
12 have the burden of proving their case.

13 And in this case there was no testimony ever
14 from Mr. Shudak. They -- the Division did not ask to
15 interview him. They did not take his EUO. They did not
16 subpoena him to the hearing. They did not even ask if
17 he was going to attend the hearing.

18 In addition, there are 18 alleged investors in
19 this case and at the hearing only three testified. And
20 as we've pointed out in our exceptions, the testimony
21 from all three of those investors is materially
22 different, so there's no global conclusions that can be
23 reached about what Mr. Shudak said to the other 15
24 investors, what the other 15 investors read, what they
25 relied upon. And all of those issues are extremely

1 important in a fraud case. And the Division failed to
2 satisfy its burden of proving fraud.

3 The other piece of this that makes it unique is
4 that these same investors kicked Mr. Shudak out of the
5 company in 2009. There was testimony at the hearing
6 that the property could have been sold for \$2 million at
7 the time. But instead the investors decided that they
8 wanted to develop the property and chose not to sell it.
9 In fact, two of the investors who did testify said, in
10 hindsight, that was not a sound strategy and a bad
11 decision.

12 The investor group held the property for another
13 four years and then finally decided to try and sell it.
14 And after failing to be able to sell it, they then
15 convinced the Division to bring an action and
16 effectively absolve them of the decisions that they
17 made.

18 That's the back story that's very unique in this
19 case.

20 With respect to those inconsistencies, there are
21 due process violations that pile on to the atypical
22 nature of the case.

23 First of all, for undisclosed reasons, the
24 Commission violated its own rules of practice by
25 replacing ALJ Marc Stern with the new ALJ, Ms. Martin,

1 who has made recommendations of findings of fact and
2 conclusions of law, even though she was not the ALJ who
3 presided over the hearing.

4 Your own rules of practice, R 14.3-110B require
5 that the presiding Hearing Officer prepare the
6 recommendation. In this case that did not happen. And
7 as a result of that, there are findings of fact and
8 conclusions of law that do not match up with the
9 evidence that was presented at the hearing.

10 We've also cited a case law in Arizona that
11 support the wise regulations that the Commission has
12 adopted, which is having the presiding hearing officer
13 make the recommendations and findings of fact.

14 In addition, the ROO includes charges that were
15 never presented by the Division. There was no notice
16 provided to Mr. Shudak that these charges were going to
17 be part of the proceedings, and in fact, they weren't
18 part of the proceedings. They showed up for the first
19 time in the ROO, and those have been spelled out in our
20 exceptions.

21 The inconsistencies also flow into the fraud
22 allegations which were basically limited to four
23 distinct acts. And as we set forth in the exceptions,
24 those findings are not supported by the evidence

25 So for all of those reasons, we believe that, as

1 an initial matter, the exceptions should be taken into
2 account by the Commission. But we also believe that
3 because of the due process violations, this case is
4 destined for a rehearing or an appeal.

5 Thank you.

6 CHMN. STUMP: Okay. Yeah. Thanks,
7 Mr. Schulman.

8 For the Securities Division, why did a different
9 ALJ take over?

10 ALJ FARMER: Mr. Chairman, Commissioners, Lyn
11 Farmer --

12 CHMN. STUMP: Oh, I guess you would be best to
13 answer that, yeah.

14 ALJ FARMER: -- of the Hearing Division. The
15 Securities Division doesn't assign the ALJ to the case.
16 I do.

17 CHMN. STUMP: Right.

18 ALJ FARMER: And first of all, I would strongly
19 disagree that this process has violated due process
20 procedurally.

21 The -- in fact, there's case law, and it's
22 Pine-Strawberry Improvement Association. It was a Court
23 of Appeals' decision that specifically says that even
24 though a hearing officer did not personally attend rate
25 hearings, preparation of proposed rate order, a hearing

1 officer who had benefit of recorded testimony satisfied
2 due process. And this is a Commission case involving a
3 Commission-appointed hearing officer.

4 And despite the insinuations or implications in
5 the exception that there was some reason why a different
6 ALJ was assigned to this case, I can tell you it was
7 purely a case-management decision that I noticed that
8 there was a backlog of securities cases that didn't have
9 a ROO written. I asked the ALJs in the Division who had
10 time or interest in writing a recommended ROO, and ALJ
11 Martin volunteered. She consulted with ALJ Stern during
12 her review of the record, consulted with him if she had
13 any questions about witnesses or -- and you can ask her
14 about that.

15 But I believe there was no procedural due
16 process issue involved in this case. And the Commission
17 had -- this has happened on a number of occasions as
18 well.

19 CHMN. STUMP: Sure. And Judge Stern, Counsel --
20 and I quote -- said, You expressed, quote, unquote,
21 skepticism about the Division's case.

22 Did you want to address that?

23 ALJ STERN: Well, I wouldn't necessarily call it
24 skepticism. It's -- the fact of the matter is when
25 things are taken out of context or misread and

1 misinterpreted.

2 In light of the entire case, and in fact, with a
3 respondent who has an opportunity to appear and who
4 didn't appear because he was in Hawaii for whatever the
5 reason. His counsel didn't say at the time of the
6 hearing.

7 And secondly, there was no request for a
8 continuance with respect to the absence of the
9 respondent.

10 And thirdly, respondent can call witnesses.
11 There's no reason why he couldn't call witnesses. The
12 Division chose to call the witnesses it did.

13 And for those reasons, I totally disagree with
14 the respondent's position that they were denied due
15 process. They presented no defense.

16 CHMN. STUMP: And the issue of three testifying
17 versus more -- I mean, isn't one enough, frankly?

18 ALJ STERN: The -- it's a -- this is a civil
19 administrative hearing. The burden of proof is upon the
20 Division. The requirement of the law is that they prove
21 by a preponderance of the evidence --

22 CHMN. STUMP: Right.

23 ALJ STERN: -- which is 50 percent plus just a
24 little bit. And if you have -- the evidence wasn't
25 terrible. The evidence was somewhat out of order

1 possibly, or it wasn't connected between the parties
2 because these investors were sort of unrelated to one
3 another. And in one respect -- and you look at this and
4 what do you do? You have nothing to rebut it. And
5 you're stuck with that situation.

6 And that's the choice of the respondent and
7 respondent's counsel to present no defense. So that's
8 the way we awarded this.

9 CHMN. STUMP: Okay. Appreciate it.

10 Did Securities have anything they wanted to add?

11 SECURITIES DIVISION SPEAKER: Chairman Stump,
12 Commissioners, we're fully in support of the ROO. We
13 think it's an accurate evaluation of the three days'
14 worth of evidence presented.

15 We could rebut each one of the allegations that
16 Mr. Schulman made. He did omit to state the case law
17 which was right on point in terms of the hearing officer
18 is allowed to be changed if they look at the recorded
19 record. I don't know why that was omitted.

20 We believe the case law is quite clear that you
21 do not have to call every investor in an administrative
22 case. Investor testimony, plus other documentary
23 evidence, including the subscription agreements and the
24 like, was more than sufficient for a preponderance of
25 the evidence to show the entirety of the investments and

1 the number of investors.

2 And, again, the Division did not call
3 Mr. Shudak. Mr. Shudak was in Hawaii and the Division
4 had other means to prove its case and we believe it did.
5 So we fully support the ROO.

6 CHMN. STUMP: Okay. Commissioner Bitter Smith.

7 COM. BITTER SMITH: Mr. Chairman, thank you.

8 Mr. Schulman, obviously there is one big
9 question in the room. Is there a reason the respondent
10 chose not to appear or ask for a continuance?

11 MR. SCHULMAN: Well, we did ask for a
12 continuance for other reasons and that request was
13 denied.

14 The reason that Mr. Shudak did not appear --
15 and, by the way, at the time Mr. Shudak lived in Hawaii.
16 The implication that he was off vacationing in Hawaii
17 while the hearing was going on I find rather offensive.

18 But regardless, when we determined what the
19 Division was going to put on for their case, we made the
20 decision that they weren't going to be able to satisfy
21 their burden. And if they had no interest in
22 interviewing or deposing Mr. Shudak, we weren't going to
23 present him on a silver platter to their case.

24 I also resent the fact that there's accusations
25 that we didn't put on a defense. Of course, we put on a

1 defense. We put on our defense by examining the
2 Division's witnesses and pointing out the holes and the
3 discrepancies in their testimony.

4 COM. BITTER SMITH: Thank you.

5 CHMN. STUMP: Okay. Okay. Colleagues, any
6 other questions?

7 Yeah, Commissioner Pierce.

8 COM. PIERCE: Thank you, Mr. Chairman. And I --
9 I'm aware of the previous case.

10 It would seem to me, though -- and that wasn't a
11 securities case -- that have we had, let's say, a
12 contested Securities Division case, one that has not
13 been negotiated and -- and the parties have basically
14 settled? Have we had a contested case like this ever
15 written by an ALJ who did not hear the case?

16 ALJ FARMER: Without checking the records,
17 Commissioner Pierce, I'm not sure whether we have or
18 not.

19 COM. PIERCE: It would seem to me, because this
20 is the time -- where fraud -- I mean, usually that
21 doesn't happen in a rate case. And the previous court
22 case that said we could do that was a rate case.

23 This seems like -- and I think about what goes
24 next in an appeal in Superior Court and those types of
25 things, where, you know, I'm just wondering if that's --

1 if we're not heading for a different battle, because I
2 suspect we are.

3 ALJ MARTIN: If -- Chairman Stump, Commissioner
4 Pierce, the issue of my not being the ALJ at the hearing
5 relates -- and the case law cited by Mr. Schulman
6 relates to the ability to observe the demeanor and
7 comportment of a witness.

8 Had I been there to observe the demeanor of the
9 witness, I would have had nothing really to compare it
10 to and no reason not to believe this person because
11 there was nothing else presented by -- no other witness
12 presented by Mr. Schulman who might make me question the
13 credibility of these witnesses.

14 But also, as mentioned, I spoke many times with
15 Judge Stern about what he observed at the hearing -- and
16 perhaps he could speak to his view on whether or not he
17 supports what I wrote in the ROO.

18 But I've -- the issue of being able to observe
19 the witnesses' demeanor, I think in this one, there was
20 no really -- there was no question of credibility of the
21 witness, per se. I had no reason to question that.

22 COM. PIERCE: Sure. And that's not the -- and I
23 guess the point I make is that you can't put that genie
24 back in the bottle. We've done what we've done. And I
25 suspect under appeal someone would say, well, you know,

1 you could have -- you should have done that differently.
2 Or you should -- or the Commission could have gone back
3 and -- and done some things differently, and maybe they
4 would refer back to us to do that.

5 Oftentimes our legal Division themselves will
6 pull us into executive session and talk about how
7 something occurred and maybe whether -- if something's
8 deficient or not. I'm not saying there is something
9 deficient. I'm just saying that they'll let us know if
10 that occurs.

11 And I just want to make sure that we're on solid
12 ground in whatever we do. It sounds to me, as I think
13 about this issue, that some folks may have had a more
14 cavalier attitude.

15 And I think that coming in to an Administrative
16 Law Judge is different than going into Superior Court
17 where you really don't want to give any -- or don't give
18 anymore information or don't want to do something, and
19 we don't want to put on a case for them.

20 But I think where there's no -- we really --
21 this is a securities issue. I think I'd want to -- if I
22 were defending it, I'd want as much information out
23 there as possible, so that ALJ has everything --
24 everything they needed to -- to really come up with a
25 decision, because they -- and as we've listened -- as I

1 listened to them, well, they only heard one side from
2 the standpoint of witnesses and that -- that probably
3 becomes troublesome in trying to write an opinion.

4 MR. SCHULMAN: Commissioner, with respect to the
5 witnesses, in these cases and in this particular case
6 there were two Division witnesses, I believe, and the
7 three investor witnesses. Well, each witness comes
8 forward as called by the Division in these cases.
9 They're put under oath. They testify under oath.

10 Their credibility you judge when you sit there
11 and you see these are people who invested not minimal
12 sums of money -- not \$10,000, not \$5,000, but hundreds
13 of thousands of dollars. And the overall investment in
14 this case did not involve a lot of investors, but there
15 was over \$2 million invested with Mr. Schulman's client.

16 Now, you have to take some heed of these people
17 who did the investing. They were not entirely
18 inexperienced, but they didn't have a knowledge of
19 exactly what transpired.

20 And to say that, you know, that Judge Martin
21 couldn't judge their demeanor or was not able to make a
22 judgment on their case, the Recommended Opinion and
23 Order, I agree with the assessment of the order with
24 respect to the demeanor of the witnesses.

25 You can cross-examine witnesses when you're the

1 respondent or you're the Division, if the respondent
2 chose to put on witnesses. That's the way you may
3 challenge their credibility. You may have someone else
4 who saw that witness make testimony in another situation
5 that was contrary to what they did, but we had nothing
6 in that hearing that would give us cause to question the
7 credibility of the witnesses.

8 I discussed the case with Judge Martin
9 previously. And we didn't -- the situation with these
10 witnesses, they were as good witnesses as any witness
11 could be. They were -- that's the way the case was. I
12 had nothing to rebut what they said.

13 COM. PIERCE: Well, and I don't think I'm saying
14 there was a problem with the witnesses. That's not
15 what -- I'm talking about procedurally is -- are we weak
16 procedurally, you know from a -- you know, if this
17 were -- if this were appealed, would we be -- would we
18 have an issue that would revert this back to -- to us to
19 correct? Is there anything that we would be asked to
20 correct? And it wouldn't -- obviously wouldn't be those
21 witnesses that were here.

22 I think it's the -- the other parts that
23 maybe -- maybe his client will say -- come in and say,
24 you know, I had terrible representation. I need -- I
25 got bad representation, and I need this to -- I mean, I

1 would have said this and I would have done that. And I
2 think those are the things that we filter through as we
3 think about, Are we being fair to each side? And is
4 there more to this story?

5 I don't have a problem really with the ROO. If
6 you'd have written that ROO and you agree with all of
7 it, I'm wondering if another judge -- I mean, a Superior
8 Court judge would have a problem with the way they did
9 it based on the outcome and what the accusations ended
10 up being. And so I'm -- we went through this not long
11 ago with someone who was challenging us and was
12 concerned about losing a license. And I think that
13 those are things that people get more aggressive about
14 in challenging and appealing a decision.

15 But I don't have a problem with the -- the
16 witnesses that -- or what our Division did. I mean,
17 they put on a case and -- and this is the result of it.
18 It's -- I do want to make sure that we don't have a
19 defendant, if you will, coming in and being able to
20 unwind what we've done. So I just want to make sure
21 we're on solid ground.

22 ALJ FARMER: Mr. Chairman, Commissioners, Lyn
23 Farmer again.

24 And, Commissioner Pierce, I understand what
25 you've saying. The case that I cited was a utilities

1 case, but it was a contested rate case where there were
2 allegations of arbitrary, unreasonable and unsupported
3 by the evidence. And the Court specifically found that
4 the hearing officer's ability to review the record did
5 satisfy due process.

6 However, I am sensitive to the issues that
7 you've raised. And that's why I think it was important
8 for Judge Martin to have the ability to discuss this
9 with ALJ Stern to get his input as to his observations
10 about the demeanor of the witnesses and all of those
11 things.

12 And you know, I mean, we would have put both
13 names on the ROO. I don't think it would have -- and I
14 know it wouldn't have made any difference. But it was
15 purely to try to, you know, speed up some of the delay
16 that's been caused in these securities cases.

17 COM. PIERCE: And my concern is about any
18 technicality.

19 Thank you.

20 CHMN. STUMP: Commissioner Bitter Smith.

21 COM. BITTER SMITH: Mr. Chairman, thank you.

22 And I think, Judge Farmer, you actually just
23 said what I was going to put and make sure we had clear
24 in the record that both judges, Judge Stern and Judge
25 Martin, did confer. And so -- and I think I heard you,

1 Judge Stern, say that you agreed with the ROO written by
2 Judge Martin. So for the record, regardless of whose
3 name is on it, the ROO would have been written
4 identically, correct?

5 ALJ STERN: Yes.

6 ALJ MARTIN: I did consult numerous times with
7 Judge Stern about his.

8 But if I could, Commissioner Stump -- or
9 Chairman Stump, Commissioner Pierce, I did want to make
10 one point.

11 As you know anybody can appeal anything,
12 regardless of the basis. But, in this case, due process
13 is about fairness. And Mr. Shudak had every opportunity
14 to appear, to respond, to present witnesses. He had
15 notice. He had a chance to appear at hearing. He
16 presented objections to the ROO. I think fairness has
17 been served.

18 So, as I say, anybody can appeal anything, but I
19 think the Commission is on -- is on firm ground. But
20 that's just my opinion. I can't give legal advice to
21 the Commission. So that's just my opinion.

22 CHMN. STUMP: Okay. Commissioner Brenda Burns.

23 COM. BRENDA BURNS: Just really a quick comment,
24 Mr. Chairman, as I've been listening to everything.

25 I know one of the things that's been being

1 discussed is basically the preponderance of the evidence
2 and who was there. And it -- it doesn't seem to me it
3 makes any difference who wrote the ROO with regard to
4 the preponderance of the evidence. You know, the same
5 judge -- if the same judge that heard it had written the
6 ROO, there wouldn't have been any difference in whether
7 or not there was another -- a case made on behalf of the
8 defendant.

9 That's what I'm hearing here. So thank you.

10 CHMN. STUMP: Thanks. Okay. Well, with no
11 further discussion, Ms. Burns, would you kindly move
12 Item 12?

13 COM. BRENDA BURNS: Mr. Chairman, I move the
14 adoption of Item Number 12.

15 CHMN. STUMP: Okay. Madam Secretary, would you
16 please call the roll?

17 SECRETARY BERNAL: Commissioner Pierce.

18 COM. PIERCE: Yes, if I could, Mr. Chairman, for
19 just a moment.

20 I do take these types of issues seriously where
21 they really have an impact on people's lives -- those
22 who have invested and those who are investing on their
23 behalf. And you do want to make sure they're fair.

24 And I think at the end of the day -- and this
25 conversation has proven, as Commissioner Burns just

1 outlined -- is everybody had their day and it was fair,
2 as the judge said, and everyone had opportunity.

3 And I do believe that the ROO, whether written
4 by ALJ Stern or by ALJ Martin would have been for -- on
5 all the important portions of this that are of concern
6 to everyone -- would have been the same. And I've seen
7 enough of them and read these based on evidence and how
8 they -- and how they are adjudicated. So I think we are
9 on solid ground.

10 And I do believe that -- that anybody can -- can
11 appeal and that's their right to do it. But I think
12 that this one -- this one probably stands. I'm glad for
13 the discussion to help us, to make sure we have a record
14 of it.

15 With that, I vote aye.

16 SECRETARY BERNAL: Commissioner Bitter Smith.

17 COM. BITTER SMITH: Aye.

18 SECRETARY BERNAL: Commissioner Bob Burns.

19 COM. BOB BURNS: Aye.

20 SECRETARY BERNAL: Commissioner Brenda Burns.

21 COM. BRENDA BURNS: Aye.

22 SECRETARY BERNAL: Chairman Stump.

23 CHMN. STUMP: Aye.

24 By your vote of five ayes, zero nays, you've
25 passed this item.

1 And I want to thank everybody for their hard
2 work and participation.

3 * * * * *

4 (Conclusion of Open Meeting Item Number 12 at
5 00:29:10.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, Katherine McNally, Certified
Transcriptionist, do hereby certify that the foregoing
pages 1 to 24 constitute a full, true, and accurate
transcript, from electronic recording, of the
proceedings had in the foregoing matter, all done to the
best of my skill and ability.

SIGNED and dated this 12th day of November,
2014.



Katherine McNally
Certified Electronic Transcriber
CET**D-323