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Transcript of Administrative Hearing

Date: May 18, 2018

Case: JRK Contractor, LLC t/a JRK Builders

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Transcript of Administrative Hearing
Conducted on May 18, 2018

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<p>2</p> <p>1 OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS</p> <p>2 FOR MONTGOMERY COUNTY, MARYLAND</p> <p>3 -----x</p> <p>4 In the Matter of: : OZAH Case No. CP 18-01</p> <p>5 JRK CONTRACTOR, LLC T/A : OCP Case No. 16-OC-047597,</p> <p>6 JRK BUILDERS : 16-OC-048789, and 17-OC-057291</p> <p>7 -----x</p> <p>8</p> <p>9 ADMINISTRATIVE HEARING</p> <p>10 BEFORE HEARING EXAMINER MARTIN GROSSMAN</p> <p>11 Rockville, Maryland</p> <p>12 Friday, May 18, 2018</p> <p>13 9:36 a.m.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Job No.: 186149</p> <p>24 Pages: 1 - 134</p> <p>25 Transcribed by: Christian Naaden</p>	<p>4</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 ON BEHALF OF THE COMPLAINANT, MONTGOMERY COUNTY, MARYLAND:</p> <p>4 ERIN ASHBARRY</p> <p>5 (240) 777-6744</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>																																																
<p>3</p> <p>1 Administrative Hearing, held at:</p> <p>2</p> <p>3</p> <p>4 MONTGOMERY COUNTY OFFICE OF ZONING</p> <p>5 AND ADMINISTRATIVE HEARINGS</p> <p>6 100 Maryland Avenue</p> <p>7 County Office Building, Room 200</p> <p>8 Rockville, MD 20850</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15 Pursuant to agreement, before Brennan Plummer,</p> <p>16 Digital Reporter and Notary Public in and for the State of</p> <p>17 Maryland.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>5</p> <p>1 INDEX</p> <table><thead><tr><th data-bbox="836 1123 1218 1155">2 WITNESS</th><th data-bbox="1218 1123 1534 1155">PAGE</th></tr></thead><tbody><tr><td data-bbox="836 1155 1218 1186">3 ERIC FRIEDMAN</td><td data-bbox="1218 1155 1534 1186"></td></tr><tr><td data-bbox="836 1186 1218 1218">4 By Ms. Ashbarry</td><td data-bbox="1218 1186 1534 1218">32</td></tr><tr><td data-bbox="836 1218 1218 1249">5</td><td data-bbox="1218 1218 1534 1249"></td></tr><tr><td data-bbox="836 1249 1218 1281">6 JAMES SACKETT</td><td data-bbox="1218 1249 1534 1281"></td></tr><tr><td data-bbox="836 1281 1218 1312">7 By Ms. Ashbarry</td><td data-bbox="1218 1281 1534 1312">64</td></tr><tr><td data-bbox="836 1312 1218 1344">8</td><td data-bbox="1218 1312 1534 1344"></td></tr><tr><td data-bbox="836 1344 1218 1375">9 DOUG KAMMERER</td><td data-bbox="1218 1344 1534 1375"></td></tr><tr><td data-bbox="836 1375 1218 1407">10 By Ms. Ashbarry</td><td data-bbox="1218 1375 1534 1407">72</td></tr><tr><td data-bbox="836 1407 1218 1438">11 By Ms. Ashbarry</td><td data-bbox="1218 1407 1534 1438">122</td></tr><tr><td data-bbox="836 1438 1218 1470">12</td><td data-bbox="1218 1438 1534 1470"></td></tr><tr><td data-bbox="836 1470 1218 1501">13 HOLLY KAMMERER</td><td data-bbox="1218 1470 1534 1501"></td></tr><tr><td data-bbox="836 1501 1218 1533">14 By Ms. Ashbarry</td><td data-bbox="1218 1501 1534 1533">84</td></tr><tr><td data-bbox="836 1533 1218 1564">15</td><td data-bbox="1218 1533 1534 1564"></td></tr><tr><td data-bbox="836 1564 1218 1596">16 SCOTT DAVIS</td><td data-bbox="1218 1564 1534 1596"></td></tr><tr><td data-bbox="836 1596 1218 1627">17 By Ms. Ashbarry</td><td data-bbox="1218 1596 1534 1627">91</td></tr><tr><td data-bbox="836 1627 1218 1659">18</td><td data-bbox="1218 1627 1534 1659"></td></tr><tr><td data-bbox="836 1659 1218 1690">19 JON WILLIAMS</td><td data-bbox="1218 1659 1534 1690"></td></tr><tr><td data-bbox="836 1690 1218 1722">20 By Ms. Ashbarry</td><td data-bbox="1218 1690 1534 1722">101</td></tr><tr><td data-bbox="836 1722 1218 1753">21</td><td data-bbox="1218 1722 1534 1753"></td></tr><tr><td data-bbox="836 1753 1218 1785">22 CHRISTOPHER COYNE</td><td data-bbox="1218 1753 1534 1785"></td></tr><tr><td data-bbox="836 1785 1218 1816">23 By Ms. Ashbarry</td><td data-bbox="1218 1785 1534 1816">112</td></tr><tr><td data-bbox="836 1816 1218 1848">24</td><td data-bbox="1218 1816 1534 1848"></td></tr><tr><td data-bbox="836 1848 1218 1879">25</td><td data-bbox="1218 1848 1534 1879"></td></tr></tbody></table>	2 WITNESS	PAGE	3 ERIC FRIEDMAN		4 By Ms. Ashbarry	32	5		6 JAMES SACKETT		7 By Ms. Ashbarry	64	8		9 DOUG KAMMERER		10 By Ms. Ashbarry	72	11 By Ms. Ashbarry	122	12		13 HOLLY KAMMERER		14 By Ms. Ashbarry	84	15		16 SCOTT DAVIS		17 By Ms. Ashbarry	91	18		19 JON WILLIAMS		20 By Ms. Ashbarry	101	21		22 CHRISTOPHER COYNE		23 By Ms. Ashbarry	112	24		25	
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<p>6</p> <p>1 PROCEEDINGS</p> <p>2 MR. GROSSMAN: The public hearing in the matter of</p> <p>3 JRK Contractor, LLC trading as JRK Builders. It's OZAH</p> <p>4 referral number CP-18-01, and it's the Office of Consumer</p> <p>5 Protection cases numbered 16-OC-047597, 16-OC-048789, and</p> <p>6 number 17-OC-057291.</p> <p>7 This is a hearing on order to show cause why the</p> <p>8 builder's license of the respondent JRK Contractor, LLC</p> <p>9 should not be suspended or revoked for alleged violations of</p> <p>10 Montgomery County Code Chapter 31C. The show cause order was</p> <p>11 served on the respondent on April 5, 2018, and the notice of</p> <p>12 this hearing was issued on April 18, 2018 and served on the</p> <p>13 respondent. There has been no response to the allegations</p> <p>14 from the respondent, at least none received by this office.</p> <p>15 This hearing is conducted on behalf of the</p> <p>16 Montgomery County Board of Registration, which certified this</p> <p>17 matter to the hearing examiner's office for a hearing, a</p> <p>18 report, and a recommendation.</p> <p>19 My name is Martin Grossman. I'm the hearing</p> <p>20 examiner, which means I will take evidence in this case and</p> <p>21 write a report and recommendation to the Board of</p> <p>22 Registration, which will make the final decision on this</p> <p>23 dispute, subject to any appeal to the Board of Appeals.</p> <p>24 Will the parties identify themselves for the record,</p> <p>25 please?</p>	<p>8</p> <p>1 I was going to ask you, the party, if you wanted to rule on</p> <p>2 witnesses. That seems to be somewhat of a moot point when --</p> <p>3 MS. ASHBARRY: Yes.</p> <p>4 MR. GROSSMAN: -- the respondent is not here. I</p> <p>5 should mention that the evidence in this case is not</p> <p>6 automatically what's docketed in but rather what is admitted</p> <p>7 at this hearing.</p> <p>8 That includes for sure the six documents that are on</p> <p>9 the docket that establish jurisdiction in the case, which are</p> <p>10 listed as your first proposed exhibits here, and anything</p> <p>11 else that's admitted at the hearing, which may include the</p> <p>12 witnesses, evidence that's introduced and approved by the</p> <p>13 hearing examiner as admitted. But the question is that nobody</p> <p>14 should assume that something is admitted just because it has</p> <p>15 been submitted.</p> <p>16 All right. Question of burden of proof here. The</p> <p>17 Montgomery County APA specifies that the -- the county</p> <p>18 attorney will have the burden of going forward with the</p> <p>19 evidence. There is another burden question, and that is who</p> <p>20 has the ultimate burden of proof. I would say in this case</p> <p>21 that would also be the county's burden of proof, having -- in</p> <p>22 that you have the affirmative of the case. Sometimes that's</p> <p>23 not the case, but I think it is here. Do you agree with that?</p> <p>24 MS. ASHBARRY: Yes.</p> <p>25 MR. GROSSMAN: Okay. All right. Next question. I</p>
<p>7</p> <p>1 MS. ASHBARRY: Good morning, Mr. Grossman. Erin</p> <p>2 Ashbary on behalf of Montgomery County, Maryland, and I have</p> <p>3 with me from the Office of Consumer Protection Mr. Eric</p> <p>4 Friedman.</p> <p>5 MR. GROSSMAN: All right. And you had listed a</p> <p>6 number of witnesses in your pre-hearing statement.</p> <p>7 MS. ASHBARRY: I did.</p> <p>8 MR. GROSSMAN: Do you intend to call all of those?</p> <p>9 MS. ASHBARRY: I do.</p> <p>10 MR. GROSSMAN: Okay. All right. Let me say a little</p> <p>11 bit to everybody about the nature of these proceedings. First</p> <p>12 of all, we noticed that respondent nor respondent</p> <p>13 representative is here. If any -- if I'm wrong about that,</p> <p>14 would somebody speak up, please? Seeing no answers in the</p> <p>15 audience, that should be recorded in the record.</p> <p>16 Usually, these proceedings are a combination of</p> <p>17 formality and informality. That is evidence is taken or</p> <p>18 witnesses are sworn in. They are subject to cross-</p> <p>19 examination. There is a court reporter who takes everything</p> <p>20 down. There will be a transcript of these proceedings. Rules</p> <p>21 of evidence are similar to what you might see in a courtroom,</p> <p>22 except they're a little bit more relaxed in the area of</p> <p>23 hearsay, but it has to be reliable and probative, if hearsay</p> <p>24 is to be admitted.</p> <p>25 Let me turn to some preliminary matters here. Well,</p>	<p>9</p> <p>1 noticed in reviewing the statute and the rules that there is</p> <p>2 an apparent difference at least between the APA and Chapter</p> <p>3 31 of the code on where a party might go to appeal a decision</p> <p>4 in this case.</p> <p>5 Section 31C-8(c)(2) says, the builder may appeal a</p> <p>6 decision of the board -- that is the Board of Registration --</p> <p>7 to the Montgomery County Board of Appeals. However, in the</p> <p>8 APA it says -- Section 2A-11 says, a party aggrieved by a</p> <p>9 final decision in a case governed by this article may seek</p> <p>10 judicial review of the decision in the Circuit Court, under</p> <p>11 the applicable Maryland rules of procedure governing judicial</p> <p>12 review of administrative agency decisions.</p> <p>13 One other thing. Board of Appeals Rules 2.0 says,</p> <p>14 unless the applicable law specifies a shorter time, an appeal</p> <p>15 of an administrative decision must be filed within 30 days</p> <p>16 after the day the decision is mailed. The required forms must</p> <p>17 be obtained at the Office of the Board of Appeals.</p> <p>18 So my first question to you is, what is your opinion</p> <p>19 as to what the appellate rights are in this case?</p> <p>20 MS. ASHBARRY: Well, Mr. Grossman, while that may be</p> <p>21 a very valid question and concern --</p> <p>22 MR. GROSSMAN: Yes.</p> <p>23 MS. ASHBARRY: -- the county did not prepare to</p> <p>24 address that issue this morning. We came here to move forward</p> <p>25 with respect to our notice of hearing.</p>

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<p>10</p> <p>1 MR. GROSSMAN: Right.</p> <p>2 MS. ASHBARRY: And furthermore, my office's role</p> <p>3 under the county charter is to give advice to county</p> <p>4 government. So to the extent my office did have an opinion on</p> <p>5 that issue, I would need to issue it to Mr. Friedman.</p> <p>6 MR. GROSSMAN: Okay. Well, no. It's not a -- it's</p> <p>7 not a matter of an advisory. It's a question of what the</p> <p>8 party's position is. So you can address it. You don't have to</p> <p>9 address it at this hearing. You can submit something</p> <p>10 following the hearing, but we want to know on the record what</p> <p>11 the legal rights and obligations are because following this</p> <p>12 hearing there's going to be a recommendation made to the</p> <p>13 Board of Registration, and they should have the benefit of</p> <p>14 the on-the-record decision and recommendation of the -- the</p> <p>15 hearing examiner. So you'll be able to submit something</p> <p>16 after.</p> <p>17 MS. ASHBARRY: And, Mr. Grossman, when you say, we</p> <p>18 want to know, do you mean the Office of Zoning and</p> <p>19 Administrative Hearings? I need to know that just because,</p> <p>20 you know, there are different attorneys in my office that</p> <p>21 advise different parts of the county government.</p> <p>22 MR. GROSSMAN: Well, they wouldn't be submitting. It</p> <p>23 would be coming from as part of this litigation. It's not a</p> <p>24 question -- I'm not seeking the advice of the county attorney</p> <p>25 here. We don't seek the advice of the county attorney off the</p>	<p>12</p> <p>1 issue whatever opinion as a result of the information</p> <p>2 submitted or the evidence admitted.</p> <p>3 MR. GROSSMAN: I agree with that procedurally. I</p> <p>4 will say that I looked actually at the sanctions section in</p> <p>5 the APA. That's Section 2A-8(j). And it actually does not</p> <p>6 include a sanction of default judgment. It includes a number</p> <p>7 of sanctions.</p> <p>8 Such sanctions may include suspension or continuance</p> <p>9 of scheduled hearings, dismissals of actions, denial of</p> <p>10 admission of documents and exhibits, and admission of matters</p> <p>11 as adverse to a defaulting party. It doesn't actually have a</p> <p>12 sanction of default. So I agree with the procedure you</p> <p>13 suggested, that is that you be allowed to go forward with</p> <p>14 your evidence and that we make a decision or a</p> <p>15 recommendation, a findings of fact, conclusions of law, and</p> <p>16 I'll allow you to submit proposed ones at the end of this</p> <p>17 proceeding that are in accordance with the evidence rather</p> <p>18 than as a default.</p> <p>19 MS. ASHBARRY: Okay.</p> <p>20 MR. GROSSMAN: All right. Do you have any other</p> <p>21 preliminary or procedural matters?</p> <p>22 MS. ASHBARRY: I do. Thank you. First, an</p> <p>23 administrative item with respect to the March 22 letter from</p> <p>24 the Office of Consumer Protection to JRK Contractor, LLC,</p> <p>25 which is exhibit 3 for purposes of this hearing.</p>
<p>11</p> <p>1 record in a proceeding. Everything is on the record, and it</p> <p>2 is a -- it's not an advice. It is a submission by a party to</p> <p>3 this litigation, a party being the county here pursuing this</p> <p>4 respondent under the statute.</p> <p>5 So what I'm asking you for is a post-hearing, if</p> <p>6 you're not prepared to address that now -- post-hearing</p> <p>7 submission as to the position of the county as to what the</p> <p>8 appellate rights are under these two statutes. And I'll give</p> <p>9 you whatever time you need to submit that.</p> <p>10 Okay. Next question. Since the respondent has</p> <p>11 apparently failed to appear, what is the remedy for that, and</p> <p>12 what is your position on that?</p> <p>13 MS. ASHBARRY: Well, Mr. Grossman, I was reviewing</p> <p>14 the Administrative Procedures Act in advance of our hearing</p> <p>15 this morning, and I note that Section 10A-10(g) discusses</p> <p>16 informal disposition and it states that one of the informal</p> <p>17 dispositions available to the tribunal this morning is</p> <p>18 default.</p> <p>19 That being said, I think that part of the purpose of</p> <p>20 this hearing is to establish evidence in support of a</p> <p>21 recommendation made by the Director of the Office of Consumer</p> <p>22 Protection to revoke a builder's license. So to the extent we</p> <p>23 need to make our record and to get our evidence in, I would</p> <p>24 ask that we be able to move forward and present our witnesses</p> <p>25 and our evidence on the issues this morning, and then you can</p>	<p>13</p> <p>1 MR. GROSSMAN: Right.</p> <p>2 MS. ASHBARRY: I noticed in preparing for this</p> <p>3 morning's hearing that the sections of the county code that</p> <p>4 are listed in that letter are missing one letter. So it says</p> <p>5 violations of section 31C-8(1), (2), (4), (7), (10), and</p> <p>6 (13).</p> <p>7 And between the number (8) and the parenthetical</p> <p>8 letters, there should be a parenthetical small letter (b). So</p> <p>9 we would make a motion to amend that particular -- I guess to</p> <p>10 the extent it's a pleading, to amend the pleading to include</p> <p>11 the sub-letter for purposes of the record.</p> <p>12 MR. GROSSMAN: Okay. And this is -- this is item 3?</p> <p>13 MS. ASHBARRY: Yes.</p> <p>14 MR. GROSSMAN: And which page?</p> <p>15 MS. ASHBARRY: It appears on pages -- the references</p> <p>16 appear on pages 1 and 2.</p> <p>17 MR. GROSSMAN: Okay.</p> <p>18 MS. ASHBARRY: Yes. 1 and 2.</p> <p>19 MR. GROSSMAN: All right. So page -- this is the</p> <p>20 letter from Mr. Friedman to the -- regarding the contractor</p> <p>21 to the licensing?</p> <p>22 MS. ASHBARRY: Yes.</p> <p>23 MR. GROSSMAN: Okay. So let's go through this again.</p> <p>24 Paragraph number one, what should that read?</p> <p>25 MS. ASHBARRY: The county code section should be</p>

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<p>14</p> <p>1 31C-8(b)(1). 2 MR. GROSSMAN: Okay. 3 MS. ASHBARRY: And with respect to number two on 4 page 2, that should be 31C-8(2) -- (b)(2) -- pardon me. 31C- 5 8(b)(2). 6 MR. GROSSMAN: All right. 7 MS. ASHBARRY: And with respect to number three, it 8 should be 31C-8(b)(4). 9 MR. GROSSMAN: All right. 10 MS. ASHBARRY: With respect to number four, that 11 should be 31C-8(b)(7). 12 MR. GROSSMAN: Okay. 13 MS. ASHBARRY: With respect to number five, that 14 should be 31C-8(b)(10), and number six should be section 31C- 15 8(b)(13). 16 MR. GROSSMAN: All right. I have no problem with you 17 submitting an amended exhibit to that effect. The question I 18 have is, since this is the letter that went to the contractor 19 about the hearing, in effect, to -- the show cause, what, if 20 any, notice problem does that create? 21 MS. ASHBARRY: The county would submit none in that 22 each section contains a brief summary of the substance of the 23 referenced county code provision. So therefore, JRK has 24 adequate notice of the issues that are before the tribunal 25 this morning.</p>	<p>16</p> <p>1 this morning. 2 MR. GROSSMAN: Okay. Not proceeding on (b)(10). 3 MS. ASHBARRY: Correct. And next, I have about five 4 items with respect to exhibits for purposes of the hearing. 5 MR. GROSSMAN: Okay. 6 MS. ASHBARRY: One has to do with an exhibit that 7 has already been submitted, exhibit 31. 8 MR. GROSSMAN: Okay. 9 MS. ASHBARRY: That exhibit is a copy of the 10 complaint that was filed against the respondent, JRK 11 Contractor, LLC in Montgomery County Circuit Court. In 12 preparing for this morning's hearing, it came to my attention 13 that exhibits 3 through 6 of that complaint were missing -- 14 MR. GROSSMAN: Okay. 15 MS. ASHBARRY: -- from the materials submitted. So we 16 would request the opportunity to supplement what we 17 previously submitted with exhibits 3 to 6 to that complaint. 18 MR. GROSSMAN: I don't see any -- any problem with 19 that. So since it's your -- your submission of potential 20 exhibits -- 21 MS. ASHBARRY: Yes. 22 MR. GROSSMAN: -- at some point in this proceeding -- 23 usually at the conclusion in our proceedings -- you would 24 move to admit -- 25 MS. ASHBARRY: Yes.</p>
<p>15</p> <p>1 MR. GROSSMAN: Okay. Do you have a corrected exhibit 2 3, or do you want to interlineate the corrections in exhibit 3 3 in your notebook? 4 MS. ASHBARRY: We would ask that you interlineate. 5 MR. GROSSMAN: Okay. All right. I'm going to do 6 that, and then I'm going to initial it in each case. 7 I would -- without making a final decision on the 8 point, I tend to agree with you. It seems there's been ample 9 notice here both in the letter that went out from the Office 10 of Consumer Protection and from my office in notice of the 11 hearing. 12 So I don't see that as a dramatic issue, but it is 13 corrected on your exhibit 3. Not on the docket that was 14 filed, but I've corrected exhibit 3. 15 MS. ASHBARRY: Okay. Thank you. 16 MR. GROSSMAN: Okay. 17 MS. ASHBARRY: And then I do have a couple other 18 preliminary matters. 19 MR. GROSSMAN: Sure. 20 MS. ASHBARRY: With respect to exhibit 3, on page 2, 21 item number five, with respect to the violation of County 22 Code 31C-8(b)(10) -- 23 MR. GROSSMAN: Yes. 24 MS. ASHBARRY: -- the county is not going to be 25 proceeding with respect to that particular alleged violation</p>	<p>17</p> <p>1 MR. GROSSMAN: -- your exhibits and -- 2 MS. ASHBARRY: Yes. 3 MR. GROSSMAN: -- and I don't see any problem with 4 including that in your notebook. 5 MS. ASHBARRY: I have copies -- 6 MR. GROSSMAN: Make sure I have the whole thing. 7 MS. ASHBARRY: -- for your notebook. 8 MR. GROSSMAN: Okay. So this would go right after -- 9 at the end of 31? 10 MS. ASHBARRY: Correct. 11 MR. GROSSMAN: Okay. Thank you. 12 MS. ASHBARRY: Thank you. And I have four more 13 issues with respect to exhibits. 14 MR. GROSSMAN: Okay. 15 MS. ASHBARRY: Exhibit 35, which was submitted as 16 part of our Monday the 14th -- 17 MR. GROSSMAN: Yes. 18 MS. ASHBARRY: -- I have an additional photograph 19 that is part of the Notice of Violation that was issued, or 20 it's part of the documentation that the Department of 21 Permitting Services created as part of that Notice of 22 Violation that I would like to submit. 23 MR. GROSSMAN: Certainly. Thank you. 24 MS. ASHBARRY: Thank you. 25 MR. GROSSMAN: This is an attachment to exhibit 35?</p>

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<p>18</p> <p>1 MS. ASHBARRY: Right.</p> <p>2 MR. GROSSMAN: We'll call it 35-A.</p> <p>3 MS. ASHBARRY: Yes.</p> <p>4 MR. GROSSMAN: Okay.</p> <p>5 MS. ASHBARRY: And next, I have three proposed</p> <p>6 additional exhibits beyond what was submitted on May 14. So I</p> <p>7 am asking to supplement my filing on the 14th with exhibits</p> <p>8 38 -- or pardon me.</p> <p>9 MR. GROSSMAN: 36.</p> <p>10 MS. ASHBARRY: 37, 38, and 39.</p> <p>11 MR. GROSSMAN: Okay.</p> <p>12 MS. ASHBARRY: And these document -- I'll address</p> <p>13 each in turn. And I have tabs for your binder.</p> <p>14 MR. GROSSMAN: All right.</p> <p>15 MS. ASHBARRY: And I'll -- I'll hand them up so you</p> <p>16 can review them while I'm describing them. May I approach?</p> <p>17 MR. GROSSMAN: Sure. Thank you.</p> <p>18 MS. ASHBARRY: Exhibit 37 is a building permit that</p> <p>19 was issued by the county's Department of Permitting Services</p> <p>20 to JRK Contractor, LLC for the dwelling at 6002 Roosevelt</p> <p>21 Street in Bethesda. This document was included in the</p> <p>22 county's pre-hearing submission, and there is no prejudice to</p> <p>23 the respondent for inclusion of this additional exhibit this</p> <p>24 morning.</p> <p>25 MR. GROSSMAN: Okay. No problem.</p>	<p>20</p> <p>1 this exhibit?</p> <p>2 MS. ASHBARRY: It was printed from the Maryland</p> <p>3 State Department and Assessment -- State Departments of</p> <p>4 Assessment and Taxation website.</p> <p>5 MR. GROSSMAN: Okay. And you're -- you are seeking</p> <p>6 to submit this, not that you have to say it at this point but</p> <p>7 just for me to understand, because it lists the resident</p> <p>8 agent as Fernando Guedes?</p> <p>9 MS. ASHBARRY: Yes. Yes.</p> <p>10 MR. GROSSMAN: Okay. And as I recall, they</p> <p>11 identified that gentleman as the agent in other documentation</p> <p>12 you had submitted as well. So maybe it was on -- I know I --</p> <p>13 when I looked through your exhibits, I saw something to that</p> <p>14 effect.</p> <p>15 MS. ASHBARRY: Right. Well, that name appears</p> <p>16 frequently because there's a Fernandez Guedes, Jr. as well as</p> <p>17 a Fernando Guedes, Senior --</p> <p>18 MR. GROSSMAN: Right.</p> <p>19 MS. ASHBARRY: -- that are involved with respect to</p> <p>20 JRK Contractor.</p> <p>21 MR. GROSSMAN: Okay.</p> <p>22 MS. ASHBARRY: And then if I might approach, I have</p> <p>23 one last item, which is a new table of contents for that</p> <p>24 binder that includes exhibits 37, 38, and 39 for your binder.</p> <p>25 MR. GROSSMAN: Sounds great. I -- I actually created</p>
<p>19</p> <p>1 MS. ASHBARRY: Exhibit 38 is a civil complaint filed</p> <p>2 in the Circuit Court for Montgomery County, case number</p> <p>3 441220. This is Scott Davis, et al., versus JRK Contractor,</p> <p>4 et al. This is a public document, and there's no prejudice to</p> <p>5 the respondent for inclusion of this document. It was filed</p> <p>6 in Circuit Court on December 13 of 2017.</p> <p>7 MR. GROSSMAN: And I don't see the Circuit Court</p> <p>8 number on here. What did you say it was?</p> <p>9 MS. ASHBARRY: It's 441220. If you look on the</p> <p>10 right-hand side, it's kind of hard to read.</p> <p>11 MR. GROSSMAN: Oh, I see. Okay.</p> <p>12 MS. ASHBARRY: At the very top. Yeah.</p> <p>13 MR. GROSSMAN: Yes. It is hard to read.</p> <p>14 MS. ASHBARRY: Yes.</p> <p>15 MR. GROSSMAN: Especially for an old guy like me.</p> <p>16 All right.</p> <p>17 MS. ASHBARRY: And then the last exhibit is a</p> <p>18 printout from Maryland State Departments of Assessment and</p> <p>19 Taxation website dated May 17, 2018, which you can see in the</p> <p>20 upper left-hand corner, which shows general information with</p> <p>21 respect to JRK Contractor, LLC and specifically the name and</p> <p>22 identity of their resident agent. This is also a public</p> <p>23 document, and we would submit there's no prejudice in</p> <p>24 including this additional exhibit this morning.</p> <p>25 MR. GROSSMAN: And what exactly is the source of</p>	<p>21</p> <p>1 an additional list, which has a column for admitted or not</p> <p>2 admitted, but let's get the table. Yeah.</p> <p>3 MS. ASHBARRY: And I can submit a soft copy of that</p> <p>4 document too, if you're interested.</p> <p>5 MR. GROSSMAN: Okay. That's --</p> <p>6 MS. ASHBARRY: Okay. And then my next preliminary</p> <p>7 matter was I was going to ask that judicial notice be taken</p> <p>8 with respect to some of the exhibits, and I wanted to inquire</p> <p>9 whether we should do that at the top of the hearing or if you</p> <p>10 would prefer that I work through the exhibits with the</p> <p>11 witnesses.</p> <p>12 MR. GROSSMAN: Now, are you saying you want me to</p> <p>13 take notice of something that's a document that you already</p> <p>14 have, or you want me to admit the document that you have? I'm</p> <p>15 not sure I understand that one.</p> <p>16 MS. ASHBARRY: I want you to admit --</p> <p>17 MR. GROSSMAN: Okay.</p> <p>18 MS. ASHBARRY: -- taking judicial notice of the</p> <p>19 document.</p> <p>20 MR. GROSSMAN: Well, usually judicial notice is</p> <p>21 where you're taking notice of something that's not submitted</p> <p>22 in the course, such as a particular regulation or -- or a</p> <p>23 weather report perhaps that's not in, something that is not</p> <p>24 being directly submitted for admission. So I'm not sure</p> <p>25 exactly what you're getting at. Maybe if we deal with the</p>

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<p>22</p> <p>1 document, let's take one of them as an example. 2 MS. ASHBARRY: So, for example, I procured and 3 submitted as part of my exhibits the docket entries for two 4 pending actions against JRK Contractor in Montgomery County 5 Circuit Court. 6 MR. GROSSMAN: Okay. 7 MS. ASHBARRY: And so I would request that you be 8 able to take judicial notice of those docket entries. 9 MR. GROSSMAN: Okay. And what exhibit number is 10 that? 11 MS. ASHBARRY: Those are exhibit numbers 30 and 34. 12 MR. GROSSMAN: So essentially, you're asking me to - 13 - to find that these are authentic reproductions of these 14 docket entries? 15 MS. ASHBARRY: Correct. 16 MR. GROSSMAN: Okay. Since there's nobody here to 17 challenge the authenticity and I have no reason to suspect 18 that they're not authentic, I will find that they are 19 authentic and they ultimately will be admitted when -- when 20 moved. I'll take notice of it, if that's the language that 21 you [inaudible]. 22 MS. ASHBARRY: And I'd like to move for their 23 admission now, if I could. 24 MR. GROSSMAN: All right. 25 MS. ASHBARRY: Yes.</p>	<p>24</p> <p>1 corporate resident agents, and also it reflects whether 2 corporate entities are in good standing with the state of 3 Maryland. 4 MR. GROSSMAN: This is SDAT? Did I understand that? 5 MS. ASHBARRY: Yes. Correct. 6 MR. GROSSMAN: Okay. 7 MS. ASHBARRY: And so I have two exhibits with SDAT 8 information. There's exhibit 18. 9 MR. GROSSMAN: Okay. 10 MS. ASHBARRY: And that actually has several 11 documents that also include corporate -- the articles of 12 organization for JRK Contractor, LLC. There's an articles of 13 amendment for JRK Contractor, LLC. There's a trade name 14 application for JRK Contractor, LLC to use the trade name JRK 15 Builders. 16 And these were all procured from the SDAT website. 17 So we would move for their admission. 18 MR. GROSSMAN: Okay. And you once again indicate 19 they are authentic reproductions -- 20 MS. ASHBARRY: Yes. 21 MR. GROSSMAN: -- of the website? 22 MS. ASHBARRY: Yes. 23 MR. GROSSMAN: Okay. All right. So that's 18? 24 MS. ASHBARRY: Correct. 25 MR. GROSSMAN: And that's admitted.</p>
<p>23</p> <p>1 MR. GROSSMAN: Okay. 2 MS. ASHBARRY: And so are those admitted? 3 MR. GROSSMAN: Yes. 4 MS. ASHBARRY: Okay. Thank you. And then with 5 respect to -- I have two complaints that were filed in 6 Montgomery County Circuit Court against JRK Contractor, LLC 7 that were submitted this morning. One is at exhibit 31, and 8 that's civil number 439234. 9 MR. GROSSMAN: Okay. 10 MS. ASHBARRY: And the second is at exhibit 38, 11 which I just submitted this morning, civil number 441220. 12 MR. GROSSMAN: And you desire the same for those? 13 MS. ASHBARRY: Yes. 14 MR. GROSSMAN: Okay. Yes. I will deem them as 15 authentic and -- and they will be admitted, 31 and 38. 16 MS. ASHBARRY: Thank you. And finally, I -- I wanted 17 to ask -- and again, we're in -- kind of in a -- kind of 18 making reference to your earlier statement about, you know, 19 the fact that these are printouts of publicly available 20 information. 21 I have submitted printouts from publicly available 22 information that is on the Maryland State Departments of 23 Assessment and Taxation website, and under law of Maryland 24 State Department of Assessment and Taxation is the state 25 department that must maintain the name and identity of</p>	<p>25</p> <p>1 MS. ASHBARRY: Okay. Thank you. And then with 2 respect to exhibit 39, which was just submitted this morning, 3 that is a printout from the SDAT website, again, providing 4 general information with respect to JRK Contractor, LLC, 5 including the principle office and resident agent 6 information. 7 MR. GROSSMAN: Okay. Once again, you assert 8 authenticity? 9 MS. ASHBARRY: Correct. 10 MR. GROSSMAN: And I accept them and admit them as 11 well. 12 MS. ASHBARRY: Okay. Thank you. Thank you. I have 13 two more preliminary matters. 14 MR. GROSSMAN: All right. 15 MS. ASHBARRY: One, during the course of the 16 hearing, I'd like to be able to refer to JRK and have it 17 include JRK Contractor, LLC, JRK Builder, or they also 18 entered into contracts with the name JRK Contractor and 19 Builder, LLC. 20 MR. GROSSMAN: Okay. 21 MS. ASHBARRY: So when I say JRK, I would like that 22 to be an umbrella term -- 23 MR. GROSSMAN: So noted. 24 MS. ASHBARRY: -- for purposes of the hearing. 25 MR. GROSSMAN: That's fine.</p>

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<p style="text-align: right;">26</p> <p>1 MS. ASHBARRY: Thank you. And then last -- my last 2 preliminary matter, I have two county employees here, Mr. 3 Eric Friedman from the Office of Consumer Protection, as well 4 as Mr. James Sackett from the county's Department of 5 Permitting Services. And they are here to talk about a number 6 of issues. 7 One of them is to authenticate a number of documents 8 that their respective offices prepared pursuant to duties 9 imposed under the Montgomery County Code. And as such, those 10 documents qualify as public records under the Maryland Rules 11 of Evidence. 12 So I can either ask them about each of the exhibits 13 as they testify and ask for each to be admitted, or I can 14 make a proffer now as to what their testimony would be as to 15 those exhibits and we can admit them on mass so their 16 testimony would be a little more limited when it comes time 17 for them to testify. 18 MR. GROSSMAN: How do you prefer to proceed? 19 MS. ASHBARRY: I prefer to proceed by naming the 20 exhibits that they would authenticate and identify the 21 sections of the county code that give rise to the basis for 22 creation of those documents and simply proffer that they 23 would testify that they are true and accurate copies of the 24 records as kept in their respective offices. 25 MR. GROSSMAN: All right. That's fine and then you</p>	<p style="text-align: right;">28</p> <p>1 one you mentioned, the return of service -- 2 MS. ASHBARRY: Okay. 3 MR. GROSSMAN: -- exhibit 4, the notice of the show 4 cause hearing that my office issued, number 5, and the return 5 of service for certified mail, number 6. I noticed you didn't 6 have a copy -- 7 MS. ASHBARRY: I do not. 8 MR. GROSSMAN: -- of that. I have made a copy and put 9 it in -- 10 MS. ASHBARRY: Okay. 11 MR. GROSSMAN: -- as the exhibit 6 here. So it is now 12 in this notebook -- 13 MS. ASHBARRY: Okay. 14 MR. GROSSMAN: -- of exhibits under 6. 15 MS. ASHBARRY: Okay. So my first proffer has to do 16 with exhibits that Mr. Friedman -- Friedman would 17 authenticate this morning for you. There are kind of two 18 categories of documents that he would authenticate this 19 morning. 20 One is -- one category is documents that the Office 21 of Consumer Protection received under Chapter 31C of the 22 Montgomery County Code, which empowers the Office of Consumer 23 Protection to receive applications for building contractor -- 24 I want to use the correct term -- so building contractor's 25 licenses. And the county code charges the Office of Consumer</p>
<p style="text-align: right;">27</p> <p>1 can summarize that and they can, when they testify, say that 2 they adopt what you said about it. 3 MS. ASHBARRY: Okay. 4 MR. GROSSMAN: So through their testimony. 5 MS. ASHBARRY: Okay. All right. So this is going to 6 be -- 7 MR. GROSSMAN: If that's your preference. Either way 8 is fine. 9 MS. ASHBARRY: Yeah. That's my -- that would be my 10 preference this morning. 11 MR. GROSSMAN: Okay. Sure. 12 MS. ASHBARRY: Okay. So I have a number of exhibits 13 to list for you. 14 MR. GROSSMAN: All right. 15 MS. ASHBARRY: And just for purposes of the record, 16 am I correct in understanding that exhibits 1, which is the 17 certification to the Board of Registration for public 18 hearing, 2 -- the exhibit 2, the order and referral for 19 hearing, exhibit 3, the March 22 letter from the Office of 20 Consumer Protection to JRK Contractor, that those documents 21 are already deemed admitted for purposes of this hearing? 22 MR. GROSSMAN: I will automatically admit the first 23 six exhibits. 24 MS. ASHBARRY: Okay. Thank you. 25 MR. GROSSMAN: And that includes an addition to the</p>	<p style="text-align: right;">29</p> <p>1 Protection with accepting those applications, processing 2 them, and maintaining copies of them. And that's in the 3 Montgomery County Code 31C-2(a) and 31C-2(f). And so the 4 particular exhibits that Mr. Friedman would testify as 5 falling under that category include exhibits 10, 11, 23, 24, 6 26, and 33. 7 MR. GROSSMAN: Can you run those numbers by me one 8 more time? 9 MS. ASHBARRY: Yes. Yes. 10, 11, 23, 24, 26, and 33. 10 MR. GROSSMAN: Okay. So these are, in effect, 11 Friedman exhibits? 12 MS. ASHBARRY: Yes. And those are not all of -- 13 those are -- 14 MR. GROSSMAN: Right. 15 MS. ASHBARRY: -- at least some of his exhibits. 16 MR. GROSSMAN: And why do you distinguish those 17 exhibits from others that he -- 18 MS. ASHBARRY: Well, there are other exhibits that 19 Mr. Friedman's office created pursuant to his investigation - 20 - his office's investigation of the complaints received 21 regarding JRK Contractor, LLC, and it is section 35 -- pardon 22 me -- 31C-8(a) that empowers the director of the Office of 23 Consumer Protection to investigate alleged violations of 24 Chapter 31C. And so the -- I have a number of exhibits that 25 his office created as part of that process.</p>

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<p>30</p> <p>1 MR. GROSSMAN: Okay. So those you -- you consider 2 them as in a separate category from the ones you just listed? 3 MS. ASHBARRY: Correct. But, nevertheless, ones that 4 he could authenticate as in -- that are properly admissible 5 as public records. 6 MR. GROSSMAN: Okay. 7 MS. ASHBARRY: And would you like me to list those 8 or -- 9 MR. GROSSMAN: However you want to proceed. 10 MS. ASHBARRY: Okay. All right. I -- so those 11 exhibits -- 12 MR. GROSSMAN: I hear no objection from the other 13 side. 14 MS. ASHBARRY: Right. There's no pending -- right. 15 Right. Okay. So that would include exhibit 17, 19, 20, 24 -- 16 oh, I already said 24. 17 MR. GROSSMAN: Right. 18 MS. ASHBARRY: Excuse me. 25 and 32. 19 MR. GROSSMAN: Okay. 20 MS. ASHBARRY: So again, my proffer is that he would 21 testify that the copies of those exhibits submitted to the 22 tribunal are true and accurate copies of those records as 23 maintained by his office. 24 MR. GROSSMAN: All right. So let me just write that 25 in here. Okay.</p>	<p>32</p> <p>1 MR. GROSSMAN: Okay. 2 MS. ASHBARRY: And then the second category of 3 Permitting Services documents are the Notices of Violation. 4 MR. GROSSMAN: Hold on. One second while I just note 5 those on the list here. For some reason, I already have 37 -- 6 oh, maybe I just did it now. Okay. Checked off. All right. 7 And then the other category was? 8 MS. ASHBARRY: And so there are three more exhibits 9 that fall into the latter category. These are Notices of 10 Violation that the Department of Permitting Services issued. 11 The Department of Permitting Services is charged with 12 inspecting properties for compliance with the Montgomery 13 County Code. 14 MR. GROSSMAN: Right. 15 MS. ASHBARRY: And those particular exhibits are 16 exhibits 28 -- pardon me -- 27, 28, and 35, including 35-A 17 submitted this morning. And Mr. Sackett, again, would testify 18 that those documents are true and accurate copies of those 19 documents as maintained by the Department of Permitting 20 Services as required by the county code. 21 MR. GROSSMAN: Okay. Any others? 22 MS. ASHBARRY: That's -- that's the end of my 23 preliminary matters. 24 MR. GROSSMAN: Okay. That leaves, it seems to me, 25 only exhibits 7, 9, 21, 22, 29, and 36 as ones that you have</p>
<p>31</p> <p>1 MS. ASHBARRY: All right. And then with respect to 2 the Permitting Services exhibits -- 3 MR. GROSSMAN: Okay. 4 MS. ASHBARRY: -- I also break those into two 5 categories. There's one category that has to do with respect 6 to materials received pursuant to Permitting Services' 7 obligation under the county code to receive applications for 8 building permits, issue those permits, and then the code also 9 obligates Permitting Services to maintain copies of those 10 permits. 11 MR. GROSSMAN: Okay. 12 MS. ASHBARRY: And those sections of the county code 13 are section 8-12(a), (b), and (e). 14 MR. GROSSMAN: I'm sorry. It's 8 -- 15 MS. ASHBARRY: 8-12(a). 16 MR. GROSSMAN: Okay. 17 MS. ASHBARRY: 8-12(b), 8-12(e). 18 MR. GROSSMAN: Okay. 19 MS. ASHBARRY: And the following exhibits fall under 20 the category of documents that Mr. Sackett would testify are 21 true and accurate copies of those records as maintained by 22 the Department of Permitting Services. 23 MR. GROSSMAN: Okay. 24 MS. ASHBARRY: Those are exhibits 8, 12, 13, 14, 15, 25 16, and 37.</p>	<p>33</p> <p>1 not authenticated. 2 MS. ASHBARRY: Correct. 3 MR. GROSSMAN: Okay. 4 MS. ASHBARRY: Correct. 5 MR. GROSSMAN: All right. 6 MS. ASHBARRY: Okay. I'd like to call my first 7 witness, please. 8 MR. GROSSMAN: All right. You can make an opening 9 statement, if you wish. 10 MS. ASHBARRY: I'd like to waive my opening 11 statement -- 12 MR. GROSSMAN: All right. 13 MS. ASHBARRY: -- and just proceed with my evidence. 14 I'd like to call Mr. Eric Friedman from the Office of 15 Consumer Protection. 16 MR. GROSSMAN: All right. Mr. Friedman, will you 17 state your full name and your office address? 18 MR. FRIEDMAN: My name is Eric Friedman, and my 19 office address is 100 Maryland Avenue, Suite 330, Rockville, 20 Maryland 20850. 21 MR. GROSSMAN: Would you raise your right hand, 22 please? Do you swear or affirm to tell the truth, the whole 23 truth, and nothing but the truth, under penalty of perjury? 24 MR. FRIEDMAN: Yes. I do, Mr. Grossman. 25 MR. GROSSMAN: All right. You may proceed, Counsel.</p>

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<p>34</p> <p>1 MS. ASHBARRY: Okay. For the record, I'm -- I have a 2 copy of all of the exhibits that I've previously submitted -- 3 MR. GROSSMAN: All right. 4 MS. ASHBARRY: -- that I am presenting to the witness 5 and that I will be using with each witness throughout the 6 course of the proceeding. 7 MR. GROSSMAN: That's fine. 8 MS. ASHBARRY: Mr. Friedman, could you please tell 9 us where you work? 10 MR. FRIEDMAN: I'm the director of the Montgomery 11 County Government Office of Consumer Protection. 12 MS. ASHBARRY: And how long have you worked for the 13 county? 14 MR. FRIEDMAN: I've worked in that office for 38 15 years. 16 MS. ASHBARRY: And what is your current position 17 with the office? 18 MR. FRIEDMAN: I'm currently the director of the 19 Office of Consumer Protection. 20 MS. ASHBARRY: Okay. And how long have you held the 21 position of director? 22 MR. FRIEDMAN: For approximately 10 years. 23 MS. ASHBARRY: And can you tell us generally the 24 mission of the Office of Consumer Protection? 25 MR. FRIEDMAN: The Office of Consumer Protection is</p>	<p>36</p> <p>1 MS. ASHBARRY: And you maintain copies of the 2 licenses once issued? 3 MR. FRIEDMAN: That's correct. We maintain copies of 4 the licenses that are issued to each applicant that receives 5 a license. 6 MR. GROSSMAN: I take it, Mr. Friedman, that's just 7 for the builder contractors, not for the Maryland authorized 8 contract repair kinds of license? 9 MR. FRIEDMAN: The state of Maryland also has a 10 Maryland Department of Home Improvement, which is within the 11 Department of Labor, Licensing, and Regulations, DLLR. So the 12 state also issues a home improvement license for the 13 construction of things less than an entire house, typically 14 an addition or repair. 15 MR. GROSSMAN: So -- but the records that you're 16 maintaining are just for the builders contractor licenses; is 17 that correct? 18 MR. FRIEDMAN: That's correct, Mr. Grossman. 19 MR. GROSSMAN: Okay. And I think it's important I 20 think in this record to distinguish between those two types 21 of licenses because I don't know that it's entirely clear on 22 your website that -- that -- I mean, it says something to the 23 effect of builders license but then it says also covering -- 24 maybe it was in your statute. I can't recall which -- also 25 covering those who have construction contract or something to</p>
<p>35</p> <p>1 a law enforcement agency within Montgomery County executive 2 branch of government but grouped in the public safety sector 3 of government, police, fire, homeland security, sheriff's 4 office. Our primary mission is to enforce Montgomery County's 5 Consumer Protection Act, Chapter 11 of the Montgomery County 6 Code. In addition, we enforce several other county statutes 7 including Chapter 31C, which is -- pertains to new home 8 builder licensing and warranties. 9 MS. ASHBARRY: So it's correct that in order for a 10 new home builder to build in the county, they must obtain a 11 license under the county code from your office? 12 MR. FRIEDMAN: That's correct. Pursuant to Chapter 13 31C, the license is issued by our office and with the 14 assistance of a Board of Registration, as referenced in 15 Chapter 31C. 16 MS. ASHBARRY: Okay. And your office is responsible 17 for receiving the applications? 18 MR. FRIEDMAN: That's correct. Our licensing 19 division handles all the -- the services respective to 20 administer that -- that law. 21 MS. ASHBARRY: And your office maintains copies of 22 the applications for building contractors? 23 MR. FRIEDMAN: Yes. We do. All of the 24 correspondence, applications, documents are maintained by our 25 office.</p>	<p>37</p> <p>1 that effect. 2 And I didn't see a clear distinction there between a 3 construction contractor and a home repair contractor, but I 4 take it that you're telling me that you are only addressing 5 the question of home builders, those who are building a new 6 home? 7 MR. FRIEDMAN: That's correct. 8 MR. GROSSMAN: Okay. 9 MR. FRIEDMAN: And that is a very clear distinction 10 for a individual in the business of making a repair or 11 putting on an addition. 12 MR. GROSSMAN: Right. 13 MR. FRIEDMAN: They would not need the license 14 that's issued by our office pursuant to Chapter 31C. They 15 would need the license by the Maryland Home Improvement 16 Commission issued by DLLR. 17 MR. GROSSMAN: Okay. And does somebody who -- if -- 18 if somebody's a contractor and is building a home from 19 scratch, would they need the Maryland license as well as your 20 license? 21 MR. FRIEDMAN: They only -- there is a state 22 licensing for new home builders as well, in addition to the 23 Home Improvement Commission license. That license is needed 24 if the individual or business builds a home outside of 25 Montgomery County. But if they're only building homes in</p>

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<p>38</p> <p>1 Montgomery County, they would only need our license. If 2 they're building homes in Montgomery County and in Prince 3 George's County, they would need both the state builder's 4 license and the county builder's license. 5 MR. GROSSMAN: I see. So you're telling me they -- 6 the -- the state law exempts Montgomery County from coverage 7 under their builders licensing? 8 MR. FRIEDMAN: Exempt might be a little bit of a 9 strong word because -- let's get into the weeds a little bit. 10 The -- the state maintains a guarantee fund for new home 11 builders. So a builder that only builds in Montgomery County 12 would only need the license from Montgomery County, but they 13 still contribute money into the state guarantee fund. So 14 there's some coordination between the county office and the 15 state office. 16 MR. GROSSMAN: Well, is there any overlap in the -- 17 in the law that is you -- you drew a distinction between 18 builders building outside of Montgomery County and those 19 building inside. Is there -- does the state law govern inside 20 Montgomery County, or does it say these will be deferred to 21 the county's law? How does that work? 22 MR. FRIEDMAN: The -- the state law specifically 23 makes reference to Montgomery County's licensing of new home 24 builders because, in essence, the county was licensing new 25 home builders before the state ever began to license new home</p>	<p>40</p> <p>1 23, 24, 26, 30, 17, 19, 20, 25, and 32 are authentic. 2 MS. ASHBARRY: Did you hear exhibits listed by Mr. 3 Grossman? 4 MR. FRIEDMAN: Yes. I did. 5 MS. ASHBARRY: And -- 6 MR. FRIEDMAN: And I'm able to testify that all 7 those documents identified are true and accurate copies, 8 authentic reproductions of documents maintained in the Office 9 of Consumer Protection. 10 MR. GROSSMAN: All right. Then I will -- then they 11 are admitted. 12 MS. ASHBARRY: Okay. Thank you. So with respect to 13 exhibit 10, could you just identify for the record what this 14 document is? 15 MR. FRIEDMAN: This is the original license 16 application that was filed with our office by JRK Contractor, 17 LLC to receive a new home builder's license, and it was 18 received by our office back in March 19th of 2015. 19 MS. ASHBARRY: And I'd like to draw your attention 20 to section 6 of this application, which is actually the 21 fourth page of the document. The heading is legal action or 22 interest in other home building entities. 23 MR. FRIEDMAN: Yes. I see it. 24 MS. ASHBARRY: Yeah. With respect to item number 25 four, what -- what does that question ask of a -- an</p>
<p>39</p> <p>1 builders. So the state law regarding the licensing of new 2 home builders makes specific reference in that statute to 3 licensing that's done in Montgomery County. 4 MR. GROSSMAN: But I guess what I'm getting at is, 5 if you're a home builder in Montgomery County, do you not 6 also have to have the state license? If they just make a 7 reference to it, do they say you need either this -- either 8 the Montgomery County license or ours, or how do they -- how 9 do they phrase that? 10 MR. FRIEDMAN: It says that if you build in 11 Montgomery County, you only need the Montgomery County 12 license. 13 MR. GROSSMAN: Okay. 14 MR. FRIEDMAN: But you still have to pay into the 15 state guarantee fund. 16 MR. GROSSMAN: I understand. Okay. Thank you. 17 MS. ASHBARRY: I'm going to ask you to please turn 18 to exhibit number 10 in your binder, and just for purposes of 19 the record, am I -- with respect to my proffer earlier, do 20 you want me to ask Mr. Friedman if he could in fact 21 authenticate the exhibits that I've listed with respect to 22 him, or are they deemed admitted as authenticated? 23 MR. GROSSMAN: Yeah. Why don't you just go through 24 that so we have a record of -- of that. Just ask Mr. Friedman 25 if he -- if these documents -- that would be exhibits 10, 11,</p>	<p>41</p> <p>1 applicant? 2 MR. FRIEDMAN: This is a question that requires the 3 applicant to notify our office of any pending lawsuits or 4 outstanding unsatisfied judgments that the business or any 5 individual related to this business has at the time of the 6 application. 7 MS. ASHBARRY: Okay. And if I could direct your 8 attention to the next page, item number nine, the owner's 9 signature, are builders obligated under the county code to 10 update this application if there's a change to any of the 11 information they submit in the application? 12 MR. FRIEDMAN: Yes. They are. Section 9 specifically 13 says right above the signature of the applicant that they 14 solemnly declare and affirm, under the penalties of perjury, 15 that everything contained in that application is true and 16 correct, and it also states and discloses to them that they 17 are required to notify our office within 30 days of any 18 changes in the information contained in that application. 19 MS. ASHBARRY: And for purposes of the record, there 20 is a county code section that also reflects this fact. County 21 Code Section 31C-2(c) also mandates an update of an 22 application filed for a building contractor's permit. 23 MR. GROSSMAN: Okay. 24 MS. ASHBARRY: If you could please turn to exhibit 25 11 and please identify this document for the record.</p>

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<p style="text-align: right;">42</p> <p>1 MR. FRIEDMAN: This is a copy of the actual license 2 certificate that our office prints, issues, and sends to an 3 applicant once a license has been granted. It provides the 4 license number, in this case 218983, the date of issues, the 5 date it expires, has the name of our office, and the -- the 6 county seal on the certificate of license. 7 MS. ASHBARRY: And this document has been admitted 8 into evidence. 9 If you could please turn to tab number 17, could you 10 please describe for the record what this document is? 11 MR. FRIEDMAN: Tab 17 is a true and accurate copy of 12 a complaint filed by a consumer, Doug Kammerer, against JRK 13 regarding the transaction he entered into to pay for and to 14 have a new home built for him on his property. 15 MS. ASHBARRY: And the complaint number for the 16 record is? 17 MR. FRIEDMAN: The complaint number assigned by our 18 office to this complaint from the Kammerers is 16-OC-047597. 19 MS. ASHBARRY: And with re- -- what was the property 20 where the construction was taking place that's at issue in 21 this complaint? 22 MR. FRIEDMAN: The address of the property at issue 23 is 4503 Elm Street, Chevy Chase, Maryland 20815. 24 MS. ASHBARRY: Okay. Thank you. And then tab 18, 25 could you identify these documents?</p>	<p style="text-align: right;">44</p> <p>1 Mr. Davis, he responded by saying, forged, exclamation point. 2 MS. ASHBARRY: Okay. Now, could you please turn to - 3 - well, and is that a true and accurate copy of your e-mail 4 correspondence with Mr. Davis? 5 MR. FRIEDMAN: Yes. It is. 6 MS. ASHBARRY: Thank you. And with respect to 7 exhibit 20, could you please identify that for the record? 8 MR. FRIEDMAN: This is a copy of-- 9 MR. GROSSMAN: I'm going to stop you for one second 10 here on the question of what Mr. Davis said and it said that 11 the signature was forged. Of course that's a form of hearsay 12 if it's introduced to prove that in fact it was forged. 13 MS. ASHBARRY: Understood. And, Mr. Grossman, Mr. 14 Davis is here in person to testify on that issue. 15 MR. GROSSMAN: All right. I mean, it is not hearsay 16 to the extent it's offered to show what Mr. Friedman -- why 17 he's proceeding in this matter because -- 18 MS. ASHBARRY: Yes. 19 MR. GROSSMAN: -- whether or not it is a true 20 statement, but obviously, for the portion in terms of -- of 21 whether or not it's true, it would be hearsay. And then 22 there's a question as to whether or not it should be 23 admitted. Since the declarant is here -- 24 MS. ASHBARRY: Yes. 25 MR. GROSSMAN: -- I don't think that's a significant</p>
<p style="text-align: right;">43</p> <p>1 MR. FRIEDMAN: This is a printout from SDAT 2 searching the -- the trade name -- searching the corporate 3 name JRK Contractor, LLC, which indicates the principle 4 office address, the name and address of the resident agent, 5 and whether or not the corporation at that time was in good 6 standing or not. 7 MS. ASHBARRY: And did you look this information up 8 as a result of receiving the complaint from Mr. Kammerer at 9 exhibit 17? 10 MR. FRIEDMAN: Yes. This is part of our 11 investigation research that we did into that complaint. 12 MS. ASHBARRY: Okay. And did you -- well, let's move 13 on to tab 19, please, and ask if you -- if you recognize this 14 document. 15 MR. FRIEDMAN: Yes. This is a copy -- a true and 16 accurate copy of one piece of e-mail correspondence that our 17 office had with another complainant who had filed a complaint 18 against JRK, a gentleman by the name of Scott Davis. And it 19 is a e-mail message from Mr. -- from me to Mr. Davis giving 20 him a copy of the building permit application that was 21 received by the Department of Permitting Services with 22 respect to the construction of his home with my message 23 asking him if it appears that the signature on this 24 application is in fact his. 25 And within minutes of sending that e-mail message to</p>	<p style="text-align: right;">45</p> <p>1 issue here. 2 MS. ASHBARRY: Okay. Thank you. So exhibit 20 was 3 the complaint you received from Mr. Davis? 4 MR. FRIEDMAN: Correct. This is a complaint filed by 5 Scott Davis against JRK regarding a contractor transaction he 6 entered into with JRK to construct a home on property he 7 owned at 5608 McLean Drive in Bethesda. Our office assigned 8 case number -- complaint number 16-02 -- OC -- I'm sorry -- 9 16-OC-048789. 10 MS. ASHBARRY: Okay. And if you could please look at 11 exhibit 21, and is it safe to say that this -- this document 12 reflects actions that your office took as a result of this 13 ongoing investigation into JRK as a result of the two 14 complaints that you received from Mr. Kammerer and Mr. Davis? 15 MR. FRIEDMAN: That's correct. This is a letter from 16 me to Fernando Guedes, Senior and Junior at their business 17 address advising them that, in addition to the two complaints 18 that were filed by two specific consumers, our office was 19 also initiating what we call an executive director complaint 20 under the authority that we have in the statute to initiate 21 our own complaints even in the absence of any consumer 22 notifying us of the potential alleged violation of law and 23 scheduling a meeting with him. It contained two -- two 24 attachments to that letter. 25 The first attachment was a copy of what we call the</p>

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<p style="text-align: right;">46</p> <p>1 executive director complaint, which identified our issues of 2 concern, and the second page divided into two categories the 3 10 specific concerns that we had that we wished to address 4 with JRK. 5 MS. ASHBARRY: And one of the items on the third 6 page of exhibit 21, number six, references the complaint of 7 Mr. Davis regarding the alleged forged signature; correct? 8 MR. FRIEDMAN: That's correct. 9 MS. ASHBARRY: And did you ever discuss that with 10 JRK -- discuss that allegation with JRK? 11 MR. FRIEDMAN: Yes. Over the years we've had many 12 discussions in person, by e-mail, telephone with JRK 13 regarding all of the allegations contained in the -- in the 14 three complaints that were filed with our office, in addition 15 to the executive director complaint. 16 MR. GROSSMAN: When you say you discussed it with 17 JRK, specifically which person within JRK were you talking 18 to? 19 MR. FRIEDMAN: Primarily, JRK Junior but also on 20 occasion JRK Senior. 21 MS. ASHBARRY: I think he means Fernando Guedes, 22 Junior. 23 MR. FRIEDMAN: Okay. Fernando Guedes, Senior -- 24 Junior was the person we primarily talked with more often 25 than not, but additionally, we also talked to Fernando</p>	<p style="text-align: right;">48</p> <p>1 the name and address reflected on the application for the 2 resident agent for JRK? 3 MR. FRIEDMAN: On that section it lists resident 4 agent for JRK as Fernando Guedes, Junior at an address 18311 5 Fable Drive in Boyds, Maryland. 6 MS. ASHBARRY: Okay. If you could please refer back 7 to exhibit 18, which is the SDAT information that you 8 initially pulled as part of your investigation, and who is 9 listed as the resident agent for JRK on that document? 10 MR. FRIEDMAN: According to SDAT, it lists the 11 resident agent for JRK Contractor, LLC as Fernando L. Guedes 12 at the address 18317 Tapwood Road, Boyds, Maryland. 13 MS. ASHBARRY: Okay. And that does not match the 14 identity or the -- at least the address listed on the 15 application at exhibit 23; correct? 16 MR. FRIEDMAN: That's correct. 17 MS. ASHBARRY: Right. 18 MR. FRIEDMAN: The addresses are different. 19 MS. ASHBARRY: Right. And if you could please turn 20 to exhibit 39. 21 MR. GROSSMAN: And let me stop you for one second so 22 I understand this. Why does it make a difference, other than 23 the technicality of getting the names correct or updating the 24 names, whether it's Mr. Guedes, Senior or Mr. Guedes, Junior? 25 Is there a substantive reason why that's problematic?</p>
<p style="text-align: right;">47</p> <p>1 Guedes, Senior as well. 2 MR. GROSSMAN: Because you can't talk to JRK. You 3 have to talk to a person. That's -- so just -- 4 MR. FRIEDMAN: I misspoke. Thank you. 5 MS. ASHBARRY: My question was premised on that as 6 well. So -- 7 MR. GROSSMAN: Did you -- I noticed that in your 8 order to show cause, you -- I think you had suggested this is 9 for the purposes of possible suspension or revocation of the 10 license. Is it your office's request to revoke or to suspend 11 this license? 12 MR. FRIEDMAN: Our recommendation would be -- would 13 be to revoke. 14 MR. GROSSMAN: Okay. And is that the county's 15 position? 16 MS. ASHBARRY: Yes, your Honor. Yes. 17 MR. GROSSMAN: Okay. Okay. You can proceed. 18 MS. ASHBARRY: Okay. If you could please turn to 19 exhibit 23, if you could please identify this for the record. 20 MR. FRIEDMAN: This is a copy of the building 21 contractor's license application for renewal that was 22 received by our office by JRK Contractor, LLC. We received it 23 in February 23rd of 2017. 24 MS. ASHBARRY: Okay. I'd like to draw your attention 25 to section 4A on page 2 of exhibit 23. Could you please list</p>	<p style="text-align: right;">49</p> <p>1 MR. FRIEDMAN: You know, the application and renewal 2 application are multiple-page documents, and to the extent 3 possible, our licensing staff in our office attempt to verify 4 the information and make sure it's as accurate as -- as 5 possible. 6 And so with respect to this, it appears that on the 7 renewal of application for the license, they indicate that 8 junior is the resident agent when in fact, according to the 9 state, the address of the home owned by senior is in fact the 10 resident agent. So our concern as a regulatory agency in 11 terms of processing these is to make sure there's not a cloud 12 of confusion with respect to two people who are the members 13 of the LLC, father and son, senior and junior, when in fact 14 the senior and junior are not always listed on various 15 documents and there's some confusion there. So it made our 16 job difficult in terms of determining exactly which of the 17 Fernandos is in fact the -- the resident agent, especially 18 when they don't always use the term senior and junior. 19 MR. GROSSMAN: But aside from the -- the -- that 20 little confusion aspect, did it have any substantive impact 21 on any failures by JRK to perform their duties under the -- 22 the builders contracts? 23 MR. FRIEDMAN: No. I don't think so. I think that 24 the only concern would be in terms of knowing who is -- who 25 is the real agent -- resident agent for purposes of process</p>

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<p>50</p> <p>1 of service or things of that sort. But in terms of -- of 2 constructing homes or whether they complied with or violated 3 building codes and things of that sort, that confusion I 4 don't think would address folks' concerns. 5 MR. GROSSMAN: So I take it that if, in fact, JRK 6 had done a perfect job in constructing these homes, that the 7 confusion about the resident agent wouldn't be a grounds for 8 rev- -- or you wouldn't seek revocation of their license over 9 that? 10 MR. FRIEDMAN: No. I think that would be correct. 11 MR. GROSSMAN: Okay. 12 MR. FRIEDMAN: Correct statement made. No different 13 than when they applied for a license, sometimes builders put 14 their trade name as opposed to their full legal name. 15 MR. GROSSMAN: Right. 16 MR. FRIEDMAN: And so we have to go back and make 17 sure that it's the legal name trading as the trade name. So 18 things of that sort. But yes. The concern that we are here 19 today is substantive violations, a serious nature, of a 20 building code and -- and other violations of what we believe 21 are in Chapter 31C. 22 MR. GROSSMAN: I understand. Okay. 23 MS. ASHBARRY: And I'd just like to augment what Mr. 24 Friedman said. 25 MR. GROSSMAN: Yeah.</p>	<p>52</p> <p>1 MR. FRIEDMAN: According to the document from SDAT, 2 the resident agent is Fernando L. Guedes at 18317 Tapwood 3 Road, Boyds, Maryland 20841. 4 MR. GROSSMAN: Is that the senior or the junior? 5 MR. FRIEDMAN: Well -- 6 MR. GROSSMAN: That address? 7 MR. FRIEDMAN: -- the document from S- -- SDAT does 8 not specify whether it's junior or senior. We know by land 9 records and other information that that is the address of 10 senior. 11 MR. GROSSMAN: Okay. 12 MS. ASHBARRY: Okay. So at this point you had two 13 pending complaints against JRK. You had received their 14 application for another building contractor's license. If I 15 could turn your attention to exhibit 24 in the binder. 16 MR. GROSSMAN: And as I recall, you went your order 17 to show cause to both senior and junior Guedes, and I know 18 that my office sent the notice to both junior and senior. 19 MR. FRIEDMAN: Right. We -- we covered all our bases 20 with any confusion that was either purposely or 21 unintentionally created to make sure that we were notifying 22 senior and -- and junior. 23 MR. GROSSMAN: Right. 24 MR. FRIEDMAN: Father and son. 25 MS. ASHBARRY: Okay. So could you please describe</p>
<p>51</p> <p>1 MS. ASHBARRY: Like, from my office's perspective, 2 this is a material fact in an application for a builders 3 license from Montgomery County, and it in fact is grounds for 4 the revocation of a license or one of the grounds that's 5 advanced before the tribunal today pursuant to section 31C- 6 8(b)(1). If you make a misstatement of a material fact in the 7 application for a license, it is grounds to revoke your 8 license. 9 And I'd also point out that under the Montgomery 10 County Regulations, which is also known as COMCOR, 11 31C.00.01.03(c) requires that an application for licensing 12 submitted to the Office of Consumer Protection must include 13 the name and address of the resident agent of the 14 corporation. Pardon me. It's subsection B. If the business is 15 a corporation, it must appoint an agent for the service of 16 process. 17 And for purpose -- for purposes of legal 18 proceedings, correct identity or a resident agent is 19 essential in order to ensure adequate notice of legal 20 proceedings against the entity. 21 MR. GROSSMAN: I understand, Counsel. 22 MS. ASHBARRY: Okay. Thank you. And just to tie this 23 loose end -- this one issue up, exhibit 39, which lists the 24 resident agent for JRK as of yesterday, what is the name 25 reflected there for the resident agent?</p>	<p>53</p> <p>1 exhibit 24? 2 MR. FRIEDMAN: Exhibit 24 is a true and accurate 3 copy of a letter that our office sent on April 20th, 2017 4 signed by Tracy Rezvani, the administrator in our office, to 5 JRK at their business address in Bethesda regarding their 6 renewal application on license number 218983 advising them of 7 the action taken by the Board of Registration when they 8 considered their license application at the board's monthly 9 meeting and that the Board of Registration voted and decided 10 to only issue a conditional license to -- renew a conditional 11 license to JRK, compliant with certain specified conditions, 12 namely that they have a private inspection firm conduct 13 several inspections, close-in, final, and other inspections 14 regarding homes that they were currently building. 15 The Board of Registration had some concerns 16 regarding the ability of this contractor to perform and to 17 honor and comply with the terms of the Building Code, and 18 they decided that the appropriate condition would be to 19 require further inspection of these homes further meaning 20 beyond what the county Department of Permitting Services 21 would -- would do. And this is a -- a -- a condition that the 22 Board of Registration has used before in -- in cases where 23 they had some concerns about the -- the quality and -- and 24 qualifications of the applicant. 25 MS. ASHBARRY: If you could turn to exhibit number</p>

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<p>54</p> <p>1 26, please, this is in fact the conditional licensing 2 agreement that JRK entered with your office? 3 MR. FRIEDMAN: Yes. It is. It's a copy. It's titled 4 conditional licensing agreement. It spells out in great 5 detail what the terms are of -- of the conditions set by the 6 Board of Registration in terms of the pre-drywall, the close- 7 in inspections. It talks about what properties needed to have 8 those types of inspections, what would happen if they weren't 9 received, and that document was signed by the administrator 10 in our office on behalf of our office, Tracy Rezvani, and 11 also signed by Fernando Guedes, Senior. And the signature 12 line talks about the senior and junior. 13 MS. ASHBARRY: And I'm going to ask you to just turn 14 back one page to exhibit 25, which we skipped over. Could -- 15 and could you just describe what this document is? It's 16 entitled Montgomery County Office of Consumer Protection 17 statement of understanding and agreement to mediate. 18 MR. FRIEDMAN: One of -- this is a -- a -- well, the 19 office had received three complaints from -- from homeowners 20 against JRK. One of the complaints that was the one filed by 21 Scott Davis is a complaint that our office attempted to 22 resolve by organizing a expert mediation session. We have a 23 expert volunteer mediator who engages in dispute resolution 24 with the parties present. And in order to get both parties 25 into the room at the same time, the mediator has both parties</p>	<p>56</p> <p>1 recipients of both notices -- exhibit 27 was issued to JRK 2 Contractor, LLC. Exhibit 28 was issued to JRK Builders, LLC. 3 So did your office learn -- or how did your office 4 learn about these Notices of Violation? 5 MR. FRIEDMAN: Well, in the course of our multi-year 6 investigation of the complaints filed by consumers and our 7 executive director complaint, it was brought to our attention 8 that there was an allegation from the consumers that there 9 were multiple and serious code violations -- Building Code 10 violations in the manner in which JRK constructed their 11 homes. 12 And the request was to obtain expert information 13 from the county's Department of Permitting Services that 14 actually enforces the Building Code. So as pursuant to our 15 investigation, our office made arrangements with the 16 Department of Permitting Services to meet at the consumers' 17 homes to conduct a visual inspection. And I was present as 18 well. We met with James Sackett, who's here today to testify 19 from DPS, and one of his managers. 20 And these exhibits 28 and 29 are the Notice of 21 Violations that resulted with respect to visiting the home at 22 4503 Elm Street, Chevy Chase that was constructed by JRK, and 23 it cites several violations that the Department of Permitting 24 Services recognized. And I presume that Mr. Sackett would be 25 able to speak further.</p>
<p>55</p> <p>1 sign this statement of understanding that spells out what the 2 mediation process is and -- and how it will work. And this is 3 a document that Scott Davis, as the consumer, signed, as well 4 as JRK. 5 MS. ASHBARRY: Okay. Thank you. All right. I'd like 6 you to please look at exhibits 27 and 28. 7 MR. GROSSMAN: If we can get to that in just one 8 second. 9 MS. ASHBARRY: Uh-huh. 10 MR. GROSSMAN: The license that's under 11 consideration now for revocation or suspension, is that the 12 conditional license? 13 MR. FRIEDMAN: Yes. The first one would have 14 expired. So this would be the conditional license. Yes, sir. 15 MR. GROSSMAN: Okay. 16 MS. ASHBARRY: And we do have one more exhibit on 17 that issue -- 18 MR. GROSSMAN: Okay. 19 MS. ASHBARRY: -- in a bit. I'm going in 20 chronological order here. So exhibits 27 and 28. I'll just 21 say, for purposes of the record, exhibit 27 is Notice of 22 Violation number 388939 with respect to the property at 4503 23 Elm Street in Chevy Chase, Maryland, and exhibit 28 is Notice 24 of Violation number 388677, again, with respect to the 25 property at 4503 Elm Street in Chevy Chase, Maryland. And the</p>	<p>57</p> <p>1 MS. ASHBARRY: Yes. And, again, for the record, 2 these are dated September 8th, 2017, both notices. Did you 3 speak with Mr. Fernando Guedes, Junior or Mr. Fernando 4 Guedes, Senior about those two notices of violation? 5 MR. FRIEDMAN: Oh, yes. I certainly did on occasions 6 speak with them, provided them additional copies of the 7 notices, and in fact correspondence to them. 8 MS. ASHBARRY: And if I could draw your attention to 9 exhibit 29. 10 MR. FRIEDMAN: Exhibit 29 is a true and accurate 11 copy of a four-page letter that I sent to JRK at their 12 Bethesda business address dated September 18th, 2017 in which 13 I was addressing a -- a glaring representation that they made 14 in an e-mail message in which JRK stated that they were not 15 the builder of the Kammerer house at 4301 Elm Street and -- 16 MS. ASHBARRY: 4503 Elm Street? Excuse me. 17 MR. FRIEDMAN: Yes. 18 MS. ASHBARRY: Okay. 19 MR. FRIEDMAN: I'm sorry. 20 MS. ASHBARRY: Yeah. 21 MR. FRIEDMAN: 4503 Elm Street, Chevy Chase. And in 22 that letter on -- on page 4, item number 9, I make specific 23 reference to the Building Code violations that were 24 identified in the two Notices of Violation that were issued 25 by the Department of -- of Permitting Services. And I list</p>

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<p>58</p> <p>1 all the violations there, and the -- the Notice of Violation 2 is a mechanism in which DPS notifies the builder of 3 violations, request that they repair them before taking 4 further enforcement action by issuing civil citations if 5 they're not repaired. 6 MR. GROSSMAN: Mr. Friedman, how did -- how did they 7 communicate to you that they -- their allegation they were 8 not the builder of the Kammerer home? 9 MR. FRIEDMAN: An e-mail message. The first 10 paragraph of that letter says, this acknowledge receipt of 11 your e-mail message dated September 15th, 2017 in which you - 12 - this would be Fernando Guedes, Junior -- stated, quote, JRK 13 was not the builder for this project. 14 MR. GROSSMAN: Okay. And is that e-mail in the -- 15 MS. ASHBARRY: That is not marked as an exhibit for 16 our hearing this morning, but I do believe it is part of the 17 overall pre-hearing submission that was submitted to the 18 office on May 14th. 19 MR. GROSSMAN: I'm not sure -- when you say the 20 overall office submission, what do you -- 21 MS. ASHBARRY: In other words, our pre-hearing 22 submission which was due 20 days in advance of this hearing 23 -- 24 MR. GROSSMAN: Yes. 25 MS. ASHBARRY: -- we submitted materials, and I do</p>	<p>60</p> <p>1 could retrieve that particular e-mail and we can mark it as 2 an exhibit and have it on the record. 3 MS. ASHBARRY: I can retrieve it. I can't 4 necessarily do it while I am here. So I would ask that you 5 hold the record open, and then I have the -- 6 MR. GROSSMAN: Sure. 7 MS. ASHBARRY: -- opportunity to submit at the -- 8 after the end of the hearing. 9 MR. GROSSMAN: Absolutely. 10 MS. ASHBARRY: Okay. Thank you. All right. Could you 11 please turn your attention to exhibit 31? And for purposes of 12 the record, this is a lawsuit that's filed in Montgomery -- a 13 copy of the complaint in civil action 439234B filed in the 14 Circuit Court for Montgomery County, Maryland. When did you 15 learn about this lawsuit? 16 MR. FRIEDMAN: This is a lawsuit that -- that we 17 were notified by the homeowners, Doug Kammerer and Holly 18 Kammerer, that they filed against JRK Builders and the 19 Fernando, Junior and Senior in Circuit Court. Unfortunately, 20 our office was not able to resolve their complaint, which is 21 typically our primary goal, and they sought redress in the 22 court. 23 MS. ASHBARRY: And this indicates it was received in 24 Circuit Court October 25, 2017. Has JRK ever notified you or 25 anyone at the Office of Consumer Protection of this lawsuit?</p>
<p>59</p> <p>1 believe that e-mail is in the -- in the materials that were 2 submitted to your office on that -- 3 MR. GROSSMAN: Oh, I see. The -- the carton of 4 materials? 5 MS. ASHBARRY: Yes. Yes. 6 MR. GROSSMAN: And is there some reason why you 7 elected not to make that an exhibit in the case? 8 MS. ASHBARRY: I did not deem it relevant, frankly. 9 In other words, their position does not -- it seems to me, if 10 that's the position they want to take, they needed to appear 11 this morning and advance that position. I wasn't going to 12 advance it for them through my exhibits. 13 MR. GROSSMAN: Well, I'm not so sure it's just a 14 question of advancing that position. Isn't it also evidence, 15 if it is a -- deemed to be a false claim? Isn't it also 16 evidence more of a violation? 17 MS. ASHBARRY: Yes. But it's not one of the grounds 18 that's been contained in our exhibit 3 that was issued to JRK 19 regarding violations of the county code for which we're 20 proceeding this morning. 21 MR. GROSSMAN: Okay. I'd like to actually have that 22 in the record of these proceedings, and we do have that 23 carton of material, I'm sure. 24 MS. ASHBARRY: Yes. 25 MR. GROSSMAN: And so perhaps during the break you</p>	<p>61</p> <p>1 MR. FRIEDMAN: No. We have not received any -- any 2 written communication, e-mail, telephone conversations. 3 Received no information contrary to the requirement in -- in 4 the license application that this lawsuit had been filed, and 5 we would not have known about it at all from JRK. 6 MS. ASHBARRY: Okay. Thank you. And then please turn 7 to exhibit 32. And for purposes of the record, this -- well, 8 could you please describe what this document is? 9 MR. FRIEDMAN: This is a true and accurate copy of 10 the third complaint filed by a third group of homeowners 11 against JRK, and this case was filed by Jon Williams with 12 respect to the home located at 5612 McLean Drive in Bethesda. 13 We assigned a case number 17-O2 -- OC-057291. 14 MS. ASHBARRY: Okay. Thank you. And then exhibit 33, 15 this also is an e-mail from you to Fernando Guedes, Junior 16 dated November 15, 2017, and this has to do with respect to 17 the status of their conditional license. And could you please 18 just detail a little bit what this document provides? 19 MR. FRIEDMAN: Yes. This is a true and accurate copy 20 of an e-mail message that I sent to Fernando Guedes, Junior 21 with copies to our licensing staff, making reference to the 22 conditions that were set by the Board of Registration when 23 they issued the conditional renewal license about the various 24 inspections that were required with respect to 5612 McLean, 25 with respect to 6002 Roosevelt, and with respect to the house</p>

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<p style="text-align: right;">62</p> <p>1 on Elm Street indicating that they had failed to comply with</p> <p>2 -- with those conditions.</p> <p>3 MS. ASHBARRY: Okay. So the status of their license</p> <p>4 now is you would ask that they provide you with information</p> <p>5 to show compliance with the conditions, and they failed to do</p> <p>6 so?</p> <p>7 MR. FRIEDMAN: That is correct.</p> <p>8 MS. ASHBARRY: Okay. So could you please turn to</p> <p>9 exhibit 35? And for purposes of the record, this is the</p> <p>10 Notice of Violation number 392671 issued on December 28, 2017</p> <p>11 to JRK Contractor, LLC with respect to the property at 5612</p> <p>12 McLean Drive in Bethesda, Maryland. How did you learn about</p> <p>13 this Notice of Violation?</p> <p>14 MR. FRIEDMAN: Well, as was the case with the</p> <p>15 complaint filed by the Kammerers, the homeowners had alleged</p> <p>16 that there were numerous code violations found in their home</p> <p>17 and requested that we receive assistance from the Department</p> <p>18 of Permitting Services to -- to identify and validate that</p> <p>19 concerns. And so our office made arrangements with the</p> <p>20 Department of Permitting Services to do a site visit with Mr.</p> <p>21 James Sackett and his managers and the homeowners present. I</p> <p>22 was there as well, and in fact, Junior -- Fernando, Junior</p> <p>23 and Senior were also there at one portion of the time. And</p> <p>24 the representatives from Department of Permitting Services</p> <p>25 identified several violations of the code and sent this</p>	<p style="text-align: right;">64</p> <p>1 MR. GROSSMAN: Yes.</p> <p>2 MS. ASHBARRY: -- that the following exhibits have</p> <p>3 been admitted with respect to Mr. Friedman's testimony.</p> <p>4 Exhibits 10 and 11?</p> <p>5 MR. GROSSMAN: Yes.</p> <p>6 MS. ASHBARRY: 17?</p> <p>7 MR. GROSSMAN: Yes.</p> <p>8 MS. ASHBARRY: 19?</p> <p>9 MR. GROSSMAN: Yes.</p> <p>10 MS. ASHBARRY: 20?</p> <p>11 MR. GROSSMAN: Yes.</p> <p>12 MS. ASHBARRY: 23?</p> <p>13 MR. GROSSMAN: Yes.</p> <p>14 MS. ASHBARRY: 24?</p> <p>15 MR. GROSSMAN: Yes.</p> <p>16 MS. ASHBARRY: 25?</p> <p>17 MR. GROSSMAN: Yes.</p> <p>18 MS. ASHBARRY: 25, 26?</p> <p>19 MR. GROSSMAN: Yes.</p> <p>20 MS. ASHBARRY: 32?</p> <p>21 MR. GROSSMAN: Yes.</p> <p>22 MS. ASHBARRY: And 33?</p> <p>23 MR. GROSSMAN: Yes.</p> <p>24 MS. ASHBARRY: Okay. I have no further questions for</p> <p>25 this witness.</p>
<p style="text-align: right;">63</p> <p>1 Notice of Violation to JRK and, in collaboration with our</p> <p>2 office, they provided a copy to all of us.</p> <p>3 MS. ASHBARRY: And so you did discuss this Notice of</p> <p>4 Violation with Fernando, Junior or Fernando, Senior?</p> <p>5 MR. FRIEDMAN: Yes. That's correct.</p> <p>6 MS. ASHBARRY: Okay. And then could you please turn</p> <p>7 to exhibit 38 in the binder? And for purposes of the record,</p> <p>8 this is a lawsuit civil action number 441220 filed in the</p> <p>9 Circuit Court for Montgomery County, Maryland. It was filed</p> <p>10 on December 13, 2017. How did your office learn about this</p> <p>11 civil action?</p> <p>12 MR. FRIEDMAN: Well, the consumer, in case case</p> <p>13 Scott Davis and Emily Davis, had need to file a action in</p> <p>14 Circuit Court because, although they went to a mediation</p> <p>15 session in our office and although the parties Scott Davis</p> <p>16 and JRK signed what we thought was a settlement agreement</p> <p>17 with respect to the mediation, the allegation that the</p> <p>18 consumers had is that JRK failed to comply with the terms of</p> <p>19 that mediation. And so they filed a case in Circuit Court for</p> <p>20 enforcement of that. We never received a copy of this in any</p> <p>21 manner, whether electronic, by letter, by phone call. No</p> <p>22 notification from JRK at all that this lawsuit had been filed</p> <p>23 against JRK.</p> <p>24 MS. ASHBARRY: Okay. So if I may just verify with</p> <p>25 you, Mr. Grossman --</p>	<p style="text-align: right;">65</p> <p>1 MR. GROSSMAN: I interrupted him sufficiently during</p> <p>2 his testimony. So I have no questions of him either.</p> <p>3 MS. ASHBARRY: Okay. Thank you.</p> <p>4 I'd like to call -- we're about an hour and a half</p> <p>5 in. I'd like to call my next witness and proceed, if that's</p> <p>6 okay.</p> <p>7 MR. GROSSMAN: Certainly.</p> <p>8 MS. ASHBARRY: Okay. Mr. Sackett, please.</p> <p>9 MR. SACKETT: Good morning.</p> <p>10 MR. GROSSMAN: Good morning. Mr. Sackett, would you</p> <p>11 state your full name and work address?</p> <p>12 MR. SACKETT: James Sackett, 255 Rockville Pike,</p> <p>13 Second floor, Department of Permitting Services.</p> <p>14 MR. GROSSMAN: Would you raise your right hand,</p> <p>15 please?</p> <p>16 MR. SACKETT: Yes, sir.</p> <p>17 MR. GROSSMAN: Do you swear or affirm to tell the</p> <p>18 truth, the whole truth, and nothing but the truth, under</p> <p>19 penalty of perjury?</p> <p>20 MR. SACKETT: I do.</p> <p>21 MR. GROSSMAN: And what's your position with the</p> <p>22 Department of Permitting Services?</p> <p>23 MR. SACKETT: I manage the residential inspectors</p> <p>24 and code enforcement inspectors.</p> <p>25 MR. GROSSMAN: All right.</p>

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<p>66</p> <p>1 MS. ASHBARRY: And how long have you held that 2 position with the county? 3 MR. SACKETT: I've held that position for about 4 three years. 5 MS. ASHBARRY: Okay. And how long have you been 6 doing residential building inspections? 7 MR. SACKETT: Since 2000. So 18 years. 8 MS. ASHBARRY: Okay. And would you like me to 9 establish some of the information that I used in my proffer 10 through Mr. Sackett or do I have my exhibits in and can I 11 proceed? 12 MR. GROSSMAN: Well, once again, let's do the same 13 thing we did with Mr. Friedman. That is to have Mr. Sackett 14 indicate whether or not the exhibits listed, that is 8, 12, 15 13, 14, 15, 16, and 37 -- 16 MS. ASHBARRY: 27 -- I'm sorry. Go ahead. Yeah. 37. 17 Yes. 18 MR. GROSSMAN: -- and -- and then the Notice of 19 Violation -- 20 MS. ASHBARRY: Yes. 21 MR. GROSSMAN: -- 27, 28, 35, and 35-A are in fact 22 authentic copies of the -- of these documents. 23 MS. ASHBARRY: Okay. Well, having heard the list of 24 exhibits from Mr. Grossman, can you verify that you have in 25 fact reviewed -- and I have -- so you don't have to flip</p>	<p>68</p> <p>1 MR. GROSSMAN: Thank you. 2 MR. SACKETT: Yeah. He was with me on all these 3 violation inspections. 4 MR. GROSSMAN: Okay. 5 MR. SACKETT: And we toured the house at 4503 Elm 6 Street and saw -- made a list of what we perceived to be code 7 violations and -- and put them into the two Notices of 8 Violation. This one being a rather lengthy list, starting 9 with the garage fire separation issue and moving on to a few 10 others but that being one of the main concerns. I can -- 11 would you like me to read the remarks in the evaluations? 12 MS. ASHBARRY: No. I think they speak for 13 themselves. 14 MR. SACKETT: Okay. 15 MS. ASHBARRY: But the -- I think it suffice -- I 16 just wanted to establish that Chapter 8 of the Montgomery 17 County Code is the county's Building Code; is that correct? 18 MR. SACKETT: That's correct. 19 MS. ASHBARRY: And this is a violation of section 8- 20 10(a) of the Montgomery County Code? 21 MR. SACKETT: It is. Yeah. 22 MS. ASHBARRY: Okay. And it basically means that 23 this is a -- there was an unsafe condition on the property? 24 MR. SACKETT: Correct. 25 MS. ASHBARRY: Okay. And then with respect to</p>
<p>67</p> <p>1 through the binder -- 2 MR. SACKETT: Yes. I have. Yes. I did. 3 MS. ASHBARRY: -- there they all are. Could you 4 confirm for us whether or not those are true and correct 5 copies of those records as maintained by the county's 6 Department of Permitting Services? 7 MR. SACKETT: They are. 8 MS. ASHBARRY: Okay. Thank you. 9 MR. GROSSMAN: They will all be admitted -- 10 MS. ASHBARRY: Thank you. 11 MR. GROSSMAN: -- as listed. 12 MS. ASHBARRY: Thank you. So I would like to take 13 you straight then to the Notices of Violation. 14 MR. SACKETT: Okay. 15 MS. ASHBARRY: The first one is exhibit 27, and were 16 you the inspector that issued this Notice of Violation? 17 MR. SACKETT: I -- I am. 18 MS. ASHBARRY: Okay. Could you please explain the 19 nature of the code violation that gave rise to this Notice of 20 Violation? 21 MR. SACKETT: My field supervisor and myself met Mr. 22 Friedman at the address 4503 Elm Street. 23 MR. GROSSMAN: Who's your -- I'm sorry. Who is your 24 field supervisor? 25 MR. SACKETT: David Burch.</p>	<p>69</p> <p>1 exhibit 28, also with respect to 4503 Elm Street, could you 2 please describe the nature of the code violation that gave 3 rise to this particular Notice of Violation? 4 MR. SACKETT: Okay. That -- that is 8-24(a), failure 5 to obtain a permit for construction. We noticed in our 6 inspection that there's a -- a large retaining wall in the 7 rear of the property that Mr. Guedes admitted to constructing 8 or claimed to constructing and it's -- it's some six feet 9 high. And -- and it was never part of the plans. It was not 10 part of the permit. And so we didn't have any permit for the 11 construction of the retaining wall. So I -- I sent him the 12 Notice of Violation for that and with a corrective action of 13 obtain a permit and get us very important engineering for the 14 -- you know, the construction, stating that it was -- whether 15 or not it was done correctly and whether or not it needs 16 repair. 17 MR. GROSSMAN: All right. 18 MS. ASHBARRY: To your knowledge, have either of 19 these violations been repaired by JRK? 20 MR. SACKETT: They haven't been addressed at all. 21 No. 22 MS. ASHBARRY: Okay. Okay. Thank you. And then with 23 respect to exhibit 35 and 35-A -- and again, this is Notice 24 of Violation issued to JRK Contractor, LLC with respect to 25 5612 McLean Drive, Bethesda -- could you please describe the</p>

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<p style="text-align: right;">70</p> <p>1 nature of the code violation that gave rise to this 2 particular Notice of Violation? 3 MR. SACKETT: This was regarding at 5612 McLean 4 Drive the installation of -- the installation practice that 5 he -- they used to install a stone veneer. And they -- 6 especially on the picture that was submitted this morning, it 7 shows that they skipped many of the steps, very important 8 parts, the waterproofing step and the lathing step of the 9 installation, which made the -- the installation incorrect. 10 It needed to be torn out and re- -- re-installed. They didn't 11 have two weatherproof resistant barriers. It didn't have the 12 lath, which is going to make it weatherproof and ultimately 13 it would lead to, you know, water infiltration into the 14 house, into the -- the sheathing. It would rot. So it was a - 15 - it was very bad installation. That's why I did a violation, 16 and the corrective action on here was to remove it, replace 17 it, get it engineered or inspected. And they did not address 18 this either. 19 MS. ASHBARRY: Okay. And were you in court earlier 20 this week with respect to Notice -- other issues with respect 21 to JRK Contractor, LLC? 22 MR. SACKETT: Yes. All these violations, these three 23 violations were never addressed. So after a time on -- I 24 believe on February 2nd I wrote citations to them, and they - 25 - we attempted to service. They were on the docket this most</p>	<p style="text-align: right;">72</p> <p>1 cite it through Chapter 8. 2 MR. GROSSMAN: So in effect, those codes are 3 incorporated by reference in effect into the -- 4 MR. SACKETT: Chapter 8. 5 MR. GROSSMAN: -- Montgomery County Code and 6 regulations? 7 MR. SACKETT: Exactly. Yes. 8 MS. ASHBARRY: Yes. 9 MR. GROSSMAN: You said in the court proceeding for 10 these citations, that alternative service was directed. What 11 do you mean by that? 12 MR. SACKETT: When we can't get the registered mail 13 signed by -- by the registered agent, in the district court 14 we -- we seek to get alternative service. The judge will 15 grant that and he'll specify send -- usually he specifies 16 send regular U.S. mail and post the -- the address, post the 17 citation on the front door, timestamp a picture, and come 18 back the next month's docket. And if we have, you know, 19 evidence of that, he -- the judge will usually say, okay. 20 Service is -- is proper. 21 MR. GROSSMAN: Okay. 22 MR. SACKETT: It's been effective. 23 MS. ASHBARRY: Okay. Okay. I have no further 24 questions for this witness. 25 MR. GROSSMAN: I do not have any either. Thank you.</p>
<p style="text-align: right;">71</p> <p>1 recent Tuesday, and they did not show for these one, two, 2 three -- there's a total of four citations. They didn't show 3 up. So the judge granted alternative service, which I'm going 4 to seek to obtain. 5 MS. ASHBARRY: And when you say citation, that, 6 again, for violation of the Montgomery County Code? 7 MR. SACKETT: Yes. 8 MS. ASHBARRY: And just as background for purposes 9 of this hearing, if one were to look in the Building Code of 10 Montgomery County, would you necessarily see some of the 11 information? In other words, there's this installation guide 12 and detailing options for compliance with ASCMC 1780 is one 13 of the items that's attached? Would you find that in the 14 Montgomery County Code or regulations? 15 MR. SACKETT: No. We adopt -- we adopt certain 16 codes. We -- we adopt the International Residential Code for 17 -- for residential applications, and then we amend it through 18 executive regulations. But that is our adopted code, and then 19 Chapter 8 is how we do that. And then in -- I cite Chapter 8, 20 but then the corrective action and the violation itself would 21 be -- for instance, with the retaining wall, the requirement 22 for the permit, 8-24(a) says requirement for a building 23 permit, but the International Residential Code Section, I 24 think, 109, says when a retaining wall -- a permit is 25 required for a retaining wall. We adopt that code and then</p>	<p style="text-align: right;">73</p> <p>1 MS. ASHBARRY: Thank you. 2 MR. SACKETT: Thank you. 3 MR. GROSSMAN: Do you wish to take a break for five 4 minutes now, or do you want to go forward? 5 MS. ASHBARRY: Yes. That would be great. Five-minute 6 break. 7 MR. GROSSMAN: Okay. All right. Let's do that. We'll 8 come back at let's say 10 after 11:00. 9 MS. ASHBARRY: Okay. 10 MR. GROSSMAN: Because, actually, that clock's a 11 little slow. 12 MS. ASHBARRY: Okay. Thank you. 13 (Back on the record.) 14 MS. ASHBARRY: Call as my next witness Mr. Douglas 15 Kammerer, please. 16 MR. GROSSMAN: Okay. 17 MR. KAMMERER: Hello, sir. 18 MR. GROSSMAN: Mr. Kammerer, have a seat, please. 19 MR. KAMMERER: Okay. 20 MR. GROSSMAN: Please state your full name and 21 address, please, for the record. 22 MR. KAMMERER: Yeah. Doug Kammerer, 4503 Elm Street. 23 MR. GROSSMAN: All right. Would you raise your right 24 hand, please? Do you swear or affirm to tell the truth, the 25 whole truth, and nothing but the truth, under penalty of</p>

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<p>74</p> <p>1 perjury?</p> <p>2 MR. KAMMERER: Yes. I do.</p> <p>3 MR. GROSSMAN: All right. You may proceed.</p> <p>4 MS. ASHBARRY: Mr. Kammerer, do you know JRK</p> <p>5 Contractors?</p> <p>6 MR. KAMMERER: Absolutely.</p> <p>7 MS. ASHBARRY: Okay. Could you please take a look at</p> <p>8 exhibit 9 in the binder for me, please? For the record, this</p> <p>9 appears to be a contract entered between Mr. Kammerer and JRK</p> <p>10 Builder/Contractor, LLC. I'd ask you, Mr. Kammerer, to please</p> <p>11 review this document and confirm for us whether or not this</p> <p>12 is in fact a true and accurate copy of the contract that you</p> <p>13 signed with JRK Builder/Contractor, LLC.</p> <p>14 MR. KAMMERER: Yes. It is.</p> <p>15 MS. ASHBARRY: Okay. So that is in fact -- for</p> <p>16 purposes of the record, on page 21, that's your signature on</p> <p>17 page 21 of the --</p> <p>18 MR. KAMMERER: Yes. It is.</p> <p>19 MS. ASHBARRY: And -- and I don't see a handwritten</p> <p>20 signature by Mr. Guedes -- Fernando Guedes, Junior.</p> <p>21 MR. KAMMERER: Right.</p> <p>22 MS. ASHBARRY: Did he ever sign it himself, or it</p> <p>23 was just the printed?</p> <p>24 MR. KAMMERER: That's the printed -- the printed on</p> <p>25 there.</p>	<p>76</p> <p>1 MR. GROSSMAN: All of the above. Okay.</p> <p>2 MR. KAMMERER: Yes, sir.</p> <p>3 MR. GROSSMAN: Thank you.</p> <p>4 MS. ASHBARRY: Okay. Now, and for purposes of this</p> <p>5 proceeding, I'm going to be asking the questions relevant to</p> <p>6 the Maryland Custom Home Protection Act to verify that this</p> <p>7 contract qualifies as a custom home contract and that Mr.</p> <p>8 Kammerer is in fact a buyer under that statute --</p> <p>9 MR. GROSSMAN: All right.</p> <p>10 MS. ASHBARRY: -- [inaudible] that statute's</p> <p>11 protection. So and that being, did you pay JRK more than</p> <p>12 \$20,000 to furnish, labor, and material in connection with</p> <p>13 the construction of the home at 4503 Elm Street?</p> <p>14 MR. KAMMERER: Yes. I did.</p> <p>15 MS. ASHBARRY: Okay. I'd like to draw your attention</p> <p>16 to page 10 of the contract.</p> <p>17 MR. KAMMERER: Uh-huh.</p> <p>18 MS. ASHBARRY: And this lists the payment schedule</p> <p>19 under the contract section 5. Did there come -- did you in</p> <p>20 fact issue payments pursuant to this payment schedule to JRK</p> <p>21 under the contract?</p> <p>22 MR. KAMMERER: Yes.</p> <p>23 MS. ASHBARRY: Okay. So there were payments while --</p> <p>24 for purposes of this tribunal, it -- more than -- payments in</p> <p>25 excess of 5 percent are made, an escrow account requirement</p>
<p>75</p> <p>1 MS. ASHBARRY: Okay. Thank you.</p> <p>2 MR. GROSSMAN: What she's asking you is was there</p> <p>3 one that was signed, not just printed?</p> <p>4 MR. KAMMERER: I never saw one.</p> <p>5 MR. GROSSMAN: Okay.</p> <p>6 MR. KAMMERER: Not that I know of.</p> <p>7 MS. ASHBARRY: Okay. Can you tell me the names of</p> <p>8 the individuals you communicated with at JRK regarding your</p> <p>9 home?</p> <p>10 MR. KAMMERER: Yeah. That would be Fernando Guedes,</p> <p>11 Junior and Fernando Guedes, Senior.</p> <p>12 MS. ASHBARRY: Okay. Was the home to be built under</p> <p>13 this contract to be a single family home?</p> <p>14 MR. KAMMERER: Yes. It was.</p> <p>15 MS. ASHBARRY: Okay. Do you own the land at 4503 Elm</p> <p>16 Street, or did you own the land at the time of the contract?</p> <p>17 MR. KAMMERER: Yes.</p> <p>18 MS. ASHBARRY: And do you own the land now?</p> <p>19 MR. KAMMERER: Yes.</p> <p>20 MS. ASHBARRY: Okay.</p> <p>21 MR. GROSSMAN: Just one little clarification here.</p> <p>22 The -- the question that you were asked is who do you -- who</p> <p>23 did you communicate with. Did you talk to these gentlemen, or</p> <p>24 did you write to them or e-mail them and/or --</p> <p>25 MR. KAMMERER: All of the above.</p>	<p>77</p> <p>1 is triggered and 5 percent of the -- and the value of the</p> <p>2 contract at the time of signature is listed under section 4;</p> <p>3 is that correct, the \$797,517? Is that correct?</p> <p>4 MR. KAMMERER: Yes.</p> <p>5 MS. ASHBARRY: Okay.</p> <p>6 MR. GROSSMAN: And I missed a word. A what kind of a</p> <p>7 contract is issued?</p> <p>8 MS. ASHBARRY: Custom home.</p> <p>9 MR. GROSSMAN: No. I know. Can you repeat that whole</p> <p>10 sentence that you -- you were -- you -- because I missed a</p> <p>11 word there, and so I'm trying to understand what you said.</p> <p>12 MS. ASHBARRY: I'm not sure what you missed that I</p> <p>13 said. In other words, I'm asking Mr. Kammerer to establish</p> <p>14 that he did in fact issue payments pursuant to the payment</p> <p>15 schedule under this contract. The value of the contract is</p> <p>16 \$797,000 and change. And under the Maryland Custom Home</p> <p>17 Protection Act, if a payment in excess of 5 percent of the</p> <p>18 value of the contract is issued, then it triggers escrow</p> <p>19 account requirements under the law.</p> <p>20 MR. GROSSMAN: Okay. I think I missed the word</p> <p>21 escrow in that. That's what --</p> <p>22 MS. ASHBARRY: Yes. Yes.</p> <p>23 MR. GROSSMAN: Okay.</p> <p>24 MS. ASHBARRY: Okay. So did you ever discuss with</p> <p>25 Fernando, Junior or Fernando, Senior the need to hold funds</p>

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<p style="text-align: right;">78</p> <p>1 you paid for construction of 4503 Elm Street in an escrow 2 account? 3 MR. KAMMERER: I asked him if an escrow account had 4 been created. 5 MS. ASHBARRY: And what did he say? 6 MR. KAMMERER: He said not to worry about it, and 7 that yes. He had taken care of that. 8 MS. ASHBARRY: And do you recall when that 9 conversation occurred? 10 MR. KAMMERER: No. I do not. 11 MS. ASHBARRY: Okay. And was that the only 12 conversation you had with Fernando, Junior about the escrow 13 account issue? 14 MR. KAMMERER: Before building the house, yes. 15 MS. ASHBARRY: Okay. Did you have any with him after 16 construction? 17 MR. KAMMERER: Absolutely. 18 MS. ASHBARRY: Or during? Okay. And what -- 19 MR. KAMMERER: Yeah. 20 MS. ASHBARRY: -- were the nature of those 21 conversations? 22 MR. KAMMERER: They were, did you put our -- our -- 23 our money into an escrow account, and where is that escrow 24 account? Can we see that escrow account? Do you have any 25 documentation about the escrow account? That kind of</p>	<p style="text-align: right;">80</p> <p>1 At that point we decided to file a complaint with the county 2 once Mr. Guedes decided that he would not fix those items. 3 MS. ASHBARRY: Okay. I'd like to draw your attention 4 to exhibit 27, tab number 27 as well as tab number 28. And 5 for the record, these are the two Notices of Violation that 6 were issued with respect to 4503 Elm Street. Were you aware 7 of these Notices of Violation? 8 MR. KAMMERER: Yes. 9 MS. ASHBARRY: Did you ever discuss them with anyone 10 from JRK? 11 MR. KAMMERER: Yes. I did. 12 MS. ASHBARRY: Who did you talk to at JRK? 13 MR. KAMMERER: I spoke with Fernando, Junior. 14 MS. ASHBARRY: And when did you speak to him? 15 MR. KAMMERER: I spoke with him once the violations 16 came out, once the inspectors actually saw what was it that - 17 - that was being violated. I spoke with him then. 18 MS. ASHBARRY: And what was the nature of your 19 conversation with him? 20 MR. KAMMERER: I just told him that these were items 21 that had to be taken care of per the county and that he 22 should take care of these very quickly. These are -- these 23 are dangerous items to my home and to my family, and I never 24 received much in the way of any kind of affirmative action 25 that he would -- he would do that.</p>
<p style="text-align: right;">79</p> <p>1 information, and I never received anything back from him. 2 MS. ASHBARRY: Okay. 3 MR. KAMMERER: And I still to this day have never 4 received a -- a definitive yes or a no. 5 MS. ASHBARRY: Okay. I'd like to turn your attention 6 to tab number 17, which is exhibit 17. And for purposes of 7 the record, this is a copy of complaint number 16-OC-047597 8 filed with the Office of Consumer Protection. Did you file 9 this complaint with the Office of Consumer Protection? 10 MR. KAMMERER: Where am I supposed to be? 17? 11 MS. ASHBARRY: Yes. Exhibit 17. 12 MR. KAMMERER: 17? Okay. I was on -- 13 MS. ASHBARRY: If you look at page -- 14 MR. KAMMERER: Yes. I did. 15 MS. ASHBARRY: -- three. Yes. Okay. 16 MR. KAMMERER: Yes. I did. 17 MS. ASHBARRY: And why did you file a complaint 18 against JRK with the Office of Consumer Protection? 19 MR. KAMMERER: JRK did not complete our house as 20 specified in the contract. There were numerous violation of 21 the contract that we found. Our house had subpar construction 22 that we found very quickly. 23 Upon further review we -- we hired our own 24 inspector, and that inspector provided us with a 69-page 25 report on things that were incorrectly done with our house.</p>	<p style="text-align: right;">81</p> <p>1 MS. ASHBARRY: Okay. So he -- has JRK ever remedied 2 these issues? 3 MR. KAMMERER: No. 4 MR. GROSSMAN: You said you never received much in 5 the way of -- what does that mean exactly? What did you -- 6 MR. KAMMERER: I never received anything other than, 7 you know, I'm not fixing it or that -- that kind of -- that 8 kind of thing. 9 MR. GROSSMAN: Well -- 10 MR. KAMMERER: So he never told -- he never told me 11 he would do anything about it. He told me specifically that 12 he would not -- he would not fix it. 13 MR. GROSSMAN: Okay. So the he in this case, is that 14 -- 15 MR. KAMMERER: Is Fernando, Junior. 16 MR. GROSSMAN: Junior? 17 MR. KAMMERER: Yes, sir. 18 MR. GROSSMAN: And did -- did he indicate he would 19 do any repairs, or he just said he would not do any of the 20 repairs listed? 21 MR. KAMMERER: He said he would not do any of the 22 repairs listed. Every once in a while he would say, well, 23 let's -- let's settle and then I'll do the repairs. And, you 24 know, that never happened. 25 MR. GROSSMAN: And you mentioned that you had hired</p>

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<p>82</p> <p>1 an inspector who produced a lengthy report listing -- what 2 was the name of that inspector? 3 MR. KAMMERER: Name was J.D. Grewell. 4 MR. GROSSMAN: And that's spelled G-r-o-u-e-l? 5 MR. KAMMERER: G-r-e-w-e-l-l. 6 MR. GROSSMAN: Okay. And, Ms. Ashbarry, is there a 7 copy of that report in the record? 8 MS. ASHBARRY: Yes. There is, and that also was in 9 the pre-hearing submission -- 10 MR. GROSSMAN: Okay. 11 MS. ASHBARRY: -- that was submitted to your office 12 prior to today. 13 MR. GROSSMAN: All right. Don't you think that would 14 be a useful exhibit? 15 MS. ASHBARRY: Yes. However, we thought most of it 16 would be hearsay. So we did not mark it as an exhibit for 17 today's hearing. 18 MR. GROSSMAN: All right. Well, once again, it's 19 hearsay to the extent that it's offered to prove the truth of 20 those statements in it. It's not hearsay in terms of the 21 reason for a consumer complaint and action by the consumer -- 22 MS. ASHBARRY: Yes. 23 MR. GROSSMAN: -- folks. So I think it's also a 24 relevant thing that should be added as an exhibit. 25 MS. ASHBARRY: Yes. I'll do so.</p>	<p>84</p> <p>1 MR. KAMMERER: If I can say one -- one thing about - 2 - 3 MS. ASHBARRY: Yes. 4 MR. KAMMERER: -- number 9. 5 MS. ASHBARRY: Yes. 6 MR. KAMMERER: I just want to make sure about the -- 7 the pricing on that. 8 MS. ASHBARRY: Uh-huh. 9 MR. KAMMERER: There is an addendum. I would have to 10 get that for you. I believe that would change that number 11 down by \$50,000. 12 MS. ASHBARRY: But you still -- and again -- 13 MR. KAMMERER: I just wanted to make sure that I had 14 -- I said that for -- yeah. 15 MS. ASHBARRY: But for -- and for purposes of Mr. 16 Grossman's review, under the law, if you make a payment in 17 excess of 5 percent of the contract value, then it triggers 18 the law. 5 percent of \$797,517 is \$39,875.85. Have you ever 19 issued a payment at any given time to JRK in excess of 20 \$39,875.85? 21 MR. KAMMERER: Absolutely. 22 MS. ASHBARRY: Okay. 23 MR. GROSSMAN: But even if the price were reduced by 24 the \$50,000, that would have made that a larger portion -- 25 MS. ASHBARRY: Yes.</p>
<p>83</p> <p>1 MR. GROSSMAN: Okay. 2 MS. ASHBARRY: And as a result of your dealings with 3 JRK, did you take any legal action against JRK? 4 MR. KAMMERER: Yes. I did. 5 MS. ASHBARRY: And what was the nature of that 6 action? 7 MR. KAMMERER: Well, first thing, we -- we -- we 8 decided to hire lawyers. We were trying to get a settlement 9 created. That never came to fruition. We then went ahead and 10 -- and received -- or acquired new lawyers. Those lawyers 11 were then trying to go to trial. So the first lawyers we have 12 are not trial lawyers. So we had to switch over to trial 13 lawyers, and then we submitted a case for -- to go to trial. 14 MS. ASHBARRY: And is that the document that's 15 marked as exhibit 31 in your binder? 16 MR. KAMMERER: Yes. It is. 17 MS. ASHBARRY: Okay. And that action is pending 18 right now in circuit? 19 MR. KAMMERER: Yes. It is. 20 MS. ASHBARRY: Okay. I have no further questions for 21 Mr. Kammerer. I'd like to move to admit exhibit 9, which was 22 the contract that was entered between the Kammerers and JRK 23 Builders/Contractors, LLC. 24 MR. GROSSMAN: Okay. Number 9 has been 25 authenticated, and it is admitted. All right.</p>	<p>85</p> <p>1 MR. GROSSMAN: -- of it. So it would still exceed the 2 5 percent. 3 MS. ASHBARRY: Yes. 4 MR. KAMMERER: Yes. 5 MR. GROSSMAN: All right. It's fine if you want to 6 submit that additional addendum here, and it can be part of 7 the record as well. I'll leave that to counsel to determine. 8 MS. ASHBARRY: Okay. Okay. Thank you. 9 MR. KAMMERER: Thank you. 10 MR. GROSSMAN: Thank you, Mr. Kammerer. 11 MR. KAMMERER: Thank you, sir. 12 MS. ASHBARRY: Okay. I'd like to call Ms. Holly 13 Kammerer as my next witness, please. 14 MR. GROSSMAN: All right. 15 MS. KAMMERER: Good morning. 16 MR. GROSSMAN: Good morning. Ms. Kammerer, would you 17 state your full name and address, please, for the record? 18 MS. KAMMERER: Holly Row [ph] Kammerer, 4503 Elm 19 Street, Chevy Chase, Maryland 20815. 20 MR. GROSSMAN: Would you raise your right hand, 21 please? Do you swear or affirm to tell the truth, the whole 22 truth, and nothing but the truth, under penalty of perjury? 23 MS. KAMMERER: I do. 24 MR. GROSSMAN: All right. You may proceed. 25 MS. ASHBARRY: Okay. Thank you. So do you know JRK</p>

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<p style="text-align: right;">86</p> <p>1 Contractor?</p> <p>2 MS. KAMMERER: Yes. I do.</p> <p>3 MS. ASHBARRY: Okay. And how do you know them?</p> <p>4 MS. KAMMERER: I know them because they built our</p> <p>5 home.</p> <p>6 MS. ASHBARRY: Okay. Did you ever discuss with</p> <p>7 anyone from JRK the obligation under Maryland law for them to</p> <p>8 hold funds paid for construction of your home at 4503 Elm</p> <p>9 Street by JRK in an escrow account?</p> <p>10 MS. KAMMERER: Yes. I did.</p> <p>11 MS. ASHBARRY: Who did you talk to at JRK?</p> <p>12 MS. KAMMERER: Fernando Guedes, Junior.</p> <p>13 MS. ASHBARRY: Okay. Do you remember when you had</p> <p>14 that conversation with him?</p> <p>15 MS. KAMMERER: Yes. It was in September of 2015. Our</p> <p>16 house had just been demolished, and it -- I had just come</p> <p>17 back from the summer, and it was the first time I had seen</p> <p>18 him since our house had been demolished. And he pulled up in</p> <p>19 front of our house in a brand new Corvette Stingray, and he</p> <p>20 emerged wearing brand new designer clothing. And I noticed it</p> <p>21 right away because it was a complete change in how I'd ever</p> <p>22 seen him before.</p> <p>23 And -- in our -- in our driveway I asked him if he</p> <p>24 had put our money in escrow, and he said, don't worry about</p> <p>25 it. I have it covered.</p>	<p style="text-align: right;">88</p> <p>1 MS. KAMMERER: In person, by text, by e-mail</p> <p>2 numerous -- numerous times.</p> <p>3 MS. ASHBARRY: And did JRK acknowledge the</p> <p>4 violations of the code reflected in those notices?</p> <p>5 MS. KAMMERER: He is very evasive and does not</p> <p>6 accept accountability or responsibility for anything. And so</p> <p>7 he neither confirms nor denies almost anything that you say</p> <p>8 to him and instead just comes up with excuses. So --</p> <p>9 MS. ASHBARRY: And did you ask Fernando, Junior; is</p> <p>10 that correct?</p> <p>11 MS. KAMMERER: Uh-huh.</p> <p>12 MS. ASHBARRY: Did you ask if JRK would remediate</p> <p>13 the code violations in the Notices of Violation issued by the</p> <p>14 county?</p> <p>15 MS. KAMMERER: Yes.</p> <p>16 MS. ASHBARRY: And what did he say?</p> <p>17 MS. KAMMERER: He said he wasn't going to do it.</p> <p>18 MS. ASHBARRY: Okay. I have no further questions.</p> <p>19 MR. GROSSMAN: Mrs. Kammerer, have the -- the</p> <p>20 defects -- your husband indicated that they were never</p> <p>21 repaired by JRK. Has anybody repaired these defects?</p> <p>22 TMS. KAMMERER: To date, we have had the siding</p> <p>23 replaced on our house because it was installed incorrectly.</p> <p>24 There was no flashing around the windows or the doors.</p> <p>25 MR. GROSSMAN: No weather barriers?</p>
<p style="text-align: right;">87</p> <p>1 MS. ASHBARRY: And for purposes of the record, the</p> <p>2 contract with JRK was entered into in March of 2015; is that</p> <p>3 correct?</p> <p>4 MS. KAMMERER: Yes.</p> <p>5 MS. ASHBARRY: And your conversation with him was in</p> <p>6 September of 2015?</p> <p>7 MS. KAMMERER: Yes.</p> <p>8 MS. ASHBARRY: Did you have --</p> <p>9 MR. GROSSMAN: 2000 --</p> <p>10 MS. ASHBARRY: '15.</p> <p>11 MS. KAMMERER: '15.</p> <p>12 MS. ASHBARRY: And did you have any other</p> <p>13 conversations with anyone at JRK about the escrow account</p> <p>14 issue?</p> <p>15 MS. KAMMERER: No. I did not.</p> <p>16 MS. ASHBARRY: Okay. Did you ever talk to anyone at</p> <p>17 JRK about the Notices of Violation that were issued for your</p> <p>18 property by the county's Department of Permitting Services?</p> <p>19 MS. KAMMERER: Yes. Multiple times.</p> <p>20 MS. ASHBARRY: Okay. Who did you talk to?</p> <p>21 MS. KAMMERER: Fernando Guedes, Junior.</p> <p>22 MS. ASHBARRY: Okay. And when did you talk to him?</p> <p>23 MS. KAMMERER: There were many occasions.</p> <p>24 MS. ASHBARRY: Okay. And what were the nature of</p> <p>25 those conversation?</p>	<p style="text-align: right;">89</p> <p>1 MS. KAMMERER: No weather barriers, and so we had a</p> <p>2 company come out and take all the brand new siding down and</p> <p>3 replace it because it was also nailed on incorrectly and it</p> <p>4 was already lifting. And so it would come off in a strong</p> <p>5 storm. So we hired an expert in siding to come out, and we</p> <p>6 paid for new siding for the house.</p> <p>7 MR. GROSSMAN: Okay.</p> <p>8 MS. KAMMERER: So that's been remedied. There is</p> <p>9 still the issue that was one of the violations that there is</p> <p>10 a -- a vent opening underneath our stove that it brings --</p> <p>11 the air intake comes from our garage, and we are not -- we</p> <p>12 cannot use our garage or let a car in our garage because it</p> <p>13 will suck the carbon monoxide into the house, and I have</p> <p>14 small children.</p> <p>15 MR. GROSSMAN: Right.</p> <p>16 MS. KAMMERER: And there's a chance that if -- there</p> <p>17 could be an accident.</p> <p>18 MR. GROSSMAN: And you say that has been corrected</p> <p>19 or has not been corrected?</p> <p>20 MS. KAMMERER: Has not been cor- -- has not been</p> <p>21 corrected to date because we have been in litigation and</p> <p>22 there's only so much money.</p> <p>23 MR. GROSSMAN: Okay. Can you -- is there anything in</p> <p>24 the exhibits that you have that reflects the cost of these</p> <p>25 repairs that were made?</p>

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<p style="text-align: right;">90</p> <p>1 MS. ASHBARRY: I don't have anything submitted in my 2 binder. 3 MR. GROSSMAN: Okay. I mean, it may be gilding a 4 little -- a little bit, but by the same token, I think it is 5 evidence that -- that there was an additional cost to these 6 folks from the apparent or alleged breach of the contract. So 7 I think that it would be a good idea to have that as an 8 exhibit showing the -- what was done to remedy the defect and 9 how much it cost. 10 MS. ASHBARRY: And would you be looking for an 11 affidavit from the Kammerers to that effect or just a written 12 summary? 13 MR. GROSSMAN: I think they can say right now that 14 they would submit such a document and sign off on it that 15 this is what -- what -- and they're under oath now -- this is 16 what was done to repair the -- the defect, to the extent it 17 has been. 18 MR. KAMMERER: Or what might -- or what might be 19 needed to repair the rest of the defects? 20 MR. GROSSMAN: Well, that's going to be -- that's 21 going to be in that other report by Mr. Grewell. 22 MR. KAMMERER: Thank you. 23 MS. ASHBARRY: Okay. I would just simply note for 24 the record that there is pending litigation between the 25 Kammerers and JRK Contractor, LLC, and they are represented</p>	<p style="text-align: right;">92</p> <p>1 MS. ASHBARRY: Okay. I'd like to call my next 2 witness, Mr. Scott Davis. 3 MR. GROSSMAN: Thank you, Mr. Davis. Would you state 4 your full name and address for the record? 5 MR. DAVIS: Sure. My name is Scott Davis, and the 6 address of the property is 5608 McLean Drive in Bethesda, 7 Maryland. 8 MR. GROSSMAN: All right. Would you raise your right 9 hand, please? Do you swear or affirm to tell the truth, the 10 whole truth, and nothing but the truth, under penalty of 11 perjury? 12 MR. DAVIS: I do. 13 MR. GROSSMAN: All right. You may proceed, Counsel. 14 MS. ASHBARRY: Thank you. Mr. Davis, do you know JRK 15 Contractor, LLC? 16 MR. DAVIS: I do. 17 MS. ASHBARRY: Okay. I'd like to direct your 18 attention to exhibit 7 in the binder. And for purposes of the 19 record, this appears to be a contract between Mr. Davis -- 20 Scott Davis and JRK Builders/Contractor, LLC signed on 21 December 22, 2014. Is this a true and accurate copy of the 22 contract that you entered into with JRK Builders/Contractor, 23 LLC? 24 MR. DAVIS: It is. 25 MS. ASHBARRY: Okay. I'd like to move to admit</p>
<p style="text-align: right;">91</p> <p>1 by counsel in that case. So I will be interacting with their 2 attorney on that issue. 3 MR. GROSSMAN: Okay. 4 MS. ASHBARRY: And I just wanted to alert you to 5 that fact. In other words, I'm essentially going to be asking 6 him to articulate damages in his case, which he may or may 7 not be in a position to [inaudible]. 8 MR. GROSSMAN: All right. Well, I don't -- I 9 certainly don't want to undermine anything -- 10 MS. ASHBARRY: Right. 11 MR. GROSSMAN: -- that is going on in that regard. So 12 if there's a problem with it, just let me know that. 13 MS. ASHBARRY: Okay. Thank you. Thank you. 14 MR. GROSSMAN: It seems to me that there would be a 15 -- a useful piece of information to be in the record here. 16 MS. ASHBARRY: Understood. Understood. But since it 17 is evolving, I can understand if their attorney might not be 18 interested in binding them in this proceeding. 19 MR. GROSSMAN: I understand the caveat. 20 MS. ASHBARRY: Okay. Okay. 21 MR. GROSSMAN: Yes. 22 MS. ASHBARRY: Thank you. Okay. Thank you. 23 MS. KAMMERER: Okay. All right. Thank you. 24 MR. GROSSMAN: Thank you. 25 MS. KAMMERER: Thank you, Judge.</p>	<p style="text-align: right;">93</p> <p>1 number 7, please. 2 MR. GROSSMAN: It is admitted. 3 MS. ASHBARRY: Okay. Can you tell me the names of 4 the individuals you communicated with at JRK regarding your 5 home under this contract or pursuant to this contract? 6 MR. DAVIS: Yes. They both came to my house to 7 discuss a complete rebuild, so knock down, rebuild of our 8 home and pricing, and it was Fernando Guedes, Junior and 9 Fernando Guedes, Senior. 10 MS. ASHBARRY: Okay. I'd like to direct your 11 attention to exhibit 8. Have you seen this document before? 12 MR. DAVIS: I was provided this document by Eric 13 Friedman from Consumer Protection. 14 MS. ASHBARRY: Okay. And for purposes of the record, 15 this is the application for residential building permit for 16 the property at 5608 McLean Drive, and it is -- the 17 signatures appear on page 2 of the document. They are dated 18 February 10, 2015. Does your name appear on page 2 of this 19 document? 20 MR. DAVIS: Yes. My name does appear there. 21 MS. ASHBARRY: Did you sign your name to this 22 document? 23 MR. DAVIS: I neither filled out, signed, or ever 24 saw this document at any point in time remotely close to the 25 date of this document.</p>

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<p>94</p> <p>1 MR. GROSSMAN: Did you authorize anybody to put your 2 signature on this document? 3 MR. DAVIS: I did not. 4 MR. GROSSMAN: Okay. 5 MR. DAVIS: As a matter of fact, there were 6 documents two days earlier that I filled out, and there were 7 documents two days later that I filled out and signed. This 8 document was never provided to me. 9 MR. GROSSMAN: All right. 10 MS. ASHBARRY: And did you authorize anyone to 11 submit this document on your behalf to the Department of 12 Permitting Services? 13 MR. DAVIS: I did not. 14 MS. ASHBARRY: Okay. I'd like you to please take a 15 look at exhibit 19. 16 MR. GROSSMAN: Just before we leave this document 17 for one second, is there a reason why you would not have 18 wanted an application for a residential building permit to be 19 filed? 20 MR. DAVIS: It says I am the general contractor as 21 the build- -- as the owner. 22 MR. GROSSMAN: I see. 23 MR. DAVIS: So he -- my name was put there -- 24 MR. GROSSMAN: Oh. 25 MR. DAVIS: -- because I think as an owner you can --</p>	<p>96</p> <p>1 MR. GROSSMAN: Okay. 2 MS. ASHBARRY: Did you file a complaint against JRK 3 with the Office of Consumer Protection? 4 MR. DAVIS: I did. 5 MS. ASHBARRY: Okay. Could you please turn to tab 6 20? And is this the complaint that you filed against JRK with 7 the Office of Consumer Protection? 8 MR. DAVIS: It is. 9 MS. ASHBARRY: Okay. And if I could draw your 10 attention to the top of page four of the document, you 11 describe your complaint generally as false advertising. What 12 did you mean when you said false advertising? 13 MR. DAVIS: They claimed they were a custom home 14 builder. I later realized they didn't even have a -- a 15 building license. They claimed they had over 30 years' 16 experience. My understanding is they just formed this entity. 17 They claimed that they never used subcontractors. That's why 18 we can give you all these discounts. Next thing you know, I'm 19 asking -- I go, can you give me the sub, and they would say, 20 that's not how it works. What do you mean that's not how it 21 works? I think as custom home building you have to tell me 22 who the main contractors are. Yeah. That's not how it works. 23 We don't give those out. 24 So it was -- it became very uncomfortable, 25 stressful, and I -- I saw no other way except to seek help</p>
<p>95</p> <p>1 MR. GROSSMAN: You can be your own general 2 contractor. 3 MR. DAVIS: Correct. So I -- I am not a general 4 contractor. I have no background in general contracting for - 5 - 6 MR. GROSSMAN: I see. 7 MR. DAVIS: -- for custom home building. 8 MR. GROSSMAN: Okay. 9 MR. DAVIS: So that's -- that's I think the reason 10 why. 11 MR. GROSSMAN: Okay. Thank you. 12 MR. DAVIS: Okay. 13 MS. ASHBARRY: Thank you. Could you please turn to 14 exhibit 19, and could you please just briefly review the 15 document? And for the record, this is an e-mail exchange 16 between Mr. Davis and Mr. Friedman dated October 11 regarding 17 the application for the residential building permit that we 18 just looked at at exhibit 8. 19 MR. DAVIS: Yes. 20 MS. ASHBARRY: And is this a -- a true and correct 21 copy of this e-mail and the attachments? 22 MR. DAVIS: It appears to be. Yes. 23 MS. ASHBARRY: Okay. Did you file a complaint -- 24 MR. GROSSMAN: It is -- it is admitted. 25 MS. ASHBARRY: Oh, yes. Yes.</p>	<p>97</p> <p>1 from -- from the county. 2 MS. ASHBARRY: All right. Could you please turn to 3 exhibit 25? And this, for purposes of the record, is a 4 Montgomery County Office of Consumer Protection statement of 5 understanding and agreement to mediate. Does this document 6 have a copy of your -- does your signature appear on this 7 document? 8 MR. DAVIS: It does. 9 MS. ASHBARRY: Okay. And could you -- are you -- is 10 your signature above the line where it says consumer? 11 MR. DAVIS: It is. 12 MS. ASHBARRY: Okay. And -- 13 MR. DAVIS: And -- and you can see it's a forward 14 leaning signature, whereas my building application was a 15 leftward leaning signature that didn't even resemble it. It 16 wasn't even close. 17 MS. ASHBARRY: Okay. Okay. And did -- as a result of 18 this mediation agreement, did you enter into a settlement 19 agreement with JRK Contractor, LLC? 20 MR. DAVIS: I did with provisions. 21 MS. ASHBARRY: Okay. And the -- on this exhibit 25, 22 merchant -- the name of the merchant is not listed, but that 23 was JRK Contractor, LLC? In other words, whose -- do you know 24 whose signature appears for the merchant on this document? 25 MR. DAVIS: So Fernando Guedes, Junior was the one</p>

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25 (98 to 101)

<p>98</p> <p>1 who came to the mediation. Senior did not come. 2 MS. ASHBARRY: Okay. So -- so that's Junior's 3 signature on this document on behalf of JRK? 4 MR. DAVIS: Yes. I believe that's correct. 5 MS. ASHBARRY: Okay. Okay. So did JRK perform under 6 the settlement agreement that you entered into with them? 7 MR. DAVIS: No. They were negligent on one of the 8 provisions per the agreement. 9 MS. ASHBARRY: Okay. So did you take any legal 10 action against JRK as a result of that? 11 MR. DAVIS: Yeah. We submitted a confessed judgment, 12 very similar to the county, serving evasion. We did get a 13 court to actually approve alternate service, and that 14 ultimately was served and we do have a confessed judgment 15 against them. 16 MS. ASHBARRY: Okay. If you could just turn to tab 17 38 of the binder, please, this is a copy of the confessed -- 18 the complaint for confession of judgment in the Circuit 19 Court. And if I could just ask you, take a look at exhibit 4. 20 That does have an inspection report from J.D. Grewell and 21 Associates regarding the -- your property at 5612 -- or 22 pardon me -- 5608 McLean Drive? 23 MR. DAVIS: That's correct. 24 MS. ASHBARRY: Okay. And let's see. The settlement 25 agreement is an attachment as well. Okay. That is exhibit 2</p>	<p>100</p> <p>1 MS. ASHBARRY: I'm not sure when the judgment was 2 entered. Let me look at the docket entries and see whether 3 they reflect the -- 4 MR. DAVIS: Because I tried to force a sale through 5 their insurance. 6 MR. GROSSMAN: Well, hold on one second. 7 MS. ASHBARRY: Yes. Entry of -- notice of entry of 8 judgment is docket entry number 14 on exhibit number 34, but 9 it's not necessarily -- there are several docket entries with 10 respect to attempts to serve. Yes. And docket entry numbers 11 five and six state that judgment by confession is entered in 12 favor of plaintiff -- 13 MR. GROSSMAN: Okay. 14 MS. ASHBARRY: -- and against JRK Builders for the 15 sum of \$30,000 as well as attorney's fees. 16 MR. GROSSMAN: Oh, so that's in exhibit 34, and you 17 said it's docket entry -- 18 MS. ASHBARRY: Five -- it looks like five and six. 19 Five is -- is the order. Six is the judgment. 20 MR. GROSSMAN: Okay. Okay. 21 MS. ASHBARRY: Thank you. Okay. I have no further 22 questions for Mr. Davis. 23 MR. GROSSMAN: So did they undertake to build your 24 home? 25 MR. DAVIS: They did.</p>
<p>99</p> <p>1 to the complaint. Okay. Let's see [inaudible]. 2 MR. DAVIS: Okay. 3 MS. ASHBARRY: Yeah. And that document is -- let's 4 see how many pages -- six-page document I believe, and does 5 that document have a copy of your -- your signature on it? 6 MR. DAVIS: It does. 7 MS. ASHBARRY: On the third page? 8 MR. DAVIS: Yes. 9 MS. ASHBARRY: Okay. And that's a true and accurate 10 copy of that memorandum of understanding? 11 MR. DAVIS: It is. 12 MS. ASHBARRY: Okay. Thank you. 13 MR. GROSSMAN: And, Mr. Davis, did you receive a 14 judgment? 15 MR. DAVIS: I did. 16 MR. GROSSMAN: Okay. 17 MR. DAVIS: But there's apparently -- on the one 18 property that I could have a lien against, there's already a 19 \$1.3 million foreclosure, a \$300,000 second loan, and a 20 potential I think \$100,000-some third. So I don't think -- 21 while I have it, I don't -- I don't know if I'm going to be 22 collecting anything on it. 23 MR. GROSSMAN: And is that judgment in the exhibits? 24 MS. ASHBARRY: It is not. 25 MR. GROSSMAN: Okay.</p>	<p>101</p> <p>1 MR. GROSSMAN: And did it have defects as well? 2 MR. DAVIS: That's -- that's the last thing. So am I 3 allowed to speak to the specifics? 4 MS. ASHBARRY: Yeah. Go ahead. Yeah. 5 MR. DAVIS: So the specific was the -- the same 6 hardie plank siding issue. So they -- they -- there was a 7 certain amount of monetary and then they said they would fix 8 -- so instead of me holding them liable financially, we'll 9 take care of it. We'll redo it. We'll figure it out. And they 10 basically said, oh, yeah. We talked to the company. We don't 11 need to do it. 12 So then I got a letter -- I had to go get a letter 13 from the company that said that wasn't true, the inspector 14 that says that wasn't true, and a certified installer that 15 says, no. They can't guarantee this installation. 16 MR. GROSSMAN: So have you had it reinstalled since 17 then? 18 MR. DAVIS: Not yet. No. 19 MR. GROSSMAN: Okay. All right. And those -- those 20 letters that we're talking about? 21 MS. ASHBARRY: Those are all exhibits to the Circuit 22 Court complaint. 23 MR. GROSSMAN: Okay. All right. 24 MS. ASHBARRY: Yes. 25 MR. GROSSMAN: All right. Thank you.</p>

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26 (102 to 105)

<p>102</p> <p>1 MR. DAVIS: Thank you.</p> <p>2 MS. ASHBARRY: Thanks. Okay. I'd like to call as my</p> <p>3 next witness Mr. Jon Williams.</p> <p>4 MR. GROSSMAN: Williams, do you state your full name</p> <p>5 and address for the record?</p> <p>6 MR. WILLIAMS: Jon Yo [ph] Williams. The house that</p> <p>7 -- that we own that JRK is building is at 5612 McLean Drive,</p> <p>8 Bethesda, Maryland. I live at 4100 Blackthorn Street, Chevy</p> <p>9 Chase.</p> <p>10 MR. GROSSMAN: All right. Would you raise your right</p> <p>11 hand, please? Do you swear or affirm to tell the truth, the</p> <p>12 whole truth, and nothing but the truth, under penalty of</p> <p>13 perjury?</p> <p>14 MR. WILLIAMS: Yes. I do.</p> <p>15 MR. GROSSMAN: All right. You may proceed, Counsel.</p> <p>16 MS. ASHBARRY: Mr. Williams, do you know JRK</p> <p>17 Contractor, LLC?</p> <p>18 MR. DAVIS: Yes. I do.</p> <p>19 MS. ASHBARRY: And how do you know them?</p> <p>20 MR. WILLIAMS: They were contracted to build our</p> <p>21 house.</p> <p>22 MS. ASHBARRY: Okay. I'd like you to please take a</p> <p>23 look at exhibit 22 in the binder, tab 22. And for the record,</p> <p>24 this is a contract entered between JRK Builders and</p> <p>25 Contractors, LLC and Mr. Williams -- Mr. Jon Williams, as</p>	<p>104</p> <p>1 with the Office of Consumer Protection?</p> <p>2 MR. WILLIAMS: Yes. It is.</p> <p>3 MS. ASHBARRY: Okay. And there are a number of</p> <p>4 grounds, for the record, reflected in this complaint of</p> <p>5 issues [inaudible], but for purposes of this hearing we're</p> <p>6 proceeding only with respect to item number eight that</p> <p>7 appears on one, two, three -- the fourth page. So I'd like to</p> <p>8 draw your attention to that, if I could, please, Mr.</p> <p>9 Williams, if you could just take a quick look at that. Did</p> <p>10 there come a time where there was some leftover materials at</p> <p>11 the worksite at 5612 McLean?</p> <p>12 MR. WILLIAMS: Yes.</p> <p>13 MS. ASHBARRY: Okay. Was that in the summer of 2017?</p> <p>14 MR. WILLIAMS: Yes.</p> <p>15 MS. ASHBARRY: Okay. And was it a -- a palette of</p> <p>16 slate to finish the base of the house as well as grey hardie</p> <p>17 board shingles?</p> <p>18 MR. WILLIAMS: Yes. And then there was a third.</p> <p>19 There were stone pavers --</p> <p>20 MS. ASHBARRY: Oh.</p> <p>21 MR. WILLIAMS: -- for the driveway to complete,</p> <p>22 which also disappeared from the property.</p> <p>23 MS. ASHBARRY: Okay. So who purchased and owned</p> <p>24 those materials?</p> <p>25 MR. WILLIAMS: We did.</p>
<p>103</p> <p>1 well as Mr. Christopher Coyne. And it's for building -- or</p> <p>2 construction of a home at 5612 McLean Drive in Bethesda,</p> <p>3 Maryland. Is this a true and accurate copy of the contract</p> <p>4 that you signed with JRK?</p> <p>5 MR. WILLIAMS: Yes. It is.</p> <p>6 MS. ASHBARRY: Okay. I'd move to admit exhibit 22.</p> <p>7 MR. GROSSMAN: It is admitted.</p> <p>8 MS. ASHBARRY: Now, there's no date on the -- I did</p> <p>9 not see a date on the document. So when did you enter into</p> <p>10 this contract?</p> <p>11 MR. WILLIAMS: That's correct. December 2016.</p> <p>12 MS. ASHBARRY: Okay. And just for your knowledge,</p> <p>13 Mr. Grossman, I did not know that when I put together my list</p> <p>14 of exhibits. So this is a little bit out of order</p> <p>15 chronologically.</p> <p>16 MR. GROSSMAN: No problem.</p> <p>17 MS. ASHBARRY: So can you tell me the names of the</p> <p>18 individuals you communicated with at JRK regarding your home?</p> <p>19 MR. WILLIAMS: Fernando Guedes, Senior and Fernando</p> <p>20 Guedes, Junior.</p> <p>21 MS. ASHBARRY: Okay. And did you file a complaint</p> <p>22 against JRK with the Office of Consumer Protection?</p> <p>23 MR. WILLIAMS: Yes. I did.</p> <p>24 MS. ASHBARRY: Okay. Could you turn to tab 32,</p> <p>25 please? And is this a copy of the complaint that you filed</p>	<p>105</p> <p>1 MS. ASHBARRY: Okay.</p> <p>2 MR. WILLIAMS: And in some cases we purchased them</p> <p>3 twice.</p> <p>4 MR. GROSSMAN: We -- we being yourself and --</p> <p>5 MR. WILLIAMS: My husband Christopher Coyne.</p> <p>6 MR. GROSSMAN: Okay.</p> <p>7 MS. ASHBARRY: Okay. And why do you say you</p> <p>8 purchased them twice?</p> <p>9 MR. WILLIAMS: In the case of the stone, in the</p> <p>10 contract it says that the -- the stone tower and the other</p> <p>11 elements of the house would be done as part of the original</p> <p>12 purchase price. Fernando Guedes, Junior then came back and</p> <p>13 said that he couldn't complete those as part of the original</p> <p>14 purchase price and that we would have to purchase an</p> <p>15 additional palette of stone for the cost of roughly \$8,000 in</p> <p>16 order to do that, which was already included in the contract.</p> <p>17 We paid an additional \$8,000, an additional change order.</p> <p>18 About 20 percent of the stone was used for the stated cause,</p> <p>19 and the remainder of the stone palette disappeared.</p> <p>20 It was a similar situation with the driveway -- with</p> <p>21 the cobblestone driveway. The original permits that were</p> <p>22 approved by the county show a cobblestone driveway as part of</p> <p>23 the approved plans, which is an appendix to the contract.</p> <p>24 Then Fernando Guedes, Junior and Senior said that they could</p> <p>25 not provide the stuff -- the -- the paved driveway as part of</p>

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27 (106 to 109)

<p>106</p> <p>1 the original contract. We would have to pay an additional</p> <p>2 \$16,000 change order, which, again, we did. And the -- the</p> <p>3 stone pave way -- driveway was then put in. Significantly</p> <p>4 more cobblestone was ordered than what was needed for the</p> <p>5 driveway, and I'll let you get to your next question --</p> <p>6 MS. ASHBARRY: Okay.</p> <p>7 MR. WILLIAMS: -- about what happened to it.</p> <p>8 MS. ASHBARRY: Okay. So with respect to these</p> <p>9 materials that you described, the -- the -- the palette of</p> <p>10 slate for the base of the house, the hardie board shingles,</p> <p>11 and the -- the stone for the driveway, did you talk to the</p> <p>12 leftover materials with anyone from JRK?</p> <p>13 MR. WILLIAMS: I did. I talked to Fernando Guedes,</p> <p>14 Junior.</p> <p>15 MS. ASHBARRY: Okay. And can you describe the</p> <p>16 conversation you had with him about those materials?</p> <p>17 MR. WILLIAMS: Yes. I -- I -- I had multiple</p> <p>18 conversations with Fernando Guedes, Junior in which I said,</p> <p>19 just for the sake of clarity, just so that we're all aligned,</p> <p>20 this is our personal property that we have purchased as part</p> <p>21 of this house. And Fernando agreed to that. And I told him,</p> <p>22 with regard to the hardie board planking, we want to keep the</p> <p>23 extra hardie wood planking. It is not to be removed from our</p> <p>24 premises, in case we have any damage either now or over time</p> <p>25 to the hardie board and we need to use it. And I even went so</p>	<p>108</p> <p>1 MR. WILLIAMS: They were removed from our premises,</p> <p>2 and we saw similar materials, which we believed to be the</p> <p>3 exact same materials, arrive at JRK -- at another house that</p> <p>4 JRK was constructing in Bethesda, Maryland at Roosevelt</p> <p>5 Drive.</p> <p>6 MS. ASHBARRY: Okay. And, Mr. Grossman, I just</p> <p>7 direct your attention to exhibit 37, which has been admitted,</p> <p>8 which is a building permit for 6002 Roosevelt Street in</p> <p>9 Bethesda, Maryland, and the building permit is issued to JRK</p> <p>10 Contractor, LLC.</p> <p>11 MR. GROSSMAN: Okay.</p> <p>12 MS. ASHBARRY: And did JRK, Mr. Fernandez, Junior or</p> <p>13 Senior, ever compensate you for the materials after they left</p> <p>14 your property?</p> <p>15 MR. WILLIAMS: They did not. I asked them to. I also</p> <p>16 said that we believe -- we believe that these materials are</p> <p>17 at Roosevelt Drive and they did not disagree and they said</p> <p>18 that they would not compensate us.</p> <p>19 MS. ASHBARRY: Okay. I'd like to direct your</p> <p>20 attention to exhibit 35, which for purposes of the record is</p> <p>21 the Notice of Violation issued on December 28 of 2017 for the</p> <p>22 property 5612 McLean. Were you aware of this Notice of</p> <p>23 Violation?</p> <p>24 MR. WILLIAMS: Yes.</p> <p>25 MS. ASHBARRY: Did you discuss it with anyone from</p>
<p>107</p> <p>1 far as to say, and we would like it stored in a certain</p> <p>2 location.</p> <p>3 With regard to the stone, I told him that, again,</p> <p>4 the excess stone, if there is excess stone, which I had</p> <p>5 mentioned 80 percent of the palette was excess, is not to be</p> <p>6 removed. It's our stone, and we're going to use it in order</p> <p>7 to complete the construction of the walkway to -- to our</p> <p>8 house.</p> <p>9 And then with regard to the cobblestone, had a</p> <p>10 similar conversation and said, that is not to be removed from</p> <p>11 our premises in case we need to repair any of the cobblestone</p> <p>12 at a later date.</p> <p>13 MS. ASHBARRY: And did those materials remain at</p> <p>14 your property at 5612 McLean?</p> <p>15 MR. WILLIAMS: They did not.</p> <p>16 MS. ASHBARRY: Okay. Did you ever take them off the</p> <p>17 premises?</p> <p>18 MR. WILLIAMS: I did not. We did not. I did not.</p> <p>19 MS. ASHBARRY: Did Mr. --</p> <p>20 MR. WILLIAMS: Nor did Mr. Coyne.</p> <p>21 MS. ASHBARRY: Okay. And do you have any idea what</p> <p>22 happened to those materials?</p> <p>23 MR. WILLIAMS: We do.</p> <p>24 MS. ASHBARRY: And what -- what do you think</p> <p>25 happened to the materials?</p>	<p>109</p> <p>1 JRK?</p> <p>2 MR. WILLIAMS: Both Junior and Senior multiple</p> <p>3 times.</p> <p>4 MS. ASHBARRY: And did they indicate whether they</p> <p>5 would repair the issues identified in this Notice of</p> <p>6 Violation?</p> <p>7 MR. WILLIAMS: So at first they claimed that there</p> <p>8 was -- there were no issues with -- we had J.D. Grewell and</p> <p>9 Associates come out. We had an independent inspector. We're</p> <p>10 not getting into the other details, but there are many</p> <p>11 construction defects with the house, many of which still have</p> <p>12 not been addressed. This was one of them, and then the county</p> <p>13 inspectors came out. The inspector who was here earlier</p> <p>14 personally came out and identified the same problem. We took</p> <p>15 those documents that were generated by J.D. Grewell as well</p> <p>16 as the county, gave them to Junior and Senior. They reviewed</p> <p>17 them and said, there is nothing wrong with the construction</p> <p>18 here.</p> <p>19 We then provided them photographic evidence,</p> <p>20 including the photo that's in here, and they said, this is</p> <p>21 fine. We -- the construction practices are fine. The code is</p> <p>22 incorrect. We don't need to address it, and they refused to</p> <p>23 address it.</p> <p>24 MS. ASHBARRY: And since the Notice of Violation</p> <p>25 have you and Mr. Coyne taken steps to address the issues</p>

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<p>110</p> <p>1 identified in the Notice of Violation?</p> <p>2 MR. WILLIAMS: We have. We've been forced to hire</p> <p>3 another company to come in -- in to address it, and just two</p> <p>4 weeks ago when the stone was removed, approximately -- we</p> <p>5 have a video of a gallon of water leaking out from between</p> <p>6 the stone veneer and the plywood behind. And then when the</p> <p>7 stone veneer was removed, the plywood behind was almost</p> <p>8 completely -- I would say largely saturated with mold and</p> <p>9 mildew already having an -- appeared. And with this week's</p> <p>10 rain storms, we have a trickle of muddy water now going into</p> <p>11 the basement of our house.</p> <p>12 So it was exactly as the county and J.D. Grewell had</p> <p>13 warned us, and yes. We're working with somebody to remedy it.</p> <p>14 It has not fully been remedied.</p> <p>15 MS. ASHBARRY: Okay. Now, when you entered into your</p> <p>16 contract for the construction of the home at 5612 McLean</p> <p>17 Drive, what was the purchase price or which -- for the -- for</p> <p>18 the building, labor, and materials in the contract?</p> <p>19 MR. WILLIAMS: \$2.5 million.</p> <p>20 MR. GROSSMAN: Before --</p> <p>21 MS. ASHBARRY: And --</p> <p>22 MR. GROSSMAN: Before we leave the Grewell thing, do</p> <p>23 we have a copy of that Grewell report?</p> <p>24 MS. ASHBARRY: Do we have a copy of that one?</p> <p>25 MR. FRIEDMAN: We've got a copy of that.</p>	<p>112</p> <p>1 that.</p> <p>2 MS. ASHBARRY: Okay. And are you able to reside at</p> <p>3 the property at 5612 McLean right now?</p> <p>4 MR. WILLIAMS: We are not.</p> <p>5 MS. ASHBARRY: Okay.</p> <p>6 MR. WILLIAMS: We had a move in date of June of last</p> <p>7 year, and we are still very far away from being able to move</p> <p>8 in.</p> <p>9 MS. ASHBARRY: Okay. All right. I have no further</p> <p>10 questions for Mr. Williams.</p> <p>11 MR. GROSSMAN: Is that detailed accounting part of</p> <p>12 the exhibits?</p> <p>13 MS. ASHBARRY: I don't think so. Yeah. I don't think</p> <p>14 so. No.</p> <p>15 MR. GROSSMAN: Do you wish to have that as part of</p> <p>16 it?</p> <p>17 MS. ASHBARRY: Well, Mr. Williams and Mr. Coyne are</p> <p>18 represented by counsel who is here today. So I would defer to</p> <p>19 him as to whether or not he would like something along those</p> <p>20 lines submitted in this proceeding.</p> <p>21 MR. GROSSMAN: Well, you can -- you can consult for</p> <p>22 -- because the record's going to be open for you to --</p> <p>23 MS. ASHBARRY: Okay.</p> <p>24 MR. GROSSMAN: -- have these post-hearing</p> <p>25 submissions.</p>
<p>111</p> <p>1 MS. ASHBARRY: Yes. And if OCP has a copy, it's been</p> <p>2 submitted. Yes.</p> <p>3 MR. GROSSMAN: All right. So that --</p> <p>4 MS. ASHBARRY: So would you like me to augment my</p> <p>5 exhibits --</p> <p>6 MR. GROSSMAN: Yes.</p> <p>7 MS. ASHBARRY: -- with that?</p> <p>8 MR. GROSSMAN: I -- I think that would be helpful,</p> <p>9 and has there -- do you have a cost for the repairs that you</p> <p>10 are entering?</p> <p>11 MS. ASHBARRY: That's my next question. Yes.</p> <p>12 MR. GROSSMAN: Okay. I'll let -- I'll let counsel --</p> <p>13 sorry to jump the gun.</p> <p>14 MS. ASHBARRY: Okay. So -- so -- so is there an</p> <p>15 estimate for the co- -- or how much have you spent to date,</p> <p>16 do you know, to fix the issues with respect to the</p> <p>17 construction of 5612 McLean?</p> <p>18 MR. WILLIAMS: I -- I do but I don't have that</p> <p>19 information offhand. On April 14th of 2017 I prepared a</p> <p>20 detailed accounting of everything that we spent and</p> <p>21 everything that we would spend based on estimates that we've</p> <p>22 received from reputable third parties. And the current best</p> <p>23 estimate to -- based on what we've already spent and what we</p> <p>24 will spend is \$1 million -- \$1,054,000 in excess of the \$2.5</p> <p>25 million that we spent on the house. And it will go up from</p>	<p>113</p> <p>1 MS. ASHBARRY: Okay.</p> <p>2 MR. GROSSMAN: And you can consult, and if you think</p> <p>3 it's advisable, that can be submitted as well.</p> <p>4 MS. ASHBARRY: Okay. Okay. Thank you. Okay.</p> <p>5 MR. WILLIAMS: Okay. Thank you.</p> <p>6 MR. GROSSMAN: All right. Thank you, sir.</p> <p>7 MR. WILLIAMS: Thank you.</p> <p>8 MS. ASHBARRY: Okay. Okay. And I'd like to call my</p> <p>9 last witness, Mr. Christopher Coyne.</p> <p>10 MR. COYNE: Good morning.</p> <p>11 MR. GROSSMAN: Mr. Coyne, would you state your full</p> <p>12 name and address for the record?</p> <p>13 MR. COYNE: Christopher Patrick Coyne, 4100</p> <p>14 Blackthorn Street, Chevy Chase, Maryland 20815.</p> <p>15 MR. GROSSMAN: Will you raise your right hand,</p> <p>16 please? Do you swear or affirm to tell the truth, the whole</p> <p>17 truth, and nothing but the truth, under penalty of perjury?</p> <p>18 MR. COYNE: I do.</p> <p>19 MR. GROSSMAN: All right. You may proceed.</p> <p>20 MS. ASHBARRY: Okay. Thank you. Mr. Coyne, do you</p> <p>21 know JRK Contractor, LLC?</p> <p>22 MR. WILLIAMS: Yes. I do.</p> <p>23 MS. ASHBARRY: Okay. And did you sign a contract in</p> <p>24 --</p> <p>25 MR. COYNE: December of 2016.</p>

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<p>114</p> <p>1 MS. ASHBARRY: -- December of 2016 with JRK Builders 2 and Contractors, LLC for the construction of a home at 5612 3 McLean Drive in Bethesda? 4 MR. COYNE: Yes. 5 MS. ASHBARRY: Okay. Did there come a time in the 6 summer of 2017 when there were some leftover materials at 7 5612 McLean Drive? 8 MR. COYNE: Yes. 9 MS. ASHBARRY: Okay. Can you describe what those 10 materials were? 11 MR. COYNE: There was 80 percent of a palette of 12 stone that we were under the impression that we would be 13 using for our walkway to the front entrance of the house. 14 There was also multiple palettes of cobblestones or permeable 15 pavers that we had paid a huge change order for that we 16 thought maybe we'd use around the back patio. Disappeared. 17 And also some hardie board planks, the sears size, also 18 disappeared off property. 19 MS. ASHBARRY: Okay. And so you and Mr. Williams 20 purchased those materials? 21 MR. COYNE: Yes. We did through a change order. 22 MS. ASHBARRY: And you -- and you -- you own those 23 materials? 24 MR. COYNE: Yes. We do. 25 MS. ASHBARRY: And did you discuss those supplies</p>	<p>116</p> <p>1 from the other subcontractors that were at the house. The 2 irony is that house is on the way from my kids' school to our 3 new house. So I was driving by it all along. There's a house 4 with our shingles and our stone and now a big pile of pavers. 5 MS. ASHBARRY: And when you say a big pile, I mean, 6 generally, what was the size of these materials? Were they 7 easily portable? 8 MR. COYNE: No. It would take a lot of manpower to 9 move them. 10 MS. ASHBARRY: How long do you think it would take 11 one person to move the materials, would you say? 12 MR. COYNE: Two weeks. 13 MS. ASHBARRY: Okay. 14 MR. GROSSMAN: Mr. Coyne, what was the address on 15 Roosevelt Street? 16 MR. COYNE: That I cannot verify, sir. 17 MR. GROSSMAN: Okay. Do we have that, Counsel? I 18 know you've mentioned it. 19 MS. ASHBARRY: Yes. 20 MR. GROSSMAN: [inaudible]. 21 MS. ASHBARRY: That, again, is at tab 37, 6002 22 Roosevelt Street, Bethesda. 23 MR. GROSSMAN: Okay. 24 MS. ASHBARRY: So did JRK ever compensate you for 25 the materials after they went missing from your property?</p>
<p>115</p> <p>1 with JRK or anyone from JRK? 2 MR. COYNE: An individual. Yes. 3 MS. ASHBARRY: Okay. Who did you speak to at JRK? 4 MR. COYNE: Junior. 5 MS. ASHBARRY: Okay. And do you remember when you 6 spoke to him? 7 MR. COYNE: Not in particular. There was multiple 8 conversations. Very large house. A lot of conversations. 9 MS. ASHBARRY: And can you describe the conversation 10 about those materials? 11 MR. COYNE: About the stone in particular, I always 12 knew that there was going to be a -- a significant hardscape 13 plan for the front yard. It's got a big slope. We were going 14 to do that with stairs and -- and I knew we needed the stone. 15 So I said, you know, make sure we put that over on the side 16 and it's not in the way over by the front door. Couple days 17 later there was a trailer in the place where the stone was. 18 MS. ASHBARRY: So the stone was no longer there? 19 MR. COYNE: Yeah. 20 MS. ASHBARRY: Do you have any idea where the stone 21 went? 22 MR. COYNE: So how do I put this? The house on 23 Roosevelt was often referred to as the house on Roosenbeld 24 [ph], which is not a street in Bethesda or Chevy Chase. So I 25 didn't even know about this other house until I found out</p>	<p>117</p> <p>1 MR. COYNE: No, ma'am. 2 MS. ASHBARRY: Did you ever talk to Fernando, Junior 3 or Senior about the missing materials? 4 MR. COYNE: About -- I don't remember specific 5 conversations about the siding or the other. I remember one 6 other conversation about the siding in particular. Standing 7 in front of the house, they're on huge palettes and saying, 8 wow, we have enough siding left over to do a whole addition, 9 which is funny because the house is very large. Joke. And he 10 said, oh, yeah. Yeah. You'll have enough siding to fix any 11 repairs or anything on the house for decades, which is great 12 news because, as you hear, we have a lot of siding issues. 13 As far as the stone was concerned, the day that they 14 moved the stone off property, they knew I was going to be 15 volunteering at the kids' school that day. And they took 16 advantage of that and literally grabbed all the stone in 17 senior's truck, loaded it up, and drove it over there. I have 18 photos of them unloading the stone from the truck at the 19 house because I drove by. 20 MR. GROSSMAN: At the house on Roosevelt Street, do 21 you mean? 22 MR. COYNE: Yes. 23 MR. GROSSMAN: Okay. 24 MS. ASHBARRY: Okay. And I do not have those photos. 25 MR. COYNE: Yeah. I'm so sorry.</p>

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<p>118</p> <p>1 MS. ASHBARRY: That's okay.</p> <p>2 MR. COYNE: Again, because the pavers happened after</p> <p>3 complaints and that -- there was no communication between.</p> <p>4 MS. ASHBARRY: Okay. And so neither Junior nor</p> <p>5 Senior ever offered to compensate you for the materials that</p> <p>6 were taken from you?</p> <p>7 MR. COYNE: Never.</p> <p>8 MS. ASHBARRY: I'd like to -- to take a look at --</p> <p>9 well, I think it's open -- to exhibit 35, which is the Notice</p> <p>10 of Violation for the property at 5612 McLean Drive. Were you</p> <p>11 aware of this Notice of Violation for the property?</p> <p>12 MR. COYNE: Yes. I was.</p> <p>13 MS. ASHBARRY: Did you discuss it with anyone from</p> <p>14 JRK?</p> <p>15 MR. COYNE: Yes. I did.</p> <p>16 MS. ASHBARRY: Who did you talk to at JRK?</p> <p>17 MR. COYNE: With Senior.</p> <p>18 MS. ASHBARRY: And what was the nature of the</p> <p>19 conversation?</p> <p>20 MR. COYNE: At this point Senior was the -- our --</p> <p>21 our point of contact at the house. I actually had requested</p> <p>22 that Senior not come back on property because I wasn't</p> <p>23 feeling super safe when he was around. Senior -- we had the</p> <p>24 list. He had it in multiple formats, in paper and text and e-</p> <p>25 mail, and he would reply back, okay. I took care of this</p>	<p>120</p> <p>1 at the gym.</p> <p>2 MR. GROSSMAN: Okay. And did you check his</p> <p>3 background at all?</p> <p>4 MR. COYNE: As much as we possibly could.</p> <p>5 MR. GROSSMAN: You met Junior, Mr. Guedes, Junior?</p> <p>6 MR. COYNE: Yes.</p> <p>7 MR. GROSSMAN: Yeah.</p> <p>8 MR. COYNE: There's a lot of information on the</p> <p>9 internet about him, of course. A lot of it's just very -- I</p> <p>10 mean, very minor. When I asked about the other houses,</p> <p>11 obviously, the time that we signed our contract was right</p> <p>12 during the holidays and everybody was already gone. You know,</p> <p>13 it's -- everyone in Montgomery County disappears during the</p> <p>14 holidays. And when we asked about one house in particular,</p> <p>15 the Kammerer's house, I was told never to speak to them at</p> <p>16 all, that they're racists, and I -- I don't really want to</p> <p>17 delve into why I would call a racist.</p> <p>18 MR. GROSSMAN: Yeah. I mean, I could -- this -- this</p> <p>19 whole line is not really directly relevant to this</p> <p>20 consideration because, for whatever reason you selected or</p> <p>21 the other folks here selected JRK, they either did or they</p> <p>22 did not do what they were required to do. So that's not --</p> <p>23 that's not -- I was just curious about it.</p> <p>24 MS. ASHBARRY: Yes. And, Mr. Grossman, just for the</p> <p>25 record and for your knowledge, if you review the complaint at</p>
<p>119</p> <p>1 switch and this and that, da, da, da. And we kept asking,</p> <p>2 what about the stone? What are you going to do about the</p> <p>3 stone? I'm not going to do anything about the stone. It is</p> <p>4 done properly, and we're not doing anything about it.</p> <p>5 MS. ASHBARRY: And did you and Mr. Williams retain</p> <p>6 counsel to communicate on your behalf with JRK regarding</p> <p>7 their performance under the contract for construction of your</p> <p>8 home at 5612 McLean Drive?</p> <p>9 MR. COYNE: Yes. We did.</p> <p>10 MS. ASHBARRY: Okay. And what is the status of the</p> <p>11 construction now?</p> <p>12 MR. COYNE: I am now listed as the -- the primary</p> <p>13 builder of the property.</p> <p>14 MS. ASHBARRY: And are you taking steps to remediate</p> <p>15 the issues that developed during the course of construction</p> <p>16 by JRK?</p> <p>17 MR. COYNE: Yes. I am.</p> <p>18 MS. ASHBARRY: Okay. I have no further questions for</p> <p>19 Mr. Coyne.</p> <p>20 MR. GROSSMAN: I -- I recall seeing something in the</p> <p>21 record about initially that JRK had shown a picture of a</p> <p>22 house that it had supposedly built but it turned out that it</p> <p>23 had not. I just wondered how -- how you came to select JRK as</p> <p>24 the contractor.</p> <p>25 MR. COYNE: This is the worst story ever. I met him</p>	<p>121</p> <p>1 tab 31 filed by the Kammerers against JRK, it has a number of</p> <p>2 allegations in there with respect to representations that</p> <p>3 were made to the Kammerers prior to their signing of the</p> <p>4 contract with JRK. And it actually is a good segue into</p> <p>5 another issue that I wanted to discuss with you. So I have --</p> <p>6 MR. GROSSMAN: All right.</p> <p>7 MS. ASHBARRY: I have nothing more with Mr. Coyne,</p> <p>8 unless you have --</p> <p>9 MR. GROSSMAN: I have no further questions, Mr.</p> <p>10 Coyne.</p> <p>11 MR. COYNE: Thank you.</p> <p>12 MR. GROSSMAN: Thank you.</p> <p>13 MS. ASHBARRY: Okay. Thank you. I wanted to raise</p> <p>14 the issue of exhibit 36.</p> <p>15 MR. GROSSMAN: Okay.</p> <p>16 MS. ASHBARRY: If I could draw your attention to</p> <p>17 that.</p> <p>18 MR. GROSSMAN: Yes.</p> <p>19 MS. ASHBARRY: These are responses to requests for</p> <p>20 admissions that were filed in the pending Circuit Court</p> <p>21 action against JRK, case number 439234V, and it's the case</p> <p>22 that the Kammerers brought.</p> <p>23 MR. GROSSMAN: Right.</p> <p>24 MS. ASHBARRY: And there are some admissions of fact</p> <p>25 in there with respect to -- that I think are relevant to this</p>

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<p>122</p> <p>1 proceeding. I wasn't sure whether you would be willing to 2 take judicial notice of that pleading or not. 3 MR. GROSSMAN: They -- it's been authenticated, I 4 believe, although it's not one of the ones I have checked 5 off. 6 MS. ASHBARRY: No. I did not have Mr. Friedman or 7 Mr. Sackett include those. Those were provided to me, I can 8 represent to you, by counsel for the Kammerers, and so I 9 included them in the submission today. 10 MR. GROSSMAN: Well, Mr. Kammerer could step up and 11 say that -- that they were responses received in his case to 12 requests for admissions, and then I see no problem in saying 13 that they are authenticated -- 14 MS. ASHBARRY: Okay. 15 MR. GROSSMAN: -- in that fashion. 16 MS. ASHBARRY: Okay. 17 MR. GROSSMAN: Yeah. Without anybody here to object 18 -- 19 MS. ASHBARRY: Okay. 20 MR. GROSSMAN: -- to them, it seems to me a 21 reasonable thing. There is also another item I saw -- let's 22 see -- that did not have a notation of admission on it. 21 23 and 29. 24 MS. ASHBARRY: Oh, these are both communications 25 from the Office of Consumer Protection --</p>	<p>124</p> <p>1 MS. ASHBARRY: And you're still under oath, Mr. 2 Kammerer. 3 MR. KAMMERER: Uh-huh. 4 MS. ASHBARRY: Could you please identify for the 5 record the document that I've handed you marked exhibit 36? 6 MR. KAMMERER: Yes. 7 MS. ASHBARRY: Are those requests for -- are this 8 defendant's responses to plaintiff's request for admission 9 filed in the lawsuit that you are currently pursuing against 10 JRK Contractor, LLC? 11 MR. KAMMERER: Yes. 12 MS. ASHBARRY: And is that a true and accurate copy 13 of that pleading in that case? 14 MR. KAMMERER: Looks like it. Yes. 15 MR. GROSSMAN: Okay. That's authenticated and 16 admitted. 17 MS. ASHBARRY: Okay. Thank you. Thank you. 18 MR. GROSSMAN: And I -- that covers all the ones 19 that are 1 through 39, and I will also admit the -- the 20 additional documents we talked about -- 21 MS. ASHBARRY: Okay. 22 MR. GROSSMAN: -- today that -- that have not yet 23 been exhibitized. 24 MS. ASHBARRY: Okay. Exhibitized. Yes. And I wasn't 25 sure if you wanted to hear closing from me, Mr. Grossman, or</p>
<p>123</p> <p>1 MR. GROSSMAN: Okay. 2 MS. ASHBARRY: -- that should have been included in 3 my list of exhibits for Mr. Friedman to authenticate. 4 MR. GROSSMAN: Okay. All right. 5 MS. ASHBARRY: That were -- they were both pursuant 6 to his investigation under County Code 31C-8(a). 7 MR. GROSSMAN: All right. Mr. Friedman, exhibits 21 8 and 29 are authentic copies of what they purport to be in the 9 exhibit list? 10 MR. FRIEDMAN: 21 and 29? 11 MS. ASHBARRY: Yes. 12 MR. FRIEDMAN: 21, yes. This is the letter that our 13 office -- that I sent to JRK regarding the executive director 14 complaint and the two attachments that -- that accompanied 15 that letter. And 29, yes. This is the four-page letter that I 16 sent to -- to JRK regarding numerous items and which does 17 make reference on number five to social media advertisements 18 in which there are misrepresentations of material fact with 19 respect to JRK. 20 MR. GROSSMAN: All right. Okay. 21 MS. ASHBARRY: Okay. I'd like to recall Mr. 22 Kammerer, if I could, please -- 23 MR. GROSSMAN: Certainly. 24 MS. ASHBARRY: -- to just authenticate exhibit 36. 25 MR. KAMMERER: Yes.</p>	<p>125</p> <p>1 if you'd like a written submission. 2 MR. GROSSMAN: Well, I -- I will leave the -- the 3 question or an oral closing up to you. I would like you to 4 file proposed findings of fact and conclusions of law, and it 5 seems like way to go in this kind of case. 6 MS. ASHBARRY: Right. 7 MR. GROSSMAN: But you're certainly welcome to sum 8 up here as well. 9 MS. ASHBARRY: Certainly. I will -- I will not take 10 much time with my summary. I'll simply point out that the 11 exhibits -- 12 MR. GROSSMAN: Take as much time as you need. 13 MS. ASHBARRY: -- and the witnesses that have 14 testified today clearly demonstrate that there have been 15 multiple violations of the Montgomery County Code, of state 16 law, and that adequate grounds exist to revoke the builders 17 license issued to JRK Contractors, LLC. And I think that -- I 18 -- I don't think I'm going to take up any more of your time, 19 especially if you want a written submission. 20 I did want to revisit the one issue raised at the 21 top of the hearing with respect to the appellate rights under 22 the statute. 23 MR. GROSSMAN: Right. 24 MS. ASHBARRY: I -- and I just wanted to clarify or 25 I guess I -- I'd like to just note an objection to the extent</p>

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<p style="text-align: right;">126</p> <p>1 that you're asking the Office of Consumer Protection and the 2 county to opine as to the meaning of or the relationship of 3 various statutes under the law. Again, my office's role is to 4 give legal advice to county government, and the law really 5 speaks for itself. And to the extent JRK plans to appeal, 6 they would need to retain counsel, read the law, and follow 7 whatever recourse they believe is necessary. So I just wanted 8 to -- to note that on the record and preserve our objection 9 on the issue. But again, I'd just like to circle back and get 10 a little more clarity as far as exactly what you're looking 11 for in writing from the county on this partic- -- on that 12 issue.</p> <p>13 MR. GROSSMAN: Okay. Well, first of all, once again, 14 sure. The county attorney gives advice to county agencies, 15 but this is a contested legal proceeding, and when we act as 16 hearing examiners in contested legal proceedings, we don't 17 ask for advice from the county attorney. We get submissions, 18 if they are parties. Occasionally, we will ask for a 19 submission by the -- by the county attorney opinion 20 submission which then becomes part of the record and is 21 subject to response by other parties. Here it's not 22 necessarily -- not necessary to do that separately because 23 you are, in fact, representing a party in this proceeding. 24 And so we can, as the hearing examiner -- it's part 25 of our authority to ask for an opinion on any issue in the</p>	<p style="text-align: right;">128</p> <p>1 MS. ASHBARRY: Okay. 2 MR. GROSSMAN: It's up to you. 3 MS. ASHBARRY: Two weeks actually would be great. 4 MR. GROSSMAN: All right. 5 MS. ASHBARRY: Thank you. 6 MR. GROSSMAN: And -- and I'm not trying to push you 7 to do anything faster than you need to. You can do both at 8 the same time, your -- your submissions of -- of the exhibits 9 that we talked about that were not part of the record as well 10 as your proposed findings of fact and conclusions of law. 11 MS. ASHBARRY: Okay. 12 MR. GROSSMAN: Now, let me get out a calendar here. 13 This is May 18. So we're talking about Friday, June 1, I 14 guess. Is that -- 15 MS. ASHBARRY: Yes. 16 MR. GROSSMAN: And is that sufficient time for you? 17 MS. ASHBARRY: Yes. Yes. 18 MR. GROSSMAN: Okay. 19 MS. ASHBARRY: And you would like electronic version 20 of whatever I submit as well; is that correct? 21 MR. GROSSMAN: Yes. I -- I'd certainly like that. 22 MS. ASHBARRY: And -- and when I say electronic, do 23 you want PDF or Microsoft Word? 24 MR. GROSSMAN: Well, actually, both would be good. 25 MS. ASHBARRY: Okay.</p>
<p style="text-align: right;">127</p> <p>1 case. This is an issue in the case that occurred to me when I 2 looked at the two statutes before coming in here, and I -- so 3 I think it's advisable to get the county's position on the 4 issue.</p> <p>5 That's all it would be. It would be the county's 6 position on this issue. Certainly, you are correct that it 7 would be up to -- assuming if the county wins this proceeding 8 ultimately before the Board of Registration, it will be up to 9 the respondent to decide how it thinks it has a right to 10 proceed thereafter. But that doesn't mean that we -- we 11 shouldn't get the -- the position of the county on this point 12 as well.</p> <p>13 MS. ASHBARRY: Okay. Well -- 14 MR. GROSSMAN: But, Erin, your objection is noted. 15 MS. ASHBARRY: Okay. Thank you. When would you be 16 interested in receiving a written submission from my office 17 with respect to the evidence submitted today? 18 MR. GROSSMAN: When is it convenient for you to do 19 so? 20 MS. ASHBARRY: I -- I would ask for one week from 21 today. 22 MR. GROSSMAN: Certainly. 23 MS. ASHBARRY: Okay. 24 MR. GROSSMAN: You can have more time than that, if 25 you need it.</p>	<p style="text-align: right;">129</p> <p>1 MR. GROSSMAN: And so it's June 1, 2018 for proposed 2 findings and conclusions -- 3 MS. ASHBARRY: And -- 4 MR. GROSSMAN: -- by the county. Yes? 5 MS. ASHBARRY: What is the availability, if any, of 6 the transcript of today's hearings to my office prior to June 7 1? 8 MR. GROSSMAN: Okay. Usually, it's a 10-day thing. 9 MS. ASHBARRY: Okay. 10 MR. GROSSMAN: You can pay additional money to get 11 it faster. 12 MS. ASHBARRY: Okay. Okay. 13 MR. GROSSMAN: But -- but it's usually -- it's seven 14 business days under the contract that your office negotiated. 15 MS. ASHBARRY: Okay. Well -- 16 MR. GROSSMAN: But you can get it -- as I say, you 17 can get a faster thing for some additional. 18 MS. ASHBARRY: Right. And -- and I guess to that, 19 just want to understand the format of what you're looking 20 for. You know, normally, when you submit a brief to an 21 appellate court, for example, you have very precise citations 22 to the record to support a statement of fact in your brief. 23 Is that what you would be looking for? 24 MR. GROSSMAN: I would like citations -- 25 MS. ASHBARRY: Okay.</p>

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<p>130</p> <p>1 MR. GROSSMAN: -- to the record.</p> <p>2 MS. ASHBARRY: Okay. So in that event, I might need</p> <p>3 more time than June 1.</p> <p>4 MR. GROSSMAN: Okay.</p> <p>5 MS. ASHBARRY: If that's possible.</p> <p>6 MR. GROSSMAN: We can order it. The transcript won't</p> <p>7 be that lengthy.</p> <p>8 MS. ASHBARRY: Right.</p> <p>9 MR. GROSSMAN: And I don't think it's -- the extra</p> <p>10 cost would be that dramatic. We can order it on a -- on a --</p> <p>11 I guess it's a three-day turnaround. I think that's the --</p> <p>12 that's the -- we can do it on a one-day turnaround, but I</p> <p>13 don't think that's necessary.</p> <p>14 MS. ASHBARRY: Okay.</p> <p>15 MR. GROSSMAN: But a -- a three-day turnaround.</p> <p>16 MS. ASHBARRY: Okay.</p> <p>17 MR. GROSSMAN: So --</p> <p>18 MS. ASHBARRY: With a three-day turnaround I think I</p> <p>19 could meet the June 1 deadline.</p> <p>20 MR. GROSSMAN: Okay.</p> <p>21 MS. ASHBARRY: Yes.</p> <p>22 MR. GROSSMAN: I mean, you can have more time, if</p> <p>23 you need to. You can --</p> <p>24 MS. ASHBARRY: Okay.</p> <p>25 MR. GROSSMAN: -- just ask for it.</p>	<p>132</p> <p>1 reference or is that not an issue?</p> <p>2 MR. GROSSMAN: That's probably not an issue, but I</p> <p>3 certainly will leave it up to you to do it.</p> <p>4 MS. ASHBARRY: Okay. Okay.</p> <p>5 MR. GROSSMAN: So if it's not too difficult.</p> <p>6 MS. ASHBARRY: Okay.</p> <p>7 MR. GROSSMAN: Okay. So we have June 1 for your find</p> <p>8 -- proposed findings of fact and conclusions of law and your</p> <p>9 other exhibits that were discussed today, June 11, 2018 for</p> <p>10 any response from the respondent, and you have until June 15</p> <p>11 for any reply to any such response for you. And the record</p> <p>12 will close at the close of business on June 15, 2018. Does</p> <p>13 that make sense to everybody? Okay.</p> <p>14 MS. ASHBARRY: Yes. And today, since I am submitting</p> <p>15 additional exhibits, it's my understanding those -- that</p> <p>16 would be a separate submission from my proposed findings of</p> <p>17 fact and conclusions of law.</p> <p>18 MR. GROSSMAN: Yes.</p> <p>19 MS. ASHBARRY: Yes. Okay.</p> <p>20 MR. GROSSMAN: But same date --</p> <p>21 MS. ASHBARRY: Yes.</p> <p>22 MR. GROSSMAN: -- applies to that. Is there anything</p> <p>23 else that we need to handle today?</p> <p>24 MS. ASHBARRY: No.</p> <p>25 MR. GROSSMAN: No?</p>
<p>131</p> <p>1 MS. ASHBARRY: Okay. Thank you.</p> <p>2 MR. GROSSMAN: But let's do that three-day</p> <p>3 turnaround.</p> <p>4 MS. ASHBARRY: Okay. Thank you.</p> <p>5 MR. GROSSMAN: I forget if it's labeled as two-day</p> <p>6 or three-day in your submission. It doesn't include the</p> <p>7 weekend. So -- and we'll leave the record -- after you submit</p> <p>8 that on June 1, we'll leave the record open for another 10</p> <p>9 days in case the respondent seeks to respond to it. And --</p> <p>10 and so that would be June 11. So please make sure that you</p> <p>11 send a copy of whatever you submit to the respondent, and</p> <p>12 they will have until June 11 to file any reply they seek to</p> <p>13 file.</p> <p>14 And do you want additional time thereafter to</p> <p>15 respond to that, if they do file something or you --</p> <p>16 MS. ASHBARRY: Yes.</p> <p>17 MR. GROSSMAN: -- want me to close -- okay.</p> <p>18 MS. ASHBARRY: Yes.</p> <p>19 MR. GROSSMAN: So why don't we say that the record</p> <p>20 will remain open until June 15 in case you seek to file a</p> <p>21 reply, if they should file something.</p> <p>22 MS. ASHBARRY: Okay. And with respect to the</p> <p>23 proposed findings of fact and conclusions of law, would you</p> <p>24 be interested in -- in an appendix that includes all of the</p> <p>25 county code sections that are being cited for ease of</p>	<p>133</p> <p>1 MS. ASHBARRY: Thank you.</p> <p>2 MR. GROSSMAN: All right. Then we are adjourned.</p> <p>3 Thank you.</p> <p>4 MS. ASHBARRY: Thank you.</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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CERTIFICATE OF TRANSCRIBER

I, Chris Naaden, a transcriber, hereby declare under penalty of perjury that to the best of my ability the above 141 pages contain a full, true and correct transcription of the tape-recording that I received regarding the event listed on the caption on page 1.

I further declare that I have no interest in the event of the action.


May 21, 2018
Chris Naaden

(186149, Administrative Hearing, 5-18-18)