

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

NYC TAXI AND LIMOUSINE COMMISSION
PUBLIC COMMISSION MEETING

held on Thursday, January 10, 2008

40 Rector Street
Fifth Floor
New York, New York
9:30 a.m.

1 P R E S E N T :

2 MATTHEW W. DAUS, Commissioner/Chair

3 ELIAS AROUT, Commissioner

4 EDWARD GONZALES, Commissioner

5 JEFFREY KAY, Commissioner

6 HOWARD VARGAS, Commissioner

7 CHARLES FRASER, General Counsel

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CHAIRMAN DAUS: We are going to
2 get started. Would everybody please take their
3 seats.

4 I am pleased to announce that
5 Commissioner Gonzales has replaced Noach Dear's
6 seat to add a little more balance to this side.

7 First and foremost, happy new
8 year, everybody. 2007 was quite a year. I am
9 confident that 2008 will be even more
10 interesting and exciting. We are going to do
11 our best to make that happen.

12 I would like to proceed on the
13 agenda to Item 1, the Chairman's report.

14 First, we have -- you may have
15 heard in the news that we have a new oversight
16 and supervisor, Deputy Mayor Ed Skyler. He was
17 promoted by Mayor Bloomberg to be Deputy Mayor
18 for Operations.

19 The TLC will be coming under his
20 watch, and we are very much looking forward to
21 working with Ed.

22 On the medallion sale front, we
23 are continuing to see some progress on
24 starting to roll out those accessible
25 medallions. We have 18 accessible medallion

1 closings that have been held to date since the
2 auction in November, and we have 16 additional
3 accessible taxis on the road.

4 Also, just to remind everybody,
5 the industry, that we are scheduled to hold our
6 last and final medallion sale, which will
7 involve 87 accessible medallions, on or before
8 June 30, 2008. When we have details on exact
9 dates and times, we will let you know.

10 On the TPEP, Taxi Technology
11 customer service enhancements, we have at this
12 point .62 percent of all taxicabs are equipped,
13 and the roll-out is still proceeding smoothly.

14 We have our data still shows
15 that there is an increase in credit card tips.
16 It is averaging still around the 20 percent
17 range, which is better than it was before.

18 On the Taxi Technology issue,
19 the bankruptcy issue -- we reported this a few
20 times before -- on the advice of counsel, we
21 are extending the compliance deadline for those
22 folks who had contracts with Taxi Technology to
23 the inspection cycle beginning on or after
24 March 1st, 2008 so at the regularly scheduled
25 inspection for March 1st and thereafter, you

1 will be required to be in compliance.

2 Now, as things change, obviously
3 on the legal front with the bankruptcy pending,
4 we will let you know.

5 At the last meeting, I had
6 reported there were some issues with credit
7 cards and the systems being used and employed
8 by the drivers. I am happy to report that we
9 have noticed a slight improvement. Our data
10 has indicated that there is an average
11 13 percent increase in credit card usage from
12 November through December, including the point
13 at which we had some media attention sparked
14 inadvertently by some comments that I had made
15 at the last meeting.

16 First of all, I want to thank
17 the media. I think that helped a little bit,
18 and I also want to thank the industry, the
19 medallion owners, that we have seen some slight
20 improvement over there. It is still an issue.

21 We are going to remain vigilant
22 and continue to monitor very closely the
23 progress of the roll-out, including not only
24 the number of transactions but the prosecution
25 of complaints.

1 Our goal is ultimately to
2 achieve, if we can, 100 percent compliance. We
3 are exploring right now with counsel and staff
4 enforcement options, including not just
5 ensuring that drivers are using the credit card
6 machines and know how to use them, but also
7 just the entire passenger experience.

8 We are looking at ways that we
9 can enhance the whole customer service
10 experience between the relationship between the
11 driver and the passenger, not just credit
12 cards, so hopefully we will be reporting more
13 on what we plan to do in the next couple of
14 weeks.

15 For those of you who haven't
16 heard, there is going to potentially be an
17 Amtrak strike. There may be a strike at
18 midnight on January 29th, and from what we are
19 hearing, the reports, that could extend into
20 January 30th.

21 We hope obviously it will be
22 averted by then, but it does have the potential
23 to be disruptive to many commuters, to people
24 traveling to and from the city to various
25 points.

1 In a nutshell, the main thing
2 that is going to happen is that Penn Station is
3 going to be closed. Not only are all the
4 Amtrak lines going to be down potentially,
5 but -- a lot of people don't know this --
6 Amtrak owns a lot of other tracks so when they
7 go on strike, it does have an impact upon New
8 Jersey Transit and the LIRR.

9 We are working very closely with
10 OEM. We are providing information to them. We
11 don't have an official role or anything to
12 report at this point other than that we have
13 been working and meeting with them.

14 To the extent that we do get a
15 role for our industry and how it is going to
16 impact us, we will try to get the information
17 out as soon as we can.

18 Obviously if Penn Station is
19 closed there may be a lot of empty cabs waiting
20 at the Penn Station taxi line.

21 To the extent that we can use
22 the TPEP systems to send text messages out to
23 the drivers about what is going on, as well as
24 using our other means of outreach
25 communication, we will keep you apprised of

1 that.

2 On the Garden and Transit front,
3 as you notice, there are still flowers out
4 there, which is consistent with the warm
5 temperatures we have been getting the last
6 couple of days.

7 I just want to reassure the
8 industry we are not going to be issuing any
9 summonses or notices of violation. We realize
10 over the last couple of days it was cold out
11 there, but we do encourage you to please try to
12 take them off at your earliest convenience.

13 To the extent we can be helpful,
14 Peter Schenkman is available to assist and give
15 his advice. There is information on the
16 Gardens and Transit website as well as our
17 website, and there is an industry notice which
18 we have copies in the back which explains how
19 you need to go about removing the decals.

20 We are not going to penalize
21 you, but at your convenience, please try to
22 take them off, otherwise they will be on there
23 forever, and the worst that can happen is they
24 start peeling, they get weathered, and then
25 they start looking kind of junky, and We don't

1 want that for our cabs and for the industry.

2 As promised, our monthly
3 Accessible Dispatch update, we do have some
4 information to report on the Accessible
5 Dispatch 311 project.

6 Today we are having a hearing on
7 the demonstration project contract award at the
8 Mayor's Office of Contract Services. We have
9 Art Ako (sic) is going to be attending that.
10 If all goes well, that means some additional
11 paperwork will need to be submitted to the
12 Mayor's Office.

13 Then, after that, the contract
14 will be sent to the Comptroller for approval
15 and registration. The Comptroller has 30 days
16 to review it from that point in time.

17 If all goes well, we will
18 probably be done by sometime in mid to late
19 February and ready to go.

20 Some of you may have seen on our
21 website or heard in the press that there is a
22 final publication that came out from the Design
23 Trust, which we assisted with. It is called
24 Roads Forward. We sent it out to all the
25 Commissioners, and it is available for download

1 through our website as well as the Design Trust
2 website.

3 Just to clarify, this is
4 something we got some initial comments from,
5 some pretty strong objections to the first
6 draft from some of our Commissioners.

7 I think as a result of our
8 Commissioners' input, it has become a much
9 better document, as well as staff input.

10 Just to clarify, this is not
11 something that we endorse. This is something
12 that we did help with the cost and did engage
13 in the exercise, but it is kind of an outside
14 counsel type of report. This is advice
15 recommendations from people who objectively
16 from the design community -- constituents we
17 ordinarily don't deal with kind of gave us
18 their ideas on what we should do in the
19 industry to improve it.

20 Some of the ideas have already
21 been implemented under the Bloomberg
22 administration. There are some new ones. We
23 are going to give it a fresh read, and we are
24 going to ask the Commissioners for their
25 thoughts on any of the new ideas that are in

1 here, but we don't endorse every idea that is
2 in here.

3 We basically endorse the
4 exercise. We participated in the exercise as
5 many in this room have.

6 I think it is a very, very nice
7 professional product, and it really does serve
8 as a good fact book for the industry in terms
9 of providing data.

10 If somebody picks it up and
11 reads it they will get a good flavor for the
12 dynamic nature and wonderful history of the
13 taxi industry.

14 The New York City -- the CleanYC
15 clean air stickers and the accessible stickers
16 which are required, I think, by our laws to be
17 placed on accessible and hybrid vehicles are
18 available at our meter shops and other
19 locations.

20 There are various authorized
21 vendors, and you can get all the information
22 you need from our website on how to get them
23 and how to purchase them.

24 Just a reminder that for your
25 scheduled inspection on or after February 1st

1 of this year, you are required, if you have an
2 accessible or clean air vehicle, to have those
3 stickers in place. There is also an industry
4 notice in the back explaining that.

5 Last but certainly not least,
6 the Taxi of Tomorrow Project, I want to thank
7 Commissioner Kay. He has taken a very active
8 role in this project, and it is moving forward
9 at a rigorous speed.

10 We have meetings every week on
11 it, and, as promised to the industry, it is our
12 goal to create the Utopian taxicab, one that is
13 going to be workable for everybody and
14 accessible to everybody.

15 We have the Detroit Auto Show
16 coming up on the 15th of January. We have all
17 the auto manufactures under one roof, and we
18 are scheduling meetings with very high level
19 executives from all the motor companies to talk
20 about the taxi of tomorrow.

21 I am going to be sending our
22 First Deputy, Andy Salkin, and Peter Schenkman
23 to Detroit on the 15th to meet with them.

24 So we are seeing some progress
25 on that front, and it is a major and top

1 priority still for this Commission.

2 Upcoming Commission meetings,
3 the next Commission meeting is tentatively
4 scheduled for Valentine's Day, February 14,
5 Thursday.

6 We are back on our regular
7 schedule, and then the next meeting after that
8 is tentatively scheduled for Thursday,
9 March 13th.

10 Also, for those of you who
11 follow these things, our rules require that
12 every two years we hold a review of the leasing
13 system and the lease caps, and whether they are
14 equitable or not.

15 We will probably be holding, as
16 we have done in the past, a separate public
17 hearing for that purpose in March. We have to
18 do this before the end of March under our
19 rules, and we will.

20 As soon as we get a date in
21 March to conduct that hearing, we will apprise
22 the industry, and we will be asking, in
23 addition to what is in the rule, we are going
24 to be asking that several detailed questions be
25 answered so that we can get a better flavor for

1 what, if anything, needs to be done on that
2 front.

3 That concludes my report.

4 Any questions?

5 Okay.

6 I really am noticing
7 Commissioner Dear's absence today.

8 Item 2, the adoption of the
9 minutes for the December 10, 2007 meeting. Do
10 we have any objections, modifications,
11 clarifications to the minutes?

12 COMM. AROUT: Motion for
13 acceptance.

14 CHAIRMAN DAUS: Motion on the
15 floor. Do we have a second?

16 COMM. VARGAS: Second.

17 CHAIRMAN DAUS: All in favor.

18 (Chorus of "Ayes.")

19 CHAIRMAN DAUS: Item 3, Base
20 Licensing. Do we have a rep from Licensing.

21 MS. STEELE-RADWAY: Licensing
22 would like to present before the Commission 18
23 bases with a recommendation for approval.

24 CHAIRMAN DAUS: Any comments?

25 Do we have a motion?

1 COMM. AROUT: Mr. Chairman, if I
2 may, there is one question here. As far as
3 ownership change and name change, Staten Island
4 Speed Incorporated, what is their new name and
5 address, please?

6 CHAIRMAN DAUS: Staten Island
7 Speed Inc.?

8 Is that the new name?

9 COMM. AROUT: That is what they
10 are now, unless they put Staten Island in front
11 of Speed. If you don't have it, I would
12 appreciate it whenever you get it.

13 MS. STEELE-RADWAY: I will get
14 it to you.

15 CHAIRMAN DAUS: Is that just an
16 ownership change or name change?

17 MS. STEELE-RADWAY: Ownership
18 and name change.

19 I'll be able to provide that.

20 CHAIRMAN DAUS: Any other
21 questions?

22 Did we have a motion out there?

23 COMM. VARGAS: Motion.

24 CHAIRMAN DAUS: Second?

25 COMM. AROUT: Second.

1 CHAIRMAN DAUS: All in favor?

2 (Chorus of "Ayes.")

3 CHAIRMAN DAUS: We have a denial
4 also?

5 MS. STEELE-RADWAY: Licensing
6 would like to present one base with a
7 recommendation for denial with the request that
8 the Commission grants an additional 30 days so
9 they may submit the outstanding items.

10 CHAIRMAN DAUS: This is an
11 entity that did not provide us paperwork again,
12 correct?

13 MS. STEELE-RADWAY: They are
14 outstanding with the Department of Finance
15 Clearing.

16 CHAIRMAN DAUS: Do we have
17 motion to deny?

18 CHAIRMAN AROUT: Deny.

19 CHAIRMAN DAUS: Second?

20 COMM. VARGAS: Second.

21 CHAIRMAN DAUS: All in favor?

22 (Chorus of "Ayes.")

23 CHAIRMAN DAUS: Thank you,
24 Georgia.

25 Item 4, Proposed Rules for

1 Public Hearing and Commission Action.

2 We are going to proceed first
3 with the commuter van decal rules.

4 If you remember towards the end
5 of 2007, Mayor Bloomberg signed legislation
6 that was proposed by the counsel which
7 required -- which will require us to approve
8 not only locations but the actual stickers that
9 will go on commuter vans so that Enforcement
10 and passengers can more readily identify which
11 vans are legal and which vans are not.

12 In particular, the legislative
13 intent also involved making sure that we have
14 integrity measures in place so that we do
15 everything that we can to make sure they can't
16 be duplicated by people who want to put bogus
17 stickers on the vehicles.

18 Do we have any scheduled
19 speakers for the commuter van decal rules?

20 Does anybody wish to be heard on
21 the decals, commuter van decal rules?

22 If you would like to speak on
23 the commuter van rules, you can approach the
24 podium.

25 Nobody is looking to be heard.

1 we used to have this process taking place in
2 Long Island City at Licensing, and for those
3 who aren't familiar with it, it is basically
4 tantamount to a real estate closing.

5 You have papers flying
6 everywhere, the transferring of medallion from
7 one party to another on the open market, and
8 the Commission has various legitimate
9 regulatory interests in getting that done, and
10 an interest and a stake in approving the
11 transfer.

12 With that said, it came to my
13 attention many years ago that there were some
14 inefficiencies in the process, that it wasn't
15 functioning well, that it was taking too long.

16 There has been a lot of
17 improvement as a result of transferring that
18 process from Long Island City over here to the
19 Legal Department, streamlining the forms, so we
20 had inefficiencies.

21 It used to take two, sometimes
22 three months to get these transfers through,
23 and then we really cut the time frame down
24 considerably.

25 I think that is good for the

1 market, that you have -- there is nothing worse
2 than when you buy a home you have to wait until
3 the closing six months, eight months because
4 you have all sorts of issues.

5 You know, same thing with the
6 medallion. You are transferring medallion.
7 People want to become owners, people want to
8 relinquish their assets. Let's make it happen
9 quickly, fast and efficiently.

10 That being said, I had asked
11 several years ago, actually, that the Legal
12 Department and the agency look at a way to
13 clarify and codify not only the changes that we
14 made, the positive efficiencies and
15 streamlining measures, but for the sake of the
16 industry, just having just uniform structure
17 for years to come that you will be able to not
18 have to deal with changes that you find out
19 second and third-hand because we have hired a
20 new employee that does this stuff.

21 I think it is very, very
22 important, and the industry approached me
23 asking that we put something in our rules that
24 clarifies these procedures so that there is
25 unity, that it is fair, that everybody knows

1 what the ground rules are, you know what
2 paperwork you need to have filed, et cetera, et
3 cetera.

4 Also, in addition to that, it
5 would also bring us into compliance with the
6 Administrative Procedure Act for the City of
7 New York.

8 A lot of the things that we do
9 can and should be in our rules, and we are
10 going to need to do that.

11 Now, there is certain issues,
12 obviously, that have come up in terms of how
13 you best do that.

14 I want to thank the industry,
15 because the industry has been working with us
16 for pretty much two years now.

17 This is something that was done
18 by the book. We put all the stakeholders in
19 the room going back a couple of years. We have
20 had many, many meetings. We have had input
21 from a lot of different people on these rules.
22 They are complex.

23 I want to thank the experts, the
24 lawyers, the lenders, the brokers who assisted
25 us in giving us this information.

1 Obviously there is never going
2 to be a unanimous opinion on what can and
3 should be done.

4 The long and the short of it is
5 we have one or two regulatory interests. There
6 is an integrity issue. We want to make sure
7 there is not like one person who is in charge
8 of all this that can, you know -- you know,
9 that if they leave you get a new person and the
10 rules change for everybody. That is why we
11 want to codify it, number one.

12 Number two, the City Council the
13 and Local Law has mandated that us, as an
14 agency, approve these transfers to protect the
15 rights of injured plaintiffs who have
16 judgments; that we need to make sure that
17 people transferring medallions are not looking
18 to avoid paying their liabilities by the
19 transfer of stock or their medallions to third
20 parties so that is something we have been
21 mandated to enforce.

22 In addition to that, we want to
23 just codify our streamline procedures and make
24 sure in the interest of transparency and good
25 government that everybody knows what the rules

1 are.

2 That being said, before I turn
3 it over to Chuck, I don't have an intention
4 today on asking my Commissioners to vote on
5 this. I have had discussions with most of
6 them. These are very long, detailed rules.
7 They are very complicated.

8 Even though it has taken two
9 years to get here and we have done everything
10 by the book, there is still some elements where
11 I think we could hopefully resolve some issues
12 and do what we think is the most objectively
13 best thing on behalf of the Commission to come
14 up with a fair system.

15 We are looking forward to
16 hearing your comments on it today, but this
17 isn't the end of the process. After the public
18 hearing, we will reconvene and see if there is
19 away that we can either reach a compromise or
20 come up with something that makes sense for all
21 of us.

22 If not, the Commissioners in the
23 near future will have to do the right thing.

24 I think at some point we are
25 going to have to pass some type of rules to

1 comply with CAPA so we are going to have to put
2 something in the rules.

3 We have gotten your comments, we
4 have read them.

5 I would now like to turn it over
6 to Chuck who has some revisions he is going to
7 make based on those comments, and that he is
8 going to propose to us, and then we are going to
9 go right to the public hearing.

10 MR. FRASER: The proposals were
11 published for comment on October 24th, and we
12 received three written comments.

13 Based on one of those comments,
14 staff is recommending one revision. Section
15 180.1 of the proposed rules details the
16 requirements for medallion transfer including
17 the documentation that must be submitted.

18 Staff recommends the addition of
19 a new paragraph in section 180.1 that would
20 provide that where a medallion transfer would
21 require a new taxicab to be hacked up, the
22 transferor must notify the taxicab technology
23 service provider for that taxicab at least
24 three weeks before the transfer. Such
25 notification would enable the service provider

1 to ensure that its hardware is either returned
2 or transferred to the new taxicab pursuant to
3 an assignment of the service provider's
4 contract with the medallion owner.

5 Copies of this revision have
6 been distributed to the Commissioners and are
7 available to the public in the back of the
8 room.

9 CHAIRMAN DAUS: Thank you,
10 Chuck.

11 I also want to thank not only
12 Chuck but Chris Wilson in advance who worked
13 very hard on these rules. They are very
14 complex. It was really a yeoman's drafting
15 exercise for a lawyer, and it was really
16 painstaking so thank you for all of your hard
17 work.

18 The first speaker that we have,
19 and we are pleased to have you here today,
20 Roberto Velez, the Chief Administrative Law
21 Judge from OATH, the Office of Administrative
22 Trials and Hearings.

23 Welcome.

24 MR. VELEZ: Good morning,
25 Chairman Daus and members of the Taxi and

1 Limousine Commission.

2 I am Roberto Velez, the Chief
3 Administrative Law Judge of the Office of
4 Administrative Trials and Hearings, known as
5 OATH, and I am participating in this public
6 hearing to provide some background information
7 about OATH and the nature of cases we
8 adjudicate and the judges who preside over
9 them, because I understand you are considering
10 OATH to hear some of these cases.

11 CHAIRMAN DAUS: Correct.

12 MR. VELEZ: I just wanted to let
13 you know that OATH is the City's central
14 tribunal with general jurisdiction to conduct
15 administrative hearings for all city agencies,
16 boards and commissions. OATH was established
17 in 1979 to professionalize the administrative
18 hearing system by functioning as an independent
19 tribunal.

20 In addition to hearing and
21 deciding cases, we encourage parties to utilize
22 our conference calendar that offers faster and
23 less costly means of resolving many disputes.

24 At these conferences, an
25 experienced Administrative Law Judge works with

1 the parties to fashion settlement terms
2 acceptable to both sides.

3 If that cannot be accomplished,
4 the case is referred to hearing before another
5 Administrative Law Judge.

6 OATH is a general jurisdiction
7 tribunal; that is, we hear cases from many
8 different agencies, including vehicle
9 forfeitures referred by the Police Department;
10 license and regulatory matters referred by
11 the -- filed by the Department of Buildings;
12 the Taxi and Limousine Commission, and the
13 Department of Health; landlord and tenant
14 disputes referred by the Loft Board, and the
15 Department of Housing Preservation and
16 Development; discrimination complaints brought
17 by the City Commission on Human Rights;
18 contract claims filed by contractors; and civil
19 penalty proceedings initiated by the Conflicts
20 of Interest Board.

21 And in my prepared remarks I
22 talk about other cases, but the point is, we
23 have a great deal of experience dealing with a
24 variety of cases.

25 I just want to get to the

1 judges.

2 OATH judges must know, interpret
3 and apply laws and rules applicable to many
4 different agencies. Our judges as a matter of
5 course are quick to learn about and hear new
6 types of cases.

7 For example, as a result of
8 court rulings, the United States District
9 Court's decision in Krimstock v. Kelly vested
10 OATH with the jurisdiction over preliminary
11 retention hearings conducted by the NYPD after
12 they seize vehicles from drivers accused of
13 driving while intoxicated and other crimes.

14 OATH conducts a prompt
15 preliminary hearing to determine whether the PD
16 may return custody of the vehicle before a
17 court decides a separate forfeiture.

18 I just wanted to remind the
19 Commission that the Federal District Court
20 requires us to issue these decisions within
21 three business days. We have never missed a
22 deadline.

23 OATH judges are appointed by me
24 after an extensive recruitment selection
25 process, and the recruitment involves a

1 rigorous review of credentials, skills and
2 abilities, and a decision-writing competition.
3 They have to write a decision, and I review it
4 to see whether it is good.

5 OATH administrative law judges
6 are full time managerial employees from a
7 variety of backgrounds of legal experience,
8 including practice in the Law Department, City
9 agencies, Legal Aide, the Attorney General
10 Offices and private firms.

11 To buttress their independence,
12 OATH ALJs have five-year terms, and they are
13 removable only for cause. OATH's ALJs follow
14 the City Rules of ALJ Conduct as well as the
15 New York State Code of Judicial Conduct. These
16 rules set high ethical standards and restrict
17 activities deemed inconsistent with their
18 judicial positions.

19 In closing, OATH's general
20 jurisdiction and overall high caliber of our
21 judges provides us with the capacity to
22 adjudicate new types of cases such as the
23 Commission's new tort valuation cases.

24 Thank you very much.

25 If you have any questions, I

1 will be willing to answer them.

2 CHAIRMAN DAUS: Thank you,
3 Judge.

4 Any questions?

5 We have a very long history of
6 involvement with OATH with this agency, and we
7 work very, very well with you, and we want to
8 commend yourself, Chief Judge Velez, as well as
9 I see we have Judge McFall here who we worked
10 for many, many years with.

11 As you know, our general counsel
12 used to be a judge at OATH.

13 We are very, very pleased with
14 the results, especially with the transfer of a
15 lot of cases we have been sending recently, and
16 we are really happy with the quality of justice
17 that we get from your independent tribunal.

18 We thank you for your interest
19 and for assisting us.

20 MR. VELEZ: I look forward to
21 working with you and the Commission.

22 CHAIRMAN DAUS: Thank you.

23 The next speaker is Mr. Mel
24 Miller.

25 MR. MILLER: Commissioner and

1 members of TLC, I am sorry I wandered in a
2 little bit late, but I didn't take a taxi. I
3 took the 1 train.

4 The proposed transfer rules, it
5 really is quite difficult to address because of
6 its length and its complexity, and, you know,
7 David Beier on behalf of almost the entire
8 industry did submit an extremely lengthy -- I
9 know, Matt, but sometimes we have to read -- a
10 rather lengthy memo, which sometimes I would
11 admit to all of you on the panel that I had
12 difficulty getting through it and had to start
13 all over.

14 CHAIRMAN DAUS: Even us lawyers
15 need a couple of cups of coffee.

16 MR. MILLER: The issue, the
17 transfer rules have two pieces to them. They
18 are an issue of law, but they are also an issue
19 of policy, and sometimes the issues of policy
20 and the issues of law are not exactly the same.

21 For example, we are dealing with
22 an administrative code provision that was
23 adopted in 1971, and it uses the word
24 "transfer" as a generic without any modifier.

25 So does it mean an asset

1 transfer purely, which is the position I think
2 that the industry has, or does it also include
3 stock transfers which I would submit to this
4 group is really controlled by the Business
5 Corporation Law of the State of New York?

6 All stock transfers, and I would
7 also argue, if I was arguing in court, that
8 there is total pre-emption on the issue of
9 stock transfers with the agency reserving the
10 right to make sure that the purchases of the
11 stock qualify to operate in the medallion
12 industry very similar to what happens in the
13 restaurant business if you want a liquor
14 license.

15 Nobody prevents you from
16 transferring the stock if a corporation owns a
17 restaurant; however, the purchasers, in order
18 to qualify for a liquor license, obviously have
19 to get independently licensed.

20 And that really is the
21 comparison, but the stock transfer itself would
22 not be, in my opinion, subject to the TLC.

23 Secondly, there is a decision in
24 1979, an Appellate Division decision. However,
25 I submit to you it was an asset transfer and

1 not a stock transfer so the issue of stock
2 transfer was never before the court.

3 Furthermore, actions had already
4 been commenced for personal injuries in those
5 cases if you look at the record on appeal, and
6 it involved the transfer of the 32 medallions,
7 all assets. There was no question raised there
8 about stock transfers.

9 More importantly, not
10 withstanding the language in the 1971
11 administrative code and the court decision
12 which is only applicable in the First
13 Department and never went up to the Court of
14 Appeals, and there has been no action brought
15 since, I would argue as a matter of practice
16 the TLC has both not followed the decision of
17 the Appellate Division in 1979.

18 I don't think, Matt, unless you
19 can tell me differently, there has been
20 hearings to determine contingent liabilities at
21 the TLC or at OATH since 1979, and since 1971
22 in the adoption of the administrative code
23 provision, the TLC has treated stock transfers
24 and asset transfers differently, and the rules
25 and regulations of the TLC in terms of

1 transfers, if you transfer stock, you could
2 transfer immediately.

3 If you transfer an asset,
4 though, the medallion has to be put in storage
5 for one week under your rules. What is the
6 reason for that? To make sure that all
7 administrative fees and fines are paid.

8 So already the TLC in its rules
9 and regulations recognized the difference
10 between the stock transfer, where liabilities
11 follow the corporate stock, and an asset
12 transfer, obviously, which would extinguish
13 liabilities.

14 Then there is a question of
15 policy. Does the TLC want to be an arbiter of
16 negligence actions? Because if we follow the
17 procedure outlined -- and let me give you a
18 perfect example. Matt is sitting in the back
19 of a taxicab one day, and somebody hits it in
20 the rear.

21 Did the cab stop short, did they
22 not stop short, and he has a backache and goes
23 to the doctor and he is out of work for a week.

24 Some smart lawyer sends out a
25 letter, "I represent Matthew Daus who was

1 injured in an accident by virtue of your
2 negligence. We intend to bring a lawsuit for
3 1 million dollars. Please turn this letter
4 over to your insurance company."

5 Very normal. I did it when I
6 practiced with O'Dwyer & Bernstein before most
7 of you were born.

8 The issue is, is that
9 sufficient? Is that truly what we want here,
10 to start a change of events, liquidity in the
11 industry? I doubt it very much.

12 Secondly, there is nothing in
13 the rules of the Taxi and Limousine Commission
14 that I have been able to find which proscribes
15 any kind of corporate body from owning
16 medallions assuming the owners of the corporate
17 stock and the officers qualify to operate
18 medallions.

19 So let me give you one example,
20 and I will conclude my remarks.

21 Bolton St. Johns Incorporated,
22 which was the firm I used to be affiliated
23 with, and I was one of the three major
24 shareholders, there is nothing in the rules to
25 prevent us -- let us assume ten years, seven or

1 eight years ago we were very smart. We knew
2 the asset was going to increase in value
3 dramatically, and we bought a mini fleet.

4 There are only three officers,
5 only three holders of stock. We all, I will
6 assure you, qualify under your rules and
7 regulations to own medallions.

8 Three years ago I made a
9 decision at my advanced age to sell my interest
10 to my two younger partners.

11 Under the way these rules are
12 constructed, when I was selling my interest in
13 Bolton St. Johns, which is a major lobbying
14 firm, but we owned some medallions, you have a
15 right to stop that transfer.

16 I don't think that is the
17 intention of these rules.

18 So I think as a practical
19 matter, we can deal with the problem that truly
20 gives rise to these rules, which, on occasion,
21 and just like on occasion in any industry,
22 somebody tries to defeat possible liability by
23 overly encumbering their medallions when they
24 are going to transfer it even using the
25 corporate form.

1 There are ways to deal with that
2 issue. Instead of making this body essentially
3 a court of law to decide how much damages may
4 happen when this thing goes to court, if they
5 win, how much the case is really worth, that it
6 really isn't where you are. That is not what
7 the practice of the industry has been. It is
8 not the practice that any Chair or any TLC body
9 has ever believed that the TLC should go.

10 I conclude my remarks that there
11 are other elements of these proposed rules on
12 estate practice, on the question of creating
13 trusts, and I don't -- which really need to be
14 rethought.

15 One last example. A person
16 dies. The major asset of the estate is a
17 medallion, and a medallion now is worth, I am
18 told, individually about \$420,000. It is the
19 major asset of the estate.

20 There is a widow who has very,
21 very limited means of income, but her husband
22 at least is getting 2,000, \$2,100 a month --
23 but to give it to Ronnie, maybe \$2,300 a month
24 for leasing the medallion -- and that is her
25 only income, and you are forcing her, even

1 before the estate is settled, you are forcing
2 her to transfer.

3 I don't think we have to do
4 that. I think that by forcing her to transfer
5 that medallion -- in most instances husbands
6 die earlier -- well, we can't help that -- what
7 you are doing is maybe taking an encumbered
8 medallion that has little equity in it, maybe
9 50 or \$60,000, forcing the transfer and
10 depriving of the widow of what may be a
11 substantial stream of income so she can
12 continue to pay her bills.

13 I think we have to look at that,
14 we have to look at the trust provisions.

15 Thank you for giving me more
16 than three minutes. I apologize for being
17 late, and I hope we can deal with the true
18 issues or some of the underlying issues here
19 without taking a Howitzer to deal with an ant.

20 Thank you very much.

21 CHAIRMAN DAUS: Before you go,
22 quick question. The Appellate case you are
23 referring to, is that Cab Transportation Corp.?

24 MR. MILLER: Yes. Cab
25 Transportation Corp. against the TLC, yes.

1 CHAIRMAN DAUS: You mentioned
2 earlier that on the stock transfer issue --

3 MR. MILLER: It was not reached
4 in this case. It was purely an asset transfer.
5 It was a transfer of -- I think it is 42
6 medallions, Matt, it was a transfer of 42
7 medallions from an individual to corporate, to
8 corporations, but it was not a stock transfer.
9 It was a pure asset transfer. They never dealt
10 with the issue of stock transfer.

11 CHAIRMAN DAUS: At the beginning
12 of your testimony you referenced a Business
13 Corporation Law. Is there a particular
14 section, or are you referring to the general
15 obligations?

16 MR. MILLER: No. The Business
17 Corporation Law in New York State, the Business
18 Corporation Law actually sets forth how you
19 transfer stock and what are the implications of
20 a stock transfer.

21 CHAIRMAN DAUS: Right.

22 MR. MILLER: I -- look. There
23 is a lot of case law as to when the City can
24 act and not act, and the question of preemption
25 has been an issue in many cases.

1 Obviously this issue has not
2 been decided.

3 CHAIRMAN DAUS: Are you
4 intending that there may be preemption over the
5 Local Law provisions?

6 MR. MILLER: In terms of stock
7 transfers, definitely. In terms of asset
8 transfer, definitely not.

9 I think the City controls the
10 asset transfer. I do not think they can
11 control a stock transfer, because when you
12 transfer stock, liabilities go with the
13 corporation. You don't extinguish liabilities.

14 Significant difference.

15 There is one other allusion, by
16 the way, into the Administrative Code. When
17 they are talking about the bond or insurance
18 requirement, if you look at that provision in
19 the Administrative Code, it says at the end of
20 Section 19.512, "liabilities of the vendor or
21 transferring excess of the amount covered by a
22 bond or insurance policy which is in effect
23 pursuant to the Vehicle and Traffic Law of the
24 State of New York."

25 Now, let us understand that that

1 section has been found not to bind the TLC on
2 the level of insurance. The Vehicle and
3 Traffic Law of the State of New York does not
4 require 100 -- to be 100,000 coverage. Nobody
5 in this room has to take that level of
6 coverage. That was passed well after the
7 Administrative Code provision.

8 So the question of whether that
9 section as drafted now is any way in conformity
10 with state law is highly questioned, in my
11 opinion; not your counsel's opinion. Obviously
12 we disagree.

13 COMM. KAY: I just want to say,
14 unfortunately, I have to leave, but I hope you
15 can continue to talk with Chuck and the
16 Commission so as we move forward to possibly
17 doing something, you raise some very serious
18 issues I hope we can look at and tie it up in
19 belt and suspenders as much as we can so we
20 don't have any unintended consequences.

21 MR. MILLER: Thank you.

22 CHAIRMAN DAUS: Thank you, Jeff.

23 Next speaker will be Mr. Ethan
24 Gerber.

25 MR. GERBER: Good morning,

1 Mr. Chairman. Morning Commissioners. Happy
2 New Year.

3 CHAIRMAN DAUS: Happy New Year.

4 MR. GERBER: I am coming today
5 to address you as a negligence defense attorney
6 whose office has defended literally tens of
7 thousands of personal injury claims against
8 taxicabs.

9 I had a lot to say about the
10 stock transfer rules and how they affect, but I
11 think Mel did an excellent job on that so I
12 won't waste your time.

13 First off, I want to talk about
14 the necessity of the rules.

15 My office receives thousands of
16 so-called claim letters a year. The majority
17 of these become what we call dead letters. No
18 suit is commenced before the statute of
19 limitations expires.

20 Those who have practiced tort
21 law know that is often the case. We send
22 out -- a personal injury client comes in, a
23 retainer is signed, a letter is sent out to the
24 insurance company demanding money. If it
25 takes, it takes. If not, maybe the case goes

1 away; maybe it doesn't. Maybe they get a quick
2 and cheap settlement.

3 The requirement that I have to
4 notify -- that the person seeking to transfer
5 has to notify these plaintiff's attorneys and
6 these claimants of a possible issue, and that
7 they could have the power now of holding up a
8 transfer, gives them enormous power, but also
9 gives them an incentive to litigate it even if
10 they had no intention of taking this case all
11 the way. They may have to, in fact, to avoid a
12 malpractice case threatened.

13 Two. While most claims end in
14 the so-called dead letters, the vast majority
15 of suits are settled well within coverage.

16 In the calendar years of 2005,
17 2006 and 2007, one case my office handled out
18 of thousands settled went over coverage. That
19 case was settled and paid.

20 My clients are self-insured and
21 bonded. The bonding company, Washington
22 International, must pay a judgment up to its
23 coverage in the event an owner is insolvent.

24 To my knowledge it has never,
25 not once, in the 25 years had to do so.

1 The fact also remains that the
2 overwhelming vast majority of suits, all of
3 which seek seven figures, seven figure
4 recoveries, in actuality have very little basis
5 in reality.

6 The Court of Appeals recently in
7 its case of Pommells versus Perez, which is at
8 4 New York 3d, recently stated that "separating
9 the serious injury cases from the mountains of
10 claims which are not is one of the, quote,"most
11 vexing tasks of the courts."

12 It also states courts should
13 approach these cases with, quote,
14 "well-deserved skepticism."

15 The TLC has decided to enter
16 this vexing arena, and with due respect to
17 Chief Justice Velez, OATH judges have no
18 expertise in torts area, let alone in the
19 complexities of actually placing a dollar value
20 on a case.

21 Judges in New York, unless a
22 jury is waived, are not permitted to do so.
23 Suggestions by a judge to the jury of a dollar
24 value has been held to be usurpation of the
25 jury function and results in reversible error.

1 operated his car in an illegal manner by coming
2 to an abrupt stop.

3 In other words, an
4 administrative law judge had a proceeding with
5 a driver in front of him. The cab corporation,
6 the cab corporation did not have a
7 representative in court, and the insurance
8 company certainly didn't even know about the
9 situation.

10 The Bronx Supreme Court Judge
11 gave collateral estoppel effect. In other
12 words, the defendant corporation was unable to
13 defend this case at trial on liability grounds,
14 and the insurance company had to pay a claim
15 that normally it would be able to defend.

16 We are concerned of the
17 collateral estoppel effect of an OATH judge,
18 especially because one of the underlying issues
19 in a tort case in New York State is whether a
20 plaintiff suffered serious physical injury.

21 The effect of an ALJ saying that
22 a case must be reserved and \$100,000 over
23 coverage, what that effect that would have on
24 whether the case is a serious physical injury
25 is something that must be required.

1 There is case law to the effect
2 that even if the law, even if the rules of the
3 body say it has no collateral estoppel effect,
4 that is not determinative.

5 What is determinative is if the
6 issues are the same and the parties are the
7 same.

8 CHAIRMAN DAUS: Don't you need
9 an identity of issues on the collateral
10 estoppel?

11 MR. GERBER: Well, on liability,
12 on the ALJ decision that I suggested, you did
13 have an identity of issues, and that is the
14 negligence of the driver.

15 I would argue that the rules are
16 much different facing the TLC than faced in
17 court. I wasn't the lawyer on that case. That
18 was an American Transit case.

19 CHAIRMAN DAUS: It has been
20 many, many years. Collateral estoppel theory,
21 doesn't that deal with multiple litigations of
22 issues like if you litigate an issue of
23 negligence in one jurisdiction, you know, let's
24 say one court, that you go into another court
25 and you make a motion saying the matter has

1 been fully litigated; for the interest of
2 judicial economy, you make a motion to the
3 judge to adopt collateral estoppel effect for
4 that procedure, but here you have a negligence
5 case where you have to prove duty, breach of
6 duty, cause, proximate cause and damages, and
7 you have a separate proceeding where you are
8 going to be determining whether it is in the
9 best interests of the public under the Local
10 Law to determine whether somebody should be
11 putting a certain amount of money into escrow
12 to protect the plaintiff.

13 I mean, is your argument that
14 the identity of issues is the damage claim,
15 that you are going to be able to go and take
16 the power away from the jury to make a
17 determination as to pain and suffering because
18 an OATH judge said that you should put a
19 certain amount into escrow?

20 MR. GERBER: If the rules were
21 adopted, I would certainly be arguing the
22 opposite in court.

23 What I am suggesting is one of
24 the key determinations before a judge is the
25 issue of serious physical injury. Before a

1 case is able to proceed in New York under the
2 New York No-fault Law, Article 51 of the New
3 York No-fault law, the court on a motion for
4 summary judgment may have to determine and will
5 have to determine if the motion is made,
6 whether there is a triable issue of fact as to
7 whether the plaintiff suffered a serious
8 physical injury as that term is defined under
9 Article 51.

10 The argument I could see coming
11 from the plaintiff Bar is that if a full
12 hearing was held and the administrative law
13 judge found that \$100,000 excess of the already
14 existing hundred thousand dollars was
15 necessary, that the issue of serious physical
16 injury has already been determined.

17 CHAIRMAN DAUS: In terms of the
18 actual -- that there was evidence introduced at
19 the OATH hearing, and there may be certain
20 findings, but this is an argument, a case of
21 first impression. You are not aware of any
22 precedent in similar context?

23 MR. GERBER: What I am aware of
24 is the recent determination by a Bronx Supreme
25 Court judge that the ALJ decision was binding,

1 precedent on the BI suit, even though the
2 amounts in question are the fine on a driver,
3 which is, relatively speaking, nominal.

4 CHAIRMAN DAUS: Which judge?

5 MR. GERBER: I have it in my
6 briefcase. I have the decision. I will give
7 it to you afterwards.

8 CHAIRMAN DAUS: An
9 administrative tribunal, DMV?

10 MR. GERBER: It was an ALJ --
11 TLC ALJ, and it was a Bronx Supreme Court
12 judge. After the hearing I will be happy to
13 give it to you. I have the decision with me.

14 CHAIRMAN DAUS: I don't know if
15 my other colleagues have any questions. I have
16 a final question for you.

17 On the issue of -- I don't think
18 any of us are happy with the fact that -- when
19 I first came here, I don't know if you remember
20 Vince Andriosi -- he used to have Jury Verdict
21 Reporter issues up on his desk.

22 For those of you who don't know
23 what that is, this is reports of the amount of
24 verdicts and the type of injuries involved in
25 cases around the City, and there are certain

1 venues where there tend to be higher personal
2 injury awards than other venues in other
3 counties of the City.

4 He basically would conduct a
5 search to see, "Well, we have a broken hip
6 here. What are broken hips, what types of
7 awards are they getting in certain venues?"

8 It just seemed very -- granted,
9 it is a nebulous concept for a jury to have to
10 make those pain and suffering determinations as
11 it is.

12 I was never, and I don't think
13 anyone here is probably comfortable with the
14 fact we have to make such a difficult decision
15 that is going to affect the amount of money
16 that someone is going to, when they transfer a
17 medallion, put into escrow.

18 I don't think anyone is happy
19 with it. I am sure reasonable minds could
20 differ and you could have five people making
21 five different decisions as to what is
22 appropriate.

23 I guess my question is, assuming
24 one or more of us are uncomfortable with that,
25 are there any alternatives short of having that

1 valuation process either here, OATH, wherever
2 you do it? Is there any alternative procedure
3 that the industry would support or that you
4 would contend could help us get through that
5 nebulous area? Maybe just putting the whole
6 amount of net equity in escrow or none of it?
7 Is there any other ideas?

8 MR. GERBER: We do have a court
9 proceeding to set value, which is something I
10 want to address.

11 I believe that everything that
12 is addressed in these issues has already been
13 addressed, which is one of the reasons why this
14 really hasn't been a big issue in this industry
15 in the last 30 years.

16 We have rules, we have rules of
17 attachment in New York. Article 62 of the CPLR
18 gives the plaintiff attorney the ability to
19 attach assets pre-judgment.

20 There are ramifications with
21 doing so, and there are reasons why most
22 plaintiff's attorneys would not enter that
23 category, why they won't on a tort case, they
24 won't seek pre-judgment attachment.

25 The reason is that the court and

1 the legislature passing Article 62 recognized
2 that attachment of an asset, determining what
3 to do with an asset before there is any
4 judgment, is a drastic remedy. It is
5 controlling someone's assets, controlling
6 someone's liabilities, controlling someone's
7 financial destiny without any judgment
8 whatsoever.

9 To do an attachment, the
10 plaintiff's attorney not only must make a
11 motion and present his evidence, usually within
12 five to ten days depending on which section of
13 Article 62 he applies, but he must post a
14 bond -- he or she -- the plaintiff must post a
15 bond to cover the eventuality that they are
16 found wrong and that the plaintiff does not
17 succeed.

18 And that bond has to be a
19 minimum of \$500, but can be whatever the
20 Supreme Court judge doing the attachment finds,
21 and would award attorney's fees to the
22 defendant and consequential damages to the
23 defendant were the plaintiff not to prevail.

24 Here what we are doing is we are
25 giving there extraordinary relief to the

1 plaintiff's attorney ahead of time, which is
2 going to have -- and I say this as an officer
3 of two different Bar associations -- this will
4 have an extortive effect.

5 I know my colleagues on the
6 plaintiff Bar. If they can hold up a sale, the
7 demand for settlement will go up. Even if it
8 goes up within coverage, it will go up, because
9 they know they literally have me in a very,
10 very tight position.

11 They know I want to transfer an
12 asset. They know they have the ability to hold
13 it up, and they will raise their demand.

14 CHAIRMAN DAUS: That is a fair
15 point.

16 Are you suggesting, then, that
17 we would meet our obligation under the Local
18 Law by crafting a rule that gives notice to the
19 parties that you have a certain amount of time
20 where we will not transfer, and that you have
21 the ability under the CPLR to bring a separate
22 attachment proceeding which could lead to a
23 court hearing?

24 MR. GERBER: Absolutely.

25 CHAIRMAN DAUS: In lieu of us

1 doing --

2 MR. GERBER: Absolutely.

3 CHAIRMAN DAUS: My next question
4 is, how does that reconcile with the Cab
5 Transportation court case where the court
6 directed that the TLC hold the hearing?

7 How can we go from the TLC
8 holding a hearing to a Supreme Court judge
9 possibly holding a hearing knowing the CPLR
10 provisions that more likely than not, there is
11 probably a special proceeding which leads to
12 the decision being made on paper?

13 MR. GERBER: I again reiterate,
14 and I think Mel did a superb job of stating, we
15 are talking about a 1979 case interpreting a
16 statute from before that, which was well
17 before -- one of the things you see in cases
18 concerning taxicabs and assets and piercing the
19 corporate veil that came up over and over again
20 was the under-insurance of taxicabs.

21 This was a constant refrain by
22 the courts.

23 A taxicab, as Mel said, now has
24 four times the legal limits imposed on every
25 other New Yorker so there already is protection

1 for the individual four times greater than any
2 other driver, any other owner of any vehicle.

3 So there already is protection
4 so the necessity -- so a lot of the decisions
5 that you read before the TLC in its wisdom
6 increased the insurance limits, a lot of the
7 decisions have to do with under-insurance and
8 the fear that people would escape with the
9 liability.

10 TLC has already raised insurance
11 limits four times -- I mean 400 percent. It
12 went from 10,000 to 25,000 as the DMV, and then
13 it went to 100,000.

14 Not only 100,000, Chairman --
15 100/300.

16 But not only that -- the
17 no-fault limits --

18 CHAIRMAN DAUS: We are getting
19 into other areas, and there is other cases that
20 say we have the right to do that.

21 MR. GERBER: I am not suggesting
22 you don't. I am suggesting you take --

23 CHAIRMAN DAUS: Now I know why
24 there are livery operators in the --

25 MR. GERBER: I am not suggesting

1 you don't have that right. I am suggesting
2 that you are taking care of a lot of problems
3 that were addressed by the courts.

4 When you look at a 1979 case
5 that was determined long before you addressed
6 these rules, also the no-fault limits have gone
7 drastically up --

8 CHAIRMAN DAUS: We have to move
9 the hearing along, Mr. Gerber, but I want for
10 the record to note I strongly disagree with
11 drawing an analogy between the right that has
12 been upheld in court for us to, as a condition
13 of licensure, impose higher liability limits,
14 no-fault limits --

15 MR. GERBER: I am not addressing
16 that.

17 CHAIRMAN DAUS: I think there
18 is -- I think there is some that is alluding to
19 that.

20 If we could keep the focus of
21 the discussion on this.

22 I assume that you and your
23 client would support legislation that would go
24 to the counsel that would seek the type of
25 proposal I just put out there, a notice

1 requirement and the ability for them to go seek
2 a CPLR attachment proceeding within a certain
3 period of time so we would have a certain
4 number of days where statutorily we would hold
5 up a transaction 30 days, give them notice as
6 prescribed by the CPLR, and then if they don't
7 bring their motion to the Supreme Court to
8 attach assets or whatever other remedies they
9 have, then the transaction will go through
10 without this whole valuation and escrow
11 procedure?

12 MR. GERBER: I would certainly
13 support remedies compliant with the CPLR.

14 CHAIRMAN DAUS: We will look
15 into that.

16 In the comments that come
17 subsequently, if any of you could address that
18 particular concept, I think that would be
19 helpful.

20 I know we have financial experts
21 and also another lawyer on the Board; Howard is
22 here.

23 Do you have any questions for
24 Mr. Gerber?

25 Commissioner Vargas?

1 COMM. VARGAS: Mr. Gerber, what
2 is the current procedure now for one of our
3 clients who owns a medallion that wants to
4 transfer it, and there are potential lawsuits
5 out there; someone was injured, but the suit
6 wasn't filed yet? What is the process your
7 client currently has to go through to transfer
8 it?

9 MR. GERBER: In a stock
10 transfer, the insurance company or the bonding
11 company has to issue a letter to the Taxi and
12 Limousine Commission that there are no suits
13 that can exceed coverage. That creates a
14 certain amount of liability potential on the
15 bonding company or the insurance company in
16 issuing that letter. That is why they are very
17 reluctant to issue such a letter, unless it is
18 clear to them in their basis and opinion.

19 If, upon inquiry, the TLC
20 determines that there is some other action that
21 they are not aware of, the TLC has called in
22 people to make a search at this time of any
23 possible claim based on simply a letter; simply
24 a letter.

25 I mean, as we know, and I know

1 you know, Commissioner, that writing a claim
2 letter is the simplest thing an attorney can
3 do. It is determining whether to even proceed
4 with the lawsuit.

5 I think having the rules, if the
6 rules are going to be passed at all, having it
7 done with simply a claim letter is really
8 tantamount -- it gives a real extortive ability
9 to the plaintiff's attorney.

10 COMM. VARGAS: But the analogy
11 you just gave was to a stock transfer.

12 MR. GERBER: Right.

13 COMM. VARGAS: Let's say if one
14 of your clients is an individual that owns the
15 medallion and wants to transfer, but there was
16 an accident or potential lawsuit. How does
17 that differ?

18 MR. GERBER: An asset sale
19 differs considerably from a stock transfer, and
20 I agree with Mr. Miller and I agree with this
21 Commission that the TLC has a great deal of
22 power in effecting an asset sale.

23 The asset sale, the asset sale,
24 the possibility with an asset sale, and why
25 this is something that has always been within

1 the realm of TLC, is that some dummy
2 corporation is set up, I simply transfer my
3 valuable assets out of the existing corporation
4 into the dummy corporation, and then the
5 plaintiff and everybody is left holding the
6 bag.

7 That is what they are concerned
8 about.

9 The stock transfer is something
10 completely different. I own stock and I am
11 transferring it. To suggest that there is some
12 kind of degree of fraud in it, the vast
13 majority of people -- the vast majority of
14 stock transfers that I have been involved in in
15 which I represent a seller is someone wants to
16 get out of this industry.

17 Now the projection of the
18 medallion value has been very good, as everyone
19 knows.

20 When people want to get out,
21 when people want to sell, there is usually an
22 economic necessity for wanting to sell.

23 MR. FRASER: If I may,
24 Commissioner, I would like to address your
25 question of what is the procedure now for the

1 tort valuation.

2 Since I have been here -- I
3 obviously can't speak to what happened before I
4 got here, but I have been here just about three
5 years -- asset sales and stock transfers are
6 both subjected to the same tort valuation
7 process.

8 That process involves one of our
9 judges, an Administrative Law Judge, reviewing
10 submission of papers. The determination
11 apparently was made some time ago -- this dates
12 back to the 1979 Appellate case that everyone
13 is referring to -- that requires a hearing.

14 The determination was made that
15 that would be satisfied with an opportunity to
16 be heard by submission of papers so the
17 submission of papers was made to this judge,
18 Dewey Golkin, who has made this determination
19 of the value of the tort as required by the
20 Local Law as interpreted by the First
21 Department. That has been going on for many
22 years.

23 The suggestion that I have heard
24 made by a couple of speakers that we are
25 somehow venturing into a new area of tort

1 valuation is simply not correct.

2 The other thing I would like to
3 point out is at the very first meeting we had
4 with the industry about this subject, I said
5 very clearly that I am not comfortable, just as
6 Chairman Daus indicated he is not comfortable,
7 with the idea that TLC must do tort valuations.

8 We don't have that choice, as it
9 currently stands, because it is in the Code, as
10 I said, as interpreted by the First Department.

11 I said at that very first
12 meeting, I would be very pleased -- let me
13 state that in capital letters, underscored -- I
14 would be very pleased to work with the industry
15 on a legislative solution that would take this
16 away from the TLC.

17 I don't think our business of
18 regulating the for-hire transportation industry
19 makes us experts at tort valuations, yet that
20 is what the Code requires us to do.

21 I have invited that right from
22 the beginning. I am glad to hear there is now
23 an interest in proceeding that way.

24 The last thing I would like to
25 address is the contention that our regulation

1 of stock transfers is preempted by state law.

2 We had a legal memorandum
3 submitted to us by Mr. Miller, again, at the
4 very beginning of this consultative process
5 with the industry, and his argument in that
6 memo was exactly that: That the Business
7 Corporation Law preempted our ability to
8 regulate these stock transfers.

9 We reviewed that memo in my
10 office. We disagreed with the conclusion of
11 the memo. We referred the memorandum to the
12 Law Department. They reviewed it. They
13 disagreed with the conclusion of that
14 memorandum.

15 This is not based on that 1979
16 case; this is based on the Business
17 Corporations Law.

18 The '79 case, as pointed out,
19 had nothing to do with stock transfers; it was
20 purely an asset sale case so that case had
21 nothing to do with that interpretation.

22 CHAIRMAN DAUS: Any other
23 questions?

24 Thank you.

25 Next speaker? I can't really

1 make out the handwriting. I think it is Darid
2 Darcy or David Darcy?

3 MR. DARCY: That is me, but I am
4 not speaking. It is a mistake.

5 CHAIRMAN DAUS: You are
6 withdrawing.

7 Next speaker is Joe Giannetto.

8 MR. GIANNETTO: Good morning,
9 Commissioners. My name is Joe Giannetto. I
10 represent the Metropolitan Taxicab Board of
11 Trade.

12 On behalf of MTBOT, let me start
13 out by extending our wishes to you for a happy,
14 healthy and prosperous new year.

15 MTBOT joins the Committee for
16 Taxi Safety, the Greater New York Taxi
17 Association and the Taxicab Service Association
18 in our strong objection to the TLC's proposed
19 medallion transfer rules. This is an issue
20 that has generated intense debate within the
21 taxi medallion industry, and it has been met
22 with almost universal opposition within the
23 industry, and we ask that the Commission
24 consider these objections very carefully.

25 We believe if these rules are

1 passed as written, it will have an adverse
2 effect on the many participants in the taxi
3 industry for several years to come.

4 I would like to refer the
5 Commissioners to a letter sent to the
6 Commission dated November 30, authored by David
7 Beier, which was signed by the aforementioned
8 taxi associations, and which outline numerous
9 problems associated with the rule change.

10 While this is a complicated
11 matter best addressed by the provisions of the
12 signed letter, simply put, we believe that
13 general business law already clearly spells out
14 the rules of stock transfers for taxi
15 businesses, just the same as it does for any
16 other business.

17 Our judicial system enforces
18 these laws and provides adequate protection for
19 all parties involved.

20 These transfer rules would create
21 a new layer of bureaucracy that would make it
22 more difficult to conduct general business
23 transactions within the taxi industry and would
24 result in delays and other problems that would
25 act as a disincentive for investment in the

1 industry.

2 If you will briefly indulge me, I
3 would like to read into the record select
4 portions of the referenced letter.

5 "We contend that there is no need
6 for these rules as written. We are confident
7 that we can show to the Commission that there is
8 not a problem that requires these proposed rules;
9 that judgments are paid timely and without fail.
10 We contend that there is a system in place that
11 works, and that is our judicial system."

12 The following is a brief summary
13 of our main concerns as presented in the letter.

14 The proposed rules as written are
15 not needed; judgments are, in fact, being paid.

16 The issue of pre-judgment
17 attachment of assets is a major concern. The
18 proposed regulations provide for an escrow over
19 and above insurance amounts prior to any finding
20 of fault and prior to even a Summons & Complaint
21 being filed.

22 Also, there should be a good faith
23 requirement due from the claimant before a
24 transfer is stopped.

25 To complete a transfer, borrower

1 may be compelled to borrow additional funds from
2 other sources. Borrowers should be allowed to
3 use equity in their assets in lieu of forced
4 borrowings.

5 Moving on, a trust should be
6 allowed to be the owner of medallions or stock or
7 membership interest even after beneficiaries are
8 no longer minors.

9 Also, proposed rules should
10 provide that the TLC has some sort of discretion
11 to grant an extension for good cause related to
12 hack-up requirements.

13 Next, LLC and corporate veil
14 should be protected, and the TLC should not be
15 allowed to disregard same, as for example by
16 compelling shareholders to pay PVB tickets before
17 transfers are completed.

18 Time periods for the scheduling of
19 hearings and rendering of decisions must be
20 faster to prevent harm to the owner of the
21 medallion.

22 And, lastly, stock transfers
23 should not be deemed transfers under these
24 regulations as the entity owning the medallions
25 survives the transfer.

1 We understand that the TLC's
2 interest is to protect the public. Based on our
3 collective experience in the industry, we believe
4 that the system, as it operates today, provides
5 ample protection for the public.

6 We look forward to working with
7 the Commission in the future on this matter.

8 Thank you.

9 CHAIRMAN DAUS: Thank you.

10 Questions?

11 The last speaker is, it looks
12 like, J. Bianco.

13 Is that you?

14 MR. BIANCO: I am a bit out of
15 line here.

16 CHAIRMAN DAUS: Could you come
17 up to the microphone, please?

18 MR. BIANCO: I appreciate you
19 understanding, allowing me to make mistakes
20 with the procedure here.

21 I have been a cab driver for 40
22 years now.

23 CHAIRMAN DAUS: What is your
24 full name?

25 MR. BIANCO: Anthony J. Bianco.

1 CHAIRMAN DAUS: Anthony J.
2 Bianco.

3 MR. BIANCO: I would ask your
4 permission just to speak maybe for 10 minutes
5 concerning the industry.

6 CHAIRMAN DAUS: This is
7 concerning medallion transfer rules?

8 MR. BIANCO: That is the
9 problem. I started in the industry in 1968. I
10 was a cop then, and there were a lot of
11 robberies so they allowed police officers to
12 work.

13 1968 was under the control of
14 the Police Department.

15 This agency has many facets.
16 Your facet is in the legal area. I was on the
17 stand many times 24 years as a cop.

18 The Police Department works on
19 the streets, knows the streets. The cab driver
20 is a street worker.

21 There should be a level above
22 you governed by the Police Department, because
23 in there industry, everybody talking here,
24 depends on people like me.

25 I am an owner. We are told to

1 buy a cab every five years; give you six years.
2 That is \$28,000. You need another \$28,000 to
3 stay in business. Nobody is saying that. That
4 is close to \$60,000.

5 I have a loan on my medallion.
6 I bought my medallion in 1973 at the height of
7 the Knapp Commission so I was investigated by
8 the Police Department.

9 I went to Andy Greenbaum.
10 People here know Andy Greenbaum. He said,
11 "They will never believe you. You have cash?"

12 I had to work. I went through
13 the Department. Cab driver is work.

14 Andy said, "They'll never
15 believe you at TLC. You are a cop, you got
16 this money," but the Police Department gave me
17 permission, and I signed papers from Andy. He
18 is dead and buried so I can't implicate him.

19 I signed papers, and I was
20 taking a loan from some firm out west just to
21 continue with the process; not worrying about
22 being investigated here.

23 I was in the Tactical Patrol
24 Force, 1964, during the riots. The words on
25 the street was respect.

1 I was at areas where people were
2 shot and killed. One of them was a
3 high-powered rifle up in Harlem. We were
4 running across the street, and I forget his
5 name, about 10 feet away from me.

6 All of a sudden I hear a shot go
7 off. I look down the street, and there's a guy
8 down the block -- this is Harlem -- ran into a
9 tenement with a rifle. Same colored shirt.

10 Mitchell Renzo, he was
11 completely swung around and went down. It was
12 a military rifle. I thought he was shot. It
13 hit his nightstick. The force of that bullet
14 literally turned him around and he went down.

15 We went down the block as a
16 peace officer, now. Legally we had no right at
17 all, but we kicked in a few doors. We got the
18 guy. It was a rifle. He was arrested.

19 When John Lacy created this
20 agency, he created a Nazi structure. He gave
21 peace officer status to people that only
22 enforce. That is a Nazi structure.

23 As a peace officer in the
24 Jamaica precinct --

25 CHAIRMAN DAUS: Mr. Bianco, we

1 certainly appreciate your history and certainly
2 your service to the PD, but this is a public
3 hearing concerning medallion transfer rules.
4 Could you somehow tie your comments into
5 whether these rules should pass or not?

6 MR. BIANCO: I am on the verge
7 of having my medallion taken over by a fleet,
8 being sold, and a taxi broker making money on
9 it through the rules and regulations.

10 Over the years I seen a lot of
11 decent people forced out of the industry,
12 street people. I myself as an example, I
13 picked up Bobby Short, the saloon player that
14 plays at the Carlisle two months before he
15 died.

16 I got out of the cab and opened
17 the door for him like it was a limo. He looked
18 at me strangely.

19 I said, "Hey, you are Bobby
20 Short." I drove him to 57th street.

21 On the way there we are talking.
22 They had this opening down by Columbus Circle,
23 and they had all these stars.

24 I said, "Marcellus, working for
25 Lincoln Center, he should have put you here.

1 You have been here 35 years and people in the
2 metropolitan area. They deserve" -- I am
3 talking as a cab driver.

4 It is very important, sir, if
5 you listen.

6 CHAIRMAN DAUS: Would you be
7 able to sum up whether you are for or against
8 the rules?

9 MR. BIANCO: That is the
10 problem.

11 CHAIRMAN DAUS: With all
12 respect, we have procedures.

13 MR. BIANCO: I understand that,
14 but I am trying to relate something.

15 Bureaucracy is an agency that
16 reaches a point where eventually it serves its
17 own purpose.

18 30 years ago I read in the
19 newspapers about the Agriculture Department
20 giving a speech to farmers. The government was
21 going to pay them in order to stabilize
22 prices -- not the plant -- in certain parts of
23 their area in order to stabilize food prices.

24 It is a very immoral decision
25 because there are people starving to death

1 around the world, and it would give us a better
2 image.

3 It also showed that when a
4 farmer asked the executive from the Agriculture
5 Department, "If we don't plant on this part of
6 land, we are going to lose our top soil."

7 That is what this industry
8 represents. You have to have a layer above you
9 that works on the streets, that works -- look
10 at myself in this conversation. Before I came
11 here, I talked to other people. One fellow was
12 a prisoner in a death camp as a kid, and I
13 asked him, "Boy, you must have a lot of stories
14 as a cab driver."

15 I looked in his eyes, and over
16 the years I looked in people's eyes for --

17 CHAIRMAN DAUS: I am sorry,
18 Mr. Bianco, your time has expired. You have
19 not addressed the medallion transfer rules. We
20 certainly -- we appreciate your history and
21 your issues, and we would be happy to talk to
22 you after the meeting.

23 MR. BIANCO: If you give me
24 that, I would appreciate that.

25 CHAIRMAN DAUS: We will talk to

1 you.

2 Are there any other speakers,
3 anyone else who wishes to be heard on this
4 pressing topic?

5 MR. SAPPONE: Am I next?

6 CHAIRMAN DAUS: Our last speaker
7 is Mr. Vincent Sappone, and then we will wrap
8 it up.

9 MR. SAPPONE: I want to wish
10 everybody a healthy new year here.

11 All I can say is I hope you guys
12 think it over, and it is good that you are
13 talking to the industry about these transfer
14 rules. It is very good.

15 The gentleman that got up and
16 spoke, Metropolitan, Mel Miller, they probably
17 got 150 years experience between the
18 organizations, you know, and with LOMTO it is
19 another 80 years, 75 years.

20 I wasn't prepared for this
21 today. I haven't been prepared for anything
22 lately.

23 Who is laughing?

24 I hope you consider and work
25 with the industry, with me included, you know,

1 and maybe -- let's make it work for everybody.
2 Let's take the hammer out of their hands, maybe
3 put it on the table, hide it for a while.

4 I am not saying you are beating
5 anybody up; I am just saying let's leave it in
6 the garage.

7 Let's try to work with each
8 other and come to really a fair conclusion that
9 is good for everybody, everybody.

10 Anyway, the last thing I want to
11 say, which Matthew, you probably remember them,
12 I didn't get any notification until after it
13 was over with, Willy Bligh, he passed away. I
14 don't know if you know.

15 CHAIRMAN DAUS: No.

16 MR. SAPPONE: I didn't know
17 either.

18 CHAIRMAN DAUS: He was on the
19 board of Melrose, wasn't he?

20 MR. SAPPONE: Yeah. Before that
21 he had my position. He was the managing
22 director before I stepped in.

23 CHAIRMAN DAUS: We will try to
24 track down through Melrose his family. That is
25 very, very sad. Willy Bligh was an icon in the

1 industry.

2 MR. SAPPONE: He was an industry
3 leader.

4 Some people liked him, some
5 didn't, but it doesn't matter. He was involved
6 with the industry.

7 I am sorry to say that LOMTO
8 wasn't even formed.

9 CHAIRMAN DAUS: That is very sad
10 news. We will try to see if we can reach out
11 to Melrose and to the family and see if we
12 can --

13 MR. SAPPONE: I am going to do
14 the same thing.

15 Anyway, as I was saying, I
16 didn't come here prepared. I don't want to
17 make a fool out of myself.

18 When I read that stuff that you
19 printed up, Mr. Fraser, I think I need two
20 lawyers behind me, no disrespect. It was very
21 long, and go to A to B to C. Okay, whatever.

22 You know, we should start
23 putting things in my language maybe, you know?
24 Really. This way cab drivers can understand.

25 CHAIRMAN DAUS: You are talking

1 to lawyers.

2 MR. SAPPONE: Maybe make a guy
3 like you put it together or him.

4 I mean, very good, very
5 professional, but I needed a comptroller
6 looking at it, and then I went to a lawyer who
7 didn't have time, and one guy put it on his
8 table --

9 CHAIRMAN DAUS: Some of the best
10 lawyers can't figure it out.

11 MR. SAPPONE: Let's try to work
12 together, okay?

13 Have a good new year.

14 CHAIRMAN DAUS: Same to you.

15 That is very sad news about
16 Willy Bligh, very, very sad, and we will try to
17 see if we can pull something together to honor
18 his memory.

19 I would like to just check with
20 my colleagues for a second and see how you feel
21 about some of what you have heard.

22 Basically, you know, my feeling
23 is that I disagree with certain elements of
24 what was said. I think we need to and have an
25 obligation to, given the Local Law and given

1 the City Charter, the Administrative Procedure
2 Act, we need to put something into our rules at
3 some point. We need to have rules. You cannot
4 not have rules.

5 If you look at the definition of
6 a rule under the Administrative Procedure Act,
7 a lot of what we are doing needs to be in the
8 rules.

9 I think it is a good thing for
10 integrity purposes, for stability for the
11 industry.

12 Now, obviously this dispute
13 seems to me, even though we are saying we are
14 against having rules at all, it seems to me
15 like most of what is being said is "We don't
16 agree with what the TLC has put forward."

17 But I have to say if we can
18 achieve a compromise and a consensus, that is
19 great. It doesn't always work that way.

20 I think this is probably one of
21 the most open, transparent processes we have
22 ever had at the TLC. For over two years we
23 have been meeting with the industry. Some of
24 the same comments that were made today were
25 made back then. Our counsel and our staff just

1 simply didn't agree with them.

2 That doesn't mean that after
3 having this debate with the Commissioners that
4 we may not find that there are other
5 alternatives that we can pursue.

6 I think the legislative concept
7 is an interesting one. We will talk to the
8 Mayor's Office, and we will talk after the
9 meeting -- that is a possibility.

10 I never felt comfortable with
11 this process from day one. There must be
12 better ways to do the research now.

13 I think the Jury Verdict
14 Reporter is on-line, but who wants to create
15 extra work for government in a nebulous area
16 such as this which could have repercussions?

17 I think OATH is eminently
18 qualified to do this work if it needs to be
19 done in accordance with that case and the Local
20 Law. There is no question about that, and I
21 think they would do a fantastic job.

22 However, whether the Local Law
23 itself has outlived its welcome, or whether it
24 was put in place at a time when people didn't
25 envision what this would become is another

1 issue.

2 You know, to the extent that our
3 counsel feels very strongly that we are
4 preempted from doing it or not doing certain
5 things, we will revisit that.

6 If there is a legislative
7 solution, we will look at that.

8 I think we do need to have some
9 type of rules in place, whether it be the type
10 of paperwork that we need -- some things are
11 administrative and don't need to be in the
12 rules.

13 To the extent we need to make
14 sure the licensing criteria is met by
15 transferees, the new buyers, to the extent that
16 the Commission should have a role, obviously,
17 in approving of the new owners to make sure
18 that they have criminal background checks, that
19 they meet the requirements for ownership, that
20 they are ready to go and get their vehicles on
21 the road and become an owner, I think that is
22 an important area.

23 The area of looking out for --
24 while admirable -- the injured plaintiffs who
25 have judgments I think is something that was

1 created by Local Law, and it is a
2 responsibility that we currently have.

3 Unless we are able to change the
4 law, we have to figure out a workable way in
5 which to meet that obligation.

6 I do believe that, from
7 everything I have heard, there are certain
8 scenarios, even though they may be far between,
9 where people can use the process of
10 transferring stock to incur indebtedness,
11 which, from what I understand, under the Lien
12 Law would take priority over personal injury
13 judgments.

14 I think that is certainly, from
15 what counsel has advised, a legitimate concern.

16 We will look into and revisit
17 the arguments that were raised about the
18 interaction and the state preemption arguments
19 with the Business Corporation Law, the General
20 Obligations Law, the Appellate Division case in
21 relation to the Local Law.

22 The question that I think was
23 raised which is interesting is whether there
24 are any provisions of State law which may
25 preempt the Local Law that requires us to do

1 this analysis, but we do need to pass something
2 at some point.

3 What I would like to do at this
4 point is ask Chuck, Andy and all the folks in
5 the industry to maybe let this digest and
6 settle for a little bit. If the industry feels
7 that based upon the points here they need to do
8 any additional research, that you submit it to
9 our general counsel.

10 If we can reach an area of
11 understanding or compromise on the other
12 elements of the rules, put the legislative
13 piece to the side, that would be great, and we
14 will look at all of our options and explore
15 them.

16 At the end of the day, if we
17 can't reach an agreement, the Commission, I
18 would suggest, has to come back objectively and
19 just take a stand and do what they think is the
20 right thing.

21 That is my proposal to my
22 colleagues; that we have further meetings after
23 this with the industry to go over the areas of
24 disagreement on the trust issue and some of the
25 these other areas, and we will explore the

1 possibility of legislation.

2 If we can't reach a resolution
3 or we can't reach a potential next step on
4 this, then we may need to come back and take a
5 vote on these rules.

6 Do I have any other input or
7 comments?

8 Or do you agree or disagree?

9 COMM. GONZALES: I just have a
10 quick question regarding transfers. How is
11 title really determined? Is it similar to when
12 you purchase, say, a property, there is a title
13 search, liens on houses, that kind of thing,
14 that all kind of comes out at the closing?

15 Is it similar with a transfer,
16 and then where is the line drawn between, say,
17 a clearance of title and what was discussed
18 here with respect to OATH being involved and
19 looking at claims and things like that?

20 MR. FRASER: It is very similar
21 to a real estate closing and title transfers.

22 Our position would be title
23 transfers upon our approval and at the closing,
24 and the tort valuation process, regardless of
25 whether it is done as it is done now with Judge

1 Golkin, or whether it would be done in court or
2 any other place, the tort valuation process
3 occurs before the closing and therefore before
4 the change in title.

5 CHAIRMAN DAUS: We also do
6 check, and this is something we are putting
7 into the rules, right? About indebtedness to
8 the City, taxes that are due and so forth that
9 we want to approve the transfer. There are no
10 other interests involved here?

11 MR. FRASER: Not across the
12 board. We don't look at any debt to the City.
13 There are certain things, the finance tax, the
14 transfer tax, we look at unpaid fines to us,
15 and I believe the rules provide for unpaid
16 fines to DMV. I am not sure about that, but I
17 think that is right.

18 We don't more generally look for
19 unpaid debts to the City.

20 CHAIRMAN DAUS: Any other
21 questions?

22 I guess the TLC has done such a
23 good job on taking care of the good title that
24 I see no one has gone to the business of
25 issuing title insurance for medallions. We

1 take that as a slap on our back that we have
2 been doing a good job.

3 We really have had very few
4 issues. We have never really had any major
5 issues since I have been here, anyway, on the
6 medallion transfer front.

7 We have just had one spat where
8 we had some foreclosures. That was
9 following -- that was around the time of the
10 driver shortage.

11 For the most part, it has been a
12 process that has improved over the years. That
13 doesn't mean we shouldn't further improve it,
14 but I think it is in the best interest of the
15 agency to put something in the rules now and
16 forever so that we have stability so let's work
17 on that.

18 It is a new year. We have time
19 to do this. We will get together.

20 Andy, Chuck and his staff will
21 be in touch with you as well as Samara to sit
22 down and have another meeting on this.

23 We will talk to the Mayor's
24 Office about the other possibilities. If it
25 makes sense, it makes sense. If not, we may

1 have to come back and bring it to a vote.

2 That concludes Item 4, 4 B on
3 the agenda.

4 We were planning on doing a
5 couple of presentations today. Unfortunately,
6 Ira Goldstein has had a death in his family,
7 and he is not here.

8 We will be doing the
9 presentation on TPEP enforcement, some of the
10 things we have been doing to make sure the
11 drivers are using the credit cards.

12 One of the things we did is we
13 did a run of all of those cars that are not
14 using -- have no transactions at all. We have
15 been sending them letters and we will be
16 calling them in, because it is a little odd
17 that there is some equipped cabs that have not
18 had any transactions so that is something we
19 are working on.

20 He will actually have even more
21 detailed numbers by next month so we will put
22 that presentation back on.

23 Also, next month we are going to
24 have a presentation by Debra Martin. I spoke
25 to her yesterday on the Design Trust. She will

1 kind of recap what we have done with this book.

2 By then the Commissioners and
3 the public will have had a chance to read it
4 fully, and we will do that.

5 My understanding, Chuck, is we
6 do not have a quorum to hear this appeal, Item
7 6?

8 MR. FRASER: That is right. A
9 quorum is five, and with your recusal, we would
10 have three.

11 CHAIRMAN DAUS: So there you go.
12 We will have to adjourn that case. The parties
13 will be so notified.

14 I don't have enough votes to
15 close the meeting so the meeting will go on all
16 day. If you want to feel comfortable, we will
17 maybe bring in some lunch.

18 Seriously, thank you for coming.
19 This was a good debate. We look forward to
20 working with you in the new year.

21 (Time noted: 11:04 a.m.)

22

23

24

25

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

CERTIFICATION

I, HELENE GRUBER, a Notary Public
within and for the State of New York, do
hereby certify:

THAT the foregoing is a true and
accurate transcript of my stenographic
notes.

IN WITNESS WHEREOF, I have hereunto
set my hand this ___ day of _____, 20

Helene Gruber, CSR

