

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION DECISION HEARING

Michael Gardner, Chairman
Robert C. Haas, Police Commissioner
Gerald R. Reardon, Fire Chief

STAFF:

Elizabeth Lint, Executive Officer

-- Held At --

Michael J. Lombardi Municipal Building
831 Massachusetts Avenue
Basement Conference Room
Cambridge, Massachusetts

Tuesday, September 27, 2011

1:10 p.m.

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I N D E X**PAGE**

Bosphorus 3

Matter of Regulating Employment 8

Relationships within the Hotel Industry

P R O C E E D I N G S

ELIZABETH LINT: Okay. We are going to begin.

This is the License Commission Decision Making Hearing being held on Tuesday, September 27, at 1:10 p.m., at the Michael J. Lombardi Building, 831 Massachusetts Avenue, Basement Conference Room.

Before you are Commissioner Michael Gardner, Commissioner Robert Haas, and Fire Chief Gerald Reardon.

We only have two matters left for decisions from April 26th, the Public Comment; and from September 6th, Bosphorus.

ROBERT HAAS: The pleasure of the Commission as to the matter you would like to move forward with first.

GERALD REARDON: Bosphorus will probably be quicker.

MICHAEL GARDNER: Were you here?

(Discussion off the record.)

ROBERT HAAS: My understanding of the application was to modify to an all liquor license for the purposes of serving a specialty drink. My reservation about doing that is that we haven't done any kind of special arrangement that way with respect to licenses.

It's a relatively new licensee. We granted a beer and wine license approximately eight or nine months ago, and at that time we had issued a no value/nontransferable license.

I have some difficulty in trying to take an all alcohol license and narrow it down to a specific purpose, and my inclination is to vote against the application.

MICHAEL GARDNER: Can we just have some clarification. Chief Reardon believes he was here for that presentation?

ELIZABETH LINT: September 6th, yes, he was here.

MICHAEL GARDNER: Any comments?
Thoughts?

GERALD REARDON: I understand the testimony given by the applicant for the purpose of the one specific drink. But unfortunately we do not have a cordial license in the City of Cambridge and, therefore, it would be an all alcohol license. And I think it would be very problematic in regulating it or, from a legal standpoint, then, how we would turn around and regulate it to a single, all-alcohol beverage. I don't believe it is in the capacity we have now.

So I'm not in a position to -- although I understand the situation with it, I'm just not in a position to support it right now based upon the difficulties of the all alcohol license and the opposition of the residents.

MICHAEL GARDNER: I guess when first hearing the matter, I felt some sympathy to

the cultural implications of what was presented. But given that we are talking about a 90 proof specialty drink, in and of itself, and it did seem to me we are not necessarily at all ready to try to move into a new class of cordials licenses.

In addition to which, the standards that we've established in the CAP areas of proof of need, lack of harm, and overwhelming neighborhood support, I certainly know we have some reasonably intense neighborhood opposition.

In terms of proof of need, I would be troubled that someone who was prepared to open an establishment with a beer and wine license when the matter was considered by the Commission last year, would, at such a quick date, come back and essentially want to change things as fundamentally as this.

And so I also have reservations about granting the application at this time.

ELIZABETH LINT: Mr. Chair, since the initial hearing, I do have a letter in support from Councilor Simmons.

Do you want to hear it, or see it?

MICHAEL GARDNER: It's a letter which supports the idea of a restaurant offering authentic Turkish cuisine to bolster Cambridge's reputation as a center for fine dining.

I believe since the last hearing, we've gotten one or more letters or e-mails from neighbors also in opposition.

ELIZABETH LINT: Yes, and they are all in the file.

MICHAEL GARDNER: Any further discussion?

ROBERT HAAS: No.

GERALD REARDON: No.

ROBERT HAAS: I make a motion to deny the application for an all alcohol license for Bosphorus.

GERALD REARDON: Seconded.

MICHAEL GARDNER: Motion having been made and seconded to reject the application for amendment of the current beer and wine license to an all alcohol license. All those in favor signify by saying "aye."

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: None opposed, and the ayes have it. So the application is denied.

* * * * *

MICHAEL GARDNER: With respect to the matter of the potential for Regulating Employment Relationships Within the Hotel Industry, particularly as it relates to the possible contracting-out of services and any particular housekeeping services, as you know, I did prepare my summary of the evidence on both sides of the matter which I think has been placed in the file.

I have also prepared a reasonably lengthy statement of what my position is, prior to our discussion, with respect to the matter, but would offer it to the other two Commissioner's the opportunity to comment on the matter first, if they so choose.

ROBERT HAAS: My inclination is to defer to you, Mr. Chair.

MICHAEL GARDNER: And I've labeled this as my statement in explaining my interpretations with respect to a vote in the matter of regulating the contract of outsourcing housekeeping services in the hotel industry.

In evaluating what the appropriate course of action for the License Commission to take in this matter, I believe it is helpful to evaluate the goals we are attempting to achieve and assess the means to get there in terms of both efficacy and efficiency.

Our goal is to help ensure that hotel

guests occupy safe, clean and hazard free rooms when visiting Cambridge hotels.

Although there may be many serious labor and employment issues surrounding this matter, they are beyond our jurisdiction and focus.

Given our exclusive concern for the safety and welfare of guests and the public, the question is: Are prohibitions upon contracting out housekeeping services an effective and efficient way to achieve this goal?

First, it's -- at least to me -- clear that just because a hotel employs its own direct employees as their housekeeping staff, there are no assurances that hotel rooms will be safe, clean and hazard free. So much depends upon the supervision and training provided by managerial staff and their commitment to quality control. Lax management is likely to lead to lax standards of cleanliness and safety no matter what the

employment relationship is between hotel managers and the cleaning staff.

Secondly, I think it is clear that just because a hotel contracts out housekeeping services, it does not inexorably lead to lower standards of safety, cleanliness or lack of hazards.

Again, the commitment of hotel management of quality control to regularly be checking on the performance of contracting staff, and the assistance of hotel management that quality standards be met and maintained, seems to be critical.

Lax management will lead more likely to lax standards of cleanliness and safety. Strict standards of compliance are more likely to reduce cleanliness and safety issues. Regulating the employment relationship between housekeeping staff and hotel managers seems to be a very indirect and marginal way to ensure that health and safety standards will be met.

What matters much more is a how much sloppiness and slovenly work hotel management is willing to tolerate no matter who is doing the work. The License Commission can do its job best by holding managers accountable for the end result of how clean, safe, and healthful the guest rooms and all other aspects of the operation are, and leaving it to the managers to decide how best to accomplish that goal.

Prohibiting the contracting out of housekeeping services also seems to me to be a very inefficient way to attempt to accomplish our goal if one of the measures of efficiency is how drastically we intervene in the day-to-day operations of the hotel or any industry.

The License Commission has virtually no experience in regulating how work is done in the businesses we regulate. We insist that all servers and managers and premises licensed

to serve alcoholic beverages are trained in our 21 Proof Training Program. And we do background checks on managers of such premises. In some instances we require that lodging houses have a resident manager on duty. But we do not attempt to regulate the employment relationship between those providing services in the establishment and the owners or managers of the business. We leave that to the managers, and measure the results based upon the inspections and the complaints.

For us to regulate or prohibit hotels from contracting out certain services would represent a quantum leap for us into the micromanaging of complex businesses, a task for which we are poorly equipped, and I believe a leap that is unnecessary.

Among the advantages cited for contracting out are reduced costs and increased flexibility in managing fluctuating

occupancy rates. To the extent that reduced costs and staffing efficiency translate into reduced costs to the traveling public, these are positive values for us to consider.

The Law Department advised us that in order to issue a regulation prohibiting the contracting out of the housekeeping services, we should make objective findings supporting the adoption of such regulations, findings that show the significance and legitimacy of the public purpose behind the regulation.

From all the testimony and documents submitted by interested parties and members of the public in this matter, we received many opinions and theories, but I feel few solid facts to support such a regulation. I do not believe that a hypothetical or theoretical set of dangers based upon purported loss of control by hotel management staff is a sufficient basis for a regulation that would so significantly interfere or limit how a

business chooses to organize its service delivery.

The License Commission needs to focus on actual results on quality and safety as it is or is not experienced by the traveling public, rather than theoretical constructs.

We now have more than two years of experience with the subcontracting of housekeeping services at the Hyatt with no reported problems or complaints. We have a report from the Hyatt as to how they check the quality of the work done by contractors on a daily basis to ensure that quality standards are met. I find this report to be both believable and unremarkable.

If the Hyatt or any hotel wants repeat business and wants to generate good word-of-mouth and good online reviews, it will pay very close attention to quality standards; to not do so is to risk loss of reputation and goodwill. I would be much more surprised if

they took a hands-off attitude for its quality because it seems to be so much against their own self-interest to do so.

Contracting out presents challenges that are somewhat different than the challenges of hiring and managing your own employees. But these do not seem to me to be that much more difficult and certainly not insurmountable.

From the evidence we have, including their description of their quality control procedures and the lack of complaints, it appears to me that the Hyatt is handling these challenges in a more than adequate way. Based upon the Hyatt's records, there is no basis to take such drastic action or measure of prescribing how a hotel can run its business.

In its policy order, the City Council expressed concern that hotel management would have no direct control over housekeeping staff, that it would have to go through

middlemen. This is similar to a statement made by a hotel consultant advising against contracting out guest room housekeeping in which he said, quote, "When you outsource, you lose some control. You have absolutely no control over those employees. They are not your employees." End quote.

Based upon the reported Hyatt experience, I do not believe the writer's assertion of no control to be correct. A contractor performing substandard work can be identified quickly, and hotel management certainly has the control to insist on corrective action, including removal of the employee if necessary.

In one way, managing outsourced housekeeping for quality control may be met easier than managing other outsourced services, this is because the work is so visible. Room cleaning lends itself to timely inspection. Hotel managers can, and by the

Hyatt's report do, check on the quality of work quickly, efficiently and regularly. They can identify who was responsible for substandard work and insist on corrective action, including requiring better supervision by the contractor's on-site supervisors.

Having said that, should actual problems develop, the License Commission has more than adequate authority to deal with it. The License Commission's authority to deal with actual problem performance is not diminished simply because the problems are caused by third-party contractors. The License Commission can and will hold the license holder responsible for the actions of its agents.

In one of the first matters I dealt with after assuming the duties of Chair, a holder of an all alcohol license at a disciplinary hearing appeared to be seeking leniency based upon the fact that a person who

had failed in his duties was not an employee of the establishment but an independent events organizer to whom certain duties had been delegated or subcontracted out on a particular evening.

The Commission was very quick to remind the license holder that he was directly responsible for the actions of the events organizer who functioned in every way as his agent.

The same is true as subcontractors of other license holders. The hotel is every bit as responsible for the actions of its subcontractors as it is the actions of its own employees.

If Hyatt's standards slip because its contractor fails to meet its obligations, we'll hold the Hyatt accountable as we would any other hotel or licensee in similar circumstances.

On a related note, if employees of

the contractor face adverse employment actions from their employer, that would be the subcontractor's responsibility. For reporting health and safety violations, I believe those employees would receive the same protections under law that they would if they were direct employees of the hotel, and I'm confident the License Commission would be just as displeased with the license holder under such circumstances.

From the testimony we've received at the hearing, it appears that most hotels in Cambridge will be unlikely, at least in the near term, to move to contracted housekeeping in any major way. They have a solution that works for them as long as, of course, they continue to manage their other staffs in such a way as to insist on the highest quality standards. From the evidence, it seems they will. Should circumstances change and they seek to contract out more work, it certainly

behooves them to examine the Hyatt's experience and make improvements based upon what can be learned from that; particularly the regrettable, and some would say, unforgivable manner in which it appears the transition was managed.

As the articles from the hotel industry press indicated, contracting out housekeeping services is not a task to be taken on lightly and must be very carefully planned and executed if it is to succeed.

Most important, there must be ongoing consistent vigilance that quality standards are met. The same vigilance as is needed in supervising the activities of direct employees.

I find all this encouraging. I believe the information gathered shows that we have a vibrant hotel community committed to quality and excellence in guest services. I do not believe there is sufficient evidence to

establish findings that the public safety, welfare, or general service to the public are negatively affected by contracting out housekeeping services in the City of Cambridge and, thus, do not find the basis for issuing regulations in this area at this time.

However, improvements can always be made. And in furtherance of maintaining and improving quality in the future, I would encourage the management staff of various hotels in the city to engage with our Public Health Commission in a dialogue about how to ensure quality training staff on issues relating to health and safety.

The Public Health Commission has informally made such an offer, and I believe the License Commission should play a role in ensuring that such a dialogue takes place.

So at this point, I'm prepared to make a motion.

ROBERT HAAS: Mr. Chair, my viewpoint

will be more narrowly defined.

From a security standpoint, the ability for individuals to gain unfettered access into rooms being occupied by private parties does create a special circumstance where there is a certain degree of privacy and protection. How that access is gained and the conduct of the individuals who have such access should withstand a higher standard of oversight and accountability.

Contracting services out to a third-party removes that degree of accountability and oversight from those who are responsible for maintaining such safeguards. It's not clear to me that the management of hotels can vouch for or even maintain a certain level of continuity between themselves and those who may be employed by another.

Part of the deliberation of the License Commission should also attempt to

balance the practicality, the impact, and financial implications whenever it considers creating a new regulation. Part of the rationale for contracting out housekeeping services is designed to save costs that are theoretically absorbed by the customer, or at least designed to allow a hotel to be more competitive with its pricing.

In the case of the potential impact, whether it is providing a greater degree of oversight, accountability, or a level of service, there are some special considerations associated with a level of trust and reassurance required by those whose duties allow for access into privately rented rooms. Granted, the key access cards are designed to provide greater protection, but once a card is misplaced or transferred, that level of security is easily defeated.

The question remains as to what would be a break-off point in terms of the size of

the operation should a regulation requiring a hotel to hire its own housekeeping staff, and possibly maintenance staff, where the regulation would be overly burdensome or cost prohibited. It would seem that the larger operations would be able to absorb any additional costs that would be associated in hiring its own staff, as opposed to smaller operations that probably either share or hire part-time staff. Generally, the smaller operations are likely to be family-based operations and have a closer hands-on involvement in the operations of the establishment.

In looking at the present inventory of hotels within the City of Cambridge, it makes sense to establish the regulation at those hotels with more than 100 rooms.

I think that the configuration is such that most hotels have chosen to go with hiring their own staff. There is only one

hotel I'm aware of that does contract out to a third-party.

GERALD REARDON: First, I appreciate everyone's input on this particular matter, it's very insightful and it goes into areas that they've never delved into before.

I guess, for the record, I would have to say that the actions of the particular hotel in my estimation are reprehensible in taking career employees, who actually have made that hotel profitable over the years with many years of service, and then dismissing them, and the way they went about training the new staff before they dismissed them. So I just find the whole action of that corporation reprehensible across the board in terms of that.

The issue of contracted labor versus in-house labor, I do, as the Commission says, have a great deal of consternation over the access, unfettered access, to hotel rooms by

many people. Obviously, in-house staff, based upon our research, there is only one particular one that we are aware of that uses outside third-party vendors to do this work. And, as a rule, third-party vendors do not necessarily have a continuous change or continuous flow of the same personnel, many times they are moved from location to location. And that issue alone is quite troubling.

As we look through all the reports in terms of complaints, there are very few. I mean, there are some, but there are very few in terms of the two-year period between ISD, the Health Commission, and others, over this particular event.

Having in-house people who are regularly familiar with the facility and training, I believe ensures a better product, in my opinion. At the end of the day, I'm not sure whether or not, on the legal authority,

we have the legal authority to force anyone to do it, nor the manner in which they do it. And we make recommendations all the time, very stern recommendations on issues such as over-crowding, that additional security must be hired. At the end of the day, we don't tell them how they should do it.

But I believe that, predicated on all the information, that future issues, I believe, are potentially going to happen. And my worry here is the protection of the public as we go forth in terms of protecting them.

The fact that we don't have a litany of complaints, I believe, based upon a lot of recommendations or performance, that this could be the case.

MICHAEL GARDNER: I guess, Commissioner, I'm not sure I understand your statement as it relates to housekeeping and maintenance. But pointedly, what you did not include in that was security staff in your

comments.

Is that your view, that the hiring of outside security contractors undermines the security of the hotel and its guests, and that hotels should be required to hire their own security staff?

ROBERT HAAS: I think any employee who has access to private rooms should have a certain degree of responsibility or accountability to the management of the hotel. There is a special relationship between hotel management and staff. And my experience is that mostly housekeeping staff and possibly maintenance staff are going into hotel rooms that are usually unoccupied. I'm not sure that I've seen, on a regular basis, security going into occupied rooms.

MICHAEL GARDNER: Security goes into occupied rooms if there are problems in the rooms.

ROBERT HAAS: That is typically when

somebody is present in the room. I'm not aware or familiar with security going into unoccupied rooms. But if that's the case, I would be more than happy to include that in the regulations.

MICHAEL GARDNER: Any further comments?

GERALD REARDON: Well, I guess, proactively, too, I'd like to see potentially that we have guidelines for all the institutions such as the Public Health Commission. We probably would be better off having standards across the board that would regulate or have the minimum training that these people should have to be in this particular business.

ROBERT HAAS: So you are opposing the regulations as well?

GERALD REARDON: That we turn around and actually -- well, predicated on the potential hazards that are out there, should

we turn around across the board and indicate some minimum standards for training in terms of health codes, blood borne pathogens?

Is there a standard out there that -- there is no standard particularly right now as far as I can see.

MICHAEL GARDNER: Well, you have seen the report of the Public Health Commission with respect to what they recommend. It was distributed. It came in September 16th. That was the last piece of information before we scheduled this hearing.

It's a two-page letter from the Public Health Commission in which it finds no direct connection between health and safety issues and the employment status of employees; but which outlines a variety of training standards, or topics at least, that it would encourage all staff to be trained in.

GERALD REARDON: I guess that is partially my point. Should this be made

inclusive, as we do 21 Proof or other items, as part of what should be expected?

MICHAEL GARDNER: What I proposed was that we facilitate the organization of meetings or a dialogue between the Public Health Commission and the hotel management staff with respect to working out standards of training.

AUDIENCE MEMBER: Mr. Chairman, I've never attended one of these hearings before and I'm not sure what the protocol is.

Is there an opportunity for an elected official to comment at all?

MICHAEL GARDNER: Typically, at the Decision Hearings we don't take public comments. I'm certainly prepared -- I have no objection to providing an elected official to have the opportunity to speak. I'd just ask that you identify yourself, state and spell your name for the record, please.

MARJORIE DECKER: My name is Marjorie

Decker, M-A-J-O-R-I-E, D-E-C-K-E-R, City Councilor.

I guess what I would like to say to those who are thinking about this is that training is only one piece of this. But it's not just the training, it's the ability -- and I'm referring to the Commissioner's point -- of the management on-site to quickly identify who the housekeeping staff was that was in that room that might not have actually properly cleaned it or might have been responsible for pathogens, contagious pathogens, actually being shared.

And what you have heard in all of your prior testimony is that with outsourcing the number of rooms that have to be cleaned by outsourcing staff dramatically increases the ability for even an on-site supervisor is not always the case, and is not usually the case in outsourcing.

And so that company that is

third-party outsourcing has a supervisor that is traveling, it's the housekeepers that travel, they don't stay in the same hotel. And so for those reasons, I think this is -- it is a public health issue and a public safety issue.

I would be very concerned that the precedent here would be that there have been no problems so far.

I want to remind you, and you have this information, that when the one hotel in the city that did this, they actually were under investigation by the attorney general and they had to fire the first company that came in because of its practices.

And so a company that would take shortcuts, as the first company that came in to that hotel did, that would take such drastic shortcuts, to be under investigation and fired from the attorney general's office, is not a company that should be trusted with

the public health and safety.

And that the idea that the Chairman would be relying on the actual one hotel reporting back to the Commission as evidence that "If it's not broken, don't change it," I would ask you to consider that the industry -- you know, it may be only one hotel in the industry that decided to change the rules.

So you're being asked to look at something maybe that you have not looked at prior to this. But that is because somebody in the industry changed the way that the work has been done.

There is a reason why the majority of the hotels in this city do not outsource, and you've heard plenty of reasons about why. And I think that should be sufficient evidence to say, "Well, then, that would raise large concerns about what the problems are that do arise from outsourcing."

And so the idea that there have been

no problems reported is incorrect. The attorney general's office under Martha Coakley had a huge investigation going with the first company that went in there that got fired. And often these companies that outsource also come in from other states, and so that is also of concern.

So I would say that the idea that you would think about the future possibilities and then maybe revisit that, that's not acceptable in my opinion. Because I, too, like you, are entrusted with ensuring the public health and safety of those who work in the industry as well as those who visit our city, and I am not convinced that that is guaranteed with the way that the operations and the management of the outsourcing occurs.

I don't know about the training. And I could sit here and say maybe they don't do enough training. I'm going to guess that that should be addressed. If it was simply about

the training or cleaning a room or ensuring that contagious pathogens are no longer a problem, that might be addressed.

Although, if you look at the research, when you look at the number of increased rooms that have to be cleaned per housekeeper and the amount of time that is reduced for them to clean those rooms, you then will likely see an increase of rooms that have not been actually properly cleaned.

But beyond that, the ability to hold accountable who those housekeepers were and who that supervisor was, you have lost lots of control here.

So, clearly, you are faced with a question that you haven't had to face before; but that is only because somebody in the industry decided to push the envelope. And they've decided to push the envelope purely for -- as they have told you -- for their own purposes of increasing their profits; and that

cannot come at the expense of our public health and public safety, as do all the other hotels in the city currently practice, because they understand the loss of control and what that potentially has as a risk to the people who are either visiting or working there.

So the idea that somehow they would want to ensure that this is a great place to keep coming, and that you quoted the Hyatt in this case as a reason to say that this is actually okay, I find that very disconcerting. Because while the Hyatt might have been the hotel that is the only one at the moment, this is not about the Hyatt; this is about the Hyatt being the first hotel to do this.

But take into consideration here in weighing your decision that you have heard heavily, as the Chairman has expressed, that there are a number of hotels who told you that they would never do that. Well, there is a reason that they would never do that. And I

would have to think that as those who are responsible for the public safety and the public health, that you are not going to wait for that the opportunity to occur.

We are talking about an age where the West Nile virus has occurred, the Bird Flu virus has occurred, the H1N1 virus has occurred. I mean, the idea that they somehow think that that is not potentially a serious problem or a life-threatening problem, I don't see how you can come to that conclusion. And I don't want to be around to say, "Wow, we had the chance to respond to that and didn't."

This is not about the Hyatt to me; the Hyatt happens to be the first hotel to push the envelope. The Hyatt has an incredibly thriving professional hotelier group in this city that understands they would never do that. And we would have -- I've been told over and over, publicly and privately, that they would never do that. But there is a

reason why.

And just because this one hotel that happens to be the Hyatt, says that, and because you hope, Mr. Chairman, that they would address these issues because they want to continue thriving, that is not a guarantee, and we should not be basing our policy upon hoping that they actually understand what is good for business. Because that's what that is, it's what's good for business.

MICHAEL GARDNER: Thank you.

MARJORIE DECKER: Thank you.

MICHAEL GARDNER: I would like to point out a couple of things that I believe are uncontroverted in the record.

One is the statement from the hotel industry representative that the electronic key card system gives them immediate and complete information about who had access to which rooms and when.

To the extent that such a system

can't be tripped or circumvented, it seems to me is, to the extent that is possible, it is every bit as likely from a dishonest direct employee as it is a dishonest contracted employee.

The reason my statements focused so much on the Hyatt experience is because the Hyatt experience is the only experience we have, and I do not believe we should be making promulgating regulations based upon theoretical or speculative positions.

I do not know anything about the Attorney General's complaints. I do not know if those were directed at hour and wage or labor issues or if they were directed to health and safety issues. They certainly are not reflected in the records of the License Commission or the Inspectional Services Department. And if they were wage and hour, they are beyond our purview. I take it that the current staffing company used by the Hyatt

is not involved in that.

I would like to also say, because I believe that the Hyatt experience is so relevant here -- although, I do agree this is not about the Hyatt, this is about regulations for an entire industry -- I think it is important to understand what the company which has the experience in the city has said about how it does this work.

This is from -- this is a letter from the Hyatt. It appears to be undated, but it was received in the License Commission on June 8, 2011.

"Our hotel relies on a staffing company to provide room attendants' and house attendants' positions, many of whom have consistently worked at our property since taking positions with our staffing partner.

"Our staffing partner is contractually obligated to meet the standards that guests expect from the Hyatt and provide

supervisory staff on-site to manage quality. To provide an additional layer of quality control on top of our already high standards, the Hyatt Regency in Cambridge also employs housekeeping managers and housekeeping coordinators to ensure that service quality expectations are met. Both our own managers as well as the staffing company's supervisors conduct daily inspections.

"Thanks to these multiple quality control measures, the hotel has ensured and can ensure in the future that the cleanliness of rooms is not affected in any way."

Now, this could be a false statement. It may be that there are not on-site supervisors there every day. It may also be a staffing company. It may also be that the Hyatt lied to us when they said they have on-site housekeeping managers who do daily inspections. But I don't believe they submitted a false report.

ROBERT HAAS: Mr. Chair, to be totally honest and frank, I really was very skeptical about the whole proposal and regulations coming into this. But after listening to the testimony -- and I looked at the current industry within Cambridge, and there is a reason why I think all but one of the hotels in the city have hired their own staff, because I do believe that they think there is an importance in terms of having that direct accountability of its own staff and being able to provide tighter controls with their staff.

Again, my experience with most of the hotels is that they have long-standing employees in the hotel and they've developed that relationship with their employees. And I've been persuaded otherwise.

I really think, given this day and age and the special relationships that exist between the hotel renting out rooms to private

guests, they have a higher standard of obligation to running a higher degree of services to their guests and clients.

And I think by regulating or putting a regulation in place that prohibits third-party contracting, it provides for a stronger safeguard to make sure the guests are protected within the City of Cambridge.

MICHAEL GARDNER: Anything else, Chief?

GERALD REARDON: The key card access, having some familiarity with that, unless it's proven to be otherwise, I believe that the contractor has a number of subset cards that are issued to the contractor on the job. And I don't believe every employee has their own card. So it may be they may know that the contractor's card opens a particular room, but I don't believe they know exactly every day who has that particular card. And I go right back to that, which is a problem for me as

well.

Again, this is not about the Hyatt. Although, as I said earlier, I think the way the Hyatt conducted their overall business with their dedicated employees is still very bothersome to me.

The issue, again, is, I believe, as the Commissioner has said, that this was very enlightening in terms of a lot of the services that this staff provides.

I do believe that most of the hotels in the city believe that having their direct staff accountable to them makes for a better situation.

And also I am aware of outside the city some of the hotels -- and I have done an investigation on them -- tell us, that have outsourced, that it is true, the number of rooms that are required to be done by these personnel are far greater than what is being done. This is an economic move. Let's go

outside the City of Cambridge and this is an economic move to get more rooms done at less cost without direct benefits and so forth. And that, again, unfortunately, in many ways is outside the purview of this Commission.

But if you turn around and look at what the result is of more rooms being done, less time being spent, and not knowing the level of training -- and I guess this applies to in-house staff as well -- I believe that we are potentially going to run the risk of problems down the road.

And what problems those are, then do we take action predicated on what we know today to preserve the health and safety and welfare that we've known throughout the city? Or do we let this go to a point until something happens and we come back and revisit it then? And in my line of business, I think all of us would like to be proactive rather than reactive.

I have a tendency to look forward to a solution that requires better control of all the people that had unfettered access to these rooms in terms of security and the amount of work that is being done.

MICHAEL GARDNER: I guess the comments about the number of rooms being cleaned is problematic to me is a problem with this approach.

I don't feel we should be regulating the number of rooms each employee should be cleaning. I don't believe we should be making policy based upon a report that contractors require more rooms to be cleaned than in direct employment situations.

I think I know what's going to happen but, for the record, I will make a motion and see if it generates a second.

I move that this matter be placed on file, subject to being reconsidered should there be information in the future indicating

that the contracting out of hotel housekeeping or other services are creating health, safety and/or cleanliness problems.

Is there a second for that motion?

Seeing none, it fails for lack of a second.

ROBERT HAAS: Mr. Chair, I make a motion to have the License Commission develop regulations with regard to the employment relationship between hotels and their staff.

I'm not too sure I'd go as far as extending the motion to regulating internal policy, I agree that that goes a little bit overboard. But I think there is, in my mind, there is sufficient reason to have additional regulations adopted with respect to prohibiting third-party contractors in certain circumstances in their employment arrangements.

GERARD REARDON: I guess I would like to amend that, in that through cooperative

agreement with the Health Department, ISD, and others, that we develop a minimum set of standards for these persons in training, not necessarily who does it, but the training standard should be somewhere where everyone is on a level playing field and they know what they are expected to do; similar to what we have with tips training.

ROBERT HAAS: Would it make more sense to do that in the form of two motions?

GERALD REARDON: I second the motion.

MICHAEL GARDNER: Could I hear you restate the motion, please.

(Whereupon, the requested motion was read back by the stenographer.)

MICHAEL GARDNER: Are you prepared to stand by that motion?

ROBERT HAAS: I make a motion to promulgate regulations with respect to prohibiting third-party contracting with respect to certain circumstances within the

hotel industry.

MICHAEL GARDNER: Is there a second for that motion?

MARJORIE DECKER: I'm not sure that we can --

MICHAEL GARDNER: No, please. Let me finish here. This is a Body that has rules.

As I understood it, you've made a motion and seconded the motion for regulations relating to --

ROBERT HAAS: -- to the prohibition against third-party contracting in the hotel industry --

MICHAEL GARDNER: That is your motion?

ROBERT HAAS: -- under certain circumstances.

MICHAEL GARDNER: To develop regulations -- Okay.

Is there a second for that motion?

GERALD REARDON: I'll second that.

MICHAEL GARDNER: Motion having been made and seconded, all those in favor, please signify by saying "aye."

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: No. Opposed, no. A motion carries two to one.

GERARD REARDON: I'd also like to make a motion that across the board in the industry, as we do with other regulatories on alcohol and so forth, that we develop some minimum training standards for all employees in terms of health and safety and security across the hotel industry.

MICHAEL GARDNER: Clarification as to who the "we" is?

GERALD REARDON: I think the License Commission should be able to take information in and have a minimum set of standards. Based upon all the information we have, I believe we are not talking about one particular

institution now, but what is the level of training that exists throughout the whole industry in terms of handling some of the biohazards, some of the infectious disease decisions.

We do have regulations on minimum training for people who serve alcohol. Do we look and see whether or not there are prescribed trainings -- that we can prescribe at a bare minimum training that should be met before persons are working in these particular positions?

ROBERT HAAS: So would that be a form of regulation or a proposed standard?

GERALD REARDON: Again, because this is not one particular entity, what other standards -- since we don't have a tremendous amount of complaints on any particular one, this brings to light: Should there be some minimum standards for people doing these particular jobs, training standards?

ROBERT HAAS: I'm trying to figure out, are you proposing making standards or regulations that prescribe what the standards are going to be?

GERALD REARDON: I would like to get information from public health and others on what we feel is the minimum standards that any establishment says that these people have reached, the minimum standards.

ROBERT HAAS: Minimum basic training to perform on the job?

GERALD REARDON: Just the minimum, not the maximum.

MICHAEL GARDNER: Are you limiting your motion to any particular function within the hotel industry or is it all employees of the hotel industry?

GERALD REARDON: In this particular case, it's the ones that deal with the internal access to security as well. I mean, I don't know whether we'd give CORI clearances

for people who provided security jobs in these areas or if that's even obtainable, if it's allowable under law, I don't actually know.

ROBERT HAAS: It might require some special attention.

MICHAEL GARDNER: So you don't think the hotel industry has the authority to CORI their own housekeeping staff?

ROBERT HAAS: They may be able to, I don't think we can regulate that.

MICHAEL GARDNER: Do you think independent third-contractors have authority to CORI the staff they hire to provide access to guest rooms?

ROBERT HAAS: I'm not too sure.

MICHAEL GARDNER: So you don't know?

ROBERT HAAS: I don't know.

MICHAEL GARDNER: I'm not sure where this motion, which we are still waiting for a second stands, either with respect to -- as I understand it, Chief, you are talking about

providing minimum --

GERALD REARDON: Maybe we should look at whether or not we need to have minimum standards, that there should be a form put forth by all the hotels or people entering into --

ROBERT HAAS: I'd probably feel more comfortable supporting that motion.

MICHAEL GARDNER: So, for consistency sake and clarity, could we ask you, Chief, to restate that motion.

GERALD REARDON: I make a motion that we look into minimum qualifications for those members of hotels, motels, residential staff who have access to rooms, to see whether or not minimum standards should be determined.

MICHAEL GARDNER: You said "minimum standards." Are you specifying minimum training standards?

GERALD REARDON: Minimum training standards.

ROBERT HAAS: I second that.

MICHAEL GARDNER: Motion having been made and seconded to -- I'm sorry -- to develop regulations or develop standards --

GERALD REARDON: To look to see if we need to develop minimum regulations and standards for those people who have access to hotel rooms.

MICHAEL GARDNER: Motion having been made and seconded to inquire into the appropriateness of developing minimum standards of training for hotel employees who have access to rooms, that the inquiry be made?

GERALD REARDON: Yes.

MICHAEL GARDNER: That is your understanding?

That motion having been made and seconded, all those in favor, please signify by saying "aye."

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: Those opposed?
None. So the motion carries three to none.

Any other business before the
Commission?

ELIZABETH LINT: There is not.

ROBERT HAAS: I make a motion to
accept the Minutes from September 20th.

GERALD REARDON: Seconded.

ELIZABETH LINT: Gerard Mahoney was
here.

MICHAEL GARDNER: I haven't had a
chance to read those minutes yet. I've
downloaded them, but I haven't read them. So
I won't be seconding that motion.

Any other business before the
Commission?

ELIZABETH LINT: No.

ROBERT HAAS: Motion to adjourn.

MICHAEL GARDNER: Motion to adjourn
at approximately 2:07 in the afternoon of

September 27, 2011. All those in favor,
signify by saying "aye."

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: We are adjourned.

(Whereupon, the Hearing was adjourned
at 2:08 p.m.)

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS
SUFFOLK, SS.

I, Evelyn M. Slicius, a Certified Shorthand Reporter and Registered Professional Reporter, the undersigned Notary Public, certify that:

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of this matter.

I further certify that the testimony hereinbefore set forth is a true and accurate transcription of my stenographic notes to the best of my knowledge, skills and ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of September, 2011.

Evelyn M. Slicius
Notary Public
Certified Shorthand Reporter
License No. 127193
My Commission Expires:
May 15, 2013

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<p style="text-align: center;">1</p> <p>100 [1] - 25:18 127193 [1] - 60:16 12:07 [1] - 58:21 12:08 [1] - 59:8 15 [1] - 60:17 16th [1] - 31:10 1:10 [2] - 1:16, 3:7</p>	<p>accountability [5] - 23:10, 23:13, 24:11, 29:10, 44:11 accountable [4] - 12:5, 19:18, 37:12, 46:13 accurate [1] - 60:10 achieve [2] - 9:19, 10:10 actions [6] - 18:15, 19:8, 19:13, 19:14, 20:1, 26:8 activities [1] - 21:15 actual [4] - 15:4, 18:7, 18:11, 35:3 addition [1] - 6:7 additional [4] - 25:7, 28:5, 43:2, 49:15 addressed [2] - 36:21, 37:3 adequate [2] - 16:14, 18:9 adjourn [2] - 58:19, 58:20 adjourned [2] - 59:5, 59:7 adopted [1] - 49:16 adoption [1] - 14:9 advantages [1] - 13:19 adverse [1] - 20:1 advised [1] - 14:5 advising [1] - 17:2 affected [2] - 22:3, 43:13 afternoon [1] - 58:21 age [2] - 39:5, 44:20 agent [1] - 19:10 agents [1] - 18:16 ago [1] - 4:11 agree [2] - 42:4, 49:13 agreement [1] - 50:1 alcohol [9] - 4:14, 5:8, 5:12, 5:18, 7:20, 8:5, 18:19, 52:11, 53:7 alcoholic [1] - 13:1 all-alcohol [1] - 5:12 allowable [1] - 55:3 alone [1] - 27:9 amend [1] - 49:21 amendment [1] - 8:4 amount [3] - 37:7, 48:4, 53:18 AND/OR [1] - 60:21 ANY [2] - 60:20, 60:20 appeared [1] - 18:20 applicant [1] - 5:4 applies [1] - 47:9 APPLY [1] - 60:20 appreciate [1] - 26:3 approach [1] - 48:9 appropriate [1] - 9:15 appropriateness [1] - 57:11</p>	<p>April [1] - 3:14 area [1] - 22:6 areas [3] - 6:8, 26:5, 55:2 arise [1] - 35:20 arrangement [1] - 4:7 arrangements [1] - 49:19 articles [1] - 21:7 aspects [1] - 12:8 assertion [1] - 17:10 assess [1] - 9:19 assistance [1] - 11:11 associated [2] - 24:13, 25:7 assuming [1] - 18:18 assurances [1] - 10:15 attempt [3] - 12:13, 13:6, 23:21 attempting [1] - 9:18 attendants' [2] - 42:15, 42:16 attended [1] - 32:10 attention [2] - 15:19, 55:5 attitude [1] - 16:1 Attorney [1] - 41:13 attorney [3] - 34:13, 34:20, 36:2 AUDIENCE [1] - 32:9 authentic [1] - 7:7 authority [6] - 18:9, 18:10, 27:21, 28:1, 55:7, 55:12 Avenue [2] - 1:12, 3:8 aware [4] - 26:1, 27:3, 30:2, 46:15 aye [6] - 8:6, 52:3, 52:4, 52:5, 57:20, 59:2 Aye [6] - 8:7, 8:8, 57:21, 58:1, 59:3, 59:4 ayes [1] - 8:10</p>	<p>8:4 begin [1] - 3:4 behind [1] - 14:11 behooves [1] - 21:1 believable [1] - 15:15 believes [1] - 4:18 benefits [1] - 47:3 best [3] - 12:5, 12:9, 60:11 better [5] - 18:5, 27:19, 30:12, 46:13, 48:2 between [10] - 11:1, 11:18, 13:7, 23:17, 27:14, 29:11, 31:15, 32:5, 44:21, 49:10 beverage [1] - 5:12 beverages [1] - 13:1 beyond [3] - 10:5, 37:11, 41:20 biohazards [1] - 53:4 Bird [1] - 39:6 bit [3] - 19:12, 41:3, 49:13 blood [2] - 31:3, 60:7 board [4] - 26:16, 30:13, 31:1, 52:9 Body [1] - 51:7 bolster [1] - 7:7 borne [1] - 31:3 Bosphorus [4] - 2:3, 3:15, 3:19, 7:21 bothersome [1] - 46:6 break [1] - 24:21 break-off [1] - 24:21 brings [1] - 53:19 broken [1] - 35:5 burdensome [1] - 25:4 business [11] - 13:9, 15:1, 15:17, 16:17, 30:16, 40:9, 40:10, 46:4, 47:19, 58:4, 58:16 businesses [2] - 12:20, 13:16 BY [1] - 60:20</p>	<p>cards [2] - 24:16, 45:14 career [1] - 26:10 carefully [1] - 21:10 carries [2] - 52:7, 58:3 caused [1] - 18:13 center [1] - 7:8 certainly [6] - 6:10, 16:8, 17:13, 20:21, 32:16, 41:16 CERTIFICATION [1] - 60:19 Certified [2] - 60:4, 60:16 certify [2] - 60:6, 60:9 CERTIFYING [1] - 60:21 chair [2] - 7:1, 9:8 Chair [4] - 18:18, 22:21, 44:1, 49:7 Chairman [3] - 1:5, 35:2, 38:18 chairman [2] - 32:9, 40:4 challenges [3] - 16:4, 16:6, 16:14 chance [2] - 39:13, 58:13 change [5] - 6:18, 20:20, 27:6, 35:5, 35:8 changed [1] - 35:12 check [2] - 15:11, 18:1 checking [1] - 11:10 checks [1] - 13:3 chief [1] - 4:18 Chief [5] - 1:6, 3:12, 45:10, 55:21, 56:10 choose [1] - 9:6 chooses [1] - 15:1 chosen [1] - 25:20 circumstance [1] - 23:5 circumstances [6] - 19:20, 20:10, 20:20, 49:18, 50:21, 51:17 circumvented [1] - 41:1 cited [1] - 13:19 CITY [1] - 1:2 city [11] - 22:11, 34:12, 35:15, 36:14, 38:3, 39:18, 42:8, 44:8, 46:12, 46:16, 47:16 City [7] - 5:7, 16:18, 22:4, 25:16, 33:1, 45:8, 47:1 clarification [2] - 4:18, 52:15 clarity [1] - 56:10 class [1] - 6:6 clean [4] - 10:1, 10:16, 12:6, 37:8</p>
<p style="text-align: center;">2</p> <p>2011 [4] - 1:15, 42:13, 59:1, 60:12 2013 [1] - 60:17 20th [1] - 58:8 21 [2] - 13:2, 32:1 26th [1] - 3:14 27 [3] - 1:15, 3:7, 59:1</p>	<p>activities [1] - 21:15 actual [4] - 15:4, 18:7, 18:11, 35:3 addition [1] - 6:7 additional [4] - 25:7, 28:5, 43:2, 49:15 addressed [2] - 36:21, 37:3 adequate [2] - 16:14, 18:9 adjourn [2] - 58:19, 58:20 adjourned [2] - 59:5, 59:7 adopted [1] - 49:16 adoption [1] - 14:9 advantages [1] - 13:19 adverse [1] - 20:1 advised [1] - 14:5 advising [1] - 17:2 affected [2] - 22:3, 43:13 afternoon [1] - 58:21 age [2] - 39:5, 44:20 agent [1] - 19:10 agents [1] - 18:16 ago [1] - 4:11 agree [2] - 42:4, 49:13 agreement [1] - 50:1 alcohol [9] - 4:14, 5:8, 5:12, 5:18, 7:20, 8:5, 18:19, 52:11, 53:7 alcoholic [1] - 13:1 all-alcohol [1] - 5:12 allowable [1] - 55:3 alone [1] - 27:9 amend [1] - 49:21 amendment [1] - 8:4 amount [3] - 37:7, 48:4, 53:18 AND/OR [1] - 60:21 ANY [2] - 60:20, 60:20 appeared [1] - 18:20 applicant [1] - 5:4 applies [1] - 47:9 APPLY [1] - 60:20 appreciate [1] - 26:3 approach [1] - 48:9 appropriate [1] - 9:15 appropriateness [1] - 57:11</p>	<p>April [1] - 3:14 area [1] - 22:6 areas [3] - 6:8, 26:5, 55:2 arise [1] - 35:20 arrangement [1] - 4:7 arrangements [1] - 49:19 articles [1] - 21:7 aspects [1] - 12:8 assertion [1] - 17:10 assess [1] - 9:19 assistance [1] - 11:11 associated [2] - 24:13, 25:7 assuming [1] - 18:18 assurances [1] - 10:15 attempt [3] - 12:13, 13:6, 23:21 attempting [1] - 9:18 attendants' [2] - 42:15, 42:16 attended [1] - 32:10 attention [2] - 15:19, 55:5 attitude [1] - 16:1 Attorney [1] - 41:13 attorney [3] - 34:13, 34:20, 36:2 AUDIENCE [1] - 32:9 authentic [1] - 7:7 authority [6] - 18:9, 18:10, 27:21, 28:1, 55:7, 55:12 Avenue [2] - 1:12, 3:8 aware [4] - 26:1, 27:3, 30:2, 46:15 aye [6] - 8:6, 52:3, 52:4, 52:5, 57:20, 59:2 Aye [6] - 8:7, 8:8, 57:21, 58:1, 59:3, 59:4 ayes [1] - 8:10</p>	<p>8:4 begin [1] - 3:4 behind [1] - 14:11 behooves [1] - 21:1 believable [1] - 15:15 believes [1] - 4:18 benefits [1] - 47:3 best [3] - 12:5, 12:9, 60:11 better [5] - 18:5, 27:19, 30:12, 46:13, 48:2 between [10] - 11:1, 11:18, 13:7, 23:17, 27:14, 29:11, 31:15, 32:5, 44:21, 49:10 beverage [1] - 5:12 beverages [1] - 13:1 beyond [3] - 10:5, 37:11, 41:20 biohazards [1] - 53:4 Bird [1] - 39:6 bit [3] - 19:12, 41:3, 49:13 blood [2] - 31:3, 60:7 board [4] - 26:16, 30:13, 31:1, 52:9 Body [1] - 51:7 bolster [1] - 7:7 borne [1] - 31:3 Bosphorus [4] - 2:3, 3:15, 3:19, 7:21 bothersome [1] - 46:6 break [1] - 24:21 break-off [1] - 24:21 brings [1] - 53:19 broken [1] - 35:5 burdensome [1] - 25:4 business [11] - 13:9, 15:1, 15:17, 16:17, 30:16, 40:9, 40:10, 46:4, 47:19, 58:4, 58:16 businesses [2] - 12:20, 13:16 BY [1] - 60:20</p>	<p>cards [2] - 24:16, 45:14 career [1] - 26:10 carefully [1] - 21:10 carries [2] - 52:7, 58:3 caused [1] - 18:13 center [1] - 7:8 certainly [6] - 6:10, 16:8, 17:13, 20:21, 32:16, 41:16 CERTIFICATION [1] - 60:19 Certified [2] - 60:4, 60:16 certify [2] - 60:6, 60:9 CERTIFYING [1] - 60:21 chair [2] - 7:1, 9:8 Chair [4] - 18:18, 22:21, 44:1, 49:7 Chairman [3] - 1:5, 35:2, 38:18 chairman [2] - 32:9, 40:4 challenges [3] - 16:4, 16:6, 16:14 chance [2] - 39:13, 58:13 change [5] - 6:18, 20:20, 27:6, 35:5, 35:8 changed [1] - 35:12 check [2] - 15:11, 18:1 checking [1] - 11:10 checks [1] - 13:3 chief [1] - 4:18 Chief [5] - 1:6, 3:12, 45:10, 55:21, 56:10 choose [1] - 9:6 chooses [1] - 15:1 chosen [1] - 25:20 circumstance [1] - 23:5 circumstances [6] - 19:20, 20:10, 20:20, 49:18, 50:21, 51:17 circumvented [1] - 41:1 cited [1] - 13:19 CITY [1] - 1:2 city [11] - 22:11, 34:12, 35:15, 36:14, 38:3, 39:18, 42:8, 44:8, 46:12, 46:16, 47:16 City [7] - 5:7, 16:18, 22:4, 25:16, 33:1, 45:8, 47:1 clarification [2] - 4:18, 52:15 clarity [1] - 56:10 class [1] - 6:6 clean [4] - 10:1, 10:16, 12:6, 37:8</p>
<p style="text-align: center;">3</p> <p>3 [1] - 2:3 30th [1] - 60:12</p>	<p>activities [1] - 21:15 actual [4] - 15:4, 18:7, 18:11, 35:3 addition [1] - 6:7 additional [4] - 25:7, 28:5, 43:2, 49:15 addressed [2] - 36:21, 37:3 adequate [2] - 16:14, 18:9 adjourn [2] - 58:19, 58:20 adjourned [2] - 59:5, 59:7 adopted [1] - 49:16 adoption [1] - 14:9 advantages [1] - 13:19 adverse [1] - 20:1 advised [1] - 14:5 advising [1] - 17:2 affected [2] - 22:3, 43:13 afternoon [1] - 58:21 age [2] - 39:5, 44:20 agent [1] - 19:10 agents [1] - 18:16 ago [1] - 4:11 agree [2] - 42:4, 49:13 agreement [1] - 50:1 alcohol [9] - 4:14, 5:8, 5:12, 5:18, 7:20, 8:5, 18:19, 52:11, 53:7 alcoholic [1] - 13:1 all-alcohol [1] - 5:12 allowable [1] - 55:3 alone [1] - 27:9 amend [1] - 49:21 amendment [1] - 8:4 amount [3] - 37:7, 48:4, 53:18 AND/OR [1] - 60:21 ANY [2] - 60:20, 60:20 appeared [1] - 18:20 applicant [1] - 5:4 applies [1] - 47:9 APPLY [1] - 60:20 appreciate [1] - 26:3 approach [1] - 48:9 appropriate [1] - 9:15 appropriateness [1] - 57:11</p>	<p>April [1] - 3:14 area [1] - 22:6 areas [3] - 6:8, 26:5, 55:2 arise [1] - 35:20 arrangement [1] - 4:7 arrangements [1] - 49:19 articles [1] - 21:7 aspects [1] - 12:8 assertion [1] - 17:10 assess [1] - 9:19 assistance [1] - 11:11 associated [2] - 24:13, 25:7 assuming [1] - 18:18 assurances [1] - 10:15 attempt [3] - 12:13, 13:6, 23:21 attempting [1] - 9:18 attendants' [2] - 42:15, 42:16 attended [1] - 32:10 attention [2] - 15:19, 55:5 attitude [1] - 16:1 Attorney [1] - 41:13 attorney [3] - 34:13, 34:20, 36:2 AUDIENCE [1] - 32:9 authentic [1] - 7:7 authority [6] - 18:9, 18:10, 27:21, 28:1, 55:7, 55:12 Avenue [2] - 1:12, 3:8 aware [4] - 26:1, 27:3, 30:2, 46:15 aye [6] - 8:6, 52:3, 52:4, 52:5, 57:20, 59:2 Aye [6] - 8:7, 8:8, 57:21, 58:1, 59:3, 59:4 ayes [1] - 8:10</p>	<p>8:4 begin [1] - 3:4 behind [1] - 14:11 behooves [1] - 21:1 believable [1] - 15:15 believes [1] - 4:18 benefits [1] - 47:3 best [3] - 12:5, 12:9, 60:11 better [5] - 18:5, 27:19, 30:12, 46:13, 48:2 between [10] - 11:1, 11:18, 13:7, 23:17, 27:14, 29:11, 31:15, 32:5, 44:21, 49:10 beverage [1] - 5:12 beverages [1] - 13:1 beyond [3] - 10:5, 37:11, 41:20 biohazards [1] - 53:4 Bird [1] - 39:6 bit [3] - 19:12, 41:3, 49:13 blood [2] - 31:3, 60:7 board [4] - 26:16, 30:13, 31:1, 52:9 Body [1] - 51:7 bolster [1] - 7:7 borne [1] - 31:3 Bosphorus [4] - 2:3, 3:15, 3:19, 7:21 bothersome [1] - 46:6 break [1] - 24:21 break-off [1] - 24:21 brings [1] - 53:19 broken [1] - 35:5 burdensome [1] - 25:4 business [11] - 13:9, 15:1, 15:17, 16:17, 30:16, 40:9, 40:10, 46:4, 47:19, 58:4, 58:16 businesses [2] - 12:20, 13:16 BY [1] - 60:20</p>	<p>cards [2] - 24:16, 45:14 career [1] - 26:10 carefully [1] - 21:10 carries [2] - 52:7, 58:3 caused [1] - 18:13 center [1] - 7:8 certainly [6] - 6:10, 16:8, 17:13, 20:21, 32:16, 41:16 CERTIFICATION [1] - 60:19 Certified [2] - 60:4, 60:16 certify [2] - 60:6, 60:9 CERTIFYING [1] - 60:21 chair [2] - 7:1, 9:8 Chair [4] - 18:18, 22:21, 44:1, 49:7 Chairman [3] - 1:5, 35:2, 38:18 chairman [2] - 32:9, 40:4 challenges [3] - 16:4, 16:6, 16:14 chance [2] - 39:13, 58:13 change [5] - 6:18, 20:20, 27:6, 35:5, 35:8 changed [1] - 35:12 check [2] - 15:11, 18:1 checking [1] - 11:10 checks [1] - 13:3 chief [1] - 4:18 Chief [5] - 1:6, 3:12, 45:10, 55:21, 56:10 choose [1] - 9:6 chooses [1] - 15:1 chosen [1] - 25:20 circumstance [1] - 23:5 circumstances [6] - 19:20, 20:10, 20:20, 49:18, 50:21, 51:17 circumvented [1] - 41:1 cited [1] - 13:19 CITY [1] - 1:2 city [11] - 22:11, 34:12, 35:15, 36:14, 38:3, 39:18, 42:8, 44:8, 46:12, 46:16, 47:16 City [7] - 5:7, 16:18, 22:4, 25:16, 33:1, 45:8, 47:1 clarification [2] - 4:18, 52:15 clarity [1] - 56:10 class [1] - 6:6 clean [4] - 10:1, 10:16, 12:6, 37:8</p>
<p style="text-align: center;">6</p> <p>617-639-0396 [1] - 1:20 617-786-7783 [1] - 1:20 6th [2] - 3:15, 4:20</p>	<p>activities [1] - 21:15 actual [4] - 15:4, 18:7, 18:11, 35:3 addition [1] - 6:7 additional [4] - 25:7, 28:5, 43:2, 49:15 addressed [2] - 36:21, 37:3 adequate [2] - 16:14, 18:9 adjourn [2] - 58:19, 58:20 adjourned [2] - 59:5, 59:7 adopted [1] - 49:16 adoption [1] - 14:9 advantages [1] - 13:19 adverse [1] - 20:1 advised [1] - 14:5 advising [1] - 17:2 affected [2] - 22:3, 43:13 afternoon [1] - 58:21 age [2] - 39:5, 44:20 agent [1] - 19:10 agents [1] - 18:16 ago [1] - 4:11 agree [2] - 42:4, 49:13 agreement [1] - 50:1 alcohol [9] - 4:14</p>			

<p>cleaned [6] - 33:11, 33:16, 37:6, 37:10, 48:8, 48:14</p> <p>cleaning [4] - 11:2, 17:20, 37:1, 48:12</p> <p>cleanliness [6] - 10:21, 11:6, 11:15, 11:17, 43:12, 49:3</p> <p>clear [3] - 10:13, 11:3, 23:15</p> <p>clearances [1] - 54:21</p> <p>clearly [1] - 37:15</p> <p>clients [1] - 45:3</p> <p>close [1] - 15:19</p> <p>closer [1] - 25:12</p> <p>Coakley [1] - 36:2</p> <p>codes [1] - 31:3</p> <p>comfortable [1] - 56:8</p> <p>coming [2] - 38:9, 44:4</p> <p>comment [2] - 9:5, 32:13</p> <p>Comment [1] - 3:14</p> <p>comments [5] - 5:1, 29:1, 30:7, 32:16, 48:7</p> <p>COMMISSION [1] - 1:4</p> <p>Commission's [1] - 18:10</p> <p>Commissioner [5] - 1:6, 3:10, 3:11, 28:18, 46:8</p> <p>Commissioner's [2] - 9:5, 33:7</p> <p>commitment [2] - 10:19, 11:8</p> <p>committed [1] - 21:19</p> <p>COMMONWEALTH [2] - 1:1, 60:2</p> <p>community [1] - 21:19</p> <p>companies [1] - 36:5</p> <p>company's [1] - 43:8</p> <p>competitive [1] - 24:8</p> <p>complaints [7] - 13:12, 15:10, 16:12, 27:12, 28:14, 41:13, 53:18</p> <p>complete [1] - 40:19</p> <p>complex [1] - 13:16</p> <p>compliance [1] - 11:16</p> <p>concern [3] - 10:6, 16:19, 36:7</p> <p>concerned [1] - 34:7</p> <p>concerns [1] - 35:19</p> <p>conclusion [1] - 39:11</p> <p>conduct [2] - 23:8, 43:9</p> <p>conducted [1] - 46:4</p> <p>Conference [2] - 1:13, 3:9</p> <p>confident [1] - 20:7</p> <p>configuration [1] - 25:19</p> <p>connection [1] - 31:15</p> <p>consider [2] - 14:4, 35:6</p> <p>consideration [1] - 38:16</p> <p>considerations [1] - 24:12</p> <p>considered [1] - 6:16</p> <p>considers [1] - 24:2</p> <p>consistency [1] - 56:9</p> <p>consistent [1] - 21:13</p> <p>consistently [1] - 42:17</p> <p>consternation [1] - 26:20</p> <p>constructs [1] - 15:6</p> <p>consultant [1] - 17:2</p> <p>contagious [2] - 33:12, 37:2</p> <p>continuity [1] - 23:17</p> <p>continuous [2] - 27:6, 27:7</p> <p>contract [3] - 9:12, 20:21, 26:1</p> <p>contracted [3] - 20:14, 26:18, 41:4</p> <p>contracting [17] - 8:17, 10:9, 11:10, 12:11, 13:14, 13:20, 14:7, 16:4, 17:3, 21:8, 22:3, 23:11, 24:4, 45:6, 49:1, 50:20, 51:12</p> <p>contracting-out [1] - 8:17</p> <p>contractor [5] - 17:11, 19:17, 20:1, 45:14, 45:15</p> <p>contractor's [2] - 18:6, 45:18</p> <p>contractors [6] - 15:12, 18:13, 29:3, 48:13, 49:17, 55:12</p> <p>contracts [1] - 11:4</p> <p>contractually [1] - 42:20</p> <p>CONTROL [1] - 60:20</p> <p>control [15] - 10:19, 11:9, 14:19, 16:11, 16:20, 17:5, 17:6, 17:10, 17:13, 17:17, 37:14, 38:4, 43:3, 43:11, 48:2</p> <p>controls [1] - 44:12</p> <p>convinced [1] - 36:15</p> <p>cooperative [1] - 49:21</p> <p>coordinators [1] - 43:6</p> <p>cordial [1] - 5:6</p> <p>cordials [1] - 6:6</p> <p>CORI [3] - 54:21, 55:7, 55:13</p>	<p>corporation [1] - 26:15</p> <p>corrective [2] - 17:14, 18:4</p> <p>cost [2] - 25:4, 47:3</p> <p>costs [5] - 13:20, 14:2, 14:3, 24:5, 25:7</p> <p>Council [1] - 16:18</p> <p>Councilor [2] - 7:3, 33:2</p> <p>couple [1] - 40:14</p> <p>course [2] - 9:16, 20:16</p> <p>create [1] - 23:5</p> <p>creating [2] - 24:3, 49:2</p> <p>critical [1] - 11:13</p> <p>crowding [1] - 28:5</p> <p>cuisine [1] - 7:7</p> <p>cultural [1] - 6:1</p> <p>current [3] - 8:4, 41:21, 44:6</p> <p>customer [1] - 24:6</p>	<p>designed [3] - 24:5, 24:7, 24:16</p> <p>determined [1] - 56:16</p> <p>develop [8] - 18:8, 49:8, 50:2, 51:18, 52:11, 57:4, 57:6</p> <p>developed [1] - 44:16</p> <p>developing [1] - 57:11</p> <p>dialogue [3] - 22:12, 22:18, 32:5</p> <p>different [1] - 16:5</p> <p>difficult [1] - 16:8</p> <p>difficulties [1] - 5:17</p> <p>difficulty [1] - 4:13</p> <p>diminished [1] - 18:12</p> <p>dining [1] - 7:9</p> <p>DIRECT [1] - 60:20</p> <p>direct [10] - 10:14, 16:20, 20:6, 21:15, 31:15, 41:3, 44:11, 46:12, 47:3, 48:15</p> <p>directed [2] - 41:14, 41:15</p> <p>DIRECTION [1] - 60:21</p> <p>directly [1] - 19:7</p> <p>disciplinary [1] - 18:20</p> <p>disconcerting [1] - 38:11</p> <p>Discussion [1] - 4:1</p> <p>discussion [2] - 7:16, 9:3</p> <p>disease [1] - 53:4</p> <p>dishonest [2] - 41:3, 41:4</p> <p>dismissed [1] - 26:14</p> <p>dismissing [1] - 26:12</p> <p>displeased [1] - 20:8</p> <p>distributed [1] - 31:10</p> <p>documents [1] - 14:12</p> <p>DOES [1] - 60:20</p> <p>downloaded [1] - 58:14</p> <p>dramatically [1] - 33:17</p> <p>drastic [2] - 16:16, 34:19</p> <p>drastically [1] - 12:15</p> <p>drink [3] - 4:5, 5:5, 6:3</p> <p>duties [4] - 18:18, 19:1, 19:3, 24:14</p> <p>duty [1] - 13:6</p>	<p>efficiency [3] - 9:20, 12:14, 14:2</p> <p>efficient [1] - 10:10</p> <p>efficiently [1] - 18:2</p> <p>eight [1] - 4:11</p> <p>elected [2] - 32:13, 32:17</p> <p>electronic [1] - 40:17</p> <p>Elizabeth [1] - 1:9</p> <p>eLIZABETH [1] - 58:10</p> <p>ELIZABETH [6] - 3:3, 4:20, 7:1, 7:13, 58:6, 58:18</p> <p>employed [1] - 23:18</p> <p>employee [7] - 17:15, 19:1, 29:7, 41:4, 41:5, 45:16, 48:11</p> <p>employees [17] - 10:14, 16:7, 17:6, 17:7, 19:15, 19:21, 20:5, 20:7, 21:16, 26:10, 31:16, 44:16, 44:17, 46:5, 52:12, 54:16, 57:12</p> <p>employer [1] - 20:2</p> <p>employment [9] - 10:4, 11:1, 11:18, 13:7, 20:1, 31:16, 48:15, 49:9, 49:18</p> <p>Employment [2] - 2:5, 8:15</p> <p>employs [2] - 10:13, 43:4</p> <p>encourage [2] - 22:10, 31:19</p> <p>encouraging [1] - 21:17</p> <p>end [4] - 12:6, 17:7, 27:20, 28:6</p> <p>engage [1] - 22:11</p> <p>enlightening [1] - 46:9</p> <p>ensure [7] - 9:21, 11:20, 15:13, 22:13, 38:8, 43:6, 43:12</p> <p>ensured [1] - 43:11</p> <p>ensures [1] - 27:19</p> <p>ensuring [3] - 22:18, 36:12, 37:1</p> <p>entering [1] - 56:5</p> <p>entire [1] - 42:6</p> <p>entity [1] - 53:16</p> <p>entrusted [1] - 36:12</p> <p>envelope [3] - 37:18, 37:19, 39:16</p> <p>equipped [1] - 13:17</p> <p>essentially [1] - 6:18</p> <p>establish [2] - 22:1, 25:17</p> <p>established [1] - 6:8</p> <p>establishment [5] - 6:15, 13:8, 19:2, 25:14, 54:8</p> <p>estimation [1] - 26:9</p>
	D		
<p>daily [3] - 15:13, 43:9, 43:19</p> <p>dangers [1] - 14:18</p> <p>date [1] - 6:18</p> <p>day-to-day [1] - 12:16</p> <p>deal [4] - 18:9, 18:10, 26:20, 54:19</p> <p>dealt [1] - 18:17</p> <p>decide [1] - 12:9</p> <p>decided [3] - 35:8, 37:18, 37:19</p> <p>DECISION [1] - 1:4</p> <p>decision [1] - 38:17</p> <p>Decision [2] - 3:6, 32:15</p> <p>decisions [2] - 3:14, 53:5</p> <p>DECKER [4] - 32:21, 33:1, 40:12, 51:4</p> <p>Decker [1] - 33:1</p> <p>dedicated [1] - 46:5</p> <p>defeated [1] - 24:19</p> <p>defer [1] - 9:8</p> <p>defined [1] - 23:1</p> <p>degree [5] - 23:6, 23:12, 24:10, 29:9, 45:2</p> <p>delegated [1] - 19:4</p> <p>deliberation [1] - 23:20</p> <p>delivery [1] - 15:2</p> <p>delved [1] - 26:6</p> <p>denied [1] - 8:11</p> <p>deny [1] - 7:19</p> <p>Department [3] - 14:5, 41:19, 50:1</p> <p>description [1] - 16:11</p>			
		E	

<p>evaluate [1] - 9:18 evaluating [1] - 9:15 Evelyn [2] - 60:4, 60:15 event [1] - 27:16 events [2] - 19:2, 19:8 evidence [6] - 8:19, 16:10, 20:19, 21:21, 35:4, 35:17 exactly [1] - 45:19 examine [1] - 21:1 excellence [1] - 21:20 exclusive [1] - 10:6 executed [1] - 21:11 Executive [1] - 1:9 exist [1] - 44:20 exists [1] - 53:2 expect [1] - 42:21 expectations [1] - 43:7 expected [2] - 32:2, 50:7 expense [1] - 38:1 experienced [1] - 15:5 Expires [1] - 60:17 explaining [1] - 9:10 expressed [2] - 16:19, 38:18 extending [1] - 49:12 extent [3] - 14:1, 40:21, 41:2</p>	<p>fine [1] - 7:8 finish [1] - 51:7 fire [1] - 34:14 Fire [2] - 1:6, 3:11 fired [2] - 34:20, 36:4 flexibility [1] - 13:21 flow [1] - 27:7 Flu [1] - 39:6 fluctuating [1] - 13:21 focus [2] - 10:5, 15:3 focused [1] - 41:6 force [1] - 28:1 FOREGOING [1] - 60:19 form [3] - 50:10, 53:13, 56:4 forth [5] - 28:12, 47:3, 52:11, 56:5, 60:10 forward [2] - 3:18, 48:1 frank [1] - 44:2 free [2] - 10:1, 10:16 function [1] - 54:15 functioned [1] - 19:9 fundamentally [1] - 6:19 furtherance [1] - 22:8 future [5] - 22:9, 28:9, 36:9, 43:12, 48:21</p>	<p>53:15, 54:5, 54:12, 54:18, 56:2, 56:12, 56:20, 57:5, 57:15, 58:1, 58:9, 59:4 Gerald [2] - 1:6, 3:12 GERARD [2] - 49:20, 52:8 given [4] - 5:4, 6:2, 10:6, 44:19 goal [4] - 9:21, 10:11, 12:10, 12:14 goals [1] - 9:18 goodwill [1] - 15:21 granting [1] - 6:21 great [2] - 26:20, 38:8 greater [3] - 24:10, 24:17, 46:20 group [1] - 39:18 guarantee [1] - 40:6 guaranteed [1] - 36:15 guest [4] - 12:7, 17:3, 21:20, 55:14 guests [7] - 10:1, 10:7, 29:4, 42:21, 45:1, 45:3, 45:7 guidelines [1] - 30:10</p>	<p>healthful [1] - 12:7 hear [2] - 7:4, 50:12 Hearing [2] - 3:6, 59:7 HEARING [1] - 1:4 hearing [6] - 5:21, 7:2, 7:10, 18:20, 20:12, 31:12 hearings [1] - 32:10 Hearings [1] - 32:15 heavily [1] - 38:18 Held [1] - 1:10 held [1] - 3:6 help [1] - 9:21 helpful [1] - 9:17 hereinbefore [1] - 60:10 hereunto [1] - 60:12 high [1] - 43:3 higher [3] - 23:9, 45:1, 45:2 highest [1] - 20:18 hire [4] - 25:2, 25:9, 29:5, 55:13 hired [2] - 28:6, 44:8 hiring [4] - 16:6, 25:8, 25:21, 29:2 hold [3] - 18:14, 19:18, 37:11 holder [4] - 18:15, 18:19, 19:7, 20:9 holders [1] - 19:12 holding [1] - 12:5 honest [1] - 44:2 hope [1] - 40:4 hoping [1] - 40:8 Hotel [2] - 2:6, 8:15 hotel [57] - 9:13, 9:21, 10:13, 10:15, 11:1, 11:4, 11:8, 11:11, 11:19, 12:2, 12:16, 14:19, 15:16, 16:17, 16:19, 17:2, 17:12, 17:21, 19:12, 19:19, 20:7, 21:7, 21:19, 24:7, 25:2, 26:1, 26:9, 26:11, 26:21, 29:4, 29:10, 29:11, 29:14, 32:6, 34:3, 34:11, 34:18, 35:3, 35:7, 38:13, 38:15, 39:15, 40:2, 40:16, 42:14, 43:11, 44:16, 44:21, 49:1, 51:1, 51:12, 52:14, 54:16, 54:17, 55:7, 57:8, 57:12 hotelier [1] - 39:17 hotels [19] - 10:2, 13:13, 20:12, 22:11, 23:16, 25:16, 25:18, 25:20, 29:5, 35:15, 38:3, 38:19, 44:8, 44:15, 46:11, 46:16, 49:10, 56:5, 56:14</p>	<p>hour [2] - 41:14, 41:19 housekeeper [1] - 37:7 housekeepers [2] - 34:2, 37:12 housekeeping [25] - 8:18, 9:13, 10:9, 10:14, 11:5, 11:19, 12:12, 14:7, 15:9, 16:20, 17:3, 17:17, 20:14, 21:9, 22:4, 24:4, 25:2, 28:19, 29:13, 33:9, 43:5, 43:19, 49:1, 55:8 houses [1] - 13:5 huge [1] - 36:3 Hyatt [25] - 15:9, 15:11, 15:16, 16:13, 17:8, 19:18, 38:9, 38:12, 38:14, 38:15, 39:14, 39:15, 39:16, 40:3, 41:7, 41:8, 41:21, 42:3, 42:5, 42:11, 42:21, 43:4, 43:18, 46:2, 46:4 Hyatt's [4] - 16:15, 18:1, 19:16, 21:1 hypothetical [1] - 14:17</p>
F	G	H	H	I
<p>face [2] - 20:1, 37:16 faced [1] - 37:15 facilitate [1] - 32:4 facility [1] - 27:18 FACSIMILE [1] - 1:20 facts [1] - 14:16 failed [1] - 19:1 fails [2] - 19:17, 49:5 false [2] - 43:14, 43:21 familiar [2] - 27:18, 30:2 familiarity [1] - 45:12 family [1] - 25:11 family-based [1] - 25:11 far [4] - 31:6, 34:9, 46:20, 49:11 favor [4] - 8:6, 52:2, 57:19, 59:1 felt [1] - 5:21 few [3] - 14:15, 27:12, 27:13 field [1] - 50:6 figure [1] - 54:1 file [3] - 7:14, 8:21, 48:20 financial [1] - 24:2 findings [3] - 14:8, 14:9, 22:1</p>	<p>gain [1] - 23:3 gained [1] - 23:7 GARDNER [43] - 3:21, 4:17, 5:1, 5:20, 7:5, 7:15, 8:2, 8:9, 8:13, 9:9, 28:17, 29:18, 30:6, 31:7, 32:3, 32:14, 40:11, 40:13, 45:9, 48:6, 50:12, 50:16, 51:2, 51:6, 51:14, 51:18, 52:1, 52:6, 52:15, 54:14, 55:6, 55:11, 55:16, 55:18, 56:9, 56:17, 57:2, 57:9, 57:16, 58:2, 58:12, 58:20, 59:5 gathered [1] - 21:18 general [2] - 22:2, 34:13 General's [1] - 41:13 general's [2] - 34:20, 36:2 generally [1] - 25:10 generate [1] - 15:17 generates [1] - 48:18 GERALD [26] - 3:19, 5:3, 7:18, 8:1, 8:8, 26:3, 30:8, 30:19, 31:20, 45:11, 50:11, 51:21, 52:5, 52:17,</p>	<p>H1N1 [1] - 39:7 HAAS [30] - 3:16, 4:2, 7:17, 7:19, 8:7, 9:7, 22:21, 29:7, 29:21, 30:17, 44:1, 49:7, 50:9, 50:18, 51:11, 51:16, 52:4, 53:13, 54:1, 54:10, 55:4, 55:9, 55:15, 55:17, 56:7, 57:1, 57:21, 58:7, 58:19, 59:3 hand [1] - 60:12 handling [2] - 16:13, 53:3 hands [2] - 16:1, 25:12 hands-off [1] - 16:1 hands-on [1] - 25:12 happy [1] - 30:4 harm [1] - 6:9 hazard [2] - 10:1, 10:16 hazards [2] - 11:7, 30:21 Health [8] - 22:12, 22:15, 27:15, 30:11, 31:8, 31:14, 32:6, 50:1 health [15] - 11:21, 20:4, 22:14, 31:3, 31:15, 34:5, 35:1, 36:12, 38:2, 39:3, 41:16, 47:15, 49:2, 52:13, 54:6</p>	<p>idea [6] - 7:6, 35:2, 35:21, 36:8, 38:7, 39:8 identified [1] - 17:12 identify [3] - 18:3, 32:19, 33:8 immediate [1] - 40:18 impact [2] - 24:1, 24:9 implications [2] - 6:1, 24:2 importance [1] - 44:10 important [2] - 21:12, 42:7 improvements [2] - 21:2, 22:7 improving [1] - 22:9 IN [2] - 1:4, 60:12 in-house [4] - 26:19, 27:1, 27:17, 47:10 INC [1] - 1:19 inclination [2] - 4:15, 9:7 include [2] - 28:21, 30:4 inclusive [1] - 32:1 incorrect [1] - 36:1 increase [1] - 37:9 increased [2] - 13:21, 37:6 increases [1] - 33:17 increasing [1] - 37:21</p>	

<p>incredibly [1] - 39:17 independent [2] - 19:2, 55:12 indicate [1] - 31:1 indicated [1] - 21:8 indicating [1] - 48:21 indirect [1] - 11:20 individuals [2] - 23:3, 23:8 Industry [2] - 2:6, 8:16 industry [19] - 9:14, 12:17, 21:8, 35:6, 35:8, 35:12, 36:13, 37:18, 40:17, 42:6, 44:6, 51:1, 51:13, 52:10, 52:14, 53:3, 54:16, 54:17, 55:7 inefficient [1] - 12:13 inexorably [1] - 11:5 infectious [1] - 53:4 informally [1] - 22:16 information [9] - 21:18, 28:9, 31:11, 34:11, 40:19, 48:21, 52:18, 52:20, 54:6 initial [1] - 7:2 input [1] - 26:4 inquire [1] - 57:10 inquiry [1] - 57:13 insightful [1] - 26:5 insist [4] - 12:20, 17:13, 18:4, 20:18 inspection [1] - 17:21 Inspectional [1] - 41:18 inspections [3] - 13:11, 43:9, 43:20 instances [1] - 13:4 institution [1] - 53:1 institutions [1] - 30:11 insurmountable [1] - 16:9 intense [1] - 6:11 interest [1] - 16:3 interested [2] - 14:13, 60:8 interfere [1] - 14:21 internal [2] - 49:12, 54:20 interpretations [1] - 9:11 intervene [1] - 12:15 inventory [1] - 25:15 investigation [4] - 34:13, 34:19, 36:3, 46:17 involvement [1] - 25:13 ISD [2] - 27:14, 50:1 issued [2] - 4:12, 45:15 issues [9] - 10:4, 11:17, 22:13, 28:4, 28:9, 31:16, 40:5,</p>	<p>41:15, 41:16 issuing [1] - 22:5 items [1] - 32:1 itself [2] - 6:4, 17:20</p> <p style="text-align: center;">J</p> <p>job [3] - 12:5, 45:15, 54:11 jobs [2] - 53:21, 55:1 June [1] - 42:12 jurisdiction [1] - 10:5</p> <p style="text-align: center;">K</p> <p>keep [1] - 38:9 key [3] - 24:16, 40:18, 45:11 kind [1] - 4:6 knowing [1] - 47:8 knowledge [1] - 60:11 known [1] - 47:16</p> <p style="text-align: center;">L</p> <p>labeled [1] - 9:9 labor [4] - 10:3, 26:18, 26:19, 41:15 lack [4] - 6:9, 11:7, 16:12, 49:5 large [1] - 35:18 larger [1] - 25:5 Law [1] - 14:5 law [2] - 20:6, 55:3 lax [4] - 10:19, 10:20, 11:14, 11:15 layer [1] - 43:2 lead [3] - 10:20, 11:6, 11:14 leap [2] - 13:15, 13:18 learned [1] - 21:3 least [4] - 10:12, 20:13, 24:7, 31:18 leave [1] - 13:10 leaving [1] - 12:8 left [1] - 3:13 legal [3] - 5:10, 27:21, 28:1 legitimacy [1] - 14:10 lends [1] - 17:20 lengthy [1] - 9:2 leniency [1] - 18:21 less [2] - 47:2, 47:8 letters [1] - 7:11 LICENSE [1] - 1:4 licensed [1] - 12:21 licensee [2] - 4:9, 19:19 licenses [2] - 4:8, 6:6 lied [1] - 43:18 life [1] - 39:10 life-threatening [1] -</p>	<p>39:10 light [1] - 53:19 lightly [1] - 21:10 likely [6] - 10:20, 11:14, 11:16, 25:11, 37:9, 41:3 limit [1] - 14:21 limiting [1] - 54:14 line [1] - 47:19 LINT [7] - 3:3, 4:20, 7:1, 7:13, 58:6, 58:10, 58:18 liquor [1] - 4:3 listening [1] - 44:5 litany [1] - 28:13 location [2] - 27:8, 27:9 lodging [1] - 13:5 Lombardi [2] - 1:12, 3:8 long-standing [1] - 44:15 looked [2] - 35:10, 44:5 looking [1] - 25:15 lose [1] - 17:5 loss [3] - 14:18, 15:20, 38:4 lost [1] - 37:13 lower [1] - 11:6</p> <p style="text-align: center;">M</p> <p>mails [1] - 7:11 maintain [1] - 23:17 maintained [1] - 11:12 maintaining [2] - 22:8, 23:14 maintenance [3] - 25:3, 28:20, 29:14 major [1] - 20:15 MAJORIE [1] - 33:1 majority [1] - 35:14 manage [2] - 20:17, 43:1 managed [1] - 21:6 management [15] - 10:19, 11:9, 11:11, 11:14, 12:2, 14:19, 16:19, 17:12, 22:10, 23:16, 29:10, 29:12, 32:6, 33:8, 36:16 managerial [1] - 10:18 managers [12] - 11:2, 11:19, 12:5, 12:9, 12:21, 13:3, 13:9, 13:10, 17:21, 43:5, 43:7, 43:19 managing [4] - 13:21, 16:6, 17:16, 17:18 manner [2] - 21:5, 28:2 marginal [1] - 11:20</p>	<p>MARJORIE [3] - 32:21, 40:12, 51:4 Marjorie [1] - 32:21 marriage [1] - 60:7 Martha [1] - 36:2 MASSACHUSETTS [2] - 1:1, 60:2 Massachusetts [3] - 1:12, 1:13, 3:8 matter [17] - 3:17, 5:21, 6:16, 8:14, 8:20, 9:4, 9:6, 9:12, 9:17, 10:4, 10:21, 12:3, 14:14, 26:4, 48:19, 60:7, 60:8 Matter [1] - 2:5 matters [3] - 3:13, 12:1, 18:17 maximum [1] - 54:13 MEANS [1] - 60:20 means [1] - 9:19 measure [2] - 13:10, 16:16 measures [2] - 12:14, 43:11 meet [2] - 19:17, 42:20 meetings [1] - 32:5 MEMBER [1] - 32:9 members [2] - 14:13, 56:14 met [7] - 11:12, 11:21, 15:14, 17:17, 21:14, 43:7, 53:10 Michael [4] - 1:5, 1:12, 3:7, 3:10 micromanaging [1] - 13:16 middlemen [1] - 17:1 mind [1] - 49:14 minimum [21] - 30:14, 31:2, 50:2, 52:12, 52:19, 53:6, 53:10, 53:20, 54:7, 54:9, 54:10, 54:12, 56:1, 56:3, 56:13, 56:16, 56:17, 56:18, 56:20, 57:6, 57:11 Minutes [1] - 58:8 minutes [1] - 58:13 misplaced [1] - 24:18 modify [1] - 4:3 moment [1] - 38:13 months [1] - 4:11 most [5] - 20:12, 21:12, 25:20, 44:14, 46:11 mostly [1] - 29:13 motels [1] - 56:14 motions [1] - 50:10 mouth [1] - 15:18 move [6] - 3:18, 6:5, 20:14, 46:21, 47:2, 48:19 multiple [1] - 43:10</p>	<p>Municipal [1] - 1:12 must [3] - 21:10, 21:12, 28:5</p> <p style="text-align: center;">N</p> <p>narrow [1] - 4:14 narrowly [1] - 23:1 near [1] - 20:14 necessarily [3] - 6:5, 27:6, 50:4 necessary [1] - 17:15 need [4] - 6:9, 6:13, 56:3, 57:6 needed [1] - 21:14 needs [1] - 15:3 negatively [1] - 22:3 neighborhood [2] - 6:10, 6:11 neighbors [1] - 7:12 Nile [1] - 39:6 nine [1] - 4:11 none [4] - 8:9, 49:5, 58:3 NOT [1] - 60:20 Notary [2] - 60:5, 60:15 note [1] - 19:21 notes [1] - 60:10 number [7] - 33:16, 37:5, 38:19, 45:14, 46:18, 48:7, 48:11</p> <p style="text-align: center;">O</p> <p>objection [1] - 32:17 objective [1] - 14:8 obligated [1] - 42:20 obligation [1] - 45:2 obligations [1] - 19:17 obtainable [1] - 55:2 obviously [1] - 27:1 occupancy [1] - 14:1 occupied [3] - 23:4, 29:17, 29:19 occupy [1] - 10:1 occur [1] - 39:4 occurred [3] - 39:6, 39:7, 39:8 occurs [1] - 36:17 OF [6] - 1:1, 1:2, 60:2, 60:19, 60:20, 60:21 offer [2] - 9:4, 22:16 offering [1] - 7:6 office [2] - 34:20, 36:2 Officer [1] - 1:9 official [2] - 32:13, 32:17 OFFICIAL [1] - 1:20 often [1] - 36:5 on-site [6] - 18:6, 33:8, 33:18, 43:1,</p>
---	---	---	--	--

<p>43:15, 43:19 once [1] - 24:17 ones [1] - 54:19 ongoing [1] - 21:12 online [1] - 15:18 open [1] - 6:14 opens [1] - 45:18 operations [7] - 12:16, 25:6, 25:9, 25:11, 25:12, 25:13, 36:16 opinion [2] - 27:20, 36:11 opinions [1] - 14:15 opportunity [4] - 9:5, 32:12, 32:18, 39:4 opposed [4] - 8:9, 25:8, 52:6, 58:2 opposing [1] - 30:17 opposition [3] - 5:18, 6:12, 7:12 order [2] - 14:6, 16:18 organization [1] - 32:4 organize [1] - 15:1 organizer [2] - 19:3, 19:9 otherwise [2] - 44:18, 45:13 outcome [1] - 60:8 outlines [1] - 31:17 outside [5] - 27:4, 29:3, 46:15, 47:1, 47:5 outsource [3] - 17:4, 35:15, 36:5 outsourced [3] - 17:16, 17:18, 46:18 outsourcing [7] - 9:13, 33:15, 33:17, 33:20, 34:1, 35:20, 36:17 over-crowding [1] - 28:5 overall [1] - 46:4 overboard [1] - 49:14 overly [1] - 25:4 oversight [3] - 23:10, 23:13, 24:11 overwhelming [1] - 6:9 own [14] - 10:14, 16:3, 16:6, 19:14, 25:2, 25:8, 25:21, 29:5, 37:20, 43:7, 44:8, 44:11, 45:16, 55:8 owners [1] - 13:9</p>	<p>particular [16] - 8:18, 19:4, 26:4, 26:8, 27:3, 27:16, 30:16, 45:18, 45:20, 52:21, 53:11, 53:16, 53:18, 53:21, 54:15, 54:18 particularly [3] - 8:16, 21:3, 31:5 parties [3] - 14:13, 23:5, 60:7 partner [2] - 42:18, 42:19 party [10] - 18:13, 23:12, 26:2, 27:4, 27:5, 34:1, 45:6, 49:17, 50:20, 51:12 pathogens [4] - 31:3, 33:12, 33:13, 37:2 pay [1] - 15:19 per [1] - 37:6 perform [1] - 54:11 performance [3] - 11:10, 18:11, 28:15 performing [1] - 17:11 period [1] - 27:14 person [1] - 18:21 personnel [2] - 27:7, 46:20 persons [2] - 50:3, 53:11 persuaded [1] - 44:18 piece [2] - 31:11, 33:5 placed [2] - 8:21, 48:19 planned [1] - 21:11 play [1] - 22:17 playing [1] - 50:6 pleasure [1] - 3:16 plenty [1] - 35:16 pointedly [1] - 28:20 Police [1] - 1:6 policy [4] - 16:18, 40:7, 48:13, 49:13 poorly [1] - 13:17 position [3] - 5:14, 5:16, 9:2 positions [4] - 41:11, 42:16, 42:18, 53:12 positive [1] - 14:4 possibilities [1] - 36:9 possible [2] - 8:17, 41:2 possibly [2] - 25:3, 29:13 potential [3] - 8:14, 24:9, 30:21 potentially [5] - 28:10, 30:9, 38:5, 39:9, 47:11 practicality [1] - 24:1 practice [1] - 38:3 practices [1] - 34:15 precedent [1] - 34:8 predicated [3] - 28:8,</p>	<p>30:20, 47:14 premises [2] - 12:21, 13:4 prepare [1] - 8:19 prepared [5] - 6:14, 9:1, 22:19, 32:16, 50:16 prescribe [2] - 53:9, 54:3 prescribed [1] - 53:9 prescribing [1] - 16:17 present [2] - 25:15, 30:1 presentation [1] - 4:19 presented [1] - 6:2 presents [1] - 16:4 preserve [1] - 47:15 press [1] - 21:8 pricing [1] - 24:8 privacy [1] - 23:6 private [3] - 23:4, 29:8, 44:21 privately [2] - 24:15, 39:20 proactive [1] - 47:20 proactively [1] - 30:9 problematic [2] - 5:9, 48:8 problems [10] - 15:10, 18:8, 18:12, 29:19, 34:9, 35:19, 36:1, 47:12, 47:13, 49:3 procedures [1] - 16:12 product [1] - 27:19 Professional [1] - 60:5 professional [1] - 39:17 profitable [1] - 26:11 profits [1] - 37:21 Program [1] - 13:2 prohibit [1] - 13:13 prohibited [1] - 25:5 prohibiting [4] - 12:11, 14:6, 49:17, 50:20 prohibition [1] - 51:11 prohibitions [1] - 10:8 prohibits [1] - 45:5 promulgate [1] - 50:19 promulgating [1] - 41:10 proof [3] - 6:3, 6:9, 6:13 Proof [2] - 13:2, 32:1 properly [2] - 33:11, 37:10 proposal [1] - 44:3 proposed [2] - 32:3, 53:14</p>	<p>proposing [1] - 54:2 protected [1] - 45:8 protecting [1] - 28:12 protection [3] - 23:7, 24:17, 28:11 protections [1] - 20:5 protocol [1] - 32:11 proven [1] - 45:13 provide [6] - 24:17, 42:15, 42:21, 43:2, 44:12, 55:13 provided [2] - 10:18, 55:1 provides [2] - 45:6, 46:10 providing [4] - 13:8, 24:10, 32:17, 56:1 publicly [1] - 39:20 purely [1] - 37:19 purported [1] - 14:18 purpose [3] - 4:15, 5:5, 14:11 purposes [2] - 4:4, 37:21 purview [2] - 41:20, 47:5 push [3] - 37:18, 37:19, 39:16 putting [1] - 45:4</p>	<p>ready [1] - 6:5 REARDON [28] - 3:19, 5:3, 7:18, 8:1, 8:8, 26:3, 30:8, 30:19, 31:20, 45:11, 49:20, 50:11, 51:21, 52:5, 52:8, 52:17, 53:15, 54:5, 54:12, 54:18, 56:2, 56:12, 56:20, 57:5, 57:15, 58:1, 58:9, 59:4 Reardon [3] - 1:6, 3:12, 4:18 reason [7] - 35:14, 38:10, 38:21, 40:1, 41:6, 44:7, 49:15 reasonably [2] - 6:11, 9:1 reasons [2] - 34:4, 35:16 reassurance [1] - 24:14 receive [1] - 20:5 received [3] - 14:14, 20:11, 42:12 recommend [1] - 31:9 recommendations [3] - 28:3, 28:4, 28:15 reconsidered [1] - 48:20 RECORD [1] - 1:20 records [2] - 16:15, 41:17 reduce [1] - 11:17 reduced [4] - 13:20, 14:1, 14:3, 37:8 referring [1] - 33:7 reflected [1] - 41:17 regard [1] - 49:9 Regency [1] - 43:4 Registered [1] - 60:5 regrettable [1] - 21:4 regular [1] - 29:16 regularly [3] - 11:9, 18:2, 27:18 regulate [6] - 5:11, 12:20, 13:6, 13:13, 30:14, 55:10 regulating [7] - 5:9, 9:12, 11:18, 12:19, 45:4, 48:10, 49:12 Regulating [2] - 2:5, 8:14 regulation [10] - 14:6, 14:11, 14:16, 14:20, 24:3, 25:1, 25:4, 25:17, 45:5, 53:14 regulations [16] - 14:9, 22:6, 30:5, 30:18, 41:10, 42:5, 44:4, 49:9, 49:16, 50:19, 51:9, 51:19, 53:6, 54:3, 57:4, 57:6</p>
P			Q	
<p>p.m [3] - 1:16, 3:7, 59:8 PAGE [1] - 2:1 part-time [1] - 25:10 partially [1] - 31:21</p>	<p>particular [16] - 8:18, 19:4, 26:4, 26:8, 27:3, 27:16, 30:16, 45:18, 45:20, 52:21, 53:11, 53:16, 53:18, 53:21, 54:15, 54:18 particularly [3] - 8:16, 21:3, 31:5 parties [3] - 14:13, 23:5, 60:7 partner [2] - 42:18, 42:19 party [10] - 18:13, 23:12, 26:2, 27:4, 27:5, 34:1, 45:6, 49:17, 50:20, 51:12 pathogens [4] - 31:3, 33:12, 33:13, 37:2 pay [1] - 15:19 per [1] - 37:6 perform [1] - 54:11 performance [3] - 11:10, 18:11, 28:15 performing [1] - 17:11 period [1] - 27:14 person [1] - 18:21 personnel [2] - 27:7, 46:20 persons [2] - 50:3, 53:11 persuaded [1] - 44:18 piece [2] - 31:11, 33:5 placed [2] - 8:21, 48:19 planned [1] - 21:11 play [1] - 22:17 playing [1] - 50:6 pleasure [1] - 3:16 plenty [1] - 35:16 pointedly [1] - 28:20 Police [1] - 1:6 policy [4] - 16:18, 40:7, 48:13, 49:13 poorly [1] - 13:17 position [3] - 5:14, 5:16, 9:2 positions [4] - 41:11, 42:16, 42:18, 53:12 positive [1] - 14:4 possibilities [1] - 36:9 possible [2] - 8:17, 41:2 possibly [2] - 25:3, 29:13 potential [3] - 8:14, 24:9, 30:21 potentially [5] - 28:10, 30:9, 38:5, 39:9, 47:11 practicality [1] - 24:1 practice [1] - 38:3 practices [1] - 34:15 precedent [1] - 34:8 predicated [3] - 28:8,</p>	<p>30:20, 47:14 premises [2] - 12:21, 13:4 prepare [1] - 8:19 prepared [5] - 6:14, 9:1, 22:19, 32:16, 50:16 prescribe [2] - 53:9, 54:3 prescribed [1] - 53:9 prescribing [1] - 16:17 present [2] - 25:15, 30:1 presentation [1] - 4:19 presented [1] - 6:2 presents [1] - 16:4 preserve [1] - 47:15 press [1] - 21:8 pricing [1] - 24:8 privacy [1] - 23:6 private [3] - 23:4, 29:8, 44:21 privately [2] - 24:15, 39:20 proactive [1] - 47:20 proactively [1] - 30:9 problematic [2] - 5:9, 48:8 problems [10] - 15:10, 18:8, 18:12, 29:19, 34:9, 35:19, 36:1, 47:12, 47:13, 49:3 procedures [1] - 16:12 product [1] - 27:19 Professional [1] - 60:5 professional [1] - 39:17 profitable [1] - 26:11 profits [1] - 37:21 Program [1] - 13:2 prohibit [1] - 13:13 prohibited [1] - 25:5 prohibiting [4] - 12:11, 14:6, 49:17, 50:20 prohibition [1] - 51:11 prohibitions [1] - 10:8 prohibits [1] - 45:5 promulgate [1] - 50:19 promulgating [1] - 41:10 proof [3] - 6:3, 6:9, 6:13 Proof [2] - 13:2, 32:1 properly [2] - 33:11, 37:10 proposal [1] - 44:3 proposed [2] - 32:3, 53:14</p>	<p>qualifications [1] - 56:13 quality [20] - 10:19, 11:9, 11:12, 15:4, 15:12, 15:13, 15:19, 16:1, 16:11, 17:17, 18:1, 20:18, 21:13, 21:20, 22:9, 22:13, 43:1, 43:2, 43:6, 43:10 quantum [1] - 13:15 quick [2] - 6:17, 19:6 quicker [1] - 3:20 quickly [3] - 17:12, 18:2, 33:8 quite [1] - 27:9 quote [2] - 17:4, 17:7 quoted [1] - 38:9</p>	<p style="text-align: center;">R</p> <p>raise [1] - 35:18 rates [1] - 14:1 rather [2] - 15:6, 47:20 rationale [1] - 24:4 RE [1] - 1:4 reached [1] - 54:9 reactive [1] - 47:21 read [3] - 50:15, 58:13, 58:14</p>

<p>regulatories [1] - 52:10</p> <p>reject [1] - 8:3</p> <p>related [2] - 19:21, 60:7</p> <p>relates [2] - 8:16, 28:19</p> <p>relating [2] - 22:14, 51:10</p> <p>relationship [6] - 11:1, 11:18, 13:7, 29:11, 44:17, 49:10</p> <p>Relationships [2] - 2:6, 8:15</p> <p>relationships [1] - 44:20</p> <p>relatively [1] - 4:9</p> <p>relevant [1] - 42:4</p> <p>relies [1] - 42:14</p> <p>relying [1] - 35:3</p> <p>remains [1] - 24:20</p> <p>remind [2] - 19:7, 34:10</p> <p>removal [1] - 17:14</p> <p>removes [1] - 23:12</p> <p>rented [1] - 24:15</p> <p>renting [1] - 44:21</p> <p>repeat [1] - 15:17</p> <p>report [6] - 15:11, 15:14, 18:1, 31:8, 43:21, 48:13</p> <p>reported [3] - 15:10, 17:8, 36:1</p> <p>Reporter [3] - 60:5, 60:5, 60:16</p> <p>REPORTER [1] - 60:21</p> <p>REPORTERS [1] - 1:19</p> <p>reporting [2] - 20:3, 35:4</p> <p>reports [1] - 27:11</p> <p>reprehensible [2] - 26:9, 26:16</p> <p>represent [1] - 13:15</p> <p>representative [1] - 40:17</p> <p>REPRODUCTION [1] - 60:20</p> <p>reputation [2] - 7:8, 15:20</p> <p>requested [1] - 50:14</p> <p>require [3] - 13:4, 48:14, 55:4</p> <p>required [3] - 24:14, 29:5, 46:19</p> <p>requires [1] - 48:2</p> <p>requiring [2] - 18:5, 25:1</p> <p>research [2] - 27:2, 37:5</p> <p>reservation [1] - 4:5</p> <p>reservations [1] - 6:20</p> <p>resident [1] - 13:5</p>	<p>residential [1] - 56:14</p> <p>residents [1] - 5:19</p> <p>respond [1] - 39:13</p> <p>responsibility [2] - 20:3, 29:9</p> <p>responsible [7] - 18:3, 18:15, 19:8, 19:13, 23:14, 33:12, 39:2</p> <p>restate [2] - 50:13, 56:11</p> <p>result [2] - 12:6, 47:7</p> <p>results [2] - 13:11, 15:4</p> <p>reviews [1] - 15:18</p> <p>revisit [2] - 36:10, 47:18</p> <p>risk [3] - 15:20, 38:5, 47:11</p> <p>road [1] - 47:12</p> <p>ROBERT [1] - 22:21</p> <p>ROBERT [29] - 3:16, 4:2, 7:17, 7:19, 8:7, 9:7, 29:7, 29:21, 30:17, 44:1, 49:7, 50:9, 50:18, 51:11, 51:16, 52:4, 53:13, 54:1, 54:10, 55:4, 55:9, 55:15, 55:17, 56:7, 57:1, 57:21, 58:7, 58:19, 59:3</p> <p>Robert [2] - 1:6, 3:11</p> <p>role [1] - 22:17</p> <p>room [7] - 17:3, 17:20, 30:1, 33:10, 37:1, 42:15, 45:18</p> <p>Room [2] - 1:13, 3:9</p> <p>rooms [31] - 10:2, 10:16, 12:7, 23:4, 24:15, 25:18, 26:21, 29:8, 29:14, 29:17, 29:19, 29:20, 30:3, 33:16, 37:6, 37:8, 37:9, 40:20, 43:13, 44:21, 46:19, 47:2, 47:7, 48:4, 48:7, 48:11, 48:14, 55:14, 56:15, 57:8, 57:13</p> <p>rule [1] - 27:5</p> <p>rules [2] - 35:8, 51:7</p> <p>run [2] - 16:17, 47:11</p> <p>running [1] - 45:2</p>	<p>36:13, 38:2, 39:2, 41:16, 47:15, 49:2, 52:13</p> <p>sake [1] - 56:10</p> <p>SAME [1] - 60:20</p> <p>save [1] - 24:5</p> <p>scheduled [1] - 31:12</p> <p>second [9] - 48:18, 49:4, 49:6, 50:11, 51:2, 51:20, 51:21, 55:20, 57:1</p> <p>seconding [1] - 58:15</p> <p>secondly [1] - 11:3</p> <p>security [14] - 23:2, 24:19, 28:5, 28:21, 29:3, 29:4, 29:6, 29:16, 29:18, 30:2, 48:4, 52:13, 54:20, 55:1</p> <p>seeing [1] - 49:5</p> <p>seek [1] - 20:21</p> <p>seeking [1] - 18:20</p> <p>seem [3] - 6:4, 16:7, 25:5</p> <p>self [1] - 16:3</p> <p>self-interest [1] - 16:3</p> <p>sense [2] - 25:17, 50:10</p> <p>September [8] - 1:15, 3:7, 3:15, 4:20, 31:10, 58:8, 59:1, 60:12</p> <p>serious [2] - 10:3, 39:9</p> <p>serve [2] - 13:1, 53:7</p> <p>servers [1] - 12:21</p> <p>service [5] - 15:1, 22:2, 24:12, 26:12, 43:6</p> <p>services [19] - 8:17, 8:18, 9:13, 10:9, 11:5, 12:12, 13:8, 13:14, 14:7, 15:9, 17:19, 21:9, 21:20, 22:4, 23:11, 24:5, 45:3, 46:9, 49:2</p> <p>Services [1] - 41:18</p> <p>servicing [1] - 4:4</p> <p>set [5] - 14:17, 50:2, 52:19, 60:10, 60:12</p> <p>share [1] - 25:9</p> <p>shared [1] - 33:13</p> <p>shortcuts [2] - 34:17, 34:19</p> <p>Shorthand [2] - 60:5, 60:16</p> <p>show [1] - 14:10</p> <p>shows [1] - 21:18</p> <p>sides [1] - 8:20</p> <p>significance [1] - 14:10</p> <p>significantly [1] - 14:21</p> <p>signify [4] - 8:6, 52:3,</p>	<p>57:19, 59:2</p> <p>similar [3] - 17:1, 19:19, 50:7</p> <p>Simmons [1] - 7:3</p> <p>simply [2] - 18:12, 36:21</p> <p>single [1] - 5:11</p> <p>sit [1] - 36:19</p> <p>site [6] - 18:6, 33:8, 33:18, 43:1, 43:15, 43:19</p> <p>situations [1] - 48:15</p> <p>size [1] - 24:21</p> <p>skeptical [1] - 44:3</p> <p>skills [1] - 60:11</p> <p>Slicius [2] - 60:4, 60:15</p> <p>slip [1] - 19:16</p> <p>sloppiness [1] - 12:2</p> <p>slovenly [1] - 12:2</p> <p>smaller [2] - 25:8, 25:10</p> <p>solid [1] - 14:15</p> <p>solution [2] - 20:15, 48:2</p> <p>someone [1] - 6:14</p> <p>somewhat [1] - 16:5</p> <p>somewhere [1] - 50:5</p> <p>sorry [1] - 57:3</p> <p>special [6] - 4:7, 23:5, 24:12, 29:11, 44:20, 55:5</p> <p>specialty [2] - 4:5, 6:3</p> <p>specific [2] - 4:15, 5:5</p> <p>specifying [1] - 56:18</p> <p>speculative [1] - 41:11</p> <p>spell [1] - 32:19</p> <p>spent [1] - 47:8</p> <p>SS [1] - 60:2</p> <p>staff [36] - 10:15, 10:18, 11:2, 11:11, 11:19, 14:19, 16:21, 22:10, 22:13, 25:2, 25:3, 25:8, 25:10, 25:21, 26:14, 27:1, 28:21, 29:6, 29:12, 29:13, 29:14, 31:19, 32:7, 33:9, 33:17, 43:1, 44:9, 44:11, 44:13, 46:10, 46:13, 47:10, 49:10, 55:8, 55:13, 56:14</p> <p>STAFF [1] - 1:8</p> <p>staffing [7] - 14:2, 41:21, 42:14, 42:18, 42:19, 43:8, 43:17</p> <p>staffs [1] - 20:17</p> <p>stand [1] - 50:17</p> <p>standard [6] - 23:9, 31:4, 31:5, 45:1, 50:5, 53:14</p> <p>standards [36] - 6:7, 10:20, 11:6, 11:12,</p>	<p>11:15, 11:16, 11:21, 15:13, 15:19, 19:16, 20:19, 21:13, 30:13, 31:2, 31:18, 32:7, 42:20, 43:3, 50:3, 52:12, 52:19, 53:17, 53:20, 53:21, 54:2, 54:3, 54:7, 54:9, 56:4, 56:16, 56:18, 56:19, 56:21, 57:4, 57:7, 57:12</p> <p>standing [1] - 44:15</p> <p>standpoint [2] - 5:10, 23:2</p> <p>stands [1] - 55:20</p> <p>state [1] - 32:19</p> <p>statement [6] - 9:2, 9:10, 17:1, 28:19, 40:16, 43:14</p> <p>statements [1] - 41:6</p> <p>states [1] - 36:6</p> <p>status [1] - 31:16</p> <p>stay [1] - 34:3</p> <p>stenographer [1] - 50:15</p> <p>stenographic [1] - 60:10</p> <p>stern [1] - 28:4</p> <p>strict [1] - 11:16</p> <p>stronger [1] - 45:7</p> <p>subcontracted [1] - 19:4</p> <p>subcontracting [1] - 15:8</p> <p>subcontractor's [1] - 20:3</p> <p>subcontractors [2] - 19:11, 19:14</p> <p>subject [1] - 48:20</p> <p>subset [1] - 45:14</p> <p>substandard [2] - 17:11, 18:4</p> <p>succeed [1] - 21:11</p> <p>sufficient [4] - 14:20, 21:21, 35:17, 49:15</p> <p>SUFFOLK [1] - 60:2</p> <p>summary [1] - 8:19</p> <p>supervising [1] - 21:15</p> <p>supervision [2] - 10:17, 18:5</p> <p>supervisor [3] - 33:18, 34:1, 37:13</p> <p>supervisors [3] - 18:6, 43:8, 43:16</p> <p>supervisory [1] - 43:1</p> <p>supporting [2] - 14:8, 56:8</p> <p>supports [1] - 7:6</p> <p>surprised [1] - 15:21</p> <p>surrounding [1] - 10:4</p> <p>sympathy [1] - 5:21</p> <p>system [2] - 40:18, 40:21</p>
	S			
	<p>safe [3] - 10:1, 10:16, 12:6</p> <p>safeguard [1] - 45:7</p> <p>safeguards [1] - 23:15</p> <p>safety [20] - 10:7, 10:21, 11:6, 11:15, 11:17, 11:21, 15:4, 20:4, 22:1, 22:14, 31:15, 34:6, 35:1,</p>			

T		
<p>task [2] - 13:16, 21:9 tendency [1] - 48:1 term [1] - 20:14 testimony [6] - 5:4, 14:12, 20:11, 33:15, 44:5, 60:9 THE [5] - 1:20, 60:19, 60:20, 60:20, 60:21 themselves [1] - 23:18 theoretical [3] - 14:17, 15:6, 41:11 theoretically [1] - 24:6 theories [1] - 14:15 therefore [1] - 5:7 they've [3] - 26:6, 37:19, 44:16 thinking [1] - 33:4 third [11] - 18:13, 23:12, 26:2, 27:4, 27:5, 34:1, 45:6, 49:17, 50:20, 51:12, 55:12 third-contractors [1] - 55:12 third-party [10] - 18:13, 23:12, 26:2, 27:4, 27:5, 34:1, 45:6, 49:17, 50:20, 51:12 THIS [1] - 60:19 thoughts [1] - 5:2 threatening [1] - 39:10 thriving [2] - 39:17, 40:6 throughout [2] - 47:16, 53:2 tighter [1] - 44:12 timely [1] - 17:20 tips [1] - 50:8 TO [1] - 60:20 today [1] - 47:15 tolerate [1] - 12:3 top [1] - 43:3 topics [1] - 31:18 totally [1] - 44:2 trained [2] - 13:1, 31:19 training [26] - 10:17, 22:13, 26:13, 27:19, 30:14, 31:2, 31:17, 32:8, 33:5, 33:6, 36:18, 36:20, 37:1, 47:9, 50:3, 50:4, 50:8, 52:12, 53:2, 53:7, 53:10, 53:21, 54:10, 56:19, 56:20, 57:12 Training [1] - 13:2 trainings [1] - 53:9</p>	<p>TRANSCRIPT [1] - 60:19 transcription [1] - 60:10 transferred [1] - 24:18 transition [1] - 21:6 translate [1] - 14:2 travel [1] - 34:3 traveling [3] - 14:3, 15:5, 34:2 tremendous [1] - 53:17 tripped [1] - 41:1 troubled [1] - 6:14 troubling [1] - 27:10 true [3] - 19:11, 46:18, 60:10 trust [1] - 24:13 trusted [1] - 34:21 try [1] - 6:5 Tuesday [2] - 1:15, 3:6 Turkish [1] - 7:7 turn [4] - 5:11, 30:19, 31:1, 47:6 two-page [1] - 31:13 two-year [1] - 27:14 typically [2] - 29:21, 32:14</p> <p style="text-align: center;">U</p> <p>uncontroverted [1] - 40:15 undated [1] - 42:11 UNDER [1] - 60:20 undermines [1] - 29:3 undersigned [1] - 60:5 unfettered [3] - 23:3, 26:21, 48:3 unforgivable [1] - 21:5 unfortunately [2] - 5:6, 47:4 unless [1] - 45:12 UNLESS [1] - 60:20 unlikely [1] - 20:13 unnecessary [1] - 13:18 unoccupied [2] - 29:15, 30:3 unremarkable [1] - 15:15 uses [1] - 27:3</p> <p style="text-align: center;">V</p> <p>value/nontransferable [1] - 4:12 values [1] - 14:4 variety [1] - 31:17 various [1] - 22:10</p>	<p>vendors [2] - 27:4, 27:5 versus [1] - 26:18 vibrant [1] - 21:19 view [1] - 29:2 viewpoint [1] - 22:21 vigilance [2] - 21:13, 21:14 violations [1] - 20:4 virtually [1] - 12:18 virus [3] - 39:6, 39:7 visible [1] - 17:20 visit [1] - 36:14 visiting [2] - 10:2, 38:6 vote [2] - 4:16, 9:11 vouch [1] - 23:16</p> <p style="text-align: center;">W</p> <p>wage [2] - 41:14, 41:19 wait [1] - 39:3 waiting [1] - 55:19 wants [2] - 15:16, 15:17 ways [1] - 47:4 weighing [1] - 38:17 welfare [3] - 10:7, 22:2, 47:16 West [1] - 39:6 WHEREOF [1] - 60:12 whole [3] - 26:15, 44:3, 53:2 willing [1] - 12:3 wine [3] - 4:10, 6:15, 8:4 withstand [1] - 23:9 WITNESS [1] - 60:12 word [1] - 15:18 word-of-mouth [1] - 15:18 works [1] - 20:16 worry [1] - 28:11 Wow [1] - 39:12 writer's [1] - 17:9 www.reportersinc.com [1] - 1:21</p>