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VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF LONG-TERM CARE

IN RE: SCOTT S. MILLER, A.L.F.A.

CASE NO. 187450

TUESDAY, SEPTEMBER 15, 2020
1:36 P.M.

DEPARTMENT OF HEALTH PROFESSIONS
9960 MAYLAND DRIVE
HENRICO, VIRGINIA 23233

2

1 **APPEARANCES**

2 **BOARD COUNSEL:**

3 ERIN BARRETT, ASSISTANT ATTORNEY GENERAL

4 **OFFICE OF THE ATTORNEY GENERAL**

5 202 NORTH NINTH STREET

6 RICHMOND, VIRGINIA 23219

7 TELEPHONE: 804.692.0169

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9 **WITNESSES PRESENT:**

10 JOCELYN MORALES

11 STEVE KEEN

12

13 **BOARD MEMBERS PRESENT:**

14 BOARD CHAIR: MITCHELL DAVIS, NHA

15 JENNY INKER, ALFA MEMBER

16 MARTHA HUNT, ALFA

17 ASHLEY JACKSON, NHA MEMBER

18 ALI FARUK, CITIZEN MEMBER

19

20 **DHP ADMINISTRATIVE PROCEEDINGS**

21 **DIVISION MEMBERS PRESENT:**

22 CLAIRE FILEY

23

24

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1 **DHP STAFF PRESENT:**

2 CORIE TILLMAN WOLF, EXECUTIVE DIRECTOR

3 SARAH GEORGEN, LICENSING AND OPERATIONS
MANAGER

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21

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23

24

25

4

1 INDEX

2 Page

3 **JOCELYN MORALES:**

4 DIRECT EXAMINATION BY MS. FOLEY 12

5 CROSS EXAMINATION BY MR. DAVIS 17

6 CROSS EXAMINATION BY MS. JACKSON 18

7

8 **STEVE KEEN:**

9 DIRECT EXAMINATION BY MS. FOLEY 19

10 CROSS EXAMINATION BY MR. FARUK 26

11

12

13 EXHIBITS

14 Exhibit Page

15

16 1 Exhibit 1 12

17

18 2 Exhibit 2 12

19

20

21

22

23

24

25

5

1 **FORMAL CONFERENCE**

2 **IN RE: SCOTT S. MILLER, A.L.F.A.**

3 **VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS**

4 **BOARD OF LONG-TERM CARE ADMINISTRATORS**

5 **TUESDAY, SEPTEMBER 15, 2020**

6 **1:36 P.M.**

7 **MR. DAVIS:** Okay, we're going to

8 start. Good afternoon, the formal administrators

9 hearing in the matter of Scott S. Miller, ALFA is

10 called to order. I am Mitchell Davis, Chair of

11 the Virginia Board of Long-Term Care

12 Administrators and I am presiding over this

13 hearing. This formal hearing will be conducted

14 electronically via the CISCO Webex meeting

15 platform pursuant to Executive Order 51 as issued

16 and amended by the Governor due to the current

17 state of emergency declared in the Commonwealth

18 of Virginia. Executive Order 51 has no current

19 end date and may be rescinded by the Governor at

20 any time.

21 To report an interruption during

22 this broadcast, please dial 804-367-4595 and

23 select Option 2. Any interruption in the

24 broadcast of this hearing shall result in the

25 suspension of action until repairs are made and



6

1 the public access is restored. Please remember
 2 to mute your line unless you're speaking. Ms.
 3 Foley's line should not be muted.
 4 At this time a roll call of
 5 attendees will be taken. When your name is
 6 announced your line will be unmuted so you may
 7 verbally indicate your presence. Staff will mute
 8 your line again after you speak, except for Ms.
 9 Foley's. Board member Martha Hunt.
 10 **MS. HUNT:** Here.
 11 **MR. DAVIS:** Board member Dr. Jenny
 12 Inker.
 13 **DR. INKER:** Here.
 14 **MR. DAVIS:** Board member Ashley
 15 Jackson.
 16 **MS. JACKSON:** Here.
 17 **MR. DAVIS:** And Board member Ali
 18 Faruk.
 19 **MR. FARUK:** Here.
 20 **MR. DAVIS:** Thank you. Assistant
 21 Attorney General Erin Barrett.
 22 **MS. BARRETT:** Here.
 23 **MR. DAVIS:** Board staff Corey
 24 Tillman Wolf and Sarah Georgen.
 25 **MS. WOLF:** Here.

7

1 **MS. GEORGEN:** Present.
 2 **MR. DAVIS:** Respondent Scott
 3 Miller. Ms. Claire Foley.
 4 **MS. FOLEY:** Here.
 5 **MR. DAVIS:** Thank you. Let the
 6 record show that there are five members of the
 7 Board present which constitutes a quorum in order
 8 to conduct business. The Board issued Mr. Miller
 9 a notice of formal hearing on August 14th, 2020
 10 which was sent by USPS certified mail and first
 11 class mail to his address of record on file with
 12 the Board. A copy was also sent by email. On
 13 August 14th, 2020, Mr. Miller indicated by email
 14 that he didn't live in Virginia anymore and he
 15 provided a New York mailing address. The notice
 16 was sent on August 14th, 2020 by United States
 17 Postal Service certified mail and first class to
 18 the New York address he provided. The notice
 19 specified that the hearing would convene on
 20 September 15, 2020 electronically. The certified
 21 receipt to the New York mailing address was
 22 signed as COVID so may have not been delivered.
 23 The first class mail has not been returned. I
 24 note that the time is now 1:40 and Mr. Miller is
 25 not present nor is he represented by counsel.

8

1 Ms. Foley, was proper notice made
 2 to Mr. Miller and have you received any
 3 communication from Mr. Miller regarding his
 4 virtual appearance here today?
 5 **MS. FOLEY:** Proper notice was made
 6 to Mr. Miller. I have not received any
 7 communication regarding his appearance.
 8 **MR. DAVIS:** Thank you. Based upon
 9 information and representation of Ms. Foley,
 10 Adjudication Specialist, Administrator
 11 Proceedings Division, I rule the proper notice of
 12 this hearing was provided to Mr. Miller at his
 13 address of record on file with the Board.
 14 Therefore, this formal hearing will proceed in
 15 Mr. Miller's absence. This proceeding is being
 16 recorded by a certified court reporter from Able
 17 Forces. Will the parties for the hearing
 18 identify themselves for the record?
 19 **MS. FOLEY:** Claire Foley for the
 20 Commonwealth.
 21 **MR. DAVIS:** Ms. Foley, do you have
 22 any witnesses present that will be called to
 23 testify for this proceeding?
 24 **MS. FOLEY:** Yes. I have two
 25 witnesses, both present on the line. I have

9

1 Jocelyn Morales with the Department of Social
 2 Services, and Steve Keen with the Department of
 3 Health Professions.
 4 **MR. DAVIS:** Thank you. Will those
 5 persons who will be testifying at this hearing
 6 please raise your right hand to be sworn in by
 7 the Court Reporter?
 8 **COURT REPORTER:** Do you swear to
 9 tell the truth, the whole truth and nothing but
 10 the truth so help you God?
 11 **MS. MORALES:** I do.
 12 **MR. KEEN:** I do.
 13 **MR. DAVIS:** Okay. This is a
 14 formal administrator hearing held pursuant to
 15 2.2-4020, 2.2-4024 and 54.1-2400 of the Code of
 16 Virginia. Our purpose today is to discuss and
 17 act upon the license of Scott S. Miller, ALFA in
 18 the Commonwealth of Virginia. Mr. Miller
 19 received a notice of hearing and a statement of
 20 particulars regarding evidence that he may have
 21 violated certain laws and regulations governing
 22 the practice of Assisted Living Facility
 23 Administrators in Virginia. The notice sets out
 24 the legal framework for this hearing.
 25 Are there any preliminary matters



10

1 for consideration?
 2 **MS. FOLEY:** No sir.
 3 **MR. DAVIS:** If there are no other
 4 preliminary matters I will ask for opening
 5 statements and the presentation of exhibits from
 6 the Commonwealth. Ms. Foley, please begin.
 7 **MS. FOLEY:** Thank you, Mr. Chair.
 8 The Code of Virginia, the Standards for Licensed
 9 Assisted Living Facilities and the regulations of
 10 this Board protects any resident of an assisted
 11 living facility from economic abuse or
 12 exploitation and holds assisted living facility
 13 administrators responsible for protecting the
 14 well-being of all residents. The allegations
 15 before you today are that Scott Miller, ALFA
 16 failed in that responsibility while he was the
 17 administrator of Harmony at Falls Run, a licensed
 18 assisted living facility in Fredericksburg,
 19 Virginia when he accepted a check in the amount
 20 of \$8,000.00 from a 92-year old resident of the
 21 facility after disclosing to her his personal
 22 financial problems.
 23 The evidence today will show that
 24 in March of 2018 Mr. Miller told Resident A that
 25 he was having financial problems related to the

11

1 purchase of a home and that he admits that he
 2 accepted and deposited a check from her into his
 3 personal bank account. On April 1st, 2018, Mr.
 4 Miller wrote a check to Resident A that he knew
 5 or should have known would not be able to be
 6 cashed. In fact, Resident A attempted to deposit
 7 the check on three occasions and was not made
 8 whole until the facility reimbursed her the funds
 9 that she had given to Mr. Miller.
 10 The Commonwealth, as I mentioned,
 11 will call two witnesses today. First, Ms.
 12 Jocelyn Morales, an adult protective services
 13 worker with the Department of Social Services
 14 will testify to her investigation into the
 15 potential financial exploitation of Resident A.
 16 Second, Steve Keen, Senior Investigator with the
 17 Department of Health Professions will testify
 18 regarding his investigation into Mr. Miller's
 19 actions during which he collected reports from
 20 the internal investigation conducted by the
 21 facility and a police investigation conducted by
 22 the Stafford County Sheriff's Office, among other
 23 things.
 24 At this point I would like to
 25 introduce the Commonwealth's two exhibits which I

12

1 have previously provided to Board counsel.
 2 Exhibit 1 is the Commonwealth's notice of
 3 hearing, statement of allegations and the
 4 affidavit of mailing, and Exhibit 2 is the
 5 investigative report for Case Number 187450.
 6 **MR. DAVIS:** The Board admits into
 7 evidence Commonwealth's Exhibits 1 and 2 as
 8 presented by Ms. Foley. Ms. Foley, please
 9 proceed with your case.
 10 **(WHEREUPON, previously marked Commonwealth's**
 11 **Exhibits Number 1 and Number 2 were admitted into**
 12 **evidence.)**
 13 **MS. FOLEY:** Thank you. I'd like
 14 to call Jocelyn Morales.
 15 **JOCELYN MORALES**, having been duly sworn by the
 16 Court Reporter, was examined and testified as
 17 follows:
 18 **DIRECT EXAMINATION**
 19 **BY MS. FOLEY:**
 20 **Q. Hello, Ms. Morales. Can you please**
 21 **state your name and occupation for the Board?**
 22 A. All right. My name is Jocelyn Morales
 23 and I'm a Family Services Specialist for Stafford
 24 County.
 25 **Q. And how long have you worked for**

13

1 **Stafford County?**
 2 A. Approximately three years.
 3 **Q. In your role for the County, do you**
 4 **investigate reports of potential abuse or neglect**
 5 **of seniors living in assisted living facilities?**
 6 A. Yes.
 7 **Q. Did your office receive a report**
 8 **regarding conduct by Scott Miller, ALFA?**
 9 A. Yes, we did. We received the State
 10 Hotline Report on April 7th, 2018.
 11 **Q. And were you assigned to investigate**
 12 **this report?**
 13 A. Yes.
 14 **Q. Okay. At the time of the report was**
 15 **Mr. Miller the Executive Director of the Harmony**
 16 **at Falls Run?**
 17 A. Yes.
 18 **Q. Is the Harmony at Falls Run an assisted**
 19 **living facility licensed by the Department of**
 20 **Social Services?**
 21 A. Yes.
 22 **Q. Can you describe for the Board the**
 23 **nature of the report that you received regarding**
 24 **Mr. Miller's conduct?**
 25 A. The report stated that the Executive



14

1 Director was in the process of closing his home
 2 and told Resident A that he needed \$8,000.00 to
 3 close but didn't have the money. The report
 4 continued to state that the resident offered
 5 money to the Executive Director in the amount of
 6 \$8,000.00 and that he did accept the money.
 7 **Q. Did Resident A sign any sort of**
 8 **documents for Mr. Miller along with the check?**
 9 A. Yes. Apparently, she signed a letter
 10 stating that it was not a loan that it was a gift
 11 and that she was a family member, but I didn't
 12 receive a copy of that letter.
 13 **Q. Okay, and is Resident A a family member**
 14 **of Mr. Miller?**
 15 A. No.
 16 **Q. Okay. I'd like to turn your attention**
 17 **to the evidence that I previously provided to you**
 18 **on Bates stamped pages 20 and 23. Is this the**
 19 **report you wrote regarding your investigation**
 20 **into the complaint of Mr. Miller?**
 21 A. Yes.
 22 **Q. And, as you picked up, we are referring**
 23 **to the resident in this complaint as Resident A**
 24 **for the purposes of this hearing. Did Resident A**
 25 **confirm the details from the complaint that you**

15

1 **have already described to us?**
 2 A. Yes. I met with her face-to-face on
 3 April 9th, 2018 and she did disclose that she did
 4 provide him a check and that he cashed the check
 5 and proceeded to write her a reimbursement check
 6 which continued to bounce in the account. It
 7 never cleared.
 8 **Q. Okay, and did Resident A provide you**
 9 **with any other documents or any other**
 10 **information?**
 11 A. Yes. She did provide documents. I
 12 received the ledger of her checkbook. I received
 13 a copy of her bank statement showing that the
 14 check she wrote out cleared and then I did
 15 receive the check that she continued to try to
 16 deposit which was written out to her from Mr.
 17 Miller's account.
 18 **Q. Thank you. Now I'd like to refer you**
 19 **to Exhibit 2 Bates stamped pages 40 and 41. Do**
 20 **these appear to be photos of the check from Mr.**
 21 **Miller to Resident A and the portion of the bank**
 22 **account he referenced showing the check clearing**
 23 **her account in the amount of \$8,000.00?**
 24 A. Yes.
 25 **Q. Did Resident A describe to you going to**

16

1 **the bank with Mr. Miller?**
 2 A. She did. When I interviewed her the
 3 first day she did say that she should have known
 4 that something was incorrect with the whole
 5 situation because she was asked to leave through
 6 the back door versus the front door, and that it
 7 was very clear that he didn't want anybody to see
 8 her leaving with him.
 9 **Q. When you say leaving through the back**
 10 **door, you mean from the facility?**
 11 A. Yes. Instead of leaving from the front
 12 entrance she was asked to leave through the back.
 13 **Q. Okay. Now we're turning to Bates**
 14 **stamped page 20. Is this a letter that you wrote**
 15 **to the DHP Investigator Steve Keen regarding your**
 16 **findings against Mr. Miller?**
 17 A. Yes.
 18 **Q. And what was the result of your**
 19 **investigation?**
 20 A. A need for protective services no
 21 longer exists. She was no longer at risk of
 22 further financial exploitation because he was
 23 terminated from his position and in the letter I
 24 did write that there is evidence that a check was
 25 received by Mr. Miller. It was cashed, and he

17

1 did attempt to reimburse the resident.
 2 **Q. When you concluded your investigation**
 3 **did you report your findings to any other**
 4 **organizations?**
 5 A. I did. I had to report it to Stafford
 6 County Sheriff's Department, the local Ombudsman,
 7 the Disability Law Center, Board of Long-Term
 8 Care Administration and the Department of Social
 9 Services and Licensing.
 10 **Q. Okay, thank you Ms. Morales. That**
 11 **concludes my questions for you. Please answer**
 12 **any questions that the Board members have for**
 13 **you.**
 14 **MR. DAVIS:** Thank you. Do Board
 15 members have any questions for the witness? No?
 16 I do have a question.
 17 **CROSS EXAMINATION**
 18 **BY MR. DAVIS:**
 19 **Q. Was the resident ever paid back by Mr.**
 20 **Miller? I know a check was sent but did any**
 21 **check clear ever?**
 22 A. By the time I closed it, the check had
 23 still not cleared. She did talk to the facility
 24 and the facility did... I guess they gave her an
 25 \$8,000.00 credit.

18

1 **Q. But Mr. Miller had no deduction of pay**
 2 **or nothing from that.**
 3 A. No. By the end of the investigation
 4 the check never cleared.
 5 **MR. DAVIS:** Any other Board
 6 members have anything? Yes, Ms. Jackson? Go
 7 ahead.
 8 **CROSS EXAMINATION**
 9 **BY MS. JACKSON:**
 10 **Q. Yes, Ms. Morales, during your**
 11 **investigation was there ever any evidence that**
 12 **the resident, Resident A, had any type of**
 13 **cognizant deficit?**
 14 A. No. She was alert and oriented times
 15 three. She had full capacity. She did ask me to
 16 contact her daughter just for permission to... I
 17 had her sign a note giving me permission to take
 18 a picture of her bank account. She did ask me to
 19 talk to her daughter, but she always repeated the
 20 story exactly the same way and she was alert and
 21 oriented times three.
 22 **Q. Okay. Thank you.**
 23 **MR. DAVIS:** Okay, since questions
 24 are finished Ms. Morales you are no longer
 25 needed. You can log off the Webex at this time

19

1 unless you'd like to stay on the line. You're
 2 more than welcome to stay on the line.
 3 **MS. MORALES:** Thank you.
 4 **(WHEREUPON, the witness was excused.)**
 5 **MR. DAVIS:** Ms. Foley, do you have
 6 any other witnesses?
 7 **MS. FOLEY:** Yes. At this time I'd
 8 like to call Steve Keen with the Department of
 9 Health Professions.
 10 **STEVE KEEN**, having been duly sworn by the Court
 11 Reporter, was examined and testified as follows:
 12 **DIRECT EXAMINATION**
 13 **BY MS. FOLEY:**
 14 **Q. Mr. Keen, can you hear me?**
 15 A. Yes, can you hear me?
 16 **Q. Yes. Can you please state your name**
 17 **and occupation for the Board?**
 18 A. Steven Keen, Senior Investigator with
 19 the Department of Health Professions of the
 20 Northern Region.
 21 **Q. In your role as an investigator, did**
 22 **you conduct an investigation into Assisted Living**
 23 **Facility Administrator Scott Miller?**
 24 A. Yes.
 25 **Q. I'd like to direct your attention to**

20

1 **Exhibit 2 in the evidence volume that I**
 2 **previously provided to you. Have you had a**
 3 **chance to review this exhibit prior to the**
 4 **hearing?**
 5 A. Yes, I have.
 6 **Q. Does Exhibit 2 appear to be a copy of**
 7 **the complete investigative report you submitted**
 8 **to the Department regarding Scott Miller?**
 9 A. Yes, it does.
 10 **Q. Are there any additions, corrections,**
 11 **and/or deletions that need to be made on the**
 12 **record?**
 13 A. No.
 14 **Q. Are all interviews accurately reflected**
 15 **to the best of your ability?**
 16 A. Yes.
 17 **Q. And do all the documents you collected**
 18 **during the course of your investigation appear to**
 19 **be intact in the copy before you?**
 20 A. Yes.
 21 **Q. Thank you. During the course of your**
 22 **investigation did you interview Detective Robert**
 23 **Firkin with the Stafford County Sheriff's office?**
 24 A. Yes.
 25 **Q. And did Detective Firkin provide you**

21

1 **with a copy of the police report that he**
 2 **completed regarding Scott Miller?**
 3 A. Yes.
 4 **Q. I'd like to turn your attention to**
 5 **Exhibit 2 Bates stamped pages 26 through 31. Is**
 6 **this the police report provided to you by**
 7 **Detective Firkin?**
 8 A. Yes, it is.
 9 **Q. What did Detective Firkin document**
 10 **regarding Resident A's attempts to cash the check**
 11 **given to her by Mr. Miller?**
 12 A. It was documented that Resident A tried
 13 to, attempted to cash the check a couple of
 14 different...
 15 **(WHEREUPON, the audio connection dropped**
 16 **briefly.)**
 17 A. ...and was told by the bank that it
 18 would not clear and that it would never clear.
 19 **Q. Do you know how many times Resident A**
 20 **attempted to cash the check?**
 21 **MR. DAVIS:** Mr. Keen, you're
 22 breaking up a little bit. I'm not sure if it's
 23 your reception where you're located. Can you
 24 repeat your answer Mr. Keen?
 25 **Q. Mr. Keen, can you repeat that?**



22

1 A. Can you hear me?

2 **Q. Yes. Can you repeat your answer?**

3 **MR. DAVIS:** Mr. Keen, we were

4 wondering if you could please repeat your answer

5 to that original question. You were breaking up

6 before.

7 A. Okay. Yes, in the police report it was

8 referenced that Resident A attempted to...

9 **(WHEREUPON, the audio connection dropped**

10 **briefly.)**

11 A. ...check would never clear and

12 indicated that the account had been closed.

13 **Q. Just to be clear, Mr. Keen, you said**

14 **that the Detective documented that Resident A had**

15 **attempted to cash the check a number of times?**

16 **Mr. Keen, we're not able to hear you.**

17 A. I can hear you now. I couldn't hear

18 you before.

19 **Q. Okay, now I can hear you. Let's give**

20 **this question one more try. Did Detective Firkin**

21 **document Resident A's attempt to cash the check a**

22 **number of times that she had been provided by Mr.**

23 **Miller?**

24 A. You're cutting out. I just heard the

25 very end.

23

1 **Q. Can you hear me now, Mr. Keen?**

2 **MR. DAVIS:** Can he call in on the

3 landline? Mr. Keen, we're having some difficulty

4 hearing you. Is it possible for you to call in

5 on the Webex number? I think you're showing

6 video and that may be why you have bad reception.

7 **MR. KEEN:** Yes.

8 **MR. DAVIS:** Okay. Do you need the

9 number again?

10 **MR. KEEN:** I have it.

11 **MR. DAVIS:** Hold on just a second,

12 Mr. Keen. I think it's a different number for

13 this process. Okay, so you need to call in to

14 number 1-517-466-2023. And let me know if I need

15 to repeat that. Did you get that number, sir?

16 **MR. KEEN:** Yes, I need a different

17 access number.

18 **MR. DAVIS:** Okay, so it's

19 1714549356. I think we've got you now. All

20 right. I think we're good now. Okay, Ms. Foley,

21 if you'd like to proceed?

22 **Q. All right, let's try this one more**

23 **time. Mr. Keen what did Detective Firkin**

24 **document regarding Resident A's attempt to cash**

25 **the check that had been given to her by Mr.**

24

1 **Miller?**

2 A. It was documented that she tried to

3 cash the check on multiple occasions. The

4 banking staff advised her that it would not clear

5 and the check would never clear.

6 **Q. Thank you, and we can hear you now.**

7 **Did Mr. Miller have any contact with Resident A**

8 **after giving her the check dated April 1st, 2018?**

9 A. It was documented that he called in to

10 let her know first that he blamed her for his

11 termination and that also the money would be

12 there within a few days, and that was documented

13 as the last contact that they had with each

14 other.

15 **Q. And so that was him referencing funds**

16 **would be available and this was after he had**

17 **already written the check to her. Is that right?**

18 A. Yes. It was documented that he was

19 trying to show her that the money would be there

20 within a few days.

21 **Q. Okay, thank you.**

22 A. But it never was.

23 **Q. What was the outcome of Detective**

24 **Firkin's investigation into the matter?**

25 A. He closed the case because family did

25

1 not want to pursue criminal charges. After

2 consultation with the Commonwealth's Attorney

3 they chose to close the case with no charges.

4 **Q. Okay, and during the course of your**

5 **investigation did you attempt to contact Resident**

6 **A?**

7 A. Yes, I did.

8 **Q. And did she answer any of your attempts**

9 **to contact her?**

10 A. No. Her nor her family called me back.

11 **Q. Okay. During the course of your**

12 **investigation did you contact Mr. Miller?**

13 A. Yes.

14 **Q. Did you interview him over the phone?**

15 A. Yes, I did and I received some email

16 correspondence from him.

17 **Q. Okay. During your interview with Mr.**

18 **Miller did he acknowledge that he did accept the**

19 **\$8,000.00 check from Resident A?**

20 A. Yes, he did.

21 **Q. Now I'd like to turn your attention to**

22 **Exhibit 2 Bates stamped pages 186 through 188.**

23 **Are these copies of the emails you exchanged with**

24 **Mr. Miller?**

25 A. Yes.



26

1 **Q. In his email on August 20, 2018 did Mr.**
 2 **Miller offer to provide you evidence that he did**
 3 **have sufficient funds in his bank account for the**
 4 **check he wrote to Resident A?**
 5 A. Yes, he did.
 6 **Q. And did Mr. Miller provide that**
 7 **evidence?**
 8 A. No. I did follow up by email letting
 9 him know I never did receive the information and
 10 I still did not ever receive it.
 11 **Q. Okay. Thank you, Mr. Keen. That**
 12 **concludes my questions. Please answer any**
 13 **questions that the Board members have for you.**
 14 A. Okay. Thank you.
 15 **MR. DAVIS:** Do any Board members
 16 have questions for Mr. Keen?
 17 **MR. FARUK:** I have a question.
 18 **MR. DAVIS:** Mr. Keen, could you
 19 turn down your computer volume a little bit?
 20 We're getting some feedback. That helped. Thank
 21 you, sir. Mr. Faruk, do you have a question for
 22 Mr. Keen?
 23 **CROSS EXAMINATION**
 24 **BY MR. FARUK:**
 25 **Q. Yes. Mr. Keen, did you speak to anyone**

27

1 **in the prosecutor's office about this case?**
 2 A. No, I did not.
 3 **Q. Okay, but you were told by the family**
 4 **that they did not want to move forward with**
 5 **criminal charges.**
 6 A. I was told by the facility and
 7 Detective Firkin.
 8 **Q. All right. Thank you.**
 9 A. I did not receive any calls back from
 10 family.
 11 **Q. Okay. Thank you.**
 12 **MR. DAVIS:** Any other questions
 13 from Board members? Okay, Ms. Foley would you
 14 like to release this witness?
 15 **MS. FOLEY:** Yes, I would.
 16 **MR. DAVIS:** Okay. Mr. Keen, thank
 17 you for your testimony and you're no longer
 18 needed. You're more than welcome to stay on or
 19 you can log off Webex.
 20 **MR. KEEN:** Okay. Thank you.
 21 **(WHEREUPON, the witness was excused.)**
 22 **MR. DAVIS:** Thank you, sir. Okay,
 23 Ms. Foley, do you have any other witnesses?
 24 **MS. FOLEY:** No, I don't.
 25 **MR. DAVIS:** Okay, do you have a

28

1 closing statement and proposed findings of fact
 2 and conclusions of law?
 3 **MS. FOLEY:** Yes. Just briefly,
 4 the testimony by the Commonwealth's witnesses as
 5 well as the investigative report before you show
 6 that Mr. Miller did engage in the financial
 7 exploitation of Resident A, a resident of Harmony
 8 at Falls Run where Mr. Miller was the
 9 administrator. Mr. Miller disclosed his
 10 financial problems to Resident A and accepted
 11 \$8,000.00 from her and then attempted to
 12 reimburse her with a check that he knew or should
 13 have known was not valid. In fact, as Mr. Keen
 14 just testified, Resident A reported to the police
 15 that in late April, weeks after writing her the
 16 check, Mr. Miller contacted Resident A and stated
 17 that funds should be available in his bank
 18 account soon. Unfortunately, that was not the
 19 case and on her third attempt to cash it Resident
 20 A was advised by the Bank of America that the
 21 check from Mr. Miller would never be good.
 22 Therefore, the evidence and
 23 testimony has shown that Mr. Miller failed in his
 24 responsibility to protect the right of Resident A
 25 to be free from economic exploitation and to

29

1 practice in a manner that protects the well-being
 2 of his residents. For that reason, I would ask
 3 that you adopt the findings of fact and
 4 conclusions of law as set forth in the notice of
 5 formal hearing dated August 14th, 2020 and as set
 6 forth in the proposed findings of fact and
 7 conclusions of law that I have provided to Board
 8 counsel. Thank you.
 9 **MR. DAVIS:** Thank you, Ms. Foley.
 10 Ms. Hunt, will you please enter us into closed
 11 session?
 12 **(WHEREUPON, the audio connection dropped**
 13 **briefly.)**
 14 **MS. HUNT:** ...in a closed meeting
 15 pursuant to Section 2.2-3711A27 of the Code of
 16 Virginia for the purpose of deliberation to reach
 17 a decision in the matter of Scott S. Miller,
 18 Assisted Living Facility Administrator.
 19 Additionally, I move that Ms. Tillman Wolf, Ms.
 20 Georgen and Ms. Barrett attend the closed meeting
 21 because their presence in the closed meeting is
 22 deemed necessary and will aid the Board in its
 23 deliberation.
 24 **MR. DAVIS:** Is there a second?
 25 **MS. JACKSON:** I second.



30

1 **MR. DAVIS:** Thank you, Ms.
 2 Jackson. All in favor please say aye. Okay,
 3 we're going to go ahead and do a roll call. Ms.
 4 Hunt?
 5 **MS. HUNT:** Aye.
 6 **MR. DAVIS:** Mr. Faruk?
 7 **MR. FARUK:** Aye.
 8 **MR. DAVIS:** Dr. Inker?
 9 **DR. INKER:** Aye.
 10 **MR. DAVIS:** Ms. Jackson?
 11 **MS. JACKSON:** Aye.
 12 **MR. DAVIS:** And then aye, as in
 13 Mr. Davis. Okay, we have now entered into closed
 14 session. If your name was not included in the
 15 motion please stay on the Webex. Do not
 16 disconnect. The virtual call log will be in the
 17 lobby status during the closed session. In lobby
 18 status, participants will not be able to hear the
 19 discussion. At this time the meeting will be
 20 locked so no new calls will be accepted. While
 21 in the lobby you will see a blank screen or you
 22 will hear elevator music if joined by phone. You
 23 will be allowed back into the Webex meeting at
 24 the conclusion of the closed session. Thank you.
 25 **(WHEREUPON, the Board went into closed session**

31

1 **from 2:08 p.m. until 2:22 p.m.)**
 2 **MR. DAVIS:** Okay, Ms. Hunt will
 3 you please open us up in session?
 4 **MS. HUNT:** Yes. All those who
 5 certified to the best of your knowledge that the
 6 members of the Board of Long-Term Care
 7 Administrators discussed or considered only
 8 separate business matters lawfully exempted from
 9 open meeting requirements under the Virginia
 10 Freedom of Information Act and only such public
 11 business matters as were identified in the motion
 12 by which the closed meeting was convened, say
 13 aye.
 14 **MR. DAVIS:** We have to do a roll
 15 call.
 16 **MS. WOLF:** Mr. Faruk?
 17 **MR. FARUK:** Aye.
 18 **MS. WOLF:** Ms. Hunt?
 19 **MS. HUNT:** Aye.
 20 **MS. WOLF:** Dr. Inker?
 21 **DR. INKER:** Aye.
 22 **MS. WOLF:** Ms. Jackson?
 23 **MS. JACKSON:** Aye.
 24 **MS. WOLF:** Mr. Davis?
 25 **MR. DAVIS:** Aye. Okay, we are now

32

1 back in open session. May I have a motion
 2 regarding the decision of the Board in the matter
 3 of Scott S. Miller, ALFA?
 4 **MS. HUNT:** I move that the Board
 5 of Long-Term Care Administrators revoke Mr.
 6 Miller's ability... what would I do with that?
 7 Because he doesn't have his license, it's
 8 expired.
 9 **MR. DAVIS:** Right to renew.
 10 **MS. HUNT:** Mr. Miller's right to
 11 renew his Assisted Living Administrator's license
 12 and that the basis for this decision will be set
 13 forth in a final Board order sent to Mr. Miller.
 14 **MR. DAVIS:** Is there a second?
 15 **DR. INKER:** I second.
 16 **MR. DAVIS:** Okay, we are going to
 17 do a roll call for the votes.
 18 **MS. WOLF:** Mr. Faruk?
 19 **MR. FARUK:** Aye.
 20 **MS. WOLF:** Ms. Hunt?
 21 **MS. HUNT:** Aye.
 22 **MS. WOLF:** Dr. Inker?
 23 **DR. INKER:** Aye.
 24 **MS. WOLF:** Ms. Jackson?
 25 **MS. JACKSON:** Aye.

33

1 **MS. WOLF:** Mr. Davis?
 2 **MR. DAVIS:** Aye. Let the record
 3 reflect that the vote was five to zero. Mr.
 4 Miller will be sent this information in the form
 5 of a Board order. The order will contain the
 6 Board's standard language for all orders. This
 7 decision shall be effective upon the entry of the
 8 order by the Board which states the findings,
 9 conclusions and decision of this formal hearing
 10 panel. Should he decide to appeal this decision,
 11 we will outline the appeal process. This will
 12 conclude the formal hearing of Scott S. Miller,
 13 ALFA.
 14 **(WHEREUPON, the proceeding concluded at 2:26**
 15 **p.m.)**
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1 CAPTION
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3 The foregoing matter was taken on the date, and at
4 the time and place set out on the title page hereof.
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6 It was requested that the matter be taken by the
7 reporter and that the same be reduced to typewritten
8 form.
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1 CERTIFICATE OF REPORTER AND SECURE
ENCIPHERED
2 SIGNATURE AND DELIVERY OF CERTIFIED TRANSCRIPT
3 I, **STEPHEN D. GRIDER**, Notary Public, do hereby
4 certify that the forgoing matter was reported by
5 stenographic and/or mechanical means, that same was
6 reduced to written form, that the transcript prepared
7 by me or under my direction, is a true and accurate
8 record of same to the best of my knowledge and
9 ability; that there is no relation nor employment by
10 any attorney or counsel employed by the parties
11 hereto, nor financial or otherwise interest in the
12 action filed or its outcome.
13 This transcript and certificate have been
14 digitally signed and securely delivered through our
15 encryption server.
16 IN WITNESS HEREOF, I have here unto set my hand
17 this 23rd day of September, 2020.
18
19
20
21
22 /s/ STEPHEN D. GRIDER
23 COURT REPORTER / NOTARY
24 NOTARY REGISTRATION NUMBER: 277815
25 MY COMMISSION EXPIRES: MARCH 31, 2021



<p>§</p> <p>\$8,000.00</p> <p>10:20 14:2</p> <p>14:6 15:23</p> <p>17:25 25:19</p> <p>28:11</p> <hr/> <p>1</p> <p>1 12:7 12:11</p> <p>1:36 5:6</p> <p>1:40 7:24</p> <p>14th 7:9</p> <p>7:13 7:16</p> <p>29:5</p> <p>15 5:5 7:20</p> <p>1-517-466-20</p> <p>23 23:14</p> <p>1714549356</p> <p>23:19</p> <p>186 25:22</p> <p>187450 12:5</p> <p>188 25:22</p> <p>1st 11:3</p> <p>24:8</p> <hr/> <p>2</p> <p>2 5:23 12:7</p> <p>12:11</p> <p>2.2-3711A27</p> <p>29:15</p> <p>2.2-4020</p> <p>9:15</p> <p>2.2-4024</p> <p>9:15</p>	<p>2:08 31:1</p> <p>2:22 31:1</p> <p>2:26 33:14</p> <p>20 14:18</p> <p>16:14 26:1</p> <p>2018 10:24</p> <p>11:3 13:10</p> <p>15:3 24:8</p> <p>26:1</p> <p>2020 5:5 7:9</p> <p>7:13 7:16</p> <p>7:20 29:5</p> <p>23 14:18</p> <p>26 21:5</p> <hr/> <p>3</p> <p>31 21:5</p> <hr/> <p>4</p> <p>40 15:19</p> <p>41 15:19</p> <hr/> <p>5</p> <p>51 5:15 5:18</p> <p>54.1-2400</p> <p>9:15</p> <hr/> <p>7</p> <p>7th 13:10</p> <hr/> <p>8</p> <p>804-367-4595</p> <p>5:22</p> <hr/> <p>9</p> <p>92-year</p>	<p>10:20</p> <p>9th 15:3</p> <hr/> <p>A</p> <hr/> <p>A.L.F.A 5:2</p> <p>ability</p> <p>20:15 32:6</p> <p>able 8:16</p> <p>11:5 22:16</p> <p>30:18</p> <p>absence 8:15</p> <p>abuse 10:11</p> <p>13:4</p> <p>accept 14:6</p> <p>25:18</p> <p>accepted</p> <p>10:19 11:2</p> <p>28:10 30:20</p> <p>access 6:1</p> <p>23:17</p> <p>account 11:3</p> <p>15:6 15:17</p> <p>15:22 15:23</p> <p>18:18 22:12</p> <p>26:3 28:18</p> <p>accurately</p> <p>20:14</p> <p>acknowledge</p> <p>25:18</p> <p>act 9:17</p> <p>31:10</p> <p>action 5:25</p> <p>actions</p> <p>11:19</p> <p>Additionally</p>	<p>29:19</p> <p>additions</p> <p>20:10</p> <p>address 7:11</p> <p>7:15 7:18</p> <p>7:21 8:13</p> <p>Adjudication</p> <p>8:10</p> <p>Administrati</p> <p>on 17:8</p> <p>administrato</p> <p>r 8:10 9:14</p> <p>10:17 19:23</p> <p>28:9 29:18</p> <p>administrato</p> <p>rs 5:8 5:12</p> <p>9:23 10:13</p> <p>31:7 32:5</p> <p>Administrato</p> <p>r's 32:11</p> <p>ADMINISTRATO</p> <p>RS 5:4</p> <p>admits 11:1</p> <p>12:6</p> <p>admitted</p> <p>12:11</p> <p>adopt 29:3</p> <p>adult 11:12</p> <p>advised 24:4</p> <p>28:20</p> <p>affidavit</p> <p>12:4</p> <p>afternoon</p> <p>5:8</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



against 16:16	anyone 26:25	22:15 28:11	Barrett 6:21 6:22 29:20
ahead 18:7 30:3	anything 18:6	attempts 21:10 25:8	Based 8:8
aid 29:22	Apparently 14:9	attend 29:20	basis 32:12
alert 18:14 18:20	appeal 33:10 33:11	attendees 6:5	Bates 14:18 15:19 16:13 21:5 25:22
ALFA 5:9 9:17 10:15 13:8 32:3 33:13	appear 15:20 20:6 20:18	attention 14:16 19:25 21:4 25:21	begin 10:6
Ali 6:17	appearance 8:4 8:7	Attorney 6:21 25:2	best 20:15 31:5
allegations 10:14 12:3	Approximatel y 13:2	audio 21:15 22:9 29:12	bit 21:22 26:19
allowed 30:23	April 11:3 13:10 15:3 24:8 28:15	August 7:9 7:13 7:16 26:1 29:5	blamed 24:10
already 15:1 24:17	A's 21:10 22:21 23:24	available 24:16 28:17	blank 30:21
am 5:10 5:12	Ashley 6:14	aye 30:2 30:5 30:7 30:9 30:11 30:12 31:13 31:17 31:19 31:21 31:23 31:25 32:19 32:21 32:23 32:25 33:2	Board 5:4 5:11 6:9 6:11 6:14 6:17 6:23 7:7 7:8 7:12 8:13 10:10 12:1 12:6 12:21 13:22 17:7 17:12 17:14 18:5 19:17 26:13 26:15 27:13 29:7 29:22 30:25 31:6 32:2 32:4 32:13 33:5 33:8
amended 5:16	assigned 13:11	<hr/> B <hr/>	Board's 33:6
America 28:20	Assistant 6:20	bad 23:6	bounce 15:6
among 11:22	assisted 9:22 10:9 10:10 10:12 10:18 13:5 13:18 19:22 29:18 32:11	bank 11:3 15:13 15:21 16:1 18:18 21:17 26:3 28:17 28:20	breaking 21:22 22:5
amount 10:19 14:5 15:23	attempt 17:1 22:21 23:24 25:5 28:19	banking 24:4	briefly
and/or 20:11	attempted 11:6 21:13 21:20 22:8		
announced 6:6			
answer 17:11 21:24 22:2 22:4 25:8 26:12			
anybody 16:7			
anymore 7:14			

21:16 22:10 28:3 29:13 broadcast 5:22 5:24 business 7:8 31:8 31:11 <hr/> C <hr/> capacity 18:15 Care 5:4 5:11 17:8 31:6 32:5 case 12:5 12:9 24:25 25:3 27:1 28:19 cash 21:10 21:13 21:20 22:15 22:21 23:24 24:3 28:19 cash 11:6 15:4 16:25 Center 17:7 certain 9:21 certified 7:10 7:17 7:20 8:16 31:5 Chair 5:10 10:7 chance 20:3 charges 25:1 25:3 27:5	check 10:19 11:2 11:4 11:7 14:8 15:4 15:4 15:5 15:14 15:15 15:20 15:22 16:24 17:20 17:21 17:22 18:4 21:10 21:13 21:20 22:11 22:15 22:21 23:25 24:3 24:5 24:8 24:17 25:19 26:4 28:12 28:16 28:21 checkbook 15:12 chose 25:3 CISCO 5:14 Claire 7:3 8:19 class 7:11 7:17 7:23 clear 16:7 17:21 21:18 21:18 22:11 22:13 24:4 24:5 cleared 15:7 15:14 17:23 18:4 clearing 15:22 close 14:3 25:3	closed 17:22 22:12 24:25 29:10 29:14 29:20 29:21 30:13 30:17 30:24 30:25 31:12 closing 14:1 28:1 Code 9:15 10:8 29:15 cognizant 18:13 collected 11:19 20:17 Commonwealth 5:17 8:20 9:18 10:6 11:10 Commonwealth 's 11:25 12:2 12:7 12:10 25:2 28:4 communicatio n 8:3 8:7 complaint 14:20 14:23 14:25 complete 20:7 completed 21:2 computer 26:19 conclude	33:12 concluded 17:2 33:14 concludes 17:11 26:12 conclusion 30:24 conclusions 28:2 29:4 29:7 33:9 conduct 7:8 13:8 13:24 19:22 conducted 5:13 11:20 11:21 CONFERENCE 5:1 confirm 14:25 connection 21:15 22:9 29:12 consideratio n 10:1 considered 31:7 constitutes 7:7 consultation 25:2 contact 18:16 24:7 24:13 25:5 25:9 25:12
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



contacted 28:16	criminal 25:1 27:5	32:16 33:1 33:2	described 15:1
contain 33:5	CROSS 17:17 18:8 26:23	day 16:3	details 14:25
continued 14:4 15:6 15:15	current 5:16 5:18	days 24:12 24:20	Detective 20:22 20:25 21:7 21:9 22:14 22:20 23:23 24:23 27:7
convene 7:19	cutting 22:24	decide 33:10	
convened 31:12	D	decision 29:17 32:2 32:12 33:7 33:9 33:10	
copies 25:23	date 5:19	declared 5:17	DHP 16:15
copy 7:12 14:12 15:13 20:6 20:19 21:1	dated 24:8 29:5	deduction 18:1	dial 5:22
Corey 6:23	daughter 18:16 18:19	deemed 29:22	different 21:14 23:12 23:16
corrections 20:10	Davis 5:7 5:10 6:11 6:14 6:17 6:20 6:23 7:2 7:5 8:8 8:21 9:4 9:13 10:3 12:6 17:14 17:18 18:5 18:23 19:5 21:21 22:3 23:2 23:8 23:11 23:18 26:15 26:18 27:12 27:16 27:22 27:25 29:9 29:24 30:1 30:6 30:8 30:10 30:12 30:13 31:2 31:14 31:24 31:25 32:9 32:14	deficit 18:13	difficulty 23:3
corresponden ce 25:16		deletions 20:11	direct 12:18 19:12 19:25
counsel 7:25 12:1 29:8		deliberation 29:16 29:23	Director 13:15 14:1 14:5
County 11:22 12:24 13:1 13:3 17:6 20:23		delivered 7:22	Disability 17:7
couple 21:13		Department 5:3 9:1 9:2 11:13 11:17 13:19 17:6 17:8 19:8 19:19 20:8	disclose 15:3
course 20:18 20:21 25:4 25:11		deposit 11:6 15:16	disclosed 28:9
court 8:16 9:7 9:8 12:16 19:10		deposited 11:2	disclosing 10:21
COVID 7:22		describe 13:22 15:25	disconnect 30:16
credit 17:25			discuss 9:16
			discussed 31:7

discussion 30:19	effective 33:7	12:16 19:11	9:22 10:11
Division 8:11	electronical ly 5:14	except 6:8	10:12 10:18
document 21:9 22:21 23:24	7:20	exchanged 25:23	10:21 11:8
documented 21:12 22:14 24:2 24:9 24:12 24:18	elevator 30:22	excused 19:4 27:21	11:21 13:19 16:10 17:23 17:24 19:23 27:6 29:18
documents 14:8 15:9 15:11 20:17	email 7:12 7:13 25:15 26:1 26:8	Executive 5:15 5:18 13:15 13:25 14:5	fact 11:6 28:1 28:13 29:3 29:6
door 16:6 16:6 16:10	emails 25:23	exempted 31:8	failed 10:16 28:23
Dr 6:11 6:13 30:8 30:9 31:20 31:21 32:15 32:22 32:23	emergency 5:17	exhibit 20:3	Falls 10:17 13:16 13:18 28:8
dropped 21:15 22:9 29:12	engage 28:6	Exhibit 1 12:2	family 12:23 14:11 14:13 24:25 25:10 27:3 27:10
due 5:16	enter 29:10	Exhibit 2 12:4 15:19 20:1 20:6 21:5 25:22	Faruk 6:18 6:19 26:17 26:21 26:24 30:6 30:7 31:16 31:17 32:18 32:19
duly 12:15 19:10	entered 30:13	exhibits 10:5 11:25 12:7 12:11	favor 30:2
during 5:21 11:19 18:10 20:18 20:21 25:4 25:11 25:17 30:17	entrance 16:12	exists 16:21	feedback 26:20
<hr/> E <hr/>	entry 33:7	expired 32:8	file 7:11 8:13
economic 10:11 28:25	Erin 6:21	exploitation 10:12 11:15 16:22 28:7 28:25	final 32:13
	evidence 9:20 10:23 12:7 12:12 14:17 16:24 18:11 20:1 26:2 26:7 28:22	face-to-face 15:2	financial 10:22 10:25 11:15 16:22 28:6 28:10
	exactly 18:20	<hr/> F <hr/>	findings
	EXAMINATION 12:18 17:17 18:8 19:12 26:23	facilities 10:9 13:5	
	examined	facility	

<p>16:16 17:3 28:1 29:3 29:6 33:8 finished 18:24 Firkin 20:23 20:25 21:7 21:9 22:20 23:23 27:7 Firkin's 24:24 first 7:10 7:17 7:23 11:11 16:3 24:10 five 7:6 33:3 Foley 7:3 7:4 8:1 8:5 8:9 8:19 8:19 8:21 8:24 10:2 10:6 10:7 12:8 12:8 12:13 12:19 19:5 19:7 19:13 23:20 27:13 27:15 27:23 27:24 28:3 29:9 Foley's 6:3 6:9 Forces 8:17 form 33:4 formal 5:1 5:8 5:13 7:9 8:14</p>	<p>9:14 29:5 33:9 33:12 forth 29:4 29:6 32:13 forward 27:4 framework 9:24 Fredericksbu rg 10:18 free 28:25 Freedom 31:10 front 16:6 16:11 full 18:15 funds 11:8 24:15 26:3 28:17 <hr/>G General 6:21 Georgen 6:24 7:1 29:20 getting 26:20 gift 14:10 given 11:9 21:11 23:25 giving 18:17 24:8 God 9:10 governing 9:21 Governor</p>	<p>5:16 5:19 guess 17:24 <hr/>H <hr/>hand 9:6 Harmony 10:17 13:15 13:18 28:7 having 10:25 12:15 19:10 23:3 Health 5:3 9:3 11:17 19:9 19:19 hear 19:14 19:15 22:1 22:16 22:17 22:17 22:19 23:1 24:6 30:18 30:22 heard 22:24 hearing 5:9 5:13 5:13 5:24 7:9 7:19 8:12 8:14 8:17 9:5 9:14 9:19 9:24 12:3 14:24 20:4 23:4 29:5 33:9 33:12 held 9:14 Hello 12:20 help 9:10 helped 26:20</p>	<p>Hold 23:11 holds 10:12 home 11:1 14:1 Hotline 13:10 Hunt 6:9 6:10 29:10 29:14 30:4 30:5 31:2 31:4 31:18 31:19 32:4 32:10 32:20 32:21 <hr/>I <hr/>I'd 12:13 14:16 15:18 19:7 19:25 21:4 25:21 identified 31:11 identify 8:18 I'm 12:23 21:22 included 30:14 incorrect 16:4 indicate 6:7 indicated 7:13 22:12 information 8:9 15:10 26:9 31:10</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

33:4 Inker 6:12 6:13 30:8 30:9 31:20 31:21 32:15 32:22 32:23 Instead 16:11 intact 20:19 internal 11:20 interruption 5:21 5:23 interview 20:22 25:14 25:17 interviewed 16:2 interviews 20:14 introduce 11:25 investigate 13:4 13:11 investigatio n 11:14 11:18 11:20 11:21 14:19 16:19 17:2 18:3 18:11 19:22 20:18 20:22 24:24 25:5 25:12 investigativ e 12:5 20:7 28:5	investigator 11:16 16:15 19:18 19:21 issued 5:15 7:8 <hr/> J <hr/> Jackson 6:15 6:16 18:6 18:9 29:25 30:2 30:10 30:11 31:22 31:23 32:24 32:25 Jenny 6:11 Jocelyn 9:1 11:12 12:14 12:15 12:22 joined 30:22 <hr/> K <hr/> Keen 9:2 9:12 11:16 16:15 19:8 19:10 19:14 19:18 21:21 21:24 21:25 22:3 22:13 22:16 23:1 23:3 23:7 23:10 23:12 23:16 23:23 26:11 26:16 26:18 26:22 26:25 27:16 27:20 28:13 knew 11:4 28:12	knowledge 31:5 known 11:5 16:3 28:13 <hr/> L <hr/> landline 23:3 language 33:6 last 24:13 late 28:15 law 17:7 28:2 29:4 29:7 lawfully 31:8 laws 9:21 leave 16:5 16:12 leaving 16:8 16:9 16:11 ledger 15:12 legal 9:24 let's 22:19 23:22 letter 14:9 14:12 16:14 16:23 letting 26:8 license 9:17 32:7 32:11 licensed 10:8 10:17	13:19 Licensing 17:9 line 6:2 6:3 6:6 6:8 8:25 19:1 19:2 little 21:22 26:19 live 7:14 living 9:22 10:9 10:11 10:12 10:18 13:5 13:5 13:19 19:22 29:18 32:11 loan 14:10 lobby 30:17 30:17 30:21 local 17:6 located 21:23 locked 30:20 log 18:25 27:19 30:16 long 12:25 longer 16:21 16:21 18:24 27:17 Long-Term 5:4 5:11 17:7 31:6 32:5 <hr/> M <hr/>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>mail 7:10 7:11 7:17 7:23</p> <p>mailing 7:15 7:21 12:4</p> <p>manner 29:1</p> <p>March 10:24</p> <p>marked 12:10</p> <p>Martha 6:9</p> <p>matter 5:9 24:24 29:17 32:2</p> <p>matters 9:25 10:4 31:8 31:11</p> <p>may 5:19 6:6 7:22 9:20 23:6 32:1</p> <p>mean 16:10</p> <p>meeting 5:14 29:14 29:20 29:21 30:19 30:23 31:9 31:12</p> <p>member 6:9 6:11 6:14 6:17 14:11 14:13</p> <p>members 7:6 17:12 17:15 18:6 26:13 26:15 27:13 31:6</p> <p>mentioned 11:10</p>	<p>met 15:2</p> <p>Miller 5:2 5:9 7:3 7:8 7:13 7:24 8:2 8:3 8:6 8:12 9:17 9:18 10:15 10:24 11:4 11:9 13:8 13:15 14:8 14:14 14:20 15:21 16:1 16:16 16:25 17:20 18:1 19:23 20:8 21:2 21:11 22:23 24:1 24:7 25:12 25:18 25:24 26:2 26:6 28:6 28:8 28:9 28:16 28:21 28:23 29:17 32:3 32:13 33:4 33:12</p> <p>Miller's 8:15 11:18 13:24 15:17 32:6 32:10</p> <p>Mitchell 5:10</p> <p>money 14:3 14:5 14:6 24:11 24:19</p> <p>Morales 9:1 9:11 11:12 12:14 12:15</p>	<p>12:20 12:22 17:10 18:10 18:24 19:3</p> <p>motion 30:15 31:11 32:1</p> <p>move 27:4 29:19 32:4</p> <p>multiple 24:3</p> <p>music 30:22</p> <p>mute 6:2 6:7</p> <p>muted 6:3</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>nature 13:23</p> <p>necessary 29:22</p> <p>neglect 13:4</p> <p>nor 7:25 25:10</p> <p>Northern 19:20</p> <p>note 7:24 18:17</p> <p>nothing 9:9 18:2</p> <p>notice 7:9 7:15 7:18 8:1 8:5 8:11 9:19 9:23 12:2 29:4</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>occasions</p>	<p>11:7 24:3</p> <p>occupation 12:21 19:17</p> <p>offer 26:2</p> <p>offered 14:4</p> <p>office 11:22 13:7 20:23 27:1</p> <p>Okay 5:7 9:13 13:14 14:13 14:16 15:8 16:13 17:10 18:22 18:23 22:7 22:19 23:8 23:13 23:18 23:20 24:21 25:4 25:11 25:17 26:11 26:14 27:3 27:11 27:13 27:16 27:20 27:22 27:25 30:2 30:13 31:2 31:25 32:16</p> <p>old 10:20</p> <p>Ombudsman 17:6</p> <p>open 31:3 31:9 32:1</p> <p>opening 10:4</p> <p>Option 5:23</p> <p>order 5:10 5:15 5:18 7:7 32:13</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

33:5 33:5 33:8 orders 33:6 organization s 17:4 oriented 18:14 18:21 original 22:5 outcome 24:23 outline 33:11 <hr/> P <hr/> p.m 5:6 31:1 31:1 33:15 page 16:14 pages 14:18 15:19 21:5 25:22 paid 17:19 panel 33:10 participants 30:18 particulars 9:20 parties 8:17 pay 18:1 permission 18:16 18:17 personal 10:21 11:3 persons 9:5	phone 25:14 30:22 photos 15:20 picked 14:22 picture 18:18 platform 5:15 please 5:22 6:1 9:6 10:6 12:8 12:20 17:11 19:16 22:4 26:12 29:10 30:2 30:15 31:3 point 11:24 police 11:21 21:1 21:6 22:7 28:14 portion 15:21 position 16:23 possible 23:4 Postal 7:17 potential 11:15 13:4 practice 9:22 29:1 preliminary 9:25 10:4 presence 6:7 29:21	present 7:1 7:7 7:25 8:22 8:25 presentation 10:5 presented 12:8 presiding 5:12 previously 12:1 12:10 14:17 20:2 prior 20:3 problems 10:22 10:25 28:10 proceed 8:14 12:9 23:21 proceeded 15:5 proceeding 8:15 8:23 33:14 Proceedings 8:11 process 14:1 23:13 33:11 Professions 5:3 9:3 11:17 19:9 19:19 proper 8:1 8:5 8:11 proposed 28:1 29:6	prosecutor's 27:1 protect 28:24 protecting 10:13 protective 11:12 16:20 protects 10:10 29:1 provide 15:4 15:8 15:11 20:25 26:2 26:6 provided 7:15 7:18 8:12 12:1 14:17 20:2 21:6 22:22 29:7 public 6:1 31:10 purchase 11:1 purpose 9:16 29:16 purposes 14:24 pursuant 5:15 9:14 29:15 pursue 25:1 <hr/> Q <hr/> question 17:16 22:5
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

22:20 26:17 26:21	referencing 24:15	22:4 23:15	17:1 17:19
questions	referring 14:22	repeated 18:19	18:12 18:12 21:10 21:12 21:19 22:8
17:11 17:12 17:15 18:23 26:12 26:13 26:16 27:12	reflect 33:3	report 5:21 12:5 13:7 13:10 13:12 13:14 13:23 13:25 14:3 14:19 17:3 17:5 20:7 21:1 21:6 22:7 28:5	22:14 22:21 23:24 24:7 25:5 25:19 26:4 28:7 28:7 28:10 28:14 28:16 28:19 28:24
quorum 7:7	reflected 20:14		
<hr/> R <hr/>	regarding 8:3 8:7 9:20 11:18 13:8 13:23 14:19 16:15 20:8 21:2 21:10 23:24 32:2		residents 10:14 29:2
raise 9:6	Region 19:20	reported 28:14	Respondent 7:2
RE 5:2	regulations 9:21 10:9	reporter 8:16 9:7 9:8 12:16 19:11	responsibili ty 10:16 28:24
reach 29:16	reimburse 17:1 28:12	reports 11:19 13:4	responsible 10:13
reason 29:2	reimbursed 11:8	representati on 8:9	restored 6:1
receipt 7:21	reimbursemen t 15:5	represented 7:25	result 5:24 16:18
receive 13:7 14:12 15:15 26:9 26:10 27:9	related 10:25	requirements 31:9	returned 7:23
received 8:2 8:6 9:19 13:9 13:23 15:12 15:12 16:25 25:15	release 27:14	rescinded 5:19	review 20:3
reception 21:23 23:6	remember 6:1	resident 10:10 10:20 10:24 11:4 11:6 11:15 14:2 14:4 14:7 14:13 14:23 14:23 14:24 15:8 15:21 15:25	revoke 32:5 risk 16:21 Robert 20:22
record 7:6 7:11 8:13 8:18 20:12 33:2	renew 32:9 32:11		role 13:3 19:21
recorded 8:16	repairs 5:25		roll 6:4 30:3 31:14 32:17
refer 15:18	repeat 21:24 21:25 22:2		rule 8:11
referenced 15:22 22:8			

Run 10:17 13:16 13:18 28:8 <hr/> S <hr/>	16:20 17:9 session 29:11 30:14 30:17 30:24 30:25 31:3 32:1	6:23 24:4 Stafford 11:22 12:23 13:1 17:5 20:23	19:8 19:10 Steven 19:18 story 18:20 submitted 20:7
Sarah 6:24	sets 9:23	stamped 14:18 15:19 16:14 21:5 25:22	sufficient 26:3
Scott 5:2 5:9 7:2 9:17 10:15 13:8 19:23 20:8 21:2 29:17 32:3 33:12	Sheriff's 11:22 17:6 20:23	standard 33:6	sure 21:22 suspension 5:25
screen 30:21	showing 15:13 15:22 23:5	Standards 10:8	swear 9:8
second 11:16 23:11 29:24 29:25 32:14 32:15	shown 28:23	start 5:8	sworn 9:6 12:15 19:10
Section 29:15	sign 14:7 18:17	state 5:17 12:21 13:9 14:4 19:16	<hr/> T <hr/>
select 5:23	signed 7:22 14:9	stated 13:25 28:16	talk 17:23 18:19
Senior 11:16 19:18	sir 10:2 23:15 26:21 27:22	statement 9:19 12:3 15:13 28:1	terminated 16:23
seniors 13:5	situation 16:5	statements 10:5	termination 24:11
sent 7:10 7:12 7:16 17:20 32:13 33:4	Social 9:1 11:13 13:20 17:8	states 7:16 33:8	testified 12:16 19:11 28:14
separate 31:8	sort 14:7	stating 14:10	testify 8:23 11:14 11:17
September 5:5 7:20	speak 6:8 26:25	status 30:17 30:18	testifying 9:5
Service 7:17	speaking 6:2	stay 19:1 19:2 27:18 30:15	testimony 27:17 28:4 28:23
services 9:2 11:12 11:13 12:23 13:20	Specialist 8:10 12:23	Steve 9:2 11:16 16:15	thank 6:20 7:5 8:8 9:4 10:7 12:13 15:18 17:10
	specified 7:19		
	staff 6:7		

17:14 18:22 19:3 20:21 24:6 24:21 26:11 26:14 26:20 27:8 27:11 27:16 27:20 27:22 29:8 29:9 30:1 30:24 themselves 8:18 Therefore 8:14 28:22 third 28:19 Tillman 6:24 29:19 today 8:4 9:16 10:15 10:23 11:11 tried 21:12 24:2 truth 9:9 9:9 9:10 try 15:15 22:20 23:22 trying 24:19 TUESDAY 5:5 turn 14:16 21:4 25:21 26:19 turning 16:13 type 18:12 <hr/> U <hr/>	Unfortunatel y 28:18 United 7:16 unless 6:2 19:1 unmuted 6:6 upon 8:8 9:17 33:7 USPS 7:10 <hr/> V <hr/> valid 28:13 verbally 6:7 versus 16:6 via 5:14 video 23:6 violated 9:21 Virginia 5:3 5:11 5:18 7:14 9:16 9:18 9:23 10:8 10:19 29:16 31:9 virtual 8:4 30:16 volume 20:1 26:19 vote 33:3 votes 32:17 <hr/> W <hr/> Webex 5:14 18:25 23:5	27:19 30:15 30:23 weeks 28:15 welcome 19:2 27:18 well-being 10:14 29:1 we're 5:7 16:13 22:16 23:3 23:20 26:20 30:3 we've 23:19 WHEREUPON 12:10 19:4 21:15 22:9 27:21 29:12 30:25 33:14 whole 9:9 11:8 16:4 witness 17:15 19:4 27:14 27:21 witnesses 8:22 8:25 11:11 19:6 27:23 28:4 Wolf 6:24 6:25 29:19 31:16 31:18 31:20 31:22 31:24 32:18 32:20 32:22 32:24 33:1 wondering 22:4 worked 12:25	worker 11:13 write 15:5 16:24 writing 28:15 written 15:16 24:17 wrote 11:4 14:19 15:14 16:14 26:4 <hr/> Y <hr/> York 7:15 7:18 7:21 <hr/> Z <hr/> zero 33:3
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------