

FOR THE CASE OF
Rulemaking Hearing

TRANSCRIPT OF
Elevator & Amusement Device Safety Board

June 2, 2015

Stone & George

COURT REPORTING

2020 Fieldstone Pkwy

Suite 900 - PMB 234

Franklin, TN 37069

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1. STATE OF TENNESSEE
 2. DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT
 3. ELEVATOR & AMUSEMENT DEVICE SAFETY BOARD
 4. DIVISION OF WORKERS' COMPENSATION

10. TRANSCRIPT OF PROCEEDINGS

11. OF
 12. RULEMAKING HEARING

13. June 2, 2015

14. BEFORE: Robbie Fox, Chairman

22. -----
 22. STONE & GEORGE COURT REPORTING
 www.stoneandgeorge.com
 23. Meredith Muse Wilkins, LCR, Associate Reporter
 24. 2020 Fieldstone Parkway
 Suite 900 - PMB 234
 Franklin, Tennessee 37069
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1. A P P E A R A N C E S
 2.
 3.
 4. Ron Sidler: Chief Elevator Inspector for the State
 of Tennessee, Department of Labor
 5.
 6. Carlene Bennett: Board Secretary
 7.
 8. Kelly O'Connor: Board Member
 9.
 10. David Hale: Board Member
 11.
 12. Robbie Fox: Board Member
 13.
 14. Lewis Moorer: Board Member
 15.
 16. Larry Moore: Board Member
 17.
 18. Mitch Rader: Board Member
 19.
 20. Mark Finks: Assistant Administrator for the
 Workplace Regulations and Compliance Division
 21. Dan Bailey: Legal Counsel
 22. Wayne White: Independent Ride Inspector
 23. Chris Farmer: Board Member, Association Challenge
 Course Technology
 24.
 25. Don Stock: Board Member, Association Challenge
 Course Technology
 Anita Rhodes: Assistant Advisory
 Leanne Durm: Legislative Liaison

1. The above-styled cause came on for
 2. hearing on this the 2nd day of June, 2015, before
 3. Robbie Fox, Vice President of Safety and Security at
 4. Dollywood, at 220 French Landing Drive, TOSHA Hearing
 5. Room, 1st Floor, Nashville, Tennessee, when and where
 6. the following proceedings were had, to wit:

1. * * *
 2. P R O C E E D I N G S
 3. MR. FOX: Folks, thank you. Thank you,
 4. everyone, for being here today. And we will call the
 5. June 2nd, 2015 meeting of the Elevator and Amusement
 6. Device Safety Board to order. Introductions -- well,
 7. first of all, let's change that up and let's do the
 8. pledge first.
 9. And, Mr. Hale, if you will, sir.
 10. (WHEREUPON, the Pledge of Allegiance was
 11. cited.)
 12. MR. FOX: Please be seated. All right.
 13. Mr. Sidler, if you would start us off.
 14. MR. SIDLER: Well, I'm Ron Sidler. I'm
 15. the Chief Elevator Inspector for the State of
 16. Tennessee, Department of Labor.
 17. MS. BENNETT: Carlene Bennett, Board
 18. Secretary.
 19. MS. O'CONNOR: Kelly O'Connor, Board
 20. Member.
 21. MR. HALE: David Hale, Board Member.
 22. MR. FOX: Robbie Fox, Board Member.
 23. MR. MOORER: Lewis Moorer, Board Member.
 24. MR. MOORE: Larry Moore, Board Member.
 25. MR. RADER: Mitch Rader, Board Member.

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1. MR. FINKS: Mark Finks, Assistant
2. Administrator for the Workplace Regulations and
3. Compliance Division.
4. MR. BAILEY: Dan Bailey, Legal Counsel.
5. MR. FOX: And you, sir?
6. MR. WHITE: I'm Wayne White, Independent
7. Ride Inspector.
8. MR. FARMER: Chris Farmer, Assistant
9. Chief Elevator Inspector.
10. MR. STOCK: Don Stock, Board Member,
11. Association Challenge Course Technology.
12. MS. RHODES: Anita Rhodes, Assistant
13. Advisory.
14. MS. DURM: Leanne Durm, Legislative
15. Liaison.
16. MR. FOX: Again, thank you, everyone, for
17. being here today. I have to make an announcement.
18. If there is any event of an emergency or a natural
19. disaster, security personnel will take attendees to a
20. safe place in the building or direct them to exit the
21. building on Rosa Parks side. Where is that at? This
22. side?
23. (IN UNISON:) That side.
24. MR. FOX: That side. All right. Next
25. item on the Agenda, Chief Inspector of the Court,

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1. Mr. Sidler?
2. MR. SIDLER: Well, it's been a while
3. since I've been able to say this: But our staff, our
4. inspectors, field inspectors, are all working and no
5. one is out on sick leave or any disability. So we
6. are at full staff, as far as health. We're still
7. two -- two inspectors short, due to being unable to
8. fill those positions. The economy, as you can look
9. around Nashville and see all the cranes, and I think
10. it's reflected around this state, as far as
11. construction and elevators, is it's booming. There
12. is a lot of construction and a lot of work; somebody
13. has got a lot of money. They are still building
14. buildings and putting in elevators, so our staff is
15. very busy.
16. And I am proud to announce that our group
17. of inspectors are 99.9 percent certified now. That's
18. almost 100 percent pure. One of our inspectors still
19. lacks his credentials. Are there six, Chris, are in
20. for their promotionals? Hopefully, they'll all go
21. through this -- this month. So we're proud of those
22. guys, and it's an achievement to get that
23. certification. I think everybody has got a copy of
24. this resolution.
25. Well -- all right. I had planned to --

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1. was asked to visit the ThyssenKrupp manufacturing
2. plant in Middleton. As y'all know, I had an
3. opportunity to go to the towers a few years ago and
4. see their new equipment. Thyssen got a Leader and
5. Energy and Environmental Design, a LEED Gold
6. certificate, which is very rare in the industry to
7. get that and for what they've done with their plant.
8. Basically, it gives all the description of what
9. they've done within their plant to save power and to
10. be a green facility.
11. And Senator Gresham has this Resolution
12. 30 that they put before the Senate to pass. And they
13. basically save enough kilowatt hours to power all the
14. homes in the Middleton area with what all they've
15. done. So it's an award that, I guess, we need to
16. congratulate them on. I had -- the plans were first
17. to visit and see that before this board meeting and
18. have them here, but it didn't work out. I'm going
19. tomorrow.
20. MR. MOORER: What was the name of the
21. award?
22. MR. SIDLER: It's the -- it's the LEED,
23. L-E-E-D. It's the Leadership in Energy and
24. Environmental Design. So I just thought I would
25. bring that out. You know, when someone in my

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1. industry gets that award, I thought it was -- you
2. know, we ought to applaud them.
3. The other thing is -- I guess, the big
4. item on the agenda -- this will probably be my last
5. board meeting. I've enjoyed working with everyone
6. here for the years that I have. As you know, there
7. is a state buyout, and I have been offered that. So,
8. unless something changes, this will probably be my
9. last board meeting. And I'm sure that as things
10. continue on and people step up and, you know, in a
11. year or so they'll forget that I was ever here. But
12. I have enjoyed -- I know that this board is not the
13. same board I started with; a lot of people come and
14. go. But I appreciate y'all's hard work; it's all
15. voluntary. Well, I'm paid to be here; I know y'all
16. are not. So I applaud y'all for your time that y'all
17. always dedicated to the State. So that's all I got.
18. MR. FOX: Mr. Sidler, I can only say
19. thank you for the years that you have put in for the
20. State and certainly thank you for the help that
21. you've given this Board and myself and the leadership
22. and the guidance. Because without you, I'm not sure
23. we would've made it in this regard with some of the
24. things that have come up. Again, you certainly have
25. our respect and admiration. And I just want to say,

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1. again, thank you and what you've meant to us.
2. MR. SIDLER: You're welcome. I
3. appreciate it. I just want to, you know, tell y'all
4. that. It's probably -- I don't see a way that it's
5. not going to happen. As I mentioned, David Letterman
6. his first year said he was retiring at 68, and that's
7. when I realized that's how old I was; I hadn't even
8. thought of that. Again, my buddy David and I are
9. retiring in the same year. That's kind of the way it
10. looks at this point. But it's all stemmed about
11. while I was on vacation, and yesterday was my first
12. day back. So it's kind of a snowball deal, but I
13. think it's a good way to end it at this point.
14. MR. FOX: Well, if you're getting a
15. parachute, I would say jump off.
16. MR. SIDLER: Well, if it will open. If
17. it will open.
18. MR. FOX: Okay. Anything else?
19. Item Number 6: Old business. No old
20. business listed at this point.
21. Item Number 7: Any new business come
22. before the board? There's none listed.
23. Item Number 8: Some discussion items.
24. Legislative update. Specifies the Senate Bill 0024;
25. House Bill 0234 specifies the climbing walls are not

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1. considered "amusement devices" and not subject to
2. regulation by the Department of Labor and Workforce
3. Development. That -- that law apparently has passed
4. and so those were taken off of the actual inspection
5. list. The positive thing, the Senate Bill 0235 and
6. House Bill 0352 extended or extends the Elevator and
7. Amusement Device Safety Board until June 30 of 2019.
8. If you remember, we -- some of us went
9. before the legislative body. I guess it was earlier
10. this year referenced to the sunset law and they had
11. extended us for a year at that time and we were under
12. review, and apparently, the legislative body has come
13. back and said that we -- I guess, for lack of a
14. better term -- done okay. So they've extended us
15. for -- out until 2019. I guess that's a good way to
16. put that.
17. Any questions about those two things?
18. Okay. I want to go back. The next item
19. on the Agenda under Number 8. We had a workshop here
20. on the 22nd; some of you were here. We discussed the
21. Fee Schedule: Rock Climbing Walls, Inflatables,
22. Amusement Rides in General. There is a lot of
23. discussion about those things. We did talk about
24. that law being changed on the rock climbing walls,
25. and we discussed inflatables. And -- and I think

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1. that was primarily or that -- I guess, the gist of
2. the conversation was to set a few for inflatables at
3. that time.
4. Mr. Hale, you had a -- you had a proposal
5. or a suggestion on those inflatables, as to what to
6. do?
7. MR. HALE: Well, I have received numerous
8. calls from all across the state in reference to what
9. our plan was for inflatables. And the inflatable
10. industry people that I have talked with biggest
11. concern is not so much the state fee, but the burden
12. that third-party inspection is placing on -- on
13. inflatables.
14. And first I want to say that all of those
15. folks recognize, as I do, that there is a difference
16. between mechanical devices and those inflatables.
17. And I'm certainly not advocating to not have
18. third-party inspections for mechanical devices,
19. Ferris wheels, and roller coasters, and a list that
20. goes on. And I -- the problem that the inflatable
21. industry is having is this: A third-party
22. inspector -- and I realize I can't speak for every
23. third-party inspector, and I won't speak for you --
24. but they are indicating to me that third-party
25. inspectors are asking them between \$100.00 and

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1. \$150.00 per inflatable to inspect and requiring them
2. to set every device that they've got up all at once
3. so that they can make one trip to do that.
4. Well, if you own 60 inflatables and
5. you've got to bring in enough manpower to set 60
6. inflatables up, find a location large enough to set
7. 60 inflatables up, and pay a \$100.00 to \$150.00 per
8. device, you -- you have generated \$6,000.00,
9. \$8,000.00 cost just to try to get that inspection
10. done. And you haven't even paid your State fees yet,
11. and both of those inflatable owners are asking that
12. we look at -- all of them are fully supportive of us
13. requiring insurance for those, obviously,
14. registration. Really nobody has fussed about the
15. permit fees.
16. They're asking that there be some type
17. of -- of way to establish that they could show proof
18. of a self-inspection program that they're working
19. with their insurance provider, for instance, to look
20. at those devices, as opposed to us requiring that
21. third-party inspection just specifically for the
22. inflatables, not any other devices.
23. All of those folks -- most of them that I
24. spoke with own other type of devices and they said,
25. you know, hey, I know I've got to have third-party

1. inspections on those other devices. So that --
2. that's where I am with that. I would like to see us
3. evaluate that in some way, just specifically for the
4. inflatables, not other devices.

5. MR. FOX: Comments, questions?

6. MR. SIDLER: Just a question in general.

7. When you said -- I think, for education, probably for
8. everyone including myself: When an inflatable
9. industry owner, whether he owns other things or not,
10. he has insurance, which you will have, of course,
11. isn't there -- is there an inspection required with
12. that? How do they do that; how do they handle that?
13. You know, if I'm an insurance company agent or
14. provider, how do I -- what do I do to look at that?

15. MR. HALE: My experience with that has
16. been that the insurance company is looking for -- and
17. I can only speak for when I owned inflatables. I've
18. sold all of mine, and I have no -- you know, I don't
19. have a personal interest in the inflatables at this
20. point -- but was that they asked me to show proof
21. that I had an ongoing program -- safety program and
22. those kind of things, and I had to show proof that I
23. was doing safety work with my employees, that I -- we
24. had a maintenance schedule showing that somebody
25. looked at that device when it was up and did a visual

1. inspection of it. That's the way my insurance
2. provider did it.

3. MR. RADER: Or they could hire a loss
4. control -- an independent loss control.

5. MR. FOX: Sure. They could hire an
6. inspection if they wanted to.

7. MR. RADER: And their insurance -- some
8. insurance companies may require that.

9. MR. SIDLER: I was just curious for, you
10. know, information. Thank you.

11. MR. FOX: And if I remember correctly,
12. Ms. Jefferson gave us some stats, and I will try to
13. get close to these. But there are, like, 353
14. inflatable companies across the state of Tennessee.
15. Is that a fair number; that we got to get close on
16. that?

17. MS. BENNETT: I don't think we know how
18. many there are. Mark may have more information on
19. that.

20. MR. FINKS: I don't know if I have that
21. information.

22. MR. HALE: I think she shared with us in
23. the workshop that 353 number and 3,000 and something
24. as the number of devices that were believed to be out
25. there.

1. MR. FOX: So there's quite a few of them
2. that's reported.

3. MR. RADER: What is the current protocol
4. for the inspection now? So you have a third-party
5. inspector to go out, and is there even a reason?

6. MR. HALE: Up until now -- up until
7. recently, we have not focused and maybe that's -- if
8. I misquote, you may say so. But we have not focused
9. on inflatables as much as we have mechanical devices.
10. And so now that we are placing more emphasis on
11. fining all of those inflatables, there -- there now
12. is a question about whether they have to comply with
13. that third-party inspection, like all devices, or
14. whether there should be a different --

15. MR. RADER: A self-inspector.

16. MR. HALE: Yeah, a different methodology
17. for those folks.

18. MR. RADER: And I guess from the -- from
19. the amusement device units, we're concerned if we do
20. create an exception, we would have to do that very
21. carefully to do that, if we did that at all. But to
22. create an exception for the amusement device -- for
23. the inflatables, we are afraid that maybe some of the
24. other areas might say, well, you made an exception
25. for the inflatables; why don't you make an exception

1. for us?

2. We are afraid that if we do open that --
3. that door, that it may be a wide floodgate.

4. MR. HALE: And I -- and I certainly can
5. see that side of it; however, I think that the
6. inflatables are a little different niche in this, and
7. I would never advocate for a reduction in inspection
8. of mechanical devices, but -- whatsoever. And so I
9. really think there's a different niche here, and
10. maybe it's similar to the situation we got that we
11. just dealt with, you know, on the climbing walls.

12. I -- I really would like to see us
13. resolve this as a board, as end up in another
14. situation at the legislature where the
15. representatives of the inflatable industry are down
16. there trying to get themselves completely exempted.
17. And even from a financial aspect with the support of
18. what we are trying to accomplish here is if multiply
19. out the \$25.00 times the 3,000 and something number
20. that you gave us of the anticipated devices and the
21. permit -- the annual permit fee for the business
22. times 353 businesses, that's a substantial income
23. for -- for the board -- for the State to support
24. putting inspectors -- state inspectors out there.

25. And I would rather see us deal with it in

1. this manner than totally lose any control over them.
 2. At least, we will be ensuring that they are
 3. inspected, that we know who they are, and they are
 4. insured, and that we know who they are. So -- and
 5. that gives us a way if there is an accident involved
 6. and want them to be able to go to that site and with
 7. an inspector and say, you know, here -- here is what
 8. the situation is. If we allow it to become a
 9. legislative issue, we are going to lose all control;
 10. I would rather obtain some control than none.
 11. MR. FOX: And that's exactly what the
 12. rock climbing group did to us.
 13. MR. HALE: Yep.
 14. MR. RADER: Well, not to move away from
 15. this topic, but we're kind of putting a cart before
 16. the -- that we don't have an inspector as we stated.
 17. So I think that should -- that's got to be addressed.
 18. MR. FOX: Absolutely agree.
 19. MR. HALE: Absolutely. And let me say
 20. this: I have -- I have not talked to anybody in the
 21. mobile entertainment industry, inflatable business,
 22. carnival operator who is opposed to a state inspector
 23. walking in and looking at their equipment, nobody.
 24. And because we put these regulations and these laws
 25. in effect in Tennessee, those lists of reputable

1. folks went somewhere where there wasn't something to
 2. protect their system.
 3. Do you believe that to be a fair
 4. statement?
 5. MR. FOX: That's fair.
 6. MR. HALE: And I deal with carnivals
 7. daily, and nobody has ever said to me, I sure wish
 8. y'all could appeal that law, or I sure wish the
 9. inspector wouldn't come see me.
 10. I have a lot of them call and say, why
 11. hadn't there been one here; why hasn't the state
 12. inspector stopped by to see me?
 13. Well, because we don't have one; that's
 14. why. So what am I supposed to do if I -- you know,
 15. if I have an accident; who is supposed to come look
 16. at me?
 17. MR. RADER: Well, I'm in the exposure
 18. business, and it's hard for me to wrap my arms around
 19. why we have so many elevator inspectors, not to
 20. prolong in that department. And we don't have one
 21. state inspector for amusement out.
 22. MS. O'CONNOR: I'm just appalled at the
 23. fact that we don't have any. I mean, that's just
 24. appalling because all it takes is one person to get
 25. hurt, and the media is going to be all over that; why

1. did this happen? And we don't have an answer, other
 2. than financial, and that's just not good enough.
 3. MR. HALE: Well, and let me say this, and
 4. I think you will eventually agree with this: It's
 5. important for that inspector to go out there and
 6. decide -- sometimes decide that the device is not at
 7. fault. You know, sometimes it's -- it's a rider
 8. responsibility problem. But without that inspector
 9. to go out there and say -- make that determination --
 10. MR. RADER: Absolutely.
 11. MR. HALE: The ride didn't misbehave; the
 12. rider misbehaved. And so to me it's a -- and I think
 13. the mobile industry sees it that way, too. But they
 14. want somebody to come out there and look at that
 15. device and say, there's nothing happened with this
 16. device; that -- that rider decided to stand up in the
 17. Ferris wheel and fell out. The safety devices were
 18. in place; they defeated them.
 19. The unfortunate situation in Georgia
 20. where the guy climbed two chain link fences to get in
 21. to the restricted area of the ride and got hit by the
 22. ride, I mean, you know, those kind of things happen
 23. yearly, unfortunately.
 24. MR. FINKS: The amusement device -- we
 25. are currently in communications with our human

1. resources division and our fiscal division. We
 2. understand that the board -- the number of members on
 3. the board have been advocating for at least one or
 4. two, possibly even three inspectors, and we have been
 5. in communication like fiscal and with human
 6. resources. We're still in communications with them
 7. to see if that might be possible.
 8. MR. FOX: With that being said, I would
 9. like for this Board to entertain a motion. And the
 10. motion is that we recommend -- we're requesting that
 11. the State of Tennessee hire three inspectors; one for
 12. each grant division. We would take two the first
 13. year and hire the third one in the second term. We
 14. understand budgeting and those sort of things. And
 15. that -- well, I'll see if I can get a motion.
 16. MR. HALE: So moved.
 17. MS. O'CONNOR: Seconded.
 18. MR. FOX: Any discussion? Okay. Let me
 19. add one caveat to that. That we take that motion, or
 20. if the Board passed it, that we ask Mr. Bailey and
 21. Mr. Finks to take that recommendation to the
 22. Commissioner and let him know of our request and see
 23. if he can help us in that regard.
 24. Would you accept that as a secondary or
 25. an amendment?

1. MR. RADER: As part of the motion?
 2. MR. FOX: Yeah, as part of the motion or
 3. amendment.
 4. MR. RADER: All right.
 5. MR. FOX: Any other discussion?
 6. MR. RADER: What I see moving forward is,
 7. at least in my position as a board member, we can
 8. keep battling back and forth, and we don't have
 9. inspectors moving forward. I have a concern from a
 10. liability standpoint from me sitting in this chair,
 11. because I was -- I was asked to represent this board
 12. for the state of Tennessee and make decisions based
 13. on the safety of the amusements. And without an
 14. inspector, I can't do that. And I don't want to come
 15. to Nashville every quarter, every meeting, and be
 16. battling back and forth trying to decide is there
 17. enough money for one, two, or three inspectors.
 18. So I'm saying a lot to your motion to say
 19. somehow I would like to add to that motion. If we
 20. can't agree to that, then what's the purpose of this
 21. board? If we're not going to be a non -- going to be
 22. a nonfunctioning board, we're not going to be heard,
 23. to me, that's -- that's extremely important to have a
 24. safety inspector or multiple safety inspectors out
 25. protecting the citizens and protecting the best

1. interest for the state of Tennessee.
 2. MS. O'CONNOR: And I would second what
 3. Mr. Rader said. I said the same thing in the
 4. workshop. And, quite frankly, if we don't have those
 5. inspectors, I see no purpose for this board at all
 6. with regards to the amusement devices. Obviously, we
 7. still have work to be done with the elevators. But
 8. with the amusement devices, it seems pointless to be
 9. here, as far as the inspecting goes.
 10. MR. HALE: Well, and I don't think any of
 11. us believe that three inspectors can look at every
 12. single amusement device that is in the state of
 13. Tennessee.
 14. MR. RADER: No.
 15. MR. HALE: Now, however, because we do
 16. have in place the requirement of the third-party
 17. inspection, I believe that it's important for our
 18. inspector to be able to respond to accident
 19. situations, to do spot checks, as we talked about in
 20. the workshop, to follow up on manufacture safety
 21. bulletins that are -- that are put out to ensure that
 22. if XYZ carnival company has a particular ride that
 23. has a safety bulletin, our inspectors should be
 24. following up to ensure that -- that they have
 25. complied with the manufacturers' recommendation in

1. that safety bulletin.
 2. There -- there is no way that your
 3. inspector is going to look at every device; however,
 4. they can make a tremendous impact in making sure that
 5. the -- that the third-party inspections are accurate
 6. and in those areas that I just outlined. I keep
 7. saying my same spiel about, you know, this is like
 8. having, you know, you have the chief and chief dog
 9. and shepherds and the sheep are the ride owners and
 10. the chief dog are the third-party inspectors, but you
 11. still gotta have the shepherd to make sure that
 12. everything is being done the way it's supposed to be.
 13. We're lacking a shepherd at this point.
 14. MR. FOX: Or two of them.
 15. MR. HALE: Multiple shepherds. We've got
 16. a big plot, so we need multiple shepherds.
 17. MR. FOX: Okay. Any further discussion?
 18. I think I'm going to try to restate the motion that
 19. we are recommending, requesting, whatever verbiage we
 20. need to use, that we need to hire a minimum of two
 21. inspectors this year. One inspector -- at least one
 22. more the following year for a total of three; one
 23. representing each grant division. And that we ask
 24. Mr. Bailey and Mr. Finks to carry that to the
 25. Commissioner's office.

1. MR. RADER: Request a timeline?
 2. MR. FOX: Let's say within the next week
 3. and ask for that and ask for a reply.
 4. MR. FINKS: I would ask if we could have
 5. more time than a week. Ms. Jefferson is out on
 6. annual leave this week and I would want to have her
 7. input into this, and she will not be back until
 8. Monday. And so if we have a week, then that's
 9. cutting it pretty close. If we could have a little
 10. bit more time than that, I would ask if we could have
 11. a little bit more time than that so to bring her into
 12. the loop.
 13. MR. FOX: Does anybody have an objection
 14. to that?
 15. MR. RADER: I do not.
 16. MR. FOX: Okay. Within two weeks from
 17. today, we would like a reply on whether that's
 18. possible. And we would like to have a reply from the
 19. Commissioner letting us know one way or the other.
 20. Now, with that motion being stated, we
 21. have --
 22. MR. HALE: We agree to that type of
 23. motion.
 24. MR. FOX: All right. All in favor of the
 25. motion let me know by saying "aye".

1. (IN UNISON:) Aye.
 2. MR. FOX: All opposed by like sign.
 3. Motion carries. Thank you.
 4. All right. Amusement rides in general.
 5. We talked about the fee schedule for that, and I had
 6. proposed in that fee schedule that if, in fact, we
 7. had -- this is what during the workshop that we had
 8. proposed: If, in fact, that we were going to
 9. continue with fully, or if there were no inspectors,
 10. we were going to continue solely with third-party
 11. inspectors, that we drop all fees to \$25.00, period.
 12. If in fact we had state inspectors, that we would use
 13. the fee schedule that was presentenced prior to that
 14. workshop. And I would ask this board for us to hold
 15. the fee schedule in abeyance until we get a reply
 16. from the Commissioner's office before we make a
 17. decision.
 18. Does anybody have objection to that?
 19. MR. RADER: I'll make that motion.
 20. MR. HALE: I'll second that motion.
 21. MR. FOX: Okay. The motion is seconded.
 22. Any discussion? Okay. So it's clear right now we
 23. will -- just for everybody's information -- we would
 24. continue with the fee schedule that's there today
 25. until we hear back from the Commissioner's office.

1. So everybody understands what we are
 2. doing?
 3. MR. HALE: Is that an attemptable
 4. situation for you filing? I mean, is -- is the fee
 5. scheduling causing you -- that we're currently using,
 6. is it causing you a bit of difficulty as you're
 7. currently -- as you're currently trying to apply?
 8. MS. BENNETT: No, it's fine. It's just
 9. that -- are the fees not in the rules, though?
 10. MR. HALE: They are in the rules.
 11. MS. BENNETT: They are in the rules. So,
 12. you know, to change it to \$25.00 would, you know,
 13. would take changing the rules, you know, which --
 14. MR. FOX: Correct. So what I am saying
 15. is that I had made a proposal -- I was going to make
 16. that proposal, but I want us to hold that in abeyance
 17. until we hear back from the Commissioner's office.
 18. And at that point if, in fact, we cannot do something
 19. with inspection -- inspectors, then I'll have another
 20. proposal.
 21. MS. BENNETT: But until the time that the
 22. rules are changed, I have to go by the fee schedule
 23. if there are any rules that -- you know, until it's
 24. changed.
 25. MR. FOX: And that's what we are asking

1. you to do at this point.
 2. MR. FINKS: And just to clarify, you're
 3. saying that in your motion -- you're saying continue
 4. with the fee motion as is?
 5. MR. FOX: As is temporarily, until we
 6. hear what's going to happen with the inspections.
 7. MR. FINKS: Okay. And Carlene is
 8. correct. And I think Dan will -- Mr. Bailey, will
 9. back me up that she's right; that the rules would
 10. have to stay in effect until the rules can be
 11. changed. If they were going to be changed, that
 12. those -- those -- we're on the same page?
 13. MR. FOX: Yes. You and I are on the same
 14. page.
 15. MR. FINKS: Okay.
 16. MR. FOX: And right now the fees stay the
 17. same, but we want to know where we're going with the
 18. inspections. And as I say, if, in fact, we do not
 19. get inspectors and do not have a --
 20. MR. FINKS: Then we will address the
 21. rules and the fees?
 22. MR. FOX: Right.
 23. MR. FINKS: And then at that time, if
 24. it's something -- if you were to make a proposal or a
 25. motion or whatever, the rules would still need to be

1. changed, go through the rulemaking process?
 2. MR. FOX: Yes, sir.
 3. MR. FINKS: Which is somewhat of a
 4. lengthy process?
 5. MR. FOX: Yes, sir. I understand that,
 6. too, but wanting you to know that if we can't have
 7. inspectors, then I would ask for us to make a motion
 8. at that point to change all fees to \$25.00 because
 9. we're stepping back in time to where we were in 2006.
 10. And if we're going to do that in the process that we
 11. have, then we step back in time with the fee
 12. structure, as well.
 13. MR. FINKS: So it would be a motion to
 14. change the rules?
 15. MR. FOX: Yes, sir.
 16. MR. FINKS: Okay.
 17. MR. FOX: That would be my next motion,
 18. or I would ask this board to entertain that motion,
 19. not today. But, again, holding what we have
 20. temporarily until we hear back.
 21. MR. RADER: What you are implying is that
 22. if we change the fee schedule, if we hear back and
 23. there is no room, no money or budget for inspectors,
 24. then going a different direction in order to change
 25. the fee schedule, we are going to have to change the

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1. rules, which is a legislative process. That's what I
2. hear you saying?
3. MR. FOX: Yes, sir. That's what I'm
4. saying.
5. MR. FINKS: The board understands that?
6. MR. FOX: Yes. That's where we are at.
7. MR. FINKS: Mr. Bailey, do you agree with
8. that?
9. MR. BAILEY: Yes. The rulemaking process
10. is an administrative process that we would have to go
11. through. It's ultimately approved by the governing
12. operations in the legislature. But, yeah, until the
13. rules change, we -- they have to apply that fee.
14. MR. HALE: I think we are all on the same
15. page here. And that's the reason why I was asking
16. Ms. Bennett if the current structure was
17. dysfunctional, for lack of a better way to say it,
18. for us to use until we can step back and say, here --
19. here's where we are now. But I, you know, just want
20. to echo the Chair's position about this. Those of us
21. that work spending a lot of time in getting the
22. amusement laws in place and regulations in place
23. never intended for there not to be State inspectors.
24. I don't think we ever went to the
25. legislature a single time and said, we want to pass

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1. some laws to collect some money. We went down there
2. to pass a law and pass regulations, put regulations
3. in place here to inspect and protect the public. And
4. if we're not going to do that, then I'm not
5. advocating, supporting us collecting money for the
6. sake of collecting money.
7. MR. FOX: You made a motion; is that
8. correct?
9. MR. RADER: Well, I think I was adding to
10. your motion.
11. MR. FOX: Oh, okay.
12. MR. RADER: As it relates to the
13. existence of this board and having the overseeing of
14. the amusement. If it happens to be that they don't
15. agree to come back with hiring inspectors, as to what
16. is our purpose beyond overseeing the elevator portion
17. as far as this board. Because I have a concern from
18. just a standpoint of liability, if there is nobody in
19. the field that you mentioned to hold any
20. accountability. And I -- I have a problem with that
21. as a board member. I'm not wanting to speak for each
22. one of you, but -- so I don't know if we would want
23. to put that in a form of a -- you know, I don't know
24. how you put that in a motion.
25. I just wanted to bring that out to the

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1. board as my concern as a board member. And the fear
2. of having no inspectors is, to me, a huge liability,
3. not only for each one of us sitting here but also for
4. the State of Tennessee.
5. MS. BENNETT: And I agree with that.
6. MR. HALE: I think that your -- that our
7. motion that we passed a while ago reflects that. But
8. I think the current motion that I thought you made
9. and that I seconded was that we would not change the
10. fee structure.
11. MR. FOX: Right.
12. MR. HALE: We would not do any work on
13. the fee structure at this point. But instead wait
14. until we know what -- what the answer is about
15. whether we are going to have inspectors.
16. Was that your motion?
17. MR. RADER: Yes.
18. MR. FOX: Which was seconded. I asked
19. for discussion -- any other discussion on that one.
20. There being no more discussion, all in favor of the
21. motion let it be known by saying "aye".
22. (IN UNISON:) Aye.
23. MR. FOX: All opposed by like sign.
24. Motion carries.
25. MR. BAILEY: I have a quick question, I

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1. guess more for curiosity and for my own information:
2. To be a certified amusement rides inspector, what are
3. the qualifications, the process?
4. MR. HALE: Two certifying organizations,
5. AIMS and NAARSO.
6. MS. BENNETT: Three.
7. MR. HALE: Well, three, if you count
8. the --
9. MS. BENNETT: ACCT.
10. MR. HALE: Right. If you count the zip
11. line certification in place.
12. MS. BENNETT: Excuse me for interrupting.
13. MR. HALE: No, no. You are correct. And
14. I think that it has always been the intention of this
15. board that -- at least my intention; I'm not speaking
16. too much for the board. My intention that whomever
17. was inspecting for the State of Tennessee need --
18. need the qualifications required by those
19. organizations.
20. MR. BAILEY: By all those organizations?
21. MR. FOX: Not necessarily by all of them.
22. MR. BAILEY: At least be certified by
23. one?
24. MR. FOX: Three governing boards:
25. There's NAARSO; National Association of Amusement

1. Ride Safety Officials, and AIMS; Amusement Industry
 2. Manufacturers and Suppliers. And then there's ACCT;
 3. American Challenge Course Technology.
 4. MR. FINKS: I think it's Association.
 5. MR. FOX: I'm sorry. Correct. I stated
 6. that wrong. But the ACCT is kind of -- they're
 7. paying which is strictly for zip lines, canopy tours,
 8. the fixture items. The others, NAARSO and AIMS, are
 9. that you can obtain certification for all amusement
 10. rides. And furthermore, I think you can obtain
 11. through ACCT a NAARSO inspector candidate, get their
 12. certification through ACCT, as well.
 13. MR. BAILEY: And do those organizations
 14. put on training?
 15. MR. FOX: Yes, sir. Each one of them --
 16. well, I don't know about ACCT. But I know for a fact
 17. NAARSO puts on training once a year; AIMS puts on
 18. training once a year. It's a 40-hour class. It's a
 19. very intensive class. I know for a fact that you are
 20. there for 40 hours.
 21. MR. BAILEY: And at the end of it, if you
 22. go though it successfully, you are then certified?
 23. MR. FOX: No, sir. There is a
 24. certification process; you have to go through that
 25. process. And in most cases, a level one inspector,

1. you have to wait a year. If you start today in the
 2. amusement industry, you have to wait a year to sit
 3. for the test. And if you are able to take that, then
 4. you are a level one. And then at that point, then
 5. you work with someone for about five years and then
 6. you are eligible for a level two. And then after
 7. about 25 years of hard knocks, then you can become a
 8. level three. And there is probably less than --
 9. probably less than 150 level three inspectors in the
 10. world. So it's a pretty intense type training
 11. situation.
 12. MR. BAILEY: Thanks. I was just curious
 13. what the process training was.
 14. MR. FOX: Okay. Current Administrative
 15. Process. We have --
 16. MR. FINKS: I'm sorry. I have the report
 17. on that.
 18. MR. FOX: Okay.
 19. MR. FINKS: Currently, the Amusement
 20. Device Unit consists of two employees: Carlene
 21. Bennett and Anita Rhodes. Carlene Bennett researches
 22. to determine if Tennessee companies are compliant
 23. with the Amusement Device Law. She always reviews
 24. incoming permit application packages to determine if
 25. they are accurate and complete. Carlene maintains a

1. spreadsheet that contains the status of active cases
 2. that have been discovered since February 2015, she
 3. enters relevant information on program spreadsheets,
 4. contacts company owners when files are incomplete,
 5. contacts certifying agency representatives to ensure
 6. inspectors are qualified and certified, checks
 7. insurance policies, and contacts local sheriffs and
 8. district attorneys if a company refuses to meet
 9. statutory compliance requirements.
 10. Anita Rhodes receives incoming documents,
 11. processes payments, and issues permits. Anita also
 12. enters relevant information on the computer system
 13. and issues permits to companies that meet statutory
 14. compliance requirements. She processes payments and
 15. provides receipts and maintains program statistics.
 16. Administrator Kim Jefferson implements
 17. policy and processes and oversees the Amusement
 18. Device Unit.
 19. Since February 2015, the Amusement Device
 20. Unit has researched amusement device companies to
 21. determine if they are compliant with the Amusement
 22. Device Law, sent numerous letters to noncompliant
 23. employers, provided owners and operators permit
 24. application packages for completion, obtained
 25. third-party inspection reports signed by qualified

1. and certified third-party inspectors which show the
 2. number of devices inspected and confirms the devices
 3. are safe and operable, verified companies have valid
 4. general liability insurance coverage, and assessed
 5. and collected fees.
 6. The Association for Challenge Course
 7. Technology, ACCT, became a certifying agency in
 8. Tennessee on March 19, 2015. Companies certified by
 9. ACCT are authorized to inspect aerial adventure
 10. parks, trekking parks, team challenge courses, rope
 11. courses, canopy tours, climbing structures, and zip
 12. lines only.
 13. As of March 2015, and as a result of
 14. legislation passed during the last legislative
 15. session, the department will no longer regulate
 16. climbing walls.
 17. Wayne White, third-party certified
 18. inspector by the National Association of Amusement
 19. Ride Safety Officials, NAARSO, from Dickson,
 20. Tennessee, is a new face in the amusement device
 21. industry. He is a local inspector, performs on-site
 22. inspections, and prepares inspection reports for his
 23. clients. As a third-party inspector, he is neutral
 24. and detached in performing his inspections. Although
 25. Mr. White does not work for the Amusement Device

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1. Unit, he is very helpful and answers technical
2. questions when asked. Another good source for
3. technical information is James Borishade, Executive
4. Director for ACCT.
5. Since July 1, 2014, the Amusement Device
6. Unit has received 35 permit applications, created 137
7. program files, received 28 third-party inspection
8. reports, issued 104 permits to 104 companies,
9. recorded 542 devices, received 90 payments, and
10. processed and collected \$73,725.00 in fees. Revenue
11. collected from fees is used to administer the
12. program. Three accidents have been reported.
13. Companies were immediately contacted and informed of
14. accident reporting and operation reporting
15. requirements for the state of Tennessee.
16. Four employers have failed to comply with
17. the Amusement Device Law and have been referred to
18. the proper County Sheriff and District Attorney.
19. MR. FOX: Thank you, sir, for the good
20. report.
21. MR. RADER: Can you tell me again the
22. revenue and that's through when?
23. MR. FINKS: That was through -- I believe
24. it was through last Friday at the end of -- the end
25. of May, \$73,725.00. And that's from July 1st, 2014

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1. to the end of May 2015.
2. MR. FOX: Sir, I would have to say good
3. report, and I will tell you that the administrative
4. process works very well. I would have to also say
5. that Ms. Carlene and Ms. Anita do an outstanding job
6. of taking care of us and taking care of the people in
7. the state of Tennessee.
8. Anything else on that?
9. MR. FINKS: No, sir.
10. MR. FOX: Okay. Inspections. I think we
11. have talked about that. And the audits kind of go
12. hand in hand with the next group being annual
13. permits.
14. We brought up the annual permits; it was
15. brought up in the database. And, actually, when I
16. sat down to do actually fill out my permit to obtain
17. a permit for Dollywood, for me, there was -- I had
18. some questions. So I had to call the lady that I
19. would say knows everything on here on the ride
20. business, and we worked -- we worked through it. But
21. I'm just -- as Lynnyrd Skynnyrd said, I'm just a simple
22. man and in that regard, have to be -- things have to
23. be simple for me.
24. So we came up with this document, and we
25. looked at this. Some of you should have a copy of

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1. it. And put together, obviously, the normal document
2. here is the company name, the owner, the address,
3. contact information. And then when you look at this
4. document talking about the Ride/Attraction
5. Information, the Amusement Name -- we, however, as a
6. lot of other things, like the Himalaya, as in
7. Himalayan, there's 25 different names; I'm sure
8. there's hundreds of different names out here for the
9. Himalayan that different owners have. But the
10. manufacturer's name for it is -- is unique. That's
11. the Model Number, so forth and so on. So we came up
12. with the Amusement Name category, the Manufacturer,
13. and then that Model or, again, the Himalayan. That
14. is the Model Number.
15. Who makes that? Is it --
16. MR. WHITE: Reverchon.
17. MR. FOX: It's who?
18. MR. WHITE: Reverchon.
19. MR. FOX: Okay. Anyway, that's the
20. Model, so we put that in. And, obviously, every --
21. every amusement device has to have a Serial Number,
22. so we put that on there. And then we came to which
23. applies to what. So we come up with the Minimum
24. Height to Ride, which is like a kiddie ride, south of
25. 36 inches. Or -- and then you come up with a medium

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1. ride is a 42, and then a Minimum Ride -- Height to
2. Ride, 48. That's normally a fairly large ride like a
3. roller coaster, or maybe even a Ferris wheel. Not
4. necessarily that it's a thrill ride, but there are
5. certain requirements by the manufacturer.
6. And then there is a flat ride. Again, it
7. could be a kiddie ride or is like -- we have a car
8. ride, Rockin' Roadway. And it's on a flat track, and
9. so that's a flat ride.
10. And then the thrill ride, again, could
11. be -- again, a green the carnival of the Himalayan,
12. that's a thrill ride. Or it could be a spectacular,
13. which would be a roller coaster.
14. And then we were trying to apply the fee
15. structure to meet the fees. And then Carlene came up
16. with, well, when we were doing this document, we left
17. off -- or I did -- the inflatables and the zip line.
18. Well, the zip line is kind of a catchall there for a
19. canopy tour, an adventure, or an adventure ride, or
20. whatever. So we were trying to, again, to come up
21. with something that would be easy for that person who
22. is filling this out to check one of those boxes. And
23. then from that point, we would figure out where they
24. fell in the fee structure, and that's what this
25. document is all about.

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1. And then, of course, the last part is the
2. date it was inspected, inspected by, and that contact
3. information. It's kind of like if, in our situation,
4. we hire a third-party inspector group. As a matter
5. of fact, it takes five people a week to go through
6. our ride. So we -- we're going to put the name of
7. that company, and then that way she knows who it is
8. and then she goes back and she'll immediately go back
9. and verify that that company, or whoever the owner
10. is, is a certified NAARSO, AIMS, or ACCT inspector in
11. the things that we have. So that's -- that's the
12. reason that you have this document.

13. Now, in talking with Carlene, it may or
14. may not work from a practicality standpoint for
15. someone to download that document and fill it in and
16. send it back. I don't know how that ultimately is
17. going to work. But this would be a start, in my
18. opinion, a start of a pretty good database for all
19. rides in the state of Tennessee.

20. MS. BENNETT: Yes. If we are going to
21. wait on the fee schedule to determine whether it is
22. going to have the rules to be changed.

23. MR. FOX: Yes.

24. MS. BENNETT: Then I would suggest that
25. we wait on this, as well, until we determine that.

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1. Because if it's just going to be a flat \$25.00, then
2. there will be no point to rule on this.

3. MR. FOX: I agree. Good point.

4. MR. HALE: I think the other thing that
5. we looked at, as having this type of data available,
6. is if we can get inspectors -- let me put a positive
7. spin on that. When we get inspectors, that this
8. would give our state inspector the opportunity to
9. look down through that and say, okay, there's a
10. safety bulletin about this particular device. I can
11. look through this right here and find everybody in
12. the state of Tennessee that owns one, everybody that
13. is playing one of those in the state of Tennessee.

14. And then they'll be able to go over to
15. those folks and say, do you have this safety
16. bulletin, and can you show me the proof that you
17. complied with it? Send me proof that you bought the
18. parts necessary from the manufacturer; show me proof
19. that it has been put in place. Or better yet, where
20. are you? I'm going to come look.

21. MR. FOX: And piggybacking on that is
22. that the other items were red flags or, excuse me, if
23. it had been tagged out, if the ride had been red
24. flagged or tagged out, then there would be a note on
25. that particular device stating such, or if there had

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1. been, as defined in our law, a serious accident that
2. occurred. So if we have that same ride with multiple
3. accidents on it, obviously, we've got a problem. So
4. we were trying to keep up with that, as well. And
5. then our inspectors would be able to fill in that
6. information, so that was the reason for us putting in
7. all of that together.

8. But to your point, a very valid point,
9. that in this situation we would probably need to wait
10. until that decision was made on at least.

11. MR. HALE: I would also like to submit
12. that if we're going to be able to move forward with
13. inspectors, we'll be getting into the -- the fair,
14. carnival season where we are really probably already
15. into that season, truth being said. But, you know,
16. this may be something that requires us to come back
17. before September to deal with, if we can get those
18. inspectors on board.

19. MR. BENNETT: It would be helpful to have
20. an inspector's input on creating the annual process
21. also.

22. MR. FINKS: And from an administrator's
23. input, if we are able to hire inspectors, the
24. interview process with the State takes several weeks
25. at a minimum. So even if we do get a green light to

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1. go forward with hiring inspectors, that we'll have to
2. ultimately go through the HR process and open the
3. register and go through the hiring process,
4. conducting interviews, and things -- things like
5. that.

6. MR. FOX: And we can appreciate that,
7. sir.

8. MR. HALE: And we wouldn't want anything
9. less. We don't want to knee-jerk hire somebody
10. that's not qualified and not going to be the proper
11. representative that we want for the State and for
12. this board.

13. MS. BENNETT: Because that would defeat
14. the entire purpose.

15. MR. HALE: Exactly.

16. MR. FOX: Okay. Anything else to come
17. before the board?

18. MR. HALE: I just want to echo your --
19. your statement a while ago that I think that Carlene
20. and Anita do an excellent job from the administrative
21. side of this. I think y'all do an admirable job and
22. I really -- probably realize more than a lot of folks
23. out that y'all are very much overloaded, too. And,
24. you know, I know that we -- that we have thrown a
25. tremendous amount of work on two people. That seems

- 1. to be the norm in the Government to give you more to
- 2. do than you can possibly do, and then fuss at you
- 3. because it's not finished.

4. MS. BENNETT: Thank you.

- 5. MR. HALE: But I think y'all do an
- 6. excellent job, and I -- I hope that in the future we
- 7. can grow this to get help for y'all, too.

- 8. MR. FOX: Okay. Again, Mr. Sidler, I
- 9. hate that you are leaving, but in one way I admire
- 10. you.

- 11. Item Number 9: Announcement of the next
- 12. meeting. The next regularly scheduled meeting of the
- 13. Elevator and Amusement Device Safety Board meeting
- 14. will be held on the first floor TOSHA Hearing Room at
- 15. 9:00 a.m. on Tuesday, September 1st, at the State of
- 16. Tennessee, Department of Labor and Workforce
- 17. Development building, located at 220 French Landing
- 18. Drive, Nashville, Tennessee.

- 19. Do I have a motion for adjournment?

20. MR. RADER: So moved.

21. MR. FOX: Another motion?

22. MR. MOORE: I second.

23. MR. FOX: Meeting is closed.

- 24. (WHEREUPON, the foregoing proceedings
- 25. were adjourned at 10:20 a.m.)

1. REPORTER'S CERTIFICATE

2. STATE OF TENNESSEE

3. COUNTY OF DAVIDSON

4. I, MEREDITH M. WILKINS, Licensed Court

5. Reporter, with offices in Nashville, Tennessee,

6. hereby certify that I reported the foregoing

7. proceedings of the STATE OF TENNESSEE ELEVATOR &

8. AMUSEMENT DEVICE SAFETY BOARD by machine shorthand to

9. the best of my skills and abilities, and thereafter

10. the same was reduced to typewritten form by me.

11. I further certify that I am not related to

12. any of the parties named herein, nor their counsel,

13. and have no interest, financial or otherwise, in the

14. outcome of the proceedings.

15. I further certify that in order for this

16. document to be considered a true and correct copy, it

17. must bear my original signature and that any

18. unauthorized reproduction in whole or in part and/or

19. transfer of this document is not authorized, will not

20. be considered authentic, and will be in violation of

21. Tennessee Code Annotated 39-14-104, Theft of

22. Services.

23.

24.

25.

MEREDITH M. WILKINS, LCR, CCR

22. Stone & George Court Reporting

23. Certified Court Reporter (TN)

24. Notary Public State of Tennessee

25. My Notary Commission Expires: 9/11/2017

LCR #674

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