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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

**STATE REAL ESTATE COMMISSION
VIA VIDEOCONFERENCE**

TIME: 10:32 A.M.

December 17, 2021

State Real Estate Commission
December 17, 2021

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COMMISSION MEMBERS:

Joseph J. McGettigan, Chair, Industry Member
Armand N. Ferrara Jr., Vice Chair, Industry Member
Joseph Tarantino, Secretary, Industry Member
Anne M. Rubin, Industry Member
Jeffrey J. Johnson, Industry Member - Absent
Jennifer Thomson, Esquire, Attorney General Designee
Edward L. Seebeck, Cemetery Member
Gaetano P. Piccirilli, Esquire, Public Member
K. Kalonji Johnson, Commissioner, Bureau of
Professional and Occupational Affairs

COMMISSION PERSONNEL:

Juan A. Ruiz, Esquire, Commission Counsel
Nicole L. VanOrder, Esquire, Commission Counsel
Ray Michalowski, Esquire, Senior Commission Prosecutor
Timothy A. Fritsch, Esquire, Commission Prosecution
Liaison
Alice Glasser, Esquire, Commission Prosecutor
Timothy Smith, Esquire, Commission Prosecutor
Krista Linsenbach, Commission Administrator

ALSO PRESENT:

Wayne C. Crawford, Esquire, Public Policy Manager,
Pennsylvania Association of Realtors

1 ***

2 State Real Estate Commission

3 December 17, 2021

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
6 9:00 a.m. the Commission entered into Executive
7 Session with Juan A. Ruiz, Esquire, Commission
8 Counsel, and Nicole L. VanOrder, Esquire, Commission
9 Counsel, for the purpose of conducting quasi-judicial
10 deliberations on matters currently pending before the
11 Commission that are listed on the agenda. The
12 Commission returned to open session at 10:30 a.m.]

13 ***

14 Meeting Instructions

15 [Krista Linsenbach, Commission Administrator, noted
16 the meeting was being recorded, and those who
17 continued to participate were giving their consent to
18 be recorded.]

19 ***

20 The regularly scheduled meeting of the State Real
21 Estate Commission was held on Friday, December 17,
22 2021. Joseph J. McGettigan, Chairman, Industry
23 Member, officially called the meeting to order at
24 10:32 a.m.

25 ***

1 Roll Call

2 [Joseph J. McGettigan, Chairman, Industry Member,
3 provided a roll call of Commission members.]

4 ***

5 Pledge of Allegiance

6 [The Pledge of Allegiance was recited.]

7 ***

8 Approval of minutes of the November 3, 2021 meeting

9 CHAIR MCGETTIGAN:

10 Could we start by looking for a motion
11 to approve the draft minutes from our
12 November 3 meeting?

13 MR. SEEBECK:

14 So moved.

15 MR. TARANTINO:

16 Second.

17 CHAIR MCGETTIGAN:

18 Any discussion? All in favor? Against?

19 [The motion carried. Commissioner Rubin abstained
20 from voting on the motion.]

21 ***

22 Report of Prosecutorial Division

23 [Alice Glasser, Esquire, Commission Prosecutor,
24 presented the Consent Agreement for Case Nos. 19-56-
25 004539 & 19-56-011734.]

1 ***

2 [Timothy A. Fritsch, Esquire, Commission Prosecution
3 Liaison, presented the Consent Agreements for Case
4 Nos. 18-56-009224 & 18-56-012009 and Case Nos. 18-56-
5 011923, 19-56-000566, & 19-56-000856.]

6 ***

7 [Timothy Smith, Esquire, Commission Prosecutor,
8 presented the Consent Agreement for Case No. 21-56-
9 009878.]

10 ***

11 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
12 10:45 a.m. the Commission entered into Executive
13 Session with Juan A. Ruiz, Esquire, Commission
14 Counsel, and Nicole L. VanOrder, Esquire, Commission
15 Counsel, to discuss the Consent Agreements just
16 presented to the Commission. The Commission returned
17 to open session at 10:51 a.m.]

18 ***

19 MOTIONS

20 MR. RUIZ:

21 The Commission was just in Executive
22 Session discussing the Consent
23 Agreements that were just presented by
24 the prosecutorial division.

25 I would also like to note that the

1 Commission was in Executive Session
2 prior to the start of today's meeting
3 discussing all of the items on the
4 agenda today.

5 At this time, is there a motion to
6 approve the Consent Agreement at Case
7 Nos. 19-56-004539 & 19-56-011734?

8 MR. FERRARA:

9 So moved.

10 MR. TARANTINO:

11 Second.

12 CHAIR MCGETTIGAN:

13 Any discussion? All in favor? Against?

14 [The motion carried unanimously. The Respondent's
15 name is Cecelia A. Patterson.]

16 ***

17 MR. RUIZ:

18 Is there a motion to approve the Consent
19 Agreement at Case Nos. 18-56-009224 &
20 18-56-012009?

21 MR. SEEBECK:

22 So moved.

23 MR. FERRARA:

24 Second.

25 CHAIR MCGETTIGAN:

1 Any discussion? All in favor? Against?
2 [The motion carried unanimously. The Respondent's
3 name is Village Green Management Company LLC.]

4 ***

5 MR. RUIZ:

6 Is there a motion to deny the Consent
7 Agreement at Case Nos. 18-56-011923 &
8 19-56-000566, & 19-56-000856 as being
9 too lenient?

10 MR. PICCIRILLI:

11 So moved.

12 CHAIR MCGETTIGAN:

13 Do I have a second?

14 MR. SEEBECK:

15 Second.

16 CHAIR MCGETTIGAN:

17 Any discussion? All in favor? Against?
18 [The motion carried unanimously.]

19 ***

20 MR. RUIZ:

21 Is there a motion to deny the Consent
22 Agreement at Case No. 21-56-009878 as
23 being too harsh?

24 MS. THOMSON:

25 So moved.

1 CHAIR MCGETTIGAN:

2 Second?

3 MR. FERRARA:

4 Second.

5 CHAIR MCGETTIGAN:

6 Any discussion? All in favor? Against?

7 [The motion carried unanimously.]

8 ***

9 Report of Commission Counsel

10 [Juan A. Ruiz, Esquire, Commission Counsel, noted one
11 final adjudication and order and four motions to enter
12 default and deem facts admitted on the agenda.]

13 MR. RUIZ:

14 Is there a motion to approve the final
15 adjudication and order for David Bryan
16 Soriano, Case No. 19-56-004347?

17 MR. FERRARA:

18 So moved.

19 MR. TARANTINO:

20 Second.

21 CHAIR MCGETTIGAN:

22 Any discussion? All in favor? Against?

23 [The motion carried unanimously.]

24 ***

25 MR. RUIZ:

1 Is there a motion to grant the following
2 Motions to Enter Default and Deem Facts
3 Admitted: Brittany Coluccio, Case No.
4 19-56-009737; Anthony Diaz, Case No. 16-
5 56-08801; Philip J. Godlewski, Case No.
6 20-56-002885; and Christine C. Mitchell,
7 Case No. 19-56-017564?

8 MS. RUBIN:

9 So moved.

10 CHAIR MCGETTIGAN:

11 Second, please?

12 MR. PICCIRILLI:

13 Second.

14 CHAIR MCGETTIGAN:

15 Any discussion? All in favor? Against?

16 [The motion carried unanimously.]

17 ***

18 Report of Commission Counsel - Rules and Regulations
19 [Juan A. Ruiz, Esquire, Commission Counsel, addressed
20 the general revisions annex and comments received from
21 the Pennsylvania Association of Realtors (PAR)
22 regarding the exposure draft. He referred to § 35.201
23 regarding the definition for advertisement and
24 changing the distance education definition. He noted
25 PAR commented that listing various forms of

1 advertising is helpful, but licensees may interpret
2 the list as an exclusive list and recommended adding
3 language to ensure licensees are aware it is a
4 nonexclusive list. He also noted PAR's comment, where
5 House Bill 1849 would require additional changes if
6 distance education is enacted.

7 Mr. Ruiz suggested adding, "This may include but
8 is not limited to," and the Commission agreed.

9 Mr. Ruiz addressed distance education, noting the
10 deletion of the word "sometimes" to allow for
11 livestreaming of courses.

12 Mr. Ruiz commented that House Bill 1849 does have
13 a little more to it and talks about asynchronous
14 education and so forth. He recommended copying the
15 definition, "real estate instruction delivered in an
16 independent or instructor-led asynchronous format
17 during which student and instructor are separated by
18 distance and time," and the Commission agreed.

19 Ms. Rubin asked whether additional language
20 regarding requirements for schools in terms of
21 distance education should be included. She expressed
22 a concern after sitting in on a variety of providers,
23 noting some do a great job of requiring the student's
24 camera to be on and monitoring and others utilize a
25 sign-in as evidence of being present in the class and

1 never look again.

2 Mr. Ruiz noted equating livestreaming to in-
3 person training and would have to provide additional
4 criteria to distinguish between the two further, maybe
5 adding language to fully outline the courses.

6 Mr. Ruiz referred to House Bill 1849 under the
7 continuing education section, where the Commission
8 shall not consider real estate instruction delivered
9 in an instructor-led synchronous format as distance
10 education, and the Commission shall regulate real
11 estate instruction delivered in an instructor-led
12 synchronous format in the same manner as live, in-
13 person real estate instruction.

14 Mr. Ruiz explained that if the Commission wanted
15 to address attendance, it would have to fully outline
16 in its regulations. He further explained that once
17 the law is passed, the live streaming of a course
18 would be considered as an in-person class. He
19 mentioned if emphasizing attendance, those
20 requirements would have to apply to both live
21 streaming and in person classes equally.

22 Ms. Rubin suggested an additional line under the
23 distance learning section stating all of the
24 requirements of an in-person class apply to this also
25 for attendance and monitoring.

1 Mr. Ruiz noted language along those lines,
2 especially if House Bill 1849 passes, could be added
3 to the regulations.

4 Mr. Ruiz addressed more comments and referred to
5 § 35.292, where PAR had serious concerns with the
6 proposed change requiring all offers be presented
7 within 48 hours being too prescriptive. PAR also
8 commented that the proposed language provides no
9 exceptions or waivers for situations, where this would
10 be impossible to adhere to where it would not be
11 desired by the seller.

12 Mr. Ruiz referred to § 35.292(a)(3), "present, in
13 a reasonably practicable period of time, all offers,
14 counteroffers, notices, and communications to and from
15 the parties in writing, unless the property is subject
16 to an existing contract and the seller/landlord has
17 agreed in a written waiver." He noted the Commission
18 wanted to take out "in a reasonably practicable period
19 of time" and wanted to put in 48 hours of receipt due
20 to "a reasonably practicable period of time" not being
21 defined.

22 Ms. Rubin suggested removing the word "present"
23 and change it to "notify consumer." She mentioned
24 there are times where the offers were not presented
25 within 48 hours but could notify the parties of the

1 receipt of the offers when received within 48 hours.

2 Ms. Rubin also suggested adding language "unless
3 the consumer instructs us differently."

4 Mr. Ruiz commented that both parties should be
5 informed.

6 Ms. Rubin suggested changing the "and" to "or,"
7 unless the property is subject to an existing contract
8 "or" the seller/landlord, the consumer/landlord has
9 agreed in a written waiver.

10 Wayne C. Crawford, Esquire, Public Policy
11 Manager, Pennsylvania Association of Realtors,
12 commented that PAR's concerns were expressed by Ms.
13 Rubin regarding the idea that the seller wants to hold
14 all offers and review them all at one time.

15 Mr. Crawford noted PAR is okay with the concept
16 of establishing some firm deadline subject if a
17 property is not under contract, allowing the seller to
18 state written instructions that they did not want to
19 see those within 48 hours or in the case where a
20 property is subject to a contract, again provided
21 written instruction that they no longer wanted to see
22 any offers.

23 Mr. Ruiz noted he would change seller/landlord.

24 Ms. Rubin commented that they should leave
25 seller/landlord because it is only the seller who is

1 going to decide they are not ready to review offers.
2 She noted that 48 hours is reasonable to present
3 options that go back and forth.

4 Mr. Ruiz noted the problem with that is there are
5 written offers and counteroffers and it should be
6 extended to the buyer. He stated it made sense when
7 it was seller/landlord because they were talking about
8 it was unless the property is subject to an existing
9 contract and the seller/landlord has agreed in a
10 written waiver. He noted the need to include both
11 parties because they are making it an "or," unless the
12 property is subject to an existing contract "or" the
13 seller.

14 Mr. Ruiz further explained that, if there is an
15 existing contract already on the property, they do not
16 have to present it or if one of the parties have
17 agreed in a written waiver. He noted it is usually
18 the seller being dealt with in this case, but the fact
19 that there are counteroffers that come into this and
20 notices and communications to and from the parties in
21 writing, both parties should be included. He stated,
22 once this condition was taken out and made an "or", it
23 would be two separate types of documents.

24 Ms. Rubin expressed a concern with leaving this
25 open, where a buyer could say I am not going to be

1 around, so any information you get, I will be back in
2 10 days and talk to me then. She noted the importance
3 of making sure this does not override the contract if
4 the contract calls differently.

5 Mr. Ruiz stated a counteroffer could be changed
6 at any time because there would not be a contract. He
7 suggested writing it as "or one of the parties has
8 agreed." He also mentioned that there should be a
9 written waiver because there could not be an oral
10 waiver.

11 Mr. Crawford suggested running the recommendation
12 by PAR staff before providing an opinion. He noted
13 PAR's general concern was they wanted to allow for
14 situations where the seller does want to hold off but
15 hesitated to give an absolute firm opinion from PAR.
16 He stated, once this is proposed, PAR will run through
17 the comments again once it is formally sent out.

18 Mr. Ruiz suggested adding the "or" to allow for
19 that waiver process to happen at a minimum and will
20 leave the seller/landlord in there as it is written.

21 Chair McGettigan recommended having a separate
22 meeting on rules and regulations and devote some time
23 to make sure it is right, rather than deciding at this
24 minute.

25 Mr. Ruiz addressed comments for § 35.305

1 regarding business name on advertisements, where PAR
2 noted that the current regulations do not specifically
3 state that licensees shall only advertise under the
4 name on their license or registered nickname and
5 recommended that be added.

6 Mr. Ruiz noted PAR also believed the term
7 "contact information" is too vague and recommend it be
8 defined more clearly or eliminated altogether. PAR
9 also believed equal in size is a problematic standard
10 and recommended using prominence as the standard.

11 Mr. Ruiz noted a requirement for brokers and
12 brokerage companies in § 35.305(a), and PAR suggested
13 a similar requirement for other licensees who are not
14 brokers regarding advertising under their name or
15 registered nickname.

16 Ms. Rubin noted that would be a good idea to
17 clarify.

18 Mr. Ruiz mentioned prior Commission discussion
19 concerning contact information and social media and
20 prior Commission discussion concerning defining
21 prominence and the difficulty of that, where
22 prosecution had issues with that as well.

23 Ms. Rubin suggested PAR be aware that the
24 Commission was exhaustive in their discussion about
25 determining how to enforce this and would love to hear

1 PAR's input.

2 Mr. Crawford commented that PAR would be guided
3 by recommendations from prosecution on that issue.

4 Mr. Ruiz addressed comments for § 35.307
5 regarding advertisements of sales volume, market
6 position, and number of offices, where PAR recommended
7 the term "closed transaction" but should also include
8 "leasing transaction" and recommend the word
9 "municipality" in (b) be deleted and replaced with
10 "region" or similar term. He noted the final closed
11 transaction as being either a listing sold or a sale
12 made. PAR suggested adding "leasing transactions."

13 Ms. Rubin suggested replacing "municipality,"
14 with "county" because region is too big.

15 Mr. Ruiz noted PAR appreciated and supported the
16 additional language in § 35.321.

17 Mr. Ruiz addressed § 35.322 regarding nonwaiver
18 of escrow duty, where a broker's escrow duty may not
19 be waived or altered by an agreement. He noted taking
20 out "between the parties to the transaction, between
21 the broker and the parties, or between the broker and
22 other brokers who may be involved in the transaction"
23 due to § 608.5, where it talks about consummation of
24 the transaction.

25 Mr. Ruiz stated it allows for a prior agreement

1 in writing or electronic form as a disposition of the
2 deposit or other escrows in the event of a dispute
3 regarding entitlement to the deposit or other escrows.
4 He commented that they are not saying the broker
5 themselves cannot waive the escrow duty, but this
6 throws a wrench into it where the parties can agree to
7 the disposition of the deposit of the escrows.

8 Mr. Ruiz noted additional comments from PAR were
9 to consider removing all gender-specific pronouns
10 throughout the remainder of the regulations. He noted
11 § 35.323(b), where PAR wants the Commission to
12 consider whether deposit money notice is still
13 relevant and necessary.

14 Ms. Rubin agreed, noting it does not make sense
15 anymore. She mentioned monies would often go directly
16 to the listing agent but was unsure if the requirement
17 legislatively could be removed.

18 Mr. Ruiz stated a regulatory meeting would be
19 scheduled sometime in the future to discuss the
20 changes.]

21

22 Report of Commission Chairperson

23 [Joseph J. McGettigan, Chair, Industry Member, thanked
24 fellow Commissioners and staff for their assistance
25 through 2021 and looked forward to turning the reins

1 over to Mr. Ferrara.]

2

3 Report of Commissioner

4 [K. Kalonji Johnson, Commissioner, Bureau of
5 Professional and Occupational Affairs, echoed Chair
6 McGettigan's comments with respect to the other
7 Commissioners for their outstanding job. He also
8 thanked Chair McGettigan for the excellent work and
9 leadership over the past year.

10 Commissioner Johnson noted the virtual platform
11 will continue until March 31, 2022. He informed the
12 Commission of legislation that was recently passed in
13 the General Assembly allowing the use of technology to
14 satisfy the quorum requirements. He mentioned working
15 internally to make sure they continue to support all
16 of the boards and commissions to be able to continue
17 to stream the meetings for the benefit of the public
18 and stakeholders.

19 Commissioner Johnson recommended members submit
20 physical travel requests through the Commonwealth Out-
21 of-State Travel Application (COSTA) portal as soon as
22 possible for processing. He also encouraged everyone
23 to let Ms. Linsenbach or Mr. Ruiz know when they
24 become aware of any travel opportunities because the
25 request needs to be on the agenda and sunshined. He

1 noted in-state travel will be handled through Ms.
2 Linsenbach and will not change. He suggested members
3 reach out to Ms. Linsenbach regarding utilizing the
4 portal.

5 Commissioner Johnson wished everyone a restful
6 and peaceful holiday.]

7 ***

8 Report of Commission Administrator

9 [Krista Linsenbach, Commission Administrator, informed
10 the Commission that promotional property and cemetery
11 registration and renewals were coming along. She
12 noted a good response from cemeteries but not
13 receiving renewals for promotional property. She
14 confirmed renewals were sent out in a timely manner
15 with information technology (IT) staff.

16 Ms. Linsenbach reminded cemetery companies and
17 promotional properties that there was no reactivation
18 option. She noted that there was no grace period, and
19 individuals would need to apply for an initial
20 registration again if they did not successfully renew.
21 She offered assistance with renewing through the
22 support ticket system, telephone, and email.

23 Ms. Linsenbach mentioned receiving committee
24 assignments for 2022 from Chair-elect Ferrara and will
25 be sending those out by email after the meeting.

1 Ms. Linsenbach wished everyone a wonderful
2 holiday season.

3 Ms. Rubin noted receiving two calls from brokers
4 who could not remove somebody from the Pennsylvania
5 Licensing System (PALS).

6 Ms. Linsenbach explained that the functionality
7 was not currently available and still in active
8 development. She further explained that any broker
9 who needed to remove an agent and the agent was
10 unavailable to make themselves inactive or submit
11 their own change of employer application may send an
12 email to their resource account at ra-
13 realestate@pa.gov.]

14 ***
15 Report of Committees - Education/Examination

16 MS. RUBIN:

17 I'd like to make a motion. For the
18 course Creating a Paperless Office, we
19 approve this for CE.

20 MR. SEEBECK:

21 Second.

22 CHAIR MCGETTIGAN:

23 Any discussion? All in favor? Against?
24 [The motion carried unanimously.]

25 ***

1 MS. RUBIN:

2 I'd like to make a motion that the
3 following four courses for CE, Leads and
4 Listings Become a Power Lister; Social
5 Media Strategies for Real Estate Agents;
6 Top of Mind Techniques to Boost Your
7 Brand, Generate, and Maintain a
8 Continuous Stream of Leads and
9 Referrals; and Top of Mind Techniques to
10 Boost Your Brand, be denied as they do
11 not meet the criteria as set for CE.

12 MR. PICCIRILLI:

13 Second.

14 CHAIR MCGETTIGAN:

15 Any discussion? All in favor? Against?

16 [The motion carried unanimously.]

17 ***

18 Report of Committees - Enforcement (Application
19 Reviews)

20 MR. TARANTINO:

21 I'd like to make a motion that we
22 approve the Application of Blake Tyler
23 Bowman. We find no barrier toward
24 licensure. I make that motion.

25 MR. FERRARA:

1 Second.

2 CHAIR MCGETTIGAN:

3 Any discussion? All in favor? Against?

4 [The motion carried unanimously.]

5 ***

6 MR. TARANTINO:

7 On the Application of Kathleen Renee
8 Enders, we preliminarily deny that
9 Application and advise the applicant of
10 the right to an informal conference. I
11 make that motion too.

12 MR. FERRARA:

13 Second.

14 CHAIR MCGETTIGAN:

15 Any discussion? All in favor? Against?

16 [The motion carried unanimously.]

17 ***

18 MR. RUIZ:

19 The committee had conducted informal
20 conferences of the two individuals in
21 which they agreed to grant licenses on
22 probation. Those two individuals were
23 Eric Helmick and Lance Masse; however,
24 they are not on the agenda because they
25 did not need to be voted on at the

1 agenda.

2 For your informational purposes,
3 that is what happened at the informal
4 conference.

5 ***

6 Adjournment

7 [Joseph J. McGettigan, Chairman, Industry Member,
8 wished everyone a happy holiday.]

9 ***

10 [There being no further business, the State Real
11 Estate Commission Meeting adjourned at 11:44 a.m.]

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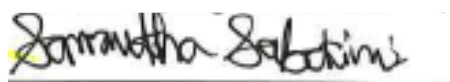
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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Real Estate Commission meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Real Estate Commission meeting.



Samantha Sabatini,
Minute Clerk
Sargent's Court Reporting
Service, Inc.

STATE REAL ESTATE COMMISSION
REFERENCE INDEX

December 17, 2021

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10	10:30	Return to Open Session
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12	10:32	Official Call to Order
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14	10:32	Roll Call
15		
16	10:33	Pledge of Allegiance
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18	10:34	Approval of Minutes
19		
20	10:34	Report of Prosecutorial Division
21		
22	10:45	Executive Session
23	10:51	Return to Open Session
24		
25	10:51	Motions
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27	10:55	Report of Commission Counsel
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29	11:32	Report of Commission Chair
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31	11:33	Report of Commissioner
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33	11:37	Report of Commission Administrator
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35	11:41	Report of Committees
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37	11:44	Adjournment
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