

In the Matter Of:
Long Term Care Covid-19 Commission Mtg.

MEETING WITH MOH/MLTC
October 15, 2020



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1 MEETING OF THE LONG-TERM CARE COVID-19 COMMISSION

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--- Held Virtually via Zoom, with all participants
7 attending remotely, on the 15th day of October, 2020,
8 3:09 p.m. to 3:36 p.m.

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BEFORE:

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The Honourable Frank N. Marrocco, Lead Commissioner

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Angela Coke, Commissioner

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Dr. Jack Kitts, Commissioner

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PRESENTING:

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Janet Hope, Assistant Deputy Minister of the
20 Long-Term Care Policy Division At the Ministry of
21 Long-Term Care

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Kelci Gershon, Director of the Policy and
24 Modernization Branch with the Ministry of Long-Term
25 Care

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PARTICIPANTS:

Jessica Franklin, Policy Lead, Ministry of
Long-Term Care

Alison Drummond, Assistant Deputy Minister,
Long-Term Care Commission Secretariat

Amy Leamen, Counsel, Legal Services Branch for
the Ministries of Health and Long-Term Care

Mitchell Valentini, Counsel to the Ministry

ALSO PRESENT:

Judith M. Caputo, Stenographer/Transcriptionist

1 -- Upon commencing at 3:09 p.m.

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3 MS. HOPE: Nice to see you again. I've
4 met you before, Janet Hope, with the Policy
5 Division of the Ministry of Long-Term Care. I'm
6 joined by my colleague, Kelci Gershon, who
7 introduced herself a moment ago. Kelci was the
8 lead director that her team led our work on
9 pandemic pay in long-term care.

10 So I'm going to maybe start us through
11 the presentation, and when your questions get too
12 challenging, I will defer to Kelci.

13 So if we could just maybe move to
14 directly to slide three. Maybe I would start by
15 saying, I'm not, you know, exactly sure what your
16 interest in this program might be. The
17 presentation itself is fairly technical. It runs
18 through the nature of the program and how we
19 operated the program. But maybe I could start, if
20 we go to slide three, if it's helpful, I could
21 maybe start a little bit with sort of how the
22 program came to be and some of the early work
23 within government and with the Federal Government
24 that led to the program being implemented. Would
25 that be helpful context?

1 COMMISSIONER MARROCCO: I think so. I
2 think it would.

3 MS. HOPE: Okay. Okay, I'll be fairly
4 brief.

5 COMMISSIONER MARROCCO: Staffing keeps
6 coming up, and it keeps coming up, so I think that
7 would be helpful, to understand what's happening on
8 the wage side or on the supplement side.

9 MS. HOPE: Sure. So in very early
10 April, I believe it was, we saw media reports that
11 both British Columbia and Québec had introduced
12 some form of wage subsidy for the long-term care
13 sector.

14 We were asked to think about whether
15 that would be -- how we could go about implementing
16 something like that in Ontario. So I think from
17 the general concern that we knew staffing issues
18 were of concern for long-term care homes, and we
19 were starting to have concern about staff
20 willingness to continue to work in long-term care.

21 So as I said, we started to look at
22 options for a program design in early April,
23 thinking specifically about the long-term care
24 sector.

25 Shortly thereafter, the Federal

1 Government started to -- the Prime Minister made
2 some statements in some of his press conferences
3 about the Federal Government being interested in
4 potentially working with provinces and territories
5 around a wage subsidy for key healthcare workers.

6 So through the period of a few weeks in
7 early, early to mid-April, there was some dialogue,
8 we understand, primarily through the Ministers of
9 Finance and our colleagues at the Ministry of
10 Finance and with the Federal Government about their
11 interest in participating in a federal wage -- in a
12 wage subsidy program.

13 And as a result, the scope of Ontario's
14 program was -- scope of the options under
15 consideration were expanded to include other
16 sectors, where there was concern about workers
17 needing to incentivize workers to stay in long-term
18 care.

19 I think some of the areas where there
20 was some conversation was, you know, what the
21 Federal Government initially was talking about wage
22 subsidy for very low wage workers, and we were
23 interested in a program that would look at the
24 broader range of long-term care employees. Nurses
25 are generally low wage workers at the frontline in

1 the long-term care sector.

2 COMMISSIONER MARROCCO: If I can
3 interrupt you for a minute.

4 MS. HOPE: Certainly.

5 COMMISSIONER MARROCCO: One of the
6 things we have heard is that you can't really --
7 you cause a problem if you only raise one sector.
8 So, for example, if you increase the wages of PSWs,
9 but you don't address the other people, registered
10 practical nurses, registered nurses, if you don't
11 maintain some sort of proportion, then you're
12 creating a different kind of problem.

13 And so do you think that's right?

14 MS. HOPE: So certainly in the Pandemic
15 Pay Program that we implemented last spring, we did
16 take that position, that all nonmanagement
17 employees in the long-term care home were eligible
18 for pandemic pay.

19 The issue that you flag, when you raise
20 wages temporarily for one group of employees, what
21 about those who don't get that increase, certainly
22 we saw that concern because we didn't extend
23 pandemic pay to management staff in long-term care.

24 Similarly, I think in the hospital
25 sector where they implemented this program, it

1 wasn't universal, and so there are different
2 categories of workers who got it and didn't get it.
3 And there were concerns raised about that.

4 COMMISSIONER COKE: Sorry, in addition
5 to that concerns, you know, some people get and
6 some people don't. Does it not interfere with the
7 distribution as well in terms of, perhaps, now
8 you're overlapping into other groups? You're not
9 keeping the relative distance that you need to,
10 given peoples different levels of skill and
11 qualifications?

12 MS. HOPE: That can be a concern, yes.

13 So in terms of this specific program
14 that the government announced on April 25th, this
15 was following the conclusion of an agreement
16 between the Province, I guess all provinces and
17 territories in the Federal Government, about the
18 nature of the Federal Government's participation.
19 So based on an agreement, we were able to get
20 approval and rolled out a program that went beyond
21 long-term care, as I've mentioned.

22 And really, the goal of the program was
23 to provide additional support to frontline workers,
24 encouraging staff to keep working.

25 We thought it would also be helpful in

1 attracting. We knew really needed to continue to
2 attract prospective employees and to help maintain
3 safe staffing levels.

4 So the program rolled out in the
5 spring. It was \$4 per hour for all hours worked.
6 And in addition, for each four-week period over the
7 16 weeks of the program, if an employee worked a
8 minimum number of hours in that four-week period,
9 they were eligible for a additional lump sum
10 payment of \$250.

11 And that program design, the \$4 per
12 hour and the lump sum, that was consistent across
13 all of the sectors that received pandemic pay. So
14 hospitals, long-term care, retirement homes, other
15 congregate care settings.

16 COMMISSIONER COKE: I'm just curious to
17 what sort of formula, or how did you come up with
18 the \$4 was the right number?

19 MS. HOPE: I'm not sure I can actually
20 answer that. We had done some initial work within
21 the Ministry of Long-Term Care on some early
22 options. Once we knew the Federal Government was
23 interested in participating, Treasury Board
24 Secretariat sort of took over coordination of the
25 overarching program design.

1 So I think there was -- so I don't know
2 the exact calculus of \$4 an hour, but I think there
3 was a concern about how much is enough to actually
4 create an incentive, and also fiscally responsible
5 in the context of what the governments can afford.

6 COMMISSIONER MARROCCO: This is
7 probably in the same vein. Did it work? Was it
8 the right number? Well, in the sense that, when I
9 say, "Did it work" were issues around retention,
10 does it appear to have had an effect, that you had
11 the right number?

12 MS. HOPE: I don't know that we -- we
13 certainly don't know that definitively at this
14 point.

15 The long-term care homes told us it
16 helped, so anecdotally we've been told it helped.
17 But we know for some, we understand that some staff
18 who chose not to stay in the workplace, money
19 wasn't the issue.

20 So I don't know how -- how we would
21 precisely evaluate all of the many factors that
22 influenced individual's decisions. But certainly
23 the long-term care sector told us it was an
24 important tool and that they felt it made a
25 difference.

1 COMMISSIONER MARROCCO: Well, first you
2 would, I mean, you would hope they'd know, you
3 know, it is as reliable as an indicator as I
4 suspect you're going to get.

5 MS. HOPE: I suppose, one of the things
6 that was a concern was, would we see the departures
7 of staff when the pandemic pay ended in August.

8 Again, we don't have definitive
9 information on that, but we also understand there
10 were a number of other factors. The economy was
11 starting to open up. And so some individuals had
12 choices, you know, had other choices for
13 employment. Students were going back to school.
14 So there were probably a variety of factors that
15 might have influenced any changes in staffing
16 levels in August and September.

17 So again, it's hard to pinpoint what
18 exactly is the impact of this wage subsidy.

19 Okay, we're on to the questions at the
20 moment maybe, and I will invite Kelci, remember
21 that she can chime in if there's additional
22 information that she wants to add that I'm
23 forgetting about.

24 So moving to the next slide, if we
25 could. This just outlines the key principles that

1 guided the program design. We were recognizing
2 through pandemic pay the increased risk of
3 exposure. So it was provided as an incentive.

4 It was also clearly designed and
5 communicated as a temporary bonus pay, and there
6 was no impact to the way we design a program on
7 pension benefits, it was based on salaries.

8 All employees in long-term care homes
9 were eligible, whether or not there was a COVID-19
10 outbreak. So we did not tie the program to an
11 outbreak status. We felt it was important to have
12 staffing stability whether or not an outbreak was
13 in place.

14 And it was also not tied to working
15 directly with residents. The feeling was that all
16 employees in the home were important to
17 contributing to the safety and well-being of
18 residents. And we also were recognizing that
19 office staff might be redeployed from some of their
20 normal duties into other duties. So we weren't
21 limiting it or restricting it based on their job
22 title, with the exception of management.

23 COMMISSIONER MARROCCO: This is perhaps
24 not related, but it is in a way I think.

25 There are for-profit homes in the

1 sector. Why would they look to government to
2 increase the wages of their employees to keep their
3 employees working for them? Anyway, that's...

4 MS. HOPE: Yeah. So all homes, whether
5 they're for-profit, not-for-profit, or municipal,
6 all homes are funded and regulated in the same way.
7 So a for-profit home doesn't have -- it has to
8 charge residents for their contribution to
9 long-term care in the same way as a not-for-profit
10 or a municipal home. It doesn't have -- aside from
11 other lines of business they may be engaged in, a
12 for-profit home doesn't have an independent revenue
13 raising capacity, with respect to their long-term
14 care line of business.

15 So, they pay their wages of their
16 employees out of the same kinds of sources of
17 revenue as do not-for-profit and municipal homes.

18 COMMISSIONER MARROCCO: And those
19 sources would be the -- well, what would the
20 sources be? I could imagine that you're one
21 source, but whatever --

22 MS. HOPE: Yes. So the primary source
23 of funding for long-term care homes is the grant
24 that comes from the Province of Ontario. And we
25 had a discussion, I think, a number of weeks ago

1 about that.

2 COMMISSIONER MARROCCO: Yes.

3 MS. HOPE: And in addition, they are
4 able to charge the co-payment of the residents
5 who -- but that amount is regulated by the
6 province.

7 Beyond that, the revenues that they
8 have would be, you know, ancillary, maybe there's a
9 tech shot; maybe they rent out some space to a
10 hairdresser; or, you know, the parking, maybe they
11 charge for parking. But the vast, vast majority of
12 their funding and what pays for the staff they
13 employ to provide care to residents, it comes from
14 the government grant.

15 COMMISSIONER MARROCCO: And their
16 profit must come from that too, then.

17 MS. HOPE: Yeah, so you may recall that
18 we talked about the four different envelopes.

19 COMMISSIONER MARROCCO: Four, yeah.

20 MS. HOPE: And there's one envelope
21 where a profit or a retained earning could be
22 generated. The other envelopes, and those are the
23 ones dealing with raw food and the two different
24 staffing categories, those funds can only be
25 expended on eligible types of expenditures.

1 COMMISSIONER MARROCCO: So they would
2 have had to divert some of the money from that
3 fourth envelope to wages? For example, if they
4 wanted to pay \$4 an hour before you decided to pay
5 \$4 an hour, they would divert some money from that
6 fourth envelope to wages? There would be nothing
7 to stop them from doing that?

8 MS. HOPE: There would be nothing to
9 stop a for-profit home from doing that, yes. I
10 only hesitate in that not-for-profit homes are
11 subject to a piece of government legislation right
12 now that does restrict wage increases.

13 COMMISSIONER MARROCCO: Okay.

14 MS. HOPE: I think the last principle I
15 wanted to touch on here is just that pandemic pay
16 in long-term care was aligned, as I mentioned
17 earlier, with other sectors. So the fundamental
18 structure of the program was consistent across
19 sectors.

20 There were some nuances, specific to
21 each sector, and I'll touch on those with respect
22 to long-term care in the subsequent slides.

23 So if we can move to the next slide,
24 who was eligible? I've touched on this. And so
25 the context of long-term care, all non-management

1 staff who worked on site in a long-term care home.
2 So that included clinical and support staff,
3 whether they were full-time, part-time, or casual.

4 If there were third-party agency staff
5 working in the home, they were also eligible for
6 pandemic pay.

7 And if there were staff redeployed from
8 other sectors, they were also eligible.

9 Those who weren't eligible would be
10 management staff, as I've referenced previously.
11 In some cases, a resident of a home may privately
12 employ someone to come into the home and provide
13 additional services to them. Those individuals are
14 not paid for through the government funding
15 mechanism. And those individuals would not be
16 eligible for pandemic pay.

17 And finally, if there was an employee
18 that was working off site, working from home,
19 working virtually, not present in the long-term
20 care home, they were not eligible. Again, that was
21 tied to the risk factors associated with working in
22 a home that we were trying to address.

23 The next slide just lays out a little
24 bit more clearly how the pandemic pay works. The
25 hourly increase was for each hour worked during the

1 eligibility period, which was April 24th to
2 August 13th.

3 And then you see here the four,
4 four-week periods of time that were laid out in the
5 program. And within each of those four-week
6 periods, an employee who worked a minimum of
7 100 hours in that four-week period was eligible for
8 the additional lump sum payment.

9 Also, on the slide we note the total
10 amount that we allocated for the program. It was
11 an estimate; they had to estimate how many hours
12 would be worked in the period. So \$321 million,
13 that was a combination -- that was funded through a
14 combination of Federal and provincial funding. The
15 Federal Government agreed to pay three quarters of
16 the cost of Ontario's Pandemic Pay Program.

17 And then at the bottom of the slide, we
18 simply note that across all of the different
19 sectors of which the Pandemic Pay Program operated,
20 the cost was about one and a half billion dollars
21 in Federal and provincial funding. Across about
22 2,000 employers.

23 The next slide, just a few fairly
24 technical additional details here. We also funded
25 the employer's share of any statutory deductions.

1 So if an employee was receiving an increase, then
2 they would pay employment insurance or CPP on that
3 additional earning of the -- our program paid the
4 employer's share, so the employer was not out of
5 pocket.

6 And we did not pay pandemic pay to
7 someone who was out of the workplace for some
8 reason. So if someone was on vacation or
9 authorized sick leave, or receiving benefits under
10 the Workplace Safety and Insurance Act.

11 The next slide just describes how we
12 decided how to allocate funding out to homes. This
13 is an amount that's reconciled after-the-fact. So
14 we're actually funding the actual cost to each
15 employer, but we needed to flow money to them so
16 that they could begin making payments. So we
17 simply came up with an estimate of how much on a
18 per-bed basis we thought a home would need in order
19 to be able to make pandemic pay payments to their
20 staff.

21 As is often the case, we added a bit of
22 extra funding for homes that were smaller, because
23 they don't have the same economies of scale.
24 They're likely to have a relatively higher number
25 of staff per beds.

1 And we paid that money out in two
2 installments to homes. And that, the next slide
3 just references, that amount will be reconciled.
4 So we will recover funding from homes who actually
5 -- based on their actual expenditures.

6 The slide that we have upright now just
7 talks about reporting. We asked homes for a
8 mid-term report in late July, and then a final
9 report in mid-October. And while we do have some
10 information from the interim reports, many homes
11 indicated that they were providing us with
12 estimates.

13 So based on those reports, as we are
14 able to get them all in and analyze them, we'll
15 have a more accurate sense of exactly how many
16 people received pandemic pay, hours worked, and the
17 exact cost to homes.

18 The next slide speaks about just the
19 fact that we do reconcile the funding. If a home
20 did not receive enough funding to cover their
21 actual costs, we will top them up. And if they
22 receive too much, we will recover them. And there
23 is a normal process we go through for
24 reconciliation each year.

25 And the, I think the final slide I have

1 here, just lays out a bit of a timeline. The
2 program was announced in April; it did take us a
3 bit of time to complete some of the program details
4 to do the funding agreements. It's a little bit
5 easier for us in long-term care because we had
6 preexisting arrangements with the homes we could
7 build on. We got the funding, first installments
8 of funding, out in June. And I describe the
9 reporting and reconciliation process.

10 So again, I realize that some of this
11 is fairly technical, but that's how the program has
12 worked.

13 The program ended in August, as we
14 referenced earlier. We don't have detailed
15 information on exactly what happened when the
16 program ended. I think that's what I have by way
17 of a brief overview on the program.

18 COMMISSIONER MARROCCO: Was there
19 anything similar but directed toward bringing more
20 beds into the system? You know, even on a
21 temporary basis to, you know, allow you to deal
22 with, for example, put all the COVID patients in
23 somewhere and the other patients, or the other
24 residents sorry, in someplace else? Is there
25 anything like that?

1 MS. HOPE: So early in the first wave,
2 so I would say it was in mid- to late-March, there
3 was some work done to provide additional licenses.

4 So our colleagues in the operations
5 division did work with homes who had additional
6 space and could create some additional licensed
7 beds by re-configuring space.

8 We also, in that period of time,
9 converted all short-stay beds into long-stay beds
10 when they became vacant.

11 So, for example, some homes have a
12 small number of beds that are available for what we
13 call short-stay, so respite. So perhaps I'm
14 looking after my mother in my home and I'm able to
15 manage, but I need a break, so she goes into a
16 short-stay bed for a week and then I take her home
17 again. Those short-stay beds, when they became
18 vacant in the spring, were automatically converted
19 into the long-stay beds so that they were then
20 available for the very kind of thing that you're
21 referencing.

22 COMMISSIONER MARROCCO: Well, I don't
23 know if there's -- yes, Commissioner Kitts.

24 COMMISSIONER KITTS: Janet, I can't
25 remember your earlier slides. But in one of your

1 earlier slides, did you have the objectives of what
2 the pandemic pay was supposed to do?

3 MS. HOPE: I think on slide three, we
4 talked about the goals, yes. So that middle bullet
5 point. Providing additional support and relief to
6 frontline workers, encouraging staff to continue
7 working, attracting prospective employees, and
8 helping to maintain safe staffing levels.

9 COMMISSIONER KITTS: So that didn't
10 apply just to long-term care homes. If you're a
11 personal support care worker working anywhere in
12 the system, you got the same \$4 pandemic pay or the
13 same things as the long-term care homes?

14 MS. HOPE: Yes, in general, there may
15 be some exceptions. But home and community care,
16 the hospital sector, retirement homes, which
17 actually aren't government funded. They're
18 entirely privately funded. But, yes, and some
19 other forms of congregate care, I think municipal,
20 like homeless shelters, I believe. I'm not the
21 expert on exactly how it worked in each sector.

22 But the general principle -- Kelci,
23 correct me if I'm wrong -- but the general
24 principle of the \$4 per hour and the lump sum
25 payment was consistent across the program.

1 MS. GERSHON: Yes, that is correct. It
2 was consistent across the program, the eligibility
3 differed from sector to sector.

4 So in long-term care, all employees and
5 workers in long-term care homes, if they were
6 on-site and not in management, were eligible. That
7 was not the case in the hospitals and retirement
8 homes.

9 COMMISSIONER KITTS: So if the
10 long-term care homes are the worst off in terms of
11 staffing, raising the bar for everybody takes away
12 the incentive to bring them back to more
13 comparables.

14 MS. HOPE: I think there was a concern
15 that we didn't want to create movement. We wanted --
16 we didn't necessarily want to, you know, have
17 people leave working in a homeless shelter or
18 another congregate care setting where there was
19 equally a need for those employees to come into
20 long-term care. We didn't want to create
21 artificial disruption in the labour market.

22 We had other mechanisms to help. So,
23 for example, in April when the hospitals weren't as
24 busy, we had those redeployment measures where
25 hospitals could redeploy their PSWs for their

1 nurses into long-term care.

2 COMMISSIONER KITTS: Okay.

3 COMMISSIONER MARROCCO: This is not
4 related to the presentation, but since you're here.

5 So if you're a private operator, what
6 are you contributing? Where do you contribute in
7 order to justify your existence?

8 MS. HOPE: So I think a private
9 operator is most likely having had to put up
10 significant capital to get into the business to
11 have -- they have the land, the building. And I
12 know you've had a briefing on the development
13 process. And historically, government hasn't
14 provided funding upfront to an operator to support
15 the development of new beds. They provided a
16 subsidy over a 20-year period.

17 So a for-profit, a private sector home,
18 frankly a not-for-profit as well, has to have a
19 degree of equity that they put into establishing
20 their business. And --

21 COMMISSIONER MARROCCO: No, go ahead,
22 sorry. I cut you off.

23 MS. HOPE: And then there are, I think,
24 counting on some steady form of return, some form
25 of return on that investment through the operation

1 of the business of the long-term care home.

2 COMMISSIONER MARROCCO: And that refers
3 to the four envelopes. That's where the return
4 presumably comes from, the four envelopes. But
5 they invest, they put up the land and the building.

6 MS. HOPE: Yes.

7 COMMISSIONER MARROCCO: They have to
8 find the funding for that on their own. They
9 create the building, and then you pay them for the
10 residents, and that's how they get their return on
11 their investment; is that the way you understand
12 it?

13 MS. HOPE: Yes. I would just say that
14 if they entered -- they may have entered into an
15 agreement with the government as well for the
16 government to provide an additional construction
17 funding subsidy, I think it's called. But again,
18 it would come over a period of multiple years.

19 COMMISSIONER MARROCCO: Okay. Well,
20 thank you. And, Kelci, Ms. Gershon, thank you for
21 coming.

22 We continue our work. And we're sorry
23 for the inconvenience, but it's extremely helpful
24 for us. This saves us an awful lot of time. And
25 we can rely on it, or at least we can blame you

1 both if it's not correct.

2 MS. HOPE: Well, we've done our best to
3 give you correct information.

4 COMMISSIONER MARROCCO: I'm sure you
5 have. Anyway, thank you very much for your time
6 and for your effort.

7 MS. HOPE: Thank you. Bye now.

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9 -- Meeting adjourned at 3:36 p.m.

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REPORTER'S CERTIFICATE

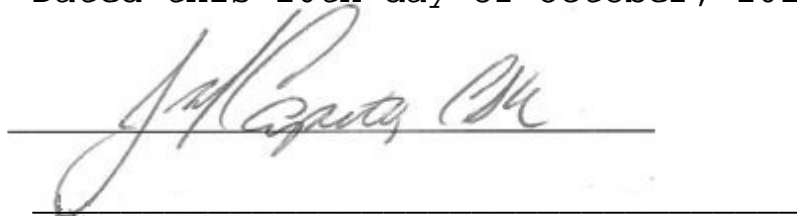
I, JUDITH M. CAPUTO, RPR, CSR, CRR,
Certified Shorthand Reporter, certify;

That the foregoing proceedings were
taken before me at the time and place therein set
forth;

That all remarks made at the time
were recorded stenographically by me and were
thereafter transcribed at my direction;

That the foregoing is a true and
correct transcript of my shorthand notes so taken.

Dated this 16th day of October, 2020.



A handwritten signature in cursive script, appearing to read 'Judith M. Caputo', is written over a horizontal line.

NEESONS, A VERITEXT COMPANY

PER: JUDITH M. CAPUTO, RPR, CSR, CRR

\$	adjourned 20:18 25:9	awful 24:24	Bye 25:7	combination 16:13,14
\$250 8:10	afford 9:5		C	commencing 3:1
\$321 16:12	after-the-fact 17:13	B	calculus 9:2	Commissioner 4:1,5 6:2,5 7:4 8:16 9:6 10:1 11:23 12:18 13:2,15, 19 14:1,13 19:18 20:22,23, 24 21:9 22:9 23:2,3,21 24:2, 7,19 25:4
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