

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

IN THE MATTER OF: :
 :
 Guapo's Restaurant, Inc.,: :
 t/a Guapo's Restaurant :
 4515 Wisconsin Ave NW : Show Cause
 Retailer CR - ANC 3E : Hearing
 License No. 16332 :
 Case #19-AUD-00081, :
 #19-AUD-00118 :
 :
 (Failed to File Quarterly:
 Statements) :

Wednesday
 January 13, 2021

The Alcoholic Beverage Control Board
 met via WebEx videoconference, Chairperson
 Donovan W. Anderson presiding.

PRESENT:

DONOVAN W. ANDERSON, Chairperson
 BOBBY CATO, JR., Member
 RAFI ALIYA CROCKETT, Member
 EDWARD S. GRANDIS, Member
 JAMES SHORT, JR., Member

ALSO PRESENT:

SIMONE ANDREWS, DISCHARGE ABRA Staff
 MONICA CLARK, Witness
 BARRY MARKOWITZ, Licensee's CPA
 STEPHEN ORTIZ, DISCHARGE OAG

CONTENTS

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
Monica Clark	8			
Barry Markowitz	25			

EXHIBIT NO.		PAGE
1	Case Report for Q2 2019	13
2	Quarterly Statement for Q2 2019	15
3	Case Report for Q3 2019	18
4	Quarterly Statement for Q3 2019	20

1 P-R-O-C-E-E-D-I-N-G-S

2 2:22 p.m.

3 CHAIRPERSON ANDERSON: All right. The
4 next case on our calendar is Case # 19-AUD-00081,
5 and 19-AUD-00118. Guapo's Restaurant, License
6 No. 16332. Ms. Andrews, can you please elevate
7 the rights of the licensee in this case. I
8 believe the government and the licensee in this
9 case.

10 MS. ANDREWS: Sure, stand by.

11 CHAIRPERSON ANDERSON: Thank you.

12 MS. ANDREWS: Mr. Markowitz, your
13 rights have been elevated. And Mr. Ortiz and Ms.
14 Clark, their rights are already elevated.

15 MR. MARKOWITZ: Okay.

16 CHAIRPERSON ANDERSON: Mr. Markowitz,
17 can you please mute your mic, please.

18 MR. MARKOWITZ: Yes.

19 CHAIRPERSON ANDERSON: Thank you.

20 MS. ANDREWS: Mr. Chair?

21 CHAIRPERSON ANDERSON: Yes.

22 MS. ANDREWS: Mr. Markowitz is
23 appearing twice. So if he opens his mic, there
24 may be some feedback. So one device where he may
25 be on twice on the same device. One of them, he

1 has to close out.

2 CHAIRPERSON ANDERSON: You heard that
3 Mr. Markowitz. Do you have a video that you can
4 open your mic, or at least not open your mic but
5 turn your video on, sir?

6 MR. MARKOWITZ: Okay. It is on.

7 CHAIRPERSON ANDERSON: All right. I
8 don't see you. But, all right. Yes, okay, fine.
9 I now see you. All right. Thank you. All
10 right. Let's start with the Government. Could
11 the Government please introduce themselves for
12 the record, and spell his name, please?

13 MR. ORTIZ: Good afternoon, Board
14 members. Stephen Ortiz on behalf of the
15 Government. That's S-T-E-P-H-E-N, O-R-T-I-Z.

16 CHAIRPERSON ANDERSON: And Mr.
17 Markowitz, can you identify yourself for the
18 record and spell your name, please?

19 MR. MARKOWITZ: Yes. It's Barry
20 Markowitz, B-A-R-R-Y, M-A-R-K-O-W-I-T-Z.

21 CHAIRPERSON ANDERSON: And what's your
22 relationship to the establishment, sir?

23 MR. MARKOWITZ: I'm the CPA for the
24 establishment.

25 CHAIRPERSON ANDERSON: All right.

1 Thank you. All right, Mr. Ortiz, this is
2 actually two cases. So I assume that you're
3 going to argue them separately because they're
4 two separate cases. I know they're combined, but
5 they're two cases that we need to present
6 evidence separately on the two cases. Is that
7 your understanding, sir?

8 MR. ORTIZ: My understanding was that
9 we were going to present evidence at one time, at
10 the same time, based on Monica Clark being the
11 same witness for both matters, and being both
12 show cause notices that were issued were for
13 failing to file the quarterly statements for
14 quarter two, and for quarter three.

15 CHAIRPERSON ANDERSON: Well, but in
16 order for -- because they're two separate cases.
17 So I believe that in presenting -- well, let me
18 ask you a question. Are there any preliminary
19 matters in this case?

20 MR. ORTIZ: There are no preliminary
21 matters at this time.

22 CHAIRPERSON ANDERSON: All right. All
23 right. So we're going to move forward with the,
24 we're going to move forward. So what I need you
25 to do to clarify the record is that I need, when

1 you have, hold on.

2 All right, so what I'm asking you to
3 do then, Mr. Ortiz, is we're having one hearing,
4 but what I need you to do is to, when the witness
5 is testifying, I need you to clearly articulate
6 what case she's testifying to, what evidence goes
7 toward Case 19-AUD-00081 and Case 19-AUD-00118.

8 So I need you to clearly articulate
9 what testimony goes toward which case. Okay?

10 MR. ORTIZ: Yes. The record will be
11 clear as to what evidence pertains to which case
12 number, and it will flow that way easily, and it
13 will be clear as to which quarterly statement
14 pertains to which case number.

15 CHAIRPERSON ANDERSON: All right.
16 That's fine. All right. So does the Government
17 wish to make an opening statement?

18 MR. ORTIZ: Yes. The Government
19 wishes to present an opening statement at this
20 time.

21 CHAIRPERSON ANDERSON: Go ahead, sir.

22 MR. ORTIZ: Good afternoon, Board
23 members. We are here today in the show cause
24 matters of Guapo's Restaurant, Inc., trading as
25 Guapo's Restaurant, located at 4515 Wisconsin

1 Avenue, NW.

2 The show cause notices issued in this
3 matter concerns a charge that the licensee failed
4 to timely file with the Board the required
5 quarterly statements reporting for the preceding
6 quarter. Gross receipts for the establishment,
7 gross receipts for sales of alcoholic beverages,
8 gross receipts for food sales, total expenses for
9 the purchase of food and alcoholic beverages, and
10 the expenses for purchases of food and alcoholic
11 beverages separately, in violation of D.C. Code
12 Section 25-113(b)(2)(A).

13 The evidence will show that the
14 licensee failed to timely file the quarterly
15 statement for the quarter ending June 30th, 2019,
16 due to be filed by July 30th, 2019. The evidence
17 will also show that the licensee failed to timely
18 file the quarterly statement for the quarter
19 ending September 30th, 2019, due to be filed by
20 October 30th, 2019. Thank you.

21 CHAIRPERSON ANDERSON: Mr. Markowitz,
22 do you wish to make an opening statement at this
23 juncture? Or do you wish to make an opening
24 statement once you present your case?

25 MR. MARKOWITZ: I'm sorry, I did not

1 hear you very well. I apologize.

2 CHAIRPERSON ANDERSON: Do you want to
3 make an opening statement now, or will you
4 reserve your opening statement until you present
5 your case?

6 MR. MARKOWITZ: I'll reserve it until
7 I present my case, please.

8 CHAIRPERSON ANDERSON: All right.
9 Fine. All right. Does the Government have any
10 witnesses?

11 MR. ORTIZ: Yes. The government would
12 like to call Monica Clark.

13 CHAIRPERSON ANDERSON: Ms. Clark, can
14 you raise your right hand please?

15 WHEREUPON,

16 MONICA CLARK

17 was called as a witness by Counsel for the Agency
18 and, having been first duly sworn, assumed the
19 witness stand, was examined and testified as
20 follows:

21 CHAIRPERSON ANDERSON: Mr. Ortiz, your
22 witness, please.

23 DIRECT EXAMINATION

24 MR. ORTIZ: Good afternoon, Ms. Clark.
25 Can you please state and spell your first and

1 last name for the record?

2 MS. CLARK: Monica Clark, M-O-N-I-C-A,
3 C-L-A-R-K.

4 MR. ORTIZ: And where are you
5 currently employed?

6 MS. CLARK: With the Alcohol Beverage
7 Regulation Administration.

8 MR. ORTIZ: And what is your position
9 or role at the Alcoholic Beverage Regulation
10 Administration?

11 MS. CLARK: Compliance analyst.

12 MR. ORTIZ: And how long have you been
13 with, how long have you been a compliance
14 analyst?

15 MS. CLARK: Since 2012.

16 MR. ORTIZ: What are your duties and
17 responsibilities as a compliance analyst?

18 MS. CLARK: Well, I receive, record,
19 and review quarterly statements received from
20 establishments within the District of Columbia.

21 MR. ORTIZ: And how can establishments
22 submit quarterly statements?

23 MS. CLARK: Well, they can submit
24 quarterly statements a few different ways. One,
25 they can bring them in in person. Normally, they

1 could drop them off at the front desk, but right
2 now, they would have to leave them at the drop
3 box.

4 They can mail them. We prefer that
5 they use certified mail if they choose to mail
6 them. Or they can go to our website and utilize
7 our online system for submitting them.

8 MR. ORTIZ: Are you familiar with
9 Guapo's Restaurant?

10 MS. CLARK: I am.

11 MR. ORTIZ: And how are you familiar
12 with Guapo's Restaurant?

13 MS. CLARK: Guapo's Restaurant is one
14 of the establishments that owns a liquor license
15 that are required to file a quarterly statement.

16 MR. ORTIZ: All right. And how else
17 are you familiar with this establishment?

18 MS. CLARK: Well, also Guapo's
19 Restaurant is one of the establishments that had
20 not filed their quarterly statement for the
21 second quarter of 2019.

22 CHAIRPERSON ANDERSON: Okay, I'm
23 sorry. Hold on. I'm sorry. Mr. Short, can you
24 please mute your microphone, please? Go ahead,
25 Mr. Ortiz.

1 MR. ORTIZ: Would you like me to
2 repeat the question, Mr. Anderson?

3 CHAIRPERSON ANDERSON: It's up to you.

4 MR. ORTIZ: I'll just proceed. I'm
5 going to show you a document marked as Government
6 Exhibit 1, for identification purposes. If I can
7 get the possibility to share my screen? Sorry, I
8 don't have the possibility right now to share my
9 content.

10 CHAIRPERSON ANDERSON: Mr. Ortiz, were
11 these documents shared with the Agency? Did you
12 send out a -- I'm sorry. Were these documents
13 disclosed to the Agency?

14 MR. ORTIZ: Yes.

15 CHAIRPERSON ANDERSON: All right. Let
16 me find them. All right. Hold on.

17 MR. ORTIZ: I was informed that the
18 proceeding would proceed, and I would share my
19 screen with the Government's exhibit so we can
20 all see it.

21 CHAIRPERSON ANDERSON: But you're now
22 stating, Mr. Ortiz, that you do not have the
23 ability to share your screen.

24 (Simultaneous speaking)

25 MS. ANDREWS: Mr. Chair, I will grants

1 him rights to share his screen.

2 CHAIRPERSON ANDERSON: Okay. Thank
3 you. All right. Okay. My apologies, Mr. Ortiz,
4 I did not realize it was from our end. I
5 apologize.

6 MR. ORTIZ: It's okay.

7 MS. ANDREWS: Mr. Ortiz, you can now
8 share your screen. Go ahead and test it for me.

9 CHAIRPERSON ANDERSON: Yes. Go ahead.
10 All right. Go ahead, Mr. Ortiz, we do have, your
11 screen's been shared.

12 MR. ORTIZ: Thank you. Here we go.
13 Do you recognize this document, Ms. Clark?

14 MS. CLARK: Yes, I do.

15 MR. ORTIZ: All right. And what is
16 this document?

17 MS. CLARK: This is a case report for
18 Case # 19-AUD-00081. A case that I authored.

19 MR. ORTIZ: All right. And what
20 exactly is this case report for?

21 MS. CLARK: This is, this case report
22 was written to establish that Guapo's Restaurant
23 failed to file their quarterly statement for the
24 second quarter of 2019, which covers the period
25 of April through June of 2019.

1 MR. ORTIZ: I'm just going to show you
2 the document, Government's Exhibit 1 in its
3 entirety.

4 MS. CLARK: Okay, I see.

5 MR. ORTIZ: And is this a fair and
6 accurate representation of the case report that
7 you created for Guapo's Restaurant, Case # 19-
8 AUD-00081?

9 MS. CLARK: Yes, it is.

10 MR. ORTIZ: All right. Mr.
11 Chairperson, at this time, the Government will
12 now move Government Exhibit 1, of the case
13 report, into evidence.

14 CHAIRPERSON ANDERSON: Mr. Markowitz,
15 do you have any objection? Turn your microphone
16 on, sir.

17 MR. MARKOWITZ: No, sir.

18 CHAIRPERSON ANDERSON: Thank you. So
19 moved.

20 (Whereupon, the document referred to
21 was marked as Exhibit 1 for identification)

22 MR. ORTIZ: Thank you. Now according
23 to the case report, for which period was the
24 quarterly statement due?

25 MS. CLARK: The quarterly statement

1 was for the second quarter of 2019, which would
2 be the period of April through June 2019.

3 MR. ORTIZ: When was the quarterly
4 statement due to be filed?

5 MS. CLARK: The quarterly statement in
6 question should have been filed no later than
7 July 30, 2019.

8 MR. ORTIZ: All right. Thank you. I
9 will now stop sharing that screen. And all
10 right, Ms. Clark, I'm going to show you a
11 document marked as Government Exhibit 2 for
12 identification purposes. One minute. Okay, and
13 do you recognize this document?

14 MS. CLARK: Yes, I do.

15 MR. ORTIZ: And what is this document?

16 MS. CLARK: This is a copy of the
17 quarterly statement submitted by Guapo's for the
18 second quarter of 2019.

19 MR. ORTIZ: And is this a fair and
20 accurate representation of the quarterly
21 statement filing for the second quarter for
22 calendar year 2019 for Guapo's Restaurant?

23 MS. CLARK: Yes, it is an exact copy.

24 MR. ORTIZ: Mr. Chairperson, at this
25 time the Government will now move Government

1 Exhibit 2, the quarterly statement, into
2 evidence. Mr. Chairperson?

3 CHAIRPERSON ANDERSON: I apologize.
4 I had some issues unmuting myself when the screen
5 was being shared. So that's what I am --

6 MR. ORTIZ: I had the same issue.
7 Understood.

8 CHAIRPERSON ANDERSON: So if, so I am
9 not going to mute myself when you are speaking,
10 because I'm having some issues unmuting myself.
11 So anyway, Mr. Markowitz, do you have any
12 objections?

13 MR. MARKOWITZ: No, sir.

14 CHAIRPERSON ANDERSON: So moved.

15 (Whereupon, the document referred to
16 was marked as Exhibit 2 for identification)

17 MR. ORTIZ: Now, Ms. Clark, how was
18 this quarterly statement filing submitted?

19 MS. CLARK: This quarterly statement
20 was admitted by our online process.

21 MR. ORTIZ: And how do you know that?

22 MS. CLARK: I can tell by the way, y
23 the way it's formatted, and it was received via
24 email, which is what the online process does. It
25 sends an email to me, and it sends a copy to the

1 establishment.

2 CHAIRPERSON ANDERSON: Hold on a
3 minute, please. Mr. Ortiz, when Ms. Clark is
4 testifying, please mute yourselves, okay?
5 Please. If you're able to.

6 MR. ORTIZ: That's the problem with
7 technology right now.

8 (Simultaneous speaking)

9 MR. ORTIZ: I understand. Let me --

10 CHAIRPERSON ANDERSON: Well, go ahead.
11 We'll deal with that.

12 MR. ORTIZ: I'm sorry. I'm looking
13 for it but I honestly can't find it.

14 MS. ANDREWS: Mr. Chair, I can go
15 ahead and mute him.

16 CHAIRPERSON ANDERSON: Okay, thank
17 you. All right. Okay, go ahead. I think, Ms.
18 Andrews, you have to unmute Mr. Ortiz, and we'll
19 just deal with the feedback. We won't mute you.
20 Just go ahead. We'll deal with the feedback.

21 MR. ORTIZ: And, sorry, Ms. Clark, how
22 would the filer submit information electronically
23 to ABRA that result in this document?

24 MS. CLARK: Okay, the person filing
25 would go to ABRA's web site, would click on where

1 it says file quarterly statements, then that will
2 take them to a screen, an entry screen. On the
3 entry screen, they would enter all the relevant
4 information. Scroll down to the bottom and enter
5 an email address. The email address entered on
6 this screen, should be the email address which
7 they want a copy to come to.

8 At that point, they would then click
9 submit save. And that will send copies onto
10 ABRA's office and a copy to the email address
11 that was listed on that form.

12 MR. ORTIZ: Thank you. And when was
13 this quarterly statement actually filed?

14 MS. CLARK: This quarterly statement
15 was filed on Wednesday, December 4th, 2019, at
16 12:04 p.m.

17 MR. ORTIZ: Thank you. Now I'm going
18 to show you a document marked as Government
19 Exhibit 3 for identification.

20 MS. CLARK: Yes.

21 MR. ORTIZ: Okay. Court's indulgence.
22 And do you recognize this document?

23 MS. CLARK: Yes, I do. This is a case
24 report that I also authored, Case # 19-AUD-00118
25 for Guapo's Restaurant.

1 MR. ORTIZ: And is this, I'm going to
2 show you the document in its entirety first.

3 MS. CLARK: Yes.

4 MR. ORTIZ: Now is this a fair and
5 accurate representation of the case report that
6 you created for Guapo's Restaurant? Case # 19-
7 AUD-00118?

8 MS. CLARK: Yes, it is.

9 MR. ORTIZ: Mr. Chairperson, at this
10 time the Government will now move Government
11 Exhibit 3, the case report, into evidence.

12 CHAIRPERSON ANDERSON: Mr. Markowitz,
13 do you have any objection?

14 MR. MARKOWITZ: No, sir.

15 CHAIRPERSON ANDERSON: All right. So
16 moved.

17 (Whereupon, the document referred to
18 was marked as Exhibit 3 for identification)

19 MR. ORTIZ: Now, Ms. Clark, according
20 to the case report, for which period was the
21 quarterly statement due?

22 MS. CLARK: This quarterly statement
23 would have been for the third quarter of 2019,
24 for the period of July through September of 2019.
25 July through September, 2019.

1 MR. ORTIZ: Is there a quarter
2 associated with the period of July to September
3 2019?

4 MS. CLARK: That would be third
5 quarter for that year.

6 MR. ORTIZ: And when was the quarterly
7 statement due?

8 MS. CLARK: The quarterly statement
9 for this period would have been due no later than
10 October 30th of 2019.

11 MR. ORTIZ: And now I'm going to show
12 you a document marked as Exhibit 4 for
13 identification purposes. And do you recognize
14 this document?

15 MS. CLARK: Yes, I do.

16 MR. ORTIZ: What is this document?

17 MS. CLARK: This is a copy of the
18 submitted quarterly statement for the third
19 quarter of 2019 from Guapo's Restaurant.

20 MR. ORTIZ: And is this a fair and
21 accurate representation of the quarterly
22 statement filed for the third quarter for
23 calendar year 2019, for Guapo's Restaurant?

24 MS. CLARK: Yes, it is. It's an exact
25 copy.

1 MR. ORTIZ: Mr. Chairperson, at this
2 time, the Government will now move Government
3 Exhibit 4, the quarterly statement for Case # 19-
4 AUD-00118 into evidence.

5 CHAIRPERSON ANDERSON: Mr. Markowitz,
6 do you have an objection, please?

7 MR. MARKOWITZ: No, sir.

8 CHAIRPERSON ANDERSON: All right. So
9 moved.

10 (Whereupon, the document referred to
11 was marked as Exhibit 4 for identification)

12 MR. ORTIZ: Ms. Clark, how was this
13 quarterly statement, sorry, this quarterly
14 statement filing submitted?

15 MS. CLARK: This quarterly statement
16 was filed and submitted on the online system from
17 ABRA's website.

18 MR. ORTIZ: And was it submitted
19 online?

20 MS. CLARK: Yes, it was.

21 MR. ORTIZ: When was the quarterly
22 statement filed?

23 MS. CLARK: It was filed on Wednesday,
24 December 4th, 2019, at 12:08 p.m.

25 MR. ORTIZ: Thank you, Ms. Clark. At

1 this time, the Government does not have any
2 further questions.

3 CHAIRPERSON ANDERSON: All right.
4 Thank you, Mr. Ortiz. Mr. Markowitz, because
5 there are two cases, so what I'll ask you to do,
6 you can ask questions of Ms. Clark, but I need
7 you to, when you ask a question, ask her first
8 about Case # 19-AUD-00081, and after you're done
9 with your questions on Case # 19-AUD-00081, then
10 you can ask her questions on Case # 19-AUD-00118.
11 Do you understand, sir?

12 MR. MARKOWITZ: Yes, sir.

13 CHAIRPERSON ANDERSON: All right. So
14 you can ask whatever questions you want of Ms.
15 Clark, please.

16 MR. MARKOWITZ: I don't really need to
17 ask any questions of Ms. Clark. I think what she
18 --

19 CHAIRPERSON ANDERSON: All right. So
20 if you don't have --

21 MR. MARKOWITZ: Pardon me?

22 CHAIRPERSON ANDERSON: All right, so
23 you don't have any questions to ask her?

24 MR. MARKOWITZ: No, sir. I mean, what
25 she said I believe is true.

1 CHAIRPERSON ANDERSON: Okay. All
2 right. Do we have, does the Board have any
3 questions of Ms. Clark on Case # 19-AUD-00081?
4 Any questions by the Board members on that first
5 case?

6 MEMBER GRANDIS: Yes.

7 CHAIRPERSON ANDERSON: Yes, Mr.
8 Grandis.

9 MEMBER GRANDIS: Good afternoon, Ms.
10 Clark. It's a pleasure to meet you here. If I'm
11 understanding this correctly, the report came in
12 December 4th?

13 MS. CLARK: Yes.

14 MEMBER GRANDIS: And was due October
15 30th?

16 MS. CLARK: Are we speaking to AUD-
17 00081?

18 MEMBER GRANDIS: Yes.

19 MS. CLARK: Okay. For 00081, that one
20 was for the second quarter. So that one would
21 have been due by the 30th of July.

22 MEMBER GRANDIS: And when was that
23 filed?

24 MS. CLARK: It was filed December 4th.

25 MEMBER GRANDIS: December. Okay.

1 Thank you very much.

2 MS. CLARK: You're welcome.

3 CHAIRPERSON ANDERSON: Any other
4 questions by any of the Board members on any
5 other issue?

6 All right. Hearing none, does the
7 Government rest? I'm sorry, does the Government
8 wish to ask a follow up question of Ms. Clark
9 based on the questions that were asked by Mr.
10 Grandis?

11 MR. ORTIZ: The Government does not
12 wish to ask a follow up question.

13 CHAIRPERSON ANDERSON: All right.
14 Thank you. Does the Government rest?

15 MR. ORTIZ: Yes. The Government
16 rests.

17 CHAIRPERSON ANDERSON: All right.
18 Thank you. All right, Mr. Markowitz. Since you
19 didn't give an opening statement, I'm just going
20 to get some clarification. Are you admitting
21 that the document, that the filings were filed
22 late and you want to argue penalty? Or tell me
23 how you plan to present your case.

24 MR. MARKOWITZ: Yes, sir. The two
25 reports were filed late.

1 CHAIRPERSON ANDERSON: All right.

2 (Simultaneous speaking)

3 MR. MARKOWITZ: I totally understand
4 that.

5 CHAIRPERSON ANDERSON: All right. So
6 you are, so we have agreement then, so you are
7 admitting that the, that in Case # 19-AUD-00081
8 that that filing was filed late. And in the
9 second case, Case # 19-AUD-00118, that filing was
10 also filed late. Is that correct?

11 MR. MARKOWITZ: Yes, sir.

12 CHAIRPERSON ANDERSON: All right. So
13 since we have agreement that, there's agreement
14 that the filing, that in both cases, the filing
15 was late. You're arguing whether or not the
16 Agency should fine you for the late filing. Is
17 that where you are?

18 MR. MARKOWITZ: Yes, sir. There were
19 some extenuating circumstances why they were
20 late.

21 CHAIRPERSON ANDERSON: Okay. So why
22 don't you, why don't you -- all right, are you
23 going to testify? Or you're bringing someone
24 else to testify?

25 MR. MARKOWITZ: Yes. I'm going to

1 testify.

2 CHAIRPERSON ANDERSON: Can you raise
3 your right hand, please?

4 MR. MARKOWITZ: Yes, sir.

5 WHEREUPON,

6 BARRY MARKOWITZ

7 was called as a witness by Counsel for the Agency
8 and, having been first duly sworn, assumed the
9 witness stand, was examined and testified as
10 follows:

11 CHAIRPERSON ANDERSON: Go ahead, sir.

12 MR. MARKOWITZ: So, in the timeframe
13 of the first filing, the second quarter of 2019,
14 during that timeframe, the main, the bookkeeper
15 at Guapo's retired. And then we were in a
16 transition during that time period getting the
17 accounting information up to date, and things
18 like that.

19 So we really did not have the
20 accounting information available in order to file
21 the reports. I know that doesn't excuse us from
22 not filing on time, but that is the reason that
23 they weren't filed and, as a matter of fact, we
24 weren't even aware that they weren't filed until
25 we received the notice that both of them were not

1 filed.

2 I believe it was at the same time, but
3 not I'm not totally sure about that. And that's
4 why I filed them, both of them, on December 4th,
5 because we were made aware that they weren't
6 filed. So I wanted to file them.

7 Since that time, we have timely filed
8 fourth quarter of 2019, and the first through the
9 third quarter of 2020. The fourth quarter has
10 not been filed yet, but it will be filed within
11 the next few days.

12 We have checks and balances in place
13 so that if someone does not get the information
14 together, there is another person to remind that
15 person to get that information together so that
16 this problem will not happen anymore.

17 We apologize for the lateness of these
18 reports. We've had a tough year in 2020, as a
19 lot of other people have had. The restaurant has
20 lost over \$400,000 by being closed on many dates,
21 or reduced capacity, things like that. And it is
22 very much of a burden for us to have to pay
23 \$2,000 for each of those fines at this time. And
24 I apologize for that too.

25 But unfortunately, 2020 was a burden

1 to many people and, like I said, I understand
2 that we were late. I'm not denying that at all.
3 So that's what I have to say, sir.

4 CHAIRPERSON ANDERSON: So, what is it
5 that you want the Board to do?

6 MR. MARKOWITZ: I'd like to at least
7 reduce the fines somewhat because \$4,000 at this
8 time is very tough. It's very hard for us to do.
9 I think it's, I think for us, it's excessive at
10 this time. So if there is any way to reduce the
11 fines somewhat so that then we can, we can make a
12 payment for that.

13 We would appreciate any consideration
14 in that way.

15 CHAIRPERSON ANDERSON: All right.
16 Thank you, Mr. Markowitz. Mr. Ortiz, do you have
17 any questions of Mr. Markowitz?

18 MR. ORTIZ: I don't have any
19 questions.

20 CHAIRPERSON ANDERSON: Does the Board,
21 do they have any questions of Mr. Markowitz?

22 Mr. Markowitz, I have a question that
23 I want to ask you.

24 MR. MARKOWITZ: Sure.

25 CHAIRPERSON ANDERSON: So when did

1 your bookkeeper retire, sir?

2 MR. MARKOWITZ: She retired in May.

3 CHAIRPERSON ANDERSON: In May?

4 MR. MARKOWITZ: Of 2019.

5 CHAIRPERSON ANDERSON: And how long
6 did this bookkeeper work for you?

7 MR. MARKOWITZ: 25 years.

8 CHAIRPERSON ANDERSON: Now, was this
9 a planned retirement? Or was it a sudden
10 retirement?

11 MR. MARKOWITZ: Something she had
12 talked about for a while, but then it kind of,
13 you know, the date just came upon us. There's a
14 lot of other work to do, and so some things got
15 left behind.

16 CHAIRPERSON ANDERSON: All right.
17 Thank you. Mr. Ortiz, any questions of Mr.
18 Markowitz based on the questions that I asked?

19 MR. ORTIZ: No questions at this time.

20 CHAIRPERSON ANDERSON: All right.
21 Thank you. Mr. Ortiz, do you wish to, do you
22 wish to make a closing statement?

23 MR. ORTIZ: Yes, I do at this time.

24 CHAIRPERSON ANDERSON: Go ahead,
25 please.

1 MR. ORTIZ: All right. The Government
2 has proven by preponderance of the evidence that
3 the licensee failed to timely file the quarterly
4 statement for the quarter ending June 30th, 2019,
5 due to be filed by July 30th, 2019.

6 The Government has met the same burden
7 for the Board to find that the licensee failed to
8 timely file the quarterly statement for the
9 quarter ending September 30th, 2019, which was
10 due to be filed by October 30th, 2019.

11 We heard from compliance analyst,
12 Monica Clark, that the quarterly statements were
13 filed late on December 4th, 2019. We also heard
14 from Mr. Barry Markowitz that the establishment
15 did file the statements, the quarterly statements
16 untimely.

17 Therefore, the Government has proven
18 the charge in both notices to show cause. In
19 both Case # 19-AUD-00081, and Case # 19-AUD-
20 00118. The Government recommends that the Board
21 apply a penalty consistent with D.C. Code Section
22 25-830. Thank you.

23 CHAIRPERSON ANDERSON: All right.
24 Thank you. Mr. Markowitz, are there any final
25 comments you want to make?

1 MR. MARKOWITZ: No, sir. Just
2 reiterating what I had said in the past. I mean,
3 our, you know, it's just 2020, of course, has
4 been a tough year and we are trying to follow
5 along the guidelines and get our reports filed
6 timely. We had two quarters in succession that
7 were not filed timely. We were unaware of that
8 until we received the notice, and then we filed
9 them as quickly as we could, and both of them on
10 December 4th.

11 Since that time, we've filed the
12 reports timely. We plan on continuing to do that
13 in the future.

14 CHAIRPERSON ANDERSON: All right.
15 Thank you. The record is now closed. Do the
16 parties wish to file proposed findings and facts,
17 and conclusion of law, or waive them for the
18 Board to make a decision based on presentations
19 made today?

20 MR. ORTIZ: The Government will waive
21 their right.

22 MR. MARKOWITZ: Yes, we will waive our
23 right too for Guapo's Restaurant.

24 CHAIRPERSON ANDERSON: All right.
25 Thank you very much. As Chairperson of the

1 Alcohol Beverage Control Board for the District
2 of Columbia, in accordance with D.C. Official
3 Code Section 2574(b), of the Open Meetings Act, I
4 move that ABC Board hold a closed meeting for the
5 purpose of seeking legal advice from our counsel
6 on Case # 19-AUD-00081, Guapo's Restaurant, and
7 19-AUD-00118, Guapo's Restaurant, pursuant to
8 D.C. Official Code Section 2574(b)(4) of the Open
9 Meetings Act, and deliberating upon Case # 19-
10 AUD-00081 and 19-AUD-00118, Guapo's Restaurant,
11 for the reasons cited in D.C. Official Code
12 Section 2574(b)(13) of the Open Meetings Act. Is
13 there a second?

14 MEMBER CROCKETT: Ms. Crockett
15 seconds.

16 CHAIRPERSON ANDERSON: Ms. Crockett
17 has seconded the motion. I will now have a roll
18 call vote on the motion that was properly
19 seconded by Ms. Crockett. Mr. Short?

20 MEMBER SHORT: Mr. Short, I agree.

21 CHAIRPERSON ANDERSON: Mr. Cato?

22 MEMBER CATO: Bobby Cato, I agree.

23 CHAIRPERSON ANDERSON: Ms. Crockett?

24 MEMBER CROCKETT: Rafi Crockett, I
25 agree.

1 CHAIRPERSON ANDERSON: Mr. Grandis?

2 MEMBER GRANDIS: Ed Grandis, I agree.

3 CHAIRPERSON ANDERSON: Mr. Anderson,
4 I agree. As it appears that the motion has
5 passed, I hereby give notice that ABC Board will
6 recess these proceedings to hold a closed meeting
7 in the ABC Board conference room pursuant to
8 Section 2574(b) of the Open Meetings Act.

9 Mr. Ortiz and Mr. Markowitz, thank you
10 very much for your presentation today. And Ms.
11 Clark. The Board will take this matter under
12 advisement and we will issue a decision
13 accordingly. Thank you very much. Have a great
14 day.

15 MR. MARKOWITZ: Thank you, sir.

16 CHAIRPERSON ANDERSON: All right.

17 Bye-bye.

18 (Whereupon, the above-entitled meeting
19 went off the record at 2:58 p.m.)
20
21
22
23
24
25

A

ABC 31:4 32:5,7
ability 11:23
able 16:5
above-entitled 32:18
ABRA 1:22 16:23
ABRA's 16:25 17:10
 20:17
accounting 25:17,20
accurate 13:6 14:20
 18:5 19:21
Act 31:3,9,12 32:8
address 17:5,5,6,10
Administration 9:7,10
admitted 15:20
admitting 23:20 24:7
advice 31:5
advisement 32:12
afternoon 4:13 6:22
 8:24 22:9
Agency 8:17 11:11,13
 24:16 25:7
agree 31:20,22,25 32:2
 32:4
agreement 24:6,13,13
ahead 6:21 10:24 12:8
 12:9,10 16:10,15,17
 16:20 25:11 28:24
Alcohol 9:6 31:1
alcoholic 1:2,14 7:7,9
 7:10 9:9
ALIYA 1:18
analyst 9:11,14,17
 29:11
ANC 1:7
Anderson 1:15,17 3:3
 3:11,16,19,21 4:2,7
 4:16,21,25 5:15,22
 6:15,21 7:21 8:2,8,13
 8:21 10:22 11:2,3,10
 11:15,21 12:2,9 13:14
 13:18 15:3,8,14 16:2
 16:10,16 18:12,15
 20:5,8 21:3,13,19,22
 22:1,7 23:3,13,17
 24:1,5,12,21 25:2,11
 27:4,15,20,25 28:3,5
 28:8,16,20,24 29:23
 30:14,24 31:16,21,23
 32:1,3,3,16
Andrews 1:22 3:6,10,12
 3:20,22 11:25 12:7
 16:14,18
anymore 26:16
anyway 15:11
apologies 12:3
apologize 8:1 12:5 15:3
 26:17,24

appearing 3:23
appears 32:4
apply 29:21
appreciate 27:13
April 12:25 14:2
argue 5:3 23:22
arguing 24:15
articulate 6:5,8
asked 23:9 28:18
asking 6:2
associated 19:2
assume 5:2
assumed 8:18 25:8
AUD- 22:16
AUD-00081 13:8 31:10
AUD-00118 18:7 20:4
authored 12:18 17:24
available 25:20
Ave 1:7
Avenue 7:1
aware 25:24 26:5

B

B-A-R-R-Y 4:20
balances 26:12
Barry 1:23 2:10 4:19
 25:6 29:14
based 5:10 23:9 28:18
 30:18
behalf 4:14
believe 3:8 5:17 21:25
 26:2
Beverage 1:2,14 9:6,9
 31:1
beverages 7:7,9,11
Board 1:2,14 4:13 6:22
 7:4 22:2,4 23:4 27:5
 27:20 29:7,20 30:18
 31:1,4 32:5,7,11
Bobby 1:18 31:22
bookkeeper 25:14 28:1
 28:6
bottom 17:4
box 10:3
bring 9:25
bringing 24:23
burden 26:22,25 29:6
Bye-bye 32:17

C

C-L-A-R-K 9:3
calendar 3:4 14:22
 19:23
call 8:12 31:18
called 8:17 25:7
capacity 26:21
case 1:8 2:14,16 3:4,4,7
 3:9 5:19 6:6,7,9,11

6:14 7:24 8:5,7 12:17
 12:18,18,20,21 13:6,7
 13:12,23 17:23,24
 18:5,6,11,20 20:3
 21:8,9,10 22:3,5
 23:23 24:7,9,9 29:19
 29:19 31:6,9
cases 5:2,4,5,6,16 21:5
 24:14
Cato 1:18 31:21,22,22
cause 1:7 5:12 6:23 7:2
 29:18
certified 10:5
Chair 3:20 11:25 16:14
Chairperson 1:14,17
 3:3,11,16,19,21 4:2,7
 4:16,21,25 5:15,22
 6:15,21 7:21 8:2,8,13
 8:21 10:22 11:3,10,15
 11:21 12:2,9 13:11,14
 13:18 14:24 15:2,3,8
 15:14 16:2,10,16 18:9
 18:12,15 20:1,5,8
 21:3,13,19,22 22:1,7
 23:3,13,17 24:1,5,12
 24:21 25:2,11 27:4,15
 27:20,25 28:3,5,8,16
 28:20,24 29:23 30:14
 30:24,25 31:16,21,23
 32:1,3,16
charge 7:3 29:18
checks 26:12
choose 10:5
circumstances 24:19
cited 31:11
clarification 23:20
clarify 5:25
Clark 1:22 2:9 3:14 5:10
 8:12,13,16,24 9:2,2,6
 9:11,15,18,23 10:10
 10:13,18 12:13,14,17
 12:21 13:4,9,25 14:5
 14:10,14,16,23 15:17
 15:19,22 16:3,21,24
 17:14,20,23 18:3,8,19
 18:22 19:4,8,15,17,24
 20:12,15,20,23,25
 21:6,15,17 22:3,10,13
 22:16,19,24 23:2,8
 29:12 32:11
clear 6:11,13
clearly 6:5,8
click 16:25 17:8
close 4:1
closed 26:20 30:15
 31:4 32:6
closing 28:22
Code 7:11 29:21 31:3,8

31:11
Columbia 1:1 9:20 31:2
combined 5:4
come 17:7
comments 29:25
compliance 9:11,13,17
 29:11
concerns 7:3
conclusion 30:17
conference 32:7
consideration 27:13
consistent 29:21
content 11:9
CONTENTS 2:6
continuing 30:12
Control 1:2,14 31:1
copies 17:9
copy 14:16,23 15:25
 17:7,10 19:17,25
correct 24:10
correctly 22:11
counsel 8:17 25:7 31:5
course 30:3
Court's 17:21
covers 12:24
CPA 1:23 4:23
CR 1:7
created 13:7 18:6
Crockett 1:18 31:14,14
 31:16,19,23,24,24
CROSS 2:8
currently 9:5

D

D.C 7:11 29:21 31:2,8
 31:11
date 25:17 28:13
dates 26:20
day 32:14
days 26:11
deal 16:11,19,20
December 17:15 20:24
 22:12,24,25 26:4
 29:13 30:10
decision 30:18 32:12
deliberating 31:9
denying 27:2
desk 10:1
device 3:24,25
different 9:24
DIRECT 2:8 8:23
DISCHARGE 1:22,23
disclosed 11:13
District 1:1 9:20 31:1
document 11:5 12:13
 12:16 13:2,20 14:11
 14:13,15 15:15 16:23
 17:18,22 18:2,17

19:12,14,16 20:10
23:21
documents 11:11,12
Donovan 1:15,17
drop 10:1,2
due 7:16,19 13:24 14:4
18:21 19:7,9 22:14,21
29:5,10
duly 8:18 25:8
duties 9:16

E

easily 6:12
Ed 32:2
EDWARD 1:19
electronically 16:22
elevate 3:6
elevated 3:13,14
email 15:24,25 17:5,5,6
17:10
employed 9:5
enter 17:3,4
entered 17:5
entirety 13:3 18:2
entry 17:2,3
establish 12:22
establishment 4:22,24
7:6 10:17 16:1 29:14
establishments 9:20,21
10:14,19
evidence 5:6,9 6:6,11
7:13,16 13:13 15:2
18:11 20:4 29:2
exact 14:23 19:24
exactly 12:20
EXAMINATION 8:23
examined 8:19 25:9
excessive 27:9
excuse 25:21
exhibit 2:12 11:6,19
13:2,12,21 14:11 15:1
15:16 17:19 18:11,18
19:12 20:3,11
expenses 7:8,10
extenuating 24:19

F

fact 25:23
facts 30:16
failed 1:10 7:3,14,17
12:23 29:3,7
failing 5:13
fair 13:5 14:19 18:4
19:20
familiar 10:8,11,17
feedback 3:24 16:19,20
file 1:10 5:13 7:4,14,18
10:15 12:23 17:1

25:20 26:6 29:3,8,15
30:16
filed 7:16,19 10:20 14:4
14:6 17:13,15 19:22
20:16,22,23 22:23,24
23:21,25 24:8,10
25:23,24 26:1,4,6,7
26:10,10 29:5,10,13
30:5,7,8,11
filer 16:22
filing 14:21 15:18 16:24
20:14 24:8,9,14,14,16
25:13,22
filings 23:21
final 29:24
find 11:16 16:13 29:7
findings 30:16
fine 4:8 6:16 8:9 24:16
finer 26:23 27:7,11
first 8:18,25 18:2 21:7
22:4 25:8,13 26:8
flow 6:12
follow 23:8,12 30:4
follows 8:20 25:10
food 7:8,9,10
form 17:11
formatted 15:23
forward 5:23,24
fourth 26:8,9
front 10:1
further 21:2
future 30:13

G

getting 25:16
give 23:19 32:5
government 3:8 4:10
4:11,15 6:16,18 8:9
8:11 11:5 13:11,12
14:11,25,25 17:18
18:10,10 20:2,2 21:1
23:7,7,11,14,15 29:1
29:6,17,20 30:20
Government's 11:19
13:2
Grandis 1:19 22:6,8,9
22:14,18,22,25 23:10
32:1,2,2
grants 11:25
gross 7:6,7,8
Guapo's 1:6,6 3:5 6:24
6:25 10:9,12,13,18
12:22 13:7 14:17,22
17:25 18:6 19:19,23
25:15 30:23 31:6,7,10
guidelines 30:5

H

hand 8:14 25:3
happen 26:16
hard 27:8
hear 8:1
heard 4:2 29:11,13
hearing 1:7 6:3 23:6
hold 6:1 10:23 11:16
16:2 31:4 32:6
honestly 16:13

I

identification 11:6
13:21 14:12 15:16
17:19 18:18 19:13
20:11
identify 4:17
indulgence 17:21
information 16:22 17:4
25:17,20 26:13,15
informed 11:17
introduce 4:11
issue 15:6 23:5 32:12
issued 5:12 7:2
issues 15:4,10

J

JAMES 1:19
January 1:12
JR 1:18,19
July 7:16 14:7 18:24,25
19:2 22:21 29:5
junction 7:23
June 7:15 12:25 14:2
29:4

K

L

late 23:22,25 24:8,10,15
24:16,20 27:2 29:13
lateness 26:17
law 30:17
leave 10:2
left 28:15
legal 31:5
Let's 4:10
license 1:8 3:5 10:14
licensee 3:7,8 7:3,14,17
29:3,7
Licensee's 1:23
liquor 10:14
listed 17:11
located 6:25
long 9:12,13 28:5
looking 16:12
lost 26:20
lot 26:19 28:14

M

M-A-R-K-O-W-I-T-Z
4:20
M-O-N-I-C-A 9:2
mail 10:4,5,5
main 25:14
marked 11:5 13:21
14:11 15:16 17:18
18:18 19:12 20:11
Markowitz 1:23 2:10
3:12,15,16,18,22 4:3
4:6,17,19,20,23 7:21
7:25 8:6 13:14,17
15:11,13 18:12,14
20:5,7 21:4,12,16,21
21:24 23:18,24 24:3
24:11,18,25 25:4,6,12
27:6,16,17,21,22,24
28:2,4,7,11,18 29:14
29:24 30:1,22 32:9,15
matter 1:5 7:3 25:23
32:11
matters 5:11,19,21 6:24
mean 21:24 30:2
meet 22:10
meeting 1:3 31:4 32:6
32:18
Meetings 31:3,9,12
32:8
Member 1:18,18,19,19
22:6,9,14,18,22,25
31:14,20,22,24 32:2
members 4:14 6:23
22:4 23:4
met 1:14 29:6
mic 3:17,23 4:4,4
microphone 10:24
13:15
minute 14:12 16:3
Monica 1:22 2:9 5:10
8:12,16 9:2 29:12
motion 31:17,18 32:4
move 5:23,24 13:12
14:25 18:10 20:2 31:4
moved 13:19 15:14
18:16 20:9
mute 3:17 10:24 15:9
16:4,15,19

N

name 4:12,18 9:1
need 5:5,24,25 6:4,5,8
21:6,16
Normally 9:25
notice 25:25 30:8 32:5
notices 5:12 7:2 29:18
number 6:12,14
NW 1:7 7:1

O

O-R-T-I-Z 4:15
OAG 1:23
objection 13:15 18:13 20:6
objections 15:12
October 7:20 19:10 22:14 29:10
office 17:10
Official 31:2,8,11
once 7:24
online 10:7 15:20,24 20:16,19
open 4:4,4 31:3,8,12 32:8
opening 6:17,19 7:22 7:23 8:3,4 23:19
opens 3:23
order 5:16 25:20
Ortiz 1:23 3:13 4:13,14 5:1,8,20 6:3,10,18,22 8:11,21,24 9:4,8,12 9:16,21 10:8,11,16,25 11:1,4,10,14,17,22 12:3,6,7,10,12,15,19 13:1,5,10,22 14:3,8 14:15,19,24 15:6,17 15:21 16:3,6,9,12,18 16:21 17:12,17,21 18:1,4,9,19 19:1,6,11 19:16,20 20:1,12,18 20:21,25 21:4 23:11 23:15 27:16,18 28:17 28:19,21,23 29:1 30:20 32:9
owns 10:14

P

P-R-O-C-E-E-D-I-N-G-S 3:1
p.m 3:2 17:16 20:24 32:19
PAGE 2:12
Pardon 21:21
parties 30:16
passed 32:5
pay 26:22
payment 27:12
penalty 23:22 29:21
people 26:19 27:1
period 12:24 13:23 14:2 18:20,24 19:2,9 25:16
person 9:25 16:24 26:14,15
pertains 6:11,14
place 26:12
plan 23:23 30:12
planned 28:9

please 3:6,17,17 4:11 4:12,18 8:7,14,22,25 10:24,24 16:3,4,5 20:6 21:15 25:3 28:25
pleasure 22:10
point 17:8
position 9:8
possibility 11:7,8
preceding 7:5
prefer 10:4
preliminary 5:18,20
preponderance 29:2
present 1:16,21 5:5,9 6:19 7:24 8:4,7 23:23
presentation 32:10
presentations 30:18
presenting 5:17
presiding 1:15
problem 16:6 26:16
proceed 11:4,18
proceeding 11:18
proceedings 32:6
process 15:20,24
properly 31:18
proposed 30:16
proven 29:2,17
purchase 7:9
purchases 7:10
purpose 31:5
purposes 11:6 14:12 19:13
pursuant 31:7 32:7

Q

Q2 2:14,15
Q3 2:16,17
quarter 5:14,14 7:6,15 7:18 10:21 12:24 14:1 14:18,21 18:23 19:1,5 19:19,22 22:20 25:13 26:8,9,9 29:4,9
quarterly 1:10 2:15,17 5:13 6:13 7:5,14,18 9:19,22,24 10:15,20 12:23 13:24,25 14:3,5 14:17,20 15:1,18,19 17:1,13,14 18:21,22 19:6,8,18,21 20:3,13 20:13,15,21 29:3,8,12 29:15
quarters 30:6
question 5:18 11:2 14:6 21:7 23:8,12 27:22
questions 21:2,6,9,10 21:14,17,23 22:3,4 23:4,9 27:17,19,21 28:17,18,19
quickly 30:9

R

Rafi 1:18 31:24
raise 8:14 25:2
realize 12:4
reason 25:22
reasons 31:11
receipts 7:6,7,8
receive 9:18
received 9:19 15:23 25:25 30:8
recess 32:6
recognize 12:13 14:13 17:22 19:13
recommends 29:20
record 4:12,18 5:25 6:10 9:1,18 30:15 32:19
RECROSS 2:8
REDIRECT 2:8
reduce 27:7,10
reduced 26:21
referred 13:20 15:15 18:17 20:10
Regulation 9:7,9
reiterating 30:2
relationship 4:22
relevant 17:3
remind 26:14
repeat 11:2
report 2:14,16 12:17,20 12:21 13:6,13,23 17:24 18:5,11,20 22:11
reporting 7:5
reports 23:25 25:21 26:18 30:5,12
representation 13:6 14:20 18:5 19:21
required 7:4 10:15
reserve 8:4,6
responsibilities 9:17
rest 23:7,14
restaurant 1:6,6 3:5 6:24,25 10:9,12,13,19 12:22 13:7 14:22 17:25 18:6 19:19,23 26:19 30:23 31:6,7,10
rests 23:16
result 16:23
Retailer 1:7
retire 28:1
retired 25:15 28:2
retirement 28:9,10
review 9:19
rights 3:7,13,14 12:1
role 9:9
roll 31:17
room 32:7

S

S 1:19
S-T-E-P-H-E-N 4:15
sales 7:7,8
save 17:9
says 17:1
screen 11:7,19,23 12:1 12:8 14:9 15:4 17:2,2 17:3,6
screen's 12:11
Scroll 17:4
second 10:21 12:24 14:1,18,21 22:20 24:9 25:13 31:13
seconded 31:17,19
seconds 31:15
Section 7:12 29:21 31:3 31:8,12 32:8
seeking 31:5
send 11:12 17:9
sends 15:25,25
separate 5:4,16
separately 5:3,6 7:11
September 7:19 18:24 18:25 19:2 29:9
share 11:7,8,18,23 12:1 12:8
shared 11:11 12:11 15:5
sharing 14:9
Short 1:19 10:23 31:19 31:20,20
show 1:7 5:12 6:23 7:2 7:13,17 11:5 13:1 14:10 17:18 18:2 19:11 29:18
SIMONE 1:22
Simultaneous 11:24 16:8 24:2
sir 4:5,22 5:7 6:21 13:16,17 15:13 18:14 20:7 21:11,12,24 23:24 24:11,18 25:4 25:11 27:3 28:1 30:1 32:15
site 16:25
somewhat 27:7,11
sorry 7:25 10:23,23 11:7,12 16:12,21 20:13 23:7
speaking 11:24 15:9 16:8 22:16 24:2
spell 4:12,18 8:25
Staff 1:22
stand 3:10 8:19 25:9
start 4:10
state 8:25
statement 2:15,17 6:13

6:17,19 7:15,18,22,24
 8:3,4 10:15,20 12:23
 13:24,25 14:4,5,17,21
 15:1,18,19 17:13,14
 18:21,22 19:7,8,18,22
 20:3,13,14,15,22
 23:19 28:22 29:4,8
statements 1:10 5:13
 7:5 9:19,22,24 17:1
 29:12,15,15
stating 11:22
Stephen 1:23 4:14
stop 14:9
submit 9:22,23 16:22
 17:9
submitted 14:17 15:18
 19:18 20:14,16,18
submitting 10:7
succession 30:6
sudden 28:9
sworn 8:18 25:8
system 10:7 20:16

T

t/a 1:6
talked 28:12
technology 16:7
tell 15:22 23:22
test 12:8
testified 8:19 25:9
testify 24:23,24 25:1
testifying 6:5,6 16:4
testimony 6:9
thank 3:11,19 4:9 5:1
 7:20 12:2,12 13:18,22
 14:8 16:16 17:12,17
 20:25 21:4 23:1,14,18
 27:16 28:17,21 29:22
 29:24 30:15,25 32:9
 32:13,15
things 25:17 26:21
 28:14
third 18:23 19:4,18,22
 26:9
three 5:14
timeframe 25:12,14
timely 7:4,14,17 26:7
 29:3,8 30:6,7,12
today 6:23 30:19 32:10
total 7:8
totally 24:3 26:3
tough 26:18 27:8 30:4
trading 6:24
transition 25:16
true 21:25
trying 30:4
turn 4:5 13:15
twice 3:23,25

two 5:2,4,5,6,14,16 21:5
 23:24 30:6

U

unaware 30:7
understand 16:9 21:11
 24:3 27:1
understanding 5:7,8
 22:11
Understood 15:7
unfortunately 26:25
unmute 16:18
unmuting 15:4,10
untimely 29:16
use 10:5
utilize 10:6

V

video 4:3,5
videoconference 1:14
violation 7:11
vote 31:18

W

W 1:15,17
waive 30:17,20,22
wanted 26:6
way 6:12 15:22,23
 27:10,14
ways 9:24
web 16:25
WebEx 1:14
website 10:6 20:17
Wednesday 1:12 17:15
 20:23
welcome 23:2
went 32:19
weren't 25:23,24,24
 26:5
Wisconsin 1:7 6:25
wish 6:17 7:22,23 23:8
 23:12 28:21,22 30:16
wishes 6:19
witness 1:22 2:8 5:11
 6:4 8:17,19,22 25:7,9
witnesses 8:10
work 28:6,14
written 12:22

X

Y

y 15:22
year 14:22 19:5,23
 26:18 30:4
years 28:7

Z

0

00081 22:17,19
00118 29:20

1

12:04 17:16
12:08 20:24
13 1:12 2:14
15 2:15
16332 1:8 3:6
18 2:16
19- 13:7 18:6 20:3 31:9
19-AUD- 29:19
19-AUD-00081 1:8 3:4
 6:7 12:18 21:8,9 22:3
 24:7 29:19 31:6
19-AUD-00118 1:9 3:5
 6:7 17:24 21:10 24:9
 31:7,10

2

2 2:15 14:11 15:1,16
2,000 26:23
2:22 3:2
2:58 32:19
20 2:17
2012 9:15
2019 2:14,15,16,17 7:15
 7:16,19,20 10:21
 12:24,25 14:1,2,7,18
 14:22 17:15 18:23,24
 18:25 19:3,10,19,23
 20:24 25:13 26:8 28:4
 29:4,5,9,10,13
2020 26:9,18,25 30:3
2021 1:12
25 2:10 28:7
25-113(b)(2)(A) 7:12
25-830 29:22
2574(b) 31:3 32:8
2574(b)(13) 31:12
2574(b)(4) 31:8

3

3 2:16 17:19 18:11,18
30 14:7
30th 7:15,16,19,20
 19:10 22:15,21 29:4,5
 29:9,10
3E 1:7

4

4 2:17 19:12 20:3,11
4,000 27:7
400,000 26:20
4515 1:7 6:25
4th 17:15 20:24 22:12

22:24 26:4 29:13
 30:10

5

6

7

8

8 2:9

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This is to certify that the foregoing transcript

In the matter of: Guapo's Restaurant

Before: DCABRA

Date: 01-13-21

Place: teleconference

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Neal R Gross

Court Reporter

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