

DISTRICT OF COLUMBIA  
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 ALCOHOLIC BEVERAGE AND CANNABIS BOARD  
 + + + + +  
 MEETING

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 IN THE MATTER OF: :  
 :  
 Astede Corp, :  
 t/a Nile Ethiopian :  
 Restaurant and Nile :  
 Market :  
 7815 Georgia Ave NW : Show Cause  
 Retailer CR - ANC 4B : Hearing  
 License #60432 :  
 Case # 22-CMP-00082 :  
 :  
 (No ABC Manager on Duty, :  
 Provided False or :  
 Misleading Information) :  
 -----=

Wednesday  
 May 3, 2023

The Alcoholic Beverage and Cannabis  
 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  
 JENI HANSEN, Member  
 JAMES SHORT, JR., Member  
 ALSO PRESENT:  
 GETU AMDE, Witness  
 INVESTIGATOR JOVAN MILLER, DC ABCA  
 KEVIN LUTES, DC OAG  
 JOSE ORELLANA, DC ABCA Staff  
 WENDELL ROBINSON, Licensee's Counsel

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

2 11:01 a.m.

3 CHAIRPERSON ANDERSON: The next case  
4 on our calendar is Case No. 22-CMP-00082, Nile  
5 Ethiopian Restaurant and Nile Market, License  
6 #60432. Mr. Orellana, can you please elevate the  
7 government, any witnesses, and also the licensee,  
8 please.

9 MR. ORELLANA: Wendell Robinson, your  
10 access has been elevated. Kevin Lutes, your  
11 access has been elevated. Investigator Miller,  
12 your access has been elevated.

13 CHAIRPERSON ANDERSON: Mr. Robinson,  
14 can you mute your phone, please?

15 MR. ROBINSON: Good morning.

16 CHAIRPERSON ANDERSON: Mr. Robinson,  
17 it appears there are two people who are online in  
18 the same location where you are at. So, one  
19 person's line has to be muted. You can also turn  
20 your camera on, sir. Mr. Robinson?

21 MR. ROBINSON: Is that better?

22 CHAIRPERSON ANDERSON: Yes, sir,  
23 that's better. You are logged on twice, sir.  
24 Either you need to log off one of the equipment,  
25 or you need to mute one of the equipment. Mr.

1 Robinson?

2 (No audible response.)

3 MR. ORELLANA: I have sent him a  
4 request to unmute.

5 CHAIRPERSON ANDERSON: Thank you.

6 MR. ROBINSON: Mr. Chair.

7 CHAIRPERSON ANDERSON: Mr. Robinson,  
8 you're logged on two equipment, sir, and because  
9 you're logged on on two equipment it is causing a  
10 feedback.

11 MR. ROBINSON: I'm in a closed office.  
12 There isn't any other cell phones in here. There  
13 aren't any other computers in here.

14 CHAIRPERSON ANDERSON: But I can't  
15 keep -- turn your camera on, now I can't see you.  
16 Now the other log on is gone. I can't see you,  
17 but I can hear you now.

18 MR. ROBINSON: I'm not sure what the  
19 problem is, Mr. Chairman. Let me just try  
20 something else.

21 CHAIRPERSON ANDERSON: You know what  
22 it is, Mr. Robinson.

23 MR. ROBINSON: Can you see me now?

24 CHAIRPERSON ANDERSON: I can't see  
25 you, but I don't have the feedback, so I'll just

1 move with what we have. So, I can hear you well.  
2 I saw you, I recognize your voice, and I also saw  
3 you in a previous show cause status.

4 MR. ROBINSON: Can you see me now?

5 CHAIRPERSON ANDERSON: Yes, I can see  
6 you, Mr. Robinson.

7 MR. ROBINSON: Mr. Amde is here also.

8 CHAIRPERSON ANDERSON: All right.

9 Fine. Mr. Lutes, can you please identify  
10 yourself for the record, please?

11 MR. LUTES: Morning, Mr. Chairperson,  
12 this is Kevin Lutes for the District.

13 CHAIRPERSON ANDERSON: Good morning,  
14 sir. Mr. Robinson, can you introduce yourself  
15 for the record?

16 MR. ROBINSON: Yes, Your Honor.  
17 Wendell Robinson on behalf of the licensee and  
18 also with me is Mr. Getu Amde. Please state your  
19 name.

20 MR. AMDE: Getu Amde.

21 MR. ROBINSON: Mr. Chairperson --

22 CHAIRPERSON ANDERSON: No, I need him  
23 to, I can't hear him, and I need him to spell his  
24 name.

25 MR. AMDE: G-E-T-U A-M-D-E, Getu Amde.

1                   CHAIRPERSON ANDERSON: How do you  
2 spell your last name, sir? Sir, we have a court  
3 reporter. That's one of the reasons why. For  
4 the court reporter I ask everyone to spell their  
5 name so the court reporter will be able to spell.  
6 Go ahead, sir.

7                   MR. AMDE: Yes, sir. A-M-D-E, Amde,  
8 my last name.

9                   CHAIRPERSON ANDERSON: What's your  
10 first name again, sir? Tell me your whole name  
11 and spell it, sir.

12                  MR. AMDE: Getu Amde, G-E-T-U A-M-D-E.

13                  CHAIRPERSON ANDERSON: Good morning,  
14 sir. Mr. Robinson, I just want to get some  
15 clarification because I remember from a status  
16 hearing, who do you represent? Do you represent,  
17 because it's my understanding that this license,  
18 I think, is under, is being transferred, and I  
19 think the representation that you made the last  
20 time was that you do represent both parties, and  
21 you have made it known to them that there was a  
22 potential conflict. So, the individual who is  
23 with you today, is this person the owner of  
24 record or is he the transferee who the license  
25 has been transferred to?

1 MR. ROBINSON: The person that holds  
2 the license name is Mr. Retta, R-E-T-T-A,  
3 Makonnen, M-A-K-O-N-N-E-N.

4 CHAIRPERSON ANDERSON: Do you  
5 represent --

6 MR. ROBINSON: I represent Astede and  
7 Mr. Makonnen who are the licensee. He had a  
8 death in the family and I'm asking that he be  
9 excused from today's hearing. He said he could  
10 not make it because there was a death in the  
11 family. Mr. Amde, I represented him when the  
12 property was, there was a by sale agreement, I  
13 represented him, I drafted the agreement. They  
14 both agreed to it, and on January 26, 2022 Mr.  
15 Makonnen sold Astede business to Mr. Amde as a  
16 seller. However, the transfer of the license was  
17 being under the auspices of a person named Albert  
18 Ebert, A-L-B-E-R-T, last name E-B-E-R-T. The  
19 application was returned because of lack of  
20 information of which I was then retained to then  
21 try to facilitate that. During that time, during  
22 the facilitation, the charges were levied against  
23 the licensee.

24 CHAIRPERSON ANDERSON: Hold on. So,  
25 Mr. Lute, are there any preliminary matters in

1 this case today?

2 MR. LUTES: Mr. Chairperson, there  
3 are, in fact, two preliminary matters. First,  
4 apologies, court's indulgence, I forgot to spell  
5 out my name for the record. It's Assistant  
6 Attorney General Kevin Lutes, K-E-V-I-N  
7 L-U-T-E-S. Today I'm also joined by ABCA  
8 Investigator Jovan Miller.

9 As the secondary preliminary matter,  
10 the District has not received a witness or  
11 exhibit list nor exhibits from Mr. Robinson nor  
12 the licensee. At this time, the District would  
13 object to Mr. Amde testifying in this hearing  
14 because no witness list or exhibits have been  
15 sent, no witnesses have been identified, and Mr.  
16 Amde is not the licensee of record.

17 MR. ROBINSON: May I be heard?

18 CHAIRPERSON ANDERSON: Yes, sir, go  
19 ahead.

20 MR. ROBINSON: My preliminary matter  
21 is the matter should be dismissed because  
22 pursuant to D.C. Code 25447, at a show cause  
23 hearing there must be some allegations against  
24 the licensee. With respect to the charges and  
25 specifications, particularly charge number two,

1 there is not one representation that the licensee  
2 made, and I quote, you made a false or misleading  
3 statement during a regulatory inspection or  
4 investigation, end of quote. There wasn't, Mr.  
5 Amde who is listed in there as making the false  
6 allegation was not an agent, servant, or employee  
7 of the licensee, he was the owner. I brought  
8 this to Mr. -- attention with respect to charge  
9 two --

10 CHAIRPERSON ANDERSON: Mr. Robinson,  
11 I don't mean to cut you, but, I mean, that is  
12 more of a substantive than a preliminary motion.  
13 My position, sir, is that the Government has a  
14 burden to prove the charge. So, therefore, you  
15 can make a motion once the Government has  
16 presented its case, and if you want to make oral  
17 arguments based on, but let me ask you a  
18 question, Mr. Lute raised a preliminary issue,  
19 and the preliminary issue is that there is no,  
20 you didn't provide a PIF, and I remember clearly  
21 I informed both parties at the show cause hearing  
22 status at seven days before the hearing, you must  
23 exchange documents. The Board, unless reasonable  
24 cause, it's shown the Board is in power to  
25 prevent the other side from presenting evidence



1 and witnesses. Do you plan to call any witnesses  
2 today, sir?

3 MR. ROBINSON: Only in terms of  
4 rebuttal, but we did give the Government  
5 documents. The documents were sent to Mr. Lutes  
6 in a letter dated March 11, 2023, which was a  
7 copy of the buy/sell agreement that was signed on  
8 January 26, 2022 of which Mr. Amde became the  
9 owner of Astede. Mr. Lutes has never objected to  
10 that document being valid.

11 CHAIRPERSON ANDERSON: Mr. Lutes, what  
12 I'm going to do at this juncture, I'm not going  
13 to rule on your motion. If Mr. Robinson attempts  
14 to call witnesses or offer evidence you can raise  
15 your motion and the Board will address it at that  
16 time.

17 So, this is a show cause hearing. The  
18 way the process works, the Government goes first,  
19 so the Government would have an opportunity to  
20 make an opening statement. If the Government has  
21 a witness, the Government will call its witness,  
22 the witness will testify. Mr. Robinson, you'll  
23 have an opportunity to cross examine the  
24 Government's witness. Once you have cross  
25 examined the Government's witness, the Board will

1 have an opportunity to ask questions of the  
2 witness. Once the Board has asked questions of  
3 the witness you, Mr. Robinson, will get another  
4 opportunity to ask questions of the witness based  
5 on the questions that were raised by the Board,  
6 and then Mr. Lutes will have an opportunity to  
7 ask redirect of his witness. Once the Government  
8 has presented its case, you will have an  
9 opportunity to present your case, sir. Then  
10 that's the way we process. We will have closing  
11 arguments, and then we will move on from there.

12 Does the Government wish to make an  
13 opening statement?

14 MR. LUTES: Yes, Mr. Chairperson, the  
15 Government does wish to make an opening  
16 statement.

17 CHAIRPERSON ANDERSON: Go ahead, sir.

18 OPENING STATEMENT OF KEVIN LUTES, ESQ.

19 ON BEHALF OF THE GOVERNMENT

20 MR. LUTES: Thank you, Mr.  
21 Chairperson. Good morning, Mr. Chairperson and  
22 members of the Board. This case is about a  
23 licensee serving alcohol without an ABC manager  
24 or owner present. When caught in the act by an  
25 ABCA investigator the manager on duty

1 misrepresented that they were the owner of the  
2 establishment.

3 The evidence will show that around  
4 10:30 on September 30, 2022 ABCA investigator  
5 Jovan Miller arrived at the establishment over  
6 the course of his duties and after entering the  
7 establishment Investigator Miller encounter Mr.  
8 Getu Amde who identified himself as the owner of  
9 the establishment but changed his answer after  
10 Investigator Miller confirmed that he was not the  
11 owner of record.

12 Next, you'll hear how Mr. Amde was  
13 unable to present Mr. Miller with a valid ABC  
14 manager's license and how Investigator Miller  
15 observed patrons consuming alcohol during his  
16 visit.

17 Further, you will hear how Mr. Amde  
18 knew that he was not the owner because he filed  
19 an application for transfer of license which was  
20 returned to him as deficient months in advance of  
21 the date of the violations.

22 By this hearing's conclusion the  
23 District will have proven by a preponderance of  
24 the evidence that Nile Ethiopian Restaurant and  
25 Market failed to have an ABC manager on duty

1 during the hours of sale, service, and  
2 consumption of alcohol under D.C. Code 25701 and  
3 that Mr. Amde held himself out as the manager for  
4 the licensee, that Mr. Amde knew that he was not  
5 the owner of the establishment, and that he  
6 attempted to mislead Investigator Miller when he  
7 stated that he was the owner of license under  
8 D.C. Code 25823(a)(5)(c) for which the Board may  
9 take proposed action under D.C. Code 25823.

10 Thank you.

11 CHAIRPERSON ANDERSON: Mr. Robinson,  
12 do you wish to make an opening statement now or  
13 do you defer until later on?

14 MR. ROBINSON: Reserve.

15 CHAIRPERSON ANDERSON: Mr. Lutes, do  
16 you have a witness you wish to call?

17 MR. ROBINSON: Yes, Mr. Chairperson,  
18 the District requests to call ABCA Investigator  
19 Jovan Miller.

20 CHAIRPERSON ANDERSON: Mr. Miller, can  
21 you raise your right hand, please? Do you swear  
22 or affirm to tell the truth and nothing but the  
23 truth?

24 MR. MILLER: Yes, sir.

25 CHAIRPERSON ANDERSON: Mr. Lutes, your

1 witness.

2 MR. LUTES: Thank you, Mr.  
3 Chairperson.

4 DIRECT EXAMINATION

5 BY MR. LUTES:

6 Q Investigator Miller, can you please  
7 state and spell your name for the record?

8 A J-O-V-A-N M-I-L-L-E-R, Jovan Miller.

9 Q Where do you work?

10 A I work for the Alcoholic Beverage and  
11 Cannabis Administration.

12 Q What's your position? If I use the  
13 acronym ABCA, do you understand that refers to  
14 the Alcoholic Beverage and Cannabis  
15 Administration?

16 A Yes, sir.

17 Q What's your position at ABCA?

18 A I'm an investigator.

19 Q How long have you worked as an  
20 investigator at ABCA?

21 A Four years.

22 Q What duties does that position entail?

23 A Conducting investigations in, excuse  
24 me, sorry about that. Conducting investigations  
25 and inspections of ABC licensed establishments

1 within the District of Columbia.

2 Q How are you involved in  
3 investigations?

4 A Excuse me? I couldn't hear you.

5 Q How are you involved in conducting  
6 investigations?

7 A I might not be understanding the  
8 question.

9 Q Let me rephrase that? What type of  
10 trainings have you received in conducting  
11 investigations?

12 A Internal training from ABCA.

13 Q During your investigations, have you  
14 encountered Nile Ethiopian Restaurant and Market?

15 A Yes, sir.

16 Q When did you encounter Nile Ethiopian  
17 Restaurant and Market?

18 A It was Friday, September 30, 2022.

19 Q What was the result of that encounter?

20 A A no ABC manager or owner violation.

21 Q Turning to the events of your  
22 encounter with Nile Ethiopian Restaurant and  
23 Market, can you walk me through how you arrived  
24 at the establishment?

25 A I visited the establishment to deliver

1 a service form.

2 Q What happened when you entered the  
3 establishment?

4 A I introduced myself as an ABCA  
5 investigator and asked to speak with an ABC  
6 manager or owner.

7 Q Did you speak to anyone?

8 A I spoke to a female staff member who  
9 introduced me to Mr. Getu Amde.

10 Q How did Mr. Getu Amde identify  
11 himself?

12 A He identified himself as the owner.

13 Q Is Mr. Amde the owner?

14 MR. ROBINSON: Objection. Calls for  
15 speculation.

16 CHAIRPERSON ANDERSON: Mr. Lutes?

17 MR. LUTES: Mr. Chairperson, this is  
18 an easily identifiable fact which Investigator  
19 Miller will testify that he was able to identify  
20 Mr. Amde as not the owner.

21 CHAIRPERSON ANDERSON: I'm going to  
22 overrule the objection. The witness can answer  
23 the question, if he can.

24 MR. MILLER: Can you please repeat?

25 BY MR. LUTES:

1 Q Is Mr. Amde the owner?

2 A No, sir.

3 Q How do you know?

4 A I contacted Supervisor Investigator  
5 Mark Bashir. He notified me that Mr. Getu Amde  
6 was not the --

7 MR. ROBINSON: Objection. That's  
8 hearsay on hearsay.

9 MR. LUTES: Mr. Miller is speaking to  
10 his actions, and furthermore, hearsay is  
11 admissible in this forum.

12 MR. ROBINSON: May I respond to that?

13 CHAIRPERSON ANDERSON: Go ahead, Mr.  
14 Robinson.

15 MR. ROBINSON: That's double hearsay.  
16 The best evidence rule here would require that  
17 the Government produce some evidence of that.  
18 What we have is Mr. Miller stating he doesn't  
19 know, but someone else told him. That's double  
20 hearsay, so I object on that basis. The  
21 Government should present the best evidence to  
22 show exactly why Mr. Amde is not the owner of the  
23 property.

24 MR. LUTES: Mr. Chairperson, may I  
25 speak?



1                   CHAIRPERSON ANDERSON: Go ahead, Mr.  
2 Lutes.

3                   MR. LUTES: Thank you, Mr.  
4 Chairperson. Here opposing counsel is saying  
5 that Mr. Miller does not know, Mr. Miller has not  
6 said that. Moreover, Mr. Miller is merely  
7 testifying to the steps that he took to verify  
8 whether Mr. Amde was the owner. He has personal  
9 knowledge of the steps that he took.

10                  MR. ROBINSON: Mr. Chairperson, we're  
11 not talking about the steps that he took. Mr.  
12 Lutes asked him, was Mr. Amde the owner, he said  
13 no. Then he asked, how do you know that. He  
14 then went and said some supervisor told him that  
15 he was not. My objection is that's double  
16 hearsay, so the Government has an obligation to  
17 present the best evidence, not just hearsay  
18 evidence. Then, these hearings, there must be at  
19 least a modicum of legally admissible evidence  
20 for the Board to make a decision. Of course, on  
21 cross examination, I can further illuminate why  
22 that's important.

23                  CHAIRPERSON ANDERSON: I'm going to  
24 overrule your objection, and you'll have that  
25 opportunity, sir, on cross examination, to do

1 that.

2 MR. ROBINSON: Thank you, sir.

3 CHAIRPERSON ANDERSON: All right.

4 Sir, I'm going to overrule your objection at this  
5 time. Go ahead, Mr. Miller, if you can answer  
6 the question.

7 MR. MILLER: I contacted supervisor  
8 Mark Bashir who then checked ABRA records to  
9 verify that Mr. Getu Amde was not the owner of  
10 the establishment.

11 BY MR. LUTES:

12 Q And after you verified that Mr. Amde  
13 was not the owner of the establishment, did you  
14 speak with Mr. Amde?

15 A Yes, sir.

16 Q Did Mr. Amde change his answer?

17 MR. ROBINSON: Objection. That's a  
18 leading question.

19 MR. LUTES: It's an open ended  
20 question that could be answered with yes or no as  
21 well as other statements. It's a statement that  
22 led him to investigate, it is not a leading  
23 question.

24 CHAIRPERSON ANDERSON: Mr. Lutes,  
25 rephrase your question, please.

1 BY MR. LUTES:

2 Q After you spoke with Mr. Amde, what  
3 did he say?

4 A He stated that he was the ABC manager  
5 and proceeded to hand me a temporary ABC manager  
6 license.

7 Q Was the temporary ABC manager's  
8 license valid?

9 A No, sir.

10 Q Why wasn't it valid?

11 A The expiration date was September 16,  
12 2022.

13 Q When did you visit the establishment?

14 A September 30, 2022.

15 Q During your visit to Nile Ethiopian  
16 Restaurant and Market did you observe any patrons  
17 drinking alcohol?

18 A Yes, sir.

19 Q Did you observe Nile employees serving  
20 patrons alcohol?

21 A Yes, sir.

22 Q Did you take photos during your visit?

23 A Yes, sir.

24 Q Other than Mr. Amde, did anyone else  
25 identify themselves as an ABC manager or owner?

1           A       No, sir.

2           Q       So, after you spoke to Mr. Amde what  
3 happened next?

4           A       I notified him of the ABC manager or  
5 owner violation for the establishment and took  
6 photographs of patrons drinking alcohol.

7           Q       What happened after that?

8           A       I exited the establishment.

9           Q       After you exited the establishment did  
10 you write a report?

11          A       Yes, sir.

12          Q       Mr. Chairperson, the District would  
13 like permission to show what's marked as  
14 Government Exhibit A.

15                   CHAIRPERSON ANDERSON: Mr. Orellana,  
16 can you allow Mr. Lutes to share his screen,  
17 please?

18                   MR. LUTES: Court's indulgence while  
19 I open. Investigator Miller, what are we looking  
20 at? I'm showing you what's marked as Government  
21 Exhibit A. Please tell me what this document is.

22                   MR. MILLER: This is a case report I  
23 wrote for Nile Ethiopian Restaurant and Nile  
24 Market.

25                   BY MR. LUTES:

1 Q Have you had the opportunity to review  
2 this document prior to the hearing?

3 A Yes, sir.

4 Q Is this document a true and accurate  
5 representation of the case report that you wrote?

6 A Yes, sir.

7 MR. LUTES: Mr. Chairperson, the  
8 District requests confirmation that Government  
9 Exhibit A, the case report is in evidence.

10 CHAIRPERSON ANDERSON: Yes, it is.  
11 The agents will have taken notice and it's on  
12 record, yes.

13 MR. LUTES: Thank you, Mr.  
14 Chairperson.

15 BY MR. LUTES:

16 Q Mr. Miller, on your investigative  
17 report who is the owner of licensee that's  
18 listed?

19 A Retta Makonnen.

20 CHAIRPERSON ANDERSON: Mr. Miller, can  
21 you spell the name of that person, please?

22 MR. MILLER: Yes, sir. R-E-T-T-A,  
23 last name, M-A-K-O-N-N-E-N.

24 By MR. LUTES:

25 Q Scrolling down, I do want to ask you

1 a question on the first line in the details  
2 section. Can you please read the time and date  
3 for me?

4 A 10:30 a.m., Friday, September 30,  
5 2022.

6 Q When did you visit Nile Ethiopian  
7 Restaurant and Market?

8 A 10:30 p.m.

9 Q Is the 10:30 a.m. a typo?

10 A Yes, sir.

11 Q Now scrolling down to what's on  
12 Government Exhibit A but in the report itself  
13 it's marked as Exhibit 1, I'm showing you what's  
14 marked as Exhibit 1 of Government Exhibit A. Can  
15 you please tell me what this is?

16 A This is a 90 day temporary ABC  
17 manager's license.

18 Q Who does it belong to?

19 A Mr. Getu Amde.

20 Q What's the expiration date that's  
21 listed?

22 A 9/16/2022.

23 Q Now, I'm going to scroll down to  
24 what's marked as Government Exhibit 2 of what's  
25 Government Exhibit A, can you tell me what this

1 is?

2 A This is a photograph I had taken at  
3 Nile Ethiopian Restaurant and Nile Market of  
4 patrons consuming alcohol.

5 Q Is there alcohol present in the photo?

6 A Yes, sir.

7 Q Where is it present?

8 A It's present at three locations. To  
9 your immediate right you'll see a glass right  
10 next to a bottle. If you move further down  
11 you'll see a patron with a phone in his hand, and  
12 in front of him is a glass. If you move across  
13 to the top middle you'll see a patron with a  
14 glass right there as well.

15 Q Turning to the next page, it's marked  
16 as Exhibit 3. Can you please tell me what this  
17 is?

18 A This is Nile Ethiopian Restaurant and  
19 Nile Market ABC license.

20 Q What are the hours of sales on this  
21 license?

22 A Hours of sales for the date of or all?

23 Q For the date of.

24 A 12:00 p.m. to 2:00 a.m.

25 Q And the date of is Friday?

1           A       Yes, sir.

2           Q       I will stop sharing my screen. During  
3 your visit did you observe anyone behind the bar?

4           A       I cannot recall.

5           Q       After you visited, court's indulgence,  
6 at the time of your visit to Nile Ethiopian  
7 Restaurant and Market who was the owner of the  
8 establishment?

9                   MR. ROBINSON: Objection. Asked and  
10 answered.

11                   CHAIRPERSON ANDERSON: Mr. Lutes?

12                   MR. LUTES: I have asked how he  
13 confirmed who the owner was, but at this time I  
14 have not asked at the time of this visit who was  
15 the owner.

16                   MR. ROBINSON: Objection. Asked and  
17 answered. He asked who was the owner, and he  
18 said Mr. Retta Makonnen, and he spelled his name.

19                   CHAIRPERSON ANDERSON: Sustained.

20 Let's move on.

21                   MR. LUTES: Okay. Investigator  
22 Miller, are you aware of any documents submitted  
23 to ABRA regarding Nile Ethiopian Restaurant and  
24 Market?

25                   MR. ROBINSON: Objection. Can we



1 identify what documents he's talking about?

2 CHAIRPERSON ANDERSON: He said, let's,  
3 I'm going to overrule the objection because I  
4 believe that we're going to get to that point.  
5 That's a question he's asking. I'm going to  
6 overrule the objection. Let him ask the  
7 question, and then you can object to it. Let's  
8 see where we're going here.

9 MR. ROBINSON: Thank you, sir.

10 MR. LUTES: Mr. Miller, you can answer  
11 the question.

12 MR. MILLER: Yes, sir.

13 BY MR. LUTES:

14 Q What documents were submitted to ABCA?

15 A Transfer of sales documentation was  
16 sent to ABCA to our licensing department.

17 Q What was the result of that  
18 application for transfer of license?

19 A They needed more documentation, excuse  
20 me, Mr. Getu Amde was sent a deficiency letter  
21 stating that he needed more documentation for the  
22 transfer of sales.

23 Q As an investigator, have you reviewed  
24 the deficiency letter that was sent to Getu Amde?

25 A Yes, sir.

1                   MR. LUTES: Mr. Chairperson, the  
2 District requests permission to show what's  
3 marked as Government Exhibit B.

4                   CHAIRPERSON ANDERSON: I believe that  
5 you should be able to continue sharing your  
6 screen. If not, Mr. Orellana, please allow him  
7 to do that.

8                   By MR. LUTES:

9                   Q       Investigator Miller, I'm showing you  
10 what's marked as Government Exhibit B. Can you  
11 please tell me what this is?

12                  A       This is a deficiency letter from our  
13 licensing department.

14                  MR. ROBINSON: Objection. The  
15 document was not generated by him.

16                  MR. LUTES: Mr. Chairperson, you've  
17 heard how he's used this document over the course  
18 of his -- how he's used it as an investigator.  
19 Additionally, if there's an objection to the  
20 document the District would be more than happy to  
21 provide additional foundation.

22                  MR. ROBINSON: There has not been a  
23 foundation laid for this document at all by the  
24 drafter. This document is used as additional  
25 hearsay.

1 MR. LUTES: Mr. Chairperson, this  
2 document has been, it will be testified as being  
3 stored over the course of regular business and,  
4 further, is an admission from Mr. Getu Amde. At  
5 this point, it's not hearsay, and the District  
6 will continue to provide more foundation if it is  
7 needed.

8 CHAIRPERSON ANDERSON: Where is this  
9 letter from?

10 MR. LUTES: Mr. Miller, would you like  
11 to answer that?

12 CHAIRPERSON ANDERSON: All right. I'm  
13 going to overrule, so go ahead.

14 MR. LUTES: Mr. Chairperson, I also  
15 believe I misspoke. This letter is not an  
16 admission from Mr. Amde, rather, it's addressed  
17 to Mr. Amde. I'd like to clarify that for the  
18 record. Court's indulgence for that  
19 misstatement.

20 Investigator Miller, you stated you're  
21 an investigator for ABCA.

22 MR. MILLER: Yes, sir.

23 By MR. LUTES:

24 Q And this document was generated by  
25 ABCA?

1           A       Yes, sir.

2           Q       And it was generated over the course  
3 of regular business of ABCA?

4           MR. ROBINSON:  Objection.  Leading.

5           MR. LUTES:  I'll rephrase.  Was it  
6 generated over the regular course of business for  
7 ABCA?

8           MR. MILLER:  Yes, sir.

9           BY MR. LUTES:

10          Q       As an agent of ABCA, you have reviewed  
11 this document?

12          A       Yes, sir.

13          MR. LUTES:  Mr. Chairperson, the  
14 District requests that Government Exhibit B be  
15 admitted into evidence.

16          MR. ROBINSON:  I object, Mr. Chairman.

17          CHAIRPERSON ANDERSON:  What's the  
18 nature of your objection, sir?

19          MR. ROBINSON:  As you look at that  
20 document, your honor, it has Dear Licensee, and  
21 it has Astede, Inc. trading as, the licensee is  
22 not Astede, Astede is seeking to transfer, but  
23 this letter states that your license is not going  
24 to be completed because, the transfer is not  
25 complete because you write, additional documents.

1 The licensee is Astede. Mr. Amde is not the  
2 licensee, not yet. Therefore, I object to this  
3 document being admitted because it is an  
4 incorrect statement of the facts.

5 MR. LUTES: Mr. Chairperson, the  
6 opposing counsel's argument are to the content of  
7 the letter and not exactly to whether it can be  
8 admissible in front of the Board.

9 MR. ROBINSON: May I please? A  
10 document that's been admitted must speak for  
11 itself. This document is speaking incorrectly  
12 and should not be admitted.

13 CHAIRPERSON ANDERSON: Mr. Robinson,  
14 isn't this part of the agency's records, sir?

15 MR. ROBINSON: It is part of the  
16 agency records as I believe, but it's an  
17 incorrect statement of the facts. Counsel is  
18 seeking to admit it on the basis that Astede is  
19 the licensee. It is not the licensee, Mr.  
20 Chairperson, it is the company that's seeking to  
21 have the license of Astede transferred to it.

22 CHAIRPERSON ANDERSON: Who is Getu  
23 Amde?

24 MR. ROBINSON: Mr. Getu Amde is the  
25 person that's sitting here with me now, Mr.

1 Chairperson.

2 MR. LUTES: Mr. Chairperson, I believe  
3 the statements Mr. Robinson is making are  
4 statements that are more fitted to cross  
5 examination. More importantly, Mr. Robinson's  
6 objections are to whether this document is  
7 admissible. Mr. Robinson is arguing that this  
8 document is admissible due to its content and not  
9 whether it is admissible. Moreover, the District  
10 is more than happy to speak more regarding the  
11 content of the document. Mr. Robinson's  
12 objections go not towards admissibility but  
13 rather challenge the weight of the evidence. It  
14 is also admissible, as a matter of fact, because  
15 it is part of the agency's record.

16 CHAIRPERSON ANDERSON: I'm going to  
17 overrule the objection and allow the document  
18 since it is part of the agency's records. And  
19 you can cross examine the witness, Mr. Robinson,  
20 on the contents if you believe that there is some  
21 incorrect statement within the document, sir.  
22 All right. Let's move on.

23 MR. LUTES: Thank you, Mr.  
24 Chairperson. Confirming that Exhibit B is  
25 admitted.

1                   CHAIRPERSON ANDERSON: Yes, sir,  
2                   that's part of the agents of the record, yes.

3                   MR. LUTES: Thank you, Mr.  
4                   Chairperson. Investigator Miller, what's the  
5                   date on this document?

6                   MR. MILLER: April 3, 2022.

7                   BY MR. LUTES:

8                   Q           Who was it addressed to?

9                   A           Mr. Getu Amde.

10                  Q           What is the address that's listed on  
11                  the document?

12                  A           7815 Georgia Avenue NW.

13                  Q           What establishment is located at that  
14                  address?

15                  A           Nile Ethiopian and Nile Market.

16                  Q           Turning to the letter itself, it says,  
17                  you mentioned this is a deficiency letter, what  
18                  is a deficiency letter?

19                  A           This is a document from our licensing  
20                  department to either an establishment or someone  
21                  who, a patron, who is trying to obtain some type  
22                  of application or license or something like that  
23                  from ABCA, and when all documents are not  
24                  submitted, this letter is sent out to those  
25                  applicants.

1           Q       Who was this deficiency letter mailed  
2 to?

3           A       Mr. Getu Amde.

4           Q       If a deficiency letter is mailed, does  
5 a transfer of license take place?

6           A       No, sir.

7           Q       Can you please read to me what  
8 documents Mr. Amde had to submit for the transfer  
9 to take place?

10          A       For the documentation needed, amend  
11 front page of the application, sidewalk caf,  
12 seats in summer garden, amend business  
13 information from questions 12 through 17,  
14 transfer consent form, certificate of good  
15 standing, certificate of incorporation, articles  
16 of incorporation, minutes of the Board of  
17 Directors, personal history affidavit, personal  
18 information release authorization, purchase and  
19 sale agreement, certificate of registration,  
20 government ID.

21          Q       In the need before license approval  
22 section, please tell me what documents are  
23 needed.

24          A       Police clearance, Baylor affidavit.

25          Q       Turning to the top of the document. Is



1 this document a form letter or it comes from a  
2 standard template?

3 A I am unsure.

4 Q Is Mr. Amde the applicant?

5 A Yes, sir.

6 Q Is Mr. Amde the licensee?

7 A Yes, sir.

8 Q Is he the licensee of Nile Ethiopian  
9 Restaurant and Market?

10 A For clarification, during his  
11 application the license specialist created  
12 another ABRA license for Nile Ethiopian for the  
13 transfer, but it did not get completed. So, he  
14 spoke on Dear Licensee, they put that under the  
15 new license, not the license of Mr. Retta  
16 Makonnen.

17 Q So, at this time Mr. Amde was not the  
18 licensee of Nile Ethiopian Restaurant and Market,  
19 or did not hold the license of Nile Ethiopian  
20 Restaurant and Market?

21 A Correct.

22 Q I'm going to stop sharing my screen.  
23 Investigator Miller, turning back to your visit  
24 at Nile Ethiopian Restaurant and Market, does an  
25 ABRA license holder need to have an ABC manager's

1 license?

2 A No, sir.

3 Q Would an ABC manager need a valid ABC  
4 manager's license?

5 A Yes, sir.

6 Q Do you believe Mr. Amde was trying to  
7 mislead you by stating he was the owner?

8 MR. ROBINSON: Objection. Calls for  
9 speculation.

10 MR. LUTES: Mr. Chairperson, I'm  
11 asking Mr. Miller to testify to his own thoughts  
12 and beliefs. This is not speculation.

13 MR. ROBINSON: Asking what someone  
14 else believes is speculation as to what that  
15 person believes.

16 MR. LUTES: Mr. Chairperson, this is  
17 not hearsay. Moreover, this is not speculation  
18 because he knows what he believes.

19 CHAIRPERSON ANDERSON: I'm going to  
20 sustain the objection.

21 By MR. LUTES:

22 Q Mr. Miller, if Mr. Amde was not the  
23 owner would he need a valid ABC manager's license  
24 to manage the establishment?

25 A Yes, sir.

1 MR. LUTES: No further questions, Mr.  
2 Chairman.

3 MR. ROBINSON: May I proceed, sir?

4 CHAIRPERSON ANDERSON: Sure, Mr.  
5 Robinson.

6 CROSS EXAMINATION

7 BY MR. ROBINSON:

8 Q Mr. Miller, in your statement of  
9 charges that you drafted I noticed in there you  
10 cited particular sections of the D.C. Code. Did  
11 you put those code sections in or did someone  
12 else put them in?

13 MR. LUTES: Objection. Misstatement.  
14 The charges that were actually drafted by me, if  
15 you're referring to the investigative report,  
16 that is separate.

17 MR. ROBINSON: Well, I'm referring to  
18 the one that you put up there, and he said that  
19 he prepared it. I'm asking him, the portions in  
20 there that had citations to the D.C. Code if he  
21 inserted them or did someone else do it?

22 CHAIRPERSON ANDERSON: What document  
23 are you asking about Mr. Robinson?

24 MR. ROBINSON: It was the very first  
25 document, the statement of his charges that he

1 drafted after he went to the Nile restaurant.

2 CHAIRPERSON ANDERSON: There are only  
3 two documents.

4 MR. ROBINSON: That's correct.

5 CHAIRPERSON ANDERSON: Hold on. The  
6 first document was the case report, and the  
7 second document, I believe, was the document  
8 dated in April that was addressed to Mr. Amde.  
9 So, why don't you refer, we have Exhibit 1 and  
10 Exhibit 2, for your records sir, just refer  
11 specifically to the documents, which I believe is  
12 Exhibit 2.

13 MR. ROBINSON: Thank you. Exhibit 1,  
14 Mr. Miller, how quickly after the investigation  
15 did you prepare that document?

16 MR. MILLER: I do not recall.

17 By MR. ROBINSON:

18 Q Well, when you prepared that document,  
19 did you do it yourself or did you have some  
20 assistance to prepare it?

21 MR. LUTES: Objection. Calls for  
22 violating privilege because legal advice could've  
23 been sought when drafting the recommended  
24 charges.

25 CHAIRPERSON ANDERSON: He's talking

1 about Exhibit 1, which is a case report.

2 MR. ROBINSON: Yes, Your Honor.

3 CHAIRPERSON ANDERSON: So, the case  
4 report is a document that, I believe, Mr. Miller  
5 testified that he drafted. So, I'm going to  
6 overrule the objection so he can respond to the  
7 case report, not the charging documents. Exhibit  
8 1 is a case report, right?

9 MR. ROBINSON: That's correct.

10 CHAIRPERSON ANDERSON: So, I'm  
11 overruling the objection so he can respond to  
12 Exhibit 1, which is the case report.

13 MR. LUTES: Understood, Mr.  
14 Chairperson.

15 MR. MILLER: Will you please ask the  
16 question again?

17 BY MR. ROBINSON:

18 Q Yes. How soon after the investigation  
19 at the Nile restaurant did you prepare Exhibit 1?

20 CHAIRPERSON ANDERSON: That's not the  
21 question. That was asked and answered. That was  
22 not the question. You asked that question, he  
23 answered, he said he was unsure. We moved on to,  
24 I believe, Exhibit 1. I think the question you  
25 asked him was did he receive legal advice.

1 MR. ROBINSON: Correct.

2 CHAIRPERSON ANDERSON: So, that's the  
3 question that we're talking about now.

4 MR. ROBINSON: I apologize. When you  
5 prepared the document that had in it, Exhibit 1,  
6 that had references to the D.C. Code, did you do  
7 it yourself or did you have some assistance in  
8 preparing that by identifying the D.C. Code  
9 sections?

10 MR. LUTES: Objection. Opposing  
11 counsel cannot ask about consultation of legal  
12 advice on either the case reports or product and  
13 who assisted or consulted.

14 MR. ROBINSON: Mr. Chairman, the  
15 document speaks for itself, and he stated he  
16 drafted it. I'm just trying to find out if  
17 everything in there was a result of his ingenuity  
18 and ability or did he get assistance from someone  
19 else. I didn't say who, I just asked if he did.

20 MR. LUTES: Mr. Chairperson, the  
21 document does not have to speak for itself;  
22 however, you've heard enough from Investigator  
23 Miller for the document to be admitted. Further,  
24 again, opposing counsel is requesting information  
25 that is a result of work product and consultation

1 of legal advice, and that is also irrelevant.

2 CHAIRPERSON ANDERSON: All right. I'm  
3 overruling the objection. If he can answer the  
4 question, he can answer the question, if not,  
5 let's move on. I'm not quite sure where we are  
6 going here, but he can answer the question he  
7 can, if he can't let's move on. Are you able to  
8 answer the question?

9 MR. MILLER: The report was drafted by  
10 me and me alone.

11 MR. ROBINSON: Thank you. Now, with  
12 respect to when you were at the business and Mr.  
13 Amde, you said, told you that he was the owner,  
14 you called the person that is Mr. Mark Bashir, is  
15 that the correct name?

16 MR. MILLER: Yes, sir.

17 BY MR. ROBINSON:

18 Q And you said that he checked the  
19 records and found out that he was not the owner.  
20 Did you ever go back to Mr. Bashir to find out  
21 what records he checked to substantiate that?

22 A I did.

23 Q What was the basis of that, that he  
24 said Mr. Amde was not the owner? What record?

25 A The ABC license record.

1           Q       I see. So, you look at the ABC  
2 license record to determine if the person owns  
3 the property, not whether they're on the license,  
4 is that correct?

5           A       Excuse me. Say that one more time.

6           Q       Yes, sir. So, the ABC record shows  
7 that the licensee, which was Astede, had not been  
8 transferred to Mr. Amde, is that correct?

9           A       Correct.

10          Q       Did you have any records there that  
11 shows that the establishment was transferred by  
12 Astede to Mr. Amde?

13          A       No, sir.

14          Q       Did you ever, you said that with  
15 respect to the letter showing deficiencies there  
16 was not a buy-sell agreement. Do you recall  
17 that?

18          A       I do.

19          Q       Did Mr. Lutes or anyone else in the  
20 ABC Board or anybody in the agency give you, tell  
21 you that there was a buy-sell agreement --

22                   MR. LUTES: Objection. Calls for  
23 privileged client, because he's requesting  
24 communications between me and Mr. Miller.

25                   MR. ROBINSON: Can I finish it? My



1 question is, did anyone tell you in the agency  
2 that there was a buy-sell agreement that was  
3 executed on January 26, 2022 transferring  
4 ownership of the business to Mr. Amde. Did  
5 anyone ever tell you that?

6 MR. LUTES: Objection. Privilege.

7 CHAIRPERSON ANDERSON: I -- all right.  
8 I'm overruling the objection. I'm unsure why  
9 this is even relevant to where we are today.

10 MR. ROBINSON: Whenever you found out  
11 that Mr. Amde's manager's license had expired on  
12 the 16th, at that particular point, your argument  
13 is representation and proceedings was they did  
14 not have a manager with a proper license on duty  
15 at the time the liquor was being consumed, is  
16 that correct?

17 CHAIRPERSON ANDERSON: Mr. Miller,  
18 there's a question.

19 MR. MILLER: I didn't know if you said  
20 I could answer or not.

21 CHAIRPERSON ANDERSON: That's a  
22 different question that's been asked.

23 MR. MILLER: Okay. Can you ask the  
24 question again, please?

25 MR. ROBINSON: Yes, sir. After you

1 noticed that Mr. Amde's managers license had  
2 expired on the 16th of September, at that  
3 particular point it was your understanding that  
4 there was not a valid manager's license there  
5 during the time alcohol was being sold. Is that  
6 correct?

7 MR. MILLER: Yes, sir.

8 BY MR. ROBINSON:

9 Q And that would be a violation of the  
10 licensee, is that correct?

11 A Correct.

12 Q And the licensee would be Astede  
13 Corporation, is that correct?

14 A Excuse me, I have to, yes.

15 Q Okay. So, the issue then as you  
16 presented it was there wasn't a manager with a  
17 proper license, and the owner of the  
18 establishment were not present when alcohol was  
19 being consumed, is that correct?

20 A Correct.

21 Q Okay. Now, with respect to the false  
22 statement, at the time the false statement was  
23 made, from your investigation, was that statement  
24 made by either an agent, servant, an employee or  
25 owner of the licensee Astede?

1           A       Yes.

2           Q       Who was that person?

3           A       Mr. Getu Amde.

4           Q       If he wasn't, if he had an invalid  
5 manager's license he couldn't be speaking for the  
6 licensee, could he?

7           A       I cannot speak to that.

8           Q       Let me just ask you this, then.  If  
9 the license was expired and alcohol is being sold  
10 there, that's a violation of the licensee, isn't  
11 that correct?

12          A       Correct.

13          Q       And that means that there isn't a  
14 proper license representative of the licensee on  
15 present at the facility, is that correct?

16          A       Correct.

17          Q       Okay.  Now, with respect to Mr. Amde's  
18 statement to you, if he's not a proper manager  
19 with a proper license, the false statement  
20 couldn't be made by the licensee, could it?

21          A       A false statement can be made by  
22 anyone who makes a false statement.

23          Q       I agree with that.  My question to  
24 you, sir, is if Mr. Amde's manager's license had  
25 expired 14 days before your investigation, his

1 statement could not be the statement of the  
2 licensee, is that correct?

3 MR. LUTES: Objection. Asked and  
4 answered.

5 MR. ROBINSON: He hasn't answered it  
6 yet.

7 CHAIRPERSON ANDERSON: I'm going to  
8 overrule the objection. You can answer the  
9 question.

10 MR. LUTES: Also, hypothetical and  
11 calls for speculation.

12 MR. ROBINSON: It's a direct question  
13 that he's already answered, Mr. Chairman.

14 CHAIRPERSON ANDERSON: I'm overruling  
15 the objection. If he can answer the question,  
16 let him answer the question, if not, move on.  
17 I'm not quite sure where we're going here. But  
18 are you able to answer the question, sir?

19 MR. MILLER: And employee or any staff  
20 member of the establishment who identified  
21 himself as an owner or ABC manager or as an owner  
22 can be considered making a false statement.

23 BY MR. ROBINSON:

24 Q Is that something you knew about  
25 before you went in there, or was that something

1 someone told you after the fact?

2 A Which part?

3 Q Well, when you said anyone in there  
4 can be considered making a false statement.

5 A I said any staff member or member of  
6 the establishment.

7 Q Okay. But at this particular time you  
8 testified, did you not, that Mr. Amde's expired  
9 license did not make him a member of the  
10 licensee, is that correct?

11 A Did not make him a member? What do  
12 you mean by member?

13 Q If he didn't have a valid license, the  
14 licensee did not have anyone there speaking on  
15 its behalf, did it?

16 MR. LUTES: Objection. Asked and  
17 answered. Mr. Chairperson, you've heard how,  
18 from -- from Investigator Miller that a staff  
19 member or someone working there can make a false  
20 statement on behalf of the licensee.

21 CHAIRPERSON ANDERSON: All right. I'm  
22 going to sustain the objection. Maybe I'm not  
23 following along. The charge in this case is no  
24 ABC manager on duty, provides false or misleading  
25 statements. I started off this hearing with Mr.

1 Robinson, I'd ask who is it that you represent.  
2 So, as far as I'm concerned or the agency is  
3 concerned this charge is brought against the  
4 licensee of record for Nile Ethiopian Restaurant  
5 and Nile Market. That's the person who this case  
6 is against. I remember at the show cause hearing  
7 status there were objections raised about who is  
8 it that you represented, and that's one of the  
9 reasons I asked that at the beginning of the  
10 hearing who did you represent. Do you represent  
11 the current owner of record? Do you represent  
12 the individual who's attempting for this license  
13 to be transferred to? And you stated to me that  
14 you represent both entity. I'm having some  
15 concerns here because I don't understand why the  
16 -- and I think you stated that the owner of  
17 record has had a death in the family so that  
18 person is not here. So, I'm having a difficult  
19 time following what's going on because it's --

20 MR. LUTES: Mr. Chairperson, I  
21 apologize for the interruption, but I can lend  
22 some light to this situation.

23 CHAIRPERSON ANDERSON: Go ahead.

24 MR. LUTES: Mr. Chairperson, on April  
25 5, the email I asked Mr. Robinson, in regards to

1 this case, if he represents Retta Makonnen in any  
2 capacity, and on April 5 Mr. Robinson stated that  
3 he does, he represents both.

4 CHAIRPERSON ANDERSON: I'm aware of  
5 that because that was the representation that was  
6 made at the status hearing. So, I'm fine with  
7 that.

8 MR. ROBINSON: Mr. Chairman?

9 CHAIRPERSON ANDERSON: Yes, sir.

10 MR. ROBINSON: I think I might be able  
11 to clarify. The statement of charges that Mr.  
12 Lutes raises, with respect to number 2, and I  
13 quote, You made a false or misleading statement  
14 during the investigation or inspection. That  
15 would have to be made against the licensee, which  
16 is Astede or Mr. Makonnen who is not here because  
17 of death in the family. The statement that they  
18 said was made by Mr. Getu Amde who, at the time  
19 of the investigation and the time of the  
20 statement was not a licensed manager for the  
21 licensee and, therefore, could not be speaking  
22 for the licensee. Mr. Miller said anyone can  
23 make a statement that is false or otherwise on  
24 behalf of the licensee. But you would then have  
25 to know whether the person was speaking for the

1 licensee within the scope of their employment.  
2 Mr. Amde was not a member of the licensee at that  
3 time, he was a person who had bought the business  
4 and owned the establishment, and that's the point  
5 I was trying to make.

6 CHAIRPERSON ANDERSON: All right. But  
7 in following along, the investigator informed the  
8 body, he went to the entity, he asked for,  
9 because he had to deliver a service form, so he  
10 asked for, let me speak to an ABC manager or  
11 owner. That's what the investigator testified  
12 to, and that's what the report said, that he went  
13 to the entity, and he spoke to an individual and  
14 then someone represented to him that, I was the  
15 owner, at least that's what I heard, that's just  
16 what I'm following. He then testified that the  
17 records were checked, and the person who  
18 identified as the owner was not the owner of  
19 record as per the ABRA license. So, the charge  
20 is against the establishment. I'm having some  
21 difficulty following this line of questioning. I  
22 think where we are -- I'm having some difficulty  
23 following this line of cross examination, I will  
24 say that.

25 MR. ROBINSON: Can I just proceed,



1 then, Your Honor?

2 CHAIRPERSON ANDERSON: You can go  
3 ahead because the concern that I have is that we  
4 do not have, as far as ABRA's records are  
5 concerned, the licensee of record here today. We  
6 have a non-party because Mr. Amde is not a party  
7 to this litigation.

8 MR. ROBINSON: He's the party being  
9 charged with making the false statement. They  
10 said he made the false statement. They said he  
11 made the false statement, not the licensee.

12 CHAIRPERSON ANDERSON: But this case  
13 has not been brought against Mr. Amde. This case  
14 is brought against the licensee for the  
15 establishment.

16 MR. ROBINSON: I understand, but the  
17 point, and my point is that there has not been an  
18 allegation against the licensee that one of its  
19 agents, servants, and employees made a false  
20 statement. Mr. Amde, as the record will show,  
21 was not part of the licensee but a person seeking  
22 the transfer. They have to establish, and they  
23 have not established, that Mr. Amde was working  
24 within the scope of his employment as an agent or  
25 servant of the licensee at the time the alleged

1 false statement was made.

2 CHAIRPERSON ANDERSON: This is what I  
3 want you to do, Mr. Robinson. I need you to  
4 refer to the transferor and the transferee. So,  
5 Mr. Makonnen is the transferor, he's the person  
6 who currently had the license, and he's  
7 attempting to transfer the license to Mr. Amde.  
8 To clarify the record I need you to reference the  
9 parties using that terminology.

10 MR. ROBINSON: Thank you, Mr.  
11 Chairman. So, should I continue to cross or do  
12 you want me to answer that?

13 CHAIRPERSON ANDERSON: Go ahead, sir,  
14 you can continue with cross, but as I stated  
15 before, it's --

16 MR. ROBINSON: I understand your  
17 point.

18 CHAIRPERSON ANDERSON: It's not a  
19 contract case. This is a case about the  
20 investigator went to an establishment and asked  
21 what he thought was a simple question as all  
22 investigators when they go to an establishment to  
23 deliver a service form, they ask for the owner or  
24 the ABC manager because, by law, these are the  
25 two parties that can legally bind a licensee to

1 any violation or potential violation, or these  
2 are the only people they can serve documents on  
3 behalf of the agency. As long as we have that  
4 clear, let's move on.

5 MR. ROBINSON: Thank you. Mr. Miller,  
6 whenever you went to Mr. Mark Bashir, how soon  
7 after you prepared your report did you meet with  
8 him about the records that he reviewed to  
9 determine whether or not Mr. Amde was the owner  
10 of the establishment?

11 MR. MILLER: I do not recall.

12 BY MR. ROBINSON:

13 Q Do you recall that you did meet with  
14 him to go over those records?

15 A Yes, sir.

16 Q Whenever you spoke with him, did he  
17 ever bring to your attention that there was a  
18 buy-sell agreement that was submitted in Mr.  
19 Amde's transfer application?

20 MR. LUTES: Objection, asked and  
21 answered.

22 MR. ROBINSON: Not on cross.

23 CHAIRPERSON ANDERSON: All right. I'm  
24 going to sustain because that is not relevant. I  
25 don't want to hear anything about whether or not

1       there was a transfer application in place.  
2       That's not relevant because whether or not a  
3       transfer application is in place, where we are  
4       today there's only one owner of record for this  
5       establishment, and that's Mr. Makonnen,  
6       M-A-K-O-N-N-E-N. It's my understanding, as of  
7       today, this is the person who owns the license.  
8       So, whether or not there was an application in  
9       place, that's not relevant.

10               MR. ROBINSON: I agree. Mr.  
11       Chairperson, let me just get a point of  
12       clarification here. It's my understanding that  
13       the transferor is the license holder for the Nile  
14       kitchen. The owner of the establishment is  
15       different than the licensee. Is that your  
16       understanding?

17               MR. LUTES: Mr. Chairperson, I believe  
18       this is an argument that should be best reserved  
19       for closing arguments and not cross examination.

20               CHAIRPERSON ANDERSON: Yes, Mr., yes.  
21       I'm going to sustain the objection. Let's move  
22       on.

23               BY MR. ROBINSON:

24               Q       Mr. Miller, did anyone ever tell you  
25       that Mr. Lutes had a copy of a buy-sell agreement

1 transferring the owner of the establishment from  
2 Mr. Makonnen to Mr. Amde as of January 26, 2022?

3 MR. LUTES: Objection. Work product  
4 as well as attorney/client privilege. He cannot  
5 be required to testify about my work product.

6 CHAIRPERSON ANDERSON: You said Mr.  
7 Lutes. So, I'm going to sustain the objection.  
8 Mr. Lutes is the attorney. Maybe you misspoke,  
9 but you said Mr. Lutes.

10 MR. ROBINSON: Well, let me just  
11 rephrase it. Did anyone ever tell you that there  
12 was a buy-sell agreement that was submitted with  
13 Mr. Amde's, the transferee's request for a  
14 transfer of the liquor license in a buy-sell  
15 agreement that was executed on January 26, 2022?

16 MR. LUTES: Objection. Speculation.  
17 Mr. Robinson has identified no entity, has  
18 identified no person, and this is a mere fishing  
19 trip.

20 CHAIRPERSON ANDERSON: All right. I'm  
21 sustaining the objection because I think we're  
22 moving away from the issue here. Mr. Robinson --

23 MR. ROBINSON: I'll move on to the  
24 next point then.

25 CHAIRPERSON ANDERSON: All right.

1 BY MR. ROBINSON:

2 Q The next point is that, Mr. Miller,  
3 when you went down with Mr. Bashir, did you ask  
4 if there -- I'll rephrase that. Whenever you  
5 testified about the letter the deficiency letter  
6 that went there, did you inquire about whether or  
7 not there was a buy-sell agreement that was in  
8 the records down at ABRA.

9 MR. LUTES: Objection. Asked and  
10 answered.

11 CHAIRPERSON ANDERSON: Sustained.  
12 Let's move on.

13 BY MR. ROBINSON:

14 Q Did you have any conversations with  
15 Mr. Lutes about the deficiency letter --

16 CHAIRPERSON ANDERSON: Mr. Robinson,  
17 Mr. Lutes is the attorney. You cannot ask the  
18 witness about, maybe your mistaken, but Mr. Lutes  
19 is a Government attorney, and as an attorney you  
20 know that you cannot ask --

21 BY MR. ROBINSON:

22 Q Mr. Miller, did anyone ever tell you  
23 whether it be anyone in the agency other than Mr.  
24 Lutes that Mr. Lutes had a buy-sell agreement  
25 that was sent to him in March --

1                   CHAIRPERSON ANDERSON: Hold on a  
2 minute. Maybe I'm confused but I thought Mr.  
3 Lutes is the Government attorney who's  
4 prosecuting this case.

5                   MR. ROBINSON: I'm not asking him to  
6 produce anything, I'm just asking him if anyone  
7 told him, other than Mr. Lutes, that Mr. Lutes  
8 had a buy-sell agreement.

9                   CHAIRPERSON ANDERSON: You keep on  
10 asking about Mr. Lutes having a -- whether or not  
11 there is a buy-sell. Let me say this again, Mr.  
12 Robinson. It's not probative for me about  
13 whether or not there's a buy-sell agreement. I  
14 don't care about that. I don't want to hear  
15 about anything. That is not helping me to make  
16 a, just as one Board member, that's not helping  
17 me to make a decision. Until this agency issues  
18 a license in the name of the transferee, that  
19 person has no license, that person is not a party  
20 to this matter, at least in this case at hand.  
21 So, I don't understand why you keep on asking  
22 about whether or not there was some buy-sell  
23 agreement because at least in this position I've  
24 had several presentations by individuals who have  
25 sold their business, sold the license, but they

1 are not the owner until this agency has issued  
2 them a license in their name.

3 MR. ROBINSON: I'm not arguing that,  
4 Mr. Chairperson, and I apologize if my  
5 presentation of the arguments are inartful;  
6 however, I'm trying to make a distinction between  
7 a person who owns a business but does not own the  
8 license to conduct the sale of alcohol or  
9 anything else by that business. The statute that  
10 we're working under here that was cited states  
11 that you must have one of two things on a  
12 facility at the time alcohol is being sold, one a  
13 manager with a valid license, we don't have that  
14 here. Or the statute says the owner of the  
15 establishment, not the license. My distinction  
16 is Mr. Amde, based on a buy-sell agreement, was  
17 the owner of the establishment. This manager's  
18 license was expired so he couldn't be the  
19 licensee, so you had to go to what the statute  
20 says is the second alternative, which is the  
21 owner of the establishment. When he said he is  
22 the owner of the establishment he's qualified for  
23 that. Then, as a response to the false  
24 accusations, the point that I'm trying to make  
25 is, is that it wasn't a false accusation because



1 it was made by Mr. Amde and not the entity. I  
2 don't have any further questions, Your Honor.

3 MR. LUTES: Mr. Chairperson, I'm going  
4 to object to those statements because, one,  
5 because it's testimonial, two, it's outside of  
6 the scope of direct, three, it's better reserved  
7 for closing arguments, four, there is D.C. law  
8 that is contrary to what Mr. Robinson has stated,  
9 and I will present that during my closing  
10 argument.

11 CHAIRPERSON ANDERSON: That's fine.  
12 Thank you, sir. Any questions by any Board  
13 members? Go ahead, Mr. Grandis.

14 MEMBER GRANDIS: And let me make sure  
15 I'm getting this correct. The witness is the  
16 investigator?

17 CHAIRPERSON ANDERSON: The witness,  
18 there is only one witness here, sir, and that's  
19 the investigator, Mr. Miller.

20 MEMBER GRANDIS: Thank you. Mr.  
21 Miller.

22 MR. MILLER: Good afternoon.

23 MEMBER GRANDIS: I was going to say I  
24 think it's still morning, but you're right, good  
25 afternoon. In your training, when you are

1 assigned to work a certain shift and you go into  
2 an establishment who are you required to  
3 determine is the appropriate person to meet with  
4 if there are concerns of the investigator?

5 MR. MILLER: Either the owner of the  
6 license or an ABC manager.

7 MEMBER GRANDIS: Are you trained that  
8 you're supposed to request other documents  
9 regarding other types of people who may or may  
10 not be in there, or are you limited to speak with  
11 either a licensed manager who's manager's license  
12 hasn't expired, or the owner of the license as  
13 recorded at ABRA, I'm sorry, under the new name,  
14 Alcoholic Beverage Cannabis Administration.

15 MR. MILLER: You converse with either  
16 the owner of the license or an ABC manager.

17 MEMBER GRANDIS: Are you required to  
18 go behind whatever you're told by whoever makes  
19 such representation?

20 MR. MILLER: No, sir.

21 MEMBER GRANDIS: Thank you very much.  
22 Mr. Chairman, thank you.

23 CHAIRPERSON ANDERSON: Board members?  
24 All right, hearing none, Mr. Robinson, do you  
25 have any followup based on the questions that

1 were asked by Mr. Grandis?

2 MR. ROBINSON: No, I do not.

3 CHAIRPERSON ANDERSON: Mr. Lutes, any  
4 redirect?

5 MR. LUTES: Yes, Mr. Chairperson,  
6 additional questions, and a brief redirect.

7 CHAIRPERSON ANDERSON: All right.

8 REDIRECT

9 BY MR. LUTES:

10 Q Investigator Miller, does the licensee  
11 own the license to serve and sell alcoholic  
12 beverages?

13 A Could you ask that question again?

14 Q I'll come back to that. You testified  
15 that you entered the establishment and you spoke  
16 to Mr. Amde.

17 A Correct.

18 Q Did Mr. Amde hold himself out as the  
19 owner of the establishment?

20 MR. ROBINSON: Objection. Calls for  
21 hearsay and speculation.

22 MR. LUTES: It's an admission on the  
23 part of the opposing party because Mr. Amde is  
24 acting as an agent of Mr. Makonnen.

25 MR. ROBINSON: Objection. This is not

1 a party opponent, there is only the licensee, not  
2 Mr. Amde.

3 CHAIRPERSON ANDERSON: I am overruling  
4 the objection. Let the witness answer the  
5 question if he can.

6 BY MR. LUTES:

7 Q Let me rephrase that. Was Mr. Amde  
8 holding himself out as the owner of the  
9 establishment?

10 A Correct.

11 Q Did Mr. Amde change his answer after  
12 you spoke with Mr. Bashir?

13 MR. ROBINSON: Objection. Asked and  
14 answered in direct.

15 CHAIRPERSON ANDERSON: I will sustain.  
16 Let's move on. That's correct, you did ask that  
17 question, and he answered on the direct.

18 MR. LUTES: I do have a question. May  
19 the agents of a licensee bind the licensee by  
20 statements that they make?

21 MR. ROBINSON: Objection. That was  
22 beyond the scope of cross. I didn't ask that  
23 question.

24 MR. LUTES: That was very much touched  
25 on within cross because a lot of Mr. Robinson's

1 own statements regarded whether Mr. Amde could  
2 bind the licensee.

3 CHAIRPERSON ANDERSON: I'm overruling  
4 the objection. Let the witness answer the  
5 question if he can.

6 MR. MILLER: Please repeat the  
7 question.

8 MR. LUTES: Can the statements of an  
9 agent of the licensee bind the licensee?

10 MR. MILLER: Yes, sir.

11 MR. LUTES: No further questions, Mr.  
12 Chairperson.

13 CHAIRPERSON ANDERSON: Thank you.  
14 Does the Government have another witness?

15 MR. LUTES: The Government does not  
16 have another witness. The Government rests its  
17 case in chief.

18 CHAIRPERSON ANDERSON: All right.  
19 Thank you. Mr. Robinson, do you have an opening  
20 statement?

21 MR. ROBINSON: No, I waive my opening,  
22 and I would like to go to request a directed  
23 verdict or verdict based on the evidence  
24 submitted.

25 MR. LUTES: Mr. Chairperson, the

1 District opposed the directed verdict because the  
2 District has presented substantial, if not  
3 conclusive, evidence to support the two charges  
4 that are listed.

5 MR. ROBINSON: I haven't made the  
6 presentation, so how can you make that statement  
7 until you've heard my arguments?

8 CHAIRPERSON ANDERSON: The Board will  
9 take your motion under consideration, sir. So,  
10 we will take your motion under consideration.  
11 We're not going to make a ruling at this  
12 juncture, but we'll take it under consideration.  
13 Do you plan to present a case, sir?

14 MR. ROBINSON: No, we do not.

15 CHAIRPERSON ANDERSON: Fine.

16 MR. ROBINSON: I'd like to, therefore,  
17 make my argument because the Government has  
18 rested, and that motion would have to be made  
19 before closing.

20 CHAIRPERSON ANDERSON: Well, the  
21 Government has rested, you've made your motion,  
22 so, therefore, do you rest?

23 MR. ROBINSON: I do.

24 CHAIRPERSON ANDERSON: So, the  
25 Government would have an opportunity to make a

1 closing statement. Yes, sir?

2 MR. ROBINSON: Mr. Chairperson, what  
3 I would like to do is, I think I'd wait, if I  
4 don't make this motion now it's waived, and I  
5 can't --

6 CHAIRPERSON ANDERSON: And you made  
7 your motion, sir.

8 MR. ROBINSON: But I haven't made the  
9 arguments that support the argument for my  
10 motion. That's what I'm saying.

11 CHAIRPERSON ANDERSON: Mr. Robinson,  
12 you asked for a directed verdict, if you want to  
13 make arguments to support why you want a directed  
14 verdict, then you can make those arguments.

15 MR. ROBINSON: That's what I want to  
16 do.

17 CHAIRPERSON ANDERSON: Fine, so you  
18 can make the arguments why you believe that the  
19 Board should issue a directed verdict in your  
20 favor.

21 MR. ROBINSON: Thank you. Mr.  
22 Chairperson and Board members, the District of  
23 Columbia Alcohol Beverage Control Board through  
24 its attorneys have made two charges. One is  
25 that, quote, the licensee failed to have the

1 establishment owner or approved ABC manager  
2 present during the hours of selling, service, and  
3 consumption of alcohol, end of quote. With  
4 respect to the charges, Mr. Grandis made the  
5 request about whether or not the investigator  
6 needed to go behind and determine anything else.  
7 The regulation that was quoted, and that is, the  
8 DC Code Section Chapter 7, Standards of  
9 Operation, sub-chapter 1, title 25.701, Board  
10 Approved Manager Required. It reads as follows,  
11 except as provided in paragraph two of the  
12 subsection of an establishment's owner or Board  
13 approved manager, shall be present on the  
14 premises at all times during the establishment's  
15 hours of sale, service, and consumption of  
16 alcohol, end of quote. It's a two-prong task to  
17 show that there was not a licensed manager that  
18 was present. We know that his license had  
19 expired. But what we don't have is, and what Mr.  
20 Lutes just stated was that Mr. Amde was acting as  
21 the owner of the establishment. With that  
22 argument, that is indeed a concession that the  
23 section that I have just quoted stated that even  
24 though his license had expired, as the owner of  
25 the property, the establishment, that they could



1 not be in violation of the first charge that is  
2 being charged. Title 2, with respect to Title 2  
3 it states, quote, you made a false or misleading  
4 statement during a regulatory inspection or  
5 investigation in violation of Title 823 current  
6 notice of investigation, end of quote. That  
7 section reads, the Board may find and set forth  
8 in the schedule civil penalties established until  
9 Title 25.830 and suspend or revoke license of any  
10 licensee during the licensing period. If the  
11 licensee violates any of the provisions of this  
12 title, the regulations promulgated under this  
13 title or any other law of the District of  
14 Columbia, end of quote. There isn't, in Title 2,  
15 charge 2, any allegation that the licensee or any  
16 of his agents, servants, and/or employees made a  
17 false statement. As a matter of fact, Mr. Lutes  
18 just stated that for Mr. Miller that Mr. Amde was  
19 acting as owner of the establishment. I,  
20 therefore, move --

21 MR. LUTES: Objection.

22 Mischaracterization. I asked if he was --

23 CHAIRPERSON ANDERSON: Hold on, Mr.  
24 Lutes. Mr. Robinson is making arguments for why  
25 he believes that the Board should issue a

1 directed verdict in his favor, so I will let him  
2 make his arguments, and then you'll have an  
3 opportunity to respond to his arguments why the  
4 Board should issue a directed verdict in his  
5 favor.

6 MR. LUTES: Understood, Mr.  
7 Chairperson, thank you.

8 MR. ROBINSON: I therefore move that  
9 it should be a directed verdict because based  
10 upon the evidence presented there is not a basis  
11 for finding that there has been a violation of  
12 charge one because the owner of the establishment  
13 was present, and two, with respect to that charge  
14 there is not any evidence that any member of the  
15 licensee or anyone acting within the scope of  
16 their employment of the licensee made a false  
17 statement. Thank you, Mr. Chairman and the  
18 Board.

19 CHAIRPERSON ANDERSON: Thank you. Mr.  
20 Lutes, do you wish to respond to Mr. Robinson?  
21 This is not closing, you're just responding to  
22 his arguments for why the Board should issue a  
23 directed verdict.

24 MR. LUTES: Of course, Mr.  
25 Chairperson. So, first, under D.C. Code Section

1 25.405, an application for transfer must be  
2 submitted to the Board and that application for  
3 transfer must be approved before the license has  
4 actually transferred to the new owner. Here, the  
5 counsel for the licensee has admitted that there  
6 was no ABC manager present and that the only  
7 person present to help themselves as an ABC manager  
8 or owner was Mr. Getu Amde. Mr. Amde is not the  
9 owner. He applied for a license, however, it was  
10 returned as deficient as shown by and testified  
11 to by Investigator Miller.

12 Moreover, D.C. Code 25.701 requires  
13 that an ABC manager or owner be present at all  
14 times. Here you've heard testimony from  
15 Investigator Miller that no ABC manager was  
16 present and no owner was present because Retta  
17 Makonnen was not present.

18 Moreover, 823 provides that a  
19 violation occurs when a licensee or their agent  
20 makes a misrepresentation to the ABRA or MPD in  
21 the course of their investigation to mislead  
22 them. Here we've heard from Investigator Miller  
23 that Mr. Amde said he was the owner despite not  
24 being the owner and changed his answer when he  
25 was found out that he was not the owner.

1                   At this point, the District has proven  
2 its case, and counsel for the licensee has failed  
3 to prove that the District has not made its case.  
4 Thank you.

5                   CHAIRPERSON ANDERSON: All right. The  
6 Board will take the motion under advisement.

7                   MR. ROBINSON: Thank you, Mr.  
8 Chairman.

9                   CHAIRPERSON ANDERSON: All right. Do  
10 you have a case that you want to present, Mr.  
11 Robinson?

12                   MR. ROBINSON: No, I do not.

13                   CHAIRPERSON ANDERSON: So, do you  
14 rest?

15                   MR. ROBINSON: I do.

16                   CHAIRPERSON ANDERSON: Mr. Lutes, do  
17 you wish to make a closing statement?

18                   MR. LUTES: Yes, Mr. Chairperson. The  
19 District is prepared to make a closing statement.  
20 The District will reserve brief rebuttal. May I  
21 begin?

22                   CHAIRPERSON ANDERSON: Sure, go ahead,  
23 sir.

24                   MR. LUTES: Thank you, Mr.  
25 Chairperson. Mr. Chairperson, members of the

1 Board, when one finds themselves in a hole, one  
2 ought not to keep digging. To that very reason  
3 the District requests that you find in its favor  
4 today. The District has proven by a  
5 preponderance of the evidence the licensee,  
6 Astede Corporation, as owned by Retta Makonnen,  
7 found itself in a hole because the licensee  
8 failed to have an ABC manager present during the  
9 hours of sale and consumption of alcohol. Rather  
10 than face the truth, the manager on duty  
11 misrepresented that he was the owner to avoid  
12 getting in trouble, digging the hole further.  
13 Under D.C. Code Section 25.701, a licensee must  
14 have the owner or ABCA approved ABC manager on  
15 duty at all times during the hours of sale,  
16 service, and consumption of alcohol.

17 Here you have heard uncontroverted  
18 evidence that Investigator Miller arrived at Nile  
19 Ethiopian Restaurant and Market, and when he  
20 entered the establishment was greeted by the  
21 manager on duty, Mr. Getu Amde, who is neither an  
22 owner nor held an ABC manager's license, a fact  
23 that the opposing counsel has admitted to. Next  
24 you have heard and seen how Investigator Miller  
25 observed patrons consuming alcohol during his

1 visit and that no other ABC manager or owner was  
2 present during this visit.

3 Next, under D.C. Code 25.823 (85)(c),  
4 D.C. law prohibits licensees from providing false  
5 or misleading information to ABCA investigators.  
6 Today you have heard from Investigator Miller how  
7 Mr. Amde, who already found himself in a hole,  
8 dug deeper. That night Mr. Amde held himself out  
9 as the owner and then the manager of Nile  
10 Ethiopian Restaurant and knew he did not have a  
11 valid ABC manager's license. When Investigator  
12 Miller arrived asking for the ABC manager or  
13 owner, Mr. Amde said he was the owner because he  
14 knew the owner does not have to have an ABC  
15 manager's license and could avoid further fines  
16 if Investigator Miller believed him. However,  
17 Investigator Miller saw through the ruse and  
18 confirmed that Retta Makonnen, not Mr. Amde, was  
19 the owner of the Astede Corporation and that  
20 Retta Makonnen was the true licensee.

21 Now stuck in a hole of his own making,  
22 Mr. Amde changed his answer saying that he was  
23 not the owner and that he was an ABC manager.  
24 While opposing counsel argues that Mr. Amde was  
25 simply confused, strike that, while opposing

1 counsel would argue that Mr. Amde was the true  
2 licensee and was the owner of the establishment,  
3 the facts and District law say otherwise. D.C.  
4 Code 25.405 requires that an application to  
5 transfer the license be submitted to the Board.  
6 It further requires that an application to  
7 transfer a license to a new owner shall be filed  
8 by transferee and approved by the Board before  
9 the consummation of the transfer. Here, Mr. Amde  
10 apparently knew the law to the extent and filed  
11 for an application for transfer; however, the  
12 application was not approved by the Board and a  
13 deficiency notice was returned to him months  
14 prior to the violation. After receiving the  
15 notice that his application was not accepted, he  
16 took no further corrective actions.

17 Next, opposing counsel argued that  
18 Retta Makonnen should not be punished for the  
19 actions of Mr. Amde; however, D.C. Code 25.823  
20 authorizes the Board to fine the licensee, not  
21 the ABC manager. As you have heard from  
22 Investigator Miller, the transfer of license  
23 never occurred because it would violate District  
24 law, and the same deficiency letter that Mr. Amde  
25 received was sent to 7815 Georgia Avenue NW, the

1 address of Nile Ethiopian Restaurant and Market.  
2 Here Retta Makonnen knew or should've known that  
3 the sale and transfer had not completed and that  
4 Mr. Amde was not the owner and held himself out  
5 as an agent of Retta Makonnen. Mr. Amde's own  
6 actions confirmed this because Mr. Amde still  
7 carried and ABC manager's license on his person.

8 Thus, the Government has proven by a  
9 preponderance of the evidence that the licensee  
10 failed to have an owner or ABC manager during the  
11 hours of sale and consumption of alcohol and that  
12 the manager of the licensee, Retta Makonnen, made  
13 a misrepresentation, let me clarify. The  
14 manager, Getu Amde, of the licensee, Retta  
15 Makonnen, made a misrepresentation in order to  
16 mislead Investigator Miller. The Government  
17 requests that the Board find in the District's  
18 favor and recommends that the Board apply the  
19 appropriate penalty. Thank you.

20 CHAIRPERSON ANDERSON: Thank you. Mr.  
21 Robinson.

22 MR. ROBINSON: Thank you, Mr. Chairman  
23 and the Board. Let me just try to be very short  
24 about this. This is not a case involving whether  
25 or not the transfer of the liquor license from



1 the transferor to the transferee took place.  
2 That's never been the quest here. The question  
3 here is whether or not an ABRA licensee who does  
4 not have the appropriate manager's license  
5 present does have the person who is the owner of  
6 the establishment present within the confines of  
7 the statute that says that person needs to be  
8 present and therefore there cannot be a violation  
9 of selling alcohol, although the manager's  
10 license has expired.

11 Charge two is an allegation that an  
12 individual who is not an agent, servant, or  
13 employee of the licensee is alleged to have made  
14 a misstatement. Is that misstatement attributed  
15 to the licensee? Consider, if you will, a raid  
16 in a restaurant. Has nothing to do with the  
17 alcohol, and the individuals in there make  
18 statements. Can ABRA then bring an action  
19 against the individual who made statements who  
20 are not a member of the licensee and attribute  
21 them to the licensee. I do not believe that's  
22 where this should go.

23 Mr. Lutes has known since February and  
24 March of this year that there is a buy-sell  
25 agreement that was submitted to ABRA, and it was

1 dated January 26, 2022. I've asked him that he  
2 should reconsider the charges because the  
3 establishment was not the owner of the liquor  
4 license but the owner of the business. They have  
5 not presented any evidence other than hearsay  
6 evidence that Mr. Amde's buy-sell agreement along  
7 with Mr. Makonnen was not known by the District  
8 of Columbia to exist after they filed the  
9 charges. The buy-sell agreement existed prior to  
10 the charges and when brought to their attention  
11 that the buy-sell agreement was in effect prior  
12 to the time of the charges the District failed to  
13 do anything to amend its charges, knowing that  
14 their charges were deficient.

15 I'd ask the Board to consider this,  
16 not based upon a failed transfer of alcohol  
17 license but what the statute requires, and I've  
18 quoted that. Statute says during the hours when  
19 alcohol is to be consumed there must be two  
20 things, one, a manager present with a valid  
21 license, which there was not. We're not arguing  
22 that. But what we do say is that there was a  
23 person who was there who owned it based upon  
24 records that have been submitted twice to the  
25 District of Columbia. Indicating that the

1 establishment was owned by Mr. Amde but the  
2 license was not.

3 With respect to the second and final  
4 point, and excuse me for being repetitive, the  
5 false statement that has allegedly been made has  
6 not been made by making an argument that the  
7 argument of Mr. Amde is attributable to the  
8 licensee even though I'm arguing there wasn't a  
9 false statement. But you can't attribute, from  
10 what I see, a statement made by a non-licensee  
11 employee to state that the licensee made an  
12 improper statement. I'm going to ask that you  
13 find that the charges of one and two, that the  
14 evidence has not been proven to substantiate them  
15 and dismiss them.

16 CHAIRPERSON ANDERSON: Are you done,  
17 sir? Mr. Lutes said he wanted a brief.

18 MR. LUTES: Yes, thank you, Mr.  
19 Chairperson. Under District law the transfer of  
20 both an establishment and a license cannot occur  
21 until it receives approval from the Board. Here,  
22 no approval has been received by the Board and,  
23 therefore, the license is still retained by Retta  
24 Makonnen.

25 Additionally, the fact that Mr. Amde's

1 temporary ABC license was expired does not  
2 vitiate his status as an agent of Retta Makonnen.  
3 Moreover, additionally, by opposing counsel's  
4 logic, if someone doesn't have a valid ABC  
5 manager's license and any statement they make  
6 cannot be attribute the licensee, is directly  
7 contradictory. More importantly, Mr. Amde knew  
8 he was not the licensee. And, again, the  
9 opposing party has conceded that Mr. Amde did not  
10 have a valid license, therefore, Mr. Amde made a  
11 statement that he knew would mislead Investigator  
12 Miller and that no ABC manager or licensee or  
13 owner of the license was present during  
14 Investigator Miller's visit. Thank you.

15 CHAIRPERSON ANDERSON: The record is  
16 now closed. Do the parties wish to make proposed  
17 findings of fact and conclusion of law or waive  
18 your right to do so?

19 MR. LUTES: The District will waive.

20 MR. ROBINSON: Mr. Chairperson, would  
21 you indulge me about one minute, please?

22 CHAIRPERSON ANDERSON: Sure, sir. Mr.  
23 Robinson, you need to mute your phone.

24 MR. ROBINSON: Thank you, we'll submit  
25 some findings of facts and conclusions.

1                   CHAIRPERSON ANDERSON: You should  
2 receive the transcript in three weeks. You have  
3 30 days after receipt of the transcript to  
4 provide the response. Then the agents will issue  
5 the decision within 90 days. If you change your  
6 mind to submit the conclusion of law and findings  
7 of fact, then please advise the agency as soon as  
8 possible.

9                   MR. ROBINSON: Thank you, sir.

10                  CHAIRPERSON ANDERSON: As Chairperson  
11 of the Alcoholic Beverage and Cannabis Board for  
12 the District of Columbia and in accordance with  
13 D.C. Official Code Section 2575 of the open  
14 meetings act, I move that ABC Board hold a closed  
15 meeting for the purpose of seeking legal advice  
16 from our counsel on case number 22-CMP-00082,  
17 Nile Ethiopian Restaurant and Market pursuant to  
18 D.C. Official Code Section 2575(b)(4)(A) of the  
19 open meetings act and deliberate upon case number  
20 22-CMP-00082, Nile Ethiopian Restaurant and Nile  
21 Market for the reasons cited in D.C. Official  
22 Code Section 2575(b)(13) of the open meetings  
23 act. Is there a second?

24                  MEMBER SHORT: Mr. Short, I second.

25                  CHAIRPERSON ANDERSON: Mr. Short has

1 seconded the motion. I will now have a roll call  
2 vote. Mr. Short?

3 MEMBER SHORT: Mr. Short, I agree.

4 CHAIRPERSON ANDERSON: Mr. Cato?

5 MEMBER CATO: Bobby Cato, I agree.

6 CHAIRPERSON ANDERSON: Ms. Crockett?

7 MEMBER CROCKETT: Agree.

8 CHAIRPERSON ANDERSON: Ms. Hansen?

9 MEMBER HANSEN: Jenni Hansen, I agree.

10 CHAIRPERSON ANDERSON: Mr. Grandis?

11 MEMBER GRANDIS: (No audible  
12 response.)

13 CHAIRPERSON ANDERSON: Mr. Anderson,  
14 I agree. As it appears the motion has passed  
15 6-0-0, I hereby give notice that the ABC Board  
16 will recess these proceedings to hold a closed  
17 meeting pursuant to section 2575 of the open  
18 meetings act. Thank you very much, have a great  
19 day.

20 (Whereupon, the entitled matter went  
21 off the record at 12:44 p.m.)  
22  
23  
24  
25

## A

**A-L-B-E-R-T** 6:18**A-M-D-E** 4:25 5:7,12**a.m** 2:2 22:4,9 23:24**ABC** 1:10 10:23 11:13

11:25 13:25 14:20

15:5 19:4,5,7,25 20:4

22:16 23:19 33:25

34:3,3,23 39:25 40:1

40:6,20 44:21 45:24

48:10 50:24 58:6,16

64:1 67:6,7,13,15

69:8,14,22 70:1,11,12

70:14,23 71:21 72:7

72:10 76:1,4,12 77:14

78:15

**ABCA** 1:23,24 7:7

10:25 11:4 12:18

13:13,17,20 14:12

15:4 25:14,16 27:21

27:25 28:3,7,10 31:23

69:14 70:5

**ability** 38:18**able** 5:5 15:19 26:5 39:7

44:18 47:10

**ABRA** 18:8 24:23 33:12

33:25 48:19 54:8

58:13 67:20 73:3,18

73:25

**ABRA's** 49:4**accepted** 71:15**access** 2:10,11,12**accurate** 21:4**accusation** 56:25**accusations** 56:24**acronym** 13:13**act** 10:24 77:14,19,23

78:18

**acting** 59:24 64:20

65:19 66:15

**action** 12:9 73:18**actions** 16:10 71:16,19

72:6

**additional** 26:21,24

28:25 59:6

**additionally** 26:19

75:25 76:3

**address** 9:15 31:10,14

72:1

**addressed** 27:16 31:8

36:8

**Administration** 13:11

13:15 58:14

**admissibility** 30:12**admissible** 16:11 17:19

29:8 30:7,8,9,14

**admission** 27:4,16

59:22

**admit** 29:18**admitted** 28:15 29:3,10

29:12 30:25 38:23

67:5 69:23

**advance** 11:20**advice** 36:22 37:25

38:12 39:1 77:15

**advise** 77:7**advisement** 68:6**affidavit** 32:17,24**affirm** 12:22**afternoon** 57:22,25**agency** 29:16 40:20

41:1 46:2 51:3 54:23

55:17 56:1 77:7

**agency's** 29:14 30:15

30:18

**agent** 8:6 28:10 42:24

49:24 59:24 61:9

67:19 72:5 73:12 76:2

**agents** 21:11 31:2

49:19 60:19 65:16

77:4

**agree** 43:23 52:10 78:3

78:5,7,9,14

**agreed** 6:14**agreement** 6:12,13 9:7

32:19 40:16,21 41:2

51:18 52:25 53:12,15

54:7,24 55:8,13,23

56:16 73:25 74:6,9,11

**ahead** 5:6 7:19 10:17

16:13 17:1 18:5 27:13

46:23 49:3 50:13

57:13 68:22

**Albert** 6:17**alcohol** 10:23 11:15

12:2 19:17,20 20:6

23:4,5 42:5,18 43:9

56:8,12 63:23 64:3,16

69:9,16,25 72:11 73:9

73:17 74:16,19

**alcoholic** 1:2,15 13:10

13:14 58:14 59:11

77:11

**ALIYA** 1:19**allegation** 8:6 49:18

65:15 73:11

**allegations** 7:23**alleged** 49:25 73:13**allegedly** 75:5**allow** 20:16 26:6 30:17**alternative** 56:20**Amde** 1:23 4:7,18,20,20

4:25,25 5:7,7,12,12

6:11,15 7:13,16 8:5

9:8 11:8,12,17 12:3,4

15:9,10,13,20 16:1,5

16:22 17:8,12 18:9,12

18:14,16 19:2,24 20:2

22:19 25:20,24 27:4

27:16,17 29:1,23,24

31:9 32:3,8 33:4,6,17

34:6,22 36:8 39:13,24

40:8,12 41:4 43:3

47:18 48:2 49:6,13,20

49:23 50:7 51:9 53:2

56:16 57:1 59:16,18

59:23 60:2,7,11 61:1

64:20 65:18 67:8,8,23

69:21 70:7,8,13,18,22

70:24 71:1,9,19,24

72:4,6,14 75:1,7 76:7

76:9,10

**Amde's** 41:11 42:1

43:17,24 45:8 51:19

53:13 72:5 74:6 75:25

**amend** 32:10,12 74:13**ANC** 1:8**and/or** 65:16**Anderson** 1:16,18 2:3

2:13,16,22 3:5,7,14

3:21,24 4:5,8,13,22

5:1,9,13 6:4,24 7:18

8:10 9:11 10:17 12:11

12:15,20,25 15:16,21

16:13 17:1,23 18:3,24

20:15 21:10,20 24:11

24:19 25:2 26:4 27:8

27:12 28:17 29:13,22

30:16 31:1 34:19 35:4

35:22 36:2,5,25 37:3

37:10,20 38:2 39:2

41:7,17,21 44:7,14

45:21 46:23 47:4,9

48:6 49:2,12 50:2,13

50:18 51:23 52:20

53:6,20,25 54:11,16

55:1,9 57:11,17 58:23

59:3,7 60:3,15 61:3

61:13,18 62:8,15,20

62:24 63:6,11,17

65:23 66:19 68:5,9,13

68:16,22 72:20 75:16

76:15,22 77:1,10,25

78:4,6,8,10,13,13

**answer** 11:9 15:22 18:5

18:16 25:10 27:11

39:3,4,6,8 41:20 44:8

44:15,16,18 50:12

60:4,11 61:4 67:24

70:22

**answered** 18:20 24:10

24:17 37:21,23 44:4,5

44:13 45:17 51:21

54:10 60:14,17

**anybody** 40:20**apologies** 7:4**apologize** 38:4 46:21

56:4

**apparently** 71:10**appears** 2:17 78:14**applicant** 33:4**applicants** 31:25**application** 6:19 11:19

25:18 31:22 32:11

33:11 51:19 52:1,3,8

67:1,2 71:4,6,11,12

71:15

**applied** 67:9**apply** 72:18**appropriate** 58:3 72:19

73:4

**approval** 32:21 75:21

75:22

**approved** 64:1,10,13

67:3 69:14 71:8,12

**April** 31:6 36:8 46:24

47:2

**argue** 71:1**argued** 71:17**argues** 70:24**arguing** 30:7 56:3 74:21

75:8

**argument** 29:6 41:12

52:18 57:10 62:17

63:9 64:22 75:6,7

**arguments** 8:17 10:11

52:19 56:5 57:7 62:7

63:9,13,14,18 65:24

66:2,3,22

**arrived** 11:5 14:23

69:18 70:12

**articles** 32:15**asked** 10:2 15:5 17:12

17:13 24:9,12,14,16

24:17 37:21,22,25

38:19 41:22 44:3

45:16 46:9,25 48:8,10

50:20 51:20 54:9 59:1

60:13 63:12 65:22

74:1

**asking** 6:8 25:5 34:11

34:13 35:19,23 55:5,6

55:10,21 70:12

**assigned** 58:1**assistance** 36:20 38:7

38:18

**Assistant** 7:5**assisted** 38:13**Astede** 1:6 6:6,15 9:9

28:21,22,22 29:1,18

29:21 40:7,12 42:12

42:25 47:16 69:6

70:19  
**attempted** 12:6  
**attempting** 46:12 50:7  
**attempts** 9:13  
**attention** 8:8 51:17  
 74:10  
**attorney** 7:6 53:8 54:17  
 54:19,19 55:3  
**attorney/client** 53:4  
**attorneys** 63:24  
**attributable** 75:7  
**attribute** 73:20 75:9  
 76:6  
**attributed** 73:14  
**audible** 3:2 78:11  
**auspices** 6:17  
**authorization** 32:18  
**authorizes** 71:20  
**Ave** 1:8  
**Avenue** 31:12 71:25  
**avoid** 69:11 70:15  
**aware** 24:22 47:4

---

**B**


---

**B** 26:3,10 28:14 30:24  
**back** 33:23 39:20 59:14  
**bar** 24:3  
**based** 8:17 10:4 56:16  
 58:25 61:23 66:9  
 74:16,23  
**Bashir** 16:5 18:8 39:14  
 39:20 51:6 54:3 60:12  
**basis** 16:20 29:18 39:23  
 66:10  
**Baylor** 32:24  
**beginning** 46:9  
**behalf** 4:17 10:19 45:15  
 45:20 47:24 51:3  
**beliefs** 34:12  
**believe** 25:4 26:4 27:15  
 29:16 30:2,20 34:6  
 36:7,11 37:4,24 52:17  
 63:18 73:21  
**believed** 70:16  
**believes** 34:14,15,18  
 65:25  
**belong** 22:18  
**best** 16:16,21 17:17  
 52:18  
**better** 2:21,23 57:6  
**Beverage** 1:2,15 13:10  
 13:14 58:14 63:23  
 77:11  
**beverages** 59:12  
**beyond** 60:22  
**bind** 50:25 60:19 61:2,9  
**Board** 1:2,15 8:23,24  
 9:15,25 10:2,5,22

12:8 17:20 29:8 32:16  
 40:20 55:16 57:12  
 58:23 62:8 63:19,22  
 63:23 64:9,12 65:7,25  
 66:4,18,22 67:2 68:6  
 69:1 71:5,8,12,20  
 72:17,18,23 74:15  
 75:21,22 77:11,14  
 78:15  
**Bobby** 1:19 78:5  
**body** 48:8  
**bottle** 23:10  
**bought** 48:3  
**brief** 59:6 68:20 75:17  
**bring** 51:17 73:18  
**brought** 8:7 46:3 49:13  
 49:14 74:10  
**burden** 8:14  
**business** 6:15 27:3  
 28:3,6 32:12 39:12  
 41:4 48:3 55:25 56:7  
 56:9 74:4  
**buy-sell** 40:16,21 41:2  
 51:18 52:25 53:12,14  
 54:7,24 55:8,11,13,22  
 56:16 73:24 74:6,9,11  
**buy/sell** 9:7

---

**C**


---

**c** 70:3  
**caf** 32:11  
**calendar** 2:4  
**call** 9:1,14,21 12:16,18  
 78:1  
**called** 39:14  
**calls** 15:14 34:8 36:21  
 40:22 44:11 59:20  
**camera** 2:20 3:15  
**Cannabis** 1:2,15 13:11  
 13:14 58:14 77:11  
**capacity** 47:2  
**care** 55:14  
**carried** 72:7  
**case** 1:9 2:3,4 7:1 8:16  
 10:8,9,22 20:22 21:5  
 21:9 36:6 37:1,3,7,8  
 37:12 38:12 45:23  
 46:5 47:1 49:12,13  
 50:19,19 55:4,20  
 61:17 62:13 68:2,3,10  
 72:24 77:16,19  
**Cato** 1:19 78:4,5,5  
**caught** 10:24  
**cause** 1:8 4:3 7:22 8:21  
 8:24 9:17 46:6  
**causing** 3:9  
**cell** 3:12  
**certain** 58:1  
**certificate** 32:14,15,19  
**Chair** 3:6  
**Chairman** 3:19 28:16  
 35:2 38:14 44:13 47:8  
 50:11 58:22 66:17  
 68:8 72:22  
**Chairperson** 1:15,18  
 2:3,13,16,22 3:5,7,14  
 3:21,24 4:5,8,11,13  
 4:21,22 5:1,9,13 6:4  
 6:24 7:2,18 8:10 9:11  
 10:14,17,21,21 12:11  
 12:15,17,20,25 13:3  
 15:16,17,21 16:13,24  
 17:1,4,10,23 18:3,24  
 20:12,15 21:7,10,14  
 21:20 24:11,19 25:2  
 26:1,4,16 27:1,8,12  
 27:14 28:13,17 29:5  
 29:13,20,22 30:1,2,16  
 30:24 31:1,4 34:10,16  
 34:19 35:4,22 36:2,5  
 36:25 37:3,10,14,20  
 38:2,20 39:2 41:7,17  
 41:21 44:7,14 45:17  
 45:21 46:20,23,24  
 47:4,9 48:6 49:2,12  
 50:2,13,18 51:23  
 52:11,17,20 53:6,20  
 53:25 54:11,16 55:1,9  
 56:4 57:3,11,17 58:23  
 59:3,5,7 60:3,15 61:3  
 61:12,13,18,25 62:8  
 62:15,20,24 63:2,6,11  
 63:17,22 65:23 66:7  
 66:19,25 68:5,9,13,16  
 68:18,22,25,25 72:20  
 75:16,19 76:15,20,22  
 77:1,10,10,25 78:4,6  
 78:8,10,13  
**challenge** 30:13  
**change** 18:16 60:11  
 77:5  
**changed** 11:9 67:24  
 70:22  
**Chapter** 64:8  
**charge** 7:25 8:8,14  
 45:23 46:3 48:19 65:1  
 65:15 66:12,13 73:11  
**charged** 49:9 65:2  
**charges** 6:22 7:24 35:9  
 35:14,25 36:24 47:11  
 62:3 63:24 64:4 74:2  
 74:9,10,12,13,14  
 75:13  
**charging** 37:7  
**checked** 18:8 39:18,21  
 48:17

**chief** 61:17  
**citations** 35:20  
**cited** 35:10 56:10 77:21  
**civil** 65:8  
**clarification** 5:15 33:10  
 52:12  
**clarify** 27:17 47:11 50:8  
 72:13  
**clear** 51:4  
**clearance** 32:24  
**clearly** 8:20  
**client** 40:23  
**closed** 3:11 76:16  
 77:14 78:16  
**closing** 10:10 52:19  
 57:7,9 62:19 63:1  
 66:21 68:17,19  
**code** 7:22 12:2,8,9  
 35:10,11,20 38:6,8  
 64:8 66:25 67:12  
 69:13 70:3 71:4,19  
 77:13,18,22  
**Colombia** 63:23  
**Columbia** 1:1 14:1  
 65:14 74:8,25 77:12  
**come** 59:14  
**comes** 33:1  
**communications** 40:24  
**company** 29:20  
**complete** 28:25  
**completed** 28:24 33:13  
 72:3  
**computers** 3:13  
**conceded** 76:9  
**concern** 49:3  
**concerned** 46:2,3 49:5  
**concerns** 46:15 58:4  
**concession** 64:22  
**conclusion** 11:22 76:17  
 77:6  
**conclusions** 76:25  
**conclusive** 62:3  
**conduct** 56:8  
**conducting** 13:23,24  
 14:5,10  
**confines** 73:6  
**confirmation** 21:8  
**confirmed** 11:10 24:13  
 70:18 72:6  
**Confirming** 30:24  
**conflict** 5:22  
**confused** 55:2 70:25  
**consent** 32:14  
**consider** 73:15 74:15  
**consideration** 62:9,10  
 62:12  
**considered** 44:22 45:4  
**consultation** 38:11,25



**consulted** 38:13  
**consumed** 41:15 42:19  
 74:19  
**consuming** 11:15 23:4  
 69:25  
**consummation** 71:9  
**consumption** 12:2 64:3  
 64:15 69:9,16 72:11  
**contacted** 16:4 18:7  
**content** 29:6 30:8,11  
**contents** 30:20  
**continue** 26:5 27:6  
 50:11,14  
**contract** 50:19  
**contradictory** 76:7  
**contrary** 57:8  
**Control** 63:23  
**conversations** 54:14  
**converse** 58:15  
**copy** 9:7 52:25  
**Corp** 1:6  
**Corporation** 42:13 69:6  
 70:19  
**correct** 33:21 36:4 37:9  
 38:1 39:15 40:4,8,9  
 41:16 42:6,10,11,13  
 42:19,20 43:11,12,15  
 43:16 44:2 45:10  
 57:15 59:17 60:10,16  
**corrective** 71:16  
**could've** 36:22  
**counsel** 1:25 17:4  
 29:17 38:11,24 67:5  
 68:2 69:23 70:24 71:1  
 71:17 77:16  
**counsel's** 29:6 76:3  
**course** 11:6 17:20  
 26:17 27:3 28:2,6  
 66:24 67:21  
**court** 5:2,4,5  
**court's** 7:4 20:18 24:5  
 27:18  
**CR** 1:8  
**created** 33:11  
**Crockett** 1:19 78:6,7  
**cross** 9:23,24 17:21,25  
 30:4,19 35:6 48:23  
 50:11,14 51:22 52:19  
 60:22,25  
**current** 46:11 65:5  
**currently** 50:6  
**cut** 8:11

---

**D**

**D.C** 7:22 12:2,8,9 35:10  
 35:20 38:6,8 57:7  
 66:25 67:12 69:13  
 70:3,4 71:3,19 77:13

77:18,21  
**date** 11:21 19:11 22:2  
 22:20 23:22,23,25  
 31:5  
**dated** 9:6 36:8 74:1  
**day** 22:16 78:19  
**days** 8:22 43:25 77:3,5  
**DC** 1:23,24,24 64:8  
**Dear** 28:20 33:14  
**death** 6:8,10 46:17  
 47:17  
**decision** 17:20 55:17  
 77:5  
**deeper** 70:8  
**defer** 12:13  
**deficiencies** 40:15  
**deficiency** 25:20,24  
 26:12 31:17,18 32:1,4  
 54:5,15 71:13,24  
**deficient** 11:20 67:10  
 74:14  
**deliberate** 77:19  
**deliver** 14:25 48:9  
 50:23  
**department** 25:16  
 26:13 31:20  
**despite** 67:23  
**details** 22:1  
**determine** 40:2 51:9  
 58:3 64:6  
**different** 41:22 52:15  
**difficult** 46:18  
**difficulty** 48:21,22  
**digging** 69:2,12  
**direct** 13:4 44:12 57:6  
 60:14,17  
**directed** 61:22 62:1  
 63:12,13,19 66:1,4,9  
 66:23  
**directly** 76:6  
**Directors** 32:17  
**dismiss** 75:15  
**dismissed** 7:21  
**distinction** 56:6,15  
**District** 1:1 4:12 7:10  
 7:12 11:23 12:18 14:1  
 20:12 21:8 26:2,20  
 27:5 28:14 30:9 62:1  
 62:2 63:22 65:13 68:1  
 68:3,19,20 69:3,4  
 71:3,23 74:7,12,25  
 75:19 76:19 77:12  
**District's** 72:17  
**document** 9:10 20:21  
 21:2,4 26:15,17,20,23  
 26:24 27:2,24 28:11  
 28:20 29:3,10,11 30:6  
 30:8,11,17,21 31:5,11

31:19 32:25 33:1  
 35:22,25 36:6,7,7,15  
 36:18 37:4 38:5,15,21  
 38:23  
**documentation** 25:15  
 25:19,21 32:10  
**documents** 8:23 9:5,5  
 24:22 25:1,14 28:25  
 31:23 32:8,22 36:3,11  
 37:7 51:2 58:8  
**Donovan** 1:16,18  
**double** 16:15,19 17:15  
**drafted** 6:13 35:9,14  
 36:1 37:5 38:16 39:9  
**drafter** 26:24  
**drafting** 36:23  
**drinking** 19:17 20:6  
**due** 30:8  
**dug** 70:8  
**duties** 11:6 13:22  
**duty** 1:10 10:25 11:25  
 41:14 45:24 69:10,15  
 69:21

---

**E**

**E-B-E-R-T** 6:18  
**easily** 15:18  
**Ebert** 6:18  
**EDWARD** 1:20  
**effect** 74:11  
**either** 2:24 31:20 38:12  
 42:24 58:5,11,15  
**elevate** 2:6  
**elevated** 2:10,11,12  
**email** 46:25  
**employee** 8:6 42:24  
 44:19 73:13 75:11  
**employees** 19:19 49:19  
 65:16  
**employment** 48:1 49:24  
 66:16  
**encounter** 11:7 14:16  
 14:19,22  
**encountered** 14:14  
**ended** 18:19  
**entail** 13:22  
**entered** 15:2 59:15  
 69:20  
**entering** 11:6  
**entitled** 78:20  
**entity** 46:14 48:8,13  
 53:17 57:1  
**equipment** 2:24,25 3:8  
 3:9  
**ESQ** 10:18  
**establish** 49:22  
**established** 49:23 65:8  
**establishment** 11:2,5,7

11:9 12:5 14:24,25  
 15:3 18:10,13 19:13  
 20:5,8,9 24:8 31:13  
 31:20 34:24 40:11  
 42:18 44:20 45:6 48:4  
 48:20 49:15 50:20,22  
 51:10 52:5,14 53:1  
 56:15,17,21,22 58:2  
 59:15,19 60:9 64:1,21  
 64:25 65:19 66:12  
 69:20 71:2 73:6 74:3  
 75:1,20  
**establishment's** 64:12  
 64:14  
**establishments** 13:25  
**Ethiopian** 1:6 2:5 11:24  
 14:14,16,22 19:15  
 20:23 22:6 23:3,18  
 24:6,23 31:15 33:8,12  
 33:18,19,24 46:4  
 69:19 70:10 72:1  
 77:17,20  
**events** 14:21  
**evidence** 8:25 9:14  
 11:3,24 16:16,17,21  
 17:17,18,19 21:9  
 28:15 30:13 61:23  
 62:3 66:10,14 69:5,18  
 72:9 74:5,6 75:14  
**exactly** 16:22 29:7  
**examination** 13:4 17:21  
 17:25 30:5 35:6 48:23  
 52:19  
**examine** 9:23 30:19  
**examined** 9:25  
**exchange** 8:23  
**excuse** 13:23 14:4  
 25:19 40:5 42:14 75:4  
**excused** 6:9  
**executed** 41:3 53:15  
**exhibit** 7:11 20:14,21  
 21:9 22:12,13,14,14  
 22:24,25 23:16 26:3  
 26:10 28:14 30:24  
 36:9,10,12,13 37:1,7  
 37:12,19,24 38:5  
**exhibits** 7:11,14  
**exist** 74:8  
**existed** 74:9  
**exited** 20:8,9  
**expiration** 19:11 22:20  
**expired** 41:11 42:2 43:9  
 43:25 45:8 56:18  
 58:12 64:19,24 73:10  
 76:1  
**extent** 71:10

---

**F**

**face** 69:10  
**facilitate** 6:21  
**facilitation** 6:22  
**facility** 43:15 56:12  
**fact** 7:3 15:18 30:14  
 45:1 65:17 69:22  
 75:25 76:17 77:7  
**facts** 29:4,17 71:3  
 76:25  
**failed** 11:25 63:25 68:2  
 69:8 72:10 74:12,16  
**false** 1:11 8:2,5 42:21  
 42:22 43:19,21,22  
 44:22 45:4,19,24  
 47:13,23 49:9,10,11  
 49:19 50:1 56:23,25  
 65:3,17 66:16 70:4  
 75:5,9  
**family** 6:8,11 46:17  
 47:17  
**far** 46:2 49:4  
**favor** 63:20 66:1,5 69:3  
 72:18  
**February** 73:23  
**feedback** 3:10,25  
**female** 15:8  
**filed** 11:18 71:7,10 74:8  
**final** 75:3  
**find** 38:16 39:20 65:7  
 69:3 72:17 75:13  
**finding** 66:11  
**findings** 76:17,25 77:6  
**finds** 69:1  
**fine** 4:9 47:6 57:11  
 62:15 63:17 71:20  
**fines** 70:15  
**finish** 40:25  
**first** 5:10 7:3 9:18 22:1  
 35:24 36:6 65:1 66:25  
**fishing** 53:18  
**fitted** 30:4  
**following** 45:23 46:19  
 48:7,16,21,23  
**follows** 64:10  
**followup** 58:25  
**forgot** 7:4  
**form** 15:1 32:14 33:1  
 48:9 50:23  
**forth** 65:7  
**forum** 16:11  
**found** 39:19 41:10  
 67:25 69:7 70:7  
**foundation** 26:21,23  
 27:6  
**four** 13:21 57:7  
**Friday** 14:18 22:4 23:25  
**front** 23:12 29:8 32:11  
**further** 11:17 17:21

23:10 27:4 35:1 38:23  
 57:2 61:11 69:12  
 70:15 71:6,16  
**furthermore** 16:10

---

**G**


---

**G-E-T-U** 4:25 5:12  
**garden** 32:12  
**General** 7:6  
**generated** 26:15 27:24  
 28:2,6  
**Georgia** 1:8 31:12  
 71:25  
**getting** 57:15 69:12  
**Getu** 1:23 4:18,20,25  
 5:12 11:8 15:9,10  
 16:5 18:9 22:19 25:20  
 25:24 27:4 29:22,24  
 31:9 32:3 43:3 47:18  
 67:8 69:21 72:14  
**give** 9:4 40:20 78:15  
**glass** 23:9,12,14  
**go** 5:6 7:18 10:17 16:13  
 17:1 18:5 27:13 30:12  
 39:20 46:23 49:2  
 50:13,22 51:14 56:19  
 57:13 58:1,18 61:22  
 64:6 68:22 73:22  
**goes** 9:18  
**going** 9:12,12 15:21  
 17:23 18:4 22:23 25:3  
 25:4,5,8 27:13 28:23  
 30:16 33:22 34:19  
 37:5 39:6 44:7,17  
 45:22 46:19 51:24  
 52:21 53:7 57:3,23  
 62:11 75:12

**good** 2:15 4:13 5:13  
 10:21 32:14 57:22,24  
**government** 2:7 8:13  
 8:15 9:4,18,19,20,21  
 10:7,12,15,19 16:17  
 16:21 17:16 20:14,20  
 21:8 22:12,14,24,25  
 26:3,10 28:14 32:20  
 54:19 55:3 61:14,15  
 61:16 62:17,21,25  
 72:8,16  
**Government's** 9:24,25  
**Grandis** 1:20 57:13,14  
 57:20,23 58:7,17,21  
 59:1 64:4 78:10,11  
**great** 78:18  
**greeted** 69:20

---

**H**


---

**hand** 12:21 19:5 23:11  
 55:20

**Hansen** 1:20 78:8,9,9  
**happened** 15:2 20:3,7  
**happy** 26:20 30:10  
**hear** 3:17 4:1,23 11:12  
 11:17 14:4 51:25  
 55:14  
**heard** 7:17 26:17 38:22  
 45:17 48:15 62:7  
 67:14,22 69:17,24  
 70:6 71:21  
**hearing** 1:8 5:16 6:9  
 7:13,23 8:21,22 9:17  
 21:2 45:25 46:6,10  
 47:6 58:24  
**hearing's** 11:22  
**hearings** 17:18  
**hearsay** 16:8,8,10,15  
 16:20 17:16,17 26:25  
 27:5 34:17 59:21 74:5  
**held** 12:3 69:22 70:8  
 72:4  
**help** 67:7  
**helping** 55:15,16  
**history** 32:17  
**hold** 6:24 33:19 36:5  
 55:1 59:18 65:23  
 77:14 78:16  
**holding** 33:25 52:13  
**holder** 60:8  
**holds** 6:1  
**hole** 69:1,7,12 70:7,21  
**honor** 4:16 28:20 37:2  
 49:1 57:2  
**hours** 12:1 23:20,22  
 64:2,15 69:9,15 72:11  
 74:18  
**hypothetical** 44:10

---

**I**


---

**ID** 32:20  
**identifiable** 15:18  
**identified** 7:15 11:8  
 15:12 44:20 48:18  
 53:17,18  
**identify** 4:9 15:10,19  
 19:25 25:1  
**identifying** 38:8  
**illuminate** 17:21  
**immediate** 23:9  
**important** 17:22  
**importantly** 30:5 76:7  
**improper** 75:12  
**inartful** 56:5  
**incorporation** 32:15,16  
**incorrect** 29:4,17 30:21  
**incorrectly** 29:11  
**Indicating** 74:25  
**individual** 5:22 46:12

48:13 73:12,19  
**individuals** 55:24 73:17  
**indulge** 76:21  
**indulgence** 7:4 20:18  
 24:5 27:18  
**information** 1:11 6:20  
 32:13,18 38:24 70:5  
**informed** 8:21 48:7  
**ingenuity** 38:17  
**inquire** 54:6  
**inserted** 35:21  
**inspection** 8:3 47:14  
 65:4  
**inspections** 13:25  
**Internal** 14:12  
**interruption** 46:21  
**introduce** 4:14  
**introduced** 15:4,9  
**invalid** 43:4  
**investigate** 18:22  
**investigation** 8:4 36:14  
 37:18 42:23 43:25  
 47:14,19 65:5,6 67:21  
**investigations** 13:23,24  
 14:3,6,11,13  
**investigative** 21:16  
 35:15  
**investigator** 1:23 2:11  
 7:8 10:25 11:4,7,10  
 11:14 12:6,18 13:6,18  
 13:20 15:5,18 16:4  
 20:19 24:21 25:23  
 26:9,18 27:20,21 31:4  
 33:23 38:22 45:18  
 48:7,11 50:20 57:16  
 57:19 58:4 59:10 64:5  
 67:11,15,22 69:18,24  
 70:6,11,16,17 71:22  
 72:16 76:11,14  
**investigators** 50:22  
 70:5  
**involved** 14:2,5  
**involving** 72:24  
**irrelevant** 39:1  
**issue** 8:18,19 42:15  
 53:22 63:19 65:25  
 66:4,22 77:4  
**issued** 56:1  
**issues** 55:17

---

**J**


---

**J-O-V-A-N** 13:8  
**JAMES** 1:21  
**January** 6:14 9:8 41:3  
 53:2,15 74:1  
**JENI** 1:20  
**Jenni** 78:9  
**joined** 7:7

**JOSE** 1:24**Jovan** 1:23 7:8 11:5  
12:19 13:8**JR** 1:19,21**juncture** 9:12 62:12**K****K-E-V-I-N** 7:6**keep** 3:15 55:9,21 69:2**Kevin** 1:24 2:10 4:12  
7:6 10:18**kitchen** 52:14**knew** 11:18 12:4 44:24  
70:10,14 71:10 72:2  
76:7,11**know** 3:21 16:3,19 17:5  
17:13 41:19 47:25

54:20 64:18

**knowing** 74:13**knowledge** 17:9**known** 5:21 72:2 73:23  
74:7**knows** 34:18**L****L-U-T-E-S** 7:7**lack** 6:19**laid** 26:23**law** 50:24 57:7 65:1370:4 71:3,10,24 75:19  
76:17 77:6**leading** 18:18,22 28:4**led** 18:22**legal** 36:22 37:25 38:11  
39:1 77:15**legally** 17:19 50:25**lend** 46:21**let's** 24:20 25:2,7 30:22

39:5,7 51:4 52:21

54:12 60:16

**letter** 9:6 25:20,24

26:12 27:9,15 28:23

29:7 31:16,17,18,24

32:1,4 33:1 40:15

54:5,5,15 71:24

**levied** 6:22**license** 1:9 2:5 5:17,24

6:2,16 11:14,19 12:7

19:6,8 22:17 23:19,21  
25:18 28:23 29:21

31:22 32:5,21 33:11

33:12,15,15,19,25

34:1,4,23 39:25 40:2

40:3 41:11,14 42:1,4

42:17 43:5,9,14,19,24

45:9,13 46:12 48:19

50:6,7 52:7,13 53:14

55:18,19,25 56:2,8,13

56:15,18 58:6,11,12

58:16 59:11 64:18,24

65:9 67:3,9 69:22

70:11,15 71:5,7,22

72:7,25 73:4,10 74:4

74:17,21 75:2,20,23

76:1,5,10,13

**licensed** 13:25 47:20

58:11 64:17

**licensee** 2:7 4:17 6:7,23

7:12,16,24 8:1,7

10:23 12:4 21:17

28:20,21 29:1,2,19,19

33:6,8,14,18 40:7

42:10,12,25 43:6,10

43:14,20 44:2 45:10

45:14,20 46:4 47:15

47:21,22,24 48:1,2

49:5,11,14,18,21,25

50:25 52:15 56:19

59:10 60:1,19,19 61:2

61:9,9 63:25 65:10,11

65:15 66:15,16 67:5

67:19 68:2 69:5,7,13

70:20 71:2,20 72:9,12

72:14 73:3,13,15,20

73:21 75:8,11 76:6,8

76:12

**Licensee's** 1:25**licensees** 70:4**licensing** 25:16 26:13

31:19 65:10

**light** 46:22**limited** 58:10**line** 2:19 22:1 48:21,23**liquor** 41:15 53:14

72:25 74:3

**list** 7:11,14**listed** 8:5 21:18 22:21

31:10 62:4

**litigation** 49:7**located** 31:13**location** 2:18**locations** 23:8**log** 2:24 3:16**logged** 2:23 3:8,9**logic** 76:4**long** 13:19 51:3**look** 28:19 40:1**looking** 20:19**lot** 60:25**Lute** 6:25 8:18**Lutes** 1:24 2:10 4:9,11

4:12 7:2,6 9:5,9,11

10:6,14,18,20 12:15

12:25 13:2,5 15:16,17

15:25 16:9,24 17:2,3

17:12 18:11,19,24

19:1 20:16,18,25 21:7

21:13,15,24 24:11,12

24:21 25:10,13 26:1,8

26:16 27:1,10,14,23

28:5,9,13 29:5 30:2

30:23 31:3,7 34:10,16

34:21 35:1,13 36:21

37:13 38:10,20 40:19

40:22 41:6 44:3,10

45:16 46:20,24 47:12

51:20 52:17,25 53:3,7

53:8,9,16 54:9,15,17

54:18,24,24 55:3,7,7

55:10 57:3 59:3,5,9

59:22 60:6,18,24 61:8

61:11,15,25 64:20

65:17,21,24 66:6,20

66:24 68:16,18,24

73:23 75:17,18 76:19

**M****M-A-K-O-N-N-E-N** 6:3

21:23 52:6

**M-I-L-L-E-R** 13:8**mailed** 32:1,4**making** 8:5 30:3 44:22

45:4 49:9 65:24 70:21

75:6

**Makonnen** 6:3,7,15

21:19 24:18 33:16

47:1,16 50:5 52:5

53:2 59:24 67:17 69:6

70:18,20 71:18 72:2,5

72:12,15 74:7 75:24

76:2

**manage** 34:24**manager** 1:10 10:23,25

11:25 12:3 14:20 15:6

19:4,5,25 20:4 34:3

41:14 42:16 43:18

44:21 45:24 47:20

48:10 50:24 56:13

58:6,11,16 64:1,10,13

64:17 67:6,7,13,15

69:8,10,14,21 70:1,9

70:12,23 71:21 72:10

72:12,14 74:20 76:12

**manager's** 11:14 19:7

22:17 33:25 34:4,23

41:11 42:4 43:5,24

56:17 58:11 69:22

70:11,15 72:7 73:4,9

76:5

**managers** 42:1**March** 9:6 54:25 73:24**Mark** 16:5 18:8 39:14

51:6

**marked** 20:13,20 22:13

22:14,24 23:15 26:3

26:10

**Market** 1:7 2:5 11:25

14:14,17,23 19:16

20:24 22:7 23:3,19

24:7,24 31:15 33:9,18

33:20,24 46:5 69:19

72:1 77:17,21

**matter** 1:5 7:9,20,21

30:14 55:20 65:17

78:20

**matters** 6:25 7:3**mean** 8:11,11 45:12**means** 43:13**meet** 51:7,13 58:3**meeting** 1:3 77:15

78:17

**meetings** 77:14,19,22

78:18

**member** 1:19,19,20,20

1:21 15:8 44:20 45:5

45:5,9,11,12,19 48:2

55:16 57:14,20,23

58:7,17,21 66:14

73:20 77:24 78:3,5,7

78:9,11

**members** 10:22 57:13

58:23 63:22 68:25

**mentioned** 31:17**mere** 53:18**merely** 17:6**met** 1:15**middle** 23:13**Miller** 1:23 2:11 7:8

11:5,7,10,13,14 12:6

12:19,20,24 13:6,8

15:19,24 16:9,18 17:5

17:5,6 18:5,7 20:19

20:22 21:16,20,22

24:22 25:10,12 26:9

27:10,20,22 28:8 31:4

31:6 33:23 34:11,22

35:8 36:14,16 37:4,15

38:23 39:9,16 40:24

41:17,19,23 42:7

44:19 45:18 47:22

51:5,11 52:24 54:2,22

57:19,21,22 58:5,15

58:20 59:10 61:6,10

65:18 67:11,15,22

69:18,24 70:6,12,16

70:17 71:22 72:16

76:12

**Miller's** 76:14**mind** 77:6**minute** 55:2 76:21**minutes** 32:16**Mischaracterization**

65:22  
**mislead** 12:6 34:7  
 67:21 72:16 76:11  
**misleading** 1:11 8:2  
 45:24 47:13 65:3 70:5  
**misrepresentation**  
 67:20 72:13,15  
**misrepresented** 11:1  
 69:11  
**misspoke** 27:15 53:8  
**misstatement** 27:19  
 35:13 73:14,14  
**mistaken** 54:18  
**modicum** 17:19  
**months** 11:20 71:13  
**morning** 2:15 4:11,13  
 5:13 10:21 57:24  
**motion** 8:12,15 9:13,15  
 62:9,10,18,21 63:4,7  
 63:10 68:6 78:1,14  
**move** 4:1 10:11 23:10  
 23:12 24:20 30:22  
 39:5,7 44:16 51:4  
 52:21 53:23 54:12  
 60:16 65:20 66:8  
 77:14  
**moved** 37:23  
**moving** 53:22  
**MPD** 67:20  
**mute** 2:14,25 76:23  
**muted** 2:19

---

**N**


---

**name** 4:19,24 5:2,5,8  
 5:10,10 6:2,18 7:5  
 13:7 21:21,23 24:18  
 39:15 55:18 56:2  
 58:13  
**named** 6:17  
**nature** 28:18  
**need** 2:24,25 4:22,23  
 32:21 33:25 34:3,23  
 50:3,8 76:23  
**needed** 25:19,21 27:7  
 32:10,23 64:6  
**needs** 73:7  
**neither** 69:21  
**never** 9:9 71:23 73:2  
**new** 33:15 58:13 67:4  
 71:7  
**night** 70:8  
**Nile** 1:6,7 2:4,5 11:24  
 14:14,16,22 19:15,19  
 20:23,23 22:6 23:3,3  
 23:18,19 24:6,23  
 31:15,15 33:8,12,18  
 33:19,24 36:1 37:19  
 46:4,5 52:13 69:18

70:9 72:1 77:17,20,20  
**non-licensee** 75:10  
**non-party** 49:6  
**notice** 21:11 65:6 71:13  
 71:15 78:15  
**noticed** 35:9 42:1  
**notified** 16:5 20:4  
**number** 7:25 47:12  
 77:16,19  
**NW** 1:8 31:12 71:25

---

**O**


---

**OAG** 1:24  
**object** 7:13 16:20 25:7  
 28:16 29:2 57:4  
**objected** 9:9  
**objection** 15:14,22 16:7  
 17:15,24 18:4,17 24:9  
 24:16,25 25:3,6 26:14  
 26:19 28:4,18 30:17  
 34:8,20 35:13 36:21  
 37:6,11 38:10 39:3  
 40:22 41:6,8 44:3,8  
 44:15 45:16,22 51:20  
 52:21 53:3,7,16,21  
 54:9 59:20,25 60:4,13  
 60:21 61:4 65:21  
**objections** 30:6,12 46:7  
**obligation** 17:16  
**observe** 19:16,19 24:3  
**observed** 11:15 69:25  
**obtain** 31:21  
**occur** 75:20  
**occurred** 71:23  
**occurs** 67:19  
**offer** 9:14  
**office** 3:11  
**Official** 77:13,18,21  
**Okay** 24:21 41:23 42:15  
 42:21 43:17 45:7  
**once** 8:15 9:24 10:2,7  
**online** 2:17  
**open** 18:19 20:19 77:13  
 77:19,22 78:17  
**opening** 9:20 10:13,15  
 10:18 12:12 61:19,21  
**Operation** 64:9  
**opponent** 60:1  
**opportunity** 9:19,23  
 10:1,4,6,9 17:25 21:1  
 62:25 66:3  
**opposed** 62:1  
**opposing** 17:4 29:6  
 38:10,24 59:23 69:23  
 70:24,25 71:17 76:3,9  
**oral** 8:16  
**order** 72:15  
**Orellana** 1:24 2:6,9 3:3

20:15 26:6  
**ought** 69:2  
**outside** 57:5  
**outrule** 15:22 17:24  
 18:4 25:3,6 27:13  
 30:17 37:6 44:8  
**overruling** 37:11 39:3  
 41:8 44:14 60:3 61:3  
**owned** 48:4 69:6 74:23  
 75:1  
**owner** 5:23 8:7 9:9  
 10:24 11:1,8,11,18  
 12:5,7 14:20 15:6,12  
 15:13,20 16:1,22 17:8  
 17:12 18:9,13 19:25  
 20:5 21:17 24:7,13,15  
 24:17 34:7,23 39:13  
 39:19,24 42:17,25  
 44:21,21 46:11,16  
 48:11,15,18,18 50:23  
 51:9 52:4,14 53:1  
 56:1,14,17,21,22 58:5  
 58:12,16 59:19 60:8  
 64:1,12,21,24 65:19  
 66:12 67:4,8,9,13,16  
 67:23,24,25 69:11,14  
 69:22 70:1,9,13,13,14  
 70:19,23 71:2,7 72:4  
 72:10 73:5 74:3,4  
 76:13  
**ownership** 41:4  
**owns** 40:2 52:7 56:7

---

**P**


---

**P-R-O-C-E-E-D-I-N-G-S**  
 2:1  
**p.m** 22:8 23:24 78:21  
**page** 23:15 32:11  
**paragraph** 64:11  
**part** 29:14,15 30:15,18  
 31:2 45:2 49:21 59:23  
**particular** 35:10 41:12  
 42:3 45:7  
**particularly** 7:25  
**parties** 5:20 8:21 50:9  
 50:25 76:16  
**party** 49:6,8 55:19  
 59:23 60:1 76:9  
**passed** 78:14  
**patron** 23:11,13 31:21  
**patrons** 11:15 19:16,20  
 20:6 23:4 69:25  
**penalties** 65:8  
**penalty** 72:19  
**people** 2:17 51:2 58:9  
**period** 65:10  
**permission** 20:13 26:2  
**person** 5:23 6:1,17

21:21 29:25 34:15  
 39:14 40:2 43:2 46:5  
 46:18 47:25 48:3,17  
 49:21 50:5 52:7 53:18  
 55:19,19 56:7 58:3  
 67:7 72:7 73:5,7  
 74:23  
**person's** 2:19  
**personal** 17:8 32:17,17  
**phone** 2:14 23:11 76:23  
**phones** 3:12  
**photo** 23:5  
**photograph** 23:2  
**photographs** 20:6  
**photos** 19:22  
**PIF** 8:20  
**place** 32:5,9 52:1,3,9  
 73:1  
**plan** 9:1 62:13  
**please** 2:6,8,14 4:9,10  
 4:18 12:21 13:6 15:24  
 18:25 20:17,21 21:21  
 22:2,15 23:16 26:6,11  
 29:9 32:7,22 37:15  
 41:24 61:6 76:21 77:7  
**point** 25:4 27:5 41:12  
 42:3 48:4 49:17,17  
 50:17 52:11 53:24  
 54:2 56:24 68:1 75:4  
**Police** 32:24  
**portions** 35:19  
**position** 8:13 13:12,17  
 13:22 55:23  
**possible** 77:8  
**potential** 5:22 51:1  
**power** 8:24  
**preliminary** 6:25 7:3,9  
 7:20 8:12,18,19  
**premises** 64:14  
**prepare** 36:15,20 37:19  
**prepared** 35:19 36:18  
 38:5 51:7 68:19  
**preparing** 38:8  
**preponderance** 11:23  
 69:5 72:9  
**present** 1:17,22 10:9,24  
 11:13 16:21 17:17  
 23:5,7,8 42:18 43:15  
 57:9 62:13 64:2,13,18  
 66:13 67:6,7,13,16,16  
 67:17 68:10 69:8 70:2  
 73:5,6,8 74:20 76:13  
**presentation** 56:5 62:6  
**presentations** 55:24  
**presented** 8:16 10:8  
 42:16 62:2 66:10 74:5  
**presenting** 8:25  
**presiding** 1:16

**prevent** 8:25  
**previous** 4:3  
**prior** 21:2 71:14 74:9,11  
**privilege** 36:22 41:6  
 53:4  
**privileged** 40:23  
**probative** 55:12  
**problem** 3:19  
**proceed** 35:3 48:25  
**proceeded** 19:5  
**proceedings** 41:13  
 78:16  
**process** 9:18 10:10  
**produce** 16:17 55:6  
**product** 38:12,25 53:3  
 53:5  
**prohibits** 70:4  
**promulgated** 65:12  
**proper** 41:14 42:17  
 43:14,18,19  
**property** 6:12 16:23  
 40:3 64:25  
**proposed** 12:9 76:16  
**prosecuting** 55:4  
**prove** 8:14 68:3  
**proven** 11:23 68:1 69:4  
 72:8 75:14  
**provide** 8:20 26:21 27:6  
 77:4  
**provided** 1:11 64:11  
**provides** 45:24 67:18  
**providing** 70:4  
**provisions** 65:11  
**punished** 71:18  
**purchase** 32:18  
**purpose** 77:15  
**pursuant** 7:22 77:17  
 78:17  
**put** 33:14 35:11,12,18

---

**Q**


---

**qualified** 56:22  
**quest** 73:2  
**question** 8:18 14:8  
 15:23 18:6,18,20,23  
 18:25 22:1 25:5,7,11  
 37:16,21,22,22,24  
 38:3 39:4,4,6,8 41:1  
 41:18,22,24 43:23  
 44:9,12,15,16,18  
 50:21 59:13 60:5,17  
 60:18,23 61:5,7 73:2  
**questioning** 48:21  
**questions** 10:1,2,4,5  
 32:13 35:1 57:2,12  
 58:25 59:6 61:11  
**quickly** 36:14  
**quite** 39:5 44:17

**quote** 8:2,4 47:13 63:25  
 64:3,16 65:3,6,14  
**quoted** 64:7,23 74:18

---

**R**


---

**R-E-T-T-A** 6:2 21:22  
**RAFI** 1:19  
**raid** 73:15  
**raise** 9:14 12:21  
**raised** 8:18 10:5 46:7  
**raises** 47:12  
**read** 22:2 32:7  
**reads** 64:10 65:7  
**reason** 69:2  
**reasonable** 8:23  
**reasons** 5:3 46:9 77:21  
**rebuttal** 9:4 68:20  
**recall** 24:4 36:16 40:16  
 51:11,13  
**receipt** 77:3  
**receive** 37:25 77:2  
**received** 7:10 14:10  
 71:25 75:22  
**receives** 75:21  
**receiving** 71:14  
**recess** 78:16  
**recognize** 4:2  
**recommended** 36:23  
**recommends** 72:18  
**reconsider** 74:2  
**record** 4:10,15 5:24 7:5  
 7:16 11:11 13:7 21:12  
 27:18 30:15 31:2  
 39:24,25 40:2,6 46:4  
 46:11,17 48:19 49:5  
 49:20 50:8 52:4 76:15  
 78:21  
**recorded** 58:13  
**records** 18:8 29:14,16  
 30:18 36:10 39:19,21  
 40:10 48:17 49:4 51:8  
 51:14 54:8 74:24  
**redirect** 10:7 59:4,6,8  
**refer** 36:9,10 50:4  
**reference** 50:8  
**references** 38:6  
**referring** 35:15,17  
**refers** 13:13  
**regarded** 61:1  
**regarding** 24:23 30:10  
 58:9  
**regards** 46:25  
**registration** 32:19  
**regular** 27:3 28:3,6  
**regulation** 64:7  
**regulations** 65:12  
**regulatory** 8:3 65:4  
**release** 32:18

**relevant** 41:9 51:24  
 52:2,9  
**remember** 5:15 8:20  
 46:6  
**repeat** 15:24 61:6  
**repetitive** 75:4  
**rephrase** 14:9 18:25  
 28:5 53:11 54:4 60:7  
**report** 20:10,22 21:5,9  
 21:17 22:12 35:15  
 36:6 37:1,4,7,8,12  
 39:9 48:12 51:7  
**reporter** 5:3,4,5  
**reports** 38:12  
**represent** 5:16,16,20  
 6:5,6 46:1,10,10,11  
 46:14  
**representation** 5:19 8:1  
 21:5 41:13 47:5 58:19  
**representative** 43:14  
**represented** 6:11,13  
 46:8 48:14  
**represents** 47:1,3  
**request** 3:4 53:13 58:8  
 61:22 64:5  
**requesting** 38:24 40:23  
**requests** 12:18 21:8  
 26:2 28:14 69:3 72:17  
**require** 16:16  
**required** 53:5 58:2,17  
 64:10  
**requires** 67:12 71:4,6  
 74:17  
**reserve** 12:14 68:20  
**reserved** 52:18 57:6  
**respect** 7:24 8:8 39:12  
 40:15 42:21 43:17  
 47:12 64:4 65:2 66:13  
 75:3  
**respond** 16:12 37:6,11  
 66:3,20  
**responding** 66:21  
**response** 3:2 56:23  
 77:4 78:12  
**rest** 62:22 68:14  
**restaurant** 1:7 2:5  
 11:24 14:14,17,22  
 19:16 20:23 22:7 23:3  
 23:18 24:7,23 33:9,18  
 33:20,24 36:1 37:19  
 46:4 69:19 70:10 72:1  
 73:16 77:17,20  
**rested** 62:18,21  
**rests** 61:16  
**result** 14:19 25:17  
 38:17,25  
**Retailer** 1:8  
**retained** 6:20 75:23

**Retta** 6:2 21:19 24:18  
 33:15 47:1 67:16 69:6  
 70:18,20 71:18 72:2,5  
 72:12,14 75:23 76:2  
**returned** 6:19 11:20  
 67:10 71:13  
**review** 21:1  
**reviewed** 25:23 28:10  
 51:8  
**revoke** 65:9  
**right** 4:8 12:21 18:3  
 23:9,9,14 27:12 30:22  
 37:8 39:2 41:7 45:21  
 48:6 51:23 53:20,25  
 57:24 58:24 59:7  
 61:18 68:5,9 76:18  
**Robinson** 1:25 2:9,13  
 2:15,16,20,21 3:1,6,7  
 3:11,18,22,23 4:4,6,7  
 4:14,16,17,21 5:14  
 6:1,6 7:11,17,20 8:10  
 9:3,13,22 10:3 12:11  
 12:14,17 15:14 16:7  
 16:12,14,15 17:10  
 18:2,17 24:9,16,25  
 25:9 26:14,22 28:4,16  
 28:19 29:9,13,15,24  
 30:3,7,19 34:8,13  
 35:3,5,7,17,23,24  
 36:4,13,17 37:2,9,17  
 38:1,4,14 39:11,17  
 40:25 41:10,25 42:8  
 44:5,12,23 46:1,25  
 47:2,8,10 48:25 49:8  
 49:16 50:3,10,16 51:5  
 51:12,22 52:10,23  
 53:10,17,22,23 54:1  
 54:13,16,21 55:5,12  
 56:3 57:8 58:24 59:2  
 59:20,25 60:13,21  
 61:19,21 62:5,14,16  
 62:23 63:2,8,11,15,21  
 65:24 66:8,20 68:7,11  
 68:12,15 72:21,22  
 76:20,23,24 77:9  
**Robinson's** 30:5,11  
 60:25  
**roll** 78:1  
**rule** 9:13 16:16  
**ruling** 62:11  
**ruse** 70:17

---

**S**


---

**S** 1:20  
**sale** 6:12 12:1 32:19  
 56:8 64:15 69:9,15  
 72:3,11  
**sales** 23:20,22 25:15,22

**saw** 4:2,2 70:17  
**saying** 17:4 63:10  
 70:22  
**says** 31:16 56:14,20  
 73:7 74:18  
**schedule** 65:8  
**scope** 48:1 49:24 57:6  
 60:22 66:15  
**screen** 20:16 24:2 26:6  
 33:22  
**scroll** 22:23  
**scrolling** 21:25 22:11  
**seats** 32:12  
**second** 36:7 56:20 75:3  
 77:23,24  
**secondary** 7:9  
**seconded** 78:1  
**section** 22:2 32:22 64:8  
 64:23 65:7 66:25  
 69:13 77:13,18,22  
 78:17  
**sections** 35:10,11 38:9  
**see** 3:15,16,23,24 4:4,5  
 23:9,11,13 25:8 40:1  
 75:10  
**seeking** 28:22 29:18,20  
 49:21 77:15  
**seen** 69:24  
**sell** 59:11  
**seller** 6:16  
**selling** 64:2 73:9  
**sent** 3:3 7:15 9:5 25:16  
 25:20,24 31:24 54:25  
 71:25  
**separate** 35:16  
**September** 11:4 14:18  
 19:11,14 22:4 42:2  
**servant** 8:6 42:24 49:25  
 73:12  
**servants** 49:19 65:16  
**serve** 51:2 59:11  
**service** 12:1 15:1 48:9  
 50:23 64:2,15 69:16  
**serving** 10:23 19:19  
**set** 65:7  
**seven** 8:22  
**share** 20:16  
**sharing** 24:2 26:5 33:22  
**shift** 58:1  
**short** 1:21 72:23 77:24  
 77:24,25 78:2,3,3  
**should've** 72:2  
**show** 1:8 4:3 7:22 8:21  
 9:17 11:3 16:22 20:13  
 26:2 46:6 49:20 64:17  
**showing** 20:20 22:13  
 26:9 40:15  
**shown** 8:24 67:10

**shows** 40:6,11  
**side** 8:25  
**sidewalk** 32:11  
**signed** 9:7  
**simple** 50:21  
**simply** 70:25  
**sir** 2:20,22,23 3:8 4:14  
 5:2,2,6,7,10,11,14  
 7:18 8:13 9:2 10:9,17  
 12:24 13:16 14:15  
 16:2 17:25 18:2,4,15  
 19:9,18,21,23 20:1,11  
 21:3,6,22 22:10 23:6  
 24:1 25:9,12,25 27:22  
 28:1,8,12,18 29:14  
 30:21 31:1 32:6 33:5  
 33:7 34:2,5,25 35:3  
 36:10 39:16 40:6,13  
 41:25 42:7 43:24  
 44:18 47:9 50:13  
 51:15 57:12,18 58:20  
 61:10 62:9,13 63:1,7  
 68:23 75:17 76:22  
 77:9  
**sitting** 29:25  
**situation** 46:22  
**sold** 6:15 42:5 43:9  
 55:25,25 56:12  
**soon** 37:18 51:6 77:7  
**sorry** 13:24 58:13  
**sought** 36:23  
**speak** 15:5,7 16:25  
 18:14 29:10 30:10  
 38:21 43:7 48:10  
 58:10  
**speaking** 16:9 29:11  
 43:5 45:14 47:21,25  
**speaks** 38:15  
**specialist** 33:11  
**specifically** 36:11  
**specifications** 7:25  
**speculation** 15:15 34:9  
 34:12,14,17 44:11  
 53:16 59:21  
**spell** 4:23 5:2,4,5,11 7:4  
 13:7 21:21  
**spelled** 24:18  
**spoke** 15:8 19:2 20:2  
 33:14 48:13 51:16  
 59:15 60:12  
**staff** 1:24 15:8 44:19  
 45:5,18  
**standard** 33:2  
**Standards** 64:8  
**standing** 32:15  
**started** 45:25  
**state** 4:18 13:7 75:11  
**stated** 12:7 19:4 27:20

38:15 46:13,16 47:2  
 50:14 57:8 64:20,23  
 65:18  
**statement** 8:3 9:20  
 10:13,16,18 12:12  
 18:21 29:4,17 30:21  
 35:8,25 42:22,22,23  
 43:18,19,21,22 44:1,1  
 44:22 45:4,20 47:11  
 47:13,17,20,23 49:9  
 49:10,11,20 50:1  
 61:20 62:6 63:1 65:4  
 65:17 66:17 68:17,19  
 75:5,9,10,12 76:5,11  
**statements** 18:21 30:3  
 30:4 45:25 57:4 60:20  
 61:1,8 73:18,19  
**states** 28:23 56:10 65:3  
**stating** 16:18 25:21  
 34:7  
**status** 4:3 5:15 8:22  
 46:7 47:6 76:2  
**statute** 56:9,14,19 73:7  
 74:17,18  
**steps** 17:7,9,11  
**stop** 24:2 33:22  
**stored** 27:3  
**strike** 70:25  
**stuck** 70:21  
**sub-chapter** 64:9  
**submit** 32:8 76:24 77:6  
**submitted** 24:22 25:14  
 31:24 51:18 53:12  
 61:24 67:2 71:5 73:25  
 74:24  
**subsection** 64:12  
**substantial** 62:2  
**substantiate** 39:21  
 75:14  
**substantive** 8:12  
**summer** 32:12  
**supervisor** 16:4 17:14  
 18:7  
**support** 62:3 63:9,13  
**supposed** 58:8  
**sure** 3:18 35:4 39:5  
 44:17 57:14 68:22  
 76:22  
**suspend** 65:9  
**sustain** 34:20 45:22  
 51:24 52:21 53:7  
 60:15  
**Sustained** 24:19 54:11  
**sustaining** 53:21  
**swear** 12:21

---

**T**


---

t/a 1:6

**take** 12:9 19:22 32:5,9  
 62:9,10,12 68:6  
**taken** 21:11 23:2  
**talking** 17:11 25:1  
 36:25 38:3  
**task** 64:16  
**tell** 5:10 12:22 20:21  
 22:15,25 23:16 26:11  
 32:22 40:20 41:1,5  
 52:24 53:11 54:22  
**template** 33:2  
**temporary** 19:5,7 22:16  
 76:1  
**terminology** 50:9  
**terms** 9:3  
**testified** 27:2 37:5 45:8  
 48:11,16 54:5 59:14  
 67:10  
**testify** 9:22 15:19 34:11  
 53:5  
**testifying** 7:13 17:7  
**testimonial** 57:5  
**testimony** 67:14  
**thank** 3:5 10:20 12:10  
 13:2 17:3 18:2 21:13  
 25:9 30:23 31:3 36:13  
 39:11 50:10 51:5  
 57:12,20 58:21,22  
 61:13,19 63:21 66:7  
 66:17,19 68:4,7,24  
 72:19,20,22 75:18  
 76:14,24 77:9 78:18  
**themselves** 67:7  
**things** 56:11 74:20  
**think** 5:18,19 37:24  
 46:16 47:10 48:22  
 53:21 57:24 63:3  
**thought** 50:21 55:2  
**thoughts** 34:11  
**three** 23:8 57:6 77:2  
**time** 5:20 6:21 7:12  
 9:16 18:5 22:2 24:6  
 24:13,14 33:17 40:5  
 41:15 42:5,22 45:7  
 46:19 47:18,19 48:3  
 49:25 56:12 74:12  
**times** 64:14 67:14  
 69:15  
**title** 64:9 65:2,2,5,9,12  
 65:13,14  
**today** 5:23 7:1,7 9:2  
 41:9 49:5 52:4,7 69:4  
 70:6  
**today's** 6:9  
**told** 16:19 17:14 39:13  
 45:1 55:7 58:18  
**top** 23:13 32:25  
**touched** 60:24

**trading** 28:21  
**trained** 58:7  
**training** 14:12 57:25  
**trainings** 14:10  
**transcript** 77:2,3  
**transfer** 6:16 11:19  
 25:15,18,22 28:22,24  
 32:5,8,14 33:13 49:22  
 50:7 51:19 52:1,3  
 53:14 67:1,3 71:5,7,9  
 71:11,22 72:3,25  
 74:16 75:19  
**transferee** 5:24 50:4  
 55:18 71:8 73:1  
**transferee's** 53:13  
**transferor** 50:4,5 52:13  
 73:1  
**transferred** 5:18,25  
 29:21 40:8,11 46:13  
 67:4  
**transferring** 41:3 53:1  
**trip** 53:19  
**trouble** 69:12  
**true** 21:4 70:20 71:1  
**truth** 12:22,23 69:10  
**try** 3:19 6:21 72:23  
**trying** 31:21 34:6 38:16  
 48:5 56:6,24  
**turn** 2:19 3:15  
**turning** 14:21 23:15  
 31:16 32:25 33:23  
**twice** 2:23 74:24  
**two** 2:17 3:8,9 7:3,25  
 8:9 36:3 50:25 56:11  
 57:5 62:3 63:24 64:11  
 66:13 73:11 74:19  
 75:13  
**two-prong** 64:16  
**type** 14:9 31:21  
**types** 58:9  
**typo** 22:9

**U**

**unable** 11:13  
**uncontroverted** 69:17  
**understand** 13:13  
 46:15 49:16 50:16  
 55:21  
**understanding** 5:17  
 14:7 42:3 52:6,12,16  
**Understood** 37:13 66:6  
**unmute** 3:4  
**unsure** 33:3 37:23 41:8  
**use** 13:12

**V**

**valid** 9:10 11:13 19:8,10  
 34:3,23 42:4 45:13

56:13 70:11 74:20  
 76:4,10  
**verdict** 61:23,23 62:1  
 63:12,14,19 66:1,4,9  
 66:23  
**verified** 18:12  
**verify** 17:7 18:9  
**videoconference** 1:15  
**violate** 71:23  
**violates** 65:11  
**violating** 36:22  
**violation** 14:20 20:5  
 42:9 43:10 51:1,1  
 65:1,5 66:11 67:19  
 71:14 73:8  
**violations** 11:21  
**visit** 11:16 19:13,15,22  
 22:6 24:3,6,14 33:23  
 70:1,2 76:14  
**visited** 14:25 24:5  
**vitiate** 76:2  
**voice** 4:2  
**vote** 78:2

**W**

**W** 1:16,18  
**wait** 63:3  
**waive** 61:21 76:17,19  
**waived** 63:4  
**walk** 14:23  
**want** 5:14 8:16 21:25  
 50:3,12 51:25 55:14  
 63:12,13,15 68:10  
**wanted** 75:17  
**wasn't** 8:4 19:10 42:16  
 43:4 56:25 75:8  
**way** 9:18 10:10  
**we'll** 62:12 76:24  
**we're** 17:10 25:4,8 38:3  
 44:17 53:21 56:10  
 62:11 74:21  
**we've** 67:22  
**WebEx** 1:15  
**Wednesday** 1:13  
**weeks** 77:2  
**weight** 30:13  
**Wendell** 1:25 2:9 4:17  
**went** 17:14 36:1 44:25  
 48:8,12 50:20 51:6  
 54:3,6 78:20  
**wish** 10:12,15 12:12,16  
 66:20 68:17 76:16  
**witness** 1:23 7:10,14  
 9:21,21,22,24,25 10:2  
 10:3,4,7 12:16 13:1  
 15:22 30:19 54:18  
 57:15,17,18 60:4 61:4  
 61:14,16

**witnesses** 2:7 7:15 9:1  
 9:1,14  
**work** 13:9,10 38:25  
 53:3,5 58:1  
**worked** 13:19  
**working** 45:19 49:23  
 56:10  
**works** 9:18  
**write** 20:10 28:25  
**wrote** 20:23 21:5

**X**

**Y**

**year** 73:24  
**years** 13:21

**Z**

**0**

**1**

**1** 22:13,14 36:9,13 37:1  
 37:8,12,19,24 38:5  
 64:9  
**10:30** 11:4 22:4,8,9  
**11** 9:6  
**11:01** 2:2  
**12** 32:13  
**12:00** 23:24  
**12:44** 78:21  
**14** 43:25  
**16** 19:11  
**16th** 41:12 42:2  
**17** 32:13

**2**

**2** 22:24 36:10,12 47:12  
 65:2,2,14,15  
**2:00** 23:24  
**2022** 6:14 9:8 11:4  
 14:18 19:12,14 22:5  
 31:6 41:3 53:2,15  
 74:1  
**2023** 1:13 9:6  
**22-CMP-00082** 1:9 2:4  
 77:16,20  
**25.405** 67:1 71:4  
**25.701** 64:9 67:12 69:13  
**25.823** 70:3 71:19  
**25.830** 65:9  
**25447** 7:22  
**25701** 12:2  
**2575** 77:13 78:17  
**2575(b)(13)** 77:22  
**2575(b)(4)(A)** 77:18  
**25823** 12:9  
**25823(a)(5)(c)** 12:8

**26** 6:14 9:8 41:3 53:2,15  
 74:1

**3**

**3** 1:13 23:16 31:6  
**30** 11:4 14:18 19:14  
 22:4 77:3

**4**

**4B** 1:8

**5**

**5** 46:25 47:2

**6**

**6-0-0** 78:15  
**60432** 1:9 2:6

**7**

**7** 64:8  
**7815** 1:8 31:12 71:25

**8**

**823** 65:5 67:18  
**85** 70:3

**9**

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In the matter of: Nile

Before: DC ABCA

Date: 05-03-2023

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate complete record of the proceedings.



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Court Reporter

**NEAL R. GROSS**

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