

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

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IN THE MATTER OF:           :
                             :
NHV Corporation,           :
t/a Haydee's Restaurant   :
3102 Mount Pleasant      :
Street NW                 : Show Cause
Retailer CT - ANC 1D     : Hearing
License #24663           :
Case #21-CIT-00213      :
                             :
(Violation of Mayor's    :
Orders [Operating After  :
Hours])                  :
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Wednesday
October 27, 2021

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

PRESENT:

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

ALSO PRESENT:

SIMONE ANDREWS, DC ABRA Staff
WILLIAM COWDEN, Licensee's Counsel
TAVRIL PROUT, DC ABRA Investigator
SANDRA TAPIA, Interpreter
ANTOINE WILLIAMS, DC OAG
C-O-N-T-E-N-T-S

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
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INVESTIGATOR PROUT	20	29	65
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EXHIBIT NO.	DESCRIPTION	MARK RECD
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Government

1	Board's Case Report	24
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Defendant

4-11	Photo of pitcher	45
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P-R-O-C-E-E-D-I-N-G-S

1:35 p.m.

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3 CHAIRPERSON ANDERSON: Good afternoon,
4 everyone, welcome to the afternoon session of the
5 ABC Board. My name is Donovan Anderson, I'm
6 Chairman of the Board.

7 Joining me this afternoon are Mr.
8 James Short, Mr. Bobby Cato, Ms. Rafi Crockett,
9 Ms. Jeni Hansen, and Mr. Edward Grandis. The
10 Board has six members in attendance for the
11 conduct of business and that constitutes a
12 quorum.

13 Before we get underway with this
14 afternoon's hearing calendar, I need to make a
15 few instructions very clear. The conduct of
16 these hearings is expected by everyone.

17 There are four cases scheduled listed
18 on this afternoon's calendar. Once your case is
19 called, I will take a moment for IT specialists
20 to elevate the rights to each party to enable the
21 camera and microphone.

22 Then and only then will you have the
23 ability to enable your equipment. If your case
24 has not been heard you will remain muted and your
25 camera will be disabled. At the conclusion of

1 each case, the parties will have the option to
2 leave.

3 If a party chooses to stay, all
4 cameras and microphones for the concluded case
5 will be disabled.

6 Should you have any questions or
7 require technical assistance during the hearing,
8 please submit them using the question and answer
9 feature or email Simone.andras2@dc.gov.

10 Our first case on this afternoon's
11 calendar is Case #21-CIT-00213, Haydee's
12 Restaurant, License #24663. Ms. Andras, could
13 you please elevate the rights of the parties in
14 that case, please?

15 MS. ANDREWS: Sure, standby.

16 Investigator Prout, your rights have
17 been elevated, Translator Tapia, your rights have
18 been elevated, Mr. Antoine Williams, your rights
19 have been elevated, Mr. or Ms. Vanegas, your
20 rights have been elevated.

21 Mr. Cowden, your rights have been
22 elevated. That's all, Mr. Chair.

23 MS. TAPIA: Good afternoon, this is
24 Sandra Tapia, I'm going to be your interpreter
25 today.

1 CHAIRPERSON ANDERSON: I'm sorry, do
2 you have a camera, ma'am?

3 MS. TAPIA: I do.

4 CHAIRPERSON ANDERSON: Can you turn
5 your camera on, please?

6 MS. TAPIA: I can, just a second. I
7 normally don't turn my camera on.

8 CHAIRPERSON ANDERSON: If you're
9 translating, I need to swear the person in. Good
10 afternoon, my name is Donovan Anderson and I am
11 the Board Chair. This is the first time I'm
12 working with you.

13 We're doing a virtual hearing. I need
14 to see you to swear you in. You are also
15 translating for someone so I need to see who is
16 doing the translation.

17 So, you are a contractor for this
18 agency and I just want to establish with you at
19 least the way I operate, that if you are the
20 translator, I expect to see you while you're
21 translating.

22 One of my expectations for translator
23 is that the translator translates word for word
24 everything that occurs in these proceedings.

25 Okay?

1 MS. TAPIA: Thank you for all that
2 information. I do have a few questions and also
3 to let you know that I'm interpreting, I'm not
4 translating, I'm interpreting because it's
5 verbal.

6 CHAIRPERSON ANDERSON: I apologize.

7 MS. TAPIA: It's okay, I just want to
8 clarify a few things and when I'm doing so I
9 don't do it word for word because many times it
10 would make no sense. I do it meaning for
11 meaning, and that is the professional way to do
12 it.

13 And the second thing is I take note of
14 everything people are saying and that's one of
15 the reasons I normally don't have my camera on,
16 because I'm going to be writing down.

17 You're going to see the top of my head
18 most of the time. The second reason is not to
19 distract attention visually because the only
20 thing you actually need is my voice.

21 And the third reason is because it
22 also saves bandwidth and it makes my Internet
23 connection stronger and clearer. But if you wish
24 me to have my camera on, there is no problem.

25 CHAIRPERSON ANDERSON: I wish you to

1 have your camera on and then I don't have a
2 problem. It's clear that I'm seeing the top of
3 your head and I don't have a problem with that.

4 Part of the problem is that a lot of
5 times when we do this hearing virtually, if I'm
6 not seeing the person I don't know that they're
7 there sometimes. And so you might have Internet
8 concerns and then you're gone from the screen and
9 I don't know.

10 So, if your camera is on and then if
11 you're translating, if I don't see you on the
12 screen then I will know to stop to try to find
13 out what's going on.

14 So, that's one of the reasons why I
15 prefer that I can see folks, so if they're having
16 Internet concerns I can stop immediately and move
17 on from there. That's why I prefer to see the
18 person because I will always know that they are
19 there.

20 Now, for people who do not have
21 cameras, they're not going to require that but
22 just to ensure that anything can happen and I
23 don't want to be carrying on with the hearing and
24 one of the critical parties, for whatever reason,
25 is not there to translate.

1 I believe that you are translating for
2 Ms. Vanegas. Can you confirm that she is there
3 for me, please?

4 MS. TAPIA: Ms. Vanegas is here.

5 CHAIRPERSON ANDERSON: Can you ask her
6 if she has a camera she can turn on?

7 MS. TAPIA: Yes.

8 CHAIRPERSON ANDERSON: I'm going to
9 swear you in. Ms. Tapia, can you raise your
10 right hand, please? Do you swear or affirm to
11 faithfully translate these proceedings from
12 English to Spanish?

13 MS. TAPIA: Yes, it's Spanish that I'm
14 interpreting.

15 CHAIRPERSON ANDERSON: From English to
16 Spanish and from Spanish to English to the best
17 of your abilities?

18 MS. TAPIA: Yes, I do.

19 CHAIRPERSON ANDERSON: Thank you. Can
20 you please spell and state your name for the
21 record and your role in this hearing today,
22 please, ma'am?

23 MS. TAPIA: Sandra Tapia. I am a
24 certified court interpreter.

25 CHAIRPERSON ANDERSON: Can we have the

1 Government's attorney please introduce themselves
2 for the record and please spell and state his
3 name, please?

4 MR. WILLIAMS: Good afternoon,
5 Chairman Donovan, my name is Antoine Williams,
6 I'm representing the Government today. You spell
7 my name A-N-T-O-I-N-E. My last name is Williams,
8 W-I-L-L-I-A-M-S.

9 CHAIRPERSON ANDERSON: Good afternoon,
10 Mr. WilliaMs. Can we have the attorney
11 representing the licensee identify himself for
12 the record, please?

13 It appears that both of you are in the
14 same location. She needs to mute her line, both
15 lines cannot be open at the same time if you're
16 in the same room.

17 MR. COWDEN: Good afternoon, Chair,
18 it's William Cowden on behalf of Haydee's
19 Restaurant.

20 CHAIRPERSON ANDERSON: Are both of you
21 in the same room because we're having feedback?

22 I don't have a problem you being on
23 the same line, the problem is we're going to have
24 some concerns with communications because of the
25 feedback with both your line and her line being

1 open at the same time.

2 I don't know if you're able to share
3 the same screen rather than her having her own
4 login because we're going to have some problems
5 hearing.

6 MS. ANDREWS: If I may?

7 CHAIRPERSON ANDERSON: Go ahead.

8 MS. ANDREWS: Mr. Cowden and Ms.
9 Vanegas, if you guys are in the same room, one of
10 you must have on headphones because what's
11 happening is the mic is picking up the audio from
12 the other person.

13 That's why we're hearing feedback.

14 If that's not true, if you guys are
15 not in the same room, one of you guys may be
16 logged on twice or have called in.

17 MR. COWDEN: What I'll do is I will
18 try to share screens with my client and mute my
19 microphone but keep my computer on so that I can
20 access the exhibits that way.

21 CHAIRPERSON ANDERSON: Ms. Andras,
22 will that work?

23 MS. ANDREWS: If both of them are
24 still logged in, your mic, sir, if you're going
25 to share computers with your client, your

1 speakers must be turned all the way down because
2 once she opens her mic, we will hear it from your
3 speakers. Okay?

4 So, I'm going to go ahead and unmute
5 Ms. Vanegas' line so we can hear you.

6 MR. COWDEN: I have muted my
7 microphone and turned my speakers to silent. I
8 will share the screen here and just use my
9 computer for the existing exhibits.

10 MS. ANDREWS: Much better.

11 CHAIRPERSON ANDERSON: Mr. Williams,
12 if this matter goes to a hearing, do you have a
13 witness you wish to call?

14 MR. WILLIAMS: The District will call
15 Investigator Tavril Prout.

16 CHAIRPERSON ANDERSON: Mr. Prout,
17 could you please state and spell your name for
18 the record?

19 INVESTIGATOR PROUT: Hi, Mr.
20 Chairperson, my name is's investigator Tavril, T-
21 A-V-R-I-L, last name P-R-O-U-T.

22 CHAIRPERSON ANDERSON: Mr. Cowden, if
23 this matter goes to a hearing, outside of the
24 owner do you have any witnesses that are online
25 that you plan to call?

1 MR. COWDEN: Just the owner.

2 CHAIRPERSON ANDERSON: This is a show
3 cause hearing and are there any preliminary
4 matters that either side wishes to bring to the
5 attention of the Board?

6 Mr. Williams?

7 MR. WILLIAMS: Nothing from the
8 District.

9 CHAIRPERSON ANDERSON: Mr. Cowden?

10 MR. COWDEN: Yes, in the Government's
11 papers and in its exhibits, it indicates that the
12 violation here is based on Mayor's Order 2021-004
13 extension of the public emergency and public
14 health emergency, and modified measures in Phase
15 2 of Washington D.C. reopening.

16 I would just like to bring to the
17 Tribunal's attention the fact that Mayor's Order
18 2021-004, which was issued January 11, 2021
19 expires by its terms at 5:00 a.m. on January 22,
20 2021.

21 And so our position is that the
22 citation is invalid because this was not in
23 effect on March 17, 2021 when the citation was
24 issued.

25 CHAIRPERSON ANDERSON: Mr. Williams?

1 MR. WILLIAMS: Yes, Your Honor.

2 CHAIRPERSON ANDERSON: Do you have a
3 response?

4 MR. WILLIAMS: The notice in
5 particular states that it's 23 DCMR Section
6 810.2, which is based on the emergency orders
7 from ABRA. That would be Emergency Order 10.

8 I'm not sure which document Mr. Cowden
9 was referencing initially, it was kind of fast.
10 But the notice that we sent out is based on 23
11 DCMR Section 810.2, which is based on the January
12 13, 2021.

13 CHAIRPERSON ANDERSON: Mr. Cowden?

14 MR. COWDEN: I'm looking at the case
15 report and Page 1 of the case report says Mayor's
16 Order 2021-004 wasn't in effect so you're
17 referring to some other order, I think, that I'm
18 not familiar with.

19 CHAIRPERSON ANDERSON: Do you have a
20 copy of the notice of status hearing and show
21 cause that has the charges listed and the
22 violation listed? Do you have a copy of that?

23 MR. COWDEN: I believe I do, I
24 attached it as Exhibit 1 to my submission.

25 MR. WILLIAMS: Your Honor?

1 CHAIRPERSON ANDERSON: Yes, Mr.
2 Williams?

3 MR. WILLIAMS: Just for clarification,
4 if he's going to off the investigative report,
5 that is the recommendation that comes over when
6 the case is referred to Office of the Attorney
7 General.

8 At that point, it's our responsibility
9 to actually go through the regulations,
10 especially in this case where there were multiple
11 orders issued during that time.

12 So, the notice that went out
13 specifically directed towards the current order
14 at that time, which was a violation of 23 DCMR,
15 Section 8102.2 with the January 13, 2021 date.

16 That would be the tenth emergency
17 order that was issued.

18 CHAIRPERSON ANDERSON: Mr. Cowden, do
19 you have a response? Can we move on?

20 MR. COWDEN: I would prefer for
21 testimony, Your Honor.

22 CHAIRPERSON ANDERSON: Are you
23 removing that as an issue or will you be asking
24 the Board to make a decision at some point during
25 this hearing?

1 MR. COWDEN: I'm asking the Board to
2 dismiss the charge based on the lack of fair
3 notice and if the Board wants to proceed with
4 hearing, we're prepared to proceed as well.

5 CHAIRPERSON ANDERSON: The Board will
6 take this matter under advisement and so Mr.
7 Williams, you know this is an issue that's been
8 raised so please address this in your
9 presentation.

10 And Mr. Cowden, I'll ask that in your
11 presentation you can raise that and the Board
12 will make a determination on that procedural
13 issue in our determination.

14 Everyone understand where we are? All
15 right, the process, what is going to occur, the
16 Government will make an opening statement.

17 The licensee, if they so choose can
18 make an opening statement, or they can wait prior
19 to opening their case to make an opening
20 statement. The Government will call its first
21 witness, the Government will present.

22 Their licensee will have an
23 opportunity to cross-examine the witness, the
24 Board will then do that. Once the Government has
25 rested its case, the licensee will have an

1 opportunity to present its case.

2 So, Mr. Williams, your opening
3 statement?

4 And please be reminded that this
5 matter is being translated, so please be mindful
6 of how long you speak to give the interpreter an
7 opportunity to interpret for the licensee.

8 Go ahead, Mr. Williams.

9 MR. WILLIAMS: The District will show
10 that on March 17, 2021 at approximately 10:56
11 p.m., ABRA investigator, Tavrill Prout, visited
12 NIV Corporation, trade name, Haydee's Restaurant.

13 The establishment is located at 3102
14 Mount Pleasant Street NW. He arrived to complete
15 a regulatory inspection where he observed patrons
16 consuming alcoholic beverages after 10:00 p.m.

17 At the time, there was a temp
18 emergency order in effect that went into effect
19 January 13, 2021, and this violation was in
20 accordance with DCMR 810.2. By failing to have
21 patrons cease indoor alcoholic consumption at
22 10:00 p.m. at that time.

23 At this time, Your Honor, I would like
24 to call our witness, Mr. Prout.

25 CHAIRPERSON ANDERSON: Hold on a

1 second. Mr. Cowden, do you wish make an opening
2 statement at this juncture? Do you wish to do an
3 opening once you present your case?

4 Do you want to do your opening
5 statement now?

6 MR. COWDEN: Yes, sir. May it please
7 the Board, the evidence in this case will show
8 that on March 17, 2021 the patrons at issue in
9 this case purchased a meal and alcohol at 9:00
10 p.m.

11 They closed out their check at 9:32
12 p.m. They asked for carry-out bags and they were
13 provided carry-out bags, they were told that they
14 could also take their drinks with them if they
15 wanted to.

16 And they indicated they did not want
17 to do that but wanted Cokes because they were
18 driving. The evidence will also show that where
19 they were seated in the restaurant, they were the
20 only patrons in that area.

21 And that the male patron in that area
22 left his seat to go to the bathroom, at that
23 point he could not be seen and nor could the
24 other patron be seen.

25 The operators did not know that the

1 couple had not left the restaurant as their
2 intentions had indicated by closing out the bill,
3 asking for a to-go bag, and then this gentleman
4 disappearing from the restaurant.

5 Evidence will also show that prior to
6 Investigator Prout entering the restaurant, he
7 sent in somebody to try to purchase alcohol after
8 10:00 p.m. and that customer was denied a
9 purchase.

10 And the evidence will show that this
11 restaurant has 26 years of an unblemished record
12 of perfect compliance with ABRA regulations.

13 A punishable violation requires a
14 knowing violation of the Mayor's Order and the
15 evidence in this case will show there was no
16 knowing violation of the order because the
17 restaurant did not know these customers were
18 consuming alcohol after 10:00 p.m.

19 At the end of the presentation, we
20 will ask the Board to dismiss the charges based
21 on the evidence. Thank you.

22 (Whereupon, the above-entitled matter
23 went off the record at 2:10 p.m. and
24 resumed at 2:12 p.m.)

25 CHAIRPERSON ANDERSON: We're back on

1 the record. Mr. Short and Mr. Grandis, are you
2 there?

3 Mr. Williams, you should call your
4 first witness, please.

5 MR. WILLIAMS: Thank you, Chairman,
6 I'd like to call Tavril Prout.

7 CHAIRPERSON ANDERSON: Mr. Prout, can
8 you raise your right hand, please?

9 WHEREUPON,

10 TAVRIL PROUT

11 was called for examination by Counsel for the
12 Licensee, having been first duly sworn, assumed
13 the witness stand, was examined and testified as
14 follows:

15 DIRECT EXAMINATION

16 BY MR. WILLIAMS:

17 Q Thank you. Where do you work, Mr.
18 Prout?

19 A I work for the Alcohol Beverage
20 Administration Regulation for the District of
21 Columbia.

22 Q What is your position there?

23 A I am an alcohol investigator.

24 Q How long have you worked as an
25 investigator?

1 A 2 years and 10 months.

2 Q Can you describe your duties as an
3 investigator for ABRA?

4 A Yes, my duty as an alcohol
5 investigator for ABRA are to conduct regulatory
6 inspections and investigations of alcohol in
7 certain establishments in the District of
8 Columbia.

9 Q Do you have any trainings or
10 certifications relating to conducting these
11 investigations?

12 A Yes, I do possess a bachelor's of
13 science and criminal justice from the University
14 of Maryland Eastern Shore.

15 I also received on-the-job training of
16 approximately three months from Lead Investigator
17 Earl Jones as well as Felicia Dantzler.

18 Q Briefly, can you describe the process
19 for completing an ABRA investigative report?

20 A Yes, an investigative report for ABRA
21 is conducted based on either a regulatory
22 inspection being conducted and an ABRA violation
23 being observed by an alcohol investigator and/or
24 an ABRA violation being performed at a alcohol-
25 serving establishment.

1 And the Agency is made aware by
2 partner agencies such as Metropolitan Police
3 Department through a police report, which is
4 generated by that activity.

5 And the alcohol investigator is
6 responsible for investigating that ABRA violation
7 in which an investigative report is constructed
8 based off of the observations of the investigator
9 and/or a D.C. Government official.

10 Q At this time, attachment, I would like
11 to show Plaintiff's Exhibit 1 to Mr. Prout.

12 CHAIRPERSON ANDERSON: Ms. Andras, can
13 you give Mr. Williams permission to share his
14 screen?

15 MS. ANDREWS: Sure, stand by. Mr.
16 Williams, you can now share your screen.

17 MR. WILLIAMS: Is everyone able to see
18 my screen at this point?

19 CHAIRPERSON ANDERSON: Yes.

20 DIRECT EXAMINATION

21 BY MR. WILLIAMS:

22 Q I'm going to scroll through and then
23 I'm going to ask you a series of questions. Mr.
24 Prout, a few questions here. Do you recognize
25 the document I'm showing you?

1 A Yes, sir, this is the investigative
2 report that was constructed in lieu of the
3 citation that was issued to Ms. Venegas, who was
4 the owner of Haydee Restaurant in referencing
5 violation of the Mayor's Executive Order for
6 allowing patrons to be able to consume alcohol
7 after the curfew at that time, which was 10:00
8 p.m.

9 Q And did you draft this investigative
10 report from your visit to Haydee's Restaurant on
11 March 17, 2021?

12 A Yes, sir.

13 Q Was the report drafted at or near the
14 time of the night that you were in the
15 establishment on March 17, 2021?

16 A Yes, sir.

17 MR. COWDEN: Chairman, we'll stipulate
18 to the disability Exhibit 1.

19 CHAIRPERSON ANDERSON: It's also a
20 part of the Board's records so I'm not quite sure
21 what the stipulation is.

22 So, I guess you want to remove the
23 record -- just let me ask a question to Mr.
24 Williams. I'm not here to present your case, I
25 don't have a problem.

1 He said he wants to stipulate to the
2 documents so I guess he can just go and testify
3 whatever you want to bring out from the document.

4 MR. WILLIAMS: Chairman I'd like to
5 have the exhibit entered into evidence.

6 CHAIRPERSON ANDERSON: So moved and as
7 a matter of law, the Board's case report is part
8 of the record. So, it is admitted as evidence.

9 (Whereupon, the above-referred to
10 document was received into evidence as
11 Government Exhibit 1.)

12 DIRECT EXAMINATION

13 BY MR. WILLIAMS:

14 Q What time did you arrive at Haydee's
15 Restaurant on March 17, 2021?

16 A I entered the establishment at 10:56
17 p.m.

18 Q Can you please briefly describe what
19 you saw when you entered the establishment?

20 A Yes, as I entered the establishment I
21 saw two patrons with flutes of alcohol beverages
22 in front of each patron upon entry into the
23 establishment at that current time, one male and
24 one female patron.

25 Q And what was the purpose of your

1 visit?

2 A The purpose of my visit was to conduct
3 a regulatory inspection.

4 Q And did you speak with anyone about
5 your observations that evening?

6 A Yes, I made contact with the owner,
7 Ms. Nema Venegas.

8 Q And did you inform her of the
9 violation?

10 A Yes, I did.

11 Q And how did you know the violation
12 that you informed her of as far as the patrons
13 drinking after 10:00 p.m.?

14 A Yes, I reviewed the Mayor's Executive
15 Order, which was the 10th amendment which was
16 signed into effect on January 13, 2021 and
17 expired in May of 2021.

18 Q And scroll down the first exhibit, 1,
19 which is a photo, did you take this picture?

20 CHAIRPERSON ANDERSON: Hold on. Mr.
21 Williams, there is something that you're doing so
22 from point to point we're only seeing half of the
23 documents.

24 So, whatever you just did, we can see
25 the screen but then in the middle of it, then you

1 do something and half of the screen is covered.

2 MR. WILLIAMS: No problem. Can you
3 see me now?

4 CHAIRPERSON ANDERSON: Go ahead.

5 MS. ANDREWS: Mr. Williams, you have
6 shared just the Adobe application so any
7 application that's open that's on top of your
8 image is going to block the Adobe.

9 You didn't share your entire screen so
10 anything that's open that's not Adobe is just
11 grayed out.

12 MR. WILLIAMS: Do we have a full
13 screen now?

14 CHAIRPERSON ANDERSON: Yes.

15 DIRECT EXAMINATION

16 BY MR. WILLIAMS:

17 Q Okay, no problem. Mr. Prout, did you
18 take the picture in Exhibit 1?

19 A Yes.

20 Q Do you recall approximately what time
21 you took this picture?

22 A Yes.

23 Q What time was that?

24 A That picture was taken at 10:56 p.m.

25 Q Scroll down a little further. This is

1 a receipt. Did you retrieve this receipt?

2 A Yes, upon conducting the regulatory
3 inspection, I asked Ms. Venegas for a copy of the
4 receipt, which she stated that the two patrons
5 were at the establishment since 9:32 p.m.

6 She stated that she did not want to
7 remove the beverages of alcohol due to fear of
8 them being angry of the alcohol being removed in
9 front of them.

10 So, I notified her that she is more
11 than willing to contact the police in the event
12 in which patrons may be aggressive towards her
13 and/or she may want to hire additional security
14 for her to be made to feel safe in her own place
15 of her own restaurant.

16 And so she stated that she did
17 understand that.

18 Q When you were talking with the owner,
19 were you both able to see the patrons?

20 A Yes, both patrons were receipted
21 during the duration of the regulatory inspection.

22 Q And when you took the picture earlier,
23 approximately how much time after you took the
24 picture did you and the owner engage in
25 conversation?

1 A Approximately one to two minutes.

2 Q And when you walked into the
3 establishment, based on your review of the
4 establishment, where were the patrons located
5 from the entry?

6 A So, as I walk into the establishment,
7 upon entry through two sets of doors, you will be
8 facing the main bar and the two patrons were
9 seated on the left side of the restaurant near
10 the front door of the establishment.

11 Q So, were they visible to you when you
12 made your way into the restaurant or did you have
13 to navigate some different doors or partitions to
14 see these individuals?

15 A Upon entry through the first door
16 there is a small foyer which leads to a second
17 door.

18 As soon as I entered through the
19 second door, the patrons review upon entry
20 through the second door, which both doors are
21 main doors to gain entry into the establishment.

22 So, there was no side door or any
23 alternate routes that were taken in order to view
24 both patrons at the front half of the
25 establishment upon entry for the regulatory

1 inspection.

2 Q And this receipt at 9:32 p.m., it
3 shows one picture in the receipt, is that
4 correct?

5 A Yes, the receipt does reflect one
6 pitcher of Margarita Fiesta, which was observed
7 on the table upon entry into the establishment at
8 10:56 p.m.

9 Q I have no further questions.

10 CHAIRPERSON ANDERSON: Thank you. Mr.
11 Cowden, do you have questions for the witness?

12 CROSS EXAMINATION

13 BY MR. COWDEN:

14 Q I do, thank you. When you entered the
15 restaurant, there was only one patron sitting at
16 the table, correct?

17 A There were two patrons at the table
18 upon entry into the establishment.

19 Q The receipt that your Counsel just
20 showed you shows that the patrons closed out
21 their check at 9:32 p.m. on March 17, 2021,
22 correct?

23 A The receipt that is reflected in the
24 exhibit has a time of 21:32 in which it does not
25 specify whether the check was open and/or closed

1 at 9:32 p.m.

2 However, due to my professional
3 experience, normally 9:32 p.m. or the time that's
4 listed on the receipt is the time in which the
5 receipt is open and not necessarily closed.

6 I'm sorry, the check is open at that
7 time.

8 CHAIRPERSON ANDERSON: Did you have an
9 objection or something, Mr. Cowden?

10 MR. COWDEN: I'm just going to follow
11 up with another question.

12 CHAIRPERSON ANDERSON: Go ahead, Mr.
13 Williams.

14 CROSS EXAMINATION

15 BY MR. COWDEN:

16 Q You have no idea how long these
17 customers were sitting at the restaurant
18 consuming their meal, correct?

19 A The information that I do know is that
20 there's a time that's on the receipt that
21 specifies 21:32 and that the patients were still
22 in the establishment at 10:56 p.m., in which I
23 arrived to the establishment to conduct a
24 regulatory inspection.

25 Q As you sit here today, do you know

1 when the patrons arrived at the restaurant?

2 A The time in which the patients arrived
3 to the establishment was prior to my arrival at
4 10:56 p.m.

5 Q Did you ask the patrons how long they
6 had been sitting at the restaurant consuming
7 their meal?

8 A No, I did not.

9 Q When you entered the restaurant, you
10 indicated that you saw your patrons to the left,
11 correct?

12 A Yes.

13 Q When you went to talk to the owner,
14 where was the owner located?

15 A The owner was located behind the main
16 bar area of the establishment.

17 Q Isn't it a fact that the owner was to
18 the left of the restaurant over in the area where
19 she was monitoring Internet orders?

20 A I had not been to the establishment
21 prior to the regulatory inspection being
22 conducted so I have no idea where the incident
23 report is or being placed and/or received at that
24 time.

25 Q I would like to share my screen

1 exhibits so I'm going to need permission to do
2 that.

3 CHAIRPERSON ANDERSON: Ms. Andras, can
4 you please give him permission to share his
5 screen?

6 MS. ANDREWS: Sure, your rights have
7 been elevated.

8 CROSS EXAMINATION

9 BY MR. COWDEN:

10 Q I'm going to show you what's marked
11 Defendant's Exhibit 3 and ask you if you
12 recognize this.

13 CHAIRPERSON ANDERSON: Mr. Cowden, I
14 would suggest that you have your client -- you
15 can have your client where she's at. You can
16 make sure you turn off her volume and then you
17 can sit in from her computer.

18 So, as Ms. Andras has stated, the
19 volume on whatever computer has not been used
20 needs to be turned off.

21 MR. COWDEN: Exhibit 3 is a video and
22 I'm trying to share it but it doesn't seem to be
23 coming up. When I play it on my computer it's
24 there but I don't see it coming through the
25 system.

1 MS. ANDREWS: Mr. Cowden, are you
2 trying to share your screen under your name or
3 Ms. Vanegas' screen?

4 MR. COWDEN: It's my screen, do I just
5 move the file into the WebEx share-screen box?

6 MS. ANDREWS: You hit the share box
7 and select the application that is playing your
8 video. So, if that's Windows Media Player or if
9 it's playing from Chrome, you would hit that
10 application and then hit share again.

11 MR. COWDEN: This doesn't seem to be
12 working, I even tried just to do some of the PDF
13 photos. I wonder is it possible for you to open
14 the exhibits that I showed you, Exhibit 4?

15 CHAIRPERSON ANDERSON: Are you asking
16 Mr. Williams to open his exhibit?

17 MR. COWDEN: The technical person.
18 Exhibit 4 is a PDF.

19 CHAIRPERSON ANDERSON: We don't have
20 copies of your documents so the only person who
21 can do that is if you share them with Mr.
22 Williams. You could ask him if he wants to do
23 that, but our technical person is unable to do
24 that.

25 We are a facilitator so you're in

1 charge of your case and it's up to you if you
2 can't access it and you want to ask Mr. Williams
3 but the Agency cannot help you with that process.

4 MR. COWDEN: Let me just try to open
5 this Adobe in my screen here. I don't know how
6 to open this.

7 CHAIRPERSON ANDERSON: Mr. Cowden, do
8 you want us to go off the record so you can
9 figure out how to do what you need to do?

10 MR. COWDEN: That may be helpful. I
11 haven't had this problem before. These exhibits
12 are in this folder but when I click them they
13 don't open up onto the screen.

14 CHAIRPERSON ANDERSON: I can't help
15 you, it's your computer, we've given you
16 permission to share your screen, sir, so you need
17 to figure out how to operate your own computer to
18 play what's on your computer.

19 MS. ANDREWS: Mr. Cowden, can you take
20 your cursor and put it all the way at the top of
21 your screen and hit stop sharing? Now, come back
22 to WebEx and hit share.

23 I want you to share --

24 CHAIRPERSON ANDERSON: I know that you
25 want this for the client but she's just giving

1 him instruction on how to operate. So, I don't
2 believe you need to translate that.

3 MS. TAPIA: Mr. Chairman, I know she's
4 just giving the instructions but interpreters do
5 not choose what to interpret and what not to.

6 It's not that we want to interpret
7 everything, it's that it's part of our ethical
8 code to interpret everything that's said.

9 If you want to go off the record, then
10 you can speak freely without the interpreter
11 interpreting.

12 CHAIRPERSON ANDERSON: Okay, do what
13 you need to do. Forget what I said, go ahead.

14 MS. ANDREWS: I need you to come back
15 to the WebEx screen, select share and I want you
16 to select anything that says screen or window so
17 it can share your entire desktop.

18 Keep in mind, you may have the option
19 to scroll down because you may have multiple
20 windows open or multiple applications open.

21 Do you see anything? Okay. Mr.
22 Cowden, we can see your screen now.

23 MR. COWDEN: I think I've got the
24 picture. Can you move it?

25 MS. ANDREWS: No, sir.

1 CHAIRPERSON ANDERSON: Mr. Cowden,
2 this is your computer, you can use your cursor to
3 move whatever you need to move. She can't
4 operate your computer, she can only give you
5 instructions on how to access the system.

6 But to move amongst or between files,
7 it's your computer, you use your mouse and your
8 cursor to operate your computer system, sir.

9 CROSS EXAMINATION

10 BY MR. COWDEN:

11 Q Okay, I believe on my client's screen
12 I'm showing Exhibit 4 and that's a photo and I
13 think you can move the photo down. I'm asking
14 you look at Exhibit 4 and do you recognize
15 yourself in the bottom of that photo?

16 CHAIRPERSON ANDERSON: We cannot see
17 it.

18 MR. COWDEN: You can't see the photo?

19 CHAIRPERSON ANDERSON: All I'm looking
20 at on my screen, a photo was taken at 3/17, 2021
21 at 10:24:22 p.m. We're just seeing a blue screen
22 with a light and blue stars with a light and then
23 some blues.

24 We're not able to see the whole photo.

25 (Simultaneous Speaking.)

1 MS. ANDREWS: You can zoom out.
2 Everybody that's on the hearing, if you could see
3 that you have the options to the left of you to
4 control if it's zoomed in or zoomed out.

5 Mr. Chair, I think you need to zoom
6 out a little bit and maybe you can see the whole
7 photo.

8 CHAIRPERSON ANDERSON: Why do I need
9 to zoom out to see a photo? Why do I need to
10 zoom in and zoom out for a photo? Is everyone
11 seeing this photo or am I the only one who is not
12 seeing this photo?

13 (Simultaneous Speaking.)

14 -- to see an exhibit.

15 MEMBER HANSEN: I can't see it, Mr.
16 Chair.

17 CHAIRPERSON ANDERSON: That's why I
18 shouldn't have to zoom in and zoom out. You're
19 showing me your exhibit.

20 I'm supposed to sit here and look at
21 the exhibit, I'm not supposed to be working with
22 my computer to change it.

23 I'm not going to zoom in and zoom out
24 on my computer because I'm conducting this
25 hearing and I'm sitting here and so, therefore,

1 if you want me to look at an exhibit, you need to
2 make the exhibit available for me to see it.

3 So, if you need to zoom, if you need
4 to change the zoom on your computer, you do that
5 but I'm not going to do that.

6 We can see the screen so you can go
7 ahead.

8 CROSS EXAMINATION

9 BY MR. COWDEN:

10 Q Investigator is showing you what's
11 been marked Exhibit 4. Do you recognize yourself
12 in that photo at the bottom?

13 A Yes, sir.

14 Q In that photo it also shows that only
15 one customer is sitting at the table when you
16 entered the restaurant, correct?

17 A Yes.

18 Q And it also shows that the customer
19 wrapped up her food in a to-go bag when you
20 entered the restaurant, correct?

21 A Yes.

22 Q I'm showing you Exhibit 5. Again,
23 this is another photo of the restaurant when you
24 went to it on March 17th, correct?

25 A Yes, sir.

1 Q And the couple that you say was
2 drinking alcohol is that couple that's pictured
3 in the photo, correct?

4 A Yes, sir.

5 Q And the gentleman in the photo is
6 returning to the booth at that time, correct, in
7 the photo?

8 A Yes.

9 Q And from the photo you can see there
10 is a wall that abuts the staircase in the
11 restaurant, correct?

12 A Yes, however, if you look at the
13 placement of the bench, you're able to see the
14 gentleman at his seat from behind the main bar
15 area.

16 Q But it's fair to say that you can't
17 see a gentleman sitting in the bench if he's not
18 sitting in the bench?

19 A In Exhibit 5, which is on the screen
20 it shows him sitting down on the bench.

21 Q And Exhibit 4 showed that when you
22 entered the restaurant he wasn't in the bench,
23 correct?

24 A Yes, sir.

25 Q And from the back of the restaurant

1 where you say the owner was, you can't see the
2 woman sitting at the table, correct?

3 A I'm not able to make that
4 determination.

5 Q I'm showing you Exhibit 6, do you
6 recognize this?

7 A I recognize myself in the lower right
8 corner of the pixel with the two patrons here at
9 the table.

10 Q And the photograph shows you at the
11 restaurant on March 17th, the couple seated at
12 the table, and their meal is packed up, correct?

13 A I see a bag on the table, I don't know
14 what the items are on that table.

15 Q Before you entered the restaurant that
16 night, did you send in a woman to try to buy
17 alcohol after 10:00 p.m.?

18 A No, sir.

19 Due to the COVID-19 pandemic, our team
20 consists of six investigators. On the night in
21 question due to the response to the pandemic, the
22 Agency only had two investigators assigned per
23 afternoon shift.

24 So, therefore, it was me and a male
25 partner that worked that evening and we were

1 conducting inspections on different areas of the
2 city.

3 So, no, I had never sent any female to
4 attempt to purchase alcohol on the night in
5 question.

6 Q I'm going to show you Exhibit 3. I'm
7 showing you what's been marked Defense Exhibit 7.
8 Do you recognize that, sir?

9 A That is the right side of the main bar
10 looking towards the front entrance of the
11 establishment of Haydee's Restaurant.

12 Q And so when you entered the
13 restaurant, you entered through that white door
14 to the left side of Exhibit 7, correct?

15 A Yes, sir.

16 Q And when you went to speak with the
17 owner of the restaurant, she was located in the
18 area where Exhibit 7 is on this photograph,
19 correct?

20 A She was somewhere in that general
21 area.

22 Q And on this photo, do you see my arrow
23 where there's a yellow bucket?

24 A I do see the yellow bucket but I don't
25 see an arrow.

1 Q Just beyond the yellow bucket is a
2 bench that the gentleman is sitting, correct?

3 A Yes, sir.

4 Q And the bench where the lady was
5 sitting is behind the wall that has the blue
6 lights running down in the middle of the
7 photograph, correct?

8 A Yes, sir.

9 Q And you can't see where she was
10 sitting from where Mr. Venegas was located when
11 you went to the restaurant, correct?

12 A Are you able to zoom in on that photo
13 because I don't know if there's a hand in that
14 photo possibly?

15 Q Can I direct your attention to Exhibit
16 8. That's the table where the customer was
17 sitting when you entered the restaurant. The
18 lady was sitting in the bench to the left,
19 correct?

20 A Yes, sir.

21 Q And the bench seat to the right, when
22 you entered the restaurant the gentleman was not
23 in that but when he returned after you went to
24 the restaurant, correct?

25 A Yes.

1 Q I'm showing you Exhibit 9, Exhibit 9
2 has a picture of a lighted area in the middle.
3 Do you see that?

4 A Yes.

5 Q Are you familiar with that area of the
6 restaurant? Do you know what that is?

7 A That is the main bar of the
8 establishment that's seen upon entrance of the
9 front door of Haydee's Restaurant.

10 Q Just to the right of that are the
11 restrooms, correct?

12 A I have no idea where the restrooms are
13 in the restaurant.

14 Q I'm showing you Exhibit 10, this shows
15 the bench where the lady was sitting when you
16 entered the restaurant, correct?

17 A Yes.

18 Q And it also shows you that area just
19 to the right of the pall with the bucket behind
20 which Ms. Haydee was sitting when you entered the
21 restaurant, correct?

22 A As I recall, Ms. Haydee was somewhere
23 in that general area. I don't particularly
24 remember her sitting down but she was somewhere
25 in that general area.

1 I could see a female that's in a black
2 shirt that's by the main bar area, she was
3 somewhere in that general area right there but I
4 don't recall her being seated at that exact table
5 upon entrance into the establishment.

6 Q Exhibit 11, again, shows the entrance,
7 the table at which the patrons were sitting, and
8 then that area on the back side of the staircase,
9 correct?

10 A Yes.

11 Q Chairman Anderson, it sounds like from
12 your earlier ruling I don't need to move to admit
13 these exhibits, they will already be admitted, is
14 that correct?

15 CHAIRPERSON ANDERSON: No, you have to
16 move to admit your evidence. The Government's
17 evidence was just the case report and so the case
18 report is part of the Board's record. So, that's
19 automatically in the evidence.

20 But whatever documents that are not
21 the case report has to be moved to be included
22 into the record.

23 So, what documents are you trying to
24 move into evidence?

25 MR. COWDEN: Photos 4 through 11.

1 CHAIRPERSON ANDERSON: Mr. Williams,
2 any objection?

3 MR. WILLIAMS: No.

4 CHAIRPERSON ANDERSON: Exhibit 4, 5,
5 6, 7, 8, 9, 10, 11 are moved into evidence
6 without objection.

7 (Whereupon, the above-referred to
8 documents were received into evidence
9 as Defendant's Exhibits 4, 5, 6, 7, 8,
10 9, 10, 11.)

11 Any additional questions you have for
12 the witness, Mr. Cowden?

13 MR. COWDEN: I'm just reviewing my
14 notes, I think that's it, Your Honor.

15 CHAIRPERSON ANDERSON: Can you stop
16 sharing your screen?

17 MR. COWDEN: Do I have the authority
18 to stop sharing it?

19 CHAIRPERSON ANDERSON: Ms. Andras,
20 could you please tell him what to do?

21 MS. ANDREWS: Please place your cursor
22 to the top of your screen and hit stop sharing.

23 MR. COWDEN: It's coming up at the top
24 of the screen when I change the cursor to the
25 top.

1 MS. ANDREWS: Mr. Cowden, take your
2 cursor all the way to the very, very top of your
3 screen. Once you do that there will be a drop-
4 down that comes on your desktop and the first
5 button to the left should be stop sharing.

6 Take your cursor all the way to the
7 top, now hit stop sharing.

8 MR. COWDEN: I just did that and
9 nothing's happening. Should I close off the
10 entire box?

11 MS. ANDREWS: So, when you take your
12 cursor to the top of your screen, you can't see
13 stop sharing?

14 MR. COWDEN: Not anymore. I clicked
15 it and it stopped but I don't see it anymore.
16 What I'm going to do is I'm going to just close
17 out my entire computer and I'll just participate
18 from my client's computer.

19 MS. ANDREWS: That's fine.

20 MR. COWDEN: I just left the event but
21 I still see the screen on her computer.

22 CHAIRPERSON ANDERSON: I have a few
23 questions to ask you, Mr. Prout.

24 Do you remember Exhibit 5 and 6 from
25 the Licensee where we saw two individuals sitting

1 in a restaurant and there was a to-go bag on the
2 table, is that correct? Did you see that?

3 INVESTIGATOR PROUT: Yes, sir.

4 CHAIRPERSON ANDERSON: Mr. Williams,
5 can you share your screen and please share
6 Exhibit 1 and 2 for us, please? Show him also 2,
7 please. What are we seeing in Exhibit 1 and
8 Exhibit 2?

9 INVESTIGATOR PROUT: We are seeing two
10 patients that look to have full glasses of
11 alcohol beverages in front of their person having
12 dinner in a restaurant.

13 CHAIRPERSON ANDERSON: And what time
14 did you take Exhibit 1 and Exhibit 2?

15 INVESTIGATOR PROUT: 10:54 p.m. and
16 10:56 p.m.

17 CHAIRPERSON ANDERSON: So, what's
18 wrong with this picture? Because I'm conflicted,
19 I see Exhibit 5 and Exhibit 6 and I'm seeing
20 Government Exhibit 1 and 2.

21 So, what's going on at 10:54 p.m. in
22 Exhibit 1? Is that a violation and if that's the
23 violation, why is it a violation?

24 INVESTIGATOR PROUT: On March 17,
25 2021, the Mayor's Executive Order was still in

1 effect in which all alcohol services and
2 consumption for on-premise consumption was
3 supposed to cease at 10:00 p.m.

4 So, therefore, there were patrons
5 still consuming alcoholic beverages inside of the
6 establishment, which is considered on-premise
7 consumption, past the Mayor's Executive Order
8 that was still in effect for all alcohol
9 consumption to cease at 10:00 p.m.

10 The time at which I entered into the
11 establishment was between 10:54 p.m. and 10:56
12 p.m.

13 So, that's approximately 54 to 56
14 minutes past the allotted curfew that was put in
15 place by the Mayor's Executive Order in relation
16 to the COVID-19 pandemic at that current time.

17 CHAIRPERSON ANDERSON: You said that
18 you entered the establishment at about 10:54 p.m.
19 and 10:56, what time did you leave the
20 establishment?

21 INVESTIGATOR PROUT: May I ask OG
22 Williams to scroll down to the regulatory
23 inspection that was conducted, which has the time
24 in which I completed the regulatory inspection,
25 which approximately should have been between 10

1 to 15 minutes in length?

2 CHAIRPERSON ANDERSON: If you don't
3 know the time, then you can say I don't know the
4 time or if it's in your report, where in your
5 report it is, I don't know.

6 INVESTIGATOR PROUT: So, the time the
7 inspection was completed was at 11:18 p.m.

8 CHAIRPERSON ANDERSON: Thank you.
9 Now, the reason why I'm asking the question is
10 because I'm confused by Exhibit 5 and 6.

11 During the period of time you were in
12 the restaurant, did you see, did you observe what
13 Exhibit 5 and 6 shows, in the sense that
14 customers were sitting in the establishment with
15 to-go packages.

16 Did you see that?

17 INVESTIGATOR PROUT: So, there was a
18 plastic bag on the table but I did not see or
19 inquire on the contents.

20 What I understood it to be upon
21 entrance into the establishment, there were
22 patrons that were seated in the establishment.

23 I asked Ms. Venegas how long they had
24 been there, she said they had opened up their tab
25 around 9:30 p.m.

1 So, that's an hour and 30 minutes in
2 length in which they have been in these
3 establishments.

4 And so based on the information that
5 was provided by Ms. Venegas, I understood it to
6 be that the patients were still consuming past
7 the 10:00 p.m. curfew, which it's a violation of
8 the Mayor's Executive Order for all on-premise
9 consumption to conclude at 10:00 p.m. in the
10 District of Columbia for all alcohol-serving
11 establishments.

12 CHAIRPERSON ANDERSON: Since you just
13 mentioned there was a plastic bag there, I need
14 you, Mr. Williams, to go back again. I feel that
15 in deliberation I might want to see this but I
16 want to make sure that I get clarity on the
17 record.

18 So, Mr. Williams, can you please again
19 share your screen and show Exhibit 1 again? Let
20 me look more intently at Exhibit 1 because I'm
21 confused.

22 I'm seeing two pictures and the two
23 pictures that are --

24 Mr. Prout, I want you to describe in
25 detail what it is that we're looking at in

1 Exhibit 1.

2 INVESTIGATOR PROUT: We are looking at
3 a female and a male patient seated at a table
4 with two alcohol beverages in front of their
5 person. There is a point to the right of each
6 patron, however, I'm not able to see exactly what
7 that is.

8 But from my recollection, there was
9 food on that actual plate. And then to the right
10 of the male patron, there seems to be a glass of
11 brown beverage.

12 CHAIRPERSON ANDERSON: Let's look at
13 Exhibit 2 again, please and specifically, what is
14 it that we're looking at in Exhibit 2?

15 INVESTIGATOR PROUT: We're looking at
16 two patrons, one male, one female, seated at a
17 table with two alcoholic beverages in front of
18 each person.

19 CHAIRPERSON ANDERSON: I don't have
20 any other questions. Do any other Board Members
21 have any questions?

22 MEMBER SHORT: Mr. Chair?

23 CHAIRPERSON ANDERSON: Go ahead, mr
24 Short.

25 MEMBER SHORT: Thank you, this

1 question is for Investigator Prout with the
2 connection to the presentation in the accident
3 report.

4 I'd like to ask you as a professional
5 investigator for ABRA what the time the Mayor's
6 order saying all alcohol at 10:00 p.m. should
7 stop any service for consumption.

8 That's correct, right?

9 INVESTIGATOR PROUT: Yes.

10 MEMBER SHORT: In regards to best
11 practices of people who observe the Mayor's order
12 on March 17, 2021, what would you think would be
13 a reasonable time for a last call, meaning if you
14 have patients inside your establishment at 9:30
15 a.m., what would be a reasonable time for a last
16 call?

17 Last call money that everybody should
18 be finished their drinks and out by 10:00 p.m.
19 What would be a reasonable time?

20 INVESTIGATOR PROUT: My interactions
21 with other licensees while enforcing the Mayor's
22 executive order was that patrons finished
23 consuming alcohol and all alcoholic beverages
24 being removed off of the table by no later than
25 9:45 p.m. and/or 9:50 p.m.

1 MEMBER SHORT: And your testimony has
2 been you entered the premises of this licensee at
3 10:54 p.m. and uyou xited at 11:18 p.m., is that
4 correct?

5 INVESTIGATOR PROUT: Yes, sir.

6 MEMBER SHORT: Thank you very much for
7 your testimony and thank you very much for an
8 excellent report.

9 CHAIRPERSON ANDERSON: Thank you, Mr.
10 Short. Any other questions from any other Board
11 Members?

12 MEMBER GRANDIS: Yes.

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

15 MEMBER GRANDIS: Mr. Chairman, thank
16 you. Inspector Prout, I just also want to add on
17 thanks for your presentation and for your well
18 written investigative report.

19 Do you know if there's a time stamp on
20 Exhibit 1 or Exhibit 2? If you don't know that's
21 a good answer as well, I'm just asking.

22 INVESTIGATOR PROUT: Yes, the
23 timestamp for Exhibit 1 is 10:54 p.m., timestamp,
24 you might not be able to see it.

25 MEMBER GRANDIS: That's fine, go

1 ahead. Exhibit 2?

2 INVESTIGATOR PROUT: And the timestamp
3 for Exhibit 2 is 10:56 p.m.

4 MEMBER GRANDIS: I know it's already
5 in the record but could you look at Exhibit 3 and
6 tell me the time that is on this invoice
7 regarding it looks like food and beverages, a
8 pitcher, it looks like, of margarita?

9 If I'm seeing that incorrectly I
10 apologize but could you give us what time the
11 timestamp is on Exhibit 3. Not the timestamp,
12 I'm sorry, the time on the invoice.

13 INVESTIGATOR PROUT: The receipt
14 reflects 24-hour time in which the time
15 conversion that's on the receipt states 21:32
16 hours, which is the equivalence of 9:32 p.m.

17 MEMBER GRANDIS: What is the timestamp
18 on that photograph?

19 INVESTIGATOR PROUT: The timestamp
20 that's on that photograph is 10:57 p.m.

21 MEMBER GRANDIS: Am I correct to read
22 the receipt as being a pitcher of margarita or
23 some alcoholic beverage?

24 INVESTIGATOR PROUT: Yes, sir, the
25 receipt does read one pitcher of margarita

1 fiesta, which is the name of the drink, and the
2 price was \$31.99 before taxes.

3 MEMBER GRANDIS: Is that from your
4 knowledge of look at their menu and look at the
5 receipt? Is that an alcoholic beverage, that's a
6 pitcher?

7 INVESTIGATOR PROUT: Based on my
8 professional experience, this to be noted as an
9 alcoholic beverage.

10 MEMBER GRANDIS: My last question, and
11 there may not be an answer, but it appears from
12 looking at the receipt that there was 28 minutes
13 after that receipt was printed that a pitcher
14 would have to be consumed or the pitcher and the
15 glasses that had the beverage would have to be
16 removed from the table at 10:00 p.m.?

17 INVESTIGATOR PROUT: Yes, sir, the
18 alcoholic beverages should have been removed off
19 of the table at the establishment within 28
20 minutes of being served at 21:32 which would have
21 been a 10:00 p.m. removal of all alcoholic
22 beverages from off the table.

23 MEMBER GRANDIS: Looking at Exhibit 1,
24 a photograph, and then Exhibit 2, based on your
25 testimony that these pictures were taken after

1 10:00 p.m., does it appear to you that the time
2 between Exhibit 1 photograph and Exhibit 2, which
3 from your records indicate was after 10:00 p.m.,
4 doesn't the glasses that contain the beverage
5 look consumed, more consumed from the first
6 photograph to the second?

7 INVESTIGATOR PROUT: Yes, sir, they
8 do.

9 MEMBER GRANDIS: Thank you, Chairman,
10 that's all from me.

11 CHAIRPERSON ANDERSON: Any other
12 questions by any other Board Members? Mr.
13 Cowden, any questions of the witness based on the
14 questions that were asked by the Board?

15 MS. TAPIA: The interpreter would like
16 a break, it's been over two hours. This is
17 scheduled for only one hours. Can we please have
18 a break?

19 CHAIRPERSON ANDERSON: Hold on. This
20 was not scheduled for an hour, a hearing is
21 scheduled. Can you wait for us to finish with
22 this witness?

23 MS. TAPIA: The interpreter needs a
24 ten-minute break.

25 CHAIRPERSON ANDERSON: I was just

1 trying to finish this witness and then we will
2 take a break because I didn't want to take a
3 break in the middle.

4 MS. TAPIA: The interpreter needs a
5 ten-minute break, it's been over two hours.

6 CHAIRPERSON ANDERSON: It's is 3:45
7 p.m., we'll be in recess until 4:00 p.m. I'll
8 ask all the Board Members to return to executive
9 session.

10 (Whereupon, the above-entitled matter
11 went off the record at 3:45 p.m. and
12 resumed at 4:07 p.m.)

13 We're back on the record. This is a
14 show cause hearing that started at 1:30 p.m. None
15 of us are in control of how long this proceeding
16 will last. I have no idea this proceeding is
17 going to last.

18 If there is anyone who is
19 participating in this hearing today, if they have
20 time constraints, they need to make it known to
21 the Chair that there's some time constraints and
22 we will make alternative measures.

23 If anyone requires a break, that
24 individual needs to make it known to the chair
25 and we will structure an appropriate time to take

1 this break. We cannot take breaks in the middle
2 of testimony.

3 We will take breaks at appropriate
4 times once a witness has testified. If there is
5 a dire emergency then we will act on that,
6 however, we cannot take breaks in the middle of a
7 testimony.

8 Our witness needs to be allowed to
9 testify. After that witness has testified, we
10 will take structured breaks.

11 If anyone has any specific time
12 constraints -- because this proceeding is being
13 interpreted, it adds additional time to the
14 hearing.

15 So, I don't know how long this
16 proceeding will last and so if anyone has any
17 time constraints they need to make it known at
18 this juncture.

19 Depending how many more hours this
20 will take, if we need to take a break every hour
21 we will find an appropriate time within the next
22 hour to take a break, however, under those
23 circumstances, when we take any further breaks in
24 the middle of testimony.

25 What I will ask our Agency Director to

1 do is to make arrangements for another
2 interpreter prior to 5:00 p.m. because it's now
3 4:11 p.m. and it's not apparent that this hearing
4 is going to be over at 5:00 p.m.

5 So, if we are unable to find another
6 interpreter to continue this afternoon, what we
7 will do, in fact, we would have to continue,
8 adjourn, and continue this hearing for another
9 time.

10 So, we will continue and prior to 5:00
11 p.m. I will see where we are. If your company is
12 unable to provide another interpreter, then we
13 will conclude before 5:00 p.m. so I will set my
14 alarm for 4:45 p.m. for us to -- what time do you
15 have to get off?

16 MS. TAPIA: 5:00 p.m.

17 (Simultaneous Speaking.)

18 MR. COWDEN: Mr. Chairman, may I
19 proceed?

20 CHAIRPERSON ANDERSON: Hold on, I'm
21 texting the Agency Director to see if he can
22 contact her employer to see if they can get
23 another interpreter to continue this matter at
24 5:00 p.m.

25 That's what I'm trying to do to see if

1 we can finish this hearing today. If not, we're
2 going to end so just give me one minute. Go
3 ahead, Mr. Cowden.

4 CROSS EXAMINATION

5 BY MR. COWDEN:

6 Q During the questioning by the Board,
7 you indicated that Ms. Venegas told you that the
8 customers arrived at about 9:32 p.m., is that
9 your testimony?

10 A Yes, sir.

11 Q When your Counsel asked you questions
12 in your direct testimony, you indicated that in
13 this case you prepared the case report, correct?

14 A Yes, sir.

15 Q Do you have a copy of the case report
16 in front of you?

17 A Yes.

18 Q I'd like to turn to Page 1 of your
19 case report.

20 A Yes, sir.

21 Q When you did this case report it was
22 important to be thorough and accurate, correct?

23 A That is the intent.

24 Q And you prepared this case report
25 before you heard my opening statement, correct?

1 A Yes, sir.

2 Q At the bottom of your case report on
3 Page 1, did you write Investigator Prout advised
4 Ms. Venegas of the observed violation, Ms.
5 Venegas stated that the customers had arrived at
6 approximately 9:00 p.m.

7 A Yes, sir.

8 Q That statement is inconsistent with
9 your testimony today, is it not?

10 A As far as what you just stated, 9:00
11 p.m. is indicated in my report. I did reference
12 9:32 p.m., however, between 9:00 p.m. and 9:32
13 p.m., the patrons arrived to the establishment.

14 The receipt has 9:32 p.m. and our
15 report states 9:00 p.m. So, anywhere between
16 10:56 a.m. and 9:00 p.m., the patrons arrive to
17 the establishment.

18 Q You also testified earlier that when
19 you entered the establishment, the patrons were
20 consuming a meal and consuming alcoholic
21 beverages, was that your testimony?

22 A There were alcoholic beverages on the
23 table and there was a plate in front of them.

24 Q And the plate was empty, correct?

25 A I don't recall exactly what was on the

1 actual plate but there was a plate.

2 Q So, as you sit here today, you have I
3 have no idea whether the patrons had already
4 finished consuming their meal?

5 A No, I'm not aware of whether or not
6 they consumed their meal or did not consume it.

7 Q You also testified that your photos
8 had a timestamp on them.

9 A Yes, sir.

10 Q What's the timestamp?

11 A If you would like me to, I'm more than
12 willing to show you my phone that has the
13 timestamp on it and/or I can send the actual
14 photos with the timestamp on them, and I can
15 share my screen to show that the actual timestamp
16 is on each actual photo if you would like me to,
17 sir.

18 Q Is it your testimony today that you
19 took these photos, these two photos, after you
20 went to the restaurant at about 10:54 p.m.?

21 A Yes, sir.

22 Q And when you took these photos, were
23 these folks eating their dinner?

24 A As stated previously, they were seated
25 at the table with alcoholic beverages in front of

1 them and a plate in front of them.

2 Q During your experience, if the patrons
3 were provided with a pitcher at 9:00 p.m., is it
4 reasonable to believe that they will finish the
5 pitcher by 10:00 p.m.?

6 A I'm not able to provide an accurate
7 answer to that because each person's alcohol
8 intake varies based on person to person, as well
9 as how many parties are in attendance to drink
10 from that pitcher of alcohol as well.

11 Q When you observed the pitcher, was it
12 full of ice?

13 A I recall alcoholic beverages being in
14 two margarita glasses seated in front of each
15 patron for consumption purposes at 10:54 p.m. and
16 10:56 p.m.

17 Q And just one more question, you did
18 agree, did you not, that when you entered the
19 premises, the gentleman was not at the table. He
20 came back to the table after you had been there
21 for some period of time, correct?

22 A My testimony initially stated that I
23 saw two patrons seated at the table upon entrance
24 into Haydee's Restaurant.

25 However, the exhibit which you

1 provided, Exhibit 5 and 6, had timestamps of
2 10:54 p.m. and a few seconds in which there was
3 not a patron seated at that time.

4 However, my recollection based on my
5 initial testimony, I recall seeing two patrons
6 which are in the exhibits I provided in my
7 investigative report.

8 Q And sir, as we sit here today, do you
9 not remember whether two patrons were there when
10 you entered the restaurant?

11 A As stated in my initial testimony,
12 there were two patrons seated at the table upon
13 my entrance into the establishment.

14 Q I showed you Defense Exhibit 4 and you
15 testified that was you entering the restaurant,
16 correct?

17 A Yes, however, the timestamp that is on
18 the exhibit which you provided can be
19 manipulated. So, in accordance with the exhibit
20 which you did provide the Court, yes, that was me
21 in the photo at approximately 10:54 p.m. and a
22 few seconds, yes.

23 However, whether or not that is an
24 authentic time is up to personal opinion.

25 Q I have no further questions.

1 CHAIRPERSON ANDERSON: Mr. Williams,
2 do you have any redirect?

3 REDIRECT EXAMINATION

4 BY MR. WILLIAMS:

5 Q Yes, just briefly. I'm going to share
6 Defense Exhibit 4. Give me one second, please.
7 I'll redirect here. Can you see Defense Exhibit
8 4?

9 A Yes.

10 Q On the table, can you see my cursor?

11 A Yes.

12 Q There's a picture, the margarita
13 pitcher, is that empty or is there alcohol in
14 that pitcher?

15 MR. COWDEN: I object, that calls for
16 speculation.

17 CHAIRPERSON ANDERSON: I'm going to
18 overrule your objection. On the receipt it said
19 they purchased a pitcher.

20 If he can answer the question, he can,
21 if he can't, he can't but I'm going to overrule
22 the objection and allow him to answer it.

23 REDIRECT EXAMINATION

24 BY MR. WILLIAMS:

25 Q Looking at the glass that's in front

1 of the patron, the female patron there, does that
2 glass appear to be full? Can you see through a
3 portion of the liquid if there's liquid at the
4 bottom of that glass?

5 MR. COWDEN: Objection to the form of
6 the question.

7 CHAIRPERSON ANDERSON: Rephrase.

8 REDIRECT EXAMINATION

9 BY MR. WILLIAMS:

10 Q Does the glass look full?

11 A The glass looks half full with
12 alcoholic content.

13 Q Your Honor, permission to share the
14 investigative report again, please?

15 CHAIRPERSON ANDERSON: You are able to
16 share your screen so you can continue. I don't
17 believe she took away that right.

18 REDIRECT EXAMINATION

19 BY MR. WILLIAMS:

20 Q Now, we go back, same depiction
21 looking at your picture that you took at
22 approximately 11:54 a.m., what does that glass
23 look like there?

24 CHAIRPERSON ANDERSON: Mr. Williams,
25 could you please have the witness identify what

1 we're looking at, please?

2 (Simultaneous Speaking.)

3 I'm just saying, what exhibit are we
4 looking at for the record? That's what I'm
5 asking.

6 REDIRECT EXAMINATION

7 BY MR. WILLIAMS:

8 Q No problem. I'm not showing you back
9 to your Exhibit 1 for the District, back to your
10 investigative report, and now we are showing you
11 the first photo in your investigative report
12 labeled Exhibit 1.

13 It's a picture of the patrons, once
14 again. The glass in front of the patron, does
15 that glass look full?

16 A The glass looks full of alcohol
17 content.

18 Q No further questions, Your Honor.

19 CHAIRPERSON ANDERSON: Thank you, it's
20 4:32 p.m. The licensee has not presented its
21 case and it's not apparent to me that we have
22 sufficient time before 5:00 p.m. for the licensee
23 to present its case.

24 Are there parties available to
25 reconvene this hearing at 11:00 a.m. tomorrow?

1 MR. WILLIAMS: One moment, I need to
2 check my calendar.

3 MR. COWDEN: Would it be possible to
4 move that? I have a doctor's appointment at 9:00
5 a.m. I'm just not sure if it will be done but
6 I'm sure it will be done by 1:00 p.m.

7 MR. WILLIAMS: I'm also available at
8 1:00 p.m.

9 CHAIRPERSON ANDERSON: We're going to
10 adjourn for the day and we will reconvene at 1:00
11 p.m. tomorrow afternoon. Okay? We're formally
12 adjourning this case and we will reconvene at
13 1:00 p.m. tomorrow.

14 Thank you very much.

15 (Whereupon, the above-entitled matter
16 went off the record at 4:35 p.m.)

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A	
A-N-T-O-I-N-E 9:7	26:8 38:2 39:17 40:4
A-V-R-I-L 11:21	46:11 47:1,8 50:4
a.m 12:19 51:15 60:16	51:6,23 62:7,10 64:13
65:22 66:25 67:5	66:16
ABC 3:5	alcohol- 20:24
abilities 8:17	alcohol-serving 49:10
ability 3:23	alcoholic 1:2,14 16:16
able 10:2 21:17 22:6	16:21 47:5 50:17
26:19 35:24 38:13	51:23 53:23 54:5,9,18
39:3 41:12 50:6 52:24	54:21 60:20,22 61:25
62:6 65:15	62:13 65:12
above-entitled 18:22	ALIYA 1:19
56:10 67:15	allotted 47:14
above-referred 23:9	allow 64:22
44:7	allowed 57:8
ABRA 1:22,23 13:7	allowing 22:6
16:11 18:12 20:3,5,19	alternate 27:23
20:20,22,24 21:6 51:5	alternative 56:22
abuts 38:10	amendment 24:15
access 10:20 33:2 35:5	ANC 1:8
accident 51:2	and/or 20:23 21:9 26:13
accurate 59:22 62:6	28:25 30:23 51:25
act 57:5	61:13
activity 21:4	Anderson 1:15,18 3:3,5
actual 50:9 61:1,13,15	5:1,4,8,10 6:6,25 8:5
61:16	8:8,15,19,25 9:9,20
add 52:16	10:7,21 11:11,16,22
additional 26:13 44:11	12:2,9,25 13:2,13,19
57:13	14:1,18,22 15:5 16:25
address 15:8	18:25 19:7 21:12,19
adds 57:13	22:19 23:6 24:20 25:4
adjourn 58:8 67:10	25:14 28:10 29:8,12
adjourning 67:12	31:3,13 32:15,19 33:7
Administration 19:20	33:14,24 34:12 35:1
admit 43:12,16	35:16,19 36:8,17
admitted 23:8 43:13	43:11,15 44:1,4,15,19
Adobe 25:6,8,10 33:5	45:22 46:4,13,17
advised 60:3	47:17 48:2,8 49:12
advisement 15:6	50:12,19,23 52:9,13
affirm 8:10	55:11,19,25 56:6
afternoon 3:3,4,7 4:23	58:20 64:1,17 65:7,15
5:10 9:4,9,17 39:23	65:24 66:19 67:9
58:6 67:11	Andras 4:12 10:21
afternoon's 3:14,18	21:12 31:3,18 44:19
4:10	ANDREWS 1:22 4:15
agencies 21:2	10:6,8,23 11:10 21:15
agency 5:18 21:1 33:3	25:5 31:6 32:1,6
39:22 57:25 58:21	33:19 34:14,25 36:1
aggressive 26:12	44:21 45:1,11,19
agree 62:18	angry 26:8
ahead 10:7 11:4 16:8	answer 4:8 52:21 54:11
25:4 29:12 34:13 37:7	62:7 64:20,22
50:23 52:13 53:1 59:3	Antoine 1:24 4:18 9:5
alarm 58:14	anymore 45:14,15
alcohol 17:9 18:7,18	apologize 6:6 53:10
19:19,23 20:4,6,23	apparent 58:3 66:21
21:5 22:6 23:21 26:7	appear 55:1 65:2
	appears 9:13 54:11
	application 25:6,7 32:7
	32:10
	applications 34:20
	appointment 67:4
	appropriate 56:25 57:3
	57:21
	approximately 16:10
	20:16 25:20 26:23
	27:1 47:13,25 60:6
	63:21 65:22
	area 17:20,21 30:16,18
	38:15 40:18,21 42:2,5
	42:18,23,25 43:2,3,8
	areas 40:1
	arrangements 58:1
	arrival 30:3
	arrive 23:14 60:16
	arrived 16:14 29:23
	30:1,2 59:8 60:5,13
	arrow 40:22,25
	asked 17:12 26:3 48:23
	55:14 59:11
	asking 14:23 15:1 18:3
	32:15 35:13 48:9
	52:21 66:5
	assigned 39:22
	assistance 4:7
	assumed 19:12
	attached 13:24
	attachment 21:10
	attempt 40:4
	attendance 3:10 62:9
	attention 6:19 12:5,17
	41:15
	attorney 9:1,10 14:6
	audio 10:11
	authentic 63:24
	authority 44:17
	automatically 43:19
	available 37:2 66:24
	67:7
	aware 21:1 61:5
	B
	bachelor's 20:12
	back 18:25 33:21 34:14
	38:25 43:8 49:14
	56:13 62:20 65:20
	66:8,9
	bag 18:3 37:19 39:13
	46:1 48:18 49:13
	bags 17:12,13
	bandwidth 6:22
	bar 27:8 30:16 38:14
	40:9 42:7 43:2
	based 12:12 13:6,10,11
	15:2 18:20 20:21 21:8
	27:3 49:4 54:7,24
	55:13 62:8 63:4
	bathroom 17:22
	behalf 9:18
	believe 8:1 13:23 34:2
	35:11 62:4 65:17
	bench 38:13,17,18,20
	38:22 41:2,4,18,21
	42:15
	best 8:16 51:10
	better 11:10
	beverage 1:2,14 19:19
	50:11 53:23 54:5,9,15
	55:4
	beverages 16:16 23:21
	26:7 46:11 47:5 50:4
	50:17 51:23 53:7
	54:18,22 60:21,22
	61:25 62:13
	beyond 41:1
	bill 18:2
	bit 36:6
	black 43:1
	block 25:8
	blue 35:21,22 41:5
	blues 35:23
	Board 1:2,14 3:5,6,10
	5:11 12:5 14:24 15:1
	15:3,5,11,24 17:7
	18:20 50:20 52:10
	55:12,14 56:8 59:6
	Board's 2:16 22:20 23:7
	43:18
	Bobby 1:18 3:8
	booth 38:6
	bottom 35:15 37:12
	60:2 65:4
	box 32:5,6 45:10
	break 55:16,18,24 56:2
	56:3,5,23 57:1,20,22
	breaks 57:1,3,6,10,23
	briefly 20:18 23:18 64:5
	bring 12:4,16 23:3
	brown 50:11
	bucket 40:23,24 41:1
	42:19
	business 3:11
	button 45:5
	buy 39:16
	C
	C-O-N-T-E-N-T-S 1:25
	calendar 3:14,18 4:11
	67:2
	call 11:13,14,25 15:20
	16:24 19:3,6 51:13,16
	51:17
	called 3:19 10:16 19:11
	calls 64:15

camera 3:21,25 5:2,5,7
 6:15,24 7:1,10 8:6
cameras 4:4 7:21
carry-out 17:12,13
carrying 7:23
case 1:9 2:16 3:18,23
 4:1,4,10,11,14 13:14
 13:15 14:6,10 15:19
 15:25 16:1 17:3,7,9
 18:15 22:24 23:7 33:1
 43:17,17,21 59:13,13
 59:15,19,21,24 60:2
 66:21,23 67:12
cases 3:17
Cato 1:18 3:8
cause 1:7 12:3 13:21
 56:14
cease 16:21 47:3,9
certain 20:7
certifications 20:10
certified 8:24
chair 4:22 5:11 9:17
 36:5,16 50:22 56:21
 56:24
Chairman 3:6 9:5 19:5
 22:17 23:4 34:3 43:11
 52:15 55:9 58:18
Chairperson 1:15,18
 3:3 5:1,4,8 6:6,25 8:5
 8:8,15,19,25 9:9,20
 10:7,21 11:11,16,20
 11:22 12:2,9,25 13:2
 13:13,19 14:1,18,22
 15:5 16:25 18:25 19:7
 21:12,19 22:19 23:6
 24:20 25:4,14 28:10
 29:8,12 31:3,13 32:15
 32:19 33:7,14,24
 34:12 35:1,16,19 36:8
 36:17 43:15 44:1,4,15
 44:19 45:22 46:4,13
 46:17 47:17 48:2,8
 49:12 50:12,19,23
 52:9,13 55:11,19,25
 56:6 58:20 64:1,17
 65:7,15,24 66:19 67:9
change 36:22 37:4
 44:24
charge 15:2 33:1
charges 13:21 18:20
check 17:11 28:21,25
 29:6 67:2
choose 15:17 34:5
chooses 4:3
Chrome 32:9
circumstances 57:23
citation 12:22,23 22:3
city 40:2

clarification 14:3
clarify 6:8
clarity 49:16
clear 3:15 7:2
clearer 6:23
click 33:12
clicked 45:14
client 10:18,25 31:14
 31:15 33:25
client's 35:11 45:18
close 45:9,16
closed 17:11 28:20,25
 29:5
closing 18:2
code 34:8
Cokes 17:17
Columbia 1:1 19:21
 20:8 49:10
come 33:21 34:14
comes 14:5 45:4
coming 31:23,24 44:23
communications 9:24
company 58:11
complete 16:14
completed 47:24 48:7
completing 20:19
compliance 18:12
computer 10:19 11:9
 31:17,19,23 33:15,17
 33:18 35:2,4,7,8
 36:22,24 37:4 45:17
 45:18,21
computers 10:25
concerns 7:8,16 9:24
conclude 49:9 58:13
concluded 4:4
conclusion 3:25
conduct 3:11,15 20:5
 24:2 29:23
conducted 20:21,22
 30:22 47:23
conducting 20:10 26:2
 36:24 40:1
confirm 8:2
conflicted 46:18
confused 48:10 49:21
connection 6:23 51:2
considered 47:6
consists 39:20
constitutes 3:11
constraints 56:20,21
 57:12,17
constructed 21:7 22:2
consume 22:6 61:6
consumed 54:14 55:5,5
 61:6
consuming 16:16 18:18
 29:18 30:6 47:5 49:6

51:23 60:20,20 61:4
consumption 16:21
 47:2,2,7,9 49:9 51:7
 62:15
contact 24:6 26:11
 58:22
contain 55:4
content 65:12 66:17
contents 48:19
continue 58:6,7,8,10,23
 65:16
contractor 5:17
control 1:2,14 36:4
 56:15
conversation 26:25
conversion 53:15
copies 32:20
copy 13:20,22 26:3
 59:15
corner 39:8
Corporation 1:6 16:12
correct 28:4,16,22
 29:18 30:11 37:16,20
 37:24 38:3,6,11,23
 39:2,12 40:14,19 41:2
 41:7,11,19,24 42:11
 42:16,21 43:9,14 46:2
 51:8 52:4 53:21 59:13
 59:22,25 60:24 62:21
 63:16
Counsel 1:23 19:11
 28:19 59:11
couple 18:1 38:1,2
 39:11
court 8:24 63:20
covered 25:1
COVID-19 39:19 47:16
Cowden 1:23 4:21 9:17
 9:18 10:8,17 11:6,22
 12:1,9,10 13:8,13,14
 13:23 14:18,20 15:1
 15:10 17:1,6 22:17
 28:11,13 29:9,10,15
 31:9,13,21 32:1,4,11
 32:17 33:4,7,10,19
 34:22,23 35:1,10,18
 37:9 43:25 44:12,13
 44:17,23 45:1,8,14,20
 55:13 58:18 59:3,5
 64:15 65:5 67:3
criminal 20:13
critical 7:24
Crockett 1:19 3:8
CROSS 2:7 28:12 29:14
 31:8 35:9 37:8 59:4
cross-examine 15:23
CT 1:8
curfew 22:7 47:14 49:7

current 14:13 23:23
 47:16
cursor 33:20 35:2,8
 44:21,24 45:2,6,12
 64:10
customer 18:8 37:15,18
 41:16
customers 18:17 29:17
 48:14 59:8 60:5

D

D.C. 12:15 21:9
Dantzer 20:17
date 14:15
day 67:10
DC 1:22,23,24
DCMR 13:5,11 14:14
 16:20
decision 14:24
Defendant 2:18
Defendant's 31:11 44:9
Defense 40:7 63:14
 64:6,7
deliberation 49:15
denied 18:8
Department 21:3
Depending 57:19
depiction 65:20
describe 20:2,18 23:18
 49:24
DESCRIPTION 2:12
desktop 34:17 45:4
detail 49:25
determination 15:12,13
 39:4
different 27:13 40:1
dinner 46:12 61:23
dire 57:5
direct 2:7 19:15 21:20
 23:12 25:15 41:15
 59:12
directed 14:13
Director 57:25 58:21
disability 22:18
disabled 3:25 4:5
disappearing 18:4
dismiss 15:2 18:20
distract 6:19
District 1:1 11:14 12:8
 16:9 19:20 20:7 49:10
 66:9
doctor's 67:4
document 13:8 21:25
 23:3,10
documents 23:2 24:23
 32:20 43:20,23 44:8
doing 5:13,16 6:8 24:21
Donovan 1:15,18 3:5

5:10 9:5
door 27:10,15,17,19,20
 27:22 40:13 42:9
doors 27:7,13,20,21
draft 22:9
drafted 22:13
drink 54:1 62:9
drinking 24:13 38:2
drinks 17:14 51:18
driving 17:18
drop- 45:3
due 26:7 29:2 39:19,21
duly 19:12
duration 26:21
duties 20:2
duty 20:4

E

Earl 20:17
earlier 26:22 43:12
 60:18
Eastern 20:14
eating 61:23
Edward 1:19 3:9
effect 12:23 13:16
 16:18,18 24:16 47:1,8
either 12:4 20:21
elevate 3:20 4:13
elevated 4:17,18,19,20
 4:22 31:7
email 4:9
emergency 12:13,14
 13:6,7 14:16 16:18
 57:5
employer 58:22
empty 60:24 64:13
enable 3:20,23
enforcing 51:21
engage 26:24
English 8:12,15,16
ensure 7:22
entered 23:5,16,19,20
 27:18 28:14 30:9
 37:16,20 38:22 39:15
 40:12,13 41:17,22
 42:16,20 47:10,18
 52:2 60:19 62:18
 63:10
entering 18:6 63:15
entire 25:9 34:17 45:10
 45:17
entrance 40:10 42:8
 43:5,6 48:21 62:23
 63:13
entry 23:22 27:5,7,15
 27:19,21,25 28:7,18
equipment 3:23
equivalence 53:16

especially 14:10
establish 5:18
establishment 16:13
 20:25 22:15 23:16,19
 23:20,23 26:5 27:3,4
 27:6,10,21,25 28:7,18
 29:22,23 30:3,16,20
 40:11 42:8 43:5 47:6
 47:11,18,20 48:14,21
 48:22 51:14 54:19
 60:13,17,19 63:13
establishments 20:7
 49:3,11
ethical 34:7
evening 24:5 39:25
event 26:11 45:20
everybody 36:2 51:17
evidence 17:7,18 18:5
 18:10,15,21 23:5,8,10
 43:16,17,19,24 44:5,8
exact 43:4
exactly 50:6 60:25
examination 19:11,15
 21:20 23:12 25:15
 28:12 29:14 31:8 35:9
 37:8 59:4 64:3,23
 65:8,18 66:6
examined 19:13
excellent 52:8
executive 22:5 24:14
 46:25 47:7,15 49:8
 51:22 56:8
exhibit 2:12 13:24
 21:11 22:18 23:5,11
 24:18 25:18 28:24
 31:11,21 32:14,16,18
 35:12,14 36:14,19,21
 37:1,2,11,22 38:19,21
 39:5 40:6,7,14,18
 41:15 42:1,1,14 43:6
 44:4 45:24 46:6,7,8
 46:14,14,19,19,20,22
 48:10,13 49:19,20
 50:1,13,14 52:20,20
 52:23 53:1,3,5,11
 54:23,24 55:2,2 62:25
 63:1,14,18,19 64:6,7
 66:3,9,12
exhibits 10:20 11:9
 12:11 31:1 32:14
 33:11 43:13 44:9 63:6
existing 11:9
expect 5:20
expectations 5:22
expected 3:16
experience 29:3 54:8
 62:2
expired 24:17

expires 12:19
extension 12:13

F

facilitator 32:25
facing 27:8
fact 12:17 30:17 58:7
failing 16:20
fair 15:2 38:16
faithfully 8:11
familiar 13:18 42:5
far 24:12 60:10
fast 13:9
fear 26:7
feature 4:9
feedback 9:21,25 10:13
feel 26:14 49:14
Felicia 20:17
female 23:24 40:3 43:1
 50:3,16 65:1
fiesta 28:6 54:1
figure 33:9,17
file 32:5
files 35:6
find 7:12 57:21 58:5
fine 45:19 52:25
finish 55:21 56:1 59:1
 62:4
finished 51:18,22 61:4
first 4:10 5:11 15:20
 19:4,12 24:18 27:15
 45:4 55:5 66:11
flutes 23:21
folder 33:12
folks 7:15 61:23
follow 29:10
follows 19:14
food 37:19 50:9 53:7
Forget 34:13
form 65:5
formally 67:11
four 3:17
foyer 27:16
freely 34:10
front 23:22 26:9 27:10
 27:24 40:10 42:9
 46:11 50:4,17 59:16
 60:23 61:25 62:1,14
 64:25 66:14
full 25:12 46:10 62:12
 65:2,10,11 66:15,16
further 25:25 28:9
 57:23 63:25 66:18

G

gain 27:21
general 14:7 40:20
 42:23,25 43:3

generated 21:4
gentleman 18:3 38:5,14
 38:17 41:2,22 62:19
give 16:6 21:13 31:4
 35:4 53:10 59:2 64:6
given 33:15
giving 33:25 34:4
glass 50:10 64:25 65:2
 65:4,10,11,22 66:14
 66:15,16
glasses 46:10 54:15
 55:4 62:14
Government 2:14 9:6
 15:16,20,21,24 21:9
 23:11 46:20
Government's 9:1
 12:10 43:16
Grandis 1:19 3:9 19:1
 52:12,14,15,25 53:4
 53:17,21 54:3,10,23
 55:9
grayed 25:11
guess 22:22 23:2

H

half 24:22 25:1 27:24
 65:11
hand 8:10 19:8 41:13
Hansen 1:20 3:9 36:15
happen 7:22
happening 10:11 45:9
Haydee 22:4 42:20,22
Haydee's 1:6 4:11 9:18
 16:12 22:10 23:14
 40:11 42:9 62:24
head 6:17 7:3
headphones 10:10
health 12:14
hear 11:2,5
heard 3:24 59:25
hearing 1:8 3:14 4:7
 5:13 7:5,23 8:21 10:5
 10:13 11:12,23 12:3
 13:20 14:25 15:4 36:2
 36:25 55:20 56:14,19
 57:14 58:3,8 59:1
 66:25
hearings 3:16
help 33:3,14
helpful 33:10
Hi 11:19
hire 26:13
hit 32:6,9,10 33:21,22
 44:22 45:7
Hold 16:25 24:20 55:19
 58:20
Honor 13:1,25 14:21
 16:23 44:14 65:13

66:18
hour 49:1 55:20 57:20
 57:22
hours 1:11 53:16 55:16
 55:17 56:5 57:19

I

ice 62:12
idea 29:16 30:22 42:12
 56:16 61:3
identify 9:11 65:25
image 25:8
immediately 7:16
important 59:22
incident 30:22
included 43:21
inconsistent 60:8
incorrectly 53:9
indicate 55:3
indicated 17:16 18:2
 30:10 59:7,12 60:11
indicates 12:11
individual 56:24
individuals 27:14 45:25
indoor 16:21
inform 24:8
information 6:2 29:19
 49:4
informed 24:12
initial 63:5,11
initially 13:9 62:22
inquire 48:19
inside 47:5 51:14
inspection 16:15 20:22
 24:3 26:3,21 28:1
 29:24 30:21 47:23,24
 48:7
inspections 20:6 40:1
Inspector 52:16
instruction 34:1
instructions 3:15 34:4
 35:5
intake 62:8
intent 59:23
intentions 18:2
intently 49:20
interactions 51:20
Internet 6:22 7:7,16
 30:19
interpret 16:7 34:5,6,8
interpreted 57:13
interpreter 1:24 4:24
 8:24 16:6 34:10 55:15
 55:23 56:4 58:2,6,12
 58:23
interpreters 34:4
interpreting 6:3,4 8:14
 34:11

introduce 9:1
invalid 12:22
investigating 21:6
investigations 20:6,11
investigative 14:4
 20:19,20 21:7 22:1,9
 52:18 63:7 65:14
 66:10,11
investigator 1:23 2:9
 4:16 11:15,19,20
 16:11 18:6 19:23,25
 20:3,5,16,23 21:5,8
 37:10 46:3,9,15,24
 47:21 48:6,17 50:2,15
 51:1,5,9,20 52:5,22
 53:2,13,19,24 54:7,17
 55:7 60:3
investigators 39:20,22
invoice 53:6,12
is's 11:20
issue 14:23 15:7,13
 17:8
issued 12:18,24 14:11
 14:17 22:3
items 39:14

J

James 1:20 3:8
January 12:18,19 13:11
 14:15 16:19 24:16
Jeni 1:20 3:9
Joining 3:7
Jones 20:17
JR 1:18,20
juncture 17:2 57:18
justice 20:13

K

keep 10:19 34:18
knowing 18:14,16
knowledge 54:4
known 56:20,24 57:17

L

labeled 66:12
lack 15:2
lady 41:4,18 42:15
law 23:7
Lead 20:16
leads 27:16
leave 4:2 47:19
left 17:22 18:1 27:9
 30:10,18 36:3 40:14
 41:18 45:5,20
length 48:1 49:2
Let's 50:12
License 1:8 4:12
licensee 9:11 15:17,22

15:25 16:7 19:12
 45:25 52:2 66:20,22
Licensee's 1:23
licensees 51:21
lieu 22:2
light 35:22,22
lighted 42:2
lights 41:6
line 9:14,23,25,25 11:5
lines 9:15
liquid 65:3,3
listed 3:17 13:21,22
 29:4
little 25:25 36:6
located 16:13 27:4
 30:14,15 40:17 41:10
location 9:14
logged 10:16,24
login 10:4
long 16:6 19:24 29:16
 30:5 48:23 56:15
 57:15
look 35:14 36:20 37:1
 38:12 46:10 49:20
 50:12 53:5 54:4,4
 55:5 65:10,23 66:15
looking 13:14 35:19
 40:10 49:25 50:2,14
 50:15 54:12,23 64:25
 65:21 66:1,4
looks 53:7,8 65:11
 66:16
lot 7:4
lower 39:7

M

ma'am 5:2 8:22
main 27:8,21 30:15
 38:14 40:9 42:7 43:2
male 17:21 23:23 39:24
 50:3,10,16
manipulated 63:19
March 12:23 16:10 17:8
 22:11,15 23:15 28:21
 37:24 39:11 46:24
 51:12
margarita 28:6 53:8,22
 53:25 62:14 64:12
MARK 2:12
marked 31:10 37:11
 40:7
Maryland 20:14
matter 1:5 11:12,23
 15:6 16:5 18:22 23:7
 56:10 58:23 67:15
matters 12:4
Mayor's 1:10 12:12,17
 13:15 18:14 22:5

24:14 46:25 47:7,15
 49:8 51:5,11,21
meal 17:9 29:18 30:7
 39:12 60:20 61:4,6
meaning 6:10,11 51:13
measures 12:14 56:22
Media 32:8
MEETING 1:3
Member 1:18,19,19,20
 1:20 36:15 50:22,25
 51:10 52:1,6,12,15,25
 53:4,17,21 54:3,10,23
 55:9
members 3:10 50:20
 52:11 55:12 56:8
mentioned 49:13
menu 54:4
met 1:15
Metropolitan 21:2
mic 10:11,24 11:2
microphone 3:21 10:19
 11:7
microphones 4:4
middle 24:25 41:6 42:2
 56:3 57:1,6,24
mind 34:18
mindful 16:5
minute 59:2
minutes 27:1 47:14
 48:1 49:1 54:12,20
modified 12:14
moment 3:19 67:1
money 51:17
monitoring 30:19
months 20:1,16
Mount 1:7 16:14
mouse 35:7
move 7:16 14:19 32:5
 34:24 35:3,3,6,13
 43:12,16,24 67:4
moved 23:6 43:21 44:5
multiple 14:10 34:19,20
mute 9:14 10:18
muted 3:24 11:6

N

name 3:5 5:10 8:20 9:3
 9:5,7,7 11:17,20,21
 16:12 32:2 54:1
navigate 27:13
near 22:13 27:9
necessarily 29:5
need 3:14 5:9,13,15
 6:20 31:1 33:9,16
 34:2,13,14 35:3 36:5
 36:8,9 37:1,3,3 43:12
 49:13 56:20 57:17,20
 67:1

needs 9:14 31:20 55:23
56:4,24 57:8
Nema 24:7
never 40:3
NHV 1:6
night 22:14 39:16,20
40:4
NIV 16:12
normally 5:7 6:15 29:3
note 6:13
noted 54:8
notes 44:14
nothing's 45:9
notice 13:4,10,20 14:12
15:3
notified 26:10
NW 1:7 16:14

O

OAG 1:24
object 64:15
objection 29:9 44:2,6
64:18,22 65:5
observations 21:8 24:5
observe 48:12 51:11
observed 16:15 20:23
28:6 60:4 62:11
occur 15:15
occurs 5:24
October 1:13
Office 14:6
official 21:9
OG 47:21
on-premise 47:2,6 49:8
on-the-job 20:15
once 3:18 11:2 15:24
17:3 45:3 57:4 66:13
online 11:24
open 9:15 10:1 25:7,10
28:25 29:5,6 32:13,16
33:4,6,13 34:20,20
opened 48:24
opening 15:16,18,19,19
16:2 17:1,3,4 59:25
opens 11:2
operate 5:19 33:17 34:1
35:4,8
Operating 1:10
operators 17:25
opinion 63:24
opportunity 15:23 16:1
16:7
option 4:1 34:18
options 36:3
order 12:12,17 13:7,16
13:17 14:13,17 16:18
18:14,16 22:5 24:15
27:23 46:25 47:7,15

49:8 51:6,11,22
orders 1:10 13:6 14:11
30:19
outside 11:23
overrule 64:18,21
owner 11:24 12:1 22:4
24:6 26:18,24 30:13
30:14,15,17 39:1
40:17

P

P-R-O-C-E-E-D-I-N-G-S
3:1
P-R-O-U-T 11:21
p.m 3:2 16:11,16,22
17:10,12 18:8,18,23
18:24 22:8 23:17
24:13 25:24 26:5 28:2
28:8,21 29:1,3,22
30:4 35:21 39:17
46:15,16,21 47:3,9,11
47:12,18 48:7,25 49:7
49:9 51:6,18,25,25
52:3,3,23 53:3,16,20
54:16,21 55:1,3 56:7
56:7,11,12,14 58:2,3
58:4,11,13,14,16,24
59:8 60:6,11,12,12,13
60:14,15,16 61:20
62:3,5,15,16 63:2,21
66:20,22 67:6,8,11,13
67:16
packages 48:15
packed 39:12
Page 13:15 59:18 60:3
pall 42:19
pandemic 39:19,21
47:16
papers 12:11
part 7:4 22:20 23:7 34:7
43:18
participate 45:17
participating 56:19
particular 13:5
particularly 42:23
parties 4:1,13 7:24 62:9
66:24
partitions 27:13
partner 21:2 39:25
party 3:20 4:3
patient 50:3
patients 29:21 30:2
46:10 49:6 51:14
patron 17:21,24 23:22
23:24 28:15 50:6,10
62:15 63:3 65:1,1
66:14
patrons 16:15,21 17:8

17:20 22:6 23:21
24:12 26:4,12,19,20
27:4,8,19,24 28:17,20
30:1,5,10 39:8 43:7
47:4 48:22 50:16
51:22 60:13,16,19
61:3 62:2,23 63:5,9
63:12 66:13
PDF 32:12,18
people 6:14 7:20 51:11
perfect 18:12
performed 20:24
period 48:11 62:21
permission 21:13 31:1
31:4 33:16 65:13
person 5:9 7:6,18 10:12
32:17,20,23 46:11
50:5,18 62:8,8
person's 62:7
personal 63:24
Phase 12:14
phone 61:12
photo 2:21 24:19 35:12
35:13,15,18,20,24
36:7,9,10,11,12 37:12
37:14,23 38:3,5,7,9
40:22 41:12,14 61:16
63:21 66:11
photograph 39:10
40:18 41:7 53:18,20
54:24 55:2,6
photos 32:13 43:25
61:7,14,19,19,22
picking 10:11
picture 24:19 25:18,21
25:24 26:22,24 28:3
34:24 42:2 46:18
64:12 65:21 66:13
pictured 38:2
pictures 49:22,23 54:25
pitcher 2:21 28:6 53:8
53:22,25 54:6,13,14
62:3,5,10,11 64:13,14
64:19
pixel 39:8
place 26:14 44:21 47:15
placed 30:23
placement 38:13
Plaintiff's 21:11
plan 11:25
plastic 48:18 49:13
plate 50:9 60:23,24
61:1,1 62:1
play 31:23 33:18
Player 32:8
playing 32:7,9
Pleasant 1:7 16:14
please 4:8,13,14 5:5 8:3

8:10,20,22 9:1,2,3,12
11:17 15:8 16:4,5
17:6 19:4,8 23:18
31:4 44:20,21 46:5,6
46:7 49:18 50:13
55:17 64:6 65:14,25
66:1
point 14:8,24 17:23
21:18 24:22,22 50:5
police 21:2,3 26:11
portion 65:3
position 12:21 19:22
possess 20:12
possible 32:13 67:3
possibly 41:14
practices 51:11
prefer 7:15,17 14:20
preliminary 12:3
premises 52:2 62:19
prepared 15:4 59:13,24
present 1:17,21 15:21
16:1 17:3 22:24 66:23
presentation 15:9,11
18:19 51:2 52:17
presented 66:20
presiding 1:15
previously 61:24
price 54:2
printed 54:13
prior 15:18 18:5 30:3,21
58:2,10
problem 6:24 7:2,3,4
9:22,23 22:25 25:2,17
33:11 66:8
problems 10:4
procedural 15:12
proceed 15:3,4 58:19
proceeding 56:15,16
57:12,16
proceedings 5:24 8:11
process 15:15 20:18
33:3
professional 6:11 29:2
51:4 54:8
Prout 1:23 2:9 4:16
11:15,16,19 16:11,24
18:6 19:6,7,10,18
21:11,24 25:17 45:23
46:3,9,15,24 47:21
48:6,17 49:24 50:2,15
51:1,9,20 52:5,16,22
53:2,13,19,24 54:7,17
55:7 60:3
provide 58:12 62:6
63:20
provided 17:13 49:5
62:3 63:1,6,18
public 12:13,13

punishable 18:13
purchase 18:7,9 40:4
purchased 17:9 64:19
purpose 23:25 24:2
purposes 62:15
put 33:20 47:14

Q

question 4:8 22:23
 29:11 39:21 40:5 48:9
 51:1 54:10 62:17
 64:20 65:6
questioning 59:6
questions 4:6 6:2 21:23
 21:24 28:9,11 44:11
 45:23 50:20,21 52:10
 55:12,13,14 59:11
 63:25 66:18
quite 22:20
quorum 3:12

R

Rafi 1:19 3:8
raise 8:9 15:11 19:8
raised 15:8
read 53:21,25
reason 6:18,21 7:24
 48:9
reasonable 51:13,15,19
 62:4
reasons 6:15 7:14
recall 25:20 42:22 43:4
 60:25 62:13 63:5
RECD 2:12
receipt 26:1,1,4 28:2,3
 28:5,19,23 29:4,5,20
 53:13,15,22,25 54:5
 54:12,13 60:14 64:18
receipted 26:20
received 20:15 23:10
 30:23 44:8
recess 56:7
recognize 21:24 31:12
 35:14 37:11 39:6,7
 40:8
recollection 50:8 63:4
recommendation 14:5
reconvene 66:25 67:10
 67:12
record 8:21 9:2,12
 11:18 18:11,23 19:1
 22:23 23:8 33:8 34:9
 43:18,22 49:17 53:5
 56:11,13 66:4 67:16
records 22:20 55:3
RECROSS 2:7
redirect 2:7 64:2,3,7,23
 65:8,18 66:6

reference 60:11
referencing 13:9 22:4
referred 14:6
referring 13:17
reflect 28:5
reflected 28:23
reflects 53:14
regarding 53:7
regards 51:10
Regulation 19:20
regulations 14:9 18:12
regulatory 16:15 20:5
 20:21 24:3 26:2,21
 27:25 29:24 30:21
 47:22,24
relating 20:10
relation 47:15
remain 3:24
remember 42:24 45:24
 63:9
reminded 16:4
removal 54:21
remove 22:22 26:7
removed 26:8 51:24
 54:16,18
removing 14:23
reopening 12:15
Rephrase 65:7
report 2:16 13:15,15
 14:4 20:19,20 21:3,7
 22:2,10,13 23:7 30:23
 43:17,18,21 48:4,5
 51:3 52:8,18 59:13,15
 59:19,21,24 60:2,11
 60:15 63:7 65:14
 66:10,11
representing 9:6,11
require 4:7 7:21
requires 18:13 56:23
response 13:3 14:19
 39:21
responsibility 14:8
responsible 21:6
restaurant 1:6 4:12
 9:19 16:12 17:19 18:1
 18:4,6,11,17 22:4,10
 23:15 26:15 27:9,12
 28:15 29:17 30:1,6,9
 30:18 37:16,20,23
 38:11,22,25 39:11,15
 40:11,13,17 41:11,17
 41:22,24 42:6,9,13,16
 42:21 46:1,12 48:12
 61:20 62:24 63:10,15
rested 15:25
restrooms 42:11,12
resumed 18:24 56:12
Retailer 1:8

retrieve 26:1
return 56:8
returned 41:23
returning 38:6
review 27:3,19
reviewed 24:14
reviewing 44:13
rights 3:20 4:13,16,17
 4:18,20,21 31:6
role 8:21
room 9:16,21 10:9,15
routes 27:23
ruling 43:12
running 41:6

S

S 1:19
safe 26:14
Sandra 1:24 4:24 8:23
saves 6:22
saw 23:19,21 30:10
 45:25 62:23
saying 6:14 51:6 66:3
says 13:15 34:16
scheduled 3:17 55:17
 55:20,21
science 20:13
screen 7:8,12 10:3 11:8
 21:14,16,18 24:25
 25:1,9,13 30:25 31:5
 32:2,3,4 33:5,13,16
 33:21 34:15,16,22
 35:11,20,21 37:6
 38:19 44:16,22,24
 45:3,12,21 46:5 49:19
 61:15 65:16
screens 10:18
scroll 21:22 24:18
 25:25 34:19 47:22
seat 17:22 38:14 41:21
seated 17:19 27:9
 39:11 43:4 48:22 50:3
 50:16 61:24 62:14,23
 63:3,12
second 5:6 6:13,18
 17:1 27:16,19,20 55:6
 64:6
seconds 63:2,22
Section 13:5,11 14:15
security 26:13
seeing 7:2,6 24:22
 35:21 36:11,12 46:7,9
 46:19 49:22 53:9 63:5
seen 17:23,24 42:8
select 32:7 34:15,16
send 39:16 61:13
sense 6:10 48:13
sent 13:10 18:7 40:3

series 21:23
served 54:20
service 51:7
services 47:1
serving 20:25
session 3:4 56:9
set 58:13
sets 27:7
share 10:2,18,25 11:8
 21:13,16 25:9 30:25
 31:4,22 32:2,6,10,21
 33:16,22,23 34:15,17
 46:5,5 49:19 61:15
 64:5 65:13,16
share-screen 32:5
shared 25:6
sharing 33:21 44:16,18
 44:22 45:5,7,13
shift 39:23
shirt 43:2
Shore 20:14
Short 1:20 3:8 19:1
 50:22,24,25 51:10
 52:1,6,10
show 1:7 12:2 13:20
 16:9 17:7,18 18:5,10
 18:15 21:11 31:10
 40:6 46:6 49:19 56:14
 61:12,15
showed 28:20 32:14
 38:21 63:14
showing 21:25 35:12
 36:19 37:10,22 39:5
 40:7 42:1,14 66:8,10
shows 28:3,20 37:14,18
 38:20 39:10 42:14,18
 43:6 48:13
side 12:4 27:9,22 40:9
 40:14 43:8
signed 24:16
silent 11:7
SIMONE 1:22
Simone.andras2@dc...
 4:9
Simultaneous 35:25
 36:13 58:17 66:2
sir 10:24 17:6 22:1,12
 22:16 33:16 34:25
 35:8 37:13,25 38:4,24
 39:18 40:8,15 41:3,8
 41:20 46:3 52:5 53:24
 54:17 55:7 59:10,14
 59:20 60:1,7 61:9,17
 61:21 63:8
sit 29:25 31:17 36:20
 61:2 63:8
sitting 28:15 29:17 30:6
 36:25 37:15 38:17,18

38:20 39:2 41:2,5,10
41:17,18 42:15,20,24
43:7 45:25 48:14
six 3:10 39:20
small 27:16
somebody 18:7
soon 27:18
sorry 5:1 29:6 53:12
sounds 43:11
Spanish 8:12,13,16,16
speak 16:6 24:4 34:10
40:16
speakers 11:1,3,7
Speaking 35:25 36:13
58:17 66:2
specialists 3:19
specific 57:11
specifically 14:13
50:13
specifies 29:21
specify 28:25
speculation 64:16
spell 8:20 9:2,6 11:17
Staff 1:22
staircase 38:10 43:8
stamp 52:19
stand 19:13 21:15
standby 4:15
stars 35:22
started 56:14
state 8:20 9:2 11:17
stated 26:4,6,16 31:18
60:5,10 61:24 62:22
63:11
statement 15:16,18,20
16:3 17:2,5 59:25
60:8
states 13:5 53:15 60:15
status 13:20
stay 4:3
stipulate 22:17 23:1
stipulation 22:21
stop 7:12,16 33:21
44:15,18,22 45:5,7,13
51:7
stopped 45:15
Street 1:7 16:14
stronger 6:23
structure 56:25
structured 57:10
submission 13:24
submit 4:8
sufficient 66:22
suggest 31:14
supposed 36:20,21
47:3
swear 5:9,14 8:9,10
sworn 19:12

system 31:25 35:5,8

T

T- 11:20
t/a 1:6
tab 48:24
table 28:7,16,17 37:15
39:2,9,12,13,14 41:16
43:4,7 46:2 48:18
50:3,17 51:24 54:16
54:19,22 60:23 61:25
62:19,20,23 63:12
64:10
taken 25:24 27:23
35:20 54:25
talk 30:13
talking 26:18
Tapia 1:24 4:17,23,24
5:3,6 6:1,7 8:4,7,9,13
8:18,23,23 34:3 55:15
55:23 56:4 58:16
Tavril 1:23 11:15,20
16:11 19:6,10
taxes 54:2
team 39:19
technical 4:7 32:17,23
tell 44:20 53:6
temp 16:17
ten-minute 55:24 56:5
tenth 14:16
terms 12:19
testified 19:13 57:4,9
60:18 61:7 63:15
testify 23:2 57:9
testimony 14:21 52:1,7
54:25 57:2,7,24 59:9
59:12 60:9,21 61:18
62:22 63:5,11
texting 58:21
thank 6:1 8:19 18:21
19:5,17 28:10,14 48:8
50:25 52:6,7,9,15
55:9 66:19 67:14
thanks 52:17
things 6:8
third 6:21
thorough 59:22
three 20:16
times 6:9 7:5 57:4
timestamp 52:23,23
53:2,11,11,17,19 61:8
61:10,13,14,15 63:17
timestamps 63:1
to-go 18:3 37:19 46:1
48:15
today 4:25 8:21 9:6
29:25 56:19 59:1 60:9
61:2,18 63:8

told 17:13 59:7
tomorrow 66:25 67:11
67:13
top 6:17 7:2 25:7 33:20
44:22,23,25 45:2,7,12
trade 16:12
training 20:15
trainings 20:9
translate 7:25 8:11 34:2
translated 16:5
translates 5:23
translating 5:9,15,21
6:4 7:11 8:1
translation 5:16
translator 4:17 5:20,22
5:23
Tribunal's 12:17
tried 32:12
true 10:14
try 7:12 10:18 18:7 33:4
39:16
trying 31:22 32:2 43:23
56:1 58:25
turn 5:4,7 8:6 31:16
59:18
turned 11:1,7 31:20
twice 10:16
two 23:21 26:4 27:1,7,8
28:17 39:8,22 45:25
46:9 49:22,22 50:4,16
50:17 55:16 56:5
61:19 62:14,23 63:5,9
63:12

U

unable 32:23 58:5,12
unblemished 18:11
understand 15:14
26:17
understood 48:20 49:5
underway 3:13
University 20:13
unmute 11:4
use 11:8 35:2,7
uyou 52:3

V

Vanegas 4:19 8:2,4
10:9
Vanegas' 11:5 32:3
varies 62:8
Venegas 22:3 24:7 26:3
41:10 48:23 49:5 59:7
60:4,5
verbal 6:5
video 31:21 32:8
videoconference 1:15
view 27:23

violation 1:10 12:12
13:22 14:14 16:19
18:13,14,16 20:22,24
21:6 22:5 24:9,11
46:22,23,23 49:7 60:4
virtual 5:13
virtually 7:5
visible 27:11
visit 22:10 24:1,2
visited 16:11
visually 6:19
voice 6:20
volume 31:16,19

W

W 1:15,18
W-I-L-L-I-A-M-S 9:8
wait 15:18 55:21
walk 27:6
walked 27:2
wall 38:10 41:5
wanted 17:15,17
wants 15:3 23:1 32:22
Washington 12:15
wasn't 13:16 38:22
way 5:19 6:11 10:20
11:1 27:12 33:20 45:2
45:6
WebEx 1:15 32:5 33:22
34:15
Wednesday 1:12
welcome 3:4
went 14:12 16:18 18:23
30:13 37:24 40:16
41:11,23 56:11 61:20
67:16
white 40:13
William 1:23 9:18
Williams 1:24 4:18 9:4
9:5,7,10 11:11,14
12:6,7,25 13:1,4,25
14:2,3 15:7 16:2,8,9
19:3,5,16 21:13,16,17
21:21 22:24 23:4,13
24:21 25:2,5,12,16
29:13 32:16,22 33:2
44:1,3 46:4 47:22
49:14,18 64:1,4,24
65:9,19,24 66:7 67:1
67:7
willing 26:11 61:12
window 34:16
windows 32:8 34:20
wish 6:23,25 11:13 17:1
17:2
wishes 12:4
witness 2:7 11:13 15:21
15:23 16:24 19:4,13

28:11 44:12 55:13,22
56:1 57:4,8,9 65:25
witnesses 11:24
woman 39:2,16
wonder 32:13
word 5:23,23 6:9,9
work 10:22 19:17,19
worked 19:24 39:25
working 5:12 32:12
36:21
wrapped 37:19
write 60:3
writing 6:16
written 52:18
wrong 46:18

X

xited 52:3

Y

years 18:11 20:1
yellow 40:23,24 41:1

Z

zoom 36:1,5,9,10,10,18
36:18,23,23 37:3,4
41:12
zoomed 36:4,4

0**1**

1:00 67:6,8,10,13
1:30 56:14
1:35 3:2
10 13:7 20:1 42:14 44:5
44:10 47:25
10:00 16:16,22 18:8,18
22:7 24:13 39:17 47:3
47:9 49:7,9 51:6,18
54:16,21 55:1,3 62:5
10:24:22 35:21
10:54 46:15,21 47:11,18
52:3,23 61:20 62:15
63:2,21
10:56 16:10 23:16 25:24
28:8 29:22 30:4 46:16
47:11,19 53:3 60:16
62:16
10:57 53:20
10th 24:15
11 12:18 43:6,25 44:5
44:10
11:00 66:25
11:18 48:7 52:3
11:54 65:22
13 13:12 14:15 16:19
24:16

15 48:1
17 12:23 16:10 17:8
22:11,15 23:15 28:21
46:24 51:12
17th 37:24 39:11
1D 1:8

2

2 12:15 20:1 46:6,6,8,14
46:20 50:13,14 52:20
53:1,3 54:24 55:2
2:10 18:23
2:12 18:24
20 2:9
2021 1:13 12:18,20,23
13:12 14:15 16:10,19
17:8 22:11,15 23:15
24:16,17 28:21 35:20
46:25 51:12
2021-004 12:12,18
13:16
21-CIT-00213 1:9 4:11
21:32 28:24 29:21 53:15

54:20
22 12:19
23 13:5,10 14:14
24 2:16
24-hour 53:14
24663 1:8 4:12
26 18:11
27 1:13
28 54:12,19
29 2:9

3

3 31:11,21 40:6 53:5,11
3/17 35:20
3:45 56:6,11
30 49:1
31.99 54:2
3102 1:7 16:13

4

4 32:14,18 35:12,14
37:11 38:21 43:25
44:4,9 63:14 64:6,8
4-11 2:21
4:00 56:7
4:07 56:12
4:11 58:3
4:32 66:20
4:35 67:16
4:45 58:14
45 2:21

5

5 37:22 38:19 44:4,9
45:24 46:19 48:10,13

63:1
5:00 12:19 58:2,4,10,13
58:16,24 66:22
54 47:13
56 47:13

6

6 39:5 44:5,9 45:24
46:19 48:10,13 63:1
65 2:9

7

7 40:7,14,18 44:5,9

8

8 41:16 44:5,9
810.2 13:6,11 16:20
8102.2 14:15

9

9 42:1,1 44:5,10
9:00 17:9 60:6,10,12,15
60:16 62:3 67:4
9:30 48:25 51:14
9:32 17:11 26:5 28:2,21
29:1,3 53:16 59:8
60:12,12,14
9:45 51:25
9:50 51:25

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Before: DCABRA

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Court Reporter

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