

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE REGULATION
ADMINISTRATION BOARD
+ + + + +
PUBLIC HEARING

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IN THE MATTER OF:	:
	:
Esteban Ramirez and	:
Francisco Nunez, t/a	:
Carolina Palace	:
3700 - 14th Street, N.W.	:
	: Show Cause
License No. 21055	: Hearing
Retailer CR	:
Case No. 11-CMP-00308	:
	:

Wednesday,
January 16, 2013
ABRA Hearing Room
Suite 400 South

Reeves Municipal Center
2000 - 14th Street, N.W.
Washington, DC 20009

The above-entitled matter convened
at 4:37 p.m. before the District of Columbia
Alcoholic Beverage Regulation Administration
Board.

BEFORE:

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD C. BROOKS, Member

HERMAN JONES, Member

MIKE SILVERSTEIN, Member

The transcript constitutes the minutes
from the Public Hearing held on January 16,
2013.

T A B L E O F C O N T E N T S

Witness Dir. Cross Redir. Recross

Raphael Rodriguez 14 15 -- 42

Exhibits: Description Marked Rec'd

Government's

1 March report 8 8

2 June report 8 8

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

2 4:37 p.m.

3 CHAIRPERSON MILLER: We're ready.

4 The next case on the afternoon calendar is a
5 Show Cause Hearing, Case No. 11-CMP-00308,
6 Carolina Place (sic), located at 3700 - 14th
7 Street, N.W., License No. 21055 in ANC 4C.

8 MR. RIVERO: Good afternoon, Board
9 members. Fernando Rivero for the government.

10 CHAIRPERSON MILLER: Good afternoon,
11 and?

12 MR. RAMIREZ: Esteban Ramirez for
13 Carolina Restaurant.

14 CHAIRPERSON MILLER: Okay. Are you
15 the owner?

16 MR. RAMIREZ: Yes ma'am.

17 CHAIRPERSON MILLER: All right,
18 thank you. Okay. Mr. Rivera, do we have any
19 preliminary matters in this case?

20 MR. RIVERO: We do not have
21 preliminary matters in this case, and so we're
22 ready to move forward.

1 CHAIRPERSON MILLER: Okay.

2 MR. RIVERO: We're here in the
3 matter of Carolina Palace, and the case deals
4 with one charge for failure to file a
5 quarterly statement, when the law says that
6 they are due. There are two statements in
7 issue with Charge 1, the statement for the
8 quarter ending March 2011 and the statement
9 for the quarter ending June 2011.

10 The parties are bringing a
11 stipulation at this time. The stipulation is
12 that the Government's Exhibit 1 and 2, a copy
13 of the March and the June reports, are date-
14 stamped December 30th, 2011, and that was the
15 date that they were filed.

16 We have copies now that we're going
17 to share with the Board. That is the
18 stipulation that the parties are bringing.

19 CHAIRPERSON MILLER: Okay.

20 MR. RIVERO: The documents in
21 question were filed, and the date stamp shows
22 they were filed on December 30th, 2011, and

1 they are Government's Exhibits 1 and 2, and
2 they are being admitted under the stipulation
3 as Government's Exhibits 1 and 2.

4 CHAIRPERSON MILLER: While you're
5 looking for that, I want to make sure Mr.
6 Ramirez understands the procedure. As the
7 government has the burden of proof, the
8 government goes first in presenting the case,
9 and then you can rebut that case, however you
10 know, the facts show.

11 Mr. Ramirez, also he'll do -- I mean
12 not Mr. Ramirez. You each do an open and
13 close, should you -- opening statement should
14 you want to. It's not required. The
15 government may say this is what this case is
16 about. This is what I'm going to show, and
17 then he is going to call his witnesses.

18 He's going to ask questions to get
19 the evidence in the case. Then you can cross-
20 examine his witnesses, based on the testimony,
21 and the Board can also ask questions about
22 their testimony to the witnesses.

1 When he's done, you will have a
2 chance to call any witnesses or testify
3 yourself, and then he will have a chance to
4 cross-examine any testimony that you present,
5 and the Board can ask questions, and then
6 they'll be closings basically.

7 MR. RAMIREZ: Yes.

8 CHAIRPERSON MILLER: Okay, and if
9 you have any questions along the way, feel
10 free to ask.

11 MR. RAMIREZ: Okay.

12 CHAIRPERSON MILLER: Okay, thank
13 you.

14 MR. RIVERO: Well, the government
15 concludes its case actually, because there's
16 a stipulation that the Exhibits 1 and 2 are
17 what they purport to be, or least they answer
18 the question, in that they were date-stamped
19 and filed on December 30th, 2011, copies of
20 which are provided to the Board members and
21 the Respondent and we all agree. That's the
22 government's case.

1 CHAIRPERSON MILLER: Okay.

2 MR. RIVERO: As such, the government
3 is not presenting witnesses, and now the
4 government cedes time to the Respondent.

5 CHAIRPERSON MILLER: Are you moving
6 this into evidence?

7 MR. RIVERO: Yes. In fact, we both
8 --

9 CHAIRPERSON MILLER: It's stipulated
10 to, I'm sorry. It's stipulated.

11 MR. RIVERO: We both stipulated to
12 the admissibility of the evidence.

13 CHAIRPERSON MILLER: Okay.

14 MR. RIVERO: So I would say I would
15 move now that they be admitted, but there's no
16 objection, because they are part of the
17 stipulation.

18 CHAIRPERSON MILLER: Correct.
19 They're in evidence.

20 (Whereupon, the documents
21 referred to were marked
22 for identification as

1 Government Exhibits 1 and
2 2 and received in
3 evidence.)

4 MEMBER ALBERTI: I'm trying to
5 understand the stipulation. They come into
6 evidence, but are they stipulated --

7 MR. RIVERO: That those reports --

8 MEMBER ALBERTI: Were received on
9 December --

10 MR. RIVERO: On the date stamp,
11 which is December 30th, 2011.

12 MEMBER ALBERTI: All right, and
13 there's no dispute on the date stamp?

14 MR. RIVERO: There is not, there is
15 not.

16 MEMBER ALBERTI: And when they were
17 received.

18 MR. RIVERO: Correct.

19 MEMBER ALBERTI: That's what you're
20 stipulating to?

21 MR. RIVERO: Correct.

22 MEMBER ALBERTI: Thank you.

1 MR. RIVERO: And you will see it's
2 two exhibits, 1 and 2. One is for the report,
3 quarter ending March 2011, and the other is
4 for the report, quarter ending June 2011.

5 MEMBER ALBERTI: Thank you.

6 CHAIRPERSON MILLER: Right. The
7 stipulation is that they were --

8 MR. RIVERO: Filed December 30th,
9 2011.

10 CHAIRPERSON MILLER: Filed that day,
11 okay.

12 MR. RIVERO: You see the stamps on
13 the documents themselves, on the upper left.

14 CHAIRPERSON MILLER: Left?

15 MEMBER ALBERTI: They're hard to
16 read on our copy. I'm sure the original, it's
17 easier to read, Mr. Rivero?

18 MR. RIVERO: The file copy of the
19 agency is quite legible.

20 MEMBER ALBERTI: Thank you.

21 MEMBER JONES: And they're
22 stipulated to?

1 MR. RIVERO: And the date is part of
2 the stipulation.

3 (Laughter.)

4 MEMBER ALBERTI: Thank you, Mr.
5 Rivero.

6 CHAIRPERSON MILLER: Okay, okay.

7 MR. RIVERO: So I'm done.

8 CHAIRPERSON MILLER: Okay, fine. So
9 then okay.

10 MEMBER ALBERTI: I trust what you're
11 saying.

12 MR. RIVERO: Now it is the
13 licensee's case, the Respondent's case.

14 CHAIRPERSON MILLER: Do you
15 understand what's happening?

16 MR. RAMIREZ: Yes ma'am.

17 CHAIRPERSON MILLER: Okay. So do
18 you have testimony or any other evidence to
19 present for your case?

20 MR. RAMIREZ: Yes.

21 CHAIRPERSON MILLER: All right.
22 Then now is the time.

1 MR. RAMIREZ: Okay.

2 CHAIRPERSON MILLER: Okay.

3 MR. RAMIREZ: These were submitted
4 late, because when we sent them to, by email
5 to the office, in the office, women -- I don't
6 know who --

7 CHAIRPERSON MILLER: Wait a minute.
8 Are you testifying? Is what you want your
9 evidence to be?

10 MR. RAMIREZ: Yes.

11 CHAIRPERSON MILLER: Okay. Then I
12 need to swear you in. Okay, you can --

13 MR. RIVERO: Indulgence.

14 CHAIRPERSON MILLER: Okay.

15 (Pause.)

16 CHAIRPERSON MILLER: Sir, could you
17 introduce yourself for the record before you
18 go anywhere else?

19 MR. RODRIGUEZ: Yes. My name is
20 Raphael Rodriguez.

21 CHAIRPERSON MILLER: Raphael
22 Rodriguez, and you are here in what capacity?

1 MR. RODRIGUEZ: I'm the one who
2 prepared the report, so he can file it
3 electronically.

4 CHAIRPERSON MILLER: Okay. So
5 you're a witness for Mr. Ramirez?

6 MR. RODRIGUEZ: Yes.

7 CHAIRPERSON MILLER: Mr. Ramirez, do
8 you want to call Mr. Rodriguez at this time?

9 MR. RAMIREZ: Yes ma'am.

10 CHAIRPERSON MILLER: Okay. Then go
11 ahead over here. Will you be asking him
12 questions, leading him in his testimony, or is
13 he here just to testify?

14 MR. RAMIREZ: He can testify.

15 CHAIRPERSON MILLER: Wait. I'm
16 going to swear you in.

17 Whereupon,

18 RAPHAEL RODRIGUEZ

19 was called as a witness and, having been first
20 duly sworn, was examined and testified as
21 follows:

22 CHAIRPERSON MILLER: Okay. You may

1 have a seat. You need to ask him to identify
2 himself and ask him to testify on whatever
3 he's supposed to be testifying on.

4 MR. RAMIREZ: My name Esteban
5 Ramirez of Carolina Restaurant, and Raphael
6 can testify about what happened when we gave
7 the report to the ABRA.

8 CHAIRPERSON MILLER: Okay, thank
9 you.

10 DIRECT EXAMINATION

11 THE WITNESS: Okay. As Mr. Rivero
12 indicated, it is true that the report had been
13 filed December 30th, 2011, and the reason was
14 because we filed electronically. We were
15 trying to do that for the first time
16 electronically in March and in June,
17 consecutively.

18 That's why you see two consecutive
19 reports filed late at the time, and system, as
20 far as we know, we was under the impression
21 that it went through and it got accepted. We
22 didn't realize that they sent us a notice,

1 indicating that those reports was not
2 submitted.

3 We did electronically, and it didn't
4 go through accordingly. The system was down
5 or we don't know whatever happened, until we
6 got the notification from them.

7 CHAIRPERSON MILLER: Do you have any
8 other questions for him?

9 MR. RAMIREZ: No.

10 CHAIRPERSON MILLER: Okay. Mr.
11 Rivero, do you have a question for this
12 witness?

13 MR. RIVERO: I do.

14 CHAIRPERSON MILLER: Okay.

15 CROSS EXAMINATION

16 BY MR. RIVERA:

17 Q You testified that you filed them
18 late on December 30th, because you got a
19 notification? You said notification.

20 A Yes.

21 Q What do you mean by notification?

22 A We got, Mr. Ramirez received a

1 report saying that he have not filed a certain
2 amount of reports, a certain report, and that
3 include the March report and the June report.

4 Q What notification was this? I don't
5 --

6 A The government normally send you,
7 whenever you don't file a report, they would
8 come in and say we have not received this and
9 this report. So that's the kind of
10 notification is what I'm referring to. The
11 documentation is what I'm referring to.

12 Q Does the notification have a, talk
13 about hearing dates?

14 A No, no.

15 Q Okay. So when did you receive the
16 notification?

17 A We received that --

18 Q We're talking about 2011.

19 A '11, yeah. About a month prior to
20 that, and then we went on right away. We
21 tried to find out --

22 Q When, what month in 2011 did you

1 receive the notification?

2 A I don't recall it, to be honest with
3 you.

4 Q Well, you filed it in December 2011,
5 the two reports; right?

6 A That's correct, that's correct.

7 Q Okay, and how long after you got the
8 notice did you file the reports?

9 A Right away. We got the notice and
10 we reported right away, two, three weeks
11 later, or four weeks later, after we find out
12 that your guy did not receive it and the
13 system was down, because you even investigated
14 --

15 Q Okay. The notice was filed in
16 December 2000 -- the reports were filed in
17 December 2011?

18 A For both of them.

19 Q You said after you got the notice
20 that the reports weren't filed, you went and
21 you filed them right away? Is that what you
22 said?

1 A No. I went back, got the file and
2 went over there and submitted it, so they can
3 stamp it, so that it can be on record.

4 Q Okay, so how long between your
5 notice and the filing?

6 A About two weeks after that.

7 Q About two weeks. So if you filed it
8 in December 2011, two weeks before that --
9 December 30th, 2011, right, because that's
10 part of our stipulation, two weeks before that
11 is in December still when you got the notice.

12 A Yeah, more likely **4:48.

13 Q Okay. So you have a notice. Now
14 you're saying the notice didn't go to you;
15 right?

16 A No. It go to his, the owner, the
17 licensee.

18 Q Okay, all right.

19 A He was the one who indicated to me
20 that those reports had not been filed.

21 Q And when did he tell you that he got
22 a notice saying the reports had not been

1 filed?

2 A I don't -- I'm assuming as soon as
3 he received the notification.

4 Q Okay, and you testified that you
5 filed them electronically; is that right?

6 A That is correct.

7 Q Okay. So let's talk about the first
8 report. You know that it's for the quarter
9 ending March 2011; right?

10 A Correct.

11 Q And you know the last date by which
12 it has to be filed; right?

13 A Correct.

14 Q When is that last date?

15 A The 30th of April.

16 Q Okay, all right.

17 A And July 31st.

18 Q Okay. So on that first report, when
19 did you file it electronically?

20 A It would be the 15th, 16th or
21 something.

22 Q Of what?

1 A Of April for March.

2 Q Okay, and how did you do that?

3 A You go online, ABRA, and then you
4 submit it in and you fill out the information
5 from your report.

6 Q Where do you fill it out?

7 A Where?

8 Q Yes. How do you do that?

9 A How do you do that then? We haven't
10 done that lately, since that happened.

11 Q So walk me through, because I don't
12 know what you mean. So walk me through. We
13 you filed something online, you sit in front
14 of the computer and then what do you do?

15 A We put in the data.

16 Q Where?

17 A Into the -- you have like a format,
18 data entered there.

19 Q Is that on a website somewhere?

20 A On your website, your own website.

21 Q The ABRA website?

22 A Correct.

1 Q Okay. So you're at the ABRA
2 website, and you said you have a form, right?

3 A Correct.

4 Q Now what do you do?

5 A I'm typing the data, I fill it in,
6 and it says after you finish and complete it,
7 you submit it in.

8 Q What says submit?

9 A That form. It's like a PDF form.

10 Q Okay, and where does it say "submit"
11 on the form?

12 A Right on the bottom of the form.

13 Q Okay, and then what happens? What
14 do you do to submit?

15 A It gives you a notification that you
16 have been completed or you've been sent or
17 been received or what have you.

18 Q Okay. So how do you make it submit?
19 How do you submit it? What physical action do
20 you take?

21 A You press enter. You press enter.
22 After you've got the selection made and enter

1 and it goes.

2 Q And after you press enter, what
3 happens on the screen?

4 A It come out saying that you have
5 submitted --

6 Q Do you get a receipt?

7 A No.

8 Q You don't get a receipt?

9 A I don't think I got a receipt.

10 Q Well, are we talking about in mid-
11 April --

12 A In March. The same process happened
13 in March, the same process happened in July,
14 or in April and in July.

15 Q Okay. For the second report, in the
16 quarter of June, it was due to be filed by
17 when?

18 A The 31st of July.

19 Q The 31st of July. Okay, and then
20 did that process take place exactly how you
21 just described the other one?

22 A Correct, the same procedure.

1 Q So when you hit "submit," you didn't
2 get a receipt either?

3 A No sir.

4 Q How do you know it was received?

5 A That's the problem. We didn't know.
6 But it was the first time doing the process.
7 Same thing here. We're all lost. We don't
8 know who's supposed to talk first, who's
9 supposed to, because we never been here. It's
10 the same as being here.

11 Q Okay. Are you the -- do you file
12 quarterly reports for only this establishment?

13 A I'm doing it now for him, yes, the
14 bookkeeping.

15 Q For only Carolina Palace and no
16 other license holder?

17 A For Carolina, for him.

18 Q Right. Do you file quarterly
19 statements for any other ABC license holder?

20 A **4:52

21 Q You don't file quarterly statements
22 for anybody else except Carolina Palace?

1 A Only for Carolina. That's what we
2 do, yes, right now.

3 Q The question is --

4 A Do I do it for another businesses?

5 Q For other businesses.

6 A Oh yes, we do.

7 Q Okay. For other businesses.

8 A Manually, manually.

9 Q That have ABC licenses, right?

10 A Yeah, in D.C., correct.

11 Q Okay, and how do you file it, the
12 quarterly reports for those other ABC
13 businesses? How do you file the quarterly
14 reports? The same way that you just
15 described?

16 A Okay. We do the report for sales
17 and use taxes for them, for example. They
18 will prepare, they are responsible to prepare
19 --

20 Q Who's "they" in your sentence?

21 A The owner. I do it for him only.

22 Q You do the quarterly statements for

1 Carolina Palace only?

2 A For Carolina, because he don't know
3 how to do it, to fill out the form, yeah.

4 Q Okay, and so you don't do quarterly
5 statements for anybody else?

6 A We're responsible to do it for the
7 other businesses, no.

8 Q No, that's not my question.

9 A In answer to your question.

10 Q Do you do them or not is the
11 question, not whether you're responsible for
12 them.

13 A No, I don't prepare that for them.

14 Q You do not?

15 A No, no.

16 Q What do you prepare for the other
17 agencies?

18 A The sales and use tax. I'm sorry?

19 Q What do you prepare for the other
20 businesses?

21 A Oh, I do the report, sales and use
22 taxes; quarterly report. Some of them we do

1 payroll.

2 Q You just -- quarterly reports?

3 A Yeah.

4 Q But you just finished telling me
5 that you only do the quarterly reports for
6 Carolina Palace?

7 A This is different quarterly reports.
8 I'm talking about taxes, 941 reports.

9 Q Okay. So not the food and beverage
10 quarterly reports?

11 A No, no, no. Normally, they are
12 responsible themselves, because they have
13 registered, they have computers, they have
14 other stuff. But Mr. Esteban doesn't have
15 that kind of equipment. He can't afford it
16 right now.

17 Q Okay, okay. So the food and
18 beverage quarterly reports that we're talking
19 about in this case, you only file those, only
20 file those for Mr. -- for Carolina Palace?

21 A Mr. Ramirez.

22 Q Okay, and you're telling me then for

1 the two quarters you filed it online, or you
2 said you hit "submit," you didn't get any
3 receipt?

4 A I never got a receipt, sir.

5 Q Did you call ABRA to make sure that
6 they were received?

7 A I was under the impression that it
8 went through, that they got it, they received
9 it. I didn't know the procedure until really
10 when I spoke with you in the office. You
11 explained to me what the procedure is supposed
12 to be.

13 MR. RIVERO: Well, right, right,
14 right. Okay. No further questions.

15 CHAIRPERSON MILLER: Okay. Board
16 questions? Mr. Alberti.

17 MEMBER ALBERTI: Yeah, real quick.
18 Sir, did you print a copy for your own
19 records?

20 THE WITNESS: No sir.

21 MEMBER ALBERTI: And why not?

22 THE WITNESS: I was not able to do

1 that. I was trying to print it and I was not
2 able to do that. For some reason, there was
3 some problem with the system. I learned that
4 after the fact. I didn't know how the
5 procedure was.

6 MEMBER ALBERTI: Okay, wait, wait,
7 wait. You didn't print a copy for your
8 records; why not?

9 THE WITNESS: I was not able to. I
10 was not able to print.

11 MEMBER ALBERTI: The system wouldn't
12 allow you to do that?

13 THE WITNESS: It would not allow me
14 to print it.

15 MEMBER ALBERTI: Okay. So the
16 system wouldn't allow you to print a copy for
17 your records, and still you assumed that it
18 was working right, correctly; is that correct?

19 THE WITNESS: Yes sir.

20 MEMBER ALBERTI: Subsequent to that,
21 have you been filing quarterly reports online?

22 THE WITNESS: No, no. That was the

1 first time.

2 MEMBER ALBERTI: Subsequently, after
3 that?

4 THE WITNESS: After that, yes. I
5 did the second one, I think, and it went
6 through the same way.

7 MEMBER ALBERTI: In the third
8 quarter you filed online?

9 THE WITNESS: The third one we did
10 it manually.

11 MEMBER ALBERTI: You did what?

12 THE WITNESS: The third one?

13 MEMBER ALBERTI: Yes.

14 THE WITNESS: We did it manually.

15 MEMBER ALBERTI: Okay, and the
16 fourth one?

17 THE WITNESS: Manually.

18 MEMBER ALBERTI: And thereafter --

19 CHAIRPERSON MILLER: I'm sorry,
20 what's that word you used? You did it what?

21 MEMBER ALBERTI: Okay, manually.

22 CHAIRPERSON MILLER: Manually.

1 Thank you.

2 MEMBER ALBERTI: Okay.

3 CHAIRPERSON MILLER: Thank you.

4 MEMBER ALBERTI: But why?

5 THE WITNESS: Why? Maybe because we
6 were not too expert, I didn't have the
7 expertise in that, trying to do it with the
8 system.

9 MEMBER ALBERTI: Well, let's see.
10 No, no, no. Let me finish. The third quarter
11 was due October 30th, 2011.

12 THE WITNESS: Yeah.

13 MEMBER ALBERTI: All right, and you
14 didn't get notice until December, I assume, of
15 2011, that the others weren't filed?

16 THE WITNESS: Yeah, correct.

17 MEMBER ALBERTI: So why didn't you
18 assume that the third quarter could be filed
19 online? I mean at that point in time, you
20 didn't have any reason to believe that the
21 system was malfunctioning. Why didn't you
22 continue with your practice of filing online

1 in October?

2 THE WITNESS: Why didn't I continue?
3 Well, I didn't think to do it. I just didn't
4 think to do it.

5 MEMBER ALBERTI: Okay. No further
6 questions.

7 CHAIRPERSON MILLER: Mr. Brooks.

8 MEMBER BROOKS: Thank you, Madam
9 Chair. Sir, are you a CPA?

10 THE WITNESS: No sir.

11 MEMBER BROOKS: Are you an
12 accountant?

13 THE WITNESS: Bookkeeper,
14 bookkeeper.

15 MEMBER BROOKS: Bookkeeper, okay,
16 for how long? How many years' experience do
17 you have?

18 THE WITNESS: Over 20 years.

19 MEMBER BROOKS: 20 years, and so you
20 have filed reports for different
21 organizations, different companies for 20
22 years then, haven't you?

1 THE WITNESS: Small businesses, yes.

2 MEMBER BROOKS: Yeah, small
3 businesses, okay. So have you ever thought to
4 get receipts for the reports that you send in
5 and the reports that you complete?

6 THE WITNESS: Yes sir, I did thought
7 about it, trying to get a receipt, trying to
8 print a receipt. I just didn't, I didn't know
9 how, and it didn't give it to me.

10 MEMBER BROOKS: Okay. Well, did you
11 alert ABRA that you couldn't do that?

12 THE WITNESS: No sir.

13 MEMBER BROOKS: Why not?

14 THE WITNESS: I thought it went
15 through fine. I just submitted it and I
16 thought that that's the way that system
17 worked. So I mean I explained it to Mr.
18 Rivero, what went on and what happened.

19 He called somebody to verify that
20 information, and in fact, it coincide. He
21 said yeah, the system was down and such and
22 such. They were having problems with the

1 system and blah blah blah.

2 So that's when we realized what was
3 the kind of situation I was getting into.
4 Ever since that, then we decided to keep doing
5 it manually, just in case the system go down
6 again, and I get jammed again in between.

7 MEMBER BROOKS: Okay, and the owner,
8 he explained to you what he had to do every
9 quarter to do a report; right?

10 THE WITNESS: Correct, correct. He
11 always does his.

12 MEMBER BROOKS: Yes, and I'm sure he
13 explained to you if he did not do it or did
14 not do it on time, that he would be in
15 trouble. Did he tell you that?

16 THE WITNESS: That he would what?

17 MEMBER BROOKS: Be in trouble, there
18 would be a problem with ABRA, for not
19 complying with the law?

20 THE WITNESS: Yes. We have learned
21 that from him now.

22 MEMBER BROOKS: But you didn't know

1 that before?

2 THE WITNESS: But prior to that, we
3 was always **4:58.

4 MEMBER BROOKS: Okay, all right.
5 Thank you, Madam Chair.

6 CHAIRPERSON MILLER: Others?

7 (No response.)

8 CHAIRPERSON MILLER: I just have a
9 quick question. I think the notice that you
10 got, that ABRA didn't receive the quarterly
11 statements, did you keep it?

12 THE WITNESS: Mr. Ramirez has it in
13 his records.

14 CHAIRPERSON MILLER: He has it?

15 THE WITNESS: Supposed to have it on
16 his records. I believe we should have it. In
17 fact, Mr. Fernando Rivero emailed me more and
18 replied to that record after that. So emailed
19 after the fact.

20 CHAIRPERSON MILLER: You have a copy
21 of the notice saying it, but not here with
22 you?

1 THE WITNESS: No ma'am.

2 CHAIRPERSON MILLER: And so you're
3 going on your memory as to when you got
4 notice; is that correct?

5 THE WITNESS: Yeah basically.

6 CHAIRPERSON MILLER: And that is
7 you're saying it was mid-December, or two
8 weeks before December 30th or so?

9 THE WITNESS: Yeah, right after --
10 yeah, correct. About a week, during December,
11 the first or second week.

12 CHAIRPERSON MILLER: Okay. So let
13 me just ask you about this filing process. I
14 think when you enter the data for the
15 quarterly statements, and then you said you
16 sent it to ABRA, and then you couldn't print
17 it out. So does that mean you then didn't
18 have a copy of a quarterly statement; you'd
19 have to recreate it again?

20 THE WITNESS: No. The form that you
21 have there, that he submitted, that's the one
22 we did it on. That's where I got that data

1 from, that Mr. Rivera just gave me. We did it
2 manually, as you can see, and that data that
3 you see, was the same data we put in the
4 system. So basically that was my receipt,
5 what you see, what you have in your hand. But
6 it had no stamped at that time.

7 CHAIRPERSON MILLER: You said you
8 couldn't print it, so I'm wondering how did
9 you have a copy of it then?

10 THE WITNESS: The exhibit that you
11 have in front of you, I'm assuming.

12 CHAIRPERSON MILLER: Yeah. I have
13 two statements in front of me.

14 THE WITNESS: Those are handwritten.

15 CHAIRPERSON MILLER: They're
16 handwritten, right.

17 THE WITNESS: Correct. So it's not
18 a computer printout.

19 CHAIRPERSON MILLER: Right.

20 THE WITNESS: So I manually did
21 that, and that data that you see there was the
22 same data that I transferred into the system.

1 CHAIRPERSON MILLER: Okay, and when
2 did you do that?

3 THE WITNESS: Basically, that became
4 my receipt.

5 CHAIRPERSON MILLER: When did you
6 create these forms?

7 THE WITNESS: About the 15th or the
8 16th. For the March, we did it on April, and
9 the other one we did it in July.

10 CHAIRPERSON MILLER: Okay. So you
11 did it twice? You manually filled this in,
12 and then you put the information also on the
13 computer and sent it to ABRA?

14 THE WITNESS: That's right. So I
15 went on and got it that way, **5:01. After I
16 find out that to have not received them.

17 CHAIRPERSON MILLER: There's a date
18 in the right-hand corner of each of these
19 statements that says "12/6/11." Do you have
20 a copy of the two statements that we're
21 talking about, that have been stipulated to?

22 THE WITNESS: Yes ma'am.

1 CHAIRPERSON MILLER: Okay. Do you
2 see on the right-hand corner, there is -- it
3 looks like it says "N/A," and then it says
4 "12/6/11."

5 THE WITNESS: Yes ma'am.

6 CHAIRPERSON MILLER: Are you
7 familiar with that notation?

8 THE WITNESS: No. That's not my
9 handwriting.

10 CHAIRPERSON MILLER: That's not your
11 handwriting?

12 THE WITNESS: No. My handwriting,
13 you can see the different numbers compared to
14 the other one. It's not the same.

15 CHAIRPERSON MILLER: Okay. So do
16 you have any knowledge as to what that means?

17 THE WITNESS: No ma'am.

18 CHAIRPERSON MILLER: Okay. All
19 right. I don't have any questions. Do you
20 have any other Board questions?

21 (No response.)

22 CHAIRPERSON MILLER: Do you have any

1 other redirect, we call it questions? No,
2 okay. It looks like Mr. Rivero, do you have
3 any recross based on --

4 MEMBER ALBERTI: I just have one
5 follow-up question.

6 CHAIRPERSON MILLER: Oh, wait a
7 second.

8 MEMBER ALBERTI: I'm talking about
9 when you would have gotten notice. I mean our
10 records show that the first time you would
11 have gotten notice by mail would have been
12 notice of this hearing, which would have been
13 in February of 2012; is that correct?

14 THE WITNESS: No, I don't understand
15 your question. What is the question?

16 MEMBER ALBERTI: Our records show
17 that the first time you would have gotten
18 notice that you hadn't filed on time would
19 have been February of 2012. Now did you
20 receive some notice earlier, and what was that
21 notice?

22 THE WITNESS: Well, we got a notice,

1 indicating that some reports have not been
2 filed.

3 MEMBER ALBERTI: When?

4 THE WITNESS: Some time in December,
5 I'm assuming.

6 MEMBER ALBERTI: In December.
7 You're assuming?

8 THE WITNESS: Yeah. The reason why
9 I'm assuming is because I don't report.

10 MEMBER ALBERTI: Either you know it,
11 either you don't recollect or you don't know.

12 THE WITNESS: I don't recollect
13 exactly, but I know that we went on PROCEED to
14 do this, to file this documentation, to gather
15 this information.

16 MEMBER ALBERTI: I understand that.

17 THE WITNESS: As soon as we got that
18 notification. So I'd say a week --

19 MEMBER ALBERTI: Did you see the
20 notification.

21 THE WITNESS: Yes. I remember
22 seeing it.

1 MEMBER ALBERTI: Okay, and what did
2 it look like?

3 THE WITNESS: Normally, they send it
4 by the ABRA 14th Street, over there from U
5 Street, indicating, as they say, they show you
6 if you have outstanding -- it would indicate
7 what report is missing or what year and so on
8 and so forth. That's what it does. It looks
9 like a listing. So like it show me a list or
10 something.

11 MEMBER ALBERTI: Okay.

12 THE WITNESS: And that same
13 information I got from Mr. Rivero by email.

14 MEMBER ALBERTI: Okay, thank you.

15 CHAIRPERSON MILLER: Okay. Do you
16 have any recross?

17 MR. RIVERO: I do.

18 CHAIRPERSON MILLER: Okay.

19 MR. RIVERO: I want to clarify one
20 thing.

21 CHAIRPERSON MILLER: Okay.

22 RE CROSS EXAMINATION

1 BY MR. RIVERA:

2 Q When you filed electronically in
3 April and July, and you hit send or submit or
4 whatever it is, and you didn't get a copy or
5 you didn't get a receipt of any sort, okay,
6 really what you did is you recreated all those
7 numbers on a piece of paper by hand, and filed
8 them in December; right?

9 A No sir. We have --

10 Q You inputted numbers in a screen?

11 A Correct.

12 Q And those numbers, you hit a button
13 and those numbers went away?

14 A It might be in your database. I
15 don't know.

16 Q You didn't get a receipt?

17 A No, I didn't get a receipt.

18 Q You were typing numbers into a
19 screen.

20 A Uh-huh.

21 Q Presumably maybe you had a piece of
22 paper with those numbers, but you were

1 inputting them in?

2 A This piece of paper.

3 Q Okay. You had that piece of paper
4 and you inputted them into the screen and
5 they're gone. You don't have a receipt?

6 A No.

7 Q Okay. So you had a hand copied
8 version of it?

9 A Uh-huh.

10 Q And that's what you filed in
11 December?

12 A That's basically what was my
13 receipt. So I went to his record, his file,
14 I pulled this up. When they indicated that
15 hey have not received March or April --

16 Q A receipt is given to you by the
17 computer. What you say is your receipt was a
18 piece of paper you had the whole time, from
19 which you were typing the numbers into the
20 computer?

21 A Correct, correct.

22 Q That piece of paper can't be called

1 a receipt, can it, if you --

2 A No.

3 Q --inputted all the information and
4 you were looking at the paper, and you were
5 typing numbers into a screen. When you hit
6 "submit" and that information goes wherever it
7 goes, there was no receipt that came from ABRA
8 itself?

9 A From ABRA, that is correct.

10 Q That would show that you just typed
11 all those numbers.

12 A Correct.

13 Q Okay. You had this piece of paper
14 from which you looked, in order to type into
15 the computer?

16 A Correct.

17 Q It is that piece of paper, which you
18 continue to call receipt, which it's not,
19 which you then walked to ABRA --

20 A And I stamped it.

21 Q And stamped it on December 30th,
22 2011?

1 A That is correct.

2 Q Okay. So I just want to make sure
3 that what you call a receipt is not a receipt,
4 based on the numbers you inputted in both
5 April and July?

6 A Okay.

7 Q That was the only question.

8 CHAIRPERSON MILLER: Okay. Again,
9 then I would ask you, you didn't have any
10 questions, Mr. Ramirez. Okay, thank you very
11 much.

12 (Witness excused.)

13 CHAIRPERSON MILLER: Okay. Do you
14 have any other witnesses?

15 MR. RAMIREZ: No. That's the only
16 one.

17 CHAIRPERSON MILLER: Okay. So that
18 concludes your case?

19 MR. RAMIREZ: (No audible response.)

20 CHAIRPERSON MILLER: Okay. Have you
21 made your -- it sounded like you already made
22 a closing.

1 MR. RIVERO: I have not.

2 CHAIRPERSON MILLER: In the
3 beginning, it sounded like you had a closing.
4 Okay. It's time for closing arguments, so Mr.
5 Rivero.

6 MR. RIVERO: Thank you. The
7 government has made its case. That's what the
8 stipulation is all about. The reports were
9 filed on December 30th, 2011. If you go and
10 look at the law, it says you have 30 days
11 after the end of each quarter, you, license
12 holder, you, to file the reports.

13 There is no exception, there's no
14 excuses, dog ate your homework, the computer
15 didn't work, rainstorm, what have you.
16 There's just simply no excuses there in the
17 law, okay. So the government has met its
18 burden by a preponderance of the evidence,
19 that these particular reports were not filed
20 on time.

21 What the Board wants to do about
22 that is a separate question. But the

1 government has met its burden. Whether the
2 Board wants to fashion a penalty given the
3 testimony that has been received, that is up
4 to the Board. But I've my burden, and that's
5 my case. Thank you.

6 CHAIRPERSON MILLER: Okay, thank
7 you. Mr. Ramirez, do you want to make any
8 closing statement?

9 MR. RAMIREZ: No.

10 CHAIRPERSON MILLER: Okay. You're
11 not required to do so. All right. Then, and
12 we have in the record all documents that the
13 parties want to file; correct? We have the
14 stipulated two statements.

15 Okay. Nothing else? Then I'm going
16 to close the record. Do the parties want to
17 file proposed findings of fact or conclusions
18 of law, or waive their right to do that?

19 MR. RIVERO: We'll waive.

20 CHAIRPERSON MILLER: You'll waive.

21 MR. RIVERO: Indulgence, please.

22 (Pause.)

1 MR. RIVERO: Thank you.

2 CHAIRPERSON MILLER: Thank you very
3 much. Okay.

4 MR. RAMIREZ: Okay, I waive.

5 CHAIRPERSON MILLER: Okay, all
6 right. Thank you. All right. That concludes
7 the hearing on this case. I'm just going to
8 read the instructions for deliberating with a
9 case in a closed meeting.

10 As Chairperson of the Alcoholic
11 Beverage Control Board for the District of
12 Columbia, and in accordance with Section 405
13 of the Open Meetings Amendment Act of 2010, I
14 move that the ABC Board hold a closed meeting
15 for the purpose of seeking legal advice from
16 our counsel, on Case No. 11-CMP-00308,
17 Carolina Palace, and deliberating upon this
18 case for the reasons cited in Section
19 405(b)(13) of the Open Meetings Amendment Act
20 of 2010. Is there a second?

21 MEMBER ALBERTI: Second.

22 CHAIRPERSON MILLER: Now that the

1 motion's been seconded, I will take a roll
2 call. Mr. Brooks.

3 MEMBER BROOKS: I agree.

4 CHAIRPERSON MILLER: Mr. Alberti.

5 MEMBER ALBERTI: I agree.

6 CHAIRPERSON MILLER: Ms. Miller
7 agrees. Mr. Silverstein?

8 MEMBER SILVERSTEIN: Agree.

9 CHAIRPERSON MILLER: Mr. Jones.

10 MEMBER JONES: I agree.

11 CHAIRPERSON MILLER: Okay. Then the
12 motion passes by a vote of 5-0-0. I hereby
13 give notice that the ABC Board will hold a
14 closed meeting in the ABC Board conference
15 room today, pursuant to the Open Meetings
16 Amendment Act of 2010, and issue an order
17 within 90 days. Thank you very much. That
18 definitely concludes our hearing.

19 (Whereupon, at 5:13 p.m., the
20 hearing was concluded.)

21
22

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