

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
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MEETING

IN THE MATTER OF:

Burger 1931, LLC  
t/a Black and Orange  
1931 14th Street, NW  
Retailer CR - ANC-1B  
License No. 88273  
Case #14-AUD-00094

Show Cause  
Hearing

(Failed to File Quarterly  
Statements-2nd Quarter 2014)

February 25, 2015

The Alcoholic Beverage Control Board  
met in the Alcoholic Beverage Control Hearing  
Room, Reeves Building, 2000 14th Street, N.W.,  
Suite 400S, Washington, D.C. 20009, Chairperson  
Ruthanne Miller, presiding.

PRESENT:

NICK ALBERTI, Acting Chairman  
DONALD BROOKS, Member  
MIKE SILVERSTEIN, Member  
HERMAN JONES, Member  
HECTOR RODRIGUEZ, Member  
JAMES SHORT, Member

ALSO PRESENT:

WALTER ADAMS, OAG  
MONICA CLARK, ABRA Compliance Analyst

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

Closing Statement by Government. . . . .11

WITNESS	DIRECT CROSS
Monica Clark	4

EXHIBITS	IDENTIFIED	RECEIVED
1 - Clark Case Report	8	9

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

11:17 a.m.

ACTING CHAIRMAN ALBERTI: Okay. Our next hearing is a -- just one moment, please.

Okay. All right. Very good. So our next hearing is a Show Cause Hearing and this is Case No. 14-AUD-00094. This is a Show Cause Hearing regarding Burger 1931, LLC t/a Black and Orange, License No. 88273.

Parties forward and introductions, please.

MR. ADAMS: Good morning, Mr. Chairman and Members of the Board. Walter Adams representing the District of Columbia.

ACTING CHAIRMAN ALBERTI: Good morning, Mr. Adams. The licensee isn't here. Do you expect the licensee to show up or do you have any information?

MR. ADAMS: I do not. I'll be very surprised if the licensee shows up.

ACTING CHAIRMAN ALBERTI: Okay. Again, so this meeting -- this hearing was

1 scheduled for 10:00 a.m. It is now 11:18 a.m.,  
2 so this is a Show Cause Hearing. And I -- the  
3 Board will proceed ex parte.

4 Are you prepared to proceed, Mr.  
5 Adams?

6 MR. ADAMS: Yes, I am.

7 ACTING CHAIRMAN ALBERTI: Okay. So  
8 you are free to make an opening statement and  
9 then call your first witness.

10 MR. ADAMS: The District will waive  
11 its opening statement and will call its first  
12 witness, Monica Clark. She is on her way.

13 ACTING CHAIRMAN ALBERTI: Yes. Okay.  
14 Whereupon,

15 MONICA CLARK

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

20 MS. CLARK: I do.

21 ACTING CHAIRMAN ALBERTI: Thank you.  
22 Please be seated.

1 MR. ADAMS: Sure.

2 DIRECT EXAMINATION

3 MR. ADAMS: Ms. Clark, can you state  
4 your name and spell it for the record?

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

7 MR. ADAMS: And you are employed with  
8 the District of Columbia's Alcoholic Beverage  
9 Regulation Administration as a compliance  
10 analyst. Is that correct?

11 MS. CLARK: That's correct.

12 MR. ADAMS: And as a compliance  
13 analyst, are you in charge of overseeing the  
14 establishments in terms of their turning in or  
15 providing financial information to ABRA and to  
16 the Board?

17 MS. CLARK: Yes, I am.

18 MR. ADAMS: And can you explain what  
19 exactly you do in that regard?

20 MS. CLARK: Well, I receive, review  
21 and record the quarterly statements from  
22 licensees. And I also prepare the report that

1 indicates which licensees have not submitted  
2 those reports.

3 MR. ADAMS: Okay. And so you do that  
4 on a quarterly basis?

5 MS. CLARK: Yes, I do.

6 MR. ADAMS: All right. Are you  
7 familiar with the establishment called Black and  
8 Orange?

9 MS. CLARK: Yes.

10 MR. ADAMS: And for the 2nd quarter of  
11 2014, did you complete a report of establishments  
12 that were out of compliance?

13 MS. CLARK: Yes, I did.

14 MR. ADAMS: All right. And can you  
15 tell us whether or not Black and Orange was  
16 listed?

17 MS. CLARK: Black and Orange was  
18 listed on the report of noncompliance. They had  
19 not turned in their report.

20 MR. ADAMS: Okay. And specifically  
21 for the 2nd quarter that is for the period of  
22 April through June 2014. Is that correct?

1 MS. CLARK: That's correct.

2 MR. ADAMS: All right. And so they  
3 were supposed to have been provided by July 30,  
4 2014?

5 MS. CLARK: Yes.

6 MR. ADAMS: And your assessment was  
7 that they had not provided it by July 30, 2014,  
8 correct?

9 MS. CLARK: That is correct.

10 MR. ADAMS: Did you complete any  
11 correspondence or any documentation in that  
12 regard to establish that a violation had  
13 occurred?

14 MS. CLARK: Yes, I did. I completed  
15 a case report.

16 MR. ADAMS: Okay. And is that case  
17 report for -- okay. I'm going to present to the  
18 Board what is marked as the District's Exhibit  
19 No. 1, which is Ms. Clark's case report.

20 (Whereupon, the above-referred to  
21 document was marked as Government  
22 Exhibit No. 1 for identification.)

1 MR. ADAMS: And I believe you have a  
2 copy already.

3 MS. CLARK: Yes, I do.

4 MR. ADAMS: Have you reviewed the case  
5 report in front of you?

6 MS. CLARK: Yes, I have.

7 MR. ADAMS: Are you familiar with it?

8 MS. CLARK: Yes.

9 MR. ADAMS: And is this the case  
10 report in front of you a true and accurate  
11 version of the case report that you completed for  
12 this case?

13 MS. CLARK: Yes.

14 MR. ADAMS: All right. I will ask for  
15 the case report to be submitted onto the record.  
16 I move for the case report to be submitted onto  
17 the record.

18 ACTING CHAIRMAN ALBERTI: Okay. We  
19 will accept the case report.

20 (Whereupon, the document marked as  
21 Government Exhibit No. 1 was received  
22 into evidence.)

1 MR. ADAMS: And, Mr. Clark, have you  
2 received -- after you provided this case report  
3 and after -- was the establishment made aware  
4 that a violation occurred?

5 MS. CLARK: The establishment would  
6 have been made aware that the report had not been  
7 received, yes.

8 MR. ADAMS: All right. And since  
9 then, has -- what has the establishment done to  
10 correct?

11 MS. CLARK: I have received no  
12 correspondence or have not been contacted from  
13 the establishment.

14 MR. ADAMS: And when is the last time  
15 you received a quarterly report from this  
16 establishment?

17 MS. CLARK: The last quarterly report  
18 received from this particular establishment was  
19 received for the 1st quarter of 2014, which would  
20 cover the period of January through March of  
21 2014.

22 MR. ADAMS: So since then, you have

1 not gotten --

2 MS. CLARK: Since that period, I have  
3 not received anything from the establishment.

4 MR. ADAMS: All right. I have no  
5 further questions for Ms. Clark.

6 ACTING CHAIRMAN ALBERTI: Okay. Board  
7 Members, does anyone have any questions for  
8 Investigator Clark? Okay. Since there are no  
9 questions, Investigator Clark, you may be  
10 excused.

11 MS. CLARK: Thank you.

12 (Whereupon, witness was excused.)

13 ACTING CHAIRMAN ALBERTI: Mr. Adams?

14 MR. ADAMS: Yes. That concludes the  
15 District's case.

16 Just in summation, this is --  
17 obviously, the establishment failed to provide  
18 their 2nd quarter 2014 report by July 30, 2014,  
19 which makes them -- which is a violation of D.C.  
20 Code 2513(b)(2)(A) and also 23 DCMR 1207.1.

21 As a result, based on the fact that  
22 this is not contested, and we have provided a

1       prima facie evidence that a violation has  
2       occurred, the District asks the Board to find the  
3       violation against the establishment, based upon  
4       my calculations, this would be the  
5       establishment's fourth secondary tier violation  
6       within a four year period.

7               So therefore, the fine range is  
8       between, as the Board very-well knows, \$1,000 and  
9       \$2,000. So I ask the Board to use its  
10      discretion.

11             ACTING CHAIRMAN ALBERTI: Okay. Well,  
12      thank you, Mr. Adams.

13             MR. ADAMS: You're welcome.

14             ACTING CHAIRMAN ALBERTI: I guess that  
15      concludes the case, so I will now close this  
16      hearing.

17             As a Board Member of the Alcoholic  
18      Beverage Control Board for the District of  
19      Columbia -- before I proceed, do we have all the  
20      documents, all the evidence that we need?

21             MR. ADAMS: Yes.

22             ACTING CHAIRMAN ALBERTI: Just to make

1 sure we got everything. Okay. Great. Thank  
2 you.

3 MR. ADAMS: Mr. Chairman, we have  
4 given all.

5 ACTING CHAIRMAN ALBERTI: Okay.  
6 Great.

7 As a Board Member of the Alcoholic  
8 Beverage Control Board for the District of  
9 Columbia and in accordance with Section 405 of  
10 the Open Meetings Amendment Act of 2010, I move  
11 that the ABC Board hold a closed meeting for the  
12 purpose of deliberating on Case No. 14-AUD-00094,  
13 for the reasons cited in Section 405(b)(13) of  
14 the Open Meetings Amendment Act of 2010.

15 Is there a second?

16 MEMBER BROOKS: Second.

17 ACTING CHAIRMAN ALBERTI: All right.  
18 Mr. Brooks seconded the motion. I will now take  
19 a roll call vote.

20 Mr. Brooks?

21 MEMBER BROOKS: I agree.

22 ACTING CHAIRMAN ALBERTI: Mr.

1 Rodriguez?

2 MEMBER RODRIGUEZ: I agree.

3 ACTING CHAIRMAN ALBERTI: Mr. Jones?

4 MEMBER JONES: I agree.

5 ACTING CHAIRMAN ALBERTI: Mr. Short?

6 MEMBER SHORT: I agree.

7 ACTING CHAIRMAN ALBERTI: Mr.

8 Silverstein?

9 MEMBER SILVERSTEIN: I agree.

10 ACTING CHAIRMAN ALBERTI: And I, Mr.

11 Alberti, agree. That is 6 in favor and none

12 opposed. The motion carries. Thank you, Mr.

13 Adams.

14 MR. ADAMS: May counsel be dismissed?

15 ACTING CHAIRMAN ALBERTI: As it

16 appears the motion has passed, I hereby give

17 notice that the ABC Board will hold a closed

18 meeting in the ABC Board conference room pursuant

19 to the Open Meetings Amendment Act of 2010 and

20 issue an order within 90 days.

21 So we are going to adjourn briefly and

22 when we return, we will take up a case regarding

1 the Taj Mahal Enterprises.

2 We are off the record.

3 (Whereupon, the Show Cause Hearing in  
4 the above-entitled matter was concluded at 11:25  
5 a.m.)

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<p><b>\$1,000</b> 11:8  <b>\$2,000</b> 11:9  <b>a.m</b> 3:2 4:1,1 14:5  <b>ABC</b> 12:11 13:17,18  <b>above-entitled</b> 14:4  <b>above-referred</b> 7:20  <b>ABRA</b> 1:21 5:15  <b>accept</b> 8:19  <b>accurate</b> 8:10  <b>Act</b> 12:10,14 13:19  <b>Acting</b> 1:16 3:3,15,21  4:7,13,21 8:18 10:6  10:13 11:11,14,22  12:5,17,22 13:3,5,7  13:10,15  <b>Adams</b> 1:21 3:12,13,16  3:19 4:5,6,10 5:1,3,7  5:12,18 6:3,6,10,14  6:20 7:2,6,10,16 8:1,4  8:7,9,14 9:1,8,14,22  10:4,13,14 11:12,13  11:21 12:3 13:13,14  <b>adjourn</b> 13:21  <b>Administration</b> 5:9  <b>agree</b> 12:21 13:2,4,6,9  13:11  <b>Alberti</b> 1:16 3:3,15,21  4:7,13,21 8:18 10:6  10:13 11:11,14,22  12:5,17,22 13:3,5,7  13:10,11,15  <b>Alcoholic</b> 1:2,12,13 5:8  11:17 12:7  <b>Amendment</b> 12:10,14  13:19  <b>analyst</b> 1:21 5:10,13  <b>ANC-1B</b> 1:7  <b>appears</b> 13:16  <b>April</b> 6:22  <b>asks</b> 11:2  <b>assessment</b> 7:6  <b>assumed</b> 4:18  <b>aware</b> 9:3,6</p>	<p>12:20,21  <b>Building</b> 1:13  <b>Burger</b> 1:6 3:8</p>	<p><b>D.C</b> 1:14 10:19  <b>days</b> 13:20  <b>DCMR</b> 10:20  <b>deliberating</b> 12:12  <b>DIRECT</b> 2:4 5:2  <b>discretion</b> 11:10  <b>dismissed</b> 13:14  <b>District</b> 1:1 3:14 4:10  5:8 11:2,18 12:8  <b>District's</b> 7:18 10:15  <b>document</b> 7:21 8:20  <b>documentation</b> 7:11  <b>documents</b> 11:20  <b>DONALD</b> 1:17  <b>duly</b> 4:17</p>	<p><b>give</b> 13:16  <b>given</b> 12:4  <b>going</b> 7:17 13:21  <b>good</b> 3:5,12,15  <b>gotten</b> 10:1  <b>Government</b> 2:2 4:17  7:21 8:21  <b>Great</b> 12:1,6  <b>guess</b> 11:14</p>
<p><b>B</b></p> <p><b>based</b> 10:21 11:3  <b>basis</b> 6:4  <b>believe</b> 8:1  <b>Beverage</b> 1:2,12,13 5:8  11:18 12:8  <b>Black</b> 1:6 3:8 6:7,15,17  <b>Board</b> 1:2,12 3:13 4:3  5:16 7:18 10:6 11:2,8  11:9,17,18 12:7,8,11  13:17,18  <b>briefly</b> 13:21  <b>Brooks</b> 1:17 12:16,18</p>	<p><b>C</b></p> <p><b>C-L-A-R-K</b> 5:6  <b>C-O-N-T-E-N-T-S</b> 2:1  <b>calculations</b> 11:4  <b>call</b> 4:9,11 12:19  <b>called</b> 4:16 6:7  <b>carries</b> 13:12  <b>case</b> 1:8 2:6 3:7 7:15,16  7:19 8:4,9,11,12,15  8:16,19 9:2 10:15  11:15 12:12 13:22  <b>Cause</b> 1:6 3:6,7 4:2  14:3  <b>Chairman</b> 1:16 3:3,12  3:15,21 4:7,13,21  8:18 10:6,13 11:11,14  11:22 12:3,5,17,22  13:3,5,7,10,15  <b>Chairperson</b> 1:14  <b>charge</b> 5:13  <b>cited</b> 12:13  <b>Clark</b> 1:21 2:4,6 4:12,15  4:20 5:3,5,5,11,17,20  6:5,9,13,17 7:1,5,9,14  8:3,6,8,13 9:1,5,11,17  10:2,5,8,9,11  <b>Clark's</b> 7:19  <b>close</b> 11:15  <b>closed</b> 12:11 13:17  <b>Closing</b> 2:2  <b>Code</b> 10:20  <b>Columbia</b> 1:1 3:14  11:19 12:9  <b>Columbia's</b> 5:8  <b>complete</b> 6:11 7:10  <b>completed</b> 7:14 8:11  <b>compliance</b> 1:21 5:9,12  6:12  <b>concluded</b> 14:4  <b>concludes</b> 10:14 11:15  <b>conference</b> 13:18  <b>contacted</b> 9:12  <b>contested</b> 10:22  <b>Control</b> 1:2,12,13 11:18  12:8  <b>copy</b> 8:2  <b>correct</b> 5:10,11 6:22 7:1  7:8,9 9:10  <b>correspondence</b> 7:11  9:12  <b>counsel</b> 4:16 13:14  <b>cover</b> 9:20  <b>CR</b> 1:7  <b>CROSS</b> 2:4</p>	<p><b>E</b></p> <p><b>employed</b> 5:7  <b>Enterprises</b> 14:1  <b>establish</b> 7:12  <b>establishment</b> 6:7 9:3,5  9:9,13,16,18 10:3,17  11:3  <b>establishment's</b> 11:5  <b>establishments</b> 5:14  6:11  <b>evidence</b> 8:22 11:1,20  <b>ex</b> 4:3  <b>exactly</b> 5:19  <b>EXAMINATION</b> 5:2  <b>examined</b> 4:18  <b>excused</b> 10:10,12  <b>Exhibit</b> 7:18,22 8:21  <b>EXHIBITS</b> 2:5  <b>expect</b> 3:17  <b>explain</b> 5:18</p>	<p><b>H</b></p> <p><b>hearing</b> 1:7,13 3:4,6,6,8  3:22 4:2 11:16 14:3  <b>HECTOR</b> 1:18  <b>HERMAN</b> 1:18  <b>hold</b> 12:11 13:17</p> <p><b>I</b></p> <p><b>identification</b> 7:22  <b>IDENTIFIED</b> 2:5  <b>indicates</b> 6:1  <b>information</b> 3:18 5:15  <b>introductions</b> 3:10  <b>Investigator</b> 10:8,9  <b>issue</b> 13:20</p>
		<p><b>F</b></p> <p><b>facie</b> 11:1  <b>fact</b> 10:21  <b>failed</b> 1:9 10:17  <b>familiar</b> 6:7 8:7  <b>favor</b> 13:11  <b>February</b> 1:11  <b>File</b> 1:9  <b>financial</b> 5:15  <b>find</b> 11:2  <b>fine</b> 11:7  <b>first</b> 4:9,11,17  <b>follows</b> 4:19  <b>forward</b> 3:10  <b>four</b> 11:6  <b>fourth</b> 11:5  <b>free</b> 4:8  <b>front</b> 8:5,10  <b>further</b> 10:5</p>	<p><b>J</b></p> <p><b>JAMES</b> 1:19  <b>January</b> 9:20  <b>Jones</b> 1:18 13:3,4  <b>July</b> 7:3,7 10:18  <b>June</b> 6:22</p> <p><b>K</b></p> <p><b>knows</b> 11:8</p>
			<p><b>L</b></p> <p><b>License</b> 1:8 3:9  <b>licensee</b> 3:16,17,20  <b>licensees</b> 5:22 6:1  <b>listed</b> 6:16,18  <b>LLC</b> 1:6 3:8</p> <p><b>M</b></p> <p><b>M-O-N-I-C-A</b> 5:5  <b>Mahal</b> 14:1  <b>March</b> 9:20  <b>marked</b> 7:18,21 8:20  <b>matter</b> 1:5 14:4  <b>meeting</b> 1:3 3:22 12:11  13:18  <b>Meetings</b> 12:10,14  13:19  <b>Member</b> 1:17,17,18,18  1:19 11:17 12:7,16,21  13:2,4,6,9</p>

**Members** 3:13 10:7  
**met** 1:13  
**MIKE** 1:17  
**Miller** 1:14  
**moment** 3:4  
**Monica** 1:21 2:4 4:12  
 4:15 5:5

**morning** 3:12,16  
**motion** 12:18 13:12,16  
**move** 8:16 12:10

---

**N**

---

**N.W** 1:13  
**name** 5:4  
**need** 11:20  
**NICK** 1:16  
**noncompliance** 6:18  
**notice** 13:17  
**NW** 1:7

---

**O**

---

**O-F** 2:1  
**OAG** 1:21  
**obviously** 10:17  
**occurred** 7:13 9:4 11:2  
**okay** 3:3,5,21 4:7,13 6:3  
 6:20 7:16,17 8:18  
 10:6,8 11:11 12:1,5  
**Open** 12:10,14 13:19  
**opening** 4:8,11  
**opposed** 13:12  
**Orange** 1:6 3:9 6:8,15  
 6:17  
**order** 13:20  
**overseeing** 5:13

---

**P**

---

**P-R-O-C-E-E-D-I-N-G-S**  
 3:1  
**parte** 4:3  
**particular** 9:18  
**Parties** 3:10  
**passed** 13:16  
**period** 6:21 9:20 10:2  
 11:6  
**please** 3:4,11 4:22  
**prepare** 5:22  
**prepared** 4:4  
**present** 1:15,20 7:17  
**presiding** 1:14  
**prima** 11:1  
**proceed** 4:3,4 11:19  
**provide** 10:17  
**provided** 7:3,7 9:2  
 10:22  
**providing** 5:15  
**purpose** 12:12  
**pursuant** 13:18

---

**Q**

---

**quarter** 1:10 6:10,21  
 9:19 10:18  
**quarterly** 1:9 5:21 6:4  
 9:15,17  
**questions** 10:5,7,9

---

**R**

---

**range** 11:7  
**reasons** 12:13  
**receive** 5:20  
**received** 2:5 8:21 9:2,7  
 9:11,15,18,19 10:3  
**record** 5:4,21 8:15,17  
 14:2  
**Reeves** 1:13  
**regard** 5:19 7:12  
**regarding** 3:8 13:22  
**Regulation** 5:9  
**report** 2:6 5:22 6:11,18  
 6:19 7:15,17,19 8:5  
 8:10,11,15,16,19 9:2  
 9:6,15,17 10:18

**reports** 6:2  
**representing** 3:14  
**result** 10:21  
**Retailer** 1:7  
**return** 13:22  
**review** 5:20  
**reviewed** 8:4  
**right** 3:5 6:6,14 7:2 8:14  
 9:8 10:4 12:17  
**Rodriguez** 1:18 13:1,2  
**roll** 12:19  
**room** 1:13 13:18  
**Ruthanne** 1:14

---

**S**

---

**scheduled** 4:1  
**seated** 4:22  
**second** 12:15,16  
**secondary** 11:5  
**seconded** 12:18  
**Section** 12:9,13  
**Short** 1:19 13:5,6  
**show** 1:6 3:6,7,17 4:2  
 14:3  
**shows** 3:20  
**Silverstein** 1:17 13:8,9  
**specifically** 6:20  
**spell** 5:4  
**stand** 4:18  
**state** 5:3  
**statement** 2:2 4:8,11  
**statements** 5:21  
**Statements-2nd** 1:10  
**Street** 1:7,13  
**submitted** 6:1 8:15,16

**Suite** 1:14  
**summation** 10:16  
**supposed** 7:3  
**sure** 5:1 12:1  
**surprised** 3:20  
**sworn** 4:17

---

**T**

---

**T-A-B-L-E** 2:1  
**t/a** 1:6 3:8  
**Taj** 14:1  
**take** 12:18 13:22  
**tell** 6:15  
**terms** 5:14  
**testified** 4:19  
**thank** 4:21 10:11 11:12  
 12:1 13:12  
**tier** 11:5  
**time** 9:14  
**true** 8:10  
**turned** 6:19  
**turning** 5:14

---

**U**

---

**use** 11:9

---

**V**

---

**version** 8:11  
**very-well** 11:8  
**violation** 7:12 9:4 10:19  
 11:1,3,5  
**vote** 12:19

---

**W**

---

**waive** 4:10  
**Walter** 1:21 3:13  
**Washington** 1:14  
**way** 4:12  
**welcome** 11:13  
**witness** 2:4 4:9,12,16  
 4:18 10:12

---

**X**

---



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**Y**

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**year** 11:6

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**Z**

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**0**

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**1**

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**1** 2:6 7:19,22 8:21  
**10:00** 4:1  
**11** 2:2  
**11:17** 3:2  
**11:18** 4:1  
**11:25** 14:4

**1207.1** 10:20  
**14-AUD-00094** 1:8 3:7  
 12:12  
**14th** 1:7,13  
**1931** 1:6,7 3:8  
**1st** 9:19

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**2**

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**2000** 1:13  
**20009** 1:14  
**2010** 12:10,14 13:19  
**2014** 1:10 6:11,22 7:4,7  
 9:19,21 10:18,18  
**2015** 1:11  
**23** 10:20  
**25** 1:11  
**2513(b)(2)(A)** 10:20  
**2nd** 6:10,21 10:18

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**3**

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**30** 7:3,7 10:18

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**4**

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**4** 2:4  
**400S** 1:14  
**405** 12:9  
**405(b)(13)** 12:13

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**5**

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**6**

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**6** 13:11

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**7**

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**8**

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**8** 2:6  
**88273** 1:8 3:9

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**9**

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