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

(11:17 a.m.)

CHAIRPERSON MILLER: The last case of the morning is Case No. 13-AUD-00032, TruOrleans located at 400 H Street, N.E., License No. 86210, in ANC-6C. And this is also a Show Cause Hearing.

MS. GEPHARDT: Good morning, Board Members. Chrissy Gephardt on behalf of the Office of the Attorney General.

CHAIRPERSON MILLER: Good morning. And is there anybody here from TruOrleans? Not seeing anyone, Ms. Gephardt, do you have any information about whether anyone will be coming?

MS. GEPHARDT: I have no knowledge of that.

CHAIRPERSON MILLER: Okay. Are you prepared to proceed ex parte in this case?

MS. GEPHARDT: Yes, I am.

CHAIRPERSON MILLER: All right. And I would note that it is 11:19. The

1 hearing was called for 11:00 and we have not
2 received any word that the licensee is on
3 their way. Okay. So the Board is ready
4 whenever you are.

5 MS. GEPHARDT: Okay. Okay. Good
6 morning. So in this case one charge is being
7 brought against this licensee and that is for
8 failure to file with the Board the required
9 quarterly statement for the 4th quarter of
10 2012 by January 31, 2013. And that is in
11 violation of DC Code 25.113(b)(2)(A).

12 You will hear today from Ms.
13 Monica Clark, ABRA's Compliance Analyst
14 regarding the licensee's 4th quarter
15 statements for 2012. She will state that as
16 of January 31, 2013, the 4th quarter statement
17 had not been filed and she will explain the
18 process by which ABRA determines if a
19 statement has been filed timely and through
20 that process was able to determine that the
21 licensee's quarterly statement for the 4th
22 quarter of 2012 had not been filed on time.

1 The Government would now like to
2 call to the witness stand Ms. Monica Clark.

3 CHAIRPERSON MILLER: Good morning.
4 Whereupon,

5 MONICA CLARK
6 was called as a witness by Counsel for the
7 Government, and having been first duly sworn,
8 assumed the witness stand and was examined and
9 testified as follows:

10 CHAIRPERSON MILLER: Thank you.

11 MS. GEPHARDT: Good morning, Ms.
12 Clark. Can you, please, state your name and
13 spell it for the record?

14 MS. CLARK: My name is Monica
15 Clark, that's M-O-N-I-C-A C-L-A-R-K.

16 MS. GEPHARDT: And, Ms. Clark,
17 where do you work?

18 MS. CLARK: For the Alcoholic
19 Beverage Regulation Administration.

20 MS. GEPHARDT: And what is your
21 title?

22 MS. CLARK: Compliance Analyst.

1 MS. GEPHARDT: And what do you do
2 as a compliance analyst?

3 MS. CLARK: Well, I receive,
4 record and review quarterly statements
5 received by licensees and I also assist on
6 audit matters.

7 MS. GEPHARDT: Okay. And are you
8 familiar with a licensee by the name of
9 TruOrleans?

10 MS. CLARK: Yes, I am.

11 MS. GEPHARDT: And I want to draw
12 your attention to the quarterly statement
13 filing period for the 4th quarter of 2012. Do
14 you know what date that filing is due?

15 MS. CLARK: That filing would be
16 due by the 30th of January 2013.

17 MS. GEPHARDT: Do you know if
18 TruOrleans filed their 2012 4th quarter
19 statement by January 31, 2013?

20 MS. CLARK: No, they had not.

21 MS. GEPHARDT: To date, has this
22 quarterly statement been filed?

1 MS. CLARK: Yes.

2 MS. GEPHARDT: Do you know when it
3 was filed?

4 MS. CLARK: That statement was
5 filed and received at ABRA on March 20, 2013.

6 MS. GEPHARDT: Okay. And how do
7 you know that?

8 MS. CLARK: It was received
9 electronically and a copy was received here at
10 ABRA.

11 MS. GEPHARDT: Okay. The
12 Government would now like to show the witness
13 what has been marked as Government Exhibit No.
14 1.

15 (Whereupon, the document was
16 marked as Government Exhibit 1 for
17 identification.)

18 MS. GEPHARDT: May I approach the
19 witness?

20 CHAIRPERSON MILLER: Yes.

21 MS. GEPHARDT: And these are
22 copies for the Board.

1 Thank you. Ms. Clark, what is
2 this document?

3 MS. CLARK: This is a copy of the
4 quarterly statement received from -- that was
5 filed by TruOrleans.

6 MS. GEPHARDT: And what
7 information is shown on this form?

8 MS. CLARK: The information on
9 this form shows the date that it was sent. It
10 -- to whom it was sent, the subject line shows
11 the name of the licensees. It also show --
12 this form also shows which quarter and what
13 calendar year and it also shows license
14 information to include the name and address of
15 the licensee, sales and expenditures and
16 contact information.

17 MS. GEPHARDT: And does it show on
18 this form where -- what date and what time
19 that the 4th quarter statement was submitted?

20 MS. CLARK: Yes, it does. It
21 shows that information actually in two
22 separate spots. It shows it at the top in the

1 sent lines where it says Wednesday, March 20th
2 at 3:24 and it also shows it, shows that
3 information, at the bottom, the last line on
4 the page where it says date created.

5 MS. GEPHARDT: Okay. And is this
6 information submitted by licensees via email
7 or how is it submitted?

8 MS. CLARK: It is submitted
9 through the -- through ABRA's on-line filing
10 system on the website.

11 MS. GEPHARDT: Okay. And is there
12 any other way this licensee could have
13 submitted his quarterly statement for the 4th
14 quarter of 2012?

15 MS. CLARK: They could have
16 submitted it in person, by mail, by fax and,
17 of course, the way they did submit it.

18 MS. GEPHARDT: And when you verify
19 when somebody has filed a quarterly statement,
20 do you check these other ways to make sure
21 that the statement wasn't filed by mail or in
22 person?

1 MS. CLARK: Yes, I do.

2 MS. GEPHARDT: Okay. Thank you.

3 That's all I have. The Government would
4 request that Government's Exhibit No. 1 be
5 admitted into evidence.

6 CHAIRPERSON MILLER: Not having
7 any objection, it's admitted.

8 (Whereupon, the document marked as
9 Government Exhibit 1 was received
10 in evidence.)

11 MS. GEPHARDT: Okay.

12 CHAIRPERSON MILLER: Thank you.

13 MS. GEPHARDT: All right. Thank
14 you, Ms. Clark. Thank you.

15 In closing, the Government has
16 shown through the testimony of Ms. Clark that
17 this licensee's quarterly report for the 4th
18 quarter of 2012 was not received before the
19 deadline of January 31, 2013.

20 Ms. Clark testified that ABRA's
21 system reflects that TruOrleans submitted
22 their quarterly statement late on March 20,

1 2013 at 3:24 p.m. And based on this evidence,
2 the Government has proven by a preponderance
3 of the evidence that this licensee is in
4 violation of ^U 25.113(b)(2)(A) and requests
5 that the Board fine the licensee \$1,000 for
6 this violation.

7 MEMBER ALBERTI: What was the last
8 part, your recommendation?

9 MS. GEPHARDT: Oh, \$1,000 fine.

10 MEMBER ALBERTI: Okay.

11 CHAIRPERSON MILLER: Ms. Gephardt,
12 I don't know if you care to comment any
13 further as to why you recommend the \$1,000
14 fine?

15 MS. GEPHARDT: This was based on a
16 review of the history of this establishment as
17 well as the possibility of trying to settle
18 this case with the licensee. We felt that
19 this was fair, but the Board, of course, is
20 free to fine as it sees fit.

21 CHAIRPERSON MILLER: Thank you.
22 Okay. Thank you very much.

1 MS. GEPHARDT: All right. Thank
2 you.

3 CHAIRPERSON MILLER: Okay. I
4 think that completes the Board's morning
5 calendar. And we will recess until it looks
6 like the 1:00 hearing. Okay. Thank you.

7 (Whereupon, the Show Cause Hearing
8 in the above-entitled matter was concluded at
9 11:27 a.m.)

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A	Cause 1:6 2:7 11:7 Chairperson 1:16 1:19 2:3,11,18,21 4:3,10 6:20 9:6,12 10:11,21 11:3 charge 3:6 check 8:20 Chrissy 1:24 2:9 Clark 1:25 3:13 4:2 4:5,12,14,15,16 4:18,22 5:3,10,15 5:20 6:1,4,8 7:1,3 7:8,20 8:8,15 9:1 9:14,16,20 closing 9:15 Code 3:11 COLUMBIA 1:1 coming 2:15 comment 10:12 completes 11:4 compliance 3:13 4:22 5:2 concluded 11:8 contact 7:16 Control 1:2,14,14 copies 6:22 copy 6:9 7:3 Counsel 4:6 course 8:17 10:19 CR 1:8 created 8:4 C-L-A-R-K 4:15	D.C 1:15	E	4:3,11 Government 4:1,7 6:12,13,16 9:3,9 9:15 10:2 Government's 9:4	M
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