

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :
 :
A & A Restaurant Group, Inc. :
t/a Russia House :
1800 Connecticut Avenue, NW :
Retailer CR : Show Cause
License No. 80952 : Hearing
ANC 2D :
Case No. 11-CMP-00367 :
Case No. 11-CMP-00440 :
Allowed the Sale or Delivery of :
Alcoholic Beverages Outside of :
The Allowed Hours :
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July 18, 2012

The Alcoholic Beverage Control

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

PRESENT:

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

HERMAN JONES, Member

CALVIN NOPHLIN, Member

MIKE SILVERSTEIN, Member

ALSO PRESENT

LOUISE PHILLIPS, OAG

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In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

2

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

2 3:17 p.m.

3 CHAIRPERSON MILLER: Okay. It's 3:17. We're
4 back on the record but are all the parties here?

5 (No audible response.)

6 CHAIRPERSON MILLER: It's schedule for 3:30
7 but we can start a little bit earlier if everyone is
8 here.

9 MS. PHILLIPS: This district -- this is a
10 show cause hearing and the District is an important
11 party and the policemen are here. Okay. I think we
12 could go forward without you. All right. And the
13 Licensee is here?

14 MR. GRANDIS: Yes.

15 CHAIRPERSON MILLER: Okay.

16 MR. MCGOVERN: Aaron McGovern, Russia House
17 Restaurant.

18 CHAIRPERSON MILLER: Okay.

19 MR. GRANDIS: And Edward Grandis, the
20 attorney for Russia House.

21 CHAIRPERSON MILLER: Okay. Good.

22 MR. GRANDIS: But I do (inaudible).

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

3

1 CHAIRPERSON MILLER: Thank you.

2 MR. GRANDIS: This is my first time in front
3 of Ms. Miller so

4 CHAIRPERSON MILLER: Okay. Yep. Trip,
5 right? Okay.

6 MR. ALBERTI: We warned her.

7 CHAIRPERSON MILLER: All right. So before we
8 go forward, are there any preliminary matters?

9 MR. ALBERTI: You may want to announce the
10 case for the record.

11 CHAIRPERSON MILLER: Oh, wait. I'm sorry. I
12 didn't announce the case yet. I got -- there you go.

13 MS. PHILLIPS: I thought we'd already
14 announced it.

15 CHAIRPERSON MILLER: I know. It felt that
16 way.

17 MR. ALBERTI: I know.

18 CHAIRPERSON MILLER: Case No. 11-CMP-00367
19 and 11-CMP-00440, Russia House, located at 1800
20 Connecticut Avenue, N.W., License No. 80952, in ANC 2D.

21 Okay. Now, are there any preliminary
22 matters?

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

4

1 MS. PHILLIPS: The parties have not entered
2 into an offer in compromise but have agreed to
3 stipulate to the notice and the facts contained therein
4 and the facts in the investigative report, as I recall.
5 So what we'll do is we'll do an opening and closing all
6 at once.

7 CHAIRPERSON MILLER: Okay.

8 MS. PHILLIPS: But the facts upon which this
9 notice was based have been stipulated to. Got to get
10 that right in the end.

11 CHAIRPERSON MILLER: So I just want to be
12 clear about that though. You're stipulating to the
13 facts set forth in the notice and the facts set forth
14 in the case report?

15 MS. PHILLIPS: Yes.

16 CHAIRPERSON MILLER: With the -- whatever
17 exhibits may be attested as, right?

18 MS. PHILLIPS: Yes.

19 MR. GRANDIS: With all the exhibits and
20 documents that -- within that.

21 CHAIRPERSON MILLER: Right. Okay. That's
22 it, correct?

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

5

1 MS. PHILLIPS: That's it.

2 CHAIRPERSON MILLER: Okay. All right.

3 That's not a problem. So then I guess, Ms. Phillips,
4 would you be making your opening and closing arguments?
5 Is this --

6 MS. PHILLIPS: Simultaneously.

7 CHAIRPERSON MILLER: Right. All rolled into
8 one?

9 MS. PHILLIPS: All rolled into one.

10 CHAIRPERSON MILLER: Okay.

11 MS. PHILLIPS: We're each taking more time
12 than necessary.

13 CHAIRPERSON MILLER: Okay.

14 MS. PHILLIPS: All right. This -- these
15 charges -- this notice is based on two charges. Both
16 were sale and delivery of alcoholic beverages outside
17 the hours specified in the license and the violation of
18 DC code 25- 724. And the second violation is 724 and
19 762.

20 Charge 1 concerns, I believe, two dates,
21 August 6th, 2011, which investigators came into the
22 establishment and they were serving after the hours

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

6

1 allowable on their license. And the second charge
2 deals with one -- as I recall, one date where they were
3 -- September 25th, 2011, where they were serving after
4 the designated hours.

5 These charges are -- and facts are agreed
6 upon in the stipulation. And therefore, the district
7 would ask for a fine of \$3000 in this case on two
8 charges.

9 CHAIRPERSON MILLER: Total or each?

10 MS. PHILLIPS: Total of one -- a total of
11 \$3000 --

12 CHAIRPERSON MILLER: Total. Okay.

13 MS. PHILLIPS: -- for the two charges.

14 CHAIRPERSON MILLER: And can you just --
15 okay. Okay. \$3000 between the two, is that what you
16 said?

17 MS. PHILLIPS: Yes, for both.

18 CHAIRPERSON MILLER: Okay. You're not
19 breaking it down specifically? Okay, fine.

20 MS. PHILLIPS: I usually do half and half.

21 CHAIRPERSON MILLER: Okay.

22 MS. PHILLIPS: So 1500 for one and 1500 for

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In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

7

1 the other one.

2 CHAIRPERSON MILLER: All right. I see that.

3 Okay. Is that it?

4 MS. PHILLIPS: That's it.

5 CHAIRPERSON MILLER: Okay.

6 MR. GRANDIS: Good afternoon. My name is
7 Edward Grandis. As I stated previously, I'm the
8 attorney for A & A Restaurant Group trading as Russia
9 House. And it is a pleasure to be in front of the
10 Board today. And we hope that we can clarify some of
11 the activities that surround these allegations. I do
12 have my closing statement in writing if I -- and may I
13 present one copy to the government and the rest to you
14 all if that would be helpful?

15 CHAIRPERSON MILLER: That'd be good. Yeah.

16 MR. GRANDIS: Ma'am?

17 CHAIRPERSON MILLER: Our assistant will come
18 get it from you.

19 MR. SILVERSTEIN: I would ask Counsel if he
20 could speak into the mike and make sure it's turned on
21 so that we have a record of what you say.

22 MR. GRANDIS: Thank you.

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

8

1 MR. SILVERSTEIN: Thank you, sir.

2 MR. GRANDIS: Thank you very much. Good
3 afternoon, Chairwoman Miller and members of the
4 Alcoholic Beverage Control Board. With me today is one
5 of the owners of Russia House, Aaron McGovern, as he's
6 been introduced. We have stipulated to the facts. We
7 are asking the Board to understand that the Licensee
8 took appropriate steps to address this misunderstanding
9 and to consider the actions taken by the Licensee to
10 come into compliance.

11 The record shows in the case report
12 investigation number 11-CMP-00440 on Page 2 that on
13 Tuesday, September 20th, 2011 the Licensee met with
14 William Hager (ph). This was actually before one of
15 the other incidents that -- when the inspector came
16 out. Mr. Hager is the ABRA records and data
17 superbosses. Mr. Hager stated that the purpose of this
18 meeting was to review the document files for the
19 establishment known as Russian House.

20 Mr. Hager stated that during the meeting, it
21 was determined that the ABC approved hours has been the
22 hours shown on the current license. Mr. Hager further

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

9

1 stated that there were previously filed renewals that
2 indicated greater hours of operation but a change in
3 Russia House's hours had not been approved by the ABC
4 Board.

5 The Licensee had made the wrong assumption
6 that by following the hours of operation as requested
7 by ABRA during the renewals, that the License -- the
8 license that was reissued was for the file operating
9 the hours as they had put into their documents. On
10 September 26th, 2011, within days of his meeting with
11 Mr. Hager, the Licensee filed for a change of hours as
12 a non-substantial change.

13 With this filing came the change of hours
14 application and a memorandum from the Licensee dated
15 Thursday, September 22nd, 2011, outlining to the Board
16 from one of the owners, the history of the
17 establishment. The same case report on Page 2 further
18 states that on Wednesday, October 12th, 2011, the ABC
19 Board reviewed Russia House's change of hours
20 application. The ABC Board on that date approved the
21 application for change of hours.

22 The Licensee sincerely apologized for this.

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

10

1 There have been numerous inspectors on site reviewing
2 ABC and other licenses on numerous occasions over many
3 years and not one inspector had noted this to the
4 owners or managers previously. In fact, the issue
5 arose not from a resident's complaint, but a routine
6 license check. Upon research, the Licensee realized he
7 was mistaken regarding the hours and promptly took the
8 appropriate steps to file the change of hours
9 application.

10 In closing, the Licensee believed that he was
11 operating in good faith and came into compliance
12 promptly. Based on the record that this was not the
13 result of a resident complaint or due to other
14 infractions, we respectfully request that the charges
15 be dropped due to the prompt steps the Licensee took to
16 research the records and to file for the change of
17 hours.

18 If there was a neighborhood concern, the ABC
19 Board could have determined that to be a substantial
20 change and seek ANC and neighborhood comments.
21 Instead, the ABC Board ordered the change of hours upon
22 reviewing the change of hours application. However, if

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In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

11

1 the Board determines that there needs to be a
2 punishment, we respectfully request that there only be
3 one charge due to the significant hardship two charges
4 would create for this Licensee.

5 Again, we believe that all of this was a
6 clerical misunderstanding on the part of the owner.
7 This was not a result of a -- of a resident complaint
8 of late- hour noise or bad behavior. And this was a
9 routine check by an inspector who did point out this
10 particular time that there seemed to be an
11 inconsistency.

12 In closing, my client did go promptly down to
13 see Mr. Hager when he could make an appointment, looked
14 at the file, and realized that his understanding was
15 not correct and within four days -- within two days
16 wrote a memorandum to his attorney regarding the
17 history and within four days filed the application for
18 a change of hours.

19 We want to thank you all for this opportunity
20 to bring our concerns to the Board and we look for a
21 fair resolution. Thank you very much.

22 CHAIRPERSON MILLER: Thank you. Are there

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In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

12

1 questions from Board members?

2 (No audible response.)

3 CHAIRPERSON MILLER: So if I understand you
4 correctly, you're saying you didn't know that you were
5 operating outside the permitted hours of your license,
6 correct?

7 MR. MCGOVERN: No, ma'am.

8 CHAIRPERSON MILLER: And that you acted in
9 good faith once you knew to correct the situation?

10 MR. MCGOVERN: Immediately.

11 CHAIRPERSON MILLER: How long has the -- this
12 restaurant been operating?

13 MR. MCGOVERN: I've owned it since 2005.

14 CHAIRPERSON MILLER: So have there been
15 compliance checks previously that missed this or they
16 weren't at that hour?

17 MR. MCGOVERN: Numerous.

18 MR. GRANDIS: Well, we don't want to say
19 anyone missed it. We're not --

20 CHAIRPERSON MILLER: Uh-huh.

21 MR. GRANDIS: -- trying to point a finger.

22 We're trying to say that this operation at Connecticut

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In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

13

1 and Florida, a commercial area, had been operating
2 under the same hours. And when they did the renewals,
3 whether it was correct or not -- and so because it's in
4 hand; it's not all digital yet -- the applicant asked
5 to do certain things. And one of the things the
6 applicant has asked to do as a renewal still -- unless
7 it's changed -- is to write down their hours of
8 operation.

9 He honestly -- he wrote down the hours of
10 operation. And that maybe should have triggered
11 something right there. We're not pointing a finger.
12 We're just saying that once it was made clear from the
13 inspector, prompt action was taken.

14 CHAIRPERSON MILLER: Okay. He wrote down the
15 wrong hours of operation? Is that it?

16 MR. GRANDIS: Yeah, he wrote down the -- he -
17 - you --

18 MR. MCGOVERN: I wrote down the hours that I
19 thought I was operating -- was within the legal hours --

20 CHAIRPERSON MILLER: Right, right.

21 MR. MCGOVERN: -- of the DC ABRA.

22 CHAIRPERSON MILLER: But not your license?

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

14

1 MR. MCGOVERN: Yeah.

2 CHAIRPERSON MILLER: Right? Okay. And my
3 only other question, I think, is -- I think you said it
4 would be a particular hardship upon you for this amount
5 of a fine. Is there something particular to your
6 business or it's just --

7 MR. GRANDIS: My client, quite frankly,
8 really is asking the Board to look at the circumstances
9 as a whole. We believe in looking at the circumstances
10 as a whole and that the Board, in redoing the
11 application, approved it within the same day they filed
12 the application and issued -- I think we got something
13 stating October 14th. I think we have something from
14 the Board.

15 We're really looking for this to be
16 understood as a misunderstanding. There was no
17 complaint. There was no other incidents being looked
18 at. It was a compliance check. And he responded, you
19 know, as soon as he could. And if I think -- if I --
20 my notes are right, I believe you were out of town part
21 of this time.

22 MR. MCGOVERN: I was in New York upstate with

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

15

1 my children. Right.

2 MR. GRANDIS: Okay. So when he returned, he
3 did do the memorandum, as I had requested, to explain
4 the operation of the -- of the establishment. And we
5 did file the application on September 26th, now, and I
6 -- and I believe acted on October 12th, which, I think,
7 is in the record that -- when it was acted on.

8 So we would -- to answer your question
9 directly though, why would two be more harmful than
10 one, is because we have a trigger point in the statute.
11 If there are X number of charges, the Board is then
12 handicapped or ordered (inaudible). And we are very
13 concerned that, you know, if there looks -- if there
14 needs to be some punishment here, it shouldn't be
15 overextended.

16 And it just highlights the fact that it's
17 closer to four. One is much less close to four than
18 two. And I think there's a period of years where these
19 stay on the books as they -- as the statute requires
20 and that they become cumulative. And that's why we
21 believe it's not the monetary fine; it's the number of
22 charges that came up here.

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

16

1 CHAIRPERSON MILLER: Thank you. Mr.
2 Silverstein?

3 MR. SILVERSTEIN: Mr. McGovern, Mr. Grandis,
4 let me -- help me again nail down exactly how this
5 happened. You were filing a renewal and you put in the
6 hours that you thought you had or that you thought you
7 wanted or just what was --

8 MR. MCGOVERN: Mr. Silverstein, when
9 originally I was affiliated with -- I was a manager at
10 the Russia House. And as you all may be aware or you
11 may not be aware, originally this license was issued
12 back in 1994. And those old school dot matrix printer
13 ABRA licenses had no hours on them. It just said,
14 "ABRA License blah, blah, blah, blah."

15 And as a manager, I would fill out the
16 renewals as CR, whatever license it was, filled it out,
17 had Ed Lozansky, the previous owner, sign it, notarize
18 it, submit it in. And I would run down to the South
19 Capitol -- North Capitol Street and get this all
20 squared away. And over the years, because I -- when I
21 bought the business, I did the same things I've done
22 previous time after previous time after previous time.

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

17

1 Well, in that column which says, "Operating
2 hours, hours of alcoholic beverage consumption to be
3 served," I filled in the legal hours because that was
4 what I thought. And I -- and it was my understanding
5 that -- and this is where the mistake comes into hand
6 is I was never told. My check was cashed through ABRA
7 and I just received a new license. I think one of my
8 first licenses didn't have hours.

9 And I have a manager -- I have a manager.
10 And that's -- there's no real excuse but that's kind of
11 the explanation I can give you. And as soon as we
12 found out -- I mean, immediately, like, that Monday or
13 Tuesday, we -- I called Ed Grandis and I said, "What's
14 going on? We have to get this fixed." And that's why
15 we -- it was a sense of urgency that we took.

16 MR. SILVERSTEIN: Okay. No further
17 questions.

18 CHAIRPERSON MILLER: Any others? Mr. Jones?

19 MR. JONES: Thank you, Madam Chair. And
20 please bear with me as it's probably more my confusion
21 than anything else. I just noticed there -- the two
22 charges. One's -- according to this document, one's

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

18

1 dated September 3rd. The other one's dated September
2 25th. There were two separate charges. I'm assuming
3 there are two separate infractions.

4 And you're asking us to view this as -- or
5 given this nature of the circumstances, you're asking
6 us to take into consideration the nature of those
7 circumstances and -- I'm trying to find the right words
8 -- try to help make this -- two charges more like one
9 charge?

10 MR. GRANDIS: Well, we actually are asking
11 the Board to really understand our circumstances.

12 MR. JONES: Uh-huh.

13 MR. GRANDIS: And we understand the
14 misunderstanding a layperson has. Okay. But that is
15 not -- that is not a good legal excuse. And we
16 recognize that. We are asking the Board to really look
17 at the circumstances and the time line, when these
18 occur and when we came straight to the Board with the
19 recognition we needed to get this resolved and to look
20 at what's in the record.

21 There's a lot of -- there's a memorandum
22 dated September 22nd and that's in the record -- it's

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

19

1 noted here -- from the Licensee --

2 MR. JONES: Uh-huh.

3 MR. GRANDIS: -- to the Board explaining the
4 history. It is our -- and we were not -- this was not
5 a hearing. But it's our understanding the Board took
6 that September 22nd memorandum in consideration when
7 they granted the change of hours without having a
8 substantial change.

9 MR. JONES: Uh-huh.

10 MR. GRANDIS: We don't know because we were
11 not here.

12 MR. JONES: Right.

13 MR. GRANDIS: So first, sir, we are asking
14 the Board to look at the totalitary of circumstances to
15 dismiss both charges.

16 MR. JONES: Okay.

17 MR. GRANDIS: So as you -- to answer your
18 concern, if the Board determines that there needs to be
19 punishment here, we really think that two charges -- to
20 be -- to be on record as two charges is really punitive
21 in a situation where this Licensee did not fight and
22 did not have other -- it was not based on a resident

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

20

1 complaint. It was not based on other infractions that
2 occurred that evening.

3 MR. JONES: Okay.

4 MR. GRANDIS: We're asking the Board to take
5 all that into consideration in meting out a decision
6 that we think is fair.

7 MR. JONES: Okay. And again, it's definitely
8 my fault. I'm just trying to make sure I'm capturing
9 all of this. But there was a 9 -- 3rd -- a 9 --
10 September 3rd -

11 -

12 MR. GRANDIS: Yes.

13 MR. JONES: -- and a September 25th
14 occurrence - - individual occurrence?

15 MR. GRANDIS: Yes. Yes, sir.

16 MR. JONES: And you -- and you're -- and what
17 I'm hearing from you, I hear a lot of reference to a
18 particular night. Are you referring to something that
19 happened -- or a particular evening? When you're
20 saying it was just a regulatory inspection, it wasn't
21 due to a complaint. It wasn't because the
22 establishment was acting rowdily, anything like that.

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

21

1 But in hearing you speak about it, it seems
2 that there's only one night or one occurrence.

3 MR. GRANDIS: No. The inspector did appear
4 on those dates, as you're saying.

5 MR. JONES: Right.

6 MR. GRANDIS: The --

7 MR. JONES: So -- and I guess just --

8 MR. GRANDIS: So --

9 MR. JONES: Not to cut you off, I'm trying to
10 figure out if he -- if he had came on the 3rd of
11 September, why -- and it was brought to your attention
12 on that date --

13 MR. GRANDIS: Uh-huh.

14 MR. JONES: -- when an inspector came?

15 MR. GRANDIS: Yes.

16 MR. JONES: How is it that it happened again?
17 And you're saying that's because -- oh, what?

18 MR. GRANDIS: The 25th actually is after,
19 when Mr. McGovern had a meeting on the 20th.

20 MR. JONES: The 25th is after the 20th?

21 MR. GRANDIS: Yeah. Well, yeah. Before the
22 25th inspection, Mr. McGovern had met with Mr. Hager.

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

22

1 MR. JONES: On what day?

2 MR. GRANDIS: On the 20th.

3 MR. JONES: On the 20th?

4 MR. GRANDIS: On the 20th.

5 MR. JONES: Okay.

6 MR. GRANDIS: And that's in the record. And
7 that's when he became aware that his understanding,
8 from looking at the paper trail that Mr. Hager and him
9 worked on together --

10 MR. JONES: Sure.

11 MR. GRANDIS: -- that was there, you see --
12 that what his assumption was was completely incorrect.

13 MR. MCGOVERN: My assumption.

14 MR. JONES: Understood though. Right.

15 MR. GRANDIS: And therefore, he called his
16 attorney. And we said we needed to file immediately
17 for a change of hours and he agreed.

18 MR. JONES: Okay.

19 MR. GRANDIS: It took him two days. He got
20 me the memorandum that I can refer to that's also in
21 this report regarding, as a manager, slash -- then the
22 owner -

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

23

1 -

2 MR. JONES: Uh-huh.

3 MR. GRANDIS: -- the -- how the -- mystery of
4 that establishment was running --

5 MR. JONES: Right.

6 MR. GRANDIS: -- and that inspectors had come
7 on, you know --

8 MR. JONES: Numerous occasions?

9 MR. GRANDIS: -- numerous -- as they -- as
10 they should --

11 MR. JONES: Right.

12 MR. GRANDIS: Everything -- we're not running
13 hospitals. But never -- and they would sit down and
14 look at the licenses together --

15 MR. JONES: Right.

16 MR. GRANDIS: -- not just this license, but
17 the other licenses, you know --

18 MR. JONES: Right.

19 MR. GRANDIS: -- on the permit. And they
20 would see everything -- they would say everything's in
21 order.

22 MR. JONES: Right.

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

24

1 MR. GRANDIS: So what we're saying is that we
2 are not pointing fingers of when -- as soon as he could
3 get back in town and get that meeting to move forward,
4 he did.

5 MR. JONES: Okay. So the only thing I'm
6 challenged with is, if he had a meeting on the 20th,
7 you were made aware of a situation as a result of the
8 September 3rd incident. Why didn't you at that point
9 immediately revert to what was -- you were being told
10 by the inspector or investigator at that point in time,
11 as opposed to assuming that your assumption was correct
12 until you were proven otherwise?

13 And that's the only thing -- and I'm not
14 saying you did wrong or right. I just want to
15 understand. Because you want us to take into
16 consideration your immediately response and your
17 immediate correction -- you -- correcting of the
18 action. But I will challenge that you didn't
19 immediately correct it because you had an opportunity
20 to do so on the 3rd.

21 So I -- that's what -- I'm just trying to
22 follow and understand that. If you want me to take

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

25

1 that into consideration, then I need you to help me
2 with that consideration.

3 MR. MCGOVERN: It was my mistake.

4 MR. GRANDIS: On the 25th.

5 MR. MCGOVERN: On the 25th.

6 MR. GRANDIS: On the 3rd he still was under
7 the -- his impression he needed to go see the records.

8 MR. JONES: Got that.

9 MR. MCGOVERN: Yeah.

10 MR. JONES: So -- but on the 25th, you're
11 saying -- and let's just be candid. Were you saying,
12 "Hey, I don't think you're right, ABRA? I think I'm
13 right because I've been doing it this way for the
14 years. And no one else says it's wrong. And I'm just
15 going to keep operating like this until you prove me
16 wrong?" And I'm the kind of guy that you -- I'd rather
17 you just be candid with me.

18 All right. Just tell me the truth.

19 MR. MCGOVERN: (Inaudible) --

20 MR. JONES: Yeah.

21 MR. MCGOVERN: This is -- I think when I have
22 this many ABRA officers come into my establishment as I

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

26

1 do -- and it can be 15 one month --

2 MR. JONES: Uh-huh.

3 MR. MCGOVERN: -- or it could be four a year.

4 And over the years -- and I'm not exaggerating at 15 a
5 month -- I've never been told this. And I have renewed
6 license after license.

7 MR. JONES: Right.

8 MR. MCGOVERN: And I'm, like, "This doesn't
9 make sense."

10 MR. JONES: I got it.

11 MR. MCGOVERN: And the first time the ABRA
12 Board was, I think, off on August. It was -- they
13 didn't meet on August. So I'm, like, "This is a
14 mistake. This is a mistake." I was away all week
15 because I go away every other weekend to -- with my
16 kids. I didn't hear about this. I went, "This is off.
17 It's not right."

18 It's on me. I mean, I am the Licensee. I
19 assume complete responsibility. I try to run a very
20 ethically strong business. We've been around a long
21 time. I don't have violations or we're not a problem.
22 But I get along with all my neighbors. If on the 25th

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

27

1 -- if it was just a block on our head, it is.

2 MR. JONES: Okay.

3 MR. MCGOVERN: I will -- I had started the
4 process to get this fixed immediately and we did. And
5 so if there's -- if there's a violation, it's on me.

6 MR. JONES: All right. Fair enough. That --
7 and I just appreciate that.

8 MR. MCGOVERN: No, it just --

9 MR. JONES: Thank you. Thank you, Madam
10 Chair.

11 CHAIRPERSON MILLER: Okay. Mr. Silverstein?

12 MR. SILVERSTEIN: So just to make sure we've
13 got all this -- because there are so many dates here.
14 The one on the 3rd, you had at that point no idea that
15 you were doing was -- no one had told you that it was
16 in violation of the terms of your license?

17 MR. MCGOVERN: Yes, sir.

18 MR. SILVERSTEIN: But you had a meeting on
19 the 20th. And Mr. Hager told you that researching
20 back, that you had earlier hours than what you thought
21 you had. But on the 25th you did not roll back to
22 those earlier hours because you felt that there had

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

28

1 been some clerical error or something like that. And
2 you simply went with the hours you had been keeping as
3 opposed to what you were told? Is that -- is that a
4 fair --

5 MR. MCGOVERN: Mr. Silverstein, that's fair
6 and that's truthful.

7 MR. SILVERSTEIN: So the one was basically
8 blindsided. The other was, "I think I'm right and I'm
9 just going to" --

10 MR. MCGOVERN: And we're -- I think I'm right
11 and the ABRA Board will make sure it's right because I --

12 MR. SILVERSTEIN: We will. And I think we
13 will.

14 MR. GRANDIS: And he does have the -- he does
15 have the hours that he's complying with now --

16 MR. SILVERSTEIN: Okay.

17 MR. GRANDIS: -- as of last October.

18 MR. SILVERSTEIN: Thank you, Mr. Grandis.
19 Thank you, Mr. McGovern.

20 MR. GRANDIS: Thank you, sir.

21 MR. SILVERSTEIN: No further questions.

22 MR. BROOKS: Madam Chair?

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

29

1 CHAIRPERSON MILLER: Yes, Mr. Brooks?

2 MR. BROOKS: Okay. Yeah, thank you, Madam
3 Chair. Mr. McGovern, I want to be sure I understand.
4 So after the 3rd of September, after you were informed
5 of the correct hours, so did you continue to serve or
6 use those later hours from the 4th to the 25th?

7 MR. MCGOVERN: I'm just trying to -- like you
8 said -- catch up with these dates because they're all --

9 MR. BROOKS: Until the 20th?

10 MR. MCGOVERN: When I met with Mr. Hager?

11 MR. BROOKS: Uh-huh.

12 MR. MCGOVERN: I was not certain because I
13 didn't want to fill all these applications out and
14 getting them stamped after and giving -- so, no. To
15 answer your question, Mr. Brooks, up until the 20th,
16 when I met Mr. Hager, I thought I was doing -- I
17 thought --

18 MR. BROOKS: So you kept the same hours --

19 MR. MCGOVERN: Yes, sir.

20 MR. BROOKS: -- as of the 3rd?

21 MR. MCGOVERN: Yes, sir.

22 MR. BROOKS: Okay. All right. Thank you,

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

30

1 Madam Chair.

2 CHAIRPERSON MILLER: Others?

3 MS. PHILLIPS: The District would like to
4 make a comment if the Board would entertain it.

5 CHAIRPERSON MILLER: Sure.

6 MS. PHILLIPS: According to the charge and
7 also my reading of the investigation report and talking
8 to the investigator -- and that's why I mentioned
9 several dates in the first charge. On Saturday, August
10 6th in Charge 1, that first paragraph, an alcohol
11 investigator came by and instructed this individual
12 what the hours were, gave him a pass.

13 If he observed a violation, he just gave him
14 a pass on that date, but instructed Dennis Chirchen
15 (ph) --

16 MR. GRANDIS: Denis Chirchen.

17 MS. PHILLIPS: -- Chirchen about what the
18 proper hours were, then came back almost a month later
19 and found that they were not obeying the hours. And
20 this is -- was looking at the license on the wall when
21 he came in on the 6th, came back on the 3rd and then
22 cited them for a violation, having instructed them a

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

31

1 month earlier what the true hours were, and then came
2 back on the 25th of September, which is in Charge 2,
3 and observed the same thing.

4 So while I understand the explanations, I
5 just want to make sure that you have looked at the
6 facts that we've stipulated to. And the license that
7 we have is Exhibit 22440 -- shows the hours as we were
8 discussing previously, which turned out to be correct,
9 as opposed to the ones he thought. So, you know, I
10 don't mean to dispute what they're saying because I
11 believe they're making an honest attempt to fall on
12 their sword.

13 But I want to make sure that the facts that
14 are stipulated are looked at by the Board as they're
15 deliberating this.

16 MR. SILVERSTEIN: You have a way with words,
17 Ms. Phillips.

18 MS. PHILLIPS: It's from working the juries
19 all these years, sorry.

20 MR. NOPHLIN: Madam Chair?

21 CHAIRPERSON MILLER: Yes? Oh, Mr. Nophlin?

22 MR. NOPHLIN: At any point in time in this

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

32

1 mistake was made, did you contact ABRA and -- with your
2 concerns?

3 MR. MCGOVERN: Immediately. On September
4 20th.

5 MR. NOPHLIN: You did?

6 MR. GRANDIS: Are you -- excuse me, are you
7 talking about this -- September 20th or --

8 MR. NOPHLIN: The 20th.

9 MR. GRANDIS: Yes. That's -- yes.

10 MR. NOPHLIN: That's the day you contacted
11 ABRA?

12 MR. MCGOVERN: I immediately I went to --
13 actually came into ABRA.

14 MS. PHILLIPS: Excuse me.

15 MR. MCGOVERN: No. I actually -- I was
16 proactive. I'm the one that set up the meeting with --

17 MR. GRANDIS: Mr. Hager.

18 MR. MCGOVERN: -- with Mr. Hager.

19 MR. NOPHLIN: And what was the outcome of
20 that meeting?

21 MR. MCGOVERN: I -- as soon as I looked at
22 the history of the licenses pre-transferring, when I

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

33

1 was the manager to post-transferring, when I was the
2 owner, that's when I immediately filed a memorandum,
3 filed it with ABRA within two days. I think Friday was
4 when I looked at the record, I think. And Monday was
5 when I filed them. And within two days after that, we
6 had applied towards (inaudible) change of hours.

7 MR. NOPHLIN: Change of hours.

8 MR. MCGOVERN: And within a matter of the
9 next meeting, we -- everything was resolved, the hours,
10 substantial change, the placarding and we --

11 MR. NOPHLIN: That's all I have, Madam Chair.

12 CHAIRPERSON MILLER: Okay. Anybody else?

13 (No audible response.)

14 CHAIRPERSON MILLER: I just want to get the
15 chronology down a little bit as well. So between
16 September 20th and September 25th -- September 20th was
17 when you met with Mr. Hager. September 25th was when
18 you got your second violation, correct?

19 MR. MCGOVERN: Yes. Yes, ma'am.

20 CHAIRPERSON MILLER: Okay. So when you met
21 with Mr. Hager, was it clear to you that -- what your
22 hours were?

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

34

1 MR. MCGOVERN: Yes.

2 CHAIRPERSON MILLER: So how do you explain
3 exceeding your hours on the 25th?

4 MR. MCGOVERN: As I -- as I spoke to -- I
5 don't know your name, sir --

6 MR. JONES: Herman Jones.

7 CHAIRPERSON MILLER: Mr. --

8 MR. MCGOVERN: Mr. Jones, I'm sorry. I just
9 figured this would get resolved because I just -- in my
10 mind I thought it was (inaudible) was on the paper. I
11 just also looked at applications, renewals that said,
12 "3:00," and were stamped by ABRA. And it was paid in
13 full for -- I just -- I didn't -- it didn't -- I
14 couldn't comprehend it.

15 CHAIRPERSON MILLER: And when did you file
16 for the change in hours?

17 MR. MCGOVERN: The 25th -- the 26th.

18 CHAIRPERSON MILLER: Okay.

19 MR. MCGOVERN: And then right -- went out on
20 the -- on the 27th. And then it took a few days to get
21 the application done. And we immediately did it.

22 CHAIRPERSON MILLER: Okay. And you say

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

35

1 you've done a lot of things immediately but you didn't
2 do -- did you do anything immediately after the 3rd --
3 after the first violation?

4 MR. GRANDIS: That's when he just -- that's -
5 - first of all, he -- I don't know if he was there but
6 he was informed, that's when he decided he needed to
7 call ABRA and was directed to Mr. Hager to look at the
8 record. Because his recollection of the process, since
9 he was the owner, was that he filed the paperwork -- he
10 filled out the paperwork himself --

11 CHAIRPERSON MILLER: Right. Okay.

12 MR. GRANDIS: -- and believed he had put down
13 the hours that they were operating, even though, as
14 we've all acknowledged, they were never approved by the
15 Board.

16 CHAIRPERSON MILLER: Okay. And I'm not sure,
17 you know, what facts are all stipulated here but is --
18 did you call on September 4th to ABRA? Is that what
19 you mean by immediately or what?

20 MR. GRANDIS: May we look at the record while
21 we're --

22 CHAIRPERSON MILLER: Sure.

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

36

1 MR. MCGOVERN: There's a lot of dates that --

2 MR. GRANDIS: Madam Chair?

3 CHAIRPERSON MILLER: Yeah.

4 MR. GRANDIS: Which date are you asking about
5 now?

6 CHAIRPERSON MILLER: September 4th because --

7 MR. GRANDIS: Yes. He -- September 4th would
8 have been a Sunday.

9 CHAIRPERSON MILLER: Okay. Since he --

10 MR. GRANDIS: My client -- if you noticed,
11 the manager was the same gentlemen that was mentioned
12 by the government. Mr. McGovern has stated on the
13 record that he has two children who live in New York
14 that he goes most weekends to visit.

15 MR. MCGOVERN: So Dennis is a manager on duty
16 when I left then.

17 MR. GRANDIS: Right. So he may not have been
18 -- we don't have it here and we can research it, but he
19 may not have been informed until he returned Monday
20 that there was an inspection because from my
21 understanding from reading this, it's not clear that
22 the manager was told -- the manager was told the hours

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

37

1 need to be complied with. But the manager was not told
2 that there was a violation.

3 And that may sound like, you know, splitting
4 hairs but that may have made the manager think, "I
5 don't need to call the owner until Monday when he gets
6 back because he's with his kids." Now, the time line
7 between September 5th and the 20th --

8 CHAIRPERSON MILLER: Uh-huh.

9 MR. GRANDIS: -- was the time that Mr.
10 McGovern did call ABRA. We don't have the date he
11 called to set up that meeting but I don't believe -- my
12 -- I can't -- he more than likely called ABRA to set up
13 a meeting than to walk in.

14 MR. MCGOVERN: No, I did walk in to ABRA.

15 MR. GRANDIS: Okay. So there is a time line
16 but the time line is really -- in my view September 5th
17 to the 20th. And there -- we cannot explain why it
18 took that long for (inaudible).

19 CHAIRPERSON MILLER: Okay. So do I
20 understand you correctly that throughout this time
21 period right after the first violation, you were making
22 contact with ABRA to try to work this out? In the

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

38

1 meantime, you thought you were right, so you didn't
2 change your hours. Is that an accurate
3 characterization?

4 MR. MCGOVERN: Yes, Madam Chair.

5 CHAIRPERSON MILLER: Okay. All right.

6 That's all I have. Mr. Silverstein?

7 MR. SILVERSTEIN: The thing I'm now wondering
8 about, what happened after the August 6th -- the very
9 first that Ms. -- to which Ms. Phillips refers where an
10 inspector came in, told you that you were in violation,
11 but essentially gave you a pass, said, you know, "We
12 understand this may be a matter" -- did they do that
13 with you? Did you not hear about this? What happened
14 with this warning? Did it just go out into the ether?

15 MR. MCGOVERN: Mr. Silverstein, I -- and,
16 look, I'm just trying to cross the dates.

17 MR. GRANDIS: My client -- my client is
18 looking at the statement here. And why don't you
19 explain to the Board what --

20 MR. MCGOVERN: My best recollection -- I
21 mean, this is -- this is, like, a year ago and, I mean,
22 I think when Mr. Chirchen -- when he works for me when

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

39

1 I'm not -- the weekends, his Monday, Tuesdays are off
2 because he works the weekends and finishes when I go.
3 So, I mean, I think Dennis -- and I can't speak for Mr.
4 Chirchen. I kind of -- I think I -- I think the
5 problem is that when the inspector, on August 6th, came
6 by, he didn't leave a violation sheet. He didn't leave
7 any of this to my knowledge, because I would have
8 received it.

9 And I think in Dennis' mind, he said, "Okay.
10 Everything is okay." I mean, I'm not saying -- English
11 is his second language. Russian was his primary
12 language. He speaks English fluently. But sometimes
13 there's a cross. And you don't -- everything's not
14 understood if we speak. And --

15 MR. SILVERSTEIN: What I'm -- what I'm trying
16 to get to is, were you told --

17 MR. MCGOVERN: I know --

18 MR. SILVERSTEIN: You say you did not know?

19 MR. MCGOVERN: I did not know.

20 MR. SILVERSTEIN: It never got back to you?

21 MR. MCGOVERN: Not that -- not that we were
22 in violation. I mean, we get a lot of different

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

40

1 inspectors coming in. And I don't recall any August
2 6th.

3 MR. SILVERSTEIN: All right.

4 MR. MCGOVERN: I mean, I do recall speaking
5 personally to one on September 20 something. And even
6 then, it wasn't -- it was my understanding it was a
7 violation. It was -- you guys need to get clients on --
8 - I don't want to work -- I'm talking straight.
9 Because these are the -- but never have I been told
10 that, "You have a violation. I'm giving you a
11 violation." And --

12 MR. SILVERSTEIN: Okay. The answer -- the
13 simple answer to the question is nobody every told you?

14 MR. MCGOVERN: I didn't know.

15 MR. SILVERSTEIN: Okay.

16 CHAIRPERSON MILLER: I mean, you knew about
17 September 3rd?

18 MR. GRANDIS: Yes.

19 MR. MCGOVERN: Yes.

20 CHAIRPERSON MILLER: Okay. And the 25th?

21 MR. MCGOVERN: Yes.

22 CHAIRPERSON MILLER: Okay. Okay. Any other

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

41

1 questions?

2 MR. BROOKS: I have one more. It's just one
3 concern, Madam Chair.

4 CHAIRPERSON MILLER: Okay.

5 MR. BROOKS: Mr. McGovern, now you said that
6 he may not -- he may not have shared that with you? He
7 just overlooked sharing that information about the
8 visit from the investigator back in August? Now, we're
9 talking about approximately two hours difference in the
10 time that you were permitted to sell and permitted to
11 be open and the time that you actually were open.

12 So that's a big oversight, it seems to me.

13 MR. MCGOVERN: Well, the understanding, Mr.
14 Brooks, was an hour or two in our mindset, as I've said
15 before, was we were within legal operating hours of the
16 District of Columbia, which is 2:00 and 3:00. Even
17 though once we found that out, we -- 11:00 and 1:00 --
18 we never understand that 11:00 and 1:00.

19 MR. GRANDIS: May I make a point of looking
20 at a report that's part of the record? I'm looking at
21 the August 6th report of the inspector.

22 MR. BROOKS: Okay.

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

42

1 MR. GRANDIS: It says here the time the
2 inspector was there was 11:20. It's -- now, this is
3 the August 6th date that we're focusing --

4 MR. BROOKS: Yeah, yeah.

5 MR. GRANDIS: It says that -- I'm only
6 reading (inaudible) do you have it?

7 MS. PHILLIPS: I don't need to find it --

8 MR. GRANDIS: Okay.

9 MS. PHILLIPS: -- because I know what it says.

10 MR. GRANDIS: Okay. It says the time of the
11 inspection was 11:20. If you look, it says, "Hours of
12 operation." It says, "Saturday," which on a Saturday
13 is 1:00 a.m.

14 MR. BROOKS: Uh-huh.

15 MR. GRANDIS: So the inspector was there
16 before. The -- in fact, the reality is the inspector
17 was actually there before closing time.

18 MR. BROOKS: Uh-huh.

19 MR. GRANDIS: So Dennis was not cited for a
20 violation because they can legally be open at 11:20.
21 Dennis wasn't made aware that there would be a
22 violation regarding August 6th because the inspector

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

43

1 was there prior to closing. It doesn't show that the
2 inspector went back after 1:00 a.m. What we -- I think
3 what we're talking about here is the confusion as to
4 whether they were actually open at 1:00 a.m. that night
5 or whether the inspector was looking at the license and
6 saying, "Your license says 1:00 a.m. You have to close
7 by 1:00 a.m."

8 But unless something that can be shown on
9 here - - it says, "Inspector (inaudible) 11:20 p.m.,"
10 an hour and a half prior to the closing on the license
11 time. So there would be no reason for Dennis to call
12 his boss because at the time the inspector was there,
13 they were fine. They were operating under the license
14 that was on the wall. Am I being clear?

15 CHAIRPERSON MILLER: Yeah, it's -- it was a
16 Saturday.

17 MR. GRANDIS: It was a --

18 CHAIRPERSON MILLER: Was it? Okay.

19 MR. GRANDIS: It's -- here he says on his own
20 form that it's 1:00 a.m. -- I mean, the inspector's
21 form -- when he came at 11:20. So I think that the
22 August 6th probably was misunderstood by Dennis because

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

44

1 there was no violation. The first violation, I think,
2 was September 3rd. What time did they come in
3 September 3rd?

4 MS. PHILLIPS: 1:15.

5 MR. GRANDIS: Okay. And what day of the week
6 is September 3rd?

7 MS. PHILLIPS: That's a Saturday.

8 MR. GRANDIS: Okay. So on September 3rd,
9 when the inspector did come in, it was after. But on
10 August 6th, it was 11:20. Now, I don't think really
11 that my client should be penalized for anything that
12 occurred on August 6th or to - or to put him in a
13 position that he should have known because the manager
14 has a lot of inspectors come in. And there was no -- I
15 can't speak for Dennis but he was not being told to
16 close.

17 MR. BROOKS: But on August --

18 MR. GRANDIS: He was being told that the
19 license said that you need to stop serving at 1:00 that
20 night. Whether they did stop at 1:00 that night, I
21 don't know. Maybe they did.

22 MR. BROOKS: Okay. Now, was August 6th on a

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

45

1 Sunday?

2 MR. GRANDIS: It says -- I thought it was
3 Saturday.

4 MR. BROOKS: Okay. Saturday or Sunday?

5 MR. GRANDIS: Huh?

6 MR. BROOKS: Saturday or Sunday, August the
7 6th?

8 MS. PHILLIPS: Saturday.

9 MR. BROOKS: Saturday. Okay.

10 MS. PHILLIPS: Saturday.

11 MR. GRANDIS: Saturday. Thank you.

12 MR. BROOKS: Thank you, Madam Chair.

13 CHAIRPERSON MILLER: Ms. Phillips, maybe you
14 can answer this but looking at this report that the
15 Licensee has just made reference to where they talk
16 about hours of alcohol sale end at 1:00 a.m. and the
17 time they're inspecting is 11:20, would they have
18 noticed somewhere that something was posted that would
19 allow -- that they thought would allow them to stay
20 open later or why would they make a remark like this?
21 MS. PHILLIPS: What are you talking about?
22 I'm sorry. I just --

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

46

1 CHAIRPERSON MILLER: I'm talking about --
2 okay. Okay.

3 MS. PHILLIPS: Well, I understand what you're
4 saying. What happened apparently is the investigator
5 went out on the 6th based -- maybe based on knowledge
6 that they were staying open after hours and just said,
7 "Look, your hours on your wall are these hours. And
8 you must close according to these hours." That's what
9 happened on the 6th. He didn't say he made a
10 violation. It didn't say anything like that --
11 explained to him the hours.

12 So what the Licensee was telling you was that
13 nobody had explained -- and of course the owner's
14 saying this is and this is the ABC manager -- all of
15 the inspectors that came out -- looks like they dealt
16 with the ABC managers, Denise --

17 PARTICIPANT: Dennis Chirchen.

18 MS. PHILLIPS: Dennis --

19 PARTICIPANT: Chirchen.

20 MS. PHILLIPS: -- Chirchen -- Chirch?

21 PARTICIPANT: Chirchen.

22 MS. PHILLIPS: Yeah, Chirch. So what I'm

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

47

1 saying is, when you say you don't know what the hours
2 are and the inspector hasn't pointed them out, then the
3 ABRA investigators are -- have areas where they look at
4 various days. So that's what happened. He had noticed
5 something.

6 And he came in and said, "Look, these are
7 your hours and you're not observing them. So I'm
8 telling you now, I'm not citing you. I'm not telling
9 you a violation. I'm telling you now, your hours are
10 X," on August 6th and then came back on September 3rd
11 and it was like he'd never been there.

12 And he could have gone back -- because I
13 think he would have testified, "I could have gone back
14 on the 7th, the 8th, the 9th, the 10th, the 11th and I
15 could have cited you for all those days if you weren't
16 following. But I didn't. I came back in a month to
17 see if you were following what was on your wall and you
18 were not."

19 MR. GRANDIS: I think we're going outside the
20 record here.

21 CHAIRPERSON MILLER: No. I'm sure you are.

22 And --

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

48

1 MR. GRANDIS: And I'm really getting
2 concerned that --

3 CHAIRPERSON MILLER: I mean, I'm sure.
4 That's fine.

5 MR. GRANDIS: -- you all may get confused by
6 the 6th, 7th, and 8th, and all the other dates. The
7 reality is my client has testified that he became aware
8 after September 3rd.

9 CHAIRPERSON MILLER: I understand that.

10 MR. GRANDIS: And then he -- then there is
11 this time period between September 3rd and September
12 20th when -- you know, he became aware the Monday after
13 September 3rd because he was away. That was a
14 Saturday. He became aware the 5th regarding this. And
15 then there was a period of time between the 5th and the
16 20th when he finally got that meeting with Mr. Hager.

17 And from that moment of him having looked at
18 the complete record and realizing he had misunderstood --

19 CHAIRPERSON MILLER: Okay. Yeah.

20 MR. GRANDIS: -- how this worked, he
21 immediately contacted his attorney. And we moved
22 forward the following -- with not several weeks but in

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

49

1 a matter of five days a change of hours -- requesting a
2 non- substantial change. And this board, for whatever
3 reasons -- I don't think there was a hearing -- granted
4 it without a substantial change.

5 CHAIRPERSON MILLER: Okay. Thank you. Mr.
6 Jones?

7 MR. JONES: Just a clarification. The
8 Licensee was -- you didn't swear in anyone so no
9 testimony was necessarily given. These are just
10 proffers, correct?

11 CHAIRPERSON MILLER: Yeah, we are only --

12 MS. PHILLIPS: Closings.

13 CHAIRPERSON MILLER: The stipulated -- was
14 stipulated facts on the record of the investigation
15 report and the notice -- the investigation reports with
16 13 actions and the notice.

17 MR. JONES: Okay. I just wanted to make sure
18 that was clear because Mr. Grandis indicated that his
19 license -- his client provided testimony. But I think
20 he just provided --

21 MR. GRANDIS: Oh, I -- yes, you're right.
22 Okay. I withdraw that term.

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

50

1 MR. JONES: Thank you.

2 MR. GRANDIS: We provided exhibits --

3 MR. JONES: Information.

4 MR. GRANDIS: -- as the memorandum because
5 that's in the record?

6 MR. JONES: Yes.

7 MR. GRANDIS: Yes.

8 CHAIRPERSON MILLER: We did a little
9 exploring here but --

10 MR. GRANDIS: Yeah, thank you.

11 MR. JONES: No, thank you.

12 CHAIRPERSON MILLER: Yeah, the facts in the
13 record for our deliberation are those that have been
14 stipulated by the parties. Okay. Anything else?

15 (No audible response.)

16 CHAIRPERSON MILLER: The record's closed on
17 this at this time. And parties want to file a proposed
18 findings of fact and conclusions of the law or waive
19 that right to pursue?

20 MS. PHILLIPS: Just waives.

21 CHAIRPERSON MILLER: Okay. Thank you.

22 MR. GRANDIS: Yes, we waive for the record.

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

51

1 CHAIRPERSON MILLER: Okay. And at this point
2 then that completes our hearing on this. And the Board
3 will consider it and issue an order within 90 days.

4 And I'll read the closed meeting instructions. Okay.

5 As Chairperson of the Alcoholic Beverage
6 Control Board for the District of Columbia and in
7 accordance with Section 405 of the Open Meetings
8 Amendment Act of 2010, I move that the ABC Board hold a
9 closed meeting for the purpose of seeking legal advice
10 from our counsel on Case No. 11-CMP-00367 and 11-CMP-
11 00440, Russia House, per Section 405(b)(4) of the Open
12 Meetings Amendment Act of 2010 and deliberating upon
13 this case for the reason cited in Section 405(b)(13) of
14 the Open Meetings Amendment Act of 2010.

15 Is there a second?

16 BOARD MEMBER: Second.

17 CHAIRPERSON MILLER: And I'll take a roll
18 call on the motion before us now that it has been
19 seconded. Mr. Nophlin?

20 MR. NOPHLIN: I agree.

21 CHAIRPERSON MILLER: Mr. Brooks?

22 MR. BROOKS: I agree.

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

52

1 CHAIRPERSON MILLER: Mr. Alberti?

2 MR. ALBERTI: I agree.

3 CHAIRPERSON MILLER: Ms. Miller agrees. Mr.
4 Silverstein?

5 MR. SILVERSTEIN: I agree.

6 CHAIRPERSON MILLER: Mr. Jones?

7 MR. JONES: I agree.

8 CHAIRPERSON MILLER: As it appears the motion
9 has passed by a vote of 6-0-0, I hereby give notice
10 that the ABC Board will hold a closed meeting in the
11 ABC board conference room today, pursuant to the Open
12 Meetings Amendment Act of 2010, and issue an order
13 within 90 days. Thank you.

14 MR. GRANDIS: Thank you. Thank you very much.

15 CHAIRPERSON MILLER: Okay.

16 MR. GRANDIS: Y'all have a good afternoon.

17 CHAIRPERSON MILLER: You too. And I think
18 that concludes our matters on the hearing agenda. And
19 we'll be back in a little bit to do our other agenda.
20 Okay. And so the Board is now in recess.

21 (WHEREUPON, at 4:05 p.m., the hearing was
22 concluded.)

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

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CERTIFICATE OF NOTARY PUBLIC

I, BRADLEY ANGLIN, the officer before whom the foregoing hearing was taken, do hereby certify that the testimony appearing in the foregoing transcript was recorded by me and thereafter reduced to typewriting under my direction; that said transcription is a true record of the testimony given by said parties; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

BRADLEY ANGLIN
Notary Public in and for
DISTRICT OF COLUMBIA

Capital Reporting Company

In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012

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CERTIFICATE OF TRANSCRIPTION

I, MIRANDA PENNACHI, hereby certify that I am not the Court Reporter who reported the following proceeding and that I have typed the transcript of this proceeding using the Court Reporter's notes and recordings. The foregoing/attached transcript is a true, correct and complete transcription of said proceeding.

Date

MIRANDA PENNACHI
Transcriptionist

Capital Reporting Company
 In the Matter of: A & A Restaurant Group, Inc. t/a Russia House 07-18-2012
 Page 1

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| <p style="text-align: center;">\$</p> <p>\$3000 6:7,11,15</p> <hr/> <p style="text-align: center;">0</p> <p>00440 51:11</p> <hr/> <p style="text-align: center;">1</p> <p>1 5:20 30:10</p> <p>1:00 41:17,18 42:13 43:2,4,6,7,20 44:19,20 45:16</p> <p>1:15 44:4</p> <p>10th 47:14</p> <p>11:00 41:17,18</p> <p>11:20 42:2,11,20 43:9,21 44:10 45:17</p> <p>11-CMP 51:10</p> <p>11-CMP-00367 1:8 3:18 51:10</p> <p>11-CMP-00440 1:9 3:19 8:12</p> <p>11th 47:14</p> <p>12th 9:18 15:6</p> <p>13 49:16</p> <p>14th 1:14 14:13</p> <p>15 26:1,4</p> <p>1500 6:22</p> <p>18 1:12</p> <p>1800 1:6 3:19</p> <p>1994 16:12</p> <hr/> <p style="text-align: center;">2</p> <p>2 8:12 9:17 31:2</p> <p>2:00 41:16</p> <p>20 40:5</p> | <p>2000 1:14</p> <p>2005 12:13</p> <p>2010 51:8,12,14 52:12</p> <p>2011 5:21 6:3 8:13 9:10,15,18</p> <p>2012 1:12</p> <p>20th 8:13 21:19,20 22:2,3,4 24:6 27:19 29:9,15 32:4,7,8 33:16 37:7,17 48:12,16</p> <p>22440 31:7</p> <p>22nd 9:15 18:22 19:6</p> <p>25 5:18</p> <p>25th 6:3 18:2 20:13 21:18,20,22 25:4,5,10 26:22 27:21 29:6 31:2 33:16,17 34:3,17 40:20</p> <p>26th 9:10 15:5 34:17</p> <p>27th 34:20</p> <p>2D 1:8 3:20</p> <hr/> <p style="text-align: center;">3</p> <p>3:00 34:12 41:16</p> <p>3:17 2:2,3</p> <p>3:30 2:6</p> <p>3rd 18:1 20:9,10 21:10 24:8,20 25:6 27:14 29:4,20 30:21 35:2 40:17 44:2,3,6,8 47:10 48:8,11,13</p> | <hr/> <p style="text-align: center;">4</p> <p>4:05 52:21</p> <p>405 51:7</p> <p>405(b)(13) 51:13</p> <p>405(b)(4) 51:11</p> <p>4th 29:6 35:18 36:6,7</p> <hr/> <p style="text-align: center;">5</p> <p>5th 37:7,16 48:14,15</p> <hr/> <p style="text-align: center;">6</p> <p>6-0-0 52:9</p> <p>6th 5:21 30:10,21 38:8 39:5 40:2 41:21 42:3,22 43:22 44:10,12,22 45:7 46:5,9 47:10 48:6</p> <hr/> <p style="text-align: center;">7</p> <p>724 5:18</p> <p>762 5:19</p> <p>7th 47:14 48:6</p> <hr/> <p style="text-align: center;">8</p> <p>80952 1:7 3:20</p> <p>8th 47:14 48:6</p> <hr/> <p style="text-align: center;">9</p> <p>9 20:9</p> <p>90 51:3 52:13</p> <p>9th 47:14</p> <hr/> <p style="text-align: center;">A</p> <p>a.m 42:13 43:2,4,6,7,20</p> | <p>45:16</p> <p>Aaron 2:16 8:5</p> <p>ABC 8:21 9:3,18,20 10:2,18,21 46:14,16 51:8 52:10,11</p> <p>ABRA 8:16 9:7 13:21 16:13,14 17:6 25:12,22 26:11 28:11 32:1,11,13 33:3 34:12 35:7,18 37:10,12,14,22 47:3</p> <p>accordance 51:7</p> <p>according 17:22 30:6 46:8</p> <p>accurate 38:2</p> <p>acknowledged 35:14</p> <p>Act 51:8,12,14 52:12</p> <p>acted 12:8 15:6,7</p> <p>acting 20:22</p> <p>action 13:13 24:18 53:10,14</p> <p>actions 8:9 49:16</p> <p>activities 7:11</p> <p>actually 8:14 18:10 21:18 32:13,15 41:11 42:17 43:4</p> <p>address 8:8</p> <p>advice 51:9</p> <p>affiliated 16:9</p> <p>afternoon 7:6 8:3 52:16</p> |
|--|---|---|--|

| | | | |
|--|---|---|---|
| <p>agenda 52:18,19 ago 38:21 agreed 4:2 6:5 22:17 Alberti 1:17 3:6,9,17 52:1,2 alcohol 30:10 45:16 alcoholic 1:2,10,13,14 5:16 8:4 17:2 51:5 allegations 7:11 allow 45:19 allowable 6:1 Allowed 1:9,10 already 3:13 am 26:18 43:14 53:9,11 54:3 Amendment 51:8,12,14 52:12 amount 14:4 ANC 1:8 3:20 10:20 ANGLIN 53:3,19 announce 3:9,12 announced 3:14 answer 15:8 19:17 29:15 40:12,13 45:14 Anybody 33:12 anyone 12:19 49:8 anything 17:21 20:22 35:2 44:11 46:10 50:14 apologized 9:22 apparently 46:4</p> | <p>appear 21:3 appearing 53:5 appears 52:8 applicant 13:4,6 application 9:14,20,21 10:9,22 11:17 14:11,12 15:5 34:21 applications 29:13 34:11 applied 33:6 appointment 11:13 appreciate 27:7 appropriate 8:8 10:8 approved 8:21 9:3,20 14:11 35:14 approximately 41:9 area 13:1 areas 47:3 arguments 5:4 arose 10:5 assistant 7:17 assume 26:19 assuming 18:2 24:11 assumption 9:5 22:12,13 24:11 attempt 31:11 attention 21:11 attested 4:17 attorney 2:20 7:8 11:16 22:16</p> | <p>48:21 53:12 audible 2:5 12:2 33:13 50:15 August 5:21 26:12,13 30:9 38:8 39:5 40:1 41:8,21 42:3,22 43:22 44:10,12,17,22 45:6 47:10 Avenue 1:6 3:20 aware 16:10,11 22:7 24:7 42:21 48:7,12,14 away 16:20 26:14,15 48:13 <hr/> <p style="text-align: center;">B</p> <hr/> <p>bad 11:8 based 4:9 5:15 10:12 19:22 20:1 46:5 basically 28:7 bear 17:20 became 22:7 48:7,12,14 become 15:20 behavior 11:8 believe 5:20 11:5 14:9,20 15:6,21 31:11 37:11 believed 10:10 35:12 best 38:20 beverage 1:2,13,14 8:4 17:2 51:5 beverages 1:10 5:16</p> </p> | <p>bit 2:7 33:15 52:19 blah 16:14 blindsided 28:8 block 27:1 board 1:2,14 7:10 8:4,7 9:4,15,19,20 10:19,21 11:1,20 12:1 14:8,10,14 15:11 18:11,16,18 19:3,5,14,18 20:4 26:12 28:11 30:4 31:14 35:15 38:19 49:2 51:2,6,8,16 52:10,11,20 books 15:19 boss 43:12 bought 16:21 BRADLEY 53:3,19 breaking 6:19 bring 11:20 Brooks 1:18 28:22 29:1,2,9,11,15,1 8,20,22 41:2,5,14,22 42:4,14,18 44:17,22 45:4,6,9,12 51:21,22 brought 21:11 Building 1:14 business 14:6 16:21 26:20 <hr/> <p style="text-align: center;">C</p> <hr/> <p>CALVIN 1:19</p> </p> |
|--|---|---|---|

| | | | |
|--|--|--|---|
| <p>candid 25:11,17 Capitol 16:19 capturing 20:8 case 1:8,9 3:10,12,18 4:14 6:7 8:11 9:17 51:10,13 cash 17:6 catch 29:8 cause 1:7 2:10 certain 13:5 29:12 CERTIFICATE 53:1 54:1 certify 53:4 54:3 Chair 17:19 27:10 28:22 29:3 30:1 31:20 33:11 36:2 38:4 41:3 45:12 Chairperson 1:15,17 2:3,6,15,18,21 3:1,4,7,11,15,18 4:7,11,16,21 5:2,7,10,13 6:9,12,14,18,21 7:2,5,15,17 11:22 12:3,8,11,14,20 13:14,20,22 14:2 16:1 17:18 27:11 29:1 30:2,5 31:21 33:12,14,20 34:2,7,15,18,22 35:11,16,22 36:3,6,9 37:8,19 38:5 40:16,20,22 41:4 43:15,18 45:13 46:1 47:21 48:3,9,19 49:5,11,13</p> | <p>50:8,12,16,21 51:1,5,17,21 52:1,3,6,8,15,17 Chairwoman 8:3 challenge 24:18 challenged 24:6 change 9:2,11,12,13,19, 21 10:8,16,20,21,22 11:18 19:7,8 22:17 33:6,7,10 34:16 38:2 49:1,2,4 changed 13:7 characterization 38:3 charge 5:20 6:1 11:3 18:9 30:6,9,10 31:2 charges 5:15 6:5,8,13 10:14 11:3 15:11,22 17:22 18:2,8 19:15,19,20 check 10:6 11:9 14:18 17:6 checks 12:15 children 15:1 36:13 Chirch 46:20,22 Chirchen 30:14,16,17 38:22 39:4 46:17,19,20,21 chronology 33:15 circumstances 14:8,9 18:5,7,11,17</p> | <p>19:14 cited 30:22 42:19 47:15 51:13 citing 47:8 clarification 49:7 clarify 7:10 clear 4:12 13:12 33:21 36:21 43:14 49:18 clerical 11:6 28:1 client 11:12 14:7 36:10 38:17 44:11 48:7 49:19 clients 40:7 close 15:17 43:6 44:16 46:8 closed 50:16 51:4,9 52:10 closer 15:17 closing 4:5 5:4 7:12 10:10 11:12 42:17 43:1,10 Closings 49:12 code 5:18 Columbia 1:1 41:16 51:6 53:21 column 17:1 comes 17:5 coming 40:1 comment 30:4 comments 10:20 commercial 13:1 complaint 10:5,13 11:7 14:17 20:1,21 complete 26:19 48:18 54:8</p> | <p>completely 22:12 completes 51:2 compliance 8:10 10:11 12:15 14:18 complied 37:1 complying 28:15 comprehend 34:14 compromise 4:2 concern 10:18 19:18 41:3 concerned 15:13 48:2 concerns 5:20 11:20 32:2 concluded 52:22 concludes 52:18 conclusions 50:18 conference 52:11 confused 48:5 confusion 17:20 43:3 Connecticut 1:6 3:20 12:22 consider 8:9 51:3 consideration 18:6 19:6 20:5 24:16 25:1,2 consumption 17:2 contact 32:1 37:22 contacted 32:10 48:21 contained 4:3 continue 29:5 Control 1:2,13,14 8:4 51:6</p> |
|--|--|--|---|

| | | | |
|--|---|--|--|
| <p>copy 7:13</p> <p>correct 4:22 11:15 12:6,9 13:3 24:11,19 29:5 31:8 33:18 49:10 54:8</p> <p>correcting 24:17</p> <p>correction 24:17</p> <p>correctly 12:4 37:20</p> <p>counsel 7:19 51:10 53:9,12</p> <p>course 46:13</p> <p>Court 54:4,6</p> <p>CR 1:7 16:16</p> <p>create 11:4</p> <p>cross 38:16 39:13</p> <p>cumulative 15:20</p> <p>current 8:22</p> <p>cut 21:9</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>D.C 1:15</p> <p>data 8:16</p> <p>date 6:2 9:20 21:12 30:14 36:4 37:10 42:3 54:16</p> <p>dated 9:14 18:1,22</p> <p>dates 5:20 21:4 27:13 29:8 30:9 36:1 38:16 48:6</p> <p>day 14:11 22:1 32:10 44:5</p> <p>days 9:10 11:15,17 22:19 33:3,5 34:20 47:4,15 49:1 51:3 52:13</p> | <p>DC 5:18 13:21</p> <p>deals 6:2</p> <p>dealt 46:15</p> <p>decided 35:6</p> <p>decision 20:5</p> <p>definitely 20:7</p> <p>deliberating 31:15 51:12</p> <p>deliberation 50:13</p> <p>delivery 1:9 5:16</p> <p>Denis 30:16</p> <p>Denise 46:16</p> <p>Dennis 30:14 36:15 39:3,9 42:19,21 43:11,22 44:15 46:17,18</p> <p>designated 6:4</p> <p>determined 8:21 10:19</p> <p>determines 11:1 19:18</p> <p>difference 41:9</p> <p>different 39:22</p> <p>digital 13:4</p> <p>directed 35:7</p> <p>direction 53:7</p> <p>directly 15:9</p> <p>discussing 31:8</p> <p>dismiss 19:15</p> <p>dispute 31:10</p> <p>district 1:1 2:9,10 6:6 30:3 41:16 51:6 53:21</p> <p>document 8:18 17:22</p> | <p>documents 4:20 9:9</p> <p>DONALD 1:18</p> <p>done 16:21 34:21 35:1</p> <p>dot 16:12</p> <p>dropped 10:15</p> <p>due 10:13,15 11:3 20:21</p> <p>during 8:20 9:7</p> <p>duty 36:15</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>earlier 2:7 27:20,22 31:1</p> <p>Ed 16:17 17:13</p> <p>Edward 2:19 7:7</p> <p>else 17:21 25:14 33:12 50:14</p> <p>employed 53:9,12</p> <p>employee 53:11</p> <p>English 39:10,12</p> <p>entered 4:1</p> <p>entertain 30:4</p> <p>error 28:1</p> <p>essentially 38:11</p> <p>establishment 5:22 8:19 9:17 15:4 20:22 23:4 25:22</p> <p>ether 38:14</p> <p>ethically 26:20</p> <p>evening 20:2,19</p> <p>everyone 2:7</p> <p>everything 23:12,20 33:9</p> | <p>39:10</p> <p>everything's 23:20 39:13</p> <p>exactly 16:4</p> <p>exaggerating 26:4</p> <p>exceeding 34:3</p> <p>excuse 17:10 18:15 32:6,14</p> <p>Exhibit 31:7</p> <p>exhibits 4:17,19 50:2</p> <p>explain 15:3 34:2 37:17 38:19</p> <p>explained 46:11,13</p> <p>explaining 19:3</p> <p>explanation 17:11</p> <p>explanations 31:4</p> <p>exploring 50:9</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>fact 10:4 15:16 42:16 50:18</p> <p>facts 4:3,4,8,13 6:5 8:6 31:6,13 35:17 49:14 50:12</p> <p>fair 11:21 20:6 27:6 28:4,5</p> <p>faith 10:11 12:9</p> <p>fall 31:11</p> <p>fault 20:8</p> <p>felt 3:15 27:22</p> <p>fight 19:21</p> <p>figure 21:10</p> <p>figured 34:9</p> <p>file 9:8 10:8,16</p> |
|--|---|--|--|

| | | | |
|---|---|---|--|
| <p>11:14 15:5 22:16 34:15 50:17 filed 9:1,11 11:17 14:11 33:2,3,5 35:9 files 8:18 filing 9:13 16:5 fill 16:15 29:13 filled 16:16 17:3 35:10 finally 48:16 financially 53:13 findings 50:18 fine 6:7,19 14:5 15:21 43:13 48:4 finger 12:21 13:11 fingers 24:2 finishes 39:2 first 3:2 17:8 19:13 26:11 30:9,10 35:3,5 37:21 38:9 44:1 five 49:1 fixed 17:14 27:4 Florida 13:1 fluently 39:12 focusing 42:3 foregoing 53:4,5 foregoing/ attached 54:7 form 43:20,21 forth 4:13 forward 2:12 3:8 24:3 48:22 frankly 14:7 Friday 33:3</p> | <p>front 3:2 7:9 full 34:13</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>gentlemen 36:11 gets 37:5 getting 29:14 48:1 given 18:5 49:9 53:8 giving 29:14 40:10 gone 47:12,13 government 7:13 36:12 Grandis 2:14,19,22 3:2 4:19 7:6,7,16,22 8:2 12:18,21 13:16 14:7 15:2 16:3 17:13 18:10,13 19:3,10,13,17 20:4,12,15 21:3,6,8,13,15,1 8,21 22:2,4,6,11,15,1 9 23:3,6,9,12,16,1 9 24:1 25:4,6 28:14,17,18,20 30:16 32:6,9,17 35:4,12,20 36:2,4,7,10,17 37:9,15 38:17 40:18 41:19 42:1,5,8,10,15,1 9 43:17,19 44:5,8,18 45:2,5,11 47:19 48:1,5,10,20 49:18,21 50:2,4,7,10,22 52:14,16</p> | <p>granted 19:7 49:3 greater 9:2 Group 1:5 7:8 guess 5:3 21:7 guy 25:16 guys 40:7</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>Hager 8:14,16,17,20,22 9:11 11:13 21:22 22:8 27:19 29:10,16 32:17,18 33:17,21 35:7 48:16 hairs 37:4 half 6:20 43:10 hand 13:4 17:5 handicapped 15:12 happened 16:5 20:19 21:16 38:8,13 46:4,9 47:4 hardship 11:3 14:4 harmful 15:9 having 19:7 30:22 48:17 head 27:1 hear 20:17 26:16 38:13 hearing 1:7,14 2:10 19:5 20:17 21:1 49:3 51:2 52:18,21 53:4 he'd 47:11</p> | <p>help 16:4 18:8 25:1 helpful 7:14 hereby 52:9 53:4 54:3 hereto 53:12 Herman 1:18 34:6 he's 8:5 28:15 37:6 Hey 25:12 highlights 15:16 history 9:16 11:17 19:4 32:22 hold 51:8 52:10 honest 31:11 honestly 13:9 hope 7:10 hospitals 23:13 hour 11:8 12:16 41:14 43:10 hours 1:10 5:17,22 6:4 8:21,22 9:2,3,6,9,11,13,1 9,21 10:7,8,17,21,22 11:18 12:5 13:2,7,9,15,18,1 9 16:6,13 17:2,3,8 19:7 22:17 27:20,22 28:2,15 29:5,6,18 30:12,18,19 31:1,7 33:6,7,9,22 34:3,16 35:13 36:22 38:2 41:9,15 42:11 45:16 46:6,7,8,11</p> |
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| | | | |
|--|---|---|--|
| <p>47:1,7,9 49:1 House 1:6 2:16,20 3:19 7:9 8:5,19 16:10 51:11 House's 9:3,19 Huh 45:5</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>I'd 25:16 idea 27:14 I'll 51:4,17 I'm 3:11 7:7 18:2,7 20:8,17 21:9 24:5,13,21 25:12,14,16 26:4,8,13 28:8,10 29:7 32:16 34:8 35:16 38:7,16 39:1,10,15 40:8,10 41:20 42:5 45:22 46:1,22 47:7,8,9,21 48:1,3 immediate 24:17 immediately 12:10 17:12 22:16 24:9,16,19 27:4 32:3,12 33:2 34:21 35:1,2,19 48:21 important 2:10 impression 25:7 inaudible 2:22 15:12 25:19 33:6 34:10 37:18 42:6 43:9 Inc 1:5 incident 24:8</p> | <p>incidents 8:15 14:17 inconsistency 11:11 incorrect 22:12 indicated 9:2 49:18 individual 20:14 30:11 information 41:7 50:3 informed 29:4 35:6 36:19 infractions 10:14 18:3 20:1 inspecting 45:17 inspection 20:20 21:22 36:20 42:11 inspector 8:15 10:3 11:9 13:13 21:3,14 24:10 38:10 39:5 41:21 42:2,15,16,22 43:2,5,9,12 44:9 47:2 inspectors 10:1 23:6 40:1 44:14 46:15 inspector's 43:20 Instead 10:21 instructed 30:11,14,22 instructions 51:4 interested 53:13 introduced 8:6 investigation 8:12 30:7 49:14,15</p> | <p>investigative 4:4 investigator 24:10 30:8,11 41:8 46:4 investigators 5:21 47:3 issue 10:4 51:3 52:12 issued 14:12 16:11 it's 2:3,6 7:20 13:3,4,7 14:6 15:16,21 17:20 18:22 19:5 20:7 25:14 26:17,18 27:5 28:11 31:18 36:21 41:2 42:2 43:15,19,20 I've 12:13 16:21 25:13 26:5 41:14</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>Jones 1:18 17:18,19 18:12 19:2,9,12,16 20:3,7,13,16 21:5,7,9,14,16,2 0 22:1,3,5,10,14,1 8 23:2,5,8,11,15,1 8,22 24:5 25:8,10,20 26:2,7,10 27:2,6,9 34:6,8 49:6,7,17 50:1,3,6,11 52:6,7 July 1:12 juries 31:18</p> <hr/> <p style="text-align: center;">K</p> <hr/> | <p>kids 26:16 37:6 knew 12:9 40:16 knowledge 39:7 46:5 known 8:19 44:13</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>language 39:11,12 last 28:17 late 11:8 later 29:6 30:18 45:20 law 50:18 layperson 18:14 leave 39:6 legal 13:19 17:3 18:15 41:15 51:9 legally 42:20 less 15:17 let's 25:11 license 1:7 3:20 5:17 6:1 8:22 9:7,8 10:6 12:5 13:22 16:11,14,16 17:7 23:16 26:6 27:16 30:20 31:6 43:5,6,10,13 44:19 49:19 Licensee 2:13 8:7,9,13 9:5,11,14,22 10:6,10,15 11:4 19:1,21 26:18 45:15 46:12 49:8 licenses 10:2 16:13 17:8 23:14,17 32:22</p> |
|--|---|---|--|

| | | | |
|--|--|---|---|
| <p>likely 37:12</p> <p>line 18:17 37:6,15,16</p> <p>little 2:7 33:15 50:8 52:19</p> <p>live 36:13</p> <p>located 3:19</p> <p>long 12:11 26:20 37:18</p> <p>lot 18:21 20:17 35:1 36:1 39:22 44:14</p> <p>LOUISE 1:20</p> <p>Lozansky 16:17</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>ma'am 7:16 12:7 33:19</p> <p>Madam 17:19 27:9 28:22 29:2 30:1 31:20 33:11 36:2 38:4 41:3 45:12</p> <p>manager 16:9,15 17:9 22:21 33:1 36:11,15,22 37:1,4 44:13 46:14</p> <p>managers 10:4 46:16</p> <p>matrix 16:12</p> <p>matter 1:4 33:8 38:12 49:1</p> <p>matters 3:8,22 52:18</p> <p>may 3:9 4:17 7:12 16:10,11 35:20 36:17,19 37:3,4 38:12 41:6,19</p> | <p>48:5</p> <p>maybe 13:10 44:21 45:13 46:5</p> <p>McGovern 2:16 8:5 12:7,10,13,17 13:18,21 14:1,22 16:3,8 21:19,22 22:13 25:3,5,9,19,21 26:3,8,11 27:3,8,17 28:5,10,19 29:3,7,10,12,19, 21 32:3,12,15,18,21 33:8,19 34:1,4,8,17,19 36:1,12,15 37:10,14 38:4,15,20 39:17,19,21 40:4,14,19,21 41:5,13</p> <p>mean 17:12 26:18 31:10 35:19 38:21 39:3,10,22 40:4,16 43:20 48:3</p> <p>meantime 38:1</p> <p>meet 26:13</p> <p>meeting 1:3 8:18,20 9:10 21:19 24:3,6 27:18 32:16,20 33:9 37:11,13 48:16 51:4,9 52:10</p> <p>Meetings 51:7,12,14 52:12</p> <p>Member 1:17,18,19 51:16</p> | <p>members 8:3 12:1</p> <p>memorandum 9:14 11:16 15:3 18:21 19:6 22:20 33:2 50:4</p> <p>mentioned 30:8 36:11</p> <p>met 1:14 8:13 21:22 29:10,16 33:17,20</p> <p>meting 20:5</p> <p>mike 1:19 7:20</p> <p>Miller 1:15,17 2:3,6,15,18,21 3:1,3,4,7,11,15,1 8 4:7,11,16,21 5:2,7,10,13 6:9,12,14,18,21 7:2,5,15,17 8:3 11:22 12:3,8,11,14,20 13:14,20,22 14:2 16:1 17:18 27:11 29:1 30:2,5 31:21 33:12,14,20 34:2,7,15,18,22 35:11,16,22 36:3,6,9 37:8,19 38:5 40:16,20,22 41:4 43:15,18 45:13 46:1 47:21 48:3,9,19 49:5,11,13 50:8,12,16,21 51:1,17,21 52:1,3,6,8,15,17</p> <p>mind 34:10 39:9</p> <p>mindset 41:14</p> <p>MIRANDA 54:3,16</p> | <p>missed 12:15,19</p> <p>mistake 17:5 25:3 26:14 32:1</p> <p>mistaken 10:7</p> <p>misunderstanding 8:8 11:6 14:16 18:14</p> <p>misunderstood 43:22 48:18</p> <p>moment 48:17</p> <p>Monday 17:12 33:4 36:19 37:5 39:1 48:12</p> <p>monetary 15:21</p> <p>month 26:1,5 30:18 31:1 47:16</p> <p>motion 51:18 52:8</p> <p>move 24:3 51:8</p> <p>moved 48:21</p> <p>mystery 23:3</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>N.W 1:14 3:20</p> <p>nail 16:4</p> <p>nature 18:5,6</p> <p>necessarily 49:9</p> <p>necessary 5:12</p> <p>neighborhood 10:18,20</p> <p>neighbors 26:22</p> <p>neither 53:9</p> <p>NICK 1:17</p> <p>night 20:18 21:2 43:4 44:20</p> <p>nobody 40:13 46:13</p> |
|--|--|---|---|

| | | | |
|--|---|---|--|
| <p>noise 11:8</p> <p>non 49:2</p> <p>non-substantial 9:12</p> <p>Nophlin 1:19 31:20,21,22 32:5,8,10,19 33:7,11 51:19,20</p> <p>nor 53:9,13</p> <p>North 16:19</p> <p>notarize 16:17</p> <p>Notary 53:1,20</p> <p>noted 10:3 19:1</p> <p>notes 14:20 54:6</p> <p>notice 4:3,9,13 5:15 49:15,16 52:9</p> <p>noticed 17:21 36:10 45:18 47:4</p> <p>numerous 10:1,2 12:17 23:8,9</p> <p>NW 1:6</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>OAG 1:20</p> <p>obeying 30:19</p> <p>occasions 10:2 23:8</p> <p>occur 18:18</p> <p>occurred 20:2 44:12</p> <p>occurrence 20:14 21:2</p> <p>October 9:18 14:13 15:6 28:17</p> <p>offer 4:2</p> <p>officer 53:3</p> | <p>officers 25:22</p> <p>oh 3:11 21:17 31:21 49:21</p> <p>old 16:12</p> <p>ones 31:9</p> <p>one's 17:22 18:1</p> <p>open 41:11 42:20 43:4 45:20 46:6 51:7,11,14 52:11</p> <p>opening 4:5 5:4</p> <p>operating 9:8 10:11 12:5,12 13:1,19 17:1 25:15 35:13 41:15 43:13</p> <p>operation 9:2,6 12:22 13:8,10,15 15:4 42:12</p> <p>opportunity 11:19 24:19</p> <p>opposed 24:11 28:3 31:9</p> <p>order 23:21 51:3 52:12</p> <p>ordered 10:21 15:12</p> <p>originally 16:9,11</p> <p>others 17:18 30:2</p> <p>otherwise 24:12 53:13</p> <p>outcome 32:19 53:13</p> <p>outlining 9:15</p> <p>outside 1:10 5:16 12:5 47:19</p> <p>overextended 15:15</p> <p>overlooked 41:7</p> | <p>oversight 41:12</p> <p>owned 12:13</p> <p>owner 11:6 16:17 22:22 33:2 35:9 37:5</p> <p>owners 8:5 9:16 10:4</p> <p>owner's 46:13</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>p.m 2:2 43:9 52:21</p> <p>Page 8:12 9:17</p> <p>paid 34:12</p> <p>paper 22:8 34:10</p> <p>paperwork 35:9,10</p> <p>paragraph 30:10</p> <p>PARTICIPANT 46:17,19,21</p> <p>particular 11:10 14:4,5 20:18,19</p> <p>parties 2:4 4:1 50:14,17 53:8,10,12</p> <p>party 2:11</p> <p>pass 30:12,14 38:11</p> <p>passed 52:9</p> <p>penalized 44:11</p> <p>PENNACHI 54:3,16</p> <p>per 51:11</p> <p>period 15:18 37:21 48:11,15</p> <p>permit 23:19</p> <p>permitted 12:5 41:10</p> | <p>personally 40:5</p> <p>ph 8:14 30:15</p> <p>Phillips 1:20 2:9 3:13 4:1,8,15,18 5:1,3,6,9,11,14 6:10,13,17,20,22 7:4 30:3,6,17 31:17,18 32:14 38:9 42:7,9 44:4,7 45:8,10,13,21 46:3,18,20,22 49:12 50:20</p> <p>placarding 33:10</p> <p>please 17:20</p> <p>pleasure 7:9</p> <p>point 11:9 12:21 15:10 24:8,10 27:14 31:22 41:19 51:1</p> <p>pointed 47:2</p> <p>pointing 13:11 24:2</p> <p>policemen 2:11</p> <p>position 44:13</p> <p>posted 45:18</p> <p>post-transferring 33:1</p> <p>preliminary 3:8,21</p> <p>present 1:16,20 7:13</p> <p>presiding 1:15</p> <p>pre-transferring 32:22</p> <p>previous 16:17,22</p> <p>previously 7:7 9:1 10:4 12:15 31:8</p> |
|--|---|---|--|

| | | | |
|--|---|--|---|
| <p>primary 39:11</p> <p>printer 16:12</p> <p>prior 43:1,10</p> <p>proactive 32:16</p> <p>probably 17:20 43:22</p> <p>problem 5:3 26:21 39:5</p> <p>proceeding 54:5,6,9</p> <p>process 27:4 35:8</p> <p>proffers 49:10</p> <p>prompt 10:15 13:13</p> <p>promptly 10:7,12 11:12</p> <p>proper 30:18</p> <p>proposed 50:17</p> <p>prove 25:15</p> <p>proven 24:12</p> <p>provided 49:19,20 50:2</p> <p>Public 53:1,20</p> <p>punishment 11:2 15:14 19:19</p> <p>punitive 19:20</p> <p>purpose 8:17 51:9</p> <p>pursuant 52:11</p> <p>pursue 50:19</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>question 14:3 15:8 29:15 40:13</p> <p>questions 12:1 17:17 28:21 41:1</p> <p>quite 14:7</p> | <hr/> <p style="text-align: center;">R</p> <hr/> <p>rather 25:16</p> <p>reading 30:7 36:21 42:6</p> <p>real 17:10</p> <p>reality 42:16 48:7</p> <p>realized 10:6 11:14</p> <p>realizing 48:18</p> <p>really 14:8,15 18:11,16 19:19,20 37:16 44:10 48:1</p> <p>reason 43:11 51:13</p> <p>reasons 49:3</p> <p>recall 4:4 6:2 40:1,4</p> <p>received 17:7 39:8</p> <p>recess 52:20</p> <p>recognition 18:19</p> <p>recognize 18:16</p> <p>recollection 35:8 38:20</p> <p>record 2:4 3:10 7:21 8:11 10:12 15:7 18:20,22 19:20 22:6 33:4 35:8,20 36:13 41:20 47:20 48:18 49:14 50:5,13,22 53:8</p> <p>recorded 53:6</p> <p>recordings 54:7</p> <p>records 8:16 10:16 25:7</p> <p>record's 50:16</p> | <p>redoing 14:10</p> <p>reduced 53:6</p> <p>Reeves 1:14</p> <p>refer 22:20</p> <p>reference 20:17 45:15</p> <p>referring 20:18</p> <p>refers 38:9</p> <p>regarding 10:7 11:16 22:21 42:22 48:14</p> <p>regulatory 20:20</p> <p>reissued 9:8</p> <p>related 53:9</p> <p>relative 53:11</p> <p>remark 45:20</p> <p>renewal 13:6 16:5</p> <p>renewals 9:1,7 13:2 16:16 34:11</p> <p>renewed 26:5</p> <p>report 4:4,14 8:11 9:17 22:21 30:7 41:20,21 45:14 49:15</p> <p>reported 54:4</p> <p>Reporter 54:4</p> <p>Reporter's 54:6</p> <p>reports 49:15</p> <p>request 10:14 11:2</p> <p>requested 9:6 15:3</p> <p>requesting 49:1</p> <p>requires 15:19</p> <p>research 10:6,16 36:18</p> <p>researching 27:19</p> <p>resident 10:13</p> | <p>11:7 19:22</p> <p>resident's 10:5</p> <p>resolution 11:21</p> <p>resolved 18:19 33:9 34:9</p> <p>respectfully 10:14 11:2</p> <p>responded 14:18</p> <p>response 2:5 12:2 24:16 33:13 50:15</p> <p>responsibility 26:19</p> <p>rest 7:13</p> <p>restaurant 1:5 2:17 7:8 12:12</p> <p>result 10:13 11:7 24:7</p> <p>Retailer 1:7</p> <p>returned 15:2 36:19</p> <p>revert 24:9</p> <p>review 8:18</p> <p>reviewed 9:19</p> <p>reviewing 10:1,22</p> <p>roll 27:21 51:17</p> <p>rolled 5:7,9</p> <p>room 1:14 52:11</p> <p>routine 10:5 11:9</p> <p>rowdily 20:22</p> <p>run 16:18 26:19</p> <p>running 23:4,12</p> <p>Russia 1:6 2:16,20 3:19 7:8 8:5 9:3,19 16:10 51:11</p> |
|--|---|--|---|

| | | | |
|--|--|---|--|
| <p>Russian 8:19 39:11</p> <p>Ruthanne 1:15,17</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>sale 1:9 5:16 45:16</p> <p>Saturday 30:9 42:12 43:16 44:7 45:3,4,6,8,9,10,1 1 48:14</p> <p>schedule 2:6</p> <p>school 16:12</p> <p>second 5:18 6:1 33:18 39:11 51:15,16</p> <p>seconded 51:19</p> <p>Section 51:7,11,13</p> <p>seek 10:20</p> <p>seeking 51:9</p> <p>seemed 11:10</p> <p>seems 21:1 41:12</p> <p>sell 41:10</p> <p>sense 17:15 26:9</p> <p>separate 18:2,3</p> <p>September 6:3 8:13 9:10,15 15:5 18:1,22 19:6 20:10,13 21:11 24:8 29:4 31:2 32:3,7 33:16,17 35:18 36:6,7 37:7,16 40:5,17 44:2,3,6,8 47:10 48:8,11,13</p> <p>serve 29:5</p> <p>served 17:3</p> <p>serving 5:22 6:3</p> | <p>44:19</p> <p>several 30:9 48:22</p> <p>shared 41:6</p> <p>sharing 41:7</p> <p>sheet 39:6</p> <p>shown 8:22 43:8</p> <p>shows 8:11 31:7</p> <p>sign 16:17</p> <p>significant 11:3</p> <p>Silverstein 1:19 7:19 8:1 16:2,3,8 17:16 27:11,12,18 28:5,7,12,16,18, 21 31:16 38:6,7,15 39:15,18,20 40:3,12,15 52:4,5</p> <p>simple 40:13</p> <p>simply 28:2</p> <p>Simultaneously 5:6</p> <p>sincerely 9:22</p> <p>sir 8:1 19:13 20:15 27:17 28:20 29:19,21 34:5</p> <p>sit 23:13</p> <p>site 10:1</p> <p>situation 12:9 19:21 24:7</p> <p>slash 22:21</p> <p>somewhere 45:18</p> <p>sorry 3:11 31:19 34:8 45:22</p> <p>sound 37:3</p> <p>South 16:18</p> | <p>speak 7:20 21:1 39:3,14 44:15</p> <p>speaking 40:4</p> <p>speaks 39:12</p> <p>specifically 6:19</p> <p>specified 5:17</p> <p>splitting 37:3</p> <p>spoke 34:4</p> <p>squared 16:20</p> <p>stamped 29:14 34:12</p> <p>start 2:7</p> <p>started 27:3</p> <p>stated 7:7 8:17,20 9:1 36:12</p> <p>statement 7:12 38:18</p> <p>states 9:18</p> <p>stating 14:13</p> <p>statute 15:10,19</p> <p>stay 15:19 45:19</p> <p>staying 46:6</p> <p>steps 8:8 10:8,15</p> <p>stipulate 4:3 31:6,14 35:17 49:13,14 50:14</p> <p>stipulating 4:12</p> <p>stipulation 6:6</p> <p>stop 44:19,20</p> <p>straight 18:18 40:8</p> <p>Street 1:14 16:19</p> <p>strong 26:20</p> <p>submit 16:18</p> | <p>substantial 10:19 19:8 33:10 49:2,4</p> <p>Sunday 36:8 45:1,4,6</p> <p>superbosses 8:17</p> <p>sure 7:20 20:8 22:10 27:12 28:11 29:3 30:5 31:5,13 35:16,22 47:21 48:3 49:17</p> <p>surround 7:11</p> <p>swear 49:8</p> <p>sword 31:12</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>t/a 1:6</p> <p>taking 5:11</p> <p>talk 45:15</p> <p>talking 30:7 32:7 40:8 41:9 43:3 45:21 46:1</p> <p>term 49:22</p> <p>terms 27:16</p> <p>testified 47:13 48:7</p> <p>testimony 49:9,19 53:5,8</p> <p>thank 3:1 7:22 8:1,2 11:19,21,22 16:1 17:19 27:9 28:18,19,20 29:2,22 45:11,12 49:5 50:1,10,11,21 52:13,14</p> <p>That'd 7:15</p> <p>that's 4:21 5:1,3</p> |
|--|--|---|--|

| | | | |
|---|--|--|--|
| <p>7:4 15:20 17:10,14 18:22 21:17 22:6,7,20 24:13,21 28:5,6 30:8 32:9,10 33:2,11 35:4,6 38:6 41:12,20 44:7 46:8 47:4 48:4 50:5</p> <p>thereafter 53:6</p> <p>therefore 6:6 22:15</p> <p>therein 4:3</p> <p>there's 15:18 17:10 18:21 21:2 27:5 36:1 39:13</p> <p>they're 29:8 31:10,11,14 45:17</p> <p>throughout 37:20</p> <p>Thursday 9:15</p> <p>today 7:10 8:4 52:11</p> <p>total 6:9,10,12</p> <p>totalitary 19:14</p> <p>towards 33:6</p> <p>town 14:20 24:3</p> <p>trading 7:8</p> <p>trail 22:8</p> <p>transcript 53:5 54:5,7</p> <p>transcription 53:7 54:1,8</p> <p>Transcriptionist 54:17</p> <p>trigger 15:10</p> <p>triggered 13:10</p> <p>Trip 3:4</p> | <p>true 31:1 53:7 54:8</p> <p>truth 25:18</p> <p>truthful 28:6</p> <p>try 18:8 26:19 37:22</p> <p>trying 12:21,22 18:7 20:8 21:9 24:21 29:7 38:16 39:15</p> <p>Tuesday 8:13 17:13</p> <p>Tuesdays 39:1</p> <p>turned 7:20 31:8</p> <p>typed 54:5</p> <p>typewriting 53:6</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>Uh-huh 12:20 18:12 19:2,9 21:13 23:2 26:2 29:11 37:8 42:14,18</p> <p>understand 8:7 12:3 18:11,13 24:15,22 29:3 31:4 37:20 38:12 41:18 46:3 48:9</p> <p>understanding 11:14 17:4 19:5 22:7 36:21 40:6 41:13</p> <p>understood 14:16 22:14 39:14</p> <p>unless 13:6 43:8</p> <p>upon 4:8 6:6 10:6,21 14:4 51:12</p> <p>upstate 14:22</p> <p>urgency 17:15</p> | <p>usually 6:20</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>various 47:4</p> <p>view 18:4 37:16</p> <p>violation 5:17,18 27:5,16 30:13,22 33:18 35:3 37:2,21 38:10 39:6,22 40:7,10,11 42:20,22 44:1 46:10 47:9</p> <p>violations 26:21</p> <p>visit 36:14 41:8</p> <p>vote 52:9</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>wait 3:11</p> <p>waive 50:18,22</p> <p>waives 50:20</p> <p>walk 37:13,14</p> <p>wall 30:20 43:14 46:7 47:17</p> <p>warned 3:6</p> <p>warning 38:14</p> <p>Washington 1:15</p> <p>wasn't 20:20,21 40:6 42:21</p> <p>we'd 3:13</p> <p>Wednesday 9:18</p> <p>week 26:14 44:5</p> <p>weekend 26:15</p> <p>weekends 36:14 39:1,2</p> <p>weeks 48:22</p> <p>we'll 4:5 52:19</p> | <p>we're 2:3 5:11 12:19,22 13:11,12 14:15 20:4 23:12 24:1 26:21 28:10 35:21 41:8 42:3 43:3 47:19</p> <p>we've 26:20 27:12 31:6 35:14</p> <p>whatever 4:16 16:16 49:2</p> <p>WHEREUPON 52:21</p> <p>whether 13:3 43:4,5 44:20</p> <p>whole 14:9,10</p> <p>whom 53:3</p> <p>William 8:14</p> <p>withdraw 49:22</p> <p>wondering 38:7</p> <p>work 37:22 40:8</p> <p>worked 22:9 48:20</p> <p>working 31:18</p> <p>works 38:22 39:2</p> <p>write 13:7</p> <p>writing 7:12</p> <p>wrong 9:5 13:15 24:14 25:14,16</p> <p>wrote 11:16 13:9,14,16,18</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>Y'all 52:16</p> <p>Yep 3:4</p> <p>yet 3:12 13:4</p> <p>York 14:22 36:13</p> <p>you've 35:1</p> |
|---|--|--|--|