DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF:               :
                                :
M St. Enterprises, Inc.         :
t/a Churreria Madrid Restaurant :
2505 Champlain Street, NE       :
Retailer CR                     :  Show Cause
License No. 60806               :  Hearing
ANC 1C                          :
Case No. 12-AUD-00005           :
Failed to File Quarterly        :
Statements                      :
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July 11, 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
ADENIYI ADEJUNMOBI, ABRA

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1 T A B L E O F C O N T E N T S
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3 WITNESSES
4 Adeniyi Adejunmobi. 8
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1 P R O C E E D I N G S
2 3:00 p.m.
3 CHAIRPERSON MILLER: Okay. The next case on
4 our calendar is show cause hearing, Case No. 12-AUD-
5 00005, Churreria Madrid Restaurant, located at 2505
6 Champlain Street, N.W., License No. 60806, and ANC 1C.
7 MR. ALBERTI: Thank you. Good afternoon,
8 folks.
9 MS. PHILLIPS: Good afternoon, Board members
10 and Mr. Alberti.
11 CHAIRPERSON MILLER: So why don't you
12 introduce yourselves -- yourself for the record,
13 please?
14 MS. PHILLIPS: Yeah, okay.
15 CHAIRPERSON MILLER: Yourself.
16 MS. PHILLIPS: Louise Phillips, Assistant
17 Attorney General for the District of Columbia.
18 CHAIRPERSON MILLER: Okay. Have you heard
19 anything --
20 MS. PHILLIPS: I have not.
21 CHAIRPERSON MILLER: -- from the applicant?
22 No, okay.

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1 MS. PHILLIPS: And it's a -- I think it's a
2 Licensee, not an applicant.
3 CHAIRPERSON MILLER: I'm sorry. You are
4 absolutely --
5 MS. PHILLIPS: Right?
6 CHAIRPERSON MILLER: -- right, both. The
7 Licensee --
8 MS. PHILLIPS: Just in case I brought the
9 wrong file. I want to make sure.
10 CHAIRPERSON MILLER: No, no. I missed the
11 Licensee. You're not here, by any chance, are you, on
12 Madrid Restaurant, sir? No. Yeah.
13 MS. PHILLIPS: It's the government's witness.
14 CHAIRPERSON MILLER: Yeah, it's your witness.
15 Okay. You are here on that. You are here for that
16 reason. Yeah.
17 MS. PHILLIPS: All right.
18 CHAIRPERSON MILLER: So then I guess we'll go
19 forward with the Attorney General, right? We haven't
20 heard -- our legal staff hasn't heard anything? Okay.
21 Right.
22 MS. PHILLIPS: Just --

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1 CHAIRPERSON MILLER: Wait a second. I'm
2 sorry.
3 MR. NOPHLIN: I'm sorry, what time --
4 CHAIRPERSON MILLER: We --
5 MR. NOPHLIN: -- was the hearing scheduled.
6 BOARD MEMBER: 2:30.
7 CHAIRPERSON MILLER: The hearing was
8 scheduled for 2:30.
9 MS. PHILLIPS: 2:30, I think.
10 CHAIRPERSON MILLER: What, 2:30?
11 BOARD MEMBER: 2:30.
12 CHAIRPERSON MILLER: And I --
13 MS. PHILLIPS: 2:30.
14 CHAIRPERSON MILLER: You're our 3:30?
15 MS. PHILLIPS: 2:30.
16 BOARD MEMBER: 2:30.
17 MS. PHILLIPS: That's what I have.
18 CHAIRPERSON MILLER: That's what we have,
19 2:30. Do you have an objection to --
20 MR. NOPHLIN: No. That's --
21 CHAIRPERSON MILLER: -- going ahead and
22 proceeding with this? No, right. But the 3:30, I'd

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1 say -- less than that.
2 MR. NOPHLIN: I'd say normally we do.
3 BOARD MEMBER: Yeah, at least.
4 MR. ALBERTI: Right. But we're now --
5 MS. PHILLIPS: We've waited a half an hour so
6 MR. ALBERTI: Almost 30 -- waited a half-
7 hour.
8 CHAIRPERSON MILLER: Okay.
9 BOARD MEMBER: No problem.
10 MS. PHILLIPS: Let's for the record --
11 BOARD MEMBER: Sometimes we'll give them a
12 half- hour.
13 CHAIRPERSON MILLER: We're half an hour.
14 BOARD MEMBER: But we're past that. So let's
15 go.
16 CHAIRPERSON MILLER: Yeah, okay.
17 MS. PHILLIPS: May I continue? Okay.
18 CHAIRPERSON MILLER: You may.
19 MS. PHILLIPS: Thank you. Just for the
20 record, I noticed from my file that on a status there
21 was a no show. But I have a service for here, which
22 indicates that the notice, which was signed on the 28th

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1 of April, 2012, by the chair, was delivered to not
2 Milagro Salmeron, but Ernesto Giron, G-I-R-O-N. And
3 Mr. Giron is the gentlemen who I've known as the
4 husband of Milagro Salmeron, who is the president.
5 And he has often come to hearings
6 representing the establishment with or without Ms.
7 Salmeron. So there was notice of both a status
8 hearing, for which there was a no show, and this
9 hearing for which there also appears to be a no show.
10 So I suggest that we go forward ex parte, if the Board
11 so chooses.
12 CHAIRPERSON MILLER; I think that's what we
13 had intended, except I just -- I just want to just
14 address that concern with you just a little bit about
15 they didn't appear before for the other one. Have you
16 been in contact with them at all?
17 MS. PHILLIPS: I have not. It's not since
18 trying to reach them before. I noticed -- at least I
19 do not remember and I usually make a note.
20 CHAIRPERSON MILLER: Uh-huh. Okay.
21 MS. PHILLIPS: So that, to me, means I did
22 not. But prior to the status, I made a number of calls.

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1 They always went straight to voicemail.
2 CHAIRPERSON MILLER: Okay.
3 MS. PHILLIPS: And the voicemail box was full
4 so that I was unable to leave messages prior to the
5 status. But I don't see a note where I tried to call
6 them after the status, which I usually do. But I don't
7 see a note and, therefore, it's not done.
8 CHAIRPERSON MILLER? Okay. All right. Yeah.
9 I was just checking our file to see that we had -- that
10 it shows that it was served April 29th and signed as
11 received by Ernesto --
12 MS. PHILLIPS: Right. I thought I just put
13 that on the record.
14 CHAIRPERSON MILLER: Well, it just says -- I
15 want to make sure it was in our file as well.
16 MS. PHILLIPS: Oh, okay. Because that's how
17 I get it.
18 CHAIRPERSON MILLER: Yeah.
19 MS. PHILLIPS: Don't send it to me normally.
20 CHAIRPERSON MILLER: Oh, okay.
21 MS. PHILLIPS: I have to request it --
22 CHAIRPERSON MILLER: Okay.

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1 MS. PHILLIPS: -- which I did at the last
2 hearing so that I could put it on the record the last
3 time. And so it's
4 CHAIRPERSON MILLER: Okay. Good. So we --
5 now, we know for --
6 MS. PHILLIPS: Hopefully, they didn't give me
7 the one that was from your file and --
8 CHAIRPERSON MILLER: Okay. All right. So
9 we're good on that then. You can proceed ex parte.
10 MS. PHILLIPS: Thank you, Madam Chair.
11 CHAIRPERSON MILLER: Okay.
12 MS. PHILLIPS: The government calls the ABRA
13 auditor, please.
14 CHAIRPERSON MILLER: Do you swear to the
15 truth, the whole truth and nothing but the truth?
16 MR. ADEJUNMOBI: Yes.
17 CHAIRPERSON MILLER: Okay. Thank you.
18 MS. PHILLIPS: Good afternoon. Will you
19 state and spell your name for the record, please?
20 MR. ADEJUNMOBI: Adeniyi --
21 COURT REPORTER: I cannot hear.
22 MR. ADEJUNMOBI: Adeniyi -- I think you want

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1 to
2 -- A-D-E-N-I-Y-I, A-D-E-J-U-N-M-O-B-I.
3 MS. PHILLIPS: And could you tell me what
4 your position within ABRA is, please?
5 MR. ADEJUNMOBI: I am a compliance analyst
6 (inaudible).
7 MS. PHILLIPS: And, in brief, what does that
8 entail?
9 MR. ADEJUNMOBI: I'm responsible for
10 reviewing the quarterly statements (inaudible) that
11 have licenses at ABRA.
12 MS. PHILLIPS: Now, just for the record
13 briefly, are licensees and establishments required to
14 file quarterly statements?
15 MR. ADEJUNMOBI: Yes.
16 MS. PHILLIPS: And they come to the agency?
17 MR. ADEJUNMOBI: Yes.
18 MS. PHILLIPS: And at some point in time, you
19 review the quarterly statements?
20 MR. ADEJUNMOBI: Yes.
21 MS. PHILLIPS: And are they -- are the
22 quarterly statements maintained in this -- the Alcohol

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1 Beverage offices in a place?
2 MR. ADEJUNMOBI: Yes.
3 MS. PHILLIPS: Is it a routine part of your
4 business to collect the quarterly statements and review
5 them?
6 MR. ADEJUNMOBI: Yes.
7 MS. PHILLIPS: Do you review all quarterly
8 statements that come in or do you just review a select
9 few?
10 MR. ADEJUNMOBI: All.
11 MS. PHILLIPS: All. And in this particular
12 case for Churreria, you reviewed a quarterly statement
13 for -- somewhere I have it -- not to worry, I'll find
14 it -- for the quarter of beginning of July and ending
15 in September, 2001 [sic] -- I mean, 2011; is that
16 correct?
17 MR. ADEJUNMOBI: Yes.
18 MS. PHILLIPS: Now, when was the quarterly
19 statement for this particular quarter due in the ABRA
20 offices?
21 MR. ADEJUNMOBI: October 30, 2011.
22 MS. PHILLIPS: So in other words the

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1 establishments are allowed 30 days after the close of
2 the quarter to file the requisite quarterly statement;
3 is that a fair statement?
4 MR. ADEJUNMOBI: Yes.
5 MS. PHILLIPS: Okay. And then at some point
6 in time you review them. And if they do not file them,
7 do you make a record of that any place within the
8 establishment here?
9 MR. ADEJUNMOBI: Yes, I do.
10 MS. PHILLIPS: Okay. Is it a computer
11 printout?
12 MR. ADEJUNMOBI: Well, it's more like a
13 worksheet.
14 MS. PHILLIPS: A worksheet. Okay. And so
15 has the establishment filed a quarterly statement for
16 July through September, 2011?
17 MR. ADEJUNMOBI: No.
18 MS. PHILLIPS: It has not come in subsequent
19 to the 30-day requirement?
20 MR. ADEJUNMOBI: No.
21 MS. PHILLIPS: So in other words to -- from
22 when it was due, at the end of October, 2011, to today

13

1 or recently, it has not been filed?
2 MR. ADEJUNMOBI: Until today.
3 MS. PHILLIPS: Until today. So you checked
4 today to see whether or not it had been filed; is that
5 fair?
6 MR. ADEJUNMOBI: I did.
7 MS. PHILLIPS: All right. All right. So I
8 have no further questions, if the Board has none.
9 CHAIRPERSON MILLER: Any questions, Board
10 members? No, no questions.
11 MR. ALBERTI: I do actually --
12 CHAIRPERSON MILLER: I'm sorry.
13 MR. ALBERTI: -- have one quick question.
14 I'm sorry. And you may have testified to this, Mr.
15 Adejunmobi, but the third-quarter report that's being
16 referenced to, has this report been received by the
17 agency?
18 MR. ADEJUNMOBI: No.
19 MR. ALBERTI: It's still outstanding?
20 MR. ADEJUNMOBI: Yes, sir.
21 MR. ALBERTI: Thank you. Thank you.
22 CHAIRPERSON MILLER: Thank you.

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1 MS. PHILLIPS: So I -- the -- as a
2 recommendation from the government --
3 CHAIRPERSON MILLER: Uh-huh.
4 MS. PHILLIPS: -- if you wish for me to sum
5 up -
6 -
7 CHAIRPERSON MILLER: Yeah.
8 MS. PHILLIPS: -- I have to say this
9 establishment has been, quote, my establishment. I
10 have litigated a number of cases with regard to this
11 establishment and their issues with quarterly
12 statements.
13 And, in fact, in 2010, because of the fact
14 that they had not turned in quarterly statements, my
15 recommendation on one of the show cause hearings was
16 that we should conduct an audit and have the
17 establishment closed until such time as they -- Mr.
18 Adejunmobi had conducted an audit, which he did.
19 And then, subsequent to that time, they've
20 had several more violations, one fairly shortly -- you
21 know, one toward the end of 2010, for which a citation
22 was paid. And then they've had several more since

15

1 then. And so here we are today.
2 And so I recommend again a fine of $6000,
3 which should not be accepted, if it is accepted by the
4 Board, until such time as the quarterly statement for
5 this quarter is filed and any other delinquent
6 quarterly statements before this particular quarter, if
7 there are any. I can't tell from an investigative
8 history, which I requested in May -- May 16th of 2012.
9 So a fine of $6000 to be accepted as paid
10 only after they file the missing quarter statement and
11 it is reviewed by the auditor.
12 CHAIRPERSON MILLER: Okay. And do you think
13 that they should remain operating until that day, when
14 they file their statements and pay their $6000?
15 MS. PHILLIPS: Well, at this point in time I
16 did not recommend closure --
17 CHAIRPERSON MILLER: Uh-huh.
18 MS. PHILLIPS: -- as I did in 2010.
19 CHAIRPERSON MILLER: Uh-huh.
20 MS. PHILLIPS: And that -- I recommended that
21 because they had several in 2009 and one, two, three,
22 four, five -- it was the sixth quarterly statement by

16

1 the time I handled that case in November of 2010 where
2 I recommended closure. And I don't have that for a
3 record
4 --
5 CHAIRPERSON MILLER: Uh-huh.
6 MS. PHILLIPS: -- now.
7 CHAIRPERSON MILLER: Okay.
8 MS. PHILLIPS: So -- however, the primary
9 violation of this establishment, from what I can see,
10 are quarterly statements. So at this time I'm
11 recommending what I recommended.
12 CHAIRPERSON MILLER: Uh-huh.
13 MS. PHILLIPS: But the Board may want to take
14 further action, which, of course, is within their
15 discretion.
16 CHAIRPERSON MILLER: And since you have this
17 history with the Licensee, are you aware of any reason
18 they will have given for this pattern of not filing
19 quarterly statements on time?
20 MS. PHILLIPS: I have never received a reason
21 from Mr. Giron. It appears to me that -- I speak with
22 him primarily because it appears to me that Ms.

17

1 Salmeron does not speak English as well as Mr. Giron
2 does. So I do all -- I have done all of my discussion
3 with him. And I -- he has never been able to tell me
4 why he hasn't filed quarterly statements and he knows
5 he has to do them.
6 Maybe before I took over his establishment
7 for these violations, he could say, "Well, you know, I
8 wasn't sure that we were supposed to file them," or, "I
9 was unaware." But after I started litigating these
10 cases, I mean, I spoke to him very firmly about they're
11 due every quarter and they have to be reviewed by the
12 auditor. And the auditor has to accept them because if
13 the figures aren't correct -- and when you settle these
14 cases, you must pay a fine.
15 But before you are allowed to pay the fine,
16 you must turn in the quarterly statement. So why this
17 is not happening now, I have no idea. Because
18 certainly, in addition to the auditor educating them,
19 and every time they call the ABRA establishment, I'm
20 sure they're told the same thing because it's a
21 regular, routine comment of the -- of the agency.
22 They're told the very same thing.

18

1 Now, I can't vouch for what ABRA tells them
2 but I can tell you what I've told them.
3 CHAIRPERSON MILLER: Okay. I was wondering
4 if it was communication problem, language problem or --
5 MS. PHILLIPS: There --
6 CHAIRPERSON MILLER: -- you know
7 MS. PHILLIPS: That's why I have always dealt
8 with Mr. Giron. He speaks very fluent English and he's
9 never had any trouble understanding me --
10 CHAIRPERSON MILLER: Okay.
11 MS. PHILLIPS: -- at all. Ms. Salmeron, I
12 have not dealt with, unless she was with Mr. Giron. So
13 I can't -- she appears not to but she could be even
14 more fluent and I just don't -- am not aware.
15 CHAIRPERSON MILLER: Okay. Thank you. Any
16 other questions? Yes, Mr. Nophlin?
17 MR. NOPHLIN: So we're not sure whether or
18 not they're in compliance with the other reports that
19 they're supposed to turn in?
20 MS. PHILLIPS: In the past -- I can't tell
21 from the history I have.
22 MR. NOPHLIN: I see.

19

1 MS. PHILLIPS: I believe the investigation
2 report, you know -- it's my understanding that the
3 investigation reports are listing past deficits. All
4 this report says is they have paid. It says, "The
5 establishment paid citations on the following dates."
6 And they list it in the investigative report. And all
7 I -- yeah, I can see one other case in the future, but
8 that's not before the Board this time.
9 MR. NOPHLIN: So you're saying we have
10 another one probably pending?
11 MS. PHILLIPS: I see something else on the
12 investigative history. Pending is a term of art. I
13 can't tell you whether it's pending. It's just on the
14 history.
15 MR. ALBERTI: There's another report that was
16 before us.
17 MR. NOPHLIN: Yeah.
18 MS. PHILLIPS: Right.
19 MR. ALBERTI: Is that correct?
20 MS. PHILLIPS: There appears to be another
21 audit report, 12-AUD-00047.
22 MR. NOPHLIN: What number is that page?

20

1 MS. PHILLIPS: It's number two on my
2 investigative history. It's February 1st, 2012 -9-
3 MR. NOPHLIN: Uh-huh.
4 MS. PHILLIPS: -- on my particular
5 investigative history. The case number's 12-AUD-00047.
6 But that's not before the Board at this time. And I
7 don't think it's sitting in my office either. It could
8 be, however.
9 CHAIRPERSON MILLER: Okay. Yeah.
10 MR. NOPHLIN: A question.
11 CHAIRPERSON MILLER: Yeah, go ahead.
12 MR. NOPHLIN: Once we get a report like this,
13 is it your -- our responsibility or your responsibility
14 to go out and see how you can help eliminate this
15 problem? Is that part of your responsibility?
16 MR. ADEJUNMOBI: No, it's not. No, we don't
17 do that. What we did before in the past, well, we
18 organized the training --
19 MR. NOPHLIN: Okay.
20 MR. ADEJUNMOBI: -- for all the
21 establishments. And I'll follow them for approximately
22 several hundred day. Only about 50 showed up.

21

1 (Inaudible) We haven't done that recently. The last
2 one we did was 2010.
3 MR. NOPHLIN: And you said out of an X number
4 of participants, you don't get nowhere near half?
5 MR. ADEJUNMOBI: We got -- only about 50
6 showed up for that training.
7 MR. NOPHLIN: Out of how many?
8 MR. ADEJUNMOBI: Fifty.
9 MR. NOPHLIN: Out of how many?
10 MR. ADEJUNMOBI: Out of approximately 700
11 plus.
12 MR. NOPHLIN: Okay.
13 CHAIRPERSON MILLER: Several hundred plus as
14 in
15 --
16 MR. ADEJUNMOBI: Seven hundred.
17 CHAIRPERSON MILLER: Who's are --
18 MR. ADEJUNMOBI: What I'm talking, the number
19 of licenses required (inaudible).
20 CHAIRPERSON MILLER: Okay.
21 MR. ADEJUNMOBI: Out of that population we
22 only had only about 50 show up --

22

1 CHAIRPERSON MILLER: Okay.
2 MR. ADEJUNMOBI: -- for training.
3 CHAIRPERSON MILLER: Okay.
4 MR. NOPHLIN: Thank you, Madam Chair.
5 CHAIRPERSON MILLER: Okay. Anybody else have
6 any questions? Okay. Well, thank you very much.
7 We'll take this under advisement. And I'll read the
8 Open Meetings Act instruction for our deliberating on
9 this in the Board room.
10 As Chairperson of the Alcoholic Beverage
11 Control Board for the District of Columbia, and in
12 accordance with Section 405 of the Open Meetings
13 Amendment Act of 2010, I move that the ABC Board hold a
14 closed meeting for the purposes of seeking legal advice
15 from our counsel on Case No. -- Case Churreria Madrid
16 Restaurant, Case. No. 12-AUD-00005. Is that the one
17 here?
18 MS. PHILLIPS: That's what I have.
19 CHAIRPERSON MILLER: That's the right one?
20 Okay. Per Section 405(b)(4) of the Open Meetings
21 Amendment Act of 2010 and deliberating upon this case,
22 for the reason cited in Section 405(b)(13) of the Open

23

1 Meetings Amendment Act of 2010.
2 Is there a second?
3 BOARD MEMBER: Second.
4 CHAIRPERSON MILLER: Any comments?
5 (No audible response.)
6 CHAIRPERSON MILLER: Okay. This motion
7 before us, I'm going to take a roll call on this. Mr.
8 Nophlin?
9 MR. NOPHLIN: I agree.
10 CHAIRPERSON MILLER: Mr. Brooks?
11 MR. BROOKS: I agree.
12 CHAIRPERSON MILLER: Mr. Alberti?
13 MR. ALBERTI: I agree.
14 CHAIRPERSON MILLER: Ms. Miller agrees. Mr.
15 Silverstein?
16 MR. SILVERSTEIN: I agree.
17 CHAIRPERSON MILLER: Mr. Jones?
18 MR. JONES: I agree.
19 CHAIRPERSON MILLER: Okay. It appears the
20 motion has passed by a vote of 6-0. I hereby give
21 notice that the ABC Board will hold a closed meeting in
22 the ABC conference room today pursuant to the Open

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1 Meetings Amendment Act of 2010 and issue an order
2 within 90 days. Okay. Thank you.
3 MS. PHILLIPS: You're welcome.
4 CHAIRPERSON MILLER: I think that concludes
5 this case. Our next case is at 3:30.
6 MS. PHILLIPS: Right.
7 CHAIRPERSON MILLER: And it's now 3:18. So
8 we'll take a short recess.
9 MS. PHILLIPS: I don't see anybody here. So
10 CHAIRPERSON MILLER: Okay.
11 MS. PHILLIPS: But I will be doing the next
12 one.
13 CHAIRPERSON MILLER: You're back on that one?
14 MS. PHILLIPS: Yes, I'll be there.
15 CHAIRPERSON MILLER: Okay.
16 MS. PHILLIPS: Ms. Gephart was called away
17 for a family emergency so I will be covering that.
18 CHAIRPERSON MILLER: Okay. Okay.
19 (WHEREUPON, at 3:20 p.m., the hearing was
20 concluded.)
21
22

25

1 CERTIFICATE OF NOTARY PUBLIC
2
3 I, NATALIA THOMAS, the officer before whom the
4 foregoing hearing was taken, do hereby certify that the
5 testimony appearing in the foregoing transcript was
6 recorded by me and thereafter reduced to typewriting
7 under my direction; that said transcription is a true
8 record of the testimony given by said parties; that I
9 am neither counsel for, related to, nor employed by any
10 of the parties to the action in which this was taken;
11 and, further, that I am not a relative or employee of
12 any counsel or attorney employed by the parties hereto,
13 nor financially or otherwise interested in the outcome
14 of this action.
15
16
17
18 _____
19 NATALIA THOMAS
20 Notary Public in and for
21 DISTRICT OF COLUMBIA
22

1 CERTIFICATE OF TRANSCRIPTION
2
3 I, MIRANDA PENNACHI, hereby certify that I am not
4 the Court Reporter who reported the following
5 proceeding and that I have typed the transcript of this
6 proceeding using the Court Reporter's notes and
7 recordings. The foregoing/attached transcript is a
8 true, correct and complete transcription of said
9 proceeding.
10
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14 _____ _____
15 Date MIRANDA PENNACHI
16 Transcriptionist
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