

ALSO PRESENT:

WALTER ADAMS, OAG

NEAL ADEJUNMOBI, ABRA

DESPINA SKENDERIS, Licensee

C-O-N-T-E-N-T-S

Closing Statement by Government.	126
Closing Statement by Licensee.	132

WITNESS	DIRECT	CROSS	REDIRECT
Neal Adejunmobi	10	52	74
Despina Skenderis	80	90	

REBUTTAL TESTIMONY	
Neal Adejunmobi	120

EXHIBITS	IDENTIFIED RECEIVED	
GOVERNMENT		
1 - Adejunmobi Case Report	21	50
1.1 - Quarterly Statement	23	50
1.2 - Audit Notification Letter	33	50

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

2 11:18 a.m.

3 CHAIRPERSON ANDERSON: All right.

4 We're back on the record. Our next case is a
5 Show Cause Hearing on Case No. 16-AUD-00086,
6 Zorba's Café, License No. 7428.

7 Will the parties, please, approach and
8 identify themselves for the record, please?

9 MR. ADAMS: Good morning, Mr. Chairman
10 and Members of the Board. I'm Walter Adams. I
11 am representing the District of Columbia.

12 CHAIRPERSON ANDERSON: Good morning,
13 Mr. Adams.

14 MS. SKENDERIS: Good morning. I'm
15 Despina Skenderis.

16 CHAIRPERSON ANDERSON: I'm sorry, Miss
17 what?

18 MS. SKENDERIS: Despina Skenderis from
19 Zorba's Café.

20 CHAIRPERSON ANDERSON: Can you spell
21 your last name for me, please, ma'am?

22 MS. SKENDERIS: You know, I'm --

1 forgive me for not hearing very well, I have
2 hearing aids, but my problem cannot be fixed
3 completely.

4 CHAIRPERSON ANDERSON: All right.

5 MS. SKENDERIS: So if I ask you to
6 repeat, please, forgive me.

7 CHAIRPERSON ANDERSON: That's all
8 right. Just spell your last name for me, please,
9 ma'am.

10 MS. SKENDERIS: The last name
11 Skenderis, S-K-E-N-D-E-R-I-S.

12 CHAIRPERSON ANDERSON: All right.
13 Good morning, Ms. Skenderis. All right. All
14 right. Are there any preliminary matters in this
15 case?

16 MR. ADAMS: Mr. Chairman, there are no
17 preliminary matters.

18 CHAIRPERSON ANDERSON: All right. All
19 right. Does the Government wish to make an
20 opening statement?

21 MR. ADAMS: The Government waives
22 opening statement.

1 CHAIRPERSON ANDERSON: Do you wish to
2 make an opening statement, ma'am, or do you want
3 to just --

4 MS. SKENDERIS: If I wish?

5 CHAIRPERSON ANDERSON: You can present
6 one when you wish to -- when you present your
7 case.

8 MS. SKENDERIS: I'm sorry.

9 CHAIRPERSON ANDERSON: No, you can do
10 an opening statement now or --

11 MS. SKENDERIS: Oh, okay.

12 CHAIRPERSON ANDERSON: -- you can wait
13 until the Government presents its case.

14 MS. SKENDERIS: When I make an open
15 statement, do I explain the situation or I wait
16 for you to ask me? I don't know how this thing
17 works.

18 CHAIRPERSON ANDERSON: All right.
19 This -- basically, how this works is that the
20 Government -- there is a violation that the
21 Government has alleged and the Government has to
22 prove its case.

1 MS. SKENDERIS: Okay.

2 CHAIRPERSON ANDERSON: So you don't
3 have to say anything. So the Government will
4 call its first witness.

5 MS. SKENDERIS: Okay.

6 CHAIRPERSON ANDERSON: The Government
7 will have the witness. I'll swear him in. He
8 will ask him questions.

9 MS. SKENDERIS: Okay.

10 CHAIRPERSON ANDERSON: After the
11 Government asks him questions, then you will have
12 an opportunity to question him.

13 MS. SKENDERIS: Okay. Well, thank
14 you.

15 CHAIRPERSON ANDERSON: Then the Board
16 will question him and then you will get another
17 round again.

18 MS. SKENDERIS: I understand. Now,
19 what I wanted to say is an opening statement is
20 the reason I wanted to come to a hearing is to
21 explain what I thought -- I think it was a
22 misunderstanding during the audit.

1 CHAIRPERSON ANDERSON: Okay. So you
2 can -- and so when you present your case, then
3 you can present your case and then you can ask
4 the witness --

5 MS. SKENDERIS: All right.

6 CHAIRPERSON ANDERSON: -- and then if
7 you -- if there are ways that you want to clarify
8 when the Government's witness testifies, then you
9 can ask him questions.

10 MS. SKENDERIS: What I'm ask -- yeah.
11 When I'm asked to clarify, I guess, I will.

12 CHAIRPERSON ANDERSON: Right. He is
13 going to testify what happened.

14 MS. SKENDERIS: Okay.

15 CHAIRPERSON ANDERSON: And then once
16 he -- once the Government asks him questions --

17 MS. SKENDERIS: Yeah.

18 CHAIRPERSON ANDERSON: -- then you
19 will have an opportunity --

20 MS. SKENDERIS: Okay.

21 CHAIRPERSON ANDERSON: -- to ask him
22 questions.

1 MS. SKENDERIS: All right. Thank you.

2 CHAIRPERSON ANDERSON: And so maybe
3 your clarification will come out in the questions
4 you are asking him. But remember, the questions
5 you are asking him should be based on the
6 questions that Mr. Adams asked him.

7 MS. SKENDERIS: Okay.

8 CHAIRPERSON ANDERSON: Okay. All
9 right. Does the Government wish to call its
10 first witness?

11 MR. ADAMS: It does. We have one
12 witness, Mr. Adejunmobi.

13 CHAIRPERSON ANDERSON: Mr. Adejunmobi.

14 MEMBER ALBERTI: Adejunmobi,
15 Adejunmobi.

16 MR. ADEJUNMOBI: Hello, sir.

17 CHAIRPERSON ANDERSON: Can you -- Mr.
18 Adejunmobi, could you raise your right hand,
19 please?

20 MR. ADEJUNMOBI: Yes.

21 Whereupon,

22 NEAL ADEJUNMOBI

1 was called as a witness by Counsel for the
2 Government, and having been first duly sworn,
3 assumed the witness stand and was examined and
4 testified as follows:

5 MR. ADEJUNMOBI: I do.

6 CHAIRPERSON ANDERSON: Have a seat,
7 please. Your witness.

8 MR. ADAMS: Thank you, Mr. Chairman.
9 That should be settled.

10 DIRECT EXAMINATION

11 BY MR. ADAMS:

12 Q Mr. Adejunmobi, could you state your
13 name and spell it for the record?

14 A Neal Adejunmobi, N-E-A-L last name A-
15 D-E-J-U-N-M-O-B-I.

16 Q Okay. And, Mr. Adejunmobi, you are an
17 employee of the District of Columbia Government?

18 A Yes.

19 Q Specifically, you are employed by the
20 Alcoholic Beverage Regulation Administration?

21 A Yes.

22 Q And how long have you been an employee

1 of ABRA?

2 A Approximately, nine years.

3 Q And what is your position?

4 A I'm the auditor.

5 Q Okay. Is your -- so your title is
6 auditor?

7 A Oh, it's compliance analyst.

8 Q Okay. So as part of your position of
9 compliance analyst, can you, please, describe do
10 you provide audits for the Agency?

11 A Yes, I do.

12 Q Okay. And prior to working with --
13 and you have been with ABRA for nine years. Is
14 that correct?

15 A Yes.

16 Q Okay. And prior to working with ABRA,
17 you held similar positions?

18 A Yes.

19 Q All right. And how long have you had
20 experience of being an auditor?

21 A 30 years.

22 Q Okay. Do you have any professional

1 certifications?

2 A Yes, I do.

3 Q And what are they?

4 A I'm a certified internal auditor and
5 I'm a certified financial system auditor.

6 Q All right. Since you joined ABRA, how
7 many audits have you completed for the Agency?

8 A Approximately, 400.

9 Q And can you, for the record, describe
10 in general -- can you describe what you are
11 looking for when you do an audit?

12 A For ABRA?

13 Q Yes, for ABRA.

14 A The law requires people with CR
15 Licenses and CH Licenses, which are restaurant
16 licenses and hotel, for selling alcoholic
17 beverages to file a self-certified quarterly
18 statement. And this self-certified quarterly
19 statement is filed four times in the calendar
20 year.

21 My job is to review this self-
22 certified quarterly statement. Now, we need to

1 remember that we have close to 800 license, this
2 type of licenses. It's impossible for me to
3 review all. So what we do is that if there are
4 no red flags, in other words ordered by the Board
5 or maybe a constituent requested that we should
6 do an audit.

7 At the end of the calendar, I put a
8 lot of programs together whereby I use samples to
9 select establishments that are going to be
10 audited for this quarterly statement. And what I
11 do is, by law, I have to let them know at least
12 30 days through a letter which they have to sign
13 that they received, that we are coming for this
14 audit, to have their books and records ready.

15 Now, the books and records that we are
16 talking about has to go with the quarterly
17 statement. The quarterly statement has two key
18 sessions on it. It has a sales section, it has
19 an expenditure section. To determine compliance
20 with Alcoholic Beverage Regulation that you are a
21 restaurant, in the particular year that we are
22 looking at, which is stated in the letter. We

1 have to mention the audit period.

2 The sales information is very
3 important, that's what we use to determine that
4 you are in compliance with the standards. And
5 this sales information, I mean, the law really
6 didn't tell us what it is, but in actuality, we
7 are talking about either guest checks or
8 receipts.

9 Something that shows the itemized
10 items that was consumed or that was bought at the
11 establishment. Separately showing the tax and
12 the tip separately and must have a date. The
13 date is what makes it valid, that's what we look
14 for.

15 The invoices is for the expenditure
16 section, which we look there. But the main thing
17 is the sales, because it's the sales that tell us
18 after we go in there that they are in compliance
19 with the law.

20 Q And why -- first of all, well,
21 specifically regarding guest checks and sales.
22 Why is it important as part of your job to be

1 able to check guest checks and sales receipts?

2 A Because that's what I need to
3 determine compliance.

4 Q Okay. And what are you looking for in
5 terms of compliance?

6 A What I'm looking for is that the
7 compliance for the CR requirement is that at
8 least -- it's two standards. They must have 45
9 percent of their gross sales. Gross sales is
10 defined as alcoholic beverage sales and food
11 sales. 45 percent of that must be food at least
12 or \$2,000 per seat, which is a different
13 calculation. It's two standards.

14 So if they do have at least 45
15 percent, they are in compliance. If it's less
16 than that, but if they meet the other standard,
17 which is the \$2,000 per seat, \$2,000 per seat is
18 a different calculation totally, but the food
19 sales is required. The food sales and the number
20 of seats determined by the C of O issued by DCRA.

21 Q Okay.

22 A It's required to do that calculation.

1 If they do have \$2,000 per seat, they are in
2 compliance. But if it's less than that, so in
3 other words, what I'm saying is that if you have
4 less than 45 percent food sales and less than
5 \$2,000 per seat, you are not going to be in
6 compliance.

7 Q Okay.

8 A Either one of those two, 45 or above
9 or \$2,000 or above.

10 Q When you do the audit, I assume that
11 a part of it is looking at records. How much
12 records must an establishment have?

13 A Well, by law, they are supposed to
14 have the complete records for that calendar year.
15 In other words, every single guest check must be
16 available.

17 Q Is it just for the calendar year or
18 anything else?

19 A Well, the calendar year is the audit
20 period. In this case, I believe, we are talking
21 about 2015.

22 Q Okay. Now, is it more -- well, I

1 understand for your audit, but in general, must
2 establishments have one year, five years or how
3 many years must they have?

4 A Oh, by law, they need to have three
5 year books of records.

6 Q Okay.

7 A They need it.

8 Q And that includes everything such as--

9 A Yeah.

10 Q -- invoices?

11 A Because what it means is that within
12 the three years books of records, I think we have
13 the mandate to audit them on any one of those
14 years.

15 Q Okay. So turning to 2016, you state
16 that establishments are selected randomly at
17 times or through a sampling. Can you tell -- in
18 2016, was Zorba's Café one of those samplings or
19 one of those establishments selected via a
20 sample?

21 A Okay. 2016 wasn't the audit period
22 for Zorba's. 2015 was the audit period.

1 Q Okay. Very well.

2 A So there were -- if you are referring
3 to 2015, yes, the establishment was selected for
4 audit.

5 Q I stand corrected. So it's 2015 they
6 were selected?

7 A Yes.

8 Q All right. And so you placed them on
9 the schedule for 2016?

10 A For 2015.

11 Q 2015.

12 A Yes.

13 Q All right. Very well, very well.

14 A Although it was done in 2016, but the
15 audit period was 2015.

16 Q Very well, very well. Now, how did
17 you become aware of Zorba's Café of their 2015
18 records?

19 A We have a spreadsheet that we capture
20 when they submit these quarterly statements to
21 us. The quarterly statement is submitted on the
22 quarterly business. For instance, in 2015, they

1 have to submit one for by April 30, 2015 and by
2 July 30, they have to submit another one. And by
3 October 30, they have to submit another one. By
4 the following January 30, 2016, they have to
5 submit the fourth quarter that covers the last
6 period of the calendar year, which is October,
7 November, December. So that is from that
8 spreadsheet that I do an analysis --

9 Q All right.

10 A -- to see who, what establishment in
11 the first place are in compliance. Based on the
12 quarterly statements submitted to us that hasn't
13 been reviewed, based on that, I will look, then
14 later on I will prepare another sample of the
15 audits that we are going to do for the physical
16 year 2016, based on that period.

17 Q All right.

18 A So that's where I make my selections.

19 Q So did you complete or attempt to
20 complete an audit for Zorba's Café around October
21 2016?

22 A Yes.

1 Q All right. And after you attempted to
2 do that, did you generate a case report?

3 A Yes, I did.

4 Q Okay.

5 MR. ADAMS: Mr. Chairman, I'm going to
6 -- I have already handed to Ms. Skenderis what
7 has been marked as the District Exhibit No. 1.
8 I'm going to hand a copy to -- with your
9 permission, I would like to approach the witness.

10 CHAIRPERSON ANDERSON: Sure.

11 MR. ADEJUNMOBI: The case report, I
12 have a copy.

13 CHAIRPERSON ANDERSON: No, you --
14 well, you can't --

15 MR. ADEJUNMOBI: Okay.

16 CHAIRPERSON ANDERSON: -- have a copy.
17 You have to take the copy that counsel gave you.

18 MR. ADEJUNMOBI: Okay, Chairman.

19 CHAIRPERSON ANDERSON: All right. So
20 when you come to testify, you can't bring
21 anything with you. So you can only -- because I
22 don't know if he has any notes on it, so she has

1 to have the same exact document that you have, so
2 you have to review the document that counsel gave
3 you.

4 MR. ADEJUNMOBI: Thank you, sir.

5 CHAIRPERSON ANDERSON: All right.

6 Thank you.

7 MR. ADEJUNMOBI: All right.

8 CHAIRPERSON ANDERSON: All right.

9 BY MR. ADAMS:

10 Q Mr. Adejunmobi, I have presented to
11 you what is marked for identification purposes as
12 the District's Exhibit 1. Do you recognize that
13 document?

14 A Yes.

15 Q And what is it?

16 A It's a case report based on Zorba's
17 prepared by me.

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

22 BY MR. ADAMS:

1 Q All right. And as part of this case
2 report, does it include the establishment's
3 quarterly reports?

4 A Yes.

5 Q And does it include the letter
6 notifying the establishment of the audit?

7 A Yes.

8 Q All right. And is it a true and
9 accurate reflection of the report that you
10 prepared in this case?

11 A Yes, it is.

12 Q All right.

13 MR. ADAMS: Mr. Chairman, I would like
14 to enter into evidence what is marked as the
15 District's Exhibit No. 1.

16 CHAIRPERSON ANDERSON: Do you want to
17 enter it? You haven't had testimony on it or do
18 you want to wait until after?

19 MR. ADAMS: I can wait until after
20 actually.

21 CHAIRPERSON ANDERSON: Yes, I think
22 that's more appropriate if you are going to use

1 it, if you are going to have --

2 MR. ADAMS: Yes, yes.

3 MS. SKENDERIS: I'm not the only one
4 that can't hear very well.

5 MR. ADAMS: Oh, can you not hear?

6 MS. SKENDERIS: Yeah, I paid close
7 attention, but you are really clear.

8 MR. ADAMS: I try to.

9 MS. SKENDERIS: Maybe your voice is,
10 you know, clearer and all that.

11 MR. ADAMS: I try to be.

12 MS. SKENDERIS: Yeah, thank you.

13 MR. ADAMS: The Board's indulgence.

14 BY MR. ADAMS:

15 Q All right. Turning your attention,
16 Mr. Adejunmobi, to Exhibit 1 of this exhibit,
17 what is that?

18 A Oh, that is a quarterly statement.

19 Q All right.

20 (Whereupon, the above-
21 referred to document was
22 marked as Government Exhibit

1 reason why I said because it's completely filled,
2 so I was looking for maybe a different format,
3 but we are looking at the same document. Go
4 ahead.

5 BY MR. ADAMS:

6 Q So the first page, I guess for April,
7 on top of it is April 22, 2015. I can show you
8 this one. For April 22, 2015, what quarter is
9 that for?

10 A This is first quarter. The date that
11 you mentioned in the corner.

12 Q Okay.

13 A The one with the signature.

14 Q Yes. And then turning your attention
15 to the next page, that is -- what's the top of
16 that page?

17 A July 31st.

18 Q Okay.

19 A 2015.

20 Q And so what is that for?

21 A Well, that's the date that it was
22 received here and processed.

1 Q Okay. But what quarter does this
2 represent?

3 A This is the second quarter.

4 Q All right. The next page, what date
5 did you receive this?

6 A It shows November 6, 2015.

7 Q Um --

8 A 11/6/15.

9 Q Okay. That's the MC. Is that the MC
10 that you are talking?

11 A The MC --

12 Q Is that initials?

13 A -- is the initial of the person that
14 processed this into the database.

15 Q Okay.

16 A That's Ms. Clark's initials.

17 Q Okay. So that's MC is for Monica
18 Clark?

19 A Yes.

20 Q Okay. And by the date that it was
21 sent on the email is October 20th?

22 A That's the date it came in.

1 Q Okay.

2 A That this came in. It was late.

3 Well, that's beyond, but that's the date it came
4 in though.

5 Q That's the date it came in, okay. So
6 very well, so that's for the third quarter?

7 A Yes.

8 Q All right. Lastly, there is a last
9 one, the next page, when did you receive this?

10 A This was received January 17, 2016.

11 Q Is that January or is that --

12 A Oh, February, excuse me. 2/17/16,
13 yes.

14 Q Okay. And that is for the fourth
15 quarter?

16 A Yes.

17 Q And as far as you are concerned, these
18 are the four quarterly reports for 2015 for this
19 establishment?

20 A That's exactly, yes.

21 Q All right. So once -- so when you
22 started the auditing process for Zorba's, what

1 did you do relative to -- what did you do?

2 A Okay. For instance, for example, this
3 fourth quarterly statement we prepared a
4 worksheet on them, which is internal worksheet
5 for me. And that worksheet basically will tell
6 me what they are saying that they are in
7 compliance with on this, on auditor report.

8 Q Um-hum.

9 A The auditor report will tell me this
10 is what is going on. Then a letter will be
11 issued. I read and I send and dispatch to them.

12 Q All right.

13 A The letter is hand-delivered.

14 Q Very well. Now, I'll get to that in
15 a second.

16 MR. ADAMS: The Board's indulgence?

17 MS. SKENDERIS: Was there a problem
18 that I didn't understand.

19 MR. ADAMS: Oh.

20 MS. SKENDERIS: Is there a problem
21 with the fourth quarter?

22 MR. ADAMS: The -- you --

1 MR. ADEJUNMOBI: No, ma'am.

2 MR. ADAMS: Sorry.

3 MR. ADEJUNMOBI: Oh, okay.

4 MR. ADAMS: You can ask him questions.

5 MS. SKENDERIS: Yeah, because I cannot
6 hear very well and that's why I'm asking.

7 CHAIRPERSON ANDERSON: You can't --

8 MS. SKENDERIS: I think the fourth
9 quarter and something like --

10 CHAIRPERSON ANDERSON: Hold on, hold
11 on, ma'am. He is cross-examining his witness.
12 Now, if you cannot hear, you can just say -- you
13 can let Mr. Adams know that you didn't hear and
14 Mr. Adams will ask him to repeat it.

15 MS. SKENDERIS: Okay.

16 CHAIRPERSON ANDERSON: But you can't
17 ask him any questions. So if you can't hear,
18 just maybe let Mr. Adams know that you didn't
19 hear and ask him to ask the witness to --

20 MS. SKENDERIS: Okay.

21 CHAIRPERSON ANDERSON: -- or ask me to
22 ask the witness to repeat --

1 MS. SKENDERIS: Okay. Thank you.

2 CHAIRPERSON ANDERSON: -- his answer.

3 Okay?

4 MS. SKENDERIS: Correct.

5 MR. ADAMS: Right.

6 MS. SKENDERIS: I can ask him, he is
7 next to me.

8 CHAIRPERSON ANDERSON: Okay. All
9 right.

10 MR. ADAMS: And, Mr. Chairman, just to
11 let Ms. Skenderis know through you that once I
12 complete my questions, she will have an
13 opportunity --

14 CHAIRPERSON ANDERSON: I did explain
15 that to her earlier --

16 MR. ADAMS: All right.

17 CHAIRPERSON ANDERSON: -- but as I
18 stated, again, once Mr. Adams is done, he will
19 say that he is done and then I will give you an
20 opportunity, so anything that he said that you
21 disagreed with, then you will have an opportunity
22 to ask him those.

1 MS. SKENDERIS: Okay.

2 CHAIRPERSON ANDERSON: So you can put
3 a notation to say okay, I need to ask him that
4 question --

5 MS. SKENDERIS: All right.

6 CHAIRPERSON ANDERSON: -- because I
7 didn't under -- I didn't agree with his answer.

8 MS. SKENDERIS: I'm totally
9 inexperienced in this. Thank you.

10 CHAIRPERSON ANDERSON: Well, you are
11 fine so far. Okay. Okay. Go ahead, Mr. Adams.

12 BY MR. ADAMS:

13 Q So, Mr. Adejunmobi, you were
14 mentioning a notification letter. How did you
15 notify the establishment of their audit?

16 A We usually do notification letter.

17 Q All right.

18 A And the notification letter will tell
19 them what we are looking for for the audit. I
20 mean, give them an -- at the bottom of the
21 notification letter, we do have a statement there
22 that if somebody needs to call the auditor or the

1 compliance analyst to have more clarification of
2 something that is wrong, they need to do that.
3 The notification will specify the date that the
4 audit was being scheduled for or was scheduled
5 for.

6 Q So how did Zorba's receive their
7 notice?

8 A Somebody, one of our Investigators
9 delivered the notice to them and it's there, it's
10 part of the attachment, Attachment No. 2, you
11 will see the receipt for the notification letter
12 delivered to Zorba's that was signed for.

13 Q So first of all, we will have you look
14 at the first page of Exhibit 2, your Exhibit 2,
15 of the District's Exhibit 1. Your case report,
16 Exhibit 2.

17 Now, that looks like a letter. When
18 is this letter dated?

19 A The letter was dated September 7,
20 2016.

21 Q And are you saying that this is the
22 letter, the standard letter that goes out to

1 establishments to announce an audit?

2 A Yes.

3 Q All right.

4 (Whereupon, the above-
5 referred to document was
6 marked as Government Exhibit
7 No. 1.2 for identification.)

8 BY MR. ADAMS:

9 Q And so with in this, does it provide
10 the scope of this audit?

11 A Yes, it does.

12 Q And how so?

13 A Okay. If you see on the second page,
14 there is a statement on the second page right
15 from the bottom and if I may read it, I will read
16 it.

17 Q Sure.

18 A Okay. "To assist --

19 MEMBER SILVERSTEIN: Mr. Adejunmobi,
20 if you could speak more clearly into the
21 microphone?

22 MR. ADEJUNMOBI: "To assist with the

1 audit, please, assemble and provide the
2 following: Sales information that includes the
3 date, price of food sold, the price of alcoholic
4 beverages sold and the amount of total sales for
5 the audit period.

6 Register receipts or guest checks
7 which may be kept daily or weekly that include
8 the food sold, the alcoholic beverages sold and
9 the amount of total sales for the audit period.

10 Purchase information that includes the
11 date and the quantity of the purchase, the name,
12 address and phone number of the wholesaler or
13 vendor with the original invoice for the audit
14 period.

15 A description of the establishment's
16 method for determining percentages of food and
17 alcoholic sales."

18 No. 1 and 2 is just basically saying
19 the same thing. So --

20 Q All right. Well, thank you. So
21 turning to the first page, so the scope of the
22 audit, the title of your audit was January 1st

1 through December 31, 2015.

2 A Yes.

3 Q Is that correct?

4 A The period, yes.

5 Q And that is indicated on the bottom of
6 page 1?

7 A Yes.

8 Q And the audit date itself is October
9 31, 2016?

10 A Exactly.

11 Q All right. And turn to the third page
12 of this letter. What is that?

13 A The third page there is just the
14 attachment of the Notice of Audit. This is to
15 signify to me that the letter was actually
16 delivered and that the Audit Team is aware that
17 there is an audit engagement scheduled for that
18 day.

19 Q And when did the establishment receive
20 this?

21 A It was received on the 8th of
22 September.

1 Q So it's safe to say that September 8,
2 between September 8th and October 31st is more than
3 30 days?

4 A 30 days, yes.

5 Q All right. Thank you. So all right.
6 So after the establishment received your notice
7 of the audit, did you receive any communications
8 from the establishment prior to the audit taking
9 place?

10 A Yes, I did.

11 Q And what occurred?

12 A But it was somebody who posing to
13 represent Zorba's Café and the individual
14 actually told me that he -- it was a female
15 individual, the person told me that he is the son
16 of the owner and he was telling me that for what
17 we are looking for the records, that they used to
18 have an old computer, that that old computer
19 doesn't have this information in there.

20 And he said on the day of the audit,
21 I'm going to see him there, the individual.

22 Q Did he provide any other details

1 regarding this computer or what you could expect
2 at the time of the audit?

3 A Not exactly.

4 Q Okay.

5 A You know, he just said they have an
6 old computer that doesn't have the information.
7 He told me that the information we are looking
8 for is specifically the sales information that we
9 are looking for, they don't have it.

10 Q And was there anything about the
11 system running by the time you would arrive on
12 October 31st?

13 A I can't really recollect that.

14 Q Okay.

15 A But I can recollect what was told to
16 me on the day of the audit.

17 Q Okay. So let's turn to the date of
18 the audit. So turning to October 31, 2016, were
19 you at Zorba's Café?

20 A Yes, I was.

21 Q And you arrived there with an audit --
22 for the audit, correct?

1 A Yes.

2 Q And were you alone or were you with
3 anyone?

4 A No, I wasn't alone.

5 Q Okay. Who were you with?

6 A I was with -- we have an Audit Team.
7 I was with Investigator Brashears, Mark
8 Brashears.

9 Q All right. And why were you -- did
10 you have Mr. Brashears with you?

11 A Well, that's the way we set up the
12 audit. He is part of the Audit Team. And Mr.
13 Brashears in most cases, we go in there. If you
14 notice, the exhibit has a regulatory inspection
15 attached to it, too.

16 Q Yes.

17 A And that's part of the stuff that he
18 would do in there. It's specifically -- you see,
19 my focus is on the year that I put in the letter.
20 But Mr. Brashears is going to ask for three years
21 books of records that the establishments are
22 required to have on the premises.

1 Q Yes.

2 A He is not going to look into them in
3 detail as I will for the year of the audit, but
4 he is going to ask for that. And so he was there
5 with me for that to do that, he perform an RI
6 that day.

7 Q So when you arrived at Zorba's, who
8 represented the establishment?

9 A The lady --

10 MS. SKENDERIS: I was.

11 MR. ADEJUNMOBI: -- sitting down.

12 CHAIRPERSON ANDERSON: Ma'am, you
13 can't say anything.

14 MR. ADEJUNMOBI: The lady sitting
15 beside you.

16 BY MR. ADAMS:

17 Q So for the record, the person sitting
18 next to me is -- that's Ms. Skenderis.

19 A Yes, she identified herself to me as
20 the owner.

21 Q Okay. Very well. So Ms. Despina
22 Skenderis identified herself as the owner?

1 A Yes.

2 Q All right. And who did you meet other
3 than Ms. Skenderis, who did you meet?

4 A I think she had another lady there --

5 Q Okay.

6 A -- with her that day.

7 Q Okay. So now that you met her,
8 describe how -- describe what occurred once you
9 met.

10 A Well, the standard question when we go
11 for the audit is, you know, I ask for the owner.
12 Ms. Skenderis presented herself as the owner.

13 Q Yes.

14 A And the next thing is are you very
15 cognizant with what we have in the letter that
16 was sent to you and the reason why we are there?
17 Which is you have an Alcoholic Beverage License
18 with ABRA and part of it is that you submitted
19 and I showed her the quarterly statement, too,
20 whether they recognize the quarterly statement.

21 I indicated to them to look at the top
22 and look at the bottom. In other words, the top

1 is supposed to have their license information,
2 like the trade name and the bottom should have a
3 signature of who was preparing it. It must -- in
4 case it's going to somebody else, you know,
5 preparing it for them, but that person signify
6 that they prepared it on behalf of the licensee.

7 And then the next statement is where
8 are your books and records?

9 Q All right. And what was her response
10 to that?

11 A Well, the response was they brought
12 out a box.

13 Q Okay.

14 A But the box contains invoices. So I
15 mean from my experience, when I talk to licensees
16 about books and records, they actually do -- in
17 some cases, they may not be aware that part of
18 the books and records is the sales document,
19 which is a critical aspect of the audit for me,
20 because I cannot determine compliance without
21 those sales documents, because that is
22 supporting, validating documentation that you

1 need that actually are in the business of selling
2 food.

3 Q And how was that -- and how did you
4 explain to Ms. Skenderis that you needed the
5 sales documents?

6 A Well, I explained to her in some cases
7 sometimes I give a scenario that as you mean that
8 I'm there as a patron coming in to order food or
9 alcoholic beverage, what I think they would do.
10 And I know the next thing they are going to tell
11 me is they would take my order. I tell them that
12 yeah, that's the kind of stuff I'm looking for.

13 Q All right.

14 A The audit that was -- that I do is
15 going to have some more stuff. Like it has to
16 have some attributes like the date that was --
17 that makes it valid.

18 Then another scenario that I give to
19 them is that when the person or your guest or
20 your patron finish eating or finish patronizing
21 you, at least you are not going to let them go
22 free, they are going to have to pay. And they

1 would like to know what they are paying for. If
2 you have those type of documents, you have to
3 have at least a copy of it. That's another form
4 of validating document that I will need to see.

5 Q Now, Mr. Adejunmobi, when you asked --
6 when you made the explanation, what was the
7 answer that was given to you?

8 A Well, the answer, and they were
9 relating it to what I had before I went there
10 from the guy that called me was that we had an
11 old computer that cannot be repaired. We don't
12 have that information. And I went a little bit
13 further like saying well, you should have kept a
14 copy of it, because the law requires you to keep
15 these things. But they just, I mean, didn't have
16 copies nor have copies either, so --

17 Q And -- I apologize, Mr. Adejunmobi.
18 To your knowledge, what kind of system did they
19 have?

20 A Well, they -- what they showed me was,
21 I mean, it's a register.

22 Q And is it -- is there a term that is

1 usually used for those type of systems?

2 A Well, it depends. In their case,
3 well, now, they call them POS, Point of Sale
4 System, yeah.

5 Q Okay. So establishments have Point of
6 Sale System?

7 A If that's what they call it. I mean,
8 you know.

9 Q All right. So establishments have an
10 option. They can either keep their records in
11 hard copy or electronically. Is that correct?

12 A Yes, yes.

13 Q All right. And so are you saying that
14 the establishment was not able to present any
15 guest records or receipts for January 2015
16 through December 31, 2015?

17 A Yes.

18 Q Okay.

19 A I was told that supposedly the POS,
20 the register or the terminal that they have,
21 stopped functioning and the purveyor, the person
22 that they bought it from, I mean, the -- whoever

1 the establishment bought it from, it cannot be
2 repaired.

3 Q Okay.

4 A So in other words, if you don't have
5 those hard copies, we cannot access this stuff
6 off your Point of Sale System, your terminal, you
7 just don't have the records.

8 Q Right. And there is no hard copies?

9 A No.

10 Q All right. So once you had that
11 conversation about that or you realized that
12 there was no records, what did you do or what did
13 you say?

14 A Well, I have to inform the Audit Team
15 that the audit cannot be completed, because
16 that's what we need to do the audit. Those are
17 required records, as I read to you from the
18 notification letter.

19 Q Okay.

20 A Without that, we can't.

21 Q Now, in terms of not being able to
22 complete the audit -- oh, with these electronic

1 systems, you state that you have a Background
2 Information System. Is that correct?

3 A Yes, I do.

4 Q And so normally during audits, can you
5 try to look at the systems?

6 A If it's a functional system. I mean,
7 a system in certain ways, because since a lot of
8 -- in most cases, they are not that conversant
9 with technology, because in some cases they won't
10 know they have it in their storage or it's
11 possible that who the licensee. The license it
12 could mention them. They may have it backed up
13 in an off-site location.

14 In other words, the storage may not be
15 local. It could be off-site.

16 Q All right.

17 A You know, and all they need to do is
18 make a call and they can get it back to them.
19 And if it's local, in some cases, I'm able to
20 retrieve these documents for them.

21 Q And so in this case, you were, I
22 assume, not able to retrieve those documents?

1 A No.

2 Q And why not?

3 A Because there is no functioning
4 system.

5 Q Okay. Now, once you told the
6 establishment that you were not able to complete
7 the audit, what was the reaction?

8 A Well, the reaction was -- I was
9 explaining to the licensee, Ms. Skenderis, and I
10 can remember she broke down crying that she
11 wasn't aware that she has to keep this stuff.

12 Q All right.

13 A You know, that she wasn't, you know,
14 familiar that there is a law that says sales
15 information has to be kept.

16 Q All right.

17 A For three years.

18 Q And did you explain to her just
19 essentially --

20 A I always do.

21 Q -- that you were unable to complete
22 the audit?

1 A Yes.

2 Q Okay.

3 A And I told her the reason. Yeah, that
4 those documents were required.

5 Q Okay. So now, I asked you about this
6 report. Now, you did do a report and I'm
7 assuming everything that you have in the report,
8 you have testified, at this point?

9 A I believe I have.

10 Q All right. And now, you reviewed the
11 quarterly statements and the notice to the
12 establishment. Are all the documents that are in
13 front of you, are they true and accurate
14 statements that you made as part of this to
15 compile this investigative report?

16 A Yes.

17 Q All right.

18 MR. ADAMS: Mr. Chairman, I would like
19 to have what is -- has previously been identified
20 as the District's Exhibit No. 1 into evidence.

21 CHAIRPERSON ANDERSON: Do you have any
22 objection, ma'am, to putting this document into

1 evidence?

2 MS. SKENDERIS: I didn't hear you.

3 What did he say?

4 CHAIRPERSON ANDERSON: Do you have --
5 all right. He wants to -- the witness testified
6 on the document you have in front of you. And so
7 the Government now wants to move this document
8 into evidence. Do you have any objection to
9 moving this document into the official --

10 MS. SKENDERIS: To move the document
11 as?

12 CHAIRPERSON ANDERSON: As an exhibit
13 from the Government?

14 MS. SKENDERIS: Yeah, no, no problem.

15 CHAIRPERSON ANDERSON: Okay.

16 MS. SKENDERIS: And I'm sure the
17 gentleman -- I'm not attempting to pronounce it,
18 Adejunmobi?

19 CHAIRPERSON ANDERSON: Yes.

20 MS. SKENDERIS: Okay. He is doing his
21 job very well. I just thought that there is --

22 CHAIRPERSON ANDERSON: Well, no. You

1 are not to give an explanation.

2 MS. SKENDERIS: Okay. Yeah, no, no,
3 objection, no.

4 CHAIRPERSON ANDERSON: So moved.

5 (Whereupon, the above-
6 referred to document was
7 received into evidence as
8 Government Exhibit No. 1.)

9 MR. ADAMS: All right.

10 CHAIRPERSON ANDERSON: Thank you.

11 MR. ADAMS: So I'll provide, Mr.

12 Chairman --

13 CHAIRPERSON ANDERSON: I have the
14 document.

15 MR. ADAMS: -- the document.

16 CHAIRPERSON ANDERSON: Yes. All
17 right.

18 MR. ADAMS: I have no further
19 questions for Mr. Adejunmobi.

20 CHAIRPERSON ANDERSON: All right.
21 Now, ma'am, it's your opportunity. You can ask
22 him any questions you want, based on the

1 testimony he just asked.

2 MS. SKENDERIS: Yes, do I have to ask
3 a question or can I make --

4 CHAIRPERSON ANDERSON: You have to ask
5 him a question.

6 MS. SKENDERIS: -- a presentation,
7 explain my problem?

8 CHAIRPERSON ANDERSON: No, no. At
9 this juncture, you have to ask him a question.
10 If you don't have any questions to ask him, then
11 you don't need to.

12 Say for example, he just testified.
13 If you believe that some of the things he said
14 was incorrect, then you can ask him questions to
15 correct the record. But if you don't have any
16 specific questions for him, you don't have to ask
17 any.

18 You will still have an opportunity
19 later on after the Government is done to give
20 your explanation.

21 MS. SKENDERIS: In other words, after
22 this, I can explain certain things that I wanted

1 to say?

2 CHAIRPERSON ANDERSON: Yes. But right
3 now --

4 MS. SKENDERIS: Yes.

5 CHAIRPERSON ANDERSON: -- if you want
6 to -- this is your -- he is the one who came. He
7 just testified about what happened. If he
8 testified and if you disagreed with anything he
9 testified to, this is your opportunity to cross-
10 examine him --

11 MS. SKENDERIS: Sure, okay.

12 CHAIRPERSON ANDERSON: -- to clarify
13 the record.

14 MS. SKENDERIS: Okay. I didn't have
15 anything prepared. I'm just --

16 CROSS-EXAMINATION

17 BY MS. SKENDERIS:

18 Q Hello.

19 A How you doing, ma'am?

20 Q Nice to see you again.

21 A Um-hum.

22 Q The lady that you mentioned that was

1 there, she was my accountant.

2 A Oh, okay.

3 Q Yeah.

4 CHAIRPERSON ANDERSON: Remember, you
5 are --

6 MS. SKENDERIS: A question. You want
7 a question.

8 CHAIRPERSON ANDERSON: Yeah, right.
9 So take a minute and think about it. So ask him
10 in the form of a question.

11 MS. SKENDERIS: Okay.

12 BY MS. SKENDERIS:

13 Q You said that you were looking, when
14 you were giving a general description of the job
15 of the audit, for -- it should be the consumption
16 or the sale of the alcohol. An establishment's
17 sales should be not more than 44 percent,
18 correct, of the sales? That's what I understood.

19 A No, no, no, no. This is -- you see,
20 what we are saying is that that is why we are
21 here. That's --

22 Q Yeah.

1 A -- why we were there.

2 Q That's your --

3 A This is the quarterly statement, that
4 way we know whether you are in compliance with
5 that requirement --

6 Q Yes.

7 A -- of your license.

8 Q And ours is not that, it's much lower,
9 correct?

10 A I can't determine that, ma'am, because
11 the records to determine that was not available.

12 Q Oh, no, you have it here.

13 A No, that's unaudited. You need to
14 have supporting -- you see by law, all the stuff
15 you have on there must have come from somewhere.

16 Q Oh.

17 A And those are the guest checks or the
18 receipts that we are referring to.

19 Q No, I'm talking about the percentage--

20 A Yes, ma'am.

21 Q -- of sales.

22 A Yes.

1 Q So I did have, didn't I, all the
2 receipts that we bought, you know, the invoices
3 from -- for wine and beer, because that's all we
4 sell. We don't sell hard liquor. And thinking
5 that I would need them, I brought them here. I
6 did have those invoices, correct?

7 A Yes, you did.

8 Q Right?

9 A Yes, you did.

10 Q Yeah. So what you are saying that the
11 problem was -- and please clarify that for me,
12 because I couldn't hear or understand everything.
13 The problem was:

14 (A) We didn't have the daily totals
15 from the computer for every day as we were
16 required, like how much we made, correct?

17 A No, ma'am, it's not correct.

18 Q Oh.

19 A You want me to explain to you?

20 Q Because what we had was, and I have
21 them with me, the total of every day only from
22 the new computer. We were using two. Not

1 computers, registers. Computerized registers. I
2 don't know what you call them. And we were
3 missing the ones from the old one that were the--
4 when we tried to get them, the computer said
5 cannot print.

6 MR. ADAMS: Sorry. I apologize.

7 BY MS. SKENDERIS:

8 Q Am I correct in asking that or --

9 MR. ADAMS: You don't have to ask.

10 CHAIRPERSON ANDERSON: You are
11 objecting to what --

12 MR. ADAMS: My objection is that there
13 was -- the witness needs to be able to answer the
14 single question. There was a bit of explanation
15 that went with the question, but there was a
16 question about the daily total sales or the daily
17 total and I believe the witness had an answer for
18 it.

19 CHAIRPERSON ANDERSON: All right. So
20 ask him -- I know. Ask him one question and give
21 him a chance to answer and then ask another
22 question. I know you are --

1 MS. SKENDERIS: Yeah.

2 BY MS. SKENDERIS:

3 Q Mainly the problem and correct and
4 please tell me, the problem in the audit was that
5 everything you had asked for was not there,
6 correct?

7 A More or less so, ma'am, yes.

8 Q Yeah.

9 A Everything.

10 Q And the two items that were not
11 complete, based on what you requested, were the
12 sales from, you know, the computers. You
13 mentioned old computer. And the guest checks,
14 correct?

15 A We're talking about the same thing.
16 The sales information.

17 MEMBER SILVERSTEIN: Please, speak up,
18 Mr. Adejunmobi.

19 MR. ADEJUNMOBI: See, sales
20 information like I explained earlier can be
21 either two documents. I need the guest check or
22 the receipts, because they are supposed to show

1 the itemized items that your customers, like the
2 food that they order and the drink that they
3 order.

4 MS. SKENDERIS: Okay.

5 MR. ADEJUNMOBI: They are supposed to
6 -- those two items should show it. Most -- I
7 mean, alcoholic guest checks, you could call
8 receipts, but they just have to have the same
9 attributes itemized and validate.

10 MS. SKENDERIS: Okay. I don't know
11 what else to ask. I just want to explain a few
12 things. So when that time comes, please, let me
13 know.

14 CHAIRPERSON ANDERSON: All right.
15 That's fine. All right. Let me ask you a
16 question, sir.

17 So just to clarify the record, why
18 were you unable to do the audit?

19 MR. ADEJUNMOBI: Because the licensee
20 failed --

21 CHAIRPERSON ANDERSON: You have to
22 speak up, sir.

1 MR. ADEJUNMOBI: Because the licensee
2 failed to provide the necessary required
3 documents that were needed for the audit and
4 those were complete from January 31, 2015 through
5 December 31, 2015, either guest checks or
6 receipts.

7 CHAIRPERSON ANDERSON: So the licensee
8 failed to provide you either guest checks or
9 receipts to complete?

10 MR. ADEJUNMOBI: Yes, complete. Yes,
11 sir.

12 CHAIRPERSON ANDERSON: What
13 specifically did the licensee provide to you?

14 MR. ADEJUNMOBI: For this, nothing was
15 provided. The only thing that was provided was
16 the invoices. And the invoices doesn't help us
17 to determine whether they are in compliance with
18 their license.

19 CHAIRPERSON ANDERSON: Why is it that
20 the invoice is not sufficient?

21 MR. ADEJUNMOBI: We can't use the
22 invoice.

1 CHAIRPERSON ANDERSON: Why?

2 MR. ADEJUNMOBI: Because it's just not
3 sufficient. It's the sales information that we
4 use.

5 CHAIRPERSON ANDERSON: I'm asking you,
6 sir, part of the problem is that -- that's what
7 I'm asking you to explain.

8 MR. ADEJUNMOBI: That's what -- yeah,
9 that's what I'm explaining, that's what the law
10 says.

11 CHAIRPERSON ANDERSON: All right.

12 MR. ADEJUNMOBI: I have to use the
13 sales information.

14 CHAIRPERSON ANDERSON: All right.

15 MR. ADEJUNMOBI: The sales information
16 is where we gather the data. For instance, how
17 much food was sold? How much alcoholic beverage
18 was sold? And if you remember earlier when I was
19 talking about the standards, there are two
20 standards. 45 percent of total sales, total
21 sales or gross sales is defined as -- excluding
22 miscellaneous.

1 The profit or loss for alcoholic
2 beverage law as far as I understood it were that
3 it has to be alcoholic beverage sold and food.
4 In other words, non-alcoholic beverage should be
5 added up to food as part of it and that's what we
6 need to do.

7 The two standards have something to do
8 with the food sales.

9 CHAIRPERSON ANDERSON: Okay.

10 MR. ADEJUNMOBI: So without the sales
11 information, we cannot. I mean, they have
12 something that is sent to us and the purpose of
13 the audit is to authenticate that, the billing
14 that they provided to us on those quarterly
15 statements. Yes, the invoices authenticate the
16 expenditure section, which we do not -- we can't
17 use it to determine the standards that I'm
18 talking about, to determine compliance.

19 We need a sales section. And the
20 sales section she was unable to provide the
21 supporting documentation. In other words, in
22 accounting terms, we call it source documents.

1 The source documents were not available, because
2 what can happen is that, I have seen it before, I
3 don't know whether I can go further and just talk
4 about that or maybe I can't.

5 CHAIRPERSON ANDERSON: You can go
6 ahead, sir.

7 MR. ADEJUNMOBI: We have people pull
8 figures out of the air and some cases have been
9 in front of the Board like that where people just
10 -- they can't back it up. So when they prepare
11 the quarterly statement, in order to meet the
12 deadline, they will sit down there and just put
13 anything in there. And when you -- when we do
14 the audit -- and the other thing is in most cases
15 where we run into the fact that people are
16 telling us that they are not conversant or aware
17 of the law, we do offer trainings, customer sales
18 training. We don't see people showing up for
19 that either.

20 So when I go to the -- out to the
21 field, this is what I meet, especially with the
22 small business owner that is not a chain or

1 anything like that. We didn't know that we have
2 to keep these documents.

3 CHAIRPERSON ANDERSON: Now, let me ask
4 you another question. In the time you have
5 worked for the Agency, is this the first audit
6 that was done on this particular establishment?

7 MR. ADEJUNMOBI: Yes, sir.

8 CHAIRPERSON ANDERSON: Okay.

9 MR. ADEJUNMOBI: Can I go further and
10 tell you the reason?

11 CHAIRPERSON ANDERSON: Okay. Go
12 ahead.

13 MR. ADEJUNMOBI: Okay. The reason why
14 is like I mentioned earlier, we have close to 800
15 of these. I'm the only person that do the audit.
16 It's just impossible, I don't have the resources
17 to do -- I mean, technically, I'm supposed to
18 review all 800.

19 CHAIRPERSON ANDERSON: All right.

20 MR. ADEJUNMOBI: But so what we do is
21 we rotate it. If there are no orders mandated
22 from you to go out there or constantly calling

1 us, so what we try to do is that if there is --
2 if this document after I do my work on it is
3 showing they are in compliance and they have been
4 audited once, we try to rotate the audit that
5 every four years.

6 CHAIRPERSON ANDERSON: Okay.

7 MR. ADEJUNMOBI: We still haven't
8 gotten to the whole database since I have been
9 here.

10 CHAIRPERSON ANDERSON: Okay.

11 MR. ADEJUNMOBI: We are still rolling.
12 Some will see me in 9 years.

13 CHAIRPERSON ANDERSON: Yeah.

14 MR. ADEJUNMOBI: You know, so that's--

15 CHAIRPERSON ANDERSON: All right. Any
16 other questions by any of the Board Members? All
17 right. Go ahead, Mr. Alberti and then probably
18 Mr. Short.

19 MEMBER ALBERTI: I'm going over some
20 information your probably provided, so forgive
21 me. Mr. Adejunmobi, what was the explanation
22 that Ms. --

1 COURT REPORTER: Mr. Alberti, could
2 you turn on your microphone?

3 MEMBER ALBERTI: Yes, I can.

4 COURT REPORTER: Thank you.

5 MEMBER ALBERTI: I'm sorry. Ms.
6 Skenderis gave you for not having the sales
7 receipts for 2015.

8 MR. ADEJUNMOBI: Okay. The key one,
9 too, the key thing is she was not aware that this
10 has to be kept.

11 MEMBER ALBERTI: Okay.

12 MR. ADEJUNMOBI: And then the other
13 thing is, like I said, I do -- if they are not --
14 if they have a system and it's operable, with the
15 little knowledge that I have, I try to assist
16 them in getting this. So if everything you have
17 is an electronic document, in most cases some of
18 them don't know that they have it, but when you
19 have a non-functional system, there is no way I
20 can help you.

21 The other thing is to show me boxes of
22 these guest checks.

1 MEMBER ALBERTI: Right.

2 MR. ADEJUNMOBI: Which in the past
3 before they changed the law, that's what they
4 used to bring out. But then when the law was
5 changed that it can be kept as some documents, as
6 a literary document, ah-ha, they have it on their
7 now. So --

8 MEMBER ALBERTI: So it's fair to say
9 that her electronic system wasn't able to provide
10 it to you?

11 MR. ADEJUNMOBI: No, sir.

12 MEMBER ALBERTI: All right. And she
13 did not have the hard copies?

14 MR. ADEJUNMOBI: No, sir.

15 MEMBER ALBERTI: Okay. I want to
16 explore -- so this isn't -- this is outside of
17 2015, but I'm just curious. You said something
18 about the system being operable and being able to
19 provide receipts for other years? Is that true
20 to your knowledge?

21 MR. ADEJUNMOBI: I can't really
22 recollect. She told me that they have going

1 forward, but, you know, my focus has to be on the
2 audit period.

3 MEMBER ALBERTI: I understand. So she
4 told you that it had -- going forward that the
5 system was operable, correct? Is that right?

6 MR. ADEJUNMOBI: Well --

7 MEMBER ALBERTI: Just bear with me.
8 Just bear with me.

9 MR. ADEJUNMOBI: -- we didn't say
10 operable. That they have a new system.

11 MEMBER ALBERTI: Okay. So they have
12 a new system. All right. But you didn't look at
13 it, right?

14 MR. ADEJUNMOBI: I don't have to.

15 MEMBER ALBERTI: I'm just asking.

16 MR. ADEJUNMOBI: I did not.

17 MEMBER ALBERTI: Please, just answer
18 my question.

19 MR. ADEJUNMOBI: I'm sorry. I did
20 not, because --

21 MEMBER ALBERTI: Okay. Fine, fine.
22 So you didn't verify that. Okay.

1 MR. ADEJUNMOBI: No, I did not.

2 MEMBER ALBERTI: Okay.

3 MR. ADEJUNMOBI: I did not verify
4 that. I know.

5 MEMBER ALBERTI: All right.

6 MR. ADEJUNMOBI: I mean, but in
7 retrospect --

8 MEMBER ALBERTI: There is no
9 implications behind you.

10 MR. ADEJUNMOBI: No, no, no. I
11 understand you, sir. What I'm just saying is
12 that -- well, I don't want to go beyond this
13 place here.

14 MEMBER ALBERTI: No, you don't need
15 to. You don't need to. You answered my
16 questions. I'm done. Thank you so much.

17 MR. ADEJUNMOBI: She told me she had
18 a new system going forward.

19 MEMBER ALBERTI: All right.

20 MR. ADEJUNMOBI: But --

21 MEMBER ALBERTI: That's what I heard
22 earlier.

1 MR. ADEJUNMOBI: Okay.

2 MEMBER ALBERTI: I just wanted to
3 verify it, but you haven't -- you didn't verify
4 the --

5 MR. ADEJUNMOBI: No, I did not.

6 MEMBER ALBERTI: -- functions of the
7 new system?

8 MR. ADEJUNMOBI: No.

9 MEMBER ALBERTI: All right. Thank you
10 so much.

11 MR. ADEJUNMOBI: Yes, sir.

12 CHAIRPERSON ANDERSON: Go ahead, Mr.
13 Short.

14 MEMBER SHORT: Oh, good afternoon, Mr.
15 Adejunmobi.

16 MR. ADEJUNMOBI: Yes, sir.

17 MEMBER SHORT: Since you have been
18 auditing and you have been here for nine years --

19 MR. ADEJUNMOBI: Yes, sir.

20 MEMBER SHORT: -- annually, how many
21 audits do you find to be incomplete normally in a
22 year?

1 MR. ADEJUNMOBI: I can't tell you the
2 percentage right now. Maybe when I go back, but
3 you know what I can tell you, the majority. Out
4 of close to 400 that I have done.

5 MEMBER SHORT: Okay. But these people
6 are able to produce the records. Are they able
7 to produce the records and you still cannot
8 reconcile them to get the audit?

9 MR. ADEJUNMOBI: No. What they failed
10 to produce is the substantiating documents, which
11 is what is really required for this. The
12 substantiating document by law, I believe, should
13 be the source document that we have been talking
14 about, which can come in two forms: Either a
15 guest check or receipt.

16 MEMBER SHORT: Okay. So when neither
17 of those documents are available, you cannot do
18 an audit?

19 MR. ADEJUNMOBI: No, sir.

20 MEMBER SHORT: Okay.

21 MR. ADEJUNMOBI: I can't go forward.

22 MEMBER SHORT: And so if that doesn't

1 happen, actually what happens with that
2 particular business is that the Government can't
3 determine what kind of taxes they pay, can they?
4 I mean, if they don't have the document for an
5 audit, then how do we know how much money they
6 made or how much taxes they are going to pay?

7 MR. ADEJUNMOBI: Well, it's a little
8 bit different than that, sir.

9 MEMBER SHORT: Okay.

10 MR. ADEJUNMOBI: Because I have to go
11 a little bit into OTR, although we are not OTR.

12 MEMBER SHORT: Okay.

13 MR. ADEJUNMOBI: I mean, that is a
14 unique part of our staff. OTR, they can just use
15 their profit or loss.

16 MEMBER SHORT: For the record --

17 MR. ADEJUNMOBI: Yes. OTR --

18 MEMBER SHORT: -- OTR?

19 MR. ADEJUNMOBI: -- can use profit and
20 loss. We cannot.

21 MEMBER SHORT: Okay.

22 MR. ADEJUNMOBI: Because we need those

1 raw data. The profit and loss has other stuff
2 that has been mandatory.

3 MEMBER SHORT: So you are speaking of
4 the Office of Tax and Revenue?

5 MR. ADEJUNMOBI: Yes, sir. Yes, sir,
6 that's what I am speaking of. They can do their
7 audit using other forms made before ours, because
8 remember what I said, it has to be food and
9 alcoholic beverage sales only.

10 MEMBER SHORT: Okay.

11 MR. ADEJUNMOBI: And without that --
12 and furthermore, there are all this status stuff
13 that it give actually that when they do their
14 profit and loss, they can have, for instance,
15 off-premises sales of food. They can put it into
16 their profit and loss. For ABRA no, it has to be
17 consumed at the premises to put it in there.

18 They can do catering, but it has to be
19 consumed at the premises, because if not, it
20 defeats the purpose of the law.

21 MEMBER SHORT: Okay. You have been
22 very, very distinct and thank you very much for

1 your service.

2 MR. ADEJUNMOBI: I have been doing it
3 for nine years, sir.

4 MEMBER SHORT: Thank you very much.

5 MR. ADEJUNMOBI: Thank you.

6 MEMBER SHORT: That's all I have, Mr.
7 Chair.

8 CHAIRPERSON ANDERSON: Any other
9 questions by any other Board Members? All right.
10 All right. Ma'am, do you have -- yes?

11 MS. SKENDERIS: Yes.

12 CHAIRPERSON ANDERSON: Do you have any
13 questions of him --

14 MS. SKENDERIS: No more questions.

15 CHAIRPERSON ANDERSON: -- based on the
16 questions that we asked? No?

17 MS. SKENDERIS: (No audible answer.)

18 CHAIRPERSON ANDERSON: Mr. Adams, go
19 ahead.

20 MR. ADAMS: I do have a couple, a few
21 clarification questions.

22 CHAIRPERSON ANDERSON: Go ahead, sir.

1 REDIRECT EXAMINATION

2 BY MR. ADAMS:

3 Q All right. So I just want to make
4 sure we are crystal clear on everything. So if
5 the Board could give me a bit of indulgence?

6 So for instance, you have a quarterly
7 report, right?

8 A Yes, sir.

9 Q Let's turn to the first quarterly
10 report.

11 A Um-hum.

12 Q All right. So are you with me?

13 A Yes, I am with you.

14 Q You have two sections. One is for
15 expenditures.

16 A Yes.

17 Q So and that's the bottom portion. And
18 the amount for expenditures for food was \$48,451?

19 A Yes.

20 Q And for alcohol it's \$8,856?

21 A Expenditures, yes.

22 Q So when the establishment has

1 invoices, that you are saying that invoices goes
2 to the expenditure portion?

3 A It validates those two figures that
4 you just --

5 Q Okay.

6 A -- spoke of.

7 Q Very well. Now, sales is completely
8 different.

9 A Yes, totally different.

10 Q So you can't validate sales based upon
11 any -- any of those invoices you can't validate
12 sales?

13 A Well, no, I can't, because you see the
14 same thing we are talking about, you see,
15 invoices that you are talking about it's those
16 amounts to sale -- to the guest checks, receipts
17 for the sales.

18 Q Right.

19 A So it's the same. You see the invoice
20 -- the sales expenditures has the validated
21 documents, which were the invoices.

22 Q Okay. Very well.

1 A Yeah, those amounts you just read --

2 Q Yes.

3 A -- has the supported documentation
4 that says actually they did acquire something.

5 Q That they acquired?

6 A Yes.

7 Q Okay. Very well.

8 A They acquired something.

9 Q But they --

10 A Another one for the sale --

11 Q Okay. So sales is a separate part.

12 Now, this is up here.

13 A Yes.

14 Q Now, you were getting ready to say so
15 they had \$27,000 worth of sales and you are
16 looking for that portion, right?

17 A I'm looking for what supports that
18 figure.

19 Q Right.

20 A What are the -- where are the sales
21 documents?

22 Q And they had nothing?

1 A Huh?

2 Q They presented nothing to you?

3 A It was supposed to be on there.

4 MS. SKENDERIS: I had some.

5 MR. ADEJUNMOBI: It was supposed to be

6 on the --

7 BY MR. ADAMS:

8 Q They didn't present sales documents

9 from January 1st through December 31st?

10 A I didn't see anything like that. All
11 I was told is that their equipment that has it is
12 malfunctioning.

13 Q Okay.

14 MR. ADAMS: That's it. I have no
15 further questions.

16 CHAIRPERSON ANDERSON: All right.

17 MR. ADEJUNMOBI: If you want me to
18 clarify, I can.

19 CHAIRPERSON ANDERSON: There are no
20 questions, sir.

21 MR. ADAMS: No.

22 CHAIRPERSON ANDERSON: Thank you very

1 much for your testimony. You can step down.

2 MR. ADEJUNMOBI: You're welcome, sir.

3 CHAIRPERSON ANDERSON: All right.

4 MR. ADEJUNMOBI: I can go?

5 CHAIRPERSON ANDERSON: Yes, you can
6 go. You are free to go.

7 And that's one of the reasons why I
8 stopped you, because if you keep on saying stuff,
9 then that tells me you are not free to go. So
10 you are done, so you can step down.

11 MR. ADEJUNMOBI: Okay. Thank you.

12 CHAIRPERSON ANDERSON: Thank you.

13 MR. ADEJUNMOBI: Thank you, sir.

14 MR. ADAMS: Thank you, sir.

15 (Whereupon, the witness was
16 temporarily excused.)

17 CHAIRPERSON ANDERSON: Does the
18 Government have another witness?

19 MR. ADAMS: The Government has no
20 other witness. Well, we would like to, if
21 necessary, reserve a witness potentially for
22 rebuttal. However, for its case in chief, we

1 have no further witnesses and we rest our case.

2 CHAIRPERSON ANDERSON: All right. All
3 right. Ma'am, are you planning to call any
4 witnesses?

5 MS. SKENDERIS: If I can do what?

6 CHAIRPERSON ANDERSON: Are you going
7 to call any witnesses or you are just going to
8 speak?

9 MS. SKENDERIS: What was that?

10 CHAIRPERSON ANDERSON: Are you going
11 to call --

12 MS. SKENDERIS: A witness?

13 CHAIRPERSON ANDERSON: Yes.

14 MS. SKENDERIS: No, no, no.

15 CHAIRPERSON ANDERSON: No. All right.

16 MS. SKENDERIS: It's me only.

17 CHAIRPERSON ANDERSON: Can you raise
18 your right hand, please?

19 Whereupon,

20 DESPINA SKENDERIS

21 was called as a witness for the Licensee, and
22 having been first duly sworn, assumed the witness

1 stand and was examined and testified as follows:

2 MS. SKENDERIS: Yes, sir.

3 CHAIRPERSON ANDERSON: All right. Go
4 ahead, you can give your explanation now, ma'am.

5 MS. SKENDERIS: Okay.

6 DIRECT EXAMINATION

7 MS. SKENDERIS: Background: I started
8 this restaurant 35 years ago. Honestly, I'm very
9 proud of that. I'm inexperienced with this kind
10 of stuff, I'm sorry.

11 Anyway, the reason I'm emotional is
12 because I just had surgery and that's why I asked
13 for postponements. A major and messy surgery and
14 I'm not done yet.

15 Now, the gentleman said that my son
16 called him before the audit, which he did. My
17 son is not with us any more, you know, with the
18 business. But he wanted to verify exactly what
19 we needed and he was told, according to what my
20 son told me at the time, Mom, they need the daily
21 report from the register for the whole day which
22 shows, you know, how many customers we had, how

1 many -- how much food we sold, how many, you
2 know, drinks and all that.

3 And at the time what we had, we were
4 switching from old registers that had a large
5 screen and we have icons on them for -- because
6 my cashiers, you cannot find cashiers that, you
7 know, are experts. So they would click on, you
8 know, the icons to ring things up.

9 And our system is just like Panera.
10 In other words, we don't have waiters. It's a
11 semi-self-service. So we had those big ones, but
12 because they were getting stuck all the time,
13 they were old, and the POS company said we needed
14 another \$10,000 to change that system, my son
15 went and bought iPad and connected just to one.
16 We have two registers to see how it would work
17 and he put the icons on. And then when he
18 realized that it was working, he bought another
19 iPad, so we had the big screens and the small
20 screens.

21 Now, why both? Because they were
22 operating in a different way and my different

1 cashiers were trying to learn how to use the new
2 ones. So the ones that were not so efficient
3 would use the old one and try, when we were not
4 busy, the new one, take their time. When we was
5 busy, they would use the old one, because they
6 wanted to get the customers going.

7 So the place has the ground floor, a
8 second floor for guests and we were, for the
9 audit, on the third floor of the building in an
10 office. I did have not complete, but these are
11 the daily sales for every month for the 12
12 months. The only thing that is missing, these
13 are from the new iPads and the old one, when my
14 son called the gentleman and he told him that
15 this is what we need, one of the documents, he
16 went to get the 12 months of the previous year
17 from the old -- both from the old screen and the
18 new screen.

19 Well, the new -- the old screen gave
20 a picture saying it won't print. That doesn't
21 mean that it was not recording them. So my --
22 our accountant had all the figures and she was

1 present and she had the figures.

2 What I didn't have, I have here and
3 this is what I gave to the gentleman, 12 bunches
4 of daily statements and on the top, I have the
5 total amount from both registers from the
6 accountant and she had the books to verify that,
7 but not every day's totals. These are only from
8 the new iPad.

9 So yes, I did have -- it's not -- in
10 other words, I -- we did understand, we just
11 couldn't get these from the -- the same thing
12 from the old screen. That doesn't mean, again,
13 I'm repeating myself, that they were not being
14 registered for the -- to the accountant. It's
15 just that it wouldn't give us the tape.

16 Now, this one that Mr. Mark Brashears,
17 is that the name? At one point, the gentleman
18 said I'm not auditing, that's it. You don't have
19 them. I pleaded, I said at least look at. I
20 have -- I brought the two boxes, all my invoices
21 for the whole year by company and by date, all,
22 you know, organized in two boxes and he didn't

1 want to look at them.

2 So Mr. Brashears said let me have the
3 wine and beer receipts, which are all here. And
4 I gave him this box and he looked at them and he
5 made a comment. He said in all the years that I
6 have been working, I have never seen a more
7 organized presentation. That was Mr. Brashears'
8 comment. So he took a look at them.

9 Now, those two boxes have all my
10 invoices for the whole year for every supplier.
11 After he asked for the report from the registers
12 and I didn't have 30 for every month, but you can
13 see how many. Some are missing. I have most of
14 them and here is the total for the whole month,
15 each month separately. Then the gentleman said
16 may I see the guest checks? Honestly, I didn't
17 know what he was talking about, at the time,
18 because I was not -- back then I was not a
19 restaurant person. I was doing -- I worked for
20 the Voice of America and I also did and still do
21 editing for a journal, Political Science,
22 Mediterranean Quarterly.

1 So I said what do you guest checks?
2 He says the waiters that give the checks to the
3 customers. I said we don't have any waiters. He
4 says what do you do? Then I explained how the
5 system works and he looked as if he didn't
6 understand and I offered -- like the gentleman
7 asked, Mr. Alberti asked if you verified the
8 system to go and look at it. And it was on the
9 third floor to the first floor.

10 And I asked can you, please, come and
11 look at both the iPads, the big one and the small
12 one and at the same time our system that we don't
13 have waiters. The people come to the register.
14 They will place their order. The kitchen gets
15 it, because we call it on a microphone. They
16 prepare them and then we have somebody that puts
17 the drinks and the food all in trays. We call
18 the customer. The customer comes and picks his
19 tray. So no tipping and no waiters.

20 He didn't want to go and look at them.
21 I offered. I said let me take you downstairs and
22 you can take a look at the system and the fact

1 that why I didn't have these, because the -- my
2 son clicked on whatever it was supposed to give
3 us the printing and it said it cannot print.

4 Well, the gentleman refused to come
5 and look at them. And then he said well, I'm not
6 going to complete it and I said and then what's
7 the next step? He says you are going to get a
8 letter from me in about two or three months.

9 Well, I did get a letter to come here
10 on February 16. The audit was October 31, 2015.
11 And I was supposed to come here on February 16
12 and --

13 MR. ADAMS: Mr. Chairman?

14 MS. SKENDERIS: -- this is the letter.

15 MR. ADAMS: To the extent that the
16 testimony goes beyond the audit from October --

17 CHAIRPERSON ANDERSON: Well, I'm not--
18 I don't know what she is saying, so I --

19 MS. SKENDERIS: This is the letter
20 that I got to come here. I did come. There was
21 nobody here. The lady said wait here.

22 MR. ADAMS: It's not relevant, Your

1 Honor.

2 MS. SKENDERIS: And then --

3 MR. ADAMS: I mean, Mr. Chairman.

4 CHAIRPERSON ANDERSON: I hear you.

5 I'll allow her.

6 MS. SKENDERIS: -- somebody came to
7 help me out and they said you are not -- there is
8 nothing on the system for hearing today for you.
9 And I said here is the letter. And she looked at
10 the name of the lady that wrote the letter and
11 she says oh, let me check. And then she came
12 back and said no, she is not here today.

13 So she asked -- she went and typed
14 another something and I signed it to request, to
15 make a request for a continuation and get a
16 different date to come back.

17 Well, from February 16, I got a
18 notification to come at the end of November, I
19 think. By that time, I was diagnosed with
20 whatever I had. I couldn't come. And I'm sorry.

21 I talked to a couple of ladies that
22 were very nice and at one point I talked to Mr.

1 Adams and he was very nice to continue my case.
2 I finally -- from doctor-to-doctor I had an
3 operation on March 12 and this is my first day
4 out. And I was driven here. I couldn't drive.

5 I had an operation in the abdomen at
6 Johns Hopkins. They cut a piece of the
7 intestine. They cleared some -- the problem was
8 mainly fistula that was causing an infection and
9 inflammation. My fear is because the
10 inflammation is still there, I'm worried about
11 more fistula and more surgery.

12 So I asked and everybody was nice
13 enough to continue the case and postpone, because
14 I couldn't get here.

15 And since it was several, three or
16 four, continuations altogether from February to
17 now, I was asked to either come or postpone it by
18 getting a letter from the surgeon. I talked to
19 him. I corresponded with Mr. Adams at the time.
20 I said I'm going to talk to my surgeon tomorrow.
21 He called me and he says yeah, you can drive.
22 It's okay. Somebody can drive you, because I

1 still have to see him and I still have to have
2 more CAT scans and this is why I'm here.

3 And those two boxes, you can take a
4 look at them. They are completely organized and
5 have every detail. And this one, these you can
6 see they are not -- most of the daily reports are
7 here. A few from each month are missing, because
8 my people were not so efficient and they were
9 using the old one until they would become very
10 efficient with the new one.

11 And everything is here and the total
12 amounts are here and the accountant was at the
13 audit and she had her books and all the numbers,
14 but the gentleman did not want to -- once I
15 didn't have 30 of those and the checks from the
16 guests, he didn't want to do the audit and that's
17 why I'm here. And I thought I would come and
18 just clarify and I hope I did.

19 And I can answer any questions
20 provided I can hear well or Mr. Adams can repeat
21 it for me.

22 CHAIRPERSON ANDERSON: All right. Do

1 you have any questions, Mr. Adams?

2 MR. ADAMS: Yes, Mr. Chairman.

3 CROSS-EXAMINATION

4 BY MR. ADAMS:

5 Q All right. So, Ms. Skenderis, now I
6 should -- during -- when Mr. Adejunmobi was
7 speaking, he said that a notice was provided to
8 the establishment and it was a letter.

9 You received that letter, correct?

10 A Yes, I did get the letter. I did get
11 that, but I just --

12 Q All right.

13 CHAIRPERSON ANDERSON: Can you identify

14 --

15 THE WITNESS: I didn't understand what
16 guest checks meant and I didn't pay too much
17 attention.

18 CHAIRPERSON ANDERSON: Can you
19 identify what document you are talking about?

20 MR. ADAMS: All right. So this is--

21 CHAIRPERSON ANDERSON: Just to clarify
22 the record.

1 MR. ADAMS: Sure, to clarify the
2 record, this is Exhibit 2 of the District Exhibit
3 No. 1. This is the September 7th letter.

4 BY MR. ADAMS:

5 Q And you just stated that you did
6 receive it.

7 A Yes, I did.

8 Q And that as part of it, it did state
9 that it needed -- that you needed to provide
10 register receipts or guest checks to be counted
11 daily. And that was part of the letter, correct?

12 A Yeah. When my son called, the main
13 thing, at the time, was I left it mostly up to
14 him, at the time, since he was calling the
15 gentleman that was going to audit.

16 The main thing were these showing --
17 and if you look at them, it shows gross sales,
18 net sales, refunds, credit cards, gift cards,
19 fees, the whole thing.

20 Q Okay.

21 A And the net totals and everything.
22 And then it also shows the different things we

1 said, like appetizers. How many, for how much,
2 itemized, everything from the register.

3 My problem is if you count these, you
4 will see only a few are missing and that is from
5 the old --

6 Q Okay.

7 A -- one.

8 Q All right. Now, you said that -- now,
9 you stated that there are systems that were
10 missing. All right. That you don't have -- you
11 do not have -- and you are saying daily reports?

12 A No. We don't -- I don't have this
13 thing from the old register. In other words, if
14 you take a look at this, you will see how -- this
15 is from the new, the square we have.

16 Q Okay.

17 A As --

18 Q So let me back you up.

19 A Yes.

20 Q All right. So you say you have two
21 registers. You have --

22 A Yeah.

1 Q -- an old one and a new register.

2 Now, is that correct?

3 A Yes.

4 Q Okay. When did you purchase a new
5 register?

6 A Oh, it was not long before he came.
7 Oh, no, the -- oh, you mean about the -- it was
8 not a register. It's the -- it's iPad.

9 Q Oh, it's an iPad?

10 A That is connected. It's an iPad.

11 Q Okay. When was that connected?

12 A On the same system, they are
13 connected.

14 Q Okay. When was that connected?

15 A I don't remember. I see here if I
16 don't have 30 here, that means we had just one
17 instead of two, because originally we -- my son
18 bought one, not to spend \$10,000.

19 Q Okay.

20 A And then when that worked, he laid
21 about the other iPad for the second register, but
22 they were connected. The numbers would go to the

1 accountant, to her computer. It's just that I
2 couldn't get these things.

3 Q Okay. So okay. I'm confused and I
4 apologize. All right. The specific question is
5 so you don't know when you --

6 A Not exactly.

7 Q -- bought -- okay.

8 A Not exactly.

9 Q All right. So you had an old system
10 and your old system, that's the Point of Sales
11 System, correct?

12 A The old system did everything and we
13 thought at the time that it was going to give us
14 these, but it didn't.

15 Q Okay.

16 A And my son told the auditor that and
17 we showed him the picture at the time of the
18 screen stating so that it won't go, it won't give
19 us this. And I wanted him to come and look at it
20 himself and try it himself if he wanted to, but
21 then he didn't want to.

22 Q So wait a minute. So and again I am

1 getting a little bit confused. Okay. So you are
2 saying so your son spoke with Mr. Adejunmobi --

3 A Before the audit.

4 Q -- before the audit.

5 A Yes.

6 Q Okay. And he said there is a problem
7 with the system, correct?

8 A Yeah.

9 Q And that you offered to have him come
10 to your restaurant to look at the problem,
11 correct?

12 A No. He came for the audit.

13 Q No, no, but you were asking for Mr.
14 Adejunmobi to come to your restaurant to look at
15 the system, correct, and see --

16 A No, that's not how -- what happened.
17 My son asked him and he explained this that we
18 don't have this.

19 Q Okay.

20 A But we couldn't tell him don't come,
21 because it was all set for October 31st. So he
22 came.

1 Q Yes.

2 A And when we explained this whole box
3 of 12 months, I offered for him to come two
4 floors down and take a look at it.

5 Q Okay.

6 A And he said no. Like he said here, I
7 don't have to.

8 Q Okay.

9 A And he said I don't have to look at
10 it.

11 Q All right. So let me -- and you keep
12 on referring -- again, I apologize to the Board.
13 For the record, you are referring to a box of
14 papers. And I believe you have something in a
15 binder clip on the top. Do you mind if I see
16 that?

17 A Yeah, of course not.

18 Q All right. So --

19 A You can take a look at each one.

20 Q All right. So --

21 A Each one is by month.

22 Q All right. So --

1 A Which --

2 Q -- I just want to break this down very
3 quickly. So looking at this, I have some slips
4 for -- it says purportedly for January --

5 A This is January, it's for the whole
6 month. It's here.

7 Q So just let me say this.

8 A Yeah.

9 Q So what I'm holding here is for
10 January 2015?

11 A Yes.

12 Q Correct? All right. And so it's --
13 the first page I'm looking at after is a sales
14 report. And is that correct?

15 A Yes, these are all from the new iPad.

16 Q Okay. So you said there was a new
17 iPad?

18 A Yes.

19 Q And so there was -- so you had two
20 systems, an old computer and a new iPad?

21 A Yes.

22 Q So it's safe to say that this

1 information that you have here is only partial?

2 A Yes.

3 Q Okay.

4 A Yes. And we didn't have -- it's
5 partial because the old screen, pad, register,
6 whatever you call it, would not print the total
7 for the day. It kept it inside, but, you know,
8 in the computer for the accountant, but it
9 wouldn't print it. The problem was with the
10 printing.

11 Q Okay.

12 A So as I could present it.

13 Q So I apologize. So you say that the
14 issue was with the printer. Now, did -- you said
15 that the accountant had the information?

16 A Yes, and she was there.

17 Q Okay. Now, the accountant had daily--
18 has sales receipts?

19 A She had whatever she was reported to
20 the -- you know, from the registers to her
21 computer.

22 Q All right.

1 A She had -- like she does the
2 accounting for us.

3 Q Right.

4 A And the numbers that I have here on
5 the top is the total for the month, not the total
6 of these receipts. These receipts are partial,
7 as you said. So on each one, I have the total
8 how much we made separately for the food and
9 separately for the wine and beer. If you would
10 take a look F for food, WB is for wine and beer.

11 Q Right. Understood. So those are
12 totals. Now, this is what I'm asking. So you
13 are saying that your old system was in existence,
14 correct?

15 A Yes.

16 Q And that essentially the data was on
17 the machine? Is that what you are saying?

18 A Yes, yes, it was in there.

19 Q And that you did not save the data or
20 you were not able to pull the data up on the
21 machine?

22 A No. It saved it and the accountant

1 is, of course, able to do all the --

2 Q Okay.

3 A -- accounting, it just wouldn't print
4 and give me the days total.

5 Q Very well.

6 A At the end of the day.

7 Q Understood. So now specifically,
8 outside of printing, you have a computer, so you
9 cannot -- you could not -- you didn't -- on the
10 day of the audit, and by the way you had about a
11 month or so for -- to prepare for this audit,
12 correct?

13 A Yes.

14 Q You did not save it onto a separate
15 device, the daily information from this old
16 system?

17 A No. The audit was in October of '16.

18 Q Right.

19 A And this was for October '15. I mean,
20 for 2015 for a year earlier. So there was no
21 way, the accounting does not have the itemized
22 printing stuff.

1 Q Okay.

2 A She has the information from the
3 computer, so I couldn't --

4 Q Right.

5 A -- there was no way for me to get the
6 print.

7 Q Okay. I apologize. All right. So we
8 are not talking about printing. I'm saying that
9 on October 31, 2016, are you saying the data was
10 on the machine from 2015?

11 A Oh, yeah, it was on.

12 Q It was on the machine. And it was not
13 saved in a different manner other than printing,
14 it was not saved?

15 A No. It was saved and the accountant
16 was able to do all her accounting and she brought
17 her books, you know, to the audit. The problem
18 that we had with the auditor was that I did not
19 have the individual printed totals for each day
20 of the year.

21 Q Okay. Very well. Last question. So
22 your accountant did not provide or did not

1 provide an electronic record to Mr. Adejunmobi?

2 A She had everything there. She showed
3 him. She just could -- she didn't have this kind
4 of stuff. She had the totals from both.

5 Q So she never had the daily
6 information, correct?

7 A She did. She did on her system. I
8 mean, in her books that she brought with her.
9 She didn't have separated, there was no separate
10 paper, printed paper from the old one. She
11 doesn't get that.

12 Q All right.

13 MR. ADAMS: I have no further
14 questions.

15 CHAIRPERSON ANDERSON: Any questions
16 by any Board Members?

17 MS. SKENDERIS: And no guest checks
18 and to this day, I don't have guest checks for --
19 like if you ask me for guest checks of yesterday,
20 I don't have them.

21 CHAIRPERSON ANDERSON: Mr. Alberti?

22 MEMBER ALBERTI: So, Ms. Skenderis?

1 MS. SKENDERIS: Yes?

2 MEMBER ALBERTI: I am going to ask you
3 questions related to the guest checks, all right?

4 COURT REPORTER: Mr. Alberti, turn
5 your microphone on.

6 MS. SKENDERIS: A little louder for
7 me, please.

8 MEMBER ALBERTI: I'm sorry. I'm going
9 to ask you questions related to the guest checks.
10 So --

11 MS. SKENDERIS: Related to?

12 MEMBER ALBERTI: The guest checks.

13 MS. SKENDERIS: Okay. The --

14 MEMBER ALBERTI: But I'm not going to
15 talk to --

16 MS. SKENDERIS: Okay.

17 MEMBER ALBERTI: -- I'm not going to
18 refer to them as guest checks.

19 MS. SKENDERIS: Okay. Sure.

20 MEMBER ALBERTI: So in your new
21 system, does your new system record each
22 individual sale?

1 MS. SKENDERIS: Yeah, we print. We
2 ring up the order.

3 MEMBER ALBERTI: Um-hum.

4 MS. SKENDERIS: It gives a receipt for
5 the customer and if it's credit card, it gives a
6 paper for them, you know, a receipt for the
7 credit, you know, for that --

8 MEMBER ALBERTI: Yes.

9 MS. SKENDERIS: -- for their credit
10 card. But we don't have a receipt.

11 MEMBER ALBERTI: All right. Does it
12 save the information on each individual sale?

13 MS. SKENDERIS: Oh, yeah. It is saved
14 and that's how the accountant gets it, you know,
15 from the computer.

16 MEMBER ALBERTI: Right. And that's
17 how the machine then totals it up for the day and
18 then you print out one of those pieces of paper,
19 correct?

20 MS. SKENDERIS: Yeah. The only reason
21 we did this --

22 MEMBER ALBERTI: No.

1 MS. SKENDERIS: -- we don't do it
2 every day. We don't print them.

3 MEMBER ALBERTI: But they are in the
4 system?

5 MS. SKENDERIS: We went back in
6 October when we got the letter, we went back on
7 the system, the new iPad and we got, you know,
8 the daily stuff and then we went to the old one,
9 the old one wouldn't print.

10 MEMBER ALBERTI: So --

11 MS. SKENDERIS: We did it after we got
12 the audit letter.

13 MEMBER ALBERTI: Right, I understand.
14 Right. Just bear with me. So if I were to go to
15 you -- if I were to say to you for last month,
16 can your system show me every individual sale?
17 Is that stored any place?

18 MS. SKENDERIS: Not individual. It
19 will give you a total of the day. It will give--
20 it won't give -- I don't know. I don't -- I'm
21 not very computer savvy myself, being 76 years-
22 old. But what I understand is that my people

1 went back to the computer and they printed like
2 these totals, but it gives at the bottom, it's
3 because the company did that, like how many
4 sandwiches we sold.

5 MEMBER ALBERTI: Sure.

6 MS. SKENDERIS: How many. Things like
7 that, but not individual ones.

8 MEMBER ALBERTI: Okay. I understand
9 completely what you are --

10 MS. SKENDERIS: Yeah.

11 MEMBER ALBERTI: -- telling me. All
12 right.

13 MS. SKENDERIS: But everything, all
14 the sales --

15 MEMBER ALBERTI: All right.

16 MS. SKENDERIS: -- from both systems
17 have been recorded and I have the totals.

18 MEMBER ALBERTI: Okay. I understand
19 completely.

20 MS. SKENDERIS: Thank you. Thank you.

21 MEMBER ALBERTI: I understand
22 completely what you are telling me.

1 MS. SKENDERIS: Thank you.

2 MEMBER ALBERTI: So at the time of the
3 audit, the old system would not print out those
4 individual pieces of paper, correct?

5 MS. SKENDERIS: The --

6 MEMBER ALBERTI: The old system.

7 MS. SKENDERIS: -- old system, it
8 wouldn't print.

9 MEMBER ALBERTI: All right. If I --
10 if you looked at the screen, could you bring them
11 up on the screen for the old system?

12 MS. SKENDERIS: It said when we tried
13 to print and we pushed print and I was there when
14 my son was --

15 MEMBER ALBERTI: But did it show the
16 information that would have been printed?

17 MS. SKENDERIS: It -- what it wouldn't
18 print was the total for the day.

19 MEMBER ALBERTI: I understand that.

20 MS. SKENDERIS: Yeah.

21 MEMBER ALBERTI: Would it --

22 MS. SKENDERIS: It would print

1 individual for the customers.

2 MEMBER ALBERTI: Wait, wait, wait.

3 There is a difference -- okay. Let me just
4 explain to you where I'm going with this.

5 MS. SKENDERIS: Okay.

6 MEMBER ALBERTI: There is a difference
7 between --

8 MS. SKENDERIS: I'm sorry. I --

9 MEMBER ALBERTI: No, that's okay.
10 That's okay. This is difficult, I know. So I
11 prepare a document on my computer, all right, and
12 it's on the screen and I'm looking at it and I
13 can read it, all right?

14 MS. SKENDERIS: Yes.

15 MEMBER ALBERTI: And then I ask my
16 computer to print it, make a hard copy and my
17 computer says oh, your printer is down, I can't
18 do that. But I have the information right in
19 front of me. I can look at it on the computer.

20 MS. SKENDERIS: Yeah.

21 MEMBER ALBERTI: What I'm asking is at
22 the time of the audit, was that information on --

1 available on the computer? I mean, could you see
2 it on the computer for individual days?

3 MS. SKENDERIS: Yeah, but it would
4 take time to go from, you know, for so many days
5 that, you know, of the month that -- you
6 understand like these and all that and it would--
7 the gentleman didn't --

8 MEMBER ALBERTI: But this is talking--

9 MS. SKENDERIS: -- want to come to
10 look at the computer.

11 MEMBER ALBERTI: Look, right.

12 MS. SKENDERIS: It did have it.

13 MEMBER ALBERTI: So let's talk
14 theoretically. So if someone went to your
15 computer, they could sit there and see every
16 individual day? They could pull up every day of
17 the month and get the totals for the month on the
18 old system?

19 MS. SKENDERIS: Yes.

20 MEMBER ALBERTI: I mean, the totals
21 for the day?

22 MS. SKENDERIS: Yes, yes.

1 MEMBER ALBERTI: They could get the
2 totals for --

3 MS. SKENDERIS: It just wouldn't
4 print.

5 MEMBER ALBERTI: I got that.

6 MS. SKENDERIS: Yeah.

7 MEMBER ALBERTI: So we are talking
8 about seeing it. It wouldn't produce a hard
9 copy.

10 MS. SKENDERIS: Yeah.

11 MEMBER ALBERTI: But it would show it
12 on the screen?

13 MS. SKENDERIS: It would show.

14 MEMBER ALBERTI: All right. And if it
15 had --

16 MS. SKENDERIS: I offered it, but he
17 didn't want to see it.

18 MEMBER ALBERTI: Okay. Well, wait,
19 wait, wait, wait, let me finish. If it had
20 printed, would it have printed individual pieces
21 of paper similar to what you have in front of
22 you?

1 MS. SKENDERIS: Yeah. This is from
2 the new. It would be something like that,
3 whatever was rung on the old one. So the two
4 together --

5 MEMBER ALBERTI: For each day?

6 MS. SKENDERIS: Yeah. The two
7 together would make up the total.

8 MEMBER ALBERTI: No, I understand
9 that. But for each day, the old system would
10 produce one of those pieces of paper for each day
11 of the month?

12 MS. SKENDERIS: Yeah, it would if it
13 would print.

14 MEMBER ALBERTI: If it would print?

15 MS. SKENDERIS: Yeah, yeah.

16 MEMBER ALBERTI: But it showed it on
17 the screen, correct?

18 MS. SKENDERIS: It did, yeah. It just
19 wouldn't print, but we were asked to have the
20 information printed and present it.

21 MEMBER ALBERTI: No, I understand.

22 MS. SKENDERIS: Yeah.

1 MEMBER ALBERTI: I understand exactly.
2 I'm just trying --

3 MS. SKENDERIS: But because -- I'm
4 repeating myself, because it wouldn't do it and
5 we explained the problem, I offered to go two
6 floors down, not a different location, you know
7 to the first floor, to the ground floor of the
8 restaurant and take a look two register, two
9 screens on each one, the old and the new and the
10 answer was "No, I don't have to."

11 MEMBER ALBERTI: Okay. Thank you.
12 You have answered my questions. Thank you. You
13 have been very helpful. Thank you.

14 MS. SKENDERIS: And I'm sorry I took
15 your time. I came just to explain the situation.

16 MEMBER ALBERTI: Yes, thank you.

17 CHAIRPERSON ANDERSON: Are there any
18 questions by any of the Board? Yes, Mr.
19 Silverstein?

20 MEMBER SILVERSTEIN: Thank you, Mrs.
21 Skenderis.

22 MS. SKENDERIS: Oh, hi.

1 MEMBER SILVERSTEIN: Hi. You can help
2 me with this. Let's go to the first quarter here
3 where --

4 MS. SKENDERIS: Okay.

5 MEMBER SILVERSTEIN: -- you said in
6 the report first quarter 2015 that --

7 MS. SKENDERIS: April 22, is that it?

8 MEMBER SILVERSTEIN: -- the percentage
9 of alcoholic beverage sales was 15.44 percent.

10 MS. SKENDERIS: Yeah, the --

11 MEMBER SILVERSTEIN: How do you know
12 that for sure? And how can you document that?

13 MS. SKENDERIS: Okay.

14 MEMBER SILVERSTEIN: That's --

15 MS. SKENDERIS: All the sales itemized
16 through the computer go to the accountant and she
17 is the one and her computer she has -- now, I've
18 been to her office. She has big screens and
19 computers and everything, because I'm not the
20 only client of hers. And she has this in her
21 system that immediately when it gives the totals
22 of whatever -- the computer gives her the

1 percentages.

2 So this is, you know, the -- I don't
3 deal with what she does. She takes all the
4 information and every quarter she sends whatever
5 she is supposed to send to the ABC Board and
6 every quarter is different.

7 And I may clarify one thing, we are
8 busier because we have a patio. We are busier
9 spring and summer and September, the good
10 weather, and we go down hill in sales during the
11 winter. So our busy time is seven months of the
12 year with good weather.

13 So you will see that our sales are,
14 you know, better, you know, during those months.

15 MEMBER SILVERSTEIN: So then it is
16 your testimony --

17 MS. SKENDERIS: That I don't do this
18 15.44 percent, it's the accountant does it
19 through her computer once she gets all of the
20 information from our registers. Whatever we ring
21 up goes to her computer and she does all the
22 paperwork.

1 MEMBER SILVERSTEIN: So then it's your
2 testimony that none of this is guess work.

3 MS. SKENDERIS: Exactly.

4 MEMBER SILVERSTEIN: So this -- it is
5 your testimony that these figures are backed up
6 by your sales receipts that are in --

7 MS. SKENDERIS: Yeah, yeah, yeah, yes,
8 yes, yes, and that's how she knows what we made,
9 you know.

10 MEMBER SILVERSTEIN: But --

11 MS. SKENDERIS: I don't go and give
12 her paperwork. She gets it automatically. It's
13 all computerized. The problem was that one of
14 the two systems wouldn't print, that was the
15 problem.

16 MEMBER SILVERSTEIN: Okay. No further
17 questions. Thank you, Mrs. Skenderis.

18 CHAIRPERSON ANDERSON: Any questions
19 by any Board Members? Any further questions?
20 Oh, just one last question.

21 And you are saying the accountant, at
22 the day of the audit, your accountant was also

1 there?

2 MS. SKENDERIS: The day of the audit,
3 if I did --

4 CHAIRPERSON ANDERSON: If your account
5 was there? Was your accountant, was she there?

6 MS. SKENDERIS: Oh, yeah, she was with
7 me. That's what the gentleman said that there
8 was another lady with her and that lady was the
9 accountant.

10 CHAIRPERSON ANDERSON: Okay. So your
11 accountant was --

12 MS. SKENDERIS: And she had all her
13 books.

14 CHAIRPERSON ANDERSON: All right.
15 Okay.

16 MS. SKENDERIS: But he wanted to see
17 receipts. And if I may show you, those boxes are
18 full, all organized by supplier and by date.

19 CHAIRPERSON ANDERSON: All right. So
20 all right. You said -- so if your accountant had
21 all this information on her computer, why
22 couldn't she use her computer to print the --

1 MS. SKENDERIS: She did. She --

2 CHAIRPERSON ANDERSON: -- information
3 out?

4 MS. SKENDERIS: -- no, she couldn't
5 get it from -- her computer doesn't print the
6 daily stuff, I guess. I don't know. But the
7 gentleman asked for our guest checks and these
8 things from -- you know, these daily reports from
9 the computer as they come out.

10 CHAIRPERSON ANDERSON: All right.

11 MS. SKENDERIS: That's what we were
12 asked. She had all the totals. She didn't have
13 the daily stuff with her. She had all her books
14 about Zorba's for the whole year. I had them in
15 receipts. She had them in her books.

16 CHAIRPERSON ANDERSON: All right. Any
17 other questions by any other Board Members? All
18 right. Mr. Adams, any -- do you have any
19 questions you want to ask her based on what the
20 Board had asked?

21 MR. ADAMS: I have no further
22 questions.

1 CHAIRPERSON ANDERSON: Is there any
2 final thing that you want to say, ma'am, to
3 close?

4 MS. SKENDERIS: Excuse me?

5 CHAIRPERSON ANDERSON: Is there
6 anything else you want to say to close?

7 MS. SKENDERIS: No. No, I can't think
8 of anything else.

9 CHAIRPERSON ANDERSON: All right.

10 MS. SKENDERIS: And thank you for
11 listening to me.

12 CHAIRPERSON ANDERSON: All right.
13 Thank you. Mr. Adams, do you wish to make a
14 closing statement?

15 MR. ADAMS: Actually, Mr. Chairman,
16 can -- I would like to get two minutes to -- if
17 the Board could indulge me two minutes?

18 CHAIRPERSON ANDERSON: How many
19 minutes you want?

20 MR. ADAMS: Two.

21 CHAIRPERSON ANDERSON: Okay. Sure.
22 We are in recess for two minutes.

1 MR. ADAMS: All right.

2 CHAIRPERSON ANDERSON: Very well.

3 (Whereupon, the above-entitled matter
4 went off the record at 12:50 p.m. and resumed at
5 12:52 p.m.)

6 CHAIRPERSON ANDERSON: Yes, yes, sir?

7 MR. ADAMS: Mr. Chairman, the District
8 would like to have a brief amount of rebuttal
9 testimony. A brief, a few questions.

10 CHAIRPERSON ANDERSON: Sure.

11 MR. ADAMS: We would like to recall
12 Mr. Adejunmobi to the stand.

13 Whereupon,

14 NEAL ADEJUNMOBI

15 was recalled as a witness by Counsel for the
16 Government, and having been previously duly
17 sworn, resumed the witness stand, was examined
18 and testified as follows:

19 CHAIRPERSON ANDERSON: Remember you
20 are still under oath, sir.

21 MR. ADEJUNMOBI: Yes, sir.

22 CHAIRPERSON ANDERSON: Okay. Go

1 ahead, Mr. Adams.

2 MR. ADAMS: All right.

3 REBUTTAL TESTIMONY

4 BY MR. ADAMS:

5 Q Mr. Adejunmobi, when you were at the
6 establishment, what was your understanding
7 regarding whether the establishment had the
8 records of daily sales saved on any computer?

9 A None.

10 Q Okay. And explain.

11 CHAIRPERSON ANDERSON: I did not hear
12 the answer.

13 MR. ADEJUNMOBI: None, none.

14 BY MR. ADAMS:

15 Q And why was that?

16 A Because I was told the computer cannot
17 be repaired or could not be repaired. The
18 computer was malfunctioning. I mean, well,
19 whatever -- I would like to say the computer --
20 the system that they were using to capture the
21 sales were not --

22 Q Go ahead.

1 A -- yes.

2 Q Can you explain whether or not the
3 establishment told you that there were two
4 systems or one system?

5 A I was under the -- I mean, I was told
6 there was one system. One was is that they have
7 a new system --

8 Q All right.

9 A -- that they have acquired.

10 Q And that new system had been acquired
11 for all of 2015? Do you know that?

12 A No.

13 Q Okay.

14 A Acquired because as of that date we
15 went there, we were there in 2016. And the
16 records we were looking for was 2015.

17 Q All right. And was -- did the
18 accountant say that he had any information?

19 A Not what I'm looking for, which were
20 the guest checks and the receipts.

21 Q All right. Now --

22 A I wasn't looking for total daily sales

1 reports.

2 Q Now, total daily sales, what is total
3 daily sales?

4 A Total daily sales is more what we call
5 a Z report. It tells them of what were actually
6 sold that day.

7 Q All right.

8 A It told them say this amount of food
9 was sold. This amount of beverages were sold.

10 Q And why would that not be sufficient
11 for your audit?

12 A Because that is not the substantiating
13 document of what we get from the daily or from
14 the guest checks or the receipts. The receipts
15 have to show the itemized items. The individual
16 hamburgers or chicken leg that were bought.

17 Q All right.

18 MR. ADAMS: I have no further
19 questions.

20 CHAIRPERSON ANDERSON: Do you have any
21 questions to ask him based on what he just
22 testified, ma'am?

1 (No audible answer.)

2 CHAIRPERSON ANDERSON: Does the Board
3 have any questions? Hearing none, thank you,
4 sir. Now, you are free to go again.

5 MR. ADEJUNMOBI: You're welcome.

6 MEMBER ALBERTI: Just a quick
7 question.

8 CHAIRPERSON ANDERSON: Do you have a
9 question? Hold on. Go ahead, Mr. Alberti.

10 MEMBER ALBERTI: Did you look at the
11 new system on the screen?

12 MR. ADEJUNMOBI: I did not look at the
13 new system on the screen. And the reason for
14 that was --

15 MEMBER ALBERTI: So the licensee said
16 they didn't have the information, all of the
17 information.

18 MR. ADEJUNMOBI: The licensee said the
19 information was not available.

20 MEMBER ALBERTI: For?

21 MR. ADEJUNMOBI: The licensee said the
22 guest checks were not available.

1 MEMBER ALBERTI: Okay.

2 MR. ADEJUNMOBI: Either on the
3 computer system which cannot be retrieved.

4 MEMBER ALBERTI: Okay. Did you --

5 MR. ADEJUNMOBI: The computer, the
6 register --

7 MEMBER ALBERTI: -- take a look at the
8 computer system that they had to see if perhaps
9 the licensee was mistaken?

10 MR. ADEJUNMOBI: No, I did not,
11 because they already showed me the sample of what
12 they were presenting and that was what they --

13 MEMBER ALBERTI: Oh, I understand
14 that.

15 MR. ADEJUNMOBI: Okay.

16 MEMBER ALBERTI: But you did not look
17 at the -- are you familiar with these systems in
18 general?

19 MR. ADEJUNMOBI: Yeah, I am.

20 MEMBER ALBERTI: All right. So if the
21 system had -- if there was some confusion and the
22 system actually had individual sales, not the

1 daily totals, but the individual sales, would you
2 have been able to determine that?

3 MR. ADEJUNMOBI: I probably would not
4 have been able to determine that.

5 MEMBER ALBERTI: You probably would
6 not?

7 MR. ADEJUNMOBI: Would not. Because
8 the reason for that is this, the equipment
9 belongs to them. In doing that, if I mess
10 something up, I'll be held responsible.

11 MEMBER ALBERTI: All right. I
12 understand. Thank you.

13 MR. ADEJUNMOBI: So if they tell me up
14 front that this is it, because what normally
15 happens is if I'm going to help them out, I will
16 tell them what to do. But they already told me
17 that the vendor told them that the system cannot
18 be repaired. Because what would have happened is
19 I would have asked them to call the Help Desk.

20 MEMBER ALBERTI: Look, all right, all
21 right, that's --

22 MR. ADEJUNMOBI: Okay.

1 MEMBER ALBERTI: -- that's aside from
2 what I asked you. But thank you for your --
3 thank you.

4 CHAIRPERSON ANDERSON: Do you have any
5 questions, ma'am, you want to ask him of the
6 question that Mr. Alberti asked?

7 MS. SKENDERIS: If I have any
8 questions?

9 CHAIRPERSON ANDERSON: Yeah.

10 MS. SKENDERIS: No.

11 CHAIRPERSON ANDERSON: All right.

12 Thank you. Mr. Adams?

13 MS. SKENDERIS: Whatever I had to say,
14 I said it.

15 CHAIRPERSON ANDERSON: Okay. All
16 right. Thank you.

17 You can step down, sir. Thank you.

18 (Whereupon, the witness was excused.)

19 CHAIRPERSON ANDERSON: Does the
20 Government wish to make a closing statement?

21 MR. ADAMS: Yes, briefly, Mr. Chairman
22 and Members of the Board. I thank you for your

1 patience. I just wanted to make sure that we are
2 all in the understanding of this case.

3 So there is really, Mr. Chairman,
4 Members of the Board, a single charge and that is
5 whether or not the establishment kept and
6 maintained adequate records for a three year
7 period.

8 Frankly, it's not really as much about
9 the audit period itself, but whether or not there
10 is adequate records that were involved. And as
11 the Board knows that those records would include
12 information regarding sales information from
13 particular dates as well as register receipts or
14 guest checks that are maintained that are kept on
15 a daily or weekly basis.

16 And so it's really a simple situation
17 in reality and very straightforward. The -- Mr.
18 Adejunmobi through the ABRA, he provided a 30-day
19 notice and it was actually in this case almost 45
20 days before he actually reviewed the information.

21 When he got there, he -- their
22 information that he needed was not there for him

1 to continue to audit. He was already given a
2 call prior to the date that he did the audit that
3 informed him, the evidence shows, that there was
4 a problem with the establishment's POS system and
5 that there was a malfunction.

6 I think what -- although it is April
7 2018 now, what is important for the Board to look
8 at is the fact that within the case report the
9 information regarding the report that Mr.
10 Adejunmobi has related to remains consistent
11 regarding there being a computer malfunction at
12 the establishment that stated, at the time, it
13 could not be repaired and would -- and, at the
14 time, could not be able to provide him with guest
15 checks. And that -- this report was done -- was
16 completed in November of 2016 in a time that was
17 contemporaneous to the situation.

18 Mr. Adejunmobi went to the
19 establishment along with Mr. Brashears and the
20 bottom line is that he was not presented with --
21 he did not have access to the guest checks.
22 There was an accountant there. The accountant

1 did not provide copies of or access to guest
2 checks.

3 And again, the thing that is very
4 important here is whether it is electronic or in
5 hard copy was not provided.

6 From the testimony that you have heard
7 today, at best what you have, are total daily
8 reports from one computer within the
9 establishment, but not the other. So therefore,
10 it was still partial and this, even partial upon
11 partial, because the establishment states that it
12 wasn't provided, that the daily reports were not
13 given every day.

14 The reason that we had Mr. Adejunmobi
15 come back was that it was important to
16 distinguish that the total daily reports are not
17 sufficient. They do not meet the standard that
18 is set by this Board of having register receipts
19 or guest checks for a three year period.

20 So since, the bottom line, the
21 establishment had an opportunity to provide to
22 the Board either through hard copy or

1 electronically the data of the daily receipts,
2 that's essentially where -- why we are here
3 today.

4 In the end, whether it is printing or
5 anything of that sort, they were given an
6 opportunity, they didn't provide it and nothing
7 was provided after the fact. And frankly, I
8 think there has been some inconsistent
9 information about whether or not this
10 establishment does have records of daily -- of
11 guest checks or not.

12 Sometimes said it's saved, sometimes
13 says we don't have guest checks, but one way or
14 the other, the establishment is obligated to have
15 it, even with the best of their intentions, it
16 just has to be.

17 So with that being said, the
18 establishment has to be held liable and that this
19 will be their first primary tier offense and so
20 the District would recommend the \$2,000 fine.

21 CHAIRPERSON ANDERSON: Thank you.

22 MS. SKENDERIS: May I say something--

1 CHAIRPERSON ANDERSON: Yes, no, hold
2 on.

3 MS. SKENDERIS: -- that I just
4 remembered?

5 CHAIRPERSON ANDERSON: Hold on, no.
6 All right. This is not --

7 MS. SKENDERIS: Um --

8 CHAIRPERSON ANDERSON: -- hold on,
9 ma'am. Hold on, hold on, hold on.

10 MS. SKENDERIS: Oh.

11 CHAIRPERSON ANDERSON: Hold on. Your
12 case is over. Now, you have to wrap up. Now,
13 you can't bring in any new information, so you
14 just need to tell us --

15 MS. SKENDERIS: It's just something
16 that -- an exchange with the gentleman during the
17 audit about the guest checks, if I may?

18 CHAIRPERSON ANDERSON: But I'm saying
19 you can -- all right. This is the end. He has
20 presented the end of his case. Now, you can
21 present. Now, you can wrap up. So this is your
22 final --

1 MS. SKENDERIS: Oh, to do the -- oh.

2 CHAIRPERSON ANDERSON: This is -- you
3 can wrap up.

4 MS. SKENDERIS: I'm sorry. I didn't
5 know.

6 CHAIRPERSON ANDERSON: So you are
7 wrapping up.

8 MS. SKENDERIS: Okay. Thank you.

9 CHAIRPERSON ANDERSON: And this is
10 your big moment, you are wrapping up to tell me
11 what is it that --

12 MS. SKENDERIS: Thank you.

13 CHAIRPERSON ANDERSON: -- was you
14 showed and the Government is recommending that we
15 fine you \$2,000. And that you need to tell us
16 what is it you want us to do.

17 MS. SKENDERIS: Okay.

18 CHAIRPERSON ANDERSON: Do you want to
19 pay \$2,000? Do you -- you don't want to pay
20 nothing? What is it that we need to do?

21 MS. SKENDERIS: Okay. I think
22 personally it's unfair to charge me that much of

1 money for something that I worked so hard to
2 prepare and there were some problems that were
3 very explainable. Meaning, I didn't think it
4 would be a problem for the gentleman to come and
5 look at the system and see, because we were not
6 at a different location. We were in the same
7 building. That's number one.

8 And when we came to the guest checks,
9 I showed my surprise that I had to have copies of
10 every check, every guest, every order and I said
11 wait a minute, I just remembered this, if I have
12 1,000 customers a day, I'm supposed to keep 1,000
13 copies and he said yes.

14 And I said what -- how -- I mean, it
15 would take my whole day to make copies of guest
16 checks to put aside and I said what do other
17 people do? I had no idea. And he said well, you
18 make a roll, put a rubber band around it and
19 throw it in a box and keep it.

20 To me it was something totally
21 unpractical, to say the lease, and at the same
22 time not having waiters to write the guest -- you

1 know, the guest checks, I didn't think that that
2 would apply, guest check would apply to a place
3 like Panera, like we are, the system. That since
4 I don't have waiters, I don't have guest checks.
5 Everything is in the computer.

6 And the total of every month would
7 show exactly how much, you know, we made. That's
8 -- so I think -- and the reason I asked to be
9 heard is because I wanted to explain and I wanted
10 to tell you that it's unfair for a small business
11 like that to charge me that much.

12 CHAIRPERSON ANDERSON: All right.
13 Thank you, ma'am. All right. The record is now
14 closed.

15 Do you -- and I'm going to ask this
16 question, do the parties wish to file proposed
17 findings of fact and conclusions of law or waive
18 their right to do so? Meaning, what that says is
19 that do you want us to make our decision based on
20 the information that was presented here or do you
21 want to go write something as a lawyer normally
22 do and most people.

1 I think the Government probably is
2 going to waive it, but do you want us to make a
3 decision on what was presented?

4 MS. SKENDERIS: What else can a lawyer
5 write? A lawyer who is not here.

6 CHAIRPERSON ANDERSON: So you --

7 MS. SKENDERIS: I thought this is --
8 I thought it was a simple thing and the gentleman
9 was adamant, he didn't even want to look at my
10 invoices. Let me put it this way. And I was
11 pleading with him. I said I did so much work, it
12 was presented here. As if I wasted -- I didn't
13 do anything during the month before the audit.

14 CHAIRPERSON ANDERSON: All right.

15 MS. SKENDERIS: And it wasn't that
16 simple. As I said, it's a small business. I
17 started it. I have no chefs. Okay? I put my
18 grandmother's cooking in there and it's a simple
19 small business that gives work to 20 people.

20 CHAIRPERSON ANDERSON: All right.

21 MS. SKENDERIS: And --

22 CHAIRPERSON ANDERSON: All right.

1 Ma'am, I --

2 MS. SKENDERIS: -- I work my head off.

3 CHAIRPERSON ANDERSON: All right. Mr.
4 Silverstein?

5 MS. SKENDERIS: And I worked a whole
6 month to put all of that, the two boxes together.
7 The invoices that Mr. Brashears said that he
8 hasn't seen anything more organized.

9 CHAIRPERSON ANDERSON: All right. All
10 right.

11 MS. SKENDERIS: Ever.

12 CHAIRPERSON ANDERSON: All right,
13 ma'am.

14 MS. SKENDERIS: And so --

15 CHAIRPERSON ANDERSON: I'm sorry,
16 ma'am, but the case is --

17 MS. SKENDERIS: -- you can decide on
18 your own.

19 CHAIRPERSON ANDERSON: All right.
20 Thank you, ma'am. Mr. Adams? All right.

21 MR. ADAMS: I waive.

22 CHAIRPERSON ANDERSON: All right. The

1 -- all right.

2 MS. SKENDERIS: Okay.

3 CHAIRPERSON ANDERSON: As Chairperson
4 of the Alcoholic Beverage Control Board for the
5 District of Columbia and in accordance with
6 Section 405 of the Open Meetings Amendment Act of
7 2010, I move that the ABC Board hold a closed
8 meeting for the purpose of seeking legal advice
9 from our counsel on Case No. 16-AUD-0086, Zorba's
10 Café, per Section 405(b)(4) of the Open Meetings
11 Amendment Act of 2010, and deliberating upon Case
12 No. 16-AUD-0086, Zorba's Café, for the reasons
13 cited in Section 405(b)(13) of the Open Meetings
14 Amendment Act of 2010.

15 Is there a second?

16 MEMBER SHORT: Second.

17 CHAIRPERSON ANDERSON: Mr. Short has
18 seconded the motion. I will now take a roll call
19 vote on the motion before us now that it has been
20 seconded.

21 Mr. Cato?

22 MEMBER CATO: I agree.

1 CHAIRPERSON ANDERSON: Mr. Alberti?

2 MEMBER ALBERTI: I agree.

3 CHAIRPERSON ANDERSON: Mr. Short?

4 MEMBER SHORT: I agree.

5 CHAIRPERSON ANDERSON: Mr.

6 Silverstein?

7 MEMBER SILVERSTEIN: I agree.

8 CHAIRPERSON ANDERSON: Mr. Anderson?

9 I agree.

10 As it appears that the motion has
11 passed, I hereby give notice that the ABC Board
12 will hold a closed meeting in the ABC Board
13 conference room pursuant to the Open Meetings
14 Amendment Act of 2010 and issue an order within
15 90 days.

16 The Board will listen to -- we will go
17 back and we will deliberate and we will issue a
18 decision in 90 days.

19 I thank both parties for being here
20 today.

21 MR. ADAMS: Thank you.

22 CHAIRPERSON ANDERSON: Thank you.

1 MS. SKENDERIS: Thank you very much.

2 CHAIRPERSON ANDERSON: The Board is in
3 recess until 2:00 p.m.

4 MR. ADAMS: Thank you.

5 (Whereupon, the Show Cause Hearing was
6 concluded at 1:08 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

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Before: DCABRA

Date: 04-25-18

Place: Washington, DC

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