

STATE OF INDIANA
MARION COUNTY, ss:

IN THE MARION SUPERIOR COURT
CRIMINAL DIVISION

Cause No: 49

STATE OF INDIANA)
)
 vs.)
)

INFORMATION

COUNT I

THEFT

I.C. 35-43-4-2(a) and I.C. 35-43-4-2(a)(1)
(A)

A LEVEL 6 FELONY

COUNT II

THEFT

I.C. 35-43-4-2(a)

A CLASS D FELONY

COUNT III

THEFT

I.C. 35-43-4-2(a) and I.C. 35-43-4-2(a)(1)
(A)

A LEVEL 6 FELONY

Manuel Alonso W/Male
DOB 12/10/1969

On this date, the undersigned came before the Prosecuting Attorney of the Nineteenth Judicial Circuit and, being duly sworn (or having affirmed), stated that in Marion County, Indiana

COUNT I

Between July 1, 2014 and December 31, 2015, Manuel Alonso did knowingly or intentionally exert unauthorized control over the property of the State of Indiana, to-wit: state gross retail or use taxes that were not collected and/or remitted as an agent of the State of Indiana for Casa Del Sol Mexican Grill, with the intent to deprive the State of Indiana of any part of the use or value of the property, said property having a value of at least seven hundred fifty dollars and less than the value of fifty thousand dollars;

COUNT II

Between January 1, 2013 and June 30, 2014, Manuel Alonso did knowingly or intentionally exert unauthorized control over the property of the State of Indiana, to-wit: state gross retail or use taxes that were not collected and/or remitted as an agent of the State of Indiana for York Pizza, LLC, with the intent to deprive said person of any part of the use or value of the property;

COUNT III

Between July 1, 2014 and December 31, 2015, Manuel Alonso did knowingly or intentionally exert unauthorized control over the property of the State of Indiana, to-wit: state gross retail or use taxes that were not collected and/or remitted as an agent of the State of Indiana for Ciudad Colonial Fresh Mexican Food, with the intent to deprive the State of Indiana of any part of the use or value of the property, said property having a value of at least seven hundred fifty dollars and less than the value of fifty thousand dollars;

all of which is contrary to statute and against the peace and dignity of the State of Indiana.

I swear or affirm under penalty of perjury as specified by I.C. 35-44.1-2-1 that the foregoing representations are true.

/s/ Carmen Walker

Affiant

State's Witnesses:
CARMEN M WALKER, MCSO
State of Indiana IDOR
Rick Albrecht
Carole Bryant-Buchholz IDOR

February 8, 2017

Date

TERRY R. CURRY
Marion County Prosecutor
19th Judicial Circuit

/s/ Janna Skelton

Deputy Prosecuting Attorney

AFFIDAVIT FOR PROBABLE CAUSE

Carole Bryant-Buchholz, auditor employed with the Indiana Department of Revenue, Rick Albrecht employed with the Marion County Prosecutor's Office (prior agent for over 25 years with the Indiana Department of Revenue), and myself conducted a joint investigation to examine the failure to report gross sales and failure to remit all sales tax collected at several restaurants owned by Manuel Rodriquez Alonso, "Alonso," (W, M, DOB 12/10/1969) and Rosalio Sanchez, "Sanchez," (W, M, DOB 5/13/1982) in Marion, Grant, and Delaware County in Indiana. Individual retail merchants must collect and remit sales tax monies to the Indiana Department of Revenue, 100 N. Senate Avenue, Indianapolis, IN 46204-2253 in Marion County, State of Indiana. Sanchez and Alonso own and operate five restaurants throughout the State of Indiana including:

- 1) Casa Del Sol Mexican Grill, 206 S. Walnut Street, Muncie, 47305
- 2) La Cabana Mexican Grill & Bar, 7035 E. 96th Street, Ste. P, Indianapolis, 46250
- 3) Ciudad Colonial Fresh Mexican Food, 3501 N. Granville Avenue, Ste. J-3., Muncie, 47303
- 4) Casa Grande Mexican Grill & Bar, 6732 Amy Way Drive, Gas City, 46933
- 5) El Metate Mexican Grill & Bar, 115 S. Main Street, Fairmount, 46928

Cash skimming is the act of accepting cash payment for sales and not reporting the payment, thereby not paying the appropriate amount of sales tax. Skimming is fostered by not leaving a paper trail. A few examples of skimming include:

- 1) The employee types into the cash register a lesser amount than the actual sales price. An example of this would be to ring a sale of \$0.01, \$0.99 or \$1.99 instead of the actual amount of the guest check. By doing this, the cash register totals at the end of the day would not reflect the total sales. The customer paid the correct amount for the meal and was given the correct change from the cash register drawer.
- 2) The employee types into the cash register the amount of the guest check ticket, then hits the "no sale" button on the cash register. This opens the cash register drawer, without recording the sale.
- 3) The employee leaves the cash register open between customers. This action would not record the sale nor register a "no sale" transaction on the cash register.

The Indiana Department of Revenue conducted the initial investigation and found several cash skimming examples. On February 13, 2015, Thomas Hawkins, former IDOR employee, and Gabrielle Owens, also former IDOR employee, went to Ciudad Colonial Fresh Mexican Food located at 3501 N Granville Avenue, Ste J-3, in Muncie, Indiana to eat and make observations about paying for transactions. Mr. Hawkins received the guest check, took it to the counter and handed the cashier a \$20.00 bill for the \$14.55 check. The cashier just hit a button on the register that opened the drawer and he gave Mr. Hawkins the correct change, \$5.45. Nothing appeared on the cash register as far as a

sale and the cashier never entered the \$14.55 into the register or the amount of money Mr. Hawkins gave him. Mr. Hawkins witnessed from his vantage point that the cashier did not ring up any other customer sales while they were sitting at their table either. The cashier appeared to be opening the register, taking the money from the customer and then returning change. The adding machine was sitting on the counter where the register was located. This is an example of cash skimming #2 as stated above.

On February 24, 2015, Mr. Hawkins traveled to El Metate Mexican Bar & Grill located at 715 S. Main Street in Fairmount, Indiana. When Mr. Hawkins went to the register to pay for his food, he noticed the cash register's drawer was already open approximately 2 inches. The cashier looked at the guest ticket and told Mr. Hawkins what he owed. Mr. Hawkins provided him with the cash and the cashier pulled the drawer open enough to put the cash inside and retrieve change. This is an example of cash skimming #3 as stated above.

On March 10, 2015, Mr. Hawkins went to La Cabana Mexican Grill & Bar located at 7035 E. 96th Street, Ste. P, for a meal. After receiving the guest check for \$5.39, Mr. Hawkins went to the counter and paid for his bill. When Mr. Hawkins provided the cashier with a \$20.00 bill, the cashier provided him with the change and counted it out. The cashier never rang up anything in the cash register and the drawer was already open when Mr. Hawkins approached. This is another example of cash skimming #3 as stated above.

Income tax returns, W-2s, and sales tax documents of the five restaurants – Casa Del Sol Mexican Grill, La Cabana Mexican Grill & Bar, Ciudad Colonial Fresh Mexican Food, Casa Grande Mexican Grill & Bar, and El Metate Mexican Grill & Bar – were subpoenaed from the Indiana Department of Revenue. Information received from the Indiana Department of Revenue included the federal income tax return which details gross receipts, cost of goods sold, gross profit and ordinary business income or loss. The Indiana Department of Revenue documents also included the Schedule IN-K-1, which is an attachment to the form IT-65 or the form IT-20S. The Schedule IN-K-1 provides information as to the partners of the business and the percentage of the business each partner owns. The form IT-65 is the State of Indiana tax return for a partnership. The form IT-20S is the State of Indiana tax return for a sub-chapter S corporation. The Indiana Department of Revenue also provided the Taxpayer Financials Summary for sales tax. The business records and taxes of all five restaurants were either completed by Custom Business & Tax Solutions, 235 Smith Valley Rd W in Greenwood, Indiana 46142 or Avant & Company Inc. (also known as Avant Tax Services), 3737 N. Meridian Street, Ste 201 in Indianapolis, Indiana 46208. This was also verified from the documents obtained through the Indiana Department of Revenue.

The documents from the Indiana Department of Revenue identified financial account information for Sanchez's and Alonso's personal accounts as well as their five businesses. Their personal and restaurants' financial accounts are through Star Financial Bank. Through a subpoena sent to Star Financial Bank, the following accounts were discovered for the five restaurants: xxxx6520 (Casa Del Sol Mexican Grill), xxxx5472 (La Cabana Mexican Grill & Bar), xxxx5255 (Ciudad Colonial Fresh Mexican

Food), xxxx9026 (Casa Grande Mexican Grill & Bar), and xxxx1153 (El Metate Mexican Grill & Bar). Personal accounts numbers for Sanchez and Alonso are xxxx9148 and xxxx9230.

Star Financial Bank provided signature cards pertaining to the accounts that had been requested. Casa Del Sol Mexican Grill, account owner for xxxx6520, was opened as a new checking account on 10/6/2011 by Manuel R. Alonso. Alonso opened it as a “for profit organization” with a \$16,500 initial deposit.

La Cabana Mexican Grill & Bar, account owner for xxxx5472, was opened as a new checking account on 7/3/2012 by Rosalio Sanchez and Luis Sanchez.

NRM Group, Inc. d/b/a Ciudad Colonial Fresh Mexican Food, account owner for xxxx5255, was opened as a new checking account on 9/16/2013 by Manuel R. Alonso.

RNL Group Inc. d/b/a El Metate Mexican Grill & Bar, account owner for xxxx1153, was opened as a checking account on 5/20/2014 by Rosalio Sanchez and Luis M. Sanchez.

Casa Grande Mexican Grill & Bar, account owner of xxxx9026, was opened as a new checking account on 11/9/2009 by Rosalio Sanchez and Luis M. Sanchez.

Cash deposits calculated from the restaurants’ financial statements:

The bank statements for the years 2012, 2013, 2014, and a portion of 2015 (Jan-May) were examined by Investigator Albrecht, Auditor Bryant-Buchholz, and myself. The bank statements, specifically the items deposited, were analyzed to determine the amount of cash deposits and credit card deposits (which are directly deposited from third party merchant processors) to determine the ratio of cash deposits to total deposits. For calculation purposes, the percentage of cash deposits is obtained by dividing the total deposits by the cash deposits. Based on Auditor Bryant-Buchholz’s training and experience as well as restaurant industry standards, other Indiana restaurants typically reported cash deposits of between forty (40) and sixty (60) percent of sales with the remaining consisting of credit card sales. Anything less than this range indicates an underreporting of gross sales. The majority of the restaurants fell below the average, which is an indication of underreporting of sales. Some restaurants did not report any cash deposits for several years in a row. The following charts demonstrate the cash deposits for each restaurant from 2012 through May 2015:

Casa Del Sol Mexican Grill – xxxx6520

Year	Total Bank Deposits	Cash Deposits	Percentage of Deposits as Cash
2012	\$497,670.13	\$5,500.00	$(\$5,500/\$497,670.13) = 1.11\%$
2013	\$578,649.82	\$0.00	$(\$0/\$578,649.82) = 0\%$
2014	\$565,632.10	\$0.00	$(\$0/\$565,632.10) = 0\%$

2015 (Jan-May)	\$208,382.53	\$0.00	$(\$0/\$208,382.53) = 0\%$
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La Cabana Mexican Grill & Bar – xxxx5472

Year	Total Bank Deposits	Cash Deposits	Percentage of Deposits as Cash
2012 (July-Dec)	\$34,441.13	\$21,400.00	$(\$21,400/\$34,441.13) = 62.14\%$
2013	\$305,172.53	\$0.00	$(\$0/\$305,172.53) = 0\%$
2014	\$437,997.87	\$0.00	$(\$0/\$437,997.87) = 0\%$
2015 (Jan-May)	\$215,683.52	\$0.00	$(\$0/\$215,683.52) = 0\%$

Ciudad Colonial Fresh Mexican Food – xxxx5255

Year	Total Bank Deposits	Cash Deposits	Percentage of Deposits as Cash
2013(Sept-Dec)	\$83,202.04	\$39,000.00	$(\$39,000/\$83,202.04) = 46.87\%$
2014	\$611,338.86	\$13,100.00	$(\$13,100/\$611,338.86) = 2.14\%$
2015 (Jan-May)	\$219,273.62	\$4,350.00	$(\$4,350/\$219,273.62) = 1.98\%$

Casa Grande Mexican Grill & Bar – xxxx9026

Year	Total Bank Deposits	Cash Deposits	Percentage of Deposits as Cash
2012	\$438,841.07	\$0.00	$(\$0/\$438,841.07) = 0\%$
2013	\$516,301.80	\$0.00	$(\$0/\$516,301.80) = 0\%$
2014	\$561,351.91	\$0.00	$(\$0/\$561,351.91) = 0\%$
2015 (Jan-May)	\$253,883.10	\$0.00	$(\$0/\$253,883.10) = 0\%$

El Metate Mexican Grill & Bar – xxxx1153

Year	Total Bank Deposits	Cash Deposits	Percentage of Deposits as Cash
2014 (May-Dec)	\$63,870.85	\$16,800.00	$(\$16,800/\$63,870.85) = 26.30\%$

2015 (Jan-May)	\$65,307.92	\$4,100.00	$(\$4,100/\$65,307.92) = 6.28\%$
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Summarized Chart:

Restaurant	% of cash deposits for 2012	% of cash deposits for 2013	% of cash deposits for 2014	% of cash deposits for 2015
Casa Del Sol Mexican Grill	1.11%	0%	0%	0%
La Cabana Mexican Grill & Bar	62.14%	0%	0%	0%
Ciudad Colonial Fresh Mexican Food		46.87%	2.14%	1.98%
Casa Grande Mexican Grill & Bar	0%	0%	0%	0%
El Metate Mexican Grill & Bar			26.30%	6.28%

I. Markup rates calculated from the restaurants' financial statements:

Auditor Bryant-Buchholz indicated it is common practice during audits of cash-intensive businesses to use the ratio of gross sales to cost of goods sold (COGS) as a tool to analyze a restaurant's business practices. This ratio shows the markup of the purchase price to the sales price. Auditor Bryant-Buchholz possesses 26 years of experience in tax audits including involvement in over 1,000 audits involving 300 to 400 businesses over the course of her career. Approximately 60 of these business audits were completed to support a criminal conviction for tax evasion. Based on the training and experience of Auditor Bryant-Buchholz and restaurant industry standards, she advised audits of other full-service Mexican restaurants selling alcohol and food show this type of business normally has a markup of between four (4) to seven (7) times the purchase price to the sales price. A markup of anything less is consistent with and a strong indicator of an underreporting of sales. The difference between the actual markup and the minimum anticipated markup of 4.0 would provide the minimum expected underreporting of gross receipts. This value is the minimum amount of sales not reported to the Indiana Department of Revenue and is also known as skimming.

The charts listed below were calculated by analyzing the restaurants' financial accounts. The gross sales are the total deposits reported on the bank statements. The food and liquor purchases, also known as the COGS, were shown on cancelled checks and debit card transactions to the various food and alcohol distributors used by the restaurants. The actual markup rate was calculated by dividing gross sales by the total cost of goods sold. The actual markup rate of the five restaurants (Casa Del Sol Mexican Grill, La Cabana Mexican Grill & Bar, Ciudad Colonial Fresh Mexican Food, Casa Grande Mexican Grill & Bar, and El Metate Mexican Grill & Bar) fell in a range between 1.75 and 2.85. This is far below the anticipated markup and is indicative of under-reporting of sales. The minimum expected

underreporting of gross receipts is the difference between the expected markup rate of 4.0 and the actual markup rate. The minimum expected sales not reported to the Indiana Department of Revenue is calculated by multiplying the total cost of goods by the difference in the expected markup rate and the actual markup rate. This gives a monetary amount of sales not reported to IDOR, including both cash and credit card sales. The minimum expected sales tax not paid to IDOR is calculated by multiplying the minimum expected sales by seven percent (7%).

Casa Del Sol Mexican Grill – xxxx6520

	2012	2013	2014	2015 (Jan-May)	Totals
Gross Sales	\$497,670.13	\$578,649.82	\$565,632.10	\$208,382.53	\$1,850,334.58
Food Purchases	\$200,474.28	\$207,081.95	\$200,772.67	\$66,636.20	\$674,965.10
Liquor Purchases	\$39,244.95	\$37,544.87	\$34,490.86	\$13,263.38	\$124,544.06
Total Purchases (COGS)	\$239,719.23	\$244,626.82	\$235,263.53	\$79,899.58	\$799,509.16
Actual Markup Rate	$(\$497,670.13 / \$239,719.23) = 2.08$	$(\$578,649.82 / \$244,626.82) = 2.37$	$(\$565,632.10 / \$235,263.53) = 2.40$	$(\$208,382.53 / \$79,899.58) = 2.61$	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)	$(4.0 - 2.08) = 1.92$	$(4.0 - 2.37) = 1.63$	$(4.0 - 2.40) = 1.60$	$(4.0 - 2.61) = 1.39$	
Minimum Expected Sales Not Reported to IDOR	$(\$239,719.23 \times 1.92) = \$460,260.92$	$(\$244,626.82 \times 1.63) = \$398,741.72$	$(\$235,263.53 \times 1.60) = \$376,421.65$	$(\$79,899.58 \times 1.39) = \$111,060.42$	\$1,346,484.71
Minimum Expected Sales Tax Not Paid to IDOR	$(\$460,260.92 \times .07) = \$32,218.26$	$(\$398,741.72 \times .07) = \$27,911.92$	$(\$376,421.65 \times .07) = \$26,349.52$	$(\$111,060.42 \times .07) = \$7,774.23$	\$94,253.93

The examination of the financial statements for Casa Del Sol Mexican Grill illustrates that the restaurant did not reach the expected minimum markup. Also, the markup from purchases to sales as reported on the financial statements show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue. The restaurant is believed to have underreported sales from 2012 through part of 2015 by \$1,346,484.71 and failed to remit at least \$94,253.93 in sales tax trust fund monies.

La Cabana Mexican Grill & Bar – xxxx5472

	2012	2013	2014	2015 (Jan-May)	Totals
Gross Sales	\$34,441.13	\$305,172.53	\$437,997.87	\$215,683.52	\$993,295.05

Food Purchases	\$13,209.42	\$101,106.74	\$141,005.27	\$61,779.47	\$317,100.90
Liquor Purchases	\$318.06	\$24,076.17	\$27,583.26	\$13,866.20	\$65,843.69
Total Purchases (COGS)	\$13,527.48	\$125,182.91	\$168,588.53	\$75,645.67	\$382,944.59
Actual Markup Rate	$(\$34,441.13/\$13,527.48) = 2.55$	$(\$305,172.53/\$125,182.91) = 2.44$	$(\$437,997.87/\$168,588.53) = 2.60$	$(\$215,683.52/\$75,645.67) = 2.85$	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)	$(4.0-2.55) = 1.45$	$(4.0-2.44) = 1.56$	$(4.0-2.60) = 1.40$	$(4.0-2.85) = 1.15$	
Minimum Expected Sales Not Reported to IDOR	$(\$13,527.48 \times 1.45) = \$19,614.85$	$(\$125,182.91 \times 1.56) = \$195,285.36$	$(\$168,588.53 \times 1.40) = \$236,023.94$	$(\$75,645.67 \times 1.15) = \$86,992.52$	\$537,916.67
Minimum Expected Sales Tax Not Paid to IDOR	$(\$19,614.85 \times .07) = \$1,373.04$	$(\$195,285.36 \times .07) = \$13,669.98$	$(\$236,023.94 \times .07) = \$16,521.68$	$(\$86,992.52 \times .07) = \$6,089.48$	\$37,654.18

The examination of the financial statements for La Cabana Mexican Grill & Bar illustrates that the restaurant did not reach the expected minimum markup. Also, the markup from purchases to sales as reported on the financial statements show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue. The restaurant is believed to have underreported sales from 2012 through part of 2015 by \$537,916.67 and failed to remit at least \$37,654.18 in sales tax trust fund monies.

Ciudad Colonial Fresh Mexican Food – xxxx5255

	2012	2013	2014	2015 (Jan-May)	Totals
Gross Sales		\$83,202.04	\$611,338.86	\$219,273.62	\$913,814.52
Food Purchases		\$28,597.60	\$238,611.50	\$86,397.69	\$353,606.79
Liquor Purchases		\$3,521.16	\$26,853.67	\$7,635.51	\$38,010.34
Total Purchases (COGS)		\$32,118.76	\$265,465.17	\$94,033.20	\$391,617.13
Actual Markup Rate		$(\$83,202.04/\$32,118.76) = 2.59$	$(\$611,338.86/\$265,465.17) = 2.30$	$(\$219,273.62/\$94,033.20) = 2.33$	

Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)		(4.0-2.59)= 1.41	(4.0-2.30)= 1.70	(4.0-2.33)= 1.67	
Minimum Expected Sales Not Reported to IDOR		(\$32,118.76 x 1.41)= \$45,287.45	(\$265,465.17 x 1.70)= \$451,290.79	(\$94,033.20 x 1.67)= \$157,035.44	\$653,613.68
Minimum Expected Sales Tax Not Paid to IDOR		(\$45,287.45 x .07)= \$3,170.12	(\$451,290.79 x .07)= \$31,590.36	(\$157,035.44 x .07)= \$10,992.48	\$45,752.96

The examination of the financial statements for Ciudad Colonial Fresh Mexican Food illustrates that the restaurant did not reach the expected minimum markup. Also, the markup from purchases to sales as reported on the financial statements show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue. The restaurant is believed to have underreported sales from 2013 through part of 2015 by \$653,613.68 and failed to remit at least \$45,752.96 in sales tax trust fund monies.

Casa Grande Mexican Grill & Bar – xxxx9026

	2012	2013	2014	2015 (Jan-May)	Totals
Gross Sales	\$438,841.07	\$516,301.80	\$561,351.91	\$253,883.10	\$1,770,017.88
Food Purchases	\$213,082.44	\$216,168.64	\$227,545.05	\$92,704.35	\$749,500.48
Liquor Purchases	\$37,656.75	\$42,549.34	\$46,894.68	\$18,143.25	\$145,244.02
Total Purchases (COGS)	\$250,739.19	\$258,717.98	\$274,439.73	\$110,847.60	\$894,744.50
Actual Markup Rate	(\$438,841.07/\$250,739.19)= 1.75	(\$516,301.80/\$258,717.98)= 2.00	(\$561,351.91/\$274,439.73)= 2.05	(\$253,883.10/\$110,847.60)= 2.29	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)	(4.0-1.75)= 2.25	(4.0-2.00)= 2.00	(4.0-2.05)= 1.95	(4.0-2.29)= 1.71	
Minimum Expected Sales Not Reported to IDOR	(\$250,739.19 x 2.25)= \$564,163.18	(\$258,717.97 x 2.00)= \$517,435.94	(\$274,439.73 x 1.95)= \$535,157.47	(\$110,847.60 x 1.71)= \$189,549.40	\$1,806,305.99
Minimum Expected Sales Tax Not Paid to IDOR	(\$564,163.18 x .07)= \$39,491.42	(\$517,435.94 x .07)= \$36,220.52	(\$535,157.47 x .07)= \$37,461.02	(\$189,549.40 x .07)= \$13,268.46	\$126,441.42

The examination of the financial statements for Casa Grande Mexican Grill & Bar illustrates that the restaurant did not reach the expected minimum markup. Also, the markup from purchases to sales as reported on the financial statements show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue. The restaurant is believed to have underreported sales from 2012 through part of 2015 by \$1,806,305.99 and failed to remit at least \$126,441.42 in sales tax trust fund monies.

El Metate Mexican Grill & Bar – xxxx1153

	2012	2013	2014	2015 (Jan-May)	Totals
Gross Sales			\$63,870.85	\$65,307.92	\$129,178.77
Food Purchases			\$33,799.52	\$26,125.66	\$59,925.18
Liquor Purchases			\$0.00	\$0.00	\$0.00
Total Purchases (COGS)			\$33,799.52	\$26,125.66	\$59,925.18
Actual Markup Rate			$(\$63,870.85 / \$33,799.52) = 1.89$	$(\$65,307.92 / \$26,125.66) = 2.50$	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)			$(4.0 - 1.89) = 2.11$	$(4.0 - 2.50) = 1.50$	
Minimum Expected Sales Not Reported to IDOR			$(\$33,799.52 \times 2.11) = \$71,316.99$	$(\$26,125.66 \times 1.50) = \$39,188.49$	\$110,505.48
Minimum Expected Sales Tax Not Paid to IDOR			$(\$71,316.99 \times .07) = \$4,992.19$	$(\$39,188.49 \times .07) = \$2,743.19$	\$7,735.38

The examination of the financial statements for El Metate Mexican Grill & Bar illustrates that the restaurant did not reach the expected minimum markup. Also, the markup from purchases to sales as reported on the financial statements show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue. The restaurant is believed to have underreported sales from 2014 through part of 2015 by \$110,505.48 and failed to remit at least \$7,735.38 in sales tax trust fund monies.

Summarized Chart:

Restaurant	Actual Markup Rate 2012	Actual Markup Rate 2013	Actual Markup Rate 2014	Actual Markup Rate 2015	Total Sales Not Reported to IDOR	Total Sales Tax Not Paid to IDOR
Casa Del Sol Mexican Grill	2.08	2.37	2.40	2.61	\$1,346,484.71	\$94,253.93
La Cabana Mexican Grill & Bar	2.55	2.44	2.60	2.85	\$537,916.67	\$37,654.18
Ciudad Colonial Fresh Mexican Food		2.59	2.30	2.33	\$653,613.68	\$45,752.96
Casa Grande Mexican Grill & Bar	1.75	2.00	2.05	2.29	\$1,806,305.99	\$126,441.42
El Metate Mexican Grill & Bar			1.89	2.50	\$110,505.48	\$7,735.38
Totals					\$4,454,826.53	\$311,837.87

II. Markup rates calculated from the federal tax returns and state sales tax returns:

Another part of the investigation was to analyze the sales reported on the federal and state tax returns, which were examined by Investigator Albrecht. The Indiana income tax returns, form IT-20S, with the attached federal income tax returns, form 1120S, were obtained by subpoena from the Indiana Department of Revenue for the years 2012, 2013, and 2014. (All of the evidence detailed to this point was used to obtain search warrants for the restaurants which were executed in January of 2016. The 2015 federal and state tax returns were not available for review until after 4/15/2016, after the date of the search warrants.) The gross sales, cost of goods sold, and ordinary business income were all numbers reported by each business and listed on the 1120s. Ordinary business income is calculated on tax forms by taking the total deductions (compensation of officers, salaries and wages, repairs and maintenance, bad debts, rents, taxes and licenses, interest, depreciation, depletion, advertising, pension, profit sharing, employee benefit programs, and other deductions) and subtracting it from the total income (gross profit, net gain, and other income). The actual markup rate was calculated by dividing gross sales by the total cost of goods sold.

As stated before, a restaurant selling Mexican cuisine is expected to have a markup rate from purchases of food and drink (cost of goods sold) to sales of food and drink (gross receipts) of four (4) to seven (7) times the purchase prices of the food and drink. The actual markup rate of the five restaurants (Casa Del Sol Mexican Grill, La Cabana Mexican Grill & Bar, Ciudad Colonial Fresh Mexican Food, Casa Grande Mexican Grill & Bar, and El Metate Mexican Grill & Bar), which were calculated from federal and state tax returns, fell in a range between 1.58 and 2.21. This is far below the anticipated

markup and is indicative of under-reporting of sales. Both the restaurants' financial accounts and tax returns show a lower than expected minimum markup rate. The minimum expected underreporting of gross receipts is the difference between the expected markup rate of 4.0 and the actual markup rate. The minimum expected sales not reported to the Indiana Department of Revenue is calculated by multiplying the total cost of goods by the difference in the expected markup rate and the actual markup rate. This gives a monetary amount of sales not reported to IDOR, including both cash and credit card sales. The minimum expected sales tax not paid to IDOR is calculated by multiplying the minimum expected sales by seven percent (7%). See charts below for calculations:

Casa Del Sol Mexican Grill

	2012	2013	2014	Totals
Gross Sales	\$661,402.00	\$688,899.00	\$574,260.00	\$1,924,561.00
Cost of Goods Sold	\$321,317.00	\$319,511.00	\$260,018.00	\$900,846.00
Actual Markup Rate	$(\$661,402.00 / \$321,317.00) = 2.06$	$(\$688,899.00 / \$319,511.00) = 2.16$	$(\$574,260.00 / \$260,018.00) = 2.21$	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)	$(4.0 - 2.06) = 1.94$	$(4.0 - 2.16) = 1.84$	$(4.0 - 2.21) = 1.79$	
Minimum Expected Sales Not Reported to IDOR	$(\$321,317.00 \times 1.94) = \$623,354.98$	$(\$319,511.00 \times 1.84) = \$587,900.24$	$(\$260,018.00 \times 1.79) = \$465,432.22$	\$1,676,687.44
Minimum Expected Sales Tax Not Reported to IDOR	$(\$623,354.98 \times .07) = \$43,634.85$	$(\$587,900.24 \times .07) = \$41,153.02$	$(\$465,432.22 \times .07) = \$32,580.26$	\$117,368.13
Ordinary Business Income	\$11,836.00	\$12,193.00	\$13,665.00	

The examination of the 2012, 2013, and 2014 tax returns for Casa Del Sol Mexican Grill illustrates that the restaurant did not reach the expected minimum markup rate and the restaurant had minimal earnings. Also, the markup from purchases to sales as reported on the income tax return show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue. The restaurant is believed to have underreported sales in 2012, 2013, and 2014 by \$1,676,687.44 and failed to remit at least \$117,368.13 in sales tax trust fund monies.

La Cabana Mexican Grill & Bar

	2012	2013	2014	Totals
Gross Sales		\$268,295.00		\$268,295.00

Cost of Goods Sold		\$155,872.00		\$155,872.00
Actual Markup Rate		$(\$268,295.00/\$155,872.00)= 1.72$		
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)		$(4.0-1.72)= 2.28$		
Minimum Expected Sales Not Reported to IDOR		$(\$155,872.00 \times 2.28)= \$355,388.16$		\$355,388.16
Minimum Expected Sales Not Reported to IDOR		$(\$355,388.16 \times .07)= \$24,877.17$		\$24,877.17
Ordinary Business Income	(\$5,023.00)	(\$60,386.00)	\$4,762.00	

The examination of the 2013 federal income tax return for La Cabana Mexican Grill & Bar illustrates that the restaurant did not reach the expected minimum markup rate. The federal income tax returns were not available for review for 2012 and 2014; therefore, the markup rate could not be determined. The Indiana income tax returns for 2012 and 2014 did provide information showing ordinary business income. For the three-year time period (2012, 2013, 2014), the restaurant lost more money than it earned. The business loss for those three years was (\$60,647.00). The restaurant is believed to have underreported sales in 2013 by \$355,388.16 and failed to remit at least \$24,877.17 in sales tax trust fund monies.

Ciudad Colonial Fresh Mexican Food

	2012	2013	2014	Totals
Gross Sales		\$53,861.00	\$588,883.00	\$642,744.00
Cost of Goods Sold		\$29,057.00	\$268,157.00	\$297,214.00
Actual Markup Rate		$(\$53,861.00/\$29,057.00)= 1.85$	$(\$588,883.00/\$268,157.00)= 2.20$	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)		$(4.0-1.85)=2.15$	$(4.0-2.20)=1.80$	
Minimum Expected Sales Not Reported to IDOR		$(\$29,057.00 \times 2.15)= \$62,472.55$	$(\$268,157.00 \times 1.80)= \$482,682.60$	\$545,155.15
Minimum Expected Sales Not Reported to IDOR		$(\$62,472.55 \times .07)= \$4,373.08$	$(\$482,682.60 \times .07)= \$33,787.78$	\$38,160.86

Ordinary Business Income		(\$6,736.00)	(\$7,443.00)	
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The examination of the 2013 and 2014 tax returns for Ciudad Colonial illustrates that the restaurant did not reach the expected minimum markup rate and the restaurant had negative earnings for each year examined. Also, the markup from purchases to sales as reported on the income tax return show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue. The restaurant is believed to have underreported sales in 2013 and 2014 by \$545,155.15 and failed to remit at least \$38,160.86 in sales tax trust fund monies.

Casa Grande Mexican Grill & Bar

	2012	2013	2014	Totals
Gross Sales	\$456,624.00	\$524,007.00	\$553,137.00	\$1,533,768.00
Cost of Goods Sold	\$254,988.00	\$273,539.00	\$277,186.00	\$805,713.00
Actual Markup Rate	$(\$456,624.00 / \$254,988.00) = 1.79$	$(\$524,007.00 / \$273,539.00) = 1.92$	$(\$553,137.00 / \$277,186.00) = 2.00$	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)	$(4.0 - 1.79) = 2.21$	$(4.0 - 1.92) = 2.08$	$(4.0 - 2.00) = 2.00$	
Minimum Expected Sales Not Reported to IDOR	$(\$254,988.00 \times 2.21) = \$563,523.48$	$(\$273,539.00 \times 2.08) = \$568,961.12$	$(\$277,186.00 \times 2.00) = \$554,372.00$	\$1,686,856.60
Minimum Expected Sales Not Reported to IDOR	$(\$563,523.48 \times .07) = \$39,446.64$	$(\$568,961.12 \times .07) = \$39,827.28$	$(\$554,372.00 \times .07) = \$38,806.04$	\$118,079.96
Ordinary Business Income	(\$16,548.00)	\$30,559.00	\$28,507.00	

The examination of the 2012, 2013, and 2014 tax returns for Casa Grande Mexican Grill & Bar illustrates that the restaurant did not reach the expected minimum markup rate and the restaurant had minimal earnings. Also, the markup from purchases to sales as reported on the income tax return show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue and only had a profit of \$42,518.00 in three years. The restaurant is believed to have underreported sales in 2012, 2013, and 2014 by \$1,686,856.60 and failed to remit at least \$118,079.96 in sales tax trust fund monies.

El Metate Mexican Grill & Bar

	2012	2013	2014	Totals
Gross Sales			\$55,492.00	\$55,492.00
Cost of Goods Sold			\$35,146.00	\$35,146.00
Actual Markup Rate			$(\$55,492.00/\$35,146.00) = 1.58$	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)			$(4.0-1.58)=2.42$	
Minimum Expected Sales Not Reported to IDOR			$(\$35,146.00 \times 2.42) = \$85,053.32$	\$85,053.32
Minimum Expected Sales Not Reported to IDOR			$(\$85,053.32 \times .07) = \$5,953.73$	\$5,953.73
Ordinary Business Income			(\$11,789.00)	

The examination of the 2014 tax returns for El Metate Mexican Grill & Bar illustrates that the restaurant did not reach the expected minimum markup rate and the restaurant lost more money than it earned. The restaurant is believed to have underreported sales in 2014 by \$85,053.32 and failed to remit at least \$5,953.73 in sales tax trust fund monies.

Summarized Chart:

Restaurant	Actual Markup Rate 2012	Actual Markup Rate 2013	Actual Markup Rate 2014	Total Sales Not Reported to IDOR	Total Sales Tax Not Paid to IDOR
Casa Del Sol Mexican Grill	2.06	2.16	2.21	\$1,676,687.44	\$117,368.13
La Cabana Mexican Grill & Bar		1.72		\$355,388.16	\$24,877.17
Ciudad Colonial Fresh Mexican Food	1.85	2.20		\$545,155.15	\$38,160.86
Casa Grande Mexican Grill & Bar	1.79	1.92	2.00	\$1,686,856.60	\$118,079.96
El Metate Mexican Grill & Bar			1.58	\$85,053.32	\$5,953.73
Totals				\$4,349,140.67	\$304,439.85

III. Ownership of restaurants and corporations:

A. Casa Del Sol Mexican Grill

According to certified copies obtained from the Indiana Secretary of State's Office Business Services Division, SRR Incorporation, incorporated in the State of Indiana on 10/4/2011, filed a Certificate of Assumed Business Name on the same day (10/4/2011) to conduct business as Casa Del Sol Mexican Grill. SRR Incorporated also filed a Certificate of Assumed Business Name on 10/27/2011 to conduct business as York Pizza, 6732 Amy Way Drive in Gas City, Indiana 46933, but that business closed in July of 2014. The Articles of Incorporation, filed 10/4/2011, state that Alonso M. Rodriguez (Alonso) and Rosalio Sanchez (Sanchez) are the incorporators of SRR Inc. Manuel Rodriguez Alonso (Alonso) signed as President of SRR Inc. on the Certificate of Assumed Business Name for Casa Del Sol Mexican Grill.

The 2012, 2013, and 2014 Indiana IN K-1 (IT-20S) obtained through a subpoena from Indiana Department of Revenue, states that Rosalio Sanchez is fifty percent (50%) shareholder of the corporation and Manuel Rodriguez is also fifty percent (50%) shareholder of the corporation. The Schedule IN K-1 provides information as to the partners of the business and the percentage of the business each partner owns. The 2012, 2013, and 2014 IT20S with the attached IN K-1s were all signed by Manuel Rodriguez (Alonso) and prepared by Custom Business Tax Solutions, Inc. in Greenwood, IN 46142.

From the 2015 Application for Renewal of Alcoholic Beverage Permit, Manuel Rodriguez) is listed as president and 100% shareholder of SRR, Inc., which is different than what was reported on the IN K-1s. According to Investigator Albrecht, the tax return information is the controlling document and splits ownership evenly between Manuel Rodriguez (Alonso) and Rosalio Sanchez (Sanchez). Noe Sanchez is listed as the restaurant's manager. The renewal permit was signed by Manuel Rodriguez (Alonso) on 5/12/2015. The corporation is engaged in business as a restaurant selling Mexican cuisine.

According to the Articles of Incorporation, business entity report, and IN K-1s, the owners or shareholders of SRR, Inc. are Rosalio Sanchez and Manuel Rodriguez Alonso. SRR, Inc. conducts business as Casa Del Sol Mexican Grill with an address of 206 S. Walnut Street, Muncie, IN 47305.

B. La Cabana Mexican Grill & Bar

According to certified copies obtained from the Indiana Secretary of State's Office Business Services Division, El Agave Enterprises, Inc., incorporated in the State of Indiana on 4/1/2010, filed a Certificate of Assumed Business Name on 5/3/2010 to conduct business as Casa Grande Mexican Grill & Bar, 1241 North 13th Street, Decatur, IN 46733. El Agave Enterprises, Inc. filed a Certificate of Assumed Business Name on 6/22/2012 to conduct business as La Cabana Mexican Grill & Bar, 7035 E. 96th Street, Indianapolis, IN 46250. The Articles of Incorporation, filed 4/1/2010, state that Rosalio Sanchez is the incorporator and president of El Agave Enterprises, Inc. Sanchez signed as officer of El Agave Enterprises, Inc. on the Certificate of Assumed Business Name for La Cabana Mexican Grill & Bar.

The 2012, 2013, and 2014 Indiana IN K-1 (IT-20S) obtained through a subpoena from Indiana Department of Revenue, states that Rosalio Sanchez is one hundred percent (100%) shareholder of the corporation. The Schedule IN K-1 provides information as to the partners of the business and the percentage of the business each partner owns.

From the 2015 Application for Renewal of Alcoholic Beverage Permit, Rosalio Sanchez is listed as President/Secretary and 100% shareholder of El Agave Enterprises, Inc. Luis Sanchez is listed as the restaurant's manager on the 2015 Application for Renewal of Alcoholic Beverage Permit. In 2014, La Cabana Mexican Grill & Bar had gross food sales of \$397,559.61 and gross alcoholic beverage sales of \$28,686.35 for total gross sales of \$426,245.96. The total gross sales calculated through their Star Financial account, xxxx5472, were \$437,997.87. The 2014 federal tax return was not available for review to extract the gross sales amount. The renewal permit was signed by Luis Sanchez on 7/6/2015. The corporation is engaged in business as a restaurant selling Mexican cuisine.

According to the Articles of Incorporation, business entity report, and IN K-1s, the owner or shareholder of El Agave Enterprises, Inc. is Rosalio Sanchez. El Agave Enterprises, Inc. conducts business as La Cabana Mexican Grill & Bar with an address of 7035 E. 96th Street, Indianapolis, IN 46250.

C. Ciudad Colonial Fresh Mexican Food

According to certified copies obtained from the Indiana Secretary of State's Office Business Services Division, NRM Group Inc., incorporated in the State of Indiana on 7/25/2013, filed a Certificate of Assumed Business Name on 9/17/2013 to conduct business as Ciudad Colonial Fresh Mexican Food at 3501 N. Granville Avenue, Suite J-3 in Muncie, Indiana 47303. The Articles of Incorporation, filed 7/25/2013, state that Manuel A. Rodriguez (Alonso), 47303, is the registered agent and Rosalio Sanchez is the incorporator of NRM Group, Inc. On the Indiana Business Entity Report, Alonso is listed as the President and Sanchez is listed as the Secretary of NRM Group, Inc. Sanchez signed as "officer or other authorized party" on the Certificate of Assumed Business Name for Ciudad Colonial Fresh Mexican Food.

The 2013 and 2014 Indiana IN K-1 (IT-20S) obtained through a subpoena from Indiana Department of Revenue, states that Rosalio Sanchez is fifty percent (50%) shareholder of the corporation and Manuel Rodriguez Alonso is also fifty percent (50%) shareholder of the corporation. The Schedule IN K-1 provides information as to the partners of the business and the percentage of the business each partner owns.

According to Investigator Albrecht, the tax return information is the controlling document and splits ownership evenly between Manuel Rodriguez and Rosalio Sanchez. Noe Sanchez is also listed as the restaurant's manager. The renewal permit was signed by Manuel Rodriguez (Alonso) on 5/12/2015. The corporation is engaged in business as a restaurant selling Mexican cuisine.

According to the Articles of Incorporation, business entity report, and IN K-1s, the owners or shareholders of NRM Group, Inc. are Rosalio Sanchez and Manuel Rodriguez Alonso. NRM Group, Inc.

conducts business as Ciudad Colonial Fresh Mexican Food with an address of 3501 N. Granville Avenue, Suite J-3 in Muncie, Indiana 47303.

D. Casa Grande Mexican Grill & Bar

According to certified copies obtained from the Indiana Secretary of State's Office Business Services Division, Cactus, Inc., incorporated in the State of Indiana on 8/12/2009, filed a Certificate of Assumed Business Name on 12/3/2009 to conduct business as Casa Grande Mexican Grill & Bar at 6732 Amy Way Drive in Gas City, Indiana, 46933. Cactus, Inc. originally named the business, Casa Grande Mexican Bar & Grill on 10/28/2009, but cancelled that Certificate of Assumed Business Name on 12/3/2009. Throughout the investigation, I have seen the business being referenced as Casa Grande Mexican Grill & Bar or Casa Grande Mexican Bar & Grill, but both names are referring to the same business incorporated by Cactus, Inc. The sign outside the restaurant has the name, Casa Grande Mexican Grill & Bar. The Articles of Incorporation, filed 8/12/2009, state that Rosalio Sanchez is the incorporator/registered agent of Cactus, Inc. Sanchez signed as President of Cactus, Inc. on the Certificate of Assumed Business Name for Casa Grande Mexican Grill & Bar.

The 2012, 2013, and 2014 Indiana IN K-1 (IT-20S) obtained through a subpoena from Indiana Department of Revenue, states that Rosalio Sanchez is one hundred percent (100%) shareholder of the corporation. The Schedule IN K-1 provides information as to the partners of the business and the percentage of the business each partner owns.

From the 2014 Application for Renewal of Alcoholic Beverage Permit, Rosalio Sanchez is listed as President/Secretary and 100% shareholder of Cactus, Inc.

According to the Articles of Incorporation, Certificate of Assumed Business Name document, business entity report, and IN K-1s, the owner or shareholder of Cactus, Inc. is Rosalio Sanchez. Cactus, Inc. conducts business as Casa Grande Mexican Grill & Bar with an address of 6732 Amy Way Drive in Gas City, Indiana, 46933.

E. El Metate Mexican Grill & Bar

According to certified copies obtained from the Indiana Secretary of State's Office Business Services Division, RNL Group Inc., incorporated in the State of Indiana on 4/21/2014, filed a Certificate of Assumed Business Name on 5/13/2014 to conduct business as El Metate Mexican Grill & Bar, 115 S. Main Street, Fairmount, IN 46928. Rosalio Sanchez signed as President of RNL Group Inc. The Articles of Incorporation also state that Rosalio Sanchez is the registered agent and incorporator of RNL Group Inc.

The 2014 Indiana IN K-1 (IT-20S) obtained through a subpoena from Indiana Department of Revenue, states that Rosalio Sanchez is one hundred percent (100%) shareholder of the corporation. The Schedule IN K-1 provides information as to the partner(s) of the business and the percentage of the business each partner owns.

A name is not listed as the restaurant’s manager on the 2015 Application for Renewal of Alcoholic Beverage Permit. In 2014, El Metate Mexican Grill & Bar had gross food sales of \$49,940.54 and gross alcoholic beverage sales of \$5,548.95 for total gross sales of \$55,489.49. The total gross sales calculated through their Star Financial account, xxxx1153, were \$63,870.85. The gross sales reported on their 2014 federal tax return were \$55,492.00. The renewal permit was signed by Rosalio Sanchez on 6/15/2015. The corporation is engaged in business as a restaurant selling Mexican cuisine.

According to the Articles of Incorporation, Certificate of Assumed Business Name document, and IN K-1, the owner or shareholders of RNL Group Inc. is Rosalio Sanchez. RNL Group Inc. conducts business as El Metate Mexican Grill & Bar with an address of 115 S. Main Street, Fairmount, IN 46928.

Summarized Ownership Chart:

<u>Restaurant</u>	<u>Manuel Rodriguez Alonso</u>	<u>Rosalio Sanchez</u>
Casa Del Sol Mexican Grill	50%	50%
La Cabana Mexican Grill & Bar		100%
Ciudad Colonial Fresh Mexican Food	50%	50%
Casa Grande Mexican Grill & Bar		100%
El Metate Mexican Grill & Bar		100%

IV. Defining Indiana tax statutes and terms:

If an individual, partnership, or corporation doing business in Indiana makes retail sales then the individual, partnership or corporation is subject to the State Gross Retail and Use Taxes.

Indiana Code 6-2.5-1-5 defines gross retail income as the total amount of consideration, including cash, credit, property, and services, for which tangible personal property is sold, leased, or rented, valued in money, whether received in money or otherwise, without an deduction for: (1) the seller’s cost of the property sold; (2) the cost of material used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller; (3) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges; (4) delivery charges; or (5) consideration received by the seller from a third party with certain criteria.

In order to determine gross retail income and the appropriate taxes for a retail merchant’s tax liability, Indiana Code section 6-8.1-5-4(a) requires that every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person’s liability for that tax by reviewing those books and records. The records referred to in this section include all source

documents necessary to determine the tax, including invoices, register tapes, receipts, and cancelled checks.

Indiana Code Section 6-2.5-6-7 requires that a retail merchant shall pay to the Department of Revenue, for a particular reporting period, an amount equal to the product of: (1) seven percent (7%) multiplied by (2) the retail merchant's total gross retail income from taxable transactions made during the reporting period. The amount determined is the retail merchant's state gross retail and use tax liability, commonly referred to as sales tax, regardless of the amount of tax the retail merchant actually collects.

Indiana Code Section 6-2.5-9-3 requires any individual that is (1) an individual retail merchant or is an employee, officer, or member of a corporate or partnership retail merchant and (2) has a duty to remit state gross retail or use taxes to the Department of Revenue hold those taxes in trust for the state and is personal liable for the payment of those taxes and knowingly failing to collect or remit those taxes is a Class D/Level 6 felony.

I was advised by Investigator Albrecht and Auditor Bryant-Buchholz that in their training and experience, businesses operating as a small corporation commonly maintain their books and business records at the place of business or the residence of the owner or owners of the business. On January 20, 2016, search warrants were executed at Casa Del Sol Mexican Grill (206 S. Walnut Street, Muncie, 47305), La Cabana Mexican Grill & Bar (7035 E. 96th Street, Ste. P, Indianapolis, 46250), Ciudad Colonial Fresh Mexican Food (3501 N. Granville Ave., Ste. J-3, Muncie, 47303), Casa Grande Mexican Grill & Bar (6732 Amy Way Drive, Gas City, 46933), El Metate Mexican Grill & Bar (115 S. Main Street, Fairmount, 46928), Alonso's residence (601 E. Streeter Ave., Muncie, 47303), Sanchez's residence (3314 N. Milton Street, Muncie, 47303), Custom Business & Tax Solutions (235 Smith Valley Road W, Greenwood, 46142), and Avant Tax Services (3737 N. Meridian Street, Ste. 201, Indianapolis, 46208). The records recovered during the search warrants include: tax documents, business records, receipts, payroll records, check register tapes, bank records and documents, employment records, business ledgers, and guest checks. These records were reviewed by Investigator Albrecht and Auditor Bryant-Buchholz.

V. Final analysis on the businesses:

Monthly ledgers, guest checks, and a composition notebook were found at Casa Del Sol Mexican Grill, Casa Grande Mexican Grill & Bar, and El Metate Mexican Grill & Bar. Also, additional business documents pertaining to SRR, Inc. d/b/a York Pizza were found and taken as evidence. SRR, Inc. was incorporated in Indiana on 10/4/2011, and Manuel Rodriguez Alonso and Rosalio Sanchez are listed as the incorporators. SRR, Inc. filed a Certificate of Assumed Business Name as Casa Del Sol Mexican Grill with the Indiana Secretary of State on 10/4/2011 and filed another Certificate of Assumed Business Name as York Pizza on 10/27/2011. York Pizza was closed with the Indiana Secretary of State effective 7/14/2014. Because the actual books and records were found at these restaurants (Casa Del Sol Mexican Grill, Casa Grande Mexican Grill & Bar, El Metate Mexican Grill & Bar, and York Pizza), the

amount of underreported sales and tax owed to the Indiana Department of Revenue was calculated from the gross sales stated in the ledgers and composition notebook.

The actual books and records, i.e. monthly ledgers, were not found for La Cabana Mexican Grill & Bar and Ciudad Colonial Fresh Mexican Food, so instead, financial statements, income tax returns, ST-103s, monthly income statements, cash register tapes, and monthly sales reports were analyzed to determine how the restaurants underreported their sales. An estimate of taxable sales was calculated using the average percentage of reported sales from the ledgers found at the restaurants (Casa Del Sol Mexican Grill & Bar, Casa Grande Mexican Grill & Bar and El Metate Mexican Grill & Bar) during the search warrants. The restaurants discussed in the subsequent sections A, B, C, and D detail the actual gross sales stated on the monthly ledgers, and from the monthly ledgers and ST-103s, the amount the restaurants underreported in sales and amount of sales tax owed to IDOR were calculated.

A. Casa Del Sol Mexican Grill / SRR, Inc.

The records seized during the search warrants of the restaurant, 206 S. Walnut Street in Muncie, 47305, and at Custom Business & Tax Solution, 235 Smith Valley Rd W in Greenwood, were reviewed by Auditor Bryant-Buchholz. A composition notebook for the time period of January 2013 through December 2015 was found in the restaurant's records. The composition book is believed to be a monthly ledger. The gross sales, titled "VB," which is believed to be the abbreviation for "ventas bustos," and the register sales, titled "VR," which is believed to be the abbreviation for "ventas register." The word ventas means sales. The amount listed for "VR" matches exactly or very closely to work papers located in the records seized from Custom Business & Tax Solution. The accounting firm prepared a monthly sheet listing all cash register total sales, which were the reported amount from the Z tapes, for each day. The accountant's office divided the total tax collected for each month by the 7% sales tax rate to report total sales on the ST-103s, which are reported to IDOR each month. The ST-103s for September and December of 2015 could not be located in the accountant's files.

In the accountant's processing files, Z tapes were located for the month of March 2014. The Z portion of the cash register tape is normally the section that summarizes the daily sales, no sales, voids, and other activity that occurred during the period the tape was being used. If the daily portion of the tape is destroyed, it is not possible to determine if the Z portion of the tape is properly reporting the sales activity for that day. The Z portion of the tape can be manipulated to reflect an improper sales report by making false entries during the day. When the cash register tape has been destroyed, then the Z portion of the tape cannot be confirmed as being correct in reporting the daily activity of the business. The Z tapes located for Casa Del Sol Mexican Grill show a large amount of no sale transactions. A no sale transaction is when the cash register drawer is opened without a sale being entered on the cash register. In the chart below, the "percentage of no sales," is calculated by taking the "# of no sales," divided by the "total customers & no sales." See below for the percentage of no sales calculated from the Z tapes for March 2014:

<u>Date</u>	<u># of Cash Customers</u>	<u># of Credit Customers</u>	<u># of Total Customers</u>	<u># of No Sales</u>	<u>Total Customers & No Sales</u>	<u>Percentage of No Sales</u>
3/1/2014	24	97	121	32	153	20.92%
3/2/2014	10	34	44	19	63	30.16%
3/3/2014	10	42	52	38	90	42.22%
3/4/2014	20	39	59	16	75	21.33%
3/5/2014	17	62	79	22	101	21.78%
3/6/2014	18	74	92	42	134	31.34%
3/7/2014	17	119	136	40	176	22.73%
3/8/2014	20	62	82	34	116	29.31%
3/9/2014	22	51	73	25	98	25.51%
3/10/2014	12	27	39	32	71	45.07%
3/11/2014	20	43	63	21	84	25.00%
3/12/2014	12	44	56	36	92	39.13%
3/13/2014	14	48	62	35	97	36.08%
3/14/2014	21	102	123	53	176	30.11%
3/15/2014	7	94	101	44	145	30.34%
3/16/2014	9	42	51	16	67	23.88%
3/17/2014	6	42	48	66	114	57.89%
3/18/2014	14	55	69	15	84	17.86%
3/19/2014	17 (*1 check included as cash sale)	50	67	27	94	28.72%
3/20/2014	*info not available	*info not available	122	38	160	23.75%
3/21/2014	16	119	135	66	201	32.84%
3/22/2014	*no Z tape available					
3/23/2014	12	56	68	31	99	31.31%
3/24/2014	6	55	61	28	89	31.46%
3/25/2014	12	39	51	20	71	28.17%
3/26/2014	11	64	75	12	87	13.79%
3/27/2014	18	72	89 (total listed on Z tape as 89, not 90)	23	112	20.54%
3/28/2014	12	69	81	48	129	37.21%
3/29/2014	16	64	80	16	96	16.67%
3/30/2014	17	51	68	16	84	19.05%
3/31/2014	6	56	62	32	94	34.04%
Total			2,309	943	3,252	29.00%

According to the Z tapes, this shows that in the month of March 2014, the cash register drawer was opened 3,252 times, however, 29% of the time, it was opened without a sale being recorded. On March 17, 2014, the cash register drawer was opened 114 times, however, no sale transactions of 66 outnumbered the cash and credit card sales of 48. The percentage of no sale transactions on 3/17/2016 was 57.89%, meaning for every one out of two customers that went through to pay their food/drink bill, a no sale was rang into the cash register by employees/managers of the restaurant.

In the chart listed below, “sales per investigation” are the gross sales reported on the ledger that were recovered during the search warrant. “Sales subject to tax” is calculated by dividing “sales per investigation” by 1.07. The 1.07 is used because the cost of item is 100% (unit price) + 7% (sales tax) = 107% or 1.07. To check this method, multiply “sales subject to tax” by 7% and it will equal “sales per investigation.” “Less tax” is calculated by subtracting “sales subject to tax” from “sales per investigation.” “Reported taxable sales on ST-103s” were numbers reported by Custom Business & Tax Solutions to IDOR as total sales. “Unreported sales” are calculated by subtracting “reported taxable sales on ST-103s” from “sales subject to tax.” “Tax not remitted” is calculated by multiplying “unreported sales” by 7%.

	<u>Sales Per Investigation</u> (figures taken from the monthly ledger)	<u>Less Tax</u> (sales per investigation – sales subject to tax)	<u>Sales Subject to Tax</u> (sales per investigation x 1.07)	<u>Reported Taxable Sales on ST-103s</u> (reported to IDOR)	<u>Unreported Sales</u> (sales subject to tax – reportable taxable sales on ST-103s)	<u>Tax Not Remitted</u> (unreported sales x 7%)
2013						
January	\$54,435.00	\$3,561.17	\$50,873.83	\$41,247.00	\$9,626.83	\$673.88
February	\$54,521.00	\$3,566.79	\$50,954.21	\$42,107.63	\$8,846.58	\$619.26
March	\$57,552.00	\$3,765.08	\$53,786.92	\$41,247.38	\$12,539.54	\$877.77
April	\$63,246.00	\$4,137.59	\$59,108.41	\$51,320.13	\$7,788.28	\$545.18
May	\$71,209.00	\$4,658.53	\$66,550.47	\$55,874.50	\$10,675.97	\$747.32
June	\$67,375.00	\$4,407.71	\$62,967.29	\$48,725.50	\$14,241.79	\$996.93
July	\$59,148.00	\$3,869.50	\$55,278.50	\$44,157.88	\$11,120.62	\$778.44
August	\$71,774.00	\$4,695.50	\$67,078.50	\$54,804.63	\$12,273.87	\$859.17
September	\$65,916.00	\$4,312.26	\$61,603.74	\$52,298.25	\$9,305.49	\$651.38
October	\$59,897.00	\$3,918.50	\$55,978.50	\$48,143.75	\$7,834.75	\$548.43
November	\$59,805.00	\$3,912.48	\$55,892.52	\$48,566.75	\$7,325.77	\$512.80
December	\$52,778.00	\$3,452.77	\$49,325.23	\$40,731.75	\$8,593.48	\$601.54
Total 2013	\$737,656.00	\$48,257.88	\$689,398.12	\$569,225.15	\$120,172.97	\$8,412.10
2014						
January	\$44,765.00	\$2,928.55	\$41,836.45	\$33,066.25	\$8,770.20	\$613.91
February	\$54,832.00	\$3,587.14	\$51,244.86	\$41,785.00	\$9,459.86	\$662.19
March	\$65,807.97	\$4,305.19	\$61,502.78	\$45,859.13	\$15,643.65	\$1,095.06
April	\$67,388.00	\$4,408.56	\$62,979.44	\$52,971.00	\$10,008.44	\$700.59
May	\$71,253.00	\$4,661.41	\$66,591.59	\$56,040.88	\$10,550.71	\$738.55
June	\$59,761.00	\$3,909.60	\$55,851.40	\$44,752.50	\$11,098.90	\$776.92
July	\$60,021.00	\$3,926.61	\$56,094.39	\$45,589.00	\$10,505.39	\$735.38
August	\$66,970.81	\$4,381.27	\$62,589.54	\$53,037.88	\$9,551.66	\$668.62
September	\$60,671.00	\$3,969.13	\$56,701.87	\$48,077.25	\$8,624.62	\$603.72
October	\$55,062.00	\$3,602.19	\$51,459.81	\$43,882.50	\$7,577.31	\$530.41
November	\$43,561.00	\$2,849.79	\$40,711.21	\$33,811.63	\$6,899.58	\$482.97
December	\$46,667.78	\$3,053.03	\$43,614.75	\$35,615.38	\$7,999.37	\$559.96
Total 2014	\$696,760.56	\$45,582.47	\$651,178.09	\$534,488.40	\$116,689.69	\$8,168.28
2015						
January	\$46,703.62	\$3,055.38	\$43,648.24	\$35,942.00	\$7,706.24	\$539.44
February	\$46,077.77	\$3,014.43	\$43,063.34	\$36,289.50	\$6,773.84	\$474.17

March	\$49,927.00	\$3,266.25	\$46,660.75	\$39,194.63	\$7,466.12	\$522.63
April	\$53,243.00	\$3,483.19	\$49,759.81	\$42,323.13	\$7,436.68	\$520.57
May	\$56,703.00	\$3,709.54	\$52,993.46	\$45,774.75	\$7,218.71	\$505.31
June	\$49,046.00	\$3,208.62	\$45,837.38	\$40,573.63	\$5,263.75	\$368.46
July	\$49,526.60	\$3,240.06	\$46,286.54	\$41,387.04	\$4,899.50	\$342.97
August	\$55,707.74	\$3,644.43	\$52,063.31	\$44,675.68	\$7,387.63	\$517.13
September	\$49,856.51	\$3,261.64	\$46,594.87	\$39,925.50	\$6,669.37	\$466.86
October	\$48,649.79	\$3,182.70	\$45,467.09	\$39,147.88	\$6,319.21	\$442.34
November	\$40,151.38	\$2,626.73	\$37,524.65	\$33,587.38	\$3,937.27	\$275.61
December	\$42,857.44	\$2,803.76	\$40,053.68	\$34,709.13	\$5,344.55	\$374.12
Total 2015	\$588,449.85	\$38,496.73	\$549,953.12	\$473,530.25	\$76,422.87	\$5,349.61

Summarized Chart for Casa Del Sol Mexican Grill

<u>Total for 2013, 2014, & 2015</u>					
<u>Sales Per Investigation</u>	<u>Less Tax</u>	<u>Sales Subject to Tax</u>	<u>Reported Taxable Sales on ST-103s</u>	<u>Unreported Sales</u>	<u>Tax Not Remitted</u>
<u>\$2,022,866.41</u>	<u>\$132,337.08</u>	<u>\$1,890,529.33</u>	<u>\$1,577,243.44</u>	<u>\$313,285.53</u>	<u>\$21,929.99</u>

The sales, without the tax included, reported to IDOR on the ST103s were \$1,577,243.44, while the restaurant had recorded actual sales of \$1,890,529.33 on the accounting ledger. Casa Del Sol Mexican Grill failed to report sales of \$313,285.53 and failed to remit \$21,929.99 in sales tax trust fund monies to IDOR for 2013, 2014 and 2015.

B. York Pizza / SRR, Inc.

A monthly ledger for the time period of January 2013 through June 2014, titled "York Pizza," was located among records seized during the search warrant of Casa Grande Mexican Grill & Bar, 6732 Amy Way Drive in Gas City, 46933. Additional records for York Pizza were found at Custom Business & Tax Solution, 235 Smith Valley Rd W in Greenwood. The monthly ledger is labeled with the letters, "E, V, CH, G, R, A and B," and indicates the following:

Letter	Represents	Translation
E	Effectivo	Cash
V	Visas	Credit Cards
CH	Cheques	Check
G	Gastos	Expenses
R	Registro	Cash Register
A	Arrastre	Pulled (Ticket)
B	Bustos	Total

Column R (registro or cash register) from the ledger matches the work papers located in the records seized from Custom Business & Tax Solutions for the year 2013. The accounting firm prepared

monthly spreadsheets listing all cash register total sales, which were the reported amounts from the Z tapes, for each day. The accountant’s office divided the total tax collected for each month by the 7% sales tax rate to report total sales on the ST-103s, which are reported to IDOR each month. The monthly spreadsheets could not be located for January through June of 2014 in the accountant’s records.

In the chart listed below, “sales per investigation” are the gross sales reported on the ledger that were recovered during the search warrant. “Sales subject to tax” is calculated by dividing “sales per investigation” by 1.07. The 1.07 is used because the cost of item is 100% (unit price) + 7% (sales tax) = 107% or 1.07. To check this method, multiply “sales subject to tax” by 7% and it will equal “sales per investigation.” “Less tax” is calculated by subtracting “sales subject to tax” from “sales per investigation.” “Reported taxable sales on ST-103s” were numbers reported by Custom Business & Tax Solutions to IDOR as total sales. “Unreported sales” are calculated by subtracting “reported taxable sales on ST-103s” from “sales subject to tax.” “Tax not remitted” is calculated by multiplying “unreported sales” by 7%.

	<u>Sales Per Investigation</u> (figures taken from the monthly ledger)	<u>Less Tax</u> (sales per investigation – sales subject to tax)	<u>Sales Subject to Tax</u> (sales per investigation x 1.07)	<u>Reported Taxable Sales on ST-103s</u> (reported to IDOR)	<u>Unreported Sales</u> (sales subject to tax – reportable taxable sales on ST-103s)	<u>Tax Not Remitted</u> (unreported sales x 7%)
2013						
January	\$14,392.72	\$941.58	\$13,451.14	\$9,333.00	\$4,118.14	\$288.27
February	\$14,471.25	\$946.72	\$13,524.53	\$8,958.00	\$4,566.53	\$319.66
March	\$18,609.23	\$1,217.43	\$17,391.80	\$11,486.14	\$5,905.66	\$413.40
April	\$17,894.56	\$1,170.67	\$16,723.89	\$11,628.57	\$5,095.32	\$356.67
May	\$19,735.92	\$1,291.13	\$18,444.79	\$13,404.43	\$5,040.36	\$352.83
June	\$16,494.85	\$1,079.10	\$15,415.75	\$10,917.43	\$4,498.32	\$314.88
July	\$16,383.00	\$1,071.79	\$15,311.21	\$10,488.57	\$4,822.64	\$337.58
August	\$20,328.33	\$1,329.89	\$18,998.44	\$13,099.00	\$5,899.44	\$412.96
September	\$20,797.18	\$1,360.56	\$19,436.62	\$12,116.29	\$7,320.33	\$512.42
October	\$15,848.81	\$1,036.84	\$14,811.97	\$10,028.43	\$4,783.54	\$334.85
November	\$14,526.59	\$950.34	\$13,576.25	\$8,820.57	\$4,755.68	\$332.90
December	\$12,940.80	\$846.59	\$12,094.21	\$8,030.57	\$4,063.64	\$284.45
Total 2013	\$202,423.24	\$13,242.64	\$189,180.60	\$128,311.00	\$60,869.60	\$4,260.87
2014						
January	\$12,258.13	\$801.93	\$11,456.20	\$7,619.57	\$3,836.63	\$268.56
February	\$13,966.75	\$913.71	\$13,053.04	\$8,775.71	\$4,277.33	\$299.41
March	\$13,511.76	\$883.95	\$12,627.81	\$9,030.43	\$3,597.38	\$251.82
April	\$13,143.62	\$859.86	\$12,283.76	\$7,977.71	\$4,306.05	\$301.42
May	\$13,825.20	\$904.45	\$12,920.75	\$8,609.86	\$4,310.89	\$301.76
June	\$12,507.78	\$818.27	\$11,689.51	\$7,944.29	\$3,745.22	\$262.17
July						
August						
September						
October						

November						
December						
Total 2014	\$79,213.24	\$5,182.17	\$74,031.07	\$49,957.57	\$24,073.50	\$1,685.14

Summarized Chart for York Pizza

Total for 2013, 2014, & 2015					
<u>Sales Per Investigation</u>	<u>Less Tax</u>	<u>Sales Subject to Tax</u>	<u>Reported Taxable Sales on ST-103s</u>	<u>Unreported Sales</u>	<u>Tax Not Remitted</u>
<u>\$281,636.48</u>	<u>\$18,424.81</u>	<u>\$263,211.67</u>	<u>\$178,268.57</u>	<u>\$84,943.10</u>	<u>\$5,946.01</u>

The sales, without the tax included, reported to IDOR on the ST103s were \$178,268.57, while the restaurant had recorded actual sales of \$263,211.67 on the accounting ledger. York Pizza closed in July of 2014, but in 2013 and January through June of 2014, the restaurant had failed to report sales of \$84,943.10 and failed to remit \$5,946.01 in sales tax trust fund monies to IDOR.

C. Casa Grande Mexican Grill & Bar / Cactus, Inc.

The records seized during the search warrants of the restaurant, 6732 Amy Way Drive in Gas City, 46933, and at Custom Business & Tax Solution, 235 Smith Valley Rd W in Greenwood, were reviewed by Auditor Bryant-Buchholz. Guest checks recovered at the restaurant had been bound and labeled for each day for the month of December 2015. It was the only month/year found and reviewed by Auditor Bryant-Buchholz. A handwritten note had been stapled to the front of each day of the guest check bundles with the letters, "E, V, CH, G, R, A, B." The letters indicate the following:

Letter	Represents	Translation
E	Effectivo	Cash
V	Visas	Credit Cards
CH	Cheques	Check
G	Gastos	Expenses
R	Registro	Cash Register
A	Arrastre	Pulled (Ticket)
B	Bustos	Total

A monthly ledger for the time period of July 1, 2014 through January 18, 2016 was also recovered at the restaurant. This ledger was compared to the guest check tickets for each day of December 2015 and found to be the same. An additional monthly ledger for the time period of January 2012 through May 2014 was located in restaurant as well. The only monthly ledger not recovered and able to be reviewed by Auditor Bryant-Buchholz was June 2014. The monthly ledger is labeled with the same letters seen on the guest checks: E (effectivo = cash), V (visas = credit cards), CH (cheques =

check), G (gastos = expenses), R (registro = cash register), A (arrastre = pulled tickets), and B (bustos = total). Also, column R (registro or cash register) from the ledger matches the work papers located in the records seized from Custom Business & Tax Solutions. The accounting firm prepared a monthly sheet listing all cash register total sales, which were the reported amounts from the Z tapes, for each day. The accountant's office divided the total tax collected for each month by the 7% sales tax rate to report total sales on the ST-103s, which are reported to IDOR each month.

In the chart listed below, "sales per investigation" are the gross sales reported on the ledger that were recovered during the search warrant. "Sales subject to tax" is calculated by dividing "sales per investigation" by 1.07. The 1.07 is used because the cost of item is 100% (unit price) + 7% (sales tax) = 107% or 1.07. To check this method, multiply "sales subject to tax" by 7% and it will equal "sales per investigation." "Less tax" is calculated by subtracting "sales subject to tax" from "sales per investigation." "Reported taxable sales on ST-103s" were numbers reported by Custom Business & Tax Solutions to IDOR as total sales. "Unreported sales" are calculated by subtracting "reported taxable sales on ST-103s" from "sales subject to tax." "Tax not remitted" is calculated by multiplying "unreported sales" by 7%.

For 2014, the June ledger was not reviewed so to estimate that month, Auditor Bryant-Buchholz added eleven months of "sales subject to tax" and it equaled \$675,585.31. The "reported taxable sales on ST-103s," excluding June were \$500,614.72. The "unreported sales," excluding June were \$174,970.59 (\$675,585.31 - \$500,614.72). Auditor Bryant-Buchholz then calculated the percentage of sales reported by dividing the "reported taxable sales" by "sales subject to tax" which equal 74.10% (\$500,614.72/\$675,585.31 = 74.10%). To calculate the percentage of sales unreported, she divided the "unreported sales" by "sales subject to tax" which equal 25.90% (\$174,970.59/\$675,585.31 = 25.90%). The June 2014 reported taxable sales on the ST-103 was \$44,883.14. The reported number to IDOR, \$44,883.14, was divided by the percentage of sales reported (74.10%) to equal the calculated sales with tax for June 2014 (\$44,883.14/.7410 = \$60,571.04).

	<u>Sales Per Investigation</u> (figures taken from the monthly ledger)	<u>Less Tax</u> (sales per investigation – sales subject to tax)	<u>Sales Subject to Tax</u> (sales per investigation x 1.07)	<u>Reported Taxable Sales on ST-103s</u> (reported to IDOR)	<u>Unreported Sales</u> (sales subject to tax – reportable taxable sales on ST-103s)	<u>Tax Not Remitted</u> (unreported sales x 7%)
2013						
January	\$54,130.29	\$3,541.23	\$50,589.06	\$36,131.29	\$14,457.77	\$1,012.04
February	\$59,484.74	\$3,891.53	\$55,593.21	\$38,991.43	\$16,601.78	\$1,162.12
March	\$65,242.53	\$4,268.20	\$60,974.33	\$43,494.00	\$17,480.33	\$1,223.62
April	\$69,171.12	\$4,525.21	\$64,645.91	\$48,089.43	\$16,556.48	\$1,158.95
May	\$75,477.65	\$4,937.79	\$70,539.86	\$52,676.86	\$17,863.00	\$1,250.41
June	\$62,857.31	\$4,112.16	\$58,745.15	\$43,126.86	\$15,618.29	\$1,093.28
July	\$63,803.85	\$4,174.08	\$59,629.77	\$41,902.14	\$17,727.63	\$1,240.93
August	\$68,762.76	\$4,498.50	\$64,264.26	\$45,115.29	\$19,148.97	\$1,340.43
September	\$66,011.55	\$4,318.51	\$61,693.04	\$43,353.86	\$18,339.18	\$1,283.74

October	\$64,199.40	\$4,199.96	\$59,999.44	\$42,331.29	\$17,668.15	\$1,236.77
November	\$63,367.89	\$4,145.56	\$59,222.33	\$41,887.71	\$17,334.62	\$1,213.42
December	\$56,415.95	\$3,690.76	\$52,725.19	\$37,536.14	\$15,189.05	\$1,063.23
Total 2013	\$768,925.04	\$50,303.49	\$718,621.55	\$514,636.30	\$203,985.25	\$14,278.94
2014						
January	\$52,339.94	\$3,424.11	\$48,915.83	\$36,177.43	\$12,738.40	\$891.69
February	\$60,833.72	\$3,979.78	\$56,853.94	\$41,518.00	\$15,335.94	\$1,073.52
March	\$62,378.06	\$4,080.81	\$58,297.25	\$41,982.29	\$16,314.96	\$1,142.05
April	\$65,194.40	\$4,265.05	\$60,929.35	\$42,902.43	\$18,026.92	\$1,261.88
May	\$72,587.38	\$4,748.71	\$67,838.67	\$48,999.14	\$18,839.53	\$1,318.77
June	\$60,571.04	\$3,962.59	\$56,608.45	\$44,883.14	\$11,725.31	\$820.77
July	\$66,901.80	\$4,376.75	\$62,525.05	\$45,231.14	\$17,293.91	\$1,210.57
August	\$75,369.21	\$4,930.70	\$70,438.51	\$53,016.14	\$17,422.37	\$1,219.57
September	\$72,876.65	\$4,767.63	\$68,109.02	\$49,596.57	\$18,512.45	\$1,295.87
October	\$72,433.23	\$4,738.62	\$67,694.61	\$54,400.29	\$13,294.32	\$930.60
November	\$61,425.82	\$4,018.51	\$57,407.31	\$44,249.86	\$13,157.45	\$921.02
December	\$60,536.07	\$3,960.30	\$56,575.77	\$42,541.43	\$14,034.34	\$982.40
Total 2014	\$783,447.32	\$51,253.56	\$732,193.76	\$545,497.86	\$186,695.90	\$13,068.71
2015						
January	\$61,408.10	\$4,017.35	\$57,390.75	\$41,608.29	\$15,782.46	\$1,104.77
February	\$63,511.23	\$4,154.94	\$59,356.29	\$45,217.00	\$14,139.29	\$989.75
March	\$70,611.62	\$4,619.45	\$65,992.17	\$48,989.71	\$17,002.46	\$1,190.17
April	\$72,322.93	\$4,731.41	\$67,591.52	\$50,987.43	\$16,604.09	\$1,162.29
May	\$85,680.53	\$5,605.27	\$80,075.26	\$62,060.71	\$18,014.55	\$1,261.02
June	\$69,055.51	\$4,517.65	\$64,537.86	\$49,861.00	\$14,676.86	\$1,027.38
July	\$69,258.11	\$4,530.90	\$64,727.21	\$47,151.24	\$17,575.97	\$1,230.32
August	\$74,874.80	\$4,898.35	\$69,976.45	\$57,287.29	\$12,689.16	\$888.24
September	\$80,099.91	\$5,240.18	\$74,859.73	\$55,257.14	\$19,602.59	\$1,372.18
October	\$79,050.23	\$5,171.51	\$73,878.72	\$56,212.57	\$17,666.15	\$1,236.63
November	\$67,910.14	\$4,442.72	\$63,467.42	\$47,524.71	\$15,942.71	\$1,115.99
December	\$67,596.54	\$4,422.20	\$63,174.34	\$49,049.86	\$14,124.48	\$988.71
Total 2015	\$861,379.65	\$56,351.93	\$805,027.72	\$611,206.95	\$193,820.77	\$13,567.45

Summarized Chart for Casa Grande Mexican Grill & Bar

Total for 2013, 2014, & 2015					
<u>Sales Per Investigation</u>	<u>Less Tax</u>	<u>Sales Subject to Tax</u>	<u>Reported Taxable Sales on ST-103s</u>	<u>Unreported Sales</u>	<u>Tax Not Remitted</u>
<u>\$2,413,752.01</u>	<u>\$157,908.98</u>	<u>\$2,255,843.03</u>	<u>\$1,671,341.11</u>	<u>\$584,501.92</u>	<u>\$40,915.10</u>

The sales, without the tax included, reported to IDOR on the ST103s were \$1,671,341.11, while the restaurant had recorded actual sales of \$2,255,843.03 on the accounting ledger. It is evident that all the guest checks were not being entered into the cash register, and certain ones were being pulled and separated in order to make it appear as if the sales were much lower. Auditor Bryant-Buchholz found guest checks recovered from the search warrant labeled "A" or arrastre meaning pulled tickets for

December of 2015. The restaurant even had a designated column in their accounting ledger labeled “A,” for the pulled tickets. The “R” column (registro or cash register) on the ledger matches work paper prepared by Custom Business & Tax Solution. The accountant’s office subtracted the 7% sales tax from the “R” or register sales and then reported the taxable sales to IDOR on the ST-103s. Casa Grande Mexican Grill & Bar had failed to report sales of \$584,501.92 and failed to remit \$40,915.10 in sales tax trust fund monies to IDOR for 2013, 2014 and 2015.

D. El Metate Mexican Grill & Bar / RNL Group, Inc.

The records seized during the search warrant of the restaurant, 115 S. Main Street in Fairmount, 46928, and at Custom Business & Tax Solution, 235 Smith Valley Rd W in Greenwood, were reviewed by Auditor Bryant-Buchholz. Guest checks recovered at the restaurant had been bound and labeled for each day from February – December of 2015, with January being the only missing month for 2015. December 2015 guest checks were copied and reviewed to a monthly ledger. A handwritten note had been stapled to the front of each day of the guest check bundles with the letters, “E, V, CH, G, R, A, B.” The letters indicate the following:

Letter	Represents	Translation
E	Efectivo	Cash
V	Visas	Credit Cards
CH	Cheques	Check
G	Gastos	Expenses
R	Registro	Cash Register
A	Arrastre	Pulled (Ticket)
B	Bustos	Total

A monthly ledger for El Metate Mexican Grill & Bar for the time period of September 2014 through December 2014 and then from April 2015 through December 2015 was located in records of the Casa Grande Mexican Grill & Bar, 6732 Amy Way Drive in Gas City, 46933. The ledger was missing the months of January through March 2015. The monthly ledger also has a column with the same letters seen on the guest checks: E (effectivo = cash), V (visas = credit cards), CH (cheques = check), G (gastos = expenses), R (registro = cash register), A (arrastre = pulled tickets), and B (bustos = total). This ledger was compared to the guest check tickets for all periods (September – December 2014 and April – December 2015) and found to be a match. Also, column R (registro or cash register) from the ledger matches the work papers located in the records seized from Custom Business & Tax Solutions. The accounting firm prepared a monthly sheet listing all cash register total sales, which were the reported amounts from the Z tapes, for each day. The accountant’s office divided the total tax collected for each month by the 7% sales tax rate to report total sales on the ST-103s, which are reported to IDOR each month. The accountant only filed one ST-103 in 2014, which included sales for September through December of 2014, and filed all twelve months for 2015.

In the chart listed below, “sales per investigation” are the gross sales reported on the ledger that were recovered during the search warrant. “Sales subject to tax” is calculated by dividing “sales per investigation” by 1.07. The 1.07 is used because the cost of item is 100% (unit price) + 7% (sales tax) = 107% or 1.07. To check this method, multiply “sales subject to tax” by 7% and it will equal “sales per investigation.” “Less tax” is calculated by subtracting “sales subject to tax” from “sales per investigation.” “Reported taxable sales on ST-103s” were numbers reported by Custom Business & Tax Solutions to IDOR as total sales. “Unreported sales” are calculated by subtracting “reported taxable sales on ST-103s” from “sales subject to tax.” “Tax not remitted” is calculated by multiplying “unreported sales” by 7%.

As stated earlier, the accountant filed one ST-103 for the year 2014 and combined the months of September, October, November and December. The * in the chart below represents the one total for those four months and the 2014 total for “reported taxable sales on ST-103s” were \$55,493.00, thereby leaving “unreported sales” of \$41,450.55 (\$96,943.55 - \$55,493.00) and “tax not remitted” to IDOR of \$2,901.54 (\$41,450.55 x .07).

The guest check ticket information for February and March of 2015 were located among records obtained at the El Metate Mexican Grill & Bar location, 115 S. Main Street in Fairmount, 46928. These guest check tickets were totaled and represent the figures for February and March of 2015 in the chart below. January 2015 was not available to review so to estimate that month, Auditor Bryant-Buchholz added eleven months of “sales subject to tax” and it equaled \$255,154.85. The “reported taxable sales on ST-103s,” excluding January were \$142,228.49. The “unreported sales,” excluding January were \$112,926.36 (\$255,154.85 - \$142,228.49). Auditor Bryant-Buchholz then calculated the percentage of sales reported by dividing the “reported taxable sales” by “sales subject to tax” to equal 55.74% (\$142,228.49/\$255,154.85 = 55.74%). To calculate the percentage of sales unreported, she divided the “unreported sales” by “sales subject to tax” to equal 44.26% (\$112,926.36/\$255,154.85 = 44.26%). The January 2015 reported taxable sales on the ST-103 was \$11,475.86. The reported number to IDOR, \$11,475.86, was divided by the percentage of sales reported (55.74%) to equal the calculated sales with tax for January 2015 (\$11,475.86/.5574 = \$20,588.20).

	<u>Sales Per Investigation</u> (figures taken from the monthly ledger)	<u>Less Tax</u> (sales per investigation – sales subject to tax)	<u>Sales Subject to Tax</u> (sales per investigation x 1.07)	<u>Reported Taxable Sales on ST-103s</u> (reported to IDOR)	<u>Unreported Sales</u> (sales subject to tax – reportable taxable sales on ST-103s)	<u>Tax Not Remitted</u> (unreported sales x 7%)
2014						
January						
February						
March						
April						
May						
June						
July						

August						
September	\$14,236.91	\$931.39	\$13,305.52	*	*	*
October	\$38,963.84	\$2,549.04	\$36,414.80	*	*	*
November	\$26,762.38	\$1,750.81	\$25,011.57	*	*	*
December	\$23,766.48	\$1,554.82	\$22,211.66	*	*	*
Total 2014	\$103,729.61	\$6,786.06	\$96,943.55	\$55,493.00	\$41,450.55	\$2,901.54
2015						
January	\$20,588.20	\$1,346.89	\$19,241.31	\$11,475.86	\$7,765.45	\$543.58
February	\$25,158.44	\$1,645.88	\$23,512.56	\$14,064.00	\$9,448.56	\$661.40
March	\$23,785.86	\$1,556.08	\$22,229.78	\$12,515.43	\$9,714.35	\$680.00
April	\$23,885.76	\$1,562.62	\$22,323.14	\$14,382.57	\$7,940.57	\$555.84
May	\$27,558.42	\$1,802.89	\$25,755.53	\$16,660.57	\$9,094.96	\$636.65
June	\$24,457.15	\$1,600.00	\$22,857.15	\$14,492.14	\$8,365.01	\$585.55
July	\$23,136.13	\$1,513.58	\$21,622.55	\$12,747.46	\$8,875.09	\$621.26
August	\$23,968.09	\$1,568.01	\$22,400.08	\$14,563.00	\$7,837.08	\$548.60
September	\$26,112.98	\$1,708.33	\$24,404.65	\$12,852.17	\$11,552.48	\$808.67
October	\$20,648.84	\$1,350.86	\$19,297.98	\$10,560.04	\$8,737.94	\$611.66
November	\$18,840.02	\$1,232.52	\$17,607.50	\$10,004.41	\$7,603.09	\$532.22
December	\$17,603.16	\$1,151.61	\$16,451.55	\$9,386.70	\$7,064.85	\$494.54
Total 2015	\$275,743.05	\$18,039.27	\$257,703.78	\$153,704.35	\$103,999.43	\$7,279.97

Summarized Chart for El Metate Mexican Grill & Bar

Total for 2014 & 2015					
<u>Sales Per Investigation</u>	<u>Less Tax</u>	<u>Sales Subject to Tax</u>	<u>Reported Taxable Sales on ST-103s</u>	<u>Unreported Sales</u>	<u>Tax Not Remitted</u>
<u>\$379,472.66</u>	<u>\$24,825.33</u>	<u>\$354,647.33</u>	<u>\$209,197.35</u>	<u>\$145,449.98</u>	<u>\$10,181.51</u>

The sales, without the tax included, reported to IDOR on the ST103s were \$209,197.35, while the restaurant had recorded actual sales of \$354,647.33 on the accounting ledger. It is evident that all the guest checks were not being entered into the cash register, and certain ones were being pulled and separated in order to make it appear as if the sales were much lower. Auditor Bryant-Buchholz found guest checks recovered from the search warrant labeled "A" or arrastre meaning pulled tickets from February – December of 2015. The restaurant even had a designated column in their accounting ledger labeled "A," for the pulled tickets. The "R" column (registro or cash register) on the ledger matches work paper prepared by Custom Business & Tax Solution. The accountant's office subtracted the 7% sales tax from the "R" or register sales and then reported the taxable sales to IDOR on the ST-103s. El Metate Mexican Grill & Bar failed to report sales of \$145,449.98 and failed to remit \$10,181.51 in sales tax trust fund monies to IDOR for 2014 and 2015.

E. La Cabana Mexican Grill & Bar / El Agave Enterprises, Inc.

Methods Used to Show Underreporting of Sales:

The following paragraphs detail the five different methods used to determine if La Cabana Mexican Grill & Bar underreported sales for the restaurant. The first method is through bank statements recovered during the execution of search warrants at the restaurant, 7035 W. 96th Street, Ste. P in Indianapolis, and at the residence of Rosalio Sanchez, 3314 N. Milton Street in Muncie. The bank records for La Cabana Mexican Grill & Bar were at Star Bank, account number xxxx5472. For the years 2013 and 2014, all bank statements were examined by Investigator Albrecht. For the year 2015, December is not included as the December bank statement was not available to Investigator Albrecht for review. The examination of the bank statements for account xxxx5472 showed that only .47% of all deposits made by La Cabana Mexican Grill & Bar for the years 2013, 2014, and 2015 were in the form of cash. As stated before, it is normal for a restaurant to have cash receipts that equal forty (40) to sixty (60) percent of sales. Cash receipts of less than one half percent indicate that forty percent or more of sales are not being deposited into the business bank account. The credit card and debit card sales are shown on the bank statements because those sales must pass through the bank in order for the restaurant to obtain payment from the customers who use those cards to pay for their meals. For calculation purposes, the percentage of cash deposits is obtained by dividing the “cash deposits” by the “total bank deposits.” The following chart demonstrate the cash deposits for La Cabana Mexican Grill & Bar for the years 2013, 2014, and 2015:

La Cabana Mexican Grill and Bar – xxxx5472

<u>Year</u>	<u>Total Bank Deposits</u>	<u>Cash Deposits</u>	<u>Percentage of Deposits as Cash</u>
2013	\$305,203.00	\$2,715.56	$(\$2,715.56/\$305,203.00) = .89\%$
2014	\$438,124.17	\$2,511.82	$(\$2,511.82/\$438,124.17) = .57\%$
2015	\$502,306.89	\$659.25	$(\$659.25/\$502,306.89) = .13\%$
Total	\$1,245,634.06	\$5,886.63	$(\$5,886.63/\$1,245,634.06) = .47\%$

The second method used to show La Cabana Mexican Grill & Bar underreported sales is through sales tax documents subpoenaed from the Indiana Department of Revenue. The Indiana Department of Revenue provided the Taxpayer Financials Summary for La Cabana Mexican Grill & Bar which details total sales and sales tax reported by the restaurant. The chart below details: 1) Reported sales to Department of Revenue, which are sales La Cabana Mexican Grill & Bar reported to IDOR on the sales tax return, Form ST-103; 2) Bank deposits from credit/debit cards, which are numbers extracted from the Star bank (xxxx5472) statements recovered from the search warrants. In order to determine the bank deposits from credit cards, cash deposits were subtracted from the total deposits, and the resulting numbers are the credit card deposits; 3) Difference between “bank deposits from credit/debit cards” and the “reported sales to IDOR.”

The chart shows that La Cabana Mexican Grill & Bar reported sales to the Indiana Department of Revenue that closely mirrored sales made when customers used a credit or debit card to pay for their

meals. For the years 2013 and 2014, all months are shown for the reported sales and bank deposits from credit/debit cards. For the year 2015, December is not included as the December bank statement was not available to Investigator Albrecht for review. The third column, bank deposits from credit/debit cards, does not include cash deposits to the Star bank account, xxx5472. La Cabana Mexican Grill & Bar reported sales to IDOR that were less than sales deposited to the bank account in the form of credit/debit cards. All sales made where a credit or debit card is used as form of payment must go through a clearing house and will be shown as a deposited amount in the bank account of the business. La Cabana Mexican Grill & Bar did not report all of the credit/debit card sales that are reflected in deposits made to the business bank account, xxx5472, to IDOR. Also, none of the cash sales made by La Cabana Mexican Grill & Bar were reported to the Indiana Department of Revenue as sales, and the sales tax collected on the cash sales were not remitted to IDOR.

<u>Year</u>	<u>Reported Sales to IDOR</u>	<u>Bank Deposits from Credit/Debit Cards</u>	<u>Difference Btw Deposits and Sales</u>
2013	\$268,294	\$302,487 (\$305,203.00-\$2,715.56)	\$34,193 (\$302,487-\$268,294)
2014	\$426,246	\$435,612 (\$438,124.17-\$2,511.82)	\$9,366 (\$435,612-\$426,246)
2015	\$478,727	\$501,648 (\$502,306.89-\$659.25)	\$22,921 (\$501,648-\$478,727)
Total	\$1,172,200	\$1,239,747	\$67,547

The ST-103s detail total sales, exemptions/deductions, taxable sales, total tax due, discount (collection allowance), use tax due, interest due, penalty due, payment previously made, and amount due. The ST-103s do not request businesses to detail cash sales and credit/debit card sales on the actual forms, however, the total sales requested is both the cash and credit/card sales from the operation of the business. Even though a cash to total sales percentage was not able to be calculated using the ST-103s, it still shows an underreporting of sales. The total sales reported to IDOR is less than the credit/debit card deposits in the business's financial account. La Cabana Mexican Grill & Bar did not even report all of the credit/debit cards sales, therefore, no cash sales were reported to IDOR for the years 2013, 2014, and 2015.

The third method used to show the restaurant underreported sales is from the cash register tapes recovered on the search warrant, 7035 E. 96th Street, Ste. P, Indianapolis, 46250. The examination done by Investigator Albrecht indicate that cash register tapes had been destroyed and La Cabana Mexican Grill & Bar saved only part of the register tape referred to as the Z portion. The Z portion of the cash register tape is normally the section that summarizes the daily sales, no sales, voids and other

activity that occurred during the period the tape was being used. If the daily portion of the tape is destroyed, it is not possible to determine if the Z portion of the tape is properly reporting the sales activity for that day. The Z portion of the tape can be manipulated to reflect an improper sales report by making false entries during the day. When the cash register tape has been destroyed, then the Z portion of the tape cannot be confirmed as being correct in reporting the daily activity of the business. Investigator Albrecht reviewed 602 Z tapes, with all the cash register tapes being destroyed except for the Z portion. The time span reviewed was twenty months, February, May, June, August and September of 2013; October, November and December of 2014; January, February, March, April, May, June, July, August, September, October and November of 2015.

An examination of the Z portions of the cash register tapes provided further evidence that La Cabana Mexican Grill & Bar was not reporting all sales made. The examination of the Z portions indicate the business reported an average of forty (40) customers per day. In order to arrive at that number, the total number of customers reported on the 602 Z tapes over the twenty-month period were 23,767. The total number of customers were divided by twenty to determine the average customers reported per month ($23,767/20 = 1,188$). The average customers per month (1,188) were divided by 30 to determine the average customers per day ($1,188/30 = 39.61 = 40$). Although some months had 31 days and February had 28 days, the 30 days per month gives the benefit of the doubt to the restaurant. If 31 days had been used, then the average customers per month would be 38 instead of 40 ($1,188/31 = 38.32 = 38$).

The analysis of cash register tapes, the percentage of cash sales to total sales was 15.57%, however, 24.35% of all customers paid in cash. The 602 Z tapes that were reviewed identified gross (total) sales (shown on the tape as NET 3) and cash sales (shown on the tape as CASH). Cash sales (\$121,022.44) were divided by gross (total) sales (\$777,186.39) to determine cash as a percentage of total sales ($\$121,022.44/\$777,186.39 = 15.57\%$). The tapes did not report voided or no sales. The total cash customers of 5,787 (shown at the bottom of daily Z portions as cash count) is divided by the total customers of 23,767 (shown at the bottom of daily Z portions as transaction count) to determine the percentage of cash customers ($5,787/23,767 = 24.35\%$). In order to determine cash sales not reported, the bank deposits for xxxx5472 does not include the cash deposits, but only include credit and debit card deposits. When comparing the percentages as shown on the Z tapes, both the 15.57% (percentage of cash to total sales) and 24.35% (percentage of cash customers) are much lower than the forty (40) percent of cash sales that is the expected minimum. The records not destroyed by La Cabana Mexican Grill & Bar still shows that the restaurant failed to deposit cash in amounts of \$193,029, when applying the cash percentage from the Z tapes, and \$301,877, when applying the percentage of cash customers for the years 2013, 2014, and 2015.

<u>Year</u>	<u>Bank Deposit from Credit/Debit Cards</u>	<u>Cash Percentage From Z Tape</u>	<u>Sales Not Reported Using Percentage of Cash to Total Sales (15.57%)</u>	<u>Cash Customers From Z Tape</u>	<u>Sales Not Reported Using Percentage of Cash Customers (24.35%)</u>

2013	\$302,487	15.57%	\$47,097 (\$302,487 x .1557)	24.35%	\$73,655 (\$302,487 x .2435)
2014	\$435,612	15.57%	\$67,825 (\$435,612 x .1557)	24.35%	\$106,071 (\$435,612 x .2435)
2015	\$501,648	15.57%	\$78,107 (\$501,648 x .1557)	24.35%	\$122,151 (\$501,648 x .2435)
Total	\$1,239,747	15.57%	\$193,029	24.35%	\$301,877

The fourth method used to show the restaurant underreported sales is from information obtained on the monthly sales reports recovered from the search warrant. The monthly sales reports were reviewed by Investigator Albrecht. These reports were prepared by the owner and/or management of La Cabana Mexican Grill & Bar. These documents report cash sales, credit card sales, and sales reported on the cash register. It was noted during the review of the monthly sales reports that the cash reported on the business documents was greater than cash deposited in the Star financial account, xxxx5472. Even though more cash was reported on the monthly sales reports than the cash deposited in the bank account, the amount of cash reported on the monthly sales reports is not sufficient to account for known minimum cash sales.

In the chart below, the cash deposited in xxxx5472 is referenced in the chart to show the difference between the amount La Cabana Mexican Grill & Bar deposited versus what they reported on their business documents, the monthly reports. The percentage of cash is determined by dividing the "cash reported on monthly reports" by "total sales reported on monthly reports." The cash sales reported by La Cabana Mexican Grill & Bar on their monthly reports never reached 20%.

<u>Year</u>	<u>Cash Deposited in xxxx5472</u>	<u>Cash Reported on Monthly Reports</u>	<u>Total Sales Reported on Monthly Reports</u>	<u>% of Cash</u>
2013	\$2,716	\$59,904	\$366,375	16.35% (\$59,904/\$366,375)
2014	\$2,512	\$69,879	\$506,291	13.80% (\$69,879/\$506,291)
2015	\$659	\$60,821	\$603,926	10.07% (60,821/\$603,926)
Total	\$5,887	\$190,604	\$1,476,592	12.91% (\$190,604/\$1,476,592)

The fifth method used to show the restaurant underreported sales is by examining the relationship between gross sales and cost of goods sold as reported on the monthly income statements. The examination was done by Investigator Albrecht and he used the monthly income statements for his analysis, which are different than the monthly reports discussed in the fourth method. The monthly income statements were reports prepared by Custom Business & Tax Solutions, located at 235 Smith Valley Rd W in Greenwood, Indiana 46142. The gross sales and cost of goods sold (COGS), which is the purchase price of food and drinks that are to be sold in the restaurant to customers, were reported by La Cabana Mexican Grill & Bar on the monthly income statements.

This examination of business documents showed a total markup of 2.33 times the purchase price to the sales price. The markup rate is calculated by dividing gross sales by the total cost of goods sold. As stated previously, it is normal for a restaurant selling Mexican cuisine to have a markup of four (4) to seven (7) times the purchase price to the sales price. La Cabana Mexican Grill & Bar consistently fell beneath this minimum threshold. For the three years of 2013, 2014, and 2015, La Cabana Mexican Grill & Bar had a markup that never reached the expected minimum markup rate of four (4) times the purchase price to the sales price. The markup rates for 2013 was 2.01, 2014 was 2.41, and 2015 was 2.48, which are well below the expected minimum markup and is a strong indicator of an underreporting of sales. The relationship between cost of goods sold and gross sales for La Cabana Mexican Grill & Bar indicates the restaurant underreported sales for the years 2013, 2014, and 2015. See charts below for the markup rates of La Cabana Mexican Grill & Bar that were calculated by Investigator Albrecht using the monthly income statements:

	2013	2014	2015	Total
Gross Sales	\$268,294	\$426,246	\$478,727	\$1,173,267
Cost of Goods Sold	\$133,201	\$176,887	\$193,084	\$503,172
Markup Rates	$(\$268,294/\$133,201)$ = 2.01	$(\$426,246/\$176,887) =$ 2.41	$(\$478,727/\$193,084) =$ 2.48	$(\$1,173,267/\$503,172)$ = 2.33

Summary of Methods:

Documents maintained by La Cabana Mexican Grill & Bar show the restaurant was manipulating sales figures through business source documents. First, cash receipts of less than one half percent (0.47%) calculated from the restaurant's Star Bank account (xxx5472) indicate that forty (40) percent or more of sales are not being deposited into their financial account.

Second, for the years 2013, 2014, and 2015, La Cabana Mexican Grill & Bar reported total sales to IDOR on the ST-103s in the amount of \$1,172,200. This number is less than sales deposited in the business's financial account in the form of credit/debit cards (\$1,238,747) and still does not represent any cash sales. The ST-103s do not request a business to detail cash sales and credit/debit card sales on

the actual forms, however, the total sales requested is both the cash and credit/card sales from the operation of the business. Even though a cash to total sales percentage was not able to be calculated using the ST-103s, it still shows an underreporting of sales. La Cabana Mexican Grill & Bar did not even report all of the credit/debit cards sales, therefore, no cash sales were reported and the sales tax collected on those cash sales were not remitted to IDOR either.

Third, the restaurant did not maintain the Z tapes' daily entries so the exact cash sales and gross sales could not be calculated. From the analysis of the Z tapes, covering a time span of twenty months in the years 2013-2015, the percentage of cash to total sales was 15.57%, however, 24.35% of all customers paid in cash. When applying the percentages as shown on the Z tapes, La Cabana Mexican Grill & Bar failed to deposit \$193,029 in cash, calculated using the 15.57% (percentage of cash to total sales) and \$301,877 in cash, calculated using the 24.35% (percentage of cash customers) in the years 2013, 2014, and 2015. The records not destroyed by the restaurant still shows an underreporting of sales.

Fourth, the cash sales reported on the monthly sales reports for the years 2013, 2014, and 2015 averaged 13.40%. It was noted during the review of the monthly sales reports that the cash reported on the business documents was greater than cash deposited in the Star financial account, xxxx5472. Even though more cash was reported on the monthly sales reports than the cash deposited in the bank account, the amount of cash reported on the monthly sales reports is not sufficient to account for known minimum cash sales at a restaurant selling Mexican cuisine.

Fifth, La Cabana Mexican Grill & Bar never had a markup higher than 2.48 times the purchase price, which were calculated from the monthly income statements. From 2013, 2014, and 2015, the total markup was 2.33, which is well below the expected minimum markup of four. All five methods indicate that La Cabana Mexican Grill & Bar underreported sales for the years 2013, 2014, and 2015.

Underreported Sales and Sales Tax Owed to IDOR:

A reasonable estimate of taxable sales was calculated using the average percentage of reported sales from the ledgers found at the following restaurants: Casa Del Sol Mexican Grill, Casa Grande Mexican Grill & Bar and El Metate Mexican Grill & Bar. The sales for York Pizza were not included in the calculation of reported sales because it was a pizza business, not a Mexican restaurant. Auditor Byrant-Buchholz wanted to compare the restaurants' sales that sold similar products. The numbers listed are referring to the restaurants' summarized charts previously discussed in the probable cause affidavit. To calculate the percentage of reported sales, divided the "reported taxable sales on ST-103s" by "sales subject to tax," to equal 77% ($\$3,457,782.26 / \$4,501,019.69 = .768$). To calculate the percentage of unreported sales, divide the "unreported sales" by "sales subject to tax," to equal 23% ($\$1,043,237.43 / \$4,501,019.69 = .231$). The percentages were rounded into whole numbers for an easier calculation on the "calculated taxable sales."

<u>Restaurant</u>	<u>Sales Subject to Tax</u>	<u>Reported Taxable Sales on ST-103s</u>	<u>Unreported Sales</u>
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Casa Del Sol Mexican Grill	\$1,890,529.33	\$1,577,243.80	\$313,285.53
Casa Grande Mexican Grill & Bar	\$2,255,843.03	\$1,671,341.11	\$584,501.92
El Metate Mexican Grill & Bar	\$354,647.33	\$209,197.35	\$145,449.98
Total	\$4,501,019.69	\$3,457,782.26	\$1,043,237.43
Percentages	100%	77%	23%

The following chart lists the reported taxable sales on ST-103s, calculated taxable sales, unreported sales, sales tax rate of 7%, and tax not remitted. The “reported taxable sales on ST-103s” were numbers reported by Custom Business & Tax Solution to IDOR as total sales. The “calculated taxable sales” is the “reported taxable sales on ST-103s” divided by the percentage of 77%. The 77% is the percentage of reported sales using the actual numbers reported on the monthly ledgers and ST-103s for Casa Del Sol Mexican Grill, Casa Grande Mexican Grill & Bar and El Metate Mexican Grill & Bar. The “unreported sales” are calculated by subtracting the “reported taxable sales on the ST-103s” from the “calculated taxable sales.” The “tax not remitted” is the “unreported sales” multiplied by 7%.

	<u>Reported Taxable Sales on ST-103s</u> (reported to IDOR)	<u>Calculated Taxable Sales</u> (reported taxable sales on ST-103s / .77)	<u>Unreported Sales</u> (calculated taxable sales – reportable taxable sales on ST-103s)	<u>Tax Not Remitted</u> (unreported sales x 7%)
2013				
January	\$16,110.07	\$20,922.17	\$4,812.10	\$336.85
February	\$18,273.06	\$23,731.25	\$5,458.19	\$382.07
March	\$22,512.41	\$29,236.90	\$6,724.49	\$470.71
April	\$23,268.79	\$30,219.21	\$6,950.42	\$486.53
May	\$25,909.25	\$33,648.38	\$7,739.13	\$541.74
June	\$19,252.59	\$25,003.36	\$5,750.77	\$402.55
July	\$23,075.63	\$29,968.35	\$6,892.72	\$482.49
August	\$24,671.93	\$32,041.47	\$7,369.54	\$515.87
September	\$23,262.75	\$30,211.36	\$6,948.61	\$486.40
October	\$22,959.39	\$29,817.39	\$6,858.00	\$480.06
November	\$23,999.88	\$31,168.68	\$7,168.80	\$501.82
December	\$24,998.82	\$32,466.00	\$7,467.18	\$522.70
Total 2013	\$268,294.57	\$348,434.52	\$80,139.95	\$5,609.79
2014				
January	\$26,472.85	\$34,380.32	\$7,907.47	\$553.52
February	\$30,436.27	\$39,527.62	\$9,091.35	\$636.39
March	\$34,842.87	\$45,250.48	\$10,407.61	\$728.53
April	\$36,411.12	\$47,287.17	\$10,876.05	\$761.32
May	\$40,575.38	\$52,695.30	\$12,119.92	\$848.39
June	\$39,397.80	\$51,165.97	\$11,768.17	\$823.77

July	\$36,697.58	\$47,659.19	\$10,961.61	\$767.31
August	\$37,917.13	\$49,243.03	\$11,325.90	\$792.81
September	\$34,716.29	\$45,086.09	\$10,369.80	\$725.89
October	\$39,246.78	\$50,969.84	\$11,723.06	\$820.61
November	\$33,715.64	\$43,786.55	\$10,070.91	\$704.96
December	\$34,749.12	\$45,128.73	\$10,379.61	\$726.57
Total 2014	\$425,178.83	\$552,180.29	\$127,001.46	\$8,890.07
2015				
January	\$37,928.80	\$49,258.18	\$11,329.38	\$793.06
February	\$38,528.98	\$50,037.64	\$11,508.66	\$805.61
March	\$42,588.42	\$55,309.64	\$12,721.22	\$890.49
April	\$42,082.70	\$54,652.86	\$12,570.16	\$879.91
May	\$51,945.23	\$67,461.34	\$15,516.11	\$1,086.13
June	\$47,401.00	\$61,559.74	\$14,158.74	\$991.11
July	\$46,330.71	\$60,169.75	\$13,839.04	\$968.73
August	\$46,119.11	\$59,894.95	\$13,775.84	\$964.31
September	\$42,553.46	\$55,264.23	\$12,710.77	\$889.75
October	\$44,174.83	\$57,369.91	\$13,195.08	\$923.66
November	\$39,073.83	\$50,745.23	\$11,671.40	\$817.00
December	\$40,690.61	\$52,844.95	\$12,154.34	\$850.80
Total 2015	\$519,417.68	\$674,568.42	\$155,150.74	\$10,860.56

Summarized Chart for La Cabana Mexican Grill & Bar

<u>Reported Taxable Sales on ST-103s</u>	<u>Calculated Taxable Sales</u>	<u>Unreported Sales</u>	<u>Tax Not Remitted</u>
<u>\$1,212,891.08</u>	<u>\$1,575,183.23</u>	<u>\$362,292.15</u>	<u>\$25,360.42</u>

The sales, without the tax included, reported to IDOR on the ST103s were \$1,212,891.08, while the restaurant had calculated taxable sales of \$1,575,183.22. La Cabana Mexican Grill & Bar had failed to report sales of \$362,292.15 and failed to remit \$25,360.42 in sales tax trust fund monies to IDOR for 2013, 2014 and 2015.

F. Ciudad Colonial Fresh Mexican Food / NRM Group, Inc.

Methods Used to Show Underreporting of Sales:

The following paragraphs detail the four different methods used to show Ciudad Colonial Fresh Mexican Food underreported sales for the restaurant. *(The monthly sales reports that were examined in the fourth method for La Cabana Mexican Grill & Bar were unavailable to Investigator Albrecht for Ciudad Colonial Fresh Mexican Food.)* The first method is through bank statements recovered during the execution of search warrants at the restaurant, 3501 N. Granville Ave., Ste. J-3 in Muncie, at the residence of Rosalio Sanchez, 3314 N. Milton Street in Muncie, and at the residence of Manuel Rodriguez Alonso, 601 E. Streeter Ave. in Muncie. The bank records for Ciudad Colonial Fresh Mexican Food were at Star Bank, account number xxxx5255. The bank statements for the years 2014 and 2015

were examined by Investigator Rick Albrecht. The June and August 2015 bank statements were not available for Investigator Albrecht to review. The examination of the bank statements for account xxxx5255 showed that only 2.86% of all deposits made by Ciudad Colonial Fresh Mexican Food for the years 2014 and 2015 were in the form of cash. The credit card and debit card sales are shown on the bank statements because those sales must pass through the bank in order for the restaurant to obtain payment from the customers who use those cards to pay for their meals. For calculation purposes, the percentage of cash deposits is obtained by dividing the “cash deposits” by the “total bank deposits.” The following chart demonstrate the cash deposits for Ciudad Colonial Fresh Mexican Food for the years 2014 and 2015:

Ciudad Colonial Fresh Mexican Food – xxxx5255:

<u>Year</u>	<u>Total Bank Deposits</u>	<u>Cash Deposits</u>	<u>Percentage of Deposits as Cash</u>
2014	\$559,317.00	\$18,569.00	(\$18,569.00/\$559,317.00) = 3.32%
2015	\$440,028.00	\$9,990.00	(\$9,990.00/\$440,028.00) = 2.27%
Total	\$999,345.00	\$28,559.00	(\$28,559.00/\$999,345.00) = 2.86%

The second method used to show Ciudad Colonial Fresh Mexican Food underreported sales is by examining the relationship between the following documents for 2014: credit and debit card sales reported on the bank statements, total sales reported on the income tax return which were subpoenaed from the Indiana Department of Revenue, and the total sales as reported on the monthly income statements prepared by Custom Business & Tax Solutions, located at 235 Smith Valley Rd W in Greenwood, Indiana 46142. The second column, credit/debit card sales, does not include cash deposits to the Star bank account, xxxx5255. All sales made where a credit or debit card is used as form of payment must go through a clearing house and will be shown as a deposited amount in the bank account of the business. The examination shows that three different figures were reported for the total sales of 2014: total bank deposits in account xxxx5255 were \$559,317, reported sales on the monthly income statements were \$553,915, and the reported sales to IDOR on the income tax return were \$561,517. The credit/debit card sales were \$540,748, meaning the restaurant reported all of the credit/debit card sales on the monthly income statements (\$553,915) and income tax return (\$561,517). However, the examination also shows very little cash was deposited in their: 1) business bank account; 2) reported on the monthly income statements; and 3) reported to IDOR. See chart below:

<u>Total Bank Deposits</u>	<u>Credit/Debit Card Sales</u>	<u>Reported Sales on Monthly Income Statements</u>	<u>Reported Sales to IDOR (Income Tax Return)</u>
\$559,317	\$540,748 ((\$559,317 - \$18,569))	\$553,915	\$561,517

The total sales reported on the 2014 income tax return for Ciudad Colonial Fresh Mexican Food included cash customers of \$20,769, while credit/debit card customers accounted for \$540,748 (\$20,769 + \$540,748 = \$561,517). The percentage of credit/debit card sales is calculated by taking the "credit/debit card sales" divided by the "total sales for 2014" ($\$540,748/\$561,517 = 96\%$). The percentage of cash sales is calculated by taking the "cash sales" divided by the "total sales for 2014." ($\$20,769/\$561,517 = 4\%$). Ciudad Colonial Fresh Mexican Food reported that credit or debit card sales accounted for 96% of their sales, leaving the remainder, 4% being cash customers.

Total Sales	\$561,517
Credit/Debit Card Sales	\$540,748
Cash Sales	\$20,769
% of Credit/Debit Card Sales	96% $(\$540,748/\$561,517) = .96$
% of Cash Sales	4% $(\$20,769/\$561,517) = .036$

The third method used to show the restaurant underreported sales is from the cash register tapes recovered on the search warrant, 3501 N. Granville Ave., Ste. J-3, Muncie, 47303. The examination done by Investigator Albrecht indicate the cash register tapes had been destroyed and Ciudad Colonial Fresh Mexican Food saved only part of the register tape referred to as the Z portion. The Z portion of the cash register tape is normally the section that summarizes the daily sales, no sales, voids, and other activity that occurred during the period the tape was being used. If the daily portion of the tape is destroyed, it is not possible to determine if the Z portion of the tape is properly reporting the sales activity for that day. The Z portion of the tape can be manipulated to reflect an improper sales report by making false entries during the day. When the cash register tape has been destroyed, then the Z portion of the tape cannot be confirmed as being correct in reporting the daily activity of the business. Investigator Albrecht reviewed 350 Z tapes for the year 2014 covering January through December. In 2015, there were no Z tapes to review, however, 179 daily cash reconciliation sheets covering six months (January, February, March, April, May, July) were available to Investigator Albrecht for review. The daily cash reconciliation sheets detail information such as gross sales from Z tapes, credit card sales from Z tapes, tips paid, and cash sales.

The Z portions of the cash register tapes for the year 2014 provided information on sales, number of customers, cash customers, credit or debit card customers, and no sales. The examination of the Z portions indicate the business reported an average of seventy-nine (79) customers per day. The total number of customers reported on the 350 Z tapes over a twelve-month period were 28,597. The

total number of customers were divided by twelve to determine the average customers reported per month ($28,597/12 = 2,383$). The average customers per month (2,383) were divided by 30 to determine the average customers per day ($2,383/30 = 79$). Although some months had 31 days and February had 28 days, the 30 days per month gives the benefit of the doubt to the restaurant. If 31 days had been used, then the average customer per month would be 77 instead of 79 ($2,383/31 = 77$). The Z portions of the cash register tapes also indicate that employees of Ciudad Colonial Fresh Mexican Food rang "no sales" into the cash register 31.60% of the time. In other words, for every third customer that went through to pay their food/drink bill, a no sale was rung into the cash register by employees/managers of the restaurant. The total number of no sales (9,037) were divided by the total number of customers (23,597) to determine the percentage of no sales for the year 2014 ($9,037/23,597 = 31.60\%$). This is an example of cash skimming or the act of accepting cash payment for sales and not reporting the payment, thereby not paying the appropriate amount of sales tax.

From the cash register tapes, the percentage of cash sales to total sales was 20.36%, however, 28.61% of all customer paid in cash. The 350 Z tapes that were reviewed identified gross (total) sales (shown on the tape as NET 3) and cash sales (shown on the tape as CASH). Cash sales (\$122,506.58) were divided by gross (total) sales (\$601,671.95) to determine cash as a percentage of total sales ($\$122,506.58/\$601,671.95 = 20.36\%$). From the 350 Z tapes, the total cash customers of 8,182 (shown at the bottom of daily Z portions as cash count) is divided by the total customers of 28,597 (shown at the bottom of daily Z portions as transaction count) to determine the percentage of cash customers ($8,182/28,597 = 28.61\%$). From the 2015 daily cash reconciliation sheets, the percentage of cash sales to total sales was 17.85% and percentage of credit/debit card sales to total sales was 82.15%. The total cash sales (\$50,377.29) is divided by the gross (total) sales (\$282,196.45) to determine cash as a percentage of total sales ($\$50,377.29/\$282,196.45 = 17.85\%$). The total credit/debit card sales (\$231,819.06) is divided by the gross (total) sales (\$282,196.45) to determine the credit/debit card sales as a percentage of total sales ($\$231,819.06/\$282,196.45 = 82.15\%$).

In the chart listed below, the bank deposits for xxxx5255 do not include the cash deposits. The bank deposits only include the credit and debit card deposits. The amount of cash the restaurant failed to deposit in their financial account was not calculated because the 2015 bank statements and daily cash reconciliation sheets were not complete. The bank statements missing were June and August, while the daily cash reconciliation sheets missing were June, August, September, October, November, and December. When applying the percentages as shown on the Z tapes for 2014, both the 20.36% (percentage of cash to total sales) and 28.61% (percentage of cash customers) are lower than the (40) percent of cash sales that is the expected minimum. The records not destroyed by Ciudad Colonial Fresh Mexican Food still shows the restaurant failed to deposit cash in amounts of \$110,096, when applying the cash percentage from the Z tapes, and \$154,708, when applying the percentage of cash customers for the year 2014.

<u>Year</u>	<u>Bank Deposit from Credit/Debit Cards</u>	<u>Cash Percentage from Z Tape</u>	<u>Sales Not Reported Using Percentage of Cash to Total Sales</u> <i>(20.36%)</i>	<u>Cash Customers from Z Tape</u>	<u>Sales Not Reported Using Percentage of Cash Customers</u> <i>(28.61%)</i>
2014	\$540,748	20.36%	\$110,096 <i>(\$540,748 x .2036)</i>	28.61%	\$154,708 <i>(\$540,748 x .2861)</i>

The fourth method used to show the restaurant underreported sales is by examining the relationship between gross sales and cost of goods sold as reported on the monthly income statements. The examination was done by Investigator Albrecht. As stated earlier, the monthly income statements were reports prepared by Custom Business & Tax Solutions, located at 235 Smith Valley Rd W in Greenwood, Indiana 46142. The gross sales and cost of goods sold (COGS), which is the purchase price of food and drinks that are to be sold in the restaurant to customers, were reported by Ciudad Colonial Fresh Mexican Food on the monthly income statements.

This examination of business documents showed a total markup of 2.10 times the purchase price to the sales price. The markup rate is calculated by dividing gross sales by the total cost of goods sold. As stated previously, it is normal for a restaurant selling Mexican cuisine to have a markup of four (4) to seven (7) times the purchase price to the sales price. Ciudad Colonial Fresh Mexican Food consistently fell beneath this minimum threshold. For 2014 and then from January-September of 2015, Ciudad Colonial Fresh Mexican Food had a markup that never reached the expected minimum markup rate of four (4) times the purchase price to the sales price. The markup rates for 2014 was 2.07 and then from January-September of 2015 was 2.14, which are well below the expected minimum markup and is a strong indicator of an underreporting of sales. The relationship between cost of goods sold and gross sales for Ciudad Colonial Fresh Mexican Food indicates the restaurant underreported sales for the years 2014 and a majority of 2015. See charts below for the markup rates of Ciudad Colonial Fresh Mexican Food that were calculated by Investigator Albrecht using the monthly income statements:

	2014	2015 (Jan-Sept)	Total
Gross Sales	\$553,915	\$384,334	\$938,249
Cost of Goods Sold	\$268,157	\$179,613	\$447,770
Markup Rates	$(\$553,915/\$268,157) =$ 2.07	$(\$384,334/\$179,613) =$ 2.14	$(\$938,249/\$447,770) =$ 2.10

Summary of Methods:

Documents maintained by Ciudad Colonial Fresh Mexican Food show the restaurant was manipulating sales figures through business source documents. First, cash receipts of less than three percent (3%) found in the restaurant's Star Bank account (xxxx5255) indicate that thirty (37) percent or more of sales are not being deposited into the business bank account.

Second, Ciudad Colonial Fresh Mexican Food reported total sales on the 2014 income tax return of \$561,517, cash sales of \$20,769, and credit/debit card sales of \$540,748. When calculating percentages, credit/debit card sales accounted for 96% of their sales while cash sales accounted for 4%, which is substantially lower than the normal known cash sales at restaurants selling Mexican cuisine. The restaurant reported all of their 2014 credit/debit card sales (\$540,748) on the monthly income statements (\$553,915) and income tax return (\$561,517), however, very little cash was reported and/or deposited.

Third, the restaurant did not maintain the Z tapes' daily entries so the exact cash sales and gross sales could not be calculated. From the cash register tapes in 2014, the percentage of cash to total sales was 20.36%, however, 28.61% of all customers paid in cash, both numbers lower than the forty (40) percent of cash sales that is the expected minimum. When applying the percentages as shown on the Z tapes, Ciudad Colonial Fresh Mexican Food failed to deposit \$110,096 in cash, calculated using the 20.36% (percentage of cash to total sales) and \$154,708 in cash, calculated using the 28.61% (percentage of cash customers) in the year 2014. Also, the cash register tapes showed employees of the restaurant rang "no sales" into the cash register 31.60% of the time. The 2014 cash register tapes recovered at the restaurant still shows an underreporting of sales.

Fourth, Ciudad Colonial Fresh Mexican Food never had a markup (COGS) higher than 2.14 times the purchase price, which were calculated from the monthly income statements. From 2014 and 2015 (January – September), the total markup was 2.10, which is well below the expected minimum markup of four. All four methods indicate that Ciudad Colonial Fresh Mexican Food underreported sales for the years 2014 and 2015.

Underreported Sales and Sales Tax Owed to IDOR:

A reasonable estimate of taxable sales was calculated using the average percentage of reported sales from the ledgers found at the following restaurants: Casa Del Sol Mexican Grill, Casa Grande Mexican Grill & Bar and El Metate Mexican Grill & Bar. The sales for York Pizza were not included in the calculation of reported sales because it was a pizza business, not a Mexican restaurant. Auditor Byrant-Buchholz wanted to compare the restaurants' sales that sold similar products. The numbers listed are referring to the restaurants' summarized charts previously discussed in the probable cause affidavit. To calculate the percentage of reported sales, divided the "reported taxable sales on ST-103s" by "sales subject to tax," to equal 77% ($\$3,457,782.26 / \$4,501,019.69 = .768$). To calculate the percentage of unreported sales, divide the "unreported sales" by "sales subject to tax," to equal 23%

(\$1,043,237.43/\$4,501,019.69 = .231). The percentages were rounded into whole numbers for an easier calculation on the “calculated taxable sales.”

<u>Restaurant</u>	<u>Sales Subject to Tax</u>	<u>Reported Taxable Sales on ST-103s</u>	<u>Unreported Sales</u>
Casa Del Sol Mexican Grill	\$1,890,529.33	\$1,577,243.80	\$313,285.53
Casa Grande Mexican Grill & Bar	\$2,255,843.03	\$1,671,341.11	\$584,501.92
El Metate Mexican Grill & Bar	\$354,647.33	\$209,197.35	\$145,449.98
Total	\$4,501,019.69	\$3,457,782.26	\$1,043,237.43
Percentages	100%	77%	23%

The following chart lists the reported taxable sales on ST-103s, calculated taxable sales, unreported sales, sales tax rate of 7%, and tax not remitted. The “reported taxable sales on ST-103s” were numbers reported by Custom Business & Tax Solution to IDOR as total sales. The “calculated taxable sales” is the “reported taxable sales on ST-103s” divided by the percentage of 77%. The 77% is the percentage of reported sales using the actual numbers reported on the monthly ledgers and ST-103s for Casa Del Sol Mexican Grill, Casa Grande Mexican Grill & Bar and El Metate Mexican Grill & Bar. The “unreported sales” are calculated by subtracting the “reported taxable sales on the ST-103s” from the “calculated taxable sales.” The “tax not remitted” is the “unreported sales” multiplied by 7%. NRM Group, Inc. filed a Certificate of Assumed Business Name to conduct business as Ciudad Colonial Fresh Mexican Food on 9/17/2013, so the accountant only filed one ST-103 in 2013 that covered September through December of 2013.

	<u>Reported Taxable Sales on ST-103s</u> (reported to IDOR)	<u>Calculated Taxable Sales</u> (reported taxable sales on ST-103s / .77)	<u>Unreported Sales</u> (calculated taxable sales – reportable taxable sales on ST-103s)	<u>Tax Not Remitted</u> (unreported sales x 7%)
2013				
January				
February				
March				
April				
May				
June				
July				
August				
September				
October				
November				
December	\$56,468.00	\$73,335.06	\$16,867.06	\$1,180.69

Total 2013	\$56,468.00	\$73,335.06	\$16,867.06	\$1,180.69
2014				
January	\$42,110.50	\$54,688.96	\$12,578.46	\$880.49
February	\$50,926.25	\$66,137.99	\$15,211.74	\$1,064.82
March	\$54,153.50	\$70,329.22	\$16,175.72	\$1,132.30
April	\$47,931.50	\$62,248.70	\$14,317.20	\$1,002.20
May	\$52,610.88	\$68,325.82	\$15,714.94	\$1,100.05
June	\$47,980.13	\$62,311.86	\$14,331.73	\$1,003.22
July	\$46,672.00	\$60,612.99	\$13,940.99	\$975.87
August	\$51,417.88	\$66,776.47	\$15,358.59	\$1,075.10
September	\$42,498.75	\$55,193.18	\$12,694.43	\$888.61
October	\$46,619.00	\$60,544.16	\$13,925.16	\$974.76
November	\$48,802.25	\$63,379.55	\$14,577.30	\$1,020.41
December	\$53,258.50	\$69,166.88	\$15,908.38	\$1,113.59
Total 2014	\$584,981.14	\$759,715.78	\$174,734.64	\$12,231.42
2015				
January	\$43,991.75	\$57,132.14	\$13,140.39	\$919.83
February	\$46,884.38	\$60,888.81	\$14,004.43	\$980.31
March	\$48,158.63	\$62,543.68	\$14,385.05	\$1,006.95
April	\$43,795.13	\$56,876.79	\$13,081.66	\$915.72
May	\$49,566.38	\$64,371.92	\$14,805.54	\$1,036.39
June	\$41,035.13	\$53,292.38	\$12,257.25	\$858.01
July	\$42,443.88	\$55,121.92	\$12,678.04	\$887.46
August	\$44,023.06	\$57,172.81	\$13,149.75	\$920.48
September	\$39,513.20	\$51,315.84	\$11,802.64	\$826.18
October	\$43,382.74	\$56,341.22	\$12,958.48	\$907.09
November	\$46,004.41	\$59,745.99	\$13,741.58	\$961.91
December	\$50,649.65	\$65,778.77	\$15,129.12	\$1,059.04
Total 2015	\$539,448.34	\$700,582.27	\$161,133.93	\$11,279.37

Summarized Chart for Ciudad Colonial Fresh Mexican Food

<u>Reported Taxable Sales on ST-103s</u>	<u>Calculated Taxable Sales</u>	<u>Unreported Sales</u>	<u>Tax Not Remitted</u>
<u>\$1,180,897.48</u>	<u>\$1,533,633.11</u>	<u>\$352,735.63</u>	<u>\$24,691.48</u>

The sales, without the tax included, reported to IDOR on the ST103s were \$1,180,897.48, while the restaurant had calculated taxable sales of \$1,533,633.11. Ciudad Colonial Fresh Mexican Food had failed to report sales of \$352,735.63 and failed to remit \$24,691.48 in sales tax trust fund monies to IDOR for 2013, 2014 and 2015.

VI. Total amount of underreported sales and sales tax owed:

The six restaurants owned and operated by Rosalio Sanchez and Manuel Rodriguez Alonso failed to report total sales of \$1,843,208.31 and failed to remit a total of \$129,024.60 in sales tax trust fund

monies to the Indiana Department of Revenue for the years 2013, 2014, and 2015. There are also Food and Beverage tax monies owed for Ciudad Colonial Fresh Mexican Food in the amount of \$3,527.35; LaCabana Mexican Grill and Bar in the amount of \$7,245. 83 and Casa del Sol Mexican Grill in the amount of \$3,132.88. The total Food and Beverage tax fund monies not paid to the Indiana Department of Revenue is \$13,906.06. The total amount of tax monies not paid to the Indiana Department of Revenue is \$ 142,930.66.

<u>Restaurant</u>	<u>Underreported Sales</u>	<u>Tax Not Remitted</u>
Casa Del Sol Mexican Grill	\$313,285.53	\$21,929.99
York Pizza	\$84,943.10	\$5,946.10
Casa Grande Mexican Grill & Bar	\$584,501.92	\$40,915.10
El Metate Mexican Grill & Bar	\$145,449.98	\$10,181.51
La Cabana Mexican Grill & Bar	\$362,292.15	\$25,360.42
Ciudad Colonial Fresh Mexican Food	\$352,735.63	\$24,691.48
Total	\$1,843,208.31	\$129,024.60

I Swear (Affirm), Under The Penalties Of Perjury As Specified By IC 35-44-2-1,that The Forgoing Representations Are True

2/8/2017
Dated

/s/ Carmen Walker
Affiant

STATE OF INDIANA
MARION COUNTY, ss:

IN THE MARION SUPERIOR COURT
CRIMINAL DIVISION

Cause No: 49

STATE OF INDIANA)
)
 vs.)
)

INFORMATION
COUNT I
THEFT
I.C. 35-43-4-2(a) and I.C. 35-43-4-2(a)(1)
(A)
A LEVEL 6 FELONY
COUNT II
THEFT
I.C. 35-43-4-2(a)
A CLASS D FELONY
COUNT III
THEFT
I.C. 35-43-4-2(a) and I.C. 35-43-4-2(a)(1)
(A)
A LEVEL 6 FELONY
COUNT IV
THEFT
I.C. 35-43-4-2(a) and I.C. 35-43-4-2(a)(1)
(A)
A LEVEL 6 FELONY
COUNT V
THEFT
I.C. 35-43-4-2(a) and I.C. 35-43-4-2(a)(1)
(A)
A LEVEL 6 FELONY
COUNT VI
THEFT
I.C. 35-43-4-2(a) and I.C. 35-43-4-2(a)(1)
(A)
A LEVEL 6 FELONY

Rosalio Sanchez W/Male
DOB 5/13/1982

On this date, the undersigned came before the Prosecuting Attorney of the Nineteenth Judicial Circuit and, being duly sworn (or having affirmed), stated that in Marion County, Indiana

COUNT I

Between July 1, 2014 and December 31, 2015, Rosalio Sanchez did knowingly or intentionally exert unauthorized control over the property of the State of Indiana, to-wit: state gross retail or use taxes that were not collected and/or remitted as an agent of the State of Indiana for Casa Del Sol Mexican Grill, with the intent to deprive the State of Indiana of any part of the use or

value of the property, said property having a value of at least seven hundred fifty dollars and less than the value of fifty thousand dollars;

COUNT II

Between January 1, 2013 and June 30, 2014, Rosalio Sanchez did knowingly or intentionally exert unauthorized control over the property of the State of Indiana, to-wit: state gross retail or use taxes that were not collected and/or remitted as an agent of the State of Indiana for York Pizza, LLC, with the intent to deprive the State of Indiana of any part of the use or value of the property;

COUNT III

Between July 1, 2014 and December 31, 2015, Rosalio Sanchez did knowingly or intentionally exert unauthorized control over the property of the State of Indiana, to-wit: state gross retail or use taxes that were not collected and/or remitted as an agent of the State of Indiana for Ciudad Colonial Fresh Mexican Food, with the intent to deprive the State of Indiana of any part of the use or value of the property, said property having a value of at least seven hundred fifty dollars and less than the value of fifty thousand dollars;

COUNT IV

Between July 1, 2014 and December 31, 2015, Rosalio Sanchez did knowingly or intentionally exert unauthorized control over the property of the State of Indiana, to-wit: state gross retail or use taxes that were not collected and/or remitted as an agent of the State of Indiana for Casa Grande Mexican Grill & Bar, with the intent to deprive the State of Indiana of any part of the use or value of the property, said property having a value of at least seven hundred fifty dollars and less than the value of fifty thousand dollars;

COUNT V

Between September 1, 2014 and December 31, 2015, Rosalio Sanchez did knowingly or intentionally exert unauthorized control over the property of the State of Indiana, to-wit: state gross retail or use taxes that were not collected and/or remitted as an agent of the State of Indiana for El Metate Mexican Grill and Bar, with the intent to deprive the State of Indiana of any part of the use or value of the property, said property having a value of at least seven hundred fifty dollars and

less than the value of fifty thousand dollars;

COUNT VI

Between July 1, 2014 and December 31, 2015, Rosalio Sanchez did knowingly or intentionally exert unauthorized control over the property of the State of Indiana, to-wit: state gross retail or use taxes that were not collected and/or remitted as an agent of the State of Indiana for LaCabana Mexican Grill & Bar, with the intent to deprive the State of Indiana of any part of the use or value of the property, said property having a value of at least seven hundred fifty dollars and less than the value of fifty thousand dollars;

all of which is contrary to statute and against the peace and dignity of the State of Indiana.

I swear or affirm under penalty of perjury as specified by I.C. 35-44.1-2-1 that the foregoing representations are true.

/s/ Carmen Walker

Affiant

February 8, 2017

Date

TERRY R. CURRY
Marion County Prosecutor
19th Judicial Circuit

/s/ Janna Skelton

Deputy Prosecuting Attorney

State's Witnesses:
CARMEN M WALKER, MCSO
State of Indiana IDOR
Rick Albrecht
Carole Bryant-Buchholz IDOR

AFFIDAVIT FOR PROBABLE CAUSE

Carole Bryant-Buchholz, auditor employed with the Indiana Department of Revenue, Rick Albrecht employed with the Marion County Prosecutor's Office (prior agent for over 25 years with the Indiana Department of Revenue), and myself conducted a joint investigation to examine the failure to report gross sales and failure to remit all sales tax collected at several restaurants owned by Manuel Rodriquez Alonso, "Alonso," (W, M, DOB 12/10/1969) and Rosalio Sanchez, "Sanchez," (W, M, DOB 5/13/1982) in Marion, Grant, and Delaware County in Indiana. Individual retail merchants must collect and remit sales tax monies to the Indiana Department of Revenue, 100 N. Senate Avenue, Indianapolis, IN 46204-2253 in Marion County, State of Indiana. Sanchez and Alonso own and operate five restaurants throughout the State of Indiana including:

- 1) Casa Del Sol Mexican Grill, 206 S. Walnut Street, Muncie, 47305
- 2) La Cabana Mexican Grill & Bar, 7035 E. 96th Street, Ste. P, Indianapolis, 46250
- 3) Ciudad Colonial Fresh Mexican Food, 3501 N. Granville Avenue, Ste. J-3., Muncie, 47303
- 4) Casa Grande Mexican Grill & Bar, 6732 Amy Way Drive, Gas City, 46933
- 5) El Metate Mexican Grill & Bar, 115 S. Main Street, Fairmount, 46928

Cash skimming is the act of accepting cash payment for sales and not reporting the payment, thereby not paying the appropriate amount of sales tax. Skimming is fostered by not leaving a paper trail. A few examples of skimming include:

- 1) The employee types into the cash register a lesser amount than the actual sales price. An example of this would be to ring a sale of \$0.01, \$0.99 or \$1.99 instead of the actual amount of the guest check. By doing this, the cash register totals at the end of the day would not reflect the total sales. The customer paid the correct amount for the meal and was given the correct change from the cash register drawer.
- 2) The employee types into the cash register the amount of the guest check ticket, then hits the "no sale" button on the cash register. This opens the cash register drawer, without recording the sale.
- 3) The employee leaves the cash register open between customers. This action would not record the sale nor register a "no sale" transaction on the cash register.

The Indiana Department of Revenue conducted the initial investigation and found several cash skimming examples. On February 13, 2015, Thomas Hawkins, former IDOR employee, and Gabrielle Owens, also former IDOR employee, went to Ciudad Colonial Fresh Mexican Food located at 3501 N Granville Avenue, Ste J-3, in Muncie, Indiana to eat and make observations about paying for transactions. Mr. Hawkins received the guest check, took it to the counter and handed the cashier a \$20.00 bill for the \$14.55 check. The cashier just hit a button on the register that opened the drawer and he gave Mr. Hawkins the correct change, \$5.45. Nothing appeared on the cash register as far as a

sale and the cashier never entered the \$14.55 into the register or the amount of money Mr. Hawkins gave him. Mr. Hawkins witnessed from his vantage point that the cashier did not ring up any other customer sales while they were sitting at their table either. The cashier appeared to be opening the register, taking the money from the customer and then returning change. The adding machine was sitting on the counter where the register was located. This is an example of cash skimming #2 as stated above.

On February 24, 2015, Mr. Hawkins traveled to El Metate Mexican Bar & Grill located at 715 S. Main Street in Fairmount, Indiana. When Mr. Hawkins went to the register to pay for his food, he noticed the cash register's drawer was already open approximately 2 inches. The cashier looked at the guest ticket and told Mr. Hawkins what he owed. Mr. Hawkins provided him with the cash and the cashier pulled the drawer open enough to put the cash inside and retrieve change. This is an example of cash skimming #3 as stated above.

On March 10, 2015, Mr. Hawkins went to La Cabana Mexican Grill & Bar located at 7035 E. 96th Street, Ste. P, for a meal. After receiving the guest check for \$5.39, Mr. Hawkins went to the counter and paid for his bill. When Mr. Hawkins provided the cashier with a \$20.00 bill, the cashier provided him with the change and counted it out. The cashier never rang up anything in the cash register and the drawer was already open when Mr. Hawkins approached. This is another example of cash skimming #3 as stated above.

Income tax returns, W-2s, and sales tax documents of the five restaurants – Casa Del Sol Mexican Grill, La Cabana Mexican Grill & Bar, Ciudad Colonial Fresh Mexican Food, Casa Grande Mexican Grill & Bar, and El Metate Mexican Grill & Bar – were subpoenaed from the Indiana Department of Revenue. Information received from the Indiana Department of Revenue included the federal income tax return which details gross receipts, cost of goods sold, gross profit and ordinary business income or loss. The Indiana Department of Revenue documents also included the Schedule IN-K-1, which is an attachment to the form IT-65 or the form IT-20S. The Schedule IN-K-1 provides information as to the partners of the business and the percentage of the business each partner owns. The form IT-65 is the State of Indiana tax return for a partnership. The form IT-20S is the State of Indiana tax return for a sub-chapter S corporation. The Indiana Department of Revenue also provided the Taxpayer Financials Summary for sales tax. The business records and taxes of all five restaurants were either completed by Custom Business & Tax Solutions, 235 Smith Valley Rd W in Greenwood, Indiana 46142 or Avant & Company Inc. (also known as Avant Tax Services), 3737 N. Meridian Street, Ste 201 in Indianapolis, Indiana 46208. This was also verified from the documents obtained through the Indiana Department of Revenue.

The documents from the Indiana Department of Revenue identified financial account information for Sanchez's and Alonso's personal accounts as well as their five businesses. Their personal and restaurants' financial accounts are through Star Financial Bank. Through a subpoena sent to Star Financial Bank, the following accounts were discovered for the five restaurants: xxxx6520 (Casa Del Sol Mexican Grill), xxxx5472 (La Cabana Mexican Grill & Bar), xxxx5255 (Ciudad Colonial Fresh Mexican

Food), xxxx9026 (Casa Grande Mexican Grill & Bar), and xxxx1153 (El Metate Mexican Grill & Bar). Personal accounts numbers for Sanchez and Alonso are xxxx9148 and xxxx9230.

Star Financial Bank provided signature cards pertaining to the accounts that had been requested. Casa Del Sol Mexican Grill, account owner for xxxx6520, was opened as a new checking account on 10/6/2011 by Manuel R. Alonso. Alonso opened it as a “for profit organization” with a \$16,500 initial deposit.

La Cabana Mexican Grill & Bar, account owner for xxxx5472, was opened as a new checking account on 7/3/2012 by Rosalio Sanchez and Luis Sanchez.

NRM Group, Inc. d/b/a Ciudad Colonial Fresh Mexican Food, account owner for xxxx5255, was opened as a new checking account on 9/16/2013 by Manuel R. Alonso.

RNL Group Inc. d/b/a El Metate Mexican Grill & Bar, account owner for xxxx1153, was opened as a checking account on 5/20/2014 by Rosalio Sanchez and Luis M. Sanchez.

Casa Grande Mexican Grill & Bar, account owner of xxxx9026, was opened as a new checking account on 11/9/2009 by Rosalio Sanchez and Luis M. Sanchez.

Cash deposits calculated from the restaurants’ financial statements:

The bank statements for the years 2012, 2013, 2014, and a portion of 2015 (Jan-May) were examined by Investigator Albrecht, Auditor Bryant-Buchholz, and myself. The bank statements, specifically the items deposited, were analyzed to determine the amount of cash deposits and credit card deposits (which are directly deposited from third party merchant processors) to determine the ratio of cash deposits to total deposits. For calculation purposes, the percentage of cash deposits is obtained by dividing the total deposits by the cash deposits. Based of Auditor Bryant-Buchholz’s training and experience as well as restaurant industry standards, other Indiana restaurants typically reported cash deposits of between forty (40) and sixty (60) percent of sales with the remaining consisting of credit card sales. Anything less than this range indicates an underreporting of gross sales. The majority of the restaurants fell below the average, which is an indication of underreporting of sales. Some restaurants did not report any cash deposits for several years in a row. The following charts demonstrate the cash deposits for each restaurant from 2012 through May 2015:

Casa Del Sol Mexican Grill – xxxx6520

Year	Total Bank Deposits	Cash Deposits	Percentage of Deposits as Cash
2012	\$497,670.13	\$5,500.00	$(\$5,500/\$497,670.13) = 1.11\%$
2013	\$578,649.82	\$0.00	$(\$0/\$578,649.82) = 0\%$
2014	\$565,632.10	\$0.00	$(\$0/\$565,632.10) = 0\%$

2015 (Jan-May)	\$208,382.53	\$0.00	$(\$0/\$208,382.53) = 0\%$
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La Cabana Mexican Grill & Bar – xxxx5472

Year	Total Bank Deposits	Cash Deposits	Percentage of Deposits as Cash
2012 (July-Dec)	\$34,441.13	\$21,400.00	$(\$21,400/\$34,441.13) = 62.14\%$
2013	\$305,172.53	\$0.00	$(\$0/\$305,172.53) = 0\%$
2014	\$437,997.87	\$0.00	$(\$0/\$437,997.87) = 0\%$
2015 (Jan-May)	\$215,683.52	\$0.00	$(\$0/\$215,683.52) = 0\%$

Ciudad Colonial Fresh Mexican Food – xxxx5255

Year	Total Bank Deposits	Cash Deposits	Percentage of Deposits as Cash
2013(Sept-Dec)	\$83,202.04	\$39,000.00	$(\$39,000/\$83,202.04) = 46.87\%$
2014	\$611,338.86	\$13,100.00	$(\$13,100/\$611,338.86) = 2.14\%$
2015 (Jan-May)	\$219,273.62	\$4,350.00	$(\$4,350/\$219,273.62) = 1.98\%$

Casa Grande Mexican Grill & Bar – xxxx9026

Year	Total Bank Deposits	Cash Deposits	Percentage of Deposits as Cash
2012	\$438,841.07	\$0.00	$(\$0/\$438,841.07) = 0\%$
2013	\$516,301.80	\$0.00	$(\$0/\$516,301.80) = 0\%$
2014	\$561,351.91	\$0.00	$(\$0/\$561,351.91) = 0\%$
2015 (Jan-May)	\$253,883.10	\$0.00	$(\$0/\$253,883.10) = 0\%$

El Metate Mexican Grill & Bar – xxxx1153

Year	Total Bank Deposits	Cash Deposits	Percentage of Deposits as Cash
2014 (May-Dec)	\$63,870.85	\$16,800.00	$(\$16,800/\$63,870.85) = 26.30\%$

2015 (Jan-May)	\$65,307.92	\$4,100.00	$(\$4,100/\$65,307.92) = 6.28\%$
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Summarized Chart:

Restaurant	% of cash deposits for 2012	% of cash deposits for 2013	% of cash deposits for 2014	% of cash deposits for 2015
Casa Del Sol Mexican Grill	1.11%	0%	0%	0%
La Cabana Mexican Grill & Bar	62.14%	0%	0%	0%
Ciudad Colonial Fresh Mexican Food		46.87%	2.14%	1.98%
Casa Grande Mexican Grill & Bar	0%	0%	0%	0%
El Metate Mexican Grill & Bar			26.30%	6.28%

I. Markup rates calculated from the restaurants' financial statements:

Auditor Bryant-Buchholz indicated it is common practice during audits of cash-intensive businesses to use the ratio of gross sales to cost of goods sold (COGS) as a tool to analyze a restaurant's business practices. This ratio shows the markup of the purchase price to the sales price. Auditor Bryant-Buchholz possesses 26 years of experience in tax audits including involvement in over 1,000 audits involving 300 to 400 businesses over the course of her career. Approximately 60 of these business audits were completed to support a criminal conviction for tax evasion. Based on the training and experience of Auditor Bryant-Buchholz and restaurant industry standards, she advised audits of other full-service Mexican restaurants selling alcohol and food show this type of business normally has a markup of between four (4) to seven (7) times the purchase price to the sales price. A markup of anything less is consistent with and a strong indicator of an underreporting of sales. The difference between the actual markup and the minimum anticipated markup of 4.0 would provide the minimum expected underreporting of gross receipts. This value is the minimum amount of sales not reported to the Indiana Department of Revenue and is also known as skimming.

The charts listed below were calculated by analyzing the restaurants' financial accounts. The gross sales are the total deposits reported on the bank statements. The food and liquor purchases, also known as the COGS, were shown on cancelled checks and debit card transactions to the various food and alcohol distributors used by the restaurants. The actual markup rate was calculated by dividing gross sales by the total cost of goods sold. The actual markup rate of the five restaurants (Casa Del Sol Mexican Grill, La Cabana Mexican Grill & Bar, Ciudad Colonial Fresh Mexican Food, Casa Grande Mexican Grill & Bar, and El Metate Mexican Grill & Bar) fell in a range between 1.75 and 2.85. This is far below the anticipated markup and is indicative of under-reporting of sales. The minimum expected

underreporting of gross receipts is the difference between the expected markup rate of 4.0 and the actual markup rate. The minimum expected sales not reported to the Indiana Department of Revenue is calculated by multiplying the total cost of goods by the difference in the expected markup rate and the actual markup rate. This gives a monetary amount of sales not reported to IDOR, including both cash and credit card sales. The minimum expected sales tax not paid to IDOR is calculated by multiplying the minimum expected sales by seven percent (7%).

Casa Del Sol Mexican Grill – xxxx6520

	2012	2013	2014	2015 (Jan-May)	Totals
Gross Sales	\$497,670.13	\$578,649.82	\$565,632.10	\$208,382.53	\$1,850,334.58
Food Purchases	\$200,474.28	\$207,081.95	\$200,772.67	\$66,636.20	\$674,965.10
Liquor Purchases	\$39,244.95	\$37,544.87	\$34,490.86	\$13,263.38	\$124,544.06
Total Purchases (COGS)	\$239,719.23	\$244,626.82	\$235,263.53	\$79,899.58	\$799,509.16
Actual Markup Rate	$(\$497,670.13 / \$239,719.23) = \mathbf{2.08}$	$(\$578,649.82 / \$244,626.82) = \mathbf{2.37}$	$(\$565,632.10 / \$235,263.53) = \mathbf{2.40}$	$(\$208,382.53 / \$79,899.58) = \mathbf{2.61}$	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)	$(4.0 - 2.08) = 1.92$	$(4.0 - 2.37) = 1.63$	$(4.0 - 2.40) = 1.60$	$(4.0 - 2.61) = 1.39$	
Minimum Expected Sales Not Reported to IDOR	$(\$239,719.23 \times 1.92) = \$460,260.92$	$(\$244,626.82 \times 1.63) = \$398,741.72$	$(\$235,263.53 \times 1.60) = \$376,421.65$	$(\$79,899.58 \times 1.39) = \$111,060.42$	\$1,346,484.71
Minimum Expected Sales Tax Not Paid to IDOR	$(\$460,260.92 \times .07) = \$32,218.26$	$(\$398,741.72 \times .07) = \$27,911.92$	$(\$376,421.65 \times .07) = \$26,349.52$	$(\$111,060.42 \times .07) = \$7,774.23$	\$94,253.93

The examination of the financial statements for Casa Del Sol Mexican Grill illustrates that the restaurant did not reach the expected minimum markup. Also, the markup from purchases to sales as reported on the financial statements show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue. The restaurant is believed to have underreported sales from 2012 through part of 2015 by \$1,346,484.71 and failed to remit at least \$94,253.93 in sales tax trust fund monies.

La Cabana Mexican Grill & Bar – xxxx5472

	2012	2013	2014	2015 (Jan-May)	Totals
Gross Sales	\$34,441.13	\$305,172.53	\$437,997.87	\$215,683.52	\$993,295.05

Food Purchases	\$13,209.42	\$101,106.74	\$141,005.27	\$61,779.47	\$317,100.90
Liquor Purchases	\$318.06	\$24,076.17	\$27,583.26	\$13,866.20	\$65,843.69
Total Purchases (COGS)	\$13,527.48	\$125,182.91	\$168,588.53	\$75,645.67	\$382,944.59
Actual Markup Rate	$(\$34,441.13/\$13,527.48)=$ 2.55	$(\$305,172.53/\$125,182.91)=$ 2.44	$(\$437,997.87/\$168,588.53)=$ 2.60	$(\$215,683.52/\$75,645.67)=$ 2.85	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)	$(4.0-2.55)=$ 1.45	$(4.0-2.44)=$ 1.56	$(4.0-2.60)=$ 1.40	$(4.0-2.85)=$ 1.15	
Minimum Expected Sales Not Reported to IDOR	$(\$13,527.48 \times 1.45)=$ \$19,614.85	$(\$125,182.91 \times 1.56)=$ \$195,285.36	$(\$168,588.53 \times 1.40)=$ \$236,023.94	$(\$75,645.67 \times 1.15)=$ \$86,992.52	\$537,916.67
Minimum Expected Sales Tax Not Paid to IDOR	$(\$19,614.85 \times .07)=$ \$1,373.04	$(\$195,285.36 \times .07)=$ \$13,669.98	$(\$236,023.94 \times .07)=$ \$16,521.68	$(\$86,992.52 \times .07)=$ \$6,089.48	\$37,654.18

The examination of the financial statements for La Cabana Mexican Grill & Bar illustrates that the restaurant did not reach the expected minimum markup. Also, the markup from purchases to sales as reported on the financial statements show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue. The restaurant is believed to have underreported sales from 2012 through part of 2015 by \$537,916.67 and failed to remit at least \$37,654.18 in sales tax trust fund monies.

Ciudad Colonial Fresh Mexican Food – xxxx5255

	2012	2013	2014	2015 (Jan-May)	Totals
Gross Sales		\$83,202.04	\$611,338.86	\$219,273.62	\$913,814.52
Food Purchases		\$28,597.60	\$238,611.50	\$86,397.69	\$353,606.79
Liquor Purchases		\$3,521.16	\$26,853.67	\$7,635.51	\$38,010.34
Total Purchases (COGS)		\$32,118.76	\$265,465.17	\$94,033.20	\$391,617.13
Actual Markup Rate		$(\$83,202.04/\$32,118.76)=$ 2.59	$(\$611,338.86/\$265,465.17)=$ 2.30	$(\$219,273.62/\$94,033.20)=$ 2.33	

Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)		(4.0-2.59)= 1.41	(4.0-2.30)= 1.70	(4.0-2.33)= 1.67	
Minimum Expected Sales Not Reported to IDOR		(\$32,118.76 x 1.41)= \$45,287.45	(\$265,465.17 x 1.70)= \$451,290.79	(\$94,033.20 x 1.67)= \$157,035.44	\$653,613.68
Minimum Expected Sales Tax Not Paid to IDOR		(\$45,287.45 x .07)= \$3,170.12	(\$451,290.79 x .07)= \$31,590.36	(\$157,035.44 x .07)= \$10,992.48	\$45,752.96

The examination of the financial statements for Ciudad Colonial Fresh Mexican Food illustrates that the restaurant did not reach the expected minimum markup. Also, the markup from purchases to sales as reported on the financial statements show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue. The restaurant is believed to have underreported sales from 2013 through part of 2015 by \$653,613.68 and failed to remit at least \$45,752.96 in sales tax trust fund monies.

Casa Grande Mexican Grill & Bar – xxxx9026

	2012	2013	2014	2015 (Jan-May)	Totals
Gross Sales	\$438,841.07	\$516,301.80	\$561,351.91	\$253,883.10	\$1,770,017.88
Food Purchases	\$213,082.44	\$216,168.64	\$227,545.05	\$92,704.35	\$749,500.48
Liquor Purchases	\$37,656.75	\$42,549.34	\$46,894.68	\$18,143.25	\$145,244.02
Total Purchases (COGS)	\$250,739.19	\$258,717.98	\$274,439.73	\$110,847.60	\$894,744.50
Actual Markup Rate	(\$438,841.07/\$250,739.19)= 1.75	(\$516,301.80/\$258,717.98)= 2.00	(\$561,351.91/\$274,439.73)= 2.05	(\$253,883.10/\$110,847.60)= 2.29	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)	(4.0-1.75)= 2.25	(4.0-2.00)= 2.00	(4.0-2.05)= 1.95	(4.0-2.29)= 1.71	
Minimum Expected Sales Not Reported to IDOR	(\$250,739.19 x 2.25)= \$564,163.18	(\$258,717.97 x 2.00)= \$517,435.94	(\$274,439.73 x 1.95)= \$535,157.47	(\$110,847.60 x 1.71)= \$189,549.40	\$1,806,305.99
Minimum Expected Sales Tax Not Paid to IDOR	(\$564,163.18 x .07)= \$39,491.42	(\$517,435.94 x .07)= \$36,220.52	(\$535,157.47 x .07)= \$37,461.02	(\$189,549.40 x .07)= \$13,268.46	\$126,441.42

The examination of the financial statements for Casa Grande Mexican Grill & Bar illustrates that the restaurant did not reach the expected minimum markup. Also, the markup from purchases to sales as reported on the financial statements show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue. The restaurant is believed to have underreported sales from 2012 through part of 2015 by \$1,806,305.99 and failed to remit at least \$126,441.42 in sales tax trust fund monies.

El Metate Mexican Grill & Bar – xxxx1153

	2012	2013	2014	2015 (Jan-May)	Totals
Gross Sales			\$63,870.85	\$65,307.92	\$129,178.77
Food Purchases			\$33,799.52	\$26,125.66	\$59,925.18
Liquor Purchases			\$0.00	\$0.00	\$0.00
Total Purchases (COGS)			\$33,799.52	\$26,125.66	\$59,925.18
Actual Markup Rate			$(\$63,870.85/\$33,799.52)= 1.89$	$(\$65,307.92/\$26,125.66)= 2.50$	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)			$(4.0-1.89)=2.11$	$(4.0-2.50)=1.50$	
Minimum Expected Sales Not Reported to IDOR			$(\$33,799.52 \times 2.11)= \$71,316.99$	$(\$26,125.66 \times 1.50)= \$39,188.49$	\$110,505.48
Minimum Expected Sales Tax Not Paid to IDOR			$(\$71,316.99 \times .07)= \$4,992.19$	$(\$39,188.49 \times .07)= \$2,743.19$	\$7,735.38

The examination of the financial statements for El Metate Mexican Grill & Bar illustrates that the restaurant did not reach the expected minimum markup. Also, the markup from purchases to sales as reported on the financial statements show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue. The restaurant is believed to have underreported sales from 2014 through part of 2015 by \$110,505.48 and failed to remit at least \$7,735.38 in sales tax trust fund monies.

Summarized Chart:

Restaurant	Actual Markup Rate 2012	Actual Markup Rate 2013	Actual Markup Rate 2014	Actual Markup Rate 2015	Total Sales Not Reported to IDOR	Total Sales Tax Not Paid to IDOR
Casa Del Sol Mexican Grill	2.08	2.37	2.40	2.61	\$1,346,484.71	\$94,253.93
La Cabana Mexican Grill & Bar	2.55	2.44	2.60	2.85	\$537,916.67	\$37,654.18
Ciudad Colonial Fresh Mexican Food		2.59	2.30	2.33	\$653,613.68	\$45,752.96
Casa Grande Mexican Grill & Bar	1.75	2.00	2.05	2.29	\$1,806,305.99	\$126,441.42
El Metate Mexican Grill & Bar			1.89	2.50	\$110,505.48	\$7,735.38
Totals					\$4,454,826.53	\$311,837.87

II. Markup rates calculated from the federal tax returns and state sales tax returns:

Another part of the investigation was to analyze the sales reported on the federal and state tax returns, which were examined by Investigator Albrecht. The Indiana income tax returns, form IT-20S, with the attached federal income tax returns, form 1120S, were obtained by subpoena from the Indiana Department of Revenue for the years 2012, 2013, and 2014. (All of the evidence detailed to this point was used to obtain search warrants for the restaurants which were executed in January of 2016. The 2015 federal and state tax returns were not available for review until after 4/15/2016, after the date of the search warrants.) The gross sales, cost of goods sold, and ordinary business income were all numbers reported by each business and listed on the 1120s. Ordinary business income is calculated on tax forms by taking the total deductions (compensation of officers, salaries and wages, repairs and maintenance, bad debts, rents, taxes and licenses, interest, depreciation, depletion, advertising, pension, profit sharing, employee benefit programs, and other deductions) and subtracting it from the total income (gross profit, net gain, and other income). The actual markup rate was calculated by dividing gross sales by the total cost of goods sold.

As stated before, a restaurant selling Mexican cuisine is expected to have a markup rate from purchases of food and drink (cost of goods sold) to sales of food and drink (gross receipts) of four (4) to seven (7) times the purchase prices of the food and drink. The actual markup rate of the five restaurants (Casa Del Sol Mexican Grill, La Cabana Mexican Grill & Bar, Ciudad Colonial Fresh Mexican Food, Casa Grande Mexican Grill & Bar, and El Metate Mexican Grill & Bar), which were calculated from federal and state tax returns, fell in a range between 1.58 and 2.21. This is far below the anticipated

markup and is indicative of under-reporting of sales. Both the restaurants' financial accounts and tax returns show a lower than expected minimum markup rate. The minimum expected underreporting of gross receipts is the difference between the expected markup rate of 4.0 and the actual markup rate. The minimum expected sales not reported to the Indiana Department of Revenue is calculated by multiplying the total cost of goods by the difference in the expected markup rate and the actual markup rate. This gives a monetary amount of sales not reported to IDOR, including both cash and credit card sales. The minimum expected sales tax not paid to IDOR is calculated by multiplying the minimum expected sales by seven percent (7%). See charts below for calculations:

Casa Del Sol Mexican Grill

	2012	2013	2014	Totals
Gross Sales	\$661,402.00	\$688,899.00	\$574,260.00	\$1,924,561.00
Cost of Goods Sold	\$321,317.00	\$319,511.00	\$260,018.00	\$900,846.00
Actual Markup Rate	$(\$661,402.00 / \$321,317.00) = \mathbf{2.06}$	$(\$688,899.00 / \$319,511.00) = \mathbf{2.16}$	$(\$574,260.00 / \$260,018.00) = \mathbf{2.21}$	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)	$(4.0 - 2.06) = 1.94$	$(4.0 - 2.16) = 1.84$	$(4.0 - 2.21) = 1.79$	
Minimum Expected Sales Not Reported to IDOR	$(\$321,317.00 \times 1.94) = \$623,354.98$	$(\$319,511.00 \times 1.84) = \$587,900.24$	$(\$260,018.00 \times 1.79) = \$465,432.22$	\$1,676,687.44
Minimum Expected Sales Tax Not Reported to IDOR	$(\$623,354.98 \times .07) = \$43,634.85$	$(\$587,900.24 \times .07) = \$41,153.02$	$(\$465,432.22 \times .07) = \$32,580.26$	\$117,368.13
Ordinary Business Income	\$11,836.00	\$12,193.00	\$13,665.00	

The examination of the 2012, 2013, and 2014 tax returns for Casa Del Sol Mexican Grill illustrates that the restaurant did not reach the expected minimum markup rate and the restaurant had minimal earnings. Also, the markup from purchases to sales as reported on the income tax return show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue. The restaurant is believed to have underreported sales in 2012, 2013, and 2014 by \$1,676,687.44 and failed to remit at least \$117,368.13 in sales tax trust fund monies.

La Cabana Mexican Grill & Bar

	2012	2013	2014	Totals
Gross Sales		\$268,295.00		\$268,295.00

Cost of Goods Sold		\$155,872.00		\$155,872.00
Actual Markup Rate		$(\$268,295.00/\$155,872.00)= 1.72$		
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)		$(4.0-1.72)= 2.28$		
Minimum Expected Sales Not Reported to IDOR		$(\$155,872.00 \times 2.28)= \$355,388.16$		\$355,388.16
Minimum Expected Sales Not Reported to IDOR		$(\$355,388.16 \times .07)= \$24,877.17$		\$24,877.17
Ordinary Business Income	(\$5,023.00)	(\$60,386.00)	\$4,762.00	

The examination of the 2013 federal income tax return for La Cabana Mexican Grill & Bar illustrates that the restaurant did not reach the expected minimum markup rate. The federal income tax returns were not available for review for 2012 and 2014; therefore, the markup rate could not be determined. The Indiana income tax returns for 2012 and 2014 did provide information showing ordinary business income. For the three-year time period (2012, 2013, 2014), the restaurant lost more money than it earned. The business loss for those three years was (\$60,647.00). The restaurant is believed to have underreported sales in 2013 by \$355,388.16 and failed to remit at least \$24,877.17 in sales tax trust fund monies.

Ciudad Colonial Fresh Mexican Food

	2012	2013	2014	Totals
Gross Sales		\$53,861.00	\$588,883.00	\$642,744.00
Cost of Goods Sold		\$29,057.00	\$268,157.00	\$297,214.00
Actual Markup Rate		$(\$53,861.00/\$29,057.00)= 1.85$	$(\$588,883.00/\$268,157.00)= 2.20$	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)		$(4.0-1.85)=2.15$	$(4.0-2.20)=1.80$	
Minimum Expected Sales Not Reported to IDOR		$(\$29,057.00 \times 2.15)= \$62,472.55$	$(\$268,157.00 \times 1.80)= \$482,682.60$	\$545,155.15
Minimum Expected Sales Not Reported to IDOR		$(\$62,472.55 \times .07)= \$4,373.08$	$(\$482,682.60 \times .07)= \$33,787.78$	\$38,160.86

Ordinary Business Income		(\$6,736.00)	(\$7,443.00)	
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The examination of the 2013 and 2014 tax returns for Ciudad Colonial illustrates that the restaurant did not reach the expected minimum markup rate and the restaurant had negative earnings for each year examined. Also, the markup from purchases to sales as reported on the income tax return show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue. The restaurant is believed to have underreported sales in 2013 and 2014 by \$545,155.15 and failed to remit at least \$38,160.86 in sales tax trust fund monies.

Casa Grande Mexican Grill & Bar

	2012	2013	2014	Totals
Gross Sales	\$456,624.00	\$524,007.00	\$553,137.00	\$1,533,768.00
Cost of Goods Sold	\$254,988.00	\$273,539.00	\$277,186.00	\$805,713.00
Actual Markup Rate	$(\$456,624.00 / \$254,988.00) = 1.79$	$(\$524,007.00 / \$273,539.00) = 1.92$	$(\$553,137.00 / \$277,186.00) = 2.00$	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)	$(4.0 - 1.79) = 2.21$	$(4.0 - 1.92) = 2.08$	$(4.0 - 2.00) = 2.00$	
Minimum Expected Sales Not Reported to IDOR	$(\$254,988.00 \times 2.21) = \$563,523.48$	$(\$273,539.00 \times 2.08) = \$568,961.12$	$(\$277,186.00 \times 2.00) = \$554,372.00$	\$1,686,856.60
Minimum Expected Sales Not Reported to IDOR	$(\$563,523.48 \times .07) = \$39,446.64$	$(\$568,961.12 \times .07) = \$39,827.28$	$(\$554,372.00 \times .07) = \$38,806.04$	\$118,079.96
Ordinary Business Income	(\$16,548.00)	\$30,559.00	\$28,507.00	

The examination of the 2012, 2013, and 2014 tax returns for Casa Grande Mexican Grill & Bar illustrates that the restaurant did not reach the expected minimum markup rate and the restaurant had minimal earnings. Also, the markup from purchases to sales as reported on the income tax return show that approximately only half of sales made by the business were reported to the Indiana Department of Revenue and only had a profit of \$42,518.00 in three years. The restaurant is believed to have underreported sales in 2012, 2013, and 2014 by \$1,686,856.60 and failed to remit at least \$118,079.96 in sales tax trust fund monies.

El Metate Mexican Grill & Bar

	2012	2013	2014	Totals
Gross Sales			\$55,492.00	\$55,492.00
Cost of Goods Sold			\$35,146.00	\$35,146.00
Actual Markup Rate			$(\$55,492.00/\$35,146.00)= 1.58$	
Minimum Expected Underreporting of Gross Receipts (expected markup rate - actual markup rate)			$(4.0-1.58)=2.42$	
Minimum Expected Sales Not Reported to IDOR			$(\$35,146.00 \times 2.42)= \$85,053.32$	\$85,053.32
Minimum Expected Sales Not Reported to IDOR			$(\$85,053.32 \times .07)= \$5,953.73$	\$5,953.73
Ordinary Business Income			(\$11,789.00)	

The examination of the 2014 tax returns for El Metate Mexican Grill & Bar illustrates that the restaurant did not reach the expected minimum markup rate and the restaurant lost more money than it earned. The restaurant is believed to have underreported sales in 2014 by \$85,053.32 and failed to remit at least \$5,953.73 in sales tax trust fund monies.

Summarized Chart:

Restaurant	Actual Markup Rate 2012	Actual Markup Rate 2013	Actual Markup Rate 2014	Total Sales Not Reported to IDOR	Total Sales Tax Not Paid to IDOR
Casa Del Sol Mexican Grill	2.06	2.16	2.21	\$1,676,687.44	\$117,368.13
La Cabana Mexican Grill & Bar		1.72		\$355,388.16	\$24,877.17
Ciudad Colonial Fresh Mexican Food	1.85	2.20		\$545,155.15	\$38,160.86
Casa Grande Mexican Grill & Bar	1.79	1.92	2.00	\$1,686,856.60	\$118,079.96
El Metate Mexican Grill & Bar			1.58	\$85,053.32	\$5,953.73
Totals				\$4,349,140.67	\$304,439.85

III. Ownership of restaurants and corporations:

A. Casa Del Sol Mexican Grill

According to certified copies obtained from the Indiana Secretary of State's Office Business Services Division, SRR Incorporation, incorporated in the State of Indiana on 10/4/2011, filed a Certificate of Assumed Business Name on the same day (10/4/2011) to conduct business as Casa Del Sol Mexican Grill. SRR Incorporated also filed a Certificate of Assumed Business Name on 10/27/2011 to conduct business as York Pizza, 6732 Amy Way Drive in Gas City, Indiana 46933, but that business closed in July of 2014. The Articles of Incorporation, filed 10/4/2011, state that Alonso M. Rodriguez (Alonso) and Rosalio Sanchez (Sanchez) are the incorporators of SRR Inc. Manuel Rodriguez Alonso (Alonso) signed as President of SRR Inc. on the Certificate of Assumed Business Name for Casa Del Sol Mexican Grill.

The 2012, 2013, and 2014 Indiana IN K-1 (IT-20S) obtained through a subpoena from Indiana Department of Revenue, states that Rosalio Sanchez is fifty percent (50%) shareholder of the corporation and Manuel Rodriguez is also fifty percent (50%) shareholder of the corporation. The Schedule IN K-1 provides information as to the partners of the business and the percentage of the business each partner owns. The 2012, 2013, and 2014 IT20S with the attached IN K-1s were all signed by Manuel Rodriguez (Alonso) and prepared by Custom Business Tax Solutions, Inc. in Greenwood, IN 46142.

From the 2015 Application for Renewal of Alcoholic Beverage Permit, Manuel Rodriguez) is listed as president and 100% shareholder of SRR, Inc., which is different than what was reported on the IN K-1s. According to Investigator Albrecht, the tax return information is the controlling document and splits ownership evenly between Manuel Rodriguez (Alonso) and Rosalio Sanchez (Sanchez). Noe Sanchez is listed as the restaurant's manager. The renewal permit was signed by Manuel Rodriguez (Alonso) on 5/12/2015. The corporation is engaged in business as a restaurant selling Mexican cuisine.

According to the Articles of Incorporation, business entity report, and IN K-1s, the owners or shareholders of SRR, Inc. are Rosalio Sanchez and Manuel Rodriguez Alonso. SRR, Inc. conducts business as Casa Del Sol Mexican Grill with an address of 206 S. Walnut Street, Muncie, IN 47305.

B. La Cabana Mexican Grill & Bar

According to certified copies obtained from the Indiana Secretary of State's Office Business Services Division, El Agave Enterprises, Inc., incorporated in the State of Indiana on 4/1/2010, filed a Certificate of Assumed Business Name on 5/3/2010 to conduct business as Casa Grande Mexican Grill & Bar, 1241 North 13th Street, Decatur, IN 46733. El Agave Enterprises, Inc. filed a Certificate of Assumed Business Name on 6/22/2012 to conduct business as La Cabana Mexican Grill & Bar, 7035 E. 96th Street, Indianapolis, IN 46250. The Articles of Incorporation, filed 4/1/2010, state that Rosalio Sanchez is the incorporator and president of El Agave Enterprises, Inc. Sanchez signed as officer of El Agave Enterprises, Inc. on the Certificate of Assumed Business Name for La Cabana Mexican Grill & Bar.

The 2012, 2013, and 2014 Indiana IN K-1 (IT-20S) obtained through a subpoena from Indiana Department of Revenue, states that Rosalio Sanchez is one hundred percent (100%) shareholder of the corporation. The Schedule IN K-1 provides information as to the partners of the business and the percentage of the business each partner owns.

From the 2015 Application for Renewal of Alcoholic Beverage Permit, Rosalio Sanchez is listed as President/Secretary and 100% shareholder of El Agave Enterprises, Inc. Luis Sanchez is listed as the restaurant's manager on the 2015 Application for Renewal of Alcoholic Beverage Permit. In 2014, La Cabana Mexican Grill & Bar had gross food sales of \$397,559.61 and gross alcoholic beverage sales of \$28,686.35 for total gross sales of \$426,245.96. The total gross sales calculated through their Star Financial account, xxxx5472, were \$437,997.87. The 2014 federal tax return was not available for review to extract the gross sales amount. The renewal permit was signed by Luis Sanchez on 7/6/2015. The corporation is engaged in business as a restaurant selling Mexican cuisine.

According to the Articles of Incorporation, business entity report, and IN K-1s, the owner or shareholder of El Agave Enterprises, Inc. is Rosalio Sanchez. El Agave Enterprises, Inc. conducts business as La Cabana Mexican Grill & Bar with an address of 7035 E. 96th Street, Indianapolis, IN 46250.

C. Ciudad Colonial Fresh Mexican Food

According to certified copies obtained from the Indiana Secretary of State's Office Business Services Division, NRM Group Inc., incorporated in the State of Indiana on 7/25/2013, filed a Certificate of Assumed Business Name on 9/17/2013 to conduct business as Ciudad Colonial Fresh Mexican Food at 3501 N. Granville Avenue, Suite J-3 in Muncie, Indiana 47303. The Articles of Incorporation, filed 7/25/2013, state that Manuel A. Rodriguez (Alonso), 47303, is the registered agent and Rosalio Sanchez is the incorporator of NRM Group, Inc. On the Indiana Business Entity Report, Alonso is listed as the President and Sanchez is listed as the Secretary of NRM Group, Inc. Sanchez signed as "officer or other authorized party" on the Certificate of Assumed Business Name for Ciudad Colonial Fresh Mexican Food.

The 2013 and 2014 Indiana IN K-1 (IT-20S) obtained through a subpoena from Indiana Department of Revenue, states that Rosalio Sanchez is fifty percent (50%) shareholder of the corporation and Manuel Rodriguez Alonso is also fifty percent (50%) shareholder of the corporation. The Schedule IN K-1 provides information as to the partners of the business and the percentage of the business each partner owns.

According to Investigator Albrecht, the tax return information is the controlling document and splits ownership evenly between Manuel Rodriguez and Rosalio Sanchez. Noe Sanchez is also listed as the restaurant's manager. The renewal permit was signed by Manuel Rodriguez (Alonso) on 5/12/2015. The corporation is engaged in business as a restaurant selling Mexican cuisine.

According to the Articles of Incorporation, business entity report, and IN K-1s, the owners or shareholders of NRM Group, Inc. are Rosalio Sanchez and Manuel Rodriguez Alonso. NRM Group, Inc.

conducts business as Ciudad Colonial Fresh Mexican Food with an address of 3501 N. Granville Avenue, Suite J-3 in Muncie, Indiana 47303.

D. Casa Grande Mexican Grill & Bar

According to certified copies obtained from the Indiana Secretary of State's Office Business Services Division, Cactus, Inc., incorporated in the State of Indiana on 8/12/2009, filed a Certificate of Assumed Business Name on 12/3/2009 to conduct business as Casa Grande Mexican Grill & Bar at 6732 Amy Way Drive in Gas City, Indiana, 46933. Cactus, Inc. originally named the business, Casa Grande Mexican Bar & Grill on 10/28/2009, but cancelled that Certificate of Assumed Business Name on 12/3/2009. Throughout the investigation, I have seen the business being referenced as Casa Grande Mexican Grill & Bar or Casa Grande Mexican Bar & Grill, but both names are referring to the same business incorporated by Cactus, Inc. The sign outside the restaurant has the name, Casa Grande Mexican Grill & Bar. The Articles of Incorporation, filed 8/12/2009, state that Rosalio Sanchez is the incorporator/registered agent of Cactus, Inc. Sanchez signed as President of Cactus, Inc. on the Certificate of Assumed Business Name for Casa Grande Mexican Grill & Bar.

The 2012, 2013, and 2014 Indiana IN K-1 (IT-20S) obtained through a subpoena from Indiana Department of Revenue, states that Rosalio Sanchez is one hundred percent (100%) shareholder of the corporation. The Schedule IN K-1 provides information as to the partners of the business and the percentage of the business each partner owns.

From the 2014 Application for Renewal of Alcoholic Beverage Permit, Rosalio Sanchez is listed as President/Secretary and 100% shareholder of Cactus, Inc.

According to the Articles of Incorporation, Certificate of Assumed Business Name document, business entity report, and IN K-1s, the owner or shareholder of Cactus, Inc. is Rosalio Sanchez. Cactus, Inc. conducts business as Casa Grande Mexican Grill & Bar with an address of 6732 Amy Way Drive in Gas City, Indiana, 46933.

E. El Metate Mexican Grill & Bar

According to certified copies obtained from the Indiana Secretary of State's Office Business Services Division, RNL Group Inc., incorporated in the State of Indiana on 4/21/2014, filed a Certificate of Assumed Business Name on 5/13/2014 to conduct business as El Metate Mexican Grill & Bar, 115 S. Main Street, Fairmount, IN 46928. Rosalio Sanchez signed as President of RNL Group Inc. The Articles of Incorporation also state that Rosalio Sanchez is the registered agent and incorporator of RNL Group Inc.

The 2014 Indiana IN K-1 (IT-20S) obtained through a subpoena from Indiana Department of Revenue, states that Rosalio Sanchez is one hundred percent (100%) shareholder of the corporation. The Schedule IN K-1 provides information as to the partner(s) of the business and the percentage of the business each partner owns.

A name is not listed as the restaurant’s manager on the 2015 Application for Renewal of Alcoholic Beverage Permit. In 2014, El Metate Mexican Grill & Bar had gross food sales of \$49,940.54 and gross alcoholic beverage sales of \$5,548.95 for total gross sales of \$55,489.49. The total gross sales calculated through their Star Financial account, xxxx1153, were \$63,870.85. The gross sales reported on their 2014 federal tax return were \$55,492.00. The renewal permit was signed by Rosalio Sanchez on 6/15/2015. The corporation is engaged in business as a restaurant selling Mexican cuisine.

According to the Articles of Incorporation, Certificate of Assumed Business Name document, and IN K-1, the owner or shareholders of RNL Group Inc. is Rosalio Sanchez. RNL Group Inc. conducts business as El Metate Mexican Grill & Bar with an address of 115 S. Main Street, Fairmount, IN 46928.

Summarized Ownership Chart:

<u>Restaurant</u>	<u>Manuel Rodriguez Alonso</u>	<u>Rosalio Sanchez</u>
Casa Del Sol Mexican Grill	50%	50%
La Cabana Mexican Grill & Bar		100%
Ciudad Colonial Fresh Mexican Food	50%	50%
Casa Grande Mexican Grill & Bar		100%
El Metate Mexican Grill & Bar		100%

IV. Defining Indiana tax statutes and terms:

If an individual, partnership, or corporation doing business in Indiana makes retail sales then the individual, partnership or corporation is subject to the State Gross Retail and Use Taxes.

Indiana Code 6-2.5-1-5 defines gross retail income as the total amount of consideration, including cash, credit, property, and services, for which tangible personal property is sold, leased, or rented, valued in money, whether received in money or otherwise, without an deduction for: (1) the seller’s cost of the property sold; (2) the cost of material used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller; (3) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges; (4) delivery charges; or (5) consideration received by the seller from a third party with certain criteria.

In order to determine gross retail income and the appropriate taxes for a retail merchant’s tax liability, Indiana Code section 6-8.1-5-4(a) requires that every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person’s liability for that tax by reviewing those books and records. The records referred to in this section include all source

documents necessary to determine the tax, including invoices, register tapes, receipts, and cancelled checks.

Indiana Code Section 6-2.5-6-7 requires that a retail merchant shall pay to the Department of Revenue, for a particular reporting period, an amount equal to the product of: (1) seven percent (7%) multiplied by (2) the retail merchant's total gross retail income from taxable transactions made during the reporting period. The amount determined is the retail merchant's state gross retail and use tax liability, commonly referred to as sales tax, regardless of the amount of tax the retail merchant actually collects.

Indiana Code Section 6-2.5-9-3 requires any individual that is (1) an individual retail merchant or is an employee, officer, or member of a corporate or partnership retail merchant and (2) has a duty to remit state gross retail or use taxes to the Department of Revenue hold those taxes in trust for the state and is personal liable for the payment of those taxes and knowingly failing to collect or remit those taxes is a Class D/Level 6 felony.

I was advised by Investigator Albrecht and Auditor Bryant-Buchholz that in their training and experience, businesses operating as a small corporation commonly maintain their books and business records at the place of business or the residence of the owner or owners of the business. On January 20, 2016, search warrants were executed at Casa Del Sol Mexican Grill (206 S. Walnut Street, Muncie, 47305), La Cabana Mexican Grill & Bar (7035 E. 96th Street, Ste. P, Indianapolis, 46250), Ciudad Colonial Fresh Mexican Food (3501 N. Granville Ave., Ste. J-3, Muncie, 47303), Casa Grande Mexican Grill & Bar (6732 Amy Way Drive, Gas City, 46933), El Metate Mexican Grill & Bar (115 S. Main Street, Fairmount, 46928), Alonso's residence (601 E. Streeter Ave., Muncie, 47303), Sanchez's residence (3314 N. Milton Street, Muncie, 47303), Custom Business & Tax Solutions (235 Smith Valley Road W, Greenwood, 46142), and Avant Tax Services (3737 N. Meridian Street, Ste. 201, Indianapolis, 46208). The records recovered during the search warrants include: tax documents, business records, receipts, payroll records, check register tapes, bank records and documents, employment records, business ledgers, and guest checks. These records were reviewed by Investigator Albrecht and Auditor Bryant-Buchholz.

V. Final analysis on the businesses:

Monthly ledgers, guest checks, and a composition notebook were found at Casa Del Sol Mexican Grill, Casa Grande Mexican Grill & Bar, and El Metate Mexican Grill & Bar. Also, additional business documents pertaining to SRR, Inc. d/b/a York Pizza were found and taken as evidence. SRR, Inc. was incorporated in Indiana on 10/4/2011, and Manuel Rodriguez Alonso and Rosalio Sanchez are listed as the incorporators. SRR, Inc. filed a Certificate of Assumed Business Name as Casa Del Sol Mexican Grill with the Indiana Secretary of State on 10/4/2011 and filed another Certificate of Assumed Business Name as York Pizza on 10/27/2011. York Pizza was closed with the Indiana Secretary of State effective 7/14/2014. Because the actual books and records were found at these restaurants (Casa Del Sol Mexican Grill, Casa Grande Mexican Grill & Bar, El Metate Mexican Grill & Bar, and York Pizza), the

amount of underreported sales and tax owed to the Indiana Department of Revenue was calculated from the gross sales stated in the ledgers and composition notebook.

The actual books and records, i.e. monthly ledgers, were not found for La Cabana Mexican Grill & Bar and Ciudad Colonial Fresh Mexican Food, so instead, financial statements, income tax returns, ST-103s, monthly income statements, cash register tapes, and monthly sales reports were analyzed to determine how the restaurants underreported their sales. An estimate of taxable sales was calculated using the average percentage of reported sales from the ledgers found at the restaurants (Casa Del Sol Mexican Grill & Bar, Casa Grande Mexican Grill & Bar and El Metate Mexican Grill & Bar) during the search warrants. The restaurants discussed in the subsequent sections A, B, C, and D detail the actual gross sales stated on the monthly ledgers, and from the monthly ledgers and ST-103s, the amount the restaurants underreported in sales and amount of sales tax owed to IDOR were calculated.

A. Casa Del Sol Mexican Grill / SRR, Inc.

The records seized during the search warrants of the restaurant, 206 S. Walnut Street in Muncie, 47305, and at Custom Business & Tax Solution, 235 Smith Valley Rd W in Greenwood, were reviewed by Auditor Bryant-Buchholz. A composition notebook for the time period of January 2013 through December 2015 was found in the restaurant's records. The composition book is believed to be a monthly ledger. The gross sales, titled "VB," which is believed to be the abbreviation for "ventas bustos," and the register sales, titled "VR," which is believed to be the abbreviation for "ventas register." The word ventas means sales. The amount listed for "VR" matches exactly or very closely to work papers located in the records seized from Custom Business & Tax Solution. The accounting firm prepared a monthly sheet listing all cash register total sales, which were the reported amount from the Z tapes, for each day. The accountant's office divided the total tax collected for each month by the 7% sales tax rate to report total sales on the ST-103s, which are reported to IDOR each month. The ST-103s for September and December of 2015 could not be located in the accountant's files.

In the accountant's processing files, Z tapes were located for the month of March 2014. The Z portion of the cash register tape is normally the section that summarizes the daily sales, no sales, voids, and other activity that occurred during the period the tape was being used. If the daily portion of the tape is destroyed, it is not possible to determine if the Z portion of the tape is properly reporting the sales activity for that day. The Z portion of the tape can be manipulated to reflect an improper sales report by making false entries during the day. When the cash register tape has been destroyed, then the Z portion of the tape cannot be confirmed as being correct in reporting the daily activity of the business. The Z tapes located for Casa Del Sol Mexican Grill show a large amount of no sale transactions. A no sale transaction is when the cash register drawer is opened without a sale being entered on the cash register. In the chart below, the "percentage of no sales," is calculated by taking the "# of no sales," divided by the "total customers & no sales." See below for the percentage of no sales calculated from the Z tapes for March 2014:

<u>Date</u>	<u># of Cash Customers</u>	<u># of Credit Customers</u>	<u># of Total Customers</u>	<u># of No Sales</u>	<u>Total Customers & No Sales</u>	<u>Percentage of No Sales</u>
3/1/2014	24	97	121	32	153	20.92%
3/2/2014	10	34	44	19	63	30.16%
3/3/2014	10	42	52	38	90	42.22%
3/4/2014	20	39	59	16	75	21.33%
3/5/2014	17	62	79	22	101	21.78%
3/6/2014	18	74	92	42	134	31.34%
3/7/2014	17	119	136	40	176	22.73%
3/8/2014	20	62	82	34	116	29.31%
3/9/2014	22	51	73	25	98	25.51%
3/10/2014	12	27	39	32	71	45.07%
3/11/2014	20	43	63	21	84	25.00%
3/12/2014	12	44	56	36	92	39.13%
3/13/2014	14	48	62	35	97	36.08%
3/14/2014	21	102	123	53	176	30.11%
3/15/2014	7	94	101	44	145	30.34%
3/16/2014	9	42	51	16	67	23.88%
3/17/2014	6	42	48	66	114	57.89%
3/18/2014	14	55	69	15	84	17.86%
3/19/2014	17 (*1 check included as cash sale)	50	67	27	94	28.72%
3/20/2014	*info not available	*info not available	122	38	160	23.75%
3/21/2014	16	119	135	66	201	32.84%
3/22/2014	*no Z tape available					
3/23/2014	12	56	68	31	99	31.31%
3/24/2014	6	55	61	28	89	31.46%
3/25/2014	12	39	51	20	71	28.17%
3/26/2014	11	64	75	12	87	13.79%
3/27/2014	18	72	89 (total listed on Z tape as 89, not 90)	23	112	20.54%
3/28/2014	12	69	81	48	129	37.21%
3/29/2014	16	64	80	16	96	16.67%
3/30/2014	17	51	68	16	84	19.05%
3/31/2014	6	56	62	32	94	34.04%
Total			2,309	943	3,252	29.00%

According to the Z tapes, this shows that in the month of March 2014, the cash register drawer was opened 3,252 times, however, 29% of the time, it was opened without a sale being recorded. On March 17, 2014, the cash register drawer was opened 114 times, however, no sale transactions of 66 outnumbered the cash and credit card sales of 48. The percentage of no sale transactions on 3/17/2016 was 57.89%, meaning for every one out of two customers that went through to pay their food/drink bill, a no sale was rang into the cash register by employees/managers of the restaurant.

In the chart listed below, “sales per investigation” are the gross sales reported on the ledger that were recovered during the search warrant. “Sales subject to tax” is calculated by dividing “sales per investigation” by 1.07. The 1.07 is used because the cost of item is 100% (unit price) + 7% (sales tax) = 107% or 1.07. To check this method, multiply “sales subject to tax” by 7% and it will equal “sales per investigation.” “Less tax” is calculated by subtracting “sales subject to tax” from “sales per investigation.” “Reported taxable sales on ST-103s” were numbers reported by Custom Business & Tax Solutions to IDOR as total sales. “Unreported sales” are calculated by subtracting “reported taxable sales on ST-103s” from “sales subject to tax.” “Tax not remitted” is calculated by multiplying “unreported sales” by 7%.

	<u>Sales Per Investigation</u> (figures taken from the monthly ledger)	<u>Less Tax</u> (sales per investigation – sales subject to tax)	<u>Sales Subject to Tax</u> (sales per investigation x 1.07)	<u>Reported Taxable Sales on ST-103s</u> (reported to IDOR)	<u>Unreported Sales</u> (sales subject to tax – reportable taxable sales on ST-103s)	<u>Tax Not Remitted</u> (unreported sales x 7%)
2013						
January	\$54,435.00	\$3,561.17	\$50,873.83	\$41,247.00	\$9,626.83	\$673.88
February	\$54,521.00	\$3,566.79	\$50,954.21	\$42,107.63	\$8,846.58	\$619.26
March	\$57,552.00	\$3,765.08	\$53,786.92	\$41,247.38	\$12,539.54	\$877.77
April	\$63,246.00	\$4,137.59	\$59,108.41	\$51,320.13	\$7,788.28	\$545.18
May	\$71,209.00	\$4,658.53	\$66,550.47	\$55,874.50	\$10,675.97	\$747.32
June	\$67,375.00	\$4,407.71	\$62,967.29	\$48,725.50	\$14,241.79	\$996.93
July	\$59,148.00	\$3,869.50	\$55,278.50	\$44,157.88	\$11,120.62	\$778.44
August	\$71,774.00	\$4,695.50	\$67,078.50	\$54,804.63	\$12,273.87	\$859.17
September	\$65,916.00	\$4,312.26	\$61,603.74	\$52,298.25	\$9,305.49	\$651.38
October	\$59,897.00	\$3,918.50	\$55,978.50	\$48,143.75	\$7,834.75	\$548.43
November	\$59,805.00	\$3,912.48	\$55,892.52	\$48,566.75	\$7,325.77	\$512.80
December	\$52,778.00	\$3,452.77	\$49,325.23	\$40,731.75	\$8,593.48	\$601.54
Total 2013	\$737,656.00	\$48,257.88	\$689,398.12	\$569,225.15	\$120,172.97	\$8,412.10
2014						
January	\$44,765.00	\$2,928.55	\$41,836.45	\$33,066.25	\$8,770.20	\$613.91
February	\$54,832.00	\$3,587.14	\$51,244.86	\$41,785.00	\$9,459.86	\$662.19
March	\$65,807.97	\$4,305.19	\$61,502.78	\$45,859.13	\$15,643.65	\$1,095.06
April	\$67,388.00	\$4,408.56	\$62,979.44	\$52,971.00	\$10,008.44	\$700.59
May	\$71,253.00	\$4,661.41	\$66,591.59	\$56,040.88	\$10,550.71	\$738.55
June	\$59,761.00	\$3,909.60	\$55,851.40	\$44,752.50	\$11,098.90	\$776.92
July	\$60,021.00	\$3,926.61	\$56,094.39	\$45,589.00	\$10,505.39	\$735.38
August	\$66,970.81	\$4,381.27	\$62,589.54	\$53,037.88	\$9,551.66	\$668.62
September	\$60,671.00	\$3,969.13	\$56,701.87	\$48,077.25	\$8,624.62	\$603.72
October	\$55,062.00	\$3,602.19	\$51,459.81	\$43,882.50	\$7,577.31	\$530.41
November	\$43,561.00	\$2,849.79	\$40,711.21	\$33,811.63	\$6,899.58	\$482.97
December	\$46,667.78	\$3,053.03	\$43,614.75	\$35,615.38	\$7,999.37	\$559.96
Total 2014	\$696,760.56	\$45,582.47	\$651,178.09	\$534,488.40	\$116,689.69	\$8,168.28
2015						
January	\$46,703.62	\$3,055.38	\$43,648.24	\$35,942.00	\$7,706.24	\$539.44
February	\$46,077.77	\$3,014.43	\$43,063.34	\$36,289.50	\$6,773.84	\$474.17

March	\$49,927.00	\$3,266.25	\$46,660.75	\$39,194.63	\$7,466.12	\$522.63
April	\$53,243.00	\$3,483.19	\$49,759.81	\$42,323.13	\$7,436.68	\$520.57
May	\$56,703.00	\$3,709.54	\$52,993.46	\$45,774.75	\$7,218.71	\$505.31
June	\$49,046.00	\$3,208.62	\$45,837.38	\$40,573.63	\$5,263.75	\$368.46
July	\$49,526.60	\$3,240.06	\$46,286.54	\$41,387.04	\$4,899.50	\$342.97
August	\$55,707.74	\$3,644.43	\$52,063.31	\$44,675.68	\$7,387.63	\$517.13
September	\$49,856.51	\$3,261.64	\$46,594.87	\$39,925.50	\$6,669.37	\$466.86
October	\$48,649.79	\$3,182.70	\$45,467.09	\$39,147.88	\$6,319.21	\$442.34
November	\$40,151.38	\$2,626.73	\$37,524.65	\$33,587.38	\$3,937.27	\$275.61
December	\$42,857.44	\$2,803.76	\$40,053.68	\$34,709.13	\$5,344.55	\$374.12
Total 2015	\$588,449.85	\$38,496.73	\$549,953.12	\$473,530.25	\$76,422.87	\$5,349.61

Summarized Chart for Casa Del Sol Mexican Grill

<u>Total for 2013, 2014, & 2015</u>					
<u>Sales Per Investigation</u>	<u>Less Tax</u>	<u>Sales Subject to Tax</u>	<u>Reported Taxable Sales on ST-103s</u>	<u>Unreported Sales</u>	<u>Tax Not Remitted</u>
<u>\$2,022,866.41</u>	<u>\$132,337.08</u>	<u>\$1,890,529.33</u>	<u>\$1,577,243.44</u>	<u>\$313,285.53</u>	<u>\$21,929.99</u>

The sales, without the tax included, reported to IDOR on the ST103s were \$1,577,243.44, while the restaurant had recorded actual sales of \$1,890,529.33 on the accounting ledger. Casa Del Sol Mexican Grill failed to report sales of \$313,285.53 and failed to remit \$21,929.99 in sales tax trust fund monies to IDOR for 2013, 2014 and 2015.

B. York Pizza / SRR, Inc.

A monthly ledger for the time period of January 2013 through June 2014, titled "York Pizza," was located among records seized during the search warrant of Casa Grande Mexican Grill & Bar, 6732 Amy Way Drive in Gas City, 46933. Additional records for York Pizza were found at Custom Business & Tax Solution, 235 Smith Valley Rd W in Greenwood. The monthly ledger is labeled with the letters, "E, V, CH, G, R, A and B," and indicates the following:

Letter	Represents	Translation
E	Efectivo	Cash
V	Visas	Credit Cards
CH	Cheques	Check
G	Gastos	Expenses
R	Registro	Cash Register
A	Arrastre	Pulled (Ticket)
B	Bustos	Total

Column R (registro or cash register) from the ledger matches the work papers located in the records seized from Custom Business & Tax Solutions for the year 2013. The accounting firm prepared

monthly spreadsheets listing all cash register total sales, which were the reported amounts from the Z tapes, for each day. The accountant’s office divided the total tax collected for each month by the 7% sales tax rate to report total sales on the ST-103s, which are reported to IDOR each month. The monthly spreadsheets could not be located for January through June of 2014 in the accountant’s records.

In the chart listed below, “sales per investigation” are the gross sales reported on the ledger that were recovered during the search warrant. “Sales subject to tax” is calculated by dividing “sales per investigation” by 1.07. The 1.07 is used because the cost of item is 100% (unit price) + 7% (sales tax) = 107% or 1.07. To check this method, multiply “sales subject to tax” by 7% and it will equal “sales per investigation.” “Less tax” is calculated by subtracting “sales subject to tax” from “sales per investigation.” “Reported taxable sales on ST-103s” were numbers reported by Custom Business & Tax Solutions to IDOR as total sales. “Unreported sales” are calculated by subtracting “reported taxable sales on ST-103s” from “sales subject to tax.” “Tax not remitted” is calculated by multiplying “unreported sales” by 7%.

	<u>Sales Per Investigation</u> (figures taken from the monthly ledger)	<u>Less Tax</u> (sales per investigation – sales subject to tax)	<u>Sales Subject to Tax</u> (sales per investigation x 1.07)	<u>Reported Taxable Sales on ST-103s</u> (reported to IDOR)	<u>Unreported Sales</u> (sales subject to tax – reportable taxable sales on ST-103s)	<u>Tax Not Remitted</u> (unreported sales x 7%)
2013						
January	\$14,392.72	\$941.58	\$13,451.14	\$9,333.00	\$4,118.14	\$288.27
February	\$14,471.25	\$946.72	\$13,524.53	\$8,958.00	\$4,566.53	\$319.66
March	\$18,609.23	\$1,217.43	\$17,391.80	\$11,486.14	\$5,905.66	\$413.40
April	\$17,894.56	\$1,170.67	\$16,723.89	\$11,628.57	\$5,095.32	\$356.67
May	\$19,735.92	\$1,291.13	\$18,444.79	\$13,404.43	\$5,040.36	\$352.83
June	\$16,494.85	\$1,079.10	\$15,415.75	\$10,917.43	\$4,498.32	\$314.88
July	\$16,383.00	\$1,071.79	\$15,311.21	\$10,488.57	\$4,822.64	\$337.58
August	\$20,328.33	\$1,329.89	\$18,998.44	\$13,099.00	\$5,899.44	\$412.96
September	\$20,797.18	\$1,360.56	\$19,436.62	\$12,116.29	\$7,320.33	\$512.42
October	\$15,848.81	\$1,036.84	\$14,811.97	\$10,028.43	\$4,783.54	\$334.85
November	\$14,526.59	\$950.34	\$13,576.25	\$8,820.57	\$4,755.68	\$332.90
December	\$12,940.80	\$846.59	\$12,094.21	\$8,030.57	\$4,063.64	\$284.45
Total 2013	\$202,423.24	\$13,242.64	\$189,180.60	\$128,311.00	\$60,869.60	\$4,260.87
2014						
January	\$12,258.13	\$801.93	\$11,456.20	\$7,619.57	\$3,836.63	\$268.56
February	\$13,966.75	\$913.71	\$13,053.04	\$8,775.71	\$4,277.33	\$299.41
March	\$13,511.76	\$883.95	\$12,627.81	\$9,030.43	\$3,597.38	\$251.82
April	\$13,143.62	\$859.86	\$12,283.76	\$7,977.71	\$4,306.05	\$301.42
May	\$13,825.20	\$904.45	\$12,920.75	\$8,609.86	\$4,310.89	\$301.76
June	\$12,507.78	\$818.27	\$11,689.51	\$7,944.29	\$3,745.22	\$262.17
July						
August						
September						
October						

November						
December						
Total 2014	\$79,213.24	\$5,182.17	\$74,031.07	\$49,957.57	\$24,073.50	\$1,685.14

Summarized Chart for York Pizza

Total for 2013, 2014, & 2015					
<u>Sales Per Investigation</u>	<u>Less Tax</u>	<u>Sales Subject to Tax</u>	<u>Reported Taxable Sales on ST-103s</u>	<u>Unreported Sales</u>	<u>Tax Not Remitted</u>
<u>\$281,636.48</u>	<u>\$18,424.81</u>	<u>\$263,211.67</u>	<u>\$178,268.57</u>	<u>\$84,943.10</u>	<u>\$5,946.01</u>

The sales, without the tax included, reported to IDOR on the ST103s were \$178,268.57, while the restaurant had recorded actual sales of \$263,211.67 on the accounting ledger. York Pizza closed in July of 2014, but in 2013 and January through June of 2014, the restaurant had failed to report sales of \$84,943.10 and failed to remit \$5,946.01 in sales tax trust fund monies to IDOR.

C. Casa Grande Mexican Grill & Bar / Cactus, Inc.

The records seized during the search warrants of the restaurant, 6732 Amy Way Drive in Gas City, 46933, and at Custom Business & Tax Solution, 235 Smith Valley Rd W in Greenwood, were reviewed by Auditor Bryant-Buchholz. Guest checks recovered at the restaurant had been bound and labeled for each day for the month of December 2015. It was the only month/year found and reviewed by Auditor Bryant-Buchholz. A handwritten note had been stapled to the front of each day of the guest check bundles with the letters, "E, V, CH, G, R, A, B." The letters indicate the following:

Letter	Represents	Translation
E	Effectivo	Cash
V	Visas	Credit Cards
CH	Cheques	Check
G	Gastos	Expenses
R	Registro	Cash Register
A	Arrastre	Pulled (Ticket)
B	Bustos	Total

A monthly ledger for the time period of July 1, 2014 through January 18, 2016 was also recovered at the restaurant. This ledger was compared to the guest check tickets for each day of December 2015 and found to be the same. An additional monthly ledger for the time period of January 2012 through May 2014 was located in restaurant as well. The only monthly ledger not recovered and able to be reviewed by Auditor Bryant-Buchholz was June 2014. The monthly ledger is labeled with the same letters seen on the guest checks: E (effectivo = cash), V (visas = credit cards), CH (cheques =

check), G (gastos = expenses), R (registro = cash register), A (arrastre = pulled tickets), and B (bustos = total). Also, column R (registro or cash register) from the ledger matches the work papers located in the records seized from Custom Business & Tax Solutions. The accounting firm prepared a monthly sheet listing all cash register total sales, which were the reported amounts from the Z tapes, for each day. The accountant’s office divided the total tax collected for each month by the 7% sales tax rate to report total sales on the ST-103s, which are reported to IDOR each month.

In the chart listed below, “sales per investigation” are the gross sales reported on the ledger that were recovered during the search warrant. “Sales subject to tax” is calculated by dividing “sales per investigation” by 1.07. The 1.07 is used because the cost of item is 100% (unit price) + 7% (sales tax) = 107% or 1.07. To check this method, multiply “sales subject to tax” by 7% and it will equal “sales per investigation.” “Less tax” is calculated by subtracting “sales subject to tax” from “sales per investigation.” “Reported taxable sales on ST-103s” were numbers reported by Custom Business & Tax Solutions to IDOR as total sales. “Unreported sales” are calculated by subtracting “reported taxable sales on ST-103s” from “sales subject to tax.” “Tax not remitted” is calculated by multiplying “unreported sales” by 7%.

For 2014, the June ledger was not reviewed so to estimate that month, Auditor Bryant-Buchholz added eleven months of “sales subject to tax” and it equaled \$675,585.31. The “reported taxable sales on ST-103s,” excluding June were \$500,614.72. The “unreported sales,” excluding June were \$174,970.59 (\$675,585.31 - \$500,614.72). Auditor Bryant-Buchholz then calculated the percentage of sales reported by dividing the “reported taxable sales” by “sales subject to tax” which equal 74.10% ($\$500,614.72 / \$675,585.31 = 74.10\%$). To calculate the percentage of sales unreported, she divided the “unreported sales” by “sales subject to tax” which equal 25.90% ($\$174,970.59 / \$675,585.31 = 25.90\%$). The June 2014 reported taxable sales on the ST-103 was \$44,883.14. The reported number to IDOR, \$44,883.14, was divided by the percentage of sales reported (74.10%) to equal the calculated sales with tax for June 2014 ($\$44,883.14 / .7410 = \$60,571.04$).

	<u>Sales Per Investigation</u> (figures taken from the monthly ledger)	<u>Less Tax</u> (sales per investigation – sales subject to tax)	<u>Sales Subject to Tax</u> (sales per investigation x 1.07)	<u>Reported Taxable Sales on ST-103s</u> (reported to IDOR)	<u>Unreported Sales</u> (sales subject to tax – reportable taxable sales on ST-103s)	<u>Tax Not Remitted</u> (unreported sales x 7%)
2013						
January	\$54,130.29	\$3,541.23	\$50,589.06	\$36,131.29	\$14,457.77	\$1,012.04
February	\$59,484.74	\$3,891.53	\$55,593.21	\$38,991.43	\$16,601.78	\$1,162.12
March	\$65,242.53	\$4,268.20	\$60,974.33	\$43,494.00	\$17,480.33	\$1,223.62
April	\$69,171.12	\$4,525.21	\$64,645.91	\$48,089.43	\$16,556.48	\$1,158.95
May	\$75,477.65	\$4,937.79	\$70,539.86	\$52,676.86	\$17,863.00	\$1,250.41
June	\$62,857.31	\$4,112.16	\$58,745.15	\$43,126.86	\$15,618.29	\$1,093.28
July	\$63,803.85	\$4,174.08	\$59,629.77	\$41,902.14	\$17,727.63	\$1,240.93
August	\$68,762.76	\$4,498.50	\$64,264.26	\$45,115.29	\$19,148.97	\$1,340.43
September	\$66,011.55	\$4,318.51	\$61,693.04	\$43,353.86	\$18,339.18	\$1,283.74

October	\$64,199.40	\$4,199.96	\$59,999.44	\$42,331.29	\$17,668.15	\$1,236.77
November	\$63,367.89	\$4,145.56	\$59,222.33	\$41,887.71	\$17,334.62	\$1,213.42
December	\$56,415.95	\$3,690.76	\$52,725.19	\$37,536.14	\$15,189.05	\$1,063.23
Total 2013	\$768,925.04	\$50,303.49	\$718,621.55	\$514,636.30	\$203,985.25	\$14,278.94
2014						
January	\$52,339.94	\$3,424.11	\$48,915.83	\$36,177.43	\$12,738.40	\$891.69
February	\$60,833.72	\$3,979.78	\$56,853.94	\$41,518.00	\$15,335.94	\$1,073.52
March	\$62,378.06	\$4,080.81	\$58,297.25	\$41,982.29	\$16,314.96	\$1,142.05
April	\$65,194.40	\$4,265.05	\$60,929.35	\$42,902.43	\$18,026.92	\$1,261.88
May	\$72,587.38	\$4,748.71	\$67,838.67	\$48,999.14	\$18,839.53	\$1,318.77
June	\$60,571.04	\$3,962.59	\$56,608.45	\$44,883.14	\$11,725.31	\$820.77
July	\$66,901.80	\$4,376.75	\$62,525.05	\$45,231.14	\$17,293.91	\$1,210.57
August	\$75,369.21	\$4,930.70	\$70,438.51	\$53,016.14	\$17,422.37	\$1,219.57
September	\$72,876.65	\$4,767.63	\$68,109.02	\$49,596.57	\$18,512.45	\$1,295.87
October	\$72,433.23	\$4,738.62	\$67,694.61	\$54,400.29	\$13,294.32	\$930.60
November	\$61,425.82	\$4,018.51	\$57,407.31	\$44,249.86	\$13,157.45	\$921.02
December	\$60,536.07	\$3,960.30	\$56,575.77	\$42,541.43	\$14,034.34	\$982.40
Total 2014	\$783,447.32	\$51,253.56	\$732,193.76	\$545,497.86	\$186,695.90	\$13,068.71
2015						
January	\$61,408.10	\$4,017.35	\$57,390.75	\$41,608.29	\$15,782.46	\$1,104.77
February	\$63,511.23	\$4,154.94	\$59,356.29	\$45,217.00	\$14,139.29	\$989.75
March	\$70,611.62	\$4,619.45	\$65,992.17	\$48,989.71	\$17,002.46	\$1,190.17
April	\$72,322.93	\$4,731.41	\$67,591.52	\$50,987.43	\$16,604.09	\$1,162.29
May	\$85,680.53	\$5,605.27	\$80,075.26	\$62,060.71	\$18,014.55	\$1,261.02
June	\$69,055.51	\$4,517.65	\$64,537.86	\$49,861.00	\$14,676.86	\$1,027.38
July	\$69,258.11	\$4,530.90	\$64,727.21	\$47,151.24	\$17,575.97	\$1,230.32
August	\$74,874.80	\$4,898.35	\$69,976.45	\$57,287.29	\$12,689.16	\$888.24
September	\$80,099.91	\$5,240.18	\$74,859.73	\$55,257.14	\$19,602.59	\$1,372.18
October	\$79,050.23	\$5,171.51	\$73,878.72	\$56,212.57	\$17,666.15	\$1,236.63
November	\$67,910.14	\$4,442.72	\$63,467.42	\$47,524.71	\$15,942.71	\$1,115.99
December	\$67,596.54	\$4,422.20	\$63,174.34	\$49,049.86	\$14,124.48	\$988.71
Total 2015	\$861,379.65	\$56,351.93	\$805,027.72	\$611,206.95	\$193,820.77	\$13,567.45

Summarized Chart for Casa Grande Mexican Grill & Bar

Total for 2013, 2014, & 2015					
<u>Sales Per Investigation</u>	<u>Less Tax</u>	<u>Sales Subject to Tax</u>	<u>Reported Taxable Sales on ST-103s</u>	<u>Unreported Sales</u>	<u>Tax Not Remitted</u>
<u>\$2,413,752.01</u>	<u>\$157,908.98</u>	<u>\$2,255,843.03</u>	<u>\$1,671,341.11</u>	<u>\$584,501.92</u>	<u>\$40,915.10</u>

The sales, without the tax included, reported to IDOR on the ST103s were \$1,671,341.11, while the restaurant had recorded actual sales of \$2,255,843.03 on the accounting ledger. It is evident that all the guest checks were not being entered into the cash register, and certain ones were being pulled and separated in order to make it appear as if the sales were much lower. Auditor Bryant-Buchholz found guest checks recovered from the search warrant labeled "A" or arrastre meaning pulled tickets for

December of 2015. The restaurant even had a designated column in their accounting ledger labeled “A,” for the pulled tickets. The “R” column (registro or cash register) on the ledger matches work paper prepared by Custom Business & Tax Solution. The accountant’s office subtracted the 7% sales tax from the “R” or register sales and then reported the taxable sales to IDOR on the ST-103s. Casa Grande Mexican Grill & Bar had failed to report sales of \$584,501.92 and failed to remit \$40,915.10 in sales tax trust fund monies to IDOR for 2013, 2014 and 2015.

D. El Metate Mexican Grill & Bar / RNL Group, Inc.

The records seized during the search warrant of the restaurant, 115 S. Main Street in Fairmount, 46928, and at Custom Business & Tax Solution, 235 Smith Valley Rd W in Greenwood, were reviewed by Auditor Bryant-Buchholz. Guest checks recovered at the restaurant had been bound and labeled for each day from February – December of 2015, with January being the only missing month for 2015. December 2015 guest checks were copied and reviewed to a monthly ledger. A handwritten note had been stapled to the front of each day of the guest check bundles with the letters, “E, V, CH, G, R, A, B.” The letters indicate the following:

Letter	Represents	Translation
E	Efectivo	Cash
V	Visas	Credit Cards
CH	Cheques	Check
G	Gastos	Expenses
R	Registro	Cash Register
A	Arrastre	Pulled (Ticket)
B	Bustos	Total

A monthly ledger for El Metate Mexican Grill & Bar for the time period of September 2014 through December 2014 and then from April 2015 through December 2015 was located in records of the Casa Grande Mexican Grill & Bar, 6732 Amy Way Drive in Gas City, 46933. The ledger was missing the months of January through March 2015. The monthly ledger also has a column with the same letters seen on the guest checks: E (efectivo = cash), V (visas = credit cards), CH (cheques = check), G (gastos = expenses), R (registro = cash register), A (arrastre = pulled tickets), and B (bustos = total). This ledger was compared to the guest check tickets for all periods (September – December 2014 and April – December 2015) and found to be a match. Also, column R (registro or cash register) from the ledger matches the work papers located in the records seized from Custom Business & Tax Solutions. The accounting firm prepared a monthly sheet listing all cash register total sales, which were the reported amounts from the Z tapes, for each day. The accountant’s office divided the total tax collected for each month by the 7% sales tax rate to report total sales on the ST-103s, which are reported to IDOR each month. The accountant only filed one ST-103 in 2014, which included sales for September through December of 2014, and filed all twelve months for 2015.

In the chart listed below, “sales per investigation” are the gross sales reported on the ledger that were recovered during the search warrant. “Sales subject to tax” is calculated by dividing “sales per investigation” by 1.07. The 1.07 is used because the cost of item is 100% (unit price) + 7% (sales tax) = 107% or 1.07. To check this method, multiply “sales subject to tax” by 7% and it will equal “sales per investigation.” “Less tax” is calculated by subtracting “sales subject to tax” from “sales per investigation.” “Reported taxable sales on ST-103s” were numbers reported by Custom Business & Tax Solutions to IDOR as total sales. “Unreported sales” are calculated by subtracting “reported taxable sales on ST-103s” from “sales subject to tax.” “Tax not remitted” is calculated by multiplying “unreported sales” by 7%.

As stated earlier, the accountant filed one ST-103 for the year 2014 and combined the months of September, October, November and December. The * in the chart below represents the one total for those four months and the 2014 total for “reported taxable sales on ST-103s” were \$55,493.00, thereby leaving “unreported sales” of \$41,450.55 (\$96,943.55 - \$55,493.00) and “tax not remitted” to IDOR of \$2,901.54 (\$41,450.55 x .07).

The guest check ticket information for February and March of 2015 were located among records obtained at the El Metate Mexican Grill & Bar location, 115 S. Main Street in Fairmount, 46928. These guest check tickets were totaled and represent the figures for February and March of 2015 in the chart below. January 2015 was not available to review so to estimate that month, Auditor Bryant-Buchholz added eleven months of “sales subject to tax” and it equaled \$255,154.85. The “reported taxable sales on ST-103s,” excluding January were \$142,228.49. The “unreported sales,” excluding January were \$112,926.36 (\$255,154.85 - \$142,228.49). Auditor Bryant-Buchholz then calculated the percentage of sales reported by dividing the “reported taxable sales” by “sales subject to tax” to equal 55.74% (\$142,228.49/\$255,154.85 = 55.74%). To calculate the percentage of sales unreported, she divided the “unreported sales” by “sales subject to tax” to equal 44.26% (\$112,926.36/\$255,154.85 = 44.26%). The January 2015 reported taxable sales on the ST-103 was \$11,475.86. The reported number to IDOR, \$11,475.86, was divided by the percentage of sales reported (55.74%) to equal the calculated sales with tax for January 2015 (\$11,475.86/.5574 = \$20,588.20).

	<u>Sales Per Investigation</u> (figures taken from the monthly ledger)	<u>Less Tax</u> (sales per investigation – sales subject to tax)	<u>Sales Subject to Tax</u> (sales per investigation x 1.07)	<u>Reported Taxable Sales on ST-103s</u> (reported to IDOR)	<u>Unreported Sales</u> (sales subject to tax – reportable taxable sales on ST-103s)	<u>Tax Not Remitted</u> (unreported sales x 7%)
<u>2014</u>						
January						
February						
March						
April						
May						
June						
July						

August						
September	\$14,236.91	\$931.39	\$13,305.52	*	*	*
October	\$38,963.84	\$2,549.04	\$36,414.80	*	*	*
November	\$26,762.38	\$1,750.81	\$25,011.57	*	*	*
December	\$23,766.48	\$1,554.82	\$22,211.66	*	*	*
Total 2014	\$103,729.61	\$6,786.06	\$96,943.55	\$55,493.00	\$41,450.55	\$2,901.54
2015						
January	\$20,588.20	\$1,346.89	\$19,241.31	\$11,475.86	\$7,765.45	\$543.58
February	\$25,158.44	\$1,645.88	\$23,512.56	\$14,064.00	\$9,448.56	\$661.40
March	\$23,785.86	\$1,556.08	\$22,229.78	\$12,515.43	\$9,714.35	\$680.00
April	\$23,885.76	\$1,562.62	\$22,323.14	\$14,382.57	\$7,940.57	\$555.84
May	\$27,558.42	\$1,802.89	\$25,755.53	\$16,660.57	\$9,094.96	\$636.65
June	\$24,457.15	\$1,600.00	\$22,857.15	\$14,492.14	\$8,365.01	\$585.55
July	\$23,136.13	\$1,513.58	\$21,622.55	\$12,747.46	\$8,875.09	\$621.26
August	\$23,968.09	\$1,568.01	\$22,400.08	\$14,563.00	\$7,837.08	\$548.60
September	\$26,112.98	\$1,708.33	\$24,404.65	\$12,852.17	\$11,552.48	\$808.67
October	\$20,648.84	\$1,350.86	\$19,297.98	\$10,560.04	\$8,737.94	\$611.66
November	\$18,840.02	\$1,232.52	\$17,607.50	\$10,004.41	\$7,603.09	\$532.22
December	\$17,603.16	\$1,151.61	\$16,451.55	\$9,386.70	\$7,064.85	\$494.54
Total 2015	\$275,743.05	\$18,039.27	\$257,703.78	\$153,704.35	\$103,999.43	\$7,279.97

Summarized Chart for El Metate Mexican Grill & Bar

Total for 2014 & 2015					
<u>Sales Per Investigation</u>	<u>Less Tax</u>	<u>Sales Subject to Tax</u>	<u>Reported Taxable Sales on ST-103s</u>	<u>Unreported Sales</u>	<u>Tax Not Remitted</u>
<u>\$379,472.66</u>	<u>\$24,825.33</u>	<u>\$354,647.33</u>	<u>\$209,197.35</u>	<u>\$145,449.98</u>	<u>\$10,181.51</u>

The sales, without the tax included, reported to IDOR on the ST103s were \$209,197.35, while the restaurant had recorded actual sales of \$354,647.33 on the accounting ledger. It is evident that all the guest checks were not being entered into the cash register, and certain ones were being pulled and separated in order to make it appear as if the sales were much lower. Auditor Bryant-Buchholz found guest checks recovered from the search warrant labeled "A" or arrastre meaning pulled tickets from February – December of 2015. The restaurant even had a designated column in their accounting ledger labeled "A," for the pulled tickets. The "R" column (registro or cash register) on the ledger matches work paper prepared by Custom Business & Tax Solution. The accountant's office subtracted the 7% sales tax from the "R" or register sales and then reported the taxable sales to IDOR on the ST-103s. El Metate Mexican Grill & Bar failed to report sales of \$145,449.98 and failed to remit \$10,181.51 in sales tax trust fund monies to IDOR for 2014 and 2015.

E. La Cabana Mexican Grill & Bar / El Agave Enterprises, Inc.

Methods Used to Show Underreporting of Sales:

The following paragraphs detail the five different methods used to determine if La Cabana Mexican Grill & Bar underreported sales for the restaurant. The first method is through bank statements recovered during the execution of search warrants at the restaurant, 7035 W. 96th Street, Ste. P in Indianapolis, and at the residence of Rosalio Sanchez, 3314 N. Milton Street in Muncie. The bank records for La Cabana Mexican Grill & Bar were at Star Bank, account number xxxx5472. For the years 2013 and 2014, all bank statements were examined by Investigator Albrecht. For the year 2015, December is not included as the December bank statement was not available to Investigator Albrecht for review. The examination of the bank statements for account xxxx5472 showed that only .47% of all deposits made by La Cabana Mexican Grill & Bar for the years 2013, 2014, and 2015 were in the form of cash. As stated before, it is normal for a restaurant to have cash receipts that equal forty (40) to sixty (60) percent of sales. Cash receipts of less than one half percent indicate that forty percent or more of sales are not being deposited into the business bank account. The credit card and debit card sales are shown on the bank statements because those sales must pass through the bank in order for the restaurant to obtain payment from the customers who use those cards to pay for their meals. For calculation purposes, the percentage of cash deposits is obtained by dividing the “cash deposits” by the “total bank deposits.” The following chart demonstrate the cash deposits for La Cabana Mexican Grill & Bar for the years 2013, 2014, and 2015:

La Cabana Mexican Grill and Bar – xxxx5472

<u>Year</u>	<u>Total Bank Deposits</u>	<u>Cash Deposits</u>	<u>Percentage of Deposits as Cash</u>
2013	\$305,203.00	\$2,715.56	$(\$2,715.56/\$305,203.00) = .89\%$
2014	\$438,124.17	\$2,511.82	$(\$2,511.82/\$438,124.17) = .57\%$
2015	\$502,306.89	\$659.25	$(\$659.25/\$502,306.89) = .13\%$
Total	\$1,245,634.06	\$5,886.63	$(\$5,886.63/\$1,245,634.06) = .47\%$

The second method used to show La Cabana Mexican Grill & Bar underreported sales is through sales tax documents subpoenaed from the Indiana Department of Revenue. The Indiana Department of Revenue provided the Taxpayer Financials Summary for La Cabana Mexican Grill & Bar which details total sales and sales tax reported by the restaurant. The chart below details: 1) Reported sales to Department of Revenue, which are sales La Cabana Mexican Grill & Bar reported to IDOR on the sales tax return, Form ST-103; 2) Bank deposits from credit/debit cards, which are numbers extracted from the Star bank (xxxx5472) statements recovered from the search warrants. In order to determine the bank deposits from credit cards, cash deposits were subtracted from the total deposits, and the resulting numbers are the credit card deposits; 3) Difference between “bank deposits from credit/debit cards” and the “reported sales to IDOR.”

The chart shows that La Cabana Mexican Grill & Bar reported sales to the Indiana Department of Revenue that closely mirrored sales made when customers used a credit or debit card to pay for their

meals. For the years 2013 and 2014, all months are shown for the reported sales and bank deposits from credit/debit cards. For the year 2015, December is not included as the December bank statement was not available to Investigator Albrecht for review. The third column, bank deposits from credit/debit cards, does not include cash deposits to the Star bank account, xxx5472. La Cabana Mexican Grill & Bar reported sales to IDOR that were less than sales deposited to the bank account in the form of credit/debit cards. All sales made where a credit or debit card is used as form of payment must go through a clearing house and will be shown as a deposited amount in the bank account of the business. La Cabana Mexican Grill & Bar did not report all of the credit/debit card sales that are reflected in deposits made to the business bank account, xxx5472, to IDOR. Also, none of the cash sales made by La Cabana Mexican Grill & Bar were reported to the Indiana Department of Revenue as sales, and the sales tax collected on the cash sales were not remitted to IDOR.

<u>Year</u>	<u>Reported Sales to IDOR</u>	<u>Bank Deposits from Credit/Debit Cards</u>	<u>Difference Btw Deposits and Sales</u>
2013	\$268,294	\$302,487 (\$305,203.00-\$2,715.56)	\$34,193 (\$302,487-\$268,294)
2014	\$426,246	\$435,612 (\$438,124.17-\$2,511.82)	\$9,366 (\$435,612-\$426,246)
2015	\$478,727	\$501,648 (\$502,306.89-\$659.25)	\$22,921 (\$501,648-\$478,727)
Total	\$1,172,200	\$1,239,747	\$67,547

The ST-103s detail total sales, exemptions/deductions, taxable sales, total tax due, discount (collection allowance), use tax due, interest due, penalty due, payment previously made, and amount due. The ST-103s do not request businesses to detail cash sales and credit/debit card sales on the actual forms, however, the total sales requested is both the cash and credit/card sales from the operation of the business. Even though a cash to total sales percentage was not able to be calculated using the ST-103s, it still shows an underreporting of sales. The total sales reported to IDOR is less than the credit/debit card deposits in the business's financial account. La Cabana Mexican Grill & Bar did not even report all of the credit/debit cards sales, therefore, no cash sales were reported to IDOR for the years 2013, 2014, and 2015.

The third method used to show the restaurant underreported sales is from the cash register tapes recovered on the search warrant, 7035 E. 96th Street, Ste. P, Indianapolis, 46250. The examination done by Investigator Albrecht indicate that cash register tapes had been destroyed and La Cabana Mexican Grill & Bar saved only part of the register tape referred to as the Z portion. The Z portion of the cash register tape is normally the section that summarizes the daily sales, no sales, voids and other

activity that occurred during the period the tape was being used. If the daily portion of the tape is destroyed, it is not possible to determine if the Z portion of the tape is properly reporting the sales activity for that day. The Z portion of the tape can be manipulated to reflect an improper sales report by making false entries during the day. When the cash register tape has been destroyed, then the Z portion of the tape cannot be confirmed as being correct in reporting the daily activity of the business. Investigator Albrecht reviewed 602 Z tapes, with all the cash register tapes being destroyed except for the Z portion. The time span reviewed was twenty months, February, May, June, August and September of 2013; October, November and December of 2014; January, February, March, April, May, June, July, August, September, October and November of 2015.

An examination of the Z portions of the cash register tapes provided further evidence that La Cabana Mexican Grill & Bar was not reporting all sales made. The examination of the Z portions indicate the business reported an average of forty (40) customers per day. In order to arrive at that number, the total number of customers reported on the 602 Z tapes over the twenty-month period were 23,767. The total number of customers were divided by twenty to determine the average customers reported per month ($23,767/20 = 1,188$). The average customers per month (1,188) were divided by 30 to determine the average customers per day ($1,188/30 = 39.61 = 40$). Although some months had 31 days and February had 28 days, the 30 days per month gives the benefit of the doubt to the restaurant. If 31 days had been used, then the average customers per month would be 38 instead of 40 ($1,188/31 = 38.32 = 38$).

The analysis of cash register tapes, the percentage of cash sales to total sales was 15.57%, however, 24.35% of all customers paid in cash. The 602 Z tapes that were reviewed identified gross (total) sales (shown on the tape as NET 3) and cash sales (shown on the tape as CASH). Cash sales (\$121,022.44) were divided by gross (total) sales (\$777,186.39) to determine cash as a percentage of total sales ($\$121,022.44/\$777,186.39 = 15.57\%$). The tapes did not report voided or no sales. The total cash customers of 5,787 (shown at the bottom of daily Z portions as cash count) is divided by the total customers of 23,767 (shown at the bottom of daily Z portions as transaction count) to determine the percentage of cash customers ($5,787/23,767 = 24.35\%$). In order to determine cash sales not reported, the bank deposits for xxxx5472 does not include the cash deposits, but only include credit and debit card deposits. When comparing the percentages as shown on the Z tapes, both the 15.57% (percentage of cash to total sales) and 24.35% (percentage of cash customers) are much lower than the forty (40) percent of cash sales that is the expected minimum. The records not destroyed by La Cabana Mexican Grill & Bar still shows that the restaurant failed to deposit cash in amounts of \$193,029, when applying the cash percentage from the Z tapes, and \$301,877, when applying the percentage of cash customers for the years 2013, 2014, and 2015.

<u>Year</u>	<u>Bank Deposit from Credit/Debit Cards</u>	<u>Cash Percentage From Z Tape</u>	<u>Sales Not Reported Using Percentage of Cash to Total Sales (15.57%)</u>	<u>Cash Customers From Z Tape</u>	<u>Sales Not Reported Using Percentage of Cash Customers (24.35%)</u>

2013	\$302,487	15.57%	\$47,097 (\$302,487 x .1557)	24.35%	\$73,655 (\$302,487 x .2435)
2014	\$435,612	15.57%	\$67,825 (\$435,612 x .1557)	24.35%	\$106,071 (\$435,612 x .2435)
2015	\$501,648	15.57%	\$78,107 (\$501,648 x .1557)	24.35%	\$122,151 (\$501,648 x .2435)
Total	\$1,239,747	15.57%	\$193,029	24.35%	\$301,877

The fourth method used to show the restaurant underreported sales is from information obtained on the monthly sales reports recovered from the search warrant. The monthly sales reports were reviewed by Investigator Albrecht. These reports were prepared by the owner and/or management of La Cabana Mexican Grill & Bar. These documents report cash sales, credit card sales, and sales reported on the cash register. It was noted during the review of the monthly sales reports that the cash reported on the business documents was greater than cash deposited in the Star financial account, xxxx5472. Even though more cash was reported on the monthly sales reports than the cash deposited in the bank account, the amount of cash reported on the monthly sales reports is not sufficient to account for known minimum cash sales.

In the chart below, the cash deposited in xxxx5472 is referenced in the chart to show the difference between the amount La Cabana Mexican Grill & Bar deposited versus what they reported on their business documents, the monthly reports. The percentage of cash is determined by dividing the "cash reported on monthly reports" by "total sales reported on monthly reports." The cash sales reported by La Cabana Mexican Grill & Bar on their monthly reports never reached 20%.

<u>Year</u>	<u>Cash Deposited in xxxx5472</u>	<u>Cash Reported on Monthly Reports</u>	<u>Total Sales Reported on Monthly Reports</u>	<u>% of Cash</u>
2013	\$2,716	\$59,904	\$366,375	16.35% (\$59,904/\$366,375)
2014	\$2,512	\$69,879	\$506,291	13.80% (\$69,879/\$506,291)
2015	\$659	\$60,821	\$603,926	10.07% (60,821/\$603,926)
Total	\$5,887	\$190,604	\$1,476,592	12.91% (\$190,604/\$1,476,592)

The fifth method used to show the restaurant underreported sales is by examining the relationship between gross sales and cost of goods sold as reported on the monthly income statements. The examination was done by Investigator Albrecht and he used the monthly income statements for his analysis, which are different than the monthly reports discussed in the fourth method. The monthly income statements were reports prepared by Custom Business & Tax Solutions, located at 235 Smith Valley Rd W in Greenwood, Indiana 46142. The gross sales and cost of goods sold (COGS), which is the purchase price of food and drinks that are to be sold in the restaurant to customers, were reported by La Cabana Mexican Grill & Bar on the monthly income statements.

This examination of business documents showed a total markup of 2.33 times the purchase price to the sales price. The markup rate is calculated by dividing gross sales by the total cost of goods sold. As stated previously, it is normal for a restaurant selling Mexican cuisine to have a markup of four (4) to seven (7) times the purchase price to the sales price. La Cabana Mexican Grill & Bar consistently fell beneath this minimum threshold. For the three years of 2013, 2014, and 2015, La Cabana Mexican Grill & Bar had a markup that never reached the expected minimum markup rate of four (4) times the purchase price to the sales price. The markup rates for 2013 was 2.01, 2014 was 2.41, and 2015 was 2.48, which are well below the expected minimum markup and is a strong indicator of an underreporting of sales. The relationship between cost of goods sold and gross sales for La Cabana Mexican Grill & Bar indicates the restaurant underreported sales for the years 2013, 2014, and 2015. See charts below for the markup rates of La Cabana Mexican Grill & Bar that were calculated by Investigator Albrecht using the monthly income statements:

	2013	2014	2015	Total
Gross Sales	\$268,294	\$426,246	\$478,727	\$1,173,267
Cost of Goods Sold	\$133,201	\$176,887	\$193,084	\$503,172
Markup Rates	$(\$268,294/\$133,201)$ = 2.01	$(\$426,246/\$176,887) =$ 2.41	$(\$478,727/\$193,084) =$ 2.48	$(\$1,173,267/\$503,172)$ = 2.33

Summary of Methods:

Documents maintained by La Cabana Mexican Grill & Bar show the restaurant was manipulating sales figures through business source documents. First, cash receipts of less than one half percent (0.47%) calculated from the restaurant's Star Bank account (xxxx5472) indicate that forty (40) percent or more of sales are not being deposited into their financial account.

Second, for the years 2013, 2014, and 2015, La Cabana Mexican Grill & Bar reported total sales to IDOR on the ST-103s in the amount of \$1,172,200. This number is less than sales deposited in the business's financial account in the form of credit/debit cards (\$1,238,747) and still does not represent any cash sales. The ST-103s do not request a business to detail cash sales and credit/debit card sales on

the actual forms, however, the total sales requested is both the cash and credit/card sales from the operation of the business. Even though a cash to total sales percentage was not able to be calculated using the ST-103s, it still shows an underreporting of sales. La Cabana Mexican Grill & Bar did not even report all of the credit/debit cards sales, therefore, no cash sales were reported and the sales tax collected on those cash sales were not remitted to IDOR either.

Third, the restaurant did not maintain the Z tapes' daily entries so the exact cash sales and gross sales could not be calculated. From the analysis of the Z tapes, covering a time span of twenty months in the years 2013-2015, the percentage of cash to total sales was 15.57%, however, 24.35% of all customers paid in cash. When applying the percentages as shown on the Z tapes, La Cabana Mexican Grill & Bar failed to deposit \$193,029 in cash, calculated using the 15.57% (percentage of cash to total sales) and \$301,877 in cash, calculated using the 24.35% (percentage of cash customers) in the years 2013, 2014, and 2015. The records not destroyed by the restaurant still shows an underreporting of sales.

Fourth, the cash sales reported on the monthly sales reports for the years 2013, 2014, and 2015 averaged 13.40%. It was noted during the review of the monthly sales reports that the cash reported on the business documents was greater than cash deposited in the Star financial account, xxxx5472. Even though more cash was reported on the monthly sales reports than the cash deposited in the bank account, the amount of cash reported on the monthly sales reports is not sufficient to account for known minimum cash sales at a restaurant selling Mexican cuisine.

Fifth, La Cabana Mexican Grill & Bar never had a markup higher than 2.48 times the purchase price, which were calculated from the monthly income statements. From 2013, 2014, and 2015, the total markup was 2.33, which is well below the expected minimum markup of four. All five methods indicate that La Cabana Mexican Grill & Bar underreported sales for the years 2013, 2014, and 2015.

Underreported Sales and Sales Tax Owed to IDOR:

A reasonable estimate of taxable sales was calculated using the average percentage of reported sales from the ledgers found at the following restaurants: Casa Del Sol Mexican Grill, Casa Grande Mexican Grill & Bar and El Metate Mexican Grill & Bar. The sales for York Pizza were not included in the calculation of reported sales because it was a pizza business, not a Mexican restaurant. Auditor Byrant-Buchholz wanted to compare the restaurants' sales that sold similar products. The numbers listed are referring to the restaurants' summarized charts previously discussed in the probable cause affidavit. To calculate the percentage of reported sales, divided the "reported taxable sales on ST-103s" by "sales subject to tax," to equal 77% ($\$3,457,782.26 / \$4,501,019.69 = .768$). To calculate the percentage of unreported sales, divide the "unreported sales" by "sales subject to tax," to equal 23% ($\$1,043,237.43 / \$4,501,019.69 = .231$). The percentages were rounded into whole numbers for an easier calculation on the "calculated taxable sales."

<u>Restaurant</u>	<u>Sales Subject to Tax</u>	<u>Reported Taxable Sales on ST-103s</u>	<u>Unreported Sales</u>
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Casa Del Sol Mexican Grill	\$1,890,529.33	\$1,577,243.80	\$313,285.53
Casa Grande Mexican Grill & Bar	\$2,255,843.03	\$1,671,341.11	\$584,501.92
El Metate Mexican Grill & Bar	\$354,647.33	\$209,197.35	\$145,449.98
Total	\$4,501,019.69	\$3,457,782.26	\$1,043,237.43
Percentages	100%	77%	23%

The following chart lists the reported taxable sales on ST-103s, calculated taxable sales, unreported sales, sales tax rate of 7%, and tax not remitted. The “reported taxable sales on ST-103s” were numbers reported by Custom Business & Tax Solution to IDOR as total sales. The “calculated taxable sales” is the “reported taxable sales on ST-103s” divided by the percentage of 77%. The 77% is the percentage of reported sales using the actual numbers reported on the monthly ledgers and ST-103s for Casa Del Sol Mexican Grill, Casa Grande Mexican Grill & Bar and El Metate Mexican Grill & Bar. The “unreported sales” are calculated by subtracting the “reported taxable sales on the ST-103s” from the “calculated taxable sales.” The “tax not remitted” is the “unreported sales” multiplied by 7%.

	<u>Reported Taxable Sales on ST-103s</u> (reported to IDOR)	<u>Calculated Taxable Sales</u> (reported taxable sales on ST-103s / .77)	<u>Unreported Sales</u> (calculated taxable sales – reportable taxable sales on ST-103s)	<u>Tax Not Remitted</u> (unreported sales x 7%)
2013				
January	\$16,110.07	\$20,922.17	\$4,812.10	\$336.85
February	\$18,273.06	\$23,731.25	\$5,458.19	\$382.07
March	\$22,512.41	\$29,236.90	\$6,724.49	\$470.71
April	\$23,268.79	\$30,219.21	\$6,950.42	\$486.53
May	\$25,909.25	\$33,648.38	\$7,739.13	\$541.74
June	\$19,252.59	\$25,003.36	\$5,750.77	\$402.55
July	\$23,075.63	\$29,968.35	\$6,892.72	\$482.49
August	\$24,671.93	\$32,041.47	\$7,369.54	\$515.87
September	\$23,262.75	\$30,211.36	\$6,948.61	\$486.40
October	\$22,959.39	\$29,817.39	\$6,858.00	\$480.06
November	\$23,999.88	\$31,168.68	\$7,168.80	\$501.82
December	\$24,998.82	\$32,466.00	\$7,467.18	\$522.70
Total 2013	\$268,294.57	\$348,434.52	\$80,139.95	\$5,609.79
2014				
January	\$26,472.85	\$34,380.32	\$7,907.47	\$553.52
February	\$30,436.27	\$39,527.62	\$9,091.35	\$636.39
March	\$34,842.87	\$45,250.48	\$10,407.61	\$728.53
April	\$36,411.12	\$47,287.17	\$10,876.05	\$761.32
May	\$40,575.38	\$52,695.30	\$12,119.92	\$848.39
June	\$39,397.80	\$51,165.97	\$11,768.17	\$823.77

July	\$36,697.58	\$47,659.19	\$10,961.61	\$767.31
August	\$37,917.13	\$49,243.03	\$11,325.90	\$792.81
September	\$34,716.29	\$45,086.09	\$10,369.80	\$725.89
October	\$39,246.78	\$50,969.84	\$11,723.06	\$820.61
November	\$33,715.64	\$43,786.55	\$10,070.91	\$704.96
December	\$34,749.12	\$45,128.73	\$10,379.61	\$726.57
Total 2014	\$425,178.83	\$552,180.29	\$127,001.46	\$8,890.07
2015				
January	\$37,928.80	\$49,258.18	\$11,329.38	\$793.06
February	\$38,528.98	\$50,037.64	\$11,508.66	\$805.61
March	\$42,588.42	\$55,309.64	\$12,721.22	\$890.49
April	\$42,082.70	\$54,652.86	\$12,570.16	\$879.91
May	\$51,945.23	\$67,461.34	\$15,516.11	\$1,086.13
June	\$47,401.00	\$61,559.74	\$14,158.74	\$991.11
July	\$46,330.71	\$60,169.75	\$13,839.04	\$968.73
August	\$46,119.11	\$59,894.95	\$13,775.84	\$964.31
September	\$42,553.46	\$55,264.23	\$12,710.77	\$889.75
October	\$44,174.83	\$57,369.91	\$13,195.08	\$923.66
November	\$39,073.83	\$50,745.23	\$11,671.40	\$817.00
December	\$40,690.61	\$52,844.95	\$12,154.34	\$850.80
Total 2015	\$519,417.68	\$674,568.42	\$155,150.74	\$10,860.56

Summarized Chart for La Cabana Mexican Grill & Bar

<u>Reported Taxable Sales on ST-103s</u>	<u>Calculated Taxable Sales</u>	<u>Unreported Sales</u>	<u>Tax Not Remitted</u>
<u>\$1,212,891.08</u>	<u>\$1,575,183.23</u>	<u>\$362,292.15</u>	<u>\$25,360.42</u>

The sales, without the tax included, reported to IDOR on the ST103s were \$1,212,891.08, while the restaurant had calculated taxable sales of \$1,575,183.22. La Cabana Mexican Grill & Bar had failed to report sales of \$362,292.15 and failed to remit \$25,360.42 in sales tax trust fund monies to IDOR for 2013, 2014 and 2015.

F. Ciudad Colonial Fresh Mexican Food / NRM Group, Inc.

Methods Used to Show Underreporting of Sales:

The following paragraphs detail the four different methods used to show Ciudad Colonial Fresh Mexican Food underreported sales for the restaurant. *(The monthly sales reports that were examined in the fourth method for La Cabana Mexican Grill & Bar were unavailable to Investigator Albrecht for Ciudad Colonial Fresh Mexican Food.)* The first method is through bank statements recovered during the execution of search warrants at the restaurant, 3501 N. Granville Ave., Ste. J-3 in Muncie, at the residence of Rosalio Sanchez, 3314 N. Milton Street in Muncie, and at the residence of Manuel Rodriguez Alonso, 601 E. Streeter Ave. in Muncie. The bank records for Ciudad Colonial Fresh Mexican Food were at Star Bank, account number xxxx5255. The bank statements for the years 2014 and 2015

were examined by Investigator Rick Albrecht. The June and August 2015 bank statements were not available for Investigator Albrecht to review. The examination of the bank statements for account xxxx5255 showed that only 2.86% of all deposits made by Ciudad Colonial Fresh Mexican Food for the years 2014 and 2015 were in the form of cash. The credit card and debit card sales are shown on the bank statements because those sales must pass through the bank in order for the restaurant to obtain payment from the customers who use those cards to pay for their meals. For calculation purposes, the percentage of cash deposits is obtained by dividing the “cash deposits” by the “total bank deposits.” The following chart demonstrate the cash deposits for Ciudad Colonial Fresh Mexican Food for the years 2014 and 2015:

Ciudad Colonial Fresh Mexican Food – xxxx5255:

<u>Year</u>	<u>Total Bank Deposits</u>	<u>Cash Deposits</u>	<u>Percentage of Deposits as Cash</u>
2014	\$559,317.00	\$18,569.00	$(\$18,569.00/\$559,317.00) = 3.32\%$
2015	\$440,028.00	\$9,990.00	$(\$9,990.00/\$440,028.00) = 2.27\%$
Total	\$999,345.00	\$28,559.00	$(\$28,559.00/\$999,345.00) = 2.86\%$

The second method used to show Ciudad Colonial Fresh Mexican Food underreported sales is by examining the relationship between the following documents for 2014: credit and debit card sales reported on the bank statements, total sales reported on the income tax return which were subpoenaed from the Indiana Department of Revenue, and the total sales as reported on the monthly income statements prepared by Custom Business & Tax Solutions, located at 235 Smith Valley Rd W in Greenwood, Indiana 46142. The second column, credit/debit card sales, does not include cash deposits to the Star bank account, xxxx5255. All sales made where a credit or debit card is used as form of payment must go through a clearing house and will be shown as a deposited amount in the bank account of the business. The examination shows that three different figures were reported for the total sales of 2014: total bank deposits in account xxxx5255 were \$559,317, reported sales on the monthly income statements were \$553,915, and the reported sales to IDOR on the income tax return were \$561,517. The credit/debit card sales were \$540,748, meaning the restaurant reported all of the credit/debit card sales on the monthly income statements (\$553,915) and income tax return (\$561,517). However, the examination also shows very little cash was deposited in their: 1) business bank account; 2) reported on the monthly income statements; and 3) reported to IDOR. See chart below:

<u>Total Bank Deposits</u>	<u>Credit/Debit Card Sales</u>	<u>Reported Sales on Monthly Income Statements</u>	<u>Reported Sales to IDOR (Income Tax Return)</u>
\$559,317	\$540,748 (\$559,317 - \$18,569)	\$553,915	\$561,517

The total sales reported on the 2014 income tax return for Ciudad Colonial Fresh Mexican Food included cash customers of \$20,769, while credit/debit card customers accounted for \$540,748 (\$20,769 + \$540,748 = \$561,517). The percentage of credit/debit card sales is calculated by taking the “credit/debit card sales” divided by the “total sales for 2014” ($\$540,748/\$561,517 = 96\%$). The percentage of cash sales is calculated by taking the “cash sales” divided by the “total sales for 2014.” ($\$20,769/\$561,517 = 4\%$). Ciudad Colonial Fresh Mexican Food reported that credit or debit card sales accounted for 96% of their sales, leaving the remainder, 4% being cash customers.

Total Sales	\$561,517
Credit/Debit Card Sales	\$540,748
Cash Sales	\$20,769
% of Credit/Debit Card Sales	96% $(\$540,748/\$561,517) = .96$
% of Cash Sales	4% $(\$20,769/\$561,517) = .036$

The third method used to show the restaurant underreported sales is from the cash register tapes recovered on the search warrant, 3501 N. Granville Ave., Ste. J-3, Muncie, 47303. The examination done by Investigator Albrecht indicate the cash register tapes had been destroyed and Ciudad Colonial Fresh Mexican Food saved only part of the register tape referred to as the Z portion. The Z portion of the cash register tape is normally the section that summarizes the daily sales, no sales, voids, and other activity that occurred during the period the tape was being used. If the daily portion of the tape is destroyed, it is not possible to determine if the Z portion of the tape is properly reporting the sales activity for that day. The Z portion of the tape can be manipulated to reflect an improper sales report by making false entries during the day. When the cash register tape has been destroyed, then the Z portion of the tape cannot be confirmed as being correct in reporting the daily activity of the business. Investigator Albrecht reviewed 350 Z tapes for the year 2014 covering January through December. In 2015, there were no Z tapes to review, however, 179 daily cash reconciliation sheets covering six months (January, February, March, April, May, July) were available to Investigator Albrecht for review. The daily cash reconciliation sheets detail information such as gross sales from Z tapes, credit card sales from Z tapes, tips paid, and cash sales.

The Z portions of the cash register tapes for the year 2014 provided information on sales, number of customers, cash customers, credit or debit card customers, and no sales. The examination of the Z portions indicate the business reported an average of seventy-nine (79) customers per day. The total number of customers reported on the 350 Z tapes over a twelve-month period were 28,597. The

total number of customers were divided by twelve to determine the average customers reported per month ($28,597/12 = 2,383$). The average customers per month (2,383) were divided by 30 to determine the average customers per day ($2,383/30 = 79$). Although some months had 31 days and February had 28 days, the 30 days per month gives the benefit of the doubt to the restaurant. If 31 days had been used, then the average customer per month would be 77 instead of 79 ($2,383/31 = 77$). The Z portions of the cash register tapes also indicate that employees of Ciudad Colonial Fresh Mexican Food rang "no sales" into the cash register 31.60% of the time. In other words, for every third customer that went through to pay their food/drink bill, a no sale was rung into the cash register by employees/managers of the restaurant. The total number of no sales (9,037) were divided by the total number of customers (23,597) to determine the percentage of no sales for the year 2014 ($9,037/23,597 = 31.60\%$). This is an example of cash skimming or the act of accepting cash payment for sales and not reporting the payment, thereby not paying the appropriate amount of sales tax.

From the cash register tapes, the percentage of cash sales to total sales was 20.36%, however, 28.61% of all customer paid in cash. The 350 Z tapes that were reviewed identified gross (total) sales (shown on the tape as NET 3) and cash sales (shown on the tape as CASH). Cash sales (\$122,506.58) were divided by gross (total) sales (\$601,671.95) to determine cash as a percentage of total sales ($\$122,506.58/\$601,671.95 = 20.36\%$). From the 350 Z tapes, the total cash customers of 8,182 (shown at the bottom of daily Z portions as cash count) is divided by the total customers of 28,597 (shown at the bottom of daily Z portions as transaction count) to determine the percentage of cash customers ($8,182/28,597 = 28.61\%$). From the 2015 daily cash reconciliation sheets, the percentage of cash sales to total sales was 17.85% and percentage of credit/debit card sales to total sales was 82.15%. The total cash sales (\$50,377.29) is divided by the gross (total) sales (\$282,196.45) to determine cash as a percentage of total sales ($\$50,377.29/\$282,196.45 = 17.85\%$). The total credit/debit card sales (\$231,819.06) is divided by the gross (total) sales (\$282,196.45) to determine the credit/debit card sales as a percentage of total sales ($\$231,819.06/\$282,196.45 = 82.15\%$).

In the chart listed below, the bank deposits for xxxx5255 do not include the cash deposits. The bank deposits only include the credit and debit card deposits. The amount of cash the restaurant failed to deposit in their financial account was not calculated because the 2015 bank statements and daily cash reconciliation sheets were not complete. The bank statements missing were June and August, while the daily cash reconciliation sheets missing were June, August, September, October, November, and December. When applying the percentages as shown on the Z tapes for 2014, both the 20.36% (percentage of cash to total sales) and 28.61% (percentage of cash customers) are lower than the (40) percent of cash sales that is the expected minimum. The records not destroyed by Ciudad Colonial Fresh Mexican Food still shows the restaurant failed to deposit cash in amounts of \$110,096, when applying the cash percentage from the Z tapes, and \$154,708, when applying the percentage of cash customers for the year 2014.

<u>Year</u>	<u>Bank Deposit from Credit/Debit Cards</u>	<u>Cash Percentage from Z Tape</u>	<u>Sales Not Reported Using Percentage of Cash to Total Sales</u> <i>(20.36%)</i>	<u>Cash Customers from Z Tape</u>	<u>Sales Not Reported Using Percentage of Cash Customers</u> <i>(28.61%)</i>
2014	\$540,748	20.36%	\$110,096 <i>(\$540,748 x .2036)</i>	28.61%	\$154,708 <i>(\$540,748 x .2861)</i>

The fourth method used to show the restaurant underreported sales is by examining the relationship between gross sales and cost of goods sold as reported on the monthly income statements. The examination was done by Investigator Albrecht. As stated earlier, the monthly income statements were reports prepared by Custom Business & Tax Solutions, located at 235 Smith Valley Rd W in Greenwood, Indiana 46142. The gross sales and cost of goods sold (COGS), which is the purchase price of food and drinks that are to be sold in the restaurant to customers, were reported by Ciudad Colonial Fresh Mexican Food on the monthly income statements.

This examination of business documents showed a total markup of 2.10 times the purchase price to the sales price. The markup rate is calculated by dividing gross sales by the total cost of goods sold. As stated previously, it is normal for a restaurant selling Mexican cuisine to have a markup of four (4) to seven (7) times the purchase price to the sales price. Ciudad Colonial Fresh Mexican Food consistently fell beneath this minimum threshold. For 2014 and then from January-September of 2015, Ciudad Colonial Fresh Mexican Food had a markup that never reached the expected minimum markup rate of four (4) times the purchase price to the sales price. The markup rates for 2014 was 2.07 and then from January-September of 2015 was 2.14, which are well below the expected minimum markup and is a strong indicator of an underreporting of sales. The relationship between cost of goods sold and gross sales for Ciudad Colonial Fresh Mexican Food indicates the restaurant underreported sales for the years 2014 and a majority of 2015. See charts below for the markup rates of Ciudad Colonial Fresh Mexican Food that were calculated by Investigator Albrecht using the monthly income statements:

	2014	2015 (Jan-Sept)	Total
Gross Sales	\$553,915	\$384,334	\$938,249
Cost of Goods Sold	\$268,157	\$179,613	\$447,770
Markup Rates	$(\$553,915/\$268,157) =$ 2.07	$(\$384,334/\$179,613) =$ 2.14	$(\$938,249/\$447,770) =$ 2.10

Summary of Methods:

Documents maintained by Ciudad Colonial Fresh Mexican Food show the restaurant was manipulating sales figures through business source documents. First, cash receipts of less than three percent (3%) found in the restaurant's Star Bank account (xxxx5255) indicate that thirty (37) percent or more of sales are not being deposited into the business bank account.

Second, Ciudad Colonial Fresh Mexican Food reported total sales on the 2014 income tax return of \$561,517, cash sales of \$20,769, and credit/debit card sales of \$540,748. When calculating percentages, credit/debit card sales accounted for 96% of their sales while cash sales accounted for 4%, which is substantially lower than the normal known cash sales at restaurants selling Mexican cuisine. The restaurant reported all of their 2014 credit/debit card sales (\$540,748) on the monthly income statements (\$553,915) and income tax return (\$561,517), however, very little cash was reported and/or deposited.

Third, the restaurant did not maintain the Z tapes' daily entries so the exact cash sales and gross sales could not be calculated. From the cash register tapes in 2014, the percentage of cash to total sales was 20.36%, however, 28.61% of all customers paid in cash, both numbers lower than the forty (40) percent of cash sales that is the expected minimum. When applying the percentages as shown on the Z tapes, Ciudad Colonial Fresh Mexican Food failed to deposit \$110,096 in cash, calculated using the 20.36% (percentage of cash to total sales) and \$154,708 in cash, calculated using the 28.61% (percentage of cash customers) in the year 2014. Also, the cash register tapes showed employees of the restaurant rang "no sales" into the cash register 31.60% of the time. The 2014 cash register tapes recovered at the restaurant still shows an underreporting of sales.

Fourth, Ciudad Colonial Fresh Mexican Food never had a markup (COGS) higher than 2.14 times the purchase price, which were calculated from the monthly income statements. From 2014 and 2015 (January – September), the total markup was 2.10, which is well below the expected minimum markup of four. All four methods indicate that Ciudad Colonial Fresh Mexican Food underreported sales for the years 2014 and 2015.

Underreported Sales and Sales Tax Owed to IDOR:

A reasonable estimate of taxable sales was calculated using the average percentage of reported sales from the ledgers found at the following restaurants: Casa Del Sol Mexican Grill, Casa Grande Mexican Grill & Bar and El Metate Mexican Grill & Bar. The sales for York Pizza were not included in the calculation of reported sales because it was a pizza business, not a Mexican restaurant. Auditor Byrant-Buchholz wanted to compare the restaurants' sales that sold similar products. The numbers listed are referring to the restaurants' summarized charts previously discussed in the probable cause affidavit. To calculate the percentage of reported sales, divided the "reported taxable sales on ST-103s" by "sales subject to tax," to equal 77% ($\$3,457,782.26 / \$4,501,019.69 = .768$). To calculate the percentage of unreported sales, divide the "unreported sales" by "sales subject to tax," to equal 23%

(\$1,043,237.43/\$4,501,019.69 = .231). The percentages were rounded into whole numbers for an easier calculation on the “calculated taxable sales.”

<u>Restaurant</u>	<u>Sales Subject to Tax</u>	<u>Reported Taxable Sales on ST-103s</u>	<u>Unreported Sales</u>
Casa Del Sol Mexican Grill	\$1,890,529.33	\$1,577,243.80	\$313,285.53
Casa Grande Mexican Grill & Bar	\$2,255,843.03	\$1,671,341.11	\$584,501.92
El Metate Mexican Grill & Bar	\$354,647.33	\$209,197.35	\$145,449.98
Total	\$4,501,019.69	\$3,457,782.26	\$1,043,237.43
Percentages	100%	77%	23%

The following chart lists the reported taxable sales on ST-103s, calculated taxable sales, unreported sales, sales tax rate of 7%, and tax not remitted. The “reported taxable sales on ST-103s” were numbers reported by Custom Business & Tax Solution to IDOR as total sales. The “calculated taxable sales” is the “reported taxable sales on ST-103s” divided by the percentage of 77%. The 77% is the percentage of reported sales using the actual numbers reported on the monthly ledgers and ST-103s for Casa Del Sol Mexican Grill, Casa Grande Mexican Grill & Bar and El Metate Mexican Grill & Bar. The “unreported sales” are calculated by subtracting the “reported taxable sales on the ST-103s” from the “calculated taxable sales.” The “tax not remitted” is the “unreported sales” multiplied by 7%. NRM Group, Inc. filed a Certificate of Assumed Business Name to conduct business as Ciudad Colonial Fresh Mexican Food on 9/17/2013, so the accountant only filed one ST-103 in 2013 that covered September through December of 2013.

	<u>Reported Taxable Sales on ST-103s</u> (reported to IDOR)	<u>Calculated Taxable Sales</u> (reported taxable sales on ST-103s / .77)	<u>Unreported Sales</u> (calculated taxable sales – reportable taxable sales on ST-103s)	<u>Tax Not Remitted</u> (unreported sales x 7%)
2013				
January				
February				
March				
April				
May				
June				
July				
August				
September				
October				
November				
December	\$56,468.00	\$73,335.06	\$16,867.06	\$1,180.69

Total 2013	\$56,468.00	\$73,335.06	\$16,867.06	\$1,180.69
2014				
January	\$42,110.50	\$54,688.96	\$12,578.46	\$880.49
February	\$50,926.25	\$66,137.99	\$15,211.74	\$1,064.82
March	\$54,153.50	\$70,329.22	\$16,175.72	\$1,132.30
April	\$47,931.50	\$62,248.70	\$14,317.20	\$1,002.20
May	\$52,610.88	\$68,325.82	\$15,714.94	\$1,100.05
June	\$47,980.13	\$62,311.86	\$14,331.73	\$1,003.22
July	\$46,672.00	\$60,612.99	\$13,940.99	\$975.87
August	\$51,417.88	\$66,776.47	\$15,358.59	\$1,075.10
September	\$42,498.75	\$55,193.18	\$12,694.43	\$888.61
October	\$46,619.00	\$60,544.16	\$13,925.16	\$974.76
November	\$48,802.25	\$63,379.55	\$14,577.30	\$1,020.41
December	\$53,258.50	\$69,166.88	\$15,908.38	\$1,113.59
Total 2014	\$584,981.14	\$759,715.78	\$174,734.64	\$12,231.42
2015				
January	\$43,991.75	\$57,132.14	\$13,140.39	\$919.83
February	\$46,884.38	\$60,888.81	\$14,004.43	\$980.31
March	\$48,158.63	\$62,543.68	\$14,385.05	\$1,006.95
April	\$43,795.13	\$56,876.79	\$13,081.66	\$915.72
May	\$49,566.38	\$64,371.92	\$14,805.54	\$1,036.39
June	\$41,035.13	\$53,292.38	\$12,257.25	\$858.01
July	\$42,443.88	\$55,121.92	\$12,678.04	\$887.46
August	\$44,023.06	\$57,172.81	\$13,149.75	\$920.48
September	\$39,513.20	\$51,315.84	\$11,802.64	\$826.18
October	\$43,382.74	\$56,341.22	\$12,958.48	\$907.09
November	\$46,004.41	\$59,745.99	\$13,741.58	\$961.91
December	\$50,649.65	\$65,778.77	\$15,129.12	\$1,059.04
Total 2015	\$539,448.34	\$700,582.27	\$161,133.93	\$11,279.37

Summarized Chart for Ciudad Colonial Fresh Mexican Food

<u>Reported Taxable Sales on ST-103s</u>	<u>Calculated Taxable Sales</u>	<u>Unreported Sales</u>	<u>Tax Not Remitted</u>
<u>\$1,180,897.48</u>	<u>\$1,533,633.11</u>	<u>\$352,735.63</u>	<u>\$24,691.48</u>

The sales, without the tax included, reported to IDOR on the ST103s were \$1,180,897.48, while the restaurant had calculated taxable sales of \$1,533,633.11. Ciudad Colonial Fresh Mexican Food had failed to report sales of \$352,735.63 and failed to remit \$24,691.48 in sales tax trust fund monies to IDOR for 2013, 2014 and 2015.

VI. Total amount of underreported sales and sales tax owed:

The six restaurants owned and operated by Rosalio Sanchez and Manuel Rodriguez Alonso failed to report total sales of \$1,843,208.31 and failed to remit a total of \$129,024.60 in sales tax trust fund

monies to the Indiana Department of Revenue for the years 2013, 2014, and 2015. There are also Food and Beverage tax monies owed for Ciudad Colonial Fresh Mexican Food in the amount of \$3,527.35; LaCabana Mexican Grill and Bar in the amount of \$7,245. 83 and Casa del Sol Mexican Grill in the amount of \$3,132.88. The total Food and Beverage tax fund monies not paid to the Indiana Department of Revenue is \$13,906.06. The total amount of tax monies not paid to the Indiana Department of Revenue is \$ 142,930.66.

<u>Restaurant</u>	<u>Underreported Sales</u>	<u>Tax Not Remitted</u>
Casa Del Sol Mexican Grill	\$313,285.53	\$21,929.99
York Pizza	\$84,943.10	\$5,946.10
Casa Grande Mexican Grill & Bar	\$584,501.92	\$40,915.10
El Metate Mexican Grill & Bar	\$145,449.98	\$10,181.51
La Cabana Mexican Grill & Bar	\$362,292.15	\$25,360.42
Ciudad Colonial Fresh Mexican Food	\$352,735.63	\$24,691.48
Total	\$1,843,208.31	\$129,024.60

I Swear (Affirm), Under The Penalties Of Perjury As Specified By IC 35-44-2-1,that The Forgoing Representations Are True

2/8/2017
Dated

/s/ Carmen Walker
Affiant