

Form 5500

Annual Return/Report of Employee Benefit Plan

OMB Nos. 1210-0110 1210-0089

2023

This Form is Open to Public Inspection

Department of the Treasury Internal Revenue Service

Department of Labor Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

This form is required to be filed for employee benefit plans under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6057(b) and 6058(a) of the Internal Revenue Code (the Code).

Complete all entries in accordance with the instructions to the Form 5500.

Part I Annual Report Identification Information

For calendar plan year 2023 or fiscal plan year beginning 01/01/2023 and ending 12/31/2023

- A This return/report is for: a multiemployer plan, a multiple-employer plan, a single-employer plan, a DFE, the first return/report, the final return/report, an amended return/report, a short plan year return/report.
B This return/report is: the first return/report, the final return/report, an amended return/report, a short plan year return/report.
C If the plan is a collectively-bargained plan, check here.
D Check box if filing under: Form 5558, automatic extension, special extension, the DFVC program.
E If this is a retroactively adopted plan permitted by SECURE Act section 201, check here.

Part II Basic Plan Information—enter all requested information

1a Name of plan: RUBIO'S RESTAURANT, INC. 401(K) PLAN
1b Three-digit plan number (PN): 002
1c Effective date of plan: 03/01/1997
2a Plan sponsor's name, mailing address, city or town, state or province, country, and ZIP or foreign postal code.
2b Employer Identification Number (EIN): 33-0100303
2c Plan Sponsor's telephone number: 760-608-3675
2d Business code (see instructions): 722511

Caution: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules, statements and attachments, as well as the electronic version of this return/report, and to the best of my knowledge and belief, it is true, correct, and complete.

Table with 4 columns: SIGN HERE, Signature of plan administrator, Date, Enter name of individual signing as plan administrator. Includes entries for plan administrator and employer/plan sponsor.

For Paperwork Reduction Act Notice, see the Instructions for Form 5500.

Form 5500 (2023) v. 230707

| | | |
|--|--|------|
| 3a Plan administrator's name and address <input checked="" type="checkbox"/> Same as Plan Sponsor | 3b Administrator's EIN | |
| | 3c Administrator's telephone number | |
| 4 If the name and/or EIN of the plan sponsor or the plan name has changed since the last return/report filed for this plan, enter the plan sponsor's name, EIN, the plan name and the plan number from the last return/report: a Sponsor's name c Plan Name | 4b EIN | |
| | 4d PN | |
| 5 Total number of participants at the beginning of the plan year | 5 | 4767 |
| 6 Number of participants as of the end of the plan year unless otherwise stated (welfare plans complete only lines 6a(1) , 6a(2) , 6b , 6c , and 6d). a(1) Total number of active participants at the beginning of the plan year a(2) Total number of active participants at the end of the plan year b Retired or separated participants receiving benefits c Other retired or separated participants entitled to future benefits d Subtotal. Add lines 6a(2) , 6b , and 6c e Deceased participants whose beneficiaries are receiving or are entitled to receive benefits f Total. Add lines 6d and 6e g(1) Number of participants with account balances as of the beginning of the plan year (only defined contribution plans complete this item) g(2) Number of participants with account balances as of the end of the plan year (only defined contribution plans complete this item) h Number of participants who terminated employment during the plan year with accrued benefits that were less than 100% vested..... | 6a(1) | 3319 |
| | 6a(2) | 3572 |
| | 6b | 0 |
| | 6c | 209 |
| | 6d | 3781 |
| | 6e | 0 |
| | 6f | 3781 |
| | 6g(1) | |
| 6g(2) | 322 | |
| 6h | 14 | |
| 7 Enter the total number of employers obligated to contribute to the plan (only multiemployer plans complete this item)..... | 7 | |

8a If the plan provides pension benefits, enter the applicable pension feature codes from the List of Plan Characteristics Codes in the instructions:
 2E 2F 2G 2J 2K 3D

b If the plan provides welfare benefits, enter the applicable welfare feature codes from the List of Plan Characteristics Codes in the instructions:

| | |
|---|---|
| 9a Plan funding arrangement (check all that apply) | 9b Plan benefit arrangement (check all that apply) |
| (1) <input checked="" type="checkbox"/> Insurance | (1) <input checked="" type="checkbox"/> Insurance |
| (2) <input type="checkbox"/> Code section 412(e)(3) insurance contracts | (2) <input type="checkbox"/> Code section 412(e)(3) insurance contracts |
| (3) <input checked="" type="checkbox"/> Trust | (3) <input checked="" type="checkbox"/> Trust |
| (4) <input type="checkbox"/> General assets of the sponsor | (4) <input type="checkbox"/> General assets of the sponsor |

10 Check all applicable boxes in 10a and 10b to indicate which schedules are attached, and, where indicated, enter the number attached. (See instructions)

| | |
|--|---|
| a Pension Schedules | b General Schedules |
| (1) <input checked="" type="checkbox"/> R (Retirement Plan Information) | (1) <input checked="" type="checkbox"/> H (Financial Information) |
| (2) <input type="checkbox"/> MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) - signed by the plan actuary | (2) <input type="checkbox"/> I (Financial Information – Small Plan) |
| (3) <input type="checkbox"/> SB (Single-Employer Defined Benefit Plan Actuarial Information) - signed by the plan actuary | (3) <input checked="" type="checkbox"/> A (Insurance Information) – Number Attached <u> 1 </u> |
| (4) <input type="checkbox"/> DCG (Individual Plan Information) – Number Attached _____ | (4) <input checked="" type="checkbox"/> C (Service Provider Information) |
| (5) <input type="checkbox"/> MEP (Multiple-Employer Retirement Plan Information) | (5) <input checked="" type="checkbox"/> D (DFE/Participating Plan Information) |
| | (6) <input type="checkbox"/> G (Financial Transaction Schedules) |

Part III Form M-1 Compliance Information (to be completed by welfare benefit plans)

11a If the plan provides welfare benefits, was the plan subject to the Form M-1 filing requirements during the plan year? (See instructions and 29 CFR 2520.101-2.) Yes No

If "Yes" is checked, complete lines 11b and 11c.

11b Is the plan currently in compliance with the Form M-1 filing requirements? (See instructions and 29 CFR 2520.101-2.) Yes No

11c Enter the Receipt Confirmation Code for the 2023 Form M-1 annual report. If the plan was not required to file the 2023 Form M-1 annual report, enter the Receipt Confirmation Code for the most recent Form M-1 that was required to be filed under the Form M-1 filing requirements. (Failure to enter a valid Receipt Confirmation Code will subject the Form 5500 filing to rejection as incomplete.)

Receipt Confirmation Code _____

**SCHEDULE A
(Form 5500)**

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Insurance Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA).

▶ **File as an attachment to Form 5500.**

▶ Insurance companies are required to provide the information pursuant to ERISA section 103(a)(2).

OMB No. 1210-0110

2023

This Form is Open to Public Inspection

For calendar plan year 2023 or fiscal plan year beginning **01/01/2023** and ending **12/31/2023**

| | | | |
|--|--|--|------------|
| A Name of plan RUBIO'S RESTAURANT, INC. 401(K) PLAN | | B Three-digit plan number (PN) ▶ | 002 |
| C Plan sponsor's name as shown on line 2a of Form 5500 RUBIO'S RESTAURANT, INC. | | D Employer Identification Number (EIN) 33-0100303 | |

Part I Information Concerning Insurance Contract Coverage, Fees, and Commissions Provide information for each contract on a separate Schedule A. Individual contracts grouped as a unit in Parts II and III can be reported on a single Schedule A.

1 Coverage Information:

(a) Name of insurance carrier
VOYA RETIREMENT INSURANCE AND ANNUITY COMPANY

| (b) EIN | (c) NAIC code | (d) Contract or identification number | (e) Approximate number of persons covered at end of policy or contract year | Policy or contract year | |
|-------------------|----------------------|--|--|--------------------------------|-------------------|
| | | | | (f) From | (g) To |
| 71-0294708 | 86509 | ZH9579 | 3572 | 01/01/2023 | 12/31/2023 |

2 Insurance fee and commission information. Enter the total fees and total commissions paid. List in line 3 the agents, brokers, and other persons in descending order of the amount paid.

| | |
|---|--------------------------------------|
| (a) Total amount of commissions paid | (b) Total amount of fees paid |
|---|--------------------------------------|

3 Persons receiving commissions and fees. (Complete as many entries as needed to report all persons).

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

| (b) Amount of sales and base commissions paid | Fees and other commissions paid | | (e) Organization code |
|--|--|--------------------|------------------------------|
| | (c) Amount | (d) Purpose | |
| | | | |

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

| (b) Amount of sales and base commissions paid | Fees and other commissions paid | | (e) Organization code |
|--|--|--------------------|------------------------------|
| | (c) Amount | (d) Purpose | |
| | | | |

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

| (b) Amount of sales and base commissions paid | Fees and other commissions paid | | (e) Organization code |
|---|---------------------------------|-------------|-----------------------|
| | (c) Amount | (d) Purpose | |
| | | | |

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

| (b) Amount of sales and base commissions paid | Fees and other commissions paid | | (e) Organization code |
|---|---------------------------------|-------------|-----------------------|
| | (c) Amount | (d) Purpose | |
| | | | |

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

| (b) Amount of sales and base commissions paid | Fees and other commissions paid | | (e) Organization code |
|---|---------------------------------|-------------|-----------------------|
| | (c) Amount | (d) Purpose | |
| | | | |

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

| (b) Amount of sales and base commissions paid | Fees and other commissions paid | | (e) Organization code |
|---|---------------------------------|-------------|-----------------------|
| | (c) Amount | (d) Purpose | |
| | | | |

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

| (b) Amount of sales and base commissions paid | Fees and other commissions paid | | (e) Organization code |
|---|---------------------------------|-------------|-----------------------|
| | (c) Amount | (d) Purpose | |
| | | | |

Part II Investment and Annuity Contract Information
 Where individual contracts are provided, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

| | | |
|--|----------|---------|
| 4 Current value of plan's interest under this contract in the general account at year end | 4 | 1223622 |
| 5 Current value of plan's interest under this contract in separate accounts at year end..... | 5 | 7939264 |

6 Contracts With Allocated Funds:

a State the basis of premium rates ▶

| | | |
|--|-----------|--|
| b Premiums paid to carrier | 6b | |
| c Premiums due but unpaid at the end of the year..... | 6c | |
| d If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, enter amount. Specify nature of costs ▶ | 6d | |

e Type of contract: (1) individual policies (2) group deferred annuity
 (3) other (specify) ▶

f If contract purchased, in whole or in part, to distribute benefits from a terminating plan, check here ▶

7 Contracts With Unallocated Funds (Do not include portions of these contracts maintained in separate accounts)

a Type of contract: (1) deposit administration (2) immediate participation guarantee
 (3) guaranteed investment (4) other ▶

b Balance at the end of the previous year **7b** 1010884

| | | |
|---|--------------|--------|
| c Additions: (1) Contributions deposited during the year | 7c(1) | 155456 |
| (2) Dividends and credits | 7c(2) | 0 |
| (3) Interest credited during the year | 7c(3) | 26872 |
| (4) Transferred from separate account..... | 7c(4) | 101542 |
| (5) Other (specify below) | 7c(5) | 5927 |

▶ LOAN REPAYMENT

(6) Total additions..... **7c(6)** 289797

d Total of balance and additions (add lines **7b** and **7c(6)**) **7d** 1300681

e Deductions:

| | | |
|---|--------------|-------|
| (1) Disbursed from fund to pay benefits or purchase annuities during year | 7e(1) | 68826 |
| (2) Administration charge made by carrier | 7e(2) | 3497 |
| (3) Transferred to separate account..... | 7e(3) | |
| (4) Other (specify below) | 7e(4) | 4736 |

▶ LOAN ISSUED

(5) Total deductions..... **7e(5)** 77059

f Balance at the end of the current year (subtract line **7e(5)** from line **7d**) **7f** 1223622

Part III Welfare Benefit Contract Information
 If more than one contract covers the same group of employees of the same employer(s) or members of the same employee organizations(s), the information may be combined for reporting purposes if such contracts are experience-rated as a unit. Where contracts cover individual employees, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

- 8** Benefit and contract type (check all applicable boxes)
- | | | | |
|--|--|---|--|
| a <input type="checkbox"/> Health (other than dental or vision) | b <input type="checkbox"/> Dental | c <input type="checkbox"/> Vision | d <input type="checkbox"/> Life insurance |
| e <input type="checkbox"/> Temporary disability (accident and sickness) | f <input type="checkbox"/> Long-term disability | g <input type="checkbox"/> Supplemental unemployment | h <input type="checkbox"/> Prescription drug |
| i <input type="checkbox"/> Stop loss (large deductible) | j <input type="checkbox"/> HMO contract | k <input type="checkbox"/> PPO contract | l <input type="checkbox"/> Indemnity contract |
| m <input type="checkbox"/> Other (specify) ▶ | | | |

9 Experience-rated contracts:

| | | | |
|---|-----------------|--------------|-----------------|
| a Premiums: (1) Amount received | | 9a(1) | |
| (2) Increase (decrease) in amount due but unpaid..... | | 9a(2) | |
| (3) Increase (decrease) in unearned premium reserve | | 9a(3) | |
| (4) Earned ((1) + (2) - (3))..... | | | 9a(4) |
| b Benefit charges (1) Claims paid..... | | 9b(1) | |
| (2) Increase (decrease) in claim reserves | | 9b(2) | |
| (3) Incurred claims (add (1) and (2))..... | | | 9b(3) |
| (4) Claims charged | | | 9b(4) |
| c Remainder of premium: (1) Retention charges (on an accrual basis) -- | | | |
| (A) Commissions | 9c(1)(A) | | |
| (B) Administrative service or other fees | 9c(1)(B) | | |
| (C) Other specific acquisition costs | 9c(1)(C) | | |
| (D) Other expenses | 9c(1)(D) | | |
| (E) Taxes | 9c(1)(E) | | |
| (F) Charges for risks or other contingencies..... | 9c(1)(F) | | |
| (G) Other retention charges..... | 9c(1)(G) | | |
| (H) Total retention | | | 9c(1)(H) |
| (2) Dividends or retroactive rate refunds. (These amounts were <input type="checkbox"/> paid in cash, or <input type="checkbox"/> credited.)..... | | | 9c(2) |
| d Status of policyholder reserves at end of year: (1) Amount held to provide benefits after retirement | | | 9d(1) |
| (2) Claim reserves | | | 9d(2) |
| (3) Other reserves..... | | | 9d(3) |
| e Dividends or retroactive rate refunds due. (Do not include amount entered in line 9c(2).) | | | 9e |
| 10 Nonexperience-rated contracts: | | | |
| a Total premiums or subscription charges paid to carrier | | | 10a |
| b If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, other than reported in Part I, line 2 above, report amount | | | 10b |
| Specify nature of costs. | | | |

Part IV Provision of Information

11 Did the insurance company fail to provide any information necessary to complete Schedule A?..... Yes No

12 If the answer to line 11 is "Yes," specify the information not provided. ▶

| | | |
|--|--|---|
| SCHEDULE C (Form 5500) <small>Department of the Treasury Internal Revenue Service</small> <small>Department of Labor Employee Benefits Security Administration</small> <small>Pension Benefit Guaranty Corporation</small> | Service Provider Information This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA). ▶ File as an attachment to Form 5500. | <small>OMB No. 1210-0110</small> 2023 This Form is Open to Public Inspection. |
|--|--|---|

For calendar plan year 2023 or fiscal plan year beginning **01/01/2023** and ending **12/31/2023**

| | | |
|--|--|------------|
| A Name of plan RUBIO'S RESTAURANT, INC. 401(K) PLAN | B Three-digit plan number (PN) ▶ | 002 |
| C Plan sponsor's name as shown on line 2a of Form 5500 RUBIO'S RESTAURANT, INC. | D Employer Identification Number (EIN) 33-0100303 | |

Part I Service Provider Information (see instructions)

You must complete this Part, in accordance with the instructions, to report the information required for **each person** who received, directly or indirectly, \$5,000 or more in total compensation (i.e., money or anything else of monetary value) in connection with services rendered to the plan or the person's position with the plan during the plan year. If a person received **only** eligible indirect compensation for which the plan received the required disclosures, you are required to answer line 1 but are not required to include that person when completing the remainder of this Part.

1 Information on Persons Receiving Only Eligible Indirect Compensation

a Check "Yes" or "No" to indicate whether you are excluding a person from the remainder of this Part because they received only eligible indirect compensation for which the plan received the required disclosures (see instructions for definitions and conditions)..... Yes No

b If you answered line 1a "Yes," enter the name and EIN or address of each person providing the required disclosures for the service providers who received only eligible indirect compensation. Complete as many entries as needed (see instructions).

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

VOYA RETIREMENT INSURANCE AND ANNUI

71-0294708

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

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2. Information on Other Service Providers Receiving Direct or Indirect Compensation. Except for those persons for whom you answered "Yes" to line 1a above, complete as many entries as needed to list each person receiving, directly or indirectly, \$5,000 or more in total compensation (i.e., money or anything else of value) in connection with services rendered to the plan or their position with the plan during the plan year. (See instructions).

(a) Enter name and EIN or address (see instructions)

VOYA RETIREMENT INSURANCE AND ANNUI

71-0294708

| (b) Service Code(s) | (c) Relationship to employer, employee organization, or person known to be a party-in-interest | (d) Enter direct compensation paid by the plan. If none, enter -0-. | (e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor) | (f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures? | (g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-. | (h) Did the service provider give you a formula instead of an amount or estimated amount? |
|------------------------|---|--|--|--|---|--|
| 26 | INVESTMENT ADVISORY (PART) | 2885 | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Yes <input type="checkbox"/> No <input type="checkbox"/> | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |

(a) Enter name and EIN or address (see instructions)

MORNINGSTAR INVESTMENT MANAGEMENT

36-4317381

| (b) Service Code(s) | (c) Relationship to employer, employee organization, or person known to be a party-in-interest | (d) Enter direct compensation paid by the plan. If none, enter -0-. | (e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor) | (f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures? | (g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-. | (h) Did the service provider give you a formula instead of an amount or estimated amount? |
|------------------------|---|--|--|--|---|--|
| 26 | INVESTMENT ADVISORY (PART) | 2885 | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Yes <input type="checkbox"/> No <input type="checkbox"/> | 0 | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |

(a) Enter name and EIN or address (see instructions)

BDO

22-2000222

| (b) Service Code(s) | (c) Relationship to employer, employee organization, or person known to be a party-in-interest | (d) Enter direct compensation paid by the plan. If none, enter -0-. | (e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor) | (f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures? | (g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-. | (h) Did the service provider give you a formula instead of an amount or estimated amount? |
|------------------------|---|--|--|--|---|--|
| 99 | | 2500 | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Yes <input type="checkbox"/> No <input type="checkbox"/> | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |

2. Information on Other Service Providers Receiving Direct or Indirect Compensation. Except for those persons for whom you answered "Yes" to line 1a above, complete as many entries as needed to list each person receiving, directly or indirectly, \$5,000 or more in total compensation (i.e., money or anything else of value) in connection with services rendered to the plan or their position with the plan during the plan year. (See instructions).

(a) Enter name and EIN or address (see instructions)

VOYA RETIREMENT INSURANCE AND ANNUI

71-0294708

| (b) Service Code(s) | (c) Relationship to employer, employee organization, or person known to be a party-in-interest | (d) Enter direct compensation paid by the plan. If none, enter -0-. | (e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor) | (f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures? | (g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-. | (h) Did the service provider give you a formula instead of an amount or estimated amount? |
|------------------------|---|--|--|--|---|--|
| 26 | SERVICE PROVIDER | 0 | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | 0 | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |

(a) Enter name and EIN or address (see instructions)

MERCER INVESTMENT MANAGEMENT

30-0282430

| (b) Service Code(s) | (c) Relationship to employer, employee organization, or person known to be a party-in-interest | (d) Enter direct compensation paid by the plan. If none, enter -0-. | (e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor) | (f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures? | (g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-. | (h) Did the service provider give you a formula instead of an amount or estimated amount? |
|------------------------|---|--|--|--|---|--|
| 99 | SERVICE PROVIDER | 0 | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | 7374 | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |

(a) Enter name and EIN or address (see instructions)

| (b) Service Code(s) | (c) Relationship to employer, employee organization, or person known to be a party-in-interest | (d) Enter direct compensation paid by the plan. If none, enter -0-. | (e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor) | (f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures? | (g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-. | (h) Did the service provider give you a formula instead of an amount or estimated amount? |
|------------------------|---|--|--|--|---|--|
| | | | Yes <input type="checkbox"/> No <input type="checkbox"/> | Yes <input type="checkbox"/> No <input type="checkbox"/> | | Yes <input type="checkbox"/> No <input type="checkbox"/> |

Part I Service Provider Information (continued)

3. If you reported on line 2 receipt of indirect compensation, other than eligible indirect compensation, by a service provider, and the service provider is a fiduciary or provides contract administrator, consulting, custodial, investment advisory, investment management, broker, or recordkeeping services, answer the following questions for (a) each source from whom the service provider received \$1,000 or more in indirect compensation and (b) each source for whom the service provider gave you a formula used to determine the indirect compensation instead of an amount or estimated amount of the indirect compensation. Complete as many entries as needed to report the required information for each source.

| (a) Enter service provider name as it appears on line 2 | (b) Service Codes (see instructions) | (c) Enter amount of indirect compensation |
|---|--|---|
| MORNINGSTAR | 27 | 1363 |
| (d) Enter name and EIN (address) of source of indirect compensation | (e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation. | |
| VOYA RETIREMENT INSURANCE AND ANNUI 71-0294708 | INVESTMENT ADVISORY (PLAN) | |
| (a) Enter service provider name as it appears on line 2 | (b) Service Codes (see instructions) | (c) Enter amount of indirect compensation |
| MERCER INVESTMENT MANAGEMENT | 99 | 7374 |
| (d) Enter name and EIN (address) of source of indirect compensation | (e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation. | |
| VOYA RETIREMENT INSURANCE AND ANNUI 71-0294708 | OTHER FEES | |
| (a) Enter service provider name as it appears on line 2 | (b) Service Codes (see instructions) | (c) Enter amount of indirect compensation |
| | | |
| (d) Enter name and EIN (address) of source of indirect compensation | (e) Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation. | |
| | | |

Part II Service Providers Who Fail or Refuse to Provide Information

4 Provide, to the extent possible, the following information for each service provider who failed or refused to provide the information necessary to complete this Schedule.

| (a) Enter name and EIN or address of service provider (see instructions) | (b) Nature of Service Code(s) | (c) Describe the information that the service provider failed or refused to provide |
|---|--------------------------------------|--|
| | | |

| (a) Enter name and EIN or address of service provider (see instructions) | (b) Nature of Service Code(s) | (c) Describe the information that the service provider failed or refused to provide |
|---|--------------------------------------|--|
| | | |

| (a) Enter name and EIN or address of service provider (see instructions) | (b) Nature of Service Code(s) | (c) Describe the information that the service provider failed or refused to provide |
|---|--------------------------------------|--|
| | | |

| (a) Enter name and EIN or address of service provider (see instructions) | (b) Nature of Service Code(s) | (c) Describe the information that the service provider failed or refused to provide |
|---|--------------------------------------|--|
| | | |

| (a) Enter name and EIN or address of service provider (see instructions) | (b) Nature of Service Code(s) | (c) Describe the information that the service provider failed or refused to provide |
|---|--------------------------------------|--|
| | | |

| (a) Enter name and EIN or address of service provider (see instructions) | (b) Nature of Service Code(s) | (c) Describe the information that the service provider failed or refused to provide |
|---|--------------------------------------|--|
| | | |

Part III Termination Information on Accountants and Enrolled Actuaries (see instructions)
(complete as many entries as needed)

| | |
|--------------------|---------------------|
| a Name: | b EIN: |
| c Position: | |
| d Address: | e Telephone: |

Explanation:

| | |
|--------------------|---------------------|
| a Name: | b EIN: |
| c Position: | |
| d Address: | e Telephone: |

Explanation:

| | |
|--------------------|---------------------|
| a Name: | b EIN: |
| c Position: | |
| d Address: | e Telephone: |

Explanation:

| | |
|--------------------|---------------------|
| a Name: | b EIN: |
| c Position: | |
| d Address: | e Telephone: |

Explanation:

| | |
|--------------------|---------------------|
| a Name: | b EIN: |
| c Position: | |
| d Address: | e Telephone: |

Explanation:

| | | |
|---|--|--|
| SCHEDULE D (Form 5500) <small>Department of the Treasury Internal Revenue Service</small> <small>Department of Labor Employee Benefits Security Administration</small> | DFE/Participating Plan Information This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA). ▶ File as an attachment to Form 5500. | OMB No. 1210-0110 <hr/> 2023 This Form is Open to Public Inspection. |
|---|--|--|

For calendar plan year 2023 or fiscal plan year beginning 01/01/2023 and ending 12/31/2023

| | | |
|--|---|------------|
| A Name of plan <u>RUBIO'S RESTAURANT, INC. 401(K) PLAN</u> | B Three-digit plan number (PN) ▶ | <u>002</u> |
|--|---|------------|

| | |
|---|--|
| C Plan or DFE sponsor's name as shown on line 2a of Form 5500 <u>RUBIO'S RESTAURANT, INC.</u> | D Employer Identification Number (EIN) <u>33-0100303</u> |
|---|--|

| | |
|---------------|--|
| Part I | Information on interests in MTIAs, CCTs, PSAs, and 103-12 IEs (to be completed by plans and DFEs) (Complete as many entries as needed to report all interests in DFEs) |
|---------------|--|

a Name of MTIA, CCT, PSA, or 103-12 IE: VARIABLE ANNUITY ACCOUNT D

b Name of sponsor of entity listed in (a): VOYA RETIREMENT INSURANCE AND ANNUITY COMPANY

| | | |
|---------------------------------------|-------------------------------|--|
| c EIN-PN <u>71-0294708-000</u> | d Entity code <u>P</u> | e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions) <u>7939264</u> |
|---------------------------------------|-------------------------------|--|

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

| | | |
|-----------------|----------------------|---|
| c EIN-PN | d Entity code | e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions) |
|-----------------|----------------------|---|

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

| | | |
|-----------------|----------------------|---|
| c EIN-PN | d Entity code | e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions) |
|-----------------|----------------------|---|

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

| | | |
|-----------------|----------------------|---|
| c EIN-PN | d Entity code | e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions) |
|-----------------|----------------------|---|

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

| | | |
|-----------------|----------------------|---|
| c EIN-PN | d Entity code | e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions) |
|-----------------|----------------------|---|

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

| | | |
|-----------------|----------------------|---|
| c EIN-PN | d Entity code | e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions) |
|-----------------|----------------------|---|

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

| | | |
|-----------------|----------------------|---|
| c EIN-PN | d Entity code | e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions) |
|-----------------|----------------------|---|

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN

d Entity code

e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN

d Entity code

e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN

d Entity code

e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN

d Entity code

e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN

d Entity code

e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN

d Entity code

e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN

d Entity code

e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN

d Entity code

e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN

d Entity code

e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN

d Entity code

e Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

Part II Information on Participating Plans (to be completed by DFEs, other than DCGs)

(Complete as many entries as needed to report all participating plans. DCGs must report each participating plan using Schedule DCG.)

a Plan name

b Name of plan sponsor

c EIN-PN

a Plan name

b Name of plan sponsor

c EIN-PN

a Plan name

b Name of plan sponsor

c EIN-PN

a Plan name

b Name of plan sponsor

c EIN-PN

a Plan name

b Name of plan sponsor

c EIN-PN

a Plan name

b Name of plan sponsor

c EIN-PN

a Plan name

b Name of plan sponsor

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b Name of plan sponsor

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a Plan name

b Name of plan sponsor

c EIN-PN

a Plan name

b Name of plan sponsor

c EIN-PN

a Plan name

b Name of plan sponsor

c EIN-PN

a Plan name

b Name of plan sponsor

c EIN-PN

| | | |
|--|--|---|
| SCHEDULE H (Form 5500) <small>Department of the Treasury Internal Revenue Service</small> <small>Department of Labor Employee Benefits Security Administration</small> <small>Pension Benefit Guaranty Corporation</small> | Financial Information This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA), and section 6058(a) of the Internal Revenue Code (the Code). ▶ File as an attachment to Form 5500. | OMB No. 1210-0110 2023 This Form is Open to Public Inspection |
|--|--|---|

| | |
|--|--|
| For calendar plan year 2023 or fiscal plan year beginning 01/01/2023 and ending 12/31/2023 | |
| A Name of plan RUBIO'S RESTAURANT, INC. 401(K) PLAN | B Three-digit plan number (PN) ▶ 002 |
| C Plan sponsor's name as shown on line 2a of Form 5500 RUBIO'S RESTAURANT, INC. | D Employer Identification Number (EIN) 33-0100303 |

| | |
|---------------|--------------------------------------|
| Part I | Asset and Liability Statement |
|---------------|--------------------------------------|

1 Current value of plan assets and liabilities at the beginning and end of the plan year. Combine the value of plan assets held in more than one trust. Report the value of the plan's interest in a commingled fund containing the assets of more than one plan on a line-by-line basis unless the value is reportable on lines 1c(9) through 1c(14). Do not enter the value of that portion of an insurance contract which guarantees, during this plan year, to pay a specific dollar benefit at a future date. **Round off amounts to the nearest dollar.** MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 1b(1), 1b(2), 1c(8), 1g, 1h, and 1i. CCTs, PSAs, and 103-12 IEs also do not complete lines 1d and 1e. See instructions.

| | | (a) Beginning of Year | (b) End of Year |
|--|-----------------|-----------------------|-----------------|
| a Total noninterest-bearing cash | 1a | | |
| b Receivables (less allowance for doubtful accounts): | | | |
| (1) Employer contributions | 1b(1) | | |
| (2) Participant contributions | 1b(2) | | |
| (3) Other | 1b(3) | | |
| c General investments: | | | |
| (1) Interest-bearing cash (include money market accounts & certificates of deposit) | 1c(1) | | |
| (2) U.S. Government securities | 1c(2) | | |
| (3) Corporate debt instruments (other than employer securities): | | | |
| (A) Preferred | 1c(3)(A) | | |
| (B) All other | 1c(3)(B) | | |
| (4) Corporate stocks (other than employer securities): | | | |
| (A) Preferred | 1c(4)(A) | | |
| (B) Common | 1c(4)(B) | | |
| (5) Partnership/joint venture interests | 1c(5) | | |
| (6) Real estate (other than employer real property) | 1c(6) | | |
| (7) Loans (other than to participants) | 1c(7) | | |
| (8) Participant loans | 1c(8) | 110905 | 106752 |
| (9) Value of interest in common/collective trusts | 1c(9) | | |
| (10) Value of interest in pooled separate accounts | 1c(10) | | |
| (11) Value of interest in master trust investment accounts | 1c(11) | | |
| (12) Value of interest in 103-12 investment entities | 1c(12) | | |
| (13) Value of interest in registered investment companies (e.g., mutual funds) | 1c(13) | 6363116 | 7939264 |
| (14) Value of funds held in insurance company general account (unallocated contracts) | 1c(14) | 1010884 | 1223622 |
| (15) Other | 1c(15) | | |

| 1d Employer-related investments: | | (a) Beginning of Year | (b) End of Year |
|--|-------|-----------------------|-----------------|
| (1) Employer securities | 1d(1) | | |
| (2) Employer real property | 1d(2) | | |
| e Buildings and other property used in plan operation | 1e | | |
| f Total assets (add all amounts in lines 1a through 1e) | 1f | 7484905 | 9269638 |
| Liabilities | | | |
| g Benefit claims payable | 1g | | |
| h Operating payables | 1h | | |
| i Acquisition indebtedness | 1i | | |
| j Other liabilities | 1j | | |
| k Total liabilities (add all amounts in lines 1g through 1j) | 1k | 0 | 0 |
| Net Assets | | | |
| l Net assets (subtract line 1k from line 1f) | 1l | 7484905 | 9269638 |

Part II Income and Expense Statement

2 Plan income, expenses, and changes in net assets for the year. Include all income and expenses of the plan, including any trust(s) or separately maintained fund(s) and any payments/receipts to/from insurance carriers. Round off amounts to the nearest dollar. MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 2a, 2b(1)(E), 2e, 2f, and 2g.

| Income | | (a) Amount | (b) Total |
|---|----------|------------|-----------|
| a Contributions: | | | |
| (1) Received or receivable in cash from: (A) Employers | 2a(1)(A) | 272242 | |
| (B) Participants | 2a(1)(B) | 853056 | |
| (C) Others (including rollovers) | 2a(1)(C) | 180663 | |
| (2) Noncash contributions | 2a(2) | 0 | |
| (3) Total contributions. Add lines 2a(1)(A), (B), (C), and line 2a(2) | 2a(3) | | 1305961 |
| b Earnings on investments: | | | |
| (1) Interest: | | | |
| (A) Interest-bearing cash (including money market accounts and certificates of deposit) | 2b(1)(A) | | |
| (B) U.S. Government securities | 2b(1)(B) | | |
| (C) Corporate debt instruments | 2b(1)(C) | | |
| (D) Loans (other than to participants) | 2b(1)(D) | | |
| (E) Participant loans | 2b(1)(E) | 6529 | |
| (F) Other | 2b(1)(F) | 78773 | |
| (G) Total interest. Add lines 2b(1)(A) through (F) | 2b(1)(G) | | 85302 |
| (2) Dividends: | | | |
| (A) Preferred stock | 2b(2)(A) | | |
| (B) Common stock | 2b(2)(B) | | |
| (C) Registered investment company shares (e.g. mutual funds) | 2b(2)(C) | | |
| (D) Total dividends. Add lines 2b(2)(A), (B), and (C) | 2b(2)(D) | | 0 |
| (3) Rents | 2b(3) | | |
| (4) Net gain (loss) on sale of assets: | | | |
| (A) Aggregate proceeds | 2b(4)(A) | | |
| (B) Aggregate carrying amount (see instructions) | 2b(4)(B) | | |
| (C) Subtract line 2b(4)(B) from line 2b(4)(A) and enter result | 2b(4)(C) | | |
| (5) Unrealized appreciation (depreciation) of assets: | | | |
| (A) Real estate | 2b(5)(A) | | |
| (B) Other | 2b(5)(B) | | |
| (C) Total unrealized appreciation of assets. Add lines 2b(5)(A) and (B) | 2b(5)(C) | | |

| | | (a) Amount | (b) Total |
|--|---------------|------------|-----------|
| (6) Net investment gain (loss) from common/collective trusts..... | 2b(6) | | |
| (7) Net investment gain (loss) from pooled separate accounts..... | 2b(7) | | 1272234 |
| (8) Net investment gain (loss) from master trust investment accounts..... | 2b(8) | | |
| (9) Net investment gain (loss) from 103-12 investment entities..... | 2b(9) | | |
| (10) Net investment gain (loss) from registered investment companies (e.g., mutual funds)..... | 2b(10) | | |
| c Other income..... | 2c | | -30886 |
| d Total income. Add all income amounts in column (b) and enter total..... | 2d | | 2632611 |

Expenses

| | | | |
|--|---------------|--------|--------|
| e Benefit payment and payments to provide benefits: | | | |
| (1) Directly to participants or beneficiaries, including direct rollovers..... | 2e(1) | 836293 | |
| (2) To insurance carriers for the provision of benefits..... | 2e(2) | | |
| (3) Other..... | 2e(3) | | |
| (4) Total benefit payments. Add lines 2e(1) through (3) | 2e(4) | | 836293 |
| f Corrective distributions (see instructions)..... | 2f | | |
| g Certain deemed distributions of participant loans (see instructions)..... | 2g | | |
| h Interest expense..... | 2h | | |
| i Administrative expenses: | | | |
| (1) Salaries and allowances..... | 2i(1) | 0 | |
| (2) Contract administrator fees..... | 2i(2) | 2800 | |
| (3) Recordkeeping fees..... | 2i(3) | 0 | |
| (4) IQPA audit fees..... | 2i(4) | 0 | |
| (5) Investment advisory and investment management fees..... | 2i(5) | 8285 | |
| (6) Bank or trust company trustee/custodial fees..... | 2i(6) | 0 | |
| (7) Actuarial fees..... | 2i(7) | 0 | |
| (8) Legal fees..... | 2i(8) | 0 | |
| (9) Valuation/appraisal fees..... | 2i(9) | 0 | |
| (10) Other trustee fees and expenses..... | 2i(10) | 0 | |
| (11) Other expenses..... | 2i(11) | 500 | |
| (12) Total administrative expenses. Add lines 2i(1) through (11) | 2i(12) | | 11585 |
| j Total expenses. Add all expense amounts in column (b) and enter total..... | 2j | | 847878 |

Net Income and Reconciliation

| | | | |
|---|--------------|--|---------|
| k Net income (loss). Subtract line 2j from line 2d | 2k | | 1784733 |
| l Transfers of assets: | | | |
| (1) To this plan..... | 2l(1) | | |
| (2) From this plan..... | 2l(2) | | |

Part III Accountant's Opinion

3 Complete lines 3a through 3c if the opinion of an independent qualified public accountant is attached to this Form 5500. Complete line 3d if an opinion is not attached.

a The attached opinion of an independent qualified public accountant for this plan is (see instructions):

(1) Unmodified (2) Qualified (3) Disclaimer (4) Adverse

b Check the appropriate box(es) to indicate whether the IQPA performed an ERISA section 103(a)(3)(C) audit. Check both boxes (1) and (2) if the audit was performed pursuant to both 29 CFR 2520.103-8 and 29 CFR 2520.103-12(d). Check box (3) if pursuant to neither.

(1) DOL Regulation 2520.103-8 (2) DOL Regulation 2520.103-12(d) (3) neither DOL Regulation 2520.103-8 nor DOL Regulation 2520.103-12(d).

c Enter the name and EIN of the accountant (or accounting firm) below:

(1) Name: **DBBMCKENNON**

(2) EIN: **20-3685188**

d The opinion of an independent qualified public accountant is **not attached** as part of Schedule H because:

(1) This form is filed for a CCT, PSA, DCG or MTIA. (2) It will be attached to the next Form 5500 pursuant to 29 CFR 2520.104-50.

Part IV Compliance Questions

4 CCTs and PSAs do not complete Part IV. MTIAs, 103-12 IEs, and GIAs do not complete lines 4a, 4e, 4f, 4g, 4h, 4k, 4m, 4n, or 5. 103-12 IEs also do not complete lines 4j and 4l. MTIAs also do not complete line 4l. DCGs do not complete lines 4e, 4f, 4k, 4l, and 5, and DCGs generally complete the rest of Part IV collectively for all plans in the DCG, except as otherwise provided (see instructions).

During the plan year:

| | Yes | No | Amount |
|--|-----|----|---------|
| a Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? Continue to answer "Yes" for any prior year failures until fully corrected. (See instructions and DOL's Voluntary Fiduciary Correction Program.) | | X | |
| b Were any loans by the plan or fixed income obligations due the plan in default as of the close of the plan year or classified during the year as uncollectible? Disregard participant loans secured by participant's account balance. (Attach Schedule G (Form 5500) Part I if "Yes" is checked.) | | X | |
| c Were any leases to which the plan was a party in default or classified during the year as uncollectible? (Attach Schedule G (Form 5500) Part II if "Yes" is checked.) | | X | |
| d Were there any nonexempt transactions with any party-in-interest? (Do not include transactions reported on line 4a. Attach Schedule G (Form 5500) Part III if "Yes" is checked.) | | X | |
| e Was this plan covered by a fidelity bond? | X | | 1000000 |
| f Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty? | | X | |
| g Did the plan hold any assets whose current value was neither readily determinable on an established market nor set by an independent third party appraiser? | | X | |
| h Did the plan receive any noncash contributions whose value was neither readily determinable on an established market nor set by an independent third party appraiser? | | X | |
| i Did the plan have assets held for investment? (Attach schedule(s) of assets if "Yes" is checked, and see instructions for format requirements.) | X | | |
| j Were any plan transactions or series of transactions in excess of 5% of the current value of plan assets? (Attach schedule of transactions if "Yes" is checked and see instructions for format requirements.) | | X | |
| k Were all the plan assets either distributed to participants or beneficiaries, transferred to another plan, or brought under the control of the PBGC? | | X | |
| l Has the plan failed to provide any benefit when due under the plan? | | X | |
| m If this is an individual account plan, was there a blackout period? (See instructions and 29 CFR 2520.101-3.) | | X | |
| n If 4m was answered "Yes," check the "Yes" box if you either provided the required notice or one of the exceptions to providing the notice applied under 29 CFR 2520.101-3. | | | |

5a Has a resolution to terminate the plan been adopted during the plan year or any prior plan year?..... Yes No
If "Yes," enter the amount of any plan assets that reverted to the employer this year _____.

5b If, during this plan year, any assets or liabilities were transferred from this plan to another plan(s), identify the plan(s) to which assets or liabilities were transferred. (See instructions.)

| 5b(1) Name of plan(s) | 5b(2) EIN(s) | 5b(3) PN(s) |
|-----------------------|--------------|-------------|
| | | |
| | | |
| | | |
| | | |

5c Was the plan a defined benefit plan covered under the PBGC insurance program at any time during this plan year? (See ERISA section 4021 and instructions.) Yes No Not determined

If "Yes" is checked, enter the My PAA confirmation number from the PBGC premium filing for this plan year _____.

| | | |
|--|---|--|
| SCHEDULE R (Form 5500) <small>Department of the Treasury Internal Revenue Service</small> <small>Department of Labor Employee Benefits Security Administration</small> <small>Pension Benefit Guaranty Corporation</small> | Retirement Plan Information This schedule is required to be filed under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6058(a) of the Internal Revenue Code (the Code). ▶ File as an attachment to Form 5500. | OMB No. 1210-0110 2023 This Form is Open to Public Inspection. |
|--|---|--|

For calendar plan year 2023 or fiscal plan year beginning 01/01/2023 and ending 12/31/2023

| | | |
|--|--|------------|
| A Name of plan <u>RUBIO'S RESTAURANT, INC. 401(K) PLAN</u> | B Three-digit plan number (PN) ▶ | <u>002</u> |
| C Plan sponsor's name as shown on line 2a of Form 5500 <u>RUBIO'S RESTAURANT, INC.</u> | D Employer Identification Number (EIN) <u>33-0100303</u> | |

| | |
|---------------|----------------------|
| Part I | Distributions |
|---------------|----------------------|

All references to distributions relate only to payments of benefits during the plan year.

| | | |
|--|---|--|
| 1 Total value of distributions paid in property other than in cash or the forms of property specified in the instructions..... | 1 | |
| 2 Enter the EIN(s) of payor(s) who paid benefits on behalf of the plan to participants or beneficiaries during the year (if more than two, enter EINs of the two payors who paid the greatest dollar amounts of benefits): EIN(s): <u>71-0294708</u> | | |
| Profit-sharing plans, ESOPs, and stock bonus plans, skip line 3. | | |
| 3 Number of participants (living or deceased) whose benefits were distributed in a single sum, during the plan year | 3 | |

| | |
|----------------|---|
| Part II | Funding Information (If the plan is not subject to the minimum funding requirements of section 412 of the Internal Revenue Code or ERISA section 302, skip this Part.) |
|----------------|---|

| | | | |
|---|------------------------------|-----------------------------|------------------------------|
| 4 Is the plan administrator making an election under Code section 412(d)(2) or ERISA section 302(d)(2)? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| If the plan is a defined benefit plan, go to line 8. | | | |
| 5 If a waiver of the minimum funding standard for a prior year is being amortized in this plan year, see instructions and enter the date of the ruling letter granting the waiver. Date: Month _____ Day _____ Year _____ If you completed line 5, complete lines 3, 9, and 10 of Schedule MB and do not complete the remainder of this schedule. | | | |
| 6 a Enter the minimum required contribution for this plan year (include any prior year accumulated funding deficiency not waived) | 6a | | |
| b Enter the amount contributed by the employer to the plan for this plan year | 6b | | |
| c Subtract the amount in line 6b from the amount in line 6a. Enter the result (enter a minus sign to the left of a negative amount) | 6c | | |
| If you completed line 6c, skip lines 8 and 9. | | | |
| 7 Will the minimum funding amount reported on line 6c be met by the funding deadline? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 8 If a change in actuarial cost method was made for this plan year pursuant to a revenue procedure or other authority providing automatic approval for the change or a class ruling letter, does the plan sponsor or plan administrator agree with the change? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |

| | |
|-----------------|-------------------|
| Part III | Amendments |
|-----------------|-------------------|

| | | | | |
|---|-----------------------------------|-----------------------------------|-------------------------------|-----------------------------|
| 9 If this is a defined benefit pension plan, were any amendments adopted during this plan year that increased or decreased the value of benefits? If yes, check the appropriate box. If no, check the "No" box. | <input type="checkbox"/> Increase | <input type="checkbox"/> Decrease | <input type="checkbox"/> Both | <input type="checkbox"/> No |
|---|-----------------------------------|-----------------------------------|-------------------------------|-----------------------------|

| | |
|----------------|---|
| Part IV | ESOPs (see instructions). If this is not a plan described under section 409(a) or 4975(e)(7) of the Internal Revenue Code, skip this Part. |
|----------------|---|

| | | |
|--|------------------------------|-----------------------------|
| 10 Were unallocated employer securities or proceeds from the sale of unallocated securities used to repay any exempt loan? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 11 a Does the ESOP hold any preferred stock? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b If the ESOP has an outstanding exempt loan with the employer as lender, is such loan part of a "back-to-back" loan? (See instructions for definition of "back-to-back" loan.) | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 12 Does the ESOP hold any stock that is not readily tradable on an established securities market? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Part V Additional Information for Multiemployer Defined Benefit Pension Plans

13 Enter the following information for each employer that (1) contributed more than 5% of total contributions to the plan during the plan year or (2) was one of the top-ten highest contributors (measured in dollars). See instructions. Complete as many entries as needed to report all applicable employers.

a Name of contributing employer _____

b EIN _____ **c** Dollar amount contributed by employer _____

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box and see instructions regarding required attachment. Otherwise, complete lines 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: Hourly Weekly Unit of production Other (specify): _____

a Name of contributing employer _____

b EIN _____ **c** Dollar amount contributed by employer _____

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box and see instructions regarding required attachment. Otherwise, complete lines 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: Hourly Weekly Unit of production Other (specify): _____

a Name of contributing employer _____

b EIN _____ **c** Dollar amount contributed by employer _____

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box and see instructions regarding required attachment. Otherwise, complete lines 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: Hourly Weekly Unit of production Other (specify): _____

a Name of contributing employer _____

b EIN _____ **c** Dollar amount contributed by employer _____

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box and see instructions regarding required attachment. Otherwise, complete lines 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: Hourly Weekly Unit of production Other (specify): _____

a Name of contributing employer _____

b EIN _____ **c** Dollar amount contributed by employer _____

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box and see instructions regarding required attachment. Otherwise, complete lines 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: Hourly Weekly Unit of production Other (specify): _____

a Name of contributing employer _____

b EIN _____ **c** Dollar amount contributed by employer _____

d Date collective bargaining agreement expires (If employer contributes under more than one collective bargaining agreement, check box and see instructions regarding required attachment. Otherwise, enter the applicable date.) Month _____ Day _____ Year _____

e Contribution rate information (If more than one rate applies, check this box and see instructions regarding required attachment. Otherwise, complete lines 13e(1) and 13e(2).)

(1) Contribution rate (in dollars and cents) _____

(2) Base unit measure: Hourly Weekly Unit of production Other (specify): _____

14 Enter the number of deferred vested and retired participants (inactive participants), as of the beginning of the plan year, whose contributing employer is no longer making contributions to the plan for:

| | | |
|--|------------|--|
| a The current plan year. Check the box to indicate the counting method used to determine the number of inactive participants: <input type="checkbox"/> last contributing employer <input type="checkbox"/> alternative <input type="checkbox"/> reasonable approximation (see instructions for required attachment) | 14a | |
| b The plan year immediately preceding the current plan year. <input type="checkbox"/> Check the box if the number reported is a change from what was previously reported (see instructions for required attachment) | 14b | |
| c The second preceding plan year. <input type="checkbox"/> Check the box if the number reported is a change from what was previously reported (see instructions for required attachment)..... | 14c | |

15 Enter the ratio of the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during the current plan year to:

| | | |
|---|------------|--|
| a The corresponding number for the plan year immediately preceding the current plan year | 15a | |
| b The corresponding number for the second preceding plan year | 15b | |

16 Information with respect to any employers who withdrew from the plan during the preceding plan year:

| | | |
|--|------------|--|
| a Enter the number of employers who withdrew during the preceding plan year | 16a | |
| b If line 16a is greater than 0, enter the aggregate amount of withdrawal liability assessed or estimated to be assessed against such withdrawn employers | 16b | |

17 If assets and liabilities from another plan have been transferred to or merged with this plan during the plan year, check box and see instructions regarding supplemental information to be included as an attachment.....

Part VI Additional Information for Single-Employer and Multiemployer Defined Benefit Pension Plans

18 If any liabilities to participants or their beneficiaries under the plan as of the end of the plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under two or more pension plans as of immediately before such plan year, check box and see instructions regarding supplemental information to be included as an attachment.....

19 If the total number of participants is 1,000 or more, complete lines (a) and (b):

a Enter the percentage of plan assets held as:
 Public Equity: _____% Private Equity: _____% Investment-Grade Debt and Interest Rate Hedging Assets: _____%
 High-Yield Debt: _____% Real Assets: _____% Cash or Cash Equivalents: _____% Other: _____%

b Provide the average duration of the Investment-Grade Debt and Interest Rate Hedging Assets:
 0-5 years 5-10 years 10-15 years 15 years or more

20 PBGC missed contribution reporting requirements. If this is a multiemployer plan or a single-employer plan that is not covered by PBGC, skip line 20.

a Is the amount of unpaid minimum required contributions for all years from Schedule SB (Form 5500) line 40 greater than zero? Yes No

b If line 20a is "Yes," has PBGC been notified as required by ERISA sections 4043(c)(5) and/or 303(k)(4)? Check the applicable box:
 Yes.
 No. Reporting was waived under 29 CFR 4043.25(c)(2) because contributions equal to or exceeding the unpaid minimum required contribution were made by the 30th day after the due date.
 No. The 30-day period referenced in 29 CFR 4043.25(c)(2) has not yet ended, and the sponsor intends to make a contribution equal to or exceeding the unpaid minimum required contribution by the 30th day after the due date.
 No. Other. Provide explanation.....

Part VII IRS Compliance Questions

21a Does the plan satisfy the coverage and nondiscrimination tests of Code sections 410(b) and 401(a)(4) by combining this plan with any other plans under the permissive aggregation rules? Yes No

21b If this is a Code section 401(k) plan, check all boxes that apply to indicate how the plan is intended to satisfy the nondiscrimination requirements for employee deferrals and employer matching contributions (as applicable) under Code sections 401(k)(3) and 401(m)(2).
 Design-based safe harbor method
 "Prior year" ADP test
 "Current year" ADP test
 N/A

22 If the plan sponsor is an adopter of a pre-approved plan that received a favorable IRS Opinion Letter, enter the date of the Opinion Letter ___/___/____ (MM/DD/YYYY) and the Opinion Letter serial number _____.

Rubio's Restaurants, Inc. 401(k) Plan
Financial Statements and Supplemental Schedules
December 31, 2023, 2022, 2021 and 2020
Together with Independent Auditors' Report

Rubio’s Restaurants, Inc. 401(k) Plan
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INDEPENDENT AUDITORS' REPORT

The Trustees and Participants
Rubio's Restaurants, Inc. 401(k) Plan

Scope and Nature of the ERISA Section 103(a)(3)(C) Audit

We have performed audits of the financial statements of Rubio's Restaurants, Inc. 401(k) Plan (the "Plan"), an employee benefit plan subject to the Employee Retirement Income Security Act of 1974 (ERISA), as permitted by ERISA Section 103(a)(3)(C) (ERISA Section 103(a)(3)(C) audit). The financial statements comprise the statements of net assets available for benefits as of December 31, 2023, 2022, 2021 and 2020, and the statements of changes in net assets available for benefits for the years ended December 31, 2023, 2022 and 2021, and the related notes to the financial statements.

Management, having determined it is permissible in the circumstances, has elected to have the audits of the Plan financial statements performed in accordance with ERISA Section 103(a)(3)(C) pursuant to 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA. As permitted by ERISA Section 103(a)(3)(C), our audits need not extend to any statements or information related to assets held for investment of the Plan (investment information) by a bank or similar institution or insurance carrier that is regulated, supervised, and subject to periodic examination by a state or federal agency, provided that the statements or information regarding assets so held are prepared and certified to by the bank or similar institution or insurance carrier in accordance with 29 CFR 2520.103-5 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA (qualified institution).

Management has obtained certifications from a qualified institution as of December 31, 2023, 2022, 2021 and 2020, and for the years ended December 31, 2023, 2022 and 2021, stating that the certified investment information, as described in Note 1 to the financial statements, is complete and accurate.

Qualified Opinion

In our opinion, except for the omission of the information described in the Basis for Qualified Opinion section of our report, based on our audits and on the procedures performed as described in the Auditor's Responsibilities for the Audit of the Financial Statements section:

- the amounts and disclosures in the accompanying financial statements, other than those agreed to or derived from the certified investment information, are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America.
- the information in the accompanying financial statements related to assets held by and certified to by a qualified institution agrees to, or is derived from, in all material respects, the information prepared and certified by an institution that management determined meets the requirements of ERISA Section 103(a)(3)(C).

Basis for Qualified Opinion

Rubio's Restaurants, Inc. 401(k) Plan did not perform required nondiscrimination testing for the years ended December 31, 2023, 2022, 2021 and 2020. Because of this, we were unable to determine whether the

Plan complied with applicable nondiscrimination requirements or whether corrective actions were required. Accordingly, our opinion is qualified with respect to this matter. See Note 7.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Rubio's Restaurants, Inc. 401(k) Plan and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our ERISA Section 103(a)(3)(C) audit opinion.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management's election of the ERISA Section 103(a)(3)(C) audit does not affect management's responsibility for the financial statements.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about Plan's ability to continue as a going concern for a period of one year.

Management is also responsible for maintaining a current plan instrument, including all Plan amendments, administering the Plan, and determining that the Plan's transactions that are presented and disclosed in the financial statements are in conformity with the Plan's provisions, including maintaining sufficient records with respect to each of the participants, to determine the benefits due or which may become due to such participants.

Auditors' Responsibilities for the Audit of the Financial Statements

Except as described in the Scope and Nature of the ERISA Section 103(a)(3)(C) Audit section of our report, our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if, there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Plan's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Plan's ability to continue as a going concern for a reasonable period of time.

Our audits did not extend to the certified investment information, except for obtaining and reading the certification, comparing the certified investment information with the related information presented and disclosed in the financial statements, and reading the disclosures relating to the certified investment information to assess whether they are in accordance with the presentation and disclosure requirements of accounting principles generally accepted in the United States of America.

Accordingly, the objective of an ERISA Section 103(a)(3)(C) audit is not to express an opinion about whether the financial statements as a whole are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Emphasis of Matter — Late Filings on the Form 5500's

We draw attention to Note 6 to the financial statements, which describes the Plan's noncompliance with the filing requirements of the U.S. Department of Labor related to the late filing of the Plan's Forms 5500 for the plan years ended 2020 through 2024. Our opinion is not modified with respect to this matter.

Other Matter — Supplemental Schedules Required by ERISA

The supplemental schedules of Schedule H, Line 4(a) – Schedule of delinquent contributions for the years ended December 31, 2023, 2022 and 2021, and Schedule H, Part IV, Line 4(i)—Schedule of Assets (Held at End of Year) are presented for purposes of additional analysis and are not a required part of the financial statements but are supplementary information required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information included in the supplemental schedules, other than that agreed to or derived from the certified investment information, has been subjected to auditing procedures applied in the audits of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with GAAS. For information included in the supplemental schedule that agreed to or is derived from the certified investment information, we compared such information to the related certified investment information.

In forming our opinion on the supplemental schedules we evaluated whether the supplemental schedule, other than the information agreed to or derived from the certified investment information, including their form and content, are presented in conformity with the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA.

In our opinion:

- the form and content of the supplemental schedules, other than the information in the supplemental schedules that agreed to or is derived from the certified investment information, are presented, in all material respects, in conformity with the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA.
- the information in the supplemental schedules related to assets held by and certified to by a qualified institution agrees to, or is derived from, in all material respects, the information prepared and certified by an institution that management determined meets the requirements of ERISA Section 103(a)(3)(C).

dbbmckennon

Newport Beach, California
March 6, 2026

Rubio's Restaurants, Inc. 401(k) Plan
Statements of Net Assets Available for Benefits
December 31, 2023, 2022, 2021 and 2020

| | <u>2023</u> | <u>2022</u> | <u>2021</u> | <u>2020</u> |
|---|---------------------|---------------------|---------------------|---------------------|
| ASSETS | | | | |
| Investments: | | | | |
| Pooled separate accounts, at fair value | \$ 7,939,264 | \$ 6,363,116 | \$ 7,533,181 | \$ 6,950,947 |
| Guaranteed investment contract, at contract value | <u>1,223,622</u> | <u>1,010,884</u> | <u>896,452</u> | <u>855,522</u> |
| Total investments | 9,162,886 | 7,374,000 | 8,429,633 | 7,806,469 |
| Receivables: | | | | |
| Notes receivable from participants | <u>106,752</u> | <u>110,905</u> | <u>90,360</u> | <u>76,104</u> |
| Total receivables | 106,752 | 110,905 | 90,360 | 76,104 |
| Total assets | <u>9,269,638</u> | <u>7,484,905</u> | <u>8,519,993</u> | <u>7,882,573</u> |
| LIABILITIES | | | | |
| | - | - | - | - |
| NET ASSETS AVAILABLE FOR BENEFITS | <u>\$ 9,269,638</u> | <u>\$ 7,484,905</u> | <u>\$ 8,519,993</u> | <u>\$ 7,882,573</u> |

The accompanying notes are an integral part of these financial statements.

Rubio's Restaurants, Inc. 401(k) Plan
Statements of Changes in Net Assets Available for Benefits
Years Ended December 31, 2023, 2022 and 2021

| | <u>2023</u> | <u>2022</u> | <u>2021</u> |
|--|---------------------|---------------------|---------------------|
| NET ADDITIONS | | | |
| Investment Income: | | | |
| Net appreciation (depreciation) in fair value of investments | \$ 1,241,348 | \$ (1,516,003) | \$ 1,042,627 |
| Interest and dividends | 78,773 | 53,031 | 12,297 |
| Total investment income (loss) | <u>1,320,121</u> | <u>(1,462,972)</u> | <u>1,054,924</u> |
| Contributions: | | | |
| Participant | 1,033,719 | 1,157,503 | 622,431 |
| Employer | 272,242 | 245,697 | 203,723 |
| Total contributions | <u>1,305,961</u> | <u>1,403,200</u> | <u>826,154</u> |
| Interest income on participant loans | 6,529 | 5,600 | 3,654 |
| Net additions (deductions) | <u>2,632,611</u> | <u>(54,172)</u> | <u>1,884,732</u> |
| DEDUCTIONS | | | |
| Benefits paid to participants | 836,293 | 973,579 | 1,237,784 |
| Administrative fees | 11,585 | 7,337 | 9,528 |
| Total deductions | <u>847,878</u> | <u>980,916</u> | <u>1,247,312</u> |
| NET INCREASE (DECREASE) | 1,784,733 | (1,035,088) | 637,420 |
| NET ASSETS AVAILABLE FOR BENEFITS, beginning of year | <u>7,484,905</u> | <u>8,519,993</u> | <u>7,882,573</u> |
| NET ASSETS AVAILABLE FOR BENEFITS, end of year | <u>\$ 9,269,638</u> | <u>\$ 7,484,905</u> | <u>\$ 8,519,993</u> |

The accompanying notes are an integral part of these financial statements.

Rubio's Restaurants, Inc. 401(k) Plan
Notes to Financial Statements
As of December 31, 2023, 2022, 2021 and 2020

1. Description of the Plan

The following description of the Rubio's Restaurants, Inc. 401(k) Plan (the "Plan") provides only general information. Participants should refer to the Plan document for a more complete description of the Plan's provisions.

General

The Plan is a 401(k)-salary deferral and profit-sharing plan covering substantially all employees of Rubio's Restaurants, Inc. (the "Company") and is subject to provisions of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). The Company is the Plan's sponsor and serves as Plan administrator.

Contributions

Participants may elect to contribute up to 100 percent of eligible compensation, as defined, to the Plan each year, subject to an annual maximum as established by Internal Revenue Service ("IRS") regulations. Participants age fifty years or over can make catch-up contributions in addition to the above, up to the maximum amount allowed by the IRS.

The Company may elect to make discretionary matching and profit-sharing contributions to the Plan. Participants must complete at least 1,000 hours of service during the Plan year and be employed as of the last day of the Plan year to be eligible to receive any profit-sharing contributions. Profit-sharing contributions are allocated to participants in the same proportion as a participant's compensation bears to the total of all participants' compensation. There were no profit-sharing contributions for the years ended December 31, 2023, 2022 and 2021. The Company matches 25 % of employee contributions, up to 6% of eligible compensation deferred to the Plan.

Rollover Contributions

With the Company's approval, an eligible participant may also contribute amounts representing distributions from other qualified defined benefit or defined contribution plans.

Participant Accounts

Each participant's account is credited with the participant's contribution and allocations of (a) the Company's contribution, and (b) Plan earnings, and charged with an allocation of administrative expenses that are paid by the Plan. Allocations are based on participant earnings, account balances, or specific participant transactions, as defined. Participants may direct the investment of their account balances into various investment options offered by the Plan. Participants may change their investment options on a daily basis, directly with VOYA, the custodian of the Plan. The benefit to which a participant is entitled is the benefit that can be provided from the participant's vested account.

Vesting

Participants are fully vested in their salary deferrals plus actual earnings thereon. Prior to July 1, 2021, vesting in Company's contributions is based on years of service, as defined, with increases in increments of 20% per year until fully vested after five years. Subsequent to July 1, 2021, vesting in Company's contributions is based on years of service, as defined, with increases in increments of 33% per year until fully vested after three years.

Rubio's Restaurants, Inc. 401(k) Plan
Notes to Financial Statements
As of December 31, 2023, 2022, 2021 and 2020

Notes Receivable from Participants

Participants may borrow from their accounts a minimum of \$1,000 up to a maximum equal to the lesser of \$50,000 or 50 percent of their vested account balance. The loans are issued by the Plan and secured by the balance in the participant's account. All loans must be repaid within a period of five years; however, if the loan is for the purchase of a participant's principal residence, the Plan administrator may permit a longer repayment term. Under the terms of the Plan agreement, Plan loans will bear a reasonable rate of interest determined by the Plan administrator. Principal and interest is paid ratably through payroll deductions. As of December 31, 2023, the rates of interest on outstanding loans ranged from 4.25% to 9.25%, with various maturities through 2033. As of December 31, 2022, the rates of interest on outstanding loans ranged from 4.25% to 7.25%, with various maturities through 2032. As of December 31, 2021, the rates of interest on outstanding loans ranged from 4.25% to 6.25%, with various maturities through October 2031.

Payment of Benefits

Upon termination of service due to death, disability, or retirement, a participant may elect to receive either a lump-sum amount equal to the value of the participant's vested interest in his or her account or a systematic withdrawal arrangement. For termination of service for other reasons, a participant may receive the value of the vested interest in his or her account as a lump-sum distribution.

Forfeitures

Forfeitures are the non-vested portion of a participant's account that is lost upon termination of employment. Forfeitures are retained in the Plan and will first be used to pay Plan administrative expenses, with any remaining amount used to reduce future Company contributions. As of December 31, 2023, 2022, 2021, and 2020, forfeited non-vested accounts totaled \$15,998, \$9,853, \$11,091 and \$5,168, respectively. The Plan used \$5,259, \$0 and \$14,203 of forfeitures to reduce the Plan's expenses for the years ended December 31, 2023, 2022 and 2021, respectively.

2. Summary of Significant Accounting Policies

Basis of Accounting

The accompanying financial statements of the Plan are prepared under the accrual method of accounting in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP").

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America ("U.S. GAAP") requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities and changes therein, and the disclosure of contingent assets and liabilities. Actual results could materially differ from those estimates.

Risks and Uncertainties

The Plan invests in various investment securities. Investment securities are exposed to various risks such as interest rate, market and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect participants' account balances and the amounts reported in the Statements of Net Assets Available for Benefits.

Rubio's Restaurants, Inc. 401(k) Plan
Notes to Financial Statements
As of December 31, 2023, 2022, 2021 and 2020

The Plan invests in investment options that invest in securities of foreign companies, which involve special risks and considerations not typically associated with investing in U.S. companies. These risks include devaluation of currencies, less reliable information about issuers, different securities transaction clearance and settlement practices, and possible adverse political and economic developments. Moreover, securities of many foreign companies and their markets may be less liquid and their prices more volatile than those of securities of comparable U.S. companies.

Investment Valuation and Income Recognition

The Plan's investments, except for Guaranteed Investment Contracts – see Note 4, are reported at fair value as certified by VOYA as of December 31, 2023, 2022, 2021 and 2020. Quoted market prices are used to value these investments.

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (the exit price). See Note 4 and Note 5 for discussion of fair value measurements.

Purchases and sales of securities are recorded on a trade-date basis. Dividends are recorded on the ex-dividend date. Interest income is recorded on the accrual basis. The net appreciation/depreciation in fair value of investments consists of both the realized gains or losses and unrealized appreciation and depreciation of those investments.

Notes Receivable from Participants

Notes receivable from participants are measured at amortized cost, which represents unpaid principal balance plus accrued but unpaid interest and are classified as notes receivable. Interest income is recorded on an accrual basis.

Payment of Benefits

Benefits are recorded when paid. As of December 31, 2023, 2022, and 2021, there were no benefit amounts that participants had elected to withdraw which had not been paid.

Administrative Expenses

The Company sponsors the Plan. Personnel within the Company perform various administrative services for the Plan. The payroll and related overhead costs associated with these services are not included as Plan expenses. Most administrative expenses of the Plan are paid by the Company. Investment expenses incurred by the manager of the funds and directly related administrative expenses are deducted from the earnings of the Plan. Expenses paid by the Plan totaled \$11,585, \$7,337, \$25,196 for the years ended December 31, 2023, 2022 and 2021, respectively.

3. Investments Certified by VOYA

The Plan Administrator has elected the method of annual reporting compliance permitted by 29 CFR 2520.103-5(c) of the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA. Certain information disclosed in the accompanying financial statements and supplemental schedules, including investments, at fair value, fully benefit responsive investment contract at contract value, and notes receivable from participants held at December 31, 2023, 2022, 2021 and 2020, and net appreciation (depreciation) in fair value of investments, dividends, other income and interest income on notes receivable from participants for the years ended December 31, 2023, 2022 and 2021, was obtained or

Rubio's Restaurants, Inc. 401(k) Plan
Notes to Financial Statements
As of December 31, 2023, 2022, 2021 and 2020

derived from information supplied to the Plan administrator and certified as complete and accurate by VOYA, the Custodian of the Plan.

4. Guaranteed Investment Contracts with Insurance Companies

The Plan invests in a fully benefit-responsive fixed interest account, the VOYA Fixed Account (Fixed Account), which is available through a group funding contract issued by VOYA Retirement Insurance and Annuity Company. The Fixed Account is an obligation of VOYA's general account which supports all of the company's insurance and annuity commitments. It is not a portfolio of contracts whose yields are based on changes in fair value of underlying assets as would be found in a Stable Value fund.

The value of the Fixed Account is determined by the daily crediting of interest which is subject to minimum contractual guarantees. The Fixed Account does not have a maturity date. Investment transfers to and from the Fixed Account, and withdrawals to pay participant benefits (as defined in the contract) are made at book (i.e., "contract") value. Non-benefit surrenders from the Fixed Account would either be subject to a market value adjustment (MVA) or paid in installments as elected by the contract holder. A contract surrender charge may also be applicable, depending on the terms of the contract.

5. Investments Measured Using the NAV Per Share Practical Expedient

The variable funds are pooled separate accounts that invest directly in designated mutual funds or, in some cases, collective investment trusts. The separate account owns and holds the underlying mutual fund or collective trust shares which are valued daily at their net asset values ("NAV"). Plans and participants hold "units of participation" in the separate account.

| | <u>Fair Value</u> | <u>Unfunded Commitments</u> | <u>Redemption Frequency (if Currently Eligible)</u> | <u>Redemption Holding Period</u> |
|--------------------------|-------------------|---------------------------------|---|--|
| December 31, 2023 | | | | |
| Pooled separate accounts | \$ 7,939,264 | N/A | Daily | None |
| December 31, 2022 | | | | |
| Pooled separate accounts | \$ 6,363,116 | N/A | Daily | None |
| December 31, 2021 | | | | |
| Pooled separate accounts | \$ 7,533,181 | N/A | Daily | None |
| December 31, 2020 | | | | |
| Pooled separate accounts | \$ 6,950,947 | N/A | Daily | None |

Rubio's Restaurants, Inc. 401(k) Plan
Notes to Financial Statements
As of December 31, 2023, 2022, 2021 and 2020

6. Tax Status

The Plan obtained its latest determination letter dated June 30, 2020, in which the Internal Revenue Service stated that the Plan, as then designed, was in compliance with the applicable requirements of the Internal Revenue Code. The Plan has been amended since receiving the determination letter. However, the Plan administrator believes that the Plan is currently designed and being operated in compliance with the applicable requirements of the Internal Revenue Code. The Plan's Form 5500 for the years ended December 31, 2021 through 2023 remain subject to examination by the IRS and DOL. There are no current examinations.

Additionally, Generally Accepted Accounting Principles requires Plan management to evaluate the tax positions taken by the Plan and recognize a tax liability if the organization has taken an uncertain tax position that is more likely than not would not be sustained upon examination by the IRS. The Plan administrator has reviewed the Plan for any uncertain tax positions taken by the Plan, and has concluded that as of December 31, 2023, 2022, 2021 and 2020, there are no uncertain tax positions taken or expected to be taken that would require recognition of a liability or disclosure in the financial statements. However, the Plan has not been compliance with ERISA due to late filings as they have not appropriately filed their 2020-2024 Form 5500's.

7. Failure to Complete Nondiscrimination Testing

The Plan is subject to certain nondiscrimination requirements under Sections 401(a)(4), 401(k), and 401(m) of the Internal Revenue Code, including the Actual Deferral Percentage (ADP) and Actual Contribution Percentage (ACP) tests. These tests are designed to ensure that contributions made on behalf of highly compensated employees do not disproportionately exceed those made on behalf of non-highly compensated employees.

For the years ended December 31, 2023, 2022 and 2021, the Plan Sponsor did not complete the required nondiscrimination testing within the prescribed time period. As a result, the Plan may not currently be in compliance with applicable Internal Revenue Code requirements. Failure to satisfy nondiscrimination requirements could result in required corrective actions, including but not limited to:

- Refunds of excess contributions to highly compensated employees,
- Additional qualified nonelective contributions made on behalf of non-highly compensated employees, or
- Corrective filings under the IRS Employee Plans Compliance Resolution System (EPCRS).

Based on management's current assessment, any potential corrective distributions or contributions related to the incomplete testing are not expected to be material to the financial statements for the years presented. Accordingly, no adjustments have been recorded in the accompanying financial statements. Any corrective actions, if ultimately required, will be made in accordance with IRS regulations, including the Employee Plans Compliance Resolution System (EPCRS), if applicable.

8. Plan Termination

Although it has not expressed any intent to do so, the Company has the right to terminate the Plan or reduce or cease contributions or amend the Plan at any time and in any respect subject to the provisions of ERISA. In the event of Plan termination, amounts allocated to a participant's account become fully vested.

Rubio's Restaurants, Inc. 401(k) Plan
Notes to Financial Statements
As of December 31, 2023, 2022, 2021 and 2020

9. Party-In-Interest Transactions

Plan investments include pooled separate accounts which invest in mutual funds managed by VOYA Institutional Trust Company, an affiliate of VOYA. Certain administrative fees related to the administration of the plan were paid by the plan. Transactions with these entities qualify as exempt party-in-interest transactions.

10. Subsequent Events

In June 2024, the former Plan Sponsor, Rubio's Restaurants, Inc., filed for protection under Chapter 11 of the U.S. Bankruptcy Code. As part of the bankruptcy proceedings, the sponsorship of the Plan was transferred to The Original Fish Taco LLC in August 2024. The new Plan Sponsor has assumed responsibility for the ongoing administration of the Plan. Management has evaluated the impact of the bankruptcy and sponsor transition and does not believe it results in adjustments to the accompanying financial statements for the years presented.

The Plan has evaluated subsequent events from the date of the statement of net assets available for benefits through March 6, 2026, the date the financial statements were available to be issued.

Rubio's Restaurants, Inc. 401(k) Plan
Form 5500 – Schedule H, Line 4i –
Schedule of Assets (Held at End of Year)
December 31, 2023
Employer Identification Number (EIN) 33-0100303

| (a) | (b) | (c) | (d) | (e) |
|--|--------------------------------|---|------|---------------|
| Identity of Issuer, Borrower, Lessor, or Similar Party | | Description of investment including maturity date, rate of interest, collateral, par, or maturity value | Cost | Current Value |
| | AB Global Bond Fund R | Pooled Separate Accounts | ** | \$ 198,848 |
| | American Funds Cap Wld G&I R3 | Pooled Separate Accounts | ** | 718,161 |
| | American Funds EuroPacific R3 | Pooled Separate Accounts | ** | 620,046 |
| | American Funds Fdmntl Inv R3 | Pooled Separate Accounts | ** | 267,252 |
| | American Funds Income Fnd R3 | Pooled Separate Accounts | ** | 239,403 |
| | American Funds Wash Mutual R3 | Pooled Separate Accounts | ** | 421,866 |
| | ClrBrg SmCp Grw Fnd R | Pooled Separate Accounts | ** | 121,214 |
| | VY Columbia SmCp VII P Adv | Pooled Separate Accounts | ** | 126,973 |
| | Victory Sycmr Est VI Fd R | Pooled Separate Accounts | ** | 235,797 |
| * | Voya Fixed Account | Insurance Company General Account | ** | 1,223,622 |
| * | Voya Gv Mny Mkt F A (Hld Acct) | Pooled Separate Accounts | ** | 15,998 |
| * | Voya Index Solution 2065 P Adv | Pooled Separate Accounts | ** | 10,762 |
| * | Voya Indx Solution 2025 P Adv | Pooled Separate Accounts | ** | 310,946 |
| * | Voya Indx Solution 2030 Pt Adv | Pooled Separate Accounts | ** | 176,258 |
| * | Voya Indx Solution 2035 P Adv | Pooled Separate Accounts | ** | 358,427 |
| * | Voya Indx Solution 2040 P Adv | Pooled Separate Accounts | ** | 306,508 |
| * | Voya Indx Solution 2045 P Adv | Pooled Separate Accounts | ** | 235,305 |
| * | Voya Indx Solution 2050 Pt Adv | Pooled Separate Accounts | ** | 226,089 |
| * | Voya Indx Solution 2055 P Adv | Pooled Separate Accounts | ** | 323,012 |
| * | Voya Indx Solution 2060 P Adv | Pooled Separate Accounts | ** | 94,313 |
| * | Voya Indx Solution Inc P Adv | Pooled Separate Accounts | ** | 21,752 |
| * | Voya Intermediate Bond Fd R | Pooled Separate Accounts | ** | 394,885 |
| * | Voya Large Cap Growth Prt Adv | Pooled Separate Accounts | ** | 1,302,025 |
| * | Voya Mid Cap Opport Port A | Pooled Separate Accounts | ** | 94,028 |
| * | Voya Russell MdCp Indx Prt A | Pooled Separate Accounts | ** | 131,219 |
| * | Voya Russell SmCp Indx Prt A | Pooled Separate Accounts | ** | 130,767 |
| * | Voya US Stock Index Port Adv | Pooled Separate Accounts | ** | 857,410 |
| * | Participant Loans | Participant Loans - Rates from 4.25% -9.50% | ** | 106,752 |
| | | | | \$ 9,269,638 |

* Represents a party-in-interest as defined by ERISA

** Not applicable for participant-directed plans

**Rubio's Restaurants, Inc. 401(k) Plan
Form 5500 – Schedule H, Line 4i –
Schedule of Assets (Held at End of Year)
December 31, 2022**

Employer Identification Number (EIN) 33-0100303

| (a) | (b) | (c) Description of investment including maturity date, rate of interest, collateral, par, or maturity value | (d) Cost | (e) Current Value |
|--|--------------------------------|---|-------------|----------------------|
| Identity of Issuer, Borrower, Lessor, or Similar Party | | | | |
| | AB Global Bond Fund R | Pooled Separate Accounts | ** | \$ 169,327 |
| | American Funds Cap Wld G&I R3 | Pooled Separate Accounts | ** | 594,807 |
| | American Funds EuroPacific R3 | Pooled Separate Accounts | ** | 521,775 |
| | American Funds Fdmntl Inv R3 | Pooled Separate Accounts | ** | 230,526 |
| | American Funds Income Fnd R3 | Pooled Separate Accounts | ** | 184,507 |
| | American Funds Wash Mutual R3 | Pooled Separate Accounts | ** | 347,641 |
| | Carillon Eagle Sm Cap Grw R3 | Pooled Separate Accounts | ** | 88,874 |
| | VY Columbia SmCp VII P Adv | Pooled Separate Accounts | ** | 229,130 |
| * | Victory Sycmr Est VI Fd R | Pooled Separate Accounts | ** | 166,899 |
| * | Voya Fixed Account | Insurance Company General Account | ** | 1,010,884 |
| * | Voya Gv Mny Mkt F A (Hld Acct) | Pooled Separate Accounts | ** | 9,853 |
| * | Voya Index Solution 2065 P Adv | Pooled Separate Accounts | ** | 2,341 |
| * | Voya Indx Solution 2025 P Adv | Pooled Separate Accounts | ** | 251,344 |
| * | Voya Indx Solution 2030 Pt Adv | Pooled Separate Accounts | ** | 187,296 |
| * | Voya Indx Solution 2035 P Adv | Pooled Separate Accounts | ** | 361,333 |
| * | Voya Indx Solution 2040 Pt Adv | Pooled Separate Accounts | ** | 126,951 |
| * | Voya Indx Solution 2045 P Adv | Pooled Separate Accounts | ** | 161,058 |
| * | Voya Indx Solution 2050 Pt Adv | Pooled Separate Accounts | ** | 166,526 |
| * | Voya Indx Solution 2055 P Adv | Pooled Separate Accounts | ** | 207,887 |
| * | Voya Indx Solution 2060 P Adv | Pooled Separate Accounts | ** | 53,007 |
| * | Voya Indx Solution Inc P Adv | Pooled Separate Accounts | ** | 12,825 |
| * | Voya Intermediate Bond Fd R | Pooled Separate Accounts | ** | 294,379 |
| * | Voya Large Cap Growth Prt Adv | Pooled Separate Accounts | ** | 1,020,954 |
| * | Voya Mid Cap Opport Port A | Pooled Separate Accounts | ** | 90,571 |
| * | Voya Russell MdCp Indx Prt A | Pooled Separate Accounts | ** | 82,305 |
| * | Voya Russell SmCp Indx Prt A | Pooled Separate Accounts | ** | 135,154 |
| * | Voya US Stock Index Port Adv | Pooled Separate Accounts | ** | 665,846 |
| * | Participant Loans | Participant Loans - Rates from 4.25% -7.25% | ** | 110,905 |
| | | | | \$ 7,484,905 |

* Represents a party-in-interest as defined by ERISA

** Not applicable for participant-directed plans

Rubio's Restaurants, Inc. 401(k) Plan
Form 5500 – Schedule H, Line 4i –
Schedule of Assets (Held at End of Year)
December 31, 2021
Employer Identification Number (EIN) 33-0100303

| (a) | (b) | (c) Description of investment including maturity date, rate of interest, collateral, par, or maturity value | (d) Cost | (e) Current Value |
|-----|--|---|-------------|----------------------|
| | Identity of Issuer, Borrower, Lessor, or Similar Party | | | |
| | AB Global Bond Fund R | Pooled Separate Accounts | ** | \$ 183,296 |
| | American Funds Cap Wld G&I R3 | Pooled Separate Accounts | ** | 649,058 |
| | American Funds EuroPacific R3 | Pooled Separate Accounts | ** | 697,251 |
| | American Funds Fdmntl Inv R3 | Pooled Separate Accounts | ** | 254,798 |
| | American Funds Income Fnd R3 | Pooled Separate Accounts | ** | 185,866 |
| | American Funds Wash Mutual R3 | Pooled Separate Accounts | ** | 419,342 |
| | Carillon Eagle Sm Cap Grw R3 | Pooled Separate Accounts | ** | 99,629 |
| | VY Columbia SmCp VII P Adv | Pooled Separate Accounts | ** | 247,481 |
| | Victory Sycmr Est VI Fd R | Pooled Separate Accounts | ** | 302,169 |
| * | Voya Fixed Account | Insurance Company General Account | ** | 896,452 |
| * | Voya Gv Mny Mkt F A (Hld Acct) | Pooled Separate Accounts | ** | 5,168 |
| * | Voya Index Solution 2065 P Adv | Pooled Separate Accounts | ** | 1,236 |
| * | Voya Indx Solution 2025 P Adv | Pooled Separate Accounts | ** | 251,721 |
| * | Voya Indx Solution 2030 Pt Adv | Pooled Separate Accounts | ** | 63,215 |
| * | Voya Indx Solution 2035 P Adv | Pooled Separate Accounts | ** | 99,500 |
| * | Voya Indx Solution 2040 Pt Adv | Pooled Separate Accounts | ** | 97,423 |
| * | Voya Indx Solution 2045 P Adv | Pooled Separate Accounts | ** | 182,187 |
| * | Voya Indx Solution 2050 Pt Adv | Pooled Separate Accounts | ** | 161,647 |
| * | Voya Indx Solution 2055 P Adv | Pooled Separate Accounts | ** | 214,439 |
| * | Voya Indx Solution 2060 P Adv | Pooled Separate Accounts | ** | 25,618 |
| * | Voya Indx Solution Inc P Adv | Pooled Separate Accounts | ** | 19,530 |
| * | Voya Intermediate Bond Fd R | Pooled Separate Accounts | ** | 430,905 |
| * | Voya Large Cap Growth Prt Adv | Pooled Separate Accounts | ** | 1,592,269 |
| * | Voya Mid Cap Opport Port A | Pooled Separate Accounts | ** | 214,451 |
| * | Voya Russell MdCp Indx Prt A | Pooled Separate Accounts | ** | 125,689 |
| * | Voya Russell SmCp Indx Prt A | Pooled Separate Accounts | ** | 188,165 |
| * | Voya US Stock Index Port Adv | Pooled Separate Accounts | ** | 821,128 |
| * | Participant Loans | Participant Loans - Rates from 4.25% -6.25% | ** | 90,360 |
| | | | | \$ 8,519,993 |

* Represents a party-in-interest as defined by ERISA

** Not applicable for participant-directed plans

Schedule of Assets is included in auditor report.

Sincerely,

Noelle Martinez