

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

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IN THE MATTER OF: :  
: :  
Delta Elite, Inc. :  
t/a Delta Elite : Show Cause  
3734 10th Street, NE : Hearing  
Retailer CN - ANC-5B :  
License No. 1182 :  
Case #12-251-00090 :  
: :  
(Failed to Comply with :  
Security Plan) :  
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January 23, 2013

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, 2000 14th Street, N.W., Suite 400S Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson  
NICK ALBERTI, Member  
DONALD BROOKS, Member

HERMAN JONES, Member  
MIKE SILVERSTEIN, Member

ALSO PRESENT:

WALTER ADAMS, OAG

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

(1:39 p.m.)

CHAIRPERSON MILLER: Okay. We are back on the record for the afternoon calendar. And the first case on our calendar is Case No. 12-251-00090, Delta Elite located at 3734 10th Street, N.E., License No. 1182 in ANC-5B.

Would the parties, please, introduce yourselves for the record?

MR. ADAMS: Good afternoon, Madam Chair and Members of the Board. I'm Walter Adams. I represent the District of Columbia.

CHAIRPERSON MILLER: Good afternoon, Mr. Adams.

MR. LYON: I'm Enrique Lyon. I'm the owner of Delta Elite.

CHAIRPERSON MILLER: Okay. And have you signed-in, both of you, on that piece of paper? You did, okay.

So this is a Show Cause Hearing, but I first want to ask if you have any preliminary matters?

1 MR. ADAMS: There are no  
2 preliminary matters, Madam Chair.

3 CHAIRPERSON MILLER: Okay. Then  
4 is the Government ready to proceed?

5 MR. ADAMS: The Government is  
6 ready to proceed.

7 CHAIRPERSON MILLER: Okay. And  
8 let me just tell Mr. Lyon, I'm not sure if you  
9 are familiar with our proceedings, so I want  
10 to let you know what is going to happen here  
11 and what you will be allowed to do.

12 MR. LYON: Okay.

13 CHAIRPERSON MILLER: The  
14 Government has the burden of proof. Mr. Adams  
15 will go first presenting his case and you will  
16 have a chance to present a case as well. He  
17 may give an opening statement. If he does,  
18 you can give an opening statement. You don't  
19 have to. It would just -- it's not evidence.  
20 It just says what you intend to prove. So he  
21 will do an opening statement and you may or  
22 may not or he may not.

1                   And then Mr. Adams will call  
2 witnesses. They will be sworn under oath.  
3 They will give testimony. You will have a  
4 chance to ask questions, cross-examine them  
5 based on the testimony that they give and the  
6 Board will as well.

7                   And then he can put some documents  
8 into evidence as well and you can object or  
9 not object. And then he will rest his case.  
10 Then you will get a chance to do the same  
11 thing. If you don't have a witness, you,  
12 yourself can testify. You would be put under  
13 oath. And then after that, you will each get  
14 a chance to make closing arguments about what  
15 you showed or what your case is.

16                   Okay. If you have any questions  
17 along the way, feel free to ask me. Okay.  
18 Do you have any questions now?

19                   MR. LYON: No.

20                   CHAIRPERSON MILLER: All right.

21 All right, Mr. Adams, then I'll let you  
22 proceed.

1 MR. ADAMS: Madam Chairman, this  
2 case is a very general case regarding Delta  
3 Elite, the establishment on 10th Street, N.E.  
4 And essentially, this stems from last year  
5 where there were a few incidents that occurred  
6 at the establishment involving patrons who  
7 were exiting the establishment going out into  
8 the parking lot with having fights and things  
9 of that nature.

10 Specifically, the evidence will  
11 prove here that the establishment violated  
12 their security plan and three provisions of  
13 their security plan specifically. Though one,  
14 their security plan provides that the  
15 establishment will make sure that persons who  
16 are fighting or arguing are brought out  
17 separately from the establishment.

18 And on February 25th of last year,  
19 there was a large fight that resulted because  
20 the establishment did not do that. The  
21 evidence will also show that the establishment  
22 violated the provision within their security

1 plan that requires it to maintain four -- or  
2 excuse me, at least six security guards  
3 specifically four special police officers  
4 inside, two outside and two additional trained  
5 security personnel inside the club for  
6 monitoring its patrons.

7 And the evidence will show then on  
8 this occasion that was not the case and that  
9 there is evidence that it was -- it has not  
10 been the case on other evenings.

11 And also that the security plan  
12 ensures that the establishment record will  
13 keep recorded events at the establishment for  
14 a minimum period of 30 days and that is to  
15 show that that did not occur in this case with  
16 this establishment.

17 The evidence will show that how  
18 this situation started was that on February  
19 25th at, approximately, 3:00 a.m., there was a  
20 fight between a large group of patrons that  
21 occurred outside of the establishment, so  
22 around 15 to 20 female patrons began fighting

1 outside of the establishment.

2 The evidence will show that this  
3 fight actually started within the -- inside  
4 the establishment on the dance floor after the  
5 two people who were -- the combatants were  
6 escorted out. The evidence will then show  
7 that a large group of patrons who were friends  
8 of the same patrons followed the security  
9 guards out of the establishment and from there  
10 a large scale fight occurred within the --  
11 outside the establishment and within the  
12 parking lot to the degree that the MPD Officer  
13 who was on-site felt the need to request the  
14 backup in order to restore order at the  
15 establishment.

16 But for the fact that the  
17 establishment has violated the security plan  
18 on this occasion, that is what precipitated  
19 what -- I mean, if the establishment had not--  
20 had been compliant, it was clear that it was  
21 mostly likely that the events that occurred  
22 and the large-scale brawl would not have been

1 a problem.

2 So based upon that, we will prove  
3 that there are three violations of the  
4 establishment's security plan that occurred on  
5 February 25, 2012.

6 CHAIRPERSON MILLER: Mr. Lyon, do  
7 you have any opening statement you want to  
8 make, at this time?

9 MR. LYON: Not at this time.

10 CHAIRPERSON MILLER: Okay. You  
11 will have a chance to do that before you start  
12 your case when he is finished if you decide to  
13 later. Okay. So then, Mr. Adams, we are back  
14 to you.

15 MR. ADAMS: Sure.

16 CHAIRPERSON MILLER: Okay.

17 MR. ADAMS: Madam Chair, the  
18 District's first witness is Officer Richard  
19 Antoine.

20 CHAIRPERSON MILLER: Yes, okay.

21 OFFICER ANTOINE: Good morning,  
22 everyone.

1 CHAIRPERSON MILLER: Good morning.

2 I just need to swear you in.

3 Whereupon,

4 OFFICER RICHARD ANTOINE

5 was called as a witness by Counsel for the  
6 Government, and having been first duly sworn,  
7 assumed the witness stand and was examined and  
8 testified as follows:

9 CHAIRPERSON MILLER: Okay. Thank  
10 you very much.

11 DIRECT EXAMINATION

12 MR. ADAMS: Good afternoon.

13 OFFICER ANTOINE: Good afternoon,  
14 sir.

15 MR. ADAMS: Can you, please, state  
16 your name or spell it for the record?

17 OFFICER ANTOINE: My last name is  
18 Antoine, A-N-T-O-I-N-E. First name is  
19 Richard.

20 MR. ADAMS: And Officer Antoine,  
21 and obviously you are an officer of the  
22 Metropolitan Police Department?

1 OFFICER ANTOINE: Yes, sir.

2 MR. ADAMS: And how long have you  
3 been with the Metropolitan Police Department?

4 OFFICER ANTOINE: About five and a  
5 half years.

6 MR. ADAMS: Okay. And where are  
7 you currently assigned to work?

8 OFFICER ANTOINE: At the 4th  
9 District Police Station.

10 MR. ADAMS: How long have you been  
11 at the 4th District?

12 OFFICER ANTOINE: For four years  
13 and a half.

14 MR. ADAMS: Okay. So most of your  
15 experience comes from that District?

16 OFFICER ANTOINE: Yes, sir.

17 MR. ADAMS: All right. And when's  
18 your tour duty? Is it mostly during the  
19 daytime or during the evening or when does  
20 that occur?

21 OFFICER ANTOINE: Nights.

22 MR. ADAMS: Nights?

1 OFFICER ANTOINE: Yes.

2 MR. ADAMS: And Office Antoine, as  
3 part of your duties, do you monitor the  
4 businesses within the 4th District?

5 OFFICER ANTOINE: Yes.

6 MR. ADAMS: Okay. And as part of  
7 your duties, do you -- to what extent do you  
8 deal with nightclubs or establishments or, I  
9 guess, liquor licensed establishments with 4D?

10 OFFICER ANTOINE: Well, I'm  
11 assigned in the area where Delta Elite is  
12 located. So pretty much I'm -- because that's  
13 -- I'm assigned to that area, so, you know,  
14 I'm just there.

15 MR. ADAMS: So are you familiar  
16 with the establishment that is called Delta  
17 Elite?

18 OFFICER ANTOINE: Yes, sir.

19 MR. ADAMS: Okay. And on February  
20 20 -- and I'll get back to that in second.

21 On February 25, 2012 in the  
22 morning, early morning, were you on duty on

1 that occasion?

2 OFFICER ANTOINE: Yes, sir.

3 MR. ADAMS: And were you near  
4 Delta Elite?

5 OFFICER ANTOINE: Yes.

6 MR. ADAMS: Okay. In general, how  
7 are you familiar with the Delta Elite  
8 establishment?

9 OFFICER ANTOINE: Well, during  
10 that course of time, which was what February  
11 you said?

12 MR. ADAMS: February 2012.

13 OFFICER ANTOINE: During that  
14 time, they had like a couple of incidents at  
15 that location, so we've been paying more  
16 special attention to that area, to that club,  
17 you know, to make sure the patrons come out,  
18 you know, and are not fighting or anything.

19 So that particular night, I was  
20 just sitting in the car at the end of the  
21 block and just, you know, observing and, you  
22 know.

1 MR. ADAMS: And why did you decide  
2 to park at the end of the block on that  
3 particular night?

4 OFFICER ANTOINE: Well, that's the  
5 -- that's where I normally park on the end.  
6 You know, I don't want to give the club too  
7 much attention where people are thinking okay,  
8 this is a problem club and, you know, we can't  
9 come here.

10 So to make them feel comfortable,  
11 I had my lights flicker at the end just to  
12 give them acknowledgement that, okay, we are  
13 here, so behave.

14 MR. ADAMS: Was the reason that  
15 your -- well, what was the reason that you  
16 were in that area in the first place? Did it  
17 have anything to do with any prior experiences  
18 with this establishment?

19 OFFICER ANTOINE: Yes. They had a  
20 couple of incidents at that location during  
21 that course of time, so --

22 MR. ADAMS: And what kind of

1 incidents were they?

2 OFFICER ANTOINE: Just like  
3 fights, little fights here and there, you  
4 know.

5 MR. ADAMS: Okay.

6 OFFICER ANTOINE: And stuff like  
7 that.

8 MR. ADAMS: And you're talking  
9 about fights, were these fights occurring  
10 inside the establishment or outside the  
11 establishment?

12 OFFICER ANTOINE: The ones that we  
13 observed, those were outside.

14 MR. ADAMS: Okay. All right. So  
15 now you stated that, at this time, you were  
16 sitting in the car at the end of the block.

17 OFFICER ANTOINE: Yes.

18 MR. ADAMS: I guess around 3:00,  
19 what occurred?

20 OFFICER ANTOINE: It was like  
21 about 15 to 20, possibly more, what I observed  
22 was mostly females coming out and they were

1 all fighting.

2 CHAIRPERSON MILLER: Do you need  
3 him to speak up?

4 MEMBER SILVERSTEIN: I couldn't  
5 hear you.

6 OFFICER ANTOINE: About 15 or 20  
7 females came out of the club and they were  
8 fighting.

9 MR. ADAMS: And in term of -- and  
10 can you describe providing a description of  
11 how this fight was occurring? Where were they  
12 when they were fighting?

13 OFFICER ANTOINE: Well, they had  
14 like in the front of the club it's like not a  
15 pole, but like some steps and like a banister,  
16 like -- something like a balcony like. So  
17 people fighting on the balcony. People were  
18 fighting below the balcony. It was just --  
19 there was a parking lot and people were  
20 fighting in the parking lot or in that small  
21 little area.

22 MR. ADAMS: And so once you saw

1 persons fighting, what did you do?

2 OFFICER ANTOINE: Well,  
3 immediately, as soon as they came out  
4 fighting, I immediately called police, because  
5 it was more than I could handle, so I  
6 immediately called for -- requested additional  
7 units.

8 MR. ADAMS: Okay. And after you  
9 requested additional units, did you stay at  
10 the end of the block or what did you do?

11 OFFICER ANTOINE: No, I approached  
12 and tried to do the best I can. There was one  
13 female who appeared to be very aggressive,  
14 from what I observed. When she was closer to  
15 me, I grabbed her and put her in handcuffs.  
16 And when other units came, I was able to put  
17 another handcuff on another individual.

18 And further investigation revealed  
19 the two females that were in handcuffs, were  
20 not fighting each other, but was fighting  
21 another group of other people, so I could not  
22 lock anybody up, because they were not the

1 victims. They were -- I don't know if they  
2 were the victims or not, but they were both on  
3 the same team. So there was nobody on the  
4 opposing team, so I could not lock them up.

5 MR. ADAMS: So now you said that  
6 you arrested or you locked up the person who--

7 OFFICER ANTOINE: I didn't lock  
8 them up. I had just placed them under  
9 handcuffs for my safety.

10 MR. ADAMS: I apologize.

11 OFFICER ANTOINE: Yes.

12 MR. ADAMS: You placed them in  
13 handcuffs for safety.

14 OFFICER ANTOINE: Yes.

15 MR. ADAMS: The person who was  
16 most aggressive. I mean, were there like  
17 several different scrimmages going on at the  
18 same time?

19 OFFICER ANTOINE: Oh, yes, yes.

20 MR. ADAMS: Or were there --

21 OFFICER ANTOINE: There was like--  
22 probably like, there were about 20 people. I

1 want to say about like six, seven, eight  
2 fights going on at the same time.

3 MR. ADAMS: All right.

4 OFFICER ANTOINE: Yes.

5 MR. ADAMS: And how long did this  
6 occur?

7 OFFICER ANTOINE: I want to say  
8 like maybe like 45 seconds maybe. 45 seconds.

9 MR. ADAMS: Okay. I mean, how  
10 long was it before officers arrived to assist?

11 OFFICER ANTOINE: About two  
12 minutes. From the moment I observed it and  
13 the moment ended, probably two minutes or a  
14 minute and a half.

15 MR. ADAMS: And what happened once  
16 backup arrived?

17 OFFICER ANTOINE: I mean,  
18 everything pretty much slowed down. There  
19 were a lot of people, you know, running and  
20 getting scattered away. Some were getting in  
21 their cars. And some were cussing and, you  
22 know.

1 MR. ADAMS: And can you tell us  
2 whether you notified anyone from the Alcoholic  
3 Beverage Regulation Administration that night?

4 OFFICER ANTOINE: Yes, I did.

5 MR. ADAMS: Okay. And did you  
6 speak with anyone that night?

7 OFFICER ANTOINE: Yes, yes.

8 MR. ADAMS: And why did you report  
9 it to ABRA that night?

10 OFFICER ANTOINE: Oh, because we  
11 are required to. Whenever there is a fight at  
12 any ABC establishment, we are required to call  
13 ABRA, the ABC, you know, officers for them to  
14 be notified and we are required to also take  
15 a report.

16 MR. ADAMS: And from -- did you  
17 have occasion to speak to other people that  
18 you handcuffed, did you have occasion to speak  
19 with any -- either of those persons?

20 OFFICER ANTOINE: The people that  
21 I handcuffed? Yes, I spoke to them.

22 MR. ADAMS: And did they tell you

1       what occurred?

2                   OFFICER ANTOINE:  They didn't  
3       really tell me why they were fighting.  I  
4       remember them telling me, okay, that's not the  
5       female, that's my friend.  That's my sister.  
6       There was some type of relationship between  
7       the two people I had placed under arrest.  It  
8       was like, you know, we was not fighting each  
9       other.  The other girls were trying to jump us  
10      and this and that, so, you know.

11                  MR. ADAMS:  But what happened to  
12      the rest of the people?  Did they just stay  
13      there or did they leave?

14                  OFFICER ANTOINE:  There was some  
15      people that stayed there, some were trying to  
16      contest the people I had in handcuffs.  They  
17      was like well, no, she didn't start it or it  
18      was the other female.  So some stayed, some  
19      scattered and went away and, you know.

20                  MR. ADAMS:  And when did the fight  
21      start?  The fight was going on and when I  
22      guess after it slowed down, can you describe

1 was it a calm scene? Was it a chaotic scene?

2 Can you --

3 OFFICER ANTOINE: During the  
4 course of the fight going on?

5 MR. ADAMS: Yes.

6 OFFICER ANTOINE: It was chaotic.  
7 I mean, it was over like 15, 20, possibly more  
8 people, females fighting. Some were hitting  
9 each other with heels. Not some. I observed  
10 one female hit somebody else with her heel.  
11 But I mean, it was crazy with so many people  
12 fighting at once, yes.

13 MR. ADAMS: And to what extent, if  
14 any, did you have -- to what extent was there  
15 any concern regarding the safety of patrons or  
16 anyone in the surrounding area when this --  
17 when a fight like this occurs?

18 OFFICER ANTOINE: The safety among  
19 them ain't the -- the thing about it, I can't  
20 say, okay, they were hitting innocent people,  
21 because they were -- I mean, it was two people  
22 fighting and going at each other. I mean, I

1 don't know who is innocent.

2 MR. ADAMS: Okay.

3 OFFICER ANTOINE: But I don't  
4 know. But I didn't see -- I didn't observe  
5 any innocent patrons getting assaulted. I  
6 observed people who wanted to fight, fighting  
7 each other. So, you know.

8 MR. ADAMS: Okay. I have no  
9 further questions for Officer Antoine.

10 CHAIRPERSON MILLER: Mr. Lyon, do  
11 you have any questions for the officer?

12 MR. LYON: No, I don't have any  
13 questions.

14 CHAIRPERSON MILLER: Okay. Do  
15 Board Members have questions? Not hearing  
16 any, do --

17 MEMBER ALBERTI: Well, did you see  
18 the individuals who were fighting? Did you  
19 see them exit?

20 OFFICER ANTOINE: They -- yes, I  
21 did.

22 MEMBER ALBERTI: Okay. Can you

1 describe to me what you saw as the were  
2 exiting? You know, from the point they left  
3 the doors, tell me what you saw.

4 OFFICER ANTOINE: As soon as they  
5 came out all I heard was like bickering, like  
6 loud talking and fighting just like that. As  
7 soon as they came out, it was like they came  
8 out one door and just blah, blah, blah.

9 MEMBER ALBERTI: So the  
10 individuals who were fighting appeared to come  
11 out all at the same time or within very close  
12 proximity to each other?

13 OFFICER ANTOINE: When they came  
14 out, it was like -- kind of like maybe like  
15 two, three, four, five, six, seven, eight, the  
16 bleed out. They didn't all come out at the  
17 same time, because there's one door. They  
18 were at the side of that.

19 MEMBER ALBERTI: How long did it  
20 take for -- were there like two conflicting  
21 parties or was it just lots of people  
22 fighting?

1                   OFFICER ANTOINE:  It was lots of--  
2                   it was like lots of people fighting.  But when  
3                   I stopped the two individuals that I could and  
4                   placed them in handcuffs, they stated that  
5                   they were fighting another group.  They was  
6                   not the ones fighting each other.

7                   MEMBER ALBERTI:  Okay.  How long  
8                   did it take all the individuals that you saw  
9                   fighting outside, how long did it take them to  
10                  get out?  I mean, you saw people exiting.  How  
11                  much time did it take from the first person to  
12                  the last person?

13                  OFFICER ANTOINE:  To get out?

14                  MEMBER ALBERTI:  Yes.

15                  OFFICER ANTOINE:  I can't really  
16                  tell.  I can't really tell.  I mean, like I  
17                  said, at that moment I'm sitting in my car I  
18                  observe -- probably like from the time I  
19                  walked to the club, I didn't walk, I drove my  
20                  car to the club.  I was at the end of the  
21                  block and I drove to the front.  By that time  
22                  it was probably like six, seven, eight fights

1 going on at that same time.

2 MEMBER ALBERTI: Less than five  
3 minutes?

4 OFFICER ANTOINE: No, I said --

5 MEMBER ALBERTI: No, less than  
6 five minutes for everybody to exit or more  
7 than five minutes to exit?

8 OFFICER ANTOINE: I don't know.  
9 It happened so fast. It couldn't be five  
10 minutes. It happened pretty quick.

11 MEMBER ALBERTI: Okay. Thank you.

12 CHAIRPERSON MILLER: Yes, Mr.  
13 Silverstein?

14 MEMBER SILVERSTEIN: Thank you for  
15 your service, Officer Antoine.

16 OFFICER ANTOINE: I appreciate it.

17 CHAIRPERSON MILLER: No, no, no,  
18 he is just thanking you in general.

19 MEMBER SILVERSTEIN: I was thank  
20 you in general.

21 Is there any reason to believe  
22 that the fighting was started outside or did

1       it appear to you that it had started inside  
2       the establishment and simply moved out?

3                   OFFICER ANTOINE:  I don't know.  I  
4       can't make that call, but, I mean, something  
5       happened at some point.  I mean, I can make  
6       that inference, but I can't say, because, you  
7       know, nobody was telling me anything.  Like I  
8       said, they came out the club just loud talking  
9       and started fighting.  So I don't know what  
10      happened if it was just one.  I can't -- it  
11      would be, what's the word, I would be making  
12      just a personal judgment, I don't know, you  
13      know.

14                   MEMBER SILVERSTEIN:  I'm going to  
15      ask you to do that.

16                   OFFICER ANTOINE:  Huh?

17                   MEMBER SILVERSTEIN:  I'm going to  
18      ask you to do that.

19                   OFFICER ANTOINE:  Okay.  It's hard  
20      to tell, because I don't know like if somebody  
21      stepped on somebody's shoe or if it actually  
22      started off with just two people, then other

1 people jumped in. I don't know. I just don't  
2 know if the fight started inside or not. You  
3 know, I can't really -- it's hard to call.

4 MEMBER SILVERSTEIN: You can be  
5 reasonably certain that something happened  
6 inside, but you are not sure that fisticuffs  
7 or that it combusted inside. Is that what you  
8 are saying?

9 OFFICER ANTOINE: It had to be --  
10 well, going back to what your question is, it  
11 had to be some type of argument, because they  
12 came out loud talking.

13 MEMBER SILVERSTEIN: Okay.

14 OFFICER ANTOINE: Then the fight  
15 just occurred. So it had to be something that  
16 occurred. I don't know if they were fighting  
17 inside, but I know there is some type of  
18 altercation that occurred from the moment they  
19 came -- the moment they were in to them coming  
20 out.

21 MEMBER SILVERSTEIN: Did it appear  
22 to you that people were being ejected or that

1       they came out on their own wanting to get into  
2       this thing?

3                   OFFICER ANTOINE:   Well, I didn't  
4       see anybody getting ejected, because I didn't  
5       see -- the security guards were outside, but  
6       I didn't see like they were being pushed out  
7       or anything.

8                   MEMBER SILVERSTEIN:   Did all the  
9       people come out a single door or were any  
10      people --

11                   OFFICER ANTOINE:   From what I  
12      observed, they came out of a single door, from  
13      what I observed.

14                   MEMBER SILVERSTEIN:   Thank you.

15                   OFFICER ANTOINE:   I'm not too sure  
16      as the fight was going on if they came out  
17      another door, because there is two doors.   So  
18      from what I observed, they came out the door  
19      that they existed, the normally exit from.

20                   MEMBER SILVERSTEIN:   Thank you,  
21      Officer, no further questions, Madam Chair.

22                   CHAIRPERSON MILLER:   Okay.

1 Others? Officer Antoine, could you explain  
2 again I think you were talking about there was  
3 fighting on balconies?

4 OFFICER ANTOINE: It's not -- I  
5 don't know what to call it. It was like --  
6 it's not a balcony where it would be on the  
7 second level. It's like a walkway, I would  
8 say, but they have like a barrier.

9 CHAIRPERSON MILLER: Okay.

10 OFFICER ANTOINE: It looked like a  
11 balcony.

12 CHAIRPERSON MILLER: So it's not  
13 on ground? It's higher up?

14 OFFICER ANTOINE: Yes, it's higher  
15 up.

16 CHAIRPERSON MILLER: There's a  
17 walkway up there?

18 OFFICER ANTOINE: Yes.

19 CHAIRPERSON MILLER: Okay. So  
20 people were fighting up there?

21 OFFICER ANTOINE: Yes.

22 CHAIRPERSON MILLER: And they were

1 fighting down below in the parking lot?

2 OFFICER ANTOINE: Yes.

3 CHAIRPERSON MILLER: And is it the  
4 same exit that goes to both places, that  
5 walkway and the parking lot?

6 OFFICER ANTOINE: Well, there's a  
7 barrier that extends all the way down, just  
8 like three, four, five stores.

9 CHAIRPERSON MILLER: Yes.

10 OFFICER ANTOINE: There is a pizza  
11 shop. There is like a clothing shop. So that  
12 barrier doesn't extend all the way to the  
13 club. It extends all the way to like four or  
14 five stores.

15 CHAIRPERSON MILLER: Okay.

16 OFFICER ANTOINE: So you know.

17 CHAIRPERSON MILLER: Okay.

18 OFFICER ANTOINE: It's not just  
19 like -- it's not just his entrance, there's  
20 entrance to enter --

21 CHAIRPERSON MILLER: All those  
22 places?

1 OFFICER ANTOINE: Yes.

2 CHAIRPERSON MILLER: Okay. All  
3 right. I don't have any other questions. Mr.  
4 Brooks?

5 MEMBER BROOKS: Yes.

6 CHAIRPERSON MILLER: Yes.

7 MEMBER BROOKS: Thank you, Madam  
8 Chair.

9 CHAIRPERSON MILLER: Yes.

10 MEMBER BROOKS: Officer, did they  
11 have security on staff?

12 OFFICER ANTOINE: Yes, they did,  
13 sir.

14 MEMBER BROOKS: Okay. And did you  
15 talk to them?

16 OFFICER ANTOINE: I'm sure I did,  
17 but I don't remember what was -- what we  
18 talked about though.

19 MEMBER BROOKS: Thank you, Madam  
20 Chair.

21 CHAIRPERSON MILLER: Just as a  
22 follow-up. I mean, did you attempt to work

1 with their security or no?

2 OFFICER ANTOINE: Well, yes, all  
3 the time. All the time. You know, they are  
4 pretty workable, you know. If there is  
5 something going on, you know, they -- you  
6 know, something about to go on, they will  
7 advise me, okay, this is what is going on and  
8 can you take this person out? Can you talk to  
9 this person? You know, so they are pretty  
10 workable at that point, you know.

11 CHAIRPERSON MILLER: So did you  
12 have that coordination that night?

13 OFFICER ANTOINE: That night, no,  
14 I didn't speak to them that night. That night  
15 before the incident, no.

16 CHAIRPERSON MILLER: Okay. So you  
17 just -- it just started to happen and you were  
18 reacting to the incident, basically?

19 OFFICER ANTOINE: Yes.

20 CHAIRPERSON MILLER: Okay. All  
21 right. Thank you. Anything else? Any  
22 questions based on our questions?

1 MR. ADAMS: I just have one  
2 question for Officer Antoine.

3 CHAIRPERSON MILLER: Okay.

4 REDIRECT EXAMINATION

5 MR. ADAMS: How many security  
6 officers are at that establishment, do your  
7 recollection?

8 OFFICER ANTOINE: I mean, I don't  
9 normally count, but from when I be observing  
10 when I was outside, I believe what I see it's  
11 probably like four to six.

12 MR. ADAMS: Okay. All right. And  
13 I have no further questions.

14 CHAIRPERSON MILLER: Okay. Then  
15 you can be excused. Thank you very much.

16 OFFICER ANTOINE: You're welcome.  
17 Thank you.

18 (Whereupon, witness was excused.)

19 MR. ADAMS: The Board's  
20 indulgence.

21 CHAIRPERSON MILLER: Do you have  
22 another witness?

1 MR. ADAMS: Yes, I do. The next  
2 witness is Investigator Jones.

3 CHAIRPERSON MILLER: Okay. And  
4 will you have any other witnesses?

5 MR. ADAMS: No, those are the only  
6 two witnesses.

7 CHAIRPERSON MILLER: Okay. Good  
8 afternoon.

9 INVESTIGATOR JONES: Good  
10 afternoon.

11 Whereupon,

12 INVESTIGATOR EARL JONES  
13 was called as a witness by Counsel for the  
14 Government, and having been first duly sworn,  
15 assumed the witness stand and was examined and  
16 testified as follows:

17 CHAIRPERSON MILLER: Okay.

18 MR. ADAMS: The Board's  
19 indulgence.

20 DIRECT EXAMINATION

21 MR. ADAMS: Good afternoon, Mr.  
22 Jones. Can you, please, state your name and

1 spell it for the record?

2 INVESTIGATOR JONES: Earl Jones,  
3 J-O-N-E-S. First name Earl, E-A-R-L.

4 MR. ADAMS: And, Mr. Jones, you  
5 are employed by the District of Columbia  
6 Government. Is that correct?

7 INVESTIGATOR JONES: Yes, sir.

8 MR. ADAMS: And that's with the  
9 Alcoholic Beverage Regulation Administration?

10 INVESTIGATOR JONES: Yes, sir.

11 MR. ADAMS: And your position is  
12 as an investigator?

13 INVESTIGATOR JONES: Yes, sir.

14 MR. ADAMS: And how long have you  
15 been in that position?

16 INVESTIGATOR JONES: Since October  
17 of 2009, sir.

18 MR. ADAMS: And during the course  
19 of your tenure, have you been called to  
20 respond to establishments based upon calls  
21 through the ABRA Hotline?

22 INVESTIGATOR JONES: Yes, sir.

1 MR. ADAMS: Now, on February 20,  
2 2012 -- sorry, February 25, 2012 were you on  
3 duty?

4 INVESTIGATOR JONES: Yes, I was.

5 MR. ADAMS: And are you familiar  
6 with the establishment that is called Delta  
7 Elite?

8 INVESTIGATOR JONES: Yes, sir.

9 MR. ADAMS: Okay. Prior to  
10 February 25, 2012, had you had any occasions  
11 to deal with this establishment?

12 INVESTIGATOR JONES: Actually  
13 prior to February 25th, there were a few other  
14 altercations that I was called out to within  
15 I would say probably three to four weeks prior  
16 to this one.

17 MR. ADAMS: Okay. So --

18 INVESTIGATOR JONES: Within that  
19 same --

20 MR. ADAMS: -- approximately --

21 INVESTIGATOR JONES: -- time  
22 frame.

1 MR. ADAMS: -- a month?

2 INVESTIGATOR JONES: Yes, sir.

3 MR. ADAMS: And can you just, in  
4 general, describe the nature of those  
5 altercations?

6 INVESTIGATOR JONES: They were --  
7 some were small fights. There was one that  
8 someone was -- there was a stabbing or a  
9 brandishing of a knife, that type of thing.  
10 But most of them were smaller scale fights.

11 MR. ADAMS: Okay. And were there  
12 -- can you tell us to what extent the police  
13 department -- is that the reason that you were  
14 called into those situations?

15 INVESTIGATOR JONES: Yes.  
16 Whenever we get a call on the ABRA Hot line,  
17 it comes from MPD.

18 MR. ADAMS: Okay. Now, turning to  
19 the night of -- or morning of February 25,  
20 2012, did you have occasion to be at or to be  
21 called to Delta Elite?

22 INVESTIGATOR JONES: Could you

1 repeat that, sir? I'm sorry.

2 MR. ADAMS: On February 25th did  
3 you have the occasion to be called to arrive  
4 at Delta Elite?

5 INVESTIGATOR JONES: Was I called  
6 for that on that day?

7 MR. ADAMS: Yes.

8 INVESTIGATOR JONES: Yes, sir.

9 MR. ADAMS: Okay. And what was  
10 the nature of that call?

11 INVESTIGATOR JONES: There was a  
12 report of a large scale fight that was taking  
13 place outside of the establishment in the  
14 parking lot.

15 MR. ADAMS: Okay. And so when did  
16 you arrive, approximately?

17 INVESTIGATOR JONES: I arrived  
18 probably around 3:30.

19 MR. ADAMS: Okay. And what did  
20 you observe once you arrived?

21 INVESTIGATOR JONES: Once I  
22 arrived, I noticed that there were several

1 squad cars or excuse me, several MPD cruisers  
2 that were in the parking lot. There were a  
3 lot of people who were still kind of  
4 commingling out in the parking lot as well as  
5 on the raised stairwell/sidewalk area of the,  
6 I call it the, strip mall, but where the club  
7 is actually located.

8 MR. ADAMS: Okay.

9 INVESTIGATOR JONES: And that was  
10 pretty much who was outside.

11 MR. ADAMS: Okay. And you said  
12 people were commingled, are you referring to  
13 police officers or are you referring to --

14 INVESTIGATOR JONES: There were  
15 police officers who were still interviewing  
16 witnesses. There were a lot of patrons who  
17 were just kind of hanging out just watching  
18 what was going on.

19 MR. ADAMS: Okay.

20 INVESTIGATOR JONES: And that was  
21 pretty much the scene that was outside.

22 MR. ADAMS: All right. And so

1       once you arrived and once you made this --  
2       your observations, what did you do, at that  
3       point, or what was your next step?

4                   INVESTIGATOR JONES:  My first step  
5       was I spoke with Officer Antoine who was the  
6       responding officer on the scene.  And I spoke  
7       with him with reference to what had taken  
8       place.  He indicated that Delta Elite is in  
9       his area of monitoring and that a lot of times  
10      on the weekends he kind of posts up or he  
11      stations his vehicle towards the end of the  
12      parking lot of the mall where the -- of the  
13      strip mall where the club is located.

14                   I asked him what was the reasoning  
15      for this and, you know, he stated that the  
16      reason that he does it is because there have  
17      been -- I guess there has been a lot of  
18      activity during let-out when the club closes.

19                   MR. ADAMS:  What do you mean by  
20      activity?

21                   INVESTIGATOR JONES:  His thing was  
22      that there were fights that were taking place

1 outside the club when patrons are coming  
2 outside. And so his thing was that, you know,  
3 his presence he felt that having the car there  
4 would kind of deter some of that activity.

5 MR. ADAMS: All right. And I'll  
6 continue. So, all right, you were talking  
7 about why he was -- originally, you were  
8 talking about why he was at that location.  
9 Did he tell you anything else, at that time?

10 INVESTIGATOR JONES: Well, he was  
11 describing what had taken place. He said that  
12 he had observed a large scale fight take  
13 place. He said there was about 15 to 20  
14 female patrons who were exiting the  
15 establishment and began to fight on the --  
16 that the raised walkway and it spilled into  
17 the parking lot.

18 He said at that point, he couldn't  
19 manage it himself, because it was such a large  
20 scale situation, so he called for backup.

21 MR. ADAMS: Right.

22 INVESTIGATOR JONES: He said once

1 backup arrived, they were able to maintain  
2 order and that's when, I guess, Mr. Lyon, who  
3 was the owner of the establishment, was spoken  
4 to as well as security members.

5 MR. ADAMS: Now, before you ended  
6 your conversation with Officer Antoine, did he  
7 make any observations in general regarding his  
8 ability to patrol that establishment or just  
9 any general observations regarding, I guess,  
10 the welfare for patrons?

11 INVESTIGATOR JONES: Well, again,  
12 his statement to me was he was very concerned  
13 about what had started to take place within  
14 the recent month or so. He said which was the  
15 reason why he was stationing his vehicle in  
16 the parking lot of the establishment, because  
17 within the recent history month or so, he said  
18 there has been a lot of activity, meaning  
19 fights. There have been a lot of scimmages  
20 that have taken place at let-out of the club,  
21 meaning the closing time of the club.

22 He said that he didn't -- you

1 know, he doesn't -- he has no idea if it  
2 starts inside, but he definitely sees it  
3 outside, so he was becoming very cognizant of  
4 that and he was concerned that there was a lot  
5 of activity taking place, at that time.

6 MR. ADAMS: Okay. So after you  
7 spoke with Officer Antoine, did you speak with  
8 anyone else?

9 INVESTIGATOR JONES: Yes, I did.  
10 I spoke with MPD Sergeant Butler, who  
11 basically kind of reiterated the same thing  
12 that Officer Antoine did.

13 And once I did that, I went inside  
14 and I spoke with security members as well as  
15 Mr. Lyon.

16 MR. ADAMS: All right. So now,  
17 you stated that you went inside. Who did you  
18 speak with first, security members or Mr.  
19 Lyon?

20 INVESTIGATOR JONES: I want to say  
21 I spoke with one of the security members  
22 first.

1 MR. ADAMS: All right. And what  
2 did the security member tell you?

3 INVESTIGATOR JONES: Security  
4 member stated that there was a fight that had  
5 taken place between two females on the dance  
6 floor. He said that, you know, they separated  
7 them. They diffused the altercation and then  
8 they put them out.

9 He said that as he was trying to  
10 reenter, he did see that there were other  
11 girls who were coming outside, but he didn't  
12 pay any attention to it really and he came on  
13 inside. And then he said minutes later, he  
14 was notified that there was a fight outside.

15 MR. ADAMS: All right. And when  
16 he stated that a fight started on the dance  
17 floor, did he indicate what exactly happened  
18 in terms of this fight? I mean, was it a  
19 verbal altercation? Was it a physical  
20 altercation?

21 INVESTIGATOR JONES: From what I'm  
22 understanding, it was a physical altercation.

1 And they quickly intervened. They got them  
2 out. And that's pretty much the story he  
3 gave.

4 MR. ADAMS: Now, the describing of  
5 them, were the them several persons or a  
6 couple patrons or how many were they?

7 INVESTIGATOR JONES: From what I  
8 understood, it was two patrons. It was two  
9 female patrons.

10 MR. ADAMS: And the two patrons  
11 that were ejected, were they part of the same  
12 group or were they fighting each other from  
13 his description or could you tell?

14 INVESTIGATOR JONES: I'm not  
15 understanding your question.

16 MR. ADAMS: Were the two people  
17 who were ejected, were they combating each  
18 other?

19 INVESTIGATOR JONES: Yes.

20 MR. ADAMS: Okay. All right. And  
21 after you spoke with the security guard, who  
22 else did you speak with?

1                   INVESTIGATOR JONES: I spoke with  
2 Mr. Lyon, the owner.

3                   MR. ADAMS: Okay. And describe  
4 your discussion with Mr. Lyon.

5                   INVESTIGATOR JONES: I asked Mr.  
6 Lyon, you know, what had taken place. And he  
7 said that there was a fight that had taken  
8 place outside. He said that, you know, he had  
9 no knowledge of the fight outside until, I  
10 guess, security had notified him that there  
11 was, you know, a large scale fight that was  
12 taking place.

13                   At that point, I kind of  
14 questioned him again, because I already had  
15 knowledge that something had taken place  
16 inside.

17                   MR. ADAMS: Okay. What happened  
18 at that point?

19                   INVESTIGATOR JONES: At that  
20 point, Mr. Lyon came back and said, okay,  
21 there was a fight that took place inside. The  
22 two patrons were taken outside. And then the

1 fight ensued from there.

2 MR. ADAMS: How many exits are at  
3 this establishment, to your knowledge?

4 INVESTIGATOR JONES: I believe  
5 there are two doors.

6 MR. ADAMS: And based upon the  
7 descriptions, what was described in terms of  
8 where these patrons were ejected?

9 INVESTIGATOR JONES: They were  
10 ejected out of the same door.

11 MR. ADAMS: Okay. Now, in terms  
12 of your investigation on that occasion, what  
13 else did you speak with Mr. Lyon about?

14 INVESTIGATOR JONES: I spoke with  
15 him with reference to his security. I spoke  
16 with him with reference to his surveillance  
17 equipment as well as patron ejection.

18 MR. ADAMS: All right. Now, in  
19 terms of -- now, let's take one thing at a  
20 time. To what extent was there any discussion  
21 regarding the amount of security guards that  
22 were there on February 25th?

1                   INVESTIGATOR JONES: Well, I was  
2                   told that there were four security members.  
3                   There were two security members and two  
4                   special police officers.

5                   MR. ADAMS: And did you observe  
6                   them?

7                   INVESTIGATOR JONES: I saw -- yes,  
8                   I saw them.

9                   MR. ADAMS: And did you count any  
10                  more than those four persons?

11                  INVESTIGATOR JONES: No.

12                  MR. ADAMS: Okay. And what other  
13                  discussion did you have on that occasion  
14                  regarding the security guards and the amount  
15                  of security guards?

16                  INVESTIGATOR JONES: There was  
17                  really -- Mr. Lyon said that he maintained the  
18                  four members and that was pretty much all of  
19                  the discussion that was had with reference to  
20                  the security members at that time.

21                  MR. ADAMS: So at some point -- at  
22                  what point, if at any point, during your

1 investigation -- can you describe whether  
2 there was any attempt to observe what  
3 occurred?

4 INVESTIGATOR JONES: I --

5 MR. ADAMS: I apologize. I'm  
6 sorry. During the course of your  
7 investigation, did you make any attempt to  
8 actually observe what occurred on that  
9 occasion?

10 INVESTIGATOR JONES: Yes. I asked  
11 about if there was any surveillance footage of  
12 the incident. And Mr. Lyon walked me  
13 downstairs to his -- to a room where he keeps  
14 his surveillance equipment.

15 MR. ADAMS: Okay. What did you --  
16 I apologize.

17 INVESTIGATOR JONES: And the  
18 altercation was not able to be captured on  
19 camera.

20 MR. ADAMS: Okay. And why wasn't  
21 it? Do you know?

22 INVESTIGATOR JONES: The way the

1 outside camera is positioned, it seemed that,  
2 because it was a stationary camera which was  
3 kind of, I guess it was pointed downwards in  
4 an area where the fights weren't taking place.  
5 So it was kind of out of the camera range.

6 MR. ADAMS: And did you make any  
7 other observations regarding the equipment or  
8 their security equipment downstairs?

9 INVESTIGATOR JONES: Yes. The  
10 security equipment that Mr. Lyon is utilizing  
11 or was utilizing at the time, was VHS. He was  
12 using VHS tapes.

13 MR. ADAMS: Okay.

14 INVESTIGATOR JONES: And a lot of  
15 the footage and a lot of the camera angles or  
16 surveillance footage that I could view was  
17 very grainy. A lot of the system was  
18 outdated.

19 MR. ADAMS: Okay. And how long or  
20 did you have a conversation with Mr. Lyon on  
21 that date regarding this?

22 INVESTIGATOR JONES: Yes. We

1 talked about it, because whenever you are  
2 operating an establishment such as his, it is  
3 always to your benefit to have a good  
4 surveillance system in case something happens.

5 We talked about this and you  
6 should always be able to pull that footage  
7 when needed. And he doesn't have the  
8 capability to download footage, because of how  
9 inadequate the system is.

10 MR. ADAMS: To what extent during  
11 the conversation, if any, did you discuss the  
12 storage of the system or what type of --

13 INVESTIGATOR JONES: Within that  
14 same conversation.

15 MR. ADAMS: Okay. What was the  
16 storage of the system? I mean, how many days  
17 of footage did you get from the system?

18 INVESTIGATOR JONES: Well, I  
19 couldn't get anything from the system.

20 MR. ADAMS: Okay.

21 INVESTIGATOR JONES: Because there  
22 was nothing that could be viewed with

1 reference to the altercation. Mr. Lyon said  
2 that he -- with the system that he has, he  
3 can't record for 30 days nor could he download  
4 onto a DVD.

5 MR. ADAMS: Okay. How many days  
6 could he record?

7 INVESTIGATOR JONES: I don't even  
8 -- at that point, he couldn't really tell me  
9 what he could do with reference to that.

10 MR. ADAMS: All right. The  
11 Board's indulgence. So like at some point,  
12 was this the type of system that would record  
13 footage over at any point?

14 INVESTIGATOR JONES: The system it  
15 had the capability of doing a three hour loop  
16 and then that was it.

17 MR. ADAMS: So three hours?

18 INVESTIGATOR JONES: Yes.

19 MR. ADAMS: Okay. Now, afterwards  
20 -- and as part of this investigation, did you  
21 determine whether or not there were any  
22 violations that occurred during the course of

1 your investigation?

2 INVESTIGATOR JONES: Well, while I  
3 was there, I knew for sure that from my  
4 investigation through talking with security as  
5 well as speaking with MPD outside, I knew for  
6 sure that there was at least one security  
7 violation while I was there and that was due  
8 to the patrons being put out at one time.

9 MR. ADAMS: Okay.

10 INVESTIGATOR JONES: That were  
11 fighting.

12 MR. ADAMS: And okay, can you  
13 describe what you believe was the nature of  
14 that violation?

15 INVESTIGATOR JONES: Well, in  
16 their security plan, it indicates that persons  
17 who are arguing or fighting inside the club  
18 that one is to be removed first out one door  
19 and the other detained until the other is away  
20 from the premises.

21 MR. ADAMS: Okay. Now, in the  
22 course of your investigation, did you complete

1 a report or any other document attached to  
2 this investigation?

3 INVESTIGATOR JONES: Yes, a  
4 security plan.

5 MR. ADAMS: Okay.

6 INVESTIGATOR JONES: And voluntary  
7 agreement.

8 MR. ADAMS: Okay. And did you  
9 complete a case report as well?

10 INVESTIGATOR JONES: Yes, sir.

11 MR. ADAMS: Okay. And I would  
12 like to approach the witness with what is  
13 marked for identification purposes as the  
14 District's Exhibit 1. And I'm going to hand  
15 a copy to Mr. Lyon.

16 (Whereupon, the document was  
17 marked as Government Exhibit 1 for  
18 identification.)

19 MR. ADAMS: Mr. Jones, do you  
20 recognize the document that is in front of  
21 you?

22 INVESTIGATOR JONES: Yes, sir.

1 MR. ADAMS: And how do you  
2 recognize that document?

3 INVESTIGATOR JONES: This is  
4 actually the case report that I wrote.

5 MR. ADAMS: Okay. And as part of  
6 the case report, you -- it does include a  
7 narrative from your investigation. Is that  
8 correct?

9 INVESTIGATOR JONES: Yes, sir.

10 MR. ADAMS: And this document has  
11 exhibits attached as well. Is that correct?

12 INVESTIGATOR JONES: Yes, sir.

13 MR. ADAMS: Okay. And I guess  
14 it's about eight exhibits?

15 INVESTIGATOR JONES: That is  
16 correct.

17 MR. ADAMS: Okay. And I guess one  
18 is a police report?

19 INVESTIGATOR JONES: Yes.

20 MR. ADAMS: And Exhibit 2 and 3  
21 are -- and 4 are photographs or sorry, Exhibit  
22 2 through 5 are photographs, I guess, from the

1 front of the establishment?

2 INVESTIGATOR JONES: Yes, sir.

3 MR. ADAMS: And there are --  
4 Exhibit 6, I guess, is -- what is that?

5 INVESTIGATOR JONES: That's a  
6 regulatory inspection, which is an inspection  
7 that we conduct regularly at licensed ABC  
8 establishments. And it basically is to record  
9 all facets of the licenses that the  
10 establishment holds to make sure everything is  
11 current and up to date, as well as any  
12 violations that can be noted.

13 MR. ADAMS: So Exhibit 7 is a  
14 voluntary agreement?

15 INVESTIGATOR JONES: Yes, sir.

16 MR. ADAMS: And Exhibit 8 is the  
17 security plan?

18 INVESTIGATOR JONES: Yes, sir.

19 MR. ADAMS: Is this a true and  
20 accurate reflection of a recordation of the  
21 case along with the exhibits that you  
22 prepared, you know, as part of your

1       investigative report?

2                   INVESTIGATOR JONES:   Yes, sir.

3                   MR. ADAMS:   I would like to have  
4       what is marked as District's Exhibit 1 into  
5       evidence.

6                   CHAIRPERSON MILLER:   Okay.  And  
7       that is the case report?

8                   MR. ADAMS:   It's the case report,  
9       including all exhibits.

10                  CHAIRPERSON MILLER:   Including all  
11       exhibits, okay.  Do you have any objection?

12                  MR. LYON:   No, I don't, no.

13                  CHAIRPERSON MILLER:   Okay.

14                  MR. ADAMS:   Now, Investigator  
15       Jones, turning to Exhibit 8 --

16                  CHAIRPERSON MILLER:   Let me just  
17       say that it is admitted.

18                               (Whereupon, the document marked as  
19       Government Exhibit 1 was received  
20       in evidence.)

21                  MR. ADAMS:   Okay.

22                  CHAIRPERSON MILLER:   Okay.

1 MR. ADAMS: I apologize.

2 CHAIRPERSON MILLER: No, that's  
3 all right. I just want to make sure that is  
4 said. Okay.

5 MR. ADAMS: Investigator Jones,  
6 turning to the security plan, you stated that  
7 you determined that there was a violation, I  
8 guess it is a paragraph involving the ejection  
9 of patrons, Paragraph H?

10 INVESTIGATOR JONES: Yes, sir.

11 MR. ADAMS: And what other  
12 observation did you make regarding compliance  
13 with the security plan?

14 INVESTIGATOR JONES: Well, once I  
15 got back to our offices, I reviewed the  
16 security plan for Delta Elite. And it  
17 indicates that Delta Elite is supposed to  
18 maintain four special police officers, two  
19 inside and two outside and they are also  
20 supposed to maintain two security personnel  
21 that are supposed to monitor the establishment  
22 for patrons arguing and disturbances, drug

1 usage and capacity.

2 MR. ADAMS: And in, I guess, your  
3 earlier testimony that you only observed four  
4 persons --

5 INVESTIGATOR JONES: Correct.

6 MR. ADAMS: -- total?

7 INVESTIGATOR JONES: Correct.

8 MR. ADAMS: On prior occasions in  
9 dealing with the establishment, was that  
10 number any different?

11 INVESTIGATOR JONES: I don't  
12 recall, sir.

13 MR. ADAMS: Okay.

14 INVESTIGATOR JONES: I don't  
15 recall.

16 MR. ADAMS: And in terms of -- and  
17 were there any other observations regarding  
18 compliance with the security plan?

19 INVESTIGATOR JONES: The other  
20 violation that was found was that with  
21 reference to security or surveillance footage  
22 is that the establishment is supposed to be

1       able to record the events and they are  
2       supposed to be maintained for an average of 30  
3       days.

4                   MR. ADAMS:   And based upon your  
5       interview of Mr. Lyon, was that capability  
6       there?

7                   INVESTIGATOR JONES:  No.

8                   MR. ADAMS:   And lastly, now I want  
9       to take you back to Exhibit 2 of your report.  
10      I believe it's a photograph.

11                   INVESTIGATOR JONES:  Yes, sir.

12                   MR. ADAMS:   Okay.  Can you see  
13      that?  What is represented in that photograph?

14                   INVESTIGATOR JONES:  I actually  
15      don't have the photograph.  I just have the  
16      case report.

17                   MR. ADAMS:   Okay.  I'm going to--

18                   INVESTIGATOR JONES:  Or I should  
19      say I don't have the exhibits.  I just have  
20      the case report.

21                   MR. ADAMS:   Thank you.  All right.  
22      And you are looking at Exhibit 2?

1 INVESTIGATOR JONES: Yes, sir.

2 MR. ADAMS: Okay. And did you  
3 take that photograph or who took that  
4 photograph?

5 INVESTIGATOR JONES: I took the  
6 photograph, sir.

7 MR. ADAMS: All right. And what  
8 is represented there?

9 INVESTIGATOR JONES: This is the  
10 front of the establishment where the number  
11 3734, that's actually the entrance-way to  
12 Delta Elite. The railing that you see that is  
13 spread across the front of the picture is the  
14 raised walkway from the parking lot. There  
15 are a set of steps that are to the right of  
16 the photograph.

17 MR. ADAMS: Yes.

18 INVESTIGATOR JONES: And to the  
19 left of the photograph the walkway extends  
20 down and is like another set of stairs on that  
21 other side.

22 MR. ADAMS: And down below, what

1 area -- I guess it's kind of dark there, but  
2 what area is down below there?

3 INVESTIGATOR JONES: Down below is  
4 the parking lot.

5 MR. ADAMS: Okay.

6 INVESTIGATOR JONES: With the  
7 parking.

8 MR. ADAMS: And when you arrived  
9 at the establishment, were people in the area  
10 that is represented here? That is represented  
11 in the photographs? This photograph at least,  
12 were -- when you first arrived, were --

13 INVESTIGATOR JONES: When I first  
14 arrived, there were Metropolitan Police  
15 Officers on the walkway. There were patrons  
16 that were still kind of to the side of the  
17 walkway as well as in this corner on the left  
18 side of the picture. There were MPD vehicles  
19 that were in the parking lot area. And other  
20 patrons who were -- or individuals who were in  
21 the parking lot, you know, still kind of  
22 congregating, talking amongst themselves or

1 they were being interviewed by officers.

2 MR. ADAMS: During -- we have  
3 heard about an accident. Is the accident  
4 represented here in this photograph?

5 INVESTIGATOR JONES: Yes, sir.

6 MR. ADAMS: Which one is that?

7 INVESTIGATOR JONES: 3734.

8 MR. ADAMS: Is that where the door  
9 number is there?

10 INVESTIGATOR JONES: Yes, sir.

11 MR. ADAMS: Okay. I have no  
12 further questions for Mr. Jones.

13 CHAIRPERSON MILLER: Okay. Mr.  
14 Lyon?

15 MR. LYON: No questions.

16 CHAIRPERSON MILLER: Okay. Board  
17 Members?

18 MEMBER ALBERTI: Yes, I do.

19 CHAIRPERSON MILLER: Okay. Mr.  
20 Alberti?

21 MEMBER ALBERTI: Yes. Good  
22 afternoon, Investigator Jones.

1                   INVESTIGATOR JONES: Good  
2                   afternoon, sir.

3                   MEMBER ALBERTI: Let's go right to  
4                   the exits. You've got the picture. Now, you  
5                   said there were two entrances/exits to this  
6                   establishment. Is that correct?

7                   INVESTIGATOR JONES: Well, from  
8                   that picture, you can see that there are two  
9                   doors right next to each other. So there are  
10                  two doors to the establishment. Whenever I  
11                  have gone there, I have always gone through  
12                  the door and exited through the door that says  
13                  3734. I have never encountered coming out of  
14                  that other door. At least not that I can  
15                  recall.

16                  MEMBER ALBERTI: Are there any  
17                  other entrances and exits?

18                  INVESTIGATOR JONES: Not that I  
19                  know of, sir.

20                  MEMBER ALBERTI: Okay. When you  
21                  spoke to -- what was the name of the security  
22                  guard you first spoke with? I believe you

1 mentioned it.

2 INVESTIGATOR JONES: Mr. Jackson?

3 MEMBER ALBERTI: I guess it was  
4 Mr. Jackson. When you talked to Mr. Jackson,  
5 he talked about escorting people out.

6 INVESTIGATOR JONES: Yes, sir.

7 MEMBER ALBERTI: And what did he  
8 tell you about which entrance or exit he  
9 escorted people out?

10 INVESTIGATOR JONES: The door that  
11 says -- that has 3734 on it.

12 MEMBER ALBERTI: And to your  
13 recollection, was he very clear about  
14 escorting everyone out that door?

15 INVESTIGATOR JONES: He was clear  
16 that everybody went out at the same time.

17 MEMBER ALBERTI: That everyone  
18 went out -- that was going to be my next  
19 question.

20 INVESTIGATOR JONES: Yes, sir.

21 MEMBER ALBERTI: So you have no  
22 doubt from the conversation to him that that's

1        what he was telling you that they escorted  
2        everyone out the same time through that one  
3        door?

4                    INVESTIGATOR JONES:  That is  
5        correct.

6                    MEMBER ALBERTI:  Okay.  Security  
7        personnel.  You said there were four security  
8        personnel there that evening.  Is that  
9        correct?

10                   INVESTIGATOR JONES:  Yes, sir.

11                   MEMBER ALBERTI:  How many of them  
12        were special police officers?

13                   INVESTIGATOR JONES:  From what I  
14        could see, there were two.

15                   MEMBER ALBERTI:  Okay.  And how do  
16        you know that?

17                   INVESTIGATOR JONES:  They had  
18        their badges displayed on the outside of their  
19        uniforms.

20                   MEMBER ALBERTI:  And did you see  
21        the other two security staff?

22                   INVESTIGATOR JONES:  Yes, sir.

1 MEMBER ALBERTI: And how were they  
2 dressed?

3 INVESTIGATOR JONES: They were  
4 dressed differently. They were like in black  
5 kind of outfits, so they clearly were  
6 distinctive between them and these special  
7 police officers.

8 MEMBER ALBERTI: Did you see any  
9 identification on them that would indicate  
10 that they were special police officers,  
11 badges?

12 INVESTIGATOR JONES: No, no, sir.

13 MEMBER ALBERTI: Patches,  
14 anything?

15 INVESTIGATOR JONES: No, sir.

16 MEMBER ALBERTI: Okay. I'm a  
17 little curious about the cameras. You spoke  
18 about seeing footage from an outside camera.  
19 Did you -- were you able at all to -- are  
20 there cameras inside?

21 INVESTIGATOR JONES: There are  
22 cameras inside, but again, the surveillance

1 system is extremely old. It's extremely  
2 inadequate. It is just the footage is grainy  
3 and Mr. Lyon and I spoke about this. And he  
4 knows, he understood that. He said that he  
5 just couldn't, basically, afford to get a new  
6 system.

7 MEMBER ALBERTI: Okay. Well,  
8 let's explore that a little bit.

9 INVESTIGATOR JONES: Okay.

10 MEMBER ALBERTI: Because you said  
11 that the -- there is a three hour loop,  
12 correct?

13 INVESTIGATOR JONES: That's what I  
14 was told, yes, sir.

15 MEMBER ALBERTI: That's what you  
16 were told by Mr. Lyon?

17 INVESTIGATOR JONES: Yes, sir.

18 MEMBER ALBERTI: Did you ask if he  
19 had any video footage beyond what was  
20 operative at the time that you were there?

21 INVESTIGATOR JONES: There was  
22 some footage that he did pull out. He --

1       because I did ask that.  Again, he has footage  
2       that is downloaded to VHS tapes.  So we pulled  
3       the tapes out.  He put them in so I could see  
4       that there was some recording capability, but  
5       it's not what is asked of him.

6                   MEMBER ALBERTI:  Well, how do you  
7       -- how did you confirm that?

8                   INVESTIGATOR JONES:  I'm not  
9       following you.

10                  MEMBER ALBERTI:  How did you  
11       confirm that Mr. Lyon doesn't regularly store  
12       things, video beyond that, what is on that --  
13       what is in the machine, the three hours worth  
14       of tape that's in the machine?

15                  INVESTIGATOR JONES:  Well, in and  
16       around the area where the surveillance system  
17       is, he had maybe three or four tapes there.

18                  MEMBER ALBERTI:  Did you ask him?

19                  INVESTIGATOR JONES:  He -- yes.

20                  MEMBER ALBERTI:  Did you ask him?

21                  INVESTIGATOR JONES:  Yes.

22                  MEMBER ALBERTI:  Did you ask him

1 specifically does he routinely store footage?

2 INVESTIGATOR JONES: I asked him.  
3 He said this was the footage that he had. So  
4 he had maybe three or four tapes there and  
5 that was pretty much all he had.

6 MEMBER ALBERTI: Okay. I have no  
7 further questions.

8 CHAIRPERSON MILLER: Other Board  
9 Members? I have a follow-up on that line of  
10 questioning.

11 So J in the security plan says  
12 "Record events when open and maintain recorded  
13 tape 30 days."

14 So was there recorded tape  
15 maintained for 30 days that you know of or did  
16 you ask that?

17 INVESTIGATOR JONES: I couldn't --  
18 from what he showed me --

19 CHAIRPERSON MILLER: Yes.

20 INVESTIGATOR JONES: -- I would  
21 assume that that was recording from possibly  
22 30 days.

1                   CHAIRPERSON MILLER:   Okay.

2                   INVESTIGATOR JONES:   But with our  
3                   conversation, with reference to him not being  
4                   able to download for 30 days, at this point  
5                   when I was there, as far as how grainy that  
6                   the footage was, just watching it regularly,  
7                   at that point, I couldn't -- to me there was  
8                   no point in going any further, because he did  
9                   -- the system is just inadequate, at this  
10                  point.

11                  And if I can't see what is going  
12                  on from the outside --

13                  CHAIRPERSON MILLER:   Yes.

14                  INVESTIGATOR JONES:   -- then I  
15                  already have a problem with what we are doing  
16                  at this point.

17                  CHAIRPERSON MILLER:   Okay.   Okay.  
18                  And with the photo in Exhibit 2, where it  
19                  shows the two doors, one marked 3734 and the  
20                  other one under the A of Delta?

21                  INVESTIGATOR JONES:   Yes, ma'am.

22                  CHAIRPERSON MILLER:   Okay.   I

1 can't tell -- there is a column in between.

2 Does -- that column is not attached to the  
3 walls where the doors are, right, so that  
4 the --

5 INVESTIGATOR JONES: No, ma'am.

6 CHAIRPERSON MILLER: Okay. So  
7 people coming out of those doors could meet  
8 each other, right there, right?

9 INVESTIGATOR JONES: Sure, sure.  
10 They are right next to each other.

11 CHAIRPERSON MILLER: Okay. So in  
12 your opinion, would it serve much purpose with  
13 respect to the issue of ejecting fighting  
14 patrons out of different exits, would it  
15 matter if they went through one door of 3734  
16 or they went through those two doors, since  
17 they are next to each other?

18 INVESTIGATOR JONES: I don't think  
19 it is -- well, to answer the question --

20 CHAIRPERSON MILLER: Yes.

21 INVESTIGATOR JONES: -- it doesn't  
22 matter at all. The doors are right next to

1 each other.

2 CHAIRPERSON MILLER: Okay.

3 INVESTIGATOR JONES: So if you  
4 were to let two patrons who were fighting  
5 inside, if you were to let one out of the 3734  
6 door and the one that is unmarked, they could  
7 easily meet each other right -- as soon as  
8 they get out the door.

9 CHAIRPERSON MILLER: Right.

10 INVESTIGATOR JONES: The problem  
11 is that we are not holding back patrons who  
12 were fighting and letting one leave, letting  
13 them leave the premises.

14 CHAIRPERSON MILLER: Right.

15 INVESTIGATOR JONES: And then  
16 letting the other one come out.

17 CHAIRPERSON MILLER: Okay. So  
18 that's the issue.

19 INVESTIGATOR JONES: That's the  
20 issue.

21 CHAIRPERSON MILLER: Okay.

22 INVESTIGATOR JONES: Yes, ma'am.

1                   CHAIRPERSON MILLER: And did you  
2 personally see patrons being ejected or did  
3 you get your information from people you  
4 interviewed when you came on the scene?

5                   INVESTIGATOR JONES: Well, my  
6 information was secondhand, because, again, we  
7 are getting the call after everything had  
8 taken place. So my information, again, is  
9 secondhand from interviews that are being  
10 conducted at that point in time.

11                  CHAIRPERSON MILLER: Right. Okay.  
12 Okay. That's all the questions I have. Any  
13 questions based on the Board's questions, Mr.  
14 Adams?

15                  MR. ADAMS: The District has no  
16 further questions.

17                  CHAIRPERSON MILLER: The District  
18 has none. Do you, Mr. Lyon?

19                  MR. LYON: No.

20                  CHAIRPERSON MILLER: Okay. Thank  
21 you very much.

22                  INVESTIGATOR JONES: Thank you.

1 (Whereupon, witness was excused.)

2 CHAIRPERSON MILLER: Okay.

3 MR. ADAMS: The Government rests  
4 its case.

5 CHAIRPERSON MILLER: Okay. All  
6 right. And we have entered and admitted into  
7 evidence Exhibit No. 1, which is a case report  
8 for Investigation #12-251-00090 and the  
9 exhibits attached thereto.

10 MR. ADAMS: That is correct.

11 CHAIRPERSON MILLER: Through  
12 Exhibit 8. Is that right?

13 MR. ADAMS: Pardon?

14 CHAIRPERSON MILLER: Should there  
15 be eight exhibits?

16 MR. ADAMS: There should be eight  
17 exhibits attached to --

18 CHAIRPERSON MILLER: Right.

19 MR. ADAMS: -- the investigative  
20 report.

21 CHAIRPERSON MILLER: Okay. Good.  
22 All right. Mr. Lyon, this is your opportunity

1 to make whatever case you want to make. If  
2 you are going to testify for yourself, then I  
3 would have you go over there and put you under  
4 oath.

5 What would you like to do?

6 MR. LYON: I would like to go over  
7 and testify under oath.

8 CHAIRPERSON MILLER: Okay. Go  
9 ahead.

10 Whereupon,

11 ENRIQUE LYON

12 was called as a witness by the licensee, and  
13 having been first duly sworn, assumed the  
14 witness stand and was examined and testified  
15 as follows:

16 CHAIRPERSON MILLER: Okay. I  
17 guess you can start by identifying yourself  
18 again for the record and then --

19 MR. LYON: Okay. I'm Enrique  
20 Lyon. I'm the owner of Delta Elite.

21 CHAIRPERSON MILLER: Okay.

22 MR. LYON: And do I just --

1 CHAIRPERSON MILLER: Yes.

2 MR. LYON: -- keep going?

3 CHAIRPERSON MILLER: Yes.

4 DIRECT EXAMINATION

5 MR. LYON: Okay. I want to make a  
6 response to, I guess, the first charge about  
7 the altercation that happened inside the club.

8 First of all, there was no  
9 physical fight on the inside of the club.  
10 There were two females that they were  
11 hollering and we asked them to leave and they  
12 left on their own free will and they went out  
13 the door. And the next thing I knew, they  
14 said they were fighting on the inside and  
15 that's what happened with that situation.

16 The second charge is concerning  
17 the security guards. There were four security  
18 guards there on duty at that time. And we had  
19 the two staff members. They haven't been  
20 trained as security, but they have had DCR  
21 training, so they know how to look out for  
22 over -- underage drinking and, you know,

1 things like that.

2 And as far as talking about my VHS  
3 system, it's a very good system. The problem  
4 is that in a nightclub, the cameras -- it's  
5 dim, so you are not going to get a very good  
6 picture. And the VHS system that I have is  
7 capable of recording for 40 days and I have it  
8 timed. And I did this myself, because I'm an  
9 electrician, so I did all this myself.

10 And it's capable of recording four  
11 hours, six hours, eight hours, 10 hours or  
12 whatever way you want to do it. And I had it  
13 set. I have been doing it for the past six  
14 months. I have had it set to come on for four  
15 hours on Friday and five hours on Saturday.

16 And when he came into the office,  
17 I had four or five tapes that were dated that  
18 I had been maintaining for 30 days. So the  
19 tapes were there.

20 And pretty much that's all I have  
21 to say. I mean, you know, I've been running  
22 the club there for 36 years and we haven't had

1 a lot of problems, but I know occurrences have  
2 been happening lately and I was going to ask  
3 the police department to come down and give us  
4 a hand. I asked them. And that's what they  
5 did and we have pretty much got things under  
6 control.

7 That's all I have to say.

8 CHAIRPERSON MILLER: Okay. So Mr.  
9 Adams may have some questions for you. I  
10 don't know. Do you, Mr. Adams?

11 MR. ADAMS: Yes, I do.

12 CHAIRPERSON MILLER: Okay.

13 CROSS-EXAMINATION

14 MR. ADAMS: How you doing, Mr.  
15 Lyon?

16 MR. LYON: Okay.

17 MR. ADAMS: All right. So I just  
18 want to make sure to clarify a couple of  
19 things.

20 Now, according to your statement,  
21 an argument had occurred with patrons?

22 MR. LYON: Yes, that's correct.

1 MR. ADAMS: Okay. So your  
2 security guards did ask them to leave. Is  
3 that correct?

4 MR. LYON: Yes.

5 MR. ADAMS: And they both were  
6 taken out at the same time?

7 MR. LYON: No, they weren't taken  
8 out. They left-out on their own free will.  
9 They went out the doors.

10 MR. ADAMS: All right. So but a  
11 security guard did intervene at a certain  
12 point? Is that correct?

13 MR. LYON: The security guard, no.  
14 It was my staff members that asked them to  
15 leave and they walked them to the door and  
16 they went out the door.

17 MR. ADAMS: Okay. So they walked  
18 them to the door?

19 MR. LYON: They walked to the  
20 door.

21 MR. ADAMS: Now, according to your  
22 agreement, and I know you have it with you, it

1 does state that persons who argue or fight, it  
2 states that one is to be removed first. Is  
3 that correct? I mean, that's --

4 MR. LYON: Yes, yes. Yes, sure.

5 MR. ADAMS: All right. So and the  
6 other is to be detained. That's even for  
7 arguments. Is that correct?

8 MR. LYON: Yes, I believe that's  
9 what it states.

10 MR. ADAMS: Okay. Now, in terms  
11 of the video tapes, your establishment is open  
12 how many days per week?

13 MR. LYON: Only two days.

14 MR. ADAMS: All right. So were  
15 you stating is that -- now, your system  
16 doesn't actually -- there is not like a  
17 computer that keeps your footage for a 30 day  
18 period. Is that correct?

19 MR. LYON: We have a hard drive or  
20 anything like that? No. It's just stored on  
21 VHS tapes.

22 MR. ADAMS: Okay. So your

1 testimony today is that for, I guess from --  
2 this happened on February 25th that through  
3 January 25th you physically had  
4 tape/cassettes. Is that correct?

5 MR. LYON: Yes.

6 MR. ADAMS: Is that what you were  
7 trying to say?

8 MR. LYON: Um-hum.

9 MR. ADAMS: All right. And in  
10 terms of the security guard, okay, you are  
11 stating that there are two special police  
12 officers that were on-site. Is that correct?

13 MR. LYON: There was security  
14 officers.

15 MR. ADAMS: Plus two more staff?

16 MR. LYON: Plus two more staff  
17 members, yes.

18 MR. ADAMS: Okay. And that's the  
19 normal way that you staff the establishment.  
20 Is that correct?

21 MR. LYON: Yes.

22 MR. ADAMS: Okay. All right. I

1 have no further questions.

2 MR. LYON: Okay.

3 CHAIRPERSON MILLER: Board  
4 questions?

5 MEMBER ALBERTI: I have some, but  
6 go ahead.

7 CHAIRPERSON MILLER: You're not  
8 ready? Okay. Okay. Mr. Lyon?

9 MR. LYON: Okay.

10 CHAIRPERSON MILLER: I am just  
11 looking at your security plan, because this is  
12 about violations of your security plan. So A  
13 says under security plan "Maintain four  
14 special police officers, two inside, two  
15 outside at all times."

16 So did you do that that night?  
17 Have two special police officers inside and  
18 two outside?

19 MR. LYON: Two on the inside and  
20 two on the outside? No, I believe it is four  
21 altogether. And four security officers, they  
22 weren't on the inside. Normally they are on--

1       it's two in the -- well, I guess the two were  
2       on the inside.

3                       They were inside the lobby area.  
4       And then the other two were on the outside.

5                       CHAIRPERSON MILLER: Outside being  
6       where? When you say they were on the outside,  
7       where?

8                       MR. LYON: About 10 doors down.

9                       CHAIRPERSON MILLER: Okay. So  
10       were these security, were they special police  
11       officers? Is that an interchangeable special  
12       police officer?

13                      MR. LYON: They weren't. You keep  
14       saying special police officers, no, they were  
15       not. They are security.

16                      CHAIRPERSON MILLER: Security?

17                      MR. LYON: Yes.

18                      CHAIRPERSON MILLER: Trained?

19                      MR. LYON: I think I changed that  
20       to security officers, because special police  
21       officers they have to carry weapons. And I  
22       didn't want any more weapons in the club,

1       because that's --

2                   CHAIRPERSON MILLER:   Okay.

3                   MR. LYON:   -- with my insurance  
4       and everything.

5                   CHAIRPERSON MILLER:   All right.  I  
6       just want to let you know what I'm reading  
7       from and maybe it has been changed or  
8       understood differently.

9                   MR. LYON:   Yes.

10                  CHAIRPERSON MILLER:   Mr. Adams put  
11       into evidence the investigator's report with  
12       the eight attachments.  No. 8 is your security  
13       plan.  So that was the language on the  
14       security plan.

15                  MR. LYON:   Okay.  I understand.

16                  CHAIRPERSON MILLER:   Okay.  So B  
17       says "Maintain two trained security personnel  
18       inside club for monitoring patrons for  
19       arguing, disturbances, drug usage and  
20       capacity."

21                  So I thought I heard you say that  
22       you had two staff persons who had DCR

1 training.

2 MR. LYON: Yes.

3 CHAIRPERSON MILLER: What is DCR  
4 training? What is DCR?

5 MR. LYON: Well, they changed the  
6 name now. The Department of Consumer and  
7 Regulatory Affairs.

8 CHAIRPERSON MILLER: DCRA  
9 training. Okay.

10 MR. LYON: A while back.

11 CHAIRPERSON MILLER: Okay. So --

12 MR. LYON: I have a certificate.  
13 I can show it to you if you want.

14 CHAIRPERSON MILLER: All right.  
15 Well, let's wait on that.

16 MR. LYON: Back in 2005.

17 CHAIRPERSON MILLER: Okay. So  
18 what kind of training is that that they get at  
19 DCRA related to security?

20 MR. LYON: They train you how to  
21 spot fake IDs and how to treat a person if  
22 they are intoxicated or look for -- how to

1 look for intoxication and things like that.

2 CHAIRPERSON MILLER: Okay. So is  
3 that the arrangement you have been using for  
4 a long time?

5 MR. LYON: Yes.

6 CHAIRPERSON MILLER: How long?

7 MR. LYON: It seems like forever.  
8 20 years.

9 CHAIRPERSON MILLER: 20 years.  
10 Okay. The video --

11 MR. LYON: Yes.

12 CHAIRPERSON MILLER: -- system  
13 that you have, Investigator Jones said that  
14 the quality was dim or something like that.  
15 What can you see on the video?

16 MR. LYON: Oh, I mean, you can see  
17 images. You can see pretty good. Like I said  
18 the nightclubs is -- the lights are not real  
19 bright, so they are dim. So you are not going  
20 to really see a real clear image. But you can  
21 make out -- I mean, there are infrared  
22 cameras, so I mean you can distinguish a

1 person's clothes.

2 CHAIRPERSON MILLER: So did you  
3 have cameras on the dance floor?

4 MR. LYON: Yes.

5 CHAIRPERSON MILLER: So during the  
6 time that there was the altercation, the  
7 argument between the female patrons?

8 MR. LYON: Um-hum.

9 CHAIRPERSON MILLER: So you have  
10 video of that?

11 MR. LYON: I did. I don't have it  
12 now. I have only maintained for 30 days, so  
13 that was --

14 CHAIRPERSON MILLER: Okay.

15 MR. LYON: -- a while back.

16 CHAIRPERSON MILLER: Did you have  
17 video that showed the patrons leaving?

18 MR. LYON: There is a camera out  
19 at the front door, yes, yes.

20 CHAIRPERSON MILLER: But it's more  
21 than 30 days, so you don't have it any more,  
22 correct?

1 MR. LYON: That's correct.

2 CHAIRPERSON MILLER: Okay. And  
3 did you witness the fight on the -- the  
4 argument on the dance floor? Did you hear it?

5 MR. LYON: No. It was said that  
6 they were arguing and they asked them to  
7 leave.

8 CHAIRPERSON MILLER: Okay.

9 MR. LYON: I didn't witness that,  
10 no.

11 CHAIRPERSON MILLER: Okay. And  
12 were patrons arguing or fighting when they  
13 were exiting Delta?

14 MR. LYON: No, they wasn't, no.

15 CHAIRPERSON MILLER: No?

16 MR. LYON: No.

17 CHAIRPERSON MILLER: Okay. So  
18 what -- did you witness any fighting, either  
19 inside or out?

20 MR. LYON: Afterwards they said  
21 that the police and everything is out there,  
22 of course, I went on the outside to see what

1 was going on, yes.

2 CHAIRPERSON MILLER: Okay. So you  
3 witnessed the fighting outside?

4 MR. LYON: By the time that I got  
5 out there, it was police all over and it was  
6 over.

7 CHAIRPERSON MILLER: Okay.

8 MR. LYON: It was over with.

9 CHAIRPERSON MILLER: Okay. So you  
10 didn't see?

11 MR. LYON: It didn't last very  
12 long.

13 CHAIRPERSON MILLER: Okay. I  
14 don't have any other questions.

15 MEMBER ALBERTI: Good afternoon,  
16 Mr. Lyon.

17 MR. LYON: Okay. Good afternoon.

18 CHAIRPERSON MILLER: No, no, no.

19 MR. LYON: Oh, okay.

20 CHAIRPERSON MILLER: Remain  
21 seated. He is greeting you.

22 MR. LYON: Oh, he's greeting me.

1                   MEMBER ALBERTI:   Okay.   Just so  
2   I'm clear.

3                   MR. LYON:    Um-hum.

4                   MEMBER ALBERTI:   How many special  
5   police officers did you have that evening?

6                   MR. LYON:    Four.

7                   MEMBER ALBERTI:   Special police  
8   officers?

9                   MR. LYON:    No, security officers.

10                  MEMBER ALBERTI:   Special police?

11                  MR. LYON:    Special police officers  
12   are ones that carry weapons.

13                  MEMBER ALBERTI:   Right, right.  
14   How many did you have there that evening?

15                  MR. LYON:    Of what?

16                  MEMBER ALBERTI:   The evening of  
17   this that we are talking about.

18                  MR. LYON:    Four security officers.

19                  MEMBER ALBERTI:   How many special  
20   police officers did you have?

21                  MR. LYON:    None.   There were none  
22   there.

1                   MEMBER ALBERTI:  There were no  
2 special police officers --

3                   MR. LYON:  No.

4                   MEMBER ALBERTI:  -- there that  
5 evening?

6                   MR. LYON:  No.

7                   MEMBER ALBERTI:  Okay.  Thank you.  
8 When you said that staff asked these people to  
9 leave, who were you referring to?  I mean,  
10 were you referring to people who you assigned  
11 to be security staff or --

12                  MR. LYON:  Yes.

13                  MEMBER ALBERTI:  -- were they  
14 others?

15                  MR. LYON:  Yes.

16                  MEMBER ALBERTI:  So they were  
17 people that you --

18                  MR. LYON:  Yes, people that I  
19 picked, yes.

20                  MEMBER ALBERTI:  -- assigned to be  
21 security staff are the people who escorted the  
22 people out.  Is that correct?

1 MR. LYON: That's correct, yes.

2 MEMBER ALBERTI: Did you see --  
3 you have already said that you didn't see the  
4 altercation. Did you see them being escorted  
5 out? Did you see them being escorted out?

6 MR. LYON: No, I didn't see them  
7 being escorted out.

8 MEMBER ALBERTI: Thank you. All  
9 right. Who did you -- who told you about what  
10 happened on the dance floor and how they were  
11 escorted out?

12 MR. LYON: The security one that I  
13 -- it was Sevron Howard. He is one of the --

14 MEMBER ALBERTI: And who --

15 MR. LYON: -- who had the DCR  
16 training.

17 MEMBER ALBERTI: -- was that? And  
18 who was that?

19 MR. LYON: Who was what?

20 MEMBER ALBERTI: Names, names.

21 MR. LYON: Sevron Howard.

22 MEMBER ALBERTI: Sevron Howard?

1 MR. LYON: Um-hum.

2 MEMBER ALBERTI: Did anyone else?

3 MR. LYON: You want to know who  
4 the other person was?

5 MEMBER ALBERTI: I want to know  
6 who you spoke to about the altercation that  
7 happened and how they were escorted out.

8 MR. LYON: You keep saying  
9 altercation. There was no altercation inside  
10 the club.

11 MEMBER ALBERTI: Okay. Mr. Lyon--

12 MR. LYON: There was an argument.

13 MEMBER ALBERTI: -- just to be  
14 clear, when I say altercation, I mean, either  
15 verbal or physical.

16 MR. LYON: Okay.

17 MEMBER ALBERTI: The general  
18 generic term --

19 MR. LYON: It was --

20 MEMBER ALBERTI: -- altercation.

21 MR. LYON: -- Sevron. It was  
22 Sevron Howard.

1                   MEMBER ALBERTI: Did any -- okay.  
2                   What is his position in your security staff?

3                   MR. LYON: He is just a security  
4                   guy that walks around and checks for capacity  
5                   and underage drinking and things of that sort  
6                   of a nature.

7                   MEMBER ALBERTI: Okay. Mr.  
8                   Jackson, a Mr. Steven Jackson, is he part of  
9                   your security staff?

10                  MR. LYON: Steven Jackson? No.

11                  MEMBER ALBERTI: Investigator  
12                  Jones in his report and today testified that  
13                  he interviewed a Steven Jackson identified as  
14                  a security member of Delta Elite.

15                  MR. LYON: That probably was one  
16                  of the security officers that was on staff on  
17                  that night.

18                  MEMBER ALBERTI: Sure.

19                  MR. LYON: Not on my staff, but at  
20                  the Colorado Security Agency that's sent  
21                  there.

22                  MEMBER ALBERTI: Oh. How many

1 people from the Colorado Security Agency were  
2 there that evening?

3 MR. LYON: Four.

4 MEMBER ALBERTI: Oh, okay. And  
5 Sevron Howard, is he part of the --

6 MR. LYON: No, no.

7 MEMBER ALBERTI: -- security?

8 MR. LYON: He doesn't work -- he  
9 works for me. He does not work for Colorado  
10 Security.

11 MEMBER ALBERTI: So is he part of  
12 the security staff that was there that  
13 evening?

14 MR. LYON: Yes.

15 MEMBER ALBERTI: Okay. I'm  
16 getting all confused, Mr. Lyon, because now  
17 you said -- let's back up. You had four  
18 people from Colorado Security --

19 MR. LYON: Yes.

20 MEMBER ALBERTI: -- there that  
21 evening? Okay. None of whom were special  
22 police officers. Is that correct?

1 MR. LYON: That's correct, yes.

2 MEMBER ALBERTI: How many other  
3 security personnel did you have on duty that  
4 evening?

5 MR. LYON: Two.

6 MEMBER ALBERTI: Two?

7 MR. LYON: Of my -- they work for  
8 me now, not for Colorado. They work for me.

9 MEMBER ALBERTI: Okay. Now, you  
10 had four from Colorado Security that evening.  
11 All right. And two that work for you?

12 MR. LYON: Yes.

13 MEMBER ALBERTI: And who are the  
14 two that work for you?

15 MR. LYON: Sevron Howard.

16 MEMBER ALBERTI: Yes.

17 MR. LYON: And Tony Skools.

18 MEMBER ALBERTI: Tony Skools. Is  
19 security their only duty?

20 MR. LYON: Well, when you say  
21 security, I mean, they have had training of  
22 going around -- they walk around the club and

1 make sure that people are not arguing or that  
2 they not drinking too much. And they -- also,  
3 they collect glasses and bottles that may be  
4 laying around on the tables.

5 Basically, they just walk around  
6 the club.

7 MEMBER ALBERTI: Do they have any  
8 other duties? Do they bus tables? Do they  
9 check IDs? What else do they do besides walk  
10 around the club? Any other duties?

11 MR. LYON: Well, they -- no. ID  
12 is normally checked at the door. Now, they --  
13 well, you said bus tables, yes, they do go  
14 around and if there are drinks laying around  
15 on the table, they will take them and then put  
16 them in the trash.

17 MEMBER ALBERTI: So who would have  
18 escorted these people out? The people who  
19 were escorted out, who would have --

20 MR. LYON: Well, Sevron Howard.

21 MEMBER ALBERTI: Sevron Howard by  
22 himself?

1 MR. LYON: Yes. They -- I mean,  
2 they were arguing. They weren't fighting.  
3 They were just arguing and he asked them to  
4 leave and they walked out on their own.

5 MEMBER ALBERTI: Okay. That's  
6 what he told you?

7 MR. LYON: Yes.

8 MEMBER ALBERTI: Okay. Just one  
9 moment. Let me see if I have any other  
10 questions. Okay. I have no further  
11 questions. Thank you.

12 MR. LYON: Okay.

13 CHAIRPERSON MILLER: Other Board  
14 Members? Mr. Jones?

15 MEMBER JONES: Thank you, Madam  
16 Chair. You indicated that you had Sevron  
17 Howard and one other gentleman --

18 MR. LYON: Yes.

19 MEMBER JONES: -- work security  
20 for you that are under your employ?

21 MR. LYON: Yes.

22 MEMBER JONES: Did you employ

1       them?

2                   MR. LYON:   Yes.

3                   MEMBER JONES:  They are employees  
4       of you?

5                   MR. LYON:   Yes.

6                   MEMBER JONES:  How long have they  
7       been your employees?

8                   MR. LYON:   20 plus years.  I have  
9       been there 36 years, but they have been with  
10      me a long time.  Well not Sevron.  Sevron is  
11      the younger one, so he has only been there  
12      like six years.

13                  MEMBER JONES:  Six years?

14                  MR. LYON:   Yes.

15                  MEMBER JONES:  All right.  So  
16      Sevron Howard --

17                  MR. LYON:   Tony has been there  
18      longer.

19                  MEMBER JONES:  -- has --

20                  MR. LYON:   20 years.  How long I  
21      been there?

22                  MEMBER JONES:  No.  Sevron Howard.

1 MR. LYON: How long has he been  
2 there?

3 MEMBER JONES: Yes.

4 MR. LYON: About six years.

5 MEMBER JONES: Six years. And how  
6 old is he?

7 MR. LYON: I'm not sure how old he  
8 is now.

9 MEMBER JONES: Do you have  
10 personnel records or any type of personnel  
11 file on this gentleman?

12 MR. LYON: Yes, um-hum.

13 MEMBER JONES: Do you -- how do  
14 you pay him?

15 MR. LYON: We pay in cash.

16 MEMBER JONES: You pay in cash?

17 MR. LYON: Yes.

18 MEMBER JONES: Do you keep records  
19 for tax purposes?

20 MR. LYON: Yes.

21 MEMBER JONES: Does he file a W-2?

22 MR. LYON: I'm not sure if he does

1 or not.

2 MEMBER JONES: Does he have -- do  
3 you have any W-4s?

4 MR. LYON: No, no.

5 MEMBER JONES: Or any type of  
6 thing like that?

7 MR. LYON: No.

8 MEMBER JONES: So is he a  
9 contractor?

10 MR. LYON: A contractor?

11 MEMBER JONES: Yes. Does he work  
12 for you as a contractor?

13 MR. LYON: No.

14 MEMBER JONES: You said no? Is he  
15 an independent contractor?

16 MR. LYON: You mean does he get a  
17 W-9, right?

18 MEMBER JONES: No.

19 MR. LYON: Well, I guess you could  
20 say --

21 MEMBER JONES: Okay. So let's ask  
22 it this way. I'm looking for you to provide

1 me evidence and proof of the fact that he is  
2 an employee of your establishment and that he  
3 works for you as opposed to you just picking  
4 somebody at random to say that he worked  
5 security for you --

6 MR. LYON: Um-hum.

7 MEMBER JONES: -- on the evening  
8 in question. So do you have that proof?

9 MR. LYON: No, I don't have that  
10 proof.

11 MEMBER JONES: Okay.

12 MR. LYON: No.

13 MEMBER JONES: For either  
14 gentlemen?

15 MR. LYON: No.

16 MEMBER JONES: Okay. So there is  
17 nothing in there of what you are telling me  
18 outside of your word that I could call upon.

19 MR. LYON: Yes, that's correct.

20 MEMBER JONES: Okay.

21 MR. LYON: Yes.

22 MEMBER JONES: Thank you. In

1 terms of your video footage, you said you had  
2 video footage of the night in question,  
3 correct?

4 MR. LYON: Um-hum, yes.

5 MEMBER JONES: Did you review that  
6 video footage?

7 MR. LYON: Did I review it?

8 MEMBER JONES: Did you personally  
9 review that video footage?

10 MR. LYON: No, I did not that  
11 night.

12 MEMBER JONES: You did not. Did  
13 you have any --

14 MR. LYON: Well, I did review some  
15 of it, because I always review some of it and  
16 then before I put the date on it and put it in  
17 storage for the 30 days.

18 MEMBER JONES: How long was it  
19 before the time of the incident and the time  
20 that the investigators came by to your  
21 establishment?

22 MR. LYON: How long was it before

1 he got there? It was about 30 minutes or so.

2 MEMBER JONES: 30 minutes or so?

3 MR. LYON: Yes, about 30 minutes.

4 MEMBER JONES: Okay. So upon your  
5 review of the footage, were you able to see  
6 the details or specifics related to the  
7 incident associated with --

8 MR. LYON: No.

9 MEMBER JONES: -- no. So you  
10 weren't able to make out the specifics or the  
11 details of what happened upon reviewing your  
12 own footage of the camera system that you say  
13 is of sufficient quality?

14 MR. LYON: Well, yes.

15 MEMBER JONES: Yes, you were able  
16 to make it out or yes, you weren't able to  
17 make it out?

18 MR. LYON: No, I -- well, I didn't  
19 go that far. I didn't look at all of the  
20 tape.

21 MEMBER JONES: So you had a fight  
22 that occurred around your establishment. You

1 are saying that the nexus wasn't in your  
2 establishment? That's your -- it's up to you  
3 to make that -- you can make that -- you have  
4 that opinion.

5 But if the police came to your  
6 establishment, you don't question that,  
7 correct?

8 MR. LYON: Yes.

9 MEMBER JONES: And there was a  
10 reason for the police to come to your  
11 establishment based on activities that were  
12 occurring outside of your establishment.

13 MR. LYON: Yes.

14 MEMBER JONES: Correct?

15 MR. LYON: That's correct, yes.

16 MEMBER JONES: Do you have cameras  
17 that have view of the outside of your  
18 establishment?

19 MR. LYON: I have cameras on the  
20 outside, yes.

21 MEMBER JONES: Okay. And were  
22 those cameras able to capture any of the

1 activities that were occurring in front of  
2 your establishment?

3 MR. LYON: I'm sure that it did,  
4 but I didn't review it and I didn't look at  
5 it.

6 MEMBER JONES: Okay. So you  
7 didn't review it, you didn't look at it, even  
8 though you had police coming to your  
9 establishment for the nature of the event that  
10 occurred?

11 MR. LYON: That's right, yes.

12 MEMBER JONES: Okay. You said you  
13 were informed of what happened by one of your  
14 employees?

15 MR. LYON: Yes, they came around  
16 and told me, yes, what was going on on the  
17 outside, yes.

18 MEMBER JONES: So they came in and  
19 told you what was going on on the outside?

20 MR. LYON: Yes.

21 MEMBER JONES: Okay. And you said  
22 by the time you came out and looked at it, it

1 was pretty much over with?

2 MR. LYON: Yes, um-hum.

3 MEMBER JONES: Okay. What did you  
4 see when you came to the front? Did you see  
5 police out there? Did you see anything?

6 MR. LYON: I saw police officers,  
7 police squad cars and a bunch of police.

8 MEMBER JONES: Okay. Did you  
9 engage any of the officers, anyone there to  
10 ask them --

11 MR. LYON: No.

12 MEMBER JONES: No?

13 MR. LYON: I just observed, yes.

14 MEMBER JONES: You just observed.  
15 Okay. As far as you are concerned, what is --  
16 do you always keep 30 days worth of footage  
17 from every night?

18 MR. LYON: Every night that we are  
19 open, yes.

20 MEMBER JONES: Every night that  
21 you are open, I apologize. Every night that  
22 you are open, you always have 30 days worth of

1 footage?

2 MR. LYON: Yes.

3 MEMBER JONES: Do you ever keep  
4 more than 30 days?

5 MR. LYON: No.

6 MEMBER JONES: For example, if you  
7 had a fight that occurred in your  
8 establishment or an altercation, would you  
9 take it upon yourself to set aside that  
10 footage?

11 MR. LYON: No, I haven't done  
12 that, no.

13 MEMBER JONES: You haven't done  
14 that. That's not part of your practice?

15 MR. LYON: No.

16 MEMBER JONES: Okay. Thank you.  
17 Thank you, Madam Chair.

18 MEMBER ALBERTI: I have a quick  
19 question.

20 CHAIRPERSON MILLER: Okay.

21 MEMBER ALBERTI: Mr. Lyon, you  
22 have Sevron Howard, what security training has

1 he had?

2 MR. LYON: DCRA.

3 MEMBER ALBERTI: Okay. You said  
4 you had certificates --

5 MR. LYON: Sure.

6 MEMBER ALBERTI: -- to attest to  
7 that. And Tony Skools, what security training  
8 has he had?

9 MR. LYON: Same thing. I mean, I  
10 have mine. I don't have their's.

11 MEMBER ALBERTI: Oh, you have  
12 your's. You don't have their certificates  
13 here?

14 MR. LYON: No.

15 MEMBER ALBERTI: Okay. And you  
16 say it's DCRA?

17 MR. LYON: Yes, I can show you.  
18 It's a while back.

19 MEMBER ALBERTI: Would you like to  
20 show us your certificate?

21 MR. LYON: (No audible answer.)

22 MEMBER ALBERTI: Would you like to

1 submit your certificate into evidence?

2 MR. LYON: Sure.

3 MEMBER ALBERTI: As an exhibit?

4 MR. LYON: Yes, I can. Yes.

5 CHAIRPERSON MILLER: So when --  
6 you don't have to get it now. I think when  
7 you are finished, when you step down --

8 MR. LYON: Okay.

9 CHAIRPERSON MILLER: -- we can  
10 have our assistant come and get it from you  
11 and make a copy.

12 MEMBER ALBERTI: Well --

13 MR. LYON: Okay.

14 MEMBER ALBERTI: -- Mr. -- he has  
15 to show it to Mr. Adams. So when he goes to  
16 sit down --

17 CHAIRPERSON MILLER: Before it is  
18 admitted into evidence, you have to show it to  
19 Mr. Adams and he can object. And then we will  
20 make a decision whether it is admitted.

21 MEMBER ALBERTI: And we can do  
22 that after he is off the stand?

1 CHAIRPERSON MILLER: Yes.

2 MEMBER ALBERTI: Okay.

3 CHAIRPERSON MILLER: Yes.

4 MEMBER ALBERTI: I appreciate  
5 that.

6 CHAIRPERSON MILLER: Yes. Okay.

7 Do you have any other questions?

8 MEMBER ALBERTI: No.

9 CHAIRPERSON MILLER: Okay. I just  
10 have a couple.

11 Mr. Lyon, did either the MPD or  
12 Mr. Jones from ABRA ask you for your videos,  
13 the night of the incident?

14 MR. LYON: No, they didn't, no.

15 CHAIRPERSON MILLER: Did they ask  
16 you to maintain them longer than 30 days?

17 MR. LYON: No.

18 CHAIRPERSON MILLER: Okay. Now,  
19 Exhibit 8 to the investigation report, as I  
20 said earlier, is a copy of supposedly your  
21 security plan.

22 MR. LYON: Um-hum.

1                   CHAIRPERSON MILLER:  And it is  
2                   dated August 1, 2010.

3                   MR. LYON:  Um-hum.

4                   CHAIRPERSON MILLER:  Did you write  
5                   the security plan?

6                   MR. LYON:  Yes.

7                   CHAIRPERSON MILLER:  Okay.  So now  
8                   it uses the word, the phrase special police  
9                   officers.  Did you know what that meant when  
10                  you used that word?  Did you think it meant it  
11                  was interchangeable with someone like Colorado  
12                  Security?

13                  MR. LYON:  Yes, I did know,  
14                  because we had special police officers.  Like  
15                  I said, I have been there for 36 years and  
16                  before that time, we did have special police  
17                  officers, which carry weapons.

18                  CHAIRPERSON MILLER:  Okay.  So --

19                  MR. LYON:  I found out that it was  
20                  affecting my insurance, so I changed that.

21                  CHAIRPERSON MILLER:  Did you  
22                  change your security plan?

1 MR. LYON: Police or SPOs, special  
2 police officers, to send the security guards  
3 without the weapons.

4 CHAIRPERSON MILLER: Okay. Did  
5 you ever amend your security plan?

6 MR. LYON: I thought I did.

7 CHAIRPERSON MILLER: You thought  
8 you did?

9 MR. LYON: Yes, I did, yes.

10 CHAIRPERSON MILLER: Did you  
11 submit it to ABRA?

12 MR. LYON: Yes, I did.

13 CHAIRPERSON MILLER: Do you know  
14 when?

15 MR. LYON: I think it was -- it  
16 was like 10 months ago.

17 CHAIRPERSON MILLER: 10 months  
18 ago? Okay. I don't know if that's in our  
19 records.

20 And one other question. I think  
21 you said that you have been operating for 36  
22 years.

1 MR. LYON: Yes.

2 CHAIRPERSON MILLER: And there  
3 really haven't been problems until recently.

4 MR. LYON: That's correct.

5 CHAIRPERSON MILLER: Okay. Do you  
6 know -- do you have any clue why you have  
7 problems now and didn't have any then?

8 MR. LYON: The new generation has  
9 changed. That's all I can tell you.

10 CHAIRPERSON MILLER: Okay.

11 MR. LYON: It's a new generation.  
12 They just seem to be wilder.

13 CHAIRPERSON MILLER: Okay. All  
14 right. That's all of my questions. Any other  
15 Board questions? Mr. Adams, any other --

16 MR. ADAMS: The District has no  
17 further questions.

18 CHAIRPERSON MILLER: Okay. So you  
19 can be excused from the witness box and then  
20 if you want to show Mr. Adams that  
21 certificate?

22 MR. LYON: I think I have it here.

1 You can make a copy of that.

2 MR. ADAMS: For the record, it  
3 says Alcoholic Beverage Regulation  
4 Administration, ABRA. I just wanted to read  
5 that, but I have no problems with that  
6 document.

7 CHAIRPERSON MILLER: Okay.

8 MR. LYON: Do you want to make a  
9 copy of it?

10 CHAIRPERSON MILLER: Yes, yes, so  
11 you can get your copy back. And what this  
12 says is that it's a Certificate of Attendance,  
13 a certificate is awarded to Delta Elite, Inc.  
14 in recognition for the completion of merchant  
15 training, Alcoholic Beverage Regulation  
16 Administration. And it is dated October 28,  
17 2003.

18 So did you want to submit this  
19 into evidence as -- you are saying that this  
20 is what your --

21 MR. LYON: Yes.

22 CHAIRPERSON MILLER: -- two

1 individuals who did the security for you, not  
2 Colorado, but the others, that they have the  
3 same training?

4 MR. LYON: Yes.

5 CHAIRPERSON MILLER: Same year?

6 MR. LYON: Different years.

7 CHAIRPERSON MILLER: Okay. All  
8 right. And you have no objection, Mr. Adams?

9 MR. ADAMS: I have no objection.

10 CHAIRPERSON MILLER: Okay. Then  
11 if there are no objections from Board Members,  
12 we will admit this into evidence as Licensee's  
13 Exhibit No. 1. And we will get it back to  
14 you.

15 (Whereupon, the document was  
16 marked for identification as  
17 Licensee Exhibit 1 and was  
18 received in evidence.)

19 CHAIRPERSON MILLER: She is going  
20 to make a copy..

21 MEMBER ALBERTI: She will make  
22 copies of that.

1 MR. LYON: Okay.

2 MEMBER ALBERTI: Before you leave,  
3 we'll have it back to you --

4 CHAIRPERSON MILLER: Yes.

5 MEMBER ALBERTI: -- Mr. Lyon.

6 CHAIRPERSON MILLER: Yes. Okay.

7 So does that complete your case?

8 MR. LYON: Yes.

9 CHAIRPERSON MILLER: Okay. There  
10 is nothing else you want to --

11 MR. LYON: You saw everything.

12 CHAIRPERSON MILLER: Okay. Okay.  
13 So then we can hear closing arguments, at this  
14 time, starting with Mr. Adams.

15 MR. ADAMS: Thank you very much,  
16 Madam Chair. As I stated, this case is fairly  
17 simple. The reason that this case came before  
18 the Board is from the grave concern regarding  
19 the safety of individuals.

20 So you have a situation here that  
21 on February 25th of last year, where you have  
22 a large scale brawl that occurs out in front

1 of the establishment. As you can tell from  
2 the pictures, there is a landing area and a  
3 parking lot, but that's essentially where you  
4 have a situation where you have over six to  
5 seven fights occurring at the same time where,  
6 you know, combatants are coming from inside  
7 the establishment.

8 Based upon -- and what the  
9 evidence suggests is a problem that occurred  
10 inside. The reason that this case came to  
11 light is because as was mentioned by --  
12 testified by Officer Antoine is that there was  
13 some concern regarding a rash of incidents  
14 that happened within a three to four week  
15 period involving this establishment.

16 So therefore, you are being --  
17 needs to be special attention to what are the  
18 rules for the establishment and this case  
19 specifically was sent up here, which is the  
20 security plan.

21 So, essentially, we have three  
22 portions of which there is evidence of

1 noncompliance.

2 First, in terms of looking at  
3 Paragraph H of the security plan. Now, that  
4 is what we discussed here, which states  
5 specifically "Persons arguing or fighting  
6 inside the club, one to be removed first, one  
7 out one door and the other detained until the  
8 other one is away from the club."

9 Essentially what has been admitted  
10 here is that an altercation of some form did  
11 occur. Now, Mr. Jones stated that the  
12 security guard stated there was a physical  
13 altercation. By a minimum, we know that there  
14 was an argument based upon the owner's own  
15 testimony that occurred within the  
16 establishment.

17 Now, from the owner's own  
18 admission that the persons were escorted out.  
19 Now, whether -- he states that they left of  
20 their own volition. But I guess from our own  
21 inference that we can make when someone is  
22 escorted out, that there was some intervention

1 that was done.

2 What is important here is that  
3 there was no separation of the combatants in  
4 the establishment. Because there was no  
5 separation of the combatants within the  
6 establishment, it led to a grand situation  
7 which could have come out to much worse result  
8 for the persons involved and most importantly,  
9 in this case, for this establishment.

10 So that leads to the second issue  
11 which is if they want to separate them, why  
12 were they not separated? Well, now, one, we  
13 can make an inference as just simply not  
14 compliance with what was the requirements with  
15 the plan. But the other question that comes  
16 into play was was the number of security  
17 personnel that was involved.

18 Now, according to the plan, it  
19 states that there should be four special  
20 police officers, two inside and two outside,  
21 and the maintenance of two trained security  
22 personnel inside the club for monitoring.

1                   Based upon Investigator Jones'  
2 testimony from his report, he counted four  
3 personnel, not six, but four total and that's  
4 including those who are special police  
5 officers or someone who would be the trained  
6 security personnel.

7                   Now, based upon and from his  
8 interactions to what he is aware, you know,  
9 granted it wasn't completely clear, but he  
10 believes that the establishment does not  
11 maintain more than four.

12                   From testimony, it seemed as  
13 though that from Mr. Lyon himself, it seemed  
14 that there is only four personnel. Now,  
15 because of the situation and trying to figure  
16 out why persons were not separated is the  
17 question of whether or not he had the ability  
18 to have separation because instead of having  
19 at least six persons total, there were only  
20 four at that time.

21                   And I think that there is enough  
22 evidence from the testimony to make that

1 connection that that portion of the security  
2 plan was not upheld.

3 In terms of the last portion,  
4 which is Paragraph J, is whether or not the  
5 report -- it states specifically in the  
6 security plan "Record events when open and  
7 maintain recorded tape 30 days."

8 According to Investigator Jones'  
9 testimony that there seems to be a very old  
10 system which the security footage is kept on  
11 VHS tapes. He was not able to really make out  
12 anything from the quality of the security  
13 footage and as a result, he wasn't able to  
14 really determine whether or not it was kept  
15 for 30 days.

16 Now, there is conflicting  
17 testimony from Mr. Lyon regarding whether or  
18 not he actually literally keeps, I guess, four  
19 or I guess, three or four video tapes for a  
20 30-day period and then rerecords over it.

21 Now, according to the testimony  
22 from Mr. Jones that there was only a three

1 hour loop that could be recorded at any given  
2 time, it's not quite clear whether or not this  
3 establishment was open for more than a three  
4 hour period. But essentially, it seems that  
5 that would not allow there to be a full  
6 recordation of information.

7 So at least there is a conflict in  
8 between what Investigator Jones observed and  
9 of what is stated by Mr. Lyon.

10 So as a result, the District will  
11 waive a rebuttal at this point.

12 In terms of what we recommend is  
13 that there -- in terms of the security plan,  
14 that they all look at a level of a primary  
15 tier violations. The District's  
16 recommendation is that for the establishment,  
17 that there be a \$1,500 fine for Charge 1, as  
18 well as a two day suspension, one day to be  
19 served.

20 For the Charge 2, for the failure  
21 to have the minimum amount of security guards,  
22 that there be a \$1,000 fine.

1                   For Charge 3, which is failure to  
2                   have a system that maintains video for a 30  
3                   day period, we recommend affixing a \$100 fine  
4                   and a two day suspension with one day served,  
5                   which would be the District's recommendation  
6                   would be a total penalty of a \$4,000 fine with  
7                   four day suspension with only two days served.

8                   And more or less based upon the  
9                   testimony that we have here, the prima facie  
10                  case has been put forward and that the charges  
11                  have been proven.

12                  CHAIRPERSON MILLER: Okay. Thank  
13                  you. Mr. Lyon, would you like to say anything  
14                  further?

15                  MR. LYON: I have no more to day.  
16                  I rest.

17                  CHAIRPERSON MILLER: Okay. That's  
18                  fine. That's fine. Okay. So at this point,  
19                  I'm going to close the record. There won't be  
20                  any other evidence entered on this case.

21                  And I just need to ask the parties  
22                  whether they wish to file proposed findings of

1 fact and conclusions of law?

2 MR. ADAMS: The District would  
3 waive such findings of fact and conclusions of  
4 law.

5 CHAIRPERSON MILLER: Okay. Mr.  
6 Lyon? Do you understand the question? I'm  
7 asking if you want to file written proposed  
8 findings of fact and conclusions of law?

9 MR. LYON: No.

10 CHAIRPERSON MILLER: Okay. So you  
11 are waiving your right to do so also?

12 MR. LYON: Yes.

13 CHAIRPERSON MILLER: Okay. Okay.  
14 Then that concludes your part. I am just  
15 going to read our Open Meeting instructions.  
16 We will be deliberating in closed meeting on  
17 this, if the Board votes to do so.

18 Okay. As Chairperson of the  
19 Alcoholic Beverage Control Board for the  
20 District of Columbia and in accordance with  
21 Section 405 of the Open Meetings Amendment Act  
22 of 2010, I move that the ABC Board hold a

1 closed meeting for the purpose of seeking  
2 legal advice from our counsel on Case No. 12-  
3 251-00090, Delta Elite, per Section 405(b)(4)  
4 of the Open Meetings Amendment Act of 2010,  
5 and deliberating upon this case for the  
6 reasons cited in Section 405(b)(13) of the  
7 Open Meetings Amendment Act of 2010.

8 Is there a second?

9 MEMBER BROOKS: Second.

10 CHAIRPERSON MILLER: Mr. Brooks  
11 has seconded the motion. I will now take a  
12 roll call vote on the motion.

13 Mr. Brooks?

14 MEMBER BROOKS: I agree.

15 CHAIRPERSON MILLER: Mr. Alberti?

16 MEMBER ALBERTI: I agree.

17 CHAIRPERSON MILLER: Ms. Miller  
18 agrees.

19 Mr. Silverstein?

20 MEMBER SILVERSTEIN: I agree.

21 CHAIRPERSON MILLER: Mr. Jones?

22 MEMBER JONES: I agree.

1 CHAIRPERSON MILLER: It appears  
2 that the motion has passed by a vote of 5-0-0.

3 I hereby give notice that the ABC  
4 Board will hold a closed meeting in the ABC  
5 Board conference room today pursuant to the  
6 Open Meetings Amendment Act of 2010 and issue  
7 an order within 90 days.

8 So that concludes this hearing.  
9 And you will receive a written order within 90  
10 days.

11 MR. LYON: Okay. Thank you.

12 CHAIRPERSON MILLER: Okay. Thank  
13 you.

14 (Whereupon, the Show Cause Hearing  
15 in the above-entitled matter was concluded at  
16 3:19 p.m.)

17

18

19

20

21

22

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