

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

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IN THE MATTER OF: :  
: :  
Vertigo, Inc. t/a :  
Sultra Lounge Viet-Thai : Show  
2406 18th Street, NW : Cause  
Retailer CR - ANC-1C : Hearing  
License No. 82430 :  
Case #12-CMP-00105 :

:  
(Substantial Change without :  
Board Approval, Failed to :  
Follow the Terms of License) :

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January 30, 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  
HERMAN JONES, Member

DONALD BROOKS, Member  
MIKE SILVERSTEIN, Member

ALSO PRESENT:

FERNANDO RIVERO, OAG

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

(10:50 a.m.)

1  
2  
3 CHAIRPERSON MILLER: The next case  
4 on our calendar is Case No. 12-CMP-00105 Viet-  
5 Thai, 2406 18th Street, N.W., License No.  
6 82430 in ANC-1C.

7 MR. RIVERO: Good morning, Board  
8 Members, Fernando Rivero for the District of  
9 Columbia standing in for Senior Assistant  
10 Attorney General Maureen Zaniel.

11 CHAIRPERSON MILLER: Good morning.

12 MR. WELLS: Good morning, Board.  
13 Christopher Wells on behalf of Vertigo, Inc.  
14 t/a Viet-Thai and Sultra Lounge.

15 CHAIRPERSON MILLER: Okay. So you  
16 are here for a Show Cause Hearing. Mr.  
17 Rivero, are there any preliminary matters in  
18 this case?

19 MR. RIVERO: The Government will  
20 be dismissing Charge 2 in this matter and  
21 moving forward with Charge 1.

22 CHAIRPERSON MILLER: Will there be

1 any witnesses in this case?

2 MR. RIVERO: Yes. We will have a  
3 witness to forward for Charge 1.

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

6 MR. WELLS: I don't have any  
7 witnesses, but can later --

8 CHAIRPERSON MILLER: You may  
9 testify?

10 MR. WELLS: Yes, I will testify.

11 CHAIRPERSON MILLER: Okay. All  
12 right.

13 MR. WELLS: And if I may present  
14 opposing counsel with my exhibits?

15 CHAIRPERSON MILLER: Mr. Rivero or  
16 Mr. Wells, are you familiar with the procedure  
17 for a Show Cause Hearing or not really? I can  
18 just tell you in general, if you would like to  
19 know how it is going to go.

20 MR. WELLS: Yes.

21 CHAIRPERSON MILLER: Okay. So the  
22 Government has the burden of proof. The

1 Government goes first with an opening  
2 statement, if he chooses to, which just says  
3 what he is going to prove. It is not  
4 evidence. It's just argument.

5 And then you can also after him do  
6 an opening statement or you can reserve your  
7 opening statement to when it's time to do your  
8 case, so you will have that choice.

9 So then Mr. Rivero will call his  
10 witnesses and ask questions and you can cross-  
11 examine his witnesses and we can cross-examine  
12 his witnesses.

13 And then he can put in any  
14 evidence and documents that he wants, subject  
15 to your objection.

16 And then you do your case,  
17 witnesses, same thing or maybe yourself. You  
18 can testify and then he can ask you questions  
19 on your testimony and we can.

20 And then there will be a closing  
21 and that's it, basically.

22 MR. WELLS: Can I provide the

1 Board with my exhibits, too? I don't know if  
2 you have a copy of opposing counsel's.

3 CHAIRPERSON MILLER: Do you have a  
4 copy for them?

5 MR. WELLS: Yes.

6 CHAIRPERSON MILLER: Okay. So you  
7 can give that to our -- okay. We are not  
8 going to enter -- the process for entering  
9 them into evidence is you can move at some  
10 point to identify them and offer them into  
11 evidence and then the other side can object.  
12 But you can give that to our assistant right  
13 now, so she has it.

14 MR. WELLS: Along with Board  
15 copies? Okay. Okay.

16 CHAIRPERSON MILLER: We have some  
17 exhibits.

18 MR. WELLS: We -- actually --

19 CHAIRPERSON MILLER: Do you want  
20 to wait?

21 MR. RIVERO: Yes.

22 CHAIRPERSON MILLER: Okay. We

1 will wait then until he puts on his case.

2 MR. RIVERO: We don't share our  
3 exhibits until we actually put them into  
4 evidence.

5 CHAIRPERSON MILLER: Okay.

6 MR. RIVERO: So we would not like  
7 the Board to see anything that actually isn't  
8 entered into evidence at the moment. So once  
9 his exhibits are in evidence, then we don't  
10 object to having the Board Members review  
11 them.

12 CHAIRPERSON MILLER: Okay. Okay.  
13 To me it didn't matter whether DeeDee got them  
14 now or later, but -- and I'll need to see them  
15 in order to rule on them. But we can wait  
16 until then, because we won't be looking at  
17 them until that point.

18 MR. RIVERO: Right.

19 CHAIRPERSON MILLER: All right.  
20 So why don't we then -- if there aren't any  
21 other questions, we can proceed then with  
22 Government's opening statement.

1 MR. RIVERO: Thank you.

2 CHAIRPERSON MILLER: Okay.

3 MR. RIVERO: I'll be brief here.

4 CHAIRPERSON MILLER: Okay.

5 MR. RIVERO: The Government today  
6 will move forward on Charge 1 of the case,  
7 which is that the licensee made a substantial  
8 change in operation without the Board approval  
9 and that change being providing entertainment  
10 after the limit of the hours stated in its  
11 license at the time, which was the weekend of  
12 January 28 and 29.

13 And the Government will call  
14 Investigator Lawson to testify to those facts.

15 CHAIRPERSON MILLER: Thank you.

16 Mr. Wells, do you wish to make an opening  
17 statement, at this time?

18 MR. WELLS: Yes.

19 CHAIRPERSON MILLER: Okay.

20 MR. WELLS: Vertigo, Inc. is  
21 alleged to have violated or substantially  
22 change this operation without proper approval.

1 We contest that this is totally inaccurate.  
2 We have a series of events that I will outline  
3 that led up to this incident.

4 And I believe that the District's  
5 proof is inadequate. I also have some other  
6 exhibits that I will bring into -- that I  
7 would like to present to the Board that show  
8 gross misconduct and downright inappropriate  
9 behavior on the part of ABRA Investigators  
10 Stewart and Maisel. And that's it.

11 CHAIRPERSON MILLER: Okay. Thank  
12 you. All right. Mr. Rivero, your first  
13 witness?

14 MR. RIVERO: Thank you. The  
15 Government will call Investigator Lawson to  
16 testify.

17 CHAIRPERSON MILLER: Okay. Good  
18 morning, Mr. Lawson.

19 INVESTIGATOR LAWSON: Good  
20 morning, Madam Chairperson.

21 Whereupon,

22 INVESTIGATOR TYRONE LAWSON



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

5 CHAIRPERSON MILLER: Okay. Thank  
6 you.

7 DIRECT EXAMINATION

8 MR. RIVERO: Good morning.  
9 Please, state your first and last name clearly  
10 for the record, please.

11 INVESTIGATOR LAWSON: Tyrone  
12 Lawson.

13 MR. RIVERO: Thank you. Mr.  
14 Lawson, what is your occupation?

15 INVESTIGATOR LAWSON: I'm an  
16 investigator.

17 MR. RIVERO: For whom are you an  
18 investigator?

19 INVESTIGATOR LAWSON: For the  
20 Alcoholic Beverage Regulation Administration.

21 MR. RIVERO: And for how long have  
22 you been an investigator for ABRA?

1 INVESTIGATOR LAWSON:

2 Approximately, three and a half years.

3 MR. RIVERO: Okay. And what are  
4 your duties in your capacity as an ABRA  
5 Investigator?

6 INVESTIGATOR LAWSON: I conduct  
7 inspections and investigations for the -- for  
8 alcohol -- I'm sorry, alcohol licensed  
9 establishments in the District of Columbia.

10 MR. RIVERO: Thank you. Are you  
11 familiar with the establishment known at one  
12 time as Instant Noodles/Sultra Lounge?

13 INVESTIGATOR LAWSON: Yes.

14 MR. RIVERO: Okay. And how are  
15 you familiar with this establishment?

16 INVESTIGATOR LAWSON: Well, it's  
17 an ABC-licensed establishment. I have  
18 periodically monitored and conducted  
19 regulatory inspections at the establishment.  
20 And I'm familiar with the operations in that  
21 establishment and many establishments on 18th  
22 Street.

1 MR. RIVERO: Okay.

2 INVESTIGATOR LAWSON: In Adams  
3 Morgan.

4 MR. RIVERO: I want to turn your  
5 attention to January of 2012. Did you have  
6 occasion to visit this establishment?

7 INVESTIGATOR LAWSON: Yes.

8 MR. RIVERO: And when was that?

9 INVESTIGATOR LAWSON: I visited --  
10 actually, I had received a complaint that was  
11 assigned to me regarding after hours loud  
12 music being played at the establishment.

13 I received the complaint on the  
14 16th of December of 2011. I went to the --  
15 I'm sorry, I received the complaint on January  
16 26th. The complaint was dated December 16,  
17 2011. And I received it on January 26, 2012.

18 I went to the establishment.

19 MR. RIVERO: On what date?

20 INVESTIGATOR LAWSON: On January  
21 26, 2012 --

22 MR. RIVERO: Okay.

1                   INVESTIGATOR LAWSON:  -- to  
2                   conduct a regulatory inspection and speak to  
3                   the owner and staff regarding the complaint.

4                   MR. RIVERO:  And with whom did you  
5                   speak when you got there?

6                   INVESTIGATOR LAWSON:  I spoke with  
7                   Mr. Wells and Mr. Madland.

8                   MR. RIVERO:  And who was --

9                   INVESTIGATOR LAWSON:  Who was the  
10                  ABC manager.

11                  MR. RIVERO:  -- Mr. Wells?

12                  INVESTIGATOR LAWSON:  Mr. Wells is  
13                  the owner of the establishment.

14                  MR. RIVERO:  Okay.  And Mr.  
15                  Madland is?

16                  INVESTIGATOR LAWSON:  The -- he is  
17                  the ABC manager/general manager.

18                  MR. RIVERO:  Okay.  And what was  
19                  your discussion?

20                  INVESTIGATOR LAWSON:  Well, I  
21                  spoke to Mr. Wells and Mr. Madland regarding  
22                  the complaint that there was loud music being

1 played on December 16th and Mr. Wells was good  
2 enough to retrieve his calendar for the  
3 establishment's events and he said that there  
4 was no particular establishment -- particular  
5 event that was held on that particular day.

6 MR. RIVERO: Yes.

7 INVESTIGATOR LAWSON: And that he  
8 recalled that the establishment closed early.  
9 I conducted a regulatory inspection. I had a  
10 copy of the voluntary agreement with me. And  
11 I reviewed license that was -- the  
12 establishment had, at the time, with the hours  
13 of operation, sales and entertainment and I  
14 went over the documents thoroughly with Mr.  
15 Wells and Mr. Madland.

16 MR. RIVERO: Okay.

17 INVESTIGATOR LAWSON: And I  
18 specifically pointed out the fact that his  
19 entertainment hours ended 45 minutes before  
20 his hours of operations hours for sales ended.

21 MR. RIVERO: Let me show you a  
22 document, which is marked Government Exhibit

1       1 for identification. A copy of which has  
2       been provided to the respondent.

3                   (Whereupon, the document was  
4                   marked as Government Exhibit 1 for  
5                   identification.)

6                   MR. RIVERO: What does that look  
7       like to you?

8                   INVESTIGATOR LAWSON: This looks  
9       like the license, the hours that were assigned  
10      to Instant Noodles/Sultra Lounge on January  
11      26, 2012. It says Savor/Sultra Lounge, but I  
12      know there's been a name change since this  
13      license was --

14                  MR. RIVERO: Okay. That was on  
15      top, correct?

16                  INVESTIGATOR LAWSON: Yes.

17                  MR. RIVERO: This is an accurate  
18      copy of the document discussed at that time?

19                  INVESTIGATOR LAWSON: Yes, other  
20      than the name change.

21                  MR. RIVERO: Okay. The --

22                  INVESTIGATOR LAWSON: Trade name

1 change.

2 MR. RIVERO: -- Government will  
3 move Exhibit 1 into evidence, at this time,  
4 which is a copy of the establishment's license  
5 that existed at the time which the witness has  
6 testified to having discussed with Mr. Wells.

7 CHAIRPERSON MILLER: Mr. Wells,  
8 any objection?

9 MR. WELLS: To Mr. Lawson or --

10 CHAIRPERSON MILLER: No, no, no.  
11 Sorry, to this document.

12 MR. WELLS: No.

13 CHAIRPERSON MILLER: Okay. That's  
14 all right now. Thank you. Okay. This  
15 document is admitted as Government's Exhibit  
16 No. 1.

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

20 MR. RIVERO: I want to turn your  
21 attention then to the part of the license that  
22 says entertainment. Do you see the range of

1 hours there?

2 INVESTIGATOR LAWSON: Yes.

3 MR. RIVERO: Okay. Why don't you  
4 tell me where it says here Friday and Saturday  
5 what time.

6 INVESTIGATOR LAWSON: Friday and  
7 Saturday it says 11:00 p.m. to 2:00 a.m. --

8 MR. RIVERO: Okay.

9 INVESTIGATOR LAWSON: -- Friday  
10 and 11:00 p.m. to 2:00 a.m. Saturday.

11 MR. RIVERO: Okay. Thank you. So  
12 you had this conversation with Mr. Wells --

13 INVESTIGATOR LAWSON: Yes.

14 MR. RIVERO: -- and Mr. Madland  
15 and you reviewed the VA, okay, and the  
16 license. What happened then?

17 INVESTIGATOR LAWSON: Well, that  
18 was pretty much it then. The conversation  
19 centered around the hours and making sure that  
20 they understood that it would be a violation  
21 if they had entertainment beyond their  
22 approved Board hours.



1 MR. RIVERO: And did you have  
2 occasion to return to the establishment?

3 INVESTIGATOR LAWSON: Yes.

4 MR. RIVERO: When was that?

5 INVESTIGATOR LAWSON: On Saturday,  
6 January 28th, at approximately 2:50 a.m. I  
7 went to the establishment to monitor  
8 compliance with the Board-approved hours of  
9 entertainment.

10 MR. RIVERO: Okay. Did you go by  
11 yourself?

12 INVESTIGATOR LAWSON: No, I was  
13 with Investigator Roxanna Maisel.

14 MR. RIVERO: Okay. And what  
15 happened when you got there?

16 INVESTIGATOR LAWSON: We were  
17 right on 18th Street. I stopped because at  
18 the time, 18th Street was under severe  
19 construction and there was no parking at all  
20 on 18th Street. So in the interest of time to  
21 have Investigator Maisel capture any evidence  
22 of entertainment, I stopped and asked her to

1 go into the establishment while I parked the  
2 car.

3 And she got out. I saw her walk  
4 to the door and show her identification to the  
5 doorman and then I pulled down to the -- about  
6 25 yards to the corner of Belmont and 18th  
7 Street and I parked right on the corner and  
8 then I walked to the establishment.

9 MR. RIVERO: Okay. And when you  
10 got to the establishment, what happened?

11 INVESTIGATOR LAWSON: When I got  
12 to the establishment, Mr. Wells met me in  
13 their foyer and he was screaming and  
14 hollering. He was pretty upset. And he was  
15 insisting that Investigator Maisel was drunk  
16 or had been drinking.

17 And he repeatedly stated this. I  
18 was kind of surprised, because I had contact  
19 with Mr. Wells on previous occasions and, you  
20 know, he was always pretty calm and collected  
21 when -- on any other occasions that I had, but  
22 this time he was screaming and hollering.

1                   And I tried to talk to him, but he  
2                   was --

3                   MR. RIVERO:    What was your  
4                   response to his statements that Investigator  
5                   Maisel was drunk?

6                   INVESTIGATOR LAWSON:  I told him  
7                   that Investigator Maisel had not been drinking  
8                   because she was driving with me that entire  
9                   evening that I was training her at the time.

10                  MR. RIVERO:    Okay.  And then what  
11                  happened?

12                  INVESTIGATOR LAWSON:  He kept  
13                  going on and on about the -- Investigator  
14                  Maisel was intoxicated.  And I told him that  
15                  she wasn't intoxicated because she had been  
16                  with me.  And I asked Mr. Wells had he been  
17                  drinking, because I smelled alcohol in his  
18                  breath.

19                  MR. RIVERO:    What was his  
20                  response?

21                  INVESTIGATOR LAWSON:  He didn't  
22                  respond to that.

1 MR. RIVERO: Okay. Then what else  
2 happened?

3 INVESTIGATOR LAWSON: I informed  
4 him of the violation. Investigator Maisel  
5 advised him that they were -- she observed a  
6 disc jockey manipulating the music and that  
7 they were in violation of their Board-approved  
8 hours of entertainment. And I informed Mr.  
9 Wells of the violation and I exited the  
10 establishment, so that there wouldn't be any  
11 further conflict or arguing regarding  
12 Investigator Maisel and Mr. Wells', I guess,  
13 dispute.

14 MR. RIVERO: What music, if any,  
15 did you hear when you were in the  
16 establishment?

17 INVESTIGATOR LAWSON: You mean  
18 what genre?

19 MR. RIVERO: Did you hear  
20 anything?

21 INVESTIGATOR LAWSON: Yes, I heard  
22 music, but I don't recall what was playing.

1 MR. RIVERO: But it was music?

2 INVESTIGATOR LAWSON: Yes, it was  
3 music.

4 MR. RIVERO: Okay. Was that your  
5 last visit?

6 INVESTIGATOR LAWSON: No. I went  
7 back the next day on January 29th, Sunday,  
8 January 29th.

9 MR. RIVERO: At what time?

10 INVESTIGATOR LAWSON: It was 2:15  
11 a.m.

12 MR. RIVERO: Okay.

13 INVESTIGATOR LAWSON: And I  
14 actually did the same procedures, because,  
15 again, I wanted to Investigator Maisel to  
16 capture any evidence of disc jockey  
17 manipulating music and patrons dancing. She  
18 got out. She went to the establishment and  
19 again, I saw her show her identification to  
20 the doorman and I parked my car 25 yards away  
21 in the same place, 18th and Belmont.

22 I walked up to the establishment.

1       When I got to the establishment, Mr. Wells and  
2       Mr. Madland was again extremely upset. Mr.  
3       Wells was saying that he was angry because he  
4       didn't want her, Investigator Maisel, back  
5       into the establishment. He was wondering why  
6       she came back when she was -- he was insisting  
7       that she was drunk the previous day and that  
8       he wanted her to leave the establishment.

9                       And he also stated that  
10       Investigator Maisel allegedly assaulted his  
11       doorman. His doorman had reported that she  
12       had pushed him or something of that nature.  
13       Investigator Maisel then came to the foyer  
14       area while I was talking to Mr. Wells and Mr.  
15       Madland and stated that she did not push the  
16       doorman.

17                      She said she opened the door and  
18       the doorman was, I guess, kind of in the way  
19       when she opened the door, as she opened the  
20       door wide and then she walked right in and  
21       that may have been when she incidently --  
22       incidental to opening the door may have made

1 contact with the doorman.

2 Investigator Maisel said that --  
3 oh, Mr. Madland stated that the previous day,  
4 Saturday, September -- I'm sorry, January 28,  
5 2012 when we visited, that Investigator Maisel  
6 allegedly pointed her middle finger at Mr.  
7 Wells. And I asked Mr. Madland why didn't he  
8 bring that up on that date that we were there,  
9 that morning, that Saturday morning and why  
10 was he just now reporting this?

11 And he didn't comment about that.  
12 Investigator Maisel stated that she saw a disc  
13 jockey manipulating music and people dancing  
14 upstairs and she said that one of the disc  
15 jockeys was dancing to the music when she went  
16 up there. So Mr. Wells was informed that  
17 there was another violation of operating  
18 beyond his approved hours of entertainment.

19 MR. RIVERO: What conversation, if  
20 any, did you have concerning changes to hours  
21 of entertainment?

22 INVESTIGATOR LAWSON: I don't

1 understand.

2 MR. RIVERO: Did you discuss any  
3 changes to hours of entertainment with the  
4 licensee?

5 INVESTIGATOR LAWSON: Well, when I  
6 initially conducted the regulatory inspection  
7 on the 26th of January, we -- I discussed that  
8 Mr. Wells -- I told -- I informed Mr. Wells  
9 that he should submit a request for a  
10 substantial change and hours of his  
11 entertainment if he wanted to provide  
12 entertainment longer than what his Board-  
13 approved hours were on his license.

14 He told me that he had a working  
15 relationship, he had a good relationship with  
16 the Advisory Neighborhood Commissioner and  
17 that he was working to negotiate terms of --  
18 changes in his voluntary agreement to reflect  
19 that he could obtain Board-approved hours or  
20 longer Board-approved hours than what was on  
21 his license at the time.

22 MR. RIVERO: Okay. Turning your



1 attention to the 29th.

2 INVESTIGATOR LAWSON: Yes.

3 MR. RIVERO: What else happened  
4 after what you just testified to?

5 INVESTIGATOR LAWSON: Well, after  
6 Mr. Wells continued insisting that  
7 Investigator Maisel leave, that he didn't want  
8 her in his establishment, I went and -- when  
9 we left the establishment, we reported the  
10 incident to my superior, Supervisor  
11 Investigator Craig Stewart.

12 MR. RIVERO: Okay.

13 INVESTIGATOR LAWSON: And then he  
14 went -- the three of us went back to the  
15 establishment.

16 MR. RIVERO: The three of us went  
17 back to the establishment?

18 INVESTIGATOR LAWSON: The three --  
19 Investigator Maisel, myself and Investigator  
20 Stewart, Supervisor Investigator Stewart went  
21 back to --

22 MEMBER SILVERSTEIN: I'm sorry,

1       who was the third?

2                   INVESTIGATOR LAWSON:   Supervisor  
3       Investigator Stewart, Investigator Maisel and  
4       myself went back to the establishment.

5                   MR. RIVERO:   The same night?

6                   INVESTIGATOR LAWSON:   Yes, or the  
7       same morning.

8                   MR. RIVERO:   Same morning.

9                   INVESTIGATOR LAWSON:   Sunday  
10       morning.

11                   MR. RIVERO:   Okay.

12                   INVESTIGATOR LAWSON:   Yes.

13                   MR. RIVERO:   Then what happened?

14                   INVESTIGATOR LAWSON:   I don't know  
15       a lot, because I was -- the same thing, I was  
16       parking the car.  When I got in, Supervisor  
17       Investigator Stewart was having a conversation  
18       with Mr. Wells.

19                   MR. RIVERO:   What did you hear?

20                   INVESTIGATOR LAWSON:   Just that  
21       Mr. Wells -- initially when I came in, Mr.  
22       Wells was talking to Supervisor Investigator

1       Stewart.  Supervisor Investigator Stewart was  
2       responding to him saying that he could not  
3       keep Investigator Maisel out of his  
4       establishment because she was on official  
5       business conducting ABRA business.  And that  
6       he could not restrict or interfere with her  
7       investigation.

8                       MR. RIVERO:  Okay.

9                       INVESTIGATOR LAWSON:  And things  
10       of that.

11                      MR. RIVERO:  Okay.  And then did  
12       you all leave or did you stay further?

13                      INVESTIGATOR LAWSON:  Yes, we --  
14       after Supervisor Investigator Stewart talked  
15       to Mr. Wells, we left.  I mean, I didn't speak  
16       to Mr. Wells or Mr. Madland or anybody else  
17       about this.

18                      MR. RIVERO:  Okay.  Let me show  
19       you a document, Mr. Lawson, that is marked  
20       Government's Exhibit No. 2 for identification.

21                      (Whereupon, the document was  
22       marked as Government Exhibit 2 for

1 identification.)

2 MR. RIVERO: A copy of which is  
3 already -- has already been provided to the  
4 respondent. And I want to know what -- can  
5 you tell me what that looks like?

6 INVESTIGATOR LAWSON: This looks  
7 like a copy of the report that I prepared for  
8 the incident with Instant Noodles/Sultra  
9 Lounge that occurred on January 26th, 27th --  
10 I'm sorry, 26th, 28th and 29th.

11 MR. RIVERO: Okay. Take a moment  
12 to just go through and make sure that it is an  
13 accurate copy, that it has all pages.

14 INVESTIGATOR LAWSON: Yes, it  
15 does.

16 MR. RIVERO: Okay. A copy of the  
17 investigation report is in the Agency's file  
18 and is part of the ABRA records and so the  
19 Government would like to move this into  
20 evidence, at this time.

21 CHAIRPERSON MILLER: Okay. Do you  
22 have a copy, Mr. Wells?

1 MR. WELLS: Yes, I do.

2 CHAIRPERSON MILLER: And any  
3 objection?

4 MR. WELLS: No objections.

5 CHAIRPERSON MILLER: Okay. Then  
6 Mr. Lawson's report is Government Exhibit No.  
7 2 and it is admitted.

8 (Whereupon, the document marked as  
9 Government Exhibit 2 was received  
10 in evidence.)

11 MR. RIVERO: No further questions.

12 CHAIRPERSON MILLER: Okay. Mr.  
13 Wells, do you have any cross-examination for  
14 Mr. Lawson?

15 MR. WELLS: Yes.

16 CROSS-EXAMINATION

17 MR. WELLS: Mr. Lawson, on the  
18 night of January 26th when you came into my  
19 establishment, you made a couple of statements  
20 that I would like to clarify.

21 First of all, just for the record,  
22 there was a complaint?

1 INVESTIGATOR LAWSON: Yes.

2 MR. WELLS: On December 15th that I  
3 was playing -- sorry, 16th that I was playing  
4 after hours? That complaint went no further  
5 than that conversation. There was no  
6 substantiating evidence to show a reason to go  
7 forward with that. Just for the record.

8 CHAIRPERSON MILLER: You know,  
9 it's -- are you asking Mr. Lawson a question?

10 MR. WELLS: No, no, sorry. I'm  
11 just saying for --

12 CHAIRPERSON MILLER: Okay. This--

13 MR. WELLS: I just want to  
14 clarify, because --

15 CHAIRPERSON MILLER: Okay.

16 MR. WELLS: -- it was mentioned  
17 as --

18 CHAIRPERSON MILLER: Okay. I just  
19 want to tell you just because you are probably  
20 not that familiar with the rules and  
21 procedures.

22 MR. WELLS: Not at all.

1                   CHAIRPERSON MILLER: Okay. So, at  
2 this point, it is questions for Mr. Lawson  
3 based on his testimony. And you save your  
4 arguments or statements for your testimony and  
5 your closing.

6                   MR. WELLS: Okay.

7                   CHAIRPERSON MILLER: Okay.

8                   MR. WELLS: Okay. Okay. As --  
9 just a couple of things. Mr. Lawson did point  
10 out that I was totally cooperative. And I  
11 wanted to mention that when we went through  
12 that -- sorry, not mentioned.

13                   My question is when we went  
14 through --

15                   CHAIRPERSON MILLER: Okay.

16                   MR. WELLS: Sorry. When we went  
17 through the license, Mr. Lawson, it was -- you  
18 pointed out that we were in -- we are  
19 currently operating earlier, opening earlier  
20 for brunch or lunch, which is a violation of  
21 the ABRA license.

22                   INVESTIGATOR LAWSON: Yes.

1 MR. WELLS: I in turn, is this not  
2 true, said to you, yes, but our voluntary  
3 agreement said that without prejudice to open  
4 for brunch or lunch, there is no -- without --  
5 we can open for brunch or lunch without  
6 prejudice.

7 And you then advised to speak to  
8 the Alcohol Board about extending these hours.

9 INVESTIGATOR LAWSON: Yes.

10 MR. WELLS: Did you not?

11 INVESTIGATOR LAWSON: Yes.

12 MR. WELLS: In addition to that,  
13 it was I that -- was it not I that pointed out  
14 to you the entertainment hours? I said to you  
15 as a matter of fact, also our entertainment  
16 hours are until 2:00 and our alcohol beverage  
17 sales license says 2:45. And I would like to  
18 get that amended. I pointed that out to you.

19 INVESTIGATOR LAWSON: I'm sorry?

20 CHAIRPERSON MILLER: Is that a  
21 question?

22 MR. WELLS: Yes. The question is



1 did I not -- wasn't -- because you stated in  
2 your question in your responses, that you  
3 pointed out to me that the entertainment  
4 license was until 2:00 p.m. I actually was  
5 the one who pointed out to you that it was  
6 until 2:00 p.m. and that was because you were  
7 more concerned with the -- with the fact that  
8 we were opening for brunch and lunch.

9 MR. RIVERO: Okay. A question,  
10 please.

11 MR. WELLS: So the question is --

12 MR. RIVERO: Objection.

13 MR. WELLS: The question is was I  
14 -- wasn't it I that pointed out to you that  
15 the entertainment license actually went until  
16 2:00 and not 2:45? I brought it to your  
17 attention. And I think it's important --

18 CHAIRPERSON MILLER: Okay. That's  
19 the question. Did you get -- Mr. Lawson, did  
20 you hear the question?

21 INVESTIGATOR LAWSON: Well, I  
22 heard -- well --

1                   CHAIRPERSON MILLER: Did he bring  
2 it to your attention? He is saying isn't he  
3 the one that brought it to your attention?

4                   INVESTIGATOR LAWSON: You know, I  
5 -- he may have. He may have pointed it out.  
6 The conversation was more or less that we  
7 recognized that there was -- his voluntary  
8 agreement said one thing and his license said  
9 something else. And I suggested to him that  
10 he speak with ABRA licensing because it's  
11 possible there was an error on his license  
12 with regards to the brunch activity and that  
13 he should get that straight.

14                   I don't recall that -- I really  
15 don't recall the matter where we were  
16 discussing about entertainment being on this  
17 voluntary agreement, because, as far as I  
18 know, I checked the voluntary agreement and  
19 the license at the time and it was to --  
20 initially to investigate the complaint on  
21 December 16th, the complaint of December 16th  
22 that I received.

1 MR. WELLS: Okay. The next  
2 question. On the Saturday night.

3 INVESTIGATOR LAWSON: Yes.

4 MR. WELLS: Sorry, the Friday  
5 night, the 28th, you stated that you came into  
6 my establishment with Investigator Maisel.  
7 You never entered my establishment on Saturday  
8 night. I actually --

9 CHAIRPERSON MILLER: Wait. You  
10 can't testify.

11 MR. RIVERO: Objection.

12 CHAIRPERSON MILLER: I know. I  
13 understand you are not a lawyer. Do you  
14 understand that, you have to really try to  
15 keep this in your head, this is an opportunity  
16 to ask Mr. Lawson questions. You will have an  
17 opportunity to make your statements like you  
18 kind of -- that you are anxious to make. But  
19 you have to wait until that time in the  
20 proceeding.

21 MR. WELLS: Sorry.

22 CHAIRPERSON MILLER: Okay.

1 MR. WELLS: Sorry. Mr. Lawson,  
2 did you ever enter my establishment on Friday  
3 night?

4 INVESTIGATOR LAWSON: Yes. Friday  
5 night, no. Saturday morning, yes.

6 MR. WELLS: Saturday morning, yes.

7 INVESTIGATOR LAWSON: Yes.

8 MR. WELLS: And you -- I would  
9 like for the record that we never spoke about  
10 the nature of --

11 CHAIRPERSON MILLER: A question?

12 MR. WELLS: -- a violation on  
13 Friday night. We never -- did we speak about  
14 a violation on Friday night?

15 INVESTIGATOR LAWSON: For?

16 MR. WELLS: On the -- on Friday  
17 night, the first night you visited my  
18 establishment.

19 INVESTIGATOR LAWSON: Okay. The  
20 first night --

21 MR. WELLS: I met you at the front  
22 door outside. You -- did you make any

1 reference to a specific violation on that  
2 night or Ms. Maisel?

3 INVESTIGATOR LAWSON: Okay. If  
4 you are referring to the visit we made on  
5 Saturday morning, it wasn't Friday night.

6 MR. WELLS: Sorry.

7 INVESTIGATOR LAWSON: Saturday  
8 morning.

9 MR. WELLS: Saturday morning,  
10 sorry, yes.

11 INVESTIGATOR LAWSON: Yes.

12 MR. WELLS: Saturday morning.

13 INVESTIGATOR LAWSON: So is that  
14 what you are question is?

15 MR. WELLS: Yes, yes.

16 INVESTIGATOR LAWSON: So can you  
17 rephrase?

18 MR. WELLS: Did you make any  
19 reference to a specific violation --

20 INVESTIGATOR LAWSON: Yes.

21 MR. WELLS: -- on Friday night?

22 INVESTIGATOR LAWSON: I informed

1 you that you were -- that it was a violation  
2 of your Board-approved hours, because you  
3 offered entertainment after 2:00 a.m.

4 MR. WELLS: Okay.

5 INVESTIGATOR LAWSON: That's why  
6 we were there. And I reminded you -- actually  
7 I had a conversation with you and I reminded  
8 you about the conversation that we had on the  
9 26th when we went over all of that. And, yes,  
10 yes.

11 MR. WELLS: Okay. Where is Mrs.  
12 Maisel or how come she isn't at this hearing?

13 MR. RIVERO: Objection.

14 CHAIRPERSON MILLER: Sustained.

15 MR. WELLS: No further questions.

16 CHAIRPERSON MILLER: Okay. Board  
17 questions? Mr. Lawson, I have a question  
18 about there was originally a noise complaint  
19 on December 16th? Is that correct?

20 INVESTIGATOR LAWSON: Well, yes,  
21 ma'am. As I recall, there was an email that  
22 was sent from the ABC -- it's the Advisory

1 Neighborhood Commissioner's ABC Committee  
2 Chairperson Olivier Kamanda sent to the  
3 Director regarding a complaint from, I think  
4 it was, a Mr. Nixon that he heard music being  
5 played at the establishment after 3:00 in the  
6 morning.

7 CHAIRPERSON MILLER: Okay. But  
8 you didn't go investigate until January what,  
9 26th?

10 INVESTIGATOR LAWSON: Well, I  
11 received it -- I didn't receive it until  
12 January 26th, I think. There was a delay in--  
13 right.

14 CHAIRPERSON MILLER: Okay. That's  
15 my only question. Others? Mr. Alberti?

16 MEMBER ALBERTI: Investigator  
17 Lawson, good morning. Okay. I may have  
18 things a little confused. On Saturday,  
19 January 28th, when you were there did you go  
20 over the license with Mr. Wells?

21 INVESTIGATOR LAWSON: I didn't go  
22 over the license.

1 MEMBER ALBERTI: Okay. Fine.

2 INVESTIGATOR LAWSON: Saturday.

3 MEMBER ALBERTI: Okay. So you  
4 went over the license on January 26th?

5 INVESTIGATOR LAWSON: 26th, yes.

6 MEMBER ALBERTI: That's correct.  
7 Okay. That is -- is that when you had this  
8 conversation about his entertainment hours?

9 INVESTIGATOR LAWSON: Yes.

10 MEMBER ALBERTI: Okay.

11 INVESTIGATOR LAWSON: And the  
12 conversation about his brunch hours.

13 MEMBER ALBERTI: Okay. Based on  
14 your conversation with him on January 26th,  
15 was it your impression that he was aware of  
16 his entertainment hours?

17 INVESTIGATOR LAWSON: Yes, he was  
18 aware. I made sure that they were quite  
19 clear.

20 MEMBER ALBERTI: Okay. When you  
21 arrived on the 28th, Investigator Maisel was  
22 already in the establishment? When you got to



1 the door of the establishment, Investigator  
2 Maisel was already in the establishment?

3 INVESTIGATOR LAWSON: Yes.

4 MEMBER ALBERTI: Okay. Did you  
5 make contact with her in the establishment?

6 INVESTIGATOR LAWSON: After a few  
7 moments she came downstairs, yes.

8 MEMBER ALBERTI: All right. And  
9 spoke to you?

10 INVESTIGATOR LAWSON: Yes. I was  
11 actually inside the -- when you enter the  
12 establishment, there is a foyer.

13 MEMBER ALBERTI: Right.

14 INVESTIGATOR LAWSON: And then you  
15 can go to the left or right. The right side  
16 is where they have tables set up for more  
17 restaurant operations. The left side -- there  
18 is a bar on that side also, but on the left  
19 side, if you go to the left, there is more  
20 open space most of the time. And there is a  
21 bar on that side where most of the people --  
22 most of the patrons are.

1                   And I was in the foyer initially.  
2                   And then so that we could be a little more  
3                   private and not around people, we went to the  
4                   right of the building where the restaurant or  
5                   the tables and chairs are set up.

6                   MEMBER ALBERTI: This restaurant  
7                   has two floors?

8                   INVESTIGATOR LAWSON: Yes.

9                   MEMBER ALBERTI: What was -- do  
10                  you know what was occurring on the ground  
11                  floor when you were there, at that time?

12                  INVESTIGATOR LAWSON: Just patrons  
13                  there that were in the bar area.

14                  MEMBER ALBERTI: So was there  
15                  music there in that area?

16                  INVESTIGATOR LAWSON: Yes, well,  
17                  the speakers is upstairs and downstairs.

18                  MEMBER ALBERTI: So did  
19                  Investigator Maisel have a camera with her?

20                  INVESTIGATOR LAWSON: Yes.

21                  MEMBER ALBERTI: Okay. Did she  
22                  tell you anything about her investigation

1 while she was there? Not her interactions  
2 with the owner necessarily. The fact of what  
3 she might have seen.

4 INVESTIGATOR LAWSON: She told me  
5 that there was a DJ upstairs and he was  
6 manipulating music and that she got pictures.

7 MEMBER ALBERTI: And that she got  
8 pictures?

9 INVESTIGATOR LAWSON: Yes.

10 MEMBER ALBERTI: When did you see  
11 those pictures?

12 INVESTIGATOR LAWSON: When she  
13 printed them out, probably that night.

14 MEMBER ALBERTI: She would have  
15 printed them out that night and you saw them?  
16 Is that what you said?

17 INVESTIGATOR LAWSON: Yes, sir.

18 MEMBER ALBERTI: Okay.

19 INVESTIGATOR LAWSON: I was  
20 actually going to be preparing the case, so  
21 she would have printed them out for me.

22 MEMBER ALBERTI: Did she describe

1 the setup of the DJ for you?

2 INVESTIGATOR LAWSON: No, because  
3 the pictures -- she had the pictures that  
4 showed the DJ equipment.

5 MEMBER ALBERTI: And in your  
6 report there is Exhibit 3, 4, 5, 6, 7, would  
7 those have been the pictures that you saw that  
8 evening after they were printed out?

9 INVESTIGATOR LAWSON: Yes, these  
10 are the photographs that she provided with the  
11 DJ manipulating the music in Instant Noodles/  
12 Sultra Lounge.

13 MEMBER ALBERTI: Okay. Based on  
14 your experience as an investigator, how would  
15 you describe the activities that you see in  
16 these photos?

17 INVESTIGATOR LAWSON: That there  
18 is a male standing in front of the equipment  
19 with headphones on and the equipment is  
20 commonly used by disc jockeys to manipulate  
21 and play music.

22 MEMBER ALBERTI: I have no further

1 questions.

2 CHAIRPERSON MILLER: Mr. Brooks?

3 MEMBER BROOKS: Yes. Thank you,  
4 Madam Chair.

5 Mr. Lawson.

6 INVESTIGATOR LAWSON: Mr. Brooks.

7 MEMBER BROOKS: How long were you  
8 and Investigator Maisel together that night  
9 and morning?

10 INVESTIGATOR LAWSON: That night?

11 MEMBER BROOKS: Approximately.  
12 Including the time --

13 INVESTIGATOR LAWSON: For --

14 MEMBER BROOKS: -- that you  
15 indicated that Investigator Stewart,  
16 Supervisor Investigator Stewart also joined  
17 you guys later.

18 INVESTIGATOR LAWSON: I would have  
19 to say at least seven and a half hours.

20 MEMBER BROOKS: Seven and a half  
21 hours?

22 INVESTIGATOR LAWSON: Yes.

1                   MEMBER BROOKS:   Okay.   And did you  
2   leave ABRA Headquarters together, riding  
3   together?

4                   INVESTIGATOR LAWSON:   Yes.

5                   MEMBER BROOKS:   And who was doing  
6   the driving?

7                   INVESTIGATOR LAWSON:   I was.

8                   MEMBER BROOKS:   At any time did  
9   you notice that she was intoxicated?

10                  INVESTIGATOR LAWSON:   No, sir.

11                  MEMBER BROOKS:   Did you smell any  
12   alcohol on her breath?

13                  INVESTIGATOR LAWSON:   No, sir.

14                  MEMBER BROOKS:   Thank you, Madam  
15   Chair.

16                  CHAIRPERSON MILLER:   Thank you.  
17   Mr. Jones?

18                  MEMBER JONES:   Thank you, Madam  
19   Chair.

20                  Investigator Lawson, I wanted to  
21   ask a couple of questions.   I probably lost it  
22   in the details of it, so, please, bear with

1 me.

2 On the 28th or early in the morning  
3 on the 28th, which was that Saturday, you --  
4 if I remember correctly, you indicated that  
5 you let Investigator Maisel out and then you  
6 parked down the street.

7 INVESTIGATOR LAWSON: Yes.

8 MEMBER JONES: Some distance away.

9 INVESTIGATOR LAWSON: That's  
10 correct.

11 MEMBER BROOKS: Do you have any  
12 idea roughly the amount of time that it took  
13 from the time that she got out and entered  
14 into the establishment, because if I remember  
15 correctly you said you could see her enter the  
16 establishment.

17 INVESTIGATOR LAWSON: Yes.

18 MEMBER JONES: From the time that  
19 you saw her enter the establishment to the  
20 time that you reengaged her, can you put a  
21 rough time period on that?

22 INVESTIGATOR LAWSON: Yes, sir. I

1 would so no -- absolutely no more than four  
2 minutes, roughly, three minutes, because it  
3 was actually -- I mean, as soon as I pulled  
4 the corner from Instant Noodles/Viet-Thai it's  
5 about 25 yards. And as soon as I pulled right  
6 there, I saw that there was enough space for  
7 me to pull on the corner and I pulled right  
8 there and I walked up to the establishment.

9 MEMBER JONES: Okay. All right.  
10 So just to give a good round number, no more  
11 than five minutes?

12 INVESTIGATOR LAWSON: I would say  
13 less than that. I would say three minutes.

14 MEMBER JONES: Three minutes --

15 INVESTIGATOR LAWSON: Yes.

16 MEMBER JONES: -- where you were  
17 not in her presence?

18 INVESTIGATOR LAWSON: Yes.

19 MEMBER JONES: Okay. When you  
20 reengaged her and you personally entered into  
21 the establishment --

22 INVESTIGATOR LAWSON: Yes.



1 MEMBER JONES: -- did you hear  
2 music on that Saturday morning?

3 INVESTIGATOR LAWSON: Yes.

4 MEMBER JONES: You did?

5 INVESTIGATOR LAWSON: Yes.

6 MEMBER JONES: Okay. Did you have  
7 any reason to believe and/or question what  
8 Investigator Maisel was communicating to you  
9 about the entertainment that was going on, as  
10 she witnessed, in the establishment? Outside  
11 of the pictures, just was she verbally  
12 communicating to you, at the time that you  
13 entered the establishment?

14 INVESTIGATOR LAWSON: No, because  
15 at the time, even at -- the night that we were  
16 there, Mr. Wells nor Mr. Madland contested  
17 that there was a DJ there. They -- there was  
18 never even discussion that -- you know, they  
19 never denied it.

20 MEMBER JONES: Okay. So did you  
21 go out --

22 INVESTIGATOR LAWSON: So she made

1 her comments while we were in front of all,  
2 you know, of us there that there was a DJ.  
3 She took pictures of the DJ.

4 MEMBER JONES: And her comments  
5 specifically, to the best of your  
6 recollection, was what that she made an  
7 impression --

8 INVESTIGATOR LAWSON: Yes, she  
9 said that there is a DJ upstairs. He is  
10 playing music and people are dancing.

11 MEMBER JONES: Okay.

12 INVESTIGATOR LAWSON: Something to  
13 that effect.

14 MEMBER JONES: All right. And you  
15 are indicating that she made that comment in  
16 the presence of Mr. Wells?

17 INVESTIGATOR LAWSON: Yes.

18 MEMBER JONES: And that Mr. Wells  
19 did not, at any point, deny the fact that  
20 there was a DJ upstairs playing music and  
21 there were people dancing?

22 INVESTIGATOR LAWSON: Yes. Well,

1 Mr. Wells initially was busy screaming and  
2 hollering about her being drunk.

3 MEMBER JONES: Understood.

4 INVESTIGATOR LAWSON: Yes.

5 MEMBER JONES: But outside of that  
6 accusation, did he at any point deny --

7 INVESTIGATOR LAWSON: No.

8 MEMBER JONES: Okay. Did you  
9 personally go upstairs and witness what  
10 Investigator Maisel had communicated to you?

11 INVESTIGATOR LAWSON: No.

12 MEMBER JONES: Okay. So you  
13 personally did not see a DJ booth or a DJ or  
14 people dancing?

15 INVESTIGATOR LAWSON: No, sir.

16 MEMBER JONES: Were you able to  
17 get a -- can you describe just, I think you  
18 have already, so I apologize, but, a quick  
19 synopsis of the layout. There is a first  
20 floor and a second floor.

21 INVESTIGATOR LAWSON: Yes. If you  
22 go in to -- there is a door that -- and there

1 is a foyer area.

2 MEMBER JONES: Yes.

3 INVESTIGATOR LAWSON: And you can  
4 go to the left or to the right where there are  
5 large rooms. The one area to the right is  
6 really maintained for restaurant operations,  
7 because there is always tables and chairs set  
8 up in there. And I have never seen them  
9 remove them since I have been monitoring the  
10 establishment.

11 MEMBER JONES: Understood.

12 INVESTIGATOR LAWSON: To the left  
13 there is a bar area and there is a DJ booth  
14 that you can see from the lower level, first  
15 floor level where the bar is where most of the  
16 patrons congregate. And then there is the  
17 second floor.

18 MEMBER JONES: Okay. And upstairs  
19 on the second floor is what?

20 INVESTIGATOR LAWSON: It's a room  
21 that's for the dancing and stuff.

22 MEMBER JONES: Okay. And on that

1 night, did you see a large number of patrons?  
2 Do you recall there being a large number of  
3 patrons?

4 INVESTIGATOR LAWSON: I didn't  
5 even enter on that side of the establishment,  
6 because Mr. Wells was -- he met me at the  
7 foyer and he was just going on about -- and in  
8 the interest of both maintaining calm, I went  
9 to the restaurant side of the building where  
10 the table and chairs are with Mr. Wells and  
11 Mr. Madland. And then Investigator Maisel  
12 came down shortly after that when we were over  
13 there.

14 And in the interest of, you know,  
15 getting out of there, I didn't tour the  
16 establishment. I just -- well, she said that  
17 she saw a DJ up there and that she had  
18 pictures, then that was enough for me.

19 MEMBER JONES: Okay. So in the  
20 interest of, I'll just say, professional  
21 decorum and perhaps personal safety, you did  
22 not go upstairs to take that time to witness

1 it because there was a concern in your mind  
2 about the nature of which the owner, Mr.  
3 Wells, was addressing you and your --

4 INVESTIGATOR LAWSON: That's  
5 correct, yes, sir.

6 MEMBER JONES: Okay. Fair enough.  
7 Did you get the impression, excuse me, scratch  
8 that.

9 At what point prior to -- at any  
10 point prior to the 28th, had you had a detail  
11 or had any conversation of any sort with Mr.  
12 Wells regarding his entertainment hours?

13 INVESTIGATOR LAWSON: Prior to the  
14 28th?

15 MEMBER JONES: At any point --

16 INVESTIGATOR LAWSON: Yes.

17 MEMBER JONES: -- prior to the  
18 28th.

19 INVESTIGATOR LAWSON: Yes, on the  
20 26th.

21 MEMBER JONES: Okay. So based on  
22 your conversations you had with him on the

1 26th, did you feel the need to reiterate that  
2 on the 28th?

3 INVESTIGATOR LAWSON: No, because  
4 it was -- I was very adamant and quite clear  
5 of going over his license and the voluntary  
6 agreement and making sure that they understood  
7 that any entertainment after the prescribed  
8 hours of their license, at that time, the  
9 Board-approved hours would have been a  
10 violation of their Board-approved hours.

11 MEMBER JONES: Okay. So you were  
12 very clear?

13 INVESTIGATOR LAWSON: Very clear  
14 about it.

15 MEMBER JONES: Okay. Fair enough.  
16 Last question. On the 29th, do you recall  
17 going to the establishment?

18 INVESTIGATOR LAWSON: Yes.

19 MEMBER JONES: Okay. The 29th is  
20 the very next day after the 28th. Is that  
21 your understanding as well?

22 INVESTIGATOR LAWSON: Yes.

1                   MEMBER JONES: Okay. When you  
2 arrived at the establishment, did you, now I  
3 remind you, I understand the same scenario  
4 occurred, you dropped off Investigator Maisel.

5                   INVESTIGATOR LAWSON: Yes.

6                   MEMBER JONES: She went in and  
7 just to make sure we are on the same page,  
8 would you estimate that that was roughly the  
9 same amount of delay between the time that you  
10 left her --

11                  INVESTIGATOR LAWSON: Yes.

12                  MEMBER JONES: -- and saw her go  
13 in the establishment and the time that you  
14 engaged?

15                  INVESTIGATOR LAWSON: Yes. It was  
16 probably even shorter, because I went to the  
17 quick-step that day. My step was a little  
18 quicker.

19                  MEMBER JONES: Okay. And keeping  
20 in mind your earlier testimony about the  
21 safety concerns that were raised in terms of  
22 the actions of Mr. Wells the night prior,



1 which was the 28th, were -- was there a  
2 particular reason why you went to the  
3 establishment on the 29th?

4 INVESTIGATOR LAWSON: Well,  
5 because, again, I wanted to monitor if they  
6 were complying with their Board ordered hours  
7 of entertainment.

8 MEMBER JONES: Okay. So the  
9 intent was to follow-up on --

10 INVESTIGATOR LAWSON: Yes.

11 MEMBER JONES: -- the activities  
12 of what you witnessed on the 28th?

13 INVESTIGATOR LAWSON: Yes, sir.

14 MEMBER JONES: And to -- did you  
15 have reason to believe that perhaps Mr. Wells  
16 was not in agreement with your guidance that  
17 you provided on the 28th? Was that  
18 potentially a reason why you went there again  
19 on the 29th?

20 INVESTIGATOR LAWSON: No.

21 MEMBER JONES: No. So would you  
22 normally -- is that a normal practice? A

1 normal practice of doing an immediate follow-  
2 up the next day or within a few days of  
3 witnessing or identifying or pointing out to  
4 the licensee that there was a violation of  
5 some sort?

6 INVESTIGATOR LAWSON: Is it normal  
7 practice for?

8 MEMBER JONES: So let me back up.  
9 You went on the 28th. You observed what you  
10 define or what you articulated to the licensee  
11 to be a violation?

12 INVESTIGATOR LAWSON: Yes.

13 MEMBER JONES: Is that a fair  
14 statement?

15 INVESTIGATOR LAWSON: Yes.

16 MEMBER JONES: Would it be normal  
17 practice in your history as an investigator to  
18 go to that same establishment around the same  
19 time?

20 INVESTIGATOR LAWSON: Yes.

21 MEMBER JONES: And if so, what  
22 would be one of the reasons why you would do

1       that?

2                   INVESTIGATOR LAWSON: Well, for  
3 one, the reason around the same time is  
4 because that was -- it was around the time  
5 that the entertainment hours was approved to  
6 end. So the window that the entertainment  
7 hours ended, he still could operate and sell  
8 until, I think he could sell if I recall  
9 correctly, 15 minutes past the entertainment  
10 hours. And he could operate 30 minutes past  
11 the entertainment hours.

12                   So the establishment could remain  
13 open and sell, but the entertainment was  
14 supposed to end at 2:00. So that's why it was  
15 around roughly the same amount of hours. It's  
16 a practice of mine if they are violating, to  
17 continue to monitor an establishment to  
18 determine if they are continuing to violate  
19 and to document the -- each violation prior to  
20 and add it to the initial case.

21                   MEMBER JONES: Understood. And  
22 based on his actions, his being Mr. Wells'

1 actions, on the 28th, did you have reason to  
2 believe or doubt that he would comply with the  
3 entertainment restrictions as noted on his  
4 license?

5 INVESTIGATOR LAWSON: I wouldn't  
6 say based on anything particularly with Mr.  
7 Wells, but based on my experience --

8 MEMBER JONES: Okay.

9 INVESTIGATOR LAWSON: -- with ABC-  
10 licensed establishments that, you know --

11 MEMBER JONES: Understood.

12 INVESTIGATOR LAWSON: -- they want  
13 to continue. If they are doing it, then it's  
14 not going to stop.

15 MEMBER JONES: All right.

16 INVESTIGATOR LAWSON: Unless they  
17 come before the Board.

18 MEMBER JONES: Understood. And  
19 Mr. Wells how did he -- how would you  
20 characterize his actions on the 29th as they  
21 related to you and Investigator Maisel?

22 INVESTIGATOR LAWSON: Well, on the

1 -- well, one of the reasons why I --  
2 understand, this was when 18th Street was  
3 really -- I mean, there was the whole street,  
4 both sides with severe construction going on.

5 MEMBER JONES: Understood.

6 INVESTIGATOR LAWSON: So I really  
7 didn't have any substantial thing in my mind  
8 where I would have felt that Mr. Wells would  
9 have continued his conduct towards  
10 Investigator Maisel another night.

11 I assumed that because I smelled  
12 the alcohol on Mr. Wells' breath on the 28th,  
13 maybe he wasn't drinking that night and maybe  
14 he would have calmed down and would have been  
15 more receptive to Investigator Maisel that  
16 night.

17 So it wasn't really a big thought  
18 that there was going to be conflict on the  
19 29th. So when I let her out and she went  
20 inside the establishment, and again, you know,  
21 it was very quickly -- it was even more  
22 quicker that night because it's just a matter

1 of me parking the car and walking briskly to  
2 the establishment.

3 And she could not have even almost  
4 been upstairs by the time I got there.

5 MEMBER JONES: Understood.

6 INVESTIGATOR LAWSON: And when I  
7 walked in the door, you know, again, I was met  
8 by Mr. Wells and Mr. Madland. And then the  
9 security doorman also entered into the  
10 conversation.

11 MEMBER JONES: Okay. Let me just  
12 make sure I'm clear. Well, how would you  
13 characterize Mr. Wells --

14 INVESTIGATOR LAWSON: On the 29th?

15 MEMBER JONES: -- on the 29th?

16 INVESTIGATOR LAWSON: He --

17 MEMBER JONES: Was it similar to  
18 the 28th? Was he confrontational?

19 INVESTIGATOR LAWSON: Yes.

20 MEMBER JONES: He was. On the  
21 29th, he was --

22 INVESTIGATOR LAWSON: He was --

1                   MEMBER JONES: He was as  
2 confrontational on the 29th as he was on the  
3 28th?

4                   INVESTIGATOR LAWSON: He was fine  
5 with me personally. He was okay and he was  
6 respectful to me, but the way he was talking  
7 to me about her was -- you know, and I was  
8 trying to calm him down and say look, you  
9 know, let's talk --

10                  MEMBER JONES: Understood. Okay.  
11 Thank you.

12                  INVESTIGATOR LAWSON: -- like  
13 professionals or whatever, but he was adamant  
14 that, you know, he didn't want her in there.  
15 She wasn't supposed to be there. And how is--  
16 she shouldn't be in his establishment. Get  
17 her out. That kind of stuff.

18                  MEMBER JONES: And one last thing.  
19 Did he, Mr. Wells, accuse Investigator Maisel  
20 of being intoxicated --

21                  INVESTIGATOR LAWSON: Not that  
22 night.

1 MEMBER JONES: -- on the 29th?

2 INVESTIGATOR LAWSON: But he kept  
3 saying that she was in here drunk the night  
4 before.

5 MEMBER JONES: Okay. Thank you.  
6 Thank you, Madam Chair.

7 CHAIRPERSON MILLER: Now, Mr.  
8 Alberti?

9 MEMBER ALBERTI: Just real quick,  
10 Mr. Lawson. On the 29th, I forgot to ask, did  
11 you hear music when you went in?

12 INVESTIGATOR LAWSON: Yes.

13 MEMBER ALBERTI: Okay. Did you  
14 observe anything else that would lead you  
15 personally to know that there wa a DJ?

16 INVESTIGATOR LAWSON: I saw -- I  
17 did see on -- I could see to the left side  
18 lounge area, I did see some dancing in there  
19 where patrons were.

20 MEMBER ALBERTI: Okay.

21 INVESTIGATOR LAWSON: So and they  
22 were dancing to music. But, you know, I



1       couldn't see the DJ, because I never made it  
2       in that far.

3                   MEMBER ALBERTI:   Okay.  So you  
4       knew because it was reported to you by  
5       Investigator Maisel?

6                   INVESTIGATOR LAWSON:  Yes.

7                   MEMBER ALBERTI:  When did she  
8       report that to you?

9                   INVESTIGATOR LAWSON:  She  
10      immediately -- as soon as she came downstairs,  
11      she immediately joined me and Mr. Wells and  
12      she told me again that there was a DJ and she  
13      got pictures.

14                  MEMBER ALBERTI:  Okay.  Did anyone  
15      deny that there was a DJ up there that  
16      evening?

17                  INVESTIGATOR LAWSON:  No.  No,  
18      sir.

19                  MEMBER ALBERTI:  Mr. Wells didn't?

20                  INVESTIGATOR LAWSON:  No.  His  
21      focus was on, you know, why was she in my  
22      establishment again when I didn't want her

1 here.

2 MEMBER ALBERTI: Thank you. I  
3 have no further questions.

4 CHAIRPERSON MILLER: I just have  
5 one clarifying question. Mr. Lawson, when you  
6 were asking or answering Mr. Brooks' question  
7 about spending time with Ms. Maisel and you  
8 said you drove around for seven and a half  
9 hours or you were with her that whole day,  
10 were you referring to the 28th? The day of  
11 the 28th?

12 INVESTIGATOR LAWSON: Actually,  
13 both days.

14 CHAIRPERSON MILLER: Both days.  
15 Okay. And those seven and a half hours were  
16 right before you went to this establishment?  
17 Is that right?

18 INVESTIGATOR LAWSON: I was --  
19 yes. Because we work eight hour or eight and  
20 a half hour shifts, so I would say at -- you  
21 know, only -- it probably was an hour of being  
22 in the office, but other than that driving

1 around we were together the whole night.

2 CHAIRPERSON MILLER: And you  
3 didn't see her take a drink?

4 INVESTIGATOR LAWSON: No, ma'am.

5 CHAIRPERSON MILLER: Okay. I  
6 don't have any other questions. Anybody else?  
7 Any redirect?

8 MR. RIVERO: Yes.

9 CHAIRPERSON MILLER: Okay.

10 REDIRECT EXAMINATION

11 MR. RIVERO: Mr. Lawson, I'm going  
12 to show you again Government's Exhibit 1.  
13 This is the license of the establishment at  
14 the time and it is admitted into evidence.

15 INVESTIGATOR LAWSON: Yes.

16 MR. RIVERO: Go ahead and look at  
17 the column where it says sales and go ahead  
18 and read me the ending time for sales for  
19 Friday and Saturday.

20 INVESTIGATOR LAWSON: 2:45 a.m.

21 MR. RIVERO: And now go to the  
22 next column where it says entertainment.

1 Please, read the ending time for entertainment  
2 on Friday and Saturday.

3 INVESTIGATOR LAWSON: 2:00 a.m.

4 MR. RIVERO: Thank you. And my  
5 one last question, Mr. Lawson, in your  
6 official capacity, we're not talking about,  
7 you know, elsewhere in your life, how much  
8 time, period of time, have you spent observing  
9 people that were intoxicated?

10 INVESTIGATOR LAWSON: Oh --

11 MR. RIVERO: Only in your official  
12 capacity, mind you.

13 INVESTIGATOR LAWSON: In my  
14 official capacity where?

15 MR. RIVERO: That's right.

16 INVESTIGATOR LAWSON: At ABRA or--

17 MR. RIVERO: At ABRA as an  
18 investigator. So we are talking about three  
19 years.

20 INVESTIGATOR LAWSON: Okay.

21 MR. RIVERO: Of those three years,  
22 how much time have you spent observing people

1 who are intoxicated?

2 INVESTIGATOR LAWSON: Three years.

3 MR. RIVERO: Okay. And so you  
4 would say then that based on your -- would you  
5 say based on your three years of experience  
6 observing people, what would you say when you  
7 compare Investigator Maisel's behavior with  
8 you that weekend?

9 INVESTIGATOR LAWSON: That she --

10 MR. RIVERO: Is there a match?

11 INVESTIGATOR LAWSON: -- was  
12 sober.

13 MR. RIVERO: Thank you.

14 INVESTIGATOR LAWSON: Sober.

15 MR. RIVERO: No further questions.

16 CHAIRPERSON MILLER: Okay. Mr.  
17 Wells?

18 MR. WELLS: Yes, one question.

19 RECROSS-EXAMINATION

20 MR. WELLS: Mr. Lawson, at any  
21 point, did you see a disc jockey playing music  
22 in my establishment?

1                   INVESTIGATOR LAWSON: Personally,  
2                   no, I didn't.

3                   MR. WELLS: At any point, did you  
4                   see Ms. Maisel's conduct in the area of Sultra  
5                   Lounge where this entire complaint and basis  
6                   of this is transpired? Did you see any of her  
7                   actions? As you stated, you were at the foyer  
8                   outside the door.

9                   INVESTIGATOR LAWSON: Yes.

10                  MR. WELLS: Did you see any of her  
11                  actions inside my establishment?

12                  INVESTIGATOR LAWSON: Inside?

13                  MR. WELLS: Yes.

14                  INVESTIGATOR LAWSON: No.

15                  MR. WELLS: Okay. No further  
16                  questions.

17                  CHAIRPERSON MILLER: Okay. Any  
18                  other questions?

19                  INVESTIGATOR LAWSON: Oh, correct  
20                  that. I saw when she came and joined us, if  
21                  that's what you mean.

22                  MR. WELLS: After she exited my

1 establishment.

2 INVESTIGATOR LAWSON: No, when she  
3 came to talk. When we were talking and she  
4 came from upstairs or wherever she was. I  
5 didn't observe her upstairs taking the  
6 photographs, but when she joined us as we were  
7 having the discussions and you were talking to  
8 me and I was talking to you and Mr. Madland,  
9 yes.

10 MR. WELLS: Permission to clarify?  
11 Mr. Lawson, by his own statements, never got  
12 outside of my foyer and the entry point to the  
13 door.

14 MR. RIVERO: Objection.

15 CHAIRPERSON MILLER: Is that a  
16 question?

17 MR. RIVERO: Question please.

18 CHAIRPERSON MILLER: It's only  
19 questions. It's only questions. You can  
20 clarify later in your closing argument what  
21 the testimony was.

22 MR. WELLS: Okay. No further

1 questions.

2 CHAIRPERSON MILLER: Okay. All  
3 right. You can be excused. Thank you very  
4 much.

5 INVESTIGATOR LAWSON: Thank you.  
6 (Whereupon, witness was excused.)

7 CHAIRPERSON MILLER: Any other  
8 witnesses?

9 MR. RIVERO: No. The Government  
10 is finished with its case.

11 CHAIRPERSON MILLER: Okay. Mr.  
12 Wells?

13 MR. WELLS: Okay. What I would  
14 like to do is outline my version of events  
15 surrounding --

16 CHAIRPERSON MILLER: All right.  
17 I'm going to -- if you are going to do that,  
18 it's testimony.

19 MR. WELLS: Oh, I'm sorry.

20 CHAIRPERSON MILLER: No, that's  
21 okay. It will be evidence if you are under  
22 oath. Are you okay over there with your



1 papers? Otherwise, I --

2 MR. WELLS: I would prefer to stay  
3 here.

4 CHAIRPERSON MILLER: All right.  
5 You can do that.

6 MR. RIVERO: No objection.

7 CHAIRPERSON MILLER: Okay. Thank  
8 you. I'm going to swear you in.

9 Whereupon,

10 CHRISTOPHER WELLS

11 was called as a witness for the Licensee, and  
12 having been first duly sworn, assumed the  
13 witness stand and was examined and testified  
14 as follows:

15 CHAIRPERSON MILLER: Okay. So you  
16 can proceed with your testimony as you like.

17 DIRECT EXAMINATION

18 MR. WELLS: Okay. This weekend  
19 started on January 26th when Investigator  
20 Lawson came into my establishment, asked to  
21 see the manager on -- asked to see the  
22 license, presented his ID, asked to see the

1 license.

2 My manager came and contacted me.  
3 I spoke to Mr. Lawson. Mr. Lawson and I have  
4 interacted in the past and as he said, I have  
5 no personal complaint against Mr. Lawson  
6 whatsoever. On every occasion he has handled  
7 himself with the utmost professionalism.

8 Mr. Lawson brought to my attention  
9 the fact that a complaint was raised on  
10 December 16th. This was about 40 days before.  
11 I said, Mr. Lawson, no idea, no knowledge, no  
12 recollection. Let me go check my calendar.  
13 I went, checked my calendar, there was no  
14 incident reported and I did see on Thursday  
15 evening it's generally slow. So we are  
16 usually out of there by 12:00, by midnight.

17 Okay. I later -- so Mr. Lawson  
18 then pointed out that, you know, your license  
19 -- right now, you guys are open for lunch, you  
20 are in violation. So I looked at it and I  
21 said, you know what, you are absolutely right.  
22 We start sales at this -- the license says

1 5:30, but we are open for lunch and brunch.

2 In addition to that, I pointed out  
3 that the voluntary agreement says there is no  
4 prejudice towards us opening for lunch or  
5 brunch. Mr. Lawson suggested I go see ABRA as  
6 soon as possible to resolve the situation.

7 The next morning, and this is  
8 exhibit number -- I have four exhibits here  
9 stapled together. I'm not sure what the best  
10 way to present them is. I'm going to go  
11 through each of them.

12 MR. RIVERO: Okay. Right away, no  
13 objection and --

14 CHAIRPERSON MILLER: No objection  
15 to the exhibits?

16 MR. RIVERO: No. Let's just bring  
17 them all in.

18 CHAIRPERSON MILLER: Okay.

19 MR. RIVERO: And let's just go  
20 ahead.

21 CHAIRPERSON MILLER: All right.  
22 Let me see what they are.

1 MR. WELLS: Thank you.

2 MR. RIVERO: Copies to the Board.

3 CHAIRPERSON MILLER: Over here.

4 MR. WELLS: I'm sorry.

5 CHAIRPERSON MILLER: You can give  
6 it to us. Mr. Wells, if we are going to put  
7 these in, do you want to just say what they  
8 are right now?

9 MR. WELLS: Sure.

10 CHAIRPERSON MILLER: Would that  
11 work for you?

12 MR. WELLS: Sure.

13 CHAIRPERSON MILLER: Okay.

14 MR. WELLS: Absolutely. Exhibit  
15 No. 1.

16 CHAIRPERSON MILLER: Yes.

17 MR. WELLS: Is a letter I wrote to  
18 ABRA on January 30th surrounding the incidents  
19 which transpired that weekend along with a  
20 formal complaint against Investigator Stewart  
21 and Investigator Maisel surrounding their  
22 conduct over the weekend.

1 CHAIRPERSON MILLER: Okay.

2 MR. WELLS: Exhibit No. 2 is an  
3 email exchange between Director Moosally and  
4 myself. This exchange, as I will go into  
5 later, I will go into it later, because it's  
6 an email exchange between Mr. Moosally and  
7 myself.

8 CHAIRPERSON MILLER: Yes.

9 MR. WELLS: Exhibit 3 is a letter  
10 to ABRA requesting the hours to change, to  
11 change my hours of operation dated January  
12 30th, also, the Monday.

13 And Exhibit 4 is the photograph  
14 taken by Investigator Maisel in my  
15 establishment.

16 CHAIRPERSON MILLER: Okay. And  
17 Mr. Rivero has no objection, so I'm going to  
18 admit all of these exhibits as Licensee's  
19 Exhibits 1 through 4.

20 (Whereupon, the documents were  
21 marked for identification as  
22 Licensee Exhibit 1 through 4 and

1                   were received in evidence.)

2                   MR. WELLS: Thank you.

3                   CHAIRPERSON MILLER: Okay. Thank  
4                   you.

5                   MR. RIVERO: No objection.

6                   MR. WELLS: So to continue where I  
7                   left off, Investigator Lawson suggested I go  
8                   talk to ABRA as soon as possible to resolve  
9                   this issue with the entertainment hours.

10                   I went the next morning, January  
11                   26th -- sorry, 27th to ABRA, spoke to a  
12                   licensing specialist. I asked to speak to Mr.  
13                   Moosally directly. He was not in. I then was  
14                   directed to a licensing specialist who then  
15                   directed me to an adjudication specialist who  
16                   was not available at that time.

17                   But so I left. When I was  
18                   leaving, I encountered Mr. Moosally in the  
19                   lobby and I introduced myself. I said to him,  
20                   you know, Investigator Lawson came in last  
21                   night. I would like to change these hours.  
22                   He said -- he told me the procedure.

1                   He said if there is -- and I asked  
2                   him, I said well, my voluntary agreement says  
3                   there is no prejudice. He said it shouldn't  
4                   be a problem. Here is the number for Bill  
5                   Hager, contact him to make sure we have the  
6                   same voluntary agreement on file.

7                   All this is the next day.

8                   CHAIRPERSON MILLER: Yes.

9                   MR. WELLS: Friday during the day.  
10                  Mr. Hager, I contacted 4:00 in the afternoon,  
11                  said to me to make sure the voluntary  
12                  agreement I have on file is the voluntary  
13                  agreement in our -- that I have -- that I  
14                  operate on.

15                  I later went ahead and put in the  
16                  request to adjust the hours on Monday morning,  
17                  which was subsequently approved, that's  
18                  exhibit -- well, Exhibit 3 is the request I  
19                  put in to extend the hours.

20                  As you will see, I extended the  
21                  hours for opening and the entertainment hours  
22                  for closing.

1                   So moving forward, all those  
2                   events transpired the next day during the day.  
3                   The evening of January -- sorry, Saturday  
4                   morning, January 28th. Okay. On that  
5                   evening, Investigator Maisel, who I did not  
6                   know at the time who she was, entered my  
7                   establishment at about 2:50.

8                   She proceeded to -- she walked in  
9                   and started taking pictures walking around the  
10                  place, visibly stumbling around the place. I  
11                  said to her excuse me -- she was by herself.  
12                  I said to her excuse me, who are you? Ms.  
13                  Maisel continued to walk around taking  
14                  pictures.

15                  She walked upstairs. She is  
16                  taking pictures. I said I'm sorry, can I help  
17                  you with something? Who are you? At this  
18                  point in time, she just -- she hasn't  
19                  responded. She is just moving around. She  
20                  goes back downstairs and comes out the  
21                  mezzanine area where the DJ is positioned.

22                  The allegation is that my DJ was



1 playing music. I have one system that  
2 operates that entire building that is two CD  
3 players that sit externally on the mezzanine  
4 area.

5 Those players play CDs seven days  
6 a week. If a DJ is in operation at the same  
7 time, he will be on that equipment playing  
8 music. That's where the -- everything  
9 happens. The music is played regardless of a  
10 DJ or not.

11 So I am always going to have in my  
12 establishment two CD players and a mixer  
13 setup, any day of the week. Okay.

14 So at this point in time, I have  
15 gotten no response from Ms. Maisel as to who  
16 she is. So I walk downstairs and position  
17 myself by the front door. I said to her, I  
18 said -- so by now she is walking out. This is  
19 -- I said, I'm sorry, who are you? She said  
20 you don't want to go there.

21 I said what do you mean I don't  
22 want to go there? Who are you? I have no

1 idea who you are. Ms. Maisel says okay, you  
2 really want to go there? She reaches in her  
3 blouse and pulls out an ID card and sticks it  
4 back in her blouse.

5 I said I'm sorry, I couldn't read  
6 that. So she pulls it out again. I said and  
7 do you have a business card? She is like yes.  
8 She hands me a business card. I said, you  
9 know, I said clearly you are operating like  
10 you are intoxicated. I wasn't the only person  
11 that felt this way. I have witnesses that  
12 will say -- attest to the same thing.

13 She literally -- so she literally  
14 handed me the card. She said you are in  
15 violation. And she walked out the door. No,  
16 sorry, she didn't even say you're in  
17 violation. She just walked out the door.

18 At this point in time, I turn  
19 around, open the door to go behind her. Mr.  
20 Lawson is outside of my establishment. At no  
21 time did Mr. Lawson enter my establishment.  
22 He is now walking up to the front door. I

1 opened the door.

2 I said Mr. Lawson, she is  
3 intoxicated. Why is she in my establishment?  
4 She is intoxicated, visibly intoxicated. She  
5 stands up and looks at me and makes no comment  
6 to refute that. Absolutely nothing. She  
7 literally turns around. Mr. Lawson says come  
8 on, Jonathan. I said come on what? She is  
9 visibly intoxicated. She turns around -- she  
10 then turns around and just walks off.

11 Who does not refute any kind of  
12 accusation and/or statement that somebody is  
13 intoxicated, unless they know that they are  
14 properly intoxicated.

15 Anyway, Ms. Maisel continues to  
16 walk off. She walks off down the street. Mr.  
17 Lawson -- the only conversation we have on  
18 that night, zero discussion about -- all he  
19 says is, Mr. Wells, you know you are in  
20 violation. I said violation? He said yes,  
21 you are in violation.

22 I said all right, all right, Mr.

1       Lawson. I said she is intoxicated. She walks  
2       -- he said I'll talk to you later, Mr. Wells.  
3       He never steps foot in my establishment.  
4       Never passed the pavement.

5                   He continues to walk off now  
6       behind Mr. Lawson who is -- Ms. Maisel who has  
7       already walked forward.

8                   The second night in question. Ms.  
9       Maisel walks into my establishment at,  
10      approximately, 2:18. She comes up to the  
11      front. I did not witness this. My security  
12      guard, who is an employee of the DOJ, sorry,  
13      the State Department and works security at my  
14      door literally -- I'll go to his story/  
15      conversation with him after.

16                   She walks in the door. Again, I  
17      encounter her in the bar area where she is  
18      telling two patrons move aside, right? She is  
19      telling them -- she goes like this, move aside  
20      and she has got a camera to take a picture of  
21      a beverage between the two of them.

22                   It is 2:18 in the morning, okay?

1 I said you are back again? I said can I help  
2 you with something? You are in violation.  
3 you are supposed to be closed at 2:00. I paid  
4 no attention to this. She walks upstairs and  
5 she takes a picture of the DJ. She goes up to  
6 the second floor, takes another picture of the  
7 DJ, comes downstairs, walks to the front.

8 By this time, I am walking to the  
9 front also. Mr. Lawson is now coming in the  
10 front door. So I said, Mr. Lawson, let's go  
11 have a word. My establishment is divided into  
12 two sides. The bar area where all of this  
13 transpired is all of these buildings.

14 Next door is the full seating  
15 restaurant. We go to the left to the  
16 restaurant. I was visibly upset, because it  
17 was totally -- I have never dealt with any  
18 ABRA Investigator who did not identify  
19 themselves from the time they entered the  
20 establishment.

21 Never said can I see your ID.  
22 Never showed their ID openly when they first

1       said -- usually the policy is hi, I'm  
2       Investigator Stewart or I'm Investigator  
3       Lawson, I would like to see X, Y and Z or we  
4       are here on X, Y, Z. No identification  
5       whatsoever.

6                   Okay. Fine. So she -- so I tell  
7       Mr. Lawson that. I said I have never seen  
8       such unprofessional behavior in my life. And  
9       she is back again when last night you know I  
10      told you I -- it is my personal opinion that  
11      she was totally intoxicated.

12                   Mr. Lawson walks out. Mr. Lawson  
13      said, Mr. Wells, you know, you are in  
14      violation. I'm going to leave. Basically,  
15      not those exact words I'm going to leave, but  
16      we didn't have any extended -- Mr. Lawson  
17      makes reference to having extended  
18      conversations about the license.

19                   There was absolutely no need to  
20      have a conversation about the license, because  
21      on Thursday night we fully had a discussion  
22      about the license. I pointed things out to

1 Mr. Lawson.

2 For example, the fact that no,  
3 there wasn't just an issue with opening, there  
4 was an issue with the time we closed, that our  
5 entertainment stopped at 2:00 and we went  
6 until 2:45. I pointed that out to Mr. Lawson.  
7 And it was my contention that I need to get  
8 this adjusted.

9 Now, before Friday night, I had  
10 every expectation of ABRA coming in there on  
11 that weekend, so I made sure every one of my  
12 DJs knew you are not supposed to play any  
13 music after 2:00 a.m., that is our cut off  
14 time. Can we still have music in the  
15 establishment? Absolutely.

16 Can you be disc jockeying music in  
17 the establishment? No. That was my  
18 understanding of the license. If that is a  
19 mistake, I'm guilty as charged. My  
20 understanding is that you can still play music  
21 in the establishment, you just cannot have a  
22 disc jockey spinning -- DJing, interactively

1 playing that music.

2 Keep in mind what I said, my house  
3 system is my music system. It is there seven  
4 days a week.

5 Okay. So after that, after all of  
6 this transpired, Mr. Lawson leaves. And as I  
7 said, we had no extensive conversation about  
8 the licensing issues, because I both thought  
9 we were on the page -- same page. But one  
10 thing that struck me is that Ms. Maisel said  
11 you are in violation. You are supposed to  
12 close at 2:00.

13 She walks out the door. I'm  
14 standing now digesting this whole thing,  
15 writing my incident reports, which is exhibit  
16 -- which is part of Exhibit No. 1, the  
17 incident reports from the night in question,  
18 which I have. I did right after the incident  
19 on both nights.

20 I'm walking back to the door after  
21 -- Investigator Stewart comes. My door is --  
22 the latch is locked, mind you. He pulls the



1 door open, pulls it to the point where it rips  
2 open. My door is actually locked. It has a  
3 fire bolt that locks, but he pulls it so hard  
4 it pulls right out.

5 So I'm standing there because my  
6 policy is my door is locked when my business  
7 is closed. 3:08 he walks in. He pulls open  
8 the door. He says who the hell do you think  
9 you are talking to my Investigator like that?  
10 I said hold on a minute. I said hold on a  
11 minute.

12 I said your Investigator was  
13 drunk. I did not make -- I was not -- then I  
14 said she was drunk on Friday night when she  
15 came in here. I don't care what you say. And  
16 then he says to me how dare you point your  
17 finger to an ABRA Investigator. Who do you  
18 think you are? I deal with you club owners  
19 all the time who think you can do this. I'm  
20 going to shut you down. You are supposed to  
21 be closed at 2:00.

22 I said wait a minute. I keep

1 hearing 2:00. I'm not supposed to be closed  
2 at 2:00. I close at 2:45. He is like and  
3 furthermore don't point your finger at any  
4 Investigator. I said I'm not pointing. I  
5 said you are in front of me. Investigator  
6 Maisel is to the right of you behind you and  
7 I am pointing her out.

8 I said furthermore, don't come  
9 into my establishment and speak to me like I  
10 work for you, because I have all my employees  
11 around me and he was downright unprofessional,  
12 threatening and disrespectful to me.

13 Later on after that, he says let  
14 me see your license. He is like I'm going to  
15 have you shut down by next Saturday. He -- so  
16 my manager, at this time, comes up with the  
17 board, which has never happened Friday night  
18 or Saturday night, not a single person have  
19 identified themselves as -- Mr. Stewart is  
20 the first person that identified himself  
21 throughout this whole ordeal when he busted  
22 open the door.

1                   Investigator Stewart, here is his  
2 badge, Investigator Stewart. First person to  
3 investigate themselves entering my  
4 establishment.

5                   Mr. Lawson, granted, I spoke with  
6 him before on Thursday night, so I knew  
7 exactly who Mr. Lawson was. There was no  
8 question as to who Mr. Lawson was.

9                   Mr. Lawson never entered my  
10 establishment Friday or Saturday night when  
11 Ms. Maisel was in my establishment. Not on  
12 one single occasion.

13                   So my manager brings my license to  
14 Mr. Stewart. Mr. Stewart looks at my license.  
15 After saying I'm going to shut you down, looks  
16 at it, hands it back to him and walks back out  
17 and says you will be hearing from me.

18                   He then encounters my door guy,  
19 Rolando Diaz, who in exhibit -- the other  
20 Exhibit 1 is the testimony from him. Mr.  
21 Rolando Diaz said -- he said, sir, I have a  
22 complaint. I have an issue. Your

1 Investigator upon entering my bar on the  
2 morning of -- Saturday morning pushed me out  
3 of the way.

4 He is like she pushed you out of  
5 the way? There was some interaction there and  
6 my -- he said to him, sir, why are you  
7 yelling? He said this is not how -- I'm not  
8 yelling. This is how I talk. He is like  
9 well, is it also the policy of ABRA  
10 Investigators to push somebody out of the way  
11 upon trying to gain entry when we have a valid  
12 reason to be here checking IDs?

13 We need to see your ID before you  
14 come in, that applies to every single person  
15 without prejudice. He is like well, if she  
16 did that, she is in violation. He is like,  
17 furthermore, she is on probation and you can  
18 file a complaint against her, if you would  
19 like. That was Mr. Stewart's words.

20 Mr. Stewart and I entered --  
21 interaction ended that night in which I  
22 assured Mr. Stewart that Monday morning,

1 before he got to work, I was going to be here  
2 with a formal complaint filed. I filed that  
3 complaint two days and have not gotten a  
4 single response from ABRA, which to me is  
5 outrageous.

6 Because we -- as owners we respect  
7 this Board. Everything that this Board does,  
8 we have to abide by. Dates are critical.  
9 Everything is critical surrounding it. I have  
10 gotten no response.

11 The other thing I would like to  
12 point out in closing, Exhibit 4 with these  
13 pictures, first of all, Exhibit No. 3, this is  
14 the Friday night supposedly alleged picture of  
15 my DJ operating the equipment.

16 My DJ, his hand is visible.  
17 Supposedly he was dancing with a patron. He  
18 wasn't operating any equipment.

19 The second one, again, this is  
20 2:15, the second night. Okay? Shows the DJ  
21 in front of the equipment. Like I said every  
22 -- this is the only questionable picture that

1 this opposing counsel has against this  
2 accusation that I was operating outside of  
3 hours.

4 This picture was him standing in  
5 front of it -- in front of the equipment.

6 This gentleman was instructed to  
7 not play after 2:00 a.m. Every DJ was. He  
8 was packing up or doing whatever he needed to  
9 do to close up. And he is willing to testify  
10 to that.

11 The third picture, again, shows  
12 nothing but the DJ actually interacting and  
13 standing in front of the music.

14 The fourth picture upstairs shows  
15 the DJ backing -- packing up his stuff because  
16 that's where -- because his stuff is not even  
17 there. It's to the front. So he is backing--  
18 packing up himself his stuff.

19 Again, if this is the best  
20 evidence that the District has against me, not  
21 only I would like to point out that these  
22 pictures all on the night of the 29th are

1 handwritten. They are pictures handwritten.  
2 Don't we have digital cameras? They are  
3 handwritten. They are -- the time stamp is  
4 exactly the same and she is in two different  
5 locations.

6 This is on the second floor. This  
7 is on the third -- first floor. Two different  
8 locations of pictures with the exact same time  
9 stamp. I'm sorry, how is that possible? And  
10 if the whole hinge of your -- the whole basis  
11 of your case is that I was not operating  
12 within my time, and this is how you are  
13 presenting the time for me, and nobody  
14 actually witnessed the DJ spinning music,  
15 that's -- I'm sorry.

16 I usually -- usually, when I am  
17 wrong, I have no problem admitting and trying  
18 to reach a mutually suitable agreement with  
19 the District, but in this instance, no, I'm  
20 not wrong. I'm sorry. I am totally not wrong  
21 in this instance. And that's it. I rest my  
22 case.

1 CHAIRPERSON MILLER: Okay. Mr.  
2 Rivero, any cross?

3 MR. RIVERO: We have a few  
4 questions.

5 CHAIRPERSON MILLER: All right.  
6 We? We, the Government?

7 MR. RIVERO: We, the Government.

8 CHAIRPERSON MILLER: Okay.

9 MR. RIVERO: It's the royal we in  
10 there.

11 CROSS-EXAMINATION

12 MR. RIVERO: I would like to turn  
13 your attention to your exhibits you just  
14 talked about some photographs. And the  
15 photograph I would like to turn your attention  
16 to is marked -- it's the third one on your  
17 packet and on the side of it it says Photo No.  
18 2, Exhibit No. 5.

19 Now, you testified that the DJ was  
20 packing up, is what you said, from the basis  
21 of this photo. This is a record clearly shown  
22 on the photograph, isn't it?



1 MR. WELLS: Yes.

2 MR. RIVERO: It looks like --

3 MR. WELLS: Well, no, no.

4 MR. RIVERO: -- mechanism --

5 MR. WELLS: It's a turntable. I'm  
6 not admitting to it being a record. It's a  
7 turntable.

8 MR. RIVERO: Well, there is a  
9 record on top of the turntable, isn't there?

10 MR. WELLS: No, there is a needle  
11 sitting on top of where a record would sit.

12 MR. RIVERO: So needles sit on top  
13 of --

14 MR. WELLS: The needles --

15 MR. RIVERO: -- an empty  
16 turntable?

17 MR. WELLS: No, no. It's not  
18 actually on top of the turntable.

19 MR. RIVERO: Well, that --

20 MR. WELLS: These are vinyl  
21 tables. They come with black carbon bases.

22 MR. RIVERO: Yes.

1 MR. WELLS: So, yes, there is a  
2 needle sitting -- there is -- no, I'm sorry,  
3 again, maybe if these were better pictures and  
4 digital pictures, it would show a needle  
5 actually playing on a record, but no.

6 MR. RIVERO: It looks like it's  
7 over the surface where a record would go,  
8 right?

9 MR. WELLS: I don't think that is  
10 really what it looks like.

11 MR. RIVERO: Okay.

12 MR. WELLS: I don't think --

13 MR. RIVERO: That's what it looks  
14 like to you.

15 MR. WELLS: No, no, it's not what  
16 it looks like.

17 MR. RIVERO: What does it look  
18 like to you?

19 MR. WELLS: It looks like a  
20 turntable --

21 MR. RIVERO: With a record on it.

22 MR. WELLS: -- without a record on

1 it.

2 MR. RIVERO: Right?

3 MR. WELLS: Right. It looks like  
4 a turntable.

5 MR. RIVERO: And then what is this  
6 shiny thing there doing?

7 MR. WELLS: Not shiny.

8 MR. RIVERO: It's going to be  
9 there on or off, okay?

10 MR. WELLS: It's going to be  
11 exactly there on or off.

12 MR. RIVERO: And what does it look  
13 like to you? What would you call that?

14 MR. WELLS: I don't know the  
15 technical term for it, but I believe it is --  
16 it would be the needle.

17 MR. RIVERO: It's the needle.  
18 Which is what plays records, right?

19 MR. WELLS: Absolutely.

20 MR. RIVERO: Okay. You indicated  
21 that he was packing up.

22 MR. WELLS: I indicated that the

1 Exhibit No. 6 was this DJ packing up.

2 MR. RIVERO: Okay. So then here  
3 it looks like there is a DJ playing music,  
4 isn't it?

5 MR. WELLS: I would not say that  
6 that's definitive enough to say that there is  
7 a DJ playing music.

8 MR. RIVERO: Okay.

9 MR. WELLS: Absolutely not.

10 MR. RIVERO: But you weren't  
11 there, were you, in this space to see this?  
12 You were downstairs.

13 MR. WELLS: I was actually --  
14 well, no, I was not there in that space.

15 MR. RIVERO: Okay.

16 MR. WELLS: But I know --

17 MR. RIVERO: That's it. That was  
18 the answer to the question.

19 Where is Investigator Maisel's  
20 business card? She gave it to you.

21 MR. WELLS: Where is her business  
22 card?

1 MR. RIVERO: Yes. She said --

2 MR. WELLS: Yes, it's in my  
3 possession.

4 MR. RIVERO: Okay.

5 MR. WELLS: Not on me.

6 MR. RIVERO: Not on you?

7 MR. WELLS: No.

8 MR. RIVERO: Okay.

9 MR. WELLS: I don't make it a  
10 policy to carry a business card.

11 MR. RIVERO: No further questions.

12 CHAIRPERSON MILLER: Okay. Board  
13 questions?

14 MEMBER JONES: Yes.

15 CHAIRPERSON MILLER: Okay.

16 MEMBER JONES: Thank you. So just  
17 to make sure I'm clear because there was a lot  
18 of statements that -- well, you made a very  
19 long statement and a lot of it was related to  
20 your perception of alleged ABRA misconduct.

21 But the case that we are here for,  
22 the violation, you are clear on the violation

1 that you are being charged with, correct?

2 MR. WELLS: Absolutely.

3 MEMBER JONES: Okay. So there was  
4 a few things that you made mention of related  
5 to that. And I just want to get clarification  
6 on my understanding of what you are presenting  
7 as your evidence to support your position.

8 So you made reference to a couple  
9 of photos provided in your exhibits.

10 MR. WELLS: Yes, that's right.

11 MEMBER JONES: And you indicated  
12 that -- did you make a statement here today  
13 that you did not have entertainment on either  
14 of the nights in question, the 28th or the  
15 29th? Is that a statement that I heard from  
16 you?

17 MR. WELLS: Correct.

18 MEMBER JONES: Okay.

19 MR. WELLS: After 2:00 p.m., we  
20 did not have entertainment.

21 MEMBER JONES: After 2:00 p.m.?

22 MR. WELLS: An entertainment

1 endorsement. After 2:00 a.m., I'm sorry.

2 MEMBER JONES: After 2:00 a.m?

3 MR. WELLS: Yes, correct.

4 MEMBER JONES: Okay. So on  
5 January 28 you had no entertainment after 2:00  
6 a.m.?

7 MR. WELLS: Correct.

8 MEMBER JONES: Okay. As you look  
9 at it, so January 28th is the Saturday  
10 morning.

11 MR. WELLS: Okay.

12 MEMBER JONES: Okay. So on  
13 Saturday the 28th, you had entertainment up to  
14 and including -- well, up to 2:00 a.m. only?

15 MR. WELLS: Yes, sir.

16 MEMBER JONES: Okay. And as you  
17 understand your license, you are allowed to  
18 have entertainment up to what time on  
19 Saturday?

20 MR. WELLS: 2:00 a.m.

21 MEMBER JONES: 2:00 a.m. Okay.  
22 On Sunday the 29th, you are saying that you

1 had no entertainment after 2:00 a.m. on  
2 Sunday, the 29th?

3 MR. WELLS: Correct.

4 MEMBER JONES: Okay. So you had  
5 entertainment up to 2:00 a.m. on Sunday the  
6 29th?

7 MR. WELLS: Yes.

8 MEMBER JONES: You did. Okay. On  
9 either of the nights -- so on your exhibit --  
10 you have Exhibit 3.

11 MR. WELLS: Yes.

12 MEMBER JONES: Do you have that in  
13 front of you?

14 MR. WELLS: Yes, sir.

15 MEMBER JONES: All right. Exhibit  
16 3, can you describe to me what your intent was  
17 in providing this exhibit as evidence for your  
18 case?

19 MR. WELLS: This was basically a  
20 letter at the suggestion of Mr. --

21 MEMBER JONES: I'm sorry, I'm  
22 looking at the photos.



1 MR. WELLS: I'm sorry.

2 MEMBER JONES: So you -- there is  
3 a photo that is labeled Exhibit 3. I don't  
4 know if you labeled these this way.

5 MR. WELLS: Oh, the photo. I'm  
6 sorry. I thought -- sorry, I thought you were  
7 referring to my package.

8 MEMBER JONES: I am referring to  
9 your package. I'm referring to Exhibit 4.  
10 Exhibit 3 or Exhibit 4, I guess, which are the  
11 photos.

12 MR. WELLS: So we want to go to  
13 Photo No. 3?

14 MEMBER JONES: Exhibit 3.

15 MR. WELLS: Yes, yes.

16 MEMBER JONES: Photo Exhibit No.  
17 3.

18 MR. WELLS: Yes.

19 MEMBER JONES: All right. Now,  
20 what was your intent?

21 MR. WELLS: Okay. My -- if you  
22 come to my establishment any of the seven days

1 a week, you will see this identical setup  
2 here. You will see the two CDJs and the  
3 mixer. I don't have a separate house system.  
4 This is when -- lunchtime, afternoon time,  
5 evening time, this is how I play music.  
6 Whatever vocal level, whatever tone level I  
7 play it at, this is my house system.

8 I don't have a separate system for  
9 music.

10 MEMBER JONES: Okay. So --

11 MR. WELLS: So I'm saying this is  
12 not proof that I had a DJ on that night. I'm  
13 sorry and I'm admitting to having a DJ on that  
14 night. I'm not even disputing having a DJ on  
15 that night. My contention is that this is  
16 visible every day of the week in my  
17 establishment.

18 MEMBER JONES: It's visible every  
19 day of the week?

20 MR. WELLS: Absolutely.

21 MEMBER JONES: Okay. Understood.  
22 So you are saying that this setup never comes

1 down?

2 MR. WELLS: No, never comes down,  
3 correct.

4 MEMBER JONES: How many DJ areas  
5 do you have?

6 MR. WELLS: Two.

7 MEMBER JONES: Two. So this DJ  
8 area is setup this way all the time?

9 MR. WELLS: All the time.

10 MEMBER JONES: Okay. This photo  
11 is at 2:50 a.m. on the 28th?

12 MR. WELLS: Yes.

13 MEMBER JONES: According to their  
14 handwritten notes.

15 MR. WELLS: Yes.

16 MEMBER JONES: Do you dispute --  
17 are you disputing that this is representative  
18 of your setup on January 28th at 2:50 a.m. at  
19 your establishment?

20 MR. WELLS: Yes.

21 MEMBER JONES: You are?

22 MR. WELLS: Yes.

1                   MEMBER JONES: Okay. What are you  
2 disputing about this setup being at your  
3 establishment? Now, keep in mind you just  
4 stated that I will see this every day of every  
5 week --

6                   MR. WELLS: Okay. What I am  
7 saying is --

8                   MEMBER JONES: -- at your  
9 establishment.

10                  MR. WELLS: -- no DJ was actually  
11 manipulating the sound.

12                  MEMBER JONES: That's not what I  
13 asked you.

14                  MR. WELLS: Oh, I'm sorry. I  
15 misunderstood.

16                  MEMBER JONES: So I'm asking you  
17 are you disputing that this picture, this  
18 picture in and of itself, is representative of  
19 what is -- what was there on January 28, 2012  
20 at 2:50 a.m.?

21                  MR. WELLS: Well, yes.

22                  MEMBER JONES: You are disputing

1       that this --

2                   MR. WELLS:  Yes.

3                   MEMBER JONES:  -- picture -- okay.

4       So what is wrong with this picture?

5                   MR. WELLS:  I am -- my only  
6       dispute would be the time stamp that is  
7       written in pen.  I am not disputing what is  
8       actually appeared -- what the picture is  
9       detailing.  What I'm questioning is, first of  
10      all, the time 2:50 in two different areas of  
11      my establishment on the same night.

12                  MEMBER JONES:  No.  I'm not -- you  
13      are going beyond what I'm asking.  This is one  
14      picture.  I'm looking at this picture in  
15      isolation.

16                  MR. WELLS:  Yes.

17                  MEMBER JONES:  Is this picture  
18      representative of what was at your  
19      establishment at 2:50 a.m. on January 28,  
20      2012?  Period.  That's the end of the  
21      question.  Is this picture representative of  
22      what was at your --

1 MR. WELLS: Yes, I just can't be  
2 accurate about that time, because it is  
3 written in pencil.

4 MEMBER JONES: Okay. Were you at  
5 your establishment at 2:50 a.m. on --

6 MR. WELLS: Yes, I was.

7 MEMBER JONES: -- 1/28?

8 MR. WELLS: Yes.

9 MEMBER JONES: Was this setup  
10 there?

11 MR. WELLS: Yes.

12 MEMBER JONES: So why would you  
13 have a reason to dispute the fact that this  
14 picture is representative of what was at your  
15 establishment on that date?

16 MR. WELLS: I'm not disputing the  
17 picture was not -- is not representative. I'm  
18 disputing the --

19 MEMBER JONES: Okay.

20 MR. WELLS: -- handwritten time,  
21 not disputing the picture. Sorry.

22 MEMBER JONES: So forget the

1 handwritten time. Forget that it's even  
2 there.

3 MR. WELLS: Yes.

4 MEMBER JONES: Do you agree that  
5 this is reflective of what was at your  
6 establishment, based on your own vision, based  
7 on your own knowledge?

8 MR. WELLS: Absolutely.

9 MEMBER JONES: Okay. Help me  
10 understand then what I'm looking at here.  
11 What I'm looking at are two DJ turntables for  
12 CDs.

13 MR. WELLS: Yes.

14 MEMBER JONES: A mixer.

15 MR. WELLS: Yes.

16 MEMBER JONES: As well as a  
17 laptop.

18 MR. WELLS: Yes.

19 MEMBER JONES: At 2:50 a.m. on  
20 1/28/2012 --

21 MR. WELLS: Um-hum, yes.

22 MEMBER JONES: -- tell me what

1 your operations consisted of as far as your  
2 entertainment.

3 MR. WELLS: Okay. As I stated, my  
4 DJ was playing until 2:00 a.m. that morning.  
5 I never disputed that. My Dj has to wait to  
6 be paid for the night's activities, that is  
7 after we close. Nobody gets paid before I  
8 close. There is no law that says I need to  
9 kick my DJ out of the establishment and for  
10 him to pack up, which in this case would be  
11 nothing but his headphones and the laptop  
12 would be -- so yes, he was waiting around to  
13 get paid.

14 I never disputed the fact that he  
15 was there earlier in the evening. He was  
16 playing until 2:00 p.m. -- 2:00 a.m. as he was  
17 contracted to do.

18 MEMBER JONES: Okay. So at this  
19 point, at 2:50 a.m., where is the music  
20 source?

21 MR. WELLS: This is the music  
22 source.



1 MEMBER JONES: Okay.

2 MR. WELLS: Every day of the week  
3 this is the music source.

4 MEMBER JONES: So there are three  
5 possible things here that could generate  
6 music? There is one CD player, the other CD  
7 player and the laptop that I can see in the  
8 picture.

9 MR. WELLS: Um-hum.

10 MEMBER JONES: I'm asking you to  
11 testify to what item here was playing music at  
12 that time.

13 MR. WELLS: I know a little more  
14 about DJing than I thought I need to trick  
15 down to.

16 CHAIRPERSON MILLER: If you know.

17 MR. WELLS: But, yes, this -- no,  
18 absolutely you are right. This -- I was  
19 actually -- the CDs. He was actually  
20 operating a manual CD in the CD player.

21 MEMBER JONES: Okay. So you are  
22 saying he was actually operating a --

1 MR. WELLS: Yes, he could have--

2 MEMBER JONES: -- CD in the CD  
3 player?

4 MR. WELLS: Yes.

5 MEMBER JONES: The CD player to  
6 the right, left or was it a CD player in --

7 MR. WELLS: The one to the right,  
8 I would think.

9 MEMBER JONES: The one to the  
10 right?

11 MR. WELLS: Yes, since the  
12 turntable is sitting -- since the headphones  
13 are sitting on top of the thing.

14 MEMBER JONES: They are sitting on  
15 top of the --

16 MR. WELLS: I mean --

17 MEMBER JONES: -- left unit?

18 MR. WELLS: Yes, yes.

19 MEMBER JONES: Okay. So the one  
20 to the right, you are saying that that was the  
21 item that was providing music source for the  
22 entertainment at your establishment on the

1 night in question, at this time?

2 MR. WELLS: That was, yes.

3 MEMBER JONES: Okay.

4 MR. WELLS: I was basically --  
5 basically, I instructed my DJs that they could  
6 not interact with the system. They could not  
7 actively DJ after 2:00 a.m. Get a CD for me.  
8 Get a CD that we can play. Just get a CD that  
9 I can plug in and play from 2:00 to 2:45. And  
10 that's what they did.

11 MEMBER JONES: Okay. So this DJ  
12 on the night in question, he got a CD that --  
13 of any type of -- did you --

14 MR. WELLS: I didn't. I don't  
15 know.

16 MEMBER JONES: You don't know?

17 MR. WELLS: No.

18 MEMBER JONES: Because I'm  
19 assuming, I mean, at a club you are not going  
20 to have a single CD by a single artist that is  
21 going to play track 1, track 2, track 3 and  
22 track 4.

1 MR. WELLS: I told him put --

2 MEMBER JONES: All right.

3 MR. WELLS: -- together a  
4 compilation.

5 MEMBER JONES: So was it a  
6 compilation?

7 MR. WELLS: Yes, a compilation.

8 MEMBER JONES: Okay. So that CD  
9 was playing out of this CD player to the  
10 right?

11 MR. WELLS: Yes, sir.

12 MEMBER JONES: Okay. And that  
13 started at 2:00 a.m., you are saying? And it  
14 was just playing through?

15 MR. WELLS: Um-hum.

16 MEMBER JONES: Okay. So there was  
17 no music coming out of the laptop? No source  
18 from the laptop? No MP3s, no anything from  
19 the laptop, to your knowledge?

20 MR. WELLS: Not to my knowledge.

21 MEMBER JONES: Okay. And you are  
22 also testifying that you can speak

1 definitively to the fact that the DJ didn't  
2 touch this unit after 2:00 a.m.?

3 MR. WELLS: Yes.

4 MEMBER JONES: Okay.

5 MR. WELLS: I mean from -- I mean,  
6 he -- like I said, I -- he was instructed to  
7 make sure that to not play. He was told to  
8 not play from 2:00 a.m. in the morning. I  
9 will be honest. I didn't not stand over them  
10 and watch them for that entire 45 minutes, but  
11 yes, that was my instructions.

12 MEMBER JONES: Those were your  
13 instructions, but you can't say that they  
14 followed your instructions?

15 MR. WELLS: Let me just say that  
16 every time I did look up there, there was  
17 nobody actively playing. And no, I did not  
18 look there for every second of that 45  
19 minutes.

20 MEMBER JONES: Okay. Also, do you  
21 have a clear picture of Exhibit 3?

22 MR. WELLS: Actually, these are

1 pictures I received from your Investigator.

2 MEMBER JONES: Do you have a color  
3 picture that you can see clearly?

4 MR. WELLS: No, I have --

5 MEMBER JONES: No.

6 MR. WELLS: -- a black and white  
7 picture.

8 MEMBER JONES: You don't. Okay.  
9 The picture I'm looking at, Exhibit 3, also on  
10 that laptop -- well, one, do you agree that  
11 that's a laptop?

12 MR. WELLS: Yes.

13 MEMBER JONES: Is that on a laptop  
14 that was provided by the DJ?

15 MR. WELLS: Yes.

16 MEMBER JONES: It was. Okay. The  
17 -- you are saying that you believe on the  
18 night in question that the music source was  
19 the CD player to the right? That's what your  
20 test --

21 MR. WELLS: Yes.

22 MEMBER JONES: That's what you

1 testified to.

2 MR. WELLS: I, basically, said to  
3 him, make a compilation CD between --

4 MEMBER JONES: I understand.

5 MR. WELLS: -- to play for the 45  
6 minutes.

7 MEMBER JONES: Sir, sir, I respect  
8 that answer. I just want to make sure. What  
9 you said earlier was that you believe that the  
10 source of the music on that night in question,  
11 the 28th, at 2:50 a.m. that you believe that  
12 the music was coming out of the CD player to  
13 the right? Is that still your belief? Is  
14 that still what you are testifying to?

15 MR. WELLS: I believe that it was  
16 coming out, but I'm not going to say that it  
17 is impossible that it was a compilation  
18 playing off of a digital media. It doesn't  
19 matter what media it comes from.

20 MEMBER JONES: Yes, it does to me.

21 MR. WELLS: Okay.

22 MEMBER JONES: So that's why I'm

1 asking these questions. So are you now saying  
2 that you are not sure?

3 MR. WELLS: I'm saying it could  
4 have been either the laptop or the CDJ.

5 MEMBER JONES: Okay. So you are  
6 not sure what the DJ did after 2:00 a.m.,  
7 because you don't know what the source of the  
8 music was after 2:00 a.m.?

9 MR. WELLS: I'm saying that I  
10 don't know what the source was. I know he was  
11 instructed not to play and to the best of my  
12 knowledge, he did not actually interact or  
13 play the music. Do I know the source was the  
14 laptop or the CDJ, no, I am not 100 percent  
15 sure.

16 MEMBER JONES: Okay. So now you  
17 are not sure.

18 MR. WELLS: No, I'm not sure about  
19 the --

20 MEMBER JONES: Okay.

21 MR. WELLS: -- source of the  
22 music. I'm very sure if he was playing or



1 interacting with the sound system. He was  
2 not. He was playing off of either the CD  
3 player or a digital format.

4 MEMBER JONES: Okay.

5 MR. WELLS: The music was coming--  
6 emanating from one of those two devices. Yes,  
7 absolutely.

8 MEMBER JONES: It was coming from  
9 one of those two devices?

10 MR. WELLS: Yes, absolutely.

11 MEMBER JONES: Okay. So you don't  
12 know which one?

13 MR. WELLS: No. I mean, I --

14 MEMBER JONES: Okay.

15 MR. WELLS: -- have a business to  
16 run. I can't stand up and -- once my  
17 instructions are do not play music, do not  
18 interact with the sound system, make sure that  
19 you have a CD, whatever else to play for that  
20 45 minutes, I don't care where they put it on  
21 from. I don't care whether the source is  
22 digital or the source is a CD.

1                   MEMBER JONES: But you -- is it  
2 safe to say that you do care that they --

3                   MR. WELLS: They are not in  
4 violation.

5                   MEMBER JONES: -- weren't playing  
6 after 2:00 a.m.?

7                   MR. WELLS: Yes, sir.

8                   MEMBER JONES: Okay. So the  
9 challenge that I'm having -- well, I'll get  
10 back to that. So on the 28th, was this the  
11 only DJ booth setup that you had?

12                   MR. WELLS: No, two. Two.

13                   MEMBER JONES: You had two?

14                   MR. WELLS: Yes.

15                   MEMBER JONES: Okay. So how do  
16 you balance one versus the other? So this guy  
17 you are saying -- this gentleman at this DJ  
18 booth was playing up until 2:00 a.m., correct?  
19 That's what you testified to.

20                   MR. WELLS: Um-hum.

21                   MEMBER JONES: What was the point  
22 of the other DJ booth area?

1                   MR. WELLS: They are two separate  
2 spaces, two distinct spaces, which I can  
3 regulate. I can either play from the first  
4 floor throughout the building or I can have a  
5 separate DJ on the second floor.

6                   MEMBER JONES: Okay. So I guess I  
7 misunderstood.

8                   MR. WELLS: The venue -- I'm  
9 sorry.

10                  MEMBER JONES: I misunderstood  
11 some of your testimony earlier, because you  
12 said there was one source that you had with  
13 these two inputs or the two CDs and that's the  
14 one input that you have for your whole  
15 building.

16                   So you are always going to hear  
17 music coming out of your establishment because  
18 you are always going to have CDs playing  
19 through that one source.

20                   So now, you are saying that you  
21 have two inputs. And maybe I misheard you  
22 before, so I would like to give you an

1 opportunity to clarify.

2 MR. WELLS: Let me clarify. Let  
3 me clarify. Seven days a week, this sits in  
4 my mezzanine area.

5 MEMBER JONES: So where is your  
6 mezzanine area?

7 MR. WELLS: My second floor --  
8 it's --

9 MEMBER JONES: I'm not familiar  
10 with your establishment.

11 MR. WELLS: If you -- yes. If you  
12 walk into the establishment, it's kind of  
13 overlooks the area.

14 MEMBER JONES: So it's upstairs?

15 MR. WELLS: It's stairs that go up  
16 the side, yes, but it's not a second floor,  
17 because it's wide open. It's like a balcony,  
18 so to speak on the first floor that you -- you  
19 come in one the first floor and you can walk  
20 up side stairs to what, in essence, is a  
21 balcony that overlooks.

22 MEMBER JONES: That overlooks the

1 first floor?

2 MR. WELLS: Yes, overlooks the  
3 first floor.

4 MEMBER JONES: Okay.

5 MR. WELLS: So this -- now, for  
6 this, these are my inputs. These are my CDJs.  
7 These are my inputs. Behind the bar I have  
8 one controller that can regulate, play first  
9 floor volume up, second floor volume up,  
10 second floor volume down, second floor -- I  
11 can manipulate anywhere spaces that I want to  
12 play.

13 The source is up here, but I can  
14 literally turn off or on locations as I see  
15 fit.

16 Now, on the night in question, and  
17 this is most Friday and Saturday nights, we  
18 have a separate place upstairs where we have  
19 a different kind of entertainment on the  
20 second floor. So that's how, in this  
21 instance, there were two different DJ areas.  
22 Does that help?

1                   MEMBER JONES: To some degree. So  
2                   at the -- let's call it the second level and  
3                   your mezzanine level. So at the second level,  
4                   you had a separate DJ with a separate DJ booth  
5                   playing music that was localized to the second  
6                   floor area only?

7                   MR. WELLS: Correct.

8                   MEMBER JONES: And then you also  
9                   had, in parallel, a second DJ operating at the  
10                  mezzanine --

11                  MR. WELLS: Yes.

12                  MEMBER JONES: -- area and that  
13                  music was playing the mezzanine down --

14                  MR. WELLS: Yes.

15                  MEMBER JONES: -- and including  
16                  the first floor?

17                  MR. WELLS: Correct. Until 2:00  
18                  a.m.

19                  MEMBER JONES: Until 2:00 a.m.  
20                  Now --

21                  MR. WELLS: Until 2:00 a.m., they  
22                  were both, yes.

1 MEMBER JONES: So they were both  
2 instructed to operate until 2:00 a.m.?

3 MR. WELLS: Correct.

4 MEMBER JONES: Okay. So the  
5 mezzanine DJ was given an instruction to play  
6 a CD or some compilation from some source that  
7 was to be pumped through the entire house,  
8 i.e., second floor and first floor?

9 MR. WELLS: Yes, sir, um-hum.

10 MEMBER JONES: Okay. And then the  
11 DJ on the second floor, he was given  
12 instructions to do what?

13 MR. WELLS: Stop playing.

14 MEMBER JONES: Stop playing and  
15 pack up and leave?

16 MR. WELLS: Um-hum.

17 MEMBER JONES: And pack up and  
18 leave?

19 MR. WELLS: Well, they are not  
20 going to leave, because nobody is getting paid  
21 until after the night is done. So they are  
22 not going -- they are going to stop playing,

1 but I don't -- I'm too busy with the night's  
2 activities to go and start dispensing payroll  
3 to individual staff members prior to closing.

4 MEMBER JONES: Understood. So  
5 there was a DJ booth set up on the second  
6 floor that was separate and distinct from this  
7 mezzanine DJ booth on the night of the 28th?

8 MR. WELLS: Yes.

9 MEMBER JONES: Okay. And they  
10 both stopped at 2:00 according to you?

11 MR. WELLS: Yes, sir.

12 MEMBER JONES: Okay. So on your  
13 second -- there is another exhibit, I believe,  
14 this is exhibit -- the next exhibit which has  
15 a gentleman in a gray shirt with headphones on  
16 with the Kangol, he is standing in front of a  
17 fan or a fan is blowing on him. I can't  
18 really see what exhibit. It looks like  
19 Exhibit 4.

20 MR. WELLS: Um-hum.

21 MEMBER JONES: It looks like it  
22 got cut off a little bit. Can you see that?



1 MR. WELLS: Absolutely.

2 MEMBER JONES: All right.

3 CHAIRPERSON MILLER: Whose Exhibit  
4 are you referring to? I mean, are you in  
5 Government' exhibits or are you in the  
6 licensee's exhibits?

7 MEMBER JONES: The licensee's  
8 exhibits.

9 CHAIRPERSON MILLER: Okay.

10 MEMBER JONES: Is Photo No. 1,  
11 Exhibit No. 4.

12 MR. WELLS: Yes.

13 MEMBER ALBERTI: They are numbered  
14 the same.

15 CHAIRPERSON MILLER: Okay.

16 MEMBER JONES: All right. So in  
17 this exhibit, what area am I looking at here?  
18 Is this the second floor --

19 MR. WELLS: The DJ area.

20 MEMBER JONES: -- or the  
21 mezzanine?

22 MR. WELLS: The mezzanine.

1                   MEMBER JONES: This is the  
2 mezzanine yet again?

3                   MR. WELLS: Yes.

4                   MEMBER JONES: Okay. So in that  
5 mezzanine area --

6                   MR. WELLS: Yes.

7                   MEMBER JONES: -- where are the CD  
8 players, CD decks?

9                   MR. WELLS: Okay. Again, let me  
10 explain. Let me give you a little insight  
11 into Serato DJ equipment and laptop computers.  
12 Whatever medium your source file is, be it on  
13 the laptop, be it on a CD player, you have a  
14 Serato.

15                   The laptop uses a software tool  
16 called Serato. It's actually a piece of  
17 software that interfaces with CDJs or vinyl  
18 CDJs. What -- basically, what you are looking  
19 at, I know you might think that this is a  
20 record playing here, but this is not a record.  
21 This is not a record playing here. This is  
22 not an LP, long play record, as the olden days

1 as we understand.

2 MR. RIVERO: Can I --

3 MR. WELLS: What this is --

4 MR. RIVERO: I'm sorry, I need to  
5 object, if I may, unfortunately. If there are  
6 full color photographs being help up for  
7 purposes of illustrating and only black and  
8 white copies are in front of the Board  
9 Members, it might be helpful to have the actual  
10 originals.

11 MEMBER SILVERSTEIN: We have some.  
12 We have them.

13 CHAIRPERSON MILLER: I don't have  
14 them.

15 MEMBER ALBERTI: We are working  
16 from them.

17 CHAIRPERSON MILLER: Well --

18 MEMBER ALBERTI: The questions  
19 would be from them.

20 MR. RIVERO: The exhibits that  
21 were admitted into evidence were not color  
22 photographs from the respondent, based on what

1 I received.

2 CHAIRPERSON MILLER: I don't have  
3 that either. I don't have it.

4 MR. WELLS: I was just exhibiting  
5 what the Government gave to me. They never  
6 gave me --

7 MR. RIVERO: I received --

8 MR. WELLS: -- produced color  
9 copies.

10 MR. RIVERO: -- this in evidence.

11 CHAIRPERSON MILLER: Okay. I have  
12 black and white myself, so I'm not sure where  
13 the color came from. Okay.

14 MR. WELLS: It's your source.

15 MR. RIVERO: Correct.

16 MR. WELLS: It's not mine.

17 MR. RIVERO: So I would like -- I  
18 don't have a problem indicating -- if the  
19 color photographs are in evidence, I don't  
20 have a problem at all. But the Government  
21 introduced black and white and the respondent  
22 introduced black and white. The respondent --

1                   CHAIRPERSON MILLER: Wait. She  
2 just wants to make sure we are using one or  
3 the other, right, and not mixing them up?

4                   MR. RIVERO: I don't mind. We can  
5 say let's talk about the color photographs.

6                   CHAIRPERSON MILLER: But you put  
7 in -- no, you put in black and white?

8                   MR. RIVERO: I --

9                   MR. WELLS: I object to using the  
10 color, too.

11                  MR. RIVERO: We can use the black  
12 and white.

13                  CHAIRPERSON MILLER: Okay. Fine.

14                  MR. WELLS: If this is a source of  
15 issue --

16                  CHAIRPERSON MILLER: So he is back  
17 to the black and white. Okay.

18                  MR. WELLS: -- let's use the black  
19 and white.

20                  MR. RIVERO: No objection if they  
21 are in evidence.

22                  CHAIRPERSON MILLER: They are not

1 in evidence, as far as I know.

2 MEMBER JONES: Understood.

3 MEMBER ALBERTI: Ms. Miller, the  
4 Board has in its files color photographs.

5 CHAIRPERSON MILLER: But we don't  
6 have in evidence color photographs.

7 MEMBER ALBERTI: And they were  
8 part of the report. Maybe not the report that  
9 was given to the attorney, Mr. Rivero.

10 MR. RIVERO: Again, if the Board  
11 wants to admit color photos, as --

12 MEMBER ALBERTI: Otherwise it --

13 MR. RIVERO: -- evidence and  
14 discuss them, no problem.

15 MEMBER ALBERTI: Can we take  
16 administrative notice --

17 CHAIRPERSON MILLER: No.

18 MEMBER ALBERTI: -- of the color  
19 photos? And if Mr. --

20 CHAIRPERSON MILLER: No. No. And  
21 we have -- what was put into evidence was  
22 these black and whites.

1 MR. WELLS: Right.

2 CHAIRPERSON MILLER: The pictures  
3 are somewhat unreliable to begin with for  
4 evidentiary reasons, as we don't have the  
5 person here who took the picture to testify to  
6 them. So if somebody is going to make a  
7 motion to put in evidence now the colored  
8 ones, I don't hear that coming from the  
9 parties.

10 I think they just want to make  
11 sure that we are talking about the photos that  
12 the Board has -- that is in evidence that the  
13 Board is going to be looking at, so everybody  
14 is on the same page. Is that right?

15 MEMBER ALBERTI: Yes.

16 CHAIRPERSON MILLER: Is that all  
17 right with everyone?

18 MEMBER ALBERTI: Okay.

19 CHAIRPERSON MILLER: Okay. So we  
20 are looking at the black and white photo?

21 MEMBER JONES: In front of me.

22 CHAIRPERSON MILLER: Photo 1.

1                   MEMBER JONES: I'm not sure I  
2 think the procedure is correct though.

3                   CHAIRPERSON MILLER: Would you  
4 like to raise an objection and argue it? You  
5 were making an interesting point and I hope  
6 that you haven't lost that.

7                   MEMBER JONES: So --

8                   CHAIRPERSON MILLER: He was  
9 answering. Oh.

10                  MEMBER JONES: Can I proceed with  
11 this?

12                  CHAIRPERSON MILLER: Yes, it's in  
13 evidence.

14                  MEMBER JONES: And I can do an  
15 introduction?

16                  CHAIRPERSON MILLER: It's in  
17 evidence, the black and white. The question  
18 was about the --

19                  MEMBER JONES: So I can proceed  
20 with this?

21                  MEMBER ALBERTI: With the black  
22 and white.



1                   MEMBER SILVERSTEIN: There is the  
2 middle question.

3                   MEMBER ALBERTI: I think the  
4 question is --

5                   CHAIRPERSON MILLER: I think Mr.  
6 Wells was in the middle of answering a  
7 question when he was interrupted.

8                   MEMBER JONES: There was an  
9 objection.

10                  CHAIRPERSON MILLER: It was an  
11 objection.

12                  MR. RIVERO: It was an objection.

13                  MEMBER JONES: I'm asking can I  
14 approach? There was an objection.

15                  CHAIRPERSON MILLER: Yes.

16                  MEMBER JONES: There was no --

17                  MR. RIVERO: The response was I'll  
18 call you back.

19                  MEMBER JONES: Right.

20                  CHAIRPERSON MILLER: That's right.  
21 Yes, you are proceeding with the question  
22 based on the black and white photo.

1 MR. RIVERO: Yes, fine.

2 CHAIRPERSON MILLER: You don't  
3 remember the question now or what you were  
4 answering?

5 MEMBER JONES: I guess I can  
6 proceed with these. Yes?

7 MR. WELLS: Would you like me to  
8 finish answering the question?

9 MEMBER JONES: Thank you.

10 CHAIRPERSON MILLER: But he was in  
11 the middle of a question.

12 MEMBER JONES: So --

13 CHAIRPERSON MILLER: So he was in  
14 the middle of proceeding, that's what I'm  
15 saying. Unless you forget the question.

16 MR. WELLS: No, I remember. I was  
17 literally explaining -- I was just explaining.

18 MEMBER JONES: He was giving me DJ  
19 booths --

20 MR. WELLS: Technical insight.

21 MEMBER JONES: -- in the  
22 establishment.

1 MR. WELLS: And so they use --  
2 because I think --

3 CHAIRPERSON MILLER: No. Now, we  
4 are listening to the question and answer. And  
5 you were explaining something that I was  
6 finding useful and I don't know now where --  
7 if you remember.

8 MR. WELLS: I know what it is.

9 CHAIRPERSON MILLER: Okay. Could  
10 you pick up where you were at then?

11 MR. WELLS: So we were making some  
12 distinction between the use of a CD, what a  
13 CDJ or LP style long-play record-style player,  
14 Serato, the software that it runs, Serato, the  
15 actual source file of the music is either on  
16 the laptop or if it's a CDJ, on the CD.

17 In this case, it's what is  
18 actually -- this is just an interface that  
19 allows you to manipulate the music. There is  
20 no song playing here on this needle. This is  
21 not an LP that plays music. This is an actual  
22 -- just as the CD -- the digital CJs are, it

1 allows you to manipulate, to scratch or  
2 whatever. But you have to have that interface  
3 to play with your laptop.

4 So I would just like to clarify,  
5 don't think that you are looking at an old-  
6 style LP player here and this is what you are  
7 seeing playing. Understand?

8 MEMBER JONES: Completely.

9 MR. WELLS: Okay. Sorry. I was  
10 just kind of valuing your question.

11 MEMBER JONES: My question was --

12 MR. WELLS: I mean --

13 MEMBER JONES: My question was is  
14 this the same DJ booth that we were talking  
15 about in Exhibit 3?

16 MR. WELLS: Um-hum.

17 MEMBER JONES: Where is the CDJ?

18 MR. WELLS: Okay. So one picture  
19 is from Friday night and one is from Saturday  
20 night.

21 MEMBER JONES: Correct.

22 MR. WELLS: So on this Saturday

1 night, clearly he brought his -- because he  
2 brought his own player and stuck it in. He  
3 brought his own interface.

4 MEMBER JONES: So where is the CDJ  
5 setup?

6 MR. WELLS: 99.999 percent it's  
7 under the table right here.

8 MEMBER JONES: Okay. So the CDJ  
9 setup that you said is there all the time --

10 MR. WELLS: Seven days a week.

11 MEMBER JONES: -- is not there all  
12 the time?

13 MR. WELLS: No, no. It's there  
14 seven days a week. That is my source for  
15 playing music. If this gentleman --

16 MEMBER JONES: So it's there  
17 unless the DJ brings his own equipment?

18 MR. WELLS: Unless the DJ brings  
19 his own equipment, that is my source.

20 MEMBER JONES: Okay.

21 MR. WELLS: Of music right here.

22 And it always has to be something set up here.

1 MEMBER JONES: Is that your laptop  
2 or is that the DJ's laptop?

3 MR. WELLS: That's the DJ's  
4 laptop.

5 MEMBER JONES: Okay. So the  
6 laptop was also underneath the table?

7 MR. WELLS: I'm sorry? Let me  
8 find the other picture.

9 MEMBER JONES: So that's exhibit--

10 MR. WELLS: Which exhibit is it?

11 MEMBER JONES: 3.

12 MR. WELLS: Yes, sorry. Which  
13 exhibit? Exhibit No. 3, let me find that,  
14 please. Sorry. My papers are a little mixed  
15 up. Okay. Exhibit No. 3.

16 CHAIRPERSON MILLER: Okay.

17 MEMBER JONES: So you made a  
18 statement that the CDJs are --

19 MR. WELLS: That's Friday night.

20 MEMBER JONES: You made the  
21 statement that the CDJs are yours. Is that  
22 correct?

1 MR. WELLS: Absolutely.

2 MEMBER JONES: The mixer, is that  
3 yours?

4 MR. WELLS: Yes.

5 MEMBER JONES: And the laptop in  
6 the Exhibit 3, that photo, whose is that?

7 MR. WELLS: That is the --

8 MEMBER JONES: Who does that  
9 belong to?

10 MR. WELLS: That' the same DJ that  
11 was playing the next night. He actually was  
12 playing both the Friday and the Saturday  
13 night. But clearly, the Saturday night, he  
14 closed -- chose to bring his own CDJs as  
15 opposed to using mine. You see? These do  
16 exactly the same thing. These CDJs and these  
17 LP-style players do exactly the same thing.

18 MEMBER JONES: Well, are you sure  
19 about that, sir? You are sure that the CDJs  
20 do the exact same thing as this technique  
21 turntable that I'm looking at?

22 MR. WELLS: The --

1 MEMBER JONES: They both play CDs?

2 MR. WELLS: Yes. And the  
3 interface -- the objective is really to obtain  
4 an interface within which to manipulate. If  
5 you can picture turning the -- speeding it up,  
6 slowing it down, it's an interface with which  
7 to scratch on.

8 MEMBER JONES: So, sir, I am just  
9 going to caution you. I just want to make  
10 sure you are answering this. Are you  
11 answering this from a standpoint of knowledge?

12 MR. WELLS: Yes.

13 MEMBER JONES: So you know this  
14 for sure?

15 MR. WELLS: (No audible answer.)

16 MEMBER JONES: Okay. So --

17 MR. WELLS: I mean, yes.

18 MEMBER JONES: -- these CDJs that  
19 are located on Exhibit 3, you are saying  
20 perform the exact same function as the input  
21 devices that are located on Exhibit 4?

22 MR. WELLS: When interfaced with a



1 laptop, 100 percent.

2 MEMBER JONES: Okay. Okay.

3 What's the purpose of the needle?

4 MR. WELLS: That's the connection  
5 between -- okay. If you have got the CDJs,  
6 you have got a digital needle that is built  
7 in. That's an older style analog vinyl  
8 scratcher.

9 MEMBER JONES: That's a digital  
10 needle?

11 MR. WELLS: So your interface is  
12 that needle.

13 MEMBER JONES: So you are saying  
14 if I have a CDJ, right, I have a digital  
15 needle?

16 MR. WELLS: Yes.

17 MEMBER JONES: Would that --

18 MR. WELLS: You will have a  
19 digital needle.

20 MEMBER JONES: Would another name  
21 for that be a laser?

22 MR. WELLS: Sorry, yes. A laser,

1 exactly.

2 MEMBER JONES: Okay. So the  
3 needle on the turntables on Exhibit 4 and 5,  
4 is that -- what type of -- was that a stylus  
5 or is that a laser?

6 MR. WELLS: That's probably a  
7 stylus.

8 MEMBER JONES: Probably a stylus?

9 MR. WELLS: Yes.

10 MEMBER JONES: Do you understand  
11 how a stylus works?

12 MR. WELLS: Absolutely.

13 MEMBER JONES: You do? Explain to  
14 me how a stylus receives input from a CD.

15 MR. WELLS: I can't without going  
16 into a whole lot of technical.

17 MEMBER JONES: No, please. Go  
18 into the --

19 MR. WELLS: No, because --

20 MEMBER JONES: Do you understand  
21 the --

22 MR. WELLS: What the stylus does?

1 Yes. The stylus sits on top of an LP. The LP  
2 -- the stylus relays the information. The LP  
3 is a standard LP. It's not a music LP. That  
4 stylus is what is the connection between the  
5 LP and the laptop player.

6 So that reads that, okay, you have  
7 a disc spinning, be it on a digital format, be  
8 it on an analog format.

9 MEMBER JONES: Okay. So is this  
10 an analog format?

11 MR. WELLS: With the stylus, yes.

12 MEMBER JONES: It is. Oh, okay,  
13 excellent. So we are on the same page then.  
14 So we have an analog format LP that's  
15 receiving input through a stylus and it's  
16 pumping that information through the laptop  
17 and then projecting that through your system?

18 MR. WELLS: Yes, sir.

19 MEMBER JONES: Only on the first  
20 floor, mezzanine down?

21 MR. WELLS: After 2:00 a.m.  
22 throughout the entire building.

1                   MEMBER JONES: Throughout the  
2                   entire building. Okay. So this picture on  
3                   Exhibit 5, 4 and 5, what is this DJ doing?  
4                   What is your testimony that this DJ is doing  
5                   on either Exhibit 4 or 5?

6                   MR. WELLS: Exhibit 5 or Exhibit  
7                   4.

8                   MEMBER JONES: 4, let's do Exhibit  
9                   4.

10                  MR. WELLS: The problem is he is  
11                  standing in front of his equipment. What is  
12                  he doing? It's totally, totally inconclusive  
13                  as to what he is doing. He is standing in  
14                  front of his equipment. That's all he is  
15                  doing. And it's his CD player, so he has --  
16                  it's his laptop. He has a right to stand in  
17                  front there until we close or be around. But  
18                  manipulating the music? No.

19                  MEMBER JONES: So you are saying  
20                  you can testify to the fact that you know that  
21                  this individual was not manipulating the music  
22                  from this position and from this posture?

1 MR. WELLS: Absolutely.

2 Absolutely. And I have already spoke to this  
3 individual who has no problem providing an  
4 affidavit saying that at 2:00 p.m. -- 2:00  
5 a.m. he stopped playing music.

6 MEMBER JONES: Okay.

7 MR. WELLS: Interactively playing  
8 music with anything.

9 MEMBER JONES: So you mentioned  
10 you had witnesses that would testify to that  
11 fact. You just now relayed that this DJ would  
12 testify to that fact. Is there a reason why  
13 you don't have him here today?

14 MR. WELLS: Yes. My lack of  
15 understanding of the proceedings, I thought  
16 with a Show Cause, I needed to present my  
17 arguments and at a later date we would  
18 determine if we go forward to bring in  
19 additional witnesses, etcetera.

20 I didn't want to waste somebody's  
21 time twice, if possible.

22 MEMBER JONES: Okay.

1 MR. WELLS: Sorry.

2 MEMBER JONES: And on January 29th,  
3 at 2:15 a.m., does this picture appropriately  
4 reflect your recollection of what was  
5 occurring at your establishment in this area  
6 on that night?

7 MR. WELLS: No.

8 MEMBER JONES: No. So --

9 MR. WELLS: Because --

10 MEMBER JONES: -- at 2:15 a.m., in  
11 your recollection, how would this picture be  
12 different?

13 CHAIRPERSON MILLER: What exhibit?

14 MR. WELLS: The time.

15 MEMBER JONES: Exhibit 4.

16 MR. WELLS: My objection is to the  
17 equipment? No. So the individual identified  
18 is the person who was working that evening?  
19 No problem. My problem is 2:15 a.m., I --  
20 this 2:15 a.m. was at two places completely  
21 different locations with the same handwritten  
22 time stamp.

1 MEMBER JONES: So all --

2 MR. WELLS: At 2:15 a.m. she is on  
3 first floor Sultra 1. At 2:15 a.m. she is on  
4 second floor Sultra 2. How is that possible?

5 MEMBER JONES: So on Exhibit 4 --

6 MR. WELLS: How are you in two  
7 places at the same time?

8 MEMBER JONES: So on Exhibit 4 --

9 MR. WELLS: I can't put my hand on  
10 the block for this.

11 MEMBER JONES: I ask you to try  
12 and focus on the question. In Exhibit 4,  
13 based on your recollection, your understanding  
14 of your setup that night --

15 MR. WELLS: Yes.

16 MEMBER JONES: -- at 2:15 a.m.,  
17 would this picture appropriately reflect what  
18 you believe to be going on at your  
19 establishment with the DJ at 2:15 a.m.?

20 MR. WELLS: No.

21 MEMBER JONES: No. Okay. And  
22 what would be the difference at 2:15 a.m.?

1 MR. WELLS: The time stamp says  
2 2:15 a.m. and the next time stamp for Exhibit  
3 5 --

4 MEMBER JONES: I'm not --

5 MR. WELLS: Sorry.

6 MEMBER JONES: -- talking --

7 MR. WELLS: Exhibit 6.

8 MEMBER JONES: Sir?

9 MR. WELLS: On a separate floor --

10 MEMBER JONES: Sir?

11 MR. WELLS: -- it says 2:15 a.m.

12 MEMBER JONES: Sir? Sir, you are  
13 not -- I ask you to focus on -- I'm on Exhibit  
14 4. I'm only on Exhibit 4.

15 MR. WELLS: Okay.

16 MEMBER JONES: I'm only on Exhibit  
17 4.

18 MR. WELLS: Okay.

19 MEMBER JONES: What would be  
20 different --

21 MR. WELLS: I question the  
22 validity of the time.



1                   MEMBER JONES:  Would there -- I  
2                   mean, let me help you.  If -- your  
3                   understanding, would there be a DJ there at  
4                   2:15 a.m.?

5                   MR. WELLS:  Would there be a DJ  
6                   there?  Yes, there would still be a DJ on the  
7                   premises, because they are not getting paid  
8                   until 3:00 a.m.

9                   MEMBER JONES:  Okay.  So --

10                  MR. WELLS:  But they are not  
11                  operating after 2:00 a.m.

12                  MEMBER JONES:  -- would it be  
13                  possible that the DJ would be positioned in  
14                  this way at 2:15?

15                  MR. WELLS:  That's possible.

16                  MEMBER JONES:  It's possible?

17                  MR. WELLS:  Yes.

18                  MEMBER JONES:  Okay.

19                  CHAIRPERSON MILLER:  Are you  
20                  almost done, Mr. Jones?  I think we have gone  
21                  over some of the same territory and it is  
22                  getting late.  It's a 12:45.  And I think

1 everybody is getting tired.

2 MEMBER JONES: Say what? Mike,  
3 what do you want me to do? Do you want me to  
4 stop? Huh? Okay. Whatever.

5 MEMBER ALBERTI: Actually --

6 MEMBER JONES: So --

7 MEMBER ALBERTI: -- I was fine. I  
8 was --

9 CHAIRPERSON MILLER: How long?  
10 How much more do you have?

11 MEMBER ALBERTI: -- getting good  
12 information --

13 MEMBER JONES: I don't know.

14 MEMBER ALBERTI: -- from this line  
15 of questions.

16 CHAIRPERSON MILLER: I didn't say  
17 to stop. I just want to know how much more  
18 there is, because it seems like --

19 MEMBER JONES: It depends on how  
20 long it takes him to answer.

21 CHAIRPERSON MILLER: -- it is  
22 getting repetitive.

1                   MEMBER JONES: It takes him to  
2 answer the question.

3                   CHAIRPERSON MILLER: Well, I can  
4 hear that from the witness at this point.

5                   MEMBER JONES: How -- okay. Can  
6 we talk about that? Mike, do you feel like  
7 I'm badgering the witness, at this point?

8                   MEMBER SILVERSTEIN: I would  
9 prefer --

10                  CHAIRPERSON MILLER: No, let's not  
11 put Board Members on the spot.

12                  MEMBER JONES: Well, you put me on  
13 the spot. I'm asking do you feel like --

14                  CHAIRPERSON MILLER: So let's not  
15 put Mike on the spot.

16                  MEMBER JONES: -- I'm badgering  
17 the witness?

18                  Member Alberti, do you feel like  
19 I'm badgering the witness, at this point?

20                  CHAIRPERSON MILLER: All right.

21                  MEMBER ALBERTI: I was comfortable  
22 with the line of questioning.

1                   MEMBER JONES:   Okay.  So I don't  
2                   feel like I'm badgering the witness.  I don't  
3                   know if the Board Members will go for this, so  
4                   I think it is three to --

5                   CHAIRPERSON MILLER:  Okay.  What  
6                   are you --

7                   MEMBER JONES:   -- one --

8                   CHAIRPERSON MILLER:  Well, how  
9                   much more do you have?

10                  MEMBER JONES:   -- feel like I'm  
11                  badgering the witness.

12                  CHAIRPERSON MILLER:  Can you give  
13                  us an idea of how much more you have?

14                  MEMBER JONES:   It depends on how  
15                  long it takes him to answer.  I didn't think  
16                  it was going to take this long.  But if you  
17                  want me to stop, I'll stop.  I mean, if you've  
18                  got an issue with it, then speak on it.

19                  CHAIRPERSON MILLER:  No.  I just  
20                  want you to try to wrap up and get to your  
21                  main points, because it has been --

22                  MEMBER JONES:   What does that

1 mean?

2 CHAIRPERSON MILLER: It has been a  
3 long time.

4 MEMBER JONES: How much time do I  
5 have? Do you want to put a cap on it?

6 CHAIRPERSON MILLER: No, I'm not  
7 going to put a cap on it. Just try -- can you  
8 zero in?

9 (Simultaneous speaking.)

10 MEMBER JONES: I need --

11 CHAIRPERSON MILLER: I think we  
12 have covered things.

13 MEMBER JONES: -- clear --

14 CHAIRPERSON MILLER: I'm telling  
15 you when it seems redundant.

16 MEMBER JONES: I don't know what  
17 that means.

18 CHAIRPERSON MILLER: It means  
19 simply --

20 MEMBER JONES: Try to -- so --

21 CHAIRPERSON MILLER: Okay. Can  
22 you wrap it up?

1 MEMBER JONES: Within 10 minutes.

2 CHAIRPERSON MILLER: Okay. Good.

3 MEMBER JONES: Give me a time.

4 CHAIRPERSON MILLER: That would be  
5 good.

6 MEMBER JONES: All right.

7 CHAIRPERSON MILLER: Okay.

8 MEMBER JONES: At 2:15, sir?

9 MR. WELLS: Right.

10 MEMBER JONES: At 2:15 a.m. --

11 MR. WELLS: Right.

12 MEMBER JONES: -- in your  
13 mezzanine area, you had -- your instruction  
14 was to have the DJ not play anything more,  
15 correct? He was supposed to stop at 2:00?

16 MR. WELLS: Yes.

17 MEMBER JONES: Did you have a DJ  
18 on the second floor area?

19 MR. WELLS: Yes.

20 MEMBER JONES: You did. Okay.  
21 What was his setup like?

22 MR. WELLS: Pretty much the same

1       setup.

2                   MEMBER JONES:   Pretty much the  
3       same thing?

4                   MR. WELLS:   Yes.

5                   MEMBER JONES:   Can you turn to  
6       Exhibit 6 in what you provided?

7                   MR. WELLS:   Yeah.

8                   MEMBER JONES:   What area is this?  
9       Is this the mezzanine or the second floor DJ  
10      booth area?

11                  MR. WELLS:   Exhibit 6 would be the  
12      second floor DJ booth area.

13                  MEMBER JONES:   Okay.   So I cannot  
14      see what the DJ booth equipment looks like in  
15      that area.   Can you describe that to me?

16                  MR. WELLS:   Sure.   It's actually  
17      the same laptop setup that would be directly  
18      in front facing the outward window.   That  
19      would be the laptop setup there.   Okay?

20                  MEMBER JONES:   Yes, sir.

21                  MR. WELLS:   And the CDJs below.

22                  MEMBER JONES:   Below?

1 MR. WELLS: Below --

2 MEMBER JONES: When you say below,  
3 basically, where is it?

4 MR. WELLS: They usually put one  
5 here and one here. I'm sorry, one on left and  
6 one on the right or both right in front,  
7 depending on the DJ, what their personal  
8 preference is. But the laptop sits to the  
9 front.

10 So that opening, the laptop would  
11 sit -- there is a ledge here.

12 MEMBER JONES: Understood.

13 MR. WELLS: So depending on their  
14 preference, the laptop is either there or, you  
15 know, they catty-corner it depending on their  
16 preference.

17 MEMBER JONES: Okay. Is this the  
18 DJ that you had under employ on the evening of  
19 January 29th? This individual in the striped  
20 Freddie Kruger-like sweater?

21 MR. WELLS: Yes.

22 MEMBER JONES: Okay. On the



1 second floor area or in the second floor area,  
2 would this be reflective or representative of  
3 your setup and what would have been going on  
4 in your establishment after 2:00 a.m. on  
5 January 29th on the second floor?

6 MR. WELLS: Um-hum.

7 MEMBER JONES: It would be. But  
8 your position is that because -- just because  
9 he is standing there, does not mean he was  
10 manipulating the music?

11 MR. WELLS: Yes.

12 MEMBER JONES: Okay. Where would  
13 the music source be coming from that is  
14 playing throughout your establishment after  
15 2:00 a.m.? Is it coming from the mezzanine  
16 area or from the second floor DJ area?

17 MR. WELLS: That night in  
18 question, I believe, both DJs were instructed  
19 to play CDs. Have a compilation ready, not I  
20 believe. Both DJs were instructed to play a  
21 CD for the remaining period of the night. To  
22 stop playing at 2:00.

1                   So he would have had a CD,  
2 downstairs would have had their CD.

3                   MEMBER JONES: Understood. So the  
4 second floor was still localized to the second  
5 floor?

6                   MR. WELLS: Yes, yes, yes, yes.

7                   MEMBER JONES: And the mezzanine  
8 was still localized to the mezzanine --

9                   MR. WELLS: Um-hum, um-hum.

10                  MEMBER JONES: -- and down below?

11                  MR. WELLS: Yes.

12                  MEMBER JONES: Correct? Okay.

13                  MR. WELLS: Correct, yes.

14                  MEMBER JONES: And who stopped the  
15 music?

16                  MR. WELLS: Either myself, my  
17 security.

18                  MEMBER JONES: So --

19                  MR. WELLS: Once it is last call,  
20 we turn on the lights and we go through the  
21 process of, you know, shutting down and then  
22 we turn off the DJs. Turn off the music.

1                   MEMBER JONES: Turn off the music.  
2                   So you physically go and turn off the DJ  
3                   equipment and you remove any media, i.e., CDs  
4                   or vinyl LPs or whatever you want to call  
5                   them? You physically do that?

6                   MR. WELLS: No, I don't.

7                   MEMBER JONES: The DJ does not do  
8                   that?

9                   MR. WELLS: No. I don't  
10                  physically do it. I would physically do it if  
11                  I am doing it -- in charge of doing it, I will  
12                  would go and stop the music, yes, turn off,  
13                  remove the music.

14                  MEMBER JONES: Understood. But on  
15                  the night in question, in your mezzanine area  
16                  on the 28th, specifically, in the mezzanine  
17                  area, did you or one of your staff, someone  
18                  other than the DJ turn off the CD?

19                  MR. WELLS: Yes.

20                  MEMBER JONES: Someone other than  
21                  the DJ turned off the CD?

22                  MR. WELLS: No, no. I honestly

1 can't attest to who turned it off. I know I  
2 didn't turn it off.

3 MEMBER JONES: Okay.

4 MR. WELLS: But I -- but it's  
5 common protocol every time the lights come on  
6 between my general manager, security, they all  
7 know music goes off.

8 MEMBER JONES: Okay.

9 MR. WELLS: It's an operation  
10 procedure that we do every time.

11 MEMBER JONES: So how do you  
12 handle requests from the audience?

13 MR. WELLS: I think --

14 MEMBER JONES: How is it handled?

15 MR. WELLS: -- we -- well, this  
16 night we didn't have any requests after 2:00  
17 a.m. because we weren't operating. We weren't  
18 interacting with the music. So there wouldn't  
19 have been any requests.

20 On a normal night during the  
21 course of the regular evening, a DJ can walk--  
22 a patron can walk up and say hey, can you play

1       this and he says sure, I have it or no, I  
2       don't have it.

3                   MEMBER JONES:   Okay.

4                   MR. WELLS:   Or I'll see do you  
5       have the radio version or not and determine if  
6       it's played or not.

7                   MEMBER JONES:   Okay.   So a patron  
8       would come to the DJ and the DJ would say I  
9       may have it, I may not have it and then he  
10      will come to you and say can I play this?

11                  MR. WELLS:   Yes.   If it's  
12      something questionable, yes, absolutely, he  
13      will come to me because there is a certain  
14      degree of lewdness out there that I don't want  
15      played in there.

16                  MEMBER JONES:   Okay.   But if it's  
17      not questionable, he has the authority to go  
18      ahead and play it?

19                  MR. WELLS:   Yes, um-hum.

20                  MEMBER JONES:   Okay.   So after  
21      2:00 a.m., did you instruct patrons that they  
22      could no longer ask or make requests?

1 MR. WELLS: No, no.

2 MEMBER JONES: No? Okay. On the  
3 29th after 2:00 a.m., did you instruct patrons  
4 that they could no longer make requests?

5 MR. WELLS: No.

6 MEMBER JONES: No. At any point  
7 what happens -- what's your procedure or  
8 protocol or guidance that you give to the DJs  
9 when the CD comes to an end?

10 MR. WELLS: In this case, the DJs  
11 were specifically told to make sure they had  
12 a DJ -- a CD or media that could play for 45  
13 minutes.

14 MEMBER JONES: Okay.

15 MR. WELLS: And were specifically  
16 told to make sure they had a media that could  
17 play for 45 minutes. In addition to that, if  
18 a patron came up and said can I hear X, they  
19 would say no, we are not taking requests. We  
20 are not actually playing.

21 MEMBER JONES: So that's the  
22 guidance that was given to the DJ in terms of

1 requests?

2 MR. WELLS: Yes.

3 MEMBER JONES: And that's the  
4 guidance that they were given in terms of  
5 preparation for the after 2:00 a.m.  
6 festivities?

7 MR. WELLS: Um-hum. Yes, um-hum.

8 MEMBER JONES: Yes. Okay. So  
9 they were specifically told to provide a CD or  
10 a media that could play for -- continuously  
11 for 45 minutes. Okay. Thank you. Thank you,  
12 Madam Chair.

13 CHAIRPERSON MILLER: Thank you. I  
14 just realized we have a 1:30 hearing next and  
15 we are close. Are there any other questions?  
16 Yes? Mr. Alberti, some questions?

17 MEMBER ALBERTI: Mr. Wells,  
18 forgive me. It's been very educational all  
19 the information you have given me, but I'm  
20 still a little confused.

21 So on the 29th, I'm looking at the  
22 picture, Exhibit No. 4, what was the source --

1 what would have been the source of music  
2 before 2:00 a.m.?

3 MR. WELLS: I'm sorry, exhibit  
4 number what?

5 MEMBER ALBERTI: No. 4.

6 MR. WELLS: No. 4.

7 MEMBER ALBERTI: That's the 29th.

8 MR. WELLS: This would have been  
9 the source before 2:00 a.m., absolutely.

10 MEMBER ALBERTI: What would have  
11 been the source of music?

12 MR. WELLS: Right here, the CDJs.  
13 The CDJs or whatever was positioned here.

14 MEMBER ALBERTI: Meaning? Well,  
15 that's kind of general. What does the CDJ do?

16 MR. WELLS: Okay.

17 MEMBER ALBERTI: Tell me what a  
18 CDJ does.

19 MR. WELLS: That's what is --

20 MEMBER ALBERTI: Just tell me what  
21 a CDJ does.

22 MR. WELLS: Let's refer to exhibit



1 -- let me make the distinction for you. Let's  
2 refer to Exhibit No. 3.

3 MEMBER ALBERTI: Okay.

4 MR. WELLS: The CDJs are the two  
5 digital devices next door. What you do, in  
6 this case, it's playing from Serato, from on  
7 a laptop. So his source is a laptop.

8 MEMBER ALBERTI: So the source of  
9 the music is the laptop?

10 MR. WELLS: The source of the  
11 music --

12 MEMBER ALBERTI: Is it an MP3?

13 MR. WELLS: The actual MP3 files--

14 MEMBER ALBERTI: Yes.

15 MR. WELLS: -- are -- reside on  
16 the laptop.

17 MEMBER ALBERTI: All right, all  
18 right.

19 MR. WELLS: The two CDJs are  
20 actually just dummy CDs, so to speak, that go  
21 in there that interact with the software to,  
22 basically, allow you to manipulate.

1 MEMBER ALBERTI: So they are  
2 manipulating --

3 MR. WELLS: But they have to be --

4 MEMBER ALBERTI: Hold on. They  
5 are manipulating the sound that is originating  
6 from -- they are manipulating the signal that  
7 is originating from the MP3 file. Is that  
8 correct?

9 MR. WELLS: They are a necessary  
10 component if you are playing through a laptop,  
11 which Serato does.

12 MEMBER ALBERTI: Well, you just  
13 told me that that would have been -- an MP3  
14 file would have been the source.

15 MR. WELLS: Yes.

16 MEMBER ALBERTI: And they are  
17 manipulating the electronic signal from the  
18 MP3 source. Is that right?

19 MR. WELLS: Not manipulating.  
20 They are enabling the source to go out to the  
21 -- the CD --

22 MEMBER ALBERTI: Okay. But they

1 are somehow --

2 MR. WELLS: -- that source is  
3 digital.

4 MEMBER ALBERTI: -- affecting that  
5 source. They are somehow affecting that file  
6 to create --

7 MR. WELLS: Let me explain.

8 MEMBER ALBERTI: -- the sound that  
9 goes out.

10 MR. WELLS: Let me explain.

11 MEMBER ALBERTI: I gotcha. All  
12 right.

13 MR. WELLS: Let me explain. It is  
14 coming in the laptop. It comes in to the two  
15 CDJs.

16 MEMBER ALBERTI: Right.

17 MR. WELLS: The two CDJs go out  
18 into the mixer. The mixer goes out into the  
19 house --

20 MEMBER ALBERTI: Absolutely.

21 MR. WELLS: -- speakers.

22 MEMBER ALBERTI: So they affect --

1 MR. WELLS: Oh, yes.

2 MEMBER ALBERTI: The MP3 comes in  
3 and they affect that electronic signal and it  
4 goes to the mixer. Gotcha.

5 MR. WELLS: It's --

6 MEMBER ALBERTI: On the 29th --

7 MR. WELLS: -- a necessary  
8 component of --

9 MEMBER ALBERTI: -- what was the  
10 source of the sound? What was the source of  
11 the file?

12 MR. WELLS: Either --

13 MEMBER ALBERTI: Was it an  
14 electronic file or was it an analog file?

15 MR. WELLS: On the 29th?

16 MEMBER ALBERTI: Meaning --

17 MR. WELLS: On the 29th, I would  
18 say an electronic --

19 MEMBER ALBERTI: Okay. Well, what  
20 was the source?

21 MR. WELLS: -- through the laptop.

22 MEMBER ALBERTI: What was the

1 source?

2 MR. WELLS: Through the laptop.

3 MEMBER ALBERTI: And after 2:00  
4 a.m.?

5 MR. WELLS: The laptop.

6 MEMBER ALBERTI: Okay. Okay. And  
7 then the CDJs that -- you say this is a CDJ  
8 here I'm looking at.

9 MR. WELLS: In Exhibit 3?

10 MEMBER ALBERTI: Exhibit 4, right,  
11 right.

12 MR. WELLS: Oh, 4, sorry.

13 MEMBER ALBERTI: And it does the  
14 same thing as --

15 MR. WELLS: Right.

16 MEMBER ALBERTI: -- the -- I'm  
17 looking at 4 as the CDJ. Is that correct?

18 MR. WELLS: Yes.

19 MEMBER ALBERTI: What is that?  
20 What's that called?

21 MR. WELLS: It does -- it has the  
22 same function.

1                   MEMBER ALBERTI: Just tell me what  
2                   it's called. Answer my question. What's it  
3                   called?

4                   MR. WELLS: Okay, CDJ is the  
5                   brand. So I'm not exactly sure what his brand  
6                   is. It's probably a Pioneer turntable.

7                   MEMBER ALBERTI: Oh, CDJ is a  
8                   brand?

9                   MR. WELLS: It's a Pioneer  
10                  turntable.

11                  MEMBER ALBERTI: It's not a kind  
12                  of equipment? All right. I gotcha. All  
13                  right. And does it do the same thing as the  
14                  CDJ does?

15                  MR. WELLS: Yes.

16                  MEMBER ALBERTI: It brings to  
17                  question why would the DJ bring their own?

18                  MR. WELLS: Sometimes -- just  
19                  sometimes they actually -- sometimes, first of  
20                  all, they prefer to play on their own  
21                  equipment. It varies. It's purely a personal  
22                  preference. I provide -- the house has

1 equipment. They can bring. Some people like  
2 the feel of the vinyl. You know what I mean,  
3 if they are actually playing on manipulating  
4 music, they will prefer the vinyl feel to it  
5 as opposed to the digital head of the CDJ.

6 MEMBER ALBERTI: Okay. I gotcha.  
7 I gotcha. So but the original source is the  
8 MP3 file that is in the laptop?

9 MR. WELLS: In this instance, yes.

10 MEMBER ALBERTI: And that would  
11 have continued after 2:00 a.m.?

12 MR. WELLS: Until 2:45.

13 MEMBER ALBERTI: So that's the  
14 difference between what happened between -- in  
15 your testimony in terms of what you are  
16 testifying, what is the difference between  
17 what happened before 2:00 a.m. and --

18 MR. WELLS: My source.

19 MEMBER ALBERTI: -- after 2:00?

20 MR. WELLS: Okay. My source of  
21 music is the same seven days a week. It is  
22 from that specific staging area.

1 MEMBER ALBERTI: Okay.

2 MR. WELLS: Seven days a week. My  
3 contention is that they were instructed, told  
4 to not manipulate with the music. Meaning not  
5 manually change songs, not interact with  
6 customers as to requests, etcetera, etcetera,  
7 etcetera. Nobody has seen or proven that I  
8 have --

9 MEMBER ALBERTI: Gotcha.

10 MR. WELLS: -- that they have done  
11 such.

12 MEMBER ALBERTI: All right. It  
13 took a long time, but now I understand what  
14 you are trying to tell us. Thank you.

15 MR. WELLS: All right. Thank you.  
16 Sorry for, you know --

17 MEMBER ALBERTI: I have no further  
18 questions.

19 MR. WELLS: Appreciate your  
20 patience.

21 CHAIRPERSON MILLER: Other Board  
22 questions? I just want to ask one clarifying



1 question. Just in Exhibit 5, Photo 2, where  
2 it looks like there is a needle on a record.

3 MR. WELLS: Yes.

4 CHAIRPERSON MILLER: Are you  
5 saying that is not a needle on a record? It's  
6 something else?

7 MR. WELLS: It's not what you are  
8 interpreting that to be like a normal long-  
9 play LP player.

10 CHAIRPERSON MILLER: But --

11 MR. WELLS: It's not -- that's not  
12 how -- it's not a record. It's not a record  
13 that is playing music.

14 CHAIRPERSON MILLER: Right.

15 MR. WELLS: You know what I mean?  
16 That is part of the -- like I was explaining  
17 to Mr. Alberti, that is part of the function  
18 for Serato to operate. It needs to have that.

19 CHAIRPERSON MILLER: Okay.

20 MR. WELLS: Not a laser as Mr.  
21 Jones points out, but an analog connection to  
22 the actual turntable, because that's where the

1 song goes into the mixer and it then comes out  
2 to the house.

3 CHAIRPERSON MILLER: So a CD could  
4 be playing --

5 MR. WELLS: Yes.

6 CHAIRPERSON MILLER: -- in this  
7 picture? Okay. Any redirect?

8 MR. RIVERO: Not really.

9 CHAIRPERSON MILLER: I --

10 MR. RIVERO: Could I have a brief  
11 recess?

12 CHAIRPERSON MILLER: Yes. How  
13 much would you -- two minutes?

14 MR. RIVERO: Really short.

15 CHAIRPERSON MILLER: Yes, okay.  
16 Why don't we take -- we can take five minutes.  
17 Okay.

18 (Whereupon, at 12:57 a.m. a recess  
19 until 12:59 a.m.)

20 CHAIRPERSON MILLER: Okay.

21 MR. RIVERO: Thank you. Board  
22 Members, there were a whole lot of statements

1 today about the ins and outs of music  
2 equipment, the conduct of certain  
3 Investigators that were involved and, in fact,  
4 the conduct of the licensee proper.

5 This case threatens to get lost in  
6 a morass of details and I'm here to tell you  
7 that it's actually a rather simple case. And  
8 we need to eliminate the clutter and we are  
9 going to do it right now.

10 And what we want to do is we want  
11 to start with a very simple definition. Okay?  
12 And that is what is entertainment? That's  
13 what this case is really about. It centers on  
14 a very simple illustration.

15 Is going -- a human being going up  
16 to equipment and putting on music and then  
17 walking away from equipment whether it looks  
18 like a turntable or a laptop does become --  
19 the complexity of the equipment is not  
20 important. It could be something as ancient  
21 as your grandfather's phonograph or as  
22 advanced as something out of Star Wars.

1           Is the act of walking up to this  
2           equipment and arranging for music to be played  
3           simply some bureaucratic task or is it  
4           entertainment, as the law defines it? The law  
5           by which this Board is bound.

6           So we start with that definition  
7           of entertainment. Entertainment means live  
8           music or any other live performance by an  
9           actual person, including live bands, karaoke,  
10          comedy shows, poetry readings and disc  
11          jockeys.

12          The term entertainment shall not  
13          include the operation of a jukebox, a  
14          television, a radio or other "prerecorded"  
15          music.

16          This case centers around the  
17          interpretation of the phrase "prerecorded  
18          music" in that definition that I just read to  
19          you.

20          Now, this definition, as we all  
21          know, is pretty old. In fact, it predates  
22          laptops. It doesn't predate record players,

1 but it predates laptops. Okay.

2 And on the one hand, you have in  
3 the first sentence inclusion of disc jockeys.  
4 You are entitled to use Webster's Dictionary  
5 and your every day knowledge of what you think  
6 a disc jockey is. In that very same sentence,  
7 the disc jockey is part of a line of people  
8 who do "live performances." People who sing  
9 with a microphone.

10 The disc jockey is characterized  
11 by law as someone who is doing something to  
12 entertain people. Not talking, not singing  
13 with a microphone, but certainly doing  
14 something to entertain people. And what is  
15 that something? Well, disc jockeys don't play  
16 live music, that's what a band does in our  
17 understanding.

18 A disc jockey plays songs that are  
19 on tapes or records or CDs or MP3s or what  
20 have you. When you look at that source of  
21 music, it looks like prerecorded music,  
22 doesn't it?

1                   A disc jockey can't do what we  
2 know disc jockeys do without prerecorded  
3 music. So by definition, it's necessary. And  
4 yet, entertainment doesn't include prerecorded  
5 music as you see in the second sentence.

6                   There must have been some intent  
7 as to what that phrase in the second sentence  
8 means. And I'll tell you what it means. It  
9 would be absurd if every restaurant in the  
10 city had to get an entertainment endorsement  
11 or permit to play the background music that  
12 diners enjoy.

13                   The background music is often the  
14 source of -- you know, it could be a radio  
15 station. It could be some long -- something  
16 playing at -- for the diners. People who are  
17 not doing what? Dancing.

18                   Let me take you to the wall. DC  
19 Code 25- -- we were just reading from DC Code  
20 25-101 and the definition is (21)(a).

21                   I will now take you to 25-113(a),  
22 license endorsements. It says "The licensee

1 under a license class," and it includes the  
2 category of the establishment here, "shall  
3 obtain an entertainment endorsement from the  
4 Board to be eligible to have entertainment, a  
5 cover charge or offer facilities for dancing."

6 Now, I don't know about you, but  
7 we use our every day knowledge and I can't  
8 come up with a single instance where you can  
9 offer facilities for dancing without music.  
10 I haven't seen people dance to silence.

11 So if you are going to have  
12 dancing, you've got to have music. And here  
13 there is zero evidence, zero evidence, that  
14 the dancing and the operation of the DJ were  
15 disconnected. They are hand-in-hand in this  
16 case.

17 So we have got someone who, by the  
18 nature of his or her job, uses prerecorded  
19 music, but arranges it. Okay? It wasn't the  
20 dishwasher doing it. It wasn't the waiter  
21 doing it. It wasn't the manager doing it.  
22 There is testimony that it was a DJ and nobody

1 has told me or you otherwise.

2 You've got a DJ doing what DJs do.  
3 Now, the question then is did this DJ do what  
4 he or she does in violation of the license in  
5 question? So all this turns on whether it was  
6 after 2:00 a.m. on the days in question or  
7 not.

8 There is zero, again I love that  
9 number, evidence that we have talking about  
10 what happened at 2:00 a.m. or before. There  
11 is no evidence on the record here that  
12 Investigators were in this establishment  
13 before 2:00 a.m. witnessing music being  
14 played. You don't have the Investigators  
15 saying that to you. They wouldn't, because it  
16 wouldn't be a violation.

17 What you have is after 2:00 a.m.  
18 the Investigators were there. They heard  
19 music. Investigator Lawson heard music  
20 whether in the foyer or the restaurant portion  
21 doesn't matter, because we have heard that the  
22 music could have only come from one source, a



1 human being that we call a DJ, who arranged  
2 music to play.

3 It didn't come from any other way.  
4 It didn't come, in fact, from any of the  
5 exemptions in the law that says this isn't  
6 entertainment. So we wouldn't be talking  
7 about anything.

8 And that's it. That's what this  
9 case is about. There is no evidence to say  
10 that music was not playing.

11 Now, you have got some statements  
12 on the other side to the effect that DJs may  
13 have been packing up. We don't have any exact  
14 time in evidence as to when that music that  
15 may have been prearranged stopped playing, but  
16 we do have the evidence of Investigator Lawson  
17 who said I came in at 2:50 on Friday/Saturday  
18 night. I came in at 2:15 on Saturday/Sunday  
19 morning and I heard music.

20 You also have these photographs.  
21 Now, there has been an admission that  
22 Investigator Maisel was running around the

1 place taking photos. That hasn't been  
2 contradicted. What is at issue is the time  
3 stamp, whether these photos accurately portray  
4 a violation of the law.

5 But again, zero evidence that  
6 Investigator Maisel was doing that before 2:00  
7 a.m., zero.

8 Now, there is a whole lot of other  
9 stuff that might lead you to question the  
10 credibility of some statements. I submit to  
11 you that the credibility at issue here is the  
12 credibility of the witness who testified for  
13 the Government, Investigator Lawson. And  
14 there is zero evidence to impugn his  
15 testimony.

16 Investigator Maisel took the  
17 photographs, printed them, gave them to him  
18 and said to him that this is what they were.  
19 She was with him. They were almost joined at  
20 the hip during their shifts together.

21 So any accusations about  
22 inappropriate conduct, including alcohol

1 consumption, as relates to Investigator  
2 Maisel, or even the conduct of Investigator  
3 Stewart. are completely and utterly irrelevant  
4 and should very well be the subject of an  
5 investigation by ABRA and there ought to be  
6 some conclusion and yes, perhaps the licensee  
7 ought to be contacted of the investigation if  
8 that is the process that the Agency uses in  
9 its normal course of business.

10           Whatever it is that is going on  
11 with the allegations with respect to these two  
12 individuals, that's the subject of an  
13 investigation. That has nothing to do with  
14 the fact of this case.

15           Now, you may choose to credit the  
16 licensee's statements about the inappropriate  
17 behavior of Investigator Maisel and the  
18 inappropriate behavior, according to the  
19 allegations, of Investigator Stewart.

20           Let's assume that this is true,  
21 that these people did what they did. It still  
22 has no bearing on my job, which is to give you

1 evidence to prove what I believe I have  
2 already proven by virtue of the fact that the  
3 critical information in front of you has not  
4 been contradicted by the other side.

5           And so you see, we really can help  
6 ourselves to clarity by focusing on what is  
7 entertainment and, more specifically, what is  
8 prerecorded music? And if you put two-and-two  
9 together and use a little bit of logic, you  
10 must know when you put together the definition  
11 of entertainment in DC Code 25-113(a), that  
12 the prerecorded music that the DJ uses is not  
13 part of the exemption that is listed in  
14 entertainment, because otherwise you don't  
15 have entertainment.

16           And so, unfortunately, you have a  
17 situation where the licensee indicates that he  
18 wasn't present hovering over the shoulder of  
19 the DJs. You have a situation where it was  
20 after 2:00 and the DJs were playing music and  
21 that's the end of the story.

22           I understand it's not a problem

1 now. The Board can take administrative notice  
2 that the licensee's hours have changed. But  
3 at the time of this incident, Exhibit 1 will  
4 show you that there has been a violation. And  
5 that's all this case is about. Thank you.

6 CHAIRPERSON MILLER: Thank you.

7 Mr. Wells?

8 MR. WELLS: Yes, thank you. If I  
9 may, this case is about so much more than just  
10 if a disc jockey was playing the music. As  
11 opposing counsel said, whether Mrs. Maisel  
12 accurately -- conduct had an issue, how can  
13 her conduct not have any bearing on this  
14 proceeding?

15 My entire complaint that I lodged  
16 the Monday morning was based on her conduct  
17 the evening of the Friday night of Saturday  
18 morning. Friday night/Saturday morning and  
19 Saturday night/Sunday morning, in which I  
20 stated she showed me her middle finger. She  
21 acted intoxicated. And I finally filed a  
22 formal complaint.

1                   Mr. Lawson, by his own admission,  
2                   has never walked into the establishment on any  
3                   nights in question, not one single night did  
4                   he walk in on Friday night to the area in  
5                   question of Sultra Lounge. He stayed by the  
6                   foyer Friday night and never made it past the  
7                   front door.

8                   Saturday night, he proceeded to  
9                   step in the front door and move to the left,  
10                  which is an entirely different building and  
11                  address. Okay? Never mentioned -- never  
12                  actually entered the area in question and yet,  
13                  still, I'm not supposed to question the  
14                  conduct of Ms. Maisel, who is the sole  
15                  presenter of this case? The sole person who  
16                  took these pictures? And she is not even  
17                  here. I don't know where she is yet. Nobody  
18                  has felt inclined to tell me, that's fine.

19                  But, yes, I have a problem with  
20                  her not being here to answer all these claims  
21                  that are made directly against her and Mr.  
22                  Lawson openly admitting to never coming into

1 my establishment at any point in time to the  
2 area in question where all of these  
3 allegations transpired.

4 He admits to showing up four  
5 minutes after she walked out of the door on  
6 Friday night and then three minutes after --  
7 three minutes -- no, no. After she -- three  
8 minutes after she walked to the front of the  
9 foyer area. So again, he never came into my  
10 establishment. This is on his own admission--  
11 by his own admission.

12 Opposing counsel's definition of  
13 live music, yes, it would be absolutely insane  
14 for us to go around and get every  
15 establishment to get an entertainment  
16 endorsement for playing background music. We  
17 know that. We deal with this every single  
18 day.

19 To think that the source of the  
20 music does not -- could not remain the same  
21 regardless of if you have a disc jockey  
22 present or not, is ludicrous because the disc

1 jockey -- where my disc jockey and where my  
2 music emanates from is there seven days a  
3 week.

4 And yes, he was instructed to play  
5 a CD. I admitted to that. He was instructed  
6 to play until 2:00 a.m. I admitted to that.  
7 I admitted to the fact that I told him and  
8 instructed him and he stopped playing at 2:00  
9 a.m.

10 The District has done nothing to  
11 prove by these pictures that my DJ was playing  
12 music other than playing from any other media  
13 that they normally would be. And any other  
14 establishment you go to closing down, you are  
15 still going to see -- hear music in the  
16 background.

17 The District has presented no  
18 evidence of anybody dancing on either night of  
19 the occasion, which would acknowledge that  
20 there was some kind of other live -- there was  
21 live entertainment and people were partying,  
22 you know.



1                   Unfortunately, there is no  
2                   evidence of that whatsoever and from my memory  
3                   and I was there, both nights were pretty dead  
4                   and there was practically no one there on  
5                   either of the nights when that Investigator  
6                   came in.

7                   One time was 2:18, one time was  
8                   2:50. Adams Morgan is pretty dead these days  
9                   around that time, especially during last year  
10                  when we were in the middle of the 18th Street  
11                  construction and I had a construction zone in  
12                  front of me.

13                  I'm sorry. So, yes, really, to  
14                  state that this is -- with the evidence that  
15                  the District has presented a substantial  
16                  change to my operating policy? No, I can't  
17                  agree with it. And none -- and the pictures  
18                  that are handwritten, this is the age of  
19                  digital pictures.

20                  All the pictures with the time  
21                  stamp written were two different areas of my  
22                  establishment with the exact same time stamp.

1 That is humanly impossible. And I'm supposed  
2 to question -- and I'm also questioning the  
3 conduct of an Investigator, who is not present  
4 to represent herself or defend herself as to  
5 her conduct being totally unprofessional and  
6 she was drunk. I don't care what anybody  
7 says, she was intoxicated. And I have  
8 witnesses to prove that, if we need to go  
9 forward further.

10 That's -- I mean, that's really I  
11 -- you know, like I said, that's my full case.  
12 I rest my case.

13 MR. RIVERO: The Government would  
14 object to any statements in closing argument  
15 that qualify as testimony and was not  
16 presented during the licensee's case.

17 CHAIRPERSON MILLER: It won't be  
18 considered as testimony as it wasn't under  
19 oath, correct. Okay.

20 MR. RIVERO: If it is included in  
21 closing --

22 CHAIRPERSON MILLER: I understand.

1 MR. RIVERO: -- and never  
2 mentioned before --

3 CHAIRPERSON MILLER: Yes.

4 MR. RIVERO: -- and it is of a  
5 testimonial nature, we would ask that it be  
6 stricken and not considered.

7 CHAIRPERSON MILLER: Yes. Mr.  
8 Wells is not an attorney. And, Mr. Rivero,  
9 unless you object, the way I see it is that  
10 closing is argument and that whatever evidence  
11 might be put in in closing is not evidence in  
12 the record. It's just argument.

13 MR. RIVERO: Okay. Great.

14 CHAIRPERSON MILLER: So, yes, it  
15 won't be considered as testimony.

16 MR. RIVERO: Thank you.

17 CHAIRPERSON MILLER: All right.  
18 At this point, I'm about to close the record.  
19 Is there anything else anyone wants to put  
20 into the record, at this time?

21 MR. RIVERO: Not the Government.

22 MR. WELLS: No. I would just like

1 to thank the Board for my lack of  
2 understanding of the procedural formalities  
3 here. Sorry about that.

4 CHAIRPERSON MILLER: No, that's  
5 okay. You are not an attorney and it's -- a  
6 non-attorney, unless you are an attorney.

7 MR. WELLS: I'm not an attorney.

8 CHAIRPERSON MILLER: Okay. Okay.

9 MR. WELLS: Sorry.

10 CHAIRPERSON MILLER: This is the  
11 next question and you may need help on this  
12 one, but do the parties want to file proposed  
13 findings of fact and conclusions of law or  
14 waive their right to do so?

15 MR. RIVERO: The Government will  
16 waive.

17 CHAIRPERSON MILLER: Okay. And do  
18 you understand what the question is?

19 MR. WELLS: I'm sorry, what was  
20 the question?

21 CHAIRPERSON MILLER: Okay. You  
22 have a legal right to file proposed findings

1 of fact and conclusions of law, based on the  
2 evidence that is in the record. The  
3 Government is waiving its rights. Most  
4 participants in these proceedings don't. It's  
5 like a legal brief that can be done.

6 You would have to get the  
7 transcript and then make your arguments in  
8 writing, but you have a right to do so, if you  
9 choose.

10 MR. WELLS: I waive.

11 CHAIRPERSON MILLER: Okay. So you  
12 will waive. Okay.

13 And I'm just going to say I didn't  
14 -- when you asked about Ms. Maisel before why  
15 they didn't produce Ms. Maisel as a witness,  
16 I sustained the objection because a party  
17 doesn't have to explain their case why you are  
18 there and presenting a witness or not  
19 presenting a witness.

20 But just for a point of  
21 information, and that may not go to whether or  
22 not the reason she did not appear today, I

1 don't know, but she is not with the Agency any  
2 more, just for your own knowledge.

3 Okay. So now, I'm going to close  
4 out this hearing and just read our Open  
5 Meetings instructions for this as we will be  
6 deliberating on this later in Executive  
7 Session.

8 As Chairperson of the Alcoholic  
9 Beverage Control Board for the District of  
10 Columbia and in accordance with Section 405 of  
11 the Open Meetings Amendment Act of 2010, I  
12 move that the ABC Board hold a closed meeting  
13 for purposes of seeking legal advice from our  
14 counsel on Case No. 12-CMP-00105, Sultra  
15 Lounge, per Section 405(b)(4) of the Open  
16 Meetings Amendment Act of 2010, and  
17 deliberating upon this case for the reasons  
18 cited in Section 405(b)(13) of the Open  
19 Meetings Amendment Act of 2010.

20 Is there a second?

21 MEMBER BROOKS: Second.

22 CHAIRPERSON MILLER: Mr. Brooks

1 has seconded the motion. I will now take a  
2 roll call on the motion now that it has been  
3 seconded.

4 Mr. Brooks?

5 MEMBER BROOKS: I agree.

6 CHAIRPERSON MILLER: Mr. Alberti?

7 MEMBER ALBERTI: I agree.

8 CHAIRPERSON MILLER: Ms. Miller  
9 agrees.

10 Mr. Silverstein?

11 MEMBER SILVERSTEIN: I agree.

12 CHAIRPERSON MILLER: Mr. Jones?

13 MEMBER JONES: I agree.

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

16 I hereby give notice that the ABC  
17 Board will recess this proceeding to hold a  
18 closed meeting in the ABC Board conference  
19 room pursuant to the Open Meetings Amendment  
20 Act of 2010 later in the day. Okay. And we  
21 will issue an order within 90 days.

22 Any other questions? It has been

1 a long morning. Thank you very much.

2 MR. WELLS: Thank you.

3 CHAIRPERSON MILLER: Okay. We  
4 have a 1:30 hearing, so we will recess now at  
5 least until then.

6 (Whereupon, the Show Cause Hearing  
7 in the above-entitled matter was concluded at  
8 1:19 p.m.)

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