

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :

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Rose's Dream, Inc. :

t/a Rose's Dream : Show Cause

1370 H Street, NE : Hearing

Retailer Caterer - ANC-6A:

License No. 87032 :

Case #12-CMP-00231 :

:

(Catering License :

Violation, Establishment :

Accepted Gift, Failed to :

Provide Invoices for :

Purchased Food) :

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February 20, 2013

The Alcoholic Beverage Control
Board met in the Alcoholic Beverage Control

Hearing Room, 2000 14th Street, N.W., Suite
400S Washington, D.C. 20009, Chairperson
Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

HERMAN JONES, Member

MIKE SILVERSTEIN, Member

ALSO PRESENT:

FERNANDO RIVERO, OAG

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

(3:23 p.m.)

CHAIRPERSON MILLER: Okay.

Welcome to our afternoon hearing. The first case on the calendar is Case No. 12-CMP-00231. This is Rose's Dream located at 1370 H Street, N.E., License No. 87023 in ANC-6A. And this is a Show Cause Hearing scheduled for 3:30. It is 3:24, but it looks like everyone is here.

We're not waiting for anyone, are we? Okay. Then Mr. Jones will be joining us shortly as well.

Why don't we start with introductions?

MR. RIVERO: Good morning or good afternoon, Board Members. Fernando Rivero for the District of Columbia.

CHAIRPERSON MILLER: Okay.

MS. ROBERTS: Veronica Roberts, the owner of Rose's Dream.

CHAIRPERSON MILLER: Okay.

1 MR. ROBERTS: I'm Clive Roberts
2 and I'm the manager and the husband of the
3 owner of Rose's Dream.

4 CHAIRPERSON MILLER: All right.
5 And did you sign in?

6 MR. ROBERTS: Yes.

7 MS. ROBERTS: Yes, we both did.

8 CHAIRPERSON MILLER: Okay. Okay.
9 So this is a Show Cause Hearing, as I stated.

10 Mr. Rivero, are there any
11 preliminary issues?

12 MR. RIVERO: No, there are not.
13 The Government will move forward today with
14 the case.

15 CHAIRPERSON MILLER: Okay. Then
16 let me ask the Roberts, are you familiar with
17 these proceedings at all for hearing?

18 MR. ROBERTS: Um, no.

19 CHAIRPERSON MILLER: Okay. I just
20 want to give you an idea how they flow, so you
21 will know what to expect and what you can do.

22 It's like any other administrative

1 hearing with witnesses and questions and
2 cross-exam. It starts out with the
3 Government. They have the burden of proof.
4 Mr. Rivero will most likely given an opening
5 statement, that is optional. And then he will
6 present his case.

7 You have the option of doing an
8 opening statement as well, but it is not
9 required at all. It is not evidence. It's
10 just legal speak for what they are going to
11 show in their case. And you can decide that
12 even after he does his whole case. If you
13 didn't want to do an opening statement after
14 he does his, when it comes to your case, which
15 is second, you will have an option to do that.

16 Okay. And then he will put on a
17 witness or two or three o whatever and he will
18 ask questions and then you have an opportunity
19 to ask questions, based on the testimony. And
20 the Board has the opportunity to do the same.
21 Yours is called like cross-examination.

22 And then he will go through his

1 witnesses. Then you go through your
2 witnesses. And if there are any documents you
3 want to put into evidence, you can ask to do
4 that. You have to show it to the other side
5 and you have an opportunity to object and then
6 the Board will decide.

7 Okay. So he will do his, you will
8 do yours and then you can do closing
9 statements, which sum up. It's not evidence.
10 It sums up what your case was that you made.

11 So that's how it goes. If you
12 have any questions on the way, feel free to
13 ask me. Okay. And there may be objections at
14 certain times, legal objections. If you are
15 making a statement, for instance, instead of
16 asking a question or whatever, don't get
17 thrown by it. You know, we will just tell you
18 what that's about.

19 All right. So, Mr. Rivero, I'll
20 turn to you. Do you have any opening
21 statement?

22 MR. RIVERO: Thank you. Good

1 afternoon, Board Members. We are here today
2 in the Show Cause matter of Rose's Dream,
3 Incorporated t/a Rose's Dream Catering License
4 No. 87032. The address associated with that
5 license is 1370 H Street, N.E.

6 The Show Cause Notice issued in
7 this matter concerns the charge that the
8 licensee failed to serve prepared food under
9 the catering license, accepted a gift from an
10 alcohol manufacturer and failed to provide
11 invoices for food and alcohol purchase under
12 the catering license, all of which are
13 separate violations of Title 25 of the DC
14 Code.

15 It is our belief that a
16 preponderance of the evidence, based on
17 testimony of our witness, ABRA Investigator
18 Erin Mathieson, will show that on the evening
19 of April 29, 2012, the licensee provided
20 catering at an event that had all the indicia
21 of an operation that appeared to be prone to
22 errors.

1 A crude makeshift bar supported
2 alcoholic beverages, but showed no evidence of
3 prepared food, so-called Boca Burgers,
4 hamburger rolls, cheddar cheese in a box,
5 carrots in a cup and chips are not prepared
6 food.

7 In fact, the whole operation was
8 shutdown by the Fire Marshal that night
9 because the permit for the building limited
10 its use to retail. Mr. Clive Roberts, ABC
11 Manager for the catering license, was not able
12 to provide receipts for all the alcohol
13 purchased and ended up providing a receipt
14 that showed that a manufacturer, DC Brau
15 Brewing provided a gift, counter to law.

16 The caterers failure to provide
17 invoices as required by law extended to the
18 purchase of food as well. No invoices were
19 ever presented to the ABRA Investigator to
20 account for the purchases of both alcoholic
21 and nonalcoholic beverages that the
22 Investigator observed at the night of the

1 party.

2 This is what we will show today.

3 CHAIRPERSON MILLER: Thank you.

4 Okay. Ms. Roberts, do you want to make an
5 opening statement or --

6 MS. ROBERTS: Well, only we have
7 me to talk and I prefer my husband talking
8 seeing as there -- and I'm not, you know, the
9 business outright to let him tell what
10 happened, because I wasn't there.

11 CHAIRPERSON MILLER: Okay. That
12 will be -- he will be your witness.

13 MS. ROBERTS: Okay.

14 CHAIRPERSON MILLER: Okay. So
15 that's not an opening statement.

16 MS. ROBERTS: Oh, no, I don't have
17 an opening statement.

18 CHAIRPERSON MILLER: Okay. Is
19 that your only witness, Mr. Roberts?

20 MR. ROBERTS: Yes.

21 CHAIRPERSON MILLER: Okay. And I
22 just wanted to double check, Mr. Fernando, how

1 many witnesses do you have?

2 MR. RIVERO: One.

3 CHAIRPERSON MILLER: Okay. Mr.

4 Rivero?

5 MR. RIVERO: I will call --

6 CHAIRPERSON MILLER: Okay.

7 MR. RIVERO: -- Investigator

8 Mathieson to the stand now.

9 CHAIRPERSON MILLER: Okay. Thank

10 you.

11 Whereupon,

12 INVESTIGATOR ERIN MATHIESON

13 was called as a witness by Counsel for the

14 Government, and having been first duly sworn,

15 assumed the witness stand and was examined and

16 testified as follows:

17 CHAIRPERSON MILLER: Okay. Thank

18 you.

19 DIRECT EXAMINATION

20 MR. RIVERO: Make sure that

21 microphone is on.

22 Good afternoon, what's your name?

1 INVESTIGATOR MATHIESON: Erin
2 Mathieson. The last name is M-A-T-H-I-E-S-O-
3 N.

4 MR. RIVERO: Ms. Mathieson, what
5 is your occupation?

6 INVESTIGATOR MATHIESON: I'm an
7 Investigator with the Alcoholic Beverage
8 Regulation Administration.

9 MR. RIVERO: Okay. And how long
10 have you been an Investigator for ABRA?

11 INVESTIGATOR MATHIESON: Just over
12 four years.

13 MR. RIVERO: Okay. And what are
14 your duties as an Investigator for ABRA?

15 INVESTIGATOR MATHIESON: I conduct
16 inspections and investigations in ABC-licensed
17 establishments throughout the District of
18 Columbia.

19 MR. RIVERO: Okay. And are you
20 familiar with Rose's Dream Catering?

21 INVESTIGATOR MATHIESON: Yes.

22 MR. RIVERO: And how are you

1 familiar with this entity?

2 INVESTIGATOR MATHIESON: On the
3 night of February 29, 2012, we received a
4 phone call to the ABRA Hotline for an issue
5 surrounding an unlicensed location using a
6 catering license, which was subsequently
7 identified as Rose's Dream Catering License.

8 MR. RIVERO: Okay. And when did
9 you arrive at the establishment? Did you --
10 what follow-through did you do for the
11 complainant? Did you go there?

12 INVESTIGATOR MATHIESON: Yes.
13 Upon receiving the phone call, I responded to
14 the location and I arrived at, approximately,
15 12:25 a.m.

16 MR. RIVERO: Okay. And who did
17 you see when you got there?

18 INVESTIGATOR MATHIESON: Upon
19 arriving on the scene, I was met by members of
20 the Metropolitan Police Department in addition
21 to members from the Fire Marshal.

22 MR. RIVERO: Okay. And what did

1 MPD tell you?

2 INVESTIGATOR MATHIESON: The
3 Metropolitan Police Department advised me that
4 the establishment was open as a club and was
5 operating with a catering license. They then
6 provided me a copy of the catering license, a
7 copy of the Certificate of Occupancy and in
8 addition identified the person in charge of
9 the event as Clive Roberts, the ABC Manager.

10 MR. RIVERO: Okay. And what
11 license was shown to you again?

12 INVESTIGATOR MATHIESON: The
13 catering license.

14 MR. RIVERO: Okay. And you said
15 that you saw a Certificate of Occupancy?

16 INVESTIGATOR MATHIESON: Correct.

17 MR. RIVERO: Okay. And did you
18 inspect it?

19 INVESTIGATOR MATHIESON: Yes.

20 MR. RIVERO: And what did you see
21 when you inspected the Certificate of
22 Occupancy?

1 INVESTIGATOR MATHIESON: Upon
2 reviewing the Certificate of Occupancy, I
3 noted that it was a license for retail space.

4 MR. RIVERO: Okay. It wasn't a
5 license for anything other than a retail
6 space?

7 INVESTIGATOR MATHIESON: Yes, for
8 retail.

9 MR. RIVERO: Okay. Did you --
10 with whom did you speak next?

11 INVESTIGATOR MATHIESON: Then I
12 spoke with Mr. Roberts, the ABC Manager on the
13 premises.

14 MR. RIVERO: Okay. And Mr.
15 Roberts, did you say, is the ABC Manager?

16 INVESTIGATOR MATHIESON: Correct.

17 MR. RIVERO: Okay. Does he own
18 the license?

19 INVESTIGATOR MATHIESON: No,
20 subsequent research of the license indicated
21 that Veronica Roberts, his wife, is the sole
22 owner of the license.

1 MR. RIVERO: What did you discuss
2 with Mr. Roberts?

3 INVESTIGATOR MATHIESON: Mr.
4 Roberts stated that he was the caterer for the
5 event and indicated that he was hired for the
6 service of food and alcohol.

7 MR. RIVERO: Okay. What else did
8 you discuss with him?

9 INVESTIGATOR MATHIESON: I asked
10 Mr. Roberts if he had a contract in place with
11 the promoter for the event and he stated that
12 there was a verbal agreement. I also asked
13 him what type of food was being served and he
14 indicated that it was hamburgers, hot dogs,
15 chips and dip.

16 MR. RIVERO: You spoke to someone
17 else next?

18 INVESTIGATOR MATHIESON: Yes.

19 MR. RIVERO: And who was that?

20 INVESTIGATOR MATHIESON: I also
21 spoke with the promoter for the event who was
22 identified as David Fogel.

1 MR. RIVERO: Okay. And what did
2 you discuss with Mr. Fogel?

3 INVESTIGATOR MATHIESON: Mr. Fogel
4 advised me that the event was prepared for a
5 Forward Festival which was, if I do, an
6 electronic event and he indicated that it had
7 been going on for several years and they had
8 never had an issue prior to this.

9 I advised Mr. Fogel the issue
10 appeared to be with the Certificate of
11 Occupancy and that it was being used -- or
12 that it was issued for a retail space as
13 opposed to an office.

14 MR. RIVERO: All right. And then
15 what happened next?

16 INVESTIGATOR MATHIESON: I asked
17 Mr. Fogel how many people would be attending
18 or expected to attend the event and he stated,
19 approximately 150 to 200 people and further
20 stated they had brought in a guest DJ from
21 England for the evening.

22 I asked Mr. Fogel who was

1 providing the food and alcohol and he stated
2 that the catering company was doing so and
3 indicated Clive Roberts was responsible for
4 that. I asked Mr. Fogel if he had a contract
5 with Mr. Roberts for the catering services and
6 he stated there was a verbal agreement for
7 alcohol and barbecue-style food.

8 MR. RIVERO: Okay. All right.

9 And then what happened after that?

10 INVESTIGATOR MATHIESON: I
11 additionally asked Mr. Fogel what time the
12 event had started and he indicated at,
13 approximately, 9:00 p.m., which was about
14 three hours prior to the arrival of MPD.

15 MR. RIVERO: Okay. Did you get to
16 enter the premises?

17 INVESTIGATOR MATHIESON: Yes.
18 Myself, at that point, along with members of
19 MPD and the Fire Marshal entered the location
20 at 1351 H Street, N.E.

21 MR. RIVERO: Okay. And around
22 what time do you think that was that you

1 entered the establishment?

2 INVESTIGATOR MATHIESON: That was
3 probably about 15 to 20 minutes after I
4 arrived, so just before 1:00 a.m.

5 MR. RIVERO: Okay. And then what
6 did you observe when you entered?

7 INVESTIGATOR MATHIESON: Upon
8 entering the establishment, there were -- I
9 observed, approximately, 15 to 20 patrons
10 inside. There was a dance floor area with
11 some curtains to the right. And towards the
12 middle of the establishment, there was a bar
13 area that had been constructed.

14 MR. RIVERO: Okay. All right.
15 I'm going to go ahead and show you an exhibit
16 that has been marked as Government's Exhibit
17 1 for identification.

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

21 MR. RIVERO: A copy of which has
22 been provided to the licensee and copies of

1 which are available to Board Members as well.

2 And this is a several page, about an eight
3 page, exhibit.

4 Why don't you take a look at these
5 and tell me what they appear to be to you?

6 INVESTIGATOR MATHIESON: These are
7 photographs of the bar area that existed on
8 the night we arrived.

9 MR. RIVERO: Okay. These are
10 copies of photos, right?

11 INVESTIGATOR MATHIESON: Correct.

12 MR. RIVERO: Who took those
13 photos?

14 INVESTIGATOR MATHIESON: I took
15 these.

16 MR. RIVERO: Okay. And do those
17 photos accurately depict what you saw that
18 night?

19 INVESTIGATOR MATHIESON: Yes.

20 MR. RIVERO: Okay. The Government
21 would like to move Exhibit 1 into evidence,
22 which is a series of photos of the interior of

1 the establishment, a total of eight photos
2 into evidence at this time.

3 CHAIRPERSON MILLER: Who took
4 these photos?

5 MR. RIVERO: Pardon me?

6 CHAIRPERSON MILLER: Can you tell
7 me who took the photos?

8 MR. RIVERO: Yes, she said she
9 took the photos.

10 CHAIRPERSON MILLER: She said she
11 took it? Okay. I'm sorry, I missed that.
12 Thank you.

13 INVESTIGATOR MATHIESON: Yes.

14 CHAIRPERSON MILLER: Ms. Roberts,
15 do you have any objection?

16 MR. ROBERTS: Um --

17 CHAIRPERSON MILLER: Let me say
18 something. Okay? Yes. But basically one of
19 you can be the spokesperson like the attorney.
20 So that will be Mr. Roberts?

21 MS. ROBERTS: Yes, please.

22 CHAIRPERSON MILLER: Okay. Except

1 when he is on the witness stand.

2 MS. ROBERTS: Okay.

3 CHAIRPERSON MILLER: Okay. Yes,
4 okay.

5 MR. ROBERTS: Okay. Is this like
6 -- you said is there any objection?

7 CHAIRPERSON MILLER: Yes. They
8 are basically legal objections, but if there
9 was something where you felt this wasn't an
10 accurate depiction of your -- of the bar that
11 night or something or you have some reason
12 to --

13 MR. ROBERTS: Oh, in regards to
14 the pictures.

15 CHAIRPERSON MILLER: Just the
16 pictures.

17 MR. ROBERTS: To the exhibits?
18 No.

19 CHAIRPERSON MILLER: Okay. All
20 right. Then I'm sorry, I may have missed --
21 Ms. Mathieson, I just want to ask you, you
22 took the pictures and when did you take them,

1 that night?

2 INVESTIGATOR MATHIESON: Yes, on
3 the night of the event, April 29, 2012.

4 CHAIRPERSON MILLER: Okay. And do
5 you know what time?

6 INVESTIGATOR MATHIESON: When I
7 entered the establishment it was just before
8 1:00 in the morning.

9 CHAIRPERSON MILLER: Okay. All
10 right. Then these pictures are admitted into
11 evidence as Government's Exhibit No. 1. They
12 are consisting of eight photos.

13 (Whereupon, the document marked as
14 Government Exhibit 1 was received
15 in evidence.)

16 MR. RIVERO: Right.

17 CHAIRPERSON MILLER: Okay.

18 MR. RIVERO: Would you look at the
19 first photo and tell us what that is a photo
20 of?

21 INVESTIGATOR MATHIESON: This is a
22 photograph of the entire bar area. There were

1 several folding tables that had been set up
2 with alcoholic beverages and mixed juices.
3 There is some alcohol that was spilled
4 underneath the table. Those are bottles of
5 liquor. There is a menu.

6 MR. RIVERO: What kind of menu?

7 INVESTIGATOR MATHIESON: It's a
8 drink menu.

9 MR. RIVERO: Okay. All right.
10 Take a look at the second photograph and
11 what's that picture of?

12 INVESTIGATOR MATHIESON: It's a
13 picture of the kegs that are being -- or the
14 keg alcohol that was being served from DC
15 Brau.

16 MR. RIVERO: Okay. Look at the
17 third photo there, what is that a photo of?

18 INVESTIGATOR MATHIESON: That's a
19 cooler that had been set out with Miller
20 Genuine Draft cans and bottled water.

21 MR. RIVERO: Now, look at the
22 fourth photograph. Tell us what that is a

1 picture of.

2 INVESTIGATOR MATHIESON: Those are
3 the boxes of alcohol that were under one of
4 the tables. They were all various flavors of
5 Smirnoff Vodka.

6 MR. RIVERO: Okay. The fifth
7 photograph, what does that depict?

8 INVESTIGATOR MATHIESON: That was
9 for -- from one of the table tops and it's
10 some seltzer water and some juice and some
11 cups with carrots that were in them.

12 MR. RIVERO: Okay. And the sixth
13 photo, what does that depict?

14 INVESTIGATOR MATHIESON: These are
15 a couple of the bagged chips that were
16 available on one of the tables.

17 MR. RIVERO: Okay. And the
18 seventh photo, what is that?

19 INVESTIGATOR MATHIESON: It's a
20 close-up of the menu where the drunk-punch was
21 served at \$8 and the DC Draft Brau is \$5 and
22 the water for \$4.

1 MR. RIVERO: What evidence did you
2 observe with the listing of the booze?

3 INVESTIGATOR MATHIESON: There
4 were no menus that were observed inside of any
5 food. There was no pricing for the carrot
6 sticks or the chips --

7 MR. RIVERO: Okay.

8 INVESTIGATOR MATHIESON: -- that
9 were available on the table.

10 MR. RIVERO: And look at this last
11 one, the eighth photo here.

12 INVESTIGATOR MATHIESON: Right.

13 MR. RIVERO: What does that depict
14 to you?

15 INVESTIGATOR MATHIESON: That's a
16 package of hamburger rolls, a package of
17 cheese and a package of Boca Burgers all were
18 unopened and sitting in a box that was located
19 at the bottom of the stairs.

20 MR. RIVERO: Okay. All right.
21 All right. So after you inspected that area,
22 did you get to inspect any other area of the

1 establishment?

2 INVESTIGATOR MATHIESON: Yes.

3 MR. RIVERO: Where else did you
4 go?

5 INVESTIGATOR MATHIESON: While I
6 was inside, I should say, I was met by Mr.
7 Roberts as well. After observing all of the
8 area, I asked Mr. Roberts where the food had
9 been set up and Mr. Roberts indicated to me,
10 at that time, there had been a table set up
11 with food on it, but advised me that the food
12 had already been consumed.

13 MR. RIVERO: Okay. And then what
14 happened?

15 INVESTIGATOR MATHIESON: I began
16 to walk around the entire premise and looking
17 for any indication of tables that had been
18 taken down or food that had been consumed,
19 paper plates, forks, anything of that nature.
20 I didn't see anything. I didn't see any
21 evidence of tables.

22 I then also went to the rear of

1 the establishment where there was another door
2 that led to an outdoor area. I went outside
3 looking for, again, evidence of any kind of
4 food, any kind of tables and all that I
5 observed were additional kegs from DC Brau
6 along with some ice.

7 MR. RIVERO: Okay. All right.
8 And what evidence, if any, did you find
9 concerning any kind of pricing?

10 INVESTIGATOR MATHIESON: I did
11 see, while inside the establishment, there was
12 an advertisement for the Forward Festival,
13 which advertised a pass for all the festivals,
14 some drink tickets, T-shirt, etcetera.

15 MR. RIVERO: Okay. I'm going to
16 go ahead and show you what I have marked
17 Exhibit 2 for identification for the
18 Government, a copy of which has been provided
19 to the licensee and a copies of which are
20 available to Board Members for review.

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

1 identification.)

2 MR. RIVERO: What does that look
3 like to you?

4 INVESTIGATOR MATHIESON: It's a
5 copy of the advertisement for the Forward
6 Festival.

7 MR. RIVERO: It's a photo of the
8 advertisement, right?

9 INVESTIGATOR MATHIESON: Correct.

10 MR. RIVERO: Because I see a hand
11 in there, right?

12 INVESTIGATOR MATHIESON: Yes,
13 correct.

14 MR. RIVERO: Okay. And who took
15 that photo?

16 INVESTIGATOR MATHIESON: I took
17 it.

18 MR. RIVERO: Okay. And is that an
19 accurate depiction of what you saw that night?

20 INVESTIGATOR MATHIESON: Yes.

21 MR. RIVERO: Okay. The Government
22 will go ahead and move the photograph and the

1 flyer into evidence, at this time.

2 CHAIRPERSON MILLER: Thank you.

3 Do you have any objection, Mr. Roberts?

4 MR. ROBERTS: (No audible answer.)

5 CHAIRPERSON MILLER: Okay. I'm

6 sorry, Mr. Rivero, where was this photo?

7 Where was the flyer?

8 MR. RIVERO: This is a flyer she

9 found in the -- on the premises.

10 CHAIRPERSON MILLER: On the

11 premises that evening? Okay. Thank you.

12 MR. RIVERO: We'll give them to

13 you there, so that you can take a look at it.

14 (Whereupon, the document marked as

15 Government Exhibit 2 was received

16 in evidence.)

17 MR. RIVERO: So what was the price

18 of the tickets that were sold at the event?

19 INVESTIGATOR MATHIESON: Yes, the

20 festival pack was listed as \$120.

21 MR. RIVERO: Okay. And what other

22 items were being advertised for sale there?

1 INVESTIGATOR MATHIESON: T-Shirts,
2 festival CDs, pens and then prior year's T-
3 Shirts and CDs.

4 MR. RIVERO: Okay. Is there any
5 evidence of food advertised?

6 INVESTIGATOR MATHIESON: No.

7 MR. RIVERO: Okay. All right.
8 All right. So after your inspection of that
9 flyer and the establishment, then what did you
10 do?

11 INVESTIGATOR MATHIESON: I then
12 returned to the front of the establishment and
13 the sidewalk area outside where I was met by
14 Inspector Worrell from the Fire Marshal.

15 MR. RIVERO: And what did you
16 discuss with Inspector Worrell?

17 INVESTIGATOR MATHIESON: Inspector
18 Worrell advised me that the event was going to
19 be shutdown for two reasons. The operator did
20 not have a business license and in addition,
21 there was a change of use to the Certificate
22 of Occupancy.

1 MR. RIVERO: Okay. And did you
2 observe the establishment being shutdown?

3 INVESTIGATOR MATHIESON: Yes.

4 MR. RIVERO: Okay. And what, if
5 any, other interactions did you have with MPD
6 or the Fire Marshal when that was taking
7 place?

8 INVESTIGATOR MATHIESON: As the
9 Fire Marshal was shutting down the event,
10 myself and MPD were standing at the front of
11 the establishment. MPD began to check some of
12 the identifications of patrons visiting. One
13 of the patrons provided a North Carolina
14 driver's license indicating that he was 20
15 years-old.

16 MR. RIVERO: Okay. And you
17 observed this yourself?

18 INVESTIGATOR MATHIESON: Correct.

19 MR. RIVERO: Was there some sort
20 of interaction between the patron and the
21 police officer?

22 INVESTIGATOR MATHIESON: Yes.

1 MR. RIVERO: What did you see?

2 INVESTIGATOR MATHIESON: He asked
3 the patron how he was able to gain entry into
4 the establishment with an identification
5 listing he was 20 years-old and the patron
6 advised that he was friends with the promotor
7 for the event, David Fogel.

8 He further advised that he was
9 only inside for, approximately, 20 minutes and
10 did not consume alcoholic beverages while
11 inside.

12 MR. RIVERO: Okay. All right.
13 And so let me just ask you, what
14 documentation, if any, did you request from
15 the caterer to conduct your investigation?

16 INVESTIGATOR MATHIESON: On the
17 night of the incident, I asked for the
18 invoices for the alcoholic beverages. I was
19 provided with a copy of a single invoice from
20 Washington Wholesaler.

21 Upon review of that invoice, it
22 was apparent to me that it had -- the invoice

1 was for Rose's Dream Bar and Lounge, which
2 carries a separate license number than the
3 catering license.

4 MR. RIVERO: Okay. And so did you
5 discuss, obtain or see any receipts of any
6 documentation on the night of your inspection?

7 INVESTIGATOR MATHIESON: That was
8 the only invoice I was able to view on the
9 night of the inspection. I did further advise
10 Mr. Roberts, the ABC Manager, that I would
11 need to view all of the alcoholic beverage
12 purchases or invoices, excuse me, in addition
13 to all food invoices from the event in order
14 to complete my investigation.

15 MR. RIVERO: Okay. And then what
16 was the response you got?

17 INVESTIGATOR MATHIESON: Mr.
18 Roberts and myself agreed that I would contact
19 him the following week to set up a time to
20 review the invoices.

21 MR. RIVERO: Okay. And did you do
22 anything further that night, at that location?

1 INVESTIGATOR MATHIESON: Not on
2 that evening, no.

3 MR. RIVERO: Okay. And then what
4 happened?

5 INVESTIGATOR MATHIESON:
6 Subsequently on Thursday, May 3, 2012, I spoke
7 telephonically with Clive Roberts who is the
8 ABC manager on duty at the time of the event.
9 Mr. Roberts advised me that because the event
10 was not over 100 people, he had purchased all
11 his alcohol from retail stores and Washington
12 Cash and Carry.

13 MR. RIVERO: Okay. And did you
14 conduct any follow-up with respect to the
15 documentation?

16 INVESTIGATOR MATHIESON: Yes. I
17 advised Mr. Roberts that regardless of where
18 he purchased the alcoholic beverages, he was
19 still required to provide copies of the
20 invoices. I additionally advised him that I
21 would need copies of the invoices for food
22 that was served at the event.

1 Mr. Roberts advised me that he did
2 not have the food invoices, because he
3 purchased the food from the Giant Grocery
4 Store. I again advised Mr. Roberts that it
5 was fine that he purchased the food from the
6 Giant Grocery Store, however, I would need
7 copies of all invoices pertaining to the event
8 that was held on April 29th to include food
9 and alcohol.

10 MR. RIVERO: Okay. And then what
11 did you do after that?

12 INVESTIGATOR MATHIESON: Mr.
13 Roberts said he would bring the files that he
14 had to the ABRA office and drop it off on
15 Wednesday, May 9, 2012.

16 MR. RIVERO: Okay. All right.
17 Did you have any occasion to conduct your own
18 research into these issues in the
19 investigation?

20 INVESTIGATOR MATHIESON: Yes. I
21 contacted Hanna Jenkins, who is the supervisor
22 at the Washington Wholesale Liquor Company.

1 I provided her with the invoice number that I
2 viewed on the night of the incident and asked
3 her if she could provide me with a copy of
4 that invoice.

5 MR. RIVERO: Okay. Let me go
6 ahead and show you what I have marked
7 Government's Exhibit 3 for identification.
8 Copies have been provided to the licensee and
9 copies are here for the Board Members.

10 (Whereupon, the document was
11 marked as Government Exhibit 3 for
12 identification.)

13 MR. RIVERO: What does that
14 document look like to you?

15 INVESTIGATOR MATHIESON: This is a
16 copy of the invoice that I viewed on the night
17 of the incident, April 20, 2012, which was
18 sent to me through Washington Wholesale
19 Company.

20 MR. RIVERO: This looks like an
21 email, right?

22 INVESTIGATOR MATHIESON: Correct.

1 MR. RIVERO: Okay. Did you
2 receive this?

3 INVESTIGATOR MATHIESON: Yes.

4 MR. RIVERO: Is this an accurate
5 copy of the email that you received?

6 INVESTIGATOR MATHIESON: Yes.

7 MR. RIVERO: Of the food screen
8 shot?

9 INVESTIGATOR MATHIESON: Yes.

10 MR. RIVERO: Okay. The Government
11 will go ahead and move into evidence, at this
12 time, a copy of this screen shot received by
13 the investigator into evidence, at this time.

14 CHAIRPERSON MILLER: And who was
15 it sent by?

16 MR. RIVERO: Hanna Jenkins.

17 CHAIRPERSON MILLER: Hanna
18 Jenkins, okay. Mr. Roberts, do you have an
19 objection?

20 MR. ROBERTS: No.

21 CHAIRPERSON MILLER: Okay. All
22 right. Then this will be admitted as

1 Government's Exhibit No. 3.

2 MR. RIVERO: Yes.

3 (Whereupon, the document marked as
4 Government Exhibit 3 was received
5 in evidence.)

6 MR. RIVERO: Let's take a look at
7 the screen shot here.

8 INVESTIGATOR MATHIESON: Yes.

9 MR. RIVERO: Okay. This is an
10 invoice, right?

11 INVESTIGATOR MATHIESON: Correct.

12 MR. RIVERO: Now, you indicated --
13 you testified about the invoice that you saw
14 the night of the investigation.

15 INVESTIGATOR MATHIESON: Yes.

16 MR. RIVERO: What was the
17 relationship between that invoice and this
18 document here that I'm giving you right now?

19 INVESTIGATOR MATHIESON: They are
20 the same.

21 MR. RIVERO: Okay. Well, you saw
22 this paper?

1 INVESTIGATOR MATHIESON: Well,
2 yes, the difference would be the invoice on
3 the night of the incident that I viewed was
4 the original copy, whereas this is a copy
5 provided by the Wholesaler. However, the
6 information captured on both is the same.

7 MR. RIVERO: Okay. And what
8 information is captured?

9 INVESTIGATOR MATHIESON: It
10 represents Smirnoff bottle purchases, some
11 bourbon, Tanqueray, Seagrams in addition to
12 the invoice number, which is the same and the
13 purchaser which was Rose's Dream Bar and
14 Lounge.

15 MR. RIVERO: Okay. Was the
16 purchaser the caterer or the restaurant?

17 INVESTIGATOR MATHIESON: No, the
18 purchaser was a restaurant class license.

19 MR. RIVERO: How do you know that?

20 INVESTIGATOR MATHIESON: There are
21 two licenses that are listed for 1370 H
22 Street, N.E. One is a restaurant class

1 license and the other is a caterer license.

2 MR. RIVERO: So which restaurant
3 class license is connected to this purchase?

4 INVESTIGATOR MATHIESON: Rose's.

5 MR. RIVERO: I mean, which license
6 is connected to this purchase?

7 INVESTIGATOR MATHIESON: The
8 restaurant class license, Rose's Dream Bar and
9 Lounge.

10 MR. RIVERO: Okay. Okay. You had
11 made an arrangement with Mr. Roberts to meet
12 to further your investigation, right?

13 INVESTIGATOR MATHIESON: Correct.

14 MR. RIVERO: What happened there?

15 INVESTIGATOR MATHIESON: On
16 Wednesday, May 9, 2012, Mr. Roberts dropped
17 off a package for myself at the ABRA Office
18 and included in the package was an invoice
19 from Washington Liquor Wholesale Company dated
20 April 19, 2012.

21 MR. RIVERO: Okay. And what was--
22 what did you do with that information?

1 INVESTIGATOR MATHIESON: I
2 answered that in a part of the exhibit in my
3 report.

4 MR. RIVERO: Okay.

5 INVESTIGATOR MATHIESON: The
6 invoice was included for additional numerous
7 bottles of Smirnoff vodka and a bottle of
8 whiskey.

9 MR. RIVERO: Okay. So it was
10 another invoice.

11 INVESTIGATOR MATHIESON: Correct.

12 MR. RIVERO: Let me go ahead and
13 show you what I have marked as Government's
14 Exhibit 4 for identification, a copy of which
15 has been provided to the licensee, copies of
16 which are available to the Board Members for
17 review.

18 (Whereupon, the document was
19 marked as Government Exhibit 4 for
20 identification.)

21 MR. RIVERO: And I would like you
22 to tell me what that looks like to you.

1 INVESTIGATOR MATHIESON: This is a
2 copy of the invoice I was provided by Mr.
3 Roberts in the package that he left at ABRA.

4 MR. RIVERO: Okay. So this is an
5 accurate copy of what you got from Mr.
6 Roberts?

7 INVESTIGATOR MATHIESON: Correct.

8 MR. RIVERO: Okay. The Government
9 would move into evidence, at this time,
10 photocopy of an invoice that the Investigator
11 received from the licensee.

12 CHAIRPERSON MILLER: Do you have
13 an objection to this document?

14 MR. ROBERTS: (No audible
15 response.)

16 CHAIRPERSON MILLER: Okay. All
17 right. Then this document will be admitted as
18 Government's Exhibit No. 4.

19 (Whereupon, the document marked as
20 Government Exhibit 4 was received
21 in evidence.)

22 MR. RIVERO: I would like you to

1 take a look at that, Investigator, and tell me
2 what this is a purchase for?

3 INVESTIGATOR MATHIESON: There is
4 numerous bottles of Smirnoff flavored-vodka in
5 addition to one bottle of whiskey.

6 MR. RIVERO: Okay. And who is the
7 purchaser for this invoice?

8 INVESTIGATOR MATHIESON: According
9 to the invoice it's Rose's Dream Bar and
10 Lounge.

11 MR. RIVERO: It's not the caterer?

12 INVESTIGATOR MATHIESON: No.

13 MR. RIVERO: And how do you know
14 that?

15 INVESTIGATOR MATHIESON: Listed
16 under there under the payer it states Rose's
17 Dream Bar and Lounge.

18 MR. RIVERO: Now, we just took a
19 look at two invoices from Wholesalers. Do
20 these invoices cover all of the alcoholic
21 beverages that you witnessed on the night of
22 your visit?

1 INVESTIGATOR MATHIESON: No.

2 MR. RIVERO: What else do you
3 think was not covered by these two invoices?

4 INVESTIGATOR MATHIESON: There was
5 the -- there were also several kegs from DC
6 Brau in addition to a cooler full of Miller
7 Genuine Draft cans.

8 MR. RIVERO: Okay.

9 CHAIRPERSON MILLER: I'm sorry,
10 could you speak up?

11 INVESTIGATOR MATHIESON: Sure.

12 CHAIRPERSON MILLER: What did you
13 say?

14 INVESTIGATOR MATHIESON: It was --
15 there were kegs from DC Brau in addition to a
16 cooler full of Miller Light Genuine Draft.

17 CHAIRPERSON MILLER: Thank you.

18 MEMBER ALBERTI: I'm sorry?

19 INVESTIGATOR MATHIESON: There
20 were numerous kegs from DC Brau in addition to
21 a cooler with Miller Light Genuine -- or
22 excuse me, Miller Genuine Draft cans.

1 MR. RIVERO: I'm showing you what
2 is marked as Exhibit 5, a copy of which has
3 been provided to the licensee and copies of
4 which are available to the Board for
5 inspection.

6 (Whereupon, the document was
7 marked as Government Exhibit 5 for
8 identification.

9 MR. RIVERO: Now, tell me what
10 that document looks like to you.

11 INVESTIGATOR MATHIESON: This is
12 the copy of an invoice that was provided by
13 Mr. Roberts for DC Brau.

14 MR. RIVERO: Okay. So you got
15 this from?

16 INVESTIGATOR MATHIESON: Mr.
17 Roberts.

18 MR. RIVERO: Mr. Roberts. And
19 this is an accurate copy of what you got from
20 him?

21 INVESTIGATOR MATHIESON: Correct.

22 MR. RIVERO: Okay. The Government

1 would go ahead and move into evidence, at this
2 time, the invoice the Investigator received
3 from Mr. Roberts from DC Brau.

4 CHAIRPERSON MILLER: Okay. Any
5 objection?

6 MR. ROBERTS: No.

7 CHAIRPERSON MILLER: Okay.

8 MR. ROBERTS: I did submit that
9 report.

10 CHAIRPERSON MILLER: Okay. So
11 this will be admitted as Government's Exhibit
12 No. 5.

13 MR. RIVERO: That's correct.

14 (Whereupon, the document marked as
15 Government Exhibit 5 was received
16 in evidence.)

17 MR. RIVERO: Please take a look at
18 this and tell me it's an invoice from who?

19 INVESTIGATOR MATHIESON: This is
20 an invoice from DC Brau Brewing.

21 MR. RIVERO: Brewing. What kind
22 of entity is DC Brau Brewing?

1 INVESTIGATOR MATHIESON: I believe
2 they are -- I don't know.

3 MR. RIVERO: Are they a
4 wholesaler?

5 INVESTIGATOR MATHIESON: No, they
6 are a manufacturer.

7 MR. RIVERO: How would you know
8 that?

9 INVESTIGATOR MATHIESON: Class B.
10 It says so on the actual invoice.

11 MR. RIVERO: Okay. And what is
12 this an invoice for?

13 INVESTIGATOR MATHIESON: This is
14 an invoice for a donation to Rose's Dream
15 Catering for the Forward Festival for a
16 quantity of four kegs.

17 MR. RIVERO: Okay. And so the
18 price was zero then?

19 INVESTIGATOR MATHIESON: Correct.

20 MR. RIVERO: How do you know it's
21 a donation?

22 INVESTIGATOR MATHIESON: It says

1 under the description, donation to Rose's
2 Dream Catering for Forward Festival. And the
3 total price on the invoice is zero dollars.

4 MR. RIVERO: All right. So I want
5 you to go up and read again, because I don't
6 want to misunderstand you. Is this a donation
7 to the restaurant or the caterer?

8 INVESTIGATOR MATHIESON: To the
9 caterer.

10 MR. RIVERO: Because it says so?

11 INVESTIGATOR MATHIESON: Yes, it
12 says Rose's Dream Catering.

13 MR. RIVERO: All right. So with
14 that invoice that you received and having
15 reviewed the last two invoices, do those three
16 invoices cover all of the alcohol that you saw
17 on the premises that night?

18 INVESTIGATOR MATHIESON: No.

19 MR. RIVERO: Okay. What alcohol
20 then is not captured by these invoices?

21 INVESTIGATOR MATHIESON: The cans
22 of Miller Genuine Draft, which were in the

1 cooler are not captured under any of the
2 invoices.

3 MR. RIVERO: Okay. And they were
4 part of -- you took a photo of those cans, did
5 you not?

6 INVESTIGATOR MATHIESON: Correct.

7 MR. RIVERO: It was the third
8 photo of Exhibit 1?

9 INVESTIGATOR MATHIESON: Correct.

10 MR. RIVERO: Okay. All right.
11 Let me go ahead and ask you about food. Did
12 you have any discussion with Mr. Roberts about
13 documentation for food purchases?

14 INVESTIGATOR MATHIESON: Yes, I
15 had asked Mr. Roberts to include invoices for
16 the food that he purchased for the event.

17 MR. RIVERO: And did he?

18 INVESTIGATOR MATHIESON: Yes,
19 there were two receipts from David's Farm
20 located at 350 Moore Street, N.E., that were
21 included.

22 MR. RIVERO: Okay. Well, let me

1 go ahead and show you what I have marked as
2 Government's Exhibit 6 for identification, a
3 copy of which has been provided to the
4 licensee and copies of which are available for
5 Board Members for inspection.

6 (Whereupon, the document was
7 marked as Government Exhibit 6 for
8 identification.)

9 MR. RIVERO: And, please, let me
10 know what does that look like to you?

11 INVESTIGATOR MATHIESON: These are
12 copies of the invoices that were provided by
13 Mr. Roberts for the David's Farm purchases.

14 MR. RIVERO: Okay. And this is an
15 accurate copy of what you were provided --

16 INVESTIGATOR MATHIESON: Yes.

17 MR. RIVERO: -- by Mr. Roberts?
18 Okay. The Government would move into
19 evidence, at this time, Exhibit 6, photocopies
20 of grocery receipts provided to the
21 Investigator by the licensee.

22 CHAIRPERSON MILLER: Any

1 objections? Mr. Roberts?

2 MR. ROBERTS: No.

3 CHAIRPERSON MILLER: No.

4 MR. ROBERTS: I submitted that as
5 well.

6 CHAIRPERSON MILLER: Okay. All
7 right. Then this is admitted into evidence as
8 Government's Exhibit No. 6.

9 MR. RIVERO: Thank you.

10 (Whereupon, the document marked as
11 Government Exhibit 6 was received
12 in evidence.)

13 MR. RIVERO: Okay. Why don't you
14 go ahead and take a look at those receipts and
15 they are from what establishment?

16 INVESTIGATOR MATHIESON: David's
17 Farm.

18 MR. RIVERO: Okay. And what food
19 items do those receipts cover?

20 INVESTIGATOR MATHIESON: They
21 cover chicken, 3.5 pounds of chicken, green
22 onions, carrots, pepper, green peppers,

1 turnips, produce, ginger, habaneros, more
2 green peppers, forks, onions and pineapple
3 juice.

4 MR. RIVERO: Okay. And do those
5 receipts cover all of the food that you saw on
6 the evening of your visit?

7 INVESTIGATOR MATHIESON: No.

8 MR. RIVERO: What is not covered
9 to your recollection by these two receipts?

10 INVESTIGATOR MATHIESON: There
11 were various bags of chips, Boca Burgers, a
12 pack of cheese, buns in addition to baby
13 carrot sticks.

14 MR. RIVERO: Okay. And again,
15 these are from David's Farm?

16 INVESTIGATOR MATHIESON: Yes.

17 MR. RIVERO: What discussion did
18 you have with Mr. Roberts to follow-up about
19 his statement that he made purchases at Giant?

20 INVESTIGATOR MATHIESON: On the
21 May 3rd conversation I had with Mr. Roberts,
22 he indicated that the food had been purchased

1 at Giant Grocery Store and there were no
2 indication of invoices in the packet that he
3 delivered to me for food having been purchased
4 at the Giant.

5 And additionally, there is no
6 invoices for the bottled water, juices,
7 seltzer water that had been observed on the
8 night of the incident.

9 MR. RIVERO: Okay. All right.
10 Finally, I want to go ahead and show you what,
11 something that should be familiar to you, I'm
12 marking as Government's Exhibit 7. I believe
13 the Board already has it, so there is no --
14 the Board already has it.

15 (Whereupon, the document was
16 marked as Government Exhibit 7 for
17 identification.)

18 MR. RIVERO: What does this look
19 like to you?

20 INVESTIGATOR MATHIESON: This is a
21 copy of my investigative report.

22 MR. RIVERO: It's a copy of your

1 investigative report, a copy of which has been
2 provided to the licensee. Okay. And this is
3 a report that you wrote?

4 INVESTIGATOR MATHIESON: Correct.

5 MR. RIVERO: Okay. I want you to
6 take a look at it and make sure that it is
7 complete and it includes all portions of your
8 report.

9 INVESTIGATOR MATHIESON: Okay.
10 Yes, it's accurate.

11 MR. RIVERO: And this report
12 contains what we just talked about at the
13 hearing today, right?

14 INVESTIGATOR MATHIESON: Correct.

15 MR. RIVERO: Okay. The Government
16 would move Exhibit 7 into evidence, at this
17 time, the Investigator's own report, complete
18 with its -- the exhibits.

19 INVESTIGATOR MATHIESON: Right.

20 CHAIRPERSON MILLER: Okay. Mr.
21 Roberts?

22 MR. ROBERTS: Yes, going back, I

1 think the only objection I would have is that
2 the -- I told the Investigator that some of
3 the food was purchased at Giant and that --
4 and then when I couldn't retain the receipt
5 for it and some of the stuff like the water
6 and all that was at the establishment itself.

7 CHAIRPERSON MILLER: Okay. So
8 that's not a grounds for objecting to this
9 into evidence. You are going to be sworn in.

10 MR. ROBERTS: Right.

11 CHAIRPERSON MILLER: And then you
12 can testify to that fact.

13 MR. ROBERTS: Okay.

14 CHAIRPERSON MILLER: So those
15 facts are in evidence as well as the report.

16 MR. ROBERTS: Okay. Yes, in
17 regards to the report, yes.

18 CHAIRPERSON MILLER: Okay. Okay.
19 So the investigative report is admitted into
20 evidence as Government's Exhibit No. 7.

21 (Whereupon, the document marked as
22 Government Exhibit 7 was received

1 in evidence.)

2 MR. RIVERO: Did you ever see any
3 receipts in your investigation that showed
4 that the caterer bought any alcohol?

5 INVESTIGATOR MATHIESON: No.

6 MR. RIVERO: Okay. No further
7 questions, at this time, for the witness.

8 CHAIRPERSON MILLER: Okay. Mr.
9 Roberts, you have a chance to ask questions of
10 the investigator, if you would like.

11 MR. ROBERTS: No.

12 CHAIRPERSON MILLER: Okay. Board
13 questions? Mr. Alberti?

14 MEMBER ALBERTI: I have a few.

15 CHAIRPERSON MILLER: Yes.

16 MEMBER ALBERTI: Good afternoon,
17 Investigator Mathieson. Did you, while you
18 were there -- okay. Did Mr. Roberts tell you,
19 approximately, when food was served, if it was
20 served?

21 INVESTIGATOR MATHIESON: Yes, the
22 indication was prior to my arrival it had been

1 served and consumed. The event started by
2 admission at, approximately, 9:00 p.m. and MPD
3 had arrived at, approximately, midnight, so
4 there would have been a three hour window for
5 when that food was --

6 MEMBER ALBERTI: You arrived at
7 about 12:00 you said?

8 INVESTIGATOR MATHIESON: MPD
9 arrived at about 12:00. I arrived at about
10 12:25 p.m.

11 MEMBER ALBERTI: Okay. And did
12 Mr. Roberts say anything about when food might
13 have stopped being served?

14 INVESTIGATOR MATHIESON: The
15 tables had been taken down and everything had
16 been removed, according to Mr. Roberts, prior
17 to our arrival.

18 MEMBER ALBERTI: He didn't say
19 what time though?

20 INVESTIGATOR MATHIESON: No.

21 MEMBER ALBERTI: Okay.

22 INVESTIGATOR MATHIESON: Not

1 exactly.

2 MEMBER ALBERTI: Did you identify,
3 while you were walking around and examining
4 the establishment and the back courtyard, or
5 observe any facilities for preparing food?

6 INVESTIGATOR MATHIESON: No.

7 MEMBER ALBERTI: Temporary or
8 permanent?

9 INVESTIGATOR MATHIESON: No.

10 MEMBER ALBERTI: No stoves, no
11 grills?

12 INVESTIGATOR MATHIESON: Nope.

13 MEMBER ALBERTI: Did you at all,
14 while you were there, identify any setup that
15 would have contained chafing dishes or warming
16 stations or anything like that?

17 INVESTIGATOR MATHIESON: No. I
18 walked around the premises to look for items
19 related to food service and I did not observe
20 any.

21 MEMBER ALBERTI: Did you happen to
22 examine any of the trash?

1 INVESTIGATOR MATHIESON: I believe
2 I looked in the trash bags that were open, but
3 I did not see anything indicating paper
4 plates, paper forks, anything of that nature,
5 but I don't know had trash been taken out, I
6 can't say for certain.

7 MEMBER ALBERTI: Did you see any
8 condiments anywhere on the tables?

9 INVESTIGATOR MATHIESON: No, no.

10 MEMBER ALBERTI: I have no further
11 questions.

12 CHAIRPERSON MILLER: Other
13 questions? I just have a quick one or two.
14 I think it's Exhibit 5 is the invoice from DC
15 Brau Brewing Company.

16 INVESTIGATOR MATHIESON: Okay.

17 CHAIRPERSON MILLER: Which says on
18 it that it is a donation to the catering. Is
19 there some way -- do you know the value of the
20 donation?

21 INVESTIGATOR MATHIESON: Yes. I
22 did prepare an investigative report for DC

1 Brau charging him with donating a gift to a
2 licensee. I can't recall the specific number,
3 but I could look it up. I think it was in the
4 ballpark of \$700, but I could get the
5 information for you, but I don't recall
6 specifically.

7 CHAIRPERSON MILLER: Okay. I was
8 just curious if you knew. And my other
9 question was just when you talked about the
10 box of food being at the bottom of the
11 stairs --

12 INVESTIGATOR MATHIESON: Correct.

13 CHAIRPERSON MILLER: -- can you
14 just describe the scene so that I can
15 understand? Like what stairs?

16 INVESTIGATOR MATHIESON: Yes. So
17 upon entry to the establishment, when we first
18 made entry there was not a box at the bottom
19 of the stairs. So when you open or you enter
20 the front door, there was a flight of stairs
21 that went to the second floor. We do not go
22 up there. I don't know what it was for.

1 The only part of the event that
2 was being -- or the only portion of the
3 establishment that was being used for the
4 event was the first floor.

5 Upon my exiting of the
6 establishment, there was a box that had been
7 placed there and underneath there were mixed
8 items, not food-related and then on top there
9 was a package of unopened hamburger buns,
10 unopened Boca Burgers and unopened cheese.

11 CHAIRPERSON MILLER: And did you
12 ask Mr. Roberts about that box?

13 INVESTIGATOR MATHIESON: I did
14 not. I just photographed it and --

15 CHAIRPERSON MILLER: Okay. All
16 right. No other questions. Anybody else?
17 Any questions, Mr. Rivero, based on the
18 Board's questions?

19 MR. RIVERO: Yes.

20 CHAIRPERSON MILLER: Okay.

21 MR. RIVERO: One.

22 CHAIRPERSON MILLER: Yes.

1 MR. RIVERO: In the conduct of
2 your investigation, did you receive any
3 information or evidence concerning any special
4 permit that DC Brau may have received to make
5 that donation?

6 INVESTIGATOR MATHIESON: No. DC
7 Brau is charged, as I said, with writing a
8 gift to a retail licensee and they were --
9 subsequently paid a fine regarding that matter
10 or investigation.

11 MR. RIVERO: Okay.

12 CHAIRPERSON MILLER: Okay. And do
13 you have any questions for the Investigator
14 based on the Board's questions?

15 MR. ROBERTS: No.

16 CHAIRPERSON MILLER: Okay. All
17 right. Thank you very much.

18 (Whereupon, witness was excused.)

19 CHAIRPERSON MILLER: Does that
20 complete --

21 MR. RIVERO: No further witnesses.

22 CHAIRPERSON MILLER: Okay. And no

1 other documents you wish to enter into
2 evidence, at this time?

3 MR. RIVERO: No, I believe 7
4 exhibits is fine.

5 CHAIRPERSON MILLER: Okay. Mr.
6 Roberts?

7 MR. ROBERTS: Yes.

8 CHAIRPERSON MILLER: Did you wish
9 to testify, at this point?

10 MR. ROBERTS: Yes, sure.

11 CHAIRPERSON MILLER: Okay. So you
12 can come over there and I'll swear you in.
13 Will you raise your right hand? Okay. Thank
14 you.

15 Whereupon,

16 CLIVE ROBERTS

17 was called as a witness by the licensee, and
18 having been first duly sworn, assumed the
19 witness stand and was examined and testified
20 as follows:

21 DIRECT EXAMINATION

22 MR. ROBERTS: First, I would like

1 to also submit a letter that I have from the
2 promotor of the event, a notarized letter,
3 which I gave a copy to --

4 CHAIRPERSON MILLER: Okay. So in
5 order for me to admit it into evidence, I need
6 to see a copy as well.

7 MR. ROBERTS: Right.

8 CHAIRPERSON MILLER: Mr. Rivero,
9 do you have any objection?

10 MR. RIVERO: No objections from
11 the Government and I guess I can provide my
12 copy for the Board's inspection, if there
13 isn't another.

14 CHAIRPERSON MILLER: Okay. Oh,
15 thank you. Okay. All right. So if there is
16 no objection, I will admit this as Licensee's
17 Exhibit No. 1. It's a letter from the
18 promotor. Is that correct?

19 MR. ROBERTS: Yes, ma'am.

20 CHAIRPERSON MILLER: To --

21 MR. ROBERTS: The promoter that
22 was on-site.

1 CHAIRPERSON MILLER: Right, a
2 letter from the promotor. Okay. All right.
3 So that's admitted into evidence.

4 (Whereupon, the document was
5 marked for identification as
6 Licensee Exhibit 1 and was
7 received in evidence.)

8 MR. ROBERTS: Okay. Yes, firstly,
9 I'm Clive Roberts. I'm actually representing
10 Rose's Dream Catering. I was the manager that
11 was on duty this particular night.

12 Our establishment is at 1370 H
13 Street, N.E., which is almost directly across
14 the street from the particular address in
15 question, which is 1351 H Street.

16 I met the promotor, David Fogel,
17 through a mutual friend, George Cannon, who
18 introduced me to David and David said that,
19 you know, they had a festival and, you know,
20 they wanted to -- there was a particular event
21 on H Street which was directly across from us
22 and that they would like us to cater the

1 event, i.e., barbecue food and also provide
2 bar services and also the bar license.

3 Now, in terms of getting to some
4 of the questions at hand, such as, you know,
5 the Miller Light in the cans, we didn't
6 provide that. They did. Now, this comes
7 from, I guess, some confusion which I'll clear
8 up.

9 Prior to this event, we had done
10 another event in which somebody had called up
11 to ABRA to get a list of certified caterers in
12 which ABRA gave them the catering. ABRA told
13 them that a licensed caterer could do an event
14 that was BYOL.

15 CHAIRPERSON MILLER: It was what?

16 MR. ROBERTS: BYOL, bring your own
17 liquor.

18 CHAIRPERSON MILLER: Liquor, okay.

19 MR. ROBERTS: As long as the
20 caterer accepted to do such an event and was
21 on premises and they can do it, in which I
22 took into question with the person, because I

1 didn't believe it. I would say no, there is
2 no way.

3 She called back and she said I
4 just called up there, I found it out again.
5 So in which I called Marty Fowler and Marty
6 said no, I don't think you can do that. Marty
7 then asked -- she said okay, well, the lady
8 said that Fred Moosally told her this.

9 Then she asked Fred and Fred told
10 Marty that yes, the caterer can do that as
11 long as it was BYOL. As long as the caterer
12 was on premises and the caterer accepted that.

13 So ever since I was told that, I
14 didn't see anything wrong with being on
15 premises. Yes, we did cater the event. We
16 catered the event in terms of supplying the
17 food in question. We cooked the food across
18 the street, directly across the street, and
19 then we carried it over there. We served the
20 food. The food was consumed and picked up
21 prior to the Investigator getting there.

22 Now, in terms of the DC Brau, I

1 don't even know who DC Brau is. DC Brau is
2 the friends of the particular promotor and the
3 electronic creative culture. I don't even
4 serve kegs at our establishment nor have even
5 never served a keg before.

6 DC Brau donated the kegs to us
7 because we had the license, but they donated
8 them for David Fogel and the Forward Festival.
9 It was their kegs and it's illustrated so in
10 the letter.

11 The reason why we did the event in
12 terms of having them have the Miller Lite and
13 things of that nature there, was because we
14 were told that we could do that. We were told
15 that we could do a catering event as long as
16 it was BYOL or we could serve it, as long as
17 we were the ones that were taking the loss.

18 CHAIRPERSON MILLER: Does that
19 complete your testimony?

20 MR. ROBERTS: No.

21 CHAIRPERSON MILLER: Nope, sorry.

22 MR. ROBERTS: That's okay. And

1 also in terms -- I did tell the Investigator
2 which is another thing that is also confusing
3 is that yes, we have had a CT License since
4 2003. We have always been in compliance with
5 everything that we do and we just think we
6 have had a catering license now for maybe
7 three or four years, but we have both. Both
8 are under Rose's Dream, Inc., which is the
9 corporation.

10 When you called up to Washington
11 Wholesale and you make an order, we didn't
12 know that you had to do a separate, we just
13 thought that you ordered it, because when you
14 -- even when you submit your report, you
15 submit your report annually. You put both the
16 caterer and the retail license on there, you
17 know, the proceeds from it.

18 So it was confusing to us, so, no,
19 we didn't know and we didn't intentionally go
20 out here and try to use our catering license
21 to open up a nightclub or, I think we heard
22 that at the beginning. No, it was an event

1 that they came to us, they asked us to cater
2 the event and to be on premises as the
3 licensed -- ABC-licensed caterer and provide
4 bar services and provide some liquor. And
5 that's what we did.

6 We provided the Smirnoff. We made
7 the punch. We provided the food. They
8 provided the kegs and the Miller Lite. And
9 prior to this, I called up here myself and I
10 asked if you could do an event where as though
11 it was BYOL and I was told you could.

12 CHAIRPERSON MILLER: Okay. I
13 don't want to cut you off. Does that complete
14 your testimony?

15 MR. ROBERTS: Yes. I would think
16 so. I mean, you know, at this particular
17 point, I mean, I know that when I had spoke to
18 Mr. Rivero at the beginning, I mean, we were
19 like utterly shocked that we were being
20 charged this enormous amount of money for
21 something that, you know, we didn't
22 intentionally do out here and try to do.

1 We thought that we were doing
2 things -- I had never been at 1351, by the
3 way, before, so I didn't know that they didn't
4 have an occupancy license or anything. I
5 thought it was -- I think now that same
6 building has an application up now for an ABC
7 license, so I just thought it was like a
8 neighborhood thing.

9 They are business owners right on
10 H Street. They were doing a festival. We
11 didn't think anything of it. We didn't think
12 it was that big of a deal until when that
13 happened. But we didn't in no way, no form
14 intend to use our license to operate anything
15 of illegal nature or anything like that. We
16 really didn't.

17 Oh, yes, the question, am I
18 accurate about the BYOL thing?

19 MR. RIVERO: Can I kindly object?

20 CHAIRPERSON MILLER: Yes, okay.

21 MR. RIVERO: I don't think the
22 witness can ask Board Members questions.

1 CHAIRPERSON MILLER: Okay. Right,
2 not in the middle of the case. Yes. Okay.
3 But you can find out afterwards. Okay.

4 All right. Anything else you want
5 to state?

6 MR. ROBERTS: No.

7 CHAIRPERSON MILLER: Okay. Mr.
8 Rivero, do you have any questions?

9 MR. RIVERO: Yes.

10 CHAIRPERSON MILLER: Okay.

11 CROSS-EXAMINATION

12 MR. RIVERO: The first question I
13 have for you, Mr. Roberts is how much money
14 did you spend on the food that you were going
15 to use for catering during that event?

16 MR. ROBERTS: For that particular
17 event?

18 MR. RIVERO: Yes. You were
19 catering that event on April 29th, right? And
20 you were there.

21 MR. ROBERTS: Yes.

22 MR. RIVERO: How much money did

1 you spend on the food that you provided to the
2 patrons in that event?

3 MR. ROBERTS: Maybe \$300.

4 MR. RIVERO: Okay. How much money
5 did you spend on the alcohol that was provided
6 at that event?

7 MR. ROBERTS: I really can't say
8 because I had -- I have a numerous amount of
9 alcohol, so how much was used, do you mean?

10 MR. RIVERO: Did you buy any
11 alcohol specific to this event?

12 MR. ROBERTS: No. I used the
13 alcohol, the Smirnoff, that's what they
14 wanted. And I also used Smirnoff at 1370.

15 MR. RIVERO: Okay.

16 MR. ROBERTS: At my retail space,
17 so to answer your question, no, I didn't
18 directly say okay, I'm going to buy X amount
19 of bottles for this particular event.

20 MR. RIVERO: Okay.

21 MR. ROBERTS: Because if I didn't
22 -- if it was -- if I didn't use it all, it

1 would be common sense that I would take it
2 back and use it at my bar.

3 MR. RIVERO: Where then did the
4 alcohol come from that was used at the event
5 if you did not purchase any alcohol specific
6 for this event?

7 MR. ROBERTS: I told you where it
8 came from. I told you I bought the Smirnoff
9 from Washington, but, yes, I did buy it under
10 my retail license. So if they were to drink
11 it --

12 MR. RIVERO: And where did you put
13 the alcohol?

14 MR. ROBERTS: -- all up, it would
15 have been --

16 MR. RIVERO: When you purchased
17 it, where did you put the alcohol?

18 MR. ROBERTS: It was under the
19 table.

20 MR. RIVERO: When you purchased it
21 from the location of purchase, did you take it
22 to the party location or did you take it to --

1 across the street to your restaurant?

2 MR. ROBERTS: I took it across the
3 street to the restaurant, which is the same
4 address for the catering.

5 MR. RIVERO: Okay. And then is
6 that where you grabbed the alcohol from and
7 transported it across the street to use?

8 MR. ROBERTS: Yes, I transported
9 it all. I think it's in your pictures. It's
10 right under the table.

11 MR. RIVERO: Okay.

12 MR. ROBERTS: Under the fold-up
13 tables that was all -- there were several
14 fold-up tables, the same fold-up tables that
15 the food was on.

16 MR. RIVERO: And what was the --

17 MR. ROBERTS: The fold-up tables
18 that you break down.

19 MR. RIVERO: -- price of the
20 alcohol that you transported across the street
21 from your restaurant to the facility, the
22 event place?

1 MR. ROBERTS: I think it is on the
2 invoices, Mr. Rivero. I mean, I don't know
3 the exact price. It would be on the invoice.
4 I think it was two cases of Smirnoff in which
5 the distributor also gives you six bottles
6 free if you buy two cases.

7 MR. RIVERO: Let me go ahead and
8 show you an exhibits that are already in
9 evidence and our Investigator testified to
10 them. I believe this is No. 3 or 4. These
11 are blue screen shots.

12 CHAIRPERSON MILLER: Okay.

13 MR. RIVERO: Okay. Do you see a
14 number of bottles here?

15 MR. ROBERTS: Yes.

16 MR. RIVERO: Okay.

17 MR. ROBERTS: It's \$287.98.

18 MR. RIVERO: Were all these --

19 MR. ROBERTS: And --

20 MR. RIVERO: -- consumed? Because
21 these are at the restaurant, right? Then you
22 brought them from the restaurant over. Did

1 you bring all of these?

2 MR. ROBERTS: Yes.

3 MR. RIVERO: Okay.

4 MR. ROBERTS: I brought all of
5 them. They are under -- there is a picture
6 of, you know, in your exhibits.

7 MR. RIVERO: But you are telling
8 me that you didn't purchase any of these
9 bottles specifically for the event that day,
10 that you just purchased them for the
11 restaurant, right?

12 MR. ROBERTS: Yes. No. No. I
13 guess to answer your question, yeah, I
14 purchased all of those for the --

15 MR. RIVERO: This event?

16 MR. ROBERTS: -- this event.

17 MR. RIVERO: That's the question
18 that I had asked and you said no, I didn't do
19 that.

20 MR. ROBERTS: Okay.

21 MR. RIVERO: So now you --

22 MR. ROBERTS: Yes, yes. I

1 purchased the Smirnoff. Did they drink it
2 all? No.

3 MR. RIVERO: And what happened
4 with the rest of the alcohol?

5 MR. ROBERTS: I took it back.

6 MR. RIVERO: Took it back? Okay.

7 MR. ROBERTS: Yes.

8 MR. RIVERO: All right. Now, you
9 provided, and this is also in the exhibits in
10 my case, a copy of another invoice, right?

11 MR. ROBERTS: Um-hum.

12 MR. RIVERO: Okay. So this
13 alcohol, I think this is Exhibit No. 3. I
14 think it's Exhibit No. 4. This alcohol was
15 purchased again by the restaurant?

16 MR. ROBERTS: Yes, they were all
17 purchased --

18 MR. RIVERO: Right?

19 MR. ROBERTS: -- by the
20 restaurant.

21 MR. RIVERO: Okay. And they were
22 -- were all these purchased for the purpose of

1 this event or they just happened to be in the
2 restaurant and you grabbed them and you pulled
3 them across the street?

4 MR. ROBERTS: No, those Smirnoffs
5 are broke down in individuals, so I think
6 those are representing the two cases on the
7 blue sheet, because these are bottles. They
8 aren't cases.

9 MR. RIVERO: Okay. All right. So
10 you brought the alcohol represented by the
11 invoices that you --

12 MR. ROBERTS: Of different
13 flavors.

14 MR. RIVERO: -- had over -- is the
15 alcohol that you bought for this event?

16 MR. ROBERTS: Yes.

17 MR. RIVERO: And I'm trying to
18 see, it looks like \$483.

19 MR. ROBERTS: Right.

20 MR. RIVERO: Is that the amount
21 right up here?

22 MR. ROBERTS: Yes.

1 MR. RIVERO: Okay.

2 MR. ROBERTS: But those also have
3 some Bailey's on there and I didn't use
4 Bailey's there. I don't think I used
5 Tanqueray as well.

6 MR. RIVERO: Okay. So it's the
7 alcohol that represented this purchase that
8 was not used at the event? That's what you
9 are saying?

10 MR. ROBERTS: That is what I'm
11 saying.

12 MR. RIVERO: Okay. Could you --

13 CHAIRPERSON MILLER: Mr. Roberts?
14 Wait a second. Don't cover your mouth,
15 because we can't hear it as well.

16 MR. ROBERTS: Oh, I'm sorry.

17 CHAIRPERSON MILLER: And, Mr.
18 Rivero, I did double check with Ms. Walker, so
19 you are showing Exhibit No. 3.

20 MR. RIVERO: Okay.

21 CHAIRPERSON MILLER: Government's
22 Exhibit No. 3.

1 MR. RIVERO: Thank you.

2 CHAIRPERSON MILLER: Okay.

3 MR. RIVERO: So then you are
4 telling me that you bought Bailey's, is that
5 it, that was not used at the event, but it's
6 part of this?

7 MR. ROBERTS: Yes.

8 MR. RIVERO: Okay. And it's in
9 the restaurant?

10 MR. ROBERTS: Yes.

11 MR. RIVERO: You never used it?

12 MR. ROBERTS: No, Mr. Rivero, no.

13 MR. RIVERO: Did you --

14 MR. ROBERTS: No, I didn't.

15 MR. RIVERO: -- intend to use it
16 at the catering event and just changed your
17 mind?

18 MR. ROBERTS: No, I didn't.

19 MR. RIVERO: You bought it for the
20 restaurant?

21 MR. ROBERTS: Yes, yes. I
22 actually make a purchase at Washington maybe

1 every other day.

2 MR. RIVERO: Right. So these --
3 this invoice, in other words, doesn't
4 represent exclusively a list of the alcohol
5 that was used to purchase --

6 MR. ROBERTS: Yes, I think --

7 MR. RIVERO: -- that was used to
8 be served at the event, because you purchased
9 alcohol, didn't you, that you just kept at the
10 -- on the premises?

11 MR. ROBERTS: Well, I just
12 explained that to you, Mr. Rivero, that, yes,
13 it -- we didn't know and yes, it was confusing
14 that you were to separate it. I know now and
15 we do that now. But at that particular time,
16 did I know? No.

17 MR. RIVERO: Well --

18 MR. ROBERTS: So --

19 MR. RIVERO: -- so I understand
20 what you are saying.

21 MR. ROBERTS: -- I just have to be
22 honest with you.

1 MR. RIVERO: Well, let me ask you
2 then, if you -- as you say, if you were
3 confused about the distinction between the
4 catering license and the other license, then
5 why is it that the DC Brau invoice states very
6 specifically a donation to the caterer with
7 the catering license?

8 MR. ROBERTS: Because --

9 MR. RIVERO: As the Investigator
10 testified and as you know, because you
11 provided the Investigator at that time.

12 MR. ROBERTS: Why? Because the
13 catering license was the license that was on
14 the premises.

15 MR. RIVERO: And how did --

16 MR. ROBERTS: I mean --

17 MR. RIVERO: -- you know to use
18 the catering license for that transaction?

19 MR. ROBERTS: How did I -- because
20 the catering license was on the premises. But
21 in terms of buying alcohol from my
22 distributor, I buy from my distributor on a

1 daily basis.

2 MR. RIVERO: Okay.

3 MR. ROBERTS: So I didn't -- I
4 guess it would be the same distinguish -- the
5 same in terms of like saying buying from a
6 retailer. Like going to a retailer, if you
7 have a catering license, you can --

8 MR. RIVERO: So you buy from your
9 site of purchase on a daily basis?

10 MR. ROBERTS: Not every day.

11 MR. RIVERO: It doesn't matter
12 whether it is for a catered event or for your
13 own establishment's use.

14 MR. ROBERTS: At that particular
15 time, yes. Before I got fined for it, yes.
16 Before I knew, yes, it wasn't no, you know,
17 gain with us doing it any other way. I mean,
18 I don't see no gain in it or anything like
19 that. So no, that's -- if you want me to be
20 honest with you, yes, we did. We didn't know.
21 We would just buy it and we would cater an
22 event and we would have our alcohol and we

1 bought it from Washington and that was it.

2 And it wasn't until after this
3 that we found out that you, you know, had to
4 get it on their catering license. Did I know
5 that you couldn't accept a gift from them? Do
6 you think I would have really done that if I
7 knew that? No. I didn't know that.

8 MR. RIVERO: Mr. Roberts, I need
9 to ask you when you cater an event, do you
10 look into the site of the event at all? Do
11 you take a look at it? Do you find out
12 anything about it before you actually show up
13 and do the catering?

14 MR. ROBERTS: Normally, yes. But
15 in this particular case, like I explained to
16 you, it was like local business owners. They
17 was right across the street from me, so I
18 didn't take it as, you know, actually like
19 when we do per se a wedding, which we have
20 done. Something like that where you go out
21 and you do the full catering job.

22 No, I didn't take it as a full

1 catering job.

2 MR. RIVERO: This wedding example
3 you told me about, you go out to the catering
4 site?

5 MR. ROBERTS: To the site.

6 MR. RIVERO: And inspect it or
7 something?

8 MR. ROBERTS: Yes.

9 MR. RIVERO: What is it that you
10 do?

11 MR. ROBERTS: Yes, I do inspect
12 it.

13 MR. RIVERO: What do you do
14 exactly?

15 MR. ROBERTS: I go out and I see
16 where we would be setting up, how many, you
17 know, tables we would need and things like
18 that.

19 MR. RIVERO: Right.

20 MR. ROBERTS: But --

21 MR. RIVERO: And is part of your
22 preparation include signing a contract?

1 MR. ROBERTS: Yeah, yeah,
2 normally. In this case, it was verbal. It
3 was word of mouth and we just did a verbal.
4 And we both told the Investigator that at the
5 same time. And even when they -- when she
6 asked us questions, she asked us questions at
7 separate times and we both answered the same
8 thing.

9 MR. RIVERO: Okay.

10 MR. ROBERTS: It's not like --

11 MR. RIVERO: No further questions.

12 MR. ROBERTS: -- we went ahead of
13 time --

14 MR. RIVERO: Thank you.

15 MR. ROBERTS: Okay.

16 CHAIRPERSON MILLER: All right.

17 Are there Board questions? Yes, Mr. Brooks?

18 MEMBER BROOKS: Yes, thank you,
19 Madam Chair. Mr. Roberts, I just want to be
20 clear on a clarification on who told you about
21 it was okay to have a BYOL event?

22 MR. ROBERTS: I called -- it was a

1 while back and it was a client that had called
2 here to get a, I guess, one day license. They
3 were too late to get a one day license,
4 because they didn't have the particular time
5 frame to do so.

6 MEMBER BROOKS: Okay.

7 MR. ROBERTS: So it was told to
8 this individual to call someone on the
9 catering list, and which I'm on the catering
10 list, and those people can do the event for
11 you as long as, you know, the caterer agrees
12 to be on-site and they cater the event for
13 you. And if they take they loss of not being
14 able to sell the alcohol, then so be it.

15 And I called up here and I talked
16 to Marty, Marty Fowler, and I asked her and
17 she said she didn't think that that was the
18 case. I said I thought so. And I went back
19 to the client and the client called back up
20 here and I said well, if you give me a name of
21 the person you talked to, then we could get
22 that rectified. And she said it was Fred

1 Moosally.

2 And I then called back and Marty
3 asked Fred Moosally himself and he said yes,
4 that was the case, could, as long as the
5 caterer took that loss.

6 So ever since then, as long as I
7 was on-site, we figured that it was something
8 that you could do.

9 MEMBER BROOKS: Okay. So
10 initially, a client told you that you could do
11 that?

12 MR. ROBERTS: Right.

13 MEMBER BROOKS: And then later you
14 called back yourself --

15 MR. ROBERTS: Yes.

16 MEMBER BROOKS: -- and talked to
17 one of the, I guess, licensing specialists?

18 MR. ROBERTS: Yes.

19 MEMBER BROOKS: Okay. And then
20 she told you that it was okay to do it,
21 because she had talked with the Director of
22 ABRA?

1 MR. ROBERTS: I believe she told
2 me no.

3 MR. RIVERO: Yes.

4 MR. ROBERTS: And then he just saw
5 her, it happened to be, in passing and then --

6 MEMBER BROOKS: I'm sorry, I
7 missed what you said.

8 MR. ROBERTS: She initially said
9 no, she didn't think that that was the case.

10 MEMBER BROOKS: Right.

11 MR. ROBERTS: And then when she
12 was told that it was the case, that that was
13 true, then I went and did the event for the
14 client.

15 MEMBER BROOKS: So what you are
16 saying is you were later told that it was okay
17 to do it?

18 MR. ROBERTS: Yes, sir.

19 MEMBER BROOKS: And you were told
20 that by Ms. Fowler, is that what you are
21 saying?

22 MR. ROBERTS: Yes, sir.

1 MEMBER BROOKS: Okay. Did you
2 share all of this with the Investigator when
3 she came to speak with you?

4 MR. ROBERTS: No, because I didn't
5 think it was pertinent at the time, because I
6 thought that maybe everyone was aware that you
7 can do an event where the client provides
8 their own alcohol.

9 MEMBER BROOKS: Have you ever done
10 it before?

11 MR. ROBERTS: Yes, for that
12 client. The client that had called up here
13 and said that that was the case and I reputed
14 it and said that I don't think that was the
15 case. And --

16 MEMBER BROOKS: So you have had a
17 BYOL -- hosted a BYOL event before this one?

18 MR. ROBERTS: Yes, that one
19 particular one, because of what ABRA told me.
20 I mean, I was told that I could do it.

21 MEMBER BROOKS: Okay. All right.
22 Thank you, Madam Chair.

1 CHAIRPERSON MILLER: Other Board
2 members, questions?

3 MEMBER ALBERTI: Yes.

4 CHAIRPERSON MILLER: Yes, Mr.
5 Alberti?

6 MEMBER ALBERTI: Good afternoon,
7 Mr. Roberts. I want to go back to the
8 question that Mr. Brooks was asking you,
9 because I heard you tell me two different
10 things.

11 Initially, in your narrative you
12 said that you called Fred Moosally.

13 MR. ROBERTS: No, I didn't. I
14 said that I called Marty and she talked to
15 Fred, because he must have been coming out of
16 the office and she said oh --

17 MEMBER ALBERTI: Okay.

18 MR. ROBERTS: -- here he is right
19 here. So, no, I didn't call him directly.
20 But I did talk to him after that. After the
21 fact as well and I personally asked him.

22 MEMBER ALBERTI: Okay. And when

1 was that?

2 MR. ROBERTS: About three months
3 ago. Two or three, about three months ago.

4 MEMBER ALBERTI: Pardon?

5 MR. ROBERTS: About three months
6 ago maybe.

7 MEMBER ALBERTI: Okay. This
8 Forward Festival, it was going on all week.
9 And I noticed that they had on the previous
10 Wednesday, to the event we are talking about,
11 and the previous Friday, they held events at
12 the same address. Did you have any
13 involvement with those events?

14 MR. ROBERTS: No. I did the
15 Wednesday.

16 MEMBER ALBERTI: You did the
17 Wednesday?

18 MR. ROBERTS: The Wednesday.

19 MEMBER ALBERTI: Okay.

20 MR. ROBERTS: And then I did their
21 last event. I actually did it for them inside
22 of from Rose's Dram.

1 MEMBER ALBERTI: Which was after
2 this?

3 MR. ROBERTS: Right.

4 MEMBER ALBERTI: Sunday night?

5 MR. ROBERTS: Sunday night.

6 MEMBER ALBERTI: Yes, okay.

7 MR. ROBERTS: Yes, yes.

8 MEMBER ALBERTI: The Wednesday
9 night --

10 MR. ROBERTS: I think the
11 Wednesday, if I'm not mistaken, I believe that
12 they got calls or a call or whatever. I found
13 out after the fact, but that was long after we
14 were gone.

15 MEMBER ALBERTI: Okay. So how
16 many people were there Wednesday night?

17 MR. ROBERTS: I want to say maybe
18 60.

19 MEMBER ALBERTI: 60? All right.
20 What did you provide on Wednesday?

21 MR. ROBERTS: The same thing.

22 MEMBER ALBERTI: Same sort of

1 drink setup?

2 MR. ROBERTS: Yes, same setup,
3 drink setup.

4 MEMBER ALBERTI: What types of
5 food did you provide?

6 MR. ROBERTS: The same.

7 MEMBER ALBERTI: Okay. So the
8 same. Okay. So let's get to the night of the
9 28th which is the event we are talking about,
10 correct?

11 MR. ROBERTS: (No audible answer.)

12 MEMBER ALBERTI: About how many
13 people were there that evening?

14 MR. ROBERTS: I want to say maybe
15 around 60, but -- 60 or 70, but they had
16 started to leave and, you know, so I think by
17 the time the investigators came, it was like
18 maybe only around 30 people.

19 CHAIRPERSON MILLER: How many?

20 MR. ROBERTS: Around 30.

21 CHAIRPERSON MILLER: Okay.

22 MEMBER ALBERTI: Okay.

1 MR. ROBERTS: And just to note,
2 like prior to everyone leaving the
3 establishment, they actually wouldn't let
4 anyone leave unless they were carded. So the
5 Fire Department and the investigators actually
6 carded everyone before they left. And the
7 only person that was under age was the guy
8 that was with the DJ and he wasn't served
9 alcoholic beverages or nothing like that, so--

10 MEMBER ALBERTI: Thank you for
11 that. What kind of food did you provide that
12 evening?

13 MR. ROBERTS: Barbecue food like
14 chicken and hamburgers and, you know, hot
15 dogs. It was just like, you know, the
16 aluminum trays and by the time the
17 Investigator came, we had broken it down and
18 took it -- took everything back across the
19 street.

20 MEMBER ALBERTI: Okay. What kind
21 of -- barbecued chicken?

22 MR. ROBERTS: Yes, we had chicken

1 as well.

2 MEMBER ALBERTI: Okay. Chicken
3 wings, chicken parts? What was it?

4 MR. ROBERTS: Well, not hearts.

5 MEMBER ALBERTI: Pardon?

6 MR. ROBERTS: Not hearts.

7 MEMBER ALBERTI: I said parts.

8 MR. ROBERTS: Chicken hearts? Oh,
9 okay.

10 MEMBER ALBERTI: No, that's a
11 delicacy that I never got, never enjoyed.

12 MR. ROBERTS: Yes.

13 MEMBER ALBERTI: All right. What
14 was it?

15 MR. ROBERTS: Wings.

16 MEMBER ALBERTI: Just wings?

17 MR. ROBERTS: Yes.

18 MEMBER ALBERTI: Okay.

19 MR. ROBERTS: That's the preferred
20 choice.

21 MEMBER ALBERTI: Okay. And did
22 you --

1 MR. ROBERTS: We also provided the
2 Doritos and the chips as well.

3 MEMBER ALBERTI: All right. All
4 right. Okay. And when did you break down the
5 food? When did you take down the food?

6 MR. ROBERTS: Well, there really
7 wasn't no food left. They had ate it all.

8 MEMBER ALBERTI: Okay.

9 MR. ROBERTS: So --

10 MEMBER ALBERTI: So what time?

11 MR. ROBERTS: It was just I guess
12 around 11:00, 11:30.

13 MEMBER ALBERTI: Okay. And who
14 brought the food -- who cleaned up the food?

15 MR. ROBERTS: We did.

16 MEMBER ALBERTI: Who is we?

17 MR. ROBERTS: Rose's caterer.

18 MEMBER ALBERTI: Who is we? Who
19 exactly?

20 MR. ROBERTS: Rose's caterer.

21 MEMBER ALBERTI: How many people?
22 Your staff, you?

1 MR. ROBERTS: I and my staff, yes.

2 MEMBER ALBERTI: How many people?

3 MR. ROBERTS: Two.

4 MEMBER ALBERTI: Two, okay. So
5 tell me again why I don't see any invoices for
6 hamburgers, hot dogs, buns and all of that?

7 MR. ROBERTS: I misplaced them. I
8 didn't have them. I told you that.

9 MEMBER ALBERTI: Okay. As a
10 caterer, are you aware that you need to keep
11 your invoices for food?

12 MR. ROBERTS: Yes.

13 MEMBER ALBERTI: Okay. What was
14 your arrangement? You told me it was a verbal
15 arrangement --

16 MR. ROBERTS: Yeah.

17 MEMBER ALBERTI: -- with the
18 promotor.

19 MR. ROBERTS: Yeah.

20 MEMBER ALBERTI: What was your
21 arrangement?

22 MR. ROBERTS: The arrangement was

1 like the proceeds from the DC Brau actually
2 went to their organization.

3 MEMBER ALBERTI: Okay.

4 MR. ROBERTS: So --

5 CHAIRPERSON MILLER: What?

6 MEMBER ALBERTI: -- the proceeds
7 from the DC Brau went to their organization
8 was the testimony. You need to speak up a
9 little bit, Mr. Roberts.

10 MR. ROBERTS: Okay.

11 MEMBER ALBERTI: How were they
12 charged? I mean, how did you charge them?
13 Did you charge them a flat fee? Did you
14 charge them --

15 MR. ROBERTS: For the food?

16 MEMBER ALBERTI: -- itemized?

17 MR. ROBERTS: Yes.

18 MEMBER ALBERTI: I mean, how did
19 you charge them?

20 MR. ROBERTS: Yeah, I charged them
21 for the food and the services and the
22 bartender services, yes.

1 MEMBER ALBERTI: For the food, the
2 services, meaning what?

3 MR. ROBERTS: Meaning being on-
4 site, the bartenders, the cleanup.

5 MEMBER ALBERTI: And what else was
6 the last one? The bartending you said?

7 MR. ROBERTS: Yes, yes, the
8 bartending.

9 MEMBER ALBERTI: Okay. Did you
10 charge them anything for the alcohol?

11 MR. ROBERTS: No, because it was a
12 cash bar.

13 MEMBER ALBERTI: Cash bar, okay.
14 And the proceeds for the cash bar went to who?

15 MR. ROBERTS: Went to us and then
16 the DC Brau went to their organization, the
17 keg beer.

18 MEMBER ALBERTI: The keg beer?

19 MR. ROBERTS: Yes.

20 MEMBER ALBERTI: Were you handling
21 the money for that also?

22 MR. ROBERTS: Yes.

1 MEMBER ALBERTI: And for the cans
2 of beer?

3 MR. ROBERTS: Yes.

4 MEMBER ALBERTI: That proceeds
5 from the sale -- the cans of beer were cash
6 bar also?

7 MR. ROBERTS: Yes.

8 MEMBER ALBERTI: And the proceeds
9 from the sale of the cans of beer went to
10 whom?

11 MR. ROBERTS: To them.

12 MEMBER ALBERTI: To them. Okay.
13 How did you keep all of this straight?

14 MR. ROBERTS: We did, I suppose.
15 I guess it was --

16 MEMBER ALBERTI: Pardon?

17 MR. ROBERTS: I said we did. We
18 kept it straight.

19 MEMBER ALBERTI: How?

20 MR. ROBERTS: You have to have
21 cups.

22 MEMBER ALBERTI: I'm asking how.

1 MR. ROBERTS: You have to have
2 cups to serve the beer.

3 MEMBER ALBERTI: How did you keep
4 the proceeds straight?

5 MR. ROBERTS: It was --

6 MEMBER ALBERTI: The proceeds, the
7 cash that was taken in or however it was
8 taken, the monies taken in for DC Brau, the
9 monies taken in for the cans of beer --

10 MR. ROBERTS: Right.

11 MEMBER ALBERTI: -- versus the
12 money taken in for the alcohol that you
13 provided.

14 MR. ROBERTS: Right.

15 MEMBER ALBERTI: How did you keep
16 those revenues --

17 MR. ROBERTS: The cups. The cups
18 which the draft goes in, each cup was \$5. I
19 think they was charging \$5.

20 MEMBER ALBERTI: So you knew the
21 number of cups?

22 MR. ROBERTS: Right.

1 MEMBER ALBERTI: And what about
2 the cans of beer?

3 MR. ROBERTS: A can is a can.

4 MEMBER ALBERTI: So who counted
5 the number of cans at the beginning of the
6 evening?

7 MR. ROBERTS: We both did.

8 MEMBER ALBERTI: Okay. And how
9 many cans of beer were there at the beginning
10 of the evening?

11 MR. ROBERTS: I'm not sure how
12 many cans there was. It was a long time ago.
13 I'm not sure exactly how cans -- and then the
14 event was two days.

15 MEMBER ALBERTI: Okay. And you
16 provided all the bartending services?

17 MR. ROBERTS: Yes.

18 MEMBER ALBERTI: And what did you
19 charge for the food? A flat fee?

20 MR. ROBERTS: Yeah, a flat fee.

21 MEMBER ALBERTI: How did you come
22 up with that, how much food you were going

1 to --

2 MR. ROBERTS: Per person.

3 MEMBER ALBERTI: Per person. And
4 how many people were you counting on?

5 MR. ROBERTS: 100.

6 MEMBER ALBERTI: 100. How much
7 alcohol was used? How many bottles of
8 Smirnoff did you use?

9 MR. ROBERTS: It was mostly beer,
10 so no much of the Smirnoff was used. So we
11 really didn't make money.

12 MEMBER ALBERTI: I'm not asking --
13 I'm asking how many bottles of Smirnoff?

14 MR. ROBERTS: It wasn't much.

15 MEMBER ALBERTI: Pardon?

16 MR. ROBERTS: I said it wasn't
17 much.

18 MEMBER ALBERTI: You don't know?

19 MR. ROBERTS: I don't know the
20 exact amount of bottles, no.

21 MEMBER ALBERTI: Do you know how
22 many beers were sold?

1 MR. ROBERTS: No, not right now.

2 MEMBER ALBERTI: Do you know how
3 many cups of DC Brau were sold?

4 MR. ROBERTS: I know how much
5 money they got. It was like \$1,000. A little
6 over \$1,000.

7 MEMBER ALBERTI: Do you know the
8 exact amount?

9 MR. ROBERTS: A little over
10 \$1,000.

11 MEMBER ALBERTI: A little over
12 \$1,000.

13 MR. ROBERTS: Yes.

14 MEMBER ALBERTI: And how much was
15 each? How much was a can of beer?

16 MR. ROBERTS: \$5.

17 MEMBER ALBERTI: How much? \$5?

18 MR. ROBERTS: Yeah.

19 MEMBER ALBERTI: I don't have any
20 other questions right now.

21 CHAIRPERSON MILLER: Okay.

22 MEMBER ALBERTI: Thank you.

1 CHAIRPERSON MILLER: Others? Mr.
2 Jones?

3 MEMBER JONES: Thank you, Madam
4 Chair. So I'm going to ask you a series or a
5 few questions about just the business side of
6 the catering activity on that night to help me
7 get a better understanding of you said there
8 was some confusion and I think I can
9 appreciate that, although I can't necessarily
10 understand it in my full comprehension.
11 You're going to help me with that, I hope.

12 So on that night, you said you
13 didn't sign a contract for this event,
14 correct?

15 MR. ROBERTS: Correct.

16 MEMBER JONES: And did you have a
17 relationship with the individual with whom you
18 had a verbal arrangement?

19 MR. ROBERTS: I had a relationship
20 with a mutual friend, yes.

21 MEMBER JONES: You had a
22 relationship with a mutual friend, but you did

1 not have a direct relationship with the
2 individual with whom you had a verbal
3 arrangement?

4 MR. ROBERTS: No, because the
5 mutual friend was there as well.

6 MEMBER JONES: Was the mutual
7 friend tied to the activity?

8 MR. ROBERTS: Yes.

9 MEMBER JONES: In what way?

10 MR. ROBERTS: He was one of the
11 coordinators of the event.

12 MEMBER JONES: He was one of the
13 coordinators. So why didn't you have a verbal
14 with that individual?

15 MR. ROBERTS: I'm -- well, I guess
16 because he was just a coordinator. He wasn't
17 a promotor.

18 MEMBER JONES: So you had a verbal
19 "contract" with the promotor?

20 MR. ROBERTS: Right.

21 MEMBER JONES: And this other
22 individual that was the mutual friend, he was

1 not tied to the event as a promotor --

2 MR. ROBERTS: Yes, he was tied.

3 MEMBER JONES: He is not tied to
4 the event as a promotor.

5 MR. ROBERTS: Right.

6 MEMBER JONES: He is tied to the
7 event as an organizer.

8 MR. ROBERTS: Yes.

9 MEMBER JONES: So would he have
10 hired the promotor?

11 MR. ROBERTS: No.

12 MEMBER JONES: No?

13 MR. ROBERTS: No. I don't think
14 he would have hired the promotor. They were,
15 I guess -- now, how can I explain? I guess
16 it was like a group and he -- they were
17 getting a festival. They were there every
18 year.

19 MEMBER JONES: So I'm just trying
20 to -- how did you get to the point where you
21 felt so comfortable to put yourself out there
22 on a verbal when that is not your normal

1 business practice in this instance?

2 MR. ROBERTS: I just did. I guess
3 because it was right across the street, you
4 know. It was right across the street. It
5 wasn't like we had much to really do, you
6 know.

7 MEMBER JONES: Okay. So were you
8 -- you didn't have a written contract, but you
9 had a verbal arrangement or agreement?

10 MR. ROBERTS: We had a verbal
11 arrangement.

12 MEMBER JONES: What were your -- I
13 know you kind of talked about this, but I'm
14 trying to get down to the -- understanding the
15 specifics. What was the -- what was your
16 compensation going to entail? How were you
17 going to make money off of this event?

18 MR. ROBERTS: We made money off
19 the food. We made money off of actually being
20 on-site and the bartending services itself and
21 whatever alcohol we sold as well.

22 MEMBER JONES: Okay. So what was

1 the -- what were you to be compensated for
2 this? So you broke it down into several
3 categories.

4 MR. ROBERTS: Right.

5 MEMBER JONES: Were you to be
6 compensated for each of those categories?

7 MR. ROBERTS: Yes.

8 MEMBER JONES: Okay. Then how was
9 it --

10 MR. ROBERTS: The food was per
11 person.

12 MEMBER JONES: Food was per
13 person?

14 MR. ROBERTS: Per person, yeah.

15 MEMBER JONES: So what was that?

16 MR. ROBERTS: \$8.

17 MEMBER JONES: \$8 per person?

18 MR. ROBERTS: Per person.

19 MEMBER JONES: So how did you keep
20 track of the number of people?

21 MR. ROBERTS: You get a number
22 from the beginning, so I -- if they -- if it

1 wasn't 100 people, it wasn't. You still got
2 paid for 100 people

3 MEMBER JONES: Okay. So you --
4 how many people did you have in this contract?

5 MR. ROBERTS: 100.

6 MEMBER JONES: Or this agreement?

7 MR. ROBERTS: 100.

8 MEMBER JONES: 100?

9 MR. ROBERTS: Yes.

10 MEMBER JONES: All right. So you
11 had a fee that you were going to receive for
12 100 people for that food?

13 MR. ROBERTS: Right, regardless of
14 if 150 came or if two people came.

15 MEMBER JONES: Okay. Did you make
16 money off of the food portion of this
17 arrangement?

18 MR. ROBERTS: Yeah.

19 MEMBER JONES: You did?

20 MR. ROBERTS: Yes.

21 MEMBER JONES: And how do you know
22 that?

1 MR. ROBERTS: Because I wouldn't
2 have priced it if I wasn't going to make
3 money. I was the one that gave the price.

4 MEMBER JONES: How do you know
5 that you made money off of this event?

6 MR. ROBERTS: Off of the food?

7 MEMBER JONES: Yes. So --

8 MR. ROBERTS: Because I spent \$300
9 and I made \$800.

10 MEMBER JONES: Okay. So you spent
11 \$300?

12 MR. ROBERTS: Yes.

13 MEMBER JONES: Okay. And you know
14 that, even though you don't have the receipts
15 based on what?

16 MR. ROBERTS: Based on how much
17 chicken cost, how much the hamburgers, the hot
18 dogs, the bread, it was like close to \$300.

19 MEMBER JONES: Did you ever use
20 like sometimes the accounting key or did you
21 write it down? Like how do you -- I'm just
22 trying to follow how you are keeping track of

1 what you did where. Because, obviously, you
2 mix your revenue and your expenses between
3 your caterer and your restaurant.

4 So I'm just trying to follow how
5 you even have a clue as to whether or not you
6 made money off of this event and subsequent,
7 how you operate your catering and how you
8 separate that. And it doesn't seem like I
9 have a clear picture as to how you even keep
10 track of how you are making this business work
11 from the standpoint of that.

12 If it's not clear for me from that
13 standpoint, I'm having trouble following how
14 you are keeping the entities separate going
15 forward.

16 MR. ROBERTS: Well, going forward,
17 yes, we now use Quikbooks. We use a
18 spreadsheet.

19 MEMBER JONES: All right. So
20 going forward you have a thought process now.
21 But at the time, you didn't have that?

22 MR. ROBERTS: Right. No, not at

1 that event we didn't, no.

2 MEMBER JONES: Not at that event.

3 Okay. So you also bought alcohol that you
4 used --

5 MR. ROBERTS: Yes.

6 MEMBER JONES: -- for this
7 activity, correct?

8 MR. ROBERTS: Right.

9 MEMBER JONES: And I have to
10 apologize, because I kind of got confused. I
11 know Mr. Rivero was asking you questions and
12 you responded to those questions, but you
13 bought alcohol for this specific event? Did
14 you or did you not?

15 MR. ROBERTS: I did.

16 MEMBER JONES: You did. Okay.
17 And the alcohol that you bought for this
18 specific event, you purchased it and you
19 transported it from the purchase location to
20 your Rose's Dream establishment, which is also
21 the address for your catering license. Is
22 that correct?

1 MR. ROBERTS: Yes.

2 MEMBER JONES: And then you took
3 it physically from that location and you
4 transported it from your Rose's Dream
5 establishment --

6 MR. ROBERTS: Yes.

7 MEMBER JONES: -- to the location
8 of the event, correct?

9 MR. ROBERTS: Correct.

10 MEMBER JONES: Okay. How did you
11 know how much to bring from your licensed
12 establishment or your catering address to the
13 address of the event?

14 MR. ROBERTS: I bought what I
15 anticipated was going to be sold.

16 MEMBER JONES: So you --

17 MR. ROBERTS: Just like when you--

18 MEMBER JONES: -- how do you make
19 that determination?

20 MR. ROBERTS: Just like you would
21 do in any event, you wouldn't know. You
22 wouldn't know. You would just make sure that

1 you have enough that you don't run out. I
2 think any caterer or any licensed place would
3 do that. Same as in your establishment. You
4 have more than what you need.

5 MEMBER JONES: Okay.

6 MR. ROBERTS: And if I don't use
7 it then, I can use it on another catering
8 event.

9 MEMBER JONES: So there is a
10 different model between the food and the
11 alcohol?

12 MR. ROBERTS: Oh, yeah.

13 MEMBER JONES: For the food,
14 you're counting up the heads.

15 MR. ROBERTS: That's what it is.

16 MEMBER JONES: Alcohol you just
17 bring --

18 MR. ROBERTS: Yeah, yeah, because
19 the food you can't reuse. You can reuse the
20 alcohol.

21 MEMBER JONES: Okay. So you can
22 reuse the alcohol?

1 MR. ROBERTS: Yeah.

2 MEMBER JONES: So what was your --
3 how did you reuse the alcohol that you didn't
4 sell?

5 MR. ROBERTS: We used it at the
6 establishment.

7 MEMBER JONES: When you say the
8 establishment --

9 MR. ROBERTS: Or we put it in --

10 MEMBER JONES: -- can you speak
11 specifically?

12 MR. ROBERTS: At Rose's Dream.

13 MEMBER JONES: Rose's, at which
14 Rose's?

15 MR. ROBERTS: The Rose's Dream.

16 MEMBER JONES: Restaurant or
17 caterer?

18 MR. ROBERTS: Caterer.

19 MEMBER JONES: Used that at Rose's
20 Dream Catering?

21 MR. ROBERTS: Yes.

22 MEMBER JONES: So you took that

1 same alcohol that you bought specifically for
2 this event and you used it at another event
3 under your caterer?

4 MR. ROBERTS: Yes, I could. I
5 could.

6 MEMBER JONES: What did you do? I
7 know you could have done a lot of things. I
8 want to know what you did do with this
9 alcohol.

10 MR. ROBERTS: What I did do, at
11 that time, I brought it back to Rose's Dream
12 and I used it there.

13 MEMBER JONES: Rose's Dream what?

14 MR. ROBERTS: The bar.

15 MEMBER JONES: The bar?

16 MR. ROBERTS: Yes.

17 MEMBER JONES: Did you use it at
18 Rose's Dream Bar?

19 MR. ROBERTS: Yes.

20 MEMBER JONES: You did. Okay.
21 Did you take any alcohol back to, I guess --
22 is it practice to bring alcohol back to like

1 get a refund for alcohol that didn't sell?

2 MR. ROBERTS: No.

3 MEMBER JONES: No? It's not
4 practiced? So once you buy it from the
5 wholesaler or wherever you purchased it from,
6 it's yours?

7 MR. ROBERTS: Yeah.

8 MEMBER JONES: Okay. Is it a
9 common practice for you to buy alcohol for a
10 catering event and whatever is not used, you
11 take that alcohol and use it in your
12 restaurant establishment?

13 MR. ROBERTS: Now that I know now,
14 no.

15 MEMBER JONES: But you --

16 MR. ROBERTS: At that time, I
17 didn't know.

18 MEMBER JONES: Okay. So now you
19 have changed your practice?

20 MR. ROBERTS: Right. We changed
21 the practice.

22 MEMBER JONES: Okay. And in terms

1 of the tracking of your expenses and your
2 receipts and our revenue for each catered
3 event, did you -- at the time of this event,
4 given that you didn't have a written contract
5 for this activity, what would you have
6 considered to be your responsibility, in terms
7 of putting on this event in its entirety? In
8 terms of being a caterer for this event. I
9 just want to make sure I'm clear.

10 You considered your
11 responsibilities to be what for this event?

12 MR. ROBERTS: To provide the food
13 that the client, you know, requested, provide
14 all of the services that the client requested
15 and to also be there in order to be the ABC
16 licensed establishment. In terms of on the
17 alcohol side.

18 MEMBER JONES: On the alcohol
19 side.

20 MR. ROBERTS: On the alcohol side.

21 MEMBER JONES: Okay. And you
22 handled all of the transactions for the

1 alcohol, even the alcohol that wasn't provided
2 by you?

3 MR. ROBERTS: Yes, sir.

4 MEMBER JONES: Okay. And I know
5 Board Member Alberti asked, but I just want to
6 make sure I'm clear, at the end of the night,
7 you split up the proceeds that -- you split up
8 the revenue that was received for the
9 transactions of alcohol only and you gave a
10 portion to some other entity?

11 MR. ROBERTS: Yes, sir.

12 MEMBER JONES: Who was this other
13 entity?

14 MR. ROBERTS: David Fogel, the
15 promotor.

16 MEMBER JONES: He is the promotor?

17 MR. ROBERTS: Yes.

18 MEMBER JONES: Okay.

19 MR. ROBERTS: Of the festival.

20 MEMBER JONES: He is the promotor
21 of the festival?

22 MR. ROBERTS: Yes.

1 MEMBER JONES: Okay.

2 MR. ROBERTS: Of the festival.

3 And to my knowledge, it's an organization
4 that, you know, I believe they are called the
5 Cultural Electronic Creative.

6 MEMBER JONES: Okay. And it's
7 your claim that that donation that was
8 received as noted in one of the documents in
9 the exhibits where it says donation to Rose's,
10 well, to the caterer that you -- you are
11 familiar with that statement?

12 MR. ROBERTS: Yes.

13 MEMBER JONES: I mean with that
14 document?

15 MR. ROBERTS: Yes, yes.

16 MEMBER JONES: Okay. In your --
17 what is your claim regarding that event?

18 MR. ROBERTS: Not only my claim,
19 but it's also in the promotor's claim.

20 MEMBER JONES: And here your
21 claim, which is in concert with someone
22 else's, but your claim is what?

1 MR. ROBERTS: Is that the donation
2 was to the Forward Festival. And it wasn't
3 necessarily to me. It was to the Forward
4 Festival, for the Forward Festival.

5 MEMBER JONES: And the Forward
6 Festival was represented by David Fogel, who
7 was the promotor?

8 MR. ROBERTS: Yes, sir.

9 MEMBER JONES: Which brings me
10 back to my original, I'm trying -- so he was
11 the promotor and he is or is not, to your
12 understanding, hired by the guy that was the
13 mutual friend?

14 MR. ROBERTS: Right.

15 MEMBER JONES: What is Forward
16 Festival? Is it a real organization?

17 MR. ROBERTS: It's --

18 MEMBER JONES: Is it a -- does it
19 have an entity? Is it licensed? I don't know
20 what that is.

21 MR. ROBERTS: To be honest with
22 you, I don't know either. I don't know

1 exactly. I know it's a festival that is done
2 to celebrate electronic cultural music.

3 MEMBER JONES: Okay.

4 MR. ROBERTS: And they --

5 MEMBER JONES: This happens every
6 -- is it an annual event?

7 MR. ROBERTS: Yes, from my
8 knowledge, yes.

9 MEMBER JONES: This was the first
10 time you participated in it?

11 MR. ROBERTS: Yes, sir.

12 MEMBER JONES: Okay. Because I'm
13 having a hard time drawing or making the
14 connection of to whom this DC Brau was
15 donating to. Because it doesn't seem like it
16 says -- I don't see an entity that exists to
17 which it can be donated.

18 MR. ROBERTS: Oh.

19 MEMBER JONES: Right?

20 MR. ROBERTS: I understand.

21 MEMBER JONES: So it was -- all I
22 see is that it was given to you, donated to

1 you, the entity, you, as a caterer.

2 MR. ROBERTS: Right, right.

3 MEMBER JONES: And I'm trying to
4 help you help me understand how this donation
5 falls in line with what you are claiming it to
6 be. And I'm not seeing anything in there
7 outside of what you are saying and what this
8 David Fogel person is saying. But David Fogel
9 is just a promotor. And I don't understand
10 his relationship to this organization either
11 or whatever it is.

12 So that's why I'm asking that.
13 But if you don't have any more, that's fine.
14 I just wanted --

15 MR. ROBERTS: Well, I don't. I
16 don't have any more to -- to my knowledge,
17 David and George was the only ones that I had
18 contact in terms of it being a festival.

19 MEMBER JONES: Okay.

20 MR. ROBERTS: And that was the
21 name of the festival and that's my extent. I
22 don't have -- I didn't have anything to do

1 with the, you know, organization outfit.

2 There were proceedings behind it. I just had
3 to do with the catering end of it and the ABC
4 license part of it.

5 How I got involved in terms of
6 getting the kegs of beer was because we were
7 going to ge the licensed caterer on-site, so
8 he asked if I would get the beer, you know,
9 donated so that it would, I guess, be okay to
10 have it on-site.

11 MEMBER JONES: Okay. But so what
12 it boils down to is that you were working for
13 David Fogel, the promotor?

14 MR. ROBERTS: Yes, basically.

15 MEMBER JONES: Basically. Okay.

16 MR. ROBERTS: Because just like in
17 the instance of a per se BYOL event --

18 MEMBER JONES: Yes, sir.

19 MR. ROBERTS: -- and that you need
20 a license to have alcohol on the premises --

21 MEMBER JONES: Yes, sir.

22 MR. ROBERTS: -- the person who

1 gets per se a one-day license or a catering
2 license is basically who is taken
3 accountability for the alcohol on-site.

4 MEMBER JONES: Understood.

5 MR. ROBERTS: So --

6 MEMBER JONES: I just wanted to
7 make sure. You were working for David Fogel,
8 the promotor. You were not working for -- you
9 were not directly hired by the festival,
10 Forward Festival entity, that organization or
11 whatever that is. You were working for the
12 promotor? As a caterer, you were hired and
13 servicing the needs of the promotor as he
14 defined them?

15 MR. ROBERTS: I was -- let me back
16 track and say this. Because I don't want to
17 get involved in making it sound like, you
18 know, when you say promotor, as far as -- I
19 work for David Fogel.

20 MEMBER JONES: Okay.

21 MR. ROBERTS: And he came to me
22 representing the Forward Festival. I don't

1 know -- and I know that they, you know, are a
2 festival that is done on an annual basis. So,
3 no, I don't know too much about the Forward
4 Festival. I know that he represented himself
5 as the Forward Festival.

6 MEMBER JONES: Okay. Thank you.

7 MR. ROBERTS: During the Forward
8 Festival.

9 MEMBER JONES: I understand.
10 Thank you. Thank you, Madam Chair.

11 CHAIRPERSON MILLER: You're
12 welcome. Others? I just have a few follow-up
13 questions. Who paid you?

14 MR. ROBERTS: David.

15 CHAIRPERSON MILLER: David Fogel.
16 Okay. And how did he pay you? I mean, a
17 check, by credit card?

18 MR. ROBERTS: By cash.

19 CHAIRPERSON MILLER: By cash.
20 Okay. And do you have a record of how much
21 you were paid for the alcohol?

22 MR. ROBERTS: You mean, how much

1 we made?

2 CHAIRPERSON MILLER: Yes, how much
3 you made. I mean, you said that you were
4 paid, I believe, \$800 for the food. It was \$8
5 a person, 100 people, right?

6 MR. ROBERTS: Oh.

7 CHAIRPERSON MILLER: Okay. How
8 about the alcohol? At the end of the night,
9 it was tallied up and divided between, I
10 believe, Mr. Fogel who got -- or the Forward
11 Festival got the proceeds from the kegs of
12 beer and you got the proceeds from the
13 Smirnoff and I'm not sure what else.

14 MR. ROBERTS: The alcohol, yes.

15 CHAIRPERSON MILLER: But do you
16 have a record of that?

17 MR. ROBERTS: Yes. I believe it
18 was like for that night, it was like \$900.

19 CHAIRPERSON MILLER: Okay. \$900,
20 so \$800 for the food and \$900 for the alcohol?
21 And then --

22 MR. ROBERTS: And then the

1 services.

2 CHAIRPERSON MILLER: The services,
3 were they included under the food or anything?

4 MR. ROBERTS: No.

5 CHAIRPERSON MILLER: They are
6 separate?

7 MR. ROBERTS: They are separate.

8 CHAIRPERSON MILLER: Okay. Do you
9 know what that was?

10 MR. ROBERTS: And that was \$1,000.

11 CHAIRPERSON MILLER: \$1,000.

12 Okay.

13 MR. ROBERTS: Yes.

14 CHAIRPERSON MILLER: So if you
15 know you got paid \$900 for the alcohol, would
16 you know how many bottles of the Smirnoff or
17 whatever you actually used on the invoices?

18 MR. ROBERTS: Well, you get around
19 25 -- about 25 shots out of a liter.

20 CHAIRPERSON MILLER: Okay. 25
21 what?

22 MR. ROBERTS: Shots out of a

1 liter.

2 CHAIRPERSON MILLER: Okay.

3 MR. ROBERTS: And they were like--
4 you know, and \$8 for the punch, so I guess
5 we're thinking that's around \$150, \$160 off of
6 each bottle. So I guess it was kind of like
7 that.

8 CHAIRPERSON MILLER: \$160 for each
9 bottle, is what you are saying?

10 MR. ROBERTS: Yes. If you were to
11 sell --

12 CHAIRPERSON MILLER: 150 drinks?

13 MR. ROBERTS: -- it by the shots.

14 CHAIRPERSON MILLER: Okay. But
15 160 what?

16 MR. ROBERTS: Dollars.

17 CHAIRPERSON MILLER: Dollars.

18 MR. ROBERTS: Right.

19 CHAIRPERSON MILLER: For what you
20 paid for the bottle or what you made from the
21 bottle?

22 MR. ROBERTS: What you make.

1 CHAIRPERSON MILLER: Okay.

2 MR. ROBERTS: Yes. Five bottles.

3 CHAIRPERSON MILLER: Okay. Five
4 bottles, okay.

5 MEMBER ALBERTI: It comes out to
6 five bottles. Is that correct?

7 MR. ROBERTS: Yes.

8 CHAIRPERSON MILLER: Five bottles.

9 MEMBER ALBERTI: \$900, \$160 per
10 bottle.

11 MR. ROBERTS: Yes. I mean, if you
12 were --

13 MEMBER ALBERTI: I'm just saying
14 approximately. According to the figure you
15 just --

16 MR. ROBERTS: Right.

17 MEMBER ALBERTI: -- gave us --

18 MR. ROBERTS: Right.

19 MEMBER ALBERTI: -- it comes to
20 five bottles. Am I correct?

21 MR. ROBERTS: Right, yes, five
22 bottles, yes.

1 MEMBER ALBERTI: Thank you.

2 CHAIRPERSON MILLER: Okay.

3 Investigator Mathieson talked about or had a
4 photo of a box of food that was under the
5 stairs. Let me see what exhibit number that
6 is. I believe that was with the eight photos
7 that the Government --

8 MR. RIVERO: That was No. 8.

9 CHAIRPERSON MILLER: Thank you,
10 Mr. Rivero. Yes, okay, No. 8.

11 Are you familiar with that photo?

12 MR. ROBERTS: Yes.

13 CHAIRPERSON MILLER: Okay. Now,
14 was this food that you bought?

15 MR. ROBERTS: Yes.

16 CHAIRPERSON MILLER: Okay. Was
17 this food that -- why was it in the box under
18 the stairs?

19 MR. ROBERTS: Because we were in--
20 we were actually in -- we had broke down and
21 was taking it away and it must have been still
22 left there.

1 CHAIRPERSON MILLER: Okay. So
2 this is extra food you didn't use that
3 evening?

4 MR. ROBERTS: (No audible answer.)

5 CHAIRPERSON MILLER: Okay. And
6 the Government's Exhibit No. 6 are invoices
7 from David's Farm.

8 MR. ROBERTS: Right.

9 CHAIRPERSON MILLER: Showing
10 chicken and produce.

11 MR. ROBERTS: Yes, that's one of
12 the places that we buy things.

13 CHAIRPERSON MILLER: Okay. So
14 this was -- this is just one or two of the
15 invoices that --

16 MR. ROBERTS: Right.

17 CHAIRPERSON MILLER: -- you were
18 able to locate?

19 MR. ROBERTS: Yes.

20 CHAIRPERSON MILLER: That you
21 used. Okay. That reflect what you purchased
22 that evening.

1 MR. ROBERTS: Right. And not only
2 just for that particular event just to have
3 on-site.

4 CHAIRPERSON MILLER: Oh, these
5 were -- you bought this and you had it in your
6 restaurant and you used some of it for the
7 event. Do you keep your receipts in a certain
8 place or did you then?

9 MR. ROBERTS: Yes.

10 CHAIRPERSON MILLER: And why --
11 how do you explain that you couldn't find the
12 others?

13 MR. ROBERTS: Because it was at
14 the Giant, we bought stuff from the Giant and
15 I just misplaced that particular receipt.

16 CHAIRPERSON MILLER: Okay. Did
17 you present the -- Mr. Fogel with an invoice
18 of all your expenses for that night?

19 MR. ROBERTS: No. It was a flat
20 deal.

21 CHAIRPERSON MILLER: But --

22 MR. ROBERTS: Didn't have to

1 provide invoices.

2 CHAIRPERSON MILLER: -- the --

3 MEMBER ALBERTI: Could you speak
4 up, Mr. Roberts?

5 MR. ROBERTS: I said we didn't
6 have to provide an invoice. It was a flat
7 rate.

8 CHAIRPERSON MILLER: Okay. So but
9 what I understood you to say was the food was
10 a flat deal, you know, you -- 100 people, no
11 matter what.

12 MR. ROBERTS: Right.

13 CHAIRPERSON MILLER: So that --

14 MR. ROBERTS: And then the
15 services.

16 CHAIRPERSON MILLER: -- was \$8 a
17 person, \$800.

18 MR. ROBERTS: Services as well.

19 CHAIRPERSON MILLER: Services as
20 well?

21 MR. ROBERTS: Yes.

22 CHAIRPERSON MILLER: That was a

1 flat deal?

2 MR. ROBERTS: Yes.

3 CHAIRPERSON MILLER: How much was
4 the services?

5 MR. ROBERTS: \$1,000.

6 CHAIRPERSON MILLER: \$1,000. Oh,
7 that's what you said before. Okay. And how
8 about was the alcohol a flat deal?

9 MR. ROBERTS: The alcohol on our
10 end was ours, you know? The alcohol that --

11 CHAIRPERSON MILLER: Oh, you just
12 got it from the cash bar --

13 MR. ROBERTS: -- from the beer --

14 CHAIRPERSON MILLER: -- direct?

15 MR. ROBERTS: Right.

16 CHAIRPERSON MILLER: I see. Okay.

17 All right. Thank you.

18 MEMBER ALBERTI: A couple more
19 questions?

20 CHAIRPERSON MILLER: Okay. Mr.
21 Alberti.

22 MEMBER ALBERTI: Mr. Roberts, just

1 a couple more questions. Okay. The kegs, the
2 four kegs that were used Wednesday night and
3 Friday night, I'm assuming Wednesday night and
4 Saturday night. Is that correct? They were
5 used both nights?

6 MR. ROBERTS: Yes.

7 MEMBER ALBERTI: Okay. Were they
8 delivered to you or did you pick them up?

9 MR. ROBERTS: They were delivered.

10 MEMBER ALBERTI: Okay. They were
11 delivered. I see on the invoice that was
12 dated 4/25/2012, which would have been the
13 Wednesday, and I'm assuming they were
14 delivered on Wednesday. Is that correct?

15 MR. ROBERTS: Yes.

16 MEMBER ALBERTI: Okay. So they
17 had your caterer's license number on this
18 printed receipt. How would they have known to
19 put your caterer's number on that receipt?

20 MR. ROBERTS: Because I was there.
21 I went there with David.

22 MEMBER ALBERTI: To?

1 MR. ROBERTS: DC Brau.

2 MEMBER ALBERTI: So you went to DC
3 Brau to arrange the delivery and donation.

4 MR. ROBERTS: Yes.

5 MEMBER ALBERTI: Okay. Thank you.
6 And you gave them your caterer's license?

7 MR. ROBERTS: Yes, sir.

8 MEMBER ALBERTI: Okay. It says in
9 -- okay, switching gears a little bit. It
10 says in this letter from Mr. Fogel, you said
11 it was notarized, and so I'm assuming that you
12 agree with everything that is in this letter?
13 Is that correct?

14 MR. ROBERTS: Yes.

15 MEMBER ALBERTI: Yes?

16 MR. ROBERTS: Yes, sir.

17 MEMBER ALBERTI: Okay. It says
18 "As the licensee, I asked Mr. Roberts to get
19 the beer." What does that mean?

20 MR. ROBERTS: To go to DC Brau and
21 get the beer, because we were going to be --

22 MEMBER ALBERTI: This doesn't

1 reference the cans of beer?

2 MR. ROBERTS: Sorry?

3 MEMBER ALBERTI: This doesn't
4 reference the cans of beer? There were more
5 than one beer there. There were cans of beer
6 also.

7 MR. ROBERTS: No, you -- well, he
8 -- I believe he was speaking about DC Brau.

9 MEMBER ALBERTI: So who purchased
10 the cans of beer?

11 MR. ROBERTS: They did. He did.

12 MEMBER ALBERTI: He did?

13 MR. ROBERTS: Yes, sir.

14 MEMBER ALBERTI: Meaning, Mr.
15 Fogel?

16 MR. ROBERTS: Mr. Fogel, yes.

17 MEMBER ALBERTI: Do you know when
18 they were delivered?

19 MR. ROBERTS: No, I don't.

20 MEMBER ALBERTI: Were they there
21 on Wednesday?

22 MR. ROBERTS: Yes.

1 MEMBER ALBERTI: And was there
2 beer left over on Wednesday?

3 MR. ROBERTS: Yes.

4 MEMBER ALBERTI: And do you know
5 what happened to the beer between Wednesday
6 and Saturday?

7 MR. ROBERTS: No.

8 MEMBER ALBERTI: I have no further
9 questions.

10 CHAIRPERSON MILLER: Mr.
11 Silverstein?

12 MEMBER SILVERSTEIN: Mr. Roberts,
13 just about everything that could be asked has
14 been so far, but I'm not quite sure how much
15 was your take on the total sale of liquor?
16 And how much was Mr. Fogels?

17 MR. ROBERTS: His, I believe, was
18 \$900 and ours was like \$1,000.

19 MEMBER SILVERSTEIN: \$900 for Mr.
20 Fogel and \$1,000 for you. And on the sale of
21 food, how would you figure that in there?

22 MR. ROBERTS: \$800.

1 MEMBER SILVERSTEIN: Pardon?

2 MR. ROBERTS: \$800.

3 MEMBER SILVERSTEIN: And that was
4 all yours?

5 MR. ROBERTS: Yes, sir.

6 MEMBER SILVERSTEIN: No further
7 questions.

8 CHAIRPERSON MILLER: Okay.

9 Anybody else? Yes, Mr. Rivero?

10 MR. RIVERO: Thank you.

11 RECROSS-EXAMINATION

12 MR. RIVERO: You testified that on
13 the night of the event there were about 60
14 people there?

15 MR. ROBERTS: Yes.

16 MR. RIVERO: How many of those 60
17 people brought their own alcohol?

18 MR. ROBERTS: None, to my
19 knowledge.

20 MR. RIVERO: Okay.

21 CHAIRPERSON MILLER: Wait, I'm
22 sorry. Did you say none?

1 MR. ROBERTS: None.

2 CHAIRPERSON MILLER: Okay.

3 MR. RIVERO: Okay. You also
4 indicated that a client had called ABRA to
5 find out about the whole BYOL situation.

6 MR. ROBERTS: Yes.

7 MR. RIVERO: Who was that client?

8 MR. ROBERTS: I would have to
9 check my records to find out her exact name.

10 MEMBER ALBERTI: Mr. Roberts,
11 could you speak up, please?

12 MR. ROBERTS: I would have to find
13 out my records to check to find out her exact
14 name.

15 MR. RIVERO: It's on --

16 MR. ROBERTS: Because I --

17 MR. RIVERO: So it's a female?

18 MR. ROBERTS: Yes. And I did the
19 event for her as well.

20 MR. RIVERO: Okay. You just don't
21 remember her name?

22 MR. ROBERTS: Correct.

1 MR. RIVERO: Okay. All right.

2 You did state that nobody would be allowed to
3 leave the night of the incident until they
4 were carded by the police at the door?

5 MR. ROBERTS: That's correct.

6 MR. RIVERO: Okay. And so what
7 did you do to make sure you weren't serving
8 minors who may have been inside?

9 MR. ROBERTS: We would card. They
10 were carded at the door and the only reason
11 why that -- the one guy wasn't carded is he
12 was with the --

13 MR. RIVERO: No, that's when they
14 were leaving. You testified that they were
15 carded at the door when they were leaving the
16 police.

17 MR. ROBERTS: Right.

18 MR. RIVERO: I'm talking about
19 going into the place.

20 MR. ROBERTS: And I'm just
21 testifying that they were carded going in.

22 MR. RIVERO: By whom?

1 MR. ROBERTS: By the security.

2 MR. RIVERO: What security?

3 MR. ROBERTS: The security that
4 was at the door.

5 MR. RIVERO: And who was that?
6 One person, two persons?

7 MR. ROBERTS: One person, Mr.
8 Rivero. I'm pretty sure that the Investigator
9 knew there was a security at the door as well.

10 MR. RIVERO: Okay. You testified
11 that with respect to the food purchases, you
12 lost one or you misplaced one of the receipts?

13 MR. ROBERTS: Unfortunately, yes.

14 MR. RIVERO: And were not able to
15 produce one.

16 MR. ROBERTS: Yes.

17 MR. RIVERO: And you indicated
18 that Rose's Dream restaurant license was used
19 to purchase the alcohol?

20 MR. ROBERTS: Yes, sir.

21 MR. RIVERO: And this event that
22 took --

1 MR. ROBERTS: I admit that.

2 MR. RIVERO: -- place on April
3 28th, how did you document the purchases and
4 sale of food and alcohol in your report to the
5 ABC Board? You are aware that you have to
6 make --

7 MR. ROBERTS: Yes, I'm aware, Mr.
8 Rivero.

9 MR. RIVERO: -- reports? So how--

10 MR. ROBERTS: Like I said, we have
11 been -- we documented it together as one.

12 MR. RIVERO: Okay. You documented
13 it in the report?

14 MR. ROBERTS: Yes.

15 MR. RIVERO: Okay. And you have
16 filed that report to the Board?

17 MR. ROBERTS: Yes. We haven't
18 filed that particular report as of yet.

19 MR. RIVERO: How many reports have
20 you filed with the ABC Board showing your
21 purchases and sales?

22 MR. ROBERTS: Many.

1 MR. RIVERO: As a caterer? Not as
2 the restaurant, as the caterer.

3 MR. ROBERTS: Just one, sir.

4 MR. RIVERO: Just one?

5 MR. ROBERTS: Yes. We are fairly
6 new on the catering side.

7 MR. RIVERO: Okay. When was your
8 license obtained?

9 MR. ROBERTS: Last year, that
10 first year.

11 MR. RIVERO: Okay. When last year
12 was your license obtained?

13 MR. ROBERTS: March.

14 MR. RIVERO: March of 2012?

15 MR. ROBERTS: Yes, yes, like we
16 are upcoming now on our renewal, so I would
17 say March.

18 MR. RIVERO: Okay. And so March
19 2012, this event took place in April 2012.

20 MR. ROBERTS: Yes, sir.

21 MR. RIVERO: And you stated you
22 filed one report?

1 MR. ROBERTS: Yes, we filed it
2 recently.

3 MR. RIVERO: When did you file
4 that one report?

5 MR. ROBERTS: Today.

6 MR. RIVERO: You filed it today?

7 MR. ROBERTS: Yes.

8 MR. RIVERO: Okay. And that --

9 MR. ROBERTS: That's when it is
10 sue.

11 MR. RIVERO: -- report was for
12 sales that took place from the beginning of
13 your --

14 MR. ROBERTS: Yes.

15 MR. RIVERO: -- license until
16 today?

17 MR. ROBERTS: Yes, I believe so,
18 yes.

19 MR. RIVERO: Okay. And so how did
20 you --

21 MR. ROBERTS: No, until December.

22 MR. RIVERO: Until December of

1 last year?

2 MR. ROBERTS: Last year.

3 MR. RIVERO: Okay. So in that
4 report then, that's where you documented the
5 sales and purchases of this event?

6 MR. ROBERTS: Yes, sir.

7 MR. RIVERO: Okay. How did you do
8 that if you didn't have the receipts for the
9 food?

10 MR. ROBERTS: Say again, sir?

11 MR. RIVERO: How did you document
12 the purchase of the food on -- with respect to
13 the food -- the receipt for which you never
14 found?

15 MR. ROBERTS: Well, we still
16 documented it. It's in there.

17 MR. RIVERO: Did you just guess--

18 MR. ROBERTS: No, I knew --

19 MR. RIVERO: -- what the value of
20 the food was?

21 MR. ROBERTS: For that particular
22 event, yes.

1 MR. RIVERO: And you reported for
2 alcohol purchases zero?

3 MR. ROBERTS: No, I didn't report
4 zero. I reported it from the -- after --

5 MR. RIVERO: I'm sorry. I'm only
6 talking about this particular event, for this
7 event.

8 MR. ROBERTS: This event, no, we
9 didn't report zero. We reported what we used.

10 MR. RIVERO: But the caterer's
11 license didn't purchase the alcohol for this
12 event for April 28th, right?

13 MR. ROBERTS: Right.

14 MR. RIVERO: But you reported some
15 alcohol purchase anyway is what you are
16 saying?

17 MR. ROBERTS: Yes, sir.

18 MR. RIVERO: Okay. So where were
19 the receipts for those alcohol purchases that
20 you reported in the form that you filed today
21 with the ABC Board? Where are those receipts?

22 MR. ROBERTS: They are -- for

1 those six bottles, they would be under the
2 Rose's Dream.

3 MR. RIVERO: But the report you
4 filed with the Board today --

5 MR. ROBERTS: Today.

6 MR. RIVERO: -- for what the
7 caterer's license purchased and sold.

8 MR. ROBERTS: Right.

9 MR. RIVERO: So if you're telling
10 me that the restaurant purchased the alcohol
11 that was used for this event, are you saying
12 that the cost of alcohol you reported as
13 having been a purchase by the caterer in the
14 report you filed with the Board today?

15 MR. ROBERTS: No.

16 MR. RIVERO: Is that what you're
17 saying? Is that what I'm hearing from you?

18 MR. ROBERTS: I want to make sure
19 you don't confuse me here. When we filed our
20 catering report, we used our catering
21 receipts.

22 MR. RIVERO: Right.

1 MR. ROBERTS: That was sold.

2 Whatever was on the catering receipts that we
3 purchased --

4 MR. RIVERO: I got that.

5 MR. ROBERTS: -- from --

6 MR. RIVERO: But for this night,
7 April 28th --

8 MR. ROBERTS: Right.

9 MR. RIVERO: -- the purchases were
10 not made with the catering license.

11 MR. ROBERTS: Okay. So it's not
12 on there then. To answer your question, no,
13 it's not on there then. Those six bottles
14 aren't on there.

15 MR. RIVERO: Okay. You stated now
16 that the donation to Rose's Catering was not
17 really to Rose's Catering. It was to the
18 Forward Festival?

19 MR. ROBERTS: Yes, sir.

20 MR. RIVERO: Okay. How do you
21 know that?

22 MR. ROBERTS: How do I know that?

1 MR. RIVERO: Yes. Because the
2 receipt says donation to Rose's Catering. How
3 do you know it was not for Rose's Catering?

4 MR. ROBERTS: Because I was there,
5 Mr. Rivero. I just told the Board that I was
6 there. He took me there. I don't even know
7 DC Brau.

8 MR. RIVERO: Why was your license
9 used for this donation if the donation was for
10 the festival?

11 MR. ROBERTS: Because I was the
12 licensee on-site. I told you that before.

13 MR. RIVERO: Okay.

14 MR. ROBERTS: So we just assumed
15 that it would -- should go to me, because I
16 was the licensee on-site.

17 MR. RIVERO: But it wasn't a
18 donation to you. You knew very well it was
19 for the festival. So why would you let your
20 license be used as a pass-through for the
21 Forward Festival?

22 MR. ROBERTS: I guess the same way

1 that it would be used as a pass-through for
2 BYOL event. I told you that that was the
3 reason why it didn't affect me that way. It
4 would --

5 MR. RIVERO: Now, you did testify
6 that none of the patrons brought their own
7 alcohol.

8 MR. ROBERTS: Yes.

9 MR. RIVERO: What is your
10 understanding of BYOL? What is the you in the
11 YOL?

12 MR. ROBERTS: Maybe the festival.

13 MR. RIVERO: Maybe the festival.
14 Okay.

15 MR. ROBERTS: The festival, David.

16 MR. RIVERO: No further questions.

17 CHAIRPERSON MILLER: Mr. Alberti,
18 did you have some more questions?

19 MEMBER ALBERTI: Yes, I just have,
20 because I wasn't quite sure I heard correctly
21 what was being said.

22 Mr. Rivero asked you about how you

1 confirm that the people were of age, were 21.

2 MR. ROBERTS: And I told him that
3 it was the security at the door that was
4 checking IDs.

5 MEMBER ALBERTI: Okay. And so did
6 you check at the bar?

7 MR. ROBERTS: If the person looks
8 to be not of age, just like you would in any
9 other establishment, you would ask for ID
10 regardless if the security checked for ID or
11 not.

12 MEMBER ALBERTI: Okay. Were
13 people -- did they have their hand stamped?
14 Did they have a wristband or anything?

15 MR. ROBERTS: No.

16 MEMBER ALBERTI: And this was an
17 18 and older crowd, is that right?

18 MR. ROBERTS: Excuse me?

19 MEMBER ALBERTI: This was an 18
20 and up crowd, right?

21 MR. ROBERTS: No, to my knowledge
22 it was supposed to be 21 and over.

1 MEMBER ALBERTI: Oh.

2 MR. ROBERTS: And --

3 MEMBER ALBERTI: Well, I'm looking
4 at a flyer here that says 18 plus.

5 MR. ROBERTS: To my knowledge, it
6 was 21 and over.

7 CHAIRPERSON MILLER: Is that --

8 MR. ROBERTS: Everyone was 21.

9 MEMBER ALBERTI: That's what I'm
10 looking at now.

11 CHAIRPERSON MILLER: Is that it?

12 MEMBER ALBERTI: It's not in
13 evidence, but I'm --

14 MR. ROBERTS: Everyone was carded
15 at the door.

16 MEMBER ALBERTI: So why would
17 everyone be -- okay. All right. But to your
18 knowledge, it was 21 plus?

19 MR. ROBERTS: Yes.

20 MEMBER ALBERTI: Okay.

21 MR. ROBERTS: And in either event,
22 regardless of if it's 21 and over or 18 or

1 whatever, my experience is to check anyway.

2 MEMBER ALBERTI: Okay.

3 MR. ROBERTS: Regardless.

4 MEMBER ALBERTI: Okay. Thank you.

5 No further questions.

6 CHAIRPERSON MILLER: I just want
7 to say to Mrs. Roberts, since he is in the
8 witness stand, if you had a question on behalf
9 of yourself, you could ask him. If you don't,
10 that's fine. I just wanted to let you know we
11 usually go. Okay. It doesn't look like you
12 do. Okay.

13 Mr. Rivero, do you have any
14 questions --

15 MR. RIVERO: No.

16 CHAIRPERSON MILLER: -- based on
17 the last? Okay. All right. I think that you
18 can be excused then, Mr. Roberts. Thank you.

19 (Whereupon, witness excused.)

20 CHAIRPERSON MILLER: Do you have a
21 question for Mr. Roberts?

22 MS. ROBERTS: Oh, no.

1 CHAIRPERSON MILLER: No. Okay.

2 Do you have a question about the procedure?

3 MS. ROBERTS: No.

4 CHAIRPERSON MILLER: Okay. All

5 right. Then does that conclude your case?

6 You don't have any other documents you want to
7 put in or anything?

8 MS. ROBERTS: No, we don't.

9 CHAIRPERSON MILLER: All right.

10 Then that takes us to closing.

11 MR. RIVERO: Thank you. The
12 Government believes it has proven each of the
13 three allegations today. And unfortunately
14 brought to light a few other disturbing things
15 that have gotten in the record, but because
16 they are not directly germane, I'm going to
17 sidestep them for now.

18 We have provided evidence for you
19 all that is very clear aligned to the
20 violations in this case. We have Exhibit 1
21 that shows photos of food available. Even if
22 you accept the notion that the evidence that

1 would support the other side was "eaten" and
2 is not available as evidence, what we would
3 want to expect is some form of evidence of
4 food preparation. Anything.

5 There is -- there was no equipment
6 available for proof of the fact that some food
7 might have been prepared.

8 The important thing to understand
9 about a caterer's license is that the service
10 of alcohol is incidental to the service of the
11 food. The caterers are not there to be full-
12 time bartenders. They are there to serve
13 food. And the alcohol is simply incidental.

14 The evidence you have before you
15 today shows you that the food was not
16 incidental. It was something quickly
17 prepared. We're unsure now. We don't
18 actually have the evidence, hard evidence, it
19 could be quickly wiped out and cleaned out and
20 off everybody's site and minds, so that the
21 focus could be on alcohol.

22 You had alcohol from the

1 beginning. You had alcohol to the end. It
2 seems to me like the focus was the food -- the
3 focus was the alcohol and the food was simply
4 incidental to the service of alcohol. That's
5 what the evidence shows, particularly when you
6 look at the setup. If you don't associate
7 with your typical catering setup as the
8 photographs show.

9 The event flyer that is in
10 evidence is important, because if the promotor
11 expected a minimum of 100 to 150 people, and
12 you looked at tickets that were sold for \$120
13 each as the flyer indicated, you would expect
14 some income in the area of \$18,000, if those
15 were the projections, according to the
16 testimony.

17 And, probably, an income of that
18 nature of those projections, you would
19 probably want to spend a little more money on
20 food other than hamburgers, hot dogs, dips and
21 chips.

22 The invoice statement from the

1 wholesaler, that's Exhibit 3, it shows that
2 the caterer purchased no alcohol. And the
3 invoice also doesn't account for all the
4 alcohol either that was purchased.

5 Rather, the restaurant purchased
6 the alcohol. If the restaurant possesses an
7 on-premises license, it would appear that also
8 alcohol was purchased for consumption on the
9 premises and nowhere else.

10 Perhaps the license is under the--
11 the licensee is under the impression that the
12 different license numbers are legal
13 distinctions without any real relevance or
14 significance, but that's not the case.

15 It is real because the law does
16 not permit restaurants to serve alcoholic
17 beverages at no location other than the
18 restaurant proper. It is a real distinction
19 because a whole different set of regulations
20 govern caterer behavior.

21 And even if you credited the
22 licensee's honest misunderstanding on whatever

1 statements came out of this Agency vis-a-vis,
2 you know, whoever, BYOL refers to the
3 consumers themselves. If you have a BYOL
4 event, well, that's -- I'm going to do, I'll
5 bring my own alcohol.

6 And as was testified, nobody
7 brought his or her alcohol to the event. So
8 this was not a BYOL event, as the law properly
9 understands it. And perhaps that might make--
10 help the Board make some sense out of the
11 curious statements that were attributed to
12 without any further compelling evidence to the
13 Agency.

14 So again, why would the Board
15 issue regulations for separating caterer
16 behavior and on-premise license behavior if an
17 on-premise license -- if the caterer could
18 just -- you know, if the on-premise license,
19 the catering license could be treated as
20 completely fungible. It doesn't make any
21 sense.

22 We have the second wholesaler

1 invoice. Again, it reinforces the first
2 statement, the first invoice that you have
3 before you, both of them combined don't
4 account for all of the alcohol that was
5 provided at the event and that was purchased
6 and that leads us to the DC Brau invoice.

7 It reflects that the manufacturer
8 gave property, that is the word that is used
9 in the law, not beer or wine or Bailey's,
10 whatever, it is property. And the gift of
11 property from the manufacturer to a licensee/
12 caterer is prohibited.

13 Not only is it prohibited on the
14 side of the manufacturer, it is prohibited
15 vis-a-vis receiving on the side of the
16 caterer.

17 So what we have here is a gift.
18 Now, we have a claim here that the gift was
19 really for the Forward Festival. God knows
20 what that is, but the law really isn't
21 concerned with the Forward Festival. The law
22 is concerned with the parties on either end of

1 this transaction.

2 And we have two very clearly
3 defined parties and we have a very clearly
4 defined object between the transactions,
5 because the invoice itself says what it is.
6 And it says donation. So this is a complete
7 and clear and uncontroverted violation of the
8 law against gifts.

9 And we have finally the grocery
10 receipts. The receipts show food purchases,
11 but do not account for all the food items that
12 the Investigator witnessed, as she testified
13 uncontroverted, and that the caterer reported
14 to have offered.

15 For instance, no receipt accounted
16 for the water, the cheese, the rolls, the Boca
17 Burger boxes that the Investigator witnessed
18 and testified to.

19 Nor was there a receipt to support
20 the caterer's claim that he purchased food at
21 Giant. He may have misplaced it, but I
22 suppose those are the chances you take if you

1 don't have a very organized system in the
2 first place, then how are you going to be able
3 to provide evidence when the Government comes,
4 as it does today, without allegations of
5 wrongdoing?

6 The law requires documentation for
7 all food purchases not some food purchases.

8 So I would submit to you all that
9 the Government has evidence provided in the
10 record that proves by a preponderance that it
11 is more likely than not that prepared food was
12 not served at this event. The law says snack
13 items are items that include potato chips and
14 it goes on to list other items and it states
15 specifically it's not an exhaustive list. And
16 it is food that was prepared incidental to the
17 service of alcohol.

18 We have also shown evidence to
19 prove that a gift took place here. And we
20 also have proof -- have shown evidence to
21 prove that the recordkeeping that is required
22 by law, at least for this event, was not met,

1 was not successfully demonstrated and so we
2 have a third violation of the law.

3 The Government would, therefore,
4 recommend a \$3,000 fine and a suspension of
5 the catering license for two weeks, 14 days
6 consecutive, in this matter. And maybe those
7 14 days will be a good period of time for the
8 caterer to become more familiar with what is
9 or is not expected of a caterer, because as we
10 all know ignorance of the law is not an excuse
11 here today. Thank you very much.

12 CHAIRPERSON MILLER: Thank you.
13 Okay. Mr. Roberts, would you like to do a
14 closing?

15 MR. ROBERTS: No.

16 CHAIRPERSON MILLER: It's
17 basically a summation of the evidence and we
18 are aware of the evidence. We have the
19 evidence in the record, so that's fine.

20 Okay. At this point then, I'm
21 going to close the record in this case. I'll
22 ask the parties one more thing, if you want to

1 file proposed findings of fact and conclusions
2 of law or waive your right to do so?

3 MR. RIVERO: The Government waives
4 its right to findings of fact and conclusions
5 of law.

6 CHAIRPERSON MILLER: Okay. Do you
7 understand the question?

8 MR. ROBERTS: (No audible
9 response.)

10 CHAIRPERSON MILLER: Okay. You
11 have a right, if you want to under our rules,
12 to file a written like brief, based on the
13 evidence that has been submitted. There will
14 be a transcript that will come out in two
15 weeks or so in which you could write what you
16 think the evidence shows, which would be the
17 findings of fact, you know.

18 MR. ROBERTS: No.

19 CHAIRPERSON MILLER: No? Yes,
20 okay. Most people decline. Okay. All right.
21 So the parties have waived their right to do
22 so.

1 So what you can expect is an order
2 in writing from the Board within 90 days.

3 MR. ROBERTS: Okay.

4 CHAIRPERSON MILLER: And what I'm
5 going to do next and you can stay or not stay
6 is just read our instructions. We are going
7 to have a closed meeting on that, so I'm going
8 to read that and the Board is going to take a
9 vote to close the meeting.

10 So do you have any other questions
11 though before we do that? Okay. If you do
12 have questions that come up, you can contact
13 our general counsel, Ms. Jenkins.

14 As Chairperson of the Alcoholic
15 Beverage Control Board for the District of
16 Columbia and in accordance with Section 405 of
17 the Open Meetings Amendment Act of 2010, I
18 move that the ABC Board hold a closed meeting
19 for the purpose of seeking legal advice from
20 our counsel on Case No. 12-CMP-00231, Rose's
21 Dream, per Section 405(b)(4) of the Open
22 Meetings Amendment Act of 2010, and

1 deliberating upon this case for the reasons
2 cited in Section 405(b)(13) of the Open
3 Meetings Amendment Act of 2010.

4 Is there a second?

5 MEMBER ALBERTI: Second.

6 CHAIRPERSON MILLER: Mr. Alberti
7 seconded the motion. I will now take a roll
8 call vote on the motion now that it has been
9 seconded.

10 Mr. Brooks?

11 MEMBER BROOKS: I agree.

12 CHAIRPERSON MILLER: Mr. Alberti?

13 MEMBER ALBERTI: I agree.

14 CHAIRPERSON MILLER: Ms. Miller
15 agrees.

16 Mr. Silverstein?

17 MEMBER SILVERSTEIN: I agree.

18 CHAIRPERSON MILLER: Mr. Jones?

19 MEMBER JONES: I agree.

20 CHAIRPERSON MILLER: The motion
21 has passed by a vote of 5-0-0. I hereby give
22 notice that the ABC Board will hold a closed

1 meeting in the ABC Board conference room
2 pursuant to the Open Meetings Amendment Act of
3 2010 regarding this case either today or next
4 week.

5 Okay. And that concludes our
6 proceedings with respect to this case. I see
7 counsel has already approached for our next
8 case which is scheduled for 4:30.

9 I think we will take a five minute
10 break.

11 MEMBER ALBERTI: Yes.

12 CHAIRPERSON MILLER: A fine minute
13 break.

14 Mr. Stern, the Board would like to
15 take a five minute break before we start your
16 case. All right. Thank you.

17 (Whereupon, the Show Cause Hearing
18 in the above-entitled matter was concluded at
19 5:29 p.m.)
20
21
22

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