

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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FACT FINDING HEARING

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IN THE MATTER OF:

Case # 14-251-00324
Bar 9, LLC, t/a DC9
1940 9th Street NW
License #71156
Retailer CN
ANC 1B

April 1, 2015

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The Alcoholic Beverage Control Board met in
Alcoholic Beverage Control Hearing Room, Reeves
Building, 2000 14th Street N.W., Washington,
D.C., Ms. La Verne Fletcher, Agent, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
HECTOR RODRIGUEZ, Member
MICHAEL SILVERSTEIN, Member
JAMES SHORT, Member
HERMAN JONES, Member

ALSO PRESENT:

Earl Jones, Investigator, ABRA

Jason Peru, Investigator, ABRA

John Suero, Investigator, ABRA

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

2 (4:25 p.m.)

3 CHAIR MILLER: Okay, 4:25, our next
4 hearing is 4:30. I don't know if people are here
5 yet. Wait one second, let me just -- they are?
6 Okay, let me just backtrack for a second.

7
8 I think there was a case ahead of the
9 4:30, and I know it's been either canceled or
10 continued. I want to get that on the record.

11 MALE PARTICIPANT: Our 4:00 is here.

12 CHAIR MILLER: Our 4:00 is here? Oh,
13 I thought --

14 (Off the record comments.)

15 CHAIR MILLER: Okay. So I understand
16 our 4:30's been continued, and our 4:00 is here.
17 That 4:00 is DC9? Okay. I'm sorry. Then, yeah,
18 come on up when you're ready. Yeah.

19 MALE PARTICIPANT: One second.

20 CHAIR MILLER: They did, apparently.
21 They did show records that they did. It was a
22 mistake.

1 MALE PARTICIPANT: Oh, got it.

2 CHAIR MILLER: They called twice or
3 something. Okay. All right, I'm calling Case
4 Number 14-251-00324 DC9, located at 1940 9th
5 Street Northwest. License Number 71156, the CM
6 license and ANC 1B.

7 And this hearing was also requested by
8 MPD involving a simple assault and sexual abuse
9 incident. Okay, Sergeant Harris, you're here for
10 this again -- this, as well. Okay, thank you.
11 All right, and would others introduce themselves
12 for the record? I guess we can start on my left.
13 My right? Okay.

14 MR. SPIELER: Here.

15 CHAIR MILLER: Go ahead.

16 MR. SPIELER: William Spielier, I'm the
17 owner of DC9 Bar 9, LLC.

18 CHAIR MILLER: Okay.

19 JONATHAN DICK: Jonathan Dick, I do
20 security at DC9.

21 CHAIR MILLER: What's your last name?

22 JONATHAN DICK: Dick, D-I-C-K.

1 CHAIR MILLER: D-I-C-K. Okay. All
2 right. Security.

3 SERGEANT HARRIS: Sergeant Harris,
4 Third District, focus beat official.

5 INVESTIGATOR SUERO: Investigator John
6 Suero with the Alcohol and Beverage Regulation
7 Administration.

8 CHAIR MILLER: Okay, so, this case
9 involves an incident that occurred on November
10 17th? Okay. Mr. Suero, do you want to start, or
11 Sergeant Harris?

12 INVESTIGATOR SUERO: I think I
13 probably should.

14 CHAIR MILLER: Okay.

15 INVESTIGATOR SUERO: Good afternoon.
16 ABRA Enforcement received a faxed copy of a
17 police report on the 29th of November referencing
18 a simple assault, and a sexual abuse allegation
19 that occurred inside of DC9, located at 1940 9th
20 Street Northwest, Washington, D.C.

21 The report advises that a female
22 patron had been on the second floor in the dance

1 area or stage area, when a unknown male patron
2 punched her in the stomach, and I believe also in
3 the head, and then grabbed her by the breasts,
4 and then left the establishment.

5 I visited the establishment on that
6 night, which was Saturday, November 29th, the
7 night that we received the fax, and was able to
8 speak to Mr. Dick and Mr. Spieler, the owner, in
9 reference to the occurrence. Mr. Dick, I
10 believe, advised that he had been upstairs on the
11 second floor where the occurred happened.

12 At some point, a female approached him
13 -- a female patron, and advised him of the
14 occurrence, and that he at that point contacted
15 Mr. Spieler to advise of the occurrence.

16 In my conversation with Mr.
17 Spieler, he advised me that a young lady had, in
18 fact, approached him, advised that she had been
19 assaulted by a male patron, offered to have her -
20 - walk with her to try and find the suspect.

21
22 And at some point, then, escorted her

1 outside and waited for her to get some kind of
2 transportation. During the interview and
3 conversation with Mr. Spieler, I ascertained that
4 they had video at the establishment.

5 However, in reviewing that video,
6 there and also back at the office, due to the
7 lack of lighting on that floor, you couldn't see
8 anything if you wanted to.

9 CHAIR MILLER: Okay, got it.

10 INVESTIGATOR SUERO: I don't know if
11 that's a simple issue of some type of filter, or
12 if the lights are just turned down to the point
13 where you really can't see anything purposely.
14 Even so, a review and a sensor review of the
15 video provided did not show the incident
16 whatsoever.

17 We also, in the report, did not have
18 a clear description of a suspect. We did not
19 have race, ethnicity, anything that we could use
20 to follow-up on in reference to a possibly
21 suspect.

22 And as this is a sexual abuse case,

1 obviously, the complaint information is excluded
2 purposely, intentionally, and rightfully so. And
3 therefore, I had no contact with the possible
4 victim in this case.

5 I will say that one of my concerns was
6 that -- and I asked Mr. Spieler about that why,
7 in fact -- well, did they in fact contact the
8 police once this incident was brought to their
9 attention?

10 And he advised that as far as he knew, no
11 one on his staff and he himself did not call MPD
12 the night that the incident occurred. And what
13 I've found out since then is apparently, the
14 Complainant herself had contacted MPD at some
15 future time.

16 CHAIR MILLER: Okay, I just want to
17 say, I said this at the beginning of the other
18 hearing, and I don't know if you heard it, and I
19 want to say it again, but this is a fact finding
20 hearing. It's not an evidentiary hearing. We're
21 not taking in any evidence, or no one's
22 testifying under oath.

1 We're trying to find out more
2 information about something at the request of
3 MPD, and sometimes we may find some solutions to
4 problems that occurred in the incident.

5 So we won't be taking any action, you
6 know, as a result of this hearing, except that we
7 could refer the case to Office of the Attorney
8 General show cause, if we hear something that,
9 you know, we feel justifies our sending it on to
10 them for their decision to prosecute.

11 But we're most interested at this
12 point in finding out what happened, and what, you
13 know, if there were weaknesses in the
14 establishment that evening that could be, you
15 know, remedied, you know, right away. Or if you
16 have remedied them, or -- so basically, that's
17 the parameter.

18 And if you have any questions, feel
19 free to ask me.

20 MR. SPIELER: Okay.

21 CHAIR MILLER: Okay? Sergeant Harris,
22 do you want to add anything to Mr. Suero's

1 report?

2 SERGEANT HARRIS: Yes.

3 CHAIR MILLER: Okay.

4 SERGEANT HARRIS: I do, in fact. The
5 night of this incident, I was not working. But
6 for just his personal information and for you
7 guys' information, I always have two to three
8 officers in the 1900 block of 9th Street.

9 They're either in the block with the
10 car, or they are in the block on their mountain
11 bikes or on foot. I also have two to three other
12 officers that are in the 91000 block of U Street.

13 With serious incidents like
14 this, a officer definitely needs to be notified,
15 because we need to know about this incident so
16 that way, we can have our sexual assault unit
17 come out to the scene and speak with the victim.
18 And we can also have them take her to WHC, who
19 handles any sexual abuse or sexual assault
20 situations, so that they can do their part.

21

22 And that way, it will help us with

1 finding a suspect, if there's a situation where
2 there has been any type of penetration involved.
3 But, you know, needless to say, you know, if
4 there is an incident, if you don't want to call
5 911, you can always come outside and look for the
6 officer.

7 If you do not see any of my officers
8 out there, call 911 and also, you know, contact
9 me. I'm not sure if I gave you my business card
10 when I came to your establishment. About a year
11 ago, we actually met with each other.

12 MR. SPIELER: Okay.

13 SERGEANT HARRIS: But that's the only
14 thing I had to add was just, please let us know
15 what's going on, because we definitely need to
16 know, especially about sexual assault cases.

17 CHAIR MILLER: Okay, so were there any
18 questions for Mr. Peru here, or Sergeant Harris?

19 MEMBER SHORT: This is for the -- or
20 no, I'm sorry, Harris I'm going to.

21 CHAIR MILLER: You want to ask them?

22 MEMBER SHORT: Yeah, I want to --

1 CHAIR MILLER: Oh, they -- okay,
2 usually they get to speak first, but --

3 MEMBER SHORT: Okay, I'll wait.

4 CHAIR MILLER: You're good? Okay.
5 Yeah, don't forget. All right. So I just want
6 to start with questions for Sergeant Harris, or
7 Investigator Peru. Any immediate questions?
8 Otherwise, we can hear from the owner and
9 security. All right, then why don't you go,
10 start, and then we'll ask questions of everybody.

11 MR. SPIELER: Okay. Pretty much, the
12 investigator's explanation was basically how it
13 proceeded. What I will say is, it was a busy
14 night. The lady approached Jon Dick and
15 explained the situation. And the way she
16 described, the gentleman was a gay man with a red
17 shirt.

18 The night that the incident happened,
19 we have an event called Peach Pit, which is a
20 dance party. The DJ promotes to a predominantly
21 gay crowd, but the -- basically the make-up of
22 the crowd is about half gay men and half straight

1 women.

2 It's just the type of music that he
3 plays is what attracts that kind of a crowd. So
4 when she explained the situation, and described
5 him as a gay man with a red shirt, and that he
6 had grabbed her breasts, I, like the investigator
7 said, wanted to go through the crowd and try to
8 find the gentleman.

9 She asked if she could look at the
10 tapes to see if we could see what had happened,
11 and try to go from there. And I tried to explain
12 to her, and then actually did show her, that it's
13 quite dark on the stage.

14 We lower the lights and basically just
15 have a bunch of mirrored balls with lights on the
16 mirrored balls going to give it kind of a
17 atmospheric place. And after trying to view them
18 as much as she could, she just asked if she could
19 be escorted out, just in case the gentleman was
20 still in the establishment.

21 CHAIR MILLER: Okay. Mr. Short, go
22 ahead.

1 MEMBER SHORT: Yes, good afternoon.

2 MR. SPIELER: Hi.

3 MEMBER SHORT: The lighting. Is it
4 as bad as has been described here in this hearing
5 today?

6 MR. SPIELER: No, you can easily go
7 through and see people. It's not a dark space.
8 It's just the camera itself was never made for a
9 dark area. It doesn't have infrared, I believe
10 is what it's called.

11 And it's just -- just so happened that
12 when this Board asked DC9 to install them, I
13 actually didn't -- I wasn't able to be on the
14 premises when that happened, and couldn't decide
15 myself which cameras were going where.

16 The company that did the installation
17 was the one that decided on what cameras, and
18 where they were placed. I believe that two or
19 three times, this Board asked for some cameras to
20 be moved in certain places, which we did,
21 eventually. But that was four and a half years
22 ago.

1 MEMBER SHORT: What is your capacity?

2 MR. SPIELER: 250.

3 MEMBER SHORT: 250 people. How many
4 exits do you have?

5 MR. SPIELER: Pardon me?

6 MEMBER SHORT: How many exits?

7 MR. SPIELER: Four.

8 MEMBER SHORT: Four exits? Do you
9 have some type of emergency -- do you have
10 emergency lighting?

11 MR. SPIELER: Yes, we do.

12 MEMBER SHORT: And what activates
13 that?

14 MR. SPIELER: Test it every six
15 months.

16 MEMBER SHORT: Okay. By code, that's
17 required. What activates your emergency
18 lighting?

19 MR. SPIELER: As far as just power
20 going out.

21 MEMBER SHORT: Well, if the alarm --
22 it should go off if your fire alarm goes off.

1 MR. SPIELER: Yes, they do for that,
2 too.

3 MEMBER SHORT: Okay, but let me ask
4 you -- this safety, also, as the business owner,
5 and just having a little, you know, something
6 about public assembly, I would think you might
7 want to invest in some cameras with infrared.

8 Not only this incident, there's a lot
9 of things that could happen in your place that
10 you, as the business owner, could be liable for.
11 If the courts would look at a film in a case, and
12 say, well, I had a camera, and now it's on part
13 of the record that the camera's aren't
14 functioning well with the lighting you have, you
15 might want to consider that.

16 MR. SPIELER: Okay.

17 MEMBER SHORT: Okay, also, I wanted
18 to -- you say you have how many exits, again?

19 MR. SPIELER: Four.

20 MEMBER SHORT: Four. How many
21 security?

22 MR. SPIELER: We had five on that

1 night, along with myself.

2 MEMBER SHORT: Do you have a upstairs
3 and a downstairs?

4 MR. SPIELER: Yes. Yep.

5 MEMBER SHORT: What's the capacity for
6 each one? Because you should have separate for
7 each floor.

8 MR. SPIELER: I believe it's 40 for
9 the first level, 200 for the middle level, and
10 then, like, I don't know, another 20 up on the
11 roof or something like that.

12 MEMBER SHORT: Okay. Now, do you
13 have any kind of security plan?

14 MR. SPIELER: Yes.

15 MEMBER SHORT: What does your
16 security plan address -- if someone comes to your
17 staff and says, I've been sexually assaulted,
18 what is the plan, and how is it implemented?

19 MR. SPIELER: There is nothing in the
20 plan about a sexual assault.

21 MEMBER SHORT: And now since you've
22 had one, are you going to add something?

1 MR. SPIELER: Yes, sir, we will.

2 MEMBER SHORT: Okay. Would that
3 indicate that you would also call MPD right away
4 with that person?

5 MR. SPIELER: Absolutely.

6 MEMBER SHORT: Okay.

7 MR. SPIELER: Not to diminish the
8 assault, but the way the lady described it, I
9 think we treated it more as a -- like, just an
10 assault, just as a push, per se, and as if
11 somebody else had pushed somebody else in the
12 establishment.

13 We didn't feel like -- she didn't
14 complain of any bruising or pain, and I don't
15 want to not call the police, but I also don't
16 want to burden them.

17 MEMBER SHORT: Okay. Someone says
18 they were assaulted, and you don't want to burden
19 the police? That's not a correct answer as far
20 as our Board members are concerned.

21 MR. SPIELER: Okay.

22 MEMBER SHORT: What would be -- and

1 now since you've had the incident and you've said
2 you'd change the security plan --

3 MR. SPIELER: I would absolutely call
4 the police.

5 MEMBER SHORT: Thank you. Okay, and
6 lastly, have you ever had any reason to have a
7 MPD presence in your club, or in front of your
8 club?

9 MR. SPIELER: Sure have, and we have.

10 MEMBER SHORT: You do have --

11 MR. SPIELER: This Board actually
12 required it four and a half years ago, for an
13 incident that had happened outside the
14 establishment.

15 MEMBER SHORT: So a reimbursement
16 with details.

17 MR. SPIELER: Correct.

18 MEMBER SHORT: But you didn't have
19 one this night?

20 MR. SPIELER: Correct. The Board
21 stopped that policy, once we were, I think able
22 to reopen, and then about three to four weeks

1 after that, they said we didn't need it anymore.

2 MEMBER SHORT: Okay, that's all I
3 have, Madam Chair.

4 CHAIR MILLER: Okay. Mr. Rodriguez?

5 MEMBER RODRIGUEZ: Yes, sir. I really
6 think there's a lot of wisdom in what the
7 Sergeant recommended, that you call them, because
8 they do have a special sex squad -- sex assault
9 squad that can get to the bottom of a situation
10 and, you know, assist the victim much better than
11 possibly you could --

12 MR. SPIELER: Sure.

13 MEMBER RODRIGUEZ: -- and understand,
14 so, yeah, I'm with that recommendation 100
15 percent.

16 CHAIR MILLER: Others? Sergeant
17 Harris, other than advising that the
18 establishment calls you when there's an incident
19 like that, do you all have some kind of
20 guidelines for sexual assault policies within an
21 establishment at all, or no?

22 SERGEANT HARRIS: In the past, I know

1 that one of the lieutenants had -- they actually
2 were passing posters out. So that not only the
3 staff could be aware, but that the patrons could
4 be aware of how to report a sexual assault.

5 We also had a individual do a ride-
6 along with one of the officers that are on 9th
7 Street. I'm not sure if they went and talked to
8 each, you know, establishment about the
9 situation. But for the most part, my officers
10 are there.

11 CHAIR MILLER: Right.

12 SERGEANT HARRIS: They're in the
13 block.

14 CHAIR MILLER: Right.

15 SERGEANT HARRIS: So at any time, with
16 any assault, no matter how little, whether it's a
17 disorderly, a simple assault, a push, whatever
18 the case may be, the owner or the security can
19 come outside and just notify my officers, because
20 they're there.

21 So that's definitely not a issue. But with
22 sexual assaults, we definitely have policy and

1 perspective that the officers need to follow.

2 CHAIR MILLER: So my question is, and
3 I didn't ask -- what's your name again? Your
4 name?

5 MR. SPIELER: William Spieler.

6 CHAIR MILLER: Spieler, Mr. Spieler.
7 I mean, I heard you say that, in response to Mr.
8 Short, I think you said that you would add a
9 sexual assault policy to your security plan.
10 Now, I'm wondering, how are you going to put that
11 policy together?

12 What resources are you going to draw
13 from in knowing what should go into a sexual
14 assault policy?

15 MR. SPIELER: I'll definitely do some
16 research, and I guess just experience beyond
17 calling the police.

18 CHAIR MILLER: Okay. So you can help
19 him a little bit?

20 SERGEANT HARRIS: Yes. In fact, I
21 will see if we have any type of resources on hand
22 that I could actually have the officers take over

1 to DC9.

2 CHAIR MILLER: Okay.

3 SERGEANT HARRIS: So that way, he can
4 actually review it. And if we have any other
5 brochures or posters, they can post it in the
6 females' bathroom, in the gentlemen's bathroom.

7 That way, everyone is aware of how to
8 report it. Because sometimes, they don't want to
9 have the police come to the establishment, but
10 they can at least call. It's a hotline.

11 CHAIR MILLER: Right, okay.

12 SERGEANT HARRIS: And they will guide
13 them through the process.

14 CHAIR MILLER: Okay. That's good.
15 Okay, so Mr. Spieler, I heard -- I think I heard
16 you say two things, and I want to see if we could
17 pin them down. One is, you're going to add the
18 sexual assault policy, which is going to include
19 calling MPD, but more than that.

20 MR. SPIELER: Sure.

21 CHAIR MILLER: And then are you
22 committing to contacting your camera company and

1 having them change some of the cameras that need
2 to be infrared?

3 MR. SPIELER: I will change them to
4 infrared, yes.

5 CHAIR MILLER: Okay. So are you
6 willing to commit to a date that you would submit
7 the information to the Board so we could see that
8 you have done this?

9 MR. SPIELER: Sure, 30 days if that's
10 okay?

11 CHAIR MILLER: Yep. That's good.
12 That'd be great.

13 MR. SPIELER: Okay.

14 MEMBER ALBERTI: Can I ask a question?

15 CHAIR MILLER: Sure. Yeah, Mr.
16 Alberti.

17 MEMBER ALBERTI: Officer? Sorry. Do
18 you have -- does the information you have have --

19 CHAIR MILLER: Harris.

20 MEMBER ALBERTI: -- tell you how to
21 identify sexual assaults? Because I think it's
22 part of the problem here was does it describe how

1 to identify what is a sexual assault?

2 SERGEANT HARRIS: I believe in the
3 brochures, it does explain, you know, the
4 differences with sexual assault, sexual abuse,
5 and so forth.

6 MEMBER ALBERTI: Okay.

7 SERGEANT HARRIS: But I can't pinpoint
8 exactly what it says --

9 MEMBER ALBERTI: -- which is why I
10 want to get the resources, and provide it to the
11 establishment.

12 MEMBER ALBERTI: Okay, great. So Mr.
13 Spieler, I would recommend that you kind of take
14 a look at that, because part of what you should
15 have in your security plan is some information
16 about how to identify what is a sexual assault
17 versus just an ordinary assault. I mean, I'm not
18 phrasing this well --

19 MR. SPIELER: Sure, no, I --

20 MEMBER ALBERTI: -- but I think that
21 that's something that would be appropriate --

22 MR. SPIELER: Okay.

1 MEMBER ALBERTI: -- for your security
2 plan. Not just how to react, but how to identify
3 suspect --

4 CHAIR MILLER: Just a moment.

5 MEMBER ALBERTI: And that helps
6 training the staff also. Okay?

7 MR. SPIELER: Mm-hmm.

8 MEMBER ALBERTI: All right, thanks.

9 CHAIR MILLER: Sorry. The court
10 reporter was --

11 MEMBER ALBERTI: I got it, thank you.

12 CHAIR MILLER: All right. Anything
13 else? Anything else?

14 MEMBER SHORT: So he said within 30
15 days, he's going to have replacement of the
16 cameras, and going to --

17 MEMBER ALBERTI: Update his security.

18 MEMBER SHORT: -- yeah, update his
19 security plan.

20 CHAIR MILLER: Mr. Suero, would you be
21 able to stop by and check the cameras after that?

22 INVESTIGATOR SUERO: Absolutely.

1 CHAIR MILLER: Okay. That would be
2 terrific. All right. And if you have any
3 questions --

4 MEMBER SHORT: Can I just say one
5 last thing?

6 CHAIR MILLER: Yeah?

7 MEMBER SHORT: One last thing. The
8 reimbursement with detail, we never -- you said
9 you're not required to have that anymore?

10 MR. SPIELER: That is correct.

11 MEMBER SHORT: Okay, I'll get along.

12 CHAIR MILLER: Okay.

13 INVESTIGATOR SUERO: Might I add
14 something?

15 CHAIR MILLER: Yes, please.

16 INVESTIGATOR SUERO: At least in
17 Maryland where I was in law enforcement, any
18 unwanted or inappropriate touching of a person of
19 the opposite sex, that's considered a sexual
20 abuse. So you should start with that.

21 MR. SPIELER: Okay.

22 CHAIR MILLER: And don't feel shy

1 about calling the police.

2 (Off the record comments.)

3 CHAIR MILLER: Okay. All right.

4 Well, thank you all very much.

5 MR. SPIELER: Sure.

6 CHAIR MILLER: Thank you, Sergeant
7 Harris.

8 SERGEANT HARRIS: Thank you.

9 CHAIR MILLER: Okay. Okay. Do we
10 have the time? 1:30.

11 MEMBER SHORT: She was asking about
12 the finance.

13 (Whereupon, the above-entitled matter
14 went off the record at 4:48 p.m.)

15

16

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