

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Woodward Bros., Inc., t/a
The Rhino Bar and Pumphouse Show Cause
3295 M Street NW Hearing
License No. 523
Retailer CT
ANC 2E
Case No. 13-CMP-00161

(Sale to Minor, Failed to
Take Steps Necessary to
Ascertain Legal Drinking Age)

April 2, 2014

The Alcoholic Beverage Control
Board met in Alcoholic Beverage Control
Hearing Room, Reeves Building, 2000 14th
Street, N.W., Washington, D.C., Chairperson
Ruthanne Miller presiding.

PRESENT:

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

ALSO PRESENT:

Walter Adams, OAG
Brian Molloy, Former Investigator, ABRA

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

(11:31 a.m.)

CHAIR MILLER: Okay, last case on the morning calendar is Case Number 13-CMP-00161, The Rhino Bar and Pumphouse located at 3295 M Street, Northwest, License Number 523, in ANC 2E.

MR. ADAMS: Good morning.

MEMBER RODRIGUEZ: Good morning.

CHAIR MILLER: Good morning.

MR. ADAMS: Members of the Board, Walter Adams representing the District of Columbia.

MR. SWAN: Good morning. Charles Swan, president and sole owner of Woodward Brothers.

MALE PARTICIPANT: I'm sorry, can you speak up?

MR. SWAN: I'm sorry. Charles Swan. I'm the president and sole owner of Woodward Brothers, The Rhino Bar.

CHAIR MILLER: Okay, yes. All

1 right, this is a show cause hearing. Are
2 there any preliminary matters?

3 MR. ADAMS: No, Chair. Chair,
4 there are no preliminary matters for this
5 case.

6 CHAIR MILLER: Okay. Mr. Swan, I
7 can't recall whether you've been here before.

8 MR. SWAN: Yes, ma'am, I have.

9 CHAIR MILLER: Okay, so you're
10 familiar with the proceedings?

11 MR. SWAN: Yes, ma'am, I am.

12 CHAIR MILLER: Okay, all right.
13 And whenever you're ready, Mr. Adams.

14 MR. ADAMS: Yes.

15 CHAIR MILLER: Thanks.

16 MR. ADAMS: Members of the Board,
17 this case is regarding underage drinking and
18 the establishment permitting underage
19 drinking.

20 The evidence will show that back
21 on February 24th of 2013, the Metropolitan
22 Police Department was at the establishment

1 conducting a check for fake IDs.

2 And during the process of them
3 doing the check, they found that this
4 establishment had, they found that a couple
5 patrons, there was evidence that an employee
6 made a statement to a patron.

7 When the patrons left, the
8 evidence will show that the MPD spoke with
9 those patrons and the patrons informed them
10 that they were told not to go into the
11 establishment because of the MPD's presence
12 and because of the fact that, well, during
13 that interview, the evidence will show that
14 there was some showing that the establishment
15 had regularly allowed those who are under the
16 age of 21 to be allowed in.

17 Based upon that, the evidence will
18 show that Metropolitan Police Department did
19 go inside the establishment.

20 And once they went inside the
21 establishment, they did encounter, find a
22 patron inside the establishment. It was a

1 female patron who was 19 years of age. At the
2 time, that person was consuming a beer within
3 the establishment and the interview will show
4 that the establishment did not ask that person
5 for identification to enter the establishment.

6 So based upon the evidence that we
7 will show that we can substantiate both
8 charges that are before you, that, number one,
9 the establishment permitted the sale/delivery
10 of alcoholic beverage by persons under age of
11 21 and also the establishment did not take the
12 reasonable steps necessary to ensure that such
13 service did not occur.

14 CHAIR MILLER: Okay. Mr. Swan,
15 you could make an opening statement if you
16 want or, you know, you're going to be
17 testifying. So if you want to make an opening
18 statement, I would put you under oath now
19 because sometimes it gets all blurred.

20 MR. SWAN: Oh, I don't need to
21 make a statement.

22 CHAIR MILLER: You don't need one?

1 So we'll wait for you to testify then at the
2 end or, okay. Okay, Mr. Adams.

3 MR. ADAMS: Yes, madam Chairman,
4 the District's first witness is Detective
5 David Carter who, oh, not here. I apologize.
6 I didn't check. I think Detective Carter may
7 have ***11:35:36. I can call him and what I
8 can do, I have another witness who I can bring
9 to testify and I will do that.

10 CHAIR MILLER: Do you need a five-
11 minute break?

12 MR. ADAMS: Yes, the District
13 would like to request a five-minute break to
14 locate the witness.

15 CHAIR MILLER: Okay.

16 (Whereupon, the foregoing matter
17 went off the record at 11:36 a.m. and went
18 back on the record at 11:45 a.m.)

19 MR. ADAMS: All right, Madam
20 Chairman, the District's first witness will be
21 Detective David Carter. I'll ask him to
22 approach the stand.

1 CHAIR MILLER: Do you swear to
2 tell the truth, the whole truth, nothing but
3 the truth?

4 DETECTIVE CARTER: I do.

5 CHAIR MILLER: Thank you.

6 MR. ADAMS: Good morning,
7 Detective Carter.

8 DETECTIVE CARTER: Good morning.

9 MR. ADAMS: Could you please state
10 your name and spell it for the record?

11 DETECTIVE CARTER: Yes, my name is
12 David Carter, spelled D-A-V-I-D, last name C-
13 A-R-T-E-R.

14 MR. ADAMS: All right. And,
15 Detective Carter, you're employed by the
16 Metropolitan Police Department, correct?

17 DETECTIVE CARTER: That is
18 correct.

19 MR. ADAMS: And how long have you
20 been with the Department?

21 DETECTIVE CARTER: Approximately
22 18 years.

1 MR. ADAMS: And of those years,
2 how long have you been detective?

3 DETECTIVE CARTER: Been a
4 detective about eight years.

5 MR. ADAMS: And, Detective Carter,
6 have you testified before this Board
7 previously?

8 DETECTIVE CARTER: Yes.

9 MR. ADAMS: All right, and in
10 terms of the types of cases that you testified
11 before this Board regarding, can you just
12 briefly describe what kind of cases you've had
13 in your past experience?

14 DETECTIVE CARTER: I engage in
15 overtime enforcement of underage drinking
16 infractions and the majority of the cases I've
17 testified have been pretty much about underage
18 possession, underage drinking or false
19 identification.

20 MR. ADAMS: And so how long have
21 you been working in terms of, I guess you said
22 the overtime, you know, that deals with

1 underage drinking, how long have you been
2 working in that unit?

3 DETECTIVE CARTER: Probably 15,
4 maybe 16 years.

5 MR. ADAMS: All right. So is it
6 fair to say you have substantial experience in
7 dealing with the identification of underage
8 drinking issues?

9 DETECTIVE CARTER: Yes.

10 MR. ADAMS: All right. Now,
11 Detective Carter, and so can you kind of, in
12 terms of the program, can you explain to the
13 Board how that program works?

14 DETECTIVE CARTER: Well, one of
15 the programs we do which is called Cops in
16 Shops is we work along with the proprietor
17 where you stand at the door with the door
18 staff when they're checking identifications.
19 And if they show false identifications and we
20 can verify that, then the person is placed
21 under arrest.

22 One of the other programs we do is

1 ID checks, is where we'll go inside of
2 establishment to see if any patrons are under
3 the age of 21 consuming alcohol.

4 MR. ADAMS: And in terms of Cops
5 in Shops and you say, you refer to they. Who
6 are you referring to when you say they in
7 terms of when they produce?

8 DETECTIVE CARTER: Patrons.
9 Patrons, yes.

10 MR. ADAMS: Okay. Now, in terms
11 of the Cops in Shops program, are you
12 continuously engaged in Cops in Shops program?

13 DETECTIVE CARTER: Yes.

14 MR. ADAMS: To this day?

15 DETECTIVE CARTER: Yes.

16 MR. ADAMS: Back on February 24th,
17 2013, were you on duty?

18 DETECTIVE CARTER: Yes.

19 MR. ADAMS: And can you explain to
20 the Board your duties on that night?

21 DETECTIVE CARTER: That night we
22 were conducting Cops in Shops enforcement.

1 That night we were at The Rhino Bar standing
2 with the door staff while they were checking
3 identifications.

4 MR. ADAMS: All right. And
5 approximately what time were you there? Was
6 it, like, about 1 o'clock or so or what time
7 was it when you were there?

8 DETECTIVE CARTER: Yes, it was
9 around that time.

10 MR. ADAMS: Okay. So when you set
11 up shop for the Cops in Shops program, did you
12 introduce yourself to staff? How did you get
13 started in doing this?

14 DETECTIVE CARTER: Yes. Yes, we
15 introduced ourselves to the staff and, you
16 know, asked if they would like our assistance
17 and they say yes and we'll stand there and
18 assist them.

19 If they have questions about
20 identifications a lot because the fake IDs do
21 change quite a bit, we'll also assist them
22 with that. And also, like I said, if someone

1 displays a fake ID while we're there, they get
2 placed under arrest.

3 MR. ADAMS: So when you were there
4 -- and why specifically did you decide to work
5 with The Rhino Bar?

6 DETECTIVE CARTER: We've worked
7 with them quite a bit and just about every
8 time we're there, you know, we get at least
9 three arrests every time we're there, you
10 know, for fake IDs.

11 MR. ADAMS: Okay. And the persons
12 who have the fake identification cards, I
13 mean, who are they? Are they people who are
14 of age or --

15 DETECTIVE CARTER: No, they're
16 underage patrons and the majority of them are
17 students.

18 MR. ADAMS: And when you say
19 students, like students of high schools or --

20 DETECTIVE CARTER: College,
21 college students.

22 MR. ADAMS: All right, so when you

1 were running the program that night, was it
2 crowded at the establishment? Was there a
3 line?

4 DETECTIVE CARTER: Yes, there was
5 a big line.

6 MR. ADAMS: Okay, and what
7 happened as you were conducting the program at
8 Rhino Bar that night? What did you observe?

9 DETECTIVE CARTER: That night we
10 were, we normally don't stand right with the
11 bouncer. We normally stand across from the
12 bouncer or, I'm sorry, the door staff.

13 And they check the IDs and if,
14 like I said, if they have a question about an
15 ID, they normally either call us over or if
16 they feel that they have a fake ID they call
17 us over.

18 There was a question where two
19 females walked to the front of the
20 establishment, one of which I kind of
21 recognized, didn't know where I recognized her
22 from right away.

1 And the other female walked over
2 to the door to talk to the door staff. The
3 door staff whispered in her ear and both
4 females left. I mean, they walked very
5 quickly down M Street and around the corner.

6 MR. ADAMS: Now, at the time that
7 the females approached, was there a line to
8 get into the establishment that night?

9 DETECTIVE CARTER: Yes, there was.

10 MR. ADAMS: All right. And, I
11 mean, how many people approximately were in
12 that line?

13 DETECTIVE CARTER: It was quite a
14 few, maybe 30, 20 to 30.

15 MR. ADAMS: Okay. And was part of
16 the reason, why was there a backlog of people
17 trying to get in? Was it just, yes, why was
18 there a backlog of people trying to get in the
19 establishment that night?

20 DETECTIVE CARTER: I think that
21 they just all came pretty much at the same
22 time.

1 MR. ADAMS: So after you made this
2 observation, what occurred at that point?

3 DETECTIVE CARTER: I immediately
4 walked after the females to, you know, figure
5 out what was said and we stopped them around
6 the corner from the establishment.

7 And after talking with them, the
8 one female admitted that she was arrested by
9 myself, approximately I guess two years before
10 that for using a fake ID at Rhino Bar.

11 And she indicated to me that she
12 did not have any fake IDs because she didn't
13 want to go to jail. The other female,
14 however, did have a fake identification and
15 she couldn't be arrested because she didn't
16 display it.

17 And when I asked her what the
18 doorperson said to her, she said the
19 doorperson told her don't come in tonight and
20 that's what made her flee.

21 MR. ADAMS: All right. And was
22 there any other conversation with those two

1 females regarding the circumstances of them
2 being there, that they --

3 DETECTIVE CARTER: Yes, yes. They
4 both indicated to me that they had been
5 allowed into the establishment several times
6 without identification.

7 MR. ADAMS: All right. After you
8 got those statements from them, did anything
9 else occur with these patrons?

10 DETECTIVE CARTER: Yes. Yes, I
11 wanted them to write their statements down and
12 they agreed to write their statements, so we
13 got a written statement from each one.

14 MR. ADAMS: All right. I would
15 like to present to the witness what's marked
16 for identification purposes as the District's
17 Exhibits 1 and 2 which are statements by --
18 well, I'm not going to say that. I'll
19 withdraw my last sentence. And I'm going to
20 show it to Mr. Swan.

21 (Off the record comments)

22 MR. ADAMS: I'm going to approach

1 the witness. Detective Carter, I'd like you
2 to just take a moment to look at the two
3 documents that are in front of you and look up
4 when you've had a chance to review them.

5 DETECTIVE CARTER: Okay.

6 MR. ADAMS: All right, so first of
7 all, do you recognize the two documents that
8 are in front of you?

9 DETECTIVE CARTER: Yes.

10 MR. ADAMS: And how do you
11 recognize those documents?

12 DETECTIVE CARTER: These were the
13 documents where I took statements from the two
14 patrons.

15 MR. ADAMS: All right. Now in
16 terms of, again, description. Now, I marked
17 one as Exhibit 1 and can you read the name
18 that's at the top of this document?

19 DETECTIVE CARTER: Yes, it's
20 Catherine Williams Moreno.

21 MR. ADAMS: All right, and in
22 terms of people that you were referring to

1 previously, which person is this?

2 DETECTIVE CARTER: This is the
3 person that walked up to the doorkperson and
4 the doorkperson whispered in her ear.

5 MR. ADAMS: All right, and just
6 add, believe in your testimony stated that she
7 was arrested as a result on that night?

8 DETECTIVE CARTER: No, no. She
9 was the one that I had not previously
10 arrested.

11 MR. ADAMS: Okay. All right, and
12 I guess --

13 CHAIR MILLER: I'm sorry. Did you
14 say you previously had arrested her or you
15 hadn't?

16 DETECTIVE CARTER: No, I did not.
17 No.

18 CHAIR MILLER: Okay.

19 MR. ADAMS: And the second
20 statement, who's the name of the person who
21 wrote that statement?

22 DETECTIVE CARTER: This is

1 Alexandria Pitelia (phonetic) ***11:57:12.

2 MR. ADAMS: Or is it useful, is it
3 Piedad-Heda?

4 DETECTIVE CARTER: Piedad-Heda,
5 yes. Not sure how to pronounce it, yes.

6 MR. ADAMS: And when they wrote
7 the statements, approximately when were these
8 statements taken? Was it, like, a day after
9 or when was it done?

10 DETECTIVE CARTER: No, these
11 statements were taken on the scene just as we
12 were questioning them.

13 MR. ADAMS: And literally
14 physically your relations to these two
15 persons, I mean, how far away from you were
16 you and did you witness them actually write
17 this?

18 DETECTIVE CARTER: They were
19 directly in front of me and had my clipboard
20 and handed them my clipboard and asked them to
21 write what happened.

22 MR. ADAMS: All right. And are

1 these true and accurate representations of the
2 witness statements that were recorded on
3 February 20, oh, sorry, February 24 of 2013?

4 DETECTIVE CARTER: Yes, they are.

5 MR. ADAMS: All right, I'd like to
6 introduce what's marked for identification
7 purposes as the District's Exhibits 1 and 2
8 into evidence, which are the witness
9 statements of Catherine Moreno and Alexandra
10 Piedad-Heda.

11 CHAIR MILLER: Have you given Mr.
12 Swan copies?

13 MR. ADAMS: Yes.

14 CHAIR MILLER: Okay. Let me take
15 a look at them.

16 MR. ADAMS: Now, in terms of
17 Exhibit Number 1, what was stated by Ms.
18 Moreno in her statement?

19 DETECTIVE CARTER: Her statement
20 is "I was approaching Rhino." It says, "I
21 recognized the undercover --

22 MR. ADAMS: I apologize. I just

1 want to make sure I'm clear. This is what's
2 marked for Exhibit 1. That's the one I'm
3 looking at.

4 DETECTIVE CARTER: Oh, I'm sorry,
5 you're looking at Exhibit Number 1. I'm
6 sorry. I apologize. Okay, Exhibit Number 1,
7 "I came to Rhino." I can't make out the first
8 part. It says, "realized the bouncer told me
9 not to come tonight. I left. ABC police
10 stopped me. Cooperated. Corroborated
11 (phonetic) ***11:59:25 the bouncer knows I am
12 underage."

13 MR. ADAMS: And for Exhibit 2, can
14 you please read into the record that
15 statement?

16 DETECTIVE CARTER: Yes, Exhibit 2
17 says, "I was approaching Rhino. I recognized
18 the cop and warned my friend. I do not have
19 a fake ID but know the bouncer, Zach
20 (phonetic) ***11:59:49. Zach allowed me in
21 twice in the past month without an ID, 2013."

22 MR. ADAMS: So after you record

1 those statements, what did you do? What
2 happened at that point?

3 DETECTIVE CARTER: At that point
4 after talking to them they were telling us
5 that, you know, majority of people that are in
6 Rhino are not 21. You know, they constantly,
7 a lot of their friends are allowed in there
8 that are not 21. So at that point, we decided
9 to go in to check IDs inside.

10 MR. ADAMS: All right, based on
11 those statements?

12 DETECTIVE CARTER: Yes.

13 MR. ADAMS: All right and so did
14 you go inside the establishment?

15 DETECTIVE CARTER: Yes, I did.

16 MR. ADAMS: And what occurred once
17 you went inside the establishment?

18 DETECTIVE CARTER: Went inside the
19 establishment. It was very few people left in
20 because it was close to their closing time.
21 There were two females directly by the front
22 door. We checked one identification. She was

1 21.

2 And the second one, she did not
3 have any identification on her person and she
4 had a beer in her hand. However, she admitted
5 that she was not 21.

6 MR. ADAMS: Okay, so now the
7 person who you stated did not have
8 identification, how did you come to approach
9 her regarding her identification I guess?

10 DETECTIVE CARTER: She appeared to
11 be young. She appeared to be under the age of
12 21. She looked young.

13 MR. ADAMS: All right, and it was
14 just that she looked young or anything else?
15 Was there any other characteristics? It was
16 just based on her --

17 DETECTIVE CARTER: And that she
18 was consuming alcohol or she was in possession
19 of alcohol.

20 MR. ADAMS: And at the time, did
21 you speak with her? Did you speak with her at
22 that time?

1 DETECTIVE CARTER: Yes, I did.

2 MR. ADAMS: And what did you learn
3 from her about her age?

4 DETECTIVE CARTER: She's 19 years
5 old.

6 MR. ADAMS: And did she provide
7 any other statements regarding her being there
8 on that night?

9 DETECTIVE CARTER: Yes, she said
10 that she was a member of the lacrosse team and
11 it's just known that the members of the
12 lacrosse team were allowed to come in.

13 MR. ADAMS: And did she address to
14 you any explanation regarding why she did not
15 have identification on that night?

16 DETECTIVE CARTER: No.

17 MR. ADAMS: All right. And to
18 what extent did she address at all regarding
19 whether her not having identification was a
20 concern for her on that night in terms of her
21 in relation to the establishment?

22 DETECTIVE CARTER: I'm sorry,

1 repeat the question.

2 MR. ADAMS: Actually I'd like to
3 refresh the witness's memory, to show him a
4 document to refresh memory, for purposes of
5 refreshing memory.

6 CHAIR MILLER: What are you going
7 to show him?

8 MR. ADAMS: A statement from
9 investigative report.

10 CHAIR MILLER: Okay, that's in the
11 record.

12 MR. ADAMS: It's already in the
13 record.

14 CHAIR MILLER: Any objection, Mr.
15 Swan?

16 MR. ADAMS: I'm just going to show
17 him.

18 CHAIR MILLER: Any objection?
19 (No response)

20 CHAIR MILLER: No. Okay.

21 DETECTIVE CARTER: Okay.

22 MR. ADAMS: Detective Carter, is

1 your memory refreshed?

2 DETECTIVE CARTER: Yes.

3 MR. ADAMS: All right, so is there
4 any particular reason why this patron did not
5 have identification despite the fact she was
6 in the establishment?

7 DETECTIVE CARTER: Yes, she said
8 she was a member of the lacrosse team and she
9 said that members of the lacrosse team are
10 allowed in, even if they're under the age of
11 21.

12 MR. ADAMS: All right. And to
13 what extent did she address whether there was
14 requirement for her to have identification?

15 DETECTIVE CARTER: She said no,
16 she does not.

17 MR. ADAMS: I have no further
18 questions for Detective Carter.

19 CHAIR MILLER: Okay, do you have
20 cross examination?

21 MR. SWAN: Yes, ma'am.

22 CHAIR MILLER: Okay.

1 MR. SWAN: Good morning.

2 DETECTIVE CARTER: Good morning.

3 MR. SWAN: Detective Carter, under
4 the Cops in Shops program, do you participate
5 in most of the ID checks and enforcements at
6 Rhino when they've been made before?

7 DETECTIVE CARTER: Yes.

8 MR. SWAN: And you stated earlier
9 that most of the time when you come there
10 approximately three people get arrested for
11 fake identification?

12 DETECTIVE CARTER: Yes.

13 MR. SWAN: Is this in the line or
14 is this inside the establishment?

15 DETECTIVE CARTER: That's in the
16 line.

17 MR. SWAN: In the line?

18 DETECTIVE CARTER: Yes.

19 MR. SWAN: So they never gain
20 entrance into The Rhino?

21 DETECTIVE CARTER: That's correct.

22 MR. SWAN: Okay. Prior to them

1 getting arrested, who informs you that they're
2 underage?

3 DETECTIVE CARTER: The door
4 person.

5 MR. SWAN: The door person?

6 DETECTIVE CARTER: The door person
7 checking the identifications.

8 MR. SWAN: Okay. Prior to
9 February 24th, are you aware that there was 11
10 visits by ABC, the Metropolitan Police
11 Department, to The Rhino from August 17, 2012
12 through February 9th, 2013?

13 DETECTIVE CARTER: Yes.

14 MR. SWAN: You're aware. Did you
15 participate in any of those surveillance?

16 DETECTIVE CARTER: Our
17 surveillance or you mean the Cops in Shops
18 program?

19 MR. SWAN: The Cops in Shops
20 program.

21 DETECTIVE CARTER: Yes, I have
22 participated in Cops in Shops between that

1 period.

2 MEMBER BROOKS: Not that you would
3 remember, but most times that you come there
4 on these dates, would you say there's a line
5 to get in?

6 DETECTIVE CARTER: Yes.

7 MR. SWAN: Is there a cover charge
8 being charged?

9 DETECTIVE CARTER: I can't
10 remember. I don't know.

11 MR. SWAN: Okay, so of these 11
12 visits 2012 to 2013 that you participated in
13 which you say you arrested approximately up to
14 three people, all of these IDs were given to
15 you by our door staff, is this correct?

16 DETECTIVE CARTER: That's correct.

17 MR. SWAN: Would this, by chance,
18 in any of these times that you visit be by the
19 door staff person that you have previously
20 stated came up to these two young women that
21 are in Exhibits 1 and 2 and told them not to
22 come in because of your presence?

1 DETECTIVE CARTER: I'm sorry,
2 repeat the question.

3 MR. SWAN: The gentleman who was
4 checking the door IDs on the night of February
5 24th, the night of the incident --

6 DETECTIVE CARTER: Yes.

7 MR. SWAN: -- that you report, was
8 he present to best of your knowledge any of
9 the dates, the 11 visits previous to that,
10 that you came and visited under the Cops in
11 Shops program?

12 DETECTIVE CARTER: Yes. Yes, he
13 was.

14 MR. SWAN: I believe you also
15 stated that these two young ladies mentioned
16 to you in their statements that they get
17 access into The Rhino Bar at various times and
18 they're not of age, correct?

19 DETECTIVE CARTER: That's correct.

20 MR. SWAN: Okay. Now, what I also
21 see in Statement Number 2 from Alexandra, that
22 she said that she warned her friend.

1 DETECTIVE CARTER: Yes.

2 MR. SWAN: But I believe you made
3 a statement that you observed the door man
4 warning these girls. Which is it?

5 DETECTIVE CARTER: Okay, I did not
6 hear what was said. I just saw a whisper in
7 her ear and I saw her go to her friend and I
8 saw them both leave so I don't know what was
9 said. I only know what she told me he said.

10 MR. SWAN: Oh, okay. So and this
11 is the person who told you this after you
12 tracked them down several blocks from The
13 Rhino and asked them why they left the line?

14 DETECTIVE CARTER: It wasn't
15 several. It was half a block.

16 MR. SWAN: A block, half a block?

17 DETECTIVE CARTER: Half a block,
18 that's correct, yes.

19 MR. SWAN: Okay. Did the door man
20 give you a statement that night of that
21 particular incident, of him being -- I believe
22 you had mentioned that he was interfering with

1 a police investigation?

2 DETECTIVE CARTER: Yes.

3 MR. SWAN: Okay. And do you
4 recall what he said to you about those two
5 ladies that walked out of the line?

6 DETECTIVE CARTER: Yes, I do.

7 MR. SWAN: Okay. Did you make the
8 statement to him that night that you said that
9 he was one of the best door men in D.C.?

10 DETECTIVE CARTER: No, I did not.

11 MR. SWAN: You did not?

12 DETECTIVE CARTER: I did not.

13 MR. SWAN: Okay. Are you aware in
14 any of your internal investigations that The
15 Rhino Bar was acknowledged by this very Board,
16 by Director Moosally, about our compliance to
17 the ABC licensing, particularly the month of
18 January 2012?

19 MR. ADAMS: Objection, not
20 relevant to this witness.

21 CHAIR MILLER: You want to see how
22 it's worded?

1 MR. SWAN: Let me rephrase that if
2 I may.

3 CHAIR MILLER: Okay.

4 MR. SWAN: Are you aware in your
5 internal investigations Rhino's record as to
6 underage drinking and the enforcement of the
7 ABRA and D.C. liquor laws?

8 MR. ADAMS: I'm still objecting in
9 terms of relevance and also is beyond the
10 scope of direct.

11 MR. SWAN: The purpose of the
12 question is to --

13 CHAIR MILLER: Can you speak up,
14 please?

15 MR. SWAN: The purpose of this
16 question I think goes to the essence of this
17 case. One such point is that The Rhino Bar
18 does not have a record of accepting underage
19 IDs.

20 CHAIR MILLER: Okay, it goes to
21 that question.

22 MR. SWAN: Goes to that question.

1 CHAIR MILLER: Okay, that's all.

2 Okay, I'm going to let it in. Go ahead.

3 DETECTIVE CARTER: Could you
4 repeat the question?

5 MR. SWAN: The question, Mr.
6 Carter, is are you aware that The Rhino Bar
7 has essentially exemplary record of checking
8 identifications?

9 DETECTIVE CARTER: Yes. When I'm
10 there, normally they do check IDs and we get
11 people at the door and, you know, I would say,
12 yes.

13 MR. SWAN: So you get those people
14 through our cooperation?

15 DETECTIVE CARTER: Yes.

16 MR. SWAN: And then you would have
17 to agree that the 11 visits prior to that
18 didn't turn up one fake ID?

19 DETECTIVE CARTER: Do you mean
20 inside or --

21 MR. SWAN: Inside. Inside.

22 DETECTIVE CARTER: Okay, I didn't

1 go inside. I normally are at the door for
2 Cops in Shops. The only reason why I went
3 inside on this occasion was because of the
4 statements that were made to us.

5 MR. SWAN: Okay. Can you please
6 tell me what Mr. Brian Molloy's function was
7 the night of February 24th?

8 MALE PARTICIPANT: Sir, can you
9 repeat that name? Brian --

10 MR. SWAN: Brian Molloy. Brian
11 Molloy is mentioned in the, doesn't have an
12 exhibit number, that investigator Molloy
13 arrived at approximately 2:25 a.m. and I was
14 just asking you what was the nature of his
15 visit?

16 DETECTIVE CARTER: We're required
17 to notify ABRA for any incident or what they
18 consider violations. So I contacted ABRA and
19 he responded.

20 MR. SWAN: Okay, do you know of,
21 when Mr. Molloy was there, did he conduct an
22 investigation of his own?

1 DETECTIVE CARTER: Yes, he did.

2 MR. SWAN: Did he interview these
3 two witnesses, these two people in Exhibits 1
4 and 2?

5 DETECTIVE CARTER: No, by the time
6 he got there, they had left.

7 MR. SWAN: Okay. Bear with me one
8 minute, please. He is an attorney. Detective
9 Carter, are you aware that Rhino has a
10 security plan?

11 DETECTIVE CARTER: No.

12 MR. SWAN: Have you ever asked for
13 the security plan?

14 DETECTIVE CARTER: No, I have not.

15 MR. SWAN: Is Rhino required to
16 have a security plan?

17 MR. ADAMS: Objection, relevance.

18 CHAIR MILLER: Sustained.

19 MR. SWAN: I withdraw. I have no
20 further questions of Mr. Carter.

21 CHAIR MILLER: Okay. Members have
22 any questions? Yes, Mr. Brooks.

1 MEMBER BROOKS: Yes. Detective
2 Carter, on that night of your Cops in Shops
3 event, did you have opportunity to talk with
4 any of The Rhino Bar staff?

5 DETECTIVE CARTER: Yes, I did.

6 MEMBER BROOKS: About these two
7 young ladies?

8 DETECTIVE CARTER: Yes, I did.

9 MEMBER BROOKS: And what did you
10 say to them?

11 DETECTIVE CARTER: I informed them
12 of, you know, what they told me and, you know,
13 I had great concern. Just like I explained to
14 the door person who was checking the
15 identifications, if you did tell them to go
16 away, you are impeding a police investigation.
17 I did explain that to him.

18 And he denied that that's what he
19 told them. And I asked him what he told them
20 and he denies even whispering into her ear,
21 which I actually witnessed him do.

22 MEMBER BROOKS: Okay. Take it up,

1 Chair.

2 MALE PARTICIPANT: Nick.

3 CHAIR MILLER: Yes, Nick. Mr.
4 Alberti, sorry, yes.

5 MEMBER ALBERTI: Detective Carter,
6 thank you for coming. Were you and the other
7 officers in uniform that evening?

8 DETECTIVE CARTER: No, we're in
9 plain clothes.

10 MEMBER ALBERTI: Okay. The girls,
11 two young women that you stopped on the
12 street, do you know if they were drinking?
13 Did they appear to have been drinking?

14 DETECTIVE CARTER: I don't really
15 recall. They didn't seem intoxicated at the
16 time.

17 MEMBER ALBERTI: Okay, that was
18 really what I was asking. Thank you for that.
19 No further questions. Thank you.

20 CHAIR MILLER: Others? I'm just a
21 little curious about the Stop in Cops. Is
22 that what it's called?

1 DETECTIVE CARTER: Cops in Shops.

2 CHAIR MILLER: Cops in Shops?

3 DETECTIVE CARTER: Yes.

4 CHAIR MILLER: Yes, so what you do
5 there is you check IDs as well and then if
6 someone shows a fake ID you arrest them?

7 DETECTIVE CARTER: Yes, yes. It's
8 a program where we work along with the
9 proprietor to try to combat, you know, people
10 getting into establishments that are under 21,
11 arresting as hopefully it sends a message
12 that, you know, it's not tolerated. So we
13 basically work with the proprietor before they
14 gain entry into the establishment.

15 CHAIR MILLER: And what's the
16 punishment for a minor who shows a fake ID?

17 DETECTIVE CARTER: It's a
18 misdemeanor offense and normally they receive
19 community service and may pay a small fine,
20 maybe \$100.

21 CHAIR MILLER: And is it just for
22 showing a fake ID?

1 DETECTIVE CARTER: Yes.

2 CHAIR MILLER: Whereas if they
3 come without any ID, can they get arrested for
4 --

5 DETECTIVE CARTER: No. Back in
6 2004, D.C. decriminalized underage drinking
7 and underage possession, so it's just a civil
8 infraction at that point.

9 CHAIR MILLER: Okay, ***12:15:18,
10 all right. Okay, and I think this is what you
11 said, that if a staff person knows that
12 they're under age and tells them to leave,
13 that's interfering with an investigation?

14 DETECTIVE CARTER: Right, because
15 he knows --

16 CHAIR MILLER: Once they're there.

17 DETECTIVE CARTER: -- they were
18 there for that purpose and if he tells them,
19 if he has knowledge that they're under 21 and
20 he tells them to leave, yes.

21 CHAIR MILLER: Okay. All right, I
22 don't have any other questions. Thank you.

1 Are there any other questions based on Board
2 questions?

3 MR. ADAMS: The District has no
4 further questions.

5 CHAIR MILLER: Okay.

6 MR. SWAN: I just have one
7 question of Detective Carter. I want to make
8 it clear on this particular night, February
9 24th, and other nights prior to that, the door
10 person is the one that alerts you to the fake
11 identification?

12 DETECTIVE CARTER: Yes.

13 MR. SWAN: Okay, and so on this
14 particular night you're saying you have
15 observed him speaking something to these two
16 ladies.

17 DETECTIVE CARTER: To one of them,
18 yes.

19 MR. SWAN: To one of them?

20 DETECTIVE CARTER: Yes.

21 MR. SWAN: And was she in line?

22 DETECTIVE CARTER: No, she was not

1 in line. They both walked up. There was a
2 line form. They both walked up. One stood
3 back and then the other one went up to the
4 door person and that's when I saw him whisper
5 into her ear.

6 MR. SWAN: And you were standing
7 right there?

8 DETECTIVE CARTER: I was standing
9 directly across from them, that's correct.

10 MR. SWAN: And what did you do at
11 that moment?

12 MR. ADAMS: Objection. Now, this
13 line of question is based upon the Board's
14 questionings, what the Board asked. Mr. Swan
15 had opportunity to have a cross examination.
16 The question he's asking at this point, he's
17 already asked questions that were not --

18 CHAIR MILLER: I understand.

19 MR. ADAMS: -- related to the
20 Board's questions but he's now trying to
21 reopen cross examination as a process --

22 CHAIR MILLER: I think I'd like to

1 let him answer the, I mean finish the question
2 though and then decide.

3 MR. SWAN: I'm simply trying to
4 ascertain, Madam Chairman, what Detective
5 Carter was doing. We've heard that he says he
6 observed our door person whispering into
7 someone's ear but he doesn't know what and
8 they walked off.

9 And I think we've heard testimony
10 that we are to believe that we are trying to
11 warn people not to come in, particularly if
12 there's police presence.

13 CHAIR MILLER: So what's your
14 question?

15 MR. SWAN: I mean, or Detective
16 Carter's presence anyway, the Cops in Shops
17 program. They're there quite a bit obviously.
18 Doesn't make sense to me.

19 But I was just trying to
20 understand what he was actually doing when he
21 was witnessing what he says on guess was
22 police interference, our interference in the

1 police.

2 CHAIR MILLER: Okay, okay.

3 MR. SWAN: I'm trying to
4 understand that.

5 CHAIR MILLER: I just want to ask
6 a quick question. I don't know where you're
7 going with this, but when this whispering took
8 place, was it inside or outside?

9 DETECTIVE CARTER: It was outside.
10 It was right at the front door outside.

11 CHAIR MILLER: Okay. I'm sorry.

12 MR. SWAN: Thank you.

13 CHAIR MILLER: All right. That's
14 it. You have one more question?

15 (No response)

16 CHAIR MILLER: Okay. Mr.
17 Rodriguez has one more question.

18 MEMBER RODRIGUEZ: Yes.
19 Detective, thank you for coming in.

20 DETECTIVE CARTER: No problem.

21 MEMBER RODRIGUEZ: These exhibits
22 of the individuals that indicated that they

1 had been into the club, how did these come
2 about, these exhibits?

3 DETECTIVE CARTER: Well,
4 immediately after I saw the whispering and I
5 saw them flee, I didn't know what was said and
6 what was going on and I did know one of the
7 girls looked familiar and they did look young.

8 So immediately I went right after
9 them and that's when I interviewed them as to
10 what happened, like what was said. And after
11 they told me, then that's when I had them, and
12 I asked them if they could go and write a
13 statement and they said they would and they
14 wrote these two statements.

15 MEMBER RODRIGUEZ: Okay. Okay,
16 thank you.

17 CHAIR MILLER: Okay. Any other
18 questions based on Mr. Rodriguez's question?

19 MR. ADAMS: I have no further
20 questions.

21 CHAIR MILLER: Okay. All right,
22 thank you very much.

1 DETECTIVE CARTER: All right.

2 MR. ADAMS: And I would like to
3 reserve Detective Carter's presence as a
4 rebuttal witness.

5 The District's second witness will
6 be Brian Molloy.

7 CHAIR MILLER: All right, good
8 afternoon. Do you swear to tell the truth,
9 the whole truth, nothing but the truth?

10 MR. MOLLOY: I do.

11 CHAIR MILLER: Okay, thank you.

12 MR. ADAMS: Good afternoon, Mr.
13 Molloy.

14 MR. MOLLOY: Good afternoon.

15 MR. SWAN: Madam Chairperson.

16 CHAIR MILLER: I'm sorry, what?

17 MR. SWAN: I don't mean to
18 interrupt but at this point I need to point
19 out something. I hope I'm not out of order by
20 doing this.

21 But Mr. Molloy, as I understand,
22 is currently employed with Mallios & O'Brien

1 and Mallios & O'Brien is our ABC licensing
2 attorney. I think his testimony today might
3 not be proper.

4 MR. MOLLOY: To explain a little
5 bit more, we are aware of this. I'm aware of
6 this, and I was subpoenaed by the District's
7 attorney so I was compelled to come down to
8 testify.

9 CHAIR MILLER: Okay. Do you
10 object to his testimony?

11 MR. SWAN: I do.

12 CHAIR MILLER: You do. On the
13 grounds that, what?

14 MR. SWAN: Well, just simply on
15 the grounds that should an appeal have to take
16 place we would be engaging the law firm of
17 Mallios & O'Brien.

18 CHAIR MILLER: Mr. Adams, do you
19 have --

20 MR. ADAMS: If I may be heard very
21 quickly, I'm not going to get into the
22 attorney-client relationship between this

1 establishment and the law firm that employs
2 Mr. Molloy. Actually I was going to deal with
3 that on direct examination to a certain
4 extent.

5 Bottom line is that Mr. Molloy at
6 the time was not employed by a law firm. He
7 was employed by the District of Columbia in a
8 law enforcement capacity.

9 And bottom line, he's a fact
10 witness, a eyeball witness, to whatever
11 occurred regardless of what his employment was
12 and, as a result, I asked the Board to
13 subpoena Mr. Molloy.

14 The Board did issue a subpoena.
15 Subpoena was served upon Mr. Molloy. So his
16 obligations as a fact witness will supersede
17 anything.

18 I mean, obviously I don't want to
19 impact the relationship or certainly the
20 business of the law firm, but that is strictly
21 a decision that Mr. Swan would have to make.

22 CHAIR MILLER: Mr. Molloy, do you

1 have a problem with this, with testifying?

2 MR. MOLLOY: I feel compelled to
3 agree with the subpoena and my employer does
4 know and he recognizes the unique situation
5 we're in. Obviously we don't want to strain
6 any sort of attorney-client relationship, but
7 I am here and prepared to testify.

8 CHAIR MILLER: Okay. I'm going to
9 overrule the objection then.

10 MR. ADAMS: Thank you.

11 CHAIR MILLER: I think Mr. Molloy
12 can be screened if there is an appeal. Okay,
13 go ahead.

14 MR. ADAMS: Mr. Molloy, can you
15 please state your name and spell it for the
16 record or do whatever you do there?

17 MR. MOLLOY: Okay, yes. Brian
18 Molloy. First name is Brian, B-R-I-A-N. Last
19 name Molloy, M-O-L-L-O-Y.

20 MR. ADAMS: All right. And, Mr.
21 Molloy, for the record and I know we just went
22 over it but, I mean, you're currently employed

1 as an attorney?

2 MR. MOLLOY: That is correct.

3 MR. ADAMS: And for the firm of
4 Mallios & O'Brien?

5 MR. MOLLOY: Correct.

6 MR. ADAMS: All right. And how
7 long have you been in that position?

8 MR. MOLLOY: Since June of last
9 year.

10 MR. ADAMS: June last year, okay.
11 Prior to your engagement with the law firm of
12 Mallios & O'Brien, where did you work prior?

13 MR. MOLLOY: I worked for the
14 District of Columbia government with the
15 Alcoholic Beverage Regulation Administration
16 as an investigator.

17 MR. ADAMS: And how long were you
18 in that position?

19 MR. MOLLOY: For approximately a
20 year.

21 MR. ADAMS: For one year?

22 MR. MOLLOY: For one year, yes.

1 MR. ADAMS: Okay. And within your
2 role as being an investigator for ABRA, did
3 you conduct investigations at I guess all, or
4 not all of them but a number of the ABC
5 establishments within District of Columbia?

6 MR. MOLLOY: Yes, I did.

7 MR. ADAMS: All right. And would
8 that include The Rhino Bar and Pumphouse?

9 MR. MOLLOY: Yes.

10 MR. ADAMS: All right. So while
11 you were employed as investigator, did you
12 have occasion on February 24th, 2013, to be
13 present upon the premises of The Rhino Bar and
14 Pumphouse?

15 MR. MOLLOY: Yes, I did.

16 MR. ADAMS: All right. And were
17 you on duty at that time?

18 MR. MOLLOY: I was on duty that
19 night.

20 MR. ADAMS: Okay. Can you explain
21 to the Board the circumstances of how you came
22 to be at that establishment?

1 MR. MOLLOY: I was working on duty
2 that evening and at approximately 2:00 a.m. or
3 somewhere in that area I received a phone call
4 from my superior, Supervisory Investigator
5 Craig Stewart, informing me that there was a
6 Cops in Shops operation ongoing at Rhino Bar
7 and that they had found a violation and had
8 requested an ABRA investigator come and assist
9 so I responded to that.

10 MR. ADAMS: All right. And what
11 did you do once you received the phone call?
12 Sorry, obviously you came to the
13 establishment. Approximately when did you
14 arrive?

15 MR. MOLLOY: I arrived on the
16 scene at approximately 2:25 a.m.

17 MR. ADAMS: All right, and what
18 did you do once you arrived or what did you
19 observe?

20 MR. MOLLOY: Well, I was aware
21 that it was Detective Carter handling the Cops
22 in Shops so I identified myself to the door

1 personnel just as I walked inside.

2 And from previous interactions
3 with Detective Carter, I knew what he looked
4 like so I just found him in the bar and
5 started making my report, which was mostly
6 based off statements from Detective Carter and
7 the other officers because all the incidents
8 that he just described to you in his testimony
9 occurred before I got there.

10 So I basically was informed about
11 the whole situation and then requested to
12 speak with the ABC manager of the
13 establishment.

14 MR. ADAMS: All right. Now, so in
15 terms of when you got there, so in terms of
16 what was stated, in summary, what was the
17 discussion? In general, what was the
18 discussion?

19 MR. MOLLOY: In general, I was
20 informed that they were running a Cops in
21 Shops outside. They had witnessed the door
22 staff attendant whisper in a female possible

1 patron's ear. She hadn't gone inside yet and
2 that that patron and her friend left.

3 Because they looked underage
4 according to the officers, they pursued them
5 and then had questioned them about their age.
6 Found out that one had a fake ID, one didn't.
7 And after that interaction, that the officers
8 went inside to then start checking the IDs of
9 patrons who looked underage.

10 MR. ADAMS: Okay. When you were
11 there, approximately how many patrons were
12 within the establishment?

13 MR. MOLLOY: It was getting fairly
14 close to closing time and so by the time I
15 walked in, I mean, I may have seen 40 to 50
16 people but everybody I saw was sort of
17 funneling towards the doors. I wouldn't say
18 the club looked like it was in full operation
19 at the time. It was more like closing-down
20 time.

21 MR. ADAMS: So when you were there
22 --

1 MEMBER SILVERSTEIN: Mr. Molloy,
2 could you repeat what you just said?

3 MR. MOLLOY: I'm sorry. I'd say I
4 probably saw around 40 to 50 people but most
5 of them were in the process of, like,
6 funneling towards the doors because the
7 establishment closes at 3:00 and they were in
8 the process of closing down.

9 MR. ADAMS: And to what extent, if
10 any, did you observe the police officers
11 interact with any patrons at that time?

12 MR. MOLLOY: The officers I saw
13 were standing near a staircase that's near one
14 of the doors and questioning patrons in that
15 area of the bar.

16 MR. ADAMS: And at that time did
17 you observe them interact with any patrons who
18 they identified to be underage?

19 MR. MOLLOY: Well, I didn't see
20 the particular interaction. They did find a
21 female patron who did not have an ID on her
22 who was drinking a Bud Light beer.

1 MR. ADAMS: And what happened at
2 that point in terms of the course of your
3 investigation?

4 MR. MOLLOY: Course of my
5 investigation I took the officer's word at
6 face value. I requested to speak with the ABC
7 license manager, Mr. David Nelson. He was
8 very cooperative.

9 I informed him what the officers
10 told me about the interaction outside the
11 establishment and that they had also found a
12 female patron who didn't have an ID on her
13 drinking a Bud Light beer and the patron had
14 volunteered her age and it was under 21. I
15 can't remember how much.

16 I then conducted a regulatory
17 inspection, which is something we do any time
18 we find any one violation, and after
19 conducting the regulatory inspection, I didn't
20 find any others.

21 But I had the ABC manager, Mr.
22 Nelson, sign the regulatory inspection. I

1 then filled out a Sale to Minor form, informed
2 Mr. Nelson about the form, made sure he read
3 it and then had him sign the Sale to Minor
4 form as well.

5 MR. ADAMS: Now, do you recollect
6 any statements from Mr. Nelson at the time
7 that you spoke with him?

8 MR. MOLLOY: Just that he
9 understood why I conducted the regulatory
10 inspection, he understood the violations I
11 informed him about and that the bar, he seemed
12 very concerned about what we had told him
13 about what his door man was doing and seemed,
14 I don't remember specifically how he said he
15 would handle it but he was going to take
16 immediate action to prevent any sort of
17 incident like that happening again.

18 MR. ADAMS: And in the course of
19 your investigation, what actions happened
20 afterwards?

21 MR. MOLLOY: After that, once the
22 officers were done checking IDs and I had all

1 my forms signed, we left the establishment and
2 I continued the rest of my shift with ABC.

3 And when I got back to the office
4 and had all the evidence collected, which took
5 a little while to get the officer's report of
6 the incident, I compiled my investigative
7 report of incident.

8 MR. ADAMS: I'm going to show to
9 the witness what's marked for identification
10 purposes as the District's Exhibit Number 3.

11 CHAIR MILLER: Did you show that
12 to Mr. Swan?

13 MR. ADAMS: Yes.

14 (Off the record comments)

15 MR. ADAMS: Mr. Molloy, do you,
16 well, I'll give you a chance to look at it.
17 All right, do you recognize the document?

18 MR. MOLLOY: Yes, this is the
19 investigative report I wrote about this
20 incident.

21 MR. ADAMS: And do you recognize
22 it to be the one that you actually wrote?

1 MR. MOLLOY: Yes.

2 MR. ADAMS: Is it a true and
3 accurate representation of the investigative
4 report that was completed on that day?

5 MR. MOLLOY: Yes, it is.

6 MR. ADAMS: And your report I
7 guess includes the case report narrative and
8 I guess as the exhibit there is another
9 report. I guess Exhibit Number 3 is another
10 report. What's that exhibit there?

11 MR. MOLLOY: The whole thing is
12 Exhibit Number 3.

13 MR. ADAMS: I apologize, Exhibit
14 3, your report.

15 MR. MOLLOY: Oh, sorry.

16 MR. ADAMS: Okay. I understand.

17 MR. MOLLOY: Exhibit Number 3 is
18 the MPD 251 report.

19 MR. ADAMS: All right, and so that
20 was included as well?

21 MR. MOLLOY: Yes, it is.

22 MR. ADAMS: All right, and is this

1 a true and accurate version of the report that
2 was compiled back, I mean, sorry, based upon
3 the events on February 24th, 2013?

4 MR. MOLLOY: It is.

5 MR. ADAMS: All right, I would
6 like to move what's marked for identification
7 purposes as District Exhibit Number 3 into
8 evidence, which is the investigative report by
9 Investigator Brian Molloy.

10 CHAIR MILLER: Do you have any
11 objection, Mr. Swan? Mr. Swan.

12 MR. SWAN: Pardon me?

13 CHAIR MILLER: Any objection?

14 MR. SWAN: No, ma'am.

15 CHAIR MILLER: Okay, and I haven't
16 admitted 1 or 2 yet because I didn't get to
17 ask if you objected to those, which --

18 MR. SWAN: No.

19 CHAIR MILLER: -- you do not.
20 Okay, so if I see that one, I could move all
21 at the same time.

22 (Off the record comments)

1 CHAIR MILLER: Is Number 3, is
2 this exhibit the investigation report?

3 MR. ADAMS: Yes, the investigative
4 report.

5 CHAIR MILLER: Okay.

6 (Off the record comments)

7 CHAIR MILLER: Yes, thanks. Yes,
8 just to make sure. Okay, so I'm going to
9 admit at this time then Government's Exhibits
10 1, 2 and 3.

11 MR. ADAMS: Okay. Very well, I
12 have no further questions for Investigator
13 Molloy.

14 CHAIR MILLER: All right. Cross?

15 MR. SWAN: Yes, ma'am. Thank you.
16 Mr. Molloy, the case report that is in Exhibit
17 3, that's your work, correct?

18 MR. MOLLOY: Correct.

19 MR. SWAN: According to this
20 report, you arrived at approximately 2:25 a.m.
21 Is that correct?

22 MR. MOLLOY: Correct.

1 MR. SWAN: At any time that you
2 were there at The Rhino Bar, did you
3 personally check any IDs?

4 MR. MOLLOY: No, I did not.

5 MR. SWAN: But your report says
6 that you came in to conduct ID checks. Is
7 that not correct?

8 MR. MOLLOY: That is correct. The
9 phone call I got was that they were doing a
10 Cops in Shops there so I was going to come and
11 participate.

12 But after arriving and talking
13 with Detective Carter and finding out that
14 they had already had the interaction outside
15 and then they had found a underage person
16 drinking a Bud Light beer, I just started
17 conducting the sale to minor investigation
18 rather than check any further IDs.

19 MR. SWAN: Okay, so I want to read
20 to you what your statement says here, that
21 Investigator Molloy, yourself, "informed Mr.
22 Nelson that the MPD believes that the

1 establishment staff was admitting patrons
2 under the age of 21 without making them
3 produce valid identification and the same
4 staff member interfered with Metropolitan
5 Police operations by advising an underage
6 patron about MPD activity." So --

7 CHAIR MILLER: Mr. Swan --

8 MR. SWAN: -- you arrived there.
9 You had a conversation with Detective Carter?

10 CHAIR MILLER: Could you just tell
11 us where you read from for the record?

12 MR. SWAN: This is from Exhibit 3.

13 CHAIR MILLER: I know but where in
14 Exhibit 3?

15 MR. SWAN: Oh, I'm sorry, Page 2.
16 It's primarily the last four or five sentences
17 in the first paragraph.

18 CHAIR MILLER: The top paragraph,
19 okay.

20 MR. SWAN: Yes, ma'am.

21 CHAIR MILLER: Thank you.

22 MR. SWAN: My question to you, Mr.

1 Molloy, is that it seems here that you believe
2 we were selling alcohol to people under age of
3 21 but you don't know yourself personally.

4 MR. MOLLOY: Everything I know
5 about the event was told to me by Detective
6 Carter or one of the other MPD officers.

7 MR. SWAN: Okay. And I just want
8 to make it clear, you did say that the person
9 was drinking a Bud Light beer?

10 MR. MOLLOY: Yes.

11 MR. SWAN: No further questions.

12 CHAIR MILLER: Okay, Board
13 questions? Yes, Mr. Short.

14 MEMBER SHORT: Mr. Molloy, again,
15 you are an attorney at law?

16 MR. MOLLOY: Correct.

17 MEMBER SHORT: And at the time of
18 this incident you were employed by ABRA?

19 MR. MOLLOY: Correct, as an
20 investigator.

21 MEMBER SHORT: As an investigator.
22 How many times have you been to this

1 establishment during your employment with --

2 MR. MOLLOY: In the year I was
3 employed, I'd say half a dozen times.

4 MEMBER SHORT: Half a dozen times.
5 Would you classify this business as
6 problematic?

7 MR. MOLLOY: No, I would not.

8 MEMBER SHORT: Okay, in your six
9 visits, how many times did you have to take
10 any action, affirmative action toward --

11 MR. MOLLOY: I'd say two to three
12 of those I might have just been conducting a
13 standard regulatory inspection.

14 And then the other half of the
15 time I was just stationed to monitor
16 Georgetown in general, and as part of my
17 monitoring efforts, I would stop into anywhere
18 from six to ten establishments and majority of
19 those times I, once identifying myself, was
20 let in, met the ABC manager.

21 That's how I'm familiar with David
22 Nelson, from those visits, and he was very

1 cooperative every time and I don't recall
2 finding a violation at any of those other
3 visits.

4 MEMBER SHORT: We do thank you for
5 your service when you did serve ABRA and thank
6 you for your testimony. That's all I have for
7 him.

8 CHAIR MILLER: Okay, others? I
9 just have one -- oh, go ahead, Mr.
10 Silverstein.

11 MEMBER SILVERSTEIN: Mr. Molloy,
12 you said that you went inside to check the IDs
13 of patrons who looked underage and you saw
14 about 40 or 50 people funneling toward the
15 door, but that was because the place was in
16 process of closing or was it because they knew
17 that there was an ID check going on?

18 MR. MOLLOY: I can't say the
19 motivation of any individual patron but it
20 seemed to be an en masse movement where it was
21 more related to closing procedures than, like,
22 word getting out that cops were inside and

1 it's time to flee.

2 MEMBER SILVERSTEIN: Do you know
3 if there had been last call for alcohol or
4 that it was close to closing time or --

5 MR. MOLLOY: Yes, it was within a
6 half an hour of closing time but I don't
7 recall if I heard, like, a last call
8 announcement while I was there.

9 MEMBER SILVERSTEIN: So there's no
10 reason at all to believe that this was because
11 somebody said, hey, they're checking IDs and
12 everybody bolted for the door, which has been
13 the case in some places?

14 MR. MOLLOY: The general
15 atmosphere did not seem as hectic and hurried
16 as if it would have been, had there been a ton
17 of underage kids who were trying to flee
18 towards the door all at once. It seemed more
19 orderly than that.

20 MEMBER SILVERSTEIN: Okay, because
21 we've seen that.

22 MR. MOLLOY: Yes.

1 MEMBER SILVERSTEIN: You also said
2 here they did find a female patron without an
3 ID who was drinking a Bud Light beer and who
4 volunteered she was under 21. Who was they?

5 MR. MOLLOY: It was the MPD
6 officers who were there identified this
7 individual and told me about it. Again, that
8 happened before I got there.

9 MEMBER SILVERSTEIN: They told you
10 about it but you do not have a name or
11 anything or --

12 MR. MOLLOY: No. Their --

13 MEMBER SILVERSTEIN: This happened
14 before you got there?

15 MR. MOLLOY: That is correct. The
16 only reason I know about it is because the MPD
17 officers told me it happened.

18 MEMBER SILVERSTEIN: Thank you.
19 No further questions.

20 CHAIR MILLER: Others? I just
21 have one follow-up on that. In your report
22 you said Detective Carter stated that he

1 identified a 19-year-old female patron in the
2 establishment who was drinking a Bud Light
3 beer and had no form of identification in her
4 possession. Did he tell you how he found out
5 that she was 19?

6 MR. MOLLOY: I believe she
7 volunteered the information but I'm not 100
8 percent sure how he found out.

9 CHAIR MILLER: Okay. All right,
10 any questions on Board questions?

11 MR. ADAMS: The District has no
12 further questions.

13 CHAIR MILLER: Okay. Thank you
14 very much.

15 MR. ADAMS: I'll excuse Mr. Molloy
16 as a witness.

17 CHAIR MILLER: Okay.

18 MR. ADAMS: And at this point the
19 District rests its case. I have no further
20 witnesses.

21 CHAIR MILLER: Does that mean
22 you're not going to call a rebuttal witness?

1 (Crosstalk)

2 MR. ADAMS: The rebuttal witness
3 won't come until after the defense's case.

4 CHAIR MILLER: What? Oh, okay.

5 MR. ADAMS: I will call rebuttal
6 witness after defense is --

7 CHAIR MILLER: Then what you meant
8 then, you rest your case?

9 MR. ADAMS: I apologize. I don't
10 rest my case. I --

11 CHAIR MILLER: I only said that
12 because earlier you said you were reserving
13 him.

14 MR. ADAMS: Yes, subject to any
15 rebuttal.

16 CHAIR MILLER: Okay. Mr. Swan, do
17 you want to testify?

18 MR. SWAN: I'll be more than happy
19 to testify. Yes, ma'am.

20 CHAIR MILLER: All right. Come
21 take the stand then. I'll swear you in.

22 MEMBER ALBERTI: Would it be

1 easier if Mr. Swan testified from there? I
2 don't know if he has anything since he's
3 testifying from --

4 MR. ADAMS: I have no objections
5 to where he testifies.

6 CHAIR MILLER: Have no objection.
7 I have no --

8 MEMBER ALBERTI: I don't know what
9 he has and what he needs to refer to so I
10 thought it might be --

11 MALE PARTICIPANT: Oh, I see.
12 Yes, thank you. Yes, here are some documents.

13 CHAIR MILLER: Okay. I'm going to
14 swear you in. Do you swear to tell the truth,
15 the whole truth, nothing but the truth?

16 MR. SWAN: I do.

17 CHAIR MILLER: Okay.

18 MR. SWAN: My name is Charles
19 Britton (phonetic) ***12:40:57 Swan, Junior.
20 I am the president and sole owner of Woodward
21 Brothers, Inc., located in Georgetown, 3295 M
22 Street. We have had an alcohol license there

1 at that location for over 50 years.

2 In the course of the last 50
3 years, I think this Board, as well as everyone
4 else, is quite aware of individuals who are
5 not quite sure of their age and sometimes are
6 not quite sure of their name.

7 And they will show identification
8 that they have most likely procured in some
9 manner in order to gain access, not just into
10 bars and restaurants but, perhaps, to buy
11 cigarettes or whatever other things that
12 require someone to be of a certain age.

13 We are certainly quite aware that
14 we dispense an alcohol product, a drug, and we
15 have attended perhaps 20 or 30 events that
16 this Board has sponsored over the course of
17 time in terms of proper ID checking, knowing
18 when someone is intoxicated, the various
19 programs that this Board continues to offer.

20 Our staff is required to
21 participate in these programs and we do it
22 here to our security plan that we revised this

1 past October 2013.

2 In the course of carrying out our
3 obligation, we do try to maintain that the IDs
4 that are presented are of the person that is
5 presenting them.

6 We do go to great lengths to make
7 sure that we give everybody the benefit of the
8 doubt but we do reserve the right to ask for
9 second identification if we're not sure.

10 If somebody slips by, they slip
11 by. It's just one of those things. It's not
12 something that we encourage but it happens.

13 I think we've heard testimony
14 today that a lot of people have been arrested
15 in front of The Rhino Bar, mostly with our
16 cooperation.

17 We hate to see young people get
18 arrested but the law is the law and
19 unfortunately when somebody does break the
20 law, like coming into our establishment and
21 they come through our security net and if they
22 get caught then restaurants and bars pay a

1 heavy price for that but it's not because we
2 encourage it. Our business is not around
3 that.

4 We are located in Georgetown and
5 we are at the footsteps of Georgetown
6 University so obviously I think we're going to
7 probably, and probably rightfully so, we are
8 going to be a target for more Cops in Shops
9 programs.

10 But I think we haven't heard any
11 testimony here today that says that we object
12 to that so, in fact, it's an added security
13 blanket I would like to think, just because
14 people will try to be in access when they
15 shouldn't.

16 I have no problems with the way
17 anything has gone on here today. I would like
18 to say, though, there's some confusing and
19 conflicting things that I have read in these
20 reports, particularly right at the very end
21 about a young 19-year-old patron that had no
22 identification on her. So how did that person

1 get in at all? And she was drinking a Bud
2 Light product.

3 This is confusing to me. So when
4 we first got these case reports, we did a
5 little investigation of our own as you might
6 expect.

7 One thing that was not hard to do
8 was that The Rhino Bar doesn't sell Budweiser
9 products.

10 We have a letter from the
11 distributor that says that we didn't carry
12 their product in February 2013 and months
13 prior to February 2013 we didn't carry their
14 product.

15 So let's just make an assumption,
16 if we will, that the young person that got,
17 this 19-year-old young lady, it was a young
18 lady, that got caught brought that beer inside
19 somehow.

20 So how did a person come through
21 the front door with a beer in her hand and no
22 ID? Well, we didn't know the answer to that

1 either so we tracked this young lady down.

2 We have a statement from her that
3 tells us exactly how she got into that bar.
4 It doesn't say anything about a beer can but
5 it does say, and let me quote, "On the night
6 of February 23rd I was in The Rhino Bar. I am
7 20 years old."

8 MR. ADAMS: I object to the
9 reading from this statement. This is hearsay.
10 The witness is not here. I'm not sure when
11 this statement was taken or what were the
12 circumstances for it. This point that would
13 be inadmissible hearsay.

14 CHAIR MILLER: So you heard Mr.
15 Adams move into evidence statements by, you
16 know, two other individuals that were there
17 and he had somebody at least authenticate or
18 talk about when they were taken and whatever.
19 Okay, are you the one who took, can you
20 authenticate this statement personally
21 somehow?

22 MR. SWAN: No, ma'am, I cannot.

1 CHAIR MILLER: Okay. Well, why
2 don't you, okay, you're not a lawyer, so --

3 MR. SWAN: Let me just, without
4 reading the statement, let me tell you what we
5 have found out and I won't quote what she
6 said.

7 CHAIR MILLER: Okay, because it
8 sounds relevant, though, so.

9 MR. SWAN: Well, yes, ma'am.

10 CHAIR MILLER: We have a little
11 leeway with hearsay so --

12 MR. SWAN: Okay. In the back of
13 our building -- thank you. Thank you, I
14 didn't mean to interrupt.

15 CHAIR MILLER: Okay. So I'm just
16 trying to just figure out what that is, what
17 that statement is.

18 MR. SWAN: Yes, ma'am. Yes,
19 ma'am.

20 CHAIR MILLER: When she made it,
21 whatever.

22 MR. SWAN: In the back of our

1 building -- as you can imagine, Georgetown is
2 a historic section. We have a right-of-way
3 between our property and the property
4 adjoining us in the rear. There was an access
5 to that right-of-way on 33rd Street.

6 Our front entrance is on M Street
7 and we have three exit points in the front of
8 our building. None do we use in the rear
9 because it's in the kitchen.

10 This young lady got access through
11 the right-of-way, came -- and when you look at
12 it from 33rd Street, you just think it's a
13 door going into maybe an apartment. You don't
14 know. But it actually conceals the accessway.

15 She must have jiggered that door
16 open, came through and came in through the
17 kitchen. Now, the kitchen was closed. We
18 don't have security in the rear of the
19 building because it's not a means of egress.

20 CHAIR MILLER: Okay. How do you
21 know this? Is this something she told you
22 personally?

1 MR. SWAN: This is something that
2 she told us when we found this person and told
3 her we got a problem on our hands because you
4 were arrested in our bar underage without an
5 identification drinking a Bud Light.

6 Now, that's what the statement I
7 was going to read to you says and she has her
8 contact information here.

9 So I just wanted to bring this
10 out. I think it's relevant because I don't
11 think anything that we could have done
12 reasonably could have prevented that situation
13 from happening.

14 And if you don't believe that,
15 then Detective Carter or Investigator Molloy
16 has to tell us since they sit there and they
17 say they observed people coming in and out and
18 people whispering in people's ears how did
19 this person just walk in there with a beer
20 can? This is not New Orleans.

21 MR. ADAMS: I object to the --

22 MR. SWAN: I'm sorry.

1 MR. ADAMS: -- to that statement
2 coming in. And I believe this testimony,
3 argument, I think we're getting a little bit
4 confused. But in terms of from testimony, I
5 object to the standpoint of any statements
6 regarding what she's stating coming in.

7 The statements that were stated
8 before were regarding the basis for why MPD
9 went into the establishment and found what
10 they found, which is the underage drinker.
11 We're not charging what happened prior to the
12 fact.

13 In this case what he wants to do
14 is have testimony from material witness. He
15 could have asked for subpoenas to have been
16 issued for that person to have testified
17 today.

18 So to my knowledge that person
19 should have been an available witness and
20 should be here to testify to, I mean, if this
21 is testimony that would negate the District's
22 case, especially outside of some speculation

1 -- I understand that we do have some hearsay
2 leeway. Nevertheless, I believe that it would
3 be inappropriate for that statement to come
4 in.

5 MR. SWAN: If I may make a remark

6 --

7 CHAIR MILLER: Again, okay.

8 MR. SWAN: -- to what his comments
9 were, it's always been my understanding that
10 this type of a hearing is informal and so
11 there is somewhat of a leeway.

12 CHAIR MILLER: There is.

13 MR. SWAN: And had I known
14 obviously the importance of what we just
15 heard, I would have had that person here.

16 CHAIR MILLER: Okay. So if you
17 have a statement, I mean, I could take a look
18 at it and see --

19 MR. SWAN: My statement is just
20 very simply I think that the --

21 CHAIR MILLER: No, I mean the
22 statement by her that you want put that into

1 evidence.

2 MR. SWAN: Oh, okay. Can I
3 present this for your review or --

4 CHAIR MILLER: Yes, well, do you
5 have one for Mr. Adams to actually look at it?

6 MR. SWAN: Of course.

7 (Off the record comments)

8 MR. SWAN: Also, Madam
9 Chairperson, would you like to see the letter
10 from distributor as well?

11 CHAIR MILLER: I'm sorry?

12 MR. SWAN: The letter from the
13 beer distributor as well about our carrying
14 their products or not carrying their products?

15 CHAIR MILLER: Yes, and show one
16 to Mr. Adams also. Thanks.

17 (Off the record comments)

18 MR. ADAMS: And for identification
19 purposes, is the letter from the first exhibit
20 your Exhibit 2?

21 MR. SWAN: Yes, that's correct.

22 MR. ADAMS: All right, and the

1 letter from the witness is Exhibit --

2 MR. SWAN: 1.

3 MR. ADAMS: 1, all right.

4 (Off the record comments)

5 CHAIR MILLER: Do you have an
6 objection to the letter from Budweiser?

7 MR. ADAMS: Well, I mean, again, I
8 think in this case the establishment can say
9 whether or not they bought Bud Light or not or
10 Budweiser products.

11 I do object to it in terms of this
12 being a hearsay. We're not able to cross
13 examine them regarding the statement regarding
14 this.

15 CHAIR MILLER: Okay, this is my
16 feelings. I mean, the investigative report
17 contains hearsay as well. I mean, what Mr.
18 Nelson said, if he even said what the female
19 patron without the ID said to him, that's
20 hearsay as well, or that she was 19. We're
21 only getting that from her and she's not here,
22 the same person.

1 So and because this is an
2 administrative proceeding that does have some
3 leeway with hearsay, I'm recommending that we
4 accept this and we would give it less weight
5 than we would if a witness was here and you
6 had a chance to cross examine the witness and
7 we had a chance to cross examine the witness.

8 MEMBER ALBERTI: Madam Chair, may
9 I make a comment?

10 CHAIR MILLER: Yes.

11 MEMBER ALBERTI: I heard Mr.
12 Adams' argument and I believe what he argued
13 was that the other two statements that we had
14 were not evidence of the violation that we're
15 considering here.

16 MR. ADAMS: Exactly.

17 MEMBER ALBERTI: They were only
18 there to give us a context for why Detective
19 Carter went into the establishment to survey
20 the clientele.

21 However, the second statement that
22 we have from Mr. Swan goes directly to the

1 evidence of the violation, so the purposes of
2 these two things are very different.

3 CHAIR MILLER: And I'm not
4 comparing them.

5 MEMBER ALBERTI: Right. Well, and
6 I'm commenting because my position would be
7 not to allow the statement from Mr. Swan in
8 but you have the final judgment. I just want
9 to put that out there.

10 CHAIR MILLER: Okay, let me
11 explain. I'm not even comparing it to that
12 but go ahead and then --

13 MR. ADAMS: There's another basis
14 for this, Madam Chairman, for not allowing the
15 letter for, I guess her name is Megan Connolly
16 in because what you have is a redacted copy of
17 the police report. I have the unredacted copy
18 of police report.

19 I have no idea who Megan Connolly
20 is. Megan Connolly was not -- and we can have
21 testimony, but there's no evidence that Megan
22 Connolly was a person who was stopped on

1 February 24th of 2013 so I have no idea who
2 this person is.

3 CHAIR MILLER: Okay, so what I am
4 comparing it to and looking at in the
5 Government's case which is that the
6 Government's case is that, this part is that
7 they served a 19-year-old female who was
8 drinking a Bud Light beer and had no form of
9 identification in her possession.

10 Okay, Mr. Molloy, he doesn't know
11 that personally so we're relying on Detective
12 Carter's statement. And how did he know she
13 was 19? I don't recall if he said this. And
14 Mr. Molloy didn't remember but he would have
15 had to maybe ask her.

16 And whatever her answer was,
17 that's hearsay too because it's the same
18 person. She's not here. We don't know that.
19 How do we know she was 19? How do we know she
20 said she was 19? How do we know what her name
21 was? So to me it's the same thing. It's the
22 other side of this female patron.

1 So for that reason, I think it
2 should come in and if Board members don't want
3 to give it much weight, then because she's not
4 here, we don't know who she is, that's fine.
5 Yes.

6 MEMBER SILVERSTEIN: Mr. Adams,
7 are you saying that the unredacted copy that
8 you've seen does not have the name Megan
9 Connolly on it?

10 MR. ADAMS: That is correct.

11 CHAIR MILLER: Where is that?

12 MR. ADAMS: I have unredacted copy
13 with me.

14 MEMBER ALBERTI: Well, Mr. Adams
15 can call a rebuttal witness to speak to that
16 and I think that that's the proper procedure,
17 is that he has his rebuttal witness here and
18 that person can speak to who they spoke with
19 that evening, if that's Mr. Adams' purpose.

20 CHAIR MILLER: Okay. Then, yes,
21 Mr. Short.

22 MEMBER SHORT: I'd just like to

1 ask Mr. Adams, according to your testimony,
2 sir, you said there is an easement between the
3 buildings which someone could likely walk in
4 between, come through your kitchen. Do you
5 have security at all there?

6 MALE PARTICIPANT: We're out of
7 order here.

8 MR. ADAMS: If I'm not mistaken, I
9 was in the middle of objection to testimony.
10 Mr. Swan had not yet completed his testimony.

11 CHAIR MILLER: Okay. Okay, so you
12 can ask that later. All right, okay, then I'm
13 going to admit these two documents as the
14 Licensee's Exhibit Number 1 and 2. Number 1
15 was the To Whom It May Concern letter and
16 Number 2 is the Budweiser letter. Okay, all
17 right.

18 MR. SWAN: Just to finish my
19 testimony --

20 CHAIR MILLER: Yes, right.

21 MR. SWAN: Comment about what Mr.
22 Alberti had said, that what happened earlier

1 in the evening about these two young ladies is
2 really irrelevant. The charges in the --

3 MR. ADAMS: Objection, testimony's
4 argument. He should not be addressing
5 statements. If this is testimony, he should
6 be talking about the factual testimony.

7 CHAIR MILLER: Well, he's going to
8 say why, I assume, from your personal
9 knowledge. He's not a lawyer. It's kind of
10 hard to parse that.

11 MR. SWAN: Well, my personal
12 knowledge of the case --

13 CHAIR MILLER: You get a chance
14 for closing argument too, but I understand
15 that it's harder when you're not an attorney.

16 MR. SWAN: I just want to say that
17 we're talking here about the Charges 1 and 2
18 that we came here to address and that was the
19 issue of supposedly 19-year-old unidentified
20 person Detective Carter says was there and I
21 haven't heard anything today that says that
22 person was even there from Detective Carter or

1 the Government. With that, I rest.

2 CHAIR MILLER: Okay. Mr. Adams,
3 do you have some cross examination?

4 MR. ADAMS: Sure. All right, now,
5 first of all, Mr. Swan, you own the
6 establishment, is that correct?

7 MR. SWAN: Yes, that is correct.

8 MR. ADAMS: And so if the Board
9 were to come with a disciplinary action to
10 fine or suspend the license, that would
11 negatively impact the business, correct?

12 MR. SWAN: Absolutely.

13 MR. ADAMS: And that would
14 obviously negatively impact you?

15 MR. SWAN: Absolutely, yes.

16 MR. ADAMS: All right, so you have
17 an interest in ensuring that the outcome is
18 positive, correct?

19 MR. SWAN: Yes, I would think so.

20 MR. ADAMS: All right, so on
21 February 24th, 2013, you were not at the
22 establishment, correct?

1 MR. SWAN: I was there earlier in
2 the day, the evening.

3 MR. ADAMS: All right. So at the
4 time of the event, you were not at the
5 establishment?

6 MR. SWAN: That is correct.

7 MR. ADAMS: You do not have any
8 personal knowledge of what actually occurred
9 at that time, correct?

10 MR. SWAN: I do not.

11 MR. ADAMS: All right. And so
12 none of the testimony that you have I guess
13 necessarily addresses the observations of
14 Detective Carter or the police officers who
15 were at the establishment at that time, is
16 that correct?

17 MR. SWAN: That's correct. I have
18 no direct knowledge.

19 MR. ADAMS: All right. Now, you
20 stated that after the fact that -- you
21 acknowledge that there was at least some
22 investigation of someone being at the

1 establishment who was under 21, correct?

2 MR. SWAN: That's correct.

3 MR. ADAMS: All right. And so as
4 a result of that, you state that you conducted
5 your investigation, correct?

6 MR. SWAN: This is correct.

7 MR. ADAMS: All right. So as part
8 of your investigation, you identify somebody,
9 correct?

10 MR. SWAN: This is correct.

11 MR. ADAMS: And you had that
12 person make a written statement?

13 MR. SWAN: This is correct.

14 MR. ADAMS: All right. Now, I
15 have a written statement from Megan Connolly.
16 Who is she?

17 MR. SWAN: Megan Connolly is a
18 student at Georgetown University.

19 MR. ADAMS: She's a student at
20 Georgetown University. Okay, now, how does
21 Megan Connolly relate to this case?

22 MR. SWAN: Megan Connolly has

1 identified herself as the supposedly 19-year-
2 old person that was interviewed, if that's the
3 correct word, by Detective Carter and observed
4 drinking a Bud Light.

5 MR. ADAMS: All right. Now, you
6 state that Detective Carter has been there
7 often, correct?

8 MR. SWAN: This is correct.

9 MR. ADAMS: All right, he's spoken
10 with many people who have either been inside
11 the establishment or been outside the
12 establishment so he's spoken with quite a few
13 people, correct?

14 MR. SWAN: Well, I can't testify
15 to that but --

16 MR. ADAMS: To your knowledge.

17 MR. SWAN: To my knowledge I would
18 assume he would talk to some people, yes.

19 MR. ADAMS: All right, so, again,
20 okay, explain to the Board the circumstances
21 in knowing who, how did your establishment
22 come to know who Megan Connolly is?

1 MR. SWAN: Megan Connolly was
2 identified to me by our general manager who
3 said that he had seen her in there before and
4 that's why we tracked her down. And she had
5 been there, I'm going to say numerous times.
6 And so we saw her on the street because all
7 the students come by that bar all the time and
8 we approached her about this incident.

9 MR. ADAMS: Okay. So Megan
10 Connolly was identified to you by your general
11 manager. For the record this general manager,
12 his name is David Nelson, correct?

13 MR. SWAN: Yes, sir, that's
14 correct.

15 MR. ADAMS: Now, this letter's
16 undated, correct?

17 MR. SWAN: If it's undated, it's
18 undated.

19 MR. ADAMS: Is it undated? That's
20 what I'm asking you.

21 MR. SWAN: It is undated.

22 MR. ADAMS: Okay, so we don't know

1 when this statement was created, correct?

2 MR. SWAN: That's correct.

3 MR. ADAMS: All right. So
4 according to your testimony, David Nelson --
5 I'm sorry. Let me get back to this.

6 According to this letter, it states that Megan
7 Connolly is 20 years old, correct?

8 MR. SWAN: That's correct.

9 MR. ADAMS: And so what you're
10 saying is that Megan Connolly was known by Mr.
11 Nelson to be in the establishment on several
12 occasions, correct?

13 MR. SWAN: That's correct.

14 MR. ADAMS: And she's 20 years
15 old. That means she's not 21 years of age,
16 correct?

17 MR. SWAN: That's correct.

18 MR. ADAMS: And your policy is
19 only to allow persons in who are 21 and over,
20 correct?

21 MR. SWAN: That's correct.

22 MR. ADAMS: Okay, so we already

1 established that she's a frequent visitor to
2 the establishment.

3 MR. SWAN: That's correct.

4 MR. ADAMS: So you say that, okay,
5 so I know this woman so she was seen on the
6 street and a conversation was had with Ms.
7 Connolly, correct?

8 MR. SWAN: That's correct.

9 MR. ADAMS: All right.

10 MR. SWAN: My understanding.

11 MR. ADAMS: Your understanding was
12 that. So you didn't actually speak with Ms.
13 Connolly at all, so you've never spoken with
14 Ms. Connolly?

15 MR. SWAN: Never have.

16 MR. ADAMS: All right, so you
17 don't know what conversation took place
18 between Mr. Nelson and Ms. Connolly, correct?

19 MR. SWAN: That's correct.

20 MR. ADAMS: Before this statement
21 was issued, correct?

22 MR. SWAN: That's correct.

1 MR. ADAMS: All right. I have no
2 further questions.

3 CHAIR MILLER: Okay, Board
4 questions?

5 MEMBER ALBERTI: Mr. Short. Go
6 ahead, Mr. Short.

7 CHAIR MILLER: Mr. Short.

8 MEMBER SHORT: Yes. Again,
9 forgive me for calling out a name before.
10 David Nelson is your manager?

11 MR. SWAN: Yes, sir.

12 MEMBER SHORT: You are Mr. Charles
13 Swan?

14 MR. SWAN: Yes, sir, that's
15 correct.

16 MEMBER SHORT: And you're saying
17 that the young lady who wrote this letter, 19
18 years old, 20 years old now, was a regular
19 patron in the club and that's the reason why
20 David Nelson knew her?

21 MR. SWAN: Yes, sir.

22 MEMBER SHORT: And she's underage.

1 MR. SWAN: That's correct.

2 MEMBER SHORT: So do underage
3 people normally come into and out of your
4 establishment?

5 MR. SWAN: Not knowingly.

6 MEMBER SHORT: Well, you say she
7 was there on several occasions.

8 MR. SWAN: That's correct, sir,
9 and --

10 MEMBER SHORT: Well enough for
11 them to know her walking down the street.

12 MR. SWAN: That's correct. But
13 what he'd further say is that even though she
14 did not admit this, she obviously has a fake
15 ID.

16 MEMBER SHORT: Fake enough for her
17 to come in on a regular basis, 19 years old,
18 now 20 years old, and for her to write a
19 letter or give a statement to someone from
20 your business to be admitted in this courtroom
21 today to defend underage drinking.

22 MR. SWAN: I'm telling you what we

1 know. Yes, sir, that's correct.

2 MEMBER SHORT: So I and the Board
3 members going to make a decision based on an
4 underage person giving a statement to your
5 business that they come in on a regular basis
6 and that they were there the night that the
7 detectives caught somebody underage drinking,
8 and you're defending that?

9 MR. SWAN: I'm not defending it.
10 I'm just telling you the truth, that we now
11 know that she was underage but, obviously, to
12 get through security, which we heard from
13 earlier, which we do check, she has a fake
14 identification. She just didn't have it with
15 her that night.

16 Or I can't speak to that. I'm
17 only just reporting what she said and I
18 realize that it might not look right but I'm
19 just telling you what happened.

20 MEMBER SHORT: Okay. Madam Chair,
21 now, I understand that some other Board
22 members got a little upset when I asked the

1 question earlier, but I have to ask this
2 question if it's okay. You say there's a
3 public easement somewhere facing your building
4 that comes into the rear of your building to
5 the kitchen area.

6 MR. SWAN: Yes, sir.

7 MEMBER SHORT: So an underage
8 person with a beer can in their hand comes
9 through your back door, through your rear door
10 into your establishment. What kind of
11 security do you have?

12 MR. SWAN: We don't have any
13 security at the rear of the building because
14 there's no reason to have security at the rear
15 of the building.

16 MEMBER SHORT: But you have an
17 easement.

18 MR. SWAN: We have an easement
19 that's not accessible to the public. That's
20 why there's a locked door there. Now, how she
21 got through that, I don't know.

22 MEMBER SHORT: With a beer can in

1 her hand.

2 MR. SWAN: This is what we are
3 assuming, yes.

4 MEMBER SHORT: I have no further
5 questions, Madam Chair.

6 CHAIR MILLER: Yes, Mr. Alberti.

7 MEMBER ALBERTI: Good afternoon,
8 Mr. Swan.

9 MR. SWAN: Good afternoon.

10 MEMBER ALBERTI: Okay, you made a
11 statement that this Ms., what's her name
12 again?

13 MALE PARTICIPANT: Connolly.

14 MEMBER ALBERTI: What's her name?

15 MR. SWAN: Megan Connolly.

16 MEMBER ALBERTI: Connolly, okay.
17 That this Ms. Connolly has a fake ID. Is that
18 speculation or do you know that for a fact?

19 MR. SWAN: I don't know that for a
20 -- the night in question are you --

21 MEMBER ALBERTI: No, no, no, no.
22 You made the statement that she has a fake ID.

1 Do you know that for a fact or is that
2 speculation?

3 MR. SWAN: That's speculation.

4 MEMBER ALBERTI: Okay, thank you.
5 Just wanted to clear that up. Okay. So were
6 you aware that someone from your establishment
7 was going to get this statement from Ms.
8 Connolly?

9 MR. SWAN: We were in hopes to
10 find her so we could get a statement, yes,
11 sir.

12 MEMBER ALBERTI: So you were aware
13 of that, all right, all right. And who is the
14 person who did that again?

15 MR. SWAN: David Nelson.

16 MEMBER ALBERTI: David Nelson,
17 okay. Did he tell you how he knew her name?

18 MR. SWAN: He didn't tell me how
19 he knew her name per se. I don't recall him
20 telling me how he knew her name other than
21 when --

22 MEMBER ALBERTI: All right. Just

1 answer my question. Thank you. Did he tell
2 you how he was going to find her?

3 MR. SWAN: He said that he had
4 seen her in there before as I previously
5 stated so he was making the assumption, I
6 guess, that she would come back again.

7 MEMBER ALBERTI: Okay. Then I'll
8 ask you, how did he find her?

9 MR. SWAN: He saw her on the
10 street.

11 MEMBER ALBERTI: Saw her on the
12 street?

13 MR. SWAN: Walking by The Rhino
14 Bar, yes, sir.

15 MEMBER ALBERTI: Walking by The
16 Rhino Bar, on what date and what time?

17 MR. SWAN: I don't have that
18 information for you.

19 MEMBER ALBERTI: Do you know what
20 happened after he saw her on the street?

21 MR. SWAN: My understanding, he
22 asked her how she got in. She acknowledged

1 how she got in and that he asked her would she
2 write a statement to that fact because he felt
3 that we were going to be having a hearing and
4 that we would be in a certain amount of
5 trouble.

6 MEMBER ALBERTI: Okay, and then
7 what happened after that?

8 MR. SWAN: At some point in time
9 he got that statement and he forward that
10 statement to me.

11 MEMBER ALBERTI: So was the
12 statement written that night?

13 MR. SWAN: That night?

14 MEMBER ALBERTI: On the date that
15 he saw her on the street and spoke with her,
16 was it written that day?

17 MR. SWAN: I don't believe so, no,
18 sir.

19 MEMBER ALBERTI: Okay. So how did
20 he get her signature?

21 MR. SWAN: Well, she brought the
22 signed statement to us.

1 MEMBER ALBERTI: She brought the
2 signed statement to you?

3 MR. SWAN: Yes, sir.

4 MEMBER ALBERTI: Did anyone see
5 her sign this?

6 MR. SWAN: No, sir.

7 MEMBER ALBERTI: Have you met Ms.
8 Connolly?

9 MR. SWAN: I have not.

10 MEMBER ALBERTI: So you wouldn't
11 know what she looks like, correct?

12 MR. SWAN: I would not.

13 MEMBER ALBERTI: Thank you. Do
14 you know if she's male or female?

15 MR. SWAN: I'm assuming she's
16 male. I mean, female.

17 MEMBER ALBERTI: You're assuming.
18 You have no idea, is that correct, am I
19 correct in that?

20 MR. SWAN: That is correct.

21 MEMBER ALBERTI: Okay. Thank you.
22 I have no further questions.

1 CHAIR MILLER: Others? Yes, Mr.
2 Short.

3 MEMBER SHORT: Again, you say Ms.
4 Connolly was a regular coming in and out of
5 the bar with apparently a fake ID, but on this
6 particular night that the investigator talked
7 to her she came in through a side door on that
8 particular night without a fake ID.

9 MR. SWAN: The rear door, yes,
10 sir.

11 MEMBER SHORT: Just that
12 particular night. Any other time she would
13 come through the front door with a fake ID?

14 MR. SWAN: I'm assuming that's
15 correct.

16 MEMBER SHORT: Thank you.

17 MEMBER ALBERTI: I have one more
18 question, just a follow-up on mine.

19 CHAIR MILLER: Okay.

20 MEMBER ALBERTI: So we have a
21 contact number for this young woman, for this
22 young, yes, for this young person.

1 MALE PARTICIPANT: For this
2 person.

3 MEMBER ALBERTI: Ms. Connolly.

4 MR. SWAN: I believe the number is
5 on there.

6 MEMBER ALBERTI: A Connolly, Megan
7 Connolly, I have no idea who the person is.
8 Did you call that number?

9 MR. SWAN: I have not.

10 MEMBER ALBERTI: You're the
11 witness here and you're telling me you never
12 bothered to call her to speak to her, is that
13 correct?

14 MR. SWAN: That's absolutely
15 correct.

16 MEMBER ALBERTI: All right. So we
17 have a representation from your manager,
18 whoever he is, Mr. Nelson, that this was
19 delivered to him and he spoke to her, right?

20 MR. SWAN: Yes, sir.

21 MEMBER ALBERTI: And then he told
22 you that?

1 MR. SWAN: Well, he told me he
2 contacted her. He gave me that letter.

3 MEMBER ALBERTI: All right, so in
4 a sense, and you don't need to respond to
5 this, but it's kind of double hearsay, but
6 that's fine. Thank you, Mr. Swan.

7 MR. SWAN: Thank you.

8 CHAIR MILLER: Mr. Rodriguez.

9 MEMBER RODRIGUEZ: Yes. Mr. Swan,
10 I don't have too many questions for you but if
11 you were up here and you received, and you saw
12 this exhibit would you consider it valid?

13 MR. SWAN: I would.

14 MEMBER RODRIGUEZ: You would.
15 There is no date on it.

16 MR. SWAN: Doesn't have a date on
17 it. You asked me if I consider it valid and
18 I do.

19 MEMBER RODRIGUEZ: And when you
20 purchase things for your establishment, don't
21 you certify things? Don't you certify the
22 company? You were so adamant about telling us

1 that you don't use Budweiser, right?

2 MR. SWAN: Yes, sir.

3 MEMBER RODRIGUEZ: You were very
4 adroit at letting us know this but I don't
5 think you were very adroit in using this as an
6 exhibit because I'm really not convinced about
7 this exhibit. Let me ask you another
8 question. You are under oath, right?

9 MR. SWAN: Well, that's what I
10 thought I was, yes, sir.

11 MEMBER RODRIGUEZ: Okay. Do you
12 know if Ms., well, how do you pronounce her
13 name?

14 MR. SWAN: Megan Connolly.

15 MEMBER RODRIGUEZ: Connolly and
16 Mr. David Nelson are friends?

17 MR. SWAN: I do not know that
18 they're friends, no.

19 MEMBER RODRIGUEZ: Okay, thank
20 you.

21 MR. SWAN: You're welcome.

22 CHAIR MILLER: I think we're near

1 the end. Any other questions? I just have a
2 couple quick ones, follow-up. So you're Mr.
3 Nelson's employer, correct?

4 MR. SWAN: I am, yes, ma'am.

5 CHAIR MILLER: Right?

6 MR. SWAN: I am, yes.

7 CHAIR MILLER: Okay, so when he
8 told you about Ms. Connolly's being a regular,
9 did you ask him questions about that?

10 MR. SWAN: No, I did not.

11 CHAIR MILLER: Even though you
12 were asking in the context because she was
13 determined to be underage?

14 MR. SWAN: Once we determined that
15 she was underage, obviously I said she can't
16 come back in here again. I mean, that was --

17 CHAIR MILLER: But I meant did you
18 ask how did she get in here before?

19 MR. SWAN: He made the assumption
20 that she had a fake ID as well.

21 CHAIR MILLER: He made that
22 assumption?

1 MR. SWAN: He, Mr. Nelson, yes.

2 CHAIR MILLER: Okay. Okay, I
3 don't have any other questions. All right.

4 MR. ADAMS: I have a couple
5 questions. Mr. Rodriguez, he asked you a
6 question regarding your exhibit regarding the
7 beer distributorship.

8 MR. SWAN: Yes.

9 MR. ADAMS: So are you saying The
10 Rhino Bar only receives its alcohol from
11 Capital Eagle, Inc.? Is that the only place
12 you received your alcoholic beverages from?

13 MR. SWAN: Capital Eagle is the
14 primary distributor for Budweiser products.
15 We don't carry Budweiser products.

16 MR. ADAMS: Okay, so your
17 testimony, bottom line, is that you don't have
18 Budweiser products, is that correct?

19 MR. SWAN: That is correct.

20 MR. ADAMS: So Capital Eagle
21 you're saying is distributor but you're not
22 saying that's the only -- so who do you get

1 your products from?

2 MR. SWAN: Our primary source of
3 our beer product is from a company called
4 Premium Distributors.

5 MR. ADAMS: Okay, so you don't
6 have a letter from Premium?

7 MR. SWAN: Don't need a letter
8 from Premium. Why would I need a letter?

9 MR. ADAMS: My question is do you
10 have a statement from Premium?

11 MR. SWAN: No.

12 MR. ADAMS: Okay, thank you. I
13 have no further questions.

14 CHAIR MILLER: Okay, I just want
15 to follow up because, make sure I understand.
16 Did you say you get beer products from
17 Premium?

18 MR. SWAN: Yes, ma'am.

19 CHAIR MILLER: Could you get Bud
20 Light from Premium?

21 MR. SWAN: No, ma'am.

22 CHAIR MILLER: You said you get

1 other beer from Premium?

2 MR. SWAN: Premium has the rights
3 to distribute many products. Their primary
4 product line is Miller. Budweiser is a direct
5 competition of Miller and the rights to
6 distribute that product in Washington is owned
7 by a company called Capital Eagle.

8 CHAIR MILLER: Okay, so just a
9 touch of the chase, this Capital Eagle, Inc.,
10 they are your only source of Bud Light?

11 MR. SWAN: Of Budweiser products,
12 yes, ma'am.

13 CHAIR MILLER: Of Budweiser?

14 MR. SWAN: Which would be Bud
15 Light.

16 CHAIR MILLER: Okay. Okay,
17 anything else?

18 MEMBER SHORT: Yes.

19 CHAIR MILLER: Yes, Mr. Short.

20 MEMBER SHORT: Okay, the only beer
21 you sell is Miller in your bar?

22 MR. SWAN: No, sir. We handle

1 probably 10 or 12 beer products. We don't
2 sell Budweiser brand products.

3 MEMBER SHORT: Let me ask this.
4 If your security or someone who works in your
5 establishment would see someone drinking a Bud
6 Light --

7 (Off the record comments)

8 CHAIR MILLER: Your microphone.

9 MEMBER SHORT: Thank you. If
10 someone in your establishment who works for
11 you, security or staff, were to see someone
12 drinking something other than Miller, other
13 than Premium products, they would have not a
14 problem with that?

15 MR. SWAN: No, sir. They would
16 take that beer product and throw it away and
17 escort that person out of the building if they
18 saw it.

19 MEMBER SHORT: So the
20 investigators who came there that night who
21 gave you the ticket who found the young lady
22 with the beer, they saw it before your staff

1 saw it?

2 MR. SWAN: Yes, sir, that's
3 correct.

4 MEMBER SHORT: Okay. Thank you.
5 That's all I have.

6 CHAIR MILLER: Okay, so that --
7 unless you have follow-up.

8 MR. ADAMS: I have no further
9 questions.

10 CHAIR MILLER: Okay, so that
11 concludes your testimony.

12 MR. SWAN: Yes, ma'am.

13 CHAIR MILLER: That concludes.
14 You have any other witnesses?

15 MR. SWAN: No, ma'am.

16 CHAIR MILLER: Any other
17 documents?

18 MR. SWAN: No, ma'am.

19 CHAIR MILLER: Okay. You rest
20 your case then? I mean, that's it, right?
21 You're finished?

22 MR. SWAN: Yes, ma'am.

1 CHAIR MILLER: You'll have closing
2 argument opportunity.

3 MR. SWAN: Thank you.

4 CHAIR MILLER: Okay. Are you
5 going to be calling a rebuttal?

6 MR. ADAMS: Yes, I am.

7 CHAIR MILLER: Okay.

8 MR. ADAMS: The District would
9 like to call Detective Carter as rebuttal
10 witness.

11 CHAIR MILLER: Okay.

12 MR. ADAMS: I'll keep it short.

13 CHAIR MILLER: Okay, yes.

14 MR. ADAMS: Thank you. You're
15 already under oath. Detective Carter, on
16 February 24th after you had your
17 investigation, did you make any reports after
18 you had gone to the establishment?

19 DETECTIVE CARTER: Yes, I prepared
20 a PD 251 and a PD 252.

21 MR. ADAMS: All right. I do not
22 have copies of this but I have another

1 document. This is the, frankly, unredacted
2 version of the police report.

3 CHAIR MILLER: Okay.

4 MR. ADAMS: All right, and I --

5 CHAIR MILLER: Right. Show it to
6 Mr. Swan. You only have one copy? Are you
7 going to be using it? Do we need to --

8 MR. ADAMS: Only have one copy. I
9 don't know if copies can be made well enough,
10 the single copy, because I had not planned on
11 using the unredacted copy.

12 CHAIR MILLER: Right, okay. Mr.
13 Swan has seen it. All right, you can use it
14 to ask him questions and then --

15 MR. ADAMS: Sure.

16 CHAIR MILLER: -- and give it to
17 me to look at afterwards.

18 MR. ADAMS: Yes, I will.

19 CHAIR MILLER: Okay.

20 MR. ADAMS: I'm going to mark this
21 for identification District's Exhibit Number
22 4. Before, in your prior testimony, you

1 stated that you spoke with a person who was 19
2 years of age, is that correct?

3 DETECTIVE CARTER: That is
4 correct.

5 MR. ADAMS: Can you tell us what's
6 custom as far as the recordation of the
7 identity of the persons that you interact with
8 in terms of, what is your normal custom in
9 terms of recording their identities when you
10 deal with these cases?

11 DETECTIVE CARTER: We ask for
12 identification. Sometimes they don't have
13 identification when they're seen at that time.

14 However, we do not allow them to
15 be released from our custody until we are able
16 to verify their identity which a lot of times
17 I may have them, you know, if your ID was left
18 in your apartment or your dorm, I will have
19 them, say, have that person bring it to the
20 scene. Sometimes we have the campus police
21 respond to verify who the person is if they're
22 a Georgetown student.

1 MR. ADAMS: Now, ***1:20:21 that's
2 when you state that you spoke with a person
3 who identified themselves as a member of the
4 Georgetown lacrosse team. What was your
5 process? At that time, did she identify
6 herself?

7 DETECTIVE CARTER: Yes, she did.

8 MR. ADAMS: And what was her
9 identity? Do you happen to recollect her
10 identity?

11 DETECTIVE CARTER: You mean her
12 actual name?

13 MR. ADAMS: Yes.

14 DETECTIVE CARTER: Yes. Her name
15 was Lauren, let's see.

16 MR. ADAMS: Can you spell her name
17 for the record?

18 DETECTIVE CARTER: Yes. First
19 name is L-A-U-R-E-N. Last name is S-H-E-W-A-
20 L-J-E.

21 MR. ADAMS: It sounds like
22 Schwalje or something?

1 DETECTIVE CARTER: Schwalje, yes.

2 MR. ADAMS: How did you verify her
3 identity?

4 DETECTIVE CARTER: We verified her
5 identity that night with a student ID.

6 MR. ADAMS: Oh, so she also
7 carried a student ID at that --

8 DETECTIVE CARTER: Yes.

9 MR. ADAMS: Okay. And so do you
10 recollect meeting anyone named Megan Connolly?

11 DETECTIVE CARTER: The name does
12 sound familiar but I don't remember it, you
13 know, the name sounds familiar but I just
14 don't have any recollection of it being that
15 night.

16 MR. ADAMS: So in terms of person
17 who for lack of having another way to ask
18 this, the person who's involved in this charge
19 in terms of 19-year-old person that you spoke
20 with to your knowledge was Lauren Schwalje?

21 DETECTIVE CARTER: Yes.

22 MR. ADAMS: All right. And I

1 apologize, and the document that's in front of
2 you, you recognize that document?

3 DETECTIVE CARTER: Yes.

4 MR. ADAMS: And it's a true and
5 accurate representation of your report?

6 DETECTIVE CARTER: Yes, it is.

7 MR. ADAMS: All right. I'll show
8 it to the Board if you like.

9 (Off the record comments)

10 MR. ADAMS: I would like to move
11 for what's marked, well, isn't marked, but
12 will be District's Exhibit Number 4 to be
13 entered into evidence, which would be the
14 unredacted police report.

15 CHAIR MILLER: Without the
16 redaction?

17 MR. ADAMS: Without the redaction.

18 CHAIR MILLER: Right. Good, okay.
19 Any objection, Mr. Swan?

20 (Off the record comments)

21 MR. ADAMS: I have no copies.

22 CHAIR MILLER: Yes, yes. Okay,

1 not hearing any and these are police reports
2 that Detective Nelson is specifically
3 attesting to as --

4 DETECTIVE CARTER: Detective
5 Carter.

6 CHAIR MILLER: Carter, sorry.
7 Yes, they're admissible. Okay, and they're
8 admitted as Exhibit Number 4. They're one
9 exhibit? Mr. Adams, one exhibit?

10 MR. ADAMS: Yes, one exhibit. And
11 I apologize. I know I'm looking at a phone
12 but it's for a purpose relevant to this case.
13 I want to refer to -- is there any other way
14 that we can verify the identity of Ms.
15 Schwalje that you're aware of?

16 DETECTIVE CARTER: Yes.

17 MR. ADAMS: All right, and how do
18 you think we can do that?

19 DETECTIVE CARTER: By the
20 Internet.

21 MR. ADAMS: All right. I'm going
22 to show to -- I know it's a little bit

1 unconventional but I'm going to speak this
2 into the record, www.guhoyas, G-U-H-O-Y-A-S,
3 .com/sports/w-lacros/mtt/lauren_schwalje,
4 based upon spelling in the, which would be I
5 guess Lauren, L-A-U-R-E-N, underscore, S-C-H-
6 W-A-L-J-E, underscore, 788210.html. I'm going
7 to show this to Mr. Swan.

8 MEMBER ALBERTI: May I make a
9 suggestion?

10 CHAIR MILLER: Yes.

11 MEMBER ALBERTI: Maybe we could
12 have Mr. Adams email that to our general
13 counsel and then she could print it out.

14 MR. ADAMS: Sure, no problem.

15 MEMBER ALBERTI: Maybe not just
16 for now but at least we'd have it for the
17 record.

18 CHAIR MILLER: How do you want to
19 use it, Mr. Adams?

20 MR. ADAMS: Just for the sake of
21 identifying who Ms. Schwalje was and whether
22 it's consistent with the person that Mr.

1 Carter saw.

2 MEMBER SILVERSTEIN: The last name
3 spelled again?

4 CHAIR MILLER: Wait.

5 MEMBER ALBERTI: Wait, wait. One
6 thing at a time.

7 MR. ADAMS: The purpose of it is
8 to verify who was the person that Detective
9 Carter spoke with. It was stated during his
10 testimony that this person's a member of the
11 Georgetown lacrosse team.

12 And I think that we can be able
13 to, since there's an issue in terms of who was
14 the identity of the person who was stopped and
15 was the underage person who was caught within
16 the establishment, just to have some type of
17 additional verification of who the person was.

18 CHAIR MILLER: He wrote it in his
19 police report who it was, Lauren whatever her
20 name.

21 MR. ADAMS: Schwalje.

22 CHAIR MILLER: Right.

1 MR. ADAMS: Okay, I'll withdraw.
2 I'll withdraw that.

3 MEMBER ALBERTI: Well, the
4 detective testified that she stated she was a
5 member of the lacrosse team. This is just
6 further evidence --

7 MR. ADAMS: This is further
8 evidence of the --

9 MEMBER ALBERTI: -- that validates
10 who this person is.

11 MR. ADAMS: Exactly. That's all
12 it would be.

13 MEMBER ALBERTI: I mean, right.

14 MR. ADAMS: I'll withdraw the
15 request.

16 MEMBER ALBERTI: It shows that the
17 name she gave him is consistent with someone
18 who is on the lacrosse team.

19 MR. ADAMS: Exactly. It would.
20 That's all it would be. That's all it is.

21 MEMBER ALBERTI: Yes. I think
22 it's useful.

1 MR. ADAMS: All right.

2 CHAIR MILLER: Well, then if you
3 want it in evidence, this is --

4 MR. ADAMS: Okay and actually I do
5 have a photograph.

6 CHAIR MILLER: You have something
7 else?

8 MR. ADAMS: I do. I apologize. I
9 didn't mean to surprise you with this but
10 there is a printout of this as well.

11 CHAIR MILLER: Printout of the
12 lacrosse team?

13 MR. ADAMS: Of this person. All
14 right, and I would like to --

15 MEMBER ALBERTI: That address you
16 gave us, the --

17 MR. ADAMS: With the address that
18 was given. I would like to present it to the
19 witness. This would be District Exhibit
20 Number 5.

21 CHAIR MILLER: Show it to Mr.
22 Swan.

1 MR. ADAMS: All right.

2 CHAIR MILLER: Show Mr. Swan
3 first.

4 (Off the record comments)

5 MR. ADAMS: Detective Carter,
6 there's a documented photograph that has been
7 given to you. Can you tell us the name of the
8 person who is in that photograph?

9 DETECTIVE CARTER: Yes, Lauren
10 Schwalje. I'm not sure if that's how you
11 pronounce her last name.

12 MR. ADAMS: All right. And
13 there's a photograph. Do you recognize the
14 content of that photograph?

15 DETECTIVE CARTER: Yes.

16 MR. ADAMS: And how do you
17 recognize the content of that photo?

18 DETECTIVE CARTER: That was the
19 same girl who I stopped inside of Rhino Bar on
20 that night.

21 MR. ADAMS: I apologize. Unsure if
22 that was heard on the record.

1 CHAIR MILLER: It wasn't heard.

2 Could you speak up, please?

3 DETECTIVE CARTER: Yes. It was
4 the same person that I stopped inside of Rhino
5 Bar in possession of alcohol that night when
6 --

7 CHAIR MILLER: Okay.

8 MR. ADAMS: So in other words, the
9 photograph that's consistent with name Lauren
10 Schwalje is what is on the Georgetown website,
11 is that correct?

12 DETECTIVE CARTER: That is
13 correct.

14 MR. ADAMS: All right. And is
15 that a true and accurate representation of I
16 guess a photograph of Ms. Schwalje?

17 DETECTIVE CARTER: Yes, it is.

18 MR. ADAMS: All right. I would
19 like to have this marked, well, be marked as
20 District's Exhibit 5 into evidence and I note
21 in my, I apologize to the Board, additional
22 copies would have to be made.

1 MALE PARTICIPANT: Thank you.

2 MEMBER SILVERSTEIN: Mr. Adams.

3 MR. ADAMS: I have no further
4 questions. Actually I do have a couple
5 questions. From dealing with this
6 establishment, are you aware or you have some
7 familiarity with the entrances to this
8 establishment?

9 DETECTIVE CARTER: Repeat the
10 question.

11 MR. ADAMS: Actually I'll withdraw
12 that question. I withdraw it altogether. I
13 have no further questions for Detective
14 Carter.

15 MR. SWAN: Just a few follow-up
16 questions, please.

17 CHAIR MILLER: Okay.

18 MR. SWAN: Detective Carter, just
19 to be clear, the young lady that you've now
20 identified as Lauren, she had the Bud Light in
21 her hand, correct?

22 DETECTIVE CARTER: Yes.

1 MR. SWAN: Okay. And did you say
2 that she had no identification on her?

3 DETECTIVE CARTER: Yes, at the
4 time we stopped her, that is correct.

5 MR. SWAN: And how did she
6 identify herself to you that evening?

7 DETECTIVE CARTER: With the
8 student identification.

9 MR. SWAN: So she had that on her?

10 DETECTIVE CARTER: Not at the
11 time, no.

12 MR. SWAN: And how did she get
13 that identification?

14 DETECTIVE CARTER: She called
15 someone and they came and brought it to her.

16 MR. SWAN: Okay. Thank you. Was
17 she arrested?

18 DETECTIVE CARTER: No, she was
19 not.

20 MR. SWAN: Was there a reason why
21 she wasn't arrested?

22 DETECTIVE CARTER: Because in 2004

1 the District of Columbia decriminalized
2 underage possession or underage drinking of
3 alcohol.

4 MR. SWAN: Okay. One last
5 question. In the case report earlier it was
6 referred to on Page 3, it says, "She states
7 that she did not present identification to
8 enter and the door person allowed her to enter
9 without identification." Do you know what
10 time she got there and got in?

11 DETECTIVE CARTER: No, I do not.

12 MR. SWAN: But you did observe
13 while the time you were there the door staff
14 was checking IDs and pointed out to you people
15 who were not of age, yet we allow this young
16 lady in. Is that your testimony?

17 DETECTIVE CARTER: On that night,
18 no. They didn't point anyone out to me that
19 night, anyone that was underage that night.

20 MR. SWAN: And did you arrest
21 anybody in that line?

22 DETECTIVE CARTER: No, I did not,

1 not that night.

2 MR. SWAN: No further questions.

3 CHAIR MILLER: Board questions. I
4 have a quick question. Did you write in your
5 report that you saw the young woman holding a
6 Bud Light or drinking from a Bud Light?

7 DETECTIVE CARTER: Yes.

8 CHAIR MILLER: Now, are you 100
9 percent it was a Bud Light? Could it have
10 been a Miller Lite? Could it have been --

11 DETECTIVE CARTER: I believe it
12 was a Bud Light.

13 CHAIR MILLER: Okay, and why?

14 DETECTIVE CARTER: Actually it was
15 a labeled bottle, yes.

16 CHAIR MILLER: Okay, okay.
17 Anything else? Mr. Silverstein.

18 MEMBER SILVERSTEIN: Okay, so you
19 were saying that this woman who was Lauren
20 Schwalje or something to that effect.

21 DETECTIVE CARTER: Yes.

22 MEMBER SILVERSTEIN: And this is

1 what was presented as the evidence that we're
2 looking at, that she had the beer in her hand
3 but she was not arrested because it's not a
4 crime, an arrestable crime for an underage
5 person to have beer in the District?

6 DETECTIVE CARTER: It is still
7 against the law. However --

8 MEMBER SILVERSTEIN: Not
9 arrestable offense.

10 DETECTIVE CARTER: The City
11 Council decriminalized it, which makes it not
12 an arrestable offense. It is a civil
13 violation. However, there's nothing in place
14 yet to issue a civil violation for that.

15 MEMBER SILVERSTEIN: And she did
16 not have a fake ID, which is an arrestable
17 offense?

18 DETECTIVE CARTER: Right. If I
19 would observe her present a fake ID to enter
20 the establishment or have evidence that she
21 used a fake ID, then, yes, she could be
22 arrested.

1 MEMBER SILVERSTEIN: So you did
2 what you could do and what you had to do?

3 DETECTIVE CARTER: Yes.

4 MEMBER SILVERSTEIN: Nothing, in
5 this case, because thank City Council. You're
6 certain, though, that this was the individual
7 and it was not a Megan Connolly, that it was
8 a Lauren Schwalje?

9 DETECTIVE CARTER: That's correct,
10 yes.

11 MEMBER SILVERSTEIN: Thank you,
12 Detective.

13 CHAIR MILLER: Okay, any other
14 Board questions? Follow-up on Board
15 questions?

16 MR. ADAMS: The District has no
17 follow-up.

18 CHAIR MILLER: Okay. Mr. Swan?
19 No. Okay. Thank you very much.

20 MR. ADAMS: I'd like to excuse
21 Detective Carter and now the District does
22 rest its case.

1 CHAIR MILLER: Okay. Okay, do you
2 wish to make closing statements?

3 MR. ADAMS: Sure, Madam Chairman.
4 Yes, the District has proven the charges in
5 this case and I think it has done very easily
6 here.

7 Again, the evidence here is that a
8 19-year-old was allowed to enter the
9 establishment without presenting
10 identification and was able to procure alcohol
11 within the establishment and consume the
12 alcohol within the establishment without
13 having identification.

14 This case, it's already been read
15 into the record that her name was Lauren
16 Schwalje and not Megan Connolly. Lauren
17 Schwalje is the name of the person.

18 That is really the entirety of the
19 case, is that in the end because, well,
20 obviously, the introduction of this, that the
21 Cops in Shops program was in place. Detective
22 Carter was there. He was noticing the

1 checking of IDs.

2 Based upon the evidence, he said
3 that this is a place that not necessarily in
4 the operations but there is a place where
5 people do try to attempt to enter with fake
6 identification.

7 They said that when they do Cops
8 in Shops program, at least three arrests are
9 made on each occasion based upon people with
10 fake IDs who are all underage who seek to
11 enter this establishment.

12 We heard that as a preface for
13 them entering the establishment, they had no
14 intention to enter the establishment until it
15 was observed that a potential patron, female
16 patron spoke with the bouncer. There was
17 whispering that went about.

18 It was Detective Carter's
19 testimony that they spoke with the two
20 potential patrons. One person who had already
21 been arrested before told Detective Carter
22 that she didn't even bring ID.

1 But she, and you can see from
2 Exhibit Number 2 that it's her experience that
3 she was able to get into the establishment on
4 prior occasions. And also from Exhibit Number
5 1, which is the person who did have a fake ID,
6 that she had been able to successfully get
7 into the establishment.

8 There is some indication that they
9 had, not proven that they have gotten in but
10 indication that people who are under age 21
11 have been able to get into the establishment.

12 Based upon what they learned from,
13 I guess in this case Ms. Piedad-Heda that she
14 was able, she went into the, the MPD officers
15 went into the establishment, looked at persons
16 who seemed to be under the age of 21.

17 In this case spoke with a person
18 who was 19 years old who claimed to have been,
19 who did not have a form of identification at
20 the time they spoke with the person who
21 claimed very explicitly that she was able to
22 get into the establishment and that normally

1 she doesn't need identification because she's
2 a member of the Georgetown lacrosse team.

3 Now, that was a very key factor
4 here. As a result, a police report was taken
5 for all three of these people and in
6 particular this one person, Lauren Schwalje.
7 Schwalje I assume was the pronunciation of
8 this person. It includes her date of birth
9 and it identifies who the person is.

10 Now, based upon rebuttal
11 testimony, even from photographic evidence, we
12 know exactly who this person is and so at that
13 point we're able to understand that a 19-year-
14 old Georgetown student had regularly gone to
15 the establishment.

16 Bottom line, on February 23rd,
17 2014, she was in the establishment and she was
18 drinking beer. Honestly was it Bud Light, was
19 it Miller Lite, it really doesn't matter. She
20 was consuming beer.

21 Now, the only evidence that we
22 have from the establishment is, and I hate to

1 say it. It seems as though the establishment
2 needs to find a defense.

3 David Nelson is not here.
4 However, the testimony is that David Nelson
5 thought that it was a Megan. They could have
6 used the public record but instead of using
7 the public record they decided to just find
8 someone who was 20 years old.

9 Now, this case is this Megan
10 Connolly. So you're presented the evidence of
11 a letter that was undated by a person who
12 really, who is not the person, simply was not
13 the person. So essentially what establishment
14 tried to do was to fabricate an excuse, to
15 fabricate a line of reasoning.

16 So honestly if Megan Connolly's
17 coming through the back door with cans of
18 beer, that really has nothing to do with it
19 because the person who was found was Lauren
20 Schwalje.

21 Now, if she's coming through a
22 back door with cans of beer, this

1 establishment has much more major problems
2 than was being charged here in this case, and
3 this is from the testimony from the
4 Respondents.

5 And she's already underage, is
6 still underage and based upon the best-case
7 scenario she's considered to be underage and
8 regularly come into the establishment. So
9 that's evidence against the establishment's
10 interest.

11 So bottom line, February 24, 2013,
12 the establishment did have an underage drinker
13 and, as a result, the District recommends the
14 penalty of \$5,000 fine and a ten-day
15 suspension and as well as alcohol awareness
16 training for all servers.

17 CHAIR MILLER: You said \$5,000
18 fine, ten-day suspension --

19 MR. ADAMS: Ten-day suspension.

20 CHAIR MILLER: -- is what you said
21 and alcohol awareness training.

22 MR. ADAMS: All days served

1 (phonetic) ***1:39:29.

2 CHAIR MILLER: Okay, Mr. Swan, do
3 you have any closing statement?

4 MR. SWAN: Yes, ma'am. Thank you.

5 CHAIR MILLER: All right.

6 MR. SWAN: I'll be brief.

7 CHAIR MILLER: Okay.

8 MR. SWAN: I don't believe that
9 we've heard today beyond a reasonable doubt as
10 to who did not have IDs here, at least coming
11 through the front door.

12 I think we've established and I
13 think Detective Carter has testified to the
14 fact that to the times he's there in the Cops
15 in Shops program that we are very observant of
16 checking IDs.

17 We have no idea when the Shops in
18 Cops program is going to be implemented on any
19 given night so I think we should be given at
20 least reasonable doubt that we always check
21 IDs based on the fact that, of our record that
22 I presented to you earlier.

1 Detective Carter acknowledges that
2 we had an ID person that night and that we
3 were checking IDs in front of him in clear
4 view.

5 I'm still not clear as to why
6 Detective Carter, what was his probable cause
7 to go down the street, a half a block away
8 because something was just mentioned in a
9 girl's ear, never got in line, and walked
10 away.

11 I don't know that that's relevant
12 to anything really, but it has been brought up
13 for us to consider and I just don't know the
14 relevance of that.

15 We did supply a phone number for
16 this young lady, whether her name is Megan or
17 Lauren. I have to say I'm a bit confused. I
18 don't know why this young lady would tell us
19 the story that she did but she did. And
20 there's just too much to me fabrication of
21 excuses here as to who did what. It's not
22 clear to me. Obviously something happened.

1 But the Government's, the back
2 door. Perhaps I should have brought pictures
3 to that. I think they would have been very
4 clear here. We don't have a problem in the
5 back door.

6 In fact, I think our record here
7 at this Board speaks for itself because if we
8 were that blatant in not taking care of
9 business then we would be up here before you
10 before today.

11 So I would just like to say I do
12 not believe that the Government has beyond a
13 reasonable doubt proven their case in this
14 particular matter on the charges that are on
15 the case report. Thank you.

16 CHAIR MILLER: Okay, thank you.
17 Now, I'm going to close the record at this
18 point, meaning we're not going to take any
19 more evidence, and ask the parties if they
20 want to file proposed findings of facts and
21 conclusions of law or waive the right to do
22 so?

1 MR. ADAMS: The District will
2 waive filing any further written pleadings and
3 its findings of fact, conclusions of law as
4 well.

5 CHAIR MILLER: Same for the
6 Licensee?

7 (No response)

8 CHAIR MILLER: Okay. All right,
9 then what you can expect is that the Board
10 will issue an Order within 90 days, a written
11 Order, and we are going to just take a vote on
12 deliberating this case in closed session
13 pursuant to the Open Meetings Act.

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 Number 13-CMP-00161, Rhino
21 Bar and Pumphouse, per Section 405(b)(4) of
22 the Open 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. Is there a
4 second?

5 MEMBER SHORT: Second.

6 CHAIR MILLER: Mr. Short has
7 seconded the motion. I will now take a roll
8 call vote on the motion now that it's been
9 seconded. Mr. Brooks.

10 MEMBER BROOKS: I agree.

11 CHAIR MILLER: Mr. Alberti.

12 MEMBER ALBERTI: I agree.

13 CHAIR MILLER: Mr. Rodriguez.

14 MEMBER RODRIGUEZ: I agree.

15 CHAIR MILLER: Miller agrees. Mr.
16 Silverstein.

17 MEMBER SILVERSTEIN: I agree.

18 CHAIR MILLER: Mr. Short.

19 MEMBER SHORT: I agree.

20 CHAIR MILLER: Okay. Motion
21 passes by 6-0-0 vote and, therefore, we will
22 hold this closed meeting in ABC Board

1 conference room pursuant to the Open Meetings
2 Act of 2010 and issue an Order within 90 days.

3 MR. ADAMS: Thank you very much.

4 MR. SWAN: Thank you.

5 CHAIR MILLER: Thank you.

6 (Whereupon, the hearing in the
7 above-entitled matter was concluded at 1:44
8 p.m.)

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