

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Makambo Corp.

t/a Awash

2218 18th Street, NW

Retailer CR - ANC-1C

License No. 20102

Case #15-251-00053

Fact-

Finding

Hearing

(Fight Inside and Outside the
Establishment)

June 17, 2015

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

PRESENT:

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

HERMAN JONES, Member

MIKE SILVERSTEIN, Member

HECTOR RODRIGUEZ, Member

JAMES SHORT, Member

T-A-B-L-E O-F C-O-N-T-E-N-T-S

STATEMENTS:

Sergeant Sean Rooney 7
Felicia Dantzler, ABRA Investigator.26
Dilante Witmeyer, Security Guard30

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

3:13 p.m.

CHAIRPERSON MILLER: Okay. We are back on the record for a Fact-Finding Hearing, Case No. 15-251-00053, Awash located at 2218 18th Street, N.W., License No. 20102.

Good afternoon.

ALL: Good afternoon.

CHAIRPERSON MILLER: Could you identify yourselves starting on our right, please?

MR. WITMEYER: My name is Dilante Witmeyer and I'm with security at the club.

CHAIRPERSON MILLER: Okay. I couldn't hear your name.

MR. WITMEYER: Dilante Witmeyer.

MEMBER SILVERSTEIN: Please speak into the microphone that is there. Move it a little closer.

MR. WITMEYER: My name is Dilante Witmeyer.

CHAIRPERSON MILLER: Much better.

1 Thank you. All right. And you work security for
2 the establishment?

3 MR. WITMEYER: Yes.

4 CHAIRPERSON MILLER: Okay.

5 MS. TADESSE: My name is Azete
6 Tadesse. I'm the owner.

7 CHAIRPERSON MILLER: We can't hear you
8 either. Could you speak a little louder, please?

9 MS. TADESSE: My name is Azete
10 Tadesse. I'm the owner of Awash Restaurant.

11 CHAIRPERSON MILLER: Could you spell
12 your last name?

13 MS. TADESSE: T-A-D-E-S-S-E.

14 CHAIRPERSON MILLER: Okay. Great.
15 Thank you.

16 MR. MELES: Kiflom Meles, attorney for
17 the licensee.

18 CHAIRPERSON MILLER: What's your last
19 name?

20 MR. MELES: Meles.

21 CHAIRPERSON MILLER: Meles?

22 MR. MELES: M-E-L-E-S.

1 CHAIRPERSON MILLER: And what did you
2 say you were?

3 MR. MELES: I am the attorney for the
4 licensee.

5 CHAIRPERSON MILLER: You're the
6 attorney.

7 MR. MELES: Yes.

8 CHAIRPERSON MILLER: Thank you. All
9 right. And on my left? Good afternoon.

10 SERGEANT ROONEY: Good afternoon.
11 Sergeant Sean Rooney.

12 CHAIRPERSON MILLER: Okay.

13 MS. DANTZLER: Good afternoon.
14 Investigator Felicia Dantzler.

15 LIEUTENANT BEALION: Good afternoon.
16 Lieutenant Duncan Bealion.

17 CHAIRPERSON MILLER: Okay. All right.
18 Thank you. Ms. Tadesse, did you say you are the
19 owner?

20 MS. TADESSE: Yes.

21 CHAIRPERSON MILLER: Is there another?

22 MEMBER SILVERSTEIN: Ma Guru?

1 MS. TADESSE: Yes, he is my husband.
2 He passed away last year.

3 CHAIRPERSON MILLER: He passed away?

4 MS. TADESSE: Yes.

5 CHAIRPERSON MILLER: I'm sorry.

6 MEMBER SILVERSTEIN: Oh.

7 MS. TADESSE: That's why.

8 CHAIRPERSON MILLER: Okay. Thank you.

9 Okay. So we asked you all to come in today
10 because we have an investigative report, I guess,
11 done by Ms. Dantzler, that talks about chairs and
12 bottles being thrown or something to that effect.

13 So we wanted to find out more about
14 what exactly happened there and, you know, what
15 is going on now. And I do want to say that this
16 is what we call a Fact-Finding Hearing. It is
17 not an evidentiary hearing. No one is under
18 oath, though we expect you to be telling the
19 truth.

20 That we won't be taking any action
21 against anybody as a result of this hearing.
22 However, it is possible that we could send the

1 case to the Office of the Attorney General for
2 them to look into whether or not Show Cause
3 action would be in order.

4 So we have called this hearing,
5 because we want more information before we make
6 that decision. So sometimes we have these
7 hearings and we find that there is no reason to
8 send it to Office of the Attorney General. Other
9 times we have hearings and we decide you know
10 what, this looks like there is something that --
11 here that -- so we should send it.

12 So I don't know if you have any
13 questions about the nature of this hearing?
14 Otherwise, I think we should ask either MPD or
15 Ms. Dantzler, you know. MPD I know that we
16 really appreciate your coming down here, because
17 we know you take time off from the streets.

18 So if you would like to start out with
19 what happened?

20 SERGEANT ROONEY: Oh, absolutely.

21 CHAIRPERSON MILLER: Okay. That would
22 be great.

1 SERGEANT ROONEY: Thanks for having me
2 back. I don't know if I should make sure I'm
3 allowed to be here. Just kidding. You will have
4 to remember that, just kidding.

5 Anyway, on Saturday, March 8, 2015, at
6 about 03:15 hours, we responded to a priority
7 assignment for a large fight in progress at Awash
8 located there at, I believe it is, 2218 18th
9 Street, N.W.

10 When we arrived, there was a ton of
11 different people outside the location all with
12 alcohol in their hands. They were kind of like
13 rushing out of the establishment. We were trying
14 to ascertain what happened in our meeting with
15 the security, Mr. Witmeyer there, and he was
16 telling me, you know, everything was in disarray.
17 There was only two security guards for the whole
18 place.

19 And I interviewed as many people as I
20 could. As we entered the location, it emanated a
21 strong odor of marijuana in the establishment.
22 There was probably 5 to 15 officers that also

1 accompanied me inside the location.

2 When we went upstairs, you know,
3 outside -- I think the call came out for maybe an
4 aggravated assault or some sort of felony assault
5 that was in progress. When I got there, I
6 interviewed a couple of people and they said yes,
7 the people were fighting upstairs. They are
8 using bottles and chairs and things like that.

9 So when I went upstairs, there were
10 chairs -- people were still upstairs, you know,
11 at 3:30 in the morning. It just kind of reminded
12 me of NY NY Diva. It was just wild and crowded.
13 It was just this fight, you know, there is
14 bickering going on back and forth. And
15 everything was in disarray. Furniture was in
16 disarray. There was stuff all over the ground,
17 broken bottles, you know.

18 And as I started peeling back
19 everything, I tried to meet with the manager.
20 There was no alcohol licensee on the premise. Of
21 course, we immediately called ABRA to the
22 location and a few different enforcement officers

1 arrived.

2 Which when we had got there or when
3 they had got there, we -- I spoke with the
4 manager myself, too. They were kind of going
5 back and forth with me, I don't know what you are
6 talking about. I don't have a license. I don't
7 -- or I have a license, it's right there. He
8 wasn't listed as a licensee on the placard.

9 CHAIRPERSON MILLER: Yes.

10 SERGEANT ROONEY: So of course, when
11 ABRA arrived, you know, they helped us out
12 tremendously.

13 Now, looking at how many people there
14 were, if I could just paint a little bit of a
15 picture, it's anywhere from 100 to 200 people
16 after hours. And with that many people having
17 two people, one, I believe, at the door and one
18 upstairs, you can't even contain it, how big it
19 was.

20 It was extremely dangerous for the
21 security officers. And for what it's worth,
22 security did an excellent job on the scene for

1 what they had to do. A lot of times I won't let
2 my officers go into a scene like that, because
3 then they become victims themselves. And that's
4 the whole thing when you go in and you try to
5 break up a fight and there are already a 10, 20
6 on 20 brawl and you are just going to get hit
7 from all different angles.

8 You go in, you've got to make sure you
9 have the proper amount of people and that was one
10 massive issue that I saw there. It could have
11 been really devastating for security personnel.
12 So to only have two for that many people plus it
13 was way after hours.

14 I also interviewed people up and down
15 the street. They know that the place did go at
16 times -- they said it's well-known in the Adams
17 Morgan area that after hours or that the upstairs
18 of the location is being rented out at different
19 times. And they stay open later than what is
20 usual after hours. Now, that was the only major
21 incident we saw.

22 I have seen people leaving after, you

1 know, on occasion Friday and Saturday nights
2 late. What else?

3 One other thing that I wanted to bring
4 up, the people that were there, I saw one guy
5 with a big knot on his head and he was,
6 obviously, part of some sort of brawl that
7 happened inside the place. Someone said that he
8 got hit by a bottle and the guy was like running
9 away from me, so obviously he could have been the
10 one that started it.

11 It just -- everything was in disarray.
12 We tried to gather to make an arrest. We
13 couldn't. We had no complainants there.
14 Everybody is like scattering out of the place.
15 It was like oh, my gosh, it was like a house
16 party that got busted by the police, you know?
17 So it was -- I just can't paint the picture
18 enough that there was no control inside the
19 location at all. So I hope that helps.

20 CHAIRPERSON MILLER: Did -- were there
21 injuries where, you know, people were sent to the
22 hospital or anything?

1 SERGEANT ROONEY: Well, I -- we called
2 the ambulance and nobody wanted to go. And they
3 are like running away from us. Like one guy had
4 this big knot on his head. This is one that I
5 remember. And he just took off, you know. So I
6 don't know whether he assaulted somebody too and
7 was worried about him getting arrested. You
8 know, I was worried about safety and, you know,
9 the establishment as well.

10 We -- I mean, it was a pretty wild
11 scene.

12 CHAIRPERSON MILLER: Mr. Silverstein?

13 MEMBER SILVERSTEIN: I guess it's
14 pretty hard to make an arrest because no one say
15 anything. They never do.

16 SERGEANT ROONEY: Exactly, yes.

17 MEMBER SILVERSTEIN: When you say that
18 you saw 100 people. Were you saying there were
19 100 people in the establishment at 3:30 in the
20 morning?

21 SERGEANT ROONEY: Yes, somewhere
22 around 100 to 200 people.

1 MEMBER SILVERSTEIN: This was --
2 closing time is 3:00. We are not talking -- this
3 is sometime after 3:15?

4 SERGEANT ROONEY: Yes.

5 MEMBER SILVERSTEIN: Absolutely.

6 SERGEANT ROONEY: About 3:30.

7 MEMBER SILVERSTEIN: So there is no
8 cushion or issue there that there were people in
9 there who were injured, but they did not seek any
10 medical. No one filed any complaint? Everybody
11 simply wanted out?

12 SERGEANT ROONEY: Exactly.

13 MEMBER SILVERSTEIN: I'm out of here?

14 SERGEANT ROONEY: Yes. When we got
15 there. They were still lingering inside of the
16 location when we arrived. And I mean, we
17 canvassed inside there for cameras and things, you
18 know, nothing that we could grab to, you know,
19 see if we could hold somebody on. But yes,
20 everybody just of just fled out.

21 And, you know, we talked to --
22 security was great. Management though was back

1 and forth with us about whether they are supposed
2 to be there. We tried to, you know, gather who
3 was the licensee and there was a mix up or, you
4 know, nobody was there.

5 MEMBER SILVERSTEIN: Well, the
6 licensee doesn't have to be there, but an ABC
7 Manager does.

8 SERGEANT ROONEY: Right. And there
9 was no --

10 MEMBER SILVERSTEIN: There was no ABC
11 Manager. Well, they were not legally operating
12 either at that hour.

13 SERGEANT ROONEY: Exactly. It was
14 after hours. But at that point, I was concerned
15 with safety first, you know.

16 MEMBER SILVERSTEIN: Did you
17 personally feel in danger as you walked in there
18 or at least that there was a fear of something
19 bad happening?

20 SERGEANT ROONEY: Yes, absolutely.
21 When we walked up the stairs, it was -- you could
22 smell drugs and people just kind of bumping into

1 each other. It was way over capacity.

2 MEMBER SILVERSTEIN: How pervasive was
3 the smell of marijuana?

4 SERGEANT ROONEY: When I first walked
5 in, it was faint, but as I went upstairs, it was
6 overwhelming.

7 MEMBER SILVERSTEIN: Overwhelming.

8 SERGEANT ROONEY: Yes, it was bad.

9 MEMBER SILVERSTEIN: Anything else
10 that you would want to add before I -- I think
11 when you said NY NY Diva, it kind of painted a
12 picture.

13 SERGEANT ROONEY: It was -- exactly.
14 That's what my thought was and we were nervous
15 about going in there because we had gone in there
16 before only on like officer needs assistance type
17 deals. And we would only go in there if we were
18 like 10 to 20 officers deep, because they would
19 just attack us from behind.

20 So, yes, when you say in danger, yes,
21 I believe that we felt like we were going to
22 fight, you know, when we arrived there. So the

1 downstairs portion wasn't as bad, but when I
2 interviewed other people leaving, they said that
3 there is a large fight and before we got there,
4 it just pushed out and they were fighting outside
5 as well.

6 So it stemmed upstairs and then, you
7 know, pushed outside. So and then when we got
8 there, nobody was really swinging and everybody
9 was kind of leaving to get out of there and just
10 like scattering.

11 MEMBER SILVERSTEIN: I have some
12 questions for Investigator Dantzler, but if
13 anybody else wants to ask Sergeant --

14 CHAIRPERSON MILLER: Okay.

15 MEMBER SILVERSTEIN: -- anything?

16 CHAIRPERSON MILLER: I do. I just
17 want to follow-up on a couple of things.

18 Did you find out, you weren't there
19 obviously, about how the fight started?

20 SERGEANT ROONEY: I tried. It was
21 like Mr. Silverstein said, nobody saw anything.
22 It reminded me exactly like NY NY Diva. We might

1 even have a felony assault that took place or
2 some sort of ADW bottle or something and nobody
3 knows anything. So you know, security was real--
4 I tried to interview them, but with that many
5 people, you got one at the door and maybe one
6 walking around and it's just too much. It really
7 is to really step in and do anything.

8 CHAIRPERSON MILLER: Did you have an
9 idea of the duration of the fight?

10 SERGEANT ROONEY: No.

11 CHAIRPERSON MILLER: No. Okay.

12 SERGEANT ROONEY: I knew it was just--

13 CHAIRPERSON MILLER: Just chaos when
14 you came in.

15 SERGEANT ROONEY: Yes, just chaos.

16 CHAIRPERSON MILLER: All right. Okay.
17 Any other questions? Okay.

18 MEMBER SHORT: Well, I did have one
19 question.

20 CHAIRPERSON MILLER: Okay. Mr. Short?

21 MEMBER SHORT: Thank you, Sergeant for
22 coming here today to testify.

1 SERGEANT ROONEY: Thank you for having
2 me, Mr. Short.

3 MEMBER SHORT: I'm very concerned that
4 the fight started inside and spilled outside onto
5 18th Street. It could have -- innocent civilians
6 could have been injured.

7 SERGEANT ROONEY: Sure.

8 MEMBER SHORT: And that's my biggest
9 concern with this. And the after hours also is a
10 concern.

11 SERGEANT ROONEY: Sure.

12 MEMBER SHORT: And no arrests were
13 made. No one wanted to talk. No one wanted to
14 go to the hospital, just get the heck out of
15 there.

16 SERGEANT ROONEY: Right. Exactly.

17 MEMBER SHORT: Would you have called
18 that a state of panic?

19 SERGEANT ROONEY: I guess so,
20 especially if people are swinging bottles and
21 things like that at each other and, you know,
22 different chairs or whatever they could get their

1 hands on. Yes, I would say so.

2 MEMBER SHORT: Did they bring their
3 chairs and bottles outside with them also?

4 SERGEANT ROONEY: No. I didn't see.
5 You know what, there was furniture outside, but I
6 didn't really see anything outside. It was, you
7 know, the upstairs portion. It's a smaller area
8 upstairs.

9 MEMBER SHORT: Thank you. Thank you,
10 Sergeant.

11 SERGEANT ROONEY: Sure.

12 MEMBER SHORT: Your name again is?

13 SERGEANT ROONEY: Sergeant Rooney,
14 sir.

15 MEMBER SHORT: Sergeant Rooney. Thank
16 you.

17 SERGEANT ROONEY: Yes.

18 CHAIRPERSON MILLER: Lieutenant, do
19 you have something you want to add, at this time?

20 LIEUTENANT BEALION: Not at this time.
21 I'm more here as an observer.

22 CHAIRPERSON MILLER: Okay. All right.

1 Ms. Dantzler?

2 MS. DANTZLER: Sure.

3 CHAIRPERSON MILLER: And then we will
4 turn to you all, of course. Okay.

5 MEMBER SHORT: Mr. Jones has a
6 question.

7 CHAIRPERSON MILLER: Oh, Mr. Jones,
8 you had a question? I missed it. I'm sorry.

9 MEMBER JONES: I did. Thank you.

10 CHAIRPERSON MILLER: Wait a minute.

11 MEMBER JONES: Just really quickly.

12 SERGEANT ROONEY: Yes, sir.

13 MEMBER JONES: You made the statement
14 that the upstairs was well-over capacity. I'm
15 assuming this is based on just an observation as
16 opposed to a calculation?

17 SERGEANT ROONEY: It wasn't an
18 accurate calculation. I was -- I would say there
19 was probably 100 to 200 people there.

20 MEMBER JONES: Okay. So given that,
21 do you have any idea of what -- not that you
22 should have to know this, I'm just curious, do

1 you happen to know what the expected capacity is?
2 Is it 50 or?

3 SERGEANT ROONEY: I can't remember,
4 although we did look at the --

5 MR. MELES: Legal capacity.

6 MEMBER JONES: Legal capacity. Thank
7 you.

8 SERGEANT ROONEY: -- capacity that
9 night. I can't remember what it was, but it was
10 definitely a smaller amount than what -- we were
11 kind of shocked when we saw it. It could have
12 been like 50 people or so.

13 MEMBER JONES: Okay. All right.

14 SERGEANT ROONEY: So it's an
15 overwhelming amount.

16 MEMBER JONES: It's extremely like
17 multiples of ones or twos or threes over the
18 legal capacity for that space?

19 SERGEANT ROONEY: Yes. It was like a
20 house party.

21 MEMBER JONES: I gotcha. So you
22 could --

1 SERGEANT ROONEY: If I could paint the
2 picture, if that makes any sense.

3 MEMBER JONES: So if I'm painting that
4 picture then in order for me to go from one side
5 of the room to the other, I am parting people
6 like I am parting the Red Sea to try and get from
7 one side to the other?

8 SERGEANT ROONEY: Yes, yes.

9 MEMBER JONES: Okay.

10 SERGEANT ROONEY: Almost everything
11 was described to me and as I went up the stairs,
12 no way to count unfortunately upstairs.

13 MEMBER JONES: Okay. And that was
14 what you observed this? It's not what someone
15 told you? This is what you observed?

16 SERGEANT ROONEY: Yes.

17 MEMBER JONES: Okay. Now, there is
18 another comment that you made that I wanted to
19 explore further in terms of you asked people on
20 the block --

21 SERGEANT ROONEY: Yes.

22 MEMBER JONES: -- I'm paraphrasing a

1 little bit about the nature of the operation at
2 this establishment. And you seem to indicate
3 that it is known on the block amongst other
4 entities that this is the place to go to for
5 after hours.

6 SERGEANT ROONEY: Yes.

7 MEMBER JONES: However, is it -- I
8 just want to make sure I'm clear, this is your
9 first known encounter with this establishment
10 having operating or allegedly appearing to have
11 been operating after hours? Is that fair?

12 SERGEANT ROONEY: That is fair.

13 MEMBER JONES: Okay.

14 SERGEANT ROONEY: Absolutely fair.

15 MEMBER JONES: So the other
16 information you were providing was just stuff
17 that you heard --

18 SERGEANT ROONEY: Yes.

19 MEMBER JONES: -- based on your
20 inquiry and not necessarily that you have
21 firsthand knowledge of?

22 SERGEANT ROONEY: No firsthand

1 knowledge. Just what I heard.

2 MEMBER JONES: Gotcha. Thank you. I
3 just wanted to clarify that.

4 SERGEANT ROONEY: No problem.

5 MEMBER JONES: Thank you.

6 CHAIRPERSON MILLER: Okay.

7 MEMBER JONES: Thank you, Madam Chair.

8 CHAIRPERSON MILLER: Thank you. Yes,
9 Mr. Rodriguez?

10 MEMBER RODRIGUEZ: Yes. Sergeant
11 Rooney, were you able to question anyone?

12 SERGEANT ROONEY: Yes. When I was
13 talking to them, they didn't want to say anything
14 specific, but some of the patrons that were,
15 obviously, from there, that were still lingering
16 outside, they said that there was a huge fight
17 and basically the same thing. You know, they had
18 to get out of there because it got like mayhem in
19 there. And, you know, when you have that many
20 people, it's just that's why they started running
21 out.

22 MEMBER RODRIGUEZ: From your

1 questioning, were you able to establish what
2 started the fight?

3 SERGEANT ROONEY: No, I was not.

4 MEMBER RODRIGUEZ: Okay. No more
5 questions.

6 CHAIRPERSON MILLER: Okay. Others?
7 All right. Ms. Dantzler?

8 MS. DANTZLER: Okay. On March 14th at
9 20:15, I visited the establishment and spoke with
10 Ms. Tadesse who stated that she was working on
11 the night of the incident. She advised that
12 approximately 15 to 20 minutes after leaving, an
13 employee called her back to the establishment.
14 And Ms. Tadesse stated when she left the
15 establishment, everything was fine. There were
16 less than 100 people inside the establishment.

17 Also on that same night, I spoke with
18 Mr. Witmeyer who identified himself as the head
19 of security, which he stated that he remembered
20 that night, however, there was no fight involved
21 on the night of the incident. There was just an
22 argument between two individuals and that there

1 was a party on the second floor and he added that
2 the patrons had to be 21 to enter and that was
3 the only incident prior to the -- I mean, besides
4 the two individuals arguing, the establishment
5 was incident-free.

6 CHAIRPERSON MILLER: Okay. Thank you.
7 Any questions?

8 MEMBER SHORT: I do.

9 CHAIRPERSON MILLER: Okay. Mr. Short?

10 MEMBER SHORT: Did you observe the
11 capacity sign?

12 MS. DANTZLER: Yes, I did. A
13 regulatory inspection which gave two different
14 occupancies. For the first floor, there are --
15 there is approval for 92 individuals.
16 Correction, 96 individuals. On the second floor
17 it had an approval occupancy of 92.

18 MEMBER SHORT: 92. Can you tell me
19 how many square feet, approximately, was the
20 area?

21 MS. DANTZLER: Oh, wow.

22 MEMBER SHORT: Approximately.

1 MS. DANTZLER: I want to say maybe
2 1,400 square feet for the entire location.

3 MEMBER SHORT: Upstairs and
4 downstairs?

5 MS. DANTZLER: Yes.

6 MEMBER SHORT: So 700 feet per floor?

7 MS. DANTZLER: Yes, about that, I
8 would say.

9 MEMBER SHORT: And did that -- is that
10 the posting of DCRA or the Fire Marshal the 92
11 and the 96?

12 MS. DANTZLER: Yes.

13 MEMBER SHORT: Was a city sign?

14 MS. DANTZLER: Yes, I have the C of O
15 that was -- the one that was displayed was issued
16 on October 6, 1994.

17 MEMBER SHORT: Thank you.

18 MS. DANTZLER: You're welcome.

19 MEMBER SHORT: Thank you for that,
20 Madam Chair.

21 CHAIRPERSON MILLER: Okay. Any other
22 questions?

1 Mr. Meles?

2 MR. MELES: Yes. What I would like to
3 say is that the facts as Sergeant Rooney
4 described them does not sit well with what my
5 client has told me. And Mr. Witmeyer is here who
6 was on duty that date, the security officer. He
7 stated to me, also to Ms. Dantzler, that there
8 was about 73 to 78 people on that night.

9 And there was no fight or altercation
10 whatsoever except two people had a dispute and
11 they had to take it outside. There were no
12 chairs, you know, flipped over or bottles thrown
13 at anybody or a group of people, you know,
14 fleeing the premises onto the street.

15 I could not understand how Mr. Rooney
16 said there were about 200 people. The capacity
17 of that second floor is 92, as Ms. Dantzler
18 stated earlier. And the first floor had 96, so
19 the total comes to be about 198, if I'm correct.
20 So at that time, there couldn't have been that
21 many people.

22 And if even the upstairs was open at

1 that time, at 3:15 a.m., there can only be 92
2 max. And my client has stated she was on duty
3 that day. She left about 15 minutes prior to
4 being called by the D.C. Police and she said
5 there were about 73 to 78 people that night.

6 And Mr. Witmeyer is here, if the Board
7 would like to ask him. He was there, firsthand
8 witness.

9 CHAIRPERSON MILLER: Okay. Sure.
10 I'll ask questions. I'm sure that my Board
11 Members will have questions for Mr. Witmeyer
12 because your story as presented by your attorney
13 is that it's so extraordinarily different from
14 Mr. Rooney's. I mean, you are just -- is it your
15 story that there was just two people having an
16 argument as opposed to this melee of tables and
17 chairs being thrown or bottles being thrown?
18 Chairs and bottles, chairs and bottles being
19 thrown.

20 MR. WITMEYER: Well, actually, what I
21 could say is that there was an incident with --
22 basically what happened was some people rented

1 out the upstairs. And before I even start with
2 what happened, I want to say that with this --
3 with Awash, there was a few officers that
4 actually rolled by, stopped, which we don't have
5 a problem with that, but they were actually
6 assuming that something was going to happen.

7 Now, I'm going to go into actually
8 what happened. We -- there was two officers,
9 myself and one of my officers that works under
10 me. We are actually a licensed agency. There
11 was -- they were throwing a party for someone
12 that had passed away.

13 And basically what happened was is it
14 went into the neighborhood and that neighborhood
15 and one of the people felt like that a female was
16 disrespected, the person that was deceased, so it
17 started an argument. Before it can get to a
18 fight, we were already on it and before it can
19 spill into anything else, myself personally took
20 the female that was basically starting the whole
21 thing, because if we wouldn't have took her out
22 at that time, that's what it would have been a

1 brawl with several people. So I personally took
2 the female out of the establishment.

3 Now, in the mix of me taking her out,
4 we were actually closing down. At that -- that
5 night there was -- I think the time went either
6 back or forward. I think it went forward, so a
7 lot of people were still in the party mode and
8 then it's like okay, well, we are closed now.

9 So we had to go through the whole
10 process of - because I have this rule where when
11 anything happens, the DJ automatically turns the
12 music off. So as soon as this happened, I gave
13 the DJ, hey, cut the music. So when I come back
14 upstairs, the DJ turns the music back on. I'm
15 like no, bro, we are closed.

16 So now everybody is like no, you know,
17 it's -- they are thinking that we are throwing
18 them out because of the fight. So we got to go
19 around and we're like well, it's not because of
20 the fight, it's because the time went forward.
21 So it's actually now 4:00 or 3:00. I think time
22 went forward at 2:00, so it would have been 3:00

1 or something like that.

2 So we are telling then like it's time
3 to go now. In the mix of that, the females are
4 outside. This is actually between two females.
5 So the females are outside arguing. So I went
6 back outside and I'm like hey, whatever you guys
7 are going to do, you know, you can't do it in
8 front of the establishment. If you guys could
9 just go down the street, you know, just not in
10 front of the establishment.

11 So however, there was some guy and he
12 was like -- he was upset about it. So we made
13 him go out the back door. And I want to say in
14 the mix of us trying to get people out, which it
15 was a lot of people, but I want to say the area
16 is so small that 20 people make it seem like --

17 CHAIRPERSON MILLER: Yes.

18 MR. WITMEYER: -- it's 100 people.

19 CHAIRPERSON MILLER: Yes.

20 MR. WITMEYER: So it was not 200
21 people. And so we are putting people out. The
22 police comes and it was the Sergeant and I tell

1 him -- I actually did tell him that night that
2 there was an argument. There was no fight.

3 At that time, I think, like maybe four
4 more officers came and they walked upstairs. And
5 I think one of the guys screamed "F" the police
6 or something like that or something like that and
7 one of the officers pulled out his flashlight and
8 started pointing it in people's faces and then
9 when they pulled out the flashlights, everybody
10 just started walking out.

11 So I'm like hey, thank you, you guys
12 did my job. That was basically what happened.
13 Then in the mix of everybody leaving out, I think
14 one of the officers asked for an ABC Manager.
15 And I can not think of his name, but I think he
16 was in the process of getting a license, so he
17 was saying that he was an ABC Manager.

18 I think they misconstrued what he was
19 saying, but he was basically trying to tell them
20 that he is in the process of getting a license.
21 And one of the officers was like in the process
22 doesn't mean that you have the license.

1 So the owner had -- she had left with
2 the intent that -- knowing that we were closing.
3 So the biggest thing was we were actually closing
4 down when the police came. So as we got, you
5 know, 20 people in there, there is a fight. Of
6 course, it's going to seem like there is after
7 hours. And I do want to say that I have a
8 licensed business, so me being caught up in after
9 hours is a big risk, risk my license that I can
10 lose, you know.

11 CHAIRPERSON MILLER: Yes.

12 MR. WITMEYER: So I wouldn't be a part
13 of no after hour for \$200 a night. It's just not
14 worth my license.

15 CHAIRPERSON MILLER: Well, did you say
16 there was -- there were 20 people in a fight?

17 MR. WITMEYER: There was not 20
18 people. There was -- I honestly can't say that--
19 the number per se, but I wouldn't say that it was
20 200. I would say maybe 70.

21 CHAIRPERSON MILLER: No, okay. I
22 understand what you are saying about how many

1 people were there. But how many -- was there a
2 fight bigger than two women having an argument?

3 MR. WITMEYER: There was no fight.
4 There was an argument.

5 CHAIRPERSON MILLER: There was no
6 fight?

7 MR. WITMEYER: At no point did anyone
8 throw blows. When we seen that there was going
9 to be a fight, that it would turn into a fight,
10 that's when I immediately took the person that
11 was instigating it into a fight out of the
12 building.

13 CHAIRPERSON MILLER: So you saw no
14 chairs or bottles thrown?

15 MR. WITMEYER: At no time, no, there
16 was no chairs thrown, no bottles thrown.
17 However, there was beer bottles on the floor
18 because when people drink, they put it on the
19 floor. It's not their house. So they are not
20 going to be -- you know, that's any club you go
21 into, you know. I actually have other clubs
22 around here and when they close, there is throw-

1 up everywhere. There is beer bottles in the
2 chairs. There is people that took a -- spit on
3 the floor. So you know, people aren't going to
4 be nice to you because you pay rent or because
5 you own the place.

6 So I would say that there was beer
7 bottles on the floor, but no one was hit with a
8 bottle. No one was throwing bottles.

9 CHAIRPERSON MILLER: Oh, okay. I just
10 want to just ask this, Sergeant Rooney. Did you
11 say that you saw bottles and chairs thrown?

12 SERGEANT ROONEY: I saw inside the
13 upstairs portion bottles all over the place,
14 broken bottles. There was also some stuff in --
15 everything was in disarray.

16 CHAIRPERSON MILLER: Okay. So you
17 didn't actually see people throwing bottles? You
18 saw the bottles all over the floor and chairs on
19 the floor?

20 SERGEANT ROONEY: I didn't see the
21 brawl itself.

22 CHAIRPERSON MILLER: Okay. I don't

1 want to put words in your mouth.

2 SERGEANT ROONEY: Sure.

3 CHAIRPERSON MILLER: You said you --
4 did you say you saw bottles on the --

5 SERGEANT ROONEY: Yes.

6 CHAIRPERSON MILLER: -- ground, on the
7 floor?

8 SERGEANT ROONEY: Well, one of the
9 other officers. Whoever wrote this, I guess, the
10 251 the same thing that I observed.

11 CHAIRPERSON MILLER: And what did you
12 actually observe with respect to the chairs?

13 SERGEANT ROONEY: With the -- there
14 was just furniture in disarray.

15 CHAIRPERSON MILLER: Disarray.

16 SERGEANT ROONEY: You know, and just
17 tons of, you know, debris on the ground.

18 CHAIRPERSON MILLER: Okay.

19 SERGEANT ROONEY: Consistent with a
20 large fight.

21 CHAIRPERSON MILLER: Okay. All right.

22 Other Board questions?

1 MEMBER BROOKS: I do.

2 CHAIRPERSON MILLER: Mr. Brooks?

3 MEMBER BROOKS: Thank you, Madam
4 Chair. Is it Mr. Witmeyer or Whitmoore?

5 MR. WITMEYER: Witmeyer.

6 MEMBER BROOKS: Witmeyer, okay. Mr.
7 Witmeyer, how long have you been licensed as a
8 security officer?

9 MR. WITMEYER: Well, I've been
10 licensed as a security agency since 2010 or '09.

11 MEMBER BROOKS: Okay.

12 MR. WITMEYER: In D.C.

13 MEMBER BROOKS: Okay. And how long
14 have you worked at Awash?

15 MR. WITMEYER: I believe that was
16 since that party, it was probably -- I probably
17 did maybe four or five other parties.

18 MEMBER BROOKS: Okay.

19 MR. WITMEYER: So basically, it was
20 just a Friday/Saturday thing.

21 MEMBER BROOKS: Okay. Over --

22 MR. WITMEYER: Every Friday.

1 MEMBER BROOKS: Over a years' time,
2 two years' time?

3 MR. WITMEYER: No, this was maybe a
4 month. A month or two months.

5 MEMBER BROOKS: Okay. So you have
6 only been going there for about a month or two?

7 MR. WITMEYER: Yes.

8 MEMBER BROOKS: Okay. And --

9 MR. WITMEYER: Prior to that incident.

10 MEMBER BROOKS: Yes. Okay. And being
11 there, have you ever witnessed after hour
12 parties?

13 MR. WITMEYER: That's what I was --

14 MEMBER BROOKS: Being after 3:00 a.m.?

15 MR. WITMEYER: -- trying to say, I
16 have never seen any after hours. I am not there
17 seven days a week, but --

18 MEMBER BROOKS: I understand.

19 MR. WITMEYER: -- the days that I'm
20 there, you know, I don't allow it. Like I
21 actually walked away from a club on 9th Street
22 that was doing after hours.

1 MEMBER BROOKS: Okay.

2 MR. WITMEYER: They did pay good, but,
3 you know, I just don't want to get caught up in
4 that because I can get my license taken. So I
5 wouldn't be a part of something like that.

6 MEMBER BROOKS: Sure. I understand.

7 MR. WITMEYER: So I have never seen
8 after hours at that location.

9 MEMBER BROOKS: Okay. Have you ever
10 observed any of the patrons smoking marijuana?

11 MR. WITMEYER: No. Outside, yes.

12 MEMBER BROOKS: Upstairs?

13 MR. WITMEYER: Outside.

14 MEMBER BROOKS: I'm talking about
15 upstairs.

16 MR. WITMEYER: No.

17 MEMBER BROOKS: Okay. Did you observe
18 marijuana that night of this incident?

19 MR. WITMEYER: No.

20 MEMBER BROOKS: Okay. And you
21 mentioned something about the police would come
22 by earlier during the night?

1 MR. WITMEYER: So the police had,
2 basically, like -- there is promoters that throw
3 it. So it's like we have -- one night we may
4 have black night and then one night, Saturday, we
5 may have Spanish and then one night it may be
6 both cultures. That night, that particular
7 night, it was like a go-go night. So there is a
8 lot of people outside.

9 And it's just like anywhere. Like I
10 said, I have several others clubs on 9th Street.
11 So whenever they see a large crowd, they are
12 going to stop, which no one should have a problem
13 with that, because there is a presence. And that
14 night, a lot of the officers would stop, sit
15 right there maybe 5 or 10 minutes and then they
16 would pull off.

17 When -- I would say when we do Spanish
18 night, it's not the same thing. And I want to
19 say with the Spanish night, there is way more
20 people that come than actually when they throw
21 the black parties.

22 MEMBER BROOKS: Okay. Well, let me

1 make sure I understand what you are saying. They
2 came by a little earlier anticipating a larger
3 crowd?

4 MR. WITMEYER: Right.

5 MEMBER BROOKS: And was there a large
6 crowd when they came by?

7 MR. WITMEYER: Outside.

8 MEMBER BROOKS: Outside.

9 MR. WITMEYER: So basically, what was
10 happening was I wasn't sure of the actual
11 capacity. I actually thought that it was 100, so
12 we were keeping it at 80. So basically when we
13 hit 80, we actually thought that it was 80 for
14 the whole building, so we was keeping it at 80
15 period.

16 And so as soon as we hit 80, we closed
17 the doors. So a lot of people -- when the
18 officers actually came, a lot of the people that
19 was outside haven't even been inside the
20 establishment. They were just outside waiting to
21 get in. But in the mix of all this stuff
22 happening, we were closing down, because the time

1 had moved forward..

2 MEMBER BROOKS: Okay.

3 MR. WITMEYER: So a lot of the people
4 that was outside wasn't even in the
5 establishment.

6 MEMBER BROOKS: Okay.

7 MR. WITMEYER: And some of the people
8 was the people that was coming out, were the
9 people that we were throwing out.

10 MEMBER BROOKS: Why were you throwing
11 people out?

12 MR. WITMEYER: Because we were
13 closing. When saw throw, I am not saying
14 physically, but I'm saying that we were in the
15 process of putting people out when this incident
16 happened.

17 MEMBER BROOKS: Okay. And you
18 mentioned a figure of 80 people. How were you
19 keeping track of 80?

20 MR. WITMEYER: We were counting.
21 Actually, I was writing it on a piece of paper.

22 MEMBER BROOKS: You were writing on a

1 piece of paper the number of people who were
2 coming in and leaving?

3 MR. WITMEYER: Yes.

4 MEMBER BROOKS: I see. Thank you.

5 MR. WITMEYER: And that night I
6 actually had the paper and I showed it to one of
7 the officers. He was like, no, you should have a
8 counter.

9 MEMBER BROOKS: Yes, I would think so.
10 All right. Thank you, Madam Chair.

11 CHAIRPERSON MILLER: You're welcome.
12 Others? Mr. Jones?

13 MEMBER JONES: Thank you, Madam Chair.
14 From your recollection, how many people were
15 working security, how many people were working
16 with you as security for the establishment,
17 Awash, on that night?

18 MR. WITMEYER: Two. One other person.

19 MEMBER JONES: One other person, so a
20 total of two?

21 MR. WITMEYER: Yes.

22 MEMBER JONES: Okay. And what was

1 your time, your window of time that you were
2 covering?

3 MR. WITMEYER: It was from 9:00 to
4 3:00, because I think it was a Friday.

5 MEMBER JONES: 9:00 to 3:00?

6 MR. WITMEYER: 9:00 and 3:00.

7 MEMBER JONES: Okay.

8 MR. WITMEYER: The party didn't start
9 until 10:30, 11:00.

10 MEMBER JONES: Okay. And so the party
11 started. At what point in time -- were you the
12 individual that was manning the door?

13 MR. WITMEYER: Yes.

14 MEMBER JONES: So you were responsible
15 for checking IDs and confirming people were of
16 age and keeping track of the count?

17 MR. WITMEYER: Yes.

18 MEMBER JONES: Okay. What was the
19 other individual doing?

20 MR. WITMEYER: He was responsible for
21 basically making sure that no one was doing
22 anything that they weren't supposed to be doing.

1 MEMBER JONES: Is he what we would
2 call like a roamer?

3 MR. WITMEYER: Yes.

4 MEMBER JONES: Okay. Was he
5 responsible for roaming and covering what zone?

6 MR. WITMEYER: The whole top floor
7 because pretty much nothing was -- there was a
8 few people downstairs, but that wasn't -- it
9 wasn't the same people. It was the people that
10 was renting upstairs, it's not the same people
11 that was downstairs.

12 MEMBER JONES: Okay. Okay.

13 MR. WITMEYER: So we were responsible
14 for upstairs.

15 MEMBER JONES: Okay. And so you had
16 one roamer who was primarily upstairs?

17 MR. WITMEYER: Yes.

18 MEMBER JONES: And you had yourself at
19 the front door?

20 MR. WITMEYER: Yes.

21 MEMBER JONES: And you were on your
22 post from, continuously from, 10:30 until close?

1 MR. WITMEYER: Well, actually, what we
2 do is we switch out. If there is an incident or
3 something like that, I want to know exactly what
4 is going on, so I'll switch out with the other
5 officer, so that if anything happens, I can say
6 this is what happened.

7 So there was a few occasions where I
8 would just go upstairs and the other guy at the
9 door, just so I knew what was going on upstairs.

10 MEMBER JONES: Okay. And he is
11 intimately familiar with the counting process
12 that you use?

13 MR. WITMEYER: Yes.

14 MEMBER JONES: Okay. And so did that
15 individual make any notations on the counting
16 sheet?

17 MR. WITMEYER: Yes.

18 MEMBER JONES: He did. Okay.

19 MR. WITMEYER: So basically, what we
20 was doing was I took a little white sheet of
21 paper, when someone came in, we put a stripe.
22 When someone left, we put -- we marked that

1 strike off, so that we knew exactly who was
2 coming, who was going.

3 MEMBER JONES: Understood. So do you
4 have walkie-talkies? What's your mechanism for
5 communication with your partner?

6 MR. WITMEYER: Basically --

7 MEMBER JONES: On that night.

8 MR. WITMEYER: -- that night, we did
9 not have walkie-talkies, but like I said, the
10 establishment is so small that --

11 MEMBER JONES: Well, just to make sure
12 I'm clear. So there is an upstairs.

13 MR. WITMEYER: There is an upstairs.

14 MEMBER JONES: So that is outside of
15 your view?

16 MR. WITMEYER: No, that's what I'm
17 trying to explain to you.

18 MEMBER JONES: Okay.

19 MR. WITMEYER: So the door is like
20 right in front of the steps. So the officer is
21 taught to stand right at the steps, so that if
22 something happens, he can give me a sign and I

1 know that something is going on and I can come
2 upstairs. And we -- basically, whenever
3 something goes on, no matter where it is, if it's
4 -- if there is a supervisor there, the supervisor
5 is taught to switch out with whoever the officer
6 is, so that the officer -- the supervisor can be
7 the one that is, you know, dealing with whatever
8 it is.

9 MEMBER JONES: Okay. Was there such
10 an incident that occurred on that night?

11 MR. WITMEYER: That was the incident
12 with the two females.

13 MEMBER JONES: Okay. So when you left
14 to go upstairs and address the issue, the other
15 individual came down --

16 MR. WITMEYER: Downstairs.

17 MEMBER JONES: -- to guard the door?
18 So when you were referring to we worked to get
19 the young lady out that was being the instigator,
20 the we was really just you?

21 MR. WITMEYER: Well, basically what
22 happened was -- is at that point, we left the

1 door --

2 MEMBER JONES: Okay. So at that
3 point, you left the door --

4 MR. WITMEYER: -- unattended.

5 MEMBER JONES: -- unattended. Okay.

6 All right.

7 MR. WITMEYER: Because we knew that it
8 was going to be a fight if we didn't go upstairs.

9 MEMBER JONES: So at that point in
10 time, you can't say -- did you lock the door?

11 MR. WITMEYER: I didn't lock the door
12 because --

13 MEMBER JONES: So at that point, you
14 can't definitively say no one else came in,
15 because neither you nor your partner was manning
16 the door at that time. Is that a fair statement?

17 MR. WITMEYER: Well, he was standing--
18 he was actually -- the incident was like at the
19 top of the steps.

20 MEMBER JONES: Yes, so --

21 MR. WITMEYER: So he was actually --

22 MEMBER JONES: -- it was upstairs.

1 MR. WITMEYER: -- we was actually able
2 to see the door. And they have --

3 MEMBER JONES: You were able to see
4 the door while you were defusing a potentially
5 violent, volatile situation?

6 MR. WITMEYER: Yes.

7 MEMBER JONES: So you two were manning
8 the door or watching the door from upstairs while
9 you were defusing an agitated young lady to try
10 and prevent a brawl from taking place?

11 MR. WITMEYER: I'm not going to say
12 that we were watching the door, but --

13 MEMBER JONES: Okay.

14 MR. WITMEYER: -- what I'm saying is
15 that if anyone would come upstairs, we would know
16 that they were coming upstairs.

17 MEMBER JONES: But you wouldn't
18 necessarily know that they came into the
19 building.

20 MR. WITMEYER: They would have to get
21 past us.

22 MEMBER JONES: You would know if they

1 came upstairs.

2 MR. WITMEYER: Yes, that's what I'm
3 saying.

4 MEMBER JONES: But you wouldn't know--
5 okay.

6 MR. WITMEYER: We would know that if
7 they came upstairs, because, one, we know who is
8 coming in and out. But at the same time, if they
9 come up the steps, you know, we know that no one
10 is supposed to be coming in.

11 MEMBER JONES: But you said there were
12 some people that were downstairs already.

13 MR. WITMEYER: Right.

14 MEMBER JONES: Legitimately. So those
15 people that were legitimately downstairs, they
16 wouldn't have been allowed to go upstairs?

17 MR. WITMEYER: No. Because people was
18 panic -- actually, when we --

19 MEMBER JONES: I mean, under any
20 circumstances. So throughout the course of the
21 night, how are you keeping the crowd segregated
22 from the upstairs crowd to the downstairs crowd?

1 What is going to keep me, a general patron who is
2 in the downstairs area, what is preventing me
3 from gaining access to the upstairs?

4 MR. WITMEYER: So when you come in the
5 door, the door swings open, but when you come in,
6 there is like the steps actually is like right in
7 front of the door. The officer will actually --
8 what we did was we locked -- there is two doors.
9 There is actually three doors.

10 We locked the door that is right in
11 front of the steps. And everyone has to come in
12 on the last end of the --

13 MEMBER JONES: Yes.

14 MR. WITMEYER: -- door.

15 MEMBER JONES: All right.

16 MR. WITMEYER: And at the same time,
17 there is a big window. So we can watch the
18 people that was walking up and actually the
19 people that are downstairs. But our main focus
20 is upstairs.

21 MEMBER JONES: I think I understand.

22 I'm just trying to understand --

1 MR. WITMEYER: The upstairs --

2 MEMBER JONES: -- do I pay a different
3 price?

4 MR. WITMEYER: The upstairs --

5 MEMBER JONES: Do I pay a different
6 price for the upstairs or downstairs access? Is
7 it the same price?

8 MR. WITMEYER: Yes.

9 MEMBER JONES: Like what -- so what
10 keeps me -- if I want to go upstairs, why can't I
11 go?

12 MR. WITMEYER: You have to pay.

13 MEMBER JONES: You have to pay. Okay.
14 Cool. So that's how you -- so where do you pay?

15 MR. WITMEYER: You would pay -- they
16 had a doorman.

17 MEMBER JONES: Who is they had a
18 doorman?

19 MR. WITMEYER: So I mean, they had a--
20 the promoters, they had someone downstairs with
21 us and the person would come in. They would pay
22 them. And then once they paid them --

1 MEMBER JONES: They were allowed
2 upstairs?

3 MR. WITMEYER: -- the get wristbands.

4 MEMBER JONES: And then once they paid
5 them, they get a wristband.

6 MR. WITMEYER: Yes.

7 MEMBER JONES: And that wristband
8 would allow them upstairs access?

9 MR. WITMEYER: Yes, right.

10 MEMBER JONES: Okay. Got it. All
11 right. That makes more sense. All right. So I
12 follow. So how long have you been working
13 security at this particular location, Awash?

14 MR. WITMEYER: Probably a month prior
15 to this.

16 MEMBER JONES: A month prior to this.
17 Do you have any -- how many days would that be?
18 Would that be 4 days, once, every Saturday? So
19 four total?

20 MR. WITMEYER: That would be every
21 Friday and Saturday.

22 MEMBER JONES: Every Friday and

1 Saturday. That would be roughly what, eight
2 days?

3 MR. WITMEYER: Eight days.

4 MEMBER JONES: Eight days. So is it
5 your understanding that you have a maximum
6 capacity at that location on the night when this
7 incident occurred of 80?

8 MR. WITMEYER: Yes.

9 MEMBER JONES: And you kept the
10 capacity at under 80?

11 MR. WITMEYER: Yes.

12 MEMBER JONES: Is it also fair to say
13 that that was the construct under which you
14 operated those previous eight times?

15 MR. WITMEYER: Yes.

16 MEMBER JONES: So from your optic, you
17 were keeping the capacity well under what you
18 perceive now or understand now to be the true
19 capacity of the establishment?

20 MR. WITMEYER: Right.

21 MEMBER JONES: I.e., 92, 96, you kept
22 it at under 80 for the entire establishment, both

1 upstairs and downstairs?

2 MR. WITMEYER: Right. Because we
3 actually -- like I said, I actually thought that
4 the capacity -- I didn't know that the capacity
5 was the number that it was until the ABC -- I
6 mean, the -- yeah, the ABC people came.

7 MEMBER JONES: Okay.

8 MR. WITMEYER: And they actually
9 pulled the license. And not only that, I thought
10 that it was like period for the whole building,
11 so if it would have been 100, I though that it
12 was 100 for the whole building.

13 MEMBER JONES: Understood.

14 MR. WITMEYER: So that's the pretense
15 that I was running off of.

16 MEMBER JONES: Okay.

17 MR. WITMEYER: No matter, once we hit
18 80, we are done.

19 MEMBER JONES: Okay. So at any point
20 in time was the -- during any of those nine or
21 eight different nights, at any point in time was
22 the owner present at the location?

1 MR. WITMEYER: Yes.

2 MEMBER JONES: Okay. And the owner
3 never provided any clarification or feedback?
4 Never expressed any concern about lost revenue
5 associated with not allowing enough people in to
6 reach the capacity?

7 MR. WITMEYER: No.

8 MEMBER JONES: No. And the promoter
9 didn't have any issues with not being able to
10 bring in people beyond 40 upstairs and 40
11 downstairs?

12 MR. WITMEYER: The promoters they have
13 a problem with it.

14 MEMBER JONES: Say what?

15 MR. WITMEYER: The promoters, they
16 have a problem with it.

17 MEMBER JONES: They did have a problem
18 with it. And you explained to them that the
19 capacity of this entire establishment is 80?

20 MR. WITMEYER: Right.

21 MEMBER JONES: And that's it. Okay.
22 Thank you. Thank you, Madam Chair.

1 CHAIRPERSON MILLER: Okay. Thank you.
2 Mr. Short?

3 MEMBER SHORT: Thank you, Madam Chair.
4 Are you familiar, Mr. Witmeyer, with the Public
5 Assembly Laws in the District of Columbia?

6 MR. WITMEYER: Yes.

7 MEMBER SHORT: Do the Public Assembly
8 Laws allow bottles on the floors in places of
9 public assembly?

10 MR. WITMEYER: No.

11 MEMBER SHORT: But you testified that
12 there were bottles on the floor in every club
13 you've worked in. Is that what you are saying?

14 MR. WITMEYER: At some point, yes.

15 MEMBER SHORT: Okay. Also you said
16 that you don't use a counter or clicker to
17 correspond with the number of people coming in
18 and out of the establishment.

19 MR. WITMEYER: Well --

20 MEMBER SHORT: So if the Fire Marshal
21 would have come to your door, what would you tell
22 him? You would just show him a piece of paper

1 and you think that would be okay with him or her?

2 MR. WITMEYER: No. Actually that
3 night I just didn't have the clicker, but we
4 actually do use a clicker, but that particular
5 night, I didn't have one.

6 MEMBER SHORT: Okay. And are you
7 familiar also with the capacity signs they have--
8 they have signs for the number of people allowed
9 to have seats and tables. They also have one if
10 you don't have any seats or tables. So the 96
11 and 92 is that for with no chairs or tables or is
12 that with chairs and tables?

13 MR. WITMEYER: I think that --

14 MEMBER SHORT: In 700 square feet.

15 MR. WITMEYER: -- is with chairs and
16 tables.

17 MEMBER SHORT: But you said you only
18 let 80 people in, because you feel comfortable
19 with 80, correct?

20 MR. WITMEYER: It wasn't that I felt
21 comfortable with 80. I thought that that was the
22 number.

1 MEMBER SHORT: Okay. I'll just also
2 ask this. The police officer, in his opinion,
3 smelled marijuana. You testified earlier that
4 they don't smoke upstairs, but you didn't tell
5 me, where do they smoke?

6 MR. WITMEYER: Well, that particular
7 night we did have a problem with people smoking
8 it outside of the establishment.

9 MEMBER SHORT: So they are standing at
10 the door while you are standing at the door and
11 smoking marijuana?

12 MR. WITMEYER: Well, we were pushing
13 them down the street.

14 MEMBER SHORT: And you said there are
15 only two of you. One at the top of the steps,
16 one at the door. So who is pushing them down the
17 street?

18 MR. WITMEYER: Myself.

19 MEMBER SHORT: Excuse me?

20 MR. WITMEYER: Myself.

21 MEMBER SHORT: Okay. Well, that's all
22 I have, Madam Chair. Thank you.

1 CHAIRPERSON MILLER: Okay. Mr. Jones?

2 MEMBER JONES: Just a quick follow-up
3 on that one. Just to make sure I'm clear, so you
4 indicated that when people came in, if they
5 wanted to go upstairs, they would pay the
6 promoter?

7 MR. WITMEYER: Um-hum.

8 MEMBER JONES: So essentially there
9 was a cover charge?

10 MR. WITMEYER: There was a cover
11 charge.

12 MEMBER JONES: Okay. So there was a
13 cover charge for them to get access to the
14 upstairs party.

15 MR. WITMEYER: Um-hum.

16 MEMBER JONES: Okay. So who was
17 keeping count of the number of people upstairs?
18 Was that the responsibility of the promoter or --

19 MR. WITMEYER: That was my
20 responsibility.

21 MEMBER JONES: So you had two separate
22 sheets or you had two separate sections in that

1 one sheet where you were keeping track of the
2 number of people that went upstairs?

3 MR. WITMEYER: Yes.

4 MEMBER JONES: And the number of
5 people that went to the first floor only?

6 MR. WITMEYER: Yes.

7 MEMBER JONES: Okay. Thank you.
8 Thank you, Madam Chair.

9 CHAIRPERSON MILLER: Okay. Mr.
10 Rodriguez?

11 MEMBER RODRIGUEZ: Yes. Mr. Witmeyer,
12 were there people hurt?

13 MR. WITMEYER: There was no one hurt.

14 MEMBER RODRIGUEZ: No one was hurt.
15 I just heard some testimony from the Sergeant
16 here that there were people with lumps on their
17 heads and that there were individuals that were
18 evidently hurt.

19 MR. WITMEYER: He also said down the
20 street.

21 MEMBER RODRIGUEZ: I'm sorry?

22 MR. WITMEYER: He also said down the

1 street.

2 MEMBER RODRIGUEZ: Down the street.

3 So they didn't come from your establishment then?

4 MR. WITMEYER: Not that I know of.

5 MEMBER RODRIGUEZ: They did not.

6 MR. WITMEYER: Actually, I didn't see
7 personally. I can't say he did stop someone or
8 he didn't stop someone.

9 MEMBER RODRIGUEZ: Yes.

10 MR. WITMEYER: Because I wasn't there
11 to say that yes, he stopped a person.

12 MEMBER RODRIGUEZ: Right. And you saw
13 -- did you see bottles on the floor?

14 MR. WITMEYER: I did see bottles on
15 the floor.

16 MEMBER RODRIGUEZ: And do bottles just
17 happen to get on the floor? You know, do they
18 collect? Do you have them collected on the
19 floor? Why were bottles on the floor?

20 MR. WITMEYER: Well, when I say there
21 was bottles on the floor, I mean, I'm not saying
22 that there was like 80 bottles on the floor. I'm

1 saying that you may see one. There was maybe one
2 or two bottles on the floor, but there was no
3 cracked bottles or anything like that. There was
4 no chairs thrown or turned over or anything like
5 that.

6 In fact, there is not even but
7 probably five chairs upstairs.

8 MEMBER RODRIGUEZ: So you are saying
9 that there really was no altercation? There
10 really was no fight? There was just an argument?

11 MR. WITMEYER: A verbal dispute.

12 MEMBER RODRIGUEZ: A verbal argument.
13 Okay. Thanks.

14 CHAIRPERSON MILLER: Others? I wanted
15 to ask you, does the establishment have any video
16 cameras?

17 MR. WITMEYER: From what I understand,
18 there is one that works outside and there is one
19 that works downstairs, but the ones upstairs do
20 not work.

21 CHAIRPERSON MILLER: So there is no --

22 MR. WITMEYER: On that night, I don't

1 think they were working.

2 CHAIRPERSON MILLER: Yes. They
3 weren't working that night? Do you know for
4 sure?

5 MR. WITMEYER: I'm not -- well, they
6 asked for the video.

7 CHAIRPERSON MILLER: Right.

8 MR. WITMEYER: And we could not pull
9 it up.

10 CHAIRPERSON MILLER: Okay. Who asked
11 for the video, ABRA or MPD?

12 MR. WITMEYER: Actually, I can't
13 remember who asked for it.

14 CHAIRPERSON MILLER: Okay. Okay.
15 Anything else anybody wants to put on the record
16 here?

17 MEMBER SILVERSTEIN: The Investigator
18 and Sergeant, did they want to ask them anything?

19 CHAIRPERSON MILLER: Any other
20 questions? Okay.

21 So I thank you all for coming and
22 enlightening us somewhat with respect to what

1 went on. I don't know that it is totally clear,
2 obviously, because there is conflicting, sounds
3 like conflicting, testimony.

4 Mr. Rooney, let me just ask you this.
5 Is there anything you want to say in response to
6 Mr. Witmeyer's testimony that there were only two
7 people having -- two women having a verbal
8 altercation?

9 SERGEANT ROONEY: Yes. My question is
10 is that why were the police called for a priority
11 assignment, a priority radio run for an
12 aggravated assault in progress? Why would that
13 happen inside the establishment?

14 CHAIRPERSON MILLER: Do you have an
15 answer?

16 MR. WITMEYER: Well, actually when the
17 officers came --

18 SERGEANT ROONEY: I can't hear. I'm
19 sorry.

20 MR. WITMEYER: I said when the
21 officers came, they actually said that it was not
22 inside, it was outside. And they said that it

1 was an assault. And I quickly told them that it
2 was not an assault, it was an argument. And they
3 are saying that someone -- they are saying that
4 it was a male, that he was hit in the head with a
5 bottle or something like that.

6 But the argument was between two
7 females.

8 CHAIRPERSON MILLER: Who called the
9 police?

10 MR. WITMEYER: That I honestly can't
11 say.

12 SERGEANT ROONEY: I'm not sure. We
13 were dispatched there for a priority radio run
14 assignment, meaning that there is an assault in
15 progress.

16 CHAIRPERSON MILLER: You were
17 dispatched there. You don't know who initiated
18 it?

19 SERGEANT ROONEY: No. It came from
20 the establishment itself or someone inside the
21 establishment that there is a large fight or some
22 bottles, so basically a lot of officers swarmed

1 that particular area. So, yes.

2 MEMBER SILVERSTEIN: So you are saying
3 you were not certain whether it came from the
4 establishment itself or a patron inside the
5 establishment?

6 SERGEANT ROONEY: Exactly. I mean, I
7 can find that out as well.

8 MEMBER SILVERSTEIN: If you could,
9 that would be helpful.

10 SERGEANT ROONEY: I can try and find
11 that out.

12 CHAIRPERSON MILLER: Okay. Yes.

13 MEMBER SILVERSTEIN: Thank you,
14 Sergeant.

15 CHAIRPERSON MILLER: Okay. Anything
16 else? Okay. Well, thank you very much. We
17 appreciate your coming down.

18 And we will take this under
19 advisement. Okay. Okay. Then that concludes
20 this case. Thank you very much.

21 MR. MELES: Thank you.

22 SERGEANT ROONEY: Where would you like

1 me to send the --

2 CHAIRPERSON MILLER: To Ms. Jenkins,
3 Martha Jenkins would be very helpful.

4 (Whereupon, the Fact-Finding Hearing
5 in the above-entitled matter was concluded at
6 4:04 p.m.)

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