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P R O C E E D I N G S

10:49 a.m.

MS. MILLER: Next case. We have a series of cases involving New York New York Diva. First case is Case No. 14-251-00048. New York Diva is located at, New York New York Diva is located at 2406 18th Street, Northwest, License No. 92380 an ANC 1C. Good morning.

MR. STERN: Good morning, Michael Stern representing the District of Columbia.

MS. MILLER: Good morning. Anybody here from New York New York Diva? Not hearing from anyone. It's 10:51 a.m. and the case was called for 10:30. Mr. Stern do you have any indication that the Respondent will be appearing today?

MR. STERN: Indication is an interesting word. I have not spoken directly with the respondent.

MS. MILLER: Okay.

MR. STERN: However, I have

1 spoken with the landlord for the respondent,
2 who indicated the respondent is no longer
3 doing business. So I can't say as I'm
4 overly hopeful that they will be here.

5 MS. MILLER: Okay. We haven't
6 gotten any indication that they're on their
7 way or anything to that effect. So, if you
8 are ready to proceed ex parte?

9 MR. STERN: Yeah, as a
10 preliminary matter.

11 MS. MILLER: Okay.

12 MR. STERN: My understanding,
13 well, it is, I was hoping to proceed with
14 all five cases seriatim.

15 MS. MILLER: Mm-hmm.

16 MR. STERN: So to speak.

17 MS. MILLER: Right.

18 MR. STERN: Because of the
19 availability of witnesses, they may not be
20 in the same order that they are on the
21 calendar. So, my proposal would be that I
22 just start on all five and I am hopeful,

1 well, I will present witnesses for each one
2 individually, but as I said, they may not be
3 in the order in which they are on the
4 calendar. All five are one after the other
5 on the calendar. So --

6 MS. MILLER: That's fine, as long
7 as we --

8 MR. STERN: -- that's the
9 quickest way to get through all five.

10 MS. MILLER: If you just give me
11 the case number that you'll be addressing.

12 MR. STERN: Okay. The first one
13 which will --

14 MS. MILLER: Okay.

15 MR. STERN: Is 14-251-00089.

16 MS. MILLER: Okay.

17 MR. STERN: After that we will be
18 doing 14-251-00085. Then depending on the
19 availability of witnesses, the next three
20 are fairly quick.

21 MS. MILLER: Okay. Okay. That's
22 fine.

1 MR. STERN: And just
2 procedurally, I'm going to ask the Board if
3 it would be permissible to give a very brief
4 opening statement for each one as I call the
5 witnesses for them? I think that will make
6 the testimony somewhat more clear.

7 MS. MILLER: Okay.

8 (Whereupon, the case recessed at
9 10:53 a.m. and resumed at 12:05 p.m.)

10 MR. STERN: Next case before the
11 Board is 14-25-00048. In that case, the
12 government's evidence will show the
13 establishment was used for a disorderly
14 purpose. The government's evidence will
15 show that there were, oh, excuse me, I
16 grabbed the wrong one.

17 MS. MILLER: Okay.

18 MR. STERN: Government's evidence
19 will show on that date there was an
20 altercation involving approximately 50
21 people. That the establishment was involved
22 in this altercation, because they were

1 overcrowded. They were not using proper
2 security. They, as was previously testified
3 to has had a history with the police of
4 being involved with activities and this
5 latest one involved approximately 50 people
6 fighting inside the establishment.
7 Government would call Investigator
8 Brashears.

9 MS. MILLER: Thank you.

10 MR. STERN: Investigator, can you
11 give me --

12 MS. MILLER: I have to swear him
13 in.

14 MR. STERN: I'm sorry.

15 MS. MILLER: I don't think he's
16 been sworn in yet.

17 MR. BRASHEARS: No, ma'am.

18 MS. MILLER: Okay, I'm going to
19 swear you in for all the New York New York
20 Diva cases in case you testify in another
21 one. Do you swear to tell the truth, the
22 whole truth, nothing but the truth?

1 MR. BRASHEARS: I do.

2 MS. MILLER: Okay, thank you.

3 MR. STERN: Now, Investigator
4 Brashears, give us your name, spelling your
5 last name for the court reporter.

6 MR. BRASHEARS: Investigator Mark
7 Brashears. That's B-R-A-S-H-E-A-R-S.

8 MR. STERN: And are you employed?

9 MR. BRASHEARS: I'm employed as
10 an investigator by ABRA.

11 MR. STERN: Were you so employed
12 on February 9th, 2014?

13 MR. BRASHEARS: Yes, sir, I was.

14 MR. STERN: On that date and
15 time, did you become familiar with an
16 establishment by the trade name of New York
17 New York Diva?

18 MR. BRASHEARS: Yes, sir, I did.

19 MR. STERN: Can you tell me what
20 occurred on February 9th, 2014?

21 MR. BRASHEARS: There was a very
22 large altercation that took place inside the

1 establishment, which included approximately
2 50 people fighting, which took the MPD
3 resources from Adams Morgan and additional
4 resources from Third District to quell the
5 fight.

6 MR. STERN: Okay, did you prepare
7 a report of that investigation?

8 MR. BRASHEARS: Yes, sir, I did.

9 MR. STERN: Okay. And I'm going
10 to show you what' been marked as Exhibit G-3
11 and ask if that is, if you can tell me what
12 that is.

13 MR. BRASHEARS: This is the
14 report of the investigation that I put
15 together for the offense that occurred that
16 evening.

17 MR. STERN: I'll admit G-3 into
18 evidence.

19 MS. MILLER: Admitted.

20 MR. STERN: Now, can you tell us
21 what your investigation revealed about what
22 happened on February 9th.

1 MR. BRASHEARS: After speaking
2 with the personnel that worked at New York
3 Diva and the MPD personnel that responded,
4 it appeared that the establishment was over
5 their occupancy and the security personnel
6 that they had were not equipped to handle
7 the situation.

8 MR. STERN: What was the incident
9 itself?

10 MR. BRASHEARS: At some point a
11 fight erupted inside the establishment. At
12 which time the D.J., I was told, requested
13 security. Security tried to intervene, but
14 could not handle the situation, and the MPD
15 was called.

16 MR. STERN: And approximately how
17 many people were involved in the fight?

18 MR. BRASHEARS: According to the
19 MPD 50 people were fighting inside the
20 establishment.

21 MR. STERN: Okay. Now was the
22 owner of the establishment, by the way is

1 the owner of the establishment Mr. Khan?

2 MR. BRASHEARS: Yes, sir.

3 MR. STERN: And was the owner of
4 the establishment interviewed regarding this
5 incident?

6 MR. BRASHEARS: Yes, sir, he was.

7 MR. STERN: Did he have any
8 statements regarding the security regarding
9 this incident?

10 MR. BRASHEARS: He acknowledged
11 that with only four security personnel
12 working, he did not have enough security on
13 hand, compared to the number of patrons in
14 the establishment.

15 MR. STERN: Now did you also
16 interview the head of security?

17 MR. BRASHEARS: Yes, sir, I did.

18 MR. STERN: And what was that
19 discussion?

20 MR. BRASHEARS: Mr. Anthony
21 stated that there were four personnel,
22 security personnel working that night. And

1 they were disbursed, one at the door, one on
2 the restaurant, one on the first floor, one
3 on the second floor, and that they
4 communicated with flashlights. I explained
5 to Mr. Anthony that I felt that would be
6 difficult seeing as how they were all in
7 separate locations, separate floors, and he
8 acknowledged that communication was a
9 problem that night. And he stated that
10 fights were actually going on the first and
11 second floor. He stated the second floor,
12 the individuals were fighting each other
13 with chairs and hookah pipes. And he
14 acknowledged that on the first floor, he
15 basically said that all heck had broke loose
16 and they couldn't contain it.

17 MR. STERN: Did he say where, how
18 the security was deployed in the
19 establishment?

20 MR. BRASHEARS: Yes, sir. He
21 stated he was at the door checking IDs.
22 There was an individual on the 2408 side of

1 the establishment, which was the restaurant
2 side. Was an individual deployed to the
3 first floor of 2406 and an individual
4 deployed to the second floor of 2406.

5 MR. STERN: Now was Mr. Anthony
6 able to estimate for you how many people
7 were inside of the establishment?

8 MR. BRASHEARS: Yes, sir, he
9 estimated approximately 250 people.

10 MR. STERN: And did you learn at
11 some point what the establishment's maximum
12 occupancy was?

13 MR. BRASHEARS: Yes, sir, the
14 2406 side of 18th Street Northwest has an
15 occupancy load of 146 and I believe the 2408
16 18th Street Northwest is approximately 46.
17 It may be a little more but the total number
18 was under 200.

19 MR. STERN: So quick math tells
20 us they were over 25% over capacity?

21 MR. BRASHEARS: Yes, sir.

22 MR. STERN: Okay. Did you

1 discuss with the establishment what their
2 security plan was?

3 MR. BRASHEARS: Yes, sir.

4 MR. STERN: And what did you
5 learn?

6 MR. BRASHEARS: Mr. Anthony
7 basically stated there was no real security
8 plan. He stated that the individuals that
9 work with him were handpicked by him based
10 on their reputations in the industry.

11 MR. STERN: Thank you. No
12 further questions.

13 MS. MILLER: Are there board
14 questions? Yes, Mr. Short?

15 MR. SHORT: Good afternoon,
16 investigator. When you got on the scene
17 that particular day, was the fighting still
18 going on, or had it been subsided?

19 MR. BRASHEARS: No, sir, actually
20 I did not arrive on the scene. An
21 Investigator Suero arrived on the scene that
22 night.

1 MR. SHORT: Okay. Thank you.
2 That's all I have.

3 MS. MILLER: Okay. Any other
4 questions? Mr. Rodriguez?

5 MR. RODRIGUEZ: Was there
6 indication that this fight was between
7 gangs?

8 MR. BRASHEARS: No, sir. That
9 information was not provided to me.
10 Basically I was told that the group that was
11 visiting the establishment that night, they
12 were a performing group, but weren't the
13 featured act that night. They were just
14 visiting the establishment. And from what
15 Mr. Anthony, the head of security, told me
16 is that they draw a very rowdy type crowd.
17 And that crowd was there in attendance. And
18 he said things just got out of hand.

19 MR. RODRIGUEZ: Mm-hmm. So, it
20 was not determined as far as the conflict,
21 if there was a conflict between any
22 particular group. It was just like a free

1 for all?

2 MR. BRASHEARS: Yes, sir.

3 MR. RODRIGUEZ: Okay, thanks.

4 Thank you, so much for your testimony.

5 MR. BRASHEARS: No problem, sir.

6 MS. MILLER: I have a brief
7 question. Just about the certificate of
8 occupancy number.

9 MR. BRASHEARS: Yes, ma'am.

10 MS. MILLER: I don't think I see
11 a certificate of occupancy attached to your
12 report. Do you know is it in the ABRA
13 files? Or where?

14 MR. BRASHEARS: Yes, ma'am. And
15 essentially the night that I was there.

16 MS. MILLER: Mm-hmm.

17 MR. BRASHEARS: The 2406 side
18 that has the occupancy of 146 --

19 MS. MILLER: Yeah.

20 MR. BRASHEARS: -- that is the
21 primary side that was being utilized that
22 night, from my understanding. The

1 restaurant side has tables and a small bar.
2 But the bulk of the people were located on
3 the 2406 side with the occupancy of 146.

4 MS. MILLER: Okay. Anything
5 else? Thank you. Oh, Mr. Stern, any follow
6 up question?

7 MR. STERN: No.

8 MS. MILLER: And Mr. Silverstein
9 has a question, right? Okay.

10 Mr. Silverstein: Having heard all
11 of the testimony so far, all of these
12 things, it is horrifying. The amount of
13 violence, fighting, the violations of such
14 things as certificate of occupancy, the
15 place being overcrowded, the smell of
16 marijuana to the point where our own
17 investigator was affected and made ill by
18 it, it seems to me like just on any given
19 night, this place appeared to be an imminent
20 danger to the health and safety of the
21 community. Is that, you're not, you know
22 I'm not asking you to make a judicial view

1 of that, but would that be the way perhaps
2 an average person would look at what was
3 going on there? Was there in fact, did it
4 appear there was a danger to the community
5 the way this place was occupying?

6 MR. BRASHEARS: I, in my capacity
7 with ABRA, I consider myself an unbiased
8 fact finder, but I do know that the majority
9 of the MPD resources in Adams Morgan were
10 basically utilized to deal with issues at
11 New York Diva, with several MPD officers
12 telling me that the Diva did not have proper
13 security and Thursday relied on MPD to
14 handle situations as they arose. And the
15 other side of that I tend to look at an
16 establishment's history and in a very brief
17 span there was a great amount of history at
18 this establishment with ABRA violations.

19 MR. SILVERSTEIN: I asked that
20 question and I would hope that the people
21 pay close attention to the testimony of
22 Investigator Mathieson regarding the

1 situation inside there, so that we can
2 examine not only the licensee here, but our
3 own actions as a board and as an agency as
4 to if there's anything that we can do in the
5 future if there are cases such as this to
6 somehow speed up the process or address
7 these issues more quickly, so that something
8 awful doesn't happen and we shake our heads
9 and say, gosh, we maybe should have acted
10 more quickly. I think we owe it to you and
11 we owe it to the public to examine that and
12 see if there's something we can do to make
13 it to react, to respond more quickly.

14 MR. RODRIGUEZ: I have a few more
15 questions.

16 MS. MILLER: Okay.

17 MR. RODRIGUEZ: Yes,
18 investigator, very quick, was anybody hurt,
19 hospitalized, after this fight?

20 MR. BRASHEARS: No, sir. No one
21 requested medical attention, and according
22 to the MPD251, there were no injuries.

1 However, Mr. Anthony, the head of security,
2 basically told me afterward, they found
3 blood in the establishment on a chair.

4 MR. RODRIGUEZ: I guess.

5 MR. BRASHEARS: And someone had
6 informed him that they had been injured.
7 But they didn't identify themselves and they
8 didn't request medical attention.

9 MR. RODRIGUEZ: Were any weapons
10 located?

11 MR. BRASHEARS: No, sir, not to
12 my knowledge.

13 MR. RODRIGUEZ: Okay, thank you.

14 MR. BRASHEARS: Yes, sir.

15 MS. MILLER: Anything else?

16 MR. STERN: Yeah, I would just
17 follow up. When you say no weapons were
18 located, they told you, though, that they
19 were using the establishment's own property
20 as weapons?

21 MR. BRASHEARS: Yes, sir. That's
22 correct.

1 MR. STERN: And what property, so
2 repeat what property was that.

3 MR. BRASHEARS: Mr. Anthony
4 stated that the individuals on the second
5 floor were using hookah pipes and chairs
6 located in the facility to fight one
7 another.

8 MR. STERN: Thank you. Okay.
9 Thank you.

10 MS. MILLER: All right. Thank
11 you, very much.

12 MR. BRASHEARS: Thank you, ma'am.

13

14 MR. STERN: Good afternoon.

15 MS. MILLER: Good afternoon, oh,
16 yeah, good afternoon. Do you swear to tell
17 the truth, the whole truth and nothing but
18 the truth?

19 MR. SUERO: I do.

20 MS. MILLER: Okay, and you were
21 sworn in already on the Diva --

22 MR. SUERO: I signed the sheet --

1 MS. MILLER: You might testify
2 to, as well. Okay.

3 MR. STERN: Can you give us your
4 name --

5 MS. MILLER: Which one, oh, oh,
6 we're still on the same one.

7 MR. STERN: Yes, we're still on
8 the same one. Can you give us your name and
9 spell your last name, please?

10 MR. SUERO: My name is
11 Investigator John Suero. My last name is
12 spelled S-U-E-R-O.

13 MR. STERN: And are you employed?

14 MR. SUERO: I am. I'm employed
15 as an investigator with the Alcoholic
16 Beverage Regulation Administration.

17 MR. STERN: And were you employed
18 as such going back to February 9?

19 MR. SUERO: I was.

20 MR. STERN: And I think you heard
21 the testimony regarding the incident of
22 February 9th?

1 MR. SUERO: I did.

2 MR. STERN: Were you present on
3 that day?

4 MR. STERN: I was.

5 MR. SUERO: And did you conduct
6 an investigation that day?

7 MR. SUERO: Actually on that
8 particular date, at about 1:20, 1:25 a.m. I
9 was in ABRA vehicle driving on 18th Street,
10 in the area of 18th Street and Cal-, and I
11 believe it was California Street Northwest,
12 when several Metropolitan Police Department
13 vehicles passed me, priority, lights and
14 siren, going towards the area where New York
15 New York Diva is. As I got to that
16 location, an MPD officer saw me and asked me
17 to respond to New York New York Diva,
18 because they had an incident occur there at
19 that time.

20 MR. STERN: Okay. And can you
21 tell me what occurred? What you observed on
22 February 9th.

1 MR. SUERO: As I approached New
2 York New York Diva, I noticed two ambulances
3 outside, numerous police officers and police
4 vehicles, near the area of New York New York
5 Diva. And then I entered, as I was
6 requested with a New York, an MPD officer
7 and found quite a mess. It was clear that
8 there had been some altercation. There were
9 items strewn about. The security person at
10 the door advised me that there had been a
11 fight up on the second floor. This is the
12 2406 side. I went upstairs and found some
13 broken glass, broken bottle, what appeared
14 to be some chairs overturned, and what might
15 have been blood.

16 MR. STERN: Did you have an
17 opportunity to speak with the owner about
18 this?

19 MR. SUERO: I did.

20 MR. STERN: And how did that
21 session go?

22 MR. SUERO: I found Mr. Khan on

1 the 2408 side of the building. I advised
2 him why I was there. I asked him if he knew
3 the nature of the altercation. All he said
4 was that he heard what he said was loud
5 noises and he thought it was a fight. And
6 then I saw his security staff going towards
7 the second floor. I asked him if he knew
8 the amount of people that were in the
9 establishment at the time. He said that he
10 thought it was more than it should have
11 been. There was a lot of people, is what he
12 said. And he said and the police came in to
13 help us were his words.

14 MR. STERN: Okay. And did he say
15 anything about how many security people were
16 there?

17 MR. SUERO: I asked him the size
18 of his security staff. He said he four
19 personnel working security.

20 MR. STERN: And did he indicate
21 whether or not he knew whether that was
22 sufficient --

1 MR. SUERO: I asked --

2 MR. STERN: (Simultaneous
3 speaking)

4 MR. SUERO: Excuse me, I asked
5 him that question, if he thought that was
6 enough people.

7 MR. STERN: And --

8 MR. SUERO: Enough security and
9 he said, obvious not.

10 MR. STERN: Thank you. That's
11 all I have.

12 MS. MILLER: Any questions?

13 MR. SHORT: From here.

14 MS. MILLER: Yes, Mr. Short.

15 MR. SHORT: Good afternoon,
16 investigator.

17 MR. SUERO: Good afternoon, sir.

18 MR. SHORT: You weren't on the
19 scene when the fighting was going on?

20 MR. SUERO: When I got to the
21 scene, the fighting had finished. However,
22 there was still the two ambulance outside

1 and numerous police still on the scene. But
2 there was no fighting that I saw.

3 MR. SHORT: Were there any
4 arrests made at all that night?

5 MR. SUERO: No, there were no
6 arrests, and no one was transported to the
7 hospital.

8 MR. SHORT: What's the history of
9 this particular location and I don't want to
10 go too far, but I'd just say this particular
11 night, since we're on this case --

12 MR. SUERO: I've been with the
13 Alcoholic Beverage Regulation Administration
14 since June of last year. I've been at New
15 York New York Diva several times. And it
16 seems every time we even walk by, you can
17 smell the marijuana. There's always an
18 issue at New York New York Diva. It seems
19 to be, has always been a problem
20 establishment, since I've been here. And
21 I'm not quite sure why. It seems like it
22 took a while to get them out of there, but

1 they've been there a long time and it seems
2 to been quite the problem.

3 MR. SHORT: Thank you. That's
4 all I have, Madam Chair.

5 MS. MILLER: Okay.

6 (Whereupon, the above case was
7 concluded at 12:25 p.m.)
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