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P R O C E E D I N G S

11:55 a.m.

MS. MILLER: Okay we're back on the record continuing with the New York New York Diva cases.

MR. STERN: Yes.

MS. MILLER: Okay.

MR. STERN: The government will now move to Case No. 14-251-00085. In that case, the government's evidence will show that on March 2nd, 2014 investigators from Alcoholic Beverage Regulation Authority entered the establishment. They observed a patron smoking a cigarette within the establishment. They also observed wrappers and paraphernalia from smoking products in the establishment. There was also an extremely strong odor of marijuana coming from the establishment and inside the establishment that the security personnel in the establishment indicated that, they said they tried to stop them from coming inside

1 the establishment. They understood that
2 people inside the establishment were smoking
3 marijuana, they acknowledged that the smell
4 was from. The government would recall
5 Investigator Mathieson.

6 MS. MILLER: Okay. Ms.
7 Mathieson, you were sworn in and I'm going
8 to consider you sworn in for all of the New
9 York New York Diva cases.

10 MS. MATHIESON: That's okay.

11 MR. STERN: Good morning,
12 Investigator Mathieson.

13 MS. MATHIESON: Good morning.

14 MR. STERN: Did you have occasion
15 to be at New York New York Diva on March 2nd,
16 2014?

17 MS. MATHIESON: Yes.

18 MR. STERN: And was that in the
19 early morning hours at approximately 2:25
20 a.m.?

21 MS. MATHIESON: Correct.

22 MR. STERN: And can you tell me

1 what brought you there?

2 MS. MATHIESON: Well, I had
3 initially responded to an assault at an
4 establishment at Adams Morgan. And while I
5 was at that location, MPD Sergeant Perrin
6 advised me that they were having issues with
7 New York New York Diva and asked that I
8 respond to that location. At which time, I
9 did.

10 MR. STERN: Okay. What did you
11 find when you got there?

12 MS. MATHIESON: When I arrived
13 at the location, I was advised that, excuse
14 me, that it appeared to be overcrowded. So
15 I approached the doorway, and as I did that,
16 there was a strong odor of marijuana smoke
17 coming from inside the establishment.

18 MR. STERN: Did you enter the
19 establishment?

20 MS. MATHIESON: Yes, I was able
21 to; it was around closing time, so I had to
22 push past some patrons to get inside. So

1 getting inside was difficult. But once I
2 did enter the establishment, I walked to the
3 left portion of the first floor. The lights
4 were on. There was a visible cloud of smoke
5 inside the location, and it smelled very
6 strong of marijuana.

7 MR. STERN: Okay. Now did you
8 notice anything relative to use of tobacco
9 products?

10 MS. MATHIESON: Yes. As I walked
11 around the establishment, I went up to the
12 mezzanine level and at some point, I can't
13 recall exactly where I confiscated them
14 from, but there were two packs of cigars.
15 One was empty. I believe one still had a
16 cigar in it. I recall seeing on the VIP
17 tables that are on the mezzanine levels,
18 there were like ashtrays with little ends of
19 cigar butts scattered about. A door had
20 been propped open. And even with the door
21 propped open, the smoke was still very thick
22 throughout the establishment. Additionally

1 when I identified myself, I made contact
2 with a manager at the location. And when I
3 first made contact with that manager, he was
4 smoking a cigarette, also.

5 (Simultaneous speaking)

6 MS. MATHIESON: Smoking a
7 cigarette.

8 MR. STERN: And that was inside
9 the establishment?

10 MS. MATHIESON: Correct.

11 MR. STERN: Now did you, how
12 prevalent was the marijuana smoke, if you
13 can tell?

14 MS. MATHIESON: It was extremely
15 thick. It caused me to cough. After I left
16 the establishment, I had a taste of cigar in
17 my mouth, as though I had been smoking just
18 from being inside the location. When I got
19 back to the office, my clothing was,
20 marijuana smoke was coming off of my
21 clothing. It was evident to my co-workers
22 that I smelled like marijuana.

1 MR. STERN: Okay. In terms of
2 tobacco products, did you find anything
3 there at the site, which supported your
4 observations that there had been tobacco
5 products smoked in the establishment?

6 MS. MATHIESON: Yes. As I said
7 before, there were several packs of empty,
8 or empty packs of cigar wrappers including a
9 Dutch Masters and a White Owls, Cigarillos
10 that I confiscate and put into my report as
11 exhibits. And additionally there were
12 multiple cigarette butts or ends of cigar
13 butts that were in ashtrays.

14 MR. STERN: Okay, now did you
15 speak with the owner about the smells that
16 were coming from the establishment?

17 MS. MATHIESON: Yes, I did advise
18 him that there was a clear odor of marijuana
19 in the establishment. And additionally that
20 it was against ABRA violation and D.C. code
21 to have marijuana being smoked inside and
22 any tobacco products.

1 MR. STERN: Okay, and did the
2 owner acknowledge the smell of the
3 marijuana?

4 MS. MATHIESON: He did not deny
5 that there was a smell of marijuana. I
6 believe he also advised me that there was
7 hookah being smoked, which he stated he had
8 an exemption from the smoking ban.

9 MR. STERN: Okay. Did you all
10 speak with the head of security, Mr. M?

11 MS. MATHIESON: Yes.

12 MR. STERN: And did you speak to
13 him regarding the marijuana smoke?

14 MS. MATHIESON: I believe I
15 advised him that there was an odor of
16 marijuana, once I was outside, that there
17 was still an odor of marijuana on my coat.
18 My hair smelled like marijuana. The volume
19 was extremely high throughout the
20 establishment. And additionally I advised
21 him that I confiscated the cigar wrappers
22 and a cigar that was just out in the open

1 inside.

2 MR. STERN: And again, did your
3 subsequent investigation reveal whether or
4 not the establishment was permitted to smoke
5 hookah in the establishment?

6 MS. MATHIESON: Yeah. I
7 confirmed with Lisa Davis, who is from the
8 Department of Health and she advised me that
9 currently New York New York Diva is not
10 approved for any exemption to the smoking
11 ban.

12 MR. STERN: Okay, so whether it
13 be tobacco or hookah, they were not
14 permitted to have smoking inside the
15 establishment?

16 MS. MATHIESON: Correct.

17 MR. STERN: Okay. Now excuse me.
18 I'm sorry. Thank you. That's all the
19 questions I have.

20 MS. MILLER: Are there any Board
21 questions? Yes, Mr. Alberti?

22 MR. ALBERTI: Investigator

1 Mathieson, (Inaudible) with any MPD officers
2 about the odor of marijuana?

3 MS. MATHIESON: On this occasion,
4 just give me one second, I'm sorry, I just
5 want to refresh my memory. I believe it was
6 Sergeant Perrin and Rooney, who I responded
7 to the location with. And I believe that
8 they also smelled the odor of marijuana from
9 the street, as I did.

10 MR. ALBERTI: All right. And
11 they confirmed that --

12 MS. MATHIESON: Correct.

13 MR. ALBERTI: -- smoking ban was
14 made.

15 MS. MATHIESON: Correct.

16 MR. STERN: Sir, could you turn
17 your microphone on?

18 MR. ALBERTI: Had they gone
19 inside? Did you confer with anyone who had
20 been inside?

21 MS. MATHIESON: They did not go
22 inside on that location, on that occasion.

1 However, as I stated, when I came back
2 outside, I smelled of marijuana, so I'm sure
3 they, I believe I even advised the MPD
4 officer and they confirmed that I smelled of
5 marijuana after having been inside the
6 location.

7 MR. ALBERTI: Okay. Okay. And
8 you are familiar with the odor of marijuana?

9 MS. MATHIESON: Yes.

10 MR. ALBERTI: Okay. Thank you.

11 MS. MILLER: Okay, Mr. Rodriguez?

12 MR. RODRIGUEZ: Yeah,
13 investigator did you at any point suspect
14 that maybe marijuana was being sold inside
15 the establishment? You know, marijuana all
16 over the place.

17 MS. MATHIESON: Right. I don't,
18 I don't know that it was, I can't say for
19 certain that it was being sold, but it was
20 absolutely being smoked. It is probable
21 that it was being sold as well, but I, I
22 have no evidence.

1 MR. RODRIGUEZ: There was no
2 evidence --

3 MS. MATHIESON: No.

4 MR. RODRIGUEZ: -- that it was.
5 Okay, thank you.

6 MS. MILLER: Okay. Others?
7 Okay, thank you, very much. Oh, also do you
8 have any questions, Mr. Stern?

9 MR. STERN: No further questions.

10 MS. MILLER: Okay, thank you.

11 MS. MATHIESON: Thank you.

12 (Whereupon, the above case was
13 concluded at 12:05 p.m.)

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<p style="text-align: center;">A</p> <p>a.m 2:2 3:20 able 4:20 ABRA 7:20 absolutely 11:20 acknowledge 8:2 acknowledged 3:3 Adams 4:4 additionally 5:22 7:11,19 8:20 advise 7:17 advised 4:6,13 8:6 8:15,20 9:8 11:3 Alberti 1:17 9:21 9:22 10:10,13,18 11:7,10 Alcoholic 1:2,12,13 2:12 appeared 4:14 approached 4:15 approved 9:10 approximately 3:19 arrived 4:12 ashtrays 5:18 7:13 asked 4:7 assault 4:3 Authority 2:12</p>	<p>Cause 1:7 caused 6:15 certain 11:19 Chairperson 1:14 1:16 cigar 5:16,19 6:16 7:8,12 8:21,22 cigarette 2:14 6:4,7 7:12 Cigarillos 7:9 cigars 5:14 clear 7:18 closing 4:21 clothing 6:19,21 cloud 5:4 co-workers 6:21 coat 8:17 code 7:20 COLUMBIA 1:1 coming 2:18,22 4:17 6:20 7:16 concluded 12:13 confer 10:19 confirmed 9:7 10:11 11:4 confiscate 7:10 confiscated 5:13 8:21 consider 3:8 contact 6:1,3 continuing 2:4 Control 1:2,12,13 Correct 3:21 6:10 9:16 10:12,15 cough 6:15 CR 1:8 currently 9:9</p>	<p>4:7 9:9 DONALD 1:16 door 5:19,20 doorway 4:15 Dutch 7:9</p> <p style="text-align: center;">E</p> <p>E 2:1,1 early 3:19 empty 5:15 7:7,8 ends 5:18 7:12 enter 4:18 5:2 entered 2:13 establishment 2:13 2:15,17,19,20,21 3:1,2 4:4,17,19 5:2,11,22 6:9,16 7:5,16,19 8:20 9:4 9:5,15 11:15 evidence 2:10 11:22 12:2 evident 6:21 exactly 5:13 excuse 4:13 9:17 exemption 8:8 9:10 exhibits 7:11 extremely 2:18 6:14 8:19</p>	<p>head 8:10 Health 9:8 Hearing 1:7,13 HECTOR 1:18 HERMAN 1:17 high 8:19 hookah 8:7 9:5,13 hours 3:19</p> <p style="text-align: center;">I</p> <p>identified 6:1 Inaudible 10:1 including 7:8 indicated 2:21 initially 4:3 inside 2:19,22 3:2 4:17,22 5:1,5 6:8 6:18 7:21 9:1,14 10:19,20,22 11:5 11:14 investigation 9:3 investigator 3:5,12 9:22 11:13 investigators 2:11 issues 4:6</p>	<p>M 8:10 manager 6:2,3 March 2:11 3:15 marijuana 2:18 3:3 4:16 5:6 6:12,20 6:22 7:18,21 8:3,5 8:13,16,17,18 10:2,8 11:2,5,8,14 11:15 Masters 7:9 Mathieson 3:5,7,10 3:12,13,17,21 4:2 4:12,20 5:10 6:6 6:10,14 7:6,17 8:4 8:11,14 9:6,16 10:1,3,12,15,21 11:9,17 12:3,11 MATTER 1:5 MEETING 1:3 Member 1:16,17,17 1:18,18,19 memory 10:5 met 1:12 mezzanine 5:12,17 microphone 10:17 MIKE 1:18 Miller 1:14,16 2:3 2:7 3:6 9:20 11:11 12:6,10 Morgan 4:4 morning 3:11,13 3:19 mouth 6:17 move 2:9 MPD 4:5 10:1 11:3 multiple 7:12</p>
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