

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

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IN THE MATTER OF: :
: :
Sami Restaurant, LLC :
t/a Bistro 18 :
2420 18th Street, NW :
Retailer CT :
License No. 86876 :
Case No. 12-CMP-00679 : Show Cause
Case No. 12-CMP-00734 : Hearing
Case No. 13-CMP-00035 :
ANC 1C :
Operating After Hours; :
Interfering with an ABRA :
Investigation; No Manager on :
Duty; Failed to Make a Copy :
of Settlement Agreement :
Immediately Accessible :
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OCTOBER 23, 2013

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

PRESENT
RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
MIKE SILVERSTEIN, Member

ALSO PRESENT
AMY SCHMIDT, OAG

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

Case No. 12-CMP-00679

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

1:42 p.m.

CHAIRPERSON MILLER: The Board is back on the record for the afternoon hearings, and the first case on the afternoon agenda is Case No. 12-CMP-00734, Bistro 18, at 2420 18th Street, N.W., License No. 86876 in ANC 1C.

Okay. So would you identify yourselves for the record now?

MR. HURWITZ: Okay. My name is Ely Hurwitz. I'm an attorney representing Bistro 18. With me is the owner.

MR. GHULAIS: Sami Ghulais, the owner of Bistro 18.

MS. SCHMIDT: Good afternoon. Amy Schmidt, Assistant Attorney General on behalf of the District of Columbia.

CHAIRPERSON MILLER: Okay. And I understand that we have three cases on the agenda for this establishment, is that correct?

MS. SCHMIDT: We are asking for --

1 we're asking -- we are still in the midst of
2 trying to resolve this matter. We're asking
3 for a 20-minute recess so that we can continue
4 this resolution.

5 CHAIRPERSON MILLER: Okay. You
6 mean if we give you 20 minutes you may resolve
7 the whole thing?

8 MS. SCHMIDT: We may. No
9 promises. However, this will not take three
10 hours to try in any event.

11 CHAIRPERSON MILLER: Okay. The
12 Board has some other work to do. I think we
13 could be amenable to that.

14 MS. SCHMIDT: Thank you.

15 CHAIRPERSON MILLER: So we'll take
16 a 20-minute recess. If you are finished
17 earlier, you'll contact our general counsel?

18 MS. SCHMIDT: Okay.

19 CHAIRPERSON MILLER: Okay. We're
20 going to suggest that you go outside and we're
21 going to do some other business here while
22 you're there. Okay.

1 (Whereupon, at 1:44 p.m. off the
2 record until 2:20 p.m.)

3 CHAIRPERSON MILLER: We're back on
4 the record with Bistro 18 case, Case No. 12-
5 CMP-00734.

6 MS. SCHMIDT: We have a
7 preliminary matter and given the number of
8 charges in this case I'm going to go through
9 them and try to make it as clear as possible.
10 I'll start from the back end and then work our
11 way up.

12 The bottom line is the Government
13 has an agreement in which the --

14 CHAIRPERSON MILLER: Wait, can I
15 stop you just for one second? Are you going
16 to be addressing all three cases?

17 MS. SCHMIDT: Yes, we are.

18 CHAIRPERSON MILLER: All right.
19 Well, let me just put that on the record what
20 cases they are.

21 MS. SCHMIDT: Oh, sure.

22 CHAIRPERSON MILLER: All right.

1 So that's 12-CMP-00734, 12-CMP-00035, 12-CMP-
2 00679.

3 MS. SCHMIDT: That's 13-CMP-00035.

4 CHAIRPERSON MILLER: Thirteen?
5 Which one? 13-CMP-00035?

6 MS. SCHMIDT: Yes.

7 CHAIRPERSON MILLER: Okay. Thank
8 you. All right.

9 MS. SCHMIDT: And I'm going to
10 give the grand total first and we'll work our
11 way back, and then you can see how we arrived
12 at that figure. The parties have agreed that
13 a fine of \$11,000 is to be paid within --
14 we're still checking to see what -- well,
15 we're saying 90 days, but we're trying to see
16 if they could have a little more time to pay
17 it given the magnitude of this fine.

18 MEMBER ALBERTI: Well, wait, wait,
19 wait. What's the Offer in Compromise?

20 MS. SCHMIDT: The Offer in
21 Compromise --

22 MEMBER ALBERTI: I don't care

1 about what you're looking to see.

2 MS. SCHMIDT: Okay. Eleven
3 thousand -- okay.

4 MEMBER ALBERTI: I want to know
5 what the Offer in Compromise is.

6 MS. SCHMIDT: It's 11? Okay.
7 It's \$11,000 to be paid within 120 days. And
8 then there's one day back up, which is
9 stemming from a prior case, and three
10 additional days to be served. So there would
11 be a total of four days to be served on
12 January 5th, 6th, 7th and 8th of 2014.

13 Okay. Now this how we arrived at
14 this figure: In case No. 12-CMP-00734, charge
15 1 was a \$2,000 after hours charge; charge 2,
16 interference with an investigation would be
17 \$3,000, which we kept at the maximum; and
18 charge --

19 MEMBER ALBERTI: What was that?
20 Three thousand?

21 MS. SCHMIDT: Three thousand. And
22 charge 3, no manager on duty, would be \$1,000.

1 So the total for that case is \$6,000.

2 With respect to 12-CMP-00679,
3 there was only the one charge of service after
4 hours. We are requesting a \$2,000 fine.

5 MEMBER ALBERTI: Wait, wait, wait,
6 wait. Okay. All right. Which one is this
7 now?

8 MEMBER SILVERSTEIN: 679.

9 MS. SCHMIDT: 679. There's only
10 one charge in that case.

11 MEMBER ALBERTI: 679 . Hang on a
12 second. Okay.

13 MS. SCHMIDT: And that charge is
14 permitting the sale or consumption of
15 alcoholic beverages after ABC approved hours.
16 And that is a \$2,000 fine we're requesting in
17 that case.

18 MEMBER ALBERTI: Okay.

19 MS. SCHMIDT: And, I'm sorry, two
20 of the four days to be served in conjunction
21 with that charge.

22 MEMBER ALBERTI: Two days?

1 MS. SCHMIDT: Yes, two days. And
2 then in the third case, 13-CMP-00035, we are
3 dropping the first charge, the after hours
4 charge. And then the interference charge
5 we're requesting \$3,000. And there will be
6 one day to be served in conjunction with that
7 case. And then we're requesting that a
8 written warning be given for the no voluntary
9 agreement. And that is because there may have
10 been a voluntary agreement that was not
11 readily accessible to the investigators.
12 According to the Licensee the agreement was
13 there, but it was in a picture frame at the
14 time.

15 MEMBER ALBERTI: Okay. I'm a
16 little confused because I only heard you
17 mention two of the three days that you were --

18 MS. SCHMIDT: No, I mentioned
19 three days. Two days for the second charge,
20 one day for the interference --

21 MEMBER ALBERTI: Well, wait. Two
22 days for which charge? Can you give me a case

1 number and --

2 MS. SCHMIDT: 679.

3 MEMBER ALBERTI: Two days for --

4 MEMBER SILVERSTEIN: 679.

5 MS. SCHMIDT: 679.

6 MEMBER ALBERTI: All right. And
7 the other day is from where?

8 MS. SCHMIDT: For 0035.

9 MEMBER ALBERTI: Oh, I missed that
10 one. Okay. I'm sorry. Zero-zero-three-five.

11 MS. SCHMIDT: And the backup day
12 is from the first charge.

13 MEMBER ALBERTI: I understand, but
14 which charge on 0035?

15 MS. SCHMIDT: The interference.

16 MEMBER ALBERTI: Okay.

17 MS. SCHMIDT: Charge 2.

18 MEMBER ALBERTI: Okay.

19 MS. SCHMIDT: We were dropping
20 charge 1 and --

21 MEMBER ALBERTI: I'm sorry.

22 MS. SCHMIDT: -- for the no VA

1 we've requested that a written warning be
2 given.

3 MEMBER ALBERTI: Okay.

4 MS. SCHMIDT: No fine for that.
5 That a written warning be given in lieu of a
6 fine.

7 MEMBER ALBERTI: Thank you.

8 MS. SCHMIDT: So reiterating, yes,
9 that's an \$11,000 fine to be paid within 120
10 days and four days suspension to be served on
11 January 5th, 6th, 7th and 8th, 2014.

12 MEMBER JONES: So technically the
13 -- I'm sorry.

14 CHAIRPERSON MILLER: Yes, Mr.
15 Jones?

16 MEMBER JONES: Madam Chair?

17 CHAIRPERSON MILLER: Yes, please.

18 MEMBER JONES: Technically, just
19 to be clear, the OIC is three days to be
20 served and the first day of those four days is
21 actually a stayed day that's going to trigger
22 as a result --

1 MS. SCHMIDT: Yes.

2 MEMBER JONES: -- of this?

3 MS. SCHMIDT: Yes.

4 MEMBER JONES: Okay.

5 MS. SCHMIDT: Not as result of

6 this. A result of a prior case, yes.

7 MEMBER JONES: It's going to be

8 triggered as a result of --

9 MS. SCHMIDT: Yes, it'll be

10 triggered. I'm sorry. Yes.

11 MEMBER JONES: Okay. Thank you,

12 Madam Chair.

13 MEMBER ALBERTI: And may I --

14 CHAIRPERSON MILLER: Do you have a

15 question?

16 MEMBER ALBERTI: Yes.

17 CHAIRPERSON MILLER: Yes, go

18 ahead.

19 MEMBER ALBERTI: Ms. Schmidt, so

20 this OIC is global for all three cases and

21 would not allow the Board to consider the OIC

22 for one case and reject it for another case?

1 MS. SCHMIDT: We conceive it as
2 global, however, the Board is obviously
3 free --

4 MEMBER ALBERTI: No, I need to
5 what you're offering us.

6 MS. SCHMIDT: What I'm offering is
7 a global offer, yes.

8 MEMBER ALBERTI: Okay. So the
9 Board's not free to reject any part of this
10 and accept part it then? Thank you very much.

11 CHAIRPERSON MILLER: I just want
12 to make sure I have the sums right. So 734 is
13 \$6,000, is that right?

14 MS. SCHMIDT: Yes.

15 CHAIRPERSON MILLER: And what
16 is --

17 MEMBER SILVERSTEIN: One stayed
18 day served. On day triggered.

19 CHAIRPERSON MILLER: Okay.

20 MS. SCHMIDT: It's triggered --

21 MEMBER JONES: It's triggered as a
22 result --

1 CHAIRPERSON MILLER: It's
2 triggered?

3 MS. SCHMIDT: Yes.

4 CHAIRPERSON MILLER: You're not
5 asking for more days? Okay.

6 MEMBER ALBERTI: Yes, it's
7 triggered as an admission of --

8 MEMBER JONES: Guilt.

9 MEMBER ALBERTI: Yes.

10 CHAIRPERSON MILLER: Yes.

11 MEMBER ALBERTI: His liability.

12 MEMBER JONES: Right.

13 CHAIRPERSON MILLER: And 00035 is
14 how much?

15 MS. SCHMIDT: It's \$3,000.

16 CHAIRPERSON MILLER: Three
17 thousand?

18 MS. SCHMIDT: And a written
19 warning.

20 CHAIRPERSON MILLER: Right, and
21 then the warnings. Okay. And then 679 if
22 2,000?

1 MS. SCHMIDT: Two thousand
2 dollars.

3 CHAIRPERSON MILLER: Okay.

4 MEMBER SILVERSTEIN: And two days
5 served --

6 MS. SCHMIDT: Two days to be
7 served, yes.

8 MEMBER SILVERSTEIN: -- on 679?

9 MS. SCHMIDT: Right.

10 CHAIRPERSON MILLER: Okay. Yes,
11 anything else you need to tell us?

12 MS. SCHMIDT: No.

13 CHAIRPERSON MILLER: I think that
14 we're going to want to take a few minutes and
15 think about this.

16 Mr. Jones?

17 MEMBER JONES: May I have a
18 question, Madam Chair?

19 CHAIRPERSON MILLER: Yes.

20 MEMBER JONES: Just for
21 clarification purposes how many primaries,
22 secondaries would be a result of this OIC

1 based on the offer as presented?

2 MS. SCHMIDT: Let me check. I
3 believe they may all be primaries at this
4 point.

5 MEMBER JONES: So I just want to
6 make sure we're not combining anything in such
7 a way and manner as you are presenting it in
8 your OIC that there will not be the number of
9 primaries associated with the number of
10 charges that you're finding or presenting to
11 us.

12 MS. SCHMIDT: We did drop one
13 charge, but that was partially because just in
14 our discretion we're not sure if we could
15 prove it.

16 MEMBER ALBERTI: May I ask that
17 question in a different way?

18 MEMBER JONES: Most certainly.

19 CHAIRPERSON MILLER: Okay.

20 MEMBER ALBERTI: Madam Chair?

21 CHAIRPERSON MILLER: Yes.

22 MEMBER ALBERTI: Ms. Schmidt,

1 would you agree that were there to be future
2 violations the cases here, three cases here,
3 three separate cases, would result in a total
4 of three primary violations to be counted
5 towards considering the penalties of future
6 violations? I will explain that: When you
7 have two primaries for one case, when we count
8 them for future violations, for the penalties
9 of future violations, we only count that as
10 one because it was adjudicated on one day.
11 But we have three cases here. And so would it
12 be the case that this would result in three
13 primaries being counted against the Licensee
14 towards consideration in future penalties?

15 MS. SCHMIDT: If the Board is
16 uncomfortable with combining them, we could do
17 one OIC per case. We could go back and we
18 could just do these cases individually with
19 the OICs, if that would make the Board more
20 comfortable. I do not know the answer --

21 MEMBER ALBERTI: Is that your
22 preference?

1 MS. SCHMIDT: It's whatever the
2 Board --

3 MEMBER ALBERTI: You're presenting
4 the OIC.

5 MS. SCHMIDT: Yes, I'm presenting
6 the OIC as global for convenience, however, if
7 the Board is uncomfortable with that
8 presentation, I can represent the OIC as three
9 separate cases. I have no objection to that.

10 MEMBER ALBERTI: Ms. Schmidt, for
11 me only, I'll tell you I have all afternoon.
12 So don't worry about efficiency in my sake.
13 You present this however you see fit, you feel
14 is best. Of course you need to -- yes.

15 MS. SCHMIDT: May I take a break
16 for a two minuets?

17 CHAIRPERSON MILLER: Okay.

18 (Whereupon, at 2:33 p.m. off the
19 record until 2:37 p.m.)

20 CHAIRPERSON MILLER: Okay. We're
21 back on the record.

22 MS. SCHMIDT: We're going to

1 request that each case be done individually,
2 so we're going to ask that Case 12-CMP-00734
3 be called individually.

4 CHAIRPERSON MILLER: Okay. Let me
5 just say this: Okay. If you want us to
6 consider Offer in Compromise on each one of
7 them and you've already gone through them and
8 you want us to consider them separately, it
9 sounds like what you're saying is we go and
10 deliberate on that and we come back and then
11 we go.

12 MS. SCHMIDT:

13 MEMBER ALBERTI: We can hold our
14 deliberations and come back and announce on
15 all three, if we wish to.

16 CHAIRPERSON MILLER: Or we could
17 do all three separately.

18 MEMBER ALBERTI: Right. Right.

19 MS. SCHMIDT: Okay.

20 MEMBER ALBERTI: We can adjourn
21 just once.

22 MS. SCHMIDT: I just wanted to

1 change one --

2 CHAIRPERSON MILLER: Okay. Yes.

3 MS. SCHMIDT: Yes.

4 CHAIRPERSON MILLER: I'm just
5 saying that rather than for us to adjourn
6 three times --

7 MS. SCHMIDT: Oh, no, that's fine.

8 CHAIRPERSON MILLER: Okay.

9 MS. SCHMIDT: I'm just trying to
10 accommodate the Board. I was trying to get
11 the sense of what the Board was --

12 CHAIRPERSON MILLER: We're willing
13 to hear whatever you present.

14 MS. SCHMIDT: Okay. So we'll hear
15 the three. It's still the same total, but in
16 12-CMP-00734, charge 1 would be \$2,000. And
17 there's a slight change. In charge 2,
18 interference, would be \$2,000, and then no
19 manager on duty would be \$2,000, for a total
20 of \$6,000. And the one backup day would be
21 triggered by that charge.

22 CHAIRPERSON MILLER: Okay.

1 MS. SCHMIDT: In 12-CMP-00679 the
2 Government is requesting that a \$2,000 fine be
3 assessed for the after hours charge and two
4 days to be served on that case.

5 And as with respect to 13-CMP-
6 00035, again charge 1 will be dropped, the
7 interference with an investigation would be
8 \$3,000 and there would be a written warning
9 for the no voluntary agreement being
10 accessible.

11 MEMBER ALBERTI: What was the fine
12 for the interference?

13 MS. SCHMIDT: Three thousand
14 dollars.

15 MEMBER ALBERTI: And are there any
16 days for that?

17 MS. SCHMIDT: And --

18 MEMBER ALBERTI: I'm just trying
19 to --

20 MS. SCHMIDT: Yes, there's one day
21 for that.

22 MEMBER ALBERTI: I'm sorry, I

1 shouldn't be putting words in your mouth.

2 MS. SCHMIDT: Yes, there's one day
3 for that. I'm sorry. I appreciate it because
4 going through this so many times I just want
5 to make sure that I got the four days there.

6 MEMBER ALBERTI: I'll keep my
7 mouth shut.

8 MS. SCHMIDT: Yes.

9 CHAIRPERSON MILLER: That's fine.
10 That's fine.

11 Okay. So are there any questions?
12 Yes, Mr. Brooks?

13 MEMBER BROOKS: Okay. Charge 1,
14 on the last charge --

15 MS. SCHMIDT: Yes.

16 MEMBER BROOKS: -- what is it,
17 00035?

18 MS. SCHMIDT: Yes.

19 MEMBER BROOKS: Charge 1, what is
20 the penalty for that?

21 MS. SCHMIDT: Penalty for that. I
22 apologize, I do not know. I do not have my

1 schedule book with me.

2 MEMBER BROOKS: No, but what did
3 you --

4 MS. SCHMIDT: Oh, I'm sorry,
5 \$3,000.

6 MEMBER BROOKS: Three? Oh, I'm
7 sorry.

8 MS. SCHMIDT: Yes.

9 MEMBER BROOKS: Okay. All right.
10 Okay.

11 MEMBER JONES: So if I may, Board
12 Member Brooks?

13 MEMBER BROOKS: Yes?

14 MEMBER JONES: Just so I'm clear,
15 because now I'm confused, were you asking
16 about charge 1 --

17 MEMBER BROOKS: Yes.

18 MEMBER JONES: -- or charge 2?

19 MEMBER BROOKS: Charge 1.

20 MS. SCHMIDT: Charge 1 was
21 dropped.

22 MEMBER JONES: Well, if I

1 understood the OIC correctly, she was offering
2 to drop charge 1.

3 MEMBER BROOKS: Oh, to drop charge
4 1? Okay. I got you.

5 MEMBER SILVERSTEIN: Wait, on
6 which one, 734?

7 MEMBER JONES: 0035.

8 MEMBER SILVERSTEIN: 0035. Yes,
9 sir.

10 MEMBER JONES: On No. 035 charge 1
11 OIC was dropped.

12 MEMBER SILVERSTEIN: Okay.

13 CHAIRPERSON MILLER: Other
14 questions? Yes, Mr. Jones?

15 MEMBER JONES: Yes, so just out of
16 curiosity what was the rationale for dropping
17 charge 1?

18 MS. SCHMIDT: Upon further
19 investigation it appeared that that was not
20 the strongest charge. For purposes of
21 compromise it is not the charge we want to
22 pursue at this point. However, if we'd go to

1 hearing, we may -- prosecutorial discretion.

2 CHAIRPERSON MILLER: Others?

3 (No audible response.)

4 CHAIRPERSON MILLER: Okay. So
5 what I understand is that nothing's changed
6 from the offer that you went through before
7 except that you're asking the Board to
8 consider each case individually?

9 MS. SCHMIDT: That is correct.

10 CHAIRPERSON MILLER: Okay. Yes,
11 Mr. Jones?

12 MEMBER JONES: Point of
13 clarification?

14 CHAIRPERSON MILLER: Yes.

15 MEMBER JONES: There was one
16 change on Case No. 00734?

17 MS. SCHMIDT: Yes.

18 MEMBER JONES: You changed the
19 dollar amount associated with the fine of
20 charge 2 and the fine of charge 3?

21 MS. SCHMIDT: Yes.

22 MEMBER JONES: They made them both

1 2,000?

2 MS. SCHMIDT: Yes.

3 MEMBER JONES: Previously it was
4 3,000 for charge 2 and 1,000 for charge 3?

5 MS. SCHMIDT: Yes.

6 CHAIRPERSON MILLER: Okay. The
7 total is the same but the breakdown is
8 different?

9 MS. SCHMIDT: Yes.

10 CHAIRPERSON MILLER: Okay.
11 Everything else is the same?

12 MS. SCHMIDT: Yes.

13 CHAIRPERSON MILLER: Okay. Any
14 other questions?

15 (No audible response.)

16 CHAIRPERSON MILLER: Okay. Then
17 the Board's going to go into closed session to
18 consider the Offer in Compromise.

19 As Chairperson of the Alcoholic
20 Beverage Control Board for the District of
21 Columbia and in accordance of Section 405 of
22 the Open Meetings Amendment Act of 2010, I

1 move that the ABC Board hold a closed meeting
2 for the purpose of seeking legal advice from
3 our counsel on Case Nos. 12-CMP-00734, 13-CMP-
4 00035 and 12-CMP-00679 and deliberating upon
5 these cases for the reasons cited in Section
6 405(b)(13) of the Open Meetings Amendment Act
7 of 2010. Is there a second?

8 MEMBER SILVERSTEIN: Second.

9 CHAIRPERSON MILLER: Mr.

10 Silverstein seconded the motion. I'll now
11 take a roll call vote. Mr. Brooks?

12 MEMBER BROOKS: I agree.

13 CHAIRPERSON MILLER: Mr. Alberti?

14 MEMBER ALBERTI: I agree.

15 CHAIRPERSON MILLER: Ms. Miller
16 agrees. Mr. Silverstein?

17 MEMBER SILVERSTEIN: I agree.

18 CHAIRPERSON MILLER: And, Mr.
19 Jones?

20 MEMBER JONES: I agree.

21 CHAIRPERSON MILLER: It appears
22 that the motion has passed by a vote of 5-0-0.

1 I hereby give notice that the ABC Board will
2 hold a closed meeting in the ABC Board
3 conference room now and we will return shortly
4 and let you know our decision.

5 MS. SCHMIDT: Thank you.

6 (Whereupon, at 2:44 p.m. off the
7 record until 3:17 p.m.)

8 CHAIRPERSON MILLER: Okay. We're
9 back on the record in the cases involving
10 Bistro 18 after considering three Offers in
11 Compromises for each case individually.

12 And, Ms. Schmidt, I just want to
13 ask one question to confirm before we vote.
14 When the three cases that we have before us
15 were to be globally considered, the fines were
16 to be paid within 120 days.

17 MS. SCHMIDT: That is correct.

18 CHAIRPERSON MILLER: Okay. So now
19 we're voting on them individually.

20 MS. SCHMIDT: Also for the record
21 the counsel for the Respondent was never asked
22 whether he agreed to those.

1 CHAIRPERSON MILLER: Okay. Well,
2 we haven't voted yet, so we will ask before we
3 vote then. But what should we be considering?
4 Should be considering 120 days for each?

5 MS. SCHMIDT: For each, yes.

6 CHAIRPERSON MILLER: Okay. So
7 it's the same?

8 MS. SCHMIDT: It's the same.

9 CHAIRPERSON MILLER: Okay. Then
10 I'll do them individually. That is the
11 assumption we had when we were in closed
12 session, but I wanted to make sure that was
13 correct.

14 Okay. Mr. Hurwitz, before we vote
15 on them I will ask you if you agree to the
16 Offer in Compromise that we're considering.
17 I'll guess I'll do it individually then. For
18 12-CMP-00734 it is a sum of \$6,000 to be paid
19 within 120 days, \$2,000 for each of the three
20 offenses. And I know there's one day
21 triggered, but what we're considering is the
22 penalty to be paid in those days.

1 MR. HURWITZ: Yes.

2 CHAIRPERSON MILLER: Is that what
3 your client agrees to?

4 MR. HURWITZ: Yes.

5 CHAIRPERSON MILLER: And does
6 client know that he waives his right to a
7 hearing by accepting an Offer in Compromise?

8 MR. HURWITZ: Yes.

9 CHAIRPERSON MILLER: Okay. So
10 then I'm going to call for a vote on this OIC.

11 I move that we accept this Offer
12 in Compromise with respect to Case No. 12-CMP-
13 00734 of a total fine of \$6,000 to be paid
14 within 120 days. Do I have a second?

15 MEMBER SILVERSTEIN: Second.

16 CHAIRPERSON MILLER: Mr.
17 Silverstein has seconded the motion. Any
18 comments?

19 (No audible response.)

20 CHAIRPERSON MILLER: Okay.

21 MEMBER ALBERTI: I have a comment.

22 CHAIRPERSON MILLER: Okay.

1 MEMBER ALBERTI: I'm going to
2 accept this Offer in Compromise, but I would
3 like noted for the record that I'm very
4 concerned about the charge of interference
5 with an ABRA investigator. We expect all of
6 licensees in all circumstances to respect and
7 cooperate with our investigators.

8 Now if you feel that their actions
9 are unwarranted, then you file a complaint
10 with our director. But when they're there,
11 you follow their directions.

12 MR. GHULAIS: Yes, sir.

13 MEMBER ALBERTI: Thank you.

14 CHAIRPERSON MILLER: Any other
15 comments? Mr. Silverstein?

16 MEMBER SILVERSTEIN: Madam Chair,
17 I want to echo the words of my colleague, Mr.
18 Alberti. I'm going to vote for this as well,
19 but this was absolutely outrageous and
20 unacceptable.

21 CHAIRPERSON MILLER: Mr. Jones?

22 MEMBER JONES: Thank you, Madam

1 Chair. I would like to note that I am
2 disappointed in what appears to be the actions
3 of the Licensee, but in spite of that I am
4 further disappointed that the OIC as offered
5 is reflective of a fine that's at the minimum,
6 the lowest possible end of the range for a
7 second primary-tier offense. From my
8 standpoint as an individual Board Member, I
9 think it's considerably egregious and
10 disrespectful to not adhere to the rules, laws
11 and the individuals responsible for enforcing
12 said rules and laws. It's the ultimate sign
13 of disrespect and ultimate disrespect to the
14 authority that you are before today.

15 So for that reason, I would not be
16 inclined and I'm going to vote against
17 accepting this OIC because I feel as though it
18 is not representative of the egregious nature
19 of the offense. Thank you.

20 CHAIRPERSON MILLER: Okay. Any
21 others?

22 MEMBER BROOKS: I just align

1 myself to the comments of Board Member Jones.

2 CHAIRPERSON MILLER: Okay. All
3 right. Then we have a motion that's been
4 seconded to approve the Offer in Compromise of
5 \$6,000 to be paid within 120 days. All those
6 in favor, say aye? Aye.

7 MEMBER ALBERTI: Aye.

8 MEMBER SILVERSTEIN: Aye.

9 CHAIRPERSON MILLER: All those
10 opposed?

11 MEMBER BROOKS: Opposed.

12 MEMBER JONES: Opposed.

13 CHAIRPERSON MILLER: All those
14 abstaining?

15 (No audible response.)

16 CHAIRPERSON MILLER: Okay. Then
17 the motion passes to approve the Offer in
18 Compromise of \$6,000 to be paid within 120
19 days.

20 All right. The second case, 12-
21 CMP-00679, I believe there's an Offer in
22 Compromise for a payment of \$2,000 to be paid

1 within 120 days.

2 MEMBER SILVERSTEIN: Second.

3 CHAIRPERSON MILLER: Wait a
4 second. I have to ask them first. Sorry.

5 This is for permitting the sale
6 and consumption of alcoholic beverages after
7 hours. And I'd like to ask the Licensee if
8 you agree?

9 MS. SCHMIDT: There's a one-day
10 suspension also.

11 CHAIRPERSON MILLER: A suspension?

12 MS. SCHMIDT: Yes.

13 CHAIRPERSON MILLER: For two days?

14 MS. SCHMIDT: I'm sorry. Two
15 days. I apologize.

16 CHAIRPERSON MILLER: They're from
17 a previous offense, correct?

18 MEMBER ALBERTI: No.

19 CHAIRPERSON MILLER: Oh, they're
20 not?

21 CHAIRPERSON MILLER: Okay. Let's
22 get that straight then.

1 MS. SCHMIDT: Yes.

2 MEMBER JONES: So just to make
3 sure can you reiterate your OIC for --

4 MEMBER ALBERTI: 00035?

5 CHAIRPERSON MILLER: No, this is
6 00679 I'm on.

7 MEMBER JONES: 679.

8 MEMBER ALBERTI: Oh, I'm sorry.

9 MEMBER JONES: Case No. 00679.

10 MS. SCHMIDT: 00679. A \$2,000
11 fine and two days of suspension, which will be
12 served in conjunction with the day that is
13 triggered from 12-CMP-00734.

14 CHAIRPERSON MILLER: Okay.

15 MEMBER ALBERTI: And do we have
16 days?

17 MS. SCHMIDT: Yes, January 5th,
18 6th and 7th at this point. And if the OIC for
19 0035 is accepted, the 8th of January will be
20 added on.

21 MEMBER ALBERTI: Okay.

22 CHAIRPERSON MILLER: Okay then.

1 And two days suspension?

2 MS. SCHMIDT: Yes.

3 CHAIRPERSON MILLER: Which two
4 days?

5 MS. SCHMIDT: The 7th and 8th of
6 January.

7 CHAIRPERSON MILLER: Okay.

8 MS. SCHMIDT: I'm sorry, the 6th
9 and 7th. I apologize.

10 MS. SCHMIDT: The 6th and 7th.
11 And the 5th is to be served in conjunction to
12 00734.

13 CHAIRPERSON MILLER: Okay. So
14 then my understanding is the Offer in
15 Compromise then is for a \$2,000 penalty to be
16 paid within 120 days and two days suspension
17 of the license on January 6th and 7th, 2014?

18 MS. SCHMIDT: Yes.

19 CHAIRPERSON MILLER: Okay. And
20 let me ask the Licensee.

21 MR. HURWITZ: We agree to that.

22 CHAIRPERSON MILLER: You agree to

1 that? And you understand that you waive your
2 right to a hearing?

3 MR. HURWITZ: (No audible
4 response.)

5 CHAIRPERSON MILLER: Okay. Any
6 questions? No, we did that.

7 All right. Then I move that we
8 accept this Offer in Compromise.

9 MEMBER SILVERSTEIN: Second.

10 CHAIRPERSON MILLER: Mr.
11 Silverstein has seconded the motion. Any
12 other comments?

13 MEMBER ALBERTI: I will comment
14 that I will not be accepting this OIC. As
15 pointed out by Mr. Jones earlier, this is at
16 the minimum range for a second primary. And
17 also I will note that this alleged infraction
18 occurred just six days after the infraction
19 for which they just admitted liability. So I
20 cannot accept the minimum.

21 CHAIRPERSON MILLER: Mr. Jones?

22 MEMBER JONES: I will align myself

1 with Board Member Alberti's statements, but
2 I'll also further add that it did not help the
3 case in terms of my inclination to accept this
4 OIC the fact that the stayed, or the served
5 days happen to be on a Monday and a Tuesday as
6 well. It just seems ridiculous that that was
7 any type of real corrective measure in support
8 of them, them being the licensee, not
9 comporting themselves in this fashion in the
10 future. So for that reason, on top of the
11 statements made by Board Member Alberti, I'm
12 not in favor and will be voting not to accept
13 this OIC.

14 CHAIRPERSON MILLER: Any others?

15 (No audible response.)

16 CHAIRPERSON MILLER: Okay.

17 There's a motion that's been seconded to
18 approve the Offer in Compromise of \$2,000 to
19 be paid within 120 days and two days license
20 suspended on January 6th and 7th. All those
21 in favor, say aye? Aye.

22 MEMBER SILVERSTEIN: Aye.

1 CHAIRPERSON MILLER: All those
2 opposed?

3 MEMBER ALBERTI: Opposed.

4 MEMBER BROOKS: Opposed.

5 MEMBER JONES: Opposed.

6 CHAIRPERSON MILLER: All those
7 abstaining?

8 (No audible response.)

9 CHAIRPERSON MILLER: All right.

10 Then the motion fails by a vote of 2-3-0.

11 Okay. We have one more for Case
12 No. 13-CMP-00035. The Offer in Compromise as
13 I understand it is that charge 1 is dropped,
14 charge 2 is a fine of \$3,000 to be paid within
15 120 days, and charge 3 is be given a warning.
16 Am I missing anything else?

17 MR. HURWITZ: One day suspension.

18 CHAIRPERSON MILLER: Plus one day
19 suspension of the license on what day?

20 MR. HURWITZ: January 8th.

21 MS. SCHMIDT: No, at this point
22 that would be January 6th.

1 MR. HURWITZ: Oh, okay.

2 CHAIRPERSON MILLER: January 6th.

3 MR. HURWITZ: Okay. So because we
4 rejected the other ones.

5 CHAIRPERSON MILLER: Okay. Does
6 the Licensee agree to that Offer in
7 Compromise?

8 MR. HURWITZ: Yes.

9 CHAIRPERSON MILLER: And the
10 Licensee understands that he waives his right
11 to a hearing should it be accepted?

12 MR. GHULAIS: Yes.

13 CHAIRPERSON MILLER: Okay. All
14 right. Then I move that we accept this Offer
15 in Compromise of a fine of \$3,000 to be paid
16 within 120 days, charge 1 dropped, charge 3 be
17 given a warning, and that the license be
18 suspended for one day on January 6th, 2014.
19 Do I have a second?

20 MEMBER SILVERSTEIN: Second.

21 CHAIRPERSON MILLER: Mr.
22 Silverstein seconded the motion. Any

1 comments?

2 MEMBER ALBERTI: I will be
3 opposing the motion to accept this OIC. Upon
4 hearing the full terms of the OIC, I'll just
5 say that I'm speechless.

6 CHAIRPERSON MILLER: Others?
7 (No audible response.)

8 CHAIRPERSON MILLER: Okay.
9 There's a motion that's been seconded. All
10 those in favor, say aye? Aye.

11 MEMBER ALBERTI: Aye.

12 MEMBER SILVERSTEIN: Aye.

13 CHAIRPERSON MILLER: All those
14 opposed?

15 MEMBER ALBERTI: Opposed.

16 MEMBER BROOKS: No.

17 MEMBER JONES: Opposed.

18 CHAIRPERSON MILLER: You voted
19 twice.

20 MEMBER ALBERTI: I know, I --

21 CHAIRPERSON MILLER: Okay. All
22 those abstaining.

1 MEMBER SILVERSTEIN: I thought you
2 were speechless.

3 (Laughter.)

4 MEMBER ALBERTI: Yes, I know. I'm
5 just --

6 CHAIRPERSON MILLER: All right.
7 Then I will record the vote as 2-3-0. And the
8 motion fails, therefore we have two cases for
9 hearing this afternoon.

10 MR. HURWITZ: If I may, although
11 you've entertained these offers as independent
12 offers, there still was a global settlement
13 that was offered to be broken down into
14 independent considerations. I wonder where
15 that leaves us now in that, you know, some of
16 our defenses for the other cases were
17 applicable in the first case as well, and I'd
18 like to have the opportunity to talk with my
19 clients about that.

20 CHAIRPERSON MILLER: Well, how
21 much time do you -- how much, like 10 minutes?

22 MR. HURWITZ: Just a few minutes.

1 CHAIRPERSON MILLER: A few
2 minutes? That's fine.

3 (Whereupon, at 3:30 p.m. off the
4 record until 3:35 p.m.)

5 CHAIRPERSON MILLER: So are the
6 parties ready to proceed?

7 MS. SCHMIDT: Yes, the
8 Government's ready.

9 CHAIRPERSON MILLER: Government's
10 ready? Are you ready?

11 MR. HURWITZ: Applicant is ready.

12 CHAIRPERSON MILLER: Okay. Which
13 case? Do you have a preference?

14 MS. SCHMIDT: Chronologically, the
15 Government would wish to proceed with 12-CMP-
16 679.

17 CHAIRPERSON MILLER: Okay. Are
18 you going to have any witnesses?

19 MS. SCHMIDT: Yes, we have one
20 witness.

21 CHAIRPERSON MILLER: One witness?
22 Okay.

1 Mr. Hurwitz, are you going to have
2 any witnesses?

3 MR. HURWITZ: Yes, we have two
4 witnesses.

5 CHAIRPERSON MILLER: Okay. All
6 right. Opening statements?

7 MS. SCHMIDT: The Government will
8 show that on Sunday, November 18th, 2012,
9 while former ABRA investigator Brian Molloy
10 was working near the area near Bistro 18, at
11 1:45 a.m. he observed patrons entering the
12 establish. When he went inside he saw the
13 patrons being sold -- the establishment was in
14 full operation. And this was in contravention
15 of their license which limited service hours
16 to 1:30 a.m. The Government will show that
17 this charge was substantiated through its
18 testimony.

19 CHAIRPERSON MILLER: Okay. Thank
20 you. Mr. Hurwitz?

21 MR. HURWITZ: Yes, the report
22 indicates, the charges indicate that at

1 approximately 1:45 the investigator observed
2 patrons consuming alcoholic beverages. There
3 is no allegation other than the consumption at
4 that time.

5 Under the ABC license the
6 Applicant is allowed to have sales on a
7 Sunday, and this was a Sunday -- sales from
8 11:00 a.m. until 1:30 a.m. with operations
9 until 2:00 a.m. And under the voluntary
10 agreement, which was then in force and effect
11 and approved by the Board -- the voluntary
12 agreement provided that sales would be from
13 11:00 a.m. to 2:00 a.m. The hours of
14 operation shall be from 11:00 a.m. to 2:00
15 a.m. with last call at 1:25. So if last call
16 is at 1:25, then you couldn't expect that the
17 customer is going to just consume the alcohol
18 in five minutes, that he would continue to
19 consume the alcohol until the close of
20 business hours.

21 So its face this complaint should
22 fail without the necessity of any further

1 investigation or testimony, in my opinion,
2 because the allegations say that at 11:45 a.m.
3 he observed it. That's the charge. And the
4 Applicant was allowed to practice his
5 consumption until 2:00 a.m.

6 MEMBER ALBERTI: May I have a
7 moment?

8 MR. HURWITZ: And I had filed a
9 motion in this matter earlier in this case, in
10 a related case. I'm sorry.

11 MEMBER ALBERTI: I'm sorry to
12 interrupt.

13 MR. HURWITZ: I'm sorry. All
14 right. I'm done.

15 CHAIRPERSON MILLER: Two things:
16 One is we weren't sure, is there disagreement
17 as to the facts of the case?

18 MR. HURWITZ: No.

19 CHAIRPERSON MILLER: I don't know
20 whether you all --

21 MS. SCHMIDT: Yes, there is
22 because the Licensee is alleging there was no

1 sale at that time, and eh investigator will
2 testify that, yes, there were sales. He is --
3 there's only -- there's only the allegation --
4 there was only consumption at that time, so
5 there is a disagreement as to the facts of
6 this case.

7 MR. HURWITZ: But that's not
8 within the charges and I don't think that
9 would be admissible.

10 CHAIRPERSON MILLER: Okay. Well,
11 it does answer our question.

12 MS. SCHMIDT: Yes.

13 CHAIRPERSON MILLER: Did you say
14 you filed a motion, Mr. Hurwitz?

15 MR. HURWITZ: I filed a motion in
16 Case No. 0035 pointing out the hours of
17 operation and the discrepancy between the
18 charges and the hours of operation.

19 CHAIRPERSON MILLER: Okay.

20 MR. HURWITZ: And there's further
21 complication in that there were two voluntary
22 agreements. There was the one that was in

1 existence at this time, but people were --
2 there was a subsequent voluntary agreement
3 which was not approved by this Board until
4 after these events.

5 CHAIRPERSON MILLER: Okay.

6 MR. HURWITZ: And people were
7 using the figures in the second voluntary
8 agreement, which was not applicable.

9 CHAIRPERSON MILLER: Okay.

10 MR. HURWITZ: They were looking at
11 the newer agreement which had not been
12 approved by the Board and was not in effect.

13 CHAIRPERSON MILLER: Who was
14 looking at that?

15 MR. HURWITZ: Oh, I think the
16 neighborhood and the inspectors.

17 CHAIRPERSON MILLER: This isn't
18 testimony yet, but I just wanted to know.

19 MR. HURWITZ: Right, I'm just
20 trying to -- and I did file the motion
21 outlining that.

22 CHAIRPERSON MILLER: Did you?

1 MS. SCHMIDT: There is a first --

2 CHAIRPERSON MILLER: Ms. Schmidt,
3 did you file in opposition or anything?

4 MS. SCHMIDT: No, to be quite
5 blunt, the motion was incomprehensible. I did
6 not quite understand what was trying to be
7 said in that motion. And it was filed that
8 day and --

9 CHAIRPERSON MILLER: Okay.

10 MS. SCHMIDT: And also, I'd just
11 like to point out to the Board there's a first
12 amendment dated May 4th, 2011 between the two
13 parties. And that first amendment to the
14 voluntary agreement states that hours for
15 sales, service and consumption of alcoholic
16 beverages as Monday through Saturday 8:00 to
17 1:30 a.m. and Sunday 10:00 a.m. to 1:30. So
18 this is an amendment to the voluntary
19 agreement.

20 CHAIRPERSON MILLER: Okay. I
21 don't want to get too much into -- this sounds
22 like evidence, which I think you --

1 MS. SCHMIDT: No, but also, the
2 license says 1:30, and the license does trump
3 the voluntary agreement. The license that was
4 in effect at that time.

5 CHAIRPERSON MILLER: Okay.

6 MEMBER ALBERTI: I think this
7 would be argument.

8 CHAIRPERSON MILLER: Yes, exactly.
9 We're getting too much into the meat of the
10 case.

11 MR. HURWITZ: Yes, I mean I object
12 to that comment about the --

13 CHAIRPERSON MILLER: Yes. Okay.
14 Yes, that's later.

15 Okay. All right. Did you
16 conclude your opening statement?

17 MR. HURWITZ: Yes.

18 CHAIRPERSON MILLER: Okay. All
19 right. Then, Ms. Schmidt, are you ready to
20 proceed?

21 MS. SCHMIDT: The Government calls
22 Brian Molloy.

1 CHAIRPERSON MILLER: Okay. Good
2 afternoon.

3 MR. MOLLOY: Good afternoon.

4 CHAIRPERSON MILLER: Do you swear
5 to tell the whole truth and nothing but the
6 truth?

7 MR. MOLLOY: Yes, I do.

8 CHAIRPERSON MILLER: Thank you.
9 Okay.

10 MS. SCHMIDT: Mr. Molloy, could
11 you please state your name for the record?

12 MR. MOLLOY: My name is Brian
13 Molloy, spelled B-R-I-A-N, M-O-L-L-O-Y.

14 MS. SCHMIDT: And were you
15 formerly employed as an investigator for ABRA?

16 MR. MOLLOY: Yes, I was.

17 MS. SCHMIDT: And were you acting
18 in that capacity on Sunday, November 18th,
19 2012?

20 MR. MOLLOY: Yes, I was.

21 MS. SCHMIDT: And were you in the
22 vicinity of Bistro 18 located at 2420 18th

1 Street, N.W. in the District of Columbia?

2 MR. MOLLOY: Yes, I was.

3 MS. SCHMIDT: And what led you to
4 that location and at approximately what time
5 were you there, do you recall?

6 MR. HURWITZ: Excuse me. Could I
7 interrupt? Was the witness sworn in?

8 CHAIRPERSON MILLER: Yes.

9 MR. MOLLOY: That evening I was
10 assigned to monitor the Adams Morgan
11 neighborhood, so that's why at 1:45 a.m. in
12 the morning on Sunday I was in the
13 neighborhood and the block where Bistro 18 is
14 located.

15 MS. SCHMIDT: And what did you see
16 with respect to Bistro 18?

17 MR. MOLLOY: At approximately 1:45
18 I noticed some patrons entering Bistro 18.
19 And from previous familiarity with the
20 neighborhood, I knew that Bistro 18's hours
21 for sales, service and consumption ended at
22 1:30. So watching patrons go in at 1:45

1 sparked my interest, at which point I followed
2 the patrons inside and identified myself to
3 the first employee I saw as an ABRA
4 investigator and asked to speak with an ABC
5 licensed manager or owner.

6 While I was waiting for the owner
7 or an ABC licensed manager to arrive, I looked
8 at the bar and saw drinks, alcoholic
9 beverages, beers; I believe one was a
10 Heineken, being served to customers and they
11 were -- you know, the customers were consuming
12 the beverages as well.

13 MS. SCHMIDT: Well, what do you
14 mean by "being served?" Was any money
15 exchanged?

16 MR. MOLLOY: Well, I didn't see a
17 credit card run or cash being paid. I did see
18 a beer being placed in front of a customer and
19 then the beer being consumed by the customer.

20 MS. SCHMIDT: And when you
21 returned to ABRA did you have an opportunity
22 to investigate the times of operation?

1 MR. MOLLOY: Well, actually while
2 I was at the establishment, I eventually got
3 to speak with the owner, Sami Ghulais. I
4 might be mispronouncing his name. I'm sorry.

5 MS. SCHMIDT: Yes.

6 MR. MOLLOY: And at that point I
7 asked to see the license of the establishment,
8 and the owner took it off the wall and brought
9 it over to me. And at that point I looked at
10 the hours of operation and the hours of sales
11 and pointed out to him that the hours of sales
12 ended at 1:30, you know, and that at 1:45 I
13 shouldn't be able to walk in and see customers
14 with beer, consuming -- or any other alcoholic
15 beverages and that that was a violation of
16 their license and D.C. Code, and I notified
17 him of the violation. We did a regulatory
18 inspection and at the end of the night came
19 back ad ABRA -- oh, it was at that point that
20 I also got to look at the voluntary agreement.

21 MS. SCHMIDT: Do you recall what
22 the voluntary agreement stated?

1 MR. MOLLOY: I believe the
2 voluntary agreement listed similar hours of
3 1:30, but I would need to see the document to
4 say anything more definitive while under oath.

5 MR. HURWITZ: I would object to
6 the introduction of this agreement. This
7 agreement that counsel --

8 MS. SCHMIDT: I haven't introduced
9 yet.

10 MR. HURWITZ: I'm going to object
11 to reference to it and the introduction to it
12 on the grounds that that voluntary agreement
13 was not the agreement that was in effect at
14 the time of the alleged violations and it has
15 no relationship to these alleged violations.

16 MS. SCHMIDT: I think it's
17 premature to object since I have not --

18 CHAIRPERSON MILLER: You're not
19 moving into evidence yet?

20 MS. SCHMIDT: Not yet, no.

21 CHAIRPERSON MILLER: Okay. You
22 want to show it ad Mr. Molloy?

1 MS. SCHMIDT: Yes. I'm handing
2 what's been marked as Exhibit --

3 CHAIRPERSON MILLER: Do you object
4 to her showing it to Mr. Molloy?

5 MR. HURWITZ: I would object to
6 any reference to this agreement. This
7 agreement did not come into effect until after
8 the alleged violations. This agreement became
9 effective in January 2013. This is a
10 violation that we're talking about in November
11 of 2012.

12 MS. SCHMIDT: This agreement was
13 dated May 4th, 2011 and it's an amendment to
14 the voluntary agreement.

15 MR. HURWITZ: It was not approved
16 by the Board until --

17 CHAIRPERSON MILLER: Okay. But
18 you haven't given her a chance to even
19 identify the document.

20 So would you identify it before
21 you show it to Mr. Molloy?

22 MS. SCHMIDT: Yes, I'm now going

1 to hand you what has been marked -- which is
2 the first amendment to the voluntary agreement
3 for license to sell alcoholic beverages.

4 CHAIRPERSON MILLER: Okay.

5 MR. HURWITZ: Again, I object to
6 the introduction or the use of reference of
7 this document on the grounds that it was not
8 a relevant document at the time of the
9 violation.

10 CHAIRPERSON MILLER: Right. So
11 noted.

12 MS. SCHMIDT: But that's my burden
13 to overcome through the testimony. It's a
14 premature objection.

15 CHAIRPERSON MILLER: Well, this
16 voluntary agreement is dated when?

17 MS. SCHMIDT: May 4th, 2011.

18 CHAIRPERSON MILLER: Okay.

19 MS. SCHMIDT: However, this is my
20 burden to overcome. If after the testimony he
21 wants to object, then he has the right to
22 object. At this point though he does not have

1 the right to cut off something.

2 CHAIRPERSON MILLER: Okay. He has
3 a right to object, but I'm not going to
4 sustain the objection right now. So go ahead.

5 MS. SCHMIDT: And can you tell the
6 Board what that is?

7 MR. MOLLOY: It's a document
8 labeled, "The First Amendment to the Voluntary
9 Agreement for the License to Sell Alcoholic
10 Beverages," and it's for the establishment --
11 or Licensee Sami Restaurant, LLC, which trades
12 as Bistro 18.

13 MS. SCHMIDT: And what are the
14 hours set in that document?

15 MR. MOLLOY: Under a section
16 entitled "Hours for Sales, Service and
17 Consumption of Alcohol" it lists Monday
18 through Saturday 8:00 a.m. to 1:30 a.m.

19 MS. SCHMIDT: And who is that
20 document signed by?

21 MR. MOLLOY: The signature page is
22 signed by -- it is signed by someone from Sami

1 Restaurant. There isn't a typed-on name
2 underneath the signature. And then it is also
3 signed by Advisory Neighborhood Commission 1C
4 and someone from the Kalorama Citizens
5 Association. That signature is labeled Denis
6 James, president.

7 MS. SCHMIDT: That's the voluntary
8 agreement you saw that night at the
9 establishment? Is that a copy of the
10 voluntary agreement you saw that night at the
11 establishment?

12 MR. MOLLOY: No, I didn't see the
13 voluntary agreement until I came back to ABRA.

14 MS. SCHMIDT: And is that the
15 voluntary agreement that was in the ABRA
16 records?

17 MR. MOLLOY: I believe so.

18 MS. SCHMIDT: No further questions
19 at this time.

20 CHAIRPERSON MILLER: Cross?

21 MR. HURWITZ: Mr. Molloy, in
22 reviewing your report -- do you have a copy of

1 it?

2 MR. MOLLOY: Yes. Yes.

3 MR. HURWITZ: Does your report
4 indicate anywhere that you saw sales occurring
5 during your visit?

6 MR. MOLLOY: No, it does not.

7 MR. HURWITZ: It does not? Did
8 you write this report?

9 MR. MOLLOY: Yes, I did.

10 MR. HURWITZ: And you thought it
11 was comprehensive at the time you wrote it?

12 MR. MOLLOY: Yes.

13 MR. HURWITZ: Okay. So you did
14 not talk to Mr. Ghulais about violating any
15 ABC regulations relating to sales, only to the
16 consumption, is that correct?

17 MR. MOLLOY: Correct. I told him
18 the violation was of their hours of sales,
19 which we enforce as --

20 MR. HURWITZ: Hours of consumption
21 or sales?

22 MR. MOLLOY: Sales. Their hours

1 of sales, which we enforce as sales, service
2 and consumption. And that's the violation I
3 spoke to Mr. Ghulais about.

4 MR. HURWITZ: You did not observe
5 any sales taking place?

6 MR. MOLLOY: I did not.

7 MR. HURWITZ: Okay. So it was
8 your opinion that he was violating his license
9 by allowing consumption at 1:45 a.m.?

10 MR. MOLLOY: Service and
11 consumption.

12 MR. HURWITZ: In your report you
13 only refer to allowing alcohol consumption
14 after 1:30 a.m.

15 MR. MOLLOY: Yes.

16 MR. HURWITZ: You did not refer to
17 sales?

18 MR. MOLLOY: I did not write
19 sales. I did not see any money or credit card
20 transactions.

21 MR. HURWITZ: Right. Okay. And I
22 would like ad introduce a copy of the

1 voluntary agreement dated October 2002,
2 October 22nd, 2002 between this establishment
3 and the ANC and which was approved by the
4 Board and was the operative agreement at the
5 time of this violation.

6 CHAIRPERSON MILLER: Okay. Can
7 you wait to move it into evidence though until
8 you do your case?

9 MR. HURWITZ: Sure.

10 CHAIRPERSON MILLER: But if you
11 want to use it, you can.

12 MR. HURWITZ: Mr. Molloy, I'd like
13 to show you an agreement --

14 MR. MOLLOY: Thank you.

15 MR. HURWITZ: -- and ask you have
16 you ever seen that agreement before?

17 MR. MOLLOY: Yes.

18 MR. HURWITZ: So you're familiar
19 with the agreement?

20 MR. MOLLOY: Yes.

21 MR. HURWITZ: And at the time of
22 your visit to the establishment would the

1 alleged violations have been a violation of
2 this agreement?

3 MS. SCHMIDT: Objection. Calls
4 for a legal conclusion.

5 MR. HURWITZ: Well, he makes
6 conclusions about violations all the time.
7 That's why we're here.

8 CHAIRPERSON MILLER: Overruled.

9 MR. MOLLOY: I'm a little
10 concerned about reading off this document
11 right now because it has some substantial
12 edits and some wording already been crossed
13 out. If I could have a few minutes to read
14 over it to make sure it seems accurate. There
15 is a whole section that's been blotted out.

16 CHAIRPERSON MILLER: Sure.

17 Do you have a copy, Ms. Schmidt?

18 MS. SCHMIDT: I do. If I could
19 have a clean copy for him?

20 CHAIRPERSON MILLER: Mr. Hurwitz,
21 actually do you have a copy now? If you're
22 going to be moving it into evidence, I could

1 look it and follow along, if you have a copy
2 now.

3 MEMBER ALBERTI: Ms. Walker will
4 get you a paper copy.

5 MR. HURWITZ: If I may, this copy
6 has the yellow highlights already, which is
7 why Mr. Molloy had some problems reviewing it.

8 CHAIRPERSON MILLER: Okay.

9 MS. SCHMIDT: It's in the Board's
10 files in Case No. 734.

11 CHAIRPERSON MILLER: It is?

12 MS. SCHMIDT: Yes.

13 CHAIRPERSON MILLER: Okay. We
14 have it in our records. Okay. Thank you.

15 MS. SCHMIDT: It's part of the
16 record already.

17 MR. MOLLOY: Under this voluntary
18 agreement it states that Applicant agrees to
19 strictly observe the above hours and to
20 announce last call at 1:25 a.m. Sunday through
21 Thursday and at 2:25 p.m. Friday and Saturday,
22 to discontinue service of alcohol at 1:30 a.m.

1 Sunday through Thursday and at 2:30 a.m.
2 Friday and Saturday and to remove all alcohol
3 from the tables and bar tops by 2:00 a.m.
4 Sunday through Thursday and by 3:00 a.m.
5 Friday and Saturday.

6 MR. HURWITZ: And, Mr. Molloy,
7 based upon your reading of the voluntary
8 agreement that I have shown you, would you
9 conclude that Bistro 18 was in violation of
10 these hours?

11 MR. MOLLOY: Yes.

12 MR. HURWITZ: And why would that
13 be?

14 MR. MOLLOY: Because it says they
15 would discontinue service of alcohol at 1:30
16 a.m.

17 MR. HURWITZ: Service, but
18 consumption is allowed to go until 2:00 a.m.

19 MR. MOLLOY: According to this
20 voluntary agreement.

21 MR. HURWITZ: Yes. And if I told
22 you that this was the voluntary agreement that

1 was in force at the time of your inspection
2 and this voluntary agreement had been approved
3 by the Board, would you then feel they were
4 still in violation?

5 MR. MOLLOY: Well, they're in
6 violation of their license. That's why I only
7 charged that they made a substantial change to
8 their operations. I didn't charge a violation
9 of their voluntary agreement.

10 MR. HURWITZ: Okay. Well, why
11 would they be in violation of their license?
12 And I'd like to show you a copy of the license
13 hours.

14 MR. MOLLOY: Yes.

15 MR. HURWITZ: And could you tell
16 me what hours of operation that permits?

17 MR. MOLLOY: They're in violation
18 because under their sales on Saturday it says
19 11:00 a.m. to 1:30 a.m., and we enforce sales
20 to mean sales, service and consumption.

21 MR. HURWITZ: Yes, but is sales,
22 service and consumption the same?

1 MR. MOLLOY: Yes, according to how
2 we enforce that.

3 MR. HURWITZ: Well, is it the
4 same?

5 MR. MOLLOY: Any three --

6 MR. HURWITZ: Is consumption the
7 same as a sale?

8 MR. MOLLOY: No.

9 MR. HURWITZ: Okay. And is
10 service the same as a sale or consumption?

11 MR. MOLLOY: No.

12 MR. HURWITZ: So you interpreted
13 that sales restricts consumption after the
14 hours allocated?

15 MR. MOLLOY: I didn't interpret.
16 That's what I've been instructed to do as an
17 investigator.

18 MR. HURWITZ: By whom?

19 MR. MOLLOY: My superiors.

20 MR. HURWITZ: Not by the Board
21 itself?

22 MR. MOLLOY: No.

1 MS. SCHMIDT: Objection. It's in
2 the -- I withdraw the objection. I'll leave
3 it for argument.

4 MR. MOLLOY: As an investigator I
5 never had the Board come and speak to me and
6 tell me to do any specific thing.

7 MR. HURWITZ: Okay. Thank you
8 very much.

9 MEMBER ALBERTI: No, let Ms.
10 Walker --

11 CHAIRPERSON MILLER: Someone has
12 to come around.

13 MEMBER ALBERTI: Martha?

14 CHAIRPERSON MILLER: Our protocol.

15 MR. HURWITZ: You have it in your
16 file, should you want it.

17 CHAIRPERSON MILLER: Does that
18 conclude your cross?

19 MR. HURWITZ: Yes.

20 CHAIRPERSON MILLER: Okay. Board
21 questions?

22 MEMBER ALBERTI: Yes, just for

1 clarity. Investigator, thank you for coming
2 today. Thank you for your report. How did
3 you determine the time at which you entered
4 the establishment?

5 MR. MOLLOY: I look at the cell
6 phone that all investigators are issued by
7 ABRA. And so I marked the time as 1:45 before
8 I walked in.

9 MEMBER ALBERTI: Okay. Thank you.
10 Now just also you testified that you observed
11 a Heineken placed in front of a customer and
12 consumed, is that correct?

13 MR. MOLLOY: Yes.

14 MEMBER ALBERTI: Who placed the
15 Heineken in front of the customer?

16 MR. MOLLOY: It was a bartender.
17 Well, it was a person standing behind the bar.

18 MEMBER ALBERTI: Person standing
19 behind the bar? You assumed that to be the
20 bartender?

21 MR. MOLLOY: Yes, I didn't speak
22 with him personally.

1 MEMBER ALBERTI: Okay. No further
2 questions. Thank you very much.

3 CHAIRPERSON MILLER: Mr. Molloy, I
4 just want to follow up on that basically. So
5 you entered the establishment at 1:45 and know
6 it was that because you looked at the cell
7 phone?

8 MR. MOLLOY: Correct.

9 CHAIRPERSON MILLER: Okay. And so
10 sometime after that, I don't know what time
11 after that, you noticed the bartender place a
12 Heineken in front of a customer at the bar?

13 MR. MOLLOY: That happened almost
14 immediately when I walked in. As an
15 investigator the vast majority of places you
16 walk into you identify yourself right away,
17 unless you're doing something that's in an
18 undercover capacity. And most of the time
19 once you identify yourself, things at most
20 establishments freeze --

21 CHAIRPERSON MILLER: Yes.

22 MR. MOLLOY: -- pretty much

1 because they start wondering are they are in
2 trouble, are they violating, or what should we
3 do? And that Heineken being served happened
4 literally within a step of me to entering the
5 establishment and then me talking to the first
6 person I could identify as an employee to
7 identify myself.

8 CHAIRPERSON MILLER: Okay. And
9 how close were you to the bar?

10 MR. MOLLOY: Six feet away from
11 the corner of the bar. The bar is extremely
12 close to the entrance at Bistro 18.

13 CHAIRPERSON MILLER: Okay. And
14 was it a female customer, a male customer?

15 MR. MOLLOY: They were both male
16 customers.

17 CHAIRPERSON MILLER: Two customers
18 got served?

19 MR. MOLLOY: Well, I believe I
20 have photos of two different beers and they
21 were both in front of male customers. I only
22 actually saw the service of one. The other

1 beer was sitting out there --

2 CHAIRPERSON MILLER: Right.

3 MR. MOLLOY: -- at the moment I
4 entered.

5 CHAIRPERSON MILLER: But you
6 actually did see service?

7 MR. MOLLOY: Yes.

8 CHAIRPERSON MILLER: Okay. Did
9 you see any other service, or that was it?

10 MR. MOLLOY: That was it.

11 CHAIRPERSON MILLER: Okay.

12 MR. MOLLOY: And then -- yes.
13 Once I identified myself, it was pretty much
14 no one did anything until I spoke with the
15 owner.

16 CHAIRPERSON MILLER: Right. Okay.
17 Yes?

18 MEMBER ALBERTI: Just one further
19 question.

20 MR. MOLLOY: Okay.

21 MEMBER ALBERTI: How many patrons
22 approximately did you see in the

1 establishment?

2 MR. MOLLOY: At the bar area,
3 because when you walk in there's a bar
4 immediately to your right --

5 MEMBER ALBERTI: All right.

6 MR. MOLLOY: -- and a wall on your
7 left. And then if you go a few steps farther
8 in, there's a doorway and a much bigger area.
9 At the bar maybe three customers. There could
10 have been one more person other than the two
11 with beers that I saw. Around the corner
12 there was probably a dozen.

13 MEMBER ALBERTI: Okay. Would you
14 say at least a dozen, or was that
15 approximately a dozen?

16 MR. MOLLOY: Approximately a
17 dozen.

18 MEMBER ALBERTI: Okay. A dozen?
19 Okay. Now other than the Heineken that you
20 saw did you see any other open containers?

21 MR. MOLLOY: Well, there was the
22 only other beer that was on the bar. In the

1 larger room there were glasses, but they could
2 have been water. There was nothing that you
3 could really identify as an alcoholic
4 beverage. And mostly the activity that
5 appeared to be going on in that room was
6 hookah smoking.

7 MEMBER ALBERTI: Okay. Thank you
8 very much.

9 CHAIRPERSON MILLER: How many
10 people did you see enter the establishment at
11 1:45?

12 MR. MOLLOY: It was just a couple.
13 I would say no more than four. Could have
14 been three.

15 CHAIRPERSON MILLER: Okay. And
16 did you see them go to any part of the
17 establishment?

18 MR. MOLLOY: They walked in in
19 front of me and went into that room where
20 mostly hookah smoking was going on.

21 CHAIRPERSON MILLER: Where the
22 hookah was?

1 MR. MOLLOY: Yes.

2 CHAIRPERSON MILLER: Okay. All
3 right. Any other questions? Mr. Jones?

4 MEMBER JONES: Thank you, Madam
5 Chair. Just really quickly.

6 How did you identify yourself when
7 you walked in the establishment?

8 MR. MOLLOY: I found eh first
9 employee I could, which was a man standing
10 near the door. I took out my badge with my
11 photo ID. I kept them together where I could
12 unfold the book and show both at the same
13 time.

14 MEMBER JONES: Yes.

15 MR. MOLLOY: Told them my name and
16 that I was an ABRA investigator and that I
17 wanted to speak with an ABC licensed manager
18 or owner. And then he went and got the owner.

19 MEMBER JONES: Okay. And then
20 what happened immediately after that?

21 MR. MOLLOY: Immediately after
22 that I re-identified myself to the owner and

1 told him why I was there and that I suspected
2 they were serving after hours. And we looked
3 at the license. And at that time he
4 apologized, said, you know, they would
5 definitely not do it. And he was very
6 cooperative, but almost admitting that he knew
7 they had screwed up and they wouldn't be
8 serving any more drinks.

9 MEMBER JONES: Okay. And is that
10 individual here today that you spoke with?

11 MR. MOLLOY: Yes.

12 MEMBER JONES: Okay. And I'm
13 assuming it's the Licensee that's at the
14 table?

15 MR. MOLLOY: Yes.

16 MEMBER JONES: It is? That's who
17 you spoke with?

18 MR. MOLLOY: Yes.

19 MEMBER JONES: Okay. What actions
20 did they take once the owner expressed his
21 remorse, or however it is you would
22 characterize it? Once you had that

1 conversation and your conversation concluded,
2 what actions did you see them take, or did you
3 see anything?

4 MR. MOLLOY: They removed those
5 two beers from the customers.

6 MEMBER JONES: Okay. So they
7 understood? Did you tell them that they
8 needed to remove the beers from those
9 customers?

10 MR. MOLLOY: What I specifically
11 discussed was that their license -- where it
12 says sales, we enforce as sales, service and
13 consumption. And he apologized and had the
14 beers taken away because I said you can't have
15 service of consumption after 1:30.

16 MEMBER JONES: Okay. So you
17 articulated to him, made it clear that it
18 included sales, service and consumption?

19 MR. MOLLOY: I used those three
20 words several times.

21 MEMBER JONES: Those three words?
22 Okay. And then from there his actions

1 resulted in the items being removed?

2 MR. MOLLOY: Yes.

3 MEMBER JONES: Did you hear him
4 make an announcement or specifically go to
5 individuals and communicate what direction he
6 wanted them to take?

7 MR. MOLLOY: Yes, he informed the
8 bartender. I didn't hear exactly what he
9 said, but he said something to the bartender
10 away from me and then the beers were removed.

11 MEMBER JONES: Okay. Thank you.
12 Thank you, Madam Chair.

13 CHAIRPERSON MILLER: Okay. Any
14 other Board questions?

15 (No audible response.)

16 CHAIRPERSON MILLER: Are there
17 questions on Board questions?

18 MR. HURWITZ: No.

19 CHAIRPERSON MILLER: Okay. Thank
20 you very much.

21 MR. MOLLOY: Thank you.

22 CHAIRPERSON MILLER: All right.

1 Does that conclude your case?

2 MS. SCHMIDT: That concludes the
3 District's case.

4 CHAIRPERSON MILLER: Okay.

5 MS. SCHMIDT: There will be some
6 argument later though.

7 CHAIRPERSON MILLER: Okay.

8 MR. HURWITZ: I'd like to call the
9 Applicant to testify.

10 Would you identify yourself,
11 please?

12 MR. GHULAIS: Sami Ghulais, the
13 owner of Bistro 18.

14 CHAIRPERSON MILLER: And do you
15 swear to tell the truth, the whole truth,
16 nothing but the truth?

17 MR. GHULAIS: I swear I tell all
18 the truth.

19 CHAIRPERSON MILLER: Okay. Thank
20 you. Have a seat.

21 MR. HURWITZ: Mr. Ghulais, were
22 you present the night that Investigator Molloy

1 came in?

2 MR. GHULAIS: yes.

3 MR. HURWITZ: And after he
4 identified himself did you do anything
5 regarding what his comments were regarding the
6 -- did you explain why there was alcohol out
7 or anything to that extent?

8 MR. GHULAIS: Yes, he was outside
9 for five minutes and we know him. And like --

10 MEMBER ALBERTI: Could you speak
11 up, please, so we can all hear?

12 MR. GHULAIS: He was five minutes
13 outside of the door. He didn't come in right
14 away. So he was waiting there. And I saw
15 him. And I already know him, so there is
16 nothing happen. I told him do not think
17 anything. Everything's okay. He came.

18 MR. HURWITZ: But you saw him
19 outside before?

20 MR. GHULAIS: I saw him five
21 minute. The three people, they come. They're
22 already there at the hookah section.

1 MR. HURWITZ: Yes.

2 MR. GHULAIS: So they were just
3 outside. They smoke cigarette outside because
4 I don't allow it. So after they finish, they
5 come inside.

6 MR. HURWITZ: Speak up, please.

7 MR. GHULAIS: The three people,
8 they came in. They were already inside. So
9 they get -- I mean they get in after they
10 finish their cigarettes. So they getting
11 back. And he came after them.

12 When he came, he identify himself
13 and I told him, yes, I know. You don't need
14 to -- I already know him before. So he told
15 me you know you're serving alcohol at 1:45?
16 I said, you know, we are not serving at 1:45.
17 We stopped serving alcohol at 1:30, but we
18 cannot take all the like empty bottle or all
19 the -- at the same time. It's going to be
20 like 10, 15 minutes at least until we take
21 everything.

22 There is couple of bottle of

1 Heineken bottle. They were there. And one of
2 the bartenders, when the investigator identify
3 himself, they know that's him. But I know
4 even outside I saw him before that and I
5 didn't say anything because I wasn't serving.
6 So he took a picture of the bottle, of the
7 Heineken bottle, which is -- the bartender was
8 going to take it. I told him do not take it.
9 I mean don't touch it. And he took the
10 pictures. And I explained to him that it was
11 -- the selling alcohol was 1:30 and those
12 people, they were sitting there.

13 Actually the one of the customer
14 even he tried to explain that he's been
15 drinking from long time, from 12:30 there, but
16 he doesn't talk to him. And I told him just
17 to stop. The customer had told him to stop,
18 stay away from there. And we were just
19 talking, me and him. But he tried to explain
20 to him this bottle was before 1:30.

21 MR. HURWITZ: And what was your
22 policy on service of alcohol at that time?

1 MR. GHULAIS: 1:25 last call.

2 MR. HURWITZ: And then you would
3 allow the customers to consume their last
4 call?

5 MR. GHULAIS: Well, 1:25 last
6 call. I do not serve any drink after 1:25,
7 but sometimes it's hard to take the drink from
8 the customer. We always take like -- we
9 always get problem because of this, because
10 sometimes you don't even let them pay the --
11 I mean whatever they order because we have to
12 take it fast.

13 MR. HURWITZ: But you don't allow
14 customers to order after the last call?

15 MR. GHULAIS: No.

16 MR. HURWITZ: And you don't serve
17 new service after the last call?

18 MR. GHULAIS: No, I don't even
19 allowed customer to come after 1:25. I don't
20 allow them to come in. And people he saw,
21 like I said, they were there already inside.
22 They just --

1 MR. HURWITZ: They had gone out to
2 have a cigarette and had come back in?

3 MR. GHULAIS: They come out and --
4 yes.

5 MR. HURWITZ: Okay. Thank you.
6 No further questions.

7 CHAIRPERSON MILLER: Cross?

8 MS. SCHMIDT: Yes. Is your
9 testimony that the bartender did not give any
10 fresh Heinekens to any of the customers after
11 1:25 that night?

12 MR. GHULAIS: No.

13 MS. SCHMIDT: So you're saying
14 that Former Investigator Molloy, what he saw
15 was not true?

16 MR. GHULAIS: There was a bottle
17 of -- it's already has been there. It was a
18 Heineken. It has beer on it, but it was
19 already there.

20 MS. SCHMIDT: Okay. And --

21 MR. GHULAIS: And I was at the
22 bar.

1 MS. SCHMIDT: Yes.

2 MR. GHULAIS: When he came I was
3 sitting at the bar, because I saw it on my own
4 eyes. I mean like I was sitting at the bar
5 when he came and I saw him outside before he
6 came in.

7 MS. SCHMIDT: And are aware of an
8 amendment to the voluntary agreement in 2011?

9 MR. GHULAIS: Yes.

10 MS. SCHMIDT: Did you sign that
11 amendment?

12 MR. GHULAIS: Yes.

13 MS. SCHMIDT: And did that
14 amendment state the hours for sales, service
15 and consumption from 8:00 on Sunday to be
16 10:00 until 1:30 a.m.?

17 MR. GHULAIS: Yes.

18 MS. SCHMIDT: But yet you served
19 after 1:30 that Sunday, correct?

20 MR. GHULAIS: I serve what?

21 MS. SCHMIDT: There was a beer in
22 your establishment that was served --

1 MR. GHULAIS: Yes.

2 MS. SCHMIDT: -- after 1:30 a.m.?

3 MR. GHULAIS: But it wasn't served
4 after 1:30. It was before that.

5 MS. SCHMIDT: No further questions
6 of this witness.

7 CHAIRPERSON MILLER: Okay. Board
8 Members? Mr. Alberti?

9 MEMBER ALBERTI: Mr. Ghulais, at
10 the time that the investigator came in was
11 anyone consuming alcohol?

12 MR. GHULAIS: No. You mean
13 consuming --

14 MEMBER ALBERTI: You testified --

15 MR. GHULAIS: I'm sorry, you mean
16 consuming like drinking alcohol? I mean --

17 MEMBER ALBERTI: Yes.

18 MR. GHULAIS: -- I just want to
19 understand that.

20 MEMBER ALBERTI: Yes.

21 MR. GHULAIS: Yes.

22 MEMBER ALBERTI: They were?

1 MR. GHULAIS: Yes.

2 MEMBER ALBERTI: All right. No
3 further questions.

4 CHAIRPERSON MILLER: So you were
5 sitting at the bar at 1:45?

6 MR. GHULAIS: Yes, ma'am.

7 CHAIRPERSON MILLER: And were you
8 watching the bartender?

9 MR. GHULAIS: Yes.

10 CHAIRPERSON MILLER: So you know
11 for a fact that he didn't serve a beer?

12 MR. GHULAIS: Yes. But I know for
13 a fact that it's a couple of -- all -- they're
14 out -- they were -- at that time they always
15 trying to get the beer and get all the glasses
16 to the bar and tell the customer we cannot --

17 CHAIRPERSON MILLER: Is it
18 possible they had served a bottle of beer
19 before and then poured it into the glass at
20 1:45?

21 MR. GHULAIS: Oh, I would see
22 that, because I was sitting at the bar.

1 CHAIRPERSON MILLER: Right.

2 MR. GHULAIS: I wasn't sitting
3 nowhere. I was sitting in front of them.

4 CHAIRPERSON MILLER: No, so I'm
5 asking you can that happen?

6 MR. GHULAIS: No, didn't happen.

7 CHAIRPERSON MILLER: That the beer
8 was already purchased but it --

9 MR. GHULAIS: Yes.

10 CHAIRPERSON MILLER: -- was served
11 at -- poured into the glass?

12 MR. GHULAIS: No, it was serving
13 before 1:45. It was serving at 1:30. At 1:30
14 that's -- 1:25 my last call. After 1:30 I do
15 not serve anything. And I always make
16 announcement, tell the bartender to make
17 announcement before that. Actually most of
18 the time I do it 1:15 so they can have time to
19 serve the customer.

20 CHAIRPERSON MILLER: Okay. Mr.
21 Silverstein?

22 MEMBER SILVERSTEIN: Mr. Ghulais,

1 you made some comment about someone getting a
2 Heineken that was already there? Help me out
3 with that. What do you mean?

4 MR. GHULAIS: The Heineken being
5 served before 1:30. So there are a couple of
6 people, they were at the bar. Actually they
7 were not far from me. So the Heinekens being
8 served before that. But they were drink it,
9 yes, at 1:45, because we always get -- have
10 time to -- I mean to get the stuff back, or
11 they have to finish it. They turn it off and
12 give us 5 minutes or 10 minutes to finish it.
13 But the Heineken was serving before even 1:30.

14 MEMBER SILVERSTEIN: So did the
15 bartender touch it? Did the bartender give it
16 to him? Move it? I don't quite understand.

17 MR. GHULAIS: They tried to move
18 it and I said no, nobody even -- he took a
19 picture, the investigator took a picture and
20 I told them nobody touch anything. Return
21 back anything if you took. He has to see
22 everything. So, and that's what they -- they

1 did not touch anything and he took a picture
2 of.

3 MEMBER SILVERSTEIN: No further
4 questions.

5 CHAIRPERSON MILLER: Mr. Jones?

6 MEMBER JONES: Thank you, Madam
7 Chair. What is your understanding or what
8 policy have you trained your staff on
9 regarding the sales, service and consumption
10 of alcohol related to your 1:30 --

11 MR. GHULAIS: Yes, what I train
12 them, at 1:15 they have to do the last call.
13 At 1:30 they -- like they should not get any
14 order after 1:25, actually, because you have
15 five minutes you have to at least to do your
16 -- even shots. After 1:15 it's only shots.
17 That's what he do until --

18 MEMBER JONES: So just to be
19 clear, is it 1:15 or 1:25?

20 MR. GHULAIS: We supposed to do it
21 1:25, but it always take like more time
22 because they have to get more time to -- you

1 know, to make it together and serve it to the
2 customer.

3 MEMBER JONES: Okay. So I just
4 want to pause you for a second. I'm going to
5 let you finish, but I just want to make sure
6 I'm clear. So you've trained your staff to do
7 what at 1:15? No sale after 1:15, or they can
8 sell shots only after 1:15?

9 MR. GHULAIS: No, 1:15 last call.

10 MEMBER JONES: Okay. So 1:15 is
11 last call?

12 MR. GHULAIS: They always announce
13 at the bar and the other, the dining 1:15 is
14 last call.

15 MEMBER JONES: Okay. So 1:15 is
16 last call?

17 MR. GHULAIS: If somebody come and
18 order, they have this 10, 15 minutes to make
19 it for them and serve them.

20 MEMBER JONES: Okay. So the
21 difference between the 1:15 and the 1:25, you
22 make last call at 1:15?

1 MR. GHULAIS: Yes.

2 MEMBER JONES: You can sell up to
3 1:25?

4 MR. GHULAIS: Yes.

5 MEMBER JONES: What happens at
6 1:25?

7 MR. GHULAIS: We stop serving
8 alcohol.

9 MEMBER JONES: Okay.

10 MR. GHULAIS: So we stop serving
11 alcohol, but we try to -- we always give them
12 time to finish their drink. So we start to
13 collect the bottle and everything. Until 2:00
14 we have -- I mean 1:50 we have to let
15 everybody get out of the establishment.

16 MEMBER JONES: Okay. So what have
17 you trained your staff on when they should
18 have all the bottles cleared from the tables?

19 MR. GHULAIS: The most, because
20 they always get have time. The most I tell
21 them 1:45. At the most.

22 MEMBER JONES: Okay. So based on

1 how you've trained your staff, patrons are
2 allowed to have alcohol in bottles, glasses or
3 what have you at your establishment up until
4 1:45?

5 MR. GHULAIS: Yes, sir.

6 MEMBER JONES: Which means based
7 on how you've trained your staff patrons in
8 your establishment are allowed to consume
9 alcohol up until 1:45?

10 MR. GHULAIS: Yes, sir.

11 MEMBER JONES: Okay. Thank you.
12 Oh, just to be clear: On that night were
13 patrons allowed to consume alcohol up until
14 1:45?

15 MR. GHULAIS: Yes.

16 MEMBER JONES: Okay. Thank you.
17 Thank you, Madam Chair.

18 CHAIRPERSON MILLER: Okay.

19 Others?

20 (No audible response.)

21 MR. HURWITZ: Could I have one
22 follow-up question?

1 CHAIRPERSON MILLER: Yes, follow-
2 up to Board questions. Yes.

3 MR. HURWITZ: Follow-up to his
4 questions.

5 CHAIRPERSON MILLER: Yes.

6 MR. HURWITZ: Mr. Ghulais, at the
7 time in November 2012 were you operating under
8 a voluntary agreement that was executed --

9 MR. GHULAIS: Yes.

10 MR. HURWITZ: -- back in 2002?

11 MR. GHULAIS: Yes.

12 MR. HURWITZ: And was that
13 voluntary agreement approved by eh Board, this
14 Board?

15 MR. GHULAIS: Yes.

16 MR. HURWITZ: And was made part of
17 your license?

18 MR. GHULAIS: Yes.

19 MR. HURWITZ: And did that
20 agreement provide that on Sunday through
21 Thursday the hours of operation shall be until
22 2:00 a.m.?

1 MR. GHULAIS: Yes.

2 MR. HURWITZ: And did that
3 agreement provide that the last call would be
4 at 1:25?

5 MR. GHULAIS: Yes, sir.

6 MR. HURWITZ: And did that
7 agreement provide that you would discontinue
8 service of alcohol at 1:30?

9 MR. GHULAIS: Yes.

10 MR. HURWITZ: And have you
11 understood that to mean that you could
12 continue to allow guests to consume alcohol
13 until they finished their drinks up until --

14 MR. GHULAIS: They finish their
15 drink.

16 MR. HURWITZ: -- 2:00 at the
17 latest?

18 MR. GHULAIS: Yes, but we doing it
19 1:45 just in case. Yes.

20 MR. HURWITZ: Okay. But that was
21 your understanding --

22 MR. GHULAIS: Yes.

1 MR. HURWITZ: -- of how you should
2 be operating?

3 MR. GHULAIS: Yes, sir.

4 MR. HURWITZ: Thank you very much.

5 CHAIRPERSON MILLER: Ms. Schmidt,
6 do you have any follow-up questions?

7 MS. SCHMIDT: No, I do not.

8 CHAIRPERSON MILLER: I do I guess
9 based on that question. So there's also been
10 brought to our attention an amendment to the
11 voluntary agreement, which is attached to the
12 investigator's report, I guess, in 00734
13 that's dated May 4th, 2011. Were you
14 operating pursuant to that voluntary
15 agreement? Didn't this case take place in
16 2012?

17 MR. GHULAIS: Say that again,
18 please?

19 CHAIRPERSON MILLER: When did this
20 incident take place?

21 MR. GHULAIS: It's 2012.

22 MR. HURWITZ: November 2012.

1 MR. GHULAIS: November 2012.

2 CHAIRPERSON MILLER: That's what I
3 thought. Okay. So there's in the file an
4 amendment to the voluntary agreement dated May
5 4th, 2011. Were you also operating pursuant
6 to that agreement?

7 MR. GHULAIS: Yes, ma'am.

8 CHAIRPERSON MILLER: Okay.

9 MR. HURWITZ: If I may?

10 CHAIRPERSON MILLER: It's just
11 questions right now though. Okay.

12 MR. HURWITZ: Just a point of
13 information for you that that agreement you're
14 referring to was not approved until January
15 16th, 2013, in accordance to your own records.
16 I have a copy here which I'd be happy to --

17 CHAIRPERSON MILLER: No, you can
18 hold that for your case. When you're ready to
19 offer documents as evidence. We are in your
20 case. You can show it to the opposing counsel
21 and then ask to move it in. Yes, if you want
22 to do that now or whenever you're finished

1 with your witnesses.

2 MR. HURWITZ: Okay. I'd like to
3 show you a copy of the amended agreement that
4 I can refer to dated May 4th, 2011 and ask if
5 you can identify that. Are you familiar with
6 that?

7 MR. GHULAIS: Yes.

8 MR. HURWITZ: And you signed that
9 agreement?

10 MR. GHULAIS: I signed.

11 MR. HURWITZ: And that agreement
12 was ultimately countersigned by others and
13 submitted to the Board?

14 MR. GHULAIS: That's right.

15 MR. HURWITZ: To the ABC Board.
16 And can you tell us, according to the records
17 that I'm showing you, when the ordered
18 approval of that?

19 MR. GHULAIS: Yes, the 16 day of
20 January, 2013.

21 MR. HURWITZ: And since that time
22 have you been operating under the terms of

1 this --

2 MR. GHULAIS: No.

3 MR. HURWITZ: -- amended

4 agreement?

5 MR. GHULAIS: No. You mean --

6 MR. HURWITZ: Since January?

7 MR. GHULAIS: No.

8 MR. HURWITZ: Well, now this is

9 the agreement that's in --

10 MR. GHULAIS: Since -- yes.

11 MR. HURWITZ: Right.

12 MR. GHULAIS: I mean yes I've been
13 doing that.

14 MR. HURWITZ: Right. Okay. I'd
15 like to offer this copy of the ABC Board's
16 order into evidence. Any objection?

17 MS. SCHMIDT: No objection.

18 CHAIRPERSON MILLER: Okay. Did
19 you have another question?

20 MR. HURWITZ: Mr. Ghulais, since
21 this violation what steps have you taken in
22 order to prevent further or future violations

1 of any ABC regulations or operating
2 requirements? Have you taken any steps?

3 MR. GHULAIS: Yes, what I did
4 right now I'm trying to like 1:35 there is not
5 alcohol inside the establishment at all. At
6 1:35. And beside that I'm trying to extend,
7 which is -- we've been doing it for long time,
8 me and you, but that's all I could do for --
9 at this time.

10 MR. HURWITZ: Have you taken any
11 classes or training or courses?

12 MR. GHULAIS: Yes. Yes, with --

13 MR. HURWITZ: What kind of
14 training or classes have you taken?

15 MR. GHULAIS: It's some bartending
16 classes with Ms. Ruth. She has a school in
17 Columbia called --

18 MR. HURWITZ: Have you since
19 become certified?

20 MR. GHULAIS: Yes.

21 MR. HURWITZ: And have you had
22 your staff certified since this event also?

1 MR. GHULAIS: Yes.

2 MR. HURWITZ: They've been through
3 training?

4 MR. GHULAIS: Yes, I've been for
5 training.

6 MR. HURWITZ: No further
7 questions.

8 CHAIRPERSON MILLER: Okay. Mr.
9 Jones, did you have another question?

10 MEMBER JONES: I'll wait, thank
11 you.

12 CHAIRPERSON MILLER: Oh, okay.
13 Any questions on Board questions?

14 MS. SCHMIDT: No.

15 CHAIRPERSON MILLER: All right.
16 Thank you.

17 MR. GHULAIS: Thank you.

18 CHAIRPERSON MILLER: Did you have
19 another witness or is that it?

20 MR. HURWITZ: That's all. Thank
21 you.

22 CHAIRPERSON MILLER: Okay. All

1 right. And it seems like all the documents
2 that have been referenced are probably in our
3 records anyway. Okay. So no one needs to
4 move any documents in at this time?

5 (No audible response.)

6 CHAIRPERSON MILLER: All right.
7 Then I think we're ready for closing.

8 MS. SCHMIDT: Yes, the Government
9 has proved its case through the testimony of
10 Investigator Molloy. Investigator Molloy
11 specifically stated that first of all he was
12 attracted by the bar by the fact that patrons
13 were entering the bar after the hours of
14 operation.

15 Moreover, 25-723 of the D.C. Code,
16 when it states about hours of sale, it says in
17 (b), "except as provided in 25-724," blah,
18 blah, blah, "the Licensee under an on-premises
19 retailer's license or temporary license may
20 sell or serve alcohol." "Serve" is the
21 operative word. It is in the statute itself.
22 And Investigator Molloy stated that he saw an

1 employee from behind the bar place a fresh
2 beer, a fresh Heineken in front of patrons,
3 which constitutes service after 1:30 p.m.

4 Moreover, the license itself
5 states the hours of operation are until 1:30
6 a.m., and the terms of the license govern over
7 any settlement agreement. For example, if you
8 have a situation where parties can agree --
9 parties can agree to certain matters, but they
10 still have to comply with the law. The best
11 example of this is if a voluntary agreement
12 states that an establishment have music that
13 night, even though it's in the voluntary
14 agreement, and even if that's approved by eh
15 Board, unless an entertainment endorsement is
16 obtained, they cannot provide the music. In
17 much the same way, unless the parties agree,
18 and the license, itself to extend the hours,
19 then they cannot be extended.

20 So no matter what the voluntary
21 agreement said, and even if the voluntary
22 agreement may have said one thing, and the

1 District contends that by the signing of the
2 amendment Mr. Ghulais was aware of the fact
3 that the service hours were to end at 1:30,
4 that by serving the Heinekens on that evening
5 he has violated 25-823 and thus should be
6 found in violation of that section.

7 CHAIRPERSON MILLER: Thank you.

8 MR. HURWITZ: Yes, Madam Chairman
9 and Members of the Board, this matter I
10 believe is one of contradictory understanding
11 and confusing language. The voluntary
12 agreement that was executed in October of 2002
13 specifically provided that the hours of
14 operation shall be until 2:00 in the morning
15 and that last call would be at 1:25. That
16 voluntary agreement was submitted to this
17 Board or the Board acting at that time and it
18 was approved and incorporated and made part of
19 eh license.

20 The operator was operating with
21 the good faith and good intention of abiding
22 by what he believed and he understood to be

1 the rules of his operation and he in fact
2 conducted last call no later than 1:25 and
3 stopped the service of new alcohol after 1:30,
4 but allowed his customers to continue to
5 consume whatever they had ordered before the
6 1:25 cutoff time. I think that it would be
7 unfair ad hold him responsible for a violation
8 of a statute when he was operating in good
9 faith under the belief that he was abiding by
10 eh ABC Board's ordered voluntary agreement.

11 And the license itself provided
12 for operations until 2:00 and sales until 1:30
13 and does not restrict by its language the
14 consumption after 1:30, between the period of
15 1:30 and 2:00. And there was no intentional
16 violation in this matter and I would ask that
17 the Board rule as such.

18 CHAIRPERSON MILLER: Is there
19 rebuttal?

20 MS. SCHMIDT: Yes. As to the
21 acting in good faith, six days beforehand ABRA
22 investigators were in Mr. Ghulais'

1 establishment and he was aware of the fact
2 that his hours of operation ended at 1:30. So
3 therefore, he cannot say in good faith --

4 MR. HURWITZ: Objection. There's
5 no testimony to that effect in the matter.

6 MS. SCHMIDT: It's in the --

7 MR. GHULAIS: There's no evidence
8 to that effect.

9 CHAIRPERSON MILLER: Okay. If
10 there's no evidence, there's no evidence. Go
11 ahead.

12 MS. SCHMIDT: Okay. The District
13 asks that the Board take official notice of
14 the fact that there had been a violation six
15 days prior this violation.

16 CHAIRPERSON MILLER: Okay.

17 MR. HURWITZ: I object to that
18 comment.

19 CHAIRPERSON MILLER: Your
20 objection is noted.

21 Okay. I'm going to close the
22 record now. Do the parties want to file

1 proposed findings of facts and conclusions of
2 law, or waive their right to do so?

3 MS. SCHMIDT: District waives its
4 right.

5 MR. HURWITZ: We waive our right.

6 CHAIRPERSON MILLER: Okay. So
7 after we complete the other case, I'm going to
8 be reading instructions and taking a vote on
9 the Board deliberating in closed session, both
10 cases, pursuant to the Open Meetings Act. So
11 I'm just going to say at this point that we
12 will issue an order on this case within 90
13 days, a written order.

14 So now we have the other case to
15 go to.

16 MR. HURWITZ: I would like to note
17 an objection to going onto the second case
18 while this case has not been resolved, because
19 I'm concerned that any evidence that might be
20 admitted into the second case, or testimony,
21 could influence and get confused with the
22 testimony of this case. And I would ask that

1 the Court postpone any further hearing on the
2 second pending matter until you resolve this
3 -- until you make a decision on this case,
4 because I think they're going to get confused.

5 CHAIRPERSON MILLER: Ms. Schmidt,
6 do you have --

7 MS. SCHMIDT: Yes, the District
8 would object to that. The District is ready
9 and prepared, and in fact has a witness who
10 came in on his own who is no longer an
11 employee of ABRA. Therefore, we would ask in
12 fairness to him also that this testimony will
13 be allowed today.

14 CHAIRPERSON MILLER: Okay. Unless
15 Board Members feel otherwise, I think that we
16 can proceed and keep the two cases separate.
17 Board Members, anybody have an objection to
18 that?

19 MEMBER SILVERSTEIN: No objection.

20 CHAIRPERSON MILLER: Okay. All
21 right. I'm going to call then --

22 MR. HURWITZ: Can I ask for a few-

1 minute break?

2 CHAIRPERSON MILLER: Yes, okay.

3 How many? Five minutes?

4 MR. HURWITZ: Five minutes is
5 fine. Thank you.

6 CHAIRPERSON MILLER: Okay. Can I
7 ask before you break, because I know there's
8 another case waiting that was scheduled for
9 4:30, do you have an idea as to how long based
10 on this case this one will take?

11 MR. HURWITZ: The other case will
12 take longer because there are several charges
13 in it.

14 MS. SCHMIDT: Yes. We're probably
15 talking 20 minutes on testimony.

16 CHAIRPERSON MILLER: Twenty
17 minutes with the Government?

18 MS. SCHMIDT: Yes.

19 MR. HURWITZ: Ten, fifteen
20 minutes. Let's say 20 minutes between cross-
21 examination and direct.

22 CHAIRPERSON MILLER: Okay. All

1 right. Thank you. I just want to let the
2 other party --

3 MR. HURWITZ: I thought maybe you
4 wanted to bring the other case forward.

5 MS. PHILLIPS: Madam Chair, both
6 parties are here for the last case, and that
7 case may take five minutes --

8 CHAIRPERSON MILLER: Really?

9 MS. PHILLIPS: -- because Ms.
10 Abeba Beyene has stipulated to the fact that
11 she paid late.

12 CHAIRPERSON MILLER: Okay.

13 MS. PHILLIPS: That would preclude
14 any testimony of any witnesses and we'd just
15 go to --

16 CHAIRPERSON MILLER: All right.
17 If you all don't have an objection, I think
18 that makes sense.

19 MR. HURWITZ: Thank you.

20 CHAIRPERSON MILLER: Okay. Then
21 you can have a little time to prepare your
22 case. All right.

1 (Whereupon, at 4:31 p.m. off the
2 record until 4:43 p.m.)

3 CHAIRPERSON MILLER: All right
4 then. We're going to be proceeding with Case
5 No. 13-CMP-00035, I believe.

6 MS. SCHMIDT: Yes.

7 CHAIRPERSON MILLER: Okay. Bistro
8 18 again.

9 MS. SCHMIDT: Oh, for the record,
10 Amy Schmidt, Assistant Attorney General on
11 behalf of the District of Columbia.

12 MR. HURWITZ: Ely Hurwitz
13 representing Bistro 18.

14 MR. GHULAIS: Sami Ghulais, the
15 owner of Bistro 18.

16 CHAIRPERSON MILLER: Okay. Any
17 preliminary issues?

18 MS. SCHMIDT: None in this case.

19 CHAIRPERSON MILLER: Okay. And
20 you're going to have one witness, is that
21 right, Ms. Schmidt?

22 MS. SCHMIDT: Yes.

1 CHAIRPERSON MILLER: Okay. And
2 how about you, Mr. Hurwitz? How many
3 witnesses do you expect to have?

4 MR. HURWITZ: Two.

5 CHAIRPERSON MILLER: Two? Okay.
6 All right. Opening statements?

7 MS. SCHMIDT: Yes, today the
8 Government will show that on Sunday, December
9 30th, 2012 at approximately 1:45 a.m.
10 Investigator Brian Molloy, who was accompanied
11 by Former Investigator Josena Mackenzie, went
12 to Bistro 18. Bistro 18 is part of the
13 compliance for the Adams Morgan Initiative.
14 And when Investigator Molloy looked through
15 the window he saw patrons with glasses and
16 beer bottles in front of them. He went inside
17 and inside the establishment at that time the
18 -- when one of the investigators attempted to
19 take a picture of these bottles, one of Mr.
20 Ghulais' employees interfered with the taking
21 of that picture.

22 And also when Investigator Molloy,

1 as part of the regulatory inspection, as part
2 of this visit asked to find a voluntary
3 agreement, a voluntary agreement was not made
4 accessible to him in violation of 25-711(a)
5 2001.

6 CHAIRPERSON MILLER: Okay. Mr.
7 Hurwitz?

8 MR. HURWITZ: Yes, good afternoon.
9 In this case, again the violation is cited to
10 have taken place at 1:45 a.m. and the details
11 of the violation is that there was consumption
12 occurring during that time. And it's the
13 Licensee's position that at that time under
14 the terms of the ABC license that was amended
15 by the voluntary agreement in force at that
16 time allowed consumption to continue until
17 2:00 in the morning and that therefore there
18 is no violation as a matter of fact and law.

19 With regard to the allegation of
20 interference with the investigator, I'd like
21 ad point out that whatever occurred occurred
22 between the investigator and a woman, a girl,

1 and that it is not anything in a threatening
2 nature or an intimidating nature or a
3 harassing nature. It was just an employee
4 apparently who took it upon herself to remove
5 some glasses or beer bottles while the
6 investigator asked her to stop. We don't
7 support any action that interferes with proper
8 investigation. We did not support that
9 activity, whatever occurred.

10 With regard to the charge, failure
11 to timely produce a voluntary agreement, I
12 think it's a specious charge. The voluntary
13 agreement has always been in the picture frame
14 with the license and it takes time to just get
15 the picture frame down from the wall and
16 remove the backing and obtain the copy of the
17 voluntary agreement. There was no indication
18 or reality that there was any interference
19 with the investigation or with producing the
20 document. And in fact, it was produced. It
21 just took a few minutes to produce it. And
22 these charges are really unfounded. No

1 further comments.

2 CHAIRPERSON MILLER: Okay. Thank
3 you.

4 Okay. Ms. Schmidt, when you're
5 ready.

6 MS. SCHMIDT: The Government calls
7 Brian Molloy.

8 Oh, prior to that, based on the
9 opening statement is the Licensee conceding
10 the fact that there was an interference with
11 the investigation based on the opening
12 statement?

13 MR. HURWITZ: No.

14 MS. SCHMIDT: Thank you.

15 CHAIRPERSON MILLER: Okay. Here
16 we go again. Do you swear to tell the truth,
17 the whole truth, nothing but the truth?

18 MR. MOLLOY: I do.

19 CHAIRPERSON MILLER: Okay. Thank
20 you.

21 MS. SCHMIDT: And can you please
22 state your name for the record?

1 MR. MOLLOY: My name is Brian
2 Molloy, spelled B-R-I-A-N, M-O-L-L-O-Y.

3 MS. SCHMIDT: And were you
4 previously employed by ABRA?

5 MR. MOLLOY: Yes, I was.

6 MS. SCHMIDT: And in what capacity
7 were you employed by ABRA?

8 MR. MOLLOY: I was employed as an
9 investigator for ABRA.

10 MS. SCHMIDT: And were you
11 employed as an investigator on Sunday,
12 December 30th, 2012 by ABRA?

13 MR. MOLLOY: Yes, I was.

14 MS. SCHMIDT: And at that time
15 what were your duties that evening?

16 MR. MOLLOY: On that evening I was
17 assigned to something we were calling the
18 Adams Morgan Initiative and it was a stepped-
19 up enforcement and presence of ABRA
20 investigators in the Adams Morgan
21 neighborhood, especially around the holidays
22 between Christmas and New Years. So that

1 evening I spent a great deal of time in the
2 Adams Morgan neighborhood including the block
3 where Bistro 18 is located.

4 MS. SCHMIDT: And you say an
5 increased presence. What were you looking for
6 then?

7 MR. MOLLOY: We were monitoring
8 all the establishments for compliance with
9 general D.C. Code and then also their specific
10 licenses and voluntary agreements.

11 MS. SCHMIDT: And were you there
12 at approximately 1:45 a.m. that morning?

13 MR. MOLLOY: Yes, at approximately
14 1:45 a.m. I was just outside Bistro 18 with
15 Investigator Josena Mackenzie who was working
16 with me that evening.

17 MS. SCHMIDT: And are you familiar
18 with Bistro 18?

19 MR. MOLLOY: Yes, I was familiar
20 with Bistro 18 because on previous shifts I
21 had had other investigations at Bistro 18,
22 specifically involving them operating later

1 than their hours or having sales, service and
2 consumption after their hours on their
3 license.

4 MS. SCHMIDT: So when you went in
5 there what did you see that evening at Bistro
6 18?

7 MR. MOLLOY: Approximately 1:45
8 when I was outside of Bistro 18 with
9 Investigator Mackenzie we saw through the
10 windows that the establishment had several
11 patrons sitting at the bar. We checked our
12 phones, made sure it was 1:45 a.m. and then
13 proceeded inside and identified ourselves as
14 ABC investigators.

15 At that point we asked to speak
16 with the ABC licensed manager or owner, but
17 also we were inside the establishment so we
18 began looking around. The establishment had
19 several patrons by the bar. And then it was
20 set up similarly to my last testimony, the bar
21 on the right, then a wall and then an entryway
22 into a larger space on the left. And there

1 were approximately 15 to 25 patrons inside on
2 the left. And at that point we were looking
3 around. On the left side we saw several
4 drinks, or glasses out that appeared that
5 could possibly contain alcoholic beverages,
6 and specifically I saw one bottle of Blue Moon
7 beer in the hand of one of the patrons.

8 And it was at that point that I
9 told Investigator Mackenzie to start
10 documenting anything that looked like an
11 alcoholic beverage, because she had the
12 camera. And when she stepped into that room
13 on the left to take some photos of the
14 alcoholic beverages, a waitress immediately
15 stepped in front of the camera and blocked her
16 from taking any photos. Investigator
17 Mackenzie tried to explain to her I'm an ABRA
18 investigator. I need to take these photos.
19 And before she could even finish that
20 sentence, the waitress responded I know who
21 you are and you can't take any photos in here
22 and continued to move her body to stay in

1 front of the camera so that she could not take
2 any photos of the alcoholic beverages that
3 were in that room on the left.

4 While this was going on I was
5 standing maybe one step away and could see all
6 this. And during that interaction is when I
7 was introduced to Mr. Ibrahim who said he was
8 in charge of the establishment, though he
9 didn't have an ABC manager's license. So I
10 asked, well, is there an owner or an ABC
11 manager here? And then I met a man named
12 Mohamed who did have an ABC manager's license.

13 At that point I went through the
14 violations that I had seen. I informed him
15 that I knew from previous experience that
16 their hours of sales, service and consumption
17 ended at 1:30. It was 1:45 and I had seen
18 what I suspected were multiple glasses with
19 alcoholic beverages, but also a Blue Moon,
20 which is definitely an alcoholic beverage and
21 that our investigation had just been
22 interfered with by the waitress who actively

1 prevented Investigator Mackenzie from taking
2 any photos.

3 Mr. Ibrahim continued to lead the
4 conversation with me. The ABC manager was
5 still there at all times, but Mr. Ibrahim was
6 adamant that he was in charge and he wanted to
7 discuss. I said that was fine as long as the
8 ABC manager was there, because that's who we
9 normally deal with when the owner's not there.
10 And the ABC manager seemed to defer to Mr.
11 Ibrahim as well as far as interacting with me.

12 Mr. Ibrahim was very cooperative.
13 He admitted -- right away he's like, yes, it
14 is 1:45. Don't worry. We'll get rid of
15 everything. I'm so sorry that the waitress
16 got in the way. She shouldn't have done that.
17 You guys feels free, you know, to take photos.
18 You know, the waitress needs to get out of
19 there.

20 At that point I continued my
21 investigation and we asked to see the
22 voluntary agreement after we had seen the

1 license posted on the wall. The ABC licensed
2 manager Mohamed and Mr. Ibrahim looked for
3 several minutes. Could not come up with
4 anything. They apologized for not knowing
5 where it was. They said they believed it was
6 in the establishment, but they had no idea
7 where it was. They couldn't obtain it.
8 Investigator Mackenzie and I waited several --
9 I mean we were probably in the establishment
10 10 minutes from start to finish and no
11 voluntary agreement was ever obtained.

12 At that point I informed them that
13 there was also a violation for not having a
14 voluntary agreement. Mr. Ibrahim agreed that
15 he knew they were supposed to have it handy.
16 They were supposed to be able to show it to us
17 and just apologized that he didn't know where
18 it was. At that point Investigator Mackenzie
19 and I left the establishment.

20 MS. SCHMIDT: Okay. Going back.
21 So to be clear, what were the hours of sales
22 and consumption?

1 MR. MOLLOY: The hours ended at
2 1:30 a.m.

3 MS. SCHMIDT: 1:30 a.m.? And are
4 you aware that the establishment knew of those
5 hours?

6 MR. MOLLOY: Yes, I ended up
7 having the exact -- paraphrasing, almost the
8 exact same conversation with Mr. Ibrahim that
9 I had had in November with Mr. Ghulais about
10 1:30 means sales, service and consumption. At
11 1:30 you can't have alcoholic beverages in the
12 hands of customers. And Mr. Ibrahim, by his
13 reactions and his statements, agreed with me.
14 He was like I understand that's the rule.
15 We'll take everything away right now. So it
16 was rather a sense of d,j... vu with having the
17 exact same conversation in the exact same
18 establishment.

19 MS. SCHMIDT: And did you ever get
20 a copy of the voluntary agreement?

21 MR. MOLLOY: No, not while I was
22 there. It was never produced.

1 MS. SCHMIDT: Was there any
2 mention of where it could be at all?

3 MR. MOLLOY: No, other than them
4 being very confident that one was there, they
5 looked for several minutes, but they had no
6 idea where it was. And after approximately 10
7 minutes and getting apologies about not
8 knowing where it was, Investigator Mackenzie
9 and I informed them of the violation and left.

10 MS. SCHMIDT: No further questions
11 at this time.

12 CHAIRPERSON MILLER: Okay. Is
13 there cross?

14 MR. HURWITZ: Yes.

15 CHAIRPERSON MILLER: Okay.

16 MR. HURWITZ: Mr. Molloy, you
17 testified you had been in the restaurant
18 previously on inspection tours?

19 MR. MOLLOY: Yes.

20 MR. HURWITZ: And had you viewed
21 the voluntary agreement on previous events?

22 MR. MOLLOY: I had.

1 MR. HURWITZ: You had?

2 MR. MOLLOY: Yes.

3 MR. HURWITZ: Correct. And do you
4 know where the agreement had been kept?

5 MR. MOLLOY: I do not.

6 MR. HURWITZ: You didn't notice
7 how they produced it?

8 MR. MOLLOY: I don't.

9 MR. HURWITZ: So you were familiar
10 with the voluntary agreement?

11 MR. MOLLOY: Yes.

12 MR. HURWITZ: All right. And the
13 fact that they could not produce the voluntary
14 agreement immediately for you on this
15 occasion, did that interfere in way with your
16 investigation or your ability to conduct your
17 business properly?

18 MR. MOLLOY: Yes, I wanted to
19 review the voluntary agreement with them and
20 I couldn't because they didn't have it.

21 MR. HURWITZ: You testified that
22 the girl, the waitress or girl --

1 MR. MOLLOY: Female waitress.

2 MR. HURWITZ: -- stood in front of
3 the other investigator while she was trying to
4 take pictures.

5 MR. MOLLOY: Yes, stepped in front
6 of her, prevented her from walking into the
7 room on the left and then continued to move in
8 front of the camera.

9 MR. HURWITZ: Did she actually
10 take pictures in any event?

11 MR. MOLLOY: No, she did not
12 because they would have just been pictures of
13 eh waitress.

14 MR. HURWITZ: Did the waitress
15 suggest to you that there was a reason other
16 than not wanting to take pictures of alcoholic
17 beverages, that she was not wanting to take
18 pictures because of the people not wanting
19 their photographs taken?

20 MR. MOLLOY: No, all the waitress
21 said was I know who you are and you can't take
22 any photos in here.

1 MR. HURWITZ: No one in the
2 premises interfered with you in any way, is
3 that correct? You personally. With your
4 investigation.

5 MR. MOLLOY: Josena Mackenzie was
6 working with me. That's my investigation.

7 MR. HURWITZ: But no one
8 interfered with you personally is my question.

9 MR. MOLLOY: No one touched me, if
10 that's what you mean.

11 MR. HURWITZ: Or interfered with
12 you in any way? Did anyone interfere with you
13 in any way? You personally.

14 MR. MOLLOY: I instructed the --

15 MR. HURWITZ: You personally. I'm
16 asking about you personally.

17 MR. MOLLOY: She was taking photos
18 at my instruction and those photos were
19 stopped, so I would say that my investigation
20 was interfered with.

21 MR. HURWITZ: Did anyone interfere
22 with you in any personal way?

1 MR. MOLLOY: Yes, that was
2 interference with my investigation.

3 MEMBER ALBERTI: I think that
4 question has been asked and answered.

5 MS. SCHMIDT: Asked and answered.

6 MR. HURWITZ: Okay.

7 CHAIRPERSON MILLER: All right.

8 MR. HURWITZ: Thank you. When you
9 came into the premises do you remember whether
10 Mr. Ibrahim was at the front door and greeted
11 you at that time?

12 MR. MOLLOY: I don't remember
13 where he was standing when I entered, but he
14 appeared relatively early.

15 MR. HURWITZ: Right. And he was
16 fully cooperative with you throughout the
17 evening?

18 MR. MOLLOY: Extremely cooperative
19 and apologetic.

20 MR. HURWITZ: I have no further
21 questions.

22 CHAIRPERSON MILLER: Okay. Board

1 questions? Mr. Alberti?

2 MEMBER ALBERTI: Mr. Molloy, were
3 you ever able to take pictures?

4 MR. MOLLOY: No. While the
5 waitress was blocking Investigator Mackenzie
6 from taking photographs other staff
7 immediately started collecting all the other
8 beverages, and by the time the waitress had
9 stepped away from Investigator Mackenzie there
10 was nothing really to take photos of.

11 MEMBER ALBERTI: At any point
12 while that was happening did you ask either
13 the licensed ABC manager or Mr. Ibrahim to
14 stop the staff from collecting glasses and
15 bottles?

16 MR. MOLLOY: While that was going
17 on I did -- and while I was talking with Mr.
18 Ibrahim I informed him that she was
19 interfering with our investigation by taking
20 the photos and that now your staff is
21 collecting everything that we wanted to take
22 a photo of. He said he was sorry for that.

1 The waitress shouldn't have been interfering.
2 But while that conversation was going on,
3 everything was collected, so there was nothing
4 to tell him to stop at that point. I mean I
5 could have said could you just have your staff
6 hold everything now, but --

7 MEMBER ALBERTI: Okay. So
8 after --

9 MR. MOLLOY: But so I don't
10 believe I specifically asked that.

11 MEMBER ALBERTI: Okay. So when
12 you made that statement to him, was there
13 anything to prevent him from immediately
14 telling the staff cease their activities with
15 respect to collecting glasses and bottles?

16 MR. MOLLOY: No, he could have
17 started to go and inform every staff member to
18 stop doing what they were doing.

19 MEMBER ALBERTI: And had he done
20 it, would there still have been glasses and
21 bottles on the table at that moment?

22 MR. MOLLOY: There might have

1 been. It's hard to tell. As I said, when I
2 initially walked in I specifically remember
3 the Blue Moon and then several glasses that
4 looked like they could have cocktails, but I
5 don't know at that point if every possible
6 glass that could have had an alcoholic
7 beverage was removed because there were plenty
8 of non-alcoholic beverages out. In the hookah
9 room there's lots of bottles of water and
10 glasses of water that did remain out.

11 MEMBER ALBERTI: Okay. But it's
12 safe to say at no point did Mr. Ibrahim
13 instruct staff to stop collecting bottles?

14 MR. MOLLOY: No, he was just very
15 agreeable with me that they shouldn't be doing
16 that and that he was sorry they did it, but he
17 never went out and tried to get them to stop
18 collecting. But it was over a fairly quick
19 time span. Once they realized we were there
20 and once the waitress stepped in the way,
21 everything got collected rather quickly.

22 MEMBER ALBERTI: Thank you.

1 CHAIRPERSON MILLER: Others?

2 (No audible response.)

3 CHAIRPERSON MILLER: All right. I
4 want to ask you, Mr. Molloy, do you have you
5 report in front of you, or no?

6 MR. MOLLOY: (No audible
7 response.)

8 CHAIRPERSON MILLER: I wanted you
9 to look at Exhibit 4 and Exhibit 10.

10 MR. MOLLOY: I actually only have
11 the written part of it. I don't have the
12 exhibits.

13 CHAIRPERSON MILLER: Okay.

14 MEMBER ALBERTI: I don't know if I
15 have it either.

16 CHAIRPERSON MILLER: All right.
17 Nobody else has it?

18 (No audible response.)

19 CHAIRPERSON MILLER: Okay. I
20 don't know if it will work to look at -- oh,
21 wait. Let's have you identify it.

22 MEMBER ALBERTI: Well, wait, maybe

1 somebody else -- just one moment. Do we have
2 it?

3 MS. SCHMIDT: And what is Exhibit
4 4? Maybe I can help.

5 CHAIRPERSON MILLER: It looks like
6 a picture of the license.

7 MS. SCHMIDT: 0035? I don't see
8 it.

9 CHAIRPERSON MILLER: Exhibit 4.

10 MS. SCHMIDT: Oh, this Exhibit 1 I
11 see.

12 MR. HURWITZ: Exhibit 4.

13 CHAIRPERSON MILLER: Oh, thank
14 you. Yes, and Exhibit 10.

15 So you have Exhibit 4?

16 MR. MOLLOY: Yes.

17 CHAIRPERSON MILLER: Can you
18 identify what that is?

19 MR. MOLLOY: This is a printout of
20 Bistro 18's license.

21 CHAIRPERSON MILLER: That's their
22 license?

1 MR. MOLLOY: Yes.

2 CHAIRPERSON MILLER: Okay. And so
3 Exhibit 10 is identified as a change of hours
4 application?

5 MS. SCHMIDT: I have it down as
6 Exhibit 3 in this case.

7 CHAIRPERSON MILLER: Well, oh, you
8 have both of these attached. You know what
9 I'm talking about, the change of hours
10 application?

11 MR. MOLLOY: I mean --

12 CHAIRPERSON MILLER: Without
13 knowledge the specifics.

14 MR. MOLLOY: I mean I generally
15 remember what the application looks like,
16 but --

17 CHAIRPERSON MILLER: Well, I guess
18 my question is when you look --

19 MEMBER ALBERTI: What are you
20 looking at?

21 CHAIRPERSON MILLER: 0035. Is
22 that the wrong one?

1 MEMBER ALBERTI: No, you're not.

2 CHAIRPERSON MILLER: Oh.

3 MEMBER ALBERTI: You're looking at
4 a different report. You're looking at a
5 report for a later case.

6 CHAIRPERSON MILLER: Oh, okay. It
7 must be the same though.

8 MEMBER ALBERTI: For an earlier
9 case.

10 CHAIRPERSON MILLER: I guess my
11 question is --

12 MS. SCHMIDT: It's Exhibit 3 in
13 this case. That's why I was a little
14 confused.

15 CHAIRPERSON MILLER: In generally
16 when you're looking at the license hours, are
17 you looking at the license or are you looking
18 at an application, or both?

19 MR. MOLLOY: Anytime I'm at an
20 establishment I'm actually looking at their
21 active license that they have posted on the
22 wall of the establishment.

1 CHAIRPERSON MILLER: So that would
2 be Exhibit 4?

3 MR. MOLLOY: The thing with the
4 border printed out license.

5 CHAIRPERSON MILLER: Okay. What
6 the license says?

7 MR. MOLLOY: Yes.

8 CHAIRPERSON MILLER: Okay. And I
9 was just noticing that -- I think that there
10 is a question about say sales. It has sales.
11 It says 1:30 a.m. Does that mean service?
12 Does that mean consumption?

13 MR. MOLLOY: Yes.

14 CHAIRPERSON MILLER: So I wanted
15 to ask you first of all what you interpret it
16 to mean.

17 MR. MOLLOY: I interpret that
18 sales time to encompass sales, service and
19 consumption.

20 CHAIRPERSON MILLER: Okay.

21 MR. MOLLOY: That's how I was
22 trained as an investigator.

1 CHAIRPERSON MILLER: That's how
2 you were trained?

3 MR. MOLLOY: Yes.

4 CHAIRPERSON MILLER: Is that the
5 only thing that's based on? Is it based on
6 for instance a statute or other documents?

7 MR. MOLLOY: Just training. That
8 was our instruction, that sales meant sales,
9 service and consumption. So when enforcing
10 hours of sales versus hours of operation you
11 can interpret sales to mean sales, service and
12 consumption, whereas operation just means
13 being open.

14 CHAIRPERSON MILLER: So when you
15 come into an establishment at 1:45 and you see
16 someone take a drink from a beer that you know
17 it's a beer --

18 MR. MOLLOY: Yes.

19 CHAIRPERSON MILLER: -- then do
20 you interpret that as a violation of 25-723 --

21 MR. MOLLOY: Yes.

22 CHAIRPERSON MILLER: -- after

1 hours? Okay. So in this case did you
2 specifically see any sales?

3 MR. MOLLOY: No.

4 CHAIRPERSON MILLER: Okay. Did
5 you see service?

6 MR. MOLLOY: No.

7 CHAIRPERSON MILLER: And did you
8 see consumption?

9 MR. MOLLOY: I actually didn't see
10 the person with the Blue Moon take a drink out
11 of the Blue Moon. I just saw it was in the
12 possession of a patron.

13 CHAIRPERSON MILLER: And when you
14 say "possession," do you mean someone holding
15 it or --

16 MR. MOLLOY: Yes, it was initially
17 in their hand and then put on the table before
18 it was quickly collected once we attempted to
19 take photos.

20 CHAIRPERSON MILLER: Okay. So is
21 that consumption to you or --

22 MR. MOLLOY: I would consider in

1 possession of a patron to be consumption.

2 MEMBER SILVERSTEIN: You would
3 consider it?

4 CHAIRPERSON MILLER: Possession by
5 a patron in hand to be --

6 MR. MOLLOY: As consumption.

7 CHAIRPERSON MILLER: As
8 consumption? Okay. So that's what you saw?
9 And how many patrons did you see in that --

10 MR. MOLLOY: I suspected at the
11 time that it was a handful of patrons with an
12 alcoholic beverage, but all the other ones
13 were in glasses that appeared to contain a
14 cocktail. But just from seeing that being in
15 the same room, it can be hard to verify from
16 what little contact I had before everything
17 was collected. That's why I've been focusing
18 on the Blue Moon, because that's the one drink
19 I could see from eight feet away and know that
20 that is an alcoholic beverage. But my
21 suspicion that the others had alcohol in them
22 is raised somewhat by the fact that they were

1 collected immediately upon us --

2 CHAIRPERSON MILLER: Right.

3 MR. MOLLOY: -- stating we were
4 alcoholic beverage investigators and we
5 thought they were serving after hours.

6 CHAIRPERSON MILLER: So and you
7 saw this person holding that beer, right?

8 MR. MOLLOY: When I initially
9 walked in and looked in the room, yes.

10 CHAIRPERSON MILLER: What's that
11 called? What kind of beer?

12 MR. MOLLOY: What?

13 CHAIRPERSON MILLER: What kind of
14 beer was it?

15 MR. MOLLOY: It was a Blue Moon.

16 CHAIRPERSON MILLER: Blue Moon?
17 So can you actually see through the bottle to
18 see whether there is beer in it still or
19 whether --

20 MR. MOLLOY: Not from where I was.
21 It's a dark enough bottle and --

22 CHAIRPERSON MILLER: Right.

1 MR. MOLLOY: -- it was dark enough
2 at that time of night that I didn't see like
3 a level that indicated where the liquid was.

4 CHAIRPERSON MILLER: Okay. So you
5 saw a person holding the bottle?

6 MR. MOLLOY: Yes. So that's
7 another reason why we wanted to get photos to
8 help document if there was even alcohol in it.
9 I suppose from what we saw it could have been
10 an empty bottle being held and then put on the
11 table.

12 CHAIRPERSON MILLER: And did you
13 follow up with that bottle to go actually --

14 MR. MOLLOY: It all got brought
15 behind the bar at that point.

16 CHAIRPERSON MILLER: Right.

17 MR. MOLLOY: You know, I could be
18 looking at anybody else's older Blue Moon.

19 CHAIRPERSON MILLER: Right. Okay.

20 All right. That's all my
21 questions. Anybody else have questions?

22 (No audible response.)

1 CHAIRPERSON MILLER: Any follow-up
2 on the Board's questions?

3 MS. SCHMIDT: None for the
4 Government.

5 MR. HURWITZ: Just to confirm, at
6 no time did any licensed manager or person in
7 authority to your knowledge instruct the
8 waitress to clear the tables? This is
9 something she apparently did on her own?

10 MR. MOLLOY: It was multiple
11 employees who helped clear the tables.

12 MR. HURWITZ: Right.

13 MR. MOLLOY: I didn't see Mr.
14 Ibrahim or Mr. Mohamed give out an order -- or
15 I suppose I would have ad hear them give out
16 an order to do that, and I didn't hear them do
17 that. But they also didn't stop anyone. They
18 just admitted that they were sorry.

19 MR. HURWITZ: Right. And would
20 you think it would be natural that if an
21 inspector came in and was informing the staff
22 or the employees that they were in violation

1 that they would clear the tables in good faith
2 trying to stem the violation?

3 MR. MOLLOY: I don't know how
4 different establishment owners react when I
5 tell them they're in violation, or I don't
6 know what is the inherent reaction.

7 MR. HURWITZ: If you say that's
8 unlawful to have the beer on the bar at this
9 time, wouldn't the natural reaction -- and do
10 you see people simply just pick up the beer at
11 the bar --

12 MS. SCHMIDT: Objection. He's
13 arguing at this point.

14 MR. HURWITZ: No, I'm asking a
15 question. What do you see in your own
16 experience if you say that's a violation?
17 Does the guy pick it up and put it away?

18 MR. MOLLOY: Usually the initial
19 reaction is either to apologize or to get
20 clarification because they don't believe it is
21 a violation.

22 MR. HURWITZ: Right.

1 MR. MOLLOY: And during that
2 interaction I tell them it is and get the
3 photo because I'm not being interfered with.
4 In this instance the immediate reaction from
5 all of them was either to interfere or try to
6 collect all the evidence.

7 MR. HURWITZ: Okay. And you're
8 aware that this business had a voluntary
9 agreement that was in effect dated October
10 22nd, 2002?

11 MR. MOLLOY: At the time I didn't
12 know the date, but I knew they had a voluntary
13 agreement because it's listed on the license.

14 MR. HURWITZ: And the voluntary
15 agreement says that the hours of operation are
16 Sunday through Thursday go until 2:00 a.m.?

17 MR. MOLLOY: If that's what the
18 voluntary agreement says.

19 MR. HURWITZ: I'll show it to you
20 again to refresh your memory. The hours of
21 operation go until 2:00 a.m.?

22 MR. MOLLOY: That is 2:00 a.m.

1 Sunday through Thursday.

2 MR. HURWITZ: Right.

3 MR. MOLLOY: And 3:00 a.m. Friday
4 and Saturday.

5 MR. HURWITZ: And that the last
6 call on Sunday is at 1:25?

7 MR. MOLLOY: Yes.

8 MR. HURWITZ: And that the
9 discontinuance of service of alcohol is at
10 1:30 on Sunday, correct?

11 MR. MOLLOY: That is what the
12 voluntary agreement says.

13 MR. HURWITZ: Would it be
14 reasonable to believe that if this voluntary
15 agreement is the controlling document that
16 service before 1:30 is lawful and consumption
17 after 1:30 --

18 MS. SCHMIDT: Objection. It
19 assumes --

20 MR. HURWITZ: -- would be lawful?

21 MS. SCHMIDT: -- facts that are
22 not -- that are subject to this litigation

1 that the voluntary agreement is the
2 controlling document at this time.

3 MR. HURWITZ: Well, as an
4 investigator you have to go in and determine
5 if somebody's violating the law or not?

6 CHAIRPERSON MILLER: What's your
7 question? Based on that document?

8 MR. HURWITZ: That based on this
9 document --

10 CHAIRPERSON MILLER: Which may or
11 may not apply. But based on that document
12 alone --

13 MR. HURWITZ: Yes, based on this
14 document.

15 CHAIRPERSON MILLER: -- would he
16 conclude something?

17 MR. HURWITZ: Would he conclude
18 that the operator was in violation of the
19 voluntary agreement.

20 MR. MOLLOY: The violation I
21 charged was in violation of their license and
22 not a violation of the voluntary agreement.

1 MR. HURWITZ: It's your opinion
2 that the voluntary agreement approved by eh
3 Board does not affect anything on the
4 license?

5 MR. MOLLOY: I'm sorry, could
6 you --

7 MR. HURWITZ: If the license said
8 1:30 but the voluntary agreement was submitted
9 to the Board and approved for 2:00, you still
10 go by 1:30?

11 MR. MOLLOY: I would defer to the
12 license as controlling.

13 MR. HURWITZ: Right. And you
14 would ignore what the voluntary agreement
15 says?

16 MR. MOLLOY: If the voluntary
17 agreement said they could serve drinks later
18 than the license said they could --

19 MR. HURWITZ: Yes.

20 MR. MOLLOY: -- I would defer to
21 the license. If the voluntary agreement said
22 that they could serve drinks less than the

1 license, I would defer to in general the
2 license, but in specific instances it might be
3 the more restrictive of the two.

4 MR. HURWITZ: Right. Thank you.
5 No further questions.

6 CHAIRPERSON MILLER: Okay. Thank
7 you very much.

8 MR. MOLLOY: Thank you.

9 CHAIRPERSON MILLER: Bye-bye.
10 Thank you.

11 MR. HURWITZ: Thank you.

12 CHAIRPERSON MILLER: Good night.
13 Okay. Does that conclude your
14 case?

15 MS. SCHMIDT: It concludes the
16 District's case.

17 CHAIRPERSON MILLER: All right.

18 MR. HURWITZ: I'd like to call
19 Sami Ghulais to testify.

20 MR. GHULAIS: Sami Ghulais, the
21 owner of Bistro 18.

22 CHAIRPERSON MILLER: Okay. I'm

1 going to swear you in again. Do you swear to
2 tell the truth, the whole truth, nothing but
3 eh truth?

4 MR. GHULAIS: I'll say all the
5 truth, nothing except the truth.

6 CHAIRPERSON MILLER: Okay. Great.
7 Thank you.

8 MR. HURWITZ: Mr. Ghulais, are you
9 familiar with the events that took place on
10 the night that this violation allegedly
11 occurred, December 30th?

12 MR. GHULAIS: Yes. Just to make
13 it clear, I was out of the country, but they
14 told me about this.

15 MR. HURWITZ: All right. And did
16 you investigate what happened --

17 MR. GHULAIS: Yes.

18 MR. HURWITZ: -- when you came
19 back?

20 MR. GHULAIS: Yes.

21 MR. HURWITZ: And what did you
22 learn from your investigation what had

1 transpired?

2 MR. GHULAIS: Well I mean I was
3 out of the country and left Mr. Ibrahim up
4 there and Mohamed Alhada. And they told me
5 that's what's happening. I did not know about
6 interfering, but everything was smooth,
7 whatever it's happened. There is no
8 interfering. And I'm sure no one can accept
9 anything to interfere the investigator, the
10 investigation. So I don't know if the
11 waitress she stop because she doesn't want him
12 to take a picture because it's happened
13 before. The people they complain. They don't
14 want to take their pictures.

15 MR. HURWITZ: People meaning the
16 customers?

17 MR. GHULAIS: The customers, yes.
18 So, but I did not like -- they didn't tell me
19 that this was the issue, or they told me
20 that's this -- they're wanting to take picture
21 or something like that. She said I stopped
22 her. I want to like not to take a picture

1 because of -- you know, they already complain.
2 We had before and the customer almost was
3 going to fight with the investigation, or the
4 investigator.

5 MR. HURWITZ: The customers on
6 previous --

7 MR. GHULAIS: The previous, yes.

8 MR. HURWITZ: -- had become upset?

9 MR. GHULAIS: It was a situation
10 like this, yes, which is the first violation
11 we have.

12 MR. HURWITZ: And did the waitress
13 tell you that that was the reason she --

14 MR. GHULAIS: Yes, she told me
15 that --

16 MR. HURWITZ: -- told the
17 investigator --

18 MR. GHULAIS: Yes. Yes. But it
19 wasn't an issue, because I mean after that Mr.
20 Zak involve -- I mean he involve. And he's
21 right here. He can tell whatever. Because
22 after all they told me --

1 MR. HURWITZ: Yes.

2 MR. GHULAIS: -- I mean I was --

3 MR. HURWITZ: And what about the
4 voluntary agreement?

5 MR. GHULAIS: The voluntary
6 agreement, what I told them -- when I left
7 there, I told them how to deal with the
8 voluntary agreement. And actually I made my
9 rule like clear to that. That's 1:30 it has
10 to be last call. Like there is no serving
11 alcohol at all after 1:30. And I made sure on
12 that.

13 MR. HURWITZ: Because you operated
14 under the belief that you were allowed to
15 serve up until 1:30 and that people could
16 consume --

17 MR. GHULAIS: Could consume, yes.

18 MR. HURWITZ: -- until 2:00?

19 MR. GHULAIS: Yes.

20 MR. HURWITZ: But no new sales
21 after 1:30?

22 MR. GHULAIS: No. No.

1 MR. HURWITZ: No new service after
2 1:30?

3 MR. GHULAIS: No. Even though I
4 always tell them at 1:45 it has to be no any
5 bottle on the tables.

6 MR. HURWITZ: Yes.

7 MR. GHULAIS: So I always make
8 sure to tell them that. At the most it's 1:45
9 because 2:00 they have to be -- I mean 1:50
10 they have to be even out.

11 MR. HURWITZ: And where do you
12 keep the voluntary agreement document itself?

13 MR. GHULAIS: Usually I keep it
14 under the license.

15 MR. HURWITZ: Yes. And was it
16 under the license on this night?

17 MR. GHULAIS: It was under the
18 license that night. They just -- I don't
19 know, they got confused, what's happened, they
20 couldn't find it. But it was under eh license
21 with the -- the license was on the wall. I
22 always put it under the license.

1 MR. HURWITZ: Thank you. Since
2 this violation have you taken steps to assure
3 that people know where the voluntary agreement
4 is all the time?

5 MR. GHULAIS: Yes.

6 MR. HURWITZ: And that they know
7 that they should not --

8 MR. GHULAIS: It's always --

9 MR. HURWITZ: -- interrupt or
10 interfere with any investigators' request or
11 activity if they come in?

12 MR. GHULAIS: Yes.

13 MR. HURWITZ: Have you instructed
14 your staff to --

15 MR. GHULAIS: Yes.

16 MR. HURWITZ: -- be careful of
17 their behavior?

18 MR. GHULAIS: Yes.

19 MR. HURWITZ: Okay. And have you
20 engaged in any training yourself regarding
21 alcohol operations?

22 MR. GHULAIS: Yes.

1 MR. HURWITZ: What kind of
2 training?

3 MR. GHULAIS: I did -- well, I
4 have the -- what's her name? Ruth. Ms. Ruth.
5 She has a school on Columbia. I took a class
6 with her.

7 MR. HURWITZ: Okay. And did you
8 have your staff take as well?

9 MR. GHULAIS: Yes, all of them.

10 MR. HURWITZ: Good.

11 MR. GHULAIS: And they have --
12 most of them they have manager license
13 actually from --

14 MR. HURWITZ: They have what?

15 MR. GHULAIS: Manager license.
16 Before it was -- not everybody has manager
17 license from ABRA.

18 MR. HURWITZ: How many manager's
19 licenses?

20 MR. GHULAIS: Now it's at three
21 manager license. The waitress, they were
22 talking about, she's has manager license, too.

1 MR. HURWITZ: Now?

2 MR. GHULAIS: She has it even that
3 time.

4 MR. HURWITZ: She had it then?
5 Okay. No further questions. Thank you.

6 CHAIRPERSON MILLER: Okay. Cross?

7 MS. SCHMIDT: Yes. Okay. So you
8 were out of the country that night, so you
9 were not there to see what happened that
10 night?

11 MR. GHULAIS: Yes.

12 MS. SCHMIDT: And is this the
13 first time that your establishment has been
14 involved in a situation where an investigator
15 has tried to take a photograph and your
16 employees were not cooperative?

17 MR. GHULAIS: This the first time?

18 MS. SCHMIDT: Is this the first
19 time this has happened?

20 MR. GHULAIS: That's what I heard,
21 this the first time, yes.

22 MS. SCHMIDT: On November 12th,

1 2012 are you aware of the fact that
2 investigators came from ABRA came to your
3 establishment and they tried to take pictures?

4 MR. GHULAIS: Yes.

5 MS. SCHMIDT: And what happened
6 then?

7 MR. GHULAIS: They fight with the
8 -- he fight with the customer. I wasn't -- by
9 the way actually I wasn't that far. He fought
10 with the customer. The customer told him do
11 not take picture.

12 MR. HURWITZ: Please be more
13 precise on who he is.

14 MR. GHULAIS: Yes, we already put
15 a complaint about him before.

16 MR. HURWITZ: No, no, but precise.
17 Who was fighting with the customer?

18 MR. GHULAIS: The investigator was
19 fighting with the customer. He was like -- I
20 don't know they didn't like the way he was
21 talking with them and they start to fight.

22 MR. HURWITZ: I'm sorry to

1 interrupt.

2 MR. GHULAIS: I was there two
3 minutes after he left. I was trying to find
4 where he is, but I couldn't find him while
5 there.

6 MS. SCHMIDT: Well, let's back up.
7 Was the investigator trying to take a picture
8 of the bottles that night?

9 MR. GHULAIS: They did not even
10 look at it that time. They had Coke and he
11 took the Coke without even asking them. Like
12 he took the Coke like this and he test it. He
13 want ad make sure --

14 MR. HURWITZ: He did what? He
15 took the Coke --

16 CHAIRPERSON MILLER: Excuse me.
17 Wait a second. I got to stop you here.

18 MR. HURWITZ: Okay.

19 CHAIRPERSON MILLER: These are her
20 questions.

21 MR. HURWITZ: I'm sorry.

22 CHAIRPERSON MILLER: I mean I --

1 MR. HURWITZ: I'm just trying to
2 clarify.

3 CHAIRPERSON MILLER: No.

4 MS. SCHMIDT: I will try to
5 clarify myself.

6 CHAIRPERSON MILLER: Yes, okay.

7 MS. SCHMIDT: Thank you.

8 CHAIRPERSON MILLER: Yes.

9 MS. SCHMIDT: So, all right. Now
10 on November 12th -- okay, let's back up a
11 little -- did ABRA investigators come to your
12 establishment?

13 MR. GHULAIS: Yes, ma'am.

14 MS. SCHMIDT: And are you aware of
15 the fact that they were trying to take
16 pictures of bottles or glasses at your
17 establishment?

18 MR. GHULAIS: All I know what they
19 told me that they had -- I'm not aware he was
20 trying to take a picture. I'm aware that he
21 start to test the drink and that's when they
22 start to fight with the -- he start to fight

1 with the customers.

2 MS. SCHMIDT: But are you aware of
3 the fact that your staff did not help the
4 investigators try to conduct their beer garden
5 that evening?

6 MR. GHULAIS: He was helpful and I
7 always --

8 MS. SCHMIDT: I'm sorry, in
9 November. Let's go back to November.

10 MR. GHULAIS: He was helpful, but
11 the thing is is he start to fight with the
12 customer, and that's what happen between him
13 and the customer.

14 MS. SCHMIDT: Okay. All right.
15 So and what did Mo do that evening?

16 CHAIRPERSON MILLER: Are you in a
17 different case, or are you in this case?

18 MS. SCHMIDT: I'm trying to show
19 that this is not the first --

20 CHAIRPERSON MILLER: This case?

21 MS. SCHMIDT: Yes. No, in the
22 November case Mo -- Mo is one of your

1 employees, correct?

2 MR. HURWITZ: I object to the
3 questioning of what happened in November.

4 MS. SCHMIDT: I'm trying to
5 establish that Mr. Ghulais should have been
6 aware of the fact that ABRA investigators have
7 tried in the past to conduct their
8 investigations. And in this case he testified
9 that he instructs his staff to cooperate with
10 the investigators. And I'm trying to show
11 that he has not done that, that he does not do
12 that.

13 MR. GHULAIS: What I believe he
14 was cooperating and the investigator was a
15 little -- we had an issue with him before and
16 we don't want to bring it to the table now, I
17 think. But I believe he was cooperating. The
18 issue was the investigator with the customer,
19 not with Mo.

20 MS. SCHMIDT: Okay. Then we'll
21 move on from there. Thanks.

22 And again before you left, did you

1 tell your staff where the voluntary agreement
2 was kept?

3 MR. GHULAIS: Well, I said it,
4 yes, but one of the -- she was a manager, too.
5 She was off. And I think I said it. I don't
6 know if they get it, but I'm sure if they --
7 like if they remember, maybe they were like
8 busy or whatever happened, I don't know. But
9 I told them that's the -- I mean the voluntary
10 agreement, I told actually the waitress. I
11 didn't tell Mo. I didn't tell Zak because Zak
12 I just told him to be there at that time
13 because I'm out of the country. But he
14 doesn't know about it. And I'm sure even Mo
15 he doesn't know about it. If he knows, he
16 would bring it out right away. But the
17 waitress, she knows about it. She was off.
18 Which is -- she had a manager license, too.

19 MS. SCHMIDT: Okay. And how do
20 you get to the voluntary agreement? If it's
21 in a picture frame, how do you get the
22 voluntary agreement? Do you have to take

1 the --

2 MR. GHULAIS: Yes, just to open
3 it. And now we put it the same way actually,
4 but until this point you just take the --
5 because it's -- you just open and it was under
6 the --

7 MS. SCHMIDT: Well, how do you
8 open it? Do you have to take a screwdriver to
9 take the back off?

10 MR. GHULAIS: No, no, no, no. By
11 hand. By hand. You just like flip it and
12 open it by hand and return back the same way.
13 It's so easy.

14 MS. SCHMIDT: No further questions
15 at this time.

16 CHAIRPERSON MILLER: Okay.

17 MR. HURWITZ: Mr. Ghulais -- oh,
18 I'm sorry.

19 CHAIRPERSON MILLER: Is this
20 rebuttal question? You have a rebuttal?

21 MR. HURWITZ: Yes.

22 CHAIRPERSON MILLER: Okay.

1 MEMBER ALBERTI: No, no, wait.

2 Don't we have questions from the Board first?

3 CHAIRPERSON MILLER: Oh, didn't we
4 do that? I'm sorry. We didn't do them yet.

5 This is what happens when it gets late. Okay.

6 Board question time. Mr. Alberti, do you have
7 questions?

8 MEMBER ALBERTI: Yes, I do.

9 CHAIRPERSON MILLER: Okay.

10 MEMBER ALBERTI: Okay. Mr.

11 Ghulais, going back to November 12th, all
12 right, the evening of November 12th, were you
13 there when the investigator entered the
14 establishment?

15 MR. GHULAIS: I wasn't there, but
16 I was in that far.

17 MEMBER ALBERTI: Okay.

18 MR. GHULAIS: I was --

19 MEMBER ALBERTI: So you weren't
20 there? You weren't there? Okay.

21 MR. GHULAIS: Yes.

22 MEMBER ALBERTI: You had an ABC

1 manager there, right?

2 MR. GHULAIS: Yes.

3 MEMBER ALBERTI: Who was in charge
4 that evening?

5 MR. GHULAIS: Mohamed Alhada.

6 MEMBER ALBERTI: And he is who?

7 MR. GHULAIS: He's my cousin and
8 he's the manager.

9 MEMBER ALBERTI: And he's the ABC
10 manager? Okay. And did he tell you what had
11 happened?

12 MR. GHULAIS: Yes, he told me.

13 MEMBER ALBERTI: He did? Okay.
14 Did you speak to the investigator that
15 evening?

16 MR. GHULAIS: No, I came. They
17 told me they just left. I was looking even
18 for their car, because I know their car, just
19 to try to explain. And I was just looking
20 around. I couldn't find them. But they told
21 me like that two, three minute they just left.

22 MEMBER ALBERTI: Okay. And what

1 did the ABC manager tell you about the purpose
2 of the investigators' visit?

3 MR. GHULAIS: Well, he told me
4 they came. At that time he wasn't -- he
5 didn't have his license actually. He doesn't
6 have his manager license. He was in process.
7 So he told me they are there. I told him I'm
8 coming right now. He should have it. I
9 didn't know that he didn't. But anyway, he
10 didn't have it.

11 So when I came, he told me this is
12 what's happened. I told him time is coming.
13 And I know they -- one of them is right here.
14 I can identify him. And the other gentleman,
15 they know me very well. So I was like just
16 trying to hurry to catch them, but I couldn't.
17 So I knew that I'm going to have like manager
18 license violation. It doesn't matter even if
19 I come a minute after. I wasn't there, I
20 wasn't there. So they left. That's mean it's
21 a violation for manager license. But I did
22 not know that's -- he explain to me the entire

1 situation when they come at 1:50 and they left
2 like -- they got -- they left 2:10 or
3 something like that. He told me 2:10
4 actually.

5 So he had the argument. There is
6 no customer except that table. It was Sunday.
7 There is no Sunday night. It was just that
8 table. And they got the fight with that
9 table. And that's what's happening.

10 MEMBER ALBERTI: Well, did he tell
11 you why did they get in a fight?

12 MR. GHULAIS: And --

13 MEMBER ALBERTI: Okay. I'm sorry.
14 Go ahead.

15 MR. GHULAIS: Yes.

16 MEMBER ALBERTI: Finish. Go
17 ahead.

18 MR. GHULAIS: So, yes, and he told
19 me he almost -- the customer almost going to
20 fight with the investigator, but one of the
21 investigator, which is -- I can identify him,
22 right here, he told his friend just go. Let's

1 go. And he pull him out and they just left.

2 MEMBER ALBERTI: Did he explain to
3 you why the customer was angry at the
4 investigator?

5 MR. GHULAIS: The customer, yes,
6 he took without asking. Then he took the
7 drink and he tried to test it. It was a Coke,
8 the Coca Cola.

9 MEMBER ALBERTI: So he took a
10 drink off the table?

11 MR. GHULAIS: Yes, he took --

12 MEMBER ALBERTI: He took it off of
13 the table that he thought belonged to him?

14 MR. GHULAIS: -- it off the table
15 without --

16 MEMBER ALBERTI: Well, let me
17 finish my question. He took a drink off the
18 table that the customer felt belonged to him.
19 Is that what you're saying?

20 MR. GHULAIS: Yes, they didn't
21 know who he is. They did not know that he is
22 the investigator. He just came and he took

1 the drink off the table. And that's when they
2 get like a little offended or I don't know,
3 but that's when they started.

4 MEMBER ALBERTI: Did the ABC
5 manager tell you that he knew, was informed
6 that they were investigators?

7 MR. GHULAIS: Yes, he know them.

8 MEMBER ALBERTI: Did he tell you
9 why they were, in your words, testing the
10 beverage?

11 MR. GHULAIS: He knows why they
12 were testing, but --

13 MEMBER ALBERTI: Well, what did he
14 tell you about that?

15 MR. GHULAIS: You know, he went
16 back and saw without like if -- he did not
17 give him a chance to explain to those customer
18 this -- you know, this ABC, he not -- he need
19 to --

20 MEMBER ALBERTI: No, you said that
21 he knew why they were testing.

22 MR. GHULAIS: Yes, he knew what

1 they --

2 MEMBER ALBERTI: So what did you
3 tell you about -- what was his understanding
4 of why they were testing the beverage?

5 MR. GHULAIS: Yes, his
6 understanding they want to make sure if that's
7 a drink, I mean like liquor or just water
8 or --

9 MEMBER ALBERTI: Okay.

10 MR. GHULAIS: -- Coke.

11 MEMBER ALBERTI: And so why were
12 they concerned whether it was a Coke or
13 liquor?

14 MR. GHULAIS: Because --

15 MEMBER ALBERTI: Did he tell you
16 that?

17 MR. GHULAIS: No, he did not tell
18 me, but they always like try to make sure if
19 this is like a drink, I mean liquor or just
20 Coca Cola.

21 MEMBER ALBERTI: Always?

22 MR. GHULAIS: Not always, but they

1 don't do it. It's never happened to me except
2 that day what he told me. I wasn't even
3 there, but he told me that's what happened.

4 MEMBER ALBERTI: Did he tell you
5 his understanding of why they did it that day?

6 MR. GHULAIS: No, he did not tell
7 me. He told me they come and they did that.

8 MEMBER ALBERTI: Did he tell you
9 what time they came in?

10 MR. GHULAIS: Yes, 1:50.

11 MEMBER ALBERTI: 1:50? So you
12 have no idea why the investigators were there
13 at 1:50? Is that what you're telling me?

14 MR. GHULAIS: I have no idea.

15 MEMBER ALBERTI: I mean, no, no,
16 no, that evening you're telling me you had no
17 idea why the investigators were there?

18 MR. GHULAIS: No, I have no idea
19 why.

20 MEMBER ALBERTI: So did you ever
21 ask anyone from ABRA why investigators walked
22 in at 1:50 and started checking your

1 beverages?

2 MR. GHULAIS: Well, I mean that
3 time they been coming to me like three, four
4 times a week. And I know I have a little
5 issue with Mr. Davis with that, but I don't
6 know why they were there.

7 MEMBER BROOKS: So have they ever
8 come in before 1:30?

9 MR. GHULAIS: They come like --
10 one time they come twice a day.

11 MEMBER ALBERTI: Okay. Did
12 they --

13 MR. GHULAIS: Yes, they come in --

14 MEMBER ALBERTI: So they came in
15 before 1:30?

16 MR. GHULAIS: Yes.

17 MEMBER ALBERTI: Did they come --

18 MR. GHULAIS: They come before --

19 MEMBER ALBERTI: Did they check
20 drinks then?

21 MR. GHULAIS: No.

22 MEMBER ALBERTI: No? Okay.

1 That's interesting.

2 MR. GHULAIS: They may -- I mean
3 they check there is -- like drink it, you
4 mean?

5 MEMBER ALBERTI: No, no, no, no.
6 Do they check to see what was in a glass then?

7 MR. GHULAIS: Before 1:30?

8 MEMBER ALBERTI: Yes.

9 MR. GHULAIS: No.

10 MEMBER ALBERTI: No? So they
11 didn't before 1:30, but they did after 1:30?

12 MR. GHULAIS: Yes.

13 MEMBER ALBERTI: And you weren't
14 curious as to why they were there checking
15 drinks after 1:30?

16 MR. GHULAIS: I know why they're
17 there. They supposed to -- I mean maybe they
18 think that's it's a liquor. They want ad make
19 sure if it's a liquor or not.

20 MEMBER ALBERTI: Why are they
21 concerned?

22 MR. GHULAIS: Because what -- I

1 mean if they -- like they think that I'm
2 selling alcohol after hours. That's why they
3 want to make sure.

4 MEMBER ALBERTI: So you knew that
5 that's what was their concern back in
6 November?

7 MR. GHULAIS: Yes.

8 MEMBER ALBERTI: All right. And
9 you know that you were possibly, potentially
10 in violation then, because that was their
11 concern.

12 MR. GHULAIS: Well, I knew I'm not
13 in violation at that time, but I know they
14 always come and they keep like just coming for
15 no reason. And at that time I don't want to
16 even fight for that. I came one time and I --

17 MEMBER ALBERTI: You weren't
18 curious as to whether you were in violation?

19 MR. GHULAIS: Well, I was curious,
20 but I came here, I paid \$6,000 because of
21 those violation. I said --

22 MEMBER ALBERTI: No, no, no, no.

1 I don't care about what happened today. I'm
2 talking about back in November.

3 MR. GHULAIS: I was curious, yes.
4 But he said, I mean I selling alcohol at 2:30,
5 which is impossible, because I know at 2:00
6 they got -- especial my manager, they always
7 close at 2:00 for sure.

8 MEMBER ALBERTI: Now earlier you
9 today you --

10 MR. GHULAIS: It was only one
11 table at that time.

12 MEMBER ALBERTI: Wait, wait, wait.
13 Earlier today you testified that after
14 November 18th you had taken steps to retrain
15 staff, is that correct?

16 MR. GHULAIS: Yes.

17 MEMBER ALBERTI: When did you do
18 that?

19 MR. GHULAIS: I mean all my -- I
20 start to do this even back in 2012. I start
21 to go to class and, you know --

22 MEMBER ALBERTI: And why were you

1 retraining them?

2 MR. GHULAIS: Because they have to
3 make sure for everythings like the rule and
4 regulation about ABRA and ABC license, and
5 also about the drink.

6 MEMBER ALBERTI: So after November
7 18th did you understand that you should not
8 allow consumption after 1:30?

9 MR. GHULAIS: No, I still believe
10 that's -- after November 18th?

11 MEMBER ALBERTI: Yes.

12 MR. GHULAIS: Yes, I mean I --

13 MEMBER ALBERTI: You understood?

14 MR. GHULAIS: Yes.

15 MEMBER ALBERTI: Okay. Who was in
16 charge of the establishment on the evening of
17 December 30th, the night of this incident?

18 MR. GHULAIS: December 2012?

19 MEMBER ALBERTI: December 30th was
20 the night of this incident, was the date of
21 this incident. It was actually, you know, the
22 29th into the 30th. So I'm not sure what day

1 of the week that was, but who was in charge?

2 MR. GHULAIS: Zakaria Ibrahim.

3 MEMBER BROOKS: Mr. Ibrahim?

4 MR. GHULAIS: Zakaria Ibrahim and
5 Mohamed Alhada, yes.

6 MEMBER ALBERTI: Okay. So who was
7 in charge, Mr. Ibrahim or --

8 MR. GHULAIS: Zakaria Ibrahim.

9 MEMBER ALBERTI: -- the ABC
10 manager?

11 MR. GHULAIS: The ABC manager, but
12 sometimes because he know the rule and the
13 regulation about ABC and he has experience
14 about that, that's why I put him above Mohamed
15 Alhada. Sometimes maybe he doesn't know how
16 to answer or something, so I put him.

17 MEMBER ALBERTI: How often
18 previous to this had Mr. Ibrahim been there in
19 charge above or over the ABC manager on duty?

20 MR. GHULAIS: When I'm out of town
21 or I'm out of the country.

22 MEMBER ALBERTI: How often has

1 that happened prior to this?

2 MR. GHULAIS: Maybe five, six
3 times.

4 MEMBER ALBERTI: Okay. Five, six
5 times? And since when?

6 MR. GHULAIS: That's beginning of
7 2012.

8 MEMBER ALBERTI: Okay. So for
9 within that year --

10 MR. GHULAIS: Yes.

11 MEMBER ALBERTI: -- he was there
12 five or six times?

13 MR. GHULAIS: Five, six times, but
14 not only -- I mean he took -- when I leave --
15 like I left the country for a month, so he was
16 there for the month. Five, six times like
17 separated.

18 MEMBER ALBERTI: Okay.

19 MR. GHULAIS: Sometimes it's like
20 for a month, sometimes for two days or three
21 days.

22 MEMBER ALBERTI: Had you ever told

1 him or -- I keep forgetting the ABC manager's
2 name, but --

3 MR. HURWITZ: Mohamed.

4 MEMBER ALBERTI: Mohamed? I'm
5 sorry.

6 MR. HURWITZ: Alhada.

7 MEMBER ALBERTI: Okay. Mr. Alhada
8 or Mr. Ibrahim. Had you ever told them where
9 you kept the voluntary agreement?

10 MR. GHULAIS: I believe. I don't
11 know if they heard me, but I said it one time.
12 You guys, the voluntary agreement -- I said
13 it. I was there, but -- and the waitress was
14 there. The waitress, she had the manager
15 license. Because I always try to explain to
16 her where I put everything because she has
17 manager license, too. So I believe I said it,
18 but I believe they didn't hear it. Because if
19 they heard it, they will find it so easily.

20 MEMBER ALBERTI: Well, so this
21 other waitress that you told where it is and
22 you think should know, was she there that

1 evening?

2 MR. GHULAIS: No, she was off that
3 day. She, the same waitress that's last time.

4 MEMBER ALBERTI: So to your
5 knowledge Mr. Ibrahim is well versed in ABC
6 regulations?

7 MR. GHULAIS: Say that again,
8 please?

9 MEMBER ALBERTI: To your knowledge
10 Mr. Ibrahim is well versed in ABC --

11 MR. GHULAIS: Yes.

12 MEMBER ALBERTI: And why do you
13 say that? Why do you believe that?

14 MR. GHULAIS: He has experience
15 about restaurant for long time. I believe
16 more than 20 years he been in restaurant
17 establishment and bar establishment and he
18 been like --

19 MEMBER ALBERTI: Do you know if
20 he's ever been trained?

21 MR. GHULAIS: -- he knows about
22 the regulation about the --

1 MEMBER ALBERTI: Do you know if
2 he's ever been trained?

3 MR. GHULAIS: I believe so. He's
4 been trained, but I don't know. Like I didn't
5 see any --

6 MEMBER ALBERTI: Okay. Did you
7 tell him about the -- had you spoke to him
8 about the November 12th or November 18th
9 incidents?

10 MR. GHULAIS: About the incidents
11 happen?

12 MEMBER ALBERTI: Before you left.
13 How long were you out of town in December?

14 MR. GHULAIS: It was until
15 February. Almost two month. Almost like a
16 month-and-a-half.

17 MEMBER ALBERTI: So prior to
18 December 30th how long had you been out of
19 town?

20 MR. GHULAIS: Thirty days.

21 MEMBER ALBERTI: Pardon?

22 MR. GHULAIS: Thirty days.

1 MEMBER ALBERTI: Thirty days?

2 MR. GHULAIS: Yes.

3 MEMBER ALBERTI: Okay. Had you
4 spoken to him about what had transpired on
5 November 12th and November 18th?

6 MR. GHULAIS: I spoke to him
7 about --

8 MEMBER ALBERTI: Had you talked to
9 him about the incidents that happened on
10 November 12th and November 18th?

11 MR. GHULAIS: Yes, they talked ad
12 me. They explained ad me actually.

13 MEMBER ALBERTI: So Mr. Ibrahim
14 was knowledge about what had happened those
15 evenings?

16 MR. GHULAIS: Yes, he told me. He
17 told me the entire story. And he just told me
18 this was happening. But I don't think we
19 violated the law and that's what --

20 MEMBER ALBERTI: He told you that?
21 He told you this was happening? What do you
22 mean when he told you this was happening? He

1 told you about November 12th?

2 MR. GHULAIS: November 12th is
3 violation you're talking, because I'm a little
4 confused.

5 MEMBER ALBERTI: November 12th
6 investigators visited you. Did you discuss
7 that with Mr. Ibrahim?

8 MR. GHULAIS: Well, I discuss that
9 with Mr. Ibrahim one time.

10 MEMBER ALBERTI: Okay. November
11 18th the investigators visited you. Did you
12 discuss that with Mr. Ibrahim?

13 MR. GHULAIS: I always discuss
14 with him everything. Like any violation we
15 have, I always come and him.

16 MEMBER ALBERTI: Okay. So he was
17 knowledgeable what happened those evenings?

18 MR. GHULAIS: I believe so, yes.

19 MEMBER ALBERTI: Great. Thank
20 you. I have no further questions.

21 CHAIRPERSON MILLER: Okay. Other
22 Board Members?

1 (No audible response.)

2 CHAIRPERSON MILLER: Okay. Is
3 there other questions on Board questions?

4 MS. SCHMIDT: No.

5 CHAIRPERSON MILLER: Any rebuttal
6 questions?

7 MR. HURWITZ: Did you believe
8 under the questioning from Mr. Alberti that
9 you were being harassed by investigators and
10 targeted?

11 MR. GHULAIS: Who?

12 MR. HURWITZ: You. Do you --

13 MR. GHULAIS: Yes, I believe so.

14 MR. HURWITZ: And did you do
15 anything about that belief?

16 MR. GHULAIS: I did file a
17 complaint and they called us, me and Mr.
18 Ibrahim, and they have a meeting with us, but
19 they're to pull it up and, you know, we just
20 need -- we don't need to do this and hear us
21 about the entire -- sometimes my memory
22 doesn't remember. It's getting like a little

1 longer time, but you know, the entire story.

2 CHAIRPERSON MILLER: I'm sorry,
3 it's hard to hear you. Could you repeat that
4 or talk into the mic, or something?

5 MR. GHULAIS: Yes, I filed a
6 complaint about -- I forgot actually his name,
7 but -- yes, and we been informed us to take
8 our complaint back because there is no need
9 for this. And we said also we don't need any,
10 but we -- I feel like I been targeted so bad
11 because -- I don't know what the reason, but
12 when we filed the complaint because with his
13 behavior, he came one time, he want to fight
14 with us with no reason and he was -- I believe
15 he was drunk, and everybody else. So that's
16 why how filed the complaint and they said just
17 take that -- I mean take the complaint back.
18 We put motion. Came here and the chief of the
19 investigator, he met with us and he told us
20 just take it back and we don't need to, you
21 know, go that far. And, you know, like I
22 believed him. But after that we still same.

1 MR. HURWITZ: And when you were
2 questioned by the prosecuting attorney you
3 talked about the investigator fighting with a
4 customer.

5 MR. GHULAIS: Yes.

6 MR. HURWITZ: When you said
7 "fighting," I think -- would you explain what
8 you mean by "fighting?"

9 MR. GHULAIS: They were arguing.
10 They were almost going to fight. That's what
11 Mo told me. They were almost going to fight
12 by hand because he -- I think the customer he
13 curse him or something like that. But I told
14 him why didn't you try -- I said -- he said he
15 tried, but the other guy, he was so defended.

16 MR. HURWITZ: And you say that Mo
17 tried to interfere and stop the --

18 MR. GHULAIS: Mo, he tried to stop
19 the guy.

20 MR. HURWITZ: Yes.

21 MR. GHULAIS: Because he -- what
22 he said he doesn't know him, the investigator

1 from ABRA.

2 MR. HURWITZ: So the investigator
3 never introduced himself to the customer?

4 MR. GHULAIS: No, he just came and
5 he just grabbed the glass and --

6 MR. HURWITZ: Okay. Thank you.
7 No further questions.

8 CHAIRPERSON MILLER: Okay. Did
9 you have any cross on that?

10 MS. SCHMIDT: No, ma'am.

11 CHAIRPERSON MILLER: Okay. Thank
12 you very much.

13 MR. GHULAIS: Thank you.

14 MR. HURWITZ: One more witness.

15 CHAIRPERSON MILLER: One more
16 witness? Okay.

17 MR. HURWITZ: I'd like to call
18 Zakaria Ibrahim.

19 CHAIRPERSON MILLER: Okay. Hi.

20 MR. IBRAHIM: Zakaria Ibrahim.

21 CHAIRPERSON MILLER: Do you swear
22 to tell the truth, the whole truth, nothing

1 but the truth?

2 MR. IBRAHIM: I do.

3 CHAIRPERSON MILLER: Okay. Thank
4 you. Have a seat.

5 MR. HURWITZ: Mr. Ibrahim --

6 CHAIRPERSON MILLER: Could he
7 introduce himself fully?

8 MR. HURWITZ: Oh.

9 CHAIRPERSON MILLER: Okay. That's
10 all right. Would you identify yourself fully
11 for the record, please?

12 MR. IBRAHIM: Zakaria Ibrahim, Z-
13 A-K-A-R-I-A. Ibrahim is I-B-R-A-H-I-M.

14 MR. HURWITZ: Were you present the
15 night of December 30th when these alleged
16 violations took place?

17 MR. IBRAHIM: Sure. Yes.

18 MR. HURWITZ: And you heard the
19 testimony of Mr. Molloy, Investigator Molloy?

20 MR. IBRAHIM: Yes.

21 MR. HURWITZ: Can you give us a
22 review of what you understood took place that

1 night?

2 MR. IBRAHIM: I was managing this
3 night because I believe Sami was out of the
4 country for emergency.

5 MEMBER ALBERTI: Can you speak up
6 just a little bit, please?

7 MR. IBRAHIM: Oh, I'm sorry. Sami
8 was out of the country and he fill me in
9 advance like 10, 15 days just to be aware to
10 cover him. And I did ask him before I agreed
11 that did he have a manager license in case if
12 we need one I have to process. He tell me you
13 got at least three manager's license in the
14 restaurant. And he introduce me to them also
15 because Mohamed, he's the cousin, so I'm aware
16 already about Mohamed. But the other two
17 server he just introduce me to them and he
18 tells them that is going to be the manager
19 until he come back.

20 So usually 1:25 -- I know the rule
21 and regulation. I don't break no rules. If
22 I break rules, I offend myself. I blocked the

1 bar at 1:25 not to allow any liquors to be
2 served. And I said to my bartender and
3 whoever in the floor to collect after 1:30
4 exactly.

5 Suddenly I see Mr. Brian coming
6 in. I call a manager because if I'm going to
7 introduce myself to Mr. Brian, is going to ask
8 ABC manager, so I am aware of that. I call a
9 young lady. I don't know her name. She was
10 working at that night. But I'm aware that she
11 had a ABC license. I tell her come here. She
12 come. Before he introduce himself I tell him
13 I know that you are an inspector. How can I
14 help you? He say you have ABC manager? I
15 tell, sure, I have three. This is one.

16 So we are blocking the left corner
17 of the restaurant, which it mean if you come
18 from Bistro 18 like that, you cannot see this
19 side, but you can see the bar. You have to
20 walk more further to make a left or to go
21 straight to the kitchen or bathroom. So
22 nobody in that corner from this side can see

1 what is going on. So if the investigator are
2 talking to me here on that side, all he can
3 see that bar and me.

4 While that the bar is empty
5 because I don't allow people to sit in the bar
6 even to consume the drink. I don't allow that
7 because it's going to make red flag and I know
8 an inspector sometime they walk by watching
9 from window. I'm aware. I been in the
10 industry for almost 20 years.

11 So while she's talking or
12 introducing herself or representing herself,
13 the other inspector, she moved from that
14 corner and she walk. So now she can see that
15 side, but she didn't act nothing because all
16 this happen at that night, and I did wish if
17 Mr. Brian see. All this happen suddenly.
18 Suddenly somebody -- a female come out of the
19 bathroom with a bottle of liquors, beer. So
20 right away I said, ma'am, you did inform. Are
21 you unaware that 1:30 is the last call? She
22 say yes. I tell her thank you and I take the

1 beer and I throw it.

2 There is nobody stop nobody from
3 taking pictures. I'm aware of the law. And
4 if we consider that -- excuse my language by
5 using the word interfering." The word
6 "interfering" is a big word for someone who
7 represent liquor board. And I don't break
8 law. Because he can and we have that right to
9 call up cops to ask and to seek protection.
10 The word "interfering" is not the right word.
11 It's very harsh to be use in this case. It's
12 a big word. Interfering like we didn't allow
13 him. We push him. What interfering? What is
14 the word "interfering" mean in this situation?
15 We didn't interfere.

16 We may ask not to take a pictures
17 as Mr. Sami was talking and they didn't clear
18 that. Some people, they don't like to be
19 taken pictures. You're not violating the
20 person. You can take a pictures of a glass,
21 a beer, and we can sign that's violation.

22 I'm against, excuse me by saying

1 that, I'm against any inspector will enter any
2 restaurant without checking in what time is
3 now and to tell us what violation it happen in
4 this place and let us admit it without
5 argument. So when we come here to the Board,
6 we will be guilty or we will be honest.

7 And inspector was full of respect.
8 I don't going to say -- you can say whatever
9 you want to say. We can say whatever we're
10 going to say. But what is the proof here?
11 The Board can listen to us, but if there is
12 document, we'll release all of that and it
13 will make that easy for the Board to decide.
14 I know they represent the liquor board. I
15 know they represent the ABC. But what about
16 if they having bad relation with us? What if
17 you don't like that guy? What about if you
18 don't like me. What about if they don't like
19 black? What about if they don't like white?
20 It's a personal thing.

21 So let's go and work this thing
22 out. If an inspector come, he have to say it

1 is 1:30. I'm in your facility Bistro 18.
2 Who's the responsible here? Sami. Sami,
3 let's walk --

4 MR. HURWITZ: If I may interrupt
5 you.

6 MR. IBRAHIM: I'm sorry.

7 MR. HURWITZ: We're getting off
8 the --

9 MR. IBRAHIM: I'm just -- okay.
10 I'm sorry, you guys.

11 MR. HURWITZ: So during the night
12 of this alleged violation did you cooperate
13 fully with the investigators?

14 MR. IBRAHIM: Of course.

15 MR. HURWITZ: Did you interfere in
16 any way?

17 MR. IBRAHIM: I cannot.

18 MR. HURWITZ: And he asked you for
19 a copy of the voluntary agreement?

20 MR. IBRAHIM: He did.

21 MR. HURWITZ: And then you
22 couldn't find it right away and --

1 MR. IBRAHIM: You see, I know
2 where it is, but it just is like thing you got
3 upside-down. Like I have three manager
4 working with me and they all like feel like we
5 are under arrest.

6 MR. HURWITZ: And the investigator
7 didn't give you enough time to find and
8 produce the voluntary agreement?

9 MR. IBRAHIM: Is not exactly he
10 didn't give me enough time. You kind of call
11 it he didn't give me enough time. I just --
12 there was a thing, I was just stuck next to
13 him to make him happy and to please him just
14 to show him there is nothing to hide. And all
15 I did ask, I ask Mohamed to start look for
16 this. And worse come to worse he say I have
17 a copy in my car.

18 MR. HURWITZ: Mohamed said that?

19 MR. IBRAHIM: Yes, he say worse to
20 worse I have a copy in my car. And his car in
21 the corner, which is going to take him three
22 to four minutes, but I didn't allow him to go.

1 But you see I'm -- and that's it. And the
2 investigator just left?

3 MR. IBRAHIM: Yes. Now that's is
4 the two thing I just wish if he's here so we
5 can talk about it, because Mohamed he offered
6 that. He said I can get it from my car.

7 MR. HURWITZ: Yes.

8 MR. IBRAHIM: Because he always
9 have copy. I have a copy myself. Was no
10 reason. I have it now and I can get it out of
11 my --

12 MR. HURWITZ: Thank you.

13 MR. IBRAHIM: Yes.

14 MR. HURWITZ: No further
15 questions.

16 MR. IBRAHIM: That's it for me?

17 MR. HURWITZ: Yes.

18 CHAIRPERSON MILLER: Okay. We did
19 Board questions, didn't we? Okay. Do you
20 have follow-up?

21 MS. SCHMIDT: Yes, just a couple
22 of quick questions.

1 CHAIRPERSON MILLER: Okay.

2 MS. SCHMIDT: So that evening when
3 they were clearing the bottles did you try to
4 stop them from clearing the bottles?

5 MR. IBRAHIM: I will never stop.
6 Is he say that in respect for ask me just to
7 do everything, I did.

8 MEMBER ALBERTI: Can you speak up,
9 Mr. Ibrahim?

10 MR. IBRAHIM: I think Mr. Brian
11 and he had a female investigator at that
12 night. She's the one who ask us to stop doing
13 anything and I tell her just go ahead. But
14 she didn't find anything except that bottle of
15 beer from the lady, the female coming out of
16 the bathroom. That's it.

17 MS. SCHMIDT: No further
18 questions.

19 CHAIRPERSON MILLER: Okay. Are
20 there Board questions?

21 (No audible response.)

22 CHAIRPERSON MILLER: Okay. Thank

1 you.

2 MR. IBRAHIM: Thank you.

3 CHAIRPERSON MILLER: So I assume
4 no one has any documents they want to put in?

5 MS. SCHMIDT: No.

6 CHAIRPERSON MILLER: Okay. The
7 VAs are in our records.

8 MR. HURWITZ: Right.

9 CHAIRPERSON MILLER: Right. The
10 license is in our record. Okay. Closings?

11 MS. SCHMIDT: Yes, the District
12 has shown that the Licensee has violated 25-
13 723, which he did the sale and consumption of
14 alcoholic beverages after ABC-approved hours.
15 And again, even though there's a voluntary
16 agreement and a license, the license controls
17 in these instances.

18 But again, the Board can approve
19 any agreement, however, sometimes they need to
20 take separate steps, and this case the
21 Licensee is that you not take sufficient steps
22 to ensure that he could serve after 1:30.

1 In addition, as far as the
2 interference, it is quite clear that
3 investigator Molloy saw actual interference
4 with his investigation. When Investigator
5 Mackenzie tried to take the pictures, a female
6 employee very forcefully did not allow any
7 pictures to be taken. And as a matter of
8 fact, while this was going on all the bottles
9 were being cleared so there wouldn't even be
10 anything to take pictures of.

11 And lastly, Investigator Molloy
12 testified that he gave them every opportunity
13 to produce a copy of the voluntary agreement.
14 And even if it was in a picture, the ABC
15 managers that evening should be able to
16 produce it as required by the D.C. Official
17 Code.

18 CHAIRPERSON MILLER: Whenever
19 you're ready.

20 MR. HURWITZ: Yes, thank you.

21 CHAIRPERSON MILLER: Yes.

22 MR. HURWITZ: I'd like to comment

1 that statute 25-723 refers specifically to
2 ABC-approved hours. And I would present to
3 you and argue to you that by the approval of
4 the voluntary agreement that provided for the
5 later hours that the Licensee was not in
6 violation of the ABC-approved hours for sale
7 or consumption of the alcohol.

8 I'd also note that the alleged
9 interference was done without the
10 authorization, direction or consent of the
11 Licensee or the management of the Licensee.
12 It was done by a waitress on her own. We did
13 not approve of it at the time, we did not
14 authorize it, and we do not authorize such
15 activities.

16 And the activity that took place
17 may have been because she thought she was
18 protecting the restaurant by removing alcohol
19 from the tables, but it also was related to
20 the fact that there had been a prior
21 experience in the restaurant with ABC
22 investigators where an argument and a

1 disruption took place when an investigator
2 took the drink off a customer's table. And
3 also with this clientele that frequents this
4 restaurant the idea of taking pictures is
5 abhorrent and against their cultural heritage
6 and not something that they would allow
7 strangers to do.

8 And then with regard to the
9 voluntary agreement, it was on the premises.
10 The investigator only was there a total of 10
11 minutes and didn't give them enough time to
12 produce it. The testimony of Mr. Ibrahim
13 indicated that they had another copy of eh
14 voluntary agreement in a car parked down the
15 street, but they did not have an opportunity
16 to produce it for the investigator. There was
17 no intent to interfere with the investigation,
18 no intent to be in violation of any
19 regulation, and I ask that all of these
20 charges be dismissed.

21 CHAIRPERSON MILLER: Okay. Thank
22 you. I'm going to close the record now and

1 ask if any of the parties want to file
2 proposed findings of fact and conclusions of
3 law.

4 MS. SCHMIDT: Not from the
5 Government.

6 CHAIRPERSON MILLER: Okay.

7 MR. HURWITZ: Waive.

8 CHAIRPERSON MILLER: Okay. All
9 right. Then I'm going to read the
10 instructions for deliberating this case and I
11 think 13-CMP-00035 in a closed session. And
12 then we will be issuing an order within 90
13 days, a written order.

14 As Chairperson of the Alcoholic
15 Beverage Control Board for the District of
16 Columbia and in accordance of 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 Nos. 13-CMP-00035 and 12-
21 CMP-00679 concerning Bistro 18 per Section
22 405(b)(4) of the Open Meetings Amendment Act

1 of 2010 and deliberating upon these cases for
2 the reasons cited in Section 405(b)(13) of the
3 Open Meetings Amendment Act of 2010. Is there
4 a second?

5 MEMBER BROOKS: Second.

6 CHAIRPERSON MILLER: Mr. Brooks
7 has seconded the motion. I'll 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 CHAIRPERSON MILLER: Mr. Alberti?

12 MEMBER ALBERTI: I agree.

13 CHAIRPERSON MILLER: Ms. Miller
14 agrees. Mr. Silverstein?

15 MEMBER SILVERSTEIN: I agree.

16 CHAIRPERSON MILLER: Mr. Jones?

17 MEMBER JONES: I agree.

18 CHAIRPERSON MILLER: As it appears
19 that the motion has passed, I hereby give
20 notice that the ABC Board will hold a closed
21 meeting in the ABC Board conference room today
22 or next Wednesday pursuant to the Open

1 Meetings Amendment Act of 2010 and issue an
2 order within 90 days of today.

3 Thank you.

4 MR. HURWITZ: Thank you all very
5 much.

6 CHAIRPERSON MILLER: Thank you.
7 Have a good night.

8 MR. GHULAIS: Thank you. You have
9 a good night.

10 CHAIRPERSON MILLER: So I think I
11 want to just do the closed meetings for the
12 agenda and the investigative agenda and we'll
13 be done here.

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 on October 30th, 2013 for the purpose of
20 seeking legal advice from our counsel on the
21 matters identified on the Board's agenda for
22 October 30th, 2013 as published in the D.C.

1 Register on October 25th, 2013. Is there a
2 second?

3 MEMBER BROOKS: Second.

4 ACTING CHAIRMAN ALBERTI: I'll now
5 take a roll call vote now that Mr. Brooks has
6 seconded the motion. Mr. Brooks?

7 MEMBER BROOKS: I agree.

8 CHAIRPERSON MILLER: And, Mr.
9 Alberti?

10 MEMBER ALBERTI: I agree.

11 CHAIRPERSON MILLER: Ms. Miller
12 agrees. Mr. Silverstein?

13 MEMBER SILVERSTEIN: I agree.

14 CHAIRPERSON MILLER: Mr. Jones?

15 MEMBER JONES: I agree.

16 CHAIRPERSON MILLER: It appears
17 that the motion has passed by a 5-0-0 vote.
18 I hereby give notice that the ABC Board will
19 hold this aforementioned closed meeting
20 pursuant to the Open Meetings Amendment Act of
21 2010. Notice will be posted on the ABC Board
22 hearing room bulletin board, placed on the

1 electronic calendar on ABRA's Web site and
2 published in the D.C. Register in as timely a
3 manner as practicable.

4 As Chairperson of the Alcoholic
5 Beverage Control Board for the District of
6 Columbia and in accordance with Section 405 of
7 the Open Meetings Amendment Act of 2010, I
8 move that the ABC Board hold a closed meeting
9 on October 30th, 2013 for the purposes of
10 discussing and hearing reports concerning
11 ongoing or planned investigations of alleged
12 criminal or civil misconduct or violations of
13 law or regulations and seeking legal advice
14 from our counsel in the Board's investigative
15 agenda for October 30th, 2013 as published in
16 the D.C. Register on October 25th, 2013. Is
17 there a second?

18 MEMBER BROOKS: Second.

19 ACTING CHAIRMAN ALBERTI: Mr.
20 Brooks has seconded the motion. I'll now take
21 a roll call vote on the motion now that it's
22 been seconded. Mr. Brooks?

1 MEMBER BROOKS: I agree.

2 CHAIRPERSON MILLER: Mr. Alberti?

3 MEMBER ALBERTI: I agree.

4 CHAIRPERSON MILLER: Ms. Miller
5 agrees. Mr. Silverstein?

6 MEMBER SILVERSTEIN: I agree.

7 CHAIRPERSON MILLER: Mr. Jones?

8 MEMBER JONES: I agree.

9 CHAIRPERSON MILLER: It appears
10 that the motion has passed by a 5-0-0 vote.
11 I hereby give notice that the ABC Board will
12 hold this aforementioned closed meeting
13 pursuant to the Open Meetings Amendment Act of
14 2010. Notice will also be posted on the ABC
15 Board hearing room bulletin board, placed on
16 the electronic calendar on ABRA's Web site and
17 published in the D.C. Register in as timely a
18 manner as practicable.

19 And that concludes our business
20 for October 23rd, 2013 and we are adjourned.

21 (Whereupon, the hearing was
22 concluded at 5:59 p.m.)

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