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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

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IN THE MATTER OF: :  
Yama Jewayni, LLC t/a Rosebar:  
1215 Connecticut Ave NW :  
License #777883 : Case #15-CMP-00135  
Retailer CT : Case #15-CMP-00493  
ANC 2B : Case #15-CMP-00666  
Substantial Change without : Fact Finding  
Board Approval (Three counts): Hearing\*

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Wednesday, December 9,  
2015

Whereupon, the above-referenced matter  
came on for hearing at the Alcoholic Beverage  
Control Board, Reeves Center, 2000 14th Street,  
N.W., Suite 400S, Washington, D.C. 20009.

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3 CHAIRPERSON:

4 DONOVAN ANDERSON, Presiding

5

6 BOARD MEMBERS:

7 NICK ALBERTI

8 JAMES SHORT

9 RUTHANNE MILLER

10 MIKE SILVERSTEIN

11

12 ALSO PRESENT:

13 INVESTIGATOR MARK BRASHEARS,

14 On behalf of ABRA

15 INVESTIGATOR KEVIN PUENTE,

16 On behalf of ABRA

17 MAKAN SHIRAFKAN, ESQ.,

18 On behalf of the Licensee

19 OSCAR GUARDADO, Manager,

20 On behalf of the Licensee

21

22

1 [3:11 p.m.]

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

3 CHAIRMAN ANDERSON: All right. Okay. So  
4 let me go back, then. The case that we're  
5 calling, then, is Case No. 15-CMP-00135, 15-CMP-  
6 00493, and 15-CMP-00666; Rosebar; License No.  
7 77883.

8 Will the parties approach. Now, in jest,  
9 I was saying I hope I didn't see you again and,  
10 you know, what I meant. But I did not realize I  
11 would have seen you in the next case.

12 MR. SHIRAFKAN: Hopefully, it doesn't  
13 target to me. I'm not the same client.

14 MR. SILVERSTEIN: At least change your  
15 tie?

16 [Laughter.]

17 CHAIRMAN ANDERSON: But, in time, I will  
18 know the counsel for each case so it will work.  
19 Okay. All right.

20 Can you please identify yourself for the  
21 record. Please, there's a paper in front of you  
22 to write your name and also please spell your

1 name. Are you an interpreter?

2 MR. SHIRAFKAN: No. He's the owner and  
3 general manager --

4 CHAIRMAN ANDERSON: Oh, okay. I'm sorry.  
5 Okay. The way you were looking like you didn't  
6 understand. So that's why I just want to make  
7 sure that you're exactly -- yeah. So please say  
8 your name and spell it for the record, please.

9 MR. JEWAYNI: Yama Jewayni, Y-a-m-a J-e-  
10 w-a-y-n-i.

11 CHAIRMAN ANDERSON: And your title.

12 MR. JEWAYNI: Parker. Officer.

13 CHAIRMAN ANDERSON: What's your role in  
14 the company?

15 MR. JEWAYNI: I'm an owner.

16 CHAIRMAN ANDERSON: Owner.

17 MR. GUARDADO: My name is Oscar Guardado,  
18 general manager of Rosebar. O-s-c-a-r, my first  
19 name. G-u-a-r-d-a-d-o is my last name. And I'm  
20 just general manager of Rosebar.

21 MR. SHIRAFKAN: Makan Shirafkan, M-a-k-a-  
22 n, first name. Last name is S-h-i-r-a-f, as

1 Frank, k-a-n, as Nancy. And I'm the attorney for  
2 licensee.

3 INVESTIGATOR PUENTE: Investigator Kevin  
4 Puente, P-u-e-n-t-e.

5 MR. BRASHEARS: Investigator Mark  
6 Brashears, ABRA.

7 MR. KNIESER: Can you spell your last  
8 name.

9 MR. BRASHEARS: B-r-a-s-h-e-a-r-s.

10 MR. KNIESER: Thank you.

11 CHAIRMAN ANDERSON: So is it Mr. Puente?  
12 Or whose case it is? Mr. Brashears?

13 MR. BRASHEARS: The 15-CMP-00666 was the  
14 one that I was told to come for, for the fact  
15 finding, sir.

16 MR. ALBERTI: I'm confused on the purpose  
17 this.

18 [Speaking off mic.]

19 MR. SHIRAFKAN: And, if I may, when -- if  
20 the Board allows me -- I'd like to get  
21 clarification on some things too. Because, when  
22 I got the three cases, I got a little confused on

1 that.

2 CHAIRMAN ANDERSON: All right. Okay.  
3 Mr. Brashears, you're stating that on Case No.  
4 0666 -- so tell us what that case is. And then  
5 you can talk about that one.

6 MR. BRASHEARS: Well, sir, on that  
7 particular case that evening, myself and  
8 Investigator Puente had gone to the  
9 establishment. We made contact with the ABC  
10 manager. Talked to him about the occupancy. And  
11 basically, was informed that he thought -- Mr.  
12 Guardado -- stated that the establishment might  
13 be over 130 patrons.

14 When we went inside, very crowded,  
15 approximately 200 people as best we could count.  
16 We didn't get to the summer garden. We later  
17 called the fire marshal who basically came in,  
18 advised the establishment that they were  
19 overcrowded. The fire marshal was provided a  
20 certificate of occupancy that showed a first  
21 floor that no longer belongs to the  
22 establishment.

1           And the other issue with all of this: I  
2 spoke with Mr. Guardado about getting a proper  
3 certificate of occupancy that reflected the  
4 current floors. And, in doing some research, I  
5 spoke with our paralegal. She had sent a notice  
6 to the establishment back in April advising them  
7 that a new certificate of occupancy needed to be  
8 completed. So basically, it took from April  
9 until just recently to get a new C of O.

10           CHAIRMAN ANDERSON: Okay. Pronounce your  
11 name, again, for me, sir. Mr. --

12           MR. SHIRAFKAN: Shirafkan.

13           CHAIRMAN ANDERSON: Shirafkan. Can you  
14 respond to that particular case on the  
15 allegations?

16           MR. SHIRAFKAN: Sure. Before I respond  
17 to that, I just wanted to ask. I think I got to  
18 clarify for my sake. There are three case  
19 numbers and all three cases, to me, seem to be  
20 the exact same charge in it; am I right? So it's  
21 just different dates of the same exact offense.  
22 Okay. I wanted to be clear.

1 [Whispering.]

2 MR. SHIRAFKAN: No. I don't have a  
3 response. I can tell you that since this has  
4 happened, I guess the triple damage on this all  
5 of a sudden came at once. And I can explain why,  
6 but --

7 CHAIRMAN ANDERSON: This is your  
8 opportunity.

9 MR. SHIRAFKAN: Absolutely. I don't know  
10 if the Board has gotten the submission that I  
11 gave. My understanding was it was supposed to be  
12 on the calendar for today. Basically, what  
13 happened is Rosebar -- and this problem goes way  
14 -- years, actually -- back. Because Rosebar had  
15 a counsel who passed away from cancer. And  
16 during that time, there were certain filings that  
17 was done by the prior counsel that Rosebar knew,  
18 didn't know. And there was some gap basically.  
19 So there was a certificate of occupancy issued --

20 CHAIRMAN ANDERSON: You say you provided  
21 that --

22 MR. KNIESER: Your mic is off, sir.

1 CHAIRMAN ANDERSON: That's fine.

2 MR. KNIESER: I'm sorry. That's my  
3 fault.

4 CHAIRMAN ANDERSON: Yeah. Who did you  
5 provide the information to?

6 MR. SHIRAFKAN: It was submitted to Lynn  
7 Hager -- Bill Hager. And I believe I was told  
8 that this morning it was going to be put on --

9 CHAIRMAN ANDERSON: I don't have it.

10 MR. SHIRAFKAN: I can briefly explain  
11 what I had.

12 MR. ALBERTI: Could we pause here?

13 MR. SHIRAFKAN: Absolutely.

14 MR. ALBERTI: It was on one of our  
15 agendas. We received a letter from you.

16 MR. SHIRAFKAN: Okay.

17 MR. ALBERTI: So I've seen it. I just  
18 don't remember in what set of documents it was  
19 included. So pause for a moment, Chairman.

20 MR. SHIRAFKAN: Absolutely.

21 MR. ALBERTI: Maybe we get a copy of that  
22 letter?

1 MR. SHIRAFKAN: Sure.

2 MR. ALBERTI: Because you laid out the  
3 chronology of --

4 MR. SHIRAFKAN: Exactly.

5 MR. ALBERTI: -- of when you got the C of  
6 O.

7 MR. SHIRAFKAN: Yes. And exactly what I  
8 was going to say is on the letter, along with the  
9 documentation to show what had happened and how  
10 we're fixing it or we had fixed it.

11 CHAIRMAN ANDERSON: Yeah. I apologize.

12 MR. ALBERTI: I think we're getting  
13 something from --

14 CHAIRMAN ANDERSON: Because you have a  
15 document. And you said that we have it. And I  
16 don't have that in front of me. So, therefore, I  
17 just want to make sure that I'm following along  
18 based on what you're saying. So please forgive  
19 the fact that we're not -- I want to make sure  
20 that I'm following you and paying attention to  
21 what you are saying.

22 MR. ALBERTI: I'm just going to interject

1 that we had dozens of measurements sent to us  
2 over the last weekend. It was hard to keep  
3 track.

4 MR. SHIRAFKAN: I totally understand.  
5 And I apologize. I, perhaps, should have brought  
6 my copies for you. But I think they're being  
7 handed out. Thank you.

8 CHAIRMAN ANDERSON: Go ahead.

9 MR. SHIRAFKAN: Basically, as you'll see  
10 on the letter, the short version of this is that  
11 the certificate of occupancy in 2013 there was a  
12 certificate of occupancy issued for 360 people.  
13 The license was renewed July 3rd, 2013, under the  
14 old certificate of occupancy for 220.

15 Now, my understanding -- and this is  
16 going back to 2013 -- is that when the renewal  
17 was done, a formal -- I don't think -- this  
18 client hasn't told me that they formally wrote a  
19 letter saying it's now 360. But, when they  
20 applied for a renewal, a copy of the certificate  
21 of occupancy was requested. A copy was provided.  
22 But, when I asked for the records, I did not --

1 and I'll let you -- I did not see that  
2 certificate of occupancy that was 360.

3           So, from there, the establishment moves  
4 forward believing that their certificate of  
5 occupancy is 360. They have it on the wall. And  
6 they never look at the license versus the  
7 certificate of occupancy noticing that on the  
8 license it says 220 and on the certificate of  
9 occupancy it says 360.

10           Time moves on. They lease out the first  
11 floor. And they are remained with the second  
12 floor. When the lease had the first floor, DCRA  
13 comes and they tell him that well, your first  
14 floor is now not part of this. But, on the  
15 second floor, you have 220 -- something in that  
16 range of number -- that's including inside and a  
17 deck. That's your new number. And they had a  
18 contractor who was working on getting a new  
19 certificate of occupancy under this -- or maybe  
20 308, I believe -- 308 was the new number that  
21 they were given.

22           So they were in the process of getting

1 this, meanwhile, believing that well, we used to  
2 be 360. Now we're 308. That's inside second  
3 floor and the deck. Investigators come and they  
4 notify him that well, your license says 220. But  
5 this is the 220 that doesn't include downstairs.  
6 And that's where this whole confusion starts,  
7 licensee believing that well, we're told that we  
8 have 308 minus the deck. And once the deck is  
9 open, we have the 308.

10 So, when I get involved with this, what I  
11 did, I re-tracked back going back and found out  
12 where the problem was. And, instead of, I guess  
13 arguing that -- because technically, yes. They  
14 are in violation that day. And we're not arguing  
15 that on that date they were not in violation on  
16 license and certificate of occupancy not  
17 matching. But to remedy that -- and I always  
18 believe it's not knowing something is wrong,  
19 making a mistake, and then what do you do to fix  
20 it -- we have the new certificate of occupancy  
21 which is 308. And I've applied so that along  
22 with the story and the old certificate of

1 occupancy that you have in your file, so that we  
2 can resolve this and have the new number, which  
3 is 308, match the license and hopefully be able  
4 to move forward.

5           So this explanation is actually for all  
6 three of the charges that we have. Because all  
7 three are basically saying the same thing; look  
8 your license says one thing. Your certificate of  
9 occupancy says another. We believe the number is  
10 one thing. DCRA says another. And there's just  
11 -- I figured going by the paper seemed to be the  
12 best way of moving forward on this. That's all.

13           CHAIRMAN ANDERSON: All right. I'll have  
14 Mr. Puente -- just you can then talk about the  
15 other cases. I know they're the same, but just  
16 for the record -- I'm sorry --

17           MR. BRASHEARS: Can I clarify something,  
18 sir?

19           CHAIRMAN ANDERSON: Yeah.

20           MR. BRASHEARS: You know, we're speaking  
21 of an occupancy of 220. But the occupancy was  
22 limited by DCRA in December of 2014, to 130

1 patrons, total. The establishment was made aware  
2 of that. That was the number that I held the  
3 establishment to every time I came out for a  
4 visit. Mr. Guardado was made aware of that.

5 DCRA visited the establishment with me  
6 once, and there was some confusion about what the  
7 establishment could or could not have. Mr.  
8 Guardado was directed by DCRA to come down on  
9 Monday morning. The DCRA person and the  
10 inspector said he would assist him. And  
11 basically, it never happened. We did not get to  
12 the new certificate of occupancy, the 308, until  
13 1 October. And ABRA had reached out several  
14 times to the establishment telling them to get a  
15 new certificate of occupancy. So it pretty much  
16 went on for almost 6 months. But I just wanted  
17 to clarify that, sir.

18 MR. SHIRAFKAN: And, if I can, I guess,  
19 just rebut to a certain extent. The DCRA -- the  
20 130 -- was that ever -- is that something that  
21 was told? Is it something that was on a paper  
22 notified 130? Because this number of DCRA 130,

1 we have different sayings. Somebody saying that  
2 DCRA says 130 for just inside. But, if you open  
3 the deck, it's back out to this higher number.  
4 Were you ever given, like, a paper, a notice,  
5 something that says, "Licensee, 130 is your new  
6 number," or this was just a verbal thing that was  
7 told?

8 MR. BRASHEARS: No. I was not given a  
9 document. I interviewed the inspector that  
10 visited the establishment. It was well after the  
11 fact. He stated that the new number was based on  
12 square footage after the first floor was taken  
13 out. And it was basically a total for  
14 everything. But, no. I did not receive a  
15 document. No, sir.

16 MR. SHIRAFKAN: And I think that's where  
17 -- obviously, as the fact that the new  
18 certificate of occupancy is 308 -- I think that's  
19 where some of the confusion had been where the  
20 licensee DCRA was told 130 is for the inside.  
21 But once you open your deck, it's this greater  
22 number at the time. Correct me if I'm wrong, but

1 by the time I think the inspector had gone there,  
2 the deck had opened back up. So they were under  
3 the impression of what other number DCRA had  
4 said.

5 And, unfortunately, during this whole  
6 process, nothing was ever given on a paper of  
7 this is your number. You got to comply with  
8 this. It's this verbal conversations that might  
9 have been misinterpreted by either side.

10 CHAIRMAN ANDERSON: Go ahead, Mr.  
11 Alberti.

12 MR. ALBERTI: So, Mr. Shirafkan, maybe  
13 I'm oversimplifying this and tell me if I am, all  
14 right? But I'm going to start with December 26,  
15 2014. That's the date of the first report,  
16 right? So, on that date, you were licensed for  
17 220, all right.

18 CHAIRMAN ANDERSON: You have to say yes  
19 or no.

20 MR. SHIRAFKAN: Yes.

21 MR. ALBERTI: All right. But you believe  
22 that you had a certificate of occupancy for 360

1 on that date.

2 MR. SHIRAFKAN: Yes.

3 MR. ALBERTI: All right. And you  
4 believed that prior to that day, you had  
5 submitted that certificate of occupancy to ABRA -  
6 -

7 MR. SHIRAFKAN: Right.

8 MR. ALBERTI: -- at the time of renewal  
9 in 2013.

10 MR. SHIRAFKAN: Right.

11 MR. ALBERTI: So we're all on the same  
12 page, all right?

13 MR. SHIRAFKAN: Yes.

14 MR. ALBERTI: All right. Now, come April  
15 of 2015 -- that's not one of these reports, all  
16 right? Now April of 2015 -- I saw approximately  
17 April 22nd -- the licensee was requested to  
18 resubmit a C of O for their current C of O -- for  
19 their current number. They didn't do that.

20 MR. SHIRAFKAN: Right.

21 MR. ALBERTI: Is there any dispute of  
22 that?

1 MR. SHIRAFKAN: I can check. But I'm not  
2 aware. If I may just ask the licensee.

3 MR. ALBERTI: Sure.

4 [Speaking off mic.]

5 MR. SHIRAFKAN: Okay. So my  
6 understanding of that -- I guess you can ask him  
7 directly as well; I have no problem -- but when  
8 in April he was asked to provide a certificate of  
9 occupancy, he provided the 360 that he had which  
10 was the latest certificate of occupancy that he  
11 had, not the new one that is to be obtained.

12 MR. ALBERTI: Okay. And that was for how  
13 many floors?

14 MR. SHIRAFKAN: That was two floors; am I  
15 correct?

16 MR. JEWAYNI: We still had the first  
17 floor.

18 MR. SHIRAFKAN: That was the same --  
19 [Simultaneous Speaking.]

20 MR. ALBERTI: -- the first floor? Just  
21 one moment, please.

22 MR. SHIRAFKAN: Sure.

1 [Speaking off mic.]

2 MR. ALBERTI: The problem is, is we have  
3 no record -- no. He says -- when did he file  
4 that one?

5 MR. SHIRAFKAN: Actually --

6 MR. ALBERTI: No, no, no. Why don't you  
7 tell me? When did you file that certificate of  
8 360?

9 MR. SHIRAFKAN: He said he gave it to the  
10 investigator.

11 MR. ALBERTI: When?

12 MR. SHIRAFKAN: When was it that the  
13 investigator went to him? This was after eight  
14 or in September? Because I think September 20th  
15 is when --

16 MR. ALBERTI: This is important. This is  
17 very important to me.

18 MR. SHIRAFKAN: September 20th, I  
19 believe, is the date.

20 MR. ALBERTI: So it was requested in  
21 April and didn't give it to the investigator  
22 until September 20th.

1           MR. GUARDADO: Can I say something if you  
2 don't mind?

3           MR. ALBERTI: Sure. Go ahead.

4           MR. GUARDADO: So let me backtrack. So,  
5 in December of 2014, DCRA came to Rosebar. We  
6 have two areas to our establishment. We have an  
7 indoor aspect and an outdoor aspect. Our outdoor  
8 aspect had shut down for, you know, some type of  
9 violation.

10           Then DCRA, Mr. Gamboa, and the fire  
11 police chief or fire marshal come. And they tell  
12 me, "Okay. For this room inside only, you can  
13 only operate for 130 people. For this room  
14 inside only." All right. Great. It was a  
15 verbal. They never told me to go pick up  
16 something or anything.

17           Go back to April. So we're dealing with  
18 this whole situation for the last 3-and-a-half  
19 months. In April, we meet our standards to open  
20 back our deck patio. So, okay. I automatically  
21 assume that, okay, we're back to our normal with  
22 our current certificate of occupancy 360. But

1 Mr. Gamboa from DCRA never stated that I needed  
2 to go pick up a new ticket of occupancy. He  
3 never. He said, "This is what you can operate  
4 inside only."

5 MR. ALBERTI: I believe the Board  
6 contacted you. We sent a letter of warning --

7 MR. GUARDADO: Yes.

8 MR. ALBERTI: -- to submit within --

9 MR. GUARDADO: And I submit --

10 MR. ALBERTI: -- wait, wait. We sent a  
11 letter. And this is going to be in our records.  
12 We sent a letter of warning to submit within 30  
13 days a copy of the new certificate of occupancy.  
14 Did you send that in within 30 days?

15 MR. GUARDADO: No, we did not. I was in  
16 contact with Mrs. Yazmin. I don't remember. I  
17 think her last name is Delgado. I spoke to her  
18 within those 30 days. I told her that we were  
19 working on getting the new certificate of  
20 occupancy. Unfortunately, we were working with  
21 someone that wasn't being responsible on getting  
22 our certificate of occupancy. So that's why it

1 was delayed up until September. Then we got it  
2 fixed.

3 MR. ALBERTI: And we granted you an  
4 extension of how many days? On January 4th, we  
5 gave you an extension of 30 days.

6 MR. GUARDADO: Of 2015?

7 MR. ALBERTI: Yeah, 2015. So, by July,  
8 you should have had submitted a new certificate  
9 of occupancy.

10 MR. GUARDADO: On January 4th, I never  
11 heard about it.

12 MR. ALBERTI: On June 4th.

13 MR. GUARDADO: Sorry. June 4th. Yeah.  
14 June 4th, I did. Within those 30 days, I did  
15 speak to Ms. Delgado over the phone. I explained  
16 to her that we were working on it. Again, we  
17 were working with a third party to help --

18 MR. ALBERTI: But you didn't submit it  
19 until September, right?

20 MR. GUARDADO: Correct.

21 MR. ALBERTI: So, when the investigator  
22 went out on July 25th, 2015, you had been warned

1 by this Board to submit a new C of O, all right?

2 MR. GUARDADO: Correct.

3 MR. ALBERTI: I thought it should have  
4 been understood that until that time -- I mean,  
5 we were giving you a grace period, all right?  
6 But, at the end of that grace period, my opinion  
7 is that you don't have a new C of O to be under  
8 that grace period, you're back to what's on your  
9 license according to our records. Because you  
10 had an opportunity to cure this. And you didn't  
11 take that opportunity.

12 So my estimation is that on July 25th,  
13 you were supposed to be at 220. I'm sorry. You  
14 had an opportunity to cure this. We gave you  
15 more than enough time. And you didn't do that.  
16 So, Mr. Shirafkan, that's the issue for me. Do  
17 you understand?

18 MR. SHIRAFKAN: I do. And I believe I  
19 think what the licensee misstated if it was as  
20 long as they were replying back and saying we're  
21 still trying to get it, we're still trying to get  
22 it, I think that's where their extension ran out

1 and the new C of O had not arrived yet. But I  
2 understand that you're saying, "Well, if it  
3 hadn't arrived, then we're back to that 220."

4 MR. ALBERTI: We give him 60 days.

5 [Speaking off mic.]

6 MR. SHIRAFKAN: So, if I may -- and I  
7 agree with Board Member Alberti that if our  
8 assumption is that, therefore, since the new  
9 certificate of occupancy of 308 has not been  
10 submitted, you are by default on not the 360, but  
11 even the 220 that was on the license, right?

12 MR. ALBERTI: Yeah.

13 MR. SHIRAFKAN: Okay. So I believe the  
14 violations, these are all under 220.

15 MR. ALBERTI: All under 220?

16 MR. SHIRAFKAN: I can double-check them,  
17 but I think the investigator issued a citation of  
18 being over 130, not being over 220. Because I  
19 think the investigator's assumption when issuing  
20 these was that you're at 130.

21 So, if we are to go with the 220, then we  
22 could look at the number of patrons. Because it

1 says one of them look at 167 patrons when you  
2 were at 130. But, if I do 220, we're still under  
3 that number.

4 MR. ALBERTI: Okay. Give me a moment.  
5 Ask the Chair. I'm not [indiscernible].

6 CHAIRMAN ANDERSON: Yeah. Go ahead. Go  
7 ahead, Mr. Short.

8 MR. SHORT: I'd like to know the night  
9 that the fire marshal said you were overcrowded,  
10 what was that date?

11 MR. SHIRAFKAN: What day was it?

12 MR. SHORT: Yeah. What date was that?  
13 What date?

14 MR. GUARDADO: It was in September I  
15 think. Yeah. September -- it was the last  
16 weekend of September. I can't remember.

17 MR. PUENTE: September 20th.

18 MR. SHORT: How many people did you have  
19 in there that night?

20 MR. GUARDADO: I had about 200 people.

21 MR. SHORT: So, even if you had 220 and  
22 you had -- and you're overcrowded at 200, that

1 means something's wrong with either your numbers  
2 or the way it was calculated. Because I'm also  
3 looking at a report that DCRA had sent you: "No  
4 handrails on the stairway; floor missing; plank  
5 floor protruded; several sprinkler heads  
6 covered," and the list goes on.

7 How long have you been in business in  
8 Washington D.C.?

9 MR. GUARDADO: Over 15 years.

10 MR. SHORT: Over 15 years. So you know  
11 the rules and regulations. You know you can't  
12 cover sprinkler heads?

13 MR. GUARDADO: Yeah. We apologize for  
14 that. We were going under some minor cosmetic  
15 work.

16 MR. SHORT: Let me say this to you: Any  
17 time you're open, all your follow-up systems have  
18 to work. And I would say this to you: You're  
19 lucky that you didn't have an incidence, because  
20 a patron could have sued you and got \$100,000 or  
21 more dollars.

22 MR. GUARDADO: Absolutely.

1           MR. SHORT: You were overcrowded. You  
2 have a certificate of occupancy that doesn't have  
3 the right numbers, because the fire marshal will  
4 close you down with 200. And that was just all  
5 inside, correct?

6           MR. GUARDADO: Well --

7           MR. SHORT: No, no. Answer my question.  
8 Was that all inside?

9           MR. GUARDADO: You're right, yes.

10          MR. SHORT: You can't have -- they tell  
11 you couldn't have 130 inside?

12          MR. GUARDADO: Only, yeah.

13          MR. SHORT: So why'd you have 200 when  
14 you can only have 130 inside?

15          MR. GUARDADO: Because in April -- so  
16 we're talking about two different dates now. In  
17 December of --

18          MR. SHORT: No. I'm asking you about  
19 date that the fire marshal shut you down.

20          MR. GUARDADO: Shut me down --

21          MR. SHIRAFKAN: On that day, was the  
22 balcony open?

1 MR. GUARDADO: Yes.

2 MR. SHIRAFKAN: So, when you say inside  
3 and outside, the outside was open on that day --

4 MR. SHORT: Okay. Well, why did the fire  
5 marshal shut you down if you had enough space for  
6 306 people or 300 or whatever number you're  
7 throwing out?

8 MR. GUARDADO: In December, he shut me  
9 down for illegal construction. Since then--

10 MR. SHORT: So you've been shut down how  
11 many times?

12 MR. GUARDADO: Once. One aspect of my  
13 nightclub.

14 MR. SHORT: Well, please listen. The  
15 fire marshal shut you down in September for  
16 overcrowding.

17 MR. GUARDADO: No. They did not shut me  
18 down for that.

19 MR. SHORT: What happened when the fire  
20 marshal came in and you had too many people --?

21 MR. GUARDADO: He told me I was  
22 overcrowded, but he still continued to let me

1 operate. We stopped the crowd coming in and let  
2 people out until we got to a comfortable number.

3 MR. SHORT: I know how that works. But,  
4 by the same token, you had been warned by the  
5 fire marshal that you had too many people in  
6 there, correct?

7 MR. GUARDADO: Yeah. But it never  
8 exceeded over the 220.

9 MR. SHORT: Well, you can't have 220 in  
10 there if you're crowded at 200. Again, you've  
11 been fortunate you haven't had an incident there.  
12 Somebody's going to sue the pants off of you.

13 I'll just say this to you: That's not  
14 responsible when you have people drinking and you  
15 have overcrowding and you have railings missing  
16 and you have sprinkler heads. You're running a  
17 very dangerous business.

18 MR. GUARDADO: Can I explain something?

19 MR. SHIRAFKAN: No. If I may step in  
20 just for a second. I think we're mixing two  
21 dates and fact patterns here. The shut-down by  
22 fire marshal for the sprinkler system, railings,

1 and all of those things, was back in December  
2 when they were shut down for the construction  
3 that was being done --

4 MR. SHORT: That was the DCRA person  
5 [ph].

6 MR. SHIRAFKAN: That was --

7 MR. SHORT: That was DCRA.

8 MR. SHIRAFKAN: That's it. That's the  
9 shut-down that he's talking about.

10 MR. SHORT: Well, wait a minute. When  
11 the fire marshal tells you to cut your music off  
12 and cut your lights on and get some people out of  
13 here, you're shut down. Your business is  
14 stopped. You're shut down.

15 MR. SHIRAFKAN: Well, we don't have that  
16 situation where the fire marshal has shut them  
17 down. That's what I'm trying to explain.  
18 Because I don't think he understood the  
19 difference of DCRA and fire marshal.

20 Fire marshal did not shut them down.  
21 DCRA in December of 2014, shut them down for the  
22 construction issues that was going on.

1 MR. SHORT: Well, just let me go back.

2 MR. SHIRAFKAN: Sure.

3 MR. SHORT: Mr. Alberti, what the case is  
4 really all about and the investigators wrote you  
5 up because you had not submitted the proper  
6 paperwork to be functioning as an ABC  
7 establishment; is that true?

8 MR. SHIRAFKAN: That's -- no. That's not  
9 actually true because --

10 MR. SHORT: Well, why is that not --?

11 MR. SHIRAFKAN: -- because the citation  
12 is for having -- there are three different cases.  
13 Now, the case that we're talking at hand is for  
14 having over 130 people, having occupied people  
15 over 130.

16 MR. SHORT: In fact [ph].

17 MR. SHIRAFKAN: And there's a different  
18 case inside and outside. There's a different  
19 case that says you're cited because of not  
20 complying and giving the right papers or  
21 submitting the right papers. That, I agree with.

22 But, when we look at the number of people

1 here, there are two points to be made. One, the  
2 citation is issued for being over the 130 which  
3 the investigator thought is the number.

4 MR. SHORT: What was the number of -- was  
5 that the posted number?

6 MR. SHIRAFKAN: The posted number was, by  
7 license 220, by old certificate of occupancy,  
8 360.

9 And one more thing to your question in  
10 regards to September 20th, that's the first time  
11 fire marshal came and said, "All right. You have  
12 220 people. This is too much. One go. One  
13 come." Whatever the case be. But, from that day  
14 on September 2015, that's when the fire marshal  
15 first came and told them this is too much.

16 October 1st, we had a certificate of  
17 occupancy in. So I just want to bring the  
18 timeline. It's not that they went in April.  
19 September is when the fire marshal came in.  
20 That's all.

21 CHAIRMAN ANDERSON: Sure. Go ahead, Mr.  
22 Alberti.

1 MR. ALBERTI: So Mr. Shirafkan.

2 MR. SHIRAFKAN: Yeah. Yes, sir.

3 MR. ALBERTI: To this 130 number.

4 MR. SHIRAFKAN: Okay.

5 MR. ALBERTI: My notes here tell me that  
6 on April 22nd, DCRA allowed the club -- after  
7 closing it -- allowed the club to reopen with a  
8 maximum capacity of 130.

9 MR. SHIRAFKAN: For inside only.

10 MR. ALBERTI: For inside only.

11 MR. SHIRAFKAN: See, on the second floor,  
12 they have a deck and they have the inside. So  
13 they were told as long as the deck is not open --  
14 that's what the licensee was told. That 130 is  
15 for where we are open right now. Because the  
16 deck is having construction, so it's closed.

17 MR. ALBERTI: Okay. I got you. No, I'm  
18 watching. I'm listening.

19 MR. SHIRAFKAN: And I think that's where  
20 the miscommunication came to the licensee. Once  
21 they opened the deck, well, 130 was for inside.  
22 We're okay now to --

1 MR. ALBERTI: So the investigators --  
2 okay. I'm setting aside the December 26th, 2014,  
3 report for now.

4 July 25, 2015. What was the complaint  
5 against the allegation against the establishment?  
6 Did it include the deck or just the inside? Mr.  
7 Shirafkan, did you have a C of O for the deck?

8 MR. SHIRAFKAN: Indulgence [ph]. I  
9 believe the C of O includes the summer garden.

10 MR. ALBERTI: No, no, no. Back in April,  
11 did you have a C of O from DCRA that included the  
12 deck?

13 MR. SHIRAFKAN: The old C of O included  
14 the deck in it, so --

15 MR. ALBERTI: But the old C of O  
16 according to DCRA, really wasn't valid anymore  
17 because it included the first floor which you no  
18 longer had.

19 MR. SHIRAFKAN: Correct.

20 MR. ALBERTI: Right. And the C of O did  
21 not include the deck. So you can't point at the  
22 old C of O, because it didn't have the deck.

1 MR. SHIRAFKAN: Well, we didn't have any  
2 C of O. We had the old C of O, right?

3 MR. ALBERTI: Right. But you keep  
4 pointing me to the old C of O. And we shouldn't  
5 even be talking about that, because it didn't  
6 have the deck.

7 MR. SHIRAFKAN: The old C of O, I  
8 believe, had the summer garden in it.

9 MR. ALBERTI: It did?

10 MR. SHIRAFKAN: Yes, it did. The one  
11 that was issued on November 14 --

12 MR. ALBERTI: Okay. That one, all right.  
13 That one. Okay. I'm sorry. I apologize --

14 MR. SHIRAFKAN: Yes, yes. So he say to  
15 them, yes --

16 MR. ALBERTI: Okay. So, investigators,  
17 back to July 25.

18 MR. BRASHEARS: Yes, sir. No. The  
19 total, the deck and the interior was  
20 approximately 167.

21 MR. ALBERTI: Okay. And that's the same  
22 for -- is that the same for September 20th, 2015?

1 MR. BRASHEARS: No, sir. No. On  
2 September 20th, the establishment was so crowded,  
3 we couldn't get to the summer garden. We counted  
4 approximately 200 people in the confines of the  
5 club from the front to the back.

6 MR. ALBERTI: Okay. So it wasn't until  
7 October 1st, 2015, that DCRA issued a temporary C  
8 of O for 308 people including the deck.

9 MR. BRASHEARS: Yes, sir. Basically the  
10 --

11 MR. ALBERTI: So I'm trying to --

12 MR. BRASHEARS: -- after the fire  
13 marshal's visit and basically directing them to  
14 get a new C of O --

15 MR. ALBERTI: Chairman Anderson, I know  
16 we haven't concluded, but at this point, my  
17 conclusion is that at least the investigative  
18 report ending in 00666 for the September 20th,  
19 2015, date should be sent over to the OAG.  
20 Because, to me, there's clearly a potential  
21 violation there.

22 MR. SHIRAFKAN: May I respond?

1 MR. ALBERTI: I'm done.

2 MR. SHIRAFKAN: If I may just add that  
3 two things to be said about this report. One, is  
4 that it was 200 according to the investigators --  
5 and I know we're not arguing the case -- but 200  
6 inside. If, even we go by the license, 220, but  
7 then we can't. You're right. Because it's all  
8 over the place, the numbers.

9 But I will mention to the Board that,  
10 remember, September 20th is when this whole  
11 question of 130 -- inside, deck, downstairs,  
12 upstairs -- where the discrepancies were. The  
13 fire marshal comes and says, "No. This is too  
14 much." September 20th. And within less than two  
15 weeks, they had the next certificate of occupancy  
16 of 308 submitted in.

17 So I would propose to the Board that  
18 that's the first time that the licensee actually  
19 realized that their notion of what they think  
20 this number should be by fire marshal now has  
21 been said no. It's not the 130, but it's not the  
22 360 either. Now you need to do something. And

1 immediately, within two weeks of submitting the  
2 new certificate of occupancy.

3 MR. ALBERTI: I'll respond. They were  
4 told they should do something in April. They  
5 were told they should do something in April. The  
6 facts are on September 20th, the C of O said 130  
7 for the inside. That's a fact, indisputable.

8 MR. SHIRAFKAN: But there isn't. But  
9 there isn't a C of O that says 130 inside. There  
10 is--

11 MR. ALBERTI: Well, there is -- there's  
12 an order from DCRA. There's a directive from --  
13 I'm sorry. There's a directive from DCRA that  
14 caps it at 130 --

15 MR. SHIRAFKAN: And if I may add --

16 MR. ALBERTI: -- as well as on April 20th  
17 that directive was still in place. On September  
18 20th, 2015, that directive was still in place.

19 MR. SHIRAFKAN: And that direction, that  
20 direction -- is that something that was sent via  
21 notice paper or is this a verbal translation?

22 MR. ALBERTI: I can tell you what my

1 notes are. And so, if you have -- you can tell  
2 me that my notes are wrong. I'm telling you --

3 MR. SHIRAFKAN: Is there a note saying  
4 130 for inside?

5 MR. ALBERTI: I'm telling you that my  
6 notes say that DCRA told the establishment they  
7 could reopen. Where'd you get the 130 number  
8 from?

9 MR. GUARDADO: That was from Mr. Gamboa  
10 from DCRA.

11 MR. ALBERTI: Ah, when did he give it to  
12 you?

13 MR. GUARDADO: December.

14 MR. ALBERTI: This December?

15 MR. GUARDADO: December of 2014.

16 MR. ALBERTI: All right.

17 MR. GUARDADO: Yeah. That was before --

18 MR. ALBERTI: 130 for the inside.

19 MR. GUARDADO: -- the inside.

20 MR. ALBERTI: 130 for the second floor.

21 MR. GUARDADO: For the inside.

22 MR. ALBERTI: For the second floor.

1 MR. GUARDADO: Yes.

2 MR. ALBERTI: Right. Not the rooftop.  
3 The second floor.

4 MR. GUARDADO: The second floor, yes.

5 MR. ALBERTI: Make sure. You're talking  
6 about the first floor --

7 MR. GUARDADO: Yes, yes --

8 MR. ALBERTI: -- you're talking about the  
9 second floor, right?

10 MR. GUARDADO: Yes.

11 MR. ALBERTI: December, right?

12 MR. GUARDADO: Right.

13 MR. SHIRAFKAN: Just for clarification,  
14 there's --

15 MR. ALBERTI: Yeah. So, on September  
16 20th, 2015, DCRA was expecting you to have a max  
17 130 on the second floor; am I correct?

18 MR. SHIRAFKAN: I agree with you.

19 MR. GUARDADO: Yeah. Okay.

20 MR. ALBERTI: Right?

21 MR. SHIRAFKAN: Right.

22 MR. GUARDADO: Yeah.

1           MR. ALBERTI: And the report that we had  
2 says that you were about 200 or more. So it  
3 boils down to me, all right? You know, you're  
4 right. I agree with you, Mr. Shirafkan. On the  
5 other two -- at least on the July 25th when I  
6 look at it -- it's both the inside and outside.  
7 It's the second floor deck. So I'm not, you  
8 know, I'm just discounting that one. Personally,  
9 I'm discounting that one. I can't discount the  
10 September 20th.

11           MR. SHIRAFKAN: I understand.

12           MR. ALBERTI: And, you know, the fact  
13 that we were talking to you in April, sending  
14 letters. And I remember the Board talking about  
15 this and telling our director of staff, send  
16 them. Tell them they need to get in line in  
17 April. And it didn't happen.

18           MR. GUARDADO: I apologize about that.  
19 Again, we're working with a third party since  
20 April to try to get it. So I guess that's our  
21 fault. But I do apologize for that.

22           MR. ALBERTI: Okay.

1           MR. BRASHEARS: I just wanted to clarify  
2 two things, sir. The number of 130 was actually  
3 put in writing. But it was actually put in  
4 writing by the MPD officer that basically  
5 conducted a 251 report based on the initial shut-  
6 down. And the number that was given by the DCRA  
7 inspector of 130 was put into the MPD 251. So  
8 that's what we were using for a basis.

9           The other thing I wanted to clarify:  
10 When I spoke with Mr. Guardado on the 20th of  
11 September, he did show me a new certificate of  
12 occupancy which I did come back and report to my  
13 supervisor that the establishment had.

14           MR. ALBERTI: On what date?

15           MR. BRASHEARS: On September 20th when I  
16 visited, there was a new certificate of -- I'm  
17 sorry. Not on September 20th. On October 1st.  
18 I'm sorry. When I went back for regulatory  
19 inspection --

20           MR. ALBERTI: October 1st. Not September  
21 20th.

22           MR. BRASHEARS: -- he showed me a new

1 certificate of occupancy, but I never received a  
2 document.

3 MR. ALBERTI: Because they showed it to  
4 you, but my copy of it was 10 days --

5 [Coughing.]

6 [Laughter.]

7 MR. BRASHEARS: Yeah. That's all, sir.

8 CHAIRMAN ANDERSON: All right. Do we  
9 have any -- yes, Mr. Short.

10 MR. SHORT: I still want to ask the  
11 owner. I just want to ask him. Have you  
12 received from our legal division a letter wanting  
13 a notice to submit a copy of a new certificate of  
14 occupancy from DCRA? Did you ever respond back  
15 to ABRA, ever? April 28th when you were sent a  
16 letter of warning and notice to submit a copy of  
17 your -- did you ever respond back to this office?

18 MR. GUARDADO: I responded to Ms.  
19 Delgado, yes.

20 MR. SHORT: You responded to whom?

21 MR. GUARDADO: Yazmin Delgado, yes.

22 MR. SHORT: That was in writing?

1 MR. GUARDADO: No. It was verbal.

2 MR. SHORT: And what did you say?

3 MR. GUARDADO: That we were working on  
4 getting the certificate of occupancy.

5 MR. SHORT: You know, you had 60 day --  
6 or your time had already gone up?

7 MR. GUARDADO: Correct. But then she was  
8 like, okay. She gave me an extension after that  
9 as well. And we were still working --

10 MR. SHORT: Nothing in writing.

11 MR. GUARDADO: Nothing in writing.  
12 Everything was verbal. I'll check through my e-  
13 mails. There might been an e-mail here and  
14 there. I don't recall. But, again, it's -- I'm  
15 sorry --

16 MR. SHORT: Because, if not -- if you  
17 never responded to us, then you are defying this  
18 Board. And you're defying DCRA. You're defying  
19 the fire department. You're determined to put  
20 more people in there than you can have.

21 If you have the number 130 and you put  
22 200 people in there and the fire marshal had to

1 make to get some people out, that meant that that  
2 place can't hold 200. That's what it meant. But  
3 you still say now you're legal to have better  
4 than 200 people and you know you've been told by  
5 DCRA and told by the fire service that you cannot  
6 have 200 people in there.

7 MR. GUARDADO: I was told by DCRA that I  
8 could only have 130 inside, yes.

9 MR. SHORT: No further questions.

10 CHAIRMAN ANDERSON: Did you have some  
11 questions, Ms. Miller?

12 MS. MILLER: I just want to clarify if I  
13 understand these dates right, and that is that in  
14 December 27th, DCRA permitted the establishment  
15 to open with a maximum of 130 patrons. But, in  
16 September 30th, 2015, you were operating, still,  
17 with over 130 patrons?

18 MR. SHIRAFKAN: Well, in December, they  
19 said you can operate with 130 second floor,  
20 inside.

21 MS. MILLER: Okay.

22 MR. SHIRAFKAN: So, in September, when we

1 were talking about the outside had opened back  
2 up, so that was during the time when the  
3 construction was happening. They were told this  
4 130 number was to be complied with. But, by the  
5 time we came, the outside was open already.

6 MS. MILLER: Is it your position you've  
7 been in compliance because you only operated over  
8 130 when you were also operating outside?

9 MR. SHIRAFKAN: It's my position that  
10 depending on which date we look at, yes, it's my  
11 position that for the inside -- for the inside --  
12 to be over 130, that would be questionable and I  
13 can't defend that. However, for the totality of  
14 inside and outside, then, yes. I'd say that we  
15 were allowed to be over 130. If anything, going  
16 back to the lowest number of the last license,  
17 220, that's what it would go by.

18 So I agree, Mr. Alberti, it's hard to say  
19 why the inside has more than 130 people. But,  
20 for the totality of it -- which is the other  
21 report -- I'll say that the 220 should have been  
22 the number at least.

1 MS. MILLER: So you're saying that it was  
2 ambiguous that you didn't have a real clear  
3 direction on that -- the outside? That you were  
4 just looking back to the last certificate of  
5 occupancy?

6 MR. SHIRAFKAN: Well, for the licensee,  
7 yes. I mean, for the licensee, they basically  
8 went by what DCRA had told them inside, outside.  
9 They were going by the last certificate of  
10 occupancy. And, to their mind, if it's 360 and  
11 the small floor downstairs, we're well over 200  
12 where we should be fine. Which their assumption  
13 -- I said it before -- their assumption to a  
14 certain extent and as a safety matter even, has  
15 been right. Because the new certificate of  
16 occupancy issued says 308 for inside and outside.  
17 So, perhaps if they had the certificate of  
18 occupancy, the fire marshal on September 20th,  
19 would not have even taken action because the new  
20 certificate of occupancy does say it's 308. And  
21 I'm not trying to point at anything. But I'm  
22 just saying as far as safety is concerned, their

1 assumption -- even though legally may have --  
2 some parts get them in a catch -- but on the  
3 logic of it, ultimately, giving [ph] the new  
4 certificate of occupancy seems to be a rationale  
5 that was there -- a reasonable rationale I could  
6 say.

7 MS. MILLER: Mr. Brashears, do you want  
8 to address that 130 number, whether it's just the  
9 inside?

10 MR. BRASHEARS: Going off of the original  
11 report that the DCRA inspector put forward,  
12 maximum number of patrons allowed within Rosebar  
13 establishment is 130. I mean, that's what was  
14 listed. To be honest, I don't know if he meant  
15 inside and summer garden. My understanding was  
16 that was the total occupancy. And that's what I  
17 based the 25 July report off of.

18 CHAIRMAN ANDERSON: All right.

19 MS. MILLER: Thank you.

20 CHAIRMAN ANDERSON: All right. I'll give  
21 you the final say. Take, wrap this up.

22 MR. SHIRAFKAN: I believe, given all the

1 information that today has been brought to Mr.  
2 Chair, the members of the Board have seen me here  
3 before and I don't just want to defend any idea.

4           Given the discussions, I totally  
5 understand the idea that, look, if you agree that  
6 130 is for the inside given your notion and you  
7 have 200, that's a problem. And that's something  
8 that if it needs to be sent to AOG and we need to  
9 deal with it, then we're just going to have to  
10 deal with it. But the good faith was there. It  
11 wasn't intentional. There were not trying to  
12 jeopardize people's lives or unreasonably  
13 rationalize that we could have certain amount of  
14 people.

15           The report that's 0003, I don't think  
16 that should go forward because technically that's  
17 still under the [coughing] that they were given.  
18 And the report ending with 0666, I would ask  
19 given that they have fixed this problem, that you  
20 show them the mercy [ph] in not forwarding it.  
21 However, if it does get forwarded to OAG, then we  
22 will have to deal with that at that point.

1           And I don't know whether I should make a  
2 comment in regards to 00493 at this point.  
3 Because, to my understanding, I think that's on  
4 another date coming. Because I have another one  
5 as well. I don't know whether that's something  
6 else --

7           CHAIRMAN ANDERSON: No. Today we are  
8 addressing 00135, 00493, and 00666. Those are  
9 the three cases that we're dealing with today.

10          MR. SHIRAFKAN: I was given three. But  
11 one of them is not 135. Could you tell me what  
12 is 1-3 -- I have 0 -- ?

13          MR. ALBERTI: What's the date on that?

14          CHAIRMAN ANDERSON: They're all the same  
15 day.

16          MR. SHIRAFKAN: This is July 25th, 2015,  
17 is the 00493 that I have.

18          CHAIRMAN ANDERSON: All right. That's  
19 one case. Okay.

20          MR. SHIRAFKAN: Then I have two other  
21 ones which is 00666 which happened September  
22 20th, 2015.

1 CHAIRMAN ANDERSON: Right. You should  
2 have one December 26th. So it's 00135 is  
3 December 26th, 2014.

4 MR. SHIRAFKAN: And it's based on the  
5 same allegations?

6 MR. SHORT: Yeah.

7 MR. ALBERTI: Yeah. It appears to be,  
8 yeah.

9 MR. SHIRAFKAN: And since I don't have  
10 it, do you know what the number was on that date?

11 MR. GUARDADO: We weren't even open.

12 MR. SHIRAFKAN: You weren't even open.

13 MR. GUARDADO: Because we didn't open  
14 that day.

15 MR. BRASHEARS: That's the actual report  
16 that addresses the substantial change where DCRA  
17 shut the establishment down, sir.

18 CHAIRMAN ANDERSON: Right. I'm just  
19 trying to make sure that you know what we're  
20 talking about up here. Because I have the number  
21 in front of me. So I'm not sure why you don't  
22 have that case in front of you.

1           MR. SHIRAFKAN: Because the 00493 that I  
2 have has the substantial change in that report.  
3 So maybe I've been given a different report case  
4 number.

5           CHAIRMAN ANDERSON: No. We're fine with  
6 00493. So we're fine with that. We're fine with  
7 00666. So the clarification is 00135.

8           MR. SHIRAFKAN: Okay.

9           MR. ALBERTI: May I just speak to 00135  
10 is the report when we realized that there was  
11 construction having been done to shut down the  
12 first floor; is that correct?

13          MR. BRASHEARS: Yes, sir.

14          MR. ALBERTI: So it was December 26,  
15 2014, our inspectors came in and basically you  
16 had given up the first floor and you were doing  
17 construction to eliminate the use of that first  
18 floor. That's what that other report we're  
19 looking at is.

20          MR. GUARDADO: We don't have that report.

21          MR. SHIRAFKAN: Yeah. I don't have --

22          MR. ALBERTI: Did you have a copy? Do we

1 have extra copies?

2 CLERK: She's getting it.

3 MR. ALBERTI: Okay. We're getting a copy  
4 for you.

5 MR. SHIRAFKAN: Sure. Thank you. Thank  
6 you.

7 [Speaking off mic.]

8 MR. SHIRAFKAN: Okay. My understanding -  
9 - and I'll because it's just -- if I'm not  
10 mistaken, basically, the allegation on 00135 is  
11 that your certificate of occupancy does not match  
12 your license, correct? Is that everyone's  
13 understanding on this?

14 CHAIRMAN ANDERSON: Well, let me -- whose  
15 case is 00135?

16 INVESTIGATOR PUENTE: That would be  
17 Investigator Demby.

18 CHAIRMAN ANDERSON: Are either of you  
19 prepared to talk about this report?

20 MR. BRASHEARS: I can speak to it, sir.

21 CHAIRMAN ANDERSON: Well, why don't you  
22 go ahead. Identify yourself and identify what

1 this case is about.

2 MR. BRASHEARS: ABRA Investigator  
3 Brashears. Basically, this case, 00135, was  
4 detailing substantial changes in operation;  
5 basically, the removal of the first floor and the  
6 construction basically without ABRA ABC Board  
7 approval.

8 CHAIRMAN ANDERSON: Are you on board or  
9 are you still lost?

10 MR. SHIRAFKAN: No, no. Now I understand  
11 it. That is a different than -- and I would ask  
12 that that matter either be set for another date  
13 or be consolidated with -- I'm just -- because  
14 that's a surprise to me. I was aware of this  
15 certificate of occupancy problem. I didn't know  
16 they were cited for having construction and not  
17 informing ABRA for the construction. Which I got  
18 to look at the code and see whether -- I don't  
19 know if that's a requirement if they're not going  
20 -- if I decide, I'll just -- yes.

21 MR. ALBERTI: Mr. Shirafkan, just to put  
22 you at ease, the Board issued a warning for

1 substantial change. Basically, we consider this  
2 a substantial change without approval which makes  
3 sense, right? It's a change without approval.  
4 We issued a warning for that case. So that case  
5 has been handled.

6 MS. MILLER: So it's not the Board --

7 MR. SHIRAFKAN: Okay. So that's why.

8 MR. ALBERTI: Hopefully, it puts you at  
9 ease.

10 MR. SHIRAFKAN: Thank you.

11 [Laughter.]

12 MR. SHIRAFKAN: You definitely did. So  
13 there. Thank you. So I guess that -- thank you  
14 very much for the warning. And I will talk to  
15 him after this matter as well.

16 So the 00493 I won't make a comment on.  
17 Because that one is coming up in January which is  
18 related to this. So we have basically two cases  
19 that it's a question of going forward or not.  
20 And I would rest at the argument that I made on  
21 those two cases.

22 CHAIRMAN ANDERSON: Okay. Thank you.

1 MR. SHIRAFKAN: Sure.

2 CHAIRMAN ANDERSON: All right. Thank  
3 you.

4 MR. SHIRAFKAN: Thank you.

5 MR. ALBERTI: I think Mr. Shirafkan, in  
6 the past, sometimes we've gone to the back and --

7 MR. SHIRAFKAN: Right. And I just was --

8 MR. ALBERTI: -- this issue I think --

9 MR. SHIRAFKAN: You'll let us know?

10 MR. ALBERTI: Yeah. I think I'll let you  
11 know.

12 CHAIRMAN ANDERSON: I need to get it  
13 clear in my mind what the options are. And so  
14 I'm not real clear right now. So I prefer to  
15 talk to my colleagues around that so I can be  
16 clear.

17 MR. SHIRAFKAN: Absolutely.

18 CHAIRMAN ANDERSON: So whatever decision  
19 I make, I'm comfortable with the decision.

20 MR. SHIRAFKAN: I appreciate that.

21 CHAIRMAN ANDERSON: And right now I'm not  
22 clear, okay?

1 MR. SHIRAFKAN: That's fine. And we're  
2 not in -- no problem at all.

3 [Laughter.]

4 CHAIRMAN ANDERSON: But I assure you,  
5 though, that whatever decision is made, the  
6 decision will be made today. Because I don't  
7 want it to be made next week or next year because  
8 I might forget. So we will make the decision  
9 today.

10 MR. SHIRAFKAN: Thank you. Definitely.  
11 Thank you very much. And just so that -- what I  
12 used to say, if you have a problem, fixing it,  
13 dealing with it is fine, but going forward is  
14 even more important than everything else.

15 I just want to know today when they're  
16 going forward, just so I'm clear, their  
17 certificate of occupancy -- the new certificate  
18 of occupancy that we've submitted is 360 -- I'm  
19 sorry -- 308, 3-0-8. Are they to go by the  
20 license at 220? Because we've requested now to  
21 update this. And is that by the end of the day,  
22 that answer also going to come?

1           CHAIRMAN ANDERSON:   Okay.  I'm going to  
2   give you an answer and I've been here long enough  
3   and I've heard Mr. Short as stated that you have  
4   a license that says 220.  You go with 220 until  
5   we give you approval, until we change your  
6   license to see a larger number.  That's the only  
7   answer I can give you today.

8           MR. SHIRAFKAN:   Not a problem.

9           CHAIRMAN ANDERSON:   The 220 because  
10   that's what your current is if that's what your  
11   current ABRA license states.

12          MR. SHIRAFKAN:   We thank you for your  
13   time.

14          CHAIRMAN ANDERSON:   All right.  Thank  
15   you.

16          MR. SHIRAFKAN:   Appreciate it.

17          MR. GUARDADO:   Thank you.

18                 [Whereupon, at 4:04 p.m., the above-  
19   entitled matter was concluded.]