

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
3 ALCOHOLIC BEVERAGE CONTROL BOARD
4

5 - - - - -X

6 IN THE MATTER OF: :

7 Acott Ventures, LLC: Case # 16-251-00224

8 t/a Shadow Room :

9 2131 K Street NW :

10 License #75871 :

11 Retailer CN :

12 ANC 2A :

13 Assault with a Deadly Weapon :

14 - - - - -X

15 Wednesday, November 2, 2016

16

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

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2 BOARD MEMBERS PRESENT

3 NICK ALBERTI, BOARD MEMBER

4 JAMES SHORT, BOARD MEMBER

5 MIKE SILVERSTEIN, BOARD MEMBER

6 JAKE PERRY, BOARD MEMBER

7

8 ALSO PRESENT:

9 SWAPTAK DAS

10 PIERRE MOUSSA

11 LIEUTENANT ZENOBIA MCBRIDE

12 FLORENCE HARMON

13 CHRIS LABAS

14

15

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

2 FACT FINDING HEARING

3 CHAIRPERSON ANDERSON: The next matter on
4 our calendar is case #16-251-00224, Shadow Room,
5 license #75871. Will the parties please approach
6 and identify themselves for the record, please?

7 MS. MCBRIDE: Lieutenant Zenobia McBride,
8 Washington Metropolitan Police Department,
9 southeast

10 CHAIRPERSON ANDERSON: Good afternoon,
11 Lieutenant McBride.

12 There's a sign-in sheet, can you sign this
13 over here so the parties over on this side can
14 also sign it, you just give your name and we'll
15 have a sign-in sheet. Can you identify yourself
16 for the record please?

17 MR. DAS: Good afternoon, my name is Swaptak
18 Das and I'm one of the owners of the Shadow Room.

19 CHAIRPERSON ANDERSON: Pardon?

20 MR. DAS: Swaptak Das.

21 CHAIRPERSON ANDERSON: Dallas?

22 MR. DAS: D-A-S.

1 CHAIRPERSON ANDERSON: Das?

2 MR. DAS: Das.

3 CHAIRPERSON ANDERSON: All right, thank you.

4 MR. MOUSSA: Good afternoon, Pierre Moussa,
5 general manager of Shadow Room.

6 CHAIRPERSON ANDERSON: The purpose of this
7 hearing is -- I know there are a lot of issues
8 but the one issue that is the reason we have a
9 fact finding hearing is it appears there was an
10 issue that occurred at the Shadow Room a couple
11 of weeks ago and for whatever reason RDO was not
12 there and so what we're asking for is the
13 licensee -- for them to explain to us why it is
14 that they didn't have RDO that specific date or
15 time and for them explain to us is this the first
16 time because it's my understanding from the
17 settlement agreement that you are supposed to
18 have RDO, so I would like you to provide us, from
19 your perspective, why is it that RDO was not
20 there? Is it the first time that the RDO was not
21 there as per the settlement agreement and also if
22 in your settlement agreement it is found that you

1 have an RDO, and if there's no RDO what is it
2 that the establishment does? And I would like
3 the lieutenant if she is able to tell us, from
4 her perspective, what was going on with the RDO,
5 why it was not provided to the Shadow Room on the
6 date of this incident, although we're not
7 necessarily speaking about the incident, but the
8 date that the incident occurred as per the
9 settlement agreement -- the board order -- as per
10 the settlement agreement the RDO should have been
11 at the establishment during this date. And so,
12 from MPD's perspective what's going on with the
13 account and why wasn't an RDO provided to the
14 establishment. It appears that there's members
15 of the community here, the issue isn't final, but
16 this is a fact finding hearing to make a
17 determination whether or not they are compliant
18 with respect to the board order to have RDO, and
19 whatever the other issues are, probably at
20 another point they can be addressed. I'm not
21 quite sure whether or not we will give the
22 members of the public an opportunity to speak as

1 we will get counsel from the general counsel what
2 type of input I should take from the members of
3 the public. Normally we have a fact finding
4 hearing and we don't. So, going through we'll
5 find out what kind of information to gather and
6 what is it that we want to hear from the
7 community.

8 So, we'll start off with you, Mr. Das, so if
9 you can tell us -- you know why -- you know what
10 happened and so you can start off with the date
11 of the incident and why is it that the
12 establishment did not have an RDO there on that
13 specific date.

14 MR. DAS: So, there have been other instances
15 where the police detail has not been present and
16 it could be a number of issues. We have
17 documented one of the issues that might be
18 clerical error. We have an e-mail showing the
19 officer said 'hey, I made a mistake' and I just
20 didn't schedule it. So, we have that. That's
21 one cause of it. Another cause is -- and I'll
22 ask Mr. Moussa to speak to that -- it's in our

1 contract they say that police detail is not
2 guaranteed, even if you request it, and it's I
3 think based on supply?

4 MR. MOUSSA: Yes, it's based on supply and if
5 they have the ability to staff it and provide
6 that for you.

7 MR. DAS: I mean the third reason is that
8 clerical errors sometimes happen. They have
9 multiple people working there, processing
10 payments, and so now let me answer another
11 question which you have, is for those specific
12 dates why wasn't the RDO there? We were told by
13 the investigator that we were delinquent in
14 payment or we didn't make payment in time. We
15 have an e-mail here.

16 CHAIRPERSON ANDERSON: Do you know why the --
17 -- is here, so what specific date this was --
18 what date because clearly that incident occurred,
19 that night, it's not related to your
20 establishment I'm not blah blah but what I want
21 to talk about is the date of this incident and
22 were there RDOs in your establishment that

1 specific date? And if there was not, because the
2 board order required you to have RDO, why is it
3 that the RDO was not there on that specific date.

4 MR. MOUSSA: Okay.

5 CHAIRPERSON ANDERSON: And then you can talk
6 about other times when you didn't have an RDO.

7 MR. MOUSSA: Yeah, it's not clear to us. It
8 wasn't made clear why they weren't there. We
9 figured it could be one of those three
10 possibilities.

11 MR. DAS: Yeah, so let's talk about the date.

12 CHAIRPERSON ANDERSON: The date of the
13 incident -- I think it was the weekend of --

14 MR. DAS: It was October 9th and 10th.

15 CHAIRPERSON ANDERSON: October 9th and 10th.
16 Did you, per the board order you were supposed to
17 have had an RDO. Did you have an RDO on October
18 9th? And if you did not have an RDO, why did you
19 not have it?

20 MR. DAS: We requested an RDO following the
21 procedures. The RDO did not show up. And we did
22 not have an RDO that evening. They did not show

1 up.

2 CHAIRPERSON ANDERSON: And do you have any
3 documentation that says you requested it? How do
4 you go about requesting an RDO? Tell me how it
5 is -- tell me your process.

6 MR. MOUSSA: Through e-mail.

7 CHAIRPERSON ANDERSON: Do you have a copy of
8 the e-mail that requested the RDO?

9 MR. MOUSSA: I can get one.

10 MR. ALBERTI: So, -- the reason I ask is the
11 weekend, my you would ask in advance, so tell us
12 the process.

13 MR. MOUSSA: Our regularly scheduled days of
14 operation are Thursday, Friday and Saturday for
15 special events, like October 9th, we had a
16 special event and requested at least two business
17 days prior to the event, which we did.

18 MR. ALBERTI: That's what you did that day?

19 MR. MOUSSA: Through e-mail.

20 MR. ALBERTI: Is that what you do for other
21 days of the week?

22 MR. MOUSSA: It's automatically scheduled for

1 our normal days of operation.

2 MR. ALBERTI: When does that get scheduled?

3 MR. MOUSSA: At the beginning of each month
4 we correspond with Sargent _____ of Metropolitan
5 Police Department and he confirms our detail.

6 MR. ALBERTI: So, except for the Sunday,
7 which was Father's Day, all the other days of
8 normal operation you requested at the beginning
9 of the month, is that correct?

10 MR. MOUSSA: Yes.

11 MR. ALBERTI: And then this time you did it
12 two days in advance because it was a holiday.

13 MR. MOUSSA: It was at least two days in
14 advance.

15 MR. ALBERTI: I just want to get it on the
16 record.

17 MR. DAS: So, we can get you the evidence
18 which will provide when we requested the RDO for
19 that date two days in advance, so we can get you
20 that.

21 CHAIRPERSON ANDERSON: All right, so you
22 requested it and the RDO did not show up. So do

1 you know why there was no RDO?

2 MR. DAS: We were told that we were
3 delinquent on -- and we were very surprised to
4 hear that because if you look at our payment
5 history, they asked us for a payment on September
6 8th and we have all the invoices and we sent in a
7 check that they cashed --

8 CHAIRPERSON ANDERSON: The September 8th
9 payment was for what?

10 MR. DAS: They --

11 CHAIRPERSON ANDERSON: You can just tell me
12 what it is because the incident was October 9th.
13 So, why was there -- were you delinquent prior or
14 what was going on? So, was the September 8th
15 invoice current?

16 MR. DAS: Yes.

17 CHAIRPERSON ANDERSON: I want you to tell
18 me since I don't have it in front of me.

19 MR. DAS: Right, so when we get invoices from
20 them, we've reviewed our records, we usually pay
21 within three to four business days, okay? So, as
22 soon as we get an invoice we normally pay.

1 Normally, we have about 30 days to pay, is that
2 correct?

3 MR. MOUSSA: Yes.

4 MR. DAS: So, these invoices for September
5 8th are dated 6-15, 6-21 and 6-24. So, as soon
6 as we received it we paid it. We received this
7 on September 8th and we paid it and there's a
8 copy of the check showing when it was cashed,
9 it's September 9th, okay? So, the next day that
10 payment was given. So, then we received an e-
11 mail on September 30th that there was another
12 invoice, invoice 3283 that was overdue. This was
13 the first time that we had seen this invoice. We
14 received that e-mail on September 30th. Now,
15 this is three months after. I don't know if
16 that's standard procedure. I'm not saying if it
17 is or not.

18 MR. ALBERTI: Mr. Das, could you repeat those
19 dates again?

20 MR. DAS: Sure, to which one, these?

21 CHAIRPERSON ANDERSON: The September 30th
22 one.

1 MR. DAS: Okay, we received this e-mail on
2 September 30th for an invoice on 7/08/2016, and
3 the invoice number is 3283. So, that was a
4 Friday that we received this e-mail. We sent in
5 a check on that Tuesday, on October 4th, which is
6 literally, I believe, three or four days, after
7 there was a weekend, so it's within two business
8 days. So, we were unaware that we were
9 delinquent, and we have the data and the checks
10 to show that as soon as we are receiving -- we
11 receive these invoices via e-mail --

12 CHAIRPERSON ANDERSON: So, you're saying the
13 invoice for -- that you got on September 30th
14 that was covering an invoice from July 8th?

15 MR. DAS: Correct.

16 MR. SILVERSTEIN: Can I ask a question?
17 Let's go back to the September 8th invoice. What
18 things did that cover?

19 MR. DAS: It covered 06/14/2016, it covered
20 6/21/2016, and it covered 6/24/2016.

21 MR. ALBERTI: Okay, so, now, presumably you
22 were open in July, right?

1 MR. DAS: Correct.

2 MR. ALBERTI: And Thursday, Friday and
3 Saturday are your open days, right?

4 MR. DAS: Yes.

5 MR. ALBERTI: When did you see the next
6 invoice? After September 8th, when did you see
7 the next invoice?

8 MR. DAS: On the 30th.

9 MR. ALBERTI: Weren't you expecting invoices
10 through July?

11 MR. DAS: They're not completely consistent.
12 We can go through our e-mail and show you when
13 they send the invoices and the dates, they're not
14 consistent, so whenever we receive it we pay it
15 within three to four business days but that will
16 show you sometimes it's two months, sometimes
17 it's three months.

18 MR. ALBERTI: Okay.

19 MR. DAS: They can come at any time.

20 MR. ALBERTI: Okay, so the September 30th,
21 you had a notice on September 30th for an invoice
22 that was past due, an invoice that was, they say,

1 was sent to you on or around July 8th, right?

2 MR. DAS: That's what the e-mail says.

3 MR. MOUSSA: I'm sorry, that's not correct.

4 We received an invoice on September 30th for the

5 work that was done on July 8th. They're not

6 saying that that's when it was sent to us.

7 They're saying that's when we got that invoice.

8 MR. ALBERTI: That's when you got that

9 invoice.

10 MR. MOUSSA: We got it on September 30th for

11 --

12 MR. ALBERTI: To cover RDO for July 8th, one

13 day.

14 And you paid it October 4th.

15 MR. DAS: Correct.

16 MR. ALBERTI: Very good.

17 CHAIRPERSON ANDERSON: So, did you still --

18 so you paid the invoice on July 4th, you didn't

19 have an RDO on -- I'm sorry, October 4th -- and

20 you didn't have an RDO on October 9th. So, you

21 don't know why you didn't have an RDO.

22 MR. DAS: No, because it could be multiple

1 reasons, whether they do not have the staffing.
2 Per our contract, they don't guarantee it. We
3 have another e-mail that I can show you from a
4 previous -- we asked for a secure detail on a
5 previous date and Officer Michael O'Haram said,
6 "I'm sorry, but this detail was missed and never
7 got staffed for one outside the office."

8 CHAIRPERSON ANDERSON: What date was that?

9 MR. MOUSSA: He said that on September 29th.
10 It's just showing that there's only RDO if
11 there's staff permitting.

12 CHAIRPERSON ANDERSON: I know, read the e-
13 mail.

14 MR. MOUSSA: It was a holiday weekend so we
15 thought -- you know.

16 CHAIRPERSON ANDERSON: Hold on. The e-mails
17 that you have, since I don't have the documents
18 and I'm going to ask at the end of this hearing
19 for the documents, but the e-mail that you have
20 from September 29th was for -- when did you say
21 that was for?

22 MR. MOUSSA: I can get you that information.

1 I don't have it at this point, but it was for a
2 request that was unfulfilled.

3 CHAIRPERSON ANDERSON: Probably some date
4 prior to September 29th.

5 MR. DAS: Yeah. And what we do is when an
6 RDO doesn't show up, we know it's our
7 responsibility, we try to ask, 'hey we requested
8 this, just wondering what happened,' so we do
9 that follow-up. This isn't [inaudible 17:35].
10 It's part of our license.

11 CHAIRPERSON ANDERSON: So, did you do a
12 follow-up to find out why is it that no RDO was
13 provided to you on October 9th.

14 MR. DAS: Yeah, and so we were told that we
15 were delinquent and we were very surprised and as
16 soon as the incident happened we wanted, and I
17 asked for an RDO and if you had told me there was
18 not, I would have looked into it and they're
19 saying 'hey the account's past due' and I'd say
20 how's it past due, have we missed a bill? And we
21 said no, we got it on the 30th and I had a check
22 showing that I paid it on October 4th that they

1 cashed. So this was the first we were learning
2 of it and so that's what happened.

3 CHAIRPERSON ANDERSON: So, from your
4 perspective, you're saying that since you didn't
5 pay the July invoice, the July invoice, that was
6 overdue? The July invoice? Or was there another
7 invoice that you were missing?

8 MR. MOUSSA: That is the one invoice.

9 MR. DAS: That is the one.

10 MR. MOUSSA: Which we didn't learn about
11 until September 30th.

12 CHAIRPERSON ANDERSON: No, I know that you
13 didn't have the invoice -- you stated that you
14 didn't have the invoice saying that it was
15 overdue, so what bill was it that they were
16 telling you that was overdue?

17 MR. MOUSSA: I believe from our conversation
18 they told us that it was because of this letter
19 we got on September 30th for the bill on July
20 8th.

21 MR. DAS: Missed.

22 MR. MOUSSA: Yes, July 8th to July 16.

1 CHAIRPERSON ANDERSON: So the invoice that
2 they showed for July 8th, 2016, that date did not
3 have coverage.

4 MR. MOUSSA: No, we didn't receive an invoice
5 on July 8th.

6 CHAIRPERSON ANDERSON: Okay, but you got an
7 invoice dated July -- I'm sorry, September 30th -
8 - that covered July 8, 2016. So, the e-mail that
9 you got on September 30th, what dates did that
10 cover? Is it just one date, the July 8, 2016, or
11 were there other dates that were included in
12 that?

13 MR. DAS: They were disputing 6/14, 6/21 and
14 6/24. We had to, again, show proof of that check
15 being covered. You know, the 8th was the initial
16 inquiry about invoice #3079, 3147 and 3170. So
17 that was the initial inquiry.

18 CHAIRPERSON ANDERSON: All right, this is
19 what -- [inaudible 20:08]. You're saying that
20 the e-mail you got on September 30th, the
21 September 30th e-mail basically stated that you
22 did not pay the invoices for June 14, June 21 and

1 June and June 24. Is that right?

2 MR. DAS: And July 8th.

3 CHAIRPERSON ANDERSON: And July 8th.

4 MR. DAS: So what we communicated to them,
5 and we showed them the checks that they cashed
6 for September -- excuse me, for 6/14, 6/29 and
7 6/24, that they cashed, that were paid, we were
8 just learning about the amount due for 07/08 and
9 so we paid that immediately. We received it
10 Friday, we paid it on Tuesday, so within two
11 business days.

12 MR. ALBERTI: So, September 30th they told
13 you you were overdue for the June dates, the
14 three June dates?

15 MR. DAS: Yeah, this was the second time they
16 were telling us that.

17 MR. ALBERTI: So they told you on September
18 8th that you were overdue.

19 MR. MOUSSA: Yeah and then we paid it on
20 September 9th and they still said that we still
21 owe that amount.

22 MR. ALBERTI: Okay.

1 MR. MOUSSA: So we attached the check.

2 MR. ALBERTI: So, when did you contact them
3 to rectify the June payments?

4 MR. MOUSSA: October 3rd.

5 MR. DAS: We sent in the check. We told them
6 -- e-mailed them that we were going to send in
7 the --

8 MR. ALBERTI: No, no, no. You got on e-mail
9 on September 30th, it was the second time they
10 told you that the June dates -- you owed the June
11 dates. When did you contact them to tell them
12 that you believed that you paid them?

13 MR. MOUSSA: October 3rd.

14 MR. ALBERTI: October 30th?

15 MR. MOUSSA: Third.

16 MR. DAS: Third.

17 MR. ALBERTI: Oh, October 3rd, okay, thank
18 you, I understand.

19 CHAIRPERSON ANDERSON: Lieutenant McBride,
20 can you --

21 MR. SILVERSTEIN: I have a question to ask.
22 I would ask that you follow up on that. Did they

1 have an RDO that weekend or was the first
2 [inaudible 22:27].

3 MR. MOUSSA: That weekend or the other --
4 which weekend?

5 MR. SILVERSTEIN: The weekend of October 9th
6 and 10th. Did you have one on Saturday or
7 Friday?

8 MR. MOUSSA: No.

9 MR. SILVERSTEIN: You did not have an RDO on
10 Friday or Saturday?

11 MR. MOUSSA: No.

12 MR. SILVERSTEIN: Did you contact the police
13 or ABRA when they did not?

14 MR. MOUSSA: Not the day of, no.

15 MR. SILVERSTEIN: No further questions.

16 CHAIRPERSON ANDERSON: Lieutenant McBride,
17 can you tell us what's going on here? Why is it
18 that an RDO from a police perspective, what was
19 going on with the RDO, for the dates, and I think
20 we're more concerned about October 9th so for
21 October 9th and 10th they probably would not have
22 had an RDO and if there had been an incident,

1 ABRA would know that an RDO was not there, so
2 maybe you can tell us from your perspective
3 what's going on with the RDO for that weekend and
4 why was one not provided.

5 MS. MCBRIDE: Let me preface what I'm about
6 to say, there's mentioned e-mails and invoices.
7 I do not have those here but I can get them as
8 soon as we leave here. I was briefed on the
9 situation. I was given a specific timeline to
10 testify on --

11 CHAIRPERSON ANDERSON: Sure, that's fine.

12 MS. MCBRIDE: -- as to what was going on.
13 So, we have on August 3rd that club entered into
14 the contract where they were aware of what the
15 requirements were for requesting a detail.
16 They're correct about the two days' notice, but
17 in addition to that you also have to be in good
18 standing in order for us to be able to consider
19 that request. So, on September 8th, they were
20 notified -- meaning that the club was notified --
21 that they were in arrears, they were not in good
22 standing. And the invoices that they mentioned -

1 - #3079, #3147 and #3170 totaling \$2049.90. They
2 needed to pay those or they would be suspended a
3 week later. On that same day, September 8th,
4 that day Mr. Moussa acknowledged in an e-mail to
5 make payment. These are the dates that -- I
6 don't have the e-mail but I can get that e-mail
7 for you. Then, on September 16th, the district
8 was advised that we were going to suspend detail
9 due to a lack of payment and they were no longer
10 in good standing with the contract and we
11 wouldn't issue any more details. So as of
12 September 16th that's when that happened. On
13 September 30th another e-mail was sent to the
14 club to notify them that in addition to the first
15 three invoices there was now another invoice that
16 was also due and that they were already in
17 suspended status and that the total now was
18 \$3034. The district was also reminded the club
19 was under the suspension.

20 On October 3rd, the chief financial officer
21 sent through a payment for the current invoice.
22 That would have been from 2 October but none of

1 the old invoices were included in that payment,
2 so they were still not in good standing and that
3 was on October 3rd. They were advised on October
4 3rd that we received proof of payment but not for
5 any of the delinquent invoices. They were
6 notified that we received the payment but they
7 were still not in good standing.

8 On October 4th, Mr. Moussa e-mailed a picture
9 of a check that would cover the three invoices --
10 the first three but not the last one. He
11 acknowledged the last one -- that they would mail
12 a check for the last listed invoice while
13 continuing detail requests for October 9th.
14 Though this request -- again, it was made two
15 days in advance but they were still not in good
16 standing -- so we could not entertain that
17 request for the detail.

18 On October 4th they were warned that they if
19 they mailed it, the payment might not come in
20 time for us to get the detail and on October 7th
21 the second district court requested the status of
22 the -- I guess they were trying to get

1 information on whether or not they were going to
2 expect the detail, and they were advised that
3 they were still suspended because they were still
4 not in good standing.

5 On Friday, October 7th --

6 MR. ALBERTI: Can you repeat that last bit?
7 Is it October 8th?

8 CHAIRPERSON ANDERSON: October 7th.

9 MS. MCBRIDE: October 7th.

10 MR. ALBERTI: October 7th they were not given
11 a detail?

12 MS. MCBRIDE: The second district
13 coordinator, the person who would staff the
14 detail, they called the bureau who handles the
15 invoices. They called the bureau because they
16 wanted to know if they were able to staff the
17 detail and they were informed by the district
18 coordinator that they could not staff the detail
19 because they were still not in good standing and
20 were still suspended. So, on October 7th, still
21 suspension remained in effect, there was no proof
22 of payment that had been received. That was

1 October 7th at 2:27 a.m. Friday, October 7th at
2 6:59 p.m. the chief financial officer got proof
3 of payment for the last outstanding invoice an
4 hour after we closed for business for the
5 weekend.

6 On October 11th, the club was informed that
7 they had proof of payment and that they were now
8 in good standing. This was after the incident
9 had already occurred on October 11th. They were
10 also in 28:41] staffed detail and again the
11 suspension was officially lifted.

12 MR. SHORT: What date was that?

13 MS. MCBRIDE: I'm sorry, October 11th.

14 CHAIRPERSON ANDERSON: So what invoice was
15 outstanding on October 7th?

16 MS. MCBRIDE: October 11th, the outstanding
17 was invoice #3283.

18 CHAIRPERSON ANDERSON: And do you know what
19 period that was for?

20 MS. MCBRIDE: I do not, but I can get that.

21 CHAIRPERSON ANDERSON: Because I think, what
22 they're trying to establish is that they're

1 saying that whatever invoices that were
2 outstanding, that they paid them October 4th, so
3 I guess what I'm trying -- I'm trying to
4 establish when -- on October 7th, when the detail
5 was requested you're saying they were still not
6 in good standing, what outstanding invoices were
7 you and when were those -- what happened to make
8 them in good standing on October 11th? So, what
9 invoice did -- was the payment made between
10 October 7th and October 11th?

11 MS. MCBRIDE: Yes, October 7th, again we had
12 proof that they paid the payment, but we didn't
13 get that until 6:59 p.m. and we were closed at
14 that point.

15 CHAIRPERSON ANDERSON: Do you know when that
16 payment was made?

17 MS. MCBRIDE: I don't.

18 CHAIRPERSON ANDERSON: Because I think
19 they're saying they made the payment October 4th,
20 and so I'm trying to find out, and maybe they
21 have the proof, and I don't know how long it
22 takes the system to -- when a payment is made I

1 don't know how long it takes for the system to
2 process it, so it's -- what day of the week was
3 October 7th? That was a Friday?

4 MS. MCBRIDE: October 7th was a Friday.
5 Again, on October 4th a picture of the check was
6 emailed to us. That's not when they received the
7 check. There was a picture that was e-mailed
8 from the club.

9 CHAIRPERSON ANDERSON: Can -- do you have
10 these documents available --

11 MR. SILVERSTEIN: For --

12 CHAIRPERSON ANDERSON: Mr. Silverstein, hold
13 on. I'm going to clarify this for you. Do you
14 have these documents right here?

15 MR. MOUSSA: Yes.

16 CHAIRPERSON ANDERSON: Can you -- make copies
17 of the documents for all of us for clarification.
18 So, hold on a minute, just make six copies.
19 We'll just take a break, so I hear you, Mr.
20 Silverstein. I want to make sure we have copies
21 and you can ask your question when we have the
22 copies.

1 MS. MCBRIDE: To repeat, October 4th a
2 picture of a check in an e-mail covering three
3 invoices that were outstanding, but there was
4 still one that was not covered by that check. So
5 that #3283 invoice.

6 CHAIRPERSON ANDERSON: So, when was the other
7 -- because you said the October 4th, so was there
8 another check made out October 4th?

9 MR. DAS: The picture of the check that --

10 CHAIRPERSON ANDERSON: No, not -- the issue
11 is -- you sent a picture of a check but that
12 didn't cover all of that, so from your
13 perspective were you -- everything paid on
14 October 4th or did you make another payment after
15 October 4th?

16 MR. DAS: October 4th was the last check that
17 was paid which covered the lost invoice in
18 question, which, from what I hear, was received
19 on October 7th.

20 MR. ALBERTI: On October 4th you wrote a
21 check.

22 MR. MOUSSA: Yes.

1 MR. ALBERTI: On October 4th you also
2 provided proof of payment for the June dates.

3 MR. MOUSSA: Correct.

4 MR. ALBERTI: So two times --

5 MR. DAS: That was the second time we
6 provided proof for the June dates.

7 MR. ALBERTI: I don't care but you do.

8 CHAIRPERSON ANDERSON: He's saying they
9 covered --

10 MR. ALBERTI: Does your information say that
11 they provided payment on October 4th for the
12 July? Well, you got proof of payment on the 7th,
13 right?

14 MS. MCBRIDE: We got incomplete payment on
15 the 7th, now for the check, not for the pictured
16 check but for an --

17 MR. ALBERTI: For that single one. So,
18 presumably you got proof on October 7th that they
19 paid through July, so that's consistent with what
20 they're sort of telling us here.

21 MS. MCBRIDE: But after hours, though.

22 MR. ALBERTI: I got ya. I understand. Let

1 me ask you another question, lieutenant. You
2 said that the RDO was suspended September 16th,
3 is that correct?

4 MS. MCBRIDE: Yes, sir.

5 MR. ALBERTI: So, would they have been given
6 RDO on September 16th? You don't know.

7 MS. MCBRIDE: I can't think --

8 MR. ALBERTI: Would you know whether they
9 were given RDO on September 22nd, 23rd and 24th?

10 MS. MCBRIDE: I do not know. I cannot tell.

11 MR. ALBERTI: So, your information says it
12 would have been suspended during that period.

13 MS. MCBRIDE: And it should not have been
14 provided, but I don't want [inaudible 34:23].

15 MR. ALBERTI: Okay, fine, thank you. Can you
16 provide that information for us?

17 MS. MCBRIDE: The 22nd?

18 MR. ALBERTI: Well, I would like information
19 on 22nd, 23rd and 24th, the 29th, the 30th and
20 the first of November.

21 MS. MCBRIDE: You mean October?

22 MR. ALBERTI: October, right, the first of

1 October. Okay? And the 6th, 7th and 8th of
2 October. I'd like to know whether RDO was
3 provided then. So, we have it in, so all that's
4 [inaudible 35:00] in your records.

5 MS. MCBRIDE: So you want that?

6 CHAIRPERSON ANDERSON: No, you don't have to
7 do that right now. What -- hold on a minute --
8 one thing that I think would help, is it possible
9 for you guys to provide a copy of the invoices
10 that you had -- what I see here it's saying the
11 invoice is attached but it isn't, so the June
12 14th, June 29th, and 24th, it says that it was 60
13 to 90 days past due and then July 8th says the
14 third one is past due, so is it possible for you
15 to provide us with a copy of the invoice that was
16 actually sent so we will know -- they're saying
17 that 'well, you know, you guys might show an
18 invoice here so did they get a regular invoice
19 and so when you notify them on the 30th that the
20 invoice was past due was there actually an
21 invoice that was sent before and so this was just
22 another copy? Yes, Mr. Silverstein.

1 MR. SILVERSTEIN: Okay, I have a question
2 about the -- we're looking at these and it says
3 60 to 90 days past due, 3168 is past due, these
4 are past due, but the question is how do they --
5 when is the money to be paid? How are they
6 notified? Were they in fact delinquent or did
7 nobody -- the money.

8 MS. MCBRIDE: I'm sorry, I was writing down
9 the questions. I'm not in the office where they
10 actually handle the details and some of the
11 details of payments or -- I don't have that
12 information. I can get it but I don't have it.

13 MR. SILVERSTEIN: You don't know when they
14 were first told or what the process is for
15 payment?

16 MS. MCBRIDE: I do not know, but I could get
17 that information and get back to you.

18 MR. SILVERSTEIN: Okay, I'll pass.

19 CHAIRPERSON ANDERSON: Yes, Mr. Short.

20 MR. SHORT: This question is for Mr. Das.
21 Mr. Das, when the report came down from this
22 board on the condition of renewing your license,

1 it stated you must have all these -- therefore,
2 it is hereby ordered on this, the 16th day of
3 July, 2014, that the applicant can renew a
4 retailer's class CN license filed by Acott
5 Ventures, also known as , trading as The Shadow
6 Room, at the premises at 2131 K Street Northwest,
7 we hereby grant, subject to the following
8 conditions: The applicant shall hire the
9 Metropolitan Police Department reimbursable
10 detail when the establishment is in operation.
11 The detail shall be hired for at least four hours
12 and should be hired at least one hour after the
13 close of the establishment. It is therefore that
14 the motion to consolidate filed by the EFF ANC 2A
15 is denied because the board deems it untimely at
16 that stage of the proceedings. Okay, so you knew
17 absolutely that you didn't have an RDO when you
18 were following the board order, is that correct?

19 MR. DAS: Correct.

20 MR. SHORT: Okay, so you're violating the
21 board order you know that your license is
22 conditioned on that, correct?

1 MR. DAS: Correct.

2 MR. SHORT: Now, when you knew you weren't
3 going to have RDO, did you contact our office?
4 Did you contact anyone to say 'I'm running my
5 business today, I've got some issues that I've
6 not paid my bill but I'm operating and I don't
7 want to go against a board order, but I'm going
8 to operate after I notify you' -- why didn't you
9 do that?

10 MR. DAS: That's a great question, thank you
11 for that. The reason why we didn't do that was
12 as soon as we received them asking for the money
13 we paid. And if they made a mistake of not
14 entering it into the system we, as far as the
15 communication that we had, we were current and we
16 weren't in suspension so -- and we actually had
17 to send it twice to show them that we had paid.
18 So, we were under the assumption that we were
19 current and that we ordered the police detail on
20 time and they were going to show up. Now --

21 MR. SHORT: Now, in your testimony earlier,
22 this isn't the only time you didn't have a

1 detail, is that correct? You stated that earlier
2 today. Why didn't you call on those particular
3 days?

4 MR. DAS: Because it's part of our contract
5 that we were under the assumption that ABRA and
6 the office knows it's part of our contract that
7 even if we're current, even if we make the
8 payments and everything, they do not have to show
9 up because of staffing if they don't have enough
10 --

11 MR. SHORT: Mr. Das. Your responsibility to
12 this board is that you would have an RDO detail
13 any time you were in operation. And so, you took
14 it upon yourself to operate without notifying
15 ABRA which I find to be not acceptable. And
16 you've admitted that only this particular time --
17 could you give me an approximate number of times
18 you've operated without an RDO?

19 MR. DAS: I do not know that but, number one,
20 sometimes the detail is late, sometimes they do
21 not show, we do not know until the day of the
22 event and that is unfair -- the best we can do is

1 pay our bills, follow your guidelines and then
2 communicate after the event and try to look into
3 the matter but we have had police detail show
4 very late as well, so we didn't know if they were
5 going to come late, so we, in our opinion, were
6 compliant with what you've asked us, because all
7 we can do is request it and if they're going to
8 show up late or show up on time or -- I don't
9 know that.

10 MR. SHORT: Okay, well this one is for
11 lieutenant McBride and first of all I want to
12 thank you for your service to our city and
13 [inaudible 41:14. Thank you for your testimony
14 and look forward to giving it proper
15 consideration. Mr. Chair, that's all I have, Mr.
16 Chair.

17 CHAIRPERSON ANDERSON: Thank you, Mr. Short.
18 Hold on. Yes, lieutenant?

19 MS. MCBRIDE: Would you also like me to
20 provide documentation of these requests that they
21 say they made for the detail?

22 MR. SHORT: Yeah, that would be good.

1 CHAIRPERSON ANDERSON: I think one of the
2 things that needs to be clear with respect to
3 this when is it that -- when are these invoices
4 sent? Because if the invoice has the wrong date
5 and they have paid it and so, therefore, when
6 they send this invoice on September 30th to say
7 it hasn't been paid it puts a different spin on
8 it. If the first time that you had it in was
9 September 30th then there's [inaudible 42:07] was
10 September 4th then one could say they were out of
11 compliance. So, I think that is something that
12 needs to be cleared up and satisfied, so that
13 will be helpful for us.

14 MS. MCBRIDE: Do you want me to get the
15 information now?

16 CHAIRPERSON ANDERSON: No, no, no. We --
17 what I'm going to do is ask more questions and
18 I'm going to give the -- an opportunity to speak
19 since you're here, let me see we have a next
20 hearing at what time?

21 COURT REPORTER: 3:30.

22 CHAIRPERSON ANDERSON: All right, well our

1 next one is at 2:30, but I'll give you some time.

2 UNKNOWN: 3:00.

3 CHAIRPERSON ANDERSON: At 3:00. The next
4 hearing's at 3:00 so I just want to be mindful of
5 that, so [inaudible 43:06].

6 MR. ALBERTI: So, Mr. Das, quick question.
7 September 22nd and 23rd, what days are you
8 normally open? Thursday, Friday and Saturday?

9 CHAIRPERSON ANDERSON: Let him answer.

10 MR. DAS: Yes.

11 MR. ALBERTI: So you should have RDO on those
12 days?

13 MR. DAS: Yes.

14 MR. ALBERTI: Okay. So, September 23rd --
15 22nd, 23rd and 24th, Thursday, Friday and
16 Saturday, did you have RDO those days?

17 MR. DAS: I do not know. I'd have to look
18 into it. I'd have --

19 MR. ALBERTI: We're going to get the
20 information from MPD. September 29th, 30th and
21 October 1st, did you have RDO?

22 MR. DAS: Could you repeat the dates, please?

1 Sorry.

2 MR. ALBERTI: September 29th, 30th and
3 October 1st. Thursday, Friday and Saturday, did
4 you have RDO?

5 MR. DAS: Again, I have to look at the
6 records.

7 MR. ALBERTI: Let me tell you, I'm a little
8 perplexed that this wasn't that long ago and you
9 don't know whether you had the RDO or not.

10 MR. DAS: There --

11 MR. ALBERTI: You may not know and that's
12 fine, we'll find out from MPD, but you can
13 understand why I'm perplexed, I hope, all right?
14 Thursday, October 6th and Friday, October 7th.
15 Thursday, October 6th, did you have RDO?

16 MR. DAS: One of the reasons --

17 MR. ALBERTI: No, no, no, just answer my
18 question.

19 MR. DAS: Well --

20 MR. ALBERTI: Answer my question.

21 MR. DAS: I do not know.

22 MR. ALBERTI: I will give you a chance to

1 speak.

2 MR. DAS: I do not know that.

3 MR. ALBERTI: You do not know, all right. Go
4 ahead, now.

5 MR. MOUSSA: We have to be very careful what
6 we say on the record, not just off the memory, we
7 want to look at the other records we have,
8 because I don't want to tell you one thing and
9 be incorrect.

10 MR. ALBERTI: I get that.

11 MR. MOUSSA: So --

12 MR. ALBERTI: If you don't know, that's fine.
13 I'm still perplexed that you don't know.

14 MR. MOUSSA: You know in June --

15 MR. ALBERTI: I believe you. Listen, Mr.
16 Das, I believe that you don't know. All right.
17 I'm not questioning your memory. I'm still
18 perplexed that your memory is not clearer than
19 that since you're a businessman and, you know,
20 you know, and RDO should be important to you, all
21 right? So, anyway, but that's aside. My problem
22 with being perplexed is not your problem.

1 MR. MOUSSA: I know there was -- all those
2 evenings as well, so that's another reason, and,
3 before we speak, even if we have an idea, we want
4 to be sure, so that's why I say we want to be
5 sure.

6 MR. ALBERTI: Let me ask you this question.
7 If you don't have RDO two days in a row, what do
8 you do? What do you do?

9 MR. MOUSSA: I would contact Sergeant O'Hara
10 the next business day.

11 MR. ALBERTI: All right. So, if you find out
12 that you didn't have -- you didn't contact
13 sergeant O'Hara in October saying 'oh, you know
14 we haven't had at the end of September' -- did
15 you contact sergeant O'Hara at the end of
16 September saying you were not receiving RDO?

17 MR. MOUSSA: Yeah, we contacted him on
18 October 4th, October 3rd.

19 MR. ALBERTI: Yeah, that's because of the
20 invoices. Did you contact him specifically
21 saying 'you know, we were expecting them on
22 Thursday and Friday and they weren't there.' Did

1 you -- did any of that happen in late September?

2 MR. MOUSSA: I'd have to look. I requested
3 the detail at least two days prior. Whether I
4 followed up I'd have to verify. I don't want to
5 give you wrong information.

6 MR. ALBERTI: Okay, I will have to -- it
7 looks like I'm going to have to rely on the
8 information that MPD has. If you didn't have RDO
9 on those dates that we talked about and you
10 didn't contact MPD, that's going to weigh heavily
11 in any decision I make.

12 CHAIRPERSON ANDERSON: Can you also provide
13 the board a copy of your contact for RDO because
14 you're saying that your contact, I think because
15 you're saying you contacted them it would be all
16 your [inaudible 47:16].

17 MR. DAS: I believe we highlighted those
18 areas.

19 CHAIRPERSON ANDERSON: Okay, fine. Yes, Mr.
20 Silverstein?

21 MR. SILVERSTEIN: I was going to ask you
22 about your -- I was going to ask Lieutenant

1 McBride, if you have an RDO say, July 1st, when
2 do you have to pay for that? When do you get the
3 bill? Is it 60 days later or is it -- when is
4 the money due and what is the normal billing
5 cycle?

6 MR. DAS: There is no set process. You get
7 an invoice, it could vary, there's no set process
8 and sometimes we just get from our records the
9 overdue notice and not the bill, so there's no
10 set process and there's no time, but we've had a
11 good relationship --

12 MR. SILVERSTEIN: Okay, I think you've
13 answered the question. Lieutenant McBride,
14 before we hear from the community, I'd like to
15 hear from you as to what the repercussions were
16 on that particular night of not having an RDO in
17 terms of response outside of the establishment.

18 CHAIRPERSON ANDERSON: I think that's a large
19 issue and I'm not sure if we want to go there
20 because I don't think it's clear that -- it's not
21 clear to us and that's just between not having to
22 argue and the incident occurred. I'm not sure if

1 --

2 MR. SILVERSTEIN: I'm not saying the
3 incident, but the response, the response time.
4 That's all I --

5 CHAIRPERSON ANDERSON: If you can answer the
6 question.

7 MS. MCBRIDE: Okay, I'm sorry, could you
8 repeat the question?

9 MR. SILVERSTEIN: What was the repercussion
10 regarding the response time with the lack of an
11 RDO on the night that this incident took place?
12 How long did it take to respond versus how long
13 would it have been had there been an RDO.

14 MS. MCBRIDE: Well, obviously, there would
15 have been zero response time if there was an RDO,
16 they would have been there. I don't have the
17 specific time frame from the time of the incident
18 to when the officers arrived on the scene but
19 there wasn't a significantly delay before they
20 did respond. It wasn't any more than five
21 minutes. But, again, that five minutes -- a lot
22 of things can happen in five minutes [inaudible]

1 49:59] Again, there was no delay. There would
2 not have been any delay if the officers were
3 there, I mean although five minutes [inaudible].

4 MR. SILVERSTEIN: Thank you. No further
5 questions, Mr. Chair.

6 MR. DAS: Mr. Anderson?

7 CHAIRPERSON ANDERSON: Yes, sir.

8 MR. DAS: So, we spoke to our attorney about
9 this and number one, we just want to state on the
10 record, this incident didn't happen in front of
11 our building or in front of the club, it happened
12 all around the corner and there's other liquor
13 licensed establishments in the vicinity and even
14 the MPD, we asked them is there any link to
15 anything that we did or what the patron did, and
16 they even came and took all of our video and
17 there's no link to our establishment established.
18 So, I just want to put that in the record that it
19 wasn't in front of our -- it was around the
20 corner on a different street.

21 CHAIRPERSON ANDERSON: All right. Are there
22 any other questions by any other board members?

1 Do we have members of the community that want to
2 speak? Who wants to speak? Why don't you come
3 up and identify yourself for the record and I'll
4 give you a couple of minutes to speak. Remember
5 that the question here in a fact finding hearing
6 is regarding arguing specifics, so the board is
7 going to be specifically asking about the
8 incident that occurred because no one has
9 established that there was an actual [inaudible
10 51:44].

11 MS. MCBRIDE: I apologize. I don't what the
12 criteria are that you all require to connect, it
13 but we do have video of what happened outside of
14 the club. One of the patrons involved and was
15 arrested admitted to being at the club just prior
16 to the incident.

17 CHAIRPERSON ANDERSON: Yeah, I know they --
18 and normally -- the reason I'm saying it this way
19 -- is normally an incident of this caliber
20 occurs, ABRA would have received -- this will be
21 a different hearing since we received a request
22 from the police chief asking us to have a fact

1 finding hearing or asking for a police disclosure
2 and we don't have those in this case -- that's
3 one of the reasons why I'm saying it the way I
4 am, because if the police chief had -- the
5 purpose of this hearing is not that the police
6 chief has sent us a letter to say this incident
7 occurred, was there a danger or whether or not
8 the incident [inaudible 52:50] then we would be
9 having a different type of hearing, but since we
10 don't necessarily have anything within those
11 confines, that's one of the reasons why I'm
12 prefacing my statements on the only thing that we
13 have to talk about right now is the RDO. I know
14 the community is concerned about the incident
15 that occurred, and the community might believe
16 that if this club didn't exist in the
17 neighborhood we wouldn't have had this incident -
18 - yes, that may be so, but since this is not the
19 focus of this hearing I just want to make sure --
20 I mean, I just want to let the community know
21 that in this hearing you're not going to get
22 access from us for that. I will listen to you

1 and whatever decision the board makes we will
2 take it under advisement. So, you can come
3 forward ma'am, let us know who you are and you
4 can state what your opinion is. You can sit on
5 the witness stand because there's a microphone
6 there so we can hear you when you speak into the
7 microphone, so you can go ahead.

8 MS. HARMON: Okay. Many of you know me but
9 there's new board members so I'm Florence Harmon
10 here representing ANC 2A district. And I have
11 been on the ANC for ten years, or almost ten
12 years in 2017, and I guess -- I promise I'm not
13 going to comment on the incident [inaudible
14 54:37] but the point I want to make is something
15 I think a couple of the board members picked up
16 on who have been here over ten years is if you
17 run a business establishment you have to take
18 responsibility for running your establishment in
19 a professional and responsible manner and there's
20 been incidents over the last ten years -- there's
21 been incident, after incident, after incident at
22 the Shadow Club. And Mr. Das always comes in and

1 says it's not our fault and never assumes any
2 responsibility and we initially just tried to
3 work with him. We actually, in 2008, entered
4 into a settlement agreement and we had a
5 situation where he tried to circumvent that by
6 forming a new LLC and establishing a new capacity
7 and we Mr. Das, you know, if I didn't pay my
8 credit card bill because there was a mix-up on
9 the bill and they suspended my credit card, I
10 wouldn't be able to use my credit card. I would
11 have to be proactive about getting hold of the
12 company and working it out, but I wouldn't be
13 able to use my credit card until I resolved the
14 billing issue. And I just want to make this
15 point that Mr. Das it's always his response that
16 he understands he is supposed to have a police
17 detail, but we had to fight for that. The board,
18 you're right, in 2014, said there's a police
19 detail. The community had actually only asked
20 for them for Thursday night, but we hired a
21 private investigator and we showed videos of what
22 was happening outside of the club and on the

1 neighboring streets and had testimony that they
2 were patrons from The Shadow Room coming out
3 after closing onto 22nd Street where this
4 incident occurred and the board looked at those
5 videos -- and I'm assuming this -- and decided
6 they didn't want the police detail just for
7 Thursday night when Mr. Das has his Urban Night,
8 they wanted it every -- the situation was serious
9 enough that they needed a police detail every
10 single night to avoid incidents like that has
11 occurred. Then Mr. Dad appeals that to the board
12 of appeals, and a group of us as individuals, not
13 ANC, intervene and paid attorney's fees and got a
14 favorable court of appeals decision. So, then
15 they were supposed to be part of that. So, I
16 guess my point is that they weren't agreeable to
17 this, this was opposed on them. So, they didn't
18 want to assume responsibility for having a detail
19 there and they didn't take the actions that they
20 should have taken as responsible business owner
21 to make sure that there was -- you know, to
22 contact the board and let you know they were

1 operating without a detail and I don't think they
2 can be counted on to do it in the future. So, I
3 don't see any other solution than to revoke their
4 license at this time. If there's any other
5 questions the board members have about our
6 procedural history, I've been involved in this
7 for ten years, we've never had a licensed
8 establishment we couldn't work things out. Even
9 in our single member district we've had problems
10 with every single establishment with underage
11 drinking or security issues, but we've never --
12 the ANC has never had difficulties with working
13 with them like this owner.

14 CHAIRPERSON ANDERSON: All right, thank you.
15 You can step down, thank you.

16 MR. DAS: Can I make a comment?

17 CHAIRPERSON ANDERSON: At the end I'll give
18 you some time -- why don't you listen to the
19 community and at the end you can say something if
20 you want to. All right, thank you.

21 MR. LABAS: My name is Chris Labas, and I am
22 the property manager of the building where this

1 incident happened in front of and also on the
2 board of the parking lot association. I don't
3 want to chew Florence's coverage twice, but I
4 just wanna add, you know we were opposed to this
5 nightclub opening and we suspected there was
6 going to be activity -- not as bad as this -- if
7 it did open. And it opened and there's incident
8 after incident that led the board and the
9 appellate court to impose this reimbursable
10 detail on this club every night that they were
11 open. And I think if you look back through the
12 record, but I may have even predicted that the
13 activity was going to get so bad that there would
14 be gun play. This nightclub has been degrading
15 and detrimental to the fabric of the community in
16 this neighborhood and beyond because we have
17 families with children, and in my building there
18 were parents who would actually explain to their
19 children who heard this and were woken up by this
20 gunplay there, to explain to them that there were
21 men outside their bedroom windows shooting with
22 guns. The trajectory of the shooting hit an

1 embassy, it hit one of my employee's cars and,
2 you know, thank God that none of these bullets
3 penetrated us. But, I would recommend that the
4 board look at Mr. Das' just flagrant ignoring of
5 this reimbursable detail requirement over the
6 years. He didn't want it, he was opposed to it,
7 it was imposed on him, and he still has not
8 ensured that these police are there and I would
9 recommend that that license be revoked as soon as
10 possible. Thank you.

11 CHAIRPERSON ANDERSON: Any other members of
12 the community want to speak? Speak now or
13 forever hold your peace and I know that you guys
14 show up and I don't want it to be that 'Chairman
15 Anderson did not allow me to speak.'

16 MR. CAMPBELL: I don't know whether there
17 will be another hearing.

18 CHAIRPERSON ANDERSON: Your name please.

19 MR. CAMPBELL: I'm Dennis Campbell and we own
20 a home on 22nd Street, and I can tell you that
21 there are -- the comments that you've just heard
22 -- repeated, repeated, repeated incidents at 3:00

1 in the morning Thursdays, Fridays and Saturdays.
2 One of the worst, by the way, was last Christmas
3 Eve. We had right out in the front of our house
4 there were major incidents that ended up with an
5 automobile that was jammed into the curbs in
6 front of the street across the street and that
7 car finally had flat tires and had to sit there
8 for several days until it was removed. This
9 should not be happening, and it is a constant
10 worry. It's not just this one incident, by the
11 way, that happened on Columbus Day, that was
12 undoubtedly the worst, and anybody who lives on
13 22nd Street recognizes that this is exactly
14 related to The Shadow Room, not other
15 establishments.

16 CHAIRPERSON ANDERSON: Thank you. Any other
17 comments by any other members of the community?
18 Yes sir, please come up and state your name for
19 the record when you get up there.

20 MR. WILLIAMS: My name is John Williams. I
21 am also a member of ANC 2A. I represent a
22 neighboring single member district so I've been

1 involved with the ANC for at least the past five
2 years and The Shadow Room has been a constant
3 source of friction and I want to point out I'm a
4 retiree and there's a history here and the
5 history is that the city, through its office of
6 planning, deliberately encouraged the rebuilding
7 of the west end and mixed commercial and
8 residential uses and the reason behind that was
9 to increase public safety, and it's generally
10 worked. It's generally because they're hotels,
11 it's because there are students, it's because of
12 the late night activity, it's generally safe to
13 walk around the streets and party on the west
14 end. This is the single most glaring exception
15 and it really needs to be dealt with. Thank you.

16 CHAIRPERSON ANDERSON: Thank you. Okay.
17 Thank you for that. Mr. Das, you said you wanted
18 to say something?

19 MR. DAS: The only thing I wanted to say is
20 that we're being portrayed as someone that is
21 being irresponsible. Since the board order was
22 presented to us we have asked for the details at

1 the appropriate times, we paid all the invoices
2 that were given to us well within the time when
3 they've provided them to us. Have there been one
4 or two mistakes? Maybe my staff has handled them
5 well. But the point is it's important to us to
6 follow the rules that the board has established
7 and if you look at when we've received the e-
8 mails and when we've paid and written out those
9 checks it will show that we're very responsible
10 and it is important to us. We don't want you to
11 think that your order wasn't important and that
12 we're not doing everything possible to follow it.

13 CHAIRPERSON ANDERSON: Thank you. Did I ask
14 you for -- yes, Mr. Perry?

15 MR. PERRY: Mr. Das, I'm one of the new
16 members so I'll speak. Sir, I assume you were
17 aware that this is a fact finding hearing?

18 MR. DAS: Yes.

19 MR. PERRY: So, again I'm still trying to
20 look through all of this, but you know -- and
21 this issue about the RDOs, I guess what I would
22 say is, if I were in your shoes, coming to a fact

1 finding hearing, I -- and the issue is RDO which
2 you know you have had on several occasions -- and
3 that you were being brought in because it was
4 lack of RDO available as you say, would you be
5 willing to sort of substantiate that through the
6 e-mails we have? Because we have four pages here
7 and I'm fairly technically savvy but I can't tell
8 -- what is this now? So I just wondered would
9 you be willing to sort of just provide us just
10 sort of e-mails at the beginning of the month on
11 these bills -- you know on August 29th, the 18th
12 -- can you provide those to us just to
13 substantiate -- you're saying 'we want to do
14 this' and based on the sort of community I think
15 it'd be helpful for me just to see whether or not
16 you guys are actually being proactive and also
17 communicating with the MPD, you know, letting
18 them know, you know, 'so and so did not show up,
19 so and so was late' -- I mean, you know, are you
20 doing that? Can you substantiate that you're
21 communicating that to the MPD. I think that if
22 you were to do that I think that would be helpful

1 just to sort of get a better sense of what you
2 are doing with regard to that.

3 MR. DAS: The thing that you mentioned, Ms.
4 Harmon, number one, it's a little bit unfair as
5 you only see the investigative history. We
6 didn't know which direction this was going to go
7 so we tried to prepare just kind of just to bring
8 as much as we possibly could. We felt that maybe
9 it was because when they didn't receive the
10 payments, so that's what we prepared for. But we
11 can absolutely now know based on the information
12 that you each do, is maybe get those documents
13 together that outlines when did we request it, if
14 it's not filled when are we sending e-mails, and
15 if we get an invoice when have we paid and do a
16 few months' history to kind of outline all that
17 and show and we can have the e-mails to back that
18 up as well, so we use e-mails so there's a paper
19 trail of everything so maybe we could do that
20 for.

21 MR. PERRY: That would be very helpful.

22 MR. DAS: Yeah, it would be really helpful.

1 CHAIRPERSON ANDERSON: All right, Mr.
2 Alberti?

3 MR. ALBERTI: Yeah, I think it's important
4 that you do that, Mr. Das, because there's a huge
5 disconnect with the community and I think it's
6 troubling. You got an e-mail on September 8th
7 saying three invoices were overdue, right? So,
8 the next e-mail I see here as part of your
9 statements today you didn't provide duplicates,
10 and again I'll also mention that on September
11 8th, on that date, you were told that RDO would
12 be suspended.

13 MR. DAS: We also had phone calls.

14 MR. ALBERTI: It wasn't until September 30th
15 according to your statements today that you
16 provided proof of those invoices that were paid.

17 MR. DAS: So, again, --

18 MR. ALBERTI: That's what you told us today.

19 MR. MOUSSA: No, there were two instances
20 where we had to provide proof of that.

21 MR. ALBERTI: So, when did you come up with
22 the July -- what did July include?

1 MR. DAS: The June invoices.

2 MR. ALBERTI: When did you provide proof?

3 MR. MOUSSA: On September 9th and September
4 30th?

5 MR. ALBERTI: On September 9th you provided
6 proof? What did you provide on September 9th?

7 MR. MOUSSA: September 9th was when we
8 originally paid. September 30th is when we had
9 to show proof that we actually sent in that check
10 and that it was cashed.

11 MR. ALBERTI: I know -- you paid on September
12 9th.

13 MR. MOUSSA: Correct.

14 MR. ALBERTI: And the next, okay now I
15 understand it. It's very important that you give
16 us the items so we can all understand it.

17 MR. DAS: Because we do this electronically,
18 we can go into a bank record.

19 MR. ALBERTI: If you can provide us with
20 that, it would be great.

21 CHAIRPERSON ANDERSON: Let me ask you,
22 Lieutenant McBride, do you know how the

1 establishments are billed for RDO? How they
2 [inaudible 1:09:54].

3 MS. MCBRIDE: I do not know.

4 CHAIRPERSON ANDERSON: You don't know. Mr.
5 Das, you can tell me if this is something that
6 you are not able to do. Are you able to come
7 back to the board with every communication that
8 you've had with Metropolitan Police Department
9 say from July 1st through -- if it's too much
10 we're not going to place it on you -- so between
11 July 1st and when did you request the RDO for the
12 9th?

13 MR. DAS: Tuesday, the 4th.

14 CHAIRPERSON ANDERSON: All right, is it
15 possible to provide us with communications that
16 you've had with the police, MPD, regarding the
17 RDO and maybe invoices for July 1st and October
18 4th. Is that -- ?

19 MR. DAS: That's reasonable.

20 CHAIRPERSON ANDERSON: How long do you think
21 it would take you to provide all that
22 information?

1 MR. DAS: Can we have two weeks? I mean, we
2 have to go through a lot of e-mails and a number
3 of employees, and I just want to make sure we get
4 it right.

5 CHAIRPERSON ANDERSON: That's why I'm asking
6 you.

7 MR. DAS: There's someone that couldn't be
8 here today, there's a communication. And I also
9 want to say something about Mr. Alberti's
10 comment. Some of it's over the phone when we get
11 an e-mail, 'hey we paid this' and things like
12 that. So, those we can't document but we have
13 the e-mails, so is two weeks reasonable?

14 CHAIRPERSON ANDERSON: You're saying that in
15 two weeks you can provide us whatever
16 communications you've had with MPD between July,
17 regarding July 1st and that incident involved an
18 invoice for June 14th, 21st and 24th. I assume
19 that would be the invoice that's sent and if you
20 work with it, I'm not sure if they're billed --
21 in your experience do they bill you for a day or
22 do they bill you for three or four?

1 MR. DAS: I think it's, we have to ask it --

2 CHAIRPERSON ANDERSON: Just generally.

3 MR. DAS: I think it's number of days.

4 CHAIRPERSON ANDERSON: So, it might be only
5 one.

6 MR. DAS: Yeah, so it's multiple days. For
7 example, you see the one that's in front of you?
8 Sometimes they bill us for like \$80 and there's
9 no way any detail covers \$80. We don't even know
10 what that's for, sometimes it's \$898, sometimes
11 it's over \$1000 -- that's multiple days I'm
12 assuming, so we're not sure how they're doing it.
13 The fact of the matter is we get the bill, we
14 just pay it.

15 CHAIRPERSON ANDERSON: So, that's what I'm
16 saying. So, I'm giving you a reasonable period
17 of time after the last date which is June 24th
18 which is to say July, something for July 1st
19 through October 4th, any communication that you
20 have had with MPD regarding RDO and invoices. If
21 you could provide that to Ms. Martha Jenkins our
22 general counsel, please.

1 MR. DAS: Again, it's subject to whatever my
2 employees have kept in the e-mails and whatever
3 we have --

4 CHAIRPERSON ANDERSON: You can't -- of
5 course you can't -- the bottom line we're trying
6 to find -- I'm also asking MPD to send me a copy
7 of the invoices that were sent because you're
8 saying that you got this invoice on this -- this
9 e-mail on the 30th and you paid it immediately,
10 they might have communications that say that 'we
11 sent you this invoice' prior to it, and so our e-
12 mail to you on September 30th was just like, you
13 know, a final to say that 'we've been trying --
14 we've sent you all these e-mails and you haven't
15 responded' so, therefore, that's why the
16 September, the first time you got the invoice was
17 September 30th and you paid October 4th, that's a
18 great track record. However, if they sent it to
19 you in July and August and you didn't pay until
20 October 4th, then --

21 MR. DAS: We're responsible.

22 CHAIRPERSON ANDERSON: So, that's what we're

1 trying to find out.

2 MR. DAS: Can I ask this?

3 CHAIRPERSON ANDERSON: Yes, sir.

4 MR. DAS: We have to go to put hours involved
5 in making all the payments, but if one invoice
6 was missed usually, even the police detail, they
7 give you some time, so I think if we miss two
8 invoices, I would absolutely take responsibility.
9 I don't know if my employees missed one, I just
10 want to put that out there.

11 CHAIRPERSON ANDERSON: I think we're
12 reasonable people.

13 MR. DAS: That's what I'm asking.

14 CHAIRPERSON ANDERSON: And even the
15 community, I don't live in the neighborhood, but
16 I would say if you've paid your bills and later
17 it was found [inaudible 1:14:36] You call them
18 and say 'I paid my bill, I just -- it was just
19 one late one' I believe that reasonable people
20 can agree that if it's just one that it's okay.
21 I think reasonable people would. But if it's
22 three, that's not okay.

1 MR. DAS: I agree.

2 CHAIRPERSON ANDERSON: So, Lieutenant, is two
3 weeks sufficient time for you to provide the
4 information we're asking for?

5 MS. MCBRIDE: I guess it's going to be like
6 for a continued hearing or just documents that
7 you want?

8 CHAIRPERSON ANDERSON: Just documents, if you
9 can provide them in the next couple of weeks to
10 our counsel.

11 MS. HARMON: If possible, could MPD sort of
12 re-state what their documents are that you'll be
13 introducing?

14 MS. MCBRIDE: Our daily reports that we
15 determine whether or not we provided detail July
16 16th, 22nd, 23, 24, 29th, 30th of September and
17 October 1st.

18 MS. HARMON: Okay.

19 MS. MCBRIDE: It's to October.

20 MR. ALBERTI: Whether or not you have the
21 invoice for those.

22 MS. MCBRIDE: The other request was the

1 actual procedures, when's payment due, how will
2 it be, how they're notified, were they actually
3 delinquent or just not advised in an adequate
4 amount of time when they were first told? So,
5 that's the information I'll be providing.

6 MS. HARMON: Okay.

7 MS. MCBRIDE: I'll try to get, see if they
8 have e-mail communications between TSB and the
9 Shadow Room, whether it's for detail or whether
10 it's [inaudible 1:16:42].

11 MR. SILVERSTEIN: Mr. Chairman, may I speak?

12 CHAIRPERSON ANDERSON: Yes, Mr. Silverstein.

13 MR. SILVERSTEIN: Can you get us the amount
14 of lead time that's normally required to get RDO?

15 CHAIRPERSON ANDERSON: I think everyone
16 agrees that it's two days. I think --

17 MR. ALBERTI: Why are requesting normal
18 procedures then?

19 CHAIRPERSON ANDERSON: I thought it was
20 confirmed it was two days.

21 MR. SILVERSTEIN: For special events. Mr.
22 Das told us -- this is what we heard from Mr. Das

1 is that they request it at the beginning of the
2 month --

3 CHAIRPERSON ANDERSON: For the regular time.

4 MR. SILVERSTEIN: For the regular time. But
5 it's two days for special events.

6 CHAIRPERSON ANDERSON: Is that.

7 MS. MCBRIDE: I'll get clarification whether
8 it's just for details or --

9 MR. ALBERTI: I have one further request of
10 Mr. Das and invoices -- so the check for invoices
11 #3079, #3147 and #3170, all right?, you'll get us
12 a copy of the checks right? Can you show us --
13 your bank statements that tell us when that check
14 was cashed by the bank.

15 CHAIRPERSON ANDERSON: Yeah, they, they --
16 hold on. This is what they'll provide to us.
17 Lieutenant McBride said on October 7th the CFO
18 told them they had paid.

19 MR. ALBERTI: I understand, but Mr. Das is
20 telling us that at the beginning of September,
21 September 9th, Mr. Moussa told us that on
22 September 9th he paid the invoices for June --

1 for the three June dates, yeah I see the check
2 dated for that date, but I have no idea when you
3 sent it in. So, I would like to see when you
4 guys cashed it. Now, it may be over on MPD, but
5 I would at least like to see when they paid -- it
6 should be easy for you to go to your bank
7 records, redact whatever you need and get us that
8 date.

9 MR. DAS: Mr. Anderson I think you're
10 referring to the October 4th --

11 CHAIRPERSON ANDERSON: I see.

12 MR. MOUSSA: We'll get those for you.

13 MR. DAS: Here's my point. The mail takes
14 two days. If they don't cash it in a reasonable
15 amount of time, there's nothing that we can do.

16 MR. ALBERTI: Mr. Das, I am well aware of
17 that.

18 MR. DAS: Okay.

19 MR. ALBERTI: Please, please. You know, I'm
20 an adult, thank you, I'm well aware and I can
21 take that into account. But it's important to me
22 to have all of the information to put all of the

1 pieces of the puzzle together.

2 CHAIRPERSON ANDERSON: All right, it's 3:01.
3 Go ahead, Mr. Silverstein.

4 MR. SILVERSTEIN: Mr. Das, you said, and I'm
5 going to pretty much quote you here, 'since the
6 board order has been issued we've requested all
7 the details every night and paid when requested.
8 The board order was issued the 14th of July,
9 2014. Have you done it since then or was there a
10 court of appeals?

11 MR. DAS: It was after the appeals process
12 was over.

13 MR. SILVERSTEIN: So, the court of appeals
14 reaffirmed our order and do you believe that the
15 court of appeals' decision is sufficient cause
16 for you to be proactive?

17 MR. DAS: Yes.

18 MR. SILVERSTEIN: Well, weren't you told that
19 sending the final check by snail mail might not
20 get it down there on time?

21 MR. DAS: By who?

22 MR. SILVERSTEIN: Lieutenant McBride.

1 CHAIRPERSON ANDERSON: I --

2 MR. SILVERSTEIN: I'm 99% done.

3 CHAIRPERSON ANDERSON: The reason I'm saying,
4 Mr. Silverstein -- hold on, hold on, there are
5 certain times that nothing -- I'm just going to
6 say this, prior to my being here, prior to me
7 being chair, the board was paid by snail mail.
8 So, I'm not going to -- following this procedure
9 for years, the board paid its board members by
10 snail mail. So, I'm not going to tell someone
11 that they should go online and do it rather than
12 write a check or to do it automatically because--

13 MR. SILVERSTEIN: I'd like, Mr. Chairman, and
14 if I may, I'll finish with this. If you were
15 told that the reimbursable detail was in jeopardy
16 because it might not be received in time by mail,
17 would it not have been more wise to courier it
18 down a few blocks.

19 MR. DAS: The answer is no, because we showed
20 on that day that we paid these other three
21 invoices, and the July invoice that's the first
22 time we were receiving it and we had a

1 conversation, I believe, that acknowledged it,
2 and, you know, this is the first time we're
3 getting it, we'll put the check in the mail, in
4 the next few days and it was going to be okay.
5 The other thing is, I'm not sure we were given
6 any other option, and maybe we could bring the
7 check down, but if we've never had an issue with
8 the checks being received in the past, so we've
9 got to look into what options we have or whether
10 they've given us options.

11 CHAIRPERSON ANDERSON: All right, thank you.
12 Thank you, Mr. Das, thank you Ms. Harmon and
13 thank you, Mr. Moussa, for coming. The board
14 will take this matter under advisement. You may
15 provide us this information in two weeks. The
16 lieutenant will provide us the information in two
17 weeks. You'll send the information to our
18 general counsel, Ms. Martha Jenkins, and we'll
19 make sure you get a copy of the documents that
20 are provided by MPD. All right?

21 So, I want to thank you for being here today.
22 I want to thank the lieutenant for being here and

1 I would like to thank the public for being here
2 today. We haven't had an immediate answer, we
3 don't know what it is that we're going to do,
4 we're going to wait for the information. I think
5 one thing that will occur from this, at least as
6 of today, that we'll see a payment and get
7 pending resources by MPD that there should be a
8 reimbursable detail every time that they are open
9 and it is provided by MPD. So, as of today, it
10 is my understanding that there is no issue in the
11 sense of there is a payment issue as of today so,
12 therefore, provided that there's no critical
13 emergency where MPD doesn't have a detail, when
14 they are open for business there will be an MPD
15 detail there to protect the public from whatever
16 might happen. That's the only [inaudible
17 1:23:33] today, okay? So, I want to thank you
18 for being here. Have a great afternoon.

19

20 (Whereupon, the above-entitled matter was
21 concluded.)

22