

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 Barcelona 14th Street, LLC, :
8 t/a Barcelona Wine Bar : Show Cause
9 1622 14th Street, NW : Hearing
10 License #ABRA-89785 :
11 Retailer Class CR :
12 ANC-2F :
13 Substantial Change in :
14 Operation (Change of Hours of:
15 Operation for Summer Garden) :

16 - - - - -X

17 Thursday, January 14, 2016

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

1 CHAIRPERSON:

2 DONOVAN ANDERSON, Presiding

3

4 BOARD MEMBERS:

5 RUTHANNE MILLER

6 NICK ALBERTI

7 MICHAEL SILVERSTEIN

8 JAMES SHORT

9

10 ALSO PRESENT:

11

12 LOUISE PHILLIPS,

13 Assistant Attorney General

14 SEAN TOWNSEND,

15 ABRA Investigator

16 JESSICA FARMER,

17 On behalf of Barcelona Wine Bar

18 NICOLE QUIST,

19 On behalf of Barcelona Wine Bar

20 ALEX CURLEY,

21 On behalf of Barcelona Wine Bar

22

P R O C E E D I N G S

[3:15 p.m.]

1
2
3 CHAIRMAN ANDERSON: All right. The next,
4 um -- we are now -- we now move to a show cause
5 hearing calendar. The next case -- Shhh. The next
6 case on our calendar is Case Number 15-CMP-00160,
7 Barcelona Wine Bar, License Number 89785.

8 Would the parties approach, please? Um,
9 please approach. Um, there's a sign-in sheet at
10 the -- on the table. Please, um, sign your name,
11 and please identify yourself for the record.

12 I'm -- I'm -- I'm sorry, miss. I didn't
13 hear your name.

14 MS. PHILLIPS: Louise Phillips, Assistant
15 Attorney General --

16 CHAIRMAN ANDERSON: Okay. Thank you.

17 [Off-mic speaking]

18 MS. PHILLIPS: Try -- third time's a
19 charm, okay? Louise Phillips, Assistant Attorney
20 General for the District of Columbia.

21 MS. FARMER: Jessica Farmer of Holland &
22 Knight on behalf of the licensee, and to my left

1 is Nicole Quist, and to her left is Alex Curley
2 on behalf of Barcelona 14th.

3 CHAIRMAN ANDERSON: And who are they?

4 MS. FARMER: They are -- this is a
5 manager there, and this is the area manager for
6 the D.C. region.

7 CHAIRMAN ANDERSON: Okay. All right.
8 Thank you. All right. As you know, this is a show
9 -- I'm sorry, it's a show cause hearing. Um, are
10 there any preliminary matters?

11 MS. PHILLIPS: No, there are not, sir.

12 CHAIRMAN ANDERSON: Um, does the
13 Government wish to make an opening statement?

14 MS. PHILLIPS: Yes, we do. Thank you very
15 much.

16 CHAIRMAN ANDERSON: Yes, go ahead,
17 please.

18 MS. PHILLIPS: Good afternoon, board
19 members. This matter comes before the Board on a
20 one-charge application -- I mean, one-charge
21 notice, um, for a status hearing and show cause.
22 Um, the charge is failure to seek approval for

1 substantial change in hours of operation of your
2 summer garden.

3 And what happened is, on March 22nd, an
4 investigator came to the summer garden of
5 Barcelona Wine Bar and determined that patrons
6 were standing around consuming alcoholic
7 beverages. He conducted a regulatory inspection
8 and determined that the establishment's Board-
9 approved summer garden hours were 12:00 p.m. to
10 12:00 a.m. I believe this was 12:45. The manager
11 -- uh, the investigator met with staff and
12 explained the violation, and, um, I believe the,
13 um, establishment's staff closed thereafter, um,
14 immediately.

15 Um, this procedurally comes to the Board
16 in a little different posture than the usual
17 notice of, uh, show cause. This, uh, notice of
18 show cause -- uh, there was a mistake in the, um
19 -- of the date in the first notice. The date of
20 occurrence after -- actually occurred after
21 midnight, and therefore it was March 22nd, not
22 March 21st, which is what the investigative

1 report said. Um, so the first notice was served
2 and, um, then dismissed, and then an amended
3 notice was fine -- was filed, and we're here on
4 the amended notice.

5 CHAIRMAN ANDERSON: Okay.

6 MS. PHILLIPS: At the end of this, um,
7 procedure, I think the, um, Board should find for
8 the Government and make a determination that the
9 establishment was open after Board-approved
10 hours.

11 CHAIRMAN ANDERSON: Okay. Fine. Um --
12 okay. Ms. Farmer?

13 MS. FARMER: Yes.

14 CHAIRMAN ANDERSON: Yes. Um, do you elect
15 to make an opening statement?

16 MS. FARMER: Yes, we do.

17 CHAIRMAN ANDERSON: Sure, go ahead,
18 please.

19 MS. FARMER: Uh, Barcelona is a
20 restaurant right down the street, serves, uh,
21 tapas-style food and is a wine bar, as well. They
22 have a summer garden that is located fronting

1 14th Street, so if you're on the sidewalk, you
2 will see the summer garden. You'll have to walk
3 up the -- it's a ramp to kind of walk up to go
4 into their front door. The summer garden is to
5 the left of that, but it's a -- it's a large,
6 open space. It's not an area that can actually be
7 closed, per se. There's no doors or walls or
8 anything of that sort.

9 Um, Barcelona takes its summer garden
10 responsibilities very seriously. They have
11 policies to make sure that it -- managers are
12 telling patrons, as of 11:30, that they need to
13 move inside. The inside is operational until 2:00
14 a.m. on weekends -- this was a weekend. Um,
15 they've moved the patio furniture to all be piled
16 up so that people cannot sit down. Everybody's
17 aware that it is no longer operational; service
18 does not happen.

19 Um, as you'll see when testimony comes
20 across, in the picture -- the photo shows just
21 people standing on the patio. It does not show
22 any actual alcohol being consumed or service

1 taking place, and it is our position that they
2 have not violated any provisions, and there was
3 not a substantial change as it's individuals
4 standing on a patio. They were asked to move, and
5 that happened. Um -- and they have managers
6 watching to ensure that people are asked to move
7 off once the patio is actually closed, which it
8 was after 12:00, and the tables and chairs were
9 already put away.

10 CHAIRMAN ANDERSON: All right. Thank you.
11 Does the Government wish to call its first
12 witness?

13 MS. PHILLIPS: Um, the Government will
14 only call one witness, and that's Investigator
15 Townsend.

16 CHAIRMAN ANDERSON: Um, can you raise
17 your right hand, please? Do you swear or affirm
18 to tell the truth and nothing but the truth?

19 MR. TOWNSEND: Yes.

20 CHAIRMAN ANDERSON: All right. You can
21 have a seat, please. Your witness.

22 MS. PHILLIPS: Thank you. Good afternoon.

1 Will you state your name for the record, please?

2 MR. TOWNSEND: Sean Townsend.

3 MS. PHILLIPS: And what is your role
4 here?

5 MR. TOWNSEND: Investigator.

6 MS. PHILLIPS: And what does being an
7 investigator for ABRA entail?

8 MR. TOWNSEND: We, uh, monitor and
9 investigate, uh, licensed establishments in the
10 District.

11 MS. PHILLIPS: Um, do you monitor them
12 for anything in particular, in brief?

13 MR. TOWNSEND: Uh, violations.

14 MS. PHILLIPS: Of the code sections and
15 DCMRs, for example?

16 MR. TOWNSEND: Yes, ma'am.

17 MS. PHILLIPS: Okay. Um, at -- at a
18 certain point in time, did you visit this
19 establishment, Barcelona Wine Bar?

20 MR. TOWNSEND: I did, on the evening of -
21 - on March 22nd, the morning of March 22nd.

22 [Laughter]

1 MR. TOWNSEND: Sorry.

2 MS. PHILLIPS: And, you know, since
3 there's the confusion about the date, let's go
4 with, how does this date confusion go in your
5 mind?

6 MR. TOWNSEND: In this particular
7 incident, my shift started at 7:30 on March 21st,
8 and it was -- I was -- I got confused with the
9 date. It actually -- the date of the incident, my
10 arrival at Barcelona Wine Bar was actually March
11 22nd.

12 MS. PHILLIPS: Okay. And so, 12:45 is --
13 that's after midnight, is that fair?

14 MR. TOWNSEND: Correct.

15 MS. PHILLIPS: Okay. So the date changed
16 while you were in the process of your shift. Is
17 that fair?

18 MR. TOWNSEND: Yes.

19 MS. PHILLIPS: Now, have you been an
20 investigator prior to coming to, um, ABRA?

21 MR. TOWNSEND: Yes, ma'am.

22 MS. PHILLIPS: And could you just give a

1 brief history of your investigative history?

2 MR. TOWNSEND: Um, investigator at the
3 Office of Police Complaints here in D.C. for, uh,
4 a year, and prior to that, I was an investigator
5 at DCPS for, uh, 3 years.

6 MS. PHILLIPS: Okay. And then you came to
7 ABRA after being with MPD Office of Police
8 Complaints?

9 MR. TOWNSEND: Yes, ma'am.

10 MS. PHILLIPS: Okay. And how long had you
11 been an ABRA investigator at the time of this
12 incident?

13 MR. TOWNSEND: A year and a month.

14 MS. PHILLIPS: Okay. And, um, when you,
15 um, investigate, um, an -- an establishment, um,
16 do you render your findings in an investigation
17 report?

18 MR. TOWNSEND: Yes.

19 MS. PHILLIPS: And did you do so in this
20 case?

21 MR. TOWNSEND: Yes, I did.

22 MS. PHILLIPS: Okay. May I approach the

1 witness, please?

2 CHAIRMAN ANDERSON: Sure.

3 MS. PHILLIPS: Thank you.

4 [Off-mic speaking]

5 MS. PHILLIPS: [Inaudible] investigative
6 report. Is that your report, sir?

7 MR. TOWNSEND: Yes.

8 MS. PHILLIPS: And so, if you'll tell me
9 what happened when you went to the, um,
10 establishment?

11 MR. TOWNSEND: Um, I was actually headed
12 south on 14th Street, and as I was driving by
13 Barcelona Wine Bar, I noticed that there were
14 patrons, um, standing outside. At that particular
15 point in time, I did not see, um, alcohol
16 consumption.

17 I was driving, so I -- I made a U-turn
18 and just kind of went and investigated the -- the
19 situation. So, when I arrived to Barcelona Wine
20 Bar, when I did see patrons consuming on the
21 sidewalk cafe -- I'm sorry, summer garden, that's
22 when I entered the establishment and proceeded to

1 ask for an ABC manager or owner.

2 At that point, I conducted, uh, a
3 regulatory inspection, um, checked the ABC
4 license, and determined that the hours of the
5 summer garden ended at 12:00 a.m. At that point,
6 I notified the ABC manager, as well as the
7 manager, of the violation, and at that point,
8 they cleared out the summer garden. And that was
9 pretty much it.

10 MS. PHILLIPS: Um, can you tell me the
11 names of the people you spoke to and -- and
12 their, um -- their roles within the
13 establishment?

14 MR. TOWNSEND: I spoke to ABC manager
15 Erich James, as well as Ms. Nicole, uh -- is it
16 Keest [ph]?

17 MS. QUIST: Quist.

18 MR. TOWNSEND: Quist, sorry.

19 MS. PHILLIPS: Okay, and that's Eric --
20 E-r-i-c-h --

21 MR. TOWNSEND: Yes, ma'am.

22 MS. PHILLIPS: -- James, normal spelling?

1 MR. TOWNSEND: Yes.

2 MS. PHILLIPS: I'm looking for the other
3 one. Nicole -- N-i-c-o-l-e, Quist -- Q-u-i-s-t?

4 MR. TOWNSEND: That's correct.

5 MS. PHILLIPS: Okay. All right. Um, I
6 don't know whether you were in the room for the
7 opening statement. Did you notice whether the
8 tabletops or tables were stacked up and chairs
9 stacked up when you did your investigation?

10 MR. TOWNSEND: I don't recall. I do not
11 recall.

12 MS. PHILLIPS: Um, you know, in the
13 process of -- of learning, uh, about the -- the
14 date, um, I believe Ms., um, Farmer sent us a
15 video clip of the day before. Is that fair?

16 MR. TOWNSEND: Yes.

17 MS. PHILLIPS: And when I looked at that
18 -- and I just want you to explain it, because I
19 didn't bring it here today -- um, there seems to
20 be an exit that's like a ramp that goes down to
21 the street, um, and it's beside a wall. Is that
22 fair? Do you remember that?

1 MR. TOWNSEND: Yes.

2 MS. PHILLIPS: Okay. And -- and so,
3 that's how you get in, and then the summer garden
4 -- you know, I guess you turn left, and there
5 seems to be a little pathway that, like, goes
6 into the front door. And then, as you're
7 following that pathway going toward the front
8 door, to the left is the summer garden, which is
9 sort of a semi-contained space.

10 MR. TOWNSEND: Correct.

11 MS. PHILLIPS: Okay. I just wanted to see
12 if my recollection was correct of that video clip
13 we saw. Um, so when you went and conducted your
14 investigation, you actually entered into the
15 summer garden?

16 MR. TOWNSEND: Yes, ma'am.

17 MS. PHILLIPS: Okay. And you took a
18 picture, which is Exhibit 1, to your
19 investigative report. Is that fair?

20 MR. TOWNSEND: Yes.

21 MS. PHILLIPS: Now, my copy is absolutely
22 terrible, so I have worked very hard to get

1 copies that somebody can read. Let's see -- And
2 I've labeled them Exhibit 1(a) and 1(b) so that
3 they match Exhibit 1 to the investigative report,
4 and I'm going to approach the witness if you
5 don't mind, Chair, and hand him this exhibit. Can
6 you tell me what that is?

7 MR. TOWNSEND: This is a picture of the
8 summer garden at Barcelona Wine Bar. It was taken
9 -- I was actually standing, um, on 14th Street
10 taking this picture. Uh, this is me looking
11 directly at the summer garden.

12 MS. PHILLIPS: Okay. Um, and you took
13 this picture with what?

14 MR. TOWNSEND: With my, uh, government-
15 issued cell phone.

16 [Laughter]

17 MS. PHILLIPS: Now, um, we tried to get
18 better pictures, um -- you know, I've got black
19 and white pictures; I've got color pictures --
20 and in the very best pictures, can you see
21 tabletops out at all?

22 MR. TOWNSEND: I cannot.

1 MS. PHILLIPS: Okay. Thank you.

2 [Laughter]

3 MS. PHILLIPS: Yes, yours are not any
4 better than mine.

5 [Laughter]

6 MS. PHILLIPS: Um, and, um -- but you
7 actually entered the summer garden and observed,
8 um, patrons drinking alcoholic beverages. Is that
9 fair?

10 MR. TOWNSEND: Yes. As I can recall, um,
11 there are -- there's a group of gentlemen that
12 are in the left of the picture, um, and that --
13 one of the gentlemen over there was consuming an
14 alcoholic beverage.

15 MS. PHILLIPS: Okay.

16 MR. TOWNSEND: And I specifically
17 remember him -- seeing a glass -- or would appear
18 to be an alcoholic beverage -- Um, I remember
19 seeing a glass with him consuming, um, and when I
20 addressed it to the ABC manager, as well as the
21 manager, and told them and actually, you know,
22 pointed out there, they went and -- and checked.

1 And I assume that, you know, by them clearing it
2 out and confiscating beverages and taking --
3 removing the glasses from the summer garden, I
4 assume that it was, uh, alcoholic beverages that
5 were being consumed by this gentleman.

6 MS. PHILLIPS: And did you talk to the
7 gentleman?

8 MR. TOWNSEND: No, ma'am.

9 MS. PHILLIPS: Okay. Now, I -- those --
10 those gentlemen that you see standing at the left
11 side, is that the one that seems to have a white
12 spot on his sleeve?

13 MR. TOWNSEND: The gentleman to the left
14 of him is the person that I saw holding a glass.

15 MS. PHILLIPS: Okay. All right. And there
16 -- and there're more than one person in his
17 group, at least three, if not four, as I look at
18 the picture. Is that correct?

19 MR. TOWNSEND: Yes, ma'am.

20 MS. PHILLIPS: All right. And -- and
21 then, to the right, there's some other people
22 whose backs we see.

1 MR. TOWNSEND: Yes.

2 MS. PHILLIPS: Okay. Now, way in the --
3 sort of just off the center, there's somebody
4 that looks like he's in a white shirt, and -- and
5 he looks like he's walking toward the building.
6 Is that where the front door to the building is?

7 MR. TOWNSEND: Um, I'm unsure if that's
8 the front door, but that is a door that I've
9 noticed is commonly used by patrons, and I used
10 that door to enter the establishment.

11 MS. PHILLIPS: Now, in this picture that
12 you've taken, do you see any stacks of chairs or
13 tables here?

14 MR. TOWNSEND: I do not.

15 MS. PHILLIPS: Okay. All right. Um, and
16 then there's a 1(b) attached to 1(a), is that
17 correct?

18 MR. TOWNSEND: Yes, ma'am.

19 MS. PHILLIPS: What is that?

20 MR. TOWNSEND: This is, um, uh, the
21 property's information from the picture that was
22 taken on my cell phone, uh, to -- to clarify the

1 actual date that the picture was taken. So, the
2 date on here is -- is -- is, uh, March 22nd. I
3 actually -- I took the picture at 12:41. And as
4 it's -- reflects in my report, I entered the
5 establishment at 12:45.

6 MS. PHILLIPS: Okay. And then, you saw
7 the two establishment personnel, is that fair?

8 MR. TOWNSEND: I'm sorry, repeat --

9 MS. PHILLIPS: After 12:45 is when you
10 went looking for the establishment personnel, is
11 that right?

12 MR. TOWNSEND: Yes, ma'am.

13 MS. PHILLIPS: Okay. And then, um --
14 then, um, you talked to them about what was
15 happening?

16 MR. TOWNSEND: Correct.

17 MS. PHILLIPS: Um, and did you go into
18 the summer garden to talk to them, or did you
19 talk to them someplace else?

20 MR. TOWNSEND: I spoke to, uh, management
21 inside of the establishment.

22 MS. PHILLIPS: Okay. And then -- then did

1 you come out with the people who emptied the
2 summer garden and watch them empty it?

3 MR. TOWNSEND: Um, I believe I may have
4 stood at the door.

5 MS. PHILLIPS: The door to where in the
6 establishment?

7 MR. TOWNSEND: The -- the -- the door to
8 the establishment and as I was speaking with the
9 manager, um, I noticed that staff had been sent
10 out there, um, to -- to clear the area.

11 MS. PHILLIPS: Okay. And was that clear
12 the area of people?

13 MR. TOWNSEND: Yes.

14 MS. PHILLIPS: Did they clear anything
15 else?

16 MR. TOWNSEND: Uh, glasses, uh, I did see
17 employees removing glasses from the summer
18 garden.

19 MS. PHILLIPS: So, that would be more
20 than one glass that you saw? Because I know you
21 only said you saw one person consuming alcohol at
22 the time when you walked in. Or do you know?

1 MR. TOWNSEND: I -- I can't recall.

2 MS. PHILLIPS: So, it's fair. And at some
3 point in time, um, you sent the actual JPEG with
4 the picture and some notation that it was taken
5 on the 22nd to me, is --

6 MR. TOWNSEND: Yes.

7 MS. PHILLIPS: -- that fair?

8 MR. TOWNSEND: Yes.

9 MS. PHILLIPS: Okay. All right. I would
10 like to move for the admission of the
11 investigative report and Exhibit 1(a) and 1(b).

12 CHAIRMAN ANDERSON: Do you have any
13 objections?

14 [No objections]

15 CHAIRMAN ANDERSON: Thank you. So moved.

16 MS. PHILLIPS: And I'd be glad to give
17 you all my attempts --

18 [Laughter]

19 MS. PHILLIPS: -- at the same -- very
20 same picture so that the Board can look at them
21 while we're having this discussion.

22 [Laughter]

1 MS. PHILLIPS: One's actually labeled.

2 [Laughter]

3 MS. PHILLIPS: All right. Did you go back
4 to this establish [sic] subsequent to this?

5 MR. TOWNSEND: Um, for another, uh --

6 MS. PHILLIPS: Not for another matter but
7 for this matter?

8 MR. TOWNSEND: No, ma'am.

9 MS. PHILLIPS: Okay. So, Exhibit 2 to
10 your, um, investigative report is what?

11 MR. TOWNSEND: It is a regulatory
12 inspection that was conducted on March 22nd, at
13 12:45 a.m.

14 MS. PHILLIPS: All right. And Exhibit 3
15 is what?

16 MR. TOWNSEND: It is a copy of, um, our
17 ABRA records, um, the ABC license for Barcelona
18 Wine Bar.

19 MS. PHILLIPS: And what does it tell us?

20 MR. TOWNSEND: It -- it tells us, um, all
21 pertinent information regarding the hours of
22 operation, summer garden hours of operation, as

1 well as the endorsements.

2 MS. PHILLIPS: Okay. And -- and as I read
3 it, the hours of operation and sale for the
4 summer garden for all days are 12:00 to 12:00.

5 MR. TOWNSEND: Yes.

6 MS. PHILLIPS: Okay. That's operation and
7 sales.

8 MR. TOWNSEND: Correct.

9 MS. PHILLIPS: All right. I have no
10 further questions of this witness at this time.

11 CHAIRMAN ANDERSON: Ms. Farmer?

12 MS. FARMER: Um, you mentioned that you
13 had been driving heading south, and came to the
14 U-turn and stopped. Did you take this photo,
15 Exhibit 1(a) prior to walking in? This is just,
16 like, right after you parked?

17 MR. TOWNSEND: Yes.

18 MS. FARMER: So, at that point, did you
19 see or notice anybody actually consuming any
20 alcohol?

21 MR. TOWNSEND: No.

22 MS. FARMER: So what was the purpose of

1 the photo?

2 MR. TOWNSEND: Um, because oftentimes, I
3 have ran into a situation where I see a
4 violation, and then by the time I go in and
5 notify the ABC manager or owner on duty, um, I --
6 I'm not able to capture a picture of the actual
7 violation, uh, or anything to -- to help my -- my
8 case. So, in this case, I took a picture, um, in
9 the event that when I further investigated, I saw
10 anyone with an alcoholic beverage, um, or
11 determined that the summer garden hours, in fact,
12 were beyond 12:00 a.m., then, you know, I -- I --
13 at least I -- I would have something or -- or
14 maybe not.

15 MS. FARMER: Mm-hmm. Can you show me
16 anywhere in this picture where there is any sort
17 of alcoholic beverage?

18 MR. TOWNSEND: I cannot.

19 MS. FARMER: And then, I -- I have
20 another question just about general, we kind of
21 went over the entryway. Does Barcelona have solid
22 walls or glass walls?

1 MR. TOWNSEND: I can't -- I can't really
2 -- I can't answer that question. Um --

3 MS. FARMER: Okay.

4 MR. TOWNSEND: -- I can tell you that
5 there -- I do recall there -- there being a lot
6 of glass --

7 MS. FARMER: Mm-hmm.

8 MR. TOWNSEND: -- surrounding the
9 establishment, but that's all I can recall.

10 MS. FARMER: So you were asked a question
11 about this individual in the white shirt.

12 MR. TOWNSEND: Correct.

13 MS. FARMER: Is it --

14 MR. TOWNSEND: Which individual?

15 MS. FARMER: And did this -- sorry, in
16 this back, kind of, corner that you were asked if
17 it was someone that looked like they were going
18 towards the door.

19 MR. TOWNSEND: Right.

20 CHAIRMAN ANDERSON: Can -- can you
21 identify the document --

22 MS. FARMER: Yes. We're --

1 CHAIRMAN ANDERSON: -- for the --

2 MS. FARMER: -- on Exhibit 1(a).

3 CHAIRMAN ANDERSON: Okay.

4 MS. FARMER: And it's in the, kind of,
5 mid-right just for the Board's reference. Is it
6 possible that that person was actually inside the
7 building, and you're seeing them through the
8 glass?

9 MR. TOWNSEND: Well, I can tell you what
10 -- what it looks like -- what it looks like to
11 me.

12 MS. FARMER: Do you remember?

13 MR. TOWNSEND: No, I can't -- I can't
14 remember. I can tell you, based on the picture --

15 MS. FARMER: Mm-hmm.

16 MR. TOWNSEND: -- that it looks like this
17 person is -- is outside, walking --

18 MS. FARMER: Okay.

19 MR. TOWNSEND: -- into the establishment,
20 because I know the door's in that corner.

21 MS. FARMER: And in -- in front of these,
22 uh -- the individuals with coats, not the group

1 of men, but in front of these individuals with
2 coats, there is, uh, what appears to be, like,
3 two kind of sticks sticking out. Do you know what
4 those are?

5 MR. TOWNSEND: No, I do not.

6 MS. FARMER: Is it possible that those
7 are tables that are overturned to be stacked up?

8 MR. TOWNSEND: Anything's possible.

9 MS. FARMER: And you mentioned that you
10 went inside and you spoke with management.

11 MR. TOWNSEND: Yes.

12 MS. FARMER: And do you remember, uh,
13 what the -- just, kind of, very general
14 descriptions of what the two managers that you
15 spoke with looked like?

16 MR. TOWNSEND: Um, I mean, now that she
17 is here, I -- I do recognize, um, Ms. Quist.

18 MS. FARMER: Mm-hmm.

19 MR. TOWNSEND: Um, but I -- I couldn't
20 tell you, um, who Erich is.

21 MS. FARMER: Okay. Was Erich a man or a
22 woman?

1 MR. TOWNSEND: I don't recall.

2 MS. FARMER: But you recall,
3 specifically, an individual being on the patio
4 consuming an alcoholic beverage?

5 MR. TOWNSEND: Yes.

6 MS. FARMER: And you recall staff going
7 out and clearing the patio.

8 MR. TOWNSEND: Yes. Actually -- actually,
9 Ms. -- Ms. James is a female.

10 MS. FARMER: Okay. And you said that you
11 never went out and talked to this individual that
12 you saw with the alcoholic beverage, correct?

13 MR. TOWNSEND: I did not.

14 MS. FARMER: Okay. And you'd mentioned
15 that you'd just assumed, after they cleared it,
16 that it was alcoholic beverage, but did you ever
17 confirm that with either Ms. James or Ms. Quist?

18 MR. TOWNSEND: What I -- I -- I made the
19 assumption after I observed a glass filled with
20 liquid in the patron's hand on the summer garden.

21 MS. FARMER: How many glasses did you see
22 on the summer garden that evening?

1 MR. TOWNSEND: I can't recall.

2 MS. FARMER: No further questions of this
3 witness.

4 CHAIRMAN ANDERSON: All right. Does, um,
5 board members have any questions? Yes, Mr.
6 Alberti.

7 MR. ALBERTI: Go ahead. Go ahead, Ms.
8 Miller.

9 CHAIRMAN ANDERSON: Go ahead, Ms. Miller.
10 I recognize Ms. Miller.

11 MS. MILLER: Good afternoon.

12 MR. TOWNSEND: Good afternoon.

13 MS. MILLER: Thank you. Uh, I just have a
14 few follow-up questions. Um, how long did you
15 observe the patrons of the summer garden?

16 MR. TOWNSEND: Um, I would say a couple
17 of minutes.

18 MS. MILLER: Thank you.

19 MR. TOWNSEND: I mean, I --

20 MS. MILLER: Couple of minutes?

21 MR. TOWNSEND: With me, um, you know,
22 turning around in my vehicle, coming back,

1 getting out of the car, taking a picture, I would
2 say a matter of minutes.

3 MS. MILLER: Okay. And, um, where did you
4 take the picture from?

5 MR. TOWNSEND: From the, um -- right in
6 front of the sidewalk on 14th Street, um,
7 directly in front of the establishment.

8 MS. MILLER: Okay. About how many, uh,
9 patrons were on the summer garden, or in the
10 summer garden, do you know?

11 MR. TOWNSEND: Approximately five, six.

12 MS. MILLER: Okay. And were any of them
13 seated, or they all standing?

14 MR. TOWNSEND: They were all, um -- as
15 far as I can remember, they were standing.

16 MS. MILLER: And you saw one beverage?

17 MR. TOWNSEND: I saw one person holding a
18 glass with --

19 MS. MILLER: Okay.

20 MR. TOWNSEND: -- yes, with a beverage.

21 MS. MILLER: And you -- is it correct to
22 say you assumed it was alcohol?

1 MR. TOWNSEND: I assumed it was alcohol.

2 MS. MILLER: Okay.

3 MR. TOWNSEND: Yes, ma'am.

4 MS. MILLER: Can you say why you made
5 that assumption as opposed to a Coke or something
6 like that?

7 MR. TOWNSEND: Um -- and you know, I -- I
8 questioned it when I saw it. I -- I do recall
9 looking at the glass from, um -- In Exhibit 1(a),
10 I was standing to the far right, um, which would
11 be directly to the right of the group of
12 gentlemen, and when I looked over, I can see -- I
13 can -- it was -- if I can describe it, it was
14 like a -- like a -- like a orangey-brown kind of
15 look to it, and it -- and it -- it looked like a
16 beer to me.

17 MS. MILLER: Okay.

18 MALE SPEAKER: I'm sorry, it looked like
19 a --

20 MR. TOWNSEND: Like a beer.

21 MS. MILLER: So, I -- I couldn't see the
22 -- the picture that clearly. There may be some

1 that are more clear than others that were being
2 passed around, but, um, what kind of glass was
3 it?

4 MR. TOWNSEND: A clear -- it was a clear
5 glass.

6 MS. MILLER: Like a -- like a beer mug,
7 or was it like a -- just a regular glass, or do -
8 - is it shown in the photo?

9 MR. TOWNSEND: No, ma'am.

10 MS. MILLER: Oh, okay. It's not shown in
11 the photo. Okay. So, can you describe what you
12 remember, or if you do?

13 MR. TOWNSEND: Um, I recall that it was
14 just a -- it was a clear glass.

15 MS. MILLER: Okay. Okay. Thank you.
16 That's all the questions I have.

17 CHAIRMAN ANDERSON: Thank you. Mr. -- Ms.
18 -- Mr. Alberti.

19 MR. ALBERTI: Um, Investigator Townsend,
20 thank you for your report.

21 MR. TOWNSEND: Yes, sir.

22 MR. ALBERTI: So -- so, I can't see from

1 this picture, but are there -- do you recall
2 whether there were any upright tables, any ledges
3 for -- any seating, anything that could have been
4 used by patrons out there?

5 MR. TOWNSEND: I don't -- I don't recall,
6 and I -- I did not see any patrons sitting.

7 MR. ALBERTI: Okay. So, those patrons --
8 Exhibit 1(a) this is -- may be, I'm not sure --
9 right behind that group in the middle.

10 MR. TOWNSEND: Yes.

11 MR. ALBERTI: Sort of right past them,
12 what am I looking at? Do you know what those are?
13 What that is? I can't tell.

14 MR. TOWNSEND: The -- the patrons in the
15 --

16 MR. ALBERTI: The middle.

17 MR. TOWNSEND: -- in the middle, I see
18 the two posts in the middle.

19 MR. ALBERTI: Yes, but right past them,
20 there's, like -- is that a wall am I looking at?
21 Am I looking at a division? Am I looking at
22 seats? You don't remember? You can't remember?

1 That's fine. Cool.

2 MR. TOWNSEND: No.

3 MR. ALBERTI: That's -- that's okay.

4 MR. TOWNSEND: Okay.

5 MR. ALBERTI: Um, how certain are you
6 that -- that this person had liquid in a glass?

7 MR. TOWNSEND: I'm a hundred percent sure
8 --

9 MR. ALBERTI: All right.

10 MR. TOWNSEND: -- of that.

11 MR. ALBERTI: Did anyone dispute that to
12 you?

13 MR. TOWNSEND: No, sir.

14 MR. ALBERTI: Great. So, I want to point
15 you to Exhibit 3, and I want to point you down to
16 the lower, right-hand side, where it says "Summer
17 Hours -- Summer Garden Hours of Operation."

18 MR. TOWNSEND: Yes, sir.

19 MR. ALBERTI: Would you tell me what the
20 summer garden, um, sales -- what it says sales,
21 what those hours are?

22 MR. TOWNSEND: 12:00 p.m. to 12:00 a.m.

1 MR. ALBERTI: Every day of the week?

2 MR. TOWNSEND: Every day.

3 MR. ALBERTI: What's it mean by sales? Do
4 you know what it means by sales? What do -- how
5 do you -- how would you, an investigator,
6 interpret that?

7 MR. TOWNSEND: I interpret sales to be,
8 uh, um, consumption or service or sales of an
9 alcoholic beverage.

10 MR. ALBERTI: Great. And to your
11 knowledge, is that generally the way it's been
12 interpreted by investigators and this Board, to
13 your knowledge?

14 MR. TOWNSEND: Yes, sir.

15 MR. ALBERTI: All right. Thank you.
16 Operations, tell me the hours of operations.

17 MR. TOWNSEND: Um --

18 MR. ALBERTI: Right -- it says it right
19 here.

20 MR. TOWNSEND: It -- it -- it's 12:00
21 p.m. to 12:00 a.m.

22 MR. ALBERTI: Every day of the week?

1 MR. TOWNSEND: Every day.

2 MR. ALBERTI: And so, what do you
3 consider operations?

4 MR. TOWNSEND: Being operated, um, it --
5 it can't be utilized after these hours.

6 MR. ALBERTI: So if they were serving
7 food out there, would that be a violation of the
8 operating hours?

9 MR. TOWNSEND: Yes, sir.

10 MR. ALBERTI: So, say, if they were
11 drinking a Coke, would that be a violation of the
12 operating hours?

13 MR. TOWNSEND: Yes, sir.

14 MR. ALBERTI: Thank you. Um --

15 MR. TOWNSEND: I'll add to that. If --
16 even if they were smoking a cigarette, it would
17 be a violation.

18 MR. ALBERTI: Thank you for that. I have
19 no further questions.

20 CHAIRMAN ANDERSON: Any other questions,
21 any board members?

22 [No audible response]

1 CHAIRMAN ANDERSON: Yes, Ms. --

2 MS. PHILLIPS: Phillips.

3 CHAIRMAN ANDERSON: -- Phillips.

4 MS. PHILLIPS: Um, since we're on Exhibit
5 2, shall we look at it one more time and look
6 down at the remarks? And it says --

7 MR. ALBERTI: It's Exhibit 3, I think?

8 MS. PHILLIPS: Oh, I'm --

9 [Off-mic speaking]

10 MS. PHILLIPS: Oh, well, I'm --

11 MR. ALBERTI: The one we were just on?

12 MS. PHILLIPS: See, I thought we were on
13 Exhibit 2. Never mind. Let's go back to Exhibit
14 2, please.

15 MALE SPEAKER: Okay.

16 MALE SPEAKER: All right.

17 FEMALE SPEAKER: To what?

18 MALE SPEAKER: Exhibit 2, she's going to
19 Exhibit 2.

20 MS. PHILLIPS: And -- and -- in the
21 remarks, you -- you -- you list a manager, and
22 we've already discussed who that is --

1 MR. TOWNSEND: Yes.

2 MS. PHILLIPS: -- but what does that say?

3 MR. TOWNSEND: Uh, 12:45 a.m., several
4 patrons consuming alcohol on summer garden.

5 MS. PHILLIPS: And did you write this
6 regulatory inspection report, is what I call it -
7 - I don't see a title on it -- um, contemporary
8 initially with the event?

9 MR. TOWNSEND: Yes.

10 MS. PHILLIPS: So, does that mean you
11 write it right there while you're standing in
12 the, um, establishment, speaking with the
13 management?

14 MR. TOWNSEND: Yes.

15 MS. PHILLIPS: Okay. So you wrote this
16 form, Exhibit 2, while you were standing in the
17 establishment, informing the establishment
18 managers that you spoke to, um, about the
19 violation. Is that fair?

20 MR. TOWNSEND: Yes, ma'am. In addition to
21 that, um, the ABC manager, Ms. James, would have
22 signed this regulatory inspection with -- uh,

1 after I wrote that note on here.

2 MS. PHILLIPS: Okay. And that's down at
3 the lower-left corner.

4 MR. TOWNSEND: Yes, ma'am.

5 MS. PHILLIPS: Is that fair? And I could
6 see how that would say Erich James. Um, was that
7 who was -- I -- I take that, that's not Quist.

8 MR. TOWNSEND: No, ma'am, that's -- uh,
9 Erich James is -- is the person that I --

10 MS. PHILLIPS: All right. Um, do you -- I
11 have no more questions. Thank you.

12 MS. FARMER: I have just one follow-up to
13 that.

14 CHAIRMAN ANDERSON: Sure, go ahead.

15 MS. FARMER: Um, back to Exhibit 2. You
16 note, "12:45, several patrons consuming alcohol
17 on summer garden," but I want to just confirm
18 that we went over the fact that you only saw one.
19 Is that correct?

20 MR. TOWNSEND: I -- I stated that I -- I
21 only recall that gentleman with the glass.

22 MS. FARMER: Okay.

1 CHAIRMAN ANDERSON: All right. Thank you.

2 MR. TOWNSEND: Thank you.

3 [Off-mic speaking]

4 CHAIRMAN ANDERSON: Does the Government
5 have any other witnesses?

6 MS. PHILLIPS: The Government does not
7 have any more witnesses.

8 CHAIRMAN ANDERSON: And prior to
9 Government resting, has the Government, um,
10 submitted all the -- prior to the -- as, uh --
11 prior to asking the question, Does the Government
12 rest, I'm asking the question, Has the Government
13 submitted all documents that the Government wants
14 to rely on?

15 MS. PHILLIPS: My recollection is that,
16 uh, the Board approved the, um, submission of the
17 investigative report into evidence and Exhibits
18 1(a) and 1(b), and that's all the documents that
19 the Government has to admit in their case-in-
20 chief.

21 CHAIRMAN ANDERSON: Does, um, the
22 Government rest?

1 MS. PHILLIPS: The Government does indeed
2 rest. Thank you.

3 CHAIRMAN ANDERSON: Thank you. All right.
4 Ms. Farmer, um, call your first witness, please.

5 MS. FARMER: We call Nicole Quist.

6 CHAIRMAN ANDERSON: Um, can you --

7 [Off-mic speaking]

8 CHAIRMAN ANDERSON: Can you raise your
9 right hand, please? Do you swear or confirm -- do
10 you swear or affirm to tell the truth and nothing
11 but the truth?

12 MS. QUIST: I do.

13 CHAIRMAN ANDERSON: Okay. Have a seat.
14 Your witness.

15 MS. FARMER: Hi, Ms. Quist. Can you spell
16 and -- spell your name for the record?

17 MS. QUIST: Sure. N-i-c-o--l-e Q-u-i-s-t.

18 MS. FARMER: And how long have you worked
19 for Barcelona?

20 MS. QUIST: Since, uh, February 2014.

21 MS. FARMER: And what is your actual
22 title?

1 MS. QUIST: I'm beverage department
2 analyst and a manager.

3 MS. FARMER: Okay. And do you only work
4 at the 14th Street location?

5 MS. QUIST: No.

6 MS. FARMER: And were you at the 14th
7 Street location on the morning of March 22nd,
8 2015?

9 MS. QUIST: Yes.

10 MS. FARMER: Okay. And how long -- how
11 long had you been there that evening? The
12 previous evening into the following morning. This
13 is --

14 [Laughter]

15 MS. QUIST: I believe I arrived at 3:00
16 p.m., and --

17 MS. FARMER: Okay. And do you recall what
18 time you left?

19 MS. QUIST: Probably around 4:00 a.m. or
20 so.

21 MS. FARMER: And do you recall anything
22 in particular about that evening?

1 MS. QUIST: I was busy.

2 MS. FARMER: Okay. And do you remember
3 the weather -- if it was warm, cold, anything?

4 MS. QUIST: Very warm.

5 MS. FARMER: Okay. And do you recall
6 allowing the patio to stay open beyond 12:00
7 a.m.?

8 MS. QUIST: No.

9 MS. FARMER: And what time does the patio
10 close?

11 MS. QUIST: Twelve a.m.

12 MS. FARMER: How do you enforce that?

13 MS. QUIST: Uh, we start telling guests
14 who come in at 11:00, uh, that we will be closing
15 the patio, uh, that we're not seating out there.
16 Uh, 11:30, we turn off heaters, we drop checks,
17 we, you know, begin asking guests to finish up.
18 Eleven forty-five, um, we really step that up.
19 Any tables that are vacated pretty much eleven
20 thirty after, uh, are begun to be stacked, even
21 with guests sitting out there. Uh, chairs are
22 stacked. Uh, probably around 11:55 you bring

1 people inside, and, uh, tie up the tables with
2 cables and padlocks and whatnot.

3 MS. FARMER: Okay. And if you saw someone
4 that was out on the patio, what would happen?

5 MS. QUIST: We would ask them to come
6 inside or finish leaving if they were leaving.

7 MS. FARMER: And you mentioned that you
8 stacked the tables. What -- what exactly do you
9 do?

10 MS. QUIST: Uh, they -- there are two
11 types of tables: picnic tables and, um, like,
12 square tables.

13 MS. FARMER: Mm-hmm.

14 MS. QUIST: Uh, we flip them upside down.
15 We put them together in the center of the patio.
16 The chairs are stacked, probably about yay high -
17 - again, all in the center -- so that we can wrap
18 the cables around.

19 MS. FARMER: And do you allow patrons to
20 continue to consume anything on the patio after
21 midnight --

22 MS. QUIST: No.

1 MS. FARMER: -- food, Coke -- anything?

2 MS. QUIST: No.

3 CHAIRMAN ANDERSON: You have to, uh,
4 vocalize.

5 MS. QUIST: No, sorry.

6 MS. FARMER: And who monitors the summer
7 garden?

8 MS. QUIST: The managers.

9 MS. FARMER: And I want to show you what
10 was marked as 1(a) just for good measure. I'll
11 use the same picture for right now.

12 MS. QUIST: Thank you.

13 MS. FARMER: And I have asked
14 Investigator Townsend what -- if you look, kind
15 of, to the -- the right of the group of men and
16 in front of the man in the jacket, what these
17 things that kind of look like sticks or 2x4s
18 standing up are. What is that?

19 MS. QUIST: It's the legs of the tables
20 flipped upside down.

21 MS. FARMER: Okay. And you heard, uh,
22 Board Member Alberti ask a question about, what

1 is, kind of, in between these two sets of people.

2 Do you know what that is?

3 MS. QUIST: Yes.

4 MS. FARMER: What is that?

5 MS. QUIST: The chairs stacked.

6 MS. FARMER: And how do --

7 [Off-mic speaking]

8 MS. QUIST: Uh, yes, it -- it is the
9 chairs stacked up.

10 MS. FARMER: What -- what color are your
11 chairs?

12 MS. QUIST: Brown.

13 MS. FARMER: Okay. Are they wooden?

14 MS. QUIST: Yes.

15 MS. FARMER: And how do you know that
16 these chairs are stacked?

17 MS. QUIST: [Inaudible].

18 MS. FARMER: Okay. Tell us.

19 MS. QUIST: Well, I see them. I -- I
20 worked there a long time. They're the chairs. We
21 set them up that way every day, and that's --
22 that's where they are.

1 MS. FARMER: Do you have any high-top
2 chairs on your patio in a normal setting?

3 MS. QUIST: No.

4 MS. FARMER: Okay. And you were -- you
5 were present that evening when Investigator
6 Townsend came in, correct?

7 MS. QUIST: Yes.

8 MS. FARMER: Do you remember speaking to
9 him?

10 MS. QUIST: Yes.

11 MS. FARMER: Do you remember, uh, at any
12 point, going outside personally, yourself, to
13 clear the area or --

14 MS. QUIST: I remember --

15 MS. FARMER: -- [inaudible] staff went
16 outside?

17 MS. QUIST: I remember that I did not go.

18 MS. FARMER: Okay. Do you know who did?

19 MS. QUIST: Uh, Chelsea Bellar [ph].

20 MS. FARMER: Okay. And what is her role?

21 MS. QUIST: Manager.

22 MS. FARMER: Okay. And did she come in

1 and give any indication that -- of what had
2 happened?

3 MS. QUIST: No.

4 MS. FARMER: Okay. Do you recall seeing
5 anybody consuming alcoholic beverages after
6 midnight on March 22nd, 2015?

7 MS. QUIST: No.

8 MS. FARMER: Okay. I want to show you
9 what we have marked as Exhibit A.

10 [Off-mic speaking]

11 MS. FARMER: Okay. So, this is obviously
12 a daytime photo so that it's a little clearer,
13 but can you just, um, explain to the Board a
14 little bit about the entryway to Barcelona?

15 MS. QUIST: Sure. Um, there's the walkway
16 from the street, and then it walks alongside the
17 garden and the wall of the restaurant, the glass
18 doors. There's a door in the corner and 2 doors,
19 um, like, in the center of the photo --

20 MS. FARMER: Okay.

21 MS. QUIST: -- in the back.

22 MS. FARMER: And there's, uh, the, kind

1 of, facade in the front here, next to the window
2 that says "Barcelona," and there's an address. Is
3 that a door?

4 MS. QUIST: No, it's a window.

5 MS. FARMER: I'm going to show you --
6 this is marked as Exhibit B.

7 [Off-mic speaking]

8 MS. FARMER: And looking at Exhibit B, is
9 that -- and obviously it's not the same day or
10 time, but is that an accurate representation of
11 the type of patio furniture, and where it's
12 located, while you're operating?

13 MS. QUIST: Yes.

14 MS. FARMER: And then I'm going to show
15 you -- I know that we've seen this picture ad
16 nauseam, but I have my own version, so I'll show
17 you that. This is D.

18 [Off-mic speaking]

19 FEMALE SPEAKER: Did I miss C?

20 MS. FARMER: Oh, I skipped C.

21 FEMALE SPEAKER: Oh, okay.

22 MS. FARMER: Not going to use it. Sorry.

1 So we can call this C.

2 FEMALE SPEAKER: No, I can call it D.

3 MS. FARMER: Okay.

4 [Laughter]

5 MS. FARMER: And you may recall there was
6 the question about this individual in the white,
7 in the back here.

8 MS. QUIST: Yes.

9 MS. FARMER: Can you tell me a little bit
10 about if this -- this area is glass walls or
11 solid walls?

12 MR. ALBERTI: Wait. So --

13 MS. FARMER: Sure.

14 MR. ALBERTI: -- when you said
15 "individual in the white" --

16 MS. FARMER: Yes.

17 MR. ALBERTI: -- can you tell us
18 approximately where in the picture --

19 MS. FARMER: Yes.

20 MR. ALBERTI: -- so I know what you're
21 talking about?

22 MS. FARMER: Uh, it is on the right-hand

1 side, probably about three-quarters of the way
2 over. In the document there is an individual --

3 MR. ALBERTI: Okay.

4 MS. FARMER: -- in white.

5 MR. ALBERTI: And which exhibit is this,
6 please?

7 MS. FARMER: This is D, same 1(a),
8 they're all different --

9 MR. ALBERTI: D, dog?

10 MS. FARMER: -- different iterations of
11 the same picture.

12 MR. ALBERTI: I got you.

13 MS. FARMER: Yes. Where that individual
14 is, is there a glass wall there?

15 MS. QUIST: Yes.

16 MS. FARMER: And what is -- what do you
17 believe? Do you think that person was inside or
18 outside?

19 MS. QUIST: Inside.

20 MS. FARMER: Why do you think that?

21 MS. QUIST: That's Danni Felling [ph].

22 She was working that night. She's at the POS

1 station.

2 MS. FARMER: What is --

3 FEMALE SPEAKER: That's who -- who?

4 Sorry.

5 MS. QUIST: That's Danni, one of the
6 servers. She's at the POS station on the other
7 side of the glass wall.

8 MS. FARMER: And the POS station is in --
9 on the interior.

10 MS. QUIST: On the inside.

11 MS. FARMER: All right. I am going to go
12 back to Exhibit C now. Sorry. This is the last
13 one.

14 [Off-mic speaking]

15 MS. FARMER: And, again, this is not the
16 same day, but would you say this is a -- an
17 accurate representation of what it may look like
18 during a daytime service hours?

19 MS. QUIST: Yes.

20 MS. FARMER: Okay. And is there a way to
21 actually seal or close off the summer garden?

22 MS. QUIST: No.

1 MS. FARMER: And this -- to the right-
2 hand corner, under this, there's a lamp kind of
3 hanging over this path -- walkway. Yes. Is that
4 the walkway to get to the front door?

5 MS. QUIST: Yes.

6 MS. FARMER: And can you kind of point
7 out to the Board where -- if -- if it's possible
8 -- where the front door actually is?

9 MS. QUIST: Yes.

10 MS. FARMER: Okay. Where would that be?

11 MS. QUIST: In the, um, back, right-hand
12 corner --

13 MS. FARMER: Mm-hmm. And --

14 MS. QUIST: -- diagonally above you'll
15 see something red.

16 MS. FARMER: Mm-hmm.

17 MS. QUIST: The door, in this picture, is
18 actually open --

19 MS. FARMER: Okay.

20 MS. QUIST: -- diagonally below that.

21 MS. FARMER: So the wood that's blocking
22 this glass here is actually the door --

1 MS. QUIST: Yes.

2 MS. FARMER: -- that's open? Correct?
3 Right here. Is this a woman -- I -- I know this
4 is kind of hard to see, but it looks like there's
5 a person in a leather jacket. Would that person
6 be walking in the entryway?

7 MS. QUIST: It looks like it.

8 MS. FARMER: Okay. And that is the only
9 entry to Barcelona?

10 MS. QUIST: Yes.

11 MS. FARMER: That -- that patrons can
12 use.

13 MS. QUIST: Yes.

14 MS. FARMER: I'm sure you have fire
15 exits, but -- Okay. No further questions for this
16 witness.

17 CHAIRMAN ANDERSON: Yes. Go ahead, Ms. --

18 MS. PHILLIPS: All right --

19 CHAIRMAN ANDERSON: -- Ms. Phillips.

20 MS. PHILLIPS: -- let's stick with
21 Exhibit C. Now, I would have never been able to
22 tell that that was a leather jacket --

1 [Laughter]

2 MS. PHILLIPS: -- in the right-hand
3 corner, but it looks like, in C, in that right-
4 hand corner, toward the back, there's a strip of
5 white, like a white belt or something. Is that
6 the same person we're talking about in the
7 leather jacket?

8 MS. QUIST: Yes.

9 MS. PHILLIPS: Yes. Okay. Now, framing
10 her seems to be a steel or a wood something or
11 other. What is that?

12 MS. QUIST: Framing?

13 MS. PHILLIPS: Framing here, like around
14 her -- framing.

15 MS. QUIST: I -- I believe that's the --
16 the door.

17 MS. PHILLIPS: That's the door? Is that -
18 - what's behind her that looks like it has panes
19 -- I -- I mean, it's actually in front of her,
20 because I take it the back is facing her -- the
21 leather jacket, white-belted person.

22 MS. QUIST: I don't know what's behind

1 her. I can guess.

2 MS. PHILLIPS: No, I'm -- is she facing
3 toward the establishment? We're looking at her
4 back in other words. Is that fair?

5 MS. QUIST: Yes.

6 MS. PHILLIPS: All right. We're looking
7 at her back. Behind her, it looks like something
8 with panes that looks like a door. Is that a
9 door?

10 MS. QUIST: Behind her? It looks like --

11 MS. PHILLIPS: I'm sorry, not behind her,
12 it's actually in front of her, further back.

13 MS. QUIST: Oh -- oh -- do you want to
14 point?

15 [Laughter]

16 MS. PHILLIPS: Yes, I will point.

17 MS. QUIST: Thanks. I want to get it
18 right.

19 MS. PHILLIPS: Yes, we all want to get it
20 right. All right. I'm talking about -- see this?
21 It looks like -- mine's actually even clearer
22 than yours. See, that looks like frames, looks

1 like a window frame, like a French door with --
2 What is that?

3 MS. QUIST: As I told Jessica, that's the
4 door, propped open.

5 MS. PHILLIPS: That's the door, propped
6 open. And so, she's about to enter the door. Does
7 she have to go -- like, is the door to the right?

8 MS. QUIST: It looks like she's walking
9 in.

10 MS. PHILLIPS: It looks like she's
11 walking in. But -- but she's not in all the way,
12 is that what you're saying?

13 MS. QUIST: Correct.

14 MS. PHILLIPS: Because that's where the
15 door is? So she -- she's -- So, what is above her
16 right there? Is it a portico?

17 [Off-mic speaking]

18 MS. QUIST: I don't know what a portico
19 is.

20 MS. PHILLIPS: Covered -- you know,
21 covered porch.

22 [Off-mic speaking]

1 MS. QUIST: It looks like steel. Above --
2 steel.

3 [Off-mic speaking]

4 MS. PHILLIPS: Steel, regular steel. So
5 I'll point out again what I'm talking about.

6 CHAIRMAN ANDERSON: Uh, Ms. -- uh, be a
7 little bit more specific, because the Board is
8 having trouble figuring out where you --

9 [Laughter]

10 [Off-mic speaking]

11 MS. PHILLIPS: All right. Right here.
12 That's what I'm talking about. That's steel?

13 MS. QUIST: I -- I don't know.

14 MS. PHILLIPS: All right. You don't know?
15 All right. So, over in the corner, there is the
16 leather jacket lady, with the white belt --
17 behind her, in front of her, to the side of her,
18 but further back into the picture, there seems to
19 be, um, something with panes. Do -- do you see
20 that? That's been defined as the door and
21 identified as the door.

22 What I was talking about before is a

1 little bit behind her, because her back is facing
2 the picture. There's a -- I call it a portico;
3 she says it's steel. She doesn't know what it is.
4 Right here. Do you see it?

5 MALE SPEAKER: Yes.

6 MS. PHILLIPS: All right. Did you see all
7 that? All right. I'm coming.

8 MS. FARMER: We're good.

9 MS. PHILLIPS: You're good?

10 MS. FARMER: We're -- I'm good, yes. The
11 only clarification I would make is, it's in front
12 of her, because she's facing forward.

13 MS. PHILLIPS: She's facing forward?

14 MS. FARMER: I think.

15 MS. QUIST: Yes.

16 MS. PHILLIPS: Oh, you think she's facing
17 forward, too?

18 MS. FARMER: Yes, her back is to us.

19 MS. PHILLIPS: That's what I told Ms.
20 Farmer.

21 MS. FARMER: That's what she was saying.

22 MS. PHILLIPS: Oh, no, I agree her back

1 is to us.

2 MS. FARMER: Okay.

3 [Laughter]

4 MS. PHILLIPS: We established that.

5 MS. FARMER: Just to clarify the record,
6 she is facing forwards, so --

7 MS. PHILLIPS: Right.

8 MS. FARMER: -- it is in front of her,
9 not behind her.

10 MS. PHILLIPS: The door is in front of
11 her --

12 MR. ALBERTI: So -- so she -- we see some
13 panes on what has been identified as a door,
14 right?

15 MS. FARMER: Correct.

16 MR. ALBERTI: She is facing the door.

17 MS. FARMER: Correct.

18 MR. ALBERTI: Okay. We all agree to that,
19 I think. Thank you.

20 MS. FARMER: Well, she's --

21 MS. PHILLIPS: So --

22 [Off-mic speaking]

1 MS. FARMER: I -- can I clarify one
2 point?

3 MS. PHILLIPS: Later.

4 MS. FARMER: She -- okay.

5 MS. PHILLIPS: Unless the Board wants her
6 to clarify. You know, that's what cross-
7 examination is, or redirect.

8 MALE SPEAKER: All right. I'll -- I'm
9 stay out of this.

10 MS. PHILLIPS: All right. So, you told me
11 her back is facing us in the picture. Right?

12 MS. QUIST: Yes.

13 MS. PHILLIPS: Leather jacket, white
14 belt. Okay. All right. And you don't know what --
15 what I'm calling a portico, but you think it's
16 steel, is that fair?

17 MS. QUIST: Yes.

18 MS. PHILLIPS: All right. Now, to her --
19 to her left there's another man in a white shirt
20 -- or it may be a woman. I don't know. Do you see
21 it? Way in the background?

22 MS. QUIST: Yes.

1 MS. PHILLIPS: Do you know who that is?

2 MS. QUIST: No.

3 MS. PHILLIPS: Okay. Where is that?

4 Inside, outside?

5 MS. QUIST: Do you want to point so we're
6 looking at the same person in white?

7 MS. PHILLIPS: I do and will.

8 MS. QUIST: Thank you.

9 MS. PHILLIPS: [Inaudible].

10 MS. QUIST: I've got a couple --

11 MS. PHILLIPS: Well, no, I said to the
12 person we've been talking about all along's
13 right. That -- that person --

14 MS. QUIST: To her left?

15 MS. PHILLIPS: -- in the white shirt. Is
16 that her left? Left.

17 CHAIRMAN ANDERSON: I got --

18 MS. PHILLIPS: With the ring is left.

19 CHAIRMAN ANDERSON: I -- I got that one,
20 yes.

21 [Off-mic speaking]

22 MS. PHILLIPS: Thank you. Right here.

1 Because there's nobody to her right, correct?

2 MS. QUIST: Yes.

3 MS. PHILLIPS: Who is that? You don't
4 know, is that fair?

5 MS. QUIST: I do not know.

6 MS. PHILLIPS: All right. And where is
7 that, inside or out?

8 MS. QUIST: I don't know.

9 MS. PHILLIPS: Okay. To the -- to the
10 left -- There is something that looks like a
11 heater lamp toward the left and behind this
12 person in the white shirt that we're talking
13 about. Is that a heater lamp?

14 MS. QUIST: Yes.

15 MS. PHILLIPS: Okay. All right. And in
16 this picture, C, in the lower, left-hand corner,
17 is that the ramp?

18 MS. QUIST: Yes.

19 MS. PHILLIPS: What is that thing with
20 the gold bar on top? Is that displaying the menu
21 or something? Just along the walk?

22 MS. QUIST: Menu box with a light, yes.

1 MS. PHILLIPS: Menu box. All right. And,
2 um, then, there, as you walk up -- in the lower,
3 left-hand corner -- you walk up that ramp, and
4 then you take a left into that little walkway
5 area. Is that fair?

6 MS. QUIST: Yes.

7 MS. PHILLIPS: It's -- it's a walkway. Is
8 that -- do you consider that part of the summer
9 garden?

10 MS. QUIST: Yes.

11 MS. PHILLIPS: You don't consider that
12 the entrance to the establishment.

13 MS. QUIST: It's all the entrance.

14 MS. PHILLIPS: Well, they certainly can't
15 walk through the, um -- no patron could walk
16 through these wooden walls, fair?

17 MS. QUIST: Yes.

18 MS. PHILLIPS: And there's a lovely hand
19 rail along the walkway that -- ramp that goes up
20 and then along the left side of the wood
21 enclosure. Is that fair?

22 MS. QUIST: Yes.

1 MS. PHILLIPS: Okay. And the wood
2 enclosure, the wooden enclosure is built up on a
3 paver base, and then it's one, two, three, four,
4 five wooden beams maybe -- boards -- high? Is
5 that fair?

6 MS. QUIST: Yes.

7 MS. PHILLIPS: And it's in an L shape, is
8 that fair?

9 MS. QUIST: Yes.

10 MS. PHILLIPS: And so, it borders the
11 pathway that -- pathway -- what do you call that,
12 ramp? -- that goes alongside that's part of the
13 entrance. We know that's the entrance, for sure,
14 right?

15 MS. QUIST: Yes.

16 MS. PHILLIPS: Okay. And it also takes a
17 right-angle turn into -- and blocks off the
18 first, is that, half of the summer garden as it
19 takes a right turn toward the entrance? The
20 wooden blocks --

21 MS. QUIST: No.

22 MS. PHILLIPS: -- uh, beams? That's a

1 third?

2 MS. QUIST: No.

3 MS. PHILLIPS: All right. How much?

4 MS. QUIST: I would say less than a
5 third.

6 MS. PHILLIPS: Less than a third?
7 Quarter?

8 MS. QUIST: Much. Perhaps, yes.

9 MS. PHILLIPS: Okay. And I can't count
10 the boards in that -- that, uh -- I'll call it an
11 L. Is it fair that this is an L wooden wall,
12 short wall?

13 MS. QUIST: Yes.

14 MS. PHILLIPS: All right. And it -- it --
15 it is bordered by a hand rail. Is that fair?

16 MS. QUIST: Yes.

17 MS. PHILLIPS: All right. And on top of
18 the wall, there's something red. What's that?

19 MS. QUIST: A blanket.

20 MS. PHILLIPS: That's what I thought. And
21 there are people sitting on benches?

22 MS. QUIST: Yes.

1 MS. PHILLIPS: Okay. And actually, those
2 benches are clearer in Exhibit B. Is that fair?

3 MS. QUIST: Yes.

4 MS. PHILLIPS: Now, are those benches,
5 um, chair height, normal chair height, or are
6 they a little bit taller?

7 MS. QUIST: No. They're lower.

8 MS. PHILLIPS: Lower than chair height or
9 taller than chair height?

10 MS. QUIST: Lower.

11 MS. PHILLIPS: Lower than chair height.
12 And each of those -- there's -- it looks like
13 there are two benches, and in between the two
14 benches is a beam, an upright beam, which is one-
15 third in from the left side. Is that fair? Do you
16 see the beam?

17 MS. QUIST: Yes.

18 MS. PHILLIPS: And there are two long
19 benches separated by that beam. Is that fair?

20 MS. QUIST: Yes.

21 MS. PHILLIPS: And each of those benches'
22 backs has steel supports. Is that fair?

1 MS. QUIST: Yes.

2 MS. PHILLIPS: Do you have any high tops
3 on the summer garden?

4 MS. QUIST: No.

5 MS. PHILLIPS: Now, is -- as you approach
6 the right side of the picture, in B, Exhibit B,
7 there are green things, which look like bushes,
8 perhaps, trees? What?

9 MS. QUIST: Bushes or trees.

10 MS. PHILLIPS: Okay. Um, and they're in
11 pots. Is that fair?

12 MS. QUIST: Yes.

13 MS. PHILLIPS: Are -- are they designed
14 to form a barrier sort of blocking off the --
15 what I would call the path to the entrance from
16 the summer garden?

17 MS. QUIST: I don't know.

18 MS. PHILLIPS: You don't know? They
19 weren't there at the time of the incident?

20 MS. QUIST: I don't know why they were
21 designed. I -- I know we have plants.

22 MS. PHILLIPS: All right. Do they block

1 off part of the summer garden from what I've
2 called the -- the ones on the left -- from what I
3 call the path to the entrance?

4 MS. QUIST: No.

5 MS. PHILLIPS: They don't block it off at
6 all? You can walk through those bushes or trees
7 in planters, between the two planters?

8 MS. QUIST: Yes.

9 MS. PHILLIPS: You can? Really?

10 MS. QUIST: I did it every day.

11 MS. PHILLIPS: I know. Do patrons do it
12 every day?

13 MS. QUIST: Patrons?

14 MS. PHILLIPS: Yes.

15 MS. QUIST: Yes.

16 MS. PHILLIPS: Walk between those plants
17 onto the summer garden.

18 MS. QUIST: Yes.

19 MS. PHILLIPS: Okay. Optical illusion in
20 pictures. I have no further questions. Thank you.

21 CHAIRMAN ANDERSON: Thank you. Do we have
22 any other questions by any board members? Mr.

1 Short.

2 MR. SHORT: Good afternoon. Um, I know
3 we've already heard it and I'm being a little
4 repetitious, but --

5 MS. QUIST: That's okay.

6 MR. SHORT: -- the normal operating hours
7 for service of food and alcohol on the summer
8 garden is what?

9 MS. QUIST: Uh, ending at 12:00 a.m.

10 MR. SHORT: Twelve a.m. So, what time do
11 you start shutting it down?

12 MS. QUIST: Starting at 11:00, we start
13 telling patrons we're not seating.

14 MR. SHORT: So you have rules and
15 regulations in place to make sure that happens?

16 MS. QUIST: Yes.

17 MR. SHORT: Every night?

18 MS. QUIST: Yes, every night.

19 MR. SHORT: Who is in charge of that?

20 MS. QUIST: The managers.

21 MR. SHORT: Managers. What other -- what
22 other duties do the managers have besides that?

1 MS. QUIST: Um, checking on patrons,
2 probably number one.

3 MR. SHORT: Okay.

4 MS. QUIST: Serving food, uh, maintaining
5 the wait list, supervising the bar.

6 MR. SHORT: So you're saying every --
7 every time you open, by 11:30 everybody's pretty
8 much being told to leave and/or "We have to shut
9 down," and turn the benches up and chairs?

10 MS. QUIST: Yes.

11 MR. SHORT: And that happens every
12 evening.

13 MS. QUIST: Yes.

14 MR. SHORT: Okay. Has it ever occurred
15 when that didn't happen? Bad weather, somebody
16 didn't come to work -- it's -- has it ever
17 occurred?

18 MS. QUIST: No.

19 MR. SHORT: Never occurred since you've
20 been working there. How many years have you been
21 working there?

22 MS. QUIST: Uh, since February 2014.

1 [Off-mic speaking]

2 MS. QUIST: Since February 2014.

3 [Off-mic speaking]

4 MR. SHORT: You've been at this location?

5 MS. QUIST: Yes.

6 MR. SHORT: And, uh, I'll just say this
7 [inaudible], thanks for the great business that
8 y'all [inaudible].

9 MS. QUIST: Thank you.

10 MR. SHORT: And, um, I'll just say this:
11 The pictures look marvelous, um, and, uh, we --
12 we're glad to have great businesses, but
13 everybody's got to follow the rules. Everybody's
14 got to --

15 MS. QUIST: Yes, sir.

16 MR. SHORT: -- follow the rules. Okay.
17 Thank you again for your business.

18 MS. QUIST: Thank you.

19 MR. SHORT: That's all I have.

20 CHAIRMAN ANDERSON: Thank you, Mr. Short.
21 Any other members? Yes, Ms. Miller?

22 MS. MILLER: Um, good afternoon. Um, I

1 just want to ask you, do you, uh, either admit or
2 deny that there were five or six patrons on the,
3 um, summer garden that -- on the evening in
4 question?

5 MS. QUIST: Uh, yes, it looks like, in
6 the picture, there are five. That's my only
7 knowledge of it --

8 MS. MILLER: Okay, so you don't have --

9 MS. QUIST: -- is the picture.

10 MS. MILLER: -- personal knowledge.

11 You've just, uh -- you've just seen the photo.

12 MS. QUIST: Yes.

13 MS. MILLER: Okay. Does that ever happen
14 despite all your efforts to shut down the
15 outside, that some individuals hang out, out
16 there?

17 MS. QUIST: Yes, people walk outside,
18 and, um, we definitely ask them, regularly, to
19 finish leaving or to come back inside.

20 MS. MILLER: Oh, okay. Okay. So it could
21 be that, um, people could have been out there,
22 just gotten out there, just taken a walk from

1 inside the restaurant for a few minutes?

2 MS. QUIST: Oh, yes.

3 MS. MILLER: That's possible.

4 MS. QUIST: Yes.

5 MS. MILLER: Okay. No other questions.

6 CHAIRMAN ANDERSON: Yes, Mr. Alberti?

7 MR. ALBERTI: All right. Um, Ms. --

8 Guest?

9 MS. QUIST: Quist.

10 MR. ALBERTI: Quist, I'm sorry.

11 MS. QUIST: That's okay.

12 MR. ALBERTI: Got it written right here.

13 Ms. Quist -- so, how many managers are on duty?

14 How many managers were on duty that evening?

15 MS. QUIST: Uh, five to start.

16 MR. ALBERTI: Five to start.

17 MS. QUIST: Yes.

18 MR. ALBERTI: Um, is anyone responsible -

19 - any one particular manager responsible for

20 monitoring the summer garden?

21 MS. QUIST: Yes.

22 MR. ALBERTI: And who would -- who would

1 have that been on that evening?

2 MS. QUIST: We have a manager zoned. Um,
3 that was Chelsea.

4 MR. ALBERTI: Okay. So that's the same
5 person you said who, um, cleared the summer
6 garden after you were notified by the
7 investigator?

8 MS. QUIST: Um, I said Chelsea had gone
9 out there, but I did not send her out there to
10 clear the summer garden. That's -- that's not
11 what I had said.

12 MR. ALBERTI: Why did you send her out
13 there?

14 MS. QUIST: I didn't send her out there.
15 What, uh, Officer Townsend said was not correct
16 to my recollection --

17 MR. ALBERTI: So -- so --

18 MS. QUIST: -- that night.

19 MR. ALBERTI: Let's back up, because I
20 want to make sure we --

21 MS. QUIST: Yes.

22 MR. ALBERTI: -- understand that. So --

1 so, after -- after Mr. Townsend -- he talked to -
2 - who did he talk to?

3 MS. QUIST: Ericha and myself.

4 MR. ALBERTI: Ericha and you. After he
5 talked to you, did Chelsea go out? What -- did
6 she go out there before he talked to you or after
7 he talked to you?

8 MS. QUIST: I believe it was before or
9 while he was talking to us.

10 MR. ALBERTI: And what was her purpose
11 for going out there?

12 MS. QUIST: I believe she saw people out
13 there and went to ask them to finish leaving or
14 come inside.

15 MR. ALBERTI: Oh, her purpose was to get
16 -- ask people to leave --

17 MS. QUIST: Yes.

18 MR. ALBERTI: -- that summer garden.

19 Okay. Very good. All right. Now, uh, there was
20 some confusion with Ms. -- Ms., um, Phillips'
21 questioning, and so I'm just going to -- So,
22 right back there -- So, we have the walkway that

1 comes off -- I don't think there's any dispute
2 that -- Let's look at Exhibit B, all right? In
3 the far-hand left, it looks like a ramp, a
4 walkway that comes up onto the level of the --
5 the -- the -- I'll call it the -- the -- the --
6 the actual level of where the summer garden is
7 and the entrance is, right?

8 MS. QUIST: Yes.

9 MR. ALBERTI: All right. And do you ever
10 -- do you ever put seats out there? Do you ever
11 serve people out there?

12 MS. QUIST: On the ramp?

13 MR. ALBERTI: Yes.

14 MS. QUIST: No.

15 MR. ALBERTI: I had a silly question.
16 Just want an answer.

17 [Laughter]

18 MR. ALBERTI: All right. All right. Um,
19 so, now, we have this area in -- in Exhibit B.
20 It's on this patio area -- not counting the ramp,
21 on the rest of the patio area that's all
22 flagstone. Right? You see what I'm talking about?

1 [No audible response]

2 MR. ALBERTI: All right. In that whole
3 area, you've got this meadow -- metal railing,
4 which is in the, sort of, bottom half of the
5 photo, right? And a -- and a -- and a -- and a
6 wooden walk right there, right?

7 MS. QUIST: Yes.

8 MR. ALBERTI: And it divides those --
9 that seat from -- from this -- from the right-
10 hand portion, where there's nothing, right? And
11 you go a little farther up, and there's a row of
12 planters, correct?

13 MS. QUIST: Yes.

14 MR. ALBERTI: To the left of that, I see
15 seating, and to the right, I see nothing,
16 basically. It's empty. It's vacant. Am I correct?

17 MS. QUIST: Yes.

18 MR. ALBERTI: Do you ever seat or serve
19 people in that area that I've described as
20 "empty"?

21 MS. QUIST: We don't seat people, no.

22 MR. ALBERTI: All right. So, typically --

1 So, typically, we have a delineation between this
2 area that's blank and the area where you have
3 tables and chairs and you serve people. Correct?

4 MS. QUIST: Yes.

5 MR. ALBERTI: So the area that's blank,
6 is it fair to say that's an egress path to the
7 front door?

8 MS. QUIST: Yes.

9 MR. ALBERTI: Thank you. Um -- very good.
10 Now, as I look at Exhibit B, at -- toward -- at
11 the upper, right-hand corner, which would be
12 towards the back of the patio area, it looks like
13 there is a beam, sort of halfway up between the
14 top of those upright posts and -- and -- and the
15 floor. There's a -- there's a -- a beam parallel
16 -- parallel to the floor. Do you see it? Do you
17 see what I'm talking about?

18 MS. QUIST: Are you talking about in
19 front of the other two doors?

20 MR. ALBERTI: Uh -- no. There's -- the --
21 the beam is about the level of the lights in this
22 picture, and it runs parallel to the floor. It's

1 -- it's -- it runs, you know, between the two
2 walls. It looks like it runs between two walls.

3 MS. QUIST: Yes.

4 MR. ALBERTI: All right. It's a beam,
5 right? Okay.

6 MS. QUIST: I don't -- I don't think it's
7 a beam. I think it's a cover coming out from the
8 --

9 MR. ALBERTI: A cover? So, right in that
10 area, is there -- is there -- is that all open
11 past that point?

12 MS. QUIST: So -- so that's where the two
13 doors where guests come out of the main dining
14 room, sometimes, are.

15 MR. ALBERTI: Is there a wall there in
16 that area?

17 MS. QUIST: That's the -- the glass
18 bordering the main dining room.

19 MR. ALBERTI: So it's a glass wall.

20 MS. QUIST: There are two doors, two
21 glass doors with four, um --

22 [Simultaneous speaking]

1 MR. ALBERTI: All right. So between --

2 MS. QUIST: -- [inaudible] come out.

3 MR. ALBERTI: -- I have a -- All right.

4 Up in that area, up in that right-hand corner of
5 the -- this photo, there's a -- there's a wall to
6 the left, right? Am I correct? There's a brick
7 wall. Or --

8 MS. QUIST: Yes, there's a --

9 MR. ALBERTI: -- [inaudible] --

10 MS. QUIST: -- a wall on the left. Yes.

11 MR. ALBERTI: -- something like that.

12 Right? Right? Just to the right of that wall is -
13 - and -- and below that, what you call a cover,
14 what I referred to as beam -- is that a wall
15 there?

16 MS. QUIST: It's glass.

17 MR. ALBERTI: Okay, so glass walls.

18 MS. QUIST: There are two -- two doors.

19 MR. ALBERTI: Okay. So, glass with --
20 it's a wall. Well, a wall can have two -- can
21 have doors in it.

22 MS. QUIST: Yes.

1 MR. ALBERTI: All right.

2 MS. QUIST: It's a -- it's a big glass
3 wall.

4 MR. ALBERTI: It's a wall. Does that wall
5 extend all the way across?

6 MS. QUIST: Yes.

7 MR. ALBERTI: All right. So, going to
8 Exhibit D, this is that person in white.

9 [Laughter]

10 MR. ALBERTI: The far -- the far -- the
11 farthest person to the right in that photo, the
12 person in the white shirt, to the right -- is
13 that person standing in front or behind that
14 wall, do you think?

15 MS. QUIST: Behind.

16 MR. ALBERTI: Okay.

17 FEMALE SPEAKER: What exhibit are we on -
18 - something?

19 MR. ALBERTI: That explains something to
20 me. Pardon?

21 FEMALE SPEAKER: What exhibit did you
22 say, C?

1 MR. ALBERTI: D.

2 FEMALE SPEAKER: D as in dog.

3 MR. ALBERTI: Which is similar to your
4 1(b), but -- All right. So that explains that
5 phantom in that photo. All right. Now, one of the
6 things I would like you to do is, take Exhibit B,
7 and compare it to Exhibit D. Can you do that for
8 me?

9 MS. QUIST: Yes.

10 MR. ALBERTI: The three people -- you've
11 got three people standing there to the left of
12 the pillar. There's -- so the pillar is in the --
13 in the center of this photo, am I correct? And
14 there's lights right there with those pillars in
15 the center of the photo. Do you see where I'm
16 talking about?

17 MS. QUIST: Yes.

18 MR. ALBERTI: All right. To the left of
19 those pillars is a group of three people. Do you
20 see them?

21 MS. QUIST: Yes.

22 MR. ALBERTI: We agree that's a group of

1 three people?

2 MS. QUIST: Yes.

3 MR. ALBERTI: All right. Great. Can you
4 tell me, in relationship to Exhibit B, where they
5 would be standing?

6 MS. QUIST: It looks like they're across
7 from the fireplace --

8 MR. ALBERTI: Mm-hmm.

9 MS. QUIST: -- and the opening, and
10 directly across from the back of the patio, the
11 glass door.

12 MR. ALBERTI: And to the left or to the
13 right of that metal railing -- the -- okay, I'm -
14 - Forget about the metal railing on the ramp. I'm
15 talking about the metal railing that goes towards
16 the back of the establishment along the egress
17 way that I spoke of earlier. You see that metal
18 railing?

19 MS. QUIST: Here?

20 MR. ALBERTI: Nope, not the metal railing
21 on the ramp. One -- the one that's, uh, um --
22 it's an L-shaped railing, so not that portion of

1 the railing, the other portion of the railing. Do
2 you see what I'm talking about?

3 MS. QUIST: Here.

4 MR. ALBERTI: Yes. Right.

5 MS. QUIST: Okay.

6 MR. ALBERTI: Okay. Are those people --
7 as I'm looking at Exhibit B, are they left or the
8 right of that railing?

9 MS. QUIST: They're diagonally left.

10 MR. ALBERTI: So to the left. All right.
11 Great.

12 MS. QUIST: Yes.

13 MR. ALBERTI: The other group of people
14 right in the center of Exhibit B -- can you tell
15 me where they are standing?

16 MS. QUIST: It looks like they're -- in
17 Exhibit B?

18 MR. ALBERTI: Mm-hmm.

19 MS. QUIST: Near the middle pillar.

20 MR. ALBERTI: All right. If I was to draw
21 a straight line from the metal railing we just
22 talked about -- if I were to just draw a straight

1 line from there, past the, um -- past those
2 potted plants, along that railing, past the
3 potted plants, would they be to the left or to
4 the right of that line?

5 MS. QUIST: I believe to the left.

6 MR. ALBERTI: Great. Now, what I'd like
7 you to do is, on Exhibit B -- if someone could
8 give her a copy of Exhibit B and a pencil, I
9 would appreciate you marking with an X where you
10 think those two groups of people are on Exhibit
11 B. Can we do that for us? Just so we know -- I
12 mean, we've had all kinds of confusion about
13 where things are. I just want to be certain.

14 [Witness complies]

15 MR. ALBERTI: Okay. Can we, uh, have
16 that? I don't know how we marked this as an
17 exhibit, um, maybe the Chair can help me out.

18 FEMALE SPEAKER: I have extra stickers.
19 We could put, like --

20 MR. ALBERTI: Can we put a sticker on --

21 FEMALE SPEAKER: -- B -- B(1)

22 MR. ALBERTI: We have it as a Board

1 exhibit, I guess? We'll keep it as a Board
2 exhibit? Exhibit 1? May I see it?

3 [Off-mic speaking]

4 MR. ALBERTI: Okay.

5 FEMALE SPEAKER: We just labeled it B(1)
6 so that you --

7 CHAIRMAN ANDERSON: No, where -- where --

8 MR. ALBERTI: We're taking an exhibit and
9 marking it up. She's -- she's made it --

10 FEMALE SPEAKER: You originated it.

11 MR. ALBERTI: I originated it, yes.

12 FEMALE SPEAKER: You produced it.

13 MR. ALBERTI: Yes.

14 FEMALE SPEAKER: Not originally.

15 CHAIRMAN ANDERSON: No, we're --

16 MR. ALBERTI: No, technically -- uh,
17 technically, the Board produced it.

18 [Laughter]

19 FEMALE SPEAKER: For demonstrative
20 purposes.

21 MR. ALBERTI: For demonstrative purposes
22 only.

1 [Laughter]

2 MS. PHILLIPS: And it was labeled B(1) so
3 that we know which one it goes to.

4 FEMALE SPEAKER: She did not mark the
5 original B.

6 MR. ALBERTI: Okay. And I see two X's
7 there. All right. Thank you.

8 MS. QUIST: You're welcome.

9 MR. ALBERTI: Um, one last -- I guess --
10 going back to -- going back to Chelsea. So, she
11 approached these -- did she approach all of those
12 individuals out there?

13 MS. QUIST: I don't know.

14 MR. ALBERTI: You don't know. What's your
15 knowledge of what she did? I mean, because you --
16 I -- I --

17 MS. QUIST: Yes.

18 MR. ALBERTI: -- can't remember what you
19 told me. I can't remember what you told me she --
20 but you told me something about her going out
21 there, so what's your knowledge of what she did?

22 MS. QUIST: Well, I know that after I

1 spoke with the officer, with Ericha, there was
2 nobody outside, so I thought Chelsea had gone out
3 there.

4 MR. ALBERTI: Oh, but you don't know.

5 MS. QUIST: Well, as I told Ms. Farmer, I
6 didn't have any knowledge of what Chelsea did out
7 there.

8 MR. ALBERTI: All right. So -- but it was
9 Chelsea's responsibility to monitor the summer
10 garden, is that correct, that evening?

11 MS. QUIST: Yes.

12 MR. ALBERTI: So is it fair to say that
13 either Chelsea did not observe those people out
14 there, for whatever reason, or didn't take
15 actions when she observed them -- either one. Is
16 it fair to say that either of those things
17 happened?

18 MS. QUIST: No.

19 MR. ALBERTI: Why not?

20 MS. QUIST: Because while I was speaking
21 with Officer Townsend, I believe she was outside.

22 MR. ALBERTI: So you believe those --

1 those people were never there?

2 MS. QUIST: No, that's not what I said.

3 MR. ALBERTI: So, if they were there,
4 either Chelsea didn't see them, or she didn't ask
5 them to leave.

6 MS. QUIST: I believe I --

7 MR. ALBERTI: That was my question. Uh,
8 either one --

9 MS. QUIST: I believe I said that --

10 MR. ALBERTI: Can it -- it's fair to say
11 it's either one of those options?

12 MS. QUIST: I -- I don't agree.

13 MR. ALBERTI: Well, okay. So, if Chelsea
14 saw them, what do you think she would have done?

15 MS. QUIST: I believe she went outside to
16 ask them --

17 MR. ALBERTI: She would have --

18 MS. QUIST: -- to leave or come back in.

19 MR. ALBERTI: Oh, you believe she did.

20 But you don't know. I -- I don't want to --

21 [Simultaneous speaking]

22 MS. QUIST: I -- I just --

1 MR. ALBERTI: -- [inaudible] --

2 MS. QUIST: -- don't know the time of it.

3 MR. ALBERTI: I just want to make
4 [inaudible].

5 MS. QUIST: Yes.

6 MR. ALBERTI: All right. I -- I -- I'm
7 just going to go back. Did Chelsea ever deny to
8 you that those people were out there?

9 MS. QUIST: No.

10 MR. ALBERTI: All right. Thank you. I
11 have no further questions.

12 CHAIRMAN ANDERSON: Do we have any other
13 Board questions? All right. Um, so it's her
14 witness --

15 MS. PHILLIPS: So she gets to go first, I
16 think.

17 CHAIRMAN ANDERSON: Yes.

18 MS. FARMER: Are we very, very sure? Um,
19 I hate to go back to Picture --

20 MS. QUIST: Yes.

21 MS. FARMER: -- C, but can we go back to
22 Picture C for one second?

1 MS. QUIST: Yes.

2 MS. FARMER: If I'm walking down this
3 egress, entryway, whatever it is, towards what
4 has now been described as the steel beam, the
5 portico, et cetera, can I walk straight into the
6 restaurant?

7 MS. QUIST: No.

8 MS. FARMER: Why not?

9 MS. QUIST: Because right there is a
10 glass wall.

11 MS. FARMER: Okay. And you mentioned that
12 there are doors at some part of that wall.

13 MS. QUIST: Yes.

14 MS. FARMER: Where are those?

15 MS. QUIST: They are to the left, behind
16 the tables on the summer garden.

17 MS. FARMER: Okay. And do those doors get
18 closed at any point?

19 MS. QUIST: Yes.

20 MS. FARMER: When is that?

21 MS. QUIST: Well, they're definitely
22 closed at midnight. Depending on the weather,

1 they're closed, during service, from the outside.

2 MS. FARMER: Okay. And I just have one
3 more question: Are -- do you allow patrons to
4 bring drinks onto the summer garden after 12:00
5 a.m.?

6 MS. QUIST: No.

7 MS. FARMER: How do you prevent that?

8 MS. QUIST: We have a manager stationed,
9 um, at the door, inside/outside, and we ask them
10 to --

11 MS. FARMER: And --

12 MS. QUIST: -- not go outside with
13 drinks.

14 MS. FARMER: -- just -- just to clarify,
15 just to get this --

16 MS. QUIST: Yes.

17 MS. FARMER: -- fully -- because I hope
18 this is correct. That night, you're saying that
19 manager was Chelsea.

20 MS. QUIST: Yes.

21 MS. FARMER: Okay. No further questions
22 for her.

1 CHAIRMAN ANDERSON: Ms. Phillips? Um --

2 MS. PHILLIPS: Thank you.

3 CHAIRMAN ANDERSON: -- keep it brief.

4 MS. PHILLIPS: I'm going to try.

5 CHAIRMAN ANDERSON: Yes.

6 MS. PHILLIPS: Our lady in the leather
7 jacket, white belt -- yes? Back to us?

8 [Laughter]

9 MS. PHILLIPS: She's sort of turned to
10 her side, right? She's not straight on to the
11 glass in the back. Is there a door to her right
12 there?

13 MS. QUIST: Yes.

14 MS. PHILLIPS: Okay. And the glass doors
15 that you're talking about are sort of in the --
16 that are open from the indoor dining room to the
17 outside dining room are sort of in the middle of
18 this picture, where all that glass is, is that
19 correct, on C?

20 MS. QUIST: One is in the middle --

21 MS. PHILLIPS: Right.

22 MS. QUIST: -- and one is further to the

1 left, behind the heater.

2 MS. PHILLIPS: Behind the heater. Toward
3 the concrete wall.

4 MS. QUIST: Yes.

5 MS. PHILLIPS: Okay. All right. Now, when
6 you are closing the summer garden, whenever it is
7 you do, do you put, you know, stanchions with
8 ropes blocking it off from that egress, ingress,
9 little walkway that's not the ramp that we talked
10 about earlier? Both --

11 MS. QUIST: No.

12 MS. PHILLIPS: -- Board Member Alberti
13 and I --

14 MS. QUIST: Oh, I recall. No, we don't
15 put ropes.

16 MS. PHILLIPS: No ropes. So, it's -- it's
17 still all open.

18 MS. QUIST: Yes.

19 MS. PHILLIPS: Okay. No further
20 questions.

21 [Off-mic speaking]

22 MS. MILLER: Can I ask one follow-up?

1 [Laughter]

2 MS. MILLER: Just one, I didn't ask too
3 many questions.

4 CHAIRMAN ANDERSON: I -- no, but -- but --
5 -

6 MS. MILLER: All right.

7 CHAIRMAN ANDERSON: -- I'm going to --
8 I'm going to allow you to ask your question, Ms.
9 -- Ms., um -- Ms. Miller, but I just want the
10 parties to know, it's 4:30. We are one hour, I
11 think, behind for our 3:30 hearing, and we have
12 three more hearings for the day. So, I just want
13 everybody to be cognizant of the time.

14 MS. MILLER: Assuming that you agree, I
15 think they both know what we want them to do.

16 [Off-mic speaking]

17 MS. PHILLIPS: I thought you were asking
18 a question.

19 MS. MILLER: No, I'm -- I'm saying to you
20 --

21 MS. PHILLIPS: Oh.

22 MS. MILLER: I -- I imagine we can agree

1 to that.

2 MS. PHILLIPS: We can agree to that.

3 [Laughter]

4 MS. MILLER: We know you all know what we
5 both want on our individual sides, so we will not
6 do any protracted closing.

7 CHAIRMAN ANDERSON: No, you can do your
8 closing. I'm not going to -- I'm just -- I'm
9 trying to caution my board members. I'm not --
10 [Laughter]

11 CHAIRMAN ANDERSON: I'm not -- I would
12 never -- I would never not have the parties in
13 front of me have their moment, but I just want to
14 just caution the Board members, because the more
15 questions that they ask, it just allows more
16 question for you guys to ask, and we'll go -- So,
17 go ahead, Ms. Miller.

18 MS. FARMER: Understood.

19 MS. MILLER: Okay. I -- I just -- looking
20 at Exhibit A and Exhibit C, are there exits from
21 the restaurant that go one right out to the
22 sidewalk, as shown in Exhibit A, with the address

1 above, and otherwise through the summer garden,
2 as shown where there are doors, in Exhibit C?

3 MS. QUIST: No, um --

4 MS. MILLER: Okay. Could you clarify that
5 for me?

6 MS. QUIST: Yes.

7 MS. MILLER: Okay.

8 MS. QUIST: Where the address is, in
9 Exhibit A, that's a window.

10 MS. MILLER: Oh, okay. So, to exit then,
11 the restaurant, do they have to go through the --
12 the egress part of the summer garden?

13 MS. QUIST: Yes.

14 MS. MILLER: Okay. So it's not like you
15 could lock that door --

16 MS. QUIST: Correct.

17 MS. MILLER: -- to prevent people from
18 going to the summer garden. Okay. Thank you.
19 That's all.

20 CHAIRMAN ANDERSON: Okay.

21 MS. MILLER: Thank you.

22 CHAIRMAN ANDERSON: Do you have --

1 Thanks. Do you have any other witnesses? I -- I
2 just want to ask, um, one question, because I'm
3 confused. So, let me -- And I think this is, um,
4 Exhibit -- I guess it's Exhibit D. And where --
5 are those folks standing inside the establishment
6 or --

7 [Off-mic speaking]

8 MALE SPEAKER: Where she marked them,
9 they're standing here and here.

10 CHAIRMAN ANDERSON: Okay. Okay. So, it's
11 -- it's correct that -- there's agreement that
12 the, um -- the partition -- the -- I'm sorry, the
13 -- the folks who are standing on Exhibit D, that,
14 um -- that the document that -- on B(1) -- I'm
15 sorry, B -- is that B(1)?

16 MR. ALBERTI: B(1) I guess.

17 CHAIRMAN ANDERSON: B(1), that they are
18 standing in the summer -- the outdoor summer
19 garden, is that correct?

20 MS. QUIST: Yes.

21 [Off-mic speaking]

22 CHAIRMAN ANDERSON: Okay. All right. And

1 are -- after closing hours, say after 12:00, are
2 anyone allowed to be standing in that area?

3 MS. QUIST: No.

4 CHAIRMAN ANDERSON: Okay. All right.
5 Okay. I don't have any -- I don't have any other
6 questions. Um, does the Government wish to make a
7 closing argument?

8 MS. PHILLIPS: I'll be brief to --

9 CHAIRMAN ANDERSON: I -- I'm -- I'm not
10 cutting you off. I -- I -- I want you to state
11 your case.

12 MS. PHILLIPS: That was a voluntary "I'll
13 be brief."

14 [Laughter]

15 CHAIRMAN ANDERSON: But I do not want it
16 to be --

17 [Simultaneous speaking]

18 MS. PHILLIPS: [Inaudible].

19 CHAIRMAN ANDERSON: But I do not want it
20 to be that "The chair kept me brief," okay?

21 MS. PHILLIPS: Um, the evidence has been
22 pretty clear: People were on the summer garden

1 that weren't supposed to be on the summer garden.
2 Investigator Townsend has no -- no reason to, um,
3 not be truthful in his testimony. He said it
4 looked like a beer, it looks like a beer to him,
5 in a clear glass. Know there's alcohol there.
6 Even if it isn't alcohol, they're not supposed to
7 be there.

8 The evidence on the Government's side and
9 on the side of the establishment have clearly
10 stated that people were on the summer garden
11 after it was supposed to be closed. Um, there
12 seems to be no disagreement, and so therefore, I
13 think the Government's charges have carried the
14 day, and you should find in favor of the
15 Government, and, uh, give them the appropriate,
16 uh, fine or sanction as indicated in the statute
17 of DCMR.

18 CHAIRMAN ANDERSON: Does the Government
19 have a specific recommendation?

20 MS. PHILLIPS: Well, I did at -- at one
21 point in time. Uh, \$1,500 fine. To my
22 understanding from when we were here at a status,

1 it was the first primary tier violation. Uh, they
2 need the 30 days to pay or their license will be
3 suspended, even though this is going to be a
4 judgment or an order, um, but the order should be
5 clear that what happens if they don't pay within
6 the given time of the Board order. And I want to
7 make sure I hand up these two exhibits that I
8 admitted, because I'm not sure you have --

9 [Off-mic speaking]

10 MS. PHILLIPS: -- marked copies of both
11 of them. That's 1(a) and 1(b).

12 CHAIRMAN ANDERSON: Yes, Ms. Farmer?

13 MS. FARMER: Barcelona respectfully
14 disagrees that the Government has presented their
15 case and -- to the level of rising to a
16 violation. As Mr. Townsend even said, operation,
17 to him, means consumption, sales, and service.
18 There is no proof in the photo that there was
19 actual consumption. He cannot remember what -- he
20 never verified that it was actually an alcoholic
21 beverage. There was no verification that people
22 were actually being served or that individuals

1 were being served anything on the patio.

2 In fact, it appears that, really, all our
3 clients have conceded to at this point -- I
4 disagree with the Government's characterization -
5 - what they have conceded to is that there were
6 individuals standing on the patio. That does not
7 consist of operation and/or sales. So we would
8 ask that the violation be dismissed, and I will
9 keep it that brief.

10 CHAIRMAN ANDERSON: Thank you very much.
11 Um, does the -- would the parties, um, wish to --
12 do the party wish -- parties wish to file
13 proposed findings of fact and conclusions of law
14 or waive their right to do so?

15 MS. PHILLIPS: Government waives.

16 CHAIRMAN ANDERSON: Ms. Farmer?

17 MS. FARMER: We waive, as well.

18 CHAIRMAN ANDERSON: Okay. The Board, um,
19 will issue a decision within 90 days. Thank you.

20 MS. FARMER: Thank you.

21 MS. PHILLIPS: I just wanted to make sure
22 that none of the, um -- Ms. Farmer's exhibits

1 were admitted. I didn't hear them get admitted.

2 MS. FARMER: Oh.

3 CHAIRMAN ANDERSON: All right. And that's
4 -- I -- that's my fault because I didn't notice
5 that happen before so --

6 MS. FARMER: And she was specifically
7 asked. I obviously would have admitted my
8 exhibits. I -- I don't think it's fair to say
9 that we waived that right at this point.

10 CHAIRMAN ANDERSON: All right. I'll --

11 MS. FARMER: And they weren't objected
12 to.

13 CHAIRMAN ANDERSON: All right.

14 MS. FARMER: I mean --

15 CHAIRMAN ANDERSON: So we -- we'll reopen
16 the -- the record, um, allow, um, what documents
17 it is that you --

18 MS. FARMER: I would move to admit
19 Barcelona's exhibits, A through D.

20 CHAIRMAN ANDERSON: All right. Any
21 objection?

22 MS. PHILLIPS: Government has no

1 objection, but, you know, the interesting point
2 is, is that it's her responsibility to move their
3 admission and my responsibility to object. I just
4 wanted to be clear so that if you wanted to open
5 the record again you could do so, and I'm glad
6 that you did.

7 CHAIRMAN ANDERSON: And I -- I appreciate
8 that, and I've seen a couple of things happen,
9 and that's one of the reasons why I make it --
10 make it a point to ask. But based on the lateness
11 of the hour, I forgot, although it is the
12 attorney's responsibility, but -- to make it
13 clear --

14 [Laughter]

15 CHAIRMAN ANDERSON: -- so --

16 MS. FARMER: You're not going to get me
17 to disagree.

18 [Laughter]

19 CHAIRMAN ANDERSON: Okay. All right. So
20 thank you. All right.

21 MS. FARMER: Thank you.

22 CHAIRMAN ANDERSON: Thank you.

1 MALE SPEAKER: Thank you, everyone.

2 [Whereupon the matter concluded at

3 4:37 p.m.]