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

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IN THE MATTER OF: :  
Kabin Group, LLC :  
t/a Kabin :  
1337 Connecticut Ave NW : Case #15-251-00154  
License #91276, Retailer CT : Fact Finding  
ANC-2B : (status)  
Assault Inside of the :  
Establishment :

- - - - -X

Wednesday, January 20, 2016

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

1 CHAIRPERSON:

2 DONOVAN W. ANDERSON, Presiding

3

4 BOARD MEMBERS:

5 RUTHANNE MILLER

6 NICK ALBERTI

7 MICHAEL SILVERSTEIN

8 JAMES SHORT

9

10 ALSO PRESENT:

11 JORDAN CAPPOLLA

12 on behalf of the Applicant

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

2 [2:36 p.m.]

3 CHAIRMAN ANDERSON: We're back in  
4 session. The next case on our agenda is a fact-  
5 finding hearing for case number 15-251-00154,  
6 Kabin. Would the parties please come forward?  
7 You can come to the table. There is a sign-in  
8 sheet. You can sign your name. And please, you  
9 can also state your name for the record, too,  
10 please.

11 MR.CAPPOLLA: Jordon Cappolla for Kabin  
12 Lounge, K-a-b-i-n, Kabin Lounge.

13 CHAIRMAN ANDERSON: And can you -- okay,  
14 you're fine, too.

15 THE COURT REPORTER: Spell the name.

16 CHAIRMAN ANDERSON: He needs you to spell  
17 your name also, please.

18 MR. CAPPOLLA: Jordan, J-o-r-d-a-n,  
19 Cappolla, C-a-p, P as in Peter, o-l-l-a,  
20 Cappolla.

21 CHAIRMAN ANDERSON: And what's your  
22 position at the --

1           MR. CAPPOLLA: General Manager at the  
2 time. I'm no longer with Kabin. I was there. I  
3 was present during the altercation. I was the  
4 General Manager in August when it happened.

5           CHAIRMAN ANDERSON: And I --

6           MALE VOICE: Do we have an owner?

7           CHAIRMAN ANDERSON: And I guess the  
8 problem I'm having is that, do you have something  
9 to say that you are -- you can represent the  
10 establishment at this hearing?

11          MR. CAPPOLLA: I have nothing in writing.  
12 When I spoke to Ms. Walker, who I was in  
13 correspondence with since the beginning when the  
14 original hearing was set forth, I was still the  
15 General Manager at the time. And then the  
16 holidays came in, and I guess the board had  
17 issues coming together.

18          So, to your original question, I don't  
19 have anything in writing, although the principals  
20 know I'm here and are waiting to hear the  
21 outcome.

22          CHAIRMAN ANDERSON: I don't think that we

1 can continue this hearing, because we can't  
2 continue this hearing because you're no longer --  
3 as you have stated, you're no longer employed by  
4 the establishment. And I don't have anything in  
5 writing that says that you can represent the  
6 establishment today.

7 Because if we were to, say, for example,  
8 we were to find that the establishment was wrong  
9 and we want to take some recommendation to take  
10 action, then there's no representation, because  
11 they're saying -- they could state that they were  
12 not on notice, that you were not authorized to  
13 speak for the establishment.

14 MR. CAPPOLLA: But Ms. Walker does know  
15 that --

16 CHAIRMAN ANDERSON: I -- I -- I -- I'm  
17 sorry. Go ahead, sir. Go ahead, sir.

18 MR. CAPPOLLA: Well, the principal and  
19 Ms. Walker have been in constant contact. I've  
20 been cc'd along with other parties of ABRA that I  
21 was going to be here on behalf of Kabin.

22 CHAIRMAN ANDERSON: But I think that you

1 put on the record that you're not currently  
2 employed by the establishment.

3 MR. CAPPOLLA: Right.

4 CHAIRMAN ANDERSON: And because you're  
5 not currently employed by the establishment, then  
6 you cannot legally represent the establishment.  
7 And I appreciate the fact that you're here. But  
8 there is -- on the -- I know that everyone was on  
9 notice. But one can -- the response from the  
10 establishment will be, and legally can be, that  
11 you're no longer an employee and that you were  
12 not authorized to speak on their behalf.

13 And so, I appreciate the fact that you're  
14 here. But unfortunately, we cannot have the  
15 hearing with you representing the --

16 MR. CAPPOLLA: What would be required? I  
17 mean, I'm --

18 CHAIRMAN ANDERSON: If we have some --

19 MR. CAPPOLLA: I was there when --

20 CHAIRMAN ANDERSON: If we have something  
21 from the establishment telling us, stating that  
22 you are authorized to speak on their behalf.

1 MR. CAPPOLLA: Is that something I can  
2 put together immediately?

3 CHAIRMAN ANDERSON: If you can get --

4 MR. CAPPOLLA: I'd be happy to step out.  
5 Venota Baskinar [phonetic] is one of the  
6 principals. He is aware I'm here. And I can put  
7 him in touch with anyone. I don't necessarily  
8 know if I can get a notarized document.

9 CHAIRMAN ANDERSON: I'm just saying we  
10 can --

11 MR. CAPPOLLA: I can all this done in  
12 moments.

13 MALE VOICE: May I speak to you for a  
14 moment?

15 CHAIRMAN ANDERSON: Yeah.

16 [Pause.]

17 [Inaudible conversation.]

18 [Cross-talk.]

19 MALE VOICE: Well, then can you make it  
20 clear to him that it's what we're expecting?  
21 That he can make commitments on behalf of the  
22 owner?

1 [A discussion was held off the record.]

2 CHAIRMAN ANDERSON: Hold on, hold on,  
3 hold on. This is what I'm going to do, okay?

4 And the board -- as Chairperson of the  
5 Alcoholic Beverage Control Board for the District  
6 of Columbia, and in accordance with Section 4.5  
7 of the Open Meetings Amendment Act of 2010, I  
8 move that the ABC Board hold a closed meeting for  
9 the purpose of seeking legal advice from our  
10 counsel on case number 15-251-00154, per section  
11 4.5D(4) of the Open Meetings Amendment Act of  
12 2010, and deliberating upon case number 15-251-  
13 00154, Kabin, for the reason cited in section  
14 4.5B(13) of the Open Meetings Amendment Act of  
15 2010.

16 Is there a second?

17 MR. SHORT: Second.

18 CHAIRMAN ANDERSON: Mr. Short has second  
19 the motion. I will now take a roll call vote  
20 before us on the motion that is second.

21 Ms. Miller?

22 MS. MILLER: Agree.

1 CHAIRMAN ANDERSON: Mr. Alberti?

2 MR. ALBERTI: Agree.

3 CHAIRMAN ANDERSON: Mr. Short?

4 MR. SHORT: I agree.

5 CHAIRMAN ANDERSON: Mr. Anderson. The  
6 matter passed 4-0-0.

7 The board will be -- we need to take this  
8 under advisement. And you can -- the issue is  
9 that we do not believe that you can represent the  
10 Agency -- the establishment. If you're able to  
11 get something, we'll --

12 MR. CAPPOLLA: What would you like me to  
13 get? Because I can get --

14 CHAIRMAN ANDERSON: Well, basically --

15 MR. CAPPOLLA: They're waiting for my  
16 call.

17 CHAIRMAN ANDERSON: In a fact-finding  
18 hearing, certain things can happen. We can  
19 decide that we're not going to take any further  
20 action.

21 MR. CAPPOLLA: Yes.

22 CHAIRMAN ANDERSON: Or we can decide that

1 we believe that we have heard enough, and we're  
2 going to send this to the Office of the Attorney  
3 General because the establishment was a bad  
4 actor.

5 Or we can ask, say, for example, we can  
6 order the establishment, or we could say to the  
7 establishment, "Would you be willing to have a  
8 security plan?" although we can't order it. But  
9 we could ask it.

10 MR. CAPPOLLA: We have one.

11 CHAIRMAN ANDERSON: So -- but what I'm  
12 saying is that the things that we would ask, we  
13 need someone who is an authority to say, "Yes.  
14 On behalf of the establishment, yes, we'll agree  
15 to do that." So, if you're able to get something  
16 -- I'm not saying we're going to accept it.

17 MR. CAPPOLLA: No, I understand.

18 CHAIRMAN ANDERSON: But in the interim --  
19 [Cross-talk.]

20 CHAIRMAN ANDERSON: You're able to get  
21 something --

22 MR. CAPPOLLA: If you could give me an

1 idea of what you would like.

2 CHAIRMAN ANDERSON: If you can get  
3 something from the owner, ownership, saying that  
4 you are representing the ownership in this matter  
5 and that you are authorized to make decisions  
6 binding the establishment, moving forward.

7 MR. CAPPOLLA: Would you like that in the  
8 form of a fax or an email?

9 CHAIRMAN ANDERSON: If you can get us  
10 something to do --

11 MR. CAPPOLLA: He's an attorney, so he  
12 can get almost anything.

13 CHAIRMAN ANDERSON: If he sent -- and  
14 he's an attorney, and he knows exactly what I'm  
15 asking for. So he can give that to us by email  
16 now, and then notarized later on.

17 MR. CAPPOLLA: Please have an email? I  
18 only have Ms. Walker's email.

19 CHAIRMAN ANDERSON: We're going to  
20 discuss it. And I'm not sure -- general counsel  
21 --

22 [Cross-talk.]

1           CHAIRMAN ANDERSON: We'll discuss what  
2 we're going to do. So we'll stay in recess.  
3 We'll come back at three o'clock.

4           MR. CAPPOLLA: I understand. Thank you  
5 all.

6           CHAIRMAN ANDERSON: All right.

7           [Whereupon, the above-entitled matter  
8 concluded.]

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5 RUTHANNE MILLER

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10 ALSO PRESENT:

11 VERNON LEFTWICH

12 on behalf of District of Columbia

13 JORDAN CAPPOLLA

14 on behalf of the Applicant

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

2 [3:20 p.m.]

3 CHAIRMAN ANDERSON: I would now like to  
4 recall Kabin. Would the parties please approach?

5 [Pause.]

6 CHAIRMAN ANDERSON: And please identify  
7 yourselves for the record, please.

8 MR. CAPPOLLA: Hi. Jordan Cappolla.  
9 Last name is spelled C-a-p-p-o-l-l-a,  
10 representing the Kabin Group, LLC.

11 CHAIRMAN ANDERSON: Okay, sir.

12 MR. LEFTWICH: ABRA investigator Vernon  
13 Leftwich, Vernon, V-e-r-n-o-n, Leftwich, L-e-f-t-  
14 w-i-c-h.

15 CHAIRMAN ANDERSON: All right. I would  
16 like to put in the record that today at  
17 approximately 3:10 p.m., ABRA received a letter  
18 from ownership that says, "I authorize Jordan  
19 Cappolla to represent and bind me and my partner,  
20 Ms. Kunal Shaw [phonetic], to any commitments  
21 requested by the board. Thank you. Vendova  
22 [phonetic]."

1           And it's my understanding that Vendova is  
2 the founder of the establishment. And so I put  
3 it on the record that he has authorized Mr.  
4 Cappolla to speak on his behalf and to bind his  
5 establishment to any and all findings by the  
6 board today. Thank you very much.

7           MR. CAPPOLLA: Of course.

8           CHAIRMAN ANDERSON: I hope you understand

9 --

10          MR. CAPPOLLA: I certainly do. I do.

11          CHAIRMAN ANDERSON: Thank you. And I do  
12 appreciate the fact that, as you state, you're a  
13 former employee and you're here testifying on  
14 behalf today.

15          MR. CAPPOLLA: Yeah.

16          CHAIRMAN ANDERSON: And so, we do  
17 appreciate that I just want to let you know that  
18 I just want to make sure that the ownership was  
19 clear what it is that the board expected and what  
20 you might -- I'm not saying the board is going to  
21 bind him today. But I just want for them to be  
22 aware of it, the expectations that we have of you

1 today.

2 MR. CAPPOLLA: I understand.

3 CHAIRMAN ANDERSON: Okay. Thank you,  
4 sir.

5 Yes, sir. You'll state your name again  
6 for the record so you can let us know what you're  
7 able to --

8 MR. LEFTWICH: Investigator Leftwich.

9 CHAIRMAN ANDERSON: Okay. On August  
10 20th, ABRA received the MPD PD 251 report, CCN  
11 number 151-18467, which reads the following: "On  
12 Sunday, August 2nd, 2015, on the listed date and  
13 time, C1 stated while on the dance floor, she was  
14 bumped from behind several times by S1 and W3.  
15 C1 stated W3 bumped her harder. C1 stated that  
16 she bumped them back, and S1 threw a plastic cup  
17 at her forehead, causing a small laceration in  
18 the middle of her forehead.

19 "S1 swung once, and then they began to  
20 fight. Ambulance 23 responded, and C1 was  
21 transported to George Washington Hospital for  
22 treatment by Dr. Chris Lamberhart [phonetic].

1 ABRA was emailed a copy of the PD-251.

2 "On Thursday, August 20th, 2015,  
3 Investigator Leftwich visited Kabin and spoke  
4 with the General Manager on duty at the time, Mr.  
5 Jordan Cappolla. Mr. Cappolla stated he was  
6 outside at the front door at the time of the  
7 incident and was made aware of the incident via  
8 text message at approximately 12:30 a.m.,  
9 requesting that he come to the bathroom.

10 Once he reached the top of the stairs of  
11 the restroom, he was approached by three women.  
12 And one of the women stated, later identified as  
13 Ms. Edwards, stated that she was responsible for  
14 what had occurred on the dance floor. Mr.  
15 Cappolla requested that security have the three  
16 ladies stay until MPD arrived.

17 "He then travelled to the restroom, where  
18 he was greeted by Ms. Nealy [phonetic] and her  
19 friends, where he was informed that Ms. Nealy and  
20 Ms. Edwards were bumping on the dance floor, and  
21 Ms. Nealy pushed Ms. Edwards, and Ms. Edwards  
22 then threw a glass cup at her head, where at the

1 time she bent over and was then taken to the  
2 restroom by security, as well as her friends,  
3 where she remained until the police arrived.

4 "Mr. Cappolla was later informed that she  
5 went to George Washington Hospital and received  
6 stitches. He informed her that insurance will  
7 cover the cost of the emergency room visit and  
8 that he would be in contact with her. He later  
9 was informed that she was fine after her injuries  
10 were treated.

11 "On the specific day of the event, there  
12 were six security officers, two working at the  
13 front door, one at the bathroom, and one per VIP  
14 section. And on that night, there were three  
15 roped-off sections. There was minimum age of  
16 entry, was 21 that night. There was no special  
17 event, and there was no cover charge on the night  
18 of the incident.

19 "There were 15 security cameras in the  
20 establishment, and one was not working on the  
21 night of the event.

22 "Mr. Cappolla was unable to receive --

1 was unable to download the security footage, and  
2 therefore he recorded the footage from the camera  
3 on his cell phone and emailed a copy of it to me,  
4 which I submitted as an example -- as an exhibit  
5 in the report.

6 "Based on the video footage, I was able  
7 to review. I saw the patrons appearing to be  
8 dancing, and then they aggressively bumped each  
9 other from behind. And Ms. Berman [phonetic],  
10 who was one of the witnesses, was propelled into  
11 a group of patrons, and therefore causing the  
12 aggression to begin.

13 "And lights in the establishment, you  
14 weren't able to see the first initial take, but  
15 you were able to see the aftermath and the  
16 security coming to separate the ladies, and they  
17 went into separate directions.

18 "On that same night, Thursday, August  
19 20th, myself interviewed the security officer who  
20 first responded. He said that he was standing  
21 near the restroom, and he was able to separate  
22 the ladies. And he kept Ms. -- the victim, Ms.

1 Nealy, in the restroom until the police arrived,  
2 where she was able to give a statement to MPD.

3 "And I also witnessed that night that  
4 security was at the front door, checking ID's,  
5 and I was able to see they had two-way radios on,  
6 earpieces. They were dressed in black pants and  
7 black shirts. And Mr. Cappolla also stated that  
8 they were in compliance with what was in their  
9 in-house security plans.

10 "And all the staff members had been  
11 trained. The bartenders were trained alcohol  
12 awareness, and the staff, the security staff had  
13 been trained in conflict resolution.

14 "I also was able to interview the MPD  
15 officer electronically. I received an email from  
16 her on Wednesday, August 26th. She stated that  
17 herself and her partner were the first to arrive  
18 on the scene due to a radio call for aggravated  
19 assault. They were led to the second floor  
20 bathroom by security, where they observed the  
21 victim, Ms. Nealy, standing in the restroom with  
22 blood on her forehead.

1           "And at the time, she stated that she --  
2   that the injury was due to her being hit in the  
3   head with a cup by Ms. Edwards, who was later  
4   arrested and barred from the establishment.

5           "On Thursday, August 27th, Investigator  
6   Leftwich was able to telephonically interview Ms.  
7   Sara Nealy, the Complainant. She stated that she  
8   was celebrating a bachelorette party that night.  
9   Her and her friends had gone to another  
10   establishment prior to coming to Kabin, where  
11   they had received -- where they had consumed  
12   drinks prior to.

13           "But she stated that she had not had any  
14   drinks when she arrived to Kabin. She said that  
15   she was dancing with a male patron, and he toward  
16   her into that group of friends, where she  
17   apologized, and she's dancing with the male. She  
18   stated that Ms. Berman aggressively began to  
19   dance on her, and she turned around to ask her to  
20   stop dancing on her.

21           "And at that time, she was grabbed, and  
22   before she knew it, that she pushed her into her

1 group of friends, and one of Ms. Berman's friends  
2 came up with the cup and hit her. She said she  
3 immediately bent down to see what she was hit  
4 with, and at that time, she said that she was  
5 punched in the temple and her hair was pulled.

6 "And while she was bent over, and she  
7 immediately felt something wet on her hand, and  
8 she realized it was blood. And she went to the  
9 restroom, where security helped and opened a  
10 separate restroom other than the general women's  
11 restroom that was open to everyone there.

12 "Security -- she then stated that that's  
13 where she stayed until security arrived -- until  
14 MPD arrived and she was transported to the  
15 hospital and received three stitches in her head.  
16 She then stated that she went to see another  
17 doctor for an examination and was informed that  
18 she suffered a minor concussion and had some face  
19 swelling.

20 "I also reached out to Ms. Berman, who  
21 was one of the witnesses, who stated that she did  
22 not want to provide any further information in

1 regards to the incident that had occurred at  
2 Kabin on Sunday, August 2nd, 2015.

3 "Based on my personal checks of ABRA  
4 records, board approved settlement agreement, as  
5 well as board approved security plans, I did not  
6 find any documents for Kabin. And Mr. Cappolla  
7 again stated that security officers had been  
8 trained in conflict resolution and all bartenders  
9 had been trained in alcohol awareness."

10 Does the board have any questions for the  
11 investigator?

12 Mr. Alberti.

13 MR. ALBERTI: Investigator Leftwich, I  
14 think this is the first time you've spoken before  
15 us; is that true?

16 MR. LEFTWICH: No, sir.

17 MR. ALBERTI: Oh, you have? Okay. All  
18 right. I just don't remember the other time.  
19 But thank you for your report. It's very  
20 thorough. Thank you. And thank you for your  
21 summary.

22 I want to go over some of your notes on

1 the camera in here. And if you can't remember  
2 what you saw, just tell me you can't remember.  
3 Your notes are very helpful. But there are some  
4 time gaps in here that leave me unsure about what  
5 transpired. Okay?

6 So I go down to -- so, you know, I go  
7 down to -- let's go down to the third note. And  
8 it says, "At approximately six" --

9 CHAIRMAN ANDERSON: Hold on, hold on.  
10 Do you have a copy?

11 MR. LEFTWICH: I do not. I was just  
12 about to say the same thing. Can I have a copy  
13 just to kind of follow along?

14 MR. ALBERTI: The owner didn't give you a  
15 copy?

16 MR. LEFTWICH: No.

17 MR. ALBERTI: Okay. He would have been  
18 sent a copy of this.

19 MR. LEFTWICH: Oh. Okay.

20 CHAIRMAN ANDERSON: But I want him to --

21 [Cross-talk.]

22 MR. LEFTWICH: I remember everything.

1 But I can't follow. I don't have --

2 MR. ALBERTI: I understand. I  
3 understand. I'm just trying to understand how  
4 well you were prepared for this by the owner.  
5 That's all. Thank you.

6 CHAIRMAN ANDERSON: Wait now. No, you  
7 can ask the question.

8 MR. ALBERTI: No, I prefer that he have  
9 this in front of him before we continue.

10 CHAIRMAN ANDERSON: Okay. I think Mr.  
11 Cappolla testified that he was there so he can  
12 explain what happened. Right?

13 MS. MILLER: Yes. I think he can explain  
14 it.

15 [Pause.]

16 MR. LEFTWICH: Thank you.

17 MR. ALBERTI: We're on page 2?

18 MR. CAPPOLLA: Page 2.

19 MR. ALBERTI: Okay. All right. So the  
20 third bullet on the cameras, is they're all  
21 camera 12, right? So there's no -- I note  
22 they're all camera 12, so the timestamp is not an

1 issue of differences between these times.

2           So it says "6:07, Ms. Nealy turns around  
3 and walks towards W3 and pushes her very  
4 aggressively into a group of patrons." And then  
5 it says, next bullet, "6:08, due to the lights in  
6 the establishment, it's unclear who makes contact  
7 first, Ms. Edwards or Ms. Nealy."

8           So, was it really a minute between those  
9 two observations of the security tape?

10           MR. LEFTWICH: No, sir. The time clock  
11 reads the hour, the minute, and the second. So  
12 it was 12:00 midnight.

13           MR. ALBERTI: Oh, okay. So this is the  
14 seconds.

15           MR. LEFTWICH: Yes.

16           MR. ALBERTI: This is seconds. I got  
17 you. Okay. That explains. That helps to  
18 explain it. So immediately -- okay.

19           [Pause.]

20           MR. ALBERTI: So, it's six minutes after  
21 twelve, 6:02 after 12:00, we have Ms. Nealy  
22 propelled, bumps Ms. Berman, and is propelled

1 into a group of patrons. All right? So, was it  
2 pretty obvious that people were sort of being  
3 pushed around at that point, or not?

4 MR. LEFTWICH: No. The establishment was  
5 pretty full. And the camera view was of the  
6 entire dance floor. So it was a lot of people  
7 dancing. So at initially watching and not having  
8 any context, you would not know that they were  
9 not dancing together until that moment when she's  
10 pushed away.

11 MR. ALBERTI: Okay. So when during this  
12 sequence do you think it would have been obvious  
13 that people were acting aggressively towards one  
14 another?

15 MR. LEFTWICH: My honest opinion would be  
16 at 12:06:08, and that is when the lights, due to  
17 the camera, the lights in the establishment, I  
18 was unable to see exactly the -- who made contact  
19 first. Because there was the bumping, and then  
20 as soon as the bumping, she bumped into --  
21 because I don't know if it's easily followed  
22 amongst this.

1           The person, the two individuals that were  
2 bumping are not the two individuals that were  
3 fighting. It was only one of them. So one  
4 friend was bumping. Another friend came up and  
5 then started the altercation between the ladies  
6 at that time.

7           MR. ALBERTI: Okay. And what did the  
8 crowd around them do? At that point, what did  
9 the crowd around them do? How did they react?

10          MR. LEFTWICH: It was very fast. So only  
11 the friends reacted. And they immediately pulled  
12 their friends apart. And you see the security  
13 coming, and they go in two different directions  
14 off the camera.

15          MR. ALBERTI: Okay. So how quickly did  
16 security get there, do you think?

17          MR. LEFTWICH: The security was there  
18 from in the 0.21 seconds. Again, it all happened  
19 very fast.

20          MR. ALBERTI: Okay.

21          MR. LEFTWICH: The same six -- the sixth  
22 minute of the twelve o'clock hour.

1 MR. ALBERTI: All right. All right.  
2 Very good. All right. And could you see where  
3 security was stationed?

4 MR. LEFTWICH: I couldn't see where he  
5 was stationed initially in that view of the  
6 camera. But based on my interview, he said that  
7 he was stationed on the side. The responding  
8 security officer said that he was stationed in  
9 the restroom area. So he had a back view of the  
10 dancing floor.

11 MR. ALBERTI: And you said the  
12 establishment was very crowded?

13 MR. LEFTWICH: Yes. It was -- I did not  
14 ask the capacity then. I don't know how many --

15 MR. ALBERTI: Have you asked the capacity  
16 since then?

17 MR. LEFTWICH: No, sir.

18 MR. ALBERTI: Okay. Thank you. No  
19 further questions.

20 CHAIRMAN ANDERSON: Yes, Mr. Short.

21 MR. SHORT: Investigator, good afternoon.

22 MR. LEFTWICH: Good afternoon.

1           MR. SHORT: Did you get a chance to see  
2 the security plan that's been testified that's a  
3 part of this establishment?

4           MR. LEFTWICH: I requested a security  
5 plan, and the security plan that was sent to me,  
6 the way in which it came out, the email in PDF,  
7 it was kind of backwards, and it did not -- it  
8 was unable to be read. And I requested another  
9 one. And I also looked in ABRA's documents to  
10 see if we had a copy.

11           So I'm assuming this must be an in-house  
12 one, or it had not been uploaded to the G-5,  
13 where I would normally find board-approved  
14 security plans.

15           MR. SHORT: Okay, well, I guess I need to  
16 ask a question of the representative.

17           CHAIRMAN ANDERSON: But ask later,  
18 because he's not here.

19           MR. SHORT: Okay. Well, Investigator,  
20 when you go back again, hopefully we'll have a  
21 security plan that is in compliance with what  
22 ABRA security plans are. And hopefully, we can

1 get a commitment from the establishment that  
2 they'll do that, going on.

3 But the cameras -- how many cameras were  
4 there that night? How many cameras were?

5 MR. LEFTWICH: There were 14 operating  
6 cameras on the night of the incident, according  
7 to Mr. Cappolla.

8 MR. SHORT: What's the total number of  
9 cameras?

10 MR. LEFTWICH: Fifteen.

11 MR. SHORT: Fifteen I counted.

12 MR. LEFTWICH: Which one was not working?  
13 Was it one pointing toward the floor? What was  
14 that camera pointed at that wasn't working?

15 MR. LEFTWICH: It records the outside of  
16 the establishment, so it must have been a street-  
17 facing camera.

18 MR. SHORT: Okay. So hopefully, we'll  
19 get a commitment also that they'll get that  
20 camera fixed then, in compliance with the  
21 security plan and some other things.

22 MR. LEFTWICH: Yes. One thing I can say,

1 and there's a trace of emails between myself and  
2 Mr. Cappolla, he was having issues -- again this  
3 is his word -- getting in contact with security  
4 camera company to find out how to download the  
5 information to a flash drive, which is why I was  
6 only able to get this, these documents on five  
7 that he recorded with his cell phone.

8 And he just held it up to the screen,  
9 which I witnessed him do the night that I went to  
10 interview him.

11 MR. SHORT: How long have you been with  
12 ABRA now?

13 MR. LEFTWICH: I've been with ABRA since  
14 July 27th, I believe was my first day.

15 MR. SHORT: Your first day? Okay. Well,  
16 welcome aboard.

17 MR. LEFTWICH: Thank you.

18 MR. SHORT: But you professionally, do  
19 you -- was it acceptable for you to receive it  
20 through a cell phone rather than the actual  
21 camera angles from the establishment?

22 MR. LEFTWICH: No, sir. I felt it would

1 be better to have something than nothing, because  
2 he was aware that due to the lapse in time,  
3 because the incident occurred on August the 2nd,  
4 and I received the report and did the  
5 investigation on the 20th, that too much time  
6 would pass. And the system would record over it.  
7 So --

8 MR. SHORT: But hopefully, we'll get a  
9 commitment they will get cameras that comply with  
10 what we want for a security system and security  
11 plan.

12 I guess the other question I had for you  
13 also was that, on that particular night -- well,  
14 when did you go there after the incident?

15 MR. LEFTWICH: On August the 20th, the  
16 day in which I received the 251 report.

17 MR. SHORT: And the incident happened on  
18 what day?

19 MR. LEFTWICH: August the 2nd.

20 MR. SHORT: So a little bit of time had  
21 passed.

22 MR. LEFTWICH: Yes.

1           MR. SHORT: Are you familiar with their  
2     investigative history of this establishment?

3           MR. LEFTWICH: Based on ABRA records,  
4     yes. They have three previous 251, all for  
5     disorderly --

6           MR. SHORT: Can you just read them one  
7     for one? Just for the record, read them off,  
8     please.

9           MR. LEFTWICH: Okay. Case 1425100314,  
10    disorderly patron. And that was on November the  
11    2nd, 2014. On September the 4th, 2014, case  
12    number 1425100270, disorderly patron. And 51714,  
13    case number 1425100158, disorderly patron. And  
14    on 11/1/13, case number 13 CMP 00563, no ABC  
15    manager on duty. They received a citation number  
16    8427 and paid 250.

17          MR. SHORT: Okay. So there have been  
18    three other incidents of disorderly patrons or  
19    fights at this same location. Okay. Does that  
20    ring any bells with you, as an investigator?

21          MR. LEFTWICH: Yeah. As an investigator,  
22    it rings a bell as a regards to it must have been

1 a problematic establishment, or things have been  
2 going on. I did not personally read the cases,  
3 so I'm not sure if they are similar. But I do  
4 see here that no further action was taken. So  
5 I'm not sure how the board felt about those  
6 issues. Also, due to the fact that they were all  
7 done in here prior to my arrival to ABRA.

8 MR. SHORT: I understand. Okay. But at  
9 any rate, we're going to try to help them out a  
10 little bit.

11 Thank you very much, Mr. Chair. That's  
12 all I have at this time.

13 CHAIRMAN ANDERSON: Thank you. Any other  
14 board members with questions?

15 MS. MILLER: I just had a couple.

16 CHAIRMAN ANDERSON: Yes, Ms. Miller.

17 MS. MILLER: Good afternoon.

18 MR. LEFTWICH: Good afternoon.

19 MS. MILLER: And I almost hesitate to ask  
20 this question. But I want to understand your  
21 report. So, what does that mean when you said  
22 that "Ms. Nealy stated that a female patron, Ms.

1 Berman, began to aggressively dance on her."

2 What does that mean to dance on somebody?

3 MR. LEFTWICH: And I struggled to  
4 describe this in the report, to use proper  
5 wording.

6 MS. MILLER: Um-hm.

7 MR. LEFTWICH: But they were dancing back  
8 to back.

9 MS. MILLER: Okay.

10 MR. LEFTWICH: And that's why I  
11 understood from security's perspective where that  
12 he had no idea that there was going to be an  
13 issue, because you just see them dancing back to  
14 back. But you see them like bumping each other  
15 and dancing at the same time.

16 MS. MILLER: Okay.

17 MR. LEFTWICH: Whereas, I've seen that  
18 personally with, I guess, friends where they  
19 would just be dancing. But then it turned into  
20 an issue right after that.

21 MS. MILLER: Okay. And could you just  
22 clarify also for me, were these two individuals

1 strangers or part of the same bachelorette group?

2 MR. LEFTWICH: No, ma'am. Ms. Nealy was  
3 a part of the bachelorette group, and Ms. Edwards  
4 and Ms. Berman and there must have -- there was  
5 another friend, whom I'm assuming did not give a  
6 witness report. And they were amongst  
7 themselves.

8 MS. MILLER: A different group?

9 MR. LEFTWICH: Yes, ma'am.

10 MS. MILLER: Okay. Thank you. That's  
11 all I have. Thank you.

12 CHAIRMAN ANDERSON: Any other questions  
13 by any board members?

14 [No audible response.]

15 CHAIRMAN ANDERSON: Mr. Cappolla, if  
16 you've read the report, if you feel you want to  
17 ask any questions of the investigator, you're  
18 free to ask. I'm going to have you explain the  
19 establishment's perspective. But you're also  
20 free to ask questions of the investigator, based  
21 on the report that he wrote.

22 MR. CAPPOLLA: The report was very well

1 documented. I've been through this multiple  
2 times with the victim and her friend. I call  
3 them on a very regular basis to make sure that  
4 they understood that we support whatever decision  
5 we want to do, and we --

6 MALE VOICE: Speak up, Mr. Cappolla.

7 MR. CAPPOLLA: Pardon?

8 MALE VOICE: Please speak up a little  
9 louder.

10 MR. CAPPOLLA: Oh. Sorry. It was our  
11 place from the beginning to --

12 CHAIRMAN ANDERSON: No. I'm going to ask  
13 you to -- you can also state your position. I  
14 was just asking you if you want to ask him --

15 MR. CAPPOLLA: Oh, no. What I was  
16 getting to -- I'm sorry -- by virtue of reading  
17 this and actually hearing Mr. Leftwich, it's very  
18 well documented. There is maybe a couple  
19 speedbumps that I would comment on, more towards  
20 the history of Kabin, to enlighten the board.  
21 But it's very well done. And I remember it just  
22 like this.

1           CHAIRMAN ANDERSON: Okay. Fine. So you  
2 don't have any questions for the investigator,  
3 and I don't think the board has any questions.

4           But I would like for you to just hang  
5 around. Maybe there are some questions that,  
6 based on the presentation of Mr. Cappolla, maybe  
7 the board might ask for a further clarification  
8 for both of you.

9           So you can now explain to the board from  
10 the perspective of the Licensee what happened.

11          MR. CAPPOLLA: Okay. I guess it's kind  
12 of hard to start with so much detail. But let's  
13 start with our security plan. I was under the  
14 impression that it was with ABRA. We did a  
15 security plan shortly after we opened in 2013,  
16 through our legal counsel, which was Mr. Jeff  
17 Jackson. So that was something that we had from  
18 the beginning.

19          We do have the 15 cameras. It is correct  
20 one camera was down due to a flood from the venue  
21 below us. They have an awning. They had a water  
22 issue, and it actually, unfortunately, flooded

1 our dome camera. We're looking at about a \$2,000  
2 fix, so it's not easy-peasy. But it will get  
3 rectified. That was the only camera that was  
4 down.

5 I don't believe it played in any way,  
6 shape, or form in the incident inside. As Mr.  
7 Leftwich made very clear, we have -- I have about  
8 eight cameras on the dance floor, bar area.  
9 There's really no blank spots.

10 And when we said the lighting was bad, we  
11 have a little bit of a light show. It's nothing  
12 to write home about. But it is -- it gives a  
13 little pizzazz to the dance floor. And because we  
14 have such a low ceiling, those lights really  
15 deflect, and they don't offer the best view.

16 We did, immediately upon the incident, I  
17 was called upstairs. I saw the aftermath. But  
18 my security guard, Germaine Boney [phonetic], he  
19 was probably on hand within about 10 seconds. He  
20 was literally about this far away from the  
21 incident.

22 I don't recall us being packed, and I've

1 seen the video probably more than anyone. There  
2 was never a point where we were elbow to elbow.  
3 But it was enough that to where you just didn't  
4 know if the girls were actually goofing around or  
5 playing. It is unfortunate that the victim was  
6 part of a bachelorette party, so that probably  
7 didn't make for a wonderful night.

8           The person who did the crime, who did the  
9 assault actually did -- on my way from upstairs,  
10 when I found out what happened, I darted  
11 upstairs. And they asked me, "Are you the  
12 manager?" I said, "Yes." And she point-blank  
13 said, "I'm the reason that there's blood on the  
14 ground."

15           "Okay. Thank you for your honesty."  
16 Word for word. I've relived this over and over.  
17 I immediately radioed a couple of my other  
18 security to kind of stop what they're doing.  
19 Don't detain them physically. We don't touch  
20 anyone. But let them know that I've already  
21 contacted DCPD and I want them to do their  
22 investigation.

1 All in all, she was arrested for assault.  
2 The victim, I was very aware about the laceration  
3 and everything. I called them day after, day  
4 after, so. And she was fine, thank goodness. I  
5 was more worried about, you know, her scar. I  
6 thought it was five stitches. I'm glad to hear  
7 it was only three.

8 She never called me back. About a month  
9 after, I really blew up her phone. I was very  
10 concerned. It was probably the first incident at  
11 Kabin that's ever actually shown blood. We've  
12 had the push-pulls, and we've had the verbal  
13 abuse, which to me is still a problem in itself,  
14 but never that kind of issue. And I'll address  
15 the history itself. But that was the first time  
16 something like that has happened at Kabin.

17 MR. SILVERSTEIN: Was or was not?

18 MR. CAPPOLLA: I'm sorry?

19 MR. SILVERSTEIN: That was or was not?

20 MR. CAPPOLLA: Was. That was the first  
21 time that we -- I mean, that -- we don't use  
22 glass. Just better safe than sorry. So we use

1 acrylic. And I was really surprised that this  
2 acrylic cup had actually cut her.

3 In the video, you can see the person  
4 actually throw the cup. It's pretty clear. The  
5 camera was right above her. DCPD, two or three  
6 officers all watched the video over and over. It  
7 was rewind, play. We saw the footage. And this  
8 is very well documented.

9 This was what initially was a close  
10 dancing, and kind of got into your little, you  
11 know, personal space. And then it was one push,  
12 and before you know it, the cup was thrown.

13 I didn't really see any form of  
14 inebriation. I let DCPD take over immediately  
15 and just waited by the sidelines. But this was  
16 our first incident on premise.

17 CHAIRMAN ANDERSON: Where did you go?  
18 You said you'd talk about the history that was  
19 just -- tell us about --

20 MR. CAPPOLLA: Yeah, I'm sorry. There  
21 was two disorderly patrons that were outside the  
22 establishment that never made it in that started

1 making a lot of verbal slurs, just -- they never  
2 made it in.

3 We called the police immediately. I'm  
4 the better-safe-than-sorry kind of guy. So when  
5 a person almost started demanding to go in, I  
6 certainly remember the first two, because we have  
7 barring notices on both people, that they're  
8 never allowed in.

9 The most recent one, which would have  
10 been prior to this issue in itself, about a month  
11 prior -- no, excuse me, one year prior to this,  
12 there was a gentleman who was in there and  
13 started arguing with his girlfriend. And as a  
14 father, as a son, I don't do well with people  
15 badmouthing women.

16 So they had one option. That was either  
17 zip it, or you both leave, because I just can't  
18 watch a woman get defaced. And that just led  
19 into a mind-your-own-business. And subsequently,  
20 the gentleman got verbal with my security. Same  
21 rules apply. We called the police, and we just  
22 had a barring notice. I just can't be around a

1 man who wants to badmouth a woman.

2 But those were all that -- one issue  
3 started inside between a couple. The other two  
4 never made it inside. We called the police to  
5 make sure that there was never a patron that --  
6 there was never a patron that made it inside. So  
7 the wording is a little misleading, because it  
8 wasn't our patron. It was a person we never let  
9 in.

10 CHAIRMAN ANDERSON: You talk about a  
11 security plan. Can you tell us a little bit  
12 about the security plan that you're aware the  
13 establishment has?

14 MR. CAPPOLLA: Yes. Of course. Security  
15 plan. All my staff, all of the staff when I was  
16 there, upon immediately being hired, they go  
17 through a screening. We don't use the term  
18 "bouncer" anymore. It's kind of cliché for once-  
19 upon-a-time. So all of my staff must get  
20 certified in verbal judo. They get more of a  
21 lashing from me during the interview to  
22 understand that no one touches anyone unless

1 being touched first.

2           So that's part of the security plan,  
3 along with the exit strategy in case of fire.  
4 They know that immediately on any instance,  
5 whether small, medium, or of course, large like  
6 case in point, I'm immediately called. I'm the  
7 first one there and the last one to leave since  
8 they opened. Two-and-a-half years, I open the  
9 place and then close the place. Never taken a  
10 day off.

11           So I know about everything that goes on  
12 there, everything down to slipping on a lime.  
13 Nothing too small to let me know. So security  
14 plan is just -- I think it -- I don't know what  
15 happened with the copying. I apologize.  
16 Certainly, it wasn't meant to go that way.

17           It's very, very simple. The security  
18 plan, in fact, is -- it just covers all avenues  
19 for the patrons to know that everything is safe.  
20 The staff can hold their own. And in the event  
21 that anything happens, once again, I can't  
22 emphasize this enough, everyone calls me. I am

1 the first and the last voice.

2 CHAIRMAN ANDERSON: Well, you're no  
3 longer there, so who does everybody now call?

4 MR. CAPPOLLA: They call the other guy.

5 [Laughter.]

6 MR. CAPPOLLA: I did my 30 months of  
7 opening and closing. He's six weeks in, you  
8 know, a good owner.

9 CHAIRMAN ANDERSON: All right. Thank  
10 you.

11 Any other questions from any board  
12 members?

13 MR. SHORT: I did have one.

14 CHAIRMAN ANDERSON: Yes, Mr. Short.

15 MR. SHORT: I'm glad you're back with  
16 your letter. And it sounds like you have things  
17 pretty much in hand. You sound a very confident  
18 person.

19 MR. CAPPOLLA: I'm a very straightforward  
20 person. We don't make waves.

21 MR. SHORT: So would you agree that a  
22 security plan that comports to what ABRA expects

1 in a security plan, that you would be willing to  
2 commit to that for your --

3 MR. CAPPOLLA: Absolutely. Whatever it  
4 takes. I had believed that our security plan was  
5 already in the books with ABRA. For whatever  
6 reason, I apologize on behalf of --

7 MR. SHORT: But the one you have,  
8 apparently we couldn't -- you couldn't even read  
9 it.

10 MR. CAPPOLLA: That's correct.

11 MR. SHORT: But you're going to redo it  
12 and give us one that comports with the ABRA  
13 regulations?

14 MR. CAPPOLLA: I will be my priority  
15 effective tomorrow. I still have the keys to the  
16 place. I'm there as more of a consultant because  
17 I do know the place very well.

18 MR. SHORT: Okay.

19 MR. CAPPOLLA: I will make sure it's  
20 retyped, redirected, and resubmitted through Mr.  
21 Leftwich and our counsel, Mr. Jeff Jackson.

22 MR. SHORT: What's the capacity of the --

1 MR. CAPPOLLA: Two-fifty-two.

2 MR. SHORT: Do you know the square feet?

3 MR. CAPPOLLA: I believe it's 2,700.

4 MR. SHORT: You're right on the ball.

5 I'm -- in staffing, what kind of staffing do you  
6 have on the nights you're open?

7 MR. CAPPOLLA: I have -- on staff, I had  
8 29 people, 4 bar-backs, 6 bartenders, 3 always on  
9 the weekends, security was minimum 6, no more  
10 than 8. I always had two people at the door,  
11 checking ID's, greeting, and saying goodbye,  
12 proper goodbye. Customer service, number one.

13 We have three different VIP sections.  
14 One is always appointed a different person. One  
15 person floats around to make sure everything is  
16 hunky-dory. And then one person at the bathroom  
17 to make sure -- you know.

18 MR. SHORT: Okay. Are the staff  
19 identifiable? How would I know if I were one of  
20 your clients?

21 MR. CAPPOLLA: All of my staff wear suits  
22 and the same color tie. It varies. A stand-out

1 gold tie, something similar to like the trim  
2 around your nameplates.

3 MR. SHORT: So they are identifiable?

4 MR. CAPPOLLA: Yes. And they all have  
5 earpieces.

6 MR. SHORT: Okay. And you say they are  
7 all well trained?

8 MR. CAPPOLLA: They're all stand-up guys.  
9 They're all family men. They're all --

10 MR. SHORT: But I mean training. What  
11 kind of training do they have, security-wise?

12 MR. CAPPOLLA: Well, security, they're  
13 all certified in verbal judo. Three of my  
14 security guards at the time were certified with  
15 ABC. One is just finishing up the -- he's going  
16 to Virginia State Police. I mean, they're --

17 MR. SHORT: Okay. How many ABC managers  
18 do you employ?

19 MR. CAPPOLLA: Well, I have, of course,  
20 mine. I technically don't require anyone to do  
21 it unless they actually want to help out. I  
22 mean, no one has ever opened for me. No one has

1 ever closed.

2 MR. SHORT: So you're the only one?

3 MR. CAPPOLLA: I opened and closed for  
4 two-and-a-half years.

5 MR. SHORT: So who has it now since  
6 you're no longer there?

7 MR. CAPPOLLA: The new gentleman. His  
8 name is Cameron.

9 MR. SHORT: And he is certified by ABRA  
10 to be a ABC manager?

11 MR. CAPPOLLA: I hope so.

12 MR. SHORT: I do, too.

13 [Laughter.]

14 MR. SHORT: The investigator is taking  
15 that down.

16 MR. CAPPOLLA: I can't answer for anyone  
17 except myself.

18 MR. SHORT: Okay. All right. That's the  
19 first one that I have put any question marks  
20 about.

21 Okay. And the cup that was used as a  
22 weapon.

1 MR. CAPPOLLA: Yes.

2 MR. SHORT: Is that something that the  
3 establishment serves drinks in?

4 MR. CAPPOLLA: Yes. We only have really  
5 two different, three different cups. It's called  
6 a rocks glass. It holds nine ounces of fluids.  
7 It's pretty much what you see standard across the  
8 board in our industry.

9 I choose not to have glass because,  
10 unfortunately, it breaks. And our floors are  
11 tile. So as soon as you drop it, it's shattered.  
12 And again, I'm very OCD. I don't like even  
13 straws in the floor, much less shattered glass.  
14 So it was an acrylic cup. That's what she threw.

15 MR. SHORT: And put three stitches in her  
16 head.

17 MR. CAPPOLLA: I'm blown, too. I'm  
18 really surprised. I mean, it's surprising to me  
19 as well.

20 MR. SHORT: Well, I'll just say you've  
21 answered all my questions quite well, and thank  
22 you.

1 MR. CAPPOLLA: My pleasure.

2 MR. SHORT: I'm impressed.

3 MR. CAPPOLLA: My pleasure.

4 MR. SHORT: That's all I have, Mr. Chair.

5 CHAIRMAN ANDERSON: Thank you, Mr. Short.  
6 Yes, Mr. Silverstein.

7 MR. SILVERSTEIN: So once again, we're  
8 going to have a security plan when?

9 MR. CAPPOLLA: Well, I will commit -- we  
10 have a security plan already. I will retype it.  
11 I will have the whole thing done by -- my word is  
12 Monday. I will email --

13 MR. SILVERSTEIN: You can wait until  
14 Wednesday. Monday we're not sure of the weather.  
15 We're not sure what's going to happen.

16 MR. CAPPOLLA: Oh, I'm just saying that,  
17 for me, it's quite simple to redraft it. And I  
18 will send it to Mr. Leftwich next week.

19 MR. SILVERSTEIN: And I also don't think  
20 I'd fix the camera this weekend. But --

21 MR. CAPPOLLA: No, that camera is SOL  
22 outside. But all the cameras inside are working

1 picture-perfect. The domes are cleaned every  
2 week. There's no bad spots.

3 MR. SILVERSTEIN: Mr. Cappolla, there's  
4 been a history of problems in that block outside,  
5 as you well know.

6 MR. CAPPOLLA: Yeah.

7 MR. SILVERSTEIN: And it would be very  
8 helpful if that camera is fixed in a prudent, but  
9 still timely manner.

10 MR. CAPPOLLA: No, I firmly agree. We  
11 were going to have the camera fixed shortly after  
12 it was hurt by the plumbing issue. But to the  
13 best of my knowledge, the plumbing issue has not  
14 been addressed.

15 So putting a camera back on the -- we'll  
16 call it the dome, or that's shooting down, is  
17 just not a good idea right now, just because --  
18 but the downstairs does have two cameras, I  
19 think, because of perhaps a plumber issue or two.  
20 So there are two cameras outside facing our space  
21 and going north on Connecticut.

22 So right now, we're covered. But I do

1 believe that we do need to get that camera fixed.  
2 They do. They need to get the camera fixed.

3 MR. SILVERSTEIN: It really is extremely  
4 helpful to you, as well as to everyone.

5 MR. CAPPOLLA: Yes.

6 MR. SILVERSTEIN: As you point out, two  
7 of the disorderly patron incidents, you say  
8 occurred outside.

9 MR. CAPPOLLA: Yeah.

10 MR. SILVERSTEIN: And it is helpful to  
11 you to be able to document those things.

12 MR. CAPPOLLA: Absolutely.

13 MR. SILVERSTEIN: And if anything happens  
14 either to your patrons or to just passersby in  
15 the neighborhood, it is so helpful to have those  
16 cameras outside.

17 MR. CAPPOLLA: I can't agree more. On  
18 all these cases, that camera actually did work.  
19 So the police actually saw the whole thing, and  
20 it was easy for them to get the barring notice  
21 set.

22 MR. SILVERSTEIN: Thank you, Mr.

1 Cappolla. No further questions.

2 MR. CAPPOLLA: My pleasure.

3 CHAIRMAN ANDERSON: Thank you, Mr.  
4 Silverstein.

5 Yes, Ms. Miller?

6 MS. MILLER: I just have a few questions,  
7 I guess. Unfortunately, I couldn't find the cite  
8 in the statute right now, but we have in our  
9 statutes basic requirements for security plans  
10 now.

11 MR. CAPPOLLA: Yes.

12 MS. MILLER: But that wasn't always in  
13 the statute.

14 MR. CAPPOLLA: Okay.

15 MS. MILLER: So I don't know whether you  
16 did your security plan before then or after. So  
17 when you're talking about, you know, retyping  
18 your security plan, I want to ask you if you  
19 would take a look at the requirements.

20 MR. CAPPOLLA: Yes, I will.

21 MS. MILLER: Okay. And comply with  
22 those.

1 MR. CAPPOLLA: Yes, of course.

2 MS. MILLER: They're pretty basic.

3 MS. MILLER: Okay. That's great.

4 And then, I wanted to confirm, the number  
5 of security that you have, did you say it was 10?

6 MR. CAPPOLLA: I normally don't have more  
7 than eight. On a night that I know we're  
8 expecting to be a private party, that might be up  
9 to 200 people. We never test the waters.

10 MS. MILLER: Okay.

11 MR. CAPPOLLA: Or I never tested the  
12 waters at capacity. I know 252 is our number.  
13 It's just a little bit uncomfortable. It's a  
14 great number revenue-wise, but it's just not  
15 comfortable for the patrons. And you never win  
16 when it's so tight like that.

17 But the cameras and everything will be  
18 readdressed.

19 MS. MILLER: So is your security in-house  
20 or contracted?

21 MR. CAPPOLLA: No, they're all 1099's.  
22 They're all independent contractors.

1 Requirements that I have are, you know, of  
2 course, do a thorough interview. They're usually  
3 referrals through other people who have worked  
4 there. That's kind of like the -- you know, if  
5 you can vouch for somebody, I take vouching very  
6 serious.

7           And they immediately before they start  
8 must be certified with verbal judo, so they  
9 understand that talking is the best way.

10           MS. MILLER: So, you get different  
11 security people at different times; is that  
12 right? You don't just have one group of eight?

13           MR. CAPPOLLA: Well, only one when  
14 someone leaves or needs time off.

15           MS. MILLER: Oh.

16           MR. CAPPOLLA: And in a pickle, I would  
17 only take a referral. I wouldn't just hire  
18 someone I don't know. And I don't put out ads on  
19 Craigslist. It's strictly friend-of-a-friend or  
20 a brother or even a sister. I've had multiple  
21 lady security, who same rules apply there.  
22 Wonderful people, and they're only there to --

1 MS. MILLER: Okay. But they're the same  
2 people working for you.

3 MR. CAPPOLLA: That's correct.

4 MS. MILLER: It's not like you contract  
5 with a security company and get different people.

6 MR. CAPPOLLA: That's correct. They work  
7 for the venue.

8 MS. MILLER: Okay. And you require that  
9 training in verbal judo. Do they get any other  
10 training?

11 MR. CAPPOLLA: No. That's the only one I  
12 require.

13 MS. MILLER: Okay. That's disappointing  
14 to hear about the acrylic cups causing that much  
15 injury.

16 MR. CAPPOLLA: You know, I can't believe  
17 it. I'm just blown that it actually did what it  
18 did. I watched that video over and over. It was  
19 such a close -- I mean, it's not like she's an  
20 MLB pitcher. She didn't do a full swing. It was  
21 just a quick throw. So it just happened to catch  
22 her at one little odd area. Thank goodness it

1 wasn't a bottle.

2 MS. MILLER: Right. So is there anything  
3 you think you could have done better or  
4 differently?

5 MR. CAPPOLLA: I do not. I've reviewed  
6 the video 100 times over. I don't think there  
7 was anything -- I mean, there was just a girl  
8 with a chip on her shoulder. And she spent the  
9 night in jail, which is what she needed to do.

10 MS. MILLER: And finally, well, how  
11 quickly did MPD arrive?

12 MR. CAPPOLLA: They were there -- you  
13 know, their presence is on. We don't have a  
14 police call detail.

15 MS. MILLER: Um-hm.

16 MR. CAPPOLLA: We don't need it. But the  
17 lapse in time, I would say, honestly five  
18 minutes, you know, because basically by the time  
19 they got there, the person who assaulted her -- I  
20 don't recall her name and don't care much for her  
21 -- she was still talking and saying, "This is why  
22 it happened." By the time the police came, the

1 whole thing was wrapped up in a very short time.

2 She was guilty. They saw the video. I  
3 wanted the jerk out.

4 MS. MILLER: So, I just wanted to follow  
5 up also on your policy of, you know, you don't  
6 touch anybody unless they've touched you first or  
7 something?

8 MR. CAPPOLLA: Yes.

9 MS. MILLER: Do you ever like have to  
10 like take the person off and, you know, separate  
11 people in a fight or anything like that?

12 MR. CAPPOLLA: No.

13 MS. MILLER: You've never had to do that?

14 MR. CAPPOLLA: No.

15 MS. MILLER: Or escort somebody out?

16 MR. CAPPOLLA: Well, escorting is just,  
17 you know, a hand on your lower back for ladies.  
18 For gentlemen, we just kind of do more of a  
19 command presence. We just have -- you're flanked  
20 by two people, whether it's a man and a man, or a  
21 man and a woman, whoever is working. And you're  
22 just escorted out. But we just want you out.

1 There's no reason to touch.

2 MS. MILLER: So like in this instance, if  
3 the aggressor hadn't just hung around, would you  
4 have taken some action to get information from  
5 her, her name or --

6 MR. CAPPOLLA: I'm sorry?

7 MS. MILLER: If the aggressor hadn't just  
8 voluntarily hung around until the police came,  
9 would you normally take information from them in  
10 some way to get their name and their contact?

11 MR. CAPPOLLA: Well, in the situation,  
12 for whatever uncanny reason, if she didn't just  
13 linger around, I don't think that we would have  
14 been lucky to know. But the fact that this  
15 woman, on my way up, when I ran up to hear what  
16 happened, she actually had stopped me and said,  
17 the GM, "Well, the blood on the floor is because  
18 of me."

19 [Laughter.]

20 MR. CAPPOLLA: It was, you know -- if  
21 five minutes had lapsed, she could have been in  
22 any direction, and we would have only had the

1 footage.

2 MS. MILLER: Right. Okay. And she  
3 didn't say, "And by the way, my name is, and my  
4 telephone" --

5 MR. CAPPOLLA: No, no. We didn't want to  
6 go that far. I wanted DC to lock her up. You  
7 know, they threw her in the wagon, and she was  
8 done. I haven't seen her since.

9 MS. MILLER: Well, that's great the  
10 police respond so quickly.

11 MR. CAPPOLLA: They were quick.

12 MS. MILLER: Okay. That's all my  
13 questions. Thank you.

14 CHAIRMAN ANDERSON: Any other questions?

15 I mean, I think we can decide that no  
16 further action is necessary, outside of the  
17 Licensee -- I would ask that the Licensee provide  
18 us with a security plan that meets -- and I  
19 understand you're volunteering to do it, to  
20 provide us with a security plan, I would say  
21 within the next 30 days.

22 MR. CAPPOLLA: Done, 100 percent.

1           CHAIRMAN ANDERSON:  And if I hear no  
2 further -- I mean, I just make a motion that we  
3 take no further action in this matter.  Is there  
4 a second?

5           MR. CAPPOLLA:  By the way, can I request  
6 what you're suggesting, that the statutes have  
7 changed a little bit?

8           CHAIRMAN ANDERSON:  Oh, the section?  The  
9 general counsel will provide the information.

10          MR. CAPPOLLA:  Okay.

11          CHAIRMAN ANDERSON:  So I make a motion  
12 that no further action is taken in this matter.  
13 Is there a second?

14          MR. SHORT:  Second.

15          CHAIRMAN ANDERSON:  Mr. Short has second  
16 it.  All those in favor, say Aye.

17          [Chorus of Ayes.]

18          CHAIRMAN ANDERSON:  Aye.  The matter  
19 passed 5-0-0.  So you can report to the ownership  
20 that the board has decided no further action is  
21 necessary, with the exception of that -- and it's  
22 in the order -- but that he has volunteered to

1 provide us with a security plan within the next  
2 30 days.

3 MR. CAPPOLLA: Thank you all.

4 [Chorus of "Thank you."]

5 CHAIRMAN ANDERSON: And all right.

6 And Mr. Leftwich, and I'm bad with names.  
7 Thank you very much for your report.

8 MR. LEFTWICH: Sure. Thank you.

9 CHAIRMAN ANDERSON: Thank you.

10 And we don't have anything else to put on  
11 the record. So it is 4:08.

12 MS. MILLER: Did you read these things?

13 CHAIRMAN ANDERSON: I'm sorry. And I  
14 already got the date. Thank you very much.

15 [Laughter.]

16 CHAIRMAN ANDERSON: I'm too excited.

17 MS. MILLER: I've done that many times.

18 CHAIRMAN ANDERSON: As Chairperson of the  
19 Alcoholic Beverage Control Board of the District  
20 of Columbia and in accordance with D.C. Official  
21 Code, Section 2.574(b), closed meetings, and  
22 Section 2.574, notice of hearings meetings of the

1 Open Meetings Act, I move that the ABC Board hold  
2 a closed meeting on January 27th, 2016, for the  
3 purpose of discussing and hearing reports  
4 concerning ongoing or planned investigations or  
5 alleged criminal or civil misconduct, or  
6 violations of law or regulations, and seeking  
7 legal advice from our counsel on the board's  
8 investigative and legal agenda for January 27th,  
9 2016, as will be published in the D.C. Registry  
10 on January 22nd, 2016.

11 Is there a second?

12 MR. SILVERSTEIN: Second.

13 CHAIRMAN ANDERSON: Mr. Silverstein has  
14 second the motion. I will now take a roll-call  
15 vote on the motion before us now that it has been  
16 second.

17 Ms. Miller?

18 MS. MILLER: I agree.

19 CHAIRMAN ANDERSON: Mr. Alberti?

20 MR. ALBERTI: I agree. I think actually  
21 the posting in the Register --

22 CHAIRMAN ANDERSON: That's what I had

1 mentioned -- it was given to me.

2 MR. ALBERTI: The 22nd?

3 CHAIRMAN ANDERSON: Um-hm. But if  
4 there's a correction, I was given the information  
5 that it will be published. Next week's calendar  
6 will be published on January 22nd.

7 MS. MILLER: There's a deadline for us to  
8 get it to them.

9 FEMALE VOICE: Yeah. You're right.

10 MS. MILLER: It's difficult to get items  
11 for the agenda.

12 CHAIRMAN ANDERSON: All right. So, Mr.  
13 Short?

14 MR. SHORT: I agree.

15 CHAIRMAN ANDERSON: Mr. Silverstein?

16 MR. SILVERSTEIN: I agree.

17 CHAIRMAN ANDERSON: Mr. Anderson. Five-  
18 nothing. As it appears that the motion has  
19 passed, I hereby give notice that the ABC Board  
20 will hold this aforementioned closed meeting  
21 pursuant to the Open Meetings Act. Notice will  
22 also be published, posted on the ABC Board

1 hearing room bulletin board, placed on the  
2 electronic calendar on ABRA's website, and  
3 published in the D.C. Register in as timely a  
4 manner as practicable.

5 It is now 4:10, and we are adjourned. We  
6 have adjourned.

7 MS. MILLER: My question was, did you  
8 read this cancellation?

9 CHAIRMAN ANDERSON: Yes, I did.

10 MS. MILLER: Oh, good. Okay.

11 CHAIRMAN ANDERSON: It's 4:10, and we  
12 have adjourned.

13 [Whereupon, at 4:10 p.m., the  
14 above-entitled matter concluded.]

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