

NOBLE LOUNGE

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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: :

Yetenbi, Inc.

t/a Noble Lounge Case Number 15-CMP-00869

1915 9th Street NW

License Number 85258

Retailer CT

ANC 1B

SHOW CAUSE HEARING

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Wednesday, July 27, 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.

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2 CHAIRPERSON:

3 DONOVAN W. ANDERSON, Presiding

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5 OTHER PERSONS PRESENT:

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7 RUTHANNE MILLER, BOARD MEMBER

8 JAMES SHORT, BOARD MEMBER

9 MIKE SILVERSTEIN, BOARD MEMBER

10 NICK ALBERTI, BOARD MEMBER

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

2 CHAIRPERSON ANDERSON: Today Case Number
3 15-CMP-00869, the Noble Lounge, License Number 85258.
4 Will the parties please approach and identify themselves
5 for the record please.

6 MS. GEPHARDT: Good morning. Chrissy
7 Gephardt here on behalf of the Office of the Attorney
8 General.

9 CHAIRPERSON ANDERSON: Good morning,
10 Ms. Gephardt.

11 MS. GEPHARDT: Good morning.

12 MS. TESSERA: Hi. This is Melat Tessera,
13 owner of Noble Lounge.

14 CHAIRPERSON ANDERSON: Good morning again.
15 All right. Hold on. All right. Are there any
16 preliminary matters in this case?

17 MS. GEPHARDT: No. There are no preliminary
18 matters. The parties are ready to proceed to a show
19 cause hearing.

20 CHAIRPERSON ANDERSON: All right. Does the
21 Government wish to make an opening statement?

22 MS. GEPHARDT: Yeah, briefly. Members of

1 The Board, today you will hear that the Government will
2 be proving several charges. The one -- the first one is
3 that Noble Lounge interfered with an investigation by
4 the Metropolitan Police Department as well as the
5 Alcohol Beverage Regulation Administration. In
6 addition, there was a violation of operating after Board
7 approved hours. There was no Board approved manager
8 present at the time, and the ABC license was not placed
9 in a conspicuous location in order for anybody coming in
10 to see.

11 These violations arise out of events on
12 Thursday, November 19th, 2015 where loud music was
13 emanating from Noble Lounge which drew the attention of
14 MPD officers. The MPD officers attempted to get the
15 attention of people inside of the establishment to no
16 avail. And the -- the ABC -- excuse me -- the ABC
17 investigator showed up. There were further attempts
18 made to get in touch with people on the inside. There
19 was actual interference where the investigator tried to
20 open the door and the person on the inside slammed it
21 shut. There was noise coming from the inside where
22 people were telling each other to be quiet. And so

1 therefore it took nearly 45 minutes for police and
2 investigators to get in touch with anybody inside the
3 establishment.

4 You will also hear that when they did
5 finally come downstairs to open up the door there was no
6 Board approved manager on site. This all happened
7 around 3:30 in the morning. The Board approved hours
8 for this establishment are until 2 in the morning.

9 And then finally you will hear that the ABC
10 license was placed face down on an electric fireplace,
11 and -- and therefore it was not able to be seen.

12 And the Government will prove all these
13 charges and at the end ask that you find that the
14 licensee violated all these and -- and impose a
15 appropriate fine and suspension. Thank you.

16 CHAIRPERSON ANDERSON: Thank you. Do you
17 wish to make an opening statement at this juncture or do
18 you want to wait until you present your case?

19 MS. TESSERA: Yes, please. So when this
20 incident happened I did receive a call from the ABC
21 investigator and I was told that there's people inside
22 the premises and he's trying to get in, no one is

1 opening the door for him. I say to him, you know, I
2 live in Maryland and at the time I had a five year-old
3 daughter with me. I told him I can't leave my house,
4 but I'll get the manager to come and open the door for
5 you. Okay.

6 So by the time I was contacted it was around
7 3:45 -- 3:45 -- between 3:45 and 3:50. Okay. And it
8 was about -- we were -- he was on the phone all the
9 time, and I keep asking I'm sending someone for you to
10 come and open the door.

11 My rule for that premises is that once the
12 ABRA hours is over the employees can stay and clean up
13 and complete all the transactions that was made
14 throughout the night, throughout the day, and they
15 prepared the place for the next day and that they're not
16 supposed to open the door for anyone. Okay. And my
17 understanding -- and I may --

18 MS. GEPHARDT: This is not -- I just want to
19 state an objection. She is testifying, and so we could
20 get to that whether it comes her turn instead of telling
21 you what the evidence will show.

22 CHAIRPERSON ANDERSON: Well, I -- I mean

1 remember, Ms. Gephardt, she's not an attorney and I
2 asked her to make -- so I -- I didn't take it that way.

3 But --

4 MS. GEPHARDT: Okay.

5 CHAIRPERSON ANDERSON: -- you're -- you're
6 telling me -- not necessarily, you're not testifying at
7 this moment. But you're telling me what is it that you
8 intend to show. So maybe you could just say who are the
9 witnesses you're going to have and what it is that you
10 intend to show when you present your case.

11 MS. TESSERA: All right. So I do have a
12 witness here.

13 CHAIRPERSON ANDERSON: All right.

14 MS. TESSERA: The ABC manager who was on
15 duty on that day, and as well as the manager, and then
16 the two waitresses who were there at the time of the
17 incident. So -- so by the time I received that call --
18 should I continue or --

19 CHAIRPERSON ANDERSON: Well, the only
20 statement -- the only statement since you're not an
21 attorney is basically you're giving me a roadmap --

22 MS. TESSERA: Yes.

1 CHAIRPERSON ANDERSON: -- to say these are
2 the witnesses that I'm going to call and this is how I'm
3 going to defend -- we'll -- we'll put testimony and
4 witnesses on to say that the Government can't make
5 its -- cannot meet its burden and that at the end of the
6 case you would have -- at the end of the presentation
7 what you ask The Board to do. But so -- so what I'll do
8 is that -- so if you want to say just an overview, not
9 necessarily responding charge by charge. But just an
10 overview you're giving me of what your defense is.

11 MS. TESSERA: Okay. My defense is that I --
12 I had ABC manager at that time during the alcohol
13 service time. Okay. And I do have witnesses that they
14 were there during that incident on the premises. And
15 the manager who was on duty who is out of country right
16 now, but -- as well as the manager what was there,
17 they're -- I have two -- two of them. The actual man
18 who opened the door for him is not here.

19 CHAIRPERSON ANDERSON: Okay. All right.
20 All right. Does -- does the Government wish to call its
21 first witness?

22 MS. GEPHARDT: Yes. Yes. The Government

1 would like to call Investigator Dorshae Demby to the
2 witness stand.

3 CHAIRPERSON ANDERSON: Can you raise your
4 right hand please, Mr. Demby. Do you -- do you swear or
5 affirm to tell the truth and nothing but the truth?

6 INVESTIGATOR DEMBY: Yes, sir.

7 CHAIRPERSON ANDERSON: Thank you. Your
8 witness.

9 MS. GEPHARDT: Good morning, Mr. Demby.

10 INVESTIGATOR DEMBY: Good morning.

11 MS. GEPHARDT: Can you please state your
12 name and spell it for the record please.

13 INVESTIGATOR DEMBY: First name Dorshae,
14 D-O-R-S-H-A-E, last name Demby D-E-M as in Mary, B as in
15 boy, Y.

16 MS. GEPHARDT: And where do you work.

17 INVESTIGATOR DEMBY: With the Alcoholic
18 Beverage Regulation Administration.

19 MS. GEPHARDT: And what is your title?

20 INVESTIGATOR DEMBY: Investigator.

21 MS. GEPHARDT: And how long have you worked
22 for ABRA.

1 INVESTIGATOR DEMBY: With ABRA I've been
2 here for a little over two years now.

3 MS. GEPHARDT: And have you been an
4 investigator for those two years.

5 INVESTIGATOR DEMBY: Yes, ma'am.

6 MS. GEPHARDT: Okay. And as an investigator
7 what would one of your primary responsibilities.

8 INVESTIGATOR DEMBY: To perform regulatory
9 inspections and investigations in ABC licensed
10 establishments throughout the District of Columbia.

11 MS. GEPHARDT: Okay. And are you familiar
12 with an ABC establishment by the name of Noble Lounge.

13 INVESTIGATOR DEMBY: Yes, ma'am.

14 MS. GEPHARDT: And did you have the occasion
15 to visit Noble Lounge on November the 19th, 2015 at
16 approximately 3:30 a.m..

17 INVESTIGATOR DEMBY: I probably -- yes,
18 ma'am.

19 MS. GEPHARDT: And what was the reason that
20 you responded to the establishment.

21 INVESTIGATOR DEMBY: ABRA had received a
22 hotline phone call from MPD stating that they were

1 attempting to make entry into Noble Lounge and they were
2 being ignored so they requested ABRA's assistance.

3 MS. GEPHARDT: Okay. And so you responded
4 right after that call came in; is that correct.

5 INVESTIGATOR DEMBY: Yes, ma'am.

6 MS. GEPHARDT: Okay. And when you first
7 arrived on the scene what did you -- what did you see.

8 INVESTIGATOR DEMBY: There were -- there was
9 a MPD unit parked outside of the establishment with its
10 lights on -- no siren, just the lights on. There was an
11 officer positioned at the front door. Myself and
12 Investigator Edgerton(ph) who was assigned to go to the
13 establishment with me, we exited our vehicles,
14 approached the MPD officer, identified ourselves at
15 which point she began to tell us what had transpired to
16 cause her to call ABRA. I also heard music -- or excuse
17 me -- I heard patrons making noise in terms of they were
18 shushing each other. So if one person does it, it's
19 quiet. But if 15 people are doing it, it's making an
20 audible noise that can be heard. At which point the
21 officer up front advised us that her partner was around
22 back waiting to see if anyone attempted to exit the

1 establishment from the rear.

2 MS. GEPHARDT: Okay. When you -- when you
3 spoke to the officer up front -- well, actually let me
4 ask you one question before that. When you arrived was
5 the music playing?

6 INVESTIGATOR DEMBY: When we arrived to the
7 establishment?

8 MS. GEPHARDT: Yes.

9 INVESTIGATOR DEMBY: No. There was no
10 music. You heard people -- you just heard people
11 telling each other to be quiet.

12 MS. GEPHARDT: Okay. And so when you
13 approached the first officer up at the front at the
14 front of the establishment, what did she say to you
15 about how they first came upon Noble Lounge.

16 INVESTIGATOR DEMBY: They were patrolling
17 the 9th Street corridor. Though came down the street.
18 They heard music emanating from the establishment. They
19 knew that it was after hours because all of -- all of
20 the ABC establishments in the district were supposed to
21 have been closed by that point, at least the ones on 9th
22 Street where they were patrolling. So they then exited

1 their vehicles, attempted to make entry into the
2 establishment. Their front door has an iron gate over
3 it that was locked. They attempted to flash their
4 lights through the upstairs window because Noble Lounge
5 at that point didn't have any curtains up or anything.
6 So they attempted to put their flashlights up there. If
7 you shine your light through that front door, you can
8 see the light going up the staircase to which then they
9 heard people telling each other to get down and be
10 quiet. They made repeated attempts at the front door.
11 The officer -- I have to review my report to see her
12 name -- she told her partner go -- go around to the rear
13 of the establishment. The officer then attempted to --
14 well, she went up the second flight of stairs or the
15 flight of stairs to the second floor, knocked on the
16 back door which the area to which everyone in the
17 establishment was congregated at the time, attempted to
18 make entry there and was ignored, no response.

19 MS. GEPHARDT: And just let me pause you for
20 there a second. You said attempted to make entry.
21 What -- what you mean by that.

22 INVESTIGATOR DEMBY: She was -- the officer

1 in the back was knocking on the door. So that's --
2 that's what happened when we arrived. When we got there
3 I then attempted to knock on the door. I knocked on the
4 front door. Investigator Edgerton had went around to
5 the rear of the establishment with the other officer so
6 that there was an ABRA investigator in the front and one
7 in the back along the MPD officers so we can make an
8 account as to what happened at the establishment
9 firsthand.

10 MS. GEPHARDT: Then when you -- excuse me.
11 When you were knocking on the door can you describe for
12 The Board what that knocking was like.

13 INVESTIGATOR DEMBY: It was -- it was
14 extremely loud. I -- I knocked hard enough not to break
15 the glass but so that people across the street on the
16 9th Street could have heard me. If you would like me to
17 give you an example, I can do that as well. But I -- I
18 rattled on the -- I knocked on the door very hard. I
19 then projected my voice up to the second floor. The
20 windows aren't that thick at Noble Lounge. So you can
21 hear somebody if they're saying something. The same way
22 I heard them they would be able to hear me. So I

1 identified myself as a ABRA investigator, told them that
2 we needed someone to come open the door, we weren't
3 leaving until someone came and opened the door. So they
4 had the option of spending the rest of their days in
5 Noble Lounge or letting us in.

6 MS. GEPHARDT: Okay. And did you have any
7 indication that the occupants inside the establishment
8 heard you or acknowledged that you were trying to
9 communicate with them.

10 INVESTIGATOR DEMBY: No one responded to me.
11 They were all still just shushing each other, be quiet,
12 get down. At one point while we were outside waiting
13 and they were -- they -- they shushed each other the
14 entire time we were there. I don't -- I don't know if
15 they thought we couldn't hear them, but we did. One of
16 the -- you could hear a female inside of the
17 establishment and now she's upset. She sounds -- she --
18 she sounds like she's upset. She said she wants to go
19 home, she doesn't care. I took her to be a patron.
20 Whether she was or not, I took her to be a patron that
21 is now in an establishment where no music is playing,
22 the lights have been turned off, and she can't move. So

1 she got upset. She wanted to go home, she wanted to go
2 home. And now they're shushing her even louder, you --
3 you have to stop, be quiet, be quiet. So that let me
4 know that she knew somebody was outside.

5 MS. GEPHARDT: And when you say shushing I
6 just make sure that we're clear on that. Can you -- can
7 you --

8 INVESTIGATOR DEMBY: SHH. SHH.

9 CHAIRPERSON ANDERSON: What do you mean by
10 that?

11 INVESTIGATOR DEMBY: SHH. SHH, that --
12 this -- this is the sound they made in the
13 establishment. They're -- they're trying to get
14 everyone to be quiet in hopes that we'll forget that
15 they're there and I guess go home for the night.

16 MS. GEPHARDT: Okay. So at some point you
17 said you were there with another investigator, correct.

18 INVESTIGATOR DEMBY: Yes, ma'am.

19 MS. GEPHARDT: And you were at the back
20 door.

21 INVESTIGATOR DEMBY: I was at the front
22 door.

1 MS. GEPHARDT: Oh, you were at the front
2 door.

3 INVESTIGATOR DEMBY: Yes, ma'am.

4 MS. GEPHARDT: Okay. Was the other
5 investigator at the back door.

6 INVESTIGATOR DEMBY: Yes, ma'am.

7 MS. GEPHARDT: Did the other investigator
8 attempt to enter into the establishment.

9 INVESTIGATOR DEMBY: Yes, ma'am. He knocked
10 on the door as well. The back door has an iron gate in
11 front of it, and then there's the door where you
12 actually enter the establishment. The iron gate was
13 locked itself because he attempted to pull that back.
14 That was locked. The door -- the actual door was open.
15 He turned the knob, pushed the door open, and someone
16 threw their body against the door and slammed the door
17 and locked it. And he reported that when he came back
18 around to the front of the establishment. As soon as
19 that happened he came back around front and said they
20 definitely know we're out here and we almost were in.
21 That's what he stated, we were almost in but they
22 slammed the door on us.

1 MS. GEPHARDT: Okay. Do you know if he
2 attempted again to try to get in or --

3 INVESTIGATOR DEMBY: He did. That's how he
4 knew the door had been locked outside of hearing it
5 being locked.

6 MS. GEPHARDT: Okay. Okay. So about from
7 the time you got to the scene to the time this was
8 happening with him -- with the folks inside slamming the
9 door, locking it how much time had passed during that
10 timeframe.

11 INVESTIGATOR DEMBY: From the time -- I just
12 want to make sure I understand your question. From the
13 time I got to the scene to the point of the door being
14 slammed on him?

15 MS. GEPHARDT: Yes.

16 INVESTIGATOR DEMBY: Approximately 20, 30
17 minutes at that point.

18 MS. GEPHARDT: Okay. And at this point you
19 and Officer -- is it Edgerton.

20 INVESTIGATOR DEMBY: Investigator Edgerton.

21 MS. GEPHARDT: I meant investigator, not
22 officer. The two of you were at the front and the back

1 doors. What was MPD doing at this point in time?

2 INVESTIGATOR DEMBY: They're standing out
3 there next to it. When we got there we were the ones
4 knocking on the door. MPD was -- at that point they
5 took more of an assisting role. They kept -- continued
6 to flash -- to shine their flashlights through the
7 window. Investigator Edgerton was in the back. He was
8 in the back with the officer just to -- safety concerns
9 one; two, also just to ensure that we had a accurate
10 account from ABRA's perspective as to what was taking
11 place at both -- at points of entry to the
12 establishment.

13 MS. GEPHARDT: Okay. And at some point --
14 well, what happened after that.

15 INVESTIGATOR DEMBY: I telephoned back to
16 the office here at ABRA to Supervisory Investigator
17 Kevin Hargrave, asked him to get the owner's information
18 out of the database that we use that contains the
19 owner's information or seller. He gave me the telephone
20 number for a female. I can't remember her name. It's
21 in the report. I telephoned her, and she identified
22 herself as the owner. I let her -- advised her of the

1 situation that was occurring at the establishment. I
2 told her that I needed her to come to the establishment
3 and open the door being as though the people were inside
4 were not. She advised that she was home with her five
5 year-old daughter and asked could we just come back
6 tomorrow. I told her that it was already tomorrow and
7 we weren't coming back and we needed somebody to open
8 the door right now because we're not leaving. She said
9 that she was going to attempt to call her manager, a
10 gentleman by the name of Dewitt. I don't know what his
11 last name is. That's also on the report. So I -- I
12 asked her for Dewitt's number myself so that I can also
13 attempt to reach him. I -- because I wasn't -- I didn't
14 have confidence that she was going to actually reach out
15 to him being as though she just asked could we come back
16 tomorrow. So I asked for his number. She said that she
17 was going to call. I waited a few minutes. I attempted
18 to call Dewitt, and it went straight to voicemail every
19 time that I attempted to reach him. She calls -- I call
20 her back and ask her what's the progress being made.
21 She said he wasn't answering for her immediately. So
22 then she disconnects the call. She calls me back

1 approximately five to seven minutes later, says that she
2 spoke to Dewitt and he would come down to open the door
3 shortly.

4 MS. GEPHARDT: Okay. And how many times did
5 you try to call Dewitt.

6 INVESTIGATOR DEMBY: Between three and five.

7 MS. GEPHARDT: Okay. And so how many times
8 approximately did you speak to Ms. Tessera, the owner.

9 INVESTIGATOR DEMBY: Approximately three
10 times.

11 MS. GEPHARDT: Okay.

12 INVESTIGATOR DEMBY: Three -- on three
13 separate occasions I mean during the same night.

14 MS. GEPHARDT: And was it -- was it made
15 clear to you by Ms. Tessera that Mr. Dewitt was inside
16 the establishment.

17 INVESTIGATOR DEMBY: Yes, ma'am.

18 MS. GEPHARDT: Okay.

19 INVESTIGATOR DEMBY: She said he was
20 supposed to be there. When he wasn't answering the
21 phone the second time I spoke to her she said well, he's
22 supposed to be there, he's not answering the phone.

1 MS. GEPHARDT: Okay. And then once she
2 called you back and said she got in touch with him --

3 INVESTIGATOR DEMBY: Uh-huh.

4 MS. GEPHARDT: -- what happened next.

5 INVESTIGATOR DEMBY: About five -- five
6 minutes later Dewitt comes -- a gentleman who identified
7 himself as Dewitt -- and -- and he was later identified
8 by his driver's license as that -- came and opened the
9 front door to the establishment.

10 MS. GEPHARDT: Okay. And about what time
11 did that occur? Do you know approximately.

12 INVESTIGATOR DEMBY: I would have to review
13 my report to be honest with you --

14 MS. GEPHARDT: Okay.

15 INVESTIGATOR DEMBY: -- to give you an
16 approximation on that.

17 MS. GEPHARDT: Okay. Let me see. Let me
18 actually then give you a copy of the report to refresh
19 your memory. This is -- this is the report. You might
20 already have it. I'd like to show the witness what is
21 marked as Board Exhibit Number 1. It's -- excuse me.
22 It's basically the case report for this -- for this

1 case.

2 CHAIRPERSON ANDERSON: Okay.

3 MS. GEPHARDT: Investigator Demby, can you
4 briefly describe what -- what this is, the -- the
5 document.

6 INVESTIGATOR DEMBY: It's the case report
7 generated documenting the incidents that occurred on
8 November 19th at Noble Lounge.

9 MS. GEPHARDT: Right. Okay. And in there
10 can you find what time it was approximately that you --
11 that Mr. Dewitt opened the door.

12 INVESTIGATOR DEMBY: Yes. There's a typo in
13 the report. On the report it states at approximately
14 4:10. But if you go chronologically it was 5:10.

15 MS. GEPHARDT: 5:10?

16 INVESTIGATOR DEMBY: Yes, ma'am.

17 MS. GEPHARDT: Okay. Okay. And so when he
18 opened the door around 5:10 a.m. what -- what happened
19 after that.

20 INVESTIGATOR DEMBY: I proceeded to go
21 straight upstairs. That's where we knew everyone was.
22 I went straight upstairs, MPD officer followed me,

1 followed by her partner who had then come around front
2 when we -- well, she radioed to her that they have
3 opened the door. So they came around front. So we all
4 went inside the establishment along with Investigator
5 Edgerton, proceeded straight up the steps. I observed
6 approximately -- here it is -- 35 to 40 patrons inside
7 of the establishment. They were -- people were -- they
8 have lounge chairs so there's -- the seats are already
9 positioned low. People were sitting on the seats. At
10 that point that he came and opened the door some people
11 had stood up. They're starting to gather their things.
12 People are arguing amongst each other, they're
13 frustrated. They can now leave. And they began to
14 exit. I also observed a black male with dreads rolling
15 a hand -- I -- it was a hand-rolled cigarette, and he
16 was rolling it. And at the conclusion of him rolling it
17 -- I guess he was almost done by the time we got
18 upstairs -- he then took a lighter to it. And Dewitt
19 who had followed us upstairs told the guy to put it out.
20 The guy became agitated. He walked out of the
21 establishment. There was -- it's a hookah lounge.
22 There was smoke in the air, but you could also have the

1 smoke of -- we also had the smoke of cigarettes and
2 marijuana or what appeared to be cigarettes and
3 marijuana in the air. There was no alcohol out. Go
4 figure. I advised Dewitt of the violations that -- that
5 had occurred. I asked him why he hadn't opened the door
6 to which he was unresponsive. He didn't give a reason,
7 he just gave me a look. And the look was one -- it was
8 just a blank look. I don't -- I took that to be I don't
9 know or I don't have an answer for you.

10 MS. GEPHARDT: And how did Dewitt identify
11 himself to you when -- when he opened the door?

12 INVESTIGATOR DEMBY: As the manager. But he
13 didn't have an ABC manager's license.

14 MS. GEPHARDT: Did you ask him for the ABC
15 manager's license?

16 INVESTIGATOR DEMBY: Absolutely. That's --
17 that's standard. When I identified -- although I know
18 Dewitt from previous interactions whether I see you once
19 a year or once every five minutes it's ABRA's policy and
20 procedure to identify yourself as a ABRA investigator
21 and request to speak with the owner or ABC manager. The
22 owner of the establishment told me that she was calling

1 the ABC manager and identified him as Dewitt. When
2 Dewitt came to the door I identified myself. I asked
3 him for the owner or ABC manager. I knew the owner
4 wasn't there, but it's just a part of the speech. He
5 then stated that he didn't have an ABC manager's
6 license. I asked him for his driver's license. I took
7 a picture of his driver's license to document with the
8 report.

9 MS. GEPHARDT: Okay. Okay. So you
10 mentioned that when you went upstairs you smelled
11 cigarette smoke and perhaps marijuana and other hookah
12 type smoke that you were talking about and you said
13 there were no alcoholic beverages. Were there any other
14 kinds of beverages out?

15 INVESTIGATOR DEMBY: I can't recall.

16 MS. GEPHARDT: Okay.

17 INVESTIGATOR DEMBY: I -- I can't recall.

18 MS. GEPHARDT: Okay. Were people -- when
19 you came upstairs were they standing, were they sitting?

20 INVESTIGATOR DEMBY: Both.

21 MS. GEPHARDT: They were both. Okay.

22 INVESTIGATOR DEMBY: Both.

1 CHAIRPERSON ANDERSON: Did you talk to any
2 of the patrons? Oh, well, because let me just ask you a
3 quick question. Did you determine to your best ability
4 that these were patrons --

5 INVESTIGATOR DEMBY: Absolutely.

6 MS. GEPHARDT: -- or were they --

7 INVESTIGATOR DEMBY: Absolutely.

8 MS. GEPHARDT: -- people who worked there
9 or --

10 INVESTIGATOR DEMBY: If given the sheer size
11 I -- I use a little bit of common sense for the
12 situation. Given the sheer size of the establishment if
13 these were all employees, they had no room for patrons.
14 On a normal operating day they would have no room for
15 patrons unless they send all the workers upstairs and
16 all the patrons downstairs. The ratio was -- it was
17 completely off. And these people were dressed as if
18 they were going out. They were agitated. You could see
19 people had been consuming alcohol. I didn't assume that
20 the employees would have been consuming alcohol. The --
21 the female who we heard yell that she wanted to leave,
22 that wasn't behavior of an employee. That was behavior

1 of a patron that's being held here until, you know, the
2 people inside deem it's okay for her to exit.

3 MS. GEPHARDT: Uh-huh.

4 INVESTIGATOR DEMBY: All conclusions led to
5 these were patrons and they were having a good time.

6 MS. GEPHARDT: And so you did not see
7 anybody cleaning up or --

8 INVESTIGATOR DEMBY: There was -- there
9 was --

10 MS. GEPHARDT: -- getting things together.

11 INVESTIGATOR DEMBY: There were two females
12 behind the bar. I believe they had black pants on and
13 black shirts.

14 MS. GEPHARDT: Uh-huh.

15 INVESTIGATOR DEMBY: They looked to be
16 employees. They were cleaning the bar, but they weren't
17 like cleaning up alcohol. They were just, you know,
18 wiping the bar down, doing I guess their end of the
19 night duties.

20 MS. GEPHARDT: Okay. And so beyond asking
21 Mr. Dewitt about his ABC manager's license --

22 INVESTIGATOR DEMBY: Uh-huh.

1 MS. GEPHARDT: -- did you have further
2 conversation with him about anything relating to the
3 events that evening.

4 INVESTIGATOR DEMBY: I advised him of the
5 violations. I told him that the patrons had to leave
6 and that we weren't leaving until they were gone. We
7 weren't going to give them an opportunity to go for
8 another round after we all packed up and left. I then
9 had him come downstairs with me to the first floor.
10 Standard ABRA investigation entails a regulatory
11 inspection. So I then conducted a regulatory inspection
12 to which they have -- if you walk into the -- well,
13 they've since redecorated. But at the time if you
14 walked into Noble Lounge, on the first floor along the
15 right-hand side of the wall there was an electric
16 fireplace. That's where he retrieved the ABC license
17 which was face down on the fireplace. It wasn't
18 positioned in a upright manner that it could be observed
19 by anyone entering the establishment. So he came and
20 took it off the fireplace. That's why I added the
21 posting of the license violation to the case. I advised
22 him of that. Then I pretty much ceased communication

1 with him because MPD was also on scene, and I let them
2 do what they needed to do with Mr. DeWitt in terms of
3 whatever information they needed to gather from him for
4 their report or what have you and I waited outside.

5 MS. GEPHARDT: Well, do you know if anyone
6 was arrested that night.

7 INVESTIGATOR DEMBY: To my knowledge they
8 weren't.

9 MS. GEPHARDT: Okay. And the -- do you know
10 what the hours of operation are for Noble Lounge for the
11 date that you were -- the date in question?

12 INVESTIGATOR DEMBY: Yes, ma'am. And also
13 with regards to the hours during the course of the
14 regulatory inspection and with Mr. DeWitt stating -- or
15 when I asked him why he didn't let us in with him giving
16 us a blank look I also asked him about the after hours
17 after I advised him that they were after hours.
18 Mr. DeWitt then responded that he thought that they
19 were -- that their hours were until 5 a.m. And I asked
20 him who told him that or what gave you the authority to
21 be here until 5 a.m.? Well, that's what we set our
22 business hours. So then I further advised him that

1 their hours are what's listed on the alcohol license.
2 Hours of sale, there's no question, that stopped at 2
3 a.m. Hours of operation -- and he -- his argument was
4 we didn't have any alcohol. It doesn't matter. You can
5 have had a water party, you're after hours because your
6 hours of operation for that establishment on that night
7 was 2 a.m.

8 MS. GEPHARDT: So -- so you're saying that
9 even if no alcohol was being consumed the fact that it
10 was after the hours of operation is still a violation.

11 INVESTIGATOR DEMBY: Yes, ma'am.

12 MS. GEPHARDT: Okay. Let's see. At -- at
13 any point after you entered the establishment did you
14 get in touch again with Ms. Tessera.

15 INVESTIGATOR DEMBY: No, ma'am.

16 MS. GEPHARDT: Okay. That was the last
17 communication with [inaudible 1:51:41].

18 INVESTIGATOR DEMBY: Once I made entry I --
19 I had no need to really speak with her after.

20 MS. GEPHARDT: Okay. Was there anything
21 else that you did before you left?

22 INVESTIGATOR DEMBY: While -- while we were

1 there we took pictures when we came up on the second
2 floor which is Exhibit Number 2, Exhibit Number 3, 4 --
3 4 are the exhibits. In Exhibit Number you can see the
4 patrons that have exited the establishment standing
5 outside. They kind of congregated there for a few
6 seconds until MPD told them that they had to move on.
7 Exhibit Number 3, you see patrons inside of the
8 establishment. Well, it was dark, but you can see
9 patrons inside of the establishment as well as Exhibit
10 Number 2. So we took pictures, conducted a regulatory
11 inspection. I spoke with Mr. DeWitt. I had a
12 conversation with the MPD officers and, that was it.

13 MS. GEPHARDT: Okay. Just going back to
14 your exhibits, I -- I guess if I want to ask about
15 there -- there is no date or time on these photographs.
16 How do you know that these were taken at the -- the date
17 and the time that -- that you're saying they were taken.

18 INVESTIGATOR DEMBY: I took them. I took
19 them.

20 MS. GEPHARDT: Okay.

21 INVESTIGATOR DEMBY: That's how I know. If
22 it ever came to it that someone else needed to know I

1 took them on my cell phone number. I can go to the
2 properties on the camera and they tell you the date and
3 time where the picture was taken.

4 MS. GEPHARDT: Okay. Okay. And are these
5 pictures a true and accurate --

6 MR. ALBERTI: Ms. Tessera --

7 MS. TESSERA: What?

8 MR. ALBERTI: The -- the microphone there --
9 okay.

10 MS. TESSERA: Sorry.

11 MS. GEPHARDT: Are -- are these photographs
12 a true and accurate depiction of what you saw that
13 night.

14 INVESTIGATOR DEMBY: Yes, ma'am. It's a
15 glimpse of it. I didn't get every --

16 MS. GEPHARDT: And it has not been altered
17 in any way.

18 INVESTIGATOR DEMBY: No, ma'am.

19 MS. GEPHARDT: Okay. And I'd also like to
20 just point out one other thing which is Exhibit Number
21 1. Can you tell me what -- what this is?

22 INVESTIGATOR DEMBY: Sure. One second. Oh,

1 this is the 251 police report prepared by the officers
2 that were on scene that night.

3 MS. GEPHARDT: Okay. And what is -- what is
4 the 251? Are you familiar with that?

5 INVESTIGATOR DEMBY: Am I familiar with the
6 report?

7 MS. GEPHARDT: Yeah.

8 INVESTIGATOR DEMBY: Yes, ma'am.

9 MS. GEPHARDT: And so who wrote this report,
10 do you know.

11 INVESTIGATOR DEMBY: Yes, ma'am. Hold on.
12 Officer Ruth -- forgive my last name or -- the last name
13 -- Kasaras (ph).

14 MS. GEPHARDT: And is that one of the
15 officers you met with that night.

16 INVESTIGATOR DEMBY: Yes, ma'am.

17 MS. GEPHARDT: Okay. And can you tell me
18 what this officer wrote about her account of what
19 happened?

20 INVESTIGATOR DEMBY: Yes, ma'am. On the
21 listed date and time while patrolling the 1900 block of
22 9th Street the reporting officers heard loud voices and

1 music coming from Noble Lounge at 1915 9th Street NW.
2 She goes on to say -- say that when the officer got the
3 attention of the patrons who were inside of the second
4 floor they turned off all the lights and music. She
5 further stated that ABRA investigators were on scene and
6 also attempted to have someone open the door to conduct
7 an investigation. ABRA Investigator Demby and myself
8 knocked on the front door and back door at which time he
9 heard noises coming from inside of the parties inside --
10 I'm sorry. He heard noises coming from inside, but the
11 parties inside refused to open the door. After about an
12 hour of waiting at the location Investigator Demby was
13 able to make contact with one of the owners who in turn
14 contacted someone at the lounge and advised them to open
15 the door. Once inside the location the officers and
16 Investigator Demby made contact with C2 who is one of
17 the owners of the lounge. Investigator Demby will be
18 charging them with several violations including after
19 hours violation and interfering with an MPD and ABRA
20 investigation. Sergeant Hill was notified.

21 MS. GEPHARDT: Okay. Thank you. And so
22 when you were writing your report did you have an

1 opportunity to review this as well?

2 INVESTIGATOR DEMBY: Yes, ma'am.

3 MS. GEPHARDT: Okay. And let's see. Is
4 there -- oh, actually can you -- can you briefly tell me
5 what Exhibit Number 6 is.

6 INVESTIGATOR DEMBY: Sure. This is a copy
7 of the driver's license from Mr. DeWitt Salas (ph). If
8 I pronounced that wrong, forgive me.

9 MS. GEPHARDT: And Mr. DeWitt was the -- the
10 man you've been referring to throughout your testimony,
11 correct.

12 INVESTIGATOR DEMBY: Yes, ma'am.

13 MS. GEPHARDT: Okay. And this was the
14 driver's license?

15 INVESTIGATOR DEMBY: Yes, ma'am.

16 MS. GEPHARDT: He -- he did not have an ABC
17 license; is that correct.

18 INVESTIGATOR DEMBY: No, ma'am. It would
19 have been photographed.

20 MS. GEPHARDT: Okay. And if you go to the
21 next page, Exhibit 7, what is -- what is this page?

22 INVESTIGATOR DEMBY: It's a copy of their

1 alcohol license.

2 MS. GEPHARDT: Okay. And does it -- what
3 kind of information is contained on Exhibit Number 7?

4 INVESTIGATOR DEMBY: Their operational
5 hours, their sales hours, the endorsement that they have
6 which is entertainment, the -- the license number, the
7 license class. The issue date is the date that I
8 printed it had from the system. So that's not the
9 actual issue date. The expiration date is correct
10 though.

11 MS. GEPHARDT: Okay. Okay. And finally if
12 you could just go back to number -- Exhibit 5 and just
13 please explain what this is.

14 INVESTIGATOR DEMBY: Exhibit 5?

15 MS. GEPHARDT: Uh-huh. Yes.

16 INVESTIGATOR DEMBY: This is a part of the
17 database known as the seller that shows the ownership
18 information and it has the name of Melat Tessera. Her
19 role with the establishment is the president and she
20 holds one hundred percent of the ownership for the
21 establishment according to this document.

22 MS. GEPHARDT: Okay. All right. And is

1 this case report including all the exhibits -- is this a
2 true and accurate depiction of the case report that you
3 wrote and included with all the exhibits?

4 INVESTIGATOR DEMBY: Yes, ma'am.

5 MS. GEPHARDT: Okay. It hasn't been changed
6 and altered in any way?

7 INVESTIGATOR DEMBY: No, ma'am.

8 MS. GEPHARDT: Okay. I don't know how I do
9 this, but I would like to admit The Board exhibit even
10 though I think it's already been admitted -- excuse me
11 the board case report.

12 CHAIRPERSON ANDERSON: So moved. Do you
13 have any objection to -- to this report?

14 MS. TESSERA: So [inaudible 1:57:44].

15 CHAIRPERSON ANDERSON: No. You're -- no,
16 you're not.

17 MS. TESSERA: Turn the mic back on?

18 CHAIRPERSON ANDERSON: You can -- yeah, turn
19 your mic on. No. I'm just saying you're just -- she
20 wants to -- wants this to be a part of the record. I
21 was just asking -- you're not asking him questions. You
22 just -- I'm just asking do you have any problems with us

1 making this document a part of the record? You're going
2 to have an opportunity to ask him questions on it when
3 she's done.

4 MS. TESSERA: I mean as far as -- I don't
5 know what, if I say yes or no because some of the timing
6 here is not correct.

7 CHAIRPERSON ANDERSON: Well, you can ask
8 him -- I mean when -- when -- when you can go through
9 and ask questions.

10 MS. TESSERA: That's fine.

11 CHAIRPERSON ANDERSON: So at this moment
12 it's -- it's -- it's -- I'm going to admit it as part of
13 the record. You'll have an opportunity to go through
14 when -- when it's your time to cross examine him, then
15 you can go through the document and ask him specific
16 questions about it. Okay? Yes. Ms. Gephardt, are you
17 finished?

18 MS. GEPHARDT: So -- I'm sorry. The -- I
19 would ask that it be admitted. Did she -- what did --

20 MS. TESSERA: I said yes.

21 MS. GEPHARDT: Oh, you did? I'm sorry.

22 CHAIRPERSON ANDERSON: And I -- and I stated

1 that it was a part of the record.

2 MS. GEPHARDT: Okay. Okay. Sorry. I'm --
3 okay. Thank you. Okay. Investigator Demby, is there
4 anything else that you'd like to add that you believe
5 that we've left out in your testimony?

6 INVESTIGATOR DEMBY: No, ma'am. Not at this
7 point.

8 MS. GEPHARDT: Okay. Thanks. That's all I
9 have of Investigator Demby.

10 CHAIRPERSON ANDERSON: All right. All
11 right. Now it's your opportunity to ask him specific
12 questions about the -- the -- based on the questions she
13 asked him. So whatever questions dealing with the
14 report, you can ask him those questions.

15 MS. TESSERA: Okay. So my question to you
16 is -- I know you contacted me around 3:50 or so, right?
17 But you -- you stated in your testimony that it took you
18 how many hours? Can you tell me how many hours
19 [inaudible 1:59:31] to get the door open for you?

20 INVESTIGATOR DEMBY: How many hours it took
21 me to get --

22 MS. TESSERA: Like yeah --

1 INVESTIGATOR DEMBY: Over an hour.

2 MS. TESSERA: -- or minutes?

3 INVESTIGATOR DEMBY: Over an hour.

4 MS. TESSERA: Over an hour. So by the time

5 you contacted me you were there for how long before

6 you -- you contacted me?

7 INVESTIGATOR DEMBY: Before I contacted you?

8 MS. TESSERA: Yes.

9 INVESTIGATOR DEMBY: Approximately 45
10 minutes past the time when we arrived at the
11 establishment.

12 MS. TESSERA: So you arrive at the
13 establishment at 3:40? Is that what --

14 INVESTIGATOR DEMBY: No, ma'am.

15 MS. TESSERA: What time did you get there?

16 INVESTIGATOR DEMBY: We were advised at 3:40
17 that something was taking place at the establishment.
18 We got there approximately ten minutes later.

19 MS. TESSERA: Ten minutes later. So you'll
20 say 3:50?

21 INVESTIGATOR DEMBY: Sure.

22 MS. TESSERA: So how --

1 INVESTIGATOR DEMBY: Yes. I'm sorry. Yes.

2 MS. TESSERA: So you contact me how many
3 minutes after that?

4 INVESTIGATOR DEMBY: Approximately 45.

5 MS. TESSERA: 45 minutes. But the first
6 call I got from you was right before 4:00 and -- because
7 I started contacting Mr. DeWitt at 4 -- 4:08. I was
8 searching for him to come and open the door for you at
9 that time. So -- and I was in contact with him all
10 the -- until he opened the door for you. The door was
11 opened for you at 4:28. At least that's the text that I
12 got, he's -- he's already there. And I -- I could hear
13 you, you were there. You were on the phone at the time
14 of the door opening, right? You were on the phone with
15 me, and then I was asking you if you find any alcohol,
16 correct? Do you -- do you remember that conversation
17 with me on the phone?

18 INVESTIGATOR DEMBY: No, ma'am.

19 MS. TESSERA: You don't remember?

20 INVESTIGATOR DEMBY: No, ma'am.

21 MS. TESSERA: So I was talking to you on the
22 phone. I asked if you find any alcohol on the premises.

1 INVESTIGATOR DEMBY: You're talking about
2 once I made entry, ma'am?

3 MS. TESSERA: Yes. Once you entered.
4 Because by 4:28 you were already in the premises, the
5 door was open for you. And I was on the phone with you
6 at that time and I was asking you if you find any
7 alcohol. And you told me you -- you did not, you did
8 not find any alcohol at the time of your entry.

9 INVESTIGATOR DEMBY: On the second floor.
10 Yes, ma'am. I didn't call you. DeWitt -- you were on
11 the phone with DeWitt. Is that what you're stating? I
12 just want to make sure I understand before I --

13 MS. TESSERA: The ABRA investigator was on
14 the phone with me.

15 INVESTIGATOR DEMBY: No. No. No. I --

16 MS. TESSERA: Either you or the other
17 person.

18 INVESTIGATOR DEMBY: Ma'am, my -- my
19 question was for clarity are you stating that I called
20 you when I was inside or that you were on the phone with
21 DeWitt and he gave me the phone?

22 MS. TESSERA: I don't know, but I was on the

1 phone. I -- I don't remember the name of the ABRA
2 investigator.

3 INVESTIGATOR DEMBY: It was -- I was the
4 investigator on the scene, ma'am.

5 MS. TESSERA: But you say there was two?

6 INVESTIGATOR DEMBY: Yes, ma'am.

7 MS. TESSERA: Two people. So I don't know
8 who was --

9 INVESTIGATOR DEMBY: Okay.

10 MS. TESSERA: I don't remember. I don't
11 recall the name.

12 INVESTIGATOR DEMBY: Yes, ma'am.

13 MS. TESSERA: But that person was on the
14 phone the whole time with me and I was asking if there
15 is any alcohol that was found by you guys when you
16 entered the premises. And then I was told there is no
17 alcohol. I was not told there is marijuana or anything.
18 I -- the only thing that I was told is there is a
19 hookah, one or two hookah things on the table, the
20 hookah and then you see people setting. That's what --
21 that's what I was told at the time. And I said -- and
22 then I was asked if there is any camera in the premises,

1 and I told them no. I don't know. Either you or the
2 other person who was on the phone all the time until you
3 actually get into that place and the door was opened. I
4 don't know who I spoke with at that time, but I know
5 there was an ABRA person on the phone.

6 MS. GEPHARDT: Just an objection real quick.

7 CHAIRPERSON ANDERSON: The -- the objection
8 is --

9 MS. GEPHARDT: She's testifying which --

10 CHAIRPERSON ANDERSON: The objection is
11 sustained.

12 MS. GEPHARDT: Yeah.

13 CHAIRPERSON ANDERSON: What I -- what I --
14 what I need you to do, ma'am, is to ask him -- the
15 statement that you're making maybe you can ask him in
16 the frame of a question.

17 MS. TESSERA: Okay.

18 CHAIRPERSON ANDERSON: So remember you need
19 to ask him a question and for him to respond. So what
20 you're saying just try to frame it in a question to ask
21 him so he can give you an answer.

22 MS. TESSERA: Okay. So do you remember

1 speaking to me while you were at -- while you had access
2 to the premises.

3 INVESTIGATOR DEMBY: When I -- no, I don't
4 recall.

5 MS. TESSERA: You don't recall telling me
6 that there's no alcohol on the table?

7 INVESTIGATOR DEMBY: I -- no. I remember
8 advising Mr. DeWitt that -- what you're saying, that you
9 heard me on the phone.

10 MS. TESSERA: I was talking to some ABRA
11 investigator on the phone while the ABRA investigator
12 has an access to the place. And until you actually go
13 and -- either you or the other investigator until the
14 ABRA investigator has an -- had an access to that place
15 and look at the premises. So I was on the phone the
16 whole time. So do you remember that I was on the phone?

17 INVESTIGATOR DEMBY: Ma'am, I remember
18 advising Mr. DeWitt on the second floor of the
19 violations. I remember Mr. DeWitt having a phone in his
20 hand. Mr. DeWitt didn't tell me who he was on the phone
21 with. If you heard me advising Mr. DeWitt, then okay.
22 But if you're saying that I called you when I was inside

1 of that establishment, I did not.

2 MS. TESSERA: I called personally. So do
3 you remember that I called you and either you or the
4 other ABRA investigator was on the phone all the time --

5 INVESTIGATOR DEMBY: No, ma'am. I don't --
6 I don't recall that.

7 MS. TESSERA: -- while you were doing your
8 investigation?

9 INVESTIGATOR DEMBY: No, ma'am. I don't
10 recall that.

11 MS. TESSERA: And also I received the call
12 around 3:50, between 3:50 and 4. And you don't remember
13 the actual time when the door was opened?

14 INVESTIGATOR DEMBY: I'm sorry, ma'am.

15 MS. TESSERA: Do you remember the actual
16 time when the door was open for you to go in?

17 INVESTIGATOR DEMBY: No. That's not
18 recorded here, ma'am. It was an approximation given in
19 the report. So no, to tell you that it was 4:17 or
20 11:47 I can't give you that.

21 MS. TESSERA: And the other thing that you
22 said is you smell marijuana, correct?

1 INVESTIGATOR DEMBY: Yes, ma'am.

2 MS. TESSERA: How do you know that is
3 marijuana?

4 INVESTIGATOR DEMBY: I -- well, my testimony
5 was I smelled what we thought was marijuana.

6 MS. TESSERA: So you're --

7 INVESTIGATOR DEMBY: I didn't test anything
8 so I can't give you a definitive answer as to whether it
9 was marijuana. We thought it smelled like marijuana and
10 cigarettes.

11 MS. TESSERA: How do you --

12 INVESTIGATOR DEMBY: What it didn't smell
13 like was hookah.

14 MS. TESSERA: You didn't smell that it was
15 hookah?

16 INVESTIGATOR DEMBY: It didn't smell like
17 hookah.

18 MS. TESSERA: So it did smell like -- are
19 you saying that it smells like marijuana?

20 INVESTIGATOR DEMBY: That's -- that -- yes,
21 that was my testimony, ma'am.

22 MS. TESSERA: Are you assuming or are you

1 sure?

2 INVESTIGATOR DEMBY: No, ma'am. I didn't
3 say that they were smoking marijuana. I said it smelled
4 like --

5 MS. TESSERA: I know, but [inaudible
6 2:05:54].

7 INVESTIGATOR DEMBY: It smelled like what
8 appeared to be marijuana.

9 MS. TESSERA: How do you know? Can you tell
10 me how you can tell the difference between marijuana and
11 smoke -- any other smoke?

12 INVESTIGATOR DEMBY: Sure. Marijuana has a
13 distinct smell. It has quite a few smells, but it has a
14 distinct overall smell versus that of hookah. I -- I
15 haven't had the opportunity or the experience to smell
16 hookah that smells like marijuana and vice versa.

17 MS. TESSERA: Can -- can marijuana smell
18 like any other cigarette, cigar, or anything?

19 MS. GEPHARDT: Objection. He's not an
20 expert in -- in drugs. He's just -- he's just telling
21 us this is his experience and what he smelled.

22 MS. TESSERA: But he's assuming that he

1 smelled marijuana in the premises.

2 CHAIRPERSON ANDERSON: All right. Let's --
3 well, he didn't say it was. He said that he thought
4 something smelled like -- and there's no allegation here
5 that -- that the club has been charged for -- for that.
6 So let's -- we can -- we can move on now. We -- I -- we
7 got it, so we can move on. What I'll ask you to do,
8 ma'am, is that be careful when you turn the paper
9 because -- so you can keep it away from the microphone.
10 That's why you hear all that noise. Do you have any
11 other questions for the investigator?

12 MS. TESSERA: No.

13 CHAIRPERSON ANDERSON: Do you have any
14 questions from any board members? Mr. Alberti.

15 MR. ALBERTI: Investigator Demby, thank you
16 for your report.

17 INVESTIGATOR DEMBY: Yes, sir.

18 MR. ALBERTI: So when you said there was --
19 you -- you state that there was no alcohol upstairs. So
20 I'm trying to make sure I understand what that statement
21 means. So was there any alcohol on tables or near the
22 lounge chairs?

1 INVESTIGATOR DEMBY: The establishment had
2 been cleaned, sir.

3 MR. ALBERTI: So there was no alcohol there?

4 INVESTIGATOR DEMBY: There was none present
5 out. No.

6 MR. ALBERTI: All right. You said earlier
7 that there were two women behind a bar earlier. Is
8 there a bar, what we normally think of as a bar
9 upstairs?

10 INVESTIGATOR DEMBY: Yes, sir.

11 MR. ALBERTI: All right. Was it stocked
12 with alcoholic beverages?

13 INVESTIGATOR DEMBY: Yes, sir. Yes, sir.

14 MR. ALBERTI: Okay. Were they secured in
15 any way?

16 INVESTIGATOR DEMBY: No, sir.

17 MR. ALBERTI: They were just there and --

18 INVESTIGATOR DEMBY: Just there.

19 MR. ALBERTI: -- an employee could have
20 grabbed them and put them back or anything?

21 INVESTIGATOR DEMBY: Absolutely, sir.

22 MR. ALBERTI: Okay. Thank you. When you

1 said -- you also testified that you know DeWitt from
2 previous occasions.

3 INVESTIGATOR DEMBY: Yes, sir.

4 MR. ALBERTI: On previous occasions have you
5 had an opportunity to ask him for a manager's license?

6 INVESTIGATOR DEMBY: I believe so, sir.

7 MR. ALBERTI: Has -- do you know -- do you
8 remember if he has ever shown you a manager's license?

9 INVESTIGATOR DEMBY: I can't recall. I
10 believe my first interaction with DeWitt he actually
11 identified himself as the owner. I had took them a
12 service form for a case that they had before the ABC
13 Board, and this maybe was the end of 2014, maybe early
14 2015. After -- subsequent to that visit I visited
15 again, and he started calling himself the ABC manager.
16 I can't recall whether I actually got a license from him
17 or not. I just know that on the night in question he
18 didn't have a card, and the regulation requires it to be
19 on your person.

20 MR. ALBERTI: Thank you. No further
21 questions.

22 CHAIRPERSON ANDERSON: Any other questions

1 by any other board members? Yes, Ms. Miller.

2 MS. MILLER: I just had one question. I
3 think you testified about a woman -- you hearing a woman
4 say she wanted to leave?

5 INVESTIGATOR DEMBY: Yes, ma'am.

6 MS. MILLER: So do you know how long it took
7 before she was able to leave the premises.

8 INVESTIGATOR DEMBY: After her making that
9 statement?

10 MS. MILLER: Uh-huh.

11 INVESTIGATOR DEMBY: Probably another 10 to
12 15 minutes.

13 MS. MILLER: And that was because you made
14 it into the establishment?

15 INVESTIGATOR DEMBY: Yes, ma'am.

16 MS. MILLER: Okay. That's all I have.

17 Thank you.

18 CHAIRPERSON ANDERSON: Any other questions
19 by any other board members? Ms. Tessera, do you have
20 any questions of the -- of the investigator based on the
21 questions that were asked by The Board?

22 MS. TESSERA: No, sir.

1 CHAIRPERSON ANDERSON: No. Ms. Gephardt,
2 any final questions based on the questions that were
3 asked by The Board?

4 MS. GEPHARDT: Just -- let me just ask one
5 question. Is it -- is it relevant whether alcohol is
6 present -- excuse me -- being consumed or not on the
7 premises for a after hour -- after hours violation?

8 INVESTIGATOR DEMBY: In -- in regards to
9 this specific incident --

10 MS. GEPHARDT: Yeah.

11 INVESTIGATOR DEMBY: -- no. And -- and any
12 other incident if you're beyond your Board approved
13 hours, then you're beyond your Board approved hours.
14 Alcohol wasn't out. They were beyond their operational
15 hours. So being as though they were beyond their
16 operational hours, they're still after hours. So they
17 could -- like I previously stated, it could have been
18 water on every table and you're after hours. The
19 patrons should not be here. That's just that.

20 MS. GEPHARDT: Okay. Thank you.

21 CHAIRPERSON ANDERSON: Any other questions?

22 MS. GEPHARDT: No. No. Thank you.

1 CHAIRPERSON ANDERSON: All right. Thank
2 you, Investigator Demby. You are free to go.

3 INVESTIGATOR DEMBY: Yes, sir.

4 CHAIRPERSON ANDERSON: And please do not
5 discuss your -- your testimony with anyone until this
6 case is over. Thank you.

7 INVESTIGATOR DEMBY: Yes, sir.

8 CHAIRPERSON ANDERSON: Does the Government
9 have any other witnesses?

10 MS. GEPHARDT: No. That's my only witness.
11 Thank you.

12 CHAIRPERSON ANDERSON: Does -- does the --
13 does the Government rest?

14 MS. GEPHARDT: The Government rests. Thank
15 you.

16 CHAIRPERSON ANDERSON: And prior to the
17 Government -- well, I know the Government rests. I'll
18 ask you are there any other -- I know that you
19 referenced The Board documentation. Are there any other
20 documents that you want -- you want to admit?

21 MS. GEPHARDT: Just -- no. Just the entire
22 case report that was --

1 CHAIRPERSON ANDERSON: Okay.

2 MS. GEPHARDT: -- that is part of The
3 Board's exhibit. Yeah.

4 CHAIRPERSON ANDERSON: All right. I just
5 want to make sure. All right. Ms. Tessera, do you wish
6 to call your first witness? Are you going to testify
7 also too?

8 MS. TESSERA: I can give you a general idea
9 of what's my understanding about this case is. And I
10 don't know if I can explain and what has been addressed
11 since then because I do have the ABC manager who was
12 there on that night if you --

13 CHAIRPERSON ANDERSON: Well, no. You
14 remember the charges. So you need to let me know how
15 you plan to defend your case. I mean if you want to --
16 if you're going to be the one to give an explanation,
17 then I'm going to swear you in or if you're going to
18 call a witness to ask some questions. So you let me
19 know how is it you -- you present -- how do you
20 present -- or how do you -- how do you plan to represent
21 yourself.

22 MS. TESSERA: I just want to give

1 explanation.

2 CHAIRPERSON ANDERSON: All right. Then why
3 don't you stand and raise your right hand please. Do
4 you swear or affirm to tell the truth and nothing but
5 the truth?

6 MS. TESSERA: I do.

7 CHAIRPERSON ANDERSON: All right. And so
8 you're under oath. So you can have a seat. You're
9 under oath. You're going to give your -- your
10 explanation. And then once you are done, then
11 Ms. Gephardt will have an opportunity to ask you
12 questions based on the explanation that you have, you
13 give. And then The Board will -- and if you wish to
14 call a witness -- any witness, then we'll call them up
15 and have -- and swear them in and then do the back and
16 forth. Okay? So your case.

17 MS. TESSERA: So I receive a call around
18 like I say 3:50, between 3:50 and 4:00 from an ABRA
19 investigator. Like I understand -- I was told now there
20 was two, but I don't know which one was on the phone
21 with me at that time. So by -- I was talking to ABRA
22 and I was informing him or whoever that person on the

1 phone with me at that time that there should be a
2 manager. I did not say there was a manager there.
3 There should be a manager that should open the door. My
4 rule for that premises is that after alcohol serving
5 hours the doors should be closed and -- and they can --
6 they can start cleaning or reconciling all the
7 transactions throughout the day. So most of the time I
8 keep the license on the first floor, which the first
9 floor also have a small bar. And that's -- that's where
10 -- my understanding is that's where everyone walks in
11 and that's the first thing that they can see. So like
12 the investigator said earlier there is a fireplace, you
13 know, that's where we place it because we want people to
14 look at it. So the license was there. You know, it --
15 like it -- he's saying he was there like way after 3:00,
16 maybe, you know, the license dropped, anything can
17 happen. That's probably why he cannot see it at that
18 time. But all I want to say is I did check with the
19 manager. The ABC manager was on duty from 11 a.m. to 2
20 a.m. at that day. It was Nebiu Ali, and he went home.
21 And I asked like why everyone is there? But like we do
22 have restaurant license and the manager thinks that we

1 can serve. And then we do have a cigarette license for
2 24 hours saying they can do hookah and all that. That
3 was not -- that question was not asked before they
4 actually proceed with whatever they were doing after --
5 after 2 a.m. in the morning. But I was notified by the
6 ABRA investigator that there is someone inside the room.
7 And I usually expect maybe the employees and all that.
8 I was not aware that there is more than -- not
9 employees -- not employees are in there. So what I
10 found out is there was a birthday party. They were
11 doing cakes and -- and just having fun. But there was
12 no music. And when I asked they don't hear -- when
13 someone's knocking the door they did not hear it
14 because -- you know, there was a lot of people who was
15 drunk and walking around on 9th Street. If you -- if
16 you're familiar with that area after 2 or 3 a.m., it's a
17 wild -- a wild place. So I always say once we close the
18 door we should not open the door for anyone unless the
19 manager is there or anything. Sometimes it's just the
20 managers leave and the employee cleans up and leave.
21 Okay. So since we're not serving -- it might be wrong.
22 I can admit that now since then I do have -- Neb is

1 taking -- Neb Ali is taking -- in charge, that he's told
2 that he's not supposed to leave until some -- until
3 everyone is leaving the premises. Because to tell you
4 the truth until this came up I did not know that we
5 cannot serve food not alcohol. It's like it's a new
6 thing for me. I can -- I can I mean admit that. I
7 thought that we can serve food but not alcohol after 3
8 a.m. in the morning or before 11 a.m., you know, that
9 hours that -- and then we're supposed to only sell
10 alcohol between 11 and 2 a.m. or 11 to 3 a.m. That's
11 also fault on my side and as well as a fault on my
12 manager's side because maybe I did not relate
13 information or gave permission to my manager. As well
14 as interfering with investigation -- I did not interfere
15 with investigation. I was on the phone the whole time
16 when this happened. I even asked -- like I was on the
17 phone with ABRA investigator the whole time, and I was
18 asking every question at the meantime reaching out with
19 to the manager to go and open the door. Okay. So when
20 the doors open for the investigator I asked did you find
21 alcohol? He said no. So -- and he asked me for camera.
22 I do have a dummy camera in there but not a real one.

1 Just, you know, so I told him no, I don't have camera.
2 So I don't know at what point that I am interfering with
3 ABRA investigator because I was on the phone
4 communicating with -- with him and telling him that
5 okay, I'll get someone to open the door for you. But as
6 far as the employee who were already inside of the room
7 not opening the door, I expect my employee not to open
8 the door for anyone because they don't know who will be
9 walking into that house, you know. So that is my
10 explanation. Maybe you can ask me some questions.

11 CHAIRPERSON ANDERSON: So that's your --
12 okay. Ms. Gephardt, do you have any questions for the
13 witness?

14 MS. GEPHARDT: Sure. Just a few questions.
15 So you mentioned there was an ABC manager on duty until
16 2 a.m. but that person left?

17 MS. TESSERA: Correct.

18 MS. GEPHARDT: Okay. And had that person
19 been on duty the entire evening that alcohol was being
20 served.

21 MS. TESSERA: Correct.

22 MS. GEPHARDT: Okay. You mentioned that the

1 individuals inside the establishment, they did not hear
2 the police knocking. Were you -- were you on site when
3 the police were knocking?

4 MS. TESSERA: I was not on site. That --
5 that's what I was told.

6 MS. GEPHARDT: Okay. And you mentioned --
7 you mentioned that -- you said I didn't interfere with
8 the investigation. But the -- the individuals in the --
9 in -- in your establishment, would you agree with the
10 fact that they didn't open the door in a timely fashion
11 for the police and ABRA investigators.

12 MS. TESSERA: I -- I would agree in -- in
13 some point. Like I said, I always tell my employees not
14 to open the door after 2 a.m. or 3 a.m. because people
15 are walking around in that area, you know, drunk. We
16 don't know who's going to walk in and we don't know
17 who's coming into that. Because sometimes you'll
18 have -- you'll hear a knock. Sometimes I'll be there
19 and you will hear a knock. It could be someone who's
20 just drunk and wants to get in. That's why we have --
21 we have two labels, and then the -- always the first
22 label is the light is out after 3 or 2 a.m. so that it

1 shows that we are closed. But you will hear people
2 knocking the door. So you never know who will be
3 walking into your place. So I always tell -- tell my
4 employees if the manager's there, they -- they know how
5 to handle those things. But if -- if it's only
6 waitresses or people who is cleaning or cooking I always
7 tell them just clean their area and then they have to
8 close and leave the -- the place. But they shouldn't
9 open the door for anyone that's knocking the door. So
10 they might -- I mean these people are not ABC managers
11 or managers. So they might not know how to deal with
12 the investigation at the time.

13 MS. GEPHARDT: So did -- did DeWitt or
14 DeWitt, did he tell you why? Did he give you a reason
15 why he didn't open the door specifically for the police
16 and ABRA?

17 MS. TESSERA: DeWitt was not on the
18 premises. He locked the door. He -- he was around the
19 area while they are inside and cleaning that -- and then
20 he thought that people could eat and -- and just talk,
21 no music, no -- no alcohol because we have this
22 restaurant license now we can serve food. And so he

1 didn't know that our operation hours -- hour is tied up
2 to the liquor license.

3 MS. GEPHARDT: So I'm sorry. So Mr. DeWitt
4 was not in the establishment at the time these events
5 happened.

6 MS. TESSERA: He was not.

7 MS. GEPHARDT: He came after when -- when
8 you called him; is that correct.

9 MS. TESSERA: I called him and asked him
10 where are you, you need to open the door for ABRA
11 investigator. He say he's just a block away, and he
12 went and opened the door for the ABRA investigator.

13 MS. GEPHARDT: Okay. Okay. Let's see. So
14 were you aware that there were between -- what is it --
15 25 to 30 patrons in the establishment that night
16 after -- around 3:30 a.m.

17 MS. TESSERA: I was not aware.

18 MS. GEPHARDT: Did anybody make you aware
19 other than the ABRA investigators?

20 MS. TESSERA: No. No, ma'am.

21 MS. GEPHARDT: Okay. That's all I have.

22 Thank you.

1 CHAIRPERSON ANDERSON: Questions by -- yes,
2 Mr. Alberti.

3 MR. ALBERTI: So, Ms. Tessera --

4 MS. TESSERA: Yes.

5 MR. ALBERTI: -- it's your testimony that
6 you've told employees not to open the door for anyone
7 after --

8 MS. TESSERA: Managers or ABC manager can
9 open the door because they can -- you know, they know to
10 ask the appropriate questions and not --

11 MR. ALBERTI: But none of the other
12 employees?

13 MS. TESSERA: Yeah.

14 MR. ALBERTI: And there was no ABC manager
15 there at the time, right? Is that correct?

16 MS. TESSERA: After 3:00 -- after 2, yes.

17 MR. ALBERTI: So am I to understand that
18 you've told them not to open the -- the establishment
19 for police -- for police and --

20 MS. TESSERA: No, not the police.

21 MR. ALBERTI: MPD officers?

22 MS. TESSERA: I don't know at that time if

1 they know that there is an officer or the police.

2 MR. ALBERTI: That's not what I asked you.

3 What if -- what are you -- what have been your

4 instructions to your employees is what I'm asking you.

5 MS. TESSERA: So not to open the door for

6 anyone except like if there is any -- I mean of course

7 if it's the police, they should open the door.

8 MR. ALBERTI: Okay. Has that been your

9 instructions to them?

10 MS. TESSERA: Yes. Yes.

11 MR. ALBERTI: Okay. Thank you. How do you

12 know there was no alcohol being served other than -- how

13 do you know there was no alcohol being served? You

14 stated there was no alcohol being served. How do you

15 know that?

16 MS. TESSERA: How do I know that?

17 MR. ALBERTI: Uh-huh.

18 MS. TESSERA: I was not there physically of

19 course. But Ali is the ABC manager on duty, and -- and

20 I was aware that he was there until 2 a.m. in the

21 morning during the alcohol serving hours. And I am very

22 aware of that, that he was there and he -- his

1 responsibility is to make sure all alcohol are back in
2 its place and -- before he leaves the premises all the
3 time. So he knows he's -- the rules and regulation.

4 MR. ALBERTI: Okay. So he wasn't there
5 after 2 a.m.?

6 MS. TESSERA: He wasn't in there after 2
7 a.m.

8 MR. ALBERTI: So he wouldn't know if there
9 was alcohol being served; is that correct?

10 MS. TESSERA: He wouldn't know. Correct.

11 MR. ALBERTI: Right. And Mr. DeWitt
12 wouldn't know either, right, because he wasn't there?

13 MS. TESSERA: I mean he -- he -- he's the
14 one who -- who's supposed to lock the door or whoever is
15 in charge of like -- if there is a waitress that need to
16 close the door, that day he was in charge of that
17 premises. He's supposed --

18 MR. ALBERTI: Right. But he wasn't there
19 when the police arrived. So he doesn't know whether
20 there was alcohol being served; is that correct?

21 MS. TESSERA: My understanding is yes.

22 MR. ALBERTI: Okay. Thank you. How many

1 employees do you have?

2 MS. TESSERA: It depends on the days.

3 MR. ALBERTI: Total? Total employees?

4 MS. TESSERA: About ten.

5 MR. ALBERTI: About ten. Okay. I have no
6 further questions. Thank you.

7 MR. SHORT: Mr. Chair.

8 CHAIRPERSON ANDERSON: Yes, Mr. Short.

9 MR. SHORT: Good afternoon, Ms. Tessera.
10 I'm going to read something to you from the District of
11 Columbia laws and regulations of ABRA, the Alcoholic
12 Beverage Regulation and the charges particularly that
13 you stated. And I'm -- this is 25-8235, the licensee
14 fails or refuses to allow an ABRA investigator, a
15 designated agent of ABRA or a member of Metropolitan
16 Police Department to enter or inspect without delay --
17 without delay the licensed premises or examine the books
18 records of the business' or otherwise interferes with an
19 investigation. So it's your contention that there was
20 no interference after -- after I read that? Are you
21 still contending there was no interference by your
22 employees?

1 MS. TESSERA: What's your question again?

2 MR. SHORT: The question was did they let --
3 did they delay the police department and ABRA
4 investigators from coming in?

5 MS. TESSERA: Yeah. I would say yes. Yeah.

6 MR. SHORT: They did. Okay.

7 MS. TESSERA: But --

8 MR. SHORT: All right. That's good. Thank
9 you. But also I want to ask you this.

10 MS. TESSERA: Can I -- can I say something?

11 MR. SHORT: Yes, please. Go ahead.

12 MS. TESSERA: I would just say yes, the
13 people who was inside might interfere with ABRA
14 investigation. But what I was trying to say is that I
15 was also on the phone and cooperating with ABRA
16 investigators or investigator to -- for them to have
17 access to the premises.

18 MR. SHORT: But didn't that cause a delay by
19 them having to talk to you on the telephone when they're
20 there knocking on the door right then and there? Isn't
21 that a delay?

22 MS. TESSERA: Yes, it is.

1 MR. SHORT: Okay. All right. Now, do you
2 realize that your front door and your back door to your
3 business are considered fire doors and you cannot lock
4 them while you have patrons inside? You cannot lock
5 those doors and somebody has to physically open it to
6 let people out? If there were a fire or someone had a
7 gun or some other kind of incident within the club that
8 particular night and the people couldn't get out, who
9 would be responsible?

10 MS. TESSERA: I will be.

11 MR. SHORT: Okay. That's all I have, Mr.
12 Chair. Thank you very much.

13 CHAIRPERSON ANDERSON: Any other questions?
14 Yes, Ms. Miller.

15 MS. MILLER: Good afternoon.

16 MS. TESSERA: Good afternoon.

17 MS. MILLER: I just want to get a
18 clarification first about your instructions about
19 opening the doors to police or ABRA. I -- I can
20 appreciate what you said about late at night telling
21 employees not to open the doors because you don't know
22 what kind of strangers are out there and they don't

1 probably have any business coming into your
2 establishment. I wasn't clear about what your
3 instructions were then, and then we can go to now. But
4 then were they instructed unless it's the police or
5 what?

6 MS. TESSERA: They were instructed unless
7 it's police or a ABRA investigator they should not open
8 the door for anyone.

9 MS. MILLER: Okay. That's -- that's now or
10 then?

11 MS. TESSERA: Now --

12 MS. MILLER: Now.

13 MS. TESSERA: -- as well, yes.

14 MS. MILLER: Okay. How -- what was it --
15 was it then?

16 MS. TESSERA: Was it then? It was the same
17 thing, but, you know, sometimes we -- I don't know how
18 they view the ABRA investigator being there and I don't
19 know if -- I don't know if they know the appropriate
20 question to ask, you know, sometimes show me your ID if
21 you're ABRA or not. Okay. But the manager should know
22 to ask those appropriate questions before they let

1 someone into the premises.

2 MS. MILLER: Right. But see, it sounded
3 like like in this case though they're banging on the
4 door or yelling up it's ABRA, it's the police. They
5 didn't even open the door at all to see an ID or
6 anything to that effect, did they?

7 MS. TESSERA: At that time I was told that
8 they did not hear.

9 MS. MILLER: They did not hear it?

10 MS. TESSERA: They did not hear the door.

11 MS. MILLER: So how did they eventually
12 know? You -- you called?

13 MS. TESSERA: I called the manager on duty
14 at that time and to go and open the door for -- for --

15 MS. MILLER: He left his home or -- or her
16 home?

17 MS. TESSERA: No. He was on 9th Street
18 while they were inside. So he went and opened the door
19 for -- for the investigator.

20 MS. MILLER: Okay. He was in the area?

21 MS. TESSERA: He was. He was right next --
22 next door.

1 MS. MILLER: So when -- when the manager
2 left who was in a position of authority at that point?

3 MS. TESSERA: You -- he shouldn't leave at
4 all because I found out that he had left the premises
5 when I called at that time. And that -- I mean he --
6 the manager should be at the premises until the -- until
7 it's closed. I found out that he was not on the
8 premises at that time when I received that call from
9 ABRA. So my expectation for all the managers hired on
10 that site, they should be in the premises and they
11 should be in charge of the premises and respond to
12 anyone who has a question.

13 MS. MILLER: So that was contrary to your --

14 MS. TESSERA: Yes. It is contrary to --

15 MS. MILLER: -- instructions?

16 MS. TESSERA: Yes. That is contrary to my
17 instructions.

18 MS. MILLER: And I think you testified that
19 you didn't know that patrons could be there after 2:00;
20 is that right?

21 MS. TESSERA: Yes.

22 MS. MILLER: And so now what's the policy?

1 MS. TESSERA: So now I understand that --
2 that the premises should be closed on the operation hour
3 on ABRA license. So now I know that we can only open
4 until 2 a.m. or 3 a.m. based on what is listed on my ABC
5 license. So there shouldn't be anyone after two or
6 three depend -- it depends which days.

7 MS. MILLER: And have you changed any policy
8 with respect to your ABC manager being present?

9 MS. TESSERA: ABC manager, I do. Like I
10 said, Neb Ali, he is the ABC manager. He's going to be
11 there until the -- the store is closed or the lounge is
12 closed. So he's not allowed to leave the premises and
13 like -- until it's completely closed. And then also the
14 manager should have ABC manager ID as well now, that's a
15 requirement. And so that if he in case need to leave
16 for any emergency, then it should be covering for him.

17 MS. MILLER: And -- and how do you define
18 closed?

19 MS. TESSERA: Closed, like we close from
20 Sunday to Thursday at 2 a.m.

21 MS. MILLER: I mean what happens at 2 a.m.?

22 MS. TESSERA: We should completely stop

1 selling alcohol and then only -- close the door and ask
2 everyone to leave and then close the door and then just
3 clean up the area, and then the premises should be
4 closed by a manager. A manager should be on duty all
5 the time.

6 MS. MILLER: Okay. And -- and one last
7 question is how -- how would you avoid this incident
8 happening again then in the future.

9 MS. TESSERA: I will be monitoring that
10 closely and make sure I get in contact with the manager
11 and the ABC manager until the store is closed.

12 MS. MILLER: Okay. Thank you. Thank you,
13 Mr. Chairman.

14 CHAIRPERSON ANDERSON: Any other questions
15 by any of the -- Ms. Gephardt, any questions? No?

16 MS. GEPHARDT: No. I mean I guess just one
17 question. Were you aware that -- were you aware that
18 Mr. -- I believe it was Mr. DeWitt who said that he
19 thought that -- that they could be open until 5 a.m.?
20 Were you aware that that's what he said?

21 MS. TESSERA: I'm not aware of that.

22 MS. GEPHARDT: Okay.

1 MS. TESSERA: No, ma'am.

2 CHAIRPERSON ANDERSON: All right. Do you --
3 based on the questions that The Board asked do you need
4 to clarify anything based on -- I mean normally the way
5 it operates I would give you an opportunity to ask your
6 witness a question. But do you need -- do you need to
7 clarify any statements or -- or that's fine?

8 MS. TESSERA: So I do have --

9 CHAIRPERSON ANDERSON: Well, no. I'm just
10 talking about -- I'm just saying before you move on to
11 your next witness.

12 MS. TESSERA: I do -- I do not.

13 CHAIRPERSON ANDERSON: So I'm just saying
14 based on your testimony -- based on the questions that
15 were asked. Well, if you don't -- if you don't need to
16 clarify anything, then if you have another witness, who
17 is that witness you would like to call?

18 MS. TESSERA: I do have Nebiu Ali. He is
19 the ABC manager who will be on the premises all the
20 time.

21 CHAIRPERSON ANDERSON: All right. So you
22 want to ask him some questions? All right.

1 MS. TESSERA: Yes.

2 CHAIRPERSON ANDERSON: Mr. Ali, could you go
3 over the --

4 MS. TESSERA: So he can explain his position
5 now.

6 CHAIRPERSON ANDERSON: So I need you to go
7 over there and raise your right hand please. Do you
8 swear or affirm to tell the truth and nothing but the
9 truth.

10 MR. ALI: Yes, I do.

11 CHAIRPERSON ANDERSON: All right. Have a
12 seat. And just frame whatever you're asking to him in a
13 question so he can explain whatever. But -- but start
14 off with -- by asking him questions please.

15 MS. TESSERA: Now, can you explain your --

16 CHAIRPERSON ANDERSON: I'm sorry. Have
17 him -- have him tell us what his name is and also spell
18 his name please.

19 MS. TESSERA: Okay. Now, can you go ahead
20 and tell them your name.

21 MR. ALI: My -- my name is Nebiu Ali. I am
22 the current ABRA manager or ABRA ABC manager on the

1 premises at 19 --

2 CHAIRPERSON ANDERSON: Can you spell your
3 name for the record please.

4 MR. ALI: N as in Nancy, E-B as in boy, I-U.
5 And the middle initial is D. Last name is A-L-I.

6 CHAIRPERSON ANDERSON: Okay. Go ahead.
7 Your -- your witness. Go ahead.

8 MS. TESSERA: And can you explain your
9 position at Noble Lounge -- Noble Lounge.

10 MR. ALI: Yeah. As I stated my position at
11 Noble Lounge is ABC manager. I kind of just wanted to
12 come up there and instead of being questioned to kind of
13 elaborate more on what we understand and what we're
14 doing moving forward. A -- a lot of things were not
15 clear even between, you know, the owners, the
16 management, and employees. All of those things since
17 that day have been clear obviously. We have been doing
18 a great job at, you know, doing last call for alcohol at
19 1:30 and getting the patrons out -- I mean customers out
20 by like 1:45. And then by 2:00 at the a.m. we don't
21 even have anyone in -- in the building other than the
22 employees and myself and one security guard that stays

1 with us until 2:30 on Monday to -- Sunday through
2 Thursdays and then until 3:30 or 4:00 since weekends are
3 busy to do the numbers. And a lot -- lots of things
4 were not clear because we did -- we do operate as a
5 restaurant. So our understanding was that as long as we
6 stopped selling liquor at that time we could obviously
7 sell food or -- or do shisha or different things
8 until -- until the later time which is the reason why we
9 ended up having that birthday for the employee that
10 night and which is also the reason why, you know, when
11 whoever walked in at that moment from my understanding
12 -- obviously I have -- I'm very strict on liquor because
13 I understand that, you know, just restaurant business
14 can't really pay the bills. So I'm very strict with the
15 employees, you know, explaining things to them as far as
16 like I do not care who it is, whether you're an employee
17 or anybody else, no one should be consuming alcohol.
18 And if I ever see anyone even talking about it I'm --
19 I'm very strict. Like I've -- I've actually fired a
20 couple of employees that thought they were an exception,
21 like they -- they can ask to drink right when we close.
22 Like okay, man, we're finished, can we get a -- a bottle

1 of beer or something, you know. So I -- I let it be
2 known -- including the security I've let go before. So
3 I let it be known that they can't even ask the questions
4 let alone think about, you know, consuming alcohol after
5 those hours. You know, we take it very seriously.
6 Aside from that everything -- everything is on clear.
7 Everyone understands what needs to be done and how
8 things need to be done. That's really all I wanted to
9 say.

10 CHAIRPERSON ANDERSON: Do you have any other
11 questions for the witness?

12 MS. TESSERA: [Inaudible 2:36:04].

13 CHAIRPERSON ANDERSON: Ms. Gephardt.

14 MS. GEPHARDT: Yes. So were you there the
15 night of these events on the November the 19th?

16 MR. ALI: I was. I wasn't there after 2
17 obviously. I was there earlier on.

18 MS. GEPHARDT: Oh, you were the ABC manager
19 that left at 2:00.

20 MR. ALI: Yes. I had --

21 MS. GEPHARDT: Okay. So -- so you have no
22 knowledge of what happened after --

1 MR. ALI: No. I just know it was one of our
2 employee's birthday, Julie's birthday party that --

3 MS. GEPHARDT: Okay.

4 MR. ALI: -- you know, that we kind of did
5 as like a special thing for her, you know.

6 MS. GEPHARDT: Right. Okay. And so these
7 things that you're talking about about what we're doing
8 now and how we're going to go forward and -- and all
9 that stuff, none of that stuff was happening back on the
10 date that this incident occurred?

11 MR. ALI: Because we were unaware that we
12 couldn't open after two and not serve alcohol, just
13 serve, you know, shisha and birthday cakes and things of
14 that nature. I wasn't aware until that day --

15 MS. GEPHARDT: Okay.

16 MR. ALI: -- that -- you know, when we came
17 in the next day, you know, all this was explained to me.
18 And I -- I was also in shock because the restaurant has
19 a restaurant license. And we were under the impression
20 -- because, you know, next door -- I don't know if you
21 guys know -- there's a -- a restaurant called Hebesha
22 and they're open on weekends. Even on Thursdays and

1 Fridays and Saturdays they're open until 6 in the
2 morning.

3 MR. SILVERSTEIN: Mr. Ali, please speak a
4 little closer to the microphone so we can hear.

5 MR. ALI: Okay. So on these days they're
6 open until 6 in the morning and they sell food. So that
7 was just a way of us really trying to -- trying to, you
8 know, maximize income. But even that day we didn't even
9 really maximize any income because it was just -- it was
10 just the employee's birthday and then, you know, guests
11 that she had like a her close friends or whatever the
12 case might be. So I mean, you know, it really -- it
13 wasn't even -- like as far as profit it wasn't even
14 really a profit night. But that day we understood. And
15 since that day there hasn't been anything going on after
16 that whether it be food, shisha, anything else.

17 MS. GEPHARDT: All right. And -- but all
18 that is after November 19th?

19 MR. ALI: Yes, ma'am.

20 MS. GEPHARDT: Okay. Thank you.

21 MR. ALI: Yeah.

22 CHAIRPERSON ANDERSON: Do we have any

1 questions by any board members?

2 MS. MILLER: I do.

3 CHAIRPERSON ANDERSON: Yes, Ms. Miller.

4 MS. MILLER: Good afternoon, Mr. Ali.

5 MR. ALI: Good afternoon, ma'am.

6 MS. MILLER: I want to ask you how both --
7 both then and now how were you aware of what your
8 responsibilities are as -- as the manager and what --
9 what this establishment was allowed to do or not do?

10 MR. ALI: Being more in communication with
11 obviously Melat. And then, you know, the incidents that
12 happened that day basically kind of drew the lines for
13 us as far as oh, us actually knowing what we can do or
14 we can't do, you know.

15 MS. MILLER: Well, that -- that's my
16 question. Like have you seen the license that governs
17 the establishment that says what hours you can be
18 operating and what says what hours you can be serving
19 alcohol?

20 MR. ALI: I did. And again, our
21 understanding we -- our understanding is that that was
22 for liquor; hence why there were no liquor; hence why,

1 you know, it was just birthday cakes and -- and shishas
2 when -- when whoever walked in there walked in there.
3 Our understanding is that license was for liquor and not
4 for like to shut down our establishment. Because
5 Habesha opens until 6 in the morning, and it's because
6 they sell food that they're open until 6 in the morning
7 which is the -- the store right next door from us.

8 MS. MILLER: Now, I assume they have a
9 separate license, right?

10 MR. ALI: Obviously now because if -- if we
11 have been told we can't open. So obviously there's
12 another license that we need to acquire.

13 MS. MILLER: Okay. Because it just seems
14 like a basic, that -- that if you're the person in
15 authority, you need to know what the rules are.

16 MR. ALI: Yeah. When I came in it was
17 stated to me by D, you know, who was there before me
18 that, you know, as long as we don't sell any alcohol,
19 that it was okay for us to sell food because we are a
20 restaurant. And that was his honest belief as well
21 until that day he found out.

22 MS. MILLER: And who was he?

1 MR. ALI: D is one of the managers.

2 MS. MILLER: Okay. Is he still there?

3 MR. ALI: He's -- he's out of -- he's out of
4 the country right now. But yeah. But he knows -- he
5 knows now for sure.

6 MS. MILLER: So -- and -- and when you left
7 who was in -- when you left the establishment when this
8 incident occurred -- or 2:00 you left and the incident
9 occurred a couple hours later. Who did you leave in
10 authority?

11 MR. ALI: When I left D was there. When I
12 left the establishment at 2 obviously my understanding
13 is I'm not needed because, you know, we're not selling
14 liquor. So I'm like I'd rather go home and rest with
15 my -- with my girlfriend. I always try to get home as
16 soon as possible because the business I'm in already
17 creates a lot of friction between me and my girlfriend.
18 So as soon as it closes I try to make sure I do my
19 duties and get home to her.

20 MS. MILLER: Okay. This -- this D person is
21 another ABC manager? Is that who --

22 MR. ALI: DeWitt.

1 MS. MILLER: DeWitt. Who is DeWitt?

2 MR. ALI: That's DeWitt Salas.

3 MS. MILLER: Is he an ABC manager?

4 MR. ALI: He did have an ABC manager. I
5 don't know if it expired. I think when -- when during
6 that time it might have expired or something. I think
7 that's the situation.

8 MS. MILLER: Okay.

9 MR. ALI: But my understanding is not -- you
10 know, ABC managers are not needed because we're not
11 selling alcohol. You know, it's only needed when --
12 when we are operating and selling alcohol, you know.

13 MS. MILLER: Okay. But you have a different
14 understanding now?

15 MR. ALI: Oh, hundred percent.

16 MS. MILLER: Okay. All right. I have no
17 further questions. Thank you.

18 MR. ALI: Okay.

19 CHAIRPERSON ANDERSON: Do -- do you have
20 any? Yes, Mr. Short.

21 MR. SHORT: Good afternoon, Mr. Ali.

22 MR. ALI: Good afternoon, sir.

1 MR. SHORT: Are you familiar with the laws
2 of the District of Columbia as it relates to ABRA?

3 MR. ALI: Some, yes.

4 MR. SHORT: Some?

5 MR. ALI: Or to some -- to some part.

6 MR. SHORT: And you run a business?

7 MR. ALI: To some part. Obviously since
8 then again --

9 MR. SHORT: Again, the question is --

10 MR. ALI: -- talking about before.

11 MR. SHORT: You're somewhat familiar, but
12 you run a business for -- for a owner? Is that what
13 you're saying, you're somewhat familiar but not
14 familiar? Is that -- is that your answer?

15 MR. ALI: Now I am since that day. But
16 yes -- yes, sir, that is my answer.

17 MR. SHORT: Have you ever read this -- read
18 these laws?

19 MR. ALI: I know some of the laws.

20 MR. SHORT: No. No. I asked you have you
21 ever read these laws?

22 MR. ALI: Not that book that you're --

1 you've suggested there.

2 MR. SHORT: This -- this would tell you what
3 your business can do and what it can't do and not what
4 your neighbors or people down the street are doing.

5 MR. ALI: We'll definitely get that.

6 MR. SHORT: And you're sitting here today
7 because apparently as a person who runs a business for
8 someone you're giving some answers that just don't --
9 just don't make good sense.

10 MR. ALI: I understand.

11 MR. SHORT: Do you have an automobile?

12 MR. ALI: Yes, sir.

13 MR. SHORT: Do you have a driver's license?

14 MR. ALI: Yes, sir.

15 MR. SHORT: Would you let someone drive your
16 car without seeing their driver's license and would you
17 tell them don't worry about that stop sign because
18 somebody down the street told me we don't have to stop
19 at that stop sign after 3:00?

20 MR. ALI: I understand your point.

21 MR. SHORT: No. I'm -- I'm asking you. So
22 you understand that?

1 MR. ALI: Yeah, I understand definitely.

2 MR. SHORT: The -- the laws also apply to
3 ABC rules and regulations.

4 MR. ALI: Yes, sir.

5 MR. SHORT: And you're saying -- sitting
6 here today saying I didn't know, someone told me I could
7 run that stop sign is not a good answer.

8 MR. ALI: I understand.

9 MR. SHORT: It's really -- it's really
10 pouring -- pouring gasoline on -- on the fire.

11 MR. ALI: I'm just trying to truthful. I
12 don't want it to --

13 MR. SHORT: I understand. Well, being
14 truthful cannot can I ask you to get yourself a copy of
15 this and put it in the business --

16 MR. ALI: Yes, sir.

17 MR. SHORT: -- and that you read it and
18 understand so we won't see you here again with these
19 same situations?

20 MR. ALI: For sure a hundred percent.

21 MR. SHORT: Okay. Now, one of the charges
22 and one of the very egregious charges in this case is an

1 ABRA investigator and the police department were
2 knocking on the door. And there's been testimony that
3 you were right down the street; is that right?

4 MR. ALI: That wasn't me that was right down
5 the street.

6 MR. SHORT: Not a problem. Okay. Let's --
7 pardon. I -- I thought it was you.

8 MR. ALI: That's okay.

9 MR. SHORT: But at any rate if you were
10 there no matter what time of day -- and -- and the
11 testimony has been if a ABRA or a police officer knocks
12 on the door. What if -- what if a fire investigator or
13 somebody from DCRA would come and knock on the door,
14 would you let them in without calling the owner?

15 MR. ALI: If I was there and I hear the
16 knocking on the door, there would be no problem, I would
17 let them in right away. I think my -- my understanding
18 from the situation is that they were unable to hear --

19 MR. SHORT: Okay.

20 MR. ALI: -- people at the door. That's --
21 that's my understanding.

22 MR. SHORT: Yeah. Great. But again, I'll

1 ask this question: The door -- the front door and the
2 very back door are exit doors. Don't they have exit
3 signs over them?

4 MR. ALI: They do.

5 MR. SHORT: Can you lock an exit door while
6 you have patients -- I mean customers inside?

7 MR. ALI: No, we shouldn't.

8 MR. SHORT: What's -- what's the answer? I
9 didn't hear you.

10 MR. ALI: You shouldn't.

11 MR. SHORT: Well, how and why do you know
12 that?

13 MR. ALI: Like you explained earlier in case
14 of fire or an emergency then you need the patrons inside
15 to be able to have an easy access --

16 MR. SHORT: Exit without delay.

17 MR. ALI: -- to the exit.

18 MR. SHORT: So its been your policy before
19 this hearing that you would lock that door sometimes?
20 Is that what you're saying? Is that your testimony?
21 You're not going to do it any more. But had you ever
22 done it previously?

1 MR. ALI: Have we locked that door?

2 MR. SHORT: Yeah. While people -- while
3 you -- while you had customers inside of it, clients
4 or --

5 MR. ALI: Well, the front door obviously has
6 to be open because that's how people come in. And as
7 far as the -- the back door, the -- so we have two
8 doors. One is, you know, you're come coming in where
9 the regular clients come in, and then --

10 MR. SHORT: It's called egress, correct?

11 MR. ALI: And then -- and then the -- the
12 back door we, usually lock it because, you know, the
13 area isn't really safe. So if you just -- if you don't
14 lock that metal door, anybody can just slide a credit
15 card or something and gain access to that door. So we
16 usually try to --

17 MR. SHORT: Well, let me -- let me make
18 something plain for you.

19 MR. ALI: Yes, sir.

20 MR. SHORT: As I board member -- I can't
21 address all the other board members. But before this
22 case is settled I want someone in authority there to be

1 able to assure me as a board member that if I were there
2 or anybody I knew or anybody who walks up 9th Street
3 decides to come into that business and they were a car
4 fire right on the front of your door and they couldn't
5 get out, I shouldn't have to wait for somebody to come
6 with a key to let me out, and that's the law.

7 MR. ALI: And that's what we do now. And
8 I've actually had an -- an ABRA agent that he said
9 it's -- you know, it's not -- it's none of his business,
10 but you will get in trouble for locking that door. And
11 I -- right now if you go into the establishment in our
12 business hours, you walk in you can actually walk
13 through the back. So we just usually have a security
14 stand somewhere there just to make sure that, you know,
15 no -- no people from the neighborhood can just sneak in
16 through the back.

17 MR. SHORT: It sounds like --

18 MR. ALI: But that metal door is --

19 MR. SHORT: It sounds like you need to get
20 the fire code too, you really do. You need to get
21 the -- you need to get all the laws that pertain to your
22 business --

1 MR. ALI: Yeah.

2 MR. SHORT: -- and not go by hearsay. In
3 other words, don't give your car to someone who says my
4 driver's license is at my sister's house, but I'm going
5 to use your car for the weekend, is that okay? Would
6 you do that?

7 MR. ALI: No, I won't.

8 MR. SHORT: Okay. So you need to know the
9 laws. You need to know what's safe and what's unsafe.
10 Luckily for the owner and yourself no one got injured.
11 Locking those doors with people inside is a very, very
12 unsafe thing to do.

13 MR. ALI: Yes, sir.

14 MR. SHORT: I thank you for your -- I thank
15 you for your -- your testimony. Its been compelling.

16 MR. ALI: Okay.

17 MR. SHORT: You admitted you did not know
18 and that there were violations that were -- that had
19 been taking place for a long time but it just came to
20 this hearing to get that settled. And we have your word
21 that you're going to do a lot better things now?

22 MR. ALI: A hundred percent.

1 MR. SHORT: Let me ask you this: Do you
2 have a security plan or anything like that?

3 MR. ALI: Yeah. We -- well, we have
4 Prestige -- Prestige Security Company that is doing our
5 securities now. They're -- they're very well-known in
6 the -- in the community right now, and he's doing a
7 phenomenal job as far as from even -- you know, with
8 professionally checking IDs to making sure there's no
9 altercations in the business, knowing how to talk to the
10 customers. You know, like he's doing a lot of great
11 things.

12 MR. SHORT: It sounds like you're on the
13 right track.

14 MR. ALI: Yeah. It costs a little more,
15 but --

16 MR. SHORT: But now -- but a security plan
17 that's approved by ABRA, you would -- you -- we can't
18 make I do it, not at this particular juncture. But I
19 would suggest -- okay. All right. Thank you. But --
20 but at any rate I think you get the gist of what I'm
21 saying.

22 MR. ALI: I definitely understand, sir.

1 MR. SHORT: And -- and hopefully that we can
2 get something out of this hearing that will make your
3 business safe and anybody who comes into your business
4 be a lot safer.

5 MR. ALI: Thank you, sir.

6 MR. SHORT: Thank you. That's all I have,
7 Mr. Chair.

8 CHAIRPERSON ANDERSON: Any other questions
9 by any other board members? Yes, Mr. Alberti.

10 MR. ALBERTI: Mr. Ali --

11 MR. ALI: Yes, sir.

12 MR. ALBERTI: -- so your testimony here
13 today is that you -- I'll sort of paraphrase it -- is
14 that you have taken steps to know -- to know what the
15 license allows you to do; is that correct?

16 MR. ALI: Yes, sir.

17 MR. ALBERTI: All right. And you've
18 thoroughly reviewed that and you're confident that you
19 know, right? Is that correct?

20 MR. ALI: That's correct.

21 MR. ALBERTI: All right.

22 MR. ALI: As far as the -- the act -- the --

1 I guess the opening as a restaurant for after hour
2 when -- when the business --

3 MR. ALBERTI: Oh, so you haven't looked at
4 anything else about what you're allowed to do and what
5 you're not allowed to do?

6 MR. ALI: I mean would you like me to --
7 would you like to ask me a question and see?

8 MR. ALBERTI: Sure. What's your total
9 capacity of your restaurant?

10 MR. ALI: 24 right now. We're working on
11 getting it to 64.

12 MR. ALBERTI: So you do know that.

13 MR. ALI: [Inaudible 2:49:44].

14 MR. ALBERTI: Great. Thank you. That's all
15 I need to know. Thank you.

16 MR. ALI: Okay.

17 CHAIRPERSON ANDERSON: Any other questions
18 by any other board members? Ms. Gephardt, do you have
19 any questions to ask of Mr. Ali based on the questions
20 by The Board?

21 MS. GEPHARDT: No, I do not.

22 CHAIRPERSON ANDERSON: Ms. Tessera, do you

1 have any questions of Mr. Ali based on the questions
2 that were asked of The Board?

3 MS. TESSERA: Yes. I just -- I just wanted
4 to clarify that can you clarify that --

5 CHAIRPERSON ANDERSON: Ask him the question.
6 Yeah.

7 MS. TESSERA: -- that fire exits are open
8 all the time when you have a customer and it was closed
9 that day because we were not having real customers?

10 MR. ALI: We were closed for business. That
11 is correct. I did clarify that.

12 CHAIRPERSON ANDERSON: Well, it's not that
13 you did clarify it.

14 MR. ALI: Talking about whenever we have
15 people we should always be open.

16 CHAIRPERSON ANDERSON: Hold on. Hold on.
17 Hold on. She's asking you a question, and so she's
18 asking you to answer -- answer the question based on
19 what she asked you.

20 MR. ALI: Okay.

21 CHAIRPERSON ANDERSON: I'm give you the
22 benefit of the doubt.

1 MR. ALI: Okay.

2 CHAIRPERSON ANDERSON: I know you said you
3 had clarified that, but you didn't answer the question.
4 So just answer the question based on what you're asked,
5 sir.

6 MS. TESSERA: So I'm asking you a question.
7 Do you know that all the exit doors should be open
8 during the serving hours --

9 MR. ALI: Yes.

10 MS. TESSERA: -- the operation hours?

11 MR. ALI: And they are.

12 MS. TESSERA: Okay. And it was open before
13 this incident, correct? That was the rule before this?

14 MR. ALI: They are. But they were closed
15 because we were closed for business that night. After 2
16 I closed.

17 MS. TESSERA: Thank you.

18 CHAIRPERSON ANDERSON: Do you have any other
19 questions for this witness?

20 MS. TESSERA: No, sir.

21 CHAIRPERSON ANDERSON: All right. Thank you
22 very much for your testimony, Mr. Ali. You should --

1 you can sit -- step back. Please do not have any
2 conversations with anyone regarding the nature of your
3 testimony until this case is over. Do you have any
4 other witnesses, ma'am?

5 MS. TESSERA: No.

6 CHAIRPERSON ANDERSON: So do you rest your
7 case?

8 MS. TESSERA: I rest my case.

9 CHAIRPERSON ANDERSON: Do you have any
10 documents that you would like The Board to consider in
11 making its decision?

12 MS. TESSERA: I believe I already made --

13 CHAIRPERSON ANDERSON: No. I'm saying do
14 you have any documents? So you don't have any
15 documents? Okay. Fine. All right. Does the
16 Government wish to make a closing statement?

17 MS. GEPHARDT: Yes, I would like to do that.
18 Thank you. So there are four charges here, and we've
19 had extensive testimony as to what happened on the night
20 of November the 15th, 2015 at approximately 3:30 in the
21 morning. The -- the -- the first charge and the most
22 serious charge is interfering in an investigation.

1 Specifically Noble Lounge failed to let the Metropolitan
2 Police and a ABRA investigator enter to inspect the
3 premises without delay. As you -- as you heard through
4 the testimony of Investigator Demby it took somewhere in
5 the ballpark of one hour to have the -- from the time
6 they arrived to have the actual door opened. You heard
7 that there were four law enforcement -- law enforcement
8 officials between two MPD officers and two ABRA
9 officials knocking very loudly on the front and the back
10 door. You heard that there was an attempt for an
11 investigator to actually open the back door but it was
12 quickly slammed shut by somebody inside the
13 establishment.

14 You -- let's see. Ms. Tessera mentioned
15 that the people inside did not hear the police knocking.
16 There's a couple problems with that, and that is number
17 one, Ms. Tessera wasn't there so she can't testify to
18 what they heard. And -- and so -- and the other thing
19 is that obviously there was some acknowledgement that
20 somebody was outside trying to reach them if they
21 slammed the door shut.

22 The other thing that's important to note is

1 that Ms. Tessera says she did not interfere with an
2 investigation, that she was cooperative, that she spoke
3 to the investigators, and she did what they said, what
4 she was supposed to do. But that's not what's at issue
5 here. The issue is not whether she cooperated or
6 whether she interfered with an investigation. It's what
7 happened when the police and ABRA was trying to get
8 ahold of the people inside of the establishment and they
9 were being shut out.

10 Let's see. One of the -- one of the major
11 issues in this case which addresses the after hours
12 allegation is that we had no ABC manager on duty. As a
13 matter of fact, there was nobody in a position of
14 authority on duty when ABRA finally did get access to
15 the establishment. You heard the testimony that the ABC
16 manager left at 2 a.m., which is the -- the time when
17 the sales of service -- hours of service and sales is
18 over but that the party continued with between 25 and 30
19 patrons in the establishment, patrons who were there
20 supposedly having a birthday party, supposedly I guess
21 eating food and smoking. And so there certainly have --
22 we have certainly proven the violation of after hours

1 service.

2 And one of the things that has come up in
3 the testimony is that they thought -- they thought that
4 well, you know, we can serve food after 2 a.m., it's no
5 big deal. But as we know it doesn't matter whether
6 you're serving food or not, your hours of operation end
7 at 2:00, everybody needs to be out except for employees
8 who are maybe cleaning up. And then it's also important
9 to note that even though alcohol was out just the fact
10 that even though no one was drinking alcohol, alcohol
11 was out and assessable.

12 Let's see. There was also testimony from
13 Ms. Tessera that Mr. DeWitt -- when the phone call came
14 in when she -- when she called Mr. DeWitt that he came
15 from down the street and came to the establishment and
16 opened up the door. However the testimony of Mr. Demby
17 was that Mr. DeWitt was in the establishment and came
18 downstairs to open the door. So there's certainly a --
19 a discrepancy in testimony there I guess. But
20 regardless, Mr. DeWitt didn't have an ABC manager's
21 license, and therefore there was no one there to sort of
22 keep control of the situation.

1 And finally, the license was not in a
2 conspicuous place. It was laying face down on top of an
3 electric fireplace so ABRA officials, when they were
4 doing their regulatory inspection, could not see it
5 immediately.

6 And so finally, it's important to note here
7 that this seems to be a management problem. In addition
8 to obviously these very serious charges of delay and
9 interference it seems that Ms. Tessera doesn't have a
10 command of what's going on inside her establishment.
11 Therefore these -- these actions have led -- led to very
12 serious violations, very serious violations that could
13 lead to grave consequences for her license.

14 And so the Government would like to propose
15 a penalty for the actions in this case, and that would
16 be a \$8,500 --

17 CHAIRPERSON ANDERSON: How much?

18 MS. GEPHARDT: \$8,500.

19 CHAIRPERSON ANDERSON: Okay.

20 MS. GEPHARDT: \$8,500 fine and five days
21 served to include a Friday and a Saturday. This would
22 be a \$4,000 fine and five days served for Charge 1,

1 \$3,000 fine for Charge 2.

2 CHAIRPERSON ANDERSON: Hold on. Hold on.

3 Charge 1 is 4,000 and five days served?

4 MS. GEPHARDT: Uh-huh. Charge 2 is 3,000,
5 and Charge 3 is 750, and Charge 4 is 750.

6 CHAIRPERSON ANDERSON: Okay. So Charge 1,
7 4,000 and five days served including Saturday and
8 Sunday; Charge 2, 3,000; Charge 3, 750; and Charge 4
9 750?

10 MS. GEPHARDT: Yes. That's correct.

11 CHAIRPERSON ANDERSON: Okay. That's it?

12 MS. GEPHARDT: That's it.

13 CHAIRPERSON ANDERSON: All right. Do you
14 wish to make an opening -- a closing statement, ma'am?

15 MS. TESSERA: No. The reason I am here
16 today is to explain the situation as well as the quote
17 that I was given earlier communicating it was \$6,500.
18 And I cannot do that while my premises is closed because
19 that's the only way I can make money and pay my, you
20 know, fees. So if the premises is closed for a week, I
21 can't do anything at all, and I can't -- I mean I have
22 to pay the rent, I have to pay employees, and I have to

1 pay a lot of things for that premises. And closing
2 won't be -- like impact my business. And as far as the
3 income that's coming in that's very bad. And having a
4 \$8,000 -- a \$8,000 charge now from 6,500 which I
5 [inaudible 2:59:32] to have a lesser penalty fee. I
6 mean this is impossible for me to do, closing the
7 premises for a week including Friday and Saturday.
8 That's why I'm here and that's why I want to explain all
9 those issues and what we have done and all those things
10 today. And I will ask the court right now what
11 [inaudible 3:00:08].

12 UNKNOWN MALE: Mr. Board --

13 CHAIRPERSON ANDERSON: You can't say
14 anything, sir. I mean I don't know who you are. This
15 is closing. So only -- she's the only one that can
16 speak. So if you need to say something to her and for
17 her to make her statement, you can. But you can't say
18 anything, sir.

19 MS. TESSERA: Okay. And the other thing is
20 also, you know, the key witness DeWitt Salas, he is out
21 of the country and he can even explain more because he
22 was there physically on the premises at that time. So

1 most of the statement that I made is based on
2 information that I collected from the employees and
3 managers. Maybe he would have more information that he
4 could provide to the board members and -- and see what
5 he can say. Because yes, the ABRA investigator was
6 there and it was assumed that we were -- I understand
7 now that back then we say restaurant -- since we have
8 restaurant license, we can sell food not alcohol after
9 ABRA operation hours. And but, you know, so it's as far
10 as the license not being -- I mean the ABRA investigator
11 was there after 2 a.m. in the morning. I mean they
12 might be cleaning, and, you know, the license might be
13 fall. Anything can happen for the -- for that person
14 not to see the license visible enough because it's --
15 it's not -- we assume that's not the time of alcohol
16 operation time. So and -- and all -- as well as ABRA
17 manager -- so all I can say is maybe we should have
18 another hearing and have DeWitt come back from the
19 country that he went and maybe he could be a key witness
20 because he was physically there and talked -- and at
21 that time he talked to the -- the ABRA investigator as
22 well as the police at that time. So he's my key witness

1 other than the ABRA manager who was not physically there
2 at that time.

3 CHAIRPERSON ANDERSON: Well, this -- this
4 matter was scheduled for a hearing. I mean you didn't
5 ask for an extension prior -- you -- you can't -- after
6 you present your case and the record is -- we're about
7 to close the record you can't ask for a postponement.
8 If -- if you believe at the beginning prior to the
9 presentation of the case or prior to closing the record,
10 the case that you had a critical witness that for
11 whatever reason was unable to be here today, then the
12 proper channel would be you could have spoken to
13 Ms. Gephardt to see if she would agree to a
14 postponement. Or if she didn't agree, you could have
15 asked The Board to say I have a critical witness who --
16 who had a family emergency, had to leave the country,
17 and so therefore could we have a postponement, and
18 that's something that The Board would consider. But
19 it's inappropriate for The Board to make -- to even
20 consider that once the Government has presented its
21 case. You have also presented your case, and you're --
22 you're making such a request in closing. So that's --

1 that's an inappropriate motion to make. And so
2 therefore it cannot be considered. So -- so all right.
3 So with that said, the record is -- is now closed. Do
4 the parties wish to file proposed findings of fact and
5 conclusions of law or waive their right to do so?

6 MS. GEPHARDT: I waive my right to do so.

7 CHAIRPERSON ANDERSON: And what that means,
8 ma'am, is that do you want to wait for the transcript to
9 come out and for you to read it and then you can write
10 some proposed findings and conclusions of law, or do you
11 want The Board to make its decision based on the
12 presentation that was made today? So do you want to --
13 you want us to make -- so you waive your right; is that
14 --

15 MS. TESSERA: I -- I don't know. Some of
16 the wording that you guys are using is -- I'm unfamiliar
17 with it. I mean --

18 CHAIRPERSON ANDERSON: This is what I'm
19 saying is that it's not new testimony. Do you want The
20 Board to make its decision based on the testimony that
21 was presented today or do you want for the transcript
22 to -- for another -- I guess probably about another 30

1 days, three weeks for the transcript -- your review of
2 the transcript and you make findings of fact and
3 conclusions of law? But I mean that's -- it -- it would
4 be -- it's not based on new evidence. It's based upon
5 the evidence that was already presented today. So it's
6 not like okay, you'd be bringing new facts that wasn't
7 discussed today. Or do you -- the Government has waived
8 this right. You -- you can let me know whether or not
9 you want to waive that right and -- and for us to make
10 the decision based on the testimony that was presented
11 today.

12 MS. TESSERA: So I'll wait for a transcript.

13 CHAIRPERSON ANDERSON: All right. All
14 right. Okay. So --

15 MR. ALBERTI: So -- so I assume that the
16 Government is -- are you waiving your right also?

17 CHAIRPERSON ANDERSON: The Government --

18 MS. GEPHARDT: We already waived it.

19 CHAIRPERSON ANDERSON: The Government had
20 waived her right. The Government had waived its right.

21 MR. ALBERTI: [Inaudible 3:06:14].

22 CHAIRPERSON ANDERSON: Mr. -- hold on. Mr.

1 Alberti, please. Please. The Government had waived its
2 right, and now my assumption is that the Government had
3 waived its right with the assumption that the -- the
4 applicant -- the licensee would. Now that the licensee
5 has decided that she's not going to waive her right, I
6 mean I'm taking it that the Government will also take
7 that opportunity. I'm not -- I don't think the
8 Government is going to say that okay, I'm going to -- I
9 waive my right and -- I mean it's -- all right.

10 MS. GEPHARDT: Yeah. I'm trying to think.

11 CHAIRPERSON ANDERSON: Let me -- let me --
12 hold on. Let me say this to -- this is not a matter
13 that's going to buy some more time or it's -- it's --
14 what this says is that once the -- once you get the
15 transcript you're going to read the transcript. You are
16 going to -- based on the transcript that's written
17 that's -- that is given to you, you're going to write
18 factual to say what was proven today based on the
19 evidence that was presented today and the conclusions
20 that can be drawn by the evidence today. It is -- it
21 cannot be that this other witness that you have, that
22 you're going to bring information from that other

1 witness. So whatever you're going to provide us -- I
2 just want you to be clear it is based on what's done
3 today. It's nothing new. Okay. I want you to know
4 that.

5 MS. TESSERA: And the other thing is would
6 the Government consider waiving this fee, at least the
7 suspension?

8 CHAIRPERSON ANDERSON: Well, I mean -- well,
9 the Government is making recommendations. We're the
10 ones who make the decision.

11 MS. TESSERA: Okay.

12 CHAIRPERSON ANDERSON: Your argument to The
13 Board is that you have made a compelling argument to The
14 Board that it will be a major hardship to you to be
15 closed for five days. So you're making -- the
16 Government can make -- and one of the things you made
17 before is that you said that they had offered \$6,500 and
18 you were shocked that they offered -- that they're now
19 at \$8,500. But that's a chance you -- you know, when
20 folks settle they give up certain things. And then
21 because you decided to go to a hearing they decided that
22 well, this is what they're asking for. And it's up to

1 The Board to make the decision. So that doesn't
2 necessarily mean that because the Government says \$8,500
3 and five days served that when we deliberate that's what
4 we're going to come up with. But I mean that's just a
5 recommendation from the Government. So we will -- so
6 that's one of the reasons why in your closing you
7 convince The Board what it is that The Board should do.
8 As part of your closing you have stated about how
9 detrimental it's going to be on your business for five
10 days. I'm not sure if -- if board members -- if they
11 believe that. And so therefore when we do our
12 deliberation we're going to consider that. But that --
13 I just want you -- I just want you to know at least as
14 long as I remain Chair these are recommendations for the
15 Government. We'll go back, we'll look at the law, and
16 we will look at the law, look at the recommendations and
17 make a determination what is it is that The Board
18 believes that is the best decision to make.

19 MS. TESSERA: I see. Okay. Now I
20 understand the law. Okay.

21 CHAIRPERSON ANDERSON: So do you still want
22 to -- do you -- do you still want to waive your right to

1 do the findings or -- or -- and just for us to just make
2 the decision, or do you still want to -- to -- to make
3 proposed findings?

4 MS. TESSERA: I want The Board to make a
5 decision.

6 CHAIRPERSON ANDERSON: Okay. All right.
7 Thank you. All right. All right. As chairperson of
8 the Alcoholic Beverage Control Board -- hold on one
9 moment. As chairperson of the Alcoholic Beverage
10 Control Board in accordance with Section 405 of the Open
11 Meetings Amendment Act of 2010 I move that the ABC Board
12 a hold a closed hearing for the purpose of seeking legal
13 advice from our counsel on Case Number -- Case Number
14 15-CMP-00869, Noble Lounge per Section 405B4 of the Open
15 Meetings Amendment Act of 2010 and deliberate --
16 deliberation upon Case Number 15-CMP-00869, the Noble
17 Lounge for the reasons cited in Section 405B13 of the
18 Open Meetings Amendment Act of 2010. Is there a second?

19 MR. SHORT: Second.

20 CHAIRPERSON ANDERSON: I will now take a
21 roll call vote on the motion before us now that it has
22 been seconded. Ms. Miller.

1 MS. MILLER: I agree.

2 CHAIRPERSON ANDERSON: Mr. Alberti.

3 MR. ALBERTI: I agree.

4 CHAIRPERSON ANDERSON: Mr. Short.

5 MR. SHORT: I agree.

6 CHAIRPERSON ANDERSON: Mr. Silverstein.

7 MR. SILVERSTEIN: I agree.

8 CHAIRPERSON ANDERSON: Mr. Anderson, I
9 agree. As it appears that the motion has passed, I
10 hereby give notice that the ABC Board will hold a closed
11 meeting in the ABC Board conference room pursuant to the
12 Open Meetings Amendment Act of 2010 and issue an order
13 within 90 days.

14 So we will deliberate, and in 90 days we
15 will issue an order. All right. Thank you very much.

16 MS. TESSERA: Thank you.

17 CHAIRPERSON ANDERSON: Okay. All right. I
18 know we are way, way past schedule, and I know that --
19 past our schedule, and I will -- if any board members
20 wish to take a break they can. But as long as three
21 board members remain here, I think that we need to move
22 forward with our -- with our calendar.

1 (Whereupon the above-entitled matter was
2 concluded.)

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