

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

IN THE MATTER OF: *
*
1010 V, LLC, Josephine * Show Cause
1010 Vermont Ave., NW * Hearing
Retailer CT - ANC-2F *
License No. 76906 *
Case# 14-CC-00186 *
*
(Sale to Minor Violation) *

August 5, 2015

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
HERMAN JONES, Member
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

ALSO PRESENT:

AMY SCHMIDT, OAG
ABYIE GHENENE, ABRA Investigator

T-A-B-L-E O-F C-O-N-T-E-N-T-S

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WITNESS	DIRECT	CROSS	REDIRECT	RE CROSS
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Siamak Saadatian	76	88	92	--

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

2 3:30 p.m.

3 CHAIRPERSON MILLER: Okay. We are
4 back on the record now for Case No. 14-CC-00186,
5 Josephine located at 1010 Vermont Avenue, N.W.,
6 License No. 76906, in ANC-2F, and this is a Show
7 Cause Hearing.

8 Would you introduce yourselves for the
9 record, please?

10 MS. SCHMIDT: Good afternoon. Amy
11 Schmidt, Assistant Attorney General on behalf of
12 the District of Columbia.

13 CHAIRPERSON MILLER: Okay.

14 MR. SHIRAFKAN: Good afternoon. Makan
15 Shirafkan on behalf of the licensee, 1010 V, LLC.

16 CHAIRPERSON MILLER: And with you?

17 MR. SAADATIAN: Siamak Saadatian.

18 CHAIRPERSON MILLER: I'm sorry, could
19 you speak up?

20 MR. SAADATIAN: Siamak Saadatian from
21 Josephine.

22 CHAIRPERSON MILLER: Okay.

1 MR. KARIM: David Karim, Josephine.

2 CHAIRPERSON MILLER: And could you
3 identify your positions with Josephine?

4 MR. SAADATIAN: I'm the general
5 manager.

6 CHAIRPERSON MILLER: Okay.

7 MR. KARIM: One of the partners.

8 CHAIRPERSON MILLER: Okay. Thank you.
9 So before we start, I'm going to ask you if there
10 are any preliminary matters?

11 MS. SCHMIDT: No, there are none.

12 CHAIRPERSON MILLER: Okay.

13 MR. SHIRAFKAN: All right. I just
14 would ask is there a Rule on Witnesses at the
15 Board? I didn't know what the procedure is.

16 CHAIRPERSON MILLER: You can ask for
17 it. You can ask to invoke it.

18 MR. SHIRAFKAN: No, that's fine.

19 CHAIRPERSON MILLER: Okay.

20 MR. SHIRAFKAN: Since they are going
21 to go first, I don't have a problem with it.

22 MS. SCHMIDT: Yes, we only have the

1 one witness.

2 CHAIRPERSON MILLER: Do you -- who are
3 -- what witnesses will there be?

4 MS. SCHMIDT: Abyie Ghenene.

5 CHAIRPERSON MILLER: Okay. For the
6 Government.

7 MS. SCHMIDT: Yes.

8 CHAIRPERSON MILLER: And?

9 MR. SHIRAFKAN: And we will be having
10 one witness, Mr. Saadatian, the general manager.

11 CHAIRPERSON MILLER: Okay. Okay. Any
12 other questions? You are familiar with the Show
13 Cause Hearing procedures? Okay. All right.
14 Then if you are ready to proceed?

15 MS. SCHMIDT: Yes, the Government is
16 ready. I'll give a very brief opening statement.

17 CHAIRPERSON MILLER: Okay.

18 MS. SCHMIDT: Today we are here for a
19 charge of a sale to a minor at Josephine on
20 Thursday, July 31, 2014. At that time, ABRA
21 Investigators entered the establishment as part
22 of an ongoing -- as part of response to

1 complaints that there were sales to minors in
2 that establishment.

3 And while they were there,
4 Investigator Ghenene observed that there was a
5 young woman who looked under 21 with a wristband
6 on her hand. When he went to speak to her, he
7 checked her ID which did show that she was under
8 the age of 21 and that also he -- and also she
9 admitted that she was given a wristband by the
10 front door staff after she had originally walk --
11 originally had two Xs put on her hand to show she
12 was under 21, but she went and washed it off and
13 then got a wristband.

14 And he will also testify that the
15 wristband looked like it was not manipulated,
16 that it was given to her and only to her and it
17 was not worn by another person.

18 CHAIRPERSON MILLER: Okay. Do you
19 have an opening?

20 MR. SHIRAFKAN: Yes, Madam Chair.
21 Hello, Madam Chair and Members of the Board.
22 This case is basically a case where there is not

1 enough information to make a determination and I
2 believe you will see the Government is asking for
3 this license to be penalized on ultimately
4 speculation.

5 This is a case of a young woman who
6 was IDed, who was properly IDed, given an X. She
7 went into the establishment. She, according to
8 herself, now we don't, of course, have her here,
9 so it's always about these reports of hearsay,
10 but we never had the chance to get this
11 individual, but she goes and, according to
12 herself, washes these Xs off. When the
13 Investigator approaches her, her first reply when
14 she is asked how old you are, she said I'm 21.

15 So she is, in fact, lying to the
16 Investigator, and then she says I'm 21. And at
17 that time, the general manager was with the
18 Investigator, and they had a conversation, and he
19 actually says you have a passport. It's a
20 Turkish passport, I remember you. Because he was
21 at the door when she came in.

22 And then she says okay, she pulls it

1 out and she says yes, I'm, you know, 20 years-
2 old. Now, of course, we don't know because how
3 close this 20 to 21 is, frankly, because the
4 picture that we have or the passport photo that
5 we have is just dark and no one seems to be able
6 to have a clear copy, you know, of this passport.

7 At any rate, at that point, she admits
8 that she is 20 years-old. She has this wristband
9 and then the same girl who has just lied, the
10 same girl who just washed her hands, she says oh,
11 I got it from the front door guys.

12 I won't go into details, as we will
13 talk more into the hearing, but this is a case
14 where you have a licensee being pointed a finger
15 at saying you are not doing your job when the
16 girl, and we have seen a lot of these, is at
17 fault. The girl is the one that lied and then
18 admitted to washing the X off and then going to
19 this person that was never identified and got
20 this wristband.

21 And then, therefore, I ask that at the
22 end you find the licensee not liable.

1 CHAIRPERSON MILLER: Okay. Thank you.
2 Ms. Schmidt?

3 MS. SCHMIDT: The Government calls
4 Investigator Abyie Ghenene. I'm sorry, I always
5 mispronounce your name, Abyie.

6 INVESTIGATOR GHENENE: Sure.

7 MS. SCHMIDT: Nothing personal.

8 Whereupon,

9 INVESTIGATOR ABYIE GHENENE

10 was called as a witness by Counsel for the
11 Government, and having been first duly sworn,
12 assumed the witness stand and was examined and
13 testified as follows:

14 INVESTIGATOR GHENENE: Yes, ma'am.

15 CHAIRPERSON MILLER: Okay.

16 DIRECT EXAMINATION

17 MS. SCHMIDT: Investigator, please,
18 state your name for the record.

19 INVESTIGATOR GHENENE: Sure. Abyie
20 Ghenene.

21 MS. SCHMIDT: Ghenene, okay. And by
22 whom are you employed?

1 INVESTIGATOR GHENENE: The Alcoholic
2 Beverage Regulation Administration.

3 MS. SCHMIDT: And in what capacity are
4 you employed?

5 INVESTIGATOR GHENENE: As an
6 Investigator.

7 MS. SCHMIDT: How long have you been
8 employed?

9 INVESTIGATOR GHENENE: Approximately,
10 four and a half years.

11 MS. SCHMIDT: Okay. Drawing your
12 attention to July 31, 2014, were you in the
13 vicinity -- did you happen to go to Josephine on
14 1010 Vermont Avenue, N.W., in the District of
15 Columbia?

16 INVESTIGATOR GHENENE: Yes, ma'am.

17 MS. SCHMIDT: And why were you there?

18 INVESTIGATOR GHENENE: We went in --
19 well, we were monitoring the area.

20 MS. SCHMIDT: And just for the record,
21 who is the we?

22 INVESTIGATOR GHENENE: I believe it

1 was myself, Investigator Kofi Apraku and
2 Investigator Ileana Corrales.

3 MS. SCHMIDT: Okay.

4 INVESTIGATOR GHENENE: And we were
5 monitoring the area for ABRA violations and
6 happened to notice a younger looking crowd in
7 front of Josephine.

8 CHAIRPERSON MILLER: I'm sorry, can
9 you speak up a little, please?

10 INVESTIGATOR GHENENE: I apologize.
11 We happened to notice a younger looking crowd in
12 front of Josephine.

13 CHAIRPERSON MILLER: Okay. Thank you.

14 MS. SCHMIDT: And so what did you do
15 when you saw that crowd?

16 INVESTIGATOR GHENENE: We decided that
17 we wanted to conduct ID checks there. And I
18 don't remember exactly if we discussed the fact
19 that there was multiple complaints against the
20 establishment from or through the DC Double Check
21 Program, but I know that we decided we were going
22 to conduct ID checks before we went in.

1 MS. SCHMIDT: And what is the DC
2 Double Check Program?

3 INVESTIGATOR GHENENE: In essence,
4 it's a program -- it's a relationship between the
5 area universities and the Alcoholic Beverage
6 Regulation Administration where we share
7 information and they give us their complaints
8 regarding different sorts of underage concerns
9 with respect to licensees in D.C.

10 MS. SCHMIDT: Okay. And while you
11 were there, did you see anyone who appeared to be
12 under 21?

13 INVESTIGATOR GHENENE: Yes, ma'am.

14 MS. SCHMIDT: And was there a specific
15 -- could you tell us about that?

16 INVESTIGATOR GHENENE: Well, I mean,
17 I don't remember crystal clear, because it was a
18 year ago, but I do remember observing a female
19 holding a beer bottle who appeared to be under
20 21, but that also had a wristband on.

21 MS. SCHMIDT: And can you describe the
22 wristband?

1 INVESTIGATOR GHENENE: I definitely
2 cannot. I don't --

3 MS. SCHMIDT: Can you describe the
4 condition of the wristband?

5 INVESTIGATOR GHENENE: After we made
6 contact with her, I remember it being pretty well
7 affixed to her wrist. It wasn't loose. It was
8 tight.

9 MEMBER SILVERSTEIN: I'm sorry?

10 INVESTIGATOR GHENENE: It was pretty
11 well affixed to her wrist. It wasn't loose like
12 a bracelet. It was tight like it had been placed
13 on her wrist. I don't know if that makes it
14 clear.

15 MS. SCHMIDT: So did you speak to that
16 individual?

17 INVESTIGATOR GHENENE: Yes, ma'am.

18 MS. SCHMIDT: And what -- could you
19 tell us about your conversation with her?

20 INVESTIGATOR GHENENE: Yes, ma'am.
21 Along with a representative from Josephine, I
22 introduced myself and identified myself as an

1 ABRA Investigator and explained to the young lady
2 the purpose of our interaction and asked her how
3 old she was.

4 MS. SCHMIDT: And what did she tell
5 you?

6 INVESTIGATOR GHENENE: She stated she
7 was 21.

8 MS. SCHMIDT: And was she 21?

9 INVESTIGATOR GHENENE: No.

10 MS. SCHMIDT: And how did you
11 determine that?

12 INVESTIGATOR GHENENE: She produced a
13 Turkish passport and while we were reviewing the
14 passport, we found that her birth date was
15 January 20, 1994.

16 CHAIRPERSON MILLER: I'm sorry, could
17 you repeat the year?

18 INVESTIGATOR GHENENE: I'm sorry.
19 January 20, 1994.

20 CHAIRPERSON MILLER: 94, okay.

21 MS. SCHMIDT: Okay. And what did she
22 say about her -- I'm sorry. When you saw her,

1 was she -- did she have any alcohol? Was there
2 any alcohol in her vicinity?

3 INVESTIGATOR GHENENE: Yes, she was
4 holding a bottle of beer.

5 MS. SCHMIDT: And what did she say
6 about how she was able to get that beer?

7 INVESTIGATOR GHENENE: I don't --

8 MS. SCHMIDT: Okay. Let me -- did she
9 say -- okay. What did she say about any
10 identification she needed to get that beer?

11 INVESTIGATOR GHENENE: I don't
12 understand the question.

13 MS. SCHMIDT: Okay. How did she --
14 okay. How did she say she obtained the
15 wristband?

16 INVESTIGATOR GHENENE: Okay. Ms.
17 Yahsa stated that she received the wristband from
18 the front door staff, from the security.

19 MS. SCHMIDT: And did she say any
20 other -- did she mention any other attraction
21 about what the front door -- about when she first
22 came in about what -- when she first saw the door

1 staff?

2 INVESTIGATOR GHENENE: I believe she
3 said that she came in and was IDed and was marked
4 with Xs. And she was instructed to wash the Xs
5 off of her hand and then return for a wristband,
6 that was what she said.

7 MS. SCHMIDT: And what did the
8 representative of Josephine tell you about that,
9 about this whole -- about Ms. Yahsa?

10 INVESTIGATOR GHENENE: Mr. Saadatian,
11 is that correct? Mr. Saadatian, first of all, he
12 was cooperative and he assisted us in verifying
13 the young lady's age. And he stated that he had
14 remembered her being checked at the front door
15 and the fact that she did have Xs marked on her
16 hands.

17 MS. SCHMIDT: And so what did you do
18 as a result of this investigation?

19 INVESTIGATOR GHENENE: I believe that
20 the alcohol was confiscated from her by the
21 establishment and she was escorted out.

22 MS. SCHMIDT: And did you give any --

1 did you charge the establishment with any
2 violations?

3 INVESTIGATOR GHENENE: Investigator
4 Corrales did.

5 MS. SCHMIDT: And what were those
6 charges? Do you remember?

7 INVESTIGATOR GHENENE: She charged
8 D.C. Official Code 25-781, sale to minors or
9 intoxicated persons and D.C. Official Code 25-
10 783, the production of valid identification
11 required.

12 MS. SCHMIDT: No further questions, at
13 this time.

14 CHAIRPERSON MILLER: Cross?

15 MR. SHIRAFKAN: Yes.

16 CROSS-EXAMINATION

17 MR. SHIRAFKAN: Investigator Ghenene,
18 is that right?

19 INVESTIGATOR GHENENE: Ghenene.

20 MR. SHIRAFKAN: I want to make sure I
21 get that right.

22 INVESTIGATOR GHENENE: Yes, thank you.

1 MR. SHIRAFKAN: I'm going to step
2 back, obviously, no one was there, especially the
3 wee hours of that night, so I'm just going to
4 walk you through it piece-by-piece, so I can get
5 an understanding of what happened that night.

6 Now, this was July 31, 2014, right?

7 INVESTIGATOR GHENENE: Yes.

8 MR. SHIRAFKAN: Okay. And there was
9 a report that was made in regards to this
10 incident about that sale to minor. Am I correct?
11 A case report?

12 INVESTIGATOR GHENENE: Yes.

13 MR. SHIRAFKAN: All right. And this
14 case report was done by Ms. Corrales?

15 INVESTIGATOR GHENENE: Yes.

16 MR. SHIRAFKAN: All right. And this
17 was one on October 31, 2014?

18 INVESTIGATOR GHENENE: It was done on
19 October?

20 MR. SHIRAFKAN: It was signed on
21 October 31, 2014 at the last page of it?

22 INVESTIGATOR GHENENE: Yes. I guess

1 so. I don't know. It's not my signature.

2 MR. SHIRAFKAN: All right. Well, Ms.
3 Corrales, when she did this report, did she talk
4 to you about doing this report?

5 INVESTIGATOR GHENENE: Yes.

6 MR. SHIRAFKAN: Okay. So the
7 information on here, have you had a chance to
8 review the information on here?

9 INVESTIGATOR GHENENE: Yes.

10 MR. SHIRAFKAN: Okay. And is it
11 accurate information to what you recall?

12 INVESTIGATOR GHENENE: Not all of it
13 is my -- are my observations.

14 MR. SHIRAFKAN: Okay.

15 INVESTIGATOR GHENENE: But from my
16 observations, yes, it's accurate.

17 MR. SHIRAFKAN: So let me then walk
18 through it and try to figure out what parts of
19 this is what you saw --

20 INVESTIGATOR GHENENE: Sure.

21 MR. SHIRAFKAN: -- versus what someone
22 else saw or what happened or not.

1 Now that night you said it was Ms.
2 Corrales, right, and yourself?

3 INVESTIGATOR GHENENE: Yes.

4 MR. SHIRAFKAN: And Investigator
5 Apraku?

6 INVESTIGATOR GHENENE: Yes.

7 MR. SHIRAFKAN: Was Investigator Demby
8 there?

9 INVESTIGATOR GHENENE: No.

10 MR. SHIRAFKAN: No. Would you say
11 then that's a mistake on the report as far as
12 there is a part that says Investigator Demby
13 entered Josephine. Am I right to say that that's
14 not correct?

15 INVESTIGATOR GHENENE: Yes, that is
16 definitely a mistake.

17 MR. SHIRAFKAN: All right. And is --
18 do you know if these reports are pretyped and
19 just filled in or is this specifically for that
20 night that this was done?

21 INVESTIGATOR GHENENE: I believe this
22 was drafted for that night.

1 MR. SHIRAFKAN: Okay. Now, when the
2 report begins it talks about that -- the program
3 that you mentioned earlier, correct?

4 INVESTIGATOR GHENENE: (No audible
5 answer.)

6 MR. SHIRAFKAN: And it says
7 specifically complaints were received, and that's
8 what you were talking about at the beginning of
9 your direct examination, that the establishment
10 routinely sells alcoholic beverages to underage
11 students, right? And that's what you testified
12 on direct that because of these complaints, you
13 focused on Josephine?

14 INVESTIGATOR GHENENE: No. Actually,
15 what I said earlier was that I don't remember if
16 we discussed that before we went in.

17 MR. SHIRAFKAN: Okay. So you don't
18 recall any complaint about Josephine for serving
19 underage drinking?

20 INVESTIGATOR GHENENE: No, I didn't
21 say that either. I said I don't remember if we
22 discussed that before we went in.

1 MR. SHIRAFKAN: Now, you say you have
2 been an Investigator for four and a half years,
3 correct?

4 INVESTIGATOR GHENENE: Yes, sir.

5 MR. SHIRAFKAN: And on the report I
6 noticed a section that says "Establishment was
7 monitored for compliance as a result of prior
8 incidents." Is that any bearing on your decision
9 that night, do you recall that night, going into
10 Josephine because of any prior incidents?

11 INVESTIGATOR GHENENE: No, sir. I
12 think what I said earlier was while we were
13 monitoring ABRA establishments, we noticed what
14 looked like to be a younger crowd and that's what
15 prompted our decision.

16 MR. SHIRAFKAN: In the four and a half
17 years that you have been an Investigator, how
18 many times have you conducted this investigation
19 with Josephine?

20 INVESTIGATOR GHENENE: I can't give
21 you an exact number, but I know I have been in
22 there with MPD before doing ID checks.

1 MR. SHIRAFKAN: How many --

2 INVESTIGATOR GHENENE: But I can't
3 give you --

4 MR. SHIRAFKAN: -- times would you
5 estimate it? Five times?

6 INVESTIGATOR GHENENE: Yes, probably
7 five.

8 MR. SHIRAFKAN: Five times?

9 INVESTIGATOR GHENENE: Um-hum.

10 MR. SHIRAFKAN: And when you have gone
11 on these occasions, you said it was with MPD.
12 Was it every time with MPD?

13 INVESTIGATOR GHENENE: I can't
14 remember. I honestly can't remember.

15 MR. SHIRAFKAN: When you guys do this
16 investigation, is it just one person doing the
17 investigation or is it multiple individuals
18 checking multiple people?

19 INVESTIGATOR GHENENE: It can vary.

20 MR. SHIRAFKAN: All right. On this
21 night, on July 31, 2014, there were three
22 Investigators there, correct?

1 INVESTIGATOR GHENENE: Yes, sir.

2 MR. SHIRAFKAN: All right. Were all
3 three inside the establishment?

4 INVESTIGATOR GHENENE: Yes, sir.

5 MR. SHIRAFKAN: And were all three
6 checking different individuals to see if they had
7 a bad ID or issued identification?

8 INVESTIGATOR GHENENE: It's very
9 possible.

10 MR. SHIRAFKAN: Okay. That night when
11 you arrived to Josephine, you spoke with Mr.
12 Saadatian, correct?

13 INVESTIGATOR GHENENE: He looks
14 familiar, but I -- honestly, I don't remember.

15 MR. SHIRAFKAN: It's been awhile.

16 INVESTIGATOR GHENENE: Yes, it's been
17 awhile.

18 MR. SHIRAFKAN: I understand. But you
19 spoke to a representative that night?

20 INVESTIGATOR GHENENE: Absolutely,
21 yes.

22 MR. SHIRAFKAN: Right? And you walked

1 with that representative inside the
2 establishment?

3 INVESTIGATOR GHENENE: Absolutely,
4 yes.

5 MR. SHIRAFKAN: Okay. And prior to --
6 what time did you arrive actually at the
7 establishment? Do you recall?

8 INVESTIGATOR GHENENE: I have no idea.

9 MR. SHIRAFKAN: Okay. Indulge -- the
10 Board's indulgence.

11 And when you started checking IDs,
12 this young lady wasn't the first person that you
13 arrived. Am I correct?

14 INVESTIGATOR GHENENE: I don't recall.

15 MR. SHIRAFKAN: So you don't remember
16 checking other people's IDs prior to this lady
17 and them being valid and then getting to this
18 lady?

19 INVESTIGATOR GHENENE: I don't recall,
20 but it's possible.

21 MR. SHIRAFKAN: Now, what -- you
22 stated that what draw -- drew your attention to

1 this lady was that she appeared very young. Am I
2 correct?

3 INVESTIGATOR GHENENE: Yes. Well,
4 appeared younger than 21.

5 MR. SHIRAFKAN: Younger than 21.

6 INVESTIGATOR GHENENE: Yes.

7 MR. SHIRAFKAN: How much younger did
8 she appear to you?

9 INVESTIGATOR GHENENE: I can't
10 estimate that.

11 MR. SHIRAFKAN: Okay.

12 INVESTIGATOR GHENENE: But what it was
13 is it's a combination of her appearing to be
14 young and with a wristband and with alcohol.

15 MR. SHIRAFKAN: Okay. Well, if -- but
16 if she is not young, then having a wristband and
17 having alcohol wouldn't be an issue.

18 INVESTIGATOR GHENENE: Sure. But it
19 is --

20 MR. SHIRAFKAN: Right?

21 INVESTIGATOR GHENENE: -- a
22 combination.

1 MR. SHIRAFKAN: Explain to me so I can
2 understand if someone -- their appearance is the
3 trigger. Am I correct?

4 INVESTIGATOR GHENENE: It's the
5 combination. Well, for me --

6 MR. SHIRAFKAN: Okay.

7 INVESTIGATOR GHENENE: -- when
8 selecting, on this occasion, someone to verify
9 their age, number one, the appearance is
10 important.

11 MR. SHIRAFKAN: Okay.

12 INVESTIGATOR GHENENE: But it's also
13 important for them to have alcohol.

14 MR. SHIRAFKAN: Yes.

15 INVESTIGATOR GHENENE: Otherwise, it's
16 just somebody underage or potentially underage in
17 a nightclub.

18 MR. SHIRAFKAN: I see. So it's the
19 appearance and somebody with alcohol that you
20 would stop the person?

21 INVESTIGATOR GHENENE: Exactly.

22 MR. SHIRAFKAN: But what is illegal

1 about it for you in your mind is the appearance
2 that triggers them being underage, correct?

3 INVESTIGATOR GHENENE: No, sir.

4 MR. SHIRAFKAN: So if some --

5 INVESTIGATOR GHENENE: It's --

6 MR. SHIRAFKAN: -- I'm sorry.

7 INVESTIGATOR GHENENE: No, I'm sorry.

8 MR. SHIRAFKAN: If someone looked 45
9 and had a wristband and alcohol, would that
10 trigger anything to check their ID?

11 INVESTIGATOR GHENENE: That wouldn't
12 be my first target, no.

13 MR. SHIRAFKAN: Okay. Now, this woman
14 you saw, am I correct?

15 INVESTIGATOR GHENENE: Yes, sir.

16 MR. SHIRAFKAN: You didn't have, prior
17 to arriving to her, any conversation with her
18 prior to that, right?

19 INVESTIGATOR GHENENE: No, sir.

20 MR. SHIRAFKAN: You didn't hear her
21 have conversation with anyone else, correct?

22 INVESTIGATOR GHENENE: No, sir.

1 MR. SHIRAFKAN: So it was basically
2 the looks that initially draw -- drew your
3 attention, correct?

4 INVESTIGATOR GHENENE: Again, the
5 combination of how she appeared.

6 MR. SHIRAFKAN: Okay.

7 INVESTIGATOR GHENENE: The possession
8 of alcohol and a wristband.

9 MR. SHIRAFKAN: Now, when you look at
10 someone and you saw they seem to be under 21,
11 that's an estimate, am I correct?

12 INVESTIGATOR GHENENE: Yes.

13 MR. SHIRAFKAN: So you wouldn't be
14 able to look at someone and just know how far
15 from 21 they are?

16 INVESTIGATOR GHENENE: No.

17 MR. SHIRAFKAN: And there are certain
18 factors that goes into this appearance factor, am
19 I right?

20 INVESTIGATOR GHENENE: Yes.

21 MR. SHIRAFKAN: All right. So if
22 someone is, let's just say they are, 16 years-

1 old, but they look like 16, they act like 16,
2 they talk like 16, that would be more suspicious,
3 am I correct?

4 INVESTIGATOR GHENENE: Well, I guess
5 the fact that they would be talking --

6 MR. SHIRAFKAN: Yes.

7 INVESTIGATOR GHENENE: -- and acting
8 would probably add to it, but in the nightclub
9 setting, it's rare that those types of things are
10 available to us.

11 MR. SHIRAFKAN: All right. But it
12 would -- those factors would go into this
13 appearance calculation. Am I right, if you had a
14 chance to have one of those?

15 INVESTIGATOR GHENENE: They would,
16 absolutely.

17 MR. SHIRAFKAN: So if someone looks
18 16, but talks very maturely and acts maturely,
19 it's less suspicious than the prior, right?

20 INVESTIGATOR GHENENE: I don't know
21 how to even -- I don't know if I understand what
22 you are -- I understand what you are saying.

1 MR. SHIRAFKAN: Yes.

2 INVESTIGATOR GHENENE: But that's a
3 tough question. I don't know how to answer that.

4 MR. SHIRAFKAN: Okay. See what I'm
5 trying to understand is -- because we don't have
6 this lady, right? So I'm trying to understand
7 when we are talking about the appearance of
8 someone, what elements go into determining when
9 someone's appearance indicates their age? How do
10 you estimate that age factor with this
11 appearance? That's what I'm trying to say.

12 So let me go piece-by-piece. Would
13 ethnicity calculate, in your head, when you look
14 at someone and determine whether this person is
15 young or not?

16 MS. SCHMIDT: Objection. Relevance.

17 MR. SHIRAFKAN: Madam Chair, here we
18 have an appearance in the case law in regards to
19 appearance.

20 CHAIRPERSON MILLER: Yes.

21 MR. SHIRAFKAN: I don't know what this
22 lady looks like. We have no picture of what this

1 lady looks like. And we are basically solely
2 going on the Investigator's judgment of this
3 person's appearance. So I'm trying to understand
4 when this Investigator says someone looks young
5 to me, what does he mean, so that we have an idea
6 of what is appearance? What is appearance to
7 him?

8 CHAIRPERSON MILLER: I'm going to
9 overrule the objection.

10 MR. SHIRAFKAN: So would ethnicity
11 calculate in your -- and I'll explain it a little
12 further. So if someone -- you see a young lady,
13 whether they are Asian or they are caucasian,
14 right, and it's not a racial issue, it's just I'm
15 trying to understand how you calculate
16 appearance. Does that make a difference in your
17 calculation of how general ethnic groups would
18 look as far as their age?

19 INVESTIGATOR GHENENE: No.

20 MR. SHIRAFKAN: Would their attire
21 make a difference in how you define appearance?

22 INVESTIGATOR GHENENE: I think it

1 would probably depend on the circumstance.

2 MR. SHIRAFKAN: So if someone is with
3 a business suit, a woman with a business suit,
4 would that be different than someone who is in
5 shorts and slippers?

6 INVESTIGATOR GHENENE: I think using
7 your second example, if they were in shorts and
8 slippers at like a black tie event, then it might
9 stand out.

10 MR. SHIRAFKAN: How about at a
11 nightclub? Would someone who is in a business
12 attire -- so someone is in a suit and tie,
13 hypothetically, versus someone wearing shorts and
14 slippers at a nightclub, would that differentiate
15 your judgment?

16 INVESTIGATOR GHENENE: It could.

17 MR. SHIRAFKAN: Would makeup on
18 ladies, would makeup make a difference of whether
19 -- and some makeup makes people look older, I
20 don't know why they make those, but how the
21 individual has put on makeup, would that make a
22 difference on how they would look?

1 MEMBER ALBERTI: It could.

2 MR. SHIRAFKAN: And I'm sure wrinkles
3 would factor, but you weren't able to see any of
4 those wrinkles that day, correct?

5 INVESTIGATOR GHENENE: Yes, I could
6 not.

7 MR. SHIRAFKAN: Okay. Now, this woman
8 that you found to be young, she wasn't 16 years-
9 old, right?

10 INVESTIGATOR GHENENE: No, sir.

11 MR. SHIRAFKAN: She was 20 and a half,
12 20 and some months?

13 INVESTIGATOR GHENENE: Yes, I think
14 that's about right. Yes, sir.

15 MR. SHIRAFKAN: Okay. And she was
16 Turkish, right?

17 INVESTIGATOR GHENENE: Ah --

18 MR. SHIRAFKAN: That was the passport,
19 Turkish passport?

20 INVESTIGATOR GHENENE: The passport
21 was a Turkish passport.

22 MR. SHIRAFKAN: Okay. You don't

1 remember what kind of attire she had?

2 INVESTIGATOR GHENENE: No.

3 MR. SHIRAFKAN: You don't recall what
4 kind of makeup she had?

5 INVESTIGATOR GHENENE: No.

6 MR. SHIRAFKAN: You definitely don't
7 know if she had wrinkles or not?

8 INVESTIGATOR GHENENE: No.

9 MR. SHIRAFKAN: Okay. We don't have
10 any picture of this lady, am I correct?

11 INVESTIGATOR GHENENE: No.

12 MR. SHIRAFKAN: The only copy of even
13 the passport that we have, we can't see her face
14 on this, right?

15 INVESTIGATOR GHENENE: It's dark, yes.

16 MR. SHIRAFKAN: So if you saw that
17 picture not knowing this case, but if you saw
18 that picture, you couldn't tell how old the lady
19 is, whether she is above 21 or under 21?

20 INVESTIGATOR GHENENE: I wouldn't
21 know. No, I wouldn't know exactly, no.

22 MR. SHIRAFKAN: Now, when you arrived

1 and you wanted to talk to this lady, as an
2 Investigator do you have a uniform that you wear?

3 INVESTIGATOR GHENENE: No.

4 MR. SHIRAFKAN: No. Do you have a
5 badge?

6 INVESTIGATOR GHENENE: Yes.

7 MR. SHIRAFKAN: Was the badge out and
8 visible?

9 INVESTIGATOR GHENENE: I presented my
10 badge, yes.

11 MR. SHIRAFKAN: So when you got to
12 this lady, you presented your badge to her?

13 INVESTIGATOR GHENENE: Yes.

14 MR. SHIRAFKAN: You told her who you
15 are?

16 INVESTIGATOR GHENENE: Yes.

17 MR. SHIRAFKAN: And you told her that
18 you were a Government official?

19 INVESTIGATOR GHENENE: Yes, an ABRA
20 Investigator, yes.

21 MR. SHIRAFKAN: And you asked her how
22 old she was?

1 INVESTIGATOR GHENENE: Yes. Well, I
2 explained what we were doing.

3 MR. SHIRAFKAN: Okay.

4 INVESTIGATOR GHENENE: And then asked
5 her how old she was.

6 MR. SHIRAFKAN: So you told her we are
7 checking ages --

8 INVESTIGATOR GHENENE: Yes.

9 MR. SHIRAFKAN: -- this reason. And
10 she told you initially she was 21 years-old?

11 INVESTIGATOR GHENENE: Yes.

12 MR. SHIRAFKAN: And at that point, Mr.
13 Saadatian was next to you, too, correct?

14 INVESTIGATOR GHENENE: Yes.

15 MR. SHIRAFKAN: And Mr. Saadatian was
16 the one that actually told her that she got her
17 passport in her pocket?

18 INVESTIGATOR GHENENE: I don't
19 remember that.

20 MR. SHIRAFKAN: But you don't recall
21 it being no either, am I correct?

22 INVESTIGATOR GHENENE: Exactly.

1 MR. SHIRAFKAN: Do you recall Mr.
2 Saadatian telling her I remember you from the
3 front door?

4 INVESTIGATOR GHENENE: I don't
5 remember that.

6 MR. SHIRAFKAN: But you recall on
7 direct examination stating that Mr. Saadatian
8 remembered her from the front door?

9 INVESTIGATOR GHENENE: Yes.

10 MR. SHIRAFKAN: And do you recall
11 stating that Mr. Saadatian remembered her getting
12 an X and coming inside?

13 INVESTIGATOR GHENENE: I -- that he
14 stated that, yes.

15 MR. SHIRAFKAN: Once she showed you
16 the passport, that is when -- did she admit at
17 that point that she was 20 years-old?

18 INVESTIGATOR GHENENE: Yes.

19 MR. SHIRAFKAN: Okay. And it was a
20 lie that she was 21 initially, am I right? You
21 discovered that that was a lie?

22 INVESTIGATOR GHENENE: Yes.

1 MR. SHIRAFKAN: All right. Now, she
2 admitted to you that when she was at the front
3 she was given an X?

4 INVESTIGATOR GHENENE: Yes, two Xs.

5 MR. SHIRAFKAN: Two Xs. Okay. And
6 you said on direct that she was told to -- she
7 was instructed to wash the X off. That wasn't by
8 the club, am I right?

9 INVESTIGATOR GHENENE: Mrs. Yahsa
10 stated that in order to gain a 21 and older
11 wristband, she was instructed to wash off the Xs
12 on her hands.

13 MR. SHIRAFKAN: Okay. Did you ask her
14 who instructed her to wash off these Xs?

15 INVESTIGATOR GHENENE: I believe all
16 of us asked her.

17 MR. SHIRAFKAN: And what did she say?

18 INVESTIGATOR GHENENE: She was
19 reluctant to give up that information.

20 MR. SHIRAFKAN: Was MPD with you there
21 that night?

22 INVESTIGATOR GHENENE: I don't believe

1 so, no.

2 MR. SHIRAFKAN: And she said that she
3 went back to the front door and obtained this
4 wristband, correct?

5 INVESTIGATOR GHENENE: Yes, sir.

6 MR. SHIRAFKAN: But she didn't say
7 from who?

8 INVESTIGATOR GHENENE: No, sir.

9 MR. SHIRAFKAN: And did you ask her
10 whom she got it from?

11 INVESTIGATOR GHENENE: Several times.

12 MR. SHIRAFKAN: Okay. Did Mr.
13 Saadatian, at that time, he was also adamant
14 about finding out who gave her the wristband,
15 right?

16 INVESTIGATOR GHENENE: I believe so,
17 yes, sir.

18 MR. SHIRAFKAN: Okay. Mr. Saadatian
19 offered to take her to the front and find out who
20 it is that gave her the wristband?

21 INVESTIGATOR GHENENE: I don't
22 remember that.

1 MR. SHIRAFKAN: Okay. Did you see the
2 necessity, since the licensee was okay with it,
3 to walk with her to the front to determine who
4 gave her this wristband?

5 INVESTIGATOR GHENENE: Can you repeat
6 the question?

7 MR. SHIRAFKAN: Mr. Saadatian was okay
8 with going to the front and finding out who it
9 was, which one of his employees allegedly, had
10 given this wristband, correct?

11 INVESTIGATOR GHENENE: Yes, sir.

12 MR. SHIRAFKAN: Okay. Did you, as an
13 Investigator, have any problems with taking her
14 to the front to identify who gave her this
15 wristband?

16 INVESTIGATOR GHENENE: That's not
17 something that -- I can't take anybody anywhere.
18 Do you understand what I'm saying?

19 MR. SHIRAFKAN: Could you ask her to
20 come to the front and show you who gave her the
21 wristband?

22 INVESTIGATOR GHENENE: It was clear

1 that she was not going to tell us who gave her
2 the wristband.

3 MR. SHIRAFKAN: When you say it was
4 clear, how much time did you spend with her
5 asking her to come to the front and show you who
6 it was that gave her the wristband?

7 INVESTIGATOR GHENENE: We pulled her
8 into a side room where there was no patrons or
9 music and it was bright.

10 MEMBER SILVERSTEIN: I'm sorry?

11 INVESTIGATOR GHENENE: We pulled her
12 into a side room along with the representative
13 from Josephine in order to speak to her and to
14 interview her. And I believe Investigator
15 Corrales, Apraku and myself were there along with
16 Josephine's representative. And all four of us
17 were asking her questions verifying her identity,
18 reviewing the passport and asking her who did you
19 get the wristband from. And I'm confident that
20 all four of us asked her several different times
21 in several different ways. And it was clear, at
22 that point, that she was not going to tell who

1 gave it up.

2 MR. SHIRAFKAN: And this wristband you
3 said on direct that you don't remember at all
4 what this wristband looked like?

5 INVESTIGATOR GHENENE: Yes, I don't
6 remember what it looked like.

7 MR. SHIRAFKAN: How did you know that
8 it was a wristband that was being used that night
9 at the club?

10 INVESTIGATOR GHENENE: Typically, when
11 we come in and we identify yourselves to the door
12 staff, we will ask questions such as is this an
13 18 and over event? Is this a 21 and over event?
14 And then that's one of the questions, too, can
15 you show us the wristbands that you guys are --
16 or what kind of indicators you guys are using
17 tonight to separate who is 21 and over and who is
18 not.

19 MR. SHIRAFKAN: Do you recall that
20 night, and I'm assuming the answer is -- strike
21 that.

22 Is it correct that you don't remember

1 what wristband was being used that night at
2 Josephine?

3 INVESTIGATOR GHENENE: Correct.

4 MR. SHIRAFKAN: You don't remember
5 what color the wristband was?

6 INVESTIGATOR GHENENE: Correct.

7 MR. SHIRAFKAN: You don't remember
8 what wristband she had on her hand?

9 INVESTIGATOR GHENENE: You mean like
10 the color and what was written on it?

11 MR. SHIRAFKAN: Right.

12 INVESTIGATOR GHENENE: Yes.

13 MR. SHIRAFKAN: You don't recall, am
14 I right?

15 INVESTIGATOR GHENENE: No, sir.

16 MR. SHIRAFKAN: And this wristband you
17 mentioned that it was tight. This tightness was
18 a visual observation, am I correct?

19 INVESTIGATOR GHENENE: Yes, sir.

20 MR. SHIRAFKAN: Okay. So you didn't
21 have a chance to actually put your finger on that
22 and pull?

1 INVESTIGATOR GHENENE: That's
2 something I wouldn't do.

3 MR. SHIRAFKAN: Okay. So if someone
4 has a wristband and it's Scotch taped, it would
5 look tight. Am I correct?

6 INVESTIGATOR GHENENE: Yes.

7 MR. SHIRAFKAN: Okay. So if someone
8 picks up a wristband that is ripped and staples
9 it or pins it or puts some sort of adhesive to
10 hold it, it would look tight, am I right?

11 INVESTIGATOR GHENENE: Yes.

12 MR. SHIRAFKAN: But unless you put
13 your finger on it or examine it, you wouldn't
14 know whether it is an original wristband?

15 INVESTIGATOR GHENENE: Correct. But
16 we examined it.

17 MR. SHIRAFKAN: But it was visual
18 only, correct?

19 INVESTIGATOR GHENENE: Yes.

20 MR. SHIRAFKAN: Okay. So you didn't
21 have a chance to put your finger and see whether
22 it was taped or not?

1 INVESTIGATOR GHENENE: Right. I
2 didn't touch her, but I examined the wristband.
3 We all did, all four of us did.

4 MR. SHIRAFKAN: And when you arrived
5 there, when you approached this young -- in
6 regards to this wristband, once you wanted to go
7 and look at this wristband, she actually first
8 easily ripped it, am I right?

9 INVESTIGATOR GHENENE: I don't
10 remember that.

11 MR. SHIRAFKAN: Okay. Do you recall
12 Mr. Saadatian pointing out the fact that it was
13 easily ripped?

14 INVESTIGATOR GHENENE: No.

15 MR. SHIRAFKAN: Do you recall Mr.
16 Saadatian telling you that she just tried to
17 throw it away?

18 INVESTIGATOR GHENENE: No.

19 MR. SHIRAFKAN: Do you recall her at
20 all taking it off?

21 INVESTIGATOR GHENENE: Her, no, but
22 the staff, yes.

1 MR. SHIRAFKAN: So you recall staff
2 taking that wristband off?

3 INVESTIGATOR GHENENE: I believe so.
4 On her way out when she was being escorted out.

5 MR. SHIRAFKAN: Do you remember who
6 took that?

7 INVESTIGATOR GHENENE: No.

8 MR. SHIRAFKAN: No. The Board's
9 indulgence.

10 And in regards to the beer in her
11 hand, you never asked her where she got that
12 beer, am I correct?

13 INVESTIGATOR GHENENE: I don't
14 remember.

15 MR. SHIRAFKAN: There wasn't -- she
16 wasn't found at a table with beers available on
17 the table, correct?

18 INVESTIGATOR GHENENE: I don't
19 remember.

20 MR. SHIRAFKAN: There wasn't a bucket
21 party where there was buckets and beers just in
22 it for people to grab, correct?

1 INVESTIGATOR GHENENE: I don't
2 remember.

3 MR. SHIRAFKAN: And she never said she
4 got it from a bartender?

5 INVESTIGATOR GHENENE: I don't
6 remember that.

7 MR. SHIRAFKAN: So she could have
8 picked it up off the floor?

9 INVESTIGATOR GHENENE: A bottle with
10 liquid in it?

11 MR. SHIRAFKAN: Yes.

12 INVESTIGATOR GHENENE: I suppose it's
13 possible.

14 MR. SHIRAFKAN: She could have picked
15 it up from anywhere but the bar, am I right?

16 INVESTIGATOR GHENENE: Anywhere but
17 the bar or that --

18 MR. SHIRAFKAN: Meaning that --

19 INVESTIGATOR GHENENE: -- she --

20 MR. SHIRAFKAN: -- she could have
21 picked it up from someone else, something that
22 was just abandoned, a bottle that was abandoned?

1 INVESTIGATOR GHENENE: It's possible,
2 yes.

3 MR. SHIRAFKAN: You don't know where
4 she got that bottle from?

5 INVESTIGATOR GHENENE: I don't
6 remember where she got it from.

7 MR. SHIRAFKAN: Now, you think you if
8 you had asked, that would have been in your
9 report, correct?

10 INVESTIGATOR GHENENE: I didn't write
11 this report.

12 MR. SHIRAFKAN: But did you tell
13 everything to Investigator Corrales to include in
14 her report?

15 INVESTIGATOR GHENENE: I gave her --
16 I answered the questions she asked me.

17 MR. SHIRAFKAN: Were these questions
18 in a written format or she just asked you that
19 night? I'm trying to understand how did this
20 report come about from Ms. Corrales writing the
21 report to you giving her the information?

22 INVESTIGATOR GHENENE: I don't

1 remember how we shared the information.

2 MR. SHIRAFKAN: No further questions.

3 CHAIRPERSON MILLER: Okay. Board
4 questions? Yes, Mr. Brooks?

5 MEMBER BROOKS: Thank you, Madam
6 Chair. Investigator, how long had you been
7 checking IDs in different establishments since
8 you been an Investigator?

9 INVESTIGATOR GHENENE: Probably four
10 years.

11 MEMBER BROOKS: Okay. And did you
12 check this person's passport to determine that
13 she was under 21?

14 INVESTIGATOR GHENENE: Yes, sir.

15 MEMBER BROOKS: And it stated how old
16 was she?

17 INVESTIGATOR GHENENE: 20 years-old.

18 MEMBER BROOKS: 20 years-old. Okay.
19 Now, to you, I know it was dark, I assume it was
20 dark the nightclub, did the wristband appear to
21 be taped, tied, stapled, glued on her wrist?

22 INVESTIGATOR GHENENE: It appeared to

1 be as if it was placed there from the original
2 packaging unaltered.

3 MEMBER BROOKS: Okay. So it was
4 pretty clear to you that it was not taped?

5 INVESTIGATOR GHENENE: Yes, sir.

6 MEMBER BROOKS: That you didn't think
7 that she came into the establishment with a roll
8 of tape and found a wristband on the floor and
9 maybe taped it to her wrist?

10 INVESTIGATOR GHENENE: No, sir.

11 MEMBER BROOKS: Okay. And finally,
12 have you ever observed in the four years or two
13 years you have been an Investigator a patron
14 scrounging or picking up a bottle of beer or a
15 drink that did not belong to them and having it
16 in their hands and maybe even drank out of it?

17 INVESTIGATOR GHENENE: No, sir.

18 MEMBER BROOKS: Thank you. Thank you,
19 Madam Chair.

20 CHAIRPERSON MILLER: Okay. Others?
21 Mr. Jones?

22 MEMBER JONES: Thank you, Madam Chair.

1 During your, I don't know if you recall, so if
2 you don't just let me know, encounter with the
3 underage individual, at any point did she
4 indicate, that you recall, how she got the
5 beverage, the alcoholic beverage?

6 INVESTIGATOR GHENENE: No, sir.

7 MEMBER JONES: Okay. So there was no
8 indication from her that she was given a
9 beverage, i.e., she went up to the bar and
10 purchased a beverage?

11 INVESTIGATOR GHENENE: I don't
12 remember, sir.

13 MEMBER JONES: You don't remember
14 that. Okay. Is it inconceivable from the nature
15 of how the operations were being conducted at
16 that location on that evening that she could have
17 been handed a bar -- excuse me, handed a beverage
18 by an admiring individual, i.e., some guy thinks
19 she is cute and hey, here is a drink on me.

20 INVESTIGATOR GHENENE: Yes, that's
21 possible.

22 MEMBER JONES: That's possible?

1 INVESTIGATOR GHENENE: Yes, sir.

2 MEMBER JONES: Okay. That wasn't
3 provided to you as feedback, but you are just
4 saying based on how the nature of the environment
5 was set up, it's conceivable that it could have
6 happened?

7 INVESTIGATOR GHENENE: Yes, sir.

8 MEMBER JONES: The individual, was she
9 alone?

10 INVESTIGATOR GHENENE: I don't believe
11 so.

12 MEMBER JONES: Okay.

13 INVESTIGATOR GHENENE: But I can't
14 tell you for sure.

15 MEMBER JONES: Okay. And I was trying
16 to ascertain whether or not if she was with a
17 party, were there other individuals in the party
18 that you felt looked young? But you are saying
19 that you couldn't -- you don't remember her being
20 with a party? She was free-standing, a loner?

21 INVESTIGATOR GHENENE: I can't --
22 honestly, I can't remember.

1 MEMBER JONES: You don't remember?

2 INVESTIGATOR GHENENE: No, sir.

3 MEMBER JONES: When she was escorted
4 out -- was she escorted out?

5 INVESTIGATOR GHENENE: Yes, sir.

6 MEMBER JONES: Okay. Was she escorted
7 out by the members or employees of the
8 establishment?

9 INVESTIGATOR GHENENE: Yes, sir.

10 MEMBER JONES: Okay. Was that at your
11 request or was that something that they did on
12 their own?

13 INVESTIGATOR GHENENE: That's
14 something that they did on their own.

15 MEMBER JONES: Something they did on
16 their own?

17 INVESTIGATOR GHENENE: Yes, sir.

18 MEMBER JONES: Okay. What was their--
19 did they provide a reason or do you have an
20 understanding of why they chose to escort her
21 out?

22 INVESTIGATOR GHENENE: Because she was

1 underage and drinking alcohol.

2 MEMBER JONES: Because she was
3 underage and drinking alcohol.

4 INVESTIGATOR GHENENE: Yes, sir.

5 MEMBER JONES: Okay. Was there any
6 evidence that you saw of markings on her hand?

7 INVESTIGATOR GHENENE: No, sir.

8 MEMBER JONES: None?

9 INVESTIGATOR GHENENE: None.

10 MEMBER JONES: All right. Did you
11 have an understanding of what they used on that
12 night to mark hands?

13 INVESTIGATOR GHENENE: Yes, sir.

14 MEMBER JONES: What was that?

15 INVESTIGATOR GHENENE: Black markers.

16 MEMBER JONES: A black marker as in a
17 black permanent ink marker?

18 INVESTIGATOR GHENENE: Yes, sir.

19 MEMBER JONES: Okay. so is that
20 typical industry standard what you would expect
21 to see when you have encountered in your previous
22 two and a half years of working regulatory

1 inspections and others?

2 INVESTIGATOR GHENENE: Yes, sir.

3 MEMBER JONES: They use a permanent
4 black marker or a permanent marker of some type?

5 INVESTIGATOR GHENENE: Yes, sir.

6 MEMBER JONES: Okay. Do you have any
7 understanding or recollection or any impression
8 of how hard it would be to wash off permanent
9 black ink that is put on skin?

10 INVESTIGATOR GHENENE: If you have the
11 right stuff, it's not that difficult at all.

12 MEMBER JONES: Okay. And the right
13 stuff being?

14 INVESTIGATOR GHENENE: Chemicals.
15 There is a host of tricks.

16 MEMBER JONES: Understood. So that
17 individual or an individual in general would just
18 have to come prepared with the right items to
19 wash off the ink that is put on, correct?

20 INVESTIGATOR GHENENE: Sure, or be
21 given them inside.

22 MEMBER JONES: Given them inside?

1 INVESTIGATOR GHENENE: Yes, sir.

2 MEMBER JONES: Okay. You have made it
3 very clear that you do not invade the space of
4 the individual or individuals in general as a
5 general practice?

6 INVESTIGATOR GHENENE: Yes, sir.

7 MEMBER JONES: I'm going to assume
8 from that when I'm asking a question, you do not
9 take an inventory or inspect the individuals'
10 contents, i.e., whether they have a purse, what
11 they have in that purse or anything along those
12 lines, correct?

13 INVESTIGATOR GHENENE: No, sir.

14 MEMBER JONES: Okay. So you would
15 have no firsthand knowledge of whether or not she
16 had such chemicals to allow her to easily remove?

17 INVESTIGATOR GHENENE: No, sir.

18 MEMBER JONES: Okay. During your
19 testimony before you indicated that the woman or
20 the individual spoke to the fact that she was
21 instructed to remove the marks from her hands?

22 INVESTIGATOR GHENENE: Yes, sir.

1 MEMBER JONES: I think we have been
2 down this path. I just want to make sure I'm
3 clear. Did that strike you as odd, the fact that
4 she was instructed to remove markings from her
5 hand?

6 INVESTIGATOR GHENENE: It's happened
7 before.

8 MEMBER JONES: Okay. When -- what
9 does it mean -- when you heard her say
10 instructed, was it your impression that she was
11 instructed by staff or instructed by someone
12 else?

13 INVESTIGATOR GHENENE: She stated that
14 someone at the front door security told her go
15 wash your Xs off and I'll give you a wristband.

16 MEMBER JONES: Would you consider that
17 to be an acceptable practice based on your two
18 and a half years of conducting such
19 investigations and service for the District of
20 Columbia?

21 INVESTIGATOR GHENENE: No.

22 MEMBER JONES: No. Okay. I think

1 that's all I have. Thank you. Thank you, Madam
2 Chair.

3 CHAIRPERSON MILLER: Mr. Rodriguez?

4 MEMBER RODRIGUEZ: Yes, Investigator,
5 thank you. In the report it says that Mr.
6 Saadatian was very cooperative with you.

7 INVESTIGATOR GHENENE: Yes, sir.

8 MEMBER RODRIGUEZ: Can you expand on
9 that? You indicated in the report that -- or the
10 report indicates that he was very upset when,
11 let's see if I'm correct, he discovered that this
12 was a minor?

13 INVESTIGATOR GHENENE: Yes, sir.

14 MEMBER RODRIGUEZ: And what was his
15 reaction? What did he do after that?

16 INVESTIGATOR GHENENE: Well, to speak
17 to the cooperation, first, he offered the use of
18 the adjoining room that didn't have any patrons
19 in it. It didn't have any music going on,
20 etcetera, which made us interviewing her much
21 easier.

22 And then once we discovered that she

1 was, in fact, underage and there was a
2 possibility of some sort of conspiracy with the
3 front door staff, I do remember him wanting to
4 know exactly who did what. And once it was clear
5 that we weren't going to find that information
6 out, he escorted -- I don't remember if it was
7 him specifically or if he instructed someone else
8 to do it, but someone from Josephine escorted her
9 out.

10 MEMBER RODRIGUEZ: Okay. Thank you.

11 INVESTIGATOR GHENENE: Yes, sir.

12 CHAIRPERSON MILLER: Others? Mr.

13 Alberti?

14 MEMBER ALBERTI: Investigator Ghenene,
15 you spoke about being able to wash an X off your
16 hand made with permanent marker with chemicals.

17 INVESTIGATOR GHENENE: Yes, sir.

18 MEMBER ALBERTI: Do you have any idea
19 what kind of chemicals you would use?

20 INVESTIGATOR GHENENE: I have been
21 told that you can use stuff like nail polish
22 remover, different combinations of makeup

1 removers. I have heard different sorts of lip
2 glosses help loosen up the ink. There is a lot
3 of different things you can use.

4 MEMBER ALBERTI: Okay. So all right.
5 So what I'm hearing is that the chemicals, most
6 of the chemicals that you listed are common --

7 INVESTIGATOR GHENENE: Yes.

8 MEMBER ALBERTI: -- chemicals you
9 would expect someone to have. Well, you wouldn't
10 be surprised if someone had in their purse.

11 INVESTIGATOR GHENENE: Yes.

12 MEMBER ALBERTI: Let's put it that
13 way. Did she have a purse with her?

14 INVESTIGATOR GHENENE: I don't
15 remember.

16 MEMBER ALBERTI: You don't remember.
17 All right. Any idea if it would be possible just
18 to wash it off with soap and water and a good
19 scrubbing?

20 INVESTIGATOR GHENENE: Not, you know,
21 in a short time frame. You would be scrubbing
22 your hands for quite some time.

1 MEMBER ALBERTI: Okay. All right.

2 INVESTIGATOR GHENENE: And the Xs are
3 not small Xs.

4 MEMBER ALBERTI: They are big?

5 INVESTIGATOR GHENENE: They cover the
6 entire backside of your hand.

7 MEMBER ALBERTI: Okay. But you don't
8 know what the X was because you never saw it on
9 this young woman, right?

10 INVESTIGATOR GHENENE: Never saw it on
11 her.

12 MEMBER ALBERTI: Right.

13 INVESTIGATOR GHENENE: But saw it on
14 other people that night.

15 MEMBER ALBERTI: On other people. So
16 you said when you walked in there was a younger
17 looking crowd. What does that mean, younger?

18 INVESTIGATOR GHENENE: Well --

19 MEMBER ALBERTI: Just for the record.

20 INVESTIGATOR GHENENE: -- sure. It
21 was before we walked in and it was congregated
22 outside.

1 MEMBER ALBERTI: Yes.

2 INVESTIGATOR GHENENE: And you know,
3 driving by in the car you might see -- you know,
4 you might drive past an establishment that
5 typically caters to an older cliental. And that
6 wouldn't -- if we were going out to do -- well,
7 on this night we were going out to do ID checks.
8 If we see something like that, we know our time
9 is probably better spent somewhere else.

10 On this night, we saw a crowd that
11 could cater or be attractive to a younger
12 cliental.

13 MEMBER ALBERTI: Younger. Give me an
14 age range of what you mean by younger.

15 INVESTIGATOR GHENENE: Just probably
16 30 and under.

17 MEMBER ALBERTI: Okay. So there are
18 three Investigators that went in.

19 INVESTIGATOR GHENENE: Yes, sir.

20 MEMBER ALBERTI: And so do you
21 typically get the assistance of someone from the
22 establishment to help you when you do your

1 checks, ID checks while you are inside?

2 INVESTIGATOR GHENENE: We always ask,
3 but it's not always complied with.

4 MEMBER ALBERTI: So but since you had
5 three people, would you have been -- and you
6 don't remember what -- is it conceivable that
7 others were walking around checking IDs
8 independent of you?

9 INVESTIGATOR GHENENE: As far as the
10 Investigators are concerned?

11 MEMBER ALBERTI: Yes.

12 INVESTIGATOR GHENENE: It's possible,
13 yes.

14 MEMBER ALBERTI: All right. And is it
15 safe to assume that you didn't continue your
16 checks after seeing this woman?

17 INVESTIGATOR GHENENE: No.

18 MEMBER ALBERTI: You did not?

19 INVESTIGATOR GHENENE: No. It's
20 possible that I did.

21 MEMBER ALBERTI: It's possible that
22 you did?

1 INVESTIGATOR GHENENE: Yes.

2 MEMBER ALBERTI: And you testified you
3 don't remember how many you checked before you
4 got to her, right?

5 INVESTIGATOR GHENENE: No, but there
6 could be a record of it.

7 MEMBER ALBERTI: But we don't have it
8 here?

9 INVESTIGATOR GHENENE: No.

10 MEMBER ALBERTI: All right. And right
11 now, we have no idea how many people were checked
12 by the other Investigators?

13 INVESTIGATOR GHENENE: No.

14 MEMBER ALBERTI: Okay. Do you know if
15 this is the only reported underage person/
16 individual for that evening?

17 INVESTIGATOR GHENENE: Yes, I believe
18 so, yes.

19 MEMBER ALBERTI: Okay. I'm just going
20 to ask a vague question, but did the club take
21 any covert actions while you were doing your
22 investigation that you would have found

1 suspicious to try to either get underage people
2 out or hide them from you or rectify the
3 situation that they were there? Was there
4 anything unusual like that going on?

5 INVESTIGATOR GHENENE: No to the
6 first, I believe what was your first question as
7 far as sneaky things like ushering or rushing
8 people out or taking drinks out of people's
9 hands.

10 MEMBER ALBERTI: Yes, anything --

11 INVESTIGATOR GHENENE: No.

12 MEMBER ALBERTI: -- that was --

13 INVESTIGATOR GHENENE: No to that.
14 But they were assisting us, so I'm not saying
15 that that's unusual, but I think the second part
16 of the question --

17 MEMBER ALBERTI: So they were
18 assisting you, right?

19 INVESTIGATOR GHENENE: Yes.

20 MEMBER ALBERTI: Okay. Okay. But
21 there was nothing that you would have looked at
22 as a scant? I mean like they -- oh, I wish they

1 -- they shouldn't be doing that, something --

2 INVESTIGATOR GHENENE: No.

3 MEMBER ALBERTI: All right. All
4 right. Things just seemed to be normal, right?

5 INVESTIGATOR GHENENE: Yes.

6 MEMBER ALBERTI: Things were carrying
7 on as normal?

8 INVESTIGATOR GHENENE: Yes.

9 MEMBER ALBERTI: Is that it? Okay.
10 Thank you. I have no further questions. Thank
11 you, Investigator.

12 INVESTIGATOR GHENENE: Thank you.

13 CHAIRPERSON MILLER: Mr. Short?

14 MEMBER SHORT: Good afternoon, Mr.
15 Ghenene.

16 INVESTIGATOR GHENENE: Good afternoon.

17 MEMBER SHORT: I would say immediately
18 that it was discovered by looking at the passport
19 that this person was not a 21 year-old person and
20 they had been drinking there. What was the
21 response from the owners at that time?

22 INVESTIGATOR GHENENE: I don't want to

1 tell you exactly what happened, but I can tell
2 you what happened. I can't tell you the order of
3 the events, but I know that the alcohol was taken
4 from her. I know that at some point her
5 wristband was removed from her. And I know that
6 she was escorted out. And I also know that all
7 of us asked who was the person you got the
8 wristband from.

9 MEMBER SHORT: Was that information
10 ever given?

11 INVESTIGATOR GHENENE: No, sir.

12 MEMBER SHORT: Thank you very much.
13 That's all I have, Madam Chair.

14 INVESTIGATOR GHENENE: Yes, sir.

15 CHAIRPERSON MILLER: Okay. Mr.
16 Rodriguez?

17 MEMBER RODRIGUEZ: I want to follow-up
18 on the cooperation that you got from Mr.
19 Saadatian. When he found out that he had an
20 underage drinker, did he question his front
21 staff, the staff?

22 INVESTIGATOR GHENENE: I don't know,

1 because we weren't there the entire night after
2 the incident.

3 MEMBER RODRIGUEZ: Yes. While you
4 were there and he was concerned, did he talk to
5 any of the staff to try and find out who did it?

6 INVESTIGATOR GHENENE: I know he was
7 interacting with his staff, but I'm not sure what
8 that interaction consisted of. I mean, we were
9 still in the nightclub.

10 MEMBER RODRIGUEZ: So there were no
11 outcomes in terms of that interaction with the
12 staff?

13 INVESTIGATOR GHENENE: Not while we
14 were there.

15 MEMBER RODRIGUEZ: As far as
16 information to you?

17 INVESTIGATOR GHENENE: No, no, sir.

18 MEMBER RODRIGUEZ: Okay. Thank you.

19 CHAIRPERSON MILLER: Others? I just
20 have a few follow-up. One is with respect to
21 these wristbands, did you see how the wristband
22 was removed or who removed it?

1 INVESTIGATOR GHENENE: I'm sure I did,
2 but I don't remember.

3 CHAIRPERSON MILLER: Okay. And I'm
4 only asking that because that goes to the
5 question of, you know, I assume if it was Scotch
6 taped it would be easier to remove than if it
7 was, I don't know, sealed how they usually do it
8 where you have to cut it off or something.

9 INVESTIGATOR GHENENE: Yes, ma'am.

10 CHAIRPERSON MILLER: Is that right?
11 So you didn't see that?

12 INVESTIGATOR GHENENE: Again, I'm sure
13 I did.

14 CHAIRPERSON MILLER: Oh, you did.

15 INVESTIGATOR GHENENE: But I don't
16 remember.

17 CHAIRPERSON MILLER: Okay. Can you
18 tell me in your experience if you have seen
19 wristbands that are kind of put back together?

20 INVESTIGATOR GHENENE: Yes, I have
21 seen them.

22 CHAIRPERSON MILLER: You have seen it?

1 INVESTIGATOR GHENENE: Yes.

2 CHAIRPERSON MILLER: Okay. And
3 visually can they look as if they were the
4 original wristbands?

5 INVESTIGATOR GHENENE: Sometimes, yes.

6 CHAIRPERSON MILLER: Okay. So did you
7 ever -- do you remember looking at this wristband
8 to think -- and thinking about whether it was an
9 original or not?

10 INVESTIGATOR GHENENE: Yes.

11 CHAIRPERSON MILLER: Okay. And what
12 were your thoughts?

13 INVESTIGATOR GHENENE: That it was and
14 it came from the source.

15 CHAIRPERSON MILLER: Okay.

16 INVESTIGATOR GHENENE: This was not --
17 it did not appear to be something put --
18 reconstructed.

19 CHAIRPERSON MILLER: Okay. And is the
20 source usually only the security?

21 INVESTIGATOR GHENENE: That I couldn't
22 tell you.

1 CHAIRPERSON MILLER: Oh, okay. Did
2 you see who was giving out wristbands?

3 INVESTIGATOR GHENENE: Yes, ma'am.

4 CHAIRPERSON MILLER: Okay. Who was
5 that?

6 INVESTIGATOR GHENENE: The wristbands
7 were being -- or you got IDed and wristbanded at
8 the front door.

9 CHAIRPERSON MILLER: Okay. So it's
10 the people at the front door?

11 INVESTIGATOR GHENENE: Yes, ma'am.

12 CHAIRPERSON MILLER: Did you observe
13 their procedures otherwise in checking IDs?

14 INVESTIGATOR GHENENE: Yes, ma'am.

15 CHAIRPERSON MILLER: And how did that
16 appear? I mean, did they have good procedures,
17 bad procedures?

18 INVESTIGATOR GHENENE: I mean, I can't
19 -- I don't remember that, but they were checking
20 IDs. They were marking people under 21. And
21 they were using wristbands for over 21.

22 CHAIRPERSON MILLER: Okay. I think

1 earlier on you might have made reference to some
2 complaints about sale to minors at Josephine.

3 INVESTIGATOR GHENENE: The reference,
4 yes, ma'am, I did make reference to that.

5 CHAIRPERSON MILLER: What were you
6 referring to?

7 INVESTIGATOR GHENENE: I'm referring
8 to what that Investigator Corrales included in
9 her report with specific reference to the DC
10 Double Check Program.

11 CHAIRPERSON MILLER: Okay. And we
12 don't have those complaints in the record though,
13 correct?

14 INVESTIGATOR GHENENE: No, ma'am, they
15 are not a part of this report.

16 CHAIRPERSON MILLER: Okay. Okay. I
17 think that's all. Thank you very much.

18 INVESTIGATOR GHENENE: Yes, ma'am.

19 CHAIRPERSON MILLER: All right. Any
20 other questions?

21 MEMBER SHORT: I have one last
22 question.

1 CHAIRPERSON MILLER: Okay. Mr. Short?

2 MEMBER SHORT: Out of the 100 percent
3 of the people that were there at the club, what
4 was the number, approximate number, of persons
5 that were there?

6 INVESTIGATOR GHENENE: I can't tell
7 you with any sort of certainty, sir.

8 MEMBER SHORT: Well, let's say out of
9 the 100 percent of the people that you saw there,
10 generally, do you think most of them there were
11 over 21?

12 INVESTIGATOR GHENENE: Yes, sir. When
13 we conduct ID checks, we are going to check at
14 least 10 people, possibly more, and there was
15 only the one that is indicated in this report
16 that was under 21 years of age and consuming
17 alcohol.

18 MEMBER SHORT: Thank you very much.
19 That's all I have, Madam Chair.

20 CHAIRPERSON MILLER: Okay. I just
21 want to follow-up on that. Did you actually see
22 her consuming alcohol or just holding the beer?

1 INVESTIGATOR GHENENE: I don't
2 remember, but she had a beer bottle with alcohol
3 inside of it or alcoholic beverage inside of it
4 and it was in her possession for sure.

5 CHAIRPERSON MILLER: Okay. Thank you.
6 All right. Anything else? All right. Questions
7 on Board questions?

8 MS. SCHMIDT: None for the Government.

9 CHAIRPERSON MILLER: Okay.

10 MR. SHIRAFKAN: No.

11 CHAIRPERSON MILLER: Okay. Thank you
12 very much.

13 INVESTIGATOR GHENENE: Sure.

14 CHAIRPERSON MILLER: Okay. Does that
15 complete your --

16 MS. SCHMIDT: Yes, the Government
17 rests, at this point.

18 CHAIRPERSON MILLER: Okay.

19 MR. SHIRAFKAN: Madam Chair, we will
20 call Mr. Saadatian.

21 CHAIRPERSON MILLER: All right. Good
22 afternoon.

1 Whereupon,

2 SIAMAK SAADATIAN

3 was called as a witness by Counsel for the
4 Licensee, and having been first duly sworn,
5 assumed the witness stand and was examined and
6 testified as follows:

7 MR. SAADATIAN: I do.

8 CHAIRPERSON MILLER: Okay. Thank you.

9 All right.

10 DIRECT EXAMINATION

11 MR. SHIRAFKAN: Could you, please,
12 state your first and last name spelling your last
13 name?

14 MR. SAADATIAN: Sure. Siamak
15 Saadatian. The last name is S-A-A-D-A-T-I-A-N.

16 MR. SHIRAFKAN: And just so you know,
17 you may have to talk loud so that she can hear.

18 MR. SAADATIAN: Okay, sure, I'll try.

19 MR. SHIRAFKAN: And the Board can
20 hear.

21 CHAIRPERSON MILLER: You know where
22 the microphone is?

1 MR. SAADATIAN: Yes.

2 CHAIRPERSON MILLER: Yes, okay.

3 MR. SAADATIAN: I got it.

4 MR. SHIRAFKAN: On July 31, 2014, were
5 you employed by Josephine?

6 MR. SAADATIAN: Yes.

7 MR. SHIRAFKAN: And at what capacity
8 were you employed?

9 MR. SAADATIAN: General manager.

10 MR. SHIRAFKAN: General manager. Do
11 you recall the incident that we are here about
12 with regards to Investigators coming to check on
13 patrons' IDs?

14 MR. SAADATIAN: Yes, absolutely.

15 MR. SHIRAFKAN: Okay. When the
16 Investigators arrived, where were you stationed?

17 MR. SAADATIAN: When -- I was inside.

18 MR. SHIRAFKAN: You were inside. Were
19 you called to come out that there were ABRA
20 Investigators?

21 MR. SAADATIAN: Yes.

22 MR. SHIRAFKAN: All right. And once

1 they identified themselves as Investigators from
2 ABRA, did you then walk inside the establishment?

3 MR. SAADATIAN: Yes.

4 MR. SHIRAFKAN: All right. There were
5 three Investigators?

6 MR. SAADATIAN: Yes.

7 MR. SHIRAFKAN: Okay. When they
8 started checking individual's IDs, which
9 Investigators were you with? Which Investigator
10 were you with? Were you with just one?

11 MR. SAADATIAN: I believe I was with
12 three.

13 MR. SHIRAFKAN: Okay. Did they
14 disseminate and start checking different IDs?

15 MR. SAADATIAN: In the beginning
16 pretty much they were all together.

17 MR. SHIRAFKAN: Okay.

18 MR. SAADATIAN: Like sometimes they
19 had to like look at --

20 MEMBER SILVERSTEIN: Please speak up.

21 MR. SAADATIAN: Sorry. Like at the
22 same -- like most of the time, as I recall, like

1 they were like together most of the time.

2 MR. SHIRAFKAN: And prior to this
3 young lady that is at issue here, do you remember
4 checking or Investigators checking other people's
5 IDs?

6 MR. SAADATIAN: I don't remember
7 exactly before that, but I remember like they
8 checked like 10 people.

9 MR. SHIRAFKAN: Okay. So before
10 getting to this girl, there were other people
11 that were checked, right?

12 MR. SAADATIAN: Yes, before and after,
13 yes.

14 MR. SHIRAFKAN: Before and after?

15 MR. SAADATIAN: Yes.

16 MR. SHIRAFKAN: All right. Now, this
17 young lady, there were many that day, you
18 remembered her, how is it that you remembered
19 her?

20 MR. SAADATIAN: Because she was the
21 one that she was under 21.

22 MR. SHIRAFKAN: Okay. No, I mean,

1 when she stated to the Investigators that she is
2 21 --

3 MR. SAADATIAN: Okay.

4 MR. SHIRAFKAN: -- did you tell them
5 that she is not? How did that conversation come
6 about?

7 MR. SAADATIAN: Well, first, when they
8 check their ID and they like -- when she had
9 actually -- she had a beer in her hand and like
10 they took her to the other room, which it wasn't
11 open that night, that's why I offered them we can
12 go to the other room so they can talk to her.
13 She says I'm 21 and I was like surprised because
14 I was at the door. Usually when the rush comes,
15 I'm at the door monitoring like how the front
16 door staff work.

17 So and then I stated that you are not
18 21. You got two Xs on your hand. And then after
19 that she said yes.

20 MR. SHIRAFKAN: So it was you that
21 said you are not 21? You corrected her?

22 MR. SAADATIAN: When we went to the

1 other room, yes.

2 MR. SHIRAFKAN: Okay. And how is it
3 that she pulled her Turkish passport out? How
4 did that come about?

5 MR. SAADATIAN: First, she claimed she
6 didn't have any kind of ID. And then I stated
7 that that's impossible. You need to have like
8 some sort of ID in order to get into my
9 establishment. And then after that, after like a
10 few like back and forth, she show her passport.

11 MR. SHIRAFKAN: Okay. And she
12 admitted that she had washed off her Xs, correct?

13 MR. SAADATIAN: Yes.

14 MR. SHIRAFKAN: Okay. Now, this band
15 on her hand, could you tell us how did the band
16 look in regards to did she try to take it off?
17 What happened with this wristband?

18 MR. SAADATIAN: Well, they are like --
19 they are usually like either paper or the plastic
20 kind of like rubber, like plastic. We used the
21 plastic one because they are not easy to be taken
22 off.

1 MR. SHIRAFKAN: Yes.

2 MR. SAADATIAN: And so it's the -- we
3 had like -- either it was like if I -- I don't
4 remember. Like it was either like pink or
5 yellow. Okay. And then when -- as soon as we
6 walked into the room and she was -- she kind of
7 like -- she looked scared that like she got
8 caught, she kind of like just took it off and
9 threw it next to the trash can. Because I
10 specifically remember where we were. We were by
11 a trash can by the like second column in that
12 room.

13 And then I stated and I showed the
14 Investigators that look she just threw it off,
15 that's what I remember.

16 MR. SHIRAFKAN: Well, why is it that
17 it struck you as a sort of a defense, if you may,
18 why did it struck you that look, she took it off?
19 Why? Why is that a big deal that she took off
20 the wristband?

21 MR. SAADATIAN: Because like she did
22 something wrong and she knew she was something --

1 she did something wrong.

2 MR. SHIRAFKAN: Okay. Is, the
3 wristbands that you guys put on, it easy to take
4 off?

5 MR. SAADATIAN: No.

6 MR. SHIRAFKAN: All right. How would
7 you say -- did she have difficulty taking the
8 wristband off?

9 MR. SAADATIAN: No, not at all. Like
10 those wristbands it's not very easy to be taken
11 off, even like by guys, you know, like by guys
12 like you have to pull it pretty hard.

13 MR. SHIRAFKAN: Okay.

14 MR. SAADATIAN: And like even
15 sometimes like for ladies, it definitely is not
16 that easy like to take it off like that.

17 MR. SHIRAFKAN: And how long have you
18 been in the nightlife business?

19 MR. SAADATIAN: Nine years.

20 MR. SHIRAFKAN: Nine years. In the
21 nine years, have you seen tricks used by
22 underagers to try to obtain wristbands?

1 MR. SAADATIAN: Yes.

2 MR. SHIRAFKAN: Have you seen
3 underagers use tricks to wash Xs?

4 MR. SAADATIAN: Yes.

5 MR. SHIRAFKAN: And modify or obtain
6 wristbands?

7 MR. SAADATIAN: Yes.

8 MR. SHIRAFKAN: What are some of these
9 things that you have seen in your experience with
10 regards to people underage trying to modify or
11 put on wristbands that is not theirs?

12 MR. SAADATIAN: Well, first, when you
13 go in -- when they go to the bathroom, they wash
14 it off and they come and say oh, I lost my
15 wristband. And then if someone is not really
16 doing their job and like they are crazy, they
17 would say okay, sure, here we go.

18 But for us, we ask okay, you lost the
19 wristband, fine. Can we see your ID again? And
20 we ask for the ID. And at that time, they just
21 don't say anything and they show like they are
22 not 21 and they are like -- so we actually put an

1 X on them and we warn them if they wash it off
2 again, they will get escorted outside of the
3 establishment and they cannot be let back in.

4 MR. SHIRAFKAN: Okay. Have you had
5 encounters with people, patrons underage trying
6 to put tape or hooks or anything, have you seen
7 anything that people would take torn wristbands
8 and try to put it on their hand?

9 MR. SAADATIAN: Well, like the paper
10 wristband is usually like -- because it's kind of
11 like sticky, they can like still use it, that's
12 one of the reasons we don't use it, because they
13 can just like kind of like put it like just a
14 little water on it and it sticks on it.

15 But the one that we use and that night
16 I'm assuming the way she put it on was like it
17 has hole and when you like break the wristband,
18 you still can like kind of sticking it. It's not
19 that stable, so if you -- like if you point at
20 it, it might fall.

21 So that's how probably she put it on
22 her hand. So if me or any of the Investigators

1 like they just kind of like touched the
2 wristband, it would probably fall off, that's how
3 she quickly just like took it off and threw it
4 out.

5 MR. SHIRAFKAN: Okay. In the nine
6 years that you have been doing this, is this an
7 ongoing challenge between your job to keep the
8 premise secure from underage drinkers and the
9 tricks of underage drinkers trying to have access
10 to alcohol?

11 MR. SAADATIAN: Yes.

12 MR. SHIRAFKAN: And in your opinion as
13 someone who is doing this, do you think an
14 underage would carry a paperclip or tape to find
15 used wristbands and put it on?

16 MR. SAADATIAN: Yes.

17 MR. SHIRAFKAN: Have you ever had an
18 encounter with an underage person finding beer,
19 even leftover and trying to drink that?

20 MR. SAADATIAN: Yes.

21 MR. SHIRAFKAN: On this night when she
22 took the wristband off, it was stated that she

1 said that she got it from the front door, right?

2 MR. SAADATIAN: Yes.

3 MR. SHIRAFKAN: Okay. Were you there
4 when she said that?

5 MR. SAADATIAN: Yes.

6 MR. SHIRAFKAN: Okay. At that point,
7 did you try to find out who it was that allegedly
8 gave her this wristband?

9 MR. SAADATIAN: Yes. I asked her like
10 how she got it and she said I got it from the
11 front door. And I said okay, let's go to the
12 front door and find out who gave you. I would
13 love to know. She just -- but then she didn't
14 say anything. So I couldn't force her.

15 MR. SHIRAFKAN: Okay. Did she admit,
16 at any point, that she got it from somewhere
17 else?

18 MR. SAADATIAN: Somewhere else?

19 MR. SHIRAFKAN: Not from the front
20 door, from somebody else?

21 MR. SAADATIAN: Then she said I got it
22 from someone.

1 MR. SHIRAFKAN: All right.

2 MR. SAADATIAN: She changed it.

3 MR. SHIRAFKAN: She changed it from
4 getting it from your staff --

5 MR. SAADATIAN: Yes.

6 MR. SHIRAFKAN: -- I got it from
7 someone?

8 MR. SAADATIAN: Someone.

9 MR. SHIRAFKAN: Okay. No further
10 questions.

11 CHAIRPERSON MILLER: Cross?

12 MS. SCHMIDT: Just a few questions.

13 CROSS-EXAMINATION

14 MS. SCHMIDT: Mr. Saadatian, in your
15 testimony you stated that there are different
16 tricks used to getting -- for getting a
17 wristband. Do you remember saying that?

18 MR. SAADATIAN: Just now?

19 MS. SCHMIDT: Yes.

20 MR. SAADATIAN: Yes.

21 MS. SCHMIDT: But who is ultimately
22 responsible for someone who uses those tricks to

1 get a wristband? Wouldn't the establishment be
2 ultimately responsible for the person getting the
3 wristband?

4 MR. SAADATIAN: Yes. Like when we
5 have the -- we hold the wristbands, but we will--
6 in our establishment specifically, we try really
7 hard, that's why we have many, many security and
8 to watch this incident.

9 MS. SCHMIDT: So if someone got a
10 wristband, it's not - it's still the
11 establishment's fault, correct?

12 MR. SAADATIAN: Um, I don't know.

13 MS. SCHMIDT: And also if someone, if
14 a minor obtained a beer, who is ultimately
15 responsible for the minor obtaining the beer?

16 MR. SHIRAFKAN: Objection. I just
17 want it to be clear on getting a wristband and
18 someone getting beer from someone else, are we
19 talking about from the club or just from anyone?

20 MS. SCHMIDT: In the club. If someone
21 -- if there is -- you testified that she could
22 have picked the beer off the floor, for example.

1 Once that person -- once she has the beer, who is
2 ultimately responsible for --

3 MR. SAADATIAN: I didn't say that.

4 MR. SHIRAFKAN: Objection again.

5 That's a legal question.

6 CHAIRPERSON MILLER: Okay. That's
7 what I was wondering, are you calling for a legal
8 conclusion?

9 MS. SCHMIDT: Well, I'm just saying
10 that what he understands what his responsibility
11 is as a club -- as a general manager of a club.

12 CHAIRPERSON MILLER: Yes.

13 MR. SHIRAFKAN: Well, more
14 specifically, I mean, if somebody -- if the
15 question is if somebody finds a beer from the
16 trash can and drinks it, do you think we're
17 responsible? That's perhaps maybe a non-legal to
18 a certain extent. But if someone gets a beer, if
19 they get a beer from a bartender, it's different
20 than if they get a beer from the bathroom.

21 MS. SCHMIDT: I'll withdraw the
22 question.

1 CHAIRPERSON MILLER: Okay.

2 MS. SCHMIDT: And so when you looked--
3 okay. Investigator Ghenene, did you hear him
4 testify to the fact that all four people looked
5 at the wristband, correct? Do you remember him
6 testifying to that?

7 MR. SAADATIAN: I remember he stated
8 that.

9 MS. SCHMIDT: And could you tell by
10 looking at the wristband if there was any
11 alteration?

12 MR. SAADATIAN: No, because as soon as
13 we got to the room that it was bright, she took
14 it off.

15 MS. SCHMIDT: So are you saying --
16 okay. So it's your testimony that Investigator
17 Ghenene could -- didn't have a chance to look at
18 the wristband?

19 MR. SAADATIAN: No. In dark, they
20 did. When it was dark inside the main room, yes,
21 they did. But as soon as we walked into the
22 other room, no.

1 MS. SCHMIDT: No further questions.

2 MR. SHIRAFKAN: I just have one
3 follow-up, Madam Chair.

4 CHAIRPERSON MILLER: Okay.

5 REDIRECT EXAMINATION

6 MR. SHIRAFKAN: If you could just tell
7 us, are you an ABC, ABRA manager?

8 MR. SAADATIAN: Yes.

9 MR. SHIRAFKAN: Do you have a license?

10 MR. SAADATIAN: Yes.

11 MR. SHIRAFKAN: And have you been
12 through the training, right? The training and
13 all that.

14 MR. SAADATIAN: Yes, many times in
15 this building.

16 MR. SHIRAFKAN: Okay. Thank you.

17 CHAIRPERSON MILLER: Board questions?
18 Mr. Short?

19 MEMBER SHORT: Yes. Good afternoon,
20 Mr. Saadatian.

21 MR. SAADATIAN: Good afternoon.
22 Saadatian.

1 MEMBER SHORT: Saadatian?

2 MR. SAADATIAN: Yes.

3 MEMBER SHORT: Your business mainly
4 caters to people who can drink alcohol legally?

5 MR. SAADATIAN: Yes.

6 MEMBER SHORT: What drinks do you
7 serve underage people in your club? And how much
8 do they cost compared to alcohol?

9 MR. SAADATIAN: It's just water and
10 juices.

11 MEMBER SHORT: So if I wanted a glass
12 of juice and I were 20 years-old, how much would
13 a glass of juice cost?

14 MR. SAADATIAN: It's usually like just
15 \$1.

16 MEMBER SHORT: So if a lot of underage
17 people are in your club, you can't make a lot of
18 money?

19 MR. SAADATIAN: It can be, but not a
20 lot of money.

21 MEMBER SHORT: So is it advantageous
22 for you to have underage people in your club with

1 Xs on their hands?

2 MR. SAADATIAN: Not really.

3 MEMBER SHORT: Not really. Okay. How
4 many years did you say you owned your -- well,
5 how long have you been in this business?

6 MR. SAADATIAN: Nine years.

7 MEMBER SHORT: How many years have you
8 been at this establishment?

9 MR. SAADATIAN: Around five years,
10 five and a half.

11 MEMBER SHORT: Around five years?

12 MR. SAADATIAN: Yes, five years.

13 MEMBER SHORT: What would you say if
14 I were to ask you what is the history of the club
15 since you have been there the last five years as
16 far as having problems with ABRA or any District
17 Government Regulatory Agency?

18 MR. SAADATIAN: It's -- it like hasn't
19 been that much of a problem.

20 MEMBER SHORT: Is that much of a
21 problem. Well, how much? How many times have
22 you been cited for any violations?

1 MR. SAADATIAN: Just like a few
2 incidents.

3 MEMBER SHORT: How many? 5, 10?

4 MR. SAADATIAN: No, as far as I know
5 like maybe 1 or 2.

6 MEMBER SHORT: One or two.

7 MR. SAADATIAN: One, yes.

8 MEMBER SHORT: Okay. And you say you
9 know the responsibilities of being an ABRA
10 manager and a general manager of the club?

11 MR. SAADATIAN: Yes.

12 MEMBER SHORT: And the particular
13 night that we are talking about --

14 MR. SAADATIAN: Yes.

15 MEMBER SHORT: -- and you took the
16 underage person that was discovered to another
17 room, was that wristband one of yours? Did it
18 come from your club?

19 MR. SAADATIAN: Yes.

20 MEMBER SHORT: So if I'm a person of
21 age there and I take my band off and give it to
22 an underage person, can I still go to the bar and

1 get a drink?

2 MR. SAADATIAN: No.

3 MEMBER SHORT: So it would be not to
4 someone's advantage to give an underage person a
5 wristband?

6 MR. SAADATIAN: Maybe someone that
7 doesn't drink.

8 MEMBER SHORT: Someone who doesn't
9 drink would get a wristband when they come in?

10 MR. SAADATIAN: Yes. As long as that
11 person is under -- over 21, he has to get a
12 wristband.

13 MEMBER SHORT: So if you have 25
14 people in the club and you had 15 of those people
15 that didn't drink, they could walk around the
16 club without a band on them?

17 MR. SAADATIAN: Without a band?

18 MEMBER SHORT: Without a band.

19 MR. SAADATIAN: Well, like most of the
20 time everyone should have either Xs or band.

21 MEMBER SHORT: That's all I have.

22 Thank you very much. Thank you, Madam Chair.

1 MR. SAADATIAN: Thank you.

2 CHAIRPERSON MILLER: Okay. Mr.

3 Brooks?

4 MEMBER BROOKS: Thank you, Madam
5 Chair. Just one more question of the
6 Investigator, at least for me, and I'm learning
7 something here.

8 You say that -- well, first of all, do
9 you guys have a cover charge?

10 MR. SAADATIAN: That night we did.

11 MEMBER BROOKS: You did or did not?

12 MR. SAADATIAN: We did.

13 MEMBER BROOKS: You did. Okay. Well,
14 good. Okay. So what I'm learning though from
15 you is that it's not unusual for -- and Josephine
16 is a really nice club, from my understanding.

17 MR. SAADATIAN: Thank you.

18 MEMBER BROOKS: To pay a cover charge
19 and get in and perhaps find an unguarded drink
20 and drink it.

21 MR. SAADATIAN: It is unusual because
22 actually our staff walk around and if there is

1 any drinks sitting anywhere, they pick it up and
2 they throw it out.

3 MEMBER BROOKS: Yes, but you did say
4 that you have seen and observed patrons who may
5 find a drink and drink it.

6 MR. SAADATIAN: Throughout the nine
7 years that I have been working this business,
8 yes.

9 MEMBER BROOKS: Okay. And the five
10 years at Josephine?

11 MR. SAADATIAN: I don't recall that.
12 I don't remember specifically.

13 MEMBER BROOKS: Okay. So you can't
14 recall ever seeing it happen at Josephine?

15 MR. SAADATIAN: No.

16 MEMBER BROOKS: Okay. Someone just
17 picking up a drink unattended and drinking it?

18 MR. SAADATIAN: Yes.

19 MEMBER BROOKS: Out of the trash can
20 or wherever else?

21 MR. SAADATIAN: It's -- it can be hard
22 from the trash cans, because our trash cans are

1 actually --

2 MEMBER BROOKS: Yes. I would think
3 so.

4 MR. SAADATIAN: Yes.

5 MEMBER BROOKS: Okay. Again, I'm
6 learning something new. I just never heard of
7 that. Okay. Thank you, Madam Chair.

8 CHAIRPERSON MILLER: Okay. Mr.
9 Rodriguez?

10 MEMBER RODRIGUEZ: Mr. Saadatian, when
11 you discovered that there was an underage drinker
12 in your establishment, what went through your
13 mind?

14 MR. SAADATIAN: How did that happen.

15 MEMBER RODRIGUEZ: Right. And there
16 are possibilities here. Maybe somebody else
17 could have given her that in the bathroom or
18 whatever, but she said that she gave -- that
19 someone in the front staff gave it to her in
20 security.

21 MR. SAADATIAN: Yes.

22 MEMBER RODRIGUEZ: What was your

1 reaction after that?

2 MR. SAADATIAN: Well, I found that
3 kind of like very impossible, because I know my
4 staff and I picked them myself at the door,
5 because I -- prior to my becoming the general
6 manager, I actually used to do doors and IDs
7 myself. So I've been through every single
8 training, so I specifically pick the staff for
9 the front door myself just to make sure we have
10 the right people. We just don't go pick up like
11 bouncers and security and put them at the door.

12 MEMBER RODRIGUEZ: So you gave the
13 benefit of the doubt to your staff, but did you
14 question your staff?

15 MR. SAADATIAN: Yes.

16 MEMBER RODRIGUEZ: And none of them,
17 obviously -- okay. So after the Investigators
18 left and you had your discussion with staff about
19 this matter, right?

20 MR. SAADATIAN: Yes, I did.

21 MEMBER RODRIGUEZ: Nobody came up with
22 -- you didn't come up with anything, right?

1 MR. SAADATIAN: No.

2 MEMBER RODRIGUEZ: Nobody?

3 MR. SAADATIAN: No, because when the
4 lady was escorted out, I specifically pointed --
5 like I point her out to my staff and I'm like do
6 you guys remember her? Did you give -- by any
7 chance anyone gave her a wristband? And they
8 said no.

9 MEMBER RODRIGUEZ: Okay. One last
10 question.

11 MR. SAADATIAN: Yes, sir.

12 MEMBER RODRIGUEZ: Are people in your
13 club permitted to be dancing with a beer bottle
14 on the dance floor?

15 MR. SAADATIAN: Yes.

16 MEMBER RODRIGUEZ: They are?

17 MR. SAADATIAN: Yes.

18 MEMBER RODRIGUEZ: Oh. Is that a
19 safety situation?

20 MR. SAADATIAN: Usually no one like
21 waves the beer bottle in the club.

22 MEMBER RODRIGUEZ: Okay. I was just

1 curious about that.

2 MR. SAADATIAN: Sure.

3 MEMBER RODRIGUEZ: I don't have any
4 more questions, Madam Chair.

5 CHAIRPERSON MILLER: Okay. Others?
6 Mr. Silverstein?

7 MEMBER SILVERSTEIN: Thank you very
8 much, Mr. Saadatian. We have a 20 year-old woman
9 here, Ms. Yahsa, with a bottle of beer in her
10 hand in your place. Tell me how you think this
11 happened with the wristband and all that. You
12 have given us a lot of possibilities and
13 whatever. What's your idea?

14 MR. SAADATIAN: Well, I think she came
15 in. Like she got Xs on her hand and she probably
16 went to the bathroom and washed it off. And then
17 she probably either -- she probably like got a
18 like broken wristband from someone else, because
19 the wristband was definitely broken or loose. It
20 wasn't on her hand. Because that was something
21 that I exactly remember, even though it was like
22 a long time ago.

1 MEMBER SILVERSTEIN: Well, you know
2 that you are in a difficult situation because the
3 Investigator has stopped her and whatever.

4 MR. SAADATIAN: Yes.

5 MEMBER SILVERSTEIN: Why isn't there
6 any -- did you give any thought to taking her
7 picture with a cell phone camera or anything like
8 that? You know, there is no exculpatory evidence
9 either. Why not? What happened here?

10 MR. SAADATIAN: I take it -- well,
11 because I assumed like they are going to make a
12 copy out of her passport and I'm going to have
13 the report with her picture and her information.

14 MEMBER SILVERSTEIN: And the passport
15 is, at this point, it looks like it's basically a
16 person in a tunnel.

17 MR. SAADATIAN: Yes.

18 MEMBER SILVERSTEIN: Without a
19 flashlight.

20 MR. SAADATIAN: We didn't make that
21 copy though.

22 MEMBER SILVERSTEIN: Okay. No further

1 questions.

2 CHAIRPERSON MILLER: Others? Okay.

3 I just have a couple quick ones.

4 MR. SAADATIAN: Sure.

5 CHAIRPERSON MILLER: I just wanted to
6 confirm, did you say that you remember seeing the
7 wristband loose on her wrist?

8 MR. SAADATIAN: No. I said it was --
9 I didn't see it was loose, but the way she took
10 it off like that quickly, I was like definitely
11 it was loose and broken on her hand.

12 CHAIRPERSON MILLER: Okay.

13 MR. SAADATIAN: Yes.

14 CHAIRPERSON MILLER: When did she take
15 it off? When you went to the bright room?

16 MR. SAADATIAN: Yes.

17 CHAIRPERSON MILLER: Okay. And then
18 how many staff do you have at the front?

19 MR. SAADATIAN: We had two. Like two
20 at the front, like two checking IDs and one by
21 the door --

22 CHAIRPERSON MILLER: So --

1 MR. SAADATIAN: -- monitoring people
2 coming in and out.

3 CHAIRPERSON MILLER: -- if it were the
4 staff, which you don't believe I know, would it
5 be one of two or one of three who could have
6 given her the wristband?

7 MR. SAADATIAN: I don't think so.

8 CHAIRPERSON MILLER: I know you don't
9 think so. But I mean, how many give out the
10 wristbands, two people or three?

11 MR. SAADATIAN: Two, two people.

12 CHAIRPERSON MILLER: Two.

13 MR. SAADATIAN: Two people working.

14 CHAIRPERSON MILLER: So it would have
15 been one of just two people that -- I understand
16 that you hand picked and you know well --

17 MR. SAADATIAN: Yes.

18 CHAIRPERSON MILLER: -- I understand
19 that. Okay. All right. Anything else? Mr.
20 Short?

21 MEMBER SHORT: Mr. Saadatian, you
22 can't go back and take back that particular night

1 and, unfortunately, you got caught.

2 MR. SAADATIAN: Yes.

3 MEMBER SHORT: And so what
4 responsibility do you think you have as general
5 manager about this particular case?

6 MR. SAADATIAN: Like in the future or
7 just specifically this?

8 MEMBER SHORT: The incident that we
9 are here talking about now this afternoon.

10 MR. SAADATIAN: Right.

11 MEMBER SHORT: What responsibility did
12 you have for that evening?

13 MR. SAADATIAN: You -- I'm sorry. I'm
14 not understanding you. Regarding this incident,
15 this case? Like --

16 MEMBER SHORT: Regarding this
17 incident, this case.

18 MR. SAADATIAN: Well, I believe we did
19 everything by the book. We had the right guys at
20 the door checking every single person's ID and
21 giving everyone like an X if they are under 21.
22 I always actually stay and make sure my staff

1 don't do like small Xs. They do as big as it
2 goes. I tell them, sometimes I put on my own
3 hand and say you go all the way from here to
4 here. And if people are 21, they get the band.
5 And I believe we actually spent a little bit more
6 money to get better bands that actually it makes
7 it --

8 MEMBER SHORT: Okay. I understand
9 about the bands.

10 MR. SAADATIAN: Okay.

11 MEMBER SHORT: Again, what
12 responsibility are you taking for what happened
13 for this incident we are talking about right now?
14 You were the manager in charge that night?

15 MR. SAADATIAN: Yes.

16 MEMBER SHORT: Everybody reported to
17 you?

18 MR. SAADATIAN: Yes.

19 MEMBER SHORT: What responsibility did
20 you have for that evening?

21 MR. SAADATIAN: I have a hard time
22 understanding what exactly you mean, sir.

1 CHAIRPERSON MILLER: It's similar to
2 Ms. Schmidt's question a little bit I think.

3 MR. SAADATIAN: It's just I'm -- like
4 you are asking if I did something wrong or I
5 could do something --

6 MEMBER SHORT: I'm asking you that
7 night what were your responsibilities to that
8 club that you were managing?

9 MR. SAADATIAN: Okay. My -- just to
10 make sure my staff were doing their job. The
11 bartender, like the security, the front door,
12 everything was going smooth and everyone was
13 doing their job and nothing -- so hopefully no
14 incident happen.

15 MEMBER SHORT: Okay. And you said you
16 have been in this business for nine years?

17 MR. SAADATIAN: Yes.

18 MEMBER SHORT: Has anything like this
19 ever happened in any establishment you have ever
20 worked at before?

21 MR. SAADATIAN: Yes.

22 MEMBER SHORT: It has happened before?

1 MR. SAADATIAN: Yes.

2 MEMBER SHORT: That's all I have,
3 Madam Chair. Thank you very much.

4 CHAIRPERSON MILLER: Okay. Mr. Jones?

5 MEMBER JONES: Thank you, Madam Chair.

6 There was testimony earlier about you recognizing
7 the individual, the underage individual when she
8 was brought to your attention by the
9 Investigator. Is that -- did I misunderstand or
10 did I mischaracterize what I thought I heard
11 related to your reaction to seeing the
12 individual?

13 MR. SAADATIAN: When she claimed she
14 was 21 and she got a wristband from the door, I
15 specifically remember and I said no, you didn't.

16 MEMBER JONES: So you remembered her
17 specifically?

18 MR. SAADATIAN: When I saw her, yes.

19 MEMBER JONES: When you saw her, you
20 remembered her specifically?

21 MR. SAADATIAN: Yes.

22 MEMBER JONES: Can you tell me why?

1 Was there something specifically intriguing or
2 unique about her?

3 MR. SAADATIAN: No. I just pay very
4 close attention at the door. I just -- because
5 as I said, I had been doing doors for a long
6 time, so I remember faces.

7 MEMBER JONES: And so this may seem
8 like a -- I'll ask it anyway. So is it safe to
9 say that you would remember -- on that night, you
10 remember every single individual that you saw
11 come through the front door?

12 MR. SAADATIAN: I can't say ever
13 single individual, but sometimes I remember
14 faces. Sometimes I don't.

15 MEMBER JONES: Okay. So was there
16 anything particularly unique about this
17 individual that made you remember her?

18 MR. SAADATIAN: Maybe because she used
19 passport.

20 MEMBER JONES: Okay. So because she
21 used a passport that is unique in and of itself?

22 MR. SAADATIAN: Yes.

1 MEMBER JONES: Okay. You assisted the
2 Investigator in the process of trying to
3 ascertain additional information from the
4 underage person. Is that correct?

5 MR. SAADATIAN: Yes.

6 MEMBER JONES: Okay. I'm trying to
7 figure out what was your intent? As you looked
8 at it on that night, you were cooperating, the
9 intent of you cooperating was what? Can you
10 characterize that for me? Was it out of fear?
11 Was it out of a sense of I have been duped or
12 were you upset with the individual? What was
13 your motivation?

14 MR. SAADATIAN: Well, first,
15 obviously, I was upset. And second, because we
16 do everything by the book in that establishment.

17 MEMBER JONES: So it sounds like --

18 MR. SAADATIAN: I have no fear. Like
19 there is no fear, because we do everything by the
20 book.

21 MEMBER JONES: So is it safe to say
22 that you, obviously, were -- is it safe to say

1 you were surprised?

2 MR. SAADATIAN: I was very surprised.

3 MEMBER JONES: Okay. And you said you
4 take great pride in ensuring that you don't have
5 underage drinkers in your establishment?

6 MR. SAADATIAN: Yes, we do our best to
7 do so.

8 MEMBER JONES: Okay. Have you had any
9 experience with individuals taking steps and
10 measures to remove markings from their hands?

11 MR. SAADATIAN: Yes.

12 MEMBER JONES: What are you -- what
13 things can you do differently to help prevent
14 that from being a loophole in your process?

15 MR. SAADATIAN: It's tough to say.
16 You know, it's just especially like if when they
17 go wash it off, it's just especially in the
18 ladies bathroom, ladies room there is not much
19 that we can do.

20 MEMBER JONES: Okay. But you believe
21 that that's what took place on this evening?

22 MR. SAADATIAN: Yes.

1 MEMBER JONES: You are fairly certain
2 that she did not get in. She had an ID which you
3 were able to confirm. She showed the ID and you
4 took the appropriate measures, you did all you
5 could in following your process to ensure that
6 she was appropriately identified?

7 MR. SAADATIAN: Absolutely.

8 MEMBER JONES: Okay. Thank you.
9 Thank you, Madam Chair.

10 CHAIRPERSON MILLER: Mr. Short?

11 MEMBER SHORT: Just a follow-up on
12 that. When was the first time you saw her
13 passport?

14 MR. SAADATIAN: When was the first
15 time I saw her passport?

16 MEMBER SHORT: Yes.

17 MR. SAADATIAN: Well, she used
18 passport at -- she used her passport at the door.
19 I didn't check her passport, but I saw her
20 pulling out a passport.

21 MEMBER SHORT: It's your testimony
22 again you saw the passport. You didn't see that

1 she was underage?

2 MR. SAADATIAN: No.

3 MEMBER SHORT: So why -- if you saw
4 the passport and you saw she was underage, how
5 did she get a wristband?

6 MR. SAADATIAN: She didn't get a
7 wristband at the door. She got Xs.

8 MEMBER SHORT: Okay. Now, you say you
9 remember her in the club after you remembered her
10 getting Xs, did you see her on the dance floor
11 with a beer in her hand?

12 MR. SAADATIAN: No, I didn't. I saw
13 her exactly when the -- I was with the
14 Investigators.

15 MEMBER SHORT: Okay. Thank you.
16 That's all I have, Madam Chair.

17 CHAIRPERSON MILLER: Okay. Mr.
18 Alberti?

19 MEMBER ALBERTI: Yes, I'll ask some
20 questions, they may seem not relevant to anyone,
21 but I'll ask them anyway.

22 So was there entertainment that

1 evening? Everyone seems to be assuming that
2 there was cause there was dancing, but we haven't
3 established that. Was there entertainment that
4 evening?

5 MR. SAADATIAN: Yes.

6 MEMBER ALBERTI: Pardon?

7 MR. SAADATIAN: Yes, there was a DJ.

8 MEMBER ALBERTI: Okay. There wa a DJ.

9 And how large was the crowd that evening?

10 MR. SAADATIAN: Actually, we -- it
11 wasn't completely packed, so it was, I would say,
12 maybe like 150 to 200 people.

13 MEMBER ALBERTI: Okay. What's
14 completely packed mean? I mean, how many people?

15 MR. SAADATIAN: Like it can be 300.

16 MEMBER ALBERTI: Okay. All right. Is
17 it possible for -- if I were to go to your bar,
18 can I buy like drinks for myself and my
19 girlfriend and her girlfriend and you would give
20 me three drinks?

21 MR. SAADATIAN: No, for each wristband
22 we give one drink.

1 MEMBER ALBERTI: Oh, you do. Okay.
2 Tell me if you don't remember this. All right?

3 MR. SAADATIAN: Sure.

4 MEMBER ALBERTI: But you testified
5 that you remembered her coming in because you
6 remember her pulling out her passport.

7 MR. SAADATIAN: Yes.

8 MEMBER ALBERTI: Do you remember if
9 she was with friends or not?

10 MR. SAADATIAN: I don't remember.

11 MEMBER ALBERTI: Do you remember if
12 she appeared to be with anyone when you
13 approached her? Did you approach her on the
14 dance floor? Is that where you approached her?
15 That is what has been -- where in the club did
16 you approach her?

17 MR. SAADATIAN: It was actually by --
18 it was in front of the ladies room. It was in
19 front of the ladies room by -- we have two rooms.
20 One was closed. It was the room that actually I
21 offered to -- we can ask people to go there and
22 ask questions. I specifically remember she was

1 right there when the Investigators approached
2 her. I didn't approach her. It was the
3 Investigators.

4 MEMBER ALBERTI: So she was where
5 again? Tell me.

6 MR. SAADATIAN: It wasn't on the dance
7 floor. Like I don't know how else to explain it.
8 We have like -- kind of like we have a dance
9 floor, and we have and we have kind of like a
10 foyer that people can stand around.

11 MEMBER ALBERTI: Yes.

12 MR. SAADATIAN: So she was right
13 there.

14 MEMBER ALBERTI: Sort of in the foyer?
15 Is that what you are saying?

16 MR. SAADATIAN: Yes.

17 MEMBER ALBERTI: Okay. Do you
18 remember if she appeared to be with friends or
19 not?

20 MR. SAADATIAN: I don't.

21 MEMBER ALBERTI: Okay. Now, for me
22 here there is a disconnect, and I'm not

1 understanding how things evolve. So you -- who
2 decided to approach her, do you remember? Was it
3 you, or was it the Investigators?

4 MR. SAADATIAN: Investigators.

5 MEMBER ALBERTI: The Investigators
6 decided to approach her?

7 MR. SAADATIAN: Yes.

8 MEMBER ALBERTI: Is that correct?
9 Okay. Were you sort of following them when they
10 went up to her?

11 MR. SAADATIAN: Yes, I was.

12 MEMBER ALBERTI: Did they discuss that
13 they were going to go talk to her? What was --
14 how did that transpire?

15 MR. SAADATIAN: No, they -- like they
16 would pick the customer, and they would pull out
17 their badge and show them and then would explain
18 to them. Like first they would say who they are,
19 and I would kind of like kind of assess that, and
20 I would explain to them who they are and what the
21 process is.

22 MEMBER ALBERTI: Okay. Okay. I'm

1 trying to understand at what point -- so at this
2 point, they approached this young woman and they
3 introduced themselves and told her who they were.
4 Do you remember what was the first question they
5 asked her or the first -- the nature of the first
6 question they asked her?

7 MR. SAADATIAN: Can we see your ID?

8 MEMBER ALBERTI: Okay. And what
9 happened at that point?

10 MR. SAADATIAN: And I believe she
11 claimed she didn't have any ID.

12 MEMBER ALBERTI: She claimed -- all
13 right. And after that what happened?

14 MR. SAADATIAN: Then -- well, first,
15 like first we asked her to go to -- sorry, like
16 to go to the other room, which was like five
17 steps away and --

18 MEMBER ALBERTI: Okay. So she said
19 she didn't have an ID. And then you suggested
20 that everyone go to the other room?

21 MR. SAADATIAN: No, no, no. We went
22 to the other -- like they said like they asked --

1 they showed their badge and they asked for the
2 ID, and then we walked to the other room. We
3 said like we could go to the other room.

4 MEMBER ALBERTI: Did she respond
5 before you went to the other room? You asked for
6 an ID.

7 MR. SAADATIAN: I don't recall that.

8 MEMBER ALBERTI: You don't recall.
9 Okay. So I'm trying to understand, why go to the
10 other room? I mean, did you go to the other room
11 for about, what was it -- before I get there, did
12 you go to the other room for anyone else?

13 MR. SAADATIAN: Yes, we did.

14 MEMBER ALBERTI: Okay. For every
15 individual that they questioned?

16 MR. SAADATIAN: I believe so, but I
17 cannot say 100 percent.

18 MEMBER ALBERTI: Okay. So I'm trying
19 to understand why you went to the -- I'm sorry.
20 Maybe that does explain it, but I'll ask. Why
21 did you go to the other room --

22 MR. SAADATIAN: Because --

1 MEMBER ALBERTI: -- for this?

2 MR. SAADATIAN: -- like it would be
3 way easier to talk to people, because there was
4 like no music. There was no one else. It was
5 like I turned the lights on. So it was like they
6 could look at the IDs and like talk to the
7 customers.

8 MEMBER ALBERTI: So was there
9 something in her responses that prompted you to
10 go there or just you thought, in general, we will
11 go there?

12 MR. SAADATIAN: No. In general, I
13 think we decided to go. Like we take like people
14 there and ask them if they would like to ask them
15 question or look at their IDs.

16 MEMBER ALBERTI: Okay. Okay. Fine.
17 I was just trying to understand how you got to
18 the other room.

19 MR. SAADATIAN: Sure.

20 MEMBER ALBERTI: It wasn't clear.

21 MR. SAADATIAN: Yes. It was just like
22 offered. Like it was my offer that it would

1 easier for them.

2 MEMBER ALBERTI: Okay. I have no
3 further questions. Thank you.

4 MR. SAADATIAN: Thank you.

5 CHAIRPERSON MILLER: Others? I just
6 have a quick question.

7 MR. SAADATIAN: Sure.

8 CHAIRPERSON MILLER: I'm just
9 wondering, I didn't see like the time on this,
10 you know, like what time she came in and what
11 time the Investigators approached her.

12 MR. SAADATIAN: Um --

13 CHAIRPERSON MILLER: How long was she
14 at the club?

15 MR. SAADATIAN: I don't really
16 remember what time she came in.

17 CHAIRPERSON MILLER: Okay.

18 MR. SAADATIAN: I don't remember the
19 time exactly.

20 CHAIRPERSON MILLER: Do you remember
21 what time this was? It could be in the report.
22 I just don't see it.

1 MR. SAADATIAN: I can't say 100
2 percent. Like I don't --

3 CHAIRPERSON MILLER: Okay.

4 MR. SAADATIAN: -- I'm not sure.

5 CHAIRPERSON MILLER: Okay. That's all
6 right. I don't think it's critical. I was just
7 trying to envision it.

8 MR. SAADATIAN: Sure.

9 CHAIRPERSON MILLER: All right.
10 Anything else?

11 MEMBER RODRIGUEZ: I have a quick
12 question.

13 CHAIRPERSON MILLER: Yes, Mr.
14 Rodriguez?

15 MEMBER RODRIGUEZ: A very quick
16 question.

17 MR. SAADATIAN: Sure.

18 MEMBER RODRIGUEZ: Was this the first
19 time this person had been in your club?

20 MR. SAADATIAN: I believe so. I don't
21 remember her face from before.

22 MEMBER RODRIGUEZ: Okay. Thank you.

1 MR. SAADATIAN: Sure.

2 CHAIRPERSON MILLER: Mr. Jones?

3 MEMBER JONES: Please, bear with me,
4 I just realized I didn't ask this. So --

5 MR. SAADATIAN: Sure.

6 MEMBER JONES: -- your position is the
7 general manager, correct?

8 MR. SAADATIAN: Yes.

9 MEMBER JONES: Okay. You were there
10 on that evening, correct?

11 MR. SAADATIAN: Yes.

12 MEMBER JONES: Do you remember the
13 individual in question, the underage individual
14 that was being questioned by the ABRA
15 Investigator?

16 MR. SAADATIAN: Yes.

17 MEMBER JONES: Okay. Is it your
18 position that that individual was there consuming
19 alcohol in your establishment?

20 MR. SAADATIAN: Is it my position?

21 MEMBER JONES: Yes. Is that your
22 understanding, your position? Are you denying

1 that that individual was there consuming alcohol
2 at your establishment?

3 MR. SAADATIAN: We didn't -- I didn't
4 see her drinking.

5 MEMBER JONES: Okay. So you didn't
6 see her drinking. So you have no firsthand
7 knowledge that she was actually consuming
8 alcohol?

9 MR. SAADATIAN: No.

10 MEMBER JONES: Did you see her with a
11 beverage in her hand that was alcohol?

12 MR. SAADATIAN: Yes, I did.

13 MEMBER JONES: So she did have an
14 alcoholic beverage in her hand?

15 MR. SAADATIAN: Yes.

16 MEMBER JONES: Okay. Are you -- you
17 are confirming -- do you have knowledge of the
18 fact that she was under the age of 21?

19 MR. SAADATIAN: Yes, after we checked
20 her ID, yes.

21 MEMBER JONES: And you checked her ID
22 at the door, correct?

1 MR. SAADATIAN: I didn't.

2 MEMBER JONES: You did not?

3 MR. SAADATIAN: No, I did not.

4 MEMBER JONES: Did someone under your
5 employ check the ID?

6 MR. SAADATIAN: Yes.

7 MEMBER JONES: Okay. So you knew she
8 was under the age of 21 when she first entered
9 your establishment?

10 MR. SAADATIAN: Yes.

11 MEMBER JONES: Okay. So you are
12 confirming that you do have knowledge of the fact
13 that she was under 21. And you did have
14 knowledge of the fact that she was under 21 on
15 that night, correct?

16 MR. SAADATIAN: Yes.

17 MEMBER JONES: And you are also
18 confirming she did have an alcoholic beverage in
19 her hand?

20 MR. SAADATIAN: Yes.

21 MEMBER JONES: On that evening,
22 correct?

1 MR. SAADATIAN: Yes.

2 MEMBER JONES: Okay. And did your
3 establishment take action to rectify that
4 situation, i.e., this underage person in your
5 establishment with a beverage, what action did
6 you take to rectify that situation?

7 MR. SAADATIAN: After they talked to
8 the Investigator?

9 MEMBER JONES: Yes.

10 MR. SAADATIAN: After the -- I told
11 her I cannot have her in the establishment any
12 more and I cannot let her back in ever.

13 MEMBER JONES: Okay. So is she on a
14 list of some sort where she is banned from the
15 establishment?

16 MR. SAADATIAN: Yes.

17 MEMBER JONES: Okay. And that list is
18 where?

19 MR. SAADATIAN: In the club.

20 MEMBER JONES: In the club?

21 MR. SAADATIAN: Yes.

22 MEMBER JONES: Okay. Thank you.

1 Thank you, Madam Chair.

2 CHAIRPERSON MILLER: Okay. Does that
3 do it for us? All right. Any questions on Board
4 questions?

5 MR. SHIRAFKAN: I just have just a
6 few.

7 CHAIRPERSON MILLER: Okay.

8 REDIRECT EXAMINATION

9 MR. SHIRAFKAN: As far as the checking
10 of the ID later knowing her age being under 21,
11 is that what -- did the Investigator check her
12 passport or did you check her passport?

13 MR. SAADATIAN: They did.

14 MR. SHIRAFKAN: Okay. So your
15 knowledge of her being actually under 21 is what
16 the Investigators told you?

17 MR. SAADATIAN: In the beginning, yes.

18 MR. SHIRAFKAN: Okay. And as far as
19 the alcoholic beverage, you saw a Corona bottle?

20 MR. SAADATIAN: Yes.

21 MR. SHIRAFKAN: And that's how you
22 assumed it was an alcoholic beverage?

1 MR. SAADATIAN: Yes.

2 MR. SHIRAFKAN: Okay. No more
3 questions.

4 CHAIRPERSON MILLER: Okay. Thank you
5 very much. Oh, you have a question?

6 MEMBER SILVERSTEIN: Yes, just one.

7 CHAIRPERSON MILLER: Okay.

8 MEMBER SILVERSTEIN: One more
9 question. This is critical to me.

10 CHAIRPERSON MILLER: Okay.

11 MEMBER SILVERSTEIN: Investigator
12 Ghenene said that the wristband was something
13 like from the source and that it did not appear
14 to have been tampered. You say otherwise. Why
15 do you say otherwise?

16 MR. SAADATIAN: That by the -- because
17 I said like the wristband was broken and it
18 wasn't hers. Is that what you are asking?

19 MEMBER SILVERSTEIN: Okay. Where is
20 that wristband?

21 MR. SAADATIAN: I don't know.

22 MEMBER SILVERSTEIN: What happened to

1 it? What was the providence of it after she took
2 it off her hand?

3 MR. SAADATIAN: She tried to throw it
4 in the trash and then I show it to the -- like
5 the Investigators that she did that. She tried
6 to actually tear the wristband.

7 MEMBER SILVERSTEIN: Wait. Say that
8 again. I'm sorry, I didn't hear you.

9 MR. SAADATIAN: I said like I pointed
10 out that she was trying to get rid of the
11 wristband.

12 MEMBER SILVERSTEIN: And?

13 MR. SAADATIAN: And I told the
14 Investigators.

15 MEMBER SILVERSTEIN: Did he take it?

16 MR. SAADATIAN: (No audible answer.)

17 MEMBER SILVERSTEIN: Did you take it?

18 MR. SAADATIAN: I didn't take it.

19 MEMBER SILVERSTEIN: This would have
20 been helpful, but you did not take it.

21 MR. SAADATIAN: Yes.

22 MEMBER SILVERSTEIN: So to your

1 knowledge, it was simply there and no one took
2 possession of it?

3 MR. SAADATIAN: Yes.

4 MEMBER SILVERSTEIN: Thank you.

5 CHAIRPERSON MILLER: I'm sorry, where
6 was it?

7 MR. SAADATIAN: It was by the trash.

8 CHAIRPERSON MILLER: By the trash?

9 MR. SAADATIAN: Yes.

10 CHAIRPERSON MILLER: Okay. By the
11 trash. Okay. So --

12 MEMBER SILVERSTEIN: No further
13 questions.

14 CHAIRPERSON MILLER: -- but you
15 pointed that out to the Investigators?

16 MR. SAADATIAN: Yes, I specifically
17 did.

18 CHAIRPERSON MILLER: To the
19 Investigators you did?

20 MR. SAADATIAN: Yes, I did.

21 CHAIRPERSON MILLER: Okay. All right.
22 Is that it? Okay.

1 MR. SHIRAFKAN: I have one follow-up.

2 CHAIRPERSON MILLER: Yes, okay.

3 MR. SHIRAFKAN: In regards to the
4 Investigators, when ABRA Investigators come to
5 your establishment, is it your understanding that
6 you are to cooperate fully with the
7 Investigators?

8 MR. SAADATIAN: Absolutely.

9 MR. SHIRAFKAN: Okay. And do you at
10 any point interrupt or get in the way unless they
11 ask for assistance, is it your understanding it's
12 better to just stand there for help, rather than
13 telling them what to do or instructing them what
14 to do?

15 MR. SAADATIAN: Absolutely not. I'm
16 just there with them if they need any of my help.

17 MR. SHIRAFKAN: Thank you.

18 CHAIRPERSON MILLER: Okay. Any more
19 questions?

20 MS. SCHMIDT: No questions.

21 CHAIRPERSON MILLER: Okay. Thank you
22 very much.

1 MR. SAADATIAN: Thank you so much.

2 CHAIRPERSON MILLER: Okay. I assume
3 you don't have any rebuttal.

4 MS. SCHMIDT: No.

5 CHAIRPERSON MILLER: All right. So we
6 are at closing.

7 MS. SCHMIDT: Shall I proceed?

8 CHAIRPERSON MILLER: Sure.

9 MS. SCHMIDT: It is not unusual in
10 these cases to have two versions of what -- of
11 the events that happened that evening. And this
12 is one of those cases.

13 Here you have the Government, here you
14 have Investigator Ghenene testify that he went in
15 there. He saw a female who looked, appeared to
16 him under the age of 21 holding a beer bottle and
17 so when he went to check her ID, it ultimately
18 came -- they checked and it ultimately turned out
19 that she was under the age of 21 when she checked
20 -- when he checked her passport.

21 At that point, she did say to him that
22 she did have Xs on her hands originally, and she

1 washed it off and that she got a wristband. And
2 when he inspected the wristband along with Mr.
3 Saadatian and two other Investigators, visually
4 it did not look like the wristband had been
5 tampered with at all.

6 And however, you have Mr. Saadatian's
7 version of the same evening that the wristband
8 was definitely tampered with because she ripped
9 it off easily. But Investigator Ghenene never
10 testified to that.

11 So here is your first discrepancy
12 between the two versions.

13 Also, you have the version -- you also
14 have Investigator Ghenene -- I'm sorry, Mr.
15 Saadatian testifying that well, she could have
16 picked up the beer bottle from the floor or from
17 a table. However, that is not a plausible -- the
18 Government contends that is not a plausible
19 version of what happened that night, that is just
20 self-serving to the establishment.

21 And while it is -- and also, you have
22 the testimony -- also you have the questioning by

1 Mr. Saadatian's attorney about whether -- how you
2 determine who is under 21. You know, do you do
3 it by ethnicity, by the makeup, that is just a
4 smokescreen. Either you are under 21 or --
5 either you are or you are not under 21.

6 In this case, the patron clearly was
7 under the age of 21. This is shown by her
8 passport and she also ultimately admitted it.

9 And while -- and it was very commendable of the
10 establishment to assist in this investigation, we
11 don't often see that in these cases, the
12 Government will concede that.

13 The ultimate responsibility for this
14 matter lies on the licensed establishment. They
15 were the ones who were ultimately responsible for
16 the distribution of the wristbands. It doesn't
17 matter how she got the wristband. They were in
18 charge of those bands. They have to make sure
19 that the wristbands were only dispensed at the
20 point where they had control of it.

21 And if she got a wristband somewhere
22 else, they were the ones that should have been

1 monitoring to make sure the wristbands are not
2 being distributed or if they were, at least not
3 serving people with these wristbands.

4 And the same token -- and by the same
5 token, the statute -- they were also responsible
6 for the ultimate delivery of alcohol to the -- to
7 that individual. And whether -- and even if she,
8 by the way, picked up a bottle of beer, which I
9 cannot see at this time someone would not drink a
10 secondhand bottle of beer, they would still be
11 responsible because they should not -- there
12 should not be a situation where someone could
13 pick up a bottle of beer and -- an underage
14 person could pick up a bottle of beer.

15 So no matter what version -- I'm
16 sorry. So no matter what happened that night,
17 two things do stand out, as Mr. Jones asked in
18 his final questions, she was under 21 and she had
19 a bottle of beer and that's the -- the
20 establishment is ultimately responsible for this
21 in violation of 25-781 of the District of
22 Columbia Code.

1 CHAIRPERSON MILLER: Thank you. Okay.

2 MR. SHIRAFKAN: Madam Chair and
3 Members of the Board, this is not a case of two
4 different versions. Actually, this is a case of
5 perception. It's the same facts. We are not
6 saying the wristband wasn't there. It's the
7 question of where do you shift the burden
8 basically?

9 Because the standard is
10 reasonableness, right? And substantial evidence
11 becomes under -- by reasonableness. The question
12 is well, where do we shift this burden of what is
13 to be done and at what point a licensee is
14 responsible for what happens in your
15 establishment.

16 We have a young lady who goes to this
17 club. Everyone agrees that the club's operation
18 as a whole seem very fine. There are two people
19 at the door checking IDs. Mr. Saadatian, being
20 nine years in this business at the front door, he
21 said I remember faces. This is what I do. And
22 he remembers her because of the passport,

1 something about her struck him, and we know this
2 because later even the Investigator said yes, he
3 remembered her.

4 So it wasn't this was made up. This
5 young lady goes in, gets the Xs and then whatever
6 trick it is that they use. And it's not like you
7 go to a place and you got 10 people and none of
8 them have used this trick. It's not like you
9 have got this place that 100 times in the past
10 four years or 50 times in the past four years,
11 you've got this constant problem.

12 It's a question of where do you -- how
13 do you view this shift of burden of well, you
14 know four years all these tricks, all these
15 things that these underagers are going to try to
16 do, get you to do everything possible and one got
17 away, a different kind of way, or no, it's -- you
18 know, there are buckets and people are just
19 drinking and somebody -- no one is taking pride
20 in what they are doing. That's not the case.

21 The case is where this young lady
22 admitted to having the X and then washing it off.

1 Now, you know, the question becomes well, no one
2 saw this X, but did she really have the X,
3 someone had asked. And you know, I implore you
4 to look at these case laws that we have.

5 We can't say -- you know when someone
6 says I'm 21, therefore, she is 21 because it's
7 again self-admission, so she must have been 21,
8 as an underage person who -- or an overage person
9 would not say I'm underage. So then the same
10 standard would be used.

11 She said I got the X. I did something
12 wrong. I washed it and the same standard should
13 apply that she got the X and she is the offender.
14 She went and washed it. So she washes these Xs,
15 whatever trick it is, and I don't want to
16 testify, but prior to me coming here 15 years is
17 what I did and I can come up with a whole list of
18 things that people used to do.

19 So that challenge always has been and
20 will be there between establishments and people
21 trying to have access to these things. She
22 washes the X off. When the Investigator

1 approaches her, she -- knowing that this is an
2 Investigator, it is not a corrupt security. This
3 is not some average club, an official has
4 approached her, identified himself. The club
5 manager has said this is what is going on. And
6 she still says I'm 21. I don't have an ID.
7 That's the person.

8 And then that same person who had an
9 X, washed it, lied, I don't have an ID, okay, I
10 have an ID, this person says I got it from the
11 front door. If at that point even we look at it
12 and say well, maybe she did get it, well, the
13 Investigators are doing all of the things that
14 they have been doing. They are investigating
15 this question of did the establishment do
16 everything that they can or not.

17 Then take that extra -- take the next
18 step. This is why I say it's the shift of
19 perception of well, we got what we want. Now,
20 this is not against the Investigator. I'm just
21 talking about the process as a whole. We can't
22 say we go to look for what we are looking for and

1 once we got it, anything else, it's not on us.

2 There was more, as far as the
3 Investigator, at that point, the licensee had no
4 problem with it. Well, let's find out. You are
5 saying they gave it to you. Let's find out who
6 gave it to you. But there was an effort to well,
7 let's go to the front.

8 And I respect the fact that the
9 Investigator said I don't want to, you know, pull
10 on anybody or force anyone, but we are asking
11 them to step in, let me see your ID, prove to me
12 how old you are. Well, then let's take the next
13 step and find out, because everything you have
14 said so far, lady, there has been a lot of lies
15 in it. It's not like you have come clean from
16 the get-go. There has been a lot of lies, so
17 let's find out if this is a lie or not.

18 And the other question is well, would
19 the establishment do exculpatory, you know,
20 investigations? And I'll tell you as a licensee,
21 when ABRA Investigators come there, the duty of
22 them is whatever you need, and that's a good

1 licensee. You know, the bad licensee, I guess,
2 tries to hide things, but the good licensee says
3 I'm here at your service, let's go.

4 There is an idea and I respect Mr.
5 Silverstein in regards to the idea of exculpatory
6 evidence. I had even thought about telling the
7 club when the Investigators leave or as they are
8 there, start gathering these things. Take your
9 own pictures. I have never had someone being
10 able to -- you know, the licensee say well, hold
11 on now, let me take your picture, because it's
12 such a quick thing. And I don't know whether
13 Investigators really allow them to start having
14 their own investigations running, but it's very
15 easily done.

16 If we are looking at it as well,
17 Investigator, you're doing a full investigation,
18 a full investigation, then in a -- this is not a
19 criminal case, but in a criminal case, it's
20 always the duty of the officer to find both
21 sides, to figure out what really happened here.
22 Then Investigator why don't you take a picture?

1 Why don't you give me a copy of this ID?

2 We have a situation here where we are
3 explaining what happened. We don't have a copy
4 of the passport. We don't have a picture of this
5 lady. We don't have that wristband. We don't
6 have anything. We are on the defense side for a
7 licensee to defend its license, to defend the
8 money and investment of starting this business,
9 showing that it has been responsible throughout
10 the operation and yet, because an underage girl
11 who claims certain things and we are stuck with
12 trying to explain it.

13 So I ask that you do find, because
14 remember it's not -- everything that happens at a
15 club or a tavern, at the licensee's place,
16 everything is not their responsibility. It's the
17 question of did they take reasonable measures to
18 prevent this from happening?

19 And according to the Investigator's
20 own testimony, from what he recalled, from what
21 we have, and from what we don't have, I believe
22 the licensee did everything in his power to be

1 able to prevent this happening and it did prevent
2 it. If this lady got her band from someone else,
3 we don't know.

4 We have heard that this band visually
5 was tight. When we were outside the bright room,
6 even Mr. Saadatian said yes, I saw it. I mean,
7 he was honest and he said yes, it looked like
8 actually our band even. And so it wasn't a
9 matter of trying to hide anything.

10 When we saw it, we saw it. But once
11 we were in the bright room and she easily took it
12 off, I said wait a minute, there is something
13 wrong. Everybody look, she just took this off.
14 There is something wrong here.

15 So in conclusion, as I stated from the
16 beginning, we don't have enough information to
17 make a determination on this. And I ask that you
18 do give the benefit of the doubt to licensees,
19 such as this licensee who does everything in his
20 power as stated to prevent these things from
21 happening.

22 And at one -- at some point say you

1 know what, that girl who just walked away and put
2 this license in this position, she just walked
3 away. No one charged her. No one asked her.
4 She did all of this. She admitted to it and she
5 walked away and now the licensee is here trying
6 to defend his license.

7 We thank you for your time.

8 CHAIRPERSON MILLER: Okay. Thank you.

9 All right. Then --

10 MS. SCHMIDT: I have --

11 CHAIRPERSON MILLER: Yes?

12 MS. SCHMIDT: -- I get to make one
13 more argument.

14 CHAIRPERSON MILLER: Oh, yes,
15 rebuttal?

16 MS. SCHMIDT: Yes.

17 CHAIRPERSON MILLER: Okay.

18 MS. SCHMIDT: Just very quickly,
19 reasonableness is not the standard.
20 Reasonableness goes to the penalty. Whether or
21 not this offense occurred is a separate issue.
22 It does not go whether it is reasonable to have

1 prevented it. No, that is not the statute.

2 However, once -- if the Board finds
3 that this offense has occurred, then they can
4 take the reasonableness of what -- of the actions
5 of the licensee and what the patron allegedly did
6 into consideration, if they give that explanation
7 credibility.

8 And also, ultimately, it's the
9 licensee who has the obligation under the
10 license. They are the ones who make the profit.
11 If the woman -- if -- they -- this is one of the
12 -- this is one of the things that ABRA does with
13 the trainings. You try to train the licensees so
14 they can recognize these situations. And if they
15 don't and if a patron can get away with it, then
16 it is up to the licensee to receive more training
17 or to make sure -- to ensure their staff will
18 prevent it. Thank you.

19 MR. SHIRAFKAN: Just in regard to
20 that --

21 CHAIRPERSON MILLER: Okay. No.

22 MR. SHIRAFKAN: -- a very short --

1 CHAIRPERSON MILLER: I don't think.
2 That's not the way it -- the Government gets the
3 last word.

4 MR. SHIRAFKAN: All right.

5 CHAIRPERSON MILLER: But we know the
6 law and you are just going to quote the laws.
7 It's okay, we know the laws.

8 MR. SHIRAFKAN: Okay. DCMR 1718.

9 CHAIRPERSON MILLER: Okay. All right.
10 So I'm going to close the record now, at this
11 point, and ask if the parties want to file
12 proposed findings of fact and conclusions of law
13 or waive your right to do so?

14 MR. SHIRAFKAN: Waive right.

15 CHAIRPERSON MILLER: Waive it.

16 MS. SCHMIDT: Waive.

17 CHAIRPERSON MILLER: Okay. Good.

18 Okay. So the Board will deliberate this in
19 closed session and issue a decision within 90
20 days.

21 So I will call the vote on the closed
22 session.

1 Okay. As Chairperson of the Alcoholic
2 Beverage Control Board for the District of
3 Columbia and in accordance with DC Official Code
4 Section 2-574(b) of the Open Meetings Act, I move
5 that the ABC Board hold a closed meeting for the
6 purpose of seeking legal advice from our counsel
7 on Case No. 14-CC-00186, Josephine, pursuant to
8 DC Official Code Section 2-574(b)(4) of the Open
9 Meetings Act and deliberating upon this case for
10 the reasons cited in DC Official Code Section 2-
11 574(b)(13) of the Open Meetings Act.

12 Is there a second?

13 MEMBER BROOKS: Second.

14 CHAIRPERSON MILLER: Mr. Brooks

15 seconded the motion. I'll now take a roll call
16 vote on the motion before us now that it has been
17 seconded. Mr. Brooks?

18 MEMBER BROOKS: I agree.

19 CHAIRPERSON MILLER: Mr. Alberti?

20 MEMBER ALBERTI: I agree.

21 CHAIRPERSON MILLER: Mr. Rodriguez?

22 MEMBER RODRIGUEZ: I agree.

1 CHAIRPERSON MILLER: Ms. Miller
2 agrees. Mr. Silverstein?

3 MEMBER SILVERSTEIN: I agree.

4 CHAIRPERSON MILLER: Mr. Short?

5 MEMBER SHORT: I agree.

6 CHAIRPERSON MILLER: And, Mr. Jones?

7 MEMBER JONES: I agree.

8 CHAIRPERSON MILLER: Okay. It appears
9 that the motion has passed by a 7-0-0 vote. I
10 hereby give notice that the ABC Board will hold
11 this aforementioned meeting pursuant to Section
12 2-574(b) of the Open Meetings Amendment Act and
13 we will issue a decision within 90 days. Okay.
14 Thank you very much.

15 MR. SHIRAFKAN: Thank you very much.
16 Appreciate it.

17 CHAIRPERSON MILLER: Okay. So that
18 actually concludes our business for today and we
19 are adjourned. Okay. Thank you all.

20 (Whereupon, the Show Cause Hearing in
21 the above-entitled matter was concluded at 5:27
22 p.m.)

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