

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

IN THE MATTER OF:

Da Luft DC, Inc.	
t/a Da Luft Restaurant & Lounge	Show
1242 H Street, NE	Cause
Retailer CR - ANC-6A	Hearing
License No. 87780	
Case #15-251-00078	

(Operating After Hours, No ABC
 Manager on Duty, Interfered
 With an Investigation,
 Violation of Settlement
 Agreement)

September 16, 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

MIKE SILVERSTEIN, Member

HECTOR RODRIGUEZ, Member

JAMES SHORT, Member

ALSO PRESENT:

CHRISSY GEPHARDT, OAG

WILLIAM HAGER, Licensing Officer

SHAWN TOWNSEND, ABRA Investigator

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

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

2 11:15 a.m.

3 CHAIRPERSON MILLER: The next case
4 that was scheduled for 10:00 is Case No. 15-251-
5 00078, Da Luft Restaurant & Lounge located at
6 1242 H Street, N.E., License No. 87780, in ANC-
7 6A. All right. So when you are ready, if you
8 could identify yourselves for the record?

9 MS. GEPHARDT: Chrissy Gephardt here
10 on behalf of the Office of the Attorney General.

11 MR. KIVITZ: Murray Kivitz, attorney
12 on behalf of the licensee and Mr. Paul Ijiti also
13 on behalf of the licensee together.

14 CHAIRPERSON MILLER: Mister? What's
15 his name?

16 MR. IJITI: P-A-U-L last name is I-J-
17 I-T-I.

18 CHAIRPERSON MILLER: Okay. And you
19 are the owner?

20 MR. IJITI: Yes.

21 CHAIRPERSON MILLER: And with you is
22 also who?

1 MR. KIVITZ: Oh, Ajiboye Layos
2 Lipican, the manager.

3 CHAIRPERSON MILLER: Manager?

4 MR. KIVITZ: Yes.

5 CHAIRPERSON MILLER: Okay.

6 MEMBER ALBERTI: Well, Ms. Miller?

7 CHAIRPERSON MILLER: Yes?

8 MEMBER ALBERTI: Before we proceed,
9 our records show that Josephine Ijiti is the
10 owner and we just had a statement from their
11 attorney that Paul Ijiti is the owner. So can we
12 clear that up, please?

13 MR. KIVITZ: Yes.

14 MEMBER ALBERTI: Because I am totally
15 confused.

16 MR. KIVITZ: I would also like to hand
17 to the Board, I have received --

18 CHAIRPERSON MILLER: You can hand to
19 our -- I'm sorry, our staff person will take
20 that.

21 MEMBER SHORT: Okay.

22 MR. KIVITZ: I received an email from

1 Mrs. Ijiti --

2 CHAIRPERSON MILLER: Wait a second.
3 He can't hear you unless you speak into the
4 microphone.

5 MR. KIVITZ: I received an email from
6 Mrs. Ijiti who appears to have been the original
7 owner of the entirety of stock acknowledging that
8 she has been in London for, approximately, six
9 weeks and will be there for a shorter period of
10 time further due to the fact that one of her
11 children had twins and she has been in London for
12 that period of time.

13 So therefore she is not here, but as
14 the email states, she authorizes me and Mr. Ijiti
15 here to act in her behalf.

16 MEMBER ALBERTI: Okay. Ms. Miller?

17 CHAIRPERSON MILLER: Yes?

18 MEMBER ALBERTI: There was a statement
19 earlier that was on the record that said Mr. Paul
20 Ijiti was the owner. Now, I'm sorry to be kind
21 of a stickler here, but I think we need to get
22 the record set straight, so that our records are

1 set straight.

2 So who is the true and actual owner of
3 this license?

4 MR. KIVITZ: If I may? First, I would
5 like to advise the Board that my meeting here
6 this morning is to request a continuance and I
7 believe that counsel -- there is no objection to
8 that request.

9 With respect to our earlier
10 conversations regarding the compromise, we have
11 come to come agreement with respect to Charge No.
12 1 being dropped and the penalties for Charge No.
13 2 and No. 3 are acceptable.

14 We believe only the Charge No. 3,
15 which in a way addresses the issue that you
16 correctly raise at this time. Our records
17 reflect that a filing was made with ABRA advising
18 of the change of ownership accompanied by the
19 form and minutes and copies of the stock
20 certificate.

21 That application was made in December
22 of year 2014. It was not until 2015 that we

1 received a letter back saying your forms were not
2 properly completed or something was missing. I
3 personally was not counsel who prepared those
4 documents. I believe Mr. Ijiti did them.

5 Therefore, I am asking the Board for
6 a continuance with which to give me the
7 opportunity to deal with counsel to clearly go
8 through the record so the deficiency can be
9 corrected. And if there is no deficiency to at
10 least clarify what the issues are.

11 I might also add that the information
12 that was filed in 2014 was not responded to and
13 they did not receive a response until May of 2015
14 advising that enclosed was a copy of what you
15 sent and this is what you need to do and there is
16 the ambiguity that needs, in my opinion, further
17 clarification. There is no effort to avoid or
18 hide or hold anything back from the Board in
19 regards to the internal ownership.

20 Essentially, I might also like to add
21 that Mrs. Ijiti was originally the owner of 700
22 shares. There were 1,000 outstanding. The

1 meeting -- those minutes reflect that she reduced
2 her number of shares, transferred many to or sold
3 to her son, Paul, a number of shares and then
4 delineated what the other shares were. Not
5 changing that there were 1,000 shares. Even then
6 there are still only 1,000 shares issued now.

7 So again, in response to your
8 commentary and we acknowledge that there is
9 something here that has to be straightened out,
10 clarified or whatever, we request a continuance
11 to do that in a reasonable amount of time for
12 both counsel and I to get together and see where
13 we go.

14 MS. GEPHARDT: I would just like to
15 comment on what Mr. Kivitz has just said. The
16 Government is prepared to move forward today.
17 One of the elements that we are alleging is that
18 there was an interference with an investigation
19 and that is that Mr. Paul Ijiti declared at the
20 time that the Investigator was there that he was
21 the owner.

22 The records that we have and that I am

1 prepared to admit into evidence will show
2 otherwise. However, Mr. Kivitz has declared that
3 there is some confusion. He has not been able to
4 see the records, that he -- that according to him
5 that the proper material was submitted to change
6 the ownership, but they didn't receive a response
7 back.

8 And you know, I don't know what else
9 to say other than, you know, if this is an issue
10 that perhaps could cause prejudice to the other
11 side, I certainly don't want to be the person to
12 be in the position that I was the cause of that.
13 I mean, obviously, this is a case where I am
14 putting on my evidence and he is putting on his
15 evidence.

16 So I guess just to come back, this is
17 actually one of the heart of the issues of this
18 case is the ownership of the establishment.

19 MEMBER ALBERTI: I don't -- Ms.
20 Gephardt, I have to be very careful. It's my
21 understanding from the report there are other
22 issues, there are other facts related to the

1 interference.

2 MS. GEPHARDT: That's correct.

3 MEMBER ALBERTI: All right. Other
4 than ownership.

5 MS. GEPHARDT: That's correct.

6 MEMBER ALBERTI: Thank you. That's
7 all I wanted to make sure.

8 MS. GEPHARDT: Right.

9 MEMBER ALBERTI: All right. Thank
10 you.

11 MS. GEPHARDT: Yes.

12 CHAIRPERSON MILLER: And, Mr. Kivitz,
13 I'm not clear about what records either you don't
14 have or you got late that you couldn't get
15 earlier?

16 MR. KIVITZ: I appreciate your
17 comment, Madam Chairman. I personally have had
18 some medical absences from my office within the
19 last 60 days. So I have not had an opportunity
20 to give this 100 percent. Therefore I
21 communicated to counsel a request for continuance
22 on that issue alone.

1 I have copies of what were purported
2 to have been filed. And I forwarded a copy of
3 that to counsel. I don't believe she was aware
4 of it at the time this issue arose. And then
5 intervening, I had my issues.

6 And then we received the information
7 back, which was the letter from ABRA in May
8 saying there are deficiencies. And as I
9 indicated, I had no input with respect to what
10 was filed or what wasn't. So I needed a little
11 more time to go into that and try to unravel it.

12 I'm not saying it was right. We are
13 not saying it was wrong. We are saying if it
14 wasn't right, that we are not here to hide or
15 change anything.

16 CHAIRPERSON MILLER: Yes.

17 MR. KIVITZ: We want to make it
18 easier. There is no question, Mr. Alberti, that
19 -- I hope I pronounced that correctly --

20 MEMBER ALBERTI: May I?

21 CHAIRPERSON MILLER: He is still
22 talking.

1 MR. KIVITZ: There is no question that
2 there was a change from the mother to the son and
3 that, I believe, is clear reflected in the
4 minutes. But the other documentation that is
5 required with notifying the Board, I have no had
6 ample opportunity to digest it fully and to
7 collaborate with counsel on that issue.

8 CHAIRPERSON MILLER: Did you have
9 another question?

10 MEMBER ALBERTI: Yes. So I'm going to
11 ask Ms. Gephardt to stop me if I'm treading on --
12 in an area I shouldn't here. So -- and the
13 Chair. But, Mr. Kivitz, you said you got this
14 letter in May saying that the submission was
15 insufficient.

16 MR. KIVITZ: That is correct.

17 MEMBER ALBERTI: What steps have been
18 taken, if any, to make -- to respond to that
19 letter?

20 MR. KIVITZ: I have made no efforts
21 since May because, one, we were here on this case
22 and it came to us, as just part of everything,

1 and as I said, I had a personal situation that
2 took me out of the office.

3 We are working on it to get it done.
4 We are not asking for an unlimited continuance.
5 A week, a couple weeks, whatever it might take
6 for me to coordinate with counsel, so we can go
7 into this fully. There is no effort here to hide
8 or alter, that's what the application was
9 submitted for, showing, and we will do everything
10 possible to make it the way it should be if it
11 isn't already.

12 CHAIRPERSON MILLER: Okay.

13 MEMBER ALBERTI: So was this
14 information known at the Status Hearing in
15 August?

16 MR. KIVITZ: I'm sorry, I don't
17 understand the question.

18 MEMBER ALBERTI: Was the information
19 that your submission to change ownership was not
20 sufficient and was an issue? Was that known at
21 the Status Hearing in August?

22 MR. KIVITZ: I don't think so, because

1 the documentation with respect to that issue was
2 unfolded to me following that, that's my personal
3 recollection.

4 MEMBER ALBERTI: But the client knew.
5 Is that true?

6 MR. KIVITZ: I believe so.

7 MEMBER ALBERTI: All right. Thank
8 you.

9 MR. KIVITZ: Is that correct?

10 MR. IJITI: If I may speak, Madam?

11 CHAIRPERSON MILLER: Yes.

12 MR. IJITI: Just to clarify, me and my
13 mom we went in to file a change of ownership in
14 regards -- because of we are not making too much
15 money and income-wise we decided to do it
16 ourself. No need to hire attorney. So we put it
17 in in November, but we didn't hear back that we
18 do something, we mess it up. You know, how we
19 did the change.

20 CHAIRPERSON MILLER: Yes.

21 MR. IJITI: So but I could not find
22 the document, but until after the first hearing

1 here that we came in in August, I went back and I
2 spoke to Mr. Shawn, the gentleman who was here
3 checking the document and found that it had Ms.
4 Jenkins who should be our specialist then, before
5 she retired, had copies of this document on her
6 file that she didn't process. And after her
7 retirement, that's when they found it.

8 So for this case, when I put it in in
9 November, in my mind, everything was set. So
10 when they asked me for incident report, are you
11 the owner? I say yes, I'm the owner, based on
12 the premises that I filed these documents in
13 November and here it's March and nobody called me
14 from ABRA that I made a mistake or we didn't turn
15 in the proper document.

16 So, yes, that's why I said I am the
17 owner. I said it doesn't match, because we turn
18 in the documents in November and I have proof
19 that it was stamped with me here, with all the --
20 what I turn in to ABRA and by that time, I didn't
21 have anyone to come to the -- when we came for
22 the hearing. But it was after hearing about and

1 I went back to the office and we were able to
2 find me a copy of what was submitted and deal
3 with ABRA.

4 MEMBER SHORT: Madam Chair?

5 CHAIRPERSON MILLER: Yes, Mr. Short?

6 MEMBER SHORT: You made an
7 application, correct?

8 MR. IJITI: For a change.

9 MEMBER SHORT: Right. But you never
10 received a response?

11 MR. IJITI: Yes, sir.

12 MEMBER SHORT: So you couldn't assume
13 that you were the owner if you never received a
14 response, could you?

15 MR. IJITI: I turn it in in December
16 and it did not go back to me. I just felt
17 everything was fine.

18 MEMBER SHORT: Well, when you make an
19 application, just like you apply to get a
20 driver's license, until they approve it, you
21 can't drive, correct?

22 MR. IJITI: Yes, sir.

1 MEMBER SHORT: So you knew this?

2 MR. IJITI: I know. I mean, based on
3 this example you gave, but when I turn it in, I
4 was just feeling for the first time I'm not
5 having 10 years of experience work in a
6 restaurant field. We just said okay we turn it
7 in. We turn it in, I feel everything was just
8 fine without knowing that it was a problem when
9 January, February, March they didn't get back to
10 me in it.

11 CHAIRPERSON MILLER: Okay.

12 MR. IJITI: So I would say I misspoke,
13 based on what you said. And I feel it was my
14 error on that fact.

15 MEMBER SHORT: Thank you. Thank you,
16 Madam Chair.

17 CHAIRPERSON MILLER: Okay. Mr.
18 Kivitz, my understanding is that you didn't
19 really appreciate how much you needed these
20 documents until you were preparing for this
21 hearing and that's why it was so last minute? I
22 mean --

1 MR. IJITI: I didn't understand.
2 First of all, as I say, I was not the counsel who
3 prepared them.

4 CHAIRPERSON MILLER: Right.

5 MR. IJITI: I don't know if they even
6 used counsel. And I think as part of a lot of
7 other documents, I saw that it was filed in fact.
8 By careful looking later, I saw that the date
9 that they got notice was substantially after. I
10 have really no -- nothing to wear. What it was
11 or how it was done, but I know it wasn't done in
12 any way to hide or deny or indicate a change. It
13 was all visible. And even at this time having
14 talked with counsel, I really have to put it in
15 words, go over it, look and see what they were
16 asking for in regard to updating or correcting
17 and have that reasonable opportunity to do to.

18 I respect, you know, Mr. Short's
19 commentary with regard to driver's license, but,
20 you know, these are hard, working honest people
21 doing what they think is right. It doesn't
22 always necessarily make it right, but there is

1 nothing here by intent to avoid or to do other
2 than what is correct.

3 Therefore, my request for the
4 continuance is what has to be done, will be done.
5 I'll coordinate with counsel and then come back
6 to the Board and we will do it quickly and
7 promptly to see where we go. But again, as the
8 other party is amenable to what we are asking.

9 CHAIRPERSON MILLER: Okay. Any other
10 questions? Anyone? Okay. I have one final
11 question. And that is how will your client be
12 prejudiced if we proceed with this case today?
13 Will your client be prejudiced if we proceed with
14 this case, in your view, today?

15 MR. KIVITZ: I'm still -- I'm sorry,
16 I didn't hear you.

17 CHAIRPERSON MILLER: Will your -- in
18 your view, will your client be prejudiced if we
19 proceed in this case today and sort out while you
20 sort out the other issue outside the case?

21 MR. KIVITZ: I think he would be
22 prejudiced because --

1 MEMBER RODRIGUEZ: He is guilty.

2 MR. KIVITZ: -- there is a cloud. You
3 know, why did you do this? Why did -- there is a
4 cloud. I would like that not to be an issue,
5 because that's somewhat independent from all the
6 charges that were made. One of them is you said
7 you were president, but our records say you were
8 not the president. He didn't make the statement
9 as an effort to hide or deny. He made the
10 statement on the basis of what he had filed.

11 It wasn't until May of 2015
12 substantially after having filed the documents
13 that he received the letter saying what was
14 deficient. So when you ask me well, could he be
15 prejudiced, I think I, as counsel, would also be
16 prejudiced.

17 CHAIRPERSON MILLER: All right. Let
18 me ask you what --

19 MR. KIVITZ: I would like this all to
20 be clear, clean, current and proceed and not
21 going into the elements of the charge. There is
22 an element of a cloud that is saying over

1 misrepresentation by itself might have been just
2 a misunderstanding. So -- because he believed he
3 was president. The stock was transferred. We
4 just have to perfect it.

5 CHAIRPERSON MILLER: Okay. One other
6 thing, because we can't belabor this too long,
7 but there is also the possibility if we go
8 forward and then leave the record open for
9 whatever, a week or so for whatever documents you
10 think will --

11 MR. KIVITZ: I don't think that's a
12 problem.

13 CHAIRPERSON MILLER: Okay.

14 MR. KIVITZ: I don't see that as a
15 problem. In looking at the letter from ABRA it
16 says provide this -- provide telephone number,
17 proof of citizenship, proof of purchase of the
18 percent --

19 CHAIRPERSON MILLER: Okay. We don't--

20 MS. GEPHARDT: Just real quick --

21 CHAIRPERSON MILLER: Yes?

22 MS. GEPHARDT: -- just I think that if

1 we are going to get into the merits, into the
2 facts and the merits and the --

3 CHAIRPERSON MILLER: Right.

4 MS. GEPHARDT: -- then we need to do
5 that in a formal hearing. I think we are getting
6 a lot of testimony here and this is just -- you
7 know, we need to sort of stop this.

8 CHAIRPERSON MILLER: Okay.

9 MS. GEPHARDT: So at this point, I
10 think the Board just needs to decide how they
11 want to proceed based on what they have heard and
12 we will just go from there.

13 CHAIRPERSON MILLER: Okay. Comments
14 from Board Members? Any? I mean, I see a choice
15 of either a short continuance if there is another
16 -- if there is a spot in another day, you know,
17 for --

18 MR. KIVITZ: That would be
19 appreciative.

20 CHAIRPERSON MILLER: Mr. Kivitz is
21 asking to get every -- I don't totally -- am not
22 totally clear of what documents that -- how they

1 are related exactly to this case or else proceed
2 and then perhaps leave the record open for a week
3 if there are documents that need to get into the
4 case to clarify some point.

5 Does anybody have any comments?

6 MEMBER ALBERTI: I have a motion,
7 Madam Chair.

8 CHAIRPERSON MILLER: Okay.

9 MEMBER ALBERTI: I move that we deny
10 the request for a continuance.

11 CHAIRPERSON MILLER: Okay. Is there
12 a second on that?

13 MEMBER SHORT: I second that motion.

14 CHAIRPERSON MILLER: Okay. There has
15 been a motion to deny the continuance.

16 All those in favor say aye.

17 ALL: Aye.

18 CHAIRPERSON MILLER: All those
19 opposed? Okay. I'll abstain. I'm really on the
20 fence on this. Okay. So that's one, two, three.
21 I mean, I'll go along with that, one, two, three,
22 four, five, six, okay. And just because there is

1 really not -- I'm sorry after all this, it's just
2 not all that clear how -- the nexus to me of the
3 delay.

4 But I will, as I said to you before,
5 consider if there are certain documents in our
6 office, you know, that you want to get into the
7 record, we will let you -- we will consider
8 keeping the record open for that.

9 MS. GEPHARDT: We need to --

10 CHAIRPERSON MILLER: So the Board's
11 decision then is to proceed. And the Government
12 has the burden of proof and the Government goes
13 first.

14 MR. KIVITZ: May I?

15 CHAIRPERSON MILLER: Oh, wait a
16 minute. Wait a minute. Okay. All right. Let's
17 take that -- we are going to take a quick break.
18 We have a schedule issue to discuss. Okay. And
19 we will return then shortly. I guess I have to
20 read the --

21 MEMBER ALBERTI: I don't think so,
22 because we are not --

1 CHAIRPERSON MILLER: We're --

2 MEMBER ALBERTI: -- deliberating
3 anything. We're just talking.

4 CHAIRPERSON MILLER: Oh, it's just
5 schedule. Okay.

6 MEMBER ALBERTI: This is an
7 administrative matter.

8 CHAIRPERSON MILLER: Okay.

9 MEMBER ALBERTI: Purely
10 administrative.

11 CHAIRPERSON MILLER: Okay.

12 (Whereupon, the above-entitled matter
13 went off the record at 11:38 a.m. and resumed at
14 11:42 a.m.)

15 CHAIRPERSON MILLER: Okay. We are
16 back on the record with the Da Luft case. Ms.
17 Gephardt? Ms. Gephardt?

18 MEMBER ALBERTI: Ms. Gephardt, wait
19 one moment.

20 CHAIRPERSON MILLER: We're back on the
21 record.

22 MS. GEPHARDT: Oh, I'm sorry. You are

1 going to say on the record that we are doing it.

2 CHAIRPERSON MILLER: Yes, I want to
3 say on the record.

4 MS. GEPHARDT: Okay.

5 CHAIRPERSON MILLER: Yes.

6 MS. GEPHARDT: Okay. Sorry.

7 CHAIRPERSON MILLER: Given that we
8 have another case that was scheduled for 11:00
9 and the individuals are here for that, we have
10 decided, including police officers who have taken
11 time off the street to come down here, to hear
12 them now and give you some more time to work on
13 your records.

14 And we have a space this afternoon at
15 2:00.

16 MS. GEPHARDT: Okay.

17 CHAIRPERSON MILLER: So we would like
18 you to come back at 2:00 and hopefully you will
19 have an opportunity to work with the staff to do
20 whatever.

21 MS. GEPHARDT: Okay.

22 CHAIRPERSON MILLER: Thank you very

1 much.

2 MS. GEPHARDT: Thank you.

3 MEMBER ALBERTI: I'll just mention
4 that the Chair has asked staff to be available,
5 Mr. Kivitz.

6 MR. KIVITZ: Thank you, yes.

7 MEMBER ALBERTI: So to answer any
8 questions you may have.

9 MS. GEPHARDT: Okay. Thank you.

10 MR. KIVITZ: I give you that piece of
11 paper, if you would make a copy or return it to
12 me?

13 CHAIRPERSON MILLER: Do you need this?
14 Okay. All right.

15 (Whereupon, the above-entitled matter
16 went off the record at 11:43 a.m. and resumed at
17 2:12 p.m.)

18 CHAIRPERSON MILLER: Okay. The Board
19 is back on the record to commence with the
20 hearing of Case No. 15-251-00078, Da Luft
21 Restaurant & Lounge located at 1242 H Street,
22 N.E., License No. 87780.

1 We addressed some preliminary matters
2 this morning and then continued the hearing to
3 this afternoon to 2:00.

4 So are the parties ready to proceed?
5 All right. Let me just inquire how many
6 witnesses each side has just for us to --

7 MR. KIVITZ: One witness.

8 CHAIRPERSON MILLER: Two? Okay.

9 MS. GEPHARDT: I have two.

10 CHAIRPERSON MILLER: Okay. Thank you.
11 All right. Does the Government have an opening
12 statement?

13 MS. GEPHARDT: Yes. Board Members,
14 just to give just an opening as to how this case
15 -- we have talked about this case and this is how
16 we see it.

17 So in this case, there are four
18 charges. The first charge the Government is
19 requesting that that charge be dropped. The
20 reason being that the witness who can testify to
21 this fact is not accessible and so, therefore,
22 the Government could not meet its burden of proof

1 and, therefore, we are asking that the charge be
2 dropped.

3 In talking to Mr. Kivitz about the
4 other three charges, we have come to an agreement
5 and as far as I understand, we are stipulating to
6 Charges 2 and 4. Therefore, the licensee has
7 agreed that they failed on that night to have a
8 Board-approved manager present at the licensed
9 premises during the hours that alcoholic
10 beverages are permitted to be sold.

11 And Charge 4, they have also admitted
12 that they failed to follow their settlement
13 agreement when they failed to keep a written
14 record of the dates and the times when MPD was
15 called and they failed to keep a detailed
16 incident log.

17 So all of the fact in the charging
18 document and in the Investigator's report support
19 those two charges. There is no contest on those.
20 And so what I see and what we see here today,
21 what we are going to be doing is simply going
22 over Charge 3, which there is a disagreement

1 over.

2 And so I would ask that we just
3 proceed on that one charge in terms of argument
4 and that's basically my opening statement and how
5 the Government sees this case.

6 CHAIRPERSON MILLER: Okay. Mr.
7 Kivitz?

8 MR. KIVITZ: We concur.

9 CHAIRPERSON MILLER: You concur with
10 that. Can I just clarify on 2 and 4 there is a
11 stipulation as to liability as well as facts? Is
12 that -- or just facts?

13 MS. GEPHARDT: Well, yes, liability,
14 too, yes, correct.

15 CHAIRPERSON MILLER: Mr. Kivitz, yes?

16 MR. KIVITZ: That's fine.

17 CHAIRPERSON MILLER: Okay. All right.
18 And so No. 1 is dropped because you don't have
19 your witness to make --

20 MS. GEPHARDT: Right.

21 CHAIRPERSON MILLER: - to put forth
22 any evidence on. Okay. And so you are

1 proceeding on Charge 3?

2 MS. GEPHARDT: Correct.

3 CHAIRPERSON MILLER: Okay. All right.

4 MS. GEPHARDT: And actually as one of
5 the elements of Charge 3 --

6 CHAIRPERSON MILLER: Yes.

7 MS. GEPHARDT: -- the Government is
8 approaching this charge from two angles. And one
9 of those is that there was a license, an ABC
10 Manager's License that was tampered with. They
11 are not contesting that. They agree to it. They
12 said that it was and they are not contesting the
13 facts or liability in that matter.

14 But the only issue that they are
15 contesting is that there was -- that Mr. Paul
16 Ijiti misrepresented to an ABC official that he
17 was the president when, in fact, he was not. And
18 so that's essentially what we are going to be
19 talking about here today.

20 CHAIRPERSON MILLER: Okay. Mr.
21 Kivitz, do you agree with that?

22 MR. KIVITZ: Indulge me for a moment?

1 CHAIRPERSON MILLER: Okay.

2 MR. KIVITZ: Yes, we agree with that.

3 CHAIRPERSON MILLER: Okay. Okay.

4 That's the only issue that is going to be
5 litigated today?

6 MS. GEPHARDT: That's correct.

7 CHAIRPERSON MILLER: Interference with
8 an investigation based on Mr. Ijiti
9 misrepresenting that he was the president when he
10 was not.

11 MS. GEPHARDT: Correct.

12 CHAIRPERSON MILLER: According --
13 okay.

14 MS. GEPHARDT: That's the Government's
15 allegation.

16 CHAIRPERSON MILLER: Position. Okay.
17 Okay.

18 MS. GEPHARDT: Okay. So that was sort
19 of procedural. Can I make a substantive opening
20 statement?

21 CHAIRPERSON MILLER: Sure.

22 MS. GEPHARDT: Okay. And just

1 briefly, so as you heard that we are going to be
2 discussing this afternoon the issue of the
3 identity of Mr. Ijiti, whether he was the
4 president at the time that he met with the ABC
5 Investigator and whether what he told the
6 Investigator was true or not.

7 The Government states that Mr. Ijiti
8 told our Investigator that he was the president
9 and Mr. Townsend, who is the Investigator in this
10 case, believed that that was true.

11 However, if we go back and we look at
12 the documentation in the ABRA files, what we have
13 come to realize is that there was no paperwork
14 ever submitted by Mr. Ijiti to change the
15 officers of the company. So Mr. Ijiti was never
16 formally applied to be the president of Da Luft.
17 And we will be able to prove that here this
18 afternoon through the testimony of Mr. Bill Hager
19 and through the testimony of Investigator Shawn
20 Townsend. And that's all I have.

21 CHAIRPERSON MILLER: Okay. Would you
22 like to make an opening statement now or at the

1 beginning of your case?

2 MR. KIVITZ: Yes.

3 CHAIRPERSON MILLER: Okay.

4 MR. KIVITZ: Yes. It is our position
5 that due to unforeseen circumstances and
6 unintentional possible errors in manner of which
7 reported the situation irrelevant. The
8 corporation caused to be filed an application for
9 change of ownership and stock certificates. And
10 this was filed in November of the year 2014.

11 We can admit that it wasn't properly
12 and fully complete, but a part of those documents
13 which were filed included the corporate minutes
14 which identified the various changes as to the
15 stock going from 700 shares to the mother and X
16 number of shares to the son.

17 The minutes clearly also stated that
18 the officers of the corporation changed and Paul
19 Ijiti was indicated to be the president.

20 Those were filed in November of 2014.
21 The incidents to which this citation applies is
22 something that happened much, much later in May

1 of 2015, almost a year or eight or nine months
2 later.

3 So at the time respondent's statement
4 was made from Mr. Ijiti to the Investigator, he
5 had no reason to think other than the fact that
6 those minutes properly reflected the corporate
7 changes, but he had no information advising from
8 ABRA that his documents, which were filed, were
9 incorrect. He did not receive that notice until
10 May of 2015. There was a long period of time
11 between when he filed the papers and when he
12 received information back from the Board.

13 The incident to which this situation
14 relates, the police were called to the scene at
15 the request of the direction of Mr. Ijiti. There
16 was no interference with the investigation and
17 there was no interference or withholding of
18 reporting to the fact that something occurred for
19 which the police assistance was needed.

20 Now, then later after that incident,
21 he is charged with the concept of well, you
22 didn't apply the papers properly. One can't say

1 that ignorance is bliss, but one could say that
2 circumstances may -- did -- they may modify or
3 make it more understandable from human element
4 and building resource that Mr. Ijiti's statement
5 to the officer was not an interference with an
6 investigation.

7 So he is merely stating I'm here
8 because I'm the president. He had no reason to
9 know that this, which had been previously filed
10 with the Board, was either improperly before them
11 or not fully before them.

12 MS. GEPHARDT: I have just an
13 objection. Mr. Kivitz, in all due respect, I
14 think you are making arguments like it was a
15 closing statement as opposed to an opening
16 statement, so I would just ask that -- for the
17 Chair to rule on that.

18 CHAIRPERSON MILLER: Okay. Are you
19 almost finished, because it's really just to give
20 an overview of what your case is going to show,
21 not to argue your whole case right now.

22 MR. KIVITZ: Well, it's not an

1 argument. In that sense, it's making a
2 foundation upon which the testimony of Mr. Ijiti
3 is going to be predicated and dedicated to the
4 matter here. And therefore, the Board will make
5 its own decision. We are calling it to the
6 Board's attention with respect to this.

7 As I have indicated, they are the ones
8 who called the police. They are the ones that
9 cooperated with the police. The matter of
10 calling himself president was -- well, no one
11 ever told him he couldn't call himself president.
12 And that's what we say with respect to this.

13 As a result of this, with regard to
14 dealing with an Offer in Compromise, we have no
15 issue with regard to the other charges and, as
16 counsel has said, that's not reported so to
17 speak.

18 We feel that what we have said here,
19 what Mr. Ijiti can testify to, will warrant
20 elimination of this particular citation, which,
21 by itself, is extremely onerous of \$4,000 in the
22 nature of this business and the climate of the

1 economy. Call it a closing argument or whatever
2 you want, I wanted to get this to the Board.

3 CHAIRPERSON MILLER: You will have a
4 closing argument, you know.

5 MR. KIVITZ: Okay.

6 CHAIRPERSON MILLER: Okay.

7 MR. KIVITZ: So we take it from there
8 and we'll go forward.

9 CHAIRPERSON MILLER: Okay. All right.
10 Thank you. All right. Ms. Gephardt, do you want
11 to call your first witness?

12 MS. GEPHARDT: Sure. I would like to
13 call Bill Hager to the stand, please.

14 CHAIRPERSON MILLER: Hi.
15 Whereupon,

16 WILLIAM HAGER
17 was called as a witness by Counsel for the
18 Government, and having been first duly sworn,
19 assumed the witness stand and was examined and
20 testified as follows:

21 MR. HAGER: I do.

22 CHAIRPERSON MILLER: All right. Thank

1 you.

2 DIRECT EXAMINATION

3 MS. GEPHARDT: All right. Mr. Hager,
4 good afternoon. Can you, please, state your name
5 and spell it for the record?

6 MR. HAGER: Yes, William Hager, H-A-G-
7 E-R.

8 MS. GEPHARDT: Okay. And where do you
9 work?

10 MR. HAGER: The Alcoholic Beverage
11 Regulation Administration.

12 MS. GEPHARDT: And what is your title?

13 MR. HAGER: I am the licensing
14 officer.

15 MS. GEPHARDT: And how long have you
16 been with ABRA?

17 MR. HAGER: Seven years yesterday.

18 MS. GEPHARDT: Okay. And what is the
19 licensing officer? What are you responsible for?

20 MR. HAGER: One primary function of
21 licensing officer means I'm also custodian of the
22 ABRA's record.

1 MS. GEPHARDT: Okay. And are you
2 familiar with an ABRA licensee by the name of Da
3 Luft Restaurant & Lounge?

4 MR. HAGER: I am.

5 MS. GEPHARDT: Okay. And how did they
6 recently come to your attention?

7 MR. HAGER: There was some preliminary
8 preparation that I had done in conjunction with
9 this matter here just to ensure that ABRA's
10 record was accurate and accessible in regards to
11 these proceedings.

12 MS. GEPHARDT: Okay. And were you
13 asked about the status of the applications for --
14 by Da Luft for the change of officers, directors
15 and specifically of Mr. Paul Ijiti?

16 MR. HAGER: I was.

17 MS. GEPHARDT: Okay. And what kind of
18 documents did you review in order to determine
19 who is currently the president of this
20 organization?

21 MR. HAGER: From what I could find in
22 the ABRA's record was that the initial ownership

1 that was established at the time of application
2 submission, which I believe is Josephine and
3 Temitope Ijiti. They are still listed as the
4 officers of ABRA record to date. There have been
5 subsequent attempts to modify or amend or change
6 the officers. However, none of them have been
7 approved to date.

8 MS. GEPHARDT: Okay. Bear with me one
9 moment. All right. I don't have this exhibit
10 labeled. I would like to now show the witness
11 what I have marked as Government Exhibit No. 1.
12 I don't believe this is in the Board's record. I
13 don't know if --

14 CHAIRPERSON MILLER: Okay.

15 MEMBER ALBERTI: I'll get it. This is
16 from the original.

17 MR. KIVITZ: It's from the original
18 application.

19 MS. GEPHARDT: Yes. All right. All
20 right. So Mr. Hager, what is this document?

21 MR. HAGER: This is the cover page for
22 the ABC License application that was submitted by

1 Da Luft, Inc. and it was accepted by the Agency
2 on August 26, 2011.

3 (Whereupon, the above-referred to
4 document was marked as Government
5 Exhibit No. 1 for identification.)

6 MS. GEPHARDT: Okay. And this is the
7 original application? Is that what you are
8 stating?

9 MR. HAGER: It's a copy of the
10 original application. A public copy of the
11 original application.

12 MS. GEPHARDT: Okay. Have there been
13 any other applications since this time to change
14 the president from Temitope Ijiti or Josephine
15 Ijiti to -- excuse me. Josephine Ijiti is the
16 president to Mr. Paul Ijiti?

17 MR. HAGER: There have not been --
18 there has not been a change of officer's
19 application submitted by Mr. Paul Ijiti to date.

20 MS. GEPHARDT: Okay.

21 MR. HAGER: To make him the president
22 of this corporation.

1 MS. GEPHARDT: Now, was there
2 applications submitted for other officers to
3 change those officers for the organization?

4 MR. HAGER: There was.

5 MS. GEPHARDT: And do you know when
6 those applications came in to ABRA?

7 MR. HAGER: If my memory serves
8 correctly, there was one that was submitted in
9 January of 2015 and one that was submitted in May
10 of 2015.

11 MS. GEPHARDT: Okay. And well, first
12 of all, I would ask that Government Exhibit 1 be
13 admitted into evidence.

14 CHAIRPERSON MILLER: Is there any
15 objection?

16 MR. KIVITZ: No objection.

17 CHAIRPERSON MILLER: Okay. Then
18 that's admitted as Government's Exhibit No. 1.

19 (Whereupon, the above-referred to
20 document was received into evidence as
21 Government Exhibit No. 1.)

22 MS. GEPHARDT: Okay. And then this

1 one that I'm going to be showing the witness is
2 Government Exhibit 2.

3 CHAIRPERSON MILLER: Okay.

4 MR. HAGER: Thank you.

5 MS. GEPHARDT: Yes. All right. Mr.
6 Hager, can you tell me what Government Exhibit
7 No. 2 is?

8 MR. HAGER: Yes. This is a Change of
9 Officer's Application that was received by the
10 Agency, accepted on May 4, 2015 to add, I will
11 probably butcher this name but, Oluwatobiloba
12 Solaja to the license.

13 (Whereupon, the above-referred to
14 document was marked as Government
15 Exhibit No. 2 for identification.)

16 MS. GEPHARDT: And when you say to add
17 her to the license or him to the license, what --
18 in what capacity?

19 MR. HAGER: As the treasurer, COO.

20 MS. GEPHARDT: Okay. And do you know
21 what the status of this application is?

22 MR. HAGER: This application was

1 reviewed by ABRA's Licensing Division determined
2 to be -- it was determined that several
3 deficiencies existed within this application and
4 a deficiency letter was sent to the applicant to
5 correct the issues and to date, we have not
6 received a response.

7 MS. GEPHARDT: Okay. And when was
8 that letter sent to Ms. Solomon or Mr. Solomon
9 notifying him that the application was not
10 sufficient?

11 MR. HAGER: To clarify, this is Solaja
12 not Solomon.

13 MS. GEPHARDT: Oh, that's right.
14 Thank you. Okay. Solaja.

15 MR. HAGER: This letter was sent on
16 May 4, 2015.

17 MS. GEPHARDT: Okay. All right. And
18 since this letter went out to the licensee has
19 any additional information been received from
20 them?

21 MR. HAGER: To date, no.

22 MS. GEPHARDT: Okay. And anywhere in

1 this submission is there anything stating that
2 Paul Ijiti is now or being changed to being the
3 president of the organization?

4 MR. HAGER: Relating to an application
5 to add Mr. Ijiti?

6 MS. GEPHARDT: To add Mr. Ijiti as the
7 president within that application?

8 MR. HAGER: This application speaks
9 solely to Mr. Solaja.

10 MS. GEPHARDT: Okay. Okay. Okay.
11 The Government asks that Government Exhibit No. 2
12 be admitted into evidence. I really apologize
13 that I don't have copies of it. I'm not -- I
14 don't think this is part of the record, the Board
15 record, so I don't know if I can get a copy,
16 please? Okay. Yes.

17 CHAIRPERSON MILLER: Who has the copy?

18 MS. GEPHARDT: He has the copy.

19 CHAIRPERSON MILLER: Is that our only
20 copy? Is that what you are saying?

21 MS. GEPHARDT: Yes.

22 CHAIRPERSON MILLER: So we can make a

1 copy of it?

2 MS. GEPHARDT: Yes, because this all
3 came together at the last minute.

4 CHAIRPERSON MILLER: Okay. So we are
5 showing it to Mr. Kivitz to see if he has any
6 objection?

7 MS. GEPHARDT: Yeah.

8 CHAIRPERSON MILLER: Okay.

9 MEMBER ALBERTI: Would this be part of
10 our -- was this submitted to ABRA?

11 MS. GEPHARDT: It was submitted to
12 ABRA, but it was not part of the record in this
13 case.

14 MEMBER RODRIGUEZ: Oh.

15 MEMBER ALBERTI: No, but it would be
16 part of ABRA's records.

17 MS. GEPHARDT: Oh, I see what you are
18 saying, yes.

19 MEMBER ALBERTI: Administratively,
20 yes?

21 MS. GEPHARDT: Correct.

22 MEMBER ALBERTI: I just want to make

1 sure if I understand that.

2 MS. GEPHARDT: Yes, yes.

3 MEMBER ALBERTI: Okay. It's part of
4 our administrative record.

5 MS. GEPHARDT: Okay. Okay.

6 CHAIRPERSON MILLER: Can I see it? I
7 haven't admitted it yet. Okay. All this? Oh.
8 Okay. So I think I would like to admit it as
9 Government's Exhibit No. 2 and we can make a
10 copy, so that the original file will go back to
11 Mr. Hager.

12 MS. GEPHARDT: Okay.

13 CHAIRPERSON MILLER: And we will have
14 a copy in the record.

15 MS. GEPHARDT: Okay.

16 CHAIRPERSON MILLER: Is that
17 acceptable to you all?

18 MS. GEPHARDT: Yes.

19 CHAIRPERSON MILLER: Do you need a
20 copy right now?

21 MS. GEPHARDT: In the meantime, I
22 actually need this to --

1 CHAIRPERSON MILLER: Give it back to
2 us and we'll get it.

3 MS. GEPHARDT: I'm sorry. Because
4 this came together at the last minute, I wasn't
5 able to make copies.

6 CHAIRPERSON MILLER: We can make them
7 now.

8 MS. GEPHARDT: Okay. I just need one
9 for my witness.

10 CHAIRPERSON MILLER: We can make them
11 now. All right. We are going to make them now,
12 in case Mr. Kivitz wants to refer to it in the
13 hearing or anything like that.

14 MR. KIVITZ: I'm sorry, there is an
15 outside sound and it's hard to hear voices.

16 CHAIRPERSON MILLER: We are going to
17 make copies of Exhibit 2.

18 MR. KIVITZ: That is fine. That's
19 fine.

20 CHAIRPERSON MILLER: So you will have
21 one for --

22 MR. KIVITZ: I would like to be sure

1 that that exhibit includes --

2 CHAIRPERSON MILLER: Well --

3 MR. KIVITZ: Well, I'll wait until it
4 comes.

5 MEMBER ALBERTI: Yes. So we are
6 pausing until we get copies of that? Okay.

7 CHAIRPERSON MILLER: Well, my
8 understanding was --

9 MR. HAGER: That's fair.

10 CHAIRPERSON MILLER: -- you didn't
11 have an objection to it. Okay. And it is part
12 of the ABRA official records anyway.

13 MS. GEPHARDT: Okay.

14 CHAIRPERSON MILLER: So, Ms. Gephardt,
15 we are waiting for this, are you going to be
16 referring to this exhibit?

17 MS. GEPHARDT: I do need to refer to
18 it one final time before I am done.

19 CHAIRPERSON MILLER: Okay.

20 MS. GEPHARDT: Completely done with
21 it.

22 CHAIRPERSON MILLER: Okay.

1 MS. GEPHARDT: Okay.

2 CHAIRPERSON MILLER: We're not on the
3 record. I'm sorry.

4 MS. GEPHARDT: Oh, he is not here.
5 Okay.

6 CHAIRPERSON MILLER: If you want to
7 say something off -- yes, the Court Reporter took
8 a break. Okay. Okay. We are back on the
9 record.

10 MS. GEPHARDT: Okay. Okay. Mr.
11 Hager, I have one additional question. In this
12 application for Solaja, was there anything
13 submitted from -- basically, recording the
14 minutes of the board of directors for Da Luft?

15 MR. HAGER: There was.

16 MS. GEPHARDT: And can you state what
17 page that is on in the application packet?

18 MR. HAGER: On page, I believe it is,
19 4. There is the minutes of the organizational
20 meeting of the board of directors of Da Luft DC,
21 Inc.

22 MS. GEPHARDT: And what date does it

1 state that the organized under the laws of --
2 when was this meeting held?

3 MR. HAGER: This document identifies
4 this meeting occurring on June 1, 2014.

5 MS. GEPHARDT: And does this document
6 state anything about who the officers are of this
7 organization?

8 MR. HAGER: This document does
9 identify a Paul Ijiti as president, Josephine
10 Ijiti as vice president, Ms. Solaja as treasurer/
11 COO and Mr. Solomon as director.

12 MS. GEPHARDT: Okay. And was -- so
13 based on the applications that were submitted in
14 November of 2014, were these two -- was this
15 individual Solaja, were they identified as one of
16 the directors of the organization?

17 MR. HAGER: Can you clarify the
18 applications that were submitted in November of
19 2014?

20 MS. GEPHARDT: The application that
21 was submitted for Mr. Solaja to be one of the
22 officers of the organization.

1 MR. HAGER: Right. That application
2 was actually received in May of 2015.

3 MS. GEPHARDT: May of 2015?

4 MR. HAGER: Yes.

5 MS. GEPHARDT: Okay. Okay. So this
6 representation that Solaja is the treasurer/COO,
7 not according to ABRA records?

8 MR. HAGER: Correct.

9 MS. GEPHARDT: Okay. And we haven't
10 gone over the next one, but we will get there as
11 well. So Paul Ijiti, it states that he is the
12 president of this organization. Does -- was
13 anything submitted to ABRA, a formal application,
14 stating that he was the president?

15 MR. HAGER: No. In order to get Mr.
16 Ijiti added to the license, a formal Change of
17 Officer's Application would need to be submitted.
18 To date, that has not been received by the
19 Agency.

20 MS. GEPHARDT: Okay. All right.
21 Okay. So I think that this is all I have for
22 this Exhibit No. 2, and I would ask that it be

1 admitted. I don't know if I need to admit it,
2 because it is part of the Board record or it is
3 part of the ABRA record.

4 CHAIRPERSON MILLER: Right. I
5 understand that. I mean, it would be
6 automatically admitted. I don't necessarily -- I
7 mean, as an official record.

8 MS. GEPHARDT: Okay.

9 CHAIRPERSON MILLER: Which we could
10 take administrative notice of, but I think for
11 the sake of ease in reviewing this case, it would
12 be good to have it as Exhibit 2.

13 MS. GEPHARDT: Okay.

14 CHAIRPERSON MILLER: It's Government's
15 Exhibit 2 if there is not objection. Okay. Not
16 hearing any, it's part of the official record.
17 Okay. And it is admitted.

18 MS. GEPHARDT: Okay.

19 (Whereupon, the above-referred to
20 document was received into evidence as
21 Government Exhibit No. 2.)

22 MS. GEPHARDT: All right. So was

1 there another application that you received at
2 the same time for another change of officer from
3 Da Luft?

4 MR. HAGER: If my memory serves
5 correct, there was another application that was
6 received in January of 2015.

7 MS. GEPHARDT: Okay. And I would like
8 to show the witness what I have marked as
9 Government Exhibit No. 3.

10 CHAIRPERSON MILLER: And you are also
11 showing that to Mr. Kivitz?

12 MS. GEPHARDT: I'm showing it to Mr.
13 Kivitz, yes.

14 CHAIRPERSON MILLER: Okay. You had
15 testified that there was another application that
16 came in for another individual, another officer
17 of the corporation. And when did that
18 application come in?

19 MR. HAGER: I believe if you turn to
20 the second page of that document, you will see an
21 ABRA date stamp.

22 MS. GEPHARDT: Okay.

1 MR. HAGER: Which identifies the date
2 it was received.

3 MS. GEPHARDT: Okay. Well, let me
4 show you this exhibit, Exhibit No. 3.

5 MR. HAGER: Thank you.

6 MS. GEPHARDT: Okay. Mr. Hager,
7 looking at Government Exhibit No. 3, can you tell
8 the Board what this is?

9 MR. HAGER: Government Exhibit No. 3
10 is a Change of Officer's Application to add
11 Akinsola Solomon to the ABC license of Da Luft,
12 Inc.

13 (Whereupon, the above-referred to
14 document was marked as Government
15 Exhibit No. 3 for identification.)

16 MS. GEPHARDT: Okay. And what was the
17 status? What was the position that they were
18 applying for?

19 MR. HAGER: Mr. Solomon wants approval
20 to be a director of Da Luft DC, Inc.

21 MS. GEPHARDT: Okay. Okay. And
22 again, when did this application come into ABRA?

1 When was it received?

2 MR. HAGER: There is an Agency date
3 stamp identifying it being received by ABRA on
4 January 8, 2015.

5 MS. GEPHARDT: Okay. In that package,
6 the application package, was there also minutes
7 that were included from the board of directors?

8 MR. HAGER: Yes.

9 MS. GEPHARDT: And what exactly does
10 it say regarding who the officers were of the
11 organization?

12 MR. HAGER: This is page 7 of the
13 exhibit. It identifies Paul Ijiti as president,
14 Josephine Ijiti as vice president, Solaja as
15 treasurer and Solomon as director.

16 MS. GEPHARDT: Okay. And what is the
17 date of this meeting of the board of directors?

18 MR. HAGER: June 1, 2014.

19 MS. GEPHARDT: Okay. And does this
20 put ABRA on notice that Mr. Paul Ijiti is the
21 president of -- is now the president of Da Luft,
22 Inc.?

1 MR. HAGER: Again, in order to
2 effectuate that change, a Change of Officer's
3 Application needs to be submitted to formally
4 apply for that and go through the normal review
5 process.

6 MS. GEPHARDT: And was that done in
7 this case?

8 MR. HAGER: No, it has not been
9 completed.

10 MS. GEPHARDT: Okay. The Government
11 would like to admit Exhibit No. 3.

12 CHAIRPERSON MILLER: Okay.

13 MR. KIVITZ: No objection.

14 CHAIRPERSON MILLER: Exhibit No. 3 is
15 -- can you tell me how many pages that is? I
16 just want to make sure I have all of this as one
17 exhibit.

18 MS. GEPHARDT: Oh, okay.

19 CHAIRPERSON MILLER: I can't tell.

20 MS. GEPHARDT: Whatever the Board
21 prefers. I just broke it up. Okay. All right.

22 CHAIRPERSON MILLER: What I'm just

1 saying is I have all these papers up here and I
2 just want -- I have 10 pages, I think, and I want
3 to know if this is your Exhibit 3 or is there --
4 or do you have an Exhibit 4 coming in with it?

5 MS. GEPHARDT: No. I have -- there is
6 Exhibit 2 and there is 1.

7 CHAIRPERSON MILLER: Yes.

8 MS. GEPHARDT: Which was the
9 application, the initial application --

10 CHAIRPERSON MILLER: Right.

11 MS. GEPHARDT: -- for the officers.

12 CHAIRPERSON MILLER: Right.

13 MS. GEPHARDT: Then there was Exhibit
14 2, which is for Solaja. I can't even say the
15 last name, Oluwatobiloba.

16 CHAIRPERSON MILLER: Yes.

17 MS. GEPHARDT: And then the second one
18 is application for Akinsola Solomon.

19 CHAIRPERSON MILLER: The third one
20 that you are just doing? Is that what you --

21 MS. GEPHARDT: I meant the second
22 individual, but, yes, the third exhibit.

1 CHAIRPERSON MILLER: The third
2 exhibit. Okay.

3 MS. GEPHARDT: Yes.

4 CHAIRPERSON MILLER: All right. Any
5 objections to Exhibit 3? Okay. Not hearing,
6 Exhibit 3 is admitted as Government's Exhibit 3.

7 (Whereupon, the above-referred to
8 document was received into evidence as
9 Government Exhibit No. 3.)

10 CHAIRPERSON MILLER: Okay.

11 MS. GEPHARDT: Okay. Mr. Hager, you
12 had mentioned earlier that at some time in May of
13 2015, there was a letter sent to the licensee
14 letting them know that those applications, those
15 two applications for those two individuals were
16 insufficient. Did you receive or do you know if
17 ABRA received any communications from the
18 licensee between November when the applications
19 were submitted -- is it November? January?

20 MR. KIVITZ: It was November.

21 MS. GEPHARDT: Do you -- can you -- do
22 you recall the date again?

1 MR. KIVITZ: November.

2 MR. HAGER: The first date stamp that
3 we have for the one Change of Officer Application
4 is identified as January 8, 2015.

5 MS. GEPHARDT: Okay. So between that
6 date and May 4, 2015, was there any communication
7 from the licensee as to the status of that
8 application?

9 MR. HAGER: To my knowledge, no.

10 MS. GEPHARDT: Okay. And since this
11 has been sent to the licensee, has there been
12 anything received on these two applications from
13 the licensee?

14 MR. HAGER: To date nothing subsequent
15 has been received by the Agency.

16 MS. GEPHARDT: And has the Agency
17 received anything from the time period that we
18 are talking about here when these applications
19 were submitted until today, the day we are
20 sitting here, has there been any applications
21 submitted for Mr. Paul Ijiti to be present of Da
22 Luft, Inc.?

1 MR. HAGER: ABRA has not received a
2 formal application to add Mr. Paul Ijiti to this
3 license.

4 MS. GEPHARDT: Okay. All right.
5 That's all I have for this witness.

6 CHAIRPERSON MILLER: Okay. Mr.
7 Kivitz, do you have some cross-examination?

8 MR. KIVITZ: Yes.

9 CHAIRPERSON MILLER: Okay.

10 CROSS-EXAMINATION

11 MR. KIVITZ: When you received, when
12 ABRA received the original application in
13 November 3, 2014, you acknowledged receipt as
14 part of your records. Is that correct?

15 MR. HAGER: Which application are you
16 referring to?

17 MR. KIVITZ: Well, one of the Solaja
18 Oluwatobiloba, but I can't pronounce her last
19 name, but that's the one we're referring to.

20 MR. HAGER: Neither of these documents
21 that we identified were received by the Agency in
22 November.

1 MR. KIVITZ: They were not?

2 MR. HAGER: No.

3 MR. KIVITZ: Well, what is the date in
4 the upper left hand corner that says 11/12/14 and
5 there is numbers that acknowledge receipt by the
6 Agency.

7 MR. HAGER: No. Those are fax
8 numbers. Those are added into the normal
9 facsimile transmissions or possibly from a
10 printout from a computer screen. But if you look
11 at the date on the letter that was sent by ABRA
12 staff, it's dated May 4, 2015.

13 MR. KIVITZ: Okay.

14 MR. HAGER: So there is no way that
15 that date could be added to it after the fact.

16 MR. KIVITZ: No, no, that part is
17 there, but that shows to my looking at it is what
18 you received in November was not responded to by
19 the Board or by ABRA until May 4th. So we have
20 almost a six month period of no information in
21 response to the filing.

22 MR. HAGER: No. If I may clarify, the

1 -- I did review ABRA's record earlier this
2 morning and I did identify an additional
3 application that was received by the Agency from
4 Da Luft in November of 2014. That application
5 was to add a cover charge endorsement to their
6 existing entertainment, which was approved on
7 January 7, 2015. And there were no issues with
8 that.

9 MR. KIVITZ: But the application for
10 the documents that were sent to you and included
11 copies of corporate minutes and resolutions, you
12 have that? And when did you receive that?

13 MR. HAGER: I don't have those
14 documents in front of me. Though, we did receive
15 an application in November of 2014; however, that
16 application was explicitly and strictly only to
17 add cover charge endorsement to the existing
18 entertainment endorsement.

19 MR. KIVITZ: Referring to Exhibit No.
20 3, I believe you have a copy?

21 MR. HAGER: Yes, sir.

22 MR. KIVITZ: And part of Exhibit No.

1 3 is the application?

2 MR. HAGER: That is correct.

3 MR. KIVITZ: That goes back to the
4 earlier filing, does it not?

5 MR. HAGER: Again, I don't necessarily
6 draw that same correlation.

7 MR. KIVITZ: Okay. This is it right
8 here. Other than the letters dated May 4, 2015,
9 did ABRA, at any time to your knowledge, inform
10 the applicant that there was a deficiency in
11 reporting the change that was evidenced by the
12 minutes that had been made a part of your file?

13 MR. HAGER: The only Change of
14 Officer's Application that the Agency has
15 received were for Solomon and Solaja. And those
16 -- the May 4th letters that were sent out
17 addressed the deficiencies related to each of
18 those respective applications.

19 MR. KIVITZ: It made no reference to
20 the fact that there had been prior information to
21 ABRA with respect to the appointment of Mr. Ijiti
22 to be present and the change in stock ownership?

1 That was in your hands and you didn't notify or
2 make a comment about that?

3 MR. HAGER: To my knowledge, nothing
4 was communicated. Though a formal application
5 was not received by the Agency.

6 MR. KIVITZ: Well, you keep talking
7 about formal application. I'm talking about
8 awareness and understanding and information that
9 was provided to you and no one said,
10 hypothetically, I'm sorry, what you are telling
11 me must be accompanied by a formal application.
12 Did anybody call that to the attention of the
13 applicant or licensee?

14 MR. HAGER: By the time it became
15 aware by the Agency, the -- it was already
16 apparent that Da Luft knew of this requirement as
17 evidenced by their January submission of the
18 Change of Officers.

19 MR. KIVITZ: Well, how can you support
20 that statement?

21 MR. HAGER: The application that was
22 received in January to have the change of

1 officers for Ms. Solomon.

2 MR. KIVITZ: Did it still have the
3 same corporate minutes that had Mr. Ijiti and as
4 a change of officer and change of the
5 stockholder. Is that correct?

6 MR. HAGER: That's correct.

7 MR. KIVITZ: Okay. No further
8 questions.

9 CHAIRPERSON MILLER: Okay. Thank you.
10 Board questions? Mr. Alberti?

11 MEMBER ALBERTI: Mr. Hager, I'm going
12 to show my ignorance here. In these
13 applications, does the applicant have to show --
14 if -- I see the minutes here appointing new
15 officers. All right. Does the applicant have to
16 provide documentation to show that a stock
17 transfer happened?

18 MR. HAGER: Yes, sir.

19 MEMBER ALBERTI: And what would that
20 look like generally?

21 MR. HAGER: There is a number of
22 things, including, generally speaking, a Bill of

1 Sale. You have to identify who owned the stock
2 previously and where it is transferring to, in
3 addition to a bunch of other requirements
4 including police clearances and background
5 checks.

6 MEMBER ALBERTI: Okay. I see two
7 application packages. And I don't see anything
8 like that in here. Am I missing it? Was it, to
9 your knowledge, submitted?

10 MR. HAGER: Are you referring to an
11 application for Mr. Ijiti?

12 MEMBER ALBERTI: No. I'm referring to
13 documentation of a stock transfer.

14 MR. HAGER: Oh, there are a number of
15 deficiencies with these applications, which were
16 actually the substance of the letter that was
17 sent out in May.

18 MEMBER ALBERTI: I understand. So is
19 that one of the deficiencies that there is not
20 documentation of a stock transfer?

21 MR. HAGER: That is correct. There is
22 a number of things alluding to or identifying --

1 MEMBER ALBERTI: Wait, I want to focus
2 on that.

3 MR. HAGER: Right.

4 MEMBER ALBERTI: So we have no
5 documentation in our records that any stocks were
6 ever transferred? Other than the implication
7 from the minutes, but we don't have the
8 documentation that would have -- be notarized and
9 signed, the Bill of Sale as you indicated and
10 those types of documents?

11 MR. HAGER: We do have the new minutes
12 and we do have new shares identifying the
13 ownership, but we don't have information
14 identifying from whom to where.

15 MEMBER ALBERTI: Right. So we don't
16 have a Bill of Sale?

17 MR. HAGER: Correct.

18 MEMBER ALBERTI: All right. So just
19 because it's in the minutes, doesn't mean it
20 happened. We can't assume it happened unless we
21 have that Bill of Sale. Is that correct?

22 MR. HAGER: Correct.

1 MEMBER ALBERTI: Thank you. So I'm
2 going to draw your attention just for the record
3 to, I don't even know what page it is, the
4 application for Mr. Solaja. In that application,
5 there is minutes of a special meeting of board
6 directors of Da Luft from January -- I'm sorry,
7 from February 2012. I'll give you a moment to
8 find that.

9 MR. HAGER: Yes, sir.

10 MEMBER ALBERTI: And am I correct that
11 it says the one, two, three, the third resolve
12 says that 300 shares issued in the name of
13 Temitope Ijiti be canceled and redeemed and the
14 remaining shareholder, Josephine Ijiti, who owns
15 700 shares is now the sole owner of all shares
16 issued. Is that what it says there?

17 MR. HAGER: That's correct.

18 MEMBER ALBERTI: Okay. And again, we
19 have no documentation that that has changed?

20 MR. HAGER: Correct.

21 MEMBER ALBERTI: All right. Thank
22 you. I have no further questions. Thank you.

1 CHAIRPERSON MILLER: Okay. Thank you.
2 Other Board Members? Okay. Questions on Board
3 questions or any redirect?

4 MR. KIVITZ: I would acknowledge that
5 the Board change the words in the minutes.

6 MEMBER SILVERSTEIN: Mr. Kivitz, I'm
7 sorry, I can't hear you.

8 CHAIRPERSON MILLER: You have to --
9 could you repeat your question a little louder,
10 please?

11 REXCROSS-EXAMINATION

12 MR. KIVITZ: Did you or ABRA at any
13 time in any way advise the licensee that those
14 changes reflected in the minutes required
15 something additional to comply, to fulfill the
16 requirements or did you not wait until May 2015
17 to call it to their attention?

18 MR. HAGER: I am not aware of any
19 additional communications between the Agency and
20 Da Luft regarding this issue.

21 MR. KIVITZ: Thank you.

22 CHAIRPERSON MILLER: Any redirect?

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REDIRECT EXAMINATION

MS. GEPHARDT: Would there be any reason that ABRA would contact the licensee in this case when there is minutes submitted and say that there is -- they noticed that there has been a change in the president and that to tell them they need to file an application?

MR. HAGER: Generally, the Agency does not work on implications or inferences. We would -- the trigger would be the submission of the formal application, which would then begin the licensing application process.

MS. GEPHARDT: Thank you.

MR. KIVITZ: I have no further questions.

CHAIRPERSON MILLER: Okay. Thank you, Mr. Hager.

MR. HAGER: Thank you.

(Whereupon, the witness was excused.)

MS. GEPHARDT: Okay.

CHAIRPERSON MILLER: Ms. Gephardt?

MS. GEPHARDT: The Government would

1 now like to call Investigator Shawn Townsend to
2 the witness stand.

3 CHAIRPERSON MILLER: Okay. Good
4 afternoon.

5 INVESTIGATOR TOWNSEND: Good
6 afternoon.

7 Whereupon,

8 INVESTIGATOR SHAWN TOWNSEND
9 as a witness by Counsel for the Government, and
10 having been first duly sworn, assumed the witness
11 stand and was examined and testified as follows:

12 INVESTIGATOR TOWNSEND: Yes, I do.

13 CHAIRPERSON MILLER: Okay. Thank you.

14 DIRECT EXAMINATION

15 MS. GEPHARDT: All right. Good
16 afternoon, Mr. Townsend. Can you, please, state
17 your name and spell it for the record?

18 INVESTIGATOR TOWNSEND: Shawn
19 Townsend, S-H-A-W-N, last name Townsend, T-O-W-N-
20 S-E-N-D.

21 MS. GEPHARDT: And where do you work?

22 INVESTIGATOR TOWNSEND: The Alcoholic

1 Beverage Regulation Administration.

2 MS. GEPHARDT: And what is your title?

3 INVESTIGATOR TOWNSEND: Investigator.

4 MS. GEPHARDT: And how long have you
5 been with ABRA?

6 INVESTIGATOR TOWNSEND: About a year
7 and a half.

8 MS. GEPHARDT: And are you familiar
9 with an ABRA licensee by the name of Da Luft
10 Restaurant & Lounge?

11 INVESTIGATOR TOWNSEND: Yes.

12 MS. GEPHARDT: And did you have
13 occasion to visit Da Luft on March 19, 2015?

14 INVESTIGATOR TOWNSEND: Yes, I did.

15 MS. GEPHARDT: What was the purpose of
16 your visit?

17 INVESTIGATOR TOWNSEND: Regarding an
18 MPD 251 report that we, ABRA, received regarding
19 an incident that occurred on March 7, 2015.

20 MS. GEPHARDT: Okay. And when you
21 arrived at the establishment, who did you meet
22 with?

1 INVESTIGATOR TOWNSEND: I met with Mr.
2 Ijiti Ajiboye Layos Lipican.

3 MS. GEPHARDT: Okay. And who is he?

4 INVESTIGATOR TOWNSEND: He stated --
5 on that day he stated that he was the ABC
6 manager.

7 MS. GEPHARDT: Okay. And who else did
8 you meet at the establishment that night?

9 INVESTIGATOR TOWNSEND: No one on that
10 particular night.

11 MS. GEPHARDT: Did you have the
12 opportunity to return to Da Luft to -- for
13 follow-up investigation?

14 INVESTIGATOR TOWNSEND: Yes. I
15 returned on Saturday, March 21, 2015, and met
16 with Mr. Aloranzo Ijiti.

17 MS. GEPHARDT: And did Mr. Ijiti
18 introduce himself to you?

19 INVESTIGATOR TOWNSEND: Yes, he did.

20 MS. GEPHARDT: And what did he say?

21 INVESTIGATOR TOWNSEND: As -- he
22 introduced himself to me as the owner.

1 MS. GEPHARDT: Okay. Did he say at
2 all that he was the president?

3 INVESTIGATOR TOWNSEND: I don't recall
4 him stating president, but I definitely can
5 recall him saying the owner.

6 MS. GEPHARDT: Okay. Let's see --

7 MEMBER ALBERTI: Can you repeat that
8 last statement?

9 INVESTIGATOR TOWNSEND: I don't recall
10 him stating that he was the president, but I
11 definitely recall him saying he was the owner of
12 the establishment.

13 MS. GEPHARDT: A brief indulgence.
14 Okay. Once he told you that he was the owner,
15 what did you say to him after that?

16 INVESTIGATOR TOWNSEND: My initial
17 response was to inform him regarding -- I
18 informed him about the 251 that we had received
19 from MPD, we as in ABRA. And that I was assigned
20 to take a look into the matter.

21 And he gave me a statement regarding
22 the incident. And in conclusion, I spoke to him

1 regarding the ABC Manager's License situation
2 that I had with Mr. LaSalle Becket.

3 MS. GEPHARDT: Was it your impression
4 in talking to him that night that he was in
5 charge? That he was the owner?

6 INVESTIGATOR TOWNSEND: That's
7 correct.

8 MS. GEPHARDT: And, Mr. Townsend, have
9 you been to Da Luft in the past for inspections
10 and other types of investigations?

11 INVESTIGATOR TOWNSEND: Yes.

12 MS. GEPHARDT: How many times would
13 you say you have been to this establishment?

14 MR. KIVITZ: Objection. I don't think
15 there is materiality or relevance to the citation
16 of the case before us.

17 CHAIRPERSON MILLER: Okay. What's the
18 relevance?

19 MS. GEPHARDT: To show that he has
20 been there several times dated before this and he
21 represented himself as the president or the
22 owner.

1 CHAIRPERSON MILLER: That's going to
2 be the follow-up question?

3 MS. GEPHARDT: The what?

4 CHAIRPERSON MILLER: Is that going to
5 be -- you didn't ask him yet if he --

6 MS. GEPHARDT: No, I haven't. That's
7 what I wanted to --

8 CHAIRPERSON MILLER: Okay. Then I'm
9 going to overrule the objection then. Go ahead.

10 MS. GEPHARDT: Okay. How many times
11 would you say, approximately, you have visited Da
12 Luft in the past year?

13 INVESTIGATOR TOWNSEND: I would say
14 about four or five times.

15 MS. GEPHARDT: Okay.

16 INVESTIGATOR TOWNSEND: In the past
17 year.

18 MS. GEPHARDT: And during those times
19 that you visited, did you meet with Mr. Ijiti?

20 INVESTIGATOR TOWNSEND: Yes, I have.

21 MS. GEPHARDT: And how did he identify
22 himself when you came to the establishment?

1 INVESTIGATOR TOWNSEND: He has always
2 presented himself to me as the owner of the
3 establishment.

4 MS. GEPHARDT: Okay. And can you
5 recall how far back, like when was the first time
6 you visited and the first time that he started
7 identifying himself as such?

8 INVESTIGATOR TOWNSEND: Specifically,
9 no, I can't. I can tell you that it was in 2014,
10 maybe the latter part of 2014 that I can recall
11 going there specifically and Mr. Ijiti
12 introducing himself as the owner to me.

13 MS. GEPHARDT: And the fact that you
14 said this was for the latter part of 2014, was
15 that because that is when you started visiting Da
16 Luft or was it because that's just when he
17 started identifying himself as the president or
18 the owner?

19 INVESTIGATOR TOWNSEND: I started
20 visiting the establishment during my monitoring
21 of H Street.

22 MS. GEPHARDT: Okay. That's all I

1 have for this witness.

2 CHAIRPERSON MILLER: Okay. Mr.
3 Kivitz?

4 MR. KIVITZ: I have no questions.

5 CHAIRPERSON MILLER: Thank you.

6 MEMBER ALBERTI: Can I ask questions
7 that didn't come up? I think I can.

8 CHAIRPERSON MILLER: If it's in the
9 report --

10 MEMBER ALBERTI: Yes, I can.

11 CHAIRPERSON MILLER: If it's in the
12 report, you can.

13 CROSS-EXAMINATION

14 MR. KIVITZ: Mr. Townsend, did Mr.
15 Ijiti in any way interfere with your
16 investigation of the charge -- of the incident?

17 MS. GEPHARDT: That calls for a
18 conclusion, an opinion by the witness.

19 MR. KIVITZ: To the best of your
20 knowledge and belief, did he interfere with your
21 investigation procedures?

22 INVESTIGATOR TOWNSEND: With this

1 particular case?

2 MR. KIVITZ: Yes.

3 INVESTIGATOR TOWNSEND: No, he did
4 not.

5 MR. KIVITZ: I have no further
6 questions.

7 CHAIRPERSON MILLER: Okay. Board
8 questions?

9 MEMBER ALBERTI: So --

10 CHAIRPERSON MILLER: Mr. Alberti?

11 MEMBER ALBERTI: I have some. Mr.
12 Townsend, I just want to understand your last
13 statement there. So when a licensee -- if a
14 licensee, hypothetically, gives you false
15 information, is that interference with your
16 investigation?

17 INVESTIGATOR TOWNSEND: Yes, that
18 would be considered, yes, sir.

19 MEMBER ALBERTI: Thank you. Thank
20 you. I just wanted to understand your last
21 statement.

22 So when you said that on one occasion,

1 I think maybe with respect to this case, I think
2 on your first visit you spoke with Mr. Layos
3 Lipican?

4 INVESTIGATOR TOWNSEND: Yes, sir.

5 MEMBER ALBERTI: Okay. And did I hear
6 you right, he represented himself as an ABC
7 manager?

8 INVESTIGATOR TOWNSEND: That's
9 correct.

10 MEMBER ALBERTI: Okay. Did you
11 subsequently find out -- were you subsequently
12 able to verify that he was an ABC manager?

13 INVESTIGATOR TOWNSEND: I verified
14 that he was not an ABC manager at the time of my
15 visit.

16 MEMBER ALBERTI: Okay. So how did you
17 do that?

18 INVESTIGATOR TOWNSEND: So during my
19 visit on March 19th, Mr. Layos Lipican stated that
20 he did not have his ABC Manager's License on him.

21 MEMBER ALBERTI: Yes.

22 INVESTIGATOR TOWNSEND: He stated that

1 he would send me a text, a picture, sorry, a
2 picture of his ABC Manager's License at a late
3 date. On March 21st, he sent me a text of a
4 photocopy of an ABC Manager's License and that
5 same day I went into ABRA records and checked the
6 manager's license number that Mr. Layos Lipican
7 had sent me via text and confirmed that that
8 manager's license number was actually assigned to
9 a Mr. Habib Epimalu.

10 MR. KIVITZ: May I address the Board?

11 We have --

12 CHAIRPERSON MILLER: Wait. Is this an
13 objection?

14 MR. KIVITZ: It's an objection to the
15 course of information here. We have admitted and
16 submitted to the Board that the only part of this
17 Charge No. 3 has to do with the relevancy of the
18 ownership application.

19 CHAIRPERSON MILLER: I see. Okay.

20 MR. KIVITZ: We do not challenge the
21 fact that -- what he is about to testify to did
22 or did not occur.

1 MEMBER ALBERTI: So you are not
2 challenging that fact?

3 MR. KIVITZ: No. We don't challenge
4 that fact, because it wasn't Mr. Ijiti who did
5 that. It was someone else other than Mr. Ijiti.

6 MEMBER ALBERTI: Well, you save that
7 for closing.

8 MR. KIVITZ: And that --

9 MEMBER ALBERTI: Save that for
10 closing, please.

11 MR. KIVITZ: Okay.

12 MEMBER ALBERTI: Okay. I have no
13 further questions. Thank you.

14 CHAIRPERSON MILLER: Mr. Short?

15 MEMBER SHORT: Good afternoon,
16 Investigator.

17 INVESTIGATOR TOWNSEND: Good
18 afternoon.

19 MEMBER SHORT: Just so summarize, how
20 many times did you go to this establishment and
21 got misrepresentations of ownership, ABC
22 Licenses? Can you summarize how many times that

1 happened, approximately?

2 INVESTIGATOR TOWNSEND: Those four or
3 five times that I visited the establishment, Mr.
4 Ijiti has, I believe, always been there when I
5 was there with the exception of maybe one time.

6 MEMBER SHORT: Yes.

7 INVESTIGATOR TOWNSEND: But there was
8 always an additional ABC manager there who did
9 have a valid ABC Manager's License.

10 So in the absence of Mr. Ijiti, I
11 spoke with this female ABC manager. In addition
12 on the occasion that I had to go and do a
13 regulatory inspection or deliver a service form,
14 Mr. Ijiti would be present, but he would refer me
15 to the ABC manager to sign any paperwork.

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

18 CHAIRPERSON MILLER: Okay. So we are
19 only talking about this particular instance, as I
20 understand, Charge 3 at that time when Mr. Ijiti
21 represented himself as owner in this Charge 3.
22 It's not -- you are not --

1 MS. GEPHARDT: No.

2 CHAIRPERSON MILLER: -- dealing with
3 past allegations.

4 MS. GEPHARDT: Not dealing with what?

5 CHAIRPERSON MILLER: Past allegations
6 per se.

7 MS. GEPHARDT: No, but to show that
8 this is a behavior that has been going on. This
9 is just not an isolated incident.

10 CHAIRPERSON MILLER: This is the only
11 time that you sought to verify mr. Ijiti's
12 position as owner. Is that right?

13 INVESTIGATOR TOWNSEND: Yes, ma'am.

14 CHAIRPERSON MILLER: Okay. And if I
15 understand you correctly, and correct me if I'm
16 wrong, you didn't need to in the past because
17 there was an ABC manager there with a valid
18 manager's license?

19 INVESTIGATOR TOWNSEND: That's
20 correct.

21 CHAIRPERSON MILLER: Okay. I don't
22 have any other questions.

1 MR. KIVITZ: No questions.

2 CHAIRPERSON MILLER: Any questions on
3 Board questions? No other Board questions,
4 right? Okay. Yes, any other questions or
5 redirect? Okay. Then --

6 MEMBER ALBERTI: I don't know if Ms.
7 Gephardt heard you.

8 MS. GEPHARDT: What?

9 CHAIRPERSON MILLER: Did you hear me?
10 Last call for questions of Mr. --

11 MEMBER ALBERTI: On Board questions.

12 MS. GEPHARDT: oh.

13 CHAIRPERSON MILLER: Of the
14 Investigator.

15 RECROSS-EXAMINATION

16 MS. GEPHARDT: I mean, I guess my only
17 question that I would like to ask is when you --
18 when Mr. Ijiti represented to you that he was the
19 owner, did you go and check the ABRA files, at
20 that point, to verify it?

21 INVESTIGATOR TOWNSEND: Initially or--

22 MS. GEPHARDT: After this like

1 November 19th, November 21st date.

2 INVESTIGATOR TOWNSEND: March, March?

3 MS. GEPHARDT: Yes, I'm sorry. After
4 March. I'm still on this other thing. Yes,
5 March, March, the March incident. What made you
6 go and check the records?

7 INVESTIGATOR TOWNSEND: I think I
8 needed -- at that point, I wanted to make sure
9 who the owner was considering that there was an
10 issue with the ABC Manager's License. I just
11 wanted to be sure that I, you know, took Mr.
12 Ijiti's information and put it in my report and
13 that it was accurate and consistent with what I
14 was being told.

15 And because there wasn't an ABC
16 manager on duty the original night that I
17 visited, March 19th, it was a violation, so I
18 wanted to make sure that that was, you know,
19 documented that there wasn't a valid ABC manager
20 there and the owner who is listed as someone
21 other than, you know, Mr. Ijiti, I wanted to put
22 that in my report.

1 MS. GEPHARDT: And when you went to
2 access the ABRA record, what did you rely on to
3 come to that conclusion?

4 INVESTIGATOR TOWNSEND: I checked the
5 ABRA file for Da Luft Restaurant & Lounge and the
6 cover sheet for the initial application. It
7 didn't list Mr. Ijiti, so I contacted William
8 Hager to confirm and he sent me an email
9 confirming that exactly who I saw on there listed
10 as the owner was in fact still the only owner to
11 date that ABRA knew of.

12 MS. GEPHARDT: Okay. I would like to
13 just quickly show the witness what I had marked
14 as Government Exhibit 1.

15 CHAIRPERSON MILLER: Yes. Okay.

16 MS. GEPHARDT: Mr. Townsend, can you
17 tell us what this document is?

18 INVESTIGATOR TOWNSEND: This is an
19 ABRA application.

20 MS. GEPHARDT: For?

21 INVESTIGATOR TOWNSEND: For Da Luft
22 Restaurant & Lounge.

1 MS. GEPHARDT: And what is the date of
2 the application?

3 INVESTIGATOR TOWNSEND: The date that
4 it was accepted was August 26, 2011. And it was
5 approved by the Board on November 30, 2011.

6 MS. GEPHARDT: And who does it state
7 is the officers of the corporation?

8 INVESTIGATOR TOWNSEND: Josephine
9 Ijiti as the president and Temitope Ijiti as the
10 vice president.

11 MS. GEPHARDT: And is that document
12 the document you relied on to come to the
13 conclusion that Mr. Paul Ijiti was not the
14 president at the time?

15 INVESTIGATOR TOWNSEND: Yes, it is.

16 MS. GEPHARDT: Okay. Thank you.
17 That's all I have.

18 CHAIRPERSON MILLER: Okay. Do you
19 have cross based on that question?

20 REDIRECT-EXAMINATION

21 MR. KIVITZ: When you went to look at
22 the file, did you see the other documents that

1 had been filed and included copies of corporate
2 minutes indicating changes of ownership and
3 officership?

4 INVESTIGATOR TOWNSEND: I did not.
5 And to be sure that the owners were who they are
6 listed on this ABRA application, I referred to
7 William Hager and he provided me --

8 MR. KIVITZ: Oh, he pointed you then
9 to the original documentation, but you did not
10 see or ask for any subsequent filings that may
11 have been submitted?

12 INVESTIGATOR TOWNSEND: No. I did
13 not. But in -- but what I did do was reach out
14 to the person who has more knowledge of the
15 licensing process than I do and I wanted to get a
16 response from him to confirm that these two
17 owners, Josephine Ijiti and Temitope Ijiti were,
18 in fact, the owners.

19 MR. KIVITZ: But without seeing any of
20 the other parts of the file where this was
21 disclosed as a change of ownership? Not
22 necessarily in the application, but within the

1 documentation that was part of the file.

2 INVESTIGATOR TOWNSEND: I don't think
3 I'm -- I'm not --

4 MR. KIVITZ: Thank you. I have no
5 further questions.

6 CHAIRPERSON MILLER: Okay. I have a
7 follow-up question kind of or related. Just
8 earlier I think the applicant's counsel asked you
9 if Mr. Ijiti had interfered with your
10 investigation and your first response, I think,
11 was no. And then Mr Alberti or Board Member
12 Alberti said well, didn't he misrepresent himself
13 as an ownership and doesn't that interfere with
14 the investigation? And you said yes, if I can
15 capture it correctly.

16 So I'm just asking if you can go a
17 little bit further and say how that interferes
18 with your investigation.

19 INVESTIGATOR TOWNSEND: Well, Mr.
20 Ijiti when I returned to speak to him about the
21 incident and question I was investigating,
22 referred to ABRA by MPD, he represented himself

1 as the owner. And in fact, he argued with Mr.
2 Layos Lipican about making his relationship with
3 ABRA bad because he lied to an Investigator about
4 the ABC Manager's License and how he manipulated
5 it.

6 And so he represented himself as the
7 owner to me on that occasion and other occasions
8 as well.

9 CHAIRPERSON MILLER: But you are
10 saying but the other -- the ABC manager made the
11 relationship bad by his misrepresentation as
12 well?

13 INVESTIGATOR TOWNSEND: Correct. That
14 was the conversation that they had in front of
15 me.

16 CHAIRPERSON MILLER: Okay.

17 MEMBER ALBERTI: May I follow-up?

18 CHAIRPERSON MILLER: Sure.

19 MEMBER ALBERTI: Mr. Townsend?

20 INVESTIGATOR TOWNSEND: Yes, sir.

21 MEMBER ALBERTI: Is it not true that
22 the reason that Investigators are instructed to

1 talk to an owner or ABC manager is so that they
2 are confident they are speaking to someone who
3 can appropriately and with authority represent
4 the license?

5 INVESTIGATOR TOWNSEND: That's
6 correct.

7 MEMBER ALBERTI: Thank you.

8 CHAIRPERSON MILLER: Okay. Thank you.
9 Any other Board questions? All right. Any other
10 follow-up on Board questions?

11 MS. GEPHARDT: No.

12 CHAIRPERSON MILLER: Okay.

13 MR. KIVITZ: I'm sorry, I didn't hear
14 you.

15 CHAIRPERSON MILLER: I said any other
16 follow-up on Board questions by you?

17 MR. KIVITZ: No.

18 CHAIRPERSON MILLER: Okay. Thank you
19 very much.

20 INVESTIGATOR TOWNSEND: Thank you.

21 CHAIRPERSON MILLER: Appreciate it.

22 (Whereupon, the witness was excused.)

1 CHAIRPERSON MILLER: Does that
2 complete your case?

3 MS. GEPHARDT: Yes.

4 CHAIRPERSON MILLER: Okay.

5 MS. GEPHARDT: That completes my case.

6 CHAIRPERSON MILLER: Thank you. All
7 right. Then we are ready for the respondent.

8 MR. KIVITZ: Indulge me a moment.

9 CHAIRPERSON MILLER: Okay.

10 MR. KIVITZ: Do you want to take the
11 stand?

12 MR. IJITI: Yes.

13 MR. KIVITZ: Okay. I can call Mr.
14 Ijiti to the stand, please.

15 CHAIRPERSON MILLER: Okay. Good
16 afternoon.

17 Whereupon,

18 FALONZO PAUL IJITI
19 was called as a witness by Counsel for the
20 Licensee, and having been first duly sworn,
21 assumed the witness stand and was examined and
22 testified as follows:

1 MR. IJITI: Yes, I do.

2 CHAIRPERSON MILLER: Thank you.

3 DIRECT EXAMINATION

4 MR. KIVITZ: Mr. Ijiti, will you,
5 please, state your full name and address?

6 MR. IJITI: I'm Falonzo Paul Ijiti.
7 I live at 3505 Waterford Mill Road in Bowie,
8 Maryland 20721.

9 MEMBER ALBERTI: Mr. Ijiti, could you
10 pull the mike a little closer to you or speak
11 louder? We are having a little trouble. Thank
12 you.

13 MR. IJITI: Yes.

14 MR. KIVITZ: And, Mr. Ijiti, what is
15 your association or affiliation with Da Luft
16 Corporation?

17 MR. IJITI: I work with my mom. My
18 mom owns Da Luft Restaurant & Lounge. I work as
19 director of operations. I'm hands-on with the
20 manager -- with the management of the restaurant
21 on the day-to-day management.

22 MR. KIVITZ: And when the corporation

1 was formed, to your knowledge, who were the
2 owners of the company?

3 MR. IJITI: My mom, Josephine Ijiti,
4 and my first cousin, Temitope Ijiti.

5 MR. KIVITZ: And did there come a time
6 to your knowledge and belief that you also became
7 an owner?

8 MR. IJITI: Yes.

9 MR. KIVITZ: And when was that?

10 MR. IJITI: I know we had a meeting in
11 June whereby we did arrangement of the stocks,
12 which we end up having a meeting doing like a
13 kind of rearrangement with our families.

14 MEMBER SILVERSTEIN: Mr. Ijiti,
15 please, speak into the mike.

16 MR. KIVITZ: Slowly and speak into the
17 mike.

18 MEMBER SILVERSTEIN: If you want to
19 move the microphone so that you can see, Mr.
20 Kivitz and still speak into it.

21 MR. IJITI: Okay. Okay.

22 CHAIRPERSON MILLER: Yes.

1 MR. IJITI: All right. So we had a
2 meeting in June. We had the minutes that I gave
3 you that we had a stock sharing among us, which
4 was turned into ABRA in November.

5 MR. KIVITZ: And did there come a time
6 when you provided information to ABRA regarding
7 the transfer of --

8 MR. IJITI: Yes, I presented. I call
9 Ms. Jenkins, at the time.

10 MR. KIVITZ: Excuse me, which Ms.
11 Jenkins?

12 MR. IJITI: Ms. Pat Jenkins.

13 MR. KIVITZ: Okay.

14 MR. IJITI: She is a licensing
15 specialist. I call her to find out what we need.
16 She told me what we -- what I need to submit to
17 ABRA. She directed me to go to the website,
18 print certain documents and I turn into her in
19 November. And I didn't hear back from her. I
20 didn't hear back from her or ABRA until May 2015.

21 MR. KIVITZ: Now, what you filed with
22 Ms. Jenkins was that information she requested

1 before?

2 MR. IJITI: The information she
3 requested is what I filed. And during that
4 period I called a couple of times to follow-up.
5 I left messages and I was told after a while that
6 she is no longer -- she retired and she no longer
7 works at ABRA. And they going to assign us a
8 different licensing specialist.

9 MR. KIVITZ: And did you at any time
10 then receive notice or information from ABRA
11 regarding the application which has been pending?

12 MR. IJITI: Yes. When I turn it in in
13 November, during that time the only time I get
14 any response from ABRA was in May 2015.

15 MR. KIVITZ: And prior to that time,
16 had anyone ever indicated to you that you were
17 not a recognized operating officer on the record?

18 MR. IJITI: No, sir. Nobody ever
19 contacted me. But I contact and I left several
20 messages.

21 MR. KIVITZ: Now, with respect to this
22 incident to which Mr. Townsend was referring, is

1 it not a fact that you called the police because
2 of that incident?

3 MR. IJITI: Yes. I was, in fact, to
4 call the police. We did a last call at 2:30 and
5 we tell everybody they need to wrap up with the
6 liquor. And a bunch, three or four people didn't
7 want to give up their liquor. They called the
8 security.

9 They were kind of aggressive and after
10 a while, because I was instructing the security
11 guard to tell them to put away their liquor
12 bottles. And they were verbally aggressive
13 towards me. They were very belligerent and often
14 rude, so I offer my cell phone. I call 911 that
15 someone is verbally aggressive towards me. It
16 was not an assault. I was the one who called
17 myself. And the police came in based on my 911
18 call.

19 MR. KIVITZ: So you were fully
20 cooperative?

21 MR. IJITI: Yes.

22 MR. KIVITZ: And a participant --

1 MR. IJITI: Because the reason why I
2 call the police was I need help, that's why I
3 called the police to assist me to escort the
4 individuals.

5 MR. KIVITZ: During the period from
6 the time that those minutes were brought to the
7 attention of the Board, is it not a fact that you
8 did not receive any further communication with
9 respect to those filings until May of 2015?

10 MR. IJITI: Yes, sir.

11 MR. KIVITZ: And during that interim
12 period were you actively engaged in the
13 operations of the business?

14 MR. IJITI: Yes, I was just doing the
15 what you call the backroom work. I mean, like
16 buying groceries and stuff like that.

17 MR. KIVITZ: And at this time, to your
18 best knowledge, who are the stockholders of the
19 corporation?

20 MR. IJITI: Based on the documents not
21 being entered correctly, it's going to be my mom
22 and --

1 MR. KIVITZ: And until you receive
2 that communication in November, did you have any
3 reason or knowledge to believe that you were not
4 a proper authorized person?

5 MR. IJITI: No, because I just told
6 him I felt if there was an issue, it's November,
7 December, January, nobody called me. I did a
8 follow-up call. At one point, I spoke to Ms.
9 Jenkins and she said they are still working on
10 it, that she will get back. And I keep following
11 up maybe every three weeks until after a while
12 when I stop by they said she is no longer there,
13 but nobody informed me that we submit to you had
14 the wrong documentary or document is not
15 complete. So based on that assumption, I felt
16 the paperwork has been processed correctly.

17 MR. KIVITZ: Now, the documents that
18 you sent to Ms. Jenkins, did she review them at
19 the time you submitted them or just leave them at
20 the desk?

21 MR. IJITI: I gave it to her
22 personally. She stamped it and I have a copy

1 there and she has some notes on it. When she
2 want me to give it to her, I give it to her. I
3 hand-delivered it to ABRA office myself.

4 MR. KIVITZ: Did -- other than this
5 particular letter of notification, it's clear
6 that you obviously and truthfully believe that
7 you were the owner and operator and that you had
8 fulfilled the necessary correspondence?

9 MR. IJITI: Yes, sir.

10 MR. KIVITZ: With respect to the
11 manager's expired license, when did it come to
12 your attention that he didn't have a current
13 license?

14 MR. IJITI: Prior to the incident he
15 had a license when we hired him. He had a
16 license because he used to work at Love
17 Nightclub. Around towards the latter part of
18 February, we kind of noticed the license would be
19 expiring, so I called him up and told him we need
20 a copy of the -- of his ABC Manager's License,
21 because he is there most of time. And he said he
22 had one and send me exactly the same one that --

1 MR. KIVITZ: To your knowledge --

2 MR. IJITI: -- ABRA had.

3 MR. KIVITZ: -- does he have a valid
4 license now?

5 MR. IJITI: Yes, he has an ABRA valid
6 license.

7 MR. KIVITZ: Do you wish to make any
8 additional statement to Board with regards to
9 your involvement in this transaction as office of
10 the corporation?

11 MR. IJITI: Yes. Good afternoon.
12 What I'm just trying to say is that, as I said
13 earlier to my lawyer, I'm not, what do you call
14 it, a genius when it comes to the restaurant
15 rules and regulations. At this time for the
16 change of officer, at that time up to now the
17 business is really, really very bad for us. We
18 could not afford to use an attorney, because when
19 we filed our paperwork incorporate in the company
20 from scratch, getting the liquor license it was
21 Mr. Kivitz my lawyer who helped us out.

22 So after one year my mom was ready to

1 change the officer, we didn't have enough money
2 to hire him to do it another time, so we just
3 said let's just do it ourself to save costs. But
4 of course, it didn't save cost. It's even more
5 expensive when you are looking at the hindsight
6 when it's more and more like a \$4,000 fine.

7 If I was just keeping just \$500 or
8 \$1,000 then and I'm spending I got a fine, legal
9 fees, time whereby it's not really -- I'm here
10 legally. I was telling him we don't even make up
11 to \$4,000 a month. We don't even make \$4,000 a
12 month. We pay the mortgage over \$10,000 is the
13 mortgage. We are almost in the negative every
14 month. \$50,000 a month and we like to -- but
15 now, we just filed for bankruptcy and just move
16 on because doing this business is just kind of
17 really -- it's like a big hole in me.

18 I'm just -- we're just using my -- my
19 mother and my personal money to just keep funding
20 it, hoping it is going to be better. We got
21 closed down for five weeks the other day. It was
22 a big issue. Part of it at that time, too, we

1 were losing on the record, part of it as we know
2 now is actually false information. It's here and
3 there.

4 Because if there is -- if ABRA is
5 saying right now that I'm not the owner of the
6 restaurant, but in May this said the owner, which
7 was me, came right away. So I don't know what to
8 believe. I know that you are the owner, how come
9 the person is not the owner when we are seen?

10 So it just kind of conflict where I
11 say we should just leave them there at that time
12 and don't have to wait for a decision. Normally,
13 it's guilt on their part. It was missing, I was
14 trying to find it to save costs and that was that
15 on that issue there.

16 The issue of the police, somebody was
17 verbally aggressive towards me. I was the one
18 who kind of maybe got myself in this. I was the
19 one who called the police that day. Somebody is
20 verbally aggressive towards me, come help us out.
21 But without turning into a, what do you call it,
22 million dollar issue with me coming in here,

1 because if I didn't call, maybe if he beat me up,
2 then it would be cheaper for me.

3 If I don't report it, then, you know,
4 I wouldn't have to, what's it called,
5 investigation over there and lock it up and I
6 just go home and there is no case.

7 But with this, I reported it and then
8 it bring up to a big old issue with no -- begin
9 with a heavy loss, a heavy loss. I mean, we -- I
10 mean, the lawyer doesn't care if you pay him if
11 you don't make sense or not. I paying \$9,000 to
12 \$10,000 a month. I'm grossing just \$5,000 to
13 \$6,000. I'm paying payrolls and I'm almost
14 \$8,000 in the month, so I really -- we are really
15 in a black hole whereby I'm pleading and a \$4,000
16 loss like this is just a death sentence to where
17 the money is not even -- it does not even exist
18 someplace. Maybe I make it or I break it, but
19 I'm not -- we're not even breaking even.

20 MR. KIVITZ: Mr. Ijiti, how many
21 employees do you have at the restaurant?

22 MR. IJITI: About 15.

1 MR. KIVITZ: And you made reference to
2 a period where you were closed in compliance to--
3 and that was for what, for 30 days?

4 MR. IJITI: Yes, we were closed for
5 over 30 days.

6 MR. KIVITZ: During that 30 days, did
7 those employees work for you?

8 MR. IJITI: No, they didn't work for
9 us.

10 MR. KIVITZ: So they were unemployed?

11 MR. IJITI: They were unemployed.

12 MR. KIVITZ: And if you were to be
13 closed again, they would also be unemployed?

14 MR. IJITI: Yes, sir.

15 MS. GEPHARDT: It's not relevant to
16 the charges here.

17 MR. KIVITZ: Well --

18 MS. GEPHARDT: Objection.

19 MR. KIVITZ: Objection. Okay.

20 CHAIRPERSON MILLER: What's the
21 relevance?

22 MR. KIVITZ: Do you wish to say

1 anything further, Mr. Ijiti? I don't have
2 anything else.

3 MR. IJITI: Yes. I mean, we just --
4 well, as I said, I'm not no big expert in the
5 restaurant world. I'm a licensed product
6 analyst. I work with my mom with the restaurant.
7 I mean, I follow the rules. I'm law abiding. If
8 I know the rule, I'll follow to the letter. So
9 it's just kind of me -- we have limited resources
10 and we said oh, let's go file the paperwork
11 ourselves.

12 And I end up not filing it. We have
13 it on the minutes. We turn it in in November. I
14 would think, okay, normally Ms. Jenkins would
15 call me and say oh, Mr. Ijiti, you know,
16 something is wrong here. Something is wrong.
17 She did not call me. I followed up with her
18 three or four times. She said she would follow-
19 up with me.

20 I mean, D.C. Government which I deal
21 with D.C. Government a lot, you don't turn in the
22 documents in on Monday and call them up next

1 week. You -- it takes a while. Three weeks,
2 four weeks, you follow-up. It takes a process
3 with that.

4 At that time, I was following up. I
5 didn't even know she was no longer there in
6 February. So when this happened in March the 7th,
7 this when I turn in the documents, I said okay,
8 I'm one of the owners for the restaurant, you
9 know. Nobody is going to say I'm the president.
10 But president mean -- those kind of titles don't
11 work with me in the restaurant life and we love
12 the life.

13 You know, the word conference means to
14 be saying, you know, you are president. I said
15 I'm one of the co-owners, based on the paperwork
16 I have turned in, but not knowing that in May it
17 was just me, after November it was me that we
18 just got the letter. But that mean too was a lot
19 of stressful moment for us, that was when we were
20 shut down for, what do you call it, over a month.

21 It was very expensive, the security
22 plan, paying too much training and it's putting

1 up security cameras, it costs us way over \$12,000
2 to open back up. And I remind you, we still
3 paying the mortgage and the rent during this
4 period that we are closed. And then we couldn't
5 even recover from that up to now. We could not
6 even recover at all.

7 MR. KIVITZ: Nothing further. I have
8 no further questions. Do you wish to say
9 anything more, Mr. Ijiti?

10 MR. IJITI: No.

11 MR. KIVITZ: Thank you.

12 MEMBER ALBERTI: Do you have any
13 questions?

14 MS. GEPHARDT: Yes, I do. Thanks.

15 CHAIRPERSON MILLER: Do you want to do
16 your redirect now? Is that it?

17 MEMBER ALBERTI: Before the Board?

18 MS. GEPHARDT: Yes, why?

19 CHAIRPERSON MILLER: Well, because we
20 often go to Board questions first, but if you --

21 MS. GEPHARDT: Oh, really?

22 CHAIRPERSON MILLER: Yes, but if you

1 are ready to do your redirect right now, go right
2 ahead.

3 MS. GEPHARDT: Sure.

4 CHAIRPERSON MILLER: Okay.

5 MS. GEPHARDT: I can do -- I'll do
6 what I can.

7 CROSS-EXAMINATION

8 MS. GEPHARDT: Mr. Ijiti, one of the
9 first things you said when you got on the witness
10 stand was that your mom is the owner and that you
11 are the director of operations.

12 MR. IJITI: Yes.

13 MS. GEPHARDT: Is that true?

14 MR. IJITI: Yes.

15 MS. GEPHARDT: Okay.

16 CHAIRPERSON MILLER: Oh, I'm sorry.
17 It's not your witness.

18 MR. KIVITZ: No, no, he was the owner.

19 CHAIRPERSON MILLER: He's not your
20 witness. I'm just hearing --

21 MR. KIVITZ: He testified he then
22 became the owner, as I indicated in the minutes.

1 CHAIRPERSON MILLER: Wait a second.
2 Could we halt what is going on here now, in the
3 process? I'm sorry. This is your witness. You
4 already did cross?

5 MR. IJITI: No.

6 MS. GEPHARDT: No.

7 CHAIRPERSON MILLER: This is your
8 cross then. Okay. Go ahead.

9 MS. GEPHARDT: Yes.

10 CHAIRPERSON MILLER: I called it
11 redirect, so --

12 MS. GEPHARDT: Well, I am just saying
13 what -- I mean, we can go back to the transcript,
14 but that's what --

15 MR. KIVITZ: Yes.

16 MS. GEPHARDT: -- he said.

17 MR. KIVITZ: Yes.

18 MS. GEPHARDT: So when you initially
19 applied with ABRA to put on who the officers were
20 and all that, did you fill out this application?

21 MR. IJITI: My lawyer, Mr. Kivitz,
22 helped us out, was the other person, as I said

1 earlier. He help us set up from staffing Da Luft
2 from scratch from the corporation from the people
3 who are working with Ms. Jenkins. He help us do
4 all the paperwork.

5 MS. GEPHARDT: So but even though he
6 did the paperwork --

7 MR. IJITI: Yeah.

8 MS. GEPHARDT: -- and you worked with
9 Ms. Jenkins --

10 MR. IJITI: Yeah.

11 MS. GEPHARDT: -- did you know that
12 you were submitting this application to ABRA?

13 MR. IJITI: Yes. Like my attorney
14 submitted it to ABRA on our behalf.

15 MS. GEPHARDT: Sir, you were aware
16 that in order to establish who the officers were,
17 you had to fill one of these out? An official
18 application.

19 MR. IJITI: As I said, my lawyer got
20 the paperwork. He told us, he told my mom, my
21 mom was there to fill out the paperwork. I was
22 in there, but I was not literally like holding

1 paper to myself. Most of the time it's file the
2 paperwork, sign here, fill this little box for my
3 mom. My mom is not -- she is not the -- what do
4 you call it, she not late 70s and not like a
5 young lady and stuff like that. But my attorney
6 is the one who filled, what do you call it, who
7 guided us through it.

8 MS. GEPHARDT: Okay. So you
9 participated in filling out this application?

10 MR. IJITI: No.

11 MS. GEPHARDT: Okay. But if you were
12 own the business, you are responsible for knowing
13 what kind of information is filed with ABRA. Is
14 that not true?

15 MR. IJITI: Yes, but you told me just
16 now the paperwork that I turn in, you know,
17 technically the papers I turn in was incorrect.
18 So technically, on your record, it's still my
19 mom. So based on that, I can't say I'm the owner
20 since the paperwork I turn in was incorrect. It
21 was unacceptable.

22 MS. GEPHARDT: Okay. Well, let me

1 just move on to ask you another question. In
2 November, according to Mr. Hager, it was actually
3 in January that applications were submitted to
4 ABRA for -- to add a Mr. Solaja and Mr. Solomon
5 as officers to the corporation. Is that correct?

6 MR. IJITI: In November.

7 MS. GEPHARDT: Oh, in November? Okay.

8 MR. IJITI: Yes.

9 MS. GEPHARDT: And so when those --
10 when you filled out those applications, you were
11 aware that you had to submit official
12 documentation, an application, in order to change
13 the officers of the corporation?

14 MR. IJITI: I did not fill out the
15 application. As I said earlier, I -- Ms. Solaja
16 acts like an assistant to me in the office.
17 Based on as I said, we called Ms. Jenkins out.
18 Ms. Pat Jenkins and we want to add -- change
19 officers. She told us -- Ms. Solaja said -- told
20 her she will go to, you know, the ABRA website
21 pick up -- what is it called, print out the
22 papers and each person individually fill out the

1 paperwork.

2 So I didn't personally fill out. It
3 was each individual. Ms. Solaja, Mr. Solomon
4 individually filled out their own paperwork. I
5 didn't fill it out for them.

6 MS. GEPHARDT: Okay. But again, are
7 you -- do you feel like you are responsible for
8 knowing what happens with your employees and who
9 applies and since you are supposedly the owner of
10 the corporation?

11 MR. IJITI: Yes, I said I filled out
12 the paperwork to the best of my knowledge and I
13 give it to Ms. Pat Jenkins. She look at it.
14 When I went, because I stay maybe about half an
15 hour. She look at it for a while and she told me
16 okay, if I have any questions, I will give you a
17 call when I turn it in. And I didn't get no call
18 from her or anybody until May when I received the
19 letter from ABRA.

20 MS. GEPHARDT: So then okay. So my
21 question then is when you submitted the minutes
22 as part of the application --

1 MR. IJITI: Yes, yes.

2 MS. GEPHARDT: -- did you just assume
3 that oh, okay, well, the application is being
4 submitted, an official application is being
5 submitted for these individuals, but my
6 application is just going to be attaching the
7 minutes to the back of them and just hope to God
8 that ABRA finds it?

9 MR. IJITI: Again, I attach -- I read
10 the, what you call it -- based on what Ms.
11 Jenkins told me I should get, I can talk related
12 to our understanding and I give it to her. I'm
13 not an expert in, what you call it, the, what you
14 call it, on the, what you call the, specific
15 detail. Like are you talking about certificate
16 of stocks. If I knew the stocks was needed, I
17 would have given the -- what's it called, put the
18 stocks in there.

19 But the information I was given never
20 said I should give the stock. I was just going
21 by my licensing specialist at the time.

22 MS. GEPHARDT: So let me ask you this.

1 Do you believe it is your responsibility to
2 follow-up with ABRA to find out the status of
3 your application?

4 MR. IJITI: Yes. I called several
5 times, as I said, and I left messages.

6 MS. GEPHARDT: Okay.

7 MR. IJITI: I called several times.
8 No less than six to seven times.

9 MS. GEPHARDT: So when this incident
10 happened in March of 2015, ABRA had never
11 confirmed with you whether you were -- you had
12 become the owner or the president of the
13 corporation. Is that correct?

14 MR. IJITI: Correct.

15 MS. GEPHARDT: So you assumed that you
16 were and that's how you represented yourself?

17 MR. IJITI: I represented myself, but
18 that's kind of false in the sense that I only --
19 I go to the restaurant on Saturday just as a
20 backup person. The ABC manager is always there.
21 So I'm never -- like maybe I come in and I open
22 the restaurant at 12:00. I'm there myself.

1 Because I just work somewhere else, so I just
2 come in in the evening just to make sure you have
3 need of any food. Do you have any -- do you have
4 grocery available. Do you need produce? They
5 just give me the list of what they need, because
6 the managers are the ones who are there doing the
7 business.

8 So I'm not really there, what you call
9 it, for any specific reason, just to walk around
10 and just be like a backup person to make sure oh,
11 he is here. I have no work. They need to, you
12 know, grab something in the store, I help them
13 grab it. So I'm just like a fill-in behind
14 backup person. I'm never the front person in it.

15 MS. GEPHARDT: Okay. Okay. So I'm
16 sorry, I got what you were saying. Just in the
17 interest of speeding things up here, so were you
18 aware that Mr., I can't pronounce his last name,
19 Mr. L --

20 MR. IJITI: Just call him Agi.

21 MR. KIVITZ: Call him --

22 MS. GEPHARDT: Call him who?

1 MR. IJITI: Agi?

2 MS. GEPHARDT: Agi?

3 MR. IJITI: Agi, that's what we call
4 him.

5 MS. GEPHARDT: Were you aware that Mr.
6 Agi did not have an active ABC Manager's License
7 at the time of this incident?

8 MR. IJITI: I was not aware. Mr.
9 Townsend is the one who told me about it.

10 MS. GEPHARDT: Okay.

11 MR. IJITI: Because Agi works, you
12 know, maybe it's my fault again. I'm going to
13 maybe take a beating for it. He has -- when he
14 was hired, he had an ABC Manager's License. All
15 I do is just to a photocopy of it and I keep it
16 in my record file.

17 And when we asked -- when it is time
18 for him to renew it again, I ask him for another
19 and he give it to me. I didn't know I was to
20 call ABRA and call the number and say hey, ABRA,
21 let me double check this information, because
22 maybe that's what is my fault. I was to have

1 called in and say I'm double checking. He give
2 it to me. I made a copy. I want to put it in
3 the file record.

4 I cannot say call in. I didn't really
5 know who I'm going to call, because even if I
6 call here, ABRA, I'm can't say hey Peru, you
7 can't just say Mr. Ijiti you calling for Agi?
8 I'm calling the number. You're not going to
9 disclose no information to me. On the contrary,
10 to say I want to confront somebody's license via
11 phone call and they don't know who the face is.
12 I'm not, what do you call it, really even active
13 at that time, you are talking about. We weren't
14 even really hung on my request.

15 MS. GEPHARDT: Okay.

16 MR. IJITI: And I was very distraught
17 for, I mean, whatever happens.

18 MS. GEPHARDT: So how did you come to
19 know though that the license was tampered with by
20 Mr. Agi?

21 MR. IJITI: Yes, Mr. Townsend, the
22 Investigator is the one that told me about it.

1 MS. GEPHARDT: Who did?

2 MR. IJITI: The Investigator, Mr.
3 Townsend. The gentleman who was here earlier.

4 MS. GEPHARDT: And did you actually
5 view the license?

6 MR. IJITI: He didn't show it to me.
7 He just said -- I remember he just told me it was
8 tampered with, that's what he said.

9 MS. GEPHARDT: Okay.

10 MR. IJITI: You know, and I, you know,
11 reprimanded him. We suspended him for three days
12 without pay. And I was kind of to say -- he said
13 by the image, you know, of a reflection, you
14 know, disgruntled staff or maybe make some --
15 whatever he did, you know, because I was telling
16 him if you don't have -- you know, I told him if
17 you don't even have an ABRA License the fine is
18 \$250 max.

19 I don't know why you have to, you
20 know, do whatever you had to do and jeopardize my
21 name and make me look bad, you know, because I --
22 you know, it's -- I don't know how to speak to

1 that.

2 MS. GEPHARDT: Okay. I just have one
3 final question and that is is it true that you
4 have identified yourself as the owner ever since
5 Da Luft opened its doors?

6 MR. IJITI: No, I don't identify
7 myself. It's like a presumption, you know, on
8 their part. My mother, as I said, is in her 70s.
9 So most of the people when I'm going into ABRA
10 and I'm doing all this, going there, asking
11 questions, when I have a question regarding Da
12 Luft I ask Mr. Gordy, I ask Ms. Jenkins. So it
13 just is a presumption.

14 The Investigator said he came four or
15 five times. If he come four or five times, he
16 just doing his routine checkup. I don't have no
17 incident with him, there is not an incident with
18 me. Each time, as I said, when he comes in there
19 there is always a different person there.

20 It's just like an advisory role. You
21 have a question, I'm the -- and the incident that
22 he is talking about to be precise is part of the

1 kind of somewhat error on ABRA's part. They said
2 we didn't file the quarterly filing and we did
3 file it. And it was caught. ABRA had it
4 misplaced. And I called my accountant right away
5 because I am the one that deals with the
6 accounting part.

7 But he, accountant, ABRA came here and
8 they said we didn't file our quarterlies.
9 Because I have a contract with DDS. I kind of
10 have an office with all these taxes, I can't
11 afford to mess my contract up.

12 So when I called and they said ABRA
13 was the one who made the mistake. So when I
14 called back and tell them ABRA, you know, I mean,
15 made a mistake with the quarterly filing and they
16 said okay, they had a mistake. What -- so I
17 didn't -- the conversation was like are you the
18 owner? Like who is some -- you want to talk to
19 somebody? My job is just to solve the problem,
20 you know, to help out in any way.

21 People think I'm security. I do
22 security. Sometimes I do different roles. My

1 mom, I help out any way as needed --

2 MS. GEPHARDT: Right.

3 MR. IJITI: -- just to support the
4 manager on duty.

5 MS. GEPHARDT: Okay. All right. I
6 think you answered my question just about,
7 basically, you have identified yourself as the
8 owner --

9 MR. IJITI: No.

10 MS. GEPHARDT: -- to officials that
11 have come to the establishment.

12 MR. IJITI: No.

13 MS. GEPHARDT: Okay. Did you not
14 identify yourself as the owner to Mr. Townsend?

15 MR. IJITI: On this incident of the
16 March 7th issue, he said -- he asked me, I said
17 I'm one of the owners for it and that was based
18 on my premise of turning in my paperwork in
19 November that I thought it was approved.

20 I don't know the approval process of
21 ABRA on any -- this is the first time of me
22 getting involved in the restaurant business. I

1 don't know. Okay. Are we supposed to get a
2 letter? Are we just an automatic? You know, I
3 don't know, I mean, if it's supposed to be -- you
4 know, we send a formal letter and we receive it
5 just the way you talking. If there is any
6 problem, then ABRA calls us and there is no
7 problem and everything is fine.

8 But that was my, you know, assumption
9 on that part. So this one is just why I just
10 said I'm one of the co-owners and conjunction
11 with my mom. This is my mom. This is my
12 brother, my mom. It's not like I'm maybe Mr. A
13 or Mr. B or --

14 MS. GEPHARDT: Right.

15 MR. IJITI: -- a stranger to -- this
16 is my mom.

17 MS. GEPHARDT: Right. Okay. Those
18 are the only -- all the questions that I have.
19 Thank you.

20 CHAIRPERSON MILLER: Okay. Board
21 questions?

22 MEMBER SHORT: Madam Chair?

1 MEMBER ALBERTI: Mr. Short and I have.

2 CHAIRPERSON MILLER: Mr. Short?

3 MEMBER SHORT: Good afternoon, sir.

4 How long have you been in business? Whether
5 Washington or anywhere, how long have you been in
6 business?

7 MR. IJITI: We just this is the third
8 year we do.

9 MEMBER SHORT: How many?

10 MR. IJITI: It's the third year.

11 MEMBER SHORT: 30 years?

12 MR. IJITI: Yes, with Da Luft.

13 CHAIRPERSON MILLER: Wait.

14 MEMBER SHORT: How many years --

15 MS. GEPHARDT: It's the third.

16 MEMBER SHORT: -- have -- not in
17 Washington, D.C. just business period?

18 MR. IJITI: Business?

19 MEMBER SHORT: Is this your first
20 business in Washington, D.C.? Is this your first
21 club?

22 MR. IJITI: Yes.

1 MEMBER SHORT: It's your very first
2 one?

3 MR. IJITI: Yes, first restaurant,
4 yes.

5 MEMBER SHORT: Have you ever done any
6 business in Washington other than a restaurant?

7 MR. IJITI: I have a contract with
8 Department of Disability Services with mental
9 health patients.

10 MEMBER SHORT: Mental health?

11 MR. IJITI: Yes.

12 MEMBER SHORT: Okay. So you are
13 familiar with the process of going through DCRA
14 and --

15 MR. IJITI: Yes.

16 MEMBER SHORT: -- ABRA Board. So you
17 know the process in Washington, D.C.?

18 MR. IJITI: I have an idea of how DDS
19 works, but -- yes, DDS, but not with specifically
20 ABRA.

21 MEMBER SHORT: Okay. Well, as an
22 owner of any business, don't you think it would

1 behoove you to have checked on the code books and
2 the -- so you know that you are doing everything
3 properly?

4 MR. IJITI: Yes, that's what I'm
5 saying. I -- absolutely I agree with you and I
6 read the, what's it called, paperwork needed.
7 And I turn in the paperwork based on the
8 paperwork based on what Ms. Jenkins informed me
9 about.

10 MEMBER SHORT: Okay. Well, I'm just
11 going to make you familiar with our Code Book 25-
12 405, application for transfer to a new owner. If
13 you go to the subsection (b), "An application to
14 transfer a license to a new owner shall be filed
15 by the transferee and approved by the Board
16 before the consummation of the transfer."

17 So do you know what that meant?

18 MR. IJITI: Yes, I get you.

19 MEMBER SHORT: So you submit your
20 papers and then you wait for the Board to get
21 back to you and tell you whether or not it has
22 been approved or not.

1 MR. IJITI: Okay.

2 MEMBER SHORT: Correct?

3 MR. IJITI: Yes.

4 MEMBER SHORT: Did you do that?

5 MR. IJITI: There is nothing to be
6 done, sir, based on what they said I have to wait
7 for the Board --

8 MEMBER SHORT: Yes.

9 MR. IJITI: -- to say we approve, but
10 what -- the only, what you call it, what I only
11 said was, at this time, when the manager was
12 there when the Investigator said are you, what do
13 you call it, the owner? I said one of the co-
14 owners. So that's all. That's the only -- what
15 I said there. No one --

16 MEMBER SHORT: You applied, you put an
17 application in?

18 MR. IJITI: Yes, sir.

19 MEMBER SHORT: You did not hear back
20 from the Board as to whether or not it had been
21 approved or not?

22 MR. IJITI: Correct.

1 MEMBER SHORT: You did not wait?

2 MR. IJITI: I called them after I put
3 it in. I called several times.

4 MEMBER SHORT: Okay. The last time
5 I'm going to ask this question. Did you ever get
6 Board approval? Did the Board ever get back to
7 you and say yes, you have ownership?

8 MR. IJITI: Oh, no, no.

9 MEMBER SHORT: It did not?

10 MR. IJITI: No.

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

13 CHAIRPERSON MILLER: Okay. Others?

14 MR. KIVITZ: May I have --

15 CHAIRPERSON MILLER: No, no. These
16 are Board questions. You need to -- you can ask
17 your questions after we are all finished.

18 MR. IJITI: I don't know if --

19 CHAIRPERSON MILLER: Okay.

20 MR. IJITI: -- is it possible, because
21 I thought I was going to leave early, I parked on
22 the no -- on this main road here and by 4:00,

1 there is going to be tow for me.

2 MEMBER ALBERTI: So do you want a
3 recess? Is that what you are asking?

4 MR. IJITI: If you give me 10 minutes?
5 I should move my car.

6 CHAIRPERSON MILLER: You might be
7 finished.

8 MEMBER ALBERTI: No, we're not
9 finished.

10 CHAIRPERSON MILLER: Will we be
11 finished in a few minutes?

12 MEMBER ALBERTI: No.

13 MEMBER SILVERSTEIN: We are not going
14 to be finished in three minutes.

15 CHAIRPERSON MILLER: Okay.

16 MEMBER ALBERTI: There is no way. My
17 question will take at least --

18 CHAIRPERSON MILLER: Oh, not the case,
19 I just thought with his questioning.

20 MEMBER SILVERSTEIN: Yes, let's take
21 a break. He has to move his car.

22 CHAIRPERSON MILLER: Okay.

1 MR. IJITI: You know, just to move it
2 to a better place for 4:00.

3 CHAIRPERSON MILLER: Okay. So why
4 don't we take a 10 minute break.

5 MEMBER ALBERTI: Yes, we'll take a 10
6 minute break.

7 MEMBER RODRIGUEZ: Yes, take 10 minute
8 break.

9 MR. IJITI: Yes, they tow the cars
10 after 4:00.

11 MEMBER RODRIGUEZ: Yes.

12 (Whereupon, the above-referred to
13 matter went off the record at 3:54 p.m. and
14 resumed at 4:14 p.m.)

15 CHAIRPERSON MILLER: Okay. We are
16 back on the record. I think we are at Board
17 questions, are we not?

18 MEMBER ALBERTI: Yes.

19 CHAIRPERSON MILLER: Okay. Mr.
20 Alberti?

21 MEMBER ALBERTI: Good afternoon, Mr.
22 Ijiti.

1 MR. IJITI: Good morning, sir.

2 MEMBER ALBERTI: I hope you got your
3 car moved successfully.

4 MR. IJITI: Sir?

5 MEMBER ALBERTI: I said hopefully you
6 got your car moved successfully?

7 MR. IJITI: Yes, yes, sir.

8 MEMBER ALBERTI: Okay. You have
9 testified several times that you filed documents
10 with Ms. Jenkins.

11 MR. IJITI: Yes.

12 MEMBER ALBERTI: Back in November of
13 2014.

14 MR. IJITI: Correct.

15 MEMBER ALBERTI: Can you tell me
16 exactly what documents you filed with her?

17 MR. IJITI: Yes. I have the documents
18 over there which are stamped. They could --

19 MS. GEPHARDT: It may be the Exhibits
20 2 and 3. Talking about these two people.

21 MEMBER ALBERTI: So are you going to
22 answer that by showing us documents?

1 MR. IJITI: Yes, sir. Because I --

2 MEMBER ALBERTI: Okay. Okay. I will
3 be patient. No, please, please, remain seated.

4 MR. IJITI: Okay. I'll point.

5 MEMBER ALBERTI: Your Exhibit 3?

6 MS. GEPHARDT: Yes, it's 2 and 3, I
7 mean.

8 MEMBER ALBERTI: Yes.

9 MS. GEPHARDT: Or whichever one.

10 MEMBER ALBERTI: So would you describe
11 those to me?

12 MR. IJITI: Okay. I submitted the
13 minutes of the meeting and the paperwork that
14 were printed out.

15 MEMBER ALBERTI: What paperwork was
16 printed out?

17 MR. IJITI: Paperwork for change of
18 ownership.

19 MEMBER ALBERTI: So I don't want to
20 put words in your mouth.

21 MR. IJITI: Yes.

22 MEMBER ALBERTI: But are you telling

1 me that it was a change of -- an application for
2 change of officer?

3 MR. IJITI: Yes. I --

4 MEMBER ALBERTI: Or what was it?

5 MR. IJITI: It was just two people
6 initially on the --

7 MEMBER ALBERTI: No. What exactly did
8 you --

9 MR. IJITI: Well --

10 MEMBER ALBERTI: Just so you -- I
11 mean, I think your lawyer is -- I think your
12 attorney is looking for them, so it would be
13 helpful if you could describe them, so he can
14 show them to us.

15 MR. IJITI: I have mine. Someone can
16 show. You told me to sit down.

17 MR. KIVITZ: If I may, I believe
18 Exhibit No. 3 are the materials from counsel, is
19 what you are referring to, Mr. Alberti.

20 MEMBER ALBERTI: I'm not referring to
21 anything. Your client is referring to something.

22 MR. KIVITZ: Oh. It's what you are

1 inquiring about.

2 MEMBER ALBERTI: So would you show it
3 to your client and let's see if that's what it
4 is?

5 MR. IJITI: We've got the papers here.

6 MEMBER ALBERTI: Okay. Well, can you
7 tell me what they are or tell me how -- what you
8 are looking at? Are these -- okay. Let me help
9 you out here.

10 So the papers that you are looking at,
11 are they exhibits that were previously submitted
12 this --

13 MR. IJITI: Correct.

14 MEMBER ALBERTI: -- body?

15 MR. IJITI: Yes.

16 MEMBER ALBERTI: Okay. So they must
17 have exhibit numbers on them, correct?

18 MR. IJITI: No. 3.

19 MEMBER ALBERTI: Can you tell me what
20 exhibits you are looking at and --

21 MR. IJITI: No. 3.

22 MEMBER ALBERTI: No. 3?

1 MR. IJITI: Correct.

2 MEMBER ALBERTI: Okay. So No. 3 is a
3 change of -- Application for a Change of
4 Officers, Director, Partner, General Partner,
5 Member or Managing Member. This is a form that
6 was submitted for -- to -- in regards to Solomon
7 Akinsola.

8 MR. IJITI: Yes.

9 MEMBER ALBERTI: All right. Right.
10 So --

11 MR. IJITI: Yes.

12 MEMBER ALBERTI: -- did you submit
13 that entire package?

14 MR. IJITI: Correct.

15 MEMBER ALBERTI: Yes?

16 MR. IJITI: Yes.

17 MEMBER ALBERTI: Okay. So the entire
18 package that is Exhibit No. 3 you submitted in
19 November?

20 MR. IJITI: Yes.

21 MEMBER ALBERTI: All right. What else
22 did you submit? Anything else?

1 MR. IJITI: That's all I submitted.

2 And as I said earlier, I --

3 MEMBER ALBERTI: Okay. So this is the
4 only application?

5 MR. IJITI: Yes, this paperwork all
6 the -- yes, all the paperwork with the minutes.

7 MEMBER ALBERTI: The one that is date
8 stamped January 8, 2014?

9 MR. IJITI: Yes, I turned it in in
10 November.

11 MEMBER ALBERTI: Or 2015. I'm sorry.

12 MR. IJITI: No, 2014.

13 MEMBER ALBERTI: I think it is stamped
14 January 8, 2015.

15 MR. IJITI: It could be stamped
16 January 2015, but I turn it in in November.

17 MEMBER ALBERTI: I'm looking at the
18 date stamp on it.

19 MR. IJITI: Yes.

20 MEMBER ALBERTI: So you -- that was
21 the only paperwork you filed?

22 MR. IJITI: Correct.

1 MEMBER ALBERTI: You can sit down --

2 MR. IJITI: Okay.

3 CHAIRPERSON MILLER: Yes.

4 MEMBER ALBERTI: -- Mr. Kivitz. So
5 you did not file one for yourself?

6 MR. IJITI: I have --

7 MEMBER ALBERTI: In November?

8 MR. IJITI: What I turn in, as I said
9 earlier, is all what is in there. That's all I
10 filed.

11 MEMBER ALBERTI: Right.

12 MR. IJITI: They told me I should from
13 -- because --

14 MEMBER ALBERTI: Fine. Just yes or
15 no?

16 MR. IJITI: You're asking me a
17 question and I mean you are cutting me off at the
18 same time, so --

19 MEMBER ALBERTI: All right. Please,
20 go ahead.

21 MR. IJITI: When I -- remember when
22 anybody have, what's it called, going to ABRA you

1 hand it over to a licensing officer. My
2 licensing officer, I contacted her based on the
3 regulation says what you should do.

4 So I was told before I was --
5 additional officers to fill this paper out. But
6 I'm the only one who is having more like the
7 shares. And I was to present the minutes of my
8 meeting, which I attached there. And I attached
9 the minutes of the meeting that we had for the
10 month of June. And I applied and submitted them
11 in.

12 I followed up with Ms. Jenkins who say
13 you have any --

14 MEMBER ALBERTI: I'm going to hold you
15 right there.

16 MR. IJITI: Okay. All right.

17 MEMBER ALBERTI: I'm going to get to
18 that.

19 MR. IJITI: Sure.

20 MEMBER ALBERTI: So my question again
21 is --

22 MR. IJITI: Yes.

1 MEMBER ALBERTI: -- in November, you
2 did not file an application for yourself. Is
3 that correct?

4 MR. IJITI: I file -- I didn't file an
5 application other than what I have.

6 MEMBER ALBERTI: Okay. Other than
7 Exhibit 3?

8 MR. IJITI: Yes, other than what is in
9 there.

10 MEMBER ALBERTI: Okay. In February
11 when you -- you said you followed up in February
12 with Ms. Jenkins?

13 MR. IJITI: In January I followed up
14 every month.

15 MEMBER ALBERTI: You followed up every
16 month starting when?

17 MR. IJITI: Starting January.

18 MEMBER ALBERTI: Starting January.
19 When is the last time you followed up with it?

20 MR. IJITI: The last time when I
21 followed up, I followed up in January, February,
22 March. Then I was told, you know, that the paper

1 -- what do you call it, Ms. Jenkins does not work
2 no longer, at that time. Then I spoke to Mr. --
3 I requested to speak to Mr. Gordy, Mr. Sean
4 Gordy.

5 MEMBER ALBERTI: Yes.

6 MR. IJITI: By that time, in fact at
7 first everybody said I didn't come --

8 MEMBER SILVERSTEIN: Who did you speak
9 to?

10 MR. IJITI: Mr. Sean Gordy.

11 CHAIRPERSON MILLER: Gordy.

12 MEMBER SILVERSTEIN: Gordy. Okay.
13 Thank you.

14 MR. IJITI: Yes, I don't know, maybe
15 I'm pronouncing his name incorrectly. I spoke to
16 him on that day. When I came there he said Ms.
17 Jenkins was not here. I said I have not heard
18 from ABRA regarding my paperwork. He now
19 testified or indicated and said that's a lot of
20 paperwork like that, that was not processed, and
21 they never got back to the applicants. Said I
22 was not on the case.

1 So then he went into ABRA's record and
2 gave me a copy of what I brought today. And also
3 said somebody is going to get back to me, but I
4 didn't hear back from anybody until May.

5 MEMBER ALBERTI: Okay. So when you
6 followed up in January or February with Ms.
7 Jenkins, what did you ask her?

8 MR. IJITI: That's when I left -- I
9 didn't speak to her personally. I left several
10 messages.

11 MEMBER ALBERTI: And what did you ask
12 her in the message?

13 MR. IJITI: Just that I'm following up
14 with my application. I left message that said --

15 MEMBER ALBERTI: You're following up
16 on your paperwork?

17 MR. IJITI: On my paperwork, because
18 she had been working with us from --

19 MEMBER ALBERTI: Okay.

20 MR. IJITI: -- starting the company,
21 getting Certificate of Occupancy.

22 MEMBER ALBERTI: So --

1 MR. IJITI: And all these little
2 paperwork things right.

3 MEMBER ALBERTI: -- somewhere prior to
4 May 4, 2015, an application was filed by Solaja
5 and I don't --

6 MR. IJITI: Yes.

7 MEMBER ALBERTI: I'll just call her
8 Agi.

9 MR. IJITI: We call her Tobi.

10 MEMBER ALBERTI: Pardon?

11 MR. IJITI: Just call her T-O-B-I,
12 Tobi. You know, we just call her Tobi.

13 MEMBER ALBERTI: Okay. But the last
14 name is Solaja?

15 MR. IJITI: Yes.

16 MEMBER ALBERTI: Okay. Is it Mr. or
17 Mrs.?

18 MR. IJITI: A lady.

19 MEMBER ALBERTI: Pardon?

20 MR. IJITI: A lady.

21 MEMBER ALBERTI: So it's Ms. Solaja?

22 MR. IJITI: Yes.

1 MEMBER ALBERTI: Okay. So Ms. Solaja
2 filed an application. What prompted -- were you
3 aware that she filed this application?

4 MR. IJITI: Yes, I was aware that she
5 did.

6 MEMBER ALBERTI: I'm talking about the
7 application for a change of officers or
8 directors, etcetera.

9 MR. IJITI: Yes, I know, yes.

10 MEMBER ALBERTI: You were aware of
11 that, right?

12 MR. IJITI: Yes.

13 MEMBER ALBERTI: What prompted her to
14 file that?

15 MR. IJITI: We had a meeting and we
16 wanted to elect her as an officer, including Mr.
17 Solomon in there, but we were told, at one point,
18 actually that Ms. Solaja was approved. And after
19 a while they told us Mr. Solomon was not approved
20 because the title director we give Mr. Solomon
21 was not a valid title for corporate, because we
22 are an incorporation, Inc., so they said the

1 title we give director -- whatever title we give
2 him was not acceptable in the corporate field.

3 MEMBER ALBERTI: So whom did you meet
4 with?

5 MR. IJITI: Sorry?

6 MEMBER ALBERTI: Whom did you meet
7 with?

8 MR. IJITI: Yes, that's what I'm
9 telling you, I spoke to Mr. Sean Gordy at that
10 time, because at this time, I don't know what --
11 when Ms. Jenkins left.

12 MEMBER ALBERTI: Okay.

13 MR. IJITI: We need --

14 MEMBER ALBERTI: And he told you --

15 MR. IJITI: Sorry?

16 MEMBER ALBERTI: -- what did he tell
17 you about -- and when did you meet with him?

18 MR. IJITI: I met with him some time
19 in February. And he testified to me --

20 MEMBER ALBERTI: And what did you talk
21 to him about?

22 MR. IJITI: Regarding the approval

1 process that what is the holdup?

2 MEMBER ALBERTI: So you talked to him
3 about Mr. Solomon's application, right?

4 MR. IJITI: I talked to him about the
5 entire package itself.

6 MEMBER ALBERTI: Well, he only had one
7 package. He only had Mr. Solomon's package.

8 MR. IJITI: Right. I turn in this
9 paper that is Exhibit No. 3.

10 MEMBER ALBERTI: What paper?

11 MR. IJITI: The No. 3 that we
12 discussed.

13 MEMBER ALBERTI: Right. But there is
14 no -- but the application was for Mr. Solomon.

15 MR. IJITI: It was for everybody.

16 MEMBER ALBERTI: How do you -- how
17 would we know it was for everybody?

18 MR. IJITI: Because everybody's name
19 was listed on it. Mr. Solomon's --

20 MEMBER ALBERTI: So how did you choose
21 to list Mr. Solomon's name and not your name on
22 this application? You are telling me this

1 application, what I understand you said, you
2 filed in November, you intended to be for
3 everybody?

4 MR. IJITI: Correct.

5 MEMBER ALBERTI: So Mr. Solomon only
6 has 5 percent interest.

7 MR. IJITI: Yes.

8 MEMBER ALBERTI: How did you choose to
9 put his name on and not your name?

10 MR. IJITI: Again as I told you
11 already, I was told by Ms. Jenkins that I don't--
12 I only need to have the minutes tied to this.

13 MEMBER ALBERTI: How did you choose to
14 put Mr. Solomon's name on the application and not
15 your name?

16 MR. IJITI: Again, as I said just now,
17 Mr. Solomon is my uncle. Ms. Solaja is my niece.
18 And of course, the owner of the company is my
19 mom. And we sat together and we just distributed
20 the stocks.

21 MEMBER ALBERTI: That doesn't answer
22 my question.

1 MR. IJITI: I don't understand what
2 you mean. I don't know your question.

3 MEMBER ALBERTI: You had to make a
4 choice as to whose name to put on this
5 application. How did you make that choice?

6 MR. IJITI: The choice was made by a
7 unanimous decision by all of -- all parties
8 involved, me and my mom, my uncle, Ms. Solaja and
9 Mr. Solomon.

10 MEMBER ALBERTI: Okay. All right.
11 Okay. So how -- your business, your restaurant,
12 your tavern, all right?

13 MR. IJITI: What?

14 MEMBER ALBERTI: Your tavern, Da Luft,
15 all right?

16 MR. IJITI: We are what?

17 MEMBER ALBERTI: Your tavern, your Da
18 Luft.

19 MR. IJITI: No, we are not a tavern.

20 MEMBER ALBERTI: Your business.

21 MR. IJITI: We are not a tavern.

22 MEMBER ALBERTI: Oh, you're a

1 restaurant?

2 MR. IJITI: Yes.

3 MEMBER ALBERTI: Excuse me. Your
4 restaurant, Da Luft.

5 MR. IJITI: Yes.

6 MEMBER ALBERTI: All right. The
7 building it is in, was that a restaurant or a
8 tavern before? Was it occupied before you --

9 MR. IJITI: No. It was four walls
10 before we occupied. And we wanted to --

11 MEMBER ALBERTI: Are you leasing it?

12 MR. IJITI: Yes, I'm leasing it.

13 MEMBER ALBERTI: Okay. And so you had
14 to do a build-out?

15 MR. IJITI: Yes.

16 MEMBER ALBERTI: Right? You had to
17 hire contractors --

18 MR. IJITI: Yes.

19 MEMBER ALBERTI: -- to come in and do
20 all that?

21 MR. IJITI: Yes.

22 MEMBER ALBERTI: All right. How

1 involved were you in that process?

2 MR. IJITI: I was I would say about 20
3 or 30 percent, you know, just a supervisor now
4 and then because we give it -- we give the
5 building to a general contractor. We didn't sub
6 it out in pieces.

7 MEMBER ALBERTI: So who was -- how
8 much were you involved in hiring the general
9 contractor?

10 MR. IJITI: My mom did most of the
11 negotiation with it. I tried to be -- we didn't
12 even -- we are not really involved in the
13 construction in the sense that the owner of the
14 building had -- the guy who built it, when we
15 signed the lease, he literally force us to use
16 the contractor that do the initial build-out, so
17 we didn't really have no say on it.

18 The guy who built the exterior
19 building, was the one who did the final build-
20 out. And the landlord told us if we don't use
21 him, then he is going to --

22 MEMBER ALBERTI: So what if your role

1 in this business?

2 MR. IJITI: Right now, I'm just a
3 supervisor really. I'm helping my mom out and
4 stuff like that.

5 MEMBER ALBERTI: What does that
6 entail?

7 MR. IJITI: As I said, like a general
8 operation person to just make sure -- I mean, if
9 they -- if payroll need to be made, I follow with
10 the accountants. Anything to order grocery, I
11 follow-up on the list for the grocery if they
12 need any groceries, any food. They need food,
13 they need vegetables. I call our staff to get
14 stock.

15 MEMBER ALBERTI: Do you do the hiring
16 and firing of staff?

17 MR. IJITI: Pardon? I make
18 recommendation for with hiring and termination.

19 MEMBER ALBERTI: All right. Okay.
20 Part of me was asking because I just want to know
21 -- I'm just trying to understand your knowledge
22 of this business.

1 Back in 2012, I have seen minutes
2 where -- so I see back in 2012, Mr. Temitope
3 Ijiti, it says here, his shares were canceled and
4 redeemed.

5 MR. IJITI: Yes.

6 MEMBER ALBERTI: All right. And there
7 is minutes from a board meeting. All right?

8 MR. IJITI: Yes.

9 MEMBER ALBERTI: Is there any
10 notarized documentation that he agreed --

11 MR. IJITI: Yes, we have --

12 MEMBER ALBERTI: -- to that?

13 MR. IJITI: -- because at that time,
14 we actually spoke to Toni at that time on
15 certificate of stocks. We give him the
16 paperwork. My attorney prepared the Certificate
17 of Stock for him to sign and it was sent back to
18 us. We have --

19 MEMBER ALBERTI: So it was signed?

20 MR. IJITI: Yes.

21 MEMBER ALBERTI: And assigned back to
22 your mother?

1 MR. IJITI: Yes.

2 MEMBER ALBERTI: Was it notarized?

3 MR. IJITI: Yes. Because my lawyer
4 probably, you know, did the -- he prepared the
5 paperwork for the sale, because, at that time, he
6 also cut it because we were almost two years
7 behind schedule. The bottom line, we were two
8 years behind schedule and he could not wait any
9 longer for, you know, business to start, so he
10 said I want out. So that was just --

11 MEMBER ALBERTI: So did you file a
12 Change of Officers with this Agency back then?

13 MR. IJITI: The, what do you call it,
14 paperwork, what you call it, was submitted that
15 we have. We give it to my attorney.

16 MEMBER ALBERTI: Did you file a Change
17 of Officers at that time?

18 MR. IJITI: At the time?

19 MEMBER ALBERTI: To notify this Agency
20 that Mr. Temitope Ijiti --

21 MR. IJITI: Yes.

22 MEMBER ALBERTI: -- was no longer an

1 officer?

2 MR. IJITI: I was told we don't need
3 to file, because they said the filings are
4 supposed to be done after somebody has 50 percent
5 share. That's when the ABC Board need to be
6 notified, but he didn't have a 50 percent share,
7 at that them.

8 MEMBER ALBERTI: So your answer is no?

9 MR. IJITI: Correct.

10 MEMBER ALBERTI: Okay. Okay. Do you
11 have any notarized documents showing that your
12 mother's shares were sold to you?

13 MR. IJITI: Yes, we have a notarized
14 paperwork.

15 MEMBER ALBERTI: Did you bring it
16 today?

17 MR. IJITI: No, I didn't. I didn't
18 bring it today. Just like --

19 MEMBER ALBERTI: Why not?

20 MR. IJITI: I'm thinking for the
21 Certificate of Stocks, he said sales of bonds.

22 MEMBER ALBERTI: Pardon?

1 MR. IJITI: You were talking earlier
2 about sales of bonds or Certificate of Stocks.

3 Is that what you are referencing?

4 MEMBER ALBERTI: Well, something
5 showing. I mean, you were asked --

6 MR. IJITI: We have our minutes.

7 MEMBER ALBERTI: -- you were notified
8 in the letters of May 4th --

9 MR. IJITI: Yes.

10 MEMBER ALBERTI: -- that the two
11 people for whom you sought -- the people -- all
12 right. Let me put it this way.

13 MR. IJITI: Sorry?

14 MEMBER ALBERTI: The people who were--
15 filed applications for change of officers were
16 notified in May that they needed proof of
17 purchase for their 5 percent.

18 MR. IJITI: Yes.

19 MEMBER ALBERTI: All right.

20 MR. IJITI: Yes.

21 MEMBER ALBERTI: Did you think today
22 to bring proof of purchase of their 5 percent --

1 MR. IJITI: Yes, but I --

2 MEMBER ALBERTI: -- or your --

3 MR. IJITI: -- as I said earlier --

4 MEMBER ALBERTI: -- whatever?

5 MR. IJITI: -- in May it was a
6 disaster, which you are aware of it. We were
7 closed down for five, six months, so it was -- we
8 were just going and pulling our ears back and
9 forth. We were closed down for over a month, so
10 at that time, we just dealing with the other
11 problems, at that time, to resolve the issue of
12 the color, give them security plans and get all--
13 you know, just your mandate at that time.

14 MEMBER ALBERTI: So right now, I have
15 nothing but your word that there is a bona fide
16 sale of stock?

17 MR. IJITI: Yes, if you give us 24
18 hours, we send it to you.

19 MEMBER ALBERTI: Is that correct?

20 MR. IJITI: Right now on me, I don't
21 have any paper with me right now.

22 MEMBER ALBERTI: All right. Thank

1 you. I have no further questions.

2 MR. IJITI: Thank you.

3 CHAIRPERSON MILLER: Okay. Other
4 questions? Okay. No other Board questions.

5 MEMBER ALBERTI: Oh, I do actually.
6 I'm sorry.

7 CHAIRPERSON MILLER: All right.

8 MEMBER ALBERTI: So Mr. Layos Lipican,
9 what are his responsibilities for your
10 establishment or what were his responsibilities
11 earlier this year?

12 MR. IJITI: He kind of -- he managed
13 the restaurant entirely. You know, he --

14 MEMBER ALBERTI: What does that mean,
15 he manages the restaurant?

16 MR. IJITI: He runs the front, you
17 know, all the front end of the restaurant.

18 MEMBER ALBERTI: And what does that
19 entail?

20 MR. IJITI: Meaning, he opens the door
21 every day. He orders the groceries. He orders--
22 does the payroll.

1 MEMBER ALBERTI: He does payroll?

2 MR. IJITI: Yes, he does the payroll.

3 He hires the staff, you know. I mean, what do
4 you call it, if somebody comes in takes the
5 application and processes the application. He
6 faxes it to the office. He supervise all the
7 chef, the, what you call it, cleaners in the
8 building and the helpers.

9 MEMBER ALBERTI: So you have given him
10 quite a bit of responsibility, right?

11 MR. IJITI: Correct.

12 MEMBER ALBERTI: But you are still
13 responsible for his actions, correct?

14 MR. IJITI: Yeah, I mean, by default,
15 you know, though.

16 MEMBER ALBERTI: I mean, you must
17 trust him, right?

18 MR. IJITI: Yes, I mean --

19 MEMBER ALBERTI: Since you have given
20 him --

21 MR. IJITI: -- with the business trust
22 is a key factor.

1 MEMBER ALBERTI: Okay. I have no
2 further questions.

3 CHAIRPERSON MILLER: Okay. Any
4 questions on Board questions? All right. Thank
5 you very much. You may be excused from the
6 witness stand.

7 (Whereupon, the witness was excused.)

8 CHAIRPERSON MILLER: Okay. Do you
9 have another witness?

10 MR. KIVITZ: I would like to make a
11 closing argument if I may?

12 CHAIRPERSON MILLER: Okay. The
13 Government goes first and then you can go.

14 MR. KIVITZ: I'm sorry. I know that.
15 I was just stating my position when you asked --

16 CHAIRPERSON MILLER: Okay. So you are
17 finished with your case as well?

18 MR. KIVITZ: I'm finished.

19 CHAIRPERSON MILLER: All right. Okay.
20 Then closing. Ms. Gephardt?

21 MS. GEPHARDT: Yes. So in this case
22 we have four charges and as we said in the

1 beginning of this case, Charge 1 is going to be
2 dropped. And that is because the Government is
3 not going to be able to meet its burden and,
4 therefore, we would like to drop that charge. So
5 we ask the Board if we may do that?

6 So we are left with three other
7 charges and those are: Charge 2, which is
8 failing to have a Board-approved manager present.

9 MR. KIVITZ: Okay.

10 MS. GEPHARDT: Charge 3, which is
11 failing to allow an Investigator to examine books
12 and records without delay or otherwise interfere
13 with an investigation.

14 And Charge 4 is failing to follow the
15 settlement agreement by failing to keep a
16 detailed incident log based on that night, the
17 incident that night.

18 The parties have stipulated to Charges
19 2 and 4, and both as to the facts and as to
20 liability.

21 In addition, in terms of Charge 3, the
22 parties have also stipulated that there was a

1 tampering of the ABC Manager's License and that
2 that was done.

3 The only thing that we were here
4 tonight to discuss and to present was on the
5 issue of whether the fact that Mr. Ijiti was not
6 on the paperwork as being the president of the
7 corporation, whether that amounted to interfering
8 with an investigation. And so that's where we
9 are at tonight.

10 So jumping off based on that point, we
11 can find liability here on Charge 3 alone just
12 based on the tampering of the ID.

13 But here we have more. We can find
14 interference with the license alone to find
15 liability on Charge 3. We have a situation where
16 this ABC manager supposedly doctored an ABC
17 License. The number that was used was not his
18 ID, but he put his name on the actual tag. And
19 therefore, you know, we have shown and we have
20 stipulated that that is actually the case.

21 But when it comes down to Mr. Ijiti's
22 role in the corporation, we heard from Mr. Hager

1 that there was no application submitted by Mr.
2 Ijiti to declare himself as the president or the
3 owner of Da Luft Corporation. He also testified
4 that in May of 2015, letters were sent stating
5 that the applications for these two other people,
6 who are obviously not Mr. Ijiti, that they were
7 deficient.

8 Mr. Ijiti says that, you know, he
9 submitted the paperwork. He thought that
10 everything was fine. He called ABRA. He made
11 multiple phone calls. He left messages and, you
12 know, no one got back to him. And he just
13 assumed that everything was fine.

14 Well, unfortunately, the process
15 doesn't work that way. It doesn't mean if you
16 haven't heard anything, it doesn't mean that it's
17 okay to go then and represent yourself as the
18 owner. Sort of like you can't drive if you don't
19 have a driver's license. I mean, he had to know,
20 at the time, you can't just represent yourself as
21 the owner of the business if you haven't gotten
22 an official letter from ABRA approved by the

1 Board that says we recognize you as the owner or
2 the president of Da Luft.

3 And we heard testimony from Mr.
4 Townsend that he has been back to visit Da Luft
5 about four or five times since he has been an
6 Investigator and he said as of late last year in
7 2014, when he would go to the establishment, Mr.
8 Ijiti would identify himself as the president and
9 the owner.

10 Let's see, the other thing that points
11 to that Mr. Ijiti knew what the process was, but
12 basically just identified himself as the owner
13 with not -- but just basically saying well, I
14 don't have to apply -- comply with the process
15 because, you know, whatever. The fact though
16 that he had knowledge that there is a process is
17 based on these two applications that were
18 submitted. We have here that they were submitted
19 in January of 2015, but that there was an
20 official process that needed to take place and he
21 did it for two separate individuals, but he did
22 not do one for himself.

1 And he testified here today that he
2 submitted the minutes and just assumed that that
3 would be fine. That ABRA would just, you know,
4 see this and know that he is now the president.
5 But, you know, we heard from Bill Hager that
6 that's not the case. You have to have a formal
7 application. It has to be approved by the Board.
8 And that's the way it works.

9 And you know, his argument is that
10 well, I didn't know that and they didn't get back
11 to me, but again, it's your responsibility to
12 follow-up. If you haven't heard anything, you
13 know, in an abundance of caution, don't portray
14 yourself as the president.

15 And you know, we can speculate as to
16 why Mr. Ijiti has done that repeatedly, but as
17 far as we are concerned, as far as ABRA is
18 concerned, the reason this is so important that
19 the person you are talking to is the person that
20 they say they are, that he is the president, is
21 because you want to be confident that you are
22 dealing with somebody who can make decisions.

1 Somebody that can approve things and can say yes,
2 go ahead and, you know, do all kinds of things.

3 I mean, that's why this is an
4 important issue and why if Mr. Townsend is
5 dealing with somebody who is really not the
6 president, you know, he may be taking actions
7 based on that that are, you know, unwarranted and
8 could get themselves into a lot of trouble.

9 So, let's see, basically, you know, we
10 heard a lot about Mr. Ijiti making a lot of -- it
11 seems like he makes a lot of excuses for his
12 business and for what happened. Well, I'm not
13 part of the process and my lawyer did it and I
14 tried to call, but no one got back to me and, you
15 know, I didn't know what was going on and I
16 thought my ABC manager had a valid license. And
17 there just seems to be a lot of deflection of
18 responsibility here.

19 And if you are going to portray
20 yourself as the owner, you have to be on top of
21 things. You can't just blame everything on
22 everyone else. If you are -- if someone in your

1 company files an application with ABRA, you
2 better know about it. I mean, the buck stops
3 with you. You are the president.

4 So you know, I empathize in some ways
5 with Mr. Ijiti. He was talking about his
6 financial woes, but, at the end of the day, none
7 of that means that you can interfere with an ABRA
8 investigation. And by representing himself as
9 the president when he knew he wasn't the
10 president is interfering with an investigation.

11 Mr. Ijiti did not follow the rules
12 and, therefore, you will find that we have
13 established liability on Charge No. 3 by a
14 preponderance of the evidence and we also believe
15 that there should be a fine for Charge 2 would be
16 a \$500 fine, Charge 3 a \$4,000 fine and two days
17 served and a \$650 fine -- excuse me, a \$500 fine
18 for Charge 4. That would be the Government's
19 recommendation.

20 MEMBER SILVERSTEIN: Ms. Gephardt,
21 could you repeat those again?

22 MS. GEPHARDT: Our recommendation is

1 that for Charge 2 it would be a \$500 fine.
2 Charge 3 would be \$4,000 and two days served.
3 And for Charge 3 a \$500 fine. Excuse me, for
4 Charge 4 a \$500 fine.

5 MEMBER SILVERSTEIN: Thank you.

6 CHAIRPERSON MILLER: Okay. Thank you.

7 Mr. Kivitz?

8 MR. KIVITZ: First, I would like the
9 Board to fully aware, and I'm sure they are, that
10 Mr. Ijiti is a layman. He is not an attorney.
11 He is not a prior restaurant owner. His first
12 experience with ABRA is in this incident.

13 With respect to this incident, you
14 have to keep in mind that he is the one who
15 called the police because there was a necessity
16 for some interaction with cliental. He
17 cooperated with the police. He did not interfere
18 with their investigation. And he was there at
19 all times.

20 He also had within the scope of his
21 experience as a layman not as someone who is
22 conversant with ABRA Rules or Regulations. He

1 filed papers with Ms. Pat Jenkins, a
2 representative of ABRA. He asked for information
3 to see if his application was correct, as any
4 application which is submitted is to get a Letter
5 of Comment, what's in, what's out, what has to be
6 done, what needs to be done, what has to be
7 eliminated. He received nothing.

8 Throughout the time that he received
9 nothing, he had no reason to assume that what he
10 gave was not proper or not sufficient. The
11 minutes that he provided to the Board with those
12 applications on behalf of others clearly
13 indicated explicitly that there had been a change
14 of officership, a change of stock certificates.
15 It was not hidden or withheld from information to
16 the Board.

17 The fact that the Board through its
18 representatives failed to communicate this back
19 to him, I don't know how you balance the scale of
20 responsibility. On the one hand, he did submit
21 what he believed to be proper and correct to
22 advise the Board of these changes. And he did

1 not go and since this is a -- it was a family and
2 is a family owned-type business. It is not a
3 mega business, as it doesn't include the general
4 public as far as stock ownership, etcetera,
5 etcetera, in that direction.

6 So to say now that you did not file it
7 correctly, you are fully responsible for all that
8 followed in an incident in which he didn't
9 participate, which brings me to the interest
10 regarding the false ID.

11 Mr. Ijiti employed Ali and I'll call
12 him by his first name, because I can't pronounce
13 his second. Ali had a valid manager's license.
14 He informed that employee that his license was
15 coming due, go ahead and renew it, which that
16 person did. He is not a participant in that
17 transaction.

18 It then turned out that that method
19 was tainted by the use of a false ID. And now,
20 Mr. Ali has a current license. So that is
21 imposing upon management a responsibility to say
22 is your license current? Well, he, in fact, did

1 that by notifying him the license was up for
2 renewal.

3 When I get into a cab, I don't ask him
4 if he has a good driver's license. No one asks
5 me that I need to have a key to get into the
6 men's room. It says men and I have a key and I
7 go in. So with all due respect, he did not in
8 any way interfere with the investigation
9 regarding this particular incident.

10 When the officer says who are you and
11 he says I'm the president or I'm an owner, that
12 was part of -- it wasn't done to give a false
13 impression. It wasn't done to say something that
14 to his own belief was untrue. It was something
15 realistically that was on the board, disclosed in
16 the corporate minutes and no one called it to his
17 attention until almost a year later.

18 And he filed this in November. He
19 didn't hear again back until seven months later.
20 This incident here was within the framework of
21 that time frame.

22 So we have admitted by agreement those

1 other charges. The principle here is not only
2 based on economics, which, of course, I must say
3 is a major factor as well, he has explained
4 clearly the economic circumstances of the
5 restaurant, the financial losses and you are all
6 familiar with the economy within the District of
7 Columbia and all of the activity on H Street and
8 the complication which is there.

9 But he had no reason to think that
10 what he did was not fulfilled. Then when we get
11 this letter late, we are in the process of doing
12 this, that's what caused us to get here, because
13 he didn't know what had been filed. I was not
14 counsel. I didn't know what had been filed. But
15 we are here to correct the situation.

16 But is this the kind of situation that
17 warrants a slap on the hand of further closing a
18 business? \$4,000 in penalty, it's shocking. It
19 really is, because there is no criminality here.
20 There was no harm to anybody with respect to it.
21 He was fully cooperative with the investigation.

22 These people were there at all times

1 and the one little -- I don't mean to belittle
2 it, but the circumstance concerning the tampered
3 with ID card, he did not tamper it. He was in
4 the process of seeing that his employees did what
5 they were supposed to do, which, in fact, the
6 employee ultimately did and has currently a valid
7 license.

8 So we have agreed to the other
9 penalties, because they were an outcome of the
10 incident. And realistically, they are what they
11 are. But this one particular facet is what has
12 made it difficult for the applicant to readily
13 agree to a compromise.

14 We submit to the Board that this has
15 to be looked at significantly. It's not an
16 exception to the law. It's not a violation of
17 rules and regulations. It's a failure to have
18 fully completed an application, so if something
19 which was pulled to the Board's attention by the
20 attachment of minutes, which were explicit in
21 saying this is what happened, someone on the ABRA
22 side, vis-a-vis Pat Jenkins or whomever took her

1 place, wouldn't have to wait six or seven months
2 to send him a notice saying what you gave us
3 seven months ago requires A, B, C, which we are
4 now in the process of fulfilling.

5 And as I have explained to the Board,
6 purposefully delayed it and we wish to fulfill
7 this situation and go forward as a good tenant, a
8 good license person and in full compliance with
9 the regulations.

10 But nothing was withheld, nothing was
11 denied. Nothing was hidden in what was sent to
12 the Board and the manner in which he conducted
13 the business.

14 And we submit to the Board that we
15 would continue to agree towards the process of
16 the Offer in Compromise or the Board decision,
17 but would ask the Board to evaluate clearly that
18 \$4,000 penalty for having submitted some papers
19 to which having received no response and having
20 considered a violation because they told me I
21 didn't do it right.

22 And while I may be going in circles

1 with my conversation and my delivery to the
2 Board, it's because this whole thing is one where
3 we can't say it's much to do about nothing, but
4 it's must to do about a process which takes the
5 general public not familiar with rules and
6 regulations and puts them on a level that makes
7 them totally responsible for something when
8 someone on the other side could have looked at
9 the papers and said hey, by the way, where is
10 your paper that has your name on it?

11 And he says well, I don't know, I gave
12 you the papers. He said what happened, you tell
13 me if I have to do more. That's how these lay
14 people come into the business. They come in,
15 they work hard to try to get ahead in the
16 economy. They do what they believe is correct.
17 And the persons who have the right to say you are
18 right or wrong, don't say anything.

19 So they continue to run their business
20 and this is where we are at this stage. So we
21 ask the Board to give favorable consideration to
22 the fact that this is of no belittlement. I

1 can't say it's not an onerous offense. It is not
2 an offense.

3 It's an unfortunate circumstance that
4 is certainly between the lines, between what the
5 public thought was right and what the official
6 looking at it didn't say, tell him or do and then
7 subsequently an incident occurred which everybody
8 now is peeling the onion to find out where and
9 why.

10 But this, what happened here, is
11 totally unrelated to the incident which caused
12 the investigation. He was cooperative. He
13 called the police. He participated and he
14 fulfilled ownership management responsibility.

15 We ask the Board to take that into
16 consideration in regards to the matter that is
17 before us.

18 CHAIRPERSON MILLER: Thank you.

19 MEMBER RODRIGUEZ: Thank you.

20 CHAIRPERSON MILLER: I just want to --
21 could you just clarify Charge 3? Was anything in
22 their facts stipulated?

1 MS. GEPHARDT: Well, I think that we
2 talked about --

3 CHAIRPERSON MILLER: The only issue --

4 MS. GEPHARDT: -- we were stipulating
5 to the tampering with the ID.

6 CHAIRPERSON MILLER: You are
7 stipulating to that?

8 MS. GEPHARDT: We are stipulating to
9 that.

10 CHAIRPERSON MILLER: Okay.

11 MR. KIVITZ: We stipulated that to the
12 extent that we are willing to accept the penalty
13 because it was part of the corporate activities,
14 but we don't say that Mr. Ijiti was in any way
15 personally involved with that. (A) he didn't do
16 it. (B) he didn't see it. He is the one who
17 notified the man that he needed to renew it. And
18 he did all that ownership to the -- we are
19 willing to accept that penalty, because it
20 happened under his umbrella.

21 CHAIRPERSON MILLER: Right. Okay.

22 MR. KIVITZ: But I wouldn't want to

1 infer that he was a participant in that wrongful
2 act.

3 CHAIRPERSON MILLER: Okay. And when
4 you are saying you are dropping Charge 1 because
5 of you weren't able to present evidence on that
6 today --

7 MS. GEPHARDT: I cannot get the
8 witness to testify to that, cannot locate the
9 witness, so that -- yes.

10 CHAIRPERSON MILLER: Are you seeking
11 for the Board to dismiss Charge 1?

12 MS. GEPHARDT: I'm asking that the
13 Board would submit that -- or excuse me, dismiss
14 that charge.

15 CHAIRPERSON MILLER: Okay. So I'm
16 going to make a motion that the Board dismiss
17 Charge 1. Do I have a second?

18 MEMBER RODRIGUEZ: Second.

19 CHAIRPERSON MILLER: Okay. Mr.
20 Rodriguez seconded the motion. Any comments?

21 MS. GEPHARDT: This is to dismiss
22 Charge 1.

1 MR. KIVITZ: Oh, thank you.

2 CHAIRPERSON MILLER: All those in
3 favor say aye?

4 ALL: Aye.

5 CHAIRPERSON MILLER: All those
6 opposed? All those abstaining? The motion
7 passes 6-0-0. Okay.

8 So that leaves us with 2 through 4.
9 2 and 4, the facts have been stipulated as is the
10 liability and we just talked about Charge 3.
11 Okay.

12 So at this point then, I'm going to
13 close the record, so we won't be accepting any
14 further evidence in this case. And I'll ask the
15 parties if they want to file proposed findings of
16 fact and conclusions of law or waive their right
17 to do so?

18 MS. GEPHARDT: We will waive our right
19 to do that.

20 MR. KIVITZ: I'm sorry, I --

21 CHAIRPERSON MILLER: Do you understand
22 that? Okay.

1 MS. GEPHARDT: Oh, findings of fact
2 and conclusions of law.

3 MR. KIVITZ: Okay.

4 MS. GEPHARDT: If you want to file
5 those and I said I --

6 MR. KIVITZ: No.

7 MS. GEPHARDT: -- am declining.

8 MR. KIVITZ: No, I think we can go on
9 with this.

10 CHAIRPERSON MILLER: Right. Right.
11 I thought you understood that, right.

12 MR. KIVITZ: I apologize for the
13 hearing impediment, but as an Agent, we should --

14 CHAIRPERSON MILLER: Oh, okay. I said
15 that kind of fact. Okay.

16 So now, I'm going to call for a vote
17 on the Board considering this case in closed
18 session.

19 As Chairperson of the Alcoholic
20 Beverage Control Board for the District of
21 Columbia and in accordance with Section 405 of
22 the Open Meetings Amendment Act of 2010, I move

1 that the ABC Board hold a closed meeting for the
2 purpose of seeking legal advice from our counsel
3 on Case No. 15-251-00078, Da Luft Restaurant &
4 Lounge, per Section 405(b)(4) of the Open
5 Meetings Amendment Act, and deliberate upon this
6 case for the reasons cited in Section 405(b)(13)
7 of the Open Meetings Amendment Act of 2010.

8 Is there a second?

9 MEMBER ALBERTI: Second.

10 CHAIRPERSON MILLER: Mr. Alberti
11 seconded the motion. I'll now take a roll call
12 vote on the motion before us now that it has been
13 seconded.

14 Mr. Brooks?

15 MEMBER BROOKS: I agree.

16 CHAIRPERSON MILLER: Mr. Alberti?

17 MEMBER ALBERTI: I agree.

18 CHAIRPERSON MILLER: Mr. Rodriguez?

19 MEMBER RODRIGUEZ: I agree.

20 CHAIRPERSON MILLER: Ms. Miller
21 agrees.

22 Mr. Silverstein?

1 MEMBER SILVERSTEIN: I agree.

2 CHAIRPERSON MILLER: Mr. Short?

3 MEMBER SHORT: I agree.

4 CHAIRPERSON MILLER: Okay. It appears
5 that the motion has passed by a 6-0-0 vote.

6 I hereby give notice that the ABC
7 Board will hold a closed meeting in the ABC Board
8 conference room pursuant to the Open Meetings
9 Amendment Act of 2010 and to deliberate on this
10 case. And we will issue a decision in writing
11 within 90 days.

12 Okay. So that concludes this case.
13 It's 5:00. The Board will now just go through
14 the other cases scheduled for this afternoon.

15 MEMBER SILVERSTEIN: Madam Chair?

16 CHAIRPERSON MILLER: What?

17 MEMBER SILVERSTEIN: I would like to
18 thank both sides for all your kindness and
19 flexibility in allowing us to take the other case
20 that enabled us to get the police in and out. We
21 appreciate your kindness.

22 MS. GEPHARDT: It's the other way

1 around. I think you gave us time to figure this
2 out.

3 MEMBER SILVERSTEIN: A chance to --
4 yes.

5 MS. GEPHARDT: And then --

6 MEMBER SILVERSTEIN: We thought so.
7 Thank you.

8 MS. GEPHARDT: Thank you.

9 CHAIRPERSON MILLER: I'm glad that
10 worked out. So have a good evening.

11 MR. KIVITZ: Again, my apologies at
12 having to ask you to repeat.

13 MEMBER RODRIGUEZ: There are some of
14 us with hearing problems up here, too.

15 CHAIRPERSON MILLER: Oh.

16 MEMBER SILVERSTEIN: Thank you very
17 much.

18 CHAIRPERSON MILLER: All right.

19 (Whereupon, the Show Cause Hearing in
20 the above-entitled matter was concluded at 5:01
21 p.m.)
22

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