

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

p-----»
IN THE MATTER OF: :
 :
 :
LMW, LLC t/a Little Miss :
Whiskey's Golden Dollar : Show Cause
1104 H Street, NW : Hearing
Retailer CT - ANC-6A :
License No. 79090 :
Case #12-CMP-00603 :
 :
(Participated in Pub Crawl :
Without Board Approval, :
Violation of Settlement :
Agreement) :
p-----¼

October 2, 2013

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

PRESENT:

- RUTHANNE MILLER, Chairperson
- NICK ALBERTI, Member
- DONALD BROOKS, Member
- HERMAN JONES, Member
- MIKE SILVERSTEIN, Member

ALSO PRESENT:

CHRISSY GEPHARDT, OAG

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

2 (1:45 p.m.)

3 CHAIRPERSON MILLER: Okay. Our
4 fifth Board Member will be joining us
5 momentarily. I'm going to call the case of
6 12-CMP-00603, Miss Whiskey's Golden Dollar
7 located at 1104 H Street, N.E., License No.
8 79090, in ANC-6A.

9 When you are ready -- is there a
10 piece of paper there for you to sign-in? Yes.
11 And then could you introduce yourselves for
12 the record, please?

13 MR. THORP: Mark Thorp, M-A-R-K
14 T-H-O-R-P, owner of Little Miss Whiskey's
15 Golden Dollar.

16 MR. LeFONDE: Matthew LeFonde, a
17 member of the District of Columbia Bar for and
18 on behalf of the beverage company LMW.

19 CHAIRPERSON MILLER: I'm sorry, I
20 missed -- what did you say at the end? I
21 heard your name, but I didn't understand.

22 MR. LeFONDE: LMW is the name of

1 the company that owns the establishment. LMW,
2 LLC.

3 CHAIRPERSON MILLER: Okay. Thank
4 you.

5 MR. LeFONDE: And Mr. Thorp is the
6 owner of the company.

7 CHAIRPERSON MILLER: Right. Okay.

8 MS. GEPHARDT: Chrissy Gephardt on
9 behalf of the Office of the Attorney General
10 for the District of Columbia.

11 CHAIRPERSON MILLER: Okay. Good
12 afternoon. This is a Show Cause Hearing. Are
13 there any preliminary matters?

14 MS. GEPHARDT: No, there are no
15 preliminary matters.

16 MR. LeFONDE: Just to remind the
17 Board, the panel, of the prior Motion to
18 Dismiss with regards to the untimely service
19 of the --

20 MEMBER ALBERTI: Mr. LeFonde,
21 could you speak up? I'm having a little
22 trouble hearing you. Yes, you can either pull

1 that closer or whatever.

2 MR. LeFONDE: Just to remind --

3 CHAIRPERSON MILLER: That's

4 better.

5 MR. LeFONDE: -- the Board of --

6 is that better?

7 CHAIRPERSON MILLER: Yes, much

8 better. Thank you.

9 MR. LeFONDE: Just to remind the
10 Board of our prior Motion to Dismiss on
11 jurisdictional grounds for the failure of --
12 to Government to make a timely service of the
13 investigative report on the establishment, as
14 previously indicated by the City Council a
15 necessity for this, to give the licensee
16 timely notice and the ability to make a proper
17 defense to any such allegations.

18 And we continue to contest the
19 Board's jurisdiction in that regard for the
20 reasons set forth in the written motion that's
21 already tendered to the Board.

22 CHAIRPERSON MILLER: Ms. Gephardt?

1 MS. GEPHARDT: Yes. I believe
2 that the motion, the initial motion and then
3 the Government responded and so I don't know
4 if the Board is looking for oral argument on
5 the motion or if the motion has already been
6 decided or how that is -- how you want to work
7 that.

8 MR. LeFONDE: I have not been
9 served with any disposition of that motion, so
10 I would -- and given our -- co-counsel's
11 representations, I would -- it would appear
12 that that is still pending and would be a
13 proper matter to be decided, since it is a
14 jurisdictional challenge, before any
15 evidentiary hearing would be put on.

16 MS. GEPHARDT: Is the Board in
17 receipt of the motions and the response?
18 Okay.

19 CHAIRPERSON MILLER: We are
20 checking.

21 MS. GEPHARDT: Okay.

22 CHAIRPERSON MILLER: And forgive

1 me if I'm mixing this up with another case,
2 but was this --

3 MR. LeFONDE: I made a similar
4 challenge on a different licensee recently,
5 but this has been pending since July, this
6 motion. You may recall that it was Restaurant
7 12 that we had with -- Ms. Schmidt had a
8 similar --

9 CHAIRPERSON MILLER: Right. That
10 was the one I was thinking of.

11 MR. LeFONDE: -- deficiency that
12 we challenged.

13 CHAIRPERSON MILLER: Okay.

14 MR. LeFONDE: I think it is fair
15 enough to say that the Board might confuse
16 this, some of the same arguments employed,
17 because we are seeking the same relief in that
18 regard. But it seems to be in accord that --
19 between the parties that there has not been
20 any disposition of that motion. And I
21 certainly would ask that that be decided
22 before we put on any kind of evidentiary

1 hearing.

2 CHAIRPERSON MILLER: Okay.

3 MR. LeFONDE: I do have an extra
4 date stamped copy of our submissions.

5 MEMBER ALBERTI: Mr. LeFonde, just
6 pause for a moment, please.

7 CHAIRPERSON MILLER: Ms. Gephardt,
8 did you file an opposition?

9 MS. GEPHARDT: I did file an
10 opposition.

11 MEMBER ALBERTI: And did you --

12 MS. GEPHARDT: It was on --

13 MR. LeFONDE: We are in receipt of
14 that.

15 MEMBER ALBERTI: And you are in
16 receipt of that?

17 MR. LeFONDE: Yes.

18 MEMBER ALBERTI: Okay.

19 MS. GEPHARDT: July 31, 2013.

20 CHAIRPERSON MILLER: Okay.

21 MR. LeFONDE: And we did reply on
22 August 5th. And again, I can pass up a date

1 stamped copy of that. I do have an extra one
2 here.

3 CHAIRPERSON MILLER: Okay. Well,
4 let me just check what we have. Okay. Our
5 legal staff is going to make copies of those
6 pleadings to refresh our memories of them and
7 but in the meantime --

8 MR. LeFONDE: When you need time
9 to -- does the Board require additional time
10 to consider this?

11 CHAIRPERSON MILLER: I don't know.
12 What I want to do is to suggest is that we
13 hear oral argument from you on this issue and
14 then we will take a look at the pleadings and
15 see if we can make a decision today.

16 MR. LeFONDE: Oh, afterwards,
17 okay.

18 CHAIRPERSON MILLER: Yeah.

19 MEMBER ALBERTI: What do you mean
20 look at this?

21 CHAIRPERSON MILLER: Well, we did
22 read them, I'm sure, but it's just that they

1 are not before us right this minute. So you
2 can refresh our memory.

3 MR. LeFONDE: Fair enough.

4 CHAIRPERSON MILLER: Unless you
5 choose not, you know.

6 MR. LeFONDE: Oh, absolutely.
7 Shall I?

8 CHAIRPERSON MILLER: Yes, um-hum.

9 MR. LeFONDE: Thank you, Madam
10 Chairperson. The 2008 Alcohol Beverage
11 Enforcement Amendment Act was promulgated in
12 response to industry concerns over egregious
13 examples of over-zealous enforcement activity
14 and penalties and what the legislative
15 documents terms "a current gotcha mentality"
16 towards the hospitality industry, which
17 included notifications of alleged violations
18 and suspension proceedings instituted many
19 months or years after the alleged incident,
20 long after employees who might have
21 witnessed --

22 CHAIRPERSON MILLER: I'm sorry. I

1 just want to jump in for a second just to set
2 the ground rules. I think I want to give you
3 each five minutes on this.

4 MR. LeFONDE: Oh, I don't think I
5 can --

6 CHAIRPERSON MILLER: Can you do
7 this in five minutes?

8 MR. LeFONDE: -- I'll be much
9 longer than that.

10 CHAIRPERSON MILLER: And then you
11 -- okay. Perfect. All right. Thank you.

12 MR. LeFONDE: Notifications of
13 alleged violations and suspension proceedings
14 instituted many months or years after the
15 alleged incident, long after employees who
16 might have witnessed the incident moved on.
17 This is in the Committee's report at pages 18
18 and 19 of the Act 17696.

19 In the Government's response, it
20 does not appear to be a factual contention
21 that the investigative report was not served
22 upon the licensee within the statutory time

1 period. There seems to be an allegation that
2 for -- arguendo, we will accept that there was
3 a report of a regulatory inspection that was
4 served contemporaneous with that inspection
5 and that the Government then argues that the--
6 this affords the licensee of the statutory
7 notice under 8 -- 25-832 of the DC Code.

8 We posit to this Board that that
9 does not, as there is an express legislative
10 and unambiguous requirement under subparagraph
11 (a) that is the either investigative report or
12 the public police incident report. And we
13 certainly assert and the Board is certainly
14 aware that an investigative report is a term
15 of art used by this Board referring to the
16 charge for documents, which makes those
17 allegations, and not a report of a regulatory
18 inspection, something very distinct.

19 The further argument made by the
20 Government, as we understand it, is that this
21 is a right without a remedy to which there is
22 a requirement that the Board make this 90 --

1 make these notices within 90 days, but that
2 there is no specific remedy elucidated within
3 that particular code section.

4 And to that, we assert that this
5 is a mandatory time limitation as described in
6 Brown v. DC Public Employee Relations Board,
7 the citation given in -- at page 4 of our
8 initial motion. And that because this is the
9 initiation of enforcement proceedings, the
10 timely notice is a due process requirement
11 that is -- absolutely comports with the
12 concerns set forth by the Committee in its
13 report.

14 And for this reason, it is
15 inappropriate and ultra vires of this Board to
16 proceed in an enforcement proceeding without
17 the provisions of 25-832 and strictly
18 conformed thereto.

19 And given the limited mandate and
20 authority of this Board under Title 25, it is
21 without authority to act without conforming to
22 the law. And we have seen repeatedly and

1 disturbingly a situation where the licensee is
2 repeatedly held into strict and sometimes
3 confusingly interpreted elements of this
4 Board's enforcement statute, while the Board
5 itself and the Agency seems to play fast and
6 loose with the rules which confine its
7 authority.

8 And given the concerns and the
9 manner in which they were addressed in this
10 2008 legislation, it is imperative that this
11 Board confine itself to the mandate it is
12 afforded by the City Council.

13 CHAIRPERSON MILLER: Thank you.

14 MR. LeFONDE: Was that close?

15 CHAIRPERSON MILLER: Yes, that's
16 good. Thank you, yeah, it was, um-hum. So
17 why don't we hear from Ms. Gephardt and then
18 if any Board Members have questions, we can do
19 them then.

20 MS. GEPHARDT: Sure.

21 CHAIRPERSON MILLER: Okay.

22 MS. GEPHARDT: Thank you, Madam

1 Chair. In this case, as Mr. LeFonde has
2 explained to you, the licensee is arguing that
3 the language of the statute mandates that the
4 case be dismissed since the Alcoholic Beverage
5 Regulation Administration failed to issue
6 report within the 90 day time limit.

7 The Government maintains that in
8 this case there is no arbitrary and capricious
9 delay and that there is -- in no way was the
10 Agency intending to ensure that the licensee's
11 defense to the allegations was not hindered.

12 The incident in this case took
13 place on October 18, 2012. During that time,
14 the ABC manager on duty was present for the
15 regulatory inspection that happened and was
16 advised during that time that there had been
17 a violation. A regulatory report/inspection
18 report was given to her, so, at this point,
19 the establishment is on notice that there is
20 a problem and that there has been a violation.

21 Now, it is true that the
22 investigative report was not officially served

1 upon the licensee until February 21, 2013,
2 but, again, the delay in this case was not
3 intended to hinder the licensee's defense to
4 the charges.

5 And in fact, when the
6 investigative report was sent to the licensee
7 on February 21st, it was accompanied by not
8 only the investigative report, but an offer to
9 settle the case.

10 Finally, several months later on
11 May 23, 2013, the licensee was served with a
12 Notice of Show Cause which notified him that
13 the Show Cause (Status) Hearing was scheduled
14 for June 19, 2013 and the Show Cause Hearing
15 was scheduled for August 7, 2013.

16 Thus, the licensee had almost
17 three months to prepare a defense for the Show
18 Cause Hearing after receiving the formal
19 notice. And, in fact, he had been in
20 possession of the investigative report for
21 almost three months prior to the formal
22 charges even being issued.

1 So the licensee in this case had
2 many, many months to formulate a defense, to
3 gather witnesses and to analyze the charges
4 being alleged against them.

5 In addition, counsel makes light
6 of the fact that the failure to issue an
7 investigative report within the 90 days must
8 result in a case being dismissed. And they
9 focus on the must. However, the time
10 limitation in this statute can only be
11 construed as directory and not mandatory.

12 And we have seen this with other
13 cases, particularly there is one case
14 involving ABRA that the Court of Appeals took
15 up and that was when they weighed in on this
16 on Gallothom v. DC Alcoholic Beverage Control
17 Board, 820 A.2d 530.

18 In that case, the issue was
19 whether the Board's failure to issue its final
20 decision beyond the 120 days, as dictated by
21 DC Code 25-106(c)(6), should result in their
22 decision being reversed. And the Court opined

1 that when determining whether the 120 day
2 requirement is mandatory or a directive, we
3 must balance whether any prejudice to a party
4 caused by the Agency delay is weighed by the
5 interests of another party or the public in
6 allowing the Agency to act after the statutory
7 time period has elapsed.

8 The Court concluded that based on
9 the lack of prejudice to the petitioner and
10 the public interest in ensuring the safety of
11 the neighborhood, we must conclude that the
12 120 day time limit is directory and thus, the
13 Board's decision is valid.

14 The Agency must bear the burden in
15 this case of demonstrating that the delay did
16 not substantially prejudice the complaining
17 party.

18 So again here, the licensee -- the
19 incident happened on October 18, 2012. The
20 investigative report was issued formally on
21 February 21, 2013, along with an offer to
22 settle. And the official charging notice was

1 received on -- or excuse me was issued to the
2 licensee on May 23rd notifying him that the
3 Show Cause was August the 7th giving him from
4 February until August to prepare a defense to
5 the charges.

6 And therefore, the District
7 maintains that there was no unfair prejudice
8 to this defendant and the motion should be
9 denied. Thank you.

10 MR. LeFONDE: If I may first
11 object to any reference to a settlement
12 discussion offers. This is certainly
13 prohibited evidence under the District of
14 Columbia Rules of Evidence. And certainly,
15 the reason for that, and whether this Board
16 decides to relax its evidentiary rules, it
17 still should take due consideration that
18 offers to settle, efforts to settle,
19 discussions of settlement should not be
20 brought in as evidence in the merits of any
21 proceeding.

22 It will tend to inhibit informal

1 resolutions of these matters prior to the
2 resolution. I would ask, first, that the
3 Board wholly disregard any reference to
4 settlement discussions or settlement offers in
5 that regard.

6 With regards to the citation of
7 Gallothom, the distinction which is exposted
8 here, of course, is the resolution within 120
9 days of the issuance of an order. Whereas --
10 and the numerous cases cited by the licensee
11 in opposite to this proposition is the
12 initiation of these proceedings and it being
13 a statute of repose and causing the authority
14 of the Board to stop once the -- this time
15 limitation has ended.

16 The -- Ms. Gephardt is absolutely
17 correct to state that there is no prejudice
18 upon party waiting around for the Board to
19 issue a decision on something that they have
20 defended and has been otherwise adjudicated.
21 But as set forth by the Committee and it is
22 certainly the District of Columbia City

1 Council whose mandate it is to decide what is
2 timely and what is not timely, not the
3 District of Columbia enforcement agencies.

4 And they have set forth that
5 because of the prior abuses that have occurred
6 with regards to the enforcement proceedings,
7 that there must be a strict time limitation
8 that has been set down in response to that
9 problem.

10 And given the multitude of
11 authority cited by the licensee that say the
12 initiation of the proceedings must be
13 mandatory and, yes, conceded that the
14 directory time limitations to conclude those
15 proceedings after they have been heard is in--
16 opposite to this authority.

17 And we assert that the Board is
18 still without authority and acting directly in
19 conflict with the stated legislative intent in
20 this regard.

21 CHAIRPERSON MILLER: Thank you.
22 Ms. Gephardt, can you tell me what statute was

1 at issue in Gallothom?

2 MS. GEPHARDT: Bear with me here.
3 The statute in Gallothom was DC Code 25-
4 106(c)(6). I don't have here the Code Book to
5 know what that is addressing, but it -- I
6 believe it dictates the amount of time that
7 the Board has to make a decision, a final
8 decision on a matter of adjudication, so
9 that's what I believe it is.

10 CHAIRPERSON MILLER: Okay.

11 MS. GEPHARDT: And I just want to
12 make one other comment.

13 CHAIRPERSON MILLER: Um-hum.

14 MS. GEPHARDT: And that is I do
15 concede and I agree that settlement matters
16 should not be introduced. I just want to make
17 it noted though that my intention of bringing
18 that up wasn't to show that we tried to settle
19 this and they were not cooperative. It was
20 only to show that they received the
21 investigative report along with a settlement
22 offer. But I probably shouldn't have said

1 that and it was not intended to show that the
2 licensee was not cooperative or they didn't
3 settle or to bring that up. So I apologize.

4 CHAIRPERSON MILLER: Okay. And
5 the Board will disregard the --

6 MEMBER ALBERTI: Well, may I add
7 something on that topic?

8 CHAIRPERSON MILLER: Okay.

9 MEMBER ALBERTI: The settlement
10 agreement that was referenced here is part of
11 the Board's administrative record. The
12 settlement agreement was -- that settlement
13 conference was under the directive of the
14 Board. It was initiated by the Board.

15 MS. GEPHARDT: That's true.

16 MEMBER ALBERTI: It wasn't
17 initiated by the OAG's Office.

18 MS. GEPHARDT: That's true.

19 MEMBER ALBERTI: So it already is
20 in our administrative record of the Board. So
21 I don't know how it is not --

22 MR. LeFONDE: But --

1 MEMBER ALBERTI: No, I don't know
2 how it gets excluded from the evidence in this
3 case.

4 MR. LeFONDE: Any offer of
5 settlement and those discussions outside the
6 hearing would be inappropriate. Any hearing
7 that the Board has, certainly the Board may
8 take administrative notice of its own
9 proceedings.

10 MEMBER ALBERTI: Thank you.

11 MR. LeFONDE: But --

12 MEMBER ALBERTI: I just wanted to
13 clear that up in this case.

14 MR. LeFONDE: -- I -- I think you
15 are correct, Mr. Alberti in making that
16 distinction. We do still ask that any
17 references to offers, which I believe is what
18 I heard from Ms. Gephardt --

19 MEMBER ALBERTI: Fine.

20 MR. LeFONDE: -- it would be
21 inappropriate.

22 CHAIRPERSON MILLER: Okay. And I

1 just want to make sure we are talk -- that we
2 know the statute we are talking about and I
3 want to ask Ms. Gephardt a question about it.
4 I understand that it's 25-832, prompt notice
5 of investigative reports. It says:

6 (A) ABRA shall provide a licensee
7 with either an investigative report or a
8 public police incident report that may result
9 in a Show Cause Hearing as set forth in
10 Section 25-447 within 90 days of the date upon
11 which the incident occurred.

12 And then it goes on to say:

13 (B) The requirement of subsection
14 A of this section shall not apply where (1)
15 criminal action is being considered against
16 the licensee or its employees or (2)
17 enforcement action is requested by the Chief
18 of Police under 25-827.

19 So I haven't looked at the other
20 statute, but this statute exempts our
21 conditions where it will not apply. And in
22 that case, what's the basis for our argument

1 that it will not apply in other situations
2 that are not carved out under the statute?

3 MS. GEPHARDT: Well, it's not
4 dictated by the statute per se that this
5 should be carved out. You're absolutely
6 right. There is only two exemptions that you
7 see there.

8 Our argument is not that this
9 should be exempted in this particular case.
10 The argument that we are making is that the 90
11 day time limit is directory and not mandatory.
12 And that that has been upheld by our Court of
13 Appeals, obviously for a similar case, but
14 different because, as he mentioned, it was for
15 post-adjudication versus pre-adjudication.

16 But that these matters have to be
17 sort of weighed between, you know, the rights,
18 the due process rights of the licensee and the
19 consideration of the public safety and what is
20 going to benefit the public.

21 And in this case, our argument is
22 that by, you know, him not receiving the

1 notice within the 90 days doesn't prejudice
2 him because he is still able to formulate a
3 defense in over a period of almost six months
4 to gather his witnesses, to create -- you
5 know, to defend his case.

6 And it is within the interest of
7 the people of the District of Columbia for
8 this case to go forward, especially given that
9 this was a pub crawl and, you know, this was
10 out on the streets of the city.

11 And so, therefore, it is sort of
12 weighing those two interests and we believe
13 that the interest weighs in the favor of
14 moving this case forward.

15 CHAIRPERSON MILLER: Okay. Thank
16 you. Do Board Members have other questions?

17 MEMBER ALBERTI: Well, I guess I
18 have a question --

19 CHAIRPERSON MILLER: Okay.

20 MEMBER ALBERTI: -- for Mr.
21 LeFonde.

22 CHAIRPERSON MILLER: Um-hum.

1 Okay.

2 MEMBER ALBERTI: I heard your
3 arguments, but what I haven't heard from you
4 is any discussion of what harm was caused in
5 this case. I mean, because what the
6 Government is arguing is is that it's
7 directory and not mandatory, in which case if
8 the Board were to look at it that way, then we
9 would have to look at whether harm was caused
10 to the client.

11 So I think it would be advisable
12 for you to speak to --

13 MR. LeFONDE: Yes.

14 MEMBER ALBERTI: -- that issue
15 here.

16 MR. LeFONDE: That's certainly an
17 appropriate question. But given that the
18 Government has just conceded that it is the
19 Government's burden to show there was no
20 prejudice and the legislative intent that is
21 set forth in the legislative materials that
22 say that this is prejudicial to these

1 licensees and that is a finding that is fully
2 committed to our legislature that cannot be
3 altered by the executive.

4 The requirement to have this 90
5 day limitation has been a determination that
6 if you don't abide by it, there will be a
7 prejudice in your being able to defend it.
8 That is something fully committed to the
9 mandate of the legislature to say this is the
10 line that we draw in the sand. And if you
11 cross it, we have a -- you are prejudicing the
12 ability of the target of the enforcement
13 action in their ability to defend against it.

14 This is seen repeatedly in any
15 kind of judicial proceeding, a statute of
16 limitations, that if you do not bring these
17 matters forward into the public eye at X date,
18 they cannot go forward.

19 And Ms. Gephardt has already
20 conceded it is the Government's obligation to
21 show that there has been no prejudice and
22 because of the repeated prior abuse of these

1 statutes as recognized by the City Council,
2 they have said this is the limit.

3 I posit to you, Mr. Alberti, that
4 we do not have a burden to show there has been
5 prejudice to us. And I believe that part has
6 been conceded, at least, as to the burden.
7 She certainly argues that she has met that
8 burden, but the intention of the City Council
9 was to bring the Board and the Agency into
10 conformance --

11 MEMBER ALBERTI: Okay.

12 MR. LeFONDE: -- with a timely --

13 MEMBER ALBERTI: Right. No.
14 You're starting to repeat yourself.

15 MR. LeFONDE: And that hasn't
16 happened.

17 MEMBER ALBERTI: Okay.

18 MR. LeFONDE: It needs to start
19 happening. And the only way that is going to
20 happen is to have these cases dismissed
21 because they are not timely.

22 MEMBER ALBERTI: All right. So,

1 Mr. LeFonde?

2 MR. LeFONDE: To answer your
3 question --

4 MEMBER ALBERTI: Mr. LeFonde?
5 First of all --

6 MR. LeFONDE: I'm sorry.

7 MEMBER ALBERTI: First of all --

8 MR. LeFONDE: Okay. I'm sorry.

9 MEMBER ALBERTI: They were kind of
10 signaling to you that you were repeating
11 yourself, which I was starting to hear
12 arguments over and over again. So but that's
13 neither here nor there.

14 What I will tell you is that I
15 heard from Ms. Gephardt a discussion of why
16 there would be lack of harm and you haven't
17 responded to that.

18 MR. LeFONDE: Well --

19 MEMBER ALBERTI: Also what I'm
20 hearing from you, and you can respond to this,
21 what I'm hearing from you is that just the
22 non-adherence, the strict non-adherence to the

1 statute creates the possibility, the potential
2 for bias, for prejudice.

3 MR. LeFONDE: Right.

4 MEMBER ALBERTI: And it's just --
5 and what I'm hearing you say is it's just that
6 potential for prejudice which is the harm and
7 the reason for dismissing this case. Is that
8 correct? Maybe I'm over-simplifying this.

9 MR. LeFONDE: No. I think we are
10 having a good discourse on the issue and I
11 think we are getting to the issue. And what--
12 and if I repeat myself, I don't mean to. I'm
13 trying to add to what I said previously.

14 The City Council has had hearings,
15 has heard what this is, has had deliberations
16 on this issue of whether there has been prior
17 prejudice in the timing of giving notice to
18 the licensee of alleged violations.

19 It has come to a determination
20 that this has occurred in the past and that is
21 discussed in the legislative -- in the
22 Committee materials that are part of the

1 legislation, which this bill in 2008 came to
2 be.

3 And it has said because of that,
4 we make this limitation. And again, this is
5 different than the Gallothom case in that
6 initiation and notice is absolutely necessary
7 in any kind of statutory limitation for any
8 type of judicial proceeding, that the notice,
9 timely notice, is essential to the due
10 process.

11 And they have said that because
12 this particular industry has turn over of
13 employees, because this particular industry
14 has X number of days that they keep recordings
15 of their DVRs or that they maintain the paper
16 checks of their sales, there has to be a
17 limitation of 90 days in giving notice.

18 And what we haven't heard from the
19 Government is why this inability to conform to
20 what the statute commands. And that, given
21 that there is no -- any kind of cause even
22 suggesting and now pushing this, you know,

1 backhandedly pushing this burden back upon the
2 licensee, which is inappropriate.

3 We haven't heard any mitigating
4 cause for simply abiding by one of these
5 multitude of statutes under Title 25, which
6 these licensees get hauled in here regularly
7 for their nonconformance thereto.

8 And if this Board and this Agency
9 are going to lead by example, it seems that
10 you need to follow your own rules.

11 MEMBER ALBERTI: Okay. Thank you.

12 MEMBER JONES: Madam Chair?

13 CHAIRPERSON MILLER: Yes, Mr.
14 Jones?

15 MEMBER JONES: So far is it the
16 Government's burden to tell why as part of
17 this process?

18 MR. LeFONDE: It's the
19 Government's burden to show there is no
20 prejudice.

21 MEMBER JONES: I --

22 MR. LeFONDE: And I don't --

1 MEMBER JONES: Stop.

2 MR. LeFONDE: Yes.

3 MEMBER JONES: Is it the
4 Government's burden to show why? Because you
5 made a point of making that. So I want to
6 make sure I'm clear in your position on where
7 the burden lies and what the burden is.

8 MR. LeFONDE: It's the
9 Government's burden to abide by the 90 Day
10 Rule.

11 MEMBER JONES: That's not what --

12 MR. LeFONDE: And --

13 MEMBER JONES: -- I'm asking you.

14 MR. LeFONDE: -- they have --

15 MEMBER JONES: That's not what I'm
16 asking.

17 MR. LeFONDE: -- violated it.

18 MEMBER JONES: That's not what I'm
19 asking.

20 MR. LeFONDE: Yeah.

21 MEMBER JONES: You are not
22 answering my question now.

1 MR. LeFONDE: Yeah.

2 MEMBER JONES: I think you are not
3 answering it intentionally, so I'm trying to
4 help you refocus. Is it the Government's
5 burden to explain or demonstrate the question
6 of why that you raised as part of your
7 response to Board Member Alberti's question?

8 MR. LeFONDE: Yes.

9 MEMBER JONES: Why?

10 MR. LeFONDE: If -- they want to
11 offer something in mitigation to depart from
12 what the rule commands.

13 MEMBER JONES: Okay. So you are
14 saying it's the Government's burden to show or
15 prove or demonstrate why?

16 MR. LeFONDE: If they want to
17 offer some cause in mitigation why they didn't
18 -- if they didn't confine themselves to what
19 the law requires.

20 MEMBER JONES: And how is that
21 length of time --

22 MR. LeFONDE: I mean we -- I'm

1 sorry.

2 MEMBER JONES: -- to the burden of
3 demonstrating prejudice?

4 MR. LeFONDE: They are distinct.

5 MEMBER JONES: And how are they
6 distinct?

7 MR. LeFONDE: Well, the Government
8 has conceded it has the burden of
9 demonstrating no prejudice. We are in here on
10 -- regularly hearing violations of these
11 multitude of rules and we -- this Board
12 regularly hears evidence in mitigation as to
13 why they didn't do what they were supposed to.
14 And if the Government wants to explain why it
15 didn't follow the rule, I think that that's a
16 proper thing for the Board to consider. But
17 I haven't heard anything to that.

18 MEMBER JONES: Understood. I
19 understand what the Board can consider. I'm
20 just trying to figure out where -- you made a
21 very, very strong argument that it's the
22 Government's burden to show or prove that

1 there was no prejudice. And you used that as
2 part of your rationale for why it is you, as
3 a representative for your client, did not have
4 to show that there was prejudice.

5 And you refused to speak on that.
6 So didn't you also introduce another element,
7 which was the Government hasn't provided you
8 any feedback on the why, but you didn't
9 indicate that that was a burden of the
10 Government.

11 MR. LeFONDE: No.

12 MEMBER JONES: So if it's not --

13 MR. LeFONDE: I don't think so.

14 MEMBER JONES: -- the only real
15 issue here that the Government has to
16 demonstrate to the Board, in our assessment of
17 this situation, is whether or not there was
18 prejudice.

19 MR. LeFONDE: Yes.

20 MEMBER JONES: Or demonstrating
21 the fact that there wasn't prejudice.

22 MR. LeFONDE: No. They have to

1 demonstrate they -- that they confined
2 themselves to the limitations of the law,
3 which is a very new law and a very --

4 MEMBER JONES: So prejudice has
5 nothing to do with it?

6 MR. LeFONDE: I --

7 MEMBER JONES: Based on what you
8 just said, prejudice has nothing to do with
9 the basis of this argument.

10 MR. LeFONDE: What I understood
11 from the Government was that if there was a
12 burden, it lies with the Government. I
13 posit --

14 MEMBER JONES: So you're not
15 disputing that?

16 MR. LeFONDE: Yes. And I posit to
17 you that prejudice has been legislatively
18 determined to be present. And for that reason
19 had set forth these limitations.

20 MEMBER JONES: So it sounds like a
21 strict liability. Either you meet the
22 deadline or you don't. And if you don't meet

1 the deadline, then by default there is
2 prejudice. Is that your argument?

3 MR. LeFONDE: That is my argument.

4 MEMBER JONES: Okay. So there is
5 no burden of proof that the Government has to
6 demonstrate that there was no prejudice. They
7 have to demonstrate, based on your argument,
8 that the deadline was either met or not met.

9 MR. LeFONDE: I agree with that.

10 MEMBER JONES: Okay. Thank you.
11 Thank you, Madam Chair.

12 MR. LeFONDE: Yes. But that if
13 there were a burden, it would be the
14 Government's. I mean, that's what the
15 Government said. I didn't bring it up. She
16 brought -- Ms. Gephardt brought it up. And
17 I'm certainly not disagreeing with that, that
18 if there were a burden, it's her -- it's the
19 Government's burden. Thank you.

20 CHAIRPERSON MILLER: Mr. LeFonde,
21 I want to ask can you address what the
22 difference is between a regulatory inspection

1 report and an investigation report or police
2 incident report for purposes of notice?

3 MR. LeFONDE: I can certainly -- I
4 mean, I certainly can tell you -- show you
5 what a regulatory inspection report is. I
6 mean, you folks have a form that you fill out.
7 Again, I apologize, when I speak to the Board
8 I meant I'm speaking to the Agency as well.

9 But the ABRA Investigators appear
10 at a licensed establishment. They have things
11 that they look for, the pregnancy signs and
12 the -- we talked previously about the
13 mechanisms of checking people's IDs and the ID
14 books and the licensed manager on duty having
15 the ID card that they are supposed to have
16 from ABRA.

17 CHAIRPERSON MILLER: I mean --

18 MR. LeFONDE: And they have --
19 they go down the list and they --

20 CHAIRPERSON MILLER: Right.

21 MR. LeFONDE: -- fill out a form
22 that says here is our -- this is our -- it's

1 like getting your car inspected.

2 CHAIRPERSON MILLER: Right.

3 MR. LeFONDE: I mean, they have
4 got a list of things they look at and they
5 sign at the bottom. And if -- I had mentioned
6 before that this is a term of art different
7 from an investigative report where there is
8 this typed up narrative.

9 We have seen in some other cases
10 where these are quite elaborate. I recall the
11 scene that we adjudicated here --

12 CHAIRPERSON MILLER: Okay. My
13 point is that --

14 MR. LeFONDE: -- and we had a
15 multitude of --

16 CHAIRPERSON MILLER: Right.

17 MR. LeFONDE: -- exhibits and
18 everything that the Board would rely upon in
19 prosecution of an alleged offense. This is
20 their case in chief, as I see that document as
21 an accusatory document. It is very, very
22 different in that regard from the regulatory

1 inspection report.

2 And in that regard, it is quite
3 similar due to the parallel enforcement
4 functions of ABRA and the police department
5 that you also have the potential for these
6 violations coming arising from the PD-251, the
7 uniform police report. And there is a
8 narrative of what -- containing all of the
9 information upon which they would make an
10 allegation of some violation therein.

11 And so you have two things that
12 are identified by the legislature in that
13 statute that say these are the two things that
14 afford the notice to the exclusion of the
15 regulatory inspection report, which I
16 certainly believe that the Director and the
17 General Counsel of this Agency were present
18 for the formulation of this legislation and
19 that's not there.

20 CHAIRPERSON MILLER: Okay. All
21 right. Thank you. Anybody else? Okay. So
22 what we are going to do is recess and go into

1 closed session and consider this Motion to
2 Dismiss in opposition and reply.

3 As Chairperson of the Alcoholic
4 Beverage Control Board for the District of
5 Columbia and in accordance with DC Official
6 Code Section 2-574(b) of the Open Meetings
7 Act, I move that the ABC Board hold a closed
8 meeting now for the purpose of seeking legal
9 advice from our counsel on Case No. 12-CMP-
10 00603, Little Miss Whiskey's Golden Dollar,
11 pursuant to Section 2-574(b)(4) of the Open
12 Meetings Act and deliberating upon this motion
13 for the reasons cited in Section 2-574(b)(13)
14 of the Open Meetings Act.

15 Is there a second?

16 MEMBER BROOKS: Second.

17 CHAIRPERSON MILLER: Mr. Brooks
18 has seconded the motion. I'll now take a roll
19 call vote on the motion.

20 Mr. Brooks?

21 MEMBER BROOKS: I agree.

22 CHAIRPERSON MILLER: Mr. Alberti?

1 MEMBER ALBERTI: I agree.

2 CHAIRPERSON MILLER: Ms. Miller

3 agrees.

4 Mr. Silverstein?

5 MEMBER SILVERSTEIN: I agree.

6 CHAIRPERSON MILLER: Mr. Jones?

7 MEMBER JONES: I agree.

8 CHAIRPERSON MILLER: Okay. It
9 appears that the motion has passed by a 5-0-0
10 vote. I hereby give notice that the ABC Board
11 will recess and consider this motion now and
12 we will come back and give you a decision, if
13 we are able to reach one, which we very well
14 may be, and put our reasons on the record and
15 then take it from there.

16 Is there a concern? Oh, time.
17 Well, I don't know how long it will take us.
18 But I think that you certainly can take at
19 least a 10 or 15 minute break, if you would
20 like.

21 MR. LeFONDE: Yes.

22 CHAIRPERSON MILLER: Okay.

1 MS. GEPHARDT: All right. Thank
2 you.

3 CHAIRPERSON MILLER: Thank you.

4 (Whereupon, at 2:30 p.m. a recess
5 until 2:53 p.m.)

6 CHAIRPERSON MILLER: Okay. We are
7 back on the record after having considered the
8 motion and the opposition and the reply in
9 this case.

10 And we have determined that we
11 would like to take more time with that issue,
12 that it's an important issue. It affects
13 other cases, not just this case. We would
14 like to look at the legislative history and
15 look at the case law that has been cited and
16 not rush into a decision.

17 So for that reason, we are going
18 to take that under advisement. I apologize
19 that we weren't ready today. There was a mix-
20 up in the file, so we didn't have that before
21 us.

22 Second, the majority of the Board

1 would like to proceed with the hearing today.
2 And I recognize that -- well, let me say this,
3 that even if we proceed with the case, we will
4 decide the Motion to Dismiss first, before we
5 entertain the merits of this case, but for
6 judicial efficiency, the majority would like
7 the parties to proceed.

8 MR. LeFONDE: Well, again --

9 CHAIRPERSON MILLER: Do you have
10 an --

11 MR. LeFONDE: -- we assert that
12 this is a jurisdictional issue. It's the
13 authority of the Board to command persons
14 before it and to take evidence and given the
15 lack of what we assert as a lack of that
16 jurisdiction, that the -- it's infirm from
17 keeping us here any longer.

18 We would certainly appreciate the
19 opportunity to allow you to deliberate upon
20 this point, but this is a threshold issue that
21 must be decided before I think you can
22 proceed. To have people here and have

1 evidence from them is something that may be no
2 authority, I think that's a big problem.

3 CHAIRPERSON MILLER: Ms. Gephardt,
4 do you -- would you like to address that?

5 MS. GEPHARDT: The Government is
6 ready to proceed. You know, I believe that as
7 you mentioned that the -- this would not be
8 taken into evidence if the decision is so
9 rendered to grant his Motion to Dismiss.

10 Like you said, I think it is just
11 for expediency purposes, but that's the
12 Government's view of it.

13 MR. LeFONDE: We appreciate the
14 opportunity -- the consideration you're giving
15 here. I just think it's the cart before the
16 horse and we won't complain if we have got to
17 come back for an evidentiary hearing, other
18 than, you know, to complain about the merits
19 of your decision in that regard, but --

20 CHAIRPERSON MILLER: I'm sorry,
21 could you say that again?

22 MR. LeFONDE: I said we won't

1 complain about having to do the evidentiary
2 hearing after the decision, other than to
3 complain about the merits thereof, but I do
4 think that you need to get that issue sorted
5 before you proceed.

6 CHAIRPERSON MILLER: Yes, Mr.
7 Jones?

8 MEMBER JONES: Thank you, Madam
9 Chair. Just to be clear, I'm not totally
10 clear on what you are communicating. Are you
11 indicating that you are refusing to move
12 forward, at this point?

13 MR. LeFONDE: I don't think we
14 have refused anything. I am making an
15 objection as to --

16 MEMBER JONES: Okay. So you
17 stated your position. We -- the majority of
18 the Board has indicated they would like to
19 proceed. So I'm trying to understand are you
20 willing to proceed or are you saying you are
21 not going to proceed?

22 MR. LeFONDE: I have given no

1 indication to this Board our unwillingness to
2 do anything other than to preserve our rights
3 on the record.

4 MEMBER JONES: Understood. Okay.
5 Cool. Let's move forward, Madam Chair.

6 CHAIRPERSON MILLER: Okay. Right.
7 We have actually already deliberated on that
8 point and that's where the majority is. So
9 why don't we start. Ms. Gephardt?

10 MS. GEPHARDT: Okay. Just a
11 moment. Okay. So the Government is prepared
12 to proceed. Briefly to open, the Government
13 in this case is proposing to dismiss Charge 1,
14 which is a violation of 23 DCMR 712, which
15 addresses pub crawls. And the provision,
16 according to the Government's belief, is that
17 it targets organizers of pub crawls. In this
18 case, we are not alleging that this licensee
19 organized this pub crawl, merely that there
20 was participation.

21 So given that, you will hear that
22 on October 18, 2012, through the testimony of

1 an Investigator, that Little Miss Whiskey's
2 Golden Dollar participated in a pub crawl
3 called H Street Zombie Takeover.

4 Like other bars in the area, the
5 licensee was one of an organized group of
6 establishments and offered drink specials and
7 free shots to patrons in direct violation of
8 their voluntary agreement, which prohibits
9 them from participating in a pub crawl.

10 Little Miss Whiskey offered drink
11 specials and was one of an organized group of
12 bars on the evening of October the 18th and so
13 I will urge the Board at the end of the
14 evidence and the testimony to find that this
15 licensee is in violation and should be fined
16 accordingly. Thank you.

17 CHAIRPERSON MILLER: Do you have
18 an opening statement?

19 MR. LeFONDE: Thank you, Ms.
20 Chairperson. I think the Government is well-
21 reasoned in its concerns regarding the first
22 charge in that the violation speaks to a

1 promoter-organizer in the first sentence. I
2 do believe that the voluntary agreement has
3 broader language as to participating in a pub
4 crawl.

5 We take particular umbrage with
6 the difficulties in ascertaining what the
7 definition is of a pub crawl within 23-712,
8 that it is self-contradictory between 712.1
9 and 712.10. And we assert that the Government
10 will be unable to meet the definition of
11 offering discounted alcoholic drinks to anyone
12 or meeting the definition under 721.10 of the
13 requirement of 200 participants.

14 In this regard, we believe that
15 the Government will fail in its burden of
16 demonstrating any violation. And therefore
17 that as an actual issue, the second charge
18 should be dismissed.

19 CHAIRPERSON MILLER: Thank you.

20 MS. GEPHARDT: All right. The
21 Government would like to call its first
22 witness to the stand. Investigator or former

1 Investigator Brian Molloy.

2 CHAIRPERSON MILLER: Ms. Gephardt,
3 how many witnesses do you have?

4 MS. GEPHARDT: Oh, I'm sorry, I
5 have one witness. I said first witness.

6 CHAIRPERSON MILLER: Right.

7 MS. GEPHARDT: But my first and
8 only witness.

9 CHAIRPERSON MILLER: Okay. Good
10 afternoon.

11 MR. MOLLOY: Good afternoon.

12 Whereupon,

13 BRIAN MOLLOY
14 was called as a witness by Counsel for the
15 Government, and having been first duly sworn,
16 assumed the witness stand and was examined and
17 testified as follows:

18 CHAIRPERSON MILLER: Thank you.

19 DIRECT EXAMINATION

20 MS. GEPHARDT: Good afternoon, Mr.
21 Molloy. Can you, please, state your name and
22 spell it for the record?

1 MR. MOLLOY: My name is Brian
2 Molloy, B-R-I-A-N, last name M-O-L-L-O-Y.

3 MS. GEPHARDT: Okay. Thank you.
4 And Mr. Molloy, where do you work?

5 MR. MOLLOY: I work at a private
6 law firm, Mallios & O'Brien.

7 MS. GEPHARDT: Okay. And were you
8 employed ever with the Alcoholic Beverage
9 Administration for the District of Columbia?

10 MR. MOLLOY: I was for a year
11 starting in July 2012 and ending in June 2013.

12 MS. GEPHARDT: Okay. So you were
13 employed with ABRA in October 2012?

14 MR. MOLLOY: I was.

15 MS. GEPHARDT: Okay. And when you
16 were with ABRA, what was your title?

17 MR. MOLLOY: Investigator.

18 MS. GEPHARDT: And what were your
19 job responsibilities in general as an
20 Investigator?

21 MR. MOLLOY: Investigators
22 investigate and inspect alcoholic licensed

1 establishments in the District of Columbia.

2 MS. GEPHARDT: Okay. And are you
3 familiar with a licensee by the name of Little
4 Miss Whiskey's Golden Dollar?

5 MR. MOLLOY: I am.

6 MS. GEPHARDT: Okay. And were you
7 in the vicinity of H Street, N.E., the evening
8 of October 18, 2012?

9 MR. MOLLOY: I was.

10 MS. GEPHARDT: Okay. And why were
11 you there?

12 MR. MOLLOY: I was there as part
13 of an undercover operation to determine which
14 bars in that area of H Street were
15 participating in a pub crawl that we had found
16 advertised. Actually another Investigator had
17 received an anonymous tip about the
18 investigation and the pub crawl and so we
19 found advertising on-line and then decided to
20 -- there was enough evidence to go out on the
21 18th and determine if the pub crawl was indeed
22 going on and which establishments were

1 participating.

2 MS. GEPHARDT: Okay. And were you
3 familiar with or have you seen the on-line
4 advertising for this pub crawl?

5 MR. MOLLOY: I have seen it.

6 MS. GEPHARDT: Okay. The
7 Government would like to show the witness what
8 I have marked as Government's Exhibit No. 1
9 I'm showing defense counsel.

10 (Whereupon, the document was
11 marked as Government Exhibit 1 for
12 identification.)

13 CHAIRPERSON MILLER: What are you
14 showing?

15 MS. GEPHARDT: This will be the
16 on-line advertisement for the pub crawl.

17 CHAIRPERSON MILLER: Okay.

18 MR. LeFONDE: No objection except
19 as to the characterization that -- a legal
20 conclusion that this was a pub crawl.

21 CHAIRPERSON MILLER: Okay.

22 MR. LeFONDE: Thank you.

1 MS. GEPHARDT: Yes. Mr. Molloy,
2 this is Government's Exhibit No. 1. Looking
3 at the first page and the subsequent pages,
4 are you familiar with what this is?

5 MR. MOLLOY: Yes. It was the
6 event advertisement by Brightest Young Things
7 for the H Street Zombie Takeover.

8 MS. GEPHARDT: Now, is this from
9 the -- a particular website?

10 MR. MOLLOY: Yes. I don't see the
11 actual website listed on this printout, but I
12 believe it was Brightest Young Things, their
13 home website.

14 MS. GEPHARDT: Okay. And what
15 exactly again is this advertising?

16 MR. MOLLOY: This is advertising
17 the H Street Zombie Takeover, which is listed
18 or described through the advertisement as an
19 approximate list of about 10 bars all located
20 between 1100 and 1300 H Street, all offering
21 drink specials.

22 MS. GEPHARDT: And does it state a

1 specific time that this pub crawl occurred?

2 MR. MOLLOY: 7:00 p.m. to 11:00
3 p.m.

4 MS. GEPHARDT: Okay. And on the
5 advertisement, how do you know that Little
6 Miss Whiskey was one of the establishments
7 that was featured?

8 MR. MOLLOY: They are the fourth
9 bar listed under specials on the second page
10 of your exhibit. And then on the third page,
11 they are listed again with their specials they
12 were offering.

13 MS. GEPHARDT: Okay. And can you
14 tell the Board what those specials are that
15 they were offering?

16 MR. MOLLOY: They were offering \$3
17 Stroh's, \$4 DAB tallboys and then discounted
18 shots of Bulleit Bourbon.

19 MS. GEPHARDT: Okay. And when you
20 say discounted shots --

21 MR. MOLLOY: They were 100 percent
22 discounted.

1 MS. GEPHARDT: Okay. So you
2 consider that free?

3 MR. MOLLOY: Free.

4 MS. GEPHARDT: Okay. Okay. All
5 right. And so where -- excuse me, let me back
6 up for one second. Does it say on here where
7 this actual pub crawl was occurring, like from
8 what address to what address?

9 MR. MOLLOY: Well, I don't see a
10 specific ending address or ending address.
11 They do list every single address of all the
12 participating establishments. And they range
13 from the 1100 Block of H Street through the
14 1300 Block of H Street, so it covers about
15 three blocks of H Street.

16 MS. GEPHARDT: Okay. And
17 approximately how many establishments
18 participated in this, based on the research
19 that you did and the investigation that you
20 did?

21 MR. MOLLOY: I would say it has
22 been a while since the actual night, but it

1 appears from the ad that there are 1, 2, 3, 4,
2 11 establishments listed.

3 MS. GEPHARDT: Okay.

4 CHAIRPERSON MILLER: I'm sorry,
5 could you repeat that?

6 MR. MOLLOY: 11 establishments
7 listed.

8 CHAIRPERSON MILLER: 11 okay.

9 MR. MOLLOY: Sorry, the exhibit
10 was covering up the microphone.

11 CHAIRPERSON MILLER: Okay.

12 MS. GEPHARDT: And on the other --
13 the other establishments, can you tell were
14 they also offering discounted drinks or free
15 shots?

16 MR. MOLLOY: Yes. From the ad,
17 Dangerously Delicious had food specials and
18 then also a free shot of Bulleit Bourbon, Rock
19 n' Roll Hotel had beer specials also well-
20 drink specials and then a free shot of Bulleit
21 Bourbon. H & Pizza was giving -- had free
22 fountain soda and -- would you like me to go

1 through all of them?

2 MS. GEPHARDT: No.

3 MR. MOLLOY: They all have a
4 different special listed.

5 MS. GEPHARDT: Okay. No, that's
6 fine. All right. Thank you very much. The
7 Government would request that Government's
8 Exhibit 1 be admitted into evidence.

9 CHAIRPERSON MILLER: I don't have
10 it.

11 MS. GEPHARDT: I apologize.

12 CHAIRPERSON MILLER: Okay.

13 MS. GEPHARDT: Sorry about that.

14 CHAIRPERSON MILLER: Okay. I'm
15 looking in the investigative report and I
16 don't know if I was looking at the -- if it's
17 in there or not. So I'll know when I see it.

18 MS. GEPHARDT: Okay.

19 CHAIRPERSON MILLER: Okay. Now
20 that I see it, okay, Government Exhibit No. 1
21 is three pages, right?

22 MS. GEPHARDT: It is four pages.

1 Oh, excuse me, five.

2 CHAIRPERSON MILLER: I don't have
3 five. Oh, maybe I do. Yes, okay, five pages
4 good. And could you characterize it?

5 MS. GEPHARDT: This is --

6 CHAIRPERSON MILLER: Are they all
7 connected to one website?

8 MS. GEPHARDT: This is a website
9 for Brightest Young Things, which is
10 advertising this pub crawl which is called the
11 Zombie Takeover. And these are, you know,
12 links on that website advertising this event.
13 So page 2 is, you know, the specials listed
14 for these different establishments. It has
15 the name up at the top Brightest Young Things
16 on the H Street Takeover.

17 The next page has a list of more
18 establishments, it appears, and their specials
19 that they are having. And it says -- it
20 explains how it works up at the top.

21 CHAIRPERSON MILLER: Yes.

22 MS. GEPHARDT: The third page --

1 excuse me, the fourth page is just more
2 information about the pub crawl, photographs.
3 And the final page is -- it looks like more
4 photographs. And then it shows at the bottom
5 more information about this -- it looks like
6 BYT Productions. I'm not exactly sure what
7 that is.

8 MR. MOLLOY: BYT?

9 MS. GEPHARDT: Yes.

10 MR. MOLLOY: If I can interject,
11 it stands for Brightest Young Things.

12 MS. GEPHARDT: Duh, okay.

13 CHAIRPERSON MILLER: So this is
14 from the Brightest Young Things' website?

15 MS. GEPHARDT: Yes. And it says
16 BYT Productions at the bottom.

17 CHAIRPERSON MILLER: Right. Okay.

18 MS. GEPHARDT: And it talks about
19 other -- it looks like they have other events,
20 Embassy of France, DC Halloween Party, New
21 York City Halloween Party.

22 CHAIRPERSON MILLER: Does it have

1 a date on it?

2 MS. GEPHARDT: Yes, on the very
3 first page.

4 CHAIRPERSON MILLER: Um-hum.

5 MS. GEPHARDT: There is October
6 18, 2012 from 7:00 to 11:00 p.m.

7 CHAIRPERSON MILLER: I mean, this
8 is on a website, right?

9 MS. GEPHARDT: Yes. It's on
10 bytproductions.com.

11 CHAIRPERSON MILLER: Right.

12 MS. GEPHARDT: It looks like that,
13 the last page.

14 CHAIRPERSON MILLER: Okay. I was
15 just wondering if there was a date that this
16 was taken from the website.

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

19 CHAIRPERSON MILLER: Yes.

20 MS. GEPHARDT: When it was pulled
21 from the website?

22 CHAIRPERSON MILLER: Yes, when it

1 was up.

2 MEMBER ALBERTI: Maybe the witness
3 can answer that.

4 MS. GEPHARDT: Yes, okay.

5 MEMBER ALBERTI: I know it's a
6 novel idea, but --

7 CHAIRPERSON MILLER: So --

8 MS. GEPHARDT: The lawyer can't
9 testify? What are you talking about.

10 CHAIRPERSON MILLER: Are you
11 moving it in --

12 MR. LeFONDE: I was about to bring
13 that up.

14 CHAIRPERSON MILLER: -- at this
15 point though? Are you moving it in?

16 MS. GEPHARDT: I'm moving it in,
17 but --

18 CHAIRPERSON MILLER: Okay.

19 MS. GEPHARDT: -- can you please
20 tell us how do you know that this -- when this
21 was pulled off the website?

22 MR. MOLLOY: It was found on the

1 website the Wednesday before, so October 17th,
2 and it was printed off, at that time. I
3 didn't personally do the printing.

4 Investigator Vincent Parker who wrote this
5 case was in charge of the investigation and he
6 found it, but his cubical was directly behind
7 mine and we discussed the investigation on the
8 17th and then also participated in it together
9 on the 18th.

10 MS. GEPHARDT: Okay.

11 MR. MOLLOY: So that's how I know,
12 even though I didn't do it personally.

13 MS. GEPHARDT: Okay.

14 CHAIRPERSON MILLER: Okay. You
15 had no objection. Is that correct?

16 MR. LeFONDE: I do have two
17 objections.

18 CHAIRPERSON MILLER: You do have
19 objections? Okay.

20 MR. LeFONDE: The first is that I
21 now understand from the Government's pro-
22 offer, I won't characterize it as testimony,

1 that this was an exhibit taken from the
2 investigative report attached to the Notice of
3 Show Cause Hearing that we received.

4 It was not, in fact, attached to
5 the investigative report, though it is
6 referenced as if it were. Looking on page 1
7 of the investigative report, it says promoting
8 along the H Street Takeover pub crawl, Exhibit
9 1. It appears to be incorporated into the
10 Government's purported report, but not served
11 upon the licensee until this moment.

12 So I would now assert that this is
13 a further violation of 25-832 in that they
14 haven't even provided us with a complete
15 investigative report at any time up to this
16 point. And now we are here over a year later.

17 My second objection is hearsay as
18 to the truth of the matter asserted anywhere
19 in this document. I believe it is appropriate
20 for the witness to offer it for cause for him
21 during his investigation, but insofar as it
22 offers that any of these things actually

1 happened in the document. It is an out-
2 hearing statement offered for the truth of the
3 matter asserted and the auditor is not
4 present, as the Government has amply stated.
5 They have had a great deal of time to prepare
6 for this hearing, but have not, apparently,
7 subpoenaed anyone who could speak to who wrote
8 this or the truth of the matter asserted
9 therein.

10 In that regard, for the first due
11 process issue not having provided it to us,
12 though it be an integral part of the
13 investigative report and second that there is
14 no one here to cross-examine as to the truth
15 of the matter asserted anywhere herein. And
16 it does seem anything beyond him to saying
17 that I -- that he suspected a violation
18 because of what he read, I think would be
19 inappropriate as evidence.

20 MS. GEPHARDT: Madam Chair, first
21 of all, the fact of whether this documentation
22 was received with the investigative report,

1 there is nothing to suggest that it wasn't.

2 I mean, there is, you know --

3 MR. LeFONDE: We have -- this is
4 our Notice of the Show Cause. That's the
5 entire thing here.

6 MS. GEPHARDT: Okay.

7 MR. LeFONDE: And we have never
8 seen any exhibits up to this point. And given
9 the Investigator's testimony that this is an
10 integral part of this report, referred to as
11 exhibits, it seems that the required notice
12 under 25-832 is further deficient and
13 egregiously so in this instance.

14 MS. GEPHARDT: Furthermore, if
15 there were attachments that were noted, even
16 if he hadn't received it, which there is no
17 proof that he hadn't, other than what he is
18 telling you, if there is attachments, then he
19 can say well, hey, I see there is attachments.
20 He can call ABRA and say I didn't receive the
21 attachments. But obviously that wasn't done
22 in this case.

1 MR. LeFONDE: That's a profound
2 suggestion that the licensee need prod the
3 District into compliance with the laws it
4 seeks to enforce. It seems that's something
5 we have to do quite a bit here, but that is
6 not my obligation in this instance.

7 We did not receive these. I have
8 the complete copy, Notice of Show Cause, here
9 as I received it. As a member of the Bar of
10 the District of Columbia I represent this is
11 what I received and it's not here. We have
12 never seen this document before. And it was
13 not attached to the accusatory document which
14 was required to be served within 90 days under
15 the Code.

16 MEMBER ALBERTI: Madam Chair?

17 CHAIRPERSON MILLER: Yes?

18 MEMBER ALBERTI: May I say
19 something?

20 CHAIRPERSON MILLER: Sure, yes.

21 MEMBER ALBERTI: I think that we
22 are glossing over the fact -- we are glossing

1 over whether or not the licensee saw the
2 complete report. And we don't -- since he
3 hasn't spoken, he hasn't been on the stand to
4 testify. And Mr. LeFonde has not made
5 representations to that, there is still a
6 possibility that the licensee saw the complete
7 report.

8 MR. LeFONDE: Can we get a
9 representation from the licensee, at this --

10 CHAIRPERSON MILLER: Can I --

11 MR. LeFONDE: I know we are kind
12 of getting out of --

13 MEMBER ALBERTI: No.

14 MR. LeFONDE: We will save it.

15 MEMBER ALBERTI: I'll leave it up
16 to the Chair.

17 MR. LeFONDE: We will save it for
18 his testimony.

19 CHAIRPERSON MILLER: Well, okay.
20 So I have just been reviewing --

21 MEMBER ALBERTI: Yes.

22 CHAIRPERSON MILLER: -- the

1 investigative report that the Board has, which
2 should be the same as what everybody has. But
3 it lists the exhibits attached. It doesn't
4 just say attachments. It lists 1, 2, 3, 4, 5,
5 6 attachments. Does your copy list those
6 attachments?

7 MR. LeFONDE: They are listed
8 there, but they are not attached.

9 CHAIRPERSON MILLER: Okay.

10 MR. LeFONDE: That's the problem.

11 CHAIRPERSON MILLER: All right.

12 MR. LeFONDE: And I make a pro-
13 offer to the Board that my client is going to
14 represent that he had never -- what he
15 received was this, which is without
16 attachments.

17 CHAIRPERSON MILLER: Okay.

18 MR. LeFONDE: So we can get around
19 to his sworn testimony in that regard, but I
20 think we have a serious procedural infirmity
21 in that regard.

22 CHAIRPERSON MILLER: Okay. I tend

1 to agree with Ms. Gephardt on this one,
2 because it actually lists documents that
3 should have been attached. And so since it
4 did that, you were actually on notice that
5 those should have been attached to the report.
6 And if you didn't take any steps to get -- to
7 alert the Government that you didn't have
8 them, I don't think that rises to the level of
9 our --

10 MR. LeFONDE: So the untimely
11 notice was sufficient? Thank you.

12 CHAIRPERSON MILLER: I wouldn't
13 characterize it that way.

14 MEMBER JONES: Do you want to--

15 CHAIRPERSON MILLER: Yes?

16 MEMBER JONES: -- kind of -- I
17 believe that he is making some sarcastic
18 remarks regarding the --

19 MEMBER SILVERSTEIN: Contentious
20 actually.

21 MEMBER JONES: -- items. And,
22 Madam Chair, if you don't choose to address

1 him on it, then I think the Board would like
2 to.

3 CHAIRPERSON MILLER: Okay. I'm
4 not exactly -- I'm giving him the benefit of
5 the doubt. I guess I'm not reading it that
6 way and interpreting it as him trying to
7 strengthen his 832 argument, which we are
8 holding that decision in abeyance right now.
9 So I don't have anything more that I want to
10 say.

11 MR. LeFONDE: Is Mr. -- if I may
12 address Mr. Silverstein's comment, I would
13 like --

14 MEMBER ALBERTI: Wait, wait. I
15 think -- point of order, Madam Chair. You
16 know, we don't really have a question to
17 either party. We have one party just
18 interjecting comments. I mean, I think we
19 need some order to these hearings.

20 CHAIRPERSON MILLER: Yes.

21 MEMBER ALBERTI: And we should
22 have people speak when they are directed, when

1 questions are directed to them or requests for
2 them to speak is made.

3 MS. GEPHARDT: I agree. This is
4 not time for argument. This is time to --

5 CHAIRPERSON MILLER: Okay. Let's
6 all move on.

7 MS. GEPHARDT: -- testify.

8 CHAIRPERSON MILLER: And, Ms.
9 Gephardt, I would like for you, if you haven't
10 done so already, which I think you already
11 have, to give Mr. LeFonde a copy of all the
12 exhibits that were attached to the --

13 MS. GEPHARDT: Well, I can give
14 him all the exhibits now.

15 CHAIRPERSON MILLER: Okay.

16 MS. GEPHARDT: I was not aware he
17 didn't have them.

18 CHAIRPERSON MILLER: So there is
19 an objection pending to your motion to move in
20 the documents. And I'm going to deny that and
21 accept the documents into evidence as
22 Government's Exhibit No. 1.

1 MS. GEPHARDT: Okay.

2 CHAIRPERSON MILLER: Finding that
3 they did put him on notice that there were
4 attachments.

5 MS. GEPHARDT: Okay.

6 MR. LeFONDE: There is a second
7 objection as well.

8 CHAIRPERSON MILLER: Okay. The
9 second objection goes to hearsay, I believe.
10 And the Board is not -- does not have to
11 adhere strictly to those Rules of Evidence,
12 but we will take into consideration your
13 arguments about that and that will affect the
14 weight that we give those documents.

15 MR. LeFONDE: Thank you, Ms.
16 Chair.

17 MS. GEPHARDT: Just to --

18 CHAIRPERSON MILLER: Okay.

19 MS. GEPHARDT: -- respond. I
20 hadn't had a chance to respond to his hearsay
21 argument. Just briefly, Madam Chair, your
22 comment about hearsay I would second that,

1 except I would also note that the witness just
2 testified that he was present when these were
3 printed out and so he saw them printed out.
4 He was there he said. The fellow
5 Investigator's computer was right behind him.

6 So while it is hearsay, he does
7 have knowledge of it. This is not -- he is
8 not a cold witness.

9 CHAIRPERSON MILLER: I think Mr.
10 LeFonde's argument was to whether what was
11 written is true or something.

12 MS. GEPHARDT: Okay.

13 CHAIRPERSON MILLER: And he didn't
14 write the words on there.

15 MS. GEPHARDT: Agreed.

16 CHAIRPERSON MILLER: And so we
17 recognize that. And you may be offering it
18 for a different reason that he read it and
19 therefore --

20 MS. GEPHARDT: Okay.

21 CHAIRPERSON MILLER: -- you know,
22 he acted in a certain way or believed a

1 certain thing.

2 MS. GEPHARDT: Okay.

3 MR. LeFONDE: I specifically did
4 not make that objection. I just stated that
5 that was not my objection.

6 CHAIRPERSON MILLER: What? You --

7 MR. LeFONDE: I just stated that
8 that was not my objection, that he could rely
9 upon printed paper --

10 CHAIRPERSON MILLER: Okay.

11 MR. LeFONDE: -- for whatever
12 actions he formed.

13 CHAIRPERSON MILLER: Right. Your
14 objection is that we not look at it for the
15 truth of the matter asserted.

16 MR. LeFONDE: Thank you.

17 CHAIRPERSON MILLER: Okay.

18 MS. GEPHARDT: Okay. All right.

19 CHAIRPERSON MILLER: So
20 Government's Exhibit No. 1 is admitted.

21 MS. GEPHARDT: Okay. Thank you.

22 (Whereupon, the document marked as

1 Government Exhibit 1 was received
2 in evidence.)

3 CHAIRPERSON MILLER: All right.

4 MS. GEPHARDT: Mr. Molloy, are you
5 familiar -- when you were doing your research
6 on this case and doing your investigation, did
7 you at all have to determine what the
8 definition of a pub crawl is in the District
9 of Columbia?

10 MR. MOLLOY: Yes.

11 MR. LeFONDE: Objection as to any
12 testimony as to a legal conclusion.

13 CHAIRPERSON MILLER: That was --

14 MR. LeFONDE: This is a fact
15 witness and if he has fact statements, I think
16 that's appropriate, but if he is going to
17 opine his legal opinion, I think that's
18 outside the scope of what a fact witness
19 should testify to. And at the moment, the
20 Government is eliciting a legal conclusion
21 from the witness.

22 MS. GEPHARDT: I'm not eliciting a

1 legal conclusion. I'm going to be showing the
2 witness the actual DCMR Code written on a
3 piece of paper. So he is going to be reading
4 the Code exactly as he sees it.

5 MR. LeFONDE: That's not
6 important.

7 MS. GEPHARDT: He is not making a
8 legal conclusion.

9 MR. LeFONDE: That's not
10 important.

11 CHAIRPERSON MILLER: Okay. I just
12 want to say that as an Investigator,
13 Investigators have to make some assessments
14 with respect to whether businesses are
15 complying with the law, so I think that there
16 is some leeway for them to give their
17 understanding of the law, so it's overruled.
18 Okay.

19 MS. GEPHARDT: Okay. The
20 Government is now showing the witness what has
21 been marked as Government Exhibit No. 2 and I
22 have copies for the Board.

1 (Whereupon, the document was
2 marked as Government Exhibit 2 for
3 identification.)

4 MR. LeFONDE: That's why they
5 dismissed this.

6 CHAIRPERSON MILLER: There's an
7 exhibit.

8 MS. GEPHARDT: All right. All
9 right. Mr. Molloy, Government's Exhibit No.
10 2, are you able to explain what this is?

11 MR. MOLLOY: Yes. It's a page
12 from the DCMR, I believe Title 23, Section
13 712.1.

14 MS. GEPHARDT: Okay. And what --
15 how does DCMR's 23 -- Section 23-712.1 define
16 a pub crawl?

17 MR. LeFONDE: Same objection.

18 CHAIRPERSON MILLER: Overruled.

19 MR. MOLLOY: For the purposes of
20 this section, a pub crawl shall be defined as
21 an organized group of establishments within
22 walking distance which offer discounted

1 alcoholic drinks during a specific time
2 period.

3 MS. GEPHARDT: Okay. Thank you.
4 Let me see here. When you were out on H
5 Street that night visiting establishments,
6 were you aware of how a pub crawl was defined
7 in the DC Code?

8 MR. MOLLOY: Yes, I was. Before
9 we even left the office as part of our
10 preparation for the investigation, we looked
11 at the definition of pub crawl. We also
12 looked at all the establishments that were
13 listed on that promotional material we had
14 found and went through ABRA records to
15 determine which ones had voluntary agreements,
16 well, settlement agreements is what they are
17 called now, which ones had settlement
18 agreements that forbade them from
19 participating in a pub crawl, because that's
20 what the complaint said that several
21 establishments with settlement agreements
22 would be participating in. We needed to

1 verify that information before we decided to
2 go out and start our investigation.

3 MS. GEPHARDT: Okay. And when you
4 started your investigation out in the field,
5 when you got to H Street, where did you go
6 first?

7 MR. MOLLOY: There was a check-in
8 point located on H Street. I don't remember
9 the exact address offhand actually. It's
10 probably listed on the Government's Exhibit 1,
11 but there was a check-in point. It was at 906
12 H Street, N.E.

13 At approximately 7:30, I arrived
14 at the check-in point with another
15 investigator, Brian Owens. We paid for our
16 participation ticket, which got us a
17 wristband, so that all the establishments
18 would know we were part of the zombie bar
19 crawl and it also came with a booklet of
20 coupons to present at each establishment, so
21 that we could get whatever discount or special
22 they were offering.

1 And then they also provided us
2 with zombie makeup, so that we could blend in
3 with the bar crawl.

4 MS. GEPHARDT: Okay. And the
5 coupon book you discussed, is that -- was
6 there coupons in there for each establishment
7 of the drink specials?

8 MR. MOLLOY: Yes.

9 MS. GEPHARDT: And were there
10 coupons for Little Miss Whiskey's Golden
11 Dollar?

12 MR. MOLLOY: Yes.

13 MS. GEPHARDT: Okay. And do you
14 remember what those coupons were for? I mean
15 what exactly specifically they were for?

16 MR. MOLLOY: It listed the same
17 specials that were listed on the promotional
18 material.

19 MS. GEPHARDT: Okay. Okay. Did
20 you go -- was Little Miss Whiskey's the first
21 establishment you entered or did you go to
22 others before them?

1 MR. MOLLOY: We went to others
2 before that. We didn't arrive at Little Miss
3 Whiskey's until, approximately, 9:30.

4 MS. GEPHARDT: Okay. What time
5 did you initially, just to back up for a
6 second, arrive in the area to begin the actual
7 pub crawl to do your investigation?

8 MR. MOLLOY: We arrived at the
9 check-in point where we purchased our tickets
10 at, approximately, 7:30.

11 MS. GEPHARDT: Okay. And you --
12 again, what time did you go to Little Miss
13 Whiskey's?

14 MR. MOLLOY: 9:30.

15 MS. GEPHARDT: Okay. When you --
16 what did you do when you entered the bar,
17 Little Miss Whiskey's?

18 MR. MOLLOY: We proceeded to the
19 bar, at which point we presented our coupon
20 ticket to the bartender and we ordered the \$3
21 Stroh's that were on special and requested our
22 free shot of Bulleit Bourbon. The bartender

1 served us the drinks. We paid for them. At
2 which point we moved away from the bar to an
3 area where we wouldn't draw attention to
4 ourselves and just left our drinks there and
5 then walked outside.

6 Immediately upon leaving the
7 establishment, we communicated to the other
8 Investigators who were waiting to notify
9 establishments of the time we entered the
10 special -- if we got the special and then the
11 time we left, so that they could keep a record
12 of it.

13 MS. GEPHARDT: Okay. And when you
14 first got to Little Miss Whiskey's, was there
15 somebody checking IDs at the door or how did
16 you get in? Did you just --

17 MR. MOLLOY: Oh, yeah, we had to
18 show our IDs and the wristband.

19 MS. GEPHARDT: Okay. Do you know
20 if the other establishments that were
21 participating in the pub crawl, were they
22 within proximity of Little Miss Whiskey's on

1 the same street or in the same block?

2 MR. MOLLOY: They were all on H
3 Street between 1100 -- the 1100 Block and the
4 1300 Block, all within easy walking distance.
5 And that entire time we were out, we never
6 stepped foot on a car or public
7 transportation. Myself and the other
8 Investigator walked to every single bar
9 without any physical challenges, easy walking
10 distance.

11 MS. GEPHARDT: Okay. And did you
12 visit every establishment that was on that
13 list that night?

14 MR. MOLLOY: Yes.

15 MS. GEPHARDT: Okay. When you
16 were in Little Miss Whiskey's, did you --

17 MR. MOLLOY: Oh, can I take that--

18 MS. GEPHARDT: Yes.

19 MR. MOLLOY: Every establishment
20 that had a voluntary agreement prohibiting pub
21 crawls. There were, I believe, one or two
22 that didn't -- either didn't have a voluntary

1 agreement or didn't have a clause in the
2 voluntary agreement.

3 So we only went to the ones that
4 we knew, if we found them participating, would
5 be violating their voluntary agreement.

6 MS. GEPHARDT: So did you know if
7 Little Miss Whiskey's had a voluntary
8 agreement?

9 MR. MOLLOY: They do and we had
10 looked at it ahead of time.

11 MS. GEPHARDT: Okay. I would like
12 to show the witness what I have marked as
13 Government Exhibit 3, which is the voluntary
14 agreement. I believe counsel has a copy.

15 MR. LeFONDE: Thank you.

16 (Whereupon, the document was
17 marked as Government Exhibit 3 for
18 identification.)

19 MS. GEPHARDT: Okay. Mr. Molloy,
20 this is Government Exhibit No. 3. Do you
21 recognize this document?

22 MR. MOLLOY: Yes. It's the

1 voluntary agreement for Little Miss Whiskey's.

2 MS. GEPHARDT: And do you know
3 what date this agreement was effective?

4 MR. MOLLOY: It says it was made
5 on the 16th of July 2008.

6 MS. GEPHARDT: And between -- what
7 does it say, between?

8 MR. MOLLOY: Oh, between Mark
9 Thorp and Kelly Sheeran, Little Miss Whiskey's
10 Golden Dollar and Advisory Neighborhood
11 Commission 6A.

12 MS. GEPHARDT: Okay.

13 MR. LeFONDE: We will stipulate
14 that this is the --

15 CHAIRPERSON MILLER: I'm sorry?

16 MR. LeFONDE: We will stipulate
17 that this is the voluntary agreement.

18 CHAIRPERSON MILLER: Okay. So
19 there is no objection to this being moved into
20 evidence. Is that right?

21 MR. LeFONDE: No, no. And this is
22 part of the Agency's record, which you may

1 take notice anyway.

2 CHAIRPERSON MILLER: Right.

3 MR. LeFONDE: I can't have any
4 objection.

5 CHAIRPERSON MILLER: Okay.

6 MR. LeFONDE: And this appears to
7 be the right document. So we can move along.

8 CHAIRPERSON MILLER: Are you ready
9 to move it in or do --

10 MS. GEPHARDT: Yes, I would
11 request that we move this into evidence.

12 CHAIRPERSON MILLER: Okay.

13 MR. LeFONDE: No objection.

14 CHAIRPERSON MILLER: Then it is
15 admitted, Exhibit No. 3.

16 (Whereupon, the document marked as
17 Government Exhibit 3 was received
18 in evidence.)

19 MS. GEPHARDT: All right. Mr.
20 Molloy, you mentioned that you reviewed the
21 establishments that had voluntary agreements.
22 Did you -- was this one of the agreements that

1 you reviewed?

2 MR. MOLLOY: Yes, it was.

3 MS. GEPHARDT: And what section
4 did you review to see whether pub crawls were
5 allowed or not?

6 MR. MOLLOY: We went to Section 3,
7 which is business operations and practices.
8 And under -- after letter D it says "Applicant
9 agrees not to promote or participate in bar or
10 pub crawls or any other event of this nature."

11 MR. LeFONDE: Again, we will
12 stipulate to that fact and we can move along.

13 MS. GEPHARDT: Okay. So based on
14 that language, you were -- that was one of the
15 reasons you decided to go visit this
16 establishment?

17 MR. MOLLOY: Yes.

18 MS. GEPHARDT: When you found out
19 there was a pub crawl. Okay.

20 Just to go back for one second,
21 when you went to Little Miss Whiskey's and you
22 went up to the bar, did you pay full price for

1 the drink?

2 MR. MOLLOY: We paid \$3 for the
3 Stroh's, which was the advertised price as
4 part of the zombie bar crawl. And then we
5 paid nothing for the shots of Bulleit Bourbon.
6 They were just given to us once -- when we
7 asked for them.

8 MS. GEPHARDT: Okay. But in terms
9 of what the full price of a Stroh's would be,
10 were you -- did you know what that was or --

11 MR. MOLLOY: Offhand I don't
12 remember seeing it listed anywhere.

13 MS. GEPHARDT: Okay. Okay. Let's
14 see, did you speak to anybody at the
15 establishment that evening?

16 MR. MOLLOY: The bartender.

17 MS. GEPHARDT: Just the bartender.

18 MR. MOLLOY: Yes.

19 MS. GEPHARDT: Okay. And what
20 kind of -- did you have -- was there anything
21 that the bartender said to you or you said to
22 them about the pub crawl?

1 MR. MOLLOY: Yes, we made a point
2 at every location to ask the bartender how the
3 bar crawl was going? Did they expect a large
4 crowd? How many zombies had they seen? Small
5 talk in that regard just to make sure that
6 they were aware that a zombie bar crawl was
7 going on and they were participating in it.
8 And that we ordered the drinks specifically
9 that were on the bar crawl special and pointed
10 out that those were the drinks we had the
11 coupon for and showed the coupon and our
12 wristbands.

13 MS. GEPHARDT: Okay.

14 MR. MOLLOY: And at no point was
15 anyone ever confused at Little Miss Whiskey's
16 or any other location.

17 CHAIRPERSON MILLER: At no point
18 was anyone what?

19 MEMBER ALBERTI: Mr. Molloy, I --

20 MR. MOLLOY: I'm sorry.

21 MEMBER ALBERTI: -- am sorry I
22 didn't hear all of that.

1 CHAIRPERSON MILLER: Yes, I missed
2 that, too.

3 MR. MOLLOY: Oh, at the end I said
4 and at no point did we ever run into an
5 employer or bartender at Little Miss Whiskey's
6 or any other establishment that was confused
7 about our attire as zombies or the fact that
8 we had coupons for their establishment or the
9 wristbands. They all seemed aware of it.

10 CHAIRPERSON MILLER: Okay. Thank
11 you.

12 MS. GEPHARDT: Do you know if
13 anybody conducted a regulatory inspection that
14 evening?

15 MR. MOLLOY: Yes. After
16 Investigator Owens and I were done stopping in
17 at each establishment that we went to that
18 night, we met with Investigator Vincent Parker
19 and Jose Mackenzie, gave them our wristbands,
20 gave them our -- what was left of our coupon
21 books as evidence and then they proceeded to
22 go down the street just as we had, except, at

1 this point, they identified themselves and
2 notified of the VA violations or voluntary
3 agreement violations and performed regulatory
4 inspections.

5 MS. GEPHARDT: Do you know if this
6 establishment was put on notice that there had
7 been a violation?

8 MR. LeFONDE: Objection as to a
9 legal conclusion. It's asking if they -- she
10 is asking or trying to elicit from the fact
11 witness whether there was legally sufficient
12 notice to this licensee and that's
13 inappropriate.

14 MS. GEPHARDT: All I'm asking is
15 if they --

16 MR. LeFONDE: He can state factual
17 facts as to what happened. He cannot make --
18 form a legal conclusion as to whether notice
19 was given to the licensee with regards to her
20 prior argument.

21 CHAIRPERSON MILLER: What did you
22 ask him?

1 MS. GEPHARDT: My question simply
2 was do you know if somebody dropped off a
3 regulatory inspection piece of paper that is
4 given to licensees noting that there had been
5 a violation.

6 CHAIRPERSON MILLER: Okay.

7 MR. LeFONDE: It's perfectly --
8 it's a perfect reasonable proper question,
9 that was not what the question was.

10 CHAIRPERSON MILLER: Okay. Let's
11 go forward with that question.

12 MR. MOLLOY: When I left
13 Investigator Parker, I know that it was his
14 intention to go down the street and notify all
15 these establishments and perform regulatory
16 inspections.

17 MR. LeFONDE: Objection.
18 Foundation.

19 MR. MOLLOY: I --

20 CHAIRPERSON MILLER: Let him
21 continue.

22 MR. LeFONDE: He is now testifying

1 as to somebody else's mental impression.

2 CHAIRPERSON MILLER: I think we
3 need to hear him finish his sentence. Do you
4 want to start again?

5 MR. MOLLOY: Yes.

6 CHAIRPERSON MILLER: And -- okay.

7 MR. MOLLOY: When I met with
8 Investigator Parker, I note that our
9 conversation -- well, he expressed to me that
10 he was going to go down the street, notifying
11 all the establishments of the voluntary
12 agreement violations and perform regulatory
13 inspections.

14 I did not go down the street with
15 him and walk into each establishment. All I
16 know is what he told me and what we had
17 planned that he would be doing after I left.
18 I was in zombie attire and was -- had been
19 undercover this whole time, so I left to go
20 clean up and get normal work attire.

21 MR. LeFONDE: Objection as to
22 hearsay. He is offering the statements of

1 Investigator Parker, who certainly could be
2 present here today, but he apparently is not,
3 as to what Investigator Parker did.

4 He was not -- has already
5 testified he was not present, he did not
6 witness these things. And simply he is now
7 testifying as to what Investigator Parker told
8 him he was going to do, offered for the truth
9 of the matter asserted that he did it, and
10 that is wholly inappropriate, particularly
11 given, that this is the Government's own
12 Investigator Parker who could be testifying
13 directly as to what he did.

14 Apparently the Government is not
15 prepared to do that today.

16 MS. GEPHARDT: Again, hearsay is
17 allowed in this situation. He spoke to what
18 his conversation was with Mr. Parker. He is
19 here today to testify to the Board. This is
20 the conversation I had with Mr. Parker. Here
21 is what he told me.

22 MR. LeFONDE: And that's

1 inappropriate.

2 CHAIRPERSON MILLER: All right.

3 MR. LeFONDE: Particularly given--

4 CHAIRPERSON MILLER: It's

5 overruled.

6 MR. LeFONDE: -- it's the

7 Government's witness.

8 CHAIRPERSON MILLER: It's

9 overruled for the, you know, standing reason
10 that we don't adhere strictly to the Rules of
11 Evidence and we will give it the weight that
12 is warranted. Okay.

13 MS. GEPHARDT: Okay. That's all
14 the questions I have for this witness. Thank
15 you.

16 CHAIRPERSON MILLER: Thank you.

17 Cross?

18 MR. LeFONDE: Thank you.

19 CROSS-EXAMINATION

20 MR. LeFONDE: Mr. Molloy, who is
21 the -- based on your investigation, who was
22 the organizer of this event?

1 MR. MOLLOY: Brightest Young
2 Things.

3 MR. LeFONDE: And in what regard
4 other than examining their website, what other
5 steps did you take to investigate the nature
6 of the event being conducted by Brightest
7 Young Things?

8 MR. MOLLOY: We went to the event
9 check-in plans which was run by Brightest
10 Young Things and I spoke with the Brightest
11 Young Things' employees there.

12 MR. LeFONDE: Where is Brightest
13 Young Things located?

14 MR. MOLLOY: Their headquarters?
15 I don't know. I can tell you where their
16 check-in point was on H Street.

17 MR. LeFONDE: You never went to
18 their headquarters?

19 MR. MOLLOY: No.

20 MR. LeFONDE: Are you aware of any
21 other Investigator that went to their
22 headquarters?

1 MR. MOLLOY: No.

2 MS. GEPHARDT: But that's
3 knowledge he wouldn't have.

4 MR. LeFONDE: I asked him his
5 knowledge.

6 MS. GEPHARDT: But how would he --

7 MR. LeFONDE: I asked him --

8 MS. GEPHARDT: -- know?

9 MR. LeFONDE: -- if he knew. And
10 that's appropriate. Are you aware of any
11 other --

12 MR. MOLLOY: No.

13 MR. LeFONDE: -- Investigator that
14 went to -- did you at any time review the
15 business records of Brightest Young Things
16 with regards to this event?

17 MR. MOLLOY: No.

18 MR. LeFONDE: Are you aware of any
19 other Investigator which reviewed the business
20 records of Brightest Young Things with regards
21 to this event?

22 MR. MOLLOY: Other than to make

1 sure Brightest Young Things doesn't have a
2 liquor license, no.

3 MR. LeFONDE: Okay. Did you
4 review any records regarding the ticket sales
5 of this event?

6 MR. MOLLOY: No paper records. We
7 discussed how many tickets were -- had been
8 purchased when we purchased ours with the
9 Brightest Young Things' coordinators.

10 MR. LeFONDE: But there -- so you
11 discussed it with whoever was present at the
12 check-in? Do I understand?

13 MR. MOLLOY: Correct.

14 MR. LeFONDE: Okay. But at no
15 time you went to examine their records --

16 MR. MOLLOY: No.

17 MR. LeFONDE: -- to find out how
18 many people?

19 MR. MOLLOY: No.

20 MR. LeFONDE: Did there come a
21 time that you learned how many persons were
22 involved in this? How many participants,

1 individual ticket buyers there were at this
2 event?

3 MR. MOLLOY: The largest number I
4 heard was an estimated 50 to 60 during the
5 time of my conversation.

6 MR. LeFONDE: You made a
7 distinction between -- with regards to the
8 coupon book. You said a discount or special.
9 Could you explain the distinction there that
10 you were trying to make?

11 MR. MOLLOY: I think I used the
12 words interchangeably. I don't believe there
13 is, in this case, much of a distinction.

14 MR. LeFONDE: What was your
15 understanding with regards to a prohibition of
16 specials in the pub crawl statutory language?

17 MR. MOLLOY: It says -- it is
18 defined -- the sentence I read discusses
19 offering a discounted alcoholic drink. So if
20 your discount was not for an alcoholic drink,
21 then it wouldn't be involved. It wouldn't
22 qualify for this definition of pub crawl.

1 MR. LeFONDE: You stated that you
2 obtained a coupon book from the event
3 organizers?

4 MR. MOLLOY: That is correct.

5 MR. LeFONDE: And you said that
6 for the Little Miss Whiskey's, in particular,
7 there were specials listed. Those were the
8 words that you used. What did you mean by
9 that?

10 MR. MOLLOY: The coupon for Little
11 Miss Whiskey's it listed the \$3 Stroh's, the
12 \$4 DAB tallboys and it also, I believe, listed
13 the -- one free shot of Bulleit Bourbon.

14 MR. LeFONDE: And you stated you
15 had no information with regards to what the
16 regular prices were for Little Miss Whiskey's
17 for those items?

18 MR. MOLLOY: I don't for the
19 Stroh's and DAB tallboys. I didn't see any
20 prices listed at the time.

21 MR. LeFONDE: In the course of
22 your investigation, you went to the Rock 'n

1 Roll Hotel. Is that correct?

2 MR. MOLLOY: Yes.

3 MR. LeFONDE: And did you
4 ascertain what the regular prices for those
5 drinks were?

6 MR. MOLLOY: No. At the Rock 'n
7 Roll Hotel, I do not recall ascertaining at
8 the time what the regular price for their
9 other drinks were, because the Rock 'n Roll
10 Hotel was also offering one free shot of
11 Bulleit Bourbon.

12 MR. LeFONDE: Did you ascertain
13 what the ordinary price of Bulleit Bourbon
14 would be?

15 MR. MOLLOY: Yes. At any
16 establishment where we got one free shot, we
17 also asked could we have another free shot and
18 they said something to the effect of not for
19 free or only if you pay for it. That was a
20 routine practice when the special was a free
21 shot.

22 MR. LeFONDE: And what was the

1 price of that?

2 MR. MOLLOY: Oh, we never got a
3 number because as long as it wasn't free, then
4 there was a discount implied for the first
5 shot.

6 MR. LeFONDE: In any of these
7 establishments in the course of your
8 investigation of this event, did you ascertain
9 what those prices were?

10 MR. MOLLOY: No, we didn't get any
11 hard numbers.

12 MR. LeFONDE: At H & Pizza there
13 was a, you testified, special for a free
14 fountain soda.

15 MR. MOLLOY: Yes, according to the
16 advertisement.

17 MR. LeFONDE: Does this refer to
18 an alcoholic drink?

19 MR. MOLLOY: It does not.

20 MR. LeFONDE: You stated you
21 obtained a coupon book and that was turned
22 over to Investigator Parker for evidence.

1 Where is it today?

2 MR. MOLLOY: I am unaware.

3 MR. LeFONDE: Where is
4 Investigator Parker today?

5 MR. MOLLOY: He works for DCRA
6 now.

7 MR. LeFONDE: Did you have any
8 discussions with Investigator Parker with
9 regards to your appearance here today?

10 MR. MOLLOY: No, I did not.

11 MR. LeFONDE: You stated that you
12 were able to walk through the 1100 and 1300
13 Block of H Street without physical challenges.
14 Is that correct, your testimony?

15 MR. MOLLOY: I did say that.

16 MR. LeFONDE: Was there, in fact,
17 any barricades and construction on the
18 sidewalk through those blocks at that time?

19 MR. MOLLOY: Not that I recall.

20 MR. LeFONDE: Okay. Did you
21 observe any person serving at Little Miss
22 Whiskey's with any document? Did you observe

1 any person serving Little Miss Whiskey's with
2 any document?

3 MR. MOLLOY: I did not.

4 MEMBER ALBERTI: I'm sorry, any --

5 CHAIRPERSON MILLER: What?

6 MEMBER ALBERTI: Was any what?

7 MR. LeFONDE: Any document. There
8 was a testimony that he believed Vincent
9 Parker had gone back to the establishments to
10 conduct regulatory inspection.

11 MEMBER ALBERTI: Okay.

12 CHAIRPERSON MILLER: Oh.

13 MR. LeFONDE: And that there was--
14 they were served with those notices. And I am
15 just trying to see if there is any foundation
16 for a personal recollection that that he did--
17 that that happened.

18 CHAIRPERSON MILLER: So what was
19 the question?

20 MR. LeFONDE: Did he personally
21 observe any person serve this --

22 CHAIRPERSON MILLER: Okay. Thank

1 you.

2 MR. LeFONDE: -- licensee with any
3 documents.

4 CHAIRPERSON MILLER: Okay.

5 MR. LeFONDE: Did you write the
6 regulatory report? Sorry, the investigatory
7 report in this case?

8 MR. MOLLOY: I did not.

9 MR. LeFONDE: Did you assist in
10 the drafting of this?

11 MR. MOLLOY: Yes.

12 MR. LeFONDE: Okay. In what
13 regard?

14 MR. MOLLOY: Professional
15 consultation.

16 MR. LeFONDE: And what was that?

17 MR. MOLLOY: Investigator Parker
18 while writing the report discussed the events
19 of the night with me and asked me for my
20 opinion on certain statements and questions.
21 I can't say attribute any particular word or
22 sentence to me, but we did discuss the event

1 while the report was being written.

2 MR. LeFONDE: And what sort of
3 advice did he ask of you?

4 MR. MOLLOY: He -- at this point,
5 I can't give you verbatim any question. It
6 was more just a general time line of the night
7 to confirm that everything he wrote was
8 accurate, according to my memory. That sort
9 of general questions.

10 MR. LeFONDE: You said you work
11 for a law firm now. Are you an attorney?

12 MR. MOLLOY: I am.

13 MR. LeFONDE: Okay. Were you an
14 attorney at the time?

15 MR. MOLLOY: I was a licensed
16 attorney, at the time.

17 MR. LeFONDE: I have nothing
18 further.

19 CHAIRPERSON MILLER: Okay.

20 MR. LeFONDE: I have nothing
21 further.

22 CHAIRPERSON MILLER: Okay. Board

1 questions?

2 MEMBER ALBERTI: I have --

3 CHAIRPERSON MILLER: Okay.

4 MEMBER ALBERTI: -- just a quick
5 question of Mr. Molloy.

6 Did you -- okay. Well, I'm
7 looking at -- I guess this is Exhibit 1,
8 Government's Exhibit 1, page 2. It says party
9 Zombie H Street Takeover at the top.

10 MR. MOLLOY: Um-hum.

11 MEMBER ALBERTI: And underneath
12 that, do you know which page I'm talking
13 about? It lists all the establishments.

14 MR. MOLLOY: Yes.

15 MEMBER ALBERTI: That page there.

16 MR. MOLLOY: Yes.

17 MEMBER ALBERTI: Just below the
18 list of establishments, what's it say?

19 MR. MOLLOY: It says specials.

20 MEMBER ALBERTI: Specials. Okay.
21 I'm just asking for your opinion. What did
22 you take that to mean?

1 MR. MOLLOY: Special indicates
2 that you can get something at a cheaper rate
3 than it normally is or you can get something
4 at that establishment that you can't normally
5 get.

6 MEMBER ALBERTI: Okay. Did you
7 visit any of these other establishments that
8 are listed in this exhibit?

9 MR. MOLLOY: Yes. I visited every
10 single establishment on this list that had a
11 VA, at the time, that prohibited them from
12 participating in a pub crawl.

13 MEMBER ALBERTI: Do you remember
14 how many that was, approximately?

15 MR. MOLLOY: Eight.

16 MEMBER ALBERTI: Eight?

17 MR. MOLLOY: I would say,
18 approximately, eight, because I think there is
19 10 total listed and I remember there was at
20 least one and maybe two that didn't have a
21 voluntary agreement.

22 MEMBER ALBERTI: Were there -- for

1 those eight, were there coupons involved that
2 were necessary to get what was advertised here
3 as specials?

4 MR. MOLLOY: Yes. For each one of
5 these bars, there was a coupon in the coupon
6 book. Depending on the establishment, they
7 either just made you show you had the book or
8 show you had the wristband. Others actually
9 made you rip the coupon out and give it to
10 them.

11 MEMBER ALBERTI: How many of those
12 eight establishments honored the specials, the
13 deals that were advertised as a special?

14 MR. MOLLOY: They all honored.

15 MEMBER ALBERTI: They all honored
16 them. You said you had conversation. Did you
17 -- at each one of them, did you engage
18 employees about this event called the Zombie
19 Crawl or Zombie Takeover?

20 MR. MOLLOY: Yes. At every single
21 establishment Investigator Owens and myself
22 made it a point to discuss the bar crawl with

1 our bartender, ask how many zombies they had
2 seen, ask how it was going in general, were
3 they getting business from it, just to kill
4 some time and make it look like we were
5 customers who weren't there just to get the
6 special, dump it in a corner and -- or leave
7 the drinks on a table in the corner and walk
8 out.

9 MEMBER ALBERTI: And is it your
10 impression that any of them seemed to be
11 confused or lacked knowledge of the event
12 going on that evening?

13 MR. MOLLOY: No, they were all
14 aware of the event. And they were all happy
15 we were there to spend money.

16 MEMBER ALBERTI: Great. And I
17 think just to go over quick, I think you said
18 that you reviewed Mr. Parker's -- the report
19 that Mr. Parker wrote and signed.

20 MR. MOLLOY: Yes.

21 MEMBER ALBERTI: Is that correct?
22 And to the best of your knowledge, is

1 everything in that report accurate?

2 MR. MOLLOY: It is accurate.

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

5 CHAIRPERSON MILLER: Others? I
6 just have a couple. As a follow-up, when did
7 you review the report?

8 MR. MOLLOY: Within days of the
9 event. Investigator Parker was writing the
10 report and it was during its creation that,
11 you know, I got to read it for the first time.
12 Since then, I have read it before testifying
13 to refresh my recollection as well.

14 CHAIRPERSON MILLER: Okay. But
15 you did read it very soon after he wrote it
16 and very close to the event?

17 MR. MOLLOY: Yes.

18 CHAIRPERSON MILLER: Okay. And my
19 second question is when you went to the
20 establishments that had settlement agreements
21 that prohibited the pub crawls, did what they
22 were offering match what was advertised on the

1 website that is a part of Exhibit 1?

2 MR. MOLLOY: Yes.

3 CHAIRPERSON MILLER: Including
4 Little Miss Whiskey's?

5 MR. MOLLOY: Yes.

6 CHAIRPERSON MILLER: Okay. That's
7 all my questions. Are there follow-ups on
8 Board questions? Ms. Gephardt?

9 MS. GEPHARDT: I don't believe I
10 have any follow-up questions.

11 CHAIRPERSON MILLER: Okay. Mr.
12 LeFonde?

13 MR. LeFONDE: No. I do want to
14 just point out this is the first evidentiary
15 hearing I have been in with the discussion of
16 how many zombies that anyone saw in the course
17 of the night.

18 I have a motion if the -- well --

19 MEMBER SILVERSTEIN: Mr. LeFonde,
20 we are in October.

21 MR. LeFONDE: Yes, thankfully.

22 MEMBER SILVERSTEIN: It's a little

1 early in the month for that though.

2 MR. LeFONDE: Thank you. If
3 that's the close of the Government's evidence,
4 I would like to make a Motion to Dismiss as to
5 the sufficiency of that evidence.

6 CHAIRPERSON MILLER: All right.
7 Let's excuse the witness if we are finished
8 with the witness. Thank you.

9 MR. MOLLOY: Thank you.

10 (Whereupon, witness excused.)

11 CHAIRPERSON MILLER: I think this
12 may be a first for me in this procedure.
13 You're going to move to what?

14 MR. LeFONDE: I just would assert
15 -- I make a motion that the Government has
16 failed to demonstrate that there was a
17 violation and that before I put on my rebuttal
18 evidence, I don't think that they made a
19 sufficient showing that there is a violation,
20 in that they have failed to demonstrate that
21 a pub crawl occurred.

22 Pointing out that 23-712.1, "A

1 promoter or organizer of a pub crawl shall be
2 required to obtain Board approval." However
3 23-712.10 "Board approval shall not be
4 required for a pub crawl containing less than
5 200 participants."

6 CHAIRPERSON MILLER: Where are you
7 reading now?

8 MR. LeFONDE: This is the last
9 paragraph of District of Columbia Municipal
10 Regulations 23-712. So I'm referring to the
11 last sentence of the first paragraph and the
12 last sentence of the last paragraph.

13 MEMBER SILVERSTEIN: Can you give
14 us the cites again, please?

15 CHAIRPERSON MILLER: Okay.

16 MR. LeFONDE: I can pass up copies
17 if you would like.

18 MEMBER SILVERSTEIN: No, we are
19 looking at it.

20 CHAIRPERSON MILLER: No, I --

21 MEMBER SILVERSTEIN: I was just
22 looking for the --

1 MR. LeFONDE: Yeah, so again, this
2 is District of Columbia Municipal Regulation.

3 MEMBER SILVERSTEIN: 712?

4 MEMBER ALBERTI: What?

5 MR. LeFONDE: 712.1.

6 CHAIRPERSON MILLER: Okay.

7 MR. LeFONDE: So that's .1.

8 MEMBER ALBERTI: Fair.

9 MR. LeFONDE: And the first
10 sentence of the first paragraph "A promoter or
11 organizer of a pub crawl shall be required to
12 obtain Board approval." That's a pretty
13 blanket statement as to regulation of pub
14 crawls. But 712.10 specifically removes from
15 the definition an event that contains less
16 than 200 participants.

17 We have established that there
18 were 50 to 60 participants here today. And
19 accepting all of the Government's evidence as
20 true, the Government has failed to demonstrate
21 that a pub crawl as defined by Title 23 and as
22 described in the voluntary agreement occurred

1 by an order of magnitude of four.

2 MS. GEPHARDT: Board Members, I
3 would just say to that that while there is a
4 contradiction there, I would agree, what
5 doesn't change is what a pub crawl is in terms
6 of it is defined as "An organized group of
7 establishments within walking distance which
8 offer discounted alcoholic drinks during a
9 specified time period," whether that is 50
10 people or 200 people. So --

11 CHAIRPERSON MILLER: Where is
12 that?

13 MS. GEPHARDT: Well, that --

14 MR. LefONDE: The --

15 CHAIRPERSON MILLER: Wait, wait.

16 MS. GEPHARDT: -- the last part
17 that I said was --

18 CHAIRPERSON MILLER: It's her
19 turn.

20 MS. GEPHARDT: -- my own.

21 CHAIRPERSON MILLER: Were -- oh,
22 that was your own? I thought you were looking

1 at a statute.

2 MEMBER ALBERTI: It's in the
3 statute.

4 CHAIRPERSON MILLER: Oh.

5 MEMBER ALBERTI: It's 712.1.

6 CHAIRPERSON MILLER: That's what
7 I'm asking.

8 MR. LeFONDE: Yes.

9 MS. GEPHARDT: That essentially
10 it's -- that is what a pub crawl is. That's
11 the definition of pub crawl. The rest of the
12 stuff that counsel points out has to do with
13 when you need approval, how many people, but
14 a pub crawl is a pub crawl whether it is 50
15 people or 200 people.

16 CHAIRPERSON MILLER: Okay.

17 MR. LeFONDE: "A promoter-
18 organizer of a pub crawl shall be required to
19 obtain Board approval." This is the first
20 sentence of the first paragraph. The last
21 sentence of the last paragraph takes out
22 anything that is less than 200 participants.

1 Now, the Government has conceded
2 there is a conflict here. That conflict must
3 necessarily be resolved in favor of leniency.
4 You cannot -- there must be notice to the
5 licensee of the conduct which is permitted and
6 prohibited.

7 MEMBER ALBERTI: Is this on the
8 record?

9 CHAIRPERSON MILLER: Yeah.

10 MR. LeFONDE: Where there is a
11 conflict of this sort, it must be resolved in
12 favor of leniency or the statute is
13 unconstitutionally made.

14 The other issue with this
15 definition is the Government has failed to
16 demonstrate any discounted alcoholic drinks,
17 because they have not demonstrated that anyone
18 received a discount on a drink, because they
19 failed to demonstrate what a regular price
20 would be of any kind for any of these
21 locations.

22 So in those two regards, I assert

1 that the Government --

2 CHAIRPERSON MILLER: Okay.

3 MR. LeFONDE: I'm sorry?

4 CHAIRPERSON MILLER: I'm sorry.

5 MR. LeFONDE: The Government has
6 failed in its burden to demonstrate that a pub
7 crawl occurred.

8 CHAIRPERSON MILLER: Okay.

9 MR. LeFONDE: And at the close of
10 the Government's evidence, I assert that they
11 have -- that it's insufficient to -- that
12 their evidence is insufficient to demonstrate
13 that a violation has occurred.

14 CHAIRPERSON MILLER: Okay. So
15 your two points are, one, that they didn't
16 show a pub crawl occurred because there were
17 less than 200 participants as testified by the
18 investigator, right?

19 MR. LeFONDE: And accepting his
20 testimony as true.

21 CHAIRPERSON MILLER: Right. And
22 your second argument is --

1 MR. LeFONDE: That he has failed
2 to --

3 CHAIRPERSON MILLER: -- they
4 didn't demonstrate a discount?

5 MR. LeFONDE: -- demonstrate a
6 discount.

7 CHAIRPERSON MILLER: Okay. Okay.
8 We are going to adjourn again. There was just
9 some conversation about some Board Members
10 wanting to just get a legal opinion before we
11 decide on this motion.

12 MR. LeFONDE: Thank you.

13 CHAIRPERSON MILLER: So we can
14 give you all another little break. And I will
15 read the instructions and we can vote on a
16 closed meeting.

17 As Chairperson of the Alcoholic
18 Beverage Control Board for the District of
19 Columbia and in accordance with DC Official
20 Code Section 2-574(b) of the Open Meetings
21 Act, I move that the ABC Board hold a closed
22 meeting now for the purpose of seeking legal

1 advice from our counsel on Case No. 12-CMP-
2 00603, Little Miss Whiskey's Golden Dollar,
3 pursuant to Section 2-574(b)(4) of the Open
4 Meetings Act and deliberating upon this motion
5 in this case for the reasons cited in Section
6 2-574(b)(13) of the Open Meetings Act.

7 Is there a second?

8 MEMBER ALBERTI: Second.

9 CHAIRPERSON MILLER: Mr. Alberti
10 has seconded the motion. I'll now take a roll
11 call vote on the motion now that it has been
12 seconded.

13 Mr. Brooks?

14 MEMBER BROOKS: I agree.

15 CHAIRPERSON MILLER: Mr. Alberti?

16 MEMBER ALBERTI: I agree.

17 CHAIRPERSON MILLER: Ms. Miller
18 agrees.

19 Mr. Silverstein?

20 MEMBER SILVERSTEIN: I agree.

21 CHAIRPERSON MILLER: Mr. Jones?

22 MEMBER JONES: I agree.

1 CHAIRPERSON MILLER: It appears
2 that the motion has passed by a vote of 5-0-0.
3 I hereby give notice that the ABC Board will
4 recess this proceeding now and hold a closed
5 meeting and then we will return to report to
6 everyone.

7 Okay. Thank you.

8 MR. LeFONDE: Thank you.

9 (Whereupon, at 4:01 p.m. a recess
10 until 4:09 p.m.)

11 CHAIRPERSON MILLER: Okay. We are
12 back on the record to address a motion that
13 was made to, I believe, dismiss based on the
14 fact that the Government had not met their
15 burden of proof because they hadn't shown that
16 there was a pub crawl, because there were less
17 than 200 participants.

18 And secondly, they didn't show a
19 discount. So I would like to just begin any
20 deliberation by motion to deny the licensee's
21 Motion to Dismiss. Do I have a second?

22 MEMBER ALBERTI: Second.

1 CHAIRPERSON MILLER: Okay. Mr.
2 Alberti seconded the motion. And my grounds
3 are that the evidence shows that it does meet
4 the definition set forth in 712.1, that there
5 was an organized group of establishments
6 within walking distance which offered
7 discounted alcoholic beverages during a
8 specified time period; that the provision in
9 712.10 regarding 200 participants goes to
10 approval of a pub crawl, not to a definition
11 of a pub crawl.

12 And that in my view, there was
13 evidence that showed that shots were offered
14 for free and in my view that falls within
15 discounted alcoholic drinks within the
16 definition set forth at 712.1.

17 Anybody else like to speak to the
18 motion?

19 MEMBER SILVERSTEIN: I second the
20 motion, Madam Chair.

21 CHAIRPERSON MILLER: It was
22 seconded. Okay.

1 All those in favor of denying the
2 licensee's Motion to Dismiss say aye.

3 ALL: Aye.

4 CHAIRPERSON MILLER: All those
5 opposed? All those abstaining? Okay. Then
6 the motion passes to dismiss on the basis that
7 the Government had not met its initial burden
8 going forward. Okay.

9 MR. LeFONDE: I'll call my first
10 witness, Mark Thorp.

11 CHAIRPERSON MILLER: And how many
12 witnesses will you have?

13 MR. LeFONDE: Two.

14 CHAIRPERSON MILLER: Two? Okay.
15 Good afternoon.

16 MR. THORP: Good afternoon.

17 Whereupon,

18 MARK THORP

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 CHAIRPERSON MILLER: All right.
2 Thank you.

3 DIRECT EXAMINATION

4 MR. LeFONDE: Mr. Thorp, please,
5 state your name and spell your name for the
6 record.

7 MR. THORP: Mark Thorp, M-A-R-K
8 T-H-O-R-P. I am the owner of Little Miss
9 Whiskey's Golden Dollar.

10 MR. LeFONDE: That would be my
11 next question. You heard the testimony of
12 Investigator Molloy regarding this event on
13 October 18, 2012. Are you related to any of
14 the establishments that he mentioned in his
15 testimony?

16 MR. THORP: I am not related in
17 business to those establishments. We are
18 within relative proximity of one another.

19 MR. LeFONDE: But Little Miss
20 Whiskey's as mentioned in one of their
21 exhibits, is that correct?

22 MR. THORP: It is mentioned in one

1 of their exhibits.

2 MR. LeFONDE: Okay.

3 CHAIRPERSON MILLER: Can you speak
4 a little louder, please?

5 MR. THORP: I'm sorry.

6 CHAIRPERSON MILLER: That's good.

7 MEMBER SILVERSTEIN: If you turn
8 it that way --

9 MR. THORP: They are listed in one
10 of the exhibits. I'm sorry?

11 MEMBER SILVERSTEIN: -- we will be
12 able to hear you better.

13 MEMBER ALBERTI: Excuse me.
14 Excuse me, Mr. LeFonde. The questions really
15 weren't clear to me.

16 MR. LeFONDE: Oh.

17 MEMBER ALBERTI: One of their
18 exhibits? Who is they and their?

19 MR. LeFONDE: I did mention the
20 only other witness here today, Investigator
21 Molloy. Mr. Molloy spoke to --

22 MEMBER ALBERTI: But it's not his

1 -- it's the Government's exhibits, I believe.
2 Anyway I just don't want to put words in your
3 mouth. It's just who is they and their?

4 MR. LeFONDE: I'm laying a
5 foundation that has already been established
6 by the Government -- by the witness'
7 spontaneous testimony. I think I can proceed
8 from here.

9 MEMBER ALBERTI: It's still not
10 clear to me.

11 MR. LeFONDE: Oh, okay.

12 MR. THORP: I have seen that
13 exhibit.

14 MR. LeFONDE: Mr. Thorp --

15 CHAIRPERSON MILLER: Wait.

16 MEMBER ALBERTI: Please.

17 MR. LeFONDE: Please, wait for the
18 question. With regards to Investigator
19 Molloy's testimony, he spoke to several
20 establishments on H Street, N.E., that
21 participated in an event on or about October
22 18, 2012. This included the Rock 'n Roll

1 Hotel, Church and State, Little Miss
2 Whiskey's, the Queen Vic and Red Palace. Are
3 you related or have an interest in any of
4 those businesses?

5 MR. THORP: I do not.

6 MR. LeFONDE: Including Little
7 Miss Whiskey's?

8 MR. THORP: I do in Little Miss
9 Whiskey's only.

10 MR. LeFONDE: Okay. That was my
11 question. And what is your relationship to
12 Little Miss Whiskey's?

13 MR. THORP: I'm the owner.

14 MR. LeFONDE: The owner of the
15 corporation or the owner of --

16 MR. THORP: I'm the owner of LMW,
17 LLC, a limited liability company that is the
18 owner, the sole owner of Little Miss Whiskey's
19 Golden Dollar.

20 MR. LeFONDE: And were you working
21 on the evening of October 18, 2012?

22 MR. THORP: I was in and out of

1 the establishment several times that evening.

2 MR. LeFONDE: Are you familiar
3 with the prices of beers that are sold in that
4 establishment?

5 MR. THORP: I make the prices of
6 the beer sold at that establishment.

7 MR. LeFONDE: And could you tell
8 us what would have been on October 18th the
9 regular price for a person walking in off the
10 street of a Stroh's?

11 MR. THORP: I never change my
12 prices. Stroh's has always been \$3. DAB
13 tallboys have always been \$4. Those were not
14 specialty or discount priced.

15 MR. LeFONDE: Please, wait for the
16 question. Was there a time on October 18th in
17 which your establishment provided any drink
18 discounts to any patron?

19 MR. THORP: My establishment did
20 not provide discount drinks to any patrons.

21 MR. LeFONDE: There has been
22 testimony from the Investigator that they were

1 -- he was able to obtain a free shot of
2 Bulleit, I believe, Bourbon inside of your
3 establishment. Did that shot, in fact, come
4 from your establishment?

5 MR. THORP: Bulleit Bourbon on
6 October 18th was provided as free goods as
7 part of a promotion from the company Diageo,
8 which owns Bulleit.

9 CHAIRPERSON MILLER: Which owns
10 what?

11 MR. THORP: Diageo is the owner of
12 Bulleit.

13 CHAIRPERSON MILLER: Okay.

14 MR. LeFONDE: So in fact, you are
15 stating that the manufacturer was present
16 inside your establishment and provided a free
17 shot to persons who asked for it?

18 MR. THORP: At some point, the
19 manufacturer gave us free product to dispense.
20 We did not pay for it. It was not ours. It
21 was theirs.

22 MR. LeFONDE: So you did not offer

1 any free product of your own to any person?

2 MR. THORP: We --

3 MR. LeFONDE: Any discounted
4 drink.

5 MR. THORP: -- offered no
6 discounted or free product of our own.

7 MR. LeFONDE: Do you ever offer
8 any discounts of your drink prices to anyone?

9 MR. THORP: No. And the reason s
10 that \$3 Stroh's cannot be any cheaper.

11 MR. LeFONDE: When you were asked
12 to participate in this -- were you asked to --
13 who asked you to participate in this event or
14 how did you come to be involved in this event?

15 MR. THORP: I was contacted by a
16 representative of Brightest Young Things via
17 email asking us to participate in the event.

18 MR. LeFONDE: Did there ever come
19 a time where you were asked to offer drink
20 discounts to any person?

21 MR. THORP: We were.

22 MR. LeFONDE: Did you agree to

1 offer any drink discounts to any person?

2 MR. THORP: No. I merely
3 responded we will offer \$3 Stroh's and \$4 DAB.

4 MR. LeFONDE: So, in fact, when
5 this special was announced of \$3 Stroh's and
6 \$4 DAB, there was no special at all?

7 MR. THORP: There was no
8 discounting of prices.

9 MR. LeFONDE: And you, in fact,
10 offered no discount on any of your goods for
11 anyone that evening?

12 MR. THORP: No.

13 MR. LeFONDE: I have no further
14 questions.

15 MS. GEPHARDT: Oh, sorry, sorry.

16 MR. LeFONDE: I'm sorry, I had no
17 further questions.

18 CHAIRPERSON MILLER: Oh, I'm
19 sorry.

20 MR. LeFONDE: Oh, I'm sorry, yeah.
21 I guess you didn't hear that.

22 CHAIRPERSON MILLER: All right.

1 Ms. Gephardt, cross?

2 MS. GEPHARDT: Okay.

3 CROSS-EXAMINATION

4 MS. GEPHARDT: Mr. Thorp, good
5 afternoon. Were you aware that your
6 establishment name appeared here on the Zombie
7 Street H Street Takeover under the word
8 specials?

9 MR. THORP: Today is the first
10 time I have ever seen that document or any
11 computer screen with that information.

12 MS. GEPHARDT: Okay.

13 MR. THORP: That did not arrive in
14 the investigative report nor was I aware of it
15 before hand.

16 MS. GEPHARDT: Okay. And you were
17 -- do you consider a free shot to be free?

18 MR. THORP: Yes.

19 MR. LeFONDE: I object as to form.

20 MR. THORP: Yes, it is. Free is
21 free.

22 MS. GEPHARDT: And you said that

1 the shots, the actual alcohol was provided by
2 the manufacturer. Is that correct?

3 MR. THORP: That is correct.

4 MS. GEPHARDT: But you gave
5 permission for them to serve it in your
6 establishment and offer it for free?

7 MR. THORP: I did.

8 MS. GEPHARDT: Okay. So you are
9 saying that the beer that you sold, that's the
10 regular price for your beer on any day?

11 MR. THORP: Absolutely.

12 MS. GEPHARDT: Any given day.
13 Okay. Did Brightest Young Things ask you or
14 suggest that you offer specials on this
15 particular evening?

16 MR. THORP: They did.

17 MS. GEPHARDT: And you told them
18 no I'm not going to do it?

19 MR. THORP: I told them I would
20 offer \$3 Stroh's and \$4 DABs. I did not tell
21 them that those were the regular prices.
22 That's my pat answer to anybody asking for

1 specials.

2 MS. GEPHARDT: So you have never
3 looked at this website or you never did look
4 at the website?

5 MR. THORP: Never saw any of that
6 until today.

7 MS. GEPHARDT: Did you know there
8 was a website out there for Brightest Young
9 Things?

10 MR. THORP: I do know that there
11 is -- I have known that there is a Brightest
12 Young Things website, yes.

13 MS. GEPHARDT: That's all I have.

14 CHAIRPERSON MILLER: Okay. Board
15 questions?

16 MEMBER ALBERTI: I guess I'll
17 start unless anyone else wants to start?

18 CHAIRPERSON MILLER: No, go ahead.

19 MEMBER ALBERTI: I just want to
20 clear something up, Mr. Thorp.

21 MR. THORP: Yes, sir.

22 MEMBER ALBERTI: I heard

1 contradictory things. Did your employees
2 serve the Bulleit Bourbon that evening?

3 MR. THORP: As the -- yes, yes,
4 she did.

5 MEMBER ALBERTI: Okay. Okay.

6 MR. THORP: And that Bulleit
7 Bourbon was provided as free goods from the
8 owner.

9 MEMBER ALBERTI: I understand
10 that. I understand that.

11 MR. THORP: Okay.

12 MEMBER ALBERTI: You answered my
13 question. Okay. Do you know whether or not
14 other establishments, the other establishments
15 listed on -- were you aware of who the other
16 participants were in this event?

17 MR. THORP: I did not know the
18 exact list. I knew that there were other
19 participants.

20 MEMBER ALBERTI: Okay. Did you
21 know where they were located?

22 MR. THORP: The participants of

1 which I knew, I did know to be in proximity to
2 mine.

3 MEMBER ALBERTI: Okay. And how
4 many participants did you know?

5 MR. THORP: I don't remember. I
6 would be willing to guess at least five or
7 six.

8 MEMBER ALBERTI: Okay.

9 MR. THORP: And I knew of -- that
10 were told to me.

11 MEMBER ALBERTI: Okay. And where
12 were they located to your knowledge?

13 MR. THORP: On H Street, N.E.

14 MEMBER ALBERTI: Whereabouts on H
15 Street? It's long. H Street is a very long
16 street.

17 MR. THORP: As the Investigator
18 correctly testified, 1100, 1200, 1300 Blocks
19 of H Street.

20 MEMBER ALBERTI: Okay. Great.
21 Were you aware of what the Brightest Young
22 Things were advertising could be obtained with

1 coupons at those other establishments?

2 MR. THORP: No, I was not.

3 MEMBER ALBERTI: Seeing this list
4 that you see now, okay, and the prices listed
5 there on page -- on the second and third page
6 of that exhibit, do you have a copy of that
7 exhibit? Can we make sure he has a copy of
8 that?

9 MR. LeFONDE: May I approach the
10 witness?

11 MEMBER ALBERTI: Exhibit 1.

12 MR. LeFONDE: May I approach the
13 witness?

14 CHAIRPERSON MILLER: Yes.

15 MEMBER ALBERTI: Yes, you may.
16 Thank you.

17 MR. THORP: Yes, sir.

18 MEMBER ALBERTI: Okay. You have
19 been in that -- you have been the license
20 holder and operating for how many years in
21 that area?

22 MR. THORP: Since --

1 MEMBER ALBERTI: You know, for
2 your location.

3 MR. THORP: Yes, sir. Since 2008,
4 sir.

5 MEMBER ALBERTI: Okay.

6 MR. THORP: When we got our
7 license. We opened in 2009, forgive me.

8 MEMBER ALBERTI: Okay. Great.
9 Very good. Thank you. Do you talk with these
10 other owners of these other establishments?

11 MR. THORP: Some of them
12 regularly.

13 MEMBER ALBERTI: Okay. All right.

14 MR. THORP: We did not --

15 MEMBER ALBERTI: Do you have -- do
16 you ever discuss prices with them?

17 MR. THORP: Yes, especially
18 increasing prices.

19 CHAIRPERSON MILLER: Especially
20 what?

21 MR. THORP: It's --

22 MEMBER ALBERTI: Is that a bad

1 omen for --

2 MR. THORP: -- the question -- the
3 liquor prices, beer prices are on the rise and
4 we regularly discuss what each other is
5 charging and what response we are getting.

6 CHAIRPERSON MILLER: Okay.

7 MEMBER ALBERTI: Let me be a bad
8 omen for those in the neighborhood, but you
9 can strike that.

10 Okay. Looking at this list on
11 page 2 and 3 of Exhibit 1, can you take a look
12 at that the prices there for a moment, what
13 was offered.

14 MR. THORP: Yes, sir.

15 MEMBER ALBERTI: Okay. Is it your
16 impression that any of those people -- any of
17 those items are being listed at a discount
18 price?

19 MR. THORP: Starting at the top,
20 Rock 'n Roll Hotel their prices change
21 regularly. I don't know with Church and
22 State. I don't know those drinks. The Queen

1 Vic of \$4 Zombie Punch I don't know what that
2 is. Red Palace now it's existence I don't
3 know.

4 MEMBER ALBERTI: And Dangerously
5 Delicious Pies, have you ever eaten there?

6 MR. THORP: I am looking for that
7 and not seeing it.

8 MEMBER ALBERTI: It's on the
9 second page. Top of the list on the second
10 page.

11 MR. THORP: Savory.

12 MEMBER ALBERTI: Have you ever
13 known them to offer or advertise a slice of
14 savory pie and a shot of whiskey?

15 MR. THORP: I have not been in
16 Dangerously Delicious in at least three years.
17 I don't know.

18 MEMBER ALBERTI: Okay.

19 MR. THORP: H & Pizza is a soda,
20 Atlas Arcade \$4 beer.

21 MEMBER ALBERTI: Smith Commons is
22 the only one that you haven't listed and would

1 you read what it is for Smith Commons?

2 MR. THORP: Smith Commons it says
3 a free Bulleit Bourbon cocktail, so I would
4 assume that they were giving free promotional
5 bids from Bulleit as well. It's very possible
6 that all the owners did the same thing I did,
7 which was advertise regular prices as if they
8 were specials and not in fact --

9 MEMBER ALBERTI: That's a
10 conjecture though. Is that correct?

11 MR. LeFONDE: That's speculation.
12 It's inappropriate.

13 MR. THORP: Yes, sir. Yes, sir.

14 MEMBER ALBERTI: Okay. Thank you.

15 MR. THORP: I do not know.

16 MEMBER ALBERTI: All right. One
17 last thing. I just want to confirm that I
18 have in front of me an email dated March 7th
19 in which you write to --

20 CHAIRPERSON MILLER: Is this in
21 evidence?

22 MEMBER ALBERTI: No, it's not.

1 Okay. I will --

2 MR. LeFONDE: Please.

3 MEMBER ALBERTI: I will ask the
4 question then. Were you ever asked to come to
5 a settlement agreement with, for this case, an
6 ABRA employee?

7 MR. THORP: The initial paperwork
8 I received an offer for a settlement
9 agreement.

10 MEMBER ALBERTI: And when did --
11 do you know about when you received that?

12 MR. THORP: I believe it came with
13 the investigative report, which was about 120
14 days after.

15 MEMBER ALBERTI: Do you know when
16 that was, approximately? Would it have been
17 before March 7th or after March 7th of this
18 year? Yes, of this year.

19 MR. THORP: I don't know. I know
20 that the investigative report I received was
21 at the very end of February. It was more than
22 120 days after. I don't know at what time.

1 I'm sure that the settlement offer -- I do
2 recall was at either the same time or very
3 soon thereafter.

4 MEMBER ALBERTI: Okay. So very
5 good. So we have established a date. Thank
6 you very much. That's all I have. Thank you.

7 CHAIRPERSON MILLER: Others? Mr.
8 Jones?

9 MEMBER JONES: Thank you, Madam
10 Chair. So just to be clear, you were
11 knowledgeable of the fact that your
12 establishment was participating in this event
13 that was hosted and put on by Brightest Young
14 Things on October 18th?

15 MR. THORP: I was definitely
16 knowledgeable that we were part of the event.

17 MEMBER JONES: Okay. And how
18 would you characterize the event?

19 MR. THORP: We had a DJ for the
20 evening. We had a Bulleit Bourbon promotion
21 for the evening and Brightest Young Things was
22 making people up in zombie makeup in an effort

1 to generate business on H Street.

2 MEMBER JONES: Prior to the 18th
3 were you aware of the fact that Brightest
4 Young Things, their event, included
5 establishments other than your establishment?

6 MR. THORP: Yes.

7 MEMBER JONES: Okay. So this
8 wasn't, as you understood it on that night, a
9 special event just for your establishment that
10 was being put on by Brightest Young Things.
11 It was in conjunction with other
12 establishments in the neighborhood or in your
13 general vicinity?

14 MR. THORP: Yes, Brightest Young
15 Things was putting on an event that included
16 multiple establishments.

17 MEMBER JONES: Okay. When
18 Brightest Young Things approached you, how did
19 they characterize the event?

20 MR. THORP: Their exact words were
21 Zombie Takeover and they would, as I described
22 it, make people up in zombie makeup. And our

1 specific dialogue was about them advertising
2 this to people and that we would have a DJ
3 that night in the hopes that the people that
4 got made up would finish the evening at our
5 place, which was a Wednesday or a Thursday
6 night. It was not on a weekend.

7 MEMBER JONES: Okay. So just to
8 be clear, they did not characterize it as a
9 pub crawl to you?

10 MR. THORP: No, they did not.

11 MEMBER JONES: Okay. Did you ask
12 them whether or not this was a pub crawl?

13 MR. THORP: I did not.

14 MEMBER JONES: You did not. Did
15 you indicate to them that you did not have the
16 ability to participate in a pub crawl in the
17 event that this was actually a pub crawl,
18 since you didn't ask for clarification as to
19 what the nature of the event was? Did you
20 indicate to them that you wouldn't be allowed
21 to participate in it due to your VA or your
22 agreement?

1 MR. THORP: I do not recall --

2 MEMBER JONES: Okay.

3 MR. THORP: -- specific question
4 and answer with them regarding that. Knowing
5 BYT from years past to be a well-organized and
6 certainly my knowledge of them, so therefore
7 a conjecture, a properly running business
8 entity, I did not have concerns along that
9 line.

10 MEMBER JONES: You did not have
11 concerns that they were putting on a pub
12 crawl?

13 MR. THORP: Neither a pub crawl
14 nor anything that would put me in violation of
15 any rules governing my liquor license.

16 MEMBER JONES: You indicated there
17 was a -- the free bourbon.

18 MR. THORP: Yes, sir.

19 MEMBER JONES: That was Bulleit
20 Bourbon, that was a promotion?

21 MR. THORP: Yes, sir.

22 MEMBER JONES: What was the nature

1 of your relationship with the promotor or the
2 manufacturer who was giving you the bourbon
3 for free?

4 MR. THORP: Yes, sir. The
5 representative from the manufacturer with whom
6 I have worked closely since the inception of
7 the business, George Concannon, approached me
8 saying Brightest Young Things is having this
9 event. We would like to join as part of this
10 event and be able to offer free shots of
11 Bulleit to patrons that night.

12 MEMBER JONES: Okay.

13 MR. THORP: To which I readily
14 agreed. It was not a cost to me.

15 MEMBER JONES: Was there a benefit
16 to you?

17 MR. THORP: Benefit? Well, the
18 hope that more people would come and do
19 business.

20 MEMBER JONES: Was there any
21 benefit you received from the manufacturer?

22 MR. THORP: No, sir.

1 MEMBER JONES: Okay. So was there
2 any dialogue outside of verbal dialogue that
3 you could present to us as confirmation that
4 that's what the exact nature of the
5 relationship was?

6 MR. THORP: No, sir.

7 MEMBER JONES: Okay. So this was
8 all a verbal dialogue?

9 MR. THORP: Yes, sir, phone calls.

10 MEMBER JONES: No emails, no
11 paperwork, no contracts, no --

12 MR. THORP: There were no --

13 MEMBER JONES: -- delivery of
14 product to confirm that you actually got this
15 product and that you distributed it as -- in
16 accordance with their requirement that you
17 actually did give it all away for free? There
18 was no documentation, no contracts, nothing in
19 place to confirm that the manufacturer gave
20 you product to give away for free and that you
21 actually gave it away for free and that was
22 the nature of the relationship?

1 MR. THORP: I do not have -- I am
2 sure that there was no contractual exchange of
3 paperwork. I do not recall if our delivery
4 that week included a purchase of Bulleit with
5 plus free goods as part of that, that is
6 usually how that used to take place.

7 MEMBER JONES: So you have no
8 paperwork that demonstrates what it is or --

9 MR. THORP: Not with me today.

10 MEMBER JONES: -- what it is you
11 are presenting. You are just indicating that
12 you know that that bourbon that was given away
13 for free on that night was part of that
14 promotion of which you are speaking from the
15 manufacturer?

16 MR. THORP: I am definitively
17 stating as part of sworn testimony that I got
18 free product or that free product was brought
19 to my establishment by the owner and was thus
20 given away for free.

21 MEMBER JONES: Did they offer it--
22 it being this product, this bourbon, had they

1 ever offered it any other night for free?

2 MR. THORP: Oh, yes. We have done
3 promotions With Diageo before.

4 MEMBER JONES: Okay. Do you have
5 any paperwork, any documentation to that
6 effect? I'm trying to understand if their
7 nuances are any different between this event
8 and when you had done it before.

9 MR. THORP: Right.

10 MEMBER JONES: Because I'm having
11 a hard time closing.

12 MR. THORP: I understand the
13 question, sir. I don't know if I have
14 paperwork to that effect. I might be able to
15 dig up email correspondence between me and the
16 representatives of Diageo that would validate
17 previous promotions of their product in the
18 exact same manner that it was dispensed that
19 evening.

20 MEMBER JONES: Okay. Do you sell
21 this product at your establishment?

22 MR. THORP: Yes.

1 MEMBER JONES: You do?

2 MR. THORP: Yes, sir.

3 MEMBER JONES: Okay. So is it
4 part of your normal stock?

5 MR. THORP: It is.

6 MEMBER JONES: Okay. How did you
7 make the distinction of separation -- separate
8 from what your normal stock was from this
9 promotional item?

10 MR. THORP: We got exactly two
11 bottles of -- two liter bottles of Bulleit
12 Bourbon for free and when that amount of goods
13 was finished, that was the end of the
14 promotion.

15 MEMBER JONES: Okay. And how did
16 you track it? Were instructions given to your
17 server that --

18 MR. THORP: Absolutely.

19 MEMBER JONES: Okay. And so after
20 that point -- when did that occur?

21 MR. THORP: We did not have that
22 many people come through to get one sample

1 each of free Bulleit Bourbon that completely
2 finished the two bottles, I don't believe.

3 MEMBER JONES: So if I'm
4 understanding you correctly and help me if I'm
5 wrong, but at the end of the night, at the end
6 of this event, you still had free bourbon that
7 you had not dispensed?

8 MR. THORP: There may have been a
9 very small amount in the second bottle that
10 was leftover.

11 MEMBER JONES: Okay. What's the
12 price for a shot of this product, this Bulleit
13 Bourbon?

14 MR. THORP: Bulleit Bourbon, we
15 retail for \$8.

16 MEMBER JONES: \$8?

17 MR. THORP: Yes, sir.

18 MEMBER JONES: Okay. Thank you.
19 Thank you, Madam Chair.

20 CHAIRPERSON MILLER: Okay.
21 Others? I have a few follow-up questions. So
22 I'm looking at page 3 of Exhibit 1. I don't

1 know whether you need to look at it or not.

2 Do you have it there?

3 MR. THORP: One, two, is this it?

4 CHAIRPERSON MILLER: Yes.

5 MR. THORP: Okay.

6 CHAIRPERSON MILLER: Okay. So
7 what I'm looking at -- well, one thing I'm
8 looking at in particular is Bulleit Bourbon is
9 showing up at other establishments, Queen Vic,
10 Red Palace, Smith Commons, possibly SOVA,
11 yeah, almost all of them, Rock 'n Roll. So do
12 you know what was going on with Bulleit
13 Bourbon that night? They were doing a
14 promotion with respect to most of the
15 participants?

16 MR. THORP: It appears so.

17 MR. LeFONDE: The witness has
18 already established he had no knowledge of
19 what the other promotions were. And he is not
20 speculating at this point.

21 MEMBER ALBERTI: Is there an
22 objection here or does the attorney just get

1 to comment on the witness' testimony?

2 MR. LeFONDE: There is an
3 objection as to speculation. And it is
4 established that he has no foundation. He has
5 already established he has no foundation for
6 making such --

7 CHAIRPERSON MILLER: Okay. Okay.

8 MEMBER ALBERTI: My question was
9 is there an objection here?

10 MR. LeFONDE: I made an objection.

11 CHAIRPERSON MILLER: All right.
12 It's overruled. Okay. I think that you have
13 made some testimony to the effect that you
14 talked to some of the other establishments
15 near you. And if you know no knowledge about
16 this, then you have no knowledge. That's
17 fine.

18 MR. THORP: I do not know what
19 other --

20 CHAIRPERSON MILLER: Okay.

21 MR. THORP: -- pricing differences
22 may have existed at other establishments.

1 CHAIRPERSON MILLER: Okay. That
2 wasn't my question. I guess my question was,
3 and it goes to the more general question that
4 I'll raise now then. When you were asked to
5 participate in this event, were there any
6 requirements to participate or criteria?

7 MR. THORP: We were not given any
8 requirements.

9 CHAIRPERSON MILLER: I mean, was
10 part of it that the promotion of this Bulleit
11 Bourbon --

12 MR. THORP: When we were asked to
13 participate, there was nothing from Brightest
14 Young Things that required us to have anything
15 to do with Bulleit Bourbon or Diageo, the
16 owner of Bulleit.

17 CHAIRPERSON MILLER: Okay. So is
18 the scenario that Bulleit contacted you after
19 they found out you were participating in this
20 event or --

21 MR. THORP: Yes.

22 CHAIRPERSON MILLER: Okay. And I

1 mean, I guess you testified you weren't aware,
2 but I'll just ask you and you can tell me if
3 you were or you weren't. It looks like H &
4 Pizza did not sell any alcohol and they were
5 a participant in this event. Do you have any
6 knowledge about that?

7 MR. THORP: I do not. I believe
8 they have a license to sell beer, but I'm
9 fairly certain they do not have a license to
10 sell spirits.

11 CHAIRPERSON MILLER: Okay. Okay.
12 That's all my questions. Is there follow-up
13 on Board questions?

14 MR. LeFONDE: I have nothing.

15 CHAIRPERSON MILLER: Okay. Ms.
16 Gephardt?

17 MS. GEPHARDT: No.

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

20 MR. THORP: Okay.

21 MR. LeFONDE: This concludes our
22 evidence.

1 CHAIRPERSON MILLER: Okay.

2 MR. LeFONDE: We had intended to
3 establish the number of ticket sales, but that
4 came out in the Investigator's testimony as
5 the number of participants, so we have no
6 further -- we feel that we rest on what we--

7 CHAIRPERSON MILLER: Okay.

8 MR. LeFONDE: -- have already
9 stated.

10 CHAIRPERSON MILLER: Is there any
11 redirect?

12 MS. GEPHARDT: No.

13 CHAIRPERSON MILLER: Okay. So
14 then we are ready for closing.

15 MS. GEPHARDT: Sure. Just give me
16 one moment.

17 CHAIRPERSON MILLER: Okay.

18 MS. GEPHARDT: All right. In this
19 case, the question is whether this licensee
20 violated their voluntary agreement when they
21 participated in a pub crawl. There was some
22 question about what a pub crawl is, but one

1 thing we do know is that according to 23 DCMR
2 712.1, it says "For purposes of this section,
3 a pub crawl shall be defined as an organized
4 group of establishments within walking
5 distance which offer discounted alcoholic
6 drinks during a specified time period."

7 Now, I know there was a lot of
8 testimony here and questions about whether
9 this licensee was selling discounted drinks.
10 And from what we heard, the licensee himself
11 testified that they were serving this free
12 Bulleit Bourbon that was offered to them
13 through a promotion and, therefore, the
14 manufacturer was actually the one providing it
15 and then they were offering it to patrons.

16 Now, if we get technical about
17 this, then we can say well, okay, so that
18 money didn't technically come out of his
19 pocket. I think we have to look at the spirit
20 of what 712.1 is and that is that "A pub crawl
21 is an organized group of establishments within
22 walking distance that offered discounted

1 alcoholic drinks during a specified time
2 period."

3 The point I believe the -- the
4 intention behind 712.1 is to discourage events
5 like this where specials are being offered,
6 bars and restaurants are within close
7 proximity of each other and these discounts
8 are being offered for the purpose of
9 attracting lots of people, because people are
10 going to want to go to bars and restaurants if
11 there is free bourbon or, you know, discounted
12 beer or things like that.

13 So whatever discounted alcoholic
14 drinks means, whether it is coming out of the
15 pocket of the licensee or whether it is, you
16 know, under the guise of it coming out of the
17 pocket of the licensee. Like here, I'm going
18 to serve you a free shot of Bulleit Bourbon,
19 regardless of where that is coming from, it
20 still can be defined as participating in a pub
21 crawl, because they are offering something
22 that appears discounted to attract people to

1 come to their establishment, which is the
2 whole reason why pub crawls are -- there is a
3 whole statute about pub crawls and why it is
4 inherent in their voluntary agreement to
5 prohibit them, because, as you can imagine,
6 you have lots of people within close proximity
7 going to bars and restaurants that have drink
8 specials.

9 And you know, obviously, it
10 creates havoc within the neighborhoods, which
11 is the whole point of why it is in the
12 voluntary agreement. And in fact, in the
13 voluntary agreement for this licensee, it says
14 "The applicant agrees not to promote or
15 participate in a bar or pub crawl or any other
16 event of this nature."

17 And I would argue that this event,
18 the Zombie Takeover, qualifies as a pub crawl
19 and this licensee was a knowing participant
20 and, therefore, they have violated their
21 voluntary agreement.

22 And the Government is asking for a

1 fine here on Charge No. 2, since Charge No. 1
2 is being dismissed. Charge No. 2 would be a
3 fine of \$500. Thank you.

4 CHAIRPERSON MILLER: Thank you.

5 MR. LeFONDE: I think the argument
6 made by the Government in this regard is
7 particularly telling in its attempt to
8 interject appears discounted drinks into the
9 language of 23-712.1. This is not the
10 language of 23-712.1.

11 The language there requires that
12 they offer discounted alcoholic drinks. This
13 has not been established for any of the
14 purported participants in this event by any
15 means. There has been a discussion of a
16 promotion by a manufacturer pushing its own
17 product to people inside of these
18 establishments, which is completely permitted
19 under Title 25.

20 And the owner of the establishment
21 has stated his participation was not
22 predicated upon the Diageo promotion. He has

1 had these promotions before and after this
2 event. And that it had nothing to do with
3 this event. They were concurrent as far as he
4 knew. They just simply -- somebody he had
5 this promotion with before and asked him to do
6 it again.

7 The Government's suggestion that
8 lots of people on H Street in this instance,
9 50 to 60 by Inspector Molloy's own testimony,
10 50 to 60 wouldn't look like too many people on
11 the second floor of this establishment. It
12 would barely cover the dance floor.

13 The language of 23-712 speaks
14 specifically to more than 200 people for the
15 very reason that the Government states,
16 because more than 200 people has the potential
17 to create the kind of disruption that she
18 describes. And 50 to 60 people does not.

19 And the language of appears
20 discounted or the suggestion that appears
21 discounted is absolutely antagonistic to the
22 concern that this language intends to remedy.

1 Lots of people drinking deeply discounted
2 drinks in a small area requires regulation.

3 A few people drinking regular
4 priced drinks in a completely legal one shot
5 promotion does not speak to this public safety
6 issue that is attempting to be addressed in
7 this language.

8 The Government has conceded that
9 712.1 and 712.10 conflict with one another.
10 It is poorly drafted. I have posited to you
11 and it is absolutely established case law that
12 you cannot -- any -- cannot enforce a
13 conflicting statute upon this licensee. Any
14 such ambiguity must be resolved in leniency
15 towards the affected person.

16 And in this regard, we have
17 exactly the kind of fundamental problem where
18 the Government is spinning this statute's
19 definitions completely out of control far
20 beyond anything that was envisioned in its
21 proclamation. There has been no establishment
22 of any discounted drinks that are directly

1 related to this event. And there has been no
2 establishment of anywhere near the order and
3 magnitude of persons that this statute intends
4 to address.

5 That being given, it falls plainly
6 outside the language of his voluntary
7 agreement that it be a beer or pub crawl or
8 like event. It is not a like event or any
9 other event of this nature. It is an event of
10 a completely different nature because of its
11 size and because it doesn't -- there was no
12 demonstration there were any discounted drinks
13 certainly by this establishment.

14 In that regard, he has not
15 violated his voluntary agreement. He is fully
16 in conformance with it. And the Government
17 has wholly failed to establish its case and
18 this must be dismissed with prejudice. Thank
19 you.

20 CHAIRPERSON MILLER: Okay. Then
21 I'm going to close the record, at this point,
22 and ask the parties if they wish to file

1 proposed findings of fact and conclusions of
2 law?

3 MR. LeFONDE: Yes, we can do that.

4 CHAIRPERSON MILLER: Okay.

5 MR. LeFONDE: We do that after the
6 transcript is filed, I assume?

7 CHAIRPERSON MILLER: Oh,
8 definitely after the transcript.

9 MR. LeFONDE: Right.

10 CHAIRPERSON MILLER: And I just
11 wanted to confirm with our legal counsel also
12 that we would be able to get you a decision on
13 the Motion to Dismiss for lack of jurisdiction
14 before you have to file any findings of
15 facts --

16 MR. LeFONDE: Oh, yes.

17 CHAIRPERSON MILLER: -- and
18 conclusions of law.

19 MR. LeFONDE: Okay. That would be
20 good.

21 CHAIRPERSON MILLER: Okay. All
22 right. The transcript is normally ready

1 within two weeks, so you wouldn't be required
2 to do anything before then anyway.

3 MR. LeFONDE: Thank you.

4 CHAIRPERSON MILLER: Okay. Okay.

5 So at this point then, I think it is clear
6 that we have said that we will be issuing an
7 order on the Motion to Dismiss first before
8 you would have to file any findings of fact if
9 the case is still alive and before we would
10 deliberate upon the merits of the case.

11 MS. GEPHARDT: Okay.

12 CHAIRPERSON MILLER: As
13 Chairperson of the Alcoholic Beverage Control
14 Board for the District of Columbia and in
15 accordance with DC Official Code Section 2-
16 574(b) of the Open Meetings Act, I move that
17 the ABC Board hold a closed meeting to
18 deliberate on the Motion to Dismiss and then,
19 if necessary, upon the merits of the case.
20 And we would have the closed meeting in order
21 to seek legal advice from our counsel on Case
22 No. 12-CMP-00603, Little Miss Whiskey's Golden

1 Dollar, pursuant to Section 2-574(b)(4) of the
2 Open Meetings Act and/or deliberating upon
3 these matters for the reasons cited in Section
4 2-574(b)(13) of the Open Meetings Act.

5 Is there a second?

6 MEMBER SILVERSTEIN: Second.

7 MEMBER BROOKS: Second.

8 CHAIRPERSON MILLER: Mr.

9 Silverstein seconded the motion. I'll now
10 take a roll call vote on the motion before us
11 now that it has been seconded.

12 Mr. Brooks?

13 MEMBER BROOKS: I agree.

14 CHAIRPERSON MILLER: Mr. Alberti?

15 MEMBER ALBERTI: I agree.

16 CHAIRPERSON MILLER: Ms. Miller
17 agrees.

18 Mr. Silverstein?

19 MEMBER SILVERSTEIN: I agree.

20 CHAIRPERSON MILLER: Mr. Jones?

21 MEMBER JONES: I agree.

22 CHAIRPERSON MILLER: It appears

1 that the motion has passed by a 5-0-0 vote.
2 I hereby give notice that the ABC Board will
3 hold a closed meeting in the ABC Board
4 conference room to deliberate upon the matters
5 as indicated.

6 Okay. That concludes today's
7 hearing. Thank you very much.

8 MR. LeFONDE: Thank you, Ms.
9 Chairman.

10 MS. GEPHARDT: Thank you.

11 CHAIRPERSON MILLER: Thank you.

12 (Whereupon, the Show Cause Hearing
13 in the above-entitled matter was concluded at
14 4:52 p.m.)

15

16

17

18

19

20

21

22

A				
\$3 57:16 84:20 91:2 103:11 132:12 134:10 135:3,5 137:20	69:13 act 9:11 10:18 12:21 17:6 43:7 43:12,14 123:21 124:4,6 170:16 171:2,4	55:4 56:15,16 61:10,12 140:22 149:1 advice 43:9 109:3 124:1 170:21	7:5,11,15,18 8:19 22:6,9,16,19 23:1 23:10,12,15,19 26:17,20 27:2,14 29:3,11,13,17,22 30:4,7,9,19 31:4 33:11 43:22 44:1 64:2,5 69:16,18 69:21 70:13,15,21 73:14,21 92:19,21 107:4,6,11 110:2 110:4,11,15,17,20 111:6,13,16,22 112:11,15 113:9 113:16,21 114:3 118:4,8 120:2,5 121:7 124:8,9,15 124:16 125:22 126:2 129:13,17 129:22 130:9,16 138:16,19,22 139:5,9,12,20 140:3,8,11,14,20 141:3,11,15,18 142:1,5,8,13,15 142:22 143:7,15 144:4,8,12,18,21 145:9,14,16,22 146:3,10,15 147:4 157:21 158:8 171:14,15	allegations 4:17 11:17 14:11 alleged 9:17,19 10:13,15 16:4 31:18 41:19 alleging 49:18 allow 46:19 allowed 90:5 97:17 149:20 allowing 17:6 altered 28:3 ambiguity 167:14 Amendment 9:11 amount 21:6 155:12 156:9 amply 67:4 analyze 16:3 ANC-6A 1:8 2:8 and/or 171:2 announced 135:5 anonymous 54:17 answer 30:2 64:3 137:22 150:4 answered 139:12 answering 34:22 35:3 antagonistic 166:21 anybody 42:21 91:14 93:13 126:17 137:22 anyway 89:1 130:2 170:2 apologize 22:3 40:7 45:18 60:11 apparently 67:6 97:2,14 Appeals 16:14 25:13 appear 5:11 10:20 40:9 appearance 106:9 appeared 136:6 appears 44:9 59:1 61:18 66:9 89:6 125:1 157:16 163:22 165:8
\$4 57:17 103:12 132:13 135:3,6 137:20 144:1,20	acted 76:22 acting 20:18 action 24:15,17 28:13 actions 77:12 activity 9:13 actual 51:17 56:11 58:7,22 79:2 84:6 137:1	advisable 27:11 advised 14:16 advisement 45:18 Advisory 88:10 affect 75:13 afford 42:14 afforded 13:12 affords 11:6 afternoon 3:12 52:10,11,20 127:15,16 136:5 agencies 20:3 Agency 13:5 14:10 17:4,6,14 29:9 33:8 40:8 42:17 Agency's 88:22 agree 21:15 39:9 43:21 44:1,5,7 72:1 74:3 119:4 124:14,16,20,22 134:22 171:13,15 171:19,21	Alberti's 35:7 alcohol 9:10 137:1 160:4 alcoholic 1:2,14,15 14:4 16:16 43:3 51:11 53:8,22 81:1 102:19,20 105:18 119:8 121:16 123:17 126:7,15 162:5 163:1,13 165:12 170:13 alert 72:7 alive 170:9 allegation 11:1 42:10	
\$500 165:3 \$8 156:15,16 A.2d 16:17 ABC 14:14 43:7 44:10 123:21 125:3 170:17 172:2,3 abeyance 73:8 abide 28:6 34:9 abiding 33:4 ability 4:16 28:12 28:13 149:16 able 26:2 28:7 44:13 80:10 106:12 129:12 133:1 151:10 154:14 169:12 above-entitled 172:13 ABRA 16:14 24:6 40:9,16 42:4 53:13,16 68:20 81:14 146:6 absolutely 9:6 12:11 19:16 25:5 32:6 137:11 155:18 166:21 167:11 abstaining 127:5 abuse 28:22 abuses 20:5 accept 11:2 74:21 accepting 118:19 122:19 accompanied 15:7 accord 6:18 accurate 109:8 114:1,2 accusatory 41:21	ad 59:1,16 add 22:6 31:13 addition 16:5 additional 8:9 address 39:21 47:4 58:8,8,10,10,11 72:22 73:12 82:9 125:12 168:4 addressed 13:9 167:6 addresses 49:15 addressing 21:5 adhere 75:11 98:10 adjourn 123:8 adjudicated 19:20 41:11 adjudication 21:8 Administration 14:5 53:9 administrative 22:11,20 23:8 admitted 60:8 77:20 89:15 advertise 144:13 145:7 advertised 54:16 91:3 112:2,13 114:22 advertisement 55:16 56:6,18 57:5 105:16 advertising 54:19	agreed 76:15 151:14 agreement 1:12 22:10,12 50:8 51:2 86:20 87:1,2 87:5,8,14 88:1,3 88:17 94:3 96:12 111:21 118:22 146:5,9 149:22 161:20 164:4,12 164:13,21 168:7 168:15 agreements 81:15 81:16,18,21 89:21 89:22 114:20 agrees 44:3 90:9 124:18 164:14 171:17 ahead 87:10 138:18 Alberti 1:21 3:20		

166:19,20 171:22	104:7	47:2	23:17 26:12 29:5	40:7 41:18 43:4,7
applicant 90:8	asked 91:7 100:4,7	aware 11:14 74:16	42:16 47:6 51:2	44:10 45:22 46:13
164:14	104:17 108:19	81:6 92:6 93:9	51:14 56:12 66:19	48:18 49:1 50:13
apply 24:14,21	133:17 134:11,12	99:20 100:10,18	72:17 75:9 80:12	57:14 71:1,13
25:1	134:13,19 146:4	113:14 136:5,14	86:21 87:14	73:1 75:10 79:22
appreciate 46:18	159:4,12 166:5	139:15 140:21	102:12 103:12	97:19 109:22
47:13	asking 34:13,16,19	148:3 160:1	115:9 125:13	115:8 117:2,3
approach 141:9,12	94:9,10,14 110:21	aye 127:2,3	130:1 133:2	118:12 119:2
approached 148:18	120:7 134:17		146:12 156:2	120:19 123:9,18
151:7	137:22 164:22	B	160:7 163:3	123:21 125:3
appropriate 27:17	assert 11:13 12:4	B 24:13	believed 76:22	138:14 160:13
66:19 78:16	20:17 46:11,15	B-R-I-A-N 53:2	107:8	170:14,17 172:2,3
100:10	51:9 66:12 116:14	back 33:1 44:12	benefit 25:20 73:4	Board's 4:19 13:4
approval 1:10	121:22 122:10	45:7 47:17 58:5	151:15,17,21	16:19 17:13 22:11
117:2,3 118:12	asserted 66:18 67:3	84:5 90:20 107:9	best 113:22	book 21:4 83:5
120:13,19 126:10	67:8,15 77:15	125:12	better 4:4,6,8	102:8 103:2
approximate 56:19	97:9	backhandedly 33:1	129:12	105:21 112:6,7
approximately	assessment 37:16	bad 142:22 143:7	beverage 1:2,14,15	booklet 82:19
58:17 82:13 84:3	assessments 79:13	balance 17:3	2:18 9:10 14:4	books 40:14 93:21
84:10 111:14,18	assist 108:9	bar 2:17 57:9 69:9	16:16 43:4 53:8	bottle 156:9
146:16	assume 145:4	82:18 83:3 84:16	123:18 170:13	bottles 155:11,11
arbitrary 14:8	169:6	84:19 85:2 86:8	beverages 126:7	156:2
Arcade 144:20	assumed 52:16	90:9,22 91:4 92:3	beyond 16:20	bottom 41:5 62:4
area 50:4 54:14	127:21	92:6,9 112:22	67:16 167:20	62:16
84:6 85:3 141:21	Atlas 144:20	164:15	bias 31:2	bourbon 57:18
167:2	attached 66:2,4	barely 166:12	bids 145:5	59:18,21 84:22
argue 164:17	69:13 71:3,8 72:3	barricades 106:17	big 47:2	91:5 103:13
arguendo 11:2	72:5 74:12	bars 50:4,12 54:14	bill 32:1	104:11,13 133:2,5
argues 11:5 29:7	attachments 68:15	56:19 112:5 163:6	bit 69:5	139:2,7 145:3
arguing 14:2 27:6	68:18,19,21 71:4	163:10 164:7	blanket 118:13	147:20 150:17,20
argument 5:4 8:13	71:5,6,16 75:4	bartender 84:20,22	blend 83:2	151:2 153:12,22
11:19 24:22 25:8	attempt 165:7	91:16,17,21 92:2	block 58:13,14 86:1	155:12 156:1,6,13
25:10,21 36:21	attempting 167:6	93:5 113:1	86:3,4 106:13	156:14 157:8,13
38:9 39:2,3,7 73:7	attention 85:3	based 17:8 38:7	blocks 58:15	159:11,15 162:12
74:4 75:21 76:10	attire 93:7 96:18,20	39:7 58:18 90:13	106:18 140:18	163:11,18
94:20 122:22	attorney 3:9	98:21 125:13	Board 1:2,10,15	break 44:19 123:14
165:5	109:11,14,16	basis 24:22 38:9	2:4 3:17 4:5,10,21	Brian 52:1,13 53:1
arguments 6:16	157:22	127:6	5:4,16 6:15 8:9	82:15
27:3 30:12 75:13	attract 163:22	bear 17:14 21:2	11:8,13,15,22	briefly 49:12 75:21
arising 42:6	attracting 163:9	beer 59:19 132:6	12:6,15,20 13:4	Brightest 56:6,12
arrive 84:2,6	attribute 108:21	137:9,10 143:3	13:11,18 16:17	61:9,15 62:11,14
136:13	auditor 67:3	144:20 160:8	18:15 19:3,14,18	99:1,6,9,10,12
arrived 82:13 84:8	August 7:22 15:15	163:12 168:7	20:17 21:7 22:5	100:15,20 101:1,9
art 11:15 41:6	18:3,4	beers 132:3	22:14,14,20 23:7	134:16 137:13
ascertain 104:4,12	authority 12:20,21	behalf 2:18 3:9	23:7 26:16 27:8	138:8,11 140:21
105:8	13:7 19:13 20:11	belief 49:16	29:9 33:8 35:7	147:13,21 148:3
ascertaining 51:6	20:16,18 46:13	believe 5:1 21:6,9	36:11,16,19 37:16	148:10,14,18

151:8 159:13 bring 22:3 28:16 29:9 39:15 64:12 bringing 21:17 broader 51:3 Brooks 1:21 43:16 43:17,20,21 124:13,14 171:7 171:12,13 brought 18:20 39:16,16 153:18 Brown 12:6 Building 1:15 Bulleit 57:18 59:18 59:20 84:22 91:5 103:13 104:11,13 133:2,5,8,12 139:2,6 145:3,5 147:20 150:19 151:11 153:4 155:11 156:1,12 156:14 157:8,12 159:10,15,16,18 162:12 163:18 burden 17:14 27:19 29:4,6,8 33:1,16,19 34:4,7 34:7,9 35:5,14 36:2,8,22 37:9 38:12 39:5,13,18 39:19 51:15 122:6 125:15 127:7 business 90:7 100:15,19 113:3 128:17 148:1 150:7 151:7,19 businesses 79:14 131:4 buyers 102:1 BYT 62:6,8,16 150:5 bytproductions.c... 63:10	127:9 171:10 called 50:3 52:14 61:10 81:17 112:18 127:19 calls 152:9 capricious 14:8 car 41:1 86:6 card 40:15 cart 47:15 carved 25:2,5 case 1:9 2:5 6:1 14:1,4,8,12 15:2,9 16:1,8,13,18 17:15 23:3,13 24:22 25:9,13,21 26:5,8,14 27:5,7 31:7 32:5 41:20 43:9 45:9,13,15 46:3,5 49:13,18 65:5 68:22 78:6 102:13 108:7 124:1,5 146:5 161:19 167:11 168:17 170:9,10 170:19,21 cases 16:13 19:10 29:20 41:9 45:13 cause 1:6 3:12 15:12,13,14,18 18:3 24:9 32:21 33:4 35:17 66:3 66:20 68:4 69:8 172:12 caused 17:4 27:4,9 causing 19:13 certain 76:22 77:1 108:20 160:9 certainly 6:21 11:13,13 18:12,14 19:22 23:7 27:16 29:7 39:17 40:3,4 42:16 44:18 46:18 97:1 150:6 168:13 Chair 14:1 33:12 39:11 48:9 49:5 67:20 69:16 70:16 72:22 73:15 75:16	75:21 126:20 147:10 156:19 Chairman 172:9 Chairperson 1:17 1:20 2:3,19 3:3,7 3:11 4:3,7,22 5:19 5:22 6:9,13 7:2,7 7:20 8:3,11,18,21 9:4,8,10,22 10:6 10:10 13:13,15,21 20:21 21:10,13 22:4,8 23:22 26:15,19,22 33:13 39:20 40:17,20 41:2,12,16 42:20 43:3,17,22 44:2,6 44:8,22 45:3,6 46:9 47:3,20 48:6 49:6 50:17,20 51:19 52:2,6,9,18 55:13,17,21 59:4 59:8,11 60:9,12 60:14,19 61:2,6 61:21 62:13,17,22 63:4,7,11,14,19 63:22 64:7,10,14 64:18 65:14,18 69:17,20 70:10,19 70:22 71:9,11,17 71:22 72:12,15 73:3,20 74:5,8,15 74:18 75:2,8,18 76:9,13,16,21 77:6,10,13,17,19 78:3,13 79:11 80:6,18 88:15,18 89:2,5,8,12,14 92:17 93:1,10 94:21 95:6,10,20 96:2,6 98:2,4,8,16 107:5,12,18,22 108:4 109:19,22 110:3 114:5,14,18 115:3,6,11 116:6 116:11 117:6,15 117:20 118:6 119:11,15,18,21	120:4,6,16 121:9 122:2,4,8,14,21 123:3,7,13,17 124:9,15,17,21 125:1,11 126:1,21 127:4,11,14 128:1 129:3,6 130:15 133:9,13 135:18 135:22 138:14,18 141:14 142:19 143:6 145:20 147:7 156:20 157:4,6 158:7,11 158:20 159:1,9,17 159:22 160:11,15 160:18 161:1,7,10 161:13,17 165:4 168:20 169:4,7,10 169:17,21 170:4 170:12,13 171:8 171:14,16,20,22 172:11 challenge 5:14 6:4 challenged 6:12 challenges 86:9 106:13 chance 75:20 change 119:5 132:11 143:20 characterization 55:19 characterize 61:4 65:22 72:13 147:18 148:19 149:8 charge 11:16 49:13 50:22 51:17 65:5 165:1,1,2 charges 15:4,22 16:3 18:5 charging 17:22 143:5 cheaper 111:2 134:10 check 8:4 check-in 82:7,11,14 84:9 99:9,16	101:12 checking 5:20 40:13 85:15 checks 32:16 chief 24:17 41:20 choose 9:5 72:22 Chrissy 1:25 3:8 Church 131:1 143:21 citation 12:7 19:6 cited 19:10 20:11 43:13 45:15 124:5 171:3 cites 117:14 city 4:14 13:12 19:22 26:10 29:1 29:8 31:14 62:21 clarification 149:18 clause 87:1 clean 96:20 clear 23:13 34:6 48:9,10 129:15 130:10 138:20 147:10 149:8 170:5 client 27:10 37:3 71:13 close 13:14 114:16 116:3 122:9 163:6 164:6 168:21 closed 43:1,7 123:16,21 125:4 170:17,20 172:3 closely 151:6 closer 4:1 closing 154:11 161:14 co-counsel's 5:10 cocktail 145:3 code 11:7 12:3 16:21 21:3,4 43:6 69:15 79:2,4 81:7 123:20 170:15 cold 76:8 Columbia 1:1 2:17 3:10 18:14 19:22
C				
call 2:5 43:19 51:21 68:20 124:11				

20:3 26:7 43:5 53:9 54:1 69:10 78:9 117:9 118:2 123:19 170:14 come 31:19 44:12 47:17 101:20 133:3 134:14,18 146:4 151:18 155:22 162:18 164:1 coming 42:6 163:14,16,19 command 46:13 commands 32:20 35:12 comment 21:12 73:12 75:22 158:1 comments 73:18 Commission 88:11 committed 28:2,8 Committee 12:12 19:21 31:22 Committee's 10:17 Commons 144:21 145:1,2 157:10 communicated 85:7 communicating 48:10 company 2:18 3:1 3:6 131:17 133:7 complain 47:16,18 48:1,3 complaining 17:16 complaint 81:20 complete 66:14 69:8 70:2,6 completely 156:1 165:18 167:4,19 168:10 compliance 69:3 complying 79:15 comports 12:11 computer 76:5 136:11 Concannon 151:7 concede 21:15	conceded 20:13 27:18 28:20 29:6 36:8 121:1 167:8 concern 44:16 166:22 concerns 9:12 12:12 13:8 50:21 150:8,11 conclude 17:11 20:14 concluded 17:8 172:13 concludes 160:21 172:6 conclusion 55:20 78:12,20 79:1,8 94:9,18 conclusions 169:1 169:18 concurrent 166:3 conditions 24:21 conduct 107:10 121:5 conducted 93:13 99:6 conference 22:13 172:4 confine 13:6,11 35:18 confined 38:1 confirm 109:7 145:17 152:14,19 169:11 confirmation 152:3 conflict 20:19 121:2,2,11 167:9 conflicting 167:13 conform 32:19 conformance 29:10 168:16 conformed 12:18 conforming 12:21 confuse 6:15 confused 92:15 93:6 113:11 confusingly 13:3 conjecture 145:10	150:7 conjunction 148:11 connected 61:7 consider 8:10 36:16,19 43:1 44:11 58:2 136:17 consideration 18:17 25:19 47:14 75:12 considered 24:15 45:7 construction 106:17 construed 16:11 consultation 108:15 contacted 134:15 159:18 containing 42:8 117:4 contains 118:15 contemporaneous 11:4 contention 10:20 Contentious 72:19 contest 4:18 continue 4:18 95:21 contracts 152:11 152:18 contractual 153:2 contradiction 119:4 contradictory 139:1 control 1:2,14,15 16:16 43:4 123:18 167:19 170:13 conversation 96:9 97:18,20 102:5 112:16 123:9 Cool 49:5 cooperative 21:19 22:2 coordinators 101:9 copies 8:5 79:22 117:16	copy 7:4 8:1 69:8 71:5 74:11 87:14 141:6,7 corner 113:6,7 corporation 131:15 correct 19:17 23:15 31:8 65:15 101:13 103:4 104:1 106:14 113:21 128:21 137:2,3 145:10 correctly 140:18 156:4 correspondence 154:15 cost 151:14 Council 4:14 13:12 20:1 29:1,8 31:14 counsel 16:5 42:17 43:9 52:14 55:9 87:14 120:12 124:1 127:19 169:11 170:21 couple 114:6 coupon 83:5 84:19 92:11,11 93:20 102:8 103:2,10 105:21 112:5,5,9 coupons 82:20 83:6 83:10,14 93:8 112:1 141:1 course 19:8 103:21 105:7 115:16 Court 16:14,22 17:8 25:12 cover 166:12 covering 59:10 covers 58:14 crawl 1:10 26:9 49:19 50:2,9 51:4 51:7 54:15,18,21 55:4,16,20 57:1 58:7 61:10 62:2 66:8 78:8 80:16 80:20 81:6,11,19 82:19 83:3 84:7 85:21 90:19 91:4	91:22 92:3,6,9 102:16,22 111:12 112:19,22 116:21 117:1,4 118:11,21 119:5 120:10,11 120:14,14,18 122:7,16 125:16 126:10,11 149:9 149:12,16,17 150:12,13 161:21 161:22 162:3,20 163:21 164:15,18 168:7 crawls 49:15,17 86:21 90:4,10 114:21 118:14 164:2,3 create 26:4 166:17 creates 31:1 164:10 creation 114:10 criminal 24:15 criteria 159:6 cross 28:11 98:17 136:1 CROSS-EXAMI... 98:19 136:3 cross-examine 67:14 crowd 92:4 CT 1:8 cubical 65:6 current 9:15 customers 113:5
				D
				D 90:8 D.C 1:16 DAB 57:17 103:12 103:19 132:12 135:3,6 DABs 137:20 dance 166:12 Dangerously 59:17 144:4,16 date 7:4,22 24:10 28:17 63:1,15 88:3 147:5

dated 145:18	definitely 147:15 169:8	determination 28:5 31:19	167:1,22 168:12	3:10 18:6,13
day 14:6 17:1,12 25:11 28:5 34:9 137:10,12	definition 51:7,10 51:12 78:8 81:11	determine 54:13,21 78:7 81:15	discounting 135:8	19:22 20:3 26:7
days 12:1 16:7,20 19:9 24:10 26:1 32:14,17 69:14 114:8 146:14,22	102:22 118:15	determined 38:18 45:10	discounts 132:18 134:8,20 135:1 163:7	43:4 53:9 54:1 69:3,10 78:8 117:9 118:2 123:18 170:14
DC 11:7 12:6 16:16	120:11 121:15	determining 17:1	discourage 163:4	disturbingly 13:1
16:21 21:3 43:5	126:4,10,16	Diageo 133:7,11	discourse 31:10	DJ 147:19 149:2
62:20 81:7 123:19 170:15	definitions 167:19	154:3,16 159:15 165:22	discuss 108:22 112:22 142:16 143:4	document 41:20,21 55:10 66:19 67:1 69:12,13 77:22 80:1 87:16,21 89:7,16 106:22 107:2,7 136:10
DCMR 49:14 79:2 80:12 162:1	definitively 153:16	dialogue 149:1 152:2,2,8	discussed 31:21 65:7 83:5 101:7 101:11 108:18	documentation 67:21 152:18 154:5
DCMR's 80:15	delay 14:9 15:2 17:4,15	dictated 16:20 25:4	discusses 102:18	documents 9:15 11:16 72:2 74:20 74:21 75:14 108:3
DCRA 106:5	deliberate 46:19 170:10,18 172:4	dictates 21:6	discussion 18:12 27:4 30:15 115:15 165:15	doing 78:5,6 96:17 157:13
deadline 38:22 39:1,8	deliberated 49:7	difference 39:22	discussions 18:19 19:4 23:5 106:8	Dollar 1:6 2:6,15 43:10 50:2 54:4 83:11 88:10 124:2 128:9 131:19 171:1
deal 67:5	deliberating 43:12 124:4 171:2	differences 158:21	dismiss 3:18 4:10 43:2 46:4 47:9 49:13 116:4 125:13,21 127:2,6 169:13 170:7,18	dismissing 31:7
deals 112:13	deliberation 125:20	different 6:4 25:14 32:5 41:6,22 60:4 61:14 76:18 154:7 168:10	dismissed 14:4 16:8 29:20 51:18 80:5 165:2 168:18	dispense 133:19
decide 20:1 46:4 123:11	deliberations 31:15	difficulties 51:6	dispensed 154:18 156:7	dispensed 154:18 156:7
decided 5:6,13 6:21 46:21 54:19 82:1 90:15	Delicious 59:17 144:5,16	dig 154:15	disposition 5:9 6:20	disputing 38:15
decides 18:16	delivery 152:13 153:3	direct 50:7 52:19 128:3	disregard 19:3 22:5	disruption 166:17
decision 8:15 16:20 16:22 17:13 19:19 21:7,8 44:12 45:16 47:8,19 48:2 73:8 169:12	demonstrate 35:5 35:15 37:16 38:1 39:6,7 116:16,20 118:20 121:16,19 122:6,12 123:4,5	directed 73:22 74:1	distance 80:22 86:4 86:10 119:7 126:6 162:5,22	disrupting 38:15
deeply 167:1	demonstrated 121:17	directive 17:2 22:13	distinct 11:18 36:4 36:6	disregard 19:3 22:5
default 39:1	demonstrates 153:8	directly 20:18 65:6 97:13 167:22	distinction 19:7 23:16 102:7,9,13 155:7	disruption 166:17
defend 26:5 28:7 28:13	demonstrating 17:15 36:3,9 37:20 51:16	Director 42:16	distributed 152:15	disrupting 38:15
defendant 18:8	demonstration 168:12	directory 16:11 17:12 20:14 25:11 27:7	District 1:1 2:17	disregard 19:3 22:5
defended 19:20	denied 18:9	disagreeing 39:17		disruption 166:17
defense 4:17 14:11 15:3,17 16:2 18:4 26:3 55:9	deny 74:20 125:20	discount 82:21 102:8,20 105:4 121:18 123:4,6 125:19 132:14,20 135:10 143:17		distance 80:22 86:4 86:10 119:7 126:6 162:5,22
deficiency 6:11	denying 127:1	discounted 51:11 57:17,20,22 59:14 80:22 102:19 119:8 121:16 126:7,15 134:3,6 162:5,9,22 163:11 163:13,22 165:8 165:12 166:20,21		disruption 166:17
deficient 68:12	depart 35:11			distance 80:22 86:4 86:10 119:7 126:6 162:5,22
define 80:15	department 42:4			distinct 11:18 36:4 36:6
defined 80:20 81:6 102:18 118:21 119:6 162:3 163:20	Depending 112:6			disruption 166:17
	described 12:5 56:18 118:22 148:21			distance 80:22 86:4 86:10 119:7 126:6 162:5,22
	describes 166:18			distinct 11:18 36:4 36:6

165:8,12 167:2,4 167:22 168:12 dropped 95:2 due 12:10 18:17 25:18 32:9 42:3 67:10 149:21 Duh 62:12 duly 52:15 127:20 dump 113:6 duty 14:14 40:14 DVRs 32:15	10:15 24:16 32:13 99:11 112:18 139:1 employer 93:5 ended 19:15 enforce 69:4 167:12 enforcement 9:11 9:13 12:9,16 13:4 20:3,6 24:17 28:12 42:3 engage 112:17 ensure 14:10 ensuring 17:10 entered 83:21 84:16 85:9 entertain 46:5 entire 68:5 86:5 entity 150:8 envisioned 167:20 especially 26:8 142:17,19 essential 32:9 essentially 120:9 establish 161:3 168:17 established 118:17 130:5 147:5 157:18 158:4,5 165:13 167:11 establishment 3:1 4:13 14:19 40:10 82:20 83:6,21 85:7 86:12,19 90:16 91:15 93:6 93:8,17 94:6 96:15 104:16 111:4,10 112:6,21 132:1,4,6,17,19 133:3,4,16 136:6 137:6 147:12 148:5,9 153:19 154:21 164:1 165:20 166:11 167:21 168:2,13 establishments 50:6 54:1,22 57:6	58:12,17 59:2,6 59:13 61:14,18 80:21 81:5,12,21 82:17 85:9,20 89:21 95:15 96:11 105:7 107:9 110:13,18 111:7 112:12 114:20 119:7 126:5 128:14,17 130:20 139:14,14 141:1 142:10 148:5,12 148:16 157:9 158:14,22 162:4 162:21 165:18 estimated 102:4 evening 50:12 54:7 91:15 93:14 113:12 131:21 132:1 135:11 137:15 139:2 147:20,21 149:4 154:19 event 56:6 61:12 90:10 98:22 99:6 99:8 100:16,21 101:5 102:2 103:2 105:8 108:22 112:18 113:11,14 114:9,16 118:15 128:12 130:21 134:13,14,17 139:16 147:12,16 147:18 148:4,9,15 148:19 149:17,19 151:9,10 154:7 156:6 159:5,20 160:5 164:16,17 165:14 166:2,3 168:1,8,8,9,9 events 62:19 108:18 163:4 everybody 71:2 evidence 18:13,14 18:20 23:2 36:12 46:14 47:1,8 50:14 54:20 60:8	67:19 74:21 75:11 78:2 88:20 89:11 89:18 93:21 98:11 105:22 116:3,5,18 118:19 122:10,12 126:3,13 145:21 160:22 evidentiary 5:15 6:22 18:16 47:17 48:1 115:14 exact 82:9 139:18 148:20 152:4 154:18 exactly 56:15 62:6 73:4 79:4 83:15 155:10 167:17 EXAMINATION 52:19 128:3 examine 101:15 examined 52:16 127:21 examining 99:4 example 33:9 examples 9:13 exchange 153:2 excluded 23:2 exclusion 42:14 excuse 18:1 58:5 61:1 62:1 116:7 129:13,14 excused 116:10 executive 28:3 exempted 25:9 exemptions 25:6 exempts 24:20 exhibit 55:8,11 56:2 57:10 59:9 60:8,20 66:1,8 74:22 77:20 78:1 79:21 80:2,7,9 82:10 87:13,17,20 89:15,17 110:7,8 111:8 115:1 130:13 141:6,7,11 143:11 156:22 exhibits 41:17 68:8 68:11 71:3 74:12	74:14 128:21 129:1,10,18 130:1 existed 158:22 existence 144:2 expect 92:3 expediency 47:11 explain 35:5 36:14 80:10 102:9 explained 14:2 explains 61:20 exposed 19:7 express 11:9 expressed 96:9 extra 7:3 8:1 eye 28:17
E				F
early 116:1 easy 86:4,9 eaten 144:5 effect 104:18 154:6 154:14 158:13 effective 88:3 efficiency 46:6 effort 147:22 efforts 18:18 egregious 9:12 egregiously 68:13 eight 111:15,16,18 112:1,12 either 3:22 11:11 24:7 38:21 39:8 73:17 86:22 112:7 147:2 elaborate 41:10 elapsed 17:7 element 37:6 elements 13:3 elicit 94:10 eliciting 78:20,22 else's 96:1 elucidated 12:2 email 134:17 145:18 154:15 emails 152:10 Embassy 62:20 employed 6:16 53:8,13 employee 12:6 146:6 employees 9:20				fact 15:5,19 16:6 37:21 66:4 67:21 69:22 78:14,15,18 90:12 93:7 94:10 106:16 125:14 133:3,14 135:4,9 145:8 147:11 148:3 164:12 169:1 170:8 facts 94:17 169:15 factual 10:20 94:16 fail 51:15 failed 14:5 116:16 116:20 118:20 121:15,19 122:6 123:1 168:17 failure 4:11 16:6,19 fair 6:14 9:3 118:8 fairly 160:9 falls 126:14 168:5 familiar 54:3 55:3 56:4 78:5 132:2 far 33:15 166:3 167:19 fast 13:5 favor 26:13 121:3 121:12 127:1 featured 57:7 February 15:1,7 17:21 18:4 146:21

feedback 37:8	127:22	163:11,18	76:15,20 77:2,18	84:12 90:15,20
feel 161:6	food 59:17	front 145:18	77:21 78:4,22	93:22 95:11,14
fellow 76:4	foot 86:6	full 90:22 91:9	79:7,19 80:8,14	96:10,14,19
field 82:4	forbade 81:18	fully 28:1,8 168:15	81:3 82:3 83:4,9	113:17 138:18
fifth 2:4	forgive 5:22 142:7	functions 42:4	83:13,19 84:4,11	163:10
figure 36:20	form 40:6,21 94:18	fundamental	84:15 85:13,19	goes 24:12 75:9
file 7:8,9 45:20	136:19	167:17	86:11,15,18 87:6	126:9 159:3
168:22 169:14	formal 15:18,21	further 11:19	87:11,19 88:2,6	going 2:5 8:5 25:20
170:8	formally 17:20	66:13 68:12	88:12 89:10,19	29:19 33:9 42:22
filed 169:6	formed 77:12	109:18,21 114:4	90:3,13,18 91:8	45:17 48:21 54:22
fill 40:6,21	former 51:22	135:13,17 161:6	91:13,17,19 92:13	71:13 74:20 78:16
final 16:19 21:7	formulate 16:2	Furthermore 68:14	93:12 94:5,14	79:1,3 92:3,7
62:3	26:2		95:1 97:16 98:13	96:10 97:8 113:2
Finally 15:10	formulation 42:18	G	100:2,6,8 115:8,9	113:12 116:13
find 50:14 101:17	forth 4:20 12:12	Gallothom 16:16	119:2,13,16,20	123:8 127:8
finding 28:1 75:2	19:21 20:4 24:9	19:7 21:1,3 32:5	120:9 135:15	137:18 157:12
findings 169:1,14	27:21 38:19 126:4	gather 16:3 26:4	136:1,2,4,12,16	163:10,17 164:7
170:8	126:16	general 3:9 42:17	136:22 137:4,8,12	168:21
fine 23:19 60:6	forward 26:8,14	53:19 109:6,9	137:17 138:2,7,13	Golden 1:6 2:6,15
158:17 165:1,3	28:17,18 48:12	113:2 148:13	160:16,17 161:12	43:10 50:2 54:4
fined 50:15	49:5 95:11 127:8	159:3	161:15,18 170:11	83:10 88:10 124:2
finish 96:3 149:4	found 54:15,19	generate 148:1	172:10	128:9 131:19
finished 116:7	64:22 65:6 81:14	George 151:7	getting 31:11 41:1	170:22
155:13 156:2	87:4 90:18 159:19	Gephardt 1:25 3:8	70:12 113:3 143:5	good 3:11 13:16
firm 53:6 109:11	foundation 95:18	3:8,14 4:22 5:1,16	give 4:15 10:2	31:10 52:9,11,20
first 18:10 19:2	107:15 130:5	5:21 7:7,9,12,19	44:10,12 74:11,13	61:4 127:15,16
30:5,7 46:4 50:21	158:4,5	13:17,20,22 19:16	75:14 79:16 98:11	129:6 136:4 142:9
51:1,21 52:5,7,15	fountain 59:22	20:22 21:2,11,14	109:5 112:9	147:5 169:20
56:3 63:3 65:20	105:14	22:15,18 23:18	117:13 123:14	goods 133:6 135:10
67:10,20 82:6	four 60:22 119:1	24:3 25:3 28:19	125:3 152:17,20	139:7 153:5
83:20 85:14 105:4	fourth 57:8 62:1	30:15 39:16 45:1	161:15 172:2	155:12
114:11 115:14	France 62:20	47:3,5 49:9,10	given 5:10 12:7,19	gotcha 9:15
116:12 117:11	free 50:7 58:2,3	51:20 52:2,4,7,20	13:8 14:18 20:10	governing 150:15
118:9,10 120:19	59:14,18,20,21	53:3,7,12,15,18	26:8 27:17 32:20	Government 4:12
120:20 127:9,20	84:22 103:13	54:2,6,10 55:2,6	46:14 48:22 49:21	5:3 11:5,20 14:7
136:9 170:7	104:10,16,17,19	55:15 56:1,8,14	68:8 91:6 94:19	27:6,18 32:19
five 10:3,7 61:1,3,3	104:20 105:3,13	56:22 57:4,13,19	95:4 97:11 98:3	36:7,14 37:7,10
140:6	126:14 133:1,6,16	58:1,4,16 59:3,12	137:12 153:12,20	37:15 38:11,12
floor 166:11,12	133:19 134:1,6	60:2,5,11,13,18	155:16 159:7	39:5,15 47:5
focus 16:9	136:17,17,20,21	60:22 61:5,8,22	168:5	49:11,12 50:20
folks 40:6	137:6 139:7 145:3	62:9,12,15,18	giving 18:3 31:17	51:9,15,21 52:15
follow 33:10 36:15	145:4 150:17	63:2,5,9,12,17,20	32:17 47:14 59:21	55:7,11 60:7,20
follow-up 114:6	151:3,10 152:17	64:4,8,16,19	73:4 145:4 151:2	67:4 72:7 78:1,20
115:10 156:21	152:20,21 153:5	65:10,13 67:20	glossing 69:22,22	79:20,21 80:2
160:12	153:13,18,18,20	68:6,14 72:1 74:3	go 26:8 28:18 40:19	87:13,17,20 89:17
follow-ups 115:7	154:1 155:12	74:7,9,13,16 75:1	42:22 54:20 59:22	97:14 116:15
follows 52:17	156:1,6 162:11	75:5,17,19 76:12	82:2,5 83:20,21	118:20 121:1,15

122:1,5 125:14 127:7 130:6 164:22 165:6 166:15 167:8,18 168:16 Government's 10:19 27:19 28:20 33:16,19 34:4,9 35:4,14 36:22 39:14,19 47:12 49:16 55:8 56:2 60:7 65:21 66:10 74:22 77:20 80:9 82:10 97:11 98:7 110:8 116:3 118:19 122:10 130:1 166:7 grant 47:9 great 67:5 113:16 140:20 142:8 ground 10:2 grounds 4:11 126:2 group 50:5,11 80:21 119:6 126:5 162:4,21 guess 26:17 73:5 110:7 135:21 138:16 140:6 159:2 160:1 guise 163:16	happened 14:15 17:19 29:16 67:1 94:17 107:17 happening 29:19 happy 113:14 hard 105:11 154:11 harm 27:4,9 30:16 31:6 hauled 33:6 havoc 164:10 headquarters 99:14,18,22 hear 8:13 13:17 30:11 49:21 92:22 96:3 129:12 135:21 heard 2:21 20:15 23:18 27:2,3 30:15 31:15 32:18 33:3 36:17 102:4 128:11 138:22 162:10 hearing 1:7,15 3:12 3:22 5:15 7:1 15:13,14,18 23:6 23:6 24:9 30:20 30:21 31:5 36:10 46:1 47:17 48:2 66:3 67:2,6 115:15 172:7,12 hearings 31:14 73:19 hears 36:12 hearsay 66:17 75:9 75:20,22 76:6 96:22 97:16 held 13:2 help 35:4 156:4 HERMAN 1:22 hey 68:19 hinder 15:3 hindered 14:11 history 45:14 hold 43:7 123:21 125:4 170:17 172:3 holder 141:20	holding 73:8 home 56:13 honored 112:12,14 112:15 hope 151:18 hopes 149:3 horse 47:16 hospitality 9:16 hosted 147:13 Hotel 59:19 104:1,7 104:10 131:1 143:20	149:15,20 indicated 4:14 48:18 150:16 172:5 indicates 111:1 indicating 48:11 153:11 indication 49:1 individual 102:1 industry 9:12,16 32:12,13 infirm 46:16 infirmary 71:20 informal 18:22 information 42:9 62:2,5 82:1 103:15 136:11 inherent 164:4 inhibit 18:22 initial 5:2 12:8 127:7 146:7 initially 84:5 initiated 22:14,17 initiation 12:9 19:12 20:12 32:6 inside 133:2,16 165:17 insofar 66:21 inspect 53:22 inspected 41:1 inspection 11:3,4 11:18 14:15 39:22 40:5 42:1,15 93:13 95:3 107:10 inspections 94:4 95:16 96:13 Inspector 166:9 instance 68:13 69:6 166:8 instituted 9:18 10:14 instructions 123:15 155:16 insufficient 122:11 122:12 integral 67:12 68:10	intended 15:3 22:1 161:2 intending 14:10 intends 166:22 168:3 intent 20:19 27:20 intention 21:17 29:8 95:14 163:4 intentionally 35:3 interchangeably 102:12 interest 17:10 26:6 26:13 131:3 interests 17:5 26:12 interject 62:10 165:8 interjecting 73:18 interpreted 13:3 interpreting 73:6 introduce 2:11 37:6 introduced 21:16 investigate 53:22 99:5 investigation 40:1 54:18 58:19 65:5 65:7 66:21 78:6 81:10 82:2,4 84:7 98:21 103:22 105:8 investigative 4:13 10:21 11:11,14 14:22 15:6,8,20 16:7 17:20 21:21 24:5,7 41:7 60:15 66:2,5,7,15 67:13 67:22 71:1 136:14 146:13,20 investigator 50:1 51:22 52:1 53:17 53:20 54:16 65:4 79:12 82:15 86:8 93:16,18 95:13 96:8 97:1,3,7,12 99:21 100:13,19 105:22 106:4,8
<hr/> H <hr/>		<hr/> I <hr/>		
H 1:7 2:7 50:3 54:7 54:14 56:7,17,20 58:13,14,15 59:21 61:16 66:8 81:4 82:5,8,12 86:2 99:16 105:12 106:13 110:9 130:20 136:7 140:13,14,15,19 144:19 148:1 160:3 166:8 Halloween 62:20 62:21 hand 136:15 happen 29:20		ID 40:13,15 idea 64:6 identification 55:12 80:3 87:18 identified 42:12 94:1 IDs 40:13 85:15,18 imagine 164:5 Immediately 85:6 imperative 13:10 implied 105:4 important 45:12 79:6,10 impression 96:1 113:10 143:16 inability 32:19 inappropriate 12:15 23:6,21 33:2 67:19 94:13 97:10 98:1 145:12 inception 151:6 incident 9:19 10:15 10:16 11:12 14:12 17:19 24:8,11 40:2 included 9:17 130:22 148:4,15 153:4 Including 115:3 131:6 incorporated 66:9 increasing 142:18 indicate 37:9		

108:17 112:21 114:9 122:18 128:12 129:20 130:18 132:22 140:17 Investigator's 68:9 76:5 161:4 Investigators 40:9 53:21 79:13 85:8 investigatory 108:6 involved 101:22 102:21 112:1 134:14 involving 16:14 issuance 19:9 issue 8:13 14:5 16:6 16:18,19 19:19 21:1 27:14 31:10 31:11,16 37:15 45:11,12 46:12,20 48:4 51:17 67:11 121:14 167:6 issued 15:22 17:20 18:1 issuing 170:6 item 155:9 items 72:21 103:17 143:17	151:12,15,20 152:1,7,10,13 153:7,10,21 154:4 154:10,20 155:1,3 155:6,15,19 156:3 156:11,16,18 171:20,21 Jose 93:19 judicial 28:15 32:8 46:6 July 6:5 7:19 53:11 88:5 jump 10:1 June 15:14 53:11 jurisdiction 4:19 46:16 169:13 jurisdictional 4:11 5:14 46:12	139:17,21 140:1,4 142:1 143:21,22 144:1,3,17 145:15 146:11,15,19,19 146:22 153:12 154:13 157:1,12 158:15,18 162:1,7 163:11,16 164:9 knowing 150:4 164:19 knowledge 76:7 100:3,5 113:11,22 140:12 150:6 157:18 158:15,16 160:6 knowledgeable 147:11,16 known 138:11 144:13	7:21 8:8,16 9:3,6 9:9 10:4,8,12 13:14 14:1 18:10 22:22 23:4,11,14 23:20 26:21 27:13 27:16 29:12,15,18 30:1,2,4,6,8,18 31:3,9 33:18,22 34:2,8,12,14,17 34:20 35:1,8,10 35:16,22 36:4,7 37:11,13,19,22 38:6,10,16 39:3,9 39:12,20 40:3,18 40:21 41:3,14,17 44:21 46:8,11 47:13,22 48:13,22 50:19 55:18,22 64:12 65:16,20 68:3,7 69:1 70:4,8 70:11,14,17 71:7 71:10,12,18 72:10 73:11 74:11 75:6 75:15 77:3,7,11 77:16 78:11,14 79:5,9 80:4,17 87:15 88:13,16,21 89:3,6,13 90:11 94:8,16 95:7,17 95:22 96:21 97:22 98:3,6,18,20 99:3 99:12,17,20 100:4 100:7,9,13,18 101:3,10,14,17,20 102:6,14 103:1,5 103:14,21 104:3 104:12,22 105:6 105:12,17,20 106:3,7,11,16,20 107:7,13,20 108:2 108:5,9,12,16 109:2,10,13,17,20 115:12,13,19,21 116:2,14 117:8,16 118:1,5,7,9 119:14 120:8,17 121:10 122:3,5,9	122:19 123:1,5,12 125:8 127:9,13 128:4,10,19 129:2 129:14,16,19 130:4,11,14,17 131:6,10,14,20 132:2,7,15,21 133:14,22 134:3,7 134:11,18,22 135:4,9,13,16,20 136:19 141:9,12 145:11 146:2 157:17 158:2,10 160:14,21 161:2,8 165:5 169:3,5,9 169:16,19 170:3 172:8 LeFonde's 76:10 left 81:9 85:4,11 93:20 95:12 96:17 96:19 leftover 156:10 legal 8:5 43:8 55:19 78:12,17,20 79:1 79:8 94:9,18 123:10,22 167:4 169:11 170:21 legally 94:11 legislation 13:10 32:1 42:18 legislative 9:14 11:9 20:19 27:20 27:21 31:21 45:14 legislatively 38:17 legislature 28:2,9 42:12 length 35:21 leniency 121:3,12 167:14 Let's 49:5 74:5 91:13 95:10 116:7 letter 90:8 level 72:8 liability 38:21 131:17 license 1:8 2:7 101:2 141:19
<hr/> J <hr/> job 53:19 join 151:9 joining 2:4 Jones 1:22 33:12 33:14,15,21 34:1 34:3,11,13,15,18 34:21 35:2,9,13 35:20 36:2,5,18 37:12,14,20 38:4 38:7,14,20 39:4 39:10 44:6,7 48:7 48:8,16 49:4 72:14,16,21 124:21,22 147:8,9 147:17 148:2,7,17 149:7,11,14 150:2 150:10,16,19,22	<hr/> K <hr/> keep 32:14 85:11 keeping 46:17 Kelly 88:9 kill 113:3 kind 6:22 28:15 30:9 32:7,21 70:11 72:16 91:20 121:20 166:17 167:17 knew 87:4 100:9 139:18 140:1,9 166:4 know 5:3 8:11 9:5 21:5 22:21 23:1 24:2 25:17,22 26:5,9 32:22 44:17 47:6,18 57:5 60:16,17 61:11,13 64:5,20 65:11 68:2 70:11 73:16 76:21 82:18 85:19 87:6 88:2 91:10 93:12 94:5 95:2,13 96:16 98:9 99:15 100:8 110:12 114:11 138:7,10 139:13	<hr/> L <hr/> lack 17:9 30:16 46:15,15 169:13 lacked 113:11 language 14:3 51:3 90:14 102:16 165:9,10,11 166:13,19,22 167:7 168:6 large 92:3 largest 102:3 law 12:22 35:19 38:2,3 45:15 53:6 79:15,17 109:11 167:11 169:2,18 laws 69:3 lawyer 64:8 laying 130:4 lead 33:9 learned 101:21 leave 70:15 113:6 leaving 85:6 leeway 79:16 LeFONDE 2:16,16 2:22 3:5,16,20 4:2 4:5,9 5:8 6:3,11 6:14 7:3,5,13,17		

142:7 150:15 160:8,9 licensed 40:10,14 53:22 109:15 licensee 4:15 6:4 10:22 11:6 13:1 14:2 15:1,6,11,16 16:1 17:18 18:2 19:10 20:11 22:2 24:6,16 25:18 31:18 33:2 49:18 50:5,15 54:3 66:11 69:2 70:1,6 70:9 94:12,19 108:2 121:5 127:20 161:19 162:9,10 163:15 163:17 164:13,19 167:13 licensee's 14:10 15:3 125:20 127:2 licensees 28:1 33:6 95:4 lies 34:7 38:12 light 16:5 limit 14:6 17:12 25:11 29:2 limitation 12:5 16:10 19:15 20:7 28:5 32:4,7,17 limitations 20:14 28:16 38:2,19 limited 12:19 131:17 line 28:10 109:6 150:9 links 61:12 liquor 101:2 143:3 150:15 list 40:19 41:4 56:19 58:11 61:17 71:5 86:13 110:18 111:10 139:18 141:3 143:10 144:9 listed 56:11,17 57:9 57:11 59:2,7 60:4	61:13 71:7 81:13 82:10 83:16,17 91:12 103:7,11,12 103:20 111:8,19 129:9 139:15 141:4 143:17 144:22 lists 71:3,4 72:2 110:13 liter 155:11 little 1:6 2:14 3:21 43:10 50:1,10 54:3 57:5 83:10 83:20 84:2,12,17 85:14,22 86:16 87:7 88:1,9 90:21 92:15 93:5 103:6 103:10,16 106:21 107:1 115:4,22 123:14 124:2 128:8,19 129:4 131:1,6,8,12,18 170:22 LLC 1:6 3:2 131:17 LMW 1:6 2:18,22 3:1 131:16 located 2:7 56:19 82:8 99:13 139:21 140:12 location 92:2,16 142:2 locations 121:21 long 9:20 10:15 44:17 105:3 140:15,15 longer 10:9 46:17 look 8:14,20 27:8,9 40:11 41:4 45:14 45:15 77:14 113:4 138:3 143:11 157:1 162:19 166:10 looked 24:19 81:10 81:12 87:10 138:3 looking 5:4 56:2 60:15,16 66:6 110:7 117:19,22	119:22 143:10 144:6 156:22 157:7,8 looks 62:3,5,19 63:12 160:3 loose 13:6 lot 162:7 lots 163:9 164:6 166:8 167:1 louder 129:4 <hr/> M <hr/> M-A-R-K 2:13 128:7 M-O-L-L-O-Y 53:2 Mackenzie 93:19 Madam 9:9 13:22 33:12 39:11 48:8 49:5 67:20 69:16 72:22 73:15 75:21 126:20 147:9 156:19 magnitude 119:1 168:3 maintain 32:15 maintains 14:7 18:7 majority 45:22 46:6 48:17 49:8 makeup 83:2 147:22 148:22 making 23:15 25:10 34:5 48:14 72:17 79:7 147:22 158:6 Mallios 53:6 manager 14:14 40:14 mandate 12:19 13:11 20:1 28:9 mandates 14:3 mandatory 12:5 16:11 17:2 20:13 25:11 27:7 manner 13:9 154:18	manufacturer 133:15,19 137:2 151:2,5,21 152:19 153:15 162:14 165:16 March 145:18 146:17,17 Mark 2:13 88:8 127:10,18 128:7 marked 55:8,11 77:22 79:21 80:2 87:12,17 89:16 match 114:22 material 81:13 83:18 materials 27:21 31:22 matter 1:5 5:13 21:8 66:18 67:3,8 67:15 77:15 97:9 172:13 matters 3:13,15 19:1 21:15 25:16 28:17 171:3 172:4 Matthew 2:16 mean 8:19 27:5 31:12 35:22 39:14 40:4,6,17 41:3 63:7 68:2 73:18 83:14 103:8 110:22 159:9 160:1 means 163:14 165:15 meant 40:8 mechanisms 40:13 meet 38:21,22 51:10 126:3 meeting 1:3 43:8 51:12 123:16,22 125:5 170:17,20 172:3 Meetings 43:6,12 43:14 123:20 124:4,6 170:16 171:2,4 member 1:21,21,22	1:22 2:4,17 3:20 7:5,11,15,18 8:19 22:6,9,16,19 23:1 23:10,12,19 26:17 26:20 27:2,14 29:11,13,17,22 30:4,7,9,19 31:4 33:11,12,15,21 34:1,3,11,13,15 34:18,21 35:2,7,9 35:13,20 36:2,5 36:18 37:12,14,20 38:4,7,14,20 39:4 39:10 43:16,21 44:1,5,7 48:8,16 49:4 64:2,5 69:9 69:16,18,21 70:13 70:15,21 72:14,16 72:19,21 73:14,21 92:19,21 107:4,6 107:11 110:2,4,11 110:15,17,20 111:6,13,16,22 112:11,15 113:9 113:16,21 114:3 115:19,22 117:13 117:18,21 118:3,4 118:8 120:2,5 121:7 124:8,14,16 124:20,22 125:22 126:19 129:7,11 129:13,17,22 130:9,16 138:16 138:19,22 139:5,9 139:12,20 140:3,8 140:11,14,20 141:3,11,15,18 142:1,5,8,13,15 142:22 143:7,15 144:4,8,12,18,21 145:9,14,16,22 146:3,10,15 147:4 147:9,17 148:2,7 148:17 149:7,11 149:14 150:2,10 150:16,19,22 151:12,15,20
--	---	--	---	---

152:1,7,10,13 153:7,10,21 154:4 154:10,20 155:1,3 155:6,15,19 156:3 156:11,16,18 157:21 158:8 171:6,7,13,15,19 171:21 Members 13:18 26:16 119:2 123:9 memories 8:6 memory 9:2 109:8 mental 96:1 mentality 9:15 mention 129:19 mentioned 25:14 41:5 47:7 89:20 128:14,20,22 merely 49:19 135:2 merits 18:20 46:5 47:18 48:3 170:10 170:19 met 1:15 29:7 39:8 39:8 93:18 96:7 125:14 127:7 microphone 59:10 MIKE 1:22 Miller 1:17,20 2:3 2:19 3:3,7,11 4:3 4:7,22 5:19,22 6:9 6:13 7:2,7,20 8:3 8:11,18,21 9:4,8 9:22 10:6,10 13:13,15,21 20:21 21:10,13 22:4,8 23:22 26:15,19,22 33:13 39:20 40:17 40:20 41:2,12,16 42:20 43:17,22 44:2,2,6,8,22 45:3 45:6 46:9 47:3,20 48:6 49:6 50:17 51:19 52:2,6,9,18 55:13,17,21 59:4 59:8,11 60:9,12 60:14,19 61:2,6 61:21 62:13,17,22	63:4,7,11,14,19 63:22 64:7,10,14 64:18 65:14,18 69:17,20 70:10,19 70:22 71:9,11,17 71:22 72:12,15 73:3,20 74:5,8,15 74:18 75:2,8,18 76:9,13,16,21 77:6,10,13,17,19 78:3,13 79:11 80:6,18 88:15,18 89:2,5,8,12,14 92:17 93:1,10 94:21 95:6,10,20 96:2,6 98:2,4,8,16 107:5,12,18,22 108:4 109:19,22 110:3 114:5,14,18 115:3,6,11 116:6 116:11 117:6,15 117:20 118:6 119:11,15,18,21 120:4,6,16 121:9 122:2,4,8,14,21 123:3,7,13 124:9 124:15,17,17,21 125:1,11 126:1,21 127:4,11,14 128:1 129:3,6 130:15 133:9,13 135:18 135:22 138:14,18 141:14 142:19 143:6 145:20 147:7 156:20 157:4,6 158:7,11 158:20 159:1,9,17 159:22 160:11,15 160:18 161:1,7,10 161:13,17 165:4 168:20 169:4,7,10 169:17,21 170:4 170:12 171:8,14 171:16,16,20,22 172:11 mine 65:7 140:2 minute 9:1 44:19	minutes 10:3,7 missed 2:20 93:1 mitigating 33:3 mitigation 35:11 35:17 36:12 mix 45:19 mixing 6:1 Molloy 52:1,11,13 52:21 53:1,2,4,5 53:10,14,17,21 54:5,9,12 55:5 56:1,5,10,16 57:2 57:8,16,21 58:3,9 58:21 59:6,9,16 60:3 62:8,10 64:22 65:11 78:4 78:10 80:9,11,19 81:8 82:7 83:8,12 83:16 84:1,8,14 84:18 85:17 86:2 86:14,17,19 87:9 87:19,22 88:4,8 89:20 90:2,6,17 91:2,11,16,18 92:1,14,19,20 93:3,15 95:12,19 96:5,7 98:20 99:1 99:8,14,19 100:1 100:12,17,22 101:6,13,16,19 102:3,11,17 103:4 103:10,18 104:2,6 104:15 105:2,10 105:15,19 106:2,5 106:10,15,19 107:3 108:8,11,14 108:17 109:4,12 109:15 110:5,10 110:14,16,19 111:1,9,15,17 112:4,14,20 113:13,20 114:2,8 114:17 115:2,5 116:9 128:12 129:21,21 Molloy's 130:19 166:9	moment 7:6 49:11 66:11 78:19 143:12 161:16 momentarily 2:5 money 113:15 162:18 month 116:1 months 9:19 10:14 15:10,17,21 16:2 26:3 motion 3:17 4:10 4:20 5:2,2,5,5,9 6:6,20 12:8 18:8 43:1,12,18,19 44:9,11 45:8 46:4 47:9 74:19 115:18 116:4,15 123:11 124:4,10,11 125:2 125:12,20,21 126:2,18,20 127:2 127:6 169:13 170:7,18 171:9,10 172:1 motions 5:17 mouth 130:3 move 43:7 48:11 49:5 74:6,19 89:7 89:9,11 90:12 116:13 123:21 170:16 moved 10:16 85:2 88:19 moving 26:14 64:11,15,16 multiple 148:16 multitude 20:10 33:5 36:11 41:15 Municipal 117:9 118:2 <hr/> N <hr/> n 59:19 103:22 104:6,9 130:22 143:20 157:11 N.E 2:7 54:7 82:12 130:20 140:13 N.W 1:16	name 2:21,22 52:21 53:1,2 54:3 61:15 128:5,5 136:6 narrative 41:8 42:8 nature 90:10 99:5 149:19 150:22 152:4,22 164:16 168:9,10 near 158:15 168:2 necessarily 121:3 necessary 32:6 112:2 170:19 necessity 4:15 need 8:8 33:10 48:4 69:2 73:19 96:3 120:13 157:1 needed 81:22 needs 29:18 neighborhood 17:11 88:10 143:8 148:12 neighborhoods 164:10 neither 30:13 150:13 never 68:7 69:12 71:14 86:5 99:17 105:2 132:11 138:2,3,5 new 38:3 62:20 NICK 1:21 night 58:22 81:5 86:13 93:18 108:19 109:6 115:17 148:8 149:3,6 151:11 153:13 154:1 156:5 157:13 non-adherence 30:22,22 nonconformance 33:7 normal 96:20 155:4,8 normally 111:3,4 169:22 note 76:1 96:8
--	---	---	--	---

noted 21:17 68:15	obtain 117:2	81:9	93:10 95:6,10	operating 141:20
notice 4:16 11:7	118:12 120:19	official 17:22 43:5	96:6 98:12,13	operation 54:13
12:10 14:19 15:12	133:1	123:19 170:15	101:3,14 106:20	operations 90:7
15:19 17:22 23:8	obtained 103:2	officially 14:22	107:11,22 108:4	opine 78:17
24:4 26:1 31:17	105:21 140:22	oh 8:16 9:6 10:4	108:12 109:13,19	opined 16:22
32:6,8,9,17 40:2	obviously 25:13	44:16 52:4 61:1,3	109:22 110:3,6,20	opinion 78:17
42:14 44:10 66:2	68:21 164:9	63:17 85:17 86:17	111:6 114:14,18	108:20 110:21
68:4,11 69:8 72:4	occur 155:20	88:8 93:3 105:2	115:6,11 117:15	123:10
72:11 75:3 89:1	occurred 20:5	107:12 119:21	118:6 120:16	opportunity 46:19
94:6,12,18 121:4	24:11 31:20 57:1	120:4 129:16	122:2,8,14 123:7	47:14
125:3 172:2	116:21 118:22	130:11 135:15,18	123:7 125:7,11	opposed 127:5
notices 12:1 107:14	122:7,13,16	135:20 154:2	126:1,22 127:5,8	opposite 19:11
notifications 9:17	occurring 58:7	169:7,16	127:14 129:2	20:16
10:12	October 1:13 14:13	okay 2:3 3:3,7,11	130:11 131:10	opposition 7:8,10
notified 15:12 94:2	17:19 49:22 50:12	5:18,21 6:13 7:2	133:13 136:2,12	43:2 45:8
notify 85:8 95:14	53:13 54:8 63:5	7:18,20 8:3,4,17	136:16 137:8,13	oral 5:4 8:13
notifying 18:2	65:1 115:20	10:11 13:21 21:10	138:14 139:5,5,11	order 19:9 73:15
96:10	128:13 130:21	22:4,8 23:22	139:13,20 140:3,8	73:19 119:1 168:2
noting 95:4	131:21 132:8,16	26:15,19 27:1	140:11,20 141:4	170:7,20
novel 64:6	133:6 147:14	29:11,17 30:8	141:18 142:5,8,13	ordered 84:20 92:8
nuances 154:7	offense 41:19	33:11 35:13 39:4	143:6,10,15	ordinary 104:13
number 32:14	offer 15:8 17:21	39:10 41:12 42:20	144:18 145:14	organized 49:19
102:3 105:3 161:3	21:22 23:4 35:11	42:21 44:8,22	146:1 147:4,17	50:5,11 80:21
161:5	35:17 65:22 66:20	45:6 48:16 49:4,6	148:7,17 149:7,11	119:6 126:5 162:3
numbers 105:11	71:13 80:22 119:8	49:10,11 52:9	150:2 151:12	162:21
numerous 19:10	133:22 134:7,19	53:3,7,12,15 54:2	152:1,7 154:4,20	organizer 98:22
NW 1:7	135:1,3 137:6,14	54:6,10 55:2,6,17	155:3,6,15,19	117:1 118:11
	137:20 144:13	55:21 56:14 57:4	156:11,18,20	120:18
O	146:8 147:1	57:13,19 58:1,4,4	157:5,6 158:7,7	organizers 49:17
O'Brien 53:6	151:10 153:21	58:16 59:3,8,11	158:12,20 159:1	103:3
OAG 1:25	162:5 165:12	60:5,12,14,18,19	159:17,22 160:11	outside 23:5 78:18
OAG's 22:17	offered 50:6,10	60:20 61:3 62:12	160:11,15,18,20	85:5 152:2 168:6
object 18:11	67:2 97:8 126:6	62:17 63:14 64:4	161:1,7,13,17	over-simplifying
136:19	126:13 134:5	64:18 65:10,13,14	162:17 168:20	31:8
objection 48:15	135:10 143:13	65:19 68:6 70:19	169:4,19,21 170:4	over-zealous 9:13
55:18 65:15 66:17	154:1 162:12,22	71:9,17,22 73:3	170:4,11 172:6	overruled 79:17
74:19 75:7,9 77:4	163:5,8	74:5,15 75:1,5,8	omen 143:1,8	80:18 98:5,9
77:5,8,14 78:11	offering 51:11	75:18 76:12,20	on-line 54:19 55:3	158:12
80:17 88:19 89:4	56:20 57:12,15,16	77:2,10,17,18,21	55:16	Owens 82:15 93:16
89:13 94:8 95:17	59:14 76:17 82:22	79:11,18,19 80:14	once 19:14 91:6	112:21
96:21 157:22	96:22 102:19	81:3 82:3 83:4,13	ones 81:15,17 87:3	owner 2:14 3:6
158:3,9,10	104:10 114:22	83:19,19 84:4,11	open 43:6,11,14	128:8 131:13,14
objections 65:17,19	162:15 163:21	84:15 85:13,19	49:12 123:20	131:15,16,18,18
obligation 28:20	offers 18:12,18	86:11,15 87:11,19	124:3,6 170:16	133:11 139:8
69:6	19:4 23:17 66:22	88:12,18 89:5,12	171:2,4	153:19 159:16
observe 106:21,22	offhand 82:9 91:11	90:13,19 91:8,13	opened 142:7	165:20
107:21	office 3:9 22:17	91:13,19 92:13	opening 50:18	owners 142:10

145:6 owns 3:1 133:8,9	153:5,13,17 155:4 159:10 participant 160:5 164:19 participants 51:13 101:22 117:5 118:16,18 120:22 122:17 125:17 126:9 139:16,19 139:22 140:4 157:15 161:5 165:14 participate 90:9 134:12,13,17 149:16,21 159:5,6 159:13 164:15 participated 1:10 50:2 58:18 65:8 130:21 161:21 participating 50:9 51:3 54:15 55:1 58:12 81:19,22 85:21 87:4 92:7 111:12 147:12 159:19 163:20 participation 49:20 82:16 165:21 particular 12:3 25:9 32:12,13 51:5 56:9 103:6 108:21 137:15 157:8 particularly 16:13 97:10 98:3 165:7 parties 6:19 46:7 168:22 party 17:3,5,17 19:18 62:20,21 73:17,17 110:8 pass 7:22 117:16 passed 44:9 125:2 172:1 passes 127:6 pat 137:22 patron 132:18 patrons 50:7 132:20 151:11	162:15 pause 7:6 pay 90:22 104:19 133:20 PD-251 42:6 penalties 9:14 pending 5:12 6:5 74:19 people 26:7 46:22 73:22 101:18 119:10,10 120:13 120:15,15 143:16 147:22 148:22 149:2,3 151:18 155:22 163:9,9,22 164:6 165:17 166:8,10,14,16,18 167:1,3 people's 40:13 percent 57:21 perfect 10:11 95:8 perfectly 95:7 perform 95:15 96:12 performed 94:3 period 11:1 17:7 26:3 81:2 119:9 126:8 162:6 163:2 permission 137:5 permitted 121:5 165:18 person 106:21 107:1,21 132:9 134:1,20 135:1 167:15 personal 107:16 personally 65:3,12 107:20 persons 46:13 101:21 133:17 168:3 petitioner 17:9 phone 152:9 photographs 62:2 62:4 physical 86:9 106:13	pie 144:14 piece 2:10 79:3 95:3 Pies 144:5 Pizza 59:21 105:12 144:19 160:4 place 14:13 149:5 152:19 153:6 plainly 168:5 planned 96:17 plans 99:9 play 13:5 pleadings 8:6,14 please 2:12 7:6 52:21 64:19 117:14 128:4 129:4 130:16,17 132:15 146:2 plus 153:5 pocket 162:19 163:15,17 point 14:18 34:5 41:13 46:20 48:12 49:8 64:15 66:16 68:8 73:15 82:8 82:11,14 84:9,19 85:2 92:1,14,17 93:4 94:1 99:16 109:4 112:22 115:14 133:18 155:20 157:20 163:3 164:11 168:21 170:5 pointed 92:9 Pointing 116:22 points 120:12 122:15 police 11:12 24:8 24:18 40:1 42:4,7 poorly 167:10 posit 11:8 29:3 38:13,16 posited 167:10 position 34:6 48:17 possession 15:20 possibility 31:1 70:6	possible 145:5 possibly 157:10 post-adjudication 25:15 potential 31:1,6 42:5 166:16 practice 104:20 practices 90:7 pre-adjudication 25:15 predicated 165:22 pregnancy 40:11 prejudice 17:3,9,16 18:7 19:17 26:1 27:20 28:7,21 29:5 31:2,6,17 33:20 36:3,9 37:1 37:4,18,21 38:4,8 38:17 39:2,6 168:18 prejudicial 27:22 prejudicing 28:11 preliminary 3:13 3:15 preparation 81:10 prepare 15:17 18:4 67:5 prepared 49:11 97:15 present 1:19,23 14:14 38:18 42:17 67:4 76:2 82:20 97:2,5 101:11 133:15 152:3 presented 84:19 presenting 153:11 preserve 49:2 presiding 1:17 pretty 118:12 previous 154:17 previously 4:14 31:13 40:12 price 90:22 91:3,9 104:8,13 105:1 121:19 132:9 137:10 143:18 156:12
----------------------------------	---	---	---	--

priced 132:14 167:4	152:20 153:18,18 153:22 154:17,21 156:12 165:17	132:20	123:22 163:8	rate 111:2
prices 103:16,20 104:4 105:9 132:3 132:5,12 134:8 135:8 137:21 141:4 142:16,18 143:3,3,12,20 145:7	Productions 62:6 62:16	provided 37:7 66:14 67:11 83:1 132:17 133:6,16 137:1 139:7	purposes 40:2 47:11 80:19 162:2	rational 37:2
pricing 158:21	Professional 108:14	providing 162:14	pursuant 43:11 124:3 171:1	reach 44:13
printed 65:2 76:3,3 77:9	profound 69:1	provision 49:15 126:8	pushing 32:22 33:1 165:16	read 8:22 67:18 76:18 102:18 114:11,12,15 123:15 145:1
printing 65:3	prohibit 164:5	provisions 12:17	put 5:15 6:22 44:14 75:3 94:6 116:17 130:2 147:13 148:10 150:14	readily 151:13
printout 56:11	prohibited 18:13 111:11 114:21 121:6	proximity 85:22 128:18 140:1 163:7 164:6	putting 148:15 150:11	reading 73:5 79:3 117:7
prior 3:17 4:10 15:21 19:1 20:5 28:22 31:16 94:20 148:2	prohibiting 86:20	pub 1:10 26:9 49:15,17,19 50:2 50:9 51:3,7 54:15 54:18,21 55:4,16 55:20 57:1 58:7 61:10 62:2 66:8 78:8 80:16,20 81:6,11,19 84:7 85:21 86:20 90:4 90:10,19 91:22 102:16,22 111:12 114:21 116:21 117:1,4 118:11,13 118:21 119:5 120:10,11,14,14 120:18 122:6,16 125:16 126:10,11 149:9,12,16,17 150:11,13 161:21 161:22 162:3,20 163:20 164:2,3,15 164:18 168:7	<hr/> Q <hr/>	ready 2:9 45:19 47:6 89:8 161:14 169:22
private 53:5	prohibition 102:15		qualifies 164:18	real 37:14
pro 65:21 71:12	prohibits 50:8		qualify 102:22	really 73:16 129:14
probably 21:22 82:10	promote 90:9 164:14		Queen 131:2 143:22 157:9	reason 12:14 18:15 31:7 38:18 45:17 76:18 98:9 134:9 164:2 166:15
problem 14:20 20:9 47:2 71:10 167:17	promoter 117:1 118:10 120:17		question 24:3 26:18 27:17 30:3 34:22 35:5,7 73:16 95:1,8,9,11 107:19 109:5 110:5 114:19 128:11 130:18 131:11 132:16 139:13 143:2 146:4 150:3 154:13 158:8 159:2,2,3 161:19 161:22	reasonable 95:8
procedural 71:20	promoter-organi... 51:1		questions 13:18 26:16 74:1 98:14 108:20 109:9 110:1 114:4 115:7 115:8,10 129:14 135:14,17 138:15 156:21 160:12,13 162:8	reasoned 50:21
procedure 116:12	promoting 66:7		quick 110:4 113:17	reasons 4:20 43:13 44:14 90:15 124:5 171:3
proceed 12:16 46:1 46:3,7,22 47:6 48:5,19,20,21 49:12 130:7	promotion 133:7 147:20 150:20 153:14 155:14 157:14 159:10 162:13 165:16,22 166:5 167:5		quite 41:10 42:2 69:5	receipt 5:17 7:13 7:16
proceeded 84:18 93:21	promotional 81:13 83:17 145:4 155:9		<hr/> R <hr/>	receive 68:20 69:7
proceeding 12:16 18:21 28:15 32:8 125:4	promotions 154:3 154:17 157:19 166:1		raise 159:4	received 18:1 21:20 54:17 66:3 67:22 68:16 69:9,11 71:15 78:1 89:17 121:18 146:8,11 146:20 151:21
proceedings 9:18 10:13 12:9 19:12 20:6,12,15 23:9	promotor 151:1	pull 3:22	raised 35:6	receiving 15:18 25:22
process 12:10 25:18 32:10 33:17 67:11	prompt 24:4	pulled 63:20 64:21	range 58:12	recess 42:22 44:11 45:4 125:4,9
proclamation 167:21	promulgated 9:11	Punch 144:1		recognize 46:2 76:17 87:21
prod 69:2	proof 39:5 68:17 125:15	purchase 153:4		recognized 29:1
product 133:19 134:1,6 152:14,15	proper 4:16 5:13 36:16 95:8	purchased 84:9 101:8,8		recollection 107:16 114:13
	properly 150:7	purported 66:10 165:14		record 2:12 22:11
	proposed 169:1	purpose 43:8		
	proposing 49:13			
	proposition 19:11			
	prosecution 41:19			
	prove 35:15 36:22			
	provide 24:6			

22:20 44:14 45:7 49:3 52:22 85:11 88:22 121:8 125:12 128:6 168:21 recordings 32:14 records 81:14 100:15,20 101:4,6 101:15 Red 131:2 144:2 157:10 redirect 161:11 Reeves 1:15 refer 105:17 reference 18:11 19:3 referenced 22:10 66:6 references 23:17 referred 68:10 referring 11:15 117:10 refocus 35:4 refresh 8:6 9:2 114:13 refused 37:5 48:14 refusing 48:11 regard 4:19 6:18 19:5 20:20 41:22 42:2 47:19 51:14 67:10 71:19,21 92:5 99:3 108:13 165:6 167:16 168:14 regarding 50:21 72:18 101:4 126:9 128:12 150:4 regardless 163:19 regards 3:18 19:6 20:6 94:19 100:16 100:20 102:7,15 103:15 106:9 121:22 130:18 regular 103:16 104:4,8 121:19 132:9 137:10,21 145:7 167:3	regularly 33:6 36:10,12 142:12 143:4,21 regulation 14:5 118:2,13 167:2 Regulations 117:10 regulatory 11:3,17 14:15,17 39:22 40:5 41:22 42:15 93:13 94:3 95:3 95:15 96:12 107:10 108:6 related 128:13,16 131:3 168:1 Relations 12:6 relationship 131:11 151:1 152:5,22 relative 128:18 relax 18:16 relief 6:17 rely 41:18 77:8 remarks 72:18 remedy 11:21 12:2 166:22 remember 82:8 83:14 91:12 111:13,19 140:5 remind 3:16 4:2,9 removes 118:14 rendered 47:9 repeat 29:14 31:12 59:5 repeated 28:22 repeatedly 12:22 13:2 28:14 repeating 30:10 reply 7:21 43:2 45:8 report 4:13 10:17 10:21 11:3,11,12 11:14,17 12:13 14:6,18,22 15:6,8 15:20 16:7 17:20 21:21 24:7,8 40:1 40:1,2,5 41:7 42:1 42:7,15 60:15 66:2,5,7,10,15	67:13,22 68:10 70:2,7 71:1 72:5 108:6,7,18 109:1 113:18 114:1,7,10 125:5 136:14 146:13,20 report/inspection 14:17 reports 24:5 repose 19:13 represent 69:10 71:14 representation 70:9 representations 5:11 70:5 representative 37:3 134:16 151:5 representatives 154:16 request 60:7 89:11 requested 24:17 84:21 requests 74:1 require 8:9 required 68:11 69:14 117:2,4 118:11 120:18 159:14 170:1 requirement 11:10 11:22 12:10 17:2 24:13 28:4 51:13 152:16 requirements 159:6,8 requires 35:19 165:11 167:2 research 58:18 78:5 resolution 19:2,8 resolutions 19:1 resolved 121:3,11 167:14 respect 79:14 157:14 respond 30:20 75:19,20	responded 5:3 30:17 135:3 response 5:17 9:12 10:19 20:8 35:7 143:5 responsibilities 53:19 rest 120:11 161:6 Restaurant 6:6 restaurants 163:6 163:10 164:7 result 16:8,21 24:8 retail 156:15 Retailer 1:8 return 125:5 reversed 16:22 review 90:4 100:14 101:4 114:7 reviewed 89:20 90:1 100:19 113:18 reviewing 70:20 right 3:7 6:9 9:1 10:11 11:21 25:6 29:13,22 31:3 40:20 41:2,16 42:21 45:1 49:6 51:20 52:6 58:5 60:6,21 62:17 63:8,11 71:11 73:8 76:5 77:13 77:18 78:3 80:8,9 88:20 89:2,7,19 98:2 116:6 122:18 122:21 128:1 135:22 142:13 145:16 154:9 158:11 161:18 169:9,22 rights 25:17,18 49:2 rip 112:9 rise 143:3 rises 72:8 Rock 59:18 103:22 104:6,9 130:22 143:20 157:11	roll 43:18 59:19 104:1,7,9 124:10 130:22 143:20 157:11 171:10 room 1:15 172:4 routine 104:20 rule 34:10 35:12 36:15 rules 10:2 13:6 18:14,16 33:10 36:11 75:11 98:10 150:15 run 93:4 99:9 running 150:7 rush 45:16 Ruthanne 1:17,20 <hr/> S <hr/> s 134:9 safety 17:10 25:19 167:5 sales 32:16 101:4 161:3 sample 155:22 sand 28:10 sarcastic 72:17 save 70:14,17 savory 144:11,14 saw 70:1,6 76:3 115:16 138:5 saying 35:14 48:20 63:18 67:16 137:9 151:8 says 24:5 40:22 61:19 62:15 66:7 88:4 90:8 102:17 110:8,19 145:2 162:2 164:13 scenario 159:18 scene 41:11 scheduled 15:13,15 Schmidt 6:7 scope 78:18 screen 136:11 se 25:4 second 10:1 43:15 43:16 45:22 51:17
--	---	--	---	--

57:9 58:6 66:17 67:13 75:6,9,22 84:6 90:20 114:19 122:22 124:7,8 125:21,22 126:19 141:5 144:9,9 156:9 166:11 171:5,6,7 seconded 43:18 124:10,12 126:2 126:22 171:9,11 secondly 125:18 section 12:3 24:10 24:14 43:6,11,13 80:12,15,20 90:3 90:6 123:20 124:3 124:5 162:2 170:15 171:1,3 see 8:15 25:7 41:20 56:10 58:9 60:17 60:20 63:17 68:19 81:4 90:4 91:14 103:19 107:15 141:4 seeing 91:12 141:3 144:7 seek 170:21 seeking 6:17 43:8 123:22 seeks 69:4 seen 12:22 16:12 28:14 41:9 55:3,5 68:8 69:12 92:4 113:2 130:12 136:10 sees 79:4 self-contradictory 51:8 sell 154:20 160:4,8 160:10 selling 162:9 sent 15:6 sentence 51:1 96:3 102:18 108:22 117:11,12 118:10 120:20,21 separate 155:7	separation 155:7 serious 71:20 serve 107:21 137:5 139:2 163:18 served 5:9 10:21 11:4 14:22 15:11 66:10 69:14 85:1 107:14 server 155:17 service 3:18 4:12 serving 106:21 107:1 162:11 session 43:1 set 4:20 10:1 12:12 19:21 20:4,8 24:9 27:21 38:19 126:4 126:16 settle 15:9 17:22 18:18,18 21:18 22:3 settlement 1:11 18:11,19 19:4,4 21:15,21 22:9,12 22:12 23:5 81:16 81:17,21 114:20 146:5,8 147:1 Sheeran 88:9 shot 59:18,20 84:22 103:13 104:10,16 104:17,21 105:5 133:1,3,17 136:17 144:14 156:12 163:18 167:4 shots 50:7 57:18,20 59:15 91:5 126:13 137:1 151:10 show 1:6 3:12 15:12,13,14,17 18:3 21:18,20 22:1 24:9 27:19 28:21 29:4 33:19 34:4 35:14 36:22 37:4 40:4 55:7 66:3 68:4 69:8 85:18 87:12 112:7 112:8 122:16 125:18 172:12	showed 92:11 126:13 showing 55:9,14 79:1,20 116:19 157:9 shown 125:15 shows 62:4 126:3 sidewalk 106:18 sign 41:5 sign-in 2:10 signaling 30:10 signed 113:19 signs 40:11 Silverstein 1:22 44:4,5 72:19 115:19,22 117:13 117:18,21 118:3 124:19,20 126:19 129:7,11 171:6,9 171:18,19 Silverstein's 73:12 similar 6:3,8 25:13 42:3 simply 33:4 95:1 97:6 166:4 single 58:11 86:8 111:10 112:20 sir 138:21 141:17 142:3,4 143:14 145:13,13 150:18 150:21 151:4,22 152:6,9 154:13 155:2 156:17 situation 13:1 37:17 97:17 situations 25:1 six 26:3 140:7 size 168:11 slice 144:13 small 92:4 156:9 167:2 Smith 144:21 145:1 145:2 157:10 soda 59:22 105:14 144:19 sold 132:3,6 137:9 sole 131:18	somebody 85:15 95:2 96:1 166:4 soon 114:15 147:3 sorry 2:19 9:22 30:6,8 36:1 47:20 52:4 59:4,9 60:13 88:15 92:20,21 107:4 108:6 122:3 122:4 129:5,10 135:15,15,16,19 135:20 sort 25:17 26:11 109:2,8 121:11 sorted 48:4 sounds 38:20 SOVA 157:10 speak 3:21 27:12 37:5 40:7 67:7 73:22 74:2 91:14 126:17 129:3 167:5 speaking 40:8 153:14 speaks 50:22 166:13 special 60:4 82:21 84:21 85:10,10 92:9 102:8 104:20 105:13 111:1 112:13 113:6 135:5,6 148:9 specials 50:6,11 56:21 57:9,11,14 59:17,19,20 61:13 61:18 83:7,17 102:16 103:7 110:19,20 112:3 112:12 136:8 137:14 138:1 145:8 163:5 164:8 specialty 132:14 specific 12:2 57:1 58:10 81:1 149:1 150:3 specifically 77:3 83:15 92:8 118:14 166:14	specified 119:9 126:8 162:6 163:1 speculating 157:20 speculation 145:11 158:3 spell 52:22 128:5 spend 113:15 spinning 167:18 spirit 162:19 spirits 160:10 spoke 97:17 99:10 129:21 130:19 spoken 70:3 spontaneous 130:7 staff 8:5 stamped 7:4 8:1 stand 51:22 52:16 70:3 127:21 standing 98:9 stands 62:11 start 29:18 49:9 82:2 96:4 138:17 138:17 started 82:4 starting 29:14 30:11 53:11 143:19 state 19:17 52:21 56:22 94:16 128:5 131:1 143:22 stated 20:19 48:17 67:4 77:4,7 103:1 103:14 105:20 106:11 161:9 165:21 statement 50:18 67:2 118:13 statements 78:15 96:22 108:20 states 166:15 stating 133:15 153:17 Status 15:13 statute 13:4 14:3 16:10 19:13 20:22 21:3 24:2,20,20 25:2,4 28:15 31:1
--	---	---	---	--

32:20 42:13 120:1 120:3 121:12 164:3 167:13 168:3 statute's 167:18 statutes 29:1 33:5 statutory 10:22 11:6 17:6 32:7 102:16 stepped 86:6 steps 72:6 99:5 stipulate 88:13,16 90:12 stock 155:4,8 stop 19:14 34:1 stopping 93:16 street 1:7,16 2:7 50:3 54:7,14 56:7 56:17,20 58:13,14 58:15 61:16 66:8 81:5 82:5,8,12 86:1,3 93:22 95:14 96:10,14 99:16 106:13 110:9 130:20 132:10 136:7,7 140:13,15,15,16 140:19 148:1 166:8 streets 26:10 strengthen 73:7 strict 13:2 20:7 30:22 38:21 strictly 12:17 75:11 98:10 strike 143:9 Stroh's 57:17 84:21 91:3,9 103:11,19 132:10,12 134:10 135:3,5 137:20 strong 36:21 stuff 120:12 submissions 7:4 subparagraph 11:10 subpoenaed 67:7 subsection 24:13	subsequent 56:3 substantially 17:16 sufficiency 116:5 sufficient 72:11 94:11 116:19 suggest 8:12 68:1 137:14 suggesting 32:22 suggestion 69:2 166:7,20 Suite 1:16 supposed 36:13 40:15 sure 8:22 13:20 24:1 34:6 62:6 69:20 92:5 101:1 141:7 147:1 153:2 161:15 suspected 67:17 suspension 9:18 10:13 sworn 52:15 71:19 127:20 153:17 <hr/> T <hr/> T-H-O-R-P 2:14 128:8 t/a 1:6 table 113:7 take 8:14 18:17 23:8 43:18 44:15 44:17,18 45:11,18 46:14 51:5 72:6 75:12 86:17 89:1 99:5 110:22 124:10 143:11 153:6 171:10 taken 47:8 63:16 66:1 Takeover 50:3 56:7 56:17 61:11,16 66:8 110:9 112:19 136:7 148:21 164:18 takes 120:21 talk 24:1 92:5 142:9	talked 40:12 158:14 talking 24:2 64:9 110:12 talks 62:18 tallboys 57:17 103:12,19 132:13 target 28:12 targets 49:17 technical 162:16 technically 162:18 tell 20:22 30:14 33:16 40:4 57:14 59:13 64:20 99:15 132:7 137:20 160:2 telling 68:18 165:7 tend 18:22 71:22 tendered 4:21 term 11:14 41:6 terms 9:15 91:8 119:5 testified 52:17 76:2 97:5 105:13 122:17 127:22 140:18 160:1 162:11 testify 64:9 70:4 74:7 78:19 97:19 testifying 95:22 97:7,12 114:12 testimony 49:22 50:14 65:22 68:9 70:18 71:19 78:12 106:14 107:8 122:20 128:11,15 130:7,19 132:22 153:17 158:1,13 161:4 162:8 166:9 t 1:4,12 Thank 3:3 4:8 9:9 10:11 13:13,16,22 18:9 20:21 23:10 26:15 33:11 39:10 39:11,19 42:21 45:1,3 48:8 50:16 50:19 51:19 52:18	53:3 55:22 60:6 72:11 75:15 77:16 77:21 81:3 87:15 93:10 98:14,16,18 107:22 114:3 116:2,8,9 123:12 125:7,8 128:2 141:16 142:9 145:14 147:5,6,9 156:18,19 160:18 165:3,4 168:18 170:3 172:7,8,10 172:11 thankfully 115:21 theirs 133:21 thereof 48:3 thereto 12:18 33:7 thing 36:16 68:5 77:1 145:6,17 157:7 162:1 things 40:10 41:4 42:11,13 56:6,12 61:9,15 62:11,14 66:22 97:6 99:2,7 99:10,11,13 100:15,20 101:1,9 134:16 137:13 138:9,12 139:1 140:22 147:14,21 148:4,10,15,18 151:8 159:14 163:12 think 6:14 10:2,4 23:14 27:11 31:9 31:11 35:2 36:15 37:13 44:18 46:21 47:2,10,15 48:4 48:13 50:20 67:18 69:21 71:20 72:8 73:1,15,18 74:10 76:9 78:15,17 79:15 96:2 102:11 111:18 113:17,17 116:11,18 130:7 158:12 162:19 165:5 170:5 thinking 6:10	third 57:10 61:22 141:5 Thorp 2:13,13 3:5 88:9 127:10,16,18 128:4,7,7,16,22 129:5,9 130:12,14 131:5,8,13,16,22 132:5,11,19 133:5 133:11,18 134:2,5 134:9,15,21 135:2 135:7,12 136:4,9 136:13,18,20 137:3,7,11,16,19 138:5,10,20,21 139:3,6,11,17,22 140:5,9,13,17 141:2,17,22 142:3 142:6,11,14,17,21 143:2,14,19 144:6 144:11,15,19 145:2,13,15 146:7 146:12,19 147:15 147:19 148:6,14 148:20 149:10,13 150:1,3,13,18,21 151:4,13,17,22 152:6,9,12 153:1 153:9,16 154:2,9 154:12,22 155:2,5 155:10,18,21 156:8,14,17 157:3 157:5,16 158:18 158:21 159:7,12 159:21 160:7,20 thought 119:22 three 15:17,21 58:15 60:21 144:16 threshold 46:20 Thursday 149:5 ticket 82:16 84:20 101:4 102:1 161:3 tickets 84:9 101:7 time 8:8,9 10:22 12:5 14:6,13,16 16:9 17:7,12 19:14 20:7,14
--	---	---	---	--

21:6 25:11 35:21 44:16 45:11 57:1 65:2 66:15 67:5 74:4,4 81:1 84:4 84:12 85:9,11 86:5 87:10 96:19 100:14 101:15,21 102:5 103:20 104:8 106:18 109:6,14,16 111:11 113:4 114:11 119:9 126:8 132:16 134:19 136:10 146:22 147:2 154:11 162:6 163:1 timely 4:12,16 12:10 20:2,2 29:12,21 32:9 times 132:1 timing 31:17 tip 54:17 title 12:20 33:5 53:16 80:12 118:21 165:19 today 8:15 45:19 46:1 97:2,15,19 106:1,4,9 118:18 129:20 136:9 138:6 153:9 today's 172:6 told 96:16 97:7,21 137:17,19 140:10 top 61:15,20 110:9 143:19 144:9 topic 22:7 total 111:19 totally 48:9 track 155:16 transcript 169:6,8 169:22 transportation 86:7 tried 21:18 trouble 3:22 true 14:21 22:15,18	76:11 118:20 122:20 truth 66:18 67:2,8 67:14 77:15 97:8 trying 31:13 35:3 36:20 48:19 73:6 94:10 102:10 107:15 154:6 turn 32:12 119:19 129:7 turned 105:21 two 25:6 26:12 42:11,13 65:16 86:21 111:20 121:22 122:15 127:13,14 155:10 155:11 156:2 157:3 170:1 type 32:8 typed 41:8 <hr/> U <hr/> ultra 12:15 um-hum 9:8 13:16 21:13 26:22 63:4 110:10 umbrage 51:5 unable 51:10 unambiguous 11:10 unaware 106:2 unconstitutionally 121:13 undercover 54:13 96:19 underneath 110:11 understand 2:21 11:20 24:4 36:19 48:19 65:21 101:12 139:9,10 154:6,12 understanding 79:17 102:15 156:4 understood 36:18 38:10 49:4 148:8 unfair 18:7	uniform 42:7 untimely 3:18 72:10 unwillingness 49:1 upheld 25:12 urge 50:13 usually 153:6 <hr/> V <hr/> v 12:6 16:16 VA 94:2 111:11 149:21 valid 17:13 validate 154:16 verbal 152:2,8 verbatim 109:5 verify 82:1 versus 25:15 Vic 131:2 144:1 157:9 vicinity 54:7 148:13 view 47:12 126:12 126:14 Vincent 65:4 93:18 107:8 violated 34:17 161:20 164:20 168:15 violating 87:5 violation 1:11 14:17,20 42:10 49:14 50:7,15,22 51:16 66:13 67:17 94:7 95:5 116:17 116:19 122:13 150:14 violations 9:17 10:13 31:18 36:10 42:6 94:2,3 96:12 vires 12:15 visit 86:12 90:15 111:7 visited 111:9 visiting 81:5 voluntary 50:8 51:2 81:15 86:20	86:22 87:2,5,7,13 88:1,17 89:21 94:2 96:11 111:21 118:22 161:20 164:4,12,13,21 168:6,15 vote 43:19 44:10 123:15 124:11 125:2 171:10 172:1 <hr/> W <hr/> wait 73:14,14 119:15,15 130:15 130:17 132:15 waiting 19:18 85:8 walk 96:15 106:12 113:7 walked 85:5 86:8 walking 80:22 86:4 86:9 119:7 126:6 132:9 162:4,22 want 5:6 8:12 10:1 10:2 21:11,16 24:1,3 34:5 35:10 35:16 39:21 72:14 73:9 79:12 96:4 115:13 130:2 138:19 145:17 163:10 wanted 23:12 169:11 wanting 123:10 wants 36:14 138:17 warranted 98:12 Washington 1:16 wasn't 21:18 22:16 37:21 68:1,21 105:3 148:8 159:2 way 14:9 27:8 29:19 72:13 73:6 76:22 129:8 website 56:9,11,13 61:7,8,12 62:14 63:8,16,21 64:21 65:1 99:4 115:1 138:3,4,8,12	Wednesday 65:1 149:5 week 153:4 weekend 149:6 weeks 170:1 weighed 16:15 17:4 25:17 weighing 26:12 weights 26:13 weight 75:14 98:11 well-organized 150:5 went 81:14 84:1 87:3 90:6,21,22 93:17 99:8,17,21 100:14 101:15 103:22 114:19 weren't 45:19 113:5 129:15 160:1,3 Whereabouts 140:14 whiskey 50:10 57:6 144:14 Whiskey's 1:6 2:6 2:14 43:10 50:1 54:4 83:10,20 84:3,13,17 85:14 85:22 86:16 87:7 88:1,9 90:21 92:15 93:5 103:6 103:11,16 106:22 107:1 115:4 124:2 128:9,20 131:2,7 131:9,12,18 170:22 wholly 19:3 97:10 168:17 willing 48:20 140:6 wish 168:22 witness 51:22 52:5 52:5,8,14,16 55:7 64:2 66:20 76:1,8 78:15,18,21 79:2 79:20 87:12 94:11 97:6 98:7,14 116:7,8,10 127:10
---	--	--	---	---

127:19,21 129:20 130:6 141:10,13 157:17 158:1 witnessed 9:21 10:16 witnesses 16:3 26:4 52:3 127:12 wondering 63:15 word 108:21 136:7 words 76:14 102:12 103:8 130:2 148:20 work 5:6 53:4,5 96:20 109:10 worked 151:6 working 131:20 works 61:20 106:5 wouldn't 72:12 85:3 100:3 102:21 102:21 149:20 166:10 170:1 wristband 82:17 85:18 112:8 wristbands 92:12 93:9,19 write 76:14 108:5 145:19 writing 108:18 114:9 written 4:20 76:11 79:2 109:1 wrong 156:5 wrote 65:4 67:7 109:7 113:19 114:15	150:5 York 62:21 Young 56:6,12 61:9 61:15 62:11,14 99:1,7,10,11,13 100:15,20 101:1,9 134:16 137:13 138:8,12 140:21 147:13,21 148:4 148:10,14,18 151:8 159:14	124:1 12-CMP-00603 1:9 2:6 170:22 120 16:20 17:1,12 19:8 146:13,22 1200 140:18 1300 56:20 58:14 86:4 106:12 140:18 14th 1:15 15 44:19 16th 88:5 17696 10:18 17th 65:1,8 18 10:17 14:13 17:19 49:22 54:8 63:6 128:13 130:22 131:21 18th 50:12 54:21 65:9 132:8,16 133:6 147:14 148:2 19 10:18 15:14	2009 142:7 2012 14:13 17:19 49:22 53:11,13 54:8 63:6 128:13 130:22 131:21 2013 1:13 7:19 15:1 15:11,14,15 17:21 53:11 21 15:1 17:21 21st 15:7 23 15:11 49:14 80:12,15 118:21 162:1 23-712 51:7 117:10 166:13 23-712.1 80:15 116:22 165:9,10 23-712.10 117:3 23rd 18:2 25 12:20 21:3 33:5 165:19 25-106(c)(6) 16:21 25-447 24:10 25-827 24:18 25-832 11:7 12:17 24:4 66:13 68:12	530 16:17 574(b) 170:16 5th 7:22
X X 28:17 32:14	Z zombie 50:3 56:7 56:17 61:11 82:18 83:2 91:4 92:6 96:18 110:9 112:18,19 136:6 144:1 147:22 148:21,22 164:18 zombies 92:4 93:7 113:1 115:16	2 2 1:13 24:16 59:1 61:13 71:4 79:21 80:2,10 110:8 143:11 165:1,2 170:15 2-574(b) 43:6 123:20 2-574(b)(13) 43:13 124:6 171:4 2-574(b)(4) 43:11 124:3 171:1 2:30 45:4 2:53 45:5 200 51:13 117:5 118:16 119:10 120:15,22 122:17 125:17 126:9 166:14,16 2000 1:15 20009 1:17 2008 9:10 13:10 32:1 88:5 142:3	3 3 59:1 71:4 87:13 87:17,20 89:15,17 90:6 143:11 156:22 31 7:19	6 6 71:5 60 102:4 118:18 166:9,10,18 6A 88:11
Y yeah 8:18 13:16 34:20 35:1 85:17 118:1 121:9 135:20 157:11 year 53:10 66:16 146:18,18 years 9:19 10:14 141:20 144:16	0 00603 43:10 124:2	1 1 24:14 49:13 55:8 55:11 56:2 59:1 60:8,20 66:6,9 71:4 74:22 77:20 78:1 82:10 110:7 110:8 115:1 118:7 141:11 143:11 156:22 165:1 1:45 2:2 10 44:19 56:19 111:19 100 57:21 106(c)(6) 21:4 11 59:2,6,8 11:00 57:2 63:6 1100 56:20 58:13 86:3,3 106:12 140:18 1104 1:7 2:7 12 6:7 12-CMP 43:9	4 4 12:7 59:1 71:4 4:01 125:9 4:09 125:10 4:52 172:14 400S 1:16	7 7 15:15 7:00 57:2 63:6 7:30 82:13 84:10 712 49:14 118:3 712.1 51:8 80:13 118:5 120:5 126:4 126:16 162:2,20 163:4 167:9 712.10 51:9 118:14 126:9 167:9 721.10 51:12 79090 1:8 2:8 7th 18:3 145:18 146:17,17
			5 5 71:4 5-0-0 44:9 125:2 172:1 50 102:4 118:18 119:9 120:14 166:9,10,18	8 8 11:7 820 16:17 832 73:7
			8 8 11:7 820 16:17 832 73:7	9 9:30 84:3,14 90 11:22 12:1 14:6 16:7 24:10 25:10 26:1 28:4 32:17 34:9 69:14 906 82:11