DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD
MEETING

IN THE MATTER OF:
NHV Corporation,
t/a Haydee's Restaurant
3102 Mount Pleasant
Street NW: Show Cause
Retailer CT - ANC 1D: Hearing
License #24663:
Case #21-CIT-00213:
(Violation of Mayor's Orders [Operating After Hours])

Wednesday
October 27, 2021

The Alcoholic Beverage Control Board met via WebEx videoconference, Chairperson Donovan W. Anderson presiding.

PRESENT:
DONOVAN W. ANDERSON, Chairperson
BOBBY CATO, JR., Member
RAFI ALIYA CROCKETT, Member
EDWARD S. GRANDIS, Member
JENI HANSEN, Member
JAMES SHORT, JR., Member

ALSO PRESENT:
SIMONE ANDREWS, DC ABRA Staff
WILLIAM COWDEN, Licensee's Counsel
TAVRIL PROUT, DC ABRA Investigator
SANDRA TAPIA, Interpreter
ANTOINE WILLIAMS, DC OAG
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1:35 p.m.

CHAIRPERSON ANDERSON: Good afternoon, everyone, welcome to the afternoon session of the ABC Board. My name is Donovan Anderson, I'm Chairman of the Board.

Joining me this afternoon are Mr. James Short, Mr. Bobby Cato, Ms. Rafi Crockett, Ms. Jeni Hansen, and Mr. Edward Grandis. The Board has six members in attendance for the conduct of business and that constitutes a quorum.

Before we get underway with this afternoon's hearing calendar, I need to make a few instructions very clear. The conduct of these hearings is expected by everyone.

There are four cases scheduled listed on this afternoon's calendar. Once your case is called, I will take a moment for IT specialists to elevate the rights to each party to enable the camera and microphone.

Then and only then will you have the ability to enable your equipment. If your case has not been heard you will remain muted and your camera will be disabled. At the conclusion of
each case, the parties will have the option to leave.

If a party chooses to stay, all cameras and microphones for the concluded case will be disabled.

Should you have any questions or require technical assistance during the hearing, please submit them using the question and answer feature or email Simone.andras2@dc.gov.

Our first case on this afternoon's calendar is Case #21-CIT-00213, Haydee's Restaurant, License #24663. Ms. Andras, could you please elevate the rights of the parties in that case, please?

MS. ANDREWS: Sure, standby.

Investigator Prout, your rights have been elevated, Translator Tapia, your rights have been elevated, Mr. Antoine Williams, your rights have been elevated, Mr. or Ms. Vanegas, your rights have been elevated.

Mr. Cowden, your rights have been elevated. That's all, Mr. Chair.

MS. TAPIA: Good afternoon, this is Sandra Tapia, I'm going to be your interpreter today.
CHAIRPERSON ANDERSON: I'm sorry, do you have a camera, ma'am?

MS. TAPIA: I do.

CHAIRPERSON ANDERSON: Can you turn your camera on, please?

MS. TAPIA: I can, just a second. I normally don't turn my camera on.

CHAIRPERSON ANDERSON: If you're translating, I need to swear the person in. Good afternoon, my name is Donovan Anderson and I am the Board Chair. This is the first time I'm working with you.

We're doing a virtual hearing. I need to see you to swear you in. You are also translating for someone so I need to see who is doing the translation.

So, you are a contractor for this agency and I just want to establish with you at least the way I operate, that if you are the translator, I expect to see you while you're translating.

One of my expectations for translator is that the translator translates word for word everything that occurs in these proceedings.

Okay?
MS. TAPIA: Thank you for all that information. I do have a few questions and also to let you know that I'm interpreting, I'm not translating, I'm interpreting because it's verbal.

CHAIRPERSON ANDERSON: I apologize.

MS. TAPIA: It's okay, I just want to clarify a few things and when I'm doing so I don't do it word for word because many times it would make no sense. I do it meaning for meaning, and that is the professional way to do it.

And the second thing is I take note of everything people are saying and that's one of the reasons I normally don't have my camera on, because I'm going to be writing down. You're going to see the top of my head most of the time. The second reason is not to distract attention visually because the only thing you actually need is my voice.

And the third reason is because it also saves bandwidth and it makes my Internet connection stronger and clearer. But if you wish me to have my camera on, there is no problem.

CHAIRPERSON ANDERSON: I wish you to
have your camera on and then I don't have a problem. It's clear that I'm seeing the top of your head and I don't have a problem with that.

Part of the problem is that a lot of times when we do this hearing virtually, if I'm not seeing the person I don't know that they're there sometimes. And so you might have Internet concerns and then you're gone from the screen and I don't know.

So, if your camera is on and then if you're translating, if I don't see you on the screen then I will know to stop to try to find out what's going on.

So, that's one of the reasons why I prefer that I can see folks, so if they're having Internet concerns I can stop immediately and move on from there. That's why I prefer to see the person because I will always know that they are there.

Now, for people who do not have cameras, they're not going to require that but just to ensure that anything can happen and I don't want to be carrying on with the hearing and one of the critical parties, for whatever reason, is not there to translate.
I believe that you are translating for Ms. Vanegas. Can you confirm that she is there for me, please?

MS. TAPIA: Ms. Vanegas is here.

CHAIRPERSON ANDERSON: Can you ask her if she has a camera she can turn on?

MS. TAPIA: Yes.

CHAIRPERSON ANDERSON: I'm going to swear you in. Ms. Tapia, can you raise your right hand, please? Do you swear or affirm to faithfully translate these proceedings from English to Spanish?

MS. TAPIA: Yes, it's Spanish that I'm interpreting.

CHAIRPERSON ANDERSON: From English to Spanish and from Spanish to English to the best of your abilities?

MS. TAPIA: Yes, I do.

CHAIRPERSON ANDERSON: Thank you. Can you please spell and state your name for the record and your role in this hearing today, please, ma'am?

MS. TAPIA: Sandra Tapia. I am a certified court interpreter.

CHAIRPERSON ANDERSON: Can we have the
Government's attorney please introduce themselves for the record and please spell and state his name, please?

    MR. WILLIAMS: Good afternoon, Chairman Donovan, my name is Antoine Williams, I'm representing the Government today. You spell my name A-N-T-O-I-N-E. My last name is Williams, W-I-L-L-I-A-M-S.

    CHAIRPERSON ANDERSON: Good afternoon, Mr. Williams. Can we have the attorney representing the licensee identify himself for the record, please?

    It appears that both of you are in the same location. She needs to mute her line, both lines cannot be open at the same time if you're in the same room.

    MR. COWDEN: Good afternoon, Chair, it's William Cowden on behalf of Haydee's Restaurant.

    CHAIRPERSON ANDERSON: Are both of you in the same room because we're having feedback?

    I don't have a problem you being on the same line, the problem is we're going to have some concerns with communications because of the feedback with both your line and her line being
open at the same time.

I don't know if you're able to share the same screen rather than her having her own login because we're going to have some problems hearing.

MS. ANDREWS: If I may?

CHAIRPERSON ANDERSON: Go ahead.

MS. ANDREWS: Mr. Cowden and Ms. Vanegas, if you guys are in the same room, one of you must have on headphones because what's happening is the mic is picking up the audio from the other person.

That's why we're hearing feedback.

If that's not true, if you guys are not in the same room, one of you guys may be logged on twice or have called in.

MR. COWDEN: What I'll do is I will try to share screens with my client and mute my microphone but keep my computer on so that I can access the exhibits that way.

CHAIRPERSON ANDERSON: Ms. Andras, will that work?

MS. ANDREWS: If both of them are still logged in, your mic, sir, if you're going to share computers with your client, your
speakers must be turned all the way down because once she opens her mic, we will hear it from your speakers. Okay?

So, I'm going to go ahead and unmute Ms. Vanegas' line so we can hear you.

MR. COWDEN: I have muted my microphone and turned my speakers to silent. I will share the screen here and just use my computer for the existing exhibits.

MS. ANDREWS: Much better.

CHAIRPERSON ANDERSON: Mr. Williams, if this matter goes to a hearing, do you have a witness you wish to call?

MR. WILLIAMS: The District will call Investigator Tavril Prout.

CHAIRPERSON ANDERSON: Mr. Prout, could you please state and spell your name for the record?

INVESTIGATOR PROUT: Hi, Mr. Chairperson, my name is's investigator Tavril, T-A-V-R-I-L, last name P-R-O-U-T.

CHAIRPERSON ANDERSON: Mr. Cowden, if this matter goes to a hearing, outside of the owner do you have any witnesses that are online that you plan to call?
MR. COWDEN: Just the owner.

CHAIRPERSON ANDERSON: This is a show cause hearing and are there any preliminary matters that either side wishes to bring to the attention of the Board?

Mr. Williams?

MR. WILLIAMS: Nothing from the District.

CHAIRPERSON ANDERSON: Mr. Cowden?

MR. COWDEN: Yes, in the Government's papers and in its exhibits, it indicates that the violation here is based on Mayor's Order 2021-004 extension of the public emergency and public health emergency, and modified measures in Phase 2 of Washington D.C. reopening.

I would just like to bring to the Tribunal's attention the fact that Mayor's Order 2021-004, which was issued January 11, 2021 expires by its terms at 5:00 a.m. on January 22, 2021.

And so our position is that the citation is invalid because this was not in effect on March 17, 2021 when the citation was issued.

CHAIRPERSON ANDERSON: Mr. Williams?
MR. WILLIAMS: Yes, Your Honor.

CHAIRPERSON ANDERSON: Do you have a response?

MR. WILLIAMS: The notice in particular states that it's 23 DCMR Section 810.2, which is based on the emergency orders from ABRA. That would be Emergency Order 10.

I'm not sure which document Mr. Cowden was referencing initially, it was kind of fast. But the notice that we sent out is based on 23 DCMR Section 810.2, which is based on the January 13, 2021.

CHAIRPERSON ANDERSON: Mr. Cowden?

MR. COWDEN: I'm looking at the case report and Page 1 of the case report says Mayor's Order 2021-004 wasn't in effect so you're referring to some other order, I think, that I'm not familiar with.

CHAIRPERSON ANDERSON: Do you have a copy of the notice of status hearing and show cause that has the charges listed and the violation listed? Do you have a copy of that?

MR. COWDEN: I believe I do, I attached it as Exhibit 1 to my submission.

MR. WILLIAMS: Your Honor?
CHAIRPERSON ANDERSON: Yes, Mr. Williams?

MR. WILLIAMS: Just for clarification, if he's going to off the investigative report, that is the recommendation that comes over when the case is referred to Office of the Attorney General.

At that point, it's our responsibility to actually go through the regulations, especially in this case where there were multiple orders issued during that time.

So, the notice that went out specifically directed towards the current order at that time, which was a violation of 23 DCMR, Section 8102.2 with the January 13, 2021 date. That would be the tenth emergency order that was issued.

CHAIRPERSON ANDERSON: Mr. Cowden, do you have a response? Can we move on?

MR. COWDEN: I would prefer for testimony, Your Honor.

CHAIRPERSON ANDERSON: Are you removing that as an issue or will you be asking the Board to make a decision at some point during this hearing?
MR. COWDEN: I'm asking the Board to
dismiss the charge based on the lack of fair
notice and if the Board wants to proceed with
hearing, we're prepared to proceed as well.

CHAIRPERSON ANDERSON: The Board will
take this matter under advisement and so Mr.
Williams, you know this is an issue that's been
raised so please address this in your
presentation.

And Mr. Cowden, I'll ask that in your
presentation you can raise that and the Board
will make a determination on that procedural
issue in our determination.

Everyone understand where we are? All
right, the process, what is going to occur, the
Government will make an opening statement.

The licensee, if they so choose can
make an opening statement, or they can wait prior
to opening their case to make an opening
statement. The Government will call its first
witness, the Government will present.

Their licensee will have an
opportunity to cross-examine the witness, the
Board will then do that. Once the Government has
rested its case, the licensee will have an
opportunity to present its case.

So, Mr. Williams, your opening statement?

And please be reminded that this matter is being translated, so please be mindful of how long you speak to give the interpreter an opportunity to interpret for the licensee.

Go ahead, Mr. Williams.

MR. WILLIAMS: The District will show that on March 17, 2021 at approximately 10:56 p.m., ABRA investigator, Tavril Prout, visited NIV Corporation, trade name, Haydee's Restaurant.

The establishment is located at 3102 Mount Pleasant Street NW. He arrived to complete a regulatory inspection where he observed patrons consuming alcoholic beverages after 10:00 p.m.

At the time, there was a temp emergency order in effect that went into effect January 13, 2021, and this violation was in accordance with DCMR 810.2. By failing to have patrons cease indoor alcoholic consumption at 10:00 p.m. at that time.

At this time, Your Honor, I would like to call our witness, Mr. Prout.

CHAIRPERSON ANDERSON: Hold on a
second. Mr. Cowden, do you wish to make an opening
statement at this juncture? Do you wish to do an
opening once you present your case?

Do you want to do your opening
statement now?

MR. COWDEN: Yes, sir. May it please
the Board, the evidence in this case will show
that on March 17, 2021 the patrons at issue in
this case purchased a meal and alcohol at 9:00
p.m.

They closed out their check at 9:32
p.m. They asked for carry-out bags and they were
provided carry-out bags, they were told that they
could also take their drinks with them if they
wanted to.

And they indicated they did not want
to do that but wanted Cokes because they were
driving. The evidence will also show that where
they were seated in the restaurant, they were the
only patrons in that area.

And that the male patron in that area
left his seat to go to the bathroom, at that
point he could not be seen and nor could the
other patron be seen.

The operators did not know that the
couple had not left the restaurant as their
intentions had indicated by closing out the bill,
asking for a to-go bag, and then this gentleman
disappearing from the restaurant.

Evidence will also show that prior to
Investigator Prout entering the restaurant, he
sent in somebody to try to purchase alcohol after
10:00 p.m. and that customer was denied a
purchase.

And the evidence will show that this
restaurant has 26 years of an unblemished record
of perfect compliance with ABRA regulations.

A punishable violation requires a
knowing violation of the Mayor's Order and the
evidence in this case will show there was no
knowing violation of the order because the
restaurant did not know these customers were
consuming alcohol after 10:00 p.m.

At the end of the presentation, we
will ask the Board to dismiss the charges based
on the evidence. Thank you.

(Whereupon, the above-entitled matter
went off the record at 2:10 p.m. and
resumed at 2:12 p.m.)

CHAIRPERSON ANDERSON: We're back on
the record. Mr. Short and Mr. Grandis, are you there?

Mr. Williams, you should call your first witness, please.

MR. WILLIAMS: Thank you, Chairman, I'd like to call Tavril Prout.

CHAIRPERSON ANDERSON: Mr. Prout, can you raise your right hand, please?

WHEREUPON,

TAVRIL PROUT
was called for examination by Counsel for the Licensee, having been first duly sworn, assumed the witness stand, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WILLIAMS:

Q Thank you. Where do you work, Mr. Prout?

A I work for the Alcohol Beverage Administration Regulation for the District of Columbia.

Q What is your position there?

A I am an alcohol investigator.

Q How long have you worked as an investigator?
A 2 years and 10 months.

Q Can you describe your duties as an investigator for ABRA?

A Yes, my duty as an alcohol investigator for ABRA are to conduct regulatory inspections and investigations of alcohol in certain establishments in the District of Columbia.

Q Do you have any trainings or certifications relating to conducting these investigations?

A Yes, I do possess a bachelor's of science and criminal justice from the University of Maryland Eastern Shore. I also received on-the-job training of approximately three months from Lead Investigator Earl Jones as well as Felicia Dantzler.

Q Briefly, can you describe the process for completing an ABRA investigative report?

A Yes, an investigative report for ABRA is conducted based on either a regulatory inspection being conducted and an ABRA violation being observed by an alcohol investigator and/or an ABRA violation being performed at a alcohol-serving establishment.
And the Agency is made aware by partner agencies such as Metropolitan Police Department through a police report, which is generated by that activity.

And the alcohol investigator is responsible for investigating that ABRA violation in which an investigative report is constructed based off of the observations of the investigator and/or a D.C. Government official.

Q At this time, attachment, I would like to show Plaintiff's Exhibit 1 to Mr. Prout.

CHAIRPERSON ANDERSON: Ms. Andras, can you give Mr. Williams permission to share his screen?

MS. ANDREWS: Sure, stand by. Mr. Williams, you can now share your screen.

MR. WILLIAMS: Is everyone able to see my screen at this point?

CHAIRPERSON ANDERSON: Yes.

DIRECT EXAMINATION

BY MR. WILLIAMS:

Q I'm going to scroll through and then I'm going to ask you a series of questions. Mr. Prout, a few questions here. Do you recognize the document I'm showing you?
A  Yes, sir, this is the investigative report that was constructed in lieu of the citation that was issued to Ms. Venegas, who was the owner of Haydee Restaurant in referencing violation of the Mayor's Executive Order for allowing patrons to be able to consume alcohol after the curfew at that time, which was 10:00 p.m.

Q  And did you draft this investigative report from your visit to Haydee's Restaurant on March 17, 2021?

A  Yes, sir.

Q  Was the report drafted at or near the time of the night that you were in the establishment on March 17, 2021?

A  Yes, sir.

MR. COWDEN:  Chairman, we'll stipulate to the disability Exhibit 1.

CHAIRPERSON ANDERSON:  It's also a part of the Board's records so I'm not quite sure what the stipulation is.

So, I guess you want to remove the record -- just let me ask a question to Mr. Williams. I'm not here to present your case, I don't have a problem.
He said he wants to stipulate to the documents so I guess he can just go and testify whatever you want to bring out from the document.

MR. WILLIAMS: Chairman I'd like to have the exhibit entered into evidence.

CHAIRPERSON ANDERSON: So moved and as a matter of law, the Board's case report is part of the record. So, it is admitted as evidence.

(Whereupon, the above-referred to document was received into evidence as Government Exhibit 1.)

DIRECT EXAMINATION

BY MR. WILLIAMS:

Q What time did you arrive at Haydee's Restaurant on March 17, 2021?

A I entered the establishment at 10:56 p.m.

Q Can you please briefly describe what you saw when you entered the establishment?

A Yes, as I entered the establishment I saw two patrons with flutes of alcohol beverages in front of each patron upon entry into the establishment at that current time, one male and one female patron.

Q And what was the purpose of your
visit?
   A The purpose of my visit was to conduct a regulatory inspection.
   Q And did you speak with anyone about your observations that evening?
   A Yes, I made contact with the owner, Ms. Nema Venegas.
   Q And did you inform her of the violation?
   A Yes, I did.
   Q And how did you know the violation that you informed her of as far as the patrons drinking after 10:00 p.m.?
   A Yes, I reviewed the Mayor's Executive Order, which was the 10th amendment which was signed into effect on January 13, 2021 and expired in May of 2021.
   Q And scroll down the first exhibit, 1, which is a photo, did you take this picture?

CHAIRPERSON ANDERSON: Hold on. Mr. Williams, there is something that you're doing so from point to point we're only seeing half of the documents.

So, whatever you just did, we can see the screen but then in the middle of it, then you
do something and half of the screen is covered.

MR. WILLIAMS: No problem. Can you see me now?

CHAIRPERSON ANDERSON: Go ahead.

MS. ANDREWS: Mr. Williams, you have shared just the Adobe application so any application that's open that's on top of your image is going to block the Adobe.

You didn't share your entire screen so anything that's open that's not Adobe is just grayed out.

MR. WILLIAMS: Do we have a full screen now?

CHAIRPERSON ANDERSON: Yes.

DIRECT EXAMINATION

BY MR. WILLIAMS:

Q Okay, no problem. Mr. Prout, did you take the picture in Exhibit 1?

A Yes.

Q Do you recall approximately what time you took this picture?

A Yes.

Q What time was that?

A That picture was taken at 10:56 p.m.

Q Scroll down a little further. This is
a receipt. Did you retrieve this receipt?

A Yes, upon conducting the regulatory inspection, I asked Ms. Venegas for a copy of the receipt, which she stated that the two patrons were at the establishment since 9:32 p.m.

She stated that she did not want to remove the beverages of alcohol due to fear of them being angry of the alcohol being removed in front of them.

So, I notified her that she is more than willing to contact the police in the event in which patrons may be aggressive towards her and/or she may want to hire additional security for her to be made to feel safe in her own place of her own restaurant.

And so she stated that she did understand that.

Q When you were talking with the owner, were you both able to see the patrons?

A Yes, both patrons were receipted during the duration of the regulatory inspection.

Q And when you took the picture earlier, approximately how much time after you took the picture did you and the owner engage in conversation?
A Approximately one to two minutes.

Q And when you walked into the establishment, based on your review of the establishment, where were the patrons located from the entry?

A So, as I walk into the establishment, upon entry through two sets of doors, you will be facing the main bar and the two patrons were seated on the left side of the restaurant near the front door of the establishment.

Q So, were they visible to you when you made your way into the restaurant or did you have to navigate some different doors or partitions to see these individuals?

A Upon entry through the first door there is a small foyer which leads to a second door.

As soon as I entered through the second door, the patrons review upon entry through the second door, which both doors are main doors to gain entry into the establishment.

So, there was no side door or any alternate routes that were taken in order to view both patrons at the front half of the establishment upon entry for the regulatory
inspection.

Q    And this receipt at 9:32 p.m., it
shows one picture in the receipt, is that
correct?

A    Yes, the receipt does reflect one
pitcher of Margarita Fiesta, which was observed
on the table upon entry into the establishment at
10:56 p.m.

Q    I have no further questions.

CHAIRPERSON ANDERSON: Thank you. Mr. Cowden, do you have questions for the witness?

CROSS EXAMINATION

BY MR. COWDEN:

Q    I do, thank you. When you entered the restaurant, there was only one patron sitting at
the table, correct?

A    There were two patrons at the table
upon entry into the establishment.

Q    The receipt that your Counsel just
showed you shows that the patrons closed out
their check at 9:32 p.m. on March 17, 2021,
correct?

A    The receipt that is reflected in the
exhibit has a time of 21:32 in which it does not
specify whether the check was open and/or closed
at 9:32 p.m.

However, due to my professional experience, normally 9:32 p.m. or the time that's listed on the receipt is the time in which the receipt is open and not necessarily closed.

I'm sorry, the check is open at that time.

CHAIRPERSON ANDERSON: Did you have an objection or something, Mr. Cowden?

MR. COWDEN: I'm just going to follow up with another question.

CHAIRPERSON ANDERSON: Go ahead, Mr. Williams.

CROSS EXAMINATION
BY MR. COWDEN:

Q You have no idea how long these customers were sitting at the restaurant consuming their meal, correct?

A The information that I do know is that there's a time that's on the receipt that specifies 21:32 and that the patients were still in the establishment at 10:56 p.m., in which I arrived to the establishment to conduct a regulatory inspection.

Q As you sit here today, do you know
when the patrons arrived at the restaurant?

A  The time in which the patients arrived
to the establishment was prior to my arrival at
10:56 p.m.

Q  Did you ask the patrons how long they
had been sitting at the restaurant consuming
their meal?

A  No, I did not.

Q  When you entered the restaurant, you
indicated that you saw your patrons to the left,
correct?

A  Yes.

Q  When you went to talk to the owner,
where was the owner located?

A  The owner was located behind the main
bar area of the establishment.

Q  Isn't it a fact that the owner was to
the left of the restaurant over in the area where
she was monitoring Internet orders?

A  I had not been to the establishment
prior to the regulatory inspection being
conducted so I have no idea where the incident
report is or being placed and/or received at that
time.

Q  I would like to share my screen
exhibits so I'm going to need permission to do
that.

CHAIRPERSON ANDERSON: Ms. Andras, can
you please give him permission to share his
screen?

MS. ANDREWS: Sure, your rights have
been elevated.

CROSS EXAMINATION

BY MR. COWDEN:

Q I'm going to show you what's marked
Defendant's Exhibit 3 and ask you if you
recognize this.

CHAIRPERSON ANDERSON: Mr. Cowden, I
would suggest that you have your client -- you
can have your client where she's at. You can
make sure you turn off her volume and then you
can sit in from her computer.

So, as Ms. Andras has stated, the
volume on whatever computer has not been used
needs to be turned off.

MR. COWDEN: Exhibit 3 is a video and
I'm trying to share it but it doesn't seem to be
coming up. When I play it on my computer it's
there but I don't see it coming through the
system.
MS. ANDREWS: Mr. Cowden, are you trying to share your screen under your name or Ms. Vanegas' screen?

MR. COWDEN: It's my screen, do I just move the file into the WebEx share-screen box?

MS. ANDREWS: You hit the share box and select the application that is playing your video. So, if that's Windows Media Player or if it's playing from Chrome, you would hit that application and then hit share again.

MR. COWDEN: This doesn't seem to be working, I even tried just to do some of the PDF photos. I wonder is it possible for you to open the exhibits that I showed you, Exhibit 4?

CHAIRPERSON ANDERSON: Are you asking Mr. Williams to open his exhibit?

MR. COWDEN: The technical person. Exhibit 4 is a PDF.

CHAIRPERSON ANDERSON: We don't have copies of your documents so the only person who can do that is if you share them with Mr. Williams. You could ask him if he wants to do that, but our technical person is unable to do that.

We are a facilitator so you're in
charge of your case and it's up to you if you
can't access it and you want to ask Mr. Williams
but the Agency cannot help you with that process.

MR. COWDEN: Let me just try to open
this Adobe in my screen here. I don't know how
to open this.

CHAIRPERSON ANDERSON: Mr. Cowden, do
you want us to go off the record so you can
figure out how to do what you need to do?

MR. COWDEN: That may be helpful. I
haven't had this problem before. These exhibits
are in this folder but when I click them they
don't open up onto the screen.

CHAIRPERSON ANDERSON: I can't help
you, it's your computer, we've given you
permission to share your screen, sir, so you need
to figure out how to operate your own computer to
play what's on your computer.

MS. ANDREWS: Mr. Cowden, can you take
your cursor and put it all the way at the top of
your screen and hit stop sharing? Now, come back
to WebEx and hit share.

I want you to share --

CHAIRPERSON ANDERSON: I know that you
want this for the client but she's just giving
him instruction on how to operate. So, I don't believe you need to translate that.

MS. TAPIA: Mr. Chairman, I know she's just giving the instructions but interpreters do not choose what to interpret and what not to.

It's not that we want to interpret everything, it's that it's part of our ethical code to interpret everything that's said.

If you want to go off the record, then you can speak freely without the interpreter interpreting.

CHAIRPERSON ANDERSON: Okay, do what you need to do. Forget what I said, go ahead.

MS. ANDREWS: I need you to come back to the WebEx screen, select share and I want you to select anything that says screen or window so it can share your entire desktop.

Keep in mind, you may have the option to scroll down because you may have multiple windows open or multiple applications open.

Do you see anything? Okay. Mr. Cowden, we can see your screen now.

MR. COWDEN: I think I've got the picture. Can you move it?

MS. ANDREWS: No, sir.
CHAIRPERSON ANDERSON: Mr. Cowden, this is your computer, you can use your cursor to move whatever you need to move. She can’t operate your computer, she can only give you instructions on how to access the system.

But to move amongst or between files, it's your computer, you use your mouse and your cursor to operate your computer system, sir.

CROSS EXAMINATION

BY MR. COWDEN:

Q Okay, I believe on my client's screen I'm showing Exhibit 4 and that's a photo and I think you can move the photo down. I'm asking you look at Exhibit 4 and do you recognize yourself in the bottom of that photo?

CHAIRPERSON ANDERSON: We cannot see it.

MR. COWDEN: You can't see the photo?

CHAIRPERSON ANDERSON: All I'm looking at on my screen, a photo was taken at 3/17, 2021 at 10:24:22 p.m. We're just seeing a blue screen with a light and blue stars with a light and then some blues.

We're not able to see the whole photo.

(Simultaneous Speaking.)
MS. ANDREWS: You can zoom out.

Everybody that's on the hearing, if you could see
that you have the options to the left of you to
control if it's zoomed in or zoomed out.

Mr. Chair, I think you need to zoom
out a little bit and maybe you can see the whole
photo.

CHAIRPERSON ANDERSON: Why do I need
to zoom out to see a photo? Why do I need to
zoom in and zoom out for a photo? Is everyone
seeing this photo or am I the only one who is not
seeing this photo?

(Simultaneous Speaking.)

-- to see an exhibit.

MEMBER HANSEN: I can't see it, Mr.
Chair.

CHAIRPERSON ANDERSON: That's why I
shouldn't have to zoom in and zoom out. You're
showing me your exhibit.

I'm supposed to sit here and look at
the exhibit, I'm not supposed to be working with
my computer to change it.

I'm not going to zoom in and zoom out
on my computer because I'm conducting this
hearing and I'm sitting here and so, therefore,
1 if you want me to look at an exhibit, you need to
2 make the exhibit available for me to see it.
3 So, if you need to zoom, if you need
4 to change the zoom on your computer, you do that
5 but I'm not going to do that.
6       We can see the screen so you can go
7 ahead.
8
9 CROSS EXAMINATION
10
11 BY MR. COWDEN:
12
13 Q Investigator is showing you what's
14 been marked Exhibit 4. Do you recognize yourself
15 in that photo at the bottom?
16
17 A Yes, sir.
18
19 Q In that photo it also shows that only
20 one customer is sitting at the table when you
21 entered the restaurant, correct?
22
23 A Yes.
24
25 Q I'm showing you Exhibit 5. Again,
26 this is another photo of the restaurant when you
27 went to it on March 17th, correct?
28
29 A Yes, sir.
Q And the couple that you say was drinking alcohol is that couple that's pictured in the photo, correct?
A Yes, sir.
Q And the gentleman in the photo is returning to the booth at that time, correct, in the photo?
A Yes.
Q And from the photo you can see there is a wall that abuts the staircase in the restaurant, correct?
A Yes, however, if you look at the placement of the bench, you're able to see the gentleman at his seat from behind the main bar area.
Q But it's fair to say that you can't see a gentleman sitting in the bench if he's not sitting in the bench?
A In Exhibit 5, which is on the screen it shows him sitting down on the bench.
Q And Exhibit 4 showed that when you entered the restaurant he wasn't in the bench, correct?
A Yes, sir.
Q And from the back of the restaurant
where you say the owner was, you can't see the
woman sitting at the table, correct?
   A      I'm not able to make that
determination.
   Q      I'm showing you Exhibit 6, do you
recognize this?
   A      I recognize myself in the lower right
corner of the pixel with the two patrons here at
the table.
   Q      And the photograph shows you at the
restaurant on March 17th, the couple seated at
the table, and their meal is packed up, correct?
   A      I see a bag on the table, I don't know
what the items are on that table.
   Q      Before you entered the restaurant that
night, did you send in a woman to try to buy
alcohol after 10:00 p.m.?
   A      No, sir.
   Due to the COVID-19 pandemic, our team
consists of six investigators. On the night in
question due to the response to the pandemic, the
Agency only had two investigators assigned per
afternoon shift.
   So, therefore, it was me and a male
partner that worked that evening and we were
conducted inspections on different areas of the
city.

So, no, I had never sent any female to
attempt to purchase alcohol on the night in
question.

Q I'm going to show you Exhibit 3. I'm
showing you what's been marked Defense Exhibit 7.
Do you recognize that, sir?

A That is the right side of the main bar
looking towards the front entrance of the
establishment of Haydee's Restaurant.

Q And so when you entered the
restaurant, you entered through that white door
to the left side of Exhibit 7, correct?

A Yes, sir.

Q And when you went to speak with the
owner of the restaurant, she was located in the
area where Exhibit 7 is on this photograph,
correct?

A She was somewhere in that general
area.

Q And on this photo, do you see my arrow
where there's a yellow bucket?

A I do see the yellow bucket but I don't
see an arrow.
Q       Just beyond the yellow bucket is a
bench that the gentleman is sitting, correct?

A       Yes, sir.

Q       And the bench where the lady was
sitting is behind the wall that has the blue
lights running down in the middle of the
photograph, correct?

A       Yes, sir.

Q       And you can't see where she was
sitting from where Mr. Venegas was located when
you went to the restaurant, correct?

A       Are you able to zoom in on that photo
because I don't know if there's a hand in that
photo possibly?

Q       Can I direct your attention to Exhibit
8. That's the table where the customer was
sitting when you entered the restaurant. The
lady was sitting in the bench to the left,
correct?

A       Yes, sir.

Q       And the bench seat to the right, when
you entered the restaurant the gentleman was not
in that but when he returned after you went to
the restaurant, correct?

A       Yes.
Q I'm showing you Exhibit 9, Exhibit 9 has a picture of a lighted area in the middle. Do you see that?
A Yes.
Q Are you familiar with that area of the restaurant? Do you know what that is?
A That is the main bar of the establishment that's seen upon entrance of the front door of Haydee's Restaurant.
Q Just to the right of that are the restrooms, correct?
A I have no idea where the restrooms are in the restaurant.
Q I'm showing you Exhibit 10, this shows the bench where the lady was sitting when you entered the restaurant, correct?
A Yes.
Q And it also shows you that area just to the right of the pall with the bucket behind which Ms. Haydee was sitting when you entered the restaurant, correct?
A As I recall, Ms. Haydee was somewhere in that general area. I don't particularly remember her sitting down but she was somewhere in that general area.
I could see a female that's in a black shirt that's by the main bar area, she was somewhere in that general area right there but I don't recall her being seated at that exact table upon entrance into the establishment.

Q Exhibit 11, again, shows the entrance, the table at which the patrons were sitting, and then that area on the back side of the staircase, correct?

A Yes.

Q Chairman Anderson, it sounds like from your earlier ruling I don't need to move to admit these exhibits, they will already be admitted, is that correct?

CHAIRPERSON ANDERSON: No, you have to move to admit your evidence. The Government's evidence was just the case report and so the case report is part of the Board's record. So, that's automatically in the evidence.

But whatever documents that are not the case report has to be moved to be included into the record.

So, what documents are you trying to move into evidence?

MR. COWDEN: Photos 4 through 11.
CHAIRPERSON ANDERSON: Mr. Williams, any objection?

MR. WILLIAMS: No.

CHAIRPERSON ANDERSON: Exhibit 4, 5, 6, 7, 8, 9, 10, 11 are moved into evidence without objection.

(Whereupon, the above-referred to documents were received into evidence as Defendant's Exhibits 4, 5, 6, 7, 8, 9, 10, 11.)

Any additional questions you have for the witness, Mr. Cowden?

MR. COWDEN: I'm just reviewing my notes, I think that's it, Your Honor.

CHAIRPERSON ANDERSON: Can you stop sharing your screen?

MR. COWDEN: Do I have the authority to stop sharing it?

CHAIRPERSON ANDERSON: Ms. Andras, could you please tell him what to do?

MS. ANDREWS: Please place your cursor to the top of your screen and hit stop sharing.

MR. COWDEN: It's coming up at the top of the screen when I change the cursor to the top.
MS. ANDREWS: Mr. Cowden, take your cursor all the way to the very, very top of your screen. Once you do that there will be a drop-down that comes on your desktop and the first button to the left should be stop sharing.

Take your cursor all the way to the top, now hit stop sharing.

MR. COWDEN: I just did that and nothing's happening. Should I close off the entire box?

MS. ANDREWS: So, when you take your cursor to the top of your screen, you can't see stop sharing?

MR. COWDEN: Not anymore. I clicked it and it stopped but I don't see it anymore. What I'm going to do is I'm going to just close out my entire computer and I'll just participate from my client's computer.

MS. ANDREWS: That's fine.

MR. COWDEN: I just left the event but I still see the screen on her computer.

CHAIRPERSON ANDERSON: I have a few questions to ask you, Mr. Prout.

Do you remember Exhibit 5 and 6 from the Licensee where we saw two individuals sitting
in a restaurant and there was a to-go bag on the
table, is that correct? Did you see that?

INVESTIGATOR PROUT: Yes, sir.

CHAIRPERSON ANDERSON: Mr. Williams,
can you share your screen and please share
Exhibit 1 and 2 for us, please? Show him also 2,
please. What are we seeing in Exhibit 1 and
Exhibit 2?

INVESTIGATOR PROUT: We are seeing two
patients that look to have full glasses of
alcohol beverages in front of their person having
dinner in a restaurant.

CHAIRPERSON ANDERSON: And what time
did you take Exhibit 1 and Exhibit 2?

INVESTIGATOR PROUT: 10:54 p.m. and
10:56 p.m.

CHAIRPERSON ANDERSON: So, what's
wrong with this picture? Because I'm conflicted,
I see Exhibit 5 and Exhibit 6 and I'm seeing
Government Exhibit 1 and 2.

So, what's going on at 10:54 p.m. in
Exhibit 1? Is that a violation and if that's the
violation, why is it a violation?

INVESTIGATOR PROUT: On March 17,
2021, the Mayor's Executive Order was still in
effect in which all alcohol services and
cconsumption for on-premise consumption was
supposed to cease at 10:00 p.m.

          So, therefore, there were patrons
still consuming alcoholic beverages inside of the
establishment, which is considered on-premise
consumption, past the Mayor's Executive Order
that was still in effect for all alcohol
consumption to cease at 10:00 p.m.

          The time at which I entered into the
establishment was between 10:54 p.m. and 10:56
p.m.

          So, that's approximately 54 to 56
minutes past the allotted curfew that was put in
place by the Mayor's Executive Order in relation
to the COVID-19 pandemic at that current time.

          CHAIRPERSON ANDERSON: You said that
you entered the establishment at about 10:54 p.m.
and 10:56, what time did you leave the
establishment?

          INVESTIGATOR PROUT: May I ask OG
Williams to scroll down to the regulatory
inspection that was conducted, which has the time
in which I completed the regulatory inspection,
which approximately should have been between 10
to 15 minutes in length?

    CHAIRPERSON ANDERSON: If you don't know the time, then you can say I don't know the time or if it's in your report, where in your report it is, I don't know.

    INVESTIGATOR PROUT: So, the time the inspection was completed was at 11:18 p.m.

    CHAIRPERSON ANDERSON: Thank you.

Now, the reason why I'm asking the question is because I'm confused by Exhibit 5 and 6.

    During the period of time you were in the restaurant, did you see, did you observe what Exhibit 5 and 6 shows, in the sense that customers were sitting in the establishment with to-go packages.

    Did you see that?

    INVESTIGATOR PROUT: So, there was a plastic bag on the table but I did not see or inquire on the contents.

    What I understood it to be upon entrance into the establishment, there were patrons that were seated in the establishment.

    I asked Ms. Venegas how long they had been there, she said they had opened up their tab around 9:30 p.m.
So, that's an hour and 30 minutes in length in which they have been in these establishments.

And so based on the information that was provided by Ms. Venegas, I understood it to be that the patients were still consuming past the 10:00 p.m. curfew, which it's a violation of the Mayor's Executive Order for all on-premise consumption to conclude at 10:00 p.m. in the District of Columbia for all alcohol-serving establishments.

CHAIRPERSON ANDERSON: Since you just mentioned there was a plastic bag there, I need you, Mr. Williams, to go back again. I feel that in deliberation I might want to see this but I want to make sure that I get clarity on the record.

So, Mr. Williams, can you please again share your screen and show Exhibit 1 again? Let me look more intently at Exhibit 1 because I'm confused.

I'm seeing two pictures and the two pictures that are --

Mr. Prout, I want you to describe in detail what it is that we're looking at in
Exhibit 1.

INVESTIGATOR PROUT: We are looking at a female and a male patient seated at a table with two alcohol beverages in front of their person. There is a point to the right of each patron, however, I'm not able to see exactly what that is.

But from my recollection, there was food on that actual plate. And then to the right of the male patron, there seems to be a glass of brown beverage.

CHAIRPERSON ANDERSON: Let's look at Exhibit 2 again, please and specifically, what is it that we're looking at in Exhibit 2?

INVESTIGATOR PROUT: We're looking at two patrons, one male, one female, seated at a table with two alcoholic beverages in front of each person.

CHAIRPERSON ANDERSON: I don't have any other questions. Do any other Board Members have any questions?

MEMBER SHORT: Mr. Chair?

CHAIRPERSON ANDERSON: Go ahead, mr Short.

MEMBER SHORT: Thank you, this
question is for Investigator Prout with the connection to the presentation in the accident report.

I'd like to ask you as a professional investigator for ABRA what the time the Mayor's order saying all alcohol at 10:00 p.m. should stop any service for consumption.

That's correct, right?

INVESTIGATOR PROUT: Yes.

MEMBER SHORT: In regards to best practices of people who observe the Mayor's order on March 17, 2021, what would you think would be a reasonable time for a last call, meaning if you have patients inside your establishment at 9:30 a.m., what would be a reasonable time for a last call?

Last call money that everybody should be finished their drinks and out by 10:00 p.m. What would be a reasonable time?

INVESTIGATOR PROUT: My interactions with other licensees while enforcing the Mayor's executive order was that patrons finished consuming alcohol and all alcoholic beverages being removed off of the table by no later than 9:45 p.m. and/or 9:50 p.m.
MEMBER SHORT: And your testimony has been you entered the premises of this licensee at 10:54 p.m. and you exited at 11:18 p.m., is that correct?

INVESTIGATOR PROUT: Yes, sir.

MEMBER SHORT: Thank you very much for your testimony and thank you very much for an excellent report.

CHAIRPERSON ANDERSON: Thank you, Mr. Short. Any other questions from any other Board Members?

MEMBER GRANDIS: Yes.

CHAIRPERSON ANDERSON: Go ahead, Mr. Grandis.

MEMBER GRANDIS: Mr. Chairman, thank you. Inspector Prout, I just also want to add on thanks for your presentation and for your well written investigative report.

Do you know if there's a time stamp on Exhibit 1 or Exhibit 2? If you don't know that's a good answer as well, I'm just asking.

INVESTIGATOR PROUT: Yes, the timestamp for Exhibit 1 is 10:54 p.m., timestamp, you might not be able to see it.

MEMBER GRANDIS: That's fine, go
ahead. Exhibit 2?

INVESTIGATOR PROUT: And the timestamp for Exhibit 2 is 10:56 p.m.

MEMBER GRANDIS: I know it's already in the record but could you look at Exhibit 3 and tell me the time that is on this invoice regarding it looks like food and beverages, a pitcher, it looks like, of margarita?

If I'm seeing that incorrectly I apologize but could you give us what time the timestamp is on Exhibit 3. Not the timestamp, I'm sorry, the time on the invoice.

INVESTIGATOR PROUT: The receipt reflects 24-hour time in which the time conversion that's on the receipt states 21:32 hours, which is the equivalence of 9:32 p.m.

MEMBER GRANDIS: What is the timestamp on that photograph?

INVESTIGATOR PROUT: The timestamp that's on that photograph is 10:57 p.m.

MEMBER GRANDIS: Am I correct to read the receipt as being a pitcher of margarita or some alcoholic beverage?

INVESTIGATOR PROUT: Yes, sir, the receipt does read one pitcher of margarita
fiesta, which is the name of the drink, and the
price was $31.99 before taxes.

MEMBER GRANDIS: Is that from your
knowledge of look at their menu and look at the
receipt? Is that an alcoholic beverage, that's a
pitcher?

INVESTIGATOR PROUT: Based on my
professional experience, this to be noted as an
alcoholic beverage.

MEMBER GRANDIS: My last question, and
there may not be an answer, but it appears from
looking at the receipt that there was 28 minutes
after that receipt was printed that a pitcher
would have to be consumed or the pitcher and the
glasses that had the beverage would have to be
removed from the table at 10:00 p.m.?

INVESTIGATOR PROUT: Yes, sir, the
alcoholic beverages should have been removed off
of the table at the establishment within 28
minutes of being served at 21:32 which would have
been a 10:00 p.m. removal of all alcoholic
beverages from off the table.

MEMBER GRANDIS: Looking at Exhibit 1,
a photograph, and then Exhibit 2, based on your
testimony that these pictures were taken after
10:00 p.m., does it appear to you that the time
between Exhibit 1 photograph and Exhibit 2, which
from your records indicate was after 10:00 p.m.,
doesn't the glasses that contain the beverage
look consumed, more consumed from the first
photograph to the second?

INVESTIGATOR PROUT: Yes, sir, they
do.

MEMBER GRANDIS: Thank you, Chairman,
that's all from me.

CHAIRPERSON ANDERSON: Any other
questions by any other Board Members? Mr.
Cowden, any questions of the witness based on the
questions that were asked by the Board?

MS. TAPIA: The interpreter would like
a break, it's been over two hours. This is
scheduled for only one hours. Can we please have
a break?

CHAIRPERSON ANDERSON: Hold on. This
was not scheduled for an hour, a hearing is
scheduled. Can you wait for us to finish with
this witness?

MS. TAPIA: The interpreter needs a
ten-minute break.

CHAIRPERSON ANDERSON: I was just
trying to finish this witness and then we will
take a break because I didn't want to take a
break in the middle.

MS. TAPIA: The interpreter needs a
ten-minute break, it's been over two hours.

CHAIRPERSON ANDERSON: It's is 3:45
p.m., we'll be in recess until 4:00 p.m. I'll
ask all the Board Members to return to executive
session.

(Whereupon, the above-entitled matter
went off the record at 3:45 p.m. and
resumed at 4:07 p.m.)

We're back on the record. This is a
show cause hearing that started at 1:30 p.m. None
of us are in control of how long this proceeding
will last. I have no idea this proceeding is
going to last.

If there is anyone who is
participating in this hearing today, if they have
time constraints, they need to make it known to
the Chair that there's some time constraints and
we will make alternative measures.

If anyone requires a break, that
individual needs to make it known to the chair
and we will structure an appropriate time to take
this break. We cannot take breaks in the middle of testimony.

We will take breaks at appropriate times once a witness has testified. If there is a dire emergency then we will act on that, however, we cannot take breaks in the middle of a testimony.

Our witness needs to be allowed to testify. After that witness has testified, we will take structured breaks.

If anyone has any specific time constraints -- because this proceeding is being interpreted, it adds additional time to the hearing.

So, I don't know how long this proceeding will last and so if anyone has any time constraints they need to make it known at this juncture.

Depending how many more hours this will take, if we need to take a break every hour we will find an appropriate time within the next hour to take a break, however, under those circumstances, when we take any further breaks in the middle of testimony.

What I will ask our Agency Director to
do is to make arrangements for another  
interpreter prior to 5:00 p.m. because it's now  
4:11 p.m. and it's not apparent that this hearing  
is going to be over at 5:00 p.m.  

So, if we are unable to find another  
interpreter to continue this afternoon, what we  
will do, in fact, we would have to continue,  
adjourn, and continue this hearing for another  
time.  

So, we will continue and prior to 5:00  
p.m. I will see where we are. If your company is  
unable to provide another interpreter, then we  
will conclude before 5:00 p.m. so I will set my  
alarm for 4:45 p.m. for us to -- what time do you  
have to get off?  

MS. TAPIA: 5:00 p.m.  

(Simultaneous Speaking.)  

MR. COWDEN: Mr. Chairman, may I  
proceed?  

CHAIRPERSON ANDERSON: Hold on, I'm  
texting the Agency Director to see if he can  
contact her employer to see if they can get  
another interpreter to continue this matter at  
5:00 p.m.  

That's what I'm trying to do to see if
we can finish this hearing today. If not, we're
going to end so just give me one minute. Go
ahead, Mr. Cowden.

CROSS EXAMINATION

BY MR. COWDEN:

Q During the questioning by the Board,
you indicated that Ms. Venegas told you that the
customers arrived at about 9:32 p.m., is that
your testimony?

A Yes, sir.

Q When your Counsel asked you questions
in your direct testimony, you indicated that in
this case you prepared the case report, correct?

A Yes, sir.

Q Do you have a copy of the case report
in front of you?

A Yes.

Q I'd like to turn to Page 1 of your
case report.

A Yes, sir.

Q When you did this case report it was
important to be thorough and accurate, correct?

A That is the intent.

Q And you prepared this case report
before you heard my opening statement, correct?
A       Yes, sir.
Q       At the bottom of your case report on
Page 1, did you write Investigator Prout advised
Ms. Venegas of the observed violation, Ms.
Venegas stated that the customers had arrived at
approximately 9:00 p.m.
A       Yes, sir.
Q       That statement is inconsistent with
your testimony today, is it not?
A       As far as what you just stated, 9:00
p.m. is indicated in my report. I did reference
9:32 p.m., however, between 9:00 p.m. and 9:32
p.m., the patrons arrived to the establishment.
The receipt has 9:32 p.m. and our
report states 9:00 p.m. So, anywhere between
10:56 a.m. and 9:00 p.m., the patrons arrive to
the establishment.
Q       You also testified earlier that when
you entered the establishment, the patrons were
consuming a meal and consuming alcoholic
beverages, was that your testimony?
A       There were alcoholic beverages on the
table and there was a plate in front of them.
Q       And the plate was empty, correct?
A       I don't recall exactly what was on the
actual plate but there was a plate.

Q So, as you sit here today, you have I

have no idea whether the patrons had already

finished consuming their meal?

A No, I'm not aware of whether or not

they consumed their meal or did not consume it.

Q You also testified that your photos

had a timestamp on them.

A Yes, sir.

Q What's the timestamp?

A If you would like me to, I'm more than

willing to show you my phone that has the

timestamp on it and/or I can send the actual

photos with the timestamp on them, and I can

share my screen to show that the actual timestamp

is on each actual photo if you would like me to,
sir.

Q Is it your testimony today that you

took these photos, these two photos, after you

went to the restaurant at about 10:54 p.m.?

A Yes, sir.

Q And when you took these photos, were

these folks eating their dinner?

A As stated previously, they were seated

at the table with alcoholic beverages in front of
them and a plate in front of them.

Q   During your experience, if the patrons were provided with a pitcher at 9:00 p.m., is it reasonable to believe that they will finish the pitcher by 10:00 p.m.?

A   I'm not able to provide an accurate answer to that because each person's alcohol intake varies based on person to person, as well as how many parties are in attendance to drink from that pitcher of alcohol as well.

Q   When you observed the pitcher, was it full of ice?

A   I recall alcoholic beverages being in two margarita glasses seated in front of each patron for consumption purposes at 10:54 p.m. and 10:56 p.m.

Q   And just one more question, you did agree, did you not, that when you entered the premises, the gentleman was not at the table. He came back to the table after you had been there for some period of time, correct?

A   My testimony initially stated that I saw two patrons seated at the table upon entrance into Haydee's Restaurant.

However, the exhibit which you
provided, Exhibit 5 and 6, had timestamps of
10:54 p.m. and a few seconds in which there was
not a patron seated at that time.

However, my recollection based on my
initial testimony, I recall seeing two patrons
which are in the exhibits I provided in my
investigative report.

Q    And sir, as we sit here today, do you
not remember whether two patrons were there when
you entered the restaurant?

A    As stated in my initial testimony,
there were two patrons seated at the table upon
my entrance into the establishment.

Q    I showed you Defense Exhibit 4 and you
testified that was you entering the restaurant,
correct?

A    Yes, however, the timestamp that is on
the exhibit which you provided can be
manipulated. So, in accordance with the exhibit
which you did provide the Court, yes, that was me
in the photo at approximately 10:54 p.m. and a
few seconds, yes.

However, whether or not that is an
authentic time is up to personal opinion.

Q    I have no further questions.
CHAIRPERSON ANDERSON: Mr. Williams, do you have any redirect?

REDIRECT EXAMINATION

BY MR. WILLIAMS:

Q Yes, just briefly. I'm going to share Defense Exhibit 4. Give me one second, please. I'll redirect here. Can you see Defense Exhibit 4?

A Yes.

Q On the table, can you see my cursor?

A Yes.

Q There's a picture, the margarita pitcher, is that empty or is there alcohol in that pitcher?

MR. COWDEN: I object, that calls for speculation.

CHAIRPERSON ANDERSON: I'm going to overrule your objection. On the receipt it said they purchased a pitcher.

If he can answer the question, he can, if he can't, he can't but I'm going to overrule the objection and allow him to answer it.

REDIRECT EXAMINATION

BY MR. WILLIAMS:

Q Looking at the glass that's in front
of the patron, the female patron there, does that
glass appear to be full? Can you see through a
portion of the liquid if there's liquid at the
bottom of that glass?

MR. COWDEN: Objection to the form of
the question.

CHAIRPERSON ANDERSON: Rephrase.

REDIRECT EXAMINATION

BY MR. WILLIAMS:

Q Does the glass look full?

A The glass looks half full with alcoholic content.

Q Your Honor, permission to share the
investigative report again, please?

CHAIRPERSON ANDERSON: You are able to
share your screen so you can continue. I don't
believe she took away that right.

REDIRECT EXAMINATION

BY MR. WILLIAMS:

Q Now, we go back, same depiction
looking at your picture that you took at
approximately 11:54 a.m., what does that glass
look like there?

CHAIRPERSON ANDERSON: Mr. Williams,
could you please have the witness identify what
I'm just saying, what exhibit are we looking at for the record? That's what I'm asking.

REDIRECT EXAMINATION

BY MR. WILLIAMS:

Q No problem. I'm not showing you back to your Exhibit 1 for the District, back to your investigative report, and now we are showing you the first photo in your investigative report labeled Exhibit 1.

It's a picture of the patrons, once again. The glass in front of the patron, does that glass look full?

A The glass looks full of alcohol content.

Q No further questions, Your Honor.

CHAIRPERSON ANDERSON: Thank you, it's 4:32 p.m. The licensee has not presented its case and it's not apparent to me that we have sufficient time before 5:00 p.m. for the licensee to present its case.

Are there parties available to reconvene this hearing at 11:00 a.m. tomorrow?
MR. WILLIAMS: One moment, I need to check my calendar.

MR. COWDEN: Would it be possible to move that? I have a doctor's appointment at 9:00 a.m. I'm just not sure if it will be done but I'm sure it will be done by 1:00 p.m.

MR. WILLIAMS: I'm also available at 1:00 p.m.

CHAIRPERSON ANDERSON: We're going to adjourn for the day and we will reconvene at 1:00 p.m. tomorrow afternoon. Okay? We're formally adjourning this case and we will reconvene at 1:00 p.m. tomorrow.

Thank you very much.

(Whereupon, the above-entitled matter went off the record at 4:35 p.m.)
CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Haydee's

Before: DCABRA

Date: 10-27-21

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

[Signature]

Court Reporter