DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:        :
Kiss, LLC,
   t/a Kiss Tavern
   637 T Street NW        : Summary Suspension
License #104710          : Hearing
Retailer CT - ANC 1B     :

Case #20-CMP-00110,      :
20-CMP-00110(a)          :

(ABC Board Closure -      :
October 9, 2020)          :

Wednesday
October 28, 2020

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
JENI HANSEN, Member
JAMES SHORT, JR., Member
REMA WAHABZADAH, Member
ALSO PRESENT:

SIMONE ANDREWS, DC ABRA Staff
EYOBSASBEHA, Licensee
SHAHZEB ASIM, DC OAG
CAPT. DAVID AUGUSTINE, DC MPD
RICHARD BIANCO, Licensee’s Counsel
MARTHA JENKINS, ABC Board Counsel
JOHN LUI, DC OAG
KEVIN PUENTE, DC ABRA Investigator
DET. PHILIP TRIDICO, DC MPD
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CHAIRPERSON ANDERSON: Our next case on our calendar is case number 20-CMP-00110 and 20-CMP-00110(a), Kiss Tavern. Ms. Andrews, can you please elevate the parties on this case, please.

MS. ANDREWS: Sure, stand by.

CHAIRPERSON ANDERSON: Thank you.

MS. ANDREWS: Mr. Augustine, you are now a panelist. Mr. Puente, you are now a panelist. Mr. Bianco, you are now a panelist. Mr. Lui, you are now a panelist. Mr. Asim, you are now a panelist. Ms. Johnson, you are now a panelist. That’s all, Mr. Chair.

CHAIRPERSON ANDERSON: All right. Thank you. Let’s start the introduction. I will start with the Government.

So can I have the Government introduce themselves and please spell your name, please.

MR. ASIM: Good morning, members of the Board. My name’s Shahzeb Asim. I’m representing the District of Columbia. And
that is S-H-A-H-Z-E-B, last name A-S-I-M. And
I have co-counsel.

CHAIRPERSON ANDERSON: Good morning,
Mr. Asim. And who is the co-counsel?

MR. ASIM: John Lui.

CHAIRPERSON ANDERSON: Can Mr. Lui
please introduce himself and the spelling of
his name, please? Please turn your microphone
on, Mr. Lui.

MR. LUI: Good morning, Board
Members. John Lui, that’s J-O-H-N, L-U-I, on
behalf of the District of the Columbia.

CHAIRPERSON ANDERSON: All right.
Thank you, Mr. Lui. So let’s have the licensee
introduce himself for the record. We can start
with the attorney.

Mr. Bianco? Turn your microphone
on, please, Mr. Bianco. Please also adjust
your camera so we can see your face.

MR. BIANCO: This is Richard Bianco.
I am representing the licensee in this matter.

CHAIRPERSON ANDERSON: Can you
please spell your name for the record, Mr.
Bianco?

MR. BIANCO: Yes, sir. Last name is
spelled B-I-A-N-C-O. And I am here with my client, Eyob Asbeha, A-S-B-E --

CHAIRPERSON ANDERSON: I'm sorry, who's speaking? I'm sorry. So you're there with your client, Mr. -- and who's your client, Mr. Bianco?

MR. BIANCO: Eyob Asbeha. He's right here and he introduce himself and spell his name.

MR. ABSEHA: Yes, my name is Eyob Asbeha. And A-S-B-E-H-A is my last name.

CHAIRPERSON ANDERSON: Thank you. All right. This is a summary suspension hearing that we have this morning.

Are there any preliminary matters in this case? Mr. Asim, this is your case right there. Are there any preliminary matters in this case?

MR. ASIM: Yes, Mr. Chairman. The parties have conferred before the hearing and agreed to certain stipulations.

CHAIRPERSON ANDERSON: But there's no Offer in Compromise? So what is it that's been presented to the Board today?

MR. ASIM: We have a summary
suspension hearing. There is no Offer in Compromise.

CHAIRPERSON ANDERSON: All right. But are you saying that there are stipulations that the parties have agreed to, to stipulate to? Is that what you’re saying? I’m trying to find out?

MR. ASIM: Yes, there are stipulations parties agreed to.

CHAIRPERSON ANDERSON: All right. So hold on with me. So what are the stipulations that the parties have agreed to and what is it that -- all right, so what are the stipulations that the parties have agreed to?

MR. ASIM: Parties have agreed that Detective Philip Tridigo and Officer Michael Selgas will not testify to the ongoing criminal investigation of the incident in question.

Two, parties have agreed to the authenticity and admissibility of the District’s exhibits, which consist of two ABRA investigator reports, but Respondent has reserved the right to object to the content, which it finds to be --
CHAIRPERSON ANDERSON: Okay.

MR. ASIM: And number three, parties have agreed to the authenticity and admissibility of Respondent’s exhibits, which consist of photographs of the establishment.

CHAIRPERSON ANDERSON: Okay. Those are --

MR. ASIM: That concludes the stipulations.

CHAIRPERSON ANDERSON: Stipulations, okay. All right. Mr. Bianco, is that -- Mr. Asim has stated what the stipulations were. Are you in agreement with these stipulations, sir?

MR. BIANCO: Yes, that’s correct.

CHAIRPERSON ANDERSON: All right. All right. So are the parties ready to move forward?

MR. ASIM: Yes.

MR. BIANCO: Respondent’s ready.

CHAIRPERSON ANDERSON: Does the Government wish to make an opening statement?

MR. ASIM: Yes, Mr. Chairman.

CHAIRPERSON ANDERSON: All right.

Go ahead, please.
MR. ASIM: Good morning, Members of the Board. We are here today for a summary suspension hearing for cases 20-CMP-00110 and 20-CMP-00110(a) regarding Kiss Tavern.

On Wednesday, October 7, 2020, the Chief of Police requested under DC Code Section 25-827 that the Board suspend or revoke the Alcoholic Beverage License licensed establishment because it presented an imminent danger to the public.

MPD shut down the establishment for 96 hours because a gun was discharged inside the licensed establishment around 3:30 p.m. This happened during a suspected illegal marijuana pop-up operation.

The Board continued the establishment’s suspension after MPD’s 96-hour closure ended, and since then, Respondent has requested a hearing.

Government will call two witnesses today, MPD Captain David Augustine and ABRA investigator Kevin Puente.

Based on their testimony, you will hear evidence that will show that on October 7, 2020, a marijuana pop-up party in which vendors
had brought multiple marijuana products was taking place inside Kiss Tavern.

You will also hear evidence that shows a shooting occurred inside the establishment, causing damage to the glass and window of the establishment.

You will also hear evidence that shows no one affiliated with the establishment called 9-1-1, reported this incident to police, and that the consumption and usage of illicit substances, like marijuana, is expressly prohibited by the establishment’s security plan. Thank you.

CHAIRPERSON ANDERSON: Mr. Bianca, do you wish to make an opening statement now, or do you defer?

MR. BIANCO: I’ll make my opening statement now, sir.

CHAIRPERSON ANDERSON: Go ahead. Go ahead.

MR. BIANCO: It’s important for the Board to keep in mind in this case what we’re here to determine today.

It’s not about a punishment and it’s not about a penalty, and it’s not even really
to definitively decide what happened on October 7, 2020. There will be a time for that if and when the agency files a --

CHAIRPERSON ANDERSON: I couldn’t hear you, Mr. Bianco. Mr. Bianco, I cannot hear you.

MR. BIANCO: Is that better?

CHAIRPERSON ANDERSON: I can hear you now, sir.

MR. BIANCO: Okay. Lounge --

presented imminent --

CHAIRPERSON ANDERSON: Mr. Bianco, I cannot hear you. I don’t know what’s going on.

MR. BIANCO: Yes, sir. I don’t either. My microphone is on and I’m doing the best I can to speak into it.

CHAIRPERSON ANDERSON: All right.

MR. BIANCO: Bear with me for one second. Is that better?

CHAIRPERSON ANDERSON: Yes, sir. I can hear you.

MR. BIANCO: Okay. Perfect. Okay. So the thing that the Board needs to decide today is whether the operations of Kiss Lounge presents an imminent danger to the health and
safety of the public and whether or not that
danger can be ameliorated by corrective
measures.

The evidence is going to show that
on October 7, 2020, a person approached the
establishment and attempted to gain entry.

He was stopped by the security guard
stationed in the vestibule at the front of the
establishment who patted him down and refused
him entry when he felt what he believed to be a
weapon concealed under the man’s clothes.

The man then pulled out a gun and
fired at least one shot, shattering the glass
entry door, going through a window behind the
glass entry door into the establishment, and
hitting the back side of a booth on the other
side of the glass.

Chaos ensued. The staff and patrons
ran. Evidently, the gunman absconded on foot.
The police, who are normally stationed at or
near the intersection of Seventh and T Streets
Northwest, responded in seconds, and to use
their words, performed a protective sweep of
the premises.

Thankfully, nobody was injured, and
it's safe to say that were it not for the appropriate actions of the establishment's security guard, Thomas McCoy, in denying the gunman entry, the situation could have been much worse. I expect that the Agency will try, but they will not be able to contradict these facts.

What occurred after the shooting is heavily disputed. The owner of the establishment was not working that day and he learned of the incident after the fact when one of his employees called him and told him about it.

By the time he arrived on the scene, the police were there and conducting an investigation. Mr. Asbeha cooperated with MPD, answered their questions, and even signed a consent for MPD to search the licensed premises, which he was under no obligation to do.

When MPD demanded to see the security video, Mr. Asbeha provided the pin code to log into the system, and when the MPD detective was unable to successfully log in using the pin code, Mr. Asbeha offered to have
the technician come down and unlock the system.

However, instead, the police detective in question, who would not identify himself, pulled the DVR out of the wall and left with the entire system.

We ask that you approach the evidence that you are about to hear skeptically. I feel like too often in Agency practice, ALJs, Judges, and Boards, have a perception that the police and investigators are just charging their duties with no interest to the outcome and are completely impartial.

If we’ve learned anything in these strange times, it’s that that is not always the case. Please listen carefully and critically and decide for yourself not whether this establishment is good or bad but whether it poses a threat of imminent harm that could not be curtailed by corrective measures. Thank you very much.

CHAIRPERSON ANDERSON: All right. Thank you, Mr. Bianco. You need to address your camera so we can see your face. We saw your mouth. So than when you -- that’s perfect.
MR. BIANCO:  Are you still able to hear me?  The acoustics --

CHAIRPERSON ANDERSON:  Yes, sir.  I can hear you and I can see you.  Before I saw from your nose down, but now I can see your face.  All right.

Does the Government have a witness it wishes to call?

MR. ASIM:  Yes, at this time the Government would like to call MPD Captain David Augustine.

CHAIRPERSON ANDERSON:  Mr. Augustine, Detective Augustine, can you raise your right hand, please? Do you swear or affirm to tell the truth and nothing but the truth?

MR. AUGUSTINE:  Yes, sir.

CHAIRPERSON ANDERSON:  All right.

Mr. Asim, your witness, please.

MR. ASIM:  Thank you, Mr. Chair.

Captain Augustine, could you please state and spell your first and last name?

MR. ASIM: And where are you currently employed?

MR. AUGUSTINE: I’m employed with the Metropolitan Police Department.

MR. ASIM: And what is your position or role at MPD?

MR. AUGUSTINE: I’m the patrol captain at the Third District.

MR. ASIM: And how long have you been in that position?

MR. AUGUSTINE: I’ve been a captain for a little, I believe a little over three years now. Currently, I was, originally when I was promoted to captain, I was a captain at the Third District.

I then went and played a role as an Administrative Captain over at the recruiting division. And as of July 5, I’ve been reassigned back to the Third District.

MR. ASIM: And what are your duties and responsibilities in this position?

MR. AUGUSTINE: I oversee patrol functions of the sector that I’m in charge with, the Third District. I’m also assistant to the District Commander.
MR. ASIM: And does this include supervising investigations?

MR. AUGUSTINE: I oversee, yes. I more oversee the actual initial part of the investigation, yes.

MR. ASIM: And were you previously employed with MPD before this position?

MR. AUGUSTINE: Yes.

MR. ASIM: In what capacities were you employed with MPD?

MR. AUGUSTINE: I started out as a patrol officer up near Capitol Hill area. I was promoted to Sergeant and was a Sergeant, back in 2010 I was promoted to Sergeant within the Sixth District.

I then became a Detective Sergeant at our Youth Investigations Division. I was promoted to a patrol lieutenant and was actually assigned to the Fourth District.

I was then an Administrative Lieutenant for the Executive Office of the Chief of Police. And then as I stated previously, I was then promoted to captain, became patrol captain at the Third District.

I also did some time as
Administrative Captain at the recruiting division. And I am happy to be at the Third District again.

MR. ASIM: And as part of your role at MPD, have you received any trainings?

MR. AUGUSTINE: I have.

MR. ASIM: And what kind of trainings?

MR. AUGUSTINE: I went through the Metropolitan Police Academy. I go through our professional development training that we have every year.

I’ve been in firearms training. I’ve also attended investigation classes, basic investigation classes. I’ve also attended training on infant deaths.

And I’ve also attended the Federal Bureau of Investigations National Academy.

MR. ASIM: You said you attended firearms trainings. What do those trainings consist of?

MR. AUGUSTINE: We have a, obviously, a basic course we take in the academy to learn about the firearm and how to use it and the policies of using it, and then
we go for recertification twice a year.

MR. ASIM: Okay. And do you have experience with pop-up party investigations?

MR. AUGUSTINE: I do.

MR. ASIM: What is a pop-up party?

MR. AUGUSTINE: Those are generally illegal activities that happen within either residential homes, commercial areas, and/or ABRA establishments, and it’s generally where they’ll pull a portion of that property and they’ll invite people in to illegally buy marijuana products and also THC-type products.

MR. ASIM: And what are the dangers of these pop-up parties?

MR. AUGUSTINE: Well, I’m sad to report, as we talk about violence within the city and these pop-up parties, we’ll probably discuss later through my testimony, but even as recently as last night, I had to respond to a homicide scene on Georgia Avenue, all right, where we believe that was a pop-up party.

Talking with some of our homicide detectives, probably at the low estimate, over the last year there’s been five homicides.

And like I said, that’s a
conservative number related to pop-up events, and that just doesn’t even go into the historical factor over the last few years of the violence that we’ve seen throughout the city and District.

And even here at the Third District where we’ve recovered firearms from some of these pop-up parties.

MR. ASIM: Approximately how many pop-up party investigations have you been involved in?

MR. AUGUSTINE: Right off the top of my head of really involved with, I’ve been, I would say probably three or four when I oversaw my First and Third District that I actually had a -- that I was actually on scene of within the Adams/Morgan area.

And that doesn’t count other ones that we may have known about that other folks have been helping us out with.

MR. ASIM: Now, Captain Augustine, are you familiar with Kiss Tavern?

MR. AUGUSTINE: I am.

MR. ASIM: How are you familiar with them?
MR. AUGUSTINE: I responded there on October 7, 2020, in reference to an incident that we had there.

MR. ASIM: And did you receive a call to respond?

MR. AUGUSTINE: I heard a call to -- or I heard a call go over for a call for service. Yes, through what we found out, I did end up responding to that location.

MR. ASIM: And when did you get this call?

MR. AUGUSTINE: It was on October 7, 2020. I don’t know the exact time -- or, I’m sorry. The initial call for service actually came in around 3:30 in the afternoon.

Through the radio transmission set I was listening to, it sounded like we had a caller calling in some type of trouble within that area, within the 600 block of T or 600 block of Florida area, which the front deck of where the Kiss Lounge is located.

And we also had an officer come over the air who also exhibited some type of incident that was going on there.

It didn’t appear he was quite sure
what was going on, but there was definitely something amiss that he needed to go check out and he did check out.

MR. ASIM: And what the scope of your involvement with investigating this establishment?

MR. AUGUSTINE: So I arrived there probably within the first hour of when the initial incident occurred. That day, I was actually the field commander.

The duties as a field commander is I oversee the operations of the entire Metropolitan Police Department during that time for the evening shift. So that’d been from 1:30 p.m. up until 10 p.m.

And within that, I’m just ensuring that we have the amount of resources in the different Districts, I’ll respond to significant events throughout the city, and I’ll make sure that the critical incident sheet and the Chief of Police himself are updated as needed with any facts that are needed.

MR. ASIM: So you said you arrived at the establishment that day. Who else was present from MPD there?
MR. AUGUSTINE: We had approximately 12 officers that arrived there at some point during the scene. We had approximately four detectives on scene to help with the investigation, and then including me, we had four supervisors, which included me as the field commander, the Third District watch commander, a detective sergeant, and a patrol sergeant.

MR. ASIM: And what did you do when you first arrived?

MR. AUGUSTINE: When I first arrived, I actually was briefed by Detective Sergeant Fenton.

MR. ASIM: Did you find out information through any other means?

MR. AUGUSTINE: Yes, through all the information that I’ll be giving today to answer these questions, it’s through my on-scene experience, through my body worn camera footage, through photographs, and reports.

MR. ASIM: And so what did you observe when you arrived in the establishment?

MR. AUGUSTINE: When I got there, obviously, like I said, I was debriefed. We
notified ABRA. I helped get the notification of ABRA to respond.

At one point, we did do a walkthrough and I even actually, through my time there, walking into the front door, what I observed initially was walking in you had a -- the entrance front door, which is on T Street, appeared to be fully intact with no damage to it.

Walking inside into what I would call a foyer area, there was a door to your immediate right to walk into the bar customer area. Within that foyer, there was a chair, there was a cup of liquid, there was shattered glass all over the place, which I assumed was from the broken glass door on the inside of the area.

Like I said, from the foyer going into the customer area. And I saw a bullet hole next to the chair within the foyer area.

Walking in, like I said, through pictures, body worn camera footage of my body worn camera footage and being on scene, I also -- you could see that the place was disheveled.

You had chairs tipped over towards
the front of the location. It appeared you may
have had some type of disruption with chairs at
the rear of the unit, because they do have a
back door near -- on Florida Avenue side

I saw marijuana was spread
throughout some of the seats. There was
products that we later recovered that were on
the ground of marijuana.

There was one table, I think, right
as you walked in that had a tablecloth on it, a
white tablecloth, and it had trays on it, which
I felt was indicative to somebody offering a
product.

You could sit there and see how the
tables were kind of set up throughout the
different booths, which could be indicative to
somebody putting their product out.

I saw three hookahs that were in the
customer areas, that would be indicative of
where people were, which would simply through
my experience of investigations lead me to
believe that hookah was being used because
through a later walkthrough of the
establishment, they do store -- they have a
considerable amount of hookahs that are stored
within the back and they were separate from that location.

We saw alcohol in the customer area on a table, which would lead us to believe that there was people also consuming alcohol inside.

In my initial going in there, there was a shell casing that was recovered on the inside of the establishment right as you walk in that broken foyer door.

There was also a shell casing that was recovered near the rear door. There was also two live bullets that had been unfired recovered near the rear door on the inside of the location.

And at the back door, it appeared the plexiglass was pulled away or broken away from the doorframe or from the frame that plexiglass was.

And I just want to clarify, when I say spent shell casing, all right, when I say spent shell casing, what I am saying is that is a casing from a bullet that has been fired.

And I know this through my training and experience with firearms that generally when you discharge a firearm, it will send a
projectile out the barrel of a gun and this spent shell casing, which is a brass color, in this case was brass colored, ejects from the port of the handgun, showing that actually somebody did fire a gun.

MR. ASIM: Okay. So you said the scene when you arrived there was disheveled and there were chairs that -- what did that indicate to you?

MR. AUGUSTINE: That there was some type of commotion that happened inside. When I first arrived, Detective Sergeant Fenton let me know that there was an altercation inside and then somebody did fire two shots.

So when I saw exactly what I just explained with the chairs being tipped over, it obviously supported there was some type of inside commotion.

And then with the two spent shell casings that we found was indicative to somebody shooting inside of the location.

MR. ASIM: And how are you able to tell that the disheveled picture of the place indicated that there was some type of fight?

MR. AUGUSTINE: Just through my
training experience, when people are enjoying themselves inside of an establishment, it’s usually, things are upright.

They’re not just kind of pushed over in a haphazard manner. When establishments are closed, even through my patrol areas, when you see outdoor patios closing at restaurants, the chairs are usually stacked in a neat way.

And it did not appear that this was going on in there. And it also was indicative not only with what we saw, what was being reported by our witnesses at the location.

MR. ASIM: And you also said that you observed spent shell casing.

MR. AUGUSTINE: Yes.

MR. ASIM: Where was this casing again?

MR. AUGUSTINE: So there is a -- the one I personally saw was at the front of the location inside.

So as you walk in through that front door, going to the foyer, there is then a bullet hole, a broken glass door, and then right beyond that door going into the bar customer area, there is a spent shell casing,
and then we recovered another one towards the back door inside the location within the customer bar area.

MR. ASIM: So there are two doors at the establishment?

MR. AUGUSTINE: Yes, sir.

MR. ASIM: One basically a vestibule and then you found the shell casing inside.

MR. AUGUSTINE: Yes, so there’s actually, technically, yes, there’s two entrances or exits from the establishment, one in the front, one in the rear. And the door that was broken is actually inside the location.

MR. ASIM: And could you tell us again, what is the significance of finding a shell casing inside the establishment?

MR. AUGUSTINE: That is indicative of where the shooting occurred. All right. Obviously, with the commotion going on, that may have even been kicked around.

So am I going to sit there and definitively sit there and say that -- that’s for a forensic to really kind of come out and say that’s where the exact point of the
shooting occurred, but through my experience, I know when I -- when I -- when I dispense or when I -- when I fire my firearm through my training, all right, my shell casing will go in close proximity to me.

And when I say in close proximity, within 12 inches. It's not going five feet away, ten feet away. And also through my experience of investigations, generally, people are not going to bring shell casings that they fired at a different location.

Or on the outside, if this occurred on the outside, they would not be picking up their shell casings and bringing them inside the location. I just don't think that's plausible.

MR. ASIM: And you said you found live bullets on the scene. Where were these live bullets found?

MR. AUGUSTINE: There was two live bullets found right next to each other, next to the fired bullets near the back door on the inside of the location.

MR. ASIM: And what is the significance of finding them inside the
location?

MR. AUGUSTINE: Somebody was in the possession of them. I would only be guessing of why there was two casings in there, but it definitely shows that with the two spent shell casings and two live bullets, there definitely was a firearm inside of that location.

MR. ASIM: And how are you able to tell that this was actually fired?

MR. AUGUSTINE: Because the difference between a spent shell casing is it doesn’t have the projectile because that goes out the barrel. These ones both had the projectile still attached to the casing.

MR. ASIM: And you said you observed broken glass as well and a bullet hole?

MR. AUGUSTINE: Yes, sir.

MR. ASIM: And taken together, what did the broken glass, bullet hole, and spent shell casing indicate to you?

MR. AUGUSTINE: That there was some type of dispute that happened inside of the location.

MR. ASIM: And you also said that the front door was undamaged. It was fully
intact. What is the significance of the front
door being intact?

MR. AUGUSTINE: To me it shows that
with where the damage is and where everything
was, that we had an incident inside.

MR. ASIM: And you also said that
you observed a damaged back door, as well?

MR. AUGUSTINE: Yes, the door itself
was intact, but the actual -- there is a pane
of -- I don’t know if it’s plexiglass or what
type of material it’s made of, but that came
detached from the doorframe.

MR. ASIM: And what did that
indicate to you?

MR. AUGUSTINE: That could be a
number of things. It was pushed on the inside,
so I don’t know if somebody got pushed from the
outside and got pushed into it.

I don’t know. I don’t know how it
came detached, but I didn’t see any bullet
holes through it. So I think it’s not
plausible that the bullet took it out.

There was some type of physical
altercation or even during the chaos somebody
got pushed into it and it came off.
MR. ASIM: And you said you found marijuana products at this -- what kind of marijuana products?

MR. AUGUSTINE: So we ended up recovering five containers of THC oil, which is illegal in the District of Columbia. We recovered one green leafy substance cigarette, which we believe is plant marijuana.

We received four digital scales throughout the location, which I can get, if you want, I can get to the significance of that later, various packaging, mini Ziploc with logo commonly used for the sale of marijuana, four marijuana packets with a combined weight total with the packaging included of 85 grams, a bottle of cannabis syrup 1000 mg, two live rounds, like I said, and the two shell casings.

MR. ASIM: And what is the significance of finding a scale there?

MR. AUGUSTINE: So with everything that we’ve seen there and the totality of circumstances, commonly when people are just using marijuana for their self-consumption, I don’t find that they’re normally weighing that out.
Scales are traditionally known to be involved in the sale of narcotics. In this case, the marijuana.

MR. ASIM: And what did all of these marijuana products signify to you?

MR. AUGUSTINE: I think it’s very probable that a marijuana party was going on and it corroborated some of the information that we’ve got from people or we received from people on the scene.

MR. ASIM: And how are you able to tell that?

MR. AUGUSTINE: Tell what?

MR. ASIM: How are you able to deduce that a marijuana pop-up party was --

MR. AUGUSTINE: Through our on-scene investigation, through information that we received from people on the scene, and with the evidence that we saw inside, and through my training, I am very -- it very probable and I am confident to say there was a marijuana -- going on and I can also sit there and say that we do know that this -- there was an advertisement for a marijuana pop-up party going on.
MR. ASIM: And to your knowledge, did anyone affiliated with the establishment call 9-1-1 to report this?

MR. AUGUSTINE: No, I did a search of our records for that day for that establishment, and I did not find any calls for service from somebody that was actually an employee or owner from the establishment.

MR. ASIM: And to your knowledge, is there surveillance footage of the incident?

MR. AUGUSTINE: We don’t know.

MR. ASIM: Did the establishment have a surveillance system, surveillance camera system?

MR. AUGUSTINE: Yes, from my knowledge, they did have a surveillance system onsite.

MR. ASIM: And did this system require some type of security to access?

MR. AUGUSTINE: Yes.

MR. ASIM: A code?

MR. AUGUSTINE: It did, yes.

MR. ASIM: And were you provided with that code?

MR. AUGUSTINE: No, we were
originally told there was no footage and then, yes, we were not provided the code.

And of today, which I believe marks about three weeks from the incident time, we, to my knowledge, we have not received the code for that system. It’s currently pending a search warrant by DC Superior Court.

MR. ASIM: Now, Captain Augustine, through your experiences and training, does this establishment present an imminent danger to the health, safety, or welfare of the public?

MR. AUGUSTINE: Absolutely.

MR. ASIM: And why would you say that?

MR. AUGUSTINE: On a couple notes. Like, any time a business is operating outside their scope, it poses obviously a danger to a lot of things, because now we can’t sit there and ensure the safety inside.

But even what I spoke to earlier, even as recent as last night, all right, I had to unfortunately respond to a homicide that we believe is related to a marijuana pop-up.

We have, obviously, talking to our
homicide detectives, all right, say that
they’re investigating cases, multiple cases,
within just even the last year, of several
homicides that occurred because of this.

At the Third District ourselves,
we’ve recovered firearms related to these
parties. And even taking the significance of
all the people. So Seventh and T Street, I’m
not sure if the Board’s familiar with it, but
in the Shaw neighborhood, it’s a very active
location. You have a lot of people walking
through.

You have the Metrobus there. You
have the CVS. You have a bank. You have
Wright Proper across the street, which has
outdoor seating. I can sit there and say
during my time on the scene here that that
patio for Wright Proper was not empty.

Gosh forbid if this happened to go
to the outside or one of those stray bullets,
or one of those bullets that went through that
glass went all the way through and struck
somebody across.

So yes, I think having the marijuana
parties, acting outside of the scope of what
they're supposed to be doing, absolutely is an immediate danger to the public, all right.

Obviously, I don't know all the history but I know there's a significant history to this place, and that was all even presented to our Chief of Police who found this incident combined with the history, all right, enough to sit there and do an immediate closure. I think that's very significant to show that this is absolutely a danger.

MR. ASIM: Thank you, Captain Augustine. No further questions.

CHAIRPERSON ANDERSON: Thank you. Mr. Bianca, do you have any questions for --

MR. BIANCO: Yes, I do.

CHAIRPERSON ANDERSON: Okay, go ahead, sir.

MR. BIANCO: Captain Augustine, I'm looking at the police report in this matter, which is Public Incident Report.

And the narrative portion, I don't see any mention of a marijuana pop-up. Why isn't that in the police report?

MR. AUGUSTINE: I can't sit there and say why that's not in the public narrative.
Because all I can sit there and say is you’re reading a public narrative and it’s common knowledge that a public narrative is not going to give our investigation out just for the fact of the matter that it’s open to the public.

So I wouldn’t have an answer as to why we didn’t put that in there. But I do have information to believe that, yes, absolutely, unequivocally, there was a marijuana party going on inside.

MR. BIANCO: Okay. Is there some other non-public police report that we don’t have where it provides details about this supposed pop-up party?

MR. AUGUSTINE: Yes.

MR. BIANCO: And what document is it contained it?

MR. AUGUSTINE: And I’m going to defer to the OAG, because, like I said, we do have an active criminal investigation going on, so I want to defer to the OAG of what we can offer and what we should not -- what we should keep intact for our criminal investigation.

MR. BIANCO: We believe this --

CHAIRPERSON ANDERSON: Hold on, Mr.
Bianco. I thought that there was a stipulation that we’re not going to talk about the criminal investigation.

So I thought that was what the stipulation is. So with that caveat then I believe it was presented that doesn’t talk about the criminal investigation.

MR. BIANCO: Mr. Chair, due respect, that stipulation was with respect to the actual individuals that are charged with the investigation, not Captain Augustine.

CHAIRPERSON ANDERSON: Okay. Fine. Okay. All right, if you have an objection -- if there is an objection -- I don’t know what to issue.

MR. ASIM: We believe this is privileged by the law enforcement privilege, and Captain Augustine would not have knowledge of an investigation ongoing which is being -- he wouldn’t have knowledge of (Audio interference) ongoing investigation.

CHAIRPERSON ANDERSON: So what was the question? I mean, I think the question has been asked, and I think -- I think the witness was saying he’s not sure if he can answer the
question.

I think that’s where the objection came from, the witness, not necessarily that Mr. Bianco had asked a question and you had objected to the question.

So a question was asked. The witness was saying, well, I’m not sure that I can answer based on your -- leading us to -- so let’s -- what was the question that you asked, Mr. Bianco?

MR. BIANCO: So the question that I asked is whether there is some other document that talks about this marijuana -- supposed marijuana pop-up since it does not appear in the public incident report.

MR. ASIM: We believe the captain can testify to the existence of the document, but not necessarily the contents of the document.

CHAIRPERSON ANDERSON: I understand the question was that is there another document. So, I’m sorry, please respond to the question that was asked of you, sir.

MR. AUGUSTINE: No problem. Yes, there is other documentation.
CHAIRPERSON ANDERSON: You have another question?

MR. BIANCO: I do. So again, turning back to the police report, under property and (Audio interference), you had mentioned that the DVR camera system was taken into custody by MPD. Is there a reason why that’s not indicated on the police report?

MR. AUGUSTINE: On the public narrative, no, I don’t. And I haven’t looked at the actual non-public narrative, so I don’t know if that’s in the non-public narrative, but no, it wouldn’t.

Because really, basically, and I guess maybe it’s just some clarification for our public narrative. Our public narrative is just meeting the elements, the basic elements of a crime.

Generally, there’s not going to be much detail in that. As there’s other investigative reports, just for the integrity of the investigation as the investigation kind of goes through.

So yes, the public narrative may not have a lot of information into it because it’s
just a very basic -- meeting the elements of a crime.

And really, the surveillance camera and taking it and the relevance of that and what happened and all that, that’s not going to be relevant to the elements of the crime.

MR. BIANCO: Captain Augustine, you had indicated in your testimony that this property has a front door and a back door, correct? And you’re familiar with the layout of the establishment?

MR. AUGUSTINE: Yes, sir.

MR. BIANCO: And it’s true, isn’t it, that the front door is on T Street Northwest and the back door lets out to Florida Avenue Northwest, is that correct?

MR. AUGUSTINE: Yes, sir.

MR. BIANCO: Okay. So in reading the public narrative, it indicates that a suspect was seen running from the establishment.

And what it doesn’t indicate is whether he was seen running from the establishment on the T Street side or the Florida Avenue side. Can you tell us which
door he was seen running from?

MR. AUGUSTINE: I do not know off hand.

MR. BIANCO: Did any of the people you spoke with at the scene provide you with that information?

MR. AUGUSTINE: Say that again. I didn’t hear you. I’m sorry.

MR. BIANCO: Any of the folks that you indicated you spoke with at the scene provide you with that information?

MR. AUGUSTINE: Not that I recall.

MR. BIANCO: And to be clear, your testimony was that Detective Sergeant Fenton told you that there was an altercation inside of the establishment?

MR. AUGUSTINE: Yes, sir.

MR. BIANCO: And do you know whether or not Detective Sergeant Fenton witnessed an altercation in the establishment?

MR. AUGUSTINE: I’m not aware if he witnessed.

MR. BIANCO: And do you know where his conclusion came from that an altercation took place inside the establishment?
MR. AUGUSTINE: Definitively, no. I can only assume from his on-scene investigation since he was in with -- yes, through his on-scene investigation.

MR. BIANCO: And you also testified that based on your on-scene investigation, because tables and chairs were askew and overturned and the like, you believe that an altercation took place inside the establishment, correct?

MR. AUGUSTINE: Yes.

MR. BIANCO: Isn't that also consistent with patrons running from an establishment after gunshots are fired?

MR. AUGUSTINE: Absolutely, which I would sit there and say is indicative that they were running out, from inside out. And so you're exactly right.

So they are absolutely -- I think it's indicative to sit there and say is that could have been caused by the fight or the commotion of people of leaving inside the establishment because there was some type of altercation going on inside.

MR. BIANCO: Right. And again,
turning back to the police report, it indicates
that people were running from the
establishment, but it does not indicate which
door they were running from. Do you have that
information, sir?

MR. AUGUSTINE: I don’t offhand, no, sir.

MR. BIANCO: And do you know whether
Detective Sergeant Fenton has that information?

MR. AUGUSTINE: I don’t, sir.

MR. BIANCO: Do you know who in MPD
witnessed people running from the
establishment?

MR. AUGUSTINE: Not offhand, sir.

MR. BIANCO: You gave some fairly
detailed testimony about the damage to the
front window of the establishment and the door
in the vestibule, correct?

MR. AUGUSTINE: Yes, sir.

MR. BIANCO: And you concluded that
damage was done by bullet or bullets?

MR. AUGUSTINE: At least to the
inside window, yes.

MR. BIANCO: Okay. Did you find any
other damage to the interior of the
establishment consistent with a gunshot?

MR. AUGUSTINE: I mean, that’d be hard to conclude because I’m not a forensic person, but yes, I will sit there and say the damage I did see inside was in the foyer area on the inside of the -- there was no front windows.

And when I say front windows, the exterior windows, we did -- I did not see any damage to any of those windows in the front, on the T Street side.

The damage that I saw was on the inside foyer area to a glass pane and also to the door, the glass door on the inside of the location to enter the customer bar area.

MR. BIANCO: Okay. So as I understand, as you’re describing it, you would walk in from the street.

You would walk into the establishment and you would be standing in a vestibule. And in front of you, directly in front of you, would be a glass window, correct?

MR. AUGUSTINE: Correct.

MR. BIANCO: And just to the right of the glass window would be a second door that
would allow you to enter the establishment, correct?

MR. AUGUSTINE: Inside the customer area, yes.

MR. BIANCO: Yes.

MR. AUGUSTINE: Being that you’re already inside and now you’re entering the customer area.

MR. BIANCO: Correct. And the bullet damage was to the window that would be directly in front of you when you walk into the outside street door of the establishment, correct?

MR. AUGUSTINE: Yes.

MR. BIANCO: Okay. Other than that bullet damage, was there any damage consistent with a bullet or a gunshot inside the customer area of the establishment?

MR. AUGUSTINE: I can’t definitively say yes or no. There was damage to that door. I don’t know of the cause of that damage to the door or what the cause was of the damage to the door.

MR. BIANCO: Okay. And just to clarify, when you state that you believe an
altercation happened inside the establishment, you mean inside the customer area of the establishment and not just the vestibule, correct?

MR. AUGUSTINE: Correct, I mean, the customer bar area, yes.

MR. BIANCO: Okay. And you also indicated, please correct me if I'm wrong, you indicated that the owner of the establishment was uncooperative?

MR. AUGUSTINE: I did not note that, no.

MR. BIANCO: Okay. So did you have occasion to deal with him on that evening?

MR. AUGUSTINE: I did.

MR. BIANCO: And did you find him to be cooperative?

MR. AUGUSTINE: Our interaction was through a parking ticket that I issued him for being illegally parked in the alley while I was on the scene.

MR. BIANCO: So you didn't have any interaction with him with respect to the incident that occurred?

MR. AUGUSTINE: No.
MR. BIANCO: But you wrote him a parking ticket?

MR. AUGUSTINE: I did

MR. BIANCO: Okay. And do you frequently have occasion to write parking tickets as a captain?

MR. AUGUSTINE: I try to keep up and yes, I try to enforce the law. And I have written tickets in the past, even as a captain level.

MR. BIANCO: So before October 7, when was the last time you wrote a parking ticket before that?

MR. AUGUSTINE: I’d have to check my records of last time I’ve written a ticket, but yes, I can definitively say, between July 5 and even as of recent, on the 7th, I’ve written a ticket at the Third District. He has not been my only ticket that I’ve issued.

MR. BIANCO: So you’ve written one other ticket between July --

MR. AUGUSTINE: I mean, I’d have to go through my records. I’m not going to sit there and say it was only one, if it was two, if it was five.
We’d have to do a record check on that. I will sit there and say he has not been the only person I’ve issued a ticket to.

MR. BIANCO: So your understanding of whether or not the owner of the establishment was cooperative came from other parties, correct?

MR. AUGUSTINE: Can you repeat that, please?

MR. BIANCO: Your understanding of whether or not the owner was cooperative in the investigation came from other parties, correct?

MR. AUGUSTINE: Yes.

MR. BIANCO: And which other parties told you that he was uncooperative?

MR. AUGUSTINE: I got that from the detectives on the scene.

MR. BIANCO: Okay, all of the detectives? Or just Detective Sergeant Fenton?

MR. AUGUSTINE: I don’t even know if it was from Detective Sergeant Fenton. I can’t be for sure of who -- I believed I talked to the Detective -- I believe I’ve talked to Detective Tridico and I want to sit there and say the detective that seized the camera unit.
MR. BIANCO: So Detective Tridico did not seize the camera unit? It was another detective?

MR. AUGUSTINE: I believe so. I guess that I can’t sit there and say definitive for either of them. They’ll have to testify to that. It was my understanding I believe it was not seized by Detective Tridico.

MR. BIANCO: Okay. So you didn’t witness the interaction between the owner and the detective who seized the camera unit with respect to providing the code to view the video, correct?

MR. AUGUSTINE: That is correct.

MR. BIANCO: And that information came from one of the other detectives, but you’re not sure which?

MR. AUGUSTINE: That is correct. Well, like I say, I think, I don’t know the detective’s name who I believed seized it.

And like I said, I believe in interaction with Detective Tridico of discussing the uncooperativeness. Yes, it would be between those two, yes.

MR. BIANCO: Is there a standard
operating procedure with respect to getting
security footage from an ABC licensee?

MR. AUGUSTINE: I don’t understand
your question.

MR. BIANCO: So if an incident
occurs at an ABC licensed establishment, do you
have a standard operating procedure with
respect to how you would request video footage
to show evidence of an incident or a crime?

MR. AUGUSTINE: Do we have a written
policy? I don’t believe we have a written
policy. I will sit there and say through my
experience, we will always seek the cooperation
from the establishment.

And then also, we have security
agreements. With different security
agreements, there are stipulations by law as to
when they are required to give us that
information, even if they don’t -- on the
scene.

MR. BIANCO: Is there a practice
that you follow in order to request that
particular information? The security footage?

MR. AUGUSTINE: I don’t understand
what you mean by a particular practice. Is
there a one policy and this is what we do every

time? Like I said, we don’t have a written

policy to do that. It’s going to be through

the on-scene investigation.

MR. BIANCO: Okay. Under what
circumstances can you simply seize the system
from a licensed establishment?

MR. AUGUSTINE: Well, it could be

numerous things. If we believe that it
contains evidence, if we believe that it’s not
-- if we don’t seize it right there and then it
can be destroyed, we could sit there and seize
it through a search warrant. Those are just a
few times.

MR. BIANCO: And in this case, can

you say what reason, what was the reason that

you seized the DVR system?

MR. AUGUSTINE: It was my

understanding that he was not being

cooperative.

MR. BIANCO: Okay. And you also
gave some testimony about seeking a warrant to
view the video. Have you applied for that
warrant yet?

MR. AUGUSTINE: Yes, the detective’s
office has applied for a search warrant to
search that surveillance system, yes.

MR. BIANCO: Okay. And has the
issue been considered by any judge in D.C.
Superior Court?

MR. AUGUSTINE: It’s been submitted
to, I believe the U.S. Attorney’s Office and I
believe it’s still under review.

MR. BIANCO: But there hasn’t been
any decision on it?

MR. AUGUSTINE: There has not.

MR. BIANCO: You also mentioned that
my client has not since October 7 provided the
code to view the video, correct?

MR. AUGUSTINE: That is correct.
The information I have is we still have not
received a code to review that system.

MR. BIANCO: Following October 7,
are you aware of any instance in which somebody
from MPD requested the code?

MR. AUGUSTINE: I can’t say offhand,
no. But I’d also dispute that it’s the
obligation on him under his security agreement
that he needs to provide that.

So if he does have that, I’m not
aware of any communication he’s also given to us saying, hey, here’s the code for when you have the search warrant.

MR. BIANCO: No, I understand, but from his perspective, how would he know whether or not you’ve actually seen the footage or not?

MR. AUGUSTINE: Well, he said on that day, from my understanding with the detectives, he told the detectives initially that there is no footage.

MR. BIANCO: Correct. And then you confiscated the DVR, said we’re getting a warrant, and he hasn’t heard anything since. So how would he know whether or not you’ve seen it and still need the code?

MR. AUGUSTINE: I would sit there, I mean, we go back and forth, I think we’re going to have different positions on there. He does have a security agreement, in my opinion, requires him to be cooperative to that.

So I don’t think that’s -- like I said, I guess we’re going to sit there and agree to disagree or at least have two different perspectives of that agreement.

MR. BIANCO: Well, until you
testified today, I certainly didn’t know that you haven’t seen the video yet, so I’m not sure how my client would know or be expected to understand that.

Moving forward from there, sorry, brief indulgence. I’m just going through my questions here to make sure I’m covering what I planned to cover.

Okay, you gave some testimony about advertisement of a pop-up party at Kiss Lounge on -- I have not seen anything in the reports or written materials that contain any advertising of a pop-up party?

Did I miss something or do you not have an actual copy of it?

MR. AUGUSTINE: I didn’t hear all of your question. It kind of broke in and out.

MR. BIANCO: Sure. You indicated in your testimony that you had located advertisements for a pop-up party at Kiss Lounge on October 7.

I did not see any advertisements for a pop-up party at Kiss Lounge on October 7 among the materials that MPD provided. Does such a document exist somewhere?
MR. AUGUSTINE: We do have an active criminal investigation going on, so I’m not -- I’m going to defer to the OAG’s office on whether we’re going to sit there and give you that information or the specifics of that information.

CHAIRPERSON ANDERSON: I don’t think it’s specifics. I think it’s a yes or no answer. I think it’s a yes or a no. I don’t think there -- I don’t believe that’s -- please answer the question.

I don’t believe he’s asking for specifics. It’s a yes, does it exist, or do you -- you testified that -- I think I heard testimony that there was some advertisements. I think they were just asking -- I don’t think they’re asking for the specifics.

MR. AUGUSTINE: Yes, we have knowledge that we believe that this was advertised, and I will defer to you that it’s not in the public narrative.

And as I stated before, I don’t know the relevance it would have on just the basic elements of the crime of the public narrative.

MR. BIANCO: Now, I heard your
testimony about the setup and the layout of the establishment on the day that you walked through it.

Did you have any evidence or does MPD have any evidence that there was any transaction that took place inside the establishment of marijuana for some type of consideration?

MR. AUGUSTINE: You broke up a little at the end, but if I just repeat your question, what you're asking is do I have any or know of any evidence of any transactions for the sale of marijuana or products inside? I do not.

MR. BIANCO: Right.

MR. AUGUSTINE: I do not.

MR. BIANCO: Brief indulgence. My client needs to tell me something. Thank you very much. I have nothing further.

CHAIRPERSON ANDERSON: Any questions by the Board members of the Detective? All right. Any follow-up questions, Mr. Asim?

MR. ASIM: Just a few, Mr. Chairman. Captain Augustine, are you aware of whether MPD was present near the establishment during the
incident?

MR. AUGUSTINE: I believe we were, just with the, like I said, the radio transmissions I heard that day of an officer that was in the area that saw some type of commotion going on in that area. So I think I can -- it's probable that, yes, we were -- we were in that area, yes.

MR. ASIM: And do you know if these officers would have observed patrons running from the establishment?

MR. AUGUSTINE: I believe that was the type of call that they were getting out. I don't want to speak for the officers that saw that. But it kind of -- that would be my only assumption for that.

There was definitely that they saw some type of commotion or he saw some type of commotion that he had to act on.

MR. ASIM: And to your knowledge, did the owner provide a pin code to access the surveillance footage on the day of the incident?

MR. AUGUSTINE: No. Originally, we were told that we did not -- there was no
video, and then we were not, after that, provided a pin code to check any video that day.

MR. ASIM: And what led you to conclude that there was likely a sale of marijuana at the establishment?

MR. AUGUSTINE: Just through my training and experience with pop-up parties. Pop-up parties, just the term pop-up party indicates the sale of marijuana.

People will be notified, advertised, or the like. And a pop-up party is very indicative to the sale of marijuana and THC-type products.

Because that's the whole thing, I don't want to say -- we call these a lot of times marijuana pop-up parties. Generally, we associate marijuana with just the green leafy substance, all right, but then that's the green leafy substance.

There's all kinds of THC products, like edibles, oils, and stuff like that, that are actually all illegal in the District of Columbia, and all those items and that term are generally in these type of establishments are
used not for public consumption but for the sale.

And also, like I said earlier, with the digital scales and being four digital scales inside, scales are also indicative to the sale of narcotics.

MR. ASIM: No further questions.

CHAIRPERSON ANDERSON: All right. Thank you. Captain Augustine, thank you for your testimony today. Please do not discuss any of your testimony until this case is completed. Thank you very much, sir.

MR. AUGUSTINE: Thank you. Thank you for having me.

CHAIRPERSON ANDERSON: Thanks. Thanks. Does the Government have any other witnesses?

MR. ASIM: Yes, Mr. Chairman. We would like to call ABRA investigator Kevin Puente.

CHAIRPERSON ANDERSON: Mr. Puente, can you raise your right hand, please? Do you swear or affirm to tell the truth and nothing but the truth?

MR. PUENTE: Yes, sir.
CHAIRPERSON ANDERSON: All right.

Thank you. Your witness, Mr. Asim.

MR. ASIM: Good morning,

Investigator Puente. Or good afternoon.

CHAIRPERSON ANDERSON: All right,
could I have Mr. Bianco, please mute your
phone, your microphone, please, if you have not
done so. All right, go ahead. Go ahead, Mr.
Asim.

MR. ASIM: Investigator Puente, can
you state and spell your first and last name?

MR. PUENTE: Kevin Puente, K-E-V-I-
N, P-U-E-N-T-E.

MR. ASIM: And where are you
currently employed?

MR. PUENTE: Alcoholic Beverage
Regulation Administration.

MR. ASIM: And what is your position
or role in ABRA?

MR. PUENTE: Investigator.

MR. ASIM: How long have you been
there?

MR. PUENTE: Approximately five and
a half years.

MR. ASIM: And what are your duties
and responsibilities as an investigator?

    MR. PUENTE: I conduct inspections and investigations of licensed ABC establishment in the District of Columbia.

    MR. ASIM: What types of investigations?

    MR. PUENTE: We do regulatory compliance checks, regulatory investigations. We also assist MPD with investigations from crimes, anywhere from shootings up to homicides.

    MR. ASIM: Are there any other kinds of investigations you conduct?

    MR. PUENTE: We’ve also conducted illegal gambling investigations as well as marijuana investigations.

    MR. ASIM: And are you familiar with pop-up parties?

    MR. PUENTE: Yes.

    MR. ASIM: What is a pop-up party?

    MR. PUENTE: It’s commonly an event where marijuana will be distributed or sold. Various vendors will come into an establishment and sell it.

    MR. ASIM: And what experience do
you have with these investigations?

MR. PUENTE: Over the course of the last three or four years, I’ve worked closely with MPD specifically on 12 cases involving ABC establishments where there were these marijuana events inside the establishment.

MR. ASIM: And are you familiar with Kiss Tavern?

MR. PUENTE: Yes.

MR. ASIM: How are you familiar with it?

MR. PUENTE: I responded on the day of October 7 to the establishment as well as I wrote several investigative reports in the past.

MR. ASIM: How many times have you investigated this establishment in the past?

MR. PUENTE: I have three investigation reports on file with the establishment and I assisted an investigator with another one.

MR. ASIM: And you said you responded to an investigation October 7, 2020.

MR. PUENTE: Yes.

MR. ASIM: And how did you first --
how did you first get this -- get started in --

MR. PUENTE: Captain Augustine telephoned me and advised me that they had a shooting at Kiss Tavern and that they also believe that there was a marijuana pop-up event that had occurred.

MR. ASIM: And as part of your investigation, did you draft an investigative report?

MR. PUENTE: Yes.

MR. ASIM: My co-counsel, John Lui, will be showing you what has been marked as Government’s Exhibit 1 for identification purposes, which has already been escalated as authenticated and admissible.

(Whereupon, the document referred to was marked as Government’s Exhibit 1 for identification.)

MS. ANDREWS: Mr. Lui, you can now share your screen.

MR. ASIM: Investigator Puente, can you see this? Is this the investigative report you drafted?

MR. PUENTE: Yes.

MR. ASIM: At this time, the
government would like to move Government’s
Exhibit 1 into evidence.

CHAIRPERSON ANDERSON: So moved.

Whose microphone --

MR. BIANCO: Mr. Anderson, I’m not
able to hear any of the proceedings at this
point. I’m getting interference. I’m not sure
if everybody else is.

CHAIRPERSON ANDERSON: I’m trying to
find -- so, Mr. Puente -- Let me see. Mr.
Puente, is there anything that you can do with
what’s going on with your microphone? I think
that the feedback is coming from your end.

MR. PUENTE: I can try putting it to
my cell phone, if that will work better.

CHAIRPERSON ANDERSON: Yes.

MR. PUENTE: How does that sound,
Mr. Chairman?

CHAIRPERSON ANDERSON: We’re still
having some significant feedback from your end,
and I’m not sure what’s -- I’m not sure what
equipment you have with you. What equipment do
you have with you?

MR. PUENTE: My laptop and my ABRA
cell phone.
MS. ANDREWS: Can you please turn your volume down? And when you’re not speaking, just mute your mic.

MR. PUENTE: Yes, I turned my volume down a little bit.

CHAIRPERSON ANDERSON: Turn it a little bit down again, please. Let me hear you speak now, please.

MR. PUENTE: Hello?

CHAIRPERSON ANDERSON: Yes, I think it’s the level of your volume. So if you turn it further down, I think that we should be okay.

All right. All right, go ahead, Mr. Lui. I think you were showing some documents, so.

MR. LUI: Now, Investigator Puente, is this the investigative report that you drafted?

MR. PUENTE: Yes.

MR. LUI: Mr. Chairman, we’d like to move this into exhibit as Government’s -- into evidence as Government’s Exhibit 1.

CHAIRPERSON ANDERSON: So moved.

It’s my understanding there was a stipulation,
so, so moved.

(Whereupon, the document previously marked as Government’s Exhibit 1 for identification was received into evidence.)

MR. BIANCO: Mr. Anderson?

CHAIRPERSON ANDERSON: Yes, Mr. Bianco?

MR. BIANCO: So there is a stipulation with respect to the authenticity and admissibility.

CHAIRPERSON ANDERSON: Okay.

MR. BIANCO: There may be objections as to the content and there is likely going to be one depending on where this testimony goes. So I will reserve my objection until he testifies about the contents that I believe are inappropriate.

CHAIRPERSON ANDERSON: All right. So, okay. You are objecting at this moment to moving the document into evidence?

MR. BIANCO: I am not objecting to moving the document into evidence. The document as a whole we have agreed is admissible, but there’s one portion of the document that talks about a video that’s not
going to be an exhibit in this case that I am
going to object to.

But I am going to reserve my

objection on that testimony until such time as

he gets to that testimony.

CHAIRPERSON ANDERSON: All right.

So moved. All right, go ahead, Mr. Asim.

MR. ASIM: Now, we’re turning to the
call, Investigator Puente. Approximately when
did you get this call?

MR. PUENTE: Approximately 4 p.m.

MR. ASIM: And when did you go to

the establishment?

MR. PUENTE: I arrived at

approximately 4:30 p.m.

MR. ASIM: And who else was with you

at the establishment?

MR. PUENTE: MPD, then ABRA

Investigator Jeremy Zolarcoffer and ABRA

Supervisor Investigator John Thortnton.

MR. ASIM: And what did you first

observe when you arrived on the scene?

MR. PUENTE: That there was a lot of

police officers and detectives. MPD had crime

scene tape up around the establishment.
MR. ASIM: And what did you do after making the observation?

MR. PUENTE: I approached Captain Augustine.

MR. ASIM: And what did you discuss with him about?

MR. PUENTE: He briefed me on what had occurred at the establishment.

MR. ASIM: And what happened next?

MR. PUENTE: We waited a few minutes then we went inside with Captain Augustine and Detective Tridico.

MR. ASIM: And when you went inside, what did you observe when you entered the establishment?

MR. PUENTE: The front entrance is on T Street. There is a vestibule on the front door. It was closed. We opened it, went inside.

Then there’s a second door and a little foyer area. I observed that the glass was shattered and there was a bullet hole in the back glass window as well.

MR. ASIM: Okay. And you said there is -- there was shattered glass. I’m directing
your attention to what has been attached to
Government’s Exhibit 1 as Exhibit 4 to the
investigative report.
(Whereupon, the document referred to
was marked as Government Exhibit 4 for
identification.)
I believe John Lui should be sharing
that with you shortly. Investigator Puente,
can you see this image?
MR. PUENTE: Yes.
MR. ASIM: Is this the broken glass
that you saw?
MR. PUENTE: Yes.
MR. ASIM: And you also said you
observed a bullet hole?
MR. PUENTE: Yes.
MR. ASIM: I’m directing your
attention to what has been attached to the
investigative report as Government’s 5. I
believe my co-counsel should be sharing it
shortly. Now, can you see this image,
Investigator Puente?
MR. PUENTE: Yes.
MR. ASIM: Is this bullet hole that
you --
MR. PUENTE: Yes.

MR. ASIM: Now what else did you find when you walked in?

MR. PUENTE: As soon as we passed that area we walked in, I observed tables and chairs were knocked over. I observed a lot of green, leafy substance on the floor.

I observed the table to the right near that window that had tablecloths on it as several trays were on top of it. There was packets on the floor that looked like THC oils.

There was loose-leaf marijuana, nuggets of bud that was laid out. We observed sandwich bags, digital scales, brown paper bags, as well as hookah and alcohol.

MR. ASIM: Now John Lui should be directing your attention to what has been attached as Exhibit 30 to the investigative report.

CHAIRPERSON ANDERSON: Excuse me a minute. Just, I want to -- I mixed up -- in testifying, if you mention some names, can you also spell the names of the participants that you’re talking about for the record.

So can you please, if you have a
report that has the correct spelling of the
names, can you please, when you give the names,
please spell the name for the record? Okay?

Thank you. Go ahead, Mr. Asim.

MR. ASIM: Now, Investigator Puente,
can you see this image?

MR. PUENTE: Yes.

MR. ASIM: And is this the THC oil
that you saw?

MR. PUENTE: Yes.

MR. ASIM: Okay. I’m directing your
attention to what’s been attached to the report
as Exhibit 40.

(Whereupon, the document referred to
was marked as Government Exhibit 40 for
identification.)

Now, is this the loose-leaf
marijuana that you observed? The loose
marijuana scattered throughout the
establishment?

MR. PUENTE: Yes.

MR. ASIM: I’m now directing --
actually, what else did you observe there,
Investigator Puente?

MR. PUENTE: As we were walking
through the establishment, we observed near the back there was a table with a hookah that looked like it was freshly burnt as well as a bottle of Stella Artois beer that was open, as well as two glasses that were filled with some kind of liquid.

We observed vendor, little business cards on several of the tables and on the floor. And then MPD showed us where they found shell casings on the floor.

MR. ASIM: Now, Investigator Puente, I'm directing your attention to what's been attached as Exhibit 14 to the investigative report. Now are these some of the vendor advertisements that you saw?

MR. PUENTE: Yes.

MR. ASIM: Okay. And Investigator Puente, the vendor advertisements and the marijuana found, what did this indicate to you?

MR. PUENTE: That it was a marijuana pop-up event or market that was occurring.

MR. ASIM: And how were you able to tell that?

MR. PUENTE: Everything that I saw that day at Kiss Tavern was also what I've
observed through previous investigations we’ve
done at marijuana markets with MPD.

         MR. ASIM: And what else did you
observe --

         MR. PUENTE: Say that again, Mr. Asim. I lost you.

         MR. ASIM: What else did you observe
when you were on scene there?

         MR. PUENTE: Kiss Tavern, they had
the round tables as you saw in the photo. Then
there was round plexiglass enclosed in wood
2x4s next to the tables, kind of blocking the
tables from each other.

         MR. ASIM: Now what happened after
you made all of these observations?

         MR. PUENTE: I went back outside
with Captain Augustine?

         MR. ASIM: And what happened after
that?

         MR. PUENTE: I went across the
street to Right Proper. I observed it was
open. Its sidewalk café was fairly crowded and
people were eating. So we went and checked to
see if the establishment had any surveillance
video.
MR. ASIM: And what happened after you checked it?

MR. PUENTE: We went across the street and met the managers. They didn’t have anything that showed Kiss Tavern so we left. Shortly after, I met up with Detective Tridico.

CHAIRPERSON ANDERSON: How do you spell that, Mr. Puente?

MR. PUENTE: T-D-R-I-D-I-C-O.

CHAIRPERSON ANDERSON: Thank you.

MR. ASIM: Now after you met with Detective Tridico, what did you do next?

MR. PUENTE: Detective Tridico advised me that they asked numerous times to look at the surveillance video system. They weren’t getting nowhere with the owner so they ultimately seized it pending a search warrant.

MR. ASIM: And to your knowledge, did ABRA receive this surveillance footage?

MR. PUENTE: No.

MR. ASIM: Now after you spoke with Detective Tridico, what happened?

MR. PUENTE: I went back to talk with Captain Augustine who advised me that the MPD Chief of Police was going to do a 96-hour
MR. ASIM: And then what happened after that?

MR. PUENTE: Myself, Investigator Zolarcoffer, and Supervisor Fiorntino (phonetic) left the establishment and went back to the office.

MR. ASIM: And did you continue your investigation there?

MR. PUENTE: Yes.

MR. ASIM: And what did you do as part of your investigation?

MR. PUENTE: The next morning on October 8, I conducted a social media check of the vendors’ that businesses cards I observed inside the establishment.

Two of them were private but one was open to the public, the Nom’s (phonetic) Infused Food. And I went on his page. So I observed he posted a video from what appeared to be inside Kiss Tavern.

MR. BIANCO: Mr. Chairman, this is where I’m going to object to the testimony. I could articulate the objection at this time if it pleases the Chair.
CHAIRPERSON ANDERSON: What was the question? I mean, you need to object to the question, I mean, not to testimony. I mean, I don’t know the witness -- if you didn’t object to the question, the witness is testifying.

Then you’re saying you’re going to object to the testimony. You object to the question that was being asked.

MR. BIANCO: I object to the question to the extent that it calls for the investigator to testify about unauthenticated video that he viewed in the course of this investigation that is not going to be presented as an exhibit here at the --

CHAIRPERSON ANDERSON: But I didn’t think he was saying -- I’m not aware whether or not the agency has viewed any video. So, I mean, I’m going to overrule.

I’m going to overrule the objection at this juncture. All right. Because I don’t think he’s testifying about viewing a video. So I’m going to overrule the objection at this juncture. Go ahead, Mr. Asim.

I mean, if you need to ask the question again, go ahead and ask the question.
MR. ASIM: Investigator Puente, what else did you do as part of your investigation?

MR. PUENTE: I reviewed the security plan for the establishment.

MR. ASIM: And what relevant parts of the security plan did you find in your investigation?

MR. PUENTE: On Page 6, Paragraph 3, there's a section that talks about what kind of incidents that would be allowed in the establishment.

It says there's some of the incidents that our team members may encounter. All team members are aware of these types of incidents and are trained to respond professionally and take appropriate course of action.

Such common instances include but are not limited to drug use, possession, distribution, any patrons that engage in illegal drug activity.

MR. ASIM: And were there any other parts of the security plan that you found relevant to your investigation?

MR. PUENTE: Yes, on Page 12,
Paragraph 7, it talked about the surveillance video system. In the security plan it says, in case of such incident, management is to burn the footage onto a disk or flash drive and keep it at least 30 days.

All videos will be made available for viewing immediately to any law enforcement entity or to ABRA. Copies of such video shall be available to any law enforcement entity or to ABRA within 48 hours upon request.

MR. ASIM: And did ABRA request this surveillance footage?

MR. PUENTE: I believe Mr. Zolarcoffer asked the owner for the footage.

MR. ASIM: And as far as you know, did they provide it within 48 hours?

MR. PUENTE: No.

MR. ASIM: Have they provided you with access to this surveillance footage:

MR. PUENTE: No.

MR. ASIM: Now, Investigator Puente, is this place still operational?

MR. PUENTE: It’s currently suspended by the ABC Board.

MR. ASIM: No further questions.
CHAIRPERSON ANDERSON: Mr. Bianco.

MR. BIANCO: Yes. Investigator Puente, I want to go through your investigative report and ask you some questions about it.

In the summary section at the beginning of your report, you draw several conclusions right at the onset. And one of the conclusions that you draw is that a shooting occurred inside of Kiss Tavern. What's the basis for that conclusion?

MR. PUENTE: Talking with Captain Augustine and the detectives on scene.

MR. BIANCO: Okay. So that's not based on your experience or observation. That's just relying on MPD says on the subject, correct?

MR. PUENTE: Yes.

MR. BIANCO: Okay. And I want to then skip down to your conclusion that the licensee was uncooperative and that he refused to show video of the event to MPD. Is that based on what MPD told you or based on your personal observation?

MR. PUENTE: First on what MPD told me as well as reviewing the 96-hour closure
letter from the Chief of Police.

MR. BIANCO: Okay. So that's what MPD told you and it's what you read in their 96-hour closure letter, but you didn't witness any discussion between my client and MPD, correct?

MR. PUENTE: And who? MPD, you said?

MR. BIANCO: You didn't witness any discussion about the video between my client and MPD, correct?

MR. PUENTE: No, when I got on scene, I observed him talking with a detective. I didn't go over there.

MR. BIANCO: Okay. And did you speak with the owner of the establishment at all that evening?

MR. PUENTE: No, Investigator Zolarcoffer did.

MR. BIANCO: Okay. And it looks like in your summary of the investigation, the way you wrote this, I think I need a little bit of clarification on it.

So specifically, you indicate that the owner was uncooperative and refused to show
MPD officers surveillance footage.

Is that two separate instances or are you saying that he was uncooperative because he refused to show the surveillance the video?

MR. PUENTE: He was uncooperative in showing the surveillance video.

MR. BIANCO: Okay, so it’s not like he was doing something else, like refusing to answer questions or something like that?

MR. PUENTE: No.

MR. BIANCO: Okay. Attached as the first -- Attachment Number 2 -- Exhibit Number 2 of the report is the 96-hour closure letter you referenced in your testimony, correct?

MR. PUENTE: Yes.

MR. BIANCO: And you reviewed that for the purpose of preparing your report, correct?

MR. PUENTE: Yes.

MR. BIANCO: Okay. And within that letter there are six enumerated instances where MPD Third District had to respond to this location in the last 18 months, correct?

MR. PUENTE: Yes.
MR. BIANCO: Okay. And of those six instances cited by MPD, do you know how many ended in an ABC violation?

MR. PUENTE: I’d have to check the ABRA records. I don’t know offhand.

MR. BIANCO: Okay. But the investigative history is attached to the report, correct?

MR. PUENTE: Yes.

MR. BIANCO: Okay, so we could cross-check those if need be.

MR. PUENTE: Yes.

MR. BIANCO: You testified that you walked in the establishment and viewed the damage done by the bullet in the vestibule, correct?

MR. PUENTE: Yes.

MR. BIANCO: Okay. And I believe, please correct me if I’m wrong, but you testified that the front door glass was broken and there was a bullet hole in the window behind the front door, correct?

MR. PUENTE: Yes, inside that vestibule, that second door.

MR. BIANCO: Correct, and you showed
a picture of the damage done by the bullet, and
that is Exhibit 4 to your report. And looking
in the lower right hand corner of the window, I
see the bullet hole that you testified about.

MR. PUENTE: Yes.

MR. BIANCO: Right. And do you
recall what is on the other side of that
window? On the other side of the
establishment?

MR. PUENTE: Like in the window
area? Or on the bottom of that area?

MR. BIANCO: In the customer seating
area, on the interior of the establishment, on
the other side of the window. So the bullet
went through and what would it have hit on the
other side?

MR. PUENTE: I believe to the left
of that, behind that, there is like a booth
seating right there against the wall.

MR. BIANCO: Okay. And did you
observe whether that -- glass that was damaged
in any way?

MR. PUENTE: I did not, no.

MR. BIANCO: If you were standing on
the inside of the establishment looking out
that front window, would you be able -- were you able to see the bullet hole?

MR. PUENTE: I can’t recall if I did or not.

MR. BIANCO: Okay. You indicated that during your walkthrough, you observed two hookahs in the customer area of the establishment.

MR. PUENTE: Yes.

MR. BIANCO: You didn’t observe anybody smoking hookah, though, did you?

MR. PUENTE: No, there was nobody inside the establishment other than MPD.

MR. BIANCO: Okay. You also indicated that my client has not provided surveillance footage to ABRA. Did ABRA make that request of my client?

MR. PUENTE: I believe Investigator Zolarcoffer asked him to review the footage. He said his system was taken by MPD.

Investigator Zolarcoffer asked him if he had an iCloud or storage device and he said he was not able to -- he didn’t have one, I believe.

MR. BIANCO: Okay. But did
Investigator Zolarcoffer, to your knowledge, request the security code or the pin code for the system?

MR. PUENTE: I can't speak to that. I wasn't there for the conversation.

MR. BIANCO: Okay. And are you aware whether at any point after October 7 anybody from ABRA requested the pin code from my client to review the video?

MR. PUENTE: No, I'm not.

MR. BIANCO: And I believe it indicates in your report that you had requested the footage from MPD and it would take one or two days for you to get that. Is it fair to say that you have not received it from MPD?

MR. PUENTE: Yes. I spoke with Detective Tridico about a week later, he said the search warrant still pending, so it could take anywhere from, possibly up to three weeks or more.

MR. BIANCO: Okay. And so to your knowledge, the DVR system is still in the possession of MPD and not my client, correct? Investigator Puente? Can you hear me?

MR. PUENTE: Yes.
MR. BIANCO: Oh. To your knowledge, is the DVR still in the possession of MPD?

MR. PUENTE: Yes.

MR. BIANCO: Okay. Did you personally speak with any member of my client’s staff or employee in the establishment on October 7?

MR. PUENTE: No, I did not. I believe we were told the security guard had already left the area or left the establishment.

MR. BIANCO: Okay. Do you know whether or not the security guard spoke with MPD?

MR. PUENTE: I’m not sure.

MR. BIANCO: Brief indulgence. I just want to see if my client has anything else. Thank you, Investigator Puente. I don’t have any further questions.

MR. PUENTE: Thank you.

CHAIRPERSON ANDERSON: All right. Are there any questions by any Board members?

MEMBER SHORT: Mr. Chair, I just have one question.

CHAIRPERSON ANDERSON: Go ahead, Mr.
Short.

MEMBER SHORT: Investigator Puente, what are the legal licensed hours for sales and service for alcohol for this establishment?

MR. PUENTE: I believe, I don’t have the license in front of me, sir. I believe it’s from 7 a.m. to 2 a.m., Sunday through Thursday, then Friday and Saturday from 7 a.m. to 3 a.m.

MEMBER SHORT: During the day of the incident, were they open and operating at that hour the day this incident occurred?

MR. PUENTE: Yes, I believe they were because we saw open containers of alcohol.

MEMBER SHORT: Okay, that’s all I have. Thank you, Mr. Chair. Thank you, Mr. Puente.

CHAIRPERSON ANDERSON: Any further questions from any of the Board members? Mr. Puente, specifically, what is it that the security agreement speaks about turning the -- who should camera footage be turned over to?

MR. PUENTE: In the security plan, it mentions that any type of ABRA or any law enforcement entity requests to view the video,
it should be made available immediately, then a copy should be provided within 48 hours.

CHAIRPERSON ANDERSON: Is it just to ABRA or is it to other entities?

MR. PUENTE: ABRA and other law enforcement entities.

CHAIRPERSON ANDERSON: So do you know whether or not the security video was provided to the other law enforcement entities immediately?

MR. PUENTE: No, Detective Tridico said he has not been able to view the footage.

CHAIRPERSON ANDERSON: Okay. All right. Thank you. I don’t have any other questions. Mr. Asim -- I’m sorry. Mr. Bianco, do you have any questions of the witness based on the questions that were asked of the Board?

MR. BIANCO: No, Mr. Chairman, I don’t.

CHAIRPERSON ANDERSON: Mr. Asim, it’s your case. Do you have any follow-up questions of the witness based on the questions that were asked by the Board?

MR. ASIM: Yes, I have a few questions. Investigator Puente, did you -- how
many times have you previously investigated
this establishment?

MR. PUENTE: I believe in the case
history, I have three case reports.

MR. ASIM: And generally, what did
these investigations -- what were they related
to?

MR. PUENTE: If I recall, after
hours. I think mainly after hours. Then I had
one prior to the license being issued.

CHAIRPERSON ANDERSON: And has there
been any trouble receiving surveillance footage
previously?

MR. PUENTE: I believe in the --
right now there was a case written in July 2020
where the investigator asked to view footage
and he never got it.

MR. ASIM: No further questions.

MR. BIANCO: Mr. Chairman, I have a
question based on the last question.

CHAIRPERSON ANDERSON: Mr. Bianco, I
mean, you already had your chance to ask a
question. This is Mr. Asim's witness. He has
the final word.

So I'm not going to have any -- I
can’t go back and forth because if you have -- if you have asked a question, then I need to give Mr. Asim an opportunity to ask questions again. So you had your opportunity. Yes, sir?

MR. BIANCO: I understand, Mr. Anderson, but at this point I’d like to pose an objection to the last question asking about an unadjudicated investigative report which is not relevant to this matter, and therefore, it’s not appropriate for consideration.

CHAIRPERSON ANDERSON: You should have objected to the question at the time. Anyway, so I hear. However, let’s move on. Mr. Puente, thank you for sharing your testimony, please do not discuss it with anyone until the case is completed. Thank you.

MR. PUENTE: Thank you, sir.

CHAIRPERSON ANDERSON: All right. Does the Government have another witness?

MR. ASIM: No, Mr. Chairman, the Government does not.

CHAIRPERSON ANDERSON: So does the Government rest at this juncture?

MR. ASIM: Yes, the Government rests.
CHAIRPERSON ANDERSON: All right.

It is my understanding that both parties have agreed to a 30-minute lunch break. Is that still the wish of the parties?

MR. ASIM: Yes.

MR. BIANCO: That's fine.

CHAIRPERSON ANDERSON: I'm sorry, yes? So, Mr. Asim says yes. Mr. Bianco, you said that's fine? Mr. Bianco, yes? A 30-minute lunch break?

MR. BIANCO: Yes.

CHAIRPERSON ANDERSON: All right. Fine, thank you. Okay. So it's 1:20. We're going to pause this for a 30-minute lunch break. So therefore, we will be back on the record at 1:50 p.m.

What I will ask the Board members to do is for us to return to the executive session and, so we can have a working lunch. All right. So I will see you back at 1:50. All right. Thank you.

CHAIRPERSON ANDERSON: All right.

We're back on the record. Are you ready, Mr. Bianco?

MR. BIANCO: Yes, we're ready.
CHAIRPERSON ANDERSON: All right. Do you have a witness?

MR. BIANCO: Yes, we do.

CHAIRPERSON ANDERSON: Who's your first witness, sir?

MR. BIANCO: I'm calling Eyob Asbeha.

CHAIRPERSON ANDERSON: I'm sorry?

MR. BIANCO: Owner of the establishment, Eyob Asbeha.

CHAIRPERSON ANDERSON: Mr. Asbeha, can you raise your right hand, please? I think Mr. Bianco, I mean, either you both need to move away from the camera so I can see both of you at the same time.

WHEREUPON,

EYOB ASBEHA

was called as a witness by Counsel for the Defendant and, having been first duly sworn, was examined and testified as follows:

CHAIRPERSON ANDERSON: All right. Thank you. And Mr. Bianco, now, as attorney's we're on the honor system. So therefore, your client is sitting next to you and so I do hope that during cross-examination, or even direct, that there are no notes that's been passed
around between you and your client.

So we have to be on the honor system,

since you and your client are sitting side-by-side in the same room.

All right, sir. Your witness, go ahead.

DIRECT EXAMINATION

BY MR. BIANCO:

Q Okay. Can you state name and spell your last name for the record?

A My names Eyob, last name Asbeha, A-S-B-E-H-A.

Q And Eyob, where are you employed?

A Kiss Lounge, Kiss Tavern.

Q And what is your role there?

A I’m the owner.

Q And how long have you been doing that?

A Over the last five years.

Q And how long have you been in the restaurant business in D.C.?

A About eight years.

Q I’d like to talk about the day of October the 7th, 2020. We’re you working on that day?

A No.
Q  Was the establishment open?
A  Yes.
Q  Who was running it?
A  My cousins, Kendra and Sami.
Q  Did there come a time on that day when you went to Kiss?
A  No, I couldn’t understand. Can you say it again?
Q  Yes. Did you go to Kiss on that day?
A  Yes. I went there after I found out -- I was with my kids playing and I found out there was incident happened when my cousin called me and I came down from Virginia straight to the establishment.
Q  Okay. Which cousin called you?
A  Askinder.
Q  Askinder?
A  Yes.
Q  And that’s the cousin who was working at Kiss?
A  Yes.
Q  And what happened when you arrived at Kiss that day?
A  Well, I parked my car outside and the police told me to park outside and there was a
lot of police outside and they told me -- most
of them I know, the police -- they told there
was a shooting outside Kiss and I went inside.

    The detectives told me to come inside, and
he started talking to me.

    Q   Okay. And who was the detective that
    started talking to you?
    A   I don’t know the detective. He didn’t
introduce himself. He just told me to come
inside and I went inside.

    Q   Okay. And can you describe the
detective that told you to come inside?
    A   He has black detective badge, I don’t
know his name.

    CHAIRPERSON ANDERSON:  Hold on one
moment. Hold on Mr. Bianco. Can you ask your
client to -- he said there was a cousin there.
Can you repeat the name and spell the name of
the cousin who was there, who was running the
facility?

    MR. BIANCO:  Sure.

    THE WITNESS:  Sure. His name is
Askinder, A-S-K-I-N-D-E-R. Last name Naga,
that’s N-A-G-A.

    I can’t hear you,
CHAIRPERSON ANDERSON: I’m sorry.
Thank you. What I’ll ask is that if you’re
going to use any names, because -- since we
have a court reporter. So I would ask that you
spell the person’s name for the record so the
court reporter will capture the information
correctly. Okay?

THE WITNESS: Okay.

CHAIRPERSON ANDERSON: All right.

Thank you. Go ahead.

MR. BIANCO: Okay.

BY MR. BIANCO:

Q And this detective that brought you
inside, what did he ask you?

A He came told me -- or they asked me
what was going on. I don’t know, I told them I
wasn’t here. Then he asked me for the DVR
password and I give him the password and the
password didn’t work, because there was a
technician that was here that was fixing it.

I told them to wait for him so I can
provide the password. And right after that he
didn’t want to wait and he just grabbed it and
the password I had, I gave it to him, but it
didn’t work.
So after that, he took the DVR just right away. He didn’t wait for the technician to come out.

Q Okay. Let’s take a step back. So the detective asked you for the password, right?

A Yes.

Q Did you provide the detective the password?

A Yes.

Q Did the password work?

A It didn’t because -- I think prior to that he checked it, it didn’t work because he was trying to get inside without password before I came, then it was blocked. When I tried the password, it still blocked.

So I asked the technician then to come and do the -- open this system and he said okay, I’m on my way. He was on the phone, he was listening to everything. And he said, I’m on my way, I’m coming. And the detective didn’t want to wait; he just took the DVR with just left.

Q So when you told the detective that the technician would come and unlock the system, what happened next?
A The next thing he say is that he doesn’t want to wait. He just took it out, with the DVR, everything, he took all the wires and he just forced the whole thing.

Q So what is the password?
A It’s Kiss, K-I-S-S 637.
Q And is that the password you gave him that day?
A Yes.
Q What company do you use to do the video tech?
A It was called Flash Tech.
Q Flash Tech?
A Yes.
Q Okay. And why was Flash Tech there earlier in the day on October the 7th?
A So there was incident happened outside Kiss, there was people breaking a car and I happened to have the video footage of that and the police came, two police officers, they have names.

They asked for video and the video was not clear enough to identify the plate number on those people and I told them, can you change the zooming or the systems so we can find out,
because there’s two cars left outside at least
-- or, empty that day and it happened to be one
of my car that was broken.

And I told him the video -- I showed
him the video, everything and they took a video
but it was not clear enough to identify those
thieves. So I called the technician to come
here and fix it.

Q   When did that incident take place
where MPD previously requested video?

A   Well, a day before -- a day before or
the same night. Tells them, a day before. A
night before the incident happened.

Q   So October the 6th?

A   Yes. I have their cards I can provide
that.

Q   Do you know why the MPD detective took
the whole system if you were offering to show
the video?

A   I don’t know. I ask him to wait, he
doesn’t want to wait.

Q   Okay. Other than the detective, who’s
name you don’t know, did you have any other
conversations with MPD personnel that day?

A   Well, I talked to several of them, but
most of them I know from the PD offices; we have a good relationship with them.

Q   Okay.

A   So I talked to Detective Tridico after that, and I talked to him in person and he even asked me if I give him the consent or written consent to search the place and I give him right away. I didn’t argue about it, I didn’t ask anything. I mean, he already told me that I was not alleged to do that.

But I say, you know what, we have to find anything to investigating this case, I’m like, I’m willing to give you anything. And I signed the consent and they start searching the place.

Q   So Detective Tridico asked you for consent to search your place?

A   Yes.

Q   And --

CHAIRPERSON ANDERSON: How do you spell that please?

THE WITNESS: T-R, I have his card.

T-R-I-D-I-C-O. That’s the last name.

CHAIRPERSON ANDERSON: Thank you.

THE WITNESS: The first name is
CHAIRPERSON ANDERSON: Go ahead, I’m sorry.

MR. BIANCO: Okay.

BY MR. BIANCO:

Q So Detective Tridico asked your permission to search the establishment, correct?

A Yes. And I said yes, and I signed it.

Q And that permission was in writing?

A All in writing, yes.

Q Prior to October the 7th, has MPD ever previously requested video from you?

A Yes, they did.

Q Okay. We talked about the one instance the day before, but how about before that? Were there other cases that they asked you for video?

A I did several times, they didn’t have a good case or outside my establishment.

Anything happen outside, there was a shooting outside that happened and I provide the video camera and they found the guy because of the video I give them.

And prior to that, there was a hit and
run on Florida Avenue and I happened to have the video camera footage. And as a matter of fact, it was Mister -- I mean, Investigator Tridico came asking me for the video and I give him the video for that.

And I was trying to help they -- whatever they ask me for.

Q Before today’s hearing, were you aware whether or not MPD was able to access the video that they took from the DVR?

A No.

Q Now, there has been some testimony today about the layout of the establishment and I would like to discuss with you how the establishment is laid out. And we previously cited our exhibits to --

CHAIRPERSON ANDERSON: Hold on. What exhibits? I mean, what exhibits did you provide?

MR. BIANCO: We provided seven photographs.

CHAIRPERSON ANDERSON: Did you receive that Mr. Asim? Because I -- I mean, I got your cover letter but I didn’t see any exhibits. So I’m not quite sure where the exhibits were, but
I did get your cover letter that lists who the witnesses, are but I didn’t see any exhibits attached.

Mr. Asim, sir, do you have the exhibits?

MR. ASIM: Yes, Mr. Chair, we do have the exhibits.


MR. BIANCO: I understand that ABRA’s IT person is going to be putting them up on the screen, as we requested they do so.

CHAIRPERSON ANDERSON: All right, that’s fine. Okay.

MR. BIANCO: That was the arrangement we came to yesterday. Anyway, but if I could inquire --

CHAIRPERSON ANDERSON: Go ahead.

MR. BIANCO: -- if that’s still going to happen, that’ll be great.

CHAIRPERSON ANDERSON: If that’s the arrangement, then at the time whoever made the arrangement will do what’s necessary. I wasn’t aware of that so we’ll see.

MR. BIANCO: Excellent. Could we put
Respondent’s Exhibit Number 1 up, please?
Simone?

CHAIRPERSON ANDERSON: I just texted her to find out whether or not that was her, was she the person to put in the exhibit, because I was not aware of that.

MR. BIANCO: Okay.

MS. ANDREWS: I’m sorry. I’ll put it up right --

CHAIRPERSON ANDERSON: Okay.

MR. BIANCO: Thank you very much.

BY MR. BIANCO:

Q All right, Eyob, you see that photograph there?
A Yes, sir.
Q And what does that show?
A That’s the main entrance, like, on T Street.
Q Okay. That’s the T Street entrance?
A Yes, sir.
Q And is that how the T Street entrance looked on October the 7th of 2020?
A Yes. That’s it. Black curtains.
Q Okay. And when your establishment is open for business, is that exterior door kept
opened or closed?

A  It’s closed.

Q  Okay. And it looks like there are some photos or paintings on that door there. Are you able to see through those?

A  The main door you mean?

Q  Yes, the main door.

A  They’re like food and everything they clear --

Q  You can’t --

A  That’s advertisement, yes.

Q  Okay.

MR. BIANCO: At this time I would move admission of REX Number 1.

(Whereupon, the above referred to document was marked as Respondent’s Exhibit No. 1 for identification.)

CHAIRPERSON ANDERSON: Mr. Asim, do you have any objection?

MR. ASIM: No objections.

CHAIRPERSON ANDERSON: So moved.

(Whereupon, the above-referred to document was received into evidence as Respondent’s Exhibit No. 1.)

MR. BIANCO: If we could put up RX 2,
please.

BY MR. BIANCO:

Q And do you see that photo?
A Yes.

Q And what does that show?
A That’s the, like, what do you call it?
Like, the corridor that you come in.

Q Okay.
A It’s the main thing to come to Kiss.

Q So --
A That’s where the security chair is, sitting there.

Q Correct. That was my next question.
So I see a chair there, what is that chair there for?

A That’s where security sits and stands all the time.

Q And was that there on October the 7th?
A Yes.

Q Is it usually there?
A Yes, sir.

Q And you have a security person stationed there. What does that person do?
A Being the security, he does check ID,
he does bag, everybody search their bags,
everything. He does what any security has to do. He’s good guy.

Q   And did you have a security guard working on October the 7th of 2020?
A   Yes.

Q   What’s that person’s name?
A   We call him T, but I think his name is Thomas MacCoy. That’s T, MacCoy is M-A-C-C-O-Y and his first name is Thomas.

MR. BIANCO: And I’d move admission of RX Number 2.

(Whereupon, the above-referred to document was marked as Respondent’s Exhibit No. 2 for identification.)

CHAIRPERSON ANDERSON: Mr. Asim, any objections?

MR. ASIM: No objections.

CHAIRPERSON ANDERSON: So moved.

(Whereupon, the above-referred to document was received into evidence as Respondent’s Exhibit No. 2.)

MR. BIANCO: If we can put up RX 3.

BY MR. BIANCO:

Q   And do you recognize that photograph?
A   Yes.
Q And what is that?

A That’s the entrance to the restaurant, the tavern.

Q Okay. So on the right-hand side, that doorway is the way you enter into the customer area?

A Yeah.

Q Okay. And is that how it looked on October the 7th?

A After I came, the glass was like shattered and everything on the floor.

Q Okay.

A And there was a hole like an inch.

Q Okay. So let’s take the first part of that statement first. You said when you came on the 7th, the glass was shattered --

A Yes.

Q -- on the floor. What glass are you referring to?

A The -- I don’t know how to show you. The main, like, the one that’s like the chair leaning on.

Q The glass in the door or the glass in the window?

A The glass on the door.
Q Okay. And the door in that picture appears to be intact. Have you fixed it?
A Yes. I just fixed it up the next day.
Q When did you fix it?
A October 9th.
Q Okay. Now, I want to focus on the window that is behind the glass door. I see a hole in the window, was that hole there on October the 7th?
A After I came, yes, it was there.
Q It was there?
A Yes.
Q Okay. And is that hole still there today?
A Yes.
Q Okay.

MR. BIANCO: So I would move to the admission of RX 3.

(Whereupon, the above-referred to document was marked as Respondent’s Exhibit No. 3 for identification.)

CHAIRPERSON ANDERSON: Mr. Asim, any objection?
MR. ASIM: No objection.
CHAIRPERSON ANDERSON: So moved.
Whereupon, the above-referred to document was received into evidence as Respondent’s Exhibit No. 3.)

MR. BIANCO: If we could move on to RX No. 4?

BY MR. BIANCO:

Q Okay. Now, this is Respondent Exhibit No. 4, what does that show?

A That’s the restaurant booth.

Q Okay. A restaurant booth?

A Yes.

Q And where is that located?

A That’s right behind the window of the main entrance.

Q Behind the window of the main entrance?

A Yes.

Q Okay.

A On the other side.

Q Is that booth always there?

A Yes.

Q Was it there on October the 7th?

A Yes.

Q Are there any holes or damage to the cushion?
A No.

Q Have you replaced it or repaired it in any way?

A No.

Q Now, when you’re looking at that photograph, can you see the bullet hole from that side of the window?

A No.

Q Why not?

A Because it’s covered by the booth.

Q It’s covered by the booth?

A Yes.

Q Okay.

MR. BIANCO: Move admission of RX 4.

(Whereupon, the above-referred to document was marked as Respondent’s Exhibit No. 4 for identification.)

CHAIRPERSON ANDERSON: Mr. Asim?

MR. ASIM: No objection.

CHAIRPERSON ANDERSON: So moved.

(Whereupon, the above-referred to document was received into evidence as Respondent’s Exhibit No. 4.)

MR. BIANCO: And moving on to RX 5.

BY MR. BIANCO:
Q All right. Now, what does that picture show?

A That's the window behind the booth.

Q Okay, the window --

A From inside, yes.

Q Okay. And where is that picture taken from?

A From inside.

Q The inside going out?

A Yes.

Q Okay. And I can see the bullet hole in that picture. Did you have to do something to make that bullet hole visible?

A Yes. You have to light it up or something.

Q Okay. Did you have to move the booth?

A Yes, you had to.

Q All right.

MR. BIANCO: I would move admission of RX 5.

(Whereupon, the above-referred to document was marked as Respondent's Exhibit No. 5 for identification.)

CHAIRPERSON ANDERSON: Mr. Asim?

MR. ASIM: No objection.
CHAIRPERSON ANDERSON: So moved.

(Whereupon, the above-referred to
document was received into evidence as
Respondent’s Exhibit No. 5.)

MR. BIANCO: Moving on to RX 6, please?

BY MR. BIANCO:

Q Okay. And what does that picture show?

A That’s the wood behind the booth, the booth.

Q Okay. The backside of the booth?

A Yes.

Q And I see in that photograph, an indentation in the wood. Can you tell me how that lines up with the bullet hole?

A It’s straight from the wood, the hole of the wood is straight to the wood.

Q Okay.

MR. BIANCO: Move admission of RX 6.

(Whereupon, the above-referred to
document was marked as Respondent’s Exhibit No. 6 for identification.)

CHAIRPERSON ANDERSON: Mr. Asim?

MR. ASIM: No objection.
CHAIRPERSON ANDERSON: So moved.

(Whereupon, the above-referred to
document was received into evidence as
Respondent’s Exhibit No. 6.)

BY MR. BIANCO:

    Q   Did you discover any damage to the
    interior of the premises other than that window
    and that booth?
    A   No.

    Q   Okay. Did you find any other bullet
    holes anywhere?
    A   No.

    Q   Did you have a private event scheduled
    for October the 7th of 2020?
    A   No. I don’t know any.

    Q   Did you have any knowledge of a
    marijuana pop-up party at the establishment
    that day?
    A   No, never, no.

    Q   Did you authorize the people who
    worked for you to book a private party for that
    day?
    A   They manage the place because most of
    the time, I’m daytime with my kids. But I was
    not aware of any -- and I’ve never done it
before. So --

Q And --

A -- they never asked me to do so.

Q And by never done it before, it,
you’re referring to a marijuana pop-up party?

A That’s what you had said. Yes, to
what you’re asking me.

Q And how many people work for you?

A Like, servers, in general, security,
everything?

Q Yes, everything all together.

A More than 12.

Q More than 12? How many of those
individuals are security?

A That day there was two security here.

Q And you had previously mentioned that
Thomas MacCoy was the security guard working at
the front door, correct?

A Yes.

Q Have you had occasion to speak with
Mr. MacCoy about the events of that day?

A After I came, after I talked to the
investigators and the investigators were asking
him. So I took my time when everybody finished
the investigation, I talked to him what
happened. And they explained what happened.

Q   And what did you learn in that discussion?

A   He said, like, there was a guys who tried to come in with a weapon and Thomas told him you cannot bring a weapon inside and he told him to go put a 81. He’s going to come back but he cannot come in.

So they have into -- like, we told him no and the next thing he knows was the guy was shooting at him.

Q   Okay.

CHAIRPERSON ANDERSON: Mr. Asbeha, when you speak, can you please raise your voice, please?

THE WITNESS: All right, sir, I’m sorry.

CHAIRPERSON ANDERSON: Thank you.

THE WITNESS: I will.

MR. BIANCO: Thank you. I have no further questions.

CHAIRPERSON ANDERSON: Mr. Asim, any questions?

MR. ASIM: Yes, Mr. Chair.

CROSS-EXAMINATION
BY MR. ASIM:

Q Mr. Asbeha, you were not present at the establishment at the time of this incident, right?

A Yes, I wasn’t here, sir.

Q But your cousin was present at this establishment?

A Yes, sir.

Q And your cousin was running the establishment?

A It was the daytime, so I was with my kids playing in Virginia. I live in Virginia.

Q But was your cousin managing affairs at the establishment?

A Yes, sir.

Q And you were not aware of any event that was happening at the time?

A There was -- we have regular events, not that you guys are referring to, no.

Q But were you aware of any event that was taking place at the time?

A No.

Q But you were aware that there were two security guards present?

A Yes, we always have security when we
And to your knowledge, what were the security guard’s hours?

So my cousin, daytime he runs it, he does happy hours and everything, so he told them to come early. So they were there early, and after I had found out what -- as the shooting happened, after that and I came here.

Now, you testified that the glass was shattered.

Yes.

Now, was the front door also shattered?

The front door was not, because you have to come inside. It always has to be closed by security man, so he opened -- the guy opened it and he went in and he did -- that’s where the security is, a like, the door is like -- we put two doors so we don’t have noise coming out the establishment or so it’s easy to search people and everything.

So this front door was closed at the time?

Yes, sir.

And it was undamaged?
A: It was undamaged because it was from outside. We always keep it closed.

Q: And as far as you know, did you find any bullets inside the establishment?

A: No, sir. I was not allowed to touch anything, because they were asking me to investigate whatever.

Q: Did you find any kind of shell casings inside the establishment?

A: No, sir.

Q: And you spoke about the couches inside the establishment. Are those couches moveable?

A: They are moveable, but they are heavy, they are not small. They heavy chairs, which are not small.

Q: But they can be moved?

A: Yes, sir.

Q: And those booths, they’re also moveable.

A: Some of them. Not all of them, because they are attached to each other, so you cannot move all of them.

Q: But you can move those booths together if they’re attached.

A: Of course, yes. You have to unscrew
them and move them. You cannot just do that,
because they are heavy. They are custom-made
booths that has to go with this feet that make
sure is in everything.

Q   And Mr. Asbeha, do you have any
trainings with firearms?
A   Yes, sir.
Q   What’s --
A   What do you mean with firearms, with a
gun?
Q   Do you have any official trainings in
firearm?
A   No, sir. I’ve never held a gun in my
life.
Q   Do you have official trainings in
ballistics?
A   Can you -- what’s the ballistics? I
don’t know, my English is not --
Q   The study of bullets.
A   The -- what’s the bullets? I can’t
understand.
Q   Do you have knowledge on bullets and
the --
A   No, I’ve never -- I’ve never held a
gun in my life. So I have no knowledge about
bullets, about guns. I’m against guns and everything in my life. I’ve never held anything.

Q And was your cousin there with your permission?

A Yes, sir.

MR. ASIM: No further questions.

CHAIRPERSON ANDERSON: Any questions by any board members?

MEMBER SHORT: I have one, Mr. Chairman.

CHAIRPERSON ANDERSON: Yes, Mr. Short.

MEMBER SHORT: I’d just like to ask the owner, Mr. Asbeha, if his security persons are licensed by the District of Columbia and are they trained in security?

THE WITNESS: Yes, sir.

MEMBER SHORT: They are licensed by the District of Columbia?

THE WITNESS: They have good experience and they have license. They have license, too.

MEMBER SHORT: Can you provide, later on, for this board a license number for the security that you hired for your business?
THE WITNESS: I'll try, sir.

MEMBER SHORT: You'll try? Do they have a license?

THE WITNESS: Yes, sir.

MEMBER SHORT: Okay. If they have a license, we'd like to have that for the Board's records. Thank you.

CHAIRPERSON ANDERSON: Any other questions from any other board members?

Mr. Asbeha, one is of my questions is that on October the 7th, was your business open for operation?

THE WITNESS: Yes, sir.

CHAIRPERSON ANDERSON: So it was open for operation?

THE WITNESS: Yes, sir.

CHAIRPERSON ANDERSON: So on October 7th, you authorized your cousin to run your business on October 2nd?

THE WITNESS: Most of the --

CHAIRPERSON ANDERSON: October 7th, I'm sorry.

THE WITNESS: No. Most of the time I'm here because of the COVID it's slow, so I -
CHAIRPERSON ANDERSON: Okay. During the period where this --
THE WITNESS: Yes, sir.
CHAIRPERSON ANDERSON: -- this action occurred, did you authorize your cousin --
THE WITNESS: Yes, sir.
CHAIRPERSON ANDERSON: -- to have an event there that day?
THE WITNESS: He managed the place.
CHAIRPERSON ANDERSON: So you're telling --
THE WITNESS: He always open it, close it whenever he wants.
CHAIRPERSON ANDERSON: So your cousin, he's the manager?
THE WITNESS: Yes.
CHAIRPERSON ANDERSON: And he manages the place under your permission? So you authorized him to manage the place when you're not there, is that correct?
THE WITNESS: Yes, sir.
CHAIRPERSON ANDERSON: And is he the ABC manager? Is he one of your ABC managers?
THE WITNESS: He is not. He is not.
CHAIRPERSON ANDERSON: So --
THE WITNESS: I have another cousin who is the ABC manager, which is -- he was here too. Both of them were here.

CHAIRPERSON ANDERSON: So who was the ABC manager who was there that day?

THE WITNESS: His name is Samson.

CHAIRPERSON ANDERSON: Samson who?

THE WITNESS: Samson Bearki.

CHAIRPERSON ANDERSON: So can you spell that please?


CHAIRPERSON ANDERSON: So you had an ABC manager working there that day, is that correct?

THE WITNESS: Yes, sir.

CHAIRPERSON ANDERSON: And so is it correct that, was alcohol being sold during the day?

THE WITNESS: Yes, sir.

CHAIRPERSON ANDERSON: All right.

Now, all right. But you didn’t know what type of event that your cousin was having that day, is that correct?

THE WITNESS: I had no knowledge, sir.

CHAIRPERSON ANDERSON: All right. You
stated that you provided the police officer with the passcode for your camera system, but that it didn’t work. Is that correct?

THE WITNESS: Yes, sir.

CHAIRPERSON ANDERSON: Now, do you know what the passcode is currently for your camera system?

THE WITNESS: Yes. I give him the code, KISS.

CHAIRPERSON ANDERSON: You going to have to -- so if you gave them the code -- do you know whether or not, either the police or anyone -- have your camera system been returned to you?

THE WITNESS: No. I don’t know where it is.

CHAIRPERSON ANDERSON: But do you know why the police still have your camera system? Do you know why?

THE WITNESS: I don’t know, sir. Until now, I didn’t ask, but it’s still they have it. They didn’t have permission to take it. I told him they cannot take it, because you can talk to my lawyer, I have a lawyer before you take it. But he did not care, he
just took the DVR and left.

CHAIRPERSON ANDERSON: But do you know what they’re doing with it?

THE WITNESS: They’re trying to investigate the incident, sir.

CHAIRPERSON ANDERSON: Now, I heard Mr. Bianco had asked the question earlier, I’m not sure if you were there. About other than that no police had asked for a court order to access the system. Are you aware of that?

THE WITNESS: No, sir.

CHAIRPERSON ANDERSON: No?

THE WITNESS: I mean, I’m not aware if the MPD court order has happened.

CHAIRPERSON ANDERSON: But you’re not -- since they have taken the system, you have not freely stated that here’s the code -- here’s the code if you want to view the video, it cannot be done, that?

THE WITNESS: I did. I did give them the code. But the code was changed by the technician and I told the investigator to come and wait until he comes. I was on the speakerphone when I was talking to the camera technician and he was listening to me. He’s
like, I’m here, give me 20 minutes I’ll be there.

And he doesn’t want to wait. He took the DVR and left. I always give the video and I have been an example and the experience of giving the video to the MPD before several times. And I have evidence in my hand too that I’ve been compliant with them for the last four or five years.

CHAIRPERSON ANDERSON: All right.

I don’t have any other questions. Any other questions by any of the board members?

All right. Mr. Asim, any questions of the witness based on the questions that were asked by the Board?

MR. ASIM: Yes, Mr. Chairman, I have a few.

CHAIRPERSON ANDERSON: Sure.

RECROSS-EXAMINATION

BY MR. ASIM:

Q Mr. Asbeha, were you required under your security plan to provide footage within 48 hours?

A Yes, sir.

Q And under your security plan, were you
prohibited from having illicit substances being
used at the establishment?

A Yes, sir.

MR. ASIM: No further questions.

CHAIRPERSON ANDERSON: Mr. Bianco, any
follow-up questions based on the questions that
were asked?

MR. BIANCO: No further questions.

CHAIRPERSON ANDERSON: All right.

Thank you, Mr. Asbeha, thank you for your
testimony.

All right. Does -- Mr. Bianco, do you
have another witness?

MR. BIANCO: I do. We have two
witnesses under subpoena. I'm going to call
only one of them, Detective Philip Tridico.

CHAIRPERSON ANDERSON: Mr. --

MEMBER SHORT: Get out of here.

CHAIRPERSON ANDERSON: I'm sorry? I
don't know what I just heard. But anyway --

MR. BIANCO: It wasn't me.

CHAIRPERSON ANDERSON: All right. I
will leave it at that. We can tell whose
microphone is open from who's not. I know my
microphone is open.
Anyway, is that witness available?

MR. BIANCO: Yes, I believe so. I haven't been told otherwise.

CHAIRPERSON ANDERSON: All right. So Ms. Andrews, if the detective was -- Detective whom?

MR. BIANCO: Philip Tridico. T-R-I-D-I-C-O.

CHAIRPERSON ANDERSON: Is Detective Tridico available to be elevated?

MS. ANDREWS: Mr. Chair, he has not joined the meeting. He is not available to testify today.

CHAIRPERSON ANDERSON: Thank you. I don't know if -- is legal on the phone? I know that subpoenas, I know that I did sign two subpoenas. And I signed --

MS. JENKINS: Mr. Chairman?

CHAIRPERSON ANDERSON: Yes, Ms. Jenkins.

MS. JENKINS: Yes, this is Martha Jenkins. I can confirm that for the Board and for the parties that the subpoenas that you executed were served on the 3rd District Metropolitan Police Department and were
received by the commander, who acknowledged receipt and said that he would attempt to serve the two detectives, or the two other officers for whom the subpoenas were intended.

And I have no further communication than that.

CHAIRPERSON ANDERSON: All right.
Thank you. Mr. Lui, do you have something to add?

MR. LUI: Yes, if you unmute David Augustine. He’s actually in the same station as -- Detective Tridico is next to Captain Augustine, so if Simone could unmute and elevate David Augustine.

MS. ANDREWS: David Augustine is a panelist. He has to enable his camera and his mic. He has that capability.

CAPT. AUGUSTINE: No, I do not.

Oh, there we go. I’m trying to get my camera on. I can’t get my camera on.

All right. Just give me the opportunity. It won’t let me mute myself or otherwise or turn on the camera.

MS. ANDREWS: Okay, I’m going to make you an attendee and try to bring you back as a
panelist. Stand by.

Mr. Augustine?

CAPT. AUGUSTINE: Yes, I'm here.

MS. ANDREWS: Are you able to turn on your camera?

CAPT. AUGUSTINE: Nope. So just like earlier I had that system page and I'm here now.

CHAIRPERSON ANDERSON: I think part of the problem, I'm not quite sure if -- I'm not sure who it is that we're talking to.

So who is --

CAPT. AUGUSTINE: Mr. Chairman, it's Captain Augustine, I'm trying to -- we had trouble with our link. So Detective Tridico and Selgas aren't able to sign in. So we're trying to use my link so they can sit there and testify.

They are here. They're sitting right outside my office. I'm just trying to connect my video. It doesn't appear I have the same connections I had earlier. The buttons I had earlier where I could just turn myself on and unmute myself. I'm trying to sit there and work through that right now. I do apologize.
CHAIRPERSON ANDERSON: All right.

Okay, so all right.

CAPT. AUGUSTINE: But you can hear me, correct?

CHAIRPERSON ANDERSON: Yes, I can hear you.

CAPT. AUGUSTINE: We just need to get the camera on?

CHAIRPERSON ANDERSON: Because I don’t know who is testifying.

CAPT. AUGUSTINE: Okay.

CHAIRPERSON ANDERSON: So if, I mean, would it be -- let me ask the question. Mr. Bianco, do you need to see the detective, or if the detective --

MR. BIANCO: Yes, sir. We would like to have the detective be seen to assess his testimony by the Board and me as cross-examining --

CHAIRPERSON ANDERSON: All right. So let’s get off the record.

(Whereupon, the above-entitled matter went off the record at 2:46 p.m. and resumed at 2:49 p.m.)

CHAIRPERSON ANDERSON: We’re back on
WHEREUPON,

DETECTIVE PHILIP TRIDICO

was called as a witness by Counsel for the
Respondent and, having been first duly sworn,
was examined and testified as follows:

CHAIRPERSON ANDERSON: All right, have

a seat. Your witness, Mr. Bianco.

DIRECT EXAMINATION

BY MR. BIANCO:

Q Okay. Detective Tridico, my name is

Richard Bianco I represent Kiss Lounge in this
case and I have a few questions and hope you
can help us with your testimony here.

A I’ll do the best I can.

CHAIRPERSON ANDERSON: Can we start

with him spelling his -- can you please, sir,
state your name and spell your name for the
record, please?

THE WITNESS: I’m Detective Philip

Tridico. P-H-I-L-I-P, T-R-I-D, as in David, I-

C-O.

BY MR. BIANCO:

Q And Detective Tridico, where do you

work?
A Metropolitan Police Department,
Detectives Unit, Third District.

Q Okay. And what’s your job there?
A I’m a detective.

Q How long you been doing that?
A Police work or detective?
Q Detective.
A I think about since, like, 2015.
Q Okay.
A Been a little while.
Q How about police work. How long have you been doing that?
A 2006.
Q Okay. And are you familiar with Kiss Lounge at 637 T Street Northwest?
A I am now, yes.
Q Okay. And did you have occasion to be there on October the 7th, 2020?
A That’s correct.
Q Okay. And are you conducting an investigation into a shooting at that address?
A Yes.
Q Okay. And I don’t want to go into the specifics of the investigation. We’re not going to do that. What I want to focus on in
your testimony today is your interactions with Mr. Asbeha, my client, the owner of the establishment.

Okay? So we’re going to stick to only those facts.

A Okay.

Q How long were you there on October the 7th?

A You mean at the establishment?

Q At the establishment, correct.

A I couldn’t even give you a ballpark figure. I was there from the time we were requested to come there by the officers and then pretty much until we left. I don’t even know. It was a few hours. I would assume a few hours.

Q Okay. And do you know Eyob Asbeha, the owner of the establishment?

A I met him, yes.

Q Okay. And did you meet him for the first time on October the 7th, 2020 or did you know him before then?

A I think I have had contact with him prior to that, just requesting video in the block. But I can’t say for certain.
Q  Okay. And did you speak with him about the incident on October the 7th, 2020?

A  I just spoke to him, pretty much -- yes, I spoke to him about the incident, but there were two things I guess I asked of him.

Q  Okay. And what were those two things?

A  I asked him for consent to search the inside of the establishment, which he cooperated completely. And also I asked for the password for the video DVR or whatever that is, his recorder system.

Q  Okay. So let’s focus on that second one.

A  Okay.

Q  Did you just flat out ask him for it? What’s the passcode?

A  I think we had a conversation. I don’t think I just -- there one point in time, I said, can you give us the passcode. But I think there was a conversation in there. I don’t know exactly what our entire conversation entailed.

Q  Okay. And --

A  -- but I wasn’t the first one that asked him for the passcode.
Q  Okay. When you asked him for the passcode, how did he respond?

A  He said that he at that time was refusing not to give it to us based on an interaction that he had with another detective. He was cooperative, but he just didn’t want to give -- he had spoken to, I believe, an attorney or someone and he said that he just didn’t feel comfortable giving it at that time, because they had taken the system out of the, you know, building.

Q  Okay. So you asked him for the passcode after the DVR had been removed from the property?

A  I believe so.

Q  Okay. Did somebody else ask him for the passcode earlier?

A  I believe it was Detective Gatling. He was the other detective that was on the scene with me that day. And they had an interaction prior to me talking to -- well, I probably may have been talking to him, but I didn’t realize that that had transpired.

Q  Okay. So you didn’t witness the discussion between the owner of the
establishment and this Detective Gatling?
   A  No.
   Q  Okay.  Do you know when that took place?
   A  What took place?
   Q  The discussion between my client and Detective Gatling?
   A  I think it was soon after we got -- I got to the scene.  I don’t know exactly what time it was, sir.  I know that I was dealing with some witnesses that were possibly in the establishment at the time when we believe the offense occurred.  But I don’t know the exact time.
   Q  Okay.  Are you the detective that is in charge of this particular investigation?
   A  Currently, I’m the lead detective in the investigation, sir.
   Q  Okay.  Was there a previous lead detective in the investigation before you took it over?
   A  No.
   Q  Okay.  Did you make the decision to seize the DVR in this case?
   A  I didn’t seize the DVR, that was done
by Detective Gatling -- Detective Gatling took
the DVD from the location, from what I
understand, and then after that, we had it in
our possession, we took it to the 3rd District
and safeguarded it and it's under review of a
pending search warrant.

Q Okay. Have you ever had occasion in
the past to request video footage from my
client?

A I think I personally have. I think
that's where I met him before. I don't know
when or -- you have to realize how many cases
we have and how much video we go through. But
I think that I have met him before. I think
that's how I met him was asking video --

Q And in those --

A -- for video.

Q In those previous cases, did he
provide it in a timely manner?

A From what I can recall. I just don't
know. You know, I just get so many cases, some
people say, yes, they give me video they don't
even know. But I believe maybe he's given it
to me in the past. I just can't tell you
exactly when and where and how.
Q  Sure. As the lead detective in the
case, do you happen to know how long it took
the police to respond in this particular
instance?
A  To the location itself?
Q  Correct. Correct. To the location
itself.
A  I believe there was an officer nearby.
I believe there was an officer nearby. I don’t
know how far away he was, but he was near the
location.
Q  Okay. So do you know if it’s 30
seconds, two minutes, five minutes, 15 minutes?
Do you have any --
A  I don’t want to assume that. I know
it was quick, but I can’t give you an exact
time. You’d have to ask the officers that went
there.
MR. BIANCO:  Okay. And by the time
that -- strike that. No further questions.
Thank you.

CHAIRPERSON ANDERSON:  Mr. Asim, your
witness.

CROSS-EXAMINATION

BY MR. ASIM:
Q Detective Tridico, before today, have you received this passcode to the surveillance footage?

A No, I haven’t received the passcode. But I -- not that I’m aware of, I haven’t received the passcode. Sorry about that. Excuse me. Yes.

Q Okay. Do you know the passcode to this surveillance footage?

A Are you asking me?

Q Yes, Detective.

A No, I don’t have the -- I don’t know it. Q And MPD is currently waiting for a warrant to search the footage?

A That’s correct.

MR. ASIM: No further questions.

CHAIRPERSON ANDERSON: Any questions by any board members? All right, I have a question.

Detective, why did MPD seize the DVD?

THE WITNESS: I believe -- you’d have to ask Detective Gatling, I wasn’t in the conversation. But anytime that we have an incident and we feel that we have a vulnerability to lose the evidence, we’re going
to do everything we can to safeguard and
protect and preserve that evidence.

And at this time, he must have felt,
and I’m assuming this, that maybe we weren’t
going to get the evidence and we didn’t want it
to be lost.

CHAIRPERSON ANDERSON: So do you --
and if you don’t know the answer, just say you
don’t. Do you know whether or not there had
been a conversation with MPD and the licensee
regarding accessing the DVD? I’m trying to --
I think part of the issue that we’re having, at
least I’m having, is that did MPD ask for the
passcode and he refused to give it them, or
what? I’m just trying to find out.

THE WITNESS: I don’t know the
interaction between Detective Gatling and the
owner. But when I asked him, and this was
later after we had taken the DVD or recorder
out of the establishment, MPD had taken it out,
I went back to the owner and said, hey, I said
I understand the videos there, can we get the
passcode.

And he just told me he wasn’t
comfortable at the time providing the passcode
to the -- and he -- at first, first he said he was trying to get the passcode. And then he said he wasn’t comfortable with giving us the passcode.

CHAIRPERSON ANDERSON: So he specifically told you that he was uncomfortable providing the passcode. Is that correct?

THE WITNESS: He told, yes -- he said he had talked to his attorney and right now, because of everything that had transpired. I think that was how it was taken out of the establishment, I don’t think he felt -- I think he felt uncomfortable, and that’s what he said. He was uncomfortable with doing it and providing it right now.

CHAIRPERSON ANDERSON: And I just want for the record to clear, that is a conversation he had with you, is that correct?

THE WITNESS: Yes. He had a conversation with me that he wanted to get -- he was talking to his attorney or whatever at the same time or on text or whatever, and I said, hey, sir -- because I had a consent to search form. And I said can we do this, you know, to search the laptop and he’s like, after
everything that happened here, I’m
uncomfortable with providing you that.

But I don’t even know if he still -- I
don’t even know if he had it, because he was
still working on trying to get the password
when I earlier talked to him.

CHAIRPERSON ANDERSON: All right. All
right. I don’t have any other questions. Any
other questions by any of board members?

All right. Mr. Asim, do you have any
questions of the witness, based on the
questions that were asked by the Board?

MR. ASIM: I do not.

CHAIRPERSON ANDERSON: Mr. Bianco?

MR. BIANCO: No, sir.

CHAIRPERSON ANDERSON: All right.

Detective, thank you very much for your
testimony. Please do not discuss the nature of
the case, at least this aspect of the case with
anyone until this case is over. So thank you
very much, sir, for your testimony.

THE WITNESS: Thank you gentlemen, I
appreciate it.

CHAIRPERSON ANDERSON: All right then,

thank you.
THE WITNESS: Do you want me to send
the other officer in?

CHAIRPERSON ANDERSON: I don’t -- no,
I don’t believe that Mr. Bianco -- Mr. Bianco
is not calling him as a witness, that’s my
understanding. Is that correct?

MR. BIANCO: That’s correct, Chairman.

CHAIRPERSON ANDERSON: Thank you. So
you can log off. Thank you very much.

THE WITNESS: Okay. Thank you.
Appreciate it, have a good day.

CHAIRPERSON ANDERSON: You too. Thank
you.

Mr. Bianco, do you have another
witness?

MR. BIANCO: I do not. The Respondent
rests.

CHAIRPERSON ANDERSON: All right. I
know that the government had introduced -- did
both parties get to introduce all the documents
that they want -- move all the documents that
they want to moved into evidence?

MR. ASIM: Yes, Mr. Chairman. The
Government introduced Exhibit 1, which is the
investigative report created by Investigator
Chairperson Anderson: And Mr. Bianco then you moved all. So your documents were just a video. So you’ve moved all your documents into evidence?

Mr. Bianco: Correct, we had six photographs that we moved into evidence.

Chairperson Anderson: Okay. Fine. All right. Closings. Government? At the same time I will tell you what it is that the Government is requesting that the Board do.

I know that we have to make a decision today, I just request at your closing, I just want the Government to make a recommendation to the Board at least what it is that we’re looking at.

I know that there was a 96-hour closure. The Board determined to keep the facility closed until this hearing. So just whatever recommendations the Government wants to make, I look forward to hearing that also.

All right. Thank you. Go ahead, sir.

Mr. Asim: Members of the Board, today the Government has proven by a preponderance of the evidence that it is more likely than not
that the establishment conducted an illegal marijuana pop-up operation on the premises and that it permitted a gun to be discharged inside.

Accordingly, the Government has met its burden under D.C. Code Section 25-826, that the establishment presents an imminent danger to the health and safety of the public and should remain summarily suspended.

You heard testimony from Captain Augustine who told you, based on his observations and knowledge, that there was a marijuana pop-up party unlawfully taking place at the establishment.

You heard from him that this is a very dangerous event to take place, and that even yesterday, he investigate a homicide relating to a marijuana pop-up party.

You heard testimony from him that there was likely a shooting inside because of the spent shell casings that were found inside the establishment and the live bullets that were found in the establishment.

Through his trainings, through his experiences with firearms, Captain Augustine
testified that when a firearm is discharged, a
spent shell casing lands close to the firearm
that was discharged.

You heard from him that the front door
of the establishment was undamaged, indicating
that whatever incident happened occurred inside
the establishment.

You heard from him that a fight or
struggle likely took place inside the
establishment because of the disarray that he
witnessed inside.

You heard that MPD attempted to
receive a passcode to view the establishment’s
video, but that the owner has not yet provided
this passcode more than three weeks later.

You heard from Captain Augustine that
no one affiliated with the establishment called
9-1-1, and you also heard that the
establishment presents a danger to the public
from these marijuana operations.

And I would like the Board to take
judicial notice of the Mayor’s orders regarding
the COVID pandemic; especially in this climate
and environment, the dangers of a marijuana
pop-up party are amplified.
You heard today from Investigator Puente, based on his observations and his knowledge, that there was a marijuana pop-up party that had been taking place at the establishment.

You heard that there was extensive damage to the windows and glass doors. You heard that ABRA did not receive video recordings of the incident from the Respondent. And that the establishment had violated its own security plan, which required them to provide the footage within 48 hours.

And furthermore, they violated the security plan by allowing for the consumption of marijuana.

Members of the Board, none of the Respondents testimony contradicts the District’s clear evidence, which shows that there was a shooting inside.

Mr. Asbeha testified that he knew his cousin was managing the establishment, and we saw from evidence from MPD and ABRA that a marijuana pop-up operation happened.

Regardless of whether Mr. Asbeha knew or approved, there was a marijuana pop-up
operation occurring in his establishment
because of his management. His management was
allowing this to take place.

And you heard testimony that it’s
possible that there was a shooting that could
have taken place inside the vestibule and not
further inside the establishment.

However, regardless of whether there
was a shooting in the vestibule or further into
the establishment, there was a shooting that
likely took place here in the establishment and
not outside.

Therefore, this establishment poses a
danger to the public. And the Government has
met its burden and asks the Board to continue
Kiss Tavern’s summary suspension under D.C.
Code Section 25-826. Thank you.

CHAIRPERSON ANDERSON: Thank you. Mr.
Bianco, the same question and what it is that
you’re asking the Board to do.

MR. BIANCO: Sure. On behalf of the
Respondent, we’re asking that the Board lift
the summary suspension.

What we’re here to decide today is
whether the establishment presents an imminent
danger to the health and welfare of the public, which cannot be cured by any corrective measures. And that’s not the case that we have here today.

It’s important to note that when the Chief of Police summarily closes an establishment, the Chief is statutorily required to base the summary closing on objective criteria, including incident reports, arrests, and reported crime within the previous 18 months and 1,000 feet of the establishment.

Here the Chief included some of these incidents in the closure notice. In the 18-month period they listed six incidents. Five of them are more than a year old. Zero of them resulted in a ABRA violation. Zero.

Of the six, only two even resulted in an investigation by ABRA of any kind. This is not the type of record which merits a finding of imminent danger, which cannot be ameliorated by presently available measures.

In the years that I’ve been doing this, it is in very rare cases that the Board actually makes that finding and indefinitely keeps an establishment closed without allowing
a reopening, even when corrective measures are necessary, and there's two that come to mind in particular.

One within the last couple of years and one a little bit older, and I think they bear mentioning. And the first one that comes to mind is in the case of Cedar Hill in Uniontown in which there was a series of events, such as concealing evidence in a stabbing, cleaning up a crime scene, and all of the misdeeds that went on culminated in the attempt to bribe an ABC official. That's a very different record than we have here.

The other one that comes to mind is a little bit older. It's from back in 2009. It's Club H2O down on the waterfront. And in that case the Board decided to summarily revoke, indefinitely suspend the establishment where two stabbings and a third violent incident all occurred within the same day. This is not the case that we have here.

This is not a case where whatever it is the Government tried to prove today would merit a summary closing to be continued indefinitely.
Although it's not the Respondent's burden to prove, we have shown that Thomas MacCoy, the security guard acted appropriately in stopping the entry of an armed gunman, who upon being rejected, took out a firearm and fired into the establishment.

I don't know where the Government gets its argument that a shooting clearly took place inside the establishment. There's no evidence of that. The only evidence is a bullet hole through the front window into the back of a couch, which was not damaged on the front side of the couch.

There's no way, there's just no way and it does not take a ballistics expert. It's just a simple matter of common sense that bullet could not have been fired from inside the establishment and broken a window in the manner that the photographs show.

There's no additional bullet damage inside and according to MPD, there were some shell casings and rounds found, which their witness testified absolutely could have been kicked, moved, or otherwise pushed further inside the establishment in the ensuing
scuffle.

The agency attempts to pin additional violations on my client with specifically the claims that the police -- that my client didn’t cooperate with MPD’s investigation and wouldn’t provide a PIN number to access certain video footage.

But you didn’t hear that from the person who my client allegedly refused it to. In fact, MPD and none of their documents or testimony was even able to identify a person who my client allegedly refused to provide a video PIN number to in this process.

What you did hear directly from my client is that he did provide it, and when it didn’t work, he offered to have the technician come down, access the video immediately. Instead of taking him up on that offer, the Detective pulled the DVR out of the wall and left with it.

Didn’t get my clients permission, and in fact, did not even tender a written request until after he had absconded with the system. This is not how this is supposed to work.

My client had previously cooperated
with MPD on video requests and there was no reason to believe in this case that he would not have done the exact same thing.

And with respect to the claim that there was a marijuana pop-up event being held at the establishment, again, zero direct evidence. Zero direct evidence based on -- MPD testified based on their training, this is what these things look like.

No transactions, no individuals in the establishment at all at the time of the walk through and merely some remnants of marijuana or marijuana products. Both of which are illegal for individuals to carry, whether they’re in ABC establishments or not.

At the end of the day, the Board has a very difficult calendar today. There are a number of, dozens in fact, cases where establishments are closing and the industry, as a whole, is dying right in front of our eyes. Nobody’s helping, and it’s really sad.

And even though you can’t do anything about the establishments that can’t pay their bills, or renew their licenses, or make it work anymore, you can do something here.
You don’t need to close this establishment and put another dozen people out of work. Even if you believe my client did something wrong here, even if you believe that, you’re not required to close him forever. You’re not required to put these people out of work. You merely have to find some corrective measure that’s appropriate to allow him to reopen, to allow his employees to make money, to allow him to feed his family. And that’s what we ask that you do. Thank you.

CHAIRPERSON ANDERSON: All right. Thank you, Mr. Bianco. Thank you, Mr. Asim for your presentation. As you aware this is a summary suspension hearing and so the Board will have to make a decision today and we will make this decision. All right.

As Chairperson of the Alcohol Beverage Control Board for the District of Columbia, in accordance with D.C. Official Code Section 2-574(B) of the Open Meetings Act, I move that ABC Board hold a closed meeting for the purpose of seeking legal advice from our counsel on case number 20CMP00110 and 20CMP00110A Kiss Tavern, pursuant to D.C. Official Code Section
2-574(B)(4) of Open Meetings Act and deliberate
upon case number 20CMP00110 and 20CMP00110A
Kiss Tavern for the reasons cited in D.C.
Official Code Section 2-574(B)(13) after Open
Meetings Act. Is there a second?

MEMBER SHORT: Mr. Short, I second.

CHAIRPERSON ANDERSON: Mr. Short has
second the motion. We will now have a roll
call both on the motion that has been properly
seconded by Mr. Short.

Mr. Short?

MEMBER SHORT: Mr. Short, I agree.

CHAIRPERSON ANDERSON: Mr. Cato?

MEMBER CATO: Cato, I agree.

CHAIRPERSON ANDERSON: Ms. Wahabzadah?

MEMBER WAHABZADAH: Wahabzadah, I
agree.

CHAIRPERSON ANDERSON: Ms. Crockett?

MEMBER CROCKETT: Rafi Crockett, I
agree.

CHAIRPERSON ANDERSON: Ms. Hansen?

MEMBER HANSEN: Jeni Hansen, I agree.

CHAIRPERSON ANDERSON: And Mr.
Anderson, I agree. As it appears the motion
has passed 6-0-0 I give notice that the ABC
Board will recess these proceedings to hold a closed meeting in the ABC Board conference room pursuant to Section 2-574B of the Open Meetings Act.

It is 3:19 p.m. I would say give us about half an hour. So I would say 3:50 -- let's try to get back on the record at 3:50. If we need more than, if need more time than 3:50, I will notify you that we need more time, but we will -- you know what, let's reconvene at 4:00.

I believe that should give the Board enough time to make a decision. I don't want to make a rushed decision and I still want to give you some idea of how long you should wait. So I will try my best that we can make a decision by 4:00.

If we need more time than that, I will send notice to let you know how much more time, but say 4:00. So we will recess to adjourn at 4:00. And so the Board now will go and exit into session and I would say do not logoff but you can go get yourself some coffee knowing that at least by 4:00 we'll come back. Okay?

All right. Thank you.
(Whereupon, the above-entitled matter went off the record at 3:20 p.m. and resumed at 4:05 p.m.)

CHAIRPERSON ANDERSON: All right.

We’re back on the record. Mr. Bianco, is your client with you?

MR. BIANCO: Yes.

CHAIRPERSON ANDERSON: All right.

We’re back on the record. All right, we’re back on the record for the summary suspension hearing for Kiss Tavern, case number 20CMP00110 and case number 20CMP00110A.

As you know this is a summary suspension hearing. When we have our suspension hearing, we issue a decision and the Board, by law we have three days to issue a written decision.

And so what the recommendation that I’m going to make to the Board in this matter is that we’re going to order that the establishment provide us with an updated security plan. The written order will specify what needs to be provided in the security plan.

The establishment will not be able to reopen until this updated security plan has
been provided to the agency and the agency has approved of the security plan. And once the agency has approved the security plan, then the establishment can be reopened.

So that’s my motion. The motion to the Board is that the licensee be ordered to provide us an updated security plan. There is no timeline when the security plan it needs to be provided to the agency.

But in the written decision that the Board will provide -- will provide the licensee with what this security plan needs to consist of, and also that the establishment will not be able to reopen until the agency has signed off on this security plan.

Is there a second?

MEMBER SHORT: Mr. Short, I.

CHAIRPERSON ANDERSON: Mr. Short has second the motion. I will now take a roll call vote on the motion that has been second by Mr. Short.

Mr. Short?

MEMBER SHORT: Mr. Short, I.

CHAIRPERSON ANDERSON: Mr. Cato?

MEMBER CATO: Bobby Cato, I agree.
CHAIRPERSON ANDERSON: Ms. Wahabzadah?

MEMBER WAHABZADAH: Rema Wahabzadah, I agree.

CHAIRPERSON ANDERSON: Ms. Crockett?

MEMBER CROCKETT: Rafi Crockett, I agree.

CHAIRPERSON ANDERSON: Ms. Hansen?

MEMBER HANSEN: Jeni Hansen, I agree.

CHAIRPERSON ANDERSON: And Mr. Anderson? I agree. The matter passes 6-0-0.

I would like to thank both parties for their presentation today. And as this is the first hearing -- this is the first full hearing, or is it? I believe this is -- yes, this is the first full hearing that we’ve had since COVID, and it has worked out well with just some minor technical issues.

So I want to thank the parties for cooperating and that the technology allows us to do this. So you will get a written decision within three days that will have the specific guidance that’s required to be in the security plan.

All right? Thank you very much.

MR. BIANCO: Thank you very much.
MR. ASIM: Thank you.

CHAIRPERSON ANDERSON: All right then.

Bye. Take care.

MR. BIANCO: Thank you.

(Whereupon, the above-entitled matter went off the record at 4:09 p.m.)
CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Kiss Tavern

Before: DCABRA

Date: 10-28-20

Place: teleconference

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

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Court Reporter