

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
: :
Rajaji, Inc. t/a :
Rajaji Curry House : Show
2603 Connecticut Ave., NW : Cause
Retailer CR - ANC-3C : Hearing
License No. 70945 :
Case #12-CMP-00648 :
: :
(Failed to Post in a :
Conspicuous Place the Name :
of the Licensee, License :
Class and License Number, :
Failed to Post License in a :
Conspicuous Place, Failed to :
Have Warning Sign Posted, :
Failed to Post Minimum Age :
Required for Purchase of an :
Alcoholic Beverage) :
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October 30, 2013
The Alcoholic Beverage Control
Board met in the Alcoholic Beverage Control
Hearing Room, Reeves Building, 2000 14th
Street, N.W., Suite 400S, Washington, D.C.

20009, Chairperson Ruthanne Miller,
presiding.

PRESENT:
RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member

MIKE SILVERSTEIN, Member
ALSO PRESENT:
WALTER ADAMS, OAG & EARL JONES, INVESTIGATOR

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

(11:09 a.m.)

CHAIRPERSON MILLER: Okay. We are back on the record with Case No. 12-CMP-00648, Rajaji Curry House, 2603 Connecticut Avenue, N.W., License No. 70945, in ANC-3C. Good morning.

MR. ARYAL: Good morning. How are you?

CHAIRPERSON MILLER: Good. How are you?

MR. ARYAL: So far pretty good.

CHAIRPERSON MILLER: Not very good, oh. I know a lot of people had trouble getting here, but so we are going to start with introducing yourself for the record.

MR. ARYAL: Yes.

CHAIRPERSON MILLER: Yes.

MR. ARYAL: Hi. Aryal Purushottam.

CHAIRPERSON MILLER: You can sit though, the mike is actually --

1 MR. ARYAL: Vice president for the
2 restaurant.

3 CHAIRPERSON MILLER: What's your
4 name?

5 MR. ARYAL: Aryal Purushottam.

6 CHAIRPERSON MILLER: Could you
7 spell your last name?

8 MR. ARYAL: A-R-Y-A-L.

9 CHAIRPERSON MILLER: Um-hum,
10 that's your last name?

11 MR. ARYAL: Yes.

12 CHAIRPERSON MILLER: Okay. Aryal.

13 MR. ARYAL: Yes.

14 CHAIRPERSON MILLER: Okay. And?

15 MR. LUITEL: My name is Vishnu
16 Luitel.

17 CHAIRPERSON MILLER: You can sit,
18 because actually the mike picks you up better
19 when you are sitting.

20 MR. LUITEL: Vishnu Luitel. I am
21 the secretary of the Rajaji Corporation.

22 CHAIRPERSON MILLER: Okay. And

1 how do you spell your last name?

2 MR. LUITEL: L-U-I-T-E-L.

3 CHAIRPERSON MILLER: Okay.

4 MR. ADAMS: Good morning, Madam
5 Chairman and Members of the Board. I'm Walter
6 Adams. I represent the District of Columbia.

7 CHAIRPERSON MILLER: Okay. This
8 is a Show Cause Hearing. Are there any
9 preliminary matters?

10 MR. ADAMS: There are no
11 preliminary matters. The -- Madam Chairman,
12 I will note that I guess the licensee is
13 Mohammad Khan. I'm not sure if either one --
14 I believe these are both officers of the
15 establishment, but I'm not sure if they are
16 the actual president of the organization.

17 CHAIRPERSON MILLER: Okay. That's
18 a good point.

19 MR. ARYAL: Mohammad Khan the
20 president is absent.

21 CHAIRPERSON MILLER: And what is
22 your position?

1 MR. ARYAL: Vice president.

2 CHAIRPERSON MILLER: Vice
3 president. So are you part owner of --

4 MR. ARYAL: Yes, I am.

5 CHAIRPERSON MILLER: What part?

6 MR. ARYAL: I'm sorry?

7 CHAIRPERSON MILLER: What
8 percentage ownership?

9 MR. ARYAL: 33.3.

10 CHAIRPERSON MILLER: Okay. And
11 why isn't Mr. Khan here?

12 MR. ARYAL: He had some doctor's
13 office -- doctor's visit.

14 CHAIRPERSON MILLER: Okay. Any
15 other preliminary matters?

16 MR. ADAMS: No other preliminary
17 matters.

18 CHAIRPERSON MILLER: Okay. So is
19 this Aryal?

20 MR. ARYAL: Yes, ma'am.

21 CHAIRPERSON MILLER: Are you --
22 and neither of you are attorneys, I gather?

1 MR. ARYAL: No.

2 CHAIRPERSON MILLER: Right. Okay.
3 Is one of you, is that you, are going to
4 basically present your case?

5 MR. ARYAL: Yes, both of us. Yes,
6 both of us.

7 CHAIRPERSON MILLER: Basically
8 you?

9 MR. ARYAL: Yes.

10 CHAIRPERSON MILLER: Are you going
11 to testify?

12 MR. ARYAL: We both can testify,
13 yes.

14 CHAIRPERSON MILLER: It's up to
15 you. I'm not --

16 MR. ARYAL: Yes, we both can
17 testify.

18 CHAIRPERSON MILLER: Okay. Have
19 you ever been to one of these hearings before?

20 MR. ARYAL: Yes, last time.

21 CHAIRPERSON MILLER: Okay. So
22 basically I just want to tell you how it goes.

1 The Government has the burden of proof. It
2 starts off that the Government will do an
3 opening statement, if he chooses, just giving
4 an overview of the case. It's optional. Then
5 you could also if you want to. It's not your
6 testimony though. It's not -- it's an
7 explanation.

8 MR. ARYAL: Uh-huh.

9 CHAIRPERSON MILLER: So it's very
10 optional. Then the Government will call his
11 witnesses and the Board and you can ask
12 questions of the witnesses. And then it will
13 be your turn and the same thing will happen.

14 MR. ARYAL: Um-hum.

15 CHAIRPERSON MILLER: And then
16 there will be a closing argument.

17 MR. ARYAL: Sure.

18 CHAIRPERSON MILLER: Okay. So if
19 you have any questions along the way, let me
20 know. And I think what I want to do is to
21 swear you both in right now quickly, because
22 what happens is sometimes in an opening

1 statement you may end up saying something, you
2 know, where your evidence may run in. So if
3 you both are testifying, I'm just going to
4 swear you both in initially right now.

5 Whereupon,

6 PURUSHOTTAM ARYAL/VISHNU LUITEL
7 was called as a witness for the licensee, and
8 having been first duly sworn, assumed the
9 witness stand and was examined and testified
10 as follows:

11 CHAIRPERSON MILLER: Okay. Do
12 you?

13 MR. LUITEL: Yes.

14 CHAIRPERSON MILLER: Yes?

15 MR. LUITEL: Yes.

16 CHAIRPERSON MILLER: Okay. All
17 right. So I think we can start then. Mr.
18 Adams?

19 MR. ADAMS: Yes, Madam Chairman.
20 Very quick on opening statement. There are
21 five charges in this case. This is really a
22 very straightforward case.

1 Madam Chairman and Members of the
2 Board, this is a case where the establishment
3 -- I don't think there is really much dispute
4 on the actual underlying facts. The
5 establishment failed to have on October 23rd
6 and October 26th posted as required by
7 District Law on the front window or front door
8 of the establishment on the -- the correct
9 window lettering that should -- all
10 restaurants are required to have at the
11 location of the establishment.

12 The evidence will show that
13 Investigator Earl Jones went to the
14 establishment on October the 23rd and
15 discussed this issue with them and observed
16 that they not only did not have the front
17 window letter, they did not have their ABC
18 license posted in a conspicuous space.

19 They failed to have their -- the
20 signs regarding the warnings for drinking
21 alcoholic beverages during pregnancy or to
22 have the sign regarding the minimum age for

1 consumption of alcohol.

2 In a time -- the evidence will
3 also show that window lettering was provided
4 to the establishment for the immediate posting
5 on the windows. However, despite the good
6 faith efforts by the Investigator Jones to
7 provide it to them, that on October 26th he
8 returned to -- you know, he returned to the
9 establishment and while outside of the
10 establishment he noticed that it still did not
11 have the temporary window lettering at the
12 establishment.

13 And as a result, he included that
14 as part of this investigation and has thus so
15 charged.

16 So more or less, based upon the
17 testimony today, the District believes that it
18 has a prima facie basis to prove all five
19 charges that are here.

20 CHAIRPERSON MILLER: Okay. Thank
21 you. So you have the option of doing a
22 similar kind of statement either now or when

1 you present your case.

2 MR. ARYAL: I'm sorry, I didn't
3 hear you.

4 CHAIRPERSON MILLER: You have an
5 option of -- it's just optional whether you
6 want to make a general statement about the
7 case now or after he has finished with his
8 case or not at all. It's not evidence. It's
9 just an explanation.

10 MR. ARYAL: I can do later.

11 CHAIRPERSON MILLER: Okay. All
12 right. You'll reserve it for later. All
13 right. Do you want to call your first witness
14 then?

15 MR. ADAMS: Yes.

16 CHAIRPERSON MILLER: Um-hum.

17 MR. ADAMS: My first and only
18 witness is Investigator Earl Jones.

19 CHAIRPERSON MILLER: Good morning.

20 INVESTIGATOR JONES: Good morning.

21 Whereupon,

22 INVESTIGATOR EARL JONES

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

5 CHAIRPERSON MILLER: Okay. Thank
6 you.

7 DIRECT EXAMINATION

8 MR. ADAMS: Good morning, sir.

9 INVESTIGATOR JONES: Good morning,
10 sir.

11 MR. ADAMS: Could you, please,
12 state your name and spell it for the record?

13 INVESTIGATOR JONES: Earl Jones.
14 First name E-A-R-L, last name J-O-N-E-S.

15 MR. ADAMS: All right. And you
16 are employed by the Alcoholic Beverage
17 Regulation Administration?

18 INVESTIGATOR JONES: Yes, sir.

19 MR. ADAMS: And your position is
20 that of an Investigator?

21 INVESTIGATOR JONES: Yes, sir.

22 MR. ADAMS: And how long have you

1 been in that position?

2 INVESTIGATOR JONES: Since
3 September of 2009.

4 MR. ADAMS: All right. And as
5 part of your position, in the past have you
6 conducted, I guess, what is considered to be
7 regulatory inspections of establishments?

8 INVESTIGATOR JONES: Yes, sir.

9 MR. ADAMS: All right. On October
10 23, 2013, were you on duty?

11 INVESTIGATOR JONES: Yes, I was.

12 MR. ADAMS: And did you have
13 occasion to be upon the premises of Rajaji
14 Curry House located at 2603 Connecticut
15 Avenue, N.W.?

16 INVESTIGATOR JONES: Yes, sir.

17 MR. ADAMS: All right. And when
18 you were -- as a result of your visit there,
19 did you conduct a full investigation?

20 INVESTIGATOR JONES: Yes. I
21 initially went there to conduct a regulatory
22 inspection of the licenses, which did uncover

1 other violations that took place. So yes, a
2 full-scale investigation did take place.

3 MR. ADAMS: As a result of the
4 investigation, did you generate any documents
5 or reports?

6 INVESTIGATOR JONES: Yes, sir.

7 MR. ADAMS: All right. I'm going
8 to show to the witness, and the establishment
9 already has a copy of this document, what is
10 marked for identification purposes as
11 District's Exhibit No. 1.

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

15 MR. ADAMS: I'll show it to the
16 witness, if there is no --

17 CHAIRPERSON MILLER: Yes.

18 MR. ADAMS: -- issues.

19 CHAIRPERSON MILLER: Do you have a
20 copy for me?

21 MR. ADAMS: Yes, we do.

22 CHAIRPERSON MILLER: Do you mind?

1 MR. ADAMS: He's got it.

2 CHAIRPERSON MILLER: That's what I
3 figured. Okay.

4 MR. ADAMS: Mr. Jones, turn to the
5 document that you have before you. Do you
6 recognize that document?

7 INVESTIGATOR JONES: Yes, sir.
8 This is the case that I wrote.

9 MR. ADAMS: Okay. And did you
10 sign that case document?

11 INVESTIGATOR JONES: Yes, sir.

12 MR. ADAMS: Is it a true and
13 accurate version of the case report that was
14 completed as a result of your investigation?

15 INVESTIGATOR JONES: Yes, sir.

16 MR. ADAMS: All right. I would
17 like to have Exhibit 1 entered or what is
18 marked for identification purposes as
19 Government's Exhibit No. 1 entered into
20 evidence.

21 CHAIRPERSON MILLER: Okay. This
22 report will be admitted as Government Exhibit

1 1. It's the Investigator's report.

2 (Whereupon, the document marked as
3 Government Exhibit 1 was received
4 in evidence.)

5 MR. ADAMS: So, Mr. Jones, on
6 October 23rd you went to the establishment.
7 When did you arrive and what did you observe
8 once you arrived?

9 INVESTIGATOR JONES: On October
10 23, 2012, it was, approximately, 4:15 when I
11 arrived at Rajaji Curry House to conduct a
12 regulatory inspection.

13 MR. ADAMS: Okay. And what did
14 you observe when you arrived?

15 INVESTIGATOR JONES: Prior to
16 entering into the establishment, I noticed
17 that the establishment did not have the proper
18 posting of its window lettering on any of the
19 exterior or interior windows, front windows or
20 front door.

21 MR. ADAMS: When you say window
22 lettering, what do you mean by window

1 lettering?

2 INVESTIGATOR JONES: Window
3 lettering is basically all of the important
4 information for the establishment that per DC
5 Code has to be posted on any -- on one of the
6 front windows or front door for the
7 establishment. It consists of the trade name,
8 consists of the ABRA license number, the
9 retail class of the establishment as well as
10 the corporation.

11 MR. ADAMS: All right. And so --
12 all right. So you say you didn't observe such
13 lettering. What happened from that point?

14 INVESTIGATOR JONES: At that
15 point, I entered the establishment and I spoke
16 with an ABC manager and I informed him -- I
17 identified myself and I informed him of the
18 reason for my visit.

19 MR. ADAMS: Okay. And once you
20 spoke with him, did you conduct an inspection
21 or what exactly occurred at that point?

22 INVESTIGATOR JONES: Well, what

1 happened at that point, I observed that the
2 establishment didn't have anything posted on
3 any of the interior walls. There was no basic
4 business license. There was no Certificate of
5 Occupancy. There was no alcohol license. And
6 then I noticed that there were no warning
7 signs, the ABRA warning signs that we have
8 with reference to individuals drinking while
9 being pregnant as well as the legal notices of
10 individuals drinking under the age of 21.

11 MR. ADAMS: All right. And now in
12 terms of the establishment, I mean is it more
13 like a club or a restaurant? I mean, how is
14 the -- what's the layout of the establishment?

15 INVESTIGATOR JONES: It's a
16 restaurant.

17 MR. ADAMS: Okay.

18 INVESTIGATOR JONES: And its more
19 of a rectangular-shape type of floor plan.
20 And again, it's not a club. It's a full-scale
21 restaurant.

22 MR. ADAMS: Now, does it have a

1 bar or anything of that sort?

2 INVESTIGATOR JONES: There is a
3 bar to the -- there is a bar area where the
4 cash register is also housed, I believe,
5 towards the back. I don't think it is a full-
6 scale bar. I think that's kind of where they
7 do their business and they may get the drinks
8 and then bring them to the tables.

9 MR. ADAMS: Is there --

10 INVESTIGATOR JONES: But it's not
11 a full-scale bar.

12 MR. ADAMS: And out of curiosity,
13 do you remember whether or not there was a
14 mirror or anything like that behind the bar or
15 just --

16 INVESTIGATOR JONES: This was a
17 year ago.

18 MR. ADAMS: All right.

19 INVESTIGATOR JONES: I don't
20 remember if there was a mirror on the wall.

21 MR. ADAMS: And what else do you
22 remember in terms of observations regarding

1 the restaurant or I guess the decorations or
2 anything like that in the restaurant?

3 INVESTIGATOR JONES: I did notice
4 that there were a couple of framed pictures
5 that were on the wall. And there may have
6 been some sort of -- well, there was some sort
7 of sign that was on the furthest back wall by
8 the kitchen that had some sort of verbiage on
9 it. I can't really remember what it was. It
10 may have been something about cigarettes. I
11 don't really remember.

12 MR. ADAMS: Okay. All right. And
13 so now you stated you spoke with -- that you
14 introduced yourself to an ABC manager. Do you
15 remember who that person was?

16 INVESTIGATOR JONES: It was a Mr.
17 -- I don't remember his name, but I want to
18 say it was a Mr. Luitel.

19 MR. ADAMS: All right.

20 INVESTIGATOR JONES: L-U-I-T-E-L.

21 MR. ADAMS: And is he here today?

22 INVESTIGATOR JONES: I believe so,

1 yes. Yes.

2 MR. ADAMS: All right. And can
3 you describe the nature of that conversation?

4 INVESTIGATOR JONES: Well, again,
5 when I identified myself, I advised him of the
6 reason that I was there and then I asked where
7 were all of the Government documentation with
8 reference to licenses that were supposed to be
9 posted on the walls.

10 He indicated that the
11 establishment had been painted. Well, the
12 inside walls had been painted 15 days prior to
13 me entering and that they were waiting for the
14 walls to dry thoroughly to apply another coat
15 and then they were going to put the licenses
16 back up.

17 MR. ADAMS: All right. And when
18 did they say that all this occurred? Again,
19 I apologize, if I missed it, but when they say
20 the painting --

21 INVESTIGATOR JONES: He said the
22 painting -- the first coat had occurred 15

1 days prior to me entering.

2 MR. ADAMS: All right. And did
3 you ask, to your recollection, then why they
4 did not or why within the 15 day period it
5 wasn't reposted, even in a temporary manner?

6 INVESTIGATOR JONES: Well, that I
7 asked, but again it was their reasoning was
8 that they didn't want to put the licenses back
9 on the wall due to wanting the paint to dry
10 thoroughly. At that point, I had asked why
11 were there other framed pictures on the wall
12 or at least the sign that was on the back
13 wall. And he really couldn't give an answer
14 to that.

15 MR. ADAMS: Okay. And now, Mr.
16 Jones, in your experience as an Investigator,
17 your personal experience, have you had like a
18 wall painted or anything of that sort?

19 INVESTIGATOR JONES: Yes.

20 MR. ADAMS: Can you tell me
21 approximately how long, in your experience,
22 has it taken for a painted wall to dry?

1 INVESTIGATOR JONES: In my
2 experience, I normally give it a day. If you
3 have time, you may give it two, but normally
4 it is -- I'll give it a 24 hour period.

5 MR. ADAMS: All right. All right.
6 So what other observations did you make on
7 that day?

8 INVESTIGATOR JONES: That was
9 pretty much it. Again, none of the licenses
10 were posted to include the BBL, the Basic
11 Business License, and the Certificate of
12 Occupancy and the -- neither the warning sign
13 nor the legal 21, the legal notice sign were
14 posted.

15 MR. ADAMS: Now, prior to leaving,
16 was there any other conversation beyond --
17 with I guess Mr. Luitel?

18 INVESTIGATOR JONES: Yes. At that
19 point, I indicated that these were all ABRA
20 violations. And I issued a citation to the
21 establishment in the amount of \$850 for the
22 posting and the carrying of licenses and no

1 window lettering as well as the not posting
2 either the under 21 or the warning sign.

3 MR. ADAMS: All right. And what
4 do you remember?

5 INVESTIGATOR JONES: I also gave
6 him a copy of the ABRA temporary window
7 lettering to affix to one of the front windows
8 or the front door prior to me leaving.

9 MR. ADAMS: To what extent was
10 there any explanation about when the temporary
11 lettering or any window lettering should be
12 affixed?

13 INVESTIGATOR JONES: Well, I
14 stated at that point it needed to be put up
15 immediately. And at that juncture, I asked
16 them to sign the citation. He refused to
17 sign. And then I exited the establishment.

18 MR. ADAMS: All right. So did you
19 have any other occasion to be upon this
20 establishment or be -- yeah, in the area or
21 vicinity of this establishment?

22 INVESTIGATOR JONES: Yes. I was

1 actually driving down Connecticut Avenue on
2 that same block on that Friday, the 26th of
3 October 2012, and I looked at the front
4 windows as well as the front door of Rajaji
5 Curry House and noticed that the temporary
6 window lettering was not posted.

7 MR. ADAMS: Okay. And what did
8 you do once you noticed that it wasn't -- that
9 the window lettering was not there?

10 INVESTIGATOR JONES: At that
11 point, I pulled over and I entered the
12 establishment and I spoke to the same ABC
13 manager and advised him that the window
14 lettering was to be posted, that we agreed
15 that the window lettering was to be posted
16 when I was there three days prior. And at
17 that point, he said okay, I'll put it up and
18 he put it up while I was there.

19 MR. ADAMS: All right. I have no
20 further questions for Investigator Jones.

21 CHAIRPERSON MILLER: Okay. So you
22 can ask him questions based on his testimony,

1 if you would like.

2 CROSS-EXAMINATION

3 MR. ARYAL: Most of the time we
4 have a problem, basically we have a problem
5 with kitchen and the dining room.

6 CHAIRPERSON MILLER: Wait. Let me
7 tell you the process. Okay. If you have a
8 question for him, you can ask.

9 MR. ARYAL: Oh, okay.

10 CHAIRPERSON MILLER: If you want
11 to give your side of the story, that's later.

12 MR. ARYAL: Do you recall what
13 time you go there on the Friday?

14 INVESTIGATOR JONES: I don't
15 recall exactly what time it was. It was in
16 the afternoon.

17 MR. ARYAL: Afternoon?

18 INVESTIGATOR JONES: Yes, sir.

19 MR. ARYAL: Okay.

20 INVESTIGATOR JONES: It was
21 between 12:00 and 3:00.

22 MR. ARYAL: Okay. But the first

1 time you go at 4:15?

2 INVESTIGATOR JONES: The first
3 time I went, it was 4:15.

4 MR. ARYAL: That's all.

5 CHAIRPERSON MILLER: Okay. All
6 right. Any Board questions? Mr. Alberti?

7 MEMBER ALBERTI: Thank you for
8 your report, Investigator Jones. A quick
9 question.

10 Did it appear to you that there
11 was -- the interior had been freshly painted?
12 Do you remember?

13 INVESTIGATOR JONES: I remember
14 what it looked like. I would say that it was,
15 because I do recall going there. I have gone
16 there on a few occasions to do regulatory
17 inspections. And I do recall that the paint
18 was either a slightly different color or it
19 may have been -- but I could tell that it had
20 been painted.

21 MEMBER ALBERTI: Okay. Did you
22 see any evidence that the project of painting

1 had not been completed? Like, you know,
2 furniture that was slightly out of place,
3 bottles against the wall that were not put
4 back or, I mean, was there anything that
5 looked like oh, they really haven't finished
6 with the paint job?

7 INVESTIGATOR JONES: That was kind
8 of something that bothered me a little bit,
9 because I didn't see any paint buckets around.
10 I didn't see any drop cloths around, masking
11 tape, all of the interior dining room
12 furniture or dining furniture was in place.

13 And as I said, there were a couple
14 of framed pictures that were on the wall as
15 well as some type of sign that was on the back
16 wall by the kitchen that I really can't
17 remember what it said, but there was some type
18 of verbiage on that sign.

19 So those things kind of bothered
20 me because if you are telling me that it's a
21 freshly painted wall, but it's 15 days prior
22 to me getting there, but you have something on

1 your wall, why can't you post your license?

2 MEMBER ALBERTI: All right. Thank
3 you.

4 INVESTIGATOR JONES: Yes, sir.

5 MEMBER ALBERTI: You have answered
6 my questions. Thank you.

7 INVESTIGATOR JONES: Yes, sir.

8 CHAIRPERSON MILLER: Any other
9 questions? Okay. I have one quick question.
10 The painting was the reason given for why
11 there weren't any licenses and signs on the
12 walls on the inside. Was there a reason given
13 for why there wasn't any lettering or other on
14 the exterior?

15 INVESTIGATOR JONES: I don't
16 recall.

17 CHAIRPERSON MILLER: Okay. Okay.
18 Any questions on Board questions? Okay.

19 MR. ADAMS: The District has no
20 further questions for the witness.

21 CHAIRPERSON MILLER: All right.
22 Thank you very much, Mr. Jones.

1 INVESTIGATOR JONES: Thank you.

2 MR. ADAMS: Thank you.

3 CHAIRPERSON MILLER: Mr. Adams, do
4 you have anything else? Any other documents?

5 MR. ADAMS: The District rests its
6 case.

7 CHAIRPERSON MILLER: Okay. All
8 right. So now it is your turn to --

9 MR. ARYAL: Should I go there or--

10 CHAIRPERSON MILLER: You can. No,
11 one at a time.

12 MR. ARYAL: One at a time?

13 CHAIRPERSON MILLER: Yes. So I
14 have already sworn you in.

15 MR. ARYAL: Okay. Sure.

16 CHAIRPERSON MILLER: I already
17 have. We did it earlier. Do you -- how do
18 you want to proceed? Do you want to make an
19 opening statement?

20 MR. ARYAL: Yes, I want to -- I
21 have --

22 CHAIRPERSON MILLER: Identify

1 yourself first for the record.

2 MR. ARYAL: Yeah. I'm Aryal.

3 CHAIRPERSON MILLER: Right. Okay.

4 DIRECT EXAMINATION

5 MR. ARYAL: President of the
6 restaurant. And I have a couple of concerns
7 regarding this ticket. The restaurant we have
8 a lot of problems with the rats on the kitchen
9 and in the dining room area also. And for
10 that, we have -- we are making all the
11 paintings and at same time patching. We have
12 the pest control people tell us we may have
13 some hole in the walls or, you know,
14 somewhere.

15 And you see those things we have
16 to patch before we can do anything, because
17 the back alley has a lot of rats in the alley
18 and we have to cover that up. And for that
19 reason, we started doing those from the
20 kitchen, we end up on the walls if the hole is
21 there, we patch the holes. Those things we
22 are doing. At the same time, we are doing in

1 the dining room also.

2 And what happened is normally the
3 way we put the -- those frame with all the
4 license and there is -- next to the bar there
5 is like a little slot just with the glass we
6 put in. And the bar has a big hole at bar
7 area. It has more holes where rats is around
8 -- the rats. And we pull that out, those
9 things. And we supposed to we patch the hole.
10 He patches the hole and the painting later.

11 Same thing with -- in the front of
12 the restaurant, so there is a big gap and like
13 how I explain it to you. This is a glass.
14 This is this space about 3 feet of space
15 between the glass and the wall where exactly
16 customers table is and there is a little bit
17 on the top there is a plywood.

18 And around that area also, the
19 people, the painting people found there is rat
20 holes where could be they come inside. And
21 they have to move that one, then make a new
22 one. For that reason also we take that --

1 what you call, the BBL and all those things
2 from the window also. That's what exactly
3 happened.

4 And everything is there. I mean,
5 we -- all the license, everything is in the
6 premise at that time also.

7 I mean, only one thing is that
8 because of the holes they are coming in the
9 nighttime, the workers coming in the nighttime
10 and all night they work on the holes and one
11 place they patch and sometime again they see
12 another place and they patch another hole like
13 that, that's the reason it took a little more
14 long time than we anticipated.

15 And the other thing is that the
16 paint bucket, those things we couldn't put
17 them in front of the restaurant. We put in
18 the back basement.

19 And the first time the gentleman/
20 inspector came when the restaurant was closed.
21 Another one when restaurant closed, they take
22 everything out that time basically and people

1 working and they go to buy the stuff to make
2 sure what they needed to have, that's what
3 happened. You know, maybe this put back at
4 that time also.

5 Second time, I don't know what
6 time he came. I have no idea, it's a year
7 back. Basically, we are trying to correct the
8 mice problem, that's what is happening, these
9 things. And we -- again, I mean, this is like
10 the closet thing where you put it. We have to
11 take out everything closet, the demolish the
12 closet and put it back again.

13 That's why license were next to
14 the bar and like this tacking around the bar
15 area, not on the wall at that time when the
16 Inspector was there. That's what I came to
17 say.

18 CHAIRPERSON MILLER: Okay. Thank
19 you. Now, Mr. Adams has an opportunity to ask
20 you some questions.

21 MR. ARYAL: Please.

22 CHAIRPERSON MILLER: Mr. Adams may

1 ask you some questions.

2 CROSS-EXAMINATION

3 MR. ADAMS: Mr. Aryal, I have a
4 couple or a few questions.

5 MR. ARYAL: Yes.

6 MR. ADAMS: All right. So all
7 right. Let me get -- before you had the
8 painting, you had the licenses near the bar
9 area. Is that correct?

10 MR. ARYAL: Exactly, exactly.

11 MR. ADAMS: Now, explain exactly.
12 Was it tacked to the wall or was it on a
13 bulletin board?

14 MR. ARYAL: It's all by the frame.

15 MR. ADAMS: Okay.

16 MR. ARYAL: It's on the wall.

17 MR. ADAMS: Okay. It's on a
18 frame. So it was a frame?

19 MR. ARYAL: Yeah.

20 MR. ADAMS: A big frame like --
21 and you have holes on the wall?

22 MR. ARYAL: Yes, sir.

1 MR. ADAMS: Okay. And so then --

2 MR. ARYAL: No, at that time, no.

3 We didn't have that big frame. Individual
4 frame.

5 MR. ADAMS: Individual frames?

6 MR. ARYAL: Individual frame like
7 this were on the wall.

8 MR. ADAMS: And it was behind the
9 bar?

10 MR. ARYAL: On the side of the
11 wall.

12 MR. ADAMS: On the side of the
13 wall.

14 MR. ARYAL: Side wall.

15 MR. ADAMS: Okay.

16 MR. ARYAL: See bar is like this.

17 And so we'll say bar is like this, like this
18 here. And the small closet is here. This top
19 of the closet.

20 MR. ADAMS: So you have a project
21 to eradicate vermin or rats?

22 MR. ARYAL: Rats, yeah.

1 MR. ADAMS: But at the same time
2 you were eradicating vermin, you were
3 painting?

4 MR. ARYAL: Yeah. We were
5 painting in that hour, twice that time. We
6 since have started exterminator said you may
7 have a hole inside. You have to patch those
8 things, so we started in kitchen.

9 MR. ADAMS: Okay. So you didn't
10 do the extermination first. You did it both
11 at the same time?

12 MR. ARYAL: Same time.

13 MR. ADAMS: Okay.

14 MR. ARYAL: What the exterminator
15 said we do at the same time, simultaneously.

16 MR. ADAMS: Okay.

17 MR. ARYAL: Each time we patch the
18 hole, then we paint later.

19 MR. ADAMS: Now, you -- were you
20 there for the conversation with --

21 MR. ARYAL: No, sir.

22 MR. ADAMS: -- the Inspector?

1 Okay. So --

2 MR. ARYAL: He is not there
3 either. I think his other brother works like
4 -- he is Luitel. And maybe he computed that
5 maybe because of me.

6 MR. ADAMS: All right. Okay. But
7 -- well, that's neither here nor there. That
8 adds a whole other dimension. But you -- but
9 to your knowledge --

10 MR. ARYAL: Yes, sir.

11 MR. ADAMS: -- a coat of paint was
12 applied and when the Inspector -- when you
13 heard of the Inspector coming, it was about
14 two weeks later that he came. Is that
15 correct?

16 MR. ARYAL: No, sir. We doing the
17 painting and patching same time. So one time
18 -- there is a lot of rats out there. That's
19 why they make a hole one place and again other
20 side hole you see. That's why we --

21 MR. ADAMS: Okay.

22 MR. ARYAL: -- the process is

1 about two, three -- it takes about a month to
2 patch all the holes, to patch the holes and
3 painting.

4 MR. ADAMS: Okay. So in other
5 words --

6 MR. ARYAL: Couldn't put it in the
7 kitchen.

8 MR. ADAMS: So let me ask you
9 this. So when you did this project, did you
10 have one day that you did all the painting?

11 MR. ARYAL: No.

12 MR. ADAMS: No. So basically --
13 so the process according to you, if I'm
14 understanding this, it's kind of hard for me
15 to understand this, but what you are saying is
16 that -- who did you hire? Did you hire a
17 painter or exterminator?

18 MR. ARYAL: Both.

19 MR. ADAMS: Both.

20 MR. ARYAL: Yes, sir. Restaurant
21 exterminator and the painters I have other
22 one.

1 MR. ADAMS: Okay. So what you are
2 saying this process, you are going through
3 each segment and saying okay, there is a hole,
4 we will patch it and then we will paint it?

5 MR. ARYAL: No.

6 MR. ADAMS: I'm not understanding.

7 MR. ARYAL: Really what we do is
8 normally there is a lot of stops, so we cannot
9 put all on the sofa, on the benches at one
10 time. We cannot -- nobody can do that.

11 We have the -- we will do one
12 side, patch it there and move back that one.
13 Again, next day maybe pull other side and do
14 that. Otherwise, we have no space to move
15 everything out and patch in the same day.

16 MR. ADAMS: Now, according to the
17 testimony, Mr. Jones told that the area that
18 was painted -- that usually has the license
19 was painted two weeks prior to him being
20 there.

21 MR. ARYAL: Um-hum.

22 MR. ADAMS: So the time that he

1 was there, October 23rd, the area that
2 normally had the license, that area had been
3 painted, correct?

4 MR. ARYAL: That area had been
5 painted, but --

6 MR. ADAMS: Correct.

7 MR. ARYAL: -- I think they had a
8 lot of holes. The holes, I mean, rat holes
9 that was patched and waiting to dry. The
10 concrete and other -- I don't know what they
11 put, the different kind of thing.

12 MR. ADAMS: Right.

13 MR. ARYAL: And they waiting for
14 that and they have to come to do those things.
15 We waiting for that.

16 MR. ADAMS: All right. So in the
17 interim --

18 MR. ARYAL: Um-hum.

19 MR. ADAMS: -- now you are aware
20 of things such as bulletin boards? You know
21 what a bulletin board is or do you know what
22 I'm talking about, a bulletin board?

1 MR. ARYAL: Um-hum.

2 MR. ADAMS: So you could have --

3 MR. ARYAL: I could have that one,
4 I realize that.

5 MR. ADAMS: Right. But you --

6 MR. ARYAL: I did not.

7 MR. ADAMS: That was not done.

8 MR. ARYAL: I don't have. I have
9 everything. Actually, I have all the license,
10 so I have it with me. It's a temporary until
11 the rat problem is there.

12 MR. ADAMS: Right.

13 MR. ARYAL: And the painting is
14 there, that's why I put everything --

15 MR. ADAMS: So that period you are
16 saying that you had it upstairs in the office
17 or something like that?

18 MR. ARYAL: Often --

19 MR. ADAMS: Where did you have
20 your license while this was going on?

21 MR. ARYAL: License right there on
22 the bar.

1 MR. ADAMS: Okay.

2 MR. ARYAL: On the bar.

3 MR. ADAMS: No, no, but when the
4 license were -- during the painting project,
5 where were the licenses?

6 MR. ARYAL: Right on the bar.

7 MR. ADAMS: They are on the bar?

8 MR. ARYAL: On the bar. On the
9 bar, beside of the bar. Beside the -- on the
10 connection to the cash register our license on
11 there.

12 MR. ADAMS: On October 23, 2012,
13 it was observed that -- no licenses were
14 observed.

15 MR. ARYAL: 23rd?

16 MR. ADAMS: Of 2012.

17 MR. ARYAL: No, license observed?

18 MR. ADAMS: No licenses were
19 observed. During the painting and vermin
20 cleaning process, where --

21 MR. ARYAL: The licenses were
22 there, sir. The licenses were there on the

1 bar, yes.

2 MR. ADAMS: Were they on top of
3 the bar or were they for display?

4 MR. ARYAL: On the -- not on the--
5 on the floor.

6 MR. ADAMS: They are on the floor?

7 MR. ARYAL: On the floor. Like
8 this is the bar, right? This is the bar,
9 customer bar. This is the back of the bar.
10 And the back of the bar where the liquors are,
11 next to liquors there is a cash register.
12 Next to the cash register there is license.

13 MR. ADAMS: So it was laying down
14 there?

15 MR. ARYAL: Yes, sir.

16 MR. ADAMS: Okay. Very well.

17 MR. ARYAL: That's where it is,
18 sir.

19 MR. ADAMS: All right. So now
20 getting to the window lettering, the window
21 lettering, obviously, is -- now, you are
22 claiming that there was -- I was trying --

1 it's kind of unclear what your testimony was.

2 MR. ARYAL: Yes.

3 MR. ADAMS: You are claiming that
4 there was plywood --

5 MR. ARYAL: Yes, sir.

6 MR. ADAMS: -- at the window?

7 MR. ARYAL: Yeah, yes, sir. The
8 space between the glass window and the
9 customer's table, there is about 3 feet 2.5 or
10 3 feet, there is the plywood and a little lift
11 gate from the floor.

12 MR. ADAMS: So the window
13 lettering normally is on the actual window.
14 Is that correct?

15 MR. ARYAL: Exactly. Normally, we
16 used to put on the base. If this is the
17 window, this is the base. This is glass.
18 Normally, we would put right hand side corner
19 and so like this.

20 MR. ADAMS: So you didn't have
21 your window lettering actually taped to the
22 window? It was, you know, on a frame?

1 MR. ARYAL: No, not on a frame.

2 MR. ADAMS: Well, where was it?

3 MR. ARYAL: We did like this one,
4 but that time maybe contractor when taking out
5 the plywood thing, they took it out at that
6 time.

7 MR. ADAMS: Okay.

8 MR. ARYAL: Temporarily.

9 MR. ADAMS: All right. So
10 basically, someone --

11 MR. ARYAL: That might be the--

12 MR. ADAMS: Okay.

13 MR. ARYAL: -- particular time.

14 MR. ADAMS: All right.

15 MR. ARYAL: It was there.

16 MR. ADAMS: Okay. I have no
17 further questions.

18 CHAIRPERSON MILLER: Okay. Are
19 there Board questions? Mr. Alberti?

20 MEMBER ALBERTI: Hi, Mr. Aryal.

21 MR. ARYAL: Yes, sir.

22 MEMBER ALBERTI: I'm trying to

1 understand the painting project, so please
2 help me out. So before you undertook the
3 project --

4 MR. ARYAL: Uh-huh.

5 MEMBER ALBERTI: -- where was the
6 -- on what wall was the license posted?

7 MR. ARYAL: It --

8 MEMBER ALBERTI: Was it -- well,
9 wait. Was the license posted on a wall before
10 you undertook the painting project?

11 MR. ARYAL: Next to the bar.

12 MEMBER ALBERTI: What's that mean
13 next to the bar?

14 MR. ARYAL: It post --

15 MEMBER ALBERTI: If you are
16 standing at the bar --

17 MR. ARYAL: Uh-huh.

18 MEMBER ALBERTI: -- where would it
19 have been behind the bar?

20 MR. ARYAL: Let me -- I can go
21 through all this later.

22 MEMBER ALBERTI: Okay.

1 MR. ARYAL: This is the whole area
2 of the bar.

3 MEMBER ALBERTI: Right.

4 MR. ARYAL: Like the seating.
5 This is the bar.

6 MEMBER ALBERTI: Right.

7 MR. ARYAL: And this is the cash
8 register here.

9 MEMBER ALBERTI: Right.

10 MR. ARYAL: And this was standing
11 here and this wall and some of this is little
12 small closet.

13 MEMBER ALBERTI: Right.

14 MR. ARYAL: Here on top of closet.

15 MEMBER ALBERTI: Okay. Okay. On
16 top of the closet.

17 MR. ARYAL: However, we figure out
18 the closet has a lot of holes inside, the
19 small tiny ones where we used to put the
20 stereo. And it has the holes, like rat holes.
21 That's why we need to take the -- all the
22 holes has to be taken out. At that time, they

1 took it -- these things out, the license out.

2 MEMBER ALBERTI: Okay. Okay. So
3 they took it all out and then they painted?

4 MR. ARYAL: Yeah. Painted and the
5 -- put the board again, new board and put back
6 where it was.

7 MEMBER ALBERTI: Okay. And so
8 that was done before the Inspector came in?
9 Is that correct?

10 MR. ARYAL: Yeah. We are doing
11 that process when he was there.

12 MEMBER ALBERTI: Okay. So they
13 took that wall out?

14 MR. ARYAL: No, they didn't take a
15 wall out.

16 MEMBER ALBERTI: They took out
17 what?

18 MR. ARYAL: The small closet like
19 a closet or stereo, area for the stereo.

20 MEMBER ALBERTI: What?

21 MR. ARYAL: They took all of the
22 wood out and put the concrete there and put

1 the wood back.

2 MEMBER ALBERTI: Okay. And then
3 they painted? Did they paint?

4 MR. ARYAL: Yes, sir.

5 MEMBER ALBERTI: All right. And
6 was that painting done before the Inspector
7 got there?

8 MR. ARYAL: Before the Inspector
9 come? Yes, sir. Maybe, yes, yes.

10 MEMBER ALBERTI: Okay. So there
11 were no more holes on that wall then, right?

12 MR. ARYAL: But there is a whole--

13 MEMBER ALBERTI: There were no
14 more holes in the cabinet?

15 MR. ARYAL: In the wall, no, but
16 they discovered a hole underneath and around
17 the area also. Probably we say okay, we --

18 MEMBER ALBERTI: Where did they
19 discover the hole on that wall?

20 MR. ARYAL: On the bottom of the
21 wall.

22 MEMBER ALBERTI: On the bottom of

1 the wall?

2 MR. ARYAL: The back of the rear
3 entrance area.

4 MEMBER ALBERTI: Okay. And they
5 discovered that after they painted?

6 MR. ARYAL: Yes, sir. And we
7 don't want to mess up the license glass,
8 that's why we put it -- okay, put it here
9 until we finish those things.

10 MEMBER ALBERTI: All right. How
11 far down did you discover the hole? Sort of
12 at the base of the wall by the floor?

13 MR. ARYAL: Base, yes, base of the
14 wall.

15 MEMBER ALBERTI: By the floor?

16 MR. ARYAL: By the floor, yes.
17 And we had our exterminator.

18 MEMBER ALBERTI: Okay. And had
19 that been patched --

20 MR. ARYAL: Yes, sir.

21 MEMBER ALBERTI: -- at the time
22 the Inspector --

1 MR. ARYAL: That had been patched
2 also, yes, sir.

3 MEMBER ALBERTI: Had it been
4 painted?

5 MR. ARYAL: Yes, sir.

6 MEMBER ALBERTI: It was?

7 MR. ARYAL: It was not painted at
8 that time.

9 MEMBER ALBERTI: Well, when the
10 Inspector came in, was it patched?

11 MR. ARYAL: Upper one it's done.

12 MEMBER ALBERTI: No, no, the hole
13 in the floor.

14 MR. ARYAL: The bottom one, no.

15 MEMBER ALBERTI: We already
16 established -- we already -- I know as you --
17 what you testified to was at the time the
18 inspector came in, the closet was completed.

19 MR. ARYAL: Yes, closet was
20 completed.

21 MEMBER ALBERTI: And the wall
22 above that was completed.

1 MR. ARYAL: The bottom wall --

2 MEMBER ALBERTI: Wait, wait, wait.

3 And then after that was completed, you

4 discovered a hole in the wall --

5 MR. ARYAL: Yes, sir.

6 MEMBER ALBERTI: -- down by the
7 floor?

8 MR. ARYAL: Yes, sir.

9 MEMBER ALBERTI: My question was
10 was that patched when the Inspector came in?

11 MR. ARYAL: Back of wall, no.

12 MEMBER ALBERTI: No, it wasn't?

13 MR. ARYAL: It was not, sir.

14 MEMBER ALBERTI: It was not
15 patched?

16 MR. ARYAL: It was not patched.

17 MEMBER ALBERTI: Okay.

18 MR. ARYAL: That one later on the
19 exterminator figured out that that may be the
20 hole he goes out and we need to pull that
21 thing again.

22 MEMBER ALBERTI: Pull what things

1 again?

2 MR. ARYAL: The refrigerator.
3 Exterminator figured it out those holes.

4 MEMBER ALBERTI: But the
5 refrigerator is not on that wall, right?

6 MR. ARYAL: This wall, no. This
7 wall.

8 MEMBER ALBERTI: Okay.

9 MR. ARYAL: And underneath the
10 bar.

11 MEMBER ALBERTI: All right. So
12 was your intent to repaint the entire interior
13 again?

14 MR. ARYAL: Later, yes, sir. We
15 not intended at the beginning. Later when we
16 see a lot of holes around area, we --

17 MEMBER ALBERTI: No, no. I mean,
18 you painted it once, right?

19 MR. ARYAL: Yes.

20 MEMBER ALBERTI: You painted --

21 MR. ARYAL: We painted it, yes,
22 sir.

1 MEMBER ALBERTI: -- did you paint
2 the entire interior?

3 MR. ARYAL: Yes, sir. Yes, sir.

4 MEMBER ALBERTI: Okay. Did you
5 paint the entire interior before the Inspector
6 arrived?

7 MR. ARYAL: Yes. First time we
8 paint it.

9 MEMBER ALBERTI: Okay.

10 MR. ARYAL: Yes, sir.

11 MEMBER ALBERTI: Then you
12 discovered --

13 MR. ARYAL: At that time we -- the
14 painter said there is a lot of holes.

15 MEMBER ALBERTI: All right. So he
16 said there is a lot of holes.

17 MR. ARYAL: Yeah. And we have to
18 go one-by-one, that's why. And in the
19 meantime we have exterminator also. He said
20 there is a lot of --

21 MEMBER ALBERTI: So your intent --
22 so you intended to repaint the entire interior

1 after those holes by the floor were --

2 MR. ARYAL: Yes, sir.

3 MEMBER ALBERTI: Because -- all
4 right.

5 MEMBER SILVERSTEIN: Why?

6 MEMBER ALBERTI: All right. So
7 after you painted the entire interior once,
8 you discovered rat holes down by the floor.
9 Is that correct?

10 MR. ARYAL: Yes, sir. Yes, sir.
11 Yes, sir.

12 MEMBER ALBERTI: Okay.

13 MR. ARYAL: Because we had a
14 problem with rats.

15 MEMBER ALBERTI: All right. So
16 your intent was to paint the entire interior
17 again?

18 MR. ARYAL: Yes. Not -- they
19 patch it later. No, not entire.

20 MEMBER ALBERTI: oh, okay. Great.
21 Thank you. I have no further questions.

22 CHAIRPERSON MILLER: Other Board

1 questions? I just have a couple.

2 MR. ARYAL: Please, ma'am.

3 CHAIRPERSON MILLER: Were you
4 cited by the District of Columbia Government
5 for having rats in your establishment?

6 MR. ARYAL: Yes, ma'am, one time,
7 yes.

8 CHAIRPERSON MILLER: You were. So
9 were you closed during --

10 MR. ARYAL: Yes, ma'am.

11 CHAIRPERSON MILLER: -- part of
12 this time?

13 MR. ARYAL: Yes, ma'am.

14 CHAIRPERSON MILLER: Were you
15 closed when the ABRA Inspector came to
16 inspect? I mean, were you closed to the
17 public?

18 MR. ARYAL: We were closed. I
19 don't know the exact date, but we was closed
20 to the public then.

21 CHAIRPERSON MILLER: How long were
22 you closed to the public?

1 MR. ARYAL: How long? Two days.

2 MR. ADAMS: I object to -- from
3 consulting.

4 CHAIRPERSON MILLER: Oh, I'm
5 sorry. I didn't see that. You cannot coach.

6 MR. LUITEL: Okay.

7 CHAIRPERSON MILLER: You cannot.
8 You will have a chance to testify.

9 MR. ARYAL: I don't know exactly
10 what date, but we closed a couple of days.

11 CHAIRPERSON MILLER: A couple of
12 days.

13 MR. ARYAL: Yes.

14 CHAIRPERSON MILLER: How long were
15 the licenses off the walls? Do you know?

16 MR. ARYAL: I'm sorry?

17 CHAIRPERSON MILLER: How long were
18 the licenses off the walls?

19 MR. ARYAL: I can't remember.
20 Maybe a week or so. A week, a week and a
21 half, something like that.

22 CHAIRPERSON MILLER: Did that --

1 was that some of the time that you were closed
2 to the public?

3 MR. ARYAL: I'm sorry?

4 CHAIRPERSON MILLER: Were you
5 closed to the public during some of that time?

6 MR. ARYAL: When the license was
7 not there? No, ma'am.

8 CHAIRPERSON MILLER: No. Okay.
9 So that didn't --

10 MR. ARYAL: It was on the bar
11 during that time. Nighttime days to work.

12 CHAIRPERSON MILLER: Okay. I
13 thought that I heard you say that the licenses
14 were in the closet?

15 MR. ARYAL: Not in the closet.
16 Basically, there is like a place for where we
17 slide the radio, that place has the license.

18 CHAIRPERSON MILLER: Okay.

19 MR. ARYAL: Nothing like a closet
20 closet. It's like a little hole where you put
21 the --

22 CHAIRPERSON MILLER: Okay. It's

1 open. So when Mr. Jones came to inspect, did
2 you show him the licenses, where they were?

3 MR. ARYAL: I was not there.

4 CHAIRPERSON MILLER: Oh, you were
5 not there. Were you there the second time or
6 neither time?

7 MR. ARYAL: No, I wasn't there
8 either.

9 CHAIRPERSON MILLER: Oh, who was
10 there?

11 MR. ARYAL: Vishnu Luitel.

12 CHAIRPERSON MILLER: I'm sorry?

13 MR. ARYAL: Vishnu Hari Luitel.

14 CHAIRPERSON MILLER: And who is
15 that? What kind of --

16 MR. ARYAL: The manager.

17 CHAIRPERSON MILLER: Manager.
18 Okay. So okay, I'm almost done. Did you say
19 the licenses were off the wall for about a
20 week or so?

21 MR. ARYAL: Yes, ma'am.

22 CHAIRPERSON MILLER: Okay. The

1 painting and that patching --

2 MR. ARYAL: Yes, ma'am.

3 CHAIRPERSON MILLER: -- to -- how
4 long did that take?

5 MR. ARYAL: A week to 10 days,
6 something like that.

7 CHAIRPERSON MILLER: Okay. So --

8 MR. ARYAL: I don't recall exactly
9 how long that take -- did that take. Almost
10 a year now.

11 CHAIRPERSON MILLER: Did your
12 manager tell you that Mr. Jones had visited?

13 MR. ARYAL: Yeah, he told me.

14 CHAIRPERSON MILLER: Okay. And
15 did he tell you anything about putting the
16 signs back up on the wall?

17 MR. ARYAL: Yes.

18 CHAIRPERSON MILLER: Okay. And I
19 believe Mr. Jones testified that three days
20 later or so when he came back --

21 MR. ARYAL: Yeah. That time the
22 front of the wall, plywood, those things they

1 have been changing that, that's why he took it
2 off mainly.

3 CHAIRPERSON MILLER: So the signs
4 weren't on the walls because of the --

5 MR. ARYAL: The signs were on the
6 wall, I think, at that time, but the thing is
7 that what you call the BBL and like the window
8 decal, that was not there.

9 CHAIRPERSON MILLER: The window
10 lettering?

11 MR. ARYAL: Yeah.

12 CHAIRPERSON MILLER: Okay. Okay.
13 Any others?

14 MEMBER ALBERTI: Just real quick.

15 CHAIRPERSON MILLER: Yes.

16 MEMBER ALBERTI: Above the plywood
17 is -- you have got this wall next to the
18 customers that's plywood on the lower half.
19 What's above that?

20 MR. ARYAL: Above that is ceiling.

21 MEMBER ALBERTI: No, no. Okay.
22 See where the plywood is, all right?

1 MR. ARYAL: Yeah, next to the
2 glass, yeah.

3 MEMBER ALBERTI: Next to the
4 glass.

5 MR. ARYAL: Yeah.

6 MEMBER ALBERTI: How high is that?

7 MR. ARYAL: About 3 feet high.

8 MEMBER ALBERTI: And what's above
9 it?

10 MR. ARYAL: Above it is -- this is
11 nothing. We put like cloth.

12 MEMBER ALBERTI: So that's inside?

13 MR. ARYAL: Inside, yes, sir.

14 MEMBER ALBERTI: Oh, okay.

15 MR. ARYAL: We put the clothing
16 like that and then --

17 MEMBER ALBERTI: And so right at
18 the front entrance there's glass?

19 MR. ARYAL: Yes, sir. This side
20 of the entrance is glass.

21 MEMBER ALBERTI: Right at the
22 front entrance when I walk in --

1 MR. ARYAL: Um-hum.

2 MEMBER ALBERTI: -- the door is
3 glass?

4 MR. ARYAL: Yes, sir.

5 MEMBER ALBERTI: And --

6 MR. ARYAL: The main frame door
7 doesn't have glass. The second door is glass
8 door.

9 MEMBER ALBERTI: The second door
10 is glass door?

11 MR. ARYAL: Half glass, yes, sir.

12 MEMBER ALBERTI: Outside, what's
13 that door like?

14 MR. ARYAL: On this side, that's
15 like a little alley to enter. And this side
16 is a big glass.

17 MEMBER ALBERTI: Okay. You have a
18 glass door, right? It's a glass door?

19 MR. ARYAL: Glass door and another
20 glass door, sir.

21 MEMBER ALBERTI: Okay. So the
22 first door I enter is not a glass door?

1 MR. ARYAL: No, sir.

2 MEMBER ALBERTI: But when I come
3 in, I come into -- what do I enter into?

4 MR. ARYAL: Like a small corridor.

5 MEMBER ALBERTI: Okay. A
6 corridor. Okay. And then so the second door
7 is --

8 MR. ARYAL: The second door is a
9 glass door, sir.

10 MEMBER ALBERTI: Glass door?

11 MR. ARYAL: Yes, sir.

12 MEMBER ALBERTI: All right. What
13 is on either side of that glass door?

14 MR. ARYAL: Nothing.

15 MEMBER ALBERTI: Well, is it wall,
16 is it glass?

17 MR. ARYAL: Oh, this side of the
18 wall, I'm sorry, is beside the wall also.

19 MEMBER ALBERTI: Okay. All right.

20 MR. ARYAL: This side is made of
21 glass and this side --

22 MEMBER ALBERTI: Okay. What is on

1 the glass door? Is it just completely empty?

2 MR. ARYAL: No, sir. The glass
3 door is like a small piece of glasses, like a
4 French door or a French door.

5 MEMBER ALBERTI: Okay. So where
6 did you -- before the Inspector came, weeks
7 before the Inspector came, did you have the
8 window lettering posted?

9 MR. ARYAL: Yes.

10 MEMBER ALBERTI: Where was it
11 posted?

12 MR. ARYAL: On the window, sir.

13 MEMBER ALBERTI: On the window?
14 On what window?

15 MR. ARYAL: On the main window.
16 This is the door corridor and after the
17 corridor it comes like this and this is a big
18 glass window on this side. We putting them on
19 here.

20 MEMBER ALBERTI: Oh, a big glass
21 window that looks into the restaurant?

22 MR. ARYAL: Yes, yes, sir.

1 MEMBER ALBERTI: All right. Was
2 that covered over with plywood?

3 MR. ARYAL: No, sir. This is a
4 window. And this part is my painted part is
5 covered by plywood.

6 MEMBER ALBERTI: Okay. So you
7 could have taped up the temporary on that
8 window?

9 MR. ARYAL: I could have done
10 that, yeah.

11 MEMBER ALBERTI: Okay.

12 MR. ARYAL: On top of that glass,
13 I could have done that, but I --

14 MEMBER ALBERTI: Okay.

15 MR. ARYAL: You know one thing, I
16 mean, contractor when they take it out, they
17 take it on the side. I was not there, that's
18 the way it happened, sir.

19 MEMBER ALBERTI: Thank you.

20 CHAIRPERSON MILLER: Okay. Any
21 other Board questions? Any questions on Board
22 questions?

1 MR. ADAMS: The District has no
2 further questions.

3 CHAIRPERSON MILLER: Okay. Thank
4 you.

5 MR. ARYAL: You're welcome.

6 CHAIRPERSON MILLER: You can go
7 back to the table if you would like. Okay.
8 I have sworn you in already. We did that
9 swearing in actually earlier. If you want to
10 have a seat and give your name again and then
11 you can give your testimony.

12 MR. LUITEL: Vishnu Luitel.

13 CHAIRPERSON MILLER: Okay. Do you
14 have any testimony you want to give?

15 MR. LUITEL: Yes.

16 DIRECT EXAMINATION

17 MR. LUITEL: I feel that most of
18 the things is my friend, Mr. Aryal, told. And
19 my concept and point is we are really doing
20 the painting.

21 MEMBER ALBERTI: Can you speak up
22 a little bit?

1 MR. LUITEL: I said --

2 MEMBER ALBERTI: Speak up and
3 speak into the mike.

4 MR. LUITEL: All right.

5 MEMBER ALBERTI: Yes.

6 MR. LUITEL: We -- this restaurant
7 is the Rajaji Curry House there since long
8 time, about 45 years, a long time. And we are
9 -- I am also working there since 1989. And we
10 know the -- we need to put all the sign and
11 the license all in the wall we have there, but
12 we took this because of the painting, because
13 otherwise all the time it is here because of
14 that, but we did not take those license
15 anywhere.

16 Here is marking we put here. And
17 I asked Krishna Luitel who was manager up
18 there, you need to -- did you say anything to
19 the supervisor or ABC manager -- ABC
20 Investigator? I ask him did you saw all the
21 license and the license come here? And I get
22 in here it's stuck here.

1 And he already -- I ask him, he
2 told Mr. Jones and all the licenses is in
3 here. It's over here. We say many was there
4 like I asked him, did you saw all the license?
5 And he told me oh, I already saw all the
6 license in here. If it problem, we put here.
7 But when the supervisor during the nighttime
8 says there is a hole in the wall.

9 I'm the one who can go small paper
10 with like the license, Rajaji Curry House,
11 license number and everything in the small
12 paper all the time in the window there. But
13 the bottom of the window we need to repair
14 this, that's why they did that also.

15 Otherwise, all the time that
16 license is there. This business here since
17 long time. I am also working here since 1990.
18 And also working there since a long time, 23
19 years I working there and I know the license
20 needs to be there so people can see and people
21 can watch.

22 CHAIRPERSON MILLER: Okay. No,

1 no.

2 MR. ADAMS: One second.

3 CHAIRPERSON MILLER: Hang in there
4 a little bit. Why don't you have a seat.
5 Have a seat.

6 MR. LUITEL: Oh.

7 CHAIRPERSON MILLER: And we have
8 questions for you.

9 MR. LUITEL: Please.

10 CHAIRPERSON MILLER: Okay. Mr.
11 Adams?

12 CROSS-EXAMINATION

13 MR. ADAMS: Hi, Mr. Luitel. Let
14 me make sure of this. Your name is Vishnu?

15 MR. LUITEL: Yes.

16 MR. ADAMS: And that's how you --
17 spell that.

18 MR. LUITEL: V-I-S-H-N-U.

19 MR. ADAMS: Okay. So you are not
20 Krishna?

21 MR. LUITEL: Not Krishna.

22 MR. ADAMS: Okay.

1 MR. LUITEL: The last name is
2 same.

3 MR. ADAMS: All right.

4 MR. LUITEL: Same last name.

5 MR. ADAMS: I just wanted to make
6 sure. So you were not there when -- on either
7 occasion when Mr. Jones -- you were not there
8 when Mr. Jones visited. Is that correct? On
9 either occasion?

10 MR. LUITEL: When he give the
11 ticket, I was not there.

12 MR. ADAMS: Okay. Was there
13 another occasion that he was there?

14 MR. LUITEL: What time? What time
15 he came, but when he wrote the license, the
16 EON, he came and he give the ticket, the big
17 ticket \$850 ticket 4/15. I was not there.

18 MR. ADAMS: Okay. I guess, let me
19 see here. And do you work there? Okay. I
20 guess between October 23rd and October 26th of
21 2012, did you work -- were you working there
22 on any of those days?

1 MR. LUITEL: Yes, I do.

2 MR. ADAMS: Did you work -- do you
3 work there every day?

4 MR. LUITEL: Not every day. Some
5 time I do. Usually two days I took off.

6 MR. ADAMS: Okay. And so between
7 that time -- now, you stated that you spoke
8 with Mr. Krishna?

9 MR. LUITEL: Um-hum.

10 MR. ADAMS: And he told you that
11 Mr. Jones was there, correct?

12 MR. LUITEL: Yes, Mr. -- so
13 supervisor came from -- the ABC Board
14 supervisor came.

15 MR. ADAMS: Right.

16 MR. LUITEL: And because we did
17 not put the license on the wall, he give the
18 ticket, \$850 ticket, he told us.

19 MR. ADAMS: All right. And he --
20 and you remember that he gave you the
21 temporary window lettering? He gave you
22 temporary window lettering. Did Krishna told

1 -- tell you that you had -- he gave you
2 temporary window lettering?

3 MR. LUITEL: I don't remember.
4 The difficulty is exactly what the particular
5 he give. I ask him why he did not tell the
6 supervisor we have the license and everything
7 here because of the painting we took -- why
8 you did not tell? If you tell all the things,
9 maybe he would not give the ticket.

10 MR. ADAMS: Right. But
11 specifically the window lettering, he told you
12 that you were cited for window lettering,
13 right?

14 MR. LUITEL: I think he told.
15 Yes, he gave.

16 MR. ADAMS: And so he didn't -- so
17 between the times that you were working there,
18 there still was no window lettering. There
19 was no temporary window lettering in place
20 back in the window. Is that correct?

21 MR. LUITEL: Yes, it is correct.

22 MR. ADAMS: All right. I have no

1 further questions.

2 MR. LUITEL: The work is not done
3 yet or whatever we tell.

4 CHAIRPERSON MILLER: Can you speak
5 into the -- sir, can you speak into the
6 microphone? We are just not catching that.

7 MR. LUITEL: The work was not
8 previous. The contractor take ours down,
9 exactly the window one.

10 MR. ADAMS: Okay. Very well.

11 CHAIRPERSON MILLER: Other
12 questions? I have a question for you. Were
13 you aware that other pictures were on the wall
14 during the time that the licenses were not on
15 the wall?

16 MR. LUITEL: I don't think.

17 CHAIRPERSON MILLER: I think
18 that's what Mr. Jones had testified to.

19 MR. LUITEL: I -- it is -- I think
20 I don't know exactly, but I think we did not
21 put there, but I don't know exactly.

22 CHAIRPERSON MILLER: You don't

1 remember that?

2 MR. LUITEL: I did not remember,
3 but I think if we put where things we will put
4 that also or maybe the area is finished and
5 this area is not finished. Maybe that also
6 happened.

7 CHAIRPERSON MILLER: Okay. All
8 right. Thank you.

9 MR. LUITEL: You're welcome.

10 CHAIRPERSON MILLER: So does that
11 complete your case? You don't have any other
12 witnesses, right, or documents? Okay. So
13 that brings us to closing arguments, if any,
14 I believe.

15 MR. ADAMS: Sure.

16 CHAIRPERSON MILLER: Or rebuttal.
17 You don't have any rebuttal witnesses, I
18 assume?

19 MR. ADAMS: No, I don't.

20 CHAIRPERSON MILLER: Okay.

21 MR. ADAMS: Madam Chairman, I
22 think this is where I can go forward with

1 closing, I assume. More or less, the District
2 has proven the five charges that you have
3 before you. Specifically, Investigator Jones
4 provided very clear testimony that -- very
5 clear testimony about what occurred.

6 That he went to the establishment
7 and noticed that there was both not -- on
8 October 23rd that there was no window
9 lettering and -- on the window of the
10 establishment. And that when he went inside
11 that there was no licenses posted inside
12 either.

13 More or less all for -- for all
14 those charges, it has been admitted that there
15 were -- that those signs were not for display.
16 But more or less the explanation that has been
17 given by the establishment, and I believe in
18 an earnest way, was that, you know, that they
19 were going through some issues with --
20 regarding clearing rodents and doing painting
21 at the same time.

22 Unfortunately, the bottom line is

1 that they are required to make some
2 accommodations, even it was admitted by Mr.
3 Aryal that he could have had some type of
4 temporary placement for the license, I guess,
5 and in some ways they just laid the license
6 down rather than dealing with them.

7 And that, frankly, there was no
8 real explanation outside of that a contractor
9 might have taken the window lettering down in
10 terms of the window lettering. But that more
11 or less is admitted.

12 More or less the process is
13 confusing and I don't quite understand it. It
14 seems as though this case -- you know, the
15 establishment at the same time instead of
16 having exterminations done at one time,
17 inspection for rodent issues at one time and
18 then patching walls and then painting,
19 according to their story, they did it all at
20 one time.

21 And then sometimes they find --
22 they will paint and then they will find a

1 hole. They will patch the hole and then they
2 will paint. And then they will find another
3 hole and then they will patch it and then
4 they'll paint, which seems to be very
5 confusing.

6 But in the end what we have here
7 is that is what -- for Mr. Jones' testimony
8 there were no letters and no signs and that
9 the employee at the time said that, you know,
10 it has been two weeks since we started the
11 painting and that we needed it to dry and that
12 we simply -- they simply didn't put it back
13 up.

14 Frankly, the story that Mr. Jones
15 got from Mr. Krishna Luitel seems a lot more
16 logical than what we are hearing now, because
17 it seems as that it was such an amazing amount
18 of patchwork that -- to not really explain
19 things. But bluntly, I don't want to make
20 this thing more I guess major than it is.

21 I think the bottom line is that
22 for the establishment they simply did not meet

1 the requirements. They know what the
2 requirements were. And they failed to do it.
3 And unfortunately in this case, they were
4 given an opportunity to amend the window
5 lettering situation, but on October 26th it
6 was still found that despite Mr. Jones telling
7 them of all the violations, that still wasn't
8 changed.

9 And that's really the bottom line.
10 So as a result for the five charges, this is
11 the establishment's first secondary tier
12 violation in a two year period, so the
13 District recommends a fine of -- well, \$500
14 for every charge except for, I believe it is,
15 the Charge No. 4 for a pregnancy sign.

16 And so therefore, it will be --
17 which is -- mandates to be a \$100 fine. So we
18 recommend a total fine of \$2,100.

19 CHAIRPERSON MILLER: Thank you.

20 MR. ADAMS: No problem.

21 CHAIRPERSON MILLER: Okay. Would
22 you like to make a closing statement?

1 MR. ARYAL: No.

2 CHAIRPERSON MILLER: Okay. You
3 don't need to.

4 MR. ARYAL: We knew that we need
5 to put it there for the -- because of the rat
6 problem. We have to close the place and a lot
7 of holes are there. We have to do that.
8 That's what happened actually. It's all up to
9 you, Madam. The reality is that that's what
10 it is.

11 And even we pay the Western Pest
12 Control, we usually do have Orkin. We change
13 that one and we have one for rat and we pay
14 about -- for their services \$1,800 for service
15 for Western Pest Control in order to eliminate
16 those problems. It's all coming from the back
17 of the alley of the building, that's what I
18 want to say.

19 CHAIRPERSON MILLER: Okay. All
20 right. Then I'm going to close the record for
21 this case. And I'll ask if the parties want
22 to file any written proposed findings of facts

1 or conclusions of law?

2 MR. ADAMS: The District waives
3 filing any written arguments.

4 CHAIRPERSON MILLER: Okay. Did
5 you understand what I asked?

6 MR. ARYAL: I'm sorry, I didn't
7 hear you.

8 CHAIRPERSON MILLER: Did you
9 understand what I asked?

10 MR. ARYAL: No, ma'am.

11 CHAIRPERSON MILLER: Okay. So you
12 are a party. You have a right to file
13 something in writing after this case, based on
14 the evidence of this case. So there is going
15 to be a transcript that is going to be ready
16 in two or three weeks. You could read the
17 transcript and then file written arguments
18 about what facts the Board should find in your
19 favor and what legal conclusions to draw from
20 it.

21 MR. ARYAL: Um-hum.

22 CHAIRPERSON MILLER: It's a right

1 parties have. Most parties in these kind of
2 cases don't do that. It's a lot of written
3 legal work, basically, but -- and Mr. Adams
4 has waived the Government's right to do that.

5 Otherwise, the Board is just going
6 to consider what we have heard today.

7 MR. ARYAL: Yes, ma'am.

8 CHAIRPERSON MILLER: And make a
9 decision.

10 MR. ARYAL: Okay.

11 CHAIRPERSON MILLER: Okay. So you
12 want to waive your right to file proposed
13 findings of fact and conclusions of law?

14 MR. ARYAL: To?

15 CHAIRPERSON MILLER: It's called
16 proposed findings of facts and conclusions of
17 law.

18 MR. ARYAL: I do understand. I
19 understand exactly.

20 CHAIRPERSON MILLER: Okay. It
21 sounded to me that you don't want to file
22 anything in writing about the evidence that

1 was just presented in this case, that the
2 Board will just make a decision based on the
3 evidence it heard.

4 MR. ARYAL: Right, yes.

5 CHAIRPERSON MILLER: Okay. All
6 right. So we are going to issue an order, a
7 written order within 90 days of today. And we
8 are going to make a decision in closed session
9 afterwards.

10 So I'm going to just take a vote
11 on that, because we are allowed to do that
12 under the law, but we need to take a vote on
13 it and so that's what I'm about to read.

14 As Chairperson of the Alcoholic
15 Beverage Control Board for the District of
16 Columbia and in accordance with DC Official
17 Code Section 2-574(b) of the Open Meetings
18 Act, I move that the ABC Board hold a closed
19 meeting for the purpose of seeking legal
20 advice from our counsel on Case No. 12-CMP-
21 00648, Rajaji Curry House, pursuant to Section
22 2-574(b)(4) of the Open Meetings Act and

1 deliberating upon this case for the reasons
2 cited in Section 2-574(b)(13) of the Open
3 Meetings Act.

4 Is there a second?

5 MEMBER BROOKS: Second.

6 CHAIRPERSON MILLER: Mr. Brooks
7 has seconded the motion. I'll now take a roll
8 call vote on the motion now that it has been
9 seconded.

10 Mr. Brooks?

11 MEMBER BROOKS: I agree.

12 CHAIRPERSON MILLER: Mr. Alberti?

13 MEMBER ALBERTI: I agree.

14 CHAIRPERSON MILLER: Ms. Miller
15 agrees.

16 Mr. Silverstein?

17 MEMBER SILVERSTEIN: I agree.

18 CHAIRPERSON MILLER: It appears
19 the motion has passed by a vote of 4-0-0.

20 I hereby give notice that the ABC
21 Board will hold a closed meeting on this case
22 and issue a decision within 90 days.

1 Okay. Thank you very much.

2 MR. ARYAL: Thank you. I do
3 appreciate it.

4 CHAIRPERSON MILLER: Okay. Have a
5 good afternoon.

6 The next hearing that the Board
7 has is at 2:00. So I think we are going to be
8 adjourned until then. We come out with our
9 agenda, but I think we probably should. Okay.
10 Thank you.

11 (Whereupon, the Show Cause Hearing
12 in the above-entitled matter was concluded at
13 12:13 p.m.)

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