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In the Matter of: Beg Investments, LC t/a Twelve Restaurant & Lounge 09-19-2012

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DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :
: :
Beg Investments, LLC :
t/a Twelve Restaurant & Lounge :
1123 H Street, NE :
Retailer CT : Fact Finding
License No. 76366 : Hearing
ANC 6A :
Compliance with Reimbursable :
Detail Requirements :
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September 19, 2012

The Alcoholic Beverage Control

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

PRESENT

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

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<p style="text-align: right;">2</p> <p>1 PROCEEDINGS 2 1:35 p.m. 3 CHAIRPERSON MILLER: Okay. We are back on 4 the record for our afternoon hearings. And our first 5 hearing this afternoon is a fact finding hearing for 6 the establishment Twelve Restaurant & Lounge, located 7 at 1123 8th Street, N.E., License No. 76366 in ANC 6A. 8 And this fact finding hearing concerns compliance with 9 the reimbursable detail requirements of a Board Order 10 affecting this establishment. 11 So would the parties introduce themselves for 12 the record, please? 13 MR. KLINE: Yes, good afternoon. Andrew 14 Kline on behalf of the Licensee. 15 MR. GIBSON: Hello. Bernard Gibson, managing 16 member of Twelve Restaurant & Lounge. 17 CHAIRPERSON MILLER: Good afternoon. 18 MR. NOPHLIN: Speak into the mike, please, if 19 you can. 20 MR. MICCICHE: Christopher Micciche, 21 Metropolitan Police. 22 CHAIRPERSON MILLER: What?</p>	<p style="text-align: right;">4</p> <p>1 Patrol Services Bureau. I'm in the administrative 2 section. We handle the -- basically the administration 3 portion of the reimbursable details for MPD for the 4 ABRA establishments. Previous to January, I was 5 assigned to First District about 18 months where the 6 Twelve Lounge is located. 7 My job there -- one of my jobs was to oversee 8 the reimbursable overtime details at the ABRA 9 establishments at the district level and that included 10 the Twelve Lounge. They were required by two of the 11 Board Orders from 2011 to have reimbursable detail 12 anytime entertainment was offered. During my time at 13 the First District, the reimbursable detail program was 14 being administratively handled by SOD. So I was not 15 handling the -- we were not seeing the billing or any 16 of that type of stuff. 17 During that time, there were numerous 18 incidents whereupon the Twelve Lounge would either 19 cancel their scheduled detail at the last moment or be 20 closed without notice when the detail officers arrived 21 to work. On numerous occasions, this resulted in the 22 department being forced to pay the officers who arrived</p>
<p style="text-align: right;">3</p> <p>1 MR. ALBERTI: Sorry? 2 MR. NOPHLIN: Your client, could he speak 3 into the mike? I can't hear. 4 MR. GIBSON: Bernard Gibson, managing member 5 of Twelve Restaurant & Lounge. 6 MR. NOPHLIN: Thank you. 7 MR. MICCICHE: Lieutenant Christopher 8 Micciche, Metropolitan Police Department, Patrol 9 Services Bureau. 10 MR. ROGERS: Sergeant James Rogers, 11 Metropolitan Police, Patrol Services Bureau. 12 CHAIRPERSON MILLER: Sergeant Rogers and 13 Lieutenant Micciche? Is that what you said? 14 MR. MICCICHE: Yes, ma'am. 15 CHAIRPERSON MILLER: Okay. All right. Now, 16 I think that the request for the fact finding 17 originated with the police department. 18 MR. MICCICHE: Yes, ma'am. 19 CHAIRPERSON MILLER: Okay. So perhaps you 20 can start first and explain why you requested this fact 21 finding. 22 MR. MICCICHE: Sure. Currently I'm at the</p>	<p style="text-align: right;">5</p> <p>1 for their duty assignment two hours of overtime, which 2 is required by the collective bargaining agreement. 3 Due to the fact that the club was not even 4 bothering notifying MPD of the cancellations, it became 5 common practice for the officers working that detail to 6 call the club in advance and check whether the detail 7 was going to be cancelled or if the club was closed. 8 Before long, First District officers had begun to 9 request that they not be assigned the overtime detail 10 at Twelve. Some officers just simply refused to work 11 the detail, knowing there was a strong possibility it 12 would be cancelled. 13 Officials were called to the club on several 14 occasions by officers working the detail. On two 15 occasions the staff had refused to sign the officer's 16 overtime paperwork with managers even refusing to come 17 to the door to speak to the officials who were 18 attempting to resolve the problem. On other occasions, 19 the officers reported to me that the security staff was 20 demanding that the officers stand in certain locations 21 while on the detail. This was in direct contradiction 22 with the department's position on these reimbursable</p>

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<p>6</p> <p>1 details. 2 In March of 2012, the Metropolitan Police 3 Department issued an agreement to each ABRA 4 establishment wishing to contract the reimbursable 5 detail. The agreement spelled out the terms of 6 services provided, detailed the procedures for 7 requesting and obtaining a detail, outlined avenues for 8 complaints to the department, and established 9 procedures for canceling details. 10 Specifically the agreement, which 11 representatives from Twelve signed and returned, 12 provides that the clubs must make their request for 13 details 30 days in advance and allow 72 hours' notice 14 when making cancelations of previously requested 15 details. The agreement was codified within the 16 department through the publication of General Order 17 308.15. 18 Since April 13th, 2012 and through Sunday, 19 September -- I think it was Monday, September 15th, 20 Twelve Restaurant & Lounge has cancelled their 21 scheduled detail on 16 occasions with less than 72 22 hours' notice. On three of those occasions they failed</p>	<p>8</p> <p>1 detail hours. The watch commander sent a sergeant to 2 the club at approximately 7:00 p.m. and discovered that 3 they did have live entertainment and no reimbursable 4 detail was required. 5 An ABRA violation report was generated 6 bearing CCN No. 12-068-836. Given the totality of the 7 circumstances described herein, it appears that Twelve 8 is hostile towards the notion of being forced to 9 regularly hire reimbursable detail. Based upon both 10 their recalcitrance witnessed while I was assigned to 11 the First District, as well as their passive-aggressive 12 scheduling and no-notice cancelation of details, there 13 are few other conclusions to be drawn. 14 I would respectfully suggest that the 15 question before the Board today is grounded in the 16 following: If Twelve is required under the enumerated 17 circumstances to employ an MPD reimbursable detail, and 18 MPD is the sole source of the set details, and Twelve 19 signed an agreement regarding the procedures and 20 regulations regarding the contracting and scheduling of 21 such details, and they continually and systematically 22 flout those rules and regulations, are they not in</p>
<p>7</p> <p>1 to make any notification to MPD. On additional four 2 occasions, the club management shortened the length of 3 a detail and closed early without notice as well. 4 Currently, the Patrol Services Bureau 5 oversees reimbursable details at approximately 55 6 establishments. Twelve has short-noticed or no-noticed 7 a cancelation over the aforementioned time period by a 8 wide margin, more times than all 54 remaining 9 establishments combined. 10 Twelve requested a reimbursable detail for 11 Saturday, May 19th, 2012 via email on April 25th. The 12 typical detail hours were midnight until 4:00 a.m. The 13 email did not report any change in those hours. On May 14 19th, at approximately 4:45 p.m., a representative of 15 Twelve called the First District watch commander to 16 confirm the detail hours had changed to 6:00 p.m. to 17 10:00 p.m., as their event coordinator had changed the 18 time of the event. 19 The watch commander informed the gentleman it 20 would not be possible to staff that detail, especially 21 with less than two hours' notice. The representative 22 called back shortly thereafter to cancel the regular</p>	<p>9</p> <p>1 violation of the ABRA Board Orders, if only in spirit? 2 Ultimately, we're faced -- the department is 3 faced with the reality that it's going to become 4 impossible to staff these details. No one wants to 5 work them because they keep getting cancelled. And if 6 that's going to occur, then Twelve is going to be left 7 in a position where they don't have a detail when 8 they're required to have one. If we're put in that 9 position, I can't see how they can comply with your 10 orders if they can't get a detail from us because we 11 can't schedule it. 12 I think there's a little bit of a history 13 here. And like I said, I -- it appears as though their 14 recalcitrance is rooted in the fact that they just 15 don't want to have to pay for a detail when they don't 16 think they should have one. And running us back and 17 forth on that issue is just -- it's making it very 18 difficult for us. So 19 CHAIRPERSON MILLER: Thank you. Before we 20 give them a chance to respond, I just want to ask you 21 about that agreement. Is there a penalty in that 22 agreement for their breach of any of the terms, such as</p>

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<p style="text-align: right;">10</p> <p>1 not giving notice in time and stuff like -- 2 MR. MICCICHE: Yeah, the penalty in the 3 agreement itself, it sets forth that they have to pay - 4 - compensate -- well, it sets forth if they do not meet 5 that 72-hour time limit, they may be required to pay 6 two hours per officer because that's what we're 7 required to pay, especially if the officers show up. 8 In many instances now the First District officers have 9 been refusing to work that detail. 10 So they get officers from all over the city, 11 even though 1D is scheduling it. And they might not be 12 able to get in touch with those officers, even if we 13 have -- you know, if we only have a day's notice. The 14 might not be able to get in touch with those officers. 15 Some of them are on their day off, etc. So the 16 officers are showing up. And we do -- we end up having 17 to compensate them. And so the club is supposed to be 18 billed two hours per officer in those occasions. 19 CHAIRPERSON MILLER: So has that been 20 happening? 21 MR. MICCICHE: To the best of my knowledge, 22 yes.</p>	<p style="text-align: right;">12</p> <p>1 officers are getting there, they're -- the club's 2 closed or they don't want the detail because they don't 3 have the entertainment. That seems to be the issue. 4 But 5 MR. NOPHLIN: One last question, please. 6 Thank you. Who supervises the detail? 7 MR. MICCICHE: In the First District? 8 MR. NOPHLIN: Yes. Well, I'm sorry. When 9 they -- once they arrive at the bar or club or whatever 10 they're assigned to, who's supervising? In other 11 words, who tells them where to go where? 12 MR. MICCICHE: Well, the First District watch 13 -- well, the District watch commander is supposed to 14 oversee them. In that agreement we provided the club 15 owners with the numbers of all the District watch 16 commanders. And any time -- if the officer -- if the 17 people aren't out there -- we tell the officers it's 18 outlined in their general order; they're not standing 19 inside the club or right at the front door. They're 20 supposed to be right there in the area, generally 21 available, addressing issues both around in the 22 immediate area of the club, as well as if something</p>
<p style="text-align: right;">11</p> <p>1 CHAIRPERSON MILLER: Okay. Well, are there 2 any Board questions right now? Yeah, Mr. Nophlin? 3 MR. NOPHLIN: Yes, please. Thank you again, 4 Officer. Then the problem seems to be -- is it 5 scheduling or is it the fact that the client doesn't -- 6 not the client, I'm sorry -- the owner does not 7 schedule the details, which makes it impossible to have 8 people come out and actually do what they're supposed 9 to do? 10 MR. MICCICHE: From my understanding of how 11 this has been working with Twelve is they -- we haven't 12 been getting a regular 30-day notice for the details 13 and that's okay. Most clubs don't give us the 30 days. 14 But it seems like they're scheduling a lot of events 15 and then they're cancelling the event, near as I can 16 tell. 17 Now, they're -- that one instance where they 18 had the event even though they didn't have a detail and 19 they cancelled the detail because the hours were 20 different -- but it seems to be that either they're not 21 getting the turnout they want and they're deciding to 22 close the club early or whatever. So by the time the</p>	<p style="text-align: right;">13</p> <p>1 arises inside the club and there's someone inside, of 2 course they can respond to deal with that. 3 That's spelled out in the General Order. 4 MR. NOPHLIN: Okay. Thank you. Thank you. 5 CHAIRPERSON MILLER: Yeah, Mr. Silverstein? 6 MR. SILVERSTEIN: Now, you mentioned this 7 event of May 19th, which was not only egregious but 8 outrageous but how -- or the event where they -- where 9 they cancelled several hours prior to the event. How 10 many other cases are there? How -- you say it's 11 endemic but can you -- 12 MR. MICCICHE: Well, yeah. There -- 13 MR. SILVERSTEIN: -- can you help us put a 14 handle on what that means? 15 MR. MICCICHE: Yeah, since April 13th we've 16 had -- just take a look here. Since April 13th until 17 September 15th there were 16 occasions when we had less 18 than 72 hours' notice. Three of those occasions there 19 was no notice at all. And in most of those instances 20 there were three, four, five, six hours' notice. 21 MR. SILVERSTEIN: Since the 13th of April 22 this year --</p>

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<p style="text-align: right;">14</p> <p>1 MR. MICCICHE: Yes.</p> <p>2 MR. SILVERSTEIN: -- between then and this</p> <p>3 past weekend there were 16 times when they had ordered</p> <p>4 up for reimbursable detail --</p> <p>5 MR. MICCICHE: Yes.</p> <p>6 MR. SILVERSTEIN: -- and cancelled or changed</p> <p>7 with less than 72 hours' notice?</p> <p>8 MR. MICCICHE: Yes.</p> <p>9 MR. SILVERSTEIN: And three where they gave</p> <p>10 you no notice at all?</p> <p>11 MR. MICCICHE: Correct. Yes.</p> <p>12 MR. SILVERSTEIN: There's no need for</p> <p>13 comment. Simply no need for it.</p> <p>14 CHAIRPERSON MILLER: Mr. Brooks, did you have</p> <p>15 a question?</p> <p>16 MR. BROOKS: Yes, I did just briefly.</p> <p>17 Officer, when do you expect payment from Twelve for</p> <p>18 each RDO you're assigned?</p> <p>19 MR. ROGERS: Well, actually MPD doesn't</p> <p>20 handle the payment at all. It's handled through the</p> <p>21 Chief Financial Office. We schedule it and we send the</p> <p>22 invoice to the chief financial officer. And then they</p>	<p style="text-align: right;">16</p> <p>1 pay, I would send a memo to SOD to tell them to bill</p> <p>2 them because there were times I actually had to pay or</p> <p>3 sign off on overtime for the officers who arrived and</p> <p>4 the club was closed. Unfortunately, we didn't document</p> <p>5 all those instances but the -- but there were -- there</p> <p>6 were numerous occasions when I did send a memo to SOD</p> <p>7 and they would -- if they actually got the bill or not</p> <p>8 in the end, I do not know.</p> <p>9 MR. ALBERTI: Okay. So you don't really know</p> <p>10 then. Again, talk to me a little bit about -- I think</p> <p>11 you alluded to the fact that you're having trouble</p> <p>12 getting officers to volunteer for this detail. Can you</p> <p>13 talk --</p> <p>14 MR. MICCICHE: Yeah, I mean, the problem is</p> <p>15 that --</p> <p>16 MR. ALBERTI: -- a little bit more about</p> <p>17 that?</p> <p>18 MR. MICCICHE: Yeah, a lot of the officers --</p> <p>19 the only officers it's convenient to work the midnight</p> <p>20 'til 4:00 a.m. --</p> <p>21 MR. ALBERTI: Right.</p> <p>22 MR. MICCICHE: -- overtime detail is the</p>
<p style="text-align: right;">15</p> <p>1 bill the establishment. So the actual payment's</p> <p>2 handled between then and this club.</p> <p>3 MR. BROOKS: Okay. So is payment made, as</p> <p>4 far as you know, before you assign officers?</p> <p>5 MR. ROGERS: Not typically. With the change</p> <p>6 where they've changed the reimbursable detail program,</p> <p>7 if a -- if a past issue has arose with payment, then</p> <p>8 payment has to be made prior. We haven't had an issue</p> <p>9 with Twelve.</p> <p>10 MR. BROOKS: Okay. So you can assign</p> <p>11 officers but payment may be made after the officers are</p> <p>12 assigned?</p> <p>13 MR. MICCICHE: Correct.</p> <p>14 MR. BROOKS: Okay. Thank you, Madam Chair.</p> <p>15 CHAIRPERSON MILLER: Mr. Alberti?</p> <p>16 MR. ALBERTI: Now, do we know in the instance</p> <p>17 of Twelve, when they've cancelled, have they been</p> <p>18 charged the two hours minimum?</p> <p>19 MR. MICCICHE: The -- I know that when I was</p> <p>20 in the First District -- and SOD at the time was</p> <p>21 handling the billing or at least was handling that</p> <p>22 aspect of things -- I would put in -- when we had to</p>	<p style="text-align: right;">17</p> <p>1 officers that are working the evening tour. Other than</p> <p>2 that -- and sometimes we get some day work people who</p> <p>3 come in early. But -- so you have a limited pool</p> <p>4 anyway. Once they realize there are other clubs -- and</p> <p>5 I forget how many they have now in the First District</p> <p>6 but at one point they had 12 or 13 clubs that were</p> <p>7 paying overtime on the weekends. You know, when you</p> <p>8 got one club that is cancelling regularly, 16 times</p> <p>9 since April, the officers don't want to sign up for it</p> <p>10 because they're relying on that -- working those hours.</p> <p>11 Then they get there and they can't work or they're</p> <p>12 notified while they're still at work.</p> <p>13 So we've had to -- and when I was in the</p> <p>14 First District, we were going to other districts to get</p> <p>15 volunteers. And still, at the same time, it still kept</p> <p>16 occurring where officers from other districts -- some</p> <p>17 were coming in on their days off and finding out that</p> <p>18 they weren't needed. And even if you get that two</p> <p>19 hours and you're coming in on your days off, you know,</p> <p>20 you're expecting four and you only get two. So it's a</p> <p>21 hardship on the officers. And I don't blame them for</p> <p>22 not wanting to work.</p>

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<p style="text-align: right;">18</p> <p>1 They -- I don't think we've had a problem 2 staffing it so far, as far as, I think every time 3 they've asked for detail and wanted the detail, the 4 detail was there. But there were occasions when we did 5 have to take officers that were actually working the 6 street and put one of them there because we either had 7 an officer that didn't show up or we couldn't find an 8 officer -- or for the last-minute detail. 9 I mean, we -- MPD looks as it as a service 10 we're providing. And, you know, we can't fail to 11 provide it. If we said, "We're going to give you two 12 officers," we're going to find you two officers one way 13 or the other. Sometimes we'll have to take an officer 14 off the street and fill that spot. 15 MR. ALBERTI: So do you -- do you commit to 16 providing service before you know you have volunteers? 17 MR. MICCICHE: We've never -- we've never 18 been able to -- we've never said, "No," I don't think. 19 I wouldn't -- we might have been one or two -- well, 20 the last -- like, the day before incidents -- 21 MR. ALBERTI: Uh-huh. 22 MR. MICCICHE: -- where they asked for eight</p>	<p style="text-align: right;">20</p> <p>1 been one or two times when we couldn't do it but it was 2 based on the last minute. We had a club that asked us 3 on July 3rd if we could on July 4th provide eight or 4 ten officers. And officers were working 12-hour days 5 on July 4th and everyone's working. So it's very 6 difficult to find somebody who wants to work another 7 four hours or five hours on top of that. I think we 8 actually managed to staff that one. 9 So I can't recall an incident where we've had 10 to say, "No." We've actually -- there were -- have 11 been incidences, I can recall, where officers were 12 checking off for the evening tour and we drafted them 13 and forced them to work the overtime. But we view it 14 as an obligation. And they're contracting a service 15 and we have to provide it. 16 MR. ALBERTI: Okay. Has this problem risen 17 to the level where you have contemplated the solution 18 of just telling Twelve, "We're not going to be able to 19 provide reimbursable detail for you?" 20 MR. MICCICHE: For me it has. Yes, it 21 absolutely has. I -- you know, at some point you get 22 to the point where, you know, it causes more problems</p>
<p style="text-align: right;">19</p> <p>1 or ten officers. 2 MR. ALBERTI: Right. 3 MR. MICCICHE: We said, "We can't get that 4 for you." But, yeah, if we say if we're going to 5 provide the detail, we expect the detail's going to be 6 there. And that's why we will backfill. In the past, 7 we had backfilled with on-duty officers if need be. 8 MR. ALBERTI: Okay. So that -- so that's the 9 problem as I see it. Let's say they request -- make a 10 request two weeks ahead of time and you commit to that. 11 You're faced with the problem of knowing that it's iffy 12 whether you're going to be able to get officers because 13 of the past history. And when the officers don't 14 volunteer, you're in a bind and have to find on-duty 15 officers to fill those spots. So you really have a 16 problem there? 17 MR. MICCICHE: Uh-huh. 18 MR. ALBERTI: Right? Have you ever -- has 19 the department ever been in the position of just 20 telling someone, you know, "We can't -- we can't 21 fulfill that request?" 22 MR. MICCICHE: I cannot -- there may have</p>	<p style="text-align: right;">21</p> <p>1 than we're ever going to be able to solve here, as well 2 as between staffing and officer morale and that type of 3 thing. So, yeah, I've -- based on the type of 4 treatment we've had in the past, we've actually 5 discussed it. Again, there's a public safety issue 6 going on. They're asking for detail and they've been 7 required to have a detail because there was a crime of 8 violence in their establishment. And we don't provide 9 the detail -- I mean, we're kind of over a barrel on 10 that. You know, well -- 11 MR. ALBERTI: Well, I mean, you are and you 12 aren't because if you don't provide the detail, then 13 they can't have -- they can't have this entertainment. 14 MR. MICCICHE: And if that's the ruling of 15 the Board, then I'm more than happy to go along with 16 that, you know. I mean, that's been the big question 17 is, if we can't provide the -- if a club calls us and 18 say, there's one club that needed eight officers -- 19 required to have eight officers and, you know, they 20 call us the day before and want that detail and we 21 can't provide the detail, the question is, is it the 22 Board's position that they will -- they cannot have</p>

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<p style="text-align: right;">22</p> <p>1 that event if they don't have the detail, if we can't 2 provide the detail because of last- minute notice? 3 Then they're going to be in violation that you have. 4 MR. ALBERTI: So is that one of the questions 5 you're really asking us today? 6 MR. MICCICHE: Yes. And, I mean, that's on 7 the staffing -- that's on the last-minute request end. 8 The other end is, can we stop doing business with 9 businesses that are abusing the process and making it 10 very difficult for us, both administratively -- 11 MR. ALBERTI: Uh-huh. 12 MR. MICCICHE: -- and personnel-wise? 13 MR. ALBERTI: Okay. Thank you. I have no 14 further questions. 15 CHAIRPERSON MILLER: Okay. I just have a few 16 more. I just want to be certain I understand how the 17 officers sign up for the detail. I thought at one 18 point you said that they don't know which club they're 19 going to go to. It's in a group of clubs and they make 20 -- they say they're available? 21 MR. MICCICHE: Yeah, the officers -- the way 22 they say it works, it -- well, the way it was working</p>	<p style="text-align: right;">24</p> <p>1 you know, I need to know I'll be able to make the 2 money." They'll make the money somewhere else. 3 CHAIRPERSON MILLER: Okay. I just want to 4 follow up on that line of questioning. Basically it 5 sounds like it's kind of volunteer based. They can 6 sign up if they want for certain dates and times. But 7 on the other hand, can they be required to go if they 8 don't want to go? 9 MR. MICCICHE: Yeah. 10 CHAIRPERSON MILLER: Yeah? 11 MR. MICCICHE: They could be. 12 CHAIRPERSON MILLER: Okay. The agreement 13 that you -- that you have with Twelve -- 14 MR. MICCICHE: Yeah. 15 CHAIRPERSON MILLER: -- is it a standard 16 agreement? Is it this -- 17 MR. MICCICHE: Yes. 18 CHAIRPERSON MILLER: Everybody has the same 19 agreement for cancellations -- 20 MR. MICCICHE: Yeah. 21 CHAIRPERSON MILLER: -- and stuff like that? 22 Okay. All right. That's all I have now.</p>
<p style="text-align: right;">23</p> <p>1 at the First District, which is where Twelve is, the 2 officers sign up for time slots. And they make 3 themselves available for time slots. There's a person 4 who does the club staffing and they go through and pick 5 the officers and assign them to different clubs. 6 Certain officers -- and some officers that work 7 together a lot, they'll partner them up all the time. 8 The -- so the officers don't necessarily have 9 a say. They're not picking that club for example. But 10 they do say -- tell those people, "If you're going to 11 schedule me for Twelve, that's the only club you can 12 give me, don't schedule me because it's not worth it." 13 You know, and that's what he problem is. And it 14 shrinks the pool. A lot of officers feel that way. 15 CHAIRPERSON MILLER: So officers will tell 16 you they're not going to go to Twelve? They can do 17 that? You would let -- 18 MR. MICCICHE: They wouldn't necessarily say 19 that but they'll call the person who's doing the 20 scheduling. And the officers doing scheduling say, 21 "Hey, just don't put me -- if you're going to put me on 22 that club, don't put me on any club because I can't --</p>	<p style="text-align: right;">25</p> <p>1 MR. ALBERTI: Just to follow up to that, I 2 mean, they could be required to go as well? They could 3 also -- they don't have to -- they don't have to 4 volunteer? I mean, they could say, "You've sent me 5 there too many times. I'm just not going to volunteer 6 anymore, period?" 7 MR. MICCICHE: Yeah, because it's a voluntary 8 program, I mean, there's a variety of methods they 9 could take. I mean, if they found out they were 10 working at some place they don't want to work, they 11 could easily call in sick or say they had a family 12 emergency and kind of leave us just short a person. 13 Not much we could do about it. 14 MR. ALBERTI: Great. Thank you. 15 CHAIRPERSON MILLER: One other question. 16 What do you see as MPD's -- well, is MPD required to -- 17 requirements with respect to Board Orders that an 18 establishment be served by reimbursable detail? 19 MR. MICCICHE: I'm not understanding the 20 question. 21 CHAIRPERSON MILLER: I know. All I'm trying 22 to think -- you think -- who do you answer to, I think?</p>

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<p style="text-align: right;">26</p> <p>1 I mean, they are the subject of the Board Order -- 2 MR. MICCICHE: Yeah. 3 CHAIRPERSON MILLER: -- that they get 4 reimbursable detail. Do you -- who do you feel that 5 you answer to with respect to providing that 6 reimbursable detail? 7 MR. MICCICHE: Well, I mean, I think we've 8 held ourself out there and it is to the benefit of the 9 members. I mean, the officers who are permitted to 10 work the overtime, they're getting the benefit of it. 11 And I think it's a good idea for public safety reasons 12 as well. But I feel as though we try to enforce your 13 orders and make sure your orders are followed, which is 14 why when we -- you know, we see a violation, that's 15 what we do is document it and make sure y'all get a 16 copy of it. 17 And, you know, our goal is compliance. Our 18 goal is not, you know -- we're not trying to hurt 19 anyone. And it's a very difficult business already. 20 CHAIRPERSON MILLER: Uh-huh. 21 MR. MICCICHE: But the -- when they're making 22 it so hard for us to try to do what they need to have</p>	<p style="text-align: right;">28</p> <p>1 spread it out fairly week after week. And of course 2 you get officers - - some officers won't show up and 3 they'll be banned from the program for six weeks or six 4 months or stuff like that. 5 But they're -- you know, it is voluntary and 6 really a little bit we're at the mercy of -- we need to 7 have the volunteers because you do have a certain 8 amount of staffing that you have to cover. And if we 9 can't cover it with the overtime, then either we have 10 to force somebody to work overtime or we have to get 11 on-duty officers. 12 MR. NOPHLIN: Thank you. Thank you, Madam 13 Chair. 14 CHAIRPERSON MILLER: Okay. Mr. Silverstein? 15 MR. SILVERSTEIN: Let's play What If, Madam. 16 If you had the opportunity to solve this and the 17 overall problems that might entail the RDO in general, 18 what are the solutions you would impose? 19 MR. MICCICHE: Well, I would first of all 20 like to see that if we can't -- either we can't or we 21 won't, you know, provide the detail -- I mean, to me if 22 it's a cause of either a last-minute notification or</p>
<p style="text-align: right;">27</p> <p>1 done as ordered by you all, you know, it's a very -- it 2 becomes more complex. We're not trying to -- we've had 3 to meet with many clubs over time because we've had 4 problems. It's not -- this is not the first -- it's 5 the first kind of problem we've had with that 6 particular issue but it's not the first problem we've 7 had with details at clubs. 8 We try to work everything out with the owners 9 so that everyone gets what they need. 10 CHAIRPERSON MILLER: Okay. 11 MR. NOPHLIN: One last question. 12 CHAIRPERSON MILLER: Oh, I've got two over 13 here. Mr. Nophlin, yeah. 14 MR. NOPHLIN: Yes. In your negotiating with 15 your officers, are they guaranteed so many hours to ask 16 to participate or work? 17 MR. MICCICHE: No. It's -- that's -- most of 18 that's handled at the District level. But, no, we -- 19 at the First District, they tried to -- when I was 20 there, they tried to just move it around amongst the 21 officers. If there were more officers than there were 22 clubs, for example, or slots, you know, they'd try to</p>	<p style="text-align: right;">29</p> <p>1 the last minute cancellations where we decide, "Hey, we 2 cannot do business with these folks until they start 3 shaping up a little bit," in my mind, they either 4 should not be able to do whatever the activity it is 5 that you're trying to have covered, whether it be live 6 entertainment -- or if they do do it, they need to be 7 sanctioned by -- as a violation by y'all. 8 Us not providing the detail -- we're 9 perfectly happy to provide it as often as we can. You 10 know, we try to -- we try to -- we bend over backwards 11 to provide people with the service that we offer. At 12 the same time, when you make it that difficult, there 13 needs to be a penalty from your end as far as, you 14 know, if our detail's not there -- and there's a reason 15 why it's not there because they didn't adhere to an 16 agreement we -- that they originally signed off on -- 17 then that needs to be a violation on their part. 18 Not -- and some of these clubs treat it as 19 if, "Hey, we asked for MPD's detail." Well, you asked 20 me the day before. You know, but, "No, we asked. We 21 asked for detail. It wasn't here. It's not our fault, 22 you know." And that's -- you know, that's kind of the</p>

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<p style="text-align: right;">30</p> <p>1 box we're in. If we don't provide that service and 2 they're allowed to go forward with the event and 3 something happens, then we're -- you know, now we're 4 liable. Not liable per se. I mean -- 5 MR. SILVERSTEIN: Well, you've said that on 6 16 occasions they've cancelled or changed. Are you 7 comfortable with the two-hour penalty there or should 8 that be -- 9 MR. MICCICHE: I mean -- 10 MR. SILVERSTEIN: -- should that be made to 11 100 percent of cost and expense that might have -- 12 MR. MICCICHE: I mean, at some point I think 13 -- at some point I think it needs to go up to 100 14 percent just to stop the (inaudible). You know, I'm 15 not -- some money's not going to my pocket. I think 16 there needs to be a penalty in order to make it 17 increasingly difficult for them to continue that 18 activity because it's made -- it's making it nearly 19 impossible for us. 20 MR. SILVERSTEIN: My concern here is more of 21 a universal concern that, you know, without beating up 22 on the Licensee, if this is making the operation of the</p>	<p style="text-align: right;">32</p> <p>1 that. But 2 MR. SILVERSTEIN: And the other issue is that 3 these -- this is heavily subsidized by taxpayers -- 4 MR. MICCICHE: Uh-huh. 5 MR. SILVERSTEIN: -- and for good reason. 6 RDOs save lives. RDOs make certain in many cases that 7 minor scuffles don't turn into calamities. The work 8 that's being done by these reimbursable details is 9 outstanding. And it's a program that also runs short of 10 money often at the end of the year. And we should all 11 work to try to secure the program to make it easier for 12 the police and not to have this type of situation where 13 it's apparently chronic. 14 MR. MICCICHE: I would agree. Thank you. 15 CHAIRPERSON MILLER: Okay. We will be 16 getting to you in a minute, Mr. Kline. I just -- I 17 have one more question though based on Mr. 18 Silverstein's questions. And I think I was referring to 19 this before but you have an agreement with Twelve. And 20 you're saying there should be a higher penalty for 21 their cancellations because of the effect it's having 22 on your officers -- not even want to sign up anymore.</p>
<p style="text-align: right;">31</p> <p>1 entire program difficult, if this is creating hardship 2 to those officers who are scheduling four hours of what 3 would ordinarily be sleep time to come out there and 4 then discover that there's no work for them, the idea 5 that there's actually a financial break for the 6 Licensee to cancel would seem to be absurd legally. 7 MR. MICCICHE: I would agree. 8 MR. SILVERSTEIN: That there's a -- you know, 9 an incentive -- financial incentive for them to cancel 10 and turns the police officers' lives upside down -- 11 MR. MICCICHE: I would agree. And I -- in my 12 mind, if you're not -- if they aren't giving the 72- 13 hours' notice, it would not be unfair to -- because, I 14 mean, it comes down to counting noses. If they're 15 counting noses and saying, "Hey, we don't get enough 16 people in here to make the money back, then we're going 17 to have to pay on this detail," you know -- and it's 18 been that way that, you know, that officers show up at 19 11:00 or at 12:00 and, "Sorry about your luck." 20 You know, and then they're sent on their way. 21 In those instances, we do pay out the two hours and I'm 22 hoping that they are being appropriately billed for</p>	<p style="text-align: right;">33</p> <p>1 So I think the question is, you might not 2 need Board relief necessarily. We're wondering if you 3 can change your penalty in your agreement so that it's 4 a steeper penalty. 5 MR. MICCICHE: Yeah, we -- 6 CHAIRPERSON MILLER: Yeah, do you have that 7 authority? 8 MR. MICCICHE: I do not but we certainly can 9 discuss it on our end. I mean, I think the other side 10 of that -- and I guess Mr. Silverstein's concern of the 11 universal part of this is -- the question is, if they 12 abuse the process and no longer either have a detail 13 for that night or we can't do business with them, is 14 there -- you know, if it comes to that point where they 15 can't get the detail for whatever reason, are they in 16 violation and should they be held accountable as though 17 they never asked for the detail? 18 And that, in my mind on the larger, universal 19 issue, that is the way it should be. If somebody calls 20 me the day before and says, "Hey, I need eight officers 21 tomorrow," and we can't get them for them, they should 22 be allowed to have the event. If they have the event,</p>

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<p style="text-align: right;">34</p> <p>1 they need to be heavily penalized for that. You know, 2 and the way it is now, we're -- you know, there's this 3 level of fear on our end that if we don't provide those 4 eight officers -- 5 CHAIRPERSON MILLER: Uh-huh. 6 MR. MICCICHE: -- they're going to go ahead 7 with the event and, you know, that something bad could 8 happen. 9 CHAIRPERSON MILLER: Oh, that's your fear is 10 if you don't provide the RDO that you might liable for 11 not -- 12 MR. MICCICHE: I -- 13 CHAIRPERSON MILLER: Oh, something will 14 happen? You just don't want -- 15 MR. MICCICHE: I'm not -- 16 CHAIRPERSON MILLER: -- something to happen? 17 MR. MICCICHE: I mean, I guess liable -- 18 CHAIRPERSON MILLER: Okay. 19 MR. MICCICHE: -- is in a sense that -- I 20 don't feel like we'd be legally liable but I do feel 21 like we do have a responsibility -- 22 CHAIRPERSON MILLER: Responsible for safety?</p>	<p style="text-align: right;">36</p> <p>1 people scheduling and then not giving adequate notice 2 of the cancellation, which then leads to a commitment 3 of resources that's not uses and causes ill will among 4 officers and the other problems that are attendant to 5 that. 6 We can't apologize for them. I'm going to 7 try to offer a solution in a minute. I am going to try 8 to explain it a little bit with the understanding that 9 we're not trying to make excuses because I have told 10 Mr. Gibson and he understands that he has a Board Order 11 that requires that he has reimbursable detail. And he 12 if he can't work with the program, then the Board can 13 say, "Well, you know, if you can't work with the 14 program, then we'll find another way to deal with your 15 license." 16 So he is aware of that and understands that. 17 From his standpoint, it's a financially burdensome 18 situation. I think Mr. Silverstein's comments 19 certainly are appropriate in terms of, "Well, gee, you 20 know, that's what we've ordered and that's just the way 21 it is." And I've explained that to Mr. Gibson and he 22 understands it.</p>
<p style="text-align: right;">35</p> <p>1 MR. MICCICHE: -- to both the community and 2 to the establishments. 3 CHAIRPERSON MILLER: Right. Okay. Okay. 4 Mr. Kline. 5 MR. KLINE: Yeah, a few things. I did have 6 an opportunity to speak with Lieutenant Micciche and 7 Sergeant Rogers before the hearing. And they did 8 relate to me the issues and the problems that they have 9 encountered. Generally -- and they've told you but 10 just to reiterate it -- it seems that they experience 11 two problems frequently with RDO. One is a situation 12 where they're not given sufficient notice to staff and 13 then they're left either scrambling to staff at the 14 last minute or running the risk of not staffing and 15 being responsible in their minds, which is probably a 16 better word than liable -- 17 CHAIRPERSON MILLER: Uh-huh. 18 MR. KLINE: -- if something goes wrong. 19 That, fortunately, for the most part does not appear 20 that that's been much of a problem with this 21 establishment. The problem with this establishment has 22 been the other issue that they encounter, which is</p>	<p style="text-align: right;">37</p> <p>1 It seems to me that the solution here is not 2 very original on my part because I think it was touched 3 on by a couple of Board members but maybe it'll give 4 you a way to do it and maybe we solve this problem, 5 which is -- and first of all, I want to applaud the 6 Lieutenant for coming to you to make a decision as to 7 whether something should be done with respect to 8 detail. Because I would hate -- and he obviously 9 doesn't feel this way because he's here and I think 10 he's expressed it pretty clearly -- I would hate the 11 department to take it upon themselves to say, "Well, 12 we're just not going to provide detail." 13 And I think this is a good forum to discuss 14 this issue and to try to address the problems because 15 you're the ones that ordered it. You have authority 16 over the Licensee. 17 CHAIRPERSON MILLER: Uh-huh. 18 MR. KLINE: So I do applaud that conduct and 19 I think that that makes all the sense in the world. If 20 all of a sudden the department says, "We're not going 21 to do it anymore," then it leaves the Licensee in a 22 difficult position and I think leaves the Board in a</p>

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<p style="text-align: right;">38</p> <p>1 difficult position. 2 Well, what I would suggest is that the Board 3 Order -- that if this Licensee -- and Mr. Gibson's 4 agreed to this. I've talked to him about it. If this 5 Licensee does not give the 72 hours' notice of 6 cancellation as required by the agreement, then by 7 Board Order -- not by agreement with MPD -- then this 8 Licensee will be responsible for the full four hours of 9 the detail. 10 Now, I think that does two things. One, it 11 solves the issue in terms of the financial resources. 12 I think it also solves the other problem in terms of 13 officers not wanting to work here because I doubt that 14 there's any one of us who -- we're doing a job that 15 we're going to get paid for if we got -- if we showed 16 up and they told us, "Go home. You're going to get 17 paid anyway" -- that they wouldn't want that assignment 18 again. 19 So it seems to me that it probably solves 20 both of those problems. And if we do it by Board 21 Order, then if Mr. Gibson and his establishment do not 22 pay, he's in violation of a Board Order. The Board can</p>	<p style="text-align: right;">40</p> <p>1 MR. ALBERTI: I know but you're asking us to 2 put something in an Order and I'm trying to understand 3 what it is you're suggesting. So, I mean, we've got to 4 -- you know, we're here and let's talk about this. So -- 5 MR. KLINE: Fair enough. 6 CHAIRPERSON MILLER: Okay. 7 MR. KLINE: Then I would suggest that any 8 reimbursable detail be scheduled on at least five-day - 9 - five days' notice or whatever other notice is 10 required by the department. Remember that their 11 agreement requires 30 days' notice. They -- Lieutenant 12 Micciche concedes that, unfortunately, our Licensees 13 don't do that well. But if we put a requirement that 14 this Licensee is required to book at least five days in 15 advance, then the issue of a cancellation with at least 16 72 hours wouldn't be an issue. 17 MR. ALBERTI: Great. Or, I mean, couldn't we 18 just say cancellation less than 72 hours, they're -- 19 they have to pay the full freight and not get into -- 20 MR. KLINE: Sure. 21 MR. ALBERTI: -- them scheduling? 22 MR. KLINE: That's -- sure. That's another</p>
<p style="text-align: right;">39</p> <p>1 take appropriate action. That's what I would propose 2 as a solution. As I said, with the exception of the 3 one event, where reimbursable was scheduled but it was 4 scheduled later -- the event was earlier -- I don't -- 5 I'm not going to tell you that any event should have 6 proceeded without reimbursable detail. That's the 7 Board's Order. I respect that and understand that. 8 CHAIRPERSON MILLER: Uh-huh. 9 MR. KLINE: But I would offer that up as a 10 solution and happy to try to answer whatever questions 11 the Board may have. 12 CHAIRPERSON MILLER: Do you have a question? 13 MR. ALBERTI: Well, so I'm trying to -- let 14 me just reiterate what I've heard so I understand it. 15 So you're suggesting the solution is, if they schedule 16 reimbursable detail and do -- and cancel less than 72 17 hours -- let's say they schedule it 48 hours in advance 18 and cancel it the next day. So does that still count? 19 MR. KLINE: That's a good question. I don't 20 know. That should be addressed. I think it's a fair 21 question. I don't think that's been the issue here. 22 But I think that --</p>	<p style="text-align: right;">41</p> <p>1 way to do it. 2 MR. ALBERTI: Because they already have an 3 agreement with MPD. 4 MR. KLINE: Sure. Yeah, sure. 5 MR. ALBERTI: Okay. What else was I going to 6 ask there? So they would pay in full. Now, what 7 happens if -- what happens if they don't pay? I mean, 8 what are you suggesting if they just don't pay their 9 bill? 10 MR. KLINE: I don't -- 11 MR. ALBERTI: And the Board Order would say 12 that they'd be liable for the full cost -- 13 MR. KLINE: Right. 14 MR. ALBERTI: -- the full freight. It 15 wouldn't necessarily speak to the fact that they're not 16 paying their bill. 17 MR. KLINE: I -- 18 MR. ALBERTI: What do you suggest in -- well, 19 let me -- let me ask -- 20 MR. KLINE: Yes. I was waiting for -- 21 MR. ALBERTI: I mean, let me ask you -- I was 22 going to go back to a thing. We're getting a little</p>

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<p style="text-align: right;">42</p> <p>1 bit out of order. What happens if they don't pay their 2 bill? What do you guys end up doing? 3 MR. MICCICHE: Typically if we have an 4 establishment that's not paying or is untimely paying, 5 what we'll normally do is have an -- and we -- that's 6 what it used to be as well; everyone used to have to 7 prepay. 8 MR. ALBERTI: Right. 9 MR. MICCICHE: If you wanted a detail, you 10 had to prepay. 11 CHAIRPERSON MILLER: Uh-huh. 12 MR. MICCICHE: And that way we had your 13 money. So you want to cancel? What do you want? 14 MR. ALBERTI: Okay. So you -- so you have -- 15 so we have -- we have a mechanism -- you as -- MPD has 16 a mechanism to enforce that -- 17 MR. MICCICHE: Correct. 18 MR. ALBERTI: -- payment? Okay. All right. 19 Mr. Gibson, I'm going to ask you, are you understanding 20 Mr. Kline's suggestion, that we solve this by amending 21 the Board Order to say that if you cancel with less 22 than 24 -- less than 72 hours' notice, you will be</p>	<p style="text-align: right;">44</p> <p>1 trying to do is save some money and not have to pay 2 money that we won't even make. 3 MR. ALBERTI: I understand, Mr. Gibson. And 4 I wasn't going to go say this -- go down this avenue 5 but you brought it up. So I will tell you that the 6 reason I voted for that Board Order is because the 7 incidents that we were witnessing at your establishment 8 were creating a hardship for MPD, they were creating a 9 hardship for the city, they were creating a hardship 10 for the neighborhood, for the people of the community. 11 All right? 12 And so other people are being created 13 hardships by what's happening at your establishment. 14 So there's two -- there's both sides to that coin on 15 hardship. And I'll leave it at that. 16 MR. GIBSON: Okay. Have we had any incidents 17 since we've been doing the detail? 18 CHAIRPERSON MILLER: Okay. Let me say -- 19 MR. ALBERTI: I'm done with my questions, Mr. 20 Gibson. 21 CHAIRPERSON MILLER: Okay. So this is a -- 22 this is a limited fact finding really to the -- a</p>
<p style="text-align: right;">43</p> <p>1 liable for the minimum of four hours that you've 2 scheduled? 3 MR. GIBSON: Yes, I understand that. I do 4 understand that and I'm sorry about the hardships that 5 it causes on the MPD. But it also -- the Board Order 6 also causes a hardship on me and my business when we're 7 trying to run the business and we have to schedule out 8 reimbursable detail 30 days in advance and working with 9 other promoters and dealing with inclement weather and 10 things like that. 11 Sometimes we just have to cancel. Sometimes 12 we may be open and your order -- it states that we need 13 to have a detail whether we have any kind of 14 entertainment, whether it's a DJ or anything. If I'm 15 sitting downstairs and I want to have a jazz trio band, 16 your order is stating that I have to have a detail, 17 where I may have no more than 20 people dancing 18 downstairs in my restaurant. And I can't even offer any 19 kind of entertainment because I have to pay this \$520 20 plus out to a detail. 21 So it creates a hardship on my end as well. 22 So the only thing I'm trying to do -- or I -- we're</p>	<p style="text-align: right;">45</p> <p>1 problem that's been brought to our attention. And your 2 counsel has made a suggestion for a solution. Do you 3 want to respond to that suggestion? I don't know if 4 you've heard it before or -- 5 MR. MICCICHE: No. I mean, I think it's 6 reasonable in several aspects in that it's a deterrent. 7 It also solves the issue regarding the -- as you 8 mentioned, the -- regarding the officers signing up for 9 the detail. So, yeah, I mean, I actually think that's 10 a great proposal, if it's something they can live with. 11 It probably would solve the problem. 12 CHAIRPERSON MILLER: You think that solves 13 the problem, huh? 14 MR. MICCICHE: In this instance, yes. 15 CHAIRPERSON MILLER: Good. 16 MR. MICCICHE: It doesn't solve the universal 17 problem but it solves the problem here. 18 CHAIRPERSON MILLER: Okay. 19 MR. KLINE: But if I may, I mean, I think 20 that in terms of the universal problem, it goes that 21 way because it gives -- it gives the lieutenant and the 22 sergeant a mechanism that if they have this problem</p>

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<p style="text-align: right;">46</p> <p>1 again, we have a precedent to come back to and say, you 2 know, "This guy's done it, you know, 30 times in six 3 months." So, you know, it may actually contribute to 4 solving the universal problem as well, if I may. Just 5 my thoughts. 6 CHAIRPERSON MILLER: Okay. I thought you 7 meant universal, like, for all clubs or something but 8 you mean universal related -- 9 MR. KLINE: Well, the one -- the ones that 10 might do this. 11 CHAIRPERSON MILLER: But -- oh, okay. So -- 12 yeah. No, I think it sounds like a good solution. 13 Now, we will have people -- officers who will still 14 sign up so that this establishment can get coverage for 15 that night. And if they -- if it's cancelled, they get 16 paid and everybody's fine. Okay. Sounds good to me. 17 Any other questions? Okay. So -- 18 MR. ALBERTI: Ms. Miller -- 19 CHAIRPERSON MILLER: Yeah. 20 MR. ALBERTI: -- I believe we have another 21 officer in the audience. And it might be worthwhile 22 just to have him -- for the record having him come</p>	<p style="text-align: right;">48</p> <p>1 my discussions with Commander Hickson -- 2 CHAIRPERSON MILLER: Uh-huh. 3 MR. CARTER: -- in reference to the 4 scheduling of the clubs was -- mine was probably 5 Lieutenant (inaudible) when he was at the First 6 District, he handled, I think, almost every -- the 7 clubs almost every night. So he has a much greater 8 insight into the problems than I do per se. But one of 9 the things I wanted to -- I did want to correct is the 10 issue of the hardship on the officers. 11 It's -- this isn't about the hardship on the 12 officers. This is about the inability to schedule -- 13 CHAIRPERSON MILLER: Uh-huh. 14 MR. CARTER: -- and the inability to manage 15 the District's manpower because we have other things 16 that go on on the nights that the clubs are open. So - 17 - and I will say that the reimbursable detail has gone 18 a great deal -- a great way towards at least relieving 19 some of that stress on our regular patrol manpower. So 20 that part is -- that's the part that I wanted to stress 21 is, you know, the officers that sign up -- because my 22 staff are the people who actually do those -- have to</p>
<p style="text-align: right;">47</p> <p>1 forward and introduce himself. And I refer to him as 2 an officer. I'm sure he's of higher rank than that. 3 And I apologize, sir. I can't read the shoulders. 4 MR. CARTER: I'm Captain Mark Carter. I'm 5 the -- I'm the assistant district commander of First 6 District. I'm also the administrative officer and I'm 7 actually representing the commander, who is in 8 training. 9 CHAIRPERSON MILLER: Oh, okay. 10 MR. ALBERTI: Thank you for coming. 11 MR. CARTER: He's actually out of town for 12 training. 13 CHAIRPERSON MILLER: Oh, okay. 14 MR. ALBERTI: Thank you for coming. 15 CHAIRPERSON MILLER: Okay. I'm glad Mr. 16 Alberti spotted you then. Would you like to comment on 17 anything you heard today or -- 18 MR. CARTER: Well -- 19 CHAIRPERSON MILLER: -- put anything on the 20 record? 21 MR. CARTER: -- I apologize. I got here a 22 little late -- got notified but the one thing that in</p>	<p style="text-align: right;">49</p> <p>1 get it from Chris's shop -- we -- from lieutenant shop 2 -- we -- my unit's the one that signs the people up. 3 So the issue of officers who do or do not 4 want to work, that's not really germane to this 5 process. The process is really we -- do we -- does the 6 club provide us sufficient notification to enable us to 7 schedule? 8 CHAIRPERSON MILLER: Let me just ask you 9 about this though then. If they -- people sign up -- 10 officers sign up for that establishment and then it's 11 cancelled, would that have -- give rise to a problem 12 where they could have gone somewhere else and you 13 weren't able to place them somewhere else or do you -- 14 do you have adequate coverage? 15 MR. CARTER: That has happened on occasion, 16 yes. 17 CHAIRPERSON MILLER: On occasion. 18 MR. CARTER: The other issue is that, I 19 believe, at one point the department was absorbing the 20 cost for the two hours that we were required to pay the 21 officers when they would come in. The police 22 department was absorbing the cost.</p>

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<p style="text-align: right;">50</p> <p>1 CHAIRPERSON MILLER: Right. 2 MR. CARTER: So that was a problem also. 3 CHAIRPERSON MILLER: So this solution solves 4 that problem if they are going to pay. 5 MR. CARTER: Yes, it does. 6 CHAIRPERSON MILLER: It doesn't solve the 7 other problem if the manpower's being directed to them 8 instead -- and then it wasn't really needed. It could 9 have been directed somewhere else. But you're saying 10 that's not a big problem? 11 MR. CARTER: Well, that -- what happens is 12 the reimbursable detail, like Lieutenant Micciche said, 13 is a voluntary program that officers sign for. They 14 sign up for a time slot. Then they are coming. 15 They're given their -- their assignments are posted and 16 they're given their assignments. So they may not know 17 where they're going to work. 18 And, yes, I do agree that if you have a 19 business establishment that continually cancels when 20 officers could have, you know, gone someplace else and 21 been utilized elsewhere, yeah, that creates a hardship 22 for the police officers. But as far as department-</p>	<p style="text-align: right;">52</p> <p>1 guess that would be for his suggestion to have some 2 type of a sit-down and work out -- and that would be 3 for universal. Because I think that's happening -- that 4 may happen not just at -- I don't want to just say at 5 this -- in the First District, this is the only club 6 that that's a problem with. But that may be happening 7 around the city. I don't know. I'm only interested in 8 the -- actually in the First District. 9 CHAIRPERSON MILLER: I have one question for 10 either of you and I don't remember if I asked it. But 11 well, do you -- I have a -- I'm under the impression 12 you think it's better that this provision be in a Board 13 Order as opposed to an agreement between MPD and the 14 establishment. 15 MR. MICCICHE: Yeah, I would say so only 16 because currently the -- probably next -- I think 17 yearly we're going to have to renew the agreements and 18 -- because there's little tweaks that we're going to 19 make, I believe. But, yeah, I mean, I don't want to 20 make a different agreement with every club. 21 CHAIRPERSON MILLER: Uh-huh. 22 MR. MICCICHE: I mean, it's important to us,</p>
<p style="text-align: right;">51</p> <p>1 wise, it creates a problem if you have -- if you 2 continue to have the event, we must take on-duty 3 resources and devote that to that event, which has 4 happened. I think Lieutenant has done quite a few days 5 where he's had to take resources -- on-duty resources 6 and redirect the resources to handle the events that 7 happened (inaudible), which that creates the problem. 8 That's where my issue is with that. That's 9 the problem. 10 CHAIRPERSON MILLER: Okay. There was no -- 11 you don't have a solution to that problem per se, do 12 you? 13 MR. CARTER: Not in this city. 14 CHAIRPERSON MILLER: That's a harder one. 15 MR. CARTER: I couldn't tell you off the top 16 of my head -- 17 CHAIRPERSON MILLER: Yeah. 18 MR. CARTER: -- what a solution would be. 19 That would be more -- I guess what did -- I guess Mr. 20 Silverstein -- no -- 21 CHAIRPERSON MILLER: Mr. Kline. 22 MR. CARTER: Oh, Mr. Kline. Mr. Kline. I</p>	<p style="text-align: right;">53</p> <p>1 I think, we have uniformity going on and a certain 2 sense of fairness because every club is different. 3 CHAIRPERSON MILLER: Okay. 4 MR. KLINE: I'd also point out, as I 5 understand it, that that agreement is subject to a 6 General Order -- 7 MR. MICCICHE: Yes. 8 MR. KLINE: -- of MPD. And I don't -- you 9 know, I leave that to them in terms of what that does 10 to the General Order. 11 CHAIRPERSON MILLER: Uh-huh. 12 MR. KLINE: We don't even have to address it 13 if you do it. 14 CHAIRPERSON MILLER: Okay. Any other 15 questions? Okay. Well, I think that concludes our fact 16 finding hearing. I -- you've made a good suggestion 17 and I think that the Board will go back and consider 18 whether or not to issue an order putting that provision 19 in but I think it's a good suggestion. So -- 20 MR. ALBERTI: So -- 21 CHAIRPERSON MILLER: -- do you have more 22 questions?</p>

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<p style="text-align: right;">54</p> <p>1 MR. ALBERTI: Well, Ms. Miller, I just want 2 to make sure where we're at at this time. 3 CHAIRPERSON MILLER: Okay. 4 MR. ALBERTI: So we have a commitment from 5 the Licensee to -- that -- how do I say this -- that 6 they have no objections to -- if they -- to modifying 7 to the current Board Order to state that if their 8 cancellation happens in less than 72 hours before the 9 scheduled appointment of reimbursable detail, that the 10 Licensee would be liable for the minimum of four hours 11 -- the four hour minimum -- the minimum of four hours 12 that -- of cost; is that correct? I'm not saying this 13 very well. 14 MR. KLINE: Is that -- is that correct, Mr. 15 Gibson? Do you understand that? 16 MR. GIBSON: Yes, I understand it. 17 MR. KLINE: And is that agreeable to you to 18 be put into -- 19 MR. GIBSON: Yes. 20 MR. KLINE: Okay. Yes. 21 CHAIRPERSON MILLER: This is the way I wrote 22 it down, if we -- if we go with the language that I</p>	<p style="text-align: right;">56</p> <p>1 have a question? You, Mr. Silverstein? 2 MR. SILVERSTEIN: I just want to thank all 3 the parties involved here. You had a problem and it 4 appears as though we have solved it. That is always a 5 cause for some celebration. Thank you. 6 CHAIRPERSON MILLER: Good. Yeah. 7 MR. ALBERTI: Thank you. And officers -- 8 Captain Carter, please thank Mr. Hickson for -- 9 Commander Hickson for -- I'm not doing well today -- 10 Commander Hickson for bringing this out -- bringing 11 this to us -- 12 MR. CARTER: Yes, sir. 13 MR. ALBERTI: -- and so that we could come to 14 a solution. 15 MR. CARTER: Yes, sir. I will. 16 MR. ALBERTI: We very much -- very much 17 appreciate it. 18 CHAIRPERSON MILLER: And we very much 19 appreciate the RDO program. So we want to make sure it 20 can work well. Thank you. Okay. Next. Okay. 21 (WHEREUPON, at 2:25 p.m., the hearing was 22 concluded.)</p>
<p style="text-align: right;">55</p> <p>1 thought Mr. Kline said. So I'm just going to read it. 2 If they do not give 72 -- if they do not give 72 hours' 3 notice, then the Board -- then they will be responsible 4 for four hours of detail. 5 MR. ALBERTI: Give 72 hours' notice of 6 cancellation? 7 CHAIRPERSON MILLER: Notice of cancellation to 8 MPD for, you know -- 9 MR. ALBERTI: Yeah. 10 CHAIRPERSON MILLER: Okay. I don't have a 11 minimum. I don't have -- I just say, "Four hours, 72 12 hours for" -- 13 MR. ALBERTI: Okay. And that's -- 14 CHAIRPERSON MILLER: Okay. 15 MR. ALBERTI: -- consistent with what -- 16 CHAIRPERSON MILLER: But we -- 17 MR. ALBERTI: -- I was trying to convey. 18 CHAIRPERSON MILLER: Okay. 19 MR. ALBERTI: Thank you. 20 CHAIRPERSON MILLER: Okay. 21 MR. ALBERTI: Thank you, Ms. Miller. 22 CHAIRPERSON MILLER: Okay. Does anybody else</p>	<p style="text-align: right;">57</p> <p>1 CERTIFICATE OF NOTARY PUBLIC 2 3 I, BRADLEY ANGLIN, the officer before whom the 4 foregoing hearing was taken, do hereby certify that the 5 testimony appearing in the foregoing transcript was 6 recorded by me and thereafter reduced to typewriting 7 under my direction; that said transcription is a true 8 record of the testimony given by said parties; that I 9 am neither counsel for, related to, nor employed by any 10 of the parties to the action in which this was taken; 11 and, further, that I am not a relative or employee of 12 any counsel or attorney employed by the parties hereto, 13 nor financially or otherwise interested in the outcome 14 of this action. 15 16 17 18 19 _____ 20 BRADLEY ANGLIN 21 Notary Public in and for the 22 District of Columbia</p>

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1 CERTIFICATE OF TRANSCRIPTION

2

3 I, MIRANDA PENNACHI, hereby certify that I am not
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5 proceeding and that I have typed the transcript of this
6 proceeding using the Court Reporter's notes and
7 recordings. The foregoing/attached transcript is a
8 true, correct and complete transcription of said
9 proceeding.

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11

12 _____

13 Date MIRANDA PENNACHI

14 Transcriptionist

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<p style="text-align: center;">\$</p> <p>\$520 43:19</p> <hr/> <p style="text-align: center;">1</p> <p>1:35 2:2</p> <p>10:00 7:17</p> <p>100 30:11,13</p> <p>11:00 31:19</p> <p>1123 1:6 2:7</p> <p>12 17:6</p> <p>12:00 31:19</p> <p>12-068-836 8:6</p> <p>12-hour 20:4</p> <p>13 17:6</p> <p>13th 6:18 13:15,16,21</p> <p>14th 1:13</p> <p>15th 6:19 13:17</p> <p>16 6:21 13:17 14:3 17:8 30:6</p> <p>18 4:5</p> <p>19 1:11</p> <p>19th 7:11,14 13:7</p> <p>1D 10:11</p> <hr/> <p style="text-align: center;">2</p> <p>2:25 56:21</p> <p>20 43:17</p> <p>2000 1:13</p> <p>2011 4:11</p> <p>2012 1:11 6:2,18 7:11</p> <p>24 42:22</p> <p>25th 7:11</p> <hr/> <p style="text-align: center;">3</p>	<p>30 6:13 11:13 40:11 43:8 46:2</p> <p>308.15 6:17</p> <p>30-day 11:12</p> <p>3rd 20:3</p> <hr/> <p style="text-align: center;">4</p> <p>4:00 7:12 16:20</p> <p>4:45 7:14</p> <p>48 39:17</p> <p>4th 20:3,5</p> <hr/> <p style="text-align: center;">5</p> <p>54 7:8</p> <p>55 7:5</p> <hr/> <p style="text-align: center;">6</p> <p>6:00 7:16</p> <p>6A 1:8 2:7</p> <hr/> <p style="text-align: center;">7</p> <p>7:00 8:2</p> <p>72 6:13,21 13:18 14:7 31:12 38:5 39:16 40:16,18 42:22 54:8 55:2,5,11</p> <p>72-hour 10:5</p> <p>76366 1:7 2:7</p> <hr/> <p style="text-align: center;">8</p> <p>8th 2:7</p> <hr/> <p style="text-align: center;">A</p> <p>a.m 7:12 16:20</p> <p>able 10:12,14 18:18 19:12 20:18 21:1 24:1 29:4 49:13</p>	<p>ABRA 4:4,8 6:3 8:5 9:1</p> <p>absolutely 20:21</p> <p>absorbing 49:19,22</p> <p>absurd 31:6</p> <p>abuse 33:12</p> <p>abusing 22:9</p> <p>accountable 33:16</p> <p>action 39:1 57:10,14</p> <p>activity 29:4 30:18</p> <p>actual 15:1</p> <p>actually 11:8 14:19 16:2,7 18:5 20:8,10 21:4 31:5 45:9 46:3 47:7,11 48:22 52:8</p> <p>additional 7:1</p> <p>address 37:14 53:12</p> <p>addressed 39:20</p> <p>addressing 12:21</p> <p>adequate 36:1 49:14</p> <p>adhere 29:15</p> <p>administration 4:2</p> <p>administrative 4:1 47:6</p> <p>administratively 4:14 22:10</p> <p>advance 5:6 6:13 39:17 40:15 43:8</p> <p>affecting 2:10</p> <p>aforementioned 7:7</p>	<p>afternoon 2:4,5,13,17</p> <p>agreeable 54:17</p> <p>agreed 38:4</p> <p>agreement 5:2 6:3,5,10,15 8:19 9:21,22 10:3 12:14 24:12,16,19 29:16 32:19 33:3 38:6,7 40:11 41:3 52:13,20 53:5</p> <p>agreements 52:17</p> <p>ahead 19:10 34:6</p> <p>Alberti 1:17 3:1 15:15,16 16:9,16,21 18:15,21 19:2,8,18 20:16 21:11 22:4,11,13 25:1,14 39:13 40:1,17,21 41:2,5,11,14,18, 21 42:8,14,18 44:3,19 46:18,20 47:10,14,16 53:20 54:1,4 55:5,9,13,15,17, 19,21 56:7,13,16</p> <p>Alcoholic 1:2,12,13</p> <p>allow 6:13</p> <p>allowed 30:2 33:22</p> <p>alluded 16:11</p> <p>already 26:19 41:2</p> <p>am 36:7 57:9,11 58:3</p> <p>amending 42:20</p> <p>among 36:3</p>
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