

Capital Reporting Company
In the Matter of: Lemlee Corporation t/a Dancing Crab 07-18-2012

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DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :
 :
Lemlee Corporation :
t/a Dancing Crab :
4615 41st Street, NW :
Retailer CR : Show Cause
License No. 889 : Hearing
ANC 3E :
Case No. 11-CMP-00485 :
Sale to Minor, Failed to Take :
Steps Necessary to Ascertain :
Legal Drinking Age :
-----x

July 18, 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

ALSO PRESENT

MICHAEL STERN, OAG

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

2 10:18 a.m.

3 CHAIRPERSON MILLER: The next case on our
4 calendar is a show cause hearing. It is Case No. 11-
5 CMP- 00485, Dancing Crab, located at 4615 41st Street,
6 N.W., License No. 889, in ANC 3E.

7 MR. FARMER: Good morning. Jonathon Farmer
8 representing the Dancing Crab.

9 CHAIRPERSON MILLER: Okay. And with you?

10 MR. CASTEN: I'm Greg Casten, officer of the
11 Lemlee Corporation, trading as the Dancing Crab.

12 CHAIRPERSON MILLER: And what's your position
13 with the corporation?

14 MR. CASTEN: I'm the secretary of the
15 corporation. I'm the corporate officer.

16 CHAIRPERSON MILLER: Okay. Mr. Farmer, do
17 you have a letter of authorization for you to
18 representing Dancing Crab?

19 MR. FARMER: There's one -- there should be
20 one in the file.

21 CHAIRPERSON MILLER: Okay. Just checking.
22 All right. As we don't have the owner here.

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1 MR. FARMER: I'm sorry?

2 CHAIRPERSON MILLER: We don't have the owner
3 here.

4 MR. FARMER: Yeah, we do have the owner here.
5 He's in the building.

6 MR. CASTEN: He's here.

7 CHAIRPERSON MILLER: You're an owner? Oh, the
8 owner is here? Oh, good morning. Could you just
9 introduce yourself for the record?

10 MR. CIBEL: I beg your pardon?

11 CHAIRPERSON MILLER: Could you introduce
12 yourselves for the record, that you are here?

13 MR. CIBEL: Anthony Cibel.

14 CHAIRPERSON MILLER: Okay. You're the owner?

15 MR. CIBEL: Yes.

16 CHAIRPERSON MILLER: Okay. Terrific. Okay.
17 We just want to know that you -- the person that is
18 representing you, you know, is authorized to represent
19 you.

20 MR. CIBEL: Yes, he is.

21 CHAIRPERSON MILLER: Okay. You're fine.

22 We're set. Okay. Do we have any preliminary matters?

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1 MR. STERN: There are. The parties have
2 reached an agreement we hope the Board will accept as
3 an offer in compromise. The -- finally, the terms were
4 worked out just today. So I don't have it in writing
5 for you but I can relate to you exactly what it is.

6 The establishment will pay a fine of \$12,000
7 within 30 days. That is broken down into \$10,000,
8 which is the statutory maximum for charge 1, and \$2000,
9 which is the statutory maximum for charge 2. The
10 establishment will serve a suspension of 20 days. And
11 that is 15 days, which is the statutory maximum for
12 charge 1, and five additional days for charge 2. In
13 addition, the -- oh, the days would be served from
14 September 10th through September 30th.

15 In addition, the establishment will
16 relinquish all interest in the license by October 1.
17 The establishment, if -- for their -- I have spoken
18 with -- there is a pending sale of the establishment,
19 the building, license, all together. I've spoken to an
20 attorney representing that person (inaudible) myself.
21 They said they are completely independent parties and
22 that the present owners will have no interest in the

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1 establishment after October 1.

2 In addition, if for any reason this sale does
3 not go through and the establishment does not get sold
4 by October 1, the establishment will place their
5 license in safekeeping on October 1 until such time as
6 the license is transferred to the new owners.

7 CHAIRPERSON MILLER: Could you just cite for
8 me -- I want to double-check the statute or regulation
9 that says that \$10,000 is the max.

10 MR. STERN: Well, what -- yes. And I could
11 explain our --

12 CHAIRPERSON MILLER: Okay.

13 MR. STERN: -- reason I discussed this with
14 the -- with the agent. The statute -- what it actually
15 says -- only gives a fine up to \$10,000, the three
16 prior violations. This is -- there have been more than
17 three prior violations in the last few years. But the
18 -- nothing in the statute authorizes an additional fine
19 of that amount.

20 So it is our interpretation that the \$10,000
21 would be the statutory maximum which is authorized for
22 that violation.

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1 CHAIRPERSON MILLER: Okay. And do you -- I'd
2 like to just double-check that. If you have --

3 MR. STERN: Sure.

4 CHAIRPERSON MILLER: -- the statute, the
5 penalty that goes --

6 MR. STERN: You know, I don't have the
7 penalty statute --

8 CHAIRPERSON MILLER: Okay.

9 MR. STERN: -- right in front of me but it is
10 part of 73, I believe.

11 CHAIRPERSON MILLER: Okay.

12 MR. STERN: It should be 781, not 73.

13 CHAIRPERSON MILLER: Well, let me ask Mr.
14 Farmer, while we're taking a look at that, is your
15 client agreeable -- I don't know; I'm still trying to
16 repeat it -- but a fine of \$12,000 within 30 days,
17 suspension of the license, 20 days -- I'm -- what'd you
18 say, Mr. -- what's the 5 days what?

19 MR. STERN: Oh, it's 15 days for charge 1,
20 which is again --

21 CHAIRPERSON MILLER: Okay.

22 MR. STERN: -- in the statute, and 5

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1 additional days for charge 2.

2 CHAIRPERSON MILLER: Okay. That the license
3 will be relinquished by October 1? If it's not sold,
4 it will be put into -- if it's not transferred, it will
5 be put into safekeeping?

6 MR. FARMER: There's no -- we --

7 CHAIRPERSON MILLER: Uh-huh.

8 MR. FARMER: -- we are basically in
9 agreement. Obviously, we prefer a less -- a less
10 penalty but our intention at this juncture is to -- is
11 to sell the establishment as quickly -- as quickly as
12 possible. What we're here to do today is basically is
13 protect the integrity of the deal. We obviously have
14 to sell. And we have to sell a complete establishment,
15 if you will, which includes the real estate, the
16 building, and our license as well. I understand this
17 transfer will hopefully occur before October 1.

18 And we -- as I said, obviously, if we can get
19 a lesser penalty, we would be more than happy. It's
20 not an establishment that makes money. It's been kept
21 open lately to protect the employees at this juncture.
22 Hopefully you understand the severity of the

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1 accusations.

2 CHAIRPERSON MILLER: Okay. At this -- at
3 this point the Board would only be considering an offer
4 in compromise as presented to us. So I want to make
5 sure that that is what your client agrees to --

6 MR. FARMER: Yes.

7 CHAIRPERSON MILLER: -- and that he
8 understands that he'd be waiving his right to a hearing
9 on that issue.

10 MR. FARMER: Yes.

11 CHAIRPERSON MILLER: Okay. Do Board members
12 have questions? Did Board members want to look at the
13 statute that Mr. Stern is referring to again?

14 MR. ALBERTI: No.

15 CHAIRPERSON MILLER: No?

16 MR. ALBERTI: I understand it.

17 CHAIRPERSON MILLER: Okay. Very good.

18 MR. ALBERTI: What's -- it's 25-780? Yeah.
19 Okay.

20 CHAIRPERSON MILLER: Oh, I just -- I just
21 noticed that Mr. Jones is going to -- yeah, Mr. Jones?

22 MR. JONES: Thank you, Madam Chair.

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1 CHAIRPERSON MILLER: Okay.

2 MR. ALBERTI: I will mention, Madam Chair,
3 since you --

4 CHAIRPERSON MILLER: Okay.

5 MR. ALBERTI: -- you have asked that I don't
6 really agree with the OAG's interpretation of the
7 statute under 25-781. Because 7 -- Statute 25-781,
8 Section (f) - - Paragraph (f)(4) says, "Upon the fourth
9 violation, the Board may revoke the license." So I'm
10 not sure how the fine range applies here. And so --

11 MR. STERN: Well, the -- I -- and I --
12 there's no question about that. The Board has the
13 authority to revoke. And I think the question is
14 whether the Board has the authority to fine more than
15 \$10,000. And I don't believe the Board does have that
16 authority or it could --

17 MR. ALBERTI: Okay.

18 MR. STERN: -- revoke, even for a first
19 violation.

20 MR. ALBERTI: All right. Thank you.

21 MR. STERN: -- the Board could revoke the
22 license.

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1 MR. ALBERTI: All right.

2 MR. STERN: And the statute does say, "May."
3 It doesn't say, "Shall," as it does in other portions
4 of the statute. One of the reasons we agreed to this
5 at all was an attempt to keep business in the area and
6 keep employees employed in the area and keep taxes and
7 things coming in from the business being maintained in
8 the area, which -- and I've spoke -- as I said, spoken
9 to purchasers -- probably would not happen if this
10 license is revoked.

11 These purchasers I have before me, they don't
12 believe they would go through the process of restarting
13 a license. So they would not purchase the
14 establishment without the license. So part of our
15 consideration was to somehow divest all interest from
16 these owners -- was they have done such a horrendous
17 job of following the rules -- but still allow the area
18 to maintain the economics of having an establishment.

19 MR. ALBERTI: Thank you, Ms. --

20 CHAIRPERSON MILLER: Others? Okay. I'd like
21 to note that, based on what I've heard today and
22 looking at the statute, that I would agree with Mr.

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1 Stern, that I don't see in the statute where it
2 authorizes the Board to fine more than \$10,000. It
3 goes on to authorize other things in 4 and 5, such as
4 revocation.

5 So -- and also considering the equities that
6 Mr. Stern just articulated, I would move that we
7 approve --

8 MR. ALBERTI: Oh, wait. I think we should
9 talk about this.

10 CHAIRPERSON MILLER: Oh, we can. But you
11 want me to -- I can wait. We can tell you to talk in
12 my motion or we can -- you're -- is there a request to
13 -- yes, Mr. Jones? I'm sorry, I won't draw the motion
14 to this point if there wants to be more discussion
15 prior to my motion. Because I did -- I started to
16 articulate a motion and now, we're having a discussion.

17 So if it's the Board's request, I can either
18 continue with my motion and we can discuss it on the
19 motion or I can table it for now.

20 MR. JONES: So in lieu of the fact that
21 you've started the motion, I think it'd be appropriate
22 to go through the appropriate (inaudible).

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1 CHAIRPERSON MILLER: Okay. Then -- well, we
2 can go two ways. I would then -- I started a motion.
3 I would move that we approve the offer in compromise,
4 which is a \$12,000 fine and suspension of 20 days,
5 relinquished -- and the license will be relinquished by
6 October 1st, either by a transfer or by the license
7 being put in safekeeping. If it's not, it's -- any --
8 that's my understanding of it.

9 And please, correct me if I have --

10 MR. STERN: No, that's correct --

11 CHAIRPERSON MILLER: Okay.

12 MR. STERN: -- Madam Chair. And I'll only
13 point out that, in fact, the establishment will be
14 closed from September 10th onward in the addition of
15 the suspension. So when we close down for October 1st,
16 we would actually (inaudible).

17 CHAIRPERSON MILLER: Okay. Let me --
18 September 10th onward?

19 MR. STERN: Yes. Well --

20 CHAIRPERSON MILLER: Is that right?

21 MR. STERN: -- September 10th through
22 September 30th would be the --

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1 CHAIRPERSON MILLER: The 20 days?

2 MR. STERN: -- twenty days.

3 CHAIRPERSON MILLER: Okay, thank you.

4 MR. STERN: And then after that time, we
5 would have to put the license in safekeeping or have it
6 transferred to a non-related, independent third party.

7 CHAIRPERSON MILLER: Okay. So I'll add then
8 the -- is the establishment will be closed from
9 September 20th through -- September 10th for 20 days --

10 MR. STERN: Yes.

11 CHAIRPERSON MILLER: -- until that October
12 1st date, in which event it will either -- the license
13 will either be transferred or put in safekeeping. All
14 right. And so do I have a second on that?

15 BOARD MEMBER: Second.

16 CHAIRPERSON MILLER: Okay. So there's a
17 motion that's been seconded. Do individuals wish to
18 address the motion?

19 MR. JONES: Well, Madam Chair, I'm not sure
20 at this point what's appropriate or not but I would
21 like to have a discussion regarding it.

22 CHAIRPERSON MILLER: I just -- Mr. Jones, are

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1 you asking that the Board recess and consider this in
2 the Board room and then come back and deliberate --

3 MR. JONES: Yes.

4 CHAIRPERSON MILLER: -- on the motion? Is
5 that what your request is?

6 MR. JONES: It is. It is appropriate. Yes.

7 CHAIRPERSON MILLER: Okay. So is there a
8 second to Mr. Jones' request to recess to a closed
9 meeting?

10 MR. ALBERTI: I'll second.

11 CHAIRPERSON MILLER: Okay. I'm going to read
12 the instructions then for a closed meeting and then
13 take a roll call.

14 As chairperson of the Alcoholic Beverage
15 Control Board for the District of Columbia, in
16 accordance with Section 405 of the Open Meetings
17 Amendment Act of 2010, I move that the ABC Board hold a
18 closed meeting for the purpose of seeking legal advice
19 from our counsel on Case No. 11-CMP-00485, per Section
20 405(b)(4) of the Open Meetings Amendment Act of 2010,
21 and deliberating upon such case for the reason cited in
22 Section 405(b)(13) of the Open Meetings Amendment Act

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1 of 2010.

2 Is there a second? Oh, we already seconded
3 it. Mr. Nophlin seconded it? Okay.

4 MR. NOPHLIN: No, not that motion.

5 CHAIRPERSON MILLER: Not that -- is there a
6 second for this one?

7 MR. NOPHLIN: I'll second that motion.

8 CHAIRPERSON MILLER: Okay. All right. Let's
9 take a roll call on this morning. Mr. Nophlin?

10 MR. NOPHLIN: I agree.

11 CHAIRPERSON MILLER: Mr. Brooks?

12 MR. BROOKS: I agree.

13 CHAIRPERSON MILLER: Mr. Alberti?

14 MR. ALBERTI: I agree.

15 CHAIRPERSON MILLER: Ms. Miller agrees. Mr.
16 Silverstein?

17 MR. SILVERSTEIN: I agree.

18 CHAIRPERSON MILLER: Okay. Mr. Jones?

19 MR. JONES: I agree.

20 CHAIRPERSON MILLER: Okay. Then the motion
21 passes, 6-0. As it appears that it's passed, I hereby
22 give notice that the ABC Board will hold a closed

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1 meeting in the ABC Board conference room, pursuant to
2 the Open Meetings Amendment Act of 2010.

3 So we will take a short recess and take a
4 careful look at this and come back shortly. Thank you.

5 (WHEREUPON, at 10:32 a.m., the hearing went
6 off record until 10:32 a.m.)

7 CHAIRPERSON MILLER: Okay. We are back on
8 the record after a recess in which the Board had an
9 opportunity to consider the offer in compromise. And
10 so we're back. There is a pending motion that I made
11 to approve the offer in compromise, which is for a
12 penalty of \$12,000 to be paid within 30 days,
13 suspension of the license for 20 days beginning
14 September 10th, and that the license will be either
15 transferred or put into safekeeping by October 1st.

16 Anyone feel free to correct me if I'm wrong.
17 That's my understanding. Mr. Nophlin, I believe,
18 seconded the motion. I believe I already spoke to the
19 motion referencing Mr. Stern's leading us to the
20 penalty provisions and the equities involving employees
21 and taxes and such.

22 And so are there any other comments that

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1 Board members would like to make on this motion? Okay.

2 Not hearing any, all those in favor of motion to

3 approve the offer in compromise, say aye?

4 (Chorus of ayes.)

5 CHAIRPERSON MILLER: All those opposed?

6 (Chorus of nays.)

7 BOARD MEMBER: Roll call?

8 CHAIRPERSON MILLER: Yes, roll call. Mr.

9 Nophlin?

10 MR. NOPHLIN: I agree.

11 CHAIRPERSON MILLER: Mr. Brooks?

12 MR. BROOKS: I disagree.

13 CHAIRPERSON MILLER: Mr. Alberti?

14 MR. ALBERTI: I disagree.

15 CHAIRPERSON MILLER: Ms. Miller agrees. Mr.

16 Silverstein?

17 MR. SILVERSTEIN: I agree.

18 CHAIRPERSON MILLER: And Mr. Jones?

19 MR. JONES: I disagree.

20 CHAIRPERSON MILLER: Okay. The vote is 3-3.

21 The motion fails for lack of maturity.

22 So that means that we'll hear the case. Are

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1 the parties ready to proceed with the hearing?

2 MR. STERN: May we have the -- a minute so I
3 can (inaudible).

4 CHAIRPERSON MILLER: Would you like five
5 minutes?

6 MR. STERN: That would be fine.

7 CHAIRPERSON MILLER: Okay.

8 MR. STERN: Otherwise we would (inaudible).

9 CHAIRPERSON MILLER: Okay, good. Oh, he's
10 right here. Okay.

11 Well, let me swear you in for a second. Do
12 you swear to tell the truth, the whole truth, nothing
13 but the truth?

14 MR. GHENENE: Yes.

15 CHAIRPERSON MILLER: Okay. I'm sorry.
16 You're sure? Did we -- are there any opening
17 statements on this? And does anybody want to call the
18 -- invoke the rule in witnesses?

19 MR. STERN: I've asked (inaudible).

20 CHAIRPERSON MILLER: Okay, good. Okay. Do
21 you -- do you all wish to make any opening statements?
22 Opening statements?

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1 MR. STERN: I'm sorry? Oh, excuse me. Yes.
2 In this case the government's efforts will show that on
3 November 17th, 2011 at approximately 11:00 a.m.,
4 investigators of the Alcoholic Beverage Regulation
5 Administration entered the Dancing Crab at 4515 --
6 4615, excuse me, 41st Street, N.W. When they got
7 there, they saw a young woman sitting at the bar,
8 drinking an alcoholic beverage.

9 The manager from the Dancing Crab, when they
10 -- when he saw the ABRA investigators walk in,
11 whispered something into the woman's ear and she took
12 off out the back, through the kitchen, to avoid --
13 apparently to avoid the investigators. The
14 investigators followed her back there. And when they
15 found her back there, it turned out that she did not
16 have any identification on her.

17 But after several rounds of questions, she
18 admitted that she was under the age of 21 years old.
19 To confirm this, the investigators went to American
20 University, where they found out she was a student and
21 checked her student registration and confirmed that she
22 was under 21 years of age.

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1 We believe this evidence will show that the
2 establishment was serving alcoholic beverages to a
3 person (inaudible) under 21 years of age. And of
4 course, she did not have an ID. The establishment
5 could not have checked -- adequate check to whether her
6 age was under 21. The investigation also revealed that
7 Ms. Shapiro worked on the state log as the
8 establishment -- that she was there then and afterwards
9 and that she was known to the people of the
10 establishment.

11 So they should have known that she was -- she
12 could never have shown them that she was over 21. And
13 she -- they should have known that she was under 21
14 years of age. At the conclusion of the case, we will
15 ask the Board to impose an appropriate penalty that
16 will punish the establishment for (inaudible).

17 CHAIRPERSON MILLER: Thank you. Mr. Farmer?

18 MR. FARMER: Members of the Board, Madam
19 Chairperson, obviously we're not prepared to present
20 witnesses. In contrary. We take some dispute in the
21 facts as stated with Mr. Stern in this particular
22 matter, particularly in terms of what was -- what was

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1 said to the -- what was -- well, allegedly said by the
2 employee of the establishment to the -- to the alleged
3 agent.

4 Our own investigation showed that this person
5 was known to be a bartender's servant at another -- at
6 another establishment. Unfortunately, I did -- we did
7 not bring people here who actually conducted that
8 investigation, have -- and have knowledge of that -- of
9 those particular facts.

10 That being said, again, we understand that
11 the violation is offensive and the severity -- the
12 severity of the violation. We don't have those people
13 there to be able to dispute this in a -- in a fair and
14 equitable manner at the juncture. Oh, the other -- and
15 the -- if --

16 CHAIRPERSON MILLER: Mr. Farmer, can I just
17 ask you a question? You were on notice that this was a
18 show cause hearing though.

19 MR. FARMER: Oh, yes, ma'am. We had no -- I
20 mean (inaudible) on notice, et cetera. And long story
21 short, at the end of the violation, individual
22 (inaudible). But we don't -- I mean, we literally

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1 don't have the control at that -- at that particular
2 juncture. And the other factor which brought my
3 attention, they had previously seen an ID with this --
4 an ID from this individual.

5 But again, I don't have the people here today
6 to verify that as a -- as a fact.

7 CHAIRPERSON MILLER: Okay. All right. Then
8 I think we can hear from our government witness.

9 MR. FARMER: Absolutely.

10 CHAIRPERSON MILLER: You are finished with
11 your opening?

12 MR. FARMER: Yes.

13 CHAIRPERSON MILLER: Okay. All right. I'm
14 sorry if you're waiting for me, witness. Investigator,
15 you can proceed.

16 MR. STERN: He's sworn?

17 CHAIRPERSON MILLER: Uh-huh. Yes, I swore
18 him in earlier actually. Uh-huh.

19 MR. STERN: Can you give us your name,
20 spelling your last name for the record, please?

21 MR. GHENENE: Sure. It's Abyie Ghenene, A-B-
22 Y-I-E, G-H-E-N-E-N-E.

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1 MR. STERN: Mr. Ghenene, are you employed?

2 MR. GHENENE: Yes, sir.

3 MR. STERN: How are you employed?

4 MR. GHENENE: As an ABRA investigator.

5 MR. STERN: Going back to November 17th,
6 2011, were you employed as an ABRA investigator then?

7 MR. GHENENE: Yes, sir.

8 MR. STERN: And on that date did you come in
9 contact with the establishment that became known to you
10 as the Dancing Crab?

11 MR. GHENENE: Yes, sir. I'd like to make one
12 correction to my report. It's not 11:20 a.m. It's
13 11:20 p.m.

14 MR. STERN: Excuse me. And is that
15 establishment located at 4615 41st Street, N.W.?

16 MR. GHENENE: Yes, sir.

17 MR. STERN: Tell us how you came to be going
18 into that -- you know, the Dancing Crab?

19 MR. GHENENE: On that evening?

20 MR. STERN: Yes.

21 MR. GHENENE: On that evening Investigator
22 Vincent Parker and myself were monitoring the area for

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1 ABRA violations. And he entered the location at
2 approximately --

3 MR. STERN: And when you entered the
4 location, did you have occasion to speak to anyone who
5 worked in the establishment?

6 MR. GHENENE: Yes, sir.

7 MR. STERN: And why was that?

8 MR. GHENENE: Initially I just identified
9 myself as an ABRA investigator to -- I believe it was -
10 - I believe it was a door man or a bartender. And it
11 was at that time that we started seeing reactions.

12 MR. STERN: Did you -- did you attempt to
13 speak with any management that represented the
14 establishment?

15 MR. GHENENE: Well, that's what we requested.
16 We requested to speak with an ABC manager or owner.

17 MR. STERN: Did anything unusual draw your
18 attention while you were waiting?

19 MR. GHENENE: Yes, sir.

20 MR. STERN: What is the thing that drew your
21 attention?

22 MR. GHENENE: I observed a bartender, after

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1 identifying myself as ABRA investigator, leaning in
2 across the bar and whispering something to a female
3 patron. I then watched the female patron stand up from
4 her bar stool, grab a coat -- and I don't want to say
5 run, but walk briskly to the back of the establishment.

6 MR. STERN: And when you say the back of the
7 establishment, can you tell me how she -- what you mean
8 by the back of the establishment? Is this where -- an
9 area where customers were?

10 MR. GHENENE: No, sir. I believe, if memory
11 serves me correctly, there might be a restroom where
12 the establishment is -- to the side and it's not that
13 much. And if you walk back, you can go right and I
14 think there's a restroom area. You see to your left
15 into the kitchen area.

16 MR. STERN: Uh-huh. And did you consider
17 this somewhat unusual?

18 MR. GHENENE: Absolutely.

19 MR. STERN: And what did you do when you saw
20 that?

21 MR. GHENENE: I immediately followed her, you
22 know, confronted her in the kitchen.

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1 MR. STERN: Now, can you describe the young
2 lady that you saw?

3 MR. GHENENE: Yes, sir. She appeared to be
4 young in age, maybe some kind of college student age.
5 She didn't have any kind of uniform on that would
6 indicate she was an employee or anything else like
7 that. And once I was identifying myself, of course, we
8 followed her. She was ignoring me. And when she did
9 turn around, she seemed extremely rattled, actually
10 nervous.

11 MR. STERN: Okay. Did you see whether or not
12 she was consuming anything before she got up?

13 MR. GHENENE: Yes, sir.

14 MR. STERN: And what was it that you saw?

15 MR. GHENENE: She was consuming beer and what
16 was later identified as beer and we had some exhibit --
17 Exhibit 2.

18 MR. STERN: Exhibit 2 being your report?

19 MR. GHENENE: Yes, sir.

20 MR. STERN: Now, when you finally were --
21 were you finally able to stop her in the kitchen?

22 MR. GHENENE: Yes, sir.

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1 MR. STERN: And what transpired there?

2 MR. GHENENE: I asked her initially what she
3 was doing in the kitchen. And then I of course got
4 right in and found myself settled, I resumed with
5 showing my credentials. I then asked her a series of
6 questions to verify her age. I asked for her ID first.
7 She said that she didn't have anything with her name
8 on. And she said she had nothing with her name on it,
9 bank card, nothing.

10 So I went through a series of questions to
11 verify her age.

12 MR. STERN: And can you tell us what
13 transpired between the two of you?

14 MR. GHENENE: Yes, sir. She initially gave
15 me her birth date as November 23rd, 1989. And actually
16 that day -- then told me that she was 22 years old.

17 MR. STERN: Uh-huh.

18 MR. GHENENE: We did some -- I did some quick
19 math that day. And she wasn't -- if that was her birth
20 date, she couldn't have been 22. She would have been
21 21.

22 MR. STERN: Okay. And did that raise any

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1 suspicion with you?

2 MR. GHENENE: Yes, sir.

3 MR. STERN: Did you follow up with that?

4 MR. GHENENE: I did but Investigator Parker
5 was the one who actually was successful with following
6 up.

7 MR. STERN: Did you hear that conversation?

8 MR. GHENENE: Yes, sir.

9 MR. STERN: And what occurred?

10 MR. GHENENE: Investigator Parker explained
11 to Ms. Shapiro that she could not be 22 years old given
12 the dates that she gave us and showed her using a
13 calculator how her age was -- could not be 22 years
14 old. And

15 MR. STERN: And what happened at that point?

16 MR. GHENENE: At that point she admitted that
17 she was 19 years old.

18 MR. STERN: Okay. What did the two of you do
19 when you found that out there?

20 MR. GHENENE: Once we -- once we found out --
21 well, once she told us that she was 19 years old, we
22 took some of her personal information down,

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1 photographed her for purposes of name verification, and
2 explained to her that we were not police officers. We
3 also spoke with an ABC -- I believe the ABC manager was
4 with us while we were having this conversation with Ms.
5 Shapiro. Then we explained to her the nature of her
6 violation.

7 MR. STERN: Okay. Did your explanation that
8 you're not police officers elicit any response,
9 cooperation (inaudible) or --

10 MR. GHENENE: I don't think they could either
11 way.

12 MR. STERN: After you read the charges to
13 her, did you do any further investigation?

14 MR. GHENENE: Yeah, Investigator Parker and I
15 completed a regulatory inspection of their licenses and
16 then we got a violation.

17 MR. STERN: Okay. Now, did you ever take a
18 chance to speak with the ABC manager then?

19 MR. GHENENE: Yes, sir.

20 MR. STERN: Okay. What transpired with your
21 conversation with the ABC manager?

22 MR. GHENENE: Ms. -- I believe the ABC

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1 manager that evening, if I can refer to my case, her
2 name was Ms. Christina Leach. And Ms. Leach -- Ms.
3 Leach was there for the entire conversation -- the
4 second portion of the conversation we had with Ms.
5 Shapiro. And we explained to her what was going on.
6 Ms. Leach requested that the bartender that whispered
7 to Ms. Shapiro come to the back and explained exactly
8 what it is that he whispered to Ms. Shapiro.

9 MR. STERN: Okay. And did you speak with --
10 do you recall the bartender's name?

11 MR. GHENENE: Yes, sir. It's -- the last
12 name is McCarthy.

13 MR. STERN: And would you then have a
14 conversation with Mr. McCarthy?

15 MR. GHENENE: Yes, sir.

16 MR. STERN: And can you tell us what that
17 conversation was?

18 MR. GHENENE: Mr. McCarthy was extremely
19 reluctant to speak with me but he did attempt to
20 explain what he said. Initially he said that -- he
21 confirmed that Ms. Shapiro's first name was Isabel or
22 Izzy. Mr. McCarthy also confirms that she did work at

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1 Pizza Pizza, which is a nearby establishment. Mr.
2 McCarthy then stated that -- when I asked Mr. McCarthy,
3 why did he whisper to this -- to Ms. Shapiro, Mr.
4 McCarthy stated that he just wanted to let her know
5 that ABC was there.

6 MR. STERN: Okay. And did he explain that
7 further?

8 MR. GHENENE: Yes. Well, not really. But I
9 asked Mr. McCarthy, "Well, why does she need to know
10 that ABC's here?" But he didn't have an answer for
11 that. He said he just wanted to tell her.

12 MR. STERN: And did he --

13 MR. GHENENE: Actually he told me -- I'm
14 reviewing my report. He said he just wanted to tell
15 her because he knew that she did not have any
16 identification on her.

17 MR. STERN: Uh-huh. And did, you know, did
18 (inaudible) asked to see any identification earlier?

19 MR. GHENENE: I asked both Ms. McCarthy [sic]
20 and Ms. Leach if she had been properly identified that
21 evening.

22 MR. STERN: And did they say that she had

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1 been?

2 MR. GHENENE: They said that since they had a
3 relationship with her and she -- they were known -- or
4 she was known to them that they did not ask her for ID
5 and that they knew that she was over the age -- over
6 21.

7 MR. STERN: Now, did you do any follow-up
8 investigation after that time to determine who Ms.
9 Shapiro was?

10 MR. GHENENE: Yes, sir.

11 MR. STERN: And what was that follow-up
12 investigation?

13 MR. GHENENE: On Friday, November 18th, I
14 notified an investigator, Erin Mathieson, who has a
15 relationship with Catholic University [sic] of a
16 situation that happened at the Dancing Crab.
17 Investigator Mathieson sent Ms. Shapiro's information,
18 including her birthday and that picture, to Catholic
19 University. And they were able to verify (inaudible)
20 that she was in fact 19 years old.

21 MR. STERN: And did you do a report of this
22 matter?

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1 MR. GHENENE: I'm sorry?

2 MR. STERN: Did you do a report of this?

3 MR. GHENENE: On the

4 MR. STERN: On the -- did you do a report
5 regarding what occurred here?

6 MR. GHENENE: Are you asking if I attached
7 the email?

8 MR. STERN: No. Did you do a case report?

9 MR. GHENENE: Yes, sir. Yes, sir.

10 MR. STERN: Okay. Now, in that case report
11 do you recall what you said on page 3 about checking
12 the -- checking Ms. Shapiro's identification?

13 MR. GHENENE: Yes.

14 MR. STERN: And was it Catholic University
15 that contacted you?

16 MR. GHENENE: Oh, I apologize. It was
17 American University.

18 MR. STERN: American. And, I'm sorry, now
19 that -- I mean, that -- were you going to respond to
20 them at the university?

21 MR. GHENENE: Yes, sir.

22 MR. STERN: And what was that response?

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1 MR. GHENENE: American University was able to
2 verify that her name was in fact Isabel Shapiro. They
3 verified the photograph and verified her birth date as
4 11/23/1992.

5 MR. STERN: I want to show you what we'll
6 have marked as the government's Exhibit No. 1 and ask
7 if you'll recognize what that is.

8 MR. GHENENE: It's my investigative report.

9 MR. STERN: Okay. The investigative report
10 has --

11 CHAIRPERSON MILLER: Mr. Stern, does the --

12 MR. STERN: -- been filed.

13 CHAIRPERSON MILLER: -- opposing counsel have
14 a copy of that?

15 MR. STERN: I'm sorry?

16 CHAIRPERSON MILLER: Does opposing counsel
17 have a copy of the investigative report?

18 MR. STERN: I believe he does.

19 MR. FARMER: I have a copy.

20 CHAIRPERSON MILLER: Okay. Thank you.

21 MR. STERN: Can you tell us what Exhibit No.
22 1 to your investigative report is?

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1 MR. GHENENE: Exhibit No. 1 is a photograph
2 of Isabel Shapiro.

3 MR. STERN: Okay. And I think you mentioned
4 before Exhibit No. 2. Can you tell us what that is?

5 MR. GHENENE: Exhibit 2 is a photograph of
6 the alcoholic beverage I saw Ms. Shapiro consuming.

7 MR. STERN: Okay. And after that, did you
8 attach other information to your case report?

9 MR. GHENENE: Yes, sir.

10 MR. STERN: Is Exhibit No. -- well, you can
11 first tell us what Exhibit 3 is.

12 MR. GHENENE: Exhibit No. 3 is a regulatory
13 inspection.

14 MR. STERN: Okay. Exhibit No. 4?

15 MR. GHENENE: Exhibit No. 4 is sale to minor
16 identification form.

17 MR. STERN: Okay. Now, to Exhibit No. 5,
18 could you tell us what that is?

19 MR. GHENENE: Exhibit No. 5 is part of the
20 email conversation -- email chain between me,
21 Investigator Erin Mathieson, Rob Hradsky, who is the
22 assistant vice president of campus life, dean of

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1 students at American University.

2 MR. STERN: Okay. And did those emails
3 (inaudible) conversation you had on which you were
4 referring to before that confirmed Ms. Shapiro's
5 identification?

6 MR. GHENENE: Yes, sir.

7 MR. STERN: Thank you. I approve the
8 addition of the case reports including the exhibits.

9 CHAIRPERSON MILLER: Any objections?

10 (No audible response.)

11 CHAIRPERSON MILLER: Okay. Admitted.

12 MR. STERN: Thank you. Can I just wait half
13 a second?

14 And in determining in your -- and when you
15 got information from the American University, was --
16 did that include Ms. Shapiro's actual age?

17 MR. GHENENE: The confirmation?

18 MR. STERN: Yes.

19 MR. GHENENE: No, sir. Thank you. No
20 further questions.

21 CHAIRPERSON MILLER: Okay. Thank you. Mr.
22 Farmer, any cross?

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1 MR. FARMER: I didn't -- I have no questions
2 for this witness.

3 CHAIRPERSON MILLER: Okay. Any Board
4 questions? Oh, Mr. --

5 MR. ALBERTI: Very quickly.

6 CHAIRPERSON MILLER: Oh, okay.

7 MR. ALBERTI: Okay.

8 CHAIRPERSON MILLER: Mr. Nophlin, did you
9 too?

10 MR. ALBERTI: No.

11 CHAIRPERSON MILLER: Okay. Mr. Alberti?

12 MR. ALBERTI: Investigator Ghenene, and I may
13 have missed this in your testimony, but did Mr.
14 McCarthy tell you -- did he tell you where Ms. Shapiro
15 works?

16 MR. GHENENE: I'd have to refer to my case.

17 MR. ALBERTI: Sure.

18 MR. GHENENE: Yes, sir. Mr. McCarthy told me
19 that she was an employee at Pizza Pizza.

20 MR. ALBERTI: And do you know where Pizza
21 Pizza is in relationship to this establishment?

22 MR. GHENENE: I really don't.

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1 MR. ALBERTI: Okay.

2 MR. GHENENE: I know it's nearby. I believe
3 it's about three blocks north on Wisconsin but I'm not
4 100 percent sure.

5 MR. ALBERTI: Okay. Did he tell you whether
6 or not -- did he or Ms. Shapiro tell you whether or not
7 that was the first time she had been a customer of the
8 Dancing Crab?

9 MR. GHENENE: Both of them said that she had
10 been in there several -- frequently to drink.

11 MR. ALBERTI: Okay. Thank you. No further
12 questions.

13 CHAIRPERSON MILLER: Any other question from
14 our Board members? Yes, Mr. Nophlin?

15 MR. NOPHLIN: Investigator Parker [sic],
16 would you -- I'm sorry. I'm confused at Exhibit A
17 [sic]. Would you tell the Board what that is, please?

18 MR. GHENENE: Exhibit A?

19 MR. NOPHLIN: Yes.

20 MR. GHENENE: A? A1?

21 MR. STERN: A1?

22 MR. NOPHLIN: A1, I guess. I'm not sure.

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1 CHAIRPERSON MILLER: Where is that?

2 MR. STERN: Would you --

3 MR. NOPHLIN: It's the first -- I'll tell you
4 what, it's the second -- there's so many -- we only
5 have a few exhibits here. The second page of the
6 exhibits.

7 MR. STERN: Number 2?

8 MR. NOPHLIN: Number 2 -- or Exhibit 2, I'm
9 sorry.

10 MR. GHENENE: Number 2?

11 MR. NOPHLIN: It says, "A." Okay. I missed
12 -- Exhibit 2.

13 MR. GHENENE: Okay.

14 MR. NOPHLIN: What is that?

15 MR. GHENENE: Well, her glass that's in the
16 picture?

17 MR. NOPHLIN: Yes.

18 MR. GHENENE: There is a glass of beer and a
19 cup of crayons.

20 MR. NOPHLIN: A glass of beer and crayons?

21 MR. GHENENE: That's right.

22 MR. NOPHLIN: You know, I may not have the

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1 right one.

2 MR. ALBERTI: You're making it --

3 CHAIRPERSON MILLER: You do.

4 MR. ALBERTI: You do. I think our copy is
5 not very clear. And so maybe if you saw the original -
6 - so I -- it's hard -- I tell you, it's hard for me to
7 make out what he's describing there. So I'll just have
8 to take --

9 CHAIRPERSON MILLER: Okay.

10 MR. ALBERTI: -- his testimony for --

11 MR. NOPHLIN: Thank you. Thank you.

12 MR. ALBERTI: -- for what it is. Thank you.

13 MR. NOPHLIN: Thank you. That's what I --
14 thank you.

15 CHAIRPERSON MILLER: Okay. Any other
16 questions?

17 (No audible response.)

18 CHAIRPERSON MILLER: Any redirect, Mr. Stern?

19 MR. STERN: Well, yeah. Just for the benefit
20 of the Board. Can you stand up and point to where a
21 glass of beer is so the Board can follow it on their --

22 MR. GHENENE: Sure. The glass of beer is

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1 here. It's the one -- this reflection and a napkin
2 underneath it.

3 MR. ALBERTI: May I ask, is that the one --
4 in our photo it looks like it has a yellow band on it?

5 MR. STERN: Yes, yes.

6 MR. ALBERTI: That's the glass?

7 MR. STERN: Yes.

8 MR. ALBERTI: Thank you very much.

9 MR. STERN: Was it painted? Maybe you can
10 show them where the crayons too --

11 MR. GHENENE: Sure. And then --

12 MR. STERN: It's just for relationship
13 purposes.

14 MR. GHENENE: Well, the crayons readily to
15 the left.

16 MR. STERN: Thank you. No --

17 MR. NOPHLIN: Okay. Thank you.

18 CHAIRPERSON MILLER: Okay. Mr. Farmer, did
19 you have anything else?

20 MR. FARMER: No further questions.

21 CHAIRPERSON MILLER: Okay. Thank you very
22 much.

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1 Mr. Stern, do you have any other witnesses?

2 MR. STERN: No, the government is prepared to
3 close.

4 CHAIRPERSON MILLER: Okay. Mr. Farmer, do
5 you have a witness?

6 MR. FARMER: Yes. I'd like to call Mr. Greg
7 Casten.

8 CHAIRPERSON MILLER: Okay. Mr. Casten, I'm
9 going to swear you in.

10 MR. CASTEN: Yes, ma'am.

11 CHAIRPERSON MILLER: Do you swear to tell the
12 truth, the whole truth, nothing but the truth?

13 MR. CASTEN: I do.

14 CHAIRPERSON MILLER: Okay. Thank you very
15 much.

16 MR. FARMER: Mr. Casten, how were you made
17 aware of this incident at the Dancing Crab?

18 MR. CASTEN: I received a call from Chris
19 Leach, the manager (inaudible) the next day and the day
20 after that.

21 MR. FARMER: Okay. And what did you do in
22 reaction to that call?

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1 MR. CASTEN: I called Ms. Leach and I went
2 over the details of what happened and determined that,
3 in fact, something clearly happened and instructed her
4 we have a zero-tolerance policy at work. And I -- we
5 let go of Ty, who was the waiter, not the bartender
6 that night. Ty McCarthy, I believe is his name.
7 (Inaudible).

8 MR. BROOKS: Could you speak a little louder,
9 please?

10 MR. CASTEN: Sure.

11 MR. BROOKS: on the -- on the mike? I can't
12 hear you.

13 CHAIRPERSON MILLER: Do you want to repeat
14 that --

15 MR. BROOKS: Thank you.

16 CHAIRPERSON MILLER: -- last sentence?

17 MR. CASTEN: I -- my reaction was when Chris
18 called me and told me, I met with her at the Dancing
19 Crab and said, "Is anyone over the incident?" And as
20 she described what happened -- and told her that
21 anybody that was serving alcohol to anybody without
22 having checked ID can't work for us. We have a zero-

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1 tolerance policy for it. He was terminated
2 immediately.

3 I then went about and through further
4 investigation asked why the woman was in there at all
5 without an ID and then was told that she worked across
6 the street as a bartender and had shown ID on multiple
7 occasions before and had come to the restaurant
8 numerous times, told them today she didn't have ID.
9 And they let her in and let her drink alcohol, which
10 was against our policy. So because of that -- and I
11 believe Ty was at the door when this woman came in and
12 was also the one who allowed her, I think.

13 So subsequently, Ty was let go immediately.
14 We have a zero-tolerance policy. We know the situation
15 and the gravity and seriousness of the nature. We also
16 know, you know, that we're right next to American
17 University. And, you know, it's been a difficult road
18 trying to change that culture. And we've been working
19 very adamantly to do that. And this was extremely
20 depressing to us all.

21 A particular concern was that, you know, she
22 was known to be someone who was serving alcohol in

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1 another establishment. She was known by everybody
2 there, as the last one testified -- she was -- as
3 having worked down the street. So that was one other
4 reason why there was some, I guess, hesitance by Ty.
5 But whatever, he was terminated.

6 MR. FARMER: Mr. Casten, do you know who
7 actually served the individual in question?

8 MR. CASTEN: I do not. I believe it was Ty.

9 MR. FARMER: The head waiter? He was the
10 waiter in training?

11 MR. CASTEN: Yes. He was waiting and I think
12 she had just gotten there moments before from what I
13 was told.

14 MR. FARMER: Okay. Did you have cause to
15 investigate further other than to speak to the manager,
16 Andy N. (ph)?

17 MR. CASTEN: Sorry.

18 MR. FARMER: And Ty being the individual?

19 MR. CASTEN: I continue to talk through this
20 to try and get him to walk me over exactly why that
21 would happen at our establishment.

22 MR. FARMER: With whom -- with whom else did

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1 you speak?

2 MR. CASTEN: Well, I spoke with Chris Leach
3 and the bartender -- I -- Peter. I can't remember his
4 last name. Peter had seen her ID there one other
5 (inaudible) Peter was going to be here today or he
6 would have been able to testify to this -- in this
7 situation that we're talking about.

8 I also spoke to Wanda, who works for us.
9 Wanda and Chris have been working at the Dancing Crab
10 for 35 years each. The Dancing Crab has been in the
11 family since 1980. And I spoke to them. They were all
12 present on that night. And the fact pattern is that
13 the -- it seems consistent with what (inaudible) Ty
14 said he never announced that the ABC Board was here but
15 he did whisper something to her.

16 It seemed to me that he had done what the
17 investigator had said that -- I took this to be a rogue
18 incident by this individual but there's -- there was no
19 excuse for what he did. So

20 MR. FARMER: Were you actually able to
21 confirm that someone actually warned Ms. Shapiro that
22 ABC was in the house?

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1 MR. CASTEN: No. He -- according to Ty --
2 directly told me he didn't tell her specifically. He
3 announced it at the bar (inaudible). And she then got
4 up and walked to the kitchen. But he explained to me
5 was he didn't have any idea that she was underage. I
6 wasn't positive of whether that factual or not and I -
7 - based on what had happened, the fact that he had
8 served her beer and not seen her ID, regardless -- she
9 shouldn't have been in there.

10 She shouldn't have been served alcohol -- not
11 a question of getting there. I thought I had done this
12 before (inaudible). It's just

13 MR. FARMER: Were you able to identify what
14 type of ID Ms. Shapiro had previously presented?

15 MR. CASTEN: No, only that she had presented
16 ID. But I didn't -- you don't really focus on that
17 (inaudible) stacks and stacks of them and we put our
18 (inaudible) and they'll assure you they know who they
19 are. And we have books that identify what they are.
20 This particular one, I do not know. I believe that he
21 had said that the license -- I don't know what state
22 that Peter --

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1 MR. FARMER: Did any of your employees
2 actually state that they had a seen a valid ID?

3 MR. CASTEN: They had seen it from this woman
4 on prior occasions but not on this date, no.

5 MR. FARMER: The question is had -- did they
6 actually say that they had seen a valid ID?

7 MR. CASTEN: Yes. They told me that they had
8 seen an ID, you know.

9 MR. FARMER: No further questions.

10 CHAIRPERSON MILLER: Mr. Stern?

11 MR. STERN: Sir, knowing what you do now,
12 that she was 19 years old, there could be no question
13 that they did not see a valid ID of any type.

14 MR. CASTEN: I don't know that. When they
15 told me they saw ID, there's no question at all that
16 everybody in that place knew who that woman was, knew
17 that she worked across the street, and believed that
18 she was of real age to drink. In fact, you know --

19 MR. STERN: Was it -- is it usual in your
20 establishment for bartenders to warn the entire
21 establishment when ABC investigators come in?

22 MR. CASTEN: I don't think it's usual, no. I

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1 don't -- I don't know that it's unusual. I think when
2 there's a police investigator in there and checking IDs
3 with people that there may be an uncomfortable
4 situation for a patron to occur. And I don't think
5 it's an unusual behavior for that to occur. But it's
6 not usual.

7 MR. STERN: Well, it would only be
8 uncomfortable if they were underage drinking?

9 MR. CASTEN: It was clearly uncomfortable for
10 that girl. Yes.

11 MR. STERN: Thank you. That's all I have.

12 CHAIRPERSON MILLER: Board members? Mr.
13 Brooks?

14 MR. BROOKS: Thank you, Madam Chair. Mr.
15 Casten, how often do you visit the Dancing Crab?

16 MR. CASTEN: I try to get there at least once
17 a week but I'm not there on a daily basis.

18 MR. BROOKS: And have you ever seen Ms.
19 Shapiro in there just so --

20 MR. CASTEN: Still could not identify what
21 this woman looks like.

22 MR. BROOKS: And Ms. Leach and Mr. McCarthy,

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1 how long had they worked for you?

2 MR. CASTEN: Ms. Leach has been there for 39
3 years. She's the manager. Mr. McCarthy has been there
4 a year and a half. It might be a little bit longer,
5 but not too much longer than that.

6 MR. BROOKS: And is Mr. McCarthy still
7 working for you?

8 MR. CASTEN: Yes.

9 MR. BROOKS: Thank you, Madam Chair.

10 CHAIRPERSON MILLER: Thank you. Any other
11 questions?

12 MR. ALBERTI: Yeah, I do.

13 CHAIRPERSON MILLER: Okay. Mr. Alberti?

14 MR. ALBERTI: Mr. Casten, just a follow up.
15 So Mr. McCarthy's still working for you?

16 MR. CASTEN: No, he's not. Ms. Leach is
17 still working for me.

18 MR. ALBERTI: Oh, I'm sorry.

19 MR. CASTEN: The manager.

20 MR. BROOKS: I asked about Mr. McCarthy, was
21 he still working for you?

22 MR. CASTEN: No. He was fired --

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1 MR. BROOKS: Okay.

2 MR. CASTEN: -- immediately.

3 MR. BROOKS: That's what I thought you said
4 earlier.

5 MR. CASTEN: Anybody involved in anything
6 with underage drinking -- we have a zero-tolerance
7 policy.

8 MR. BROOKS: But Ms. Leach is still working
9 for you obviously?

10 MR. CASTEN: Ms. Leach is still working for
11 me.

12 MR. BROOKS: Thank you.

13 MR. CASTEN: Okay.

14 MR. ALBERTI: Mr. Casten, you keep saying,
15 "They stated that she presented valid ID." Who's they?

16 MR. CASTEN: The other bartender and Ms.
17 Leach and Wanda had all expressed to me that they had
18 seen ID from this young lady.

19 MR. ALBERTI: And did Mr. McCarthy tell you
20 that?

21 MR. CASTEN: Mr. McCarthy told me he knew her
22 to be of legal age. I don't recall asking him --

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1 MR. ALBERTI: Okay.

2 MR. CASTEN: -- whether or not he had seen ID
3 or not. He didn't see it that night. I know that.

4 MR. ALBERTI: Do you have the authority to
5 hire and fire people?

6 MR. CASTEN: I do.

7 MR. ALBERTI: Okay. So would you agree that
8 there is a motivation for these people to tell you that
9 they had seen valid ID as an excuse for their behavior?

10 MR. CASTEN: I don't know. There's no
11 motivation for them to lie to me. Their job wasn't
12 hanging on the balance.

13 MR. ALBERTI: Their job wasn't hanging over
14 the balance?

15 MR. CASTEN: Ty --

16 MR. ALBERTI: So -- wait, wait, wait. Wait,
17 wait. And you fired one of them. But their job wasn't
18 hanging over the balance. Can you explain to me that?

19 MR. CASTEN: They didn't serve the woman.

20 MR. ALBERTI: How would they know that their
21 job wasn't hanging in the balance?

22 MR. CASTEN: I mean, I guess don't

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1 understand. When I was asking them a question about an
2 incident that didn't involve them on that night?

3 MR. ALBERTI: Yeah.

4 MR. CASTEN: I guess I'm assuming -- assumed
5 their job wasn't on the line.

6 MR. ALBERTI: Okay. And no further
7 questions. Thank you.

8 CHAIRPERSON MILLER: Mr. Jones?

9 MR. JONES: Thank you, Madam Chair. Can you
10 provide us any -- the specifics of what your no-
11 tolerance policy is?

12 MR. CASTEN: In terms of -- I don't
13 understand that question. Would you --

14 MR. JONES: So you've indicated -- I believe
15 you indicated earlier in some of your responses to
16 questions that were asked that you have a zero-
17 tolerance policy, that the individual -- I think you
18 refer to him as Ty --

19 MR. CASTEN: Correct.

20 MR. JONES: -- he allowed someone in who
21 didn't have an ID on that night.

22 MR. CASTEN: And served them.

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1 MR. JONES: He allowed that individual to
2 consume alcohol in your establishment on that night.
3 And he provided you some rationale, some excuse as to
4 why that occurred. But you made reference to a no-
5 tolerance policy. And therefore, oh, well, it didn't
6 matter. He's gone?

7 MR. CASTEN: Correct. He's serving --

8 MR. JONES: So I want to understand, what are
9 the specifics of your no-tolerance policy?

10 MR. CASTEN: If you serve somebody that's
11 underage drinking, you can't work for us. That's
12 underage and drinking. You can't work for us.

13 MR. JONES: And how are you defining service?

14 MR. CASTEN: I beg your pardon? It'd be
15 alcoholic beverages in their hand or into their
16 possession, I guess.

17 MR. JONES: Okay. So it only applies to the
18 individual who actually takes the beverage and hands it
19 over to an underage individual? It doesn't apply to
20 the individuals that are accountable and responsible
21 for that employee and him being trained appropriately
22 or her being trained appropriately in the process of

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1 not doing that?

2 MR. CASTEN: I would say on this specific
3 incident, it would apply to the individual but if there
4 was a clearly a problem with the manager not enforcing
5 that, then that would apply to them as well.

6 MR. JONES: Okay. And -- well, did any
7 individual that you mentioned -- I think it's Leach --

8 MR. CASTEN: Chris Leach, correct.

9 MR. JONES: -- Chris Lee [sic], that
10 individual -- how long has that person been there?

11 MR. CASTEN: Thirty-nine years.

12 MR. JONES: Thirty-nine years.

13 MR. CASTEN: Correct.

14 MR. JONES: This isn't the first opportunity
15 you've been before the Board regarding a sale to minor
16 regarding Dancing Crab. Was that Leach person employed
17 at the establishment?

18 MR. CASTEN: Prior to Ms. Leach, there was a
19 different employee -- a different manager who was
20 employed for -- I believe this is the fourth infraction
21 and he was employed for three of them. And this was
22 Ms. Leach's first time as the manager. We elevated to

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1 her and then -- because Ms. Leach had been a server
2 there for a long time.

3 Part of the reason why we chose to elevate
4 her is that -- to management was because of her genuine
5 care and absolute commitment to (inaudible) we felt
6 like we were doing the right thing. And she was very
7 despondent that this incident even happened. So -- and
8 it's not all about (inaudible) and the fact that we
9 didn't terminate Ms. Leach was because she didn't
10 directly hand it to her. She does preach my hand in
11 hand and administer our policy of, "Hey, you need to
12 check ID."

13 This man did something he wasn't supposed to
14 do.

15 MR. JONES: Okay. So she was the manager on
16 duty that night?

17 MR. CASTEN: Correct.

18 MR. JONES: Okay. And what was her role in
19 the process of ensuring that -- well, I guess back up.
20 So in terms of your mode of operations at your
21 establishment, is it customary for servers to, I guess
22 -- what'd you describe Ty as? What's his role?

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1 MR. CASTEN: He was a server.

2 MR. JONES: He was a server. Is it customary
3 for servers to go behind the bar and get drinks and
4 give them directly to --

5 MR. CASTEN: No. They order from the
6 bartender.

7 MR. JONES: They order from the bartender?

8 MR. CASTEN: And they hand it to them and
9 they will pass it along to either the people at the
10 table or, if there's a person at the bar that they're
11 getting a beer for, they'll do that as well. So

12 MR. JONES: Okay. Is that what happened on
13 this instance?

14 MR. CASTEN: Yes. That, I believe, is what
15 happened.

16 MR. JONES: Okay. So the -- it is a
17 responsibility of the server to confirm ID or confirm
18 age or whatever?

19 MR. CASTEN: Absolutely 100 percent. No
20 matter -- even if we have a door man, the server has to
21 question about somebody's age, double-check their ID.

22 MR. JONES: Okay.

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1 MR. CASTEN: Even if they wear a bracelet.

2 MR. JONES: And you indicated Ty -- I think
3 you indicated earlier in your testimony that Ty -- you
4 believe Ty also let her into the establishment?

5 MR. CASTEN: That's what I believe.

6 MR. JONES: So he was also serving as door
7 man that night?

8 MR. CASTEN: He was at the front. The
9 Dancing Crab is about as big as from here to that wall
10 there. And he was in the serving area in (inaudible)
11 over there. I think he walked out and said, "I know her
12 and she's been in here before," and told the door man
13 that she was all right and then left her a beer at the
14 bar. Yes, sir.

15 MR. JONES: Okay. So did the door man check
16 her ID before --

17 MR. CASTEN: No, no.

18 MR. JONES: -- before honoring --

19 MR. CASTEN: That's the point -- what was the
20 point.

21 MR. JONES: So the door man --

22 MR. CASTEN: He doesn't work there anymore.

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1 MR. JONES: The door man is also gone?

2 MR. CASTEN: Correct.

3 MR. JONES: Okay. And where was this young
4 lady sitting, to your knowledge?

5 MR. CASTEN: At the corner of the bar. So
6 you can tell from the picture, there's just one little
7 round spot on the bar. That's the bar stool.

8 MR. JONES: So the bar has eight stools?

9 MR. CASTEN: Correct.

10 MR. JONES: And the bar -- did you have a
11 bartender on duty that night?

12 MR. CASTEN: Correct.

13 MR. JONES: So the individual in question was
14 at the bar?

15 MR. CASTEN: Sitting at the bar.

16 MR. JONES: Sitting at the bar.

17 MR. CASTEN: Wait -- at the wait station at
18 the bar. Correct. Right next to it (inaudible) seat
19 over from the light switch.

20 MR. JONES: Okay. And I'm just curious --

21 MR. CASTEN: But the waiters go to the bar to
22 get the drinks as well.

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1 MR. JONES: Understood. Do waiters generally
2 serve drinks to individuals that sit at the bar?

3 MR. CASTEN: On occasion if they know the
4 person -- the person's name, they might. Yes. Do they
5 regularly? Usually, no.

6 MR. JONES: Okay. So in this instance, what
7 would have had to have transpired, based on how you
8 described your operations, is the server would have
9 ordered a drink from the bartender. The bartender
10 would have given the server the drink. And then that
11 server would have given to the individual sitting at
12 the bar?

13 MR. CASTEN: That's right. That's how I
14 understood this transaction.

15 MR. JONES: Okay. Does that close for you?
16 Does that make sense?

17 MR. CASTEN: Does that close?

18 MR. JONES: Yeah, does that -- does that --
19 is that logical to you?

20 MR. CASTEN: That's what happened. I mean,
21 yeah, I've seen that happen before. It's not -- it's
22 not abnormal for a wait staff person to serve somebody

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1 at the bar.

2 MR. JONES: Okay. And who was the bartender
3 that night?

4 MR. CASTEN: I can't recall his name. Again,
5 I did not really prep before this.

6 MR. JONES: Well, how many bartenders do you
7 have employed at the premises?

8 MR. CASTEN: At the Dancing Crab, there's
9 four.

10 MR. JONES: Four?

11 MR. CASTEN: Uh-huh.

12 MR. JONES: Okay.

13 MR. CASTEN: That's it.

14 MR. JONES: That's it?

15 MR. CASTEN: There's only 12 employees after
16 this.

17 MR. JONES: Oh, so there's a total of 12
18 employees?

19 MR. CASTEN: That's it.

20 MR. JONES: Okay.

21 MR. CASTEN: Very small business.

22 MR. JONES: How many people are employed

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1 there now, after you fired the two that you mentioned?

2 MR. CASTEN: Twelve. We fired --

3 MR. JONES: So --

4 MR. CASTEN: -- a couple more servers. We
5 need the coverage.

6 MR. JONES: So you hired two more to cover
7 them?

8 MR. CASTEN: Correct.

9 MR. JONES: Okay. So you need a base of 12?

10 MR. CASTEN: We need to have a certain number
11 of waiters, a certain number --

12 MR. JONES: Right.

13 MR. CASTEN: -- of hosts, a bartender, and at
14 times, a door man.

15 MR. JONES: Okay.

16 MR. CASTEN: Sometimes you don't need a door
17 man.

18 MR. JONES: The individual that was serving
19 as the bartender that night, I understand you don't
20 know his name -- can't recall his name.

21 MR. CASTEN: (inaudible) --

22 MR. JONES: It was a male?

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1 MR. CASTEN: It was a female.

2 MR. JONES: It was a female?

3 MR. CASTEN: Correct.

4 MR. JONES: Okay. How long has she been in
5 your employ?

6 MR. CASTEN: She was in our employ for a
7 couple of years as well.

8 MR. JONES: A couple of years as well?

9 MR. CASTEN: Yes.

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

12 CHAIRPERSON MILLER: Thank you. Any other
13 Board questions? Any redirect?

14 MR. FARMER: Yes.

15 CHAIRPERSON MILLER: Okay.

16 MR. FARMER: Mr. Casten, did you have --
17 before this incident, did you have occasion to fire
18 other employees in relation to underage service?

19 MR. CASTEN: Yes.

20 MR. FARMER: Can you tell me approximately
21 how many?

22 MR. CASTEN: One, two, three.

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1 MR. FARMER: And at the time you fired these
2 employees, did you meet with the remaining employees to
3 explain what happened or otherwise discuss the no-
4 tolerance policy?

5 MR. CASTEN: Yes, yes. I generally will. At
6 the Dancing Crab, in this incident, I didn't meet with
7 all the employees at one time. But I told them myself
8 specifically. I didn't gather them together. The
9 other time, we gathered everyone. We had a meeting on
10 a Saturday morning and talked about how important it
11 was.

12 And the time before that, I forget when it
13 was, but it was around shift change. And we did sit
14 everybody down in a meeting. We put the door men and
15 the bartenders in TIPS training class. We also made it
16 -- made that a mandatory function of anybody that was a
17 bartender, to work in the TIPS training class. And we
18 do know that the establishment was -- there were people
19 under age coming there.

20 So we're trying very hard to be diligent
21 about this particular thing. It's really distressful
22 that this happened.

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1 MR. FARMER: Specifically, did you discuss it
2 with Ms. Leach?

3 MR. CASTEN: Yes.

4 MR. FARMER: What did you do to ensure that
5 the no-tolerance policy was enforced?

6 MR. CASTEN: Before or after?

7 MR. FARMER: Before.

8 MR. CASTEN: You know, it would be a regular
9 topic. We would -- I would talk about them when I
10 would be in there, whoever would be working there or
11 with Chris, whose job it was to matriculate the
12 information down. But, hey, everybody knows this. We
13 can't make a mistake. I mean, to have somebody who's
14 on the front door, who's checking IDs, particular after
15 9:30 or 10:00 on weekend nights -- it might have been
16 Thursday, Friday, Saturday.

17 That's when the activity was sort of
18 migrating. And we thought we -- I thought that that was
19 being done. And everybody knows within all our
20 establishments there's a zero-tolerance policy.

21 MR. FARMER: Mr. Casten, you've previously
22 stated that you were attempting to change the culture

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1 of the -- of the Dancing Crab. What did you mean by
2 that?

3 MR. CASTEN: I think under Tom, the manager,
4 there was a culture of trying to attract the college-
5 aged kids to come in. The Dancing Crab went through a
6 very rough period. I don't know if you remember, but
7 there was a tower and it was half-built. And then some
8 permitting issue occurred. And for eight years, the
9 entrance to the Dancing Crab was blocked. During that
10 period of time, it was very difficult for us to have
11 any business whatsoever.

12 Tom was charged as a manager. He was trying
13 to do anything he could (inaudible). That's when we
14 believe the culture of underage drinking began and
15 developed, under his tutelage, under his management.
16 When the first incident happened, we fired the
17 employee. When the second incident under it -- his
18 happened, we then fired the employee and the door man.
19 And the third one, it was clear that was the cultural
20 issue and we moved to change it by bringing in Chris.

21 So he was there every day. We understood
22 that we were a crab house and a restaurant, not a bar.

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1 And we were trying -- we didn't do any advertising at
2 night. We didn't in terms of on the campus or anywhere
3 near the campus. We stopped all activity of that
4 nature and really tried to focus on what we were, which
5 is a crab house -- I think one of the only crab houses
6 left out of our district (inaudible).

7 MR. FARMER: No further questions.

8 CHAIRPERSON MILLER: Okay.

9 MR. STERN: Just got a few things. So what
10 would you do to an employee who told you that they
11 never checked an ID of someone who they knew worked --
12 knew because they worked in the area?

13 MR. CASTEN: I would tell them, "Check their
14 ID no matter what," first of all.

15 MR. STERN: But if you found out that they
16 hadn't checked their ID because they thought they knew
17 them from the area, what would happen to them?

18 MR. CASTEN: I guess I'm not sure I know how
19 to answer that. I think I would look at the situations
20 of that case. But if that person came in and was
21 drinking at our establishment and they didn't have a
22 valid ID on their possession, then they would be

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1 subject to the termination.

2 MR. STERN: So the employees did have reason
3 to believe their jobs would be in the balance if they
4 told you that they never checked her ID when she came
5 in and was drinking?

6 MR. CASTEN: Assuming the girl was underage
7 at that point in time. I mean we knew that --

8 MR. STERN: Well, whenever they checked her
9 ID, they would know, right?

10 MR. CASTEN: But we don't know -- I didn't
11 know at the time, when I was asking around, you know.
12 I guess you can -- you can make that assumption and I
13 would go the other way on that assumption. I'm not
14 sure that the employees felt intimidated when they were
15 answering the questions duly or that they were under
16 duress, that they would have to say that. And I think
17 -- unfortunately, we didn't bring them here.

18 Some of them would have come here today and
19 explained just that, that they had seen this young lady
20 and identification -- I mean, what they thought to be a
21 valid identification on a prior occasion and was inside
22 the Dancing Crab drinking. And more importantly, that

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1 she was serving alcohol on a regular basis at another
2 establishment, which you need to be 21, I believe, in
3 the District, to serve alcohol, thus, reinforcing what
4 they thought.

5 I'm only explaining what they had said.

6 MR. STERN: Well, they still would be
7 required to check her ID --

8 MR. CASTEN: No doubt about it.

9 MR. STERN: -- even if they saw her serving
10 alcohol.

11 MR. CASTEN: No question about it.

12 MR. STERN: And did you ever see this
13 purported ID?

14 MR. CASTEN: No.

15 CHAIRPERSON MILLER: Mr. Farmer, this is your
16 witness. Did you have any other questions?

17 MR. FARMER: No, I don't.

18 CHAIRPERSON MILLER: Okay. All right. Thank
19 you very much.

20 MR. CASTEN: You're welcome.

21 CHAIRPERSON MILLER: Any other witnesses?

22 MR. FARMER: No, that is the only witness.

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1 CHAIRPERSON MILLER: Okay. So closing?

2 MR. STERN: The District believes it has
3 proven both charges in this complaint. The first
4 charge, sale to alcohol -- to a minor of alcohol, we
5 believe we have proven the young lady herself, she was
6 under the age of 21. Then she certainly had no ID at
7 the time. The surrounding circumstances, that our
8 bartender was whispering in her ear, and then she would
9 jump up and run out the back, is very, very strong
10 circumstantial evidence that that bartender that would
11 serve her knew that she was under the age of 21. I
12 think that's the only logical conclusion of the whole
13 image.

14 As to failing to check ID, that is admitted
15 by the establishment. And as she had no ID on her,
16 they could not have checked. Having the Board's
17 opinion prove -- excuse me, not that they'd be -- the
18 government's opinion proven both of these elements --
19 when you turn to the question of what is appropriate
20 sanction in this case, this establishment has four
21 prior violations for serving alcohol to a minor within
22 the last four years.

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1 This is the fifth such violation. There is
2 no question that the Board has the authority to revoke
3 their license. However, the government still believes
4 that the appropriate sanction would be to fine them the
5 maximum amount allowed under the statute, which is
6 \$12,000, suspend their license for an appropriate time
7 period, 15 days being the max for the first -- for the
8 first charge. And we are suggesting five days for the
9 second charge.

10 We made this and that the Board -- well, I
11 hope that the Board can order then to sell the license.
12 I think the Board can make their reopening -- a
13 reopening the -- what I think the Board can do is the
14 Board can suspend the license indefinitely, until such
15 time as it is transferred to another owner. The reason
16 I make this recommendation, similarly to the reasons I
17 made the recommendation to accept the offer in
18 compromise, is economic for the District as a whole,
19 rather than for this establishment at all because I
20 have no sympathy either for the establishment.

21 They -- what they did was intentional and
22 what they did was wrong. And they have done it

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1 repeatedly. However, these owners, as you know, own two
2 other establishments that have not had problems with
3 ABRA. If they are revoked, they will lose those
4 licenses as well. Three establishments will close. The
5 employees of three establishments will be unemployed.
6 The tax revenues from three establishments will not
7 inure to the district.

8 Additionally, I -- you know, at least in this
9 establishment, if the license is revoked, the sale of
10 the building and the establishment and the license will
11 not go through. This will mean no one will reopen at
12 that location for an extended period of time. I think
13 that, as much as the Board is charged with controlling
14 the use and sale of alcohol in the District, the Board
15 also has to look out for the benefit of the economic
16 health of the District in total.

17 And I think that the Board can reach that
18 compromise by doing both these things, punishing the
19 respondent, but also not inflicting the ultimate
20 punishment so that this license can be sold and traded
21 to a -- to a more responsible -- or what we hope will
22 be a more responsible owner. And that is still our

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1 recommendation.

2 CHAIRPERSON MILLER: Thank you. Mr. Farmer?

3 MR. FARMER: As opposing counsel, I find
4 myself in dire position (inaudible) agree with Mr.
5 Stern. I think we've heard -- the Board's heard
6 testimony at least from Mr. Casten (inaudible)
7 basically run a good, clean establishment. And in
8 comparison with the other establishments run -- that is
9 run by these particular parties, honestly, this is an
10 anomaly.

11 We recognize the fact that basically we
12 failed in the management of the Dancing Crab. And in
13 recognition of that, honestly, we are giving up any
14 rights to income and attempting to sell it to someone
15 who we hope that can run it -- run it better. As Mr.
16 Casten stated, we were in difficult -- in difficult
17 circumstances there. They were trying to -- trying to
18 do the best they can.

19 But ultimately, the realization came that
20 they were not suited -- the Dancing Crab is not -- was
21 not suited to go over all operating of that family of
22 restaurants. And so we're trying to get rid of it.

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1 So the punishment we will agree to accept --
2 we understand what has occurred. And we would urge the
3 Board to basically accept the offers that were made.
4 We will accept the punishment. So -- but again, the --
5 our goal and our -- and the key point here is we want
6 to be able to sell this establishment as negotiated
7 with perspective buyers. And basically we just -- we
8 are giving up complete control.

9 We have no -- we will have no connection with
10 that operation. And we hope that they will be able to
11 run it on a way which meets the Board's wishes and
12 provides all (inaudible). Again, we recognize our
13 failure but I think it's extremely important to the
14 overall economy and the benefit to the District of
15 Columbia that this establishment be allowed to continue
16 on (inaudible).

17 CHAIRPERSON MILLER: Okay. Thank you. I
18 just want to ask a clarifying question. It is the --
19 if the license were revoked, that would interfere with
20 the sale of the establishment? Is that what you're
21 saying?

22 MR. FARMER: You could try but it would kill

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1 it. I mean --

2 CHAIRPERSON MILLER: It would kill off the
3 regs?

4 MR. FARMER: If the sale encompasses
5 everything, the building, the land, as well -- as well
6 as the business, my understanding is that
7 they want to keep the trade name. Again, as Mr. Casten
8 expressed, you know, very few, quote, unquote, "crab
9 houses," left in the District of Columbia. And I've
10 seen some sort of trade (inaudible) crabs is important
11 to the buyer.

12 And my -- and it also is my understanding is
13 one of the potential buyers is -- has experience in the
14 restaurant business per se. I think the -- their
15 emphasis will be on -- as a restaurant as opposed to a
16 drinking establishment.

17 CHAIRPERSON MILLER: Okay. Oh, Mr. Jones, do
18 you have a question too?

19 MR. JONES: Thank you, Madam Chair. How many
20 perspective buyers?

21 MR. FARMER: We are currently in negotiation
22 with one. We were pretty close to closing that deal.

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1 MR. JONES: Oh, so it's really just one? And
2 you put down five this morning that you would consider
3 being perspective buyer, that you'd like to have buy?

4 MR. FARMER: There are -- there are other
5 perspective buyers that I -- that -- we have other
6 perspective buyers.

7 MR. JONES: I hear you.

8 MR. FARMER: But they are -- we are close to
9 -- we've got draft contracts being traded back and
10 forth at this junction. And we're attempting to close
11 that as quickly as possible.

12 MR. JONES: And so however it is you define a
13 perspective buyer, how many are there?

14 MR. FARMER: I'm not --

15 MR. CIBEL: How do we find them?

16 MR. CASTEN: Right now, there's one
17 perspective buyer, we think. And there -- if that
18 doesn't work, we have two other people who have
19 expressed interest. But we've already told them that --

20 MR. CIBEL: We gave it to an agent.

21 MR. CASTEN: Yeah.

22 MR. JONES: So I just ask that the

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1 interviewers at the table speak so that I can hear you.

2 MR. CASTEN: He's the owner.

3 MR. JONES: I ask that the individual at the
4 table speak.

5 MR. CASTEN: Yeah.

6 MR. JONES: If the owner would like to come
7 to the table, feel free.

8 MR. CASTEN: Yeah. The -- we have a person
9 identified and we believe that sale is going to happen.
10 We gave this to an agent. The agent has other
11 perspective people. And we've told them that we want
12 this sale to go through to this individual. Lumlee has
13 been in contact with Mr. Stern as well. And we're just
14 waiting on the final details of that contract that we
15 signed off on.

16 We had hoped to be able to bring that
17 contract here today but it just isn't at the point
18 where we -- because it also involves real estate, more
19 than just the business. Mr. Cibel is selling his real
20 estate in addition to this liquor license. It's a more
21 complex transaction.

22 MR. JONES: Understandable. Can you speak

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1 definitely in response to the Chairman's question in
2 terms of the other perspective buyers that if the
3 license is not included, that it will kill those deals
4 as well -- or were you only referring to the one where
5 you have been exchanging contracts?

6 MR. CASTEN: If there's no liquor license --
7 the other perspective buyers are both restaurateurs of
8 -- you know, I don't want to say it in here but they're
9 --

10 CHAIRPERSON MILLER: Okay.

11 MR. CASTEN: -- they're higher end chef-type
12 individuals. Without a liquor license, they're not
13 going to (inaudible).

14 MR. JONES: So the answer is, "Yes?"

15 MR. CASTEN: Correct.

16 MR. JONES: Okay. Thank you. Thank you,
17 Madam Chair.

18 CHAIRPERSON MILLER: Yes. Okay, here we go.
19 Mr. Silverstein?

20 MR. SILVERSTEIN: If push came to shove, how
21 quickly could you get this done?

22 MR. CASTEN: We are only asking --

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1 MR. SILVERSTEIN: And I mean, if you really
2 had a gun to your head.

3 MR. CASTEN: We're asking for October 1st.
4 We want to sell it tomorrow. So we -- you will see us
5 move as quickly as possible. And I even spoke to John
6 about that, if we were settling before the actual
7 suspension days, would it occur, would we maybe move
8 that up or -- that was something he was going to talk
9 to you about later.

10 If there was initial -- if we sell this and
11 you need to serve the 20 days, the buyer's going to
12 want us to bear that burden. And we're willing to do
13 that. We want to move this. I don't know how quick,
14 again, because it does involve real estate. At this
15 juncture, I think if we were to just sell the
16 restaurant, it might be a little bit quicker. But I'm
17 not positive on that. I haven't sold any restaurants
18 in the District before. So

19 MR. SILVERSTEIN: Could you come to agreement
20 in 30 days?

21 MR. CASTEN: Yes.

22 MR. SILVERSTEIN: Could you come to agreement

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1 in 15?

2 MR. CASTEN: I'm sorry?

3 MR. SILVERSTEIN: Could you come to agreement

4 in 15?

5 MR. CASTEN: I --

6 MR. SILVERSTEIN: I'm not saying settlement.

7 I'm saying agreement.

8 MR. CASTEN: I can't answer that. I -- that
9 I can't answer. I think that we are moving very -- I
10 mean, really there's only about 75 days until August --
11 I mean, October 1st anyway. So we're going to -- it's
12 pedal to the floor. We're going to try to get this
13 done as quickly as possible. I had originally asked
14 Mr. Farmer to give us more time than October 1st
15 because I thought even that was not enough time to get
16 the transaction completed but I don't think so.

17 MR. SILVERSTEIN: No further questions, Madam
18 Chair.

19 CHAIRPERSON MILLER: Okay. I think then that
20 concludes this hearing. And I'm just going to be
21 reading the instructions with respect to a closed
22 meeting because we will take this under advisement and

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1 can deliberate after -- no, I'm just telling you what
2 I'm about to do.

3 So as chairperson of the Alcoholic Beverage
4 Control Board for the District of Columbia and in
5 accordance with Section 405 of the Open Meetings
6 Amendment Act of 2010, I move that the ABC Board hold a
7 closed meeting for the purpose of seeking legal advice
8 from our counsel on Case No. 11-CMP-00485, per Section
9 405(b) of the Open Meetings Amendment Act of 2010, and
10 deliberating upon this case for the reasons cited in
11 Section 405(b) (13) of the Open Meetings Amendment Act
12 of 2010.

13 Is there a second?

14 BOARD MEMBER: Second.

15 CHAIRPERSON MILLER: Now that the motion's
16 been seconded, I'll take a roll call on this. Mr.
17 Nophlin?

18 MR. NOPHLIN: I agree.

19 CHAIRPERSON MILLER: Mr. Brooks?

20 MR. BROOKS: I agree.

21 CHAIRPERSON MILLER: Mr. Alberti?

22 MR. ALBERTI: I agree.

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1 CHAIRPERSON MILLER: Ms. Miller agrees. Mr.
2 Silverstein?

3 MR. SILVERSTEIN: Agreed.

4 CHAIRPERSON MILLER: Mr. Jones?

5 MR. JONES: I agree.

6 CHAIRPERSON MILLER: Okay. It appears the
7 motion has passed by a vote of 6-0-0. And I give
8 notice that the ABC Board will hold a closed meeting in
9 the ABC Board conference room today, pursuant to the
10 Open Meetings Amendment Act of 2010, and issue an order
11 within 90 days. Thank you very much.

12 MR. CASTEN: Thank you.

13 (WHEREUPON, at 11:35 a.m., the hearing was
14 concluded.)

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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

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BRADLEY ANGLIN

20

Notary Public in and for

21

DISTRICT OF COLUMBIA

22

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CERTIFICATE OF TRANSCRIPTION

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

Date

MIRANDA PENNACHI

Transcriptionist

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