

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 :
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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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6	<p>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.</p>	8
7	<p>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</p>	9

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<p style="text-align: right;">10</p> <p>1 CHAIRPERSON MILLER: Okay.</p> <p>2 MR. ALBERTI: I will mention, Madam Chair,</p> <p>3 since you --</p> <p>4 CHAIRPERSON MILLER: Okay.</p> <p>5 MR. ALBERTI: -- you have asked that I don't</p> <p>6 really agree with the OAG's interpretation of the</p> <p>7 statute under 25-781. Because 7 -- Statute 25-781,</p> <p>8 Section (f) -- Paragraph (f)(4) says, "Upon the fourth</p> <p>9 violation, the Board may revoke the license." So I'm</p> <p>10 not sure how the fine range applies here. And so --</p> <p>11 MR. STERN: Well, the -- I -- and I --</p> <p>12 there's no question about that. The Board has the</p> <p>13 authority to revoke. And I think the question is</p> <p>14 whether the Board has the authority to fine more than</p> <p>15 \$10,000. And I don't believe the Board does have that</p> <p>16 authority or it could --</p> <p>17 MR. ALBERTI: Okay.</p> <p>18 MR. STERN: -- revoke, even for a first</p> <p>19 violation.</p> <p>20 MR. ALBERTI: All right. Thank you.</p> <p>21 MR. STERN: -- the Board could revoke the</p> <p>22 license.</p>	<p style="text-align: right;">12</p> <p>1 Stern, that I don't see in the statute where it</p> <p>2 authorizes the Board to fine more than \$10,000. It</p> <p>3 goes on to authorize other things in 4 and 5, such as</p> <p>4 revocation.</p> <p>5 So -- and also considering the equities that</p> <p>6 Mr. Stern just articulated, I would move that we</p> <p>7 approve --</p> <p>8 MR. ALBERTI: Oh, wait. I think we should</p> <p>9 talk about this.</p> <p>10 CHAIRPERSON MILLER: Oh, we can. But you</p> <p>11 want me to -- I can wait. We can tell you to talk in</p> <p>12 my motion or we can -- you're -- is there a request to</p> <p>13 -- yes, Mr. Jones? I'm sorry, I won't draw the motion</p> <p>14 to this point if there wants to be more discussion</p> <p>15 prior to my motion. Because I did -- I started to</p> <p>16 articulate a motion and now, we're having a discussion.</p> <p>17 So if it's the Board's request, I can either</p> <p>18 continue with my motion and we can discuss it on the</p> <p>19 motion or I can table it for now.</p> <p>20 MR. JONES: So in lieu of the fact that</p> <p>21 you've started the motion, I think it'd be appropriate</p> <p>22 to go through the appropriate (inaudible).</p>
<p style="text-align: right;">11</p> <p>1 MR. ALBERTI: All right.</p> <p>2 MR. STERN: And the statute does say, "May."</p> <p>3 It doesn't say, "Shall," as it does in other portions</p> <p>4 of the statute. One of the reasons we agreed to this</p> <p>5 at all was an attempt to keep business in the area and</p> <p>6 keep employees employed in the area and keep taxes and</p> <p>7 things coming in from the business being maintained in</p> <p>8 the area, which -- and I've spoke -- as I said, spoken</p> <p>9 to purchasers -- probably would not happen if this</p> <p>10 license is revoked.</p> <p>11 These purchasers I have before me, they don't</p> <p>12 believe they would go through the process of restarting</p> <p>13 a license. So they would not purchase the</p> <p>14 establishment without the license. So part of our</p> <p>15 consideration was to somehow divest all interest from</p> <p>16 these owners -- was they have done such a horrendous</p> <p>17 job of following the rules -- but still allow the area</p> <p>18 to maintain the economics of having an establishment.</p> <p>19 MR. ALBERTI: Thank you, Ms. --</p> <p>20 CHAIRPERSON MILLER: Others? Okay. I'd like</p> <p>21 to note that, based on what I've heard today and</p> <p>22 looking at the statute, that I would agree with Mr.</p>	<p style="text-align: right;">13</p> <p>1 CHAIRPERSON MILLER: Okay. Then -- well, we</p> <p>2 can go two ways. I would then -- I started a motion.</p> <p>3 I would move that we approve the offer in compromise,</p> <p>4 which is a \$12,000 fine and suspension of 20 days,</p> <p>5 relinquished -- and the license will be relinquished by</p> <p>6 October 1st, either by a transfer or by the license</p> <p>7 being put in safekeeping. If it's not, it's -- any --</p> <p>8 that's my understanding of it.</p> <p>9 And please, correct me if I have --</p> <p>10 MR. STERN: No, that's correct --</p> <p>11 CHAIRPERSON MILLER: Okay.</p> <p>12 MR. STERN: -- Madam Chair. And I'll only</p> <p>13 point out that, in fact, the establishment will be</p> <p>14 closed from September 10th onward in the addition of</p> <p>15 the suspension. So when we close down for October 1st,</p> <p>16 we would actually (inaudible).</p> <p>17 CHAIRPERSON MILLER: Okay. Let me --</p> <p>18 September 10th onward?</p> <p>19 MR. STERN: Yes. Well --</p> <p>20 CHAIRPERSON MILLER: Is that right?</p> <p>21 MR. STERN: -- September 10th through</p> <p>22 September 30th would be the --</p>

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14	<p>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</p>	16	<p>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</p>
15	<p>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</p>	17	<p>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</p>

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18	<p>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</p>	20	<p>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.</p>
19	<p>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?</p>	21	<p>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</p>

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<p style="text-align: right;">22</p> <p>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</p>	<p style="text-align: right;">24</p> <p>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</p>
<p style="text-align: right;">23</p> <p>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.</p>	<p style="text-align: right;">25</p> <p>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</p>

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26	<p>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.</p>	28	<p>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</p>
27	<p>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.</p>	29	<p>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,</p>

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30	<p>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</p>	32	<p>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</p>
31	<p>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</p>	33	<p>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?</p>

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<p style="text-align: right;">34</p> <p>1 MR. GHENENE: I'm sorry?</p> <p>2 MR. STERN: Did you do a report of this?</p> <p>3 MR. GHENENE: On the</p> <p>4 MR. STERN: On the -- did you do a report</p> <p>5 regarding what occurred here?</p> <p>6 MR. GHENENE: Are you asking if I attached</p> <p>7 the email?</p> <p>8 MR. STERN: No. Did you do a case report?</p> <p>9 MR. GHENENE: Yes, sir. Yes, sir.</p> <p>10 MR. STERN: Okay. Now, in that case report</p> <p>11 do you recall what you said on page 3 about checking</p> <p>12 the -- checking Ms. Shapiro's identification?</p> <p>13 MR. GHENENE: Yes.</p> <p>14 MR. STERN: And was it Catholic University</p> <p>15 that contacted you?</p> <p>16 MR. GHENENE: Oh, I apologize. It was</p> <p>17 American University.</p> <p>18 MR. STERN: American. And, I'm sorry, now</p> <p>19 that -- I mean, that -- were you going to respond to</p> <p>20 them at the university?</p> <p>21 MR. GHENENE: Yes, sir.</p> <p>22 MR. STERN: And what was that response?</p>	<p style="text-align: right;">36</p> <p>1 MR. GHENENE: Exhibit No. 1 is a photograph</p> <p>2 of Isabel Shapiro.</p> <p>3 MR. STERN: Okay. And I think you mentioned</p> <p>4 before Exhibit No. 2. Can you tell us what that is?</p> <p>5 MR. GHENENE: Exhibit 2 is a photograph of</p> <p>6 the alcoholic beverage I saw Ms. Shapiro consuming.</p> <p>7 MR. STERN: Okay. And after that, did you</p> <p>8 attach other information to your case report?</p> <p>9 MR. GHENENE: Yes, sir.</p> <p>10 MR. STERN: Is Exhibit No. -- well, you can</p> <p>11 first tell us what Exhibit 3 is.</p> <p>12 MR. GHENENE: Exhibit No. 3 is a regulatory</p> <p>13 inspection.</p> <p>14 MR. STERN: Okay. Exhibit No. 4?</p> <p>15 MR. GHENENE: Exhibit No. 4 is sale to minor</p> <p>16 identification form.</p> <p>17 MR. STERN: Okay. Now, to Exhibit No. 5,</p> <p>18 could you tell us what that is?</p> <p>19 MR. GHENENE: Exhibit No. 5 is part of the</p> <p>20 email conversation -- email chain between me,</p> <p>21 Investigator Erin Mathieson, Rob Hradsky, who is the</p> <p>22 assistant vice president of campus life, dean of</p>
<p style="text-align: right;">35</p> <p>1 MR. GHENENE: American University was able to</p> <p>2 verify that her name was in fact Isabel Shapiro. They</p> <p>3 verified the photograph and verified her birth date as</p> <p>4 11/23/1992.</p> <p>5 MR. STERN: I want to show you what we'll</p> <p>6 have marked as the government's Exhibit No. 1 and ask</p> <p>7 if you'll recognize what that is.</p> <p>8 MR. GHENENE: It's my investigative report.</p> <p>9 MR. STERN: Okay. The investigative report</p> <p>10 has --</p> <p>11 CHAIRPERSON MILLER: Mr. Stern, does the --</p> <p>12 MR. STERN: -- been filed.</p> <p>13 CHAIRPERSON MILLER: -- opposing counsel have</p> <p>14 a copy of that?</p> <p>15 MR. STERN: I'm sorry?</p> <p>16 CHAIRPERSON MILLER: Does opposing counsel</p> <p>17 have a copy of the investigative report?</p> <p>18 MR. STERN: I believe he does.</p> <p>19 MR. FARMER: I have a copy.</p> <p>20 CHAIRPERSON MILLER: Okay. Thank you.</p> <p>21 MR. STERN: Can you tell us what Exhibit No.</p> <p>22 1 to your investigative report is?</p>	<p style="text-align: right;">37</p> <p>1 students at American University.</p> <p>2 MR. STERN: Okay. And did those emails</p> <p>3 (inaudible) conversation you had on which you were</p> <p>4 referring to before that confirmed Ms. Shapiro's</p> <p>5 identification?</p> <p>6 MR. GHENENE: Yes, sir.</p> <p>7 MR. STERN: Thank you. I approve the</p> <p>8 addition of the case reports including the exhibits.</p> <p>9 CHAIRPERSON MILLER: Any objections?</p> <p>10 (No audible response.)</p> <p>11 CHAIRPERSON MILLER: Okay. Admitted.</p> <p>12 MR. STERN: Thank you. Can I just wait half</p> <p>13 a second?</p> <p>14 And in determining in your -- and when you</p> <p>15 got information from the American University, was --</p> <p>16 did that include Ms. Shapiro's actual age?</p> <p>17 MR. GHENENE: The confirmation?</p> <p>18 MR. STERN: Yes.</p> <p>19 MR. GHENENE: No, sir. Thank you. No</p> <p>20 further questions.</p> <p>21 CHAIRPERSON MILLER: Okay. Thank you. Mr.</p> <p>22 Farmer, any cross?</p>

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38	<p>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.</p>	40	<p>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</p>
39	<p>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.</p>	41	<p>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</p>

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42	<p>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.</p>	44	<p>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-</p>
43	<p>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?</p>	45	<p>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</p>

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46	<p>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, hesitation 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</p>	48	<p>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 --</p>
47	<p>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?</p>	49	<p>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</p>

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50	<p>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,</p>	52	<p>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 --</p>
51	<p>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 --</p>	53	<p>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</p>

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54	<p>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.</p>	56	<p>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</p>
55	<p>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</p>	57	<p>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?</p>

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58	<p>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.</p>	60	<p>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.</p>
59	<p>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.</p>	61	<p>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</p>

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62	<p>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</p>	64	<p>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.</p>
63	<p>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?</p>	65	<p>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.</p>

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66	<p>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</p>	68	<p>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</p>
67	<p>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.</p>	69	<p>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</p>

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70	<p>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.</p>
71	<p>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.</p>
72	<p>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</p>
73	<p>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</p>

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74	<p>1 recommendation.</p> <p>2 CHAIRPERSON MILLER: Thank you. Mr. Farmer?</p> <p>3 MR. FARMER: As opposing counsel, I find</p> <p>4 myself in dire position (inaudible) agree with Mr.</p> <p>5 Stern. I think we've heard -- the Board's heard</p> <p>6 testimony at least from Mr. Casten (inaudible)</p> <p>7 basically run a good, clean establishment. And in</p> <p>8 comparison with the other establishments run -- that is</p> <p>9 run by these particular parties, honestly, this is an</p> <p>10 anomaly.</p> <p>11 We recognize the fact that basically we</p> <p>12 failed in the management of the Dancing Crab. And in</p> <p>13 recognition of that, honestly, we are giving up any</p> <p>14 rights to income and attempting to sell it to someone</p> <p>15 who we hope that can run it -- run it better. As Mr.</p> <p>16 Casten stated, we were in difficult -- in difficult</p> <p>17 circumstances there. They were trying to -- trying to</p> <p>18 do the best they can.</p> <p>19 But ultimately, the realization came that</p> <p>20 they were not suited -- the Dancing Crab is not -- was</p> <p>21 not suited to go over all operating of that family of</p> <p>22 restaurants. And so we're trying to get rid of it.</p>	76	<p>1 it. I mean --</p> <p>2 CHAIRPERSON MILLER: It would kill off the</p> <p>3 regs?</p> <p>4 MR. FARMER: If the sale encompasses</p> <p>5 everything, the building, the land, as well -- as well</p> <p>6 as the business, my understanding is that</p> <p>7 they want to keep the trade name. Again, as Mr. Casten</p> <p>8 expressed, you know, very few, quote, unquote, "crab</p> <p>9 houses," left in the District of Columbia. And I've</p> <p>10 seen some sort of trade (inaudible) crabs is important</p> <p>11 to the buyer.</p> <p>12 And my -- and it also is my understanding is</p> <p>13 one of the potential buyers is -- has experience in the</p> <p>14 restaurant business per se. I think the -- their</p> <p>15 emphasis will be on -- as a restaurant as opposed to a</p> <p>16 drinking establishment.</p> <p>17 CHAIRPERSON MILLER: Okay. Oh, Mr. Jones, do</p> <p>18 you have a question too?</p> <p>19 MR. JONES: Thank you, Madam Chair. How many</p> <p>20 perspective buyers?</p> <p>21 MR. FARMER: We are currently in negotiation</p> <p>22 with one. We were pretty close to closing that deal.</p>
75	<p>1 So the punishment we will agree to accept --</p> <p>2 we understand what has occurred. And we would urge the</p> <p>3 Board to basically accept the offers that were made.</p> <p>4 We will accept the punishment. So -- but again, the --</p> <p>5 our goal and our -- and the key point here is we want</p> <p>6 to be able to sell this establishment as negotiated</p> <p>7 with perspective buyers. And basically we just -- we</p> <p>8 are giving up complete control.</p> <p>9 We have no -- we will have no connection with</p> <p>10 that operation. And we hope that they will be able to</p> <p>11 run it on a way which meets the Board's wishes and</p> <p>12 provides all (inaudible). Again, we recognize our</p> <p>13 failure but I think it's extremely important to the</p> <p>14 overall economy and the benefit to the District of</p> <p>15 Columbia that this establishment be allowed to continue</p> <p>16 on (inaudible).</p> <p>17 CHAIRPERSON MILLER: Okay. Thank you. I</p> <p>18 just want to ask a clarifying question. It is the --</p> <p>19 if the license were revoked, that would interfere with</p> <p>20 the sale of the establishment? Is that what you're</p> <p>21 saying?</p> <p>22 MR. FARMER: You could try but it would kill</p>	77	<p>1 MR. JONES: Oh, so it's really just one? And</p> <p>2 you put down five this morning that you would consider</p> <p>3 being perspective buyer, that you'd like to have buy?</p> <p>4 MR. FARMER: There are -- there are other</p> <p>5 perspective buyers that I -- that -- we have other</p> <p>6 perspective buyers.</p> <p>7 MR. JONES: I hear you.</p> <p>8 MR. FARMER: But they are -- we are close to</p> <p>9 -- we've got draft contracts being traded back and</p> <p>10 forth at this junction. And we're attempting to close</p> <p>11 that as quickly as possible.</p> <p>12 MR. JONES: And so however it is you define a</p> <p>13 perspective buyer, how many are there?</p> <p>14 MR. FARMER: I'm not --</p> <p>15 MR. CIBEL: How do we find them?</p> <p>16 MR. CASTEN: Right now, there's one</p> <p>17 perspective buyer, we think. And there -- if that</p> <p>18 doesn't work, we have two other people who have</p> <p>19 expressed interest. But we've already told them that --</p> <p>20 MR. CIBEL: We gave it to an agent.</p> <p>21 MR. CASTEN: Yeah.</p> <p>22 MR. JONES: So I just ask that the</p>

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78	<p>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</p>	80	<p>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</p>
79	<p>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 --</p>	81	<p>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</p>

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<p style="text-align: right;">82</p> <p>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.</p>	<p style="text-align: right;">84</p> <p style="text-align: center;">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 BRADLEY ANGLIN 20 Notary Public in and for 21 DISTRICT OF COLUMBIA 22</p>
<p style="text-align: right;">83</p> <p>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.) 15 16 17 18 19 20 21 22</p>	<p style="text-align: right;">85</p> <p style="text-align: center;">1 CERTIFICATE OF TRANSCRIPTION 2 3 I, MIRANDA PENNACHI, hereby certify that I am not 4 the Court Reporter who reported the following 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. 10 11 12 13 14 15 _____ 16 Date MIRANDA PENNACHI 17 Transcriptionist 18 19 20 21 22</p>

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