

Capital Reporting Company
In the Matter of: Sunshine Bar & Lounge, LLC 09-12-2012

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DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

----- :
IN THE MATTER OF: :
 :
Sunshine Bar & Lounge, LLC :
t/a Sunshine Bar & Lounge :
7331 Georgia Avenue, NW :
Retailer CR : Show Cause
License No. 85239 : Hearing
ANC 4B :
Case No. 12-CMP-00054 :
Substantial Change (Operating :
After Hours and Expansion of :
Establishment) :
----- :

September 12, 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

WALTER ADAMS, OAG
ABYIE GHENENE, ABRA

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

2 10:38 a.m.

3 CHAIRPERSON MILLER: All right. The next
4 case on our calendar is a show cause hearing, Case No.
5 12-CMP- 00054, Sunshine Bar & Lounge, located at 7331
6 Georgia Avenue, N.W., License No. 85329, in ANC 4B.

7 MR. ADAMS: Madam Chair, Walter Adams for the
8 District of Columbia. Can I ask the Board's indulgence
9 for 30 seconds as I want to speak to my colleague and
10 I'll be ready to go?

11 CHAIRPERSON MILLER: Sure.

12 MR. ADAMS: Thank you. Okay.

13 CHAIRPERSON MILLER: Yes?

14 MR. SHARPE: Madam Chairperson, my name is
15 Sam Sharpe. I'm legal counsel for Commissioner Green
16 and Mr. Andre Carley. I wish to apprise the Board that
17 we do have a motion to intervene for you. And there is
18 an opposition to that motion by the OAG office. My
19 question is what it is that you would like for us to do
20 at this time in terms of making an appearance in this
21 proceeding? Is it continue to stand back or should we
22 come forward?

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1 CHAIRPERSON MILLER: Okay. Well, we are
2 going to -- how many are you?

3 MR. SHARPE: Three.

4 CHAIRPERSON MILLER: Okay. I -- you -- I
5 don't really see room at the table.

6 MR. SHARPE: We could just sit along the side
7 here.

8 CHAIRPERSON MILLER: If you'd like to take a
9 seat, you can, not with -- the Board is going to
10 proceed. And I was just trying to pull the papers on
11 this.

12 MR. SHARPE: And then, too, I'd like to, in
13 conjunction with what I've already said, ask whether or
14 not we're going to deal with the preliminary matter of
15 our motion in opposition?

16 CHAIRPERSON MILLER: That's correct. Yes, we
17 are going to deal with the preliminary matter.

18 MR. SHARPE: Actually we'll have an
19 opportunity to speak on our own? In other words, I
20 received an opposition from OAG yesterday evening with
21 respect to that. And I would like to have a few words
22 to speak on that.

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1 MR. ADAMS: Madam Chair, just pose the --

2 CHAIRPERSON MILLER: Okay. Let's start --
3 what?

4 MR. ADAMS: It was just to pose that we are
5 able to start the case and then begin and all attendant
6 matters --

7 CHAIRPERSON MILLER: Yeah, we need to start
8 with introductions and our normal formalities. I just
9 wanted to say that we do intend to address that issue
10 of the preliminary matter.

11 MR. SHARPE: All right. So I should bring my
12 client forward?

13 CHAIRPERSON MILLER: Well, they all don't
14 have to come forward. I --

15 MR. SHARPE: Well, I only have two.

16 CHAIRPERSON MILLER: All right. You can do
17 that if you'd like. All right. Let's start with
18 introductions.

19 MR. ADAMS: Good morning, Madam Chair and
20 other members of the Board. I'm Walter Adams
21 representing the District of Columbia.

22 CHAIRPERSON MILLER: Good morning, Mr. Adams.

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1 MR. CARLEY: My name's Andre Carley. I'm an
2 individual protestant and representing a concerned
3 neighbor (inaudible) association.

4 MS. GREEN: Good morning.

5 CHAIRPERSON MILLER: Good morning.

6 MS. GREEN: Morning. Sara Green. I'm the
7 advisory neighborhood commissioner for 4B01, for that
8 single-member district.

9 MR. SHARPE: Good morning again. Sam Sharpe,
10 legal counsel for Commissioner Green and Mr. Carley.

11 MS. KIDANE: My name is Alganesh Kidane. I'm
12 owner of Sunshine Lounge & Bar. Good morning. I'm the
13 owner of Sunshine Bar.

14 CHAIRPERSON MILLER: Yes. Yes, good morning.

15 MS. KIDANE: And my name is Alganesh Kidane.

16 CHAIRPERSON MILLER: Got it. Okay.

17 MS. KIDANE: Good morning.

18 CHAIRPERSON MILLER: Good morning. And
19 you're with?

20 MS. KIDANE: With my son here and --

21 MR. EHALU: My name is Ayenen Ehalu (ph).
22 I'm the manager and (inaudible).

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1 CHAIRPERSON MILLER: Okay.

2 TRANSLATOR: Translator.

3 CHAIRPERSON MILLER: The translator. Okay.

4 And what language is this going to be?

5 TRANSLATOR: Amharic.

6 CHAIRPERSON MILLER: What?

7 TRANSLATOR: Amharic.

8 CHAIRPERSON MILLER: You're Haric [sic]?

9 TRANSLATOR: Amharic.

10 CHAIRPERSON MILLER: Okay. What's the
11 language?

12 TRANSLATOR: Amharic.

13 CHAIRPERSON MILLER: Okay. Thank you. All
14 right. So you will raise your right hand.

15 TRANSLATOR: Uh-huh.

16 CHAIRPERSON MILLER: Okay. Do you solemnly
17 affirm that you will faithfully and accurately
18 interpret the proceedings in this matter from Amharic -
19 - okay -- into English and from English into Amharic to
20 the best of your ability?

21 TRANSLATOR: I do.

22 CHAIRPERSON MILLER: And what's your name?

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1 TRANSLATOR: (Inaudible).

2 CHAIRPERSON MILLER: Okay. Thank you. Okay.

3 So this is a show cause hearing but we have a
4 preliminary matter in this case that was put before us
5 by Sara Green, ANC commissioner for 4B01, and Andre
6 Carley, president of Concerned Neighbors, originally in
7 a July 22nd letter requesting to comment and make a
8 recommendation on any offer in compromise that the
9 government and the Licensee might reach in this case
10 and to comment on the recommendation, any penalty that
11 may be imposed by the Board prior to the Board's
12 imposition of the penalty.

13 On August 15th we briefly addressed this
14 question saying that we did not think -- well, let me
15 just back up for one more second. The -- I believe
16 that the regulation that is at issue with respect to
17 the request is 1701.4, which says, "The Board may in
18 its discretion permit interested persons other than
19 parties as defined in this chapter to intervene in the
20 proceeding for such general or limited purpose as the
21 Board may specify."

22 And in our last status hearing, I believe I

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1 indicated that it was the consensus of the Board that
2 an offer in compromise was not a -- in our
3 understanding, a type of proceeding that this would
4 apply to that involves a settlement agreement with the
5 government and the Licensee and that the Board would
6 take under advisement the request to address the
7 penalty question in the context of the show cause
8 hearing.

9 So that's where we are today. We received
10 briefings on this from the District of Columbia --
11 well, first from the -- first by Mr. Sharpe on behalf
12 of ANC 4B01, Commissioner Sara Green and Andre Carley,
13 to intervene in that way. And then we received a very
14 comprehensive Memorandum of Points and Authorities in
15 opposition to that request by the District of Columbia.

16 And I believe that the Board was ready to
17 address this question based on the pleadings. We now
18 have a request from Mr. Sharpe to respond to -- orally
19 to the District of Columbia's Memorandum of Points and
20 Authorities. And I want to ask -- you say there's an
21 objection on our Board member's part -- on the Board
22 members for a brief response.

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1 Sometimes it's a -- in a civil litigation in
2 the motion and opposition and sometimes a reply and he
3 didn't have time obviously to file a reply because of
4 when the District filed its memorandum. Now, you know,
5 they're not parties either. So this is kind of
6 (inaudible) request but considering it's an important
7 request, I guess I wouldn't be opposed to it being a
8 very brief, you know, reply, maybe three minutes or so.

9 But I would like to ask if other Board
10 members have any objection. Yes, yeah.

11 MR. ALBERTI: Ms. Miller, since you've opened
12 it up to other Board members, a couple --

13 CHAIRPERSON MILLER: Yeah, I am. Yeah.

14 MR. ALBERTI: -- of matters that I --

15 CHAIRPERSON MILLER: Okay.

16 MR. ALBERTI: -- I'd like to address here.

17 One --

18 CHAIRPERSON MILLER: Uh-huh.

19 MR. ALBERTI: -- One, I have no opposition to
20 a brief response --

21 CHAIRPERSON MILLER: Okay.

22 MR. ALBERTI: -- by the -- by the petitioners

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1 to speak to their motion. I think three minutes or
2 less is adequate. I'd also like to note that we should
3 then afford the Licensee the opportunity to speak to
4 the motion if they so choose and Mr. Adams, if he so
5 chooses, to this opposition and limit each to three
6 minutes.

7 But there's something else that I'm a little
8 confused about here and that is that the translator
9 hasn't been translating. So I'd like to clarify for --
10 I'd like to clarify for these proceedings what the
11 translator's role will be. And maybe she could speak
12 to that, whether she's going to do word for word,
13 whether she's going to summarize or whether possibly
14 you're going to translate when it's requested by the
15 Licensee that it's necessary.

16 So if you could explain -- you know, because
17 we want to make sure that -- you're here as a
18 translator and we want to make sure that, you know,
19 we're doing due diligence, that the Licensee is
20 understanding the proceedings. But -- and it has to
21 bean agreement between -- the Licensee has to agree to
22 however we're going to proceed with respect to the

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1 translation. So I'd like to get some clarity on that.

2 CHAIRPERSON MILLER: Thank you. I think
3 that's a very good point so that we can also
4 accommodate.

5 TRANSLATOR: So I'll summarize and translate
6 so that whatever is being said, I can do a verbatim
7 translation when they speak.

8 BOARD MEMBER: Madam Chair?

9 CHAIRPERSON MILLER: Yes.

10 BOARD MEMBER: Could she speak in the mike?
11 I can't hear.

12 CHAIRPERSON MILLER: Oh, we can't all hear
13 you. Can you, you know, speak more --

14 TRANSLATOR: I can do a verbatim translation
15 when they speak. And then I can summarize for the one
16 -- whatever else you say. Okay.

17 CHAIRPERSON MILLER: But let me just ask you
18 this because, you know, as I'm talking, I'm not
19 necessarily paying attention to you (inaudible). So
20 are you going to translate, for instance, sentence by
21 sentence or just, like, a concept of paragraph or does
22 it matter?

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1 TRANSLATOR: Paragraphs.

2 CHAIRPERSON MILLER: Okay, paragraph.

3 TRANSLATOR: That way I can go into the
4 details, the same points.

5 CHAIRPERSON MILLER: Okay.

6 TRANSLATOR: And then I will translate word
7 by word whatever he say, whatever she say.

8 MR. ADAMS: Madam Chair, this is one point of
9 clarification that the District would like. To our
10 knowledge that -- with this establishment that there is
11 one Licensee. That's Ms. Alganesh Kidane. And I just
12 wanted to clarify who's the Licensee in this case, if
13 it is just Ms. Kidane or is it Ms. Kidane and her son
14 as well just to clarify that.

15 CHAIRPERSON MILLER: Okay. Well, just her.
16 He's just helping. He's just here with -- for support.

17 MR. EHALU: I'm the manager.

18 CHAIRPERSON MILLER: You're manager?

19 MR. EHALU: Yeah.

20 CHAIRPERSON MILLER: Okay. Okay. I think
21 we're ready then to hear from Mr. Sharpe. Okay. Uh-
22 huh.

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1 MR. SHARPE: Did I hear I'm allowed three
2 minutes?

3 CHAIRPERSON MILLER: Yes.

4 MR. SHARPE: Okay. I'm going to keep it to
5 three minutes. What I would first like to do is to
6 bring the Board's attention to the opposition filed by
7 OAG, starting on Page 2. There's a line there that
8 begins with the word, "Granting." It's about a third
9 of the way down. The OAG says, "Granting the movement
10 -- movements of petition without an articulated
11 standard for such approval would be an unreasonable and
12 arbitrary decision."

13 Next, they indicate that also granting the
14 motion would lead to future intervention petitions.
15 And then thirdly, a few more lines down they say,
16 "Since similar non-parties input would provide the
17 Board with little if any valuable improvement to the
18 information, the Board should avoid such unnecessary
19 controversies." Then in the next paragraph, it goes on
20 to say, "Providing (inaudible) this Board should
21 exclude irrelevant information. (Inaudible) granting a
22 movement's request could lead to (inaudible) leads in

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1 irrelevant or extraneous information."

2 CHAIRPERSON MILLER: Okay. Mr. Sharpe, just
3 take a couple of pauses in-between paragraphs for the
4 translator.

5 MR. SHARPE: I'm sorry.

6 CHAIRPERSON MILLER: I just want you to take
7 a pause between your paragraphs for the translator.

8 MR. SHARPE: Oh, I'm sorry. Yeah, we can
9 agree -- wait for the translator.

10 MR. SILVERSTEIN: Madam Chair?

11 CHAIRPERSON MILLER: Uh-huh.

12 MR. SILVERSTEIN: If we're going to require
13 that he does that, just give him a little more time.

14 CHAIRPERSON MILLER: Yeah, right. We'll give
15 you a little more time.

16 MR. SHARPE: Thank you.

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

19 MR. ALBERTI: Ms. Miller --

20 CHAIRPERSON MILLER: What?

21 MR. ALBERTI: -- and I hate to bring this up
22 now but have we confirmed that the Licensee has been

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1 served with a copy of this motion? Because that would
2 be helpful if they had a copy before them.

3 CHAIRPERSON MILLER: (Inaudible) --

4 MR. ALBERTI: So, I mean, I was confused that
5 they didn't have a copy before them. So I -- that's
6 why I ask that now.

7 MR. SHARPE: In addressing the question, I
8 sent a certified copy of our motion to the -- certified
9 return receipt --

10 CHAIRPERSON MILLER: But excuse me, you're --

11 MR. SHARPE: Ma'am?

12 CHAIRPERSON MILLER: There you go. That's
13 the microphone. Be careful of the papers.

14 MR. SHARPE: Oh, okay.

15 CHAIRPERSON MILLER: You sent a certified --

16 MR. SHARPE: Certified return receipt copy of
17 our motion to Sunshine. We have a copy here from the
18 post office --

19 MR. BROOKS: Okay.

20 CHAIRPERSON MILLER: Okay.

21 MR. SHARPE: -- if the Board would care to
22 see it. We did get a return --

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1 CHAIRPERSON MILLER: Now, do you have --

2 MR. SHARPE: Because I just mentioned, we did
3 get a return from OAG but we did not get a return from
4 Sunshine.

5 CHAIRPERSON MILLER: Do you have a copy of
6 their motion?

7 MS. KIDANE: No, we had a --

8 CHAIRPERSON MILLER: Or the District of
9 Columbia's memorandum?

10 MR. EHALU: No, we do not receive nothing
11 except for that. That's one --

12 CHAIRPERSON MILLER: Did you get --

13 MR. ADAMS: For the record, they have
14 received a copy just today.

15 CHAIRPERSON MILLER: Well, they have a copy
16 in front of them.

17 MR. EHALU: Yes, we do. Yeah.

18 CHAIRPERSON MILLER: Correct?

19 MR. ADAMS: Yes.

20 CHAIRPERSON MILLER: Okay, okay. So and --
21 okay. So you can follow along there? All right.

22 MR. EHALU: Sure, sure.

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1 CHAIRPERSON MILLER: Do you have an extra
2 copy of your motion?

3 MR. ADAMS: No, I -- we do not.

4 CHAIRPERSON MILLER: We can make a copy.

5 MR. ALBERTI: Ms. Miller, I'm still confused.

6 MR. ADAMS: You wanted extras of the motion.

7 MR. SHARPE: Yeah, the memorandum.

8 CHAIRPERSON MILLER: Yes.

9 MR. SHARPE: Get her to your --

10 CHAIRPERSON MILLER: Your memorandum.

11 MR. ADAMS: Oh --

12 CHAIRPERSON MILLER: It -- I mean, I think
13 the concern was --

14 MR. ADAMS: I have it.

15 CHAIRPERSON MILLER: -- the Licensee didn't
16 have a copy.

17 MR. ALBERTI: Ms. Miller, I'm confused. And
18 I --

19 CHAIRPERSON MILLER: Okay.

20 MR. ALBERTI: -- and I would like to ask for
21 some clarity here. I believe I understand correctly
22 that the Licensee has a copy of the government's motion

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1 of an opposition; is that correct, Mr. Adams, to your
2 understanding?

3 MR. ADAMS: Yes. I --

4 MR. ALBERTI: All right.

5 MR. ADAMS: -- I'm just handling that.

6 CHAIRPERSON MILLER: We --

7 MR. ALBERTI: And I'm going to -- I'm going
8 to ask you because I think maybe you have some
9 knowledge and it can be helpful here. Are you aware
10 that the Licensee has a copy of the petitioner's
11 motion?

12 MR. ADAMS: Mr. Alberti, I am not aware
13 whether or not they have a copy of the original motion.
14 The District's merely responding to the motion that is
15 --

16 MR. ALBERTI: But it's your motion of
17 opposition.

18 MR. ADAMS: Well, exactly. And the impetus
19 for the opposition was obviously the motion. However,
20 I at no point spoke with the -- with the Respondent
21 about whether or not they had received a copy of the
22 ANC's motion.

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1 MR. ALBERTI: Thank you, Mr. Adams. Ms.
2 Miller, I ask that we clarify the term that the
3 Licensee has received the copy of the motion because I
4 think that's important to these proceedings.

5 CHAIRPERSON MILLER: I think that's something
6 we're doing. I think that I asked the Licensee, Mr.
7 Adams -- yeah, I asked that they had the motions. They
8 said they had the District of Columbia's memorandum and
9 I can see that they have that. I don't believe -- you
10 -- they have a copy of Sunshine's. But would you
11 confirm whether or not you have that motion -- a
12 memorandum? Sunshine's, it's a -- Sunshine's memorandum
13 about intervening in the proceeding for penalty
14 purposes.

15 "This Memorandum of Points and Authorities in
16 support of request of ANC 4B01, Commissioner Sara Green
17 and Andre Carley, to intervene with the above-captioned
18 case." Do you have it?

19 MS. KIDANE: No.

20 CHAIRPERSON MILLER: We -- I'm going to
21 request that our legal staff make a copy for you if you
22 don't have it.

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1 TRANSLATOR: Is it 4B01?

2 CHAIRPERSON MILLER: Yes.

3 TRANSLATOR: Yeah, we have it.

4 CHAIRPERSON MILLER: Okay. So you have two
5 memorandum?

6 TRANSLATOR: Yeah.

7 CHAIRPERSON MILLER: Okay.

8 MR. EHALU: No, just one.

9 TRANSLATOR: No, they are both 4B01.

10 CHAIRPERSON MILLER: Do you have the one that
11 I just read, Memorandum of Points and Authorities in
12 support of request of ANC 4B01?

13 TRANSLATOR: Yes.

14 CHAIRPERSON MILLER: Okay.

15 TRANSLATOR: This is it.

16 MR. ALBERTI: How -- may I ask -- maybe I
17 should --

18 CHAIRPERSON MILLER: Not the request. Not
19 the July 22nd letter.

20 MR. ALBERTI: How long -- how many pages is
21 the memorandum that you have in front of you?

22 MR. EHALU: It's probably seven.

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1 MR. ALBERTI: Pardon?

2 MR. EHALU: Probably seven or six.

3 MR. ALBERTI: About six or seven. And the
4 other one?

5 TRANSLATOR: Thirteen.

6 MR. ALBERTI: Thirteen?

7 TRANSLATOR: Yes.

8 MR. ALBERTI: Okay. So -- yeah, so I think
9 someone's going to check to see what we have there.
10 Thank you.

11 CHAIRPERSON MILLER: You okay?

12 MR. ALBERTI: So --

13 TRANSLATOR: Yeah.

14 MR. ALBERTI: Okay. So it's confirmed? I
15 think we've confirmed that you have both motions --

16 MR. EHALU: Yes.

17 MR. ALBERTI: -- in front of you. Thank you.

18 CHAIRPERSON MILLER: I guess, Mr. Sharpe, you
19 can start again with it.

20 MR. SHARPE: Should I continue or go back to
21 the beginning?

22 CHAIRPERSON MILLER: Well, you can pick up --

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1 whatever you're comfortable. You can just pick up
2 where you were.

3 MR. SHARPE: Why don't I just pick up with
4 the - - where I left off?

5 CHAIRPERSON MILLER: Okay. Yeah, they have
6 the paper.

7 MR. SHARPE: Let's begin with Page 11. About
8 a third of the way down there is a line that begins
9 with the word, "Conclusion." Staring with that
10 sentence that follows the word, "Conclusion -- the OAG
11 states the inclusion on the record of extraneous
12 information should render the Board's decision
13 vulnerable (inaudible)."

14 Lastly, I want to draw attention to OAG's
15 point two paragraphs down. The paragraph begins with
16 the words, "It is in." "It is in the best interest of
17 the Board and litigating parties to keep show cause
18 hearings simple." I wish to indicate with regard to
19 the various points that were made by the OAG, I
20 wholeheartedly disagree with those points. There's no
21 merit whatsoever to them and in my view, they are
22 legally absurd.

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1 To complete my remark -- then I'm going to
2 keep them simple -- I would like to read from a case
3 that was cited in my memorandum. On Page 4 of my
4 memorandum with the title, "Memorandum of Points and
5 Authorities," at the very end on Page 4, there's a
6 conclusion paragraph. It's captioned, "Conclusion."
7 In that paragraph is cited a case, Concerned Citizens
8 of Brentwood v. the District of Columbia Board of
9 Zoning Adjustment.

10 I'd like to call the Board's attention to
11 some language in that case that I think would be
12 helpful here in this proceeding. And I'm quoting
13 verbatim. "The proper course would have been for the
14 BZA to announce clearly at the outset of the hearings
15 or earlier whether intervention should be permitted
16 and, if so, under what conditions and then to follow
17 the amounts received." That's what I would like to
18 leave with the Board here and indicate procedural
19 example apart from this case.

20 We're well beyond that -- the stage that was
21 mentioned in this particular case. But nonetheless, I
22 think the case stands for the proposition that in terms

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1 of where we are now, before the Board rules, it needs
2 to cite a particular standard and state where the
3 movements or the proposed intervenants fall with
4 respect to that standard. The standard, of course,
5 must be reasonable. It cannot be arbitrary or
6 capricious and then it must be rationalized where the
7 proposed interveners fall with respect to the
8 articulated standard.

9 That would be -- complete my presentation.

10 CHAIRPERSON MILLER: Thank you.

11 MR. ADAMS: First of all, very briefly, if I
12 may, members of the Board, the crux of our opposition
13 is that this -- that this Board is the wrong -- and
14 show cause hearing is just simply the wrong forum for
15 an intervention from outside parties without their
16 being a real articulated or legal interest in any
17 particular matter. And that's what the crux of it is.
18 Within our opposition, we addressed each and every one
19 of the cases cited by the -- by the ANC or by the
20 movements here.

21 In particular, with the -- with the BZA case
22 or a case involving concerned citizens, the crux of it

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1 is that essentially those are -- those are hearings
2 resulting more regarding, for lack of a better term,
3 licensure or zoning, not (inaudible) cases, which are a
4 different matter altogether. And that's where the
5 Barnes case, which is cited, really gives the support
6 that says that and just scenario-type cases -- really a
7 different type of proceeding.

8 The -- in this case, the -- this group both
9 had -- were involved in a protest. And that's really
10 the proper part. And that's where they do have their
11 voices heard. And frankly, they're able to raise
12 concerns for the Board for investigation that leads us
13 here. So really, at this point it's in the
14 prosecutor's hands. And certainly, there hasn't been
15 any past cases where -- or past cases where you have
16 extra parties in criminal cases. And that's what we're
17 more or less seeing alike as those cases.

18 Officially, in terms of the response to Mr.
19 Sharpe's statements regarding what needs to be done in
20 terms of decision, the outside party or non-parties
21 really don't have a right. So this is completely
22 within the Board's discretion. However, I think the

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1 point within our opposition is that once the door
2 opens, then that's when there could be a lot more --
3 there would be a lot more scrutiny regarding decisions,
4 regarding who comes in, who -- and who doesn't come in.

5 And so our point regarding simplicity is that
6 240 -- the administered commute of this -- of this
7 court was to keep our prosecutions as prosecutions and
8 keep those merits clean so that you don't have to get
9 into the precarious matter of deciding who's the
10 appropriate interveners and who has the proper say
11 versus those who say that they don't have the proper
12 say.

13 So, you know, in all due respect, we
14 definitely are concerned with what is going on with
15 this establishment and what -- and its impact on you.
16 But it's just -- but the participation just isn't
17 appropriate for show causes.

18 CHAIRPERSON MILLER: Thank you. And these
19 are memoranda filed by Sunshine and the government.
20 However, if the Licensee has any comments they wish to
21 make, you may -- can at this point as you're a party to
22 this case. There's no obligation to. We're just --

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1 MS. KIDANE: He -- no, he has a point
2 actually.

3 CHAIRPERSON MILLER: Okay. You'd like to say
4 something to the motion?

5 MR. EHALU: Sure. What I -- what I don't
6 understand is that there is -- there is a point -- I
7 said this is the first time we didn't -- or we didn't
8 state according to Sunshine and Lounge but I don't
9 understand a party from -- the neighborhood party being
10 intervening in the license of a first-time offense.
11 It's just from the beginning we have protested by them.
12 And even the anniversary of two years of Sunshine,
13 there were the Germans (ph).

14 They come -- we had the photos and police
15 report. They just come and monitored what we do
16 daytime. And we do barbecue on my son's -- they --

17 CHAIRPERSON MILLER: Okay. Yeah, wait.

18 MR. EHALU: What I'm saying is well, they're
19 going -- whatever they want to do.

20 CHAIRPERSON MILLER: Okay. This is --

21 MR. EHALU: But that --

22 CHAIRPERSON MILLER: -- a procedural

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1 question. You -- okay? Let me just make it -- see if I
2 can simplify it.

3 MR. EHALU: Sure.

4 CHAIRPERSON MILLER: They don't have a right
5 to intervene in this case. They're making a request
6 that in our discretion we let them address the penalty
7 question. And the government is opposed to that. And
8 we're going to make a decision whether or not they can.
9 That's all this is about. They don't have a right.
10 It's whether we're going to let them in our discretion.
11 So --

12 MR. SHARPE: (Inaudible) --

13 CHAIRPERSON MILLER: Yes, I did. Uh-huh. Do
14 you -- do you -- you could make no comment. You could
15 say you agree with either one or the other.

16 MR. EHALU: I agree on that.

17 CHAIRPERSON MILLER: With whom?

18 MR. EHALU: They can -- they can interfere to
19 the point -- I don't -- we don't -- we don't want them
20 -- what the problem is we have two things in one
21 conflict. What we have -- we have a problem with the
22 license like what we do in the Sunshine Lounge & Bar,

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1 whatever they say -- the hours, that's what we're here
2 for. If there is another case what they have, that's
3 not relevant to us.

4 CHAIRPERSON MILLER: Okay. All right. Thank
5 you. Okay.

6 MR. SHARPE: Could I be permitted final
7 words?

8 CHAIRPERSON MILLER: I don't think that --
9 yeah, we keep going back and forth and back and forth.
10 So unless others disagree?

11 MR. NOPHLIN: (Inaudible).

12 CHAIRPERSON MILLER: Yeah, do you want --

13 MR. NOPHLIN: No, Madam Chair. We can't
14 hear. So they have to be cognizant of the speaker.

15 CHAIRPERSON MILLER: Okay, okay. Just be
16 cognizant when you're speaking.

17 MR. NOPHLIN: When you're -- yeah.

18 CHAIRPERSON MILLER: Thank you.

19 MR. NOPHLIN: That's okay.

20 CHAIRPERSON MILLER: To speak into the
21 microphone. Okay. So I think at this point then the
22 Board should discuss this right here. And we'll --

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1 request has been made after having been briefed by the
2 various memoranda and hearing oral argument this
3 morning unless others would like to hear more from the
4 counsel or have any other questions. Okay.

5 I think it was an -- it was an important
6 request that the ANC commissioner made and Mr. Carley
7 to intervene as interested persons. And I know that
8 they're -- you know, they're in the vicinity. They're
9 impacted by the establishment and I interpret that as
10 they're perhaps being impacted more than the general
11 public. However, and I have to say that I -- that I was
12 chair of BZA in another life or whatever. And I'm very
13 familiar with the zoning issues.

14 And I agree with Mr. Adams that zoning issues
15 are maybe similar to protest issues or -- but not -- I
16 don't believe to show cause hearings because show cause
17 is very different. It's prosecutorial and I think that
18 the District is the one that can represent offices and
19 in that kind of prosecutorial nature. I also want to
20 bring attention to the statutory construction. Because
21 when I looked again at the provision in 1701.4 that
22 says, "The Board may in its discretion permit

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1 interested persons other than parties as defined in
2 this chapter to intervene in a proceeding for such
3 general or limited purpose as the Board may specify."

4 This chapter right here in 1701, Parties
5 Intervention and Right to be Heard, if you look above
6 it, 1702 talks about protest hearings. Seventeen -- I
7 mean, 1701.2 is protests. 1701.3 talks about fact
8 finding hearing. There is --1701.6 talks about
9 applications for issuance renewal of a license,
10 transfer. None of this talks about show cause
11 hearings. So I think that this -- that the regulatory
12 (inaudible) not contemplate individuals who live in the
13 vicinity of getting involved in this type of
14 prosecutorial hearings.

15 That's not to say that we might not have
16 discretion in some case where there's something
17 exceptional that's been brought to our attention. But
18 I don't see it in this case. So that's -- I would deny
19 the request.

20 Do other Board members have comments they
21 wish to make? Yeah, Mr. Silverstein.

22 MR. SILVERSTEIN: Madam Chair, this is a

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1 disciplinary hearing.

2 CHAIRPERSON MILLER: Uh-huh.

3 MR. SILVERSTEIN: The Licensee is accused of
4 violating the law. As such, they have rights not
5 unlike that of a defendant including hearing. In a
6 situation like that traditionally, you have the
7 prosecution and you have the defense. You do not have
8 multiple prosecutions and you do not have people
9 intervening. If they are witnesses in a case like
10 that, the proper avenue for them is to go through the
11 prosecution. And the proper avenue for them is to
12 lobby the prosecution.

13 If I were accused of something, I would want
14 to be able to face one prosecutor and not multiple
15 prosecutors. That has been the construction of how
16 we've done things and this is basically the way that
17 things are done in cases of this type. This Board
18 received a smack down in a case (inaudible) case
19 recently where a judge said we are basically required
20 to follow precedent and establish practice.

21 "And when we do not," the judge said, "our
22 credibility plummets." Plus, we have always had this

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1 done in an established practice. And it frightens me
2 greatly that we would change this at a request here
3 that would open up a door that would make these go a
4 lot longer. I would -- I would tell the movements in
5 this case that this Board regularly scrutinizes offers
6 in compromise and does so probably even more diligently
7 and turns down probably more than any tribunal I've
8 ever seen.

9 Do not fear that there -- that we're an easy
10 or soft target for that (inaudible). We're not. Your
11 avenue is through Mr. Adams. Your avenue is also
12 through, you know -- we do regulate. We do inspect and
13 our inspectors also file charges. That's why we are
14 here. I understand and sympathize wholly and
15 completely with what you are trying to do. It is
16 simply a procedural matter that is an avenue that we
17 have not gone down before.

18 It would require an extraordinary situation
19 for us to seriously consider such a thing. And I
20 believe it would be unwise in this case. And it would
21 -- most likely would be this thing were to go to a
22 court of appeals to our being smacked down again. It's

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1 just my opinion again. Just -- I agree with the Chair.
2 This is just not something that we should do and we're
3 not saying this out of any disrespect. It is just
4 simply something that we haven't done before and
5 something that we probably shouldn't do now. Madam
6 Chair.

7 CHAIRPERSON MILLER: Okay. Others?

8 MR. ALBERTI: Madam Chair?

9 CHAIRPERSON MILLER: Yeah, Mr. Alberti.

10 MR. ALBERTI: Ms. Miller?

11 CHAIRPERSON MILLER: Uh-huh.

12 MR. ALBERTI: I'm going to speak very
13 narrowly to the motion before us. Because the motion
14 before us is two requests; (1) to be able to comment on
15 any offer in compromise that is arrived at between the
16 two parties or, (2) to comment on a penalty if the
17 Board were to find the parties guilty. I think I agree
18 with the government's comments that whatever penalty is
19 placed -- or potential penalty -- whatever penalty
20 would be placed -- would be - - would be placed on the
21 Licensee in this case has no effect on the interest of
22 the ANC individually or on the individual interests of

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1 Mr. Carley.

2 And so on that grounds, I will vote to deny
3 the motion.

4 CHAIRPERSON MILLER: Other comments? Okay.
5 Not hearing any, then I will propose to file a motion
6 for us to vote on and that will be I would move to deny
7 the July 22nd request by Sara Green, ANC commissioner
8 of 4B01, and Andre Carley, president of Concerned
9 Neighbors, to comment and make a recommendation on any
10 offer in compromise and to comment and make a
11 recommendation on any penalty that may be imposed by
12 the Board prior to the Board's imposition of the
13 penalty in this case.

14 Do I have a second?

15 MR. NOPHLIN: Second.

16 CHAIRPERSON MILLER: Any other comments?

17 (No audible response.)

18 CHAIRPERSON MILLER: Okay. We have a motion
19 that's been seconded by Mr. Nophlin. All those in
20 favor, say aye?

21 (Chorus of ayes.)

22 CHAIRPERSON MILLER: All those opposed?

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1 (No audible response.)

2 CHAIRPERSON MILLER: All those abstaining?

3 (No audible response.)

4 CHAIRPERSON MILLER: Okay. It appears the --

5 MR. SHARPE: Thank you, Madam Chair.

6 CHAIRPERSON MILLER: -- motion to deny the
7 request is granted by a vote of 5-0. Thank you very
8 much. Okay. Are we done? Are there any other
9 preliminary matters?

10 MR. ADAMS: The District has no preliminary
11 matters.

12 CHAIRPERSON MILLER: Okay. Okay. How many -
13 - the District has witnesses. How many witnesses is
14 the government going to have?

15 MR. ADAMS: The District of Columbia has two
16 witnesses --

17 CHAIRPERSON MILLER: Okay.

18 MR. ADAMS: -- in this matter.

19 CHAIRPERSON MILLER: And will the license --
20 how many witnesses with the Licensee have?

21 TRANSLATOR: They have none.

22 CHAIRPERSON MILLER: But maybe yourself

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1 regarding --

2 MS. KIDANE: Yeah.

3 CHAIRPERSON MILLER: Yeah, maybe. Okay. All
4 right. Do you have an opening statement, Mr. Adams?

5 MR. ADAMS: Yes, Madam Chairman. I guess
6 there would be a preliminary matter.

7 CHAIRPERSON MILLER: Okay.

8 MR. ADAMS: I -- just as a precaution, we are
9 -- we do have two witnesses, I believe, in the room.
10 And I'll just invoke the rule of witnesses until
11 opening statements are done. Then our first witness
12 will be Officer Michael Beeler, who's in the room. And
13 I'll just call him when opening statements are done.

14 CHAIRPERSON MILLER: You're invoking the rule
15 on witness on your own witnesses; is that right?

16 MR. ADAMS: Yes. And the purpose of that is
17 just --

18 CHAIRPERSON MILLER: Okay.

19 MR. ADAMS: -- with precaution.

20 CHAIRPERSON MILLER: Okay. So are they
21 stepping out now? Okay.

22 MR. ADAMS: Yes, they are both stepping out.

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1 CHAIRPERSON MILLER: Okay. Good. All right.
2 Licensee may only have the one witness and that witness
3 would be the parties so they can definitely stay in.
4 Okay. So -- all right. Do you have an opening
5 statement?

6 MR. ADAMS: Yes, I do --

7 CHAIRPERSON MILLER: Okay.

8 MR. ADAMS: -- Madam Chairman.

9 CHAIRPERSON MILLER: Okay.

10 MR. ADAMS: In this -- in this case before us
11 there are three charges. Two charges are regarding the
12 establishment being open -- or not supposed to be open
13 but allowing the consumption of alcoholic beverages
14 after their approved hours, and the -- and one being
15 the violation of the statute and the second being the
16 violation of the license itself, as well as the third
17 charge, which is that there was a substantial change to
18 the interior of the establishment, in this case, the
19 increase of the -- of the use of the interior space
20 that was not previously used, the expansion of the
21 operation of establishment to another floor, and of
22 course the extension of hours of operation.

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1 What you're going to hear today from the
2 evidence is that this establishment is -- has a
3 license, that under its -- that -- well, this really
4 has to do with February 6th of 2012. Now, on February
5 6th, 2012 the evidence will show that an assault
6 occurred upon a person outside of this licensed
7 establishment. It was a Monday morning in which this
8 licensed establishment was supposed to be -- and I
9 apologize if I'm going too fast.

10 CHAIRPERSON MILLER: Oh

11 MR. ADAMS: It was a date where the
12 establishment was supposed to have ceased operations by
13 2:00 a.m. This person attempts to get into the
14 establishment well after 3:00 a.m. At that time, when
15 he was trying to enter the establishment, his friends
16 were able to enter the establishment but the door
17 closed and he was unable to enter. And as a result, he
18 was assaulted.

19 From the police department's investigation,
20 the evidence will show that he -- that this person was
21 trying to get in because the establishment was open.
22 And once the police department did get inside the

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1 establishment, they found a couple of things: number
2 one, the door was locked to provide an appearance of
3 closure of the establishment and certain patrons
4 assigned a key. After -- the evidence will then show
5 that once the police department did get inside, they
6 went up to the second floor of the establishment and
7 found that there were 20 persons inside smoking and
8 which they were smoking hookah pipes and alcoholic
9 beverages were available.

10 What you will find from the -- from this
11 evidence as well is that -- and I apologize, I lost my
12 train of thought -- is that with the -- is that at this
13 point, when the -- they got within the establishment,
14 it was 3:45 a.m. at that point. And the establishment
15 has made certain denials regarding what occurred on
16 that occasion. The evidence will also show the
17 establishment was not authorized to serve alcoholic
18 beverages or to provide entertainment upon the second
19 floor of the establishment pursuant to the very
20 specific terms of its license, thus being the
21 substantial change.

22 And the evidence will also show that in --

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1 from both of our witnesses that there -- that this was
2 not the sole occasion of their -- the establishment
3 being open after hours, thus providing evidence that
4 this was not a one-time event, that indeed, this was a
5 change in the -- in the operation of the establishment
6 to being open after a certain point.

7 So with that, our witnesses will provide a
8 prima facie case that will prove all three charges.

9 CHAIRPERSON MILLER: Thank you. Are you all
10 doing all right with your translating?

11 TRANSLATOR: Yes.

12 CHAIRPERSON MILLER: Okay. You have an
13 opportunity, if you want, to make an opening statement
14 as Mr. Adams did. This is not the time to testify in
15 your case but just to say what your -- what you will
16 show. You know, you don't have to make an opening
17 statement. And you can also wait until after he's
18 finished with his case if you want to make it then.

19 MR. EHALU: We will wait.

20 CHAIRPERSON MILLER: You want to wait?

21 MR. EHALU: Yeah.

22 CHAIRPERSON MILLER: Okay. All right, then.

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1 Our order of procedure is to call -- oh, I'm sorry.

2 Mr. Adams, you're supposed to call your witness.

3 MR. ADAMS: Sure. I'll call the first
4 witness as Officer Michael Beeler to the stand. And
5 court's indulgence as he's (inaudible).

6 CHAIRPERSON MILLER: It's okay. While we're
7 waiting, I just want to tell the Licensee that in case
8 you're unfamiliar with the process that this is the
9 government's witness. And he's going to testify and
10 the government can ask him questions. And then you'll
11 have an opportunity to cross-examine this witness
12 afterwards. And the Board will have an opportunity to
13 ask questions. Okay.

14 Will you raise your right hand, please? Do
15 you swear to tell the truth, the whole truth and
16 nothing but the truth?

17 MR. BEELER: Yes, ma'am.

18 CHAIRPERSON MILLER: Thank you.

19 MR. ADAMS: Good morning, Officer.

20 MR. BEELER: Good morning.

21 MR. ADAMS: Sir, could you please -- if the
22 Board's ready --

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1 CHAIRPERSON MILLER: Yes.

2 MR. ADAMS: -- could you please state your
3 name and spell it for the record?

4 MR. BEELER: Officer Michael Beeler, B-E-E-L-
5 E-R.

6 MR. ADAMS: All right. And is Michael --

7 CHAIRPERSON MILLER: I'm sorry, I couldn't
8 hear that. Are you talking into the microphone?

9 MR. BEELER: Yes.

10 CHAIRPERSON MILLER: All right. Could you
11 please repeat it? Sorry.

12 MR. BEELER: Officer Michael Beeler, B-E-E-L-
13 E-R.

14 MR. ADAMS: And --

15 CHAIRPERSON MILLER: Thank you.

16 MR. ADAMS: And you're a member of the
17 Metropolitan Police Department?

18 MR. BEELER: Yes.

19 MR. ADAMS: Also I was going to ask you if
20 you could keep your voice elevated so that it is picked
21 up by the microphone? Officer Beeler, how long have
22 you been a member of the Metropolitan Police

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1 Department?

2 MR. BEEELER: Six years.

3 MR. ADAMS: And where are you currently
4 assigned?

5 MR. BEEELER: Fourth District.

6 MR. ADAMS: Okay. How long have you been
7 working for the Fourth District?

8 MR. BEEELER: Six years.

9 MR. ADAMS: Are you familiar with an
10 establishment by the name of Sunshine Bar & Lounge?

11 MR. BEEELER: Yes.

12 MR. ADAMS: And is Sunshine Bar & Lounge
13 within your regular area of deployment?

14 MR. BEEELER: Yes.

15 MR. ADAMS: And how are you familiar with
16 Sunshine Bar & Lounge?

17 MR. BEEELER: From incidents where we've
18 witnessed them operating after hours, from disorderly
19 radio runs.

20 MR. ADAMS: And turning to -- and have you --
21 in terms of these types of cases, what has -- I mean,
22 what sorts of cases have you had interactions with the

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1 establishment and have you had interactions with the
2 establishment staff?

3 MR. BEELER: Yes. Assaults, disorderlies,
4 ABC violations.

5 MR. ADAMS: And when you said that they were
6 open after hours, well, what do you mean by they're
7 open after hours?

8 MR. BEELER: Meaning the establishment --
9 when the new owners came to that establishment, we
10 realized that they were supposed to close at a certain
11 hour. And we had many incidents where we saw that they
12 were open after those hours.

13 MR. ADAMS: And you said, "Many instances."
14 Are you talking about more than five or ten?

15 MR. BEELER: I would say about five.

16 MR. ADAMS: Now, turning to the date of
17 February 6th, 2012 were you on duty?

18 MR. BEELER: Yes.

19 MR. ADAMS: And did you have the occasion to
20 be at the intersection of Georgia Avenue and Geranium
21 on that -- on that day?

22 MR. BEELER: Yes. We received a radio run

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1 for a robbery.

2 MR. ADAMS: Okay. And so -- okay. So you
3 received the radio call for a robbery. What did you do
4 in response to that radio call?

5 MR. BEELER: We responded to 7400 Georgia
6 Avenue and then interviewed the victim of the robbery.

7 MR. ADAMS: All right. Now, you interviewed
8 the victim of the robbery. And what occurred at that -
9 - at that point? What was explained to you regarding
10 this incident?

11 MR. BEELER: The victim stated that he was
12 trying to enter the side entrance of the Sunshine Bar
13 with friends. The friends entered but that door closed
14 behind the friends and he couldn't enter. He knocked
15 on the door and tried to enter but at that time, the
16 suspects of the robbery approached him and saw him.

17 MR. ADAMS: All right. And I'm going to step
18 back for a second. On February 6th, 2012 to your
19 recollection was this Friday night? Was it Sunday
20 night? Was it Monday night?

21 MR. BEELER: It was a Sunday night before
22 Monday morning. So it happened on Monday morning.

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1 MR. ADAMS: And approximately time did you
2 receive this call?

3 MR. BEELER: After 3:00. I don't remember
4 the exact time but it was after 3:00 a.m.

5 MR. ADAMS: All right. Now, you -- now, I
6 apologize. Now, you -- he was stating to you the
7 circumstances regarding what led to the robbery. And
8 can you -- can you repeat what occurred?

9 MR. BEELER: Yeah, he was with a group of
10 friends. They tried to enter the side entrance of the
11 Sunshine Bar. His friends entered but the door closed
12 behind his friend and he couldn't enter.

13 MR. ADAMS: And did he describe for you what
14 he meant by a side entrance of the establishment?

15 MR. BEELER: The Geranium Street entrance.

16 MR. ADAMS: All right. And is it -- to your
17 knowledge can you tell us whether or not there is an
18 entrance on Geranium Street?

19 MR. BEELER: Yes.

20 MR. ADAMS: Can you tell us whether or not
21 that's customarily used to your knowledge?

22 MR. BEELER: I've seen it used for an exit.

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1 I haven't seen it used for an entrance.

2 MR. ADAMS: And when this -- when this victim
3 was explaining to you the circumstances regarding this,
4 was the -- did he tell you whether the assault happened
5 immediately after his friends entered or whether there
6 was a pause between that -- the -- his friends entering
7 and the time he got assaulted?

8 MR. BEELER: Maybe a minute. Maybe two.

9 MR. ADAMS: What was he doing within that
10 minute or two?

11 MR. BEELER: Knocking on the door, trying to
12 get somebody's attention from the inside.

13 MR. ADAMS: All right. And so how -- so
14 after you -- after you commenced the -- can you explain
15 to me in this investigation -- or what was occurring in
16 the investigation regarding this robbery victim?

17 MR. BEELER: We asked him why he was going to
18 Sunshine. He said that he wanted to party. So after
19 our investigation, I wanted to go to Sunshine. So he
20 stated they had cameras on the exterior on the Geranium
21 Street side to see if we could see any footage
22 (inaudible).

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1 MR. ADAMS: Okay. And what -- and what did
2 you find?

3 MR. BEELER: So I was going into the front
4 entrance of Sunshine Bar. And I knocked on the window.
5 At that time I noticed that the front door was chained
6 shut. And I saw about five individuals run to the back
7 of the restaurant.

8 MR. ADAMS: And you state that you went to
9 the front door. What do you mean that you saw five
10 individuals run? Where were these five individuals
11 located?

12 MR. BEELER: (Inaudible) going up in the
13 window and they were in the customer area. But when
14 they saw me knocking, they ran back towards the
15 kitchen.

16 MR. ADAMS: After they ran back towards the
17 kitchen, what did you do at that point?

18 MR. BEELER: I knocked on the door until the
19 owner approached the door. Then after maybe three or
20 five minutes of her saying that she couldn't open the
21 door because of the lock and she either lost the key or
22 couldn't find the key, she finally opened the Geranium

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1 Street entrance.

2 MR. ADAMS: And now, in terms of your
3 interaction -- and we state, "The owners." Is the
4 owner located here today?

5 MR. BEELER: Yes, the female.

6 MR. ADAMS: And have you had interactions
7 with the owner prior to --

8 MR. BEELER: Yes.

9 MR. ADAMS: Okay. To this day -- just so
10 that it's on the record. Now, what was the
11 conversation about in terms of the door -- getting in
12 that front door?

13 MR. BEELER: She was telling me that either
14 she didn't have a key or she couldn't find a key and
15 she was unable to unlock the door. And it was that
16 type of back and forth for at least three minutes.

17 MR. ADAMS: Now, did she leave the door --
18 were you demanding that you get in or were you just
19 politely asking to get into the establishment at that
20 point?

21 MR. BEELER: At first I was just politely
22 asking because I wanted just to ask her about the

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1 cameras.

2 MR. ADAMS: Okay.

3 MR. BEELER: But then I started to get
4 suspicious after I saw the individuals run to the back.

5 MR. ADAMS: And what were you suspicious
6 about? I apologize for interrupting.

7 MR. BEELER: Because previous times when we
8 found customers on the upper level after hours when
9 they were supposed to be closed.

10 MR. ADAMS: Okay.

11 MR. BEELER: So I was already suspecting
12 that, especially since the victim of the robbery said
13 that he wanted to go in there and party. And I know
14 they're supposed to be closed at that hour.

15 MR. ADAMS: And to your knowledge, what hour
16 were they supposed to be closed?

17 MR. BEELER: I believe either at 2:00 a.m. or
18 3:00 a.m. But by that time it was past 3:00. So

19 MR. ADAMS: Did there come a point where the
20 owner, Ms. Kidane -- did she -- did she leave speaking
21 with you?

22 MR. BEELER: Yes.

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1 MR. ADAMS: How long -- how long was the next
2 time you saw her?

3 MR. BEELER: After three or five minutes at
4 the door, she left. And not long after that, she
5 opened the side door.

6 MR. ADAMS: Okay. And how far is the side
7 door from this front door approximately?

8 MR. BEELER: So maybe 15 feet approximately.
9 I mean

10 MR. ADAMS: All right. Now, once the side
11 door was opened by the owner, what did you observe
12 then?

13 MR. BEELER: My -- another officer that I was
14 working with that night went to the top floor. At that
15 time I heard her go over the radio and ask for
16 additional units. So I also went to the top floor.
17 And at that time I saw customers coming down the steps.
18 And once I walked upstairs, I saw about 25 to 20 -- 25
19 to 30 individuals on the top floor smoking and
20 drinking.

21 MR. ADAMS: And can you explain what you mean
22 by you saw people smoking and drinking?

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1 MR. BEELER: Yeah. They had, like, pipes, I
2 guess you would call them. And there are beer bottles
3 and with liquid in it and cups with liquid. I can't
4 say that they were alcohol in their glasses or not.

5 MR. ADAMS: And could you determine whether
6 or not the person though -- you say the persons were
7 coming past you from the -- on the stairs. Can you
8 tell -- could you determine whether or not they were
9 employees of the establishment or any corporate
10 relations to the establishment in any way, shape or
11 form?

12 MR. BEELER: No, they were customers trying
13 to get out the restaurant.

14 MR. ADAMS: Okay. And what -- now, you say
15 that they're -- that they were drinking. Did you
16 actually see -- observe someone drinking or what did
17 you observe?

18 MR. BEELER: I observed open containers of
19 beer on the table and, like I said, glasses that had
20 liquid in it. But I can't --

21 MR. ADAMS: And can you describe the second
22 floor? What type of fixtures are in the second floor?

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1 MR. BEELER: I would say sofas, tables.

2 There's a bar, a DJ table. It looked like a lounge
3 area.

4 MR. ADAMS: Okay. Now, you said there was a
5 DJ area. Was it -- was the DJ -- can you tell us
6 whether or not the DJ was operating that night or what
7 -- was there anything that would indicate whether or
8 not the DJ was operating?

9 MR. BEELER: There was an individual there
10 who identified himself as a DJ.

11 MR. ADAMS: Okay. And were there any
12 appliances that -- or anything -- or any equipment or
13 anything like that that would indicate that?

14 MR. BEELER: Yes. They had that DJ table.

15 MR. ADAMS: And in terms of this bar, was it
16 an empty bar or what kind of bar was it?

17 MR. BEELER: It was a full bar.

18 MR. ADAMS: Okay. And what do you mean by
19 full?

20 MR. BEELER: Like a normal bar that you would
21 see with the alcohol on it. You would --

22 MR. ADAMS: All right. So at this point then

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1 when you found persons on the second floor, what
2 happened at that point?

3 MR. BEELER: They all tried to exit but we
4 had enough officers to keep them on that bottom floor.
5 We identified -- ran their names and, after that,
6 explained to them why we were there, talked to them
7 about the robbery and talked to them about their
8 restaurant being closed at a certain hour. Then after
9 that we just -- we let them go.

10 MR. ADAMS: All right. And did anyone -- was
11 helping the investigation of the robbery?

12 MR. BEELER: They -- nobody knew about the
13 robbery incident.

14 MR. ADAMS: And did you have -- on that
15 occasion did you have a chance to speak with the owner?

16 MR. BEELER: Yes.

17 MR. ADAMS: And what is your recollection of
18 the conversation with the owner on that -- on that day?

19 MR. BEELER: I believe she said she was just
20 having a party with some friends.

21 MR. ADAMS: All right. And well, did she
22 make any statements regarding that?

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1 MR. BEELER: She said she was having a party;
2 can we give her a break?

3 MR. ADAMS: Now, as part of your
4 investigation - - and were there any other
5 circumstances or any observations that you made while
6 you were at the establishment on that -- on that
7 occasion?

8 MR. BEELER: Other than a chain on the front
9 door, nothing I don't believe.

10 MR. ADAMS: And were -- you were not the only
11 person there; is that correct?

12 MR. BEELER: Correct.

13 MR. ADAMS: Okay. At the end of this
14 occasion, can you tell us whether or not you made a
15 report of your --

16 MR. BEELER: Yes.

17 MR. ADAMS: Then why did you complete a
18 report?

19 MR. BEELER: Because I knew it was an ABC
20 violation.

21 MR. ADAMS: And to your recollection, had you
22 ever seen the establishment's license?

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1 MR. BEELER: Yes.

2 MR. ADAMS: I'm going to hand to the -- to
3 the Respondent what's identified -- what's listed for
4 identification purposes as the District's Exhibits 1A
5 and 2. And I'm going to hand a copy of those documents
6 to the witness. Get a chance to look at it. Officer
7 Beeler, do you recognize Document 1A?

8 MR. BEELER: Yes.

9 MR. ADAMS: And what is Document 1A?

10 MR. BEELER: The report I wrote for the
11 events that occurred that night.

12 MR. ADAMS: All right. And there's the
13 document that's identified for -- what's marked for
14 identification purposes as Exhibit 2. Are you familiar
15 with that?

16 MR. BEELER: Yes.

17 MR. ADAMS: And what is it?

18 MR. BEELER: Their license.

19 MR. ADAMS: All right. Now, I'm going to
20 turn on Number 2. In terms of license, it states for
21 Sunday - - there a couple of columns there. It state -
22 - one -- can you tell us what those columns are for or

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1 what they state at the top of them?

2 MR. BEELER: They're -- and what now?

3 MR. ADAMS: Which is hours of operation. Do
4 you see that information?

5 MR. BEELER: Yes.

6 MR. ADAMS: And there's three columns. What
7 are those three columns?

8 MR. BEELER: Operations, sales and
9 entertainment.

10 MR. ADAMS: And entertainment. Okay. So on
11 Sunday, if it were -- if this were a Sunday going to
12 Monday, what were the hours of operation -- or what's
13 the last time operation, sales and entertainment could
14 occur?

15 MR. BEELER: 12:00 a.m.

16 MR. ADAMS: Is that for entertainment?

17 MR. BEELER: That's for -- that's for
18 entertainment. I'm sorry, for operations it's 2:00
19 a.m.

20 MR. ADAMS: Right. Is this a true and
21 accurate version of the Respondent's license and your
22 investigative report from this occasion?

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1 MR. BEELER: Yes.

2 MR. ADAMS: All right. I'd like to move into
3 evidence what's marked for identification purposes as
4 the District's Exhibit 1A and Exhibit 2.

5 CHAIRPERSON MILLER: Do you have any
6 objections? Oh, sorry. Any objections?

7 MS. KIDANE: No.

8 CHAIRPERSON MILLER: Okay.

9 MR. ALBERTI: And Ms. Miller, does the
10 Licensee have copies of those exhibits?

11 MR. ADAMS: Yeah.

12 MR. ALBERTI: Okay. Thank you.

13 CHAIRPERSON MILLER: I think you handed them
14 to them --

15 MR. ALBERTI: Okay. Thank you.

16 CHAIRPERSON MILLER: -- before (inaudible)
17 witness.

18 MR. ALBERTI: Okay.

19 MR. ADAMS: Officer Beeler -- I apologize.
20 All right.

21 CHAIRPERSON MILLER: And I didn't admit them
22 yet. I just wanted to see if -- before I admit it if

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1 we moved it -- if you requested that we move them into
2 evidence. Okay. 1A, the incident-based event report?

3 MR. ADAMS: Yes, sir. Yes --

4 CHAIRPERSON MILLER: Okay.

5 MR. ADAMS: -- Madam Chair.

6 CHAIRPERSON MILLER: And Exhibit 2 -- what
7 did you call this?

8 MR. ADAMS: Exhibit 2 is the license. It's a
9 copy of their license -- the establishment's license.
10 Yes.

11 CHAIRPERSON MILLER: Okay. All right.
12 Exhibit 2 is the license. All right. Then they are
13 accepted into evidence.

14 MR. ADAMS: Officer Beeler, in addition to
15 your report, was there any other actions done on this
16 day by MPD to record this investigation?

17 MR. BEELER: Yes. We had the crime scene
18 officer respond to take pictures of the scene.

19 MR. ADAMS: Okay. Okay. And what --

20 CHAIRPERSON MILLER: I'm sorry, I didn't
21 catch that. I think you were --

22 MR. BEELER: We had crime scene officer

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1 respond and take some pictures.

2 CHAIRPERSON MILLER: Okay.

3 MR. ADAMS: And Madam Chair, I'm going to
4 hand to Respondents a copy of several exhibits and just
5 ask for those -- one moment. And they're marked for
6 identification purposes as Exhibits 3, 4, 5, 6, 7, 8,
7 9, 10, 11 -- I apologize -- 12, 13, 14 and 15. And
8 I'll hand a copy to them right now. And I'm also going
9 to approach the witness with the same copies
10 (inaudible) for the Board's indulgence, as I just make
11 sure everything is in order.

12 Officer Beeler, you have several documents in
13 front of you. And I'll allow you to take a moment to
14 look at those documents. Now, Officer Beeler, first
15 looking at Exhibit No. 3, are you familiar -- are you
16 familiar -- well, first of all you say the crime scene
17 person was at -- was there at the establishment. When
18 was the crime scene person there?

19 MR. BEELER: When I was there.

20 MR. ADAMS: Okay. And can you -- can you
21 tell us whether or not you're familiar with the -- what
22 pictures he was taking at that time?

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1 MR. BEELER: Yes. In Exhibit 3 he took -- he
2 took a picture of the front lock -- talking to the
3 owner about that chain on the door.

4 MR. ADAMS: Okay. And is that presentation -
5 - now, you stated that's the chain on the door. Is
6 that the front door of the establishment?

7 MR. BEELER: Yes.

8 MR. ADAMS: Okay. And I noticed that on the
9 left hand of the picture -- what's that at the left on
10 the picture?

11 MR. BEELER: A speaker.

12 MR. ADAMS: Okay. And was that -- was that
13 always on the -- from your prior experience, was that
14 something that's normally on the first floor or is that
15 just on that occasion?

16 MR. BEELER: I can't remember.

17 MR. ADAMS: Okay. Turning to Exhibit No. 4,
18 you have that in front of you?

19 MR. BEELER: Yes.

20 MR. ADAMS: What's presented there?

21 MR. BEELER: That's the front entrance at the
22 corner of Georgia Avenue and Geranium.

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1 MR. ADAMS: Okay. Is that an accurate
2 presentation of that?

3 MR. BEELER: Yes.

4 MR. ADAMS: All right. Exhibit 5, can you
5 identify what -- the content of that -- of that
6 picture?

7 MR. BEELER: That's also the front entrance
8 at the corner of Geranium and Georgia.

9 MR. ADAMS: Do you have a picture -- do you
10 have Exhibit 6 -- what's marked as Exhibit 6?

11 MR. BEELER: Yeah.

12 MR. ADAMS: Okay. Do you need anything? I'm
13 going to hand it to you. All right. And you have
14 that. What -- are you familiar with the concepts of
15 that -- of that document?

16 MR. BEELER: Yes. It's a picture of that
17 chain lock on the top.

18 MR. ADAMS: Okay. Turning to Exhibit 7, do
19 you have Exhibit -- what's marked as Exhibit 7?

20 MR. BEELER: Yes.

21 MR. ADAMS: Okay. Now, what is that?

22 MR. BEELER: That's the stairwell to the -- I

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1 mean, the staircase to the second floor.

2 MR. ADAMS: Is this on the time that you were
3 at the establishment?

4 MR. BEELER: Yes.

5 MR. ADAMS: And those -- that this -- the
6 door is open; is that correct?

7 MR. BEELER: Yes.

8 MR. ADAMS: All right. Exhibit 8, what's on
9 -- do you have that document?

10 MR. BEELER: Yes. It's a picture of that
11 second floor.

12 MR. ADAMS: Okay. And is -- what's within
13 the contents of Exhibit 8?

14 MR. BEELER: One of the pipes that were --
15 that the customers were smoking and the manager
16 (inaudible) and a table.

17 MR. ADAMS: Do you have Exhibit -- what's
18 marked as Exhibit 9?

19 MR. BEELER: Yes.

20 MR. ADAMS: Now, can you identify the
21 contents of that -- of that? Are you familiar with the
22 contents of Exhibit 9?

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1 MR. BEELER: Yes, beer bottles and the
2 glasses with liquid in it.

3 MR. ADAMS: Is this how it -- did you
4 personally observe the -- what you see here in Exhibit
5 9 or --

6 MR. BEELER: Yes.

7 MR. ADAMS: Exhibit 10, do you have that as
8 well?

9 MR. BEELER: Yeah, it's another picture of
10 the second floor, now showing you pipes and a -- and a
11 bar in the rear.

12 MR. ADAMS: Now, there's two people in that -
13 - in the document. Can you identify who those two
14 people are?

15 MR. BEELER: One is myself and the other is
16 another officer.

17 MR. ADAMS: In back of yourself, what's
18 behind you in Exhibit 10?

19 MR. BEELER: That's the bar.

20 MR. ADAMS: Exhibit 11, do you have that
21 document as well?

22 MR. BEELER: Yes.

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1 MR. ADAMS: Okay.

2 MR. BEELER: Yes.

3 MR. ADAMS: All right. And what's identified
4 there?

5 MR. BEELER: Another picture of the second
6 floor lounge area.

7 MR. ADAMS: Okay. Exhibit 12, do you have
8 that document also?

9 MR. BEELER: Yes.

10 MR. ADAMS: And what -- can you describe the
11 contents of that -- of that photograph?

12 MR. BEELER: Another picture of the second
13 floor lounge area, picture of the pipes and beer
14 bottles.

15 MR. ADAMS: All right. And this -- it looks
16 like a bottle. Is there anything in it or

17 MR. BEELER: Yes, beer. It was new.

18 MR. ADAMS: And do you have what's been
19 identified as Exhibit 13?

20 (No audible response.)

21 MR. ADAMS: Okay. All right. Now, before
22 you is what's marked -- what's identified as Exhibit

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1 13. What is -- what's that photograph or what is the --
2 are you familiar with the contents of that photograph?

3 MR. BEELER: Yes, it's the second floor bar.

4 MR. ADAMS: Okay. And is that how it was
5 when you were there?

6 MR. BEELER: Yes.

7 MR. ADAMS: Do you have Exhibits 14 and 15 in
8 front of you as well?

9 MR. BEELER: Yes.

10 MR. ADAMS: All right. My apologize --
11 apologies. This is not correct. Fourteen and fifteen,
12 can you describe the contents of those -- of those
13 photographs?

14 MR. BEELER: The -- this is a picture of the
15 first floor. These are all the customers that were on
16 the second floor.

17 MR. ADAMS: Okay. And why were they there at
18 that point?

19 MR. BEELER: Once we walked upstairs, all the
20 customers tried to exit the restaurant. But we had
21 enough of our officers at the scene to stop them from
22 exiting. So we had everyone on the first level until

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1 we identified them.

2 MR. ADAMS: Okay. And did -- and did they
3 describe what they were doing at the establishment at
4 that time or what was going on within the
5 establishment?

6 MR. BEELER: Just hanging out, drinking and
7 eating and listening to music.

8 MR. ADAMS: All right. Now, the -- from
9 Exhibits 3 through 13, are those true and accurate
10 versions of -- based upon your knowledge they were
11 photographs that were taken by the crime scene
12 investigator while you were on the scene on February
13 6th of 2012?

14 MR. BEELER: Yes.

15 MR. ADAMS: All right. Madam Chairman, I
16 would like to offer exhibits -- or what's marked for
17 identification purposes as Exhibits 3 through 15 into
18 evidence.

19 CHAIRPERSON MILLER: Okay. Do I have any
20 objection of the Licensee? Do you have any objection
21 to any of those pictures?

22 MR. EHALU: Yes.

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1 CHAIRPERSON MILLER: You object?

2 MR. EHALU: No. It's -- most of the stuff
3 it's correct. That's the Sunshine Lounge & Bar. But
4 the part they're saying that they have the DJ playing
5 at Sunshine upstairs, it wasn't no noise or nothing.

6 CHAIRPERSON MILLER: So you're allowed --
7 you're allowed --

8 MR. EHALU: Yeah.

9 CHAIRPERSON MILLER: -- an opportunity to
10 testify to that.

11 MR. EHALU: All right.

12 CHAIRPERSON MILLER: Do you have an objection
13 to the --

14 MR. EHALU: No, no.

15 CHAIRPERSON MILLER: -- pictures?

16 MR. EHALU: No.

17 CHAIRPERSON MILLER: Okay.

18 MR. ADAMS: Is that -- is that (inaudible),
19 Madam Chair?

20 CHAIRPERSON MILLER: We're going to move them
21 into evidence. Is it true that there are more than --

22 MR. ADAMS: I've heard that something's

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1 amiss?

2 CHAIRPERSON MILLER: To speak truthfully,
3 exhibits -- we -- I don't have it in front of me yet.
4 So --

5 MR. ADAMS: Okay. My bad.

6 CHAIRPERSON MILLER: Is it 6 through 15? I
7 thought they say --

8 MR. ADAMS: Three.

9 CHAIRPERSON MILLER: Three through fifteen.

10 MR. ADAMS: It's 3 through 15.

11 CHAIRPERSON MILLER: Are they all pictures?

12 MR. ADAMS: They are all photographs. And I
13 was trying to get them in order here --

14 CHAIRPERSON MILLER: Okay.

15 MR. ADAMS: -- for the Board's convenience.
16 Here -- because they're catty-corner before I separated
17 them. Sorry.

18 CHAIRPERSON MILLER: Okay. Photographs
19 marked as Exhibits 3 through 15 are admitted into
20 evidence.

21 MR. ADAMS: Thank you. I have no further
22 questions for Officer Beeler.

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1 CHAIRPERSON MILLER: Okay. Do you have any
2 questions for Officer Beeler?

3 MR. EHALU: Yes.

4 CHAIRPERSON MILLER: Okay. Now's the time
5 that you can ask them.

6 MR. EHALU: Is that the evidence on 20 --
7 Exhibit 20? No, Exhibit 9, Number 20. All right. Is
8 that the only table that had alcohol in it? You said
9 it's an alcoholic beverage, a lot of people consuming
10 drinks. There were 30 people, right? There were --
11 the people were 25 to 30.

12 MR. BEELER: Yes.

13 MR. ELAHU: Okay. Is that the only table you
14 guys found that had liquor being served?

15 MR. BEELER: I believe there's another
16 picture, on Exhibit 12.

17 CHAIRPERSON MILLER: Oh, okay. Officer
18 Beeler?

19 MR. BEELER: Yes.

20 CHAIRPERSON MILLER: Just while they are
21 looking at that, could you try to speak up a little
22 more? And sometimes you put your hand up to your mouth

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1 and then it -- the court reporter can't hear you as
2 well.

3 MR. BEELER: Okay.

4 CHAIRPERSON MILLER: Okay, thanks.

5 MR. EHALU: On Exhibit 12 --

6 MR. BEELER: Yes.

7 MR. EHALU: -- and Exhibit --

8 MR. BEELER: And Exhibit 9.

9 MR. EHALU: -- Exhibit 9.

10 MR. BEELER: Yes. Other than that I can't
11 remember exactly what I saw on any of these pictures.

12 MR. EHALU: That's the -- that's the only --
13 that's the only evidence the police took that there's
14 alcohol being served for 30 people?

15 MR. BEELER: What happens in the pictures --
16 what happened --

17 MR. EHALU: That is fine.

18 MR. BEELER: I mean, I can't remember.

19 MR. EHALU: Oh, I just want -- I just want
20 you to know that. Exhibit 11

21 MR. BEELER: Okay.

22 MR. EHALU: In your knowledge, when you --

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1 when you get into upstairs floor --

2 MR. BEELER: Uh-huh.

3 MR. EHALU: -- it was -- was it people were
4 drinking?

5 MR. BEELER: When I walked up stairs?

6 MR. EHALU: Yes.

7 MR. BEELER: I didn't -- at that time
8 everybody was standing up and trying to leave the -- I
9 didn't see anybody actually drinking.

10 MR. EHALU: And Exhibit 37 -- I mean, Exhibit
11 14 -- Exhibit 14 and Exhibit 15, that's the people
12 they're referring -- you're referring that there were
13 30 people, right?

14 MR. BEELER: I think about that then.

15 MR. EHALU: Twenty-five to thirty people?

16 MR. BEELER: Yes.

17 MR. EHALU: On this picture -- in this
18 picture there -- all of them is in this picture -- in
19 this picture?

20 MR. BEELER: I can't say that for sure. But
21 on my report -- there's a narrative on the report. In
22 the narrative on my -- in my report, I reported 28

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1 individuals. That's because I didn't see (inaudible).
2 I don't know how many people were on the first floor at
3 that point. I don't know if we already let some people
4 go or what. I'm not -- when these pictures were taken
5 of the crowd. We could have already let some of the
6 people go. Well, I mean, I don't remember.

7 But the 28, that number came from the names
8 who was recorded.

9 MR. EHALU: I heard you say that you call --
10 you held them downstairs and at the time that you guys
11 took this picture. I just want to know. I would --

12 MR. BEELER: Yeah, and it's possible that we
13 could have let some go. It's possible that some of
14 them could have left before extra officers got to the
15 scene. I'm not sure if we let some people go before
16 that picture before.

17 MR. EHALU: Okay. That's it. Thank you.

18 CHAIRPERSON MILLER: Okay. Thank you. Any
19 Board -- any Board questions? Mr. Silverstein?

20 MR. SILVERSTEIN: Officer Beeler, thank you
21 for your service. How long have you been a member of
22 the Metropolitan Police Department?

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1 MR. BEELER: Six years.

2 MR. SILVERSTEIN: Six years.

3 MR. BEELER: Yeah.

4 MR. SILVERSTEIN: You didn't just walk out of
5 the police academy yesterday?

6 MR. BEELER: No.

7 MR. SILVERSTEIN: Was there any question in
8 your mind that this establishment was operating after
9 hours based on what you discovered and based on your
10 experience as a police officer?

11 MR. BEELER: No.

12 MR. SILVERSTEIN: Why do you -- why do you
13 come to that conclusion, sir?

14 MR. BEELER: Because of previous instances
15 where we reported them and obvious --

16 MR. SILVERSTEIN: How many people were in
17 there?

18 MR. BEELER: I recorded 28 in the report.

19 MR. SILVERSTEIN: And the doors were locked?

20 MR. BEELER: The front door of the
21 establishment is chained. The side door -- I'm not
22 sure if you need a key before you can walk out. I'm

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1 not sure.

2 MR. SILVERSTEIN: Just as --

3 MR. BEELER: I can --

4 MR. SILVERSTEIN: Just as a side, Officer,
5 what -- how would these people have gotten out had
6 there been a fire?

7 MR. BEELER: I would assume the side entrance
8 but I can't recall if you need a key to open the side
9 entrance. I don't know if they --

10 MR. SILVERSTEIN: So you cannot vouch for the
11 fact that had something awful happened, these people
12 couldn't even have gotten out?

13 MR. BEELER: That's right. Correct.

14 MR. SILVERSTEIN: How long did you have to
15 wait before you were admitted?

16 MR. BEELER: I'd say three to five minutes.

17 MR. SILVERSTEIN: Would that have -- and
18 during that time -- and during that time, what did you
19 -- what did you see? What went on while you were
20 waiting?

21 MR. BEELER: Well, after the initial five
22 individuals ran to the back, it was just the owner. I

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1 can't remember if there were -- there was another
2 individual with the owner because they were just in the
3 situation (inaudible) and I'm getting them confused but
4 I know the owner was there for sure. And she was just
5 telling us that she couldn't unlock the door. I can't
6 remember if she couldn't find it or she didn't have the
7 key or she just kept acting confused.

8 MR. SILVERSTEIN: Could 28 to 30 people have
9 dumped their liquor in a sink during three to five
10 minutes based on your experience as a police officer?

11 MR. BEELER: All of them.

12 MR. SILVERSTEIN: No further questions.

13 CHAIRPERSON MILLER: Do other Board members
14 have questions? Mr. Alberti?

15 MR. ALBERTI: Officer Beeler, thank you for
16 coming. Just a few quick questions. Can you tell me
17 again what time you first arrived there when you
18 responded to the assault?

19 MR. BEELER: I don't have that --

20 MR. ALBERTI: The time you first arrived
21 there in response to the assault --

22 MR. BEELER: It would be on that report.

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1 MR. ALBERTI: -- your service for the
2 assault?

3 MR. ADAMS: The witness has indicated that he
4 does not recollect. If the Board is not -- and the
5 party doesn't -- that -- I can provide him something
6 that can -- might be able to refresh his recollection.

7 MR. ALBERTI: I would -- I do not object. Do
8 the Licensees object?

9 MR. ADAMS: It's just for purpose of --

10 TRANSLATOR: Okay.

11 MR. ALBERTI: Thank you. An approximate
12 time?

13 MR. BEELER: 3:10.

14 MR. ALBERTI: Is that when you arrived for
15 the assault?

16 MR. BEELER: Yes.

17 MR. ALBERTI: 3:10? All right. Okay. Very
18 good. Have you -- well, you've been in this
19 establishment; is that correct?

20 MR. BEELER: Yes.

21 MR. ALBERTI: When you come in the Geranium
22 side entrance, do you enter onto the first floor or --

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1 MR. BEELER: Yes.

2 MR. ALBERTI: Okay. Are there stairways to
3 the second floor and where are they?

4 MR. BEELER: So you walk in. Directly in
5 front of you is the bar and it's on the opposite side.
6 It's hard to tell but if you look at Exhibit 14 --

7 MR. ALBERTI: Okay.

8 MR. BEELER: -- it's along that wall. It's
9 on the opposite side of the entrance -- the Geranium
10 Street entrance.

11 MR. ALBERTI: Okay. So it's -- okay. So you
12 go in. You go through the first floor to the
13 stairways?

14 MR. BEELER: Yes.

15 MR. ALBERTI: So you cross the first floor?
16 Okay.

17 MR. BEELER: Yes.

18 MR. ALBERTI: And I see that -- okay.

19 MR. BEELER: Actually on Exhibit 15 you can
20 see. I mean

21 MR. ALBERTI: Exhibit 15 is the first floor
22 or the second floor?

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1 MR. BEELER: The first floor.

2 MR. ALBERTI: Oh, the first floor. And
3 Exhibit 14 is the first floor or the second floor?

4 MR. BEELER: First floor.

5 MR. ALBERTI: Okay. Now, you left, you said,
6 after investigating the assault; is that true or --

7 MR. BEELER: No. Actually I investigated the
8 assault across the street at that 7-Eleven across the
9 street -- across Geranium Street. After I finished
10 that investigation, that's when I went to the --

11 MR. ALBERTI: Oh, that's when you went to the --

12 MR. BEELER: Yes.

13 MR. ALBERTI: -- establishment?

14 MR. BEELER: Yes.

15 MR. ALBERTI: All right. Do you have any
16 idea - - did the -- did the victim indicate how long it
17 was between when they were assaulted and your arrival?

18 MR. BEELER: No. After we met with him, he
19 said he got assaulted. Then he had to go to 7-Eleven
20 to call the police. The radio run came out at 0308
21 hours.

22 MR. ALBERTI: 030 -- Okay. So eight minutes

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1 after 3:00 you were called?

2 MR. BEELER: Correct.

3 MR. ALBERTI: Okay. And he said -- did he --
4 did he -- what did he say about what happened after the
5 assault? Did he -- did he describe to you what
6 happened after the assault before he called you?

7 MR. BEELER: No. He doesn't really. He got
8 up and he went to 7-Eleven to call the police --

9 MR. ALBERTI: Okay.

10 MR. BEELER: -- instructed them to call the
11 police.

12 MR. ALBERTI: And you went over to the
13 establishment. And what time was that approximately?

14 MR. BEELER: 0345.

15 MR. ALBERTI: About 3:45?

16 MR. BEELER: Yes.

17 MR. ALBERTI: Okay. Now, were these pictures
18 taken -- Exhibit 14 and 15 --

19 MR. BEELER: Yeah.

20 MR. ALBERTI: -- do you have any idea whether
21 those were employees of the establishment that are
22 pictured there or --

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1 MR. BEELER: Those were the customers that
2 were on the second floor.

3 MR. ALBERTI: They're on the second floor?

4 MR. BEELER: Yes.

5 MR. ALBERTI: Then why were they now on the
6 first floor?

7 MR. BEELER: Because when we first arrived,
8 everybody tried to leave. And they all, like, ran down
9 the steps.

10 MR. ALBERTI: Okay. Oh, I think you
11 testified --

12 MR. BEELER: And -- yeah.

13 MR. ALBERTI: -- earlier that you brought
14 them down to the first floor to --

15 MR. BEELER: Yes.

16 MR. ALBERTI: -- interview them; is that
17 correct?

18 MR. BEELER: Yes.

19 MR. ALBERTI: Okay. Thank you. And I have
20 no further questions. Thank you.

21 CHAIRPERSON MILLER: Others? I just have a
22 few, Officer Beeler. You identified the people, in

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1 response to Mr. Alberti's question, as customers.

2 MR. BEELER: Yes.

3 CHAIRPERSON MILLER: And I thought that I had
4 heard testimony about the owner saying that it was a
5 private party. Am I mistaken? And if it was --

6 MR. BEELER: Yeah, I'm sorry. I guess
7 customers would be the wrong word. And I don't know if
8 they bought anything. I don't --

9 CHAIRPERSON MILLER: Oh, okay.

10 MR. BEELER: Maybe that was the wrong word.

11 CHAIRPERSON MILLER: So you didn't think they
12 were maybe employees?

13 MR. BEELER: No.

14 CHAIRPERSON MILLER: Is that the distinction
15 you were trying to make and --

16 MR. BEELER: Yes.

17 CHAIRPERSON MILLER: Okay. And what is that
18 based on?

19 MR. BEELER: I have no indication that they
20 were employees. They didn't identify themselves as
21 employees.

22 CHAIRPERSON MILLER: Okay. Did the victim

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1 that was assaulted say anything about he was going to a
2 private party or anything like that?

3 MR. BEELER: He just said he was going to
4 party.

5 CHAIRPERSON MILLER: Party. Okay. And did
6 you say you didn't see anyone drinking alcohol per se?

7 MR. BEELER: No, I didn't.

8 CHAIRPERSON MILLER: Okay. Did you say you
9 saw on the table or somewhere an empty beer can and
10 glasses?

11 MR. BEELER: They were --

12 CHAIRPERSON MILLER: What did you see?

13 MR. BEELER: They were beer bottles or beer
14 sitting --

15 CHAIRPERSON MILLER: Oh, beer bottles.

16 MR. BEELER: But they were opened.

17 CHAIRPERSON MILLER: Open beer bottles?

18 MR. BEELER: Yes, there were glasses. And I
19 can't remember if I checked their glasses or smelled
20 the glasses to see if --

21 CHAIRPERSON MILLER: Right.

22 MR. BEELER: -- it was alcohol in the

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1 glasses. So I can't say that it was.

2 CHAIRPERSON MILLER: Okay. And I haven't had
3 a chance to look at the exhibits very carefully. Were
4 they depicted in a picture?

5 MR. BEELER: Yes. There are at least two
6 pictures. Let me see if I --

7 CHAIRPERSON MILLER: Okay.

8 MR. BEELER: Exhibit 12 shows the beer
9 bottles. And Exhibit 9 shows the beer bottles.

10 CHAIRPERSON MILLER: Okay. Thank you. And
11 also with respect to -- I believe you testified that
12 you had -- I don't know if it's a conversation but
13 somebody identified themselves to you as the DJ?

14 MR. BEELER: Yes.

15 CHAIRPERSON MILLER: And his equipment was
16 visible on a table?

17 MR. BEELER: Yes, it was on that second floor
18 on the western end --

19 CHAIRPERSON MILLER: Okay.

20 MR. BEELER: -- the Georgia Avenue side.

21 CHAIRPERSON MILLER: But you didn't see him
22 playing?

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1 MR. BEELER: No, no.

2 CHAIRPERSON MILLER: Okay. Did he say
3 anything about when he played or where he played or
4 anything?

5 MR. BEELER: No.

6 CHAIRPERSON MILLER: No.

7 MR. BEELER: I didn't even know he was there
8 in the pictures myself.

9 CHAIRPERSON MILLER: Okay.

10 MR. BEELER: Another officer did.

11 CHAIRPERSON MILLER: Oh, another officer.

12 MR. BEELER: Yes.

13 CHAIRPERSON MILLER: Okay. I think that's
14 all of my questions. Any follow-up questions? Mr.
15 Adams?

16 MR. ADAMS: The District has no questions for
17 a redirect.

18 CHAIRPERSON MILLER: Okay. Anything else?

19 MR. EHALU: I just, like, want to --

20 CHAIRPERSON MILLER: Well --

21 MR. EHALU: -- make a statement as --

22 CHAIRPERSON MILLER: Wait, it's not time to

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1 make a statement.

2 MR. EHALU: And he said -- he said we don't
3 have -- there's no employees in the --

4 CHAIRPERSON MILLER: Wait, wait. I'm just
5 tell you just procedure-wise, you're going to have an
6 opportunity to testify. This is only --

7 MR. EHALU: Okay.

8 CHAIRPERSON MILLER: -- questions -- based on
9 our questions now. Okay? So hold that thought and --
10 okay. Then I think that concludes the testimony. Mr.
11 Adams, if I can beg your indulgence for a minute?

12 MR. ADAMS: Yes.

13 CHAIRPERSON MILLER: Apparently we have
14 another case. And it's going to be very, very quick.
15 And they'd like to slide in here while you get your
16 next witness.

17 MR. ADAMS: The District has no objections.

18 CHAIRPERSON MILLER: Okay. We're just going
19 to let another case slide in here. It should take less
20 than five minutes, if you want a quick break.

21 (WHEREUPON, at 12:07 p.m., the hearing went
22 off record until 12:11 p.m.)

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1 MR. ADAMS: Please pardon me, Madam -- sorry.
2 Pardon me, Madam Chairman, of course walking away. The
3 matter will last longer.

4 CHAIRPERSON MILLER: Thank you. No problem.

5 MR. ADAMS: The second -- in our -- in our
6 case the second witness and last witness is Mr.
7 Investigator Ghenene. And for the record, the
8 Respondent has not yet returned to Respondent's table
9 yet. So

10 CHAIRPERSON MILLER: They're here but where's
11 the interpreter?

12 MR. ADAMS: I'm not sure.

13 MS. KIDANE: She go to the bathroom.

14 CHAIRPERSON MILLER: Okay. We need to wait.

15 MR. ADAMS: Okay.

16 CHAIRPERSON MILLER: Is there a problem?

17 TRANSLATOR: Yes.

18 CHAIRPERSON MILLER: Yes.

19 TRANSLATOR: I was told it was going to be a
20 two-hour, two-and-a-half-hour period. I was told from
21 10:00 to 12:30. So I have to go.

22 CHAIRPERSON MILLER: You have 30 minutes.

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1 TRANSLATOR: I did not know -- I have enough
2 talk.

3 MR. EHALU: Well, Ms. --

4 CHAIRPERSON MILLER: Are you going to wait?
5 Are you going to stay until 12:30?

6 TRANSLATOR: Yes.

7 MR. ADAMS: That's fine. Madam Chairperson,
8 I mean, in this case obviously the interpreter was
9 provided, I believe, by -- at the Board's behalf. I
10 believe in this case this Respondent also has a
11 representative and manager along with -- even though
12 the -- even if the interpreter does at some point
13 leave, it'll be the District position that there
14 wouldn't be undue prejudice as long as the
15 representative made sure that -- he made sure that the
16 Licensee is fully aware of what occurs.

17 I believe that that person's also fluent in
18 Amharic and English as well.

19 CHAIRPERSON MILLER: Okay. What's your name,
20 sir? Your - what's your name?

21 MR. EHALU: Ayenen Ehalu (ph).

22 CHAIRPERSON MILLER: Okay. Do you understand

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1 what Mr. Adams is saying?

2 MR. EHALU: Yeah.

3 CHAIRPERSON MILLER: Okay.

4 MR. EHALU: I understand what he said.

5 CHAIRPERSON MILLER: And what -- do you have
6 a response?

7 MR. EHALU: Sure. If she want to leave
8 (inaudible) I'll be okay. I'll do -- I'll do a
9 statement regarding Sunshine.

10 CHAIRPERSON MILLER: Okay. Can you speak a
11 little louder?

12 MR. EHALU: I can -- I can translate for her.

13 CHAIRPERSON MILLER: Okay. You can
14 translate?

15 MR. EHALU: She --

16 CHAIRPERSON MILLER: Because this is what Mr.
17 Adams thought.

18 MR. EHALU: Yeah.

19 CHAIRPERSON MILLER: And could you ask Ms.
20 Kidane if that's -- if she's comfortable?

21 MS. KIDANE: Yeah, it's fine.

22 CHAIRPERSON MILLER: That's fine with you?

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1 MS. KIDANE: Yeah.

2 CHAIRPERSON MILLER: All right. Then --
3 okay. I think then we'll proceed. All right, Mr.
4 Adams. Oh, Mr. Ghenene, do you swear to tell the
5 truth, the whole truth and nothing but the truth?

6 MR. GHENENE: Yes.

7 CHAIRPERSON MILLER: Okay.

8 MR. ADAMS: Good afternoon, Mr. Ghenene. I
9 apologize. I think I screwed up the pronunciation of
10 your name. Can you please spell your name -- state
11 your name and spell it for the record?

12 MR. GHENENE: Sure. It's Abyie Ghenene, A-B-
13 Y- I-E, last name, G-H-E-N-E-N-E.

14 MR. ADAMS: And Mr. Ghenene, you are the
15 investigator for the Alcoholic Beverage Regulation
16 Administration; is that correct?

17 MR. GHENENE: Yes, sir.

18 MR. ADAMS: And how long have you been such
19 an investigator?

20 MR. GHENENE: Approximately a year and -- a
21 year and eight months.

22 MR. ADAMS: And within the year and eight

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1 months that you've been investigator, have you had an
2 occasion to work with or have any familiarity with
3 Sunshine Bar & Lounge?

4 MR. GHENENE: Yes, sir.

5 MR. ADAMS: Now, turning to -- and actually
6 I'll ask you this. How have you become familiar with
7 Sunshine Bar & Lounge?

8 MR. GHENENE: Through the investigation of
9 residents' complaints (inaudible).

10 MR. ADAMS: All right. Now, turning to this
11 investigation, can you tell us whether -- whose
12 investigation -- did it result in a report?

13 MR. GHENENE: Yes.

14 MR. ADAMS: Okay. And in terms of this
15 report, who did the report?

16 MR. GHENENE: I wrote the report.

17 MR. ADAMS: All right. I'm going to provide
18 to the -- to the Respondent what's marked as District's
19 Exhibit 1. And I'd like to approach the witness.

20 CHAIRPERSON MILLER: Okay.

21 MR. ADAMS: All right. Now, Investigator
22 Ghenene, do you recognize the documents marked for

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1 identification purposes as District's Exhibit 1?

2 MR. GHENENE: Yes.

3 MR. ADAMS: And how do you recognize it?

4 MR. GHENENE: It's the report I generated.

5 MR. ADAMS: All right. Now, just go through
6 the report very quickly. Within the first four pages
7 is that -- what is that? Is that -- is that the meat
8 of the report?

9 MR. GHENENE: Yes, sir. We have the copy of
10 exhibits.

11 MR. ADAMS: All right. And on the fourth
12 page there's a signature. Whose signature is that?

13 MR. GHENENE: And there's two signatures.
14 One is mine and one is the chief's.

15 MR. ADAMS: And after that, there -- Exhibit
16 1 to your report -- oh, what is that? What is Exhibit
17 1?

18 MR. GHENENE: Exhibit 1 is an email
19 correspondence between -- I'm sorry.

20 MR. ADAMS: It's -- I'm listening. Okay.

21 MR. GHENENE: It's an email correspondence
22 between what appears to be residents of the

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1 neighborhood surrounding Sunshine Bar & Lounge and --

2 MR. ADAMS: Okay. And then turn to Exhibit

3 2. What's Exhibit 2?

4 MR. GHENENE: Exhibit 2 is the 251 report
5 from Officer Beeler.

6 MR. ADAMS: Exhibit 3?

7 MR. GHENENE: Exhibit 3 is the -- is -- I
8 believe it's a transcript from previous hearing of
9 Sunshine Bar & Lounge.

10 MR. ADAMS: All right. Exhibit 4?

11 MR. GHENENE: I believe that's again
12 transcripts.

13 MR. ADAMS: Is -- was there a finding of fact
14 (inaudible) in order?

15 MR. GHENENE: Yes, sir. It's an actual
16 finding of fact.

17 MR. ADAMS: Okay. And there are of course --
18 then after that, there are a couple of pictures and
19 flyers. These used as well?

20 MR. GHENENE: Yes, sir. Correct.

21 MR. ADAMS: Now, in total are -- is that a
22 true and accurate version of the investigation report

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1 that was completed by you for your investigation of
2 Sunshine Bar & Lounge as supported for today?

3 MR. GHENENE: Yes, sir.

4 MR. ADAMS: All right. I'd like to move --
5 to mark as -- this as Exhibit 1 as evidence, Madam
6 Chair.

7 CHAIRPERSON MILLER: Okay. And you showed it
8 to the Licensee?

9 MR. ADAMS: Yes, I have.

10 CHAIRPERSON MILLER: And there's no
11 objection?

12 (No audible response.)

13 CHAIRPERSON MILLER: Thank you, yes. Okay.
14 It's admitted.

15 MR. ADAMS: All right. Mr. Ghenene, now you
16 state that -- now, how -- in terms of this case, how
17 did your involvement begin?

18 MR. GHENENE: My involvement began on
19 Thursday, February 2nd, 2012 when I received a
20 forwarded email.

21 MR. ADAMS: And what was the subject of the
22 email sent? Who was it from?

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1 MR. GHENENE: The emails were from Andre
2 Carley and another resident of the area documenting
3 some concerns -- some complaints.

4 MR. ADAMS: Specifically, what kind of
5 complaints were documented in the emails from the
6 neighborhood?

7 MR. GHENENE: In the emails --

8 MR. ADAMS: Uh-huh. Yes, exactly.

9 MR. GHENENE: -- he sent there was issues
10 with - - there was complaints regarding excessive trash
11 as a result of patrons leaving Sunshine Bar & Lounge
12 and overall excessive noises at late hours -- patrons
13 leaving Sunshine Bar.

14 MR. ADAMS: Well, what sort of late hours are
15 you talking about?

16 MR. GHENENE: If I were -- may I look at my
17 report?

18 MR. ADAMS: Sure. It was (inaudible) just
19 for the record.

20 MR. GHENENE: There was comments made from
21 both residents that there were patrons leaving the
22 establishment past their legal and licensed hours of

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1 operation.

2 MR. ADAMS: And now, what did you do about
3 pointing -- in terms of your investigation?

4 MR. GHENENE: That was on a Friday, I
5 believe, or a Thursday. That following Monday I --
6 well, I actually emailed the complainant and I
7 telephoned the complainant and spoke to the
8 complainant. I reaffirmed the complaints made. And
9 the following Monday I received a 251.

10 MR. ADAMS: Now, after you received the 251
11 report, what did you do in response?

12 MR. GHENENE: After I received the 251
13 report, I contacted MPD Officer Beeler to hear his
14 statement -- to reaffirm his statements and also
15 visited Sunshine Bar & Lounge to interview the owner.

16 MR. ADAMS: Well, tell to -- tell the Board -
17 - can you describe the Board your visit to Sunshine Bar
18 & Lounge? And in this -- in your description, can you
19 -- can you tell us who you spoke with --

20 MR. GHENENE: Yes.

21 MR. ADAMS: -- at the -- at that time?

22 MR. GHENENE: On -- I believe it was Saturday

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1 night/early Sunday morning on February 19th I visited
2 Sunshine Bar & Lounge and spoke with Ms. Kidane
3 regarding the 251 report and complaints received. And
4 in that meeting, I asked her several questions
5 regarding the 251 report and the complaints.

6 MR. ADAMS: Now, in terms of the 251 and what
7 occurred on February 6th, can you tell us to what
8 extent, if any, whether Ms. Kidane confirmed that the
9 event took place? What did the owner tell you at that
10 time?

11 MR. GHENENE: Oh, Ms. Kidane explained to me
12 that she did have patrons inside of Sunshine Bar &
13 Lounge beyond the licensed hours of operation but they
14 were there because they were scared to leave.

15 MR. ADAMS: And did she describe why they
16 were scared to leave?

17 MR. GHENENE: She said that they were scared
18 to leave because of MPD's presence outside.

19 MR. ADAMS: Okay. And did she provide any
20 description of why they would be scared by MPD's
21 presence in any way, shape or form?

22 MR. GHENENE: No.

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1 MR. ADAMS: Okay. Did you -- and did you
2 probe any further at that time?

3 MR. GHENENE: Yes.

4 MR. ADAMS: Okay. And what did she tell you?

5 MR. GHENENE: I asked her again, "Why would
6 they be scared of police?" And she had no response.

7 MR. ADAMS: And then did you move on to
8 another subject at that point?

9 MR. GHENENE: Yes.

10 MR. ADAMS: Okay. And then what did you ask?

11 MR. GHENENE: I asked Ms. Kidane why she
12 didn't -- well, I asked Ms. Kidane if patrons that were
13 there -- initially Ms. Kidane stated that patrons were
14 on the top floor of the establishment and not out of
15 her establishment beyond the licensed hours because
16 they refused to leave. And I asked Ms. Kidane, "Why
17 didn't you contact the police to help you clear your
18 establishment?"

19 MR. ADAMS: And what was her response?

20 MR. GHENENE: She said they were already
21 there on -- for something else. She wasn't sure what
22 it was that happened.

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1 MR. ADAMS: Did she describe to you in any
2 way, shape or form how she -- how the establishment
3 attempted to close or whether the establishment
4 attempted to close on that -- on that day?

5 MR. GHENENE: Yes.

6 MR. ADAMS: Okay. And what did she say?

7 MR. GHENENE: Ms. Kidane stated that at
8 approximately 1:45 a.m. she announced last call to her
9 patrons. And then at 2:00 a.m. she locked the front
10 doors -- chained and padlocked because her security
11 person who's usually at the front door left early to
12 deal with a family emergency and that the front door
13 key lock, I guess -- proper lock to the door was
14 broken.

15 MR. ADAMS: Okay. And she stated she thought
16 -- and I apologize. She stated that the security --
17 that there -- and I apologize. When she stated that
18 the people refused to leave, what actions were taken at
19 all to remove patrons at that time according to her or
20 did you ask or question her?

21 MR. GHENENE: I did. I asked -- well, while
22 -- during our conversation about why patrons refused to

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1 leave, she stated that she contacted the security guard
2 who had left to attend to a family emergency and asked
3 him to come back to help her clear the establishment.

4 MR. ADAMS: And what, per her description,
5 does she advise you regarding that conversation?

6 MR. GHENENE: She stated that the security
7 guard that left to deal with his family emergency
8 returned at approximately 3:40 a.m. to help her clear
9 the establishment.

10 MR. ADAMS: And when you talk about a
11 security guard, I mean, based upon -- was this the
12 first time you had been to the establishment? Was that
13 February 19th, 2012? Had you been there prior?

14 MR. GHENENE: I had been there several times
15 prior.

16 MR. ADAMS: The security guard, had -- do you
17 -- from your recollection and your experience with the
18 establishment, are you familiar with why the
19 establishment had a security guard?

20 MR. GHENENE: The -- I believe that there is
21 a - - at least one security guard, although, he does
22 not wear anything that clearly indicates he's security.

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1 MR. ADAMS: Okay. And were you -- were you
2 able to verify what the problem was? Was he there at
3 the time that you interviewed the owner?

4 MR. GHENENE: No.

5 MR. ADAMS: Okay. And so there was no
6 verification of that? All right. So in terms of the
7 security guard, then was there anything else regarding
8 her -- now, she said that they're already scared to
9 come out but was there anything else regarding the
10 security guard in this conversation that you had with
11 the owner?

12 MR. GHENENE: Regarding the security guard, I
13 don't believe so.

14 MR. ADAMS: Okay. Okay. Then -- now, she
15 stated -- did this security guard return at any point
16 to your recollection?

17 MR. GHENENE: Ms. Kidane stated that he did
18 not return until approximately 3:40 a.m. that day.

19 MR. ADAMS: Okay. And what -- and then
20 performing your investigation and speaking with the
21 owner, what else was addressed after that point?

22 MR. GHENENE: I asked Ms. Kidane about the

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1 patrons -- or I asked Ms. Kidane about the -- I guess
2 the initial event with the MPD officers outside walking
3 there. She stated that she knew -- she was unaware why
4 they were there initially. And I also asked Ms. Kidane
5 when MPD attempted to enter the establishment why they
6 weren't allowed to come through the front door and what
7 was taking her so long to get the doors opened. She's
8 -- I'm sorry.

9 MR. ADAMS: And I apologize. Now, what was
10 her response regarding the front door and her
11 interactions with MPD and the front door?

12 MR. GHENENE: Ms. Kidane stated that once she
13 -- once she observed the MPD officers attempting to
14 gain entry to Sunshine Bar & Lounge, she had to go to
15 another room to retrieve the key for the padlock and
16 the chains removed.

17 MR. ADAMS: Okay. And what did she say she
18 did on that occasion?

19 MR. GHENENE: Ms. Kidane stated that she was
20 unable to locate the key and that she had to let them
21 in -- let the officers in through a side door on
22 Geranium Street.

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1 MR. ADAMS: Okay. Now, in terms of this
2 establishment -- in terms of the establishment, is --
3 was there anything else that came from this interview
4 from the -- with the owner?

5 MR. GHENENE: Ms. Kidane stated that the
6 policy of Sunshine Bar & Lounge for patrons under the
7 age of 21 was to mark their hands with black X's. Ms.
8 Kidane also stated that as a result of the incident
9 that I was there investigating that she was going to
10 hire additional -- three additional security guards
11 that would all carry two-way radios and that she would
12 also install eight cameras that had the ability to
13 record and store approximately three months of recorded
14 media.

15 MR. ADAMS: Now, two specific questions.
16 Within your investigation did you discuss or were you -
17 - were you able to in any way determine the owner's,
18 the Licensee's understanding of the hours of operation
19 and sales?

20 MR. GHENENE: On this date?

21 MR. ADAMS: Yes. Or --

22 MR. GHENENE: Yes.

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1 MR. ADAMS: -- at any point? Okay. And what
2 was your conclusion?

3 MR. GHENENE: This was not the first time
4 that I've reviewed the license hours with Ms. Kidane.

5 MR. ADAMS: Okay.

6 MR. GHENENE: So I then instructed or advised
7 her of her licensed hours of operation.

8 MR. ADAMS: So why had you advised her
9 regarding the hours previously?

10 MR. GHENENE: Regarding other email
11 complaints that I -- in cases that I investigated.

12 MR. ADAMS: All right. And had you made any
13 findings regarding -- outside the email complaints
14 themselves, any findings about their operations --
15 after hours operations?

16 MR. GHENENE: No.

17 MR. ADAMS: Okay. To what extent during your
18 discussion was there anything regarding the use of the
19 second floor?

20 MR. GHENENE: I asked Ms. Kidane -- oh, Ms.
21 Kidane stated that the people that the MPD officers
22 found inside of the establishment were all on the top

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1 level and refusing to leave while the MPD officers were
2 outside.

3 MR. ADAMS: Now, I'm going to turn you to --
4 now, there -- like you -- in your report there's some
5 flyers. Can you -- can you turn back to them? There's
6 two flyers. Can you turn back to those, Mr. Ghenene?

7 MR. GHENENE: Yes.

8 MR. ADAMS: Now, the first flyer, I think, is
9 a picture of a person named Mr. Cheese. Is that -- is
10 that accurate?

11 MR. GHENENE: Yes.

12 MR. ADAMS: All right. What -- to your -- I
13 mean, what is being shown in terms of the entertainer
14 or what's available for entertainment at the
15 establishment based on this flyer?

16 MR. GHENENE: According to this flyer, it
17 states that there will be a special guest.

18 MR. ADAMS: Well, actually I'm going to take
19 you down to the last box towards the bottom.

20 MR. GHENENE: Okay.

21 MR. ADAMS: Can you read what's there?

22 There's the first line -- the top line of the bottom

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1 box.

2 MR. GHENENE: It says, "Three levels of
3 party, three DJs, 18+ event, \$150 tables, comes with a
4 bottle of Ciroc."

5 MR. ADAMS: Now, there's a -- there's a line
6 above it that says, "Music by DJ KB." Underneath it
7 there's another line. What's stated at that line?

8 MR. GHENENE: I believe it states, "Basement
9 level performances, mid-level dance party, top level
10 hookahs and VIPs."

11 MR. ADAMS: Now, at the top of it, what's the
12 date for this event?

13 MR. GHENENE: The date states Wednesday,
14 February 15th.

15 MR. ADAMS: And what is -- what's the hours
16 of that event as occurring?

17 MR. GHENENE: It states from 9:00 p.m. to
18 3:00 a.m.

19 MR. ADAMS: Now, there's a second flyer.
20 Does it announce some times as well? Actually it's the
21 same night, I believe, for 2/15.

22 MR. GHENENE: Yes.

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1 MR. ADAMS: And is that the same -- is that
2 information consistent?

3 MR. GHENENE: Yes.

4 MR. ADAMS: Now, are you familiar with the
5 establishment's license?

6 MR. GHENENE: Yes.

7 MR. ADAMS: On Wednesday going to Thursdays,
8 when are they entitled to have entertainment, sales or
9 other operations?

10 MR. GHENENE: I'm believe -- and I'm looking
11 at a copy of it. I believe that the entertainment is
12 to end at 12:00 a.m. and sales are to end at -- I
13 believe it says 2:00 a.m.

14 MR. ADAMS: All right. I have no further
15 questions for the investigator.

16 CHAIRPERSON MILLER: Board questions? Yes,
17 Mr. Nophlin?

18 MR. ALBERTI: Thank you, Ms. Miller. I
19 believe that the proper procedure is to allow the --

20 CHAIRPERSON MILLER: Oh, I'm sorry. So Mr.
21 Ehalu --

22 MR. ALBERTI: -- defendant to ask questions

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1 at this time.

2 CHAIRPERSON MILLER: Here. You are correct,
3 Mr. Alberti. Okay.

4 MR. EHALU: We have -- we have no question
5 regarding the ABC investigator because most of the time
6 he was -- like he said, he was present and advised Ms.
7 Kidane a couple of times. But regarding to --

8 CHAIRPERSON MILLER: Can I -- can I just tell
9 you once more? Because I'm not sure if you're going
10 down that road. This is just questions. If you have
11 no questions, you can save your statements to when you
12 do your case.

13 MR. EHALU: Okay.

14 CHAIRPERSON MILLER: Okay. All right. Now,
15 Mr. Nophlin, did you have a question?

16 MR. NOPHLIN: Yes. Thank you, Madam Chair.

17 CHAIRPERSON MILLER: Okay.

18 MR. NOPHLIN: Thank you for a thorough
19 investigation. How many -- you said you received some
20 calls before you went out. That's what prompted you to
21 go out and take a look at this establishment?

22 MR. GHENENE: Email complaints, sir.

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1 MR. NOPHLIN: I'm sorry?

2 MR. GHENENE: Email complaints.

3 MR. NOPHLIN: Email complaints.

4 MR. GHENENE: Yes, sir.

5 MR. NOPHLIN: How many did you think you
6 received?

7 MR. GHENENE: It'd be -- it'd be -- I don't
8 want to --

9 MR. NOPHLIN: Roughly?

10 MR. GHENENE: So roughly anywhere between
11 seven to ten.

12 MR. NOPHLIN: And it was based around noise?

13 MR. GHENENE: Noise and trash.

14 MR. NOPHLIN: And trash. What about after
15 hours? Did you -- and after hours was --

16 MR. GHENENE: Noise, and that was from after
17 hours.

18 MR. NOPHLIN: After hours.

19 MR. GHENENE: Yes, sir.

20 MR. NOPHLIN: And you went out various times
21 or just the time that people complained? Did you go
22 during the day?

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1 MR. GHENENE: I've gone during the day and
2 during the evening hours.

3 MR. NOPHLIN: And they had security in the
4 evenings?

5 MR. GHENENE: Again he didn't clearly have
6 something that said, "Security," on it but I have seen
7 -- I've seen him there. I've observed him there on
8 several occasions at the front door.

9 MR. NOPHLIN: And you reviewed the security
10 plan?

11 MR. GHENENE: Security plan?

12 MR. NOPHLIN: Did you have a chance to review
13 that, their security plan?

14 MR. GHENENE: I don't believe so, no.

15 MR. NOPHLIN: Okay. And during the time when
16 you -- the last time you went to see what was going on,
17 what time did people leave when the police came? Were
18 you there when the police came or --

19 MR. GHENENE: No, sir.

20 MR. NOPHLIN: That was after they came,
21 right?

22 MR. GHENENE: I was there three day -- I was

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1 there after the event at night.

2 MR. NOPHLIN: At --

3 MR. GHENENE: I did not respond to the
4 incident --

5 MR. NOPHLIN: Okay. Thank you very --

6 MR. GHENENE: -- of Monday morning.

7 MR. NOPHLIN: Okay. Thank you very much.

8 MR. BROOKS: Madam Chair, I have a question.

9 CHAIRPERSON MILLER: Yes, Mr. Brooks.

10 MR. BROOKS: Yeah, Investigator, do they have
11 security cameras?

12 MR. GHENENE: At the time of the incident I
13 don't believe so, no.

14 MR. BROOKS: Okay. Thank you.

15 CHAIRPERSON MILLER: Others? Mr. Alberti?

16 MR. ALBERTI: Hi, Mr. Ghenene. Thank you for
17 your report. Mr. Ghenene, did you interview Officer
18 Beeler or any of the officers involved, meaning the
19 incident on -- was that February 2nd -- or, no, I'm
20 sorry, February 6th?

21 MR. GHENENE: On February 6th. I did
22 interview Officer Beeler regarding his report.

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1 MR. ALBERTI: Okay. Are you aware of the
2 approximate time that Officer Beeler first arrived to
3 the vicinity of the -- well, are you -- do you -- are
4 you aware of what time Officer Beeler arrived at the
5 establishment?

6 MR. GHENENE: May I review my notes?

7 MR. ALBERTI: Yes, you may.

8 MR. GHENENE: No, sir. No, I do not know
9 what time -- I know what time we received a call to
10 respond to the initial event but I don't know what time
11 he actually arrived.

12 MR. ALBERTI: Okay. Do you know what time he
13 received a call from --

14 MR. GHENENE: Yes, sir. At approximately
15 3:00 a.m.

16 MR. ALBERTI: Approximately 3:00 a.m. Okay.

17 MR. GHENENE: Yes, sir.

18 MR. ALBERTI: Great. And he arrived some
19 time after that?

20 MR. GHENENE: Yes, sir.

21 MR. ALBERTI: Okay. I won't -- do you have
22 your -- all right. Now, I think you testified that Ms.

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1 Kidane told you that she asked everyone -- she made --
2 she gave everyone a last call at 1:45 and attempted to
3 clear the establishment at that -- is that correct?

4 MR. GHENENE: I believe she attempted to
5 clear out at 2:00 a.m.

6 MR. ALBERTI: At 2:00 a.m.?

7 MR. GHENENE: Yes, sir.

8 MR. ALBERTI: Okay. And can you repeat --
9 tell me again what she said about why people weren't
10 leaving?

11 MR. GHENENE: Ms. Kidane stated to me that
12 her patrons were scared to leave due to the presence of
13 MPD officers outside the establishment -- in close
14 proximity to the establishment.

15 MR. ALBERTI: Okay. Did Ms. Kidane --

16 MS. KIDANE: Kidane.

17 MR. ALBERTI: -- Kidane -- I'm sorry. Did
18 Ms. Kidane -- I apologize. Ms. -- did Ms. Kidane tell
19 you what occurred between approximately 2:00 a.m. and
20 sometime after 3:00 when the police arrived? Because
21 we have not -- did she -- did she tell you -- did she
22 tell you anything about what was going on in the

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1 establishment between 2:00 a.m. and the time the police
2 arrived at -- oh, after 3:00 a.m.?

3 MR. GHENENE: What Ms. Kidane stated to me
4 was that once she realized that she could not by
5 herself clear the establishment, she contacted her
6 security guard who had left for the evening. Then she
7 also stated that no -- there was no alcohol or
8 alcoholic beverages present being consumed or being
9 sold beyond 1:45 a.m.

10 MR. ALBERTI: Okay. So -- but according to
11 her -- to her -- what she told you, one would have to
12 assume that the patrons were there between 2:00 and
13 3:00 without police -- without the police being
14 present?

15 MR. GHENENE: Yes.

16 MR. ALBERTI: Thank you.

17 CHAIRPERSON MILLER: Other Board members?
18 Mr. Silverstein?

19 MR. SILVERSTEIN: Mr. Ghenene, you -- is
20 there any question that you understood Ms. Kidane and
21 she understood you? Was the interview that you had
22 with her in English or Amharic or --

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1 MR. GHENENE: No, it was in English.

2 MR. SILVERSTEIN: And she was fine with that?

3 MR. GHENENE: Yes.

4 MR. SILVERSTEIN: Do you speak her language
5 as well?

6 MR. GHENENE: Yes.

7 MR. SILVERSTEIN: So there was no question
8 that what was -- what transpired was correct?

9 MR. GHENENE: Yes.

10 MR. SILVERSTEIN: You show these photos here
11 of a flyer shown, three levels advertised?

12 MR. GHENENE: Yes.

13 MR. SILVERSTEIN: What evidence specifically
14 do you have that the upper levels -- did you -- did you
15 see that the upper levels --

16 MR. GHENENE: No.

17 MR. SILVERSTEIN: -- had been used?

18 MR. GHENENE: No, sir.

19 MR. SILVERSTEIN: No.

20 MR. GHENENE: I have not seen the upper
21 levels.

22 MR. SILVERSTEIN: Okay. No further

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1 questions.

2 CHAIRPERSON MILLER: Okay. I just have a
3 couple. Did Ms. Kidane say at any time that the people
4 who were present after hours were part of her private
5 party as opposed to patrons or customers?

6 MR. GHENENE: I don't believe I made the
7 distinction. I asked her what the event was going on
8 during the time of the incident. And she stated that
9 it was a birthday party.

10 CHAIRPERSON MILLER: Oh, okay. So she said
11 it was a party? We -- okay. So the distinction
12 meaning you don't know if it's somebody else's party or
13 her birthday party?

14 MR. GHENENE: Right.

15 CHAIRPERSON MILLER: Okay. And did I -- did
16 I hear you testify -- I'm not sure if afterwards she
17 said she was going to hire three additional security
18 officers?

19 MR. GHENENE: Yes, ma'am.

20 CHAIRPERSON MILLER: Okay. And do you know
21 whether she has?

22 MR. GHENENE: I don't know.

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1 CHAIRPERSON MILLER: Okay. And did you also
2 testify that she was going to add cameras?

3 MR. GHENENE: Yes, ma'am.

4 CHAIRPERSON MILLER: Eight?

5 MR. GHENENE: Yes, ma'am.

6 CHAIRPERSON MILLER: Okay. And do you know
7 if she has?

8 MR. GHENENE: No, ma'am.

9 CHAIRPERSON MILLER: Okay. Do you know what
10 cameras she had before?

11 MR. GHENENE: I don't believe any.

12 CHAIRPERSON MILLER: Thank you. Okay. Now,
13 I'm going to -- okay. And was there anything else that
14 she said she was going to do?

15 MR. GHENENE: No, ma'am.

16 CHAIRPERSON MILLER: Okay. All right. Thank
17 you. Any follow-up question?

18 MR. ADAMS: Just actually two. Mr. Ghenene,
19 at any time in the past -- obviously you say you spoke
20 with her in English. Have you -- have you spoken with
21 her in any other -- in any other languages?

22 MR. GHENENE: Not really, no.

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1 MR. ADAMS: And the other question I had is -
2 - I apologize. I have no further questions.

3 CHAIRPERSON MILLER: Oh, did you have a
4 question?

5 MR. NOPHLIN: Yes. One -- I'm sorry.

6 CHAIRPERSON MILLER: Okay.

7 MR. ADAMS: I apologize.

8 CHAIRPERSON MILLER: He -- no, Mr. Adams is
9 finished.

10 MR. NOPHLIN: I may have missed this. On the
11 last page of Exhibits -- maybe you -- somebody -- maybe
12 they -- somebody else discussed this. What's -- it's a
13 number that said, "You were billed annually for any
14 balance due," on exhibits.

15 MR. GHENENE: Yes, sir.

16 MR. NOPHLIN: What is that?

17 MR. GHENENE: This is a scan or a copy of
18 Sunshine Bar & Lounge's ABC license.

19 MR. ADAMS: For the Board's convenience, that
20 -- this is Exhibit 2. As well, we also provided a more
21 clear copy of the license.

22 CHAIRPERSON MILLER: Thank you.

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1 MR. NOPHLIN: It's explained. Thank you very
2 much. I was -- because it was hard to read. I was
3 wondering what it was. I -- so thank you. I was told
4 by our attorney that -- what it was. I'm happy with
5 it. Thank you.

6 CHAIRPERSON MILLER: Do you have any
7 questions? Okay. Thank you. You're excused. Thank
8 you very much.

9 MR. ADAMS: At this time I excuse Mr. Ghenene
10 and the District rests its case.

11 CHAIRPERSON MILLER: Okay. All right. Now,
12 it's time for the Licensee to present any witness to
13 testify.

14 MR. EHALU: She could testify.

15 CHAIRPERSON MILLER: Okay.

16 MR. EHALU: I wasn't -- at that time I was
17 overseas for some matters but she was over there so she
18 can testify.

19 CHAIRPERSON MILLER: And are you going to
20 translate or is she going to be able to testify in
21 English?

22 MR. EHALU: She can try as much as she can.

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1 Most of the time there's some understanding that she's
2 not fully understanding. But she can testify.

3 CHAIRPERSON MILLER: Okay. Oh, the other
4 thing I want to remind you, if you wanted to do this
5 opening statement. You don't have to. But it's like
6 Mr. Adams did before his case. He said what he was
7 going to show. You have that option or you can just go
8 right into your testimony.

9 MR. EHALU: Okay. I would love to do that.
10 Since we started this business, it was a family
11 business. But it ended up as a battle between the
12 community and Sunshine Lounge for over two years. The
13 problem is there was incidents, the police called
14 numerous times, sometimes twice or three times. So we
15 -- neighbors felt like they had a right to come at the
16 business area and say whatever they want, get in the
17 establishment -- no -- didn't buy no or support the
18 business but -- except monitoring.

19 And there was a couple of incidents that
20 happened, which family members. We have two years
21 anniversary daytime, just barbecue this summer. There
22 was people just coming to the balcony side just

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1 watching, just standing and watching. We approach and
2 they said, "This is Shepherd Park. We have the right
3 to monitor you guys." We called the cops. They
4 identified themselves as a cop. The guy saw -- I told
5 him, "If you have identification of the police, please
6 show it to us."

7 They don't want to do it so we call the cops.
8 The police told them numerous times, "Cannot come to
9 the -- this establishment and disturb a business."
10 What was -- the problem we have is at the upstairs
11 floor, they said it's a noise. But it never been a
12 noise complaint that comes except for people outside.
13 And there was a couple of bars over there. It's not
14 only Sunshine in that block. There was Charley's.
15 There was Silver Sand. Now, it's over; there's no
16 business. He closed.

17 CHAIRPERSON MILLER: Excuse me. Okay. It --
18 you know, it's a procedure thing. And --

19 MR. EHALU: Yeah, what I'm -- what I'm trying
20 to do is, like --

21 CHAIRPERSON MILLER: But it doesn't -- it
22 sounds like you're testifying. If you're testifying,

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1 then I would need to swear you in.

2 MS. GREEN: Yeah.

3 CHAIRPERSON MILLER: If you are just making a --

4 MS. GREEN: A statement.

5 CHAIRPERSON MILLER: -- you know, an

6 introduction, I wouldn't. But if you're planning on

7 testifying, then -- do you know what I'm saying? Like --

8 MR. EHALU: Yeah.

9 CHAIRPERSON MILLER: Okay. Or I would have
10 to swear you in. So --

11 MR. EHALU: Okay.

12 CHAIRPERSON MILLER: -- it sounds like you --
13 are you to be the first witness in your -- that you
14 will have?

15 MR. EHALU: I can be a first witness.

16 CHAIRPERSON MILLER: Do you want to go over
17 there?

18 MR. EHALU: Sure.

19 CHAIRPERSON MILLER: All right. Okay. Do
20 you - - do you swear to tell the truth, the whole
21 truth, nothing by the truth?

22 (No audible response.)

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1 CHAIRPERSON MILLER: Okay. Okay. So in
2 general -- I know you may want to give a little
3 background but in general, you know, you should be
4 responding to the charges that the Board's going to be
5 considering because that's what we're looking at,
6 operating after hours and substantial change in
7 expanding to that floor.

8 MR. EHALU: The people stays on the second
9 floor because --

10 CHAIRPERSON MILLER: But -- and try to speak
11 loud so --

12 MR. EHALU: Okay.

13 CHAIRPERSON MILLER: -- the court reporter
14 can hear you.

15 MR. EHALU: The people that stays in the
16 first floor as -- because when we started the business,
17 we -- that was empty. We remodeled the whole place
18 because we really want to have a spacious place so
19 people can sit and enjoy. Most of the people
20 comfortable going upstairs and enjoy on any given days.
21 But we have an appointment over here for -- regarding a
22 license granting our -- or asking extension hours.

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1 There were some mistakes we made on our side.

2 At that time there was no business. We spoke
3 to the owner -- the building owner. We told him we
4 need to -- we can't afford the upstairs. But if he
5 give us -- if he can rent it to other people so he can
6 -- that type of situation. But he said there was no --
7 there was no persons going to rent it -- only that top
8 floor, because there was no exit on that floor -- from
9 that only floor.

10 So we indicated to the -- to the Board that
11 we don't need that upstairs floor. And the Board took
12 that into consideration and they took it that there was
13 no liquor being sold or any entertainment. But now,
14 what the problem is, the person -- we're paying rent
15 fully. We have application license for three floors but
16 we're not using it. And we spent a lot of money all
17 invested.

18 We put a lot of money on couches, on the bar,
19 fixing lights, all that kind -- sound systems, that --
20 for it to be entertainment for the people. But we're
21 not using it no more. So the ABC Board -- two times
22 they told us not to operate in that floor. So we --

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1 what we did is we took it to the basement, remodeled
2 the basement. Still that occupancy was like 40
3 persons. And any given days -- Fridays or Saturdays
4 that we -- the peoples going to be more than 40 person.
5 So they going upstairs. That type of problem we
6 facing.

7 For that day, the after-hours day that my mom
8 was alone by herself, there was a gentleman -- when I
9 leave from here, I give to him the chance to be the
10 head of security. We have two securities. But for
11 some reason -- it was Sunday night. Most of the time
12 Friday and Saturday is busy so we have two securities.
13 On Saturday -- on Sunday we have only one security and
14 he left. By her -- she's by herself. Like I say, 25
15 to 30 people, they were upstairs. Maybe they get
16 intoxicated. Maybe they're afraid to go out.

17 There's a lot of reasons they're not -- they
18 refused to go out. And she tried to -- tried to take
19 the drinks from them. But the only problem we had is
20 there's no manpower at that time physically or -- to
21 take the people out. Almost 45 to an hour it takes.
22 Then there is some incident that happened outside. And

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1 they took probably 45 minutes -- another 45 minutes to
2 just -- from Sunshine from across the street. So that
3 makes another two hours and three hours we operated
4 after hours.

5 But the -- it wasn't the case because it was
6 -- one old lady cannot 30 person operate after hours.
7 (Inaudible) there was no -- looks like there was no
8 employee -- there was, like, four employees. There was
9 waitresses and there was -- they said there was a DJ.
10 But the DJ wasn't playing because upstairs there was no
11 DJ equipment. It's just a Bose speaker, no sound
12 system, no nothing until this day. That's what I want
13 to say.

14 CHAIRPERSON MILLER: Okay.

15 MR. ADAMS: Madam Chair, I'll do my cross-
16 examination.

17 CHAIRPERSON MILLER: Not a problem.

18 MR. ADAMS: So first of all, Mr. Ehalu, you
19 are aware that -- you are aware of the Board's order
20 regarding the use of the second floor; is that correct?

21 MR. EHALU: Yes.

22 MR. ADAMS: And you -- and then that includes

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1 -- and the Licensee -- is the Licensee -- she's related
2 to you; is that correct?

3 MR. EHALU: That's my mother.

4 MR. ADAMS: That's your mother. And so now,
5 specifically in that order it states that -- it states
6 very specifically -- and you are aware that it states
7 that the applicant shall limit offering entertainment
8 to the floor level below ground level, the basement,
9 and that no entertainment will be offered on the two
10 floors above ground, nor shall the second floor above
11 ground be licensed for sale, service or consumption of
12 alcoholic beverages. You are aware of that?

13 MR. EHALU: Yeah.

14 MR. ADAMS: And the Licensee has been aware
15 of that?

16 MR. EHALU: Yes.

17 MR. ADAMS: And in the protest hearing it was
18 stated that you had no intent of using the second
19 floor?

20 MR. EHALU: I just -- I just explained to you
21 that we have a rule -- security -- we had a -- we have
22 a -- we'd come up with an idea to try to return to

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1 upstairs because the cost -- it costs too much for us.

2 MR. ADAMS: Okay.

3 MR. EHALU: Now the Board said, "We don't
4 want you to use the upstairs."

5 MR. ADAMS: Oh, so --

6 MR. EHALU: We refused to use the upstairs.
7 We bring the idea not to use the upstairs because we
8 trying to return the upstairs if the owner trying to
9 lower the rent.

10 MR. ADAMS: Well, just so I can -- I can make
11 sure of this -- so you -- so there was awareness of --
12 so as of February 6th, 2012 -- now, are you trying to
13 say that the -- that the second floor of the
14 establishment, that the door could not be locked; is
15 that correct? Is that what you're saying?

16 MR. EHALU: Cannot be locked.

17 MR. ADAMS: The door cannot be locked. So is
18 it also true that -- are you -- that there was a fully
19 stocked bar on the second floor on February 6th? Was
20 that done -- that wasn't done by the patrons? That was
21 done by the Licensee and yourself; is that correct?

22 MR. EHALU: Sure.

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1 MR. ADAMS: Okay. And it's -- well, also
2 there's a hookah and things of that sort?

3 MR. EHALU: Sure.

4 MR. ADAMS: Well, you weren't there on
5 February 6th, right?

6 MR. EHALU: No. I was -- I was not.

7 MR. ADAMS: So are you at home?

8 MR. EHALU: I was -- I was overseas.

9 MR. ADAMS: Okay. Now -- well, now, also you
10 seen that there -- that there's flyers that advertises
11 the uses of all three levels. And you're aware of the
12 flyers, are you not, correct?

13 MR. EHALU: Not to my knowledge because, like
14 I said, I was -- I was out for three months --

15 MR. ADAMS: Uh-huh.

16 MR. EHALU: -- overseas. There is some
17 matters that I needed to be attending --

18 MR. ADAMS: All right.

19 MR. EHALU: -- overseas. And there was this
20 guy who's approaching my mom because it was slow, like
21 I said. He said he was going to bring business. But
22 she didn't know how to go and see the flyer. It has

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1 never been submitted -- the flyers inside the Sunshine
2 -- but they put them online.

3 MR. ADAMS: Okay.

4 MR. EHALU: She -- I wasn't aware of this.
5 He even got Mr. Cheese, whoever, performance to be in
6 my establishment.

7 MR. ADAMS: And inside of the establishment
8 you have telephones; is that correct?

9 MR. EHALU: Yes.

10 MR. ADAMS: Do you have cell phones and
11 things of that sort?

12 MR. EHALU: Yeah.

13 MR. ADAMS: Was that the type of thing -- was
14 for calling the police or someone else if there's a
15 problem with unruly patrons?

16 MR. EHALU: Sure.

17 MR. ADAMS: So if you have unruly -- well,
18 let's say at 2:00 an unruly patron did something. A
19 fight occurred. Are you trying to say that your mother
20 could not handle that alone; is that correct?

21 MR. EHALU: Yes.

22 MR. ADAMS: So what would you -- what would

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1 have happened?

2 MR. EHALU: She called -- first she called
3 security.

4 MR. ADAMS: But what could -- but would have
5 -- what's your plan for handling a situation like that?

6 MR. EHALU: I have a business (inaudible)
7 when we have the business, the police just coming back
8 and forth, back and forth. We scared -- I'm not lying
9 to you. This is --

10 MR. ADAMS: I'm listening.

11 MR. EHALU: We're even scared to call the
12 police sometimes because they are present every day.
13 Mr. Andre -- they stand across the street at 7-Eleven,
14 smoke a cigarette at 2:00 and 3:00 in the morning,
15 monitoring, call the cops if they see two or three
16 cars. If it's a resident, my car or an employee's car,
17 they call the cops.

18 The cops show up numerous times and there was
19 no one. There was none of them. So we were scared
20 even to call the cops numerous times.

21 MR. ADAMS: All right. I have no further
22 questions for the witness.

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1 CHAIRPERSON MILLER: Okay. Board questions?
2 Mr. Alberti?

3 MR. ALBERTI: Sir, hi. Good afternoon.
4 Okay. I'm looking at Exhibit 7, which shows a stairway.
5 It looks like red steps and a gray door at the top.

6 MR. EHALU: Yeah.

7 MR. ALBERTI: Does that sound familiar?

8 MR. EHALU: Yeah.

9 MR. ALBERTI: Is that the -- is that stairway
10 that leads from the first floor to the second floor?

11 MR. EHALU: Yes.

12 MR. ALBERTI: Okay. Is there any other
13 entrance or exit to the second floor besides this one?

14 MR. EHALU: No.

15 MR. ALBERTI: Thank you.

16 MR. EHALU: There was backside to the
17 kitchen. And there was a backside -- there was a
18 bathroom and there was door even though it's closed
19 technically.

20 MR. ALBERTI: And the kitchen is where?

21 MR. EHALU: The first floor.

22 MR. ALBERTI: Okay. So there is an exit down

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1 to the first floor?

2 MR. EHALU: Yes.

3 MR. ALBERTI: There is a second exit?

4 MR. EHALU: To the kitchen.

5 MR. ALBERTI: Right. But it goes to the
6 kitchen. But there is --

7 MR. EHALU: Yes.

8 MR. ALBERTI: -- a second exit --

9 MR. EHALU: Sure.

10 MR. ALBERTI: -- physically from the second
11 floor to the first floor?

12 MR. EHALU: Yes.

13 MR. ALBERTI: Okay, thank you. I have no
14 further questions.

15 CHAIRPERSON MILLER: Other questions? I just
16 have one question -- well, maybe a follow up but is
17 there a bar on the second level?

18 MR. EHALU: Yeah, yes.

19 CHAIRPERSON MILLER: Yeah?

20 MR. EHALU: This time?

21 CHAIRPERSON MILLER: Well, let's go for this
22 evening -- that evening of the incident.

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1 MR. EHALU: Yes, yes.

2 CHAIRPERSON MILLER: There was a bar up
3 there?

4 MR. EHALU: Yes.

5 CHAIRPERSON MILLER: Why is there bar there
6 if you're not allowed to use that floor?

7 MR. EHALU: The first time -- the first time
8 we noticed -- we noticed that's -- we cannot send no
9 alcohol, it was -- we thought it was -- our knowledge
10 was only entertainment, not to have entertainment. The
11 only entertainment we ask is (inaudible) basement. Any
12 entertainment that you have or entertainment that -- so
13 that type of -- sort of things. But we didn't notice
14 until -- we cannot use no alcohol -- we cannot go no
15 alcohol upstairs until recently.

16 And we spoke to our lawyer. That wasn't
17 given my -- our intention to just not to have half a
18 building - - empty building upstairs, not to use it
19 when you have a business. It wasn't our intention.

20 CHAIRPERSON MILLER: So it's your
21 understanding that you could use the second floor but
22 not for entertainment or alcohol; is that what you're

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1 saying? You could use it but you couldn't use it for
2 alcohol or entertainment?

3 MR. EHALU: No. For the -- our first
4 knowledge was when we asked extension hours and
5 entertainment, we told the Board not to use upstairs,
6 to return to the owner. And that's -- that doesn't
7 happen. And then we found out later on the road that
8 we cannot use for entertainment. And then after, like,
9 two or three visit from the ABC Board, the guy
10 explained to us clearly that it says, "Okay. You
11 cannot use no alcohol."

12 And we were in shock because we have a
13 building occupancy and most of the time the upstairs
14 hall majority occupancy can -- first floor or the
15 basement.

16 CHAIRPERSON MILLER: Okay. That's my only
17 question. Are there any other Board questions? Mr.
18 Brooks?

19 MR. BROOKS: Yeah.

20 CHAIRPERSON MILLER: Yeah.

21 MR. BROOKS: Sir, do you have a certificate
22 of occupancy to use that floor, the second floor?

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1 MR. EHALU: Yes, yes. We do.

2 MR. BROOKS: You do?

3 MR. EHALU: Yes.

4 MR. BROOKS: And for how many persons?

5 MR. EHALU: That's -- the total is 60.

6 MR. GREEN: It's 50.

7 MR. EHALU: Fifty upstairs and the basement
8 is forty and then fifty. But the first floor, due to -
9 - if you -- if you see it, most of the time -- if
10 you're even in the picture, the first floor is much
11 smaller. I don't know if there's 50 people when we --
12 when we --

13 MR. BROOKS: Okay.

14 MR. EHALU: -- transferred the license but
15 it's more -- much smaller than upstairs. The upstairs
16 will hold more -- it's roomy more.

17 MR. BROOKS: All right. And so far as exits,
18 how many exits do you have from the second floor?

19 MR. EHALU: We have two exits, one in the --
20 straight in the back and one in the front.

21 MR. BROOKS: Okay. Thank you, Madam Chair.

22 CHAIRPERSON MILLER: Okay. Thank you.

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1 Anybody else? Any follow-up questions?

2 MR. ADAMS: I -- the District has no further
3 follow-up questions.

4 CHAIRPERSON MILLER: Okay. Thank you very
5 much. Do you have another witness or is that it?

6 MR. EHALU: No, that's it.

7 MR. ADAMS: If the other side has no
8 witnesses, the District has -- would like a rebuttal by
9 Investigator Ghenene with two questions and that's it.

10 CHAIRPERSON MILLER: Okay. Is that true, you
11 don't have any other witness? Ms. Kidane doesn't want
12 to testify?

13 MR. EHALU: She said that she can't.

14 CHAIRPERSON MILLER: Okay. All right. Go
15 ahead.

16 MR. ADAMS: I would like to call Investigator
17 Ghenene as a rebuttal witness.

18 CHAIRPERSON MILLER: Okay. You've already
19 been sworn in, Investigator.

20 MR. GHENENE: Yes.

21 CHAIRPERSON MILLER: Okay.

22 MR. ADAMS: Investigator Ghenene, you stated

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1 that prior to February 6th, 2012 that you went to the
2 establishment to speak with the establishment; is that
3 correct?

4 MR. GHENENE: Yes.

5 MR. ADAMS: All right. When you were at the
6 establishment, what did you review with the
7 establishment?

8 MR. GHENENE: I reviewed their Board Order,
9 their certificate of occupancy and their license.

10 MR. ADAMS: In terms of the Board Order, did
11 you discuss with them prior to February 6th, 2012 the
12 provision regarding the use of the second floor and how
13 it could be used or not used?

14 MR. GHENENE: Yes.

15 MR. ADAMS: Okay. No -- and to your
16 recollection, did they understand that from your
17 review?

18 MR. GHENENE: Yes. And I gave them
19 applications for entertainment and other applications,
20 other endorsements.

21 MR. ADAMS: And from your investigation, were
22 any requests for amendments made?

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1 MR. GHENENE: I believe that they did put in
2 for an extension of hours. And I believe their
3 application was in the report.

4 MR. ADAMS: Okay. I have no further
5 questions.

6 CHAIRPERSON MILLER: Do you have questions?

7 (No audible response.)

8 CHAIRPERSON MILLER: Okay. Board questions?
9 I -- could you just refresh my memory on this then?

10 MR. GHENENE: Okay.

11 CHAIRPERSON MILLER: What is your
12 understanding of the restrictions on the use of the
13 second floor?

14 MR. GHENENE: I believe that Ms. Kidane
15 stated that she had no intention upon using the top
16 floor for any reason.

17 CHAIRPERSON MILLER: But restrictions are on
18 her for not using the second floor.

19 MR. GHENENE: The top floor? I believe that
20 there was a Board Order --

21 CHAIRPERSON MILLER: Board or whatever
22 conditions are in the Board Order? Okay.

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1 MR. GHENENE: Yes, ma'am.

2 CHAIRPERSON MILLER: Okay. Okay. And that's
3 why you showed her, the Board Order?

4 MR. GHENENE: Yes, ma'am.

5 CHAIRPERSON MILLER: Okay. All right. Thank
6 you.

7 MR. ADAMS: Assuming the Board has no
8 questions, this -- we can dismiss this witness.

9 CHAIRPERSON MILLER: I'm sorry, what did you
10 say?

11 MR. ADAMS: Assuming that the Board has no
12 further questions, I -- the District can dismiss this
13 witness.

14 CHAIRPERSON MILLER: Yes, exactly. Thank you
15 very much. Okay. This brings us to any closing
16 statements in the record. They're similar to the
17 opening statements. And the government will go first,
18 and you can see, just probably going to sum up what the
19 evidence has shown. If you choose to make a closing
20 statement, there are options. Do you choose to, Mr.
21 Adams?

22 MR. ADAMS: I do.

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1 CHAIRPERSON MILLER: Okay.

2 MR. ADAMS: And very briefly in the interest
3 of the time and the Board's calendar today. And
4 obviously this is a matter that was very important, had
5 a lot of details with it. One of the things that the
6 establishment stated is the problem is with the
7 community. Really the probably here is a complete non-
8 compliance with the ABRA law.

9 We can see here from what has been stated
10 regarding the three charges that each act was
11 intentional. It was not -- there's nothing accidental.
12 In fact, what makes the problem even worse is that the
13 establishment took actions on February 6th to cover up
14 the fact that they were open after hours by chaining a
15 door and by admitting people through a side door, which
16 then be -- could not be opened.

17 The evidence has definitely proved that the
18 establishment was open way -- or sorry, well past their
19 hours of operations. Their -- the excuse that there
20 was some -- that there was a refusal of persons to
21 leave is really of no avail here, especially for
22 several -- clearly conflicting reasons that, number

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1 one, persons on the second floor, where the -- it was
2 fully furnished, where they had hookah pipes -- it
3 wasn't a situation where people were in an empty area;
4 that there was a fully stocked bar there as well, and
5 that there was someone who identified himself as the DJ
6 there well after 3:40 a.m. when the establishment was
7 supposed to have ceased operations and any
8 entertainment by -- cease operations by 2:00 a.m. and
9 entertainment by midnight of that time up there.

10 So what you can see here is obviously there's
11 been established that there's consumption -- or
12 permission of consumption after hours. Whether it was
13 actually seen is irrelevant. By the fact they're --
14 that there were two open alcoholic beverages that were
15 within the establishment an hour and a half after their
16 permitted time of consumption is proof that the
17 establishment was in violation as well.

18 Furthermore, you see that there was a
19 substantial change. And substantial change is
20 established in three ways. Number one, the first --
21 the second floor is not allowed to be used for
22 entertainment. The second floor is not allowed to be

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1 used for the consumption of alcohol. Again, regardless
2 of whether it was actually seen in terms of
3 consumption, the beverages were there and there's a
4 full stocked bar. It can't be emphasized enough that
5 that is already -- so -- and frankly, the establishment
6 pretty much admitted that -- you know, that it really -
7 - the Board's Order is really of no relevance in terms
8 of that because they felt that they would have to pay
9 for unused space, which, you know, again, is an
10 intentional act.

11 Furthermore, there is a -- the substantial
12 change is there in terms of how the establishment is
13 used after hours. Now, both for -- from -- both of the
14 witnesses, Ghenene and Officer Beeler, talk about
15 after- hours complaints from the establishment.
16 Officer Beeler actually stated having been witness to
17 such offense. But specifically, on this occasion the
18 reason that there's substantial change from your
19 investigative report is that it's clear that from,
20 like, flyers and things of that sort that the
21 establishment actually intended on non -- on certain
22 nights to be open after the times that they were

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1 permitted based upon their license.

2 Because of the intentional nature of this and
3 because -- that this was initiated by getting a
4 complaint, there's a couple of things that should be
5 done here. Number one, there should be applying of the
6 -- this is the first time -- offense for an
7 establishment. These are primary tier violations for
8 all three. Even the Board will determine, well, now,
9 it's applicative to fine them for both violations in
10 the statute as well as the -- as well as the license
11 itself but it should be fined at \$2000 for each charge.

12 There should be a suspension for five days.
13 That should include a weekend. And I believe that it
14 is appropriate -- and I know that there's further cases
15 that are not in front of the Board at this point. But
16 I think it is appropriate based upon, again, the
17 intent. And frankly, the added aspect of trying to
18 hide the -- hide the actions, that should be taken into
19 consideration that the -- that it may be appropriate
20 for the Board to consider a limitation of the hours of
21 operation in terms of operations and sales to no later
22 than 12:00 a.m.

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1 And after -- I'm sorry, after all, this is a
2 restaurant license. This is not a tavern or a night
3 club license. This is a -- and so I believe that based
4 on evidence that you've heard that all charges have
5 been proven.

6 CHAIRPERSON MILLER: Thank you. Mr. Adams, I
7 just want to ask one more question. Did one of your
8 witnesses testify that the -- there was a fully stocked
9 bar or where was that in the evidence?

10 MR. ADAMS: I apologize. There was a what?

11 A --

12 CHAIRPERSON MILLER: Do you in your -- you --
13 in your summation you said that the evidence showed
14 there was a fully stocked bar?

15 MR. ADAMS: Yes.

16 CHAIRPERSON MILLER: Could you just remind me
17 which evidence that is?

18 MR. ADAMS: The evidence comes from the
19 pictures and that's -- and the exhibits. And I can
20 point specifically to -- I apologize.

21 CHAIRPERSON MILLER: No, that's okay. You
22 know, I can look in the pictures. I just wasn't sure I

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1 heard it.

2 MR. ADAMS: Well, there were the photographs.
3 There's a photograph on the second floor and you can
4 see the fully stocked bar as well as the exhibits that
5 show partially consumed bottles of alcohol.

6 CHAIRPERSON MILLER: On the table. Okay. I
7 remember. Okay. All right. So do you have a closing
8 statement you would like to make?

9 MR. EHALU: Sure.

10 CHAIRPERSON MILLER: Okay.

11 MR. EHALU: We'd just like to say shortly --
12 I don't want to take it to another level. It's -- the
13 evidence shows on Exhibit 6, the flyers. In our mind,
14 when people complaining and calling the cops every day
15 or twice a week on the business, none of -- none of us
16 would do in our right mind on Wednesday until 3:00 put
17 flyers everywhere. I said, "This is a mistake that
18 happens." They put it online. This guy is -- I wasn't
19 even in the country when this happened.

20 And on Wednesdays we're not opened until
21 3:00, all this stuff. But they put it on -- they put
22 it online. If you can see, this is taken from online

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1 websites. But as far as the day of the police or the
2 incident that happened, it was a birthday party. There
3 was a -- there was a couple of people -- group of
4 people. They want to celebrate their birthday. And it
5 was -- it was okay until the moment they said they
6 cannot leave because some of them intoxicated. Some of
7 them leave earlier. There was two guys. They went and
8 back and forth.

9 MR. ADAMS: I normally won't object --

10 CHAIRPERSON MILLER: Okay.

11 MR. ADAMS: -- in the middle of a closing
12 argument.

13 CHAIRPERSON MILLER: I know.

14 MR. ADAMS: This is not -- this was not
15 brought up during testimony.

16 CHAIRPERSON MILLER: Right. And it's hard
17 when they're not a lawyer but --

18 MR. EHALU: Yeah, I --

19 CHAIRPERSON MILLER: -- basically you just
20 sum up evidence that was put in already. It's not new
21 testimony.

22 MR. EHALU: I just want to clear -- I just

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1 want to say something about my side, that this is not
2 intentionally we do -- put up flyers outside until
3 3:00. I just want to make sure that -- until 3:00. I
4 mean, we were Wednesday. You know, we have a problem,
5 police being called. And, like, the police -- the
6 officer said they have been numerous times in our
7 establishment. And every day when police call on us by
8 the residents, especially one resident -- it's not a
9 group of residents, only one resident who do that.
10 It's Andre. He was outside all the time.

11 I mean, we have a complaint against him to
12 the police because they stay -- they sit --

13 CHAIRPERSON MILLER: Okay. Again, I have to
14 stop you because it's -- you know, it's -- that was the
15 time to testify, give us more information. Now is the
16 time you only want to tell us, "Look, you know, I
17 showed -- there was evidence that, you know -- there
18 wasn't (inaudible) evidence." It -- you don't have to.
19 We have the evidence. What you -- what you can't do is
20 start giving us more evidence at this point.

21 MR. EHALU: We don't -- we don't have no more
22 evidence than this.

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1 CHAIRPERSON MILLER: No. I don't want more
2 evidence.

3 MR. EHALU: Yeah.

4 CHAIRPERSON MILLER: I'm just saying, you
5 can't -- that's over. So this is just a closing, a
6 summary, if you want to. But you don't -- you don't
7 have to.

8 MR. EHALU: I don't have to do -- I'm just a
9 -- I'm not a lawyer like --

10 CHAIRPERSON MILLER: That's all right. I
11 understand.

12 MR. EHALU: To the best of my knowledge and
13 I'm trying to explain what exactly -- who we are and
14 what we present.

15 CHAIRPERSON MILLER: Right. And I think you
16 did that on the stand earlier.

17 MR. EHALU: Okay.

18 CHAIRPERSON MILLER: Okay. So -- all right.
19 I think that that concludes this hearing. Parties have
20 a right to submit proposed -- well, let me stop --
21 closing the record. There's no evidence that's coming
22 in. And parties have a right to file Proposed Findings

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1 of Facts and Conclusions of Law or waive their right to
2 do so.

3 MR. ADAMS: The District waives its right.

4 CHAIRPERSON MILLER: Okay.

5 MR. EHALU: I don't hear you.

6 CHAIRPERSON MILLER: Okay. What it means is
7 you -- parties have a right to file a brief that -- it
8 sets forth the facts that were put forth in this case
9 into evidence and then to make written arguments.

10 MR. EHALU: We don't.

11 CHAIRPERSON MILLER: Okay. Did Ms. -- yeah,
12 so both parties are waiving their rights to do that.
13 Most - - that's the norm in here among our -- okay.
14 All right, then. The Board will issue its order within
15 90 days of this case. And then all that's left for me
16 to do with this case is I'm just going to read our
17 instructions for closed meetings because we will be
18 deliberating it in a closed meeting.

19 So I'm just -- as Chairperson of the
20 Alcoholic Beverage Control Board for the District of
21 Columbia and in accordance with Section 405 of the Open
22 Meetings Amendment Act of 2010, I move that the ABC

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1 Board hold a closed meeting for the purpose of seeking
2 legal advice from our counsel on Case No. 12-CMP-00054,
3 Sunshine Bar & Lounge, per Section 405(b)(4) of the
4 Open Meetings Amendment Act of 2010 and deliberating
5 upon Case No. 12- CMP-00054, Sunshine Bar & Lounge, for
6 the reasons cited in Section 405(b)(13) of the Open
7 Meetings Amendment Act of 2010.

8 Is there a second?

9 MR. SILVERSTEIN: Second.

10 CHAIRPERSON MILLER: And again, the motion
11 has been seconded by Mr. Silverstein. I'll now take a
12 roll call vote on the motion that's before us. Mr.
13 Nophlin?

14 MR. NOPHLIN: I agree.

15 CHAIRPERSON MILLER: Mr. Brooks?

16 MR. BROOKS: I agree.

17 CHAIRPERSON MILLER: Mr. Alberti?

18 MR. ALBERTI: I agree.

19 CHAIRPERSON MILLER: Ms. Miller agrees. Mr.
20 Silverstein?

21 MR. SILVERSTEIN: I agree.

22 CHAIRPERSON MILLER: Okay. The motion passes

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1 by a vote of 5-0-0. And I hereby give notice that the
2 ABC Board will hold this closed meeting in the ABC
3 conference room today pursuant to the Open Meetings
4 Amendment Act of 2010 and issue an order within 90
5 days. Thank you.

6 MR. ADAMS: Thank you very much.

7 CHAIRPERSON MILLER: Okay. We have one more
8 case on the morning agenda. And I just want the Board
9 and myself take a three-minute break since we've been
10 here since 9:30. And then we'll tend to your case. So
11 just a very, very quick break.

12 (WHEREUPON, at 1:20 p.m., the hearing was
13 concluded.)

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1 CERTIFICATE OF NOTARY PUBLIC

2

3 I, ERICK McNAIR, 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

ERICK McNAIR

20

Notary Public in and for the

21

District of Columbia

22

My Commission Expires: July 14, 2016

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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 _____
Date

14

MIRANDA PENNACHI
Transcriptionist

15

16

17

18

19

20

21

22

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