DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
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MEETING  

IN THE MATTER OF:  
:  
Jojo Development, Inc.,  
:  
t/a Jo Jo Restaurant and Bar  
:  
1518 U Street, NW  
:  
Fact Finding  
Retailer CR - ANC 2B  
:  
Hearing  
License No. 60737  
:  
Case #19-251-00004  
:  
(Assault with a Dangerous Weapon, Interfered with an Investigation, Operating After Board Approved Hours)  
:  

Wednesday,  
February 27, 2019  


PRESENT:  

DONOVAN W. ANDERSON, Chairperson  
NICK ALBERTI, Member  
BOBBY CATO, JR., Member  
MIKE SILVERSTEIN, Member  

ALSO PRESENT:  

INVESTIGATOR KEVIN PUENTE, ABRA  
BENYAM KIBOUR, Licensee  
CECIL C. HARRIGAN, Licensee's Attorney
CHAIRPERSON ANDERSON: Okay. We are back on the record. Our last hearing for the day is Case No. 19-251-00004, Jo Jo Restaurant and Bar, License No. 60737.

Will the parties, please, approach and identify themselves for the record, please? You guys can sit over at this side, please. And there is a sign-in sheet, once you identify yourself, you can sign-in on the sign-in sheet.

You can start introducing yourself.

You can go ahead, Mr. Puente.

INVESTIGATOR PUENTE: Kevin Puente, Investigator.

CHAIRPERSON ANDERSON: Good afternoon.

MR. KIBOUR: My name is Ben Kibour, owner of Jo Jo Restaurant and Bar.

CHAIRPERSON ANDERSON: Good afternoon, Mr. Kibour.

MR. HARRIGAN: Good afternoon. My name is Cecil Harrigan. I'm an attorney.
CHAIRPERSON ANDERSON:  Good afternoon, Mr. Harrigan.

MR. HARRIGAN:  Good afternoon.

CHAIRPERSON ANDERSON:  All right.

Please know that this is not an adversarial hearing, but rather an opportunity for the licensee to explain the incident/violation.

MR. HARRIGAN:  Okay.

CHAIRPERSON ANDERSON:  And what, if any, steps have been taken to address the situation. Fact-Finding Hearings are also -- they allow the Board Members to more fully explore any questions they might have regarding the incident. So I just wanted to let you know that.

As a purpose of that, we cannot order you to do anything at the hearing. You can volunteer to do things if we ask you and you can volunteer, but because it is a Fact-Finding Hearing, in Fact-Finding Hearings we do -- we cannot legally order the licensee to do anything.

We can ask and if he wants to
volunteer to do certain things, that can be done.

And so we had -- I think this was also
a request also by the Chief of Police. Yes, the
Chief of Police had also requested that we hold a
Fact-Finding Hearing because of some incidents
that have occurred.

And so the way the process is is that
we will have Mr. Puente, he will go through the
report that he filed. And then the licensee from
your perspective, you can let us know what
happened that night, what proactive steps have
you taken to ensure that this doesn't repeat
itself.

And we might have some questions to
ask and then we will see whether or not, what
decision, if any, the Board will make at the end
of the hearing.

MR. HARRIGAN: Okay.

CHAIRPERSON ANDERSON: All right. So,
Mr. Puente?

INVESTIGATOR PUENTE: Yes. So the

Chief of Police requested a Fact-Finding due to
the severity of the incident. He had stated --

MEMBER SILVERSTEIN: Move the mike a
little closer to you.

INVESTIGATOR PUENTE: The Chief of
Police for MPD stated that MPD officers were
called to Jo Jo Restaurant for a potential
stabbing. They were advised that a coworker, two
coworkers got into an altercation. The one
almost stabbed the other one.

According to the report, it was
possible gang-related, because one of the cooks
had gang tattoos and another cook didn't like
what he saw, so he pulled out a pocketknife and
attempted to stab him.

After the incident, Mr. Kibour, the
owner, from what I was advised by MPD, told the
cooks to go home for the day and he fired them
the next day.

I went and spoke to Mr. Kibour on
December 21, 2018. While I was there, I did a
regulatory inspection. I saw there was live
entertainment being performed at the time and
according to the license, live entertainment did
not start until 9:00 p.m.

    I advised Mr. -- I asked Mr. Kibour
why did he send the two cooks home without
calling 911? He advised that it was a small
incident. It was not big. It was not serious.
I advised him it was serious because MPD labeled
it as an aggravated assault/attempted stabbing.
And the 3rd District is literally half a block up
the street, so MPD would have been there in
seconds.

    One of the victims had called 911
himself and he waited out front for officers to
arrive there.

    From what I gathered, this was the
first serious incident for this establishment
like this, so I advised him to report any
incidents like this. 911 has to be called
immediately by the establishment to try to make
sure the victim does not get hurt any more.

    He said that the subject was walking
away and he threatened to kill the victim at a
later date, so I told him because of that, MPD
should have been called right away by the
establishment.

CHAIRPERSON ANDERSON: That's it?

INVESTIGATOR PUENTE: That's it.

CHAIRPERSON ANDERSON: All right. I'm

sorry, your name again, sir?

MR. HARRIGAN: Harrigan. Cecil

Harrigan.

CHAIRPERSON ANDERSON: Mr. Harrigan,

how does your client want to -- how do they
respond to -- well, and before, I want to ask one
question.

As far as the entertainment
endorsement, has the establishment applied to
ABRA to change the hours to begin? So has that
been done?

MR. HARRIGAN: It has been done.

CHAIRPERSON ANDERSON: Okay. Go

ahead.

MR. HARRIGAN: We submitted an

application to expand the hours and we have
received a plaque to do that, which we have to
put in front of the establishment.

    CHAIRPERSON ANDERSON: When did you
guys get the plaque? Today?

    MR. HARRIGAN: It was --

    CHAIRPERSON ANDERSON: The reason why
I said that is because you are not supposed to
have it to your hand like that. It's supposed to
be on the building.

    MR. HARRIGAN: Okay.

    CHAIRPERSON ANDERSON: So that's why
I was asking you.

    MR. HARRIGAN: Got it.

    CHAIRPERSON ANDERSON: It's fine,
because you just got it today.

    MR. HARRIGAN: We just got it 5
minutes ago.

    CHAIRPERSON ANDERSON: Right, fine.

    That's fine.

    MR. HARRIGAN: Yeah.

    CHAIRPERSON ANDERSON: No, that's
fine. Because you will get in trouble if it is
supposed to be there tomorrow and it is not there.

MR. HARRIGAN: Okay.

CHAIRPERSON ANDERSON: Because if it's not there, then each day it is not there, then you might have to start the whole process back over.

MR. HARRIGAN: Okay.

CHAIRPERSON ANDERSON: So that's -- you know, this is not -- at least I don't operate as a gotcha, so if I see you are doing something wrong, I will always let you know.

So anyway, go ahead.

MR. HARRIGAN: I appreciate that.

CHAIRPERSON ANDERSON: Okay.

MR. HARRIGAN: And it will be up by tomorrow.

CHAIRPERSON ANDERSON: All right.

MR. HARRIGAN: So my understanding is there are two allegations. One is the revocation of suspension of the license because of the incident.
And secondly there is a substantial change in operation.

As regards to the second allegation, we admit that there was music there before the time.

What Mr. Kibour told Mr. Puente that he was not aware of that and that he will take care of it.

Subsequently, he has actually filed an application to expand the hours and we have the plaque here with us, which has to be placed by Friday and that will be done.

As regards the first incident, there is some allegation, it is true that there was a fight in the restaurant between a server and a kitchen helper. And there is some allegation that there was a knife involved, a pen knife, that is not our understanding.

After speaking with both witnesses and also Mr. Kibour, who was there at the time, there was no knife. The allegation said that there were holes in the shirt of the complainant, but
what we understand is the shirt was ripped and
that there was --

CHAIRPERSON ANDERSON: The shirt was ripped?

MR. HARRIGAN: Yeah, because there was an actual fight between these two people. Jo Jo has been -- the restaurant opened in 2001, has been since 2002 and there have never been any issues. An attorney in my office is right next door to Jo Jo at 1516 U. It's Jo Jo and Mr. Kibour has been a phenomenal neighbor.

The restaurant caters to somewhat of a more sophisticated crowd and that is a jazz restaurant and bar. And that there has never been any incidents.

We dispute the fact that there was a knife involved. There was a fight. There was not a knife involved. And that the complainant after the incident said that he was going to call the cops and Mr. Kibour was there and actually called the cops. This happened, incident happened before the restaurant opened, because
the restaurant usually opens at -- well, the
employees come at 4:00. The restaurant usually
opens at 5:00 and this happened before the
restaurant opened.

So we dispute the allegation that
there was a knife involved. There was actually a
fight, but no attempted stabbing from my talking
with the two witnesses, from Mr. Kibour. There
was no attempted stabbing and no knife involved.

So if you need some other
clarification, we are willing to do that in terms
of what happened.

CHAIRPERSON ANDERSON: Mr. Puente, in
looking at your report, you said that you spoke
to Mr. Kibour about the attempted stabbing on
December 12. Mr. Kibour stated that there was,
but that he would not characterize it was an
attempted stabbing.

But what impression did you get? This
is, this gentleman here?

MR. KIBOUR: I'm Mr. Kibour.

CHAIRPERSON ANDERSON: Mr. Kibour.
MR. KIBOUR: Yeah.

CHAIRPERSON ANDERSON: So this is the person that you spoke to?

INVESTIGATOR PUENTE: Yes.

CHAIRPERSON ANDERSON: So when you spoke to him, what sense did you get of what happened?

INVESTIGATOR PUENTE: It seemed to appear to be like a, what he described to me, small incident between the cooks or the server and it wasn't that serious. It was -- he was trying -- he didn't know -- he told me that he wasn't sure about the knife. I said well, MPD is reporting a knife and an attempted stabbing and that's what I told him.

So like I told him, I have never been to the establishment before. It was my first time in three and a half years, so he has never had an incident like this, it looked like. I told him just because it might have been a small incident, it could blow up to a much larger incident.
CHAIRPERSON ANDERSON: Right.

INVESTIGATOR PUENTE: Especially if it's possible gang-related between the cooks and whatnot.

CHAIRPERSON ANDERSON: But I guess what I'm saying is did he tell you that there wasn't a knife?

INVESTIGATOR PUENTE: I can't recall if he told me it was a knife exactly, but I remember him saying it was --

MEMBER SILVERSTEIN: Pardon?

INVESTIGATOR PUENTE: I can't recall if he told me it was a knife or not, but I remember him saying that it wasn't that big of an incident, the way MPD is reporting it.

CHAIRPERSON ANDERSON: All right. I'm trying to see, does anyone have a copy of the MPD letter? I'm trying to see --

INVESTIGATOR PUENTE: Yes, Exhibit 1.

(Whereupon, the above-referred to document was marked as Government Exhibit)
CHAIRPERSON ANDERSON: -- I want to see why --

INVESTIGATOR PUENTE: Here it is.

MEMBER SILVERSTEIN: If I might, Mr. Chair, while you --

CHAIRPERSON ANDERSON: Go ahead, Mr. Silverstein.

MEMBER SILVERSTEIN: Mr. Puente, when Mr. Kibour said he didn't think it was that serious of an incident, do you know anything about that?

INVESTIGATOR PUENTE: Yes, because I got the -- I saw the Chief of Police letter if I went out there and the letter states "The complainant further advised MPD officers that his manager, Ben Kibour, told him not to call the police about the incident and go home for the day."

That's when I told him you can't just not tell them to call the police. If he feels like he needs to call the police, let him call
the police, especially if he is being threatened, his life is being threatened. So it was very concerning to me.

MEMBER SILVERSTEIN: Thank you.

CHAIRPERSON ANDERSON: All right. So Mr. Kibour, do you understand how to operate your video system, sir?

MR. KIBOUR: I didn't hear that question.

CHAIRPERSON ANDERSON: Do you know how to operate your video system?

MR. KIBOUR: Yes, the video system that night I did not know, because we were making some new changes and putting in cameras. At the time of the incident, I had spoken to MPD and told them that. I gave them all the information they needed to retrieve the video system.

CHAIRPERSON ANDERSON: Um-hum.

MR. KIBOUR: I gave them the company's name. I gave them the person to speak to. And they got all that information. My assumption was they already got that information. When Mr.
Puente came on the 21st, I believe, that's when he came for the first time. An ABRA Investigator came in, it was on the 21st.

When he came, I still weren't able to access it, but I told him that I will give him that information, you know, right away, as early as the next day. And then that was the last time I spoke to Mr. or Investigator Puente.

There was another Investigator by the name of Cameron Royster that took over the investigation, I believe. And I have been communicating with him all along. And I have pulled that communication, I have printed it out and I have it right here. The conversation we had since, you know, right after I spoke to Investigator Puente.

CHAIRPERSON ANDERSON: Now, sir, what I'm asking is do you know how to operate your camera system?

MR. KIBOUR: Now I do. Now I know the new password.

CHAIRPERSON ANDERSON: Okay.
MR. KIBOUR: Basically, I did not know the password then.

CHAIRPERSON ANDERSON: All right.

MR. KIBOUR: That was the issue. But all the video, all surveillance were, you know, forwarded to Investigator Royster by email and he has everything right the next day.

CHAIRPERSON ANDERSON: All right.

MR. KIBOUR: So he saw exactly what happened in the kitchen. And there is a complainant when into the kitchen and attacked the cook and this is way before we even opened. And you know, it says in there he asked him to get close and smell the food, which at the time he was changing the fry oil. And I was right in the dining room sitting there, that's when I heard the loud noise is when I went into the kitchen and I saw that fight had been broken up when I got in there.

And at that time, the complainant was bleeding on his lip. He said he punched me, he punched me. I'm going to, you know, file an
assault. And I said go ahead, give them a call. That was before I tell him to leave. By that time, one of the other guys, the cook had left already.

And Cisco, which is the complainant said he was going to call the cops. I said go ahead call the cops and we waited for the cops together outside. And he never mentioned anything about a knife. He said he punched me. He never said anything gang-related. I mean, I take those kind of things very serious.

I mean, number one, I'm not -- having been here this long, if I was doing stupid things like that, and this is -- really, I mean, that would be the least, you know, that I would say not to call the cops. It doesn't make sense. That's, you know, threatening my life as well as my wife works with me in there. Her life as well and the rest of the employees, who never had any issues like this.

And you know, I wish he was here so I can ask him, the complainant. I see that they
were able to reach him. You know, I know Mr. Puente tried to reach him and, you know, ask more questions and he wasn't able to reach him.

You know, I tried to give him a call and I haven't heard from him. You know, I don't know if I should have done that, but I did, you know, try to get his point, what he said to them. Until, you know, the Investigator told me there was a knife involved, I had no idea there was no -- there was a knife, you know, that was involved.

The witnesses were there. They saw the whole thing. They broke up the fight. They didn't say anything about a knife. He didn't say anything about a knife. That makes me believe that, you know, the knife thing was made up at the end.

CHAIRPERSON ANDERSON: So do you know what the dispute was about?

MR. KIBOUR: I have no idea. Number one, he should have been in the kitchen. We have a manual that we *(3:50:25).*
MEMBER SILVERSTEIN: Can you -- stop it. If you could remove that from the microphone? Thank you.

MR. KIBOUR: Sorry about that. So we have a manual here that every employee is given and stating that, you know, nobody should not be where they shouldn't be. And he was in the kitchen, you know, instigating something. I have no idea.

I can't say certainly that, you know, there was gang anything involved with that, because I would definitely, you know, know something, but I have never seen anything like that. I mean the both of them had tattoos. I'm not going to judge them, because these kids have tattoos on.

It never came to my attention about, you know, any tattoos being, you know, an issue then. For some reason, he was in the kitchen, you know, instigating something. So I have no idea what that was.

MR. HARRIGAN: Generally, the food
runners, so the server should not be in the
kitchen, but the complainant actually went in the
kitchen. He should not have been there. And
that's when the incident started.

CHAIRPERSON ANDERSON: Mr.

Silverstein?

MEMBER SILVERSTEIN: I'm 18 and
forever makes no sense unless it's some gang-
thing.

MR. KIBOUR: I have never heard that.
"I mean, nobody heard that. This is all he said/
she said, you know what I mean? Nobody -- I
haven't -- he didn't say, the kid -- this is what
happened. When I told him to leave at that time,
Cisco, the complainant, was bleeding. So he went
to the bathroom to clean himself up and get his
belongings.

By the time, the other kid has gone
already and you can see that on the camera. I
don't know if you guys could see any of the
camera? We had it on our, you know, phone, so I
mean, on our iPads here. But he was already gone
and there is no way that he could have said that.

And even in the kitchen there was no conversation. The witnesses were right there.

MEMBER SILVERSTEIN: Investigator Puente, do you have any clue what that is all about?

INVESTIGATOR PUENTE: From my past experiences, I have investigated gangs when I worked in the jail and 18 Forever is a term for a gang. So to me, I think those people's tattoo possibly would be gang-related.

MEMBER SILVERSTEIN: Okay.

MR. KIBOUR: I mean, I don't know what that tattoo was. I mean, they have so many tattoos, I couldn't tell what is going on, you know, so I'm like -- I mean, the other guy is covered in tattoos, too, you know, so it's like I don't know what is happening.

But if I later found out that that meant that it was gang-related, I wouldn't have known what that meant, you know. That's something that I am not exposed to. But I mean
if that was said, I would have remembered. You know, it's not something we hear every day.

MR. HARRIGAN: Particularly someone who speaks English wouldn't know what that meant.

CHAIRPERSON ANDERSON: All right. Any other questions by any of the Board Members?

Mr. Puente, any other -- any final comments you want to make?

INVESTIGATOR PUENTE: No. I told Mr. Kibour that night whenever there is an altercation or fight, MPD should be called, especially when they literally are a half block across the street from them. They can be there within 2 seconds.

MR. KIBOUR: Yes, agree, agree.

CHAIRPERSON ANDERSON: Any final comments you want to make?

MR. HARRIGAN: That's a point well-taken and we will take that into heart and henceforth that will always be done.

CHAIRPERSON ANDERSON: All right. I make a motion that we take no further action on
this matter. Is there a second?

MEMBER SILVERSTEIN: Second.

CHAIRPERSON ANDERSON: Mr. Silverstein has seconded the motion.

All those in favor say aye.

ALL: Aye.

CHAIRPERSON ANDERSON: Those opposed?

The matter passes 4-0-0.

Thank you very much, sir, for being here today.

MR. KIBOUR: Appreciate it.

CHAIRPERSON ANDERSON: And make sure that you put that sign up so --

MR. KIBOUR: Yes.

CHAIRPERSON ANDERSON: -- you don't -- because you will come back to see us.

MR. KIBOUR: It has been interesting.

I hope we don't have to come back.

CHAIRPERSON ANDERSON: Well --

MR. KIBOUR: If it's not -- if I say anything inappropriate, everyone should come to Jo Jo, because it's a fine restaurant and if you
like jazz and everyone seems to be mature. I think you will have a great time.

MEMBER SILVERSTEIN: Well, we enjoy your company, but we would rather not see you again.

CHAIRPERSON ANDERSON: Well, thank you for being here today.

MR. HARRIGAN: Thank you.

CHAIRPERSON ANDERSON: Have a great day.

MR. KIBOUR: Do both of us need to sign this or --

CHAIRPERSON ANDERSON: There is a sign-in sheet, so you can put it there.

MR. KIBOUR: Yes.

MR. HARRIGAN: Put your name on it, yes.

CHAIRPERSON ANDERSON: Put your name on it. All right.

MR. HARRIGAN: Thank you for your patience with us and allowing us to present our case today.
CHAIRPERSON ANDERSON: Well, thank you very much, sir. All right.

As Chairperson of the Alcoholic Beverage Control Board for the District of Columbia and in accordance with DC Official Code Section 2-574 of the Open Meetings Act, I move that the ABC Board hold a closed meeting on March 6, 2019 for the purpose of seeking legal advice from our counsel on the matters identified on the Board's Investigative, Legal and Licensing Agenda for March 6, 2019 as published in the DC Register on March 1, 2019.

Is there a second?

MEMBER SILVERSTEIN: Second.

CHAIRPERSON ANDERSON: Mr. Silverstein has seconded the motion.

I will now take a roll call vote on the motion before us now that it has been seconded.

Mr. Silverstein?

MEMBER SILVERSTEIN: I agree.

CHAIRPERSON ANDERSON: Mr. Alberti?
MEMBER ALBERTI: I agree.

CHAIRPERSON ANDERSON: Mr. Cato?

MEMBER CATO: I agree.

CHAIRPERSON ANDERSON: Mr. Anderson?

I agree.

As it appears that the motion has passed, I hereby give notice that the ABC Board will hold this closed meeting pursuant to the Open Meetings Act. Notice will also be posted on the ABC Board hearing room bulletin board, placed on the electronic calendar on ABRA's website and published in the DC Register in as timely a manner as practicable.

It is 3:57 p.m. and we are adjourned for the day. Thank you.

(Whereupon, the Fact-Finding Hearing was concluded at 3:57 p.m.)
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CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Jo Jo Restaurant

Before: DCABRA

Date: 02-27-19

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

______________________________
Court Reporter

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