

1 BOARD MEMBERS PRESENT

2 NICK ALBERTI, BOARD MEMBER

3 RUTHANNE MILLER, BOARD MEMBER

4 JAMES SHORT, BOARD MEMBER

5 MIKE SILVERSTEIN, BOARD MEMBER

6

7 ALSO PRESENT:

8 LOUISE PHILLIPS

9 JAMES LEE

10 SUNG YANG

11 JASON SUERO

12

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

2 1:44 p.m.

3

4 CHAIRPERSON ANDERSON: We're back on the
5 record. The next case is Case # 15-CMP-00911,
6 Khan's. License #84082. Will the parties please
7 approach and identify yourselves for the record
8 please.

9 MS. PHILLIPS: Louise Phillips, Assistant
10 Attorney General for the District of Columbia.
11 Good afternoon, Board members.

12 CHAIRPERSON ANDERSON: Good afternoon.

13 MR. LEE: My name is James Lee, I am the
14 owner of Khan's Restaurant.

15 CHAIRPERSON ANDERSON: Good afternoon,
16 Mr. Lee.

17 MR. YANG: Sung Yang, Korean
18 Interpreter.

19 CHAIRPERSON ANDERSON: Good afternoon,
20 Mr. Yang -- I didn't hear your name, sir

21 MR. YANG: Sung Yang.

22 CHAIRPERSON ANDERSON: Mr. Yang?

1 MR. YANG: Yes, sir.

2 CHAIRPERSON ANDERSON: Do we have the
3 information for Mr. Yang? Are there any
4 preliminary matters in this case?

5 MS. PHILLIPS: No, Mr. Chair, there are
6 not.

7 CHAIRPERSON ANDERSON: Does the
8 government wish to make an opening statement?

9 MS. PHILLIPS: Yes, Mr. Chair. Briefly,
10 this is a case of no ABC manager on the licensed
11 premises during the hours that alcohol beverages
12 were permitted to be served. We will call the
13 investigator who was there and found out that no
14 ABC manager was present and actually saw the
15 owner only ABC manager return to the
16 establishment while he was there. So, at the end
17 of this the evidence will show that there indeed
18 was no ABC manager there and they should find for
19 the District of Columbia and offer a fine.

20 CHAIRPERSON ANDERSON: How many witnesses
21 does the government have?

22 MS. PHILLIPS: Only the investigator, Mr.

1 Chair.

2 CHAIRPERSON ANDERSON: Mr. Khan, do you
3 wish to make an opening statement? You don't
4 have to -- you can do that later on. All right,
5 let me ask you, do you understand the
6 proceedings, how we're going to proceed today?

7 MR. LEE: A little bit, not all of it.

8 CHAIRPERSON ANDERSON: All right.

9 MS. PHILLIPS: I'm sorry?

10 CHAIRPERSON ANDERSON: It has nothing to
11 do with you.

12 MS. PHILLIPS: Oh, okay, I thought I
13 missed something.

14 CHAIRPERSON ANDERSON: Yes, you missed
15 something but it wasn't --

16 MS. PHILLIPS: Not relevant.

17 CHAIRPERSON ANDERSON: But you're not the
18 one who did. All right, do you know why you're
19 here today, sir?

20 MR. LEE: Yes.

21 CHAIRPERSON ANDERSON: And, so therefore
22 this is your opportunity to -- the agency found

1 you -- that you did not have an ABC manager on
2 duty, so I guess you're going to present your
3 side of the story. Is that your -- that's what
4 you're here today to do, is that correct?

5 MR. LEE: Yes.

6 CHAIRPERSON ANDERSON: And so, at this
7 stage I was asking do you wish to make an opening
8 statement or do you want to wait until the
9 government presents its case? So you tell me if
10 you want to make an opening statement at this
11 time.

12 MR. LEE: After I hear.

13 CHAIRPERSON ANDERSON: All right. Do you
14 have any witnesses you're going to call?

15 MR. LEE: No.

16 CHAIRPERSON ANDERSON: So, you're going
17 to be the only witness?

18 MR. LEE: Yes.

19 CHAIRPERSON ANDERSON: Okay, all right.
20 Ms. Phillips, call your first witness, please.

21 MS. PHILLIPS: Thank you, Mr. Chair. The
22 government calls Mr. Suero, investigator for

1 ABRA.

2 CHAIRPERSON ANDERSON: I think you're
3 doing this too many times, you didn't even have
4 to wait for the -- Mr. Suero, do you swear or
5 affirm to tell the truth and nothing but the
6 truth?

7 MR. SUERO: Yes, sir, I do.

8 CHAIRPERSON ANDERSON: Your witness.

9 MS. PHILLIPS: Thank you, Mr. Chair. May
10 I approach the witness?

11 CHAIRPERSON ANDERSON: Sure.

12 MS. PHILLIPS: I'm handing the witness
13 his investigative report for identification.

14 CHAIRPERSON ANDERSON: Do you have a copy
15 of the report, sir?

16 MS. PHILLIPS: I think maybe he doesn't
17 have a copy of the report, he has a copy of the
18 notice. So, I'm handing a copy of the
19 investigative report.

20 CHAIRPERSON ANDERSON: Oh okay, all
21 right. Okay, go ahead.

22 MS. PHILLIPS: Would you identify that

1 report for the record?

2 MR. SUERO: Yes, ma'am, this is a report
3 that was prepared by me. It is a No ABC Manager
4 report referenced to Khan's located at 1125 8th
5 Street Northeast, Washington D.C. The event
6 occurred November the 30th, 2015.

7 MS. PHILLIPS: And on the third page, is
8 that your signature?

9 MR. SUERO: Yes, ma'am, it is.

10 MS. PHILLIPS: And did you write this
11 report contemporaneously with the events in
12 question?

13 MR. SUERO: Yes, ma'am, I did.

14 MS. PHILLIPS: Okay, would you state your
15 name for the record, please?

16 MR. SUERO: I'm Investigator John Suero,
17 S-U-E-R-O, for the Alcoholic Beverage Regulation
18 Administration.

19 MS. PHILLIPS: How long have you worked
20 for ABRA?

21 MR. SUERO: It'll be three years June
22 3rd.

1 MS. PHILLIPS: And prior to working for
2 ABRA did you work at any place where you
3 conducted investigations such as this?

4 MR. SUERO: I'm a retired police sergeant
5 and I was a detective during the time I was a
6 police officer.

7 MS. PHILLIPS: And how many years did you
8 do that, sir?

9 MR. SUERO: I was a police officer
10 approximately 15 years in the state of Maryland.

11 MS. PHILLIPS: So, would you tell me what
12 happened when you proceeded to Khan's on November
13 30th?

14 MR. SUERO: I was there to do a
15 regulatory inspection. I entered the
16 establishment at approximately 11:35 that
17 morning. I encountered a young lady. I advised,
18 I identified myself, asked her if she was an ABC
19 manager. She advised me that she was not. She
20 also advised me that the owner had left earlier
21 and that he should be back soon.

22 MS. PHILLIPS: Mr. Suero, if you will

1 sort of take a break after every sentence so that
2 the interpreter can catch up.

3 MR. SUERO: Of course.

4 MS. PHILLIPS: He's a simultaneous
5 translator but I don't want to get too far ahead
6 of him.

7 MR. LEE: He just informed me that he
8 understands a lot of English, so he asked me to
9 stand by until he asks me questions if something
10 is not understood.

11 CHAIRPERSON ANDERSON: Can you, I need
12 you, sir, to tell me, to state -- Mr. Khan -- I
13 need you to state for the record what the
14 interpreter just stated.

15 MR. LEE: Yes, I can understand what they
16 say, not 100%, but maybe 80% I can understand and
17 what I don't understand I would ask the
18 interpreter that he can translate, that's why I
19 need a translator.

20 CHAIRPERSON ANDERSON: All right, so I
21 just want the record to reflect that Mr. Khan is
22 stating that he, although there's an interpreter

1 here, he is not going to rely strictly on the
2 interpreter to interpret because he can
3 understand all of what is said, and he, Mr. Khan
4 will make a determination when he will utilize
5 the interpreter, is that correct? I need you to
6 say yes.

7 MR. LEE: And for the record, it's not
8 Mr. Khan.

9 CHAIRPERSON ANDERSON: I'm sorry. Mr.
10 Lee. I apologize, Mr. Lee. Mr. Lee, the owner
11 of Khan's Restaurant -- I'm sorry.

12 MS. PHILLIPS: Long day.

13 CHAIRPERSON ANDERSON: Yeah. And there's
14 an interpreter present and Mr. Lee has stated
15 that he does understand most of the proceedings
16 but he will determine when he needs the
17 interpreter, but the interpreter is here. I just
18 want the record to reflect that it's clear that
19 he is not utilizing the interpreter and that's a
20 decision that he's making.

21 MS. PHILLIPS: And my only question about
22 that, Mr. Chair, is that I'm not going to know

1 when he doesn't understand and maybe the record
2 is not going to reflect when he doesn't
3 understand, so if he could like stop my question
4 or something so the record would reflect the
5 times when he's seeking interpretation so that at
6 a later date he will not say to us, 'you went too
7 fast and I didn't understand and I had no time to
8 ask the interpreter.' That's all I care about.

9 CHAIRPERSON ANDERSON: And, Mr. Lee, as
10 Ms. Phillips said, I need you if there's anytime
11 within the proceedings that you need the
12 interpreter to interpret for you, I need you to
13 raise your hand, I will acknowledge you, and so
14 therefore at least we'll have it in the record
15 what is happening at that time, so I need you --
16 I will be paying attention, so I need you to
17 raise your hand and then we'll stop and we'll ask
18 for clarification, okay?

19 MR. LEE: Okay.

20 CHAIRPERSON ANDERSON: All right. Are
21 you fine with that, Ms. Phillips?

22 MS. PHILLIPS: I'm comfortable with that,

1 Mr. Chair. Thank you very much.

2 CHAIRPERSON ANDERSON: You're welcome.

3 All right go ahead.

4 MS. PHILLIPS: If I can remember where we
5 were. I think you just told me that you went
6 into the establishment and spoke with an employee
7 there and they said that there was no ABC manager
8 -- am I summarizing what you just told us?

9 MR. SUERO: Yes, that's it.

10 MS. PHILLIPS: Did you get the name of
11 the employee that you spoke to, Mr. Suero?

12 MR. SUERO: Yes, I made a note of it on
13 my regulatory inspection form. The young lady's
14 name was Myong Suk Lee with a Virginia's driver's
15 license which I have listed on my regulatory
16 inspection form.

17 MS. PHILLIPS: Will you spell the name as
18 you have it in your report?

19 MR. SUERO: Her first name I have spelled
20 as M-Y-O-N-G, the middle name is S-U-K, the last
21 name, Lee, L-E-E.

22 MS. PHILLIPS: All right, after you spoke

1 to Ms. Lee, what did you do next?

2 MR. SUERO: I was explaining to Ms. Lee
3 that ABRA requires an ABC manager or owner
4 present during their licensed hours of sale.
5 During our conversation, some time after that, I
6 observed Mr. Lee seated at the table to my left,
7 enter the establishment.

8 MS. PHILLIPS: Okay, did you note the
9 time when you came into the establishment and the
10 time when you saw Mr. Lee come back into the
11 establishment?

12 MR. SUERO: I entered the establishment
13 approximately 11:35. He entered at approximately
14 11:45.

15 MS. PHILLIPS: Okay, and then what did
16 you do next?

17 MR. SUERO: I -- he identified himself as
18 the owner. We spoke. I explained the reason for
19 my visit. I also explained the requirement for
20 an ABC manager/owner to be present and we spoke
21 in reference to that for a length of time. I
22 explained to him that I would be back subsequent

1 to that with a citation.

2 MS. PHILLIPS: And did you subsequently
3 go back with a citation?

4 MR. SUERO: I returned to the
5 establishment on the 3rd of December.

6 MS. PHILLIPS: And you gave him a
7 citation?

8 MR. SUERO: I did.

9 MS. PHILLIPS: I noticed that you've
10 attached exhibits with your report. What is
11 Exhibit #1?

12 MR. SUERO: Exhibit #1 is a copy of the
13 ABC license information provided by SELA?? To
14 provide the hours of operation and sales for
15 that business.

16 MS. PHILLIPS: And so that's where you
17 found the information that you put in your report
18 about the hours of sales, is that correct?

19 MR. SUERO: That is correct.

20 MS. PHILLIPS: Okay, and Exhibit #2?

21 MR. SUERO: The regulatory inspection, a
22 copy of the regulatory inspection that I did on

1 that date.

2 MS. PHILLIPS: Was that the date that you
3 initially entered and found the violation or the
4 date that you came back, or both?

5 MR. SUERO: It was -- I did on that date,
6 it is dated 11/30/2015, 11:35 a.m.

7 MS. PHILLIPS: So, that's when you first
8 came into the establishment, not when you
9 returned.

10 MR. SUERO: Yes, ma'am, the first time.

11 MS. PHILLIPS: Okay, and you found no
12 other ABC violations other than no ABC manager,
13 is that fair?

14 MR. SUERO: That is correct.

15 MS. PHILLIPS: Okay. And what is Exhibit
16 #3?

17 MR. SUERO: It is a copy of the citation
18 #5426 that I issued on the 3rd of December to Mr.
19 Lee.

20 MS. PHILLIPS: And it was based on the
21 violations that you found on November 30th, is
22 that fair?

1 MR. SUERO: That is correct.

2 MS. PHILLIPS: And the last page?

3 MR. SUERO: That is simply an
4 investigative history for Khan's.

5 MS. PHILLIPS: Okay, is that the same
6 investigative history that's contained on page #2
7 of your report?

8 MR. SUERO: It is.

9 MS. PHILLIPS: At this time, I'd like to
10 move the investigative report in as an exhibit to
11 the proceedings.

12 CHAIRPERSON ANDERSON: I just want to.
13 I'm not sure if I have the same document that you
14 have.

15 MS. PHILLIPS: Okay.

16 CHAIRPERSON ANDERSON: So, can I see the
17 copy of the documents that you want to move into
18 evidence? The document I have in front of me is
19 not -- because they are not labeled and my
20 document doesn't have the investigative history
21 so that's one reason I was having some problems
22 following you along. Mr. Lee: Have you seen the

1 document that Ms. Phillips wants to enter into
2 evidence?

3 MR. LEE: Yes.

4 CHAIRPERSON ANDERSON: Do you have a
5 problem with any of the documents being entered
6 into evidence?

7 MR. LEE: No.

8 CHAIRPERSON ANDERSON: Okay. The
9 documents are part of the record.

10 MS. PHILLIPS: Thank you, Mr. Chair. Mr.
11 Suero is there anything else you need to add to
12 your testimony about the investigation that you
13 conducted at Khan's on November 30, 2015?

14 MR. SUERO: No ma'am, there is not.

15 MS. PHILLIPS: Thank you, sir.

16 CHAIRPERSON ANDERSON: Mr. Lee: You have
17 an opportunity now to question Mr. Suero based on
18 the questions Ms. Phillips just asked. If you
19 have any questions do you want to ask the
20 investigator?

21 MR. LEE: No.

22 CHAIRPERSON ANDERSON: So, you have no

1 questions for him? But you understand this
2 proceeding, that the government brought a witness
3 and the witness basically stated that you
4 committed a violation and this is the witness
5 that stated the violation that you incurred, and
6 this is your opportunity to either clarify the
7 record or cross examine this witness to say
8 whether or not what he stated was correct or not.

9 MR. LEE: I just came here to explain my
10 situation, because Inspector explained his
11 [inaudible 16:57], so I want to explain about my
12 situation, that's why I came here.

13 CHAIRPERSON ANDERSON: Well, I know that
14 you came -- but I'm just saying though, I'm just
15 saying you have an opportunity based on what he
16 just stated to ask him questions about what he
17 stated so that's all I'm just saying to you that
18 you have an opportunity. I mean, I know in
19 presenting your case you can explain your case,
20 but I'm just saying prior to getting there you
21 have an opportunity to ask him if -- if -- if the
22 statement that he made in the report that you

1 have, if you disagree with any findings that he
2 stated, this is your opportunity to ask him about
3 it, to say "well, I didn't say this" that's why
4 I'm asking you, that you have an opportunity to
5 ask him questions.

6 MR. LEE: Right now I don't have any
7 questions about him.

8 CHAIRPERSON ANDERSON: Okay, all right.
9 Thank you, sir. Does the Board have any
10 questions that they want to ask Mr. Suero. Yes,
11 Mr. Short.

12 MR. SHORT: Good afternoon, Investigator
13 Suero.

14 MR. SUERO: Good afternoon, sir.

15 MR. SHORT: Is it your testimony, and
16 it's written in your report, that you did go to
17 this establishment during your regular inspection
18 duties and that there was no ABC manager present
19 at the time you went there?

20 MR. SUERO: Yes sir, that's correct.

21 MR. SHORT: And before you left someone
22 did come in representing themselves as an ABC

1 manager who qualifies. Is that correct?

2 MR. SUERO: The owner, Mr. Lee, entered
3 about ten minutes after.

4 MR. SHORT: Ten minutes after?

5 MR. SUERO: Yes, sir.

6 MR. SHORT: Thank you, that's all I have,
7 that's all I have Mr. Chair.

8 CHAIRPERSON ANDERSON: Any other
9 questions by any other Board members? Let's go
10 to see if we have any other -- I'm sorry -- Mr.
11 Lee, do you have any questions to ask of Mr.
12 Suero based on the question that was just asked
13 by Mr. Short?

14 MR. LEE: No.

15 CHAIRPERSON ANDERSON: Any questions, Ms.
16 Phillips?

17 MS. PHILLIPS: I'll ask another question.
18 Mr. Short asked a question about the time period,
19 which was ten minutes, I believe, is that
20 correct?

21 MR. SUERO: That is correct.

22 MS. PHILLIPS: Did Mr. Lee tell you where

1 he was, why he was gone, what he was doing?

2 MR. SUERO: I believe he said he needed
3 some supplies for his business.

4 MS. PHILLIPS: So he actually admitted
5 that he wasn't there when you came.

6 MR. SUERO: Absolutely.

7 MS. PHILLIPS: Thank you.

8 CHAIRPERSON ANDERSON: Thank you. Do you
9 have any other questions for the witness?

10 MS. PHILLIPS: No thank you.

11 CHAIRPERSON ANDERSON: Thank you for your
12 testimony, you are free to go.

13 MR. SUERO: Thank you, sir.

14 CHAIRPERSON ANDERSON: Does the
15 government have any other witnesses?

16 MS. PHILLIPS: The government rests, Mr.
17 Chair.

18 CHAIRPERSON ANDERSON: Thank you. All
19 right Mr. Lee.

20 MR. LEE: Yes sir?

21 CHAIRPERSON ANDERSON: Now you have an
22 opportunity to present your case and I know that

1 since you're the only witness, and let me do this
2 before -- because, can you stand, please?

3 MR. LEE: Okay.

4 CHAIRPERSON ANDERSON: Can you raise your
5 right hand? Do you swear or affirm to tell the
6 truth and nothing but the truth?

7 MR. LEE: Yes, sir.

8 CHAIRPERSON ANDERSON: Okay, you may be
9 seated. You can be seated, sir. And the reason
10 why I'm doing this is because you are
11 representing yourself and you're also going to
12 testify, so I need to make sure that you're under
13 oath. So, you can now present your case and once
14 you present your case, then Ms. Phillips will ask
15 you questions based on the presentation that you
16 give and the Board members will have questions
17 for you. So, you can go ahead, sir and present
18 your case.

19 MR. LEE: I don't have any evidence
20 because most of -- most of the evidence is my
21 employee, so I don't need to call them. My
22 business -- we usually open the business at

1 12:00, and every morning I go to the market to
2 buy some supplies [inaudible 21:02] and about
3 11:30 my employee turned the lights and something
4 like that, but unfortunately to turn the open
5 sign we have to use the high chair, so most of my
6 employees just turn the sign at the same time.
7 My at 12:00 but even at 12:00 no customer is
8 coming.

9 Anyway, my business start at 12:00 and
10 the investigator came in at 11:35, something like
11 that. At the time, we are still cleaning. At
12 12:00 when I get to the restaurant, 11:45 from
13 the market, and still we are cleaning, so if this
14 give me a ticket because we just turned the open
15 sign but my business hours is 12:00 and at this
16 time we are still cleaning the tables and we are
17 preparing. So, I go to the market every morning
18 to buy something. I usually return 11:30 to
19 11:45. I usually come back to my restaurant.
20 So, I just want to explain the situation. We are
21 all human. Sometimes my employees turn the open
22 sign, we have to use a high chair and that's why

1 they turn the open sign at the same time,
2 something like that. So, I get a ticket, we just
3 turn the open sign I think is too -- not fair --
4 that's why I explain my situation. So, I think
5 the law is the law, I want to follow the law but
6 sometimes the law should understand the
7 situation. In fact I am not against the law, we
8 just turn on the open sign earlier than 12:00
9 because there is, as I told you, we just turn on
10 the open sign when you open the other sign,
11 because we have to use a high chair. And I come
12 back to my restaurant at 11:45 a.m. At that time
13 nobody in the restaurant. Usually we have a
14 customer around 12:30. That's why the opening
15 hour is 12:00. That's why I want to explain our
16 situation.

17 CHAIRPERSON ANDERSON: All right. Do you
18 have anything to say?

19 MR. LEE: I'm sorry?

20 CHAIRPERSON ANDERSON: Is that it?

21 MR. LEE: That's all.

22 CHAIRPERSON ANDERSON: Do you have any

1 questions you want to ask, Ms. Phillips?

2 MS. PHILLIPS: Thank you, Mr. Chair. Mr.
3 Lee.

4 MR. LEE: Yes sir, yes ma'am.

5 MS. PHILLIPS: If you will look at
6 Exhibit #1 in the investigation report that I
7 gave you, that is a copy of your license which
8 you should have posted in your establishment but
9 it says your hours of operation are 7:00 -- oops,
10 let's go to Monday, because I think this was on a
11 Monday, would you agree that this was on a Monday
12 that Mr. Suero came in?

13 MR. LEE: Yes.

14 MS. PHILLIPS: Okay. So on Monday it
15 says your hours of operation are 7:00 a.m. to
16 2:00 a.m. Am I reading that correctly?

17 MR. LEE: Yes, ma'am.

18 MS. PHILLIPS: And it says your hours of
19 sales are 10:00 a.m. to 2:00 a.m. Am I reading
20 that correctly?'

21 MR. LEE: Yes, ma'am.

22 MS. PHILLIPS: Okay. So, what you're

1 telling the Board and you're telling me is that
2 even though your hours of operation according to
3 your license are as stated previously, you never
4 open before noon? Is that what you're telling
5 the Board?

6 MR. LEE: Okay, when I opened my
7 restaurant before the first time, I tried to open
8 at breakfast too.

9 CHAIRPERSON ANDERSON: At what time, sir?

10 MR. LEE: I wanted to serve the breakfast
11 too.

12 CHAIRPERSON ANDERSON: Okay.

13 MR. LEE: I tried, but no customers and
14 so tired. That's why I am losing morning, if I
15 opened a breakfast business. So, now we open, we
16 don't have the breakfast business, that's why we
17 want to sell lunch and dinner, no more breakfast.
18 That's why the open hours is 7:00 a.m. like this.
19 We don't serve the breakfast any more. Maybe
20 first time, maybe one or two times I tried but no
21 more after that because if I open up business for
22 breakfast I am losing money; that's why I don't

1 open up for breakfast anymore.

2 CHAIRPERSON ANDERSON: But I think the
3 question she asked you was that your hours, what
4 -- exactly what your hours -- I know it's 7:00 --
5 did he answer?

6 MS. PHILLIPS: He answered my question,
7 so he just gave an elaborate explanation
8 afterwards.

9 CHAIRPERSON ANDERSON: All right, I'm
10 sorry.

11 MS. PHILLIPS: All right. Mr. Lee: When
12 Mr. Suero came into your establishment you were
13 not there, is that correct?

14 MR. LEE: No.

15 MS. PHILLIPS: You were at the market
16 getting supplies, is that fair?

17 MR. LEE: Yes ma'am.

18 MS. PHILLIPS: And Mr. Suero explained to
19 you what the rules were about needing an ABC
20 manager or the owner present during the hours
21 which you could serve. Is that fair?

22 MR. LEE: That's fair.

1 MS. PHILLIPS: So he did explain that to
2 you, yes?

3 MR. LEE: Yes.

4 MS. PHILLIPS: And your Miss Myong Suk
5 Lee, she was not an ABC manager, is that correct?

6 MR. LEE: She's my sister, she don't
7 have, she's my customer too, but she doesn't have
8 a --

9 MS. PHILLIPS: A license.

10 MR. LEE: -- a license, and she turned
11 the sign on the sign but unfortunately she
12 doesn't have a -- she doesn't have a, on the
13 license, she doesn't have a name on the license.

14 MS. PHILLIPS: Okay. So, as a relative
15 she's an owner with you, but you haven't
16 registered her as an owner with the Alcoholic
17 Beverage Association, right? She's not on the
18 official paperwork, is that what you're telling
19 me?

20 MR. LEE: No.

21 MS. PHILLIPS: No, she's not there.

22 MR. LEE: Not there, yeah.

1 MS. PHILLIPS: All right. So, it is true
2 what Mr. Suero testified to that there was no
3 official owner nor an ABC manager in the
4 establishment at the time he entered the
5 establishment, correct?

6 MR. LEE: Yes.

7 MS. PHILLIPS: Thank you, Mr. Chair.

8 MR. LEE: Okay, I wanna tell you one
9 thing. Okay, sometimes ABC manager must be
10 inside the restaurant while the open hours, but
11 sometimes I need to go outside, to the parking
12 lot, sometimes I need to bring my paper from the
13 parking lot. And I left my restaurant for ten
14 minutes, 15 minutes. Sometimes I go to the
15 grocery to buy cigarettes and I left five
16 minutes. In that case, we supposed to have a
17 ticket or not? Because sometimes I have to go
18 outside to go buy some sandwich in front of my
19 restaurant because I cannot eat my food every
20 day, sometimes I go for pizza or sandwich shop in
21 front of my restaurant. In that case, sometimes
22 five minutes, two minutes, but sometimes it takes

1 ten minutes, because of the -- depending on the
2 line. So, I understand, law is that we have to
3 follow the law, but laws to give us some room, we
4 are not machines, we cannot stay 24 hours in the
5 restaurant, sometimes we have to go outside, to
6 go to my car, or to go to the other shop to buy
7 some sandwiches for my lunch. I go to market
8 every morning, I might be -- I just ten minutes
9 late. In that case I have to get a ticket. I
10 think it's not fair because the law I have to pay
11 the all tax for everything. I follow the law,
12 sometimes I break the law. At that time I didn't
13 know about the restaurant business, I've never
14 served alcohol before so I don't know any
15 experience or [inaudible 29:44] paid the penalty
16 before. But this time, I think it's not fair. I
17 respect law. I try to follow the law, too. But
18 only ten minutes late, I go to market every day,
19 as I explain before I got a ticket because of we
20 just turned the open sign. As I told you, to
21 turn the open sign, my employee uses the high
22 chair. That's why I want to explain our

1 situation. In the future, I turn the open sign,
2 we're ready, 12:00 a.m. not before. I don't want
3 a ticket anymore.

4 CHAIRPERSON ANDERSON: Mr. Lee, I'm not
5 giving you any advice, but in reviewing the
6 report Mr. Suero said that he provided you
7 information on how to get your employees a 90-day
8 temporary ABC manager. Did he explain that to
9 you, to say that if you're not there you can also
10 apply to get some other folks to be ABC managers
11 when you're not there?

12 MR. LEE: I don't remember.

13 CHAIRPERSON ANDERSON: Because I'm just
14 saying in this report Mr. Suero had stated that
15 he -- hold on one minute, let me make sure that
16 I'm -- yeah, in the report Mr. Suero stated that
17 he had explained to you the process of getting a
18 90-day temporary ABC manager's license for
19 qualified employees, so I hear you're saying that
20 you're not a machine, you have to leave -- you
21 might have to leave to go get supplies, but you
22 don't recall Mr. Suero letting you know how to

1 get a temporary manager's license for an employee
2 who can cover the establishment while you are
3 there?

4 MR. LEE: I don't remember.

5 CHAIRPERSON ANDERSON: You don't know or
6 you don't remember?

7 MR. LEE: I don't remember.

8 CHAIRPERSON ANDERSON: Okay, all right,
9 go ahead Mr. Alberti.

10 MR. ALBERTI: Good afternoon, Mr. Lee.
11 So, the date, on the day that Mr. Suero came in,
12 your door was open and anyone could walk in,
13 right?

14 MR. LEE: Yeah, 'cause during the
15 cleaning hour we clo -- we open the door because
16 we want to circulate the old air, because we are
17 cleaning in the morning. So, and when you mop
18 it's a little wet so we need to be dry by air,
19 'cause we all the time open the door.

20 MR. ALBERTI: So, how does a customer not
21 -- I mean, how do customers know that you're not
22 open? I mean, anyone can just walk in and sit

1 down, right? If I walked in --

2 CHAIRPERSON ANDERSON: Hold on. Mr. --
3 he's asking for an interpreter. Hold on.

4 MR. LEE: Oh.

5 MR. ALBERTI: If I walked in at 11:45 and
6 said, 'can you serve me lunch?' would you have
7 served me lunch?

8 MR. LEE: No, we just ask them we are not
9 ready but if you wait five minutes, ten minutes,
10 and usually a customer just stop.

11 MR. ALBERTI: But you allow them to stay
12 there?

13 MR. LEE: Usually they sit down outside
14 on the patio. We have to clean the inside. So,
15 inside the floors are a little wet and it's
16 dangerous so that's why we open the door and they
17 need to be dried by fresh air and I want to have
18 fresh air inside my restaurant in the morning.

19 MR. ALBERTI: Okay, thank you.

20 CHAIRPERSON ANDERSON: Mr. Short.

21 MR. SHORT: Good afternoon, Mr. Lee.
22 Your hours of operation are what? Your normal

1 hours of operation that you're licensed by the
2 city.

3 MR. LEE: We usually open 12:00 a.m., but
4 we closing --

5 UNKNOWN SPEAKER: p.m.

6 MR. LEE: 12:00 p.m. Our closing time
7 depends on the business. Sometimes a rainy day.

8 MR. SHORT: Mr. Lee, what are the hours
9 you are licensed by the District of Columbia to
10 operate and sell alcohol?

11 MR. LEE: Hours 7:00 a.m. to 2:00 a.m.
12 during the weekdays.

13 MR. SHORT: That's the hours you're open
14 for normal business. What hours do you sell
15 alcohol on your license, on your ABC license,
16 Alcoholic Beverage Control license, what hours
17 are you allowed to sell alcohol?

18 MR. LEE: 10:00 a.m. to 2:00 a.m.

19 MR. SHORT: And during those hours you
20 must have an ABC manager on duty, correct? Do
21 you understand that?

22 MR. LEE: But --

1 MR. SHORT: No, no. I'm asking you about
2 the law. You're a business person, a
3 businessman, correct?

4 MR. LEE: Yes, sir.

5 MR. SHORT: Okay, now, the law says when
6 you are open for business at 10:00 a.m. to sell
7 alcohol you must have an ABC licensed person
8 there.

9 MR. LEE: Yes, sir.

10 MR. SHORT: So you understand that.

11 MR. LEE: Yes, sir.

12 MR. SHORT: You did not have one there
13 the day that the investigator came and gave you a
14 ticket, correct?

15 MR. LEE: Yes, sir.

16 MR. SHORT: So, what defense do you have
17 about that? What defense?

18 MR. LEE: Okay, this is, I have a license
19 that is the business hours, but then I make
20 operation hours eight hours and I told you before
21 I want to open for breakfast first time, but
22 after two months, I never open business for

1 breakfast, I'm losing money. That's why I don't
2 serve the breakfast anymore. So, we just serve
3 the lunch and dinner. So, we kind of have
4 operations, we most of all have some long
5 business hours because it depends on the
6 business, they want to serve the breakfast or
7 dinner, so even though we open all the time we
8 make license like this, but later we decide we
9 cannot -- some restaurant they open only dinner
10 time. During -- even during the lunchtime they
11 don't have any business. That's why some other
12 restaurants open 5:00 p.m. but they are licensed,
13 opening hour at 7:00 a.m. like me, they open
14 their business, they want to have a lot of ideas
15 about that.

16 MR. SHORT: Mr. Lee, how many years have
17 you been in business?

18 MR. LEE: Five years.

19 MR. SHORT: Five years.

20 MR. LEE: Yes, sir.

21 MR. SHORT: And you do understand the
22 District of Columbia law, correct?

1 MR. LEE: Yeah, I understand. I respect
2 too.

3 MR. SHORT: Have you ever seen one of
4 these before?

5 MR. LEE: I'm sorry.

6 MR. SHORT: Are you familiar with the
7 Alcoholic Beverage Control laws and rules?

8 MR. LEE: Yes.

9 MR. SHORT: -- that are written within
10 this book?

11 MR. LEE: Yes, sir.

12 MR. SHORT: Okay. I would advise that --
13 do you have one?

14 MR. LEE: Yes, sir.

15 MR. SHORT: You do have one?

16 MR. LEE: Yes, sir.

17 MR. SHORT: You have one like this?

18 MR. LEE: No, not that book.

19 MR. SHORT: I would advise maybe you
20 should ask before you leave here today, someone
21 to get you a book or tell you how to get one of
22 rules and regulations so you don't wind up with

1 this same problem again. Your license says when
2 you can and cannot -- your ABC license -- when
3 you can and cannot sell and serve alcoholic
4 beverages. You testified your hours are 10:00
5 a.m. to sell alcohol, correct?

6 MR. LEE: Is my license paper.

7 MR. SHORT: That's what I'm talking
8 about.

9 MR. LEE: Yes, sir.

10 MR. SHORT: And that says you can sell
11 alcohol at 10:00 a.m., correct?

12 MR. LEE: Yes, sir.

13 MR. SHORT: And when you're selling
14 alcohol there must be an ABC licensed person
15 there, correct?

16 MR. LEE: Yes, sir.

17 MR. SHORT: If they're not there then
18 you're in violation of the law, is that correct?

19 MR. LEE: But that -- this when you open
20 the business, even the business hours is 10:00
21 a.m. but at the time our gate is closed. ABC
22 manager must be inside on the premise during your

1 open business hours. When you closing, when you
2 cleaning time, we don't need to be there.

3 MR. SHORT: Do you agree that you're
4 going to get one of these before you leave, we'll
5 find out how you can get a code book before you
6 leave?

7 MR. LEE: Yeah, if I can I want to have
8 it.

9 MR. SHORT: Okay, good. All right.
10 That's all I have. Thank you very much. That's
11 all I have Mr. Chair.

12 CHAIRPERSON ANDERSON: Any other
13 questions by any other Board members?

14 MS. MILLER: I do.

15 CHAIRPERSON ANDERSON: Go ahead.

16 MS. MILLER: I don't know how much of a
17 question it is, but Mr. Lee, I want to -- I would
18 like to go out on a limb and explain the law a
19 little bit more to you so that in the future
20 you'll be able to do your best to comply with it.
21 Okay? You have hours of operation. Right? 7:00
22 a.m. You have hours then of sale of alcohol

1 beginning at 10:00 a.m. to 2:00 a.m. Correct?

2 MR. LEE: Yes, ma'am.

3 MS. MILLER: Okay. Granted, that's a
4 long time for one person not to be able to leave
5 the premises. It's a long time, 10:00 a.m. to
6 2:00 a.m. for one person, being you, you're the
7 only ABC manager, licensed manager, correct?

8 MR. LEE: No, my, many times we have a
9 bartender that have a ABC license.

10 MS. MILLER: You have a bartender, too.

11 MR. LEE: Yeah.

12 MS. MILLER: Okay. All right. Because
13 as I see it there, you have different options.
14 You can get another person licensed to be an ABC
15 manager.

16 MR. LEE: Yeah, we have.

17 MS. MILLER: Okay, to allow you to step
18 out. Your other option is if you don't serve
19 alcohol at 10:00 a.m. you can make your hours
20 start later so while you're cleaning you don't
21 have to have an ABC manager there. As long as --
22 as long as your hours say 10:00 to 2:00 you have

1 to have a licensed manager there. You can change
2 your hours, if you don't have -- if you're not
3 serving alcohol at 10:00 in the morning. And if
4 you want, the other thing is I would advise --
5 okay go ahead. The interpreter is going to
6 explain.

7 MR. LEE: My sister, she got an ABC
8 license again after I got a ticket, she already
9 got it now.

10 MS. MILLER: Okay, that's good. Okay.

11 MR. LEE: Because when I go to market she
12 should be here, so now my sister is in the
13 restaurant right now. I -- we have more people
14 who has ABC license now.

15 MS. MILLER: Good, okay.

16 MR. LEE: Of course, in the evening I --
17 we have a bartender that have a ABC license, but
18 daytime I usually be in my restaurant, so
19 sometimes when I go outside like this, that's why
20 my sister has a ABC license right now so she is
21 in my restaurant right now.

22 MS. MILLER: Right, good, okay.

1 MR. LEE: So -- I just want to explain
2 our situation. And, as you told me I understand
3 the law, and I follow the law, I respect, but I
4 just wanted to explain my situation, that's all.

5 MS. MILLER: Okay, good.

6 MR. LEE: After that I want to do my best
7 to follow the law, that's why my sister has a ABC
8 license now.

9 MS. MILLER: Okay, that's good to hear.

10 MR. LEE: Thank you, ma'am.

11 MS. MILLER: Okay, thank you. That's
12 all, Mr. Chairman.

13 CHAIRPERSON ANDERSON: Thank you. Do you
14 have any other? All right, then we have no more
15 Board. Is that all you have to say, sir?

16 MR. LEE: Yes, sir.

17 CHAIRPERSON ANDERSON: I'm sorry, do you
18 have a question to ask the --

19 MS. PHILLIPS: I have questions based on
20 the questions of the Board.

21 CHAIRPERSON ANDERSON: Okay, sure, go
22 ahead.

1 MS. PHILLIPS: Thank you, Mr. Chair. If
2 you'll turn again to Exhibit #1, I think you're
3 already turned there. As I read it you have an
4 endorsement for a sidewalk café, is that correct?

5 MR. LEE: Yes ma'am.

6 MS. PHILLIPS: I did hear you say you
7 utilized it, you use it, the sidewalk café.

8 MR. LEE: During the summer season.

9 MS. PHILLIPS: Okay, not when it's cold,
10 right? All right. And, on Exhibit #1 for Monday,
11 I read the hours of operation for the sidewalk
12 café are 11:30 a.m. to 2:00 a.m. Am I reading
13 that correctly?

14 MR. LEE: Yes ma'am.

15 MS. PHILLIPS: Okay, and I also see that
16 on Monday the hours of sales for the sidewalk
17 café are 11:30 a.m. to 2:00 a.m., am I reading
18 that correctly?

19 MR. LEE: Yes ma'am.

20 MS. PHILLIPS: Okay, so when Mr. Suero
21 came in, even if you'd asked any customers to
22 stay on the sidewalk café, you would have also

1 been out of compliance. Is that fair?

2 CHAIRPERSON ANDERSON: Hold on. Maybe
3 you need to rephrase the question because I'm not
4 sure if he understands. I don't think he's
5 understanding the difference you're trying to
6 make so maybe you need to rephrase the question
7 for him.

8 MS. PHILLIPS: Perhaps I just need to add
9 a supplement.

10 CHAIRPERSON ANDERSON: Yeah, right.

11 MS. PHILLIPS: According to the report,
12 and I believe you agreed with that, Mr. Suero
13 came in at 11:35 a.m. which would be after the
14 sidewalk café hours of service were in effect.

15 MR. LEE: Usually, as I told you, winter
16 season we don't open, we just have the chairs
17 locked. So in November, no one would sit outside
18 on the patio because we open the patio in May.

19 MS. PHILLIPS: And you close it when?

20 MR. LEE: We don't open for all day, the
21 patio.

22 MS. PHILLIPS: So you open --

1 MR. LEE: October, end of October,
2 something like that.

3 MS. PHILLIPS: Okay. But I think you
4 said in your testimony if people came in to the
5 establishment while you were cleaning you had
6 them sit on the patio. Did I misunderstand what
7 you testified to earlier?

8 MR. LEE: Yes, that is where a picnic
9 table, you know why I set up the picnic table
10 because we put outside some chairs near the
11 fence, somebody steal. That's why I set up some
12 heavy picnic tables near the fence and nobody can
13 steal. The picnic table is -- we don't need a
14 light -- so customer just on the picnic table sit
15 down like this, then later they can come in, and
16 have nice table and chairs inside of the patio,
17 those nice chairs be chained with a chain lock
18 but near the fence we set up the picnic table,
19 very heavy one, that's why some customers sit
20 down.

21 MS. PHILLIPS: Well, Mr. Lee, I was just
22 trying to clarify your statement that if somebody

1 came in -- a patron came into your establishment
2 before you were ready and while you were cleaning
3 you would have them sit on the patio and I was
4 trying to point out that you would still have
5 been in violation if they sat on the patio at
6 11:35 because your hours of service on Monday are
7 11:30 to 2:00 a.m. If I'm interpreting what your
8 license says correctly --

9 CHAIRPERSON ANDERSON: the time of year.

10 MR. ALBERTI: Ms. Phillips, I think the
11 point that you're trying to make is that Mr. Lee,
12 whenever you allow a customer into your
13 establishment, either inside or have them on the
14 patio, you are operating -- in our eyes, you are
15 operating. If you allow someone other than an
16 employee, you allow a patron, whether you're
17 ready to serve them or not, if you allow them in
18 and they are either on the inside sitting down or
19 standing, you know, waiting on the outside in
20 your patio, then in our eyes you are operating.
21 Is that the point that you're trying to make?

22 MS. PHILLIPS: Yes, but I don't get to

1 make statements, I have to ask questions.

2 MR. ALBERTI: I just wanted to make sure-

3 MS. PHILLIPS: That's the point I was
4 trying to make.

5 MR. ALBERTI: -- it was to the point so
6 that if he was going to answer a question related
7 to it he understood.

8 MS. PHILLIPS: Thank you, Mr. Alberti.

9 MR. ALBERTI: Hopefully that will be
10 helpful.

11 CHAIRPERSON ANDERSON: All right, do you
12 have any other questions, Ms. Phillips?

13 MS. PHILLIPS: I do not have any more
14 questions of this witness, Thank you, Mr. Chair.

15 CHAIRPERSON ANDERSON: Is that all you
16 have to say, Mr. Lee?

17 MR. LEE: Yes.

18 CHAIRPERSON ANDERSON: Yes? Okay. So,
19 do you rest? All right yes. Do you -- does the
20 government wish to have a rebuttal witness?

21 MS. PHILLIPS: If the Board feels it's
22 relevant to ask the question about whether or not

1 Mr. -- Investigator Suero remembers whether or
2 not they were cleaning when he came in at 11:35,
3 I'll recall him to clarify that issue.
4 Investigator Suero? If you'll retake the stand.
5 Investigator Suero, do you recall whether or not
6 when you came in at 11:35 whether the
7 establishment was in the process of cleaning?

8 MR. SUERO: The sign indicating open was
9 lit when I entered. I entered the establishment.
10 There was an African-American male, maybe late
11 forties, early fifties, inside who appeared to be
12 a patron. There were approximately what I
13 consider to be two employees, a male and a
14 female, and I didn't see any particularly
15 cleaning going on. They were speaking.

16 MS. PHILLIPS: Let me ask you just one
17 more question since we also can take testimony in
18 all five senses, when you walked in there did you
19 smell the smell of cleaning fluids so that
20 cleaning may have just finished.

21 MR. SUERO: I did not notice any smell of
22 any cleaning material.

1 MS. PHILLIPS: And one more question.
2 Some people when they clean establishments in
3 which customers come in, they put out signs to
4 say "be careful, wet floor." Did you see
5 anything like that?

6 MR. SUERO: I did not.

7 MS. PHILLIPS: Thank you. I have no
8 further questions of this rebuttal witness Mr.
9 Chair.

10 CHAIRPERSON ANDERSON: Do you have any
11 questions for Mr. Suero? Do you have any
12 questions for him based on what he just testified
13 to?

14 MR. LEE: When you clean our restaurant
15 we have to sweep and mop and turn the fan.

16 CHAIRPERSON ANDERSON: No, you're asking
17 him a question.

18 MR. LEE: Usually, depending when we
19 clean the restaurant we just sweep and mop and
20 turn the fan to make the floors dried. Then next
21 you clean the table and you clean the [inaudible
22 51:35] like that, small detail jobs. Most of the

1 heavy jobs, later we clean some tables and the
2 sauce butter and the hot sauce butter, we clean
3 like this, that is the kind of preparing and
4 cleaning steps. That's why around 11:30 we
5 cannot smell some cleaning chemicals. Most of it
6 is dried, then we have to clean the tables, sauce
7 [inaudible 52:00] something like that. That's
8 why we cannot smell any cleaning.

9 MS. PHILLIPS: So, based on that, Mr.
10 Chair, I have another question to ask Mr. Suero.

11 CHAIRPERSON ANDERSON: Go on.

12 MS. PHILLIPS: Mr. Suero, did you see
13 anybody wiping down tables or wiping down
14 appliances or whatever else would be there, bars,
15 when you entered at 11:35?

16 MR. SUERO: I did not.

17 MS. PHILLIPS: Okay.

18 CHAIRPERSON ANDERSON: Mr. Suero, I just,
19 I need you to clarify something. You said that
20 you saw a customer in -- someone who appeared to
21 be a customer in the establishment while you were
22 there?

1 MR. SUERO: Yes.

2 MR. LEE: Customer, no.

3 CHAIRPERSON ANDERSON: You can't -- hold
4 on a minute. Remember, Mr. Suero testified, I
5 asked you an opportunity to ask him a question
6 based on the testimony. You made a statement,
7 you didn't ask him, so therefore you can't -- you
8 have lost your opportunity to ask that question,
9 so I'm now asking questions. Now, what I will
10 do, once the Board asks questions, we'll have
11 opportunities for both yourself and Ms. Phillips
12 to ask a question but that's one of the reasons
13 why I stopped and I said, listen to what he has
14 to say, listen to his report, if you want to
15 question him about anything that he says or
16 written and said, it's your opportunity when he's
17 on the stand to ask those questions, so you can't
18 blurt out and say this because you have already
19 lost your chance, okay?

20 MR. LEE: Sorry about that.

21 CHAIRPERSON ANDERSON: Okay, go ahead,
22 Mr. Alberti.

1 MR. ALBERTI: So, Investigator Suero, do
2 you recall what gave you the impression that this
3 person was a customer?

4 MR. SUERO: When I came in, there was a
5 gentleman, I think he's Latino or Hispanic, he
6 was behind the counter. I asked him if there was
7 anybody else there besides him, was there a
8 manager or owner. He said, I think he said the
9 sister, or cousin, whatever, was downstairs and
10 he went to get her. There was a gentleman
11 further away from where I was, an African-
12 American male, probably late forties, maybe early
13 fifties, who was at that end of the restaurant
14 and walked past me to leave and I didn't get the
15 impression that he was an employee.

16 MR. ALBERTI: Okay. Thank you.

17 CHAIRPERSON ANDERSON: Any other
18 questions? Do you have any questions? It's your
19 witness so -- do you have any questions for Mr.
20 Suero based on any of the questions that the
21 Board members asked, sir? Mr. Lee?

22 MR. LEE: Yes, sir. When you came to my

1 restaurant you told me -- you told that is some
2 customer in my restaurant, but no that was no
3 customer.

4 MR. SUERO: I didn't believe he was an
5 employee, sir, I thought he was a patron. He
6 walked past me --

7 MR. LEE: You --

8 CHAIRPERSON ANDERSON: Hold on, let him
9 finish, sir, and then you can ask a follow-up
10 question.

11 MR. SUERO: He walked past me to leave
12 and I did not get the impression that he works
13 for you, that he worked there.

14 MR. LEE: 11:45 I guarantee, I'm sure,
15 when you get in my restaurant, at the time there
16 was no customer, we were still cleaning the
17 tables and bar. We were cleaning at that time.
18 There was no customer.

19 MR. SUERO: The sign said "open."

20 MR. LEE: That's the --

21 MR. SUERO: The gentleman walked right
22 past me after a couple of minutes.

1 MR. LEE: We just turned on the open
2 sign, at that time there was no customer, we are
3 now ready for the business, but I open with you,
4 we just turned on the open sign because we are --
5 we are [inaudible 55:40] ready, but at 12:00 we
6 have to turn on the open sign but we just open a
7 little early, that [inaudible] we have to use a
8 high chair. That is our fault.

9 CHAIRPERSON ANDERSON: All right, Ms.
10 Phillips? Any other questions?

11 MS. PHILLIPS: Not of --

12 CHAIRPERSON ANDERSON: No?

13 MS. PHILLIPS: Not of this witness.

14 CHAIRPERSON ANDERSON: Well, there is --
15 that's the only witness. Thank you, sir, you are
16 free to go.

17 MR. SUERO: Thank you.

18 CHAIRPERSON ANDERSON: All right. Do you
19 wish to make a closing statement? Well, I guess
20 you have already, so --

21 MS. PHILLIPS: Yes, I can make a closing
22 statement, I was just going to ask if I could ask

1 some questions based on this sort of testimony
2 question asking is that Mr. Lee has done, but
3 that's fine.

4 CHAIRPERSON ANDERSON: Well, Mr. Lee is
5 the attorney asking the witness a question, so
6 you can't ask Mr. Lee a question unless you want
7 to call him as a rebuttal witness.

8 MS. PHILLIPS: At this point, no, but
9 remember when he asks questions he's also
10 testifying, and so that there might be -- but if
11 the Board does not have any questions based on
12 that questioned testimony that he just gave, when
13 the rebuttal witness was present, then I
14 [inaudible 57:10]

15 CHAIRPERSON ANDERSON: I personally don't
16 have any other questions based on the testimony
17 of the rebuttal witness. Whatever questions I
18 had in my mind, the rebuttal witness has
19 answered, so I'm clear, so --

20 MS. PHILLIPS: So, I would give a small
21 closing.

22 CHAIRPERSON ANDERSON: Okay, yes ma'am.

1 MS. PHILLIPS: Not only do we have the
2 testimony of Investigator Suero and what he saw
3 and that he witnessed the violation, we also have
4 the admission of Mr. Lee that he was not there
5 during the time, basically all he wanted to say
6 in having this hearing was that he thought it was
7 not fair that he had to be there all the time,
8 but that he did understand the law to require
9 him, as the owner or ABC manager, to be present
10 at all times. So, we have both the testimony of
11 the investigator and the admission of the owner
12 of the establishment. Therefore, the Board
13 should find that there was a violation of no ABC
14 manager and I recommend a fine of \$1250 to be
15 paid within 30 days or the license will be
16 suspended until it is paid. Thank you, Mr. Chair
17 and Board members.

18 CHAIRPERSON ANDERSON: Thank you. Mr.
19 Lee, do you wish to make an opening -- a closing
20 statement. So does this mean that you're
21 wrapping up your case, you're telling us what you
22 believe the Board should do.

1 MR. LEE: Okay. I understand the law and
2 I have followed the law and after I got a ticket
3 I made my sister and my other employee have their
4 ABC license, especially during the evening time
5 and ABC licensed all the time must be there. But
6 during the daytime, I stay there. So, when I go
7 the market, I will go earlier. I will come in
8 before 11:30 and I told the employees don't turn
9 on the open sign until I come back. I change my
10 employees like that after I got a ticket, so if I
11 need to make a I made the law I can pay the
12 penalty but this situation is not really, I'm not
13 against the law, we just open the sign a little
14 earlier than we open, and I came back to my
15 restaurant 11:45 a.m. instead of came to my
16 restaurant 11:30. So, only, even though you open
17 the open sign, I just 15 minute late from the
18 market, so I just wanted the ABC Board understand
19 our situation. Next time, I follow the law,
20 [inaudible 1:00] that law. That's it, sir.

21 CHAIRPERSON ANDERSON: Thank you for your
22 presentation. I'm going to ask another question,

1 but I have to ask it. Do the parties wish to
2 file proposed findings of fact and conclusions of
3 law or waive their right to do so?

4 MS. PHILLIPS: The District waives, Mr.
5 Chair.

6 CHAIRPERSON ANDERSON: And what that
7 means, sir, do you want to write something or
8 just ask that we make a decision based on what
9 was presented today?

10 MR. LEE: On the basis of the testimonies
11 that you heard.

12 CHAIRPERSON ANDERSON: Okay, fine, so you
13 have waived your right to write something. The
14 Board will issue a decision within 90 days. As
15 chairperson of the Alcoholic Beverage Control
16 Board for the District of Columbia and in
17 accordance with Section 405 of the Open Meetings
18 Amendment Act of 2010 I move that the ABC Board
19 hold a closed meeting for the purpose of seeking
20 legal advice and deliberating of Case --

21 MS. PHILLIPS: #15-CMP-00911.

22 CHAIRPERSON ANDERSON: And I tried to do

1 that. All right, Case #15-CMP-00911, Khan's, I
2 do apologize to the court, per section 405 of the
3 Open Meetings Amendment Act of 2010 and
4 deliberating upon Case #15-CMP-00911, Khan's, for
5 the reasons cited in Section 405-B-13 of the Open
6 Meetings Amendment Act of 2010. Is there a
7 second?

8 MR. SILVERSTEIN: Second.

9 CHAIRPERSON ANDERSON: Mr. Silverstein
10 has seconded the motion. I will now take a roll
11 call vote of the motion before us now that it has
12 been seconded. Mr. Silverstein?

13 MR. SILVERSTEIN: Aye.

14 CHAIRPERSON ANDERSON: Mr. Short?

15 MR. SHORT: I agree.

16 CHAIRPERSON ANDERSON: Mr. Alberti?

17 MR. ALBERTI: I agree.

18 CHAIRPERSON ANDERSON: Ms. Miller?

19 MS. MILLER: I agree.

20 CHAIRPERSON ANDERSON: Mr. Anderson? I
21 agree. As it appears that the motion has passed
22 I hereby give notice that the ABC Board will hold

1 a closed meeting in the ABC Board conference room
2 pursuant to the Open Meetings Amendment Act of
3 2010 and issue an order within 90 days. Thank
4 you very much, sir, for your presentation. The
5 court will listen to -- we will weigh the
6 evidence and in 90 days we will make a decision.
7 Thank you very much.

8 MR. LEE: Thank you.

9 CHAIRPERSON ANDERSON: All right have a
10 good afternoon.

11 MS. PHILLIPS: Good afternoon, Board.

12 MR. SHORT: Good afternoon.

13 MR. ALBERTI: Good afternoon.

14 CHAIRPERSON ANDERSON: The Board will be
15 in recess for five minutes.

16
17 (Whereupon, the above-entitled matter was
18 concluded.)

19