

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
3 ALCOHOLIC BEVERAGE CONTROL BOARD
4

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6 IN THE MATTER OF: :

7 Po Boy Jim, LLC : Case #16-CMP-00117

8 t/a Po Boy Jim :

9 709 H Street Northeast :

10 License #87903 :

11 Retailer CR :

12 ANC 6C :

13 Violation of Settlement Agr :

14 - - - - -X

15 Wednesday, July 13, 2016

16

17 Whereupon, the above-referenced matter
18 came on for hearing at the Alcoholic Beverage
19 Control Board, Reeves Center, 2000 14th Street,
20 N.W., Suite 400S, Washington, D.C. 20009.

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2 BOARD MEMBERS PRESENT

3 NICK ALBERTI, BOARD MEMBER

4 RUTHANNE MILLER, BOARD MEMBER

5 JAMES SHORT, BOARD MEMBER

6 MIKE SILVERSTEIN, BOARD MEMBER

7

8 ALSO PRESENT:

9 MAUREEN ZANIEL

10 REBECCA ANTOINE

11 EARL JONES

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

2

3 CHAIRPERSON ANDERSON: We're moving on
4 with the schedule. The next case on our schedule
5 is Case #16-CMP-00117, Po Boy Jim, license
6 #87903, Will the parties please approach and
7 identify themselves for the record?

8 MS. ZANIEL: Good afternoon, Maureen Zaniel
9 on behalf of the District of Columbia.

10 MS. ANTOINE: Good afternoon, Rebecca
11 Antoine, owner of Po Boy Jim's.

12 CHAIRPERSON ANDERSON: Good afternoon. Ms.
13 Zaniel, are there any preliminary matters in this
14 case?

15 MS. ZANIEL: No, we need to go forward on a
16 hearing.

17 CHAIRPERSON ANDERSON: I'm waiting to get the
18 documents before we move forward; that's what I'm
19 waiting for.

20 MS. ZANIEL: Certainly.

21 CHAIRPERSON ANDERSON: I don't have a copy of
22 the documents.

1 MS. ZANIEL: Okay, very well.

2 CHAIRPERSON ANDERSON: The Board doesn't have
3 a copy of the documents, so that's what I'm
4 waiting for. All right, does the government wish
5 to make an opening statement?

6 MS. ZANIEL: Yes, just very briefly. This
7 case, members of the Board, is about litter and
8 the fact that a violation with respect to litter
9 that was out of containers, and additionally
10 about containers that were not properly closed.
11 In addition, the second charge is that the
12 conduct I'm describing about the litter also
13 violates the settlement agreement that the
14 licensee had entered and the government's
15 evidence today will show those two charges.

16 CHAIRPERSON ANDERSON: Do you wish to make an
17 opening statement now, ma'am, or do you want to -
18 - ?

19 MS. ANTOINE: No, we can go ahead.

20 CHAIRPERSON ANDERSON: All right when you
21 present your case. Does the government wish to
22 call its first witness?

1 MS. ZANIEL: Yes, I am calling investigator,
2 Earl Jones.

3 CHAIRPERSON ANDERSON: Mr. Jones, can you
4 raise your right hand please. Do you swear or
5 affirm to tell the truth and nothing but the
6 truth?

7 MR. JONES: I do.

8 CHAIRPERSON ANDERSON: Thank you, your
9 witness.

10 MS. ZANIEL: Good afternoon, please state
11 your name.

12 MR. JONES: Earl Jones.

13 MS. ZANIEL: And where are you employed, Mr.
14 Jones?

15 MR. JONES: With the Alcoholic Beverage
16 Regulation Administration.

17 MS. ZANIEL: And what is your job with the
18 administration?

19 MR. JONES: I'm a compliance investigator.

20 MS. ZANIEL: And what are your general duties
21 as a compliance investigator?

22 MR. JONES: I inspect -- I conduct

1 investigations for ABC establishments within the
2 District of Columbia.

3 CHAIRPERSON ANDERSON: Mr. Jones, can you
4 pull the microphone closer to you? I can't hear
5 you well.

6 MR. JONES: Yes, sir.

7 MS. ZANIEL: I'd like to draw your attention,
8 Mr. Jones, to earlier this year, January 12,
9 2016. Were you employed by ABRA at that time?

10 MR. JONES: Yes, ma'am.

11 MS. ZANIEL: And were you conducting
12 regulatory duties?

13 MR. JONES: Yes, ma'am.

14 MS. ZANIEL: Did you have occasion to come by
15 an establishment named Po Boy Jim?

16 MR. JONES: Yes, I did.

17 MS. ZANIEL: And, can you tell the Board
18 where that's located, please?

19 MR. JONES: Po Boy Jim's is located on 700 --
20 excuse me, 709 H Street Northeast, Washington,
21 D.C.

22 MS. ZANIEL: And whe you went there was it

1 morning or afternoon?

2 MR. JONES: Morning time.

3 MS. ZANIEL: And what, if anything, did you
4 discover regarding the establishment?

5 MR. JONES: I had observed in the rear
6 alleyway of the establishment they had recyclable
7 containers that were open due to being overfilled
8 as well as their garbage receptacle was open due
9 to trash being compiled inside of the container.

10 MS. ZANIEL: With respect to that
11 establishment, did there come a time when you
12 wrote a report regarding your investigation and
13 activities?

14 MR. JONES: Yes, ma'am.

15 MS. ZANIEL: I'd like to show you -- and I'd
16 like it marked for admission government's #1, and
17 I'm giving a copy to the licensee at this time.
18 Can you tell us what that exhibit is, please, Mr.
19 Jones?

20 MR. JONES: Exhibit #1 is a copy of the case
21 report that I wrote for this violation.

22 MS. ZANIEL: And did you have any exhibits to

1 report?

2 MR. JONES: Yes, ma'am.

3 MS. ZANIEL: I'd like to have you look at
4 your Exhibit #2, please.

5 MR. JONES: Okay. Okay.

6 MS. ZANIEL: Do you see it?

7 MR. JONES: Yes, ma'am.

8 MS. ZANIEL: And what is it?

9 MR. JONES: This is a picture of the rear of
10 the establishment from the alleyway. It's
11 showing the opening of the brick -- of the brick
12 structure where the recyclable containers are as
13 well as the trash receptacle.

14 MS. ZANIEL: And is there a sticker affixed
15 to the photograph?

16 MR. JACKSON: Yes, ma'am.

17 MS. ZANIEL: What date does it show?

18 MR. JONES: 01/12/2016.

19 MS. ZANIEL: And is that the date you took
20 it?

21 MR. JONES: Yes, ma'am.

22 MS. ZANIEL: And is this photograph a fair

1 and accurate representation of what you were
2 looking at when you took that photograph?

3 MR. JONES: Yes, ma'am.

4 MS. ZANIEL: And I'd like to have you look at
5 Exhibit #3 of your report and tell us what that
6 is, please.

7 MR. JONES: This is a close-up picture of the
8 open dumpster container that was in back of the
9 establishment.

10 MS. ZANIEL: So, the dumpster in Exhibit #2
11 you have a close-up in Exhibit #3?

12 MR. JONES: Yes, ma'am.

13 MS. ZANIEL: Okay and is that a fair and
14 accurate representation of how it looked on that
15 morning?

16 MR. JONES: Yes, ma'am.

17 MS. ZANIEL: And do you have the photograph
18 dated as to when you took it?

19 MR. JONES: That would be 1/12/2016.

20 MS. ZANIEL: And I'd ask you now to look,
21 please, at your Exhibit #4 and tell us what that
22 is.

1 MR. JONES: That's a close-up picture of the
2 recyclable containers that they have in the back
3 of the establishment.

4 MS. ZANIEL: So, is it the same that's in the
5 picture Exhibit #2?

6 MR. JONES: Yes, ma'am.

7 MS. ZANIEL: Okay and was this a fair and
8 accurate representation of that container on that
9 day, January 12, 2016?

10 MR. JONES: Yes, ma'am.

11 MS. ZANIEL: And, after you took these
12 photographs and saw these things, what did you
13 do?

14 MR. JONES: At that point, I continued to
15 monitor the H Street corridor and then I went
16 back to the office.

17 MS. ZANIEL: So, on the 12th, you continued
18 to monitor and then you went back to the office?

19 MR. JONES: Yes, ma'am.

20 MS. ZANIEL: Did there come occasion when you
21 returned to Po Boy Jim with respect to this
22 information that you had seen?

1 MR. JONES: Yes, ma'am, I returned a week
2 later on the 19th.

3 MS. ZANIEL: And what did you do on that day?

4 MR. JONES: On that day, I came in contact
5 with an ABC manager and I wanted to verify that,
6 in fact, these containers were a part of the
7 establishment and I had her come outside to the
8 back of the establishment and she did verify that
9 they were their containers, Po Boy Jim's
10 containers.

11 MS. ZANIEL: And she verified she was an ABRA
12 manager as well?

13 MR. JONES: Yes, ma'am.

14 MS. ZANIEL: Okay, and on the 19th when you
15 returned had you done anything prior to going
16 with respect to looking at documents concerning
17 this establishment?

18 MR. JONES: Yes, I reviewed the ABRA records
19 for the establishment and observed that they do
20 have a settlement agreement.

21 MS. ZANIEL: And is that a part of your usual
22 process to look at the ABRA records?

1 MR. JONES: Yes, ma'am.

2 MS. ZANIEL: And with respect to the
3 settlement agreement did it have anything to do
4 with the litter that you found?

5 MR. JONES: Within the settlement agreement
6 for Po Boy Jim's it has a statement regarding
7 trash pickup and removal.

8 MS. ZANIEL: And will you tell us what that
9 statement is, please?

10 MR. JONES: The statement reads, "licensee
11 will maintain regular trash/garbage removal
12 service only during the hours from 9:00 a.m. to
13 5:00 p.m. All trash and garbage shall be stored
14 in an area not visible to neighbors until it is
15 picked by licensee hauler. The licensee shall
16 keep dumpster lids tightly closed. There shall
17 be no outdoor disposal of glass bottles after
18 9:00 p.m.

19 MS. ZANIEL: And on January 12th when you
20 first went out were the dumpster lids closed?

21 MR. JONES: No, ma'am.

22 MS. ZANIEL: I have no other questions for

1 this witness.

2 CHAIRPERSON ANDERSON: Do you have any
3 questions?

4 MS. ANTOINE: Yes, I do.

5 CHAIRPERSON ANDERSON: Go ahead and ask your
6 questions, please.

7 MS. ANTOINE: You said you monitor the H
8 Street corridor?

9 MR. JONES: Yes, ma'am.

10 MS. ANTOINE: And I'm trying to understand,
11 what do you mean by monitor? What is your
12 definition of monitor because my trash is in the
13 alley and you said you went and monitored the H
14 Street corridor and came back.

15 MR. JONES: Mm hmm.

16 MS. ANTOINE: That's my first question. I
17 have more, but I'll give you a chance to answer.

18 MR. JONES: For monitoring, what I was doing
19 on that day I was monitoring for trash and
20 relevant issues, and so that requires me to
21 monitor the alleyways for that -- the H Street
22 corridor.

1 MS. ANTOINE: When you say you monitor --
2 you're saying you walk around, is that what
3 you're saying, that you walk around?

4 MR. JONES: I drive through the alleyways and
5 if I see that there are violations I will get out
6 of the vehicle.

7 MS. ANTOINE: Okay. On the particular day
8 that you came, which was a Tuesday, it's one of
9 my regular trash days.

10 MR. JONES: Mm hmm.

11 MS. ANTOINE: You don't know that but I do.

12 MR. JONES: Okay.

13 MS. ANTOINE: And I believe when you came my
14 guy was out there and you told him to move aside
15 so you can take pictures, but he was putting
16 trash out that very morning for the dumpsters to
17 be picked up at the same time you came in and
18 take -- and took pictures of trash. If you look
19 at the Exhibits, Exhibit #3, which is the regular
20 trash, not the recyclables, it's not overflowing.

21 MR. JONES: Mm hmm.

22 MS. ANTOINE: There are homeless people that

1 walk through that alley all day, all night. They
2 lift up trash to search for things to see if they
3 can find anything.

4 MR. JONES: Mm hmm.

5 MS. ANTOINE: This is not an overflowing
6 trash. Now the recyclables it is more out there
7 because --

8 CHAIRPERSON ANDERSON: Hold on one minute
9 please, Ms. Antoine. Yes, Ms. Zaniel?

10 MS. ZANIEL: Ms. Antoine will certainly have
11 an opportunity to testify but she really needs to
12 limit this to a question at this point.

13 CHAIRPERSON ANDERSON: I know she's not an
14 attorney, so what I need you to do, ma'am, is at
15 some point I want you to phrase what you're
16 saying to him into a question, so you can --

17 MS. ANTOINE: Well, I was trying to find what
18 is this definition of monitor?

19 CHAIRPERSON ANDERSON: No, that's fine.
20 That's fine, I'm just saying.

21 MS. ANTOINE: By the time he goes around
22 through the alley, goes to the light to make a U-

1 turn back through the alley, the dumpster could
2 have come through there.

3 CHAIRPERSON ANDERSON: No, I know, I'm just
4 saying, all I'm asking that you do is that when
5 you ask him -- when you -- when you -- just try
6 to ask a question, so nothing's wrong with what
7 you're doing but just phrase it in a question
8 when you ask him.

9 MS. ANTOINE: Okay, like I said, what is his
10 definition of monitoring? That was one of my
11 questions. My second question is when you came
12 out there that Tuesday morning, my maintenance
13 staff was there. Did you not tell him to step
14 aside so you can take pictures?

15 MR. JONES: No.

16 MS. ANTOINE: You did not?

17 MR. JONES: No.

18 MS. ANTOINE: Okay. Well, that's all the
19 questions I have, but like I said I would like to
20 make my statement for this particular date.

21 CHAIRPERSON ANDERSON: Well, you're going to
22 make you statement --

1 MS. ANTOINE: Okay.

2 CHAIRPERSON ANDERSON: But this is your
3 opportunity -- this is your opportunity to ask
4 him more questions about -- so if you want to ask
5 him more questions you can, you can make your
6 statement later on but --

7 MS. ANTOINE: Mm hmm.

8 CHAIRPERSON ANDERSON: -- remember you can
9 ask him other questions if you want to, to ask
10 them.

11 MS. ANTOINE: Okay. At what time did you
12 receive a call to come out to Po Boy Jim to take
13 these pictures? Was it the day before? Was it
14 the day of? When did you receive some type of --
15 I don't know if a neighbor might have called you
16 and said, "hey, come and check out Po Boy Jim."
17 Did you receive it on the 11th? Did you receive
18 it on the morning of the 12th? Do you recall any
19 of those times or dates?

20 MR. JONES: I didn't receive a call.

21 MS. ANTOINE: But what caused you to come out
22 to Po Boy Jim, though?

1 MR. JONES: I monitor various areas of the
2 district.

3 MS. ANTOINE: Mm hmm.

4 MR. JONES: On that day it happened to be H
5 Street Northeast --

6 MS. ANTOINE: Mm hmm.

7 MR. JONES: -- the 700 block.

8 MS. ANTOINE: Okay.

9 MR. JONES: And that's why I was there.

10 MS. ANTOINE: Well, let me ask you this, you
11 said you came back on the 19th and you came in
12 whatnot. On the 12th, did you do the same thing?
13 Come into the establishment and say, "hey,
14 where's your ABC license? What's going on here?"
15 On the 12th?

16 MR. JONES: No, I testified earlier that I
17 did not, I kept monitoring the H Street corridor.

18 MS. ANTOINE: Okay.

19 CHAIRPERSON ANDERSON: Any other questions,
20 ma'am?

21 MS. ANTOINE: That's all the questions I
22 have.

1 CHAIRPERSON ANDERSON: Do you have any
2 questions of the investigator by the Board? Yes,
3 Ms. Miller?

4 MS. MILLER: Good afternoon, Mr. Jones.

5 MR. JONES: Good afternoon, ma'am.

6 MS. MILLER: I don't know if I didn't hear,
7 but did you just look at the trash on one day or
8 did you look at it the following week when you
9 came back?

10 MR. JONES: I did look at it when I went back
11 to make the advisement.

12 MS. MILLER: You did?

13 MR. JONES: Yes.

14 MS. MILLER: And what was the condition of
15 the -- the pictures we have are just of the 12th,
16 right?

17 MR. JONES: Of the 12th, correct.

18 MS. MILLER: What were the conditions of the
19 trash on the 19th?

20 MR. JONES: The conditions of the trash on
21 the 19th were fine.

22 MS. MILLER: Okay.

1 MR. JONES: So, the lids on the containers,
2 on the other containers, weren't open. There was
3 no overflowing of recyclables or trash or
4 anything like that.

5 MS. MILLER: Okay and was it around the same
6 time of day or a different time of day?

7 MR. JONES: It was a little bit of a
8 different time of the day.

9 MS. MILLER: Was it a different day -- same
10 day of the week, though?

11 MR. JONES: It was the same day of the week,
12 yes.

13 MS. MILLER: Okay. When you advised the
14 licensee about the trash, were you given an
15 explanation for it? The condition of the trash
16 on the 12th?

17 MR. JONES: What I recall, the ABC manager
18 just mentioned that she realizes that it has been
19 an issue and that she would let management or
20 ownership know what was going on.

21 MS. MILLER: Okay. One last question, I
22 think. Exhibit #3 -- it doesn't look like the

1 trash is overflowing, but it looks like the
2 container is open. Is that correct? Because
3 that's when we see an open container, when
4 there's trash overflowing.

5 MR. JONES: So, Exhibit #3 is an accurate
6 picture of the dumpster. There is trash that has
7 reached the top of the dumpster and the lid is
8 open.

9 MS. MILLER: Right.

10 MR. JONES: Right.

11 MS. MILLER: I guess my question is -- you're
12 -- well, how long do you spend at a lo -- how
13 long did you spend at this location to observe
14 the trash?

15 MR. JONES: I don't stay long. I'm not going
16 to sit there and watch trash.

17 MS. MILLER: Okay. What looks to me like --
18 this -- and often when we look at the open
19 containers it's because they're overflowing and
20 they can't close the lid.

21 MR. JONES: Mm hmm, I understand, right.

22 MS. MILLER: Yeah, so in this case it doesn't

1 look like that was the case. So, do you have any
2 other thoughts as to why the lid would be open?

3 MR. JONES: I have no thoughts, I don't run
4 the place, and all I know is that the lid was
5 open, there's trash that is reaching the top of
6 the dumpster. The settlement agreement clearly
7 says that they can't have lids open.

8 MS. MILLER: Okay. Okay. Thank you.

9 MR. JONES: Yes, ma'am.

10 CHAIRPERSON ANDERSON: I just want to ask a
11 question, Mr. Jones. The licensee said that
12 there were employees in the alley the time you
13 were there. Was there anyone else in the alley
14 when you appeared to take the pictures?

15 MR. JONES: I do remember there was one male
16 employee. I don't ask people to step out of the
17 way to take pictures.

18 CHAIRPERSON ANDERSON: I don't --

19 MR. JONES: I just take pictures. But I do
20 remember one male employee in the -- I think he
21 was dumping something or he was putting something
22 in one of the containers.

1 CHAIRPERSON ANDERSON: Any other questions by
2 any other Board members? No other questions?

3 MS. ZANIEL: May I add something on redirect?

4 CHAIRPERSON ANDERSON: Yes, what is it, Ms.
5 Zaniel?

6 MS. ZANIEL: Mr. Jones, do you monitor
7 licensee's for litter? Is that part of the
8 monitoring that you do specifically as to litter?

9 MR. JONES: Yes, ma'am.

10 MS. ZANIEL: And why is that done?

11 MR. JONES: It's been done because it --
12 there was a mandate that came down that just like
13 we have a noise task force, so there was
14 something that has been a very big problem for
15 the community and so we were asked to start to
16 monitor the trash and rodent issues within the
17 District of Columbia.

18 MS. ZANIEL: And, if you take a look at your
19 exhibit #6 of your report, can you tell us what
20 that is, please?

21 MR. JONES: Exhibit #6 is a picture of a dead
22 rodent.

1 MS. ZANIEL: And where was it with -- where
2 was the dead rodent with respect to the
3 containers for litter and trash that belong to
4 the licensee?

5 MR. JONES: The dead rodent was probably,
6 maybe, three feet, three or four feet in front of
7 the dumpster.

8 MS. ZANIEL: And when you were there on the
9 12th did you have an occasion to see anything of
10 any other sort of rodents?

11 MR. JONES: Yes, when I first entered the
12 alleyway, there were a few rodents that ran from
13 the dumpster, that came out of the dumpster.

14 MS. ZANIEL: Out of the dumpster belonging to
15 the licensee Po Boy Jim?

16 MR. JONES: Yes, ma'am. Yes ma'am.

17 MS. ZANIEL: Okay. No other questions.
18 Thank you.

19 CHAIRPERSON ANDERSON: Did you say you're
20 done, Ms. Zaniel?

21 MS. ZANIEL: I am done, thank you.

22 CHAIRPERSON ANDERSON: Did you have any

1 questions to ask of the investigator based on the
2 questions that the Board asked of him? Just
3 based on the question the Board asked him.

4 MS. ANTOINE: Okay. With respect to his dead
5 rodents, you said it was three feet away from my
6 dumpster approximately?

7 MR. JONES: Three to four feet, yes ma'am, in
8 front of the dumpster in the alley, it was in the
9 alley.

10 MS. ANTOINE: In the alley?

11 MR. JONES: Yes, ma'am. It was in the middle
12 of the alley, yes.

13 MS. ANTOINE: Okay. Did you actually see --
14 I mean, I'm sorry to ask you this, but did you
15 see that rodent come out of --

16 MR. JONES: I did not see him --

17 MS. ANTOINE: -- and then drop dead right
18 there?

19 MR. JONES: I did not see him cease in the
20 alleyway, no I didn't ma'am.

21 MS. ANTOINE: Okay.

22 MR. JONES: So, I am very --

1 MS. ANTOINE: When you were there did you
2 observe any cars driving through that alley apart
3 from yourself?

4 MR. JONES: Yes.

5 MS. ANTOINE: Okay.

6 MR. JONES: Well, I would say truck. There
7 was truck deliveries, yes ma'am.

8 MS. ANTOINE: Yes, many times. Okay. So,
9 are you now just generalizing that this came from
10 Po Boy Jim? This rodent came out from Po -- came
11 from Po Boy Jim? From our establishment? Is
12 that fair and accurate to say?

13 MR. JONES: What my observation was, when I
14 first entered the alleyway, I observed a few
15 rodents that came from your dumpster. I happened
16 to look down before I stepped on it and there was
17 a dead rodent in front of me that was in front of
18 your dumpster. I'm not saying that he came from
19 your dumpster, but it was in front of your
20 dumpster. So, I can't articulate and say that
21 that dead rodent actually came from your dumpster
22 --

1 MS. ANTOINE: Mm hmm.

2 MR. JONES: -- but this is one of the issues
3 that we have in the district and so I took the
4 picture and made it an exhibit because this is
5 one of the issues.

6 MS. ANTOINE: Okay, I guess I'll make it in
7 my statement, because rodents are everywhere in
8 this city, and for us to continue talking about
9 rodents when there's so much development taking
10 place on H Street and they are scampering for
11 safety or a place to nest or what have you. Of
12 course, rodents -- they go to trash. It's trash.
13 That's what they do. So, I guess I'm just
14 frustrated that every time the finger gets
15 pointed at Po Boy Jim when this is a huge city, a
16 big H Street with tons of construction, I can
17 look out of my doors at night and see them
18 running all over the place, so it's not always Po
19 Boy Jim. So, my frustration is always that.
20 "Oh, I came and I saw a rodent" and it came from
21 Po Boy Jim. Then I asked you earlier did you not
22 see one of my staff members in the alleyway

1 putting away boxes, which is what he was doing
2 that morning because that is my trash pickup day.
3 He was putting out the recycle. I asked you that
4 first and you said, no you didn't see, but yet
5 you just made the statement that -- when Mr.
6 Anderson asked you -- that you might have
7 observed someone out there, a guy was out there
8 putting away recyclables. So, what is it? Did
9 you see someone doing it or did you not see it?

10 MR. JONES: I didn't respond to that, ma'am.

11 MS. ANTOINE: You didn't just answer Mr.
12 Anderson -- what was your question? Where he
13 said he seen the worker out there?

14 CHAIRPERSON ANDERSON: The question that I
15 asked was that did he see -- because the
16 allegation you had stated that it was one of your
17 workers was there and he had asked the person to
18 move aside to take pictures. I didn't ask him
19 about moving aside, the only question I asked him
20 was whether or not he had seen anyone there, and
21 I think the answer was yes there was one of your
22 workers probably was there. I don't know what

1 the person was doing --

2 MS. ANTOINE: He was putting out trash.

3 CHAIRPERSON ANDERSON: I'm just saying he
4 didn't elaborate, he just stated if I remember
5 correctly, that someone, what might have been --
6 is that correct, Mr. Jones?

7 MR. JONES: So, that is correct, but my
8 response, what I was responding to her was I
9 didn't get a chance to answer that earlier, so at
10 least I don't recall. I know she went into
11 saying that there was someone out there. I don't
12 recall responding to saying there was someone out
13 there or not.

14 CHAIRPERSON ANDERSON: No, I think what you
15 said, Mr. -- what you are saying, Mr. Jones, was
16 that -- her statement was that you asked the
17 person to step aside so you could take a picture
18 --

19 MR. JONES: Correct, correct.

20 CHAIRPERSON ANDERSON: -- and I think you
21 denied that --

22 MR. JONES: Correct, correct.

1 CHAIRPERSON ANDERSON: -- that that's
2 something that you normally do. So, I was just
3 trying to find out, when I asked my question, was
4 there someone there?

5 MR. JONES: Someone there.

6 CHAIRPERSON ANDERSON: That's all I was
7 asking.

8 MR. JONES: Correct.

9 CHAIRPERSON ANDERSON: All right. Any other?
10 All right.

11 MS. MILLER: Mr. Chairman?

12 CHAIRPERSON ANDERSON: Yes, Ms. Miller.

13 MS. MILLER: I feel that I may be out of
14 order but I'm wondering if I could ask one more
15 question to clarify.

16 CHAIRPERSON ANDERSON: To clarify what issue?
17 I mean, we have gone through the witness, I was
18 about to -- I mean if I -- I was about to excuse
19 the witness, so if I ask you a question then I
20 have to ask -- then everyone has to have an
21 opportunity, so, okay, if you need to ask a
22 question, Ms. Miller, go ahead and ask the

1 question.

2 MS. MILLER: Okay. It's just to clarify. I
3 was just looking over your report and the first
4 paragraph it says "due to an overabundance of
5 trash being stuffed into the containers and
6 spilling onto the surrounding ground" and so I'm
7 wondering is that referring to the recycle
8 container in exhibit #4 that does appear to be
9 overstuffed as opposed to the other trash?

10 MR. JONES: My statement is a combination of
11 both, so that involves the recyclables as well as
12 the dumpster area.

13 MS. MILLER: Okay, I just want to clarify
14 that Exhibit #3, the photograph, doesn't look
15 like it's overflowing. I think you said, but it
16 is stuffed to the top or something.

17 MR. JONES: I thought that -- okay, no.

18 MS. MILLER: Is there another photo or is
19 there another trash?

20 MR. JONES: No, there is not another photo.

21 MS. MILLER: Okay. So, we can't -- this
22 trash wasn't flowing onto the ground, the regular

1 trash, as opposed to the recyclables, is that
2 correct?

3 MR. JONES: What I mentioned earlier when we
4 talked about this was that the level of the trash
5 was at the top of the dumpster with the lid open.
6 There was trash on the ground but, again, my
7 statement is a combination of this as well as the
8 recyclables.

9 MS. MILLER: Okay. But your statement is
10 that there was some regular trash on the ground.

11 MR. JONES: Yes, ma'am.

12 MS. MILLER: Okay. Thank you. Thank you,
13 Mr. Chairman.

14 MS. ANTOINE: [inaudible 1:00:08]

15 CHAIRPERSON ANDERSON: Hold on, hold on.
16 Hold on ma'am. You don't need to answer that
17 question. Ms. Zaniel, do you have any questions
18 based on Ms. Miller's questions?

19 MS. ZANIEL: No, I don't, thank you.

20 CHAIRPERSON ANDERSON: Ms. Antoine, do you
21 have a question of the witness based on the
22 question that was asked by Ms. Miller?

1 MS. ANTOINE: Well, again, do you have
2 pictures of the trash being on the ground? You
3 said there's trash in the dumpster, it's not
4 overflowing, but you said there was trash on the
5 ground. Do you have a picture?

6 MR. JONES: I don't have a picture of trash
7 on the ground; however, the pictures that I do
8 have constitute what I felt was the violations
9 that I listed in the report.

10 CHAIRPERSON ANDERSON: That's it? Thank you,
11 very much, Mr. Jones for your testimony here, you
12 can step down.

13 MR. JONES: Thank you.

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

16 MS. ZANIEL: No, the government rests.

17 CHAIRPERSON ANDERSON: Ms. Antoine, since
18 you're going to be the attorney and a witness,
19 can you stand please? Can you raise your right
20 hand, please. Do you swear or affirm to tell the
21 truth and nothing but the truth?

22 MS. ANTOINE: I do.

1 CHAIRPERSON ANDERSON: Thank you, you can
2 have a seat. Can you -- how do you wish to
3 present your case, ma'am?

4 MS. ANTOINE: I think for me the biggest
5 thing was the fine. If you're going to attach a
6 fine to me at least, you know, make something
7 valid of it. My guy was there putting out trash
8 that morning. This is why I asked for a hearing
9 because I knew that this wasn't accurate. So,
10 for me to just be hit with a fine just because, I
11 don't know, there was a dead rat. Like I said,
12 there are homeless people that walk through that
13 alley throughout the day and they leave more than
14 just trash, and that's something I have to deal
15 with as the owner. That's fine, but at the same
16 time, you know, you just can't fine me every time
17 for people that are freely walking through that
18 alley. They go through your trash and looking
19 for things that they may see as value. This
20 trash is not overflowing. This trash is not
21 overflowing. Like I said, my maintenance man was
22 out there, he was putting out the recyclables and

1 he was doing trash, because that is a regular
2 trash pickup day for us. So, this whole -- I'm
3 not buying this monitoring thing. I really am
4 not buying it. You just can't -- if you're going
5 to monitor H Street, you need people there all
6 throughout the day because throughout the day is
7 how I monitor my trash, because I know people
8 come through there in the alleyways and they
9 throw things, they pick up things and they leave
10 things throughout the day. And you can't see
11 this on H Street if you're monitoring H Street.
12 This is an alley. Like I said, I opposed to the
13 fine and I just don't think it's warranted based
14 on this. Someone was there putting out trash.
15 He was there. That's all I have to say.

16 CHAIRPERSON ANDERSON: Ms. Zaniel do you have
17 any questions of the licensee?

18 MS. ZANIEL: No, I don't.

19 CHAIRPERSON ANDERSON: All right, Ms. Antoine
20 what do you -- can you explain to me that
21 somebody was out there putting out trash. What
22 do you mean by that?

1 MS. ANTOINE: I have a maintenance guy. When
2 he comes in in the mornings, because we cannot go
3 after 9:00 p.m. outside, we close at 12:00
4 midnight. Whatever trash is in our building will
5 be in containers in the yard and recyclables.
6 The morning when he comes in, his responsibility
7 is to put it out in the dumpsters so that it can
8 be hauled away, and that is one of our regular
9 days on Tuesdays that they come. So, this is why
10 it's so high because he put out all the boxes of
11 the recyclable bins that day.

12 CHAIRPERSON ANDERSON: Now, do you have --
13 did you bring anything to prove that Tuesday, the
14 day when this, that this was a Tuesday and that's
15 your regular trash pickup occurred on that day?

16 MS. ANTOINE: No, I do believe the Board has
17 a copy of all of that because it's not the first
18 time that they came.

19 CHAIRPERSON ANDERSON: I'm asking you to say
20 -- I'm just asking --

21 MS. ANTOINE: No, I didn't bring a copy with
22 me, but it just said that I just remember that

1 day being a Tuesday and that's my trash day. I
2 didn't have a copy of anything to say that.

3 CHAIRPERSON ANDERSON: Does the Board -- any
4 other members have any? Yes, Mr. Alberti.

5 MR. ALBERTI: Ms. Antoine, how often do you
6 get trash collected?

7 MS. ANTOINE: We get trash picked up four
8 days a week.

9 MR. ALBERTI: Four days.

10 MS. ANTOINE: Recyclables five days a week.

11 MR. ALBERTI: Five days a week.

12 MS. ANTOINE: Yes.

13 MR. ALBERTI: Okay. So, is it typical that -
14 - so this would have been a Monday.

15 MS. ANTOINE: This is a Tuesday that this
16 happened.

17 MR. ALBERTI: This is a Tuesday, so this
18 would have been trash from Monday?

19 MS. ANTOINE: The recyclables from Monday,
20 yes, Mm hmm, from the weekend. Well, Sunday and
21 Monday. Because they pick up on Saturdays also.

22 MR. ALBERTI: Okay. So, is it typical that

1 you'll have that much trash that it doesn't
2 really completely fit into your bin?

3 MS. ANTOINE: Well, again, our trash is in
4 the bin, it's just the recyclables because we
5 have a lot of things that come in boxes, yes.

6 MR. ALBERTI: The recyclables -- is it often
7 that it doesn't completely fit in?

8 MS. ANTOINE: Oh yes, it's often, because I
9 mean my business is strictly fried for the most
10 part. We change oils three to four times a week,
11 and those are large barrels. We step on it,
12 break it down, what have you, to get it smaller
13 but we do fries, our French fries are homemade so
14 we go through 12 cases of fries a week or more.

15 MR. ALBERTI: Well I'm just asking more out
16 of curiosity --

17 MS. ANTOINE: I'm saying that to say all of
18 these come in boxes, so that's why we have such
19 an abundance of it, everything comes in a box.

20 MR. ALBERTI: Just out of curiosity, I don't
21 see -- these pictures seem to show the entire
22 back of your property, right? I guess my

1 question --

2 MS. ANTOINE: Yes, for the most part.

3 MR. ALBERTI: My question is I don't see
4 containers for used oil. Where is -- how is that
5 --

6 MS. ANTOINE: It's to the right of the trash.

7 MR. ALBERTI: Okay, to the right of the
8 trash. Okay, this is -- I didn't see it in here.

9 MS. ANTOINE: It's to the right of the trash
10 dump -- if you look in the dumpster -- yeah,
11 there's a little brown thing there.

12 MR. ALBERTI: Okay.

13 MS. ANTOINE: Mm hmm.

14 MR. ALBERTI: I have no further questions.

15 CHAIRPERSON ANDERSON: Any other questions by
16 any other Board members? Yes, Ms. Miller.

17 MS. MILLER: Ms. Antoine?

18 MS. ANTOINE: Yes.

19 MS. MILLER: How many trash receptacles do
20 you have?

21 MS. ANTOINE: I have one dumpster that can
22 fit in that spot right there, this one that you

1 see in Exhibit #3.

2 MS. MILLER: Okay, so you have a --

3 MS. ANTOINE: That's just trash, and there's
4 one on the left of it -- or the right of it for
5 recyclables.

6 MS. MILLER: Okay. And then your oil thing
7 or something.

8 MS. ANTOINE: And then my oil, Mm hmm.

9 MS. MILLER: Okay. Can you explain why the
10 trash can would have been open?

11 MS. ANTOINE: Like I said, someone was there
12 that morning doing trash.

13 MS. MILLER: Okay.

14 MS. ANTOINE: It's not overflowing, he might
15 have had the lid open or someone could have
16 walked through the alley and opened up the trash,
17 like I said it's not unusual for them to come
18 through there and go through your trash, but he
19 was putting out trash and recyclables that
20 morning because the dumpsters were coming to pick
21 up.

22 MS. MILLER: Do you know what time the

1 dumpsters come?

2 MS. ANTOINE: They usually arrive before
3 12:00 noon for the most part, sometimes they go
4 later, it depends on traffic in the city.

5 MS. MILLER: Okay.

6 MS. ANTOINE: There's lots of road blocks and
7 detours in that area now because of the
8 development, so sometimes they don't get there in
9 a timely manner.

10 MS. MILLER: Okay. And did you say that --
11 do you monitor your trash or somebody else?

12 MS. ANTOINE: Oh yes, I do.

13 MS. MILLER: You do?

14 MS. ANTOINE: Yes.

15 MS. MILLER: So, like at what times of the
16 day do you monitor your trash and what do you do
17 when you monitor your trash?

18 MS. ANTOINE: Well, when I come in Tuesday
19 mornings that's the first thing I do is go
20 straight through the back and look at trash. I
21 do it again when I know it's trash pickup time to
22 make sure that they pick up.

1 MS. MILLER: Okay.

2 MS. ANTOINE: And before I leave my
3 establishment I check again.

4 MS. MILLER: Have you had any complaints from
5 people in the area about your trash?

6 MS. ANTOINE: Not since our last meeting here
7 --

8 MS. MILLER: Okay.

9 MS. ANTOINE: -- with respect to the trash
10 when that was brought up.

11 MS. MILLER: So that's been -- has that been
12 resolved basically?

13 MS. ANTOINE: Yes.

14 MS. MILLER: As far as you know.

15 MS. ANTOINE: Yes.

16 MS. MILLER: Okay. And then you have another
17 person that breaks up the boxes, is that it?

18 MS. ANTOINE: Yeah, I -- my head of
19 maintenance, he does all of that.

20 MS. MILLER: Okay.

21 MS. ANTOINE: But he comes in on Tuesday
22 mornings.

1 MS. MILLER: Tuesday is the big day for him
2 to do that?

3 MS. ANTOINE: Tuesday's a big day for him
4 from the weekend.

5 MS. MILLER: Oh, okay.

6 MS. ANTOINE: He's there four other days
7 throughout the week but Tuesdays is his day that
8 he comes in Tuesday mornings from the weekend.

9 MS. MILLER: Oh, okay. So, the picture of
10 the boxes high up on the trash, that's -- is that
11 typical of a Tuesday morning?

12 MS. ANTOINE: That's what he did. I mean I
13 have -- I no longer have these small boxes, I had
14 to go to a larger dumpster which is similar to my
15 regular trash dumpster, I guess they call it a
16 five-footer or what have you, but this is typical
17 of our weekends.

18 MS. MILLER: Okay, but not the other days?

19 MS. ANTOINE: No, coming in on a Tuesday
20 that's usually how much we have because it's in
21 my yard.

22 MS. MILLER: Okay, and one other question.

1 As far as the picture of the dumpster in #3, is
2 that -- do you have more trash on Tuesday as well
3 as recyclables? Or not necessarily?

4 MS. ANTOINE: Not necessarily.

5 MS. MILLER: Okay.

6 MS. ANTOINE: The recyclables are the biggest
7 ones because of the deliveries that we get,
8 everyone is sending something in a box.

9 MS. MILLER: Okay, thank you.

10 CHAIRPERSON ANDERSON: Go ahead, Mr. Short.

11 MR. SHORT: Good afternoon.

12 MS. ANTOINE: Good afternoon.

13 MR. SHORT: Have you thought of investing in
14 a trash compactor?

15 MS. ANTOINE: No, I haven't looked at that,
16 no.

17 MR. SHORT: I think maybe you should think
18 about looking into that. It sounds like you have
19 great business, you're selling cases and cases of
20 fries, and so you have a lot of trash and you're
21 going to have a lot of trash. Maybe if you had a
22 compactor, your business might want to invest in

1 that and that way you get what you can between
2 trash pickups. Have you thought of that?

3 MS. ANTOINE: I've never thought of it --

4 MR. SHORT: So could I ask you to look into
5 that?

6 MS. ANTOINE: Okay.

7 MR. SHORT: You might save yourself a lot of
8 grief.

9 MS. ANTOINE: Does a Board member get it at
10 his or her rate? Reasonably priced?

11 MR. SHORT: I don't own a business like yours
12 so I've never needed one.

13 MS. ANTOINE: Okay.

14 MR. SHORT: I just have been around a lot of
15 businesses and have been in public safety so I
16 got a chance to go into a lot of alleys around
17 the city, yours included, and I have seen trash
18 compactors at some places.

19 MS. ANTOINE: Okay.

20 MR. SHORT: They're very popular in
21 Georgetown. So, you might do yourself a big
22 favor and don't have to worry about any

1 overflowing trash cans or anything. A trash
2 compactor will help you out.

3 MS. ANTOINE: Okay.

4 MR. SHORT: Thank you.

5 MS. ANTOINE: Thank you.

6 CHAIRPERSON ANDERSON: Yes, Mr. Silverstein?

7 MR. SILVERSTEIN: I'd like to underscore for
8 Ms. Antoine what my colleague, Mr. Short, said
9 and would also point out that the city is helping
10 those who want to buy those trash contractors,
11 they are providing a subsidy to help you buy it.

12 MS. ANTOINE: Okay.

13 MR. SILVERSTEIN: A number of places in my
14 neighborhood in DuPont Circle where rodents are a
15 very serious problem joined together to buy a
16 trash compactor and use it and they found that it
17 saved them a lot of money because they don't have
18 to have pickups as often and it's just easier in
19 every way for the neighborhood and it's easier
20 for the people, the sanitation people, who are
21 doing the pickups. One quick question: One #3,
22 you said you had a person in the alley, but this

1 is open but you don't know how it got open.

2 MS. ANTOINE: No, I never said I said it
3 could have been him or it could have been just
4 someone walking through the trash. When he comes
5 in Tuesday mornings that's his job, putting the
6 trash and --

7 MR. SILVERSTEIN: What time do the trash
8 people come? What time does he show up?

9 MS. ANTOINE: He comes in -- it varies. Mike
10 is there like 10:00.

11 MR. SILVERSTEIN: And when do the trash
12 people come?

13 MS. ANTOINE: Usually they're there before
14 noon. They're usually there before noon unless
15 there's some type of detour or something that
16 prevents them from coming through.

17 MR. SILVERSTEIN: But he's there every time
18 before them?

19 MS. ANTOINE: Yes, he's there before them.
20 He's there before them and even back in January,
21 again, you know that 7th Street area there was a
22 lot of construction with the government's social

1 services boom.

2 MR. SILVERSTEIN: Sure.

3 MS. ANTOINE: A lot of dumpsters couldn't get
4 through.

5 MR. SILVERSTEIN: There's a tremendous amount
6 of construction there as you point out and that -
7 - you know, they're disturbing rat harborages and
8 the rats are going elsewhere, but they're also
9 going places to eat.

10 MS. ANTOINE: Yeah.

11 MR. SILVERSTEIN: And that's why -- you know,
12 you ask why we're doing this. We're doing this
13 because it's a public health issue, that's why
14 we're monitoring these things and we all need to
15 work together on that and find solutions. No
16 further questions.

17 MS. ANTOINE: Okay.

18 CHAIRPERSON ANDERSON: Let me go back to Mr.
19 Alberti and then I'll go back to you.

20 MR. ALBERTI: I'll withdraw my question.

21 CHAIRPERSON ANDERSON: Go ahead, Mr.Short.

22 MR. SHORT: Would you look into seriously

1 letting the city help you get a trash compactor?

2 MS. ANTOINE: I would, I mean if the city is
3 willing, I mean the city brought us a green
4 recyclable but I don't see anyone coming to pick
5 that up and if it's a recyclable bin, I don't
6 know what the purpose of it was. I thought they
7 were going to come out and pick up -- it's just
8 like a small trash can, it's not --

9 MR. SHORT: They have one at every business
10 in the city, I have one in mine, too.

11 MS. ANTOINE: Yeah.

12 MR. SHORT: But, I'm just trying to --
13 looking at your history you've been here before
14 for the same issue, correct?

15 MS. ANTOINE: Yes.

16 MR. SHORT: I bet you a trash compactor would
17 really, really help you out. I can't over-
18 emphasize that. I really think that you would
19 make the neighborhood a lot better and [inaudible
20 1:15] save money and that's why the city is
21 investing in it.

22 MS. ANTOINE: Okay.

1 MR. SHORT: And if you just -- I'm just
2 trying to get you --

3 MS. ANTOINE: Do you have a telephone number
4 for that?

5 MR. SHORT: No, I do not. One thing I will
6 say, if I was a business person I'd find every
7 number I could find if I were a business person
8 and I had your type of business. But I'll just
9 simply say this to you, I'm just trying to get
10 some kind of commitment that you will do
11 something to help yourself because you're going
12 to keep coming before this Board and sooner or
13 later it's going to be a clash. But if you
14 commit to that I bet other Board members would
15 consider [inaudible 1:16]. But you've got to
16 help yourself. Help us help you.

17 MS. ANTOINE: Well, I invested in a larger
18 compactor for the recyclables, like I said I
19 invested in the larger one, you know, I never
20 thought of a compactor or what have you, I just
21 got a larger bin.

22 MR. SHORT: Will you commit to me as a Board

1 member that you will look into this?

2 MS. ANTOINE: I will.

3 MR. SHORT: All right thank you, that's all I
4 have. Thank you Mr. Chair.

5 CHAIRPERSON ANDERSON: Thank you. Any other
6 questions by any other Board members? Yes, Ms.
7 Miller?

8 MS. MILLER: I just want, it's a very quick
9 followup. I wasn't sure what you were talking
10 about with you got another bin from the
11 government and it's not good?

12 MS. ANTOINE: No, the city came by and
13 dropped off -- I don't know, it's like one of
14 those trash cans on wheels, it's not very large,
15 it says "recyclable" and I put recyclables in
16 there thinking that they would pick up but they
17 don't pick up that particular, you know, so I was
18 like what's the purpose of me having this? So,
19 it's no use to me. I still, if I put something
20 there I have to take it out and put it into my
21 regular recyclable bin, but I don't know why I
22 got it.

1 MS. MILLER: Did you call and follow up?

2 MS. ANTOINE: No, I didn't call them. I just
3 said, okay I'll, you know, break bottles down and
4 put inside there, so we just put it in our
5 regular dumpster, our regular recyclable
6 dumpster. It's been there for over a year.

7 MS. MILLER: Thank you. Okay.

8 CHAIRPERSON ANDERSON: All right. Ms.
9 Antoine, this is your -- do you -- normally I
10 would say do you want to ask any questions, but
11 do you have any -- based on the questions that
12 were just made by the Board do you need to say
13 any final thoughts or statements that you want to
14 make? I'm going to give you a chance to make a
15 closing, but normally I would say do you want to
16 ask the Board any questions based on the
17 questions that were just asked of you?

18 MS. ANTOINE: No, I'm fine.

19 CHAIRPERSON ANDERSON: No? You're fine?

20 MS. ANTOINE: Mm hmm.

21 CHAIRPERSON ANDERSON: All right. Do you
22 rest?

1 MS. ANTOINE: Yes, I rest.

2 CHAIRPERSON ANDERSON: All right. Does the
3 government wish to make a closing statement?

4 MS. ZANIEL: Yes. The government says, and I
5 believe Mr. Silverstein spoke to this issue,
6 there is a problem with rodents in the District
7 of Columbia, that's a given, and that's why it's
8 even more critical that licensees pay as careful
9 attention as possible to their own litter and
10 trash situation. The government's evidence
11 showed through the testimony of the investigator
12 that on the day he went out, and that morning,
13 there was litter and trash that was overflowing
14 its container and that there was a dumpster that
15 was not closed. Whether it can be closed in the
16 picture -- maybe it could be, but certainly
17 there's materials up to the top of it and there
18 is, indeed, one thing that goes over. At any
19 rate, the dumpster lid is not closed and the
20 government believes that it has proven both
21 charges: Failing to take reasonable measures to
22 ensure the immediate environments are kept free

1 of litter and, certainly, with respect to the
2 settlement agreement there's a particular
3 provision that says all dumpsters must have lids
4 closed. Let me just reference it in the exhibit.
5 "The licensee shall keep dumpster lids tightly
6 closed." It would be -- at any rate, I do
7 believe the government's evidence shows through
8 the exhibits, through the investigative report,
9 and the photographs along with the testimony of
10 the investigator that both charges have been made
11 out. We'd ask the court -- the Board to so find.

12 CHAIRPERSON ANDERSON: And is there a fine
13 arrangement?

14 MS. ZANIEL: Well, this is a secondary tier
15 violation and, of course, there is a history.
16 The recommendation would be for \$650 for both --
17 for each charge. If the Board were to determine
18 that one charge is made out and another is not,
19 then obviously I would be asking for the \$650 for
20 the one charge as opposed to both.

21 CHAIRPERSON ANDERSON: Okay, all right.
22 Thank you. Do you need to make a closing

1 statement, Ms. Antoine?

2 MS. ANTOINE: I just want to say my guy was
3 there doing trash that morning, that the
4 investigative officer came out. I don't think
5 it's fair that I'm being find when that guy was
6 there, and I know he was that morning putting out
7 the trash, and I know that the officer was not
8 around to see the dumpsters come in to pick up or
9 what have you. He just came, took pictures,
10 issued the citation or what have you and was out
11 of there. So, it's like there's no type of
12 flexibility, you know, in dealing with these
13 issues, especially with trash. Like I said, he -
14 - I'm going to argue this all the way -- he was
15 out there that day. This is why I asked for the
16 hearing. He was there and he was doing trash,
17 and he saw him take pictures. He did. But I
18 should have brought him today but he has a second
19 job so he couldn't come, but he saw him taking
20 pictures. He was out there that morning. And
21 with respect to history it was once before with
22 the trash situation and a lot of those before

1 were due to the construction and trash dumpsters
2 not being able to get through the alley, not to
3 mention they redid that alley, it was closed for
4 over a week, all around that time.

5 CHAIRPERSON ANDERSON: Anything else?

6 MS. ANTOINE: That's all I have to say.

7 CHAIRPERSON ANDERSON: Okay.

8 MS. ZANIEL: If I may just lastly --

9 CHAIRPERSON ANDERSON: Okay.

10 MS. ZANIEL: There was also testimony that
11 the ABC manager who came out on the 19th when Mr.
12 Jones went back indicated she was aware of the
13 problem and would talk to management about it and
14 moreover Ms. Antoine herself said she went to a
15 bigger container of five feet so she herself
16 recognized that she had a problem on her hands.

17 MS. ANTOINE: Well, that problem was fixed
18 because we keep the recyclables in the yard, and
19 it was put out on Tuesday morning when the
20 dumpsters come to pick up, so with respect to
21 that, that's what I recognized, that we have more
22 recyclables than when we first started, but this

1 was why it's put out on Tuesday mornings and
2 that's why the recyclable is so high because he
3 was out there putting it out. And yes, I did go
4 to a larger recyclable bin so we wouldn't have to
5 sit it on top of the two small ones that we had.

6 CHAIRPERSON ANDERSON: All right, before Ms.
7 Zaniel, you had -- are there documents you need
8 me to move into the record?

9 MS. ZANIEL: If I failed to do so, I intended
10 to, yes, the government's #1, that's the
11 investigator report which is part of the record
12 but can be marked as government's #1 and I did
13 give a copy to the licensee.

14 CHAIRPERSON ANDERSON: I know you did but I
15 did not remember if you had moved it into the
16 record, but I remember it was mentioned, okay.

17 MS. ZANIEL: Certainly I do move that it be
18 admitted as part of the record.

19 CHAIRPERSON ANDERSON: Thank you. And, Ms.
20 Antoine, you don't have any documents that you
21 wish to be made a part of the record?

22 MS. ANTOINE: Today or?

1 CHAIRPERSON ANDERSON: Today.

2 MS. ANTOINE: No, I don't have anything.

3 CHAIRPERSON ANDERSON: All right. And the
4 last thing, do the parties wish to file proposed
5 findings of facts and conclusions of law or waive
6 their right to do so? Ms. Zaniel?

7 MS. ZANIEL: The government waives the right.

8 CHAIRPERSON ANDERSON: Ms. Antoine, that
9 means that do you want until the transcript comes
10 out to write something or you just want us to
11 make the decision on the testimony and evidence
12 here today?

13 MS. ANTOINE: You can make the decision.

14 CHAIRPERSON ANDERSON: Fine. As Chairperson
15 of the Alcoholic Beverage Control Board for the
16 District of Columbia and in accordance with D.C.
17 Official Code Section 2574 B of the Open Meetings
18 Amendment Act I move that the ABC Board hold a
19 closed meeting for the purpose of seeking legal
20 advice from our counsel on Case #16-CMP-00117, Po
21 Boy Jim, pursuant to D.C. 2574 B of the Open
22 Meetings Amendment Act and deliberating upon Case

1 #16-CMP-00117, Po Boy Jim, for the reasons cited
2 in D.C. Official Code Section 2574 B13 of the
3 Open Meetings Act. Is there a second?

4 MR. SILVERSTEIN: Second.

5 CHAIRPERSON ANDERSON: Mr. Silverstein has
6 seconded the motion. I will now take a roll call
7 vote on the motion before us now that it has been
8 seconded, Ms. Miller?

9 MS. MILLER: I agree.

10 CHAIRPERSON ANDERSON: Mr. Alberti?

11 MR. ALBERTI: I agree.

12 CHAIRPERSON ANDERSON: Mr. Short?

13 MR. SHORT: I agree.

14 CHAIRPERSON ANDERSON: Mr. Silverstein?

15 MR. SILVERSTEIN: I agree.

16 CHAIRPERSON ANDERSON: Mr. Anderson? I
17 agree. As it appears that the motion has passed
18 I hereby give notice that the ABC Board will
19 recess these proceedings to hold a closed meeting
20 in the ABC Board Conference Room pursuant to
21 Section 2574 B of the Open Meetings Act. We will
22 issue a decision within 90 days. Thank you very

1 much.

2 MS. ANTOINE: Thank you.

3 (Whereupon, the above-entitled matter was
4 concluded.)

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