

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:)	
)	
1900 M Restaurant Associates, Inc.)	License Number: 71717
t/a Rumors Restaurant)	Case Number: 09-251-00110
)	09-251-00210
)	09-251-00005
Holder of a Retailer's Class CN License)	Order Number: 2011-131
at premises)	
1900 M Street, N.W.)	
Washington, D.C. 20036)	

BEFORE: Nick Alberti, Acting Chairperson
Mital Gandhi, Member
Donald Brooks, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ALSO PRESENT: 1900 M Restaurant Associates, Inc., t/a Rumors Restaurant
(Respondent)

Andrew Kline, on behalf of the Respondent

Walter Adams II, Assistant Attorney General,
on behalf of the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

On June 2, 2010, the Alcoholic Beverage Control Board (Board) served Notices of Status Hearing and Show Cause Hearing (Notices), dated May 5, 2010, and May 26, 2010, on 1900 M Restaurant Associates, Inc., t/a Rumors Restaurant (Respondent), at premises 1900 M Street, N.W., Washington, D.C., charging the Respondent with the following violations:

Case Number 09-251-00110

- Charge I: The Respondent violated D.C. Code § 25-823(2) (2001) on January 4, 2009, by allowing the establishment to be used for an unlawful or disorderly purpose, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(6).
- Charge II: The Respondent violated D.C. Code § 25-113(d)(1) (2001) by violating Section 5 of the establishment's security plan on January 4, 2009, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(6).
- Charge III: The Respondent violated D.C. Code § 25-113(d)(1) by violating Section 7 of the establishment's security plan on January 4, 2009, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(6).

Case Number 09-251-00005

- Charge IV: The Respondent violated D.C. Code § 25-823(2) (2001) on April 4, 2009, by allowing the establishment to be used for an unlawful or disorderly purpose, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(6).
- Charge V: The Respondent failed or refused to allow an ABRA Investigator to enter or inspect without delay the licensed premises or examine the books and records of the business, or otherwise interfered with an investigation, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(5).
- Charge VI: The Respondent violated D.C. Code § 25-113(d)(1) by violating Section 1 of the establishment's Security Plan on April 15, 2009, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(6).
- Charge VII: The Respondent violated D.C. Code § 25-113(d)(1) by violating Section 7 of the establishment's security plan on April 4, 2009, and April 15, 2009, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(6).
- Charge VIII: The Respondent made a substantial change in its operations without the approval of the Board in violation of D.C. Code § 25-762 (2001), for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1).

Case Number 09-251-00210

- Charge I: The Respondent violated D.C. Code § 25-823(2) (2001) on August 1, 2009, by allowing the establishment to be used for an unlawful or disorderly purpose, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(6).
- Charge II: The Respondent violated D.C. Code § 25-113(d)(1) (2001) by violating Section 5 of the establishment's security plan on August 1, 2009, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(6).
- Charge III: The Respondent violated D.C. Code § 25-113(d)(1) by violating Section 7 of the establishment's security plan on August 1, 2009, for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(6).

FINDINGS OF FACT

1. The Board issued Notices of Status Hearing and Show Cause Hearing, dated May 5, 2010, and May 26, 2010. (See ABRA Show Cause File No. 09-251-00110, 09-251-00210, 09-251-00005). The Respondent holds a Retailer's Class CN License and is located at 1900 M Street, N.W., Washington, D.C. (See ABRA Licensing File No. 71717).
2. The Show Cause Hearing in this matter was held on September 22, 2010, and November 18, 2010. The Notices to Show Cause, dated May 5, 2010, and May 26, 2010, charges the Respondent with the 11 violations enumerated above. (See ABRA Show Cause File No. 09-251-00110, 09-251-00210, 09-251-00005). The Respondent has no prior ABC violations. (See ABRA Licensing File No. 71717).
3. The Government presented its case through the testimony of six witnesses, Officer Michael Diemer, Detective Keith Anthony Tabron, Ryan Saltzman, Daniel Blakely, Investigator Felicia Dantzler, Investigator Erin Mathieson. *Transcript (Tr.)*, September 22, 2010 at 29-30, 77, 107, 224, 269, 369. The Government entered into evidence a police report written by Officer Michael Diemer. (ABRA Show Cause File No. 09-251-00110, 09-251-00210, 09-251-00005, Government Exhibit 1), *Tr.*, 9/22/10 at 44. The Government also submitted photos of David Blakely, which showed a cut and bruise on the top of his head and a tissue with blood on it. *Tr.*, 9/22/10 at 248-49, 253; (ABRA Show Cause File No. 09-251-00110, 09-251-00210, 09-251-00005, Government Exhibit 2-4, Licensee's Exhibit 3). The Government also submitted the photograph of the swollen foot of a girl who Mr. Blakely states was injured during the events of April 4, 2009. *Tr.*, 9/22/10 at 249, 253; (ABRA Show Cause File No. 09-251-00110, 09-251-00210, 09-251-00005, Government Exhibit 4). Further, Investigator Dantzler's reports regarding the January 4, 2009, incident was accepted into evidence by the Board. (See ABRA Show Cause File No. 09-251-00110, 09-251-00210, 09-251-00005, Government Exhibit 5-6). The Government also submitted the investigative report written by Investigator Mathieson regarding the

April 4, 2009, incident. (ABRA Show Cause File No. 09-251-00110, 09-251-00210, 09-251-00005, Government Exhibit 7). Finally, the Government also submitted a drawing of the layout of the establishment annotated by Mr. Furnari. (ABRA Show Cause File No. 09-251-00110, 09-251-00210, 09-251-00005, Government Exhibit 8).¹

4. The Government called Officer Michael Diemer with the Metropolitan Police Department (MPD) to testify. *Tr.*, 9/22/10 at 29-30. He testified that he was on duty on January 4, 2009, with his partner Officer Tim Carver. *Tr.*, 9/22/10 at 31-32. He testified that he visited the Respondent's restaurant on January 4, 2009, because he received "a radio call for a fight in progress" at the establishment. *Tr.*, 9/22/10 at 31.

5. Officer Diemer testified that around 2:30 a.m. on January 4, 2009, he arrived at the establishment and observed both Adam and Ryan Saltzman, who are brothers. *Tr.*, 9/22/10 at 32, 55. The officer stated that he observed that one of the brothers was "bleeding profusely from the nose" and the other brother had a ripped shirt. *Tr.*, 9/22/10 at 32, 35. He stated that the brothers told him that they were on the dance floor and some sort of verbal altercation with a female occurred. *Tr.*, 9/22/10 at 33. Officer Diemer testified that he interviewed the woman involved in the altercation with the brothers. *Tr.*, 9/22/10 at 41. According to the officer, the woman was incoherent and appeared intoxicated. *Tr.*, 9/22/10 at 41. He stated that the brothers further told him that Evan Polley attempted to escort them out of the establishment and that Mr. Polley grabbed one of the brothers by his shirt and pushed him towards the door. *Tr.*, 9/22/10 at 33. Officer Diemer further testified that the brothers told him that the other brother attempted to intervene and was punched in the face. *Tr.*, 9/22/10 at 33. According to Officer Diemer, the brothers stated that "they didn't think [Mr. Polley] worked there" because Mr. Polley was not "wearing a shirt that said Rumors." *Tr.*, 9/22/10 at 34. Officer Diemer noted that the brothers refused medical treatment. *Tr.*, 9/22/10 at 35. He testified that the brothers identified Mr. Polley as their assailant. *Tr.*, 9/22/10 at 36. Officer Diemer stated that Mr. Polley was arrested for simple assault and testified that he prepared a police report regarding the incident. *Tr.*, 9/22/10 at 42-43.

6. Officer Diemer testified that no other parties were involved in the fight. *Tr.*, 9/22/10 at 60. He stated that Mr. Polley told him that he worked at Rumors Restaurant as a bouncer. *Tr.*, 9/22/10 at 65. Officer Diemer testified that Mr. Polley told him that the brothers were "disrespectful" to a woman and that he was defending himself. *Tr.*, 9/22/10 at 61, 76. Officer Diemer testified that he interviewed two employees of Rumors Restaurant regarding the fight but the employees did not observe the incident. *Tr.*, 9/22/10 at 61-62.

7. Officer Diemer testified that the Saltzman brothers appeared intoxicated. *Tr.*, 9/22/10 at 62. However, he noted that the brothers were not "severely intoxicated." *Tr.*, 9/22/10 at 62. He noted that he responded to the scene of the incident a few minutes after the incident with Mr. Polley. *Tr.*, 9/22/10 at 62-63.

¹ This exhibit was originally entered into the record as Government Exhibit 7 but is now labeled as Government Exhibit 8 because there was already a Government Exhibit 7 in the record at the time it was entered. *See Tr.*, 11/17/10 at 97.

8. Officer Diemer noted that “the biggest thing was that [Mr. Polley was not wearing] anything identifying himself as being an employee of the bar. . . .” *Tr.*, 9/22/10 at 67. He noted that Mr. Polley was wearing blue jeans and a blue short sleeve button down shirt. *Tr.*, 9/22/10 at 72. Officer Diemer also described Mr. Polley as being six feet and four inches tall and weighing 250 pounds. *Tr.*, 9/22/10 at 72. Officer Diemer noted that when he and the other responding officers canvassed the restaurant, Mr. Polley “blended in[to] the crowd” and “never came forward.” *Tr.*, 9/22/10 at 68. Officer Diemer testified that he only knew that Mr. Polley was an employee of the establishment because Mr. Polley informed him of that fact. *Tr.*, 9/22/10 at 71.

9. The Government called Ryan Saltzman to testify. *Tr.*, 9/22/10 at 107. He stated that he is currently employed as an attorney and music agent with Bullet Bookings. *Tr.*, 9/22/10 at 108. He stated that his brother, Adam Saltzman, and he was a patron at Respondent’s establishment on January 4, 2009. *Tr.*, 9/22/10 at 108-09. Mr. Saltzman testified that on January 4, 2009, his brother was employed as an elementary school teacher but is now currently employed as a high school counselor. *Tr.*, 9/22/10 at 109.

10. Mr. Saltzman testified that he drove to the Respondent’s establishment with his brother. *Tr.*, 9/22/10 at 110. Mr. Saltzman testified that prior to driving the car he did not consume any alcoholic beverages. *Tr.*, 9/22/10 at 110. Mr. Saltzman testified that he only consumed two alcoholic beverages the night of January 4, 2009, after entering the establishment. *Tr.*, 9/22/10 at 110-11. He stated that he had one shot and a mixed drink. *Tr.*, 9/22/10 at 124. Mr. Saltzman testified that he and his brother walked around, had drinks, and danced at the establishment. *Tr.*, 9/22/10 at 111. He stated that he entered the Respondent’s establishment around closing time but noted that most of the other patrons were not leaving the establishment. *Tr.*, 9/22/10 at 133, 140.

11. According to Mr. Saltzman, his brother went to the bathroom and returned to the dance floor around 2:30 a.m. *Tr.*, 9/22/10 at 112. He testified that they were dancing on the side of the dance floor because it was crowded. *Tr.*, 9/22/10 at 112. He then testified that a gentleman, later identified as Mr. Polley, was sitting near them and “made like a shooing gesture towards” his brother and him. *Tr.*, 9/22/10 at 112. According to Mr. Saltzman, they did not know what the gesture meant and did not know who Mr. Polley was. *Tr.*, 9/22/10 at 113. He then stated that Mr. Polley told them to move without explaining why or identifying himself. *Tr.*, 9/22/10 at 113-14, 116. Mr. Saltzman testified that Mr. Polley was about a foot taller and weighed at least 100 pounds more than he did. *Tr.*, 9/22/10 at 114. He testified that Mr. Polley was wearing a T-shirt and jeans and no identifying insignias. *Tr.*, 9/22/10 at 115. Mr. Saltzman stated that he did not speak or insult any patrons before Mr. Polley began telling him to leave the establishment. *Tr.*, 9/22/10 at 122.

12. Mr. Saltzman stated that he and his brother ignored Mr. Polley because they believed he was drunk and did not realize he worked for the Respondent. *Tr.*, 9/22/10 at 115, 174-75. Mr. Saltzman testified that he did not believe that he and his brother were doing anything wrong. *Tr.*, 9/22/10 at 115. He believed that Mr. Polley was acting

aggressively. *Tr.*, 9/22/10 at 126. Mr. Saltzman further testified that Mr. Polley did not ask him or his brother to change their conduct and instead initiated a physical confrontation. *Tr.*, 9/22/10 at 127-28. According to Mr. Saltzman, Mr. Polley kept repeating himself and after the third time, Mr. Polley began to push him and grabbed his shoulders and upper arms. *Tr.*, 9/22/10 at 116, 168. Once Mr. Saltzman attempted to get Mr. Polley's hands off him, Mr. Polley grabbed his jacket and pulled it over his head. *Tr.*, 9/22/10 at 116. He stated that he flailed around to try and get Mr. Polley off him and felt himself get grabbed and pushed outside the bar. *Tr.*, 9/22/10 at 117. He stated that another security guard had escorted him out and not Mr. Polley. *Tr.*, 9/22/10 at 171. He stated that he tried to reenter the establishment and help his brother but the security guard would not let him reenter. *Tr.*, 9/22/10 at 171. Once outside, his brother came out a minute or two later with ripped clothing and in tears. *Tr.*, 9/22/10 at 117.

13. Mr. Saltzman testified that his brother attempted to get Mr. Polley off of him. *Tr.*, 9/22/10 at 118. However, he testified that another person grabbed his brother and pulled him to the side, pinning his arms behind his back. *Tr.*, 9/22/10 at 118-119. He stated that Mr. Polley turned towards his brother and his brother put his head down. *Tr.*, 9/22/10 at 118. Mr. Saltzman then stated that Mr. Polley kned his brother in the face and punched him in the back of the head. *Tr.*, 9/22/10 at 118. He stated that the establishment's employees picked his brother up and got him out of the establishment. *Tr.*, 9/22/10 at 119. He stated that his brother suffered a broken or fractured nose from the incident. *Tr.*, 9/22/10 at 123. Mr. Saltzman admitted that he never personally observed what happened to his brother inside the establishment. *Tr.*, 9/22/10 at 142, 172.

14. Mr. Saltzman testified that a woman was standing next to Mr. Polley before he tried to get him to leave the establishment. *Tr.*, 9/22/10 at 165. Mr. Saltzman believed that Mr. Polley engaged in a conversation with the woman based on information he obtained after the incident. *Tr.*, 9/22/10 at 166. Mr. Saltzman stated that he never spoke to the woman at all during the evening. *Tr.*, 9/22/10 at 173.

15. Mr. Saltzman stated that he called the police after he observed his brother emerge from the establishment. *Tr.*, 9/22/10 at 123. Mr. Saltzman testified that the police arrived within a few minutes, helped clean up his brother, and called an ambulance. *Tr.*, 9/22/10 at 123. Mr. Saltzman testified that someone from the establishment obtained a towel for his brother. *Tr.*, 9/22/10 at 128. He stated that he identified Mr. Polley for the police. *Tr.*, 9/22/10 at 123. According to Mr. Saltzman, he did not know Mr. Polley's identity until charges were filed a few months later. *Tr.*, 9/22/10 at 125. Mr. Saltzman testified that his brother did not wish testify at the present hearing because his brother is very stressed over the incident. *Tr.*, 9/22/10 at 129-30.

16. Mr. Saltzman admitted that, prior to arriving at the Respondent's establishment, he went to another bar, Porters, at 12:30 a.m., after watching the hockey game, which ended at 11:00 p.m. *Tr.*, 9/22/10 at 133. Mr. Saltzman admitted that he had one shot of liquor at Porters and briefly attended a birthday party. *Tr.*, 9/22/10 at 136, 150. Mr. Saltzman testified that he had three drinks in total on the night of January 4, 2009, and did not consider himself intoxicated. *Tr.*, 9/22/10 at 158-59.

17. Mr. Saltzman testified that he has patronized the establishment for the past nine to 10 years. *Tr.*, 9/22/10 at 151. He stated that he never previously had any issues with the establishment in the past. *Tr.*, 9/22/10 at 151. Furthermore, Mr. Saltzman stated that when he frequented the establishment in the past, he believed the Respondent had a sufficient number of security personnel. *Tr.*, 9/22/10 at 153. However, he did not believe the establishment's security acted in a professional manner on January 4, 2009. *Tr.*, 9/22/10 at 161.

18. The Government then called Investigator Felicia Dantzler to testify. *Tr.*, 9/22/10 at 296. She stated that she visited the Respondent's establishment on January 4, 2009, with her partner Demetrius Nickens. *Tr.*, 9/22/10 at 299-300. She stated that she went to the Respondent's establishment in response to MPD informing ABRA that at an arrest and assault had occurred at the establishment. *Tr.*, 9/22/10 at 299.

19. Upon arriving at the scene at around 3:00 a.m., Investigator Dantzler noted that there were no police cars. *Tr.*, 9/22/10 at 300. She testified that she entered the establishment and noticed that only employees were left inside. *Tr.*, 9/22/10 at 300. Investigator Dantzler then requested to speak to a manager. *Tr.*, 9/22/10 at 301.

20. Investigator Dantzler testified that Paul Kolokousis identified himself as the ABC manager. *Tr.*, 9/22/10 at 301. According to Investigator Dantzler, Mr. Kolokousis stated that he did not witness the assault. *Tr.*, 9/22/10 at 301. He then referred her to Peter Furnari, the head of the establishment's security. *Tr.*, 9/22/10 at 301. Mr. Furnari told Investigator Dantzler that the establishment did not have a camera system and therefore, did not have a video record of the incident. *Tr.*, 9/22/10 at 303.

21. According to Investigator Dantzler, Mr. Furnari told her that, when last call was made by the establishment, he witnessed an altercation at the front of the building. *Tr.*, 9/22/10 at 302, 352. Upon witnessing the altercation, he stated to Investigator Dantzler that he moved towards the fight in order to help separate individuals. *Tr.*, 9/22/10 at 302, 352.

22. Investigator Dantzler testified that Mr. Furnari told her that there were approximately 125 people in the establishment when the assault occurred. *Tr.*, 9/22/10 at 304. Investigator Dantzler testified that Mr. Furnari informed her that the fight involved a dispute over a female patron. *Tr.*, 9/22/10 at 305. He does not know who called the police. *Tr.*, 9/22/10 at 353. Mr. Furnari indicated to Investigator Dantzler that he did not record the January 4, 2009, incident in the establishment's security log. *Tr.*, 9/22/10 at 304, 359.

23. Investigator Dantzler further testified that she interviewed Ryan Saltzman. *Tr.*, 9/22/10 at 305. Investigator Dantzler noted that Ryan Saltzman told her that he could not identify the establishment's security. *Tr.*, 9/22/10 at 321. Mr. Saltzman told Investigator Dantzler that the word "security" was not embossed on the clothing of the security personnel that he observed. *Tr.*, 9/22/10 at 321.

24. Investigator Dantzler testified that she also investigated a reported assault at the establishment on August 14, 2009. *Tr.*, 9/22/10 at 322. On August 14, 2009, Investigator Dantzler and her partner, ABRA Investigator Demetrius Nickens, arrived at the establishment at approximately 11:00 p.m. *Tr.*, 9/22/10 at 322-23. She noted that the establishment was fully operational when she entered. *Tr.*, 9/22/10 at 232. Investigator Dantzler requested to speak with an ABC manager or owner upon entering the establishment. *Tr.*, 9/22/10 at 323.

25. Investigator Dantzler interviewed Mr. Kolokousis, an ABC Manager, in the establishment's bar area and he admitted that one of the establishment's bartenders assaulted a patron on August 1, 2009. *Tr.*, 9/22/10 at 324. According to Investigator Dantzler, Mr. Kolokousis told her that a male and female approached him. *Tr.*, 9/22/10 at 324. The female was screaming obscenities and complained about one of the establishment's bartenders. *Tr.*, 9/22/10 at 324. Mr. Kolokousis believed that the female was referring to Yusef "Joe" Khalil, the establishment's bartender. *Tr.*, 9/22/10 at 324-25. As Mr. Kolokousis spoke with the patrons, Mr. Khalil approached and stated that he believed the patrons had left the establishment. *Tr.*, 9/22/10 at 325. Mr. Kolokousis noted that Mr. Khalil then grabbed the male. *Tr.*, 9/22/10 at 325. Security then intervened and took Mr. Khalil to the back of the establishment. *Tr.*, 9/22/10 at 325. Mr. Kolokousis noted that Detective Tabron had footage of the incident. *Tr.*, 9/22/10 at 326.

26. According to Investigator Dantzler, Investigator Nickens interviewed Mr. Khalil in the kitchen area, approximately 30 feet from the bar area. *Tr.*, 9/22/10 at 326. She stated that she heard Mr. Khalil raise his voice as she went to enter the kitchen. *Tr.*, 9/22/10 at 326. Investigator Nickens told Investigator Dantzler that Mr. Khalil was not cooperating with the investigation although she did not hear what Mr. Khalil said. *Tr.*, 9/22/10 at 326, 331. She further admitted that Mr. Khalil eventually described his version of what occurred. *Tr.*, 9/22/10 at 349-50.

27. Investigator Dantzler also interviewed the male patron, Mr. DePalma, who was assaulted by Mr. Khalil. *Tr.*, 9/22/10 at 334. Mr. DePalma told Investigator Dantzler that he and his friend, Ms. Althero, entered the establishment on August 1, 2009, around 11:00 p.m. *Tr.*, 9/22/10 at 334. They stated that they were in the establishment for one hour and consumed five alcoholic beverages each; he drank beer and she consumed red wine. *Tr.*, 9/22/10 at 334. After requesting their tab from Mr. Khalil, they believed the tab was incorrect because it listed Heineken beers. *Tr.*, 9/22/10 at 335. According to Mr. DePalma, Mr. Khalil became upset and cursed at them and accused them of not wanting to pay their bill. *Tr.*, 9/22/10 at 335. They requested to speak to another manager and spoke with Mr. Kolokousis. *Tr.*, 9/22/10 at 336. According to Investigator Dantzler, Mr. DePalma stated that as they spoke to Mr. Kolokousis, Mr. Khalil approached and cursed at Mr. DePalma and Ms. Althero. *Tr.*, 9/22/10 at 336. Mr. Khalil then pushed Ms. Althero and she almost fell on her buttocks. *Tr.*, 9/22/10 at 336. Mr. Khalil then grabbed Mr. DePalma and punched him in the face. *Tr.*, 9/22/10 at 336.

28. The Government called Daniel Blakely to testify. *Tr.*, 9/22/10 at 224. He testified that he was at the Respondent's establishment on April 4, 2009. *Tr.*, 9/22/10 at 226. He

stated that he entered the establishment at 11:30 p.m. *Tr.*, 9/22/10 at 226. Mr. Blakely testified that he was wearing jeans and a button down shirt. *Tr.*, 9/22/10 at 226. He stated that he visited the establishment with seven other friends. *Tr.*, 9/22/10 at 227. Mr. Blakely testified that while at the establishment he “hung out” with his friends and danced. *Tr.*, 9/22/10 at 229.

29. Mr. Blakely testified that before arriving at the establishment, he consumed two drinks with his friends at home. *Tr.*, 9/22/10 at 255. He testified that he took the Metro and walked to the establishment. *Tr.*, 9/22/10 at 268. He further testified that he had seven vodka and Sprites while at the establishment. *Tr.*, 9/22/10 at 229, 256. Mr. Blakely stated that he was not inebriated or intoxicated. *Tr.*, 9/22/10 at 229. Mr. Blakely testified that he weighed approximately 180 pounds and was 22 years old at the time he entered the establishment. *Tr.*, 9/22/10 at 255, 257.

30. Mr. Blakely stated that after being in the establishment for approximately an hour, he witnessed a fight break out between one of his friends, who was wearing a Washington Capitals jersey, and a customer. *Tr.*, 9/22/10 at 230, 259. According to Mr. Blakely, the fight started when his friend and the customer bumped into each other. *Tr.*, 9/22/10 at 260. He testified that the fight was about 20 feet away, near the upstairs restroom, and moved to where he was standing, near an upstairs pillar. *Tr.*, 9/22/10 at 230, 232-33. According to Mr. Blakely, his friend and the customer had locked arms. *Tr.*, 9/22/10 at 230. He noticed that five or six other people were involved in the fight. *Tr.*, 9/22/10 at 231.

31. Mr. Blakely testified that he took two steps towards the fight in order to prevent his friend from being thrown to the ground. *Tr.*, 9/22/10 at 232. However, before intervening in the fight, he saw an arm come from his right and smash a bottle against his head. *Tr.*, 9/22/10 at 232, 234, 262, 372. He stated that after being hit he doubled over and saw blood on his hands after he touched his forehead. *Tr.*, 9/22/10 at 234. He stated that he did not see what happened to the fight after that because he was “stunned.” *Tr.*, 9/22/10 at 234. Nevertheless, he knows that the establishment’s bouncers took his male friends and the other people fighting outside. *Tr.*, 9/22/10 at 235, 261. Mr. Blakely believes that the establishment’s security responded quickly to the fight. *Tr.*, 9/22/10 at 278.

32. Mr. Blakely testified that after his friends were ejected from the establishment another patron noticed that he was bleeding and escorted him to a bathroom. *Tr.*, 9/22/10 at 235-36, 372. He testified that the man wiped off the blood with paper towels. *Tr.*, 9/22/10 at 235. According to Mr. Blakely, he “snapped back into it” and left the bathroom to talk to a manager. *Tr.*, 9/22/10 at 235. He testified that he was only in the bathroom for less than a minute. *Tr.*, 9/22/10 at 269.

33. Mr. Blakely testified that the establishment was operating as normal when he emerged from the bathroom. *Tr.*, 9/22/10 at 270, 274. He believes that there were approximately one hundred people still in the establishment. *Tr.*, 9/22/10 at 271. He testified that there was no music playing. *Tr.*, 9/22/10 at 274.

34. Mr. Blakely testified that he was still bleeding and still had glass in his hair when he emerged from the bathroom. *Tr.*, 9/22/10 at 237-38. He also noted that he had blood on his shirt and jeans. *Tr.*, 9/22/10 at 238. Furthermore, he noted that other patrons noticed his condition. *Tr.*, 9/22/10 at 238. Mr. Blakely testified that he had blood dripping from his forehead. *Tr.*, 9/22/10 at 282-83.

35. Mr. Blakely testified that when he returned to the scene of the fight, he observed an employee cleaning up orange or brown glass that looked like it came from a Budweiser bottle. *Tr.*, 9/22/10 at 237, 291, 295. He asked the employee what he should do but the employee did not appear to understand what Mr. Blakely said. *Tr.*, 9/22/10 at 282. He stated that he then asked a bartender if he could speak to a manger and told her that he had been hit. *Tr.*, 9/22/10 at 237, 289, 373. He noted that the bartender gave him some napkins before she went to find the manager. *Tr.*, 9/22/10 at 289. Mr. Blakely stated that the bartender told him that the manager was busy and that he should write his name and number on a card and that the manager would call him the next day. *Tr.*, 9/22/10 at 237, 289, 373. Mr. Blakely stated that he asked to speak with the manager again and the bartender retrieved the manager for him. *Tr.*, 9/22/10 at 239. Although he could not remember the manager's name, he remembered that his surname started with a K. *Tr.*, 9/22/10 at 239. He stated that after the bartender spoke to the manager a second time, the manager came out to speak with him within a minute. *Tr.*, 9/22/10 at 290.

36. Mr. Blakely testified that he spoke with the establishment's manager. *Tr.*, 9/22/10 at 240. Mr. Blakely testified that he told the manager that he could not identify who hit him. *Tr.*, 9/22/10 at 240. Mr. Blakely testified that he was asked if he was "okay" and stated that he said he was fine. *Tr.*, 9/22/10 at 283-84. Mr. Blakely testified that he requested to see the establishment's surveillance footage but the manager told him that it could not be viewed that night because the footage was stored off-site. *Tr.*, 9/22/10 at 240, 284, 373. According to Mr. Blakely, the manager told him that there was no point in calling the police if he did not know who hit him. *Tr.*, 9/22/10 at 242. Mr. Blakely testified that the manager appeared to be more interested in "bartending." *Tr.*, 9/22/10 at 241. He testified that he paid his tab, around \$60.00 and ended the conversation with the manager. *Tr.*, 9/22/10 at 241, 284, 287. Mr. Blakely believes that the manager should have been more concerned about his "well-being" and how he got hurt. *Tr.*, 9/22/10 at 287.

37. After leaving the establishment, Mr. Blakely testified that he still felt "stunned" and he told the two bouncers at the door what happened to him. *Tr.*, 9/22/10 at 243. According to Mr. Blakely, the establishment's bouncers told him he did not need to call the police after he asked them whether he should call the police. *Tr.*, 9/22/10 at 243. He stated that the employees did not offer to call the police or request an ambulance for him. *Tr.*, 9/22/10 at 244. Mr. Blakely testified that all of his friends were waiting for him outside the establishment. *Tr.*, 9/22/10 at 269, 293. Mr. Blakely did not know if his female friends had been escorted out by the establishment. *Tr.*, 9/22/10 at 294.

38. The following day Mr. Blakely testified that he went to the police station and filed a police report. *Tr.*, 9/22/10 at 244. He stated that he gave the police his friends' contact information. *Tr.*, 9/22/10 at 275. Then, he testified that he called the manager by phone.

Tr., 9/22/10 at 242. According to Mr. Blakely, the manager he spoke with the night before answered and appeared to be in a rush. *Tr.*, 9/22/10 at 245. Mr. Blakely stated that the manager said there was a pub crawl in 15 minutes and he could not talk. *Tr.*, 9/22/10 at 245, 380. Mr. Blakely further testified that he asked the manager not to erase the surveillance tapes. *Tr.*, 9/22/10 at 25. Mr. Blakely then testified that the manager told him that witnesses saw him head butt someone the night before. *Tr.*, 9/22/10 at 245. Mr. Blakely then stated that he denied the manager's accusation. *Tr.*, 9/22/10 at 246. Before ending the conversation, Mr. Blakely testified that the manager told him he would call him the next day but the manager never returned his call. *Tr.*, 9/22/10 at 246, 281, 380. According to Mr. Blakely, a police detective told him that the camera recordings had been erased. *Tr.*, 9/22/10 at 280.

39. Mr. Blakely testified that the manager did not call him on Sunday. *Tr.*, 9/22/10 at 246. In response, Mr. Blakely and his father sent an email to the establishment summarizing what had occurred at the establishment and requested that the establishment contact them. *Tr.*, 9/22/10 at 246. Mr. Blakely stated that his father would not be upset that he had nine drinks on the night he was injured. *Tr.*, 9/22/10 at 268.

40. Mr. Blakely testified that he spoke with ABRA Investigator Erin Mathieson regarding the incident. *Tr.*, 9/22/10 at 276-77. He stated that he provided Investigator Mathieson with the contact information for some of the people who were with him at the establishment. *Tr.*, 9/22/10 at 277.

41. Mr. Blakely testified that he received a cut to his forehead after being hit with the bottle. *Tr.*, 9/22/10 at 291. He testified that he treated the injury with Neosporin when he returned home. *Tr.*, 9/22/10 at 291. He stated that the injury stopped bleeding in the bar. *Tr.*, 9/22/10 at 291.

42. The Government called Detective Keith Anthony Tabron to testify. *Tr.*, 9/22/10 at 78. Detective Tabron testified that he works for MPD in the Second District. *Tr.*, 9/22/10 at 79. He stated that he has been a detective for the past ten years and is familiar with the Respondent's establishment. *Tr.*, 9/22/10 at 80.

43. Detective Tabron testified that he entered the Respondent's establishment on August 1, 2009. *Tr.*, 9/22/10 at 80. He stated that he entered the establishment in order to respond to an assault complaint. *Tr.*, 9/22/10 at 80. He stated that upon arriving at the scene he observed a man and woman outside who spoke to him about the incident. *Tr.*, 9/22/10 at 81. According to Detective Tabron, he was informed by the couple that they were inside the Respondent's establishment and had an issue with the bartender over a bill. *Tr.*, 9/22/10 at 81. The couple stated that the bartender forced them out of the establishment before they were able to resolve the bill. *Tr.*, 9/22/10 at 81. Detective Tabron testified that the couple told him that the bartender pushed the man and "put him in a choke hold" and demanded that they leave. *Tr.*, 9/22/10 at 82.

44. Detective Tabron testified that after speaking with the couple, he entered the establishment and spoke with a manager, Paul Kolokousis. *Tr.*, 9/22/10 at 82. According

to Officer Tabron, the manager was not able to operate the video system to show him the footage the establishment had collected. *Tr.*, 9/22/10 at 84. Detective Tabron testified that he was only able to view the videotape at a later date. *Tr.*, 9/22/10 at 86. He stated that the videotape was not ready for viewing on several occasions when he visited the establishment. *Tr.*, 9/22/10 at 86. He stated that after two weeks, the establishment had its technicians download the video for him. *Tr.*, 9/22/10 at 87, 96. Detective Tabron stated that he understood that the manager did not know how to operate the video system. *Tr.*, 9/22/10 at 92. Detective Tabron admitted that he had difficulty with the system and finding the correct time of the incident on the recording. *Tr.*, 9/22/10 at 93-94, 356.

45. According to Detective Tabron, he learned that the couple had ordered drinks at the restaurant and charged it to their credit card. *Tr.*, 9/22/10 at 85. He stated that when the couple tried to pay their tab they did not agree with their bill. *Tr.*, 9/22/10 at 85. Detective Tabron testified that the bartender assumed the remaining balance himself and asked the couple to leave. *Tr.*, 9/22/10 at 85. According to Detective Tabron, he learned that another employee had an issue with the same couple regarding a discrepancy about the bill. *Tr.*, 9/22/10 at 86.

46. Detective Tabron stated that video showed the couple at the bar. *Tr.*, 9/22/10 at 87. He testified that the video then showed the bartender approach the couple and that the bartender was the aggressor. *Tr.*, 9/22/10 at 87, 100. Detective Tabron testified that he typed up a warrant but the U.S. Attorney's Office declined to prosecute the bartender. *Tr.*, 9/22/10 at 89. He testified that the video is currently stored in evidence with other files relevant to the case. *Tr.*, 9/22/10 at 91.

47. Detective Tabron stated that it is unclear whether security intervened or the bartender just let the couple go. *Tr.*, 9/22/10 at 91, 97. He noted that security restrained the bartender. *Tr.*, 9/22/10 at 92. He also noted that the Respondent's employees cooperated with his investigation. *Tr.*, 9/22/10 at 91.

48. The Government called Investigator Mathieson to testify. *Tr.*, 9/22/10 at 369. Investigator Mathieson stated that she began to investigate an alleged assault that occurred at the Respondent's establishment on April 4, 2009. *Tr.*, 9/22/10 at 371. According to Investigator Mathieson, Jim Blakely, Daniel Blakely's father, filed a complaint with ABRA regarding the alleged assault and ABRA received a police report from MPD as well. *Tr.*, 9/22/10 at 371-72. Investigator Mathieson was told by Daniel Blakely that a hard copy of the complaint was mailed to the owner of the establishment on April 7, 2009. *Tr.*, 9/22/10 at 422-23.

49. Investigator Mathieson visited the Respondent's establishment on three separate occasions. *Tr.*, 9/22/10 at 374. Investigator Mathieson first entered the establishment on April 15, 2009, observed the establishment's security, identified herself as an ABC Investigator, and conducted a regulatory inspection. *Tr.*, 9/22/10 at 374. During the regulatory inspection, Investigator Mathieson noted that the establishment's Certificate of Occupancy allowed for 100 seats but concluded that the establishment had 137 seats. *Tr.*, 9/22/10 at 375, 399. However, she admitted that she included seats located in the enclosed

seating area located to the right of the establishment's outdoor seating area when she counted the establishment's seating. (*See* ABRA Show Cause File No. 09-251-00110, 09-251-00210, 09-251-00005, Licensee's Exhibit 1); *Tr.*, 9/22/10 at 401, 411. In the end, based on the records submitted to the Board by the Respondent and the testimony of Mr. Tolbert, it is clear that the enclosed seating area is a part of the establishment's sidewalk café and not the establishment's interior. *Tr.*, 11/18/10 at 294-302, 307, 309.

50. Investigator Mathieson interviewed Mike McGrabbin, a member of the establishment's security staff on April 15, 2009. *Tr.*, 9/22/10 at 376. She first asked Mr. McGrabbin whether he was familiar with the establishment's security guidelines. *Tr.*, 9/22/10 at 376. After showing Mr. McGrabbin a copy of the establishment's security plan, Mr. McGrabbin indicated that he had never seen a copy of the establishment's security guidelines before. *Tr.*, 9/22/10 at 376. Mr. McGrabbin also stated that he was working on April 4, 2009, when an altercation involving patrons wearing a Washington Capitals jerseys occurred. *Tr.*, 9/22/10 at 377. However, Mr. McGrabbin did not recall that anyone was injured that night. *Tr.*, 9/22/10 at 377.

51. On April 15, 2009, Investigator Mathieson also interviewed Anthony Palmer, an ABC manager employed by the Respondent. *Tr.*, 9/22/10 at 377. According to Mr. Palmer, Mr. Kolokousis was not available until April 17, 2009. *Tr.*, 9/22/10 at 377. Investigator Mathieson left her business card with Mr. Palmer and told him that she needed the establishment's security footage from April 3, 2009, to April 4, 2009. *Tr.*, 9/22/10 at 377. She also wrote on the business card that she handed to Mr. Palmer that she needed the footage by a certain date. *Tr.*, 9/22/10 at 378.

52. Investigator Mathieson returned to the establishment on April 17, 2009, because she had not been contacted by Mr. Kolokousis. *Tr.*, 9/22/10 at 378. She met Mr. Kolokousis and asked him about the alleged assault that occurred on April 4, 2009. *Tr.*, 9/22/10 at 379. Investigator Mathieson testified that Mr. Kolokousis admitted that he spoke with Mr. Blakely. *Tr.*, 9/22/10 at 379. Mr. Kolokousis further told her that he observed a small scratch on his head that was emitting small drops of blood. *Tr.*, 9/22/10 at 379. He also told Investigator Mathieson that Mr. Blakely did not request help. *Tr.*, 9/22/10 at 379. According to Investigator Mathieson, Mr. Kolokousis told her that he believes Mr. Blakely head butted another person when he was trying to help his friend. *Tr.*, 9/22/10 at 380. He also told Investigator Mathieson that when he accused Mr. Blakely of head butting someone in the establishment Mr. Blakely became defensive. *Tr.*, 9/22/10 at 380. According to Investigator Mathieson, Mr. Kolokousis told her that "he could not see anything from the incident on the tapes." *Tr.*, 9/22/10 at 380.

53. Investigator Mathieson asked Mr. Kolokousis if he had received her request regarding the establishment's security footage from April 4, 2009. *Tr.*, 9/22/10 at 380-81. According to Investigator Mathieson, Mr. Kolokousis stated that Mr. Palmer did not discuss her request with him and he had not prepared the footage as she had requested. *Tr.*, 9/22/10 at 381.

54. Before leaving the establishment on April 17, 2009, Investigator Mathieson gave Mr. Kolokousis her business card. *Tr.*, 9/22/10 at 382. She instructed Mr. Kolokousis to provide her the names and telephone numbers of all the security staff involved in the incident that occurred on April 4, 2009, or have them call her. *Tr.*, 9/22/10 at 382. According to Investigator Mathieson, on April 24, 2009, she had not heard from Mr. Kolokousis, so she called him. *Tr.*, 9/22/10 at 382. Investigator Mathieson stated that Mr. Kolokousis said that he would have a DVD containing the security footage and the contact information on Tuesday, April 28, 2009. *Tr.*, 9/22/10 at 382. However, on April 28, 2009, Investigator Mathieson stated that she had not heard anything from Mr. Kolokousis. *Tr.*, 9/22/10 at 382. Investigator Mathieson called Mr. Kolokousis and he told her that he did not have the footage because the tapes record over themselves every seven days. *Tr.*, 9/22/10 at 382-83. He also told her that Tom Brown and Mike McGowan were involved in the incident that occurred on April 4, 2009, and agreed with Investigator Mathieson's request to have them call her before Friday, May 1, 2009. *Tr.*, 9/22/10 at 383.

55. Investigator Mathieson testified that the establishment's camera viewing area is located in the establishment's kitchen. *Tr.*, 9/22/10 at 414. Investigator Mathieson indicated that Mr. Kolokousis could not get her a copy of the establishment's camera footage during her first visit because the establishment had to have their camera person come in to make copies. *Tr.*, 9/22/10 at 384, 415. Mr. Kolokousis also could not show her the recordings made by the camera system because he did not know how to operate it. *Tr.*, 9/22/10 at 384. However, Investigator Mathieson noted that Mr. Kolokousis stated that he had reviewed the footage from April 4, 2009, on the day of the incident. *Tr.*, 9/22/10 at 417.

56. Investigator Mathieson noted that she was never able to speak with Tom Brown. *Tr.*, 9/22/10 at 385. She noted that there were "several discrepancies regarding. . . the phone number and whereabouts of Mr. Brown." *Tr.*, 9/22/10 at 388. Investigator Mathieson testified that she was told that Mr. Brown would be working at the establishment on May 1, 2009. *Tr.*, 9/22/10 at 388. However, when she arrived at the establishment on May 1, 2009, he was not at work. *Tr.*, 9/22/10 at 388. Investigator Mathieson noted that she was given Mr. Brown's telephone number and asked the management to have him call her. *Tr.*, 9/22/10 at 390. Nevertheless, Mr. Brown never called Investigator Mathieson and Mr. Brown never returned her calls after she called him several times and left voicemail messages. *Tr.*, 9/22/10 at 390.

57. The Respondent presented its case through the testimony of six witnesses, Mary Patricia Strasser, Peter Furnari, Paul Kolokousis, Kelvin Ruffin, Jacky Kelly, and Richard Tolbert. *Tr.*, 9/22/10 at 182; *Tr.*, November 18, 2010 at 23, 99, 227, 254, 278. The Respondent submitted a drawing of the layout of Rumors Restaurant. (ABRA Show Cause File No. 09-251-00110, 09-251-00210, 09-251-00005, Licensee's Exhibit 1). The Respondent also submitted the transcript from the Evan Polley criminal case. (ABRA Show Cause File No. 09-251-00110, 09-251-00210, 09-251-00005, Licensee's Exhibit 2); *see also* US v. Evan Polley, 2009 CMD 280 (D.C. Superior Ct. Apr. 1, 2009). Finally, the Respondent submitted its Certificate of Occupancy, which stated that the restaurant is entitled to 100 seats, a Certificate of Use from 2001, and a receipt for a Certificate of Use

from 2010. (See ABRA Show Cause File No. 09-251-00110, 09-251-00210, 09-251-00005, Licensee's Exhibit 5-7).

58. The Respondent called Peter Furnari to testify. *Tr.*, 11/18/10 at 23. Mr. Furnari testified that he has worked at the establishment for the past five years overseeing security at the Respondent's establishment. *Tr.*, 11/18/10 at 22, 24, 36. Mr. Furnari has worked in the hospitality industry for the past 30 years. *Tr.*, 11/18/10 at 23.

59. Currently, Mr. Furnari supervises anywhere from eight to 12 security staff. *Tr.*, 11/18/10 at 37. He is responsible for monitoring the crowds and training the security staff. *Tr.*, 11/18/10 at 38. He also walks new employees through the establishment when they are first hired, works with them their first night of work, and then accompanies them for the first two to three weekends of their employment. *Tr.*, 11/18/10 at 38-39. According to Mr. Furnari, new employees obtain shirts and an outline on how the establishment wants certain situations to be handled. *Tr.*, 11/18/10 at 39.

60. Mr. Furnari discussed the establishment's previous uniform as it existed on January 4, 2009. *Tr.*, 11/18/10 at 58. At that time, the establishment's security staff had black shirts with the establishment's logo on the chest. *Tr.*, 11/18/10 at 58. The shirts did not have "security" written on the shirt. *Tr.*, 11/18/10 at 58. Mr. Furnari noted that the establishment's security now wears shirts that say "security" on the shirt. *Tr.*, 11/18/10 at 59. He further testified that he was never issued a hat with "security" printed on it. *Tr.*, 11/18/10 at 59, 61. Mr. Furnari admitted that the establishment had not issued uniforms with security emblazoned on the items until about November 2009 even though they were discussed in the establishment's March 2008 security plan. *Tr.*, 11/18/10 at 63, 92. The new shirts are gray and have "security" printed on the back. *Tr.*, 11/18/10 at 93.

61. Mr. Furnari testified that he was working at the establishment on January 4, 2009. *Tr.*, 11/18/10 at 24. Specifically, he was serving as a doorman and overseeing security that evening. *Tr.*, 11/18/10 at 24. He noted that Edmond, Mr. Polley, Jack, Mike, and Tom, and two other people were on duty that night. *Tr.*, 11/18/10 at 75.

62. According to Mr. Furnari, during the establishment's last call, at around 2:30 a.m., he went to the establishment's panel box and began turning on the lights. *Tr.*, 11/18/10 at 25, 33, 40-41, 43, 51-52. He then noticed about a dozen people in the middle of an altercation near the front of the establishment "on the carpet where the dining area is." *Tr.*, 11/18/10 at 25, 33, 40-41, 43, 51-52. Mr. Furnari observed patrons pushing, shoving, screaming, and yelling at each other, but he did not witness any patrons punching one another. *Tr.*, 11/18/10 at 44. In response, Mr. Furnari went down the stairs, crossed the dance floor, and began separating individuals to prevent them from punching or grabbing other people. *Tr.*, 11/18/10 at 26. Mr. Furnari believes that Edmond and Mr. Polley intervened in the fight. *Tr.*, 11/18/10 at 26. Mr. Furnari testified that the fight was over within five minutes and those involved were removed from the establishment. *Tr.*, 11/18/10 at 27.

63. As Mr. Furnari intervened in the fight on January 4, 2009, he observed that Mr. Polley was face-to-face with Adam Saltzman and had Adam Saltzman “wrapped up.” *Tr.*, 11/18/10 at 30, 53. Mr. Polley was trying to back Adam Saltzman down a decline and out the door. *Tr.*, 11/18/10 at 30, 33. Mr. Furnari intervened because he believes that Mr. Polley should not have tried to make a patron move backwards in order to take them out of the establishment. *Tr.*, 11/18/10 at 30. According to Mr. Furnari, Mr. Polley told him that Adam Saltzman tried to kick him in the “balls.” *Tr.*, 11/18/10 at 34. Telling Mr. Polley to get out of the way, Mr. Furnari intervened, placed Adam Saltzman in an arm bar from behind, picked him up, and removed him from the establishment by pushing him into the establishment’s foyer. *Tr.*, 11/18/10 at 31, 35, 78-79. He believes that Adam Saltzman weighed approximately 180 pounds. *Tr.*, 11/18/10 at 88. Mr. Furnari did not notice any blood coming from Adam Saltzman while he escorted him out of the establishment. *Tr.*, 11/18/10 at 35.

64. After removing Adam Saltzman, Mr. Furnari then returned to the altercation and observed that people had stopped fighting and were screaming and cursing at each other. *Tr.*, 11/18/10 at 31. He then grabbed another person and removed him from the establishment and then returned to the scene of the altercation to remove two more people from the establishment. *Tr.*, 11/18/10 at 32. Mr. Furnari noted that the establishment’s door people had removed a few other people and a few of the patrons involved in the altercation were being kept inside the establishment in order to allow them to calm down before leaving. *Tr.*, 11/18/10 at 32. He does not know who removed Ryan Saltzman from the establishment. *Tr.*, 11/18/10 at 71. He noted that Edmond removed some patrons and does not know if Mr. Polley removed other patrons that night. *Tr.*, 11/18/10 at 77.

65. After the fight ended, Mr. Furnari saw Ryan Saltzman outside the establishment with his brother and observed that he was speaking with the police. *Tr.*, 11/18/10 at 33. He noticed that Adam Saltzman had a white shirt and blood was coming down the front of his shirt. *Tr.*, 11/18/10 at 35-36.

66. Mr. Furnari testified that he believes Mr. Polley was wearing a “Rumors jacket,” which had a Rumors logo but not security emblazoned on the jacket, outside the establishment on January 4, 2009. *Tr.*, 11/18/10 at 62. However, when Mr. Polley entered the establishment he “either gave the person [who] was still outside the jacket or took it off and put it in one of the [establishment’s] back rooms.” *Tr.*, 11/18/10 at 62.

67. Mr. Furnari testified that Mr. Polley did not work at the establishment the next day because he had been arrested. *Tr.*, 11/18/10 at 93. However, he did work a few times after being arrested but resigned after the criminal case was dismissed. *Tr.*, 11/18/10 at 93-94.

68. The Respondent then called Paul Kolokousis to testify. *Tr.*, 11/18/10 at 99. Mr. Kolokousis has worked for the Respondent for the past 10 years and served as the general manager for the past three to four years. *Tr.*, 11/18/10 at 100. As part of his duties, Mr. Kolokousis is at the establishment six nights per week and is in charge of computer changes, running reports, staffing, and dealing with miscellaneous problems that arise while the establishment is open. *Tr.*, 11/18/10 at 100. He has the authority to hire and fire

employees. *Tr.*, 11/18/10 at 139-141. He also stated that he is responsible for the safety of patrons at the establishment. *Tr.*, 11/18/10 at 141-42. He stated that he is usually at the establishment from 7:00 p.m. until closing. *Tr.*, 11/18/10 at 101.

69. Mr. Kolokousis testified that he was working at the establishment on April 4, 2009. *Tr.*, 11/18/10 at 101. That night, he testified that he was serving drinks to Mary Strasser who entered the establishment with her companions. *Tr.*, 11/18/10 at 110. Later in the evening, Ms. Strasser suddenly screamed that there was a fight and he went to the DJ booth to have the DJ call for security. *Tr.*, 11/18/10 at 111. By the time he left the DJ booth, the fight had ended and Mr. Kolokousis believed that security had escorted all of the participants in the fight from the establishment. *Tr.*, 11/18/10 at 111.

70. According to Mr. Kolokousis, after the lights were turned on, Daniel Blakely approached him and asked to see the establishment's security footage because he saw an employee sweeping broken glass and wanted to know if he had been hit in the head with a bottle. *Tr.*, 11/18/10 at 102, 104, 111, 154. Mr. Kolokousis testified that he could see the area where Mr. Blakely indicated that he was hit with a bottle and noted that there was nobody there or anything on the floor. *Tr.*, 11/18/10 at 161. Mr. Kolokousis told Mr. Blakely that he could not watch the footage at this time because the establishment was closing and gave him his business card. *Tr.*, 11/18/10 at 102. Mr. Kolokousis did not discuss the incident with any other persons involved in the fight. *Tr.*, 11/18/10 at 161. He told Mr. Blakely to call him the next day and stated they could watch the footage together. *Tr.*, 11/18/10 at 102. According to Mr. Kolokousis, Mr. Blakely did not request that the establishment do anything else and he closed out his tab and left the establishment. *Tr.*, 11/18/10 at 105, 108. According to Mr. Kolokousis, he believes Mr. Blakely was wearing a white button down shirt and khaki pants. *Tr.*, 11/18/10 at 121. He also saw a small scratch on Mr. Blakely's forehead and observed no bleeding or blood. *Tr.*, 11/18/10 at 103, 119-20.

71. Mr. Kolokousis stated that he was trying to close the establishment and run the establishment's tabs when Mr. Blakely approached him. *Tr.*, 11/18/10 at 104. This was an intensive process because many of the tabs had to be entered manually. *Tr.*, 11/18/10 at 104.

72. Mr. Kolokousis believes that Mr. Blakely was intoxicated when he spoke with him. *Tr.*, 11/18/10 at 105, 217. He noted that Mr. Blakely kept repeating himself and was difficult to understand. *Tr.*, 11/18/10 at 106, 217. Mr. Kolokousis stated that Mr. Blakely never requested that he call the police. *Tr.*, 11/18/10 at 134. Mr. Kolokousis admitted that he did not ask for an account of what occurred from Mr. Blakely or his staff. *Tr.*, 11/18/10 at 179-181.

73. After Mr. Blakely left the bar, Mary Strasser spoke with Mr. Kolokousis. *Tr.*, 11/18/10 at 112. According to Mr. Kolokousis, she informed him that Mr. Blakely did not get hit with a beer bottle and actually had head butted another person. *Tr.*, 11/18/10 at 112. Mr. Kolokousis believes that Mr. Blakely was not escorted out of the establishment because he went to the bathroom. *Tr.*, 11/18/10 at 118.

74. Mr. Kolokousis testified that he received a call from Mr. Blakely on Saturday, April 5, 2009. *Tr.*, 11/18/10 at 108. Mr. Blakely called between 3:00 to 4:00 p.m. while Mr. Kolokousis was preparing the establishment for a bar crawl by removing furniture from the dance floor. *Tr.*, 11/18/10 at 108. Mr. Blakely asked if he could view the security footage and Mr. Kolokousis told him that he was too busy to look at the footage. *Tr.*, 11/18/10 at 109. Mr. Kolokousis then testified that he told Mr. Blakely that Mary Strasser told him that he had head butted somebody that evening. *Tr.*, 11/18/10 at 109. Mr. Kolokousis noted that he received another call from Mr. Blakely on Sunday, April 6, 2009, as well. *Tr.*, 11/18/10 at 113.

75. Mr. Kolokousis stated that Investigator Mathieson requested a copy of the security camera footage from April 4, 2009, approximately a week and a half later. *Tr.*, 11/18/10 at 114. He told the Investigator that “nobody in house does that” and that he would have to contact their IT person to make a copy. *Tr.*, 11/18/10 at 114, 164. Mr. Kolokousis stated that the establishment had bought the camera system in February 2009. *Tr.*, 11/18/10 at 114. He called the IT contractor who installed the system but he was out of town and left the contractor a message. *Tr.*, 11/18/10 at 114-15, 211. Mr. Kolokousis relayed this information to Investigator Mathieson and stated that he would attempt to get the copy over the weekend. *Tr.*, 11/18/10 at 115. Mr. Kolokousis stated that the IT contractor told him that the hard drive of the camera system overwrites itself every seven days and as such, no copy could be made. *Tr.*, 11/18/10 at 115, 117. Mr. Kolokousis testified that he would have told Investigator Mathieson that the video footage no longer existed when she first asked if he had known that the footage had not been retained. *Tr.*, 11/18/10 at 220.

76. Mr. Kolokousis stated that he viewed the footage from April 4, 2009. *Tr.*, 11/18/10 at 165. He testified that the footage only showed a number of people with Washington Capitals jerseys on in a huddle and security escorting them out of the establishment. *Tr.*, 11/18/10 at 165, 208. He did not make a copy of the footage because he did not know how to burn the tape. *Tr.*, 11/18/10 at 165.

77. Mr. Kolokousis stated that he was unable to speak to Investigator Mathieson on one occasion because he was at a meeting. *Tr.*, 11/18/10 at 116. He stated that he owns half of a swimming pool company and when Investigator Dantzler called he was at a meeting with a client. *Tr.*, 11/18/10 at 116. He testified that he never received Ms. Mathieson’s business card from Mr. Palmer. *Tr.*, 11/18/10 at 166.

78. Mr. Kolokousis testified that he was working at the establishment on August 1, 2009. *Tr.*, 11/18/10 at 121. Around 3:00 a.m., after last call, a couple walked up to him and asked if he was a manager. *Tr.*, 11/18/10 at 122. After he replied “yes,” Mr. Khalil, one of the establishment’s best bartenders, “came up screaming” and told the couple to leave the establishment. *Tr.*, 11/18/10 at 121-22. Mr. Kolokousis stated that Mr. Khalil pushed the female patron and grabbed the male patron. *Tr.*, 11/18/10 at 147, 197. A doorman then grabbed Mr. Khalil, moved him 10 feet away, and Mr. Kolokousis brought Mr. Khalil into the kitchen. *Tr.*, 11/18/10 at 123, 125. Meanwhile, the establishment’s security escorted the couple out of the establishment. *Tr.*, 11/18/10 at 126.

79. According to Mr. Kolokousis, Mr. Khalil told him that the couple had disputed their tab. *Tr.*, 11/18/10 at 123. Mr. Khalil told Mr. Kolokousis that he agreed to buy half of the couple's drinks himself if they left the establishment, which Mr. Khalil paid out of his own pocket. *Tr.*, 11/18/10 at 123. Mr. Khalil stated to Mr. Kolokousis that he was very angry that the couple had not left the bar. *Tr.*, 11/18/10 at 123.

80. Mr. Kolokousis testified that Mr. Khalil was one of the establishment's best bartenders and still works at the establishment. *Tr.*, 11/18/10 at 124, 148-49. He noted that Mr. Khalil has worked at the establishment for more than six years. *Tr.*, 11/18/10 at 124-25. He noted that Mr. Khalil had a huge following and one of the "highest brings." *Tr.*, 11/18/10 at 125. He believes that Mr. Khalil's actions on August 1, 2009, were "atypical" and noted that he had never had a problem with Mr. Khalil before. *Tr.*, 11/18/10 at 125.

81. Mr. Kolokousis testified that the establishment did not fire Mr. Khalil. *Tr.*, 11/18/10 at 198. He testified that Mr. Khalil was instructed that if he was ever involved in a similar incident again he would be terminated immediately. *Tr.*, 11/18/10 at 198. Mr. Kolokousis believes that the reprimand was sufficient. *Tr.*, 11/18/10 at 199.

82. Mr. Kolokousis testified that the establishment complied with Detective Tabron's request to obtain the video footage from August 1, 2009. *Tr.*, 11/18/10 at 195. However, Detective Tabron could not view the video because he did not have the correct application to view the video. *Tr.*, 11/18/10 at 196. Mr. Kolokousis testified that Detective Tabron viewed the video at the IT consultant's office. *Tr.*, 11/18/10 at 196, 224.

83. Mr. Kolokousis testified that he was working at the establishment on January 4, 2009. *Tr.*, 11/18/10 at 126. Mr. Polley "was working the front door" and wearing a Rumors vest because it was cold that evening. *Tr.*, 11/18/10 at 127-29. The establishment was collecting a \$5.00 cover charge. *Tr.*, 11/18/10 at 127. After last call, when the lights were turned on, Mr. Polley came inside and handed Mr. Kolokousis the money he had collected at the door, took off his vest, and went to the dance floor to talk to a girl. *Tr.*, 11/18/10 at 12-29.

84. Mr. Kolokousis stated that around 3:00 a.m. a fight broke out near the patio dining room. *Tr.*, 11/18/10 at 127. The fight involved a rugby team and security broke up the fight and escorted the participants out of the establishment. *Tr.*, 11/18/10 at 127. He noted that a number of the establishment's security responded, including Mr. Furnari, but he did not see Mr. Polley respond to the fight. *Tr.*, 11/18/10 at 131-32. Mr. Kolokousis stated that Sergeant Parsons with MPD arrived around 3:20 a.m. and went to the establishment's TV room. *Tr.*, 11/18/10 at 127-28. Sergeant Parsons then left the room, bringing Mr. Polley with him, and told Mr. Kolokousis that he had to arrest Mr. Polley for assault. *Tr.*, 11/18/10 at 126-27.

85. Mr. Kolokousis stated that the establishment suspended Mr. Polley until after the criminal hearing. *Tr.*, 11/18/10 at 133. Mr. Polley did not return to the establishment after

he was acquitted because he joined the military. *Tr.*, 11/18/10 at 133. Mr. Kolokousis testified that he is unaware of Mr. Polley's current location. *Tr.*, 11/18/10 at 133.

86. Mr. Kolokousis stated that the establishment hires security personnel that are "seasoned veterans." *Tr.*, 11/18/10 at 199. He testified that the establishment does not provide formal training to staff. *Tr.*, 11/18/10 at 200. He also testified that the establishment did not provide additional security training after the incidents on January 4, 2009, April 4, 2009, or August 1, 2009. *Tr.*, 11/18/10 at 199.

87. Mr. Kolokousis testified that he is now familiar with the establishment's camera system. *Tr.*, 11/18/10 at 205. He stated that he has personally provided copies of footage to the police and others. *Tr.*, 11/18/10 at 205. The establishment has eight cameras and the system now keeps footage in the system for 30 days. *Tr.*, 11/18/10 at 205.

88. The Respondent then called Kelvin Ruffin to testify. *Tr.*, 11/18/10 at 227. Mr. Ruffin is an IT consultant and provides IT services to the Respondent on an informal basis. *Tr.*, 11/18/10 at 228, 248. He testified that he configured the Respondent's security camera system. *Tr.*, 11/18/10 at 228. He stated that on occasion the Respondent has requested assistance in retrieving footage from the camera system. *Tr.*, 11/18/10 at 229. He admitted that the camera was originally set up to only store footage for a short amount of time but he was able to configure the system to store more footage in July 2010 after discussing the matter with the camera company. *Tr.*, 11/18/10 at 233-35.

89. Mr. Ruffin confirmed that he showed Detective Tabron the footage from the incident on August 1, 2009. *Tr.*, 11/18/10 at 238. He stated that the disc given to Detective Tabron had the software to play the file on the disc so Detective Tabron could have watched the footage at any time. *Tr.*, 11/18/10 at 238-39.

90. Mr. Ruffin testified that he was on vacation in San Diego in April 2009. *Tr.*, 11/18/10 at 250. Mr. Ruffin stated that he responded to Mr. Kolokousis' message regarding the camera system a few days after returning from vacation. *Tr.*, 11/18/10 at 250-51.

91. The Respondent then called Jacky Kelly to testify. *Tr.*, 11/18/10 at 254. Mr. Kelly is employed as a doorman and has worked at the Respondent's establishment for the past 10 years. *Tr.*, 11/18/10 at 255. He only works at the establishment on a part-time and currently serves as a lobbyist for the American Trucking Associations. *Tr.*, 11/18/10 at 255. He stated that when he first began working, he was trained by another member of the establishment's security staff. *Tr.*, 11/18/10 at 256-57. He also received the establishment's security plan. *Tr.*, 11/18/10 at 262. He noted that he currently has a shirt issued by the establishment with the word "security" emblazoned on it. *Tr.*, 11/18/10 at 262-63.

92. Mr. Kelly stated that he was working at the establishment on August 1, 2009. *Tr.*, 11/18/10 at 257. Mr. Kelly states that he witnessed Mr. Khalil go to the establishment's top bar. *Tr.*, 11/18/10 at 258. Mr. Khalil entered into a verbal altercation with a couple

near the bar and Mr. Kelly observed Mr. Khalil and the male patron grab each other. *Tr.*, 11/18/10 at 258. Mr. Kelly states that he ran upstairs and wedged himself between the couple and Mr. Khalil. *Tr.*, 11/18/10 at 258, 264. He noted that a number of other doorman responded. *Tr.*, 11/18/10 at 258. According to Mr. Kelly, Paul and Ali took Mr. Khalil away while he and Mr. McGavin took the couple outside. *Tr.*, 11/18/10 at 258.

93. Once outside, Mr. Kelly told the couple that they could not enter the establishment again. *Tr.*, 11/18/10 at 259. The couple stated that they were going to call the police. *Tr.*, 11/18/10 at 259. After speaking with the couple, Mr. Kelly resumed his duties while the couple remained outside the restaurant. *Tr.*, 11/18/10 at 259.

94. Mr. Kelly testified that he has initiated physical contact with patrons while working at the establishment. *Tr.*, 11/18/10 at 271. He stated that after “people act up” and they do not leave, “as a last resort you have to move them out, especially if they’re going to be a danger.” *Tr.*, 11/18/10 at 272. He stated that he has not received any training other than on the job training. *Tr.*, 11/18/10 at 276.

95. The Respondent called Mary Patricia Strasser to testify. *Tr.*, 9/22/10 at 182. She stated that she currently works at the Palm Restaurant and was previously employed by the Respondent for the past 12 years. *Tr.*, 9/22/10 at 182. She testified that she was at the establishment in April 2009 after a Washington Capitals hockey game. *Tr.*, 9/22/10 at 183. She stated that she arrived at the Respondent’s establishment around midnight. *Tr.*, 9/22/10 at 183. She stated that she was not working at the establishment at the time and only entered the establishment as a patron. *Tr.*, 9/22/10 at 200.

96. Ms. Strasser testified that within twenty minutes of entering the establishment she witnessed two men engaged in a conversation by the upstairs bar. *Tr.*, 9/22/10 at 184-85. She witnessed the conversation between the men become more animated and then turned to obtain security. *Tr.*, 9/22/10 at 184. She stated that she spoke to Paul Kolokousis, the general manager, and he said “[s]ecurity to the top bar” over the microphone in response. *Tr.*, 9/22/10 at 187. Upon turning back, she witnessed one of the individuals head butt the other. *Tr.*, 9/22/10 at 188. She stated that she told the man to stop creating a disturbance but the man cursed at her in response. *Tr.*, 9/22/10 at 188. She testified that she believes the man who head butted the other man instigated the incident and his actions led her to ask for security. *Tr.*, 9/22/10 at 188. She stated that both men had their hands on their heads afterwards. *Tr.*, 9/22/10 at 192. She stated that she did not observe any further fighting by the men; however, they tried to fight as security escorted them out of the establishment. *Tr.*, 9/22/10 at 194, 210.

97. Ms. Strasser testified that she observed the establishment’s doormen enter the establishment and grab the men. *Tr.*, 9/22/10 at 193. She stated that four or five security personnel responded immediately, separated the men, and escorted them outside the establishment. *Tr.*, 9/22/10 at 193, 195, 209.

98. Ms. Strasser testified that she was familiar with the establishment’s security practices as a former employee. *Tr.*, 9/22/10 at 186. According to Ms. Strasser, employees

are supposed to alert a security guard or a bartender if they believe security assistance is required. *Tr.*, 9/22/10 at 186. If a bartender is alerted, they will alert a DJ, who will then call for security. *Tr.*, 9/22/10 at 186.

99. The Respondent then called Richard Tolbert to testify. *Tr.*, 11/18/10 at 278. Mr. Tolbert owned the restaurant until 1998 and now the restaurant is owned by a trust for the benefit of his family. *Tr.*, 11/18/10 at 278. Mr. Tolbert states that he operates as the owner of the restaurant and is at the restaurant on a daily basis during both the day and evening shifts. *Tr.*, 11/18/10 at 278.

100. Mr. Tolbert testified that he spoke to Ms. Strasser. *Tr.*, 11/18/10 at 286. According to Mr. Tolbert, Ms. Strasser stated that Mr. Blakely is the person she believed head butted another individual on April 4, 2009. *Tr.*, 11/18/10 at 288.

101. According to Mr. Tolbert, the establishment's security cameras recorded the initial dispute between Mr. Khalil and the couple at the downstairs bar, although no audio of the incident is available. *Tr.*, 11/18/10 at 303, 311. The footage shows Mr. Khalil get into an animated argument with the couple over the amount of drinks they ordered, while a busboy translated for everyone involved. *Tr.*, 11/18/10 at 303. Mr. Tolbert stated that the argument ended when Mr. Khalil agreed to discount half the bill. *Tr.*, 11/18/10 at 303. The footage showed the couple leave and then return to the upstairs bar and begin talking to Mr. Kolokousis. *Tr.*, 11/18/10 at 304. According to Mr. Tolbert, the doorman let the couple back into the establishment. *Tr.*, 11/18/10 at 304. When Mr. Khalil saw the couple talking to Mr. Kolokousis, he ran up the stairs and pushed the male patron speaking to Mr. Kolokousis. *Tr.*, 11/18/10 at 304. The footage then shows security take Mr. Khalil away. *Tr.*, 11/18/10 at 304. Mr. Tolbert noted that Detective Tabron received the footage. *Tr.*, 11/18/10 at 304.

102. Mr. Tolbert testified that it was wrong for Mr. Khalil to attack the couple. *Tr.*, 11/18/10 at 305. Mr. Tolbert testified that because Mr. Khalil is one of the establishment's best employees and no harm was done, he decided not to fire Mr. Khalil. *Tr.*, 11/18/10 at 305. He told Mr. Khalil that he would be fired if he ever even looked a customer "cross-eyed." *Tr.*, 11/18/10 at 306. Mr. Tolbert believes that Mr. Khalil's behavior was an aberration and did not take further disciplinary actions against Mr. Khalil. *Tr.*, 11/18/10 at 306, 316.

103. The Board notes the following pertinent portions of the Respondent's March 2008 security plan:

1) HIRING AND TRAINING-

The Respondent will then interview with our head of security and review our security packet to make certain their duties and our expectations of the security staff are understood.

Upon hiring and before their first shift, the new employee will be issued a uniform with Rumors logo and a hat with 'SECURITY' printed on the front in bold letters. (ABRA Show Cause File No. 09-251-00110, 09-251-00210, 09-251-00005, *Rumors Restaurant Security Guidelines, March 2008*).

5) Anticipatory Judgment and Decision Making-

The ability to recognize, identify and anticipate potential disturbances allows us to be more proactive. . . . The key is to be aware, or notified of undesirable behavior exhibited by any guests. At this time you should approach the guest(s) calmly and professionally, identify yourself and offer your assistance to the guests so as to the diffuse the situation and prevent any escalation.”

The manager on duty will handle all aspects of discovering the circumstances of the altercation to the best of his or her ability. They will ask for accounts from all involved – those who fought, staff members and any guests who may have observed the incident. This is to educate and protect our guests and ourselves and to gather information for any city services if needed. (ABRA Show Cause File No. 09-251-00110, 09-251-00210, 09-251-00005, *Rumors Restaurant Security Guidelines, March 2008*).

7) Conflict Resolution-

At any point leading up to a physical conflict between guests, it is important to approach the individuals in a calm, professional manner, identify yourself and ask of them “How may I be of assistance). If they are agitated and raise their voice, ask them politely to please lower their voice and ensure them that they have your total attention and your only desire is to listen to their complaint or grievance so that you may resolve it to their satisfaction. If you are in a crowded area, request of them to go with you to a calmer location so you can better understand and address their concerns. . . . If for some reason they are not satisfied with your handling of the situation, assure them that a manager will be with them in a moment to further assist them and evaluate any problems that may remain. . . .

Unfortunately, we can not anticipate every instance and a fight may break out before we are able to intervene. . . . Our first goal is to separate those involved and restrain them from further attacks if necessary. . . . With considerable risk to yourself and your fellow security members you are to put yourself between those fighting and separate the combatants. . . . We do not tolerate violent behavior at Rumors and any and all of those involved in fighting will be asked to leave at that time. If they remain uncooperative or violent they will be escorted or taken outside the establishment and asked not to return. . . .

The head of security and your fellow veteran security staff members will assist you in proper methods of control and escorting/removing the combative, uncooperative participants from the premises. The manager on duty will handle all aspects of

discovering the circumstances of the altercation to the best of his or her ability. They will ask for accounts from all involved—those who fought, staff members and any guests who may have observed the incident. . . .

104. The Board notes the following pertinent portions of Adam Saltzman’s testimony contained in U.S. v. Evan Polley, 2009 CMD 280 (D.C. Superior Ct. Apr. 1, 2009). Mr. Adam Saltzman testified that he and his brother, Ryan Saltzman, were dancing at the establishment. U.S. v. Evan Polley, 2009 CMD at 21 (AM Portion). Adam Saltzman stated that he never spoke or bumped into a female customer while he was in the establishment. U.S. v. Evan Polley, 2009 CMD at 30 (AM Portion). He stated that he went to the bathroom and when he returned, Mr. Polley went over to the Saltzman brothers and attempted to “shoo” them. U.S. v. Evan Polley, 2009 CMD at 21 (AM Portion). In response, the brothers turned their backs to Mr. Polley and stepped away from him. U.S. v. Evan Polley, 2009 CMD at 22, 34 (AM Portion). He stated that, at the time, he did not know that Mr. Polley was an employee of the establishment. U.S. v. Evan Polley, 2009 CMD at 32 (AM Portion). Adam Saltzman then stated that Mr. Polley came up to them and told them to leave. U.S. v. Evan Polley, 2009 CMD at 35 (AM Portion). According to Adam Saltzman, Mr. Polley then immediately pushed him and grabbed his brother by the jacket and started to remove his brother from the establishment while Ryan Saltzman’s head was covered by his own jacket. U.S. v. Evan Polley, 2009 CMD at 22, 35 (AM Portion). Adam Saltzman stated that he attempted to help his brother but was pinned against a pillar by an unknown person. U.S. v. Evan Polley, 2009 CMD at 23 (AM Portion). He stated that his arms were being held behind his back. U.S. v. Evan Polley, 2009 CMD at 23 (AM Portion). Adam Saltzman testified that Mr. Polley approached him and “looked. . . angry.” U.S. v. Evan Polley, 2009 CMD at 23 (AM Portion). Adam Saltzman then stated that he was “knead twice in the face” and “punched in the [lower] back.” U.S. v. Evan Polley, 2009 CMD at 23-24 (AM Portion). Adam Saltzman told the court that he received a “non-displaced fractured nose.” U.S. v. Evan Polley, 2009 CMD at 26 (AM Portion).

105. The Board notes the following pertinent portions of Evan Polley’s testimony contained in U.S. v. Evan Polley, 2009 CMD 280 (D.C. Superior Ct. Apr. 1, 2009). Mr. Polley admitted that he was not wearing a Rumors shirt on January 4, 2009. U.S. v. Evan Polley, 2009 CMD at 34 (PM Portion). Mr. Polley stated that he was wearing a dark colored polo because he had failed to wash his work shirt before reporting to work. U.S. v. Evan Polley, 2009 CMD at 34 (PM Portion). He stated that he had failed to wear his Rumors shirt on several different nights while working at the establishment. U.S. v. Evan Polley, 2009 CMD at 34 (PM Portion).

106. Mr. Polley testified to the court that during last call he was near the dance floor when he recognized a female customer who was a regular patron of the establishment. U.S. v. Evan Polley, 2009 CMD at 35 (PM Portion). He stated that the woman was dancing nearby and suddenly moved “aggressively towards the [Saltzman brothers].” U.S. v. Evan Polley, 2009 CMD at 35 (PM Portion). He stated that he grabbed her by the shoulders, pulled her back, and told her to calm down. U.S. v. Evan Polley, 2009 CMD at 35 (PM Portion). He stated that a minute later the woman again aggressively moved

towards the Saltzman brothers and pushed one of them. U.S. v. Evan Polley, 2009 CMD at 36 (PM Portion). According to Mr. Polley, he did not know why the woman was upset but he took her into the dining room and sat her down. U.S. v. Evan Polley, 2009 CMD at 36 (PM Portion). He then went back to the Saltzman brothers and told them to leave but they ignored him and one brother told him that they did not have to do what he said. U.S. v. Evan Polley, 2009 CMD at 36 (PM Portion). Mr. Polley testified that he identified himself as an employee of the establishment. U.S. v. Evan Polley, 2009 CMD at 54 (PM Portion). He stated that he then grabbed the back of their jackets. U.S. v. Evan Polley, 2009 CMD at 37, 58 (PM Portion).

107. The Board notes the following portion of Mr. Polley's testimony to the court:

Q Did you have the choice of going to somebody, another person who was a bouncer or security officer and saying what's the deal with those guys? You know anyone who had one [sic] a security shirt and you could have taken over what the bouncer was doing?

A I could but that's still my job -. U.S. v. Evan Polley, 2009 CMD at 59 (PM Portion).

The Board further notes that Judge Diaz made the following comments regarding the incident on January 4, 2009: "[The Saltzman brothers] ignored [Mr. Polley] all three times and he apparently felt he had no choice but to become physical at some point and began to push them away." U.S. v. Evan Polley, 2009 CMD at 93 (PM Portion). The judge also noted that Mr. Polley did not have time to call for another security guard when Adam Saltzman tried to punch him. U.S. v. Evan Polley, 2009 CMD at 102-03 (PM Portion). According to Judge Diaz, at the time Adam Saltzman tried to punch Mr. Polley, Mr. Polley had no time to obtain help because there was too much commotion involved. U.S. v. Evan Polley, 2009 CMD at 103 (PM Portion).

108. The court acquitted Mr. Polley of assault against Adam Saltzman. U.S. v. Evan Polley, 2009 CMD at 103 (PM Portion). The court stated that the Government proved that Mr. Polley committed an "attempted battery assault." U.S. v. Evan Polley, 2009 CMD at 85 (PM Portion). However, the court found that Mr. Polley acted in self-defense. U.S. v. Evan Polley, 2009 CMD at 87, 107 (PM Portion). The court's decision rested upon Criminal Jury Instruction 5.12, which the court stated gives "every person. . . the right to use a reasonable amount of force in self-defense if [they] actually believe[] that [they] are in imminent danger of bodily harm and if [they have] reasonable ground for that belief." U.S. v. Evan Polley, 2009 CMD at 96 (PM Portion). According to the court, "[t]he question is whether the defendant under the circumstances as they appeared to him at the time of the incident actually believed that he was in imminent danger of bodily harm and could reasonably hold that belief." U.S. v. Evan Polley, 2009 CMD at 96 (PM Portion). Further, the court stated that the burden was on the Government to prove beyond a reasonable doubt that Mr. Polley did not act in self-defense. U.S. v. Evan Polley, 2009 CMD at 96. (PM Portion).

CONCLUSIONS OF LAW

109. The Board has the authority to suspend or revoke the license of a licensee who violates any provision(s) of Title 25 of the D.C. Official Code pursuant to D.C. Official Code § 25-823(1) (2001). Additionally, pursuant to the specific statutes under which the Respondent was charged, the Board is authorized to levy fines. D.C. Code § 25-830 and 23 DCMR § 800, *et seq.*

110. Case Numbers 09-251-0110, 09-251-00005, and 09-251-00210 were consolidated by the Board and leave the Respondent charged with 11 separate violations. In respect to the charges associated with Case Number 09-251-00110, the Board finds the Respondent liable for Charge I and Charge III but dismisses Charge II. In respect to Case Number 09-251-00005, the Board finds the Respondent liable for Charge V and Charge VI but dismisses Charge IV, Charge VII, and Charge VIII. Finally, in respect to 09-251-00210, the Board finds the Respondent liable for Charge I and Charge III but dismisses Charge II.

111. In reaching its determination, the Board has considered the transcript created in U.S. v. Evan Polley, 2009 CMD 280 (D.C. Superior Ct. Apr. 1, 2009), over the objection of the Government. The Board finds that Banks v. District of Columbia, 551 A.2d 1304, 1310 (D.C. 1988), which was cited by the Government in its Motion, to be unconvincing because the court there was clearly only referring to jury trials, not administrative hearings. (ABRA Show Cause File No. 09-251-00110, 09-251-00210, 09-251-00005, *District of Columbia's Motion In Limine*, 2). The Government ignores D.C. Code § 25-442, which states: "The Board may exclude any irrelevant or unduly repetitious evidence or testimony." D.C. Code § 25-442 (2001). Consequently, the Board is not required by the ABC laws to disregard hearsay evidence when such evidence is relevant. Hutchinson v. District of Columbia Office of Empl. Appeals, 710 A.2d 227, 232-233 (D.C. 1998) ("It is settled that hearsay evidence may be admitted in administrative hearings. Administrative tribunals are not required to disregard evidence merely because it is hearsay"). Here, the transcript submitted by the Respondent contains the testimony of Adam Saltzman and Evan Polley, both of whom had intimate knowledge of the events at issue but were unavailable to testify during the hearing. As such, the Board affirms its decision to enter the transcript from Evan Polley's criminal hearing into evidence during the hearing.

112. The Board will discuss each charge separately below. First, the Board will discuss the three charges alleging that the Respondent allowed its establishment to "be used for any unlawful or disorderly purpose" on three separate occasions. § 25-823(2). Second, the Board will discuss the plethora of charges alleging that the Respondent violated its security plan. Third, the Board will address the charge that the Respondent violated § 25-823(5). And fourth, the Board will address the charge that the Respondent violated § 25-762.

D.C. Code § 25-823(2)

113. The Board finds the Respondent liable for Charge I in Case Number 09-251-00110 and Charge I in Case Number 09-251-00210. The Board dismisses Charge V in Case Number 09-251-00005.

114. Section 25-823(2) states that a licensee may not “allow[] the licensed establishment to be used for any unlawful or disorderly purpose.” § 25-823(2) (2001). Both parties have presented the Board with a number of court decisions that interpret the language of § 25-823(2). Courts have affirmed the Board’s authority to find a licensee liable for violating § 25-823(2) where a licensee’s “method of operation, continued over time, harbor[s] sufficient danger of mischievous consequences sooner or later. . . .” Am-Chi Restaurant, Inc. v. Simonson, 396 F. 2d 686, 688 (D.C. Cir. 1968). Thus, under § 25-823(2), a licensee can be held responsible for the unlawful acts of third parties. Levelle, Inc. v. District of Columbia Alcoholic Beverage Control Board, 924 A.2d 1030, 1036 (D.C. 2007). The Board has also previously found that “a single incident can be sufficient [to find a violation of § 25-823(2)] where the single incident deals with existing patterns and practices at an establishment.” *Board Order No. 2008-262, para. 18.*

115. In Am-Chi Restaurant, the court affirmed the Board’s decision to find the licensee liable for allowing its premises to be used for an unlawful purpose under D.C. Code 25-118 (1967), which was re-codified at D.C. Code § 25-823 (2001). Am-Chi Restaurant, Inc., 396 F. 2d at 686. There, a female employee of the licensee was propositioning clients for prostitution and proposing the purchase of drinks at inflated prices from another employee who “was an open part of that operation.” *Id.* at 688. According to the court, even though the licensee did not know about the illegal activities, the Board could still find the licensee liable because it is enough that the “atmosphere provided by the employer was at least conducive to the initiating” of the unlawful behavior. *Id.*

116. In Levelle, the court affirmed the Board’s revocation of the Licensee’s Retailer’s Class CR License based on a violation of § 25-823(2). Levelle, Inc., 924 A.2d at 1039. According to the court, the Board’s decision was proper where the Board concluded that “various incidents were attributable to the lack of training and supervision of petitioner’s security staff, the failure of petitioner to maintain a sufficient number of security personnel, the inadequacy of petitioner’s security plan, petitioner’s failure to fully enforce its security procedures, and petitioner’s failure to properly communicate with police about incidents.” *Id.* at 1037.

117. In 4934, Inc., the Board suspended the petitioner’s liquor license under D.C. Code § 25-118 (1973), which contained language similar to the language found in D.C. Code § 25-823(2). 4934, Inc. v. Washington, 375 A.2d 20, 20-22 (D.C. 1977); *compare* D.C. Code § 25-118 (1973) *with* D.C. Code § 25-823(2). There, the employee was charged with violating a District of Columbia law that prohibited patently offensive behavior by engaging in an obscene dance. *Id.* at 21, 23. According to the court, there was evidence that the behavior was not a “continuous course of conduct” because police observed the location frequently and did not find violations, the dancer was previously warned about obscene behavior, and the dancer was reprimanded for deviating from management’s instructions. *Id.* at 22. Finally, the court overturned the Board’s suspension because the underlying behavior was not unlawful. *Id.* at 23-24.

118. Charge I in Case Number 09-251-00110 is sustained because the Government has shown that the Respondent's security practices were inadequate and unnecessarily endangered the establishment's employees and patrons on January 4, 2009. Specifically, the Board concludes that the Respondent violated § 25-823(2) on January 4, 2009, based on the establishment's failure to issue proper security uniforms, as indicated in its March 2008 security plan and the actions of Mr. Polley.

119. The Board finds that the establishment's failure to provide proper uniforms, as testified by Mr. Furnari, for over a year contributed to the confusion that led to Adam Saltzman's injuries on January 4, 2009. The Board credits the testimony of Officer Diemer and Ryan Saltzman that it was extremely difficult to identify Mr. Polley as an employee and a member of the establishment's security staff. As a result, as in Am-Chi Restaurant, the establishment's method of operating without issuing the proper security uniforms listed in its March 2008 security plan created an atmosphere that led to Adam Saltzman's injuries and the brothers' failure to identify Mr. Polley as an employee.

120. In addition, although the Board recognizes that a court determined that Mr. Polley engaged in self-defense on January 4, 2009, this legal determination is not dispositive on the issues presented to the Board. The question before the Board, as stated in Am-Chi Restaurant, is whether the Respondent's "method of operation, continued over time, harbor[s] sufficient danger of mischievous consequences sooner or later. . . ." Am-Chi Restaurant, Inc. v. Simonson, 396 F. 2d at 688. Therefore, the question before the Board is whether the Respondent is responsible for or allowed the violent incident involving the Saltzman brothers to occur.

121. The Board answers this question in the affirmative. Based on the facts presented by both the Government and the Respondent, the Board concludes that the Respondent encourages or, at the very least, does not dissuade its security personnel from being overly aggressive with unruly patrons. On January 4, 2009, the Board concludes that there was no need for Mr. Polley to grab the Saltzman brothers. Although they failed to heed Mr. Polley's instructions, there is no evidence that they were being violent or threatening the safety of their fellow patrons. Indeed, the testimony of Mr. Polley to the court indicates that he only witnessed the female patron push one of the Saltzman brothers. As a result, she should have been the one ejected from the establishment, not the Saltzman brothers. Furthermore, the Board is convinced that had Mr. Polley obtained a manager when the Saltzman brothers refused to obey his instructions or threatened to call the police and have the police charge the brothers with trespassing, instead of grabbing the Saltzman brothers, there would have been no need for Mr. Polley to engage in "self-defense." However, based on the Respondent's security training, Mr. Polley was seemingly not aware that these options were available to him. Thus, as in Am-Chi Restaurant and Levelle, the Board finds that Respondent's lax security training created an atmosphere that encourages its bouncers to touch patrons unnecessarily. Indeed, unlike the conduct in 4934, Inc., where the employee was instructed not to engage in such behavior by management, Mr. Polley believed that it was his "job" to forcibly remove the brothers and "felt he had no choice to become physical." U.S. v. Evan Polley, 2009 CMD at 59, 93 (PM Portion). In these circumstances, where the Respondent's employee felt that he was acting within the scope

of his duties, the Board is entitled to hold the Respondent responsible for its employee's actions. As such, the Board finds the Respondent liable for Charge I in Case Number 09-251-00110.

122. The Board dismisses Charge V in Case Number 09-251-0000. The Board finds that Mr. Blakely's testimony regarding the events of April 4, 2009, lack credibility based on his intoxication and the conflicting accounts of what occurred. As such, there is insufficient evidence to demonstrate that the establishment allowed its premises to be used for an unlawful or disorderly purpose under § 25-823(2) on April 4, 2009.

123. Finally, the Board finds the Respondent liable for Charge I in Case Number 09-251-00210. The Board notes that there are not many jobs in the world where a person can engage in a violent criminal action and expect to keep their job. Nevertheless, the facts show that Mr. Khalil, without cause, assaulted two patrons and only received a verbal warning from management regarding his actions. The testimony of Mr. Kolokousis and Mr. Tolbert, both responsible for the establishment's management, indicate that they are willing to give employees who cause violent incidents in their establishment a free pass if they are sufficiently productive. A "1-assault free" employment policy endangers all of the establishment's patrons and sets a terrible precedent for the establishment's other employees. Similar to the court's conclusions in Am-Chi Restaurant, the Board cannot tolerate management creating an atmosphere conducive to the initiation of violence. As such, the Board finds that the Respondent violated § 25-823(2) on August 4, 2009, by failing to properly discipline and supervise its employees and creating an atmosphere conducive to violence.

D.C. Code § 25-113(d)(1)

124. As the holder of a Retailer's Class CN License, the Respondent is obligated to comply with its security plan. D.C. Code § 25-113(d)(1); *see also* D.C. Code 25-823(6). The Board understands that many security plans contain suggestions and hortatory language and as such, only expects that licensees follow clear mandates contained in their security plans.

125. The Board disagrees with the Government's position that the Respondent violated Section 5 of its security plan in Charge II in Case Number 09-251-00110 and Charge II in Case Number 09-251-00210. Specifically, in both charges the Government alleges that the Respondent's staff failed to interact with patrons in a "professional manner." However, the term "professional" as it appears in Section 5 of the Respondent's security plan is simply vague and appears to be more of a suggestion to staff. As such, the Board dismisses Charge II in Case Numbers 09-2510-110 and 09-251-0021.

126. The Board finds that the Respondent violated Section 7 of its security plan on January 4, 2009. Section 7 of the Respondent's security plan states that: "If for some reason they are not satisfied with your handling of the situation, assure them that a manager will be with them in a moment to further assist them and evaluate any problems that may remain." In addition, Section 7 further states: "We do not tolerate violent behavior at

Rumors and any and all of those involved in fighting will be asked to leave at that time.” Based on the language of the security plan, Mr. Polley should have obtained a manager when the Saltzman brothers failed to follow his commands. Furthermore, as soon as Mr. Polley observed the female patron push the Saltzman brothers and aggressively go after them a second time, she should have been ejected in accordance with the security plan. For these reasons, the Board finds that the Respondent is liable for Charge III in Case Number 09-251-00110.

127. The Board further finds that the Respondent violated Section 1 of its security plan on April 15, 2009. Section 1 of the security plan states, “The Respondent will then interview with our head of security and review our security packet to make certain their duties and our expectations of the security staff are understood.” The Board credits Investigator Mathieson’s testimony that the security person that she interviewed had never seen the establishment’s security plan before. The Board is entitled to presume that a security member who has never seen the establishment’s security plan has never reviewed or is familiar with the security plan. As such, the Government has shown that the Respondent is liable for Charge VI in Case Number 09-251-00005.

128. The Board also finds that the Respondent did not violate Section 7 of its security plan on April 4, 2009, and April 15, 2009. The Board did not find Mr. Blakely to be a credible witness. He was clearly intoxicated on August 1, 2009, and it is unlikely that he was hit in the head with a bottle. When Mr. Blakely approached Mr. Kolokousis after emerging from the bathroom, the establishment was clearly closing and any danger of a security incident had long passed. Based on these circumstances, Mr. Kolokousis was reasonable for dismissing Mr. Blakely’s statements because they were hard to understand and seemed purely to be the result of Mr. Blakely’s intoxication. As a result, Mr. Kolokousis was not required to engage in any further investigation of Mr. Blakely’s complaint. Furthermore, the Government’s position that the establishment was somehow obligated to give Mr. Blakely any information or assistance long after he had left the establishment is not supported by the law or the terms of the establishment’s security plan. As such, the Board dismisses Charge VII in Case Number 09-251-00005.

129. Finally, the Board concludes that the Respondent did not violate Section 7 of its security plan on August 1, 2009. The terms of the Respondent’s security plan clearly does not apply to the establishment’s bartenders. Section 1 of the security plan clearly states that Respondents will interview with the “head of security” and be issued a shirt with “SECURITY” printed on the front. During that employee’s first shift, the security plan states that they will be paired with “another security employee.” As a result, neither the Respondent or the Board had any legal expectation that Mr. Khalil, a bartender, would follow or be aware of the security plan. As such, the Board dismisses Charge III in Case Number 09-251-00210.

D.C. Code § 25-823(5)

130. During closing arguments, the Respondent emphasized that the licensee must make an “active effort” to interfere with an investigation in order to be found in violation of § 25-

823(5). However, the statute states that the Respondent must “fail[] or refuse[] to allow an ABRA investigator, a designated agent of ABRA, or a member of the Metropolitan Police Department to enter or inspect without delay the licensed premises or examine the books and records of the business, or otherwise interferes with an investigation.” D.C. Code § 25-823(5). The Respondent’s argument ignores the plain language of § 25-823(5), which states that it is also a violation to fail to allow an ABRA investigator to examine a licensee’s books and records, including security footage, without delay under § 25-823(5).

131. The Board finds that the Respondent failed to allow Investigator Mathieson to examine its security footage without delay. At the hearing, the Government demonstrated that Investigator Mathieson requested to see the Respondent’s security footage from April 3, 2009, and April 4, 2009, on April 15, 2009, and left instructions on a business card. Investigator Mathieson’s business card was given to Mr. Palmer, an ABC manager, but never given to Mr. Kolokousis or presented to anyone else at the establishment. When Investigator Mathieson returned to the establishment on April 17, 2009, Mr. Kolokousis stated that he would prepare the footage for her and have it ready on April 28, 2009. Nevertheless, Mr. Kolokousis never returned Investigator Mathieson’s call and the Investigator had to get in touch with Mr. Kolokousis to find out that the footage was deleted.

132. Taken together, the Respondent’s actions amount to gross disregard of its legal obligations. It is irrelevant that the security footage did not exist by the time Investigator Mathieson requested it. Mr. Palmer is an ABC manager and is expected to know the Respondent’s obligations under the ABC laws. As the Respondent’s agent, he was responsible for ensuring that Investigator Mathieson’s request was fulfilled or given to the proper person within the Respondent’s business. Furthermore, the Board certainly believes Mr. Kolokousis that he leads a busy life. However, once he learned that the security footage was deleted he should have notified Investigator Mathieson who was waiting for the footage. At the very least, he should have returned her call when he said he would. Furthermore, it was completely irresponsible of the Respondent to set up a security camera system and not know how to operate it, not know how long it records for, and not know how to download recordings for use in a timely fashion by ABRA and MPD.

133. In the end, the Respondent has multiple ABC managers and an owner. Under § 25-823(5), the Respondent has a legal obligation to provide ABRA investigators access to their books and records. This includes the Respondent’s security footage. The Board will allow for reasonable delays but delays based on the failure of the Respondent’s agents to communicate ABRA’s requests for access to their books and records, because they are too busy, or do not know how to access the records are unacceptable. If one of the Respondent’s many agents was incapable of dealing with ABRA in a professional and timely manner, then the matter should have been immediately forwarded to another of the Respondent’s agents who had the ability to do so.

134. On a final note, the Board believes the Respondent’s testimony that the footage had minimal value to the investigation. Nevertheless, obtaining access to the Respondent’s records or learning of their final disposition is not an academic exercise. In the real world,

witnesses disappear, memories fade, and criminals can escape justice. As such, in the Board's view, obtaining timely access to a licensee's records is a critical means of ensuring public safety. Consequently, the Board finds the Respondent liable for Charge V in Case Number 09-251-00005.

D.C. Code § 25-762(b)(1)

135. Lastly, the Board dismisses Charge VIII, in Case Number 09-251-00005, which accuses the Respondent of engaging in a substantial change by having too many seats in the interior of the establishment in violation of § 25-762(b)(1). The Board credits the evidence submitted by the Respondent that shows that the enclosed area, included in Investigator Mathieson's accounting of the establishment's seats, is not part of the establishment's interior. Therefore, there is insufficient evidence to demonstrate that the Respondent violated § 25-762(b)(1).

ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 17th day of February 2011, finds that the Respondent, 1900 M Restaurant Associates, Inc., t/a Rumors Restaurant, at premises 1900 M Street, N.W., Washington, D.C., holder of a Retailer's Class CR License, violated D.C. Code § 25-823(2); D.C. Code § 25-113(d)(1); and D.C. Code § 25-823(5).

The Board hereby **ORDERS** that:

1. In Case Number 09-251-0110, the Respondent is liable for Charge I. The Respondent shall pay a fine in the amount of \$2000.00 by no later than thirty (30) days from the date of this Order. The Respondent shall receive a suspension of its license for five (5) days; two (2) days to be served and three (3) days stayed for one year, provided that the Respondent does not commit any ABC violations;
2. In Case Number 09-251-0110, the Respondent is liable for Charge III. The Respondent shall pay a fine in the amount of \$500.00 by no later than thirty (30) days from the date of this Order. The Respondent shall receive a suspension of its license for two (2) days; which will be stayed for one year, provided that the Respondent does not commit any ABC violations;
3. In Case Number 09-251-00005, the Respondent is liable for Charge V. The Respondent shall pay a fine in the amount of \$2000.00 by no later than thirty (30) days from the date of this Order. The Respondent shall receive a suspension of its license for six (6) days; three (3) days to be served and three (3) days stayed for one year, provided that the Respondent does not commit any ABC violations;

4. In Case Number 09-251-00005, the Respondent is liable for Charge VI. The Respondent shall pay a fine in the amount of \$500.00 by no later than thirty (30) days from the date of this Order. The Respondent shall receive a suspension of its license for one (1) day, which will be stayed for one year, provided that the Respondent does not commit any ABC violations;
5. In Case Number 09-251-00210, the Respondent is liable for Charge I. The Respondent shall pay a fine in the amount of \$4000.00 by no later than thirty (30) days from the date of this Order. The Respondent shall receive a suspension of its license for five (5) days; two (2) days to be served and three (3) days stayed for one year, provided that the Respondent does not commit any ABC violations;
6. In Case Number 09-251-00210, the Respondent is liable for Charge III. The Respondent shall pay a fine in the amount of \$500.00 by no later than thirty (30) days from the date of this Order. The Respondent shall receive a suspension of its license for two (2) days; which will be stayed for one year, provided that the Respondent does not commit any ABC violations;
7. In total, the Respondent shall pay a fine in the amount of \$9,500.00 by no later than thirty (30) days from the date of this Order. The Respondent shall receive a suspension of twenty-one (21) days, seven (7) days to be served and fourteen (14) days stayed for one year, provided that the Respondent does not commit any ABC violations during that time;
8. The served suspension days shall run from March 1, 2011, to March 8, 2011; and
9. Copies of this Order shall be sent to both the Respondent and the Government.

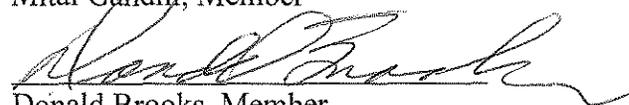
District of Columbia
Alcoholic Beverage Control Board



Nick Alberti, Acting Chairperson

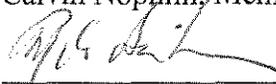


Mital Gandhi, Member



Donald Brooks, Member

Calvin Nophlin, Member



Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (2008), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 1250 U Street, N.W., 3rd Floor, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 (2008) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. *See* D.C. App. Rule 15(b) (2004).