

DISTRICT OF COLUMBIA  
+ + + + +  
ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

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IN THE MATTER OF:                   :  
  :  
1807 Corporation,                   :  
t/a Dupont Market                   :  
1807 18th Street NW               :  
Retailer B - ANC 2B               :  
License #21578                      :  
Case #21-CMP-00119               :  
  :  
(Sale to Minor Violation,       :  
No ABC Manager on Duty)       :  
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Wednesday  
January 26, 2022

The Alcoholic Beverage Control Board  
met via WebEx videoconference, Chairperson  
Donovan W. Anderson presiding.

PRESENT:

- DONOVAN W. ANDERSON, Chairperson
- BOBBY CATO, JR., Member
- RAFI ALIYA CROCKETT, Member
- EDWARD S. GRANDIS, Member
- JENI HANSEN, Member
- JAMES SHORT, JR., Member

ALSO PRESENT:

- SARAH FASHBAUGH, DC ABRA Staff
- KELLY HERNANDEZ, Witness for Licensee
- STEPHEN ORTIZ, DC OAG
- MARK RUIZ, DC ABRA Investigator
- KEVIN SHERIDAN, Licensee

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| Kelly Hernandez | 59     | 65    | 81       |         |
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GOVERNMENT

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

2 2:24 p.m.

3 CHAIRPERSON ANDERSON: All right, our  
4 next case is Case Number 19-CC-00119, Dupont  
5 Market, License Number 21578.

6 Ms. Fashbaugh, can you please elevate  
7 the rights of the Government and the Licensee in  
8 this case, please?

9 MR. SHERIDAN: evin Sheridan with  
10 Dupont Market

11 CHAIRPERSON ANDERSON: Hold on, hold  
12 on, hold on, please, hold on.

13 Do you have camera, sir, while we're  
14 waiting? Thanks.

15 Have everyone -- all right, I see Mr.  
16 Ruiz.

17 Mr. Sheridan, are there any other  
18 witnesses that you are -- plan to call or is it  
19 just you?

20 MR. SHERIDAN: Yes, Kelly Hernandez is  
21 here with me.

22 CHAIRPERSON ANDERSON: She's in the  
23 same location as you are?

24 MR. SHERIDAN: Yes.

25 CHAIRPERSON ANDERSON: All right,

1 okay, fine.

2 Good afternoon, everyone. This is  
3 Case Number 19-CC-00119, Dupont Market.

4 Mr. Ortiz, can you please spell and  
5 state your name for the record, please?

6 MR. ORTIZ: Good afternoon, Stephen  
7 Ortiz on behalf of the District of Columbia.  
8 That's S-T-E-P-H-E-N-O-R-T-I-Z.

9 CHAIRPERSON ANDERSON: All right,  
10 thank you.

11 Mr. Sheridan, can you please spell and  
12 state your name for the record and your  
13 connection with this case, please?

14 MR. SHERIDAN: Yes, my name is Kevin  
15 Sheridan, K-E-V-I-N-S-H-E-R-I-D-A-N. And, I'm  
16 the owner of Dupont Market.

17 CHAIRPERSON ANDERSON: All right,  
18 thank you.

19 Are there any preliminary matters in  
20 this case? Mr. Ortiz?

21 MR. ORTIZ: Well, I just want to -- I  
22 don't believe that the Government was aware that  
23 the Licensee was going to have a witness, present  
24 a witness. And, therefore, I just want to --  
25 yes, I don't believe that the Government ever, I

1 mean, the Licensee ever shared that with the  
2 Government. And that is required per the  
3 instructions that ABRA provided.

4 CHAIRPERSON ANDERSON: So, Mr.  
5 Sheridan, you were told that seven days before  
6 the hearing, and I guess I'll find out, we were -  
7 - if you plan to -- I will take your motion under  
8 advisement at this moment, Mr. Ortiz. If, at the  
9 time Mr. Sheridan is about to present his, if he  
10 calls a witness, then we will address it. We'll  
11 address your motion.

12 But I don't know if he's got someone  
13 else with him. I don't if he's going to call  
14 that person. So, at that time, I will find out  
15 whether or not documents were disclosed and if  
16 they were not, why they were not and whether or  
17 not it'll be prejudicial to your case to allow a  
18 witness to testify.

19 All right, so this is a show cause  
20 hearing. The process is that the Government,  
21 both sides will have an opportunity to do opening  
22 statements, so the Government will go first.

23 So, the Government will do an opening  
24 statement. And, Mr. Sheridan, if you so desire,  
25 you can make an opening statement. An opening

1 statement is basically to tell us what is it that  
2 this case is about and what is it that you intend  
3 to show, you defenses, not what the defenses are,  
4 but what you intend to show through testimony.

5 And, all right, so, you can either do  
6 the opening statement now or you can wait until  
7 you present your case.

8 And, the Government will then call its  
9 first witness. You will have an opportunity to  
10 cross examine that witness. After the Government  
11 calls its witness, you'll have an opportunity to  
12 cross examine the witness.

13 The Board will have an opportunity to  
14 cross examine the witness.

15 And then, we will -- I might give the  
16 parties another opportunity to recross and have  
17 the Government to recall, redirect of its  
18 witness.

19 And, at the -- after the Government  
20 has presented its case, then you'll have an  
21 opportunity to present your case. And, the  
22 Government will cross examine you or you and your  
23 witnesses.

24 And then, we'll do closing and then  
25 the Board will make -- will take this matter

1 under advisement.

2 Any questions before we start?

3 MR. SHERIDAN: You said that I could  
4 give an opening statement before, which --

5 CHAIRPERSON ANDERSON: No, the  
6 Government, I'm sorry, the Government is going to  
7 give its opening statement.

8 MR. SHERIDAN: Oh, got you.

9 CHAIRPERSON ANDERSON: Once the  
10 Government gives its opening statement, you can  
11 also give an opening statement or you can wait  
12 until the Government has presents its case and  
13 then you can give your opening statement and then  
14 present your case. I'm just saying that's the  
15 option that you'll have.

16 MR. SHERIDAN: Okay, thank you.

17 CHAIRPERSON ANDERSON: All right.

18 So, does the Government have an  
19 opening -- does the Government wish to make an  
20 opening statement?

21 MR. ORTIZ: Yes, the Government wishes  
22 to make an opening statement.

23 CHAIRPERSON ANDERSON: All right, go  
24 ahead, sir.

25 MR. ORTIZ: Thank you.

1                   Good afternoon, Board Members. We are  
2 here today in this show cause matter of 1807  
3 Corporation, trade name Dupont Market located at  
4 108 18th Street, Northwest, Washington, D.C.

5                   The show cause notice issued in this  
6 matter concerns the charge that the Licensee,  
7 one, sold an alcoholic beverage to a person under  
8 21 years of age in violation of D.C. Code Section  
9 25781(a)1; and, two, the Licensee failed to  
10 superintend the establishment in person or keep a  
11 licensed ABC manager on duty at all times.

12                  The evidence will show that on Friday,  
13 August 2nd, 2019, Alcoholic Beverage Regulation  
14 investigators, Mark Ruiz and Javon Miller,  
15 conducted a compliance check of the establishment  
16 with an 18-year-old undercover minor.

17                  At approximately 12:20 p.m., the  
18 undercover minor entered the establishment with  
19 his identification and money in his possession.

20                  Investigator Ruiz entered the  
21 establishment and observed the minor at all times  
22 inside the establishment.

23                  The undercover minor selected one  
24 bottle of wine and took it to the counter.

25                  The evidence will also show that the



1 cashier asked for the -- the establishment  
2 cashier asked for the undercover minor's  
3 identification which clearly stated that his date  
4 of birth was December 11th, 2000.

5 After checking the undercover minor's  
6 identification, the cashier scanned the bottle of  
7 alcohol and advised the undercover minor that the  
8 price was \$10.99. The minor paid and left the  
9 store with the wine.

10 The undercover minor then turned the  
11 alcohol over to Investigator Ruiz.

12 Finally, the evidence will show that  
13 approximately 12:33 p.m., Investigator Miller  
14 entered the establishment, identified himself as  
15 an ABRA Investigator and asked to speak an ABC  
16 manager or owner.

17 The manager in charge at the time, Ms.  
18 Kelly Hernandez, advised the investigator that  
19 there was no ABC manager or owner present at the  
20 time.

21 That is the Government's opening  
22 statement.

23 CHAIRPERSON ANDERSON: All right,  
24 thank you.

25 Mr. Sheridan, do you wish to make an

1 opening statement now or will you -- or do you  
2 wish to make it after the Government, prior to  
3 you presenting your case?

4 MR. SHERIDAN: I will make an opening  
5 statement now.

6 CHAIRPERSON ANDERSON: Go ahead, sir.

7 MR. SHERIDAN: So, we will show on  
8 August 19th, when this incident occurred that  
9 Kelly Hernandez, who is my witness, who I do need  
10 to have testify today, she was named in the suit.  
11 I assumed she was party to it and was able to  
12 come here.

13 I informed ABRA when we sent our  
14 information in last week that she would be  
15 testifying and they sent a link for her. We  
16 happened to be working together again, so she's  
17 here with me. So, I do expect to be able to  
18 include her testimony.

19 And, I'm unaware of anything that was  
20 sent to me that I didn't follow that would  
21 preclude her from testifying today.

22 And, the second thing I'd to point  
23 out, in our meeting back in December, I stressed  
24 over and over that the District Attorney's Office  
25 taking two years to bring this case forward

1 during a pandemic has caused it to where we can't  
2 produce our primary witness in this case.

3 He was a student from another country.  
4 We mailed her last known address. We haven't  
5 heard from her since around the -- I couldn't  
6 tell you when. She quit regarding this incident  
7 and we have not been in contact with her since.

8 Just today, the case before us is from  
9 August of 2021. You're hearing a case from  
10 August of 2019. The burden you have put upon us,  
11 because the District Attorney's Office inability  
12 to bring this case forward at a reasonable amount  
13 of time is unfair and it shouldn't proceed any  
14 further.

15 CHAIRPERSON ANDERSON: Anything else  
16 you want to say, sir?

17 MR. SHERIDAN: Pardon?

18 CHAIRPERSON ANDERSON: Do you have  
19 anything else you want to say at this time, sir?

20 MR. SHERIDAN: No, we're ready to move  
21 forward if that's what you think's best.

22 CHAIRPERSON ANDERSON: Does the  
23 Government have its first witness?

24 MR. ORTIZ: Yes, the Government will  
25 be calling ABRA Investigator Mark Ruiz as its

1 only witness.

2 CHAIRPERSON ANDERSON: Mr. Ruiz, can  
3 you raise your right hand, please?

4 Do you swear or affirm to tell the  
5 truth and nothing but the truth?

6 MR. RUIZ: Yes.

7 CHAIRPERSON ANDERSON: Your witness,  
8 sir.

9 WHEREUPON,

10 MARK RUIZ

11 was called as a witness by Counsel for the  
12 Government and, having been first duly sworn,  
13 assumed the witness stand, was examined and  
14 testified as follows:

15 DIRECT EXAMINATION

16 BY MR. ORTIZ:

17 Q Thank you.

18 Good afternoon, Investigator, Ruiz.

19 How are you doing?

20 A Good, how are you?

21 Q Doing great. Now, could you please  
22 state and spell your first and last name for the  
23 record?

24 A Yes, first name's Mark, M-A-R-K. Last  
25 name's Ruiz, R-U-I-Z.

1 Q And, where are you currently employed?

2 A The Alcoholic Beverage Regulation  
3 Administration.

4 Q And, what is your position at the  
5 Alcoholic Beverage Regulation Administration?

6 A An investigator.

7 Q And, how long have you been an  
8 investigator?

9 A Going on three years.

10 Q And, what are your duties and  
11 responsibilities as an investigator?

12 A To conduct investigations and  
13 compliance checks throughout the District of  
14 Columbia for ABC licensed establishments.

15 Q And, are you familiar with Dupont  
16 Market?

17 A I am.

18 Q And, how are you familiar with this  
19 establishment?

20 A Particularly, conducted a compliance  
21 check for the Sale to Minor Program at this  
22 location.

23 Q And, what happened during that  
24 compliance check?

25 A During that compliance check, a minor

1 was directed to enter the establishment. I,  
2 myself, also entered the establishment with the  
3 minor and maintained visual contact as the minor  
4 selected a bottle of wine. And, went to the  
5 checkout counter where the cashier was observed  
6 asking for ID. The minor presented his ID and  
7 then the cashier returned the ID back to the  
8 minor and continued with the sale of the wine.

9 She presented the amount to the minor.  
10 The minor presented the cash, received change and  
11 then left the store with the wine, which I  
12 followed behind and exited the store myself.

13 Q And, do you recall what date this was?

14 A This occurred on August 2nd, 2019.

15 Q And, did you create a case report for  
16 this matter?

17 A I did.

18 MR. ORTIZ: Permission to show  
19 Government's Exhibit 1.

20 (Whereupon, the above-  
21 referenced document was  
22 marked as Government Exhibit  
23 No. 1 for identification.)

24 CHAIRPERSON ANDERSON: Ms. Fashbaugh,  
25 can you please give Mr. Ortiz the ability to

1 share his screen, please? Ms. Fashbaugh, can you  
2 please give --

3 MR. ORTIZ: Sir, I have it.

4 CHAIRPERSON ANDERSON: All right.

5 MR. ORTIZ: Just trying to get it to  
6 work here. Is it showing it?

7 CHAIRPERSON ANDERSON: Yes, sir.

8 MR. ORTIZ: I'm sorry, all right.  
9 And, oh geez, all right.

10 MR. SHERIDAN: Can I have a copy of  
11 this? It's easier to read than the screen.

12 MR. ORTIZ: My understanding is that  
13 a copy was provided back in December when this  
14 matter was held for a show cause but then it was  
15 continued. I don't have any objection to  
16 providing the document once again, but that would  
17 obviously rely on me having to stop right now.

18 MR. SHERIDAN: We had a status hearing  
19 in December and pretty much we rescheduled for  
20 today. I know some stuff was given to us back  
21 then, but I haven't received anything with  
22 regards -- I just -- I mean, I'm happy to proceed  
23 if I can have a copy of this so I can at least  
24 read it. But I don't have this.

25 CHAIRPERSON ANDERSON: Well, let me

1 ask you a question. All right, hold on.

2 Are we saying -- have you ever  
3 received a copy of this report, sir?

4 MR. SHERIDAN: I have both of the  
5 notifications that I was served here and neither  
6 have that document. And, I mean, one's from  
7 December and one's from today.

8 CHAIRPERSON ANDERSON: So, you're  
9 saying the Agency never provided you a copy of  
10 this case report about the incident that  
11 occurred?

12 MR. SHERIDAN: Never since August 2nd,  
13 2019. I can't recall that far back if there ever  
14 was a case copy presented. It's possible, but I  
15 don't remember three years ago, like, if I got  
16 this specific document or not.

17 CHAIRPERSON ANDERSON: I know, sir,  
18 your phrase, objection. The last time we had a  
19 hearing, you weren't prepared because you're  
20 saying this is from 2019 and you don't remember.

21 And, I don't understand how is it that  
22 you have not made -- requested the documents or  
23 looked for the documents to know what this case  
24 is about. That's one of the reasons why I  
25 remember specifically you raised a concern the



1 last time. You said, I wasn't prepared. And so,  
2 therefore, we moved this case along.

3 And so, you're still -- we moved this  
4 case along to have this case today and then  
5 you're still raising the same issue is that I  
6 don't know what this case is about, sir.

7 MR. SHERIDAN: Yes, Mr. Anderson, may  
8 I address that?

9 I recall very well why we didn't have  
10 this hearing in December. It was because you  
11 scheduled a status hearing and there was no  
12 mention of having the hearing in December. You  
13 ended the session and had an emergency meeting  
14 with your Board and determined that, yes, the  
15 documentation that we were sent was for a status  
16 hearing. And so, we scheduled a show cause  
17 hearing for today.

18 So, it's not fair for you to say that  
19 I wasn't ready. I was completely ready for the  
20 status hearing that you requested me to attend in  
21 December.

22 And, again, I bring up the same thing,  
23 we're talking about something from 2019, the fact  
24 that you guys are getting around to it right now  
25 or the District Attorney's getting around to it

1 right now is fine and we're willing to proceed.

2 I'm just asking that I be able to read  
3 that document in order for me to be able to  
4 listen to the testimony and cross the witness.

5 CHAIRPERSON ANDERSON: But, Mr.  
6 Sheridan, I want the record to be clear.

7 MR. SHERIDAN: Yes.

8 CHAIRPERSON ANDERSON: It's not that  
9 we're just getting around to it now, sir.  
10 Because of the COVID, because of COVID, sir, we  
11 have not held any hearings as a courtesy to all  
12 the licensees.

13 MR. SHERIDAN: Yes.

14 CHAIRPERSON ANDERSON: We postponed  
15 all the hearings. We did not have hearings for  
16 two years. This is consistent to what has  
17 occurred in criminal cases in court. So, if you  
18 were the court system, all these cases have been  
19 postponed because as a courtesy, you can't --  
20 it's not fair to the licensees to have hearings  
21 during emergencies when folks are unable to meet,  
22 sir.

23 So, when you're -- you're now stating  
24 that because this was in 2019, you are aware that  
25 you committed an infraction in 2019. You were

1 given notice when the hearing is scheduled for.  
2 And, as I stated before, there was some confusion  
3 the last time. Wasn't that -- this was a status  
4 hearing or a show cause hearing, I gave you the  
5 benefit of the doubt, sir, because there was  
6 confusion.

7           It was clear in the notice that we  
8 were having a show cause hearing the last time,  
9 sir. But because there was some, yes, sir, don't  
10 shake your head, I remember this. You reminded  
11 now. Okay? You reminded me, but because there  
12 was some confusion, I gave you the benefit of the  
13 doubt to say there was -- because the notice  
14 stated that it was a show cause hearing and the  
15 notice stated that it was a status hearing. I  
16 gave you the benefit of the doubt and said, okay,  
17 fine. We will have a status hearing and we're  
18 going to have the hearing today.

19           I can't believe, sir, that we're  
20 having a hearing today and you're still stating  
21 that you don't know what this case is about. You  
22 have done nothing during this period of time to  
23 request the documents.

24           MR. SHERIDAN: I never said that. I  
25 said I don't have this document.

1                   CHAIRPERSON ANDERSON: They were given  
2 to you, sir. You have the documents and I do not  
3 understand why that that -- all right.

4                   MR. SHERIDAN: Is there any reason I  
5 can't read what he's sharing on the screen? Is  
6 there any reason --

7                   CHAIRPERSON ANDERSON: We're all  
8 reading -- sir, we're all reading -- so, we're  
9 all reading the documents on the screen. I'm  
10 reading the documents on the screen. That is  
11 why, but, all right, let me --

12                   All right, Mr. Ortiz, do you have a  
13 copy, a hard copy of the document that you can  
14 email to him, sir?

15                   MR. ORTIZ: Yes, and I just want to  
16 make the record clear. The Government did  
17 provide the Licensee with the Exhibit 1 which is  
18 the case report and this witness list. This was  
19 provided to him specifically on November 23rd,  
20 2021 at 11: 28 a.m. It was emailed.

21                   The Licensee just indicated as well  
22 that he recalls receiving some information but  
23 that he doesn't know what it was.

24                   So, I just want to make the record  
25 clear that the Government did provide these

1 documents to the Licensee and we are going to  
2 provide them now, just Board's indulgence so that  
3 I can get that sent over. And, if I could get an  
4 email address from the Licensee in order for me  
5 to send that.

6 CHAIRPERSON ANDERSON: Can the  
7 Licensee put his email address in the chat and,  
8 Mr. Ortiz, as a professional courtesy will send  
9 you it -- another copy. Mr. Ortiz has stated  
10 that on November 23rd, these documents were  
11 submitted to you. As a professional courtesy --

12 MR. SHERIDAN: I'm going to look on  
13 that date.

14 CHAIRPERSON ANDERSON: I'm sorry, sir?

15 MR. SHERIDAN: I'm going to look  
16 through my -- I just sent the email address in  
17 the chat and I'm looking right now, you said  
18 November 23rd. I mean, if I already have it, I  
19 can -- it might even come faster than you sending  
20 it. But I just sent my email address.

21 MS. HERNANDEZ: Search in your  
22 messages.

23 MR. ORTIZ: I can't see the email  
24 address. If the Licensee could please -- if you  
25 go to the chat, and sir, instead of just sending

1 it to the host, if you can send to all attendees?

2 MR. SHERIDAN: Oh, my bad.

3 MR. ORTIZ: That's okay, it happens  
4 all the time.

5 MR. SHERIDAN: I see. So, all  
6 attendees?

7 MR. ORTIZ: Yes, please.

8 MR. SHERIDAN: There we go.

9 MR. ORTIZ: Received and I'll be  
10 sending that to you momentarily.

11 MR. SHERIDAN: Okay.

12 CHAIRPERSON ANDERSON: I believe that  
13 the Agency also is in the process of sending an  
14 email, sir. So, you should get -- Mr. Ortiz is  
15 sending you a copy of the document and the  
16 Agency's send you a copy of the email, sir.

17 MR. SHERIDAN: Okay.

18 CHAIRPERSON ANDERSON: The document.

19 MR. ORTIZ: You should be receiving  
20 that email from the Government momentarily. I  
21 sent it, so it should be popping up soon.

22 CHAIRPERSON ANDERSON: You should  
23 receive two copies, one from the Government and  
24 one from the Agency.

25 MR. SHERIDAN: Yes, it says it's here.

1 I got it.

2 CHAIRPERSON ANDERSON: So, you have  
3 a copy of the document, is that correct?

4 MR. SHERIDAN: I'm grabbing it right  
5 now. It says that I got the -- I just got an  
6 email notification on my phone and I'm pulling it  
7 up right now.

8 Yes, the reason I was confused is in  
9 the thing that we got, it has just a summary of  
10 what happened and the list of the -- it just has  
11 the notice of status to show cause and it didn't  
12 have the actual report. So, yes, that's -- I'm  
13 ready to proceed.

14 CHAIRPERSON ANDERSON: Thank you.

15 Mr. Ortiz, you can go ahead, you can  
16 share your screen, sir.

17 MR. ORTIZ: Thank you, Mr.  
18 Chairperson. Make sure where I left off.

19 CHAIRPERSON ANDERSON: We can start at  
20 the beginning, I don't think you went far. Okay.

21 MR. ORTIZ: All right, Investigator  
22 Ruiz, are you still there?

23 MR. RUIZ: Yes.

24 BY MR. ORTIZ:

25 Q All right. And, I'm going to share

1 with you, you testified that you did create a  
2 case report for Dupont Market, is that correct?

3 A Yes.

4 Q And, can you please let me know when  
5 you are able to see Government's Exhibit 1?

6 A I see it now.

7 Q Great. And, I'm just going to scroll  
8 through the pages and I want you to review it.

9 Okay, and, do you recognize this  
10 document?

11 A Yes, this is the case report I drafted  
12 for this investigation.

13 Q All right. And, as part of your job  
14 as an investigator to draft the case reports?

15 A Yes.

16 Q And, is this a fair and accurate  
17 representation of the case report that you  
18 created for Dupont Market in the Case Number 19-  
19 CC-00119?

20 A Yes.

21 MR. ORTIZ: Mr. Chairperson, at this  
22 time, the Government would like to enter  
23 Government's Exhibit 1, the case report, into  
24 evidence.

25 CHAIRPERSON ANDERSON: So moved, by



1 operation of law, I don't have the provision in  
2 front of me, but the case report automatically is  
3 a part of the record.

4 (Whereupon, the above-  
5 referred to document was  
6 received into evidence as  
7 Government Exhibit No. 1.)

8 MR. ORTIZ: Understood.

9 CHAIRPERSON ANDERSON: All right, go  
10 ahead.

11 MR. ORTIZ: And, Investigator, Ruiz,  
12 directing your attention to Exhibit 1 of the case  
13 report, what is this?

14 MR. RUIZ: This is a full-body photo  
15 of the UC minor with the clothing description  
16 that was used for this operation on this day.

17 BY MR. ORTIZ:

18 Q And, when was this photo taken?

19 A August 2nd, 2019.

20 Q Okay. And now, directing your  
21 attention to Exhibit 3 of the case report. What  
22 is this document?

23 A This is a photocopy of the UC minor's  
24 identification card displaying his date of birth.

25 Q And, what is the UC minor's -- and do

1 you see undercover minor's date of birth?

2 A December 11th, 2000.

3 Q Okay. And, I'm directing you to --  
4 your attention to Exhibit 4 of the case report.  
5 What is this?

6 A This is a photo of the bottle of wine  
7 that the UC minor purchased at the establishment.

8 Q And, who took this photo?

9 A I did.

10 Q Okay. Now, directing your attention  
11 to Exhibit 8 of the case report. Do you  
12 recognize the document?

13 A Yes.

14 Q And, what is it?

15 A This is a Regulatory Inspection dated  
16 August 2nd, 2019 at 12:33 p.m. completed by  
17 Investigator Javon Miller.

18 Q All right. And, what -- are there any  
19 violations?

20 A He indicated that there was no  
21 manager, ABC manager, at the establishment.

22 Q All right. And, in the case report  
23 that you drafted and created, did you also put  
24 that there was no ABC manager on duty on August  
25 2nd?

1           A       I did.

2           Q       Okay. And so, in summary, do you  
3 believe that a sale to a minor occurred at Dupont  
4 Market on August 2nd, 2019?

5           A       Yes.

6           Q       And, do you believe that there was no  
7 ABC manager on duty at Dupont Market on August  
8 2nd?

9           A       Yes.

10           MR. ORTIZ: Okay. I do not have any  
11 further questions at this time.

12           CHAIRPERSON ANDERSON: Mr. Sheridan,  
13 do you have any questions for the investigator?

14           MR. SHERIDAN: Yes, I do.

15           Can I get the District Attorney to put  
16 the document back up? Because I'd like to direct  
17 the witness to part of the statement.

18           CHAIRPERSON ANDERSON: Mister --

19           MR. ORTIZ: I need to ask -- I have to  
20 focus on the redirect and --

21           CHAIRPERSON ANDERSON: Mr. Sheridan,  
22 do you how to share your screen, sir?

23           MR. SHERIDAN: I don't on this format  
24 that we're in, I don't.

25           CHAIRPERSON ANDERSON: Well, Mr. Ruiz,

1 do you have a copy of the report in front of you?

2 Do you have access to the report?

3 MR. RUIZ: Yes, I do have access, yes.

4 CHAIRPERSON ANDERSON: All right. Mr.  
5 Sheridan, the Government states that he needs to  
6 focus on what's going on, so he's not -- and I  
7 can't ask him to share his screen. So, can you -  
8 - Mr. Ruiz has a copy of the document, so can you  
9 make specific references to the pages that you  
10 want him to reference and have him read whatever  
11 it is that you need him to read? Okay, sir?

12 MR. SHERIDAN: What I was looking for  
13 is, I believe it's page two on the document that  
14 was sent to me.

15 CHAIRPERSON ANDERSON: So, direct the  
16 witness -- I'm sorry, direct the witness to -- I  
17 have the report in front of me also. So, direct  
18 the witness to whatever page and what paragraph  
19 and page you want him to go to, sir.

20 MR. SHERIDAN: So, it's the very --  
21 sorry, page 2 where it says, on Saturday, August  
22 2nd, 2019.

23 CHAIRPERSON ANDERSON: All right, do  
24 you have that, Mr. Ruiz?

25 MR. RUIZ: I do.

1 CHAIRPERSON ANDERSON: Go ahead, sir.

2 CROSS EXAMINATION

3 BY MR. SHERIDAN:

4 Q So, sorry, I'm looking for the  
5 specific part. My first question, we'll get back  
6 to that is a second. You said you just started  
7 in this position back in 2019, correct?

8 A Yes.

9 Q How -- when in 2019?

10 A February 2019.

11 Q Okay. And, have you done many of  
12 these cases?

13 A Yes.

14 Q Before August 2nd?

15 A Yes.

16 Q Okay. And, you never confused cases  
17 or misspoke or had your statements taken for  
18 being misleading or inaccurate?

19 A No.

20 Q So then, if you go to -- halfway down  
21 through that paragraph that I just referenced,  
22 you state that Ms. Guielto looked at the UC's ID,  
23 handed it back to her, and then, proceeded to  
24 scan the bottle, and advised the UC of the cost.

25 I guess, I mean, it's kind of a small

1 issue. I know you have -- you said in the first  
2 report there was something of how many cases did  
3 you enter establishments and do this on that day?

4 A On this day? There was a total, I do  
5 not know.

6 Q So, is it fair to say that you could  
7 have confused this place with another place or  
8 another transaction?

9 A No.

10 Q So, I guess my question is, if we  
11 don't have a scanner and we have like an old  
12 school cash register, how could the employee have  
13 scanned the bottle?

14 A It appeared to be a scanner.

15 Q It seems like you might have us  
16 confused with another place.

17 A No.

18 CHAIRPERSON ANDERSON: Let him answer  
19 the question, please. I don't -- was it -- do  
20 you have a response, Mr. Ruiz, before --

21 MR. RUIZ: No. Can you repeat the  
22 question?

23 MR. SHERIDAN: So, your statement says  
24 one thing, which contradicts what our store did  
25 back then. So, I'm asking is there any chance

1 that this is not accurate? Because there was  
2 never a scanner in Dupont Market. Could you have  
3 confused this with someone else?

4 MR. RUIZ: No.

5 BY MR. SHERIDAN:

6 Q I mean, how can you say that she  
7 scanned the bottle into a register if there's no  
8 scanner? And, if this is the statement you gave  
9 three years ago, then how sure are you that this  
10 is accurate?

11 A I'm pretty sure.

12 MR. SHERIDAN: And, if it's not  
13 accurate, then it shouldn't be admitted.

14 CHAIRPERSON ANDERSON: I'm sorry, what  
15 is your question?

16 MR. SHERIDAN: Did you observe her  
17 scan the bottle into the register?

18 MR. RUIZ: That's what I observed,  
19 yes.

20 BY MR. SHERIDAN:

21 Q Okay. And, if there's no scanner for  
22 the register, how is that possible?

23 A That was the motion that I observed  
24 the cashier take.

25 MR. SHERIDAN: Okay. So, that's why

1 I have my manager here to call as a witness after  
2 this testimony because that's not possible. We  
3 don't have a scanner. We clearly have -- your  
4 report's confused or this statement is --

5 CHAIRPERSON ANDERSON: Mr. Sheridan,  
6 you're asking him a question in cross  
7 examination. You can make those arguments later  
8 on. If you're asking him a question, please ask  
9 a question now.

10 MR. SHERIDAN: Well, I'm asking the  
11 court to disregard this testimony because as we  
12 can show that it's just not true.

13 CHAIRPERSON ANDERSON: Mr. Sheridan,  
14 you're asking the witness a question. I don't  
15 know -- you're just making a statement. You're  
16 not under oath. You're making a statement  
17 saying, you stated that I don't have --

18 He said, the witness testified or  
19 wrote in his report that she proceeded to scan  
20 the bottle and advised the UC of the cost, it  
21 would be \$10.99. You're saying that you don't  
22 have a scanner.

23 Now, that's -- you're just making a  
24 statement, sir. You're not under oath. I don't  
25 know if that's true. So, at this juncture, I



1 can't make -- I can't throw the statement out  
2 because you're not under oath, sir. Anyone can  
3 make a statement.

4 MR. SHERIDAN: Okay.

5 CHAIRPERSON ANDERSON: So, let's move  
6 on, please, sir.

7 MR. SHERIDAN: Okay.

8 I have no more questions for the  
9 witness.

10 CHAIRPERSON ANDERSON: All right.

11 Mr. Ruiz, were you in this store when  
12 this transaction occurred?

13 MR. RUIZ: I was.

14 CHAIRPERSON ANDERSON: Can you tell --  
15 just tell us, if you recall, what happened in the  
16 sense of from the UC getting the bottle to go to  
17 cashier to pay for it? Can you -- just tell us  
18 whether you recall occurring?

19 MR. RUIZ: So, from my observance, I  
20 observed, of course, the minor selecting the  
21 bottle, go to the cash register. The cashier  
22 swiping the bottle and which processed the bottle  
23 and then checked the ID, processed the cash  
24 transaction and then the bottle was taken by the  
25 minor, and exited the store.

1                   CHAIRPERSON ANDERSON: All right. So,  
2 you're saying that, do you recall whether or not  
3 the price was on the bottle already or did you  
4 not now the -- did the minor not -- did you --  
5 how far were you from the minor when all of this  
6 was occurring?

7                   MR. RUIZ: A couple feet, probably at  
8 times, up to eight feet apart, approximately.

9                   CHAIRPERSON ANDERSON: All right, all  
10 right. Now, how old was the minor?

11                  MR. RUIZ: Eighteen.

12                  CHAIRPERSON ANDERSON: And, how do you  
13 know this minor was 18?

14                  MR. RUIZ: Because at the beginning of  
15 this operation, we obtain their identification in  
16 person which indicates their date of birth which  
17 would indicate that he was 18.

18                  CHAIRPERSON ANDERSON: Now, do you  
19 know whether or not this was the only -- do you  
20 know whether or not the minor, when the minor  
21 went to the store if the minor had another ID  
22 that said that he was 21?

23                  MR. RUIZ: No, no, they only present  
24 with one ID and they are checked at the beginning  
25 of the compliance check. So, all they have in

1 their possession is the money and the ID when  
2 they enter the location.

3 CHAIRPERSON ANDERSON: Now, does --  
4 even without the ID, would reasonable people  
5 agree that the minor was -- that this person was  
6 younger than 21? Or would it -- is it confusing  
7 even without an ID, is it confusing how old the  
8 person looks?

9 MR. RUIZ: Reasonably, I would assume  
10 that the individual was under 21.

11 CHAIRPERSON ANDERSON: Any questions  
12 by any of the Board Members?

13 MEMBER CROCKETT: I have a question.

14 CHAIRPERSON ANDERSON: Go ahead, Ms.  
15 Crockett.

16 MEMBER CROCKETT: Mr. Ruiz, do you --  
17 did the minor receive a receipt?

18 MR. RUIZ: I do not recall off the top  
19 of my head. I'd have to review the report.

20 MEMBER CROCKETT: So, in your report,  
21 there is no receipt attached. Is it your  
22 practice when you take a picture of the liquor  
23 that was purchased, is it generally the practice  
24 that you take a photo of the receipt as well?

25 MR. RUIZ: If the receipt is

1 available, yes. I just don't have the receipt.

2 MEMBER CROCKETT: Are your undercover  
3 minors requested to obtain receipts for their  
4 purchases?

5 MR. RUIZ: Usually, they're reminded  
6 but sometimes they don't obtain one.

7 MEMBER CROCKETT: Okay, thank you.  
8 I don't have any further questions.

9 CHAIRPERSON ANDERSON: All right, any  
10 other questions by any other Board Member?

11 MEMBER SHORT: Mr. Chairman, I did  
12 have one question.

13 CHAIRPERSON ANDERSON: Yes, Mr. Short?

14 MEMBER SHORT: Investigator Ruiz, good  
15 afternoon.

16 MR. RUIZ: Good afternoon, Mr. Short.

17 MEMBER SHORT: In your period of time  
18 between you being -- gaining employment from ABRA  
19 which you say was in February?

20 MR. RUIZ: Correct.

21 MEMBER SHORT: Okay. Between that  
22 time and August the 8th, August the 2nd, forgive  
23 me, how many undercover operations did you, or  
24 could you give us a ballpark, how many have you  
25 participated in during that period of time?

1 MR. RUIZ: About this period of time,  
2 probably at least ten operations.

3 MEMBER SHORT: And, have there ever  
4 been any hiccups or any problems with the UCs or  
5 with the operation to your knowledge?

6 MR. RUIZ: Not to my knowledge.

7 MEMBER SHORT: Thank you very much.  
8 That's all I have, Mr. Chair.

9 CHAIRPERSON ANDERSON: Mr. Sheridan,  
10 do you any questions, any additional questions to  
11 ask Mr. Ruiz based on the questions that were  
12 asked by the Board Members?

13 MR. SHERIDAN: No, I don't.

14 CHAIRPERSON ANDERSON: Mr. Ortiz, any  
15 recross?

16 MR. ORTIZ: Yes, I have a redirect.

17 CHAIRPERSON ANDERSON: I'm sorry,  
18 redirect, I apologize, redirect.

19 REDIRECT EXAMINATION

20 BY MR. ORTIZ:

21 Q Okay, Mr. Ruiz, did you observe the  
22 purchase?

23 A I did.

24 Q All right. And, you observed the --  
25 what did you observe?

1           Q       I observed the motion of the cashier  
2           swiping the bottle, and then, checking ID, and  
3           getting cash.

4           Q       Okay. And, did -- what occurred after  
5           the undercover minor received the bottle?

6           A       The minor then exited the  
7           establishment to return back to the ABRA vehicle.

8           Q       And, at the ABRA vehicle, what did you  
9           do?

10          A       Obtained the bottle of wine for the  
11          evidence and communicated to Investigator Javon  
12          Miller that a sale was made and a description of  
13          the individual that sold the bottle.

14          Q       Do you have any doubt that a sale to  
15          a minor occurred at Dupont Market on August 2nd,  
16          2019?

17          A       No.

18          Q       Do you believe that you may have -- do  
19          you believe that you confused this case with any  
20          other case?

21          A       I do not.

22                   MR. ORTIZ: I don't have any further  
23                   questions.

24                   CHAIRPERSON ANDERSON: Thank you.

25                   Thank you very much for your

1 testimony, Mr. Ruiz.

2 Mr. Ortiz, do you any other witnesses?

3 MEMBER GRANDIS: Mr. Chairman?

4 CHAIRPERSON ANDERSON: Yes, Mr.

5 Grandis?

6 MEMBER GRANDIS: Yes, based on the new

7 questions --

8 CHAIRPERSON ANDERSON: Mr. Grandis,

9 Mr. Grandis, the Board asked questions, then the

10 parties are allowed to ask questions, then the

11 matter closes. I can't have the Board ask

12 questions again. If the Board has questions,

13 then Mr. Sheridan would have an opportunity to

14 ask questions and Mr. Ortiz have to have

15 questions.

16 So, the prosecutor had the last say

17 and so, therefore, we have to move on, sir.

18 Hopefully, whatever question you have when Mr.

19 Sheridan is presenting his case, hopefully,

20 you'll be able to ask that question. But since

21 Mr. Ortiz just asked his redirect, the Government

22 said that they've rested. There's no more

23 questions that any Board Members can ask anyone

24 of the Government or the Government's witness at

25 this junction.

1                   MEMBER GRANDIS: Mr. Chairman, I  
2 appreciate how you manage our meetings and I  
3 respect that, but I think that, in this  
4 situation, and will cede to your recommendation,  
5 but I believe that there was new information  
6 brought in for clarification or broadening of  
7 information that had -- was not during direct.  
8 But I do respect your opinion and your ruling  
9 here and we'll move forward. Thank you very  
10 much.

11                   CHAIRPERSON ANDERSON: Thank you, Mr.  
12 Grandis.

13                   Does the Government rest?

14                   MR. ORTIZ: Yes, the Government rests,  
15 Mr. Chairperson.

16                   CHAIRPERSON ANDERSON: All right, Mr.  
17 Sheridan, do you wish to call a witness?

18                   MR. SHERIDAN: Yes, I wish to call  
19 Kelly Hernandez.

20                   CHAIRPERSON ANDERSON: Mr. Ortiz?

21                   MR. ORTIZ: Again, the Government  
22 raises objection due to the fact that, makes a  
23 motion to exclude the witness due to the fact  
24 that the Licensee has failed to provide notice to  
25 the Government as required by D.C. Code of



1 Regulations that needs seven days prior to the  
2 evidentiary hearing.

3 CHAIRPERSON ANDERSON: What I'm doing  
4 while you're speaking, Mr. Sheridan, I'm reading  
5 the transcript from our last hearing. Okay?  
6 That's what I'm here, I'm reading the last  
7 transcript of the last hearing.

8 So, did you disclose the evidence,  
9 documents, or witnesses seven days prior to the  
10 hearing to the Government, sir?

11 MR. SHERIDAN: Again, in what I was  
12 sent, I didn't see that. She was named in the  
13 case and she was the manager on duty and the ABRA  
14 manager as well. Although she was said not to  
15 be. And, I included her information with her  
16 email in the correspondence I sent to Dinett  
17 Walker and she got the link, everything for that.  
18 So, I'm a little confused why -- I mean, why was  
19 all of her information sent back so she could be  
20 here today if she's not allowed to testify today?

21 CHAIRPERSON ANDERSON: But, sir,  
22 you're not --

23 MR. SHERIDAN: I'm not trying to be  
24 sneaky or do something that -- to get around the  
25 rules, but she was the manager in the case. Of

1 course she's here, it's her case just as much as  
2 it is mine. We're both managers.

3 CHAIRPERSON ANDERSON: But, the law --  
4 you were asked -- you are a party, sir. It's  
5 your restaurant, so therefore, it's your  
6 establishment, so therefore, we expect that you  
7 would testify. But if you're going to rely on  
8 documents or witnesses, sir, you are suppose to  
9 disclose that to the parties seven days prior to  
10 the hearing.

11 MR. SHERIDAN: I was unaware of that  
12 and I'm not sure in all of this stuff that I have  
13 here, I don't see that anywhere.

14 MR. ORTIZ: If I may, Mr. Chairperson?

15 CHAIRPERSON ANDERSON: Go ahead, go  
16 ahead, sir.

17 MR. ORTIZ: Ignorance of the rule is  
18 not an excuse. It clearly states in the  
19 documents provided by ABRA every time that there  
20 is a show cause hearing that exhibits must be  
21 provided seven days prior.

22 Just because the Licensee did not see  
23 that or did not read that is not an excuse for  
24 not providing the documents.

25 Because -- just because the -- I'm

1       sorry, Ms. Hernandez was informed or stated in  
2       the case report does not make her automatically a  
3       party. This case is against the Licensee, not  
4       against anyone else mentioned in there. And so,  
5       I would just rest with that.

6                   MS. HERNANDEZ: May I bring up  
7       something?

8                   CHAIRPERSON ANDERSON: I'm sorry,  
9       ma'am, you can't speak, ma'am.

10                  MS. HERNANDEZ: Okay, sorry.

11                  CHAIRPERSON ANDERSON: Hold on, hold  
12       on. You can -- Mr. Sheridan can --

13                  MR. SHERIDAN: Yes --

14                  CHAIRPERSON ANDERSON: -- put himself  
15       on mute. You can speak to him. And, if he wants  
16       to state whatever -- he can speak. But you  
17       cannot speak, ma'am. So, you can --

18                  MS. HERNANDEZ: I got you, my bad.

19                  CHAIRPERSON ANDERSON: All right.

20                  MR. SHERIDAN: Sir, I apologize. Can  
21       you give me one second?

22                  CHAIRPERSON ANDERSON: Yes, you can be  
23       on mute, you can have a conversation and then if  
24       you want to respond, you can respond.

25                  MR. ORTIZ: I may, Chairperson, at the

1 last hearing --

2 CHAIRPERSON ANDERSON: Hold on, hold  
3 on, Mr. Ortiz. Mr. Ortiz, since he's not paying  
4 attention, so I want --

5 MR. ORTIZ: My apologies.

6 CHAIRPERSON ANDERSON: Yes, he's  
7 talking to Ms. Hernandez, so just give him a  
8 moment, please. And, I'm also reading the  
9 transcript from the last hearing, too. So, I'm  
10 trying to do a whole bunch of things at the same  
11 time. All right.

12 MR. SHERIDAN: Mr. Anderson, we're  
13 back. And, again, I have all the papers that  
14 have been sent to me that were served and it  
15 doesn't say anything about witnesses or  
16 testimony. I have dated December 9th, which is  
17 the most recent for this and no where in these  
18 documents does it say anything about a procedure  
19 for providing witnesses.

20 I have from October 28th, the  
21 original, the one that was the status or that  
22 said the status hearing. And, the same thing,  
23 I'm not seeing anything in these papers that say  
24 anything about the procedures for documents or  
25 witnesses.

1                   CHAIRPERSON ANDERSON: All right. All  
2 right, Mr. Sheridan, all right.

3                   You want to say something, Mr. Ortiz?

4                   MR. ORTIZ: I would just like to say  
5 that at the last hearing, I believe it was  
6 Chairperson Anderson, yourself, did mention it at  
7 the hearing, the scheduling status hearing that  
8 seven days prior to the show cause hearings, the  
9 parties must exchange exhibits. That is my  
10 understanding of what occurred at the last  
11 hearing.

12                   That is what typically occurs at all  
13 status hearings that move on -- that move forward  
14 with a show cause hearing.

15                   So, not only -- I would argue that not  
16 only did the Licensee receive notification of  
17 providing seven -- the exhibits seven days prior,  
18 any written form, he was also informed of this at  
19 the last hearing by Mr. Chairperson.

20                   MR. SHERIDAN: So, first, it's not in  
21 the documents I received. Second, as far as the  
22 last hearing, I'm sure there's minutes or a  
23 recording or a record of what transpired. I  
24 don't believe Mr. Ortiz was at that hearing. I  
25 think it was Danica Jordan.

1                   Again, if I knew that the manager that  
2 was in the store that day had to have a separate  
3 statement or paper provided that she was going to  
4 testify, I would have. But, I mean, you know,  
5 you excluding that, you know, I mean, I just  
6 don't think that's fair. I mean, it's not  
7 ignorance of the law, I have everything that you  
8 sent and it doesn't say that. So, you know,  
9 maybe you should have done a little better at  
10 getting that, you know, all these things that  
11 were served to my store and I can scan these in  
12 and show you, they don't say it. So, how am I  
13 supposed to know it? You've been saying that  
14 because I'm a sandwich maker and I don't know the  
15 rule of providing evidence that I shouldn't -- I  
16 should just have to go without? Ignorance is no  
17 excuse? Really?

18                   CHAIRPERSON ANDERSON: All right, Mr.  
19 Sheridan?

20                   MR. SHERIDAN: Yes?

21                   CHAIRPERSON ANDERSON: All right, it  
22 was stated at the show cause hearing and, you  
23 know, I'm going to -- I'm reading the transcript.

24                   MR. SHERIDAN: Okay.

25                   CHAIRPERSON ANDERSON: And, the last

1 hearing that we were supposed to have was  
2 supposed to be the show cause hearing. And, I  
3 did not -- because it was not a show cause  
4 hearing, I did not remind you at the last hearing  
5 that you were supposed to disclose the document  
6 and witnesses because you already had the show  
7 cause hearing.

8 We already had the show cause hearing  
9 in -- on January 8th, 2020. That's when we had  
10 the show cause -- that's when we had the show  
11 cause status hearing, sir. And, that's when I --  
12 that typically at all show cause status hearing,  
13 I inform all parties that they need to disclose  
14 the document and witnesses seven days before.

15 In reviewing the transcript, yes, you  
16 are correct, I did not remind you. But reason  
17 why I did not remind you, it was because we were  
18 suppose to have had the show cause hearing the  
19 last time. And, because of -- there was some  
20 confusion in the notice about the type of  
21 hearing, that's why I gave you the benefit of the  
22 doubt and I said, because there was some  
23 confusion, we would postpone this hearing onto  
24 the 26th.

25 At that hearing, I did state to you

1 that, at the hearing, you can call all documents,  
2 you can decide to call documents and witnesses.  
3 I'm sorry, you can disclose documents and  
4 witnesses.

5 So, yes, you are correct, sir, it was  
6 in the transcript from the last hearing, I do not  
7 see a specific mention in the transcript from the  
8 hearing that we had on January, I think it was  
9 January 12th, I believe that was the date, I'm  
10 sorry, on December 1st, that I specifically did  
11 not inform you of that. But that was because I  
12 had already informed you.

13 And, here it is, sir, we sent you  
14 documents. Documents were sent to you on  
15 November 23rd, seven days before the hearing that  
16 we had on December 1st. The Government sent you  
17 their documents. And, although you had those  
18 documents since November 23rd, today, January  
19 26th, you're saying that, I don't have the  
20 documents. Although these documents were sent to  
21 you seven days before the hearing.

22 And so, I -- you're here saying that  
23 you're ignorant of the law. You weren't told.  
24 But even before November -- the December 1st  
25 hearing, sir, you were submitted -- the



1 Government sent you their documents and witnesses  
2 seven days before. And, I had -- although I did  
3 not remind you on December 1st that you were  
4 supposed to have done that today, there was no  
5 need for me to have reminded you because I had  
6 already told you what needed to be done.

7 Let me look at one more thing. I'm  
8 going to make a decision, but let me look at one  
9 more thing before I do.

10 MR. SHERIDAN: May I say one thing  
11 before you make a decision?

12 CHAIRPERSON ANDERSON: Yes, Mr.  
13 Sheridan, go ahead.

14 MR. SHERIDAN: Okay, I made it very  
15 clear when they put that exhibit, I wasn't saying  
16 that it couldn't be admitted, I just hadn't seen  
17 it. If they emailed me a document back in  
18 November, I didn't see it and I had no objection.  
19 I just wanted to be able to read it so I could  
20 use it to -- when the witness testified.

21 As far as the, yes, I recall over two  
22 years ago when we had a hearing, I don't remember  
23 if you said that we had to provide notice seven  
24 days or not from two years ago. It's something  
25 you routinely do, so you can pretty safely say

1 that you did it. It didn't happen this past  
2 December.

3 But my point is, I sent the  
4 information to your -- I followed the instruction  
5 I always got and I didn't do that trying to cause  
6 I problem, I did it because I was trying to do  
7 the right thing. And when, I got the email  
8 requesting the information for this hearing, I  
9 put Kelly in that. I included her name, her  
10 address, and her phone number in that because I  
11 thought that was what you had asked me to do, not  
12 to try to be tricky.

13 I mean, all it's even disputing is the  
14 ABC manager on site. I wasn't trying to trick or  
15 deceive, that's what I was given in an email and  
16 sent her information thinking that that was what  
17 was being asked. So, if I was supposed to send  
18 it somewhere else and you told me that in January  
19 of 2020, forgive me for not recalling, but you  
20 also don't provide attorneys for us in these  
21 cases and this isn't my career.

22 I have nothing to do with this kind of  
23 stuff and the last thing I want to do is even be  
24 here. I'm just hoping that if this does, if we  
25 are found to have violated this, that we have a

1 minimal fine.

2 But I really don't understand how what  
3 I did was not what they had asked. I provided  
4 her name, her phone number, her email so she  
5 could be here on this hearing today. And, the  
6 only reason she's here with me in person is  
7 Because we were working on something today. So,  
8 rather than have the interference from two  
9 devices in the same room, we're sitting beside  
10 each other.

11 CHAIRPERSON ANDERSON: I'm still going  
12 through the transcript from our hearing from  
13 December 1st.

14 MR. SHERIDAN: Okay.

15 CHAIRPERSON ANDERSON: All right. I  
16 know that I had informed both parties that seven  
17 days prior to the hearing that documents and  
18 witnesses should be disclosed to all parties.

19 The Government has made a motion and  
20 -- so, how is it that the Government -- you're  
21 making a motion, Mr. Ortiz, that you're saying  
22 that the Government will be prejudiced because it  
23 does not -- it wasn't prepared -- it's not  
24 prepared to cross examine this witness?

25 MR. ORTIZ: Yes, that would be my

1 argument that we were not prepared, the  
2 Government was not prepared for this witness to  
3 occur. I mean, that's why they have this in  
4 place to exchange exhibits and witnesses.

5 CHAIRPERSON ANDERSON: I'm going to go  
6 into Executive Session for a minute.

7 MR. SHERIDAN: Mr. Anderson, could I  
8 ask one question really quickly?

9 CHAIRPERSON ANDERSON: Yes, Mr.  
10 Sheridan, yes, sir.

11 MR. SHERIDAN: I know nobody wants to  
12 continue this more, is there any reason we can't  
13 --

14 CHAIRPERSON ANDERSON: No, no, no,  
15 we're --

16 MR. SHERIDAN: -- put it off for seven  
17 days?

18 CHAIRPERSON ANDERSON: No, sir. No,  
19 sir. We're not --

20 MR. SHERIDAN: Oh, I agree, I don't  
21 want to.

22 CHAIRPERSON ANDERSON: I specifically  
23 told you we continued this hearing from December  
24 1st and I said to you specifically that we will  
25 have this hearing today and you can have your

1 documents and witnesses.

2 All right, but what I'm going to do,  
3 I'm going to go briefly in Executive Session --

4 MR. SHERIDAN: Okay.

5 CHAIRPERSON ANDERSON: -- to discuss.

6 So, as Chairperson of the Alcoholic  
7 Beverage Control Board for the District of  
8 Columbia in accordance with D.C. Code Section  
9 2574(b) of the Open Meetings Act, I move that the  
10 ABC Board hold a closed meeting for the purpose  
11 of seeking legal advice from our counsel on Case  
12 Number 19-CC-00119, Dupont Market pursuant to  
13 D.C. Office Code Section 2574(b)(4) of the Open  
14 Meeting Act. Is there a second?

15 MEMBER CROCKETT: Ms. Crockett  
16 seconds.

17 CHAIRPERSON ANDERSON: Ms. Crockett  
18 has seconded the motion, we'll now have a roll  
19 call vote on the motion that's before us.

20 Mr. Short?

21 MEMBER SHORT: Mr. Short, I agree.

22 CHAIRPERSON ANDERSON: Mr. Cato?

23 MEMBER CATO: Bobby Cato, I agree.

24 CHAIRPERSON ANDERSON: Ms. Crockett?

25 MEMBER CROCKETT: Rafi Crockett, I

1 agree.

2 CHAIRPERSON ANDERSON: Ms. Hansen?

3 MEMBER HANSEN: Annie Hansen, I agree.

4 CHAIRPERSON ANDERSON: Mr. Grandis?

5 MEMBER GRANDIS: Edward Grandis

6 agrees.

7 CHAIRPERSON ANDERSON: Mr. Anderson

8 and I agree.

9 As it appears that the motion has  
10 passed, I hereby give notice that the ABC Board  
11 will recess its proceedings to hold a closed  
12 meeting in the ABC Board Conference Room pursuant  
13 to Section 2574(b) of the Open Meetings Act.

14 We'll be -- everyone, please stay put.  
15 We're going to go into Executive Session for  
16 about five minutes and we'll be back. All right?  
17 Thank you.

18 (Whereupon, the above-entitled matter  
19 went off the record at 3:27 p.m. and resumed at  
20 3:41 p.m.)

21 CHAIRPERSON ANDERSON: All right,  
22 we're back on the record.

23 All right, this is a complicated case  
24 in a sense procedurally. Procedurally in the  
25 sense that this matter -- this is for a violation

1 that occurred, I believe, in 2019, if I'm  
2 correct.

3 MR. SHERIDAN: Yes.

4 CHAIRPERSON ANDERSON: And, because of  
5 the COVID, during the period of time, a lot of  
6 the hearings were postponed for another period of  
7 time.

8 We had a show cause status hearing on  
9 this case on January 8th, 2020. And, notice was  
10 provided for us to have a show cause hearing on  
11 December 1st, 2021.

12 There was some confusion on the part  
13 of the Licensee whether or not -- and when the  
14 notice that the Licensee received for the hearing  
15 on December 1st, and the Licensee stated that he  
16 thought that it was a status hearing. The  
17 notice, there was conflicts in the notice, the  
18 notice said -- one portion of the notice said it  
19 was a status hearing, another portion of the  
20 notice said it was a show cause hearing.

21 So, based on the -- because it was a  
22 conflict in the date, the Board determined to  
23 postpone this -- to have the hearing today on the  
24 26th.

25 Normally, at status hearings, I

1 remind, although it's in the law, to state that  
2 seven days before the hearing, documents and  
3 witnesses needs to be disclosed to each side.  
4 But because the last hearing we had was supposed  
5 to be show cause hearing, when this hearing was  
6 rescheduled, I did not remind the parties that  
7 they were suppose to have taken that the  
8 documents and the witnesses were disclosed for  
9 the hearing we were supposed to have had.

10 So, therefore, because Mr. Sheridan is  
11 not an attorney, he's a layperson, so I'm going  
12 to make a motion in this particular case to deny  
13 the Government's motion to exclude the witness  
14 that Mr. Sheridan plans to call.

15 The only reason why I'm doing that,  
16 that I'm making the motion, it is because of the  
17 confusion in this case. And, when this hearing  
18 was rescheduled December 1st, as part of the  
19 instructions, the parties were not reminded that  
20 for the show cause hearing that they were  
21 supposed to have disclosed documents and  
22 witnesses for this case.

23 That's the only reason why, although  
24 it's in our -- although it's in the regulations  
25 that seven days prior to the hearing the



1 documents and witnesses needs to be disclosed,  
2 but because of the time factor in this case and  
3 the last hearing, the parties were not --  
4 although the Government did disclose its  
5 documents and witness, Mr. Sheridan, as a  
6 layperson, said that he was not aware.

7 So, I'm making a motion that we  
8 overrule the Government's motion and allow the  
9 witness to testify. Is there a second?

10 MEMBER CROCKETT: Ms. Crockett  
11 seconds.

12 CHAIRPERSON ANDERSON: Ms. Crockett  
13 has seconded the motion, we'll now do a roll call  
14 vote.

15 Mr. Short?

16 MEMBER SHORT: Mr. Short, I abstain.

17 CHAIRPERSON ANDERSON: Mr. Cato?

18 MEMBER CATO: Bobby Cato, I agree.

19 CHAIRPERSON ANDERSON: Ms. Hansen?  
20 Ms. Crockett, I'm sorry?

21 MEMBER CROCKETT: Rafi Crockett, I  
22 agree.

23 CHAIRPERSON ANDERSON: Ms. Hansen?

24 MEMBER HANSEN: Jeni Hansen, I agree.

25 CHAIRPERSON ANDERSON: Mr. Grandis?

1 MEMBER GRANDIS: Edward Grandis, I  
2 agree.

3 CHAIRPERSON ANDERSON: Mr. Anderson,  
4 I agree.

5 The matter pass four to zero, with Mr.  
6 Short abstaining.

7 All right, so, who's the witness you  
8 wish to call, Mr. Sheridan?

9 MR. SHERIDAN: Thank you, Mr.  
10 Anderson. It's Kelly Hernandez.

11 CHAIRPERSON ANDERSON: Where's Ms.  
12 Hernandez?

13 Can you raise your right hand, please,  
14 Ms. Hernandez?

15 Do you swear or affirm to tell the  
16 truth and nothing but the truth?

17 MS. HERNANDEZ: Yes, sir.

18 CHAIRPERSON ANDERSON: All right, I  
19 don't know how you're going to do it, but okay,  
20 so, I would like to look at the witness when the  
21 witness is testifying. So --

22 MS. HERNANDEZ: Yes, sir.

23 CHAIRPERSON ANDERSON: -- if you need  
24 to stay out of camera angle, all right, so it's  
25 your witness, Mr. Hernandez, I'm sorry, Mr.

1 Sheridan.

2 MR. SHERIDAN: Do you need to see me  
3 when I'm asking her a question or is it okay --

4 CHAIRPERSON ANDERSON: Not  
5 necessarily, sir.

6 MR. SHERIDAN: Okay.

7 CHAIRPERSON ANDERSON: Not  
8 necessarily. Ask her to spell and state her name  
9 for the record, please?

10 MR. SHERIDAN: So, please spell and  
11 state your name for the record?

12 MS. HERNANDEZ: It's Kelly Hernandez,  
13 K-E-L-L-Y-H-E-R-N-A-N-D-E-Z.

14 CHAIRPERSON ANDERSON: Go ahead, sir.  
15 WHEREUPON,

16 KELLY HERNANDEZ  
17 was called as a witness by the Defendant and,  
18 having been first duly sworn, assumed the witness  
19 stand, was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. SHERIDAN:

22 Q Okay. And, how long have you worked  
23 at Dupont Market?

24 A Eighteen years.

25 Q And, in what capacity have you worked?

1           A       As a supervisor/manager.

2           Q       Okay. And, the day of this incident,  
3 you were working with Beyata?

4           A       Yes.

5           Q       And, when the inspector came in and  
6 asked you if there was an ABC manager on duty,  
7 what did you tell them?

8           A       Well, at first I said, yes. I went to  
9 look at my ID and I realized it had expired.

10          Q       So, when it expired, what do you mean?

11          A       I had gotten my license. I had gone  
12 down, made the payment, and I didn't have my -- I  
13 had my D.C. clearance, but because I lived in  
14 Maryland, I needed both. And, I -- when I first  
15 went down, I didn't realize that, so I was going  
16 to go back down and take my Maryland clearance,  
17 but I did not take it back down in time.

18          Q       So, you had an ABRA license --

19          A       Yes.

20          Q       -- that spring and did you and your  
21 coworkers also take the Alcohol Awareness Course  
22 with Norman Neverson?

23          A       Yes.

24          Q       In the spring of 2019?

25          A       Yes.

1 Q And, after that, you had your  
2 application notarized and payment taken down to  
3 the ABRA offices at 14th and U Street and  
4 submitted?

5 A Yes.

6 Q And, you were granted a temporary  
7 license, correct?

8 A Yes, I was.

9 Q Did you ever notify ownership of  
10 Dupont Market or me of your license no longer  
11 being in effect?

12 A No.

13 Q And, were you ever notified that it  
14 was no longer in effect?

15 A Notified? No.

16 Q To your knowledge, was Dupont Market  
17 ever notified that ABRA had rescinded your  
18 license?

19 A No.

20 Q The next questions I have is about the  
21 layout of the store and what Inspector Ruiz has  
22 claimed in his testimony earlier.

23 A Okay.

24 Q First, he said that he was always  
25 within eight feet of the defendant in the store

1 and that he completely observed the transaction.  
2 My question is, how was the counter and store  
3 laid out on that day and every day before and  
4 after that until the pandemic?

5 A Okay. The cash register would be --  
6 is here and the person would be directly in front  
7 of them. The way the shelves are set up, there  
8 was a shelf full of potato chips and salsa items  
9 that directly blocked the view between -- as you  
10 come in the door basically, that blocks the view  
11 between the wine shelves -- it's a very small  
12 space -- between the wine shelves and the person  
13 at the cash register. There's literally no room  
14 behind. You'd have to go to the side in order to  
15 stay in line.

16 And, on this side, as you look towards  
17 the door, there's another wine shelf with a wine  
18 display. So, it's really impossible to see over  
19 that way.

20 So then, the wine goes this way.  
21 You've got shelves all the way. There's no  
22 spaces in between so in order to get from one  
23 side of the store to the other, you need to make  
24 a left, like do a circle. It's almost like a  
25 track around the shelves.

1                   And then, the coffee station in the  
2 corner and people would line up that way to pay.

3           Q        So, the -- to the left as you look out  
4 from the register, you made it clear, to the left  
5 you're saying, there's a wine display?

6           A        Yes.

7           Q        And, in front, there's shelves  
8 directly behind?

9           A        Yes.

10          Q        So, could you clarify, what's to the  
11 right of the area where the cash register is?

12          A        To the right --

13          Q        And, would that impede people's view?

14          A        Yes, to the right is the sandwich  
15 station as well as the coffee station. And, we  
16 have a pastry box sitting right here on the  
17 counter.

18          Q        Okay. So, would that obstruct someone  
19 viewing whether it was the pastries or --

20          A        Pretty much unless you're right  
21 directly behind the person who's paying or  
22 directly in front of them, you wouldn't be able  
23 to see.

24          Q        Okay. And, in previous testimony, Mr.  
25 Ruiz also said that he clearly observed Beyata

1 scanning the wine into the register before  
2 paying.

3 A That is -- we don't --

4 Q Is that --

5 A -- have a scanner. Yes, I don't know  
6 what he means by --

7 Q Let me -- I'll just ask again.

8 A I'm sorry, go ahead.

9 Q That's all right. So, did you ever in  
10 your employment observe a scanner or anyone with  
11 the capability of scanning items in Dupont Market  
12 in your 18 years working there?

13 A No.

14 Q And, is it possible that she could  
15 have brought something to scan the items that day  
16 that -- and been like ringing up stuff on her on  
17 own into another device?

18 A No.

19 Q And, is it possible that anyone could  
20 have seen any employee at Dupont Market scanning  
21 any products that day or any day?

22 A No.

23 Q If, as the previous testimony stated,  
24 if you were eight feet away from the cash  
25 register, in your opinion, working there and



1 being at that register, is there any way you  
2 could have seen anything of the transaction?

3 A No, there would have been shelves in  
4 the way.

5 MR. SHERIDAN: And, that's all I have  
6 for the witness.

7 CHAIRPERSON ANDERSON: Mr. Ortiz?

8 CROSS EXAMINATION

9 BY MR. ORTIZ:

10 Q Good afternoon, Ms. Hernandez, how are  
11 you doing today?

12 A Good, thank you.

13 Q All right, so you -- on August 2nd,  
14 2019, did you have an ABC license?

15 A I did, but it wasn't active.

16 Q So, on August 2nd, 2019, you did not  
17 have a valid ABC manager license, is that  
18 correct?

19 A No, that's correct.

20 Q Okay. And, also, can you recall on  
21 August 2nd, 2019 signing a regulatory inspection?

22 A Yes.

23 Q and, in that regulatory inspection, do  
24 you recall if there made mention of any of the  
25 violations on there?

1           A       Yes.

2           Q       All right, and what violation do you  
3 recall being on there?

4           A       I remember the violation for the ABC  
5 manager and the sale of alcohol that was reported  
6 by the gentleman that came up to me and told me  
7 that she had sold alcohol.

8                   MR. ORTIZ: Okay. And, permission to  
9 share my screen to show what is Government's  
10 Exhibit 1, the case report and Exhibit 8 of the  
11 case report?

12                   CHAIRPERSON ANDERSON: I'm sorry, Ms.  
13 Fashbaugh, I'm not sure if Mr. Ortiz still has  
14 the ability to share his screen.

15                   MR. ORTIZ: I do not. Thank you.

16                   Ms. Hernandez, when you get a chance,  
17 let me know if you're able to see this.

18                   MS. HERNANDEZ: I can see, yes.

19                   BY MR. ORTIZ:

20           Q       Okay. You would agree that this is  
21 the regulatory inspection, correct?

22           A       Yes.

23           Q       All right. And then, you would agree  
24 that that's your signature on the bottom of here?

25           A       Yes.

1 Q Okay. And, you would also agree that  
2 it says there was no ABC manager on duty,  
3 correct?

4 A Yes.

5 Q So, you would agree with me that the  
6 establishment did not have an ABC manager on duty  
7 on August 2nd, 2019, correct?

8 A Yes.

9 Q Okay. Now, your testimony -- let me  
10 stop sharing this screen now.

11 So, your testimony today is that, in  
12 regards to the market, you're saying that Mr.  
13 Ruiz couldn't observe the sale of wine?

14 A Correct, unless he was close to her.

15 Q And then, you're also --

16 A Unless he was close to the cash  
17 register, my bad.

18 Q Okay. And then, you're indicating  
19 that -- you indicate that you do not have a  
20 scanner?

21 A We do not, no.

22 Q But you didn't testify that a sale to  
23 a minor didn't take place, correct?

24 A I didn't see the sale to the minor.  
25 I was informed by your inspector. So, I'm just

1           testifying to fact that his testimony of eight  
2           feet away could not be possible.

3           Q       Okay.  But you don't know if the sale  
4           to a minor took place?

5           A       No.

6           Q       So, you're --

7           A       I just know what I was told.

8           Q       Okay.  So, you're not arguing that a  
9           sale to a minor took place, correct?

10          A       Well, not technically.

11                 MR. SHERIDAN:  Objection, it's not her  
12           place to argue.

13                 MS. HERNANDEZ:  It's not.  I mean, I'm  
14           not arguing one way or the other.  I'm just  
15           stating the facts.

16                 MR. SHERIDAN:  She's providing  
17           testimony.

18                 MS. HERNANDEZ:  That it's --

19                 CHAIRPERSON ANDERSON:  All right, I  
20           think, Mr. Ortiz, can you use a different --

21                 MR. ORTIZ:  I'll rephrase.

22                 CHAIRPERSON ANDERSON:  Please.

23                 MR. ORTIZ:  I'll rephrase.

24                 CHAIRPERSON ANDERSON:  Thank you.

25                 MR. ORTIZ:  A sale of a minor took

1 place on August 2nd, 2019, correct?

2 MS. HERNANDEZ: According to your  
3 inspector.

4 BY MR. ORTIZ:

5 Q Okay.

6 A I did not witness it, that's all. So,  
7 I can't say that it did not or did take place.

8 Q So, you did not observe Investigator  
9 Ruiz's movements, either, correct?

10 A No.

11 Q So, you don't know if he moved closer  
12 to the cash register at the time that the sale to  
13 the minor took place?

14 A No, but that's not what he said. He  
15 said eight feet away.

16 Q You don't know where he was at all  
17 times?

18 A I don't, no.

19 Q So, would you agree that there are  
20 locations in the store that would allow someone  
21 to see a transaction take place?

22 A Yes.

23 MR. ORTIZ: Thank you.

24 I don't have any further questions.

25 CHAIRPERSON ANDERSON: Thank you.

1 Miss --

2 MR. SHERIDAN: I'd like to redirect.

3 CHAIRPERSON ANDERSON: Not yet, sir,  
4 not yet.

5 MR. SHERIDAN: Okay.

6 CHAIRPERSON ANDERSON: Now we have an  
7 opportunity to ask questions.

8 Ms. Hernandez?

9 MS. HERNANDEZ: Yes, sir?

10 CHAIRPERSON ANDERSON: Mr. Sheridan,  
11 can you show her the bottom line that's in the  
12 case report? I'm not going to -- I'm sorry,  
13 what?

14 MR. SHERIDAN: She saw. We both  
15 looked at it when he showed the exhibit, yes.

16 CHAIRPERSON ANDERSON: So, all right.  
17 So, Ms. Hernandez, does -- do you recall -- does  
18 your establishment sell this bottle of wine?

19 MS. HERNANDEZ: We sell it, yes.

20 CHAIRPERSON ANDERSON: All right.  
21 And, is the \$9.99 price, is that a correct price?

22 MS. HERNANDEZ: Probably back then, I  
23 mean, it's gone up since then.

24 CHAIRPERSON ANDERSON: All right.

25 MS. HERNANDEZ: I can't remember the

1 exact price.

2 CHAIRPERSON ANDERSON: All right.

3 MR. ORTIZ: Objection. She's looking  
4 over the Licensee and I don't know if he's saying  
5 anything to her to give her any type of advice.

6 MR. SHERIDAN: I'm happy to be back on  
7 the camera.

8 CHAIRPERSON ANDERSON: All right, all  
9 right, all right, okay.

10 Ms. Hernandez, when you're being asked  
11 questions --

12 MS. HERNANDEZ: Yes, sir.

13 CHAIRPERSON ANDERSON: -- I need you  
14 to look directly in the camera.

15 MS. HERNANDEZ: Yes, sir.

16 CHAIRPERSON ANDERSON: I need you not  
17 to look left, right, behind and --

18 MS. HERNANDEZ: One hundred percent.

19 CHAIRPERSON ANDERSON: -- to look in  
20 the camera when you're being asked questions.

21 MS. HERNANDEZ: Okay, no problem, sir.

22 MR. SHERIDAN: I'll stay on the  
23 camera, too, if that helps.

24 CHAIRPERSON ANDERSON: All right,  
25 that's fine.

1 Ms. Hernandez, how is it -- when  
2 someone comes to the establishment to purchase  
3 this bottle of wine and go to the cash register,  
4 how is it -- describe that transaction to me.  
5 What happens? When I pick up the bottle of wine,  
6 I go to the counter, what happens?

7 MS. HERNANDEZ: Okay. When you come  
8 in to our store, you have to go to the wine shop,  
9 to the wine section, is directly to your left.  
10 And, in between the cash register and the wine  
11 section is a large shelf which chips that go all  
12 the way to the top which I've actually complained  
13 about because I can't see if someone's stealing.

14 You have to come around the shelf,  
15 which there's, I want to say there's about maybe  
16 a foot or so, maybe two feet between the chip  
17 shelf and the cash register. So, you have to  
18 come around that shelf to stand in front of the  
19 cash register.

20 And, you put the bottle down.

21 CHAIRPERSON ANDERSON: Right.

22 MS. HERNANDEZ: You'd put the bottle  
23 down or whatever your purchases are on the table.  
24 The price tags are on there. The cashier then  
25 enters the price into the cash register and the



1 amount shows up on the top to let the customer  
2 know, we ask the customers if they'd like a bag  
3 because you have to charge five cents. And, the  
4 only time the products are touched by us are if  
5 the customer wishes us to put them in a bag.

6 CHAIRPERSON ANDERSON: All right. All  
7 right, hold on a minute. Now, I'm sorry, what's  
8 your role again at the establishment?

9 MS. HERNANDEZ: Well, I just came  
10 back. I'm the supervisor in the daytime and now  
11 closing as well. My food manager's license is  
12 still active, but as I've been gone for two  
13 years, I'll have to reapply for my ABRA license.

14 CHAIRPERSON ANDERSON: Well, how long  
15 --

16 MS. HERNANDEZ: Which I also have had.

17 CHAIRPERSON ANDERSON: But how long  
18 have you -- prior to this last two years, and we  
19 --

20 MS. HERNANDEZ: Sixteen years.

21 CHAIRPERSON ANDERSON: So, for the  
22 previous --

23 MS. HERNANDEZ: Yes.

24 CHAIRPERSON ANDERSON: -- years, you  
25 worked for the establishment, is that correct?

1 MS. HERNANDEZ: Yes, sir.

2 CHAIRPERSON ANDERSON: And, what was  
3 your role during that period of time?

4 MS. HERNANDEZ: Most of the time as  
5 deli manager, especially while Kevin was in  
6 Nicaragua. I was responsible for the day to day  
7 hiring, firing, making schedules, ordering,  
8 things like that.

9 CHAIRPERSON ANDERSON: Okay. Now,  
10 what type of training did you receive, and you're  
11 an ABC -- it's correct that you were also an ABC  
12 manager? Were you an ABC manager for all 16  
13 years or how long were you an ABC manager?

14 MS. HERNANDEZ: Oh, most of the time  
15 back and forth. I've had -- there were a couple  
16 times in between where I would have like two  
17 months due to issues with family and things where  
18 I would have to go out of town. So, I'd have to  
19 reapply. But I've had my ABC manager's license  
20 and I always had my classes with Norm Neverson  
21 and the most recent was with his daughter who  
22 took over for him.

23 CHAIRPERSON ANDERSON: All right.

24 MR. SHERIDAN: You had a kind in that  
25 period.

1 MS. HERNANDEZ: Oh, I did. I left for  
2 a little bit when I had my son.

3 CHAIRPERSON ANDERSON: Mr. Sheridan,  
4 I don't need you to speak, sir.

5 MR. SHERIDAN: Okay.

6 CHAIRPERSON ANDERSON: All right.  
7 Now, so, who taught -- is it part of your duties  
8 and responsibly to check IDs, tell the employees  
9 to check IDs or who does that for the employees?

10 MS. HERNANDEZ: Yes, sir.

11 CHAIRPERSON ANDERSON: So, are you the  
12 one who tells the employees to check IDs when --  
13 I mean, tell me about that, please?

14 MS. HERNANDEZ: Absolutely. As soon  
15 as someone comes up and they're working the cash  
16 register, we even have a sign on the side right  
17 next to the side that says, you know, if you  
18 aren't 21 by -- if your birth date is not on this  
19 day, then you can't purchase alcohol.

20 They are told, as Mr. Neverson teaches  
21 us, you ask, you know, I need to see your ID.  
22 They're taught the date of birth they're supposed  
23 to look for.

24 CHAIRPERSON ANDERSON: Now, do you  
25 know, are they taught that if the person's not 21

1 that their IDs a different shape?

2 MS. HERNANDEZ: A different shape?

3 CHAIRPERSON ANDERSON: Yes.

4 MS. HERNANDEZ: I don't believe I've  
5 ever said it's a different shape. I've just -- I  
6 noticed the one on the red on the back that  
7 always said under 21 and to look at the actual  
8 date.

9 CHAIRPERSON ANDERSON: But are you  
10 aware of the physical difference of an ID for a  
11 person who's over 21 and from a person who's  
12 under 21?

13 MS. HERNANDEZ: The physical  
14 difference other than the date? No, Mr. Neverson  
15 never even mentioned that when we had our  
16 classes.

17 CHAIRPERSON ANDERSON: You're not  
18 aware that persons over 21, that their's is more  
19 --

20 MS. HERNANDEZ: Well, the one is  
21 longer, but it's like, I mean, it's not like I  
22 think they're both rectangular. Do you mean the  
23 fact that one is like this way instead of  
24 sideways?

25 CHAIRPERSON ANDERSON: Right. So,

1           which is which then?  Which is which?

2                       MS. HERNANDEZ:  The one that's not --  
3           the one that's sideways is for people over 21.  I  
4           do know the difference in those.

5                       CHAIRPERSON ANDERSON:  And, the one  
6           that's long way is for the people over -- is that  
7           correct --

8                       MS. HERNANDEZ:  That's under 21.

9                       CHAIRPERSON ANDERSON:  -- under 21.

10                      MS. HERNANDEZ:  Yes, sir.

11                      CHAIRPERSON ANDERSON:  Did you -- I  
12           need Mr. Sheridan to show you Exhibit 3 of the  
13           exhibit to look at the driver's license and can  
14           you tell us how is the driver's license that --  
15           the identification that was provided by the  
16           person, how's it -- what does it look like?  Can  
17           you look at the exhibit and tell me what --

18                      MS. HERNANDEZ:  We're scrolling, yes,  
19           now, sir, we're looking at it.  One second.  Yes,  
20           I see, it's one of the up and down ones instead  
21           of sideways.  It's under 21.

22                      CHAIRPERSON ANDERSON:  So, by look in  
23           at this ID --

24                      MS. HERNANDEZ:  But I wasn't shown his  
25           ID, so I'm not quite sure what I can tell you.

1 CHAIRPERSON ANDERSON: I'm not -- I'm  
2 just asking you --

3 MS. HERNANDEZ: Yes.

4 CHAIRPERSON ANDERSON: I know you're  
5 not -- but I'm just asking you this license  
6 that's in the evidence, what does it look like,  
7 that's all I'm asking you.

8 MS. HERNANDEZ: Oh, okay, I see.

9 CHAIRPERSON ANDERSON: So, what is the  
10 --

11 MS. HERNANDEZ: It's like an under 21  
12 ID.

13 CHAIRPERSON ANDERSON: So, you don't  
14 -- so, would you state that you wouldn't even  
15 have to check the date on this ID because of the  
16 way it looks?

17 MS. HERNANDEZ: Well, honestly,  
18 because of the way different states are, I tell  
19 every employee that, don't go by something like  
20 that. You need to look at the ID closely because  
21 anybody can bring a fake ID in. You need to look  
22 at the date.

23 CHAIRPERSON ANDERSON: Okay, all  
24 right, thank you.

25 I don't have further questions, though

1 other Board Members might have questions for you.  
2 After the Board Members ask questions, then Mr.  
3 Ortiz will ask questions again and then Mr.  
4 Sheridan will ask the other questions. Okay?

5 MS. HERNANDEZ: Okay.

6 CHAIRPERSON ANDERSON: Go ahead, Mr.  
7 Short.

8 MEMBER SHORT: Thank you.

9 Good afternoon, Ms. Hernandez.

10 MS. HERNANDEZ: Good afternoon, sir.

11 MEMBER SHORT: Thank you for your  
12 testimony today.

13 MS. HERNANDEZ: Thank you.

14 MEMBER SHORT: Ms. Hernandez, when the  
15 investigator came back in with the form on August  
16 the 2nd and asked you to read it and sign it, did  
17 you protest any way or any how about what was on  
18 it?

19 MS. HERNANDEZ: No.

20 MEMBER SHORT: And, why not?

21 MS. HERNANDEZ: Because I didn't see  
22 the incident and Beyata was so upset that she  
23 thought she had sold alcohol that -- I just went  
24 by what the inspector told me so I signed it.

25 MEMBER SHORT: Thank you for that.

1 MS. HERNANDEZ: That's probably my  
2 fault, I should have looked further into but,  
3 yes, he told me she sold alcohol and I signed it.

4 MEMBER SHORT: But no protest?

5 MS. HERNANDEZ: I was extremely  
6 anxious.

7 MEMBER SHORT: Okay, but no protest  
8 that day?

9 MS. HERNANDEZ: No, sir.

10 MEMBER SHORT: All right, thank you  
11 very much for your testimony. That's all I have,  
12 Mr. Chair.

13 MS. HERNANDEZ: You're welcome.

14 CHAIRPERSON ANDERSON: Thank you, Mr.  
15 Short.

16 Any other questions by any other Board  
17 Members?

18 (NO AUDIBLE RESPONSE)

19 CHAIRPERSON ANDERSON: Mr. Ortiz?

20 Based on the questions the Board asked?

21 MR. ORTIZ: The Government does not  
22 have any questions to ask.

23 CHAIRPERSON ANDERSON: Mr. Sheridan,  
24 any redirect of your witness, sir?

25 MR. SHERIDAN: Yes. First --



1                   CHAIRPERSON ANDERSON: Hold on, hold  
2 on, Mr. Sheridan. I just wanted to remind, just  
3 not new areas, it's based on the questions that  
4 were asked. So, it's not like, oh, I forgot to  
5 ask her this question before so let me ask her  
6 now. Okay? Just want to point that out to you.

7                   REDIRECT EXAMINATION

8                   BY MR. SHERIDAN:

9                   Q       Okay, no, this is regarding the  
10 question from Mr. Short. You said that you were  
11 not -- that you didn't protest at the time of  
12 signing it. Were you made aware of any way to  
13 protest?

14                  A       No, I didn't know I could protest at  
15 that time.

16                  Q       Okay. And, Mr. Anderson's question,  
17 I believe it was Mr. Anderson that asked about  
18 the different IDs.

19                  A       Yes.

20                  Q       Were -- in the class that you and  
21 Beyata and the other employees took, did they not  
22 discuss the different kinds of IDs and how to  
23 recognize whether someone was of legal and --

24                  A       Yes.

25                  Q       -- whether one would be accepted or

1 not?

2 And, is it fair to say that there's 50  
3 to 100 different kinds of IDs that you're  
4 supposed to be able to determine if they're  
5 acceptable or not?

6 A Yes, a lot.

7 Q And, has it not always been th policy  
8 of Dupont Market to verify the actual date of  
9 birth --

10 A Yes.

11 Q -- rather than whether the ID says  
12 this person is under 21 until this date or, I  
13 mean, we've always --

14 A Checked the --

15 Q -- the first thing before -- now, if  
16 it says this ID is not for the purchase of  
17 alcohol, would you accept that?

18 A No, of course not.

19 MR. SHERIDAN: Okay. And, the last  
20 question I have, so, in the --

21 I'm a little confused, when she was  
22 crossed by the State's Attorney, you said I would  
23 later have an opportunity to respond to something  
24 that he had brought up in the questioning. But  
25 now, you're telling me that I can't but I can

1 only address the Board's questions?

2 CHAIRPERSON ANDERSON: You can  
3 respond, you can ask that question, sir.

4 MR. SHERIDAN: Okay.

5 So, you told the District Attorney  
6 that there -- he asked if there was a place where  
7 someone could see.

8 MS. HERNANDEZ: Yes.

9 BY MR. SHERIDAN:

10 Q And, could you specify where? Like  
11 where could a person observe a transaction --

12 A Okay.

13 Q -- aside from directly within four  
14 feet of the register? Where else could they have  
15 seen it?

16 A Within -- more than within four feet  
17 of the register? No where. Just if they were  
18 directly behind the person paying or say right  
19 here on their left like directly within touching  
20 distance of the person paying.

21 Q So, it's say to say that someone that  
22 was eight feet away, there's no way they would be  
23 able to see unless they were above?

24 A No, not at all.

25 MR. SHERIDAN: Okay, thank you.

1                   That's all.

2                   CHAIRPERSON ANDERSON: Thank you very  
3 much.

4                   Do you have another witness you want  
5 to call, sir?

6                   MR. SHERIDAN: Yes, myself.

7                   CHAIRPERSON ANDERSON: All right. Can  
8 you raise your right hand, please?

9                   Do you swear or affirm you will tell  
10 the truth and nothing but the truth?

11                  MR. SHERIDAN: I do.

12                  CHAIRPERSON ANDERSON: Go ahead, sir.  
13 And, Mr. Ortiz will cross examine you.

14                  MR. SHERIDAN: Okay.

15                  CHAIRPERSON ANDERSON: And, the Board  
16 will cross examine you. Go ahead, sir.

17                  MR. SHERIDAN: Okay. So, I guess I  
18 just give a statement since I'm not going to like  
19 question and answer myself, correct?

20                  CHAIRPERSON ANDERSON: You do what you  
21 -- you present whatever you want to present, sir,  
22 in the manner you believe is appropriate.

23 WHEREUPON,

24                                   KEVIN SHERIDAN

25 was called as a witness by himself and, having

1       been first duly sworn, assumed the witness stand,  
2       was examined and testified as follows:

3                               DIRECT EXAMINATION

4                               BY MR. SHERIDAN:

5               Q       Okay. The employees that were in the  
6       store the day of August 2nd, 2019 had both been  
7       trained by an ABRA recognized instructor, Norman  
8       Neverson.

9                       And, Beyata did not go for her license  
10       because she was a student and was not going to be  
11       staying, but Kelly did get her license. She had  
12       the paperwork completed with me and notarized  
13       down the street and then submitted her  
14       application with payment and it was accepted and  
15       she got her license.

16                      I had to leave the country for six  
17       weeks and made sure I had extra licensed people  
18       just for this reason.

19                      It was never made aware to me that she  
20       didn't send her second police clearance in in  
21       time and her license was, I don't know the word  
22       for it, if it was cancelled, whatever you call it  
23       at ABRA, they rescinded her license shortly  
24       before this incident and neither I nor Ms.  
25       Hernandez was made aware that her license was no

1 longer valid.

2 When the inspector came in, she had,  
3 you know, as she testified, she had discovered  
4 that her license was no longer valid.

5 My whole argument with the second  
6 charge is that we did everything humanly possible  
7 and put the licensed people that we personally  
8 licensed with you in the store so we always had  
9 the store under supervision of an ABRA manager.  
10 And, we did that.

11 And, I was never notified that her  
12 license had been taken -- had been cancelled by  
13 you. Your organization has the documentation  
14 that she got her license, that she had it, and  
15 when it was rescinded.

16 And, I know, myself, out of fear of  
17 lying to officials or when police or inspectors  
18 come, of course, she's not going to try to say  
19 that her license, well -- that she had one if she  
20 didn't. So, I appreciate her honesty and I hope  
21 you do, too. But she did have an ABRA license  
22 and we were -- I was never made aware that it was  
23 cancelled. And, that's the only reason why there  
24 wasn't technically a manager there that day.

25 Both parties were trained by ABRA

1 instructors, as I said. And, the layout of our  
2 store is exactly as Ms. Hernandez testified. If  
3 somebody was in the store and actually observed  
4 these things, they would have to be very close.  
5 They couldn't be eight feet away, as was alluded  
6 to earlier.

7 The cash register sits on about a  
8 three foot table. There's a wine rack to the  
9 left, if you're standing at the register looking  
10 out at the customer, like if you guys were my  
11 customer, there's a display that's wood and it is  
12 about six -- almost six feet tall, solid wood,  
13 with wine on it. That blocks one side of the  
14 register.

15 And, on the other side is a deli case  
16 which is literally right up against the counter.  
17 And, on top of that is a fruit display. So, you  
18 wouldn't be able to see from there, either.

19 And, we have since, well renovated,  
20 we've reorganized the store due to COVID and  
21 distancing, so the shelves are a little different  
22 now. But at the time, the shelves were directly  
23 behind the cash register. It's a good three feet  
24 where a person could pass by. But it's a wall of  
25 shelves that went right by the register.

1 I don't believe that, as long as Kelly  
2 has worked here, I cannot think of any reason  
3 anyone would say they observed people scanning  
4 items into a register. We've never had a  
5 scanner. So, I'm not sure, you know, why that  
6 has been entered into evidence. I think it's  
7 from another location.

8 And, I just want to get this over with  
9 and have you guys come to your conclusion and  
10 let's be done with this.

11 CHAIRPERSON ANDERSON: Are you done?

12 MR. SHERIDAN: Yes, thank you for your  
13 patience and working with us as well.

14 CHAIRPERSON ANDERSON: Mr. Ortiz, any  
15 questions?

16 CROSS EXAMINATION

17 BY MR. ORTIZ:

18 Q Yes, just briefly.

19 All right, so on August 2nd, 2019, was  
20 there an ABC manager on duty at Dupont Market.

21 A As far as I was made aware, yes, there  
22 was.

23 Q You testified, you literally stated  
24 that there wasn't a manager that day, did you not  
25 testify to that today?



1           A        Maybe I misspoke. But I went through  
2 the licensing procedure with Kelly Hernandez  
3 before I left the country and she had an ABRA  
4 manager's license.

5                    When that license was taken away, only  
6 ABRA could tell you, I can't tell you. But as  
7 far as I know, yes, she was licensed with me in  
8 the country before I left in -- June 30th of 2019  
9 was when I left the country.

10           Q        So, you were out of the country on  
11 June, a couple months before August, correct?

12           A        Yes, I left on June, I believe it was  
13 June 30th, no, no, no, I apologize, I left on  
14 July 5th was when I left, right after the 4th of  
15 July.

16           Q        Did you hear Ms. Hernandez testimony  
17 today?

18           A        Yes.

19           Q        And so, what you're saying is that Ms.  
20 Hernandez did not -- did you -- sorry. Rephrase.

21                    Did you hear Ms. Hernandez when she  
22 testified that there was no ABC manager on duty  
23 that day?

24           A        Yes, I heard her say that.

25           Q        So, in your testimony today, you're

1 saying that there was an ABC manager on duty,  
2 correct?

3 A Again, we can go back and forth on  
4 this all you want. I left, she obtained her ABC  
5 manager's license. And, to my knowledge, still  
6 to this day because no one's told me when her  
7 license was cancelled, yes, she was the ABC  
8 manager on duty that day.

9 I believe you guys should be able to  
10 access your records and see when that license was  
11 rescinded. It should be pretty easy to firm that  
12 up. But, yes, it is my understanding that she  
13 was the licensed ABC manager whether she realized  
14 and stated it or not until there's some reason  
15 provided that her license had been revoked.

16 Q Okay. So, you didn't provide any  
17 documentation today showing that Ms. Hernandez or  
18 anyone else had an ABC license on August 2nd,  
19 2019, is that correct?

20 A Did I provide any, like a copy of her  
21 license?

22 Q Documentation.

23 A I don't -- no, I do not have a copy of  
24 her license to show that.

25 Q Okay. And so, your testimony is, that

1 under -- what you believed is that you thought  
2 that your employees had or you had an ABC manager  
3 on duty, correct?

4 A Yes, I actually went and did the whole  
5 process and had her stuff notarized up the street  
6 and the payment cleared our bank account when the  
7 application was accepted by ABRA.

8 Q But you don't have any documentation  
9 showing that you had an ABC manager, that anybody  
10 had an ABC manager, is that correct, today?

11 A I'm not sure what kind of  
12 documentation -- they don't give me documentation  
13 like -- I'm not sure how I'm supposed to provide  
14 something that I've never had in 28 years of  
15 owning Dupont Market. What kind of documentation  
16 would you like me to produce?

17 MR. ORTIZ: I don't have any further  
18 questions for the witness.

19 CHAIRPERSON ANDERSON: Mr. Sheridan?

20 MR. SHERIDAN: Yes?

21 CHAIRPERSON ANDERSON: Do you know how  
22 long an ABC manager's license lasts for?

23 MR. SHERIDAN: I believe it's two  
24 years.

25 CHAIRPERSON ANDERSON: So, it's

1 actually three years.

2 MR. SHERIDAN: Oh.

3 CHAIRPERSON ANDERSON: What happens  
4 after the three years?

5 MR. SHERIDAN: They have to apply for  
6 another one.

7 CHAIRPERSON ANDERSON: So, what  
8 system, if any, do you have in place to ensure  
9 that your managers, that they always have a  
10 current license?

11 MR. SHERIDAN: Well, sadly, in our  
12 industry, not many people stay three years. So,  
13 we have a copy of their license that we display  
14 on site as well as they keep their actual  
15 license. When it gets close to time to renew  
16 their license, we go through the steps and renew  
17 their license. Did that answer your question?

18 CHAIRPERSON ANDERSON: Well, I guess  
19 the question I'm asking you, I mean, Ms.  
20 Hernandez has been with you for 16 years at the  
21 time.

22 MR. SHERIDAN: Yes, 18, but 16 at the  
23 time, yes.

24 CHAIRPERSON ANDERSON: Sixteen at the  
25 time, so I mean, so you didn't have -- how is

1 that you know that -- who paid for the license?  
2 Do you pay for her to renew her license or is  
3 that --

4 MR. SHERIDAN: Yes.

5 CHAIRPERSON ANDERSON: Okay.

6 MR. SHERIDAN: Yes, we don't demand  
7 our employees pay for the license.

8 CHAIRPERSON ANDERSON: So, you don't  
9 have a system to ensure -- to keep track of the  
10 expiration dates of the license?

11 MR. SHERIDAN: Aside from the actual  
12 license on display that has the date? We have a  
13 copy of the license with the date. So, that's on  
14 the wall. We have that in our store at all  
15 times.

16 CHAIRPERSON ANDERSON: Right. So --

17 MR. SHERIDAN: And, it has the  
18 expiration date.

19 CHAIRPERSON ANDERSON: So, Ms.  
20 Hernandez, it's not that she didn't have a  
21 license, is that -- it's not that her license was  
22 cancelled, it's that her license had expired and  
23 she needed to renew that, isn't that correct?

24 MR. SHERIDAN: No, what happened is,  
25 she had moved and when her license was up for

1 renewal, she went down and filled out the  
2 paperwork but she was unfamiliar with the  
3 procedure for getting policing clearance from  
4 both D.C. and Maryland.

5 She moved to Maryland and she didn't  
6 -- wasn't able -- she didn't provide that police  
7 clearance. So, the temporary license at some  
8 point was cancelled.

9 CHAIRPERSON ANDERSON: But how long --  
10 do you know how the long the temporary license  
11 lasts for?

12 MR. SHERIDAN: I believe it's two  
13 months, if I recall correctly. But I thought it  
14 was two years for the regular license, so.

15 CHAIRPERSON ANDERSON: All right. The  
16 temporary license lasts for three months. So,  
17 therefore, do you -- did you know that if she had  
18 a temporary license, that within the 90 days she  
19 had to complete the process to get her full  
20 license?

21 MR. SHERIDAN: Yes, I know they have  
22 to do that if they don't provide it at the time  
23 they issue the license, yes.

24 CHAIRPERSON ANDERSON: All right.

25 MR. SHERIDAN: I was never made aware

1 that she didn't provide it. And, she told me,  
2 maybe it's the confusion over two states, but she  
3 did get her D.C. police clearance. I paid for  
4 it, it was like \$2 or some small amount.

5 And, as far as the Maryland one, no,  
6 I never knew that it wasn't submitted, that there  
7 was more than one and that her license was  
8 subsequently cancelled out. It was never our  
9 intent to not have an ABC manager on duty, as  
10 we've made very clear over the last 28 years.

11 And, the technicality that caused her  
12 license to be, you know, can you, at ABRA, tell  
13 when her -- was it suspended that day or the day  
14 before? We don't even know when it was  
15 suspended. But she had her ABC managers license  
16 when I left in July and I had no reason to  
17 believe that it would go away.

18 CHAIRPERSON ANDERSON: I think -- the  
19 question being asked, it's not that the license  
20 was suspended, it's that the license had expired  
21 and needed to be renewed.

22 MR. SHERIDAN: No, it hadn't expired.

23 CHAIRPERSON ANDERSON: I'm sorry?

24 MR. SHERIDAN: The license had not  
25 expired. It was an original application. She

1 had applied for a new license.

2 CHAIRPERSON ANDERSON: And, is it  
3 correct that she had a 90-day temporary license,  
4 is that correct? Is that what she had?

5 MR. SHERIDAN: If that's what you're  
6 saying yes, I don't remember. I didn't even --

7 CHAIRPERSON ANDERSON: I'm asking,  
8 sir, no, I'm asking you. Do you know what she  
9 had? When you left the country, what is it that  
10 -- when you said you had to leave, and you left  
11 her in charge, did she have a permanent license  
12 or did she have a temporary 90-day license?  
13 Which one did she have?

14 MR. SHERIDAN: When I left the  
15 country, she had submitted her D.C. police  
16 clearance and had not yet received her permanent  
17 license.

18 CHAIRPERSON ANDERSON: So, she had a  
19 temporary license?

20 MR. SHERIDAN: So, she had -- yes, she  
21 had the temporary license.

22 CHAIRPERSON ANDERSON: Did you know  
23 that the temporary license expired in 90 days?

24 MR. SHERIDAN: No, I believe we had  
25 fulfilled all the obligations by providing the



1 police clearance and was unaware that she had to  
2 get another police clearance from Maryland. I  
3 never had to do that in 28 years.

4 CHAIRPERSON ANDERSON: All right.  
5 Any other questions by the Board  
6 Members?

7 MEMBER SHORT: Just one last question  
8 for Mr. Sheridan.

9 CHAIRPERSON ANDERSON: Go ahead, Mr.  
10 Short.

11 MEMBER SHORT: Mr. Sheridan?

12 MR. SHERIDAN: Yes, Mr. Short?

13 MEMBER SHORT: It was the testimony of  
14 Ms. Hernandez that she signed that violation  
15 form, is that correct?

16 MR. SHERIDAN: Yes, she testified to  
17 that, yes.

18 MEMBER SHORT: So, the investigator  
19 was in the right location, is that correct?

20 MR. SHERIDAN: The investigator --

21 MEMBER SHORT: No, there was a  
22 question earlier about maybe he was in the wrong  
23 location. But if Ms. Hernandez signed that form,  
24 that means he was at your market.

25 MR. SHERIDAN: That was a different

1 investigator, that wasn't Mr. Ruiz.

2 MEMBER SHORT: So, if Ms. Hernandez  
3 signed a form from ABRA stating there were  
4 violations of no ABC manager and sale to a minor  
5 and she admitted that she signed the form, so  
6 there's no doubt he was -- the investigator was  
7 in your market.

8 MR. SHERIDAN: That's not entirely  
9 accurate. If you'd give me just one second so I  
10 can pull it up. The investigator that came in  
11 and met with Ms. Hernandez was Javon Miller and  
12 not the person who testified today. It was an  
13 entirely different person.

14 MEMBER SHORT: They work as a team.

15 MR. SHERIDAN: Okay. I guess I don't  
16 understand your question. Mr. Miller didn't view  
17 anything.

18 MEMBER SHORT: I'm sorry if you're  
19 confused. That's all I have.

20 Thank you, Mr. Chair.

21 MR. SHERIDAN: Okay, thank you.

22 CHAIRPERSON ANDERSON: All right,  
23 thank you.

24 Any other question by any other Board  
25 Members?

1 (NO AUDIBLE RESPONSE)

2 CHAIRPERSON ANDERSON: Mr. Ortiz, any  
3 questions of Mr. Sheridan based on the questions  
4 that were asked by the Board?

5 MR. ORTIZ: No.

6 CHAIRPERSON ANDERSON: You've got the  
7 final say, Mr. Hernandez, any -- do you need to  
8 clarify anything? I'm going to give you an  
9 opportunity to do a closing statement if you so -  
10 - all right, but do you have anything else you  
11 want to say? I'm still going to give you another  
12 opportunity to make a closing statement.

13 MR. SHERIDAN: Were you asking me? I  
14 apologize.

15 CHAIRPERSON ANDERSON: Yes, I'm asking  
16 you if you have --

17 MR. SHERIDAN: No, nothing else at  
18 this time, yes.

19 CHAIRPERSON ANDERSON: All right. So,  
20 do you rest? Meaning that you don't have any  
21 more witnesses?

22 MR. SHERIDAN: Yes, I rest.

23 CHAIRPERSON ANDERSON: All right.  
24 We're going to do closing and I need each side to  
25 tell us what it is that was proven and give us

1 some guidelines what it is that the Government is  
2 asking the ABC Board to do. And, you, Mr.  
3 Hernandez, on the two charges, the sale to minor  
4 and the no ABC manager, what it is that you're  
5 asking us to do.

6 So, go ahead, Mr. Ortiz.

7 MR. ORTIZ: Thank you, Mr.  
8 Chairperson.

9 The Government has proven by a  
10 preponderance of the evidence that the Licensee  
11 sold an alcoholic beverage to a person under 21  
12 years of age and failed to superintend the  
13 establish in person or keep a licensed ABC  
14 manager on duty at all times.

15 We heard from Investigator Ruiz that  
16 on Friday, August 2nd, 2019, ABRA -- himself and  
17 ABRA Investigator Javon Miller conducted a  
18 compliance check of the establishment with an 18-  
19 year-old undercover minor.

20 At approximately 12:20 p.m., the minor  
21 entered the establishment, picked up a bottle of  
22 wine, and took it to the counter.

23 We also heard from Investigator Ruiz  
24 that the cashier looked at the minor's  
25 identification, and advising that the price was

1 \$10.99. The minor paid the cashier, left the  
2 store with the wine.

3 Investigator Miller then entered the  
4 establishment, notified the cashier and the  
5 manager on duty that alcohol had been sold to a  
6 minor and there was no ABC manager on duty.

7 You also heard from Investigator Ruiz,  
8 that at most, he was eight feet away during the  
9 entire transaction -- during the time of the  
10 compliance check. Investigator Ruiz did not say  
11 that he was always eight feet away and he did not  
12 state that he was eight feet away when the  
13 transaction occurred.

14 You heard from Investigator Ruiz that  
15 he was moving around the establishment during the  
16 transaction, he testified to that today. He also  
17 testified that he observed the transaction. In  
18 fact, in the case report which is Government  
19 Exhibit 1, it clearly states and it was drafted  
20 by Investigator Ruiz that he was two feet away  
21 when the transaction took place.

22 Lastly, we heard from Investigator  
23 Ruiz that when Mr. Miller asked to speak to the  
24 ABC manager or owner, the manager in charge, Ms.  
25 Kelly Hernandez, advised the investigator there

1 was no ABC manager or owner present. She, in  
2 fact, signed the notice of inspection document  
3 stating that there was no ABC manager on duty.

4 What you didn't hear was any testimony  
5 saying that a sale to a minor did not take place.  
6 What you heard was, oh, the investigator probably  
7 didn't see it, he couldn't have seen it because  
8 these shelves -- that's not the point of this  
9 case. You did not hear any testimony by the  
10 Licensee or its witness that a sale to a minor  
11 did not take place.

12 The Government has, therefore, proven  
13 the charge in the notice to show cause. The  
14 Government recommends that the Board apply a  
15 penalty consistent with D.C. Code Section 25830.

16 And, I thank you for the Board's time.

17 CHAIRPERSON ANDERSON: Thank you, Mr.  
18 Ortiz.

19 Mr. Sheridan?

20 MR. SHERIDAN: If I could just ask in  
21 the case before, you guys specified what the  
22 violations and penalties were that were being  
23 pursued, that's never been mentioned in this  
24 hearing.

25 CHAIRPERSON ANDERSON: All right, Mr.

1 Sheridan. The show cause notice that you have,  
2 it clearly states what the issues are. And,  
3 that's the -- there are two issues here --

4 MR. SHERIDAN: I'm just asking the  
5 fines, the tier, like I don't understand the  
6 different primary, secondary, and the monetary  
7 fines. So, I apologize, I just wanted to know.

8 CHAIRPERSON ANDERSON: Well, it  
9 appears that this is not -- I don't know what  
10 tier this is, sir. But in looking at your  
11 investigative history, this is not the first time  
12 you have had a sale to a minor, so this is your  
13 second sale to a minor. So, because of that,  
14 there is a specific suspension. When I say  
15 suspension, there's a specific monetary fine  
16 amount because this is not the first time you  
17 have had this charge.

18 And, it's my understanding that this  
19 is the second time, at least the second time, you  
20 have received a sale -- I'm sorry, the -- you  
21 have received the no ABC manager. So, this is  
22 probably your second was in the past two years.

23 And, it's also my understanding that  
24 there was -- you had another case that -- you had  
25 another case, that your first sale to a minor

1 case was less than a year. A year had not  
2 expired before this other violation occurred. I  
3 think that's where we are.

4 MR. SHERIDAN: And, that's -- as far  
5 as the investigative history you've provided, we  
6 have not had another violation within the two  
7 years prior to this incident. So, that's my  
8 confusion. What was the date of the --

9 CHAIRPERSON ANDERSON: Sir, it appears  
10 that you had Case Number 20-CC-00066, and that  
11 was I guess in your investigative history.

12 You don't have a copy? If you look at  
13 the report you have, sir, it has --

14 MR. SHERIDAN: I do, I don't have it  
15 with. But all I want to say is, the second  
16 primary tier violation within two years didn't  
17 happen. If you look at our investigative history  
18 and go two years back from August 2nd, 2019,  
19 there are no others.

20 The only other case that was brought  
21 against us in two or three years was one that was  
22 dismissed. So, this is a first primary tier  
23 violation. There was not a third within three  
24 years nor a second within two years. And, that's  
25 why -- the whole reason why we originally



1 contested this is the offer in kind that we were  
2 given was pretty substantial.

3 And, under these guidelines, none of  
4 it makes sense. What was our violation in the  
5 two years prior to August 2nd, 2019? I imagine  
6 you have that there, correct? I can't give you  
7 something I don't have. I don't see any other  
8 violation two years prior to August 2nd, 2019.

9 MR. ORTIZ: If I may, Mr. Chairperson.  
10 The Government only recommends the Board apply a  
11 penalty consistent with D.C. Code Section 25830.  
12 Technically, the Board will go into -- well,  
13 after the hearing, will make its determination as  
14 to what, if any penalty, the Board wishes to  
15 have.

16 So, I'm not understanding if this is  
17 part of the closing or what's, you know --

18 MR. SHERIDAN: No, the prior case --

19 MR. ORTIZ: I'm talking to Mr.  
20 Chairperson. And, so I'm not quite  
21 understanding, maybe that will clarify a little  
22 bit of things for the Licensee, I'm not sure if  
23 it would, but I just wanted to say that.

24 CHAIRPERSON ANDERSON: Our legal  
25 office will, if there are prior violations, sir,

1 our legal office will provide us guidance.

2 However --

3 MR. SHERIDAN: May I address that for  
4 one second?

5 CHAIRPERSON ANDERSON: You can -- this  
6 is your closing, sir, you need to tell us what --

7 MR. SHERIDAN: The Assistant District  
8 Attorney, in the prior case, laid out everything.  
9 This is the third violation of this, the second  
10 violation of this. Everything was laid out in  
11 the case.

12 So, yes, I'm a little confused because  
13 I just want someone to tell me what exactly, you  
14 know, most criminal trials at least they say, all  
15 right, you're being charged with this or you have  
16 a maximum sentence, you know, of this.

17 I'm just asking as in the case prior  
18 to ours, that where the District Attorney stated,  
19 we are seeking the second violation or third  
20 violation of a primary tier blah, blah. And, I'm  
21 just asking why I just can't get that most basic  
22 information based on our history. This, I  
23 believe, is a first primary tier violation. And,  
24 I thought that was something that was presented  
25 during the hearing like it was in the hearing

1 before this one.

2 CHAIRPERSON ANDERSON: All right, I'm  
3 just -- sir, your position right now is that,  
4 let's talk about this case.

5 MR. SHERIDAN: Okay.

6 CHAIRPERSON ANDERSON: What is it you  
7 want the Government -- what it is that you want  
8 us to do regarding this case and the issues at  
9 hand, it's no ABC manager on duty and sale to a  
10 minor. It was not the first sale to a minor, the  
11 second sale --

12 MR. SHERIDAN: I'm sorry, my closing?

13 CHAIRPERSON ANDERSON: I'm sorry, yes,  
14 that's your closing, that's what I asked you to  
15 do, sir, yes.

16 MR. SHERIDAN: Okay. The testimony of  
17 the inspector provided today is easily refuted  
18 and it's been shown that, if he was two feet from  
19 the person when the transaction went through,  
20 then he couldn't observe someone scan a bottle of  
21 wine into something when there's no scanner.

22 Then he said he may have been as far  
23 as eight feet. I mean, obviously this is a new  
24 person that hadn't worked very long. Thank you  
25 to Mr. Short who got the inspector to answer the

1 same two questions that I asked that he didn't  
2 answer when he asked how many cases he had worked  
3 on and he told me he was not sure, then he  
4 immediately said ten to Mr. Short.

5 And, you know, clearly, there's  
6 something wrong with what this inspector claims  
7 to have seen because you can't say one thing is  
8 true and the other, well, I don't know, I didn't  
9 see it. So, his testimony should be removed, it  
10 shouldn't go in.

11 And, based on that, then there is no  
12 case and we should just go home.

13 But as far as the ABRA manager, I have  
14 proven that we had an ABRA manager and the  
15 license was in effect and ABRA cancelled it. I  
16 was not aware that the second police clearance  
17 from the state where she was moving to, she  
18 didn't even have a history in that state, was  
19 required and they rescinded the license.

20 So, I was asking that that be  
21 dismissed for that reason because we did  
22 everything physically possible to have an ABC  
23 manager. And, as far as I, the owner, was aware,  
24 she was an ABC manager, still that day and that  
25 the license had not -- I did not know that the

1 license had been taken back because of the  
2 Maryland police clearance.

3 That's all.

4 CHAIRPERSON ANDERSON: All right,  
5 thank you.

6 Do you rest? The record is now  
7 closed. All right, so let me do the reading and  
8 the Board will take this matter under advisement  
9 and issue a decision.

10 As Chairperson of the Alcohol Beverage  
11 Control Board for the District of Columbia in  
12 accordance with D.C. Code Section 2574(b) of the  
13 Open Meetings Act, I move that ABC Board hold a  
14 closed meeting for the purpose of seeking legal  
15 advice from our counsel on 19-CC-00119, Dupont  
16 Market pursuant to D.C. Official Code Section  
17 2574(b)(4) of the Open Meetings Act and  
18 deliberate upon Case Number 19-CC-00119, Dupont  
19 Market for the reasons cited in D.C. Official  
20 Code Section 2574(b)(13) of the Open Meetings  
21 Act.

22 Is there a second?

23 MEMBER SHORT: Mr. Short, I second.

24 CHAIRPERSON ANDERSON: Mr. Has  
25 seconded the motion.

1 We'll now have a roll call vote on the  
2 motion.

3 Mr. Short?

4 MEMBER SHORT: Mr. Short, I agree.

5 CHAIRPERSON ANDERSON: Mr. Cato?

6 MEMBER CATO: Bobby Cato, I agree.

7 CHAIRPERSON ANDERSON: Ms. Crockett?

8 MEMBER CROCKETT: Rafi Crockett, I  
9 agree.

10 CHAIRPERSON ANDERSON: Ms. Hansen?

11 MEMBER HANSEN: Jeni Hansen, I agree.

12 CHAIRPERSON ANDERSON: Mr. Grandis?

13 (NO AUDIBLE RESPONSE)

14 CHAIRPERSON ANDERSON: Mr. Grandis?

15 MEMBER GRANDIS: Yes, Edward Grandis  
16 agrees.

17 CHAIRPERSON ANDERSON: Mr. Anderson,  
18 I agree.

19 The matter passes six, zero, zero.

20 As it appears that the motion has passed, I  
21 hereby give notice that the ABC Board will recess  
22 it's proceedings to hold a closed meeting in the  
23 ABC Board Conference Room pursuant to Section  
24 2574(b) of the Open Meetings Act.

25 Thank you very much for your

1 presentations today. The Board will take this  
2 matter under advisement and we will issue a  
3 notice within the next 90 days. All right?

4 Thank you very much.

5 MR. SHERIDAN: Thank you very much.

6 CHAIRPERSON ANDERSON: All right, it  
7 is 4: 43, the Board is going to take a short  
8 five minute -- the Board, I'm just saying let us,  
9 don't log off, but I'll call the other hearing at  
10 4: 50. So, that's seven minutes, so we'll just  
11 take a seven minute break. So, I'll call the  
12 next case at 4: 50. Okay?

13 (Whereupon, the above-entitled matter  
14 went off the record at 4:43 p.m.)

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