

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE AND CANNABIS BOARD
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MEETING

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IN THE MATTER OF: :
 :
Kezira, Inc., :
t/a Kezira Lounge :
3013 Georgia Ave NW : Show Cause
Retailer CR ANC 1E : Hearing
License #117490 :
Case # 23 CMP 00014 :
 :
(Interfered with an ABCA :
Investigation, :
Substantial Change - :
Increase in Occupancy, :
Operating After Hours, :
Expansion to Another :
Floor) :
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Wednesday
February 28, 2024

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

PRESENT:

DONOVAN W. ANDERSON, Chairperson
SILAS GRANT, JR., Member
JAMES SHORT, JR., Member

ALSO PRESENT:

JOSE ORELLANA, DC ABCA Staff
GENET GONFA, Interpreter
ALYCIA HOGENMILLER, DC OAG
NICHOLAS PASTORE, Witness
INVESTIGATOR MARK RUIZ, DC ABCA

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

2 11:09 a.m.

3 CHAIRPERSON ANDERSON: And the last
4 case on our calendar today, which is -- well, I'm
5 sorry. The last case for this morning's
6 calendar, which is a show cause hearing status is
7 case number 23-CMP-00014 Kezira Lounge, license
8 number 117490. Is this case yours, Mr. Brown?

9 MR. BROWN: No, I don't believe so.

10 CHAIRPERSON ANDERSON: All right. So
11 then you have a great day, sir. That's the end
12 of your appearance today at the Board. So have a
13 great day, sir. I will ask Mr. Orellana, can you
14 please elevate the rights of the government, the
15 licensee and the witnesses? And there is an
16 interpreter in this case.

17 MR. ORELLANA: Sure, thanks. Alycia
18 Hogenmiller, your access has been elevated.
19 Investigator Mark Ruiz, your access has been
20 elevated. Nicholas Pastore, your access has been
21 elevated. Genet Gonfa, your access has been
22 elevated and that's all, sir.

23 CHAIRPERSON ANDERSON: Thank you. Is
24 the licensee here today? I don't see --

25 MS. GONFA: (Foreign language spoken.)

1 CHAIRPERSON ANDERSON: The licensee is
2 supposed to be Ms. Mekedesh Yahasha. I'm sorry.
3 Ms. Gonfa?

4 MS. GONFA: Yes.

5 CHAIRPERSON ANDERSON: You're an
6 interpreter. Is that correct?

7 MS. GONFA: Yes, I am.

8 CHAIRPERSON ANDERSON: Can you ask that
9 if -- ask in -- what's the language, ma'am,
10 please?

11 MS. GONFA: Amharic.

12 CHAIRPERSON ANDERSON: Amharic. Can
13 you ask if there is anyone waiting online to
14 participate in this case? So, who represents
15 Kezira Lounge, please.

16 MS. GONFA: (Foreign language spoken.)

17 MR. ORELLANA: And there's no one in
18 the waiting area chairman.

19 CHAIRPERSON ANDERSON: Who is this
20 Nicholas Pastore? Who's that person?

21 MS. HOGENMILLER: He's a witness for
22 the government.

23 CHAIRPERSON ANDERSON: Okay. Thank you.

24 MR. ORELLANA: No response.

25 CHAIRPERSON ANDERSON: It's 11:12.

1 I'm going to wait three more minutes before I
2 call this case. All right. So just let's hold
3 tight for 11:15. And Mr. Orellana, can you just
4 once again, put out on the chat that we're
5 waiting for the licensee from Kezira Lounge.

6 MR. ORELLANA: Sure thing. No
7 response chairman.

8 CHAIRPERSON ANDERSON: All right.
9 Thank you. I'm still going to wait till 11:15.
10 Mr. Pastore, can you mute your line, sir.

11 MR. PASTORE: Oh, yes.

12 CHAIRPERSON ANDERSON: Thank you. All
13 right. Ms. Gonfa, can you please spell and state
14 your name for the record?

15 MS. GONFA: Genet Gonfa, Amharic
16 interpreter. G-E-N-E-T G-O-N-F-A.

17 CHAIRPERSON ANDERSON: Thank you,
18 ma'am. Ms. Hogenmiller, can you please spell and
19 state your name for the record?

20 MS. HOGENMILLER: Good morning.
21 Assistant Attorney General Alycia Hogenmiller,
22 A-L-Y-C-I-A H-O-G-E-N-M-I-L-L-E-R, on behalf of
23 the district.

24 CHAIRPERSON ANDERSON: Thank you,
25 ma'am. This matter was scheduled for a show

1 cause hearing at 10:30 this morning. It is now
2 11:15. I've called the case and it does not
3 appear that the licensee is here to contest this
4 case. Ms. Hogenmiller, are you ready and able to
5 move forward with this case although the licensee
6 is not here?

7 MS. HOGENMILLER: Yes.

8 CHAIRPERSON ANDERSON: Okay. Thank
9 you. Ms. Gonfa, the licensee is not here this
10 morning. Thank you for your appearance, ma'am.
11 You are free to go.

12 MS. GONFA: Thank you chairman. I
13 appreciate.

14 CHAIRPERSON ANDERSON: Well, have a
15 great day. All right. So into DC Official Code
16 Section 25447, the Board has the authority to
17 proceed ex parte where the licensee waves a
18 hearing or fails to appear unless a hearing is
19 extended for good and sufficient cause. The
20 Board's record reflect that the licensee was
21 properly served. I'll give the date shortly.
22 Seeing no licensee here today and having no good
23 and sufficient cause to extend this hearing, the
24 Board will proceed with the show cause hearing.
25 All right. So Ms. Hogenmiller, do you wish to

1 make a brief opening statement, ma'am?

2 MS. HOGENMILLER: Yes, and I have one
3 preliminary matter to put on the record before we
4 start.

5 CHAIRPERSON ANDERSON: Yes, ma'am.

6 MS. HOGENMILLER: The district was
7 intending to call three witnesses today.
8 Investigator Ruiz, Officer Pastore and
9 Investigator Prout. I learned this morning that
10 Investigator Prout is ill and will not be able to
11 testify, but the District is ready to move
12 forward with the other two witnesses.

13 CHAIRPERSON ANDERSON: Okay. That's
14 fine. All right. Thank you for putting that on
15 the record. All right. So you can move forward,
16 ma'am, with your opening statement.

17 MS. HOGENMILLER: May it please the
18 Board. On the morning of February 10, 2023,
19 Kezira Lounge hid at every turn. When MPD came
20 to their door and knocked on their door, they
21 hid. When ABCA came and knocked on their door,
22 they hid. When the fire department came and
23 knocked on their door, they hid. And what were
24 they hiding? They were hiding the fact that they
25 were operating at 4:00 a.m. when they were only

1 supposed to be open till 2:00.

2 They were hiding the fact that they
3 had 67 patrons inside when they were only allowed
4 to have 44. And they were hiding the fact that
5 they were operating their basement level when
6 they were only allowed to operate on the 1st
7 floor.

8 Members of the Board, the district has
9 brought four charges today. First, failing to
10 allow MPD officers and ABCA investigators to
11 enter properly. Second, operating over capacity.
12 Third, operating, selling and entertaining after
13 Board approved hours. And fourth, expanding
14 operations to another floor. You'll hear from
15 two witnesses today. First, you'll hear from MPD
16 officer Nicholas Pastore, who will testify about
17 arriving at the establishment around 4:00 a.m.
18 and hearing noise and music inside the
19 establishment. Officer Pastore will also testify
20 about how MPD knocked on their door, but received
21 no response.

22 Next, you will hear from ABCA
23 investigator Mark Ruiz. Investigator Ruiz will
24 testify about how he also knocked on their door
25 and did not receive any response. He will also

1 testify about how when he arrived to the
2 establishment, he saw that the front door had a
3 cage over it. It was locked with two padlocks.
4 Lastly, Investigator Ruiz will testify about how
5 he counted 67 patrons inside, including patrons
6 that he found in the basement. At the end of
7 today's hearing, the government will ask that you
8 find in its favor on all four charges and apply
9 the maximum penalty under the regulations. Thank
10 you.

11 CHAIRPERSON ANDERSON: All right.
12 Thank you ma'am. Does the government have a
13 witness it wishes to call?

14 MS. HOGENMILLER: Yes, I would like to
15 call MPD officer Nicholas Pastore.

16 CHAIRPERSON ANDERSON: Officer
17 Pastore, can you raise your right hand. You can
18 unmute your phone, sir.

19 (Witness sworn.)

20 CHAIRPERSON ANDERSON: All right.
21 Your witness ma'am.

22 MS. HOGENMILLER: Thank you. Good
23 morning, Officer Pastore. Could you please
24 introduce yourself and spell and state your name
25 for the record?

1 MR. PASTORE: Good morning. I'm
2 Officer Nicholas Pastore, N-I-C-H-O-L-A-S
3 P-A-S-T-O-R-E.

4 DIRECT EXAMINATION

5 BY MS. HOGENMILLER:

6 Q Where are you currently employed?

7 A Metropolitan Police Department.

8 Q And could I refer to the Metropolitan
9 Police Department as MPD?

10 A Yes, ma'am.

11 Q What is your position with MPD?

12 A Police officer.

13 Q And how long have you been a police
14 officer?

15 A Four and a half years.

16 Q What are your duties as a police
17 officer?

18 A To respond to calls, assist the
19 citizens of the District of Columbia.

20 Q Now, let's turn to the current case.
21 Are you familiar with the establishment located
22 at 3013 Georgia Avenue Northwest, Washington, DC,
23 Kezira Lounge?

24 A Yes, ma'am.

25 Q How are you familiar with this

1 establishment?

2 A We received a call to assist after
3 investigators.

4 Q And what day was this?

5 A I don't remember off the top of my
6 head what the exact day was. I'm sorry.

7 Q If I showed you a copy of a police
8 report you wrote, would that refresh your
9 recollection?

10 A Yes, ma'am.

11 MS. HOGENMILLER: Chairperson
12 Anderson, I would request permission to share my
13 screen.

14 CHAIRPERSON ANDERSON: Mr. Orellana,
15 can you please allow Ms. Hogenmiller to share her
16 screen?

17 MR. ORELLANA: Access has been
18 granted.

19 CHAIRPERSON ANDERSON: Thank you.

20 MS. HOGENMILLER: I'm sharing
21 Government's Exhibit A, page 56.

22 (Whereupon, the above-referred to document
23 was marked as Government's Exhibit A for
24 identification.)

25 MS. HOGENMILLER: And let me zoom in.

1 Officer Pastore, do you recognize this document?

2 MR. PASTORE: Yes, ma'am.

3 BY MS. HOGENMILLER:

4 Q And is this the police report you
5 wrote about your call to Kezira Lounge?

6 A I did not write the report. One of
7 our colleagues wrote the report, but it is the
8 report about Kezira Lounge.

9 Q And now reviewing this report, has it
10 refreshed your recollection on what day you went
11 to Kezira Lounge?

12 A Yes, ma'am.

13 Q And what day was that?

14 A February 10, 2023.

15 Q And when did you arrive at the
16 establishment?

17 A Approximately 3:50 in the morning.

18 Q Okay. And I will stop sharing my
19 screen now. Why were you called to Kezira Lounge?

20 A To assist after investigators with a
21 lounge that was operating after hours.

22 Q When you arrived there, what did you
23 observe?

24 A We heard music coming from the
25 location, and we could hear people talking

1 inside.

2 Q And did you see anything when you
3 arrived?

4 A I believe when we first arrived, we
5 saw a few people coming out of the location.

6 Q Once you arrived, did you try to get
7 inside the establishment?

8 A Yes, we knocked on the rear door a
9 couple times announcing that we were the police.

10 Q And once you knocked on the door, did
11 anybody answer the door for you?

12 A No, ma'am.

13 Q Did you try knocking on the front
14 door?

15 A We did not, no.

16 Q And why didn't you?

17 A We were waiting at the back because
18 that is where we saw some patrons leave from. We
19 just did not have the opportunity to go to the
20 front door yet.

21 Q While you were there, did the back
22 door eventually open?

23 A Yes.

24 Q And about how much time past from when
25 you first knocked on the back door to when it

1 finally opened?

2 A I believe it might have been close to
3 an hour that we were there.

4 Q When you reported to Kezira Lounge,
5 did you turn on your body camera footage?

6 A Yes, ma'am.

7 Q Did you review your body camera
8 footage in preparation for today's hearing?

9 A Yes, ma'am.

10 MS. HOGENMILLER: Okay. I'm going to
11 show you the Government's Exhibit C. Showing you
12 what's been marked as Government's Exhibit C.
13 Please review it silently as it plays and I'll
14 ask you some questions about the footage.

15 (Whereupon, the above-referred to video was
16 marked as Government's Exhibit C for
17 identification.)

18 MR. PASTORE: Okay.

19 (Video plays.)

20 MS. HOGENMILLER: Officer Pastore,
21 what happened once the back door opened?

22 MR. PASTORE: We witnessed
23 quite a few patrons leaving the location.

24 BY MS. HOGENMILLER:

25 Q Did any patrons come out with an

1 alcoholic drink?

2 A Yes.

3 Q How did you know it was an alcoholic
4 drink?

5 A I could smell the alcoholic beverage.

6 Q And is Exhibit C a fair and accurate
7 copy of the footage of your body-worn camera
8 captured on the morning of February 10, 2023?

9 A Yes, ma'am.

10 MS. HOGENMILLER: Mr. Anderson, the
11 government will move to admit Exhibit C into
12 evidence.

13 CHAIRPERSON ANDERSON: So moved.

14 (Whereupon, the above-referred to video was
15 received into evidence as Government's Exhibit
16 C.)

17 MS. HOGENMILLER: Thank you. After
18 people came out the back door, what did you do
19 next?

20 MR. PASTORE: We went inside.

21 MS. HOGENMILLER: I would now like to
22 show you what's been marked as Government's
23 Exhibit D.

24 (Whereupon, the above-referred to video was
25 marked as Government's Exhibit D for

1 identification.)

2 (Video plays.)

3 MS. HOGENMILLER: Officer
4 Pastore, once you went inside the establishment,
5 did you find more patrons?

6 MR. PASTORE: Yes, ma'am.

7 BY MS. HOGENMILLER:

8 Q Where did you find those patrons?

9 A In the basement.

10 Q Is Exhibit D a fair and accurate copy
11 of the footage of your body-worn camera captured
12 on the morning of February 10, 2023?

13 A Yes, ma'am.

14 MS. HOGENMILLER: Chairperson
15 Anderson, I would like to move Exhibit D into
16 evidence.

17 CHAIRPERSON ANDERSON: So moved.

18 (Whereupon, the above-referred to video was
19 received into evidence as Government's Exhibit
20 D.)

21 MS. HOGENMILLER: I have no further
22 questions for Officer Pastore.

23 CHAIRPERSON ANDERSON: Any questions
24 by the Board members? Go ahead, Mr. Short.

25 MEMBER SHORT: Good morning still,

1 Officer Pastore.

2 MR. PASTORE: Good Morning.

3 MEMBER SHORT: Four years of service
4 you have with Metropolitan Police Department, is
5 that correct?

6 MR. PASTORE: Yes, sir.

7 MEMBER SHORT: What beat is
8 that considered where this address is located?

9 MR. PASTORE: The 4th District. I
10 believe it is in PSA 409.

11 MEMBER SHORT: Thank you. And, again,
12 you were there at 3:59 a.m. on the morning in
13 question?

14 MR. PASTORE: Yes, sir.

15 MEMBER SHORT: February 10, 2023?

16 MR. PASTORE: Yes, sir.

17 MEMBER SHORT: You were at the back
18 door when patrons started coming out, and this
19 would have been approximately after 4:00,
20 apparently, if you were there for a while before.
21 How long were you there before those persons were
22 coming out?

23 MR. PASTORE: I believe the body-worn
24 camera footage is time-stamped around 5:30 in the
25 morning when they started coming out.

1 MEMBER SHORT: And you arrived there
2 at 4:00, but you weren't admitted until 5:30
3 a.m.?

4 MR. PASTORE: Yes, sir.

5 MEMBER SHORT: And was the illegal
6 activity still going on between 4:00 a.m. and
7 5:30 a.m.?

8 MR. PASTORE: Yes, sir.

9 MEMBER SHORT: Again, also once you
10 were admitted or permitted to go in when persons
11 were coming out at 5:30 a.m., what did you
12 observe when you first went in the rear of this
13 establishment?

14 MR. PASTORE: When we first went in,
15 I believe that was the kitchen area, we saw a few
16 hookahs sitting around. And then we went
17 downstairs where we observed more patrons sitting
18 in what looked like a lounge to us.

19 MEMBER SHORT: Okay. This is very
20 important to this Board and for public safety
21 reasons. I'd like to ask this question. How
22 many entrances or exits or egresses did you
23 observe while you were there?

24 MR. PASTORE: Two.

25 MEMBER SHORT: Describe them, please,

1 and which floor were they on?

2 MR. PASTORE: Both were on the main
3 level floor. The back door that we came in
4 through, and then the front door that the fire
5 department was working on.

6 MEMBER SHORT: Was there a time when
7 you went into the basement?

8 MR. PASTORE: Yes.

9 MEMBER SHORT: Were there any egress
10 entrances or exits from the basement area?

11 MR. PASTORE: Not that I noticed.

12 MEMBER SHORT: Okay. So if there were
13 no entrances or exits -- and how many people were
14 down in the basement?

15 MR. PASTORE: I'm not sure off the top
16 of my head. I would assume somewhere between
17 five to ten people were down there.

18 MEMBER SHORT: In your experience as
19 a police officer, had there been a fire on the
20 first floor where the entrances for the rear and
21 front are located, would persons in the basement
22 have had trouble getting out of the basement and
23 getting up to you?

24 MR. PASTORE: Yes, very much.

25 MEMBER SHORT: Would you consider that

1 a public safety hazard?

2 MR. PASTORE: Yes.

3 MEMBER SHORT: We thank you for your
4 service, officer. That's all the questions I
5 have for you at this time. Mr. Chairman, thank
6 you for allowing me to question this witness.

7 CHAIRPERSON ANDERSON: Thank you Mr.
8 Short. Any other questions by any of the Board
9 members? All right. Ms. Hogenmiller, any
10 redirect?

11 MS. HOGENMILLER: No redirect. I just
12 asked if Officer Pastore may be excused.

13 CHAIRPERSON ANDERSON: Yes. Officer
14 Pastore, thank you very much for your testimony
15 today. You're free to go. Thank you.

16 MR. PASTORE: Thank you very much,
17 everybody.

18 MS. HOGENMILLER: Thank you.

19 CHAIRPERSON ANDERSON: All right.
20 Have a great day, thank you.

21 MR. PASTORE: You too.

22 CHAIRPERSON ANDERSON: Does the
23 government have another witness?

24 MS. HOGENMILLER: Yes, the government
25 would next like to call Investigator Ruiz.

1 CHAIRPERSON ANDERSON: Mr. Ruiz, can
2 you raise your right hand? Mr. Ruiz? I can't
3 hear you, sir. Nope.

4 MR. RUIZ: Can you hear me now?

5 CHAIRPERSON ANDERSON: Yes, sir. All
6 right. Sir, raise your right hand. Just let me
7 do it officially.

8 (Witness sworn.)

9 CHAIRPERSON ANDERSON: All right.
10 Thank you. Your witness, ma'am.

11 MS. HOGENMILLER: Good morning,
12 Investigator Ruiz. Could you please spell and
13 state your name for the record?

14 MR. RUIZ: Good morning. First name
15 is Mark, M-A-R-K. Last name is Ruiz, R-U-I-Z.

16 DIRECT EXAMINATION

17 BY MS. HOGENMILLER:

18 Q Where are you currently employed?

19 A The Alcoholic Beverage and Cannabis
20 Administration.

21 Q And could I call the Alcoholic
22 Beverage and Cannabis Administration, ABCA?

23 A Yes.

24 Q What is your position with the ABCA?

25 A Investigator.

1 Q How long have you been an
2 investigator?

3 A Five years.

4 Q What are your duties as an
5 investigator?

6 A To conduct inspections and
7 investigations of alcohol-licensed establishments
8 throughout the District of Columbia.

9 Q Now turning to the case today. Are
10 you familiar with the establishment located at
11 3013 Georgia Avenue Northwest, Washington, DC,
12 Kezira Lounge?

13 A Yes.

14 Q How are you familiar with this
15 establishment?

16 A We arrived on February 10, 2023 to
17 investigate the establishment for operating after
18 hours.

19 Q So before we talk about February 10th,
20 let's go back in time a little bit. Before
21 February 10, 2023, had you ever been to the
22 establishment before?

23 A Yes.

24 Q When was that?

25 A January 20th.

1 Q And why were you at the establishment
2 on January 20th?

3 A For another after-hours investigation.

4 Q Thank you. So we're going to go back
5 to February 10th. What day of the week was
6 February 10, 2023?

7 A It was a Friday morning.

8 Q And when did you arrive at the
9 establishment?

10 A Approximately 4:00 a.m.

11 Q Why did you go to the establishment
12 that morning?

13 A We were actually driving by the
14 establishment from another incident when I
15 observed the establishment appeared to be
16 operating, and an MPD vehicle parked out front
17 with their emergency lights on.

18 Q Did you speak with MPD when you
19 arrived?

20 A Yeah, I spoke to the officer in the
21 vehicle. I asked her if everything was all
22 right. She stated that they were there for a
23 noise complaint, but the establishment was not
24 responding, so that's why they were sitting there
25 with their emergency lights on.

1 Q After you spoke with the MPD officer,
2 what did you do next?

3 A I then attempted to knock to have the
4 door open.

5 Q And when you said knock on the door,
6 was it the front door or the back door?

7 A It was at the front door.

8 Q What did you observe about the front
9 door when you went there?

10 A The front door had the security cage
11 closed with two padlocks locked from the outside.

12 Q When you knocked on the front door,
13 did you say anything?

14 A I identified ABCA being present and
15 asked them to open the door.

16 Q When you were at the front door, did
17 you hear or observe anything inside the
18 establishment?

19 A I heard music and I'd seen the curtain
20 open a couple times with the patrons. And upon
21 knocking, patrons yelled out the window at us.

22 Q What did these patrons yell at you?

23 A Expletive upon knocking.

24 Q And could you tell us what that
25 expletive was?

1 A Quote unquote, fuck you.

2 Q And after you knocked, did anybody
3 open the door for you?

4 A No.

5 Q After that, what did you do next?

6 A After waiting for a few minutes, our
7 Supervisor Investigator Singleton was on scene.
8 I'd informed her that they're refusing to open
9 the door, the door is padlocked. Yeah.

10 Q Because the door was padlocked, did
11 you notify anybody else?

12 A Actually, upon notifying SI Singleton,
13 she communicated via the radio with citywide
14 dispatch to ask for the fire marshals and an
15 additional MPD unit to respond to assist.

16 Q Why did you request the fire marshals?

17 A Due to the nature and safety of the
18 situation with the padlocks being locked, and
19 with the rear door remained locked and the only
20 egress, which was the kitchen area.

21 Q What did you do after you called the
22 fire marshals unit?

23 A I continued to knock while waiting for
24 them to arrive.

25 Q Once the fire marshals arrived, what

1 did they do?

2 A They knocked, made themselves known,
3 attempted to get someone to open the door as
4 well.

5 Q And once the fire marshals knocked,
6 did anybody open the door?

7 A No.

8 Q Did you ever go to the back door?

9 A I did, just before the fire department
10 was getting ready to breach the front door. I
11 went to the rear door to observe just in case
12 anyone came out the back door.

13 Q At any point in the morning of
14 February 10, 2023, did the back door open?

15 A Yes.

16 Q How much time passed from when you
17 knocked on the front door to when the back door
18 finally opened?

19 A Approximately an hour total. I don't
20 know.

21 Q Do you know why the back door
22 eventually was opened?

23 A Because the fire department was sawing
24 the front door off.

25 Q Once the back door opened, did you

1 count how many people exited the establishment?

2 A I did.

3 Q How did you count those people?

4 A With the assistance using my clicker
5 and observing them exit the rear door.

6 Q Did you observe any patrons with
7 alcohol?

8 A Yes.

9 Q How did you know it was alcohol?

10 A I could smell it from the cup.

11 Q After patrons exited the
12 establishment, did you go inside?

13 A Yes.

14 Q Once inside, did you find any more
15 patrons?

16 A Yes.

17 Q Where did you find those patrons?

18 A In the basement area.

19 Q Were the patrons in the basement area,
20 did they have any alcohol?

21 A I observed one individual with a
22 bottle of Corona.

23 Q In total, how many patrons did you
24 count in the establishment?

25 A 67.

1 Q Next, let's go to some exhibits. Did
2 you complete a case report regarding your
3 investigation on February 10, 2023 of Kezira
4 Lounge?

5 A Yes.

6 Q Would you recognize a copy if I were
7 to show it to you?

8 A Yes.

9 Q I'm going to show you a document
10 marked as Exhibit A for identification. Do you
11 recognize this document?

12 A Yes, this is a case report I wrote.

13 Q Is it part of your job as an
14 investigator to write case reports?

15 A Yes.

16 MS. HOGENMILLER: Mr. Chairperson, the
17 district would like to note for the record that
18 Government's Exhibit A, the February 10, 2023
19 case report for Kezira Lounge is already in
20 evidence pursuant to 23 DCMR 1713.10.

21 CHAIRPERSON ANDERSON: So noted.

22 Thank you.

23 (Whereupon, the above-referred to document
24 was received into evidence as Government's
25 Exhibit A.)

1 MS. HOGENMILLER: Investigator Ruiz,
2 I'm going to turn your attention to Exhibit 1 of
3 your report. What is this photo in Exhibit 1
4 showing?

5 MR. RUIZ: This is showing the front
6 door of the establishment with the security cage
7 closed with the padlocks on the cage.

8 BY MS. HOGENMILLER:

9 Q Is this how the front door looked
10 before the fire department cut off the front
11 door?

12 A Yes.

13 Q Now let's go to Exhibit 2. What is
14 this photo in Exhibit 2 showing?

15 A This is the basement area.

16 Q Is this where you found the additional
17 patrons?

18 A Yes.

19 Q Let us go to Exhibit 4 of your report.
20 What does Exhibit 4 show?

21 A The establishment certificate of
22 occupancy.

23 Q What is the occupancy for the
24 establishment?

25 A 44.

1 Q On February 10, 2023, did the
2 establishment have more than 44 people?

3 A Yes.

4 Q Looking under description of
5 occupancy, what does it say?

6 A Restaurant on the first floor with 44
7 occupants, 36 seats.

8 Q And next to the occupant load on the
9 left, it says floors occupied. What does that
10 say?

11 A First.

12 Q Based on the certificate of occupancy,
13 was the establishment allowed to have patrons in
14 the basement level?

15 A No.

16 Q Next, we're going to turn to Exhibit
17 5. Investigator Ruiz, what is Exhibit 5 showing?

18 A Exhibit 5 is a copy of notice of
19 infraction issued by the fire department to the
20 establishment.

21 Q Thank you. I'm next going to show you
22 the Government's Exhibit B. Do you recognize
23 Exhibit B?

24 A Yes. This is a copy of the ABC
25 license for Kezira Lounge.

1 (Whereupon, the above-referred to document
2 was marked as Government's Exhibit B for
3 identification.)

4 Q Is this a true and accurate copy of
5 Kezira Lounge's ABCA license?

6 A Yes.

7 MS. HOGENMILLER: Chairperson
8 Anderson, I would like to move Exhibit B into
9 evidence.

10 CHAIRPERSON ANDERSON: So moved.

11 (Whereupon, the above-referred to document
12 was received into evidence as Government's
13 Exhibit B.)

14 MS. HOGENMILLER: For Thursdays, what
15 is the listed hours of operation?

16 MR. RUIZ: 8:30 a.m. to 2:00 a.m.

17 BY MS. HOGENMILLER:

18 Q Based on your observations, was the
19 establishment operating after hours on the
20 morning of February 10, 2023?

21 A Yes.

22 Q Investigator Ruiz, were there any
23 other ABCA investigators with you at Kezira
24 Lounge on the morning of February 10, 2023?

25 A Yes. ABCA Investigator Tyrell Prow

1 and Christopher Conden were present.

2 Q In preparing your report, did you
3 review any photos or videos from other ABCA
4 investigators who were there that morning?

5 A Yes.

6 Q And what did you review?

7 A Investigator Tyrell Prow shared his
8 videos that he took while he was out front with
9 the fire department.

10 MS. HOGENMILLER: I'm going to show
11 you what's been marked as the Government's
12 Exhibit F.

13 (Whereupon, the above-referred to video was
14 marked as Government's Exhibit F for
15 identification.)

16 (Video playing.)

17 MS. HOGENMILLER: Is Exhibit F one of
18 the videos that Investigator Prow sent you?

19 MR. RUIZ: Yes.

20 BY MS. HOGENMILLER:

21 Q Is this a video that he took at Kezira
22 Lounge?

23 A Yes.

24 Q Is this a true and accurate copy of
25 the video that Investigator Prow sent you?

1 A Yes.

2 MS. HOGENMILLER: Chairperson
3 Anderson, at this time, I'd like to move Exhibit
4 F into evidence.

5 CHAIRPERSON ANDERSON: So moved.

6 (Whereupon, the above-referred to video was
7 received into evidence as Government's Exhibit
8 F.)

9 CHAIRPERSON ANDERSON: Can also --
10 what is Exhibit F?

11 MS. HOGENMILLER: I was just about to
12 ask.

13 CHAIRPERSON ANDERSON: Okay. All
14 right. I apologize, go ahead.

15 MS. HOGENMILLER: Investigator Ruiz,
16 what was happening in this video?

17 MR. RUIZ: This video was depicting
18 the fire department's operation in breaching the
19 front door.

20 MS. HOGENMILLER: Now turn to Exhibit
21 G. I'm going to show you a video marked Exhibit
22 G.

23 (Whereupon, the above-referred to video was
24 marked as Government's Exhibit G for
25 identification.)

1 (Video playing.)

2 MS. HOGENMILLER: Is Exhibit G one of
3 the videos that Investigator Prow sent you?

4 MR. RUIZ: Yes.

5 BY MS. HOGENMILLER:

6 Q What is happening in the video in
7 Exhibit G?

8 A It was the fire department sawing the
9 front door off the hinges.

10 Q Is Exhibit G a true and accurate copy
11 of the video that Investigator Prow sent you?

12 A Yes.

13 MS. HOGENMILLER: Chairperson
14 Anderson, at this time, I'd like to move Exhibit
15 G into evidence.

16 CHAIRPERSON ANDERSON: So moved.

17 (Whereupon, the above-referred to video was
18 received into evidence as Government's Exhibit
19 G.)

20 MS. HOGENMILLER: Lastly, let's look
21 at a video marked Exhibit H.

22 (Whereupon, the above-referred to video was
23 marked as Government's Exhibit H for
24 identification.)

25 (Video playing.)

1 MS. HOGENMILLER: Investigator Ruiz,
2 can you hear the sound?

3 MR. RUIZ: Yes.

4 MS. HOGENMILLER: Okay. Great.

5 (Video playing.)

6 MS. HOGENMILLER: I'm going to pause
7 this video at 56 seconds. Who was depicted in
8 this video?

9 MR. RUIZ: This is one of the fire
10 marshal investigators attempting to have the
11 establishment open the door one last time prior
12 to them sawing the door.

13 BY MS. HOGENMILLER:

14 Q And did you hear what he said in the
15 video?

16 A Yes. For them to open the door,
17 unlock the door with a key.

18 MS. HOGENMILLER: And I'm going to
19 continue playing the video from 56 seconds.

20 (Video playing.)

21 MS. HOGENMILLER: What was the rest of
22 the video in Exhibit H showing?

23 MR. RUIZ: The fire department sawing
24 the door hinges.

25 BY MS. HOGENMILLER:

1 Q Is Exhibit H one of the videos
2 Investigator Prow sent to you from that morning?

3 A Yes.

4 Q Is Exhibit H a true and accurate copy
5 of that video?

6 A Yes.

7 MS. HOGENMILLER: Chairperson
8 Anderson, I would like to move Exhibit H into
9 evidence.

10 CHAIRPERSON ANDERSON: So moved.

11 (Whereupon, the above-referred to video was
12 received into evidence as Government's Exhibit
13 H.)

14 MS. HOGENMILLER: Investigator Prow,
15 at any point on the morning of February 10, 2023,
16 were you able to speak with the owner or ABC
17 manager?

18 MR. RUIZ: I was only able to speak
19 with the ABC manager.

20 BY MS. HOGENMILLER:

21 Q And who's the ABC manager?

22 A Cecile DeWitt.

23 Q What was your conversation with Mr.
24 DeWitt?

25 A I simply informed him of the

1 violations that occur with the after-hours
2 operation. And that was it. The fire department
3 continued to speak with him afterwards.

4 Q Were any ABCA investigators able to
5 speak with the owner of the establishment that
6 morning?

7 A Investigator Prow stated that he
8 observed who appeared to be the owner getting
9 into a rideshare, avoiding contact with
10 government officials.

11 MS. HOGENMILLER: Thank you,
12 Investigator Ruiz. I have no further questions.

13 CHAIRPERSON ANDERSON: Before you're
14 done with this witness, did you wish to -- Ms.
15 Hogenmiller, did you -- I don't recall if you
16 asked to move Exhibit F into evidence. Were you
17 planning to move Exhibit F into evidence?

18 MS. HOGENMILLER: I believe I did, but
19 if not, then I would also like to move Exhibit F
20 into evidence.

21 CHAIRPERSON ANDERSON: Okay. So
22 moved. All right.

23 MS. HOGENMILLER: Thank you.

24 CHAIRPERSON ANDERSON: Any questions
25 by the Board members? Go ahead, Mr. Short.

1 MEMBER SHORT: Yes. Good morning,
2 Investigator Ruiz. Thank you for an excellent
3 report.

4 MR. RUIZ: Good Morning.

5 MEMBER SHORT: Investigator Ruiz, I
6 must ask this question. I hope you can answer
7 it. How many years have you been with ABCA,
8 Investigator?

9 MR. RUIZ: Five years this month.

10 MEMBER SHORT: And in your five years,
11 have you encountered licensees like this one who
12 lock their doors and ignore any orders to open up
13 and let the fire marshal or police department in?

14 MR. RUIZ: Yes, I have.

15 MEMBER SHORT: Has things got any
16 better in these last few years than they were
17 when you first observed these things?

18 MR. RUIZ: No.

19 MEMBER SHORT: How long have you had
20 the assistance of the fire department to open up
21 doors that were locked?

22 MR. RUIZ: This was the first time
23 they actually had to saw a door off, but they've
24 been present before on other incidents.

25 MEMBER SHORT: And if they don't saw

1 the doors open, do people normally open up and
2 let you in, or they just wait you out?

3 MR. RUIZ: After a while, they usually
4 end up opening the door.

5 MEMBER SHORT: Why do they lock their
6 doors when you're asking to come in? What is the
7 danger to them? What is the danger to the
8 persons who are inside?

9 MR. RUIZ: I'm sorry, what's the
10 question again?

11 MEMBER SHORT: What is the danger to
12 the patrons inside when they're operating after
13 hours and refuse to open the doors for the fire
14 marshal's office or for ABCA employees? What
15 dangers are they posing to the public?

16 MR. RUIZ: Any incident that occurs
17 that may cause panic, patrons could become
18 injured or worse.

19 MEMBER SHORT: By worse, what are you
20 alluding to?

21 MR. RUIZ: Patrons can be killed.

22 MEMBER SHORT: Investigator Ruiz,
23 thank you for an excellent report. Thank you for
24 your testimony today. Thank you for the service
25 to ABCA over the past five years, and thank you.

1 This was an excellent report and excellent
2 documentation. My last question is, does Kezira
3 Lounge still have an active license?

4 MR. RUIZ: Yes.

5 MEMBER SHORT: So in reality, they
6 could open tonight. Is that correct?

7 MR. RUIZ: They could.

8 MEMBER SHORT: Do you have any
9 recommendations for this Board to assist in
10 making sure that we don't have people locked in
11 Kezira Lounge tonight or any other night? What
12 remedies do we have as an agency, and what
13 remedies do you have as an investigator?

14 MR. RUIZ: I don't have no remedies as
15 an investigator. I have no recommendation.

16 MEMBER SHORT: Thank you very much,
17 Investigator Ruiz. Excellent report, excellent
18 documentation. And thank you for your service
19 over the years to ABCA.

20 MR. RUIZ: Thank you, sir.

21 CHAIRPERSON ANDERSON: Any other
22 questions by any other Board members?

23 MEMBER GRANT: Mr. Chair, just so --

24 CHAIRPERSON ANDERSON: Go ahead, Mr.
25 Grant.

1 MEMBER GRANT: So, this question is
2 not for Mr. Ruiz. And you can let me know if I'm
3 out of order for asking the question. Maybe the
4 OAG can answer. Is that possible?

5 CHAIRPERSON ANDERSON: No, she can't
6 answer a question, Mr. Grant. You can only ask
7 the witness a question at this juncture.

8 MEMBER GRANT: Okay. Well, I want to
9 make a note that I do have a general question
10 about the process with the fire department
11 breaking down the door, but I can wait. But I'd
12 like to ask it at some point.

13 CHAIRPERSON ANDERSON: That's a
14 question you'd have to ask -- if you have a
15 question, you can only ask a question of the
16 investigator at this juncture. So if it's like
17 --

18 MEMBER GRANT: Okay. Thank you.

19 CHAIRPERSON ANDERSON: Yeah. So
20 that's probably something we can discuss
21 internally then. All right. Just generally we
22 can discuss internally. All right. Ms.
23 Hogenmiller, do you have any redirect?

24 MS. HOGENMILLER: No redirect.

25 CHAIRPERSON ANDERSON: Mr. Ruiz, thank

1 you very much for your testimony. You're free to
2 go.

3 MR. RUIZ: Thank you.

4 CHAIRPERSON ANDERSON: Ms.
5 Hogenmiller, does the government have another
6 witness?

7 MS. HOGENMILLER: No, the government
8 rests its case. Well, actually before we rest, I
9 just wanted to make sure the exhibits I have.
10 Exhibit A, B, C, D --

11 CHAIRPERSON ANDERSON: Hold on a
12 minute, please. Let me -- hold on a minute. All
13 right. So we had not discussed Exhibit A. So
14 what was Exhibit A?

15 MS. HOGENMILLER: The case report in
16 the exhibits on the record.

17 CHAIRPERSON ANDERSON: Okay. So that's
18 automatic in the record. Exhibit B, it's already
19 in the record. C, D, what other exhibits?

20 MS. HOGENMILLER: F, G, H.

21 CHAIRPERSON ANDERSON: And F, G, H,
22 yes. All those exhibits then are in the record.

23 MS. HOGENMILLER: Then the government
24 rests its case.

25 CHAIRPERSON ANDERSON: All right.

1 Thank you. Do you wish to make a brief closing
2 statement?

3 MS. HOGENMILLER: Yes, I have a brief
4 closing statement.

5 CHAIRPERSON ANDERSON: Okay.

6 MS. HOGENMILLER: May it please the
7 Board. Kezira Lounge has hidden at every turn of
8 this case. The government has brought four
9 charges, and we're going to review the evidence
10 for each of them. First, failing to allow ABCA
11 investigators and MPD officers to enter without
12 delay. You heard Officer Pastore testify that
13 him and his partner arrived at the scene around
14 3:50 in the morning. Testified about how they
15 knocked and how they received no answer. He then
16 told you that the establishment did not open its
17 door for almost over an hour later.

18 You also heard from Investigator Ruiz.
19 He also testified about how he and other ABCA
20 investigators knocked on the door. In this case,
21 they did receive an answer. He heard the patrons
22 tell him quote, fuck you, and no one opened the
23 door. He also testified about how it took them
24 almost an hour for the back door to open. Kezira
25 Lounge failed to allow MPD officers and ABCA

1 investigators to enter the premises without
2 delay. Therefore, they interfered and failed to
3 cooperate with an investigation.

4 Second, Kezira Lounge was operating
5 over capacity. You saw the certificate of
6 occupancy which says that the lounge is only
7 allowed to have 44 people inside. Investigator
8 Ruiz testified that he counted 67 people inside.
9 You also saw on the body camera footage people
10 exiting the establishment, and that there were
11 more people in the basement. Third, Kezira
12 Lounge was operating after Board approved hours.
13 You saw on the ABCA license that the lounge was
14 only allowed to operate on Thursdays until 2:00
15 in the morning.

16 Officer Pastore testified about how he
17 arrived at 4:00 in the morning and how he heard
18 noise and music still going on inside.

19 Investigator Ruiz testified that he saw and heard
20 patrons inside the establishment, that they were
21 still operating. Lastly, Kezira Lounge expanded
22 its operation to another floor. You saw, again,
23 on the certificate of occupancy that Kezira
24 Lounge was only allowed to operate on the first
25 floor. Both Investigator Ruiz and Officer

1 Pastore testified that they found patrons in the
2 basement, which they were not allowed to have.
3 You also saw on the body camera footage that
4 there were patrons in the basement.

5 And for those reasons, that's why
6 Kezira Lounge hid from investigators and MPD
7 officers, because they knew that they were
8 violating their terms of their license, and
9 they've hid today by not appearing at this
10 hearing. Therefore, the government would ask
11 that you find in favor in all four charges and
12 apply the maximum penalty possible under the
13 regulations. Thank you.

14 CHAIRPERSON ANDERSON: Thank you,
15 ma'am, for your closing. The record is now
16 closed. And the Board will issue a decision
17 within 90 days. So let me officially close this
18 case. As chairperson of the Alcoholic Beverage
19 and Cannabis Board for the District of Columbia
20 and in accordance with DC Official Code Section
21 2575 of the Open Meetings Act, I move that ABC
22 Board hold a closed meeting for the purpose of
23 seeking legal advice from our council on case
24 number 23-CMP-00014 Kezira Lounge, pursuant to DC
25 Official Code Section 2575(b)4a of the Open

1 Meetings Act and deliberate upon case number
2 23-CMP-00014 Kezira Lounge, for the reasons cited
3 in DC Official Code Section 2575(b)13 of the Open
4 Meetings Act. Is there a second?

5 MEMBER GRANT: Mr. Grant, I second the
6 motion.

7 CHAIRPERSON ANDERSON: Mr. Grant was
8 a second the motion. I will now take a roll call
9 vote on the motion before us. Now that it's been
10 properly seconded, Mr. Short?

11 MEMBER SHORT: Mr. Short, I agree.

12 CHAIRPERSON ANDERSON: Mr. Grant?

13 MEMBER GRANT: Mr. Grant, I agree.

14 CHAIRPERSON ANDERSON: Mr. Anderson,
15 I agree. As it appears that the motion has
16 passed 3-0. I hereby give notice that the ABC
17 Board will recess this proceeding to hold a
18 closed meeting pursuant to Section 2575 of the
19 Open Meetings Act. Thank you, ma'am, for your
20 presentation today. Have a great day.

21 MS. HOGENMILLER: Thank you all.

22 CHAIRPERSON ANDERSON: All right.

23 Thank you.

24 (Whereupon, the above-entitled matter
25 went off the record at 12:01 p.m.)

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In the matter of: Kezira Lounge

Before: DC ABCA

Date: 02-28-24

Place: teleconference

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