

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF:          :
                              :
Empire DC, LLC,           :
t/a Empire Lounge         :
1909 9th Street NW        : Protest
Retailer CT - ANC 1B      : Hearing
License No. 110702        :
Case #20-PRO-00015        :
                              :
(Application to Renew     :
the License)              :
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Thursday
June 24, 2021

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

PRESENT:

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

ALSO PRESENT:

SIMONE ANDREWS, DC ABRA Staff
RICHARD BIANCO, Applicant's Representative
DESSALEGN NIGUSSIE, Applicant
GEORGE GARCIA, DC ABRA, Investigator
PIERSON STOECKLEIN, Westminster Neighborhood
Association

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

2 11:45 a.m.

3 CHAIRPERSON ANDERSON: Our next case
4 of protest hearing is Case No. 20-PRO-00015,
5 Empire Lounge, License No. 110702.

6 Ms. Andrews, can you please elevate
7 the rights of the participants in this case? Mr.
8 Bianco is the attorney. Mr. Nigussie and the
9 neighbors of the association and the
10 investigator, please.

11 MS. ANDREWS: Sure. Stand by. Mr.
12 Garcia, I think your rights has been elevated.
13 Mr. Stoecklein, your rights have been elevated.
14 Mr. Bianco, your rights have been elevated. Mr.
15 Nigussie, your rights have been elevated. Mr.
16 Roach, your rights have been elevated. That's
17 all, Mr. Chair.

18 CHAIRPERSON ANDERSON: Thank you.
19 Good morning, everyone. We have a protest
20 hearing this morning, and this is a protest
21 hearing regarding the renewal application for
22 Empire Lounge, License No. 110702.

23 Could we have the parties introduce
24 themselves for the record? Let's start with the
25 licensee's representative, and then we'll have

1 the licensee, and then we'll have the protesters.

2 MR. BIANCO: Good morning, again, Mr.
3 Anderson. My name is Richard Bianco. I
4 represent the applicant in this case, and the
5 owner of the applicant is Des Nigussie, and he is
6 here, and I will let him introduce himself.

7 CHAIRPERSON ANDERSON: Mr. Nigussie,
8 can you please identify yourself for the record
9 and spell and state your name, please?

10 You're on mute, sir. I can't hear
11 you.

12 MR. NIGUSSIE: I'm sorry. How about
13 now?

14 CHAIRPERSON ANDERSON: Yes, I can hear
15 you now.

16 MR. NIGUSSIE: Good morning,
17 everybody. So my name is Dessalegn Nigussie. My
18 first name is spelled, D-E-S-S-A-L-E-G-N. And my
19 last name, Nigussie, N --

20 CHAIRPERSON ANDERSON: I can't hear
21 you, sir. I can't hear you. I cannot hear you,
22 so I lost you. So can you start over again?

23 MR. NIGUSSIE: Yes. My name is
24 Dessalegn Nigussie. Can you hear me now?

25 CHAIRPERSON ANDERSON: Yes, sir.

1 MR. NIGUSSIE: My first name is
2 spelled D-E-S-S-A-L-E-G-N. And my last name,
3 Nigussie, N-I-G-U-S-S-I-E. I'm the owner of
4 Empire Lounge.

5 CHAIRPERSON ANDERSON: All right.
6 Thank you.

7 Mr. Garcia. You're on mute, sir.

8 MR. GARCIA: Good morning, George
9 Garcia.

10 CHAIRPERSON ANDERSON: How do you
11 spell your name, please, sir?

12 MR. GARCIA: George, G-E-O-R-G-E,
13 Garcia, G-A-R-C-I-A.

14 CHAIRPERSON ANDERSON: Thank you. Mr.
15 Stoecklein. Can you spell and state your name
16 for the record, please?

17 MR. STOECKLEIN: Yes, Pierson
18 Stoecklein on behalf of the Westminster
19 Neighborhood Association. It's spelled P-I-E-R-
20 S-O-N. Last name, S-T-O-E-C-K-L-E-I-N.

21 CHAIRPERSON ANDERSON: Anyone else
22 that needs to be identified? I see another name,
23 but I don't know who that is. Anyone else needs
24 to be identified for the record before we start?
25 All right, I guess not.

1 Are there any preliminary matters in
2 this case before I do some introductions?

3 MR. BIANCO: Yes, Mr. Anderson. I
4 have one preliminary matter.

5 Yesterday, we were presented with an
6 exhibit that the protestants would like to use
7 which is a police report, and this was about 5
8 p.m. yesterday, and I informed the protestants
9 that I objected to their use of this particular
10 police report on relevance and timeliness, but
11 that unfortunately, given the late time that it
12 was provided to me, I could not put together a
13 motion in limine. So I advised the Board's legal
14 staff and was instructed to raise it at this
15 point in the proceeding.

16 CHAIRPERSON ANDERSON: All right, go
17 ahead, sir, Mr. Stoecklein.

18 MR. STOECKLEIN: Yes.

19 CHAIRPERSON ANDERSON: It's my
20 understanding that there a document that you are
21 trying to include today, can you share with the
22 Board, sir?

23 MR. STOECKLEIN: Yes, Mr. Chairman,
24 and it may actually be relevant to raise a
25 preliminary matter that I had hoped to discuss

1 which is move to continue the proceeding. I
2 realize that it may be a little irregular, and
3 unfortunately, we're all here, but the document
4 about which Mr. Bianco was speaking are two pages
5 of documents that we received over the past few
6 days. They pertain to a shooting incident at
7 Empire Lounge or outside of Empire Lounge to our
8 knowledge.

9 It's an on-going investigation and we
10 have very little evidence or investigation to
11 consider on a public safety matter that we think
12 is highly relevant and would be material to the
13 outcome of this case. And so for those reasons,
14 we think it's appropriate to allow those facts to
15 be brought to light, investigated.

16 The fact that the prior proceeding
17 during which you all were just discussing for the
18 past few hours highly further underscores
19 allowing MPD to see this through and so for that
20 reason we would request a continuance which might
21 render moot Mr. Bianco's objections to our
22 introduction of late exhibits because, of course,
23 there will be no need to object if we continue
24 the case.

25 CHAIRPERSON ANDERSON: So you're

1 requesting a continuance?

2 MR. STOECKLEIN: Yes, Mr. Chair, we
3 are.

4 CHAIRPERSON ANDERSON: Why are you
5 requesting a continuance? Are you requesting a
6 continuance because of your wanting to include a
7 document or there's another reason why you are
8 requesting a continuance?

9 MR. STOECKLEIN: No, these documents,
10 I don't know if Ms. Randall circulated those to
11 you and to the other board members, but there's a
12 preliminary incident report. It contains five
13 sentences with generic descriptions of the
14 parties involved. There aren't names on them.
15 There's very little factual information around
16 this.

17 It's very clear that the individuals
18 involved, at least some of them, were in Empire
19 Lounge at the time of the incident. There was a
20 gun used, somebody was shot. This bears
21 significantly, I think, on the relief that we
22 would request and a number of matters that should
23 be under consideration when evaluating a renewal
24 request because these facts -- because the
25 shooting occurred at 4 a.m. this past Sunday, in

1 fact, after the exhibit filing deadline had
2 already passed.

3 We just haven't had any time to
4 explore this material, the implications of it,
5 and it would significantly prejudice the
6 interests of the members of our neighborhood
7 association if we're not able to at least gather
8 some more additional information and further
9 understand the implications for this renewal
10 request.

11 CHAIRPERSON ANDERSON: Mr. Bianco, do
12 you consent to the renewal -- I'm sorry, do you
13 consent to the continuance request?

14 MR. BIANCO: We don't. We object and
15 the objection is for a couple of reasons. One
16 would be, reason number one would be standard.
17 We're here, we're ready. Our witnesses are
18 prepped. And we spent a lot of time getting
19 ready for today's hearing.

20 The exhibit that we received last
21 night was short notice, but I think more
22 importantly and moving on reason number two is a
23 review -- and I realize the chair may not have
24 seen it, but looking at the police report,
25 there's nothing in it that in any way ties this

1 incident of violence to my client. This is a
2 shooting on 9th Street and really, according to
3 the police report, the only involvement of my
4 client is that the police went to him and asked
5 for security footage and he aided them. And as a
6 result of him aiding the MPD, they were able to a
7 still photograph of the actual shooter. So it
8 didn't occur inside my client's establishment.
9 Really, the only relationship that bears at all
10 whatsoever, at least according to the police
11 report, is that it was in proximity outside of my
12 client's establishment.

13 It's really irrelevant to the question
14 before the Board whether the establishment
15 negatively impacts peace, order, and quiet. And
16 the probative value of the evidence is far
17 outweighed by the negative implications that it
18 causes.

19 And then again, we have our timeliness
20 requirement. If I can just hash that out for ten
21 seconds. Although this instance occurred on
22 Sunday which was after the filing deadline,
23 according to the documents produced, they
24 received it in advance of the time that they
25 actually provided it. Why did they sit on it

1 until literally the eleventh hour? It's unfair
2 surprise. And this hearing, in my view, should
3 proceed today, as scheduled, and we are ready to
4 put our witnesses on.

5 CHAIRPERSON ANDERSON: Any comment,
6 Mr. Stoecklein, before I make a determination?

7 MR. STOECKLEIN: Yes, numerous, Mr.
8 Chairman and in no particular order.

9 First of all, we received this
10 document yesterday, so I immediately reached out
11 to Mr. Bianco as a courtesy. And in fact,
12 provided the document to him. To suggest that we
13 resolve this before today, I realize yesterday is
14 not a lot of time before today, but we at least
15 made a good-faith attempt. So to suggest that we
16 had this before the -- any time the filing
17 deadline passed is inaccurate and would actually
18 be impossible because the incident, as we
19 discussed, occurred this most recent Sunday. The
20 filing deadline for exhibits and witnesses was on
21 Thursday of the prior week. So it's actually
22 impossible.

23 Furthermore, the police report which
24 I find it curious, by the way, that Mr. Bianco's
25 objections relate to an inability to explore the

1 incident report which is not the same as the
2 police report, seems to have quite thoroughly
3 reviewed it, but yet objecting on grounds that he
4 had no time to do so.

5 It's a one-page report, so I can't
6 imagine that Mr. Bianco didn't have sufficient
7 time. But since he argued that he didn't, I
8 would say for that reason alone that's a good
9 cause to continue the matter if he feels he needs
10 more time to review the two pages.

11 Beyond that, the incident report very
12 clearly identifies that at least one individual
13 named W1, seemingly left or came out of the
14 Empire Lounge and engaged in trying to break up,
15 according to this witness, the altercation that
16 occurred right outside. As Mr. Bianco noted,
17 Empire Lounge's video footage was utilized. It's
18 not clear where the shooter was beforehand. It's
19 not clear if the gun was inside. There is a
20 great deal that's unclear.

21 And I think again that as the prior
22 fact-finding proceeding in which you all engaged
23 for the past several hours underscores the idea
24 that a shooting which the police clearly
25 identified occurred at 1909 9th Street, which is

1 Empire Lounge's address, the idea that that is
2 immaterial or should not be explored further is
3 baffling to me and would fly in the face of what
4 I understand to be the purpose of this proceeding
5 which is to ensure that if the applicant is
6 granted a renewal, that the public safety can be
7 preserved.

8 CHAIRPERSON ANDERSON: All right, is
9 that it? Is that it, sir?

10 MR. STOECKLEIN: Yes, sir.

11 CHAIRPERSON ANDERSON: All right, at
12 the show cause hearing status, one of the
13 instructions that was clearly read is that prior
14 to completion you're to complete and submit the
15 PIP and exhibit forms at least seven days before
16 the date of the hearing. If we do not receive a
17 copy of your forms seven days before the hearing,
18 your application or your protest may be subject
19 to dismissal.

20 These documents need to be submitted
21 to ABRA legal, to the -- and to the opposing
22 parties. Please know that these documents (audio
23 interference) the board in airing the protest
24 issues, facilitating the process and keep the
25 parties on point during the hearing. And part of

1 our regulation 1722.7, the PIP in exhibit form
2 and any attachments shall be served and all
3 parties on the Board's Office of General Counsel
4 seven days prior to the hearing.

5 The documents were not submitted to
6 the Board and the parties seven days before the
7 hearing, and more importantly, the applicant does
8 not consent to the submission of the documents
9 and applicant also does not consent to the
10 continuance.

11 So because the applicant does not
12 consent, the documents were not submitted seven
13 days, the applicant does not consent, and we are
14 here for a hearing and because the applicant does
15 not consent, I'm going to rule that good cause
16 has not been shown for the document to be
17 admitted or the hearing to be continued.

18 Depending who the witnesses are, you
19 can bring in some witnesses who can, if they're
20 on your witness list, who can testify about this
21 incident and so you can still get this
22 information in through direct testimony. You
23 could ask them -- if you have a witness, who has
24 knowledge about the situation, who is on your
25 witness list, they can testify about it and the

1 Board can get that information. But I'm not
2 going to allow those documents in and also good
3 cause has not been shown to continue the hearing.

4 If the applicant had consented, I
5 would have granted the request, but without the
6 consent of the applicant, I cannot grant the
7 request.

8 MR. STOECKLEIN: Mr. Chairman, if I
9 may, just as a point of clarification, I just
10 want to make sure that everyone understands that
11 the dates about which we're speaking occurred
12 five days ago. The shooting occurred five days
13 ago. It would be impossible to submit documents,
14 procure witnesses, or do anything in satisfaction
15 of the statutory deadline because the statutory
16 deadline occurred before the shooting. So I just
17 wanted to make sure that you were aware of that.
18 I certainly understand the procedural
19 requirements, but it would have been impossible.

20 CHAIRPERSON ANDERSON: But what I've
21 stated, sir, if you have witnesses to testify,
22 they can testify about what happened and give
23 information, background information, I assume
24 whatever witnesses you have, they're going to
25 testify, they're going to give reasons why is it

1 that we should not renew this license. And so
2 whoever your witnesses are, they can testify of
3 another example of why the license should not be
4 granted is because on June 1, 2021 this is what
5 occurred.

6 You can still -- you can have -- you
7 can have -- that information can be brought into
8 the hearing through direct testimony of one of
9 your witnesses, sir. And also the Board has not
10 investigated this matter as yet and so the Board
11 will do an investigation and the Board might
12 determine that we will have a fact-finding
13 hearing on this incident and you will be welcome
14 to participate in a future fact-finding hearing
15 regarding this incident because if an incident
16 occurred, the Board is going to do an
17 investigation. And based on the investigation,
18 we will either make a determination that we
19 should have a fact-finding hearing or maybe the
20 MPD will send over a request to ask that we
21 should have a fact-finding hearing or the Board
22 wants to do its own investigation and determine
23 that there is -- we either require a fact-finding
24 hearing or we're going to send this over to the
25 Office of the Attorney General to have a show

1 cause.

2 So this incident will be addressed.
3 And at a show cause hearing, if the Board
4 determines, say for example, the Board determines
5 after doing its initial investigation that it
6 needs to be referred at a show-cause hearing,
7 then one of the penalties that the Board could
8 impose is what you're asking for at a future
9 hearing.

10 MR. STOECKLEIN: I understand. Then
11 there's only one other procedural matter to which
12 I also alerted Ms. Randall.

13 I apologize, but we were unaware that
14 the fact-finding proceeding would occur before
15 this and I had intended to seek leave from the
16 Chairman for the traditional lunch recess to
17 coincide with a conflict that I have from 1
18 o'clock to 2 o'clock today. And I realize we're
19 now about an hour from that. And so that, too,
20 presents a problem. I hoped it would not arise
21 because I hoped we -- Mr. Bianco would be good
22 enough to continue the matter, but now that we
23 will be proceeding, I ask for the opportunity to
24 recess.

25 (Simultaneous speaking.)

1 MR. STOECKLEIN: -- and had hoped that
2 this would all work itself out, Mr. Chairman, so
3 I do apologize.

4 CHAIRPERSON ANDERSON: This matter was
5 scheduled for a protest hearing at 11 o'clock.
6 The Board itself did not anticipate -- how many
7 witnesses do you have, sir?

8 MR. STOECKLEIN: We have no witnesses
9 today.

10 CHAIRPERSON ANDERSON: So you're the
11 only person who is going to testify?

12 MR. STOECKLEIN: That is correct. Due
13 to the rescheduling of this proceeding at this
14 time, the critical witness that we had intended
15 to have appear before you is on an airplane.

16 CHAIRPERSON ANDERSON: So you're the
17 only person who is going to testify. And so
18 you're saying that you're asking for -- you're
19 asking for a lunch break, but you're asking for
20 -- what break are you asking for?

21 MR. STOECKLEIN: One o'clock to two
22 o'clock today.

23 CHAIRPERSON ANDERSON: All right.
24 We're going to start the hearing. I'm hoping
25 that the way the hearing goes, because you only

1 have one witness, the Board is going to put on
2 the first witness. I am not going to take a
3 break until the Board has presented its first
4 witness.

5 So if we are able to go through the
6 Board's witness by one o'clock, we'll take a
7 break. We'll take a break between one and two.
8 But I'm not going the end the Board's
9 presentation to take a break. So that's a
10 compromise.

11 The way the case goes is that the
12 Board presents its witnesses. We'll ask
13 questions. Both sides will have an opportunity
14 to cross examine the Board's witness. Once
15 that's done, then the licensee presents its case
16 and then the protestant presents its case. So I
17 am willing to move forward so the Board presents
18 its case. Hopefully, the Board's case will be
19 over at 1 o'clock and if it's over at 1 o'clock,
20 we'll take a break between 1 and 2 and then have
21 the protestant present its case at 2 because --
22 how many witnesses do you have, Mr. Bianco?

23 MR. BIANCO: I only have two.

24 CHAIRPERSON ANDERSON: You have two
25 witnesses. The Board has a time line when this

1 hearing needs to end today. So we don't have all
2 day to do this, but I'm willing to take a break
3 between one and two, but I am not going to break
4 up the Board's presentation of its case to take a
5 break. If the parties do not elongate the
6 Board's witness or the Board's presentation of
7 this case, I believe we can accomplish that by 1
8 o'clock and we can break between 1 and 2 to
9 accommodate you. And then we'll start back
10 promptly at 2 o'clock.

11 Is that agreeable?

12 MR. STOECKLEIN: Thank you, Mr.

13 Chairman.

14 CHAIRPERSON ANDERSON: Mr. Bianco?

15 MR. BIANCO: That's fine.

16 CHAIRPERSON ANDERSON: All right, so
17 basically, we have done -- I have spoken about
18 basically what's going to happen. The applicant
19 has an opportunity to -- will have five minutes
20 to do an opening statement. Protestant has five
21 minutes to do an opening statement.

22 The Board will call its witness. Once
23 the Board has called its witness, the Board
24 members will cross examine the Board's witness.
25 Then the applicant will have an opportunity to

1 cross examine and the protestant will have an
2 opportunity to cross examine. Once the Board has
3 presented its case, then the applicant will
4 present its case.

5 All right, so since time is of the
6 essence, the Board will call -- any questions
7 before we start? Any other questions before we
8 start?

9 MR. BIANCO: None from the applicant.

10 MR. STOECKLEIN: None from the
11 protestant.

12 CHAIRPERSON ANDERSON: All right,
13 fine. The Board will call its first witness.
14 The Board will call Mr. George Garcia.

15 Mr. Garcia, can you raise your right
16 hand, please?

17 Do you swear or affirm to tell the
18 truth and nothing but the truth?

19 You're on mute, sir.

20 MR. GARCIA: Yes.

21 CHAIRPERSON ANDERSON: All right. Can
22 you please spell and state your name for the
23 record, please?

24 MR. GARCIA: George, G-E-O-R-G-E,
25 Garcia, G-A-R-C-I-A.

1 CHAIRPERSON ANDERSON: And where are
2 you currently employed, sir?

3 MR. GARCIA: At the Alcoholic Beverage
4 Regulation Administration.

5 CHAIRPERSON ANDERSON: And how long
6 have you been working for the agency?

7 MR. GARCIA: Approximately around
8 three years now.

9 CHAIRPERSON ANDERSON: Have you
10 testified before this hearing before?

11 MR. GARCIA: Yes.

12 CHAIRPERSON ANDERSON: Are you
13 familiar with Empire Lounge?

14 MR. GARCIA: Yes, I am.

15 CHAIRPERSON ANDERSON: And how are you
16 familiar with Empire Lounge, please?

17 MR. GARCIA: I completed the protest
18 investigation on behalf of the establishment.

19 CHAIRPERSON ANDERSON: And did there
20 come a time that you wrote a case report?

21 MR. GARCIA: Yes, I did.

22 CHAIRPERSON ANDERSON: And can you
23 tell us what information, if any, were you able
24 to gather regarding this protest?

25 MR. GARCIA: So the renewal

1 application for Empire Lounge was protested by
2 two entities, one by a Protest Group of Seven,
3 led by a Michael Marenstein, and Westminster
4 Neighborhood Association, led by Lynn Johnson.

5 The protest issues for the applicant
6 for both were the same which included adverse
7 impact on peace, order, and quiet, including
8 noise, residential parking needs, and vehicular
9 and pedestrian safety and failure to follow the
10 existing settlement agreement.

11 I did speak to and interview the
12 owner, Dessalegn Nigussie, and that was on
13 February 9th of 2021. I visited the
14 establishment, Empire Lounge, and spoke with the
15 owner of the establishment, Mr. Nigussie, and he
16 did state and made me aware that his attorney,
17 Richard Bianco, would be submitting a statement
18 on behalf of the establishment.

19 At that time, I did conduct a
20 regulatory inspection and Mr. Nigussie assisted
21 in conducting a walk-through of the
22 establishment. I completed the regulatory
23 inspection and found no ABRA violations.

24 And on February 19th is when Richard
25 Bianco provided his statement on behalf of the

1 establishment for me. And Mr. Bianco stated that
2 since the establishment opened in 2018, the
3 owner, Mr. Nigussie, has attempted to work with
4 residential neighbors.

5 Mr. Bianco stated that Mr. Nigussie
6 has provided many of the neighbors with his
7 contact information and asked that they text or
8 call if they have any problems or any issues
9 arise concerning the establishment.

10 Mr. Bianco also stated that over the
11 last three years that the neighbors have texted
12 and called Mr. Nigussie and Mr. Nigussie has
13 tried to be both responsive and accommodating to
14 the neighbors' needs.

15 He also stated that when -- Mr. Bianco
16 made the following statement. When the
17 residential neighbor to the rear of the
18 establishment, Empire Lounge, began complaining
19 about noise, he changed his sound system and
20 removed the speakers and subwoofers facing the
21 near buildings. So he made accommodations about
22 soundproofing the establishment on that
23 neighbor's side of the establishment.

24 The volume of level of music of the
25 sound system is marked, so it won't, according to

1 Mr. Bianco, that that level of music won't
2 supersede. He keeps it at a certain level, where
3 it's accommodating to his needs.

4 He also stated that Mr. Nigussie
5 instituted a policy at Empire Lounge that the
6 rear door of the establishment which faces the
7 alley of residential buildings may not be opened
8 while the music is being played.

9 Mr. Bianco also stated that security
10 is at least one dedicated security person working
11 whenever the business is operating which is
12 stationed at the front of the establishment to
13 check identification of anyone entering the
14 establishment.

15 Mr. Bianco also stated that some
16 events will require additional security just to
17 maintain a safer environment at the
18 establishment.

19 Mr. Bianco also stated that to ensure
20 that the trash needs of the business are met that
21 he has contracted a trash company so they pick up
22 twice a week.

23 And Mr. Bianco stated that at some
24 point the residential neighbors complained that
25 the trash pick ups were being done at an

1 inappropriate hour and in response, Mr. Nigussie
2 switched contractors and required that the
3 trashed pickup be done prior to 8 p.m. or be done
4 the following morning.

5 Mr. Bianco also stated that as new
6 residents move into the neighborhood, they have
7 aggressively complained about many of the
8 establishments along 8th and 9th Street, not just
9 Empire.

10 Mr. Bianco also stated that Mr.
11 Nigussie wants to run a successful business and
12 has tried on many occasions very hard to work
13 cooperatively with his neighbors with whom he
14 hopes have a good patron business with.

15 That was the conclusion of Mr.
16 Bianco's statement to me.

17 I did also interview a Michael
18 Marenstein who is the representative of the
19 Protest Group of Seven and he did let me know
20 about his issues concerning Empire Lounge on
21 behalf of that Group of Seven.

22 Mr. Marenstein stated that his
23 concerns stem from the drunk and violent behavior
24 spilling onto the nearby streets which pose a
25 safety concern for the community. And Mr.

1 Marenstein stated that parking violations and
2 property damage have been a concern along with
3 the constant noise coming from the establishment.

4 He also stated that the behavior is
5 negatively impacting property values, as well as
6 the quality of life. And Mr. Marenstein stated
7 that we have made many attempts to address any
8 issues directly with Empire Lounge management and
9 owners, but the response are all empty promises
10 and a dismissive tone.

11 Mr. Marenstein stated that the
12 neighborhood is at a breaking point and can no
13 longer entertain the level of destruction in the
14 neighborhood any longer. Mr. Marenstein stated
15 that he would just like to get this resolved, get
16 a resolution on this matter as soon as possible.

17 I did also meet and interviewed the
18 representative for WNA, the neighborhood
19 association, and that interview was held on
20 Monday of April 19 of 2021 with a Dan Freeman.

21 Mr. Freeman advised me that Empire
22 Lounge has been a bad neighbor in years since
23 they have been in business. Mr. Freeman stated
24 that the establishment repeatedly violated the
25 settlement agreement, along with the D.C. laws.

1 Mr. Freeman stated that the
2 establishment attracts rowdy people. He stated
3 that the establishment lets people gather on the
4 sidewalk which prevents people from walking on
5 the sidewalk and down the street. He also
6 stated that the establishment needs to prevent
7 congestion on the street. Mr. Freeman expressed
8 that the establishment has numerous violations.

9 I asked Mr. Freeman if he wanted to
10 provide any additional information and he said
11 that's all he needed to address with me and
12 that's all what he wants resolved.

13 And so that was the conclusion of my
14 interview.

15 CHAIRPERSON ANDERSON: So tell us
16 about the parts in your report that talks about
17 the neighborhood.

18 MR. GARCIA: Okay, so I'm going to
19 share some documents.

20 CHAIRPERSON ANDERSON: Sure. Ms.
21 Andrews, allow him to share the screen.

22 MS. ANDREWS: Sure. Stand by. Okay,
23 Mr. Garcia, you can now share your screen.

24 MR. GARCIA: Thank you. So according
25 to the District of Columbia's Zoning Handbook,

1 the establishment is an R-2 zone which is located
2 on page 5.

3 CHAIRPERSON ANDERSON: What's an R-2
4 zone if you know, please?

5 MR. GARCIA: R-2 zone is intended to
6 permit medium density, compact mixed-use
7 development, with an emphasis on residential
8 development.

9 CHAIRPERSON ANDERSON: Now how many
10 nearby ABC licensed establishments is in the
11 vicinity?

12 MR. GARCIA: How many ABC licensed
13 establishments?

14 CHAIRPERSON ANDERSON: Yes.

15 MR. GARCIA: Sixty-nine.

16 CHAIRPERSON ANDERSON: So how would
17 you describe, generally, how would you describe
18 this area with 69 licensees?

19 MR. GARCIA: Very busy. The
20 establishments -- the general area is very high
21 traffic during nighttime hours.

22 CHAIRPERSON ANDERSON: What are the
23 current hours of operation for the establishment?

24 MR. GARCIA: The establishment
25 licensed hours of sales and operations are Sunday

1 to Thursday, 10 a.m. to 2 a.m. and Friday to
2 Saturday 10 a.m. to 3 a.m.

3 CHAIRPERSON ANDERSON: Now the hours
4 of operation, are they consistent with the
5 neighborhood? Are they longer, shorter to the
6 best of your knowledge? Are they consistent?

7 MR. GARCIA: To the best of my
8 knowledge, they are consistent.

9 CHAIRPERSON ANDERSON: Now tell me a
10 little bit about the area. Is there a lot of
11 traffic? Is there a lot of car traffic? Is
12 there pedestrian traffic? Tell me about the
13 area, be a little bit more specific.

14 MR. GARCIA: Okay. So Empire is
15 located on 9th Street in a three story brick
16 building. The establishment does not have access
17 to the first floor. It just has access solely to
18 the second and third floors.

19 There are -- 9th Street has side by
20 side from each other, maybe about 20 to 25
21 establishments alone on that street alone. That
22 street seems to always be high traffic, a lot of
23 pedestrian congestion, double-parked vehicles.
24 It's a lot of congestion on the street and at
25 times it has proven to be at a standstill.

1 CHAIRPERSON ANDERSON: To the best of
2 your knowledge, are these -- the traffic, the
3 congestion on the block, is it attributable to
4 Empire Lounge?

5 MR. GARCIA: No. It's a combination
6 of all of the establishments on 9th Street. It's
7 not just specifically from Empire Lounge. It's
8 all of the establishments on 9th Street.

9 CHAIRPERSON ANDERSON: Now did or any
10 ABRA personnel visit this establishment?

11 MR. GARCIA: Yes. I visited to
12 conduct a regulatory inspection, but the
13 establishment was monitored a total of 30 times
14 from January 9th of 2021, to June 12th of 2021.
15 And on all of those occasions, the known
16 investigator that visited the establishment to
17 monitor it, observed no ABRA violations.

18 CHAIRPERSON ANDERSON: And what time
19 of day did the investigator visit? Was it in the
20 morning, during the day?

21 MR. GARCIA: Specifically, it was a
22 variation of all. On page 11 of my investigation
23 report, the first monitoring of the establishment
24 was February 9th from 2 p.m. to 2:52 p.m. And
25 then the following one was 3:26 p.m. to 4:05 p.m.

1 And the following was 6 p.m. to 7:20 p.m.

2 And then you see on Friday, the
3 establishment was visited from 10:20 p.m. to
4 11:32 p.m.

5 So the establishment was visited in
6 the afternoon on the 9th, as well as in the
7 morning. As you see number 12 is Friday, the
8 establishment was visited on April 2nd of 2021
9 from 12:42 a.m. to 1:15 a.m.

10 And the following was April 3rd, 9:20
11 p.m. to 9:56 p.m. And then back again, the
12 establishment was visited on Monday in the
13 afternoon at 3:30 to 4:08 p.m.

14 And then the establishment was once
15 again visited at 12:00 a.m. to 12:15 a.m. on
16 Saturday of April 10th of 2021. Following that,
17 the establishment was also visited on Sunday,
18 April 11th at 12:00 a.m. to 12:15 a.m.

19 The establishment was visited on
20 multiple different times.

21 CHAIRPERSON ANDERSON: And you're
22 saying that each time that the ABRA investigator
23 visited the establishment, no ABRA violations
24 were found?

25 MR. GARCIA: Correct.

1 CHAIRPERSON ANDERSON: All right.
2 There are some exhibits attached to your report.
3 Can you go through the exhibits, please?

4 (Pause.)

5 MR. GARCIA: So Exhibit 1 is a protest
6 letter written by the Westminster Neighborhood
7 Association. And that was written by Lynn
8 Johnson.

9 Give me just one minute. And Exhibit
10 2 is a District of Columbia Geographic
11 Information System which is all the ABC
12 establishments within 1200 feet of Empire Lounge.
13 So these are all the establishments 1200 feet of
14 1909 9th Street.

15 And Exhibit 3 is a District of
16 Columbia Geographic Information System 400 feet
17 of a school. This is any school within 400 feet
18 of the establishment.

19 And Exhibit 4 is a photograph of the
20 exterior of Empire.

21 Exhibit 5 is a photograph of the entry
22 of Empire Lounge. As you see, there are stairs,
23 so it immediately prompts you to go up to the
24 second floor. There is no first floor to the
25 establishment.

1 Exhibit 6 is immediately -- it's still
2 the entry way as you see to the far left, the
3 stairs are there. This is just a small space
4 that the entry way is located in.

5 Exhibit 7 is the same photograph of
6 the entry way, just at a different angle from the
7 stairs.

8 Exhibit 8 is a photograph of the
9 interior of the second floor immediately at the
10 top of the stairs.

11 Exhibit 9 is a photograph of the bar
12 to your right hand side, as soon as you approach
13 the establishment from the upstairs.

14 Exhibit 10 is a photograph of the same
15 floor, of the same second floor bar, just at a
16 farther angle.

17 Exhibit 11 is a photograph of the
18 booth area where the couches are on the far right
19 hand side of the establishment.

20 Exhibit 12 is a photograph of the
21 stairs leading from the third floor to the second
22 floor of the downstairs establishment.

23 Exhibit 13 is a photograph of the
24 third floor. This is the lounge area on the top
25 floor of the establishment.

1 Exhibit 14 is also an exterior
2 photograph of the lounge area on a different
3 angle and side of the establishment on the third
4 floor.

5 Exhibit 15 is a photograph of the
6 establishment storage area, located on the 3rd
7 floor.

8 Exhibit 16 is a photograph of the non-
9 operative bar located on the third floor of the
10 establishment.

11 Exhibit 17 is also a photograph of the
12 third floor which is a large lounge area.

13 Exhibit 18 is also a photo of the bar,
14 just at a different angle.

15 Exhibit 19 is also a photograph of the
16 lounge area, both sides. The right side is one
17 lounge area, and the left side also another
18 lounge area.

19 And Exhibit 20 is also the same
20 photograph of the third floor lounge area. And
21 please note that the establishment did -- was not
22 operating on the third floor due to COVID
23 restrictions. They only operated on the second
24 floor of the establishment at that time.

25 CHAIRPERSON ANDERSON: Thank you for

1 bringing that clarification, Mr. Garcia.

2 MR. GARCIA: You're welcome. And
3 Exhibit 21 is a copy of the establishment's ABC
4 license.

5 And Exhibit 22 is a copy of the
6 establishment's Certificate of Occupancy.

7 And Exhibit 23 is a copy -- a
8 photograph of the establishment's alley way
9 leading downstairs to the trash.

10 And Exhibit 24 is a photograph of the
11 establishment's trash area.

12 And Exhibit 25 is also another
13 photograph of the establishment's trash area.

14 And 26 is also a photograph at a wider
15 angle of the establishment's trash area.

16 And Exhibit 27 is the regulatory
17 inspection that I conducted of the establishment
18 on February 19th of 2020.

19 Exhibit 28 is a copy of MPD's crime
20 analysis data.

21 CHAIRPERSON ANDERSON: Let me ask you
22 a question about Exhibit 28.

23 What, if anything, were you able to
24 gather from this exhibit?

25 MR. GARCIA: That exhibit, one minute,

1 okay. That is a document that we obtained from
2 MPD just letting us know any issues or any pause
3 to MPD to any incident from that location. So
4 each incident on here was any call that was made
5 to MPD to respond to the establishment for any
6 need.

7 I requested they -- from the Office of
8 Unified Communications folks for the service
9 dates from February of 2020 to February of 2021.
10 On that document there was a total 15 calls.
11 However, only one of the calls required ABRA
12 assistance.

13 On Saturday, June 27th of 2020, MPD
14 received a complaint for noise for Empire Lounge
15 located at 1909 9th Street, Northwest. An
16 investigator responded to the establishment and
17 discovered that the establishment was in
18 violation of the Mayor's order specifically for
19 not having music at a conversational level. The
20 establishment was issued a written warning,
21 Citation No. 6797 for violating the Mayor's
22 orders.

23 And just to note that that was the
24 only ABRA enforcement that resulted in a
25 violation from any of those calls.

1 CHAIRPERSON ANDERSON: Okay.

2 MR. GARCIA: And Exhibit 29 is the
3 establishment's existing settlement agreement.

4 CHAIRPERSON ANDERSON: All right.
5 Thank you. Thank you, Mr. Garcia. You can stop
6 sharing the screen.

7 MR. GARCIA: Okay.

8 CHAIRPERSON ANDERSON: Any questions
9 of Mr. Garcia by any Board members?

10 MEMBER GRANDIS: Yes, sir. I have
11 one.

12 CHAIRPERSON ANDERSON: Go ahead, Mr.
13 Grandis. Then you, Mr. Short.

14 Go ahead, Mr. Grandis.

15 MEMBER GRANDIS: Mr. Chairman, thank
16 you very much. Investigator, I want to thank you
17 for your excellent presentation and your exhibits
18 today.

19 Going back to Exhibit 28, just for,
20 and you don't need to call it up, I have it as
21 well.

22 Just so for clarification for the
23 record, those are calls that relate to the
24 address, but not necessarily to the establishment
25 inside. Am I interpreting that list of calls

1 that they don't necessarily relate to the
2 licensee, but relate to that location?

3 MR. GARCIA: Correct.

4 MEMBER GRANDIS: Okay, so as you
5 stated, only one related to that required ABRA to
6 handle something regarding this particular
7 licensee?

8 MR. GARCIA: Correct. Specifically
9 for noise.

10 MEMBER GRANDIS: Thank you. And there
11 was one that's noted, I think if I interpreted
12 the term, is it assault, there's one that's
13 listed as an assault? Hold on. Dated, 12/15/20.
14 Am I misinterpreting that? 12/15/20.

15 MR. GARCIA: Yes.

16 MEMBER GRANDIS: Yes, I'm interpreting
17 that term as assault?

18 MR. GARCIA: Yes, correct.

19 MEMBER GRANDIS: But I understand you
20 to say that does not relate to this licensee.

21 MR. GARCIA: It relates to the
22 licensee, but it didn't require any -- it didn't
23 have any enforceable -- the establishment was
24 found -- the establishment didn't obtain any
25 violations on that particular instance.

1 MEMBER GRANDIS: Thank you very much.

2 MR. GARCIA: You're welcome.

3 MEMBER GRANDIS: Thank you, Mr.

4 Chairman.

5 CHAIRPERSON ANDERSON: Thank you, Mr.

6 Grandis. Mr. Short?

7 MEMBER SHORT: Yes, thank you very
8 much, Mr. Chairman.

9 MEMBER SHORT: Investigator Garcia,
10 how are you today?

11 MR. GARCIA: I'm doing well. Thank
12 you. How are you?

13 MEMBER SHORT: Okay. Again, just for
14 the record and my edification, how long have you
15 been with ABRA?

16 MR. GARCIA: Going on three years now.

17 MEMBER SHORT: Approximately three
18 years. And how long have you had the assignment
19 of the 1900 block of 9th Street?

20 MR. GARCIA: Since February, I believe
21 I received the Protest investigation of February
22 of 2020, I'm sorry, February of 2021.

23 MEMBER SHORT: Okay. This a question
24 that a lot of us are going through right now in
25 all government agencies because of the nature of

1 our hopefully passing national health emergency
2 and the shutting down of Washington, D.C. and
3 then our Mayor, you know who our Mayor is,
4 correct?

5 MR. GARCIA: I do.

6 MEMBER SHORT: Can you give her name
7 for the record?

8 MR. GARCIA: Muriel Bowser.

9 MEMBER SHORT: Thank you. Now I'm
10 looking at the investigative history for Empire
11 Lounge. Do you have that in front of you?

12 MR. GARCIA: Yes, I do.

13 MEMBER SHORT: On August 15th of 2020,
14 can you tell us what happened and why this Empire
15 Lounge was cited?

16 MR. GARCIA: August 15th?

17 MEMBER SHORT: August 15th of '20,
18 yes.

19 MR. GARCIA: The establishment failed
20 to comply with the Mayor's emergency order.

21 MEMBER SHORT: Do you think that's a
22 very serious violation?

23 MR. GARCIA: Yes. The establishment
24 actually had on ten separate occasions, the
25 establishment violated a settlement agreement

1 which was for noise. So their settlement
2 agreement was violated ten times, as you see in
3 the investigative history. All of them are
4 there.

5 MEMBER SHORT: Ten times violating the
6 noise ordinance?

7 MR. GARCIA: Yes.

8 MEMBER SHORT: How many businesses or
9 how many licensees have you gone to in your three
10 years that has had that many violations in just
11 one particular nature of noise?

12 MR. GARCIA: I can't say off the top
13 of my head, but I can say that it has been
14 multiple establishments.

15 MEMBER SHORT: With ten or more or ten
16 or less?

17 MR. GARCIA: Yes. On many instances,
18 there are a lot of noise complaints, but if the
19 establishment -- if the noise complaint isn't
20 substantiated against the establishment, it's
21 just --

22 MEMBER SHORT: I thank you for your
23 answers. And let me get away from the noise
24 issue because that's a problem in that area and
25 there's no telling where the noise is coming from

1 in the 1900 block of 9th Street because of the
2 location and the way it is zoned. So I'll leave
3 that alone. But do you think -- how many
4 violations of the Mayor's order?

5 MR. GARCIA: Ten.

6 MEMBER SHORT: So during the height of
7 the national health emergency which the Mayor
8 says you must wear masks, you must observe
9 spacing. And this particular licensee did not
10 observe those things and was cited on four
11 different occasions?

12 MR. GARCIA: Correct. You said on
13 four separate occasions?

14 MEMBER SHORT: You tell me how many
15 occasions that he violated the Mayor's order?

16 MR. GARCIA: On ten separate
17 occasions.

18 MEMBER SHORT: I'm saying the Mayor's
19 order.

20 MR. GARCIA: On ten separate
21 occasions. For the Mayor's order if you violate
22 for noise, it's also a violation because the
23 music should have been at conversational level
24 only.

25 MEMBER SHORT: Okay.

1 MR. GARCIA: That's part of the order.

2 MEMBER SHORT: I understand that. So
3 I guess the bottom line is what I'm trying to get
4 clear is if a person gets a Mayor's order and
5 everybody else in town has to abide by it because
6 the national emergency was causing deaths. Is
7 that correct?

8 MR. GARCIA: Correct.

9 MEMBER SHORT: So the Mayor says don't
10 do this because if you do, you are endangering
11 not only your clients in the city, you work
12 against the nation's national emergency
13 requirement. Do you think this licensee took
14 that seriously?

15 MR. GARCIA: I cannot attest to what
16 they did or not have taken seriously.

17 MEMBER SHORT: Do you think it's a
18 good business practice not to obey the Mayor's
19 order?

20 MR. GARCIA: No, it is not.

21 MEMBER SHORT: Are you aware at one of
22 the hearings we had about the violations of the
23 Mayor's order the licensee was asked,
24 particularly by myself, does he think obeying or
25 disobeying the Mayor's order matters in his

1 business. Were you aware of that?

2 MR. GARCIA: No, I was not aware of
3 it.

4 MEMBER SHORT: Well, let me make you
5 aware. The licensee answered to me it didn't
6 matter. He needed to make money.

7 Do you think that's a good licensee or
8 is that a person who maybe we should look at a
9 little closer about renewing a licensee?

10 MR. GARCIA: I think that should be
11 someone we look at.

12 MEMBER SHORT: Thank you very much,
13 Investigator Garcia.

14 Mr. Chairman, that's all I have at
15 this time.

16 MR. GARCIA: Thank you.

17 MEMBER HANSEN: Mr. Chair, you're on
18 mute.

19 CHAIRPERSON ANDERSON: Thank you. All
20 right. Mr. Bianco, any questions?

21 MR. BIANCO: Yes.

22 Investigator Garcia, thank you for
23 your report, very detailed and very thorough. I
24 appreciate it.

25 MR. GARCIA: Thank you.

1 MR. BIANCO: I have a few questions
2 for you. I'm just going to go right through your
3 report. You can refer to it if you need to, but
4 I don't think we need to share it up on the
5 screen. I'm going to go through it as quickly as
6 I can.

7 So there's been some testimony about
8 this, but in your report it says there's 69
9 licensed establishments within 1200 feet and I
10 think you agreed that there's a very high density
11 of licensed establishments, correct?

12 MR. GARCIA: Correct.

13 MR. BIANCO: And in your three years
14 working at ABRA, have you come across any cases
15 where there has been more than 69 establishments
16 in a 1200 foot radius?

17 MR. GARCIA: No.

18 MR. BIANCO: Okay, so it's fair to say
19 that this is one of the highest density areas in
20 terms of licensed establishments in the whole
21 city, right?

22 MR. GARCIA: Correct.

23 MR. BIANCO: So on page 8 in Section D
24 of your report, you talk about the outdoor
25 operations of these 69 establishments and you

1 mention that 25 of them have summer gardens.

2 In addition to those 25 summer
3 gardens, are you aware of any sidewalk cafes?

4 MR. GARCIA: No, I am not.

5 MR. BIANCO: Okay. And of those 25
6 summer gardens, some of them are patios and some
7 of them are rooftop decks. Is that correct?

8 MR. GARCIA: Correct.

9 MR. BIANCO: Okay. Going to page 9,
10 Section C where you talk about the sort of
11 parking needs and transportation in the
12 neighborhood. I don't see any mention of parking
13 garages. Are you aware of any parking garages in
14 proximity to this particular location?

15 MR. GARCIA: No, I am not.

16 MR. BIANCO: Okay. And on page 10,
17 Section G, you talk about noise and you say there
18 was no complaints or violations during the
19 monitoring period. What I'm trying to get my
20 head around is how long was the monitoring period
21 that you're referencing in this section?

22 MR. GARCIA: The monitoring period, on
23 30 separate occasions were from February 9th of
24 2021 to June 16th of 2021.

25 MR. BIANCO: And I don't do as many of

1 these as you do, admittedly, but it said you had
2 30 visits there. That sounds like a lot. Is
3 that an unusually high number?

4 MR. GARCIA: No, it's not.

5 MR. BIANCO: Okay. Page 14, paragraph
6 C addresses peace, order, and quiet, which is
7 really the main reason why we're here and in that
8 section you state that during your visits you
9 noticed no criminal activity, no ABRA violations,
10 no loitering, no trash issues, and no noise
11 violations, correct?

12 MR. GARCIA: Correct.

13 MR. BIANCO: Okay, so is it fair to
14 say that it's your opinion that this
15 establishment does not adversely impact peace,
16 order, and quiet?

17 MR. GARCIA: I can't -- I don't have
18 an opinion on that.

19 MR. BIANCO: Okay. So page 14,
20 Section 7, you talk about the MPD calls for
21 service and Mr. Grandis went into some detail
22 with you on that and I think that was very
23 helpful to illustrate what that document is. So
24 I just want to ask you one question about that.

25 Several of the MPD calls for service

1 were at times when the establishment wasn't even
2 open, correct?

3 MR. GARCIA: Correct.

4 MR. BIANCO: Now I want to drill down
5 on this issue because I certainly have some
6 confusion about it, so I'm hoping you can
7 clarify. And it was really the last thing that
8 you talked about with Mr. Short.

9 So what we're talking about is Section
10 10, page 14 of your report. I'm sorry, I think I
11 have that wrong. I do have that wrong. Bear
12 with me for just one second while I find what it
13 is.

14 (Pause.)

15 I can't seem to put my finger on it at
16 the moment, so let me just describe it for you.
17 So you say in your report that there were ten
18 instances where the establishment violated its
19 settlement agreement due to noise, right?

20 MR. GARCIA: Correct.

21 MR. BIANCO: So I'm looking at the
22 investigative history and I don't see ten
23 instances of noise violations. I see the first
24 six items look like they're Mayor's order
25 violations and include music not at a

1 conversational level. When you say noise, are
2 you including music not at a conversational
3 level?

4 MR. GARCIA: Yes. If the music is
5 over conversational level, that's considered a
6 noise complaint for the establishment.

7 MR. BIANCO: Okay.

8 MR. GARCIA: I'm sorry.

9 MR. BIANCO: Go ahead. I'm sorry. I
10 didn't mean to interrupt you. Go ahead. Finish
11 your answer.

12 MR. GARCIA: It coincides with each
13 other, the settlement agreement along with the
14 Mayor's orders. With the Mayor's orders, you
15 cannot play the music on conversational level.
16 For the settlement agreement, it also states that
17 it has to be at a certain level. So basically,
18 the establishment -- whenever the establishment
19 is called for a noise complaint, the
20 establishment violated both the Mayor's order
21 along with the settlement agreement.

22 MR. BIANCO: I understand that. I was
23 just seeing clarity where it came from.

24 So in those six instances of Mayor
25 orders violations that you tagged as noise, we're

1 talking about above a conversational level as
2 opposed to a situation where you have music that
3 is infiltrating neighboring residences and things
4 of that nature. So they're different types of
5 noise violations, right?

6 MR. GARCIA: For ABRA, there is no
7 different type of noise violation. There's just
8 one noise violation.

9 MR. BIANCO: Okay. I understand. Let
10 me just go back through and see if I have
11 anything else, but I think -- I think that is
12 all. Thank you very much for your testimony.
13 And I think Mr. Stoecklein is going to have some
14 questions for you at this point.

15 MR. GARCIA: Thank you.

16 CHAIRPERSON ANDERSON: Thank you, Mr.
17 Bianco.

18 Mr. Stoecklein, do you have any
19 questions for the witness?

20 MR. STOECKLEIN: I do.

21 CHAIRPERSON ANDERSON: Go ahead,
22 please.

23 MR. STOECKLEIN: I'm going to try to
24 move through this very quickly. Please stop me
25 or slow me down if I'm being unclear.

1 So do I understand early from your
2 prior testimony you observed the establishment on
3 multiple occasions in February of 2021?

4 MR. GARCIA: Correct.

5 MR. STOECKLEIN: And you indicated
6 that in all instances there were no violations
7 that you observed, correct?

8 MR. GARCIA: Correct, for the
9 monitoring period, it's just not myself. Any
10 ABRA personnel is monitoring the establishment,
11 not just myself. In all instances, there were no
12 ABRA violations when the establishment was
13 monitored.

14 MR. STOECKLEIN: Okay. Thank you for
15 that clarification.

16 Is it correct that all of those
17 occasions, which spanned roughly the course of
18 the month, were during the effective period of
19 the Mayor's COVID orders?

20 MR. GARCIA: I'm sorry, can you repeat
21 that?

22 MR. STOECKLEIN: Sure. Is it correct
23 that basically, the entire duration of the
24 observation period, we'll call it, occurred
25 during the Mayor's COVID orders being in effect?

1 MR. GARCIA: Of all the violations?

2 MR. STOECKLEIN: From the time of the
3 first observation that you included in your
4 report, to the time of the last observation, the
5 entire time span that we're talking about fall
6 within the term of the Mayor's COVID order? Was
7 it during COVID?

8 MR. GARCIA: Yes, it was.

9 MR. STOECKLEIN: Okay. And so -- and
10 which means that no greater than 50 percent
11 capacity in the establishment, is that correct,
12 among other requirements?

13 MR. GARCIA: It depends on when the
14 establishment was monitored because the Mayor's
15 order can change.

16 MR. STOECKLEIN: In this case, during
17 the period that you're talking about, what was
18 the requirement effective during that period?

19 MR. GARCIA: It was 50 percent
20 capacity.

21 MR. STOECKLEIN: Okay. And you -- can
22 you tell me approximately how many of these
23 instances of observation occurred prior to let's
24 say 8 p.m. at night? Was it half or more than
25 half?

1 MR. GARCIA: Before 8 p.m.?

2 MR. STOECKLEIN: Yes, please.

3 MR. GARCIA: Give me one minute.

4 MR. STOECKLEIN: That's okay. I'll
5 withdraw the question.

6 MR. GARCIA: Thirteen of the
7 monitoring was conducted before 8 p.m. out of 30.

8 MR. STOECKLEIN: Okay.

9 MR. GARCIA: So less than half.

10 MR. STOECKLEIN: Thank you. Moving on
11 to your investigative history, you indicated that
12 there were ten separate occasions of violations
13 of the Mayor's order. Is that correct?

14 MR. GARCIA: Correct.

15 MR. STOECKLEIN: Okay. And you spoke
16 about sound violations. Can you tell us what
17 sort of the other violations were for which the
18 applicant was cited?

19 MR. GARCIA: As you see in the
20 investigator history, the establishment was cited
21 on multiple times. So each instance, for
22 example, number one of the investigative history
23 on September 25th of 2020, the establishment
24 failed to comply with the Mayor's orders, but
25 that is not limited to noise. The establishment

1 --

2 MR. STOECKLEIN: Right, right.

3 MR. GARCIA: The establishment was
4 cited for employees not wearing masks, providing
5 music above a conversational level, sold
6 alcoholic beverages without requiring the
7 purchase of at least one full item per party,
8 allowing patrons to stand while consuming
9 alcoholic beverages. All of those violations
10 took place on September 25th of 2020 for that
11 single complaint.

12 MR. STOECKLEIN: So all of those
13 violations comprise just a single, we'll call it
14 citation of which there are ten, correct?

15 MR. GARCIA: No, they're not
16 citations. They're considered complaints. Each
17 complaint, or each CMP was considered a complaint
18 so a report was written and they have to appear
19 in front of the Board.

20 MR. STOECKLEIN: Okay. Did Empire
21 have their license suspended as a result of any
22 of these complaints?

23 I'll rephrase the question. Are you
24 aware that Empire had their license suspended by
25 the Board from September 4th to September 18th?

1 MR. GARCIA: As you see in the
2 investigative history, September 25, 2020, the
3 establishment ABC license was a 60-day suspension
4 with a 15- day stay for one year.

5 MR. STOECKLEIN: At this juncture, Mr.
6 Chair, I have more questions for the witness, but
7 as I noted before, I really -- I'm in a very
8 difficult situation. I have a hard commitment
9 here that I can't go beyond. So I either have to
10 rest our case for this witness or request leave
11 to ask a few more questions.

12 CHAIRPERSON ANDERSON: As I told you
13 before, we're going to end with the Board's case.
14 I will take a break to start the applicant's, the
15 licensee's case, but I'm not taking a break. If
16 you have no other questions, that's fine.

17 MR. STOECKLEIN: I have no further
18 questions, Mr. Chairman.

19 CHAIRPERSON ANDERSON: Any follow-up
20 questions by the Board members?

21 Hearing none, the Board has now rested
22 its case. It's 1 o'clock. We will be in recess
23 until 2 o'clock promptly, and at 2 o'clock, the
24 applicant will present its case. We're off the
25 record until 2 o'clock, an hour for lunch break.

1 So the Board will log back on to the public
2 session at 2 o'clock.

3 (Whereupon, the above-entitled matter
4 went off the record at 1:00 p.m. and resumed at
5 2:15 p.m.)

6 CHAIRPERSON ANDERSON: Good afternoon,
7 everyone. We're at this stage at the case where
8 the Licensee can make an opening statement. I
9 know that I stated earlier in the hearing that
10 the parties would have had five minutes to make
11 an opening statement before the Board presented
12 its case.

13 But in my enthusiasm to move forward,
14 I did not provide the parties with suitability.
15 So, Mr. Bianco, you have five minutes to present
16 your opening statement. That will not take away
17 from the hour that you have to present your case.

18 Each side will have one hour to
19 present its case. And in presenting your case,
20 your cross examination will take away from your
21 hour. So I want all parties to be aware that you
22 have one hour. I will strictly abide by this
23 timeline, that you will have one hour to present
24 your case.

25 And hopefully, it does not become an

1 issue in this case. I believe, Mr. Bianco, you
2 said that you have two witnesses. And Mr.
3 Stoecklein stated that he only has one witness.
4 So I am hoping that both parties will use their
5 time and that there will not be an issue in
6 violating our order of one hour.

7 So, Mr. Bianco, if you want to do an
8 opening statement, you have five minutes.
9 However that five minutes will not be taken from
10 the hour that you have to present your case. You
11 can go ahead, sir.

12 MR. BIANCO: Thank you very much, Mr.
13 Anderson. Good afternoon. My client in this
14 matter, Empire Lounge, is seeking renewal of its
15 liquor license without further condition.

16 They're located at 1909 9th Street and
17 have been in operation since 2018. You will meet
18 the owner, Des Nigussie, who will tell you about
19 his establishment, both the operations in the
20 past and his intended operations for the future.

21 Specifically, he will tell you about
22 the measures he has taken to be a good neighbor
23 and work with the people in the community. For
24 example, he sound-proofed his walls when
25 neighbors complained.

1 He moved and reconfigured his entire
2 sound system. He set volume warning lights so
3 that the person playing music knows when to turn
4 it down. He changed his trash contractors,
5 because the old trash contractors were making
6 deliveries too early, and it was disturbing
7 people in the neighborhood.

8 He's also going to tell you about
9 security procedures, and that part's going to
10 include his voluntary participation in the
11 Metropolitan Police Department's reimbursable
12 detail program. And he's been very proactive in
13 that. And he and a group of his neighbors got
14 together and have all decided together to
15 participate in this program.

16 You will hear about the character of
17 the neighborhood at 9th and U Street which is
18 extremely busy, crowded, and popular as a
19 nightlife destination for a very diverse group of
20 customers. There are 69 establishments in
21 proximity to Empire, one of the most densely
22 populated nightlife areas in the city.

23 Empire does not stand out among them
24 as being particularly loud, or large, or operate
25 particularly late. The setup and operation is

1 typical of others in the area. Of note is that
2 the ANC did not see fit to protest this renewal.

3 We think that once the Board has the
4 chance to hear all of the evidence in this case,
5 you will find that the Applicant continues to be
6 appropriate for the area and renew the license
7 without further condition. Thank you.

8 CHAIRPERSON ANDERSON: Thank you, Mr.
9 Bianco. Mr. Stoecklein, do you wish to make an
10 opening statement now, or will you reserve until
11 you present your case?

12 MR. STOECKLEIN: I'll reserve, Mr.
13 Chairman, thank you.

14 CHAIRPERSON ANDERSON: All right.
15 Thank you. All right, Mr. -- hold on. Mr.
16 Bianco, you have one hour starting now. Who is
17 your first witness, sir?

18 MR. BIANCO: My first witness is Des
19 Nigussie. He's the owner of the establishment.

20 CHAIRPERSON ANDERSON: Mr. Nigussie,
21 can you raise your right hand, please? Do you
22 swear or affirm to tell the truth and nothing but
23 the truth?

24 MR. NIGUSSIE: I do.

25 CHAIRPERSON ANDERSON: Thank you, your

1 Witness, sir.

2 MR. BIANCO: Okay. Mr. Nigussie, can
3 you state your name and spell your last name for
4 the Board, please?

5 MR. NIGUSSIE: My name is Dessalegn
6 Nigussie. My last name is spelled as
7 N-I-G-U-S-S-I-E.

8 MR. BIANCO: And instead of calling
9 you Dessalegn, by your full name, is it okay if
10 I call you Des?

11 MR. NIGUSSIE: That's fine.

12 MR. BIANCO: Great. And, Des, where
13 do you work?

14 MR. NIGUSSIE: I work at Empire
15 Lounge, 1909 9th Street, NW, DC 20001.

16 MR. BIANCO: And what's your job
17 there?

18 MR. NIGUSSIE: I'm the owner.

19 MR. BIANCO: Okay. And how long have
20 you operated this particular establishment?

21 MR. NIGUSSIE: About three years now.

22 MR. BIANCO: And do you know, do you
23 happen to know what was there at 1909 9th Street
24 prior to Empire?

25 MR. NIGUSSIE: The first floor, I

1 believe, was restaurant. And the third floor was
2 vacant (audio interference).

3 MR. BIANCO: And you weren't involved
4 with that restaurant in any way, were you?

5 MR. NIGUSSIE: No.

6 MR. BIANCO: Okay. Can you describe
7 what Empire looks like?

8 MR. NIGUSSIE: Empire is basically a
9 second-floor and third-floor lounge where people
10 just hang out. We sell food, menu food as well.
11 It's typical lounge environment.

12 MR. BIANCO: Okay. I'm going to show
13 you some exhibits now.

14 Simone, are you able to give me the
15 ability to share my screen?

16 MS. ANDREWS: Ms. Andrews, yes, I'm
17 here. One second.

18 MR. BIANCO: Okay, thanks.

19 CHAIRPERSON ANDERSON: In the future,
20 Mr. Bianco, just ask me, and I will ask her to
21 give you that ability, please.

22 MR. BIANCO: Oh, excellent, Mr.
23 Anderson. I'm happy to do that. Thanks.

24 CHAIRPERSON ANDERSON: Thank you.

25 MS. ANDREWS: Mr. Bianco, you can

1 share your screen now.

2 MR. BIANCO: Thank you very much. All
3 right. I am trying to do that, but it does not
4 seem to be operating here. Bear with me for a
5 second, I seem to be having a technical issue.

6 (Pause.)

7 MS. ANDREWS: Mr. Chair, it seems like
8 Mr. Bianco has logged off.

9 CHAIRPERSON ANDERSON: I did see that.
10 So maybe when he logs back on, he will solve his
11 technical issues.

12 I'm sorry, I see there's a Donte
13 Roach, and that person has appeared on the screen
14 the entire -- who is that person?

15 MR. NIGUSSIE: That's the other
16 witness for Mr. Bianco.

17 CHAIRPERSON ANDERSON: All right,
18 thank you, sir. All right.

19 (Pause.)

20 Are you able to call your Attorney,
21 sir, to find out what's going on?

22 MR. NIGUSSIE: Yes.

23 (Pause.)

24 MR. BIANCO: Sorry about that, Mr.
25 Anderson, I got bounced out of the meeting. I

1 just got back on. I think I fixed the technical
2 issue. So -

3 CHAIRPERSON ANDERSON: I think your
4 client went to call you. So I see that he's
5 offline. So, I mean, he's not on the screen, but
6 his name is on the screen.

7 MR. BIANCO: Yes, he just did it as I
8 was getting back on. And it looks like I now
9 have the ability to share my screen, so I'm going
10 to be doing that. And you should now be able to
11 see my screen.

12 CHAIRPERSON ANDERSON: Yes, sir. But
13 where is your client? Is he back?

14 MR. BIANCO: I believe he is. Let me
15 just confirm that with him right now.

16 Des, are you back on?

17 MR. NIGUSSIE: Yes.

18 MR. BIANCO: Okay, great. All right,
19 I apologize for the interruption for the
20 technical issue, but I think we can proceed now.
21 I have --

22 CHAIRPERSON ANDERSON: All right.

23 MR. BIANCO: I have up on the screen
24 the protest report that there has been much
25 testimony about. And I want to cover a couple of

1 the exhibits that are attached to that protest
2 report. So we're first going to go to Exhibit
3 Number 4 which is on Page 20.

4 And I'm going to scroll down and put
5 it on the screen so everyone can see. Okay, so I
6 am showing you what is Exhibit Number 4 to the
7 protest report. Do you recognize that?

8 MR. NIGUSSIE: Yes.

9 MR. BIANCO: And what does that show?

10 MR. NIGUSSIE: That is the front of
11 Empire Lounge.

12 MR. BIANCO: Okay. And is that how it
13 looks today?

14 MR. NIGUSSIE: Yes, pretty much.

15 MR. BIANCO: Okay. Well, what's
16 different from this picture to how it looks
17 today?

18 MR. NIGUSSIE: It looks exactly the
19 same, except the door is changed. I changed it
20 to the glass door.

21 MR. BIANCO: Okay. So the door is now
22 all glass?

23 MR. NIGUSSIE: Right.

24 MR. BIANCO: Okay. So now I'm going
25 to scroll down to Exhibit 5 of the protest

1 report. And could you tell me what that picture,
2 what that photograph shows?

3 There's a stair from outside to the
4 second floor, basically the entrance.

5 MR. BIANCO: Okay, is that what you
6 see as soon as you walk in the front door?

7 MR. NIGUSSIE: That is correct.

8 MR. BIANCO: Okay. So do you have any
9 operations on the first floor of the building?

10 MR. NIGUSSIE: I do not.

11 MR. BIANCO: Okay. And to the right
12 of the staircase, you may be able to see my
13 pointer there on the screen, what is that?

14 MR. NIGUSSIE: That is a security
15 chair.

16 MR. BIANCO: Okay. And your doorman
17 sits there?

18 MR. NIGUSSIE: That's correct.

19 MR. BIANCO: Okay. Now, could you
20 tell me about your security at Empire Lounge,
21 just describe how it works for me?

22 MR. NIGUSSIE: Yes, pretty much. So I
23 have, usually I have two securities, one is
24 searching people, one is checking ID. And when
25 we're busy we have three, two at the door and

1 then one in floor.

2 MR. BIANCO: Okay. Do you ever have
3 more than three?

4 MR. NIGUSSIE: Yes.

5 MR. BIANCO: Okay. And do you provide
6 your security in house, or do you hire a private
7 company to do it?

8 MR. NIGUSSIE: We do hire in house.

9 MR. BIANCO: In house, okay.

10 MR. NIGUSSIE: Yes.

11 MR. BIANCO: And how many security
12 guards to you presently have on staff?

13 MR. NIGUSSIE: Three.

14 MR. BIANCO: Three, okay. And how
15 long have they been working for you?

16 MR. NIGUSSIE: Depends on -- one is
17 about a year, the other two about six months,
18 three months, I would say.

19 MR. BIANCO: Okay. And do you have
20 security guards every single night that you're
21 open?

22 MR. NIGUSSIE: That's correct.

23 MR. BIANCO: Okay. Do you have
24 security cameras?

25 MR. NIGUSSIE: Yes.

1 MR. BIANCO: And where are they
2 located?

3 MR. NIGUSSIE: They are located inside
4 and outside the building, all over, pretty much.

5 MR. BIANCO: Okay.

6 (Simultaneous speaking.)

7 MR. BIANCO: How many do you have?

8 MR. NIGUSSIE: About 15.

9 MR. BIANCO: Okay. And so now I'm
10 going to ask you about the MPD, the Metropolitan
11 Police Department reimbursable detail. Do you
12 have any plans with respect to that program?

13 MR. NIGUSSIE: Yes. So actually about
14 eight of the owners, we came together with an
15 initiative. And we've submitted the police
16 schedule, when they are going to be available.
17 So should be implemented pretty soon.

18 MR. BIANCO: Okay. And how many
19 officers are going to be involved, do you know?

20 MR. NIGUSSIE: On Friday and Saturday,
21 there are about, like, eight, I believe.

22 MR. BIANCO: Okay.

23 MR. NIGUSSIE: Yes.

24 MR. BIANCO: And when you say the
25 other owners, are you referring to the other

1 owners on 9th Street?

2 MR. NIGUSSIE: That's correct.

3 MR. BIANCO: Okay. So we're going to
4 move on to Exhibit Number 10 to the investigative
5 report. And could you describe what that exhibit
6 shows?

7 MR. NIGUSSIE: That's the main bar you
8 will see as you walk in directly.

9 MR. BIANCO: Okay. What floor of the
10 building is that on?

11 MR. NIGUSSIE: The second.

12 MR. BIANCO: Okay. And is there any
13 seating at that bar?

14 MR. NIGUSSIE: Yes.

15 MR. BIANCO: Okay. How many seats are
16 at that bar?

17 MR. NIGUSSIE: I would say eight.

18 MR. BIANCO: Okay. And is there a
19 dance floor on the second level?

20 MR. NIGUSSIE: No.

21 MR. BIANCO: Okay. And what type of
22 seating do you have?

23 MR. NIGUSSIE: This is sofa seating
24 with tables.

25 MR. BIANCO: Okay. And could you

1 describe the tables? Are they low tables that
2 you would serve cocktails on, or are they regular
3 dining tables?

4 MR. NIGUSSIE: They are regular dining
5 tables.

6 MR. BIANCO: Okay. And how many sofa
7 seats do you have on the second floor?

8 MR. NIGUSSIE: About 30, 35.

9 MR. BIANCO: Okay. Now, we're going
10 to move to Exhibit 12 of the investigative
11 report. And could you describe what that photo
12 shows?

13 MR. NIGUSSIE: Yes. That is the
14 stairs that leads to the third floor.

15 MR. BIANCO: Okay. So this is a shot
16 going down the stairs to the second floor?

17 MR. NIGUSSIE: Exactly, yes.

18 MR. BIANCO: Okay. And then in this
19 area here where I am pointing at the top of the
20 photograph, is that typical of the seating that
21 you have on the second floor?

22 MR. NIGUSSIE: Yes.

23 MR. BIANCO: And in this area here
24 where I am now pointing, to the left, is that
25 typical of the dining tables that you have.

1 MR. NIGUSSIE: That's correct.

2 MR. BIANCO: Okay. So what type of
3 seating is on the third floor of the
4 establishment?

5 MR. NIGUSSIE: Pretty much similar to
6 the main floor.

7 MR. BIANCO: So sofa seating with
8 dining tables?

9 MR. NIGUSSIE: With the dining tables,
10 yes.

11 MR. BIANCO: Okay. And approximately
12 how many seats do you have on that floor?

13 MR. NIGUSSIE: About the same, 30, 35.

14 MR. BIANCO: Okay. And is there a
15 dance floor on the third floor of the
16 establishment?

17 MR. NIGUSSIE: No.

18 MR. BIANCO: Okay. Do you have a DJ?

19 MR. NIGUSSIE: Yes.

20 MR. BIANCO: And does the DJ work for
21 you in house, or do you hire private DJs?

22 MR. NIGUSSIE: I have in house DJ and
23 then, depending on the event, we hire outside DJs
24 sometimes.

25 MR. BIANCO: Okay. And where is the

1 DJ located?

2 MR. NIGUSSIE: That's on the second
3 floor.

4 MR. BIANCO: Second floor, okay. What
5 hours are you actually open?

6 MR. NIGUSSIE: We open weekdays 6:00
7 to 2:00 a.m., 6:00 p.m. to 2:00 a.m.

8 MR. BIANCO: And how about on the
9 weekends?

10 MR. NIGUSSIE: On the weekend, we open
11 from 1:00 to 3:00 a.m. on Saturday and then 1:00
12 to 2:00 a.m. on Sunday.

13 MR. BIANCO: Okay. How about Friday?

14 MR. NIGUSSIE: Friday 6:00 p.m. to
15 3:00 a.m.

16 MR. BIANCO: And what's the total
17 occupancy you have for your establishment?

18 MR. NIGUSSIE: One hundred,
19 twenty-five.

20 MR. BIANCO: Okay. Do you have any
21 outdoor operations, like a sidewalk cafe, or a
22 roof deck, or a patio?

23 MR. NIGUSSIE: I do not.

24 MR. BIANCO: Okay. During COVID, when
25 temporary outdoor seating was allowed, did you

1 take advantage of any of that?

2 MR. NIGUSSIE: Unfortunately, no.

3 MR. BIANCO: No, okay. Now, tell me
4 about the establishments near you. Do any of
5 them have roof decks or patios?

6 MR. NIGUSSIE: Yes, like, Cortez, next
7 door, they have a roof-top right next to us, to
8 be honest.

9 MR. BIANCO: Okay. So the
10 establishment right next to you, what was the
11 name of it?

12 MR. NIGUSSIE: Cortez.

13 MR. BIANCO: Cortez, okay. And their
14 roof deck, is it on the 9th Street side of the
15 building, or is it on the rear or alley side of
16 the building?

17 MR. NIGUSSIE: On the alley side.

18 MR. BIANCO: Okay. I want to look at
19 Exhibit Number, I'm going to scroll down to
20 Exhibit Number 28. Actually, you know, I'm going
21 skip Exhibit 28. I'm going to skip over that.
22 So withdraw that.

23 Do you serve food at your
24 establishment?

25 MR. NIGUSSIE: We do.

1 MR. BIANCO: Okay. And do you serve
2 full meals or just appetizers and snacks?

3 MR. NIGUSSIE: We serve full meals.

4 MR. BIANCO: Now, I'm going to show
5 you what has been marked as Applicant's Exhibit
6 Number 2, if you will bear with me while I bring
7 that up and scroll past the investigative report.

8 Okay. Here we are at Applicant
9 Exhibit Number 2. And I'm going to slowly scroll
10 through that. Do you recognize that?

11 (Whereupon, the above-referred to
12 document was marked as Applicant Exhibit No. 2
13 for identification.)

14 MR. NIGUSSIE: Yes.

15 MR. BIANCO: And what is that?

16 MR. NIGUSSIE: That is our menu.

17 MR. BIANCO: And, Mr. Anderson, do you
18 prefer that we move exhibits as we discuss them
19 or we wait until the end?

20 CHAIRPERSON ANDERSON: You can move
21 them as they're being discussed.

22 MR. BIANCO: Okay. I move admission
23 of Applicant Number 2.

24 CHAIRPERSON ANDERSON: Mr. Stoecklein,
25 do you have any objection?

1 MR. STOECKLEIN: I do not.

2 CHAIRPERSON ANDERSON: So moved.

3 (Whereupon, the above-referred to
4 document was received into evidence as Applicant
5 Exhibit No. 2.)

6 MR. BIANCO: Do you have a door at the
7 rear of your establishment?

8 MR. NIGUSSIE: Yes.

9 MR. BIANCO: Okay. And where is that
10 door?

11 MR. NIGUSSIE: At the backside.

12 MR. BIANCO: What floor is it on?

13 MR. NIGUSSIE: On the second floor.

14 MR. BIANCO: What is that door used
15 for?

16 MR. NIGUSSIE: That door is used for
17 delivery, pick-up and delivery, otherwise stays
18 closed and, of course, the emergency exit as
19 well.

20 MR. BIANCO: Okay. Do customers
21 typically enter or exit from that door?

22 MR. NIGUSSIE: No.

23 MR. BIANCO: Do you keep it closed
24 during business hours?

25 MR. NIGUSSIE: Yes.

1 MR. BIANCO: Is it ever locked during
2 business hours?

3 MR. NIGUSSIE: No.

4 MR. BIANCO: Why not?

5 MR. NIGUSSIE: So in emergency, so we
6 don't lock it, but we keep it closed.

7 MR. BIANCO: Okay. Where do you store
8 trash?

9 MR. NIGUSSIE: We have a trash
10 company. We put in the trash cans to pick up.
11 Actually, right now, they pick up four times a
12 week.

13 MR. BIANCO: Okay. I am going to
14 scroll down to what has been marked as
15 Applicant's Exhibit Number 5. I just want to
16 make sure I didn't miss, yes, okay. So I want to
17 scroll down to Applicant's Exhibit Number 5. And
18 I know that the investigator attached a picture
19 of the trash cans to his report, but this one's a
20 little clearer. Do you recognize this?

21 (Whereupon, the above-referred to
22 document was marked as Applicant Exhibit No. 5
23 for identification.)

24 MR. NIGUSSIE: Yes.

25 MR. BIANCO: And what is that?

1 MR. NIGUSSIE: That is our trash cans.

2 MR. BIANCO: Okay. And is that
3 typically where your store them?

4 MR. NIGUSSIE: That is correct.

5 MR. BIANCO: Okay. And who's your
6 contractor?

7 MR. NIGUSSIE: They are called
8 Forresters.

9 MR. BIANCO: Okay. And did you ever
10 switch contractors?

11 MR. NIGUSSIE: Yes, I just had
12 different before. Because of the noise complaint
13 when they pick up the trash, I had to change the
14 trash company.

15 MR. BIANCO: Okay. And who complained
16 about the pickup making too much noise?

17 MR. NIGUSSIE: The neighbor, they text
18 me through text. And that's how I communicated
19 to them.

20 MR. BIANCO: Okay. Have you done
21 anything else in the establishment to reduce
22 noise?

23 MR. NIGUSSIE: I did. I changed the
24 structure of my sound system. I used to have
25 speakers that are facing the back door. After I

1 removed that speaker and sub-woofer, and I don't
2 have that anymore. And it's been awhile since I
3 get a text from neighbors, to be honest about
4 voice complaint.

5 MR. BIANCO: Okay. Did you do
6 anything with your sound board?

7 MR. NIGUSSIE: Sound, we had to redo
8 the one block of the building with the soundproof
9 that building as well.

10 MR. BIANCO: I'm sorry, did you say
11 soundproofing?

12 MR. NIGUSSIE: Soundproofed one side
13 of the building where the sound comes out.

14 MR. BIANCO: Okay. But how about your
15 actual sound system? Did you do anything with
16 that?

17 MR. NIGUSSIE: Yes, yes. We changed
18 sound system. And we adjust the DJ booth
19 specifically to show me the red light when the
20 volume turns up. And the DJ will be directed to
21 decrease the volume of the music.

22 MR. BIANCO: Okay, great. Move
23 admission of Applicant's Number 5.

24 CHAIRPERSON ANDERSON: Mr. Stoecklein,
25 do you have any objection?

1 MR. STOECKLEIN: I do not.

2 CHAIRPERSON ANDERSON: So moved.

3 (Whereupon, the above-referred to
4 document was received into evidence as Applicant
5 Exhibit No. 5.)

6 MR. BIANCO: Now I want to go back and
7 look at what has been marked as Applicant Exhibit
8 Number 4. Do you recognize that?

9 (Whereupon, the above-referred to
10 document was marked as Applicant Exhibit 4 for
11 identification.)

12 MR. NIGUSSIE: Yes.

13 MR. BIANCO: And what is that?

14 MR. NIGUSSIE: That is the back door
15 on the second floor.

16 MR. BIANCO: Okay. And did you change
17 anything about that area of the building?

18 MR. NIGUSSIE: Yes. So we
19 soundproofed that area where you see the golden
20 color. And we moved, like, at the back if you
21 keep coming away from that, there used to be a
22 speaker. We had to move that as well.

23 MR. BIANCO: So in the lower left
24 portion of this picture, there used to be a
25 speaker?

1 MR. NIGUSSIE: Right.

2 MR. BIANCO: And then you moved that.

3 MR. NIGUSSIE: It's a little back.

4 MR. BIANCO: Okay. And the yellow
5 walls here, did you say that was soundproof
6 material?

7 MR. NIGUSSIE: Right.

8 MR. BIANCO: Okay. Move admission of
9 Applicant's Number 4.

10 CHAIRPERSON ANDERSON: Any objection?

11 MR. STOECKLEIN: None.

12 CHAIRPERSON ANDERSON: So moved.

13 (Whereupon, the above-referred to
14 document was received into evidence as Applicant
15 Exhibit No. 4.)

16 MR. BIANCO: Okay. We're going skip
17 down to Applicant's Number 6. And do you
18 recognize that?

19 (Whereupon, the above-referred to
20 document was marked as Applicant Exhibit No. 6
21 for identification.)

22 MR. NIGUSSIE: Yes.

23 MR. BIANCO: What is that?

24 MR. NIGUSSIE: That's the DJ mixer
25 basically. If you look closer, there's a yellow

1 line. That yellow line will turn red at a
2 certain level, and that's how I monitored the
3 volume of the music.

4 MR. BIANCO: Okay. So what are these
5 green lights here signify?

6 MR. NIGUSSIE: Green lights are okay.

7 MR. BIANCO: Okay. And then what
8 happens if the music gets too loud?

9 MR. NIGUSSIE: It turns red.

10 MR. BIANCO: I'm sorry, you cut out a
11 little bit. What did you say?

12 MR. NIGUSSIE: It will turn red if the
13 music's too loud.

14 MR. BIANCO: Okay. And how did you
15 set that sound level to make it turn red at a
16 certain point? What did you do?

17 MR. NIGUSSIE: I just basically set up
18 all the composition and to set it up. We tested
19 the sound first. We went outside and see what
20 volume is accurate to hear from outside. And we
21 set it to that level.

22 MR. BIANCO: Okay. Move admission of
23 Applicant's Number 6.

24 CHAIRPERSON ANDERSON: Any objection?

25 MR. STOECKLEIN: None.

1 CHAIRPERSON ANDERSON: So moved.

2 (Whereupon, the above-referred to
3 document was received into evidence as Applicant
4 Exhibit No. 6.)

5 MR. BIANCO: And have you done
6 anything else to try and work with your
7 neighbors?

8 MR. NIGUSSIE: I provide them with my
9 personal phone number. If there's any voice, any
10 particulars, any issue, I told them text me.
11 Some did work somehow.

12 MR. BIANCO: Okay. And did you
13 receive texts from your neighbors.

14 MR. NIGUSSIE: Yes.

15 MR. BIANCO: Okay. And what did you
16 do in response to those texts?

17 MR. NIGUSSIE: The sound system I just
18 mentioned is in response to the texts I've been
19 receiving from my neighbors.

20 MR. BIANCO: Yes. When's the last
21 time you got a text message complaint from one of
22 your neighbors?

23 MR. NIGUSSIE: It's been awhile.

24 MR. BIANCO: Okay. How long, a year?

25 MR. NIGUSSIE: I would say a year,

1 yes.

2 MR. BIANCO: Okay. Could you describe
3 what the 9th and U Street area is like on a
4 Saturday night?

5 MR. NIGUSSIE: On a Saturday night
6 there are so many entertainment establishments,
7 very busy and a vibrant street. As the
8 investigator was saying earlier there's cars
9 double-parked, very busy weekend.

10 MR. BIANCO: Okay. And how does, have
11 you been in the other establishments in the 9th
12 and U area?

13 MR. NIGUSSIE: Yes.

14 MR. BIANCO: Okay. And how does
15 Empire compare to those other establishments?

16 MR. NIGUSSIE: A little smaller, but I
17 don't see anything different.

18 MR. BIANCO: Do you have a voluntary
19 agreement?

20 MR. NIGUSSIE: What do you mean
21 voluntary agreement?

22 MR. BIANCO: A voluntary agreement
23 with the people from the neighborhood?

24 MR. NIGUSSIE: Yes, yes. I have a
25 settlement agreement.

1 MR. BIANCO: Settlement agreement, I'm
2 sorry. I used the old name for it. I said
3 voluntary agreement. A settlement agreement,
4 great. Do you follow it?

5 MR. NIGUSSIE: Yes. So the issue, the
6 voice complaint we had is when early in business
7 when we start operation in 2018. If you see
8 those timelines, probably it was in the first six
9 months of that time before we insulated the wall.
10 When the problem arise, we taking care of the
11 problem. We never had a voice complaint after
12 that.

13 MR. BIANCO: Okay. And do you know
14 how customers generally get to your
15 establishment, like if they want to go out to
16 Empire, how do they get there?

17 MR. NIGUSSIE: Usually people take
18 metro, there is a metro right across. And then
19 usually people take Uber.

20 MR. BIANCO: Okay. Are there any
21 parking garages nearby?

22 MR. NIGUSSIE: There is one on 9th and
23 U Street on the right side. I believe it's 1208
24 9th Street.

25 MR. BIANCO: Okay. And do you know if

1 customers park in that parking lot?

2 MR. NIGUSSIE: Yes.

3 MR. BIANCO: Okay.

4 MR. NIGUSSIE: We actually
5 specifically put it on our website too.

6 MR. BIANCO: I'm sorry, your -- okay.
7 So the parking garage is on your website.

8 Thank you very much for your
9 testimony, Des. Mr. Stoecklein may have some
10 questions for you and the Board may as well.
11 Okay?

12 MR. NIGUSSIE: Okay.

13 MR. BIANCO: Thank you.

14 CHAIRPERSON ANDERSON: All right,
15 thank you. Hold you a minute. Do you have any
16 questions, sir? Mr. Stoecklein?

17 MR. STOECKLEIN: Yes, I do, Mr.
18 Chairman.

19 CHAIRPERSON ANDERSON: Well then, go
20 ahead, sir. Remember, this is taking away from
21 your 60 minutes so go ahead.

22 MR. STOECKLEIN: Okay, thank you. Mr.
23 Nigussie, I have a number of questions for you
24 and I'd like to start with reviewing what you
25 just describing regarding the sound equipment and

1 noise abatement measures that we've taken.

2 First of all, could you please
3 describe specifically what you installed to, as
4 you say, sound proof --

5 MR. NIGUSSIE: Yes. So --

6 MR. STOECKLEIN: -- for your building?

7 MR. NIGUSSIE: I'm sorry, did I
8 interrupt you?

9 MR. STOECKLEIN: No, no, go ahead.

10 MR. NIGUSSIE: Yes, basically the
11 drywall, the regular drywall. And there is the
12 drywall which is soundproof drywall. It's a
13 double drywall basically.

14 So we have one block of the club we
15 had to remove it and we have to change, we have
16 to double that drywall. Which is soundproof.

17 MR. STOECKLEIN: Okay. And it's
18 soundproof. Does the drywall have a soundproof
19 rating?

20 MR. NIGUSSIE: Yes, it does.

21 MR. STOECKLEIN: And what is that
22 rating?

23 MR. NIGUSSIE: I can find out but I
24 don't remember off the top of my head. It's been
25 almost three years.

1 MR. STOECKLEIN: Okay. Do you have
2 any idea what lies between, is there a barrier
3 in-between the drywall? The double drywall.

4 MR. NIGUSSIE: When you say barrier?

5 MR. STOECKLEIN: Is it just, is it two
6 sheets of drywall stuck together? You just
7 doubled the thickness of the drywall?

8 MR. NIGUSSIE: No.

9 MR. STOECKLEIN: Or is there something
10 else in the drywall?

11 MR. NIGUSSIE: There is something,
12 basically there is a, I don't know what it is
13 called, there is stuff they putting in the,
14 before they put in the drywall to soundproof by
15 itself. There's kind of like a rubber they put
16 it there and then they would cover it with a
17 drywall afterwards. It's not just drywall.

18 MR. STOECKLEIN: Okay. Did you
19 install this personally, Mr. Nigussie or did
20 someone else install this for you?

21 MR. NIGUSSIE: Someone else installed
22 for me.

23 MR. STOECKLEIN: Okay. And do you own
24 the building?

25 MR. NIGUSSIE: I do not, I leased it.

1 MR. STOECKLEIN: Okay. When was this
2 work completed?

3 MR. NIGUSSIE: I would say that is
4 within six months of when we opened. So toward
5 the end of 2018, beginning of 2019.

6 MR. STOECKLEIN: Okay. And do you
7 know if you have received any stop work orders
8 from DCRA related to the construction that you
9 just described?

10 MR. NIGUSSIE: There is not, that's
11 not the required DCRA permit, it's just
12 insulation.

13 MR. STOECKLEIN: Can you say that
14 again, Mr. Nigussie?

15 MR. NIGUSSIE: I did not because it's
16 just insulation work.

17 MR. STOECKLEIN: I'm sorry, I just
18 want to make sure I understand. So you were just
19 describing that you installed new walls, meaning
20 that you opened the walls, is that correct?

21 MR. NIGUSSIE: The drywalls, not the
22 walls.

23 MR. STOECKLEIN: Right.

24 MR. NIGUSSIE: We didn't do anything
25 in place of the building we just hang the

1 drywall.

2 MR. STOECKLEIN: Yes. Are you aware
3 that the District of Columbia requires a permit
4 anytime that the walls are opened in a structure?

5 MR. BIANCO: I'm going to object. It
6 calls for a legal conclusion.

7 CHAIRPERSON ANDERSON: What's the
8 nature of your, I'm sorry, Mr. Stoecklein?

9 MR. STOECKLEIN: I'd like to establish
10 that, I'd like to know if Mr. Nigussie is aware
11 of the requirements related to the construction
12 that he's claiming to have done.

13 CHAIRPERSON ANDERSON: Well, he, I
14 mean, he stated that in his view it was, he just
15 did drywall, he did not need --

16 MR. STOECKLEIN: Right. Well, Mr.
17 Nigussie actually has several stop work orders
18 pending against the establishment right now, so I
19 just want to know if he knows about that. And
20 I'm trying to lay the foundation before we
21 establish that he likely does and has either
22 ignored them or he doesn't, in which case the
23 construction is likely inconsistent with his
24 accounting of it.

25 MR. BIANCO: Mr. Anderson, it's my

1 position that the ABC Board doesn't enforce DCRA
2 regulations. If there are violations to present
3 I would argue relevance, but at this point we're
4 nowhere near that. So, if --

5 CHAIRPERSON ANDERSON: Yes, I'm going
6 to sustain the objection. Let's move on. If you
7 want to ask him a question, ask him a question.
8 If you have documentation, documentary evidence
9 about the DCRA stop order, you can ask him about
10 that.

11 But ask him about the regulations, if
12 he says, he answered the question so let's move
13 on please.

14 MR. STOECKLEIN: Okay. Mr. Nigussie,
15 after the installation of the soundproofing that
16 you've described, did you have any testing done?

17 MR. NIGUSSIE: Yes. Basically we had,
18 we ordered this sound testing from Amazon. We
19 tested the level of the music outside and we
20 adjusted accordingly.

21 MR. STOECKLEIN: Okay. When you say
22 you adjusted accordingly, what does that mean?
23 Can you please be a little more specific?

24 MR. NIGUSSIE: We put a control system
25 on the mixer, I was explaining earlier.

1 MR. STOECKLEIN: Okay. Are you aware
2 if the D.C. ordinance governing noise, which
3 includes music volumes?

4 MR. NIGUSSIE: Which, say one more
5 time.

6 MR. STOECKLEIN: Called the Noise
7 Control Act.

8 MR. NIGUSSIE: I'm not sure I
9 understand your question.

10 MR. STOECKLEIN: Are you aware of the
11 regulations in the District of Columbia regarding
12 noise, which includes music volume?

13 MR. NIGUSSIE: Yes.

14 MR. STOECKLEIN: And do you know what
15 those regulations require?

16 MR. NIGUSSIE: Yes.

17 MR. STOECKLEIN: Okay. And what do
18 they require?

19 MR. NIGUSSIE: Basically you have to
20 keep the volume of the music to a certain level.
21 And you cannot distract, basically you cannot
22 distract the neighborhood.

23 And I believe, if I remember
24 correctly, it's up to 10:00, the enforcement is
25 up to 10:00 p.m.

1 MR. STOECKLEIN: So, I just want to
2 make sure I understand your response. So, is
3 your understanding of the District of Columbia
4 noise ordinance requirements that the any noise
5 that you, any noise that's being generated from
6 your establishment simply can't be heard, if it
7 can't be heard outside, then that's sufficient?

8 MR. NIGUSSIE: I believe so. Yes.

9 MR. STOECKLEIN: Okay. And do you
10 know approximately what decibel levels are
11 required under the code?

12 MR. NIGUSSIE: I do not, I'm sorry.

13 MR. STOECKLEIN: Okay. Do you have
14 different noise level restriction steps for what
15 music you're playing at daytime?

16 What volumes you are reaching during
17 the daytime hours versus during nighttime hours?

18 MR. NIGUSSIE: Yes. Usually daytimes
19 are, the volume is very low versus tend to be
20 higher during the night.

21 MR. STOECKLEIN: Okay. But you don't
22 know, but in terms of decibel levels, you don't
23 know, you can't tell me what lower or higher
24 specifically means in that context?

25 MR. NIGUSSIE: My technician say that

1 DJ, the DJ mixer, I just tell from the light, but
2 I don't specifically remember the numbers.

3 MR. STOECKLEIN: Okay. And so you
4 testified that the soundboard, that the lights on
5 the soundboard will red if they're above an
6 allowable level, is that correct?

7 MR. NIGUSSIE: That's correct.

8 MR. STOECKLEIN: Okay. But you don't
9 know what those allowable levels are?

10 MR. NIGUSSIE: I just don't remember
11 the numbers.

12 MR. STOECKLEIN: Okay. Have you
13 instructed your managers, your supervisors, about
14 those numbers?

15 MR. NIGUSSIE: Yes.

16 MR. STOECKLEIN: Are they aware?

17 MR. NIGUSSIE: They're aware.

18 MR. STOECKLEIN: They're aware?

19 MR. NIGUSSIE: Yes.

20 MR. STOECKLEIN: Okay. Does the
21 soundboard, what happens when the soundboard
22 light turns red?

23 MR. NIGUSSIE: The DJ has to turn down
24 the music, that way it will turn back to yellow
25 color when we turn it down to that level.

1 MR. STOECKLEIN: Okay. So there is
2 nothing, there is no part of the system that
3 automatically limits, if the light turns red,
4 there is no part of the system that automatically
5 restricts the volume, you have to make that
6 choice or your DJ has to make that choice, is
7 that correct?

8 MR. NIGUSSIE: That is correct. But
9 the DJs are all trained for that.

10 MR. STOECKLEIN: They're trained for
11 that. How are they trained for that?

12 MR. NIGUSSIE: They note the level
13 when they play the music. When that turns red
14 they will turn down the music. Basically that
15 usually fixes it.

16 MR. STOECKLEIN: Okay. You spoke
17 about having given your number to residential
18 neighbors so that they can text you if the music
19 is too loud, is that correct?

20 MR. NIGUSSIE: That is correct.

21 MR. STOECKLEIN: Okay. And why did
22 you give them your number?

23 MR. NIGUSSIE: Well like, I gave them
24 my neighbor because they showed up at Empire and
25 express their concern to me. And I basically, I

1 told them if there is any issue arises like this,
2 I don't want to be inconvenienced to you enough
3 to come here, just text me and I will take care
4 of it. That's why I gave them my number.

5 MR. STOECKLEIN: Okay. So bear with
6 me, Mr. Nigussie, because I'm just trying to
7 understand.

8 If you installed soundproofing and you
9 had your analyst test everything. And you
10 understand the D.C. code and that testing is that
11 you, at the levels of which you played your
12 music, it can't be heard outside, why would there
13 be any need to give your number to your neighbors
14 so that they could text you if they can hear it
15 in their house?

16 MR. NIGUSSIE: I --

17 MR. BIANCO: Objection. Hang on, Des,
18 I'm going to object because that question is
19 calling for speculation. My Client has no idea
20 what's in the minds of the neighbors.

21 MR. STOECKLEIN: No, I'm asking Mr.
22 Nigussie why, if he just told us that based on
23 his testing it's impossible for noise to be heard
24 outside, why would he feel the need, it's his
25 opinion, it calls for no speculation, why would

1 he feel the need to give his neighbors his phone
2 number.

3 MR. NIGUSSIE: Well I --

4 CHAIRPERSON ANDERSON: Gentlemen, I'm
5 going to overrule the objection. Answer the
6 question, if you can.

7 This is part of the presentation that
8 his gave his number to the neighbors, I don't
9 know why, so let him answer it. I'm going to
10 overrule the objection. He can answer the
11 question, if he can.

12 MR. NIGUSSIE: So I was just trying to
13 be a good neighbor. And the concern wasn't just
14 the music, the trash was an issue.

15 I said, I had to change the trash
16 company after I heard from my neighbors. So if
17 any issue arises, I want a result. It wasn't a
18 specifically intended for voice.

19 MR. STOECKLEIN: Okay. Well, I
20 appreciate that, Mr. Nigussie, very much so.

21 If you want to be a good neighbor and
22 you went to all the trouble of installing this
23 light system, why didn't you simply install
24 equipment that automatically restricts the
25 volume? Wouldn't that be easier?

1 MR. NIGUSSIE: It could be, but I
2 didn't see the need because after we changed the
3 system it was working. I didn't get any texts or
4 any voice complaint after that. For a while.
5 It's been more than a year now.

6 MR. STOECKLEIN: So you're saying, am
7 I understanding correctly that you have not been
8 texted by the neighbors, at all, since in early
9 2019, you installed this soundboard lighting
10 signal?

11 MR. NIGUSSIE: Yes. I don't remember
12 the exact date but it's been a while. Yes.

13 MR. STOECKLEIN: So I'm asking you to
14 be specific. So you have not received a single
15 text from your neighbors about sound issues in
16 more than two years?

17 MR. NIGUSSIE: No, a year.

18 MR. STOECKLEIN: Okay. So then in
19 fact, after you installed the system, you did
20 receive texts, just not over the past year during
21 COVID?

22 MR. NIGUSSIE: I said it could be
23 different issue. It could be for, about the
24 trash. I might have received a text message.
25 But I don't know specifically for voice.

1 MR. STOECKLEIN: Okay. All right, I'm
2 going to move on, Mr. Nigussie. Do you have a, I
3 believe you spoke earlier about a settlement
4 agreement that you have in place. Is that
5 correct?

6 MR. NIGUSSIE: That's correct.

7 MR. STOECKLEIN: Okay. And when did
8 that agreement go into effect?

9 MR. NIGUSSIE: When we start open.
10 Back 2018.

11 MR. STOECKLEIN: Okay. And how many
12 times have you been cited for violations of that
13 settlement agreement?

14 MR. NIGUSSIE: About ten times, if I
15 remember correctly.

16 MR. STOECKLEIN: Okay.

17 MR. NIGUSSIE: But that was, I want to
18 say, before we soundproofed. That was in a
19 certain range of time, but we've taken care of
20 that. After that I didn't get any violation from
21 ABRA.

22 MR. STOECKLEIN: I'm sorry, can you
23 just, I'm sorry, Mr. Nigussie, I had a hard time
24 understanding, can you just say that one more
25 time for me please?

1 MR. NIGUSSIE: Yes. So those sounds
2 violations we had is during the first few months
3 of our opening. We run into a problem of
4 insulation.

5 But I share to you, we used to live,
6 well, we share a wall with the neighbors, so
7 that's before we insulate that wall, we had that
8 violations. If you see the time frame of the
9 violations, those are during the few months of
10 opening Empire.

11 After that we didn't get any sound,
12 any violations. At least not that frequent.

13 MR. STOECKLEIN: So you're suggesting
14 that all ten violations of this settlement
15 agreement were noise violations --

16 MR. NIGUSSIE: Yes.

17 MR. STOECKLEIN: -- is that correct?

18 MR. NIGUSSIE: Yes.

19 MR. STOECKLEIN: Okay. And do you
20 know approximately over what span of time you
21 were cited those ten times?

22 MR. NIGUSSIE: I --

23 MR. STOECKLEIN: How many months
24 between the signing of that settlement agreement
25 and that tenth violation, how many months passed?

1 MR. NIGUSSIE: I don't remember. But
2 I know it's for a few months, but I can't give
3 you a number.

4 MR. STOECKLEIN: Okay. I'd like to, I
5 need to share the screen, unless the settlement
6 agreement has already been displayed via another
7 exhibit.

8 CHAIRPERSON ANDERSON: I don't believe
9 it has been, so, Ms. Andrews, can you give him
10 the opportunity to share his screen please?

11 MS. ANDREWS: Sure. Standby.

12 MR. BIANCO: Mr. Anderson, just as a
13 housekeeping matter, to keep the exhibits
14 straight, I believe the settlement agreement is
15 attached to the investigative report as an
16 exhibit.

17 MS. ANDREWS: You can share your
18 screen.

19 CHAIRPERSON ANDERSON: The entire
20 settlement agreement, I don't recall seeing it,
21 but go ahead. You can share your screen, sir.

22 MR. STOECKLEIN: And, Mr. Bianco, I
23 appreciate that actually. It's charitable of
24 you. And hopefully it will save us all time, so
25 I can actually just refer to the investigative

1 report.

2 Let me see if I can, just give me one
3 second please. Okay. Can everybody see that?

4 CHAIRPERSON ANDERSON: Yes, sir.

5 MR. STOECKLEIN: Okay. So, this is
6 the investigative report. Do you recognize this,
7 Mr. Nigussie? I realize it's kind of hard to --

8 MR. NIGUSSIE: Yes.

9 MR. STOECKLEIN: Here's the cover page
10 for you.

11 MR. NIGUSSIE: This is the
12 investigation report?

13 MR. STOECKLEIN: That's right. So,
14 Mr. Nigussie, if you start at the bottom of this
15 Page 13, which I'm showing on my screen right
16 now, and you work your way up, you'll be able to
17 see the number of, the ten settlement agreement
18 violations about which we were just speaking.
19 And you can also see the dates.

20 Can you please take a look at that for
21 a second.

22 MR. NIGUSSIE: What number do you want
23 me, from five to when?

24 MR. STOECKLEIN: Yes, so if you look
25 just from, let's say from 12 to Line 8.

1 MR. NIGUSSIE: You said 12 to Line 8,
2 okay.

3 MR. STOECKLEIN: Yes.

4 MR. NIGUSSIE: Okay, what am I looking
5 at?

6 MR. STOECKLEIN: Okay. So, all I want
7 to make sure, Mr. Nigussie, is that you and I, in
8 looking in that timeline, that it is accurate to
9 say that in six months' time, from the date that
10 you got your settlement agreement, six months
11 forward, all ten violations occurred, correct?

12 MR. NIGUSSIE: That is correct.

13 MR. STOECKLEIN: And so I'm just, I'm
14 trying to understand. So you signed a settlement
15 agreement and you wanted to be a good neighbor,
16 and then it was within the first six months you
17 were cited for violations ten times, is that
18 right?

19 MR. NIGUSSIE: That is correct.

20 MR. STOECKLEIN: Okay. Okay, I'm
21 going to stop sharing my screen now. I have just
22 a few more questions.

23 So, I'd like to move on to the COVID
24 violations. The topic, COVID violations, which
25 were discussed.

1 Are you aware of how many violations
2 of the Mayor's COVID orders that you were
3 ultimately cited for?

4 MR. NIGUSSIE: No.

5 MR. STOECKLEIN: Okay. Were you shut
6 down by the Board at any point or suspended at
7 all during COVID?

8 MR. NIGUSSIE: Yes.

9 MR. STOECKLEIN: Okay. And can you
10 tell me when you were first shut down?

11 MR. NIGUSSIE: I don't remember the
12 numbers. Remember one was, I believe it's in --

13 MR. STOECKLEIN: Does September 4th to
14 September 18th sound about right?

15 MR. NIGUSSIE: It sounds about right,
16 yes.

17 MR. STOECKLEIN: Okay. All right.
18 And so then you opened backed up. And how long
19 were you open after September 18th? Did you
20 remain open after that?

21 MR. NIGUSSIE: Yes, we opened. Well,
22 yes, we were pretty much open. Yes. We been
23 doing deliveries and curbside pickup. But it's
24 not regular.

25 MR. STOECKLEIN: Okay. And so, were

1 you ever suspended again after the 18th?

2 MR. NIGUSSIE: Yes.

3 MR. STOECKLEIN: You were? And when
4 was that?

5 MR. NIGUSSIE: Again, I don't remember
6 the exact date, to be honest.

7 MR. STOECKLEIN: Does September 25th,
8 one week later, sound about right?

9 MR. NIGUSSIE: I don't think it was
10 one week later. But again, I don't recall the
11 exact date to be honest. But then you're right,
12 but they're no far apart.

13 MR. STOECKLEIN: I'm sorry, can you
14 say that again?

15 MR. NIGUSSIE: They're no far apart.

16 MR. STOECKLEIN: Okay. Mr. Nigussie,
17 one last set of questions for you. Do you offer
18 hookah at your establishment?

19 MR. NIGUSSIE: Yes, we do.

20 MR. STOECKLEIN: Okay. And do you
21 have an exemption from the D.C. Department of
22 Health to offer hookah?

23 MR. NIGUSSIE: We are working on that,
24 but nobody around ANC had one.

25 MR. STOECKLEIN: So, just to be clear,

1 is it correct that you do not have an exemption
2 from the Department of Health to sell hookah,
3 however, you sell hookah? Is that correct?

4 MR. NIGUSSIE: Well again, we are
5 working on the exemption right now.

6 MR. STOECKLEIN: That wasn't my
7 question, Mr. Nigussie. I'd just like to know,
8 so yes or no, do you sell hookah --

9 MR. NIGUSSIE: We do, yes.

10 MR. STOECKLEIN: -- and do you have --
11 (Simultaneous speaking.)

12 MR. NIGUSSIE: That's correct.

13 MR. STOECKLEIN: -- and do you have an
14 exemption from the Department of Health that
15 allows you to be selling that hookah legally?

16 MR. NIGUSSIE: We --

17 MR. STOECKLEIN: Yes or no.

18 MR. NIGUSSIE: -- do not.

19 MR. STOECKLEIN: Okay. And you're
20 clearly aware of that?

21 MR. NIGUSSIE: Yes.

22 MR. STOECKLEIN: Okay. I don't think
23 I have any more questions right now, Mr.
24 Chairman.

25 CHAIRPERSON ANDERSON: All right,

1 thank you. Any questions by any Board Members?

2 MEMBER GRANDIS: Yes.

3 CHAIRPERSON ANDERSON: I'm sorry, who
4 said yes? Go ahead, Mr. Grandis.

5 MEMBER GRANDIS: Mr. Chairman, thank
6 you. Sir, I want to thank you for participating
7 today, and I appreciate the insight you're giving
8 us regarding your business.

9 Could you just refresh maybe, because
10 there's been a lot of information shared today,
11 what is the occupancy for your establishment?

12 MR. NIGUSSIE: It's 125.

13 MEMBER GRANDIS: And do you have a
14 methodology, do you have a system on being able
15 to maintain its 125 or less?

16 MR. NIGUSSIE: Yes, sir.

17 MEMBER GRANDIS: Can you explain that
18 to the Board?

19 MR. NIGUSSIE: Yes. So, my security
20 is aware, we have a counter basically. So every
21 time a customer comes in, they come through the
22 counter. Every time somebody leaves, they deduct
23 the counter. And that updates me every hour as
24 to how many people we have in the building.

25 MEMBER GRANDIS: Okay.

1 MR. NIGUSSIE: That's how we measure.

2 MEMBER GRANDIS: And is this a
3 procedure that is done during the hours of
4 operation?

5 MR. NIGUSSIE: That's correct.

6 MEMBER GRANDIS: And if I understand
7 correctly, your establishment is not on the first
8 floor but it's on the second and third?

9 MR. NIGUSSIE: That is correct.

10 MEMBER GRANDIS: And is there a
11 rooftop deck?

12 MR. NIGUSSIE: No.

13 MEMBER GRANDIS: Is there any sidewalk
14 cafe?

15 MR. NIGUSSIE: No.

16 MEMBER GRANDIS: Is there a summer
17 garden?

18 MR. NIGUSSIE: No.

19 MEMBER GRANDIS: So, the maximum
20 number of people in your establishment is 125?

21 MR. NIGUSSIE: That's correct.

22 MEMBER GRANDIS: Correct?

23 MR. NIGUSSIE: Yes.

24 MEMBER GRANDIS: And have you, I'm
25 sorry, has your establishment been cited for

1 violation for, relating to occupancy?

2 MR. NIGUSSIE: No.

3 MEMBER GRANDIS: If I understand
4 right, looking at the investigative report, there
5 are a number of other establishments within the
6 block or two of you, is that correct?

7 MR. NIGUSSIE: That's correct.

8 MEMBER GRANDIS: Do any of them, to
9 your knowledge, have more than 125 people
10 occupancy?

11 MR. NIGUSSIE: I can't say.

12 MEMBER GRANDIS: Okay. Good answer.
13 Let me think. What is your hours of operation
14 again?

15 MR. NIGUSSIE: Usually on the week,
16 weekdays, we open from 6:00 to 2:00 a.m., which
17 Friday we close at 3:00 a.m. And then Saturday
18 is 1:00 to 3:00 a.m. Sunday --

19 MEMBER GRANDIS: 3:00 a.m.?

20 MR. NIGUSSIE: Yes, sir.

21 MEMBER GRANDIS: Okay. You basically
22 have legal night hours?

23 MR. NIGUSSIE: Right. Right. Right.

24 MEMBER GRANDIS: Okay. Mr. Chairman,
25 that's all I have. And I want to thank you.

1 CHAIRPERSON ANDERSON: Thank you, Mr.
2 Grandis. All right, any other questions by any
3 of the Board Members?

4 Mr. Bianco, any redirect?

5 MR. BIANCO: None.

6 CHAIRPERSON ANDERSON: All right. All
7 right, thank you. All right, Mr. Bianco, you
8 have 37 minutes left. And, Mr. Stoecklein you
9 have 30.

10 Okay, Mr. Bianco, you have 37.29 and
11 Mr. Stoecklein, you have 37.17. Okay? So
12 everybody know how much time they have moving
13 forward.

14 All right, do you have another
15 witness, Mr. Bianco?

16 MR. BIANCO: Yes. We have one more
17 witness. Donte Roach.

18 CHAIRPERSON ANDERSON: Mr. Roach?

19 MR. ROACH: Yes, sir?

20 CHAIRPERSON ANDERSON: Do you have a
21 camera? I see you have been, do you have a
22 camera, sir? If you don't, that's fine.

23 MR. ROACH: I've been on this call for
24 a while and my battery is low so I turned to
25 audio only mode.

1 CHAIRPERSON ANDERSON: You have been
2 without a camera the entire time because I've
3 seen your name and I was wondering, who was
4 wondering, who was that person on the phone. But
5 that is fine, sir. Can you raise your right
6 hand, sir?

7 MR. ROACH: Yes.

8 CHAIRPERSON ANDERSON: Do you swear or
9 affirm to tell the truth and nothing but the
10 truth?

11 MR. ROACH: Yes.

12 CHAIRPERSON ANDERSON: Yes meaning I
13 do?

14 MR. ROACH: Yes, I do.

15 CHAIRPERSON ANDERSON: Which --

16 MR. ROACH: I do.

17 CHAIRPERSON ANDERSON: All right,
18 thank you. Your witness, sir.

19 MR. BIANCO: Thank you very much.
20 Could you state your name and spell it for the
21 record please?

22 MR. ROACH: Donte Roach. It's, D-O-N-
23 T-E, R-O-A-C-H.

24 MR. BIANCO: Okay. And are you
25 familiar with Empire?

1 MR. ROACH: Yes, I am.

2 MR. BIANCO: And how are you familiar
3 with it?

4 MR. ROACH: I go there probably two or
5 three times a week.

6 MR. BIANCO: Okay. And why do you go
7 to Empire?

8 MR. ROACH: Because I enjoy the vibe.
9 I obviously smoke hookah and drink and chill with
10 my friends. To lounge.

11 MR. BIANCO: And do you ever eat
12 there?

13 MR. ROACH: Yes, I do.

14 MR. BIANCO: How often?

15 MR. ROACH: Probably like twice,
16 sometimes three times a week.

17 MR. BIANCO: Okay.

18 MR. ROACH: And --

19 MR. BIANCO: Go ahead, you can finish
20 your answer, I didn't mean to cut you off.

21 MR. ROACH: Yes, I said, when I go
22 there, for the most part I eat there.

23 MR. BIANCO: Okay. Is the food good?

24 MR. ROACH: Yes.

25 MR. BIANCO: Do you ever notice other

1 patrons eating as well?

2 MR. ROACH: Yes, I do.

3 MR. BIANCO: Okay. How often?

4 MR. ROACH: All the time.

5 MR. BIANCO: What can you tell me
6 about the crowd that goes to Empire?

7 MR. ROACH: It's a pretty good crowd.
8 Chill. Not too rowdy. I mean, I have a good
9 time there. I never had a problem with anyone
10 there and I've been going there for two years.

11 MR. BIANCO: Okay.

12 MR. ROACH: And that's about it.

13 MR. BIANCO: All right. What about
14 the age? Is there anything you can tell me about
15 sort of the average age of the establishment's
16 patrons?

17 MR. ROACH: The age range it differs
18 kind of because some days it's a younger crowd
19 and then some days it's kind of older crowd.

20 MR. BIANCO: Okay.

21 MR. ROACH: But the age range would be
22 from, anywhere from, it could be from anywhere
23 from 21 to 35.

24 MR. BIANCO: What can you tell me
25 about the security of the establishment?

1 MR. ROACH: Security is pretty cool.
2 They do their job. I mean.

3 MR. BIANCO: Well, do you feel safe
4 when you go there?

5 MR. ROACH: Yes, very safe. I've been
6 going there for two years. I wouldn't go there
7 if I didn't.

8 MR. BIANCO: Okay. And in the two
9 years that you've been going there, have you ever
10 witnessed any instances of violence inside the
11 club?

12 MR. ROACH: I have never witnessed
13 anything inside the club, but --

14 MR. BIANCO: How about out on 9th
15 Street, have you ever seen any violence out
16 there?

17 MR. ROACH: Yes. I mean, it's 9th
18 Street, it's a lot of bars and stuff up and down
19 there, so you will see fights, people arguing and
20 stuff, like that. But I have never seen none of
21 that inside of Empire.

22 MR. BIANCO: Okay. Do you ever go to
23 any of the other establishments at the 9th and U
24 Intersection?

25 MR. ROACH: I've been to all of them.

1 MR. BIANCO: Okay. Why do you go to
2 Empire so frequently?

3 MR. ROACH: The employees the most
4 part. I'm comfortable there and I like the
5 environment.

6 MR. BIANCO: Okay. And how does
7 Empire compare with the other bars and
8 restaurants along 9th and U?

9 MR. ROACH: Well, they pretty much all
10 the same. They pretty much do the same. Have
11 the same type of like establishment kind of like
12 because it's hookah, drinks, bar, lounge type of
13 area.

14 MR. BIANCO: Okay.

15 MR. ROACH: I just go there because
16 of, like I said, the people that's there.

17 MR. BIANCO: Okay. Do you know if
18 Empire is any larger or smaller than the
19 neighboring establishments?

20 MR. ROACH: Not really. I think
21 they're all pretty much like around the same
22 size.

23 MR. BIANCO: Can you describe what
24 9th, the 9th and U Street Intersection is like on
25 a weekend night?

1 MR. ROACH: Crowded.

2 MR. BIANCO: Okay.

3 MR. ROACH: Very busy.

4 MR. BIANCO: Okay. What do you notice
5 about traffic?

6 MR. ROACH: I don't really notice the
7 traffic being bad. I mean, it's normal traffic
8 to me.

9 MR. BIANCO: Okay. How about the
10 noise level?

11 MR. ROACH: It's the same. I don't,
12 it's really pretty much like it's, just outdoor
13 noise maybe, but that's not in the establishment.

14 MR. BIANCO: Okay.

15 MR. ROACH: So, I mean, I don't think
16 it's establishments because I don't hear music
17 like playing out, you know what I'm saying, when
18 I'm outside. I only hear the music and stuff
19 when I go inside.

20 MR. BIANCO: Do you ever notice more
21 noise coming out of Empire than the neighboring
22 establishments?

23 MR. ROACH: No.

24 MR. BIANCO: Do you live in the area?

25 MR. ROACH: Yes, I do.

1 MR. BIANCO: Okay. About how far away
2 do you live from Empire?

3 MR. ROACH: Like seven to ten minutes
4 away.

5 MR. BIANCO: Okay. And how do you get
6 there when you go? Mr. Roach?

7 CHAIRPERSON ANDERSON: I guess Mr.
8 Roach was serious when he said his phone was low.

9 MR. BIANCO: Yes, I hope that's not
10 what happened. Let me try to reach him via text.
11 And I have his email as well.

12 (Pause.)

13 MR. BIANCO: I've tried to reach him
14 by call, text and email. I'd like to give him a
15 few minutes. I realize it's running against my
16 time but --

17 CHAIRPERSON ANDERSON: I have paused
18 the phone, this is a technical issue which is
19 beyond your control. So I have paused. Did you
20 call him?

21 MR. BIANCO: I did and it went to --

22 CHAIRPERSON ANDERSON: It went to
23 voicemail, right?

24 MR. BIANCO: It did. It went to
25 directly to voicemail. Yes, sir.

1 CHAIRPERSON ANDERSON: So his phone
2 died.

3 MR. ROACH: Hello?

4 CHAIRPERSON ANDERSON: He's back. All
5 right, okay.

6 MR. ROACH: I'm back. Sorry about
7 that.

8 MR. BIANCO: Excellent.

9 CHAIRPERSON ANDERSON: Go ahead.

10 MR. BIANCO: All right. So when you
11 go to Empire, how do you generally get there, Mr.
12 Roach?

13 MR. ROACH: Sometimes I Uber, I drive
14 sometimes, and then sometimes I ride with public
15 scooters.

16 MR. BIANCO: Okay.

17 MR. ROACH: The electric ones.

18 MR. BIANCO: And do you have friends
19 that you go to Empire with?

20 MR. ROACH: Yes.

21 MR. BIANCO: And how do they get
22 there?

23 MR. ROACH: Same way sometimes. Most
24 of them probably drive or Uber.

25 MR. BIANCO: Okay. And based on your

1 experience with Empire and the neighboring
2 establishments, do you think that Empire is good
3 or bad for the neighborhood?

4 MR. ROACH: I think it's good. I
5 mean, I don't have a problem with it.

6 MR. BIANCO: Okay. Great. Thank you
7 very much, Mr. Roach. I don't have any
8 additional questions for you but Mr. Stoecklein
9 likely will and the Board will as well. So I'm
10 going to turn you over to them.

11 MR. ROACH: Okay.

12 CHAIRPERSON ANDERSON: Mr. Stoecklein,
13 your witness, sir.

14 MR. STOECKLEIN: Mr. Roach, I'll keep
15 this very short. I appreciate your time. Were
16 you in attendance at Empire at any point this
17 weekend, this last weekend? So June 18th through
18 the 20th.

19 MR. ROACH: Yes.

20 MR. STOECKLEIN: Okay. Can you tell
21 me when you were at Empire?

22 MR. ROACH: Friday and Sunday.

23 MR. STOECKLEIN: Okay. Sorry, if you
24 could just be a little more specific for me
25 because I know that Saturday night turns into

1 Sunday morning, so could you just tell me which
2 hours approximately?

3 MR. ROACH: You said what hours?

4 MR. STOECKLEIN: Yes. Between June
5 19th and June 20th. So Saturday and Sunday of
6 last weekend. Was that the night that you're
7 referring to that you were at Empire?

8 MR. ROACH: Yes.

9 MR. STOECKLEIN: Okay.

10 MR. ROACH: Friday I got there --

11 MR. STOECKLEIN: And --

12 (Simultaneous speaking.)

13 MR. STOECKLEIN: So we'll just cut to
14 the chase.

15 MR. ROACH: Yes, Friday I was there.

16 MR. STOECKLEIN: Okay, thank you. Did
17 you observe between, during the time that you
18 were present at Empire, between June 19th and
19 June 20th, right, so that Saturday into the
20 morning on Sunday, did you observe any kind of
21 altercations inside or outside of Empire?

22 MR. ROACH: No, I didn't.

23 MR. STOECKLEIN: Did you observe a
24 shooting outside of Empire?

25 MR. ROACH: No, I didn't.

1 MR. STOECKLEIN: Are you aware of MPD
2 responding to a shooting outside of Empire at
3 approximately 3:54 a.m. on Sunday morning, June
4 20th?

5 MR. BIANCO: I'm going to object as to
6 relevance. This Witness doesn't have any first-
7 hand knowledge. He's asking about an MPD
8 response, yet has no MPD witnesses.

9 CHAIRPERSON ANDERSON: I'm going to
10 overrule. I'm going to overrule the objection.
11 If he knows, he knows.

12 You asked him if he was there, he said
13 he was there on Friday and Saturday. If he knows
14 about an incident, he can testify. If he doesn't
15 know about it, he can say he doesn't know, we can
16 move on.

17 MR. ROACH: He actually said Sunday at
18 3:54. I was not there at 3:54.

19 CHAIRPERSON ANDERSON: Let's move on.
20 Asked and answered.

21 MR. STOECKLEIN: Thank you, Mr. Roach.
22 I have no further questions.

23 CHAIRPERSON ANDERSON: Thank you. Mr.
24 Roach, since I can't see you I just have one
25 question for you. You talked about, there's a

1 younger and an older crowd that goes to this
2 establishment. So which one of the buckets do
3 you fit in, sir?

4 MR. ROACH: I'm 33 years old, sir.

5 CHAIRPERSON ANDERSON: That still
6 doesn't tell me which one of the buckets or not
7 because I still don't --

8 (Laughter.)

9 MR. ROACH: I mean, I don't --

10 CHAIRPERSON ANDERSON: I'm sorry, sir?

11 MR. ROACH: I mean, I probably fit in
12 both buckets, I guess, because I am around it a
13 lot so I don't consider myself being old, but I
14 be with the older crowd if you go by my age.

15 CHAIRPERSON ANDERSON: All right, sir.
16 Are you employed by Empire Lounge, sir?

17 MR. ROACH: No, I'm not.

18 CHAIRPERSON ANDERSON: Are you related
19 to the owner, sir?

20 MR. ROACH: No, I'm not.

21 CHAIRPERSON ANDERSON: Are you related
22 to anyone who works at this establishment, sir?

23 MR. ROACH: Not at all.

24 CHAIRPERSON ANDERSON: All right,
25 thank you. Any questions by, any other questions

1 by any Board Members?

2 MEMBER SHORT: Yes, Mr. Chairman, I
3 have --

4 CHAIRPERSON ANDERSON: Okay, Mr.
5 Short.

6 MEMBER SHORT: Good afternoon, Mr.
7 Roach.

8 MR. ROACH: Hey.

9 MEMBER SHORT: Good afternoon, Mr.
10 Roach.

11 MR. ROACH: Good afternoon.

12 MEMBER SHORT: Mr. Roach, has the
13 health emergency during the COVID-19 period
14 affected you in at all?

15 MR. ROACH: You mean, has the COVID
16 affected me like, have I ever had COVID or what
17 you mean by that?

18 MEMBER SHORT: Has it altered your
19 lifestyle any?

20 MR. ROACH: Yes.

21 MEMBER SHORT: In which ways? Can you
22 explain your answer?

23 MR. ROACH: It altered my lifestyle
24 drastically because working from home with my
25 kids. Even when I go out, the protocols you've

1 got to follow. Money-wise. Everything.

2 MEMBER SHORT: Okay. Well, let me ask
3 you this question, so how long have you been a
4 regular customer of this establishment?

5 MR. ROACH: For two years.

6 MEMBER SHORT: For two years. So,
7 that was during the period of time during a
8 health emergency, correct?

9 MR. ROACH: Yes. Correct.

10 MEMBER SHORT: When you visited
11 Empire, did you follow the Mayor's directives
12 about mask wearing and all those other issues
13 surrounding the Mayor's order on keeping people
14 safe?

15 MR. ROACH: Yes.

16 MEMBER SHORT: Did you ever observe
17 anyone inside Empire without a mask on?

18 MR. ROACH: Not to my knowledge.

19 MEMBER SHORT: Not to your knowledge.
20 So are you aware that Empire was cited many, many
21 times because when the investigators from ABRA
22 went in they found people without masks, people
23 not practicing the spacing?

24 So during your two years in and out,
25 and you say pretty closely, you've never seen any

1 of that when you were in Empire?

2 MR. ROACH: No.

3 MEMBER SHORT: Were you aware that
4 Empire was cited because of that?

5 MR. ROACH: No, I was not.

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

8 CHAIRPERSON ANDERSON: Thank you, Mr.
9 Short. Mr. Bianco, do you have any follow-up
10 with, any follow-up questions based on the
11 questions that were asked by the Board?

12 MR. BIANCO: No, I don't.

13 CHAIRPERSON ANDERSON: Thank you.

14 Mister --

15 MEMBER GRANDIS: Mr. Chairman, I don't
16 believe you asked if other Board Members had any
17 questions?

18 CHAIRPERSON ANDERSON: Oh, I'm sorry,
19 I thought I did. I apologize, Mr. Grandis. Do
20 you have a question?

21 MEMBER GRANDIS: Yes. I have one
22 question.

23 CHAIRPERSON ANDERSON: What is that,
24 sir?

25 MEMBER GRANDIS: Mr. Roach?

1 MR. ROACH: Yes.

2 MEMBER GRANDIS: I want to thank you
3 for your time today and thank you for your expert
4 testimony. But my one question is, what is your
5 favorite meal there?

6 MR. ROACH: They have a Cajun pasta,
7 chicken pasta, that they have there. That's my
8 favorite meal.

9 MEMBER GRANDIS: Well thank you.
10 Thank you for that. That's all, Mr. Chairman.

11 CHAIRPERSON ANDERSON: All right,
12 thank you, Mr. Grandis. Any other questions by
13 any of the Board Members?

14 And because there was another
15 question, Mr. Bianco, I guess, do you have a
16 follow-up question based on the question that Mr.
17 Grandis asked?

18 MR. BIANCO: No. No, that question
19 really said it all, thanks.

20 (Laughter.)

21 MR. BIANCO: The Applicant rests.

22 CHAIRPERSON ANDERSON: All right,
23 thank you, Mr. Bianco. Mr. Roach, thank you for
24 your testimony, you can either stay on or you're
25 free to go. So that's your call, sir.

1 MR. ROACH: Okay.

2 CHAIRPERSON ANDERSON: All right. Mr.
3 Stoecklein, you have, okay, you have five
4 minutes, you can do an open statement if you so
5 desire. And once you have done your opening
6 statement you have 34 minutes, sir, to present
7 your case. Do you wish to have an opening
8 statement?

9 MR. STOECKLEIN: I will waive the
10 opening statement, Mr. Chairman. And I think
11 that this, I hope this will be pleasing to
12 everyone involved, we have no witnesses to
13 present and we'd be pleased to move on to closing
14 statements.

15 CHAIRPERSON ANDERSON: All right.
16 Well, thank you for that, sir.

17 All right, so, hold on. All right,
18 Mr. Bianco, are you ready for closing or do you
19 want to take a short recess?

20 MR. BIANCO: I think I'm game to try
21 to wing it here, Mr. Anderson. I will take a
22 shot at my closing statement.

23 CHAIRPERSON ANDERSON: All right.
24 Then you have five minutes, sir.

25 MR. BIANCO: Excellent. Mr. Anderson,

1 Members of the Board, the Protestants whole case
2 here is nothing more than the record that has
3 been before you on numerous occasions.

4 Essentially they point to the
5 investigative history and say, look, this place
6 is not good for the neighborhood. But the fact
7 is that the Board has considered these violations
8 in the past and has not taken action beyond the
9 actions stated in the investigative history.

10 This Board has not revoked the establishment's
11 license, although the Board was able to do so in
12 consideration of those violations.

13 What the Protestants are asking you to
14 do here I essentially the same thing that you
15 decided not to do earlier on consideration of the
16 same record. They are asking you to impose the
17 death penalty on this particular restaurant and
18 not renew their license and take this family-
19 owned business, close it, and remove Mr.
20 Nigussie's ability to earn a livelihood at the
21 tail end of the pandemic.

22 My Client, on the other hand, in
23 earnest, has tried to operate his establishment
24 in a manner that not only complies with the law
25 but in cooperation with his neighbors. You heard

1 the testimony here today about the soundproofing
2 he installed, about the moving of speakers, about
3 the expense he went through in changing his audio
4 configuration, changing his cost contractors, the
5 security procedures that he put in place.

6 And something that other
7 establishments sort of length of plague, which is
8 the MPD RDO program. He has voluntarily embraced
9 it. He's not being required to do it by his
10 security plan or his voluntary agreement, he
11 actively went out and organized with his
12 neighbors to make this neighborhood that he
13 operates in more safe.

14 Because at the end of the day, that's
15 what he wants. Having an environment that's
16 unsafe is bad for business. And that is not what
17 he wants.

18 He wants to work cooperatively with
19 his neighbors. He wants to run a good clean
20 business at 9th and U, which is a very
21 challenging environment.

22 You have 69 establishments there.
23 Testimony that you've heard has been consistent
24 throughout. That it is loud, it is rowdy, it is
25 crowded, there is traffic.

1 And as one of 69 establishments,
2 Empire Lounge does not exacerbate that
3 environment in any meaningful way. And you
4 haven't heard any evidence here today from the
5 Protestants to suggest that that is the case.

6 As I noted at the outset, and I think
7 again is worth underscoring here in my closing,
8 is that the ANC is conspicuously absent here.
9 The ANC are the elected officials in charge with
10 the responsibility of safeguarding the
11 neighborhood in the context of ABC licensure.
12 They didn't see fit to protest.

13 Mr. Stoecklein's organization, they're
14 not here. Mr. Stoecklein is here. And
15 evidentially the witnesses, the five or six
16 witnesses he named to come here and testify about
17 the impact on the peace, order and quiet in the
18 neighborhood couldn't be bothered to come.

19 How much do they really care about
20 what this establishment is doing. We have one
21 person fighting this battle against an
22 establishment that is a family-owned business in
23 the neighborhood.

24 We asked that based on the record
25 before you, you find that the establishment meets

1 the appropriateness standard, does not adversely
2 impact the peace, order and quiet of the
3 neighborhood and the license should be renewed
4 without restrictions beyond those set forth in
5 their existing settlement agreement. Thank you
6 very much.

7 CHAIRPERSON ANDERSON: Thank you, Mr.
8 Bianco. Mr. Stoecklein, please. You have five
9 minutes.

10 MR. STOECKLEIN: Mr. Chairman, Members
11 of the Board, I appreciate your time and
12 consideration. I also appreciate your
13 flexibility earlier in the day.

14 A lot of what Mr. Bianco said is not
15 wrong. And I want to be very blunt and very
16 clear about why I'm here, why our association saw
17 fit to continue this all the way through to a
18 protest hearing and why we are appealing to you,
19 yet again, in a very similar way to the way we
20 have appealed to you recently in other
21 proceedings.

22 The testimony that you've heard today
23 establishes an extensive pattern of, and repeated
24 behavior that flouts your authority. It flouts
25 the authority of the Department of Health, it

1 flouts the Mayor's authority.

2 And our question really to all of you
3 who are in a position to stop that is, how much
4 is enough?

5 Now, contrary to Mr. Bianco's
6 suggestion, we're not seeking the death penalty
7 ultimately. What we would be pleased with some
8 kind of resolution that imposes real consequences
9 and that allows our residents, our resident
10 members, to live in proximity to Mr. Nigussie's
11 establishment, to allow Mr. Nigussie's patrons to
12 continue to patronize the establishment and have
13 the Cajun fettuccini and enjoy the old and the
14 young crowd, but to do it without having to beg
15 Mr. Nigussie via text every time their 6-month
16 old is woken up or they hear gunshots outside
17 their door.

18 And simply because we couldn't bring
19 MPD to bear fast enough to flesh out the
20 shooting, or because we couldn't locate the
21 school teacher, mother who moved away, in fact in
22 part because they couldn't find any reprieve from
23 the worsening situation, doesn't mean that these
24 things aren't happening. Right?

25 And the record before you demonstrates

1 that clearly. Ten violations of a settlement
2 order within six months of signing it, that's the
3 period when an establishment ought to be most
4 interested in compliance.

5 This is one of the most cited
6 businesses for COVID violations in the District
7 of Columbia. And a \$1,000 fine isn't going to
8 change their behavior.

9 Mr. Bianco gets \$2,500 just for
10 appearing here for five minutes. That's not a
11 deterrent.

12 So, we, at some point -- you also
13 heard from Mr. Nigussie, knowingly, he knows the
14 District of, the Department of Health's
15 restrictions, the prohibition on hookah, and he
16 knowingly continues to sell it. That's maybe the
17 best evidence of all.

18 Mr. Nigussie pays attention to the
19 laws that work for him, when they work for him,
20 and only if residents that badger and beg him
21 enough to turn the eyes of the authorities so
22 that he has to respond. That's not how this
23 system is set up.

24 The system is setup so that when an
25 applicant is seeking a renewal, the burden is on

1 them to establish why they deserve it. And
2 that's not the situation.

3 So, I'll conclude by saying, we're
4 asking for this Board's help. We're asking for
5 some kind of resolution where if there is
6 repeated continued, repeated continued pattern of
7 disregard for the law, that it has real
8 consequences. That's it. We rest.

9 CHAIRPERSON ANDERSON: Thank you, Mr.
10 Stoecklein, for your presentation today. Thank
11 you, Mr. Bianco, for your presentations.

12 Now, do the parties wish to file
13 proposed findings of facts and conclusion of law
14 or wish to waive that?

15 MR. BIANCO: For the Applicant, I
16 prefer to waive. I will certainly waive if Mr.
17 Stoecklein does.

18 MR. STOECKLEIN: I'm getting married
19 next week so I will gladly waive.

20 MR. BIANCO: Deal.

21 (Laughter.)

22 CHAIRPERSON ANDERSON: Well, I think,
23 Mr. Bianco, you need to say congratulations to
24 Mr. Stoecklein because --

25 (Laughter.)

1 CHAIRPERSON ANDERSON: -- you could
2 have less work for you. I know that as Attorneys
3 we get paid but sometimes we don't necessarily
4 want the extra work.

5 MR. BIANCO: Right.

6 CHAIRPERSON ANDERSON: All right,
7 thank you. I want to thank the parties for that.
8 The record is now closed.

9 All right. The Board will issue a
10 decision, I believe in 90 days.

11 As Chairperson of the Alcoholic
12 Beverage Control Board for the District of
13 Columbia in accordance with DC Official Code
14 Section 2574(b), Office of Open Meetings Act, I
15 move that the ABC Board hold a closed meeting for
16 the propose of seeking legal advice from our
17 Counsel on Case Number 20-PRO-00015, Empire
18 Lounge, pursuant to DC Official Code Section
19 2574(b)(4) of the Open Meetings Act, and
20 deliberating upon Case Number 20-PRO-00015,
21 Empire Lounge, for the reasons cited in DC
22 Official Code Section 2574(b)(13) of the Open
23 Meetings Act.

24 Is there a second?

25 MEMBER CATO: Bobby Cato seconds.

1 CHAIRPERSON ANDERSON: Mr. Cato has
2 seconded the motion. I'll now take a roll call
3 vote on the motion that has been properly
4 seconded by Mr. Cato.

5 Mr. Short?

6 MEMBER SHORT: Mr. Short, I agree.

7 CHAIRPERSON ANDERSON: Mr. Cato?

8 MEMBER CATO: Bobby Cato, I agree.

9 CHAIRPERSON ANDERSON: Ms. Hansen?

10 MEMBER HANSEN: Jeni Hansen, I agree.

11 CHAIRPERSON ANDERSON: Mr. Grandis?

12 MEMBER GRANDIS: Edward Grandis, I
13 agree.

14 CHAIRPERSON ANDERSON: And Mr.
15 Anderson, I agree. It appears that the motion
16 has passed.

17 I hereby give notice that the ABC
18 Board will recess this proceeding to hold a close
19 meeting in the ABC Board conference room pursuant
20 to Section 2574(b), Office of the Open Meetings
21 Act.

22 Again, I would like to thank everybody
23 for their active participation today. And this
24 case is now concluded.

25 I will now close the record

1 officially. So if you give me another minute so
2 I can officially close the record, please.

3 As Chairperson of the Alcoholic
4 Beverage Control Board for the District of
5 Columbia, in accordance with Title 3, Chapter 405
6 Office of Open Government, I move that ABC Board
7 hold a closed meeting on July, I'm sorry, on June
8 30th, I'm sorry, on June 30th, 2021, for the
9 purpose of discussing and hearing reports
10 concerning ongoing or planned investigations of
11 alleged criminal or civil misconduct or
12 violations of law or regulations, and seek legal
13 advice from our legal counsel on the Board's
14 investigative agenda, legal agenda and licensing
15 agenda for June 30th, 2021 as published in the
16 D.C. Register on June 25th, 2021.

17 Is there a second?

18 MEMBER SHORT: Mr. Short, I second.

19 CHAIRPERSON ANDERSON: Mr. Short has
20 seconded the motion. We'll now have a roll call
21 vote on the motion that has been properly
22 seconded by Mr. Short.

23 Mr. Short?

24 MEMBER SHORT: Mr. Short, I agree.

25 CHAIRPERSON ANDERSON: Mr. Cato?

1 MEMBER CATO: Bobby Cato, I agree.

2 CHAIRPERSON ANDERSON: Ms. Hansen?

3 MEMBER HANSEN: Jeni Hansen, I agree.

4 CHAIRPERSON ANDERSON: Mr. Grandis?

5 MEMBER GRANDIS: Edward Grandis, I
6 agree.

7 CHAIRPERSON ANDERSON: And Mr.
8 Anderson, I agree. As it appears that the motion
9 has passed 5-0-0.

10 I hereby give notice that ABC Board
11 will hold this aforementioned closed meeting
12 pursuant to the Open Meetings Act. Notice will
13 also be posted on the ABC Board hearing room
14 bulletin board, placed on electronic calendar in
15 ABRA's website and published in the D.C. Register
16 in as timely manner as practical.

17 We are now adjourned for the day. I
18 would like to thank the Board Members for their
19 active participation today. And I would like to
20 thank the public, for those who have stayed with
21 us all day for this hearing. Thank you for your
22 participation.

23 I now direct the Board Members to move
24 to executive session for further development.
25 Thank you very much and have a great day.

1 MR. BIANCO: Thank you, Mr. Anderson.

2 MR. STOECKLEIN: Thank you.

3 CHAIRPERSON ANDERSON: You're welcome.

4 MR. BIANCO: And congratulations, Mr.
5 Stoecklein, honestly.

6 (Laughter.)

7 CHAIRPERSON ANDERSON: Thanks. All
8 right, bye-bye.

9 MR. BIANCO: Bye.

10 (Whereupon, the above-entitled matter
11 went off the record at 2:34 p.m.)

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This is to certify that the foregoing transcript


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Before: DCABRA

Date: 06-24-21

Place: teleconference

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