

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE AND CANNABIS BOARD
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MEETING

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IN THE MATTER OF: :
 :
Brooklyn on U, LLC :
t/a Brooklyn :
1212 U Street NW :
Retailer CR - ANC 1B :
License No. 111411 :
Case #23-251-00023 :
 :
(Assault with a :
Deadly Weapon) :
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Wednesday
October 4, 2023

The Alcoholic Beverage and Cannabis 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:

- JOSE ORELLANA, DC ABCA Staff
- ALEX HAJE, Licensee
- ANDREW KLINE, Licensee Counsel
- CAMERON MIXON, Licensee Counsel
- RILEY HONG, Captain, DC MPD
- INVESTIGATOR TAVRIL PROUT, DC ABCA

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

2 (10:46 a.m.)

3 CHAIRPERSON ANDERSON: The next case
4 on our calendar is a fact-finding hearing, Case
5 Number 23-251-00023, Brooklyn, License Number
6 111411. Good morning, Mr. Orellana, could you
7 please elevate the rights of the licensee, and
8 the other parties in this case, please?

9 MR. ORELLANA: Captain Riley Hong,
10 your access has been elevated.

11 Investigator Jovan Miller, your access
12 has been -- apologies. Supervisor, Investigator
13 Tavril Prout, your access has been elevated.

14 And I'm not seeing anyone else,
15 Chairman.

16 CHAIRPERSON ANDERSON: I thought that
17 Mr. Kline, I'm --

18 MR. ORELLANA: Okay, I can elevate
19 them.

20 CHAIRPERSON ANDERSON: Yes, I thought
21 he told me that Mr. Kline -- I'm, I'm, well, I'll
22 find out whether or not.

23 MR. ORELLANA: They're not on my list,
24 but I'll elevate them.

25 CHAIRPERSON ANDERSON: All right. I'm

1 just, good morn -- Mr. Kline, just to clarify for
2 you, are you representing Brooklyn?

3 MR. KLINE: We are, and Alex Haje is
4 here as well, with the establishment, and Cameron
5 Mixon from my office is on as well.

6 CHAIRPERSON ANDERSON: All right,
7 okay, fine. All right, hold on a minute, please.

8 MR. HAJE: Hello, yes, I'm present as
9 well.

10 CHAIRPERSON ANDERSON: All right, just
11 hold on a minute. I just want to make sure that
12 I -- Mr. Haje, are you driving, sir?

13 MR. HAJE: I pulled over. I'm not
14 driving.

15 CHAIRPERSON ANDERSON: All right. So,
16 this is a fact-finding hearing on Case Number
17 23-251-00023, Brooklyn. And let me have the
18 parties identify themselves for the record. Let
19 me start with Captain Hong, can you please spell
20 and state your name for the record, please?

21 MR. HONG: My name is Riley Hong, R-I-
22 L-E-Y H-O-N-G.

23 CHAIRPERSON ANDERSON: Good morning,
24 sir.

25 MR. HONG: Good morning.

1 CHAIRPERSON ANDERSON: Mr. Prout.

2 MR. PROUT: ABRA Investigator Tavrill
3 Prout, T-A-V-R-I-L P-R-O-U-T.

4 CHAIRPERSON ANDERSON: And Mr. Kline.

5 MR. KLINE: Yes, good morning,
6 Chairman Anderson, Members of the Board. Andrew
7 Kline, A-N-D-R-E-W K-L-I-N-E on behalf of the
8 licensee.

9 CHAIRPERSON ANDERSON: Mr. Mixon.

10 MR. MIXON: Good morning, Cameron
11 Mixon, C-A-M-E-R-O-N M-I-X-O-N, also on behalf
12 of the licensee.

13 CHAIRPERSON ANDERSON: Mr. Haje, can
14 you please spell and state your name for the
15 record, please?

16 MR. HAJE: Yes, sir. it's Alex Haje,
17 A-L-E-X H-A-J-E, representing for the business.

18 CHAIRPERSON ANDERSON: This is a fact-
19 finding hearing -- hold on a moment. A request
20 was made to our agency, to the Board to have a
21 fact-finding hearing on an incident that occurred
22 at this establishment on August the 2nd, August
23 7th, 2023. Where a simple assault occurred, and
24 a request was made to the ABC Board by the
25 interim Chief of Police, to have a fact-finding

1 hearing.

2 Just to let the parties know, a fact-
3 finding hearing is that the Board is just
4 gathering information. The Board has not made
5 any determination whether or not it -- whether or
6 not any type of infraction happened.

7 Mr., all right, Mr. Haje, it wasn't --
8 I see your camera moving. So, maybe --

9 (Simultaneous speaking.)

10 MR. HAJE: I've stabilized it. I've
11 stabilized it. I apologize for any
12 inconvenience.

13 CHAIRPERSON ANDERSON: And the reason
14 I'm saying that, because if you are driving.
15 It's, that's a no-no.

16 MR. HAJE: I'm not. No, I'm not, not
17 at all. I'm pulled over, sir.

18 CHAIRPERSON ANDERSON: Okay. Thank
19 you.

20 Okay. All right. So, the Board has
21 not made any determination about whether or not
22 we believe an act of violation has occurred. So,
23 as stated before, we're gathering facts.

24 At the end of this hearing, these are
25 decisions that the Board can make. The Board can

1 determine that there are no further, we'll take
2 no further action in this case. Or if the Board
3 believes that a potential violation occurred,
4 then the Board will refer this case over to the
5 Office of the Attorney General for them to make a
6 determination.

7 Again, this is a fact-finding hearing.
8 It's informal. No witnesses are being sworn.
9 During a fact-finding hearing the Board cannot
10 order the party to take any specific action. The
11 party, however, can volunteer to take certain
12 actions if they believe that they would want to
13 take those actions.

14 The agreement or refusal of the party
15 to take any specific action will not reflect, at
16 least in my view, will not reflect negatively on
17 the establishment. Because as I stated, for us
18 it's a fact-finding hearing and we're gathering
19 facts. And so, we're just trying to figure out
20 what the next step is.

21 So, since this is a request, that was
22 made by the Chief of Police, let me have Captain
23 Hong, Captain, or Sergeant, Captain?

24 CAPTAIN HONG: Yes, Captain.

25 CHAIRPERSON ANDERSON: I'll have

1 Captain Hong, can tell us, what occurred and why
2 is it that the Chief of Police believes that we
3 should have had -- we should have a fact-finding
4 hearing to further discuss this matter?

5 CAPTAIN HONG: Sure. Thank you for
6 this time. This all initiated because MPD
7 responded for sounds of gunshots, or shots.
8 Other technology detected four rounds. And when
9 we responded to the area of 1900 block and 13th
10 Street, we located one of the -- victim with a
11 gunshot wound to the foot, several parked
12 vehicles that were shot.

13 And further investigation showed that
14 the apparent targets of the gunshots, had been
15 involved in a physical altercation moments
16 before, inside of the second floor of Brooklyn on
17 U. That initiated that correlation with an ABCA
18 establishment. Initiated the request for the
19 investigator from that club. And initiated the
20 fact-finding hearing.

21 The initial information on the letter,
22 said that there is no evidence that establishment
23 security guards ever notified MPD of the
24 altercation, which is the initial simple assault
25 that occurred on the second floor.

1 And the purpose, at the end of it all,
2 is just to ensure that the ownership is employing
3 all available measures to protect the safety of
4 the patrons. And to my knowledge, it appears
5 there's no security plan. It may not be required
6 of the establishment. So, it's just a fact-
7 finding hearing because of what occurred.

8 And maybe going forward, we can find
9 some solutions that will improve the safety for
10 everyone.

11 CHAIRPERSON ANDERSON: Captain Hong,
12 was the establishment cooperative with MPD
13 throughout their investigation?

14 CAPTAIN HONG: From what I gathered,
15 yes. They were able to provide video footage, on
16 scene, to the investigators, which greatly
17 assisted with finding out what exactly happened
18 minutes before.

19 CHAIRPERSON ANDERSON: Has the weapon
20 been recovered?

21 CAPTAIN HONG: No. I believe there
22 was one stop, and one parked vehicle where a K-9
23 was requested. The K-9 did detect on the
24 vehicle, but when the search was conducted, no
25 weapon was located.

1 CHAIRPERSON ANDERSON: And also, based
2 on the review of the camera, you said that they
3 provided video. Was MPD able to make any
4 determination whether or not, the weapon was
5 inside the establishment at any point?

6 CAPTAIN HONG: From my knowledge, we
7 do not have information that the weapon was
8 inside. It appears that we were able to use the
9 video to determine that the targeted victims of
10 the incident, were outside, and inside
11 previously. So, it's very likely that the other
12 party that was inside of the original physical
13 assault are involved.

14 However, as far as whether the weapon
15 was inside, or it was obtained outside, after the
16 fact, that we don't have information.

17 CHAIRPERSON ANDERSON: All right,
18 thank you, sir. Any questions by any Board
19 Members of the Captain? Yes, Mr. Short.

20 MEMBER SHORT: Mr. Hong, we thank you
21 for your service, sir. And you stated earlier in
22 your testimony that there was no security plan.
23 Is that correct?

24 CAPTAIN HONG: Yes, from reviewing the
25 report that ABCA was able to share with me, I did

1 observe that there's no -- there's an agreement
2 but no security plan.

3 MEMBER SHORT: Do they --

4 CAPTAIN HONG: I had -- yes.

5 MEMBER SHORT: Are you aware that this
6 is a licensee, license for a CR, which is a
7 restaurant?

8 CAPTAIN HONG: I believe so, and I
9 know that in the past, restaurants do not require
10 a security plan. If I'm correct.

11 MEMBER SHORT: So, what time of
12 morning did this shooting occur, or the assault
13 occur?

14 CAPTAIN HONG: The assault appears to
15 have occurred a little after midnight, around
16 12:15. And the shooting occurred about three
17 minutes after that.

18 MEMBER SHORT: What time did you get
19 on the scene, or did you go to the scene?

20 CAPTAIN HONG: Oh, I wasn't working
21 that night.

22 MEMBER SHORT: Do you know what time
23 the officers went to the scene?

24 CAPTAIN HONG: That I would have to
25 reference, but since everything happened within

1 the same amount of time, and we had a shots fired
2 detection. Shots fired detections would be
3 pretty instant. I would say within one minute.

4 MEMBER SHORT: Okay. And so, since
5 this is a restaurant, apparently, they weren't
6 serving food when this melee broke out on the
7 second floor, and then someone was shot outside.
8 But besides the security plan, are there any
9 other recommendations you would make?

10 Apparently, you know this area quite well, and
11 you know the, you're familiar with U Street.

12 CAPTAIN HONG: Um --

13 MEMBER SHORT: Since you've testified
14 before us before. Are there any recommendations
15 that MPD would recommend at this fact finding,
16 that will make this restaurant a little safer for
17 the community?

18 CAPTAIN HONG: Yes, I believe a
19 security plan is a good beginning. We've had
20 other restaurants which have also had similar gun
21 violence, where it was found that the shooter, at
22 some point, was inside the restaurant. They had
23 a restaurant license.

24 The owner of that restaurant, I
25 believe had already had a security plan just

1 because they had that experience running their
2 ABCA establishments with other types of licenses.
3 I think a security plan just outlines to the
4 staff, when certain things occur, what should be
5 the policy.

6 What should be the actions. And if
7 it's written out, then it's more clear for the
8 staff and new employees. It becomes a lot more
9 certain what should be done, what's required,
10 what's the safe thing to do.

11 MEMBER SHORT: Okay. And thank you.
12 You did testify earlier that you got footage from
13 cameras from within, inside of the restaurant?

14 CAPTAIN HONG: Yes.

15 MEMBER SHORT: Was the quality pretty
16 good, or was it helpful to the investigation?

17 CAPTAIN HONG: I myself have not seen
18 the footage. I believe Investigator Tavril, may
19 have more first-hand observations of that.

20 MEMBER SHORT: Again, thank you for
21 service, and thank you for taking time to be here
22 this morning to testify. It means a lot when you
23 see a Captain, here, before the Board,
24 testifying. Thank you, sir.

25 CAPTAIN HONG: Thank you.

1 MEMBER SHORT: That's all I have Mr.
2 Chair.

3 CHAIRPERSON ANDERSON: All right,
4 thank you. Any other questions by any other
5 Board Members?

6 MEMBER GRANDIS: Mr. Chairman.

7 CHAIRPERSON ANDERSON: Yes, Mr.
8 Grandis.

9 MEMBER GRANDIS: Thank you.

10 Captain, again, as we all say, we
11 thank you for taking the time of your schedule to
12 be here to give us direct testimony. I'm looking
13 at the letter from the Acting Chief. I think you
14 referred to that letter at some point, in your
15 testimony.

16 CAPTAIN HONG: Yes.

17 MEMBER GRANDIS: I think I heard you
18 state that the shooter was someone who had been
19 inside. But I don't see that in the letter. Am
20 I missing something in that letter?

21 CAPTAIN HONG: Oh, I'm sorry. Could
22 you repeat that just one more time?

23 MEMBER GRANDIS: Yeah. I think, if I
24 heard you correctly, you stated that the shooter
25 was someone who had previously been in the

1 establishment, or maybe involved with the
2 altercation inside. I don't see that in the
3 letter from MPD. Am I missing that?

4 CAPTAIN HONG: Oh, no. So, I had
5 stated that we saw, from the video footage, we
6 were able to confirm that the apparent intended
7 targets of the shooting, had been involved in the
8 fight inside on the second floor.

9 So, the probability that the shooters
10 may be part of that group that fought the
11 intended targets, is likely. However, we don't
12 have evidence to confirm that.

13 MEMBER GRANDIS: I don't know if we
14 can work with probability, sir. I mean this is a
15 very serious incident. I'm not trying to
16 diminish that. I think that we all are horrified
17 with the gun violence that's occurring in the
18 city. And, you know, I'm like, but once again
19 I'm looking at the facts, and the facts don't
20 state that the shooter was someone who had been
21 inside.

22 CHAIRPERSON ANDERSON: Mr. Grandis,
23 let me, I wanted folks to ask the Captain,
24 because I'm not sure if he has some time
25 constraints. But I think that maybe if the

1 investigator testified, then maybe the
2 investigator can give us a better picture --

3 MEMBER GRANDIS: Thank you, I'll move
4 on, I'll move onto that. Thank you, I appreciate
5 that. And Captain I'm not going after your
6 veracity. I believe everything you said.

7 If, the shooting had not occurred,
8 would MPD have been involved with this matter?
9 Because there was an altercation inside, but I'm
10 just trying to distinguish the altercation
11 inside, which is very likely a concern of
12 violations of policies of ABCA. But if the
13 shooting had not occurred, do you have any
14 information on if the MPD would have been
15 involved with this?

16 If I understand again, you don't,
17 because information that MPD was not notified by
18 the establishment of the altercation.

19 CAPTAIN HONG: Yes, so, if the
20 shooting had not occurred, and it was just a
21 matter of the physical fight inside, it depends
22 on what exactly happened. And at that point, it
23 would be on the staff in the establishment, their
24 security plan. Whether it's something that they
25 notify the police.

1 If they determine that a crime has
2 occurred, then they do have an obligation to call
3 911 and make notification. If it's a physical
4 scuffle, but it hasn't gotten to the point of an
5 assault. They're just kind of getting into each
6 other's faces. And security is able to separate
7 them.

8 I know in other security plans, of
9 other establishments, such as the restaurant that
10 doesn't require one, their security plan says, in
11 a disorderly confrontation between parties,
12 security will separate and have them escorted out
13 in different exits. Just like what appears to
14 have happened here. But if it's laid out in a
15 security plan, then it makes it more clear to
16 everyone.

17 MEMBER GRANDIS: So, from what we have
18 been provided as information regarding that
19 evening, MPD got involved because they were able
20 to discern that shots had been fired. They
21 responded to the shots being fired.

22 CAPTAIN HONG: Yes, we investigated
23 the shots. And then our investigation led us to
24 find out that it was related to a physical
25 altercation that happened inside earlier.

1 MEMBER GRANDIS: Thank you, and
2 Captain, I once again I want to thank you for the
3 valuable time you've given us. Thank you, and
4 Mr. Chairman, thank you for that opportunity.

5 CHAIRPERSON ANDERSON: All right.
6 Thank you. Captain, can you hold on a minute, or
7 do you have some time constraints?

8 CAPTAIN HONG: I could probably stick
9 around for five minutes, if that's enough.

10 CHAIRPERSON ANDERSON: All right. Mr.
11 Kline, I wanted to have the investigator, but
12 since the Captain has some time constraints, do
13 you have any questions, Mr. Kline?

14 MR. KLINE: Yes, I do. Thank you, Mr.
15 Chairman. Captain Hong, thank you for being
16 here, and thank you for your service to the
17 District. You've read the investigative report.
18 Is that correct, the ABCA, sorry, investigative
19 report?

20 CAPTAIN HONG: Yes, just before the
21 hearing, actually.

22 MR. KLINE: Okay. So, you're aware
23 that when the altercation took place upstairs,
24 that the establishment let the -- separated the
25 parties that were involved, let them out at

1 different times and through different exits?

2 CAPTAIN HONG: Yes.

3 MR. KLINE: And that's kind of
4 textbook in terms of dealing with a situation
5 like this, isn't it?

6 CAPTAIN HONG: Yes, it depends if the
7 staff felt that no crime occurred. And it was
8 physically a situation where they should separate
9 the parties, that would be fine.

10 MR. KLINE: Well, let's talk about
11 that for a minute. Because that's a little bit
12 troubling. Isn't an assault, any unpermitted
13 touching of another person? Isn't that the
14 definition of an assault?

15 CAPTAIN HONG: If one party does that.
16 This person touched me, or swung at me, spit in
17 my direction and it was not permitted, they
18 didn't want it, yes. If we have two individuals
19 on private property, that are mutually fighting
20 each other, they could both be charged, or it
21 could be treated as a disorderly fray, inside
22 private property.

23 And at that point, the security could
24 make some determination. But if they determine
25 that a crime occurred, then they should call 911.

1 MR. KLINE: So, in almost any
2 situation, where there's an altercation between
3 two people, as happens on any Friday or Saturday
4 night in establishments across the city, it's
5 likely that a crime occurred, correct?

6 CAPTAIN HONG: It could be determined
7 that a crime occurred. But it it's mutual
8 fighting in private property, and there's no
9 injuries, they're not trying to press charges
10 against each other, then it could be considered
11 disorderly. The staff could have them separated
12 and exit the premise.

13 MR. KLINE: So, I just want to be
14 clear. You don't expect MPD to be called, every
15 time there's an unpermitted touching of another
16 person in an ABC licensed establishment.
17 Correct?

18 CAPTAIN HONG: Yes, not in every
19 situation.

20 MR. KLINE: Okay. All right. And in
21 terms of the way this was handled, this was
22 handled properly. Correct, from what you know?

23 CAPTAIN HONG: Yes, as I think --
24 (Simultaneous speaking.)

25 CAPTAIN HONG: I think the way that it

1 was handled, it sounds proper. If a security
2 plan could outline that procedure that the staff
3 is to use, it will make it clearer, the guidance.
4 Because on scene, it seems that they couldn't
5 determine if the lack of notification and the
6 actions by the staff and security was
7 appropriate.

8 MR. KLINE: Okay, so I want to --

9 CHAIRPERSON ANDERSON: Mr. Kline, I'm
10 sorry to interrupt, sir. What I'm going to ask
11 you to do, we're having feedback. So, when
12 you're not speaking, please mute your line. So,
13 when you ask the Captain a question, after you're
14 done, please mute your line and mic. I'm doing
15 the same thing too, because I'm hearing a
16 feedback also. So, I'm also muting my line,
17 okay. I apologize. All right.

18 MR. KLINE: Thank you. Captain, and
19 let me be clear to the Board, that this
20 establishment is going to do a security plan.
21 So, that's not an issue at this point. We've
22 already talked about it and we'll move forward
23 with that.

24 But I'm just sort of curious, what is
25 it that would have been in the security plan, in

1 this situation, that would have improved the
2 licensee's response here? I mean, didn't they do
3 everything that they were supposed to do and
4 whether it's written in the security plan or not?
5 They acted appropriately.

6 CAPTAIN HONG: So, a security plan
7 just like the agreement, if it's made available
8 on scene, of any investigation, it would help the
9 on-scene investigation, the detectives. What is
10 the expectation of the staff that ABCA has
11 already reviewed and approved?

12 And so, it would just make it a lot
13 more clear, that that is the procedure. There
14 was nothing incorrect about what they did. And
15 the rest of the investigation can go forward.

16 Without the security plan, without the
17 on-scene staff, it appears that the director of
18 the security did not know about the assault that
19 occurred on the second floor. The only people
20 that worked, that was on the second floor, that
21 was aware, they had already left for the night.

22 A lot of those kind of situations
23 could be clarified. Even if those staff wasn't
24 present at the time, having the security plan,
25 and hearing that initial action that was taken,

1 it would allow the on-scene investigators to
2 know. There doesn't seem to be anything
3 questionable as far as the actions that the staff
4 took.

5 MR. KLINE: All right. Thank you.
6 Just one more question. So, I mean you talk
7 about expectations. The expectation is that the
8 establishment is going to properly respond to an
9 incident that occurs within their establishment.
10 Isn't that the expectation?

11 CAPTAIN HONG: Yes, definitely. The
12 minimal expectation is that there is no
13 violations of any policy. And I don't see that
14 there is any violations in this situation.

15 The, I guess, what I'm trying to
16 convey, is if the purpose of the fact-finding is
17 to find out what happened, and is there a way
18 that we could go forward, that may help prevent,
19 or create a safer environment, a better response
20 and coordination with law enforcement, that's
21 kind of what I'm looking for. Then I think a
22 security, as you've said, you guys are planning
23 on doing, it would help in that effort.

24 MR. KLINE: I don't mean to belabor
25 it, but you say a better response and

1 coordination with law enforcement, how was it
2 deficient in any way, in this case?

3 CAPTAIN HONG: Yes, so in this
4 situation, looking at the report that I have
5 here, which was not available on scene that
6 evening, I would be honest and say, I don't
7 believe any violations, any -- there was any
8 shortcoming.

9 Now, going forward, would I say that
10 having a security plan that clearly outlines
11 expectations of security and staff that work at
12 the establishment, would that be helpful and
13 beneficial, going forward? I would say, yes.
14 That would be, move towards a safer environment.

15 MR. KLINE: I have no further
16 questions. Thank you, Mr. Chair.

17 CHAIRPERSON ANDERSON: That's why I
18 don't like to mute myself. I always forget to
19 unmute myself. All right. So, before I excuse
20 the Captain, anyone have last questions for the
21 Captain, before I release him? Be short, Mr.
22 Short. Yes, Mr. Short, go ahead.

23 MEMBER SHORT: Captain Hong, and I
24 won't belabor this long. But isn't there a new
25 law in the District of Columbia about security

1 personnel being trained and registered with the
2 Metropolitan Police Department?

3 CAPTAIN HONG: That I would have to
4 look into and get back to you on.

5 MEMBER SHORT: Okay. Not a problem.
6 Secondly, if they had well-trained persons, such
7 as those who go through the registration with the
8 Metropolitan Police Department, do you think that
9 makes restaurant's a lot safer than persons
10 who've never been trained, or have security
11 responsibilities, but don't know how to carry out
12 all those responsibilities?

13 CAPTAIN HONG: Oh, definitely. I
14 guess it applies to everything. But the training
15 for local regulations, the expectations, it goes
16 a long way with staff. And especially we have
17 certain, you know, situations where the security
18 personnel at some establishments may go beyond
19 their scope of security. And then we get
20 involved because of allegations of assault, by
21 security staff. So, training would alleviate a
22 lot of those situations.

23 MEMBER SHORT: Thank you very much,
24 Captain. And that's all I have, Mr. Chair.

25 CHAIRPERSON ANDERSON: All right.

1 MR. HAJE: If you don't mind, sir.
2 Could I jump in for just one second?

3 CHAIRPERSON ANDERSON: No, sir. Your
4 attorney has to tell me that you can jump in,
5 sir. For your own protection.

6 MR. HAJE: Okay.

7 CHAIRPERSON ANDERSON: So, if you and
8 Mr. Kline can, you know. So, if Mr. Kline --

9 MR. HAJE: It's okay. No need, I'll
10 defer. That's okay, no problem.

11 CHAIRPERSON ANDERSON: Sir, you have
12 an attorney who is speaking for you. And so,
13 therefore, your attorney -- as an attorney,
14 myself, I try to protect my clients, sometimes
15 from themselves. So, that's why I say -- I'm not
16 telling you, you can't speak.

17 MR. HAJE: I understand. I was just
18 going to point to the fact of police presence on
19 U Street. But it's okay, it's fine.

20 CHAIRPERSON ANDERSON: All right.
21 Captain Hong, thank you very much for your
22 presence today. If you have to leave you can
23 leave. If not, you can stay on to listen, sir.
24 Okay. Thank you very much. Bye, thanks.

25 Mr. Prout.

1 MR. PROUT: Yes, Mr. Chairperson.

2 CHAIRPERSON ANDERSON: All right, sir.
3 How did you become aware of this incident? And
4 just tell us, how did you become aware? And what
5 is it that you were able to find out?

6 MR. PROUT: Yes. So, on the night of
7 Monday 7, 2023, Supervisory Investigator Earl
8 Jones received a call to the ABCA hotline,
9 requesting ABCA assistance on scene at Brooklyn
10 on U. From there, myself and ABCA Investigator
11 Middleton arrived on scene at approximately 1:08.
12 And we met with Sergeant Vernick.

13 Sergeant Vernick advised that a
14 shooting had transpired at approximately 12:18
15 a.m., at 13th, at the intersection of 13 and U
16 Street. And that the shooting was a spill-out
17 from a fight that had transpired on the second
18 floor of Brooklyn on U, minutes prior to the
19 shooting.

20 Upon arrival to the establishment, I
21 made contact with security personnel, Mr. Cedric
22 Basima, in which he escorted me to meet with ABC
23 manager Ms. Patima. From there, I met with on-
24 scene MPD. The fact is, we were allowed to
25 review security footage of the fight that

1 occurred on the second floor of the establishment
2 at approximately 12:10 a.m.

3 From what I saw on the camera footage,
4 there were two groups of people. According to
5 the fact-finding request from Metropolitan Police
6 Department, it states that one male patron bumped
7 into the other male patron, which caused the
8 scuffle on the second floor of the establishment.

9 However, from reviewing the camera
10 footage, it seemed as though one male from one
11 group, was talking to a female in the second
12 group. From there, a physical assault happened
13 where the one male patron, punched the other male
14 patron in the face.

15 At approximately 12:11 a.m., security
16 personnel broke up the two groups and escorted
17 the first group out of the front entrance of the
18 establishment. And then at approximately (audio
19 interference).

20 CHAIRPERSON ANDERSON: Mr. Prout. Mr.
21 Prout. Mr. Prout, I can't hear you, Mr. Prout.

22 MR. PROUT: -- and received --

23 CHAIRPERSON ANDERSON: Mr. Prout, hold
24 on.

25 MR. PROUT: Yes, sir.

1 CHAIRPERSON ANDERSON: We lost camera,
2 and we lost you.

3 MR. PROUT: Okay.

4 CHAIRPERSON ANDERSON: So, you were
5 saying, so I need you to back up maybe two
6 minutes.

7 MR. PROUT: Okay. So, going back to
8 the camera footage. At approximately 12:10 a.m.,
9 a physical altercation occurred between two
10 groups. The MPD fact-finding request, alleged
11 that one male patron bumped into another male
12 patron, and which caused the simple assault to
13 occur on the second floor of the establishment.

14 However, from reviewing the security
15 footage, it seemed as though one male patron was
16 talking to the female from the second group, and
17 which caused the physical assault to transpire
18 between two male patrons from two opposing
19 groups. At approximately 12:11 a.m., security
20 personnel broke up the fight.

21 The first group was escorted down the
22 front staircase, out of the front of the
23 establishment at 12:11 a.m. At approximately
24 12:12 or 12:13 a.m., the second group was
25 escorted out of the rear of the establishment

1 into the alleyway of Brooklyn on U.

2 From there, at approximately 12:17
3 a.m., the photographer who was seen taking
4 pictures at approximately 12:10, is seen exiting
5 from out of the establishment. From there, he
6 was heading in the direction of 13, at the
7 intersection of 13th and U Street.

8 At approximately 12:18, there are two
9 security personnel that are seen ducking down due
10 to what it seems to be sounds of gunfire, in
11 which a shooting occurred in the direction of
12 13th and U Streets.

13 And then from there, according to the
14 police reports, a male victim was found shot at
15 12:21 a.m., by Metropolitan Police Department.

16 CHAIRPERSON ANDERSON: So, Mr. Prout.
17 I'm, what's the photographer? Was he involved in
18 the altercation? I mean was there any camera
19 incident to say that the photographer himself was
20 involved in the altercation?

21 MR. PROUT: So, from all of the review
22 of the camera footage, the photographer had no
23 interaction with either of the parties. There
24 were pictures taken by the photographer of
25 different patrons. But in no way was the

1 photographer in the scuffle or in the fight on
2 the second floor, based on all of the camera
3 footage that was reviewed by myself.

4 CHAIRPERSON ANDERSON: In your
5 investigation, was the licensee compliant with
6 your request for documents and video?

7 MR. PROUT: Yes. I was able to access
8 the camera footage on the night of the shooting.
9 And I was able, there was an ABC manager on duty.
10 They did fulfill the obligations that are
11 outlined in the settlement agreement. And the
12 security staff, there were approximately three
13 staff members that weren't on scene, by the time
14 I had arrived.

15 However, based on the review of the
16 camera footage, the security staff did an awesome
17 job, in being able to respond within 60 seconds
18 of the fight occurring on the second floor of the
19 establishment. As well as, they did a good job
20 in separating both of the groups and escorting
21 each group at different times, out of two
22 separate stairwells.

23 CHAIRPERSON ANDERSON: As a result of
24 your investigation, did you notice any ABCA
25 violation?

1 MR. PROUT: No. There were no ABCA
2 violations I observed, by myself, Mr.
3 Chairperson.

4 CHAIRPERSON ANDERSON: Thank you.
5 Let's see. I want to make sure that -- are you
6 able to ascertain from any camera angles that you
7 received, how is it that the -- how is it that
8 the photographer got shot? Was it just that he
9 was just an innocent bystander, or based on
10 whatever security camera that you observed, was
11 there more to it than that?

12 MR. PROUT: So, the two cameras that
13 are on the exterior of the establishment, only
14 span to the immediate front sidewalk of the
15 establishment. So, the shooting happened outside
16 of the span of the exterior camera of the
17 establishment. However, I do believe that he may
18 have been an innocent bystander.

19 I can see on the footage that both
20 groups walked in the same direction of 13th and U
21 Street, but within a five minute time span. So,
22 I do believe he may have not been the target of
23 the shooting.

24 However, nonetheless he was a victim
25 of gun violence on the night of the shooting, as

1 well as the fight that occurred, approximately
2 eight minutes to the shooting occurring at 12:18
3 a.m.

4 CHAIRPERSON ANDERSON: All right.
5 Thank you, sir. All right, any other questions
6 by any Board Members?

7 Mr. Kline, do you wish to ask any
8 questions of the investigator?

9 MR. KLINE: Just a couple. Good
10 morning, Investigator. Is there any actual
11 evidence that ties the incident on the second
12 floor, to the shooting? Because I don't see
13 anything in the report. I haven't heard any
14 testimony. I mean, it seems, circumstantially
15 it's possible. But is there any actual evidence
16 that we know, that this shooting is related to
17 the incident that occurred on the second floor?

18 MR. PROUT: What I do know is that a
19 physical assault occurred on the second floor of
20 the establishment.

21 CHAIRPERSON ANDERSON: Hold on Mr.
22 Prout. Mr. Prout, Mr. Kline -- okay, go ahead.
23 Go ahead, Mr. Prout since Mr. Kline has muted his
24 line, go ahead.

25 MR. PROUT: So, what I do know is that

1 a physical assault occurred on the second floor
2 of the establishment. There were two groups.
3 They were escorted at different times, out of the
4 establishment.

5 There's one group that was escorted
6 out of the front of the establishment, they were
7 seen walking in the direction of 12th and U
8 Street, and then they turned around, and walking
9 toward the direction of 13th and U Street.

10 Approximately around 12:13/12:14, the second
11 group is, exits out of the rear of the
12 establishment.

13 The, they are seen. They exit out of
14 the rear through the alleyway. They come back
15 around to the -- and walk in front of the
16 establishment, and they walk in the direction of
17 13th and U. At approximately 12:17 a.m., the
18 photographer leaves out of the establishment, and
19 exits in the direction of 13th and U.

20 So, I can say that circumstantially,
21 that the shooting -- there's a high propensity
22 that the shooting may be tied to the physical
23 assault that occurred on the second floor of the
24 establishment.

25 I say that because, the -- one of the

1 male patrons that was a part of the second group
2 that exited out of the rear of the establishment
3 comes back on, after the shooting. And he looks
4 to have dropped something in front of the
5 establishment, after, like based on the quality
6 of the camera footage, I'm not able to ascertain
7 exactly what he actually dropped.

8 But I can say that circumstantially,
9 I do believe that there is a nexus between the
10 physical assault that occurred on the second
11 floor and the shooting that occurred at
12 approximately 12:18 on, at the intersection of
13 13th and U.

14 However, I'm not able to definitely
15 state that the suspect was one of the patrons
16 that was ejected from the establishment. But I
17 do know that the photographer was a bystander and
18 a victim of the shooting that occurred 60 seconds
19 after he exited the establishment at 12:17 a.m.

20 MR. KLINE: Where was, the
21 photographer was a good half a block away or more
22 from the establishment, when he was struck.

23 Correct?

24 MR. PROUT: Yes, sir.

25 MR. KLINE: Okay. And I wanted to

1 clarify that, as to, just to make sure that we're
2 clear that the establishment's camera coverage
3 from the front of the establishment, is not the
4 reason that it was not captured. It was down the
5 block. Right?

6 MR. PROUT: Yes, sir. Yes, sir.

7 MR. KLINE: All right. Now, you said
8 that they, I'm paraphrasing -- that security
9 staff in the establishment responded
10 appropriately with respect to the incident on the
11 second floor. Correct?

12 MR. PROUT: Yes, sir. Yes, sir.

13 MR. KLINE: All right. And there's
14 nothing that might be contained in the security
15 plan that would improve their response, is there?

16 MR. PROUT: No, however I do believe
17 that due to the restaurant operating as a
18 nightclub at certain times of the day, and on
19 certain days of the week, I do feel as though a
20 security plan that can, outline the number of
21 actual staff, the number of security staff that
22 the establishment will have on duty at any given
23 time, as well as complete instructions on how the
24 establishment will handle different crimes and or
25 incidents that may happen within the

1 establishment, as well as within a 1200 foot
2 radius of the establishment, as well as the
3 number of cameras that are in the establishment
4 that are supposed to record for 30 days, and
5 different metric of that nature.

6 So, I do believe that a security plan
7 would be of assistance for all parties moving
8 forward, Mr. Kline.

9 MR. KLINE: Thank you. I have no
10 further questions. Thank you, investigator.

11 MEMBER GRANDIS: Mr. Chairman, I have
12 some questions to follow up on the attorney's
13 questions.

14 CHAIRPERSON ANDERSON: Mr. Short, and
15 then you, Mr. Kline -- and then, I'm sorry,
16 Grandis. Mr. Short had his hand up. Go ahead,
17 Mr. Short.

18 MEMBER SHORT: Thank you, Mr. Chair.
19 Investigator Prout, it looks like you did a very
20 good job on this report. And thank you for that.

21 MR. PROUT: Thanks, sir.

22 MEMBER SHORT: We kind of lost you
23 again, you -- Mr. Prout.

24 CHAIRPERSON ANDERSON: Mr. Prout, are
25 you there?

1 MR. PROUT: I'm still here. I'm still
2 here.

3 CHAIRPERSON ANDERSON: We can't see
4 you, that's why, you lost camera.

5 MR. PROUT: Okay.

6 MEMBER SHORT: I would like to ask Mr.
7 Chair, if it's okay, that Mr. Prout share, if he
8 has that video of the fight on the second floor
9 of the restaurant?

10 MR. PROUT: Yes, I can share that.

11 CHAIRPERSON ANDERSON: All right, Mr.
12 Orellana, please give Mr. Prout the opportunity
13 to share his video.

14 MR. PROUT: Okay, can you guys see?

15 CHAIRPERSON ANDERSON: We see that
16 you're sharing your screen, but there is no
17 content for us.

18 MR. PROUT: So, this is the area right
19 here.

20 CHAIRPERSON ANDERSON: No, the video
21 is not playing. You're sharing your screen --

22 MR. PROUT: It's not playing?

23 CHAIRPERSON ANDERSON: No, but there's
24 no video. It just says that you'll start to
25 share. Okay, now it is, go ahead.

1 (Video plays.)

2 MR. PROUT: Okay. Let me go back.

3 (Video plays.)

4 MR. PROUT: Can you see it playing
5 now?

6 CHAIRPERSON ANDERSON: Yes.

7 MEMBER SHORT: We can see it now.

8 CHAIRPERSON ANDERSON: Why don't you
9 explain to us, what we're seeing, sir?

10 MR. PROUT: Okay, so, on the second
11 floor, you see a -- you see a fight transpire in
12 this area, where that cursor is at this time.

13 (Video plays.)

14 MR. PROUT: See right here. Let's go
15 back. So, the male victim is, the male is
16 talking to this female right here. It's based
17 off of that. There's the action. You see he
18 pushes him, and then the fight happens.

19 (Video plays.)

20 MR. PROUT: Security staff is, with
21 the beard, is pushing and is separating both
22 parties at this time.

23 CHAIRPERSON ANDERSON: Who is
24 security, Mr. Prout? Who is security?

25 MR. PROUT: This guy right here with

1 the beard.

2 CHAIRPERSON ANDERSON: How do you know
3 he's security?

4 MR. PROUT: So, let's go back.

5 (Video plays.)

6 MR. PROUT: So, going to additional
7 footage, it'll show him escorting them out of the
8 establishment.

9 CHAIRPERSON ANDERSON: No, the reason
10 I'm asking. Is it, does he have any marked
11 clothes that said he's security, that's what I
12 was asking you, how did you know that he was
13 security?

14 MR. PROUT: No.

15 CHAIRPERSON ANDERSON: Okay. Go
16 ahead. All right.

17 (Video plays.)

18 MEMBER SHORT: Mr. Prout, can you hold
19 it, can you hold everything right there for a
20 moment?

21 MR. PROUT: Okay.

22 MEMBER SHORT: Now, this is a CR, a
23 restaurant. Correct?

24 MR. PROUT: Yes, sir.

25 MEMBER SHORT: Was there any

1 indication they were serving any food here, at
2 this restaurant, when the fight broke out?

3 MR. PROUT: On the night of, by the
4 time that we -- by the time that myself and
5 investigator Middleton arrived on scene, there
6 was, the establishment was cleaning up. And
7 there wasn't any indication of food being served.
8 However, I know that the kitchen can close up to
9 two hours prior to the establishment closing.

10 MEMBER SHORT: Okay. Now, the last
11 question I'm going to have about the restaurant
12 is, aren't they, restaurants required to have
13 food, a certain amount of food they have to
14 serve, or sales they have to make to be a
15 restaurant?

16 MR. PROUT: So, within a quarter,
17 which is three months, the establishment is
18 supposed to sell, I believe it's 40 percent food,
19 and 60 percent alcohol in order for them to be in
20 compliance with ABCA's regulations.

21 MEMBER SHORT: Okay. Well, I guess
22 I'm asking this question because it seems more
23 and more every time one of these restaurants come
24 before us, it seems like this with people
25 fighting and no security marked, no tables, no

1 chairs -- and I understand, but when does ABRA
2 check and find out whether or not the food, the
3 food sales are appropriate or are in accordance
4 with their license?

5 MR. PROUT: So, normally what happens,
6 Mr. Short, is that an ABCA compliance analyst
7 goes out and performs audits. From the audits,
8 the ABCA violations and or the establishment
9 being in compliance is made based off of the
10 audit being done, at this time.

11 MEMBER SHORT: Would it be possible
12 that we could, that you could go back and just
13 for the record, find out what, if they have those
14 records on hand?

15 I would be interested in knowing. I
16 think what we need to start doing with more
17 restaurants is making sure that they're meeting
18 their food requirements. And really, at least
19 sometime being at least fulfilling their
20 obligation as a restaurant on their license.

21 MR. PROUT: Yes, so --

22 MEMBER SHORT: Go ahead.

23 MR. PROUT: So, they are responsible
24 with filing their food and alcohol sales on a
25 quarterly basis. I'm not sure if the

1 establishment is delinquent at this time.
2 However, there are a number of establishments in
3 which -- on the enforcement out of the house --
4 that has had to issue warning and or monetary
5 fines for restaurants across the District, not
6 being in compliance with filing their food and
7 alcohol sales in a timely manner. So, yes.

8 MEMBER SHORT: My last question for
9 you, if the security personage were marked or had
10 some markings at least on the back or front of
11 their shirt, where they could be identified as
12 security, do you think that would help some of
13 these situations also?

14 MR. PROUT: Most definitely. That
15 will help to increase the visibility in low light
16 settings like this, where we're not able to know
17 the staff versus patrons. So, yes.

18 MEMBER SHORT: And so, the gentleman
19 with the beard that you identified as security,
20 were you able to talk with him? Or was he there
21 when you got there?

22 MR. PROUT: So, he was not. However,
23 I did get statements from three of the security
24 staff that assisted in breaking up the fight.
25 But they were not on scene once I arrived on

1 scene at approximately 1:08 a.m. on the night of
2 the shooting, Mr. Short.

3 MEMBER SHORT: Thank you very much.
4 That's all I have Mr. Chair. That's a very good
5 report there, Investigator Prout, we appreciate
6 it. Thank you.

7 MR. PROUT: Thank you, Mr. Short.

8 CHAIRPERSON ANDERSON: Mr. -- all
9 right. Mr. Grandis.

10 MEMBER GRANDIS: Thank you. Sir,
11 putting again the shooting, which occurred
12 outside, aside, it seems that your testimony and
13 also the written reports that have been provided
14 to the Board, that the security followed protocol
15 in immediately trying to disarm the altercation
16 inside. And did remove each of the various
17 parties out separate exits.

18 That being said, would an
19 establishment, if it did not have a security plan
20 be required to call either our investigators or
21 MPD in that kind of circumstance?

22 MR. PROUT: So, in the spirit of just
23 the fight happening on the second floor, I don't
24 believe, in my personal and my professional
25 opinion that Metropolitan Police Department and

1 or ABCA would need to be notified. However, I do
2 believe that in a security plan, they should
3 outline that the establishment should have an
4 incident book on the premises.

5 And instances, in which the fighting,
6 the fight happened, the incident report should
7 notate the number of staff that were on duty that
8 night. The staff numbers, names and their titles
9 that responded to the incident. The appropriate
10 time in which it, the incident transpired and the
11 appropriate time in which the incident was
12 addressed.

13 So, I do believe that should be
14 outlined in a security plan, Mr. Grandis.

15 MEMBER GRANDIS: Right, if there is no
16 security plan, this incident book, is it the
17 policy of ABCA to require all licensees to have
18 an incident book? Or are you saying that is
19 something that the Board can approve in a
20 security plan?

21 MR. PROUT: Yes, sir. I'm saying that
22 that is something should be approved in a
23 security plan.

24 MEMBER GRANDIS: Mr. Chairman, I think
25 that's all I have for this investigator. Thank

1 you, sir for your testimony.

2 MR. PROUT: Thank you, Mr. Grandis.

3 CHAIRPERSON ANDERSON: Thank you Mr.
4 Grandis. Mr. Kline any questions of the
5 investigator, sir. The investigator?

6 MR. KLINE: No, I don't have any at
7 this time.

8 CHAIRPERSON ANDERSON: All right.
9 Thank you, Mr. Prout. I need you to hold on.

10 All right, Mr. Kline, does your client
11 have a response? And I see that the feedback is,
12 it's your line. I only hear the feedback, when
13 you are unmuted. All right.

14 Are you ready, sir?

15 MR. KLINE: Is that better?

16 CHAIRPERSON ANDERSON: Yes, that's
17 much better. All right, fine, thank you.

18 MR. KLINE: Okay. I'll use my --

19 CHAIRPERSON ANDERSON: So, to testify,
20 how, as you know, does your client have a
21 response to --

22 MR. KLINE: Yeah, I mean we have,
23 well, I mean I -- I've gotten a fair amount to
24 say on this. First of all, this is I don't know
25 how many weeks in a row, that I'm before you on

1 an issue with handguns in the District of
2 Columbia. I liked it a lot better when you were
3 talking about more traditional issues related to
4 peaceful and quiet, and the like. And it is very
5 disturbing, as to what's going on.

6 And it's not this establishment. It
7 seems that what we've learned about what this
8 establishment did, was appropriate, and proper.
9 And that doesn't happen unless people are trained
10 and instructed. And they did what they were
11 supposed to do with respect to the altercation.

12 But and I know coming down the pipe,
13 I'm going to see you again, on yet more incidents
14 involving handgun violence in the District of
15 Columbia. And I just have to say, it's very
16 disturbing.

17 And in most cases, it has little to do
18 -- I'm not going to say in all -- but in most
19 cases, it has little to do with what the licensee
20 does or doesn't do. It is a time that we're in
21 that seems to have been created by just -- in
22 another situation, we talk about the perfect
23 storm. I mean we have the perfect hurricane,
24 Class 5, in terms of gun violence in the District
25 of Columbia right now.

1 And it just, I just have to express
2 how much it disturbs me, having worked and been
3 in this city for so long, and seen what's
4 happened. It's very disturbing.

5 But with respect to this licensee,
6 first of all it seems maybe, and I think that was
7 the word that was used, maybe this incident with
8 respect to the shooting, had something to do with
9 the incident on the second floor. We haven't
10 even heard at this point that either the intended
11 targets, or the perpetrators were involved in
12 that.

13 I mean it's a lot of speculation, well
14 they walked this way, and they walked that way.
15 And there was an incident right before that.
16 And, you know, and then the photographer, who was
17 by all accounts, not the intended target,
18 happened to walk out at that point, and ends up
19 with a bullet in him, half a block away. So,
20 we're not even sure.

21 But in any event, the Applicant, the
22 licensee, shares my concern and what I've
23 expressed to you in terms of what's going on.
24 And is concerned about the lack of police
25 presence on U Street. And has pleaded with the

1 Lieutenant that there be more police presence on
2 U Street.

3 And look, we all know, the resources
4 aren't there. We're down more than a thousand
5 officers and we can't even fulfill the
6 reimbursable detail requests that come in. So, I
7 mean it's an issue.

8 But it appears that they did
9 everything that they were supposed to do. They
10 are going to institute a security plan. They've
11 already ordered shirts to identify security. So,
12 that should address any issue or concern that we
13 had raised.

14 With respect to food service, the law
15 requires that they have their kitchen open at
16 least two hours before closing. They close their
17 kitchen at 11:00. They close at midnight. Not
18 an issue. They do brunch. They filled their
19 quarterly reports. I mean, they're, you know, a
20 restaurant is defined in the ABC's statute. And
21 if they meet the requirements in the restaurant,
22 then they're entitled to the privileges of a
23 license.

24 So, Mr. Short I've heard you mention
25 week after week, this training, or this

1 certification by MPD. I have to be honest with
2 you. I don't know anything about it. No idea
3 what you're talking about. And we've looked for
4 it. And I don't know what it is.

5 So, before we come back before you, I
6 would ask that legal staff or somebody, give us
7 some clue as to what that's about. Because I
8 don't know anything about it.

9 But in any event, what was done here
10 was proper. It was appropriate. We'll do the
11 security plan. I have to caution one thing, that
12 concerns me a great deal, and that is this. The
13 statute requires that nightclubs provide security
14 plans. The Council of the District of Columbia,
15 in passing the statute, did not and has not
16 required either taverns or restaurants to file
17 security plans.

18 I worry that we're slipping into a
19 space here, where oh, there's a fact-finding.
20 Okay, yeah, you have to do security plan. And
21 here it's not a problem, because this licensee is
22 perfectly willing to do it. But what's going to
23 happen when someone gets shot coming out of the
24 Palm, a fine-dining restaurant, which is in my
25 building. And we're going to be before you on a

1 fact-finding, and they're going to be asked for a
2 security plan.

3 And these decisions should not be made
4 arbitrarily. They should be made after a
5 reasoned discussion, and the opportunity by the
6 public, and by those concerned, MPD and others
7 that are involved. Either in a hearing before
8 the Council, or in a rulemaking before this
9 Board.

10 But I don't like where we're going, in
11 terms of, oh, there was an incident. We're
12 having a fact-finding. You have to do a security
13 plan. Because it's not the law. And it's not
14 something that should happen.

15 As I said, in this case, not an issue
16 because this licensee is perfectly amenable and
17 agreeable to preparing the security plan. The
18 other thing that I caution you against, and I
19 don't think this has been talked about much, I
20 hear about the Board approving a security plan,
21 in terms of the contents of it.

22 I've been involved in these issues for
23 many years. And when there was a very detailed
24 discussion about security, and approval, and what
25 have you, the agency along with I think in those

1 days it might have been the Office of Corporation
2 Counsel -- it may not have yet been the AG's
3 office but that's a detail that's not been
4 important -- it's brought concern that the ABC
5 Board not, or neither the ABC Board, nor in these
6 days, ABRA, not approve the contents of security
7 plans.

8 And the reason for that is, you may be
9 creating liability for the District of Columbia,
10 because maybe you made the wrong decision about
11 what should or should not be in a security plan.
12 And in those days, that concern was expressed.
13 And I had believed that the policy was that the
14 plan is looked at through legal sufficiency.

15 In other words, to check all the
16 boxes, in terms of what is required to be in the
17 plan in accordance with the statute and the
18 regulations. Not, well gee, do we think this is
19 good enough? Maybe you should do this. And
20 maybe you should have security shirts. Maybe you
21 should do wandering. Maybe you should do pat
22 downs.

23 So, I raise that for the Board's
24 consideration because it was an issue that was
25 discussed in great detail many years ago. And

1 Mr. Moosally knows, because he was at that point,
2 he was not director, he was general counsel. And
3 I know that he was involved in the discussions.
4 And I just put that out there, because I don't
5 think the Board's been reminded of that.

6 And maybe the Board will look at it,
7 and say, yeah, we don't think that's a concern,
8 which is fine. But I think out here,
9 representing these establishments, we just want
10 clear guidance as to what is expected by the
11 Board, in terms of, we know there has to be a
12 plan that is consistent with the requirements of
13 the statute and the regulations.

14 But is the Board going to be passing
15 judgment on the substance of the plan, and making
16 determinations as to whether, what is in the
17 plan, is adequate or not? Or is even ABCA going
18 to do that, because in some cases, investigators
19 look at them?

20 But I just caution that we not proceed
21 down that road, if we're not already halfway down
22 it, without a consideration of those issues.
23 Because I think they're important. I don't think
24 that the Board, nor the District, nor ABCA wants
25 to unintentionally, expose the District to

1 liability. So, I think that should be
2 considered.

3 Happy to answer any questions or
4 concerns that the Board has, with respect to this
5 licensee. Who I think, with respect to the only
6 issue that they were really involved with, which
7 is the altercation on the second floor, that they
8 reacted appropriately, responsibly. And I don't
9 think, you didn't hear anything different from
10 the investigator, nor Captain Hong. They did
11 what they were supposed to do.

12 Notwithstanding, my reservations about
13 security plans, the Applicant is prepared to do
14 it. And that plan will include a requirement
15 that security staff be identified. As I said,
16 the shirts have already been ordered. So, that
17 was sorted out before we walked in here today.
18 Thank you, and again I'm happy to answer any
19 questions or concerns.

20 CHAIRPERSON ANDERSON: Hold on a
21 minute, Mr. Short. I just want to set the record
22 straight. Just respond to some of what you've
23 stated, Mr. Kline. The Board reviews security
24 plans for the legal sufficiency. The Board
25 doesn't review security plans and make judgments

1 whether or not it's appropriate or not. It is,
2 we review security plans for legal sufficiency as
3 you stated, whether or not the proper boxes are
4 checked for what the law requires.

5 No one Board Member speaks for the
6 Board, even as Chair, unless we have had a vote.
7 The positions that are expressed by any Board
8 Member, is there individual position, until the
9 Board has had a formal vote, on the record. And
10 then we will announce what the decision of the
11 Board is.

12 So, you might, questions are being
13 asked, opinions are being expressed, but unless
14 the Board has a public vote, these are just
15 opinions that are being expressed by individual
16 Board Members.

17 Going back to whether or not security
18 plans are, whether or not the Board is going to
19 require security plans. As you are aware, this
20 is a fact-finding hearing, so, questions might be
21 asked. A Board Member might ask the -- a Board
22 Member might ask the licensee, if they will agree
23 to a security plan.

24 But that's a request that's being made
25 by a Board Member, that's not a request that is

1 being made by the Board itself. And so, the
2 licensee could respond, that if the Board as a
3 whole is asking for us to do a security plan,
4 then we'll do that.

5 But the video that I just saw, going
6 back to the question whether or not security
7 plans might be requested for restaurants. This
8 incident occurred at 12:10 a.m. And based on the
9 video, that we saw, I do not know what the
10 occupancy for Brooklyn is. I don't have that on
11 the top of my -- I'm not looking at that.

12 But what I saw, on that video, at this
13 hour, Mr. Kline, this was not a typical
14 restaurant. It's not, as you said, that you have
15 the Palm restaurant in your building. And if I
16 saw that, and so in the business video I saw,
17 there was a significant amount of people who were
18 dancing, on maybe a dance floor. Or some aspect
19 of a floor, in the establishment at 12:10 a.m.

20 So, if the Board is going to ask for,
21 or if even Board Members are going to ask for
22 administration of a security plan, it is based on
23 what is it that we see that happens late at
24 night. Okay, so, but thank you for offering
25 that, your client's position on the record.

1 Mr. Short, you have a question you
2 want to ask, sir.

3 MEMBER SHORT: I do want to make a
4 statement. And thank you, Mr. Kline for asking
5 about the information about the Metropolitan
6 Police Department. I would direct you to our
7 legal division here, at ABCA. And especially to
8 Director Moosally, who had that on his desk. And
9 if you ask him for a copy, I'm quite sure he will
10 make it available to you. Metropolitan Police
11 Department and the city council has past that
12 regulation.

13 So, with your permission, and I know
14 you're one of the top lawyers in this industry,
15 if you ask for that information, you will get it.
16 Because it is a requirement and it was passed by
17 city council. Thank you for allowing me to
18 direct you to the proper place to get that
19 information. That's all I have.

20 MR. KLINE: Thank you, Mr. Short.

21 MEMBER SHORT: Thank you.

22 CHAIRPERSON ANDERSON: Any other, any
23 -- Mr. Kline, and maybe you can, is your client
24 is still there? I see that, although he's not on
25 camera, but I see his name. Okay, fine, I just

1 wanted to make sure.

2 Mr. -- all right. What changes if
3 any, has your client done as a result of this
4 incident? If they, have they undertaken any
5 changes?

6 MR. KLINE: Yeah, I mean I think we've
7 already said that they're developing a security
8 plan. We will file it. That plan will include a
9 requirement that security be identified with
10 shirts. That as I said, have already been
11 ordered. That was proactive before we came
12 before you, and heard that concern expressed by a
13 couple Board Members, after doing the video. So,
14 that's been done.

15 Other than that, I mean that's it. I
16 mean I think I've been before you on fact-
17 findings many times. And I've said we're here to
18 do a couple things. One is to figure out what
19 happened. And second, is what did we learn? And
20 third, is, you know, what can we do better as a
21 result of what we learned?

22 And here, I think that's it's pretty
23 limited because the establishment responded
24 appropriately in terms of what they were supposed
25 to do. I mean the staff appears to have been

1 well-trained. They reacted appropriately. The
2 textbook in terms of separating the people,
3 letting them out at different times, and letting
4 the out from different locations from the
5 establishment in an effort to keep them
6 separated.

7 Now, once they get out in the world,
8 you know, somebody can wait for an hour for
9 someone to come out of an establishment. They
10 just don't have any control over that.

11 So, I think that what they learned
12 was, yeah, they see what you saw in the video.
13 That it's hard to identify who security are. So,
14 proactively they're going to address that. And
15 they are going to create the plan. We heard from
16 the Captain. We heard from the investigator. We
17 heard from you, several Board Members, that
18 that's something that's desired. So, that's
19 going to be done. So, those are the changes that
20 will be made.

21 If, the Board or Members have
22 additional suggestions, or ABCA investigators, or
23 the Director, or MPD, our client is more than
24 happy to entertain those and consider those any
25 such changes that might be recommended.

1 CHAIRPERSON ANDERSON: All right. Mr.
2 Kline, what endorsements is it that your, does
3 this establishment have on its license?

4 MR. KLINE: Entertainment endorsement,
5 I think that's it. Alex, no outside space,
6 right?

7 CHAIRPERSON ANDERSON: Mr. Haje.

8 MR. HAJE: Yes, sir. I'm sorry. I'm
9 still here.

10 MR. KLINE: Do you have outside space?

11 MR. HAJE: We have a streatery, based
12 on the Streatery Program that's been extended
13 through next year. But that's it. There's no
14 public use permit or anything of that nature.

15 MR. KLINE: Right.

16 CHAIRPERSON ANDERSON: So, I'll --

17 MR. KLINE: So, the endorsement would
18 be the entertainment.

19 CHAIRPERSON ANDERSON: Just an
20 entertainment endorsement. And how many cameras
21 do you have in the establishment, do you know?

22 MR. HAJE: You talking to me, sir?

23 CHAIRPERSON ANDERSON: How many, if
24 Mr. Kline wants you --

25 MR. HAJE: Okay.

1 CHAIRPERSON ANDERSON: I'm asking, if
2 Mr. Kline gives you permission to speak.

3 MR. KLINE: Mr. Haje can answer, Mr.
4 Haje can answer that.

5 MR. HAJE: Okay. I want to answer
6 specifically, so I'll look it up for you
7 gentlemen right now -- but it's upwards of -- let
8 me get you an exact count. We've actually added
9 cameras, just to be sure. We've added additional
10 to make sure there's no blind spots.

11 We have 4, 8, 12, 16, 17, 18, 19
12 cameras, currently.

13 CHAIRPERSON ANDERSON: And they're all
14 operational to the best of your knowledge?

15 MR. HAJE: Yes, they're operational
16 and we make sure they stay operational. And we
17 make sure they're recording for at least 30 days.

18 CHAIRPERSON ANDERSON: All right.
19 Since, what days of the week do you offer
20 entertainment? Because you have an entertainment
21 endorsement. So, is it seven days a week, or is
22 it a couple of days a week?

23 MR. HAJE: In this, we're open,
24 currently we're open some Thursdays, Friday,
25 Saturday, Sundays. We open on Friday's at 5:00

1 p.m. But occasionally, we'll have DJs for Happy
2 Hour. Sometimes there's no DJs at all, until
3 later in the evening. Our kitchen is open
4 throughout. We do offer food, we do operate as a
5 restaurant. On Saturdays and Sundays, we open at
6 11:00 a.m. We serve brunch all day long.

7 So, we do very much operate as a
8 restaurant. I heard some of the discussion
9 earlier, that, you know, that there was some
10 concern there. And there's not. We're very much
11 a restaurant. We do have a nightlife element to
12 our operation, later in the evening. But that's
13 not our primary focus.

14 We do try to be, you know, whatever we
15 can and garner whatever business we can, so I
16 hope that answers your question.

17 CHAIRPERSON ANDERSON: Tell me about
18 the security measures that your establishment has
19 in place for late nights when you have you late
20 night entertainment?

21 MR. HAJE: Of course, sir. Yes, sir.
22 Listen, we are experienced operators. We have
23 had other establishments. We've had CNS, we've
24 had security teams. We ensure that we have
25 security placed at certain positions throughout

1 the establishment. One by the bathrooms, one at
2 the top of the stairs, one by the service bar
3 area, at the entrance. We make sure that we have
4 protocols for search, upon entry to make sure
5 that weapons do not enter the establishment.

6 So, we're very detailed in the way
7 that we do operate. I believe that's why the
8 situation was handled as well as it was. Is
9 because we make sure that that training is in
10 place. We make sure the protocol is there. We
11 make sure people are in their stations. Nobody
12 leaves their position unless they've announced
13 that they need to use the restrooms, so somebody
14 can come fill that position.

15 So, we do have security protocol in
16 place, and we have training for our staff to make
17 sure this is done correctly.

18 CHAIRPERSON ANDERSON: I don't have
19 any further questions. Any questions by -- yes,
20 Mr. Short.

21 MEMBER SHORT: Good afternoon, Mr.
22 Haje. On the night -- you saw the video we saw,
23 oh, I guess, I know you've seen the video,
24 because you gave a copy. Did it look like it was
25 -- is that a normal crowd for you on a -- was

1 that a Monday night, the night of the incident,
2 or Tuesday? What night of the week was it?

3 MR. HAJE: Yes, sir. It was a Sunday
4 night. We have two floors. In regards to the
5 occupancy question, we were not above occupancy.
6 Our first floor was vacant at that time. We just
7 had a more condensed crowd on the second floor.
8 So, this was a Sunday night, sir.

9 MEMBER SHORT: Okay. A Sunday night.
10 Well, Mr. Haje, you have two separate occupancy
11 -- one for the first floor, one for the second
12 floor. Correct?

13 MR. HAJE: Yes, sir. Oh -- they're
14 not separate. I don't believe they're separate,
15 sir. I believe it's one occupancy for the entire
16 establishment.

17 MEMBER SHORT: So, if you had -- I'm
18 just trying to figure, well, let me leave that
19 alone. The question I want to ask you, you saw
20 the video and you saw, how many security guys
21 were working that night?

22 MR. HAJE: We had a total of --

23 MEMBER SHORT: On the second floor.

24 MR. HAJE: Yes, sir. There should be
25 a total of three on the second floor. Anytime

1 we're operating on the second floor, we have at
2 least three security personnel on the second
3 floor.

4 MEMBER SHORT: Well, Investigator
5 Prout identified one, the gentleman with the
6 beard. But I couldn't see, I didn't see but one
7 up there with all that crowd. I didn't see but
8 one security person that was identified.

9 MR. HAJE: And again, we've ordered
10 the shirts, sir, to make sure they are identified
11 in the future. I believe Investigator Prout may
12 have also gotten statements from the other
13 security that was there prior to his arrival.
14 There were plenty of security there that night.
15 And we make sure we don't operate without those
16 gentlemen in place.

17 MEMBER SHORT: Okay. so, is that the
18 normal crowd you have on a Sunday night, that we
19 saw in the video? Is that normal?

20 MR. HAJE: Honestly, it varies. I'll
21 be quite frank with you, Mr. Short. We have had
22 some crime on U Street, and theirs is no police
23 presence on Sundays. It's very disturbing. I've
24 been in direct contact with Lieutenant Jones in
25 the Third District, who is supposed to be in

1 charge of nightlife for U Street.

2 I have reached out and done community
3 outreach with MTV to try to potentially host a
4 gathering at our establishment with MPD to try to
5 give them ideas of how we can better defuse some
6 of the violence. We have requested over and over
7 and over again, to have more police presence on
8 Sundays. It is there on Fridays and Saturdays --

9 MEMBER SHORT: My last --

10 MR. HAJE: But it is not existent on
11 Sundays.

12 MEMBER SHORT: My last question, my
13 last question for you, Mr. Haje.

14 MR. HAJE: Yes, sir.

15 MEMBER SHORT: What could have MPD
16 also done? We saw your security person,
17 certainly couldn't handle that fight that was
18 going on. What could a police officer have done
19 up there that night, on that, with the video that
20 we saw? What could a police officer have done?

21 (Simultaneous speaking.)

22 MR. HAJE: I'm sorry, I just I think
23 they handled it very well. I think they defused
24 it and they removed them correctly?

25 MEMBER SHORT: We're not --

1 MR. HAJE: And to answer your
2 question, if the police presence was outside, I
3 don't believe they would have shot the way they
4 did.

5 MEMBER SHORT: The question I'm asking
6 you, sir, is this. What could MPD have done in
7 that crowd on the second floor, with the video we
8 saw that night? What could they have --

9 MR. HAJE: Sir, I don't believe that
10 MPD or anybody can control somebody's actions at
11 all times of the day. I'm sorry.

12 MEMBER SHORT: So, you don't think the
13 crowd had anything to do with the violence?

14 (Simultaneous speaking.)

15 MR. KLINE: Mr. Short, with all due
16 respect, I mean --

17 CHAIRPERSON ANDERSON: I'm sorry, Mr.
18 Kline, Mr. Kline, I know you're protecting your
19 client, and you're --

20 MR. KLINE: My client is being
21 badgered, and it's contrary to the testimony.

22 CHAIRPERSON ANDERSON: Mr. Kline, I
23 know you're protecting your client, and your
24 client has been doing an excellent job in
25 responding to the Board. So, let's, if and

1 you're kind of done --

2 MEMBER SHORT: I have no further
3 questions. I yield to Mr. Kline. I have no
4 further questions, Mr. Chair.

5 CHAIRPERSON ANDERSON: Thank you, Mr.
6 Short.

7 Any other questions, any of the
8 parties, before I bring it -- I'm going to give
9 you a final opportunity to say something, Mr.
10 Kline on behalf of your client, before we -- any
11 final comments you want to make, sir.

12 MEMBER GRANDIS: Mr. Chairman.

13 CHAIRPERSON ANDERSON: I'm sorry, you
14 have a question, Mr. Grandis. I apologize. Go
15 ahead, Mr. Grandis. Who is this question for,
16 sir?

17 MEMBER GRANDIS: It's for the
18 licensee, if attorney, Mr. Kline will allow me to
19 ask some questions based on what we have talked
20 about, and what we've witnessed. Is that okay,
21 Mr. Kline.

22 CHAIRPERSON ANDERSON: No, Mr. --
23 (Simultaneous speaking.)

24 MR. KLINE: Yes, Mr. Grandis.

25 CHAIRPERSON ANDERSON: Go ahead.

1 MR. HAJE: Of course, thank you.

2 MEMBER GRANDIS: You have a CR
3 license. So, on the night in question, what was
4 going on at that hour on the first floor? First
5 floor was not occupied at all. As of, after,
6 what time?

7 MR. HAJE: Yes, sir.

8 MEMBER GRANDIS: After what time?

9 MR. HAJE: Probably after about
10 9:30/10:00 p.m. Most people have moved upstairs.
11 We've shut down the first floor. And that's
12 where they tend, that's where they want to be in
13 the establishment.

14 MEMBER GRANDIS: So, up until 9
15 o'clock p.m. are you serving meals on the second
16 floor?

17 MR. HAJE: Absolutely, we're serving
18 meals throughout the entire place.

19 MEMBER GRANDIS: So, in the video, I
20 did not see any tables and chairs, so were they -
21 - maybe I missed them. But we were looking at --

22 MR. HAJE: There is tables and chairs,
23 sir. There's tables throughout the entire
24 establishment. And there's benches and
25 banquettes that run all along the walls.

1 MEMBER GRANDIS: Which we didn't see.

2 MR. HAJE: Those are not movable.

3 Those are permanent position banquettes.

4 MEMBER GRANDIS: You mentioned that
5 you believe your C of O only has one occupancy
6 number, not one for each floor.

7 MR. HAJE: That's correct, sir.

8 MEMBER GRANDIS: Do you ever use
9 promotes.

10 MR. HAJE: Yes, sir.

11 MEMBER GRANDIS: Ever use a DJ?

12 MR. HAJE: Yes, sir.

13 MEMBER GRANDIS: Does the DJ have like
14 a guest list?

15 MR. HAJE: No, sir.

16 MEMBER GRANDIS: You advertise that
17 you have entertainment?

18 MR. HAJE: I believe there may be some
19 internal marketing that mentions entertainment,
20 yes.

21 MEMBER GRANDIS: Internal marketing,
22 I'm not sophisticated in that.

23 MR. HAJE: No, yeah, like if we send
24 out an email blast, just to be clear, I don't
25 want to cloud anything. If we send out an email,

1 we may mention entertainment. There's a DJ
2 booked, yeah.

3 MEMBER GRANDIS: You use a cover
4 charge?

5 MR. HAJE: No, sir.

6 MEMBER GRANDIS: Not ever use a cover
7 charge.

8 MR. HAJE: We don't charge cover. We
9 check IDs and we make sure to search as well,
10 just because of the nature of U Street.

11 MEMBER GRANDIS: You're saying in the
12 video, we saw, I should have been able to see the
13 banquettes, and I should have been able to see
14 whatever tables and chairs you have?

15 MR. HAJE: Yes, sir.

16 MEMBER GRANDIS: If you, because I
17 only saw humans. I didn't see --

18 MR. HAJE: Okay, so I was focused on
19 what the investigator was pointing out as far as
20 the altercation. So, I didn't pay attention to
21 all of the video. So, I apologize. I can't
22 answer that question.

23 MEMBER GRANDIS: So, your kitchen
24 closes on Sunday, it closes at 11:00?

25 MR. HAJE: That's correct, sir, yes.

1 MEMBER GRANDIS: And if I wanted to
2 order at 10:30, where would I be eating that?

3 MR. HAJE: You would eat that at your
4 table, sir.

5 MEMBER GRANDIS: On the first floor?

6 MR. HAJE: Either floor.

7 MEMBER GRANDIS: I thought you closed
8 the first floor after 9 o'clock.

9 MR. HAJE: Again, if people naturally
10 tend to move upstairs, then we will close down,
11 once they move upstairs. So, if there's --
12 again, there's no -- you're looking for a hard
13 line this way or that way. Again, based on
14 business, we'll adjust accordingly.

15 So, if I have business until 12
16 O'clock, we'll make, you know, we'll sell
17 everything we can.

18 MEMBER GRANDIS: They don't really --

19 MR. HAJE: We're trying to survive,
20 sir, so.

21 MEMBER GRANDIS: So, you don't move
22 any tables and chairs on the second floor, once -

23 -

24 MR. HAJE: Sir, we do not.

25 MEMBER GRANDIS: Mr. Chairman, those

1 are my questions. And I want to thank you, Mr.
2 Kline, it's good to have you before us again
3 today. Thank you.

4 CHAIRPERSON ANDERSON: Thank you, Mr.
5 Grandis. Mr. Kline, do you have any final
6 comments before I bring us into closure?

7 MR. KLINE: No, I think we've covered
8 it. And I think that we should thank the
9 licensee for their appropriate response to what
10 happened on the second floor. And all join
11 together with respect to what's going on in our
12 city, with respect to the use of guns everywhere.
13 And that's all I have to say. Thank you.

14 CHAIRPERSON ANDERSON: All right.
15 Thank you, Mr. Kline. The only agreement that we
16 have, the agreement today that you have
17 volunteered, and this is not because of a Board
18 Member's request, or the Board's request, but you
19 have volunteered to provide us with a legally
20 sufficient security plan. Can you provide that
21 security plan to the Board within 30 days, in
22 fact?

23 MR. KLINE: Yes, absolutely, yes.

24 CHAIRPERSON ANDERSON: All right, so
25 you'll provide us with a legally sufficient

1 security plan within 30 days.

2 The Board will take this matter under
3 advisement, as I've stated before, based on what
4 was gathered today. The recommendations are
5 either, no further action, or the Board will
6 refer this matter to the Office of the Attorney
7 General for further action, if the Board
8 determined that an ABCA violation has occurred.

9 Thank you for your presentation today,
10 Mr. Kline, Mr. Haje, and you have a great day,
11 Mr. Mixon.

12 MR. KLINE: Thank you, Mr. Chairman,
13 Members of the Board, thank you. Thank you for
14 your time.

15 CHAIRPERSON ANDERSON: Thank you very
16 much. All right.

17 (Whereupon, the above-entitled matter
18 went off the record at 12:15 p.m.)

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In the matter of: Brooklyn

Before: DC ABCA

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Court Reporter

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