

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

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IN THE MATTER OF:                   :  
  :  
Hope Lounge, LLC                    :  
t/a Medusa Lounge                   :  
2632 Georgia Avenue NW            : Show Cause  
Retailer CT - ANC 1B                : Hearing  
License No. 118698                 :  
Case #22-CMP-00048                 :  
  :  
(Operating After                    :  
Board Approved Hours)             :  
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Wednesday  
November 30, 2022

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

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

ALSO PRESENT:  
  
SARAH FASHBAUGH, DC ABRA Staff  
BETTY ETANA, Applicant  
DOUGLAS CROCKER, Applicant Counsel  
KEVIN LUTES, DC OAG  
INVESTIGATOR MARK RUIZ

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

2 11:23 a.m.

3 CHAIRPERSON ANDERSON: The next case  
4 on your calendar, Case Number 22-CMP-00048,  
5 Medusa Lounge, License Number 118698. Ms.  
6 Fashbaugh, can you please elevate the, oh, I'm  
7 sorry. Yes, Mr. Micah, I apologize. Sorry.

8 All right, so the next case that's in  
9 -- For the next case in our calendar is Case  
10 Number 22-CMP-00048, Medusa Lounge, License  
11 Number 118698. Ms. Fashbaugh, can you please  
12 elevate the rights of the parties in this case  
13 lease?

14 MS. FASHBAUGH: Five people.

15 CHAIRPERSON ANDERSON: Thank you.

16 MS. FASHBAUGH: Betty Etana, your  
17 rights have been elevated. Douglas Crocker, your  
18 rights have been elevated. Kevin Lutes, your  
19 rights have been elevated. Jason Peru, your  
20 rights have been elevated. And Mark Ruiz, your  
21 rights have been elevated. That is all, Mr.  
22 Chair.

23 CHAIRPERSON ANDERSON: Thank you.

24 MR. CROCKER: Hello?

25 CHAIRPERSON ANDERSON: Yes. Hold on,

1 sir. Hi. Good morning, everyone. All right,  
2 let's start, let me have, let's start with the  
3 Government please. Identify yourself for the  
4 record by spelling and stating your name please.

5 MR. LUTES: This is Assistant Attorney  
6 Kevin Lutes. That's, K-E-VI-N, L-U-T-E-S, for  
7 the District.

8 CHAIRPERSON ANDERSON: Good morning,  
9 Mr. Lutes.

10 MR. LUTES: Good morning.

11 CHAIRPERSON ANDERSON: Good morning.  
12 It's my understanding that you, mister, that Mr.  
13 Crocker, that you are the representative for this  
14 establishment --

15 MR. CROCKER: Yes.

16 CHAIRPERSON ANDERSON: -- is that  
17 correct?

18 MR. CROCKER: Yes, Douglas Crocker.

19 CHAIRPERSON ANDERSON: Can you please  
20 spell and state your name for the record please?

21 MR. CROCKER: Douglas, D-O-U-G-L-A-S,  
22 Crocker, C-R-O-C-K-E-R. And the owner, Ms. Betty  
23 Etana, she is online as well.

24 CHAIRPERSON ANDERSON: Ms. Etana, do  
25 you have a camera? And can you please and state

1 your name for the record?

2 MS. ETANA: Yes. My name is Betty  
3 Etana. My last name is Etana, sorry.

4 CHAIRPERSON ANDERSON: I need you to  
5 spell both your first and your last name for the  
6 record please, ma'am.

7 MS. ETANA: Yes, sir. Betty, B-E-T-T-  
8 Y, last name Etana, E-T-A-N-A.

9 CHAIRPERSON ANDERSON: Thank you.  
10 Good morning, Ms. Etana.

11 MR. CROCKER: Mr. Chair?

12 CHAIRPERSON ANDERSON: Yes. Yes, sir.

13 MR. CROCKER: We also have a witness  
14 that's here as well that's a part of the case.  
15 Who was the actual manager that was there with  
16 the --

17 CHAIRPERSON ANDERSON: And what's the  
18 person's name so we can elevate their rights if  
19 it has not been elevated? What's the person's  
20 name, sir?

21 MR. CROCKER: Um --

22 CHAIRPERSON ANDERSON: Mr. Crocker,  
23 who is the witness?

24 MR. CROCKER: Dawit.

25 CHAIRPERSON ANDERSON: Dawit who?

1                   MR. CROCKER: I'm sorry, let me, I've  
2 got to get his full name. It's in discovery. He  
3 should be --

4                   CHAIRPERSON ANDERSON: Okay. You need  
5 to tell me so I can have that person's rights be  
6 elevated.

7                   MR. CROCKER: Yes. Dawit. Dawit, D-  
8 A-W-I-T --

9                   CHAIRPERSON ANDERSON: Okay.

10                  MR. CROCKER: -- S-E-R-M-O-L-O.

11                  CHAIRPERSON ANDERSON: All right.  
12 Okay, I see that person there. I see them on the  
13 screen. All right. All right, so, I don't need  
14 to have your witness at this moment to identify  
15 themselves since we have not, we're just, I just  
16 need the attorneys to.

17                  And so, all right. So, Mr. Lutes,  
18 this is a full show cause hearing. Are there any  
19 preliminary matters in this case?

20                  MR. LUTES: Mr. Chairperson, at this  
21 time no preliminary matters. The District is  
22 prepared to move forward with its show cause  
23 hearing.

24                  CHAIRPERSON ANDERSON: Okay. And, Mr.  
25 Crocker, are there any preliminary matters in

1 this case?

2 MR. CROCKER: Yes. One little  
3 preliminary matter is, I don't know if you were,  
4 you know, over this case a while back when we  
5 originally established the settlement agreement,  
6 okay?

7 One of the issues we've been trying to  
8 work in the background, and I'm willing to, or  
9 ready to bring to the front ground now because  
10 nothing has happened, is that there is an illegal  
11 operation that's operating directly next to our  
12 institution in which we continue to get blamed  
13 for music and after hours, loud music and things  
14 of that sort that we've attempted to address with  
15 the police. We've had an investigator that was  
16 supposedly support, be supporting us.

17 We have provided them with video  
18 camera for the external, from our facility that  
19 shows people entering into that facility at 2:00,  
20 3:00, 4 o'clock in the morning, and whatnot.

21 We've educated, or told the  
22 investigators from ABRA when we've received  
23 complaints. They've gotten calls and things like  
24 that. And have come over there to investigate  
25 the call, notice our establish being closed, and

1 then the establishment next door still being open  
2 and nothing is being done about it.

3 So here we are today, again, a year  
4 and a half later from when that initial  
5 settlement agreement is in place. We are willing  
6 to bring it to the Board in an open form like  
7 this, and we've been working it in the  
8 background, but nothing has been done about it.

9 And here we are again trying to  
10 address an issue. Are some accusations are  
11 blamed that's been placed on Medusa Lounge. And  
12 I'm just bringing it up as a front matter just to  
13 state, I mean, what can we do? I don't, you  
14 know.

15 CHAIRPERSON ANDERSON: Well, Mr.  
16 Crocker, this is a show cause hearing on a  
17 specific discrete issue.

18 MR. CROCKER: Yes.

19 CHAIRPERSON ANDERSON: I'm not sure  
20 the issue you're that you're talking about. If  
21 you need to file a complaint with the agency and  
22 the agency will dispose of it. But the issue  
23 that you are talking about, it's not relevant to  
24 this hearing because I'm not quite sure what the  
25 issues are in this case. Why we're going to a

1 hearing.

2 I will hear, as the Government present  
3 its case.

4 MR. CROCKER: Okay.

5 CHAIRPERSON ANDERSON: And then if you  
6 have a defense, you can response. But if what  
7 you are stating, if it has nothing to do with  
8 this case then it's not relevant here, sir and  
9 you --

10 MR. CROCKER: Well that's the thing I  
11 want to bring up. There is relevance, because  
12 the whole reason why the investigator came out,  
13 and he has came out on --

14 CHAIRPERSON ANDERSON: Mr. Crocker?

15 MR. CROCKER: -- numerous occasions --

16 CHAIRPERSON ANDERSON: But, Mr.

17 Crocker --

18 MR. CROCKER: Okay.

19 CHAIRPERSON ANDERSON: -- then that is  
20 something you can, in the presentation of your  
21 case --

22 MR. CROCKER: Okay.

23 CHAIRPERSON ANDERSON: -- you can  
24 present, you can present testimony and evidence  
25 on that issue. But right now, that's not a



1 relevant issue.

2 What I'll ask you to do, Mr. Crocker,  
3 I can see from your notes down, so can you please  
4 adjust your camera so I can see, fine, I now can  
5 see your full face, sir. Thank you.

6 MR. CROCKER: Okay.

7 CHAIRPERSON ANDERSON: All right. So  
8 there is no other preliminary matters. Okay. Is  
9 the Government, as to the --

10 MR. LUTES: Mr. Chair, apologies. I  
11 have a --

12 CHAIRPERSON ANDERSON: Did you say  
13 something?

14 MR. LUTES: Mr. Chair, apologies.  
15 There is one quick preliminary matter I'd like to  
16 address.

17 Mr. Chair, just for the preservation  
18 of record, I would like to object on the basis  
19 that there was a lack of witness disclosure by  
20 the Respondent regarding Mr. Dawit Sermolo's  
21 presence and testimony. However, the District is  
22 prepared to move forward.

23 CHAIRPERSON ANDERSON: All right. So,  
24 Mr. Crocker, at the, when we had, I'm not sure if  
25 you were at the --

1 MR. CROCKER: Yes I was.

2 CHAIRPERSON ANDERSON: -- show cause  
3 status hearing, I specifically advised both  
4 parties that if you're going to have documents  
5 and witnesses, those documents and witnesses must  
6 be disclosed seven days before the hearing.

7 The Government has made a motion,  
8 well, Mr. Lutes, can you, I'm going to -- I'm not  
9 going to rule on your motion at this junction  
10 because I don't know if he's going to call a  
11 witness. So when the, once the Respondent  
12 decides to present its case you can renew your  
13 motion and I will, the Board will, I will take  
14 arguments and the Board will then make a  
15 determination whether or not a witness can be  
16 called.

17 MR. CROCKER: Can I just --

18 CHAIRPERSON ANDERSON: I will -- Yes.

19 MR. CROCKER: Yes. Just very briefly.

20 Mr. Dawit --

21 CHAIRPERSON ANDERSON: Mister --

22 (Simultaneous speaking.)

23 MR. CROCKER: -- is --

24 (Simultaneous speaking.)

25 CHAIRPERSON ANDERSON: Mr. Crocker?

1 Mr. Crocker? There is no issue for you to  
2 respond to now. What I have stated is that the  
3 Government, the way this offer is set, the  
4 Government is going to call its witnesses, it's  
5 going to present its case.

6 Once the Government has called its  
7 witnesses and has concluded and presented its  
8 case, then you will have an opportunity to call  
9 your, to present your case. At that time, if you  
10 plan to call a witness outside of the Licensee,  
11 then we will address those issues.

12 I believe, well, you having Ms. Etana  
13 as a witness is no surprise, so I would not  
14 prevent her from testifying. Because I believe  
15 that the Government will have known that the  
16 Licensee, the Licensee will testify. Even if  
17 there was no disclosure.

18 However, I don't know about the other  
19 witness. So at that time, if you're going to  
20 call another witness the Government will make a  
21 motion and then the Board will rule on that  
22 motion. Okay?

23 MR. CROCKER: Yes, sir.

24 CHAIRPERSON ANDERSON: All right. All  
25 right. All right, so, does the Government wish

1 to make an opening statement?

2 MR. LUTES: Yes, Mr. Chair. Good  
3 morning, Mr. Chairperson and Members of the  
4 Board. This case is about Medusa Lounge  
5 violating its settlement agreement and/or order  
6 by exceeding its Board approved hours of  
7 entertainment.

8 The evidence will show that around  
9 1:00 a.m. on June 3rd, 2022, ABRA Investigator,  
10 Mark Ruiz, arrived at the establishment and heard  
11 loud base coming from the establishment. And  
12 upon entering the establishment, Investigator  
13 Ruiz observed a DJ in the DJ booth entertaining  
14 the Licensee's occasion.

15 Next you will hear how under the  
16 licensee settlement agreement and Board order  
17 Medusa Lounge must conclude all live  
18 entertainment prior to 12:30 a.m. Sunday through  
19 Thursday. Well before Mr. Ruiz's 1:00 a.m.  
20 visit.

21 Upon this hearing's conclusion, the  
22 District will have proven, by a preponderance of  
23 the evidence, that the Medusa Lounge violated the  
24 terms of its settlement agreement and Board Order  
25 Number 2021-020 by providing entertainment beyond

1 its Board approved hours. And also in violation  
2 of Board Order 2021-020 for which the Board may  
3 take proposed action under D.C. Code, Section  
4 25823(a)(6). Thank you.

5 CHAIRPERSON ANDERSON: Good morning.  
6 Mr. Crocker, do you wish to make an opening  
7 statement at this juncture or do you want to  
8 reserve until you present your case?

9 MR. CROCKER: Yes, I'll make an  
10 opening --

11 CHAIRPERSON ANDERSON: What's your  
12 pleasure, sir?

13 MR. CROCKER: -- goes back to the  
14 actual --

15 CHAIRPERSON ANDERSON: I can't hear  
16 you, sir? And so what did you say?

17 MR. CROCKER: Yes, I'd like to make an  
18 opening statement. Can you hear me?

19 CHAIRPERSON ANDERSON: I can hear you.  
20 No, I said yes, you can. I'm just saying you can  
21 --

22 MR. CROCKER: Okay.

23 CHAIRPERSON ANDERSON: Okay, go ahead,  
24 sir.

25 MR. CROCKER: Yes. Yes. And I guess

1 just in response to the settlement agreement, we  
2 had a hearing. And in the hearing ABRA did  
3 outline what the hours for live entertainment  
4 would be, but we were not restricted from having  
5 background music it was just for live  
6 entertainment.

7 And just as an opening statement, we  
8 disagree with the Investigators initial  
9 accusation. And then once again, the  
10 Investigator, once appearing at the establishment  
11 and walking through the establishment with Dawit,  
12 who is our witness online, he did not express any  
13 issues with the music, which was just background  
14 music. And it was being performed, you know,  
15 just being played, not by a DJ, it was actually  
16 one of the employees of the company was just  
17 playing Spotify music or playing Apply play music  
18 all from his laptop and whatnot. And that's what  
19 we contest to.

20 And, you know, the witness here can  
21 talk to that, as well as the, it's a good, I'm  
22 glad that we have the Investigator here as well  
23 because we're getting two different messages.  
24 The Investigator is telling us one thing and then  
25 the State's Representative is telling something -

1 - the D.C. Representative is telling something  
2 different.

3 CHAIRPERSON ANDERSON: Thank you.  
4 That's it?

5 MR. CROCKER: Yes.

6 CHAIRPERSON ANDERSON: Does the  
7 Government wish to call any witnesses?

8 MR. LUTES: Yes, Mr. Chairperson. The  
9 District would like to call Investigator Mr.  
10 Ruiz.

11 CHAIRPERSON ANDERSON: Where is Mr.  
12 Ruiz? Mr. Ruiz, can you raise your right hand,  
13 sir?

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

16 You're on mute. I did not hear you,  
17 Mr. Ruiz.

18 INVESTIGATOR RUIZ: Yes.

19 CHAIRPERSON ANDERSON: All right,  
20 thank you. I think you need to turn your  
21 microphone up some more too, sir. All right,  
22 thank you.

23 Go ahead. Your witness, Mr. Lutes.

24 MR. LUTES: Thank you, Mr.  
25 Chairperson. Mr. Ruiz, could you please state

1 and spell your name for the record?

2 INVESTIGATOR RUIZ: Yes. My name is  
3 Mark Ruiz, M-A-R-K, R-U-I-Z.

4 MR. LUTES: Where do you work?

5 INVESTIGATOR RUIZ: Alcoholic Beverage  
6 Regulation Administration.

7 MR. LUTES: And if I use the acronym  
8 ABRA, do you understand that that refers to the  
9 Alcoholic Beverage Regulation Administration?

10 INVESTIGATOR RUIZ: Yes.

11 MR. LUTES: And what is your position  
12 at ABRA?

13 INVESTIGATOR RUIZ: An Investigator.

14 MR. LUTES: And how long have you  
15 worked in that position?

16 INVESTIGATOR RUIZ: Over three and a  
17 half years now.

18 MR. LUTES: And what duties does being  
19 an Investigator for ABRA entail?

20 INVESTIGATOR RUIZ: I conduct various  
21 inspections and investigations of licensed ABC  
22 establishments within the District of Columbia.

23 MR. LUTES: And what types of  
24 trainings have you received for conducting these  
25 investigations?



1                   INVESTIGATOR RUIZ: There is some book  
2 and field training and the time of hire to learn  
3 the regulations. Yes.

4                   MR. LUTES: And during your  
5 investigations, have you ever come across Medusa  
6 Lounge?

7                   INVESTIGATOR RUIZ: I have. Yes.

8                   MR. LUTES: And how are you familiar  
9 with Medusa Lounge?

10                  INVESTIGATOR RUIZ: I made a stop  
11 there on the evening of this incident to address  
12 the noise coming from the establishment.

13                  MR. LUTES: And what evening was this,  
14 did this stop occur?

15                  INVESTIGATOR RUIZ: It would be the  
16 morning of June 3rd, 2022.

17                  MR. LUTES: Okay. And so you  
18 mentioned that there was a stop. That you  
19 stopped there on June 3rd, 2022. Can you please  
20 tell me what you did during the stop?

21                  INVESTIGATOR RUIZ: So, I was actually  
22 driving down southbound Georgia Avenue when I  
23 came to the traffic light right there in front of  
24 Medusa Lounge and heard loud bass and music  
25 coming from the establishment, so I decided to

1 make a stop to address the music at the  
2 establishment.

3 MR. LUTES: And did you enter the  
4 establishment?

5 INVESTIGATOR RUIZ: I did. I  
6 identified myself to security and then entered  
7 the establishment and walked upstairs.

8 MR. LUTES: And once you entered the  
9 establishment, at what time did you enter?

10 INVESTIGATOR RUIZ: It was right at  
11 1:00 a.m.

12 MR. LUTES: And so you said you  
13 entered the establishment, you walked upstairs.  
14 What happened next?

15 INVESTIGATOR RUIZ: I made contact  
16 with the ABC manager that was present that  
17 evening. Made observations. Made observations  
18 that there was a DJ up in the DJ booth wearing  
19 headphones, making announcements. And then I  
20 continued to have conversation with the ABC  
21 manager.

22 MR. LUTES: And other than the  
23 headphones, was the DJ operating any type of  
24 equipment?

25 INVESTIGATOR RUIZ: A laptop.

1 MR. LUTES: And did you -- And then  
2 you mentioned you spoke with the ABC manager on  
3 duty. What did you speak about?

4 INVESTIGATOR RUIZ: I had told him I  
5 had stopped there because of the loud music that  
6 I heard coming from the establishment. Also  
7 while I was there I notified him that his  
8 entertainment hours were ended at 12:30 a.m. per  
9 a Board order as well and that it was 1 o'clock  
10 a.m. And it was clear that a DJ was playing.

11 MR. LUTES: And then so, what happened  
12 next?

13 INVESTIGATOR RUIZ: He then continued  
14 to explain. We actually went downstairs to kind  
15 of, so we could talk without the noise. He went  
16 on to explain that that only forbided them from  
17 having a live band it did not pertain to a DJ.  
18 Which I went to explain that the Board order did  
19 not specify what kind of entertainment was not  
20 allowed, it's simply entertainment. And included  
21 with the entertainment is a DJ, live band, trivia  
22 host, et cetera.

23 MR. LUTES: Okay. And what happened  
24 next?

25 INVESTIGATOR RUIZ: He continued to

1 talk about that particular issue. And then we  
2 exited the establishment.

3 MR. LUTES: And after exiting the  
4 establishment, did you write a report?

5 INVESTIGATOR RUIZ: I did.

6 MR. LUTES: And was this report  
7 drafted shortly after exiting the establishment?

8 INVESTIGATOR RUIZ: Within a day or  
9 so.

10 MR. LUTES: Okay. Mr. Chairperson,  
11 the District requests permission to share what's  
12 marked as Government Exhibit A?

13 CHAIRPERSON ANDERSON: Ms. Fashbaugh,  
14 can you allow Mr. Lutes to share his screen  
15 please?

16 MR. LUTES: Mr. Ruiz, can you please  
17 let me know if you're able to see my screen?

18 INVESTIGATOR RUIZ: Yes.

19 MR. LUTES: And I'm going to scroll  
20 through what's marked as Government Exhibit A.  
21 Once I am done scrolling, can you please tell me  
22 what it is?

23 INVESTIGATOR RUIZ: All right, that  
24 would be --

25 MR. LUTES: What is marked as

1 Government Exhibit A?

2 INVESTIGATOR RUIZ: That is the case  
3 report that I drafted, along with the attached  
4 exhibits.

5 MR. LUTES: And so, I'm going to jump  
6 to what's marked as Exhibit 2. In Exhibit 2, can  
7 you please tell me, actually, let's go to, here.  
8 This is a document listed in Exhibit 2. Can you  
9 please tell me what this is?

10 INVESTIGATOR RUIZ: This is a  
11 settlement agreement by and between Advisory  
12 Neighborhood Commission 1B and Hope Lounge, LLC  
13 doing business as Medusa Lounge.

14 MR. LUTES: And so I'm going to scroll  
15 down to what's Page 2. Can you please tell me,  
16 can you please read Paragraph D, including the  
17 header as well?

18 INVESTIGATOR RUIZ: Yes. Paragraph B  
19 is titled, interior hours of entertainment,  
20 followed by, to be determined by ABRA order.

21 MR. LUTES: Now I'm going to scroll  
22 down to what's listed as Page 8 of 7 of this  
23 settlement agreement. Can you please, give me  
24 one second while I resize this so it's a little  
25 easier to read. Can you please tell me whose

1 signature is at the top and whose signature is at  
2 the bottom?

3 INVESTIGATOR RUIZ: The top signature  
4 is ANC Commissioner Eric Behna. And on the  
5 bottom is the Applicant, Betty Etana.

6 MR. LUTES: And on what date was this  
7 signed? By Betty?

8 INVESTIGATOR RUIZ: December 22nd,  
9 2021.

10 MR. LUTES: Thank you. And now going  
11 to, I'm going to scroll up to the, skip to the,  
12 what was marked as Exhibit Number 2. Can you  
13 please tell me what this document is?

14 INVESTIGATOR RUIZ: This would be the  
15 final Board order.

16 MR. LUTES: And is Medusa Lounge a  
17 party to this Board order?

18 INVESTIGATOR RUIZ: It is.

19 MR. LUTES: What's the Board order  
20 number?

21 INVESTIGATOR RUIZ: 2021-20.

22 MR. LUTES: And I'm going to skip to  
23 Paragraph 6 of the Board order. Can you please  
24 read the first sentence of Paragraph 6 for me?

25 INVESTIGATOR RUIZ: The Board limits

1 the establishment's entertainment hours to 12:30  
2 a.m. Sunday through Thursday.

3 MR. LUTES: Now, I'm going to scroll  
4 up to what's marked as Exhibit 1 on this report.  
5 Can you please tell me what this is?

6 INVESTIGATOR RUIZ: This is a photo of  
7 the raised DJ booth with a DJ in the booth.

8 MR. LUTES: Yes. Thank you. Now, I'm  
9 going to stop sharing my screen. Mr. Chair, just  
10 as the, I would like to confirm that Government  
11 Exhibit A is admitted as part of the record.

12 CHAIRPERSON ANDERSON: It is an  
13 exhibit. And as by operation of law, it's part  
14 of the Board's record, but it is a part of the  
15 record. It's moved into evidence.

16 MR. LUTES: Thank you, Mr.  
17 Chairperson.

18 Now, the Board order stated that the  
19 -- that live entertainment should be, that indoor  
20 entertainment should cease by 12:30 a.m. Did you  
21 visit, did you observe a DJ in the DJ booth after  
22 12:30 a.m.?

23 INVESTIGATOR RUIZ: Yes.

24 MR. LUTES: Thank you. I have no  
25 further questions.

1 CHAIRPERSON ANDERSON: Okay. Mr.  
2 Crocker, do you wish to ask any questions of Mr.  
3 Ruiz?

4 MR. CROCKER: Yes, I do.

5 CHAIRPERSON ANDERSON: Okay.

6 MR. CROCKER: Hey, Mr. Ruiz, how are  
7 you going today?

8 INVESTIGATOR RUIZ: I'm doing great.  
9 How are you?

10 MR. CROCKER: Okay. What actually was  
11 the time that you said that you, you said stop  
12 sign, is that what happened that you said, and at  
13 the stop sign you heard loud music playing,  
14 coming, radiating from Medusa Lounge?

15 INVESTIGATOR RUIZ: Correct. It was  
16 while at the light. It was just before 1:00 a.m.  
17 By the time I entered the establishment it was  
18 after 1:00 a.m.

19 MR. CROCKER: Okay. So you were  
20 driving down Georgia Avenue?

21 INVESTIGATOR RUIZ: Correct.

22 MR. CROCKER: Are there any other  
23 establishments at 1:00 a.m. on a Saturday night  
24 playing music?

25 INVESTIGATOR RUIZ: Not on that block.



1 MR. CROCKER: I mean, on a normal  
2 night at 1 o'clock ABRA allows entertainment to  
3 go to 2:30. So this was within a, you know, a  
4 normal night or whatnot, music even coming from  
5 Medusa Lounge up until 2:00, 2:30. So I'm just  
6 wondering why it was so suspicious?

7 Why did you select to stop at Medusa  
8 Lounge at 1 o'clock when that's relatively late  
9 when you consider Washington, D.C., Georgia  
10 Avenue, Commercial District, a lot of bars and  
11 restaurants and stuff like that in the area, why  
12 did you stop at Medusa at 1 o'clock when that's  
13 not an hour upon which operations are normally  
14 restricted?

15 INVESTIGATOR RUIZ: The noise was --

16 MR. LUTES: Objection. Misconstrue of  
17 the record.

18 MR. CROCKER: I'm sorry, one more  
19 time?

20 CHAIRPERSON ANDERSON: Yes. What's  
21 the nature of the objection, sir?

22 MR. LUTES: Mr. Chairperson, Mr.  
23 Crocker said that Mr. Ruiz stopped on a Saturday,  
24 which according to the Board order would permit  
25 Medusa Lounge to have entertainment past 12:30,

1           however, Mark Ruiz did not stop in front of  
2           Medusa Lounge on Saturday and so it would still  
3           be a, and so that's an assumption that the  
4           entertainment hours would be extended past 12:30  
5           is incorrect.

6                       MR. CROCKER:   Okay.   Well my point  
7           being, my point being --

8                       CHAIRPERSON ANDERSON:   I'm sorry --  
9                       (Simultaneous speaking.)

10                      CHAIRPERSON ANDERSON:   Mr. Crocker?  
11           Mr. Crocker, there is an objection because it's  
12           my understanding this incident occurred on June  
13           3rd.  I don't know what day is June 3rd, 2022.  I  
14           don't know what day of the week.

15                      I guess the bottom line is, June 3rd,  
16           2022, what day of the week was this?

17                      INVESTIGATOR RUIZ:   Friday.

18                      CHAIRPERSON ANDERSON:   So, if this is  
19           a Friday, why are you talking about Saturday, Mr.  
20           Crocker if this is, if the incident is Friday?

21                      MR. CROCKER:   Well, I apologize.  A  
22           normal weekend night.  A Friday or a Saturday  
23           night.  Okay?  I'm just, I'm trying to make a  
24           point that it would be normal for you to hear  
25           music coming from, or sound, radiating from a

1       tavern, a person with a Type C tavern license, on  
2       Georgia Avenue on a Friday night or a Saturday  
3       morning. So what was so unique about Medusa at 1  
4       o'clock having music playing that caused Mr. Ruiz  
5       to stop?

6                   CHAIRPERSON ANDERSON: I'm going to  
7       overrule the objection and allow the witness to  
8       answer the question. You can answer the  
9       question, Mr. Ruiz, if you can answer the  
10      question?

11                   INVESTIGATOR RUIZ: Yes. So, my  
12      normal schedule is not weekends, I'm Sunday  
13      through Thursday. So this would technically have  
14      been a Thursday night into Friday.

15                   And I have driven past Medusa quite a  
16      few times and the noise was not excessive. The  
17      noise this evening, however, I choose to stop  
18      because it was excessive with bass and  
19      vibrations. And knowing noise is an issue within  
20      a community, I wanted to proactively handle the  
21      noise situation.

22                   MR. CROCKER: Okay. So you went there  
23      as a result of what you considered to be loud  
24      noise emanating, radiating from Medusa Lounge?

25                   INVESTIGATOR RUIZ: Correct.

1 MR. CROCKER: Okay. Is it ABRA's  
2 responsibility to handle, what, 80 decibels or  
3 noise levels? Isn't that handled by the  
4 licensing board?

5 INVESTIGATOR RUIZ: It handles noise,  
6 yes.

7 MR. CROCKER: The licensing board,  
8 right. So I'm just, all I'm trying to say here  
9 is, Thursday night, Friday morning, or whatnot,  
10 driving down Georgia Avenue, you hear music  
11 emanating, or sounds emanating from an  
12 establishment, and I'm just curious to why you  
13 would stop?

14 You know, you said you had driven by  
15 Medusa Lounge, you never, but this particular  
16 night the noise was excessively loud you say,  
17 right?

18 INVESTIGATOR RUIZ: Correct.

19 MR. CROCKER: Well, you went and you  
20 met, now who did you speak with when you said the  
21 ABC Board?

22 INVESTIGATOR RUIZ: Mr. Sermolo.

23 MR. CROCKER: Sermolo, okay. Sermolo  
24 is the gentleman that we have as a witness here,  
25 okay? I just want to bring this to the attention

1 as far as when we get to, they objected to our  
2 witness, but actually they've identified in their  
3 evidence this individual --

4 CHAIRPERSON ANDERSON: Mr. Crocker?  
5 Mr. Crocker, are you asking a -- please ask the  
6 questions, sir.

7 MR. CROCKER: Okay.

8 CHAIRPERSON ANDERSON: You're cross  
9 examining this witness so can you please --

10 MR. CROCKER: Okay.

11 CHAIRPERSON ANDERSON: -- during your  
12 argument you can use it later on, so this is your  
13 opportunity to cross examine the witness, sir.

14 MR. CROCKER: Okay. Have you ever  
15 been to Medusa Lounge before?

16 INVESTIGATOR RUIZ: Prior to this  
17 incident?

18 MR. CROCKER: Yes.

19 INVESTIGATOR RUIZ: I was there  
20 actually at the start of my shift on Thursday,  
21 yes.

22 MR. CROCKER: Okay. So you had come  
23 to Medusa Lounge at the start of the shift on  
24 Thursday, okay, it was earlier in the day. Now  
25 what was the reason why you had come to Medusa

1 Lounger earlier?

2 INVESTIGATOR RUIZ: I had conducted a  
3 regulatory inspection. And I was following up on  
4 some activity that I saw on a prior night.

5 MR. CROCKER: A regulatory inspection?  
6 What do you mean? What's a regulatory  
7 inspection?

8 INVESTIGATOR RUIZ: That's an  
9 inspection that we conduct on establishments to  
10 verify that all licenses are proper and posted in  
11 order and that the establishment is following the  
12 proper rules and procedures of the ABRA code.

13 MR. CROCKER: Okay. Was there any  
14 result found as a result of that or findings or  
15 any report?

16 Was there a report made about that  
17 initial --

18 INVESTIGATOR RUIZ: An inspection was  
19 completed but there was no violations noted at  
20 that time.

21 MR. CROCKER: Okay. You just randomly  
22 selected Medusa Lounge to go conduct this  
23 inspections?

24 MR. LUTES: Objection on relevance.

25 MR. CROCKER: This is the relevance.

1 He has came out there three times. Okay?

2 MR. LUTES: Mr. Chairman?

3 MR. CROCKER: And the stop, what the  
4 Government stated was, made it appear as though  
5 he just happened to stop at a stop sign, and he  
6 just happen to hear noise and he happened to come  
7 by. He mentioned, you mentioned that in your  
8 initial cross, in your, you know, initial  
9 presentation. But you didn't mention the other  
10 two times that he came earlier in the day for  
11 what reason. And I'm just trying to, all I'm  
12 trying to do is state here is, what were those  
13 reasons?

14 (Simultaneous speaking.)

15 MR. CROCKER: The first time you came  
16 by you said that was just, you just happened to  
17 say, I wanted to do a regulatory inspection and  
18 you just happened to have selected Medusa Lounge  
19 to go and do that regulatory inspection. When  
20 you did that regulatory inspection, were there  
21 any findings?

22 CHAIRPERSON ANDERSON: All right. Mr.  
23 Crocker, that's not really relevant to the issue  
24 at hand. The issue at hand is, the issue here is  
25 whether or not a violation occurred on June the

1 3rd, 2022, when the Investigator went to the  
2 establishment.

3 MR. CROCKER: I recognize --

4 CHAIRPERSON ANDERSON: It's not  
5 relevant that --

6 MR. CROCKER: I recognize that --

7 CHAIRPERSON ANDERSON: -- that --

8 MR. CROCKER: I recognize that --

9 CHAIRPERSON ANDERSON: But --

10 MR. CROCKER: -- but a police officer  
11 spends an hour following me down the street, he  
12 will find a time when I do something that  
13 violates the law. So all I'm pointing out here  
14 is, what's the nature of continually coming to  
15 Medusa Lounge?

16 Why would an Inspector come three  
17 times in one day? Until he finally found  
18 something.

19 And then he made the statement that  
20 the reason why he stopped at Medusa Lounge was  
21 because of the excessive noise. But nowhere in  
22 the report did he talk about excessive noise, he  
23 talked about entertainment.

24 CHAIRPERSON ANDERSON: It --

25 MR. CROCKER: So an inspector comes by



1 your establishment four or five times a day, he  
2 can find something. So I'm -- and this is, I  
3 will get to my point in a second, let me just --

4 CHAIRPERSON ANDERSON: All right.

5 (Simultaneous speaking.)

6 MR. CROCKER: -- finish --

7 CHAIRPERSON ANDERSON: All right.

8 Mister --

9 (Simultaneous speaking.)

10 CHAIRPERSON ANDERSON: All right,

11 mister --

12 MR. CROCKER: So, how many other times  
13 did you --

14 CHAIRPERSON ANDERSON: Hold on.

15 MR. CROCKER: -- to the establishment?

16 MR. LUTES: Objection. Relevance.

17 CHAIRPERSON ANDERSON: Mr. Crocker?

18 Mr. Crocker?

19 MR. CROCKER: Yes.

20 CHAIRPERSON ANDERSON: I'm sustaining  
21 the Government's objection, move on. It is not  
22 relevant how many times the establishment -- it's  
23 not relevant to the issue here. If you believe,  
24 if you believe that this Investigator,  
25 Investigator is picking on this establishment,

1 you can file a complaint with our agents with the  
2 director.

3 But the issue here is specifically  
4 what happened at 12:00, what happened at 1:00  
5 a.m. on June 3rd, 2022, when the investigator got  
6 to the establishment, sir. Those are the  
7 questions that the Board --

8 MR. CROCKER: Okay.

9 CHAIRPERSON ANDERSON: -- that's  
10 relevant to this issue, sir.

11 MR. CROCKER: Well, just as if a  
12 police officer pulls me over, he has to have an  
13 articulated suspicion on why he is pulling me  
14 over. Okay?

15 CHAIRPERSON ANDERSON: Mr. Crocker?

16 MR. CROCKER: So the point I'm trying  
17 to make here is, if his articulatable suspicion  
18 is a reason to why he stopped that last time was  
19 because of excessive noise, you know, why is it  
20 that the violation that we're here discussing  
21 today has to deal with entertainment?

22 CHAIRPERSON ANDERSON: Mr. Crocker,  
23 you have a license --

24 MR. CROCKER: Yes.

25 CHAIRPERSON ANDERSON: I'm sorry, your

1 Client has a license that provides an  
2 entertainment endorsement.

3 MR. CROCKER: Yes.

4 CHAIRPERSON ANDERSON: If your Client  
5 didn't have a license, if your Client's license -  
6 - This is not my hearing. This is not my job  
7 here to explain to you what an entertainment  
8 endorsement is and what occurs in an  
9 entertainment endorsement.

10 MR. CROCKER: No --

11 (Simultaneous speaking.)

12 CHAIRPERSON ANDERSON: So I have --

13 MR. CROCKER: No, no --

14 CHAIRPERSON ANDERSON: -- so we need  
15 to move on, sir.

16 MR. CROCKER: -- I'm not trying to go  
17 down that, we're not trying to go down that --

18 CHAIRPERSON ANDERSON: But we need to  
19 -- Sir, we need to -- Sir, you need to move on.

20 MR. CROCKER: Okay. I'll --

21 CHAIRPERSON ANDERSON: This is cross  
22 examination.

23 MR. CROCKER: Okay. Let me ask the  
24 next question here. Okay.

25 CHAIRPERSON ANDERSON: Yes, sir.

1 Thank you.

2 MR. CROCKER: Now, it would be normal  
3 on a Thursday or Friday night for a tavern, or an  
4 event place like Medusa Lounge, to be having  
5 music playing, am I correct?

6 INVESTIGATOR RUIZ: I'm sorry, can you  
7 repeat the question again?

8 MR. CROCKER: So the question is,  
9 would it be normal for a, you to be driving down  
10 Georgia Avenue and for you to see a tavern, a  
11 nightclub or anything like that that has music  
12 playing, for you to be able to hear it from your  
13 vehicle at a stoplight? Is there anything  
14 abnormal about that?

15 MR. LUTES: Objection. Speculative.

16 MR. CROCKER: It's not speculative,  
17 that's what he stated was the reason for his  
18 stop. I'm just trying to say --

19 CHAIRPERSON ANDERSON: All right.

20 MR. CROCKER: -- what was so different  
21 about Medusa as far as to why he selected Medusa  
22 to go and do a further inspection?

23 CHAIRPERSON ANDERSON: All right. I'm  
24 going to allow the question, but I'm going to  
25 overrule the objection. But, Mr. Crocker, we

1 have already established why is it that this  
2 Investigator stopped. We have already -- He  
3 testified --

4 MR. CROCKER: Right. What I'm --

5 CHAIRPERSON ANDERSON: -- why he had  
6 stopped.

7 MR. CROCKER: What I'm trying to  
8 attempt to establish is it was abusive. He had  
9 already been there two times before and he didn't  
10 find anything.

11 CHAIRPERSON ANDERSON: And, Mr.  
12 Crocker, and I have already, you have asked that  
13 question. I have stated that it is not relevant  
14 to this proceeding. What we're discussing is  
15 what specifically occurred on June 3rd, 2022.  
16 And --

17 MR. CROCKER: The other two stops  
18 occurred on the same day as well. Aside --

19 CHAIRPERSON ANDERSON: I don't know  
20 that. I don't know that. That's not in the  
21 record.

22 MR. CROCKER: But I'm putting it in  
23 the record by my cross examination.

24 CHAIRPERSON ANDERSON: You're asking  
25 him, it's not --

1 MR. CROCKER: The question I asked is,  
2 had that Investigator came by Medusa Lounge  
3 before? How many times had he come by Medusa  
4 Lounge before he --

5 CHAIRPERSON ANDERSON: Okay, fine.  
6 Mr. Crocker --

7 MR. CROCKER: He came looking for  
8 stuff earlier.

9 CHAIRPERSON ANDERSON: Mr. Crocker,  
10 you are the representative, you're asking  
11 questions, sir. I know you're not an attorney,  
12 so you need to ask a question, sir, and not  
13 testify.

14 MR. CROCKER: Okay. The question is  
15 --

16 CHAIRPERSON ANDERSON: Please ask --

17 MR. CROCKER: Okay. Inspector Ruiz,  
18 had you been by Medusa Lounge before?

19 INVESTIGATOR RUIZ: Yes.

20 CHAIRPERSON ANDERSON: So -- All  
21 right, go ahead. Do you have another question,  
22 Mr. Crocker?

23 MR. CROCKER: Yes. How many times  
24 have you been by Medusa Lounge?

25 MR. LUTES: Objection. Relevance.

1           MR. CROCKER: The relevance is, what  
2 I'm trying to present here is that if an  
3 Inspector keeps coming by looking for something,  
4 if a police officer follows me for ten miles  
5 while I'm driving down the street, and maybe  
6 that's just, and he stops me three times within  
7 the first three lights, the sixth time he might  
8 see me change a lane without turning on my  
9 turning signal. So my point is --

10           CHAIRPERSON ANDERSON: Mr. Crocker?

11           MR. CROCKER: My point is --

12           CHAIRPERSON ANDERSON: It's not  
13 relevant --

14           (Simultaneous speaking.)

15           MR. CROCKER: -- a number of times  
16 asking the Investigator how many times had he  
17 came by Medusa Lounge. Okay?

18           Then the point I'm trying to make is,  
19 is there anything suspicious about hearing music  
20 coming out of a tavern or establishment which has  
21 a license and has the ability to have  
22 entertainment at 1 o'clock on a Thursday night?

23           CHAIRPERSON ANDERSON: And he already  
24 asked, he answered that question, sir. Do you  
25 have another question you want to ask?

1                   MR. CROCKER: No, he didn't answer  
2                   that. That's what I'm getting to. The following  
3                   question is, you stated that at 1 o'clock you was  
4                   at a stoplight and you heard music coming out of  
5                   the establishment. What was suspicious about  
6                   music coming out of the establishment that has a  
7                   license and play music on a Thursday night that  
8                   would cause you to pull over and then come back  
9                   again, after you had been there already two times  
10                  in the day?

11                  So to come back again --

12                  MR. LUTES: Objection. Testifying  
13                  rather than asking questions.

14                  CHAIRPERSON ANDERSON: Mr. Crocker,  
15                  can you just, you are the representative, you're  
16                  doing cross examination, you're supposed to ask a  
17                  question, sir. That's all I'm asking.

18                  MR. CROCKER: Okay.

19                  CHAIRPERSON ANDERSON: You need to ask  
20                  him a question.

21                  MR. CROCKER: The point that I'm  
22                  asking is, what caused him, what was the  
23                  suspicion, the articulatable suspicion that  
24                  caused you to come back again, on a third time --

25                  MR. LUTES: Objection. Asked and



1 answered.

2 CHAIRPERSON ANDERSON: Sustained.

3 Let's move on. Do you have another question you  
4 want to ask, sir?

5 MR. CROCKER: Okay. All right. All  
6 right. So when you came back to the  
7 establishment, he walked you inside of the  
8 establishment, correct? That's what you stated  
9 in your initial statement?

10 INVESTIGATOR RUIZ: I entered the  
11 establishment.

12 MR. CROCKER: All right. You went  
13 upstairs?

14 INVESTIGATOR RUIZ: Correct.

15 MR. CROCKER: Okay. You said DJ. DJ  
16 is an acronym for disc jockey, am I correct?

17 INVESTIGATOR RUIZ: Correct.

18 MR. CROCKER: Did you see any disc in  
19 the booth?

20 You called it the DJ's booth, I mean,  
21 I don't know what caused you to call it, just  
22 because it's elevated. If you look at the actual  
23 design of the facility, the bar is elevated, the  
24 seats around the stage is elevated. So why do  
25 you call it a DJ booth?

1 INVESTIGATOR RUIZ: Because it's where  
2 an individual is controlling the music from.

3 MR. CROCKER: Okay. Did you see any  
4 discs?

5 INVESTIGATOR RUIZ: No.

6 MR. CROCKER: All right. What did you  
7 see in the booth?

8 INVESTIGATOR RUIZ: A laptop.

9 MR. CROCKER: Just a laptop?

10 INVESTIGATOR RUIZ: The top of the  
11 laptop.

12 MR. CROCKER: Okay. So, you know, do  
13 you have Spotify or do you have, how do you  
14 stream your music right now on your digital  
15 device?

16 MR. LUTES: Objection. Relevance.

17 CHAIRPERSON ANDERSON: Sustained.

18 MR. CROCKER: How do you play music?

19 CHAIRPERSON ANDERSON: That's not --  
20 Mr. Crocker? Can you please stick to the point.  
21 This is cross examination --

22 MR. CROCKER: This is the point.

23 CHAIRPERSON ANDERSON: -- him about  
24 what happened --

25 MR. CROCKER: The mere fact that --

1 CHAIRPERSON ANDERSON: It's not --  
2 (Simultaneous speaking.)

3 MR. CROCKER: -- my cell phone and I  
4 play Apple music --

5 CHAIRPERSON ANDERSON: I don't care --  
6 Mr. Crocker? Mr. Crocker?

7 MR. CROCKER: Yes.

8 CHAIRPERSON ANDERSON: I don't care  
9 about your use of your cell phone, sir. Can you  
10 ask, this is cross examination. You asked him  
11 specifically about what is it that he saw --

12 MR. CROCKER: Correct.

13 CHAIRPERSON ANDERSON: -- and  
14 observed. It doesn't matter what he, whether or  
15 not he uses Spotify at home. This is not about  
16 the Investigator, sir, this is about, what is it  
17 that he saw on June 3rd.

18 MR. CROCKER: Well, this is the point  
19 that I'm trying to make. He stated he say a DJ,  
20 right, but then he just basically communicated  
21 that he didn't see any discs. A DJ is a person  
22 that plays CDs. He is a disc jockey. So why did  
23 he identify that individual, why is he trying to  
24 identify that individual as a disc jockey? Did  
25 he speak to the individual?

1                   Mr. Ruiz, did you speak to the  
2 individual --

3                   CHAIRPERSON ANDERSON: Are you --

4                   MR. CROCKER: -- that was in the  
5 booth?

6                   INVESTIGATOR RUIZ: I can answer that?

7                   CHAIRPERSON ANDERSON: Yes, sir. Go  
8 ahead, sir.

9                   INVESTIGATOR RUIZ: No, I did not  
10 speak to him.

11                   MR. CROCKER: Okay. Well, why did you  
12 automatically assume that he was a DJ?

13                   INVESTIGATOR RUIZ: Based on my  
14 knowledge and the modern days, DJ's now mix music  
15 from laptops.

16                   MR. CROCKER: A DJ is a specific  
17 title. It's a disc jockey. A laptop doesn't  
18 have any discs.

19                   CHAIRPERSON ANDERSON: Mr. Crocker?

20                   MR. LUTES: Objection.

21                   CHAIRPERSON ANDERSON: Can you please  
22 ask a question --

23                   (Simultaneous speaking.)

24                   CHAIRPERSON ANDERSON: Mr. Crocker?

25                   Mr. Crocker? All right. You're not an attorney

1 so therefore I've been, I'm giving you some  
2 leeway.

3                   However, sir, this is cross  
4 examination. I need you to ask him a question.  
5 I do not need you to put testimony in evidence,  
6 that's not -- Can you please ask him a question?

7                   MR. CROCKER: Okay --

8                   (Simultaneous speaking.)

9                   CHAIRPERSON ANDERSON: No, basically  
10 he testified --

11                   MR. CROCKER: -- establishment --

12                   CHAIRPERSON ANDERSON: -- can you  
13 please --

14                   MR. CROCKER: Okay.

15                   CHAIRPERSON ANDERSON: -- ask him  
16 about that, sir. I don't need you to give him a  
17 definition --

18                   MR. CROCKER: Okay.

19                   CHAIRPERSON ANDERSON: -- of what a DJ  
20 is.

21                   MR. CROCKER: Well my question, I'll  
22 reiterate it again, just to make sure it's a part  
23 of the record, your reasoning of titling him a DJ  
24 was based upon what?

25                   MR. LUTES: Objection. Asked and

1 answered.

2 MR. CROCKER: It's not asked and  
3 answered.

4 CHAIRPERSON ANDERSON: Sustain. Let's  
5 move on, sir.

6 MR. CROCKER: I asked him, what he --

7 CHAIRPERSON ANDERSON: I --  
8 (Simultaneous speaking.)

9 MR. CROCKER: -- the gentleman was a  
10 DJ, what --

11 CHAIRPERSON ANDERSON: Mr. Crocker?

12 MR. CROCKER: -- was it based upon?

13 CHAIRPERSON ANDERSON: Mr. Crocker?  
14 Mr. Crocker?

15 MR. CROCKER: Yes.

16 CHAIRPERSON ANDERSON: The Government  
17 raised an objection, I sustained the objection,  
18 meaning that I give credence to the Government's  
19 objection, the Witness doesn't have to answer the  
20 question. I need you to move on to the next  
21 question, sir.

22 MR. CROCKER: Okay. Well let me  
23 rephrase the question, how about that?

24 Did you speak to the gentleman that  
25 you, was it a male or a female that you saw in

1 the booth?

2 MR. LUTES: Objection. Layering  
3 questions.

4 CHAIRPERSON ANDERSON: I'm sorry,  
5 what, Mr. Lutes? All right, yes. Can you  
6 explain what are you objecting to, Mr. Lutes?

7 MR. LUTES: Yes, Mr. Chairperson. Mr.  
8 Crocker asked Mr. Ruiz if, two questions in the,  
9 in his -- Question one was, did he speak to them,  
10 and then two, was the person a male or a female.

11 CHAIRPERSON ANDERSON: All right,  
12 fine. Mr. Crocker, can you ask --

13 MR. CROCKER: Okay. Did you speak to  
14 the individual that you identified as a DJ?

15 MR. LUTES: Objection. Asked and  
16 answered.

17 CHAIRPERSON ANDERSON: Sustained. He  
18 already answered that he did not speak to the  
19 person, sir. Do you have another question?

20 MR. CROCKER: Well, was it a male or  
21 a female that you identified as a DJ?

22 INVESTIGATOR RUIZ: It appeared to be  
23 a male.

24 MR. CROCKER: Okay. Is the only thing  
25 that the male happened to have with him, that

1 caused you to identify him as a DJ, a laptop?

2 INVESTIGATOR RUIZ: He was also  
3 wearing headphones used to mix the music.

4 MR. CROCKER: Did you see him having  
5 a mixer? Did you see a mixer? You said he just  
6 had a laptop?

7 INVESTIGATOR RUIZ: That's what I saw.  
8 Yes.

9 MR. CROCKER: Did you see a mixer?

10 INVESTIGATOR RUIZ: I did not see the  
11 mixer, no.

12 MR. CROCKER: Okay. You said the  
13 headphones were used to mix music, so you --

14 INVESTIGATOR RUIZ: It's common  
15 practice.

16 MR. CROCKER: You're stating that he  
17 performed a function that he didn't have the  
18 equipment to do. So did you see him mixing  
19 music?

20 MR. LUTES: Objection. Asked and  
21 answered.

22 MR. CROCKER: The question was, did  
23 you see him mixing music? That wasn't answered.  
24 Who asked him?

25 CHAIRPERSON ANDERSON: I'm going to



1 sustain the objection. He stated that -- I'm  
2 going to sustain the objection. Let's move on,  
3 sir.

4 MR. CROCKER: The point I'm trying to  
5 make is, that the gentleman in the booth was not  
6 a DJ.

7 CHAIRPERSON ANDERSON: It doesn't  
8 matter, sir, what -- It doesn't matter --

9 MR. CROCKER: The reason why it  
10 matters is --

11 CHAIRPERSON ANDERSON: All right, Mr.  
12 Crocker?

13 MR. CROCKER: -- because --

14 CHAIRPERSON ANDERSON: Mr. Crocker?

15 MR. CROCKER: -- the Government --

16 CHAIRPERSON ANDERSON: Mr. Crocker?  
17 Mr. Crocker?

18 MR. CROCKER: -- is alleging --

19 CHAIRPERSON ANDERSON: Mr. Crocker?

20 MR. CROCKER: -- that we had live  
21 music --

22 CHAIRPERSON ANDERSON: Mr. Crocker?

23 MR. CROCKER: -- and that a DJ was  
24 mixing music.

25 CHAIRPERSON ANDERSON: Mr. Crocker?

1 MR. CROCKER: Yes.

2 CHAIRPERSON ANDERSON: Mr. Crocker?  
3 The issue here is whether or not your Client had  
4 entertainment past 12:30. Entertainment past  
5 12:30, okay, sir?

6 MR. CROCKER: They're not restricted  
7 --

8 CHAIRPERSON ANDERSON: That's my  
9 understanding.

10 MR. CROCKER: -- from playing music  
11 past 12:30.

12 CHAIRPERSON ANDERSON: Mr. Crocker?  
13 Mr. Crocker? It's entertainment, sir. I think  
14 maybe you need to familiarize yourself what is,  
15 what entertainment means in a, I'll call  
16 establishment, sir.

17 MR. CROCKER: Right. And I'm familiar  
18 with that. That's the point I want to make.

19 CHAIRPERSON ANDERSON: Well, then, Mr.  
20 Crocker, if you're familiar with that I need you  
21 to ask questions about what entertainment is,  
22 sir.

23 (Simultaneous speaking.)

24 CHAIRPERSON ANDERSON: You're asking  
25 questions -- Mr. Crocker, you need you to ask

1 specific questions. What you're saying right now  
2 is arguments. When you have a chance, when we  
3 close the case, you can make arguments.

4 MR. CROCKER: Okay.

5 CHAIRPERSON ANDERSON: What is it that  
6 was being done. You're cross examining the  
7 witness --

8 MR. CROCKER: Okay.

9 CHAIRPERSON ANDERSON: -- based on the  
10 testimony that he gave under direct. I need you  
11 to focus on what is it that he testified to, and  
12 you're trying to cross examine him based on what  
13 he just testified to, sir.

14 MR. CROCKER: Okay. Yes, sir, I  
15 apologize. Let me go back then. Okay.

16 So prior to this date, June the 3rd,  
17 have you ever stopped or had reason to conduct an  
18 investigation at Medusa Lounge?

19 MR. LUTES: Objection. Relevance.  
20 Additionally, asked and answered.

21 MR. CROCKER: Asked and answered? I'm  
22 asking, has he stopped or has he ever been to  
23 Medusa Lounge for an investigation? He's an  
24 investigator. That's his area.

25 CHAIRPERSON ANDERSON: And, Mr.

1 Crocker, he testified earlier that he went there  
2 for a regulatory inspection, everything was in  
3 place so he moved on.

4 MR. CROCKER: No, that was all --  
5 (Simultaneous speaking.)

6 MR. CROCKER: -- I'm asking before  
7 that.

8 CHAIRPERSON ANDERSON: Mr. Crocker?  
9 And then you spent 20 minutes talking about the  
10 fact that he came to this establishment three  
11 times or four times or five times that day. It's  
12 not relevant whether or not he had been there, he  
13 has testified he has been there before. The  
14 question, sir --

15 MR. CROCKER: My apologizes. But my  
16 point I'm trying to make is, on this day he came  
17 there three times. My question I just asked is  
18 different from that. My question is, has he ever  
19 had reason to come to Medusa Lounge before June  
20 the 3rd.

21 CHAIRPERSON ANDERSON: You can answer  
22 that question, answer the question if you can,  
23 Mr. Ruiz.

24 INVESTIGATOR RUIZ: I was there once  
25 on June 2nd and June 3rd.

1 MR. CROCKER: When you came June 2nd,  
2 the day before. And what was your reasoning for  
3 coming there on June the 2nd?

4 MR. LUTES: Objection. Relevance.

5 CHAIRPERSON ANDERSON: Sustained.

6 Let's move on, sir.

7 MR. CROCKER: The relevance is, why is  
8 he -- It's supposed to be an articulated  
9 suspicion on why are you coming. He came the day  
10 before on June the 2nd.

11 So was there a report or any finding  
12 on your visit on June the 2nd?

13 MR. LUTES: Objection. Relevance.

14 CHAIRPERSON ANDERSON: Sustained. Mr.  
15 Crocker, if you are concerned that this  
16 investigator, or any other investigator is  
17 targeting an establishment, you can file the  
18 complaint with the director of the agency. This  
19 is not the appropriate place to do this.

20 This hearing is about whether or not  
21 a violation occurred on June 3rd, 2022, when the  
22 Investigator appeared at the establishment, sir.  
23 I don't care if this Investigator, or any other  
24 Investigator, for this hearing it is not relevant  
25 whether or not a thousand investigators had been

1 to your establishment the day or the day of. Or  
2 subsequent.

3 All that I care about right now, sir,  
4 and all that I'm focusing on today, is what  
5 happened on June 3rd when the Investigator came  
6 to the establishment, did a violation occur, sir.

7 MR. CROCKER: Okay. Now when you was  
8 at the establishment, okay, and you met with the  
9 ABC rep that was actually there, did he show you,  
10 or did you guys look at a meter, which was  
11 installed as a part of the agreement that would  
12 detect sound levels?

13 MR. LUTES: Objection. Relevance.

14 MR. CROCKER: The relevance is, is if  
15 we want to be objective, the word loud is an  
16 objective statement. But an actual sound meter  
17 will tell you true meter levels.

18 So the gentleman that he encountered  
19 when he came there has been instructed to where  
20 if an investigator comes there and they said the  
21 music is loud, then we would keep a record of  
22 what that level was to make sure that, for one,  
23 it was below the levels that the D.C. regulation  
24 requires, which is 80 decibels, and then two,  
25 that if it was excessive, then we'll deal

1 directly with the neighborhood to where if the  
2 neighborhood has a complaint they can call us  
3 directly and not involve an investigator, or  
4 anything like that, to where we have control  
5 mechanisms in place.

6 So the reason why I'm asking this  
7 question is because the violation changed from  
8 loud to entertainment.

9 MR. LUTES: Objection.  
10 Mischaracterization.

11 MR. CROCKER: He met with the ABRA,  
12 our representative that was there at Medusa  
13 Lounge, did he show me a meter to which showed  
14 that the music levels that we were playing were  
15 below those approved by D.C.? By Washington,  
16 D.C.

17 CHAIRPERSON ANDERSON: So, Mr.  
18 Crocker, that is not relevant. The issue is  
19 that, at least, and I'm looking for the charging  
20 papers so I can provide you the issue.

21 The Investigator testified he heard  
22 some loud noises on Georgia Avenue, he went in  
23 the establishment. Now, you, it's not my  
24 understanding that the establishment was charged  
25 with noise --

1 MR. CROCKER: Right.

2 CHAIRPERSON ANDERSON: -- a noise  
3 violation. It's my understanding it had to do  
4 with our entertainment endorsement, sir.

5 MR. CROCKER: Correct.

6 CHAIRPERSON ANDERSON: And it's my  
7 understanding, as presented, is that based on the  
8 Board order there should be no entertainment  
9 after 12:30, sir.

10 MR. CROCKER: There is no live  
11 entertainment. There is a difference.

12 CHAIRPERSON ANDERSON: Sir. Mr.  
13 Crocker?

14 MR. CROCKER: Yes.

15 CHAIRPERSON ANDERSON: Once again, it  
16 is not my job to explain to you what entertain,  
17 what's the definition of entertainment and what  
18 is required for an endorsement for an ABC  
19 establishment, sir. Okay?

20 I've had cases, sir, where they are  
21 playing bingo and we had issued a violation  
22 because someone is using a microphone to call  
23 bingo. And because that's considered  
24 entertainment, sir. Okay?

25 MR. CROCKER: Well, this is the point,



1 we didn't have a microphone in --

2 CHAIRPERSON ANDERSON: But I'm just  
3 saying to you, sir, you need to get back to what  
4 entertainment, what's considered entertainment,  
5 sir. Okay?

6 MR. CROCKER: Okay. Okay.

7 CHAIRPERSON ANDERSON: You are talking  
8 about noise. You're talking about --

9 MR. CROCKER: Did you --

10 CHAIRPERSON ANDERSON: -- there is no  
11 DJ. Mr. Crocker?

12 MR. CROCKER: Yes.

13 CHAIRPERSON ANDERSON: You're talking  
14 about noise, you're talking about that there was  
15 a, whether or not there was a male or a female in  
16 the, there was no disc jockey. This has to do  
17 with whether or not this establishment has  
18 violated the terms of its license, sir.

19 MR. CROCKER: Yes.

20 CHAIRPERSON ANDERSON: This cross  
21 examination, sir, all of the questions you're  
22 asking, they are better on direct when you're  
23 presenting your case.

24 MR. CROCKER: Okay.

25 CHAIRPERSON ANDERSON: Do you have

1 another question that you want to ask this  
2 witness, sir?

3 MR. CROCKER: Yes, I do. Yes, I do.

4 CHAIRPERSON ANDERSON: What is that,  
5 sir?

6 MR. CROCKER: So you, the reason why  
7 you stopped was because of the loudness of the  
8 music. And I'll be bringing a witness in a few  
9 minutes as well, and whatnot.

10 But then once you, you know, went and  
11 met with the actual representative and he showed  
12 you the meter, he showed you that our levels were  
13 below that, did --

14 MR. LUTES: Objection. Argumentative.

15 CHAIRPERSON ANDERSON: Sustained.  
16 Mister, that is not the issue that is here, sir.  
17 We're not, this is not a noise case, sir, this is  
18 a matter of whether or not this establishment has  
19 complied with the terms of its license.

20 MR. CROCKER: Okay. Right. Right.  
21 Well, when did you become aware of the settlement  
22 agreement, Mr. Ruiz?

23 That's a question. Mr. Ruiz, when did  
24 you become aware of the verbiage in the  
25 settlement agreement that said that we, that they

1 were restricted as far as providing  
2 entertainment?

3 INVESTIGATOR RUIZ: When I reviewed  
4 the records of the establishment.

5 MR. CROCKER: Okay. You've only been  
6 to the establishment twice, to in June the day  
7 before, and you testified, and on June the 3rd.  
8 So when did you review the records of the  
9 establishment?

10 INVESTIGATOR RUIZ: I reviewed the  
11 records during the investigation, after the visit  
12 to the establishment.

13 MR. CROCKER: And so you reviewed the,  
14 you were looking for something after you had  
15 visited the establishment, so therefore you went  
16 to look at the settlement agreement --

17 INVESTIGATOR RUIZ: No.

18 MR. CROCKER: -- after June the 3rd?

19 INVESTIGATOR RUIZ: This states the  
20 hours, sir.

21 MR. CROCKER: Yes, but the hours, the  
22 license doesn't state the restrictions on  
23 entertainment, that's captured in the settlement  
24 agreement which is a separate document. The  
25 license tells you that their operating hours are

1 open till 2:30.

2 So when did you review the settlement  
3 agreement?

4 INVESTIGATOR RUIZ: During my  
5 investigation.

6 MR. CROCKER: Okay. So that's after  
7 June the 3rd, correct?

8 INVESTIGATOR RUIZ: Correct.

9 MR. CROCKER: I'm sorry, I don't want  
10 to put words in your mouth. I need a date as far  
11 as to when you actually became aware of the  
12 restriction on their entertainment?

13 MR. LUTES: Objection. Relevance.

14 MR. CROCKER: I'm --

15 CHAIRPERSON ANDERSON: I'm going to  
16 overrule it. When did --

17 MR. CROCKER: And the questioning --

18 CHAIRPERSON ANDERSON: -- the  
19 investigation begin?

20 MR. CROCKER: -- you know. The thing  
21 I'm questioning here is, June the 3rd, June 2nd  
22 and June the 3rd he visited the establishment and  
23 he then later went and reviewed the settlement  
24 agreement after he had visited the establishment  
25 on June the 2nd, and then two times earlier on

1 June the 3rd. And then he goes to, I'm asking  
2 when did he actually review the settlement  
3 agreement and find that, aha, they're not  
4 supposed to have entertainment after 12:30?

5 MR. LUTES: Mr. Chairman, the  
6 settlement agreement and Board order was in place  
7 during the time. At which time that Mr. Ruiz  
8 reviewed the documents is not relevant.

9 MR. CROCKER: There is relevance.

10 (Simultaneous speaking.)

11 MR. LUTES: -- and order was  
12 enforceable at the time.

13 MR. CROCKER: It is relevant.

14 CHAIRPERSON ANDERSON: I'm, hold on.  
15 All right, I'm going to overrule the objection  
16 just so that, I'm going to overrule the  
17 objection.

18 Are you able to answer the question,  
19 Mr. Ruiz?

20 INVESTIGATOR RUIZ: I don't recall the  
21 exact date. It was afterwards.

22 CHAIRPERSON ANDERSON: All right. Do  
23 you have another question you have on cross  
24 examination, Mr. Crocker?

25 MR. CROCKER: Okay. Well, when was

1 the actual complaint filed then?

2 MR. LUTES: Objection. Relevance.  
3 Outside of the scope of direct as well.

4 MR. CROCKER: He doesn't remember the  
5 date --

6 CHAIRPERSON ANDERSON: Sustained.

7 MR. CROCKER: -- upon which he --

8 CHAIRPERSON ANDERSON: That has  
9 nothing to do with -- Mr. Crocker? That has  
10 nothing to do with anything. You're asking him  
11 different questions about when the complaint was  
12 filed.

13 MR. CROCKER: Yes. But my point being  
14 --

15 CHAIRPERSON ANDERSON: That's not  
16 relevant.

17 MR. CROCKER: This is the point, just  
18 real quickly. Is that when he filed the  
19 complaint, he filed the complaint as a violation  
20 to the settlement agreement. The only way he  
21 would be able to do that is if he had reviewed  
22 the settlement agreement. So I'm trying to just  
23 get a time frame upon which, when he reviewed the  
24 settlement agreement.

25 If he can articulate the need, the

1 date or the time frame on when he reviewed the  
2 settlement agreement, if I have a date upon which  
3 he filed the complaint, that will let me know he  
4 reviewed it at least before this date otherwise  
5 he couldn't have filed the complaint, right?

6 So when was the date that you filed  
7 the complaint?

8 MR. LUTES: Objection. Relevance.

9 MR. CROCKER: I just made --

10 CHAIRPERSON ANDERSON: Sustained.

11 Let's -- And I sustained the objection, meaning  
12 that I agree with the Government. Let's move on,  
13 sir.

14 MR. CROCKER: Okay. Is it common for  
15 other establishments to have settlement  
16 agreements and for the inspector to have reviewed  
17 the settlement agreement prior to conducting an  
18 investigation?

19 MR. LUTES: Objection. Relevance.  
20 And speculative.

21 MR. CROCKER: This is what he did, so  
22 I'm just asking is it common.

23 CHAIRPERSON ANDERSON: I'm going to  
24 overrule the objection. If he can answer it, he  
25 can answer it. If not, let's move on. Can you

1 answer the question, Mr. Ruiz?

2 INVESTIGATOR RUIZ: (No audible  
3 response.)

4 MS. FASHBAUGH: Mute.

5 INVESTIGATOR RUIZ: I apologize.

6 Thank you. It was common knowledge during the  
7 course of an ABRA Investigator's duties to review  
8 settlement agreements even prior to visiting  
9 establishments. Yes.

10 MR. CROCKER: Okay. So traditionally,  
11 an investigator will review if it's their  
12 neighborhood or their area that they actually are  
13 assigned to, a settlement agreement are, have  
14 knowledge about restrictions and things like that  
15 that have been place on an establishment prior to  
16 them conducting investigations, correct?

17 INVESTIGATOR RUIZ: Repeat the  
18 question again. I'm sorry.

19 MR. CROCKER: Okay.

20 INVESTIGATOR RUIZ: The signal broke.

21 MR. CROCKER: And I just asked, is it  
22 common for -- I guess, would it be considered a  
23 best practice for an investigator to have  
24 reviewed or have some insight or understanding  
25 into Board rulings or restrictions that may have



1       been placed on an establishment, prior to them  
2       going and conducting an investigation?

3               MR. LUTES:  Objection.  Relevance.

4               CHAIRPERSON ANDERSON:  (Audio  
5       interference) particular case because it's not  
6       relevant to this.  What this Witness testified  
7       was that he was driving on Georgia Avenue, he  
8       heard the noise, he went to investigate.  So it's  
9       not my understanding that he went to this  
10       establishment because there was a call or any  
11       suspicion that there was a violation.

12              MR. CROCKER:  Okay.

13              CHAIRPERSON ANDERSON:  So I'm  
14       sustaining the objection.  Let's move on, sir.

15              MR. CROCKER:  Okay.  I'm sorry, I  
16       apologize.  Let me reframe the question then.  
17       Because I'm trying to make a point that I'll  
18       conclude in my argument.

19              CHAIRPERSON ANDERSON:  Mr. Crocker,  
20       you don't make points during cross examination,  
21       you ask questions, the Witness answers the  
22       questions.  When you present your case, when you  
23       close your case that's when you make your points.

24              MR. CROCKER:  Okay.

25              CHAIRPERSON ANDERSON:  You do not make

1 points in cross examination. You ask questions  
2 of the witness to answer, sir, then we move on.

3 MR. CROCKER: Are you familiar with  
4 any other settlement agreements with other  
5 establishments that are in your jurisdiction of  
6 this nature where they have restrictions --

7 MR. LUTES: Objection. Relevance.

8 CHAIRPERSON ANDERSON: Sustained.

9 Let's move on, sir. It is not relevant to what  
10 happened on June 3rd, when this Investigator went  
11 to this establishment, sir. Let's move on.

12 MR. CROCKER: Okay. Is it a common  
13 practice from an Investigator, I'm just trying to  
14 get some understanding --

15 CHAIRPERSON ANDERSON: It's not  
16 relevant, sir. Can we move on from this line of  
17 questioning, sir?

18 Mr. Crocker, we need to move on.  
19 You're cross examining. Let's move on from this  
20 line of questioning. It is not relevant to why,  
21 it is not relevant.

22 The Investigator testified that he was  
23 driving down Georgia Avenue, he heard some noise,  
24 and he went to investigate. That's what  
25 happened, sir. Let's move on from there, sir.

1 MR. CROCKER: All right. Well, just  
2 as a matter of questioning, why is it a reason  
3 that, is there any reason why you did not cited  
4 Medusa Lounge for what your original articulated  
5 suspicion was, loud noise?

6 MR. LUTES: Objection. Relevance.  
7 And mischaracterization.

8 CHAIRPERSON ANDERSON: Sustained.  
9 Let's move on, sir.

10 MR. CROCKER: That was the reason for  
11 his stop.

12 CHAIRPERSON ANDERSON: Let's move on,  
13 sir.

14 MR. CROCKER: Okay. Had you received  
15 any calls or complaints about Medusa Lounge in  
16 earlier or at any time?

17 MR. LUTES: Objection. Relevance.

18 CHAIRPERSON ANDERSON: Sustained.  
19 Let's move on, sir.

20 MR. CROCKER: This is a part of my  
21 case --

22 CHAIRPERSON ANDERSON: Mr. Crocker,  
23 this is cross, this is cross examination.

24 MR. CROCKER: Well, and I'm trying to  
25 get --

1 CHAIRPERSON ANDERSON: Mr. Crocker?  
2 Mr. Crocker? When you cross examine the witness,  
3 you cross examine the witness based on the  
4 evidence, based on his testimony, sir.

5 MR. CROCKER: That's what I'm --

6 CHAIRPERSON ANDERSON: Now, you have  
7 -- No, sir. You have been asking a lot of  
8 questions that I don't recall Mr. Ruiz has  
9 testified to.

10 I believe that Mr. Lutes could clearly  
11 make objections to say that this beyond the  
12 scope, but he has not. But when you cross  
13 examine a witness, you are supposed to listen to  
14 what he testified to, and then you ask him  
15 questions directly about what he testified about.

16 MR. CROCKER: I am. He is --

17 CHAIRPERSON ANDERSON: Now if --

18 MR. CROCKER: I'm asking him questions  
19 --

20 CHAIRPERSON ANDERSON: You are not  
21 doing that, sir. You are not doing that, sir.  
22 You are not doing that, sir. We are getting far  
23 afield of what the issue. The only issue, sir,  
24 is what occurred on June 3rd when the  
25 Investigator went to the establishment.

1 MR. CROCKER: And I'm trying to --

2 CHAIRPERSON ANDERSON: We are far  
3 afield.

4 MR. CROCKER: But my point being is --

5 CHAIRPERSON ANDERSON: And you do  
6 this, sir.

7 (Simultaneous speaking.)

8 MR. CROCKER: -- articulatable  
9 suspicion. Are his articulatable reason for why  
10 he made the stop. I'm just challenging that.

11 CHAIRPERSON ANDERSON: The  
12 Investigator testified, I was driving on Georgia  
13 Avenue, I heard some noise and I went to  
14 investigate. That's what he testified to.

15 MR. CROCKER: He said he heard  
16 excessive noise.

17 CHAIRPERSON ANDERSON: It doesn't  
18 matter. Whether it was excessive or noise, he  
19 heard noise, sir, and he went to investigate.

20 MR. CROCKER: What I'm asking is, was  
21 there any other reason that he came earlier in  
22 the day, two times, and then also the day --

23 CHAIRPERSON ANDERSON: That's not  
24 relevant. It doesn't matter what it is, sir. He  
25 testified that I'm driving down Georgia Avenue

1 and I heard some noise. He went to investigate.  
2 As an Investigator he went to investigate.

3 MR. CROCKER: The relevance is the  
4 number of times that he went to investigate --

5 CHAIRPERSON ANDERSON: It's not  
6 relevant, sir, how many times. Mr. Crocker, I  
7 have told you before, if you have a problem that  
8 you believe that this establishment has been  
9 targeted, this is not the forum to address that.  
10 You can file a formal complaint --

11 MR. CROCKER: But this is the form to  
12 where I can collect the information that will  
13 support the --

14 CHAIRPERSON ANDERSON: No, sir. No.  
15 You don't collect information here, sir. You're  
16 making an allegation that this investigation,  
17 that this place has been targeted and so  
18 therefore you can file a complaint at another  
19 forum.

20 We're here at a case because your  
21 Client was cited for not complying with the term  
22 of its license, sir. That's what we are here.  
23 You're on cross examination.

24 Can you, if you have no further  
25 question, if you have no further questions of

1 this Witness on the issue at hand, let's move on,  
2 sir, to --

3 MR. CROCKER: Okay.

4 CHAIRPERSON ANDERSON: -- another  
5 witness.

6 MR. CROCKER: Next question. I  
7 apologize. You testified that you saw the DJ and  
8 he had earphones on, right?

9 INVESTIGATOR RUIZ: Yes.

10 MR. CROCKER: What other equipment did  
11 you see that gave you information, or provided  
12 you with enough evidence for you to classify this  
13 individual as a "DJ?"

14 MR. LUTES: Objection. Asked and  
15 answered.

16 CHAIRPERSON ANDERSON: Sustained.  
17 Let's move on, sir.

18 MR. CROCKER: Well, okay. The key  
19 argument here --

20 CHAIRPERSON ANDERSON: Let's move on,  
21 Mr. Crocker.

22 MR. CROCKER: -- he said that we were  
23 providing live entertainment.

24 CHAIRPERSON ANDERSON: Mr. Crocker,  
25 that is not the issue. It's not the issue. And

1 I have told you before, Mr. Crocker, this is not,  
2 whether or not this is live entertainment or  
3 entertainment, I think you need to review what is  
4 considered entertainment in an ABC establishment,  
5 sir.

6 You're talking about live and we're  
7 talking about entertainment. You need to review  
8 --

9 MR. CROCKER: If you look at the  
10 settlement order, we're restricted to live  
11 entertainment.

12 CHAIRPERSON ANDERSON: Mr. Crocker?  
13 Mr. Crocker, you need to determine, you need to  
14 apprise yourself of what is considered  
15 entertainment in an ABC establishment, sir.  
16 Let's move on.

17 MR. CROCKER: Okay.

18 CHAIRPERSON ANDERSON: If you don't  
19 have any other questions for this Witness, it's  
20 not for the Board to ask questions, sir.

21 MR. CROCKER: Just, with all due  
22 respect, we are restricted from live  
23 entertainment. And all --

24 CHAIRPERSON ANDERSON: This is an  
25 issue --



1 MR. CROCKER: -- attempt to establish  
2 here --

3 CHAIRPERSON ANDERSON: Mr. Crocker?

4 MR. CROCKER: -- that we were not, we  
5 were not, we did not have live entertainment  
6 there.

7 CHAIRPERSON ANDERSON: All right. Can  
8 we take a pause please?

9 Mr. Lutes, do you have a copy of the  
10 charging documents, please?

11 MR. LUTES: Yes. I actually, I do  
12 have a copy. I would be happy to share the  
13 charging documents.

14 CHAIRPERSON ANDERSON: What is the  
15 charging documents in this particular case, sir?

16 MR. LUTES: Okay. So the charging  
17 document is a notice of show cause, notice of  
18 status and show cause hearings I filed on,  
19 Board's indulgence, that I filed on August 26th.

20 The one lone charge we have is the  
21 establishment exceeded the approved hours of  
22 entertainment in violation of Board Order 2021-  
23 020, for which the Board may take the proposed  
24 action under D.C. Code Section 25823(a)(6).

25 CHAIRPERSON ANDERSON: Mr. Crocker,

1 this case is about entertainment. It is not  
2 about whether or not it's live entertainment,  
3 whether or not a Spotifier, whether or not  
4 someone is doing sign language, whether, all it  
5 has to do, sir, what is considered entertainment  
6 for an ABC establishment, sir. Entertainment.

7 It has nothing to do with whether or  
8 not it's live, whether or not it's a DJ, whether  
9 or not it's a Spotifier, whether or not someone  
10 is singing, whether or not someone is miming, all  
11 it has to do is entertainment, sir. What is  
12 considered entertainment for an ABC license  
13 establishment, sir. Entertainment.

14 MR. CROCKER: So I --

15 CHAIRPERSON ANDERSON: So other  
16 questions about, I do not want you to talk about  
17 live entertainment, sir. It is entertainment,  
18 sir.

19 MR. CROCKER: No. But this is the  
20 distinguishment. Our settlement agreement  
21 restricts live entertainment, it does not  
22 restrict entertainment.

23 CHAIRPERSON ANDERSON: Mr. Crocker?  
24 I don't really care what you're settlement  
25 agreement talks about, what live entertainment

1 is.

2 MR. CROCKER: That's what you --

3 CHAIRPERSON ANDERSON: What I have  
4 said to you -- Mr. Crocker? You need to get a  
5 firm understanding of what entertainment is.  
6 There is a settlement agreement and there is a  
7 Board order.

8 MR. CROCKER: Yes.

9 CHAIRPERSON ANDERSON: The Board order  
10 established the hours of entertainment for your  
11 establishment.

12 MR. CROCKER: Live entertainment.

13 CHAIRPERSON ANDERSON: The Board  
14 order, sir -- The Board order, sir, I saw this in  
15 the agreement. The settlement agreement  
16 specifically states the Board order.

17 So, the Board order established what  
18 the times for your entertainment --

19 MR. CROCKER: For live entertainment.

20 CHAIRPERSON ANDERSON: -- there is  
21 nothing -- no, Mr. Crocker. There is nothing in  
22 the Board order form that I just read that talked  
23 about live entertainment. It talks about  
24 entertainment.

25 And as I stated to you, sir, you need

1 to review what is considered entertainment for an  
2 ABC establishment, sir. And I am giving you a  
3 whole lot of leeway, sir, but you are pushing the  
4 bounds of what is considered cross examination,  
5 sir.

6 This is not cross examination. And if  
7 you do not have -- And if you are unable to  
8 properly cross examine this Witness we're going  
9 to move on, sir.

10 MR. CROCKER: Okay.

11 CHAIRPERSON ANDERSON: And if you  
12 believe that this Board has acted, as Chair I  
13 have acted improper, than you can appeal this  
14 matter, whatever decision the Board makes.  
15 However, sir --

16 MR. CROCKER: Let me just ask some  
17 general questions then. Let's get back to the  
18 questioning. I apologize. Okay?

19 How long have you been an  
20 Investigator, I'm sorry, Mr. Ruiz?

21 CHAIRPERSON ANDERSON: Asked and  
22 answered, sir. He stated on direct that he has  
23 been for 3.5 years, from my notes. That's what  
24 he testified to, sir.

25 MR. CROCKER: Okay. Have you ever

1 wrote a violation of another establishment for  
2 providing entertainment? Is this something  
3 you've ever done before?

4 MR. LUTES: Objection. Relevance.

5 MR. CROCKER: He has been working  
6 there for 3.5 --

7 (Simultaneous speaking.)

8 CHAIRPERSON ANDERSON: I am going to  
9 overrule the objection. Let him answer the  
10 question if he can.

11 INVESTIGATOR RUIZ: Yes.

12 MR. CROCKER: Okay. Is that other  
13 establishment in the Georgia Avenue area?

14 MR. LUTES: Objection. Relevance.

15 CHAIRPERSON ANDERSON: Sustained.  
16 Let's move on.

17 MR. CROCKER: Okay. In those  
18 violations that you have written for  
19 entertainment has it been principally as a result  
20 of settlement agreements that has cause for these  
21 violations, are these for you to cite an  
22 establishment for live entertainment?

23 MR. LUTES: Objection. Relevance.

24 CHAIRPERSON ANDERSON: Sustained.

25 This is not -- Mr. Crocker, this is not -- Mr.

1 Crocker, I have told you this has nothing to do  
2 with live entertainment, sir. It has to do with  
3 entertainment, sir.

4 There is no difference. We're talking  
5 about entertainment, sir. So you either ask  
6 about entertainment or don't ask about  
7 entertainment.

8 MR. CROCKER: This is a question about  
9 --

10 (Simultaneous speaking.)

11 CHAIRPERSON ANDERSON: This has  
12 nothing to -- Mr. Crocker, this has nothing to do  
13 with live entertainment, sir. It has to do with  
14 entertainment.

15 MR. CROCKER: Entertainment. Well let  
16 me re-frame the question. Have you written  
17 violations of this sort for other establishments  
18 that are in the Georgia Avenue area for  
19 violations of having live entertainment that were  
20 based upon settlement agreements?

21 MR. LUTES: Objection. Relevance.

22 MR. CROCKER: I am just trying to --  
23 He says he's been there for 3.5 years --

24 (Simultaneous speaking.)

25 CHAIRPERSON ANDERSON: Sustained.

1 Now, Mr. --

2 MR. CROCKER: -- and I'm just trying  
3 to identify --

4 CHAIRPERSON ANDERSON: Sustained. No.

5 MR. CROCKER: -- what his experience  
6 is in writing these types of violations, that's  
7 all.

8 CHAIRPERSON ANDERSON: Mr. -- I  
9 sustained the objection. You already asked him  
10 that question. He answered. There are certain  
11 questions you have asked that's not relevant.

12 Let's move on, sir. Do you have  
13 another question that has nothing to do with live  
14 entertainment? And, sir, there was no testimony  
15 --

16 MR. CROCKER: Yes.

17 CHAIRPERSON ANDERSON: Mr. Crocker,  
18 there was no testimony on direct examination  
19 regarding live entertainment, sir.

20 There was no questions, so I am not  
21 quite sure -- This is beyond the balance of what  
22 is considered cross examination, sir.

23 MR. CROCKER: All I am trying to do  
24 here is establish his experience, all right.

25 CHAIRPERSON ANDERSON: He has already

1 done that, sir.

2 MR. CROCKER: Yes, he's told you the  
3 number of years --

4 (Simultaneous speaking.)

5 CHAIRPERSON ANDERSON: Do you have  
6 another question?

7 MR. CROCKER: He has told you the  
8 number of years he has been working as an  
9 investigator.

10 I am just trying to establish if he  
11 has ever in the past written these types of  
12 violations for violating a -- In a Type C  
13 establishment, which under D.C. law has the  
14 ability to provide entertainment, I am just  
15 asking has he written violations to where even  
16 though this is an establishment with a Type C  
17 license of which he has written a violation for  
18 them providing entertainment which is within the  
19 laws of a Type C establishment.

20 CHAIRPERSON ANDERSON: Answer the  
21 question, Mr. Ruiz.

22 INVESTIGATOR RUIZ: I have written  
23 entertainment cases before, yes.

24 CHAIRPERSON ANDERSON: Do you have  
25 another question, Mr. Crocker?



1 MR. CROCKER: Yes. When writing those  
2 entertainment cases was it as a result of it  
3 being a restriction that's in a settlement  
4 agreement?

5 MR. LUTES: Objection. Relevance.

6 CHAIRPERSON ANDERSON: Sustained.

7 MR. CROCKER: The relevance here is  
8 that --

9 CHAIRPERSON ANDERSON: Ask another  
10 question. It's not relevant, Mr. --

11 (Simultaneous speaking.)

12 CHAIRPERSON ANDERSON: Mr. Crocker,  
13 it's not relevant. Let's move on.

14 MR. CROCKER: Can I explain the  
15 relevance?

16 CHAIRPERSON ANDERSON: It is not -- I  
17 have already -- It's not relevant, Mr. Crocker.  
18 Let's move on, please.

19 MR. CROCKER: Okay. Let me ask you  
20 this, in your car or whatever, I am not sure if  
21 you have personal vehicles or vehicles that is  
22 provided by ABRA, do you have the ability to pull  
23 up a settlement agreement and read it like prior  
24 to going into an establishment?

25 MR. LUTES: Objection. Relevance.

1 MR. CROCKER: You know, if he had the  
2 ability to do it and he didn't do it -- He  
3 testified that he didn't do it until afterward,  
4 or whatnot, and I am just asking does he have,  
5 could he have read the settlement before he had  
6 went into the establishment. That's all.

7 CHAIRPERSON ANDERSON: I'm going to  
8 overrule the objection. He can answer it if he  
9 can.

10 INVESTIGATOR RUIZ: From inside the  
11 vehicle there is no technology that has us look  
12 up information, no.

13 MR. CROCKER: Okay. So you are  
14 testifying that you do not, you would not even  
15 have had the ability to have looked at or viewed  
16 the settlement agreement prior to you conducting  
17 your investigation?

18 MR. LUTES: Objection. Asked and  
19 answered.

20 CHAIRPERSON ANDERSON: Sustained.  
21 Let's move on.

22 MR. CROCKER: Okay. Did you observe  
23 any other violations while you were there that  
24 you may not have written up or just decided to  
25 let go with regard to Medusa Lounge?

1 INVESTIGATOR RUIZ: No.

2 MR. CROCKER: Did you communicate to  
3 the representative that was there that you were  
4 going to cite him for entertainment?

5 INVESTIGATOR RUIZ: I told him it was  
6 a violation, yes.

7 MR. CROCKER: You told him it was a  
8 violation of, that it was a violation for him to  
9 be having music playing?

10 INVESTIGATOR RUIZ: Having  
11 entertainment past 12:30, yes.

12 MR. CROCKER: And you told him this  
13 when you went there on June 3rd, is that correct?

14 INVESTIGATOR RUIZ: Yes.

15 MR. CROCKER: You testified earlier  
16 that you hadn't read the settlement agreement  
17 until after June 3rd?

18 MR. LUTES: Objection.

19 (Simultaneous speaking.)

20 MR. LUTES: Asked and answered.

21 MR. CROCKER: So are you stating now  
22 that you told him that he had violated the  
23 agreement that stated that he could not perform  
24 or have entertainment after 12:30 although  
25 earlier you testified that you had not read the

1 settlement agreement until after June 3rd?

2 INVESTIGATOR RUIZ: I told him he had  
3 violated past entertainment hours, which are  
4 actually posted on his ABRA license. The ABRA  
5 license correlates with any Board Orders.

6 MR. CROCKER: Okay. So you said you  
7 didn't have any technologies to review the  
8 settlement agreement, but you do have the ability  
9 to view his ABRA license, is that right?

10 INVESTIGATOR RUIZ: It's posted on the  
11 premises.

12 MR. CROCKER: So you didn't find out  
13 that he was restricted to entertainment hours,  
14 from 12:30, until you came in the establishment  
15 and viewed his ABRA license, right?

16 INVESTIGATOR RUIZ: Yes. I viewed his  
17 license.

18 MR. CROCKER: Okay. I don't have any  
19 additional questions. Ms. Etana, do you have any  
20 questions as the owner of the establishment?

21 CHAIRPERSON ANDERSON: She can't ask  
22 any. No, Mr. Crocker, you are the  
23 representative. You are the only one who can ask  
24 questions. You don't have any other questions,  
25 so, all right.

1 MR. CROCKER: Okay.

2 CHAIRPERSON ANDERSON: Does the Board  
3 have --

4 MR. CROCKER: I rest. I don't have  
5 any additional questions.

6 CHAIRPERSON ANDERSON: Thank you, sir.  
7 Are there any questions by any Board Members? Go  
8 ahead, Mr. Grandis.

9 MEMBER GRANDIS: Mr. Ruiz, thank you  
10 for your testimony today. Let me just make sure  
11 that our record is clear.

12 The night that you were out, which was  
13 a Thursday night, that was part of your routine  
14 schedule for that week?

15 INVESTIGATOR RUIZ: Yes.

16 MEMBER GRANDIS: And when you are on  
17 your routine schedule must you have a legal  
18 reason to enter any ABC establishment or any  
19 establishment you believe may be serving  
20 alcoholic beverages?

21 INVESTIGATOR RUIZ: No.

22 MEMBER GRANDIS: Thank you. Mr.  
23 Chairman, thank you very much.

24 CHAIRPERSON ANDERSON: Yes. Any other  
25 questions by any other Board Members?

1 No? Any questions?

2 Mr. Ruiz?

3 INVESTIGATOR RUIZ: Yes, sir?

4 CHAIRPERSON ANDERSON: Mr. Ruiz, what  
5 is considered entertainment in an ABC-licensed  
6 establishment, if you know?

7 INVESTIGATOR RUIZ: Entertainment  
8 includes individual use and amplified sound, to  
9 include disc jockeys, trivia, comedy shows,  
10 anybody who is hosting via a microphone, et  
11 cetera.

12 CHAIRPERSON ANDERSON: Mr. Crocker, do  
13 you have -- Any other questions by any of the  
14 Board Members?

15 MR. CROCKER: Real quickly because --  
16 (Simultaneous speaking.)

17 CHAIRPERSON ANDERSON: Mr. Crocker, I  
18 did not ask you a question.

19 MR. CROCKER: Oh, I thought you did.  
20 I'm sorry.

21 CHAIRPERSON ANDERSON: The question I  
22 said, are there any other questions by any other  
23 Board Members.

24 Hearing none. Mr. Crocker, do you  
25 have any questions of the Board based

1 specifically on the questions that were asked by  
2 the Board?

3 MR. CROCKER: Yes, I do for the Board.  
4 You --

5 CHAIRPERSON ANDERSON: No, I said you  
6 are asking a question specifically what was asked  
7 by the Board, yes, sir. What's your question,  
8 sir?

9 MR. CROCKER: Yes. You just -- You  
10 put into the record from the Investigator his  
11 opinion of what is considered to be entertainment  
12 and I would argue or I would hope that the Board  
13 in its function as a Judge --

14 CHAIRPERSON ANDERSON: Mr. Crocker,  
15 are you asking a question of the witness, sir?  
16 This is not argument.

17 MR. CROCKER: No. I am asking a  
18 question of the Board.

19 CHAIRPERSON ANDERSON: No, you're not  
20 -- You cannot ask the Board a question, sir. You  
21 are asking a question of the witness, sir. You  
22 can only ask --

23 MR. CROCKER: Okay. Okay.

24 CHAIRPERSON ANDERSON: This is cross  
25 examination. I am giving you an opportunity to

1 ask questions of the witness based on the  
2 questions that were asked by the Board.

3 MR. CROCKER: Okay.

4 CHAIRPERSON ANDERSON: You can only  
5 question the witness, sir.

6 MR. CROCKER: Okay. Are you an  
7 attorney that -- Are you a -- What level of  
8 education or background do you have that would  
9 qualify you to make a statement about what is  
10 legally considered to be entertainment in the  
11 District of Columbia?

12 CHAIRPERSON ANDERSON: Wait. Are you  
13 asking that question of the witness, sir?

14 MR. CROCKER: Yes.

15 INVESTIGATOR RUIZ: What was your  
16 question again?

17 MR. CROCKER: What is your background  
18 and your educational level as far as the laws and  
19 the regulations with regard to the District of  
20 Columbia, so that's why I asked you are you  
21 barred by the Courts or whatnot?

22 MR. LUTES: Objection. Relevance.

23 CHAIRPERSON ANDERSON: Well that's --  
24 (Simultaneous speaking.)

25 MR. LUTES: As well as asked and



1 answered.

2 MR. CROCKER: He was asked a question  
3 with regard to what is considered entertainment  
4 and he made a statement.

5 I am cross examining him on asking him  
6 on what his, what is his educational background  
7 that puts him in a position to where he can make  
8 a statement on what's considered entertainment in  
9 the District of Columbia.

10 CHAIRPERSON ANDERSON: Mr. Crocker,  
11 you can ask -- You need to rephrase the question.  
12 His educational background is not -- He is an  
13 investigator for ABRA. He has been working for  
14 3-1/2 years, you need to ask him that question.  
15 Asking him about his educational background is  
16 not relevant to this question.

17 MR. CROCKER: Yes, okay. Well --

18 CHAIRPERSON ANDERSON: Ask him the  
19 question, sir.

20 MR. CROCKER: Are you stating that  
21 that 3-1/2 years' worth of experience with ABRA  
22 is where you have come from or made the  
23 conclusion about what is classified as  
24 entertainment in Washington D.C.

25 INVESTIGATOR RUIZ: No. That's

1 included in the definition section of our code  
2 book.

3 MR. CROCKER: Okay. So what training  
4 and education have you had as far as to  
5 understanding, I mean if there are no bar  
6 requirements or anything, you haven't been to law  
7 school or anything like that, as far as to what  
8 that understanding is as far as what's in the  
9 code book?

10 MR. LUTES: Objection. Beyond the  
11 scope.

12 MR. CROCKER: He is the expert witness  
13 for the State. I am just asking about his  
14 experience and his knowledge --

15 (Simultaneous speaking.)

16 MR. LUTES: Objection.  
17 Mischaracterization. Mr. Ruiz has not been  
18 called as an expert witness.

19 CHAIRPERSON ANDERSON: Sustained.  
20 Let's move on, sir.

21 MR. CROCKER: He is called as your  
22 witness so I am just cross examining him as far  
23 as to what his experience and background has --

24 (Simultaneous speaking.)

25 CHAIRPERSON ANDERSON: No, Mr. -- Mr.

1 Crocker, this is way beyond. Do you have a  
2 specific question to ask about the question that  
3 either myself, the two questions that were asked  
4 by the Board.

5 MR. CROCKER: Okay. That's --

6 (Simultaneous speaking.)

7 CHAIRPERSON ANDERSON: Three questions  
8 were asked by the Board. That's --

9 MR. CROCKER: Okay. So --

10 (Simultaneous speaking.)

11 CHAIRPERSON ANDERSON: During this  
12 juncture those are the only questions you can ask  
13 about, sir.

14 MR. CROCKER: So your knowledge about  
15 what entertainment is is self study?

16 MR. LUTES: Objection. Relevance and  
17 also asked and answered.

18 MR. CROCKER: No, I'm asking if it's  
19 self study.

20 CHAIRPERSON ANDERSON: Sustained.

21 MR. CROCKER: These are --

22 CHAIRPERSON ANDERSON: Mr. --

23 MR. CROCKER: He is articulating what  
24 entertainment is and --

25 (Simultaneous speaking.)

1 CHAIRPERSON ANDERSON: Mr. -- Let's  
2 move on, sir.

3 MR. CROCKER: Okay. What is your  
4 level of education?

5 MR. LUTES: Objection. Relevance.

6 CHAIRPERSON ANDERSON: Sustained.  
7 That's beyond the scope. Mr. Crocker, I told you  
8 this juncture you can only ask questions that  
9 were directly asked by the Board.

10 No Board Member asked him about his  
11 education, so, therefore, you cannot ask him, so  
12 sustained.

13 MR. CROCKER: Okay. Well the reason  
14 we are -- This follow-up question --

15 CHAIRPERSON ANDERSON: There is no  
16 reason, sir. Sir, Mr. Crocker, there is no  
17 reason. You can only ask questions that the  
18 Board asked.

19 You can only cross examine him on  
20 questions that were asked by the Board Members.  
21 So, no, sir, you cannot ask that question.

22 MR. CROCKER: Well as --

23 (Simultaneous speaking.)

24 CHAIRPERSON ANDERSON: You have --

25 (Simultaneous speaking.)

1 MR. CROCKER: You asked him a  
2 question. You asked him what is considered to be  
3 entertainment and he gave a response from his  
4 perspective of what he considered to be  
5 entertainment, okay.

6 I am just cross examining and asking  
7 him what his educational knowledge is or what his  
8 background is that gives him the ability to make  
9 a statement or classify or identify what  
10 entertainment is in the District of Columbia.

11 That's all my questioning is about.  
12 It is a follow-up to your question. He presented  
13 his interpretation or what he considers to be  
14 entertainment and I am just asking him what is  
15 that based upon, what education or background  
16 does he have that he bases that on.

17 CHAIRPERSON ANDERSON: And he answered  
18 that question, sir. His education is not  
19 relevant to this question, sir. Let's move on,  
20 sir. Do you have another question, sir?

21 MR. CROCKER: No. I am through with  
22 my cross examination.

23 CHAIRPERSON ANDERSON: Thank you. Mr.  
24 Lutes, do you have any other questions that you  
25 wanted to ask?

1 MR. LUTES: Yes, Mr. Chair. The  
2 District requests a brief redirect.

3 REDIRECT EXAMINATION

4 MR. LUTES: Mr. Ruiz, can a D.J. play  
5 music by using a laptop?

6 INVESTIGATOR RUIZ: Yes.

7 MR. LUTES: And was the D.J. seen in  
8 a D.J. booth?

9 INVESTIGATOR RUIZ: Yes.

10 MR. LUTES: Did you hear him making  
11 announcements?

12 INVESTIGATOR RUIZ: I did.

13 MR. LUTES: And now turning back, just  
14 to clarify the dates, so I understand that June  
15 3rd was a Friday. I understand you arrived on  
16 June 3rd at 1:00 a.m. in the morning.

17 Can you please relate how that would,  
18 how you calculated that to have violated the  
19 hours limiting entertainment on Thursday?

20 INVESTIGATOR RUIZ: So Friday morning  
21 1:00 a.m. is included with the Thursday hours on  
22 the license schedule. Thursday starts beginning  
23 at a certain time and ends usually into the next  
24 day.

25 MR. LUTES: Thank you. No further

1 questions.

2 CHAIRPERSON ANDERSON: Thank you.

3 Does the Government have another witness?

4 MR. LUTES: No, Mr. Chair, the  
5 Government does not call further witnesses.

6 CHAIRPERSON ANDERSON: Does the  
7 Government rest?

8 MR. CROCKER: I have an additional  
9 question as a follow-up.

10 CHAIRPERSON ANDERSON: No, you don't,  
11 Mr. Crocker. You don't have any right. You do  
12 not have a right to ask any questions, any  
13 further questions, sir.

14 MR. CROCKER: The Government just --

15 CHAIRPERSON ANDERSON: This is the  
16 Government --

17 MR. CROCKER: -- asked additional  
18 questions and --

19 CHAIRPERSON ANDERSON: Mr. Crocker,  
20 this is the Government's witness. The Government  
21 has the last word because the Government has the  
22 burden.

23 So, therefore, you had an opportunity  
24 to cross examine the witness when the Government,  
25 well after he testified on cross. Then the Board

1 asked -- So this is the way it goes, Mr. Crocker.

2 The Government presents its witness.

3 After the Government presents its witness you  
4 have an opportunity to cross examine the witness.  
5 After you cross examine the witness then the  
6 Board asks questions.

7 Once the Board asks questions I once  
8 again give you an opportunity of cross examining  
9 the witness based on the questions that the Board  
10 asked.

11 MR. CROCKER: Mm-hmm.

12 CHAIRPERSON ANDERSON: Once that is  
13 done, because it's the Government's witness, I  
14 give the Government the last opportunity to ask  
15 questions of its witness.

16 MR. CROCKER: Mm-hmm.

17 CHAIRPERSON ANDERSON: Once that is  
18 done you don't have any other opportunity to ask  
19 --

20 MR. CROCKER: Well --

21 CHAIRPERSON ANDERSON: No, Mr.  
22 Crocker. Once that is done you do not have any  
23 further opportunity to question the Government's  
24 witness. That's how it goes, sir. That's  
25 elementary.



1 MR. CROCKER: Well, Mr. Donovan -- Mr.  
2 Anderson, he redirected so he --

3 (Simultaneous speaking.)

4 CHAIRPERSON ANDERSON: No, it doesn't  
5 matter, Mr. Crocker. It doesn't matter. That is  
6 his right. You no longer have a right to ask  
7 questions.

8 It's the Government's witness. The  
9 Government has the last word. When you present  
10 your case -- Mr. Crocker, listen to me, please.  
11 Listen to me, Mr. Crocker.

12 When you call your witness we are  
13 going to follow the same procedure that you will  
14 ask questions, the Government will cross examine,  
15 the Board will ask questions, the Government will  
16 cross examine, and then you will get the last  
17 word with your witness.

18 MR. CROCKER: Okay.

19 CHAIRPERSON ANDERSON: Once you get  
20 the last word with your witness, sir, no one else  
21 can ask any questions of your witness, the  
22 witness is dismissed, because it's your witness  
23 and you have the last word with your witness,  
24 sir, okay.

25 MR. CROCKER: Okay. Thank you. I'm

1       sorry.

2                   CHAIRPERSON ANDERSON:   If the  
3       Government's witness -- All right.   Thank you.  
4       Does the Government rest?

5                   MR. LUTES:   The Government rests.

6                   CHAIRPERSON ANDERSON:   All right.  
7       It's 1:00.   All right, let me -- All right, I am  
8       going to take a break.   I need to take a break,  
9       but I need to figure out -- All right.

10                   You are saying, sir, that -- Do you  
11       have witnesses that you wish to call, sir?

12                   MR. CROCKER:   Yes, I do.   The witness  
13       I have is the actual manager who was on duty that  
14       the Investigator actually spoke with that night.

15                   CHAIRPERSON ANDERSON:   And who is the  
16       witness that you are planning to call?

17                   MR. CROCKER:   I got to get this -- We  
18       call him David, but I got to get his correct  
19       spelling of his name.   David, do you want to  
20       introduce yourself and give them your full name  
21       and --

22                   (Simultaneous speaking.)

23                   CHAIRPERSON ANDERSON:   No, sir.   No,  
24       sir.   He can't do that, sir.   I am asking a  
25       question preliminarily so I don't need him to

1 speak. I am asking you.

2 Okay, so you are planning to call a  
3 witness outside of the owner, of Ms. Etana, is  
4 that correct?

5 MR. CROCKER: Yes.

6 CHAIRPERSON ANDERSON: All right,  
7 okay.

8 MR. CROCKER: He is the manager that  
9 the Investigator actually met with that night.

10 CHAIRPERSON ANDERSON: Fine. Mr.  
11 Lutes, do you have motion you wish to make, sir?

12 MR. LUTES: Yes, Mr. Chair. The  
13 District would renew its objection to Mr. Dawit  
14 Sermolo testifying because the representative for  
15 the licensee failed to disclose, failed to  
16 properly disclose witnesses and eight potential  
17 exhibits as required by the Board.

18 MR. CROCKER: These are your exhibits.  
19 Dawit Sermolo is, you called him in your --

20 (Simultaneous speaking.)

21 CHAIRPERSON ANDERSON: Mr. Crocker?  
22 Mr. Crocker?

23 MR. CROCKER: Yes?

24 CHAIRPERSON ANDERSON: How do you  
25 respond to the Government's Motion?

1 MR. CROCKER: I respond in that in his  
2 motions or in his submissions Mr. Dawit Sermolo  
3 is a part, is in the Investigator's results, in  
4 the Investigator's --

5 (Simultaneous speaking.)

6 CHAIRPERSON ANDERSON: I can't see  
7 you, Mr. Crocker. Move your camera over, sir, I  
8 can't see you.

9 MR. CROCKER: Oh.

10 CHAIRPERSON ANDERSON: So you are  
11 saying because his name is mentioned in the  
12 Government's documents so you have a right to  
13 call him, is that what you are saying?

14 MR. CROCKER: Yes. He is a witness  
15 and he is in the Investigator's results or  
16 whatnot and he is the primary witness who was  
17 actually there who the Investigator actually met  
18 with.

19 CHAIRPERSON ANDERSON: And so why did  
20 you not disclose him, your plan to call him as a  
21 witness?

22 MR. CROCKER: He was already disclosed  
23 in the documents that were submitted to the  
24 Courts.

25 CHAIRPERSON ANDERSON: Mr. -- All

1 right. All right. How was he disclosed?

2 MR. CROCKER: He is disclosed in the  
3 Investigator's reports. His name is listed in  
4 the Investigator's reports that were submitted,  
5 what, a week and a half ago.

6 CHAIRPERSON ANDERSON: So you're  
7 saying that because his name was in the  
8 investigative report that you have a right to  
9 call him, is that what you are saying?

10 MR. CROCKER: Yes.

11 CHAIRPERSON ANDERSON: Now do you  
12 remember, Mr. Crocker, when we went to, when we  
13 had a show cause hearing status on October 26th?

14 MR. CROCKER: Yes. I was here then.

15 CHAIRPERSON ANDERSON: Okay. You  
16 remember that at that hearing this is what I said  
17 to you, I called the case and I said to you  
18 specifically -- I don't -- I'm not -- I am going  
19 to -- I don't -- I am going to read this.

20 This is exactly what was said and  
21 please forgive what was said. "Chairman  
22 Anderson: All right. Mr. Crocker, well, if this  
23 is not there are no preliminary matters. This  
24 matter is then scheduled for a show cause hearing  
25 on November 30, 2022 at 10:30 a.m.

1           What I will advise the parties, that  
2           since this matter is scheduled for a show cause  
3           hearing on November 30, 2022 at 10:30 a.m. seven  
4           days prior to the hearing both sides are required  
5           to exchange documents and witnesses and that  
6           needs to be provided to each side and also to  
7           ABRA Legal.

8           Failure on either party to exchange,  
9           to provide documents or witnesses that they are  
10          going to rely on at this hearing by the ABC Board  
11          unless reasonable cause is shown that the ABC  
12          Board is empowered to prevent that side from  
13          relying on documents and witnesses that have not  
14          been disclosed seven days prior to the hearing.

15          Any questions by anyone?" Mr. Crocker  
16          said "Yes. So we only have seven days to review  
17          the evidence that Kevin is alleging against our  
18          venue, just seven days?

19          Chairman Anderson: Well, sir, when  
20          you go to the hearing seven days before the  
21          hearing you have to let the other side know what  
22          documents that you have, what documents you are  
23          going to use at the hearing, and what witnesses  
24          you are going to use at the hearing to present  
25          your case." Mr. Crocker says "Okay."

1                   So, Mr. Crocker, where is there a  
2 confusion, sir? Why is it that you were  
3 specifically told that you needed to provide  
4 these documents and witnesses and you did not do  
5 that?

6                   MR. CROCKER: Okay.

7                   CHAIRPERSON ANDERSON: So why is that  
8 you believe today that the Board should allow you  
9 to allow your witness to testify?

10                  MR. CROCKER: Okay. Well you granted  
11 that concession to the Government's side.

12                  CHAIRPERSON ANDERSON: What --

13                  MR. CROCKER: So if that's the case  
14 they didn't submit Mr. Ruiz's name until two days  
15 ago, so, therefore, I would like to have all of  
16 that that was presented scratched.

17                  So if you're not going to grant me the  
18 concession then don't grant them the concession.  
19 They did not submit Mr. Ruiz's name seven days in  
20 advance. They submitted that as a modification  
21 two days ago.

22                  CHAIRPERSON ANDERSON: But, Mr.  
23 Crocker, you never objected to that.

24                  MR. CROCKER: But you never questioned  
25 them about that initially when you said --

1 (Simultaneous speaking.)

2 CHAIRPERSON ANDERSON: I don't know  
3 that, sir, Mr. Crocker. Mr. Crocker, I don't  
4 know that. He called his witness. He called a  
5 witness. You never -- He called a witness --  
6 Well I wasn't aware --

7 (Simultaneous speaking.)

8 MR. CROCKER: Well he objected earlier  
9 to our calling of the witness and had you went  
10 through that statement then when he objected I  
11 would have objected to his witness, too.

12 CHAIRPERSON ANDERSON: Mr. Crocker, as  
13 soon as you stated you were going to call a  
14 witness -- As soon as you stated that you are  
15 going to call the witness, this is even before  
16 the case started, the Government made --

17 MR. CROCKER: Mm-hmm.

18 CHAIRPERSON ANDERSON: Before any  
19 witnesses were called --

20 MR. CROCKER: Yes.

21 CHAIRPERSON ANDERSON: -- the  
22 Government made a motion. I said to the  
23 Government I am not going to rule on your motion.  
24 At the time when you present your case if you  
25 call a witness --



1 MR. CROCKER: Mm-hmm.

2 CHAIRPERSON ANDERSON: -- then we will  
3 discuss it whether or not we are going to move  
4 forward. You never said --

5 MR. CROCKER: Right, but the thing is  
6 at that time you also knew that he presented a  
7 witness late.

8 CHAIRPERSON ANDERSON: I didn't know  
9 that, Mr. Crocker. Mr. Crocker --

10 MR. CROCKER: You think --

11 CHAIRPERSON ANDERSON: I don't know  
12 that, Mr. Crocker. You have to tell that to me.  
13 I don't know that.

14 MR. CROCKER: Well all I am asking for  
15 is I am not --

16 (Simultaneous speaking.)

17 CHAIRPERSON ANDERSON: Mr. Crocker --

18 MR. CROCKER: I am not an attorney,  
19 okay, so I --

20 (Simultaneous speaking.)

21 MR. CROCKER: -- attorney. He knew  
22 that, so --

23 CHAIRPERSON ANDERSON: Well, Mr.  
24 Crocker, Mr. Crocker, I don't know that. I  
25 wasn't even aware because I don't necessarily

1 have the documents before me.

2           These hearings are virtual, so,  
3 therefore, the cases present themselves, the  
4 Government made a motion about to say what you  
5 did not do. You had every right to say --

6           (Simultaneous speaking.)

7           MR. CROCKER: Now we are dealing with  
8 my portion of the case and I am making a motion.  
9 I am making a motion that you grant me the same  
10 concessions that you granted the Government in  
11 that you allowed him to have a witness come to  
12 the stand that was not supplied to me seven days  
13 in advance.

14           So the same thing you are chastising  
15 me about now, I'm just asking you if you are  
16 going to do that to me then do the same to him  
17 and scratch that witness's testimony or else --

18           CHAIRPERSON ANDERSON: Mr. Crocker --

19           MR. CROCKER: -- just grant me the  
20 same concessions that you granted them and allow  
21 me to present my witness. That's all I am  
22 asking.

23           CHAIRPERSON ANDERSON: Mr. --

24           MR. CROCKER: I am not an attorney  
25 and, you know, please just accept that, you know,

1 and if you are going to grant that concession to  
2 the other side because they submitted their  
3 witness late do the same to me, that's all, just  
4 be fair.

5 CHAIRPERSON ANDERSON: But, Mr.  
6 Crocker, the Government filed a disclosure seven  
7 days prior to the hearing --

8 MR. CROCKER: They did not identify a  
9 witness.

10 CHAIRPERSON ANDERSON: -- and then the  
11 Government, it's my understanding the Government  
12 filed an amendment to their disclosure document  
13 that was done.

14 MR. CROCKER: All right.

15 CHAIRPERSON ANDERSON: So this was an  
16 amendment he added an additional witness to the  
17 list. That was what was done.

18 MR. CROCKER: I am just asking for  
19 fairness. I am not an attorney. I don't know  
20 those rules and stuff like that. So you granted  
21 them the concession to submit their witness late,  
22 grant me that same concession, that's all.

23 CHAIRPERSON ANDERSON: Mr. Lutes, any  
24 comments that you have to state, any comments or  
25 anything you want to state?

1                   MR. LUTES: Yes, Mr. Chair. So the  
2 District did file an amended witness list on  
3 Monday after we -- The reason why we didn't  
4 include Mr. Ruiz in the beginning was we weren't  
5 sure if he would be available to present.

6                   However, as soon as we learned that  
7 Mr. Ruiz would be available we then filed the  
8 amended exhibit, witness and exhibit lists.

9                   Moreover, the licensee is not  
10 prejudiced by including Mr. Ruiz as a witness  
11 because Mr. Ruiz is the author of the report and  
12 it would provide a greater chance for the  
13 licensee to cross examine as well as examine the  
14 record.

15                   Moreover, the licensee failed to  
16 object to Mr. Ruiz being included as a witness  
17 and is now only making a post-hoc request after  
18 the full direct, cross, and redirect has  
19 occurred.

20                   The District would be unduly  
21 prejudiced by fulfilling the request of the  
22 licensee while at this time the licensee has  
23 suffered no prejudice.

24                   CHAIRPERSON ANDERSON: Okay.

25                   MR. CROCKER: Moreover, the only

1 reason why we didn't include the witness that I  
2 am talking about is that Medusa Lounge is  
3 currently closed because we are going through  
4 modifications and some construction work, so I  
5 wasn't sure that he was going to be available.

6 Moreover, he is listed in the  
7 investigation report as the one that the  
8 Investigator spoke with. That's who he met with.  
9 So he is a representative of Medusa Lounge and he  
10 has the bird's-eye view of the discussion.

11 As far as also the other two visits,  
12 or three visits, that the Investigator made to  
13 Medusa Lounge prior to him finally finding  
14 something that he could write up a report to  
15 Medusa Lounge, you know, after he had done his  
16 investigation, so, you know, this is not a new  
17 witness or somebody just out of the blue.

18 Moreover, his name is included as a  
19 part of the investigation result report or  
20 whatnot and now we are just finally getting to my  
21 portion of the case where I am getting the chance  
22 to present my portion of the case, so, therefore,  
23 this is why this is first coming up.

24 CHAIRPERSON ANDERSON: Mr. Crocker,  
25 you never even filed a disclosure and so I could

1 state that you couldn't even present a case  
2 because -- You couldn't even call Ms., the owner  
3 to testify because you never provided us a  
4 disclosure.

5 I am inclined to allow the licensee to  
6 testify because it's no surprise that the  
7 licensee would testify. But you remember  
8 specifically on the 26th I specifically advised  
9 you that you need to disclose these documents.

10 So you never -- You did not as a  
11 courtesy even state to the Government that you  
12 were going to call any witness in this case, sir.

13 (Simultaneous speaking.)

14 MR. CROCKER: I apologize. I am not  
15 an attorney. I was under the impression --

16 (Simultaneous speaking.)

17 CHAIRPERSON ANDERSON: But, Mr. --  
18 But, no --

19 MR. CROCKER: -- because this  
20 information was provided in the paperwork, this  
21 is individual's name was listing in their filing.

22 CHAIRPERSON ANDERSON: But, Mr.  
23 Crocker, we had a pre-hearing conference, oh, no,  
24 the show cause hearing status on October 26th,  
25 okay, and I read you the statement.

1 I am reading the transcript. The  
2 transcript -- I just read the transcript --

3 MR. CROCKER: Yes.

4 CHAIRPERSON ANDERSON: -- that I  
5 specifically said to you word for word what I  
6 said to you on October 26th.

7 MR. CROCKER: Mm-hmm.

8 CHAIRPERSON ANDERSON: You had some  
9 questions, I answered them. So what I just read,  
10 sir, it was a transcript of what I said to you on  
11 the 26th.

12 MR. CROCKER: Yes.

13 CHAIRPERSON ANDERSON: So you never  
14 said to me on the 26th that you needed further --  
15 I asked if you had any other questions. That's  
16 one of the reasons why I specifically asked or  
17 the transcript. I want to make sure I knew what  
18 I told you on the 26th.

19 MR. CROCKER: Right. But you told  
20 both of us this.

21 CHAIRPERSON ANDERSON: And I said that  
22 to you. I told both of you the same thing, sir.

23 MR. CROCKER: Right.

24 CHAIRPERSON ANDERSON: All right. Is  
25 there anything else you want to say?

1 MR. CROCKER: Yes. You granted  
2 concession to the other side. You allowed them  
3 to bring in their witness after the seven days  
4 and I have the same exact reason of why.

5 I didn't submit my witness because the  
6 establishment is closed right now so I didn't  
7 know if he was even going to be available and,  
8 oh, by the way, his name has already been  
9 included in the Government's witness list, I mean  
10 in the Government's evidence.

11 So it's like I am introducing some,  
12 you know, Joe Schmo, what they are filing the  
13 claim on. They have the burden of proof that we  
14 committed some type of violation.

15 So I am just bringing in the actual  
16 representative who was there, who the  
17 Investigator spoke with, who the Investigator had  
18 went to three times before, the day before and  
19 two times earlier in the day --

20 (Simultaneous speaking.)

21 MR. LUTES: Objection.  
22 Mischaracterization and argumentative.

23 MR. CROCKER: -- and attempted to find  
24 something wrong with Medusa Lounge and then for  
25 him finally to go after the fact, after the



1 investigation or whatnot, then go read the  
2 settlement agreement and then write us up for  
3 something, you know, after he finally found  
4 something that we might have violated.

5 CHAIRPERSON ANDERSON: All right. All  
6 right, Mr. -- All right, okay.

7 MR. CROCKER: Just give me the same  
8 concession. Give me the same -- You allowed them  
9 to submit a witness later, allow me to do the  
10 same thing.

11 CHAIRPERSON ANDERSON: All right.  
12 This is what I am going to do, all right. I am  
13 going to go into executive session, okay.

14 MR. CROCKER: Thank you. As  
15 Chairperson of the Alcoholic Beverage Control  
16 Board for the District of Columbia and in  
17 accordance with DC Official Code Section 2575 of  
18 the Open Meetings Act I move that ABC Board hold  
19 a closed meeting for the purpose of seeking legal  
20 advice from our counsel on Case Number 22-CMP-  
21 00048, Medusa Lounge, pursuant to DC Official  
22 Code Section 2575(b)(4)(a) of the Open Meetings  
23 Act. Is there a second?

24 MEMBER CROCKETT: Second.

25 CHAIRPERSON ANDERSON: Ms. Crockett

1 has seconded the motion. We will now have a roll  
2 call vote. Mr. Short?

3 MEMBER SHORT: Mr. James Short. I  
4 agree.

5 CHAIRPERSON ANDERSON: Mr. Cato?

6 MEMBER CATO: Bobby Cato. I agree.

7 CHAIRPERSON ANDERSON: Ms. Crockett?

8 MEMBER CROCKETT: Rafi Crockett. I  
9 agree.

10 CHAIRPERSON ANDERSON: Ms. Hansen?

11 MEMBER HANSEN: Jeni Hansen. I agree.

12 CHAIRPERSON ANDERSON: Mr. Grandis?

13 MEMBER GRANDIS: Edward Grandis. I  
14 agree.

15 CHAIRPERSON ANDERSON: Mr. Anderson?

16 I agree. The matter passes 6-0-0. The Board is  
17 going to log off. Everyone stay online. The  
18 Board is going to log off to go into executive  
19 session and the Board will come back and I will,  
20 the Board will come back and make a  
21 determination.

22 Okay, so please stay on. The Board,  
23 please, I am asking all Board Members to log off  
24 and log into executive session. Thank you.

25 (Whereupon, the above-entitled matter

1 went off the record at 1:16 p.m. and resumed at  
2 1:26 p.m.)

3 CHAIRPERSON ANDERSON: All right,  
4 we're back on the record. Mr. Crocker.

5 MR. CROCKER: All right.

6 CHAIRPERSON ANDERSON: I'm going to  
7 make a motion to grant the government's request  
8 and that the witness cannot testify. And the  
9 reasons why I'm going to -- I'm making a motion  
10 to the Board to grant the government's request is  
11 that at the pre-hearing -- at a pre-hearing  
12 conference, the status on October 26, I  
13 specifically advised the parties that disclosure  
14 were due seven days prior to the hearing.

15 You, Mr. Crocker, had -- you asked  
16 specific questions about what that meant and I  
17 provided clarification to you what that meant and  
18 what was to be done, and you agreed that that was  
19 done. So you acknowledge that was done.

20 The government did file a timely  
21 disclosure on November 23. Continuant notice  
22 that this needed to be filed. You were copied on  
23 the government's notice. The Board has always  
24 allowed parties to amend their disclosure, and  
25 the government amended its disclosure. You were

1 filed, and so therefore you received two notices  
2 from the government. And at no time did you  
3 respond.

4 And so the witness that you are --  
5 you're planning to call, that witness is not on  
6 either of the government's disclosure notice.

7 MR. CROCKER: Yes, he is.

8 CHAIRPERSON ANDERSON: Mr. -- let me  
9 -- I'm speaking, sir. The witness that you can't  
10 call has not been identified on the government's  
11 seven-day disclosure notice that would be called.  
12 You are speaking about a witness that is in the  
13 case report.

14 The government -- and no one can be on  
15 notice that because a name is in the case report,  
16 that that person is going to testify at the  
17 hearing.

18 No -- so therefore, the disclosure  
19 notice that you received from the government,  
20 they listed who their documents and what the  
21 witnesses they're going to disclose and the  
22 witnesses they're going to disclosure. And the  
23 witness you're planning to call, their name was  
24 not listed as a witness that was going to  
25 testify.

1                   You, however, Mr. Crocker, you  
2                   received two notices from the government and you  
3                   have failed, although you acknowledge that you  
4                   were supposed to provide us with -- provide the  
5                   government with notice seven days prior to this  
6                   hearing, you have failed to do that.

7                   The Board could even prevent you today  
8                   from even having the owner testify because you  
9                   did not even put the government or the Board on  
10                  notice that you plan to call any witnesses today,  
11                  sir.

12                  If this is a case where you had  
13                  provided that you had -- had even -- if you had  
14                  even filed a disclosure and then wanted us -- you  
15                  could have stated today that when I filed my  
16                  disclosure, I listed this one witness.

17                  As you said, the establishment is  
18                  closed, I was not aware that this person would  
19                  have been available. So I have amended my -- I'm  
20                  amending my disclosure notice to add this second  
21                  witness.

22                  But at no point, sir, did you even put  
23                  the government on notice. And so therefore it's  
24                  our -- it's my recommendation to the Board that  
25                  the Board grant the government's motion that the

1 witness not be allowed to testify because you  
2 have not provided us with cause, reasonable  
3 cause, why you failed to put us on notice that  
4 this was a witness that you would call.

5 So that's my -- that's my  
6 recommendation to the Board. And we will -- I  
7 will now take a roll call vote on --

8 MR. CROCKER: Can I respond to that  
9 first before you take the roll call vote?

10 CHAIRPERSON ANDERSON: Yes, sir,  
11 what's your response?

12 MR. CROCKER: My response to it is  
13 that, you know, we're not in a court of law. So  
14 I understand we're not under the, you know, court  
15 rules or regulation and whatnot. I understand we  
16 are trying to have a formal proceeding.

17 But even the Board, I mean, the  
18 Board's not made up of barred judges or those  
19 that have to worry about being elected or  
20 appointed to a position or whatnot. So they are  
21 in a role of authority or whatnot while making  
22 rulings.

23 But I do ask that the Board just  
24 remember that, you know, we are citizens and own  
25 a business and run a business in the District of

1 Columbia, and all we're trying to do is to, one,  
2 protect our business against unduly, you know,  
3 aggression, unduly inspections, unduly, you know,  
4 attempting to find something.

5 So when I received the filings from  
6 the -- from the -- the attorney for the District  
7 and they had this individual's name in that  
8 filing, his name is listed as the one that the  
9 investigator actually spoke with or whatnot. I  
10 interpreted that as that saying that this  
11 individual was a part of case.

12 He was the representative. I wasn't  
13 there. Ms. Etana wasn't there, the owner wasn't  
14 there. So we weren't there. So that  
15 investigator that was allowed to come in and he  
16 wasn't submitted as a witness seven days in  
17 advance. As a matter of fact, our witness was on  
18 the documentation on the initial submission.

19 Well, not being an attorney, I just  
20 interpreted that as being that this individual  
21 would be a representative that could come and  
22 speak to the Board about what had happened. Now,  
23 for the government to be against that and not  
24 want just the truth, all we want to do is just  
25 have the actual people who were there to come and

1 speak the truth.

2           And to use some technical technicality  
3 to attempt to eliminate that person, I just ask  
4 that the Board recognize I'm not an attorney. I  
5 don't know -- I haven't been to law school, I'm  
6 an engineer or whatnot. So I don't know all the  
7 rules of, you know.

8           I don't know all the -- as you know,  
9 I don't know all the verbiage to object and the  
10 difference between what a redirect is and a new  
11 question and all those types of things. I'm just  
12 a business owner there in the District of  
13 Columbia, and all we're trying to do is just  
14 protect our interest and just prevent these  
15 unruly inspections and stuff like that to where  
16 they just keep coming and just until they can  
17 find something, you know.

18           So I'm just asking, let's just let the  
19 -- what's wrong with the truth? All we're doing  
20 is just -- why would you not just allow the  
21 person that is in the actual report that the  
22 investigator talked to to just come and present  
23 our (audio interference). And if we're just  
24 trying to be fair, then there should be no fear  
25 of away from the truth. That's all.



1 MR. LUTES: Mischaracterization.

2 CHAIRPERSON ANDERSON: Mr. Lutes,  
3 there's no -- you don't need to respond, sir.  
4 The only thing I'm going to state before the  
5 Board rules is that on -- you are -- you present  
6 yourself, sir, as a representative of this  
7 establishment.

8 We had a pre-hearing conference on the  
9 -- we had the show-cause hearing for status on  
10 the -- October 26. I specifically advised you  
11 what the procedures that you were supposed to  
12 follow, sir, to prepare yourself for the hearing.

13 You asked questions, sir. Could I ask  
14 everyone to put their phone on mute, please? You  
15 specifically after -- I need everyone to mute  
16 their phone please, their line please.

17 After I advised both sides that they  
18 had to -- they should disclose their documents  
19 seven days prior to, you asked a specific  
20 question to say well, do I only seven days to  
21 respond to what -- and I'm quoting, quote, what  
22 Kevin provided. And I said yes, sir, seven days.

23 So you were advised, you acknowledged,  
24 I gave an opportunity to ask questions about what  
25 was needed. And, sir, you failed to comply and

1 you failed to provide -- and you failed to give  
2 us reasonable notice. So therefore --

3 MR. CROCKER: I had --

4 (Simultaneous speaking.)

5 CHAIRPERSON ANDERSON: Mr. -- Mr. --  
6 Mr. Crocker, I -- there's a motion on the table.  
7 I am making a motion to the Board. And so my  
8 motion is to -- my -- what I'm -- I'm making a  
9 motion to the Board that we grant the  
10 government's request to prevent your witness from  
11 -- your witness from testifying based on the  
12 failure -- failure -- the (audio interference).

13 MR. CROCKER: Let the Board hear the  
14 truth.

15 CHAIRPERSON ANDERSON: Mr. -- I --  
16 we're voting on a motion. So the motion is that  
17 we grant the -- grant the government's motion to  
18 prevent you from presenting this witness, as this  
19 witness is --

20 MEMBER SHORT: Mr. Short, and I  
21 second. Mr. Short, and I second.

22 CHAIRPERSON ANDERSON: Mr. Short has  
23 seconded. The motion will now have a roll call  
24 vote.

25 Mr. Short.

1 MEMBER SHORT: Mr. Short, I agree.

2 CHAIRPERSON ANDERSON: Mr. Cato.

3 MEMBER CATO: Bobby Cato, I agree.

4 CHAIRPERSON ANDERSON: Ms. Crockett.

5 MEMBER CROCKETT: Rafi Crockett, I  
6 agree.

7 CHAIRPERSON ANDERSON: Ms. Hansen.

8 MEMBER HANSEN: Jeni Hansen, I agree.

9 CHAIRPERSON ANDERSON: Mr. Grandis.

10 MEMBER GRANDIS: Edward Grandis, I  
11 agree.

12 CHAIRPERSON ANDERSON: And Mr.  
13 Anderson, I agree. The Board has voted six to  
14 nothing.

15 Mr. Crockett, although -- it did not  
16 -- if you had disclosed -- Mr. Short, can you  
17 please mute your mic, please?

18 Mr. Crockett, if you had followed --  
19 if you filed a late disclosure, the Board  
20 probably would have considered it. But you  
21 failed to provide a disclosure.

22 Now, do you wish to call --

23 MR. CROCKER: I don't know the --

24 CHAIRPERSON ANDERSON: Mr. Crockett,  
25 do you wish --

1 MR. CROCKER: Is that even English?

2 CHAIRPERSON ANDERSON: Do you wish to  
3 call a witness, sir? Although -- although you  
4 did not provide a disclosure, the Board would  
5 allow you to call the owner if you so choose,  
6 sir.

7 MR. CROCKER: I'd like to call --

8 CHAIRPERSON ANDERSON: Yes, sir?

9 MR. CROCKER: Yes, I would like to  
10 call a witness.

11 CHAIRPERSON ANDERSON: All right,  
12 what's it -- who is the witness that you wish to  
13 call, sir?

14 MR. CROCKER: Dawit.

15 CHAIRPERSON ANDERSON: I've already --  
16 sir, I've already -- the Board has already ruled  
17 that you will not be allowed to call that  
18 witness, sir.

19 MR. CROCKER: He's the owner, why  
20 would he not be --

21 CHAIRPERSON ANDERSON: I'm sorry, who?

22 MR. CROCKER: He's the owner, why  
23 would he not be allowed to -- he's the General  
24 Manager.

25 CHAIRPERSON ANDERSON: I have not --

1 sir, I have not been provided information that he  
2 is the owner. All I was told that he's the ABC  
3 Manager who presented himself at -- so therefore  
4 --

5 (Simultaneous speaking.)

6 MR. CROCKER: -- the establishment.  
7 It's no longer in Betty -- in Betty Etana's  
8 ownership or license or whatnot. He's the new  
9 owner.

10 CHAIRPERSON ANDERSON: Was that  
11 information filed with the Board, sir?

12 MR. CROCKER: Yeah, the ABRA license  
13 is filed with the Board.

14 CHAIRPERSON ANDERSON: So you're  
15 saying that Mr. -- who is the owner, I think,  
16 this establishment?

17 MR. CROCKER: Dawit Sermolo. As I  
18 mentioned, the establishment's going under  
19 reconstruction right now, and its ownership is  
20 being transferred over. So.

21 CHAIRPERSON ANDERSON: It has been  
22 transferred over or they're transfer it over,  
23 sir, which one is it?

24 MR. CROCKER: They transfer it over.  
25 So you never have any hearings with Betty Etana

1 anymore if there's any more violations or  
2 anything like that.

3 CHAIRPERSON ANDERSON: And when was  
4 this filed, when was this transfer filed, sir?

5 MR. CROCKER: I can probably get you  
6 a copy of the transfer. I don't have it handy  
7 with me now, but it's been --

8 CHAIRPERSON ANDERSON: When was it  
9 filed? It doesn't matter if it -- it's not --  
10 nothing is finalized until the Board has voted to  
11 approve a new owner.

12 MR. CROCKER: Yup, it's been probably  
13 about a month and a half, two months. And that's  
14 when the construction had started. So that's  
15 why, you know, we -- it's been going through the  
16 transfer over to him. So it's been filed.

17 There is an ABRA number associated  
18 with it. I don't have the documentation with me  
19 here now. I can have maybe Ms. Etana to look it  
20 up real quick on the internet if you give her a  
21 few seconds, and we can give you the actual  
22 record number and stuff like that.

23 CHAIRPERSON ANDERSON: If the ABC  
24 Board has approved -- if the ABC Board has -- I'm  
25 sorry, then find out whether or not who is the

1 owner of -- it's my understanding that the ABC  
2 Board has -- does not have any pending transfer  
3 applications, sir.

4 MR. CROCKER: Do you have the pending  
5 transfer application of -- Dawit, are you on --  
6 Betty --

7 CHAIRPERSON ANDERSON: Mr. -- all  
8 right, okay, Mr. Crocker. Mr. Crocker.

9 MR. CROCKER: Yeah, she can give you  
10 the transfer --

11 CHAIRPERSON ANDERSON: Mr. Crocker,  
12 Ms. Etana is the owner of this establishment  
13 until such time that the ABC Board has voted and  
14 to approve a new owner.

15 MR. CROCKER: Ms. Etana, can you see  
16 --

17 CHAIRPERSON ANDERSON: The owner, Mr.  
18 -- no, Mr. Crocker, the records of the ABC Board  
19 -- I'm sorry, the records of ABRA states that the  
20 only owner currently of this establishment is  
21 Betty Etana. She is the owner of Mr. -- she is  
22 the owner of record until the ABC Board has a  
23 hearing like this --

24 MR. CROCKER: That was back in June.

25 CHAIRPERSON ANDERSON: Miss, can you

1 hold on? It doesn't matter when it was done,  
2 sir. What I'm trying to say to you, sir, the ABC  
3 Board has not approved a transfer application.

4 MR. CROCKER: This is what I'm --

5 CHAIRPERSON ANDERSON: For -- sir --

6 MR. CROCKER: -- occurred in June,  
7 okay.

8 CHAIRPERSON ANDERSON: Mr. -- Mr.  
9 Crocker, Mr. --

10 MR. CROCKER: Currently.

11 CHAIRPERSON ANDERSON: You're listen  
12 -- you're not hearing what I'm saying, sir.  
13 People filed transfer application January,  
14 February, March.

15 But if you don't provide all the  
16 information that the ABC Board -- that the Agency  
17 requires for -- Agency requires for the  
18 administration to say all the documents are in  
19 order and then that's presented to the Board for  
20 the Board to vote on it publicly as if you --.  
21 If you were listen to my -- later on today, I  
22 will be reading something like 60 establishments  
23 where we have now finally approved their approved  
24 their transfer or their license.

25 And so we have to publicly vote on



1 those. We have not done that, so therefore the  
2 only owner of record for this establishment is  
3 Betty Etana.

4 MR. CROCKER: Okay.

5 CHAIRPERSON ANDERSON: I -- so  
6 therefore, I could state to you today, sir, that  
7 because you never filed a PIP that you can't  
8 present the case because you didn't even -- you  
9 didn't even tell the ABC -- the Agency, you  
10 didn't even tell the government that you'd be  
11 calling Betty Etana as a witness. You didn't  
12 even tell them that.

13 However, because in these cases the  
14 government is on notice although you didn't file  
15 a complaint that the owner could possibly  
16 testify. So the government cannot say that, oh,  
17 I wasn't aware that this. So I could -- I could  
18 rule, the Agency can rule right here, sir, that  
19 you can't even present a case because you never -  
20 - you -- because you never provided a disclosure.

21 MR. CROCKER: But there is a desire  
22 for the city or the District of Columbia to be  
23 fair --

24 CHAIRPERSON ANDERSON: It's not about  
25 fair, sir. Sir, listen, listen to me, sir.

1 Listen, listen, listen, sir. We had a -- let me  
2 -- you're not -- you know, listen properly, let  
3 me say this to you, Mr. Crocker. If you were an  
4 attorney, if you were an attorney, what you did  
5 today, your client could report you to the bar.

6 MR. CROCKER: Right, correct.

7 CHAIRPERSON ANDERSON: Listen, listen,  
8 sir, let me finish, sir. Let me finish. If you  
9 were an attorney, your client today, sir, could  
10 report you to the bar and you could be suspended  
11 or disbarred for your action today. Mr. Crocker  
12 --

13 MR. CROCKER: And if you were a judge  
14 --

15 CHAIRPERSON ANDERSON: I'm not -- I'm  
16 saying two different things, Mr. Crocker. You  
17 have identified yourself as per a representative.

18 MR. CROCKER: Yes.

19 CHAIRPERSON ANDERSON: Therefore, if  
20 this was Ms. Etana representing herself today,  
21 there's -- that's even a little bit different.  
22 But you publicly said to her I will represent you  
23 at this hearing. So therefore, sir, you have  
24 presented yourself to her.

25 And I -- maybe I should -- maybe I'm

1 a human, but you have presented yourself to this  
2 Board as someone who's familiar with the process  
3 and procedures. And so that's why I am  
4 representing the owner.

5 So sir, you have taken on a job that  
6 you're representing someone, and you don't know  
7 what you're doing, sir.

8 MR. CROCKER: Right.

9 CHAIRPERSON ANDERSON: And that's not  
10 -- I can't help you. Because you're -- you  
11 should not have -- you should not present  
12 yourself today, sir, as a representative of an  
13 ABC licensed establishment if you don't know what  
14 you're doing, sir.

15 I'm sorry, we had a hearing. We had  
16 the status hearing on the 26th. I specifically  
17 told you what you need to do. I specifically  
18 asked you if you had a question. You -- I  
19 specifically told you that you need to disclose  
20 your documents or witnesses seven days.

21 You asked a question, and I said yes,  
22 this is what you need to do, and you ended by  
23 saying okay. You never reached out back to the  
24 Agency -- you didn't.

25 If you had, once Mr. Lutes provided

1 you his disclosure, two times he gave you  
2 documents, at no time did you think that it was  
3 important for you to respond. To say, oh, my  
4 God, I was supposed to do this, I didn't do it.  
5 So let me file it late.

6 You didn't do that, sir. Twice you  
7 were put on notice that you were supposed  
8 something and you did not do that.

9 MR. CROCKER: All I'm doing is just  
10 one --

11 CHAIRPERSON ANDERSON: No, sir, no,  
12 no. The Board has already ruled. The Board has  
13 already ruled. The only license, Mr. -- I'm  
14 sorry, Mr. Crocker. Where -- this has been going  
15 on way too long. And I so I will allow you to  
16 call the owner of record, Ms. Etana, if she wants  
17 to testify. If not, you tell me how you're going  
18 to present your case.

19 MR. CROCKER: Fair point. The only  
20 reason why that Ms. Etana is --

21 CHAIRPERSON ANDERSON: I'm sorry, sir,  
22 I -- Mr., I don't --

23 MR. CROCKER: Please let me respond to  
24 your statement.

25 CHAIRPERSON ANDERSON: You don't need

1 to -- there's no responses needed, sir. The  
2 Board has ruled, we'll move on. Do you have a  
3 witness you wish to call?

4 MR. CROCKER: Yes. The reason why Ms.  
5 Etana is still the owner is because of delays  
6 related to this board, not anything related to  
7 her submission of the documentations, not  
8 anything related to the submission of Dawit  
9 Sermolo's documentations. It's delays related to  
10 this board, okay.

11 This incident happened back in June of  
12 2022, all right. Here we are in November of  
13 2022. The documentation and filings for the  
14 transfer of ownership for this property, for this  
15 business, was filed back in July of 2022. So the  
16 only reason she's still the owner is because of  
17 delays of this board, okay.

18 Now, I will move forward, I'll not try  
19 to fight this. I mean, understanding we'll using  
20 these technicalities to prevent us from just  
21 being fair. I mean, I don't get it there. But I  
22 think Ms. Etana can still speak to the equipment  
23 in the establishment.

24 She can speak to past harassment that  
25 she's got from ABRA or whatnot. Because this

1 whole settlement agreement actually comes or  
2 originates from one residence in the  
3 neighborhood. I think that would be okay.

4 But you know, you know, I'll leave it  
5 at that, you know. I asked for fairness. We're  
6 not attorneys, you're not a judge. So you know,  
7 we do have rules and I understand that.

8 You were -- you were very clear in  
9 your request of what I was supposed to respond  
10 to, but I just interpreted the government's  
11 filing of their documentation and this  
12 gentleman's name being included in that  
13 documentation. Meaning that this person would be  
14 a fair representative to come and speak from the  
15 owner's perspective.

16 But if you're going to allow me to  
17 have the old owner come and speak from her  
18 perspective, I think we can be -- we'll be fine  
19 with that.

20 I do apologize. I'm not an attorney,  
21 I just interpreted Kevin's filings. And he is an  
22 attorney, he knows the rules. I interpreted that  
23 as this individual's name was listed in his  
24 filings, so therefore it would be okay for me to  
25 bring him as a witness as -- as our -- as our

1 witness. That's all.

2 CHAIRPERSON ANDERSON: And that's for  
3 the record to reflect, Mr. Crocker, that on May  
4 31, the Agency informed the ownership that the  
5 application that they filed was deficient. May  
6 31, 2022. A letter went out to say that the  
7 application was deficient. And you -- that the  
8 licensee was told what needed to be done. That  
9 was May 31, 2022.

10 As late as October 19, 2022, we again  
11 responded back to -- we again responded back to  
12 you that you still didn't provide us the  
13 information that's needed. And we told you that  
14 we will -- we are unable to transfer the license  
15 until we receive -- this is the Agency told you  
16 that we could not transfer the license because we  
17 were not -- did not receive a certificate of  
18 occupancy.

19 We need a business license. We need  
20 business and personal clean hand certificate from  
21 the Office of Tax and Revenue. And we need a  
22 complete 2022 fall renewal application with  
23 payment and late fees. That was provided to this  
24 business on October 19, 2022.

25 So I am unsure the ABC Board has not

1       seen this application because your client we  
2       first reached out in May. I don't know when the  
3       information was provided. But on the 19th of  
4       October you -- on the 19th of October we still --  
5       the Agency still informed you that information  
6       was still missing.

7               So the ABC -- so the ABC Board doesn't  
8       receive information to approve until you the  
9       transferee has provided sufficient information to  
10      the Agency. And once the Agency has receive  
11      sufficient information, then the Agency provides  
12      it to the Board for final approval, sir. Okay.  
13      And as I stated before --

14             MR. CROCKER: Please understand  
15             (Simultaneous speaking.)

16             CHAIRPERSON ANDERSON: All right.

17             MR. CROCKER: We're just a small  
18      business trying to --

19             CHAIRPERSON ANDERSON: As I've said,  
20      so I'll give you courtesy to even call a witness  
21      because you never did the basic. So if you want  
22      to call Ms. Etana, and the only thing -- this is  
23      -- this is on whether or this licensee failed,  
24      what happened on June 3, 2022. That's all,  
25      nothing else, sir.



1 MR. CROCKER: All right, okay. Ms.  
2 Etana, are you there?

3 CHAIRPERSON ANDERSON: Does she have  
4 a camera? I need to see her because I need to  
5 swear her in. Do you have a camera? Do you have  
6 a camera, ma'am?

7 MS. ETANA: Yes, I'm trying to turn it  
8 on.

9 CHAIRPERSON ANDERSON: I think I,  
10 ideally I prefer to see the witness who's  
11 testifying to make sure that whoever is -- that  
12 there's nobody coaching the witness. So I prefer  
13 to see the person who I'm dealing -- I need. So  
14 I'm not going to -- if you're -- I think your  
15 camera is not working.

16 MR. CROCKER: Give her a few minutes  
17 just to get prepared for the camera, that's all.  
18 Just give her a few minutes to get prepared for  
19 the camera. She might have her nightgown on or  
20 whatever. Just let her prepare for the camera,  
21 okay. One second.

22 MS. ETANA: When I turn on my camera,  
23 I cannot really see you guys.

24 CHAIRPERSON ANDERSON: I'm sorry, say  
25 what, ma'am? I'm not going to delay this, but

1 can you -- I need you to -- do you swear or  
2 affirm -- spell -- spell your name again for the  
3 record, ma'am, please.

4 MS. ETANA: Okay, my name is Betty  
5 Etana. My name is Betty Etana, Betty, B-E-T-T-Y.  
6 My last name is Etana, E-T-A-N-A.

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

10 MS. ETANA: Yes, sir.

11 CHAIRPERSON ANDERSON: You can ask  
12 some questions, sir.

13 MR. CROCKER: Okay, Ms. Etana, are you  
14 familiar with the layout of Medusa Lounge/Peace  
15 Lounge?

16 MS. ETANA: Yes.

17 DIRECT EXAMINATION

18 MR. CROCKER: Okay. Exactly how long  
19 have you owned that property?

20 MS. ETANA: Yeah, can you say it  
21 again?

22 MR. CROCKER: I said how long have you  
23 owned that property?

24 MS. ETANA: Still haven't had time --

25 CHAIRPERSON ANDERSON: I can't hear

1 you, ma'am. That's one reason I prefer to see.  
2 You know, part of the problem is that I prefer to  
3 see the people I'm talking to because I'm not  
4 sure if you're talking to somebody else in the  
5 background.

6 And so and when I can't see folks and  
7 then I'm starting hearing things, it's -- so I  
8 prefer to see the people to make sure that  
9 there's no one there coaching the person in  
10 answering the question.

11 And I'm not saying that's occurring,  
12 I'm just saying that's why I want -- I prefer the  
13 witnesses to be on camera so I can see them and  
14 know what's going on in their environment.

15 MR. LUTES: The District would also  
16 like to raise an objection on the basis of  
17 relevance. The licensee's representative asked  
18 Ms. Etana regarding a Cloud LLC Cloud, or sorry,  
19 apologies. It's a Peace Lounge. That is a  
20 separate corporate entity and it's not at issue  
21 in this matter.

22 CHAIRPERSON ANDERSON: I was just  
23 going to allow some background info, just some  
24 background. I was just going to do that. I'm  
25 not -- I was not going to allow extensive

1 testimony there. But just as background.

2 And I think the witness is gone. I  
3 don't see here in my screen anymore.

4 MR. CROCKER: She might be trying to  
5 dial back in, just because her video wasn't  
6 working. Just give her a few seconds.

7 CHAIRPERSON ANDERSON: Ms. Fashbaugh,  
8 can you look to see if Ms. Etana is still trying  
9 -- is trying to log back in and she's gone from  
10 the screen.

11 MS. FASHBAUGH: Looking.

12 CHAIRPERSON ANDERSON: Thank you.

13 MS. FASHBAUGH: She's back on.

14 CHAIRPERSON ANDERSON: All right,  
15 thank you.

16 Ms. Etana? Ms. Etana, do you know why  
17 you're not -- I can't -- are you there, ma'am?

18 Sir, can you find out what's going on  
19 with your witness, sir?

20 MR. CROCKER: Well, is she showing up  
21 right now as dialing -- as dialed in?

22 CHAIRPERSON ANDERSON: Her name is on  
23 the screen, but she's not responding. Okay, now  
24 she's on. Can you unmute your line, ma'am? I  
25 can't hear you.

1 Ms. Fashbaugh, has she been unmuted?  
2 Are you able to unmute her, Ms. Fashbaugh?

3 MS. FASHBAUGH: I sent her a request,  
4 she has to approve the request.

5 CHAIRPERSON ANDERSON: Ma'am, you need  
6 to unmute yourself, ma'am. All right, so, all  
7 right --

8 MR. CROCKER: Can you hear me now?

9 MS. ETANA: Yes.

10 MR. CROCKER: There she is right  
11 there, perfect.

12 CHAIRPERSON ANDERSON: Go ahead.

13 MR. CROCKER: Okay, you ready?

14 MS. ETANA: Yes.

15 MR. CROCKER: Okay, Ms. Etana, you  
16 were here when the -- you was the owner of the  
17 venue when the settlement agreement was initially  
18 established, correct?

19 MS. ETANA: Yes.

20 MR. CROCKER: Okay. Did the  
21 discussion about entertainment come up during  
22 that initial hearing where the settlement  
23 agreement was initially established and actually  
24 documented and reviewed with the Board?

25 MS. ETANA: Yes.

1 MR. CROCKER: Did we have a discussion  
2 with the Board where --

3 MS. ETANA: Yes.

4 MR. CROCKER: The difference between  
5 the types of entertainment that could be provided  
6 at the establishment?

7 MS. ETANA: Yes.

8 MR. CROCKER: Was there a distinction  
9 made between live entertainment and background  
10 music, which is just playing, you know, in the  
11 venue while the venue is open during that  
12 hearing?

13 MS. ETANA: Yes.

14 MR. CROCKER: Was it your impression  
15 when we left that hearing, and was it discussed  
16 specifically at that hearing and understood that  
17 you could not have live music after 12:30 and it  
18 was the Board to rule on that?

19 MS. ETANA: Yes.

20 MR. CROCKER: But we could have  
21 background music.

22 MS. ETANA: Yes, sir.

23 MR. CROCKER: Okay. Now when I say  
24 background music, can you tell me what you  
25 interpret that as?

1 MS. ETANA: It means my understanding  
2 just not DJs, not light entertainments, but we  
3 can just play house music. And anybody in the  
4 house, the management, or the staff, they can  
5 play the music or change the music as they (audio  
6 interference) needed but not loud. Definitely  
7 it's not a band or DJs.

8 MR. CROCKER: Okay, now are you  
9 familiar with the equipment that you have there  
10 in the venue?

11 MS. ETANA: Yes, sir.

12 MR. CROCKER: All right. Do you even  
13 have a mixer in the venue for a DJ?

14 MS. ETANA: No mixer for sure, no DJ  
15 too, but it was just one of the person working in  
16 the establishment.

17 MR. CROCKER: Do you have a  
18 microphone? I mean, the investigator testified  
19 that someone was on the microphone. Do you even  
20 have a microphone in the establishment?

21 MS. ETANA: No.

22 MR. CROCKER: Okay. Is it your  
23 interpretation that different employees would go  
24 up from time to time and just select music on a  
25 laptop and was that interpreted as being live

1 music?

2 MS. ETANA: No.

3 MR. CROCKER: Okay. Have you spoken  
4 with the general manager who was there who  
5 actually met with the investigator?

6 MS. ETANA: Yes.

7 MR. CROCKER: What did he tell you  
8 about what happened that day?

9 MS. ETANA: He was telling me the  
10 investigator came and he tried to explain to him,  
11 number one, the music is not too loud because we  
12 have digestments (phonetic). And also he was  
13 trying to explain to them he was -- they were not  
14 doing live entertainment, we just played the  
15 house music.

16 MR. CROCKER: Okay. Now, had you ever  
17 had, prior to the new manager that your brought  
18 into the establishment, had you ever met this  
19 investigator, Mr. Ruiz? He said he's been  
20 working for ABRA for --

21 MR. LUTES: Objection, relevance.

22 MR. CROCKER: Well, the thing is here  
23 is she wasn't actually there on the day of the  
24 event. And she didn't interact directly with Mr.  
25 Ruiz. And what I'm asking this question for is



1 asking has she ever interacted with Mr. Ruiz.

2 MS. ETANA: No.

3 MR. CROCKER: Wasn't allowed to have

4 --

5 CHAIRPERSON ANDERSON: Okay, I -- all

6 right. I was going to overrule the objection.

7 But you know, okay, go ahead.

8 MR. CROCKER: Okay, all right. Is it  
9 your -- have you -- did you ever have a contract  
10 or anything that night to have a specific DJ in  
11 the venue that night?

12 MS. ETANA: No.

13 MR. CROCKER: Okay. Now, you're in a  
14 position to where you're the actual owner and  
15 this -- he was the manager but now you're  
16 transferring the ownership over to him directly  
17 or whatnot. So you would be in the position to  
18 where if Dawit had hired a DJ, you would have  
19 known about it because you would have known -- or  
20 else had seen the contract, am I correct?

21 MS. ETANA: Yes.

22 MR. CROCKER: Okay. So would you be  
23 willing to stand here and testify today that the  
24 individual who was there today was just one of  
25 the workers that worked -- no, let me let you

1 explain. Who was the individual that the  
2 investigator says that he saw that he classified  
3 or identified as being a DJ?

4 MS. ETANA: Well, the investigator, he  
5 spoke to Dawit, which is the -- I mean the  
6 manager, and I was the owner. And he's the one  
7 who spoke to him.

8 MR. CROCKER: Okay. So the  
9 investigator testified, though, that he never  
10 talked to what he classified or called a DJ. And  
11 it's my understanding, you know, in talking to  
12 you and to Dawit, that the gentleman that was up  
13 in the DJ booth was not a DJ, he was selecting  
14 songs upon which, you know, depending on the  
15 individuals who were there in the venue, he would  
16 select songs.

17 That if it's Spanish people, you play  
18 Spanish music. If it's Asian people, you play  
19 Asian. If it's Ethiopian people, like, you know,  
20 you mainly have there, it's Ethiopian. And the -  
21 - they showed -- of the venue, showing the actual  
22 DJ booth, and they showed maybe three or four  
23 people there.

24 So it wasn't like the venue was  
25 packed. So traditionally on a night like that,

1 how is the house music managed?

2 MS. ETANA: By the staff on the house  
3 and the timing. Certainly the person is always  
4 look after the place, cleaning and working with  
5 the staff there and pretty much look after the  
6 manager. He's the one playing the music in the  
7 time.

8 MR. CROCKER: Okay, so in -- let's  
9 just replay that night. In the -- there were  
10 five like gentlemen he showed in the picture. So  
11 if five Ethiopian gentlemen come up the stairs  
12 and come into the venue and they're seated, what  
13 would normally happen with respect to house  
14 music?

15 MS. ETANA: We just play what they  
16 request for. So the person the timing, he just  
17 started Google and play the music for them. But  
18 definitely it's not that too loud. And we do  
19 have the sound controlling too.

20 MR. CROCKER: And with sound control,  
21 I think you're talking about if you take a look  
22 at the settlement agreement, we wanted to make  
23 sure that people's interpretation of what loud  
24 is, because that's a very objective -- a very  
25 subjective statement -- would be backed up by

1 science. So --

2 MR. LUTES: Objection, relevance.

3 CHAIRPERSON ANDERSON: Sustained. You  
4 -- sir, we're just talking about -- you know,  
5 it's not a matter of loud. This has to do with  
6 the entertainment endorsement.

7 MR. CROCKER: Right, but my point --

8 CHAIRPERSON ANDERSON: And in terms of  
9 the entertainment

10 MR. CROCKER: This is what --

11 (Simultaneous speaking.)

12 MR. CROCKER: -- this information.

13 Because the articulatable suspicion on why the  
14 investigator stopped was because of loud.

15 CHAIRPERSON ANDERSON: All right, but  
16 sir, this is not a noise -- this is not a noise.  
17 We did not -- we did not -- it's not my  
18 understanding that the infraction is because of  
19 noise.

20 MR. CROCKER: Right.

21 CHAIRPERSON ANDERSON: The infraction  
22 has to do with the entertainment endorsement and  
23 what it is that you can or -- what time this  
24 establishment can have entertainment on June 3,  
25 2022. It's not -- if you were cited for noise,

1 then the arguments you're making would be  
2 perfectly fine. But it had nothing to do with  
3 noise, sir.

4 It has to do with your entertainment  
5 endorsement and whether or not this licensee  
6 complied with the terms of their license as far  
7 as entertainment.

8 MR. CROCKER: That entertainment  
9 establishment four times.

10 CHAIRPERSON ANDERSON: That's not  
11 relevant, sir. Sir, Mr. Crocker --

12 MR. CROCKER: Let me make the  
13 statement. The reason why he came --

14 CHAIRPERSON ANDERSON: Mr. Crocker,  
15 you're -- Mr. Crocker, please --

16 MR. CROCKER: They --

17 CHAIRPERSON ANDERSON: Mr. --

18 (Simultaneous speaking.)

19 MR. CROCKER: -- cited for any of those  
20 reasons. That's the point I'm trying to make  
21 here is that for those four times that the  
22 investor came out in two days, all right, there  
23 was never a citation given for the reason he  
24 came.

25 CHAIRPERSON ANDERSON: And Mr. -- and

1 --

2 MR. CROCKER: Afterward that he went  
3 and found a reason that we're here today. So I'm  
4 -- my point is arguing that if a police officer  
5 follows me for 20 miles, just continuously  
6 following me, I haven't done any -- broken any  
7 laws or whatnot, he'll find me doing -- swerving  
8 or hitting the yellow line or something like that  
9 within those 20 miles. That's just, you know,  
10 all I'm asking for is just fairness.

11 CHAIRPERSON ANDERSON: Mr. Crocker,  
12 that's not the issue here, sir.

13 MR. CROCKER: I know --

14 CHAIRPERSON ANDERSON: And I do not --  
15 I do not

16 (Simultaneous speaking.)

17 MR. CROCKER: -- entertainment piece of  
18 it. But I want to start with just identifying  
19 whether it's fair or whether the investigator  
20 even had a reason to target the establishment to  
21 go searching for stuff.

22 CHAIRPERSON ANDERSON: Mr. Crocker,  
23 please ask your witness about happened on June 3,  
24 2022. It's irrelevant whether or not you believe  
25 the person's being targeted. It's irrelevant --

1 it's about this case has to do with whether or  
2 not this licensee complied with the terms of  
3 their license, sir.

4 MR. CROCKER: Okay, all right. Okay,  
5 as you're going through the transition process,  
6 as the Board has recognized, May the 31st was the  
7 initial filing --

8 MR. LUTES: Objection, relevance.

9 MR. CROCKER: The relevance is, is the  
10 property's been transferred over from Ms. Etana  
11 over to Dawit Sermolo, okay. Gentleman --

12 CHAIRPERSON ANDERSON: I'm not going  
13 to sustain the objection because -- I don't -- I  
14 don't care about the transfer, sir, I don't care  
15 about that.

16 I'll let Ms. Etana -- it's the only --  
17 the ABC Board, ABRA, the Agency recognizes one  
18 owner, and that's Ms. Etana. And she is  
19 responsible for what happened on June 3, 2022. I  
20 don't care about a transfer. What I care about  
21 is what happened on June 3, 2022.

22 MR. CROCKER: Please let me make my  
23 point here.

24 CHAIRPERSON ANDERSON: You're not  
25 making a point, sir. You're asking a question,

1 sir. And there was an objection, and I've  
2 sustained the objection, sir.

3 MR. CROCKER: Removed from the  
4 establishment, is that correct?

5 CHAIRPERSON ANDERSON: I'm sorry,  
6 what's the question?

7 MR. CROCKER: During the transfer, now  
8 the -- transferred out of her name as of May 31,  
9 all the DJ equipment, which he's calling -- or  
10 what the investigator calls a DJ booth, had been  
11 removed from the establishment.

12 MS. ETANA: Yes.

13 MR. CROCKER: So that was May the  
14 31st. This incident happened on June the 3rd is  
15 when this actually was filed. So on that day,  
16 when the investigator came into the  
17 establishment, was there even any DJ equipment in  
18 the establishment?

19 MS. ETANA: Not, it was not DJ  
20 equipment. It was a laptop and even he comes  
21 walking and play any music they want. But he's  
22 not a DJ, we don't have any DJ equipment there,  
23 just a regular laptop. If you go right now and  
24 you see --

25 MR. CROCKER: Is there a microphone



1 there to where their voices could be amplified to  
2 like make announcements?

3 MS. ETANA: No.

4 MR. CROCKER: All right. Is there a  
5 mixer there to where as a DJ --

6 MS. ETANA: No.

7 MR. CROCKER: Like the investigator  
8 said, he had headphones on so he could mix the  
9 music. Is there a mixer there where he could mix  
10 the music?

11 MS. ETANA: No, just the music he can  
12 select whatever. He could listen to select any  
13 music he wanted. That was there, but it was not  
14 any DJ equipment.

15 MR. CROCKER: Okay. Is there any  
16 dance lighting, anything that like a DJ would  
17 bring if they were --

18 MS. ETANA: No, sir.

19 MR. CROCKER: DJing? Is there any  
20 discs there? DJ is a disc jockey, are there any  
21 CDs, anything like that?

22 MS. ETANA: No, just the laptop, and  
23 that's it.

24 MR. CROCKER: Okay, have you had a  
25 chance to take a look at the picture that the --

1 that Kevin, the attorney had provided I guess  
2 from the investigator?

3 MS. ETANA: Yes.

4 MR. CROCKER: Okay. In the picture,  
5 did you see any equipment or anything like that  
6 that was new or something that you didn't know  
7 about?

8 MS. ETANA: No.

9 MR. CROCKER: Okay, so you can testify  
10 to the fact that there is no DJ equipment there.  
11 You can testify to the fact that there was no  
12 contract to where Dawit had paid or contracted  
13 with an outside DJ to come into the  
14 establishment.

15 MS. ETANA: No.

16 MR. CROCKER: You can testify to the  
17 individual who they stated that was there, that  
18 the -- that the -- Kevin stated was a DJ, was not  
19 a DJ.

20 MS. ETANA: No.

21 MR. CROCKER: Okay. You can testify  
22 to the fact that the individual that was playing  
23 the music or selecting the music, he was not --  
24 that was not his only job.

25 MS. ETANA: Yes, sir.

1           MR. CROCKER: He was just a regular  
2 employee of the -- of the establishment that just  
3 went and selected music to accompany whoever the  
4 patrons were that actually came into the venue.

5           MS. ETANA: Yes.

6           MR. CROCKER: Can you testify that  
7 we've done -- that modifications have been made  
8 to the establishment to ensure or to work with  
9 the community to where if they have any  
10 complaints, that they can contact you directly?

11          MS. ETANA: Yes.

12          MR. CROCKER: Did you receive any  
13 calls or any complaints from any individuals that  
14 day regarding music, regarding noise --

15          MR. LUTES: Objection, relevance.

16          MR. CROCKER: The relevance, if I make  
17 seek clarification here, and just I want to  
18 position that Ms. Etana is in a position to where  
19 the neighborhood and everybody has her number  
20 directly, ready to call her.

21                 So there were no complaints that were  
22 made by the neighbors or anything, this is  
23 strictly just based upon your investigator's  
24 investigation. That's all I'm trying to  
25 establish.

1                   CHAIRPERSON ANDERSON: And I'm going  
2 to sustain the objection. This is not -- this is  
3 not a -- this establishment is not charged with  
4 any noise violation. This establishment is  
5 charged with not complying with the terms of its  
6 license.

7                   MR. CROCKER: That was the  
8 articulatable suspicion of what the investigator  
9 said he initiated the investigation with. It's  
10 the only reason why I'm bringing it up. So I'm  
11 challenging that.

12                   Okay, now on the -- on the inside of  
13 the venue is where -- is that -- where is the  
14 license posted?

15                   MS. ETANA: Medusa Lounge.

16                   MR. CROCKER: Yes, okay, it's in the  
17 venue. So the investigator would have to come  
18 into the venue to actually see the license.

19                   MS. ETANA: Yes.

20                   MR. CROCKER: Though on this -- what?  
21 Did someone have a comment or statement?

22                   CHAIRPERSON ANDERSON: Sir, do you  
23 have a question? There's -- I'm the only one who  
24 can interrupt what's going on, sir. So I didn't  
25 hear an objection, so.

1 MR. CROCKER: Okay. One second.  
2 Okay, I really don't have any additional  
3 questions, Ms. Etana. I think, you know, you  
4 were -- I do appreciate the Board for allowing me  
5 to at least have her as a witness. Because I  
6 think she can, you know, she sits in a unique  
7 position because as the transfer, she can testify  
8 that there wasn't even any equipment there to  
9 support --

10 CHAIRPERSON ANDERSON: Mr. -- you can  
11 -- you can make those arguments in closing, sir.  
12 Okay, so all right, you have no other questions?

13 MR. CROCKER: I have no other --

14 CHAIRPERSON ANDERSON: Mr. Lutes, do  
15 you have any questions for the witness?

16 MR. LUTES: Of course. Ms. Etana, you  
17 were -- were you present at -- you weren't at the  
18 establishment, or you weren't at Medusa Lounge on  
19 June 3 at 1 a.m., correct?

20 MS. ETANA: Yes.

21 CROSS-EXAMINATION

22 MR. LUTES: So you can't tell me who  
23 was behind the DJ booth.

24 MS. ETANA: Oh, no, I know who is in  
25 the schedule and I know who was working and

1 definitely I get aware to in a moment.

2 MR. LUTES: So can -- who would mind  
3 the DJ booth?

4 MS. ETANA: It was just one of the  
5 employee in the house (audio interference).

6 MR. LUTES: And so you -- and so since  
7 you weren't there, you wouldn't know, you  
8 wouldn't have firsthand knowledge of whether he  
9 had headphones or a microphone, right?

10 MS. ETANA: One, I know what is going  
11 on and be communicated to the staff. And  
12 definitely it was -- they know the rule too.  
13 They get aware they're not supposed to be played  
14 DJs, religious stuff. They just laptop.

15 MR. LUTES: But you've -- so you're  
16 mentioning general business practices but can't  
17 specifically say it's the night of -- or the  
18 morning of June 3, correct?

19 MS. ETANA: Yeah.

20 MR. LUTES: And so also you -- it was  
21 mentioned that there was renovations to the DJ  
22 booth and equipment was removed in May. However,  
23 Mr. -- Chairperson, the District would like to  
24 request to show its exhibits 81.

25 CHAIRPERSON ANDERSON: Ms. Fashbaugh,

1 can you -- can you allow Mr. Lutes to share his  
2 screen, please.

3 MR. LUTES: Ms. Etana, are you able to  
4 see my screen?

5 MS. ETANA: Yes.

6 MR. LUTES: And that's a DJ booth on  
7 the right-hand side, right?

8 MS. ETANA: Yes, sir.

9 MR. LUTES: And this photo was taken  
10 on June 3, right? And so the equipment wasn't --  
11 a DJ booth wasn't removed after -- in May,  
12 correct?

13 MS. ETANA: Yes.

14 MR. LUTES: Thank you, I'll stop  
15 sharing the screen.

16 MR. CROCKER: There's no equipment.

17 CHAIRPERSON ANDERSON: Mr. Crocker,  
18 that's inappropriate. You can ask -- you can --  
19 you'll get an opportunity to redirect, sir.

20 MS. ETANA: No, actually, I'm sorry --

21 CHAIRPERSON ANDERSON: I'm sorry,  
22 there is no question pending, ma'am.

23 MS. ETANA: Okay.

24 CHAIRPERSON ANDERSON: Do you have  
25 another question you want to ask, Mr. Lutes?

1 MR. LUTES: So you -- you mentioned  
2 there was a contract, that there was -- that  
3 usually you contract with TJs, correct?

4 MS. ETANA: Yes.

5 MR. LUTES: And so if there was a DJ  
6 -- strike that question. You mentioned that  
7 regarding the license is that it was inside,  
8 correct?

9 MS. ETANA: Yes.

10 MR. LUTES: And so it was -- actually,  
11 strike that, never mind.

12 At this point, the District has no  
13 further questions.

14 MS. ETANA: For the question, the  
15 first one --

16 CHAIRPERSON ANDERSON: Ms. Etana,  
17 there is no question pending, ma'am.

18 MS. ETANA: Okay.

19 CHAIRPERSON ANDERSON: Any questions  
20 by -- any questions by any Board members? Yes,  
21 Mr. Short?

22 MEMBER SHORT: Good afternoon, ma'am.

23 MS. ETANA: Good afternoon.

24 MEMBER SHORT: Thank you for your  
25 testimony today. How long have you -- how long



1 did you own the business before you put in a  
2 transfer request?

3 MS. ETANA: About five years, maybe  
4 more.

5 MEMBER SHORT: Five years.

6 MS. ETANA: Yes.

7 MEMBER SHORT: In that five years, did  
8 you ever hire or anyone else hire DJs for your  
9 business?

10 MS. ETANA: Yes, sir.

11 MEMBER SHORT: Were you there every  
12 night a DJ played any time in that five years?  
13 Were you ever there -- were you ever not there  
14 when a DJ was playing?

15 MS. ETANA: Pretty much, most days I'm  
16 there. Almost I'm there every day unless I  
17 travel.

18 MEMBER SHORT: Ask the question again.  
19 Was there ever a time in the five years you owned  
20 the club that you were not there when a DJ  
21 played?

22 MS. ETANA: Yes, sir.

23 MEMBER SHORT: You were not there on  
24 June the 3rd or June the 2nd going into the 3rd.  
25 Were you or were you not?

1 MS. ETANA: I was not there.

2 MEMBER SHORT: So you don't know or  
3 not, whether or not, a DJ was playing that night,  
4 is that true?

5 MS. ETANA: It is true, but I know the  
6 schedule.

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

10 CHAIRPERSON ANDERSON: Any other  
11 questions by any other Board members? Ms. Etana,  
12 I just want to ask you a question. Have you been  
13 following the World Cup?

14 MS. ETANA: Can you say it again?

15 CHAIRPERSON ANDERSON: Have you been  
16 following the World Cup?

17 MS. ETANA: Yes.

18 CHAIRPERSON ANDERSON: Has your  
19 establishment been -- been open for the World  
20 Cup?

21 MS. ETANA: Before? Yes.

22 CHAIRPERSON ANDERSON: I'm saying has  
23 your establishment been open for the World Cup?

24 MS. ETANA: No, right now, no.

25 CHAIRPERSON ANDERSON: But not -- no?

1 MS. ETANA: Yes, no.

2 CHAIRPERSON ANDERSON: All right, I  
3 don't have any other. I don't have any other  
4 questions. All right -- all right, Mr. Lutes,  
5 any questions of you? Any questions?

6 MR. LUTES: No further questions, Mr.  
7 Chair.

8 CHAIRPERSON ANDERSON: All right, Mr.  
9 Crocker, any questions, Mr.? Any questions based  
10 on the questions that were asked by the Board?

11 MR. CROCKER: One question. The Board  
12 asked in during that five years that you've owned  
13 the property, were there times that you weren't  
14 there that a DJ may have been performed, may have  
15 performed, right.

16 So as a follow-up question into that,  
17 as the owner, was there any time that even though  
18 you wasn't there -- are you still there? Hello,  
19 Betty?

20 MS. ETANA: Yes, Douglas, go ahead.

21 REDIRECT EXAMINATION

22 MR. CROCKER: Yeah, was there any time  
23 to where you would not have known about a DJ as a  
24 result of you manage all the contracts, are all  
25 contracts going through you?

1           So if there was a time to where you  
2 weren't there, would you have known about a DJ  
3 being there because you would have managed the  
4 contract that paid the individual?

5           MS. ETANA: Yes, sir, yes, I should  
6 know.

7           MR. CROCKER: Yeah, so even if you  
8 weren't there during the five years you managed  
9 the establishment, would you know if a DJ was  
10 there a night that you was not there or not?

11          MS. ETANA: Yes.

12          MR. CROCKER: Yes, okay. So the mere  
13 fact that you may not be in attendance doesn't  
14 preclude you from not knowing what's going on in  
15 your business, correct?

16          MS. ETANA: Yes.

17          MR. CROCKER: Okay. Now, in the  
18 picture that Kevin showed, he showed a picture of  
19 what he calls a DJ booth, which I would classify  
20 if a DJ is up there, but okay, it might be a DJ.  
21 But if it's a singer up there, it's a singing  
22 booth. If it's a speaker up there, it's speaking  
23 booth.

24                 Was there any DJ equipment, what he  
25 calls DJ equipment, in that booth after May the

1 31st when the transfer occurred?

2 MS. ETANA: No.

3 MR. CROCKER: Okay, so in that  
4 picture, it shows a laptop, but I don't think  
5 anybody -- I got a laptop in front of me, but I  
6 don't think anybody would call me a DJ or  
7 whatnot. So you would testify that there was no  
8 DJ equipment in there after May 31 or during the  
9 transfer of this license.

10 So on June the 3rd, even though you  
11 weren't there, there was no DJ equipment there,  
12 correct?

13 MS. ETANA: (Audio interference.)

14 MR. CROCKER: Did you have a contract  
15 or had you seen a contract employing a DJ for  
16 that -- for those periods of days upon which the  
17 investigator said that there was a DJ there?

18 MS. ETANA: Yes, having hard time  
19 listening, but yes.

20 MR. CROCKER: Okay, that's the only  
21 question I had, just as a response to the Board's  
22 question.

23 CHAIRPERSON ANDERSON: Okay, thank  
24 you. Do you have any other witnesses, sir, or do  
25 you rest?

1 MR. CROCKER: Can I bring another  
2 witness?

3 CHAIRPERSON ANDERSON: No, sir.

4 MS. ETANA: Dawit is --

5 CHAIRPERSON ANDERSON: Miss, you can't  
6 speak. All right, so okay, do you rest? That's  
7 all the witness you're allowed to -- all right.

8 All right. Does the government -- all  
9 right. So does the government wish to make a --  
10 so you rest, the government rests, time for  
11 closing. Does the government wish to make a  
12 closing statement?

13 MR. LUTES: Yes, Mr. Chairman. The  
14 District would like to make a closing statement.

15 CHAIRPERSON ANDERSON: Go ahead, sir.

16 MR. LUTES: Mr. Chairman and members  
17 of the Board, one must keep their word. And as  
18 that -- and it's for this reason the District  
19 requests you to hold the licensee accountable to  
20 this fundamental principle. Specifically, that  
21 in the settlement agreement, the licensee  
22 promised to cease providing indoor entertainment  
23 after 12:30 a.m. Sunday through Thursday.

24 However, the District has proven by a  
25 preponderance of the evidence that the licensee

1 broke their promise by having a disc jockey or DJ  
2 entertain their -- entertain their patrons after  
3 12:30 a.m., in violation of Board Order 2021-020.

4 Under DC Code 258.2386, the Board may  
5 find a licensee for failing to follow a  
6 settlement agreement or Board order.

7 Chair, the licensee entered into a  
8 settlement agreement with the ANC on December 22,  
9 2021, which stated that the interior hours of  
10 entertainment were to be determined by an ABRA  
11 order. Subsequently, the Board issued a order,  
12 2021-020, which limited the entertainment to  
13 12:30 a.m. Sunday through Thursday.

14 Moreover, DC Code 25.10121A defines  
15 any live music or other performance, including  
16 disc jockeys, as entertainment. And today you've  
17 heard uncontroverted evidence that Betty Etana  
18 and Medusa Lounge broke the promise they made to  
19 the community when Investigator Ruiz observed the  
20 licensee provide entertainment after its Board-  
21 approved hours on June 3, 2022.

22 Specifically, you've heard how  
23 Investigator Ruiz -- specifically that the  
24 licensee had a DJ entertaining its guests from a  
25 DJ booth, playing music and making -- while

1 making announcements while Board-approved hours  
2 ended.

3 And while the licensee contends that  
4 the DJ does not constitute entertainment, the law  
5 itself provides us with the answer. DC Code  
6 25.10119A defines anyone who plays music from a  
7 disc jockey booth or takes -- or takes requests  
8 and makes announcements as a DJ.

9 CHAIRPERSON ANDERSON: (Audio  
10 interference.)

11 MR. LUTES: And so if -- and so -- and  
12 so if it looks like a DJ, if it acts like DJ,  
13 then the individual in the DJ booth that was  
14 there on June 3 at one a.m., after 12:30 a.m., is  
15 irrefutably a DJ, and thus fits the definition of  
16 entertainment.

17 Thus, the government has proven by a  
18 preponderance of the evidence that the licensee  
19 exceeded its Board-approved hours of  
20 entertainment.

21 The government requests that the Board  
22 to find in the District's favor and recommends  
23 that the Board apply a heightened penalty because  
24 of the licensee's recalcitrance and clear refusal  
25 to accept the actual terms of their license.



1 Thank you.

2 CHAIRPERSON ANDERSON: Mr. Crocker?

3 MR. CROCKER: I'll open up with that  
4 statement there as far as what is it --

5 CHAIRPERSON ANDERSON: I can't hear  
6 you, sir, I can't hear you.

7 MR. CROCKER: I'll open this up that  
8 -- in response to that statement there about  
9 25.101, I'm not an attorney or whatnot, so I  
10 don't know all the codes or whatnot. But he made  
11 a statement, takes requests and makes  
12 announcements.

13 Ms. Etana basically just told you that  
14 it's not even physically possible for him to make  
15 an announcement because there's no microphone in  
16 the establishment. They don't take any requests.  
17 He just goes up and he plays music based upon,  
18 you know, whoever walks into the establishment.

19 And let's not forget the cultural  
20 significance here, because this is an Ethiopian,  
21 Black-owned business. So from a cultural  
22 perspective, what's considered entertainment is  
23 somewhat different to some individuals.

24 And with the type of license that she  
25 has, A Type C license, you know, she doesn't

1 offer any food, she doesn't offer anything else.  
2 The only thing that's offered in that type of  
3 establishment and with that type of license is,  
4 as you mentioned before, some TV screens that she  
5 has in there where people can come and watch the  
6 World Cup.

7 So are we to state, are we restricted  
8 now from turning the volume up to where people  
9 can't even hear because there'll be a -- there'll  
10 be an announcer that's actually speaking and  
11 dictating to you what the game is? I mean, are  
12 we there yet? Are we in that position now?

13 From a cultural perspective, if we are  
14 allowed to operate as a business, as a tavern-  
15 type C business, I mean, I don't think that we'll  
16 be able to get any customers if you can't have  
17 any amplified music or can't play any background  
18 music or you can't have any TVs playing or  
19 anything like that past 12:30. You know, which  
20 is what our license does not restrict us to do or  
21 whatnot.

22 So I think it comes down to this, you  
23 know, that's why I was trying to make a point of  
24 it, what's classified as live entertainment.

25 And then also I want to take into

1 consideration the fact of from a cultural  
2 perspective. I mean, what's expected when I walk  
3 into an Ethiopian restaurant, you know. I've  
4 never been to one where they -- at the McDonalds  
5 that's right there on Howard University's campus,  
6 they play music in there, you know. At the  
7 Subway that's down the street.

8 From a cultural perspective and where  
9 the place is actually located, it's expected.  
10 The culture of these United States coming from  
11 these African Americans and these Africans that  
12 we play music in our establishments, you know.

13 So to restrict this tavern, Type C  
14 tavern, they don't serve food. They don't serve  
15 coffee, they're not serving hamburgers, they're  
16 not serving anything else outside of drinks and  
17 entertainment. And the question here is what  
18 form of entertainment is allowed after 12:30.

19 In the original hearing in which I  
20 represented the Agency then, this discussion came  
21 about. And it -- it comes down to almost like  
22 the moral police, which we've outlawed in this  
23 country, and we see how it goes in other  
24 countries as well. People trying to leverage  
25 their moral perspectives about what type of music

1 is acceptable or what type of cultural things  
2 should be conducted.

3 And then siccing people like ABRA on  
4 or an investigator on an establishment because  
5 they don't agree with the fact that people are in  
6 there having a good time, having fun, watching  
7 the World Cup or doing something when they're  
8 sitting in their house miserable. Okay.

9 This is something that we've dealt  
10 with in that neighborhood. And then the  
11 harassment that we've gotten from investigators  
12 coming in, looking for stuff. And as Mr. Ruiz  
13 actually admitted, he had no knowledge of a  
14 restriction of the establishment --

15 MR. LUTES: Objection,  
16 mischaracterization.

17 CHAIRPERSON ANDERSON: I know this is  
18 -- Mr. Lutes, you know, we can't really object.  
19 But Mr. Crocker, you are really going way afar of  
20 what is an acceptable closing argument. But so  
21 all right, but go ahead, sir.

22 MR. CROCKER: There's only one other  
23 point here, because this inspector came to that  
24 establishment four times. Did not find anything  
25 on any of those four times. The fourth time upon

1 which he came, and it's articulated on suspicion,  
2 was because loud sounds.

3 He couldn't substantiate that because  
4 the meter showed that the sounds coming out of  
5 the establishment was below levels of what was  
6 acceptable. And that's why we established the  
7 meters in there to where no one could come and  
8 say we were playing -- say subjectively what was  
9 loud. We had meters to show actually what the  
10 levels were.

11 It was not until he left, he didn't  
12 issue a ticket, didn't issue a warning, no fine.  
13 He even smiled and said, you know, goodbye and  
14 I'll -- shook the manager's hand and he left. It  
15 was not until he went later and started to  
16 investigate and try to find something. Did he  
17 say -- did he -- now, write -- write the  
18 establishment up on a violation of having live  
19 music.

20 And like I said, I think it is a  
21 matter of perspective. But from a cultural  
22 standpoint, there's not a Black or African  
23 establishment that you can go to on Georgia  
24 Avenue, whether it be a McDonald's, a Subway, a  
25 coffee shop that doesn't have background music

1 playing.

2 And I'm hoping we're not in a position  
3 to where we'll allowing ABRA to establish moral  
4 polices in this country or whatnot to leverage  
5 these type of moral issues that people have or  
6 cultures that are in this country.

7 And we continue to have this country  
8 as a free state to where as an individual, I can  
9 walk into an establishment, have a couple of  
10 drinks, hear some -- and have a -- an  
11 establishment that's culturally accepting enough  
12 to where they will change or switch music or  
13 select background music to be played that match  
14 with my cultural background, which I think it's a  
15 benefit or whatnot.

16 And provide me with a sip of alcohol  
17 and maybe an ability for me to watch the World  
18 Cup or the Kentucky Derby, because I'm from  
19 Kentucky, or whatnot, on the screen. And we  
20 won't have moral police and we won't have an ABRA  
21 Board that starts to restrict those types of  
22 things in Washington, DC, the capital of the  
23 United States of America.

24 CHAIRPERSON ANDERSON: So what is it  
25 you want us to do, sir?

1 MR. CROCKER: I'd like for you to  
2 strike down this fine that they were offering to  
3 us for \$1000 and dismiss this whole case.

4 CHAIRPERSON ANDERSON: All right. The  
5 record is now closed. Do the parties wish to  
6 file proposed findings of fact and conclusion of  
7 law or waive their right to do so? What that  
8 means, sir, is that do you want to wait for the  
9 transcript to come out to review the transcript  
10 and say this what the law says regarding -- well,  
11 you have already stated you're not a lawyer.

12 So you'd have to write a legal brief  
13 to do that. That's not -- it's not required, but  
14 it's an option.

15 MR. CROCKER: Yes, I'd like to do  
16 that. Because I like to go do my homework and  
17 make sure, because I'm going up against a lawyer.  
18 So I'd like to review the legal brief, legal  
19 transcript or whatnot and make legal comments to  
20 how this whole proceeding went.

21 CHAIRPERSON ANDERSON: You just stated  
22 that you are not a lawyer. Yes, Mr. Lutes, go  
23 ahead.

24 MR. LUTES: The District would request  
25 to waive this -- waive the briefing. At this

1 point we have made sufficient arguments in this  
2 three, over three-hour hearing. We've gone over  
3 the relevant law, we've gone over all the  
4 relevant facts. At this point briefing would  
5 render no additional findings.

6 And so the District would request on  
7 the -- on its -- on its case today.

8 CHAIRPERSON ANDERSON: I have to ask  
9 the question. He said that it's something that  
10 he wants to do. Are you sure this is something  
11 that you want to do, Mr. Crocker? You have  
12 already stated that you're not a lawyer, so how  
13 are you going to write a legal brief if you've  
14 stated you're not a lawyer?

15 MR. CROCKER: You know, this is 2022,  
16 I have access to LexisNexis, so I can do the  
17 research.

18 CHAIRPERSON ANDERSON: All right, so  
19 what this means, Mr. Crocker, is that if the  
20 parties -- okay, so the Board -- the transcripts  
21 will be mailed three weeks -- the transcripts  
22 will be mailed to each party within the next  
23 three weeks. It's 30 days, and I'm saying this  
24 again, the transcript will be mailed in three  
25 weeks.



1           Thirty days after the mailing of the  
2 transcript, sir, you are then required to provide  
3 this briefing to the Agency. You can, if you  
4 change your mind, please let us know, so  
5 therefore Mr. Lutes doesn't have to respond or  
6 have to write one. So if you change your mind,  
7 please let us know.

8           But this is what this is, sir. You're  
9 not going to bring in stuff that is not -- that  
10 wasn't -- you're going to read the transcript and  
11 state what was stated here today and apply the  
12 law that what was stated here today.

13           You're not going to bring something  
14 from outside, you're not going to make new  
15 arguments that were not made today. This is just  
16 based on the argument you read in the transcript  
17 and you apply the law to the facts from the  
18 hearing today, sir. Is that correct?

19           MR. CROCKER: Yes, sir, I understand,  
20 I interpret that. And that's also the rules of  
21 the actual proceedings, right, as far as if I  
22 felt as though I wasn't -- it wasn't fair --

23           CHAIRPERSON ANDERSON: No, no, no --  
24 no, sir. This is conclusion of law, proposed  
25 findings and conclusion of law is based on you

1 reading the transcript, and you state that the  
2 conclusion the Board should make based on what  
3 was presented today.

4 MR. CROCKER: Okay.

5 CHAIRPERSON ANDERSON: So again, the  
6 transcript will be provided to the parties in  
7 three weeks, and approximately three weeks. And  
8 30 days after the transcript is provided, your  
9 response is due.

10 MR. CROCKER: Okay.

11 CHAIRPERSON ANDERSON: And -- and as  
12 I said before, if you change your mind, you can  
13 let us know as soon as possible that you've  
14 changed your mind, that you're not doing this.

15 So all right, as Chairperson of the  
16 Alcoholic Beverage Control Board for the District  
17 of Columbia in accordance with DC Official Code  
18 Section 2575 of the Open Meetings Act, I move  
19 that ABC Board hold a closed meeting for the  
20 purpose of seeking legal advice from our counsel  
21 on Case No. 22-CMP-00048, Medusa Lounge, pursuant  
22 to DC Code Section 2575(B)(4)(A) of the Open  
23 Meetings Act and deliberating upon Case No. 22-  
24 CMP-00048, Medusa Lounge, for the reasons cited  
25 in DC Official Code Section 2575(B)(13) of the

1 Open Meetings Act.

2 Is there a second?

3 MR. LUTES: Mr. Chair, apologies  
4 before you -- before you call roll on vote, I  
5 would like to just request clarification that the  
6 District would be able to provide a chance write  
7 a brief as well since Mr. --

8 CHAIRPERSON ANDERSON: Yes, yes.

9 MR. LUTES: Yes. Thank you.

10 CHAIRPERSON ANDERSON: Mr. Crocker --

11 MR. CROCKER: He already closed and  
12 said he wasn't.

13 CHAIRPERSON ANDERSON: Mr. Crocker,  
14 Mr. Crocker.

15 MR. CROCKER: Oh, be fair, come on  
16 now.

17 CHAIRPERSON ANDERSON: Mr. Crocker,  
18 both parties, this is not a matter of being fair.  
19 The transcript will be provided to both sides in  
20 approximately three weeks.

21 MR. CROCKER: He already stated that  
22 he did not want to provide one.

23 CHAIRPERSON ANDERSON: Mr. Crocker, it  
24 doesn't matter what he already stated. You've  
25 stated this is what -- this is what you're going

1 to do. And it's the government's right whether  
2 or not they're going to -- they're going to do  
3 one.

4 MR. CROCKER: Okay.

5 CHAIRPERSON ANDERSON: The time period  
6 is that three weeks, in approximately three  
7 weeks, the transcript will be made available.  
8 And 30 days after that the answer -- that the  
9 document is required. And so you can decide that  
10 you're going to change your mind, and then he  
11 doesn't have to do it.

12 And, or the government might decide  
13 that whatever, that you're not going to do one.  
14 So I don't know, sir, but that's how that is,  
15 sir. Okay. All right.

16 And now I forgot where I was in my  
17 closing. And I need to comply. There's some  
18 legal requirements that I have in closing this  
19 case. And so now because I forgot where I was,  
20 unfortunately I need to repeat this. Because  
21 this is --

22 MEMBER SHORT: Mr. Chair, you made the  
23 motion and I seconded.

24 CHAIRPERSON ANDERSON: Okay, so you  
25 made the motion and you seconded. All right, so

1 now I guess I'm -- all right, thank you, Mr.  
2 Short. So let's have a roll call vote on the  
3 motion.

4 Mr. Short.

5 MEMBER SHORT: Mr. Short, I agree.

6 CHAIRPERSON ANDERSON: Mr. Cato.

7 MEMBER CATO: Bobby Cato, I agree.

8 CHAIRPERSON ANDERSON: Ms. Crockett.

9 MEMBER CROCKETT: I agree.

10 CHAIRPERSON ANDERSON: Ms. Hansen.

11 MEMBER HANSEN: Jeni Hansen, I agree.

12 CHAIRPERSON ANDERSON: Mr. Grandis.

13 MEMBER GRANDIS: Agree.

14 CHAIRPERSON ANDERSON: Mr. Anderson,  
15 I agree.

16 As it appears that the motion has  
17 passed, I hereby give notice that the ABC Board  
18 will recess its proceedings to hold a closed  
19 meeting pursuant to Section 2575 of the Open  
20 Meetings Act.

21 Thank you very much, have a great  
22 afternoon. Right then, bye bye.

23 All right, it's 2:41, our schedule is  
24 way off whack. The Board needs to take a break  
25 for lunch. And so therefore the Board will take

1 -- will come back on to the public session and  
2 not even go in the executive.

3 So we'll log back on at 3:15 to the  
4 public session, 3:15 we will log back on so the  
5 public session. See you at 3:15, thank you.

6 (Whereupon, the above-entitled matter  
7 went off the record at 2:42 p.m.)

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In the matter of: Medusa Lounge

Before: DC ABRA

Date: 11-30-22

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate complete record of the proceedings.

  
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Court Reporter

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