

IN THE MATTER OF: :
 :
Café DuPont, LLC, :
t/a Café Citron :
1343 Connecticut Ave NW : Fact Finding
Retailer CR - ANC 2B : Hearing
License No. 60138 :
Case #19-251-00003 :
 :
(Assault with Significant: :
Bodily Injury) :

Wednesday,
February 6, 2019

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Donovan W. Anderson, presiding.

PRESENT:

DONOVAN W. ANDERSON, Chairperson
NICK ALBERTI, Member
BOBBY CATO, JR., Member
MIKE SILVERSTEIN, Member
JAMES SHORT, Member
REMA WAHABZADAH, Member

ALSO PRESENT:

CLELIA BERINDOAGUE, Licensee

JACQUELINE PORVOIS, Licensee

KEVIN PUENTE, ABRA Investigator

MAURICIO FLORES, Licensee

STEPHEN JOHNSON, Licensee

VICTOR SALINAS, Licensee

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

2 2:42 p.m.

3 CHAIRPERSON ANDERSON: All right. We
4 are back on the record. Our next case is a Fact-
5 Finding Hearing Case No. 19-251-00003, Café
6 Citron, License No. 60138.

7 Will the parties, please, approach and
8 identify themselves for the record, please?

9 INVESTIGATOR PUENTE: Investigator
10 Kevin Puente, ABRA.

11 CHAIRPERSON ANDERSON: Good afternoon,
12 Mr. Puente.

13 MS. PORVOIS: Yes, I'm Jacqueline
14 Porvois, a manager at Café Citron.

15 CHAIRPERSON ANDERSON: You're the
16 manager?

17 MS. PORVOIS: One of the managers,
18 correct.

19 CHAIRPERSON ANDERSON: And okay.

20 MS. BERINDOAGUE: I am Clelia
21 Berindoague. I am a managing member.

22 CHAIRPERSON ANDERSON: Your last name,

1 ma'am?

2 MS. BERINDOAGUE: Berindoague.

3 CHAIRPERSON ANDERSON: Berindoague?

4 MS. BERINDOAGUE: Berindoague.

5 CHAIRPERSON ANDERSON: Berindoague.

6 All right. There is a sign-in sheet that --

7 MS. BERINDOAGUE: Yes.

8 CHAIRPERSON ANDERSON: -- please sign-
9 in your name.

10 MS. BERINDOAGUE: Yes.

11 CHAIRPERSON ANDERSON: All right.

12 MS. PORVOIS: Sir, we brought the
13 other managers that were there as well. Would
14 you like them to also introduce themselves?

15 CHAIRPERSON ANDERSON: If they are
16 going to say something, if everyone can introduce
17 themselves?

18 MS. PORVOIS: Yes.

19 CHAIRPERSON ANDERSON: And sign-in on
20 the sign-in sheet.

21 MR. SALINAS: My name is Victor
22 Salinas and I was also a manager there.

1 CHAIRPERSON ANDERSON: Good afternoon,
2 Mr. Salinas.

3 MR. SALINAS: Good afternoon.

4 MR. FLORES: My name is Mauricio
5 Flores. I am also manager.

6 CHAIRPERSON ANDERSON: I did not hear
7 your last name, sir.

8 MR. FLORES: Mauricio Flores.

9 CHAIRPERSON ANDERSON: Mr. Flores,
10 there is a hyphenated name, sir. I heard Flores.
11 I didn't hear the --

12 MR. FLORES: Sorry, sir. Flores is my
13 last name.

14 CHAIRPERSON ANDERSON: Okay. I heard
15 just the Flores. Good afternoon.

16 MR. JOHNSON: My name is Stephen
17 Johnson, security supervisor.

18 CHAIRPERSON ANDERSON: Oh, that one I
19 can understand easy. Good afternoon, Mr.
20 Johnson. All right. There is a sign-in sheet,
21 everyone, please. You can pull up a chair so you
22 can pull up.

1 MS. BERINDOAGUE: Thank you.

2 CHAIRPERSON ANDERSON: They can pull
3 their chairs up and have a seat.

4 MS. BERINDOAGUE: Okay. Thank you.

5 CHAIRPERSON ANDERSON: And so what we
6 are going to do is that I'm going to have Mr.
7 Puente, he will -- did you get a copy of the
8 report the Agency wrote?

9 MS. BERINDOAGUE: Yes, we have it with
10 us.

11 CHAIRPERSON ANDERSON: All right. All
12 right. So Mr. Puente will go through his report
13 and then you can respond. Now, you can respond
14 whichever way is appropriate. As I said before,
15 all that we are doing here is gathering facts.

16 MS. BERINDOAGUE: Okay.

17 CHAIRPERSON ANDERSON: We are
18 listening and then based on what we hear today,
19 then we will either determine that we are not
20 going to take any kind of further action or then
21 we will send it -- or we will send it over to the
22 Attorney General's Office for them to bring some

1 type of charges. But that's the process.

2 MS. BERINDOAGUE: Okay. Perfect.

3 CHAIRPERSON ANDERSON: Of what is
4 here.

5 MS. BERINDOAGUE: Thank you.

6 CHAIRPERSON ANDERSON: All right. Mr.
7 Puente, can you bring us to -- Mr. Puente, just
8 let us -- bring us to -- tell us why we are here,
9 sir, please.

10 INVESTIGATOR PUENTE: The Chief of
11 Police for Metropolitan Police Department
12 requested a Fact-Finding Hearing for the incident
13 in the establishment.

14 CHAIRPERSON ANDERSON: All right.

15 INVESTIGATOR PUENTE: On Sunday,
16 December 9, 2018, there was an assault with
17 bodily injury that occurred at Café Citron. MPD
18 alleged that a male patron was bitten near his
19 eye temple. There was an altercation on the
20 mezzanine level and two males got into an
21 altercation. Apparently during the altercation,
22 one of the males was bitten near his eye.

1 I went out to the establishment on
2 Wednesday -- on Friday, December 14th. I met with
3 Mr. Salinas. I conducted a regulatory
4 inspection. I spoke with him about the incident.
5 He stated that night the establishment was
6 participating in one of the pub crawls that was
7 occurring in the Golden Triangle area.

8 Mr. Salinas stated that there was
9 three managers on duty as well as five security
10 personnel. All security personnel communicate by
11 radios. They have security and they were in
12 uniform with security on the back labeled in big
13 letters.

14 On the incident, I asked to review
15 surveillance video. The surveillance video
16 showed a different picture than MPD alleges in
17 their Fact-Finding letter.

18 The assault was occurring on the
19 second, on the mezzanine level. As soon as
20 security gets to -- let me back up.

21 So as the assault occurs, the two
22 males, they kind of go out into the stairway

1 level. At no time does the male ever get bitten.
2 The suspect takes his thumbs and kind of pokes
3 right against the eyelids of victim. At that
4 time, he lets go and proceeds to start walking
5 down the stairs as security is running up the
6 stairs.

7 They see the female who was with the
8 victim start assaulting the suspect. Then
9 security immediately goes to the person being the
10 aggressor and detains her. And the suspect walks
11 out.

12 So that's why MPD is alleging that the
13 staff had let the suspect go.

14 When a fight is occurring, in my view,
15 you are going towards the aggressor. They went
16 right to the aggressor. They weren't notified
17 about the other male patron. MPD officers -- I
18 spoke to both MPD officers who responded. They
19 said they received a radio run. They said the
20 staff had called 911 and that's why they were
21 there.

22 I reviewed the security plan for the

1 establishment. I didn't find no violations of
2 the security plan. From what I could tell from
3 the video, the security was on the scene in
4 seconds. They detained who they thought, at the
5 time, was the suspect, because she was throwing
6 punches at the male patron as he walked down the
7 stairs. That's all I got.

8 CHAIRPERSON ANDERSON: So all right.
9 So from your view, was the establishment
10 cooperative?

11 INVESTIGATOR PUENTE: Yes, they were
12 cooperative. Obviously, Mr. Salinas showed me
13 video. He told me what happened. Everyone to
14 me, they were very cooperative.

15 CHAIRPERSON ANDERSON: And I know you
16 said that they showed video, so the person who
17 showed you video, they were familiar with the
18 operation of the cameras?

19 INVESTIGATOR PUENTE: Yes.

20 CHAIRPERSON ANDERSON: All right. All
21 right. Anything you want to add? What happened
22 from your perspective?

1 MS. BERINDOAGUE: No. As he
2 explained, it's pretty much what happened. You
3 know, we work very hard at trying to maintain
4 order and as he said, you know, we worked
5 according to the security plan and, you know, I
6 believe that we did everything that we could and
7 we did everything correctly.

8 CHAIRPERSON ANDERSON: That's all you
9 want to say? You have nothing else to say?

10 MS. BERINDOAGUE: I just don't know
11 what else to add to that, because I think that,
12 you know, we responded right away. Everyone was
13 in uniform. The person, the young lady that was
14 involved in the altercation, which, you know, we
15 didn't know what was going on when we come -- you
16 know, when you come up to an altercation, you
17 kind of assess quickly what is going on and she
18 is the one that looked like was struggling, so
19 she is the one that was kind of -- the focus was
20 on her.

21 You know, at that point, we didn't
22 know who the aggressor was, so yes, I mean, he

1 went down the stairs because we didn't know that
2 he had aggressed someone.

3 The only thing I can add from my
4 recollection is when I did see the gentleman that
5 is stating that he was bitten, to me it did look
6 more like a scratch mark when I saw him, but I
7 can't say what happened because that's what he is
8 claiming. You know, that's all I can really say
9 from my end.

10 CHAIRPERSON ANDERSON: Okay. Any
11 questions by any Board Members? Yes, Mr.
12 Silverstein?

13 MEMBER SILVERSTEIN: Just very
14 briefly, Mr. Puente, if you could recap, how
15 would you describe the response to this and
16 where, if any, did they fall short?

17 INVESTIGATOR PUENTE: This incident
18 occurred on the mezzanine level. It looked like
19 it was the male patron/suspect had an issue with
20 the female. From what I gathered, it was an ex-
21 girlfriend. He saw her dancing with another male
22 and he got upset. He went up to the male patron.

1 They exchanged words. Then the fight ensued.

2 At that time, the fight kind of --
3 they fall to the ground, they get back up. They
4 start fighting again. And at that time, they
5 were on the top of the stairwell and within 5
6 seconds, 10 seconds, security is on top of it.

7 To me, I thought security did all they
8 could do. They --

9 MEMBER SILVERSTEIN: I'm sorry?

10 INVESTIGATOR PUENTE: To me in my
11 opinion, I don't like stating my opinion, but
12 security did everything that they were supposed
13 to do. If I was there and I saw a girl throwing
14 a punch, I would go right to her, she is the
15 aggressor. And at that time, they couldn't tell
16 who was the suspect, he was walking down, if he
17 was part of it or whatnot.

18 So he looked like a normal patron
19 walking down the stairs and security running up,
20 at that time.

21 MEMBER SILVERSTEIN: Thank you. No
22 further questions.

1 CHAIRPERSON ANDERSON: Any other
2 questions by any other Board Members? Yes, Mr.
3 Short?

4 MEMBER SHORT: Okay. Again, good
5 afternoon, Investigator Puente.

6 So pretty much they did everything.
7 Was MPD called?

8 INVESTIGATOR PUENTE: Yes. Officers
9 said they received a radio run or 911 call to
10 report to the establishment for an altercation.

11 MEMBER SHORT: Was any first aid
12 administered in the establishment or did they
13 finally go to the hospital?

14 INVESTIGATOR PUENTE: The victim he
15 did go to the hospital. He was treated and
16 released at George Washington University by EMS.

17 MEMBER SHORT: Okay. So what was the
18 great bodily harm, which is on the report?

19 INVESTIGATOR PUENTE: MPD says the
20 suspect or the victim was bitten near his eye.
21 Surveillance video, it's very good surveillance
22 video. The suspect -- the victim was never

1 bitten. The suspect takes his thumbs. He
2 appears to scratch him or press his eyelids and
3 that's where the injury occurred.

4 MEMBER SHORT: Okay. I guess this is
5 for the owners and management. Does anybody know
6 who the perpetrator was that was fighting or is
7 he a regular customer?

8 MS. BERINDOAGUE: No, we didn't know
9 who they were.

10 MEMBER SHORT: Did anybody take an
11 incident report of the incident or --

12 MS. BERINDOAGUE: I'm sorry?

13 MEMBER SHORT: -- did you write
14 anything down?

15 MS. BERINDOAGUE: Yes. We do have an
16 incident report, sir.

17 MEMBER SHORT: Did you write -- so you
18 know what his name is, the person's name?

19 MS. BERINDOAGUE: Well, no. The
20 gentleman that left, I mean, we had no way of
21 getting his information. And the gentleman that
22 was involved in the altercation was taken away by

1 an ambulance, so we couldn't get him to write an
2 incident report.

3 We had everyone, like the head
4 security wrote an incident report. I wrote my,
5 you know, statement and so did the other managers
6 that were present.

7 MEMBER SHORT: Okay. It sounds like
8 you did the best you could.

9 MS. BERINDOAGUE: We did.

10 MEMBER SHORT: So I'm looking through
11 and you have a security plan apparently, right?

12 MS. BERINDOAGUE: Correct.

13 MEMBER SHORT: Is that already
14 submitted to this office for approval?

15 MS. BERINDOAGUE: Yes.

16 MEMBER SHORT: So it's --

17 MS. BERINDOAGUE: You have it.

18 MEMBER SHORT: -- filed with us, Mr.
19 Puente?

20 INVESTIGATOR PUENTE: Yes, it is in a
21 file with us.

22 MS. BERINDOAGUE: Yes.

1 MEMBER SHORT: Okay. All right.

2 That's all I have. Thank you very much.

3 MS. BERINDOAGUE: Thank you, sir.

4 MEMBER SHORT: That's all I have, Mr.
5 Chair.

6 MS. BERINDOAGUE: Thank you.

7 CHAIRPERSON ANDERSON: Any other
8 questions by any other Board Members? Any final
9 thoughts, Mr. Puente?

10 INVESTIGATOR PUENTE: No, sir.

11 CHAIRPERSON ANDERSON: Any last words
12 that you want to make, any final thoughts you
13 have?

14 MS. BERINDOAGUE: I hope that we were
15 able to answer all of your questions and, you
16 know, if you have any other questions, we are
17 here to work with you always. You know, we are
18 always available and anything you need, we will
19 have it for you.

20 CHAIRPERSON ANDERSON: Hold on one
21 minute, please. All right.

22 I make a motion that we take no

1 further action. Is there a second?

2 MEMBER CATO: Second.

3 CHAIRPERSON ANDERSON: Mr. Cato has
4 seconded the motion.

5 All those in favor say aye.

6 ALL: Aye.

7 CHAIRPERSON ANDERSON: Those opposed?
8 The matter passes 6-0-0.

9 Thank you very much for being here
10 today. NFA. It appears that you acted
11 appropriately. And I know that when folks come
12 here, it's not a very pleasant thought, but I
13 hope I don't have the pleasure of seeing you
14 again. And you know that that is meant with
15 love.

16 MS. BERINDOAGUE: Thank you. We hope
17 the same.

18 CHAIRPERSON ANDERSON: All right. But
19 thank you for being here today.

20 MS. BERINDOAGUE: Thank you so much.

21 CHAIRPERSON ANDERSON: All right.
22 Have a good day.

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MS. PORVOIS: Thank you.

(Whereupon, the Fact-Finding Hearing
was concluded at 2:53 p.m.)

<p>A</p> <p>able 17:15</p> <p>ABRA 2:13 3:10</p> <p>acted 18:10</p> <p>action 6:20 18:1</p> <p>add 10:21 11:11 12:3</p> <p>administered 14:12</p> <p>afternoon 3:11 5:1 5:3,15,19 14:5</p> <p>Agency 6:8</p> <p>aggessed 12:2</p> <p>aggressor 9:10,15 9:16 11:22 13:15</p> <p>aid 14:11</p> <p>ALBERTI 1:18</p> <p>Alcoholic 1:2,13,14</p> <p>alleged 7:18</p> <p>alleges 8:16</p> <p>alleging 9:12</p> <p>altercation 7:19,21 7:21 11:14,16 14:10 15:22</p> <p>ambulance 16:1</p> <p>ANC 1:7</p> <p>Anderson 1:15,18 3:3,11,15,19,22 4:3,5,8,11,15,19 5:1,6,9,14,18 6:2 6:5,11,17 7:3,6,14 10:8,15,20 11:8 12:10 14:1 17:7 17:11,20 18:3,7 18:18,21</p> <p>answer 17:15</p> <p>anybody 15:5,10</p> <p>apparently 7:21 16:11</p> <p>appears 15:2 18:10</p> <p>approach 3:7</p> <p>appropriate 6:14</p> <p>appropriately 18:11</p> <p>approval 16:14</p> <p>area 8:7</p> <p>asked 8:14</p> <p>assault 1:9 7:16 8:18,21</p>	<p>assaulting 9:8</p> <p>assess 11:17</p> <p>Attorney 6:22</p> <p>available 17:18</p> <p>Ave 1:7</p> <p>aye 18:5,6</p> <p>B</p> <p>back 3:4 8:12,20 13:3</p> <p>based 6:18</p> <p>believe 11:6</p> <p>Berindoague 2:11 3:20,21 4:2,2,3,4 4:4,5,7,10 6:1,4,9 6:16 7:2,5 11:1,10 15:8,12,15,19 16:9,12,15,17,22 17:3,6,14 18:16 18:20</p> <p>best 16:8</p> <p>Beverage 1:2,13,14</p> <p>big 8:12</p> <p>bitten 7:18,22 9:1 12:5 14:20 15:1</p> <p>Board 1:2,13 12:11 14:2 17:8</p> <p>BOBBY 1:19</p> <p>bodily 1:10 7:17 14:18</p> <p>briefly 12:14</p> <p>bring 6:22 7:7,8</p> <p>brought 4:12</p> <p>Building 1:14</p> <p>C</p> <p>Café 1:6,6 3:5,14 7:17</p> <p>call 14:9</p> <p>called 9:20 14:7</p> <p>cameras 10:18</p> <p>case 1:8 3:4,5</p> <p>Cato 1:19 18:2,3</p> <p>chair 5:21 17:5</p> <p>Chairperson 1:15 1:18 3:3,11,15,19 3:22 4:3,5,8,11,15 4:19 5:1,6,9,14,18</p>	<p>6:2,5,11,17 7:3,6 7:14 10:8,15,20 11:8 12:10 14:1 17:7,11,20 18:3,7 18:18,21</p> <p>chairs 6:3</p> <p>charges 7:1</p> <p>Chief 7:10</p> <p>Citron 1:6 3:6,14 7:17</p> <p>claiming 12:8</p> <p>Clelia 2:11 3:20</p> <p>COLUMBIA 1:1</p> <p>come 11:15,16 18:11</p> <p>communicate 8:10</p> <p>concluded 19:3</p> <p>conducted 8:3</p> <p>Connecticut 1:7</p> <p>Control 1:2,13,14</p> <p>cooperative 10:10 10:12,14</p> <p>copy 6:7</p> <p>correct 3:18 16:12</p> <p>correctly 11:7</p> <p>CR 1:7</p> <p>crawls 8:6</p> <p>customer 15:7</p> <p>D</p> <p>D.C 1:15</p> <p>dancing 12:21</p> <p>day 18:22</p> <p>December 7:16 8:2</p> <p>Department 7:11</p> <p>describe 12:15</p> <p>detained 10:4</p> <p>detains 9:10</p> <p>determine 6:19</p> <p>different 8:16</p> <p>DISTRICT 1:1</p> <p>doing 6:15</p> <p>Donovan 1:15,18</p> <p>DuPont 1:6</p> <p>duty 8:9</p> <p>E</p> <p>easy 5:19</p>	<p>either 6:19</p> <p>EMS 14:16</p> <p>ensued 13:1</p> <p>establishment 7:13 8:1,5 10:1,9 14:10 14:12</p> <p>ex- 12:20</p> <p>exchanged 13:1</p> <p>explained 11:2</p> <p>eye 7:19,22 14:20</p> <p>eyelids 9:3 15:2</p> <p>F</p> <p>Fact 1:7</p> <p>Fact- 3:4</p> <p>Fact-Finding 7:12 8:17 19:2</p> <p>facts 6:15</p> <p>fall 12:16 13:3</p> <p>familiar 10:17</p> <p>favor 18:5</p> <p>February 1:12</p> <p>female 9:7 12:20</p> <p>fight 9:14 13:1,2</p> <p>fighting 13:4 15:6</p> <p>file 16:21</p> <p>filed 16:18</p> <p>final 17:8,12</p> <p>finally 14:13</p> <p>find 10:1</p> <p>Finding 1:7 3:5</p> <p>first 14:11</p> <p>five 8:9</p> <p>Flores 2:14 5:4,5,8 5:8,9,10,12,12,15</p> <p>focus 11:19</p> <p>folks 18:11</p> <p>Friday 8:2</p> <p>further 6:20 13:22 18:1</p> <p>G</p> <p>gathered 12:20</p> <p>gathering 6:15</p> <p>General's 6:22</p> <p>gentleman 12:4 15:20,21</p> <p>George 14:16</p>
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Before: DC ABRA

Date: 02-06-19

Place: Washington, DC

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