#### DISTRICT OF COLUMBIA

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#### ALCOHOLIC BEVERAGE CONTROL BOARD

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#### MEETING

IN THE MATTER OF: :

Café DuPont, LLC, :
t/a Café Citron :

1343 Connecticut Avenue, :

N.W. : Fact Finding

Retailer CR - ANC 2B : Hearing

License No. 60138

Case #17-251-00236

:

(Assault with a Dangerous: Weapon)

Wednesday
March 7, 2018

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

### ALSO PRESENT:

CLELIA BERINDOAGUE, Licensee
RICHARD BIANCO, Attorney for Licensee
INVESTIGATOR VERNON LEFTWICH, ABRA
LIEUTENANT PATRICK LOFTUS, MPD
JACQUELINE ROCHA COURBOIS, General Manager

# T-A-B-L-E O-F C-O-N-T-E-N-T-S

SIATEMENIS									1	AGE
Vernon Leftwich, Investigator.	•	•	•	•	•	•	•	•	•	. 6
Patrick Loftus, MPD Lieutenant	•	•	•	•	•	•	•	•	•	.12
Richard Bianco, Attorney	•	•	•	•	•	•	•	•	•	.16
Jacqueline Rocha Courbois, GM.	•	•	•	•	•	•	•	•	•	.19

1	P-R-O-C-E-E-D-I-N-G-S
2	10:59 a.m.
3	CHAIRPERSON ANDERSON: The next case
4	on our calendar is a Fact-Finding Hearing for
5	Case No. 17-251-00236, Café Citron, License No.
6	60138.
7	Would the parties, please, approach
8	and identify themselves for the record, please?
9	All parties for Café Citron, please, come forward
10	and identify yourself for the record, please.
11	INVESTIGATOR LEFTWICH: Investigator
12	Leftwich, Alcoholic Beverage Regulation
13	Administration.
14	CHAIRPERSON ANDERSON: Good morning,
15	Mr. Leftwich.
16	LIEUTENANT LOFTUS: Lieutenant Patrick
17	Loftus, Metropolitan Police Department.
18	CHAIRPERSON ANDERSON: Lieutenant,
19	your last name, sir?
20	LIEUTENANT LOFTUS: L-O-F-T-U-S.
21	CHAIRPERSON ANDERSON: Lieutenant
22	Loftus?

1	LIEUTENANT LOFTUS: Yes, sir.
2	CHAIRPERSON ANDERSON: Good morning.
3	MR. BIANCO: Good afternoon. I'm
4	sorry, good morning, Mr. Chairman, Members of the
5	Board. Richard Bianco on behalf of the Licensee.
6	CHAIRPERSON ANDERSON: Mr. Bianco.
7	MS. ROCHA COURBOIS: Good morning,
8	Board. My name is Jacqueline Rocha Courbois.
9	And I was the general manager present on the day
10	of the incident.
11	CHAIRPERSON ANDERSON: Can you spell
12	your name for the record, please?
13	MS. ROCHA COURBOIS: Yes. You
14	probably have Jackie. It's J-A-C-Q-U-E-L-I-N-E
15	Rocha, R-O-C-H-A, Courbois, C-O-U-R-B-O-I-S.
16	CHAIRPERSON ANDERSON: Good morning,
17	ma'am.
18	MS. ROCHA COURBOIS: Good morning.
19	MS. BERINDOAGUE: Good morning.
20	Clelia Berindoague, LLC managing member.
21	CHAIRPERSON ANDERSON: Spell your name
22	for the record, please, ma'am.

1	MS. BERINDOAGUE: First name is C-L-E-
2	L-I-A last name is B, as in boy, E-R, as in
3	Roger, I-N, as in Nancy, D, as in dog, O-A-G-U-E.
4	CHAIRPERSON ANDERSON: Have all
5	parties written, spelled, write their name on the
6	sign-in sheet, please. All right.
7	All right. This is a Fact-Finding
8	Hearing that we are having regarding there was an
9	assault with a dangerous weapon that occurred on
10	the establishment. And, Mr. Leftwich, can you
11	are you familiar with this case anyway?
12	INVESTIGATOR LEFTWICH: Yes.
13	CHAIRPERSON ANDERSON: And how are you
14	familiar with this case, sir?
15	INVESTIGATOR LEFTWICH: I was assigned
16	the 251.
17	CHAIRPERSON ANDERSON: So can you,
18	please, tell us what happened, sir?
19	INVESTIGATOR LEFTWICH: Yes. On the
20	morning, Sunday, October 29th of 2017, CTN No.
21	1718759 states the following:
22	On the listed date and time, MPD units

responded to investigate aggravated assault at the listed location. Upon arrival to the scene, C1, W1 and W2 reports that while at the listed location, S1 through S5 became aggressive after attempting to walk in the club.

W1 reports he stated, sorry, we don't want any trouble and S1 and S5 became more aggressive for an unknown reason. W1 and W2 further reports that S1 and S5 then attacked C1. They began to kick C1 several times about the body.

W2 reports S1 then brandished a beer bottle and struck C1 in the head. C1 sustained the listed injuries. S1 through S5 fled the scene in an unknown direction. DCFD Medic 16 arrived on scene and transported C1 to George Washington Hospital Center where he would be treated by Dr. Obrah.

And on November 13th, to -- so the incident took place October 29, 2017.

And on November 13th, I went to the establishment to speak to the ABC Manager that

was there. However, the ABC Manager that was present was a new employee and she -- or new manager and she didn't have as many details as I would have liked. So she ended up contacting the ABC Manager that was there on duty.

However, they were able to inform me that they had 12 security cameras working on the night of the incident, that the day of the incident it was -- the establishment was participating in a Board-approved pub crawl earlier and that evening after 10:00 p.m. after the establishment had got done participating in the pub crawl, that they were having a Halloween party of their own that night.

The minimum age of entrance was 20 years-old on the night of the incident. And there were no other special events going on, outside promotions.

The manager that was there on the night of the incident, I spoke to on the telephone in the office, and she informed me that the night of the incident that they noticed that

it was a confrontation going on. Security separated the two and then the parties were dispersing and then one of the patrons aggressively ran up and attacked one of the other patrons.

And at the time, from their understanding, the patron that struck the other patron had a bottle in his hand. And at that time, at the time -- point of impact, that's when the bottle broke and injured the victim.

At that time, the group of aggressors ran out of the establishment in an unknown direction, so the manager of security went to try and find them. They were unable to locate them. And at that time, the victim and his friend also left the establishment, so they were unable to secure all the parties involved at the time after the incident had happened.

However, the establishment did call -reported that they called the law enforcement to
have them come to the scene and when MPD arrived,
they informed them that since no one was there at

the time, that they wouldn't be there. The establishment did complete an incident report, which I did obtain a copy of.

MPD did notify them that the victim was later found a few blocks away or at the end of the corner. I'm assuming maybe the MPD officer can speak more on that portion of it. At the time, even in the report, I was not able to get in contact with the victim to get their side of the story.

I did -- and on the night of the incident or the night of the visit, I was unable to view the security footage due to the fact that the manager who was present was unable -- she didn't have the knowledge to work the operating system. And when I went back to speak with them about the camera setup at the establishment, I was informed that the area in which the incident took place, they have cameras facing the opposite direction of both -- of where that area is in the establishment.

So I took photos of how there is a

camera that faces the door and there is a camera that faces the bar, but there is a walkway area that is not covered by any footage, so where the incident was reported to have occurred was unable to be captured on the video footage.

I did review the security plan that ABRA has on file and according to that specific security plan, there was no evidence of them failing to follow that order.

However, just today moments before being called up here, the attorney provided us with a copy of a security plan that they reported to have had on file with ABRA. However, I was unable to locate it in the G drive and I did make copies of it and provided it to Ms. Jenkins.

CHAIRPERSON ANDERSON: Well, so based on your investigation and based on the -- at least the security plan that you reviewed, were there any ABRA violations?

INVESTIGATOR LEFTWICH: No. Although
I don't feel as though, based on past
investigations, that the security plan actually

covered things that would have necessarily --1 2 would have been able to protect the safety of the establishment more. 3 4 CHAIRPERSON ANDERSON: Now, have you 5 had any conversation or subsequent conversations with them about this obvious blind spot? 6 INVESTIGATOR LEFTWICH: 7 Yes. informed them that they should -- more than 8 9 likely will need to get that space covered. 10 since then, I am not sure if they have updated or 11 reviewed or changed the way that the security 12 cameras are setup or if they changed the number 13 of security cameras that they have. 14 CHAIRPERSON ANDERSON: Okay. Thank 15 Lieutenant Loftus? you. 16 LIEUTENANT LOFTUS: Yes, sir. 17 CHAIRPERSON ANDERSON: What can you 18 share with us about what occurred, sir? 19 LIEUTENANT LOFTUS: Just to clarify, 20 like he was saying, the victims, the victim and their friends did leave the establishment as 21 22 well. They informed the officers they did that

for their safety after the assault occurred.

They wanted to get out of there.

As you know, the suspects fled the location as well. The victim was located by our officers with the injury sustained from the bottle. The victim's friends were there as well.

One thing the victim did relay and the victim's friends relayed to the officers was that prior to the assault occurring, they informed us that they allegedly told security there was a group of males inside this establishment which were trying to assault people or trying to start fights and trouble and that nothing was done until after the assault occurred. But again, this was relayed to us from the victim's friends, the witnesses.

CHAIRPERSON ANDERSON: Now, were you-do you know whether or not MPD followed-up with
the establishment about this allegation that was
made by the victim?

LIEUTENANT LOFTUS: I'm not sure if they did or not. Our detectives looked at the

criminal aspect of this case, so the assault that 1 2 occurred as opposed to, you know, potential ABC 3 protocol. 4 CHAIRPERSON ANDERSON: No, not from --5 but from the perspective that they said that they had reported it to security. Just from that 6 7 perspective. LIEUTENANT LOFTUS: 8 I don't have any 9 information about that. I'm sorry. 10 CHAIRPERSON ANDERSON: Okay. Is there 11 anything else you want to add regarding this 12 establishment or if you so desire? 13 LIEUTENANT LOFTUS: No. I would say 14 it's like any other establishment we have. It's 15 not a problematic establishment. Like any club, 16 incidents do happen, but it's not one that is on 17 my radar as being problematic. 18 CHAIRPERSON ANDERSON: So tell me who 19 again -- give me a little background on who you 20 are and how was it that you are involved with 21 this establishment.

LIEUTENANT LOFTUS:

22

So I am in charge

of our Nightlife Unit for the 2nd District, so I handle all of our -- we have a Nightlife Unit that supervises the bars and restaurants and the crowds. We provide high visibility patrols. We respond to incidents that occur and try to manage crowds and mitigate incidents before they turn into larger occurrences.

And then we work really closely with the bars and restaurant owners to try to be proactive in addressing issues before they occur.

CHAIRPERSON ANDERSON: Thank you,

Lieutenant. The reason I asked that is because
you stated that they were not on your radar, so
that's one of the reasons why I asked you to give
us some background to say that you are actually
familiar with what is going on, so I do take -so I can give even more weight to the
representations that you have made because this
is an area that is within your purview. So thank
you for that.

LIEUTENANT LOFTUS: You're welcome.

CHAIRPERSON ANDERSON: Thanks a lot.

Mr. Bianco, what does it -- what representation,
if any, can you make on behalf of your client?

MR. BIANCO: Well, I can let my client speak as to the specific facts, but I think the general overview is that an incident, in fact, occurred. Once my -- once there was an issue reported to security, security did take action to separate the two parties who were speaking to each other in a manner that may have been less than appropriate.

And as Ms. Rocha can tell you, at that point, the group of aggressors apologized to whomever the victim was in this particular circumstance. The two shook hands and parted ways. And then thereafter, for reasons unknown or without prior warning, the aggressor in this circumstance then attacked the victim.

And as our Investigator and police
lieutenant have informed, both sides, both the
aggressors as well as the victims, fled the
scene. Ms. Rocha out of concern for the victim's
need for potentially medical attention left the

establishment and tried to track down or follow
the victims who had fled the scene and was unable
to locate them. They called 911 and reported it.
Emergency medical arrived. Police later arrived.
And my client at all times participated willingly
in the investigation. Tried to be as helpful as
possible.

In reviewing the video footage, they learned of the blind spot, which was neither the door nor the bar, but the area in between the door and the bar. And before they even became aware this would be a Fact-Finding or any type of issue before the Board, they corrected the blind spot. They added additional cameras right away and re-aimed the cameras that they have, so now not only is the bar covered, but the area in between where this particular altercation took place is now also covered.

The last thing that I wanted to address, and if the Board has specific questions of my client, that will be just fine, is the investigation by ABRA. And the night they came

in, the person that they spoke with, Ms.

Mesquite, was a new manager. She was there for about a month and she, at that time, did not know how the video system operated, but it's something that Ms. Rocha provides training for. I'm sorry, the establishment provides training for and she has since been trained up on how to work that system.

So if there is an issue on a day where she is the only manager on duty, which is a rarity, as I understand it, she will be -- she would be able to retrieve and show either law enforcement or ABRA officials the video in realtime. So if it's needed for some type of ongoing investigation, that can now be provided by Ms. Mesquite, who was at the time a new manager.

Additionally, the security plan that
I was handed this morning is dated November 5,
2013. I provided it to the Investigator who
provided it to the Board. And it is my
understanding, although I was not counsel in
November of 2013, but in speaking with my client,

that the document we provided this morning is the actual approved on file security plan with the Agency.

And the one that is attached to the report, I frantically reviewed this morning when I was handed the security plan and it appears to be consistent. However, the would-be security plan dated November 5, 2013 is far more comprehensive than the one that has been worked off of up to this point in the course of this investigation.

So with that, if there are specific questions, I'm glad to either answer them or have my client fill in the details and the facts that I'm not aware of.

asking questions, is there any questions that -any representations that you -- I know you have
made some representations, so does your client
wish to make -- to state any, made any
representations?

MS. ROCHA COURBOIS: Well, I think --

I mean --

CHAIRPERSON ANDERSON: You don't have to say anything if you don't want to. I'm just saying if you want to speak, you can. If you don't want to speak, you don't have to.

MS. ROCHA COURBOIS: I mean, I was present the day of the incident and we work really hard at maintaining safety, especially when there are bar crawls. We had a good security team in place. I had two licensed ABC Managers there present and myself and I feel confident that we responded, you know, the way we have been trained and the way that we feel that --

CHAIRPERSON ANDERSON: You need to speak up, yeah.

MS. ROCHA COURBOIS: I believe that we did respond in the best way possible at the time when the incident happened. I did like Mr. Richard said I did try and look for the people that were injured, but they just took off. They ran and the other gentlemen also ran off, so it was kind of like it happened so quickly.

Sometimes these things happen really quickly, 1 2 it's crazy. But, yes, and we did -- I did correct 3 4 -- I did, at that point, train Ms. Mesquite so 5 that she does now know how to use the cameras. And I also contacted the company to improve our 6 camera system. We even changed out and put new 7 cameras that have clear and more open view, so 8 9 even the old existing cameras, the ones that were 10 not good and working, we did replace those, so 11 that I feel strongly now that our whole camera 12 system is way improved and we did add the 13 additional camera for the blind spot. 14 CHAIRPERSON ANDERSON: So about how 15 many cameras do you have now in the 16 establishment? 17 MS. ROCHA COURBOIS: We have -- I had 18 added three more cameras. 19 CHAIRPERSON ANDERSON: So that's a 20 total of how many cameras? 21 MS. ROCHA COURBOIS: So 12, 13, 14, 22 15.

1 CHAIRPERSON ANDERSON: 15. Okay. 2 Any other -- that's it? Thank you. MS. ROCHA COURBOIS: 3 Yes. 4 CHAIRPERSON ANDERSON: Okav. 5 Questions by any Board Members? Mr. Silverstein? MEMBER SILVERSTEIN: I would like to 6 thank the Licensee for your representation and 7 thank you, Lieutenant Loftus and Investigator 8 9 Leftwich. 10 Lieutenant, looking back on this, is 11 there anything that the Licensee could have done 12 that they did not do? Anything where they fell 13 short? And not necessarily to place the blame, 14 but just going forward, is there anything that 15 could be done differently or that we could, as a 16 Board look at to do differently in this 17 particular case? Any suggestions? 18 LIEUTENANT LOFTUS: In general, again, 19 I don't know that these claims about it to the 20 security's attention or not actually occurred, 21 it's just an allegation that was made, but if

something is brought to the security's attention

to --

MEMBER SILVERSTEIN: I'm sorry?

LIEUTENANT LOFTUS: -- tend to and to stop it immediately before it escalates to that.

Again, I don't know if that happened or not. And then like they said with these pub crawls that occur, just have extra resources on hand which sounds like they had.

MEMBER SILVERSTEIN: I would ask the Licensee, did the pub crawl have any affect on this at all?

MS. ROCHA COURBOIS: It's hard to say, because the pub crawls the end time is 10:00 and typically it starts emptying out a little beforehand and to be honest with you, we kind of slow things down by 9:00, because we don't want to let any more patrons in from the pub crawl.

We have our guests that come in on a normal basis for the 10:00 shift and, you know, the pub crawls they are more casual, more of a casual thing and our clientele comes in more dressed up. It's a little bit older. So it's

1	not good for us to have that mix. So typically
2	for us, we try to slow things down.
3	So it's hard to say if it had, you
4	know, I can't say for sure. I don't know, but
5	it's hard to say if things would have been
6	affected by the pub crawl or not, in my opinion.
7	MEMBER SILVERSTEIN: Thank you both
8	very much. Investigator Leftwich, any thoughts?
9	INVESTIGATOR LEFTWICH: Yeah, I was
10	just looking over the security plan. And I just
11	wanted to point out that the camera system states
12	that it had 16 total cameras, 12 inside and 4
13	outside.
14	MS. ROCHA COURBOIS: Oh, correct. I'm
15	sorry.
16	INVESTIGATOR LEFTWICH: So just
17	wondering if the
18	MS. ROCHA COURBOIS: That's correct.
19	I forgot the
20	INVESTIGATOR LEFTWICH: additional
21	cameras are included in that number as well.
22	MS. ROCHA COURBOIS: outside

1	cameras. I forgot the outside cameras. I
2	apologize. So we do have outside cameras as
3	well.
4	MEMBER SILVERSTEIN: Thank you.
5	CHAIRPERSON ANDERSON: That's it? Mr.
6	Alberti?
7	MEMBER ALBERTI: Yes. Thank you.
8	Thank you everyone for your comments. I want to
9	talk a little bit about the security plan. So
10	the one that we were handed today, the November
11	5, 2013, that was the one that was in effect on
12	the day of the incident. Is that correct?
13	MS. ROCHA COURBOIS: Correct. This is
14	the one that we use, yes.
15	MEMBER ALBERTI: Great, great. That's
16	good news because
17	MS. ROCHA COURBOIS: Yes.
18	MEMBER ALBERTI: it is much as
19	Mr. Bianco pointed out, it's much
20	MS. ROCHA COURBOIS: It's more detail.
21	MEMBER ALBERTI: more thorough than
22	the one we thought was in effect

MS. ROCHA COURBOIS: I apologize.

MEMBER ALBERTI: -- or that we had in our file. So this is great. I am going to ask that you work with our attorneys at ABRA to review this and make sure that it meets all of our standards. They will go through it. They will give you a checklist of things. It looks pretty thorough, so I -- my initial assessment, and I'm not the expert, is that it doesn't need a whole lot of work, but they will -- if you would be willing to work with them, that would be great, to make sure that it is -- it meets all of our standards.

We have -- I think since this

November, since this 2013 plan, new statutes, new
laws have been placed that put requirements on
security plans. So it's all spelled out and
that's what the attorneys here will use to review
it, but I think this comes pretty close.

MS. ROCHA COURBOIS: Thank you.

MEMBER ALBERTI: So that's good news.

22 And I appreciate your cooperation of that. The

other good -- the other thing I see here that is positive is that this security plan indicates that you had the intent to cover all of the services areas. You didn't. I get it, mistakes happen, holes happen, but, I mean, it says here that it will cover all entrances, main restaurant area, all table service areas.

So this indicates to me that that was -- the intent of the Licensee was to cover those areas. You missed it. It happens. So but you have made --

MS. ROCHA COURBOIS: We have made -
MEMBER ALBERTI: -- taken steps to

amend that and that's great.

MS. ROCHA COURBOIS: -- those steps.

that you were trying. It says to me you are trying and that's great. One of the things I would ask is that you include in the security plan sort of a layout of the establishment and what is covered by the cameras, so that -- you know, we will take a look at it. We will have

our staff here take a look at it and if we think 1 2 that there is maybe some area that could be covered, we will give you feedback on that, 3 4 because the impression I'm getting is you are 5 willing to cooperate. And actually, it would be helpful to 6 you and it would be helpful to everybody if we 7 So I want to thank you for that. 8 did that. 9 MS. ROCHA COURBOIS: Thank you. 10 MEMBER ALBERTI: And I want to thank 11 the -- your officers and our Investigator for 12 their work on this. Thank you. 13 CHAIRPERSON ANDERSON: Any other 14 questions by any other Board Members? Any other 15 -- either side, any further representations? 16 Mr. Bianco, on behalf of your client? 17 MR. BIANCO: Nothing on behalf of the 18 Licensee. 19 CHAIRPERSON ANDERSON: Mr. Leftwich? 20 INVESTIGATOR LEFTWICH: I'll go to the 21 establishment and just do a check of the security

cameras and I'll report back to the Board.

1 CHAIRPERSON ANDERSON: Thank you. 2 MEMBER ALBERTI: Thank you. CHAIRPERSON ANDERSON: Lieutenant 3 Loftus? 4 5 LIEUTENANT LOFTUS: No further 6 representations. 7 CHAIRPERSON ANDERSON: All right. Well, I make a motion that we take no further 8 9 action in this case. Is there a second? 10 MEMBER SILVERSTEIN: Second. 11 CHAIRPERSON ANDERSON: All those in 12 favor? 13 ALL: Aye. 14 CHAIRPERSON ANDERSON: All right. The Board will take no further action on this case. 15 16 However, I -- we want to make it -- it appears 17 that the Licensee acted appropriately. And I'm 18 glad that you have taken the action, too. You 19 were advised that there is a blind spot and that 20 you have -- the representation is that you have 21 positioned cameras to address this problem and 22 I'm glad for that.

And I'm also glad that you have 1 2 acknowledged that the ABC Manager who was on duty that night was not well-versed in the security 3 4 operation. And I'm glad that you have now -- the 5 representation that you have made to the Board is that this person is well-versed and that other 6 7 employees or other ABC Managers are also wellversed in the operation usage of the camera 8 9 system. 10 So the Board does take that as 11 positive steps. And we will -- you have a 12 security plan that is dated the 13th. The Board 13 has that. And I would hope that you work with 14 the Board to make sure that this is compliant 15 with the statute. And I thank you for being here 16 this morning and have a good day. 17 MS. ROCHA COURBOIS: Thank you so much. 18 CHAIRPERSON ANDERSON: Thank you. 19 MR. BIANCO: Thank you. 20 MS. ROCHA COURBOIS: Thank you, Board. 21 (Whereupon, the Fact-Finding Hearing 22 was concluded at 11:25 a.m.)

П			31
A	<b>Anderson</b> 1:18,20	<b>Aye</b> 29:13	
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## <u>C E R T I F I C A T E</u>

This is to certify that the foregoing transcript

In the matter of: Cafe DuPont, LLC

Before: DC ABRA

Date: 03-07-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

Court Reporter

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