DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

+ + + + + MEETING

IN THE MATTER OF:

Café Dupont, LLC, t/a Café Citron 1343 Connecticut Avenue :

: Fact Finding

Retailer CT : Hearing

License No. 60138 Case #19-251-00106

(Simple Assault)

Thursday

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.

November 7, 2019

PRESENT:

DONOVAN W. ANDERSON, Chairperson BOBBY CATO, JR., Member JAMES SHORT, Member

ALSO PRESENT:

INVESTIGATOR FELICIA DANTZLER, DC ABRA INVESTIGATOR SHANELL MURRAY, DC ABRA OFFICER NICHOLAS KING, DC MPD CLELIN BERINDOAGUE, APPLICANT JACQUELINE COURBOIS, APPLICANT VICTOR SALINAS, APPLICANT EDGAR FLOREZ, APPLICANT

1	P-R-O-C-E-E-D-I-N-G-S
2	10:32 a.m.
3	MR. ANDERSON: The next case on our
4	calendar is Case No. 19-251-00106, Caf Citron,
5	License No. 60138. Will the parties please
6	approach and identify themselves for the record,
7	please? We'll start with the licensee, and
8	there's also a sign-in sheet, so I would like
9	everyone to sign in their name. So we'll start
10	with the licensee to introduce yourself for the
11	record, please.
12	MS. BERINDOAGUE: I am Clelin
13	Berindoague.
14	MR. ANDERSON: I didn't hear your last
15	name, ma'am.
16	MS. BERINDOAGUE: Berindoague.
17	MR. ANDERSON: How do you spell that,
18	please?
19	MS. BERINDOAGUE: B as in boy, E-R-I-
20	N-D-O-A-G-U-E.
21	MR. ANDERSON: Good morning. Help me
22	pronounce it phonetically.
23	MS. BERINDOAGUE: Berindoague.
24	MR. ANDERSON: Berindoague.
25	MS. BERINDOAGUE: Perfect.

MS. BERINDOAGUE: Thank you. MR. ANDERSON: Thank you. Have a seat. You don't have to get up; just tell me who everyone is. Who else is with you? MS. COURBOIS: My name is Jacqueline Courbois. I'm one of the general managers MR. ANDERSON: Your last name, ma'am? MS. COURBOIS: Courbois; C-O-U-R; B as in boy, O-I, S as in Sam. MR. ANDERSON: C-O-U-R-B MS. COURBOIS: O-I, S as in Sam. MR. ANDERSON: Okay. You're the general manager? Who else do we have? MR. SALINAS: Victor Salinas. MR. ANDERSON: Mr. Salinas, how do you spell your last name, please? MR. SALINAS: S-A-L-I-N-A-S. I'm a manager. MR. ANDERSON: You're a manager? Who else do we have? MR. FLOREZ: Edgar Florez. MR. ANDERSON: Mr. Florez. MR. ANDERSON: Mr. Florez. MR. FLOREZ: Yes, sir. MR. ANDERSON: What's your role there,	1	MR. ANDERSON: All right, thank you.
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MR. ANDERSON: What's your role there,	24	MR. FLOREZ: Yes, sir.
II	25	MR. ANDERSON: What's your role there,

sir? 1 2 MR. FLOREZ: Sir? 3 MR. ANDERSON: What's your role? What do you do? You're the manager. Investigator? 4 5 Investigator Shannell MS. MURRAY: 6 Murray. 7 Can't hear you, ma'am. MR. ANDERSON: 8 MS. MURRAY: Shannell Murray. 9 MR. ANDERSON: Good morning, Ms. 10 Murray. 11 MS. DANTZLER: Good morning, ABRA 12 Investigator Felicia Dantzler. 13 MR. ANDERSON: Good morning, Ms. 14 Dantzler. All right. This is a fact finding 15 hearing because an incident occurred at your 16 establishment in July. A simple assault occurred 17 at your establishment, and clearly, you're aware 18 that an investigation was done, and the Board 19 thought that it was egregious enough for us to 20 bring you in to freely explain your response to 21 the incident that occurred. 22 My position has always been, you open 23 your business; you have customers come in, and 24 they might act inappropriately. But I'm more so

concerned, how is it that you responded to the

action of the customer? Folks usually get in trouble not because something happens in their establishment, but with your response.

I know you have a security agreement;

I know you have camera system. So what we're

trying to find out is, whether or not your

response was appropriate to the incident that

occurred, and whether or not you did sufficient

to prevent the incident from occurring.

The Board has not made a decision whether or not we're going to submit this over to the Office of Attorney General for further investigation. All that we're doing today is gathering the facts.

So the Board cannot legally order you to do anything at a fact finding hearing. We can ask you to do certain things, and we can suggest to you, and you can voluntarily agree to do it, or you might say, I don't believe I want to do that, and the Board is -- I'm not going to take them anyway, because by law, we can't order you to do anything here because all that we're doing is gathering information. So what we're going to do is, we're going to have the investigator provide us with a report. Do you have a copy of

the report?

MS. BERINDOAGUE: Yes.

MR. ANDERSON: Yes. So we'll have the investigator tell us what happened and what she was able to ascertain as a result of her investigation. Then you can provide a response, and we'll make a determination on whether or not we're going to -- what our next step is, whether we're going to refer this over or we'll say -- as I see that you guys were right here in front of me, in September of last year, and we had said no further action, so -- but so that's basically what we'll do. Once we get the information, then we'll make a determination on whether or not we'll take refer that. Okay?

All right. So, Ms. Murray, can you tell us what you were able to find out as a result of your investigation?

MS. MURRAY: Good morning.

MR. ANDERSON: You have to speak up, ma'am.

MS. MURRAY: Good morning. On July the 9th, 2019, at 12:39 a.m. it was reported that a white Caucasian male was struck in the face by an African American male at 1343 Connecticut

Avenue Northwest, Caf Citron.

Upon my investigation it was determined that a physical assault did occur on the night in question; however, it was two different events that occurred. It's cc in 664, and cc in 680.

Okay. No. 664 is a simple assault, and 680 is a sexual assault.

MR. ANDERSON: Okay.

MS. MURRAY: For 664, physical assault, the male patron, the witness was also the individual who was sexually assaulted, the female individual who was sexually assaulted. It is to be believed that they are boyfriend and girlfriend.

Upon my investigation it was determined that the physical assault did occur, but the sexual assault was not shown in video.

On Wednesday, July 31st, I visited the establishment and conducted a regulatory inspection where I talked to Mr. Salinas.

He advised me that he was not the ABC manager on shift; however, it was Mr. Florez, but he was not present at the time. During that regulatory inspection no other violations were

found; however, he did provide me with the logbook notes of the simple assault of the male being punched in the face.

On August the 1st I reached out to contact the victim who was Ms. Emily Bricker for the sexual assault, 680. I reached out to her three times; she did not contact me back; both via text message and phone call. On August the 4th I reached out to Mr. Scofield, who was the male victim for the simple assault. He did not reach back out to me as well.

On Monday, August the 12th, I revisited Caf Citron. At that time I spoke with the manager, Mr. Edgar Florez. He was identified by his Virginia driver's license, and he advised me that he was the ABC manager on July the 9th that actually saw the simple assault happen.

He stated that the African American male punched a Caucasian male in the face with his fist. He stated security immediately separated the males and contacted MPD.

Mr. Florez stated a male victim had minor injuries from the assault but declined medical attention. I also was able to review the video footage at that time where I did see the

1 simple assault happen; however, there was no 2 video footage of the female victim being 3 assaulted in establishment. I also, on that same day, August the 4 5 12th, I reached out to the reporting MPD officer, 6 Mr. Shawn Sparks. He was on vacation at the 7 time, so he's going to reach back out to me on 8 August the 17th. I reached back out to him 9 again. He said that he was going to give me summary via email of the incident that occurred. 10 11 He never responded back out to me. 12 So upon reviewing the ABRA records, 13 the establishment did have a security plan; they 14 did not have a settlement agreement. 15 violations were found. The establishment did do 16 everything they were supposed to do. 17 MR. ANDERSON: And you said you had 18 asked for video, and they turned it over to you 19 immediately? 20 MS. MURRAY: Yes, they did. 21 MR. ANDERSON: And so you believe 22 that, at least their response to the incident was 23 appropriate? 24 MS. MURRAY: Yes, sir.

MR. ANDERSON:

25

Sir, are you here for

1	this case? Are you with this establishment?					
2	OFFICER KING: No. I'm MPD Officer					
3	King. Can you please come up and identify					
4	yourself for the record, sir? I think Mr. Short					
5	is a first responder, and I think he can always					
6	spot one of his colleagues in the audience. I					
7	thought I said everyone should identify					
8	themselves, so can you please identify yourself					
9	for the record?					
LO	OFFICER KING: I'm MPD Officer					
L1	Nicholas King.					
L 2	MR. ANDERSON: Good morning, Mr. King.					
L3	You were not wearing your uniform, and you were					
L 4	sitting, I thought you were with the parties.					
L5	Okay. Are you familiar with the incident at Caf					
L6	Citron?					
L 7	OFFICER KING: Yes.					
L8	MR. ANDERSON: Can you explain, from					
L9	your position, what occurred, sir?					
20	OFFICER KING: Okay. I responded over					
21	there for a simple assault. We got over there,					
22	and					
23	MR. SHORT: Put the mic closer to him,					
24	please. Thank you.					
25	OFFICER KING: The African-American					

male was already outside of the establishment. I went inside and talked to -- I'm not sure who I talked to. I talked to one of the employees at the bar, and they showed me video footage of the incident. Once I identified who assaulted who, I went over and put handcuffs on the African-American male. I'm sorry, I don't really remember their names.

I spoke to the witness, who then disclosed to me that the same African-American male sexually assaulted her as well. Then Officer Sparks ended up taking the arrest of the African-American male for simple assault, and then I called SAU down to talk to the female about the sexual assault.

The detective was taking a little while to get down there, so they ended up leaving before the detective got there, so we didn't really get to interview her face to face.

MR. ANDERSON: Now, what was the response that you received from the establishment?

OFFICER KING: They had both of them separated. The African-American male was actually leaving the location when I got there.

1	They pointed him out to me and told me who it		
2	was, and I went and stopped him right then and		
3	there and told the other MPD officers to stand by		
4	with him until I figure out exactly what was		
5	going on.		
6	MR. ANDERSON: So you thought that the		
7	establishment acted appropriately in light of the		
8	situation?		
9	OFFICER KING: Yes.		
10	MR. ANDERSON: And they were		
11	cooperative to you in light of the situation?		
12	OFFICER KING: Yes.		
13	MR. ANDERSON: All right. Thank you.		
14	All right, Ms		
15	MS. BERINDOAGUE: Clelin?		
16	MR. ANDERSON: No, I try to address		
17	everyone by their last name.		
18	MS. BERINDOAGUE: I'll have to change		
19	my name.		
20	MR. ANDERSON: No, no, no. I need to		
21	do a better job in trying to pronounce all the		
22	names of all the licensees that come in front of		
23	me. So, Ms		
24	MS. BERINDOAGUE: Berindoague.		
25	MR. ANDERSON: Berindoague. Okay.		

What can you provide to the Board, based on what you heard and based on the incident, what do you know of the incident, and how can you respond?

MS. BERINDOAGUE: Well, I think we did what we are supposed to do. As always, as usual, we promptly called the police and, in this case, the staff had separated the people involved in this argument or whatever they had. We are compliant with the law the best way we can.

MR. ANDERSON: All right. Any questions by any Board members? Yes, Mr. Short.

MR. SHORT: First of all, I'd like to thank the investigator for an excellent report, and I'd like to thank Officer King. It sounds like you really got on top of it right away. I'd also like to thank the licensee. It seems like you worked everything out.

As a Board member, we rarely have cases where people would do everything they're supposed to do; you should be commended on that. And to have officers to come forward on their time off and come to the Board today and the investigate to do the report; I'd just like to thank everybody involved. That's all I have to share.

1 MR. ANDERSON: Any further questions 2 by the Board members? Any final comments by the 3 officer? 4 OFFICER KING: No. 5 MR. ANDERSON: Ms. Murray? MS. MURRAY: No, sir. 6 7 Ms. Dantzler? MR. ANDERSON: 8 MS. DANTZLER: No, sir. 9 MR. ANDERSON: The licensee? 10 MS. BERINDOAGUE: No. 11 As I stated MR. ANDERSON: All right. 12 before, our job is to, when something happens, to 13 investigate. It has always been that it's not 14 that an incident occurred at your establishment; 15 it's how is it that you respond? 16 Licensees get into trouble because 17 they do not respond appropriately, not because --18 because in certain incidents you cannot prevent 19 them from occurring. But it's how you respond to 20 what it is, and it appears that you have 21 responded appropriately. So I want to thank you 22 for that. 23 Both the officer and the investigator 24 stated that you cooperated, provided videos; you

called the police, and so you have done your

part. I want to thank you for that, and I want to thank you for being here today. Well, I want to thank you for being here yesterday. I'll acknowledge that to you.

I say that because we've had incidents, and we've asked licensees to show up, and they don't show up. I see that you're here today with your managers and the staff to represent yourself, and I appreciate that fact that you're here today, and you brought sufficient staff to support your position. So thank you for that.

With that, I will make a motion that we no further action in this matter. Is there a second?

MR. CATO: Second.

MR. ANDERSON: Mr. Cato seconded the motion. All those in favor, say aye.

(Chorus of aye.)

MR. ANDERSON: Opposed, and I've got 3-0-0. The ABC Board will take no further action in this matter. Thank you very much for being here. Thank you, Officer King, Ms. Murray, and Ms. Dantzler. Thank you very much; have a Georgetown day.

1	(Whereupon, the fact finding hearing
2	in the above-entitled matter was concluded at
3	10:49 a.m.)
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a.m 2:2 6:23 16:3 **ABC** 7:22 8:16 15:21 **able** 6:5.17 8:24 above-entitled 16:2 **ABRA** 1:21,22 4:11 acknowledge 15:4 act 4:24 acted 12:7 action 5:1 6:12 15:14 15:21 address 12:16 advised 7:22 8:15 **African** 6:25 8:18 African- 11:6 African-American 10:25 11:10,13,24 agree 5:18 agreement 5:4 9:14 **Alcoholic** 1:2,13,14 **American** 6:25 8:18 11:7 **Anderson** 1:15,18 2:3 2:14,17,21,24 3:1,3,8 3:11,13,16,20,23,25 4:3,7,9,13 6:3,20 7:9 9:17,21,25 10:12,18 11:20 12:6,10,13,16 12:20,25 13:10 14:1,5 14:7,9,11 15:17,20 **anyway** 5:21 appears 14:20 **APPLICANT** 1:23,23,24 1:24 appreciate 15:9 approach 2:6 appropriate 5:7 9:23 appropriately 12:7 14:17,21 argument 13:8 **arrest** 11:12 ascertain 6:5 asked 9:18 15:6 assault 1:10 4:16 7:3,7 7:8,11,17,18 8:2,6,10 8:17,23 9:1 10:21 11:13.15 assaulted 7:12,13 9:3 11:5,11 attention 8:24 Attorney 5:12 audience 10:6 **August** 8:4,8,12 9:4,8 **Avenue** 1:7 7:1 aware 4:17 aye 15:18,19

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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: ABRA Hearing

Before: Alcoholic Beverage Control Board

Date: 11-07-19

Place: Washington, D.C.

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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