

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

IN THE MATTER OF: :
:
Prospect Dining, LLC, :
t/a Chinese Disco :
3251 Prospect Street NW, : Show Cause
Retailer CR - ANC 2E : Hearing
License No. 78058 :
Case #17-CC-00066 :
:
(Sale to Minor Violation):

Wednesday
June 20, 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

DONALD ISAAC, SR., Member

JAMES SHORT, Member

REMA WAHABZADAH, Member

ALSO PRESENT:

WALTER ADAMS, OAG

JUSTIN SUTTON, OAG

KEVIN PUENTE, ABRA INVESTIGATOR

DAVID CARTER, DC MPD

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

PRELIMINARY MATTER:

Request Board to take Administrative Notice
of Decision in Case No. 17-CMP-00020. 8

Closing Statement by Government.48

WITNESS	DIRECT	CROSS	REDIR	RECROSS	BOARD
Kevin Puente	11				
David Carter	31		43		39/44

EXHIBITS IDENTIFIED RECEIVED

GOVERNMENT

1 - Puente Supplemental ROI	17	29
1.2 - Puente ROI	17	29
2.1 Amended MPD 251	19	29
2 - Original MPD 251	28	29
2.3 Sale to Minor Notification	22	29

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

2 1:51 p.m.

3 CHAIRPERSON ANDERSON: We are back on
4 the record. Our next case is Case No. 17-CC-
5 00066, Chinese Disco, License No. 78058.

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

8 MR. ADAMS: Good afternoon, Mr.
9 Chairman. Walter Adams representing the District
10 of Columbia.

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

13 MR. SUTTON: Justin Sutton
14 representing the District of Columbia.

15 CHAIRPERSON ANDERSON: I'm sorry, sir?

16 MR. SUTTON: Justin Sutton. Justin
17 Sutton, S-U-T-T-O-N.

18 CHAIRPERSON ANDERSON: Sutton?

19 MR. SUTTON: Yes, sir.

20 CHAIRPERSON ANDERSON: All right.
21 Good afternoon, Mr. Sutton.

22 I see, Mr. Adams, that the licensee is

1 not here. Do you have any representation to
2 make, sir?

3 MR. ADAMS: Yes, Your Honor. I would
4 like to -- Mr. Chairman, I would like to proceed
5 with this case in the absence of the
6 establishment.

7 CHAIRPERSON ANDERSON: All right. Do
8 you know whether or not they were served for this
9 case?

10 MR. ADAMS: A brief Board's
11 indulgence.

12 CHAIRPERSON ANDERSON: Can have you
13 had any conversation with, any communication,
14 counsel regarding this case?

15 MR. ADAMS: I do not have proof of
16 service, Mr. Chairman. However, again, on
17 January 19th at 12:01 a.m., the owner of the
18 establishment, Mr. Kyong Jung Sung, or I received
19 a message from his address asking if I was
20 representing the District on hearings this week.
21 And since I received that message yesterday, it
22 shows that he was aware that there was a hearing

1 this week.

2 He did not, in that message, state
3 that he would necessarily attend, but he just
4 asked if I was representing the District.

5 CHAIRPERSON ANDERSON: Thank you.

6 MR. ADAMS: So he is aware.

7 CHAIRPERSON ANDERSON: All right.

8 Just give me a brief recess.

9 (Whereupon, off the record for a
10 recess.)

11 CHAIRPERSON ANDERSON: All right. I'm
12 back. Pursuant to DC Official -- so is the
13 Government willing and able to move forward?

14 MR. ADAMS: The Government is willing
15 and able to move forward.

16 CHAIRPERSON ANDERSON: All right.
17 Pursuant to DC Official Code Section 25-447, the
18 Board has the authority to proceed ex parte where
19 the licensee waives the hearing or fails to
20 appear, unless the hearing is extended for good
21 cause and sufficient cause.

22 So the Board record reflects that on,

1 hold on one minute, please, I'm trying to figure
2 the dates that our record reflects they were
3 served, so hold on one minute.

4 The Board record reflects that they
5 were served, initially were served, on February
6 23rd. This matter was scheduled for a Show Cause
7 Hearing on April 25th at 10:00, but it was
8 continued to May 16. Again, the licensee/
9 respondent also requested that that matter be
10 continued. The Government consented and the
11 matter, this matter, was scheduled for June 6th.
12 It was -- again, a request was made to continue
13 it and it was rescheduled for today.

14 So this is an ongoing matter that has
15 been -- that the licensee had requested and the
16 Board and both the Government had agreed to a
17 continuance. So this matter was scheduled for
18 today. The -- it's my understanding the
19 applicant, the licensee had agreed to the date.
20 I don't know why they are not here.

21 So since the Board record reflects
22 that they were properly served, seeing no

1 licensee here today and having no good and
2 sufficient cause to extend this hearing, the
3 Board will proceed with this Show Cause Hearing.

4 Do you wish to make an opening
5 statement, Mr. Adams?

6 MR. ADAMS: No, Your Honor, Mr.
7 Chairman, the Board -- sorry, the Government
8 would like to waive opening statement.

9 I do have one preliminary matter to
10 give to the Board.

11 CHAIRPERSON ANDERSON: Yes, sir.

12 MR. ADAMS: I would like to move that
13 the Board take administrative notice of its
14 decision in Case No. 17-CMP-00020.

15 CHAIRPERSON ANDERSON: I'm sorry,
16 excuse me, 17 what?

17 MR. ADAMS: 17-CMP-00020. Just take
18 administrative notice of the record and the order
19 in that case.

20 CHAIRPERSON ANDERSON: Can you just
21 briefly -- I know it's one of our decisions, but
22 just briefly what's that case about?

1 MR. ADAMS: This case is involving the
2 establishment was charged with substantial change
3 in allowing the underage -- sorry, allowing the
4 sales, delivery and consumption to underage
5 patrons in that case and as well as the
6 establishment failing to take reasonable steps
7 necessary to ascertain that patrons were above
8 the age of 21.

9 Specifically in terms of record, there
10 is testimony in that hearing regarding the
11 establishment's reputation for sales to -- or
12 having patrons under 21, the enforcement measures
13 by the ABC Board or by ABRA and by MPD to enforce
14 the underage drinking laws and the -- on a
15 repeated basis and also testimony regarding
16 methods that were -- in regard to procedures that
17 the Investigators and MPD had provided to the
18 establishment and the right procedures for
19 verifying the age of patrons.

20 So that -- I would ask that the Board
21 makes -- looks at or reviews that portion of the
22 record, so that doesn't necessarily have to be

1 repeated for this case. And also that the Board
2 makes -- takes administrative notice of the
3 record and testimony for Case No. 17-CC-00113,
4 which is the matter that was heard earlier today
5 where there are similar test -- there is also
6 testimony regarding what the establishment -- or
7 what has been done with this establishment in
8 terms of the procedures for checking IDs and
9 things of that nature regarding underage drinking
10 at the establishment.

11 CHAIRPERSON ANDERSON: All right.
12 Okay. All right. Does the Government have a
13 witness?

14 MR. ADAMS: Yes, we do. We have -- we
15 actually have two witnesses for this case, if
16 necessary. Our first witness is Investigator
17 Kevin Puente.

18 CHAIRPERSON ANDERSON: Sure. Okay.
19 Whereupon,

20 INVESTIGATOR KEVIN PUENTE
21 was called as a witness by Counsel for the
22 Government, and having been first duly sworn,

1 assumed the witness stand and was examined and
2 testified as follows:

3 INVESTIGATOR PUENTE: I do.

4 CHAIRPERSON ANDERSON: Thank you.

5 Your witness.

6 MR. ADAMS: Thank you very much, Mr.
7 Chairman.

8 DIRECT EXAMINATION

9 BY MR. ADAMS:

10 Q Mr. Puente, could you, please, state
11 your name and spell it for the record?

12 A Kevin Puente, P-U-E-N-T-E.

13 Q And you are an Investigator with the
14 Alcoholic Beverage Regulation Administration?

15 A Yes.

16 Q And that's otherwise known as ABRA?

17 A Yes.

18 Q And you have been working for this --
19 the Agency, which is part of the DC Government,
20 for approximately three years?

21 A Yes.

22 Q And as part of you working for ABRA,

1 you have investigated over 50 cases involving
2 establishments who allow the sales, delivery and
3 consumption of alcoholic beverages to underage
4 patrons?

5 A Yes.

6 Q All right. So as part of your duty --
7 were you on duty on May 14, 2017?

8 A Yes.

9 Q As part of your duties, did you work
10 through with the Double Check, the DC Double
11 Check Program 101?

12 A Yes.

13 Q And can you explain to the Board on
14 that day what you did with that program?

15 A Myself, I met up with several
16 detectives from Metropolitan Police Department
17 and conducted ID checks at various establishments
18 through the District.

19 Q Okay. And who did you -- on May 14th
20 who did you work with?

21 A Detective David Carter and Detective
22 Scott Emmons.

1 Q On May 14, 2017, did you have an
2 occasion to be at -- or to arrive at and be
3 physically present at the establishment known as
4 Chinese Disco?

5 A Yes.

6 Q Okay. And explain to the Board how
7 you came to be present there.

8 A The establishment had -- they recently
9 found underage minors inside as well as receiving
10 complaints.

11 Q All right. So when did you arrive at
12 the establishment?

13 A Approximately, 1:15 in the morning.

14 Q Okay. And what happened once you
15 arrived?

16 A We approached the front door staff,
17 identified ourselves as ABRA Investigators and
18 Metropolitan Police Department Detectives.

19 CHAIRPERSON ANDERSON: Your voice is
20 trailing off, so, please.

21 THE WITNESS: Then we went inside and
22 conducted ID checks.

1 BY MR. ADAMS:

2 Q All right. And who -- and when you
3 say, we, who is the we?

4 A Myself, Detective Carter and Detective
5 Emmons.

6 Q All right. And what happened once you
7 were inside?

8 A We went inside. We observed the
9 crowd. We started looking for patrons that
10 appeared to be young in age.

11 Q All right. And once you looked for
12 patrons who appeared to be young in age, what
13 occurred?

14 A We saw a female patron who appeared to
15 be young in age consuming what appeared to be a
16 mixed alcoholic beverage.

17 Q And can you describe, first of all,
18 the patron?

19 A It was a female, that's all I can
20 really remember.

21 Q Okay. And you said that she was
22 consuming an alcohol -- you said she was

1 consuming alcohol. Describe what you mean by
2 that.

3 A She had a clear plastic cup in her
4 possession. It was later determined to be a
5 vodka cranberry.

6 Q All right. And how did you determine
7 that it was a vodka cranberry?

8 A Detective Carter asked her when he was
9 interviewing her.

10 Q Okay. All right. And so what
11 happened once you saw someone who appeared to be
12 young consuming alcohol? What did you do at that
13 point?

14 A We approached a female, identified
15 ourselves and asked to see her identification.
16 She kept saying that the bartender had her
17 identification and we had to go see, go speak
18 with the bartender.

19 Q Okay. And once you -- and did you go
20 speak to the bartender?

21 A At that time, I got called to go to an
22 MPD assistance call around the corner, so I had

1 to leave. But from what I understand, Detective
2 Carter spoke with the staff and they said they
3 didn't have no ID for her.

4 Q And at that time, did you ever return
5 back to the establishment?

6 A Yes, approximately, at 1:45 in the
7 morning after Detective Carter called and advised
8 me what had happened.

9 Q All right. And what did Detective
10 Carter say happened?

11 A He stated that the female was 20
12 years-old. She presented a Georgia driver
13 license. The staff never had it. She had it in
14 her possession the entire time and she was
15 consuming the vodka cranberry and they let the
16 establishment know. Then I returned when he
17 called me, when I got done, to notify the
18 establishment of the sale to minor.

19 Q All right. And so after you were
20 notified by Detective Carter that the patron was
21 20 years-old, what did you do from that point?

22 A I went back to the establishment. I

1 advised the ABC Manager, Greg Bartholomew. I
2 conducted a regulatory inspection and a Sale to
3 Minor Notification.

4 Q All right. And did you receive any
5 other information?

6 A Nothing from the establishment. Then
7 Detective Carter forwarded me the MPD 251 report.

8 Q Okay. And what do you mean by 251
9 report?

10 A The police report that he wrote for
11 the incident.

12 Q All right. So after you received the
13 251, did you complete an investigative report?

14 A Yes.

15 Q All right.

16 MR. ADAMS: I'm going to hand to -- I
17 have kind of messed this up, but what is marked
18 as Exhibits 1 and Exhibit 2 to Investigator
19 Puente. And I'll let him explain to you what
20 that is.

21 (Whereupon, the above-
22 referred to documents were

1 marked as Government Exhibit
2 No. 1 and 1.2 for
3 identification.)

4 BY MR. ADAMS:

5 Q Exhibit 1, what is Exhibit 1?

6 A A report that I wrote on this
7 incident.

8 Q All right. And looking at Exhibit 1,
9 exactly is that the first report or is that the
10 second, was that supplemental?

11 A This is a supplemental report, it's a
12 second report.

13 Q Okay.

14 A To the original report.

15 Q And Exhibit 2, what is that?

16 A This is the first report I wrote.

17 Q All right. And it's regarding the
18 incident on March 14, 2017?

19 A Yes.

20 Q All right. Now, first of all, let's
21 look at Exhibit 2. So in this report there is a
22 narrative. Do you recognize this narrative?

1 A Yes.

2 Q And there are some bullet points in
3 there as well. What are those bullet points?

4 A That's the narrative from the police
5 report.

6 Q Now, was there any issues in -- and
7 also Exhibit 1 for -- of Exhibit 2, is that the
8 251 portion?

9 A Yes.

10 (Whereupon, the above-
11 referred to document was
12 marked as Government Exhibit
13 No. 2.1 for identification.)

14 BY MR. ADAMS:

15 Q Okay. Were there any issues with both
16 -- in your narrative -- the narrative and with
17 the report that -- or sorry, the 251 that are of
18 note here?

19 A Oh, yes, there was an error in the
20 narrative.

21 Q Okay. And what was the error?

22 A Detective Carter wrote that the patron

1 provided a Georgia State driver license verifying
2 her age to be 21. He meant to put to verify her
3 age to be 20.

4 Q Okay. All right. And then the other
5 exhibits are -- there is a regulatory inspection
6 form. Is that --

7 CHAIRPERSON ANDERSON: What exhibit
8 are you talking about?

9 MR. ADAMS: Sorry, this is Exhibit 2,
10 which is the Investigation No. 17-CC-00066.

11 CHAIRPERSON ANDERSON: That's Exhibit
12 2?

13 MR. ADAMS: It is Exhibit 2. I --

14 CHAIRPERSON ANDERSON: Which one is
15 Exhibit 2? Tell me which one is Exhibit 2.

16 MR. ADAMS: Exhibit 2 is the original
17 report, it was the first report that was --

18 CHAIRPERSON ANDERSON: It's -- all
19 right.

20 MR. ADAMS: -- signed by Investigator
21 Puente, let me see, on, I apologize --

22 CHAIRPERSON ANDERSON: So Exhibit 2 is

1 the original report.

2 MR. ADAMS: Right. On May 25, 2017.

3 CHAIRPERSON ANDERSON: And Exhibit 1
4 is?

5 MR. ADAMS: What is Exhibit 1?

6 THE WITNESS: A supplemental report to
7 the original report.

8 CHAIRPERSON ANDERSON: All right.

9 BY MR. ADAMS:

10 Q And I believe -- when was that signed,
11 Investigator Puente?

12 A December 12, 2017.

13 Q All right.

14 MR. ADAMS: And I apologize, Mr.
15 Chairman, I probably should have numbered it
16 differently, but --

17 CHAIRPERSON ANDERSON: Yeah, so
18 Exhibit 1 -- within Exhibit 1, there is an
19 Exhibit 1 and the Exhibit 1 within Exhibit 1 is
20 the police incident report. Is that correct?

21 MR. ADAMS: Yes. Exhibit 1 of Exhibit
22 1 is the police incident report, that's the only

1 exhibit.

2 CHAIRPERSON ANDERSON: Okay. All
3 right. All right.

4 MR. ADAMS: So for Exhibit 2, Exhibit
5 2 has several exhibits.

6 CHAIRPERSON ANDERSON: Okay. All
7 right.

8 MR. ADAMS: And I'll go through that.

9 BY MR. ADAMS:

10 Q What is Exhibit 3? So for Exhibit 2,
11 there is Exhibit 3. What is Exhibit 3?

12 A A Sale to Minor Notification form.
13 (Whereupon, the above-
14 referred to document was
15 marked as Government Exhibit
16 No. 2.3 for identification.)

17 BY MR. ADAMS:

18 Q Okay. And is that the extent of your
19 investigation for this case?

20 A Yes.

21 Q All right. Now, again specifically
22 looking at -- going to Exhibit 1, the actual

1 Exhibit 1, which was -- you described as a
2 supplemental report.

3 A Yes.

4 Q All right. What's the difference
5 between the supplemental report and the original
6 report?

7 A It was brought to our attention after
8 my report was submitted as well as Detective
9 Carter, that the error was made about that
10 statement involving the ID and her age. And
11 Detective Carter had to amend his report to
12 reflect it to be -- to reflect that the ID should
13 say that her true age was 20 after verifying the
14 ID. And so I had to do a supplemental report to
15 correct my report.

16 Q All right. And along with that is a
17 251. What 251 is this?

18 A This is the updated 251 that Detective
19 Carter corrected the statement in.

20 Q Okay. Based upon the documents that
21 you have in front of you for what is marked as --
22 for identification purposes as District's Exhibit

1 1 and 2, are they both true and accurate
2 representations of the investigative reports that
3 were completed in this matter?

4 A Yes.

5 Q All right.

6 MR. ADAMS: I have no further
7 questions.

8 CHAIRPERSON ANDERSON: Do we have any
9 questions by any Board Members?

10 MR. ADAMS: I apologize, Mr. Chairman,
11 I need to move -- I would like to move --

12 CHAIRPERSON ANDERSON: I was going to
13 get there.

14 MR. ADAMS: Oh, sorry.

15 CHAIRPERSON ANDERSON: I was going to
16 get there, Mr. Adams.

17 Are there any questions by any Board
18 Members? All right. Hearing none, Mr. Adams?

19 MR. ADAMS: Yes, I would like to move
20 in Exhibits 1 and 2 into evidence.

21 CHAIRPERSON ANDERSON: I just want to
22 get some clarification from you, since we didn't

1 really talk about exhibit -- and maybe they
2 should have been renumbered, but --

3 MR. ADAMS: Yes.

4 CHAIRPERSON ANDERSON: -- we never
5 spoke about Exhibit 1 from Exhibit 2. So is that
6 part of the record?

7 MR. ADAMS: Yes. In the record, I
8 believe, Investigator Puente stated that the
9 difference was that he -- that there was a change
10 in the 251 and that the 251 stated -- you know,
11 actually, I'll have him testify to this.

12 CHAIRPERSON ANDERSON: Yeah, I know
13 what he testified to, but we never -- in talking
14 about the difference between Exhibit 1 and
15 Exhibit 2, it talked about there are some changes
16 in the 251.

17 MR. ADAMS: Yes.

18 CHAIRPERSON ANDERSON: But when you
19 talked about Exhibit 2 and you went through the
20 exhibits, you never talked about Exhibit 1.

21 MR. ADAMS: Okay.

22 CHAIRPERSON ANDERSON: So that's why

1 I was asking you is that part of the record. So
2 is it -- is Exhibit 1 in the original report,
3 which is the 251 that was corrected in Exhibit --

4 MR. ADAMS: That is correct. That --
5 yes, Exhibit 1 of Exhibit 2 was the original
6 exhibit -- was the original investigative report.

7 CHAIRPERSON ANDERSON: Right.

8 MR. ADAMS: And that 251 was corrected
9 and it is now part of Exhibit 1.

10 CHAIRPERSON ANDERSON: Right. But I
11 just wanted -- all right. As part of Exhibit 2,
12 the three attachments in -- and this is because
13 you did not -- we did not talk about that one.

14 MR. ADAMS: Okay.

15 CHAIRPERSON ANDERSON: So as part of
16 Exhibit 1, there are three attachments.

17 MR. ADAMS: Yes.

18 CHAIRPERSON ANDERSON: So as part of
19 Exhibit 2, there are three attachments.

20 MR. ADAMS: Yes.

21 CHAIRPERSON ANDERSON: Exhibit 1,
22 Exhibit 2 and Exhibit 3.

1 MR. ADAMS: Yes.

2 CHAIRPERSON ANDERSON: So are all
3 those three documents a part of the record?

4 MR. ADAMS: All three of those
5 documents are a part of the record, yes, Mr.
6 Chairman.

7 CHAIRPERSON ANDERSON: All right. The
8 reason is because you -- we went over two of the
9 exhibits, so we didn't go over the first one.

10 MR. ADAMS: I -- oh, my apologizes.
11 I can ask something else.

12 CHAIRPERSON ANDERSON: No, you --
13 well, why don't you just ask some questions so --

14 MR. ADAMS: Okay.

15 CHAIRPERSON ANDERSON: -- we can
16 formally move that document as part of the
17 record, because whenever there is -- it was never
18 mentioned during the testimony.

19 MR. ADAMS: Thank you, Mr. Chairman.

20 CHAIRPERSON ANDERSON: All right.

21 BY MR. ADAMS:

22 Q Turning to Exhibit No. 2, you have a--

1 there is a document listed as Exhibit 1 of
2 Exhibit No. 2, Mr. Puente, do you see that
3 document?

4 A yes.

5 Q What is that document?

6 A MPD police report, 251.

7 Q Okay. And is this the 251 that you
8 received immediately after you visited the
9 establishment?

10 A No.

11 Q When did you receive this?

12 A I received this December 12, 2017.

13 Q We're talking about the -- are you
14 looking at exhibit -- I apologize. Are you
15 looking at Exhibit No. 2?

16 A Oh, yes, now, I'm looking at it, um-
17 hum. This is the original police report.

18 Q So that's the original police report?

19 A Yes.

20 (Whereupon, the above-
21 referred to document was
22 marked as Government Exhibit

1 No. 2 for identification.)

2 BY MR. ADAMS:

3 Q So when did you receive this?

4 A I received this on May 25, 2017.

5 Q So you received that May 25th. And is
6 this the narrative that you included in your
7 original investigative report?

8 A Yes.

9 Q And what was the problem with this?
10 Is there a problem with this report?

11 A Yes, there was one sentence that had
12 an error in it.

13 Q And what was the error again?

14 A The statement read that there was a
15 female that later advised that she is 20 years-
16 old and provided a valid Georgia State driver
17 license verifying her age is 21 years-old.

18 Q All right. And based upon that -- but
19 this is what was provided to you at the time that
20 you made your original case report?

21 A Yes.

22 Q All right. And that at a later time

1 was correct?

2 A Yes.

3 Q All right.

4 MR. ADAMS: Mr. Chairman --

5 BY MR. ADAMS:

6 Q And this a true and accurate
7 representation of the 251 that you received?

8 A Yes.

9 Q Okay.

10 MR. ADAMS: At this point, I would
11 like to move the documents into evidence.

12 CHAIRPERSON ANDERSON: Do you want to
13 move exhibit --

14 MR. ADAMS: Exhibits 1 and 2.

15 CHAIRPERSON ANDERSON: And 2. So
16 moved.

17 (Whereupon, the above-
18 referred to documents were
19 received into evidence as
20 Government Exhibit No. 1 and
21 2 with attachments.)

22 MR. ADAMS: All right. Thank you.

1 All right. I have no further questions.

2 CHAIRPERSON ANDERSON: Thank you, Mr.
3 Puente. You can step down.

4 (Whereupon, the witness was excused.)

5 CHAIRPERSON ANDERSON: Does the
6 Government have another witness?

7 MR. ADAMS: I do. I have -- my other
8 witness is Detective David Carter.

9 CHAIRPERSON ANDERSON: Would you raise
10 your right hand, sir?

11 Whereupon,

12 DETECTIVE DAVID CARTER
13 was called as a witness by Counsel for the
14 Government, and having been first duly sworn,
15 assumed the witness stand and was examined and
16 testified as follows:

17 DETECTIVE CARTER: I do.

18 CHAIRPERSON ANDERSON: All right.

19 Thank you. Have a seat. Your witness.

20 DIRECT EXAMINATION

21 BY MR. ADAMS:

22 Q How are you doing, Mr. Carter?

1 A Good afternoon.

2 Q Can you, please, state and spell your
3 name?

4 A Yes. David Carter, first name D-A-V-
5 I-D last name C-A-R-T-E-R.

6 Q And you are a Detective with the
7 Metropolitan Police Department?

8 A Yes, I am.

9 Q And how long have you been employed by
10 the Metropolitan Police Department?

11 A Approximately, 23 years.

12 Q And as part of you working for
13 Metropolitan Police Department, have you -- do
14 you specialize in working in the area of underage
15 drinking?

16 A Yes, I do.

17 Q And how long have you been doing that?

18 A I have been doing that for probably 20
19 years, maybe a little bit more.

20 Q Okay. Now, in terms of Chinese Disco,
21 how are you familiar with Chinese Disco?

22 A I'm familiar with Chinese Disco. We

1 do a lot of enforcement there, a lot of underage
2 drinking enforcement.

3 Q Were you on duty on the -- on May 14,
4 2017?

5 A Yes, I was.

6 Q And when you are on duty, can you
7 describe, in your words, what occurred on May
8 14th?

9 A I was working with my partner, which
10 is Detective Scott Emmons and we visited the
11 establishment, Chinese Disco.

12 Q And once you visited, what did you
13 observe once you got there?

14 A We got there, we -- before we entered
15 the establishment, we identified ourselves to the
16 door staff. We let them know why we are here,
17 which is to, you know, conduct identification
18 checks inside to make sure, you know, people
19 under the age of 21 are not consuming alcohol.

20 Q And what did you observe once you
21 entered?

22 A Once I entered, there was a female,

1 she was consuming a beverage, which we believed
2 to be alcohol and we approached her, identified
3 ourselves as police officers. We asked her for
4 her age. She first told us she was 21. We
5 identified ourselves again. Asked her if she had
6 any identification. She said she did not. She
7 says that the bar -- the staff at the bar had her
8 identification.

9 So we went to the bar. The bar says
10 that they do not have her identification. They,
11 you know, wouldn't ask for anyone's
12 identification. So we went back to her and
13 explained this to her. She eventually produced a
14 valid identification showing that she was 20
15 years-old.

16 Q Okay. And when you say it was a valid
17 identification, why do you say it was valid?

18 A It was a valid identification issued
19 by the state.

20 Q All right. And what was her -- did
21 you remember what her date of birth was according
22 to her valid identification?

1 A I don't recall the exact date of birth
2 right now.

3 Q Would anything help you recall that
4 information?

5 A Yes, the PD 251 that I prepared.

6 MR. ADAMS: Mr. Chairman, I would like
7 to just provide the 251 that Detective Carter
8 prepared to him.

9 CHAIRPERSON ANDERSON: What exhibit
10 are you showing him?

11 MR. ADAMS: I'm showing him Exhibit 1
12 of Exhibit 1.

13 THE WITNESS: Okay. Unfortunately,
14 this is not the full report that I prepared.

15 BY MR. ADAMS:

16 Q Okay. You know what, I will provide
17 something else. Let me see something.

18 MR. ADAMS: Pardon me, the Board's
19 indulgence. Okay. Why am I not able to find
20 this all of a sudden? I think I found it. Just
21 additional Board's indulgence, I'm just trying to
22 find this one particular document that I know I

1 had this morning that I'm having trouble
2 identifying right now.

3 BY MR. ADAMS:

4 Q Would it, how can I say this? Would
5 it be that -- would January 16, 1997, would that
6 have any significance to you?

7 A Yes.

8 Q All right. And of course, as soon as
9 I say that now, I find it. And why would that be
10 significant?

11 A I believe that would be her birth
12 date.

13 Q You believe that -- so all right.

14 MR. ADAMS: I'll actually provide to
15 Detective Carter a document that will refresh his
16 recollection. And I can't quite put that on the
17 record.

18 THE WITNESS: Okay.

19 BY MR. ADAMS:

20 Q Detective Carter, is your memory
21 refreshed?

22 A Yes.

1 Q What was this person's birth date?

2 A January 6th of 1997.

3 Q And her name was Amanda Shephard?

4 A Yes.

5 Q All right. All righty. So did you

6 ask her how she got into the establishment?

7 A Yes, I did.

8 Q And how did she get into the

9 establishment?

10 A She stated she entered the front door
11 and when they asked her for identification, she
12 said she had an identification of another person,
13 that was not her, that she used to gain entry
14 into the establishment.

15 Q And did she provide that
16 identification to you during your investigation?

17 A No, she did not.

18 Q Any reason why in particular?

19 A She said she did not have it, at the
20 time.

21 Q Okay. And in terms of the -- you
22 stated that she was drinking a vodka cranberry,

1 why did you believe that she had a vodka
2 cranberry on that night?

3 A I asked her and that's what she told
4 me the beverage was and the color and the smell
5 was, you know, somewhat consistent of vodka and
6 cranberry alcoholic beverage.

7 Q Now, in terms of when you saw this
8 patron, where exactly was she in the
9 establishment? Was it like near the bar or where
10 was she?

11 A I believe she was at a table.

12 Q All right. Very well. I have -- and
13 you did produce a 251 after this?

14 A Yes, I did.

15 Q And you supplemented it later?

16 A Yes, I did.

17 Q All right.

18 MR. ADAMS: I have no further
19 questions for Detective Carter.

20 CHAIRPERSON ANDERSON: Mr. Adams?

21 MR. ADAMS: I have no further
22 questions.

1 CHAIRPERSON ANDERSON: I'm sorry, huh?

2 MR. ADAMS: I have no further
3 questions.

4 CHAIRPERSON ANDERSON: All right. Any
5 questions of the witness by the Board?

6 MEMBER ALBERTI: I do.

7 CHAIRPERSON ANDERSON: Yes, Mr.
8 Alberti?

9 MEMBER ALBERTI: Lieutenant Carter,
10 you seem to have your memory refreshed on the
11 date of birth of the woman, the young woman that
12 you saw.

13 THE WITNESS: Yes.

14 MEMBER ALBERTI: How was it refreshed?
15 I mean, you got a piece of paper. Was there a
16 date on it? What did you see that refreshed your
17 memory?

18 CHAIRPERSON ANDERSON: I'm going to
19 object to that --

20 MEMBER ALBERTI: Okay. Fine, fine.

21 CHAIRPERSON ANDERSON: -- question.

22 The document is not in the record. I don't know

1 what -- counsel provided a document to the
2 witness to refresh his recollection.

3 MEMBER ALBERTI: I will just put this
4 on the record. It concerns me that the counsel
5 has provided something to the witness after the
6 witness said that their recollection was hazy,
7 the counsel present -- yeah, if I was defense
8 attorney, I would be concerned that the counsel
9 is presenting a mystery document to the witness
10 in the middle of the hearing and purporting that
11 it refreshes his memory.

12 CHAIRPERSON ANDERSON: All right.
13 Hold on.

14 MEMBER ALBERTI: Without us knowing
15 what it is.

16 CHAIRPERSON ANDERSON: Hold on, Mr.
17 Alberti.

18 MEMBER ALBERTI: That -- even if it's
19 not in the record.

20 CHAIRPERSON ANDERSON: All right. One
21 of the problems with these proceedings is that --
22 and I'm hoping at some point -- and I thought I

1 had asked that we change the rules and the
2 regulations that documents are exchanged at least
3 seven days before the hearing, so all parties
4 have documents.

5 But because we do not have -- I'm not
6 aware that we have that rule said documents are
7 exchanged, folks can provide documents and
8 documents can be provided to a witness to refresh
9 his or her recollection.

10 Now, those documents, they don't have
11 to be moved into evidence. And so the document
12 is not moved into the evidence and so, therefore,
13 I don't necessarily have a problem with it,
14 because -- and as I said before, because we don't
15 have proceedings here where all the documents
16 that are being relied on have to be exchanged
17 prior, during the middle of the hearing, someone
18 can show any witness any document. That document
19 can be utilized and if they decide not to move it
20 into evidence, that's their right. They don't
21 have to move it into evidence.

22 And we do not know what the document

1 is because unless counsel asks to move the
2 document into evidence, and I'll ask that the
3 document be provided, but I'm just saying
4 typically a lawyer can provide documents and if
5 it's not moved into evidence, it's not moved into
6 evidence. And I don't -- I'm not necessarily
7 troubled by this.

8 I would be more troubled if we had a
9 formal proceeding where documents are -- where
10 you had to exchange documents prior to the
11 hearing and if these documents -- and as I said,
12 if you had to exchange documents and we had a
13 rule saying that these are the only documents
14 that can be utilized, but again, I'm fine with
15 what occurred.

16 I don't think that although the
17 licensee is not here, whether or not the licensee
18 was here that same procedure could have been
19 followed. And if -- and it wouldn't have to be
20 formalized unless counsel had requested that the
21 document be moved into evidence, which is not
22 something that we have in this particular case.

1 MR. ADAMS: Actually before --

2 CHAIRPERSON ANDERSON: Yes, Mr. Adams?

3 MR. ADAMS: -- I would just like to
4 ask a couple supplemental questions that might
5 assist for the -- for purposes of the record.

6 CHAIRPERSON ANDERSON: If you think
7 it's necessary. I don't think it is, but if you
8 think it is necessary, you can go ahead.

9 MR. ADAMS: This is just for the
10 record.

11 REDIRECT EXAMINATION

12 BY MR. ADAMS:

13 Q Detective Carter, in terms of the date
14 of January 2017 -- January 1997, where did you
15 originally see that date?

16 A I originally saw the date on the
17 identification that she presented to me.

18 Q And you stated that was valid, so what
19 do you mean that was valid? What does that mean
20 which is valid identification?

21 A It was a valid state-issued
22 identification card, which is a driver's license.

1 Q Was it for her?

2 A It was for her, yes.

3 Q It matched her?

4 A Yes, it did.

5 Q All right. And based upon the date,
6 January 1997, and the date that you visited,
7 which was May 14, 2017, how old would Ms. Kelly
8 be?

9 A She would have been 20 years-old at
10 the time.

11 Q All right.

12 MR. ADAMS: I have no further
13 questions.

14 CHAIRPERSON ANDERSON: All right.
15 Detective Carter, I get to have a couple of
16 questions.

17 THE WITNESS: Yes.

18 CHAIRPERSON ANDERSON: You stated that
19 the young woman had told you that her ID was at
20 the bar?

21 THE WITNESS: Yes.

22 CHAIRPERSON ANDERSON: And so you said

1 you went to the bar to ask for the ID. And what
2 again did the -- were you told about the ID?

3 THE WITNESS: We were told at the bar
4 that they will not take a person's ID. They may
5 take a person's credit card, but they will not
6 take the person's identification. And they said
7 they did not have her identification at the bar.

8 CHAIRPERSON ANDERSON: Did they tell
9 you why they would never take someone's
10 identification?

11 THE WITNESS: Yes, because he said he
12 would take their credit card and not their
13 identification.

14 CHAIRPERSON ANDERSON: So do you know
15 -- did you ask them did they ever -- do they take
16 identification? Do they check IDs? Did you ever
17 ask them? Did you follow-up with them to see
18 whether or not the bar checks ID?

19 THE WITNESS: Yes, I did and the bar
20 does not, because they check identifications at
21 the door of the establishment before the people
22 enter.

1 CHAIRPERSON ANDERSON: So there is no
2 -- so your testimony is the bar -- at least in
3 your estimate, the bar doesn't check IDs?

4 THE WITNESS: That's correct.

5 CHAIRPERSON ANDERSON: Now,
6 approximately, how many times have you been to
7 Chinese Disco?

8 THE WITNESS: I have lost count. It's
9 been a lot of times. It's definitely been more
10 than 20.

11 CHAIRPERSON ANDERSON: But why do you
12 go to Chinese Disco?

13 THE WITNESS: Because of the
14 complaints, because of the amount of underage
15 patrons that have been previously arrested there.

16 CHAIRPERSON ANDERSON: You said
17 complaints. Complaints from whom? Who were you
18 receiving complaints from?

19 THE WITNESS: Well, I receive the
20 complaints when I come into work from my
21 supervisors that there has been a complaint sent
22 to -- I don't know if it's through the police

1 department or if it's some other Government
2 Agency, but they received complaints in reference
3 to that establishment.

4 As well as when we interview patrons,
5 when we find patrons inside that are consuming
6 alcohol and they tell us that all their friends
7 come there, so --

8 CHAIRPERSON ANDERSON: All right. All
9 right. Any other questions by any other Board
10 Members?

11 Mr. Adams, you wish to do any follow-
12 up questions based on the questions that I asked?

13 MR. ADAMS: I have no further
14 questions.

15 CHAIRPERSON ANDERSON: All right. All
16 right. Detective Carter, thank you for your
17 testimony.

18 DETECTIVE CARTER: Thank you.

19 CHAIRPERSON ANDERSON: You can step
20 down.

21 (Whereupon, the witness was excused.)

22 MR. ADAMS: All right. And, Mr.

1 Chairman, the District rests its case.

2 CHAIRPERSON ANDERSON: All right.

3 Thank you. Does the Government wish to --

4 MR. ADAMS: Yes.

5 CHAIRPERSON ANDERSON: -- make a
6 closing statement?

7 MR. ADAMS: Yes, very briefly, Mr.
8 Chairman. Yes, this is another case actually,
9 this pre-dated the matter that we heard earlier
10 today, but this is another matter involving the
11 establishment allowing the consumption of alcohol
12 -- sorry, another -- there is -- the charges in
13 this case is of the establishment permitting the
14 sale, delivery and consumption of alcoholic
15 beverages by persons who are under the age of 21.

16 And the other charge is that the
17 establishment did not take reasonable steps
18 necessary to ascertain the age of the patrons who
19 came into the establishment.

20 And so again, what we have here is
21 that the establishment did on May 14, Detective
22 Carter and Investigator Puentes went into the

1 establishment to do an underage compliance check.
2 They were able to see that there was a patron who
3 appeared young in age, who appears to be under
4 the age of 21.

5 That they spoke with the patron. The
6 patron, at the time, did have an alcohol beverage
7 in her hand that was later ascertained to be a
8 vodka cranberry based upon what the patron
9 actually stated and based upon the smell and the
10 appearance of the beverage in her hand.

11 That when -- that once they asked for
12 the information or asked for identification from
13 the patron, the patron was evasive. The patron
14 essentially tried to -- essentially told the
15 Investigator that she was of age, but that the
16 establishment had her identification. And of
17 course, in this case, the establishment stated
18 they did not have the identification, because
19 logically speaking, why would they have her
20 identification if she already had her ID checked
21 at the door.

22 That after Investigator Puente left

1 the establishment, Detective Carter continued
2 with the investigation in speaking with this
3 patron. At that time, the patron did produce her
4 driver's license, a Georgia driver's license,
5 that stated that her date of birth was in January
6 of 2017, thus -- sorry, her birth -- date of
7 birth was January of 1997, which would have made
8 her 20 years-old at the time, which is consistent
9 with the statement that was made within the
10 investigative report as well as the PD 251, at
11 the time.

12 As stated again from Detective
13 Carter's investigation that her means of entry to
14 the establishment by was -- was the use of
15 another person's ID to get inside the
16 establishment.

17 Similar to the case that we discussed
18 this morning, the idea that the proper procedure
19 for an establishment to undergo to allow the
20 admission of a patron or to allow the service of
21 alcoholic beverages is to at least, at a very
22 minimum, be able to match the person who is in

1 front of them in terms of their appearance to the
2 person who is on any given card.

3 And it looks here, in this case, that
4 the establishment allowed someone to come in who
5 was not -- who used someone else's ID. And the
6 reason this is dependable is at the time of the
7 investigation, there wa a statement against the
8 interest of this patron to divulge that
9 information, especially considering that the only
10 information -- the only identification that she
11 had, at that time, did show that she was only 20
12 years of age.

13 So based upon that reasoning, we
14 believe that -- the District believes that it has
15 proven both of the charges. We recommend again
16 because the other case has not been adjudicated
17 yet, a fine of \$3,000 and a suspension of the
18 license for a period of five days.

19 As well as, I guess, the provision of
20 alcohol training to all employees on the staff
21 within 90 days of this decision.

22 CHAIRPERSON ANDERSON: Okay. All

1 right. The record is now closed. Do you wish to
2 file proposed findings of fact and conclusions of
3 law or waive your right to do so?

4 MR. ADAMS: The District waives its
5 right.

6 CHAIRPERSON ANDERSON: All right. The
7 Board will issue a decision within 90 days.

8 As Chairperson of the Alcoholic
9 Beverage Control Board for the District of
10 Columbia and in accordance with Section 405 of
11 the Open Meetings Amendment Act of 2010, I move
12 that the ABC Board hold a closed meeting for the
13 purpose of seeking legal advice from our counsel
14 on Case No. 17-CC-00066, Chinese Disco, per
15 Section 405(b)(4) of the Open Meetings Amendment
16 Act of 2010, and deliberating upon Case No. 17-
17 CC-00066, Chinese Disco, for the reasons cited in
18 Section 405(b)(13) of the Open Meetings Amendment
19 Act of 2010. Is there a second?

20 MEMBER SHORT: Second.

21 CHAIRPERSON ANDERSON: Mr. Short has
22 seconded the motion. I will now take a roll call

1 vote on the motion before us now that it has been
2 seconded.

3 Ms. Wahabzadah?

4 MEMBER WAHABZADAH: Agree.

5 CHAIRPERSON ANDERSON: Mr. Short?

6 MEMBER SHORT: I agree.

7 CHAIRPERSON ANDERSON: Mr. Alberti?

8 MEMBER ALBERTI: I agree.

9 CHAIRPERSON ANDERSON: Mr. Cato?

10 MEMBER CATO: I agree.

11 CHAIRPERSON ANDERSON: Mr. Isaac?

12 MEMBER ISAAC: I agree.

13 CHAIRPERSON ANDERSON: Mr. Anderson?

14 I agree.

15 As it appears that the motion has
16 passed, I hereby give notice that the ABC Board
17 will hold a closed meeting in the ABC Board
18 conference room pursuant to the Open Meetings
19 Amendment Act of 2010 and issue an order within
20 90 days.

21 Thank you very much for your
22 presentation today.

1 MR. ADAMS: Thank you very much, Mr.
2 Chairman.

3 CHAIRPERSON ANDERSON: All right.
4 Thank you.

5 We are in recess until our 3:30
6 hearing.

7 (Whereupon, the Show Cause Hearing was
8 concluded at 2:37 p.m.)

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Before: DC ABRA

Date: 06-20-18

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