

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-00020 :
 :
(Sale to Minor Violation, :
Failed to Take Steps Necessary :
to Ascertain Legal Drinking :
Age, Substantial Change in :
Operation Without Board :
Approval, Violation of :
Settlement Agreement) :

Wednesday
January 31, 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
MIKE SILVERSTEIN, Member
JAMES SHORT, Member
REMA WAHABZADAH, Member

ALSO PRESENT:

WALTER ADAMS, ANC 2E

KIJUN SUNG, Licensee's Counsel

HUNTER CAMPBELL, Licensee

DAVID CARTER, MPD

KEVIN PUENTE, ABRA Investigator

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

Opening Statement by Government. 6
 Opening Statement by Licensee. 11

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	BOARD
David Carter	17	37			46
Kevin Puente	50	97	110		105

EXHIBITS IDENTIFIED RECEIVED

GOVERNMENT

1 - Puente Case Report with Attachments:		82	89
1.1 - MPD 251			
1.2 - Clicker Photo			
1.3 - Chinese Disco Crowd Photo			
1.4 - Female Minor ID			
1.5 - Male Minor ID			
1.6 - Sale to Minor Notification			
1.7 - Chinese Disco Kitchen Photo			
1.8 - Chinese Disco Kitchen Photo			
1.9 - Chinese Disco Kitchen Photo			
1.10 - Chinese Disco Kitchen Photo			
1.11 - Langway Regulatory Inspection			
1.12 - Security Plan			
1.13 - Settlement Agreement			

Closing Statement by Government. 113
 Closing Statement by Licensee. 125

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

2 3:45 p.m.

3 CHAIRPERSON ANDERSON: All right.

4 We're back on the record. Our next case is Case
5 No. 17-CC-00020, Chinese Disco, License No.
6 78058.

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

9 MR. ADAMS: Good morning or good
10 afternoon, Mr. Chairman and Members of the Board.
11 I'm Walter Adams. I represent the District of
12 Columbia.

13 CHAIRPERSON ANDERSON: Good afternoon,
14 Mr. Adams.

15 MR. SUNG: Good afternoon. Kijun Sung
16 for licensee, Chinese Disco. This is Hunter
17 Campbell for Chinese Disco. He is one of the
18 owners.

19 CHAIRPERSON ANDERSON: Good afternoon,
20 Mr. Kijun Sung, and good afternoon, Mr. Campbell.

21 MR. SUNG: Campbell, yes, sir.

22 CHAIRPERSON ANDERSON: Okay. Did

1 everyone sign-in their names on the sign-in
2 sheet?

3 MR. SUNG: Yes, sir.

4 CHAIRPERSON ANDERSON: All right.
5 This is a Show Cause Hearing. Are there any
6 preliminary matters in this case?

7 MR. ADAMS: There are no preliminary
8 matters that the District is aware of.

9 CHAIRPERSON ANDERSON: Thank you. Mr.
10 Sung, I'm sorry, what's your last name again,
11 sir?

12 MR. SUNG: Sung, S-U-N-G.

13 CHAIRPERSON ANDERSON: Sung. Oh,
14 Sung, okay. Sung. Are there any preliminary
15 matters from your perspective in this case?

16 MR. SUNG: No, sir.

17 CHAIRPERSON ANDERSON: Okay. Is the
18 Government ready to move forward?

19 MR. ADAMS: Yes, the Government is
20 ready to move forward. The Government will have
21 two witnesses in its case in chief and will --
22 would like to reserve the right to call rebuttal

1 witnesses.

2 CHAIRPERSON ANDERSON: And just as a
3 preliminary matter, Mr. Sung, how many witnesses
4 do you plan to call?

5 MR. SUNG: At most one. We may not
6 call him at all.

7 CHAIRPERSON ANDERSON: So you might
8 not have any witnesses?

9 MR. SUNG: That's correct.

10 CHAIRPERSON ANDERSON: But maybe one.
11 Okay. All right. Mr. Adams, do you wish to make
12 an opening statement?

13 MR. ADAMS: Yes, I would like to make
14 a brief opening statement, Mr. Chairman.

15 We are here regarding events that
16 happened on -- at Chinese Disco, the
17 establishment known as Chinese Disco on February
18 4, 2017, almost a year ago. Specifically, what
19 this case is really about is the establishment
20 not managing or not being responsible for
21 handling of those who are patrons who are not of
22 the legal drinking age.

1 And the evidence that you will hear
2 will show that the circumstances were severe in
3 nature in which the establishment had violated
4 the District's rules.

5 There are four charges in front of the
6 Board. One is that the establishment allowed the
7 sale and delivery of alcoholic beverages to two
8 underage patrons inside the establishment.

9 The evidence will show that on
10 February 4th that an Investigator for the
11 Alcoholic Beverage Regulation Administration was
12 able to identify two patrons inside the
13 establishment who were 19 years-old, who had been
14 drinking or were in the process of drinking
15 alcohol within the establishment.

16 Furthermore, the District will be able
17 to establish in a satisfactory manner that the
18 establishment did not take the reasonably
19 necessary steps to ascertain the ages of those
20 within the establishment.

21 Although the establishment did check
22 IDs at the door and the evidence showed that they

1 may even have a mechanical device or a scanner,
2 that they had already been -- the establishment
3 had already been noticed that their verification
4 techniques were not reasonable, were not working
5 and would allow underage patrons to get into the
6 establishment.

7 The last two charges are, part and
8 parcel, the same thing. This goes to the
9 occupancy of the establishment.

10 On February 4th of last year, the
11 evidence will also show that the establishment
12 exceeded its occupancy. They had over 200
13 patrons within the establishment when the
14 license, the application that it filed with the
15 Board and everything else states that they are
16 limited to 99 patrons to be --

17 CHAIRPERSON ANDERSON: How many?

18 MR. ADAMS: 99 patrons to be within
19 the establishment at any given time. And the
20 evidence will show that that -- that they doubled
21 that, their occupancy.

22 Therefore, that it would justify a

1 conclusion that it was a substantial change in
2 the operation of the establishment.

3 And lastly, the fourth charge is that
4 they violated the settlement agreement. The
5 settlement agreement is very clear on its face
6 that there can only be 99 patrons, which is in
7 keeping with the application and their license.
8 That in terms of the establishment violating
9 their occupancy issues, that they also violate
10 the terms of their settlement agreement.

11 So the District is more willing and is
12 ready to provide the evidence to support its
13 charges.

14 CHAIRPERSON ANDERSON: Mr. Sung, do
15 you wish to make an opening statement?

16 MR. SUNG: Yes, briefly, but could I
17 ask for a Rule on Witnesses?

18 CHAIRPERSON ANDERSON: What -- who are
19 the witnesses that you have, Mr. Adams?

20 MR. ADAMS: The only witnesses we will
21 -- I only have one witness in the room and I
22 guess an inquiry would be whether or not he can

1 be in here for merely the opening statement.

2 CHAIRPERSON ANDERSON: Well --

3 MR. ADAMS: We only have one witness
4 here, so none of my other witnesses aren't here.

5 CHAIRPERSON ANDERSON: Who are the
6 witnesses that you are calling?

7 MR. ADAMS: Investigator Kevin Puente.
8 Actually, I take it back. He -- Kevin Puente
9 would have to leave. Detective David Carter and
10 Investigator Kevin Puente, I actually will call
11 Detective David Carter first. So I can ask --

12 CHAIRPERSON ANDERSON: Is he here?

13 MR. ADAMS: He -- I believe he is in
14 the hallway.

15 CHAIRPERSON ANDERSON: All right.

16 MR. ADAMS: So I'll just ask
17 Investigator Puente to leave.

18 CHAIRPERSON ANDERSON: Okay. And so,
19 Mr. Sung, if you call a witness, who is it that
20 you plan to call?

21 MR. SUNG: Mr. Campbell.

22 CHAIRPERSON ANDERSON: So Mr. Campbell

1 needs to step back. He needs to step out of the
2 room. If you plan to call him, he needs to step
3 out of the room.

4 So, Mr. Moosally, could you find -- or
5 Mr. Townsend will find a location for Mr.
6 Campbell. You can follow that gentleman, sir.

7 All right. So you plan to make an
8 opening?

9 MR. SUNG: Yes, sir. Just briefly,
10 there are four charges. The first two relate to
11 allowing minors to consume alcohol. I would ask
12 the Board to just be mindful that it's not a
13 strict liability statute. There is language and
14 supporting law that imposes a standard on the
15 licensee.

16 So you can't just look to see whether
17 the individual who was allegedly caught with an
18 alcoholic beverage, that fact alone does not
19 impose liability on the licensee. We need to
20 look at the totality of the circumstances. Were
21 there reasonable steps taken to prevent the
22 underage consumption of alcohol?

1 So I would ask the Board to hear the
2 testimony and make that determination.

3 CHAIRPERSON ANDERSON: All right.

4 MR. SUNG: The third and fourth charge
5 relate to capacity and the settlement agreement
6 and whether that constitutes a substantial
7 change. And again for that, I will address that
8 in my closing, because it goes to some legal
9 issues and interpretation of the statute.

10 And again, I would just simply ask the
11 Board to read the relevant statutes and apply the
12 laws to the facts of this case. Thank you.

13 CHAIRPERSON ANDERSON: Well, I guess
14 so I'll know what to look for and are you
15 contesting the facts that there was a -- that
16 there were individual(s) under the age of 21 who
17 was drinking in your establishment?

18 MR. SUNG: I am not contesting the
19 fact that there were individuals who were
20 underage within the establishment. I do not know
21 whether they were consuming alcoholic beverages
22 or not. We just have to see what the witnesses

1 have to say.

2 CHAIRPERSON ANDERSON: Well, I'm
3 trying to streamline it, so it's -- so what is it
4 -- I'm saying, what is it that -- could I have --
5 Mr. Adams, could you provide us a proffer of the
6 evidence that you would provide to support the
7 underage drinking charge?

8 MR. ADAMS: Essentially, I can proffer
9 that we will provide evidence that there was --
10 that Investigator Puente was able to identify a
11 19 year-old female patron within the
12 establishment who was drinking an alcoholic
13 beverage within the establishment that she had
14 ordered within the establishment; that she did
15 have a fake identification; that there was
16 another male patron who was also 19 years-old, a
17 Georgetown University student, who was inebriated
18 and who was being escorted out of the
19 establishment, who also claimed to have consumed
20 alcohol within the establishment.

21 That is a proffer that I can make in
22 terms of the proof on Charge 1 and that goes to

1 Charge 2 as well. And I will say both of them
2 had fraudulent identification cards on them.

3 CHAIRPERSON ANDERSON: So, Mr. Sung,
4 are you contesting that issue?

5 MR. SUNG: Well, there is several
6 factual allegations. Which one are you --

7 CHAIRPERSON ANDERSON: No, I'm just --

8 MR. SUNG: -- pointing to?

9 CHAIRPERSON ANDERSON: -- I guess the
10 large charge, I think what is was the Government
11 is stating is that there was two underage
12 individuals in your establishment who -- one was
13 caught with an alcoholic drink and the other one
14 was inebriated and being escorted out.

15 So are you contesting that these two
16 individuals, who were underage, had consumed
17 alcohol in your establishment?

18 MR. SUNG: I don't know. I --

19 CHAIRPERSON ANDERSON: All right.

20 MR. SUNG: -- in a brief answer, yes,
21 I am.

22 CHAIRPERSON ANDERSON: Okay. All

1 right. All right.

2 MR. ADAMS: I just have one question
3 for the Board. Since the establishment has --
4 respondent has stated that they believe the case
5 law states that there is not a strict liability,
6 I would just ask if the respondent could identify
7 what case citations that he is mentioning for the
8 purposes of --

9 CHAIRPERSON ANDERSON: Well, maybe he
10 will do that in closing, I assume.

11 MR. ADAMS: Okay. Very well.

12 CHAIRPERSON ANDERSON: So you don't
13 have to do that before. I mean, at least for me,
14 there -- it's two different issues. I mean, the
15 issue in the sense that, okay, there is underage
16 drinking and the other one it's whether or not
17 you have taken reasonable steps to ensure that
18 you have the legal -- the proper age.

19 And I mean that one, it's -- that's
20 open to argument, but it's the fact that the
21 person is -- I'm not sure how one can say the
22 person is not 21 if the person is not 21. So

1 that's why I'm asking.

2 I can understand if there is agreement
3 to say yes, there was, but we -- this is what we
4 did and -- but call your first witness.

5 MR. ADAMS: Yes, sir.

6 CHAIRPERSON ANDERSON: Mr. Adams.

7 MR. ADAMS: Yes, Mr. Chairman. I will
8 call Detective David Carter to the stand.

9 CHAIRPERSON ANDERSON: Can you raise
10 your right hand, please, 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: Your witness,
19 sir. Have a seat, please.

20 DETECTIVE CARTER: Thank you.

21 CHAIRPERSON ANDERSON: And when you
22 speak, speak closer to the microphone, please.

1 Okay?

2 DETECTIVE CARTER: Gotcha.

3 DIRECT EXAMINATION

4 BY MR. ADAMS:

5 Q All right. Sir, could you, please,
6 state your name for the record?

7 A David Carter.

8 Q Could you, please, spell it as well?

9 A Sure. David, D-A-V-I-D, Carter, C-A-
10 R-T-E-R.

11 Q All right. And, Mr. Carter, you are
12 employed by the District of Columbia Government?

13 A Yes, I am.

14 Q And you are also -- are you also
15 employed by the Metropolitan Police Department?

16 A Yes, I am.

17 Q And could you tell the Board your
18 position and title?

19 A Okay. I'm a Detective with the
20 Metropolitan Police Department.

21 Q And first of all, how long have you
22 worked with the police department?

1 A This will be going on my 23rd year.

2 Q And how long have you been a detective
3 for at the police department?

4 A I have been a detective about 12
5 years.

6 Q All right. And as a detective, can
7 you describe, I guess and briefly, the
8 responsibilities of your position as a detective?

9 A I have had various duties, just
10 investigative duties, investigating cases in the
11 District of Columbia.

12 Q In terms of investigating cases within
13 the District of Columbia, what, if any, do your
14 duties involve investigating underage drinking
15 within the District of Columbia?

16 A Yes. I work in overtime detail to
17 investigate underage drinking in the District of
18 Columbia.

19 Q And what is the responsibilities of
20 that detail?

21 A To identify underage drinkers, to also
22 assist with ABRA with establishments and

1 identifying issues surrounding underage drinking
2 inside of ABC establishments.

3 Q And when you say ABRA, is that the
4 Alcoholic Beverage Regulation Administration?

5 A Yes.

6 Q ABC is Alcoholic Beverage Control
7 Board?

8 A That's correct.

9 Q Okay. All right. So now how do you
10 do that? How specifically do you work with ABRA
11 to investigate underage drinking for
12 establishments?

13 A We have had several different
14 operations over the years. One operation is
15 known as sale to minor. Another operation that
16 we do is Cops in Shops. Another operation where
17 we just go inside and check identifications of
18 persons that appear to be under the age of 21
19 that are either in possession or consuming
20 alcoholic beverages.

21 Q And in terms of the last option you
22 stated, in terms of the identification of those

1 who are under -- who seem to be under 21 --

2 A Yes.

3 Q -- how do you identify those persons?

4 A We go up to them. We talk with them.
5 Identify myself and ask them for identification.

6 Q All right. And once they provide
7 identification, what do you do?

8 A All right. At that point, you know,
9 we will determine whether they are 21 or under.
10 And at that point, if they are under 21, we
11 normally take them out of the establishment, take
12 down their information and prepare a report.

13 Q And how long have you worked on --
14 worked with the efforts for underage enforcement
15 or the overtime detail for underage persons?

16 A Approximately, 17, 18 years.

17 Q And in the 17 years that you have done
18 this, have you executed an arrest against
19 patrons?

20 A Yes, I have.

21 Q All right. And approximately how
22 many? Is it over 100 or less?

1 A A lot more than 100, yes.

2 Q More than 500?

3 A Yes, I would say so.

4 Q Okay. Now, in terms of underage
5 drinking, are there particular areas in the
6 District that are known to have problems with
7 underage drinking?

8 A Yes.

9 Q And which areas would you -- come to
10 mind?

11 A I mean, it's throughout the city. I
12 can't say, you know, specifically which areas,
13 but there are a lot of areas that we get a lot of
14 complaints and places we visit frequently.

15 Q All right. And how about Georgetown?
16 Have you received complaints regarding
17 Georgetown?

18 A Yes.

19 Q All right. And are there certain
20 establishments within Georgetown that receive
21 more complaints than others?

22 A Yes.

1 Q All right. Are you aware of an
2 establishment named Chinese Disco?

3 A Yes.

4 Q And how are you aware of Chinese
5 Disco?

6 A We have been there quite a few times.
7 At least within the last probably two to three
8 years.

9 Q All right. And you said -- when you
10 say you have been there a few times in the last
11 two years, how many times have you been to
12 Chinese Disco or approximately how many times
13 have you been there in the last two years?

14 A I would say more than 20.

15 Q More than 20?

16 A Yes.

17 Q And why do you tend to be at Chinese
18 Disco? What brings you there?

19 A Well, it's a place known to us from
20 the students at Georgetown as a place that they
21 frequent.

22 Q Okay. And how do you know that's a

1 place that they frequent?

2 A Well, when we have made arrests there,
3 we also interview people we arrest and they are
4 constantly telling us that this is where we go,
5 as far as people who are under the age of 21.
6 It's known to their friends and also their
7 student body.

8 Q All right. And did they ever tell you
9 -- from your experience, was any explanation
10 given why it is the place to go for Georgetown
11 students?

12 MR. SUNG: I'm going to object on the
13 basis of hearsay.

14 MR. ADAMS: He can discuss what is the
15 presence of impression.

16 MR. SUNG: It's not a presence of
17 impression. It of the truth of the matter
18 asserted.

19 CHAIRPERSON ANDERSON: I'm going to--

20 MR. ADAMS: And hearsay is allowed to
21 offer --

22 CHAIRPERSON ANDERSON: I'm sorry?

1 MR. ADAMS: And hearsay is allowed for
2 hearings before the ABC Board.

3 CHAIRPERSON ANDERSON: I'm going to
4 overrule the objection. Answer the question,
5 sir.

6 THE WITNESS: Could you repeat the
7 question?

8 BY MR. ADAMS:

9 Q So the question is based upon your
10 conversations with the students, how do they know
11 that Chinese Disco is a place for them to go?

12 A Well, several of the students that we
13 have come in contact with say they have been
14 there numerous times. And their friends have
15 also been there numerous times.

16 Q Now, you said there that you have been
17 there about 20 times in the last -- over 20 times
18 in the last two years and that you have executed
19 arrests there.

20 In general, what occurs when you are
21 called to go to Chinese Disco?

22 A Okay. All right. The two separate

1 operations that we normally have done within the
2 past two years. One is Cops in Shops and that is
3 where we work with the establishment, especially
4 the establishment that states that they have a
5 lot of issues with people using fake IDs to
6 enter.

7 And we will stand there with the door
8 person who is checking IDs. And soon as a person
9 comes in and it's verified that they have
10 displayed a fraudulent identification, that
11 person is arrested and it's verified that they
12 are under the age of 21.

13 Q And what's the other program?

14 A The other program is where we do ID
15 checks, where we actually just go inside and we
16 check IDs of people who are inside who appear to
17 be under the age of 21.

18 Q And so has the establishment, have
19 they been participating in the Cops in Shops
20 program?

21 A Yes.

22 Q All right. And when you do Cops in

1 Shops, where are you in proximity to the staff
2 when you check the IDs?

3 A We are standing right next to them.

4 Q All right. And so when you make a
5 verification that an identification card is
6 fraudulent, where are they? Where is the staff?

7 A Right there standing right next to me.

8 Q All right. In the 20 or so times that
9 you have been to the establishment, how frequent
10 is it that you have made arrests at Chinese
11 Disco?

12 A I would say just about every time we
13 are there.

14 Q And after you make an arrest, what do
15 you do?

16 A We have to take them up to the station
17 and they have to be processed.

18 Q So once you make the arrest, is it
19 fair to say that you leave the grounds of the
20 establishment?

21 A That's correct.

22 Q Now, you stated that you have spoken

1 with patrons who said that they have entered the
2 establishment in the past, correct?

3 A Yes.

4 Q From those conversations, is it fair
5 to say those patrons that you have arrested, they
6 also had a fraudulent ID on them?

7 A That's correct.

8 Q So those patrons who you have
9 arrested, did they ever explain how they entered
10 the establishment?

11 A Yes. Some say that they ask for IDs.
12 Some say that they don't ask for IDs at the door.

13 Q And when you say they, who are you
14 referring to?

15 A I'm talking about the people that were
16 placed under arrest.

17 Q Okay. All right. So when -- but who?
18 When you say they ask for IDs, who is the they?

19 A The establishment.

20 Q The establishment. Okay.

21 A Yes.

22 Q All right. And when you have been at

1 the establishment, have you had any occasion to
2 actually observe the security staff as they check
3 identification for people going to the
4 establishment?

5 A Yes.

6 Q All right. And how would you assess
7 or how do they do that?

8 A They normally look at the ID.
9 Sometimes they will use a blacklight, sometimes
10 not. And they visually look at it, they look at
11 the patron, they make the determination.

12 Q All right. And how -- can you explain
13 to the Board when you look at identification, how
14 -- what is the standard practice for looking at
15 identification and verifying a person's age?

16 A Well, when you look at the
17 identification for -- to see if it's authentic,
18 see if it's an actual valid identification.

19 Q And how do you do that?

20 A Just by looking at it and looking at
21 the various security features, various states use
22 -- the students at Georgetown come from

1 everywhere, so they have IDs from various states.
2 So you just have to know -- and if you don't
3 know, there is an ID Checking Guide that you can
4 look at.

5 Also, patrons have used
6 identifications of other people, so you also make
7 sure that the identification that you have in
8 front of you is indeed the person who is standing
9 there.

10 Q All right. And from the -- from your
11 experience from watching the checking
12 identifications at Chinese Disco, has it always
13 occurred? Has the standard practice or the best
14 practices occurred for reviewing identification
15 cards?

16 A Sometimes, yes.

17 Q Sometimes?

18 A Yes.

19 Q And when you mean sometimes, is it --
20 do you mean more than half of the time or all the
21 times?

22 A I would say most of the time we're

1 there. I mean, there are times when they will
2 display an identification and they look at it and
3 we can clearly see, you know, their identifying
4 factors right away that you notice that it's not,
5 you know, an authentic identification and then
6 they allow them to go in and then we stop them at
7 that point. We relook at the identification,
8 verify that it is not an authentic
9 identification. So that does happen from time to
10 time or it has happened from time to time.

11 Q All right. And prior to February 4,
12 2017, what discussions, if any, have you had with
13 the staff or the security staff with -- for
14 Chinese Disco regarding the admission of underage
15 patrons?

16 A We have just told them that, you know,
17 we are constantly getting information from the
18 students at Georgetown that this is the place to
19 come. And as soon as we come -- we're normally
20 there, I would say no more than 10 maybe 15
21 minutes before we get an arrest. And that's just
22 about every time we are there.

1 Q And what discussions, if any, have you
2 had regarding their procedures for checking IDs?

3 A Well, that's one of the things I said,
4 you know, you have to be vigilant checking
5 identifications. And you know, in my experience
6 doing this, if an establishment is very good at
7 checking identifications, most people will not
8 come there if they are checking them and they are
9 turning people away.

10 And the information that we are
11 getting from the students is that, you know, of
12 course when we are not there, they are being
13 allowed in. And every time we come there, you
14 know, there is normally a line and it is very
15 frequent that we get arrests there at the door.

16 Q And who have you spoken with from the
17 establishment regarding their procedures for --

18 A I normally ask for the manager and I
19 will normally explain to the manager, you know,
20 what we observe, what happens. Also, if we were
21 to go inside and, you know, observe someone
22 inside who is under the age of 21, we also ask

1 for the manager. And I explain. And there have
2 been various managers at that establishment over
3 the past couple years.

4 Q All right. In terms of the managers,
5 what has their response been to your
6 instructions?

7 A They have been very receptive and they
8 say okay, yeah, we're going to -- we know. We
9 are going to try to tighten things up.

10 Q All right. And now are you familiar--
11 in your response -- in your responsibilities for
12 looking at underage or looking for -- sorry, for
13 reviewing the identification patrons, have you
14 ever become familiar with ID Card Scanners?

15 A Yes.

16 Q And how do establishments use those
17 scanners?

18 A There is a few around that use them.

19 Q And from your observations, is Chinese
20 Disco one of those establishments that use the
21 scanner?

22 A I think I remember there being an ID

1 scanner there a couple of times we have been
2 there, a few times.

3 Q And have you ever seen that being used
4 there?

5 A Yes.

6 Q And what does -- what do those ID
7 scanners do to your knowledge?

8 A Most of them just check the barcode on
9 the identification or the magnetic strip that is
10 on the back of the identification and it reads
11 that information and then that's normally
12 displayed on the screen.

13 So my experience it's very easy to
14 make fraudulent identifications to where the --
15 it could trick the scanners into believing that
16 it is an authentic identification.

17 Q And how so? How would it trick the
18 identification -- the scanners?

19 A Just by putting the information either
20 in the barcode or in the magnetic strip.

21 Q And so in terms of establishments, in
22 your experience, should establishments depend

1 upon a scanner to verify the identify of the
2 persons who are trying to come inside the
3 establishments?

4 A I don't think they should totally rely
5 on that. I think they should use it as a tool.

6 Q Okay.

7 A And use other factors to determine
8 whether the identification is authentic.

9 Q And what other factors should they be
10 using?

11 A I think they should use an ID Checking
12 Guide. I think they should also have people who
13 are trained, because the problem with the
14 university and being at a university is they are
15 very resourceful and they will go on the Internet
16 and buy these fraudulent identifications. And
17 you are going to have a lot of them, so I think
18 that there should be a number of tools that they
19 should use to validate the identification.

20 Q And what communications have you had
21 with this establishment regarding using those
22 tools?

1 A Just what I have explained here. I
2 have explained it several times, you know, to the
3 management.

4 Q And what communications have you had
5 regarding the use of the ID Guides? Is that what
6 it --

7 A The ID Checking Guide?

8 Q ID Checking Guide.

9 A Yes. And I have told them that they
10 should get them. There have been several times,
11 more than not, that they don't have them at the
12 door.

13 Q Now, when you --

14 A Especially when checking the
15 identifications.

16 Q I apologize.

17 A That's okay.

18 Q All right. So now turning to February
19 4, 2017.

20 A Yes.

21 Q Do you remember being on duty on
22 February 4, 2017?

1 A Yes, yes.

2 Q And what do you recall occurring?

3 A We were there. We were conducting
4 Cops in Shops. And I want to say it was within
5 15 to 20 minutes, we were able to make three
6 arrests at the door for people using fraudulent
7 identifications. And there was a long line that
8 night, I remember at the door, and of course as
9 soon as we identify ourself as police and we
10 start placing people under arrest, the line
11 diminished quite a bit of people when they
12 started seeing, you know, us putting handcuffs on
13 people and taking them away.

14 Q And when you made the arrests on
15 February 4, 2017 for patrons using fraudulent
16 identifications, where was staff?

17 A They were at the front right where we
18 were, where the identifications were being
19 checked.

20 MR. ADAMS: I have no further
21 questions for Detective Carter.

22 CHAIRPERSON ANDERSON: Mr. Sung?

1 MR. SUNG: Yes, thank you.

2 CROSS-EXAMINATION

3 BY MR. SUNG:

4 Q Good afternoon, Detective Carter.

5 A Good afternoon.

6 Q Do you recall when the first time you
7 made an arrest at Chinese Disco for the use of a
8 fraudulent identification?

9 A No, I do not.

10 Q Okay. Could it have been on February
11 4, 2017?

12 A That would not have been the first
13 time.

14 Q No? Okay. And how do you know that?

15 A Because I have been doing the
16 enforcement at that location for quite a while.

17 Q Okay. Do you have a record of your
18 visits to Chinese Disco?

19 A I do not. No, I do not.

20 Q So there is no way to verify when your
21 first visit and subsequent arrest at Chinese
22 Disco was for fraudulent ID?

1 A I can probably query our arrest system
2 to try -- to find that.

3 Q Do you know when you first notified
4 management at Chinese Disco of the use of a
5 fraudulent ID?

6 A No, I do not.

7 Q Okay. Could it have been February 7,
8 2017?

9 A I believe it was before then.

10 Q Okay. And what makes you say that?

11 A Because I have been there doing the
12 enforcement there for quite a while.

13 Q Sure. Now, on that evening you
14 testified that you had -- you made three arrests
15 for use of fraudulent IDs.

16 A Yes.

17 Q Do you know what the disposition of
18 those cases were? Did those individuals
19 ultimately get convicted?

20 MR. ADAMS: Objection. Irrelevant.

21 MR. SUNG: Is it relevant.

22 CHAIRPERSON ANDERSON: Why?

1 MR. SUNG: It goes to the issue of
2 whether a fraudulent ID was actually used.

3 CHAIRPERSON ANDERSON: I'll give him
4 some leeway. So I'll allow it. I'll overrule
5 the objection. Go ahead.

6 THE WITNESS: No, I do not.

7 BY MR. SUNG:

8 Q You made the arrest, correct, sir?

9 A Yes.

10 Q So if there was a trial in the case,
11 you would have gone and testified, correct?

12 A That is correct.

13 Q Okay. Do you recall whether you went
14 and testified in a trial of any of these
15 individuals?

16 A I did not.

17 Q Okay. Do you know if there was a plea
18 agreement in any of these cases?

19 A I do not.

20 MR. ADAMS: I object. I think it's
21 asked and answered --

22 CHAIRPERSON ANDERSON: Sustained.

1 MR. ADAMS: -- at this point.

2 CHAIRPERSON ANDERSON: I said I would
3 give you some leeway and not -- I wasn't opening
4 up the floodgates.

5 MR. SUNG: I think it's very relevant
6 to the issue of whether -- the ultimate issue in
7 this case for one of the charges is whether a
8 fraudulent identification was used to gain access
9 into the establishment. I don't see why it
10 wouldn't be relevant.

11 MR. ADAMS: It was asked and answered
12 though, so I object to it.

13 CHAIRPERSON ANDERSON: I have already
14 sustained the objection, so move on, sir.

15 MR. SUNG: I will move on. Thank you.

16 BY MR. SUNG:

17 Q Now, you stated that in the
18 approximately 20 times that you have visited
19 Chinese Disco in the past, every single time
20 there has been an arrest.

21 A Just about every time and it has been
22 more than 20.

1 Q Okay. More than 20?

2 A More than 20 and just about every time
3 I have been there, yes.

4 Q Now, do you recall on this particular
5 evening, February 4th, did the individuals use a
6 doctored ID? That is to say you mentioned
7 something about ordering a false ID online or did
8 they use somebody else's valid ID? Do you
9 recall?

10 A No, I do not.

11 Q Isn't it true that most cases of
12 underage patrons gaining access to a licensed
13 establishment are using somebody else's ID versus
14 an ID that has been doctored or purchased online
15 that is fake from the beginning?

16 MR. ADAMS: Objection. Calls for
17 speculation.

18 CHAIRPERSON ANDERSON: Mr. --

19 MR. SUNG: I don't see how that's
20 speculative. Detective Carter has been
21 introduced as someone with a wealth of experience
22 in checking IDs and looking for fraudulent IDs at

1 licensed establishments.

2 MR. ADAMS: Mr. -- Detective Carter
3 can speak to his experience, but to be able to
4 determine how District-wide IDs have been used is
5 not proper.

6 CHAIRPERSON ANDERSON: I'll sustain
7 the objection. Move on, sir.

8 BY MR. SUNG:

9 Q Just in your experience, Detective
10 Carter, when you have seen, you have personally
11 seen underage customers gain access by the use of
12 a false ID, isn't it true that it's mostly they
13 are using somebody else's valid ID versus using a
14 doctored ID?

15 A No, that's not true.

16 Q That's not true?

17 A No.

18 Q Okay. But on this particular evening,
19 you don't know, you don't recall whether they
20 used a doctored ID versus somebody else's ID,
21 correct?

22 A I can't say for certain, no.

1 Q Did you go inside this evening on
2 February 4, 2017 to the establishment?

3 A No, I did not.

4 Q So you were not able to determine if
5 there was any underage consumption of alcohol
6 that evening?

7 A I did not go inside.

8 Q Now, you said using a scanner was a
9 tool. Is it good practice to use the scanner in
10 conjunction with actually physically examining
11 the ID as well as looking at the customer as
12 well?

13 A Yes.

14 Q Have you ever been inside Chinese
15 Disco to observe if there are underage customers
16 consuming alcohol?

17 A Yes.

18 Q Okay. Prior to February 4, 2017?

19 A Yes.

20 Q Okay. And did you observe underage
21 drinking at Chinese Disco prior to February 4,
22 2017?

1 A Yes.

2 Q And what did you do about it?

3 A We prepared a PD -- well, it used to
4 be called a PD-251. We prepare a police report,
5 document all the facts surrounding.

6 Q Okay. How many times did that occur
7 prior to February 4, 2017?

8 A I don't know.

9 Q But you are sure that there was at
10 least one?

11 A Yes.

12 Q So that would be something we could
13 easily procure from the police department?

14 A Yes.

15 Q Have you ever observed staff of
16 Chinese Disco not checking IDs of its customers?

17 A No, I have not.

18 Q On February 4, 2017, the security
19 staff at the entryway were checking IDs, correct?

20 A Yes.

21 Q They were also using a scanner,
22 correct?

1 A I can't say for certain that they
2 were, but I can't say that they weren't.

3 Q Have you ever been there when they
4 weren't using a scanner?

5 A Yes.

6 Q Okay. And how do you know that? How
7 do you remember that detail?

8 A I just remember being there and there
9 not being a scanner there.

10 Q Do you know if that is prior to
11 February 4, 2017?

12 A Yes, it probably would be prior to
13 that.

14 Q How about after February 4, 2017? In
15 the last year, have you been there when they are
16 not using a scanner?

17 A I can't say for certain.

18 Q And on February 4, 2017, were the
19 security robotically just scanning the ID and not
20 looking at the ID and the customers or were they
21 also examining the ID and looking at the
22 customers?

1 A I can't say for certain on that date
2 if they were.

3 MR. SUNG: One moment, please. That's
4 all the questions I have. Thank you.

5 CHAIRPERSON ANDERSON: Any questions
6 by any Board Members? Mr. Alberti?

7 MEMBER ALBERTI: Yes.

8 CHAIRPERSON ANDERSON: Okay.

9 MEMBER ALBERTI: Lieutenant Carter,
10 you said you made several arrests on the night of
11 February 4 for fake IDs?

12 THE WITNESS: Yes.

13 MEMBER ALBERTI: Do you remember how
14 you were able to tell that they were fake IDs, in
15 general?

16 THE WITNESS: That night the, I
17 believe it was, establishment that determined
18 while we were standing there. They handed us the
19 identifications and then we would pull the person
20 over to verify that it is fraudulent.

21 MEMBER ALBERTI: Okay. Do you
22 remember how they were able to -- could you tell

1 how they were able to tell that it was a fake ID?

2 THE WITNESS: No. I don't remember
3 that.

4 MEMBER ALBERTI: Thank you. I have no
5 further questions.

6 THE WITNESS: No problem.

7 CHAIRPERSON ANDERSON: Any other
8 questions by any of the Board Members? A quick
9 question. Tell me a little bit about this, the
10 Cops in Shops program. Now, how is it -- how
11 does the establishment know that you are there?
12 Tell me how that works.

13 THE WITNESS: Well, we come in and
14 present ourself to the establishment, identify
15 yourselves and let them know of our intentions
16 and it's up to the establishment if they wish to
17 allow us to do that.

18 CHAIRPERSON ANDERSON: So in this
19 particular case, did they allow you in on this
20 February, the date of this infraction, did they
21 allow you to do this?

22 THE WITNESS: Yes, they did.

1 CHAIRPERSON ANDERSON: All right. All
2 right. All right. Mr. Sung, do you have any
3 questions of the witness based on the questions
4 that were asked by the Board?

5 MR. SUNG: No, sir. Thank you very
6 much.

7 CHAIRPERSON ANDERSON: Mr. Adams, any
8 questions based on those questions?

9 MR. ADAMS: I apologize, Mr. Chairman.
10 I have no further questions.

11 CHAIRPERSON ANDERSON: All right. Mr.
12 Carter, thank you for your testimony. You can
13 step down.

14 THE WITNESS: Thank you.

15 CHAIRPERSON ANDERSON: All right.
16 Thank you.

17 (Whereupon, the witness was excused.)

18 CHAIRPERSON ANDERSON: Does the
19 Government have another witness?

20 MR. ADAMS: Yes, I do. The next
21 witness is Kevin Puente.

22 CHAIRPERSON ANDERSON: Okay.

1 MR. ADAMS: And I will -- oh, I guess
2 Investigator Townsend has gone to get him.

3 CHAIRPERSON ANDERSON: To get him,
4 right.

5 MR. ADAMS: I'm sorry.

6 CHAIRPERSON ANDERSON: I assume that's
7 where --

8 MR. ADAMS: -- the Board's indulgence.

9 CHAIRPERSON ANDERSON: I assume that's
10 where he went.

11 MR. ADAMS: Okay.

12 Whereupon,

13 INVESTIGATOR KEVIN PUENTE
14 was called as a witness by Counsel for the
15 Government, and having been first duly sworn,
16 assumed the witness stand and was examined and
17 testified as follows:

18 INVESTIGATOR PUENTE: Yes, sir.

19 CHAIRPERSON ANDERSON: Okay. Have a
20 seat. Your witness.

21 MR. ADAMS: All right. Thank you very
22 much, Mr. Chairman.

1 DIRECT EXAMINATION

2 BY MR. ADAMS:

3 Q How are you doing, sir? Could you,
4 please, state your name and spell it for the
5 record?

6 A Kevin Puente. K-E-V-I-N P-U-E-N-T-E.

7 Q And, Mr. Puente, could you -- you are
8 employed by the District of Columbia Government.
9 Is that correct?

10 A Yes.

11 Q And you work for the, specifically you
12 work for the, District of Columbia's Alcoholic
13 Beverage Regulation Administration?

14 A Yes.

15 Q And what's your position?

16 A Investigator.

17 Q And how long have you been an
18 Investigator for ABRA?

19 A About two years.

20 Q And Alcoholic Beverage Regulation
21 Administration is also known as ABRA. Is that
22 correct?

1 A Yes.

2 Q Okay. So two years? Is that -- you
3 have been working here for two years?

4 A Yes.

5 Q All right. In the course of you
6 working for ABRA in the two years, can you give a
7 brief description of your job and your
8 responsibilities?

9 A Yes. Investigators conduct
10 inspections and investigations at licensed ABC
11 establishments in the District of Columbia.

12 Q Okay. And as part of your job, is it
13 part of your job to ensure that establishments
14 are in compliance with the rules and regulations
15 set down by the District as applies to alcoholic
16 beverages and their distribution?

17 A Yes.

18 Q All right. And to what extent, if
19 any, are the rules regarding, to your knowledge,
20 the consumption and sales to those under 21 years
21 of age?

22 A There are several regulations.

1 Mainly, 25-783 and 25-784.

2 Q All right. And how does -- and does
3 ABRA do anything to monitor ABC establishments
4 for compliance with underage drinking?

5 A Yes, we conduct sale to minor
6 operations where we will send minors into
7 establishments that are underage that are
8 contracted with the Agency to see if they can
9 obtain alcohol from the establishment. And we
10 can -- ABRA Investigators conduct ID checks as
11 well.

12 Q And when you say ID checks, what do
13 you mean by that?

14 A So we identify patrons inside the
15 establishment and ask to see their identification
16 to determine if they are 21 by their ID.

17 Q Okay. And how do you determine to --
18 or how do you identify patrons to approach to ask
19 about their identification?

20 A If I suspect someone that appears to
21 be young in age, I'll ask the ABC Manager or
22 someone from the establishment to go up to that

1 person and identify, to get their identification.
2 And I'll look at the ID. ABRA Investigators have
3 an ID Checker that has a magnifying glass on it
4 as well as a blue light and a flashlight on it.
5 I'll look at that and then I'll ask the patron
6 questions regarding the ID.

7 Q Okay. And now can you describe why,
8 in general, what's the purpose of ABRA going
9 through efforts to enforce rules regarding
10 underage drinking?

11 A To make sure that minor's are inside
12 consuming alcohol, so it's a safety issue. We
13 don't want minors being inside establishment
14 getting intoxicated.

15 Q Are you familiar with a program called
16 the Double Check Program 101?

17 A Yes. DC Double Check.

18 Q DC Double Check. What is DC Double
19 Check?

20 A So it's a program that ABRA has with
21 all the colleges in the District. I believe six
22 colleges. We go to those colleges. We conduct

1 seminars with the students on campus. We bring
2 stuff with us. We have the intoxication clock
3 where we walk you through a night of drinking.
4 We have goggles that demonstrate different varies
5 of intoxication from 0.8 to a higher number.

6 We give out pamphlets. So we go over
7 the laws with the students and let them know what
8 the consequences are if they drink too much or if
9 they are caught using a fake ID inside of an
10 establishment.

11 Q In terms of the Double Check program,
12 do you have -- can you describe what extent the
13 relationship with university administrations and
14 security staff is?

15 A Yes, so our coordinator, he conducts--
16 he reaches out to the administrators at the
17 colleges, either someone from the Campus Police
18 Department or someone in the, I believe, housing
19 department, there is various departments, and
20 they will ask us to come out there, ask us to do
21 these events.

22 They also advise us to let -- notify

1 us, have us notify them if we catch any minors
2 inside of an establishment, so they can be --
3 face disciplinary action from the school.

4 Q Now, are you aware of a relationship
5 regarding Double Check program or any other type
6 of enforcement program for underage drinking for
7 -- with Georgetown University?

8 A Oh, yes. Georgetown participates in
9 the Double Check program.

10 Q In terms of the Double Check program,
11 to what -- can you describe to what extent are
12 there communications regarding establishments
13 that -- where students tend to go to?

14 A Yes. Usually we will get notified by
15 the colleges or by MPD if they get complaints
16 regarding kids being in alcohol -- mainly, a lot
17 of schools, the RAs, Residential Advisors, that
18 live on the campus dorms will reach out and
19 advise us that students are coming back from an
20 establishment intoxicated. We then will follow-
21 up and conduct an investigation.

22 Q And can you describe whether you have

1 had any, I guess, identification from staff or
2 security persons at Georgetown University
3 regarding --

4 A Yes. There are several establishments
5 that Georgetown University has reached out to us
6 about. Chinese Disco is one of them as well as
7 another establishment in the area.

8 Q And how do you know that Chinese Disco
9 is one of the establishments?

10 A Because the calls let us know that
11 kids have it. When I started about two years ago
12 is when I first went there because of that.

13 Q And so you went there two years ago
14 you said because of that, can you describe what
15 are circumstances for you going to Georgetown or
16 -- sorry, describe the circumstances of that
17 communication.

18 A I don't see the communication. So
19 either they will come from the supervisor or the
20 Double Check coordinator.

21 Q And so what happened two years ago?

22 A So I believe when I first started, we

1 had a complaint for Chinese Disco. Students were
2 coming back, so that's why we went out there.

3 Q And what happened once you went out
4 there?

5 A I believe we identified a minor or
6 two. I can't recall the specifics of that
7 though.

8 Q And where were they? Inside or
9 outside?

10 A I believe MPD we did with the Underage
11 Task Force, Detective Dave Carter, we went inside
12 and identified a patron.

13 Q Okay. And you are stating two years
14 ago you identified someone who was inside the
15 establishment?

16 A Yes.

17 Q All right. And what year was that?
18 Like 2016?

19 A 2015.

20 Q 2015. Now you state that you have --
21 that you are aware of Chinese Disco. Now, in
22 terms of Georgetown or any other place, does ABRA

1 receive complaints regarding underage drinking
2 for different establishments?

3 A Yes.

4 Q All right. And in Georgetown, there
5 is -- we have -- there has been complaints
6 regarding Chinese Disco?

7 A Yes.

8 Q And in terms of these complaints, how
9 many complaints are you aware of there being
10 against Chinese Disco?

11 A I don't know offhand. That doesn't
12 come to me firsthand, so I don't have an exact
13 number.

14 Q All right. Do you know how many times
15 you have responded to complaints for Chinese
16 Disco?

17 A Quite a bit. Usually for noise
18 complaints. I think we just had a recent one for
19 underage complaint about a month ago I went out
20 there.

21 Q Okay. And prior to 2017, were you
22 aware of any complaints for underage drinking at

1 Chinese Disco?

2 A Yes.

3 Q All right. And approximately how
4 many?

5 A I don't have -- I can't recall the
6 exact number.

7 Q Is it more than five or --

8 A I would say about five, because
9 usually MPD will notify us, too, that they
10 arrested kids at the door for presenting a fake
11 ID.

12 Q All right. All right. And were you
13 on duty on February 4, 2017?

14 A Yes.

15 Q And once you came on duty, what can
16 you -- once you were on duty, what
17 communications, if any, did you have regarding
18 assignments?

19 A So I reached out to Detective David
20 Carter to see if he was working that night with
21 MPD and he advised me he was. He was doing the
22 Cops in Shops program where they go to the

1 establishments and look for kids trying to
2 present fake IDs at the door.

3 Q And when, approximately, did you have
4 that conversation?

5 A I started my shift about 7:30 p.m., so
6 probably some time right after that I called,
7 made the phone call.

8 Q Okay. And so this conversation you
9 had with David Carter regarding the Cops in
10 Shops, what was said during this conversation?

11 A He asked if we were working, if we had
12 any complaints we received recent and if so,
13 where, so we could visit. Then he -- we advised
14 each other that we will visit Chinese Disco,
15 because they have been getting arrests there
16 prior, weeks prior at the door.

17 Q And you said we, was it just yourself
18 or was anyone with you?

19 A Myself. I was teamed up with
20 Investigator Mark Brashears and Nicole Langway
21 that night from ABRA.

22 Q And after you had this conversation --

1 MR. ADAMS: I apologize.

2 BY MR. ADAMS:

3 Q Actually, before I go there, now you
4 stated that you had to -- that you were asked to
5 go to Chinese Disco on that night, correct or
6 Detective Carter stated that he would be at
7 Chinese Disco?

8 A Yes.

9 Q Is there any reason that, in
10 particular, why he would have identified Chinese
11 Disco?

12 A Because the weeks prior he -- his
13 teammates had an arrest at the door with
14 fraudulent IDs.

15 Q Does Chinese Disco, to your knowledge,
16 have a reputation in terms of underage drinking?

17 A Yes.

18 Q And what's that reputation?

19 A That a lot of the kids in Georgetown,
20 because the establishment is within blocks from
21 Georgetown University, so it's one of the
22 establishments that the kids can go to right

1 away. And usually from my experience being there
2 a lot of times, they are just taking IDs,
3 checking it and giving it back to the patrons in
4 line and letting people in.

5 Q Okay. And in terms of monitoring, can
6 you describe how often Chinese Disco is monitored
7 for underage drinking?

8 A Quite a bit.

9 Q And what do you mean by quite a bit?

10 A Probably -- I'm there probably every
11 other week when I'm working. I have to go there
12 and monitor it for underage drinking.

13 Q So February 4, 2017, did you ever
14 arrive at Chinese Disco?

15 A Yes.

16 Q Okay. And when did you --
17 approximately, when did you arrive?

18 A About 11:30 p.m.

19 Q And once you arrived, what did you
20 observe?

21 A I arrived at the same time Detective
22 Carter arrived. We observed a large wave of kids

1 walking down Prospect Street and a lot of them
2 going right to Chinese Disco and get in line.

3 Q Okay. And once you observed them
4 getting in line, what occurred, at that point?

5 A Myself and Detective Carter went to
6 the front of the line and observed the patrons
7 give their IDs to the security guard at the door.

8 Q All right. And when they gave the
9 identification to the security guards at the
10 door, what did you observe, at that point?

11 A They usually give the -- to the
12 security at the door. He runs it through a
13 scanner they had and gave it back to them.
14 Detective Carter identified three females he had
15 believed to be underage and possessing a fake ID
16 and asked them to step aside.

17 Q And where were you when he made that
18 determination?

19 A Right next to him.

20 Q And so what happened when Detective
21 Carter made the three --

22 A So he asked the three females to come,

1 walk with him towards his vehicle on Prospect
2 Street and he advised them who he was and asked
3 them if they had any real ID and they handed it
4 over.

5 Q And but in terms of when they were at
6 the door, how did he identify them as having fake
7 identification?

8 A He just expected them to be young in
9 age and then he saw the IDs when they gave it to
10 the security guard and he asked to see them.

11 Q Okay. And what did he do to review
12 those?

13 A He looked at them, glanced at them,
14 then he took his MPD badge out and advised who he
15 was and told the girls to follow him up front.

16 Q And did you happen to observe these
17 identification cards as well?

18 A Yes.

19 Q And what did you observe in terms of--

20 A I observed, I believe, one of them was
21 a Connecticut or Pennsylvania ID, so I -- you
22 could tell right away it didn't look right at

1 all.

2 Q And how so?

3 A Because the Connecticut is more of a
4 common fraudulent ID that is used by a lot of
5 underage kids. And you can just tell by the
6 coloring is off in the photos, it's either the
7 lamination is not right, it's coming off, so
8 that's how you can tell.

9 Q All right. All right. So after
10 Detective Carter -- you said there were a bunch
11 of people in line. I mean, approximately, how
12 many people were in line at the establishment?

13 A I would say probably about 25 to 50
14 people.

15 Q All right. And so once he had made
16 the arrest, what happened?

17 A So we were near the -- standing at
18 Prospect Street and we observed a second wave of
19 people walking down Prospect Street towards
20 Chinese Disco. And at that time, myself,
21 Detective Carter, his partner and the ABRA
22 Investigators all had our badges out and a lot of

1 the kids saw us and made a statement that they
2 were going somewhere else, to another neighboring
3 establishment, but some continued to walk into
4 Chinese Disco as well.

5 Q So for at least some of the patrons,
6 they seen that once your badge is out that they
7 changed their behavior?

8 A Yes.

9 Q Okay. And where were you in relation
10 to the establishment when the arrest occurred?

11 A We were in front of the establishment
12 right on Prospect Street. So right directly in
13 front of the establishment.

14 Q All right. And how did you know that
15 the persons changed their --

16 A I heard some of the kids make
17 statements that oh, there is the police. There
18 is the police and they walked away.

19 Q Okay. Now, after you saw the second
20 wave of patrons, I guess some of them go up to
21 other establishments, some of the kids go to
22 Chinese Disco, what happened at that point?

1 A Detective Carter detained and
2 interviewed the three females who all advised
3 they were 19 years-old and attended Georgetown
4 University. Then I made the determination to go
5 inside and conduct ID checks.

6 Q Okay. And in terms of you going
7 inside, is that you along with Investigator
8 Brashears and Langway?

9 A Yes.

10 Q All right. So once you made the
11 determination to go inside, what did you do?

12 A Oh, we went inside. I identified
13 myself to a security guard and asked to speak to
14 the ABC Manager on duty.

15 Q All right. Very well. And once you
16 got to the door, what did you ask for?

17 A For the ABC Manager. The ABC Manager
18 was a female bartender that night. I believe her
19 name was Devin. Then a general manager, Greg
20 Bartholomew came out as well and I advised him
21 that ID checks will be conducted.

22 Q All right. And before you spoke with

1 the ABC Manager, did you have any communications
2 with the security staff regarding any other
3 details?

4 A Yes. At the door, I asked the
5 security guard to see the clickers of patrons
6 that were inside.

7 Q All right. And did you -- when did
8 you -- what did they do in reaction to your
9 request?

10 A The security guard at the door showed
11 me his clicker and it came back he had a number
12 of 205 on it.

13 Q All right. So the number said 205?

14 A Yes.

15 Q And what -- did you say anything in
16 response to that number, 205?

17 A No. I asked Investigator Langway to
18 take a photograph of it and then we went inside
19 to speak to the ABC Manager.

20 Q All right. And once you went inside,
21 what did you observe in terms of, I guess, the
22 crowd within the establishment?

1 A I observed a large crowd by the bar
2 area. It was hard to walk through that crowd, so
3 I had to walk on -- to both ends of the bar to
4 walk around them.

5 Q All right. Is that before you were
6 able to meet with the ABC Manager?

7 A I can't recall if I -- we met with him
8 first or if I just walked around for a second. I
9 can't recall.

10 Q Now, based upon once you were able to
11 -- and you said they were located in the bar
12 area. Is that correct?

13 A Yes.

14 Q And -- all right. So in terms of
15 describing the age of the cliental, can you
16 describe the age of the cliental?

17 A Some of the patrons appeared to be
18 young in age to me, so that's why --

19 Q What do you mean by young in age?

20 A They just looked young. A lot of
21 people had like baby faces. And some of the
22 people how they were dressed, I could just tell

1 they weren't the type that went out.

2 Q When you say they are young ages, that
3 they seemed like they are under a certain age?

4 A Under 21.

5 Q Under 21. Okay. All right. So once
6 you were able to observe the crowd, based on your
7 experience, approximately how many people were --
8 did you feel -- see inside the establishment?

9 A I believe the number that was on the
10 clicker reflected the number inside the
11 establishment.

12 Q So that was consistent?

13 A Yes.

14 Q All right. So you stated that at some
15 point you did speak with the AB -- you were met
16 by the female ABC Manager. Do you happen to
17 remember who that was?

18 A Devin was her first name.

19 Q And before we go too far, do you
20 happen to know how many patrons were allowed to
21 be within the establishment?

22 A I knew from previous experience, that

1 the establishment's occupancy was 99 based on the
2 ABC License as well as their settlement
3 agreement.

4 Q And what do you mean by previous
5 occasions?

6 A I visited the establishment previously
7 in the past and several weeks prior. I received
8 a violation for being -- violating the settlement
9 agreement.

10 Q All right. So once you spoke with the
11 general manager, Mr. Bartholomew and Ms. Devin,
12 what did you do?

13 A I advised them ID checks will be
14 conducted and asked them to assist.

15 Q And what happened then?

16 A I believe Greg Bartholomew assisted
17 along with security and Devin went back to the
18 bartender role behind the bar. We observed,
19 myself, Investigator Brashears and Langway
20 observed, two females at the corner.
21 Investigator -- we had our badges out and we saw
22 them looking at us very nervously, so I asked Mr.

1 Bartholomew to ask them for their IDs.

2 Q All right. And so once you asked them
3 or once you told Mr. Bartholomew to ask them for
4 their IDs, what happened?

5 A He got the IDs from them. I looked at
6 them. I asked the one female how old she was. I
7 can't remember what she said. Then I asked her
8 again if she had another ID on her, specifically
9 her Georgetown Student ID.

10 Q And what did she say?

11 A She did and she handed me her
12 Georgetown Student ID.

13 Q What did you observe about the ID?

14 A That the name matched the name on the
15 ID. Then I observed the date on the bottom of
16 the Georgetown ID.

17 Q And what is significant about that
18 date?

19 A We were told by Georgetown University
20 officials that the date on the bottom of the
21 Georgetown ID reflects the graduation year. So
22 her year, I believe, was 2021 or 2022 or

1 something like that in that range. So I knew
2 that made her a freshman or a sophomore.

3 Q And why would that be significant?

4 A Because usually most freshman or
5 sophomores are 18 or 17 years-old.

6 Q All right. And once you made the
7 observation regarding her identification card,
8 what did you do from that point?

9 A I advised her that I'll be taking a
10 photograph of it and sending it to Georgetown
11 University. So I asked her to be honest and up
12 front right now if she was underage and she said
13 she was underage.

14 Q And what was her age?

15 A 19 years-old, I believe.

16 Q Now, talking -- now, in terms of the
17 identification card that she provided, what kind
18 of identification card did she provide?

19 A It was a Rhode Island ID, driver
20 license.

21 Q Is there anything significant about
22 Rhode Island IDs?

1 A I know it was a darker color on the
2 front of the ID. Then when I looked on the back
3 of the ID on the barcode area, I could tell it
4 was fake right then.

5 Q And why were you able to make that
6 determination?

7 A From my training. We have been told
8 that the back of the IDs by the barcode are is
9 usually a 90 degree angles at all times and that
10 the barcode area was all over the place, squiggly
11 lines when I looked through in the magnifying
12 glass.

13 Q All right. And were there any other
14 portions of the ID that were significant, in your
15 review?

16 A Just it was a darker color, much
17 darker color around the photo area as well.

18 Q Is it typical for an ID like this to
19 have holograms?

20 A Yes.

21 Q And how about this, the ID that you
22 looked at?

1 A I believe it did. However, it wasn't
2 matching from what I knew.

3 Q Okay. And so what did this patron,
4 what did this female patron tell you about this
5 identification card?

6 A She told me that it was fake and, at
7 that time, Greg Bartholomew escorted her out of
8 the establishment.

9 Q All right. And before she left the
10 establishment, can you describe whether there was
11 any conversation about how this ID card was used
12 on that night?

13 A There wasn't that I recall.

14 Q All right. Okay. Did you have -- was
15 there any discussion about how she was able to
16 get inside the establishment?

17 A Oh, yes, she advised me that that's
18 the ID she used to gain entry.

19 Q And before she left, between her and
20 her friend, what exactly were they doing?

21 A They were standing in the corner kind
22 of away from the crowd. And I believe they had

1 cups in their hand, clear plastic cups in their
2 hand and just consuming the beverage from that.

3 Q All right. Did you have -- and was
4 there any conversation regarding the cups that
5 they had in their hand?

6 A Oh, yes, I asked her what she was
7 consuming out of that cup and she advised me it
8 was a vodka sprite, I believe.

9 Q All right. All right. And so after--
10 and was there any other conversation with this
11 female patron?

12 A No.

13 Q All right. So after this patron was
14 escorted out of the establishment, what else
15 occurred while you were within the establishment?

16 A At that same time, a security guard
17 advised me that he got a complaint of an
18 intoxicated male who was touching females
19 inappropriately and he went to go look for him.
20 I followed him and we came across the individual.

21 Q All right. And so once you ran into
22 this second person, what did you observe?

1 A We went outside by the front door and
2 we started talking. I asked if he had any ID on
3 him and he took his wallet out and when he opened
4 his wallet, I observed two IDs right away, and he
5 gave me his New Jersey driver's license, which
6 reflected he was 19 years-old. And I asked him
7 at the time how did he get in and he told me with
8 his real ID. I advised him I don't believe that.
9 I believe he had another ID on him. Then he,
10 after going back and forth for a few minutes,
11 finally advised me that he had a fake ID on him.

12 Q Now, a couple of things. Now, first
13 of all, let's establish you used the pronoun he,
14 so I'm assuming this is a male?

15 A Oh, yes, male.

16 Q All right. And so when you stated
17 that he was inebriated, can you -- how do you
18 know he was inebriated?

19 A He wasn't standing. He kept leaning,
20 kept trying to -- he was about to fall over at
21 times.

22 Q All right. And in terms of -- and how

1 would you describe him? From looking, how would
2 you describe your impression of his age?

3 A He just looked young in age. He
4 looked young in age to me.

5 Q All right. And so now you had this
6 conversation about him using his real ID. What
7 conversation happened after that?

8 A I advised him again, I advised him who
9 I was, who I worked for and I advised him that
10 MPD officers were right around the corner,
11 because I knew Dave was still nearby. And Dave
12 actually -- Detective Carter actually walked over
13 to us and Detective Carter advised him that he
14 could be arrested.

15 Q All right. So Dave who is actually
16 Detective Carter?

17 A Um-hum.

18 Q He said he could be arrested. So what
19 happened after Detective Carter --

20 A He finally produced his fake ID, which
21 was a New Hampshire driver license.

22 Q And what was -- what did this New

1 Hampshire driver license indicate?

2 A It was fraudulent. The color was off
3 and then when I looked on the back of it, the
4 same thing, the barcode area was not right as
5 well.

6 Q In terms of the -- what was on the
7 card, did it reflect the same person who
8 presented you the ID card?

9 A Yes, the same photograph of him that
10 was him in person.

11 Q All right. And in terms of whether it
12 is easy or difficult to identify this as a
13 fraudulent ID card, how would you conclude?

14 A It was fairly easy.

15 Q All right. And what conversations did
16 you have about -- with this patron about his
17 activities within the establishment?

18 A I asked if he was consuming alcohol
19 inside. He advised me he was. He had a mixed
20 drink, I believe.

21 Q All right. And what happened from
22 that standpoint?

1 A I advised him that he would need to go
2 home. Detective Carter advised him that
3 possession of a fake ID in the District is an
4 arrestable offense.

5 Q And what else did you do at the
6 establishment on that day?

7 A Investigator Langway conducted a Sale
8 to Minor Notification form where she advised the
9 establishment of the two minors that were caught
10 inside.

11 Q And what discussion, if any, did you
12 have with the establishment's staff regarding --

13 A Well, a security guard came up to me
14 and asked me how I knew those were fake and what
15 -- how can he tell if they are fake? I advised
16 him of some of the stuff that I use to look to
17 determine these are fake. And I advised him that
18 they ought to just take their time and look at
19 the ID and look at the individual in line and not
20 just rush trying to get the crowd inside.

21 Q And what's your observations regarding
22 the establishment's review of identification

1 cards on that day?

2 A What we saw, they were just scanning
3 IDs and giving it back to the people in line and
4 not taking the time to look at the person who is
5 on the ID as well as looking -- taking the time
6 to look at the ID actually as well.

7 Q Was there any particular reason why
8 they may have been rushing or anything of that
9 sort?

10 A From talking with the security guards,
11 they believe the ID scanner can catch fake IDs.
12 But from my understanding, the ID scanner gives a
13 false positive most of the time. It just reads
14 the information that is on the ID, the name and
15 the date of birth. And that will tell you if
16 it's that person.

17 Q Was there any other reasons why they
18 may have been rushing that -- on that night?

19 A Just to get the crowd inside most
20 likely.

21 Q And is that the extent of your
22 investigation on that evening?

1 A Yes. I advised Mr. Bartholomew of the
2 two minors inside as well as them violating their
3 settlement agreement for the occupancy.

4 Q All right. Now, after you concluded
5 your investigation, what did you do?

6 A Continued my shift and eventually went
7 back to the ABRA Offices to write a case report.

8 Q Okay. And did you -- was there a case
9 report for this case?

10 A Yes.

11 MR. ADAMS: I would like to provide to
12 -- well, I'm not sure if you already have it,
13 approach the witness with what is identified --
14 I'll go ahead and identify it as the District's
15 Exhibit No. 1, which is a case report. And I
16 will -- if I can, I would like to approach the
17 witness? And this is evidence.

18 (Whereupon, the above-
19 referred to document was
20 marked as Government Exhibit
21 No. 1 for identification.)

22 CHAIRPERSON ANDERSON: Do you have a

1 copy, Mr. Sung?

2 MR. SUNG: Yes, sir.

3 CHAIRPERSON ANDERSON: All right. All
4 right.

5 BY MR. ADAMS:

6 Q Also, Mr. Puente, I have given you a
7 copy of a document. Do you recognize that
8 document?

9 A Yes.

10 Q And what is that document?

11 A My case report.

12 Q And how do you recognize it to be your
13 case report?

14 A It has my name on it and I recognize
15 that I typed it up.

16 Q All right. And I screwed up. Sorry.
17 In going through the case report -- actually, by
18 the way on page 3, I'm going to come over toward
19 you. On page 3, I believe above the paragraph
20 that starts "February 6, 2017," did you write
21 that paragraph?

22 A Yes.

1 Q I notice that on there it states
2 Georgetown Piano Bar.

3 A Yes.

4 Q Is -- was that intentional or --

5 A That was a mistake by me that I didn't
6 catch.

7 Q So is it fair to say that was a
8 typographical error?

9 A Yes.

10 Q All right. And after the -- is there
11 a signature on the -- on Exhibit 1 or on your
12 case report?

13 A Yes, page 5.

14 Q And whose signature is it?

15 A Mine.

16 Q Okay. And did you also have exhibits
17 attached?

18 A Yes.

19 Q All right. And very briefly, and I
20 apologize I'm coming over towards you. What's
21 Exhibit 1?

22 A It's the MPD 251 report generated by

1 Detective Carter.

2 Q And how is that significant to this
3 case?

4 A It's the three individuals that he
5 arrested for possess -- misrepresenting their age
6 with a fake ID.

7 Q And turning to -- I'm sorry, Exhibit
8 2?

9 A That's a photograph of the clicker.

10 Q And the photograph of the clicker,
11 what do you mean by that?

12 A That's the clicker that they had at
13 the front door keeping track of the amount of
14 patrons coming inside.

15 Q Who took that photograph?

16 A Investigator Langway.

17 Q Now, turning to Exhibit 3 of this
18 exhibit, what is this?

19 A A photograph of the crowd inside the
20 establishment.

21 Q And what's the significance of that?

22 A Just trying to show the amount of

1 people inside.

2 Q Then the next page is Exhibit 4 and 5.
3 What are those?

4 A Those are the two fake IDs that I
5 confiscated from the two minors inside the
6 establishment.

7 Q And then Exhibit 4 is that for the
8 female patron?

9 A Yes.

10 Q And Exhibit 5, who is that for?

11 A The male patron.

12 Q All right. And Exhibit No. 6, what's
13 that?

14 A That's the Sale to Minor Notification
15 form.

16 Q I notice there is a couple other
17 photographs of the inside of the establishment.
18 Why don't we skip to Exhibit 11, what is that?

19 A This is a regulatory inspection
20 created by Investigator Langway.

21 Q And was that done that night?

22 A No.

1 Q Okay. And lastly or not lastly,
2 Exhibit, is that, 12?

3 A Yes.

4 Q And what is that?

5 A That is the security plan.

6 Q And Exhibit 13, what is that?

7 A That's the settlement agreement.

8 Q And turn to the settlement agreement.
9 How is the settlement agreement relevant to this
10 case?

11 A Because the establishment has a
12 settlement agreement with the community or ANC
13 that states that their occupancy can't be no more
14 than 99.

15 Q And is that within that document?

16 A Yes.

17 Q Now, with the exception of the
18 typographical error, which Georgetown Piano Bar
19 is named on the third page, is this a true and
20 accurate representation of the case report as you
21 completed it?

22 A Yes.

1 Q All right.

2 MR. ADAMS: Mr. Chairman, I guess
3 those have to be admitted into the record, but I
4 would like pursuant to the Rules of ABRA, I would
5 like this admitted as the record for, I guess,
6 the ABRA Record and it's also the Board's record,
7 which is the case report in this case.

8 CHAIRPERSON ANDERSON: Mr. Sung?

9 MR. SUNG: No objection.

10 CHAIRPERSON ANDERSON: The only
11 concern that I do have 7, 8, 9, 10 were not --
12 you skipped over them, so --

13 MR. ADAMS: Sure. Okay. So I can go
14 over that.

15 BY MR. ADAMS:

16 Q Those Exhibits 6, 7, 8, 9 and 10, what
17 are those?

18 CHAIRPERSON ANDERSON: No, it's 7 --
19 yeah, 7. You talked about 6, but you skipped
20 over 7, 8, 9 and 10. So should I -- if he
21 doesn't have an objection, they will be there,
22 but since they were never identified for the

1 record.

2 BY MR. ADAMS:

3 Q Can you identify those exhibits?

4 A Oh, these are photographs of the
5 kitchen area of the establishment.

6 Q All right. And are they a true and
7 accurate representations of the photographs of
8 the kitchen area?

9 A Yes.

10 Q Okay. All right.

11 CHAIRPERSON ANDERSON: All right. So
12 moved.

13 (Whereupon, the above-
14 referred to document was
15 received into evidence as
16 Government Exhibit No. 1.)

17 MR. ADAMS: All right.

18 BY MR. ADAMS:

19 Q And, Mr. Puente, before I left you off
20 the stand, all right, how were you trained to
21 identify -- oh, I apologize. Well, two things.

22 How were you trained to identify, to

1 look at identifications and validate them?

2 A I was trained by my supervisor two
3 years ago when I first started as well as another
4 Investigator.

5 Q And can you describe what are the
6 obligations of any given establishment in terms
7 of checking identification?

8 A They have to take reasonable steps to
9 ascertain the age of the individual, so they have
10 to check IDs.

11 Q Now, in terms of reasonable steps,
12 what do you mean by -- what would be reasonable
13 steps?

14 A Asking a minor questions about the ID.
15 Asking him -- taking the time to look at the IDs
16 to see or determine if it's fraudulent, not just
17 scan the ID and let them in.

18 Q And when you say look at them, how
19 specifically would you look?

20 A I would look at them to see -- make
21 sure the picture matches the person in front of
22 you. Make sure the date of birth is supposed to

1 be the right year, ask them questions about the
2 state they gave them about the ID where they are
3 from, the street address, the number.

4 Q Now, when you were looking at this ID,
5 I think you said you used a light or something of
6 that nature?

7 A ABRA Investigators have an ID Checker,
8 we call it.

9 Q Okay. And what kind of -- what's an
10 ID Checker?

11 A It's a small device that has a
12 magnifying glass in it as well as a blue light,
13 so we can check the holograms as well as a
14 flashlight, so we can check the ID as well, see
15 it.

16 Q And to what extent is it expected that
17 establishments would use an ID Checker?

18 A They are expected to take reasonable
19 steps, so that means getting a blue flashlight,
20 buying some kind of device to help ascertain if
21 it's a fraudulent ID or not.

22 Q Are you familiar with an ID Checking

1 Guide?

2 A Yes.

3 Q And what is that?

4 A It's an ID Checking Guide that we get
5 every year, the ABC gets every year that we take
6 out to establishments. It has tips about the IDs
7 that are issued, driver licenses, passports,
8 foreign IDs, what kind of holograms are supposed
9 to be on the back of the ID when you look at it
10 with a blue light.

11 Q All right. And how are establishments
12 expected to use those?

13 A Just take time to know the information
14 from that book, so they can look at an ID. If
15 they suspect an ID is fake, they can look in that
16 book to see if the hologram matches it or if the
17 other security features on the ID match up with
18 what is in the book.

19 Q Now, what -- prior to February 4,
20 2017, what conversations or any communications
21 are you aware of with this -- what, if any,
22 communication are you aware of with this

1 establishment regarding the checking of IDs?

2 A I believe I told Mr. Bartholomew
3 several times about getting a blue light and not
4 just using that scanner and relying on that
5 scanner.

6 Q All right. And do you happen to
7 remember how frequently or when those
8 conversations occurred?

9 A I believe back in 2015 when we first
10 got one of the underage minors and I believe
11 several times prior as well -- after that.

12 Q All right. Now, I'm looking at your
13 report. I apologize before I move on, now, you
14 stated that there are certain techniques that you
15 expect establishments -- reasonable techniques
16 that you expect establishments to take. Would
17 you consider it to be exceptional what you do in
18 terms of how you review the IDs and how you were
19 able to identify that the pictures are darker and
20 things of that sort? Was there some type of
21 exceptional skill that you used in order to make
22 this determination?

1 A No.

2 Q All right. All right. Within your
3 report, you -- one of your recommendations is
4 that this establishment violated code -- D.C.
5 Official Code § 25-783?

6 A Yes.

7 Q All right. What is that? What is 25-
8 783?

9 A Projection about identification
10 document required penalty.

11 Q All right. What does that state
12 regarding -- and I apologize. Does that go to
13 reasonable steps?

14 A Yes.

15 Q Okay. So what exactly in your -- to
16 your knowledge, what does that thing state
17 regarding -- does that provision state regarding
18 reasonable steps?

19 MR. SUNG: Objection. The witness is
20 a fact witness. He is not here to interpret the
21 law.

22 MR. ADAMS: In this case, it applies.

1 He made a charge on 25-783 pertaining to why that
2 was done. And so he did -- he does have -- has
3 factual expertise in this case.

4 MR. SUNG: He can testify to the
5 facts. I don't think he is competent to testify
6 about the statute.

7 CHAIRPERSON ANDERSON: Well, the --

8 MR. ADAMS: He can testify regarding
9 his impression of the statute.

10 CHAIRPERSON ANDERSON: So I'm going to
11 overrule the objection. I mean, the witness is
12 charged with giving establishments a violation of
13 the section, so I would assume he knows what is
14 it that he is looking for prior to giving the
15 establishment an infraction, so I'll overrule the
16 objection. Go ahead, answer the question, sir.

17 THE WITNESS: Can you repeat the
18 question?

19 BY MR. ADAMS:

20 Q What -- in terms of 25-783, what's
21 your impression of how that provision relates to
22 reasonable steps necessary?

1 A So taking reasonable steps to identify
2 that the ID is fraudulent or not, I believe the
3 staff didn't take reasonable steps that night
4 from what I observed in line. They were just
5 taking the ID from the patron, scanning it,
6 giving it back to them, scanning it, giving it
7 back to them.

8 Like I stated before, the scanner
9 gives a false positive. From what I have been
10 told, it just reads the information off the ID.
11 And if the establishment takes the reasonable
12 steps to stop and look at the ID, they can see if
13 the picture matches the patron. They can see if
14 the coloring is off, if the lamination is off,
15 just talking to the person for a couple seconds
16 to see if they are telling the truth about the
17 information on the ID instead of just scanning it
18 and giving it back to them right away.

19 Q All right.

20 MR. ADAMS: I have no further
21 questions for Investigator Puente.

22 CHAIRPERSON ANDERSON: Your witness.

1 CROSS-EXAMINATION

2 BY MR. SUNG:

3 Q Good afternoon, Investigator Puente.

4 A Good afternoon.

5 Q When did you start working at ABRA?

6 A July 2015.

7 Q Okay. So you said that on February 4,
8 2017 you had been to Chinese Disco many times
9 previously, correct?

10 A Yes, several times before.

11 Q Okay. And you stated that there had
12 been issues with underage customers inside
13 Chinese Disco prior to February 4, 2017, correct?

14 A Yes.

15 Q Okay. Have there been any violations,
16 allegations of violations issued against Chinese
17 Disco prior to February 4, 2017?18 A Yes, because I wrote several case
19 reports, I believe.20 Q I'm not aware of any. Do you know
21 which they are?

22 A Yes. If you look in the Investigative

1 Report in the case history on page 4 --

2 Q Yes.

3 A September 20, 2015, sale to minor,
4 Board-approved manager required. 11/18/15 the
5 Board requested a sale to minor warning letter be
6 sent and referred --

7 Q Okay. You weren't working on --

8 A I started at ABRA July 2015.

9 Q July 2015?

10 A Yeah, that was my case I wrote in
11 September 2015.

12 Q I see it. Okay. So all I see is
13 September 20, 2015, correct?

14 A Yes.

15 Q Is there one before or after that?

16 A Not before.

17 Q Okay. So just one, right?

18 A Yes.

19 Q September 20, 2015 to February 4,
20 2017, that's a year and a half.

21 A Um-hum.

22 Q Right. So during that time, during

1 the year and a half that you visited, there were
2 no other underage drinking issues at Chinese
3 Disco, correct?

4 A Yes.

5 Q To your knowledge?

6 A To my knowledge, yes.

7 Q Okay. Now, you had been to Chinese
8 Disco previously regarding capacity issues,
9 correct?

10 A Yes, I believe several weeks prior.

11 Q I believe that was January 2017,
12 correct?

13 A Yes.

14 Q Okay. And at that time, you
15 determined that the establishment was over its
16 capacity, correct?

17 A Yes.

18 Q Okay. And at that time, you
19 encountered two sets of clickers, correct?

20 A Yes.

21 Q One for -- one to count the people
22 coming inside and one to count the people going

1 outside, correct?

2 A Yes.

3 Q Yet on February 4, 2017, you did not
4 take note of the clicker for people going
5 outside, correct?

6 A Yes, because there was only one
7 clicker at the door and that was the one with the
8 205 number.

9 Q Okay. You don't mention that in your
10 report, did you?

11 A No, I did not.

12 Q Okay. You don't mention in your
13 report that you asked to see an exit clicker?

14 A I can't recall if I asked or not.

15 Q Okay. So you don't know sitting here
16 today whether you asked for an exit clicker,
17 correct?

18 A I can't recall.

19 Q Okay. You didn't actually count the
20 number of people inside, correct?

21 A No.

22 Q Now, regarding the female Georgetown

1 student that you observed was underage, you
2 didn't see her get served alcohol by the
3 employees, correct?

4 A No.

5 Q And she did not tell you that she was
6 served by an employee of Chinese Disco, correct?

7 A No.

8 Q So you don't know how she got a drink
9 in her hand, correct?

10 A I do not know.

11 Q Now, I direct your attention to
12 Exhibit 4. Is that the fake ID that the female
13 student presented to you?

14 A Yes.

15 Q Okay. And are you able to describe
16 from this photo how the ID is fake?

17 A I have a black and white photo, so I
18 recall that the color was off around the Rhode
19 Island area right there where it says driver
20 license.

21 Q Okay.

22 A That was a dark blue. Then I believe

1 in the color around her facial area was a little
2 off as well. Then when I turned the ID around, I
3 looked through the magnifying glass, the barcode
4 area was off as well.

5 Q Okay. Did you ever see her real Rhode
6 Island ID?

7 A No.

8 Q How would the Board know that this is
9 obviously a fake ID from looking at this photo?

10 A How the Board would know?

11 Q Yeah.

12 A I can't answer that.

13 Q Okay. Wouldn't it be instructive to
14 compare this to a real Rhode Island ID?

15 A Yes.

16 Q Okay. Similarly, I direct your
17 attention to Exhibit 5, which is the ID that the
18 underage male presented to you.

19 A Yes.

20 Q Did you see his real ID?

21 A Yes, he had a New Jersey driver
22 license.

1 Q But you didn't take a photograph of
2 that?

3 A I did and I sent it to Georgetown
4 University.

5 Q Okay. But you don't have --

6 A I don't include that in this report.

7 Q -- that? And how are you able to
8 tell, based on this photo, that it was an
9 obviously fake ID?

10 A It was a very dark blue color and as
11 well as when he opened up his ID, I saw the two
12 IDs right away when he opened up his wallet.

13 Q Oh, you saw two IDs?

14 A Yes.

15 Q Okay. Now, similarly, for this male
16 customer, you didn't ask him how he got the
17 alcohol that night, correct?

18 A No.

19 Q So you don't know if the employees
20 served him that night, correct?

21 A No.

22 Q Now, when you came to Chinese Disco,

1 you identified yourself to security as being an
2 ABRA Investigator, correct?

3 A Yes.

4 Q Okay. Before you did any observing,
5 you identified yourself as such, correct?

6 A I believe not, because the security
7 guard actually knew us from previous experiences.

8 Q So the security guard knew that you
9 were there?

10 A At the front door, yes.

11 Q And Detective Carter was also there?

12 A Yes.

13 Q Did you have a badge around your neck?

14 A Yes.

15 Q Okay. Isn't it true that security was
16 checking IDs and when they saw ones that were
17 suspicious, they handed them to Detective Carter
18 that evening?

19 A I can't recall to be honest.

20 Q Do you recall how many security were
21 working outside that evening?

22 A It was one or two, I believe.

1 Q During the course of the night, aside
2 from checking the clicker that you took a
3 photograph of, did you ask any of the employees
4 how many people were inside at that time?

5 A I believe I did not.

6 Q Okay.

7 MR. SUNG: That's all the questions I
8 have. Thank you.

9 CHAIRPERSON ANDERSON: Any questions
10 by any Board Members?

11 MEMBER ALBERTI: Yes, I do.

12 CHAIRPERSON ANDERSON: You do? Go
13 ahead, Mr. Alberti.

14 MEMBER ALBERTI: Investigator Puente,
15 thank you for your report.

16 How would you describe the size of the
17 crowd in terms of numbers?

18 THE WITNESS: I believe when we walked
19 in there was a large crowd by the bar area. So
20 we couldn't really walk through it, so I had to
21 walk around to the one end side, then walk down
22 another hallway area to the back side of the bar.

1 MEMBER ALBERTI: Do you have any
2 impression how large the crowd was?

3 THE WITNESS: I believe it reflected
4 the 205 number on the clicker.

5 MEMBER ALBERTI: How confident are
6 you?

7 THE WITNESS: Very confident.

8 MEMBER ALBERTI: Thank you. That's a
9 big difference from 99 to 205.

10 THE WITNESS: Yes.

11 MEMBER ALBERTI: Okay. So you -- is
12 that partly why you are confident?

13 THE WITNESS: Yes.

14 MEMBER ALBERTI: Okay. You said that
15 they violated the law requiring the kitchen to be
16 open until two hours -- sorry, strike that from
17 the record. Okay. That makes my job easier.

18 Have you ever done ID checks at this
19 establishment before --

20 THE WITNESS: Yes.

21 MEMBER ALBERTI: -- February 4th?

22 THE WITNESS: Yes.

1 MEMBER ALBERTI: All right. Have you
2 ever suspected that there were fake IDs during
3 those checks?

4 THE WITNESS: I didn't come across
5 one. Just that one previous time back in 2015.

6 MEMBER ALBERTI: Okay. Do you know
7 back in 2015 if you discussed the matter with the
8 management?

9 THE WITNESS: Yes.

10 MEMBER ALBERTI: Do you remember who
11 you were talk -- spoken to?

12 THE WITNESS: I believe it was Greg
13 Bartholomew back then, but I'm not -- can't be
14 for certain.

15 MEMBER ALBERTI: Okay. You spoke
16 about the barcode. You kept saying it was off.
17 Can you elaborate on what you mean by that?

18 THE WITNESS: Yes. So ABRA conducts
19 ID training. We invite -- the Agency invites a
20 professional down and gives the training to all
21 the establishments that come to and sign up for
22 it. I wasn't there for that training, because I

1 was out of town that -- during that week, but
2 Investigator Brashears advised me during the
3 training that he learned from the professional
4 that if you look at the barcode on the back of a
5 fake ID, when you look at it with a magnifying
6 glass, the lines are all squiggly. They are not
7 90 degree angles.

8 If you look at that barcode on a real
9 ID, it's all 90 degree angles on the barcode.

10 MEMBER ALBERTI: Do you have any
11 knowledge about whether that would make it
12 readable or unreadable through a scanner?

13 THE WITNESS: No. So I have been told
14 in the past by Detective Carter and other
15 professionals that those scanners give out the
16 false positive, because they just read the
17 information off that ID that they present.

18 MEMBER ALBERTI: What do you mean they
19 read the information? They read the written
20 information?

21 THE WITNESS: Yes, so it's scanning
22 the information on the ID that is presented into

1 the machine.

2 MEMBER ALBERTI: Okay. So again, I
3 mean, the barcode is information, so I want to be
4 very clear here.

5 THE WITNESS: Um-hum.

6 MEMBER ALBERTI: When you say they are
7 reading the numbers and letters?

8 THE WITNESS: No, just reading the
9 information. So the date of birth and the name
10 off it.

11 MEMBER ALBERTI: Okay. The numbers
12 and letters?

13 THE WITNESS: Um-hum.

14 MEMBER ALBERTI: And that's where they
15 are coming up with the information. Okay.

16 THE WITNESS: Yes.

17 MEMBER ALBERTI: Okay. So it's their
18 impression that they are not reading the barcode?

19 THE WITNESS: Yes.

20 MEMBER ALBERTI: All right. Do you
21 know -- have you ever been to the training that
22 we do for licensees?

1 THE WITNESS: I have not.

2 MEMBER ALBERTI: Okay. Thank you. I
3 have no further questions. Thank you.

4 CHAIRPERSON ANDERSON: Any other
5 questions by any other Board Members? All right.
6 Hearing none, Mr. Sung, any questions of the
7 witness based on the questions that were asked by
8 the Board?

9 MR. SUNG: No, sir.

10 CHAIRPERSON ANDERSON: Mr. Adams?

11 MR. ADAMS: I have a couple questions.

12 REDIRECT EXAMINATION

13 BY MR. ADAMS:

14 Q During cross-examination you were
15 asked about the male patron. And do you remember
16 speaking with -- on cross-examination regarding
17 the second patron, the male patron?

18 A Yes.

19 Q All right. Within the questions he
20 asked you about, I guess, conversations about
21 what was consumed.

22 A Yes.

1 Q Now, can you again tell the Board,
2 from the conversation, what did this patron tell
3 you in terms of what he consumed that night?

4 A He advised me he did some vodka.

5 Q All right.

6 A Some vodka beverages.

7 Q And was there discussion about where
8 he actually consumed those beverages?

9 A Inside.

10 Q He stated it was actually inside the
11 establishment?

12 A Um-hum.

13 Q But I guess the question that was
14 asked whether or not did he actually state that
15 he actually obtained it from the bar
16 establishment staff, is that what that question
17 was?

18 A No, he never told me who he obtained
19 it from.

20 Q Okay. So you don't know who he got it
21 from?

22 A Yes.

1 Q But you know it was inside?

2 A Yes.

3 Q All right.

4 MR. ADAMS: No further questions.

5 CHAIRPERSON ANDERSON: Thank you, Mr.

6 Puente, you can step down.

7 MR. ADAMS: Thank you.

8 (Whereupon, the witness was excused.)

9 CHAIRPERSON ANDERSON: Does the
10 Government have another witness?

11 MR. ADAMS: The Government does not
12 have another witness for its case in chief.
13 Thank you very much, Mr. Chairman. Does not have
14 another witness in its case in chief, so it rests
15 its chief case and it does reserve the right to--
16 its right to be able to call witnesses on
17 rebuttal.

18 CHAIRPERSON ANDERSON: All right. Mr.
19 Sung, do you wish to call a witness?

20 MR. SUNG: No. We do not have any
21 witnesses.

22 CHAIRPERSON ANDERSON: How does the --

1 how do you wish to proceed?

2 MR. SUNG: How do I proceed?

3 CHAIRPERSON ANDERSON: Yeah, are you--

4 MR. SUNG: I'm going to make a
5 closing.

6 CHAIRPERSON ANDERSON: You are going
7 to do closing?

8 MR. SUNG: Yes.

9 CHAIRPERSON ANDERSON: All right.
10 Fine. So all right. Does the Government wish to
11 make a closing statement?

12 MR. ADAMS: Absolutely, Mr. Chairman.
13 Thank you very much, Members of the Board, for
14 hearing this case, the evidence in this case. I
15 know that we went a wee long on this, but
16 however, this is an important issue in terms of
17 the underage drinking or patrons who are under 21
18 who are drinking within our establishments. This
19 is one of the more serious violations that is
20 constantly policed.

21 What we have seen here is that we have
22 four charges and the District has proved each of

1 the charges. We proved that -- we provided the
2 evidence that each of the charges occurred and
3 the violations have occurred at the
4 establishment.

5 In terms of the first charge, the
6 first charge is, essentially, did the licensee,
7 did Chinese Disco allow the consumption of -- the
8 sale, delivery or consumption of alcoholic
9 beverages by persons under the age of 21 at the
10 establishment? And the answer is resoundingly
11 yes.

12 Well, obviously, it's yes, because
13 there is no defense here. The facts are very
14 clear. Investigator Puente just got off the
15 stand and stated that he went in the
16 establishment. After he saw that there were
17 three people arrested on that occasion for having
18 -- trying to use fraudulent IDs to get within the
19 establishment, he -- in discussions that were had
20 regarding three 19 year-old female patrons trying
21 -- from Georgetown University, an educational
22 institution that was a few blocks away from

1 Chinese Disco, that they were trying to get in.

2 So he said well, that gives me reason
3 to go in and do compliance checks. So he goes in
4 with the assistance of the staff that was there,
5 he identifies some person who was there.

6 Now, before we even go -- get to that
7 point, we also note the fact that he is -- in
8 addition to the people he is finding at the door,
9 there is other patrons who are starting to come
10 to the establishment. As soon as they see police
11 or ABRA there, they are high-tailing, they are
12 moving in different directions, because of the
13 presence of law enforcement.

14 The Board should ask themselves well,
15 why is that? Why are people changing their
16 behaviors if law enforcement is there? If you
17 are legit, you don't -- and you are doing
18 everything that's legal, there is no problems.

19 So we go into the compliance check.
20 We see that we have a 19 year-old patron who has
21 a drink in her hand, who claims it's vodka and
22 sprite, that she has -- she is 19 years-old, that

1 she is 19 years-old. That's it. As soon as that
2 occurred, the Board -- the District has proven
3 Charge 1.

4 But then furthermore, we have a male
5 patron, same deal. He is inebriated. He bluntly
6 is assaulting patrons within the establishment.
7 And because of that, he is being removed for
8 molesting and harassing people within the
9 establishment. What was his -- how did he look?
10 He looked young. He looked under 21. He was
11 inebriated. He could barely stand up from the
12 testimony from Investigator Puente.

13 You get the information from him. He
14 is 19 years-old. Again, another Georgetown
15 student. I don't know why 19 year-olds are -- we
16 have got five 19 year-olds, maybe it's just a
17 thing, maybe it was 19 year-old night. Whatever.
18 I'm not going to go there.

19 But you have -- in both cases, they
20 have fake identification. In both cases,
21 Investigator Puente notices that he was able to
22 readily identify markers within the

1 identifications that would indicate that they
2 were fraudulent, that they were not state-issued
3 IDs and he did this fairly easily.

4 So we have already proven Charge 1.
5 You have a primary tier offense on a very serious
6 violation.

7 Charge 2 is 783. That is did the
8 licensee take reasonable -- the steps reasonably
9 necessary to ascertain whether the persons to him
10 were sold, served, deliver alcoholic beverage
11 were of legal drinking age.

12 The District again proves that by
13 several circumstances. This is where you have to
14 look at the totality of circumstances, Board.
15 You have an establishment -- and frankly, this is
16 the reason David Carter was here.

17 The reason that -- you look at
18 everything. You look at the fact that you have
19 an establishment that is near a university. You
20 look at an establishment that has had a history
21 of being involved in an ID Checking program or
22 the Cops in Shops program.

1 20 occasions and almost every occasion
2 you had an arrest. So at that point, the
3 establishment is on notice that patrons that come
4 there are using fake/fraudulent identification.
5 All right? So the record has already established
6 that they are having people who are doing this.

7 That in 2015, the establishment was
8 caught. They had the same problem of someone
9 being caught inside. They were given a written
10 warning by the ABC Board. That's an indication.
11 You have at least 20 other occasions where they
12 were given warnings.

13 They know that people are coming with
14 or at least trying to get in the establishment.
15 You are having a situation where people are being
16 -- the arrests are happening right there with the
17 establishment's presence.

18 At that point -- and frankly, you also
19 have the situation on the night in question where
20 patrons are within the view of everyone, are
21 changing their behaviors based upon the presence
22 of law enforcement. So what does that tell you?

1 That tells you that the -- this is a situation
2 where it's a restaurant that on one occasion had
3 a problem.

4 You are seeing consistent conduct,
5 consistent conduct, consistent desire within
6 persons. You are seeing consistent descriptions
7 in terms of the type of patrons that are there.
8 You are seeing consistent descriptions on the
9 ages of clientele that are there. You are seeing
10 a higher level, what should be a higher level of
11 scrutiny.

12 So when we look at reasonable, the
13 term reasonable really goes to the idea -- we can
14 look at it in a way subjectively, but they
15 definitely were on notice that you have to do
16 something more to look at it.

17 So you saw it, you heard the
18 Investigator's testimony that he was able to
19 identify problems in the identification of five
20 people, including those that were with -- that
21 were identified at the front door. That
22 nevertheless patrons were still able to get in.

1 That from Puente's testimony that
2 there were -- they seem to be relying on an ID
3 scanner that, you know, provides positive
4 indications. But really, they didn't check
5 anything. That essentially, for an establishment
6 that essentially under the radar that knows that
7 it has patrons that are coming there who are
8 younger, that they are just not doing the
9 scrutiny that is necessary to make sure that
10 patrons who are under 21 are not there. So they
11 lose on Charge 2.

12 Charge 3. And we have gone over this
13 recently with this Board, but again looking at
14 the facts, we could talk about whether or not
15 there is two clickers or not. It doesn't really
16 matter.

17 You have one indication, the
18 establishment, according to their license, can
19 only have a capacity of 99 persons. It's also in
20 their application as well. That there is a
21 clicker that says 205. That once the
22 Investigator goes inside he sees -- whether it is

1 205 or 150 or 185, he sees more than 99 persons.
2 And frankly, what he sees is a crowd that is
3 consistent, more consistent with 205 than not
4 205.

5 Again that -- and now that -- number
6 one, the Board can look at the law and state that
7 by exceeding your occupancy, that indeed it's a
8 substantial change in the operation or the format
9 of the establishment. So therefore, a
10 substantial change is sustained.

11 Now, in taking into fact that the --
12 as Investigator Puente testified, this also
13 happened on January 22, 2017. Now, we have a
14 pattern, then there is no doubt whether or not
15 there is substantial change.

16 And the settlement agreement goes
17 without saying, you made -- the establishment
18 made a commitment to the community to keep their
19 occupancy -- to have less than 99 patrons period
20 within the establishment. I don't have to go
21 into any crazy interpretations or definition of
22 what occupancy is. No more than 99 patrons.

1 There were more than 99 patrons. So the
2 establishment failed. They lose on all four
3 charges.

4 CHAIRPERSON ANDERSON: So what is it
5 that you are asking us to do?

6 MR. ADAMS: What I'm asking you, the
7 Board, to do is to do this: That this is a
8 serious violation. For Charge 1, the
9 establishment -- we recommend a \$3,000 fine and
10 that their license should be suspended for five
11 days, all days served.

12 For Charge 2, we recommend a \$2,000
13 fine, that there should be a suspension of five
14 days. The Board can make a determination of
15 whether or not it is served or not served. And
16 that all servers and the security staff should
17 complete an alcohol training program.

18 Charge 3, a \$2,000 fine. The license
19 shall be suspended for three days.

20 And Charge 4, a \$1,000 fine.

21 So in total, I can't count very well.
22 I'm not a comparing major or a math major, but

1 that would be a \$8,000 fine with at least a 12-
2 day suspension.

3 CHAIRPERSON ANDERSON: How do you get
4 -- you said the first charge is five days. You
5 want us to decide the second one.

6 On Charge 1 you said a five day
7 suspension. Charge 2 you said that a five day
8 suspension all served. Charge 2 you said five
9 day suspension, but you didn't state whether or
10 not they should be served or not.

11 MR. ADAMS: I give it -- I leave it to
12 the discretion of the Board to determine that.

13 CHAIRPERSON ANDERSON: And for Charge
14 3 you said a three day suspension.

15 The reason I'm asking is because you
16 said a 12-day suspension and that doesn't add up
17 to --

18 MR. ADAMS: Oh. 12-day suspension
19 period, but whether or not it's served, at least
20 five days should --

21 CHAIRPERSON ANDERSON: Well, that's 13
22 days, Mr. Adams.

1 MR. ADAMS: I can't count, Mr.
2 Chairman.

3 CHAIRPERSON ANDERSON: So that's why
4 I'm saying your numbers are not consistent. So
5 you are saying that's 13 days suspension and at
6 least eight of the days should be served?

7 MR. ADAMS: Yes, Mr. Chairman.

8 CHAIRPERSON ANDERSON: So --

9 MR. ADAMS: Or actually, I'll say at
10 least five should be served, yes.

11 CHAIRPERSON ANDERSON: -- oh, okay.
12 So for the capacity you said three days
13 suspension.

14 MR. ADAMS: Yes.

15 CHAIRPERSON ANDERSON: Okay. So at
16 least five should be served.

17 MR. ADAMS: At least five days should
18 be served.

19 CHAIRPERSON ANDERSON: Okay.

20 MEMBER ISAAC: Were there any days
21 recommended for the fourth charge?

22 CHAIRPERSON ANDERSON: \$1,000.

1 MEMBER ALBERTI: But no days.

2 MEMBER ISAAC: No days.

3 CHAIRPERSON ANDERSON: Yeah. But I'll
4 -- hold on, hold on. All right. Mr. Sung, how
5 do you -- what's your closing?

6 MR. SUNG: Thank you. I think it is
7 very important to note that the Government has
8 the burden of proof. We cannot proceed with
9 innuendos and very loose inferences.

10 When you say oh, there were people
11 walking away from the police, we go down a very
12 dangerous path. That should not be the basis of
13 a finding of a violation here. We have to look
14 at the statute which gives us instruction on
15 whether there is a violation.

16 The first charge, 25-781, two
17 subsections. The first subsection "You are guilty
18 of this violation if you sold," and we have no
19 testimony today the licensee or its employees
20 sold an alcoholic beverage to anyone underage.

21 Subsection (b) "permitted the
22 consumption," that's a little bit subjective.

1 Was there testimony that these underage customers
2 had alcohol? Yes. Is there testimony that the
3 establishment knowingly permitted the consumption
4 of this alcohol? No, none whatsoever. The
5 Government has failed to prove its case for
6 Charge 1.

7 Charge 2. Did the licensee fail to
8 take reasonable steps to ascertain the age of
9 someone to whom alcohol was served? The
10 assumption on this charge is that someone
11 underage was served alcohol. Again, we don't
12 have the facts to show that the licensee or its
13 employees served these customers drinks.

14 Well, how did they get drinks in their
15 hand you may ask? There is a lot of ways. I'm
16 sure the Board has heard of many instances of
17 people sharing drinks, of people sneaking in
18 alcohol. We don't know, but we cannot speculate.
19 The Government has the job of connecting the dots
20 for the Board. We cannot just magically conclude
21 that there was a violation that occurred.

22 Moreover, reasonable steps. Detective

1 Carter helps us in this regard. He testified
2 that whenever the security guards saw a
3 suspicious ID, they handed it to him and then he
4 determined whether he would go any further. That
5 tells us that the security guards on the evening
6 in question did not just robotically scan the
7 IDs. They checked the IDs. If they looked bad,
8 they gave it to Detective Carter.

9 What reasonable steps did the guards
10 not take? I don't know.

11 Now, there is much talk about a
12 history of underage drinking at this
13 establishment. I submit to you that the history
14 is actually very good.

15 Investigator Puente stated that he had
16 been to this venue many, many times since he
17 started working in the middle of 2015. And in
18 that time, this is the first violation to come
19 before this Board. Yes, there was an allegation
20 of a violation in September of 2015, but that was
21 a warning letter. There was no adjudication at
22 that time.

1 For an establishment that is
2 apparently overrun with underage kids trying to
3 clamor inside, that's a pretty good record, I
4 submit to you.

5 We have had this issue before the
6 Board previously about whether the violation of a
7 settlement agreement rises to a substantial
8 change. The statute is very clear in order to
9 violate that particular statute about taking a --
10 making a substantial change, there has to be
11 three things.

12 (1) A change to the interior, the
13 physical interior;

14 (2) A change to the physical exterior;
15 or,

16 (3) A change in the format that is
17 different from the way that the business was at
18 the time that the business applied for the liquor
19 license.

20 Again, Investigator Puente, the
21 witnesses did not talk about what changes
22 occurred from the time the application was made

1 to this date, February 4, 2017. There has been
2 no physical change to the establishment that
3 rises to the level of a substantial change.
4 There hasn't been a change in format. No changes
5 in the exterior. So again, that violation falls.

6 In fact, I would submit to you that
7 trying to overload this case with this violation
8 is an over-reach from the prosecution and if the
9 Board finds this violation, it's really in this
10 violation to the intent of the statute. The
11 statute was made to try to make sure that
12 licensees don't misrepresent what the nature of
13 their operations is and/or changes the nature of
14 their operation substantially after getting their
15 liquor license. That is not the case here.

16 At most, the case here is the
17 establishment exceeded its legal capacity.

18 Finally, the violation of the
19 settlement agreement. Investigator Puente has
20 admitted that the procedure of the establishment
21 is to have to clickers: One to count the people
22 coming in, one to count the people going out. In

1 order to determine how many people are inside,
2 you have to subtract the latter number --

3 MR. ADAMS: For the record, I'm going
4 to object --

5 MR. SUNG: -- from the first number.

6 MR. ADAMS: -- to that.

7 MR. SUNG: This is closing.

8 CHAIRPERSON ANDERSON: Hold on.

9 MR. ADAMS: Again, I --

10 MR. SUNG: You cannot object during
11 closing.

12 MR. ADAMS: Mr. Sung, I can object
13 during closing. It would be nice if you knew the
14 Rules of Evidence, so that you can state whether
15 or not you know that there is -- you have --

16 (Simultaneous speaking.)

17 MR. SUNG: I have got to object to
18 this objection.

19 MR. ADAMS: The rules of closing, Mr.
20 Sung, but it is indeed allowed. And since you
21 have and did misrepresent the testimony by Mr.
22 Puente, it is appropriate. It is misrepresented

1 regarding -- by stating that there is a policy by
2 the establishment by having two clickers. That's
3 my objection and we are stating it as a
4 misrepresentation, Mr. Chairman, and I would ask
5 you for you to rule.

6 So but for Mr. Sung's representation,
7 yes, trial attorneys can object during closing
8 arguments when the other side lies.

9 CHAIRPERSON ANDERSON: Go ahead, Mr.
10 Sung. You are presenting, but I do caution you
11 to go by the facts that was testified to. I know
12 that there were -- there was no testimony
13 specifically saying that -- about the two
14 clickers. I know there was some, but so just be
15 careful in the sense of the conclusion.

16 MR. SUNG: It's up to the Board to
17 determine whose interpretation of the facts is
18 accurate. We have the transcript. I'll leave it
19 up to the Board.

20 CHAIRPERSON ANDERSON: Okay. Go
21 ahead, sir.

22 MR. SUNG: My specific recollection of

1 Mr. Puente's testimony is that he had been to
2 Chinese Disco previously where he observed the
3 operation of two clickers to determine the
4 capacity. In this instance, he did not ask to
5 see the exit clicker. He doesn't remember.

6 I submit to the Board that the loose
7 estimate of observing a crowd and concluding that
8 there were 200 people inside an establishment
9 does not rise to the level of the burden of proof
10 required in this case.

11 There was no attempt made to count.
12 It's not that hard to count. It really isn't.
13 Once you go over 99, you are there, but no such
14 counting took place. I therefore submit that the
15 burden of proof has not been made on any of these
16 counts and I ask the Board to dismiss all the
17 charges. Thank you.

18 CHAIRPERSON ANDERSON: All right.
19 Thank you. The -- before I formally close the
20 record, I know there was no specific testimony,
21 but are there any documents that you wish to
22 include in the record?

1 MR. SUNG: No, sir.

2 CHAIRPERSON ANDERSON: No. All right.

3 Do the parties wish to -- the record is now
4 closed. Do the parties wish to file proposed
5 findings of fact and conclusions of law or waive
6 their right to do so?

7 MR. SUNG: I would like to file
8 conclusions -- findings of fact and conclusions
9 of law.

10 MR. ADAMS: The District is fine with
11 that.

12 CHAIRPERSON ANDERSON: All right. So
13 the findings of facts and conclusions of law,
14 they are due to the Board 30 days after receipt
15 of the transcript. And the transcript should
16 probably -- should -- will be emailed to the
17 parties within the next three weeks.

18 If you do change your mind about
19 making these findings, you are welcome to so
20 advise the Board.

21 As Chairperson of the Alcoholic
22 Beverage Control Board for the District of

1 Columbia and in accordance with Section 405 of
2 the Open Meetings Amendment Act of 2010, I move
3 that the ABC Board hold a closed meeting for the
4 purpose of seeking legal advice from our counsel
5 on Case No. 17-CC-00020, Chinese Disco, per
6 Section 405(b)(4) of the Open Meetings Amendment
7 Act of 2010, and deliberating upon Case No. 17-
8 CC-00020, Chinese Disco, for the reasons cited in
9 Section 405(b)(13) of the Open Meetings Amendment
10 Act of 2010. Is there a second?

11 MEMBER SHORT: Second.

12 CHAIRPERSON ANDERSON: I will now take
13 a roll call vote on the motion before us now that
14 it has been seconded.

15 Mr. Cato?

16 MEMBER CATO: Yes.

17 CHAIRPERSON ANDERSON: Mr. Isaac?

18 MEMBER ISAAC: I agree.

19 CHAIRPERSON ANDERSON: Mr. Alberti?

20 MEMBER ALBERTI: I agree.

21 CHAIRPERSON ANDERSON: Mr. Short?

22 MEMBER SHORT: I agree.

1 CHAIRPERSON ANDERSON: Ms. Wahabzadah?

2 MEMBER WAHABZADAH: I agree.

3 CHAIRPERSON ANDERSON: Okay. Mr.

4 Anderson? I agree.

5 As it appears that the motion has
6 passed, I hereby give notice that the ABC Board
7 will hold a closed meeting in the ABC Board
8 conference room pursuant to the Open Meetings
9 Amendment Act of 2010 and issue an order once
10 within 90 days after we have received the
11 conclusions of law and findings of fact.

12 MR. ADAMS: Yes.

13 CHAIRPERSON ANDERSON: I want to thank
14 both parties for their presentation today. And
15 the Board will rule accordingly. Thank you very
16 much.

17 MR. ADAMS: Thank you very much, Mr.
18 Chairman.

19 MR. SUNG: Thank you.

20 CHAIRPERSON ANDERSON: All right.

21 (Whereupon, the Show Cause Hearing was
22 concluded at 5:46 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Prospect Dining, LLC
t/a Chinese Disco

Before: Alcoholic Beverage Control Board

Date: 01-31-18

Place: Washington, DC

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