



**ALSO PRESENT:**

**MICHAEL SHIPMAN, DC MPD**

**VANESSA PLEITEZ, DC ABRA Investigator**

**KEVIN PUENTE, DC ABRA Investigator**

**MICHAEL FONSECA, Licensee's Counsel**

**JONATHAN LIU, Licensee**

**SONNY TRAN, Licensee**

**MICHAEL TIRADO, Witness**

C-O-N-T-E-N-T-S

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

2 1:43 p.m.

3 CHAIRPERSON ANDERSON: Good afternoon,  
4 everyone. We are back on the record. We now  
5 have a Fact-Finding Hearing for Case No. 18-251-  
6 00123, Cloak & Dagger, License No. 98733.

7 Will the parties, please, approach and  
8 identify themselves for the record, please? All  
9 right. We will start with the Investigators.

10 INVESTIGATOR PLEITEZ: Investigator  
11 Pleitez with ABRA.

12 CHAIRPERSON ANDERSON: Good afternoon.

13 INVESTIGATOR PLEITEZ: Good afternoon.

14 CHAIRPERSON ANDERSON: Officer?

15 SERGEANT SHIPMAN: Sergeant Shipman.

16 CHAIRPERSON ANDERSON: Sergeant  
17 Shipman?

18 SERGEANT SHIPMAN: Yes, sir.

19 CHAIRPERSON ANDERSON: All right.  
20 Good afternoon.

21 INVESTIGATOR PUENTE: Kevin Puente,  
22 ABRA.

1 MR. FONSECA: Michael Fonseca on  
2 behalf of the licensee.

3 CHAIRPERSON ANDERSON: Good afternoon,  
4 Mr. Fonseca.

5 MR. TRAN: Sonny Tran.

6 CHAIRPERSON ANDERSON: I'm sorry?

7 MR. TRAN: Sonny Tran, managing  
8 member.

9 CHAIRPERSON ANDERSON: Mr. Tran, can  
10 I ask you to take your hat off, please?

11 MR. TRAN: Yes, sir.

12 CHAIRPERSON ANDERSON: Thank you, sir.

13 MR. LIU: John Liu, managing member.

14 CHAIRPERSON ANDERSON: Your last name,  
15 sir?

16 MR. LIU: Liu.

17 CHAIRPERSON ANDERSON: Liu? Liu?

18 MR. LIU: L-I-U.

19 CHAIRPERSON ANDERSON: L-I-U, good  
20 afternoon, Mr. Liu.

21 All right. This is a Fact-Finding  
22 Hearing regarding an incident that occurred at

1 Cloak & Dagger on May 5, 2018. The Board thought  
2 that it was very important that we brought the  
3 parties in to have this Fact-Finding hearing, so  
4 we can -- we are concerned about the incident  
5 occurred and whether or not management acted/  
6 responded appropriately to the event.

7 And so we are trying to make some  
8 investigative -- some -- we are trying to gather  
9 some information outside of this report to give  
10 ownership and opportunity to respond and then the  
11 Board will determine what further action, if any,  
12 will be taken.

13 So we will just start with -- has, Mr.  
14 Fonseca, your client been provided a copy of the  
15 case report?

16 MR. FONSECA: Yes.

17 CHAIRPERSON ANDERSON: All right. Ms.  
18 Pleitez, can you tell us, bring us up to speed  
19 about this incident as a result of your  
20 investigation, ma'am?

21 INVESTIGATOR PLEITEZ: Okay. I was  
22 assigned to investigate an incident that occurred

1 at Cloak & Dagger on May 5, 2018 at approximately  
2 10:40 p.m. My investigation determinations were  
3 based on MPD CCN No. 18079105. Interviews with  
4 the ABC Manager, Mr. Jonathan Liu, the bartender,  
5 Ms. Monica de Guzman, and the MPD Officer, Mr.  
6 Maxwell Poupart.

7 On June 1, 2018, I visited Cloak &  
8 Dagger. I identified myself as an ABC -- I'm  
9 sorry, as an ABRA Investigator to the ABC  
10 Manager, Mr. Liu, and informed him for the reason  
11 -- the reason for my visit was to gather  
12 information regarding the incident that occurred  
13 on May 5, 2018.

14 Mr. Liu stated that he was the ABC  
15 Manager present on the night of the incident.  
16 However, the bartender, Mrs. de Guzman, was not  
17 present at the time.

18 Mr. Liu and I scheduled an interview  
19 date with Mrs. de Guzman for June 5, 2018 at 3:00  
20 p.m. Mr. Liu informed me that he forwarded the  
21 video footage to MPD and would have that footage  
22 available for me for pick-up on June 5, 2018.

1                   During our brief conversation, Mr. Liu  
2 mentioned that MPD was not notified on the night  
3 of the incident because Mrs. de Guzman did not  
4 want to call the police and continued working.

5                   I returned to Cloak & Dagger on June  
6 5th and spoke with Mr. Liu, who advised me that  
7 due to Mrs. de Guzman having a full-time job, she  
8 was unable, full-time day job, to attend the  
9 scheduled interview, but provided me with her  
10 contact information.

11                   At that time, I completed a regulatory  
12 inspection and took Mr. Liu's statement regarding  
13 the incident. Mr. Liu stated that between the  
14 hours of 10:00 and 10:40 p.m., three female  
15 patrons were upset because they were not being  
16 served, as the establishment was busy.

17                   Mr. Liu stated that to his knowledge,  
18 a female patron said something to Mrs. de Guzman  
19 and threw a checkbook at Mrs. de Guzman, who in  
20 turn threw a plastic cup at the patron. Mr. Liu  
21 stated that, at that time, another female hit  
22 Mrs. de Guzman with a purse and threw a Mason jar



1 at her head.

2 Mr. Liu stated that three female  
3 patrons -- the three female patrons were escorted  
4 out of the establishment, but one female patron  
5 managed to throw a barstool over the bar, but  
6 didn't hit anyone.

7 Mr. Liu stated that the establishment  
8 had four security members that night. One was  
9 located at the front door, one was located at the  
10 main entrance by the bar, one was at the top of  
11 the steps and the other was at the bottom of the  
12 steps on the mezzanine.

13 Mr. Liu also stated that on the night  
14 of the incident, there was three bartenders and  
15 one barback. IDs were checked. ID checks were  
16 conducted at the front door and all patrons had  
17 to be 21 years of age to enter the establishment.

18 Mr. Liu agreed to email me the  
19 surveillance footage. He stated that the footage  
20 is controlled through wifi and could be a little  
21 spotty, but would forward what he sent to MPD as  
22 the video footage was deleted.

1                   On June 6th I reviewed the footage and  
2 I observed the following: At 10:37 a female  
3 patron who will be known as S1 attempted to get  
4 Mrs. de Guzman's attention. A couple of seconds  
5 later, the female patron, S1, walked around to  
6 the other side of the bar or the counter.

7                   Another female patron, S2, approached  
8 -- I'm sorry, appeared to be arguing with Ms. de  
9 Guzman and knocked over a beverage caddy. A few  
10 seconds after that, Mrs. de Guzman threw a  
11 plastic cup at S2.

12                   Another female patron, S3, walked over  
13 to the bar and hit Mrs. de Guzman with her purse.

14                   After further review of the footage,  
15 I observed that S2 threw what appeared to be two  
16 cups at Mrs. de Guzman.

17                   At approximately 10:38, while the  
18 female patrons, S1, S2 and S3, were being  
19 escorted out of the establishment, S2 threw a  
20 barstool over the bar counter.

21                   On June 7, 2018, I telephonically  
22 contacted Mrs. de Guzman. Mrs. de Guzman stated

1 that the incident occurred between the hours of  
2 10:00 and 11:00 p.m. She stated that the cash  
3 register system crashed and that she was unable  
4 to close out any open tabs.

5 Mrs. de Guzman stated that the group  
6 of females wanted to close out their tabs and  
7 were waiting for about an hour. She stated that  
8 she asked the group of female patrons or I'm  
9 sorry, she advised the group of female patrons  
10 that the system crashed and she could not close  
11 out their tabs until the system came back up.

12 Mrs. de Guzman stated that she was  
13 only servicing customers that had cash. Mrs. de  
14 Guzman stated that S2 knocked over a beverage  
15 caddy and she advised them that they had to  
16 leave. Another female patron charged at the bar  
17 and hit Mrs. de Guzman with a purse, which caused  
18 her to hit her stomach on the pour spout and  
19 lacerate her stomach.

20 Mrs. de Guzman then stated that one of  
21 the female patrons picked up a Mason jar and  
22 threw it at her hitting her in her head.

1                   Mrs. de Guzman stated that she  
2 attempted to walk around the bar, but was stopped  
3 by a female patron, at which time they had a  
4 brief conversation about the register being out  
5 of service.

6                   Mrs. de Guzman stated that she picked  
7 up a plastic cup and threw it at one of the  
8 patrons, but was not attempting to hurt the  
9 female patron.

10                  Mrs. de Guzman then advised me that  
11 Mr. Liu asked her if she needed medical attention  
12 and she informed him that she felt fine. She  
13 stated that she stepped out of the establishment  
14 to catch her breath and began to vomit. She  
15 stated that she had a couple of friends at the  
16 establishment and decided to continue working.

17                  Mrs. de Guzman stated that after  
18 visiting her primary care physician, she  
19 discovered that she sustained a concussion and  
20 then decided to file the police report about a  
21 week after the incident occurred.

22                  On June 22, 2018, I telephonically

1 spoke with MPD Officer Poupart, who reiterated  
2 what the 251 stated, but added that the  
3 establishment did not notify MPD and that Mrs. de  
4 Guzman did not file the police report until 11  
5 days after the incident occurred.

6 After reviewing ABRAs records, Cloak  
7 & Dagger does not have a security plan or a  
8 settlement agreement. I did advise Mr. Liu the  
9 two times that I saw him that MPD must be  
10 contacted if any incidents occur at the  
11 establishment and suggested that they look into  
12 obtaining a security plan with their security  
13 company.

14 CHAIRPERSON ANDERSON: Based on your  
15 investigation, were there any obvious violation  
16 to you that you believed that the establishment  
17 might have?

18 INVESTIGATOR PLEITEZ: When I spoke to  
19 the MPD Officer, he -- because it was May 5th,  
20 which is Cinco de Mayo, it's kind of like a  
21 holiday, there were a lot of police outside of  
22 the establishment and I think they probably

1 should have called the police.

2 CHAIRPERSON ANDERSON: All right.

3 Sergeant Shipman, do you have anything to add to  
4 what occurred at this -- or just your -- I know  
5 you are here today, so I know you are here to say  
6 something, so what, if anything, can you add?

7 SERGEANT SHIPMAN: I am --

8 CHAIRPERSON ANDERSON: Or tell me why  
9 you are here then, sir.

10 SERGEANT SHIPMAN: -- here, because I  
11 was requested to be here.

12 CHAIRPERSON ANDERSON: To do what?

13 SERGEANT SHIPMAN: I was requested to  
14 be here.

15 CHAIRPERSON ANDERSON: Okay.

16 SERGEANT SHIPMAN: Well, are you  
17 familiar with Cloak & Dagger and what goes on in  
18 the general vicinity of this place?

19 SERGEANT SHIPMAN: I have actually  
20 only been on my current role for about two  
21 months.

22 CHAIRPERSON ANDERSON: Okay.

1                   SERGEANT SHIPMAN: I do supervise the  
2 officers who mainly cover that area where Cloak &  
3 Dagger are and they are probably the ones who  
4 were in front of the establishment.

5                   CHAIRPERSON ANDERSON: Okay.

6                   SERGEANT SHIPMAN: That's about as far  
7 as I know.

8                   CHAIRPERSON ANDERSON: Okay. All  
9 right. Thank you.

10                  Mr. Puente, is there anything you can  
11 add regarding --

12                  INVESTIGATOR PUENTE: Yeah, just one  
13 thing. ABRA was notified by MPD that another  
14 incident occurred on September 2nd. On September  
15 2, 2018, where an altercation occurred inside.

16                  CHAIRPERSON ANDERSON: I think the  
17 problem with that, Mr. Puente, is that if a  
18 report was written, I'm not sure if they have  
19 been provided a copy of it, so I think that they  
20 are at a disadvantage, so they can't respond to  
21 another incident that occurred after.

22                  Because -- yeah, because since if the

1 report was written, it has not been shared with  
2 them, so they would be at a disadvantage to  
3 respond to that today --

4 INVESTIGATOR PUENTE: All right.

5 CHAIRPERSON ANDERSON: -- at this  
6 hearing. Okay. So I appreciate what you have to  
7 offer, but we kind of discussed this today in our  
8 Supplemental Agenda and it -- yeah, we haven't --  
9 the Board didn't really consider that, because  
10 the report was not available. And I'm -- I know  
11 that -- all right.

12 So what can you -- Mr. Fonseca, what,  
13 if anything, can you add or provide some  
14 clarification to the incident that occurred?

15 MR. FONSECA: Well --

16 CHAIRPERSON ANDERSON: And I guess if  
17 this is true, this is -- and we are just talking  
18 about this incident that occurred on May 5th. And  
19 if this is true, just something that kind of came  
20 out to me, so maybe you can respond to this. Why  
21 did an employee of the establishment allegedly  
22 throw an object to a patron?



1           Because I think Ms. Pleitez, in her  
2 report, she stated that she saw that on the video  
3 and she also -- I think Miss -- the employee it  
4 appears also admitted to doing that, too. So I'm  
5 just curious if that happened, why and maybe we  
6 can -- you can provide some context to that.

7           MR. FONSECA: Maybe. I'll let Mr. Liu  
8 respond to that as the manager.

9           In general, you know, there are no  
10 police not immediately in front, they are within  
11 50 feet. And often times when incidents do  
12 happen, you know, security is doing what they are  
13 supposed to do and it ends up that the police  
14 officers have then come down and so there is  
15 reporting that way.

16           This incident, and Mr. Liu will  
17 ultimately tell you, this is one that he allowed  
18 an employee to make a managerial decision,  
19 because -- and she was the one that was hit with  
20 the Mason glass and decided that she wanted to  
21 continue to work and informed them that, you  
22 know, she wasn't hurt or injured.

1                   And frankly, only when he read this  
2                   report did he know that she went out and actually  
3                   had vomited, so the issue about throwing the cup,  
4                   I'm going to turn over and let Mr. Liu answer  
5                   this.

6                   CHAIRPERSON ANDERSON: All right.

7                   MR. LIU: So I think the issue with  
8                   throwing the cup is that the situation escalated.  
9                   Typically, that would never happen. We don't  
10                  advise our employees to escalate anything. If  
11                  there was a situation where even there is a  
12                  remote possibility of escalation, we advise them  
13                  to talk to a security guard and have the security  
14                  guard escort the person out and diffuse the  
15                  situation.

16                  CHAIRPERSON ANDERSON: Now, is this  
17                  person still working at the establishment?

18                  MR. LIU: She is still working at the  
19                  establishment.

20                  CHAIRPERSON ANDERSON: And so you saw  
21                  the report. I assume you saw the video? Did you  
22                  see the video, sir?

1 MR. LIU: I did see the video.

2 CHAIRPERSON ANDERSON: So what steps,  
3 if any, did the establishment take based on the  
4 activity of your employee?

5 MR. LIU: We did a full review of the  
6 policy with our bartenders, as far as dealing  
7 with customers and dealing with situations of  
8 that nature.

9 And we actually took her off of shift  
10 for about two weeks.

11 CHAIRPERSON ANDERSON: Anything else  
12 you have to add regarding this incident? And I  
13 guess the bottom line is that who was aware  
14 outside of Ms. de Guzman, who was aware of this  
15 incident?

16 Who else knew that this happened that  
17 night, as far as management is concerned? Who  
18 knew about this incident?

19 MR. LIU: As far as management was  
20 concerned, I was aware of it and two of my  
21 security were aware of it. So my head of  
22 security and the other security that escorted the

1 females out.

2 CHAIRPERSON ANDERSON: So that's all?  
3 So what is the normal -- I mean, what's the  
4 normal policy that your establishment has when an  
5 incident occurs such as this?

6 MR. LIU: So typically when an  
7 incident like this occurs, MPD is contacted and  
8 we file a report. It's either between myself or  
9 my head of security to file the report. In this  
10 instance, my decision making was a little bit  
11 skewed because there was an employee involved. I  
12 acknowledge that we definitely should have  
13 contacted MPD.

14 CHAIRPERSON ANDERSON: Well, I guess  
15 I'm trying to figure the difference, because an  
16 employee -- I mean, there is an allegation that a  
17 Mason jar, so a Mason jar is some -- a Mason --  
18 and it's not even the employee throwing a cup,  
19 but a Mason jar, that's much heavier, that can  
20 actually hurt someone. So do you want to say  
21 something, Mr. Fonseca?

22 MR. FONSECA: Yeah, I just want to

1 make sure the Mason jar struck the employee.

2 CHAIRPERSON ANDERSON: Well, I --

3 MR. FONSECA: The employee didn't  
4 throw the Mason jar.

5 CHAIRPERSON ANDERSON: Well, no. I  
6 know, but I'm trying to find out at what point  
7 does the establishment believe that it's  
8 important to call the police. So that's where  
9 I'm -- so that's why I'm asking. You are talking  
10 about a Mason jar was -- the head of security was  
11 aware of it, you are aware of it.

12 So how is it that a determination is  
13 made that we are going to call MPD? That's what  
14 I'm -- that's where I'm going to to say a Mason  
15 jar was -- or you had -- it was large enough in  
16 the sense that your security escorted the person  
17 out of the establishment.

18 So when is it that -- who makes the  
19 decision and when is this decision made that you  
20 know what, we need to bring this to the attention  
21 of MPD.

22 MR. LIU: So typically in this type of

1 incident, so typically in incidents, MPD is  
2 contacted regardless. But my judgment was a  
3 little bit skewed because there was an employee  
4 involved. So my first instinct was to talk to  
5 the employee to make sure that she was okay and  
6 then I did ask her and it was the incorrect  
7 process. I did ask her if she wanted to finish  
8 the shift and if she wanted to contact MPD and if  
9 she needed medical attention. All of which she  
10 said she wanted to finish the shift and she did  
11 not want medical attention or to contact MPD.

12 CHAIRPERSON ANDERSON: So do you know  
13 if she was injured?

14 MR. LIU: She did go to a doctor. She  
15 had a minor concussion, so this was about a week  
16 after the incident. And at that point, she  
17 contacted me and we filed a police report.

18 CHAIRPERSON ANDERSON: Any questions  
19 by any Board Members? Go ahead, Mr. Short.

20 MEMBER SHORT: Excuse me, your name  
21 again, sir?

22 MR. LIU: I'm sorry, my name is John

1 last name is Liu, L-I-U.

2 MEMBER SHORT: Okay. Mr. Liu, have  
3 you ever had any experience with or any training  
4 in medical emergencies, such as someone getting  
5 hit with a Mason jar on the head?

6 MR. LIU: No, I haven't had any  
7 training with that.

8 MEMBER SHORT: Okay. Do you know that  
9 could have caused some internal injuries that you  
10 can't see and that she is lucky she didn't get  
11 some blood clots before she went and reported to  
12 the hospital with a concussion. Even in the NFL  
13 now, they Football League, they -- someone gets a  
14 concussion, they take action right away. So if  
15 you have -- don't have any training, as an owner,  
16 you would have had total responsibility had  
17 something or still might have some responsibility  
18 if she has some lingering issues.

19 So I would advise you or I would say  
20 to you as a Board Member anyone gets hurt or  
21 injured, you call for medical assistance and you  
22 call MPD and make a report.

1                   People that have alcohol liquor  
2 licenses are required by law to have good  
3 judgment. You admitted today that you didn't  
4 have good judgment, correct?

5                   MR. LIU: (No audible answer.)

6                   MEMBER SHORT: You said you were  
7 skewed.

8                   MR. LIU: Correct. I think my  
9 judgment was skewed at that point.

10                  MEMBER SHORT: And so that means your  
11 judgment was not good.

12                  MR. LIU: I agree.

13                  MEMBER SHORT: Okay. So this won't  
14 happen again, will it?

15                  MR. LIU: This definitely will not  
16 happen again.

17                  MEMBER SHORT: Anybody gets injured in  
18 your establishment, what will you do from now on?

19                  MR. LIU: Contact MPD.

20                  MEMBER SHORT: What about EMS?

21                  MR. LIU: And EMS if they require  
22 medical attention.



1                   MEMBER SHORT: You keep a log or a  
2 journal in your establishment?

3                   MR. LIU: We keep one in-house for the  
4 establishment and then security also keeps a log.

5                   MEMBER SHORT: Did anyone write this  
6 down that this incident happened with the  
7 bartender?

8                   MR. LIU: We did. The incident report  
9 was actually submitted to the inspecting officer.

10                  MEMBER SHORT: Was it put out the same  
11 night of the incident or later?

12                  MR. LIU: Same night.

13                  MEMBER SHORT: So you --

14                  MR. FONSECA: I believe --

15                  MEMBER SHORT: Go ahead.

16                  MR. FONSECA: -- it is Exhibit 3 to  
17 the --

18                  INVESTIGATOR PLEITEZ: Yeah.

19                  MEMBER SHORT: Okay.

20                  MR. FONSECA: -- case report.

21                  MEMBER SHORT: I'm just trying to get  
22 some facts, so that I can follow-up with my

1 questions, Mr. Fonseca, and I understand where  
2 you want to defend it, but we have -- his  
3 testimony today is that his memory or his  
4 decision making was skewed. And so I wanted to  
5 make sure it went on the record that if he ever  
6 comes in again and gives a representation that  
7 his judgment was skewed, maybe we would have to  
8 look at his license a little closer.

9 This is a very serious incident and we  
10 can't take it lightly. I'm looking at the  
11 history of your club here, the investigative  
12 history and I see where a lot of things have  
13 happened and we have had no further action or no  
14 action was ever taken by this Board.

15 And so with those no further actions,  
16 please, don't take that too lightly or you will  
17 find yourself before this Board with some  
18 situations that will cause us to make some  
19 decisions that we wouldn't like to make and you  
20 would not like for us to make.

21 So I have your assurance that you will  
22 handle injuries or incidents of violence in your

1 establishment a lot differently from now on?

2 MR. LIU: Oh, definitely moving  
3 forward, we are going to take all the right steps  
4 in the process.

5 MEMBER SHORT: Okay.

6 MR. FONSECA: And Member Short, I have  
7 had -- we have had many discussions and this was  
8 at the forefront is we always report to the  
9 police, you always call 911 or ask the police if  
10 they are there to contact EMS if somebody was  
11 injured or if it's questionable. So that's part  
12 of showing up this operation here.

13 MEMBER SHORT: So this won't happen  
14 again?

15 MR. FONSECA: I hope not. We are  
16 trained not to do this now.

17 MEMBER SHORT: You're trained now.

18 MR. FONSECA: Yeah.

19 MEMBER SHORT: Who was training.

20 MR. FONSECA: Well, we have got the  
21 head of security and as he told you, they have --  
22 they met with staff about things like don't

1 escalate.

2 MEMBER SHORT: Okay. For the record,  
3 who is this person who was the head of security?  
4 His name?

5 MR. FONSECA: Fine. Come on up.

6 MR. TIRADO: Michael Tirado.

7 MR. FONSECA: Michael Tirado, T-I-R-A-  
8 D-O.

9 MEMBER SHORT: Okay. You will need to  
10 put his name on the witness list, so that he is  
11 here today. And does -- okay. Does he, head of  
12 security or anyone on your staff have any medical  
13 training?

14 MR. TIRADO: Yes, sir.

15 MEMBER SHORT: You do?

16 MR. TIRADO: They all are. They are  
17 all BLL-certified and they are CPR-certified. So  
18 they are all training with military level.

19 CHAIRPERSON ANDERSON: Sir, why don't  
20 you bring a chair with you.

21 MR. TIRADO: Yes, sir.

22 CHAIRPERSON ANDERSON: Come up and

1 just identify your name for the record and also  
2 write -- there is a sign-in sheet, also sign your  
3 name in. But just identify your name for the  
4 record, please.

5 MR. TIRADO: Yes, sir. Michael  
6 Tirado.

7 CHAIRPERSON ANDERSON: And there is a  
8 sign-in sheet. Okay. You can go ahead, sir.

9 MEMBER SHORT: Okay. Mr. Tirado, so  
10 you are saying that everyone who works for you in  
11 security in this establishment has --

12 MR. TIRADO: Yes, sir.

13 MEMBER SHORT: -- for the record  
14 again, what do they have?

15 MR. TIRADO: Through American Heart.  
16 So they are all -- all are basic lifesaver  
17 trained certified, that involves CPR-certified  
18 for all ages.

19 MEMBER SHORT: Okay. So were any of  
20 your persons working the night this happened in  
21 the establishment?

22 MR. TIRADO: Yes.

1                   MEMBER SHORT: Were any of them  
2 consulted about the injury to the person who  
3 wound up with a concussion?

4                   MR. TIRADO: I'm sorry, I missed your  
5 question.

6                   MEMBER SHORT: Did anyone from your  
7 staff with the training that they have know this  
8 incident that happened with the person who wound  
9 up with the concussion?

10                  MR. TIRADO: Yes.

11                  MEMBER SHORT: Did they do any -- take  
12 any action?

13                  MR. TIRADO: The incident had occurred  
14 so quickly that given our security layout, that  
15 the security guards were stationed where they  
16 were supposed to be stationed properly and the  
17 incident had occurred and within 2 or 3 minutes  
18 of it occurring or so, the attacker, I can attest  
19 to, left the property. So they left the room.  
20 The room that the alleged incident occurred  
21 happened was right there right by the door.

22                         So as soon as the incident happened,

1 they turned, you know, the fight happened or the  
2 altercation occurred, and they turned out and  
3 left through that door.

4 MEMBER SHORT: Now, I guess so my  
5 question --

6 MR. TIRADO: Walked right past that.  
7 Oh, yeah, there so, you know, security had asked  
8 for medical attention, asked for -- and they  
9 assessed her there. And then they even asked her  
10 if she was okay and she had identified to the  
11 owner, to security and everybody that she was  
12 okay and she just needed a moment to get herself  
13 together.

14 MEMBER SHORT: Okay. And so if  
15 someone is hit with a Mason jar on their head,  
16 you would take just their word that they are  
17 okay? I mean, you --

18 MR. TIRADO: No, we just -- me  
19 personally, how we are trained for, we would  
20 assess and we would look for signs of  
21 disorientation, you know, motor function issue,  
22 obvious signs of blood and things of that nature,

1 none of were the situation at that time. These  
2 were all symptoms that occurred that were stated  
3 to after the fact, after her shift.

4 So and it's very possible that her  
5 adrenaline could have been running and that could  
6 have taken over, so none of those symptoms could  
7 have actually had occurred during that time,  
8 until later on. And that was right close to  
9 closing after she had gotten herself together and  
10 she may have not felt, you know, of these  
11 symptoms until the next morning. And that  
12 happens with trauma, traumatic incidents.

13 MEMBER SHORT: Yes, that's a great  
14 answer and thank you very much. All right.  
15 Thank you very much and I'm glad to hear you have  
16 security that are trained there and so we will  
17 handle things differently the next time should  
18 something like this happen. Yes, sir?

19 MR. TIRADO: And the paperwork of  
20 these guys, like we went over this, so they -- we  
21 are very serious about documenting. You just --  
22 just to add on to it, they are very serious about



1 it.

2 MEMBER SHORT: It was documented?

3 MR. TIRADO: Yes, the documentation we  
4 beat this topic to death to make sure that MPD  
5 used -- their badge numbers are recorded and  
6 everything is taken even more serious for every  
7 situation now.

8 MEMBER SHORT: I do thank you very  
9 much for your testimony. Thank you. That's all  
10 I have, Mr. Chair.

11 MR. TIRADO: All right.

12 CHAIRPERSON ANDERSON: Just a quick  
13 question, Mr. Fonseca. Is there any reason why  
14 this establishment does not have a security plan?

15 MR. FONSECA: Not that -- it hasn't  
16 been ordered.

17 CHAIRPERSON ANDERSON: I'm sorry?

18 MR. FONSECA: The security company  
19 pretty much, you know, handles things and they  
20 are trained well, so --

21 CHAIRPERSON ANDERSON: But the  
22 establishment does not have --

1           MR. FONSECA: Does not have a security  
2 plan. Not one that ABRA has required.

3           CHAIRPERSON ANDERSON: All right. Any  
4 questions by any other Board Members? How -- I  
5 guess the concern I'm having is that how do we  
6 know or how can -- and we are at -- ABRA is at  
7 14th and U and this is at 13th and U, the location  
8 of 13th and U.

9           MR. FONSECA: It's actually almost  
10 14th.

11          CHAIRPERSON ANDERSON: 14th?

12          MEMBER SHORT: Yeah, it's right in the  
13 middle of the block 1359.

14          CHAIRPERSON ANDERSON: So I just  
15 wanted to make sure when I cross the street, I --  
16 when I cross the street from ABRA, then that's  
17 the place I see. This is a -- it appeared to be  
18 a very busy area, especially on the weeknights.

19                 And I know you don't have a security  
20 plan. Of course, we can't order you to have one  
21 at a Fact-Finding Hearing, but I'm just asking.  
22 It would not be beneficial to -- because I don't

1 -- I'm not quite sure if I know when something  
2 happens the manager and Mr. Liu had said that  
3 well, I didn't necessarily do the right thing  
4 tonight, but I want to -- how can we hold  
5 management accountable to say if you have these  
6 incidents occur, this is the proper procedures to  
7 follow.

8 If there is -- if -- at least we don't  
9 know. And I know, sir, that you have a security  
10 company. You might have something, but ABRA  
11 doesn't know what you have. Go ahead, sir.

12 MR. TIRADO: I was just hoping to  
13 clarify on that. I don't think Mr. Liu used the  
14 correct terminology when he said he was like  
15 disoriented.

16 CHAIRPERSON ANDERSON: No, well, I --  
17 he didn't say he was disoriented.

18 MR. TIRADO: I don't know when I heard  
19 that. He was --

20 CHAIRPERSON ANDERSON: No.

21 MR. TIRADO: -- concerned for his  
22 staff.

1                   CHAIRPERSON ANDERSON: Yeah. No, I  
2 didn't think he was disoriented. I just think  
3 that as he -- from what I gathered from him if it  
4 was a customer that was injured, I'm giving him  
5 the benefit of the doubt, that he would have  
6 immediately called MPD. But because it was an  
7 employee, he utilized a different standard,  
8 that's how I'm taking it. He utilized a  
9 different standard.

10                   But I don't want a different standard  
11 to be utilized. It should be a uniform standard,  
12 whether or not it's an employee or -- although,  
13 yes, you are being held to a higher standard if,  
14 both also from a legal perspective, an invitee  
15 comes into your place and gets injured, of course  
16 if the employee gets injured, that's a different  
17 situation.

18                   But as far as ABRA is concerned, I  
19 mean, it should be the same standard, so right  
20 now we don't have anything to hold you as -- when  
21 I asked Ms. Pleitez, I mean, it doesn't appear  
22 that as far as their investigation, that there

1 was any violation.

2           And so you come here and an incident  
3 occurred and you don't have a security plan, so  
4 the Board could vote NFA. But the Board doesn't  
5 have anything to say how to prevent this incident  
6 from occurring again. And I guess by having a  
7 security plan, at least we could say you have a  
8 security plan. We look to see what it is that it  
9 says and we could hold you accountable and so  
10 therefore whether or not it is -- whether or not  
11 the incident occurred to an employee or an  
12 invitee, then there is one standard that we know  
13 this is what we have to do.

14           And if -- from what I see from this  
15 area on the weekends, it appears that there is  
16 always police within -- I'm not even going to  
17 suggest RDO, so that would be -- don't -- so I'm  
18 not there, Mr. Fonseca. I'm not there.

19           But I'm just saying though, it appears  
20 that there is a lot of police presence in the  
21 area, that it wouldn't be that difficult that you  
22 would have for police to come from across town to

1 show up. So that's something that -- so I'm  
2 going to ask you and I try not to put people --  
3 because I can't order it, but would it -- I  
4 believe that it would be beneficial for this  
5 establishment to have a security plan.

6 And is that something that the -- and  
7 I'm not going to force you and I'm not going to  
8 take it whichever way or the other, but I mean,  
9 would it be beneficial for this establishment to  
10 have a security plan?

11 MR. FONSECA: I think we can  
12 memorialize both current and refined procedures,  
13 much as Mister Member Short brought out. And it  
14 could be done, yes.

15 CHAIRPERSON ANDERSON: So then go  
16 ahead, Mr. Fonseca.

17 MR. FONSECA: I would like to state,  
18 you know, the two points that are really  
19 important is the interplay here of the employee,  
20 and you focused on it immediately, tossing, you  
21 know, a plastic cup at a patron, which, you know,  
22 took it to another level.

1                   And then frankly to the level where  
2                   you have the 3-on-1 situation. So once that  
3                   happened, it got quickly out of control. So that  
4                   has been tamped down. That training is going on.  
5                   You call security. I mean, she should have  
6                   called security. At that point, you know, she  
7                   was being attacked verbally. There was no reason  
8                   for her to get into that interplay.

9                   And none of this would have happened.  
10                  And security is not that far away. I mean, this  
11                  is an establishment that has two floors and a  
12                  mezzanine. It's 99 capacity. So security is  
13                  never that far away. That's why things when they  
14                  do happen, you know, you could say three minutes,  
15                  I'll bet you this thing was done in a minute and  
16                  10 seconds, you know.

17                  CHAIRPERSON ANDERSON: So then would  
18                  you -- on behalf of -- would your client be  
19                  agreeable to provide ABRA within the next 30 days  
20                  with a legally sufficient security plan?

21                  MR. FONSECA: Yes.

22                  CHAIRPERSON ANDERSON: All right.

1 Thank you.

2 Now, let me ask you this. Just let me  
3 ask a question. Is it that the customer was not  
4 being served, because they did not have cash or  
5 was it that the bartender was unable to close out  
6 their tab and they were waiting an hour and  
7 wanted to -- I mean, what was it? Yes?

8 MR. LIU: From what I gather, and I'm  
9 not the bartender, but from what I gather, it was  
10 a combination of everything. It was a  
11 combination of the wifi going in and out, so our  
12 systems were in and out. They were serving some  
13 customers with credit, because I know customers  
14 upstairs were being serviced, but when wifi is  
15 spotty like that, so is service.

16 CHAIRPERSON ANDERSON: No, well, but  
17 I guess what I'm trying to find out is that are  
18 you telling me that -- and this part of it which  
19 -- that someone was basically trapped in your  
20 establishment for an hour because they need to  
21 leave, but because you couldn't close their tab,  
22 they had to stay? Am I hearing that?



1                   MR. LIU: I believe that they wanted  
2                   to serve -- they wanted more drinks served as  
3                   well. And I believe that because they were being  
4                   rude, my bar -- my employee did not give them the  
5                   best service. And because the wifi was spotty as  
6                   well, she utilized what service she was able to  
7                   serve the other customers that were not being  
8                   rude.

9                   CHAIRPERSON ANDERSON: Well, one of  
10                  the things that I would suggest then, you need to  
11                  have some written policies and procedures about--  
12                  now that you are aware that your -- the wifi  
13                  might be spotty, and you are aware that issues  
14                  might occur because of this fact, how is it that  
15                  -- as far as your employee training, I'm not  
16                  saying in the security agreement, but as far as  
17                  the employee training, that you are now aware  
18                  that these are problems that could occur and so  
19                  how are we going to address this if it occurs  
20                  again, because as you stated, the wifi it's not a  
21                  one -- it doesn't appear that this has never  
22                  happened before.

1 MR. TIRADO: Right.

2 MR. LIU: I mean, in those types of  
3 situations, we reset the router and it's about a  
4 15 minute reset. I think it comes down more so  
5 to when we are able to identify a situation like  
6 that where there is a rude customer, we don't  
7 escalate the situation. And we just serve them  
8 and send them on their way.

9 CHAIRPERSON ANDERSON: Well, I'll say,  
10 Mr. -- not that I go out that often, but if I'm  
11 in the bar and I'm -- and if the bar is not --  
12 even if it's crowded and I have to wait 15  
13 minutes for my drink, I think that I might get a  
14 little irritated. All right. So but reasonable  
15 people can disagree.

16 Are there any other questions by any  
17 other Board Members? All right.

18 Ms. Pleitez, do you have any final  
19 comments that you want to make?

20 INVESTIGATOR PLEITEZ: No.

21 CHAIRPERSON ANDERSON: Sergeant  
22 Shipman, I know that you are new to this area, is

1       there anything or any improvements, any  
2       suggestions you can provide to this licensee  
3       based on your role, sir?

4                   SERGEANT SHIPMAN: Because my officers,  
5       I know there is two officers in that block all  
6       the time, so that shouldn't be a concern when it  
7       comes to finding a police officer.

8                   MR. LIU: Okay.

9                   SERGEANT SHIPMAN: Therein, it seems  
10      like they just need to work with the security  
11      since they already have a plan, why not just  
12      integrate that with what their policy is?

13                  MR. LIU: All right.

14                  SERGEANT SHIPMAN: That way they are  
15      on the same page.

16                  CHAIRPERSON ANDERSON: All right. All  
17      right. Thank you, sir.

18                  Mr. Fonseca, I'll just put it out  
19      there. It's my understanding that there is some  
20      -- another incident. When was this incident, Mr.  
21      Puente?

22                  INVESTIGATOR PUENTE: September 2nd.

1                   CHAIRPERSON ANDERSON: That it's my  
2 understanding there is a September 2nd incident.  
3 I don't know what it is and I can't ask you about  
4 it, because I don't know what it is, but it  
5 appears there is a September 2nd incident.

6                   MR. FONSECA: Um-hum. Do we want to  
7 resolve it and --

8                   CHAIRPERSON ANDERSON: Well, I don't  
9 know what it is, so I can't talk about it,  
10 because I just -- I'm being told there was  
11 another incident and I don't know what the  
12 incident is. So I mean if you want, I don't know  
13 if Mr. Puente can talk about it, because you  
14 don't know what it is.

15                   So we can't -- no, so we can't talk  
16 about it. I'm just saying to you that that's  
17 something for you to try to figure out, because  
18 it was something that if of concern, I guess.  
19 Whatever it is so far.

20                   But right now, are there, regarding  
21 this specific incident, is there any -- I always  
22 give you the final word, sir.

1 MR. FONSECA: No. We will be able to  
2 provide a security plan within that 30-day period  
3 probably sooner.

4 CHAIRPERSON ANDERSON: All right. All  
5 right. We are going to take this under  
6 advisement, but since -- we will take this under  
7 advisement. I'm not sure what, if anything, the  
8 Board can do since, as Ms. Pleitez says that she  
9 didn't -- there are no obvious violation that  
10 came out of this report.

11 Okay. So thank you.

12 MR. FONSECA: Yes.

13 CHAIRPERSON ANDERSON: Hold on. 30  
14 days form today. All right. Okay. So thank you  
15 for being here today.

16 MR. FONSECA: Thank you.

17 CHAIRPERSON ANDERSON: And have a good  
18 day. Thank you. Thank you, sir. You have a  
19 good day.

20 (Whereupon, the Fact-Finding Hearing  
21 was concluded at 2:22 p.m.)

22

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