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

2 10:02 a.m.

3 CHAIRPERSON ANDERSON: Are we ready
4 for -- are the parties here for Case No. 18-CMP-
5 00112, Desperados Pizza?

6 MR. ORTIZ: Well, unfortunately one of
7 my witnesses is an officer. He informed me that
8 he would not be able to be here prior to 10:00
9 a.m. So he should be en route.

10 CHAIRPERSON ANDERSON: Oh, that's
11 fine. So how much time do you believe that --

12 MR. ORTIZ: If you could, at least ten
13 minutes to see because he told me he'll be here
14 at least by --

15 CHAIRPERSON ANDERSON: Okay, fine.

16 MR. ORTIZ: -- 10-ish.

17 CHAIRPERSON ANDERSON: Is the licensee
18 here?

19 MR. ORTIZ: Not that I'm aware of, no.

20 CHAIRPERSON ANDERSON: All right. So
21 it's 10:04. We'll come back here at -- let me
22 see what the day looks like. I'll give it till
23 10:30.

24 MR. ORTIZ: Okay.

25 CHAIRPERSON ANDERSON: We're off the

1 record until 10:30.

2 (Whereupon, the above-entitled matter
3 went off the record at 10:03 a.m. and resumed at
4 10:29 a.m.)

5 CHAIRPERSON ANDERSON: We're back on
6 the record. Our next case then is Case No. 18-
7 CMP-00112, Desperados Pizza, License No. 84731.
8 Will the parties please approach and identify
9 themselves for the record? Will the parties for
10 Desperados Pizza please approach? What case are
11 you guys here for?

12 (Simultaneous speaking)

13 CHAIRPERSON ANDERSON: What case? All
14 right. Mr. Ortiz, I see that the licensee is not
15 here. Have you had any contact with the
16 licensee?

17 MR. ORTIZ: I have not had any contact
18 with the licensee.

19 CHAIRPERSON ANDERSON: All right.
20 Desperados Pizza, this matter was scheduled for a
21 show cause hearing at 10:00 a.m. today. It is
22 now 10:36, and the licensee is not here. The
23 record -- our record shows that they were served
24 with a notice on August 22nd, 2019. And so
25 they're not here. So Mr. Ortiz, are you prepared

1 to move forward?

2 MR. ORTIZ: Yes, this should be ex
3 parte.

4 CHAIRPERSON ANDERSON: All right.
5 Pursuant to D.C. Official Code Section 25-447,
6 the Board has the authority to proceed ex parte
7 where the licensee waives the hearing or fails to
8 appear unless the hearing is extended for good
9 cause -- good and sufficient cause.

10 The Board's record reflects that the
11 licensee was properly served on August 22nd,
12 2019. Seeing no licensee here today and having
13 no good and sufficient cause to extend this
14 hearing, the Board will proceed with a show cause
15 hearing. Mr. Ortiz, do you wish to make an
16 opening statement?

17 MR. ORTIZ: Yes, I do. It's a brief
18 opening statement.

19 CHAIRPERSON ANDERSON: Yes, sir. Go
20 ahead.

21 MR. ORTIZ: Good morning, Board
22 members. We are here today in the show cause
23 matter of Desperados Pizza, LLC, trading as
24 Desperados Pizza, located at 1342 U Street,
25 Northwest, Washington, D.C.

1 The show cause notice issued in this
2 matter concerns a charge that the licensee failed
3 to follow terms with a Board approved license by
4 operating outside the approved hours of sales in
5 violation of D.C. Official Code Sections 25-
6 723(b) and 25-823(a)(7).

7 The evidence will show that on April
8 14, 2018 at approximately 4:26 a.m., there were
9 several persons in the establishment consuming
10 alcoholic beverages which is in violation of D.C.
11 Official Code Sections 25-723(b) and 25-
12 823(a)(7).

13 At this time, the District moves to
14 have Officer Matthew Rider as its witness.

15 CHAIRPERSON ANDERSON: Officer Rider.
16 Can you raise your right hand, sir?

17 (Witness sworn.)

18 CHAIRPERSON ANDERSON: Thank you. And
19 see if you can pull the microphone close to you.

20 MR. RIDER: Thank you. Good morning.

21 CHAIRPERSON ANDERSON: Good morning.
22 Go ahead, Mr. Ortiz.

23 WHEREUPON,

24 MATTHEW RIDER

25 was called for examination by Counsel for the

1 District of Columbia, having been previously
2 sworn, assumed the witness stand, was examined
3 and testified as follows:

4 DIRECT EXAMINATION

5 MR. ORTIZ: What is your name?

6 MR. RIDER: Officer Matthew Rider.

7 MR. ORTIZ: And can you please spell
8 your last name for the record.

9 MR. RIDER: Sure. R-I-D-E-R.

10 MR. ORTIZ: And where do you currently
11 work?

12 MR. RIDER: Metropolitan Police
13 Department, Third District.

14 MR. ORTIZ: And how long have you been
15 with the Metropolitan Police Department?

16 MR. RIDER: A little over six years.

17 MR. ORTIZ: Six year. All right. In
18 2018, what was your assignment within MPD?

19 MR. RIDER: I was assigned to what is
20 called the Focus Beat Unit which is a portion of
21 the nightlife unit that is stationed on U Street
22 between 14th and 9th Street. And main priority
23 is bars and nightclubs.

24 MR. ORTIZ: And are you familiar with
25 the establishment Desperados Pizza located at

1 1342 U Street, Northwest, D.C.?

2 MR. RIDER: Yes, sir.

3 MR. ORTIZ: And how are you familiar
4 with this establishment?

5 MR. RIDER: It's a popular spot on U
6 Street. Been there several times during my tour.

7 MR. ORTIZ: And how else are you
8 familiar with this property?

9 MR. RIDER: I had an incident there
10 back in April of 2018, April 14th.

11 MR. ORTIZ: And did you investigate
12 Desperados Pizza?

13 MR. RIDER: I did.

14 MR. ORTIZ: And when did you
15 investigate Desperados Pizza?

16 MR. RIDER: April 14th, 2018.

17 MR. ORTIZ: And can you describe what
18 you observed on April 14th?

19 MR. RIDER: Sure. So it was about a
20 little before 4:30 in the morning. My partner
21 and I were sitting in the alley directly across
22 the street from Desperados. And we observed
23 three females come out of Desperados and stand
24 directly in front of the windows, standing around
25 socializing. They were passing a wine glass

1 around with each other drinking out of it.

2 They went back into the establishment.
3 At which time, my partner and I went over to
4 figure out what was going on. When we entered,
5 the three females were inside. There was another
6 male sitting at the bar.

7 I spoke to the bartender, asked him
8 why there were people in the establishment after
9 hours. And he stated something to the effect of
10 he called last call, but they didn't want to
11 leave.

12 MR. ORTIZ: And did anything else
13 occur when you were in the establishment?

14 MR. RIDER: Sure. So once when we
15 talked to the -- as I was speaking to the
16 bartender, the three females and the gentleman
17 that were sitting at the bar up and left without
18 even -- I never got a chance to talk to them
19 again. We asked for the manager who is on the
20 license to show up because he wasn't on scene.

21 While waiting for the manager to show
22 up, I had stepped outside to wait outside. And
23 the bartender actually tried to lock myself and
24 my partner out of the establishment.

25 The bar -- I mean, the manager did

1 eventually show up on scene. He was slightly
2 intoxicated. We checked his license. Everything
3 was good. And that was pretty much it.

4 MR. ORTIZ: All right. And did you
5 document what you observed on April 14, 2018?

6 MR. RIDER: Yeah, I did an incident
7 report that night.

8 MR. ORTIZ: I'm going to hand you a
9 document marked as Government Exhibit 1 for
10 identification purposes.

11 (Whereupon, the above-
12 referred to document was
13 marked as Government's
14 Exhibit 1 for
15 identification.)

16 MR. ORTIZ: And do you recognize this
17 document?

18 MR. RIDER: I do.

19 MR. ORTIZ: And what is this document?

20 MR. RIDER: This is the report I did
21 that night.

22 MR. ORTIZ: All right. And is this --
23 I'll give you a second to just go over it. Is
24 this an accurate copy of the public incident
25 report that you created?

1 MR. RIDER: Yes, sir.

2 MR. ORTIZ: All right. At this time,
3 the Government moves Exhibit 1, the public
4 incident report, into evidence.

5 CHAIRPERSON ANDERSON: So moved.

6 (Whereupon, the above-
7 referred to document was
8 received into evidence as
9 Government's Exhibit 1.)

10 MR. ORTIZ: And at this time, I have
11 no further questions for Officer Rider.

12 CHAIRPERSON ANDERSON: Does any Board
13 members have any questions for the officer? Go
14 ahead, Mr. Short.

15 MEMBER SHORT: Good morning, Officer
16 Rider.

17 MR. RIDER: Good morning. How are you?

18 MEMBER SHORT: Thank you for your
19 service and thank you for an excellent report.
20 To your knowledge, this establishment at
21 Desperados, have you had any other incidents with
22 them or are you familiar with them in any other
23 way other than this incident that occurred in
24 this report that you presented and you agree is
25 introduced into evidence?

1 MR. RIDER: There was -- I mean, like
2 I said, I worked on U Street for four years. So
3 I've been to pretty much every establishment on
4 there. Been to Desperados a couple times. I
5 think one night, there was a guy there just,
6 like, throwing glasses around. But nothing out
7 of the ordinary.

8 MEMBER SHORT: Okay. Thank you.
9 That's all I have. Thank you for your testimony.

10 CHAIRPERSON ANDERSON: Any other --
11 I'm sorry. Any other questions by any Board
12 members? Hearing none, Mr. Ortiz, do you wish to
13 follow up on the questions that was asked?

14 MR. ORTIZ: No, I do not have any
15 follow-up questions.

16 CHAIRPERSON ANDERSON: Thank you.
17 Officer Rider, thank you very much for your
18 testimony. You can step down.

19 MR. RIDER: Yes, sir. Thank you.

20 CHAIRPERSON ANDERSON: Thank you.
21 Have a great day. Mr. Ortiz, do you have any
22 other witnesses?

23 MR. ORTIZ: Yes, I have ABRA
24 Investigator Kevin Puente.

25 CHAIRPERSON ANDERSON: Mr. Puente.

1 Mr. Puente, raise your right hand, please.

2 (Witness sworn.)

3 CHAIRPERSON ANDERSON: Thank you.

4 Your witness, sir.

5 WHEREUPON,

6 KEVIN PUENTE

7 was called for examination by Counsel for the
8 District of Columbia, having been previously
9 sworn, assumed the witness stand, was examined
10 and testified as follows:

11 DIRECT EXAMINATION

12 MR. ORTIZ: Good morning. What is
13 your name?

14 MR. PUENTE: Kevin Puente.

15 MR. ORTIZ: Can you spell your last
16 name for the record, please?

17 MR. PUENTE: P-U-E-N-T-E.

18 MR. ORTIZ: And where are you currently
19 employed?

20 MR. PUENTE: The Alcoholic Beverage
21 Regulation Administration.

22 MR. ORTIZ: And what is your position
23 at the Alcoholic Beverage Regulation
24 Administration?

25 MR. PUENTE: Investigator.

1 MR. ORTIZ: And how long have you been
2 an investigator?

3 MR. PUENTE: Four years.

4 MR. ORTIZ: And what are your duties
5 and responsibilities as an investigator?

6 MR. PUENTE: Conducting inspections
7 and investigations of licensed ABC establishments
8 in the District of Columbia.

9 MR. ORTIZ: Now are you familiar with
10 the establishment called Desperados Pizza?

11 MR. PUENTE: Yes.

12 MR. ORTIZ: How are you familiar with
13 this establishment?

14 MR. PUENTE: I investigated them for
15 several incidences in the past.

16 MR. ORTIZ: All right. Did you ever
17 -- did there come a time when you investigated
18 Desperados Pizza in April 2018?

19 MR. PUENTE: Yes.

20 MR. ORTIZ: And why did you
21 investigate Desperados Pizza?

22 MR. PUENTE: I received an MPD-251
23 report for after hours.

24 MR. ORTIZ: And did you create a case
25 report?

1 MR. PUENTE: Yes.

2 MR. ORTIZ: All right. So at this
3 time, I'm going to hand you a document marked as
4 Government Exhibit 2 for identification purposes.

5 (Whereupon, the above-
6 referred to document was
7 marked as Government's
8 Exhibit 2 for
9 identification.)

10 MR. ORTIZ: And do you recognize this
11 document?

12 MR. PUENTE: Yes.

13 MR. ORTIZ: And what is this document?

14 MR. PUENTE: It's my case report.

15 MR. ORTIZ: All right. And did you
16 attach exhibits to the case report?

17 MR. PUENTE: Yes.

18 MR. ORTIZ: All right. And after you
19 reviewed Exhibit 2 for identification purposes,
20 is this an accurate copy of the case report that
21 you created for Desperados Pizza?

22 MR. PUENTE: Yes.

23 MR. ORTIZ: At this time, the
24 Government moves Exhibit 2, the case report, into
25 evidence.

1 CHAIRPERSON ANDERSON: So moved.

2 (Whereupon, the above-
3 referred to document was
4 received into evidence as
5 Government's Exhibit 2.)

6 MR. ORTIZ: And after your
7 investigation, what did you conclude?

8 MR. PUENTE: That the establishment
9 was operating after hours.

10 MR. ORTIZ: And what -- do you know
11 what are -- sorry. What are Desperados Pizza's
12 hours of operation for Friday evenings into
13 Saturday mornings?

14 MR. PUENTE: 8:00 a.m. until 3:00 a.m.

15 MR. ORTIZ: And how do you know that?

16 MR. PUENTE: Off its ABC license.

17 MR. ORTIZ: And when did you view the
18 ABC license?

19 MR. PUENTE: When I was at the
20 establishment conducting a regulatory inspection.

21 MR. ORTIZ: And when were you at the
22 establishment?

23 MR. PUENTE: On April 28, 2018.

24 MR. ORTIZ: And you indicated that you
25 visited the establishment?

1 MR. PUENTE: Yes.

2 MR. ORTIZ: And did you speak to the
3 owner, Mr. Corey Bosker (phonetic), on April 20,
4 2019?

5 MR. PUENTE: Yes.

6 MR. ORTIZ: Did you advise Mr. Bosker
7 of the after hours violation?

8 MR. PUENTE: Yes.

9 MR. ORTIZ: Did Mr. Bosker ever give
10 you an explanation as to what occurred on April
11 14, 2018?

12 MR. PUENTE: Yes.

13 MR. ORTIZ: What did Mr. Bosker say?

14 MR. PUENTE: He advised me that it was
15 family members waiting for him and the staff to
16 clean up and they're consuming alcoholic
17 beverages just waiting for him.

18 MR. ORTIZ: So Mr. Bosker informed you
19 that they were consuming alcohol?

20 MR. PUENTE: Yes.

21 MR. ORTIZ: At this time, I don't have
22 any further questions for Mr. Puente.

23 CHAIRPERSON ANDERSON: Does any Board
24 members have a question for Mr. Puente? Hearing
25 none, thank you, Mr. Puente, for your testimony.

1 You can step down. Does the Government have any
2 other witness?

3 MR. ORTIZ: We do not have any other
4 witnesses.

5 CHAIRPERSON ANDERSON: Does the
6 Government rest?

7 MR. ORTIZ: Yes, with just a brief
8 closing argument.

9 CHAIRPERSON ANDERSON: Go ahead with
10 your closing, please.

11 MR. ORTIZ: The Government has proven
12 to the Board by preponderance of the evidence
13 that alcohol was consumed at the establishment in
14 violation of D.C. Code Section 25-723(b) and 25-
15 823(a)(7).

16 We heard from Officer Rider that he
17 observed several females and a male drinking
18 alcohol at the establishment. We also heard from
19 investigator Kevin Puente that he investigated
20 the claim brought forth by Officer Rider.

21 The investigation led Investigator
22 Puente to a conversation with the owner of the
23 establishment, Mr. Bosker. Mr. Bosker admitted
24 to Investigator Puente that the females at the
25 establishment were consuming alcohol.

1 Therefore, the Government has met its
2 burden and has proven their charge.

3 CHAIRPERSON ANDERSON: Thank you, Mr.
4 Ortiz, for your closing. The record is now
5 closed. Do you wish to file proposed findings of
6 fact and conclusion of law or you waive your
7 right to do so?

8 MR. ORTIZ: Waive my right.

9 CHAIRPERSON ANDERSON: All right. The
10 Board will issue its decision within the next 90
11 days. And they're not making recommendations
12 anymore. Hold on one minute because I need to
13 find our closing.

14 As Chairperson of the Alcoholic
15 Beverage Control Board for the District of
16 Columbia and in accordance with D.C. Official
17 Code Section 2574(b) of the Open Meetings Act, I
18 move that ABC Board hold a closed meeting for the
19 purpose of seeking legal advice from our counsel
20 on Case No. 18-CMP-00112, Desperados Pizza.

21 Pursuant to D.C. Official Code Section
22 2574(b)(4) of the Open Meetings Act and
23 deliberating upon Case No. 18-CMP-00112,
24 Desperados Pizza for the reasons cited in D.C.
25 Official Code Section 2574(b)(13) of the Open

1 Meetings Act.

2 Is there a second?

3 MEMBER CROCKETT: Second.

4 CHAIRPERSON ANDERSON: Ms. Crockett
5 has seconded the motion. I will now take a roll
6 call vote on the motion before us now that it has
7 been seconded.

8 Ms. Crockett?

9 MEMBER CROCKETT: I agree.

10 CHAIRPERSON ANDERSON: Mr. Cato?

11 MEMBER CATO: I agree.

12 CHAIRPERSON ANDERSON: Mr. Short?

13 MEMBER SHORT: I agree.

14 CHAIRPERSON ANDERSON: Mr. Anderson?
15 I agree. And it appears that the motion has
16 passed. I hereby give notice that the ABC Board
17 will recess these proceedings to hold a closed
18 meeting in the ABC Board conference room pursuant
19 to Section 2574(b) of the Open Meetings Act.

20 Thank you, Mr. Ortiz. And we -- the
21 Board is now in -- let's see. The Board is now
22 in recess.

23 MR. ORTIZ: Thank you, Board members.

24 (Whereupon, the above-entitled matter
25 went off the record at 10:44 a.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: ABRA Hearing

Before: Alcoholic Beverage Control Board

Date: 11-06-19

Place: Washington, D.C.

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