

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

IN THE MATTER OF: :
 :
 Café Dupont, LLC, :
 t/a Café Citron :
 1343 Connecticut Ave, NW, : Fact Finding
 Retailer CR - ANC 2B : Hearing
 License No. 60138 :
 Case #18-251-00090 :
 :
 (Assault Inside of the :
 Establishment) :

Wednesday
 July 18, 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
 MIKE SILVERSTEIN, Member
 JAMES SHORT, Member
 REMA WAHABZADAH, Member

ALSO PRESENT:

CLELIA VERINDOAGUE, Licensee

RICHARD BIANCO, Licensee

MARLHON LUCERO, Licensee

DARREN HASKIS, DC MPD

NEHAUJA MICOSEVIC, Licensee

CAMERON ROYSTER, ABRA Investigator

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

2 (10:13 a.m.)

3 CHAIRPERSON ANDERSON: All right, the
4 next case on our calendar is Case Number 18-251-
5 00090, Café Citron, License Number 60138. Will
6 the parties please approach and identify
7 themselves for the record please? Everyone who
8 is here for Café Citron, they can come forward
9 please. So we can start with the licensee.

10 (Off the record comments)

11 MR. BIANCO: Good morning, Mr.
12 Chairman and members of the board. Richard
13 Bianco on behalf of Café Citron.

14 CHAIRPERSON ANDERSON: Good morning,
15 Mr. Bianco.

16 MS. VERINDOAGUE: Good morning, Clelia
17 Verindoague.

18 CHAIRPERSON ANDERSON: I didn't get
19 your last name, ma'am.

20 MS. VERINDOAGUE: Verindoague.

21 CHAIRPERSON ANDERSON: Verindoague.

22 MS. BERINDOAGUE: Yes.

1 CHAIRPERSON ANDERSON: Good morning.
2 How are you?

3 MS. VERINDOAGUE: Good morning.

4 MR. LUCERO: Good morning, Marlhon
5 Lucero.

6 CHAIRPERSON ANDERSON: I didn't get
7 your last name, sir.

8 MR. LUCERO: Marlhon Lucero.

9 CHAIRPERSON ANDERSON: Mr. Luc --

10 MR. LUCERO: Lucero.

11 CHAIRPERSON ANDERSON: Lucero. Good
12 morning.

13 MR. LUCERO: Good morning.

14 MR. MICOSEVIC: Good morning, Nehauja
15 Micosevich. Are you getting good at those?

16 CHAIRPERSON ANDERSON: It's that I
17 can't hear. I'm bad with the pronunciation, but
18 I'm not hearing to even try.

19 MR. MICOSEVIC: Micosevich.

20 CHAIRPERSON ANDERSON: Good morning,
21 sir. There's a sign-in sheet, so please make
22 sure everyone signs in on the sign-in sheet.

1 INVESTIGATOR ROYSTER: Good morning,
2 Cameron Royster.

3 CHAIRPERSON ANDERSON: Good morning,
4 Mr. Royster.

5 LIEUTENANT HASKIS: Good morning,
6 Lieutenant Darren Haskis, MPD.

7 CHAIRPERSON ANDERSON: Good morning,
8 Lieutenant Haskis.

9 This is a fact finding hearing because
10 of an incident that occurred at the
11 establishment. And the board was concerned. I
12 think that if I recall correctly that the cameras
13 did not work. The licensee did not report this
14 to MPD. And so this is one of the reasons why we
15 brought the licensee in this morning to explain
16 to us why that they acted the way they did. I
17 know that the licensee has a security plan. And
18 whether or not the licensee complied with its
19 security plan.

20 So I'll start with Mr. Royster. Maybe
21 you can tell us about this incident and your
22 investigation, sir.

1 INVESTIGATOR ROYSTER: Yes. So I was
2 assigned to investigate a simple assault incident
3 that occurred the morning of Sunday, March 4th.
4 It was there at the establishment of Café Citron.
5 The incident report was from MPD officer, Yohan
6 Higgins. He advised that some patrons were
7 inside of Café Citron and an altercation ensued
8 that a male patron had struck a female patron in
9 the face.

10 I first visited the establishment on
11 March 14th on Wednesday at 12:00 a.m. and I spoke
12 with the ABC manager on duty that night who was
13 Clelia Verindoague. She advised that she was not
14 on duty the night of the incident and it was ABC
15 manager, Marlhon Lucero that night who was
16 working.

17 So I proceeded to ask her the security
18 procedures the establishment ensues. And they
19 say that the night of the incident, there were
20 seven security personnel working. And also there
21 was 16 cameras placed around the establishment,
22 but they were not working the night of the

1 incident.

2 When I asked her why they were not
3 recording the night of the incident, Ms.
4 Verindoague advised that the establishment was in
5 the process of repositioning and upgrading their
6 camera system. And the company had forgot to
7 turn the camera system back on when they got the
8 work done. So there was a period that they were
9 not recording. And it was a period of about ten
10 days, they stated. And the established procedure
11 is to alert MPD also as soon as possible. And to
12 separate both parties, as well as referencing
13 their security plan as Ms. Verindoague advised
14 me.

15 So after visiting the establishment --
16 Well I first requested documentation that their
17 camera system was being worked on, which she
18 stated she would get to me the next day -- Yes,
19 that she would get to me the next day.

20 And so after visiting the
21 establishment, I contacted by email Officer Yohan
22 Higgins to gain more clarification of the

1 incident. And he advised that when he first got
2 on scene -- or when he first entered the scene,
3 he observed both parties outside of the
4 establishment arguing which later on I observed
5 through his body-worn camera footage to be
6 accurate and true, that both parties were outside
7 of the establishment arguing about what had
8 occurred and so on.

9 And so that next day, March 14th that
10 night at 8:30 p.m., I visited the establishment
11 again and met with Marlhon Lucero to gain more
12 clarification about the incident. And Mr. Lucero
13 had advised me that he did not know the incident
14 had occurred until MPD had approached him saying
15 that -- requesting video footage of the incident.
16 And he advised me that he requested MPD to come
17 back another time because the establishment was
18 close to closing and was busy at the moment. So
19 he --

20 CHAIRPERSON ANDERSON: I'm sorry.
21 What happened? Repeat what you just said.

22 INVESTIGATOR ROYSTER: He asked MPD to

1 come back another time because the establishment
2 was close to closing, so it was busy at that
3 moment. So he wanted to give them video footage
4 another time. And so I further asked him about
5 the incident and if they notified MPD. And Mr.
6 Lucero stated that the security had immediately
7 kicked out the male patron out of the
8 establishment. And that the reporting person,
9 which was the victim, Ms. Rovero, she had alerted
10 MPD instead of the establishment.

11 And later on that same night, he
12 provided me the incident log and that it
13 confirmed what his account to me was that the
14 victim had called MPD. And that he was
15 approached by MPD, which was how he first learned
16 of the incident.

17 And so a week later on March 21st, I
18 interviewed Ms. Rovero, the reporting person.
19 And she advised that she was assaulted by a male
20 patron inside of the establishment and security
21 had witnessed the incident. And she further
22 advised that after security witnessed the

1 incident, they kicked the male patron out
2 immediately. And that the security told her to
3 call MPD.

4 And then she also further sent me --
5 She sent me pictures later on that night of her
6 injuries that confirmed the injuries that I
7 witnessed on the body-worn camera footage of that
8 she was holding her face. And her face was
9 swelling on, I believe it was her left side. The
10 left side of her face was swelling, that she had
11 been struck.

12 So through my observations of the
13 body-worn camera footage and the interviews, I
14 concluded that the simple assault did occur
15 inside of the establishment based on her injuries
16 and the body-worn camera footage. And so then
17 while going over the investigative report for
18 this hearing, it was further determined with my
19 supervisor that the establishment had also
20 violated their security plan as well,
21 specifically on Page 13 and 14 within the
22 conflict resolutions and aggressive customers.

1 And do you want me to read?

2 CHAIRPERSON ANDERSON: You can tell us
3 what -- You can just summarize it please.

4 INVESTIGATOR ROYSTER: Well basically
5 on Page 13, there's a part that states if a
6 altercation occurs between two parties, they
7 aren't to be escorted to the same area, to
8 address their concerns. And through my
9 observations on the body-worn camera footage,
10 they were both outside of the establishment
11 arguing. So it was concluded that they were led
12 to the same area and so it's a violation of that
13 portion of the security plan.

14 And then also on Page 14, it states if
15 any employee of Café Citron observes any act of
16 violence or other emergencies, they shall contact
17 radio -- They shall contact and radio for
18 assistance immediately from another employee's
19 security or attempt to assist or call MPD or EMS
20 immediately. And since the reporting person, Ms.
21 Rovero stated that she had to call MPD and that
22 security had told her to call MPD, clearly they

1 did not call MPD so that's a violation as well.
2 And so I concluded that those are two additional
3 violations regarding their security plan.

4 CHAIRPERSON ANDERSON: Okay.
5 Lieutenant, what can you offer to what occurred
6 here, if anything?

7 LIEUTENANT HASKIS: I think the
8 investigator gave a good rundown. Indeed we did
9 learn of the incident via a 911 call from the
10 victim. It happened at approximately 2:00 a.m.
11 Apparently herself and the patron who assaulted
12 her bumped into each other. It was very crowded
13 in the bar area. And he turned around and
14 punched her in the face, hitting her in the eye.

15 And we did find them when we arrived
16 on scene at the location and both were able to
17 give us their account. He had claimed that he
18 had elbowed her and not punched her. The case
19 when I looked it up this morning, apparently he
20 has pled guilty. It's set up for deferred
21 sentencing. That's about all I have.

22 CHAIRPERSON ANDERSON: So from MPD's

1 perspective, what if anything, did the
2 establishment do right or wrong, at least from
3 your perspective?

4 LIEUTENANT HASKIS: From MDP's
5 perspective, we would have -- the body camera
6 footage for us is very -- I'm sorry. The camera
7 footage in the establishment is critical. We
8 would have liked that. And also we would have
9 liked to have heard from the establishment,
10 rather than from the victim 911.

11 CHAIRPERSON ANDERSON: There was an
12 allegation -- There was an allegation that I
13 think an MPD officer went and the establishment
14 had said well, you need to come back another time
15 because we're busy. I don't know if that's -- Do
16 you know if that occurred and did that have an
17 impact on your investigation?

18 LIEUTENANT HASKIS: I'm not sure if
19 that occurred. When I spoke to Officer Higgins
20 two days ago, he had not brought that up to me.
21 Since a warrant was done here, I don't think that
22 it had a significant impact.

1 CHAIRPERSON ANDERSON: Thank you.

2 INVESTIGATOR ROYSTER: May I say --

3 CHAIRPERSON ANDERSON: Yes, Mr.

4 Royster?

5 INVESTIGATOR ROYSTER: Officer Yohan
6 Higgins first contacted ABRA via email to the
7 ABRA hotline. And stated that -- at the bottom
8 of his email -- I don't have it in front of me --
9 that the staff had refused to give him video. So
10 that's how that came about -- at the bottom of
11 that email, how he first contacted us.

12 CHAIRPERSON ANDERSON: Okay, thank
13 you. Mr. Bianco, how do you -- How does your
14 client wish to address?

15 MR. BIANCO: Sure. Well if I may, I'd
16 like to go through each of the allegations set
17 forth. And then if my client needs to fill in
18 additional details, she can do that. We also
19 have Mr. Lucero who was the manager that evening.
20 And Mr. Micosevich who's the head of security for
21 the establishment and was also on site that
22 evening. And I think it will do well to shed

1 some light on this particular incident.

2 First, with regard to the security
3 cameras, my client was in the process on March
4 the 4th of upgrading their security cameras. And
5 I know you guys have a lot of cases but the board
6 may recall that we were here actually on March
7 the 7th and provided some description of that
8 upgrade process. And the reason why the cameras
9 were being upgraded was because of an incident
10 that occurred back in November of '17. And that
11 incident specifically dealt with an incident that
12 occurred that was outside of the view of the
13 cameras.

14 So when that occurred in November of
15 '17, my client, Ms. Verindoague decided to
16 upgrade the camera system and have the cameras
17 repositioned. And this was done in two phases.
18 In late '17, early '18, the cameras themselves
19 were upgraded. So the cameras they had were sort
20 of the old style, long bank cameras that were
21 aimed throughout the establishment. They were
22 not doing a great job of coverage or providing

1 visibility in the low light of a lounge.

2 So they upgraded the actual physical
3 cameras to digital that would be better seen in
4 low light. Once the cameras were upgraded and
5 repositioned, the system itself then in February
6 and March of 2018 was upgrade to accommodate
7 additional memory. So the system was upgraded to
8 what is now a 9.3 terabyte memory system, which
9 is relevant because it can record up to six weeks
10 of operation as opposed to the 30 days that they
11 previously had.

12 On March 4th when this incident took
13 place, the camera system upgrade was finished.
14 It was finished on March the 1st. The system was
15 not recording unbeknownst to my client. If you
16 were to look at it, it appeared to be
17 functioning. And when they discovered that the
18 system was not recording by virtue of this
19 incident, they had their contractor who did the
20 upgrade provide a letter of explanation, which
21 was provided to the investigator. But for some
22 reason, and I learned this morning, the letter

1 was not included in the report.

2 CHAIRPERSON ANDERSON: So do you have
3 a copy of this letter?

4 MR. BIANCO: Since I just learned of
5 this issue this morning, I don't have a physical
6 copy of it with me. My client's daughter has
7 attempted to email me a copy, but I would be
8 happy to supplement the record with the letter
9 that was provided to the investigator, what we
10 were doing.

11 CHAIRPERSON ANDERSON: To what
12 investigator?

13 MR. BIANCO: I'm sorry, the
14 investigator in this matter seated directly to my
15 right.

16 CHAIRPERSON ANDERSON: Mr. Royster?
17 And I apologize to cut you --

18 MR. BIANCO: Sure.

19 CHAIRPERSON ANDERSON: -- but since
20 I'm being told that a letter was provided to him
21 and it's not in his report. So Mr. Royster, can
22 you -- Because it appears this is a very

1 important point for the licensee. That's one of
2 the reasons I'm asking you. Can you address that
3 issue while it's still fresh in everyone's mind?

4 INVESTIGATOR ROYSTER: I was told this
5 morning apparently I received a letter but I
6 didn't. The only thing I received, I provided
7 this morning. The second time I went, Mr. Lucero
8 provided me a copy of the invoice that something
9 was being paid, which was provided to him
10 earlier. That's right there. But it didn't show
11 anything specifically what had occurred. There's
12 not any -- It didn't show what was being worked
13 on or anything. It just showed something was
14 paid for.

15 CHAIRPERSON ANDERSON: All right. Let
16 me ask you a question, how was this information
17 provided to the investigator?

18 MR. BIANCO: I'm not sure quite
19 honestly because again, this is new information
20 to me as of 9:40 this morning. I do not have --

21 CHAIRPERSON ANDERSON: Well I'm just
22 saying since your client is saying that they

1 provided something, then whatever you're going to
2 provide to supplement the record, I need you to
3 tell us how it was provided. If it was provided
4 by email --

5 MR. BIANCO: Of course.

6 CHAIRPERSON ANDERSON: -- then we
7 should have the original. You should forward us
8 a copy of the original email that was sent by
9 email. So if it was hand-delivered, well we
10 can't do that. But if it was sent by email -- if
11 the allegation is going to be that it was sent by
12 email, the only way I will -- the only way this
13 board -- and I'm speaking for the board, the only
14 way the board is going to accept it to say that
15 it's factual is if you provide us the original
16 email that was sent. If you don't have that
17 information or if you're not going to say that it
18 was provided, hand-delivered, don't provide it.
19 Because I'm not going to -- I don't think -- it
20 could be like okay, this was made up after the
21 fact.

22 MR. BIANCO: Of course.

1 CHAIRPERSON ANDERSON: I just want to
2 make sure that you know at least where I stand.

3 MR. BIANCO: Right and from an
4 evidentiary standpoint, it would be my
5 understanding and intention to present the board
6 either the email chain showing delivery or some
7 type of declaration from the person who hand-
8 delivered it saying I hand-delivered this to this
9 person on date. And that's what I intend to --

10 CHAIRPERSON ANDERSON: Well I'm
11 letting you know what else is required based on
12 what's been said. Based on the representation
13 that's made by the investigator this morning.

14 MR. BIANCO: Correct and --

15 CHAIRPERSON ANDERSON: I apologize, go
16 ahead.

17 MR. BIANCO: And as of -- Again, as of
18 the information that was provided to me this
19 morning, the letter was from Julio Gaminow who is
20 employed by -- I'm sorry, owns INIS DMV that does
21 video and sound and other audio visual issues for
22 industry establishments as his business. And he

1 indicates that the system was installed and it
2 was properly working by the end of February.

3 But as a result of the external hard
4 drives not being plugged in appropriately to the
5 close circuit TV systems, it was not recording
6 for the period of seven days from March the 1st
7 through March the 7th. And it's my understanding
8 that, that is the letter that we are going to be
9 able to produce to the board.

10 CHAIRPERSON ANDERSON: I try not to
11 interrupt attorneys when they are speaking but if
12 it was properly installed and working, did
13 somebody go and unplug it? I'm just trying to
14 find out what happened. If the installer says
15 that maybe I didn't check it to make sure that it
16 was working and it was my fault. But I mean
17 unless you're telling me there was electric
18 shortage or something, I'm suspicious that if it
19 was working and you're going to say that it was
20 not -- That explanation, I'm just saying to me at
21 first blush, I'm not buying it but go ahead.

22 MR. BIANCO: We'll provide what the

1 technician provided us.

2 CHAIRPERSON ANDERSON: Yes, but as I
3 said Mr. Bianco, if you say to me that it was
4 working, something happened. There was an act of
5 God, things can happen. There was a power
6 failure. We thought that it kicked in and it
7 didn't kick in. But that -- I'm sitting here and
8 we're all reasonable person and that doesn't
9 sound reasonable to me. I'm just saying to you.
10 I mean I try to be open minded and I can be open
11 minded. But I'm just saying to you that, that
12 just leaves me wanting to scratch my head because
13 I'm not sure if I want to believe that. But go
14 ahead.

15 MR. BIANCO: Sure. Well I'm not a
16 technician and again this is --

17 CHAIRPERSON ANDERSON: All right.

18 MR. BIANCO: -- new information to me.

19 CHAIRPERSON ANDERSON: Okay.

20 MR. BIANCO: I will provide -- I'm
21 providing it to you as I get it.

22 CHAIRPERSON ANDERSON: Thank you. Go

1 ahead.

2 MR. BIANCO: And I will provide
3 whatever was --

4 CHAIRPERSON ANDERSON: All right.

5 MR. BIANCO: -- provided to the
6 investigator in this case. The board can read it
7 and if there's need for additional fact finding,
8 we're happy to produce whatever documentation or
9 witnesses that the board would like to hear from
10 on that particular issue.

11 CHAIRPERSON ANDERSON: Okay.

12 MR. BIANCO: Moving on to what I've
13 spotted as Issue Number 2 in the investigator
14 remarks, which is that the patron called the
15 police and was told to call the police. We have
16 Mr. Micošević here to address that particular
17 issue. There was -- the security personnel at
18 this particular establishment are trained to call
19 the police. And they're trained to do so once
20 the scene is made safe for the patrons, as well
21 as the individuals that were involved and
22 whatever issue took place.

1 We can say definitely that no member
2 of his security team told the victim to call the
3 police. But we don't deny that the victim
4 actually called the police. It happens. It
5 happened in this case. The victim called the
6 police at a time before the security personnel
7 had secured the scene and called the police
8 themselves. Once they were informed that the
9 police were called, they don't make a duplicate
10 call. The police were on the way.

11 And we don't qual with the fact that
12 the victim's the one that called the police.
13 What we take issue with is the victim's statement
14 now I supposed thirdhand that someone from the
15 security team told her to call the police. It's
16 not their procedure. It's not their practice.
17 It's not what they do. It's not what happened
18 here.

19 What I have spotted as the third issue
20 in the investigator's remarks is the issue with
21 the police officer being told to come back on
22 another day. And Mr. Lucero is here to address

1 that particular issue. He has known this
2 particular officer for some period of time. He
3 was at the tail end of a very long shift. He did
4 not tell the officer I'm too busy, come back at
5 another time. He asked if it would be okay if
6 the officer came back at another time to view the
7 footage and the officer agreed.

8 So it's not a situation where we're
9 saying something like go away, we're too busy to
10 deal with you. It's a situation where we're
11 asking permission. Would this be okay? And to
12 that end, it's actually in compliance with the
13 law. We're required to provide video footage
14 within 48 hours. My client asked and the officer
15 agreed to come back the following Monday to view
16 the video footage.

17 Many times in the past, this
18 particular officer has asked Mr. Lucero to look
19 at video footage. There's never been a delay.
20 There's never been a problem. It wasn't a
21 problem here. He asked the officer nicely if he
22 could come back. The officer agreed based on

1 their preexisting relationship. The officer came
2 back and it was when the officer came back, they
3 discovered this problem with the recording.

4 As to what I've been advised this
5 morning at 9:40 with the filing of the
6 supplemental report, so we'll call this new Issue
7 Number 4. And that is the new allegation that
8 the two patrons were outside arguing. And I've
9 not been provided the body-worn camera footage.
10 I haven't seen it. I don't know what it shows.
11 I'm relying on what the investigator is telling
12 us and what the officer's lieutenant is telling
13 us based apparently on their viewing of the
14 footage.

15 But in the last 20 or 30 minutes
16 speaking with my clients trying to get them to
17 recall what happened, you know four or so months
18 ago, as best as we can tell there's no question
19 the patrons were separated when the incident
20 initially occurred. The gentleman who was the
21 perpetrator in this case and it sounds like he's
22 pleading his criminal case out was removed from

1 the establishment, taken out front. The victim
2 in this case was kept inside of the
3 establishment. And then decided that she no
4 longer wanted to be inside of the establishment
5 and wanted to go outside.

6 So just as the security plan requires
7 the parties to be separated as they were in this
8 case, the security plan also requires that they
9 not detain anybody against her will. So
10 explaining to someone that it's in their best
11 interest to remain inside the establishment. And
12 that they should not go outside the establishment
13 where the perpetrator is located is what
14 happened. Her declining that advice and going
15 outside anyway is not something that my client
16 could have physically blocked without also
17 violating security agreement, as well as the law.

18 So if somebody's told to stay inside
19 because it's in their best interest and decides
20 that they want to be outside, there's not a heck
21 of a lot that my client can do to physically stop
22 them from doing that. So when the officer came

1 up, if he saw the two inside and the body-worn
2 camera footage shows that, it doesn't speak
3 necessarily to whether or not the parties were
4 appropriately separated at the outset of the
5 incident. They in fact were.

6 And my manager and head of security
7 who are here can provide whatever additional
8 details they remember right now. But we haven't
9 had the opportunity to look into this more fully
10 or to even see the body-worn camera footage as
11 this was just raised to us in a supplemental
12 report a few minutes before the case was called.
13 So we're doing our best to deal with that
14 particular issue. And if the board wants
15 additional documentation on that or additional
16 testimony on that, we will do our best to go back
17 and find that once we've had actual opportunity
18 to look into it.

19 CHAIRPERSON ANDERSON: Okay. Any
20 questions by any board members? Yes, Mr. Short?

21 MR. SHORT: Good morning, Mr. Bianco.

22 MR. BIANCO: Good morning, Mr. Short.

1 MR. SHORT: Okay, just as the chairman
2 is concerned about the functioning of the cameras
3 at this particular time and in light that we just
4 as you reminded us that you were here in late '17
5 -- 2017, were the same issues going on at that
6 time with the cameras?

7 MR. BIANCO: No. Actually we were
8 here on March 7th of 2018 related to an incident
9 that occurred in November of '17. And the issue
10 that occurred in November of '17 was a result of
11 not the recording of the cameras. The cameras
12 were appropriately recording. It involved the
13 coverage area of the cameras. So in that case,
14 two cameras were placed next to each other. One
15 facing the front of the establishment. One
16 facing the back of the establishment. And the
17 incident occurred essentially underneath where
18 the two cameras were placed, so there was not
19 appropriate coverage.

20 MS. VERINDOAGUE: It was a blind spot.

21 MR. BIANCO: It was a blind spot,
22 right. So what that incident demonstrated to my

1 client is the need to reposition and upgrade the
2 entire system, which is what they undertook.

3 MEMBER SHORT: Not to cut you off but
4 now to take care of that problem in this
5 particular instance, nothings working. So blind
6 spot though, the whole issue is now the club is
7 not covered at all camera wise at this particular
8 -- for this particular incident.

9 MR. BIANCO: For this particular
10 incident, the cameras themselves were operating.
11 So if you were sitting in the office looking at
12 the monitor where the footage is displayed, they
13 would appear to be working because you could see
14 all parts of the club. What they were not doing
15 is recording. And that was unbeknownst to my
16 client until this incident occurred and they went
17 back and looked at the footage. And then
18 discovered the technical issue that resulted in -
19 -

20 CHAIRPERSON ANDERSON: Currently
21 today, right now, are the cameras functioning now
22 correctly?

1 MR. BIANCO: Yes, sir. They are. And
2 what I can tell factually to the board is as part
3 of my investigation, I went out to this
4 establishment during its operating hours without
5 the management necessarily expecting me. Walked
6 in, had them take me to the office and said now
7 show me footage from a date in the past. And
8 they were able to operate that system and show me
9 footage.

10 MEMBER SHORT: So that's --

11 (Simultaneous speaking)

12 MR. BIANCO: So it's working and it's
13 recording, absolutely. And I verified that
14 myself by going there recently.

15 MEMBER SHORT: All right now, this
16 question I'm going to ask of the investigator,
17 and thank you for the excellent report. The
18 security plan, is it compliant with ABRA's new
19 regulations on security plans?

20 INVESTIGATOR ROYSTER: To ABRA's new
21 regulations, you said?

22 MEMBER SHORT: Yes, is it compliant

1 with what we now subscribe to persons submitting
2 security plans in the District of Columbia that
3 ABRA takes and puts in the files?

4 INVESTIGATOR ROYSTER: So are they
5 compliant with the full security plan?

6 MR. SHORT: Yes.

7 INVESTIGATOR ROYSTER: I would have to
8 review fully. I cannot give a definite answer at
9 this moment.

10 MEMBER ALBERTI: Excuse me. All
11 right, just for clarification. Are you asking is
12 the security plan compliant or are they compliant
13 with the security plan?

14 CHAIRPERSON ANDERSON: He's asking if
15 the security --

16 MEMBER SHORT: -- plan is compliant
17 with what we -- with what our office requires.

18 MEMBER ALBERTI: Okay.

19 MEMBER SHORT: That's the question.

20 MEMBER ALBERTI: I just want to make
21 sure the investigator understands that.

22 CHAIRPERSON ANDERSON: Okay, all

1 right.

2 INVESTIGATOR ROYSTER: I believe it
3 should be updated, but overall --

4 CHAIRPERSON ANDERSON: Can we see if
5 that's done as soon as practical?

6 MR. SHORT: Excuse me?

7 MR. BIANCO: Well Mr. Short, if I
8 might on this --

9 MR. SHORT: Yes.

10 MR. BIANCO: -- particular point when
11 we were here in March, that issue was raised by
12 Mr. Alberti I believe. And I was informed, which
13 was news to me that the agency will conduct a
14 review. We submitted it for review. It was
15 reviewed by Mr. Berman. I reviewed it myself in
16 terms of compliance. I think Mr. Berman and I
17 both agree that the plan is in fact in compliance
18 but in a conversation I had with Ms. Jenkins
19 yesterday, she reminded me that even plans that
20 are in compliance should be updated and reviewed
21 periodically.

22 MR. SHORT: Okay, great. Which leads

1 me to this because when I don't see camera
2 coverage in this plan, it kind of makes me think
3 we need to update it.

4 MR. BIANCO: I think that's a good
5 point, yes.

6 MR. SHORT: And I think that
7 Investigator --

8 INVESTIGATOR ROYSTER: Royster.

9 MR. SHORT: -- Royster -- Thank you,
10 Mr. Royster, that you would help us with that and
11 see that, that gets taken place. Now the next
12 question I have is that someone is injured in
13 your club. And no one from the club calls MPD or
14 EMS. Is that true?

15 MR. BIANCO: That's correct. The
16 victim called before security called.

17 MR. SHORT: Is that acceptable to the
18 club?

19 MR. BIANCO: Well in the plan and as
20 contemplated in their normal procedure, they are
21 to call once they've secured the scene. But if a
22 victim or somebody else, a witness, calls prior

1 to the club security personnel calling, it's
2 certainly not ideal. It's not what we want, but
3 we also don't want to create an administrative
4 burden by making multiple calls to MPD when
5 they've already been alerted.

6 MR. SHORT: Administrative burden?

7 MR. BIANCO: Correct.

8 MR. SHORT: Someone's injured in the
9 club and it's a burden for someone to call 911?

10 MR. BIANCO: No, sir. We don't want
11 to create an administrative burden on the police
12 by making multiple calls when we've been made
13 aware --

14 MR. SHORT: I don't think -- I don't
15 think --

16 MR. BIANCO: -- the call has already
17 been made.

18 MR. SHORT: Lieutenant, would that be
19 a problem if you got multiple calls about the
20 same -- Does that happen on a regular basis
21 anyway?

22 LIEUTENANT HASKIS: It happens very --

1 it's a very common occurrence.

2 MR. SHORT: But it's not a burden on
3 MPD. Knowing public safety the way I do, I can
4 tell you most incidents most incidents get
5 multiple calls. And I would think it would be
6 very responsible for your club, someone calls
7 911. Just don't say because someone told me they
8 were injured but they already called, so we're
9 not going to call. That's not what this plan
10 says the way I'm reading it. So how much
11 training does the security get? Can I ask
12 security that? How much training and who trains
13 you?

14 MR. MICOSEVIC: I've been trained by
15 -- Actually I've been trained here in ABRA. And
16 also --

17 MR. SHORT: How's that working for
18 you?

19 MR. MICOSEVIC: Good so far.

20 MR. SHORT: So no one called 911 --

21 MR. MICOSEVIC: Yes, but if I may --

22 MR. SHORT: Go ahead, please.

1 MR. MICOSEVIC: -- we did try to
2 separate the parties -- both parties at the time
3 --

4 MR. SHORT: Well that's well and good.
5 But again, we wouldn't be sitting here if
6 something didn't go wrong with that. So how many
7 other people have been trained on your security -
8 - How many security do you have in the club?

9 MR. MICOSEVIC: That night it was
10 seven security.

11 MR. SHORT: How many of them have been
12 trained?

13 MR. MICOSEVIC: All of them.

14 MR. SHORT: By whom?

15 MR. MICOSEVIC: Well our in-house
16 security have been trained by ABRA. But we also
17 have contractors -- a security company --

18 CHAIRPERSON ANDERSON: Just identify
19 yourself for the record, sir. Identify yourself
20 for the record.

21 MR. MICOSEVIC: Nehauja Micosevich.
22 I'm the head of security.

1 CHAIRPERSON ANDERSON: Okay. Go
2 ahead, Mr. Short.

3 MR. SHORT: If I could suggest, and
4 this is the owner?

5 MR. BIANCO: Ms. Verindoague, yes.

6 MR. SHORT: We've had instances where
7 we've had training done or people have -- We can
8 make suggestions but it's your club. You do it
9 the way you want to. But when you have everybody
10 at the club who deals with security trained the
11 same way and they get someone to come in from the
12 outside who may not see things the same way
13 somebody working there would see it and go over
14 the plan with you. I think that, that sometimes
15 helps out a lot. And if have a regular beat
16 officer, MPD, the PSA officer, he should be aware
17 of it also.

18 But I would think that this is the
19 second time within this year that you've been
20 before us with the same kinds of situations, so
21 something isn't -- something isn't clicking.

22 MS. VERINDOAGUE: Yes, let me -- We do

1 have our in-house security but a large -- also
2 like 40 percent sometimes, depending on the time
3 -- sometimes my in-house cannot come, we have a
4 security company. Let me see what is the name.
5 It's --

6 MR. MICOSEVIC: Internal Protection
7 Services.

8 MS. VERINDOAGUE: What?

9 MR. MICOSEVIC: Internal Protection
10 Services.

11 MR. BIANCO: Internal --

12 MS. VERINDOAGUE: Internal Protection
13 Services. And they are a company that have very
14 well trained obviously security people.

15 MEMBER SHORT: How often do you use
16 them?

17 MS. VERINDOAGUE: They are -- I'm
18 sorry. They are like ex-police, people who have
19 been police before -- worked for the police
20 before. So we are very confident that they are
21 very, very good trained -- very well trained.

22 MR. SHORT: Okay. Are they familiar

1 with your security plans?

2 CHAIRPERSON ANDERSON: Of course.

3 They are, of course.

4 MR. SHORT: Were they working the
5 night of this incident?

6 MS. VERINDOAGUE: No, not that I --

7 MR. MICOSEVIC: No.

8 MR. SHORT: How often do they work?

9 MS. VERINDOAGUE: They were hired
10 actually March -- Let me see. I have the date
11 here. I'm sorry. I didn't remember --

12 MR. MICOSEVIC: March 28th.

13 MS. VERINDOAGUE: March 28th, they
14 were hired. We had another company before and we
15 realized that perhaps they were not so well
16 trained. And we decided to change to this new
17 company that is -- we are very comfortable and is
18 doing a very good job.

19 MEMBER SHORT: Okay well, I'm just
20 concerned that this is the second time we've seen
21 you --

22 MS. VERINDOAGUE: I understand.

1 MEMBER SHORT: -- this year. And the
2 cameras not functioning or doing what they're
3 supposed to be doing.

4 MS. VERINDOAGUE: Yes, but we --

5 MEMBER SHORT: We've got to do better.
6 Do you agree we've got to do better?

7 MS. VERINDOAGUE: You know because of
8 these things also, we've been fixing every time,
9 everything that we have seen that didn't work
10 well. Like the first time it was the issue the
11 camera having this blind spot. We proceeded to
12 repair that problem. Then we had the security
13 situation. We proceed to hire a new security
14 company that is better trained. So because of
15 these issues, we are trying to better ourselves
16 as well.

17 MEMBER SHORT: Okay. Well I would
18 suggest that -- and if Investigator Royster is
19 going to be working with you on a security plan
20 and diagrams and some of the other things I've
21 seen and some of the other plans. And even you
22 might want to put in here, if you do have trained

1 persons coming in, giving you -- just suggestion
2 wise that they have associated some kind of a way
3 that they've been through this plan with you
4 also.

5 MS. VERINDOAGUE: Right. No, they are
6 -- every time that if somebody new would come
7 from the company, they are supposed to read
8 through the security plan.

9 MEMBER SHORT: Supposed to.

10 MS. VERINDOAGUE: Yes. Well they are
11 -- you know, they come, they do.

12 MR. SHORT: Do you report it?

13 MS. VERINDOAGUE: Not this procedure.

14 MEMBER SHORT: Do you have a journal
15 that you keep for emergencies?

16 MS. VERINDOAGUE: Yes.

17 MEMBER SHORT: So could you put that
18 in recording when the training takes place or the
19 persons review it? So if you come to a hearing
20 like this again, you can see well yes, those
21 persons were working for us that night -- the
22 outside persons. But yes, when they checked in

1 or logged in, here's what they -- they were
2 working with us and the plan is working.

3 MS. VERINDOAGUE: We have a --

4 MR. BIANCO: We can put that on the
5 incident log, right?

6 MS. VERINDOAGUE: Yes. We have an
7 incident log.

8 MEMBER SHORT: All right well -- Thank you,
9 Mr. Chair. That's all I have for right now.
10 Thank you.

11 CHAIRPERSON ANDERSON: Yes, Mr.
12 Alberti?

13 MEMBER ALBERTI: I want to go back to
14 the security --

15 CHAIRPERSON ANDERSON: Excuse me.
16 When he asked a question, I would like the person
17 just to identify yourself for the record. Okay?
18 Go ahead, Mr. Alberti.

19 MEMBER ALBERTI: So I want to go back
20 to the security plan, Mr. Bianco.

21 MR. BIANCO: Sure.

22 MEMBER ALBERTI: The security plan we

1 have you for is dated November 5th, 2013.

2 MR. BIANCO: That's correct.

3 MEMBER ALBERTI: So that's the most
4 current one?

5 MR. BIANCO: That's the most current
6 one we have. Correct.

7 MEMBER ALBERTI: And that's the one
8 that Mr. --

9 MR. BIANCO: Mr. Berman.

10 MEMBER ALBERTI: -- Mr. Berman
11 reviewed and says is compliant?

12 MR. BIANCO: That's correct.

13 MEMBER ALBERTI: Okay. All right. I
14 will talk to Mr. Berman.

15 MR. BIANCO: Of course and if there's
16 any concerns that the board has with the plan
17 that we have, we're happy to make --

18 MEMBER ALBERTI: It's sort of
19 surprising because the board's -- I believe the
20 regulations and security plans were updated after
21 this plan -- after November 13th -- after
22 November 2013. So it's surprising that this

1 would be compliant. But I will speak to Mr.
2 Berman and I'm sure he'll get back to you with
3 whatever needs to be done.

4 MR. BIANCO: Happy to make
5 adjustments. Thank you, Mr. Alberti.

6 MEMBER ALBERTI: All right, thank you.
7 So Mr. Bianco, when did the licensee consult with
8 your client? When did the licensee discover that
9 the video was not recording?

10 MR. BIANCO: It was when the MPD
11 officer returned on the Wednesday following the
12 March 4th incident. So that would be March the
13 7th. They discovered it. Reported it to their
14 vendor. And the vendor came out and fixed it.
15 And as of March the 8th, it was working again.

16 MEMBER ALBERTI: But it was March 7th
17 that they told the officer to come back?

18 MR. BIANCO: No, it was March 4th.
19 They asked him to come back. They said officer,
20 would you mind coming back Monday? Officer says
21 yes. But the officer didn't actually come back
22 until Wednesday the 7th.

1 MEMBER ALBERTI: So it was the day of
2 the incident that they asked the officer to come
3 back?

4 MR. BIANCO: Correct. Correct.

5 MEMBER ALBERTI: Okay. And then they
6 came back --

7 MR. BIANCO: On the 7th.

8 MEMBER ALBERTI: -- on the 7th? Three
9 days later?

10 MR. BIANCO: Wednesday, correct.
11 Right. So the incident was on a Friday night
12 into Saturday morning.

13 MEMBER ALBERTI: And that's when they
14 discovered it.

15 MR. MICOSEVIC: No, Saturday to
16 Sunday.

17 MR. BIANCO: Oh, I'm sorry. Saturday
18 to Sunday, correct. And then on the 7th is when
19 they discovered it, correct.

20 MEMBER ALBERTI: So this happened on
21 a Sunday. Okay. Did this happen on a Sunday?

22 MR. BIANCO: Yes, it was a Saturday

1 night into Sunday. I think it was about 2:00
2 a.m. on Sunday.

3 MEMBER ALBERTI: Okay. And so it was
4 when they tried to retrieve it on Wednesday for
5 the officer.

6 MR. BIANCO: For the officer, right.

7 MEMBER ALBERTI: Thank you. I have no
8 further questions.

9 CHAIRPERSON ANDERSON: Any other
10 questions from any of the board members? I guess
11 what I'm looking for is how often do you check to
12 see whether or not the system is working? I mean
13 what's your process to make sure that the system
14 is doing what it's supposed to do? Because we
15 can have a system there and we think it's
16 recording. So what policies or process do you
17 have in place to make sure that the system is
18 working?

19 MR. LUCERO: Marlhon Lucero, I'm one
20 of the monitors at the establishment. So I have
21 a screen of the entrance that shows the cameras -
22 - the 16 cameras that we have. We have a monitor

1 as well in the office. When I come into the
2 restaurant, this always shows it's on. And you
3 can see the small square on the left with the
4 motion that it's working. I don't know. That's
5 the way I saw it. Or that's the way I see it
6 every day when I walk into work. And as long as
7 that was working in the past , on the office as
8 well, it's always has been recording to my
9 knowledge.

10 So the day that the officer came that
11 they did their incident, which was around 2:30 at
12 night, I believe. When he asked me to provide
13 for the footage, I told him look, it's been a
14 long trip. I've been here since noon. Please,
15 can we meet on Monday. I will give it to you.
16 No problem. He's like yes, fine. I understand.
17 He's basically, when it's time to go outside or
18 whatnot. I said I will meet you on Monday. He
19 didn't show up until Wednesday. When I sit down
20 with him, I didn't have any footage to show him.
21 There was nothing on the video. That's when I
22 realized that the system wasn't working.

1 MR. BIANCO: I think Mr. Lucero might
2 be answering a different question --

3 CHAIRPERSON ANDERSON: I know.

4 MR. BIANCO: -- than was asked.

5 CHAIRPERSON ANDERSON: Maybe he's
6 getting to answer the question.

7 MR. BIANCO: Sure, sure.

8 MALE PARTICIPANT: Audio 4, I'm sorry.

9 MR. BIANCO: Well I like the
10 background, but I think --

11 (Simultaneous speaking)

12 MR. BIANCO: No, no, it did not,
13 because this is the question I'm asking.

14 CHAIRPERSON ANDERSON: All right --
15 Let me just clarify my comment. He did answer
16 it. From his answer, I get that he doesn't check
17 to see that it's recording.

18 MR. BIANCO: No.

19 CHAIRPERSON ANDERSON: He only knows
20 that what he sees on the screen is that you're
21 getting visual, but Mr. Lucero, do you actually
22 go back and review the previous day's video ever

1 to see that it's recording?

2 MR. LUCERO: Well if there wasn't any
3 incident or anything, why would I --

4 MEMBER ALBERTI: So you never know --
5 Today you don't know -- you don't know today if
6 it recorded last night's video, do you?

7 MR. LUCERO: Well in the past when
8 there has been an incident and I ask for the
9 video --

10 MEMBER ALBERTI: You answered my
11 question. Thank you.

12 (Simultaneous speaking)

13 CHAIRPERSON ANDERSON: All right, hold
14 on. This is the question I'm asking and no one
15 has answered my question. The question I'm
16 asking, we have now recognized the fact that this
17 can happen. What policies or procedures have you
18 put in place to ensure that you are protected?
19 That's all I'm asking.

20 So what are you going to do moving
21 forward because since we now know -- we know that
22 this is going to -- this can happen. And it is

1 for your protection. It's not for us -- It's not
2 for us to beat up on you. It's for you to say
3 something happened in my establishment and we
4 have the camera to say that we followed the
5 proper procedure. So what is it -- since you now
6 know that it can happen, what are you guys going
7 to do about it?

8 MR. BIANCO: Well I can you what the
9 manager -- many of the managers have been doing
10 recently in my meeting with Mr. Gaminow who was
11 the contractor that installed the system and Ms.
12 Mesquite who was one of the managers that was
13 actually on-duty during the investigation. What
14 they told me is that there's a link light on the
15 actual system that requires you to walk into the
16 office and look at it. And if it's blinking
17 blue, then that means it's not recording. And if
18 it's blinking red, like with many recording
19 systems, then that means that it is recording.

20 So as part of her procedure at least,
21 as with many of the managers there, checking the
22 system to make sure the appropriate link light is

1 blinking, showing that the cameras are recording
2 is part of their opening process.

3 CHAIRPERSON ANDERSON: Again, this is
4 for your -- this is for your own protection in a
5 sense that because I believe that if the cameras
6 were working, you had turned the cameras over to
7 MPD, you probably wouldn't have been here today.
8 Because this is a preventive measure that we know
9 that for whatever reason the camera was not
10 working. And especially if it's a new system,
11 that you have to have some established procedure
12 to check to make sure that you are protected.
13 And that's why I asked that question.

14 And Mr. Bianco -- and I'll ask Mr.
15 Royster to provide -- you said that the comment
16 by MPD is that --regarding when the camera --
17 when they can review it, that they had no noted
18 in that email to us. Can you provide that to Mr.
19 Bianco? Because I believe Mr. Bianco if that
20 email is correct that came from the officer --
21 and you said this is an officer that the
22 establishment has worked with. That it appears

1 that they have a good working relationship. It
2 makes me wonder why then -- if that is correct,
3 since I have not seen the document if that
4 allegation is correct, that the officer did not
5 believe that you acted reasonable by saying come
6 back another period of time.

7 I'm just saying because if you've had
8 a relationship with them and if they're reporting
9 to us and if they put in their email that you
10 told them to come back, if that's correct and if
11 that officer wrote that in that email to us, then
12 that says to me that they did not believe that
13 your response to them, irrespective of your
14 relationship, was appropriate at that time.
15 That's all I'm saying.

16 I'm not making -- I have not seen the
17 email so I've asked the agency to provide you the
18 email if it's correct. It's just to let you know
19 that if that -- if we receive such an email, then
20 that's saying that the officer had a problem with
21 it. That's all I'm saying. I'm not -- I just
22 want to point that out.

1 MR. BIANCO: Understood. No, I
2 understand that.

3 CHAIRPERSON ANDERSON: All right. Any
4 last questions from any of the board members?
5 Yes, Mr. Silverstein?

6 MEMBER SILVERSTEIN: Yes, I'm -- too
7 many times when we hear cases like this; the dog
8 ate the homework. And I would suggest here for
9 your own protection that you do the following
10 test. That with your system on, someone go in
11 front of the camera and hold up a sign saying
12 test with the date and the time. And then you
13 turn the system off. You review it and make sure
14 you got it. Turn it back on. Do it a second
15 time to make sure that you turned the system on
16 correctly. Do it again and then go.

17 That way you are sure you have covered
18 yourself. And you have satisfied us that A, the
19 system is working. That it's not just a light is
20 assuring you that it's working, but that you can
21 see that it is working. So that way if an event
22 happens, you are covered. That is vital to all

1 of us here. Nothing further.

2 CHAIRPERSON ANDERSON: Thank you, Mr.
3 Silverstein. Any other questions by any of the
4 board members? Mr. Royster, any final comments
5 you want to make?

6 INVESTIGATOR ROYSTER: No. I've been
7 made aware that Member Alberti had requested the
8 same at the March 7th hearing. That they review
9 the camera footage -- or they review the security
10 plan with the attorneys at ABRA. So I'll be sure
11 just to make sure to work with them on that -- on
12 a security plan.

13 CHAIRPERSON ANDERSON: All right,
14 thank you.

15 CHAIRPERSON ANDERSON: Lieutenant?

16 LIEUTENANT HASKIS: I have none at
17 this time, chairman.

18 CHAIRPERSON ANDERSON: Mr. Bianco, any
19 last words for you?

20 MR. BIANCO: No, I'm good. Thank you.

21 CHAIRPERSON ANDERSON: Mr. Bianco, I
22 expected you to do --

1 MR. BIANCO: I know. You would think
2 --

3 CHAIRPERSON ANDERSON: -- this
4 elaborate wrap up hype. I didn't see --

5 MR. BIANCO: I'll supplement the
6 record as we discussed and that will be it.

7 CHAIRPERSON ANDERSON: All right.
8 Well thank you for being here today. And the
9 board will take this matter under advisement.

10 MR. BIANCO: Thank you very much, Mr.
11 Chairman --

12 CHAIRPERSON ANDERSON: All right,
13 thank you.

14 MR. BIANCO: -- members of the board.
15 Have a nice day.

16 CHAIRPERSON ANDERSON: You too. Thank
17 you.

18 MS. VERINDOAGUE: Thank you.

19 CHAIRPERSON ANDERSON: We are off the
20 record.

21 (Whereupon, the meeting in the above-
22 entitled matter was concluded at 11:04 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: Café Dupont, LLC

Before: Alcoholic Beverage Control Board

Date: 07-18-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



Court Reporter

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